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PROCEEDINGS AND DEBATES OF THE *98th* CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, May 21, 1984*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the comfort of Your presence, O God, be with all who endure persecution or suffering, or who know not the freedoms that we treasure. We are conscious of those whose cry for liberty is not heard and who are separated from those they love. May Your blessing comfort all who know alienation and distress and may we remember to give thanks each day for the gifts of freedom that we cherish. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 304. Concurrent resolution expressing the sense of the Congress that Yelena Bonner should be allowed to emigrate from the Soviet Union for the purpose of seeking medical treatment, urging that the President protest the continued violation of human rights in the Soviet Union, including the rights of Andrei Sakharov and Yelena Bonner, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 422) entitled "An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 653. An act to amend Public Law 96-162 to provide a credit to the State of Washington or the Yakima Indian Nation for certain construction costs associated with the Yakima River Basin water enhancement project;

H.R. 5287. An act to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants; and

H. Con. Res. 280. Concurrent resolution not to revise the congressional budget for the U.S. Government for the fiscal year 1984 and setting forth the congressional budget for the U.S. Government for the fiscal years 1985, 1986, and 1987.

The message also announced that the Senate insists upon its amendment to the concurrent resolution (H. Con. Res. 280) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1984 and setting forth the congressional budget for the U.S. Government for the fiscal years 1985, 1986, and 1987," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOMENICI, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. TOWER, Mr. CHILES, Mr. JOHNSTON, Mr. HOLLINGS, and Mr. SASSER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1201. An act to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes;

S. 2418. An act to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes; and

S. 2678. An act to extend the authorities under the Export Administration Act of 1979 until June 28, 1984.

APPOINTMENT OF MEMBERS TO REPRESENT THE HOUSE MAY 25 THROUGH MAY 28, 1984, WHEN REMAINS OF UNKNOWN SOLDIER OF VIETNAM CONFLICT WILL LIE IN STATE IN THE ROTUNDA

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution 296, 98th Congress, the Chair appoints the following Members to represent the House of Representatives May 25 through May 28, 1984, when the remains of the unknown American soldier who lost his life during the Vietnam conflict will lie in state in the rotunda of the Capitol:

Mr. MURTHA of Pennsylvania, chairman;
Mr. MONTGOMERY of Mississippi;
Mr. ASPIN of Wisconsin;
Mr. EDGAR of Pennsylvania;
Mr. FLORIO of New Jersey;
Mr. HARKIN of Iowa;
Mr. SAM B. HALL, JR. of Texas;
Mr. APPLEGATE of Ohio;
Mr. PANETTA of California;
Mr. FROST of Texas;
Mr. RATCHFORD of Connecticut;
Mr. SHELBY of Alabama;
Mr. HARRISON of Pennsylvania;
Mr. MOLLOHAN of West Virginia;
Mr. PENNY of Minnesota;
Mr. HAMMERSCHMIDT of Arkansas;
Mr. FISH of New York;
Mr. YOUNG of Florida;
Mr. ROTH of Wisconsin;
Mr. BROWN of Colorado;
Mr. COATS of Indiana;
Mr. EVANS of Iowa;
Mr. DENNY SMITH of Oregon;
Mr. BILIRAKIS of Florida;
Mr. RIDGE of Pennsylvania; and
Mr. SUNDQUIST of Tennessee.

APPOINTMENT OF MEMBER FROM PRIVATE LIFE TO BOARD OF TRUSTEES OF AMERICAN FOLKLIFE CENTER IN LIBRARY OF CONGRESS

The SPEAKER. Pursuant to the provisions of section 4(b) of Public Law 94-201, the Chair appoints to the

Board of Trustees of the American Folklife Center in the Library of Congress for a term ending March 3, 1990, the following member from private life:

Mr. Bruce Jackson of Buffalo, N.Y.

PLAY IT AGAIN, SAM!

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, our colleagues who spend thousands of taxpayer dollars every night on their rabidly partisan special orders have advised me that they will quote me today.

The quote they will read will be my reaction to the President's violation of the Constitution, our treaties, and international law in his invasion of Grenada. I said:

> It is essential now that the President has shown his true colors, that the Congress take control of the situation . . . and bring this insane Reagan foreign policy back into line . . . the President has been itching to try something like this ever since he was elected.

I was referring there to the Grenadian invasion.

> He loves to throw American weight around, and where better than in a small island nation with no armed forces . . ."

Well, Mr. Speaker, the mining of Nicaraguan harbors proves I was right. His policy is insane. He has destroyed all relations with the Soviets. There is no arms control policy. We are on a multitrillion-dollar arms race on the road to Armageddon.

I am proud of my criticism of those policies of death. I only say, play it again, Sam.

IMPACT OF TOURISM

(Mr. REID asked and was given permission to address the House for 1 minute.)

Mr. REID. Mr. Speaker, National Tourism Week which begins May 27 is an appropriate time to review the impact and dilemma of tourism in terms of our Nation's economy.

Few people realize, for instance, that travel and tourism is our country's second largest retail or service industry, producing receipts that make up over 6.5 percent of our gross national product; or that this industry has created more than 10 percent of all new jobs since 1958, jobs that provide ample opportunities for all Americans, including minorities, youth, and women.

Yet, despite this positive economic contribution our Nation is losing. We have allowed our share of the world tourism market to drop from 13 percent in 1976 to 10.6 percent in 1982. Why? Because, for starters, we spend less money, per capita, to promote tourism from abroad than does any other developed country in the world.

As a member of the Travel and Tourism Caucus Steering Committee, I must stress the need for sufficient Federal support of travel and tourism—an industry that so vitally affects every aspect of our Nation's economy.

ENCOURAGE THE SOVIET UNION TO NEGOTIATE: PUT A MORATORIUM ON THE PERSHING II, JUST LIKE MX

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY of Washington. Mr. Speaker, today's Washington Post contains a story about the Soviet Union's decision to increase the number of nuclear weapons submarines stationed off our coasts. The Defense Minister, Mr. Ustinov, characterized the move as a response to the deployment of the new NATO intermediate range nuclear forces in Europe. He is quoted as saying that the Soviet action "would create a counterbalance equal to that which is posed to us and our allies by the American missiles in Europe."

I deplore this action. It adds to tension and mistrust, and represents one more step in the escalation of the arms race. It makes it all the more urgent for us to do whatever we can to encourage renewed arms talks.

This latest Soviet action reminds us again that the Pershing II, which will be only 8 minutes from targets in the European Soviet Union, is a much more immediate concern to the Soviets than the MX. The House has just voted to put conditions on the release of MX funds, in hopes that the Soviet Union will go back to the bargaining table. I believe it makes sense to take the same step with regard to the Pershing II.

I will therefore offer an amendment to H.R. 5167, the defense authorization bill, which would impose identical conditions on the release of Pershing II funds as those placed on the MX by the Price-Aspin-Pritchard amendment. It is more appropriate to put these conditions on the Pershing II than on the MX. Accordingly, I urge my colleagues to support my amendment.

DISTILLED SPIRITS TAX HIKE IS UNFAIR

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to extend and verify his remarks.)

Mr. MAZZOLI. Mr. Speaker, I rise today to express my opposition to a provision contained in both the House and Senate deficit reduction packages which is unfair to the working men and women in Kentucky and particularly my home district of Louisville and Jefferson County.

I am speaking of the proposed excise tax hike on distilled spirits.

Tell me, Mr. Speaker, what other industry is having its Federal taxes raised by 36 percent this year? Or even 20 percent?

I cannot think of one. Yet those are the tax increases in the House bill and the other body's bill respectively.

It is easy, I guess, to pick on distilled spirits and tobacco to bear more than their fair share of the Nation's tax burden. After all, it plays well back home to bash the "sin" industries.

Well, back home in Louisville and Jefferson County, Ky., which I am privileged to represent, the distilled spirits industry is a very key employer. And, contrary to popular belief, this employer is not recession proof. It is hurting today as a result of the recession and to heap heavier taxes on the industry will only deepen the unemployment and could cost Kentucky 500 jobs and the country 18,000.

Federal taxes today account for almost 25 percent of the cost to consumers of distilled spirits. State and local taxes count for almost 20 percent more.

Have we not already taken enough out of this industry? I think so and I urge that the conferees on the deficit reduction bills either drop the excise tax entirely or at least reduce it and moderate the impact on our people in Kentucky.

DISABILITY MORATORIUM ON CDR'S

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, on April 13, the Secretary of Health and Human Services, Margaret Heckler, announced a temporary suspension of the disability review process and the continuation of benefits to all disabled beneficiaries undergoing administrative appeal.

Today, over 5 weeks later, the Department still has not issued any guidelines permitting the Social Security Administration to implement this moratorium.

Because the Secretary has not approved any implementing guidelines, the terminated beneficiaries cannot have their benefits reinstated, nor can they appeal their case, nor are they even given the basic courtesy of an explanation.

I have sent a letter to Secretary Heckler and I have personally called on her and her assistants for an explanation of this situation. In response, I have been told only that the Department might act in the "next couple of weeks."

Subjecting some 40,000 disabled Americans to such bureaucratic arrogance and indifference is shameful. It ought to shock the conscience of every American.

Secretary Heckler should end this sorry state of affairs by immediately approving the regulations implementing her moratorium.

Furthermore, I publicly call on all Americans, and particularly the President and the Congress, to denounce this policy and to work together to enact the disability legislative reforms passed over a month ago in the House, by a vote of 410 to 1.

□ 1210

THE DEBT CEILING LEGISLATION

(Mr. SLATTERY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, sometime in the next few weeks this body will be asked to once again raise the debt ceiling limitation. As we decide how we are going to vote on this measure, I thought I would take a few minutes to draw my colleagues' attention to some historical information about the national debt.

Ten years ago the national debt was $475 billion, and since that time our national debt has more than tripled. In 1981 the debt went over $900 billion for the first time in our Nation's history. Since 1981 we have added another $600 billion to our national debt.

To finance all this deficit spending, in the last few years the Federal Government has had to borrow record sums of money. In the next 12 months the Government will have to borrow over $1 trillion. This is, of course, alarming news.

Once again I would like to call upon the President and the Members of Congress and the leadership in Congress especially to convene another budget summit for the purposes of developing a plan to reduce this horrible, irresponsible Federal deficit that this Nation is running.

Mr. Speaker, I think the future of our country is at stake, and nothing less.

MAJORITY BLAMED FOR INACTION ON CRIME LEGISLATION

(Mr. LUJAN asked and was given permission to address the House for 1 minute.)

Mr. LUJAN. Mr. Speaker, for quite some time there has been unrest in this House because many on both sides of the aisle feel that we spend our time in voting for such things as Frozen Food Day, awarding gold medals, extending leases in the El Portal administrative site at Yosemite National Park.

There is a strong feeling that bills such as the President's comprehensive crime control bill are bottled up by the leadership. It was a full 51 weeks before it was even referred to subcommittee.

I am afraid this Congress will be known as a do-nothing Congress if we do not clear the calendar for action at the very least on President Reagan's Comprehensive Crime Control Act. The majority must bear the blame for such inaction.

AN UPDATE ON HOUSE ACTION ON ANTICRIME LEGISLATION

(Mr. HUGHES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I was not going to talk about the omnibus crime control package, but I just cannot believe what my colleague just said about the legislation being bottled up for 51 weeks.

As chairman of the Subcommittee on Crime, I have been moving pieces of that package now for the better part of a year and a half. As a matter of fact, I am about to head for the White House for a bill-signing ceremony for the child pornography bill, which is a piece of that package.

We have moved antitampering, we have moved the drug dependence contract services legislation, and the President has already signed that. We moved the pharmacy robbery legislation, which is not a part of the omnibus package. That has been sent over to the President for signature. We have moved out of subcommittee and full commmittee the measure on forfeiture and the drug enhancement provisions of the omnibus package. That has been moved out of full committee. In fact, it was just cleared by the Committee on Ways and Means last week. It was cleared 2 weeks before that by the Committee on Energy and Commerce. So that is ready to move on to the full committee.

I have two measures before the full committee on Wednesday of this week, including the Controlled Substances Act, as well as a major bill that is to go to the floor probably within the next 2 weeks dealing with extradition reform.

So, Mr. Speaker, for my colleague to suggest that the House of Representatives is not moving crime is far from the truth. The fact of the matter is that we are moving a lot of crime in this House. We moved a major omnibus crime package in the last Congress, as my colleague well knows, only to have the President veto it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT). This is the day for motions to suspend the rules.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow, Tuesday, May 22, 1984.

The Chair recognizes the gentleman from Iowa (Mr. BEDELL).

SMALL BUSINESS BREAKOUTS

Mr. BEDELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4209) to amend section 15 of the Small Business Act, as amended.

The Clerk read as follows:

H.R. 4209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 15 of the Small Business Act (15 U.S.C. 644) is amended by—

(1) redesignating subsection (l) as subsection (m); and

(2) inserting after subsection (k) the following new subsection:

"(l)(1) The Administration shall assign to each major procurement center a breakout procurement center representative, who shall, with respect to such center, be responsible for implementing and executing the functions and duties described under paragraph (2). A representative appointed to a procurement center under the preceding sentence shall be in addition to the representative referred to in subsection (k)(6).

"(2) The breakout procurement center representative referred to in paragraph (1) shall—

"(A) review procurement method codes to ensure that small business capabilities are fully considered, and conduct independent studies and evaluations necessary to change the use of restrictive codings in order to encourage increased competition;

"(B) review procurement requirements proposed or projected to be purchased under consolidated solicitations which limit the opportunity for small business to compete as prime contractors and to recommend reducing the number of these requirements to be contained in each such solicitation in order to promote the maximum practicable opportunity for small business concerns to submit offers in response to such solicitations;

"(C) review and, when appropriate, conduct a value analysis of an engineering change proposal received from any source to determine whether proposal, if adopted, will result in lower costs to the Government without substantially impeding legitimate acquisition objectives;

"(D) review the systems that account for the access to and ownership of all manufacturing data within that procurement center to assure such systems provide the maximum availability to small business concerns; and

"(E) in consultation with the Administrator—

"(i) suggest to the head of the procurement center changes in procurement policies and procedures for such center; and

"(ii) recommend to the head of the appropriate purchasing activity changes to procurement method codes based on findings under subparagraph (A) and the desirability of value engineering change proposals as determined pursuant to subparagraph (C). The head of such activity shall, within thirty days after the receipt of such a recommendation, issue a written decision either accepting or declining the recommendation.

"(3)(A) The Director of Small and Disadvantaged Business Utilization of each agency having a major procurement center shall assign, and colocate, four small business technical advisers to each major procurement center.

"(B) Technical advisers assigned under this paragraph shall be—

"(i) full time employees of the procuring activity; and

"(ii) well qualified, technically trained, and familiar with the supplies, services, and spare parts purchased at the activity:

Provided, That at least one such adviser shall be an accredited engineer.

"(C) The sole duty of a technical adviser under this paragraph shall be to assist the breakout procurement center representative for the center to which such adviser is assigned in carrying out the functions and duties referred to in paragraph (2).

"(4) For purposes of this subsection a procurement center shall, with respect to any fiscal year, be considered to be a major procurement center if such center processed a contract volume of not less than $150,000,000 in spare parts in the preceding fiscal year, as determined under regulations prescribed by the Administrator.".

SEC. 2. Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by—

(1) inserting "(1)" immediately after "(h)"; and

(2) adding the following new paragraph:

"(2) The Comptroller General shall annually prepare and submit to the Committees on Small Business of the House of Representatives and of the Senate a report setting forth—

"(A) the cost savings achieved during the year covered by such report through the efforts of breakout procurement center representatives;

"(B) an evaluation of the extent of increased competition resulting from such efforts; and

"(C) such other information as the Comptroller may deem appropriate.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Iowa (Mr. BEDELL) will be recognized for 20 minutes and the gentleman from Colorado (Mr. SCHAEFER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4209. This bill was reported by the Small Business Committee last November by a vote of 37 to 1 after an investigation and hearings on the military spare parts procurement system by the Small Business Committee's Oversight Subcommittee, which I chair. The Oversight Subcommittee reported this measure unanimously.

This bill will provide a Small Business Administration breakout procurement center representative at each major Federal procurement center to monitor and recommend procurement practices that are needed to effect cost savings through increased competition.

The Congressional Budget Office estimates that this bill will result in sizable annual savings to the Federal Government.

This bill is intended to be one step in bringing increased competition in the purchase of spare parts by the military.

The legislation would do the following:

First, it would assign a breakout procurement center representative to each major defense procurement center. This breakout procurement center representative would have a staff of four people, at least one of whom must be an accredited engineer. The breakout procurement center representative would report directly to the SBA Administrator. The breakout procurement center representative is to make recommendations on contracts that should be competitively bid in order to reduce costs; make recommendations on acceptance of value engineering proposals; make recommendations on storage and dissemination of technical data; and recommend, where appropriate, the breaking down of large contracts into smaller units to lower costs and increase competition.

Second, the legislation provides that anyone can make value engineering suggestions. These are suggestions to lower cost, or improve quality of a part. At this time, proposals are only accepted from those who hold contracts. There is little incentive for one who already has a contract to recommend changes.

Third, the bill requires GAO to do an annual study and report to Congress on the savings achieved during the year and the increased competition resulting from the activity.

I want to compliment all of the members of the Small Business Committee, especially the members of the Oversight Subcommittee for their fine and hard work on this bill. I particularly wish to point out the effort of our colleague, the gentlewoman from California (Mrs. BOXER), who introduced this bill in the House last October. I am pleased to have been able to work with her on this legislation and look forward to working with her on other matters in the future. The bill we have before us is a product of her hard work and for this we owe her a debt of gratitude.

This bill certainly deserves the support of each and every Member of the House and I urge a favorable vote.

Mr. Speaker, to implement the Small Business Act, as amended, the Small Business Administration assigns procurement center representatives to 52 Federal acquisition centers. Their major function is to maximize potential opportunities for small businesses to obtain Government procurement contracts. In late 1979, SBA initiated a pilot program to complement this effort by adding a "breakout procurement center representative" (BO-PCR) to four air logistic centers (ALC)—Oklahoma City, San Antonio, Warner Robins, and Ogden. These breakout PCR's were to review sole-source parts purchases from the original equipment manufacturers by the ALC's and recommend, when appropriate, competitive procurements or direct purchase from the actual manufacturers of these items.

It has been clearly demonstrated that the BO-PCR's perform an extremely valuable, and tremendously cost-effective function. One BO-PCR estimated that he saved the Government 400 times his salary through his activities. A General Accounting Office official, testifying before the House Government Operations Committee on April 19, 1983, said:

> Several recent reviews and audits performed by GAO, the Naval Audit Service, and the Defense Inspector General, have shown that if the services are successful in breaking out high dollar value spare parts, savings can be substantial.

BO-PCR's earn these savings by evaluating purchases made on a sole-source basis and suggesting that, in appropriate cases, they be purchased competitively. For example, a rubber door gasket that had been purchased on a sole basis cost the Government $94.02 apiece. Competitively bid, the same gasket cost $5.69. Total savings on this procurement was $21,000. An I-bolt suggested for breakout by a BO-PCR was competitively purchased for $13.49 after it had been sole source purchased for $328. On an order for 44 I-bolts, the Government saved $13,000.

Another part, bent sheet metal with three holes drilled into it, was sole source purchased from the original equipment manufacturer at $153 apiece. After a BO-PCR suggested competition on the part, 15 bids were received and a low bid of $5.87 was selected. The total savings on the buy was $27,000.

In all, a BO-PCR who testified before the Small Business Committee showed us a number of parts purchased competitively by Tinker Air Force Base in Oklahoma City for $96. Prior to being purchased competitively, the same parts cost the Government $2,300 when they were bought on a sole source basis from the original

equipment manufacturers. Collectively, considering the various quantities in which the parts were purchased, the Government saved $183,000 on the competitive purchase of these parts. In the second quarter of 1983, the BO-PCR at Tinker Air Force Base estimated that his office was responsible for saving the Government $3,905,000 by breaking out competitive purchases from previously sole source items.

The special functions assigned to the BO-PCR's in H.R. 4209 are designed to assure that the BO-PCR's will have the necessary legislative mandate to do their job effectively. The bill would give the BO-PCR's the authority to review procurement methods to assure that the Procurement Method Codes (PMC) do not restrict competition unfairly and, thereby, eliminate small business concerns from the procurement of spare parts. When appropriate, the BO-PCR's are to do the necessary evaluations and studies needed to change competition-restricting codes.

BO-PCR's shall also review procurement requirements that are proposed or projected to be issued under consolidated solicitations. Should the BO-PCR determine that these solicitations limit the opportunity for small business concerns to compete for the solicitation as prime contractors, the BO-PCR can recommend reducing the number of requirements in the solicitations to promote the opportunity for small business firms to submit offers.

The bill would also require that the BO-PCR's review and conduct, when appropriate, analyses of value engineering change proposals. A value engineering change proposal is an offer to supply a part or equipment that is modified from the original procurement specification. The BO-PCR will review the proposals to determine whether, if it is adopted, it will result in lower costs to the Government without impeding legitimate acquisition objectives. In addition, the bill would permit value engineering change proposals to be submitted by any potential contractor; it does not limit the right to submit such proposals to any source.

This proposed legislation would also give the BO-PCR's the authority to review the storage of and access to technical data at procurement centers. The BO-PCR's are to evaluate whether technical data is available and in usable condition to facilitate the needs of small business concerns wishing to submit offers on procurement solicitations.

The BO-PCR's, in consultation with the SBA Administrator, would be required to suggest changes in procurement center policies and procedures directly to the head of that procurement center, and to make suggestions on storage of and access to technical data. The BO-PCR's, also in consultation with the SBA Administrator, shall recommend to the head of the appropriate purchasing activity changes in procurement method codes necessary to increase competition in spare parts procurements and the desirability of adopting value engineering change proposals reviewed by the BO-PCR's.

It is important to note that the bill does not require that the BO-PCR make recommendations only to the head of the procurement center where the BO-PCR is located. The BO-PCR may, whenever necessary, make recommendations to the head of the appropriate purchasing activity with authority to act on the BO-PCR's recommendations.

The legislation requires that the head of the purchasing activity who receives a recommendation from a BO-PCR shall, within 30 days after receipt of the recommendation, issue a written decision either accepting or declining the recommendation.

H.R. 4209 would require that the Director of Small and Disadvantaged Business Utilization of each agency that has a major procurement center, assign and colocate four technical advisers to assist the BO-PCR's perform the functions required of their office. These technical advisers are to be full-time employees of the procuring activity and are to be well qualified, technically trained and familiar with the supplies, services, and spare parts purchased by the procurement center. At least one of the four parts purchased by the procurement center. At least one of the four technical advisers assigned to assist each BO-PCR must be an accredited engineer.

H.R. 4209 would require that the Comptroller General annually prepare and submit a report to the Committees on Small Business of both the House and the Senate covering the cost savings achieved during the year as a result of the efforts of the BO-PCR's, an evaluation of the increased competition resulting from the efforts of the BO-PCR's and any other information the Comptroller deems appropriate.

This is a pair of pliers, Mr. Speaker, that I purchased locally at retail for $3.77. Our hearings indicated that the Government had paid $430 for a set of pliers just like this, and we found that this was not an unusual circumstance, that the fact of the matter is that they buy tools such as this frequently and pay similar exorbitant prices.

I purchased a tool kit at retail for ninety-two dollars and some cents, and in checking I found that the Government had paid over $10,000 for the tools that I bought at retail for ninety-two dollars and some cents.

Mr. Speaker, this bill is one step in a movement forward to try to do something about that waste of taxpayers' money. I again appreciate the work that our committee has done. I particularly appreciate the leadership that the gentlewoman from California (Mrs. BOXER) has put forth in this effort, and I urge the support of all my colleagues for this legislation.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 4209. I would like to commend the gentleman from Iowa for his fine work as chairman of the Oversight Subcommittee of the Small Business Committee. As Members of Congress, we are all too familiar with the horror stories of the Government paying extravagant prices for spare parts. Press accounts of the $1,000 plastic stool cap and the $500 claw-hammer have understandably outraged our constituents and many of our fellow Members.

Today, the Small Business Committee is offering the first legislation to deal with this scandalous situation. Last October, when we held hearings on the involvement of small business in the Federal procurement process, we received testimony from an individual from Tinker Air Force Base in Oklahoma whose job was called a breakout procurement center representative. It was this person's job to review the method by which the Government purchased spare parts. The results of his work were nothing short of sensational. In the second quarter of 1983 this individual saved the taxpayers nearly $4 million. He accomplished this by breaking out spare parts for competitive purchases from items that were previously sole-source—that is, bought from only one supplier. This savings certainly justified his $40,000 a year salary.

The committee learned from our hearings and other Government studies of the break-out PCR program that these positions could be much more effective with more staff. I am not usually one to advocate for more Government employees, but I think the results of this program at four Air Force procurement centers shows we need more of these people. The bill we are considering today would place a breakout PCR at each military purchasing center that buys more than $150 million in spare parts each year. These individuals would have the following responsibilities. First, they would review procurement methods and recommend changes to increase competition in the procurement of spare parts. Second, they would review consolidated purchases to insure the maximum opportunity for small business participation. Finally, they would have authority to review the storage of and access to technical data.

The committee is well aware of the importance of this program. Therefore, we included in the bill a requirement that the Comptroller General

submit annual reports to the committee covering the cost savings resulting from the use of break-out PCR's, evaluation of the increased competition resulting from break-out PCR's, and any other information the Comptroller feels appropriate.

Mr. Speaker, I urge my colleagues to support H.R. 4209 as an important first step toward increasing competition in our spare parts procurement.

□ 1220

Mr. BEDELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL), the chairman of our committee.

Mr. MITCHELL. Mr. Speaker, if this Congress does not pass another single bill, it will have done more than its duty in passing this bill today in meeting its responsibility to the American public.

Mr. Speaker, I rise in strong support of H.R. 4209. This measure, introduced by Mrs. BOXER and Mr. BEDELL, would establish breakout procurement center representatives (PCR's) at major Federal buying activities which purchase spare parts.

I must take this opportunity to publicly commend Representative BOXER for this fine piece of legislation which will, I am confident, save the taxpayer literally millions of dollars a year. This bill is a commonsense approach modeled after a very successful pilot program being conducted by the Small Business Administration.

Under the bill, each installation which purchases in excess of $150 million of spare parts a year would have a breakout PCR. This person would review items that are normally "sole-sourced" for the purpose of "breaking" them out for competition. This person would conduct value analyses of suggested engineering changes to ascertain modifications to parts that may then be purchased at less expense under a Procurement Method Code that permits competition.

At present there are only four Air Force installations that have a breakout PCR. The PCR at Tinker Air Force Base testified before our committee that his office alone saved the Air Force over $3.9 million during the second quarter of 1983. This 3-month saving is enough to pay for this employee's salary and, probably, for 100 more just like him.

We have all heard of the spare parts scandal—of the military paying over $1,100 for a plastic stool cap and $500 for a hammer. H.R. 4209 is the first bill to come to the floor of the House dealing specifically with this issue. It is part of the solution to the spare parts scandal and I would urge my colleagues to support it.

There is no need to dwell on the holocaust of this spare parts scandal in the military.

What was the price of the hammer that the gentleman from Iowa quoted?

Mr. BEDELL. $400.

Mr. MITCHELL. Now, $400 for a hammer, I told somebody that I could make a hammer in my backyard. I can take a rock and chisel it and put a stick on it and some leather thongs, and I will make a hammer for nothing, but they are paying $400 for a hammer. It is scandalous and it is outrageous that this situation has gone on so long without being addressed.

Well, it is addressed today. This bill, H.R. 4209, is the very first bill to come to this floor of the House dealing specifically with that issue. It is a part of the solution to the spare parts scandal. I would urge my colleagues to support it.

I would be shocked if any Member of this House did not recognize the wisdom of this bill, the effectiveness of it. I would be shocked if any Member of the House voted against it.

I thank the gentleman for yielding me some time.

Mr. BEDELL. Mr. Speaker, I yield such time as she may consume to the author of this legislation, the gentlewoman from California (Mrs. BOXER).

Mrs. BOXER. Mr. Speaker, I first would like to thank the chairman of the Small Business Committee, my friend, the gentleman from Maryland (Mr. MITCHELL), and the chairman of the Subcommittee on General Oversight and the Economy, my friend, the gentleman from Iowa (Mr. BEDELL). They gave me great assistance both in the drafting of this bill and the progression to the House floor.

I also wish to thank the gentleman from Massachusetts (Mr. CONTE) and the Democratic New Members Caucus for all their encouragement and active support.

Mr. Chairman, whoever coined the phrase, "I'm mad as hell and I'm not going to take it any more" must have been reacting to the inconceivable spare parts scandal—12-cent wrenches for which taxpayers were charged over $9,000, $25 brackets that cost $850, and we could go on.

Just yesterday in a story which appeared in my home press in California, the gentleman from Iowa was questioning the Navy about a $7 hammer for which the Navy paid $436, or I should say the taxpayers paid $436.

The explanation by the contractor is so unbelievable, it is a miracle that they had the nerve to even offer it. It runs something like this: $7 for the basic hammer; $41 to pay general overhead of the engineering department of the contractor; $93 for the 18 minutes it took for assembly, managers, and engineers to oversee the process; $102 for unspecified manufacturing overhead; $37 to the spare part repairs department; $2 for material handling overhead; and $1 for wrapping paper and box.

That gives you a subtotal, Mr. Speaker, for this $7 hammer of $283. But this is not even enough. This figure is now multiplied by a factor of 31.8 percent for general administrative costs and a $56 finders fee. We also pay $7 for capital cost of money. That is the cost of the money the contractor needed to front the project.

Voila, a $7 hammer costs taxpayers $436.

Well, those days are going, going, and gone, and there is a simple first step. Since defense contractors are permitted to charge off general costs against all contracted items, large and small, it makes great sense to contract out these items to contractors who have smaller overhead costs. This is the essence of H.R. 4209.

H.R. 4209 would open the entire spare parts procurement system to good old American competition. This bill would use the method of the free market to drive the price of spare parts down. Secretary of the Air Force Orr recently stated that because the Air Force had introduced competition and awarded their new engine contracts to two companies, rather than just one, the Government should save $3 billion over the life of these engines—$3 billion, that is about what we pay to support the entire Environmental Protection Agency.

The Small Business Administration, General Accounting Office, and the Committee on Government Operations have done studies to show an average savings of 40 percent when a part is broken out into open competition. The individual instances show that savings could be as high as 75 percent.

H.R. 4209 is a program with a proven track record. It is no experiment. This bill is simply expanding a program that has already returned great dividends to the taxpayers.

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The elements of our bill are currently operating at a number of Air Force procurement centers. My colleagues have pointed out at Tinker Air Force Base alone, as we heard, one person and one technical adviser saved $5 million in 3 months. This program saved approximately $35 million for the Air Force in fiscal year 1983 and it was operating on a limited scale.

The current budget for all our military spare parts is approximately $15 billion. At an average savings of over 40 percent, that means if this bill is passed, and the spirit of this bill is carried out, we could see savings not only in the millions but in the billions of dollars.

We also gain other immediate and long-term benefits. Since much of this new manufacturing would be accomplished by small businesses, we will see a rise in more enterprises.

All small business organizations and the chamber of commerce support this bill because of its obvious benefits for new and existing businesses.

With the rise of new small and medium businesses we enlarge the industrial base of this country and provide more jobs through the small business sector.

This bill can also generate new tax revenues and this is an interesting point, since small business generally pays a larger share of taxes than huge companies due to our tax writeoff system.

Small businesses have proven time and time again that they can produce and deliver products in far less time than big companies. Thus we can reduce leadtime on purchases and have a more efficient system.

Small businesses must produce better quality for less or face being shut out of competition. Our current sole source system has produced numerous instances of poor quality and poor workmanship. Sole source contractors do not have to worry about cost and quality because they are the only game in town and they know it. And we know it because we see the prices that we are paying.

H.R. 4209 would expand the small business breakout program to every major procurement center in this Nation. We would place a small business breakout specialist in each of these centers and give them an increase in technical assistance so that they will be able to review, challenge, and break out into competition as many spare parts as possible.

H.R. 4209 is a simple, direct, and effective solution to a problem that has lasted too long. We have an obligation, a very serious obligation, to guarantee that the American taxpayers' dollar is spent responsibly and not wasted. We have an obligation to enable the Government to maintain adequate readiness and maintenance support.

Competition is the solution to this problem and this bill takes a proven and effective program and expands it in order to save the American taxpayers many tax dollars, and it increases small business capability at the same time.

This bill, as you can tell today, enjoys wide bipartisan support. I compliment the members of the committee again, its great chairman, the gentleman from Maryland (Mr. MITCHELL), and its great subcommittee chairman, the gentleman from Iowa (Mr. BEDELL).

I encourage you to vote for this proposal to reform spare parts procurement and put an end to outrageous prices by inserting competition back into the process.

I just want to conclude by reading the organizations who support our bill: the National Small Business Government Contractors Association, the U.S. Chamber of Commerce, the National Tooling and Machinery Association, Coalition for a New Foreign and Military Policy, Association of Southwest Government Contractors, and the National Federation of Independent Businesses.

Again, I thank my colleagues for their support and encouragement and I yield back to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. I just want to thank the gentlewoman from California and the whole committee for working so hard on passing this. This is something long needed, long overdue, and I am sure the taxpayers thank you more than I could.

So I really am pleased to see this move this fast and I hope it continues on down the track.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 4209, a bill to amend section 15 of the Small Business Act. As a long-standing advocate of procurement reform, having held extensive hearings on this very subject in April of last year, I believe that the single most effective way to obtain the best products at the lowest cost is to increase the use of competition in Federal procurements. This is particularly true in the area of spare parts, in which DOD has consistently paid exhorbitant prices because of years of sole sourcing to a few large incumbent vendors. The sponsors of this legislation rightfully point out that this cycle of ever-increasing, escalating prices of even the most common spare parts can be broken by opening up these contracts to all qualified small businesses.

The approach taken by this legislation is both practical and to the point. It requires the Small Business Administrator to assign an official at each major agency procurement center to identify competitive opportunities for small businesses. By working directly with the procurement officials at each of these sites, the SBA representative will be in a position to immediately identify these opportunities. It will also make it more difficult for agency officials to ignore the advice of the SBA representative. Over the long run, this should significantly increase competition for the procurement of spare parts in this important area.

I urge all Members to support this bill.

Mr. SCHAEFER. Mr. Speaker, just in summation, I might say that the efforts of the Defense Department to cure the spare parts problems have been unsuccessful for 20 years, and we are faced now with some $200 billion in deficits. I think that the Congressional Budget Office estimated we are going to save about $30 billion a year on this at least.

I would just say that I certainly support this again and I wish my colleagues to continue to do the same.

I yield back the balance of my time.

Mr. BEDELL. Mr. Speaker, I wish again to commend the gentlewoman from California (Mrs. BOXER) for her fine work on this legislation.

I would like to point out to the House that this is an important first step in starting to move forward to correct what I think are some very, very serious discrepancies in the manner that the Federal Government is purchasing its spare parts.

There will be additional opportunities for this House to take further steps. I urge my colleagues to do so.

I certainly urge them to support this very, very important first step and commend again the gentlewoman from California (Mrs. BOXER) and our committee chairman and all those who have worked on this for taking this great first step.

I have no further requests for time, and I yield back the balance of my time.

● Mr. ADDABBO. Mr. Speaker, I rise in support of H.R. 4209, a bill which is intended to increase competition in the area of spare parts.

The acquisition of spare parts is a multibillion dollar business. As such, it is highly conducive to the use of competitive bidding procedures. Instead, we find this area to be the target of the most blatant instances of fraud, waste, and abuse. This is due primarily to the use of noncompetitive sole source contracts for these items.

As chairman of the Subcommittee on Defense Appropriations for over 5 years, I have heard too many times about DOD's efforts to achieve increased competition for spare parts. Yet, I also see that out of approximately $13 billion spent per year for spare parts, less than $3 billion of these spare part orders are made on a competitive basis.

H.R. 4209 recognizes the need to carefully scrutinize the methods that the Government uses to purchase spare parts. The bill would assign a BO-PCR and four technical assistants to all the major buying activities with a contract volume in excess of $150 million in spare parts. They would have the authority to review and suggest changes in existing procurement methods and codes on spare parts and supplies. Further, a provision in the bill would insure that any such recommendation made by the BO-PCR is acted upon in writing by the head of the buying activity within 30 days after its submission.

SBA has conducted on a pilot basis, a breakout program similar to the one contained in H.R. 4209. This effort has

resulted in the achievement of considerable cost savings to the Government.

The time has come for the Congress to demonstrate its commitment to save the taxpayers money by making the breakout program statutory. I therefore urge all my colleagues to support H.R. 4209.●

● Mr. DURBIN. Mr. Speaker, I would like to express my strong support for H.R. 4209 because I believe it represents a strong step toward controlling the well-published abuses in DOD's procurement of spare parts.

This bill takes a simple, yet effective, approach to introducing greater competition into spare parts procurement. It expands a procedure already instituted on one particular Air Force base. This program placed one Small Business Administration representative and one technical assistant at Tinker Air Force Base to oversee the procurement of spare parts with the goal of increasing competition in spare parts acquisition.

H.R. 4209 would simply extend that program so that a small business "breakout" representative would be assigned to every major procurement center in the United States. That representative's job would be to increase the competitive acquisition of spare parts—a process that on one Air Force base saves an estimated $5 million per quarter.

Establishing that program on a nationwide basis will result in far greater savings and will do so in a way that will not create any vast new bureaucracy. The estimated savings from this expansion of the program run from $4 to $7 billion per year—a savings that will go directly to reducing the size of the deficit.

We are all aware that it is essential now more than ever to insure that we are spending our defense tax dollars wisely. Under our current defense buildup, with large sums of money funneling into the Department of Defense, we must make sure that we take steps to eliminate waste. I believe that this bill will allow us to make such progress toward minimizing spare parts abuse. There are other steps that can also be taken, but this bill moves us a long way in the right direction and I urge my colleagues to support it.●

The SPEAKER pro tempore (Mr. SLATTERY). The question is on the motion offered by the gentleman from Iowa (Mr. BEDELL) that the House suspend the rules and pass the bill, H.R. 4209, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PROVIDING ADDITIONAL SENIOR EXECUTIVE POSITIONS FOR THE GENERAL ACCOUNTING OFFICE

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5517) to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 731(e) of title 31, United States Code, is amended—

(1) by striking out "title 5," and inserting in lieu thereof "title 5 at rates not in excess of the maximum daily rate for GS-18 under section 5332 of such title,"; and

(2) in paragraph (1), by striking out "10" and inserting in lieu thereof "15".

(b) Section 732(c)(4) of title 31, United States Code, is amended by striking out "100" and inserting in lieu thereof "119".

(c) Section 733(c) of title 31, United States Code, is amended by inserting "(e)(1)," after "(d),".

SEC. 2. The amendments made by this Act shall take effect beginning on October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. SCHAEFER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes and the gentleman from Colorado (Mr. SCHAEFER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation (H.R. 5517) which I bring to the floor today increases by five the number of experts and consultants who can be hired by the General Accounting Office (GAO) and increases by 19 the number of senior executives who can be employed by GAO. Further, the bill makes clear that these experts and consultants can be made a part of the GAO Senior Executive Service (SES) and can be paid at rates equal to that of senior executives.

In 1980, Congress passed legislation establishing an independent personnel system for GAO, insuring that this investigative arm of Congress is not subject to the jurisdiction of the executive branch agencies which it oversees. That legislation limited GAO to 100 SES positions. In the meanwhile, Congress has loaded more duties on GAO and the rapid growth in the use of computers throughout the Federal Government has left GAO struggling to meet its responsibilities. If Congress had not created an independent personnel system for GAO, it could have gone to the Office of Personnel Management to seek more SES slots. With the passage of the 1980 act, however, GAO must come back to Congress to get more SES slots.

Comptroller General Charles A. Bowsher told our subcommittee that these 19 new SES slots will be used as follows:

Seven will be placed in the Information Management and Technology Division, the unit that oversees the Federal investment in automatic data processing, software, and telecommunications;

Two will be placed in the Accounting and Financial Management area, one dealing with accounting and auditing policy issues and dealing with quality assurance of accounting and financial management reports;

One will be used for natural resources programs;

Three will be used in the defense area;

One will be allocated or the development and administration of GAO's internal automatic data processing system; and

Five will be held in reserve.

Similarly, the Comptroller General told us that GAO plans to use the additional experts and consultants in financial management, accounting, and job design and methodology. One use of experts will be to train permanent GAO staff in latest accounting policies and practices.

The Congressional Budget Office tells us that this bill will cost $400,000 a year if GAO gets no overall increase in slots, and could cost up to $1.7 million a year if all the slots are newly created. Clearly, this bill authorizes the expenditure of money. Yet, it is clear that, for every dollar GAO spends, the taxpayer saves hundreds of dollars in greater efficiency and in elimination of waste. The question is not whether we are spending too much money on GAO, but rather whether we are spending enough.

The Committee on Post Office and Civil Service has worked with the Committee on Government Operations, which has primary responsibility over the General Accounting Office, on this legislation.

I urge adoption of this legislation.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 5517, which would provide authority to the General Accounting Office for additional senior executive service positions and for the procurement of additional experts and consultants. As the auditing and investigating arm of the legislative branch. The GAO has a vital mission to serve. It is through GAO's work in examining executive branch programs and operations that Congress learns whether its intent is being carried out and whether the agencies are operating effectively and efficiently.

As the functions performed by executive branch agencies have grown, in size as well as in technical complexity, the work of the GAO has become both more important and more difficult to achieve. The greatest area of this technical complexity is one in which the Government Operations Committee has taken a particular interest, the ever-increasing application of data processing and telecommunications systems and equipment by Federal agencies. It is crucial that GAO have the resources to monitor executive branch activities in this field. But, according to GAO, over 100 major Federal ADP systems costing tens of billions of dollars, have received little or no review to date due to insufficient technological and personnel resources. GAO has identified other areas where additional capabilities are needed, including accounting and financial management, Natural Resources Administration, and Defense.

To improve the management and supervision of GAO's audit and investigative functions, H.R. 5517 will provide for an increase in 19 senior executive service positions. It also will allow GAO to hire an additional five experts and consultants for periods of up to 3 years, increasing the number of such personnel from 10 to 15.

Mr. Speaker, although this legislation amends statutes within the jurisdiction of the Committee on Government Operations, the committee waived jurisdiction over this bill and endorsed its consideration by the Committee on Post Office and Civil Service so that the bill might be approved by the full House in a timely manner. H.R. 5517 requests only a modest increase in GAO's force of executive level positions and experts and consultants. In improving the GAO's ability to conduct its audit and investigative functions efficiently and effectively, we in the Congress are actually improving our oversight capability and thereby serving our constituents. I urge passage of H.R. 5517.

Mr. SCHAEFER. Mr. Speaker, we have no requests for time, and we yield back our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 5517, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5517, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

VETERANS' HEALTH CARE AND FACILITIES IMPROVEMENT ACT OF 1984

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5618) to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. (a) This Act may be cited as the "Veterans' Health Care and Facilities Improvement Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

VETERANS' ADMINISTRATION POLICE OFFICERS

SEC. 2. (a)(1) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration; appointment of police officers

"(a)(1) The Administrator may prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property'). The Administrator may also prescribe by regulation penalties within the limits established in paragraph (2) of this subsection for the violation of such regulations. Such regulations (including penalties prescribed under this paragraph) shall be posted in a conspicuous place on such property.

"(2) Whoever violates any regulation issued under paragraph (1) of this subsection shall be fined or imprisoned within the limits prescribed by the Administrator. Such a fine may not exceed $500 and such a term of imprisonment may not exceed six months.

"(b)(1) The Administrator may appoint qualified persons as Veterans' Administration police officers. Such police officers shall enforce Federal laws and the regulations issued under subsection (a) of this section on Veterans' Administration property. A Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of any law of the United States or of any regulation prescribed under subsection (a) of this section.

"(2) The Administrator may authorize police officers to carry firearms if the Administrator determines—

"(A) that a substantial safety risk may arise in the performance of investigative duties by police officers; or

"(B) that because of national emergency or regional disaster, the assistance or support of local law enforcement agencies may be unavailable for the protection of persons and Veterans' Administration property and a threat of substantial harm to such persons or property exists.

"(c) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal law enforcement agencies and of State or local law enforcement agencies when it is economical and in the public interest to do so.

"(d)(1) Notwithstanding any other provision of law, but subject to paragraphs (2), (3), and (4) of section 4107(g) of this title, the Administrator may increase the rates of basic pay for Veterans' Administration police officers authorized under applicable statutes and regulations. Any increase in such rates of basic pay made under this subsection may be made on a nationwide, local, or other geographic basis and for one or more of the grades of the General Schedule under section 5332 of title 5.

"(2) The Administrator shall appoint a chief inspector to supervise Veterans' Administration police officers. The chief inspector shall receive compensation at a rate determined by the Administrator, but not to exceed the highest rate of basic pay payable to a person in grade GS-15 of the General Schedule established by section 5332 of title 5.

"(e)(1 The Administrator shall select and regulate the pattern for a uniform for Veterans' Administration police officers.

"(2) The Administrator shall furnish each police officer authorized to carry firearms or other weapons with the necessary weapons and belts.

"(3)(A) The Administrator may reimburse police officers for purchases of uniform clothing. Except as provided in this paragraph, the total reimbursement paid to an officer may not exceed $175 in any calendar year.

"(B) The Administrator may reimburse a police officer for purchases of uniform clothing in an amount up to $400 in lieu of the annual amount authorized in subparagraph (A) of this paragraph. A police officer may not submit a claim for reimbursement under this subparagraph more than once. A police officer who resigns as a police officer less than one year after submitting a claim for reimbursement under this subparagraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the police officer

was actually employed during the calendar year for which the reimbursement was made.

"(f) Except in a case in which the Administrator determines that advance notice is not feasible because of emergent circumstances, any modification or change to the rules and regulations prescribed under subsection (a) of this section or the standards issued under subsection (b) or (d) of this section may not take effect until ninety days after the date on which the Administrator submits a copy of the modification or change to the Committees on Veterans' Affairs of the Senate and House of Representatives.".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration; appointment of police officers.".

(b) Section 4107(g) is amended—

(1) by striking out "health-care" each place it appears in paragraph (2)(A);

(2) by inserting "or under section 218 of this title" in paragraphs (2) and (3) after "paragraph (1) of this subsection"; and

(3) by inserting "and in the exercise of the authority provided in section 218(d) of this title to increase the rates of basic pay for Veterans' Administration police officers," in paragraph (4) after "under this subchapter,".

(c)(1) Not later than 90 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of section 218 of title 38, United States Code, as amended by subsection (a). The Report shall contain (A) the rules and regulations prescribed under subsection (a) of that section, and (B) the standards issued under subsections (b) and (d) of that section. In addition, the Administrator shall submit with the report a list of the facilities where it is proposed to appoint Veterans' Administration police officers and of the number and salary of police officers proposed to be appointed at each such facility.

(2) A person may not be appointed as a Veterans' Administration police officer or paid a salary established pursuant to subsection (d) of that section until 90 days have elapsed from the date on which the Administrator submits the report and lists described in paragraph (1).

TREATMENT OF POST-TRAUMATIC STRESS DISORDER

SEC. 3. (a)(1) Subchapter II of chapter 17 is amended by inserting after section 620A the following new section:

"§ 620B. Treatment for post-traumatic stress disorder

"(a) The Administrator may furnish treatment services under this section to any veteran who—

"(1) is eligible for care of services under section 610 or 612 of this title; and

"(2) is determined by the Administrator to be suffering from post-traumatic stress disorder attributable to service in the Armed Forces.

"(b)(1) The services that may be furnished under this section include hospital care, medical services, outpatient services, counseling to family members and other persons in primary social relationships with a veteran, rehabilitative services, vocational counseling, home health services, and such other services as the Administrator finds necessary for the treatment of a veteran.

"(2) The Administrator may coordinate the provision of services under this section with the provision of services authorized by section 612A of this title.

"(c)(1) Services may be provided under this section only through treatment units established for the treatment of post-traumatic stress disorder by the Administrator in Veterans' Administration medical facilities over which the Administrator has direct jurisdiction.

"(2) In addition to the provision of treatment services to veterans described in subsection (a) of this section, such treatment units shall sponsor efforts to further the education of health-care professionals (including health-care professionals employed outside the Government) regarding the causes, diagnosis, and treatment of post-traumatic stress disorder.

"(3) The Administrator shall identify the resources allocated to such treatment units in material submitted with the President's budget for each fiscal year during which the units are proposed to be in operation.

"(4) When allocating funds for research relating to post-traumatic stress disorder, the Administrator shall give priority to medical facilities at which such treatment units are located in order that such research may, when feasible and otherwise appropriate, be carried out as such treatment units.

"(d) The Administrator shall on a regular basis compile and publish the results of research that has been conducted regarding the causes, diagnosis, and treatment of post-traumatic stress disorder and shall promote the exchange of information concerning such disorder among health-care professionals.

"(e) The Administrator may not furnish services under this section after September 30, 1988.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 620A the following new item:

"620B. Treatment for post-traumatic stress disorder.".

(b)(1) Section 620B of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1984.

(2) In the case of a Veterans' Administration medical facility that has a unit in existence on October 1, 1984, that provides special treatment for post-traumatic stress disorder, that facility shall be considered to have a treatment unit for the purposes of section 620B of title 38, United States Code, as added by subsection (a), unless the Administrator determines that the provision of treatment services for such disorder authorized to be provided under such section is unnecessary at that facility or that the demand for such services could be more efficiently met at another facility.

CLARIFICATION OF REPORTING REQUIREMENT

SEC. 4. Section 5010(a)(4)(C) is amended to read as follows:

"(C) After the expiration of the period for certification by the Director of the Office of Management and Budget under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director of the Office of Management and Budget has complied with the requirements of that subparagraph in providing to the Veterans' Administration such funded personnel ceiling. The report shall be submitted not later than 15 days after the end of the period specified in such subparagraph for the Director to submit the required certification.".

PER DIEM RATES FOR STATE HOMES

SEC. 5. Section 641(c) is amended—

(1) by striking out "every three years";

(2) by striking out "a report" and inserting in lieu thereof "an annual report"; and

(3) by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1985".

EXTENSION OF ADMINISTRATOR'S AUTHORITY TO WAIVE RESTRICTIONS ON THE PROVISION OF CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 6. Section 601(4)(C)(v) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

EXTENSION OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 7. (a) Section 4101(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to paragraph (1) of this subsection.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1984.

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

SEC. 8. (a) Subchapter III of chapter 81 is amended as follows:

(1) Section 5032 is amended by inserting "(or to acquire facilities to be used as State home facilities)" after "State home facilities".

(2) Section 5034 is amended by inserting "or acquired" after "constructed" each place it appears.

(3) Section 5035 is amended—

(A) by inserting "(or acquisition of a facility to be used as a State home facility)" in the first sentence of subsection (a) after "State home facilities";

(B) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (1) of subsection (a) after "cost of construction";

(C) by inserting "(or for facility acquisition and construction of the project)" in clause (6) of subsection (a) after "construction of the project";

(D) by striking out "sections 276a through 276a—5 of title 40" in clause (8) of subsection (a) and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a—276a-5)";

(E) by striking out "and" at the end of clause (7), by striking out the period at the end of clause (8) and inserting in lieu thereof "; and", and by inserting after clause (8) the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.".

(F) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (2) of subsection (b) after "cost of construction";

(G) by striking out "the construction of" in clause (4) of subsection (b) and inserting in lieu thereof "the carrying out of"; and

(H) in subsection (d)(1)—

(i) by inserting "(or of the estimated cost of facility acquisition and construction)" in

the first sentence after "cost of construction";

(ii) by striking out "constructed" in the second sentence and inserting in lieu thereof "carried out";

(iii) by striking out "construction" in the third sentence and inserting in lieu thereof "the project"; and

(iv) by striking out "the construction of" in the fourth sentence.

(4) Section 5036 is amended—

(A) by striking out "for construction" after "completion of any project";

(B) by inserting "acquisition," after "in the case of the";

(C) by striking out "value of such construction" and inserting in lieu thereof "value of such project";

(D) by striking out "for such construction" after "assistance provided"; and

(E) by striking out "twenty" both places it appears and inserting in lieu thereof "20".

(5) Section 5037 is amended by inserting "or acquired" after "constructed".

(b) The amendments made by this section shall take effect on October 1, 1984.

VETERANS AUTHORIZED TO BE FURNISHED WITH DRUGS AND MEDICINES

SEC. 9. (a) Section 612(h) is amended—

(1) by inserting "for a disability which is service connected and compensable in degree and to each veteran" after "veteran" the first place it appears; and

(2) by inserting "the compensable service-connected disability of a veteran or, in the case of a veteran who is permanently housebound or in need of regular aid and attendance, for" after "in the treatment of".

(b) The amendments made by subsection (a) shall take effect on October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. McEWEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes and the gentleman from Ohio (Mr. McEWEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

□ 1240

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of our Subcommittee on Hospitals and Health Care, the Honorable BOB EDGAR, is not here today. He is in his congressional district because of a previous engagement. Before yielding to the distinguished gentleman from Florida, DAN MICA, the ranking member of the subcommittee, for an explanation of the bill, I want to compliment BOB EDGAR for the outstanding leadership he has provided as chairman of the subcommittee during the past 2 years.

Mr. EDGAR held six regional hearings last year. He has already conducted several hearings this year and has additional field hearings planned during the remainder of this session of the Congress. He and other members of the subcommittee have worked extremely hard to make certain that the veterans of our Nation are provided quality health care. As chairman of the full committee, I just want to congratulate members of the subcommittee at this time for the great work they have done.

Mr. Speaker, the distinguished gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, is also to be congratulated for his leadership as the ranking minority member of the subcommittee. JOHN PAUL has also been present at all of these hearings and has cooperated with Mr. EDGAR fully in an effort to get this legislation to the floor. I am grateful to all members of the subcommittee for the time they have devoted to their work on the committee.

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Florida (Mr. MICA), who will explain the bill.

Mr. MICA. Mr. Speaker, first I would like to take a moment and also commend my chairman, the gentleman from Alabama, and our chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EDGAR), for doing a tremendous job on this legislation.

I think the concern for veterans and their health care is noted very aptly in this legislation.

H.R. 5618 is a clean bill for a number of bills considered and recommended by the Subcommittee on Hospitals and Health Care. The bill includes the provisions of H.R. 3876, which I introduced and which was cosponsored by the chairman of the subcommittee, Mr. EDGAR. It also includes the provisions of H.R. 4625, H.R. 4792, H.R. 4833, H.R. 5225, H.R. 5412, and H.R. 5551 as amended by the subcommittee and approved by the full committee at its May 10 markup.

H.R. 5618 authorizes the VA to establish special units for the treatment of posttraumatic stress disorder (PTSD), which affects a number of veterans who were exposed to combat and reacted to its damaging psychic effect. Members of the subcommittee have seen the success of these units, where veterans help each other integrate their feelings about the wartime trauma with other, normal experiences; and we think this legislation will encourage the VA to establish more of these units.

Section 9 of the bill includes the language of H.R. 3876, which I introduced last year to help veterans who have service-connected disabilities. Many of these veterans, for various reasons, obtain treatment for their service-connected disabilities at their own expense, thus saving the Government money. Some VA medical centers recognized that they were able to serve more veterans because of a veteran's willingness to pay for his or her treatment and decided that they would fill prescriptions written by non-VA physicians for treatment of service-connected disabilities. This practice was halted last year when the general counsel held, in an unpublished opinion, that there was no statutory authority to do this. H.R. 5618 will give the VA authority to fill prescriptions necessary for the treatment of a veteran's service-connected disability when the prescription is written by a non-VA physician. The committee does not believe that veterans with service-connected disabilities who pay for their own treatment should be penalized by being forced to pay for prescriptions that they could obtain without cost if the VA also paid for their treatment.

The bill would also reformulate the VA's security operations at the 172 VA hospitals. I have seen a steady decline in employee morale as a result of poor security at some VA medical facilities, and this legislation will help the Administrator turn this situation around.

H.R. 5618 will also expand the State veterans' home grant program so that States can acquire existing buildings and convert them for use as State homes. This measure will also require an annual report on the adequacy of the per diem payment which the VA pays to State homes.

Finally, this bill will extend the VA's authority to provide care in non-VA facilities in the Virgin Islands and Puerto Rico and will extend the VA's successful GRECC program, which is designed to focus attention on the needs of aging veterans. This bill also contains a technical amendment recommended by the Comptroller General.

I urge my colleagues to support H.R. 5618.

Mr. Speaker, I thank the chairman of the full committee.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5618 is an omnibus bill concerned with the delivery of health care to the veterans of this Nation. It has been reported to the floor of the House by unanimous vote of the Committee on Veterans' Affairs. Its provisions have been the subject of extensive hearings both in the field and here in Washington. It is a good bill

and one that deserves the support of the Congress.

Mr. Speaker, this bill seeks to correct a serious security problem at a number of VA medical centers. This problem concerns VA security officers and security itself. Low morale among personnel and high turnover, as well as difficulty in recruiting security officers, is commonplace in too many centers. This has occurred because pay and other benefits for employees in VA hospitals in certain areas of our country lag far behind those of other medical facilities. The passage of H.R. 5618 will materially assist in solving this problem, thus alleviating a serious concern of VA patients across our land.

As was mentioned by my friend and colleague from Florida (Mr. MICA), H.R. 5618 authorizes in law treatment for posttraumatic stress syndrome. It affects all veterans but gives emphasis to those of the Vietnam war who experienced this serious problem. So-called combat units have already been established in several VA medical centers to treat this condition. The number will be modestly increased by this bill.

Mr. Speaker, one of our Nation's best veterans' programs is a shared Federal-State relationship. I refer to our State veterans homes, which are operated on a partnership basis between the Veterans' Administration and the States. A per diem rate is paid to the State homes for each veteran-patient. On a number of occasions that rate has not been fairly and timely adjusted to take inflation, medical, or other cost factors into account. Current law calls for the VA to study these rates and report upon them to the Congress every 3 years. The bill before us changes this rule and requires an annual study and report. This is an excellent provision.

□ 1250

Mr. Speaker, VA provides non-service-connected contract care to a large number of veterans in Puerto Rico and the Virgin Islands. Authority for this expires at the end of the fiscal year 1984. H.R. 5618 extends that authority for 1 more year. Hopefully, the VA will use that year to complete its several studies about future health care needs of veterans in these two concerned areas.

Hopefully, also VA will then make necessary and appropriate specific recommendations to the Congress. For far too long a very bad situation has been allowed to exist in Puerto Rico. It is a situation that literally demands new hospital construction and new leasing to accommodate both inpatient and outpatient treatment for veterans of both Puerto Rico and the Virgin Islands. We ought to give priority of the highest order to once and for all solve this difficult problem. The veterans of these areas have every right to expect positive and expedited action by both the Veterans' Administration, as well as the Members of the Congress.

Mr. Speaker, H.R. 5618 also authorizes service-connected veterans to have private doctor prescriptions filled by VA hospital pharmacies. As was pointed out so eloquently by the gentleman from Florida, in the past this was allowed, although legal authority did not exist for it. This bill corrects that problem.

The Committee on Veterans' Affairs recognizes that some policy problem areas exist with this proposal but believes that by regulation the VA can cure the problems and thus assure that necessary controls are put into place to control possible abuses of this provision.

Mr. Speaker, H.R. 5618 contains other technical provisions already referred to. Each are important and necessary and I commend them to the House.

In closing and finally, Mr. Speaker, I want to commend our distinguished chairman, the gentleman from Mississippi (Mr. MONTGOMERY); our ranking member on the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for their leadership on this bill. I also want to commend the distinguished chairman of the subcommittee and join the full committee chairman in expressing our accolades to the gentleman from Pennsylvania (Mr. EDGAR), who has done yeoman work on this proposal. His field hearings were most productive and enlightening. His diligence, his hard work, his leadership were obvious to all of us who worked with him on these matters as they progressed through committee. Truly he deserves the commendation of the House.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MCEWEN. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, let me just take a moment to concur in the remarks of the gentleman from Florida (Mr. MICA) and my colleague from Ohio (Mr. MCEWEN).

I would also commend the gentleman from Pennsylvania (Mr. EDGAR) for his outstanding work in putting together the omnibus bill, as well as our esteemed chairman, the gentleman from Mississippi (Mr. MONTGOMERY), and the gentleman Arkansas (Mr. HAMMERSCHMIDT), who also happens to be the ranking minority member of the Subcommittee on Hospitals and Health Care.

I think we ought to just mention the majority and minority staffs on both of these subcommittees, because in putting together the omnibus bill, they did an outstanding job on a bipartisan basis.

Again, I commend all for bringing the bill to the floor and I hope it passes unanimously.

Mr. MCEWEN. I thank the gentleman for his contribution and express my admiration for his contribution as well.

Mr. Speaker, I have no further requests for time and reserve the balance of my time.

● Mr. EDGAR. Mr. Speaker, the Subcommittee on Hospitals and Health Care of the House Committee on Veterans' Affairs held several hearings on the provisions included in this legislation. We received very detailed testimony from witnesses with diverse backgrounds and various points of view. JOHN PAUL HAMMERSCHMIDT, the ranking minority member, and I, as well as the other members of the subcommittee, took considerable time last year to visit a number of VA facilities throughout the country. We listened to the veterans receiving care at those facilities, and we heard the views of a number of VA employees who provide the health care. I would like to thank SONNY MONTGOMERY, the chairman of our committee, for his support of our efforts to learn more about the problems facing the VA health care system. I also want to express my appreciation for the contributions made by the members of the subcommittee, whose thoughtful questions and insight were invaluable during the subcommittee's consideration of this legislation.

Mr. Speaker, this measure is largely a result of our field visits last year. The other product of these visits can be found in our committee's recommendations to the Budget Committee of March 15. I mention this briefly because it was apparent to all members who accompanied Mr. HAMMERSCHMIDT and me on our field hearings that money is seriously impacting on the quantity and quality of the health care being provided to our Nation's veterans. I know there are many domestic programs which have been curtailed because of current administration policies. But I would ask the Members of this House to go out and look at what the VA is doing with the resources we are providing. The VA is doing a good job with the resources we provide, but in some instances, there just is not enough money to provide the quality of care veterans deserve. And while we are urging the VA to come up with innovative ways of meeting the rising demand for health care, all of us must share the responsibility for insuring that the quality stays high. In some areas such as diagnostic equipment; that is, CT scanners and NMR's, there is no alternative but to spend the money needed because modern medical practice demands that these machines be used.

The other side of the coin is the legislation being considered today, H.R. 5618. The subcommittee visited several facilities where special units known as combat units had been established to treat Vietnam veterans suffering from posttraumatic stress disorder. I think we were all impressed by the dedication of the employees on these units who were committed to helping veterans work through their reaction to some traumatic event related to service in Vietnam. This legislation would authorize the VA to establish additional units for any veteran suffering from posttraumatic stress disorder attributable to service in the Armed Forces, while at the same time making them centers for research and educational activities. This legislation will also encourage the exchange of information among professionals involved in the treatment of posttraumatic stress disorder, and will signify our commitment to aid those veterans who have not completely readjusted following their service in the Armed Forces.

Section 2 of this bill will restate the VA's authority to maintain law and order at VA hospitals, and will permit the appointment of VA police officers. It will also increase the uniform allowance for such officers and permit the administrator to deal with recruiting and retention problems at certain VA hospitals. While the bill does not contain any specific requirements as to training of police officers, I want to emphasize the committee's concern with this aspect of recruiting and retaining police officers. Officials of the VA admitted that they knew of no other police force which provides so little training for its recruits—1 week. Adequate training is indispensable to a competent police officer. It enables police officers to perform their duties in a professional manner, and should result in greater protection for veterans, their families, and other VA employees. The committee strongly encourages the Administrator of Veterans' Affairs to look at this situation personally and see whether adequate training is being provided when compared with any other police force.

Several provisions of this bill are designed to improve the State veterans' home program. The VA currently provides two kinds of assistance to States which have homes where elderly and disabled veterans can reside or receive nursing home care. First, the VA will help the States establish a home by providing up to 65 percent of the cost of constructing and equipping such a home. Then, the VA contributes a portion of the cost of sustaining veterans at the home, with the rate varying depending on whether the veteran requires domiciliary, nursing home, or hospital care. I am very pleased that there is a high level of interest in this program in various States, and that the administration has responded to this increased interest by raising the level of funding requested for the grant program. This legislation will do two things. It will authorize the Administrator to make grants for projects where the State plans to acquire an existing building to be used as a veterans home. Many of us are aware of the shift in need for health care. With the veteran population over age 65 expected to double between now and 1990, the VA and States must have the flexibility to choose alternatives to building new facilities for veterans. I think this legislation will help make more efficient use of health care facilities that otherwise might go unused, and I commend the gentleman from Minnesota, Mr. PENNY, for his efforts on this measure.

The other change we are making is a simple one that has been endorsed by the National Association of State Veterans' Homes. Under existing law, the VA must examine the adequacy of the per diem rates which it pays to States on a per capita basis and report to the Congress every 3 years. This legislation would require a report annually. We think that annual reporting will keep the Congress better advised as to the adequacy of the VA payments, and will permit us to make an informed decision on changing these rates when warranted.

Section 9 of this legislation will permit the Veterans' Administration to fill prescriptions written by non-VA physicians for treatment of the service-connected disabilities of veterans. At present, these veterans are entitled to treatment at VA expense. However, for various reasons, some of these veterans elect to receive treatment for their service-connected disabilities from a private physician at their own expense. Under existing law, these veterans are not entitled to drugs and medicines from the VA unless they are also being treated at VA expense. The subcommittee held hearings on this matter and concluded that forcing veterans to be treated at VA expense when they were willing to pay for their own treatment did not make sense. In fact, until recently, several VA medical centers had been providing drugs and medicines in this type of situation. This legislation will permit all VA medical centers to provide veterans with necessary medication for their service-connected disabilities. The Congressional Budget Office projects that there will probably be a net savings from enactment of this legislation, although data is not available to project the precise amount of dollars saved. This is a good provision, and I commend the gentleman from Florida, Mr. MICA, for introducing it.

H.R. 5618 will also extend two programs which are due to expire at the end of this fiscal year. One of these is the much admired GRECC program, which established centers of excellence to attract highly regarded professionals to the important field of geriatrics. There is clearly a need to continue the emphasis on geriatric care in the VA, and this legislation would extend this authority indefinitely.

This bill would also extend the VA's authority to provide hospital care in private facilities in Puerto Rico and the Virgin Islands. This authority is due to expire on September 30 of this year. There is a need to construct additional VA facilities to serve veterans residing in the Virgin Islands and Puerto Rico. The VA has not submitted a proposal to resolve the shortage. Therefore, it is necessary to extend the authority to provide care in private facilities in these locations. I want to encourage the Administrator to submit a proposal to resolve the shortage of VA facilities in these two locations as soon as possible.

Mr. Speaker, this legislation was anticipated when the Budget Committee prepared its budget resolution that was approved by the House earlier this year. This bill is one that is necessary, yet it will have little budgetary impact. I would again like to thank the chairman of the full committee, SONNY MONTGOMERY, the ranking minority member, JOHN PAUL HAMMERSCHMIDT, and the other committee members for their hard work in moving this legislation. H.R. 5618 is a good bill, and I urge my colleagues to support it.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, the bill before the House, H.R. 5618, provides several important, if not vital, adjustments to the health care delivery system of the Veterans' Administration. In our travels around the country, members of the Veterans' Affairs Committee have been made aware of the security problems in many of our VA hospitals. In addition, low morale, high turnover, employee dissatisfaction, patient concern, and recruitment problems are commonplace throughout the system. It follows that finding and hiring new employees, and the attendant costs of training could be difficult. This legislation does much toward addressing this complex issue and I commend Mr. EDGAR for his efforts in dealing with the problem.

Mr. Speaker, posttraumatic stress disorder has been a demon of soldiers in many wars, but with respect to the Vietnam veterans, it is an especially turbulent burden. H.R. 5618 emphasizes treatment for these veterans, and specifically addresses the "combat units" that have been a part of several VA medical centers and which will continue to be added to the system.

This bill also takes to task the current inequities that exist between the per-diem rates paid to State veterans homes and the increases in inflation

and other costs. The rate has not always been fairly adjusted and this measure makes an annual study and report mandatory. This should help resolve the problem and I support its inclusion in this bill.

Contract care for non-service-connected veterans in Puerto Rico and the Virgin Islands is an issue that should remain high on the list of Veterans' Administration officials. This program is currently far below standards and demands immediate action if we are to preserve any dignity for those veterans who are now receiving inadequate care in inadequate facilities. H.R. 5618 extends contract care authority through fiscal year 1985, and I urge the Veterans' Administration to use that time wisely and set goals and priorities to resolve an embarrassing situation. Finally, Mr. Speaker, this bill addresses the issue of private-physician-ordered prescriptions and the VA pharmacies' problems with filling those prescriptions. This legislation authorizes this practice, and although there are apt to be some administrative problems at the onset, we believe controls can be implemented to overcome these problems.

Thank you, Mr. Speaker.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 5618, the Veterans Health Care and Facilities Improvement Act of 1984, which provides for changes in miscellaneous Veterans' Administration programs.

I am particularly supportive of the provisions of the bill regarding the establishment of special units within the VA hospitals to care for veterans who suffer posttraumatic stress disorder; the authorization to the VA to fill prescriptions issued by private physicians for treatment of veterans' service-connected disabilities; and the extension for 1 year of the VA authority to contract out health care services in Puerto Rico and the Virgin Islands.

The posttraumatic stress disorder was recently identified as a mental dysfunction present in wartime veterans. Treatment of veterans suffering from it, as well as research efforts in this area, warrant our full support and encouragement. Some VA centers have already autonomously undertaken the task of establishing treatment units for this mental disorder. This measure would formalize their existence and hopefully trigger the establishment of such units everywhere they are needed across the Nation.

In addition, the bill would require that research funds for this mental condition be given preference which would lead to better quality care in the PTSD treatment units. The authorization to the VA to provide veterans privately prescribed drugs and medicines also warrants our approval. This provision is cost-effective and beneficial to the veterans. Currently, a veteran would have to first become part of an outpatient clinic program in order to get non-VA-issued prescriptions filled by the VA. Such procedures place an unnecessary burden on the VA outpatient clinics and therefore limit access for other needy veterans.

Mr. Speaker, last but not least, I strongly urge my colleagues to support the 1-year extension of the VA to contract out services in Puerto Rico and the Virgin Islands. The ability of the VA to use private facilities and physicians in Puerto Rico is of paramount importance for the VA to carry out its responsibilities to the thousands of needy-eligible veterans living on the island. This authority will continue to be necessary until the VA in Puerto Rico is equipped with adequate facilities to handle the overwhelming demand for health care services there. I urge my colleagues to vote for the passage of this extension and secure the continued delivery of health services to every ailing qualified veteran in Puerto Rico.●

Mr. MONTGOMERY. Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. MCEWEN) and the gentleman from New York (Mr. SOLOMON) for their full support for this bill.

I would like to commend again the efforts of the subcommittee. I certainly want to fully support this measure.

I ask all Members to vote for the passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 5618, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER AT MILWAUKEE, WIS., FOR CLEMENT J. ZABLOCKI

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4734) to name the Veterans' Administration Medical Center in Milwaukee, Wis., the "Clement J. Zablocki Veterans' Administration Medical Center."

The Clerk read as follows:

H.R. 4734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

The SPEAKER pro tempore (Mr. BROOKS). Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes and the gentleman from New York (Mr. SOLOMON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4734).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House a bill introduced by the distinguished dean of the Wisconsin congressional delegation, the Honorable BOB KASTENMEIER and cosponsored by the entire delegation, to honor our late friend and colleague, Clement J. Zablocki. H.R. 4734 would name the VA Medical Center in Milwaukee, Wis., the "Clement J. Zablocki Veterans Administration Medical Center."

The untimely death of our friend earlier this year came as a shock to us and the people of his district. His work in this Chamber, which spanned five decades, will always be remembered.

Clem Zablocki played a major role in our foreign policy for many years. As chairman of the Foreign Affairs Committee, Clem had the opportunity to meet and discuss world problems with most of the influential leaders in the world. He served in this most important position of leadership with distinction. But I will remember my friend for the compassion and commitment he had for the thousands of men and women who served in our military services in carrying out our foreign policy decisions throughout the world.

Mr. Zablocki never forgot the veteran. He helped establish and supported various programs during all of his 34 years in the Congress. He believed we should care for those who are sent to answer their nation's call in time of war. When he began to establish his priorities for the expenditure of Federal funds, especially during recent years when reductions were being made in so many programs, Clem Zablocki placed veterans at the top of his list. He never wavered. Veterans knew they could count on him.

Members of the Wisconsin congressional delegation and veterans organization representatives in Wisconsin

have told me that Mr. Zablocki visited VA facilities regularly. He was there because he cared for the welfare of veterans and he made regular visits to VA facilities because he cared for employees of the agency who work diligently in behalf of veterans in need.

Yes, Mr. Speaker, I am proud to join my good friend, BOB KASTENMEIER, and the Wisconsin congressional delegation in support of this bill (H.R. 4734) to name the VA medical center in Milwaukee for our departed friend.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I rise in support of H.R. 4734, legislation to name the Veterans' Administration Medical Center in Milwaukee, Wis., for our late colleague, Clement J. Zablocki.

This is a fitting honor for a man who labored long and well in behalf of our Nation's veterans. He was instrumental in bringing about the construction of a new VA Medical Center in Milwaukee, and the conversion of the existing VA hospital to a domiciliary.

Clem Zablocki served in this House longer than any other Member from Wisconsin—from 1948 until his untimely death on December 3, 1983. He served on the Committee on Foreign Affairs from the 81st Congress to the 95th Congress, when he was named chairman of that committee.

The naming of the Milwaukee Veterans' Administration Medical Center for Clement J. Zablocki would not only be an appropriate tribute to our distinguished colleague but would also serve as a reminder of his outstanding service to the veterans of this Nation. I urge my colleagues to support H.R. 4734.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us today honors the late chairman of the House Foreign Affairs Committee, Clement Zablocki. I had the great privilege of serving on the committee while Clem Zablocki was chairman, and I can honestly say that of him, America has a role to play as the conscience and force of freedom around the globe. All he asked for was the privilege of playing his part in seeing to it that America did indeed fulfill that destiny.

I am just as certain that all who knew him away from his office would say that Clem Zablocki was a trusted and dear friend, a man any of us would be proud to emulate, and certainly, a true representative of the people of Wisconsin.

This House has honored Clem Zablocki in several ways since his death, but the passage of this legislation will demonstrate yet another measure of our great esteem and admiration for his accomplishments.

Mr. Speaker, Congressman Zablocki played a crucial leadership role in the construction of a new VA Medical Center in Wisconsin and in the conversion of existing VA facilities into a domiciliary center. In addition, throughout his illustrious career in this House, Clement Zablocki was consistently in the forefront of the movement to champion the American veteran.

Passage of H.R. 4734 today will represent what is, in my opinion, one of the highest honors this House can bestow upon one of its past leaders. Naming the Milwaukee VA Medical Center after Congressman Zablocki will serve as enduring testament to his leadership and vision.

I might also add, Mr. Speaker, that this legislation was unanimously approved by the Veterans' Affairs Committee, and meets all committee rules and requirements.

I urge the House to unanimously approve this legislation out of respect and in honor of a truly great American, Clement Zablocki.

□ 1300

Mr. MONTGOMERY. Mr. Speaker, I would like to commend the gentleman from New York (Mr. SOLOMON) for his interest in the subcommittee and his work on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KASTENMEIER), the dean of the Wisconsin delegation.

Mr. KASTENMEIER. I thank the chairman of the committee, my colleague and my friend, for yielding time to me; and I thank him, the gentleman from Pennsylvania, the gentleman from Florida, the gentleman from New York who preceded me, and indeed the entire Veterans' Affairs Committee, for their action on H.R. 4734.

Mr. Speaker, I am delighted that the House has the opportunity today to consider H.R. 4734 which would name the Veterans' Administration Medical Center in Milwaukee, Wis., the "Clement J. Zablocki Veterans' Administration Medical Center." This bill was cosponsored by the entire Wisconsin delegation and we feel that it is an appropriate way to honor our late colleague whose abilities, intelligence, and fairness won him the respect of all his colleagues.

Clem Zablocki was instrumental in having the VA hospital in Milwaukee approved and built in the 1960's and later he helped found a new domiciliary on the grounds which was dedicated in 1979. He was the original sponsor of the legislation in the 83d and 84th Congress which drew attention to the need for a new medical facility. He worked for years with the congressional committees and executive branch to obtain approval and he insisted that it be a fully modernized as its functions expanded to serve our veterans.

In addition, he worked diligently to insure that other veterans benefits would be centralized at the VA facility to make it easier to process medical, disabilility and educational benefits. Prior to the centralization of these activities at the VA Center in Milwaukee, veterans had to visit the regional office for any nonmedical services.

Congressman Zablocki consistently and without hesitation supported legislation and initiatives on a national level to improve the condition of veterans. His work was honored in 1965 when he received the distinguished Silver Helmet Congressional Award from the national veterans' organization, AMVETS.

In its citation, AMVETS mentioned Zablocki's legislation to authorize construction of the medical center in Milwaukee and his active work toward its progress and well-being. The citation added:

> The V.A. hospital at Wood is only one example of the Congressman's interest and efforts in behalf of veterans. He also pioneered in the establishment of nursing care and rehabilitation programs for veterans. Over the years, Congressman Zablocki has given his full support to legislation providing equitable compensation and other benefits for servicemen and veterans. In addition, there has not been an AMVET problem in which Congressman Zablocki has refused to take an interest. (Citation, April 3, 1965.)

Zablocki's interest in veterans' legislation remained keen throughout his career. In the 88th Congress, he championed a program of nursing care for disabled veterans which was enacted into law.

Congressman Zablocki also authored, cosponsored and voted on the side of veterans in countless issues throughout his 35 year career. His positions included the following:

Support of equitable pay treatment of VA physicians and dentists;

Support for continued interaction between VA hospitals and medical colleges;

Support of cost-of-living increases in compensation and pension programs;

Support for treatment of ailments attributed to agent orange;

Support for education and training for Vietnam-era veterans;

Cosponsoring of pensions for World War I veterans;

Cosponsoring of exclusion of social security benefits in calculating veterans' benefits;

Voted for increased disability benefits, home loan programs, health benefits, and counseling centers for Vietnam-era veterans;

Promoted high technology training in VA education and training programs.

Currently, only 18 of the 172 VA hospitals in the United States have

been named after Presidents of the United States and other distinguished individuals. I would urge my colleagues to support H.R. 4734 to include our late colleague and friend, Clement J. Zablocki, in this distinguished group of Americans.

Mr. MONTGOMERY. Mr. Speaker, I want to commend the gentleman from Wisconsin (Mr. KASTENMEIER) for his work with our committee on this legislation and the rest of the Wisconsin delegation.

● Mr. GUNDERSON. Mr. Speaker, I am pleased to rise in strong support of H.R. 4734 that would rename the Veterans' Administration Medical Center in Milwaukee the "Clement J. Zablocki Veterans' Administration Medical Center."

This designation is most appropriate because of Clem's overall commitment to veterans, medical care, and particularly the Veterans' Administration medical facility being renamed today.

We have all had opportunities in the past 4 months to individually honor the memory of this distinguished statesman and good friend. Now, it would be a most fitting tribute for this legislative body to collectively recognize Chairman Zablocki's many contributions to his district, State, and Nation by renaming this Federal facility in his honor.

In this way future generations may share the respect and admiration we have all expressed today for this truly great American. I urge my colleagues to unanimously support this bill.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, few of us in this Chamber today, or in the House and Senate in general, can forget Clem Zablocki. As chairman of the Foreign Affairs Committee he was powerful yet self-restrained in the use of that power. He was often in the presence of great leaders but he would not have thought that he, too, was considered great by many of those world dignitaries.

As our colleague, he was a friend and a patriot, a man of sincere warmth and charm. I know I speak for many Members present and past when I say we miss his leadership and friendship.

Mr. Speaker, the bill before the House, H.R. 4734, in a small way commemorates the memory of Clem Zablocki by authorizing the naming of the VA Medical Center in Milwaukee for this distinguished American.

This bill was unanimously reported out of the Veterans' Affairs Committee and it meets all the rules of our committee. I join with our chairman, Mr. MONTGOMERY, in support of this bill and I want to congratulate the members of the Wisconsin delegation for their efforts in behalf of their much beloved colleague.

Thank you, Mr. Speaker.●

● Mr. MOODY. Mr. Speaker, I rise today in support of H.R. 4734. I believe the renaming of the VA Medical Center in Milwaukee after the late Representative Clement J. Zablocki is an apt tribute to a fine American.

Clem Zablocki worked for the benefit of veterans throughout his career. He was instrumental in the passage of the War Powers Resolution which reasserted the role of Congress in the formulation of foreign policy. Yet Clem maintained his ties to Milwaukee and to the people of his district, which is much more than one can say about some politicians in national politics.

Clem Zablocki was a decent man who served everyone in the Fourth District in Wisconsin, and in the United States for 34 years. I am happy to join with Representative KASTENMEIER and the rest of the Wisconsin delegation in support of this legislation.●

● Mr. BIAGGI. Mr. Speaker, it is a high honor for me to join in support of H.R. 4734, a bill to bestow an especially fitting tribute for our late and departed colleague, Clement J. Zablocki.

For 34 distinguished years, Clement Zablocki served the people of Milwaukee in the House of Representatives. In fact he served longer than any Member of Congress from the State of Wisconsin. He, of course, served with special effectiveness as chairman of the House Foreign Affairs Committee and was instrumental in the enactment of many of the key foreign policy initiatives of this decade.

Clem Zablocki had a special relationship with the VA Center in Milwaukee. He worked diligently for the construction of the medical center and the conversion of what was then the existing Veterans' Administration hospital to a domiciliary facility. Clem earned the AMVETS Silver Helmet Congressional Award in 1965 for his work on behalf of veterans.

Much has been said in the way of spoken tributes to Clem Zablocki, but passage of a bill of this type is far more significant and meaningful. It seems especially fitting that we take this action on behalf of Clement and have the VA center in his beloved Milwaukee stand as a living symbol of this great man and American.●

Mr. MONTGOMERY. Mr. Speaker, we have asked unanimous support for this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 4734.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS HOUSING AMENDMENTS OF 1984

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5617) to amend title 38, United States Code, to increase certain dollar limitations under Veterans' Administration housing programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 802 of title 38, United States Code, is amended—

(1) by striking out "$32,500" in subsection (a) and inserting in lieu thereof "$35,000"; and

(2) by striking out "$5,000" in subsection (b) and inserting in lieu thereof, "$6,000."

(b) Section 1810(c) of such title is amended by striking out "$27,500" and inserting in lieu thereof "$30,000".

(c) Section 1819(c)(3) of such title is amended—

(1) by striking out "per centum" and inserting in lieu thereof "percent"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$22,000".

(d) The amendments made by this section shall take effect on October 1, 1984.

SEC. 2. (a) Section 1004(c) of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) Each such marker shall be upright, except that, if the person buried (or the survivor or legal representative of the person buried) has requested that the grave be marked with a flat marker, the person shall be buried in a cemetery section set aside for graves marked with flat markers and a flat marker shall be used.".

(b)(1) The amendments made by subsection (a) shall apply with respect to markers for graves of persons who die after September 30,1984.

(2) During the period beginning on October 1, 1984, and ending on December 31, 1984, the Administrator of Veterans' Affairs—

(A) may waive the applicability of section 1004(c)(2) of title 38, United States Code, as added by subsection (a), in the case of the grave of a person to be buried during such period in a cemetery in which there is no section set aside for graves with upright markers; and

(B) may deny a request under section 1004(c)(2) of title 38, United State Code, as added by subsection (a), that the grave of a person to be buried in a national cemetery be marked with a flat marker if the denial is for the reason that in the cemetery in which the burial is to take place there is no section set aside for graves with flat markers.

(3) Not later than January 1, 1985, the Administrator of Veterans' Affairs shall designate for each cemetery in the National Cemetery System a section in which graves shall be marked with upright markers and a section in which graves shall be marked with flat markers.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes and the gentleman from Ohio (Mr. MCEWEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 5617.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my colleagues on the Veterans' Affairs Committee in bringing this bill to the House. It is designed to help veterans own their own homes.

The bill raises the maximum loan guaranty limits to keep pace with increased housing costs.

The gentleman from Alabama. (Mr. SHELBY), has shown great leadership in directing the work of this subcommittee and I congratulate him and the distinguished ranking minority member from New Jersey (Mr. CHRIS SMITH), for their work on the subcommittee.

I am grateful that the Members have included in this legislation a provision which I have supported for many years. Section 2 of the bill would require that upright markers be used in all of our national cemeteries. TOM DASCHLE, a distinguished member of the committee has also sponsored legislation for this purpose. I want to thank the subcommittee members for their work and especially Mr. BILIRAKIS for the amendment he offered in committee to give the families of deceased veterans the option of having their loved ones buried in a section set aside for graves marked with flat markers if they so choose.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Alabama (Mr. SHELBY).

Mr. SHELBY. Mr. Speaker, the committee bill, H.R. 5617, is a simple but necessary measure.

It would increase from $32,500 to $35,000 the specially adapted housing grant for "wheelchair homes"—a one-time grant which assists severely disabled service-connected veterans in constructing or modifying their homes.

Under current law, veterans are eligible for specially adapted housing if they have a compensable permanent and total service-connected disability: First, due to loss or loss of use of both lower extremities; or second, which involves blindness in both eyes having only light perception plus loss or loss of use of one lower extremity; or third, due to loss or loss of use of one lower extremity together with residuals of organic disease or injury or loss of or loss of use of one upper extremity which so affect the functions of balance of propulsion as to preclude locomotion without resort to a wheelchair.

Mr. Speaker, at the time this program was created, it was the congressional intent that this grant provide 50 percent of the total cost borne by the veteran for any modifications to a house made necessary by nature of the service-connected disability. These special fixtures would include items such as ramps, wide doors, specially placed light switches, special plumbing fixtures, etc. The grant may not exceed $32,500, however, and there is no distinction between disabilities incurred in wartime and peacetime service.

At the May 3, 1984, hearing held by the Subcommittee on Housing and Memorial Affairs, the Veterans' Administration testified that the average grant currently provided to these catastrophically disabled veterans represents 37 percent of the funds necessary to obtain a specially adapted house. This falls far short of the intended 50 percent ratio. Therefore, an increase in this grant is well warranted.

Mr. Speaker, the measure would also increase from $5,000 to $6,000 the one-time grant for service-connected disabled veterans who suffer from bilateral blindness or the loss or loss of use of both upper extremities.

This grant has not been adjusted since its creation by the Congress in 1980. Since implementation, there have been 454 grants to blind veterans averaging $4,692 each and 23 grants to veterans who have lost or lost the use of both hands averaging $4,306. There have been, however, instances where the grant was not adequate to meet the needs of these severely disabled veterans. Accordingly, this grant should be increased to $6,000 so that this special category of veterans may also make all of the necessary adaptions to their homes.

This bill would also increase the maximum VA loan guaranty for a conventional home from $27,500 to $30,000.

Mr. Speaker, the VA home loan guaranty program is designed to make housing credit available to a veteran who may not otherwise be able to secure comparable home purchase financing from conventional sources. Assistance is provided chiefly through substituting the Government's guaranty on loans in lieu of the substantial downpayments, relatively short terms and other investment safeguards applicable to conventional mortgage transactions. Under current law, this guaranty may be applied to buying, building, or repairing a home, condominium, or manufactured housing, in some instances, in an amount not to exceed 60 percent of the loan or $27,500, whichever is less.

The following categories of individuals are currently entitled to a VA guaranty:

First, any veteran with 90 days or more of active duty service during World War II, the Korean conflict, or the Vietnam era.

Second, any veteran with 181 days or more of peacetime active-duty service. In the case of enlisted personnel initially entering service after September 7, 1980, the minimum active-duty service requirement for eligibility for any veterans' benefits—where such eligibility is based on length of service—is 24 months or a full tour of duty, whichever is less. Effective October 16, 1981, this provision applied to both officers and enlisted personnel.

Third, any such veteran with less than the requisite number of days of service who was discharged or released for a service-connected disability.

Fourth, the surviving spouse of any member of the Armed Forces listed for more than 90 days by the Department of Defense as missing in action or as a prisoner of war.

Furthermore, a veteran's entitlement to a loan guaranty can now be restored for use with a second mortgage, but only if all previous loans to the veteran guaranteed by the VA have been paid in full or have been assumed by another veteran willing to substitute his own entitlement for that of the original veteran-mortgagor.

VA housing programs have given four generations of veterans and their families the opportunity to realize the all-American dream—that of owning a home, putting down roots, and establishing community ties. GI home loans closed from the beginning of the program through fiscal year 1983 total 11,122,155 with an aggregate balance of $214.7 billion. Today, Vietnam-era veterans account for the majority of loans. During 1983, over 245,000 loans were guaranteed; and out of these, 46.4 percent were to Vietnam-era veterans.

Mr. Speaker, housing costs have risen over 24 percent since the last increase in guaranty in 1980. An increase in the VA home loan guaranty, therefore, will help to insure that the program will continue to fulfill the role that the Congress intended in helping veterans become homeowners.

In addition, this measure contains a provision to increase the maximum amount of guaranty available from the Veterans' Administration for a

loan for the purchase of a manufactured home from $20,000 to $22,000.

Mr. Speaker, as the cost of conventional housing increases, the VA manufactured home loan guaranty program is steadily becoming more popular as it offers the only affordable type of homeownership available to many veterans. This is evidenced by the fact that approximately 30 percent more manufactured housing loans were guaranteed in fiscal year 1983 than in fiscal year 1982. It has been 4 years since the guaranty was last increased, and the committee believes this increase is warranted based on rising manufactured housing costs.

Lastly, the bill would require that new grave markers in national cemeteries be upright except in specific instances where flat markers are requested by either the veteran or the survivors of the veteran.

Mr. Speaker, currently 70 percent of all markers being placed in national cemeteries are flat. The committee has received numerous complaints from areas subject to heavy snowfalls that flat markers are not visible for long periods of time, and this makes it difficult for survivors to find the graves of their loved ones. In addition, many veterans have commented that the use of flat markers constitutes a parklike atmosphere rather than the traditional symbolic soldiers' formation represented by upright markers. As national cemeteries commemorate the sacrifices of those who served, instituting an upright headstone policy will serve to enhance the dignity and beauty traditionally associated with our national cemeteries.

Mr. Speaker, it is not the committee's intention to restrict a veteran or his family to a particular type of grave marker. Provision, therefore, has been made to accord a choice by designating certain portions of national cemeteries for use of flat markers.

In order to maintain esthetic conformity in our national cemeteries, however, the Administrator has been given 90 days after the effective date of the bill, October 1, 1984, in which to designate such sections. This 90-day period also applies in reverse to national cemeteries which currently use flat markers and have no sections available for upright markers. It should be emphasized that during this period of time, the Administrator shall have discretionary authority to deny placement of either an upright or flat gravemarker if such denial is for the reason that in the cemetery in which the burial is to take place there is no section set aside for the specific type of grave marker requested.

Mr. Speaker, the committee intends this provision to be prospective for deaths occurring after September 30, 1984, and not retroactive as suggested by the Veterans' Administration in their report. At no time did the committee ever intend that all existing flat markets be removed and upright markers installed in their stead.

Mr. Speaker, this is not an expensive bill. The Congressional Budget Office has estimated its first year cost at $3.1 million.

It is a good bill which will benefit many veterans, and I urge that its provisions be adopted.

I would like to extend my thanks to the chairman of the full committee, the Honorable G. V. "SONNY" MONTGOMERY of Mississippi for his leadership in moving so quickly on this legislation. I also wish to express my appreciation to the ranking minority member of the subcommittee, the most capable Member from New Jersey, Mr. CHRIS SMITH, and to convey my gratitude to the distinguished gentleman from Arkansas, the ranking minority member of the full committee, Mr. JOHN PAUL HAMMERSCHMIDT, and to the gentleman from Ohio, Mr. BOB MCEWEN, who are always helpful.

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Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House, H.R. 5617, contains several provisions to increase veteran home loan guarantees, both for conventional homes and for manufactured homes. The bill also increases certain grants for blind and severely disabled veterans, and provides for upright markers in VA cemeteries. I support this measure, and yield to my colleague, Mr. SMITH of New Jersey, the ranking member of the Subcommittee on Compensation, Pension, and Insurance of the Veterans' Affairs Committee.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from Ohio and commend him for his leadership today and for his active role as ranking member on the Subcommittee for Compensation, Pension, and Insurance.

Mr. Speaker, I join with my colleague, Mr. MCEWEN in support of H.R. 5617, and I extend to Mr. SHELBY, the distinguished chairman of the Subcommittee on Housing and Memorial Affairs, my appreciation for his leadership in bringing this measure to the floor.

Mr. Speaker, the portions of this bill addressing the need to adjust the Veterans' Administration home loan guarantees are long overdue. We are all aware that in the past 4 years, the cost of owning a house has steadily increased, rising above the abilities of many veterans to purchase a residence despite the VA's home loan program. This program has not had an adjustment since 1980, although by some measures, costs have climbed nearly 25 percent.

Clearly it is incumbent on this Congress to act to protect the homeownership rights of our veterans, and we can do so with passage of this bill.

Likewise, Mr. Speaker, this bill's provisions to increase the specially adapted housing grant from $32,500 to $35,500, and to increase from $5,000 to $6,000 the grant for blinded or upper extremity disabled veterans are good and vital provisions. Neither of these grants has received an adjustment to offset increasing needs over the past 3 to 4 years, respectively.

We owe much to those who have suffered catastrophic injuries in service to our country, and the measure before us goes some of the way toward recognizing that debt.

Finally, Mr. Speaker, the provision of the bill to direct the Veterans' Administration to place upright markers in the national cemeteries will restore some Veterans' cemeteries to a traditional and dignified appearance, and for those cemeteries that have never had upright markers this legislation will provide a link to that tradition and dignity.

I want to thank my colleague from Florida, Mr. BILIRAKIS, for his thoughtful and effective amendment that will allow families of veterans to have a choice of flat or upright markers without detracting from the visual grace of the cemeteries.

Again, Mr. Speaker, I want to commend the efforts of Chairman MONTGOMERY and the committee's ranking member, Mr. HAMMERSCHMIDT, as well as Mr. SHELBY. As always, they have worked in the true spirit of bipartisanship—for the benefit of our veterans.

Thank you, Mr. Speaker.

● Mr. HAMMERSCHMIDT. Mr. Speaker, the bill before the House, H.R. 5617, contains several provisions to improve the status of the Veterans' Administration home loan program with respect to the levels of loan guarantees accorded to veterans.

The VA home loan program has gone without cost adjustments for nearly 4 years, and in that period the costs of housing have significantly increased. If no action is take to alleviate the disparity, more and more veterans are going to find themselves short the necessary funds to purchase a house. This country has accorded the veterans the right to own a home at some advantage, but if they cannot meet even the Veterans' Administration's guarantee levels, our promise to them will indeed be hollow.

This bill seeks to right this inequity by increasing the minimum guarantee for conventional and manufactured housing, and increasing the grant levels for specially adapted housing and for blinded and upper extremity disabled veterans. These provisions reflect the good judgment of the subcommittee chairman, Mr. SHELBY, and I commend him and the subcommit-

tee's ranking member, Mr. SMITH of New Jersey for their efforts.

Mr. Speaker, in addition to these important provisions, H.R. 5617 also directs the Veterans' Administration to institute a policy of supplying upright grave markers in all national cemeteries. This will reverse a trend away from the current VA policy of flat markers, and reinstitute a look of dignity and honor so long associated with our national cemeteries. I wish to thank my colleague, Mr. BILIRAKIS, for his amendment which will allow veteran's and their families to maintain a choice of markers by creating separate sections for flat markers.

Thank you, Mr. Speaker.●

Mr. McEWEN. Mr. Speaker, I thank the gentleman from New Jersey for his contribution to this effort today, and for his fine remarks.

Mr. Speaker, this is one of the unique opportunities to express our appreciation to our colleagues, such as the chairman of the full committee, as I have expressed earlier, and also to the gentleman from Alabama (Mr. SHELBY), the chairman of the subcommittee. I support the legislation as it is before us, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I would like to thank the gentleman from Ohio for the kind remarks he has made, and also the gentleman from New Jersey (Mr. SMITH).

Mr. Speaker, I rise in strong support of this legislation, and I yield back the balance of my time.

● Mr. CORRADA. Mr. Speaker, Mr. Speaker, I rise in support of the Veterans' Housing Amendments of 1984 which increases the loan guaranty cap for the Veterans' Administration conventional and mobile home loans and the amount of certain grants, among other things.

The changes in the Veterans' Administration housing benefits programs proposed by this bill warrant our support. The measure provides a modest increase in conventional housing loans, mobile home loans and in grants for specially adopted housing for severely disabled veterans. The legislation also would increase the one-time grant for veterans who lost both upper extremities or eyesight for service-connected reasons.

I believe it is only fitting and just that we adjust veterans' benefits to reflect the economic realities of the time. Many of our veterans, specially those who suffer severe disabilities, depend on our being consistent and fair in paying back the enormous debt we owe to them. When things get tough for the average American, it gets even tougher for the disabled veterans. We must never forget their deeds and sacrifices nor should we forget their special needs.

In addition, purchasing a home, which is a dream of every American, is becoming more difficult, given the higher interest rates and higher selling prices that require much higher incomes to qualify. We must step in to help our veterans fulfill this dream; after all, we can dream about tomorrow thanks to them.

I urge my colleagues to vote in favor of this legislation.●

● Mr. DASCHLE. Mr. Speaker, I rise today in strong support of H.R. 5617. While there are many provisions of the bill which are praiseworthy, I would like to direct my remarks today to that section of the bill which resolves a controversial decision by the Veterans' Administration to prohibit upright grave markers in new sections of national cemeteries. When this decision was first brought to my attention, I shared the deep sense of disappointment felt by many veterans in my State, a sense that, in the name of some illusory efficiencies of maintenance operation, the Veterans' Administration was proposing an action which, both actually and symbolically, denigrated and reduced the honor and respect we owe to our deceased veterans.

Consequently, on November 18, 1982, I introduced a House resolution expressing the sense of the House that the Veterans' Administration renew its previous practice of providing upright memorial markers at the graves of veterans buried in national cemeteries. The bill before us today places that sense of the House into actual legislation, making an even stronger statement of purpose, and I applaud its inclusion.

The provision in H.R. 5617 requires that each grave marker provided by the VA in national cemeteries be upright, unless the survivors request that the deceased be buried in a section set aside for graves with flat markers and that the grave be marked with a flat marker.

This requirement is important for two reasons to veterans in my State, one of a practical nature and one of a symbolic nature. Practically, my State is subject to severe snowstorms, which would result in flat markers being covered and out of view for months at a time. This would work a real hardship on a deceased veteran's survivors, who would find it impossible to visit the gravesite for months at a time. But even more important, to my mind, is the symbolic reason. When this country called upon our veterans to serve, they did so proudly, and marched upright into whatever dangers they were ordered to in the firm belief that they served in the national interest.

It would be ironic, indeed, if we were to allow the memorials to these men, who stood so readily and proudly when their country needed them, to be toppled and laid flat for a theoretical saving which the Congressional Budget Office itself says "would not have a significant budgetary impact." I am proud of our veterans, and I am proud of this House's provisions allowing them a memorial in keeping with their upright performance of duty.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 5617, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STATE JUSTICE INSTITUTE ACT OF 1983

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4145) to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute, as amended.

The Clerk read as follows:

H.R. 4145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "State Justice Institute Act of 1984".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Board" means the Board of Directors of the State Justice Institute;

(2) "Director" means the Executive Director of the State Justice Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the State Justice Institute established under section 3 of this Act;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State or a constitutionally or legislatively established judicial council acting in place of that court for purposes of this Act.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 3. (a)(1) There is hereby established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States.

(2) The Institute may be incorporated in any State, pursuant to section 4(a)(5) of this Act. To the extent consistent with the provisions of this Act, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall, in accordance with this Act—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct or organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing any rule, regulation, guideline, or instruction under this Act, and it shall publish any such rule, regulation, guideline, or instruction in the Federal Register at least thirty days prior to its effective date.

BOARD OF DIRECTORS

SEC. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, to be appointed in the manner provided in paragraph (4), no more than two of whom shall be of the same political party.

(3) The President shall make the initial appointments referred to in subparagraphs (A) and (B) from a list of candidates submitted to the President by the Conference of Chief Justices. Such list shall include at least fourteen individuals, including judges and State court administrators, whom the Conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of at least three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Before consulting with or submitting any list to the President under this paragraph, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this Act.

(4) The President shall make the intitial appointments referred to in subparagraph (C) from a list of candidates submitted to the President by the majority and minority leaders of the House of Representatives and the Senate. Such list shall include at least twelve individuals. Whenever the term of any of the members of the Board described in subparagraph (C) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of at least three individuals submitted to the President by the majority and minority leader of the House of Representatives, and the majority and minority leader of the Senate, who represent the political party of the member to be apointed to the Board. The President may reject any list of individuals submitted under this paragraph and, if such a list is so rejected, the President shall request the Members of Congress who submitted the first list to submit to him another list of qualified individuals.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after the date of the enactment of this Act. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The lists of candidates referred to in paragraphs (3) and (4) shall be submitted in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor of such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term resulting from the death, disability, retirement, or resignation of a member shall be appointed only for the remainder of such unexpired term, but shall be eligible for reappointment.

(3) The term of the initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence on the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select a chairman from among the voting members of the Board. The first chairman shall serve for a term of three years, and the Board shall thereafter annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of or inability to discharge the duties of the office, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at this discretion to pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further the achievement of its purpose and the performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present, to government departments, agencies, and instrumentalities the programs or activities of which relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities.

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 6(a) of this Act.

OFFICERS AND EMPLOYEES

SEC. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative oper-

ations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any recipient.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency or instrumentality of the Federal Government.

(2) This section does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information with respect to State judicial systems;

(3) participate in joint projects with government agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies;

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such State or local court.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of the effectiveness of such programs;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of the courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased access by citizens to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be considered appropriate by the Institute.

(d) The Institute shall incorporate, in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a matching amount, from private or public sources, of not less than 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the Supreme Court of the State and a majority of the Board.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated under this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

SEC. 7. (a) With respect to grants made and contracts or cooperative agreements entered into under this act, the Institute shall—(1) insure that no funds made avail-

able by the Institute to a recipient shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, of any State proposal by initiative petition, or of any referendum, except to the extent that a governmental agency, or legislative body or a committee or member thereof—

(A) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in activities supported in whole or part by funds made available by the Institute under this Act refrain, while so engaged, from any partisan political activity; and

(3) insure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approve and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this Act.

(b) No funds made available by the Institute under this Act may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authority to enter into cooperative agreements, contracts, or any other obligations under this Act shall be effective only to such extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except (A) to remodel existing facilities to demonstrate new architectural or technological techniques, or (B) to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party in the litigation, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body or a committee or member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee of the Institute, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or to the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except that which deals with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or with the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the recipient of such financial assistance has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient involved has been afforded reasonable notice and opportunity for a timely, full, and fair hearing. When requested, such hearing shall be conducted by an independent hearing examiner appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 10. The President may, to the extent not inconsistent with any other law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 11. (a) The Institute is authorized to require such reports as it considers necessary from any recipient with respect to activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided under any grant, cooperative agreement, or contract under this Act, and shall have access to such records at all reasonable times for the purpose of insuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which the funds were provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as recipients and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by an appropriate regulatory authority of the jurisdiction in which the audit is undertaken.

(2) Any audits under this subsection shall be conducted at the place or places where the accounts of the Institute are normally kept. The person conducting the audit shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any audit under this subsection shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or is use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of each audit under this subsection shall be made by the Comptroller

General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General considers advisable.

(c)(1) The Institute shall conduct an annual fiscal audit of each recipient, or require each recipient to provide for such an audit of that recipient. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of audits conducted of recipients under this subsection, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by recipients which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during business hours, at the principal office of the Institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated to carry out the provisions of this Act not to exceed $20,000,000 for the fiscal year ending September 30, 1985, not to exceed $25,000,000 for the fiscal year ending September 30, 1986, and not exceed $25,000,000 for the fiscal year ending September 30, 1987.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall take effect on October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon, I bring before the House three bills all designed to improve the administration of justice in this country. The three bills are: H.R. 4145, the State Justice Institute Act of 1983; H.R. 4307, the Criminal Justice Act Revision of 1984; and H.R. 4249, the U.S. Marshals Service and Witness Security Reform Act of 1983.

Although debate occurs now on the first of the three bills—State Justice Institute—I mention all three at this time because, considered together, they provide a rational and consistent approach to improving judicial machinery, especially as it relates to the criminal justice system. The State Justice Institute proposal, by assisting State courts to improve themselves, will have a positive effect on the disposition of all cases at the State level. Any argument that there is no relationship between the State Justice Institute and the need to fight crime can easily be put to rest. In a letter, July 29, 1981, to Chairman PETER W. RODINO, Assistant Attorney General Robert A. McConnell stated:

> The administration has identified violent crime as an area of priority concern. . . . The State Justice Institute proposal does have some general relationship to this priority, since many of the projects funded by the Institute would presumably contribute, directly or indirectly, to improvement of the ability of the State courts to deal with violent crime, and crime in general.

The plain fact is that the vast bulk of criminal litigation in this country is handled by State courts. As aptly observed by a justice on my own supreme court, Shirley S. Abrahamson:

> The everyday burglar, robber, rapist, or murderer has violated State law and is tried in State court. Indeed, the bulk of all litigation in this country, civil or criminal, is handled by State courts.

Two other bills to follow will also improve the criminal justice system. Criminal justice act improvements will assist criminal trial attorneys who accept court appointments to defend individuals who are indigent. The Witness Security Act improvements will improve the treatment of individuals who testify on behalf of the Government, usually in organized crime cases.

Parenthetically, I might add that this week, my subcommittee will terminate hearings and then mark up a bill to reform the Federal bail laws. Hopefully, legislation will be processed to improve the system by which courts determine under what conditions defendants shall be released on bail.

Mr. Speaker, I present to you this overview because it is obvious that our criminal justice system is a total ecology. Like a calm pond which has just had a stone thrown into it, the justice system reverberates throughout when a specific judicial reform occurs. For example, the correctional system is the recipient of statutory revisions that occur relating to the prosecution or investigation of crimes. By improving the Criminal Justice Act, we will concomitantly improve the quality of legal representation, thereby reducing the number of collateral lawsuits for incompetent counsel. Improvements to the State courts will result in lowering the burdens on the Federal courts.

The three bills that I bring before the House, and the fourth, bail reform, to be presented later, present a unified approach to problems in our justice system. Considered together, if all of these bills are enacted into law, the net result will be substantial improvements to the delivery of justice nationwide, a more effective criminal justice system, and better relations between State and Federal courts. With this background in mind, let me now turn to discussion of the State Justice Institute Act of 1983 (H.R. 4145).

Mr. Speaker, I bring before the full House a piece of legislation that has received broad-based and bipartisan support from individuals and organizations interested in improving the administration of justice in both the State and Federal judicial systems: the "State Justice Institute Act of 1983."

I am gratified that this important piece of legislation has been cosponsored by a diverse group of 42 Members of the House of Representatives, including 18 members of the House Judiciary Committee. I specifically would like to thank the ranking minority member of my subcommittee (Mr. MOORHEAD), my chairman (Mr. RODINO), and the ranking minority member of the full committee (Mr. FISH). Also on the bill are Mr. MAZZOLI, Mr. KINDNESS, Mr. FRANK, Mrs. SCHROEDER, Mr. SYNAR, Mr. HYDE, Mr. SAWYER, Mr. GLICKMAN, Mr. MORRISON, Mr. BERMAN—all members of my subcommittee.

Equally important is the fact that H.R. 4145 is strongly supported by the chief justices of each and every State, including the District of Columbia and Guam; the voicepiece of the State judiciaries (the Conference of Chief Justices); the Conference of State Court Administrators; the American Bar Association; the Judicial Conference of the United States; the National State Directors of Law Enforcement Training; the National Association of Women Judges; the National Center for State Courts; the Institute for Court Management; the National Judicial College; and other notable organizations and individuals—including former ABA President Morris Harrel, and Chief Justice Warren E. Burger. The bill has passed the Senate unanimously during the past two Congresses and this Congress bill (S. 645) is cosponsored by Senators THURMOND, DOLE, and HEFLIN, and is presently pending on the Senate floor.

H.R. 4145 authorizes the creation of a State Justice Institute to administer a national program for the improvement of State court systems. In keeping with the doctrines of federalism and separation of powers between the three coordinate branches of government, the Institute would be an independent federally chartered entity accountable to Congress for its general authority but under the direction of State judicial officers as to specific programs, priorities, and operating policies.

The goal of the legislation is to assist States in developing and maintaining judicial systems that are accessible, efficient, and just. The Institute will do this: First, by bringing minimal national and financial resources to bear on problems that affect State courts nationally, but are beyond the resources of individual States; and second, by providing a mechanism through which the Congress can appropriately consider the role of State

courts when legislating on issues impacting on both the Federal and State judicial systems.

The legislation is premised on the belief that improvement in the quality of justice administered by the States is not only a goal of fundamental importance in itself but will contribute significantly to important Federal objectives, including reduced rate of growth in the caseload of the Federal judicial system and less crime in our society.

In pursuit of these goals, the legislation authorizes the expenditure of $20 million in fiscal year 1985, $25 million in fiscal year 1986, and $25 million in fiscal year 1987. The latter two figures—set by Senator GRASSLEY's floor amendment in the Senate and acceptable to me and the Committee on the Judiciary—reflect a desire to level off funding at a modest amount rather than to constantly increase the funds authorized. As to the need for the legislation, it is appropriate to paraphrase the remarks of a spokesman for the State court systems (Robert Utter, Justice, Supreme Court of Washington) who appeared before my subcommittee. Despite the growth of the Federal court system, State courts remain the courts that touch our citizens most intimately and most frequently, be it in the civil or criminal context. It is from their experiences in State courts as litigants, jurors, witnesses, or spectators that the vast majority of our citizens make their judgments as to the strengths, weaknesses, and fairness of our judicial system. To the average citizen, it matters little whether the court is Federal or State. His concern is with the fairness and effectiveness of the judicial process.

Justice William Brennan has echoed this view by stating that "the very lifeblood of courts is popular confidence that they mete out evenhanded justice * * *" It has been the very deep concern of State chief justices for the improvement of their own systems that has led the Conference of State Chief Justices to propose the creation of a State Justice Institute. It is this same concern that has prompted the Chief Justice of the United States, Hon. Warren E. Burger, to write in support of creation of a State Justice Institute: "* * * we cannot rest upon our laurels and do nothing in preparation for the future. More, rather than less, needs to be done—especially in the area of improving the State court systems which generally have been undersupported."

I join with the Chief Justice, the chief justices of every State and territory, and my fellow supporters here in the House, in asking for an affirmative vote on creation of a State Justice Institute.

Mr. Speaker, I reserve the balance of my time.

□ 1320

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairman and members of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their work on H.R. 4145, the State Justice Institute Act.

In assessing the need for this legislation, I think it is important to keep in mind that our system of justice is indivisible, in that State courts share with Federal courts the responsibility for enforcing the rights and duties of the Constitution and laws of the United States. In fact, over 96 percent of all the cases tried in the United States are handled by the State courts. Many of these cases are the result of Federal policies and decisions. I think it is clear that the Federal Government has a legitimate interest in strengthening and improving the State courts.

During the debate on legislation to abolish diversity, opponents often argued that it was necessary to preserve diversity, because the State courts were inadequate forums for such cases. Regardless of whether or not one accepts the validity of that argument, the State Justice Institute, by providing financial and technical assistance to the State courts, has the potential for making it feasible to return diversity cases to them. This would result in a significant reduction in the workload of the Federal courts and a substantial reduction in the expenditure required for their operation.

As the Chief Justice of the United States has noted:

We must avoid any situation in which Federal courts are pressured to become a refuge for citizens who seek a Federal forum, not because their claim is of a truly Federal nature, but because State courts are inadequate. Should our people ever lose confidence in their State courts, not only will our Federal courts become more and more overburdened, but a pervasive lack of confidence in all courts will develop.

Last Congress, the Department of Justice testified before the Courts Subcommittee that they supported the concept of a State Justice Institute, but were opposed to the legislation for budgetary reasons. However, at the end of the last Congress, the Department of Justice indicated that they would support the State Justice Institute proposal as part of a bankruptcy reform package. This Congress, the Courts Subcommittee, on June 5, 1983, requested a report from the Department of Justice on H.R. 4145. Moreover, the Department was invited to testify on the legislation but declined to do so indicating that they had no position. It was not until this morning that we learned that the Department is opposed to the bill on the basis that it "addresses problems that are more appropriately addressed by the States and which are not the responsibility of the Federal Government."

It is important to note that legislation similar to H.R. 4145 has passed the Senate in the last two Congresses, without opposition. Moreover, 43 Members of the House have cosponsored H.R. 4145 which is carefully structured to facilitate improvement in and access to the State courts. This is clearly in the national interest and, accordingly, I urge my colleagues' support for the legislation.

Mr Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I would first like to ask the distinguished gentleman from California about the costs of the third bill on the list, which is the U.S. Marshal's Service and Witness Security Reform Act.

I note that there is no CBO cost estimate, or none was available last week. Is there an estimate available at this time?

Mr. MOORHEAD. If the gentleman will yield, there is in part on the U.S. Marshal's Service and Witness Security Reform Act, which I have not discussed as yet, but which was vaguely discussed by the chairman, the cost would be $2 million of the victims' protection. As far as the cost for the child custody provisions, which would require some assistance in providing visitations for the innocent family member, whether it be the wife, or it could be the husband who did not have custody, the cost has not been projected, but it should not be anything too great.

□ 1330

The legislation would require that the Marshal's Service get the child together with the natural parent on occasion because of the separation that was really brought about by the Federal Government. It is only fair play that a parent have the right to visit the child and the Federal Government should not be able to deny that right.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

May I inquire further, has the Congress ever passed a victims' compensation payment before?

Mr. MOORHEAD. I know of none. In fact, in this particular case I very strongly support an amendment which would have taken the victims' compensation portion out of this bill because I felt that we should approach it in a comprehensive way rather than in a piecemeal way. But the majority of the committee voted against my position, feeling that because the Federal Government places the person who may have committed crimes before in the Witness Protection Act they owe a greater responsibility to the communi-

ty and to people who might be the victims of their behavior.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I commend him for his position.

Mr. Speaker, I am not a lawyer. I, therefore, speak to these bills from a base of fundamental ignorance, and yet when I look at them, it seems to me that this is a rather important trio of bills to be considered under the suspension process. I had hoped that we had long ago decided we would consider neither expensive nor basic policy bills under suspension.

I notice in the first bill, H.R. 4145, that that bill, at least in some of the discussion, seems to want to pick up where LEAA, which this Congress repealed, left off.

The SPEAKER pro tempore. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mr. MOORHEAD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the basis for passing that bill seems to be that the Conference of Chief Justices wanted it, and I am not surprised, of course, that the States would want some money from the Federal Government. I am not so sure that the Federal taxpayers, however, should be making these kinds of expenditures for another court system.

I regret, as the gentleman from California does, that the Department of Justice did not testify and certainly blew its position early in the game, making it very difficult for the rest of us to ride on whatever criticism it later produces. I do notice that is a $58 million expenditure for the taxpayers over the next 3 years, and it is one that in my judgment is at least questionable. Somebody ought to question it, and I do question it here.

The second bill, H.R. 4307, the Justice Act revision, seems to raise the compensation of attorneys. I suppose everybody needs a raise, and it is good to have people who can make a reasonable defense. Nevertheless, I think that is one that ought to come to the consideration of the House, and it ought to be able to stand the scrutiny of debate and amendment. I am disappointed that that bill, which is in excess of $60 million over the next 3 years, is also going to be handled under this bobtail procedure.

The final bill I have already discussed with the gentleman from California. The victims' compensation feature is a terribly important one. This Congress has never seen fit pass one. Now it is being thrown along with a different kind of vehicle to carry it in a very shortened and partial form. In my judgment, the Congress should make a decision on victims' compensation all in one lump, and my guess is that it could not pass in that way.

I am sorry that there is no estimate for the other features of the bill. I suspect that the cost is quite high.

Mr. Speaker, I realize that those of us who do not serve on the committee nor have legal expertise are somewhat at a disadvantage, and I feel constrained to vote against all three of the bills.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would like to contribute what I can to the discussion of the three bills together since they do have a relationship which has been brought out in the discussion up to this point, and perhaps we can in so doing most intelligently deal with all three bills.

I think it is, of course, interesting to put into context what the Department of Justice has done in this situation. As an institution, I think we have suffered a bit at the hands of the Department of Justice once again, but I think we will survive. The Department of Justice seeks to confuse matters every now and then on bills like these, and I think it is regrettable. But perhaps they are a little bit rudderless at the moment, and perhaps that accounts for some or all of their problems, although they seem to be of a continuing nature.

First, let us go to the State Justice Institute bill, which is the first of the three bills. I think the position of the Department of Justice in the past on the State Justice Institute has been that they supported the concept, as has been pointed out here, but they opposed the legislation primarily for budgetary reasons. This is a matter of saying that, well, it was not clear in the first instance whether it was the Department of Justice or the Office of Management and Budget that had the stronger voice in the administration in regard to this matter, I suppose.

What it really turns out to be, though, is that the idea is a good idea. Policy is determined by the vote of the legislative branch of our Government, and the President either concurs or does not in those decisions. I think it is completely outside of the Department of Justice to have much to say about the matter at this late date. So I kind of put their views on this particular bill completely aside and say that we should pass this bill because it is needed and it is appropriate. It is indeed something that ought to be pursued, and the prompt action by this House, along with the other body, which is moving in the same direction, would lead us in a very constructive direction. It is very much needed.

How often do we hear people complain about the trend of justice, particularly criminal justice, in the States of our United States? Quite frequently. People will complain sometimes about their perception of what is happening in the Federal courts, but most frequently what they are really saying is, "I wonder if I can have confidence in the way things are being handled in the State courts throughout this country. We are getting a trend of decisions I don't like," or what have you.

The State Justice Institute is one tool that can be used to help improve upon the administration of justice in criminal matters in the State courts, and I think it is very important that that stimulus be given from the Federal level.

As for the other two bills, the Criminal Justice Act revision is a bill where an adjustment is being made, and there has been no adjustment since 1970. I think it is very important that there be a realistic adjustment in the fees that are provided to those who are burdened with providing criminal representation to defendants in the Federal court system.

In August 1983, the Department of Justice said that such a measure was long overdue. Well, it is just 1 year longer overdue now, and I think it is appropriate for this House to act. I would certainly urge that that bill be supported, too.

As to H.R. 4249, the U.S. Marshals Service and Witness Security Reform Act, which has gotten, I suppose, the most discussion here, it is one area in the view of some of us—and perhaps it would be the majority of us when we have discussion in debate—where victims ought to be compensated. Victims clearly ought to be compensated for injuries incurred as a result of a Federal program.

□ 1340

I do not happen to believe that the Federal Government ought to get into the business of compensating victims of crime on a wholesale basis. I do feel that those victims of crime who find themselves in that position with no one they can go against, only because the Federal Government is operating a program of witness protection, giving secret identities to people and putting them in a new community and a new location and so on, where they are pretty much free to do what they will, and that includes wrong as well as right, and some people are likely to be injured thereby. That is the kind of circumstance in which the victim really ought to have some compensation when injured as a result of the operation of that program.

The alternative to that, of course, is to do away with the witness protection program and some of us would really rather see that. The business of protecting Federal witnesses who will testify against organized crime figures ordinarily is what we are taking about.

Give them a new identity, a new location to live and put them away someplace until they testify and thereafter have a secure life. If you are going to have that kind of program, it seems to me that you have also got to protect those people who are innocent bystanders and are injured or damaged by it.

The liability is limited to a fund of $2 million.

We are not creating a food stamp program here. I think it is regrettable that the Department of Justice does not see fit to support all three of these bills, but in the absence of their support, I would urge that the House exercise its judgment in an affirmative fashion. All three bills deserve our support.

● Mr. FISH. Mr. Speaker, in endorsing H.R. 4145, the State Justice Institute Act, I would like to point out that Federal funding for State courts has been provided through LEAA since 1968. As Prof. Dan Meador, the former head of the Office for Improvements in the Administration of Justice pointed out in prior testimony before the Courts Subcommittee:

> The first—and perhaps the most important thing—to be said about this proposal is that it does not represent any new or radical departure from already established Federal—State relationships. The State Justice Institute—far from incorporating any new concepts or creating any new Federal monetary program—would simply represent an improved, sounder, and more efficient means of providing fiscal support to the efforts of the State judiciaries. . . .

The State Justice Institute Act was drafted by the Conference of Chief Justices and Conference of State Court Administrators in an effort to address the problems that were encountered under LEAA such as separation of powers issues. I am confident that the current proposal will be successful in avoiding these problems. Moreover, the State Justice Institute Act will provide a valuable mechanism to aid Congress in their consideration of legislation that impacts on State court jurisdiction.

I would like to commend the Conference of Chief Justices as well as the members of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their work on H.R. 4145 and especially note the yeoman efforts of Lawrence Cook, chief judge of the State of New York, on behalf of the legislation. H.R. 4145 is a solid proposal and I urge its adoption.●

● Mr. McGRATH. Mr. Speaker, I rise today in support of H.R. 4145, the State of Justice Institute Act. This legislation represents the most valuable effort made by this body to aid State and local governments in strengthening and improving their judicial systems.

The responsibility of protecting the rights of all citizens under the Constitution is shared by State and Federal courts. Creation of the State Justice Institute will assist State courts in meeting their increasing obligations under both State and Federal law by providing funds necessary for technical assistance, education research and training. This will encourage the modernization of State court systems with respect to efficient management of caseloads, budgeting, and development of reliable statistical data. Establishment of State Justice Institute will place responsibility for improvement of State court systems directly on the judicial officials charged with this responsibility under their own constitutions and laws, thus respecting the principles of separation of powers and federalism.

I would like to point out that the measure before us today not only provides funds for valuable education and training, it also prohibits any duplication of existing programs or activities. As we strive to more closely monitor the spending of Federal tax dollars, thus provision is an assurance that funds we allocate today will only be used for much needed court improvement programs.

It is important for us to remove the competition between State judiciaries and State executive agencies for Federal assistance. A national program of assistance specifically for the improvement of State courts will create a beneficial environment for the administration of State court systems. In addition, the State Justice Institute will fill a current void by representing State courts in future national policy decisions that will affect the Nation's total justice system.

I urge my colleagues to join me in improving the State court systems by supporting H.R. 4145.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of the State Justice Institute Act of 1983 which would establish a State Justice Institute to administer a national program directed to the improvement of justice delivery systems at the State level.

The State Justice Institute would be formed as an independent federally chartered nonprofit corporation authorized to award grants for education, training, and research programs aimed at developing more responsive State judicial systems. The Institute would also serve as a clearinghouse of justice-related information to help improve the administration of justice in State courts.

This legislation brings forth a long overdue and sorely needed national initiative to aid States cope with the overwhelming criminal activity the Nation suffers. There is an urgent need for better trained judicial personnel, a greater sharing of justice-related information by State courts and the development of new aggressive concepts in the administration of justice as proposed by this measure. We cannot procrastinate the implementation of this joint effort crafted to secure more efficient, accessible and just judicial systems all across the Nation. The State Justice Institute, even though it would have limited resources, would give the necessary direction and guidance to make this national initiative a successful endeavor.

I urge my colleagues to vote for the passage of this highly important legislation which would lend a big hand in our quest to insure that justice is served in every court of our Nation.●

● Mr. RODINO. Mr. Speaker, I rise in support of all three bills on the suspension calendar today from the Committee on the Judiciary. H.R. 4145 authorizes the creation of a State Justice Institute; H.R. 4307 is a bill to rationalize and update the Criminal Justice Act; and H.R. 4249 is a bill to reform the witness protection program and the U.S. Marshal's Service.

Each of these bills was carefully crafted by the committee with bipartisan support. Each of these measures was cosponsored by a majority of the members of both parties on the Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Each of these measures addresses significant problems in our criminal justice system. First, the State Justice Institute recognizes that over 95 percent of all criminal cases are processed in State courts and that improvements to these institutions is central to an improvement in the criminal justice system, both criminal and civil. Second, the Criminal Justice Act reform measure adjusts the rates to be paid to assigned counsel in criminal cases to adjust for inflation. The net result of this change will be an improvement in the quality of justice in the Federal courts and less appeals for incompetent counsel. Finally, the bill reforming the witness protection program acknowledges the importance of this program to the prosecution of organized crime cases while at the same time responding to the legitimate concerns of crime victims and minor children of unrelocated parents.

I am disappointed to learn that the Office of Management and Budget has, at the last minute, decided to oppose these bills. While these bills were before the committee, we received no adverse comments from the administration. They have been supported by many of our Republican colleagues on the committee.

I believe that the bills which we are debating today are well drafted and each fulfills its purpose. I urge my colleagues to support them, notwithstanding the last-minute opposition from the administration, which I do not believe to be well founded.●

Mr. LOWRY of Washington. Mr. Speaker, I would like to express my

support for H.R. 4145, the State Justice Institute Act, which would establish a State Justice Institute to help strengthen and improve State and local judicial systems. This legislation offers a cost-effective way to improve these systems and to aid Congress as it considers legislation that would affect State courts.

As a Representative from the State of Washington, I would also like to note that Chief Justice Robert F. Utter of our State supreme court has taken an active role on this issue, and testified in support of the legislation on behalf of the Conference of Chief Justices of the States. His advice and comments on the legislation have been most helpful.

I would like to express my thanks to the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Mr. KASTENMEIER. I appreciate his efforts on H.R. 4145, and I urge the House to adopt it.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4145, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CRIMINAL JUSTICE ACT REVISION OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4307) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Act Revision of 1984".

SEC. 2. (a) Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)." and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is in custody as a material witness;

"(G) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(H) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

"(B) is seeking relief under section 2241, 2254, or 2255 of title 28 or section 4245 of this title.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant"; and inserting in lieu therof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "not exceeding $30" and all that follows through "Such attorney" and inserting in lieu thereof the following: "not in excess of $50 per hour, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate and for time expended out of court. The Judicial Conference may develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than three years after the effective date of the Criminal Justice Act Revision of 1984, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5, United States Code, on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than one year each, up to the aggregate of the overall average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$1,000" and inserting in lieu thereof "$5,000"; and

(II) by striking out "$400" and inserting in lieu thereof "$1,500";

(ii) in the second sentence by striking out "$1,000" and inserting in lieu thereof "$3,000"; and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $1,000 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by striking out "for extended or complex representation".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even where the cost of such services exceeds $300.".

(C) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(5)(A) Subsection (h)(2)(A) is amended by striking out ", similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and insert-

ing in lieu thereof "in accordance with section 605 of title 28".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is further amended by adding at the end thereof the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of a Federal Public Defender Organization, or a Community Defender Organization receiving periodic sustaining grants, established under this subsection, for money damages for injury, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational sevices under this section while acting within the scope of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b)(1) Section 3006A of title 18, United States Code, is further amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j), as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virgin Islands, the District Court for the Northern Mariana Islands, and the District Court of Guam.".

SEC. 3. This Act and the amendments made by section 2 of this Act shall take effect on October 1, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R., 4307, the Criminal Justice Act Revision of 1984. H.R. 4307 updates the Federal Criminal Justice Act (18 U.S.C. 3006A). This bill, which is the unanimously approved work product of the House Judiciary Subcommittee on Courts, Liberties and the Administration of Justice, is cosponsored by all the members of the subcommittee, as well as by three other Members—the gentleman from Michigan (Mr. CONYERS), the gentleman from Washington State (Mr. LOWRY), and the gentleman from Minnesota (Mr. SIKORSKI)—who indicated their interest in the legislation. On May 1, 1984, the Committee on the Judiciary ordered the bill favorably reported by voice vote (no objection being heard). I welcome the bipartisan support for the bill, and hope that it can be enacted during this Congress. An identical bill, S. 2420, was introduced in the other body on March 13, 1984.

The genesis for this bill is an earlier proposal (H.R. 3233) which I introduced at the request of the U.S. Judicial Conference, the policymaking body for the Federal judiciary. Two days of hearings—June 30 and July 14, 1983—were conducted by the subcommittee. The Judiciary Conference had submitted the proposal for H.R. 3233 on April 7, 1983. Federal judges and other persons (including ex-prosecutors) were concerned that the Criminal Justice Act had essentially not been updated since 1970. The act provides a system for the representation of persons who are unable to afford legal counsel in Federal criminal and related matters. The original act (Public Law 88-455) was passed in 1964. The sixth amendment to the Constitution guarantees the right to competent counsel in criminal cases. If the constitutional mandate is not followed, then innocent persons may be convicted, and guilty persons may be released or win a new trial based on a showing of ineffective assistance of counsel. Thus, it is in the interest of justice that competent counsel be encouraged to serve under the Criminal Justice Act.

H.R. 4307 is the product of 2 days of hearings, 2 days of subcommittee markup (September 15 and October 20), and 1 day of full committee markup (May 1, 1984). Among the witnesses at the hearings were representatives of the General Accounting Office, the U.S. Judicial Conference, the National Association of Former U.S. Attorneys, the Federal Defender Advisory Committee, and the National Legal Aid & Defender Association.

The current hourly rates of $20 (out of court) and $30 (in court), which were set in 1970, are no longer reasonable rates in most cases. Contrast the current delay of 14 years in updating the act to the fact that in 1970, when the 1964 act was first amended, the rates were doubled over a 6-year period, because the rates were so low. H.R. 3233 would have allowed the Judicial Conference to set any hourly rate. However, H.R. 4307 sets a general maximum of $50 per hour with an absolute maximum of $75 per hour. Members decided not to distinguish between in-court and out-of-court rates. These figures were reached by reviewing surveys of circuits conducted by the administrative office since 1970. From March 1970 until March 1984, the cost-of-living increase according to the Bureau of Labor Statistics was 168.4 percent. In some districts the hourly rate may be less than $50 per hour. The Judicial Conference in consultation with the judicial councils of the circuits may very the rates by district considering such factors as the minimum range of prevailing rates for qualified attorneys in the district. Three years after the effective date of the act (October 1, 1984), the hourly rates may be raised consistent with cost-of-living raises to Federal employees, but only if the Judicial Conference decides it is appropriate to increase the maximum rates by district. The maximum case ceilings are raised but not to the extent as recommended in H.R. 3233. New maximums per proceeding are $5,000 for a felony; $1,500 for a misdemeanor; $3,000 for appeals; $1,000 for other proceedings such as posttrial motions probation revocation hearings, representation of material witnesses and habeas corpus matters. Expert and investigative services or costs were necessary to adequate representation and that payment is approved by the chief judge of the circuit. The cost of the bill has been estimated at $21 million by the Congressional Budget Office.

H.R. 4307 also makes improvements recommended by the Judicial Conference relating to malpractice insurance for Federal defenders, appointment of council in certain petty offenses, and the training of private panel attorneys. It also removes a restriction placed in the act in 1970 which precluded the U.S. District Court for the District of Columbia from establishing a Federal defender organization. The chief judges of the U.S. District Court (District of Columbia) and of the Court of Appeals (District of Columbia circuit) have supported the repeal of his restriction. Thus under H.R. 4307 the District Court for the District of Columbia will be able to have a mixed (private bar/public defender) system as other districts may presently do.

H.R. 4307 had no known opposition until today when OMB noticed its opposition. OMB notes in its three-sentence statement that its main reason for opposition is that it wants the revision to be contained in an omnibus attorney fee bill. The administration claims the Justice Department will submit such a bill "in the immediate future." This claim has been made for 1½ years by the administration. Congress cannot wait and should not wait any longer to update the act. Federal judges have called for this legislation and say immediate action is needed. In the final sentence, OMB claims it has reservations about "several substantive provisions including the amount of compensation." It is not clear what OMB means, H.R. 4307 contains provisions which respond to DOJ criticism of an earlier bill, H.R. 3233. H.R. 4307 allows an hourly maximum of $50 per hour with $75 per hour allowed only if

the Judicial Conference approves the amount for a particular circuit or district. This ceiling is less than the Equal Access to Justice Act which allows recovery against the United States in civil cases of $75 per hour generally or higher in some cases. H.R. 4307 also has lower case maximums than the judges requested. H.R. 4307 also responded to substantive concerns which the Department of Justice had about the earlier bill (H.R. 3233) relating to representation of material witnesses, notification of the right to counsel, and persons charged with petty offenses. It is unclear why OMB now opposes H.R. 4307. In a letter to the Judiciary Committee last August, the Department of Justice stated "the administration feels that pay increases to CJA attorneys are long overdue. * * *" H.R. 4307 is a fair response to the immediate need.

H.R. 4307 is supported by the U.S. Judicial Conference, the National Association of Former U.S. Attorneys, the American Bar Association, the National Legal Aid & Defender Association, Federal and Public Community Defenders, and the National Association of Criminal Defense Lawyers, Inc., and numerous State and local bar associations.

I hope you will support this important legislation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to support what our subcommittee chairman has said and compliment him on his leadership in drafting this legislation. It has wide range support, including the U.S. Judicial Conference, bar associations from around the county, including California Attorneys for Criminal Justice, the State Bar of California, the Los Angeles County Bar Association, the Bar Association of San Francisco, the Ninth Circuit, the American Bar Association, and the National Association of Former U.S. Attorneys. The original bill, H.R. 3233, was criticized by the Department of Justice primarily because it had no hourly maximums and to that bill's somewhat expanded coverage. However, both of these criticisms were met by the legislation before you today. However, this morning we received a brief written communication from the administration indicating that it is opposed to H.R. 4307.

I would like to mention briefly a couple of the provisions we worked out through debate and compromise in the subcommittee:

The U.S. Judicial Conference recommended that they be permitted to set the hourly rate paid lawyers, rather than have that rate set out by Congress. The Department of Justice objected to that as well as most of us on the subcommittee. What we came up with is setting the hourly rate, and increasing it from $30 an hour to $50 and that there will no longer be any distinction for hourly rates on a district-by-district basis up to $75. There may be a few districts around the country, mostly your large urban areas, where the $50 rate may be raised. This legislation would require the Judicial Conference to develop guidelines for determining the maximum hourly rates for each circuit with variations by district taking into account such factors as the minimum range of the prevailing hourly rates and the recommendations of the judicial councils of the circuits. The legislation before you would authorize the Judicial Conference to raise the maximum hourly rates 3 years after the effective date consistent with the cost-of-living adjustment for Federal employees.

With regard to allowable maximums per proceeding, present law permits $1,000 for a felony and $400 for a misdemeanor. The Judicial Conference recommended that these maximums be raised $10,000 for a felony and $3,000 for a misdemeanor. The Judiciary Committee decided on a maximum allowable for a felony would be $5,000 (not $10,000) and for a misdemeanor $1,500 (not $3,000).

Mr. Speaker, this is important legislation and I hope we can move it through the prcesss quickly. I do not believe that anyone expects taxpayers should pay criminal defense lawyers at the same rates that our big corporations pay for their own attorneys and what this legislation provides is substantially less than that. But it does not make sense to fight crime by providing money for our police, for our prosecution and for our jails, if the court processes are bogged down or if convictions of criminals are ultimately reversed for lack of effective assistance of an attorney.

I urge you to support H.R. 4307.

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Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the compelling and persuasive oratory of the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from California (Mr. MOORHEAD) have persuaded me that my criticism of this bill given recently in this Chamber was unfounded and I, too, support the passage of the bill.

I yield back the balance of my time.

● Mr. FISH. Mr. Speaker, I would like to commend the subcommittee for its work product contained in H.R. 4307, Criminal Justice Act amendments. Lawyers who represent indigent criminal defendants in our city's courts perform a difficult but socially important task.

Ninety percent of all criminal defendants are indigent. Lawyers who are court appointed to represent them do not, for the most part, have fancy offices. And the rates they are paid for this work make it difficult to hire investigators and even clerical help. These lawyers have not had a salary increase in the last 14 years.

In testimony before our committee we have been advised that, with increasing frequency, experienced lawyers are, in fact resigning from the Criminal Justice Act panels. Many of those lawyers who do accept Criminal Justice Act appointments do so reluctantly. Those who do accept cases are oftentimes sole practitioners or members of small firms. The economic burden on them is even greater than it is on attorneys from larger firms. Judges have indicated that they are now expending more time and effort than is reasonable—in view of their other responsibilities—in attempting to locate qualified attorneys who are willing to accept appointments. Delay in the appointment of an attorney is, in my opinion, a severe limit to timely access to counsel, thus in effect depriving the poor of rights guaranteed by our Constitution. I believe, everybody in this Chamber would agree, that economic factors must not be permitted to regulate the application of constitutional rights.

The sixth amendment guarantees every person charged with a crime, rich or poor, the right to the effective assistance of an attorney. Society must pay for that service when the accused cannot. It is also equally as important that attorneys, who are charged with the responsibility of making our system of justice work, be adequately compensated to maintain a high quality of representation for indigent defendants. This legislation is long overdue and I urge my colleagues to vote in favor of H.R. 4307.●

Mr. KASTENMEIER. Mr. Speaker, we have no further requests for time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4307, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in

which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

U.S. MARSHALS SERVICE AND WITNESS SECURITY REFORM ACT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4249) to amend title 18 United States Code, to provide for the protection of Government witnesses in criminal proceedings, to establish a U.S. Marshals Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "United States Marshals Service and Witness Security Reform Act of 1984".

TITLE I—PROTECTION OF GOVERNMENT WITNESSES

AUTHORITIES OF ATTORNEY GENERAL

SEC. 101. Part II of title 18, United States Code, is amended by inserting after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Probationers and parolees.
"3523. Civil judgments.
"3524. Child custody arrangements.
"3525. Victims Compensation Fund.
"3526. Cooperation of other Federal agencies and State governments.
"3527. Additional authority of Attorney General.
"3528. Definition.

"§ 3521. Witness relocation and protection

"(a)(1) The Attorney General may provide for the relocation and other protection of a witness or a potential witness for the Federal Government or for a State government in a criminal judicial proceeding if the Attorney General determines that an offense involving a crime of violence directed at the witness with respect to that proceeding, an offense set forth in chapter 73 of this title directed at the witness, or a State offense that is similar in nature to either such offense, is likely to be committed. The Attorney General may also provide for the relocation and other protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered on account of the participation of the witness in the judicial proceeding.

"(2) The Attorney General shall issue guidelines defining the type of criminal cases for which the exercise of the authority of the Attorney General contained in paragraph (1) would be appropriate.

"(3) The United States and its officers and employees shall not be subject to any civil liability on account of any decision to provide or not to provide protection under this chapter.

"(b)(1) In connection with the protection under this chapter of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General shall take such action as the Attorney General determines to be necessary to protect the person involved from bodily injury and otherwise to assure the health, safety, and welfare of that person, including the psychological well-being and social adjustment of that person, for as long as, in the judgment of the Attorney General, the danger to that person exists. The Attorney General may—

"(A) provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

"(B) provide housing for the person;

"(C) provide for the transportation of household furniture and other personal property to a new residence of the person;

"(D) provide to the person a payment to meet basic living expenses, in a sum established in accordance with regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(E) assist the person in obtaining employment; and

"(F) refuse to disclose the identity or location of the person or any other matter concerning that person, except that the Attorney General shall, upon the request of State or local law enforcement officials, provide relevant information to such officials concerning a criminal investigation or proceeding relating to the person protected.

The Attorney General shall establish an accurate, efficient, and effective system of records concerning the criminal history of persons provided protection under this chapter in order to provide the information described in subparagraph (F) of this paragraph.

"(2) Deductions shall be made from any payment made to a person pursuant to paragraph (1)(D) to satisfy obligations of that person for family support payments pursuant to a State court order.

"(3) Any person who, without the authorization of the Attorney General, knowingly discloses any information received from the Attorney General under paragraph (1)(F) shall be fined $5,000 or imprisoned five years, or both.

"(c) Before providing protection to any person under this chapter, the Attorney General shall make a written assessment in each case of the possible risk of danger to other persons and property and shall determine whether the need for that person's testimony outweighs the risk of danger to the public. In assessing whether a person should be provided protection under this chapter, the Attorney General shall consider the person's criminal record, alternatives to providing protection under this chapter, the possibility of securing similar testimony from other sources, the need for protecting the person, the relative importance of the person's testimony, results of psychological examinations, and such other factors as the Attorney General considers appropriate. The Attorney General shall not provide protection to any person under this chapter (1) if the risk of danger to the public, including the potential harm to innocent victims, outweighs the need for that person's testimony, or (2) if providing such protection will substantially infringe upon the relationship between a child who would be relocated in connection with such protection and that child's parent who would not be so relocated. This subsection shall not be construed to authorize the disclosure of the written assessment made pursuant to this subsection.

"(d)(1) Before providing protection to any person under this chapter, the Attorney General shall enter into a memorandum of understanding with that person. Each such memorandum of understanding shall set forth the responsibilities of that person, including—

"(A) the agreement of the person, if a witness or potential witness, to testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings,

"(B) the agreement of the person not to commit any crime,

"(C) the agreement of the person to take all necessary steps to avoid detection by others of the facts concerning the protection provided to that person under this chapter,

"(D) the agreement of the person to comply with civil judgments against that person,

"(E) the agreement of the person to cooperate with all reasonable requests of officers and employees of the Government who are providing protection under this chapter,

"(F) the agreement of the person to designate another person to act as agent for the service of process,

"(G) the agreement of the person to make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation, and

"(H) the agreement of the person to disclose any probation or parole responsibilities, and if the person is on probation or parole under State law, to consent to Federal supervision in accordance with section 3522 of this title.

Each such memorandum of understanding shall also set forth the protection which the Attorney General has determined will be provided to the person under this chapter, and the procedures to be followed in the case of a breach of the memorandum of understanding, as such procedures are established by the Attorney General. Such procedures shall include (i) a procedure for filing grievances within the Department of Justice independently of the program providing protection under this chapter, and (ii) an opportunity for a hearing before an official not involved in the case who is designated by the Attorney General or, if the Attorney General is involved in the case, by the next highest ranking officer in the Department of Justice not involved in the case.

"(2) The Attorney General shall enter into a separate memorandum of understanding pursuant to this subsection with each person protected under this chapter who is eighteen years of age or older. The memorandum of understanding shall be signed by the Attorney General and the person protected.

"(3) The Attorney General may delegate any responsibilities under this chapter only to the Deputy Attorney General, to an Associate Attorney General, to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, to the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice (insofar as the delegation relates to a criminal civil rights case), and to one other officer or employee of the Department of Justice.

"(e) The Attorney General may terminate the protection provided under this chapter to any person who substantially breaches the memorandum of understanding entered into between the Attorney General and that person pursuant to subsection (d), or who

provides false information concerning the memorandum of understanding or the circumstances pursuant to which the person was provided protection under this chapter, including information with respect to the nature and circumstances concerning child custody and visitation. Before terminating such protection, the Attorney General shall send notice to the person involved of the termination of the protection provided under this chapter and the reasons for the termination. The decision of the Attorney General to terminate such protection shall not be subject to judicial review.

"§ 3522. Probationers and parolees

"(a) A probation officer may, upon the request of the Attorney General, supervise any person provided protection under this chapter who is on probation or parole under State law, if the State involved consents to such supervision. Any person so supervised shall be under Federal jurisdiction during the period of his supervision and shall, during that period, be subject to all laws of the United States which pertain to parolees.

"(b) The failure by any person provided protection under this chapter who is supervised under subsection (a) to comply with the memorandum of understanding entered into by that person pursuant to section 3521(d) of this title shall be grounds for the revocation of probation or parole, as the case may be.

"(c) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with respect to a probationer or parolee transferred from State supervision pursuant to this section as they have with respect to an offender convicted in a court of the United States and paroled under chapter 311 of this title. The provisions of sections 4201 through 4204, 4205(d), (e), and (h), 4206 through 4216, and 4218 of this title shall apply following a revocation of probation or parole under this section.

"(d) If a person provided protection under this chapter who is on probation or parole and is supervised under subsection (a) of this section has been ordered by the State court which imposed sentence on the person to pay a sum of money to the victim of the offense involved for damage caused by the offense, that penalty or award of damages may be enforced as though it were civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be distributed to the victim.

"§ 3523. Civil judgments

"(a) If a person provided protection under this chapter is named as a defendant in a civil cause of action arising prior to or during the period in which the protection is provided, process in the civil proceeding may be served upon that person or agent designated by that person for that purpose. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person protected at the person's last known address. The Attorney General shall notify the plaintiff in the action whether such process has been served. If a judgment in such action is entered against that person, the Attorney General shall determine whether the person has made reasonable efforts to comply with the judgment. The Attorney General shall take appropriate steps to urge the person to comply with the judgment. If the Attorney General determines that the person has not made reasonable efforts to comply with the judgment, the Attorney General may, after considering the danger to the person, and upon the request of the person holding the judgment, disclose the identity and location of the person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure of the identity and location of the person shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery.

"(b)(1) Any person who holds a judgment entered by a Federal or State Court in his or her favor against a person provided protection under this chapter may, upon a decision by the Attorney General to deny disclosure of the current identity and location of such protected person, bring an action against the protected person in the United States district court in the district where the person holding the judgment (hereinafter in this subsection referred to as the 'petitioner') resides. Such action shall be brought within one hundred and twenty days after the petitioner requested the Attorney General to disclose the identity and location of the protected person. The complaint in such action shall contain statements that the petitioner holds a valid judgment of a Federal or State court against a person provided protection under this chapter and that the petitioner sought to enforce the judgment by requesting the Attorney General to disclose the identity and location of the protected person.

"(2) The petitioner in an action described in paragraph (1) shall notify the Attorney General of the action at the same time the action is brought. The Attorney General shall appear in the action and shall affirm or deny the statements in the complaint that the person against whom the judgment is allegedly held is provided protection under this chapter and that the petitioner requested the Attorney General to disclose the identity and location of the protected person for the purpose of enforcing the judgment.

"(3) Upon a determination (A) that the petitioner holds a judgment entered by a Federal or State court and (B) that the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person against whom the judgment was entered, the court shall appoint a guardian to act on behalf of the petitioner to enforce the judgment. The clerk of the court shall forthwith furnish the guardian with a copy of the order of appointment. The Attorney General shall disclose to the guardian the current identity and location of the protected person and any other information necessary to enable the guardian to carry out his or her duties under this subsection.

"(4) It is the duty of the guardian to proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner under the judgment. The guardian shall, however, endeavor to carry out such enforcement duties in a manner that maximizes, to the extent practicable, the safety and security of the protected person. In no event shall the guardian disclose the new identity or location of the protected person without the permission of the Attorney General, except that such disclosure may be made to a Federal or State court in order to enforce the judgment. Any good faith disclosure made by the guardian in the performance of his or her duties under this subsection shall not create any civil liability against the United States or any of its officers or employees.

"(5) Upon appointment, the guardian shall have the power to perform any act with respect to the judgment which the petitioner could perform, including the initiation of judicial enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law. The Federal Rules of Civil Procedure shall apply in any action brought under this subsection to enforce a Federal or State court judgment.

"(6) The costs of any action brought under this subsection with respect to a judgment, including any enforcement action described in paragraph (5), and the compensation to be allowed to a guardian appointed in any such action shall be fixed by the court and shall be apportioned among the parties as follows: the petitioner shall be assessed in the amount the petitioner would have paid to collect on the judgment in an action not arising under the provisions of this subsection; the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought under this subsection. In the event that the costs and compensation to the guardian are not met by the petitioner or by the protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of the action brought under this subsection.

"(7) No officer or employee of the Department of Justice shall in any way impede the efforts of a guardian appointed under this subsection to enforce the judgment with respect to which the guardian was appointed.

"(c) The provisions of this section shall not apply to a court order to which section 3524 of this title applies.

"§ 3524. Child custody arrangements

"(a) The Attorney General may not relocate any child in connection with protection to a person under this chapter if it appears that a person other than that protected person has legal custody of that child.

"(b) Before protection is provided under this chapter to any person (1) who is a parent of a child of whom that person has custody, and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, the Attorney General shall obtain and examine a copy of such order for the purpose of assuring that compliance with the order can be achieved. If such compliance cannot be so achieved, the Attorney General may provide protection under this chapter to the person only if the Attorney General obtains a modification of the court order under subsection (e)(1) of this section.

"(c) With respect to any person provided protection under this chapter (1) who is the parent of a child who is relocated in connection with such protection and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a State court order, the Attorney General shall, as soon as practicable after the person and child are so relocated, notify in writing the child's parent who is not so relocated that the child has been provided protection under this chapter. The notification shall also include statements that the rights of the parent not so relocated to

visitation or custody, or both, under the court order shall not be infringed by the relocation of the child and that the Department of Justice will pay (A) all costs incurred in insuring that visitation or custody, including any costs for necessary security arrangements, and (B) all attorneys' fees and other litigation costs incurred by that parent arising from the child's relocation (including costs associated with court proceedings provided in this section).

"(d)(1) With respect to any person provided protection under this chapter (A) who is the parent of a child who is relocated in connection with such protection and (B) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, an action to modify that court order may be brought by any party to the court order in the District Court for the District of Columbia or in the district court for the district in which the child's parent resides who has not been relocated in connection with such protection.

"(2) With respect to actions brought under paragraph (1), the district courts shall establish a procedure to provide a reasonable opportunity for the parties to the court order to mediate their dispute with respect to the order. The court shall provide a mediator for this purpose. If the dispute is mediated, the court shall issue an order in accordance with the resolution of the dispute.

"(3) If, within 60 days after an action is brought under paragraph (1) to modify a court order, the dispute has not been mediated, any party to the court order may request arbitration of the dispute. In the case of such a request, the court shall appoint a master to act as arbitrator, who shall be experienced in domestic relations matters. Rule 53 of the Federal Rules of Civil Procedure shall apply to masters appointed under this paragraph. The court and the master shall, in determining the dispute, give substantial deference to the need for maintaining parent-child relationships, and any order issued by the court shall be in the best interests of the child. In actions to modify a court order brought under his subsection, the court and the master shall apply the law of the State in which the court order was issued or, in the case of the modification of a court order issued by a district court under this section, the law of the State in which the parent resides who was not relocated in connection with the protection provided under this chapter. The costs to the Government of carrying out a court order may not be considered in an action brought under this subsection to modify that court order.

"(4) Until a court order is modified under this subsection, all parties to that court order shall comply with their obligations under that court order.

"(5) With respect to any person provided protection under this chapter who is the parent of a child who is relocated in connection with such protection, the parent not relocated in connection with such protection may bring an action, in the District Court for the District of Columbia or in the district court for the district in which that parent resides, for violation by that protected person of a court order with respect to custody or visitation of that child. If the court finds that such a violation has occurred, the court may hold in contempt the protected person. The Attorney General shall terminate protection under this chapter provided to any such protected person so held in contempt.

"(e)(1) In any case in which the Attorney General determines that, as a result of the relocation of a person and a child of whom that person is a parent in connection with protection provided under this chapter, the implementation of a court order with respect to custody or visitation of that child would be substantially impossible, the Attorney General may bring, on behalf of the person provided protection under this chapter, an action to modify the court order. Such action may be brought in the district court for the district in which the parent resides who would not be or was not relocated in connection with the protection provided under this chapter. In an action brought under this paragraph, if the Attorney General establishes, by clear and convincing evidence, that implementation of the court order involved would be substantially impossible, the court may modify the court order but only to the extent of creating a remedy substantially equivalent to the terms of that court order.

"(2) With respect to any State court order in effect to which this section applies, and with respect to any district court order in effect which is issued under this section, if the parent who is not relocated in connection with protection provided under this chapter intentionally violates a reasonable security requirement imposed by the Attorney General with respect to the implementation of that court order, the Attorney General may bring an action in the district court for the district in which that parent resides to modify the court order. The court may modify the court order if the court finds such an intentional violation.

"(3) The procedures for mediation and arbitration provided under subsection (d) of this section shall not apply to actions for modification brought under this subsection.

"(f) In any case in which a person provided protection under this chapter is the parent of a child of whom that person has custody and has obligations to another parent of that child concerning custody and visitation of that child which are not imposed by court order, that person, or the parent not relocated in connection with such protection, may bring an action in the district court of the district in which that parent not relocated resides to obtain an order providing for custody or visitation, or both, of that child. In any such action, all the provisions of subsection (d) of this section shall apply.

"(g) In any case in which an action under this section involves court orders from different States with respect to custody or visitation of the same child, the court shall resolve any conflicts by applying the rules of conflict of laws of the State in which the court is sitting.

"(h)(1) Subject to paragraph (2), the costs of any action described in subsection (d), (e), or (f) of this section shall be paid by the United States Government.

"(2) The Attorney General shall insure that any State court order in effect to which this section applies and any district court order in effect which is issued under this section are carried out. The Department of Justice shall pay all costs and fees described in clauses (A) and (B) of subsection (c) of this section.

"(i) For purposes of this section and section 3521(c), the term 'parent' includes any person who stands in the place of a parent by law.

"§ 3525. Victims Compensation Fund

"(a) The Attorney General may pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter.

"(b) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on payments made under this section for such year.

"(c) There are authorized to be appropriated for the fiscal year 1985 and for each fiscal year thereafter, $2,000,000 for payments under this section.

"(d) The Attorney General shall establish guidelines and procedures for making payments under this section. The payments to victims under this section shall be made for the types of expenses provided for in section 3579(b) of this title, except that in the case of the death of the victim, an amount not to exceed $50,000 may be paid to the victim's estate. No payment may be made under this section to a victim unless the victim has sought restitution and compensation provided under Federal or State law or by civil action. Such payments may be made only to the extent the victim, or the victim's estate, has not otherwise received restitution and compensation, including insurance payments, for the crime involved. Payments may be made under this section to victims of crimes occurring on or after the date of the enactment of this chapter. In the case of a crime occurring before the date of the enactment of this chapter, a payment may be made under this section only in the case of the death of the victim, and then only in an amount not exceeding $25,000, and such a payment may be made notwithstanding the requirements of the third sentence of this subsection.

"(e) Nothing in this section shall be construed to create a cause of action against the United States.

"§ 3526. Cooperation of other Federal agencies and State governments; reimbursement of expenses

"(a) Each Federal agency shall cooperate with the Attorney General in carrying out the provisions of this chapter and may provide, on a reimbursable basis, such personnel and services as the Attorney General may request in carrying out those provisions.

"(b) In any case in which a State government requests the Attorney General to provide protection to any person under this chapter—

"(1) the Attorney General may enter into an agreement with that State government in which that government agrees to reimburse the United States for expenses incurred in providing protection to that person under this chapter; and

"(2) the Attorney General shall enter into an agreement with that State government in which that government agrees to cooperate with the Attorney General in carrying out the provisions of this chapter with respect to all persons.

"§ 3527. Additional authority of Attorney General

"The Attorney General may enter into such contracts or other agreements as may be necessary to carry out this chapter. Any such contract or agreement which would result in the United States being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

"§ 3528. Definition

"For purposes of this chapter, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

CONFORMING AMENDMENT; REPEAL

SEC. 102. (a) The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 223 the following new item:

"224. Protection of witnesses 3521".

(b) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

EFFECTIVE DATE

SEC. 103. The amendments made by this title, and section 102(b) of this Act, shall take effect on October 1, 1984.

TITLE II—UNITED STATES MARSHALS SERVICE AND SERVICE OF PROCESS

ESTABLISHMENT OF UNITED STATES MARSHALS SERVICE AND LIMITATIONS ON SERVICE OF PROCESS BY SUCH SERVICE

SEC. 201. (a) Chapter 37 of title 28, United States Code, is amended to read as follows:

"CHAPTER 37—UNITED STATES MARSHALS SERVICE

"Sec.
"561. United States Marshals Service.
"562. Powers and duties generally; supervision by Attorney General.
"563. Power as sheriff.
"564. Disbursement of salaries and moneys.
"565. Collection of fees; accounting.
"566. Delivery of prisoners to successor.
"567. Delivery of unserved process to successor.
"568. Practice of law prohibited.
"569. Reemployment rights.

"§ 561. United States Marshals Service

"(a) There shall be a United States Marshals Service in the Department of Justice.

"(b) The Attorney General shall appoint a United States marshal for each judicial district. Each United States marshal shall be an official of the United States Marshals Service.

"(c) The Attorney General may appoint a Director of the United States Marshals Service, who shall be the head of the Service.

"(d) The Attorney General may appoint such other officials of the United States Marshals Service as the Attorney General considers necessary.

"(e) All positions in the United States Marshals Service appointed by the Attorney General under subsections (b) and (c) of this section shall be positions in the excepted service, as defined in section 2103 of title 5. All positions in the United States Marshals Service appointed by the Attorney General under subsection (d) of this section shall be positions in the competitive service, as defined in section 2102 of title 5.

"§ 562. Powers and duties generally; supervision by Attorney General

"(a) the United States Marshals Service shall provide such services to the district courts of the United States, the United States courts of appeal, and the United States Court of International Trade, as the Attorney General directs.

"(b) The Attorney General shall supervise and direct the United States Marshals Service in the performance of public duties and accounting for public moneys. Each official of the United States Marshals Service shall report any official proceedings, receipts, and disbursements and the condition of the office as the Attorney General directs.

"§ 563. Powers as sheriff

"An official of the United States Marshals Service, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 564. Disbursement of salaries and moneys

"(a) The United States Marshals Service, under regulations prescribed by the Attorney General, shall pay the salaries, office expenses, and travel and per diem allowances of United States attorneys and their assistants, clerks, and messengers, and of the officials of such Service.

"(b) On all disbursements made by the United States Marshals Service for official salaries or expenses, the certificate of the payee is sufficient without verification on oath.

"§ 565. Collection of fees; accounting

"(a) Each official of the United States Marshals Service shall collect, as far as possible, any lawful fees of the office and account for the same as public moneys.

"(b) The official's accounts of fees and costs paid to a witness or juror on certificate of attendance issued as provided by sections 1825 and 1871 of this title may not be reexamined to charge such official for an erroneous payment of the fees or costs.

"§ 566. Delivery of prisoners to successor

"Each official of the United States Marshals Service shall deliver to the successor to such office all prisoners in the custody of that official.

"§ 567. Delivery of unserved process to successor

"All unserved process remaining in the hands of an official of the United States Marshals Service shall be delivered to the successor to such office.

"§ 568. Practice of law prohibited

"An official of the United States Marshals Service may not practice law in any court of the United States or in any State court.

"§ 569. Reemployment rights

"A United States marshal for a judicial district who was appointed from a position in the competitive service (as defined in section 2102 of title 5) in the United States Marshals Service and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from such office, is entitled to be reemployed in any vacant position in the competitive service in the United States Marshals Service at the same grade or pay level, or lower, as the individual's former position if—

"(1) the individual is qualified for the vacant position; and

"(2) the individual has made application for the position not later than 90 days after being removed from office as a United States marshal.

Such individual shall be so reemployed within 30 days after making such application or after being removed from office, whichever is later. An individual denied reemployment under this section in a position because the individual is not qualified for that position may appeal that denial to the Merit System Protection Board under section 7701 of title 5.".

(b) Any United States marshal serving on the effective date of this title shall continue to serve for the remainder of the term for which such marshal was appointed, unless sooner removed by the Attorney General.

UNITED STATES MARSHALS FEES

SEC. 202. (a) Section 1921 of title 28, United States Code, is amended to read as follows:

"§ 1921. Fees of the United States Marshals Service

"(a)(1) Except as otherwise provided, the United States Marshals Service shall collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice of bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate for each official of the United States Marshals Service required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(2) The United States Marshals Service shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(B) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a).

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise and receiving and paying over money, the United States Marshals Service shall collect commissions of 3 per centum of the first $1,000 collected and 1½ per centum on the excess of any sum over $1,000, except that the amount of the commission shall be within the range set by the Attorney General. If the property is not disposed of by sale by such Service, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than an official of the United States Marshals Service, the commission authorized under this subsec-

tion shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States Marshals Service may require a deposit to cover any of the fees and expenses prescribed under this section.

"(e) Notwithstanding the provisions of section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in appropriations Acts, to credit to its appropriations account all fees, commissions, and expenses collected for—

"(1) the service of civil process, including complaints, summonses, subpenas, and similar process; and

"(2) seizures, levies, and sales associated with judicial orders of execution,

by the United States Marshals Service and to use such credited amounts for the purpose of carrying out such activities. Such credited amounts may be carried over from year to year for such purposes.".

(b) The item relating to section 1921 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

"1921. Fees of the United States Marshals Service.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 203. (a)(1) Section 872 of title 28, United States Code, is amended to read as follows:

"The Attorney General shall appoint a United States marshal for the Court of International Trade, to whose office the provisions of chapter 37 of this title shall apply.".

(2) The table of sections for chapter 55 of title 28, United States Code, is amended by amending the item relating to section 872 to read as follows:

"872. Marshal.".

(3) The section heading of section 872 of title 28, United States Code, is amended to read as follows:

"§ 872. Marshal".

(b) Section 2902 of title 5, United States Code, is amended in subsection (c) by striking out "and marshals".

(c) Section 3053 of title 18, United States Code, is amended by striking out "their deputies" and inserting in lieu thereof "such other officials of the United States Marshals Service as the Attorney General shall designate for purposes of this section".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks. I yield to myself as much time as I may consume.

This afternoon I am pleased to bring before the House H.R. 4249, a bill to reform the operations of the U.S. Marshals Service including the witness security program. This bill has the support of 12 of the 14 members of the subcommittee and is the product of work done by the subcommittee over the last two Congresses.[1]

The U.S. Marshals Service is the oldest Federal law enforcement agency. Currently the Marshals Service has important law enforcement responsibilities with respect to apprehension of fugitives, transportation of prisoners, and operation of the witness security program. It is the witness security part of their operations which motivates the changes made by this bill.

The witness security program was first authorized in 1970 in a brief reference in an omnibus bill. Those provisions had never been subjected to any House hearings, and some of the problems which we are attempting to cure today raise, in part, because of the summary nature of the current law.

There is little doubt that the witness security program has been an important tool for Federal and State law enforcement officials. Since 1970, about 4,000 persons have been placed in the program, given new identities and relocated. These persons have provided key testimony in numerous organized crime prosecutions. At the request of my Subcommittee on Courts, Civil Liberties, and the Administration of Justice, the General Accounting Office has reviewed case filed from the FBI and Marshals Service and established—in a soon to be released report—that the program is of material value to Federal prosecutors.

Unfortunately the very nature of the witness security program has created problems. First, many of the program participants are persons with extensive criminal records, and somewhat prone to commit new crimes. According to the GAO, about 25 percent of the participants committed a new crime. Second, because of their new identity and location some witnesses have tended to ignore their previous civil law obligations, including child custody and visitation. Both of these problems have been explored in depth in hearings in both Houses and most recently by the General Accounting Office. This bill is an attempt to respond to these issues, while at the same time enhancing the effectiveness of the program.

The bill makes the following major changes in current law:

First, admission into the program is made more difficult. The Attorney General must weigh the risk of harm to the community against the need for the testimony;

Second, persons who are victimized by participants in the witness security program are eligible for Federal compensation, after other means have been exhausted;

Third, the obligations of program participants to comply with civil court judgments are secured; and

Fourth, management accountability is enhanced by providing that each U.S. marshal be directly accountable to the Attorney General.

Before closing, I wish to express my thanks to a number of my colleagues for their contributions to this legislation. Congressman FRANK crafted the child custody and visitation provisions, Congressmen SAWYER and SMITH contributed to the victim compensation section: Congressman GLICKMAN added a number of substantive amendments; and Congresswoman SCHROEDER and Congressman MATSUI developed the section of employment rights for the Marshals Service. Finally, Senators NUNN, COCHRAN, and BAUCUS have all labored hard on these issues and their contributions are reflected in this bill.

It should also be noted that a number of journalists have investigated the shortcomings of this program. These exposés helped create a climate for reform. Specifically, credit should go to Fred Gralnam of CBS News; Gary Delsohn of the Denver Post; Heraldo Rivera of ABC News and "20/20"; Stanley Penn of the Wall Street Journal; Tom Renner of Newsday; and Leslie Maitland Werner of the New York Times.

I cannot help but note the opposition of the Office of Management and Budget to this bill. This late filed claim comes as a surprise. The committee has been working on this legislation for nearly 2 years. During that time staff of the committee has met repeatedly with the Department of Justice. As early as last summer the Department of Justice was asked how they wished to respond to the problems of child custody and visitation. At that point, the Department of Justice had lost two cases in Federal Court and were, arguably, under a mandate to reform the witness protection program. Despite a plea for suggested amendments none were received.

On January 24 of this year I met with the Director of the Marshals Service and provided him with a copy of the child custody and visitation

[1] Inadvertently omitted from the list of cosponsors is Congressman William Hughes, chairman of the Subcommittee on Crime.

amendment which was offered in committee by Congressman FRANK. We never received a response to the request for comments. Finally, during the deliberations in the full Judiciary Committee all of the members who addressed this question of child custody and visitation were fully supportive of the provisions in the bill.

In essence, the administration position is that they should not have to give full deference to the rights of the family and children. They only wish to provide for visitation up to once per month regardless of any outstanding court orders. This position is antifamily and antichildren.

The second apparent basis for administration opposition to this bill is that we have shown some compassion for the victims of crimes committed by protected witnesses. We have included a modest $2 million authorization for crimes committed by protected witnesses. This authorization is virtually identical to a provision reported last week by the Senate Judiciary Committee. During our hearings last Congress, Congresswoman VIRGINIA SMITH testified about the brutal murders committed by Marion Albert Pruett. The victims of this protected witness multistate murder spree also appeared before us. Frankly, I do not know how this administration could look those people in the eye and say victims compensation for them would "unfairly discriminate" in their favor.

Let me take a moment to outline the factual background of the Pruett case so that my colleagues can see why compensation is appropriate. Marion Albert Pruett was admitted into the witness security program because his testimony was alleged to be necessary to solve a murder in the Atlanta Penitentiary. Pruett testified and was released from prison. Pruett relocated to New Mexico with his wife. Some time later Pruett's wife was found dead in a field. When the local police inquired of the FBI whether Pruett—using a new name—had a criminal record he was released. Pruett went on to commit six murders after fleeing prosecution in New Mexico. Finally, it is also clear now that Pruett committed perjury in the first trial, because he has confessed to the original Atlanta Penitentiary murder. I guess the Office of Management and Budget does not think the Government did anything wrong.

One last point about the administration position. In yesterday's New York Times an article on this bill appeared including a quotation from a Justice Department official. The Assistant Attorney General in charge of Legislative Affairs said—and I quote, "delay is more of a problem than anything else." Yet this morning we are told that the Office of Management and Budget seeks to defeat this bill on the Suspension Calendar. Who speaks for the administration?

I urge my colleagues to support this measure.

□ 1400

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I want to commend him and his subcommittee and the full committee for undertaking the revision of the witness protection progam legislation and say that I support the modernization of the program.

But I want to ask a couple of questions, if I might.

One, is there a limit on the amount of protection that can be or that should be paid in any one case? Is there any limitation in the legislation?

Mr. KASTENMEIER. No; there is an overall limitation.

Mr. FASCELL. Does the Attorney General or somebody acting on his behalf have the discretion to terminate a witness protection program once it has been initiated?

Mr. KASTENMEIER. In response to the gentleman, I would say yes, the Attorney General does have that discretion as well as he has discretion in terms of victims' compensation.

Mr. FASCELL. I am more concerned about the person right now who comes into the program and gets in the middle of it and is suddenly terminated because "the program is too expensive." And I want to know what guidelines, if any, incumbent upon the Attorney General or whoever administers the program to make that decision.

That was the reason for the question, and I would like to explore that further at another time with the gentleman because that is a very serious matter. And as the gentleman knows, it has occurred. And I think it raises some questions.

The other thing I would like to get on the record if the gentleman will yield further, is this: Are there any guidelines with respect to the witness protection program when it involves the family of the individual? And I am thinking now particularly of minor children.

Mr. KASTENMEIER. Indeed there is. That was part of a discussion earlier. We provide very precisely for visitation rights and for taking into consideration the appropriate interests of the Government in the confidentiality and security of the witness; but notwithstanding, we mandate that State court orders be respected in terms of affording visitation rights for persons not in the program as well as those in the program. And this is the first, and I would say one of the foremost, priorities.

Mr. FASCELL. Well, if the gentleman will yield further, I am thinking of the case of an individual who is brought into the witness protection program and was required at least in order to participate to give up his business, leave town, give up his wife and his three minor children and that is the only way he could participate.

It seems to me that was a little awkward.

Mr. KASTENMEIER. Well, I cannot speak to that particular case. In the bill we have tried to insist in the nature of a memorandum of understanding without precisely spelling out a contract which affords the protected witness some redress in terms of what happens to him or her once they are in the program.

Mr. FASCELL. I think that is a tremendous improvement. Is that contract made with the marshal or the district attorney in the district, usually?

Mr. KASTENMEIER. It is usually made with the Attorney General.

Mr. FASCELL. Directly?

Mr. KASTENMEIER. The authority to enter into a memorandum of understanding resides in the Attorney General or five other top departmental officials. But ultimately the Attorney General is responsible.

Mr. FASCELL. So in other words, the witness who is considering the possibility of adopting the protection of the program in working with the district attorney, U.S. district attorney in the local district, would have to be sure that the Attorney General of the United States has actually signed off on his admission into the program before he can be assured of the protection of this act; is that what the gentleman is telling me?

Mr. KASTENMEIER. Yes.

May I say to the gentleman from Florida, let me read from the report, because I think it answers quite clearly.

In addition to listing all the potential obligations of the protected witness, the memorandum of understanding, that is why I said contract; the memorandum of understanding shall also indicate exactly what the Government promises to do for the witness:

The memorandum shall also contained a detailed description of the grievance mechanism available to the protected witness in case of an alleged breach of the Memorandum of Understanding.

Mr. FASCELL. I want to say to the gentleman from Wisconsin that is a tremendous improvement and I compliment the gentleman.

Mr. KASTENMEIER. I thank the gentleman from Florida.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find that I support the overall thrust of H.R. 4249 and the majority of its provisions which are designed to provide needed and specific criteria for the operation of the witness protection program. However, I do have a reservation about one segment of the legislation, which is shared by the U.S. Department of Justice.

H.R. 4249 would establish a victim compensation fund to compensate victims of violent crime committed by protected witnesses in sums of up to $50,000 in the case of the death of a victim. The compensation provisions are also retroactive with payments of up to $25,000 available for the death of a victim occurring before the enactment of this legislation.

The U.S. Department of Justice is opposed to the creation of a victim compensation fund in the context of H.R. 4249. The Department in previous testimony has argued that the effect of this provision is "* * * to make the Government strictly liable for any offense committed by a person provided protection without regard to whether the Government was negligent in any respect." If one is inclined to support compensating victims of crime, I believe that the best way to do it is through a comprehensive victim compensation program and not by the creation of a special fund in the context of this legislation.

Aside from the reservation I have just noted, H.R. 4249 is sound legislation. One of the most prevalent problems encountered under the act in recent years is the number of protected witnesses who have used the program to shield themselves from their civil law obligations—including money judgments and child custody support and visitation orders. H.R. 4249 would codify the existing practice of the Department to disclose the new name and location of a protected witness if the person refuses to honor an outstanding judgment. Moreover, the bill clearly specifies which officials in the Department can admit individuals into the program. This insures that admissions into the program will be handled at the top levels of the Department while at the same time facilitating oversight of the program.

I would like to commend the chairman and members of the Subcommittee on Courts, Civil Liberties and the Administration of Justice for their work on H.R. 4249. By the same token, I would especially like to note the efforts of our colleague, the gentlewoman from Nebraska (Mrs. SMITH) who provided valuable input to the Courts Subcommittee during their deliberations on this issue.

Overall, this legislation will implement needed improvements and changes in the witness security program that should enable it to more efficiently fulfill its mandate of procuring witnesses and their testimony against members of organized crime.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I have no objection to a good deal of this particular bill. Much of it sounds like an improvement to me; the marshal's section, the visitation and obligations section as relates to the witnesses.

However, as I noted earlier, I do object to the fact that there is no cost estimate for that one section which it seems to me could have been provided by the Congressional Budget Office. CBO has been quick to provide all sorts of often-inaccurate estimates for very difficult items and I see no reason why it could not provide an estimate for the child custody arrangements.

Most of all, however, Mr. Speaker, I am concerned about the victims' compensation. I believe that this is a matter which should come before the Congress and the entire matter should be presented to us.

I can understand the desires of those to provide compensation for a person who has been aggrieved by someone the Government is protecting, and I am sure a good case can be made for it.

□ 1410

However, I think the Justice Department is dead right in suggesting that we do it all together. I am not altogether certain that I would approve an overall victims compensation program. My inclination would be to oppose it. But I am very certain that we should not do it in tiny little pieces with the foot in the door business that will bring another bill next year and another the year after until suddenly we have a policy composed of 100 pieces of baloney instead of the whole piece.

I think that this bill should be defeated. I think the committee should bring us out something that gives us a policy for crime victims compensation that is at least comprehensive and rational.

Mr. MOORHEAD. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in support of this legislation and the entire part of it.

Let me just address the objection to the section about the victims compensation fund that was addressed by the gentleman from Minnesota.

This is not like an ordinary victims compensation law that we have in many States, including my own State of Michigan. There, the only blame that might fall on the State is, theoretically, the failure to protect a person from a crime, which, despite all efforts, can never be 100 percent and we know it.

This is something quite different. Here the Federal Government has for its own purposes transported a vicious criminal, in many cases, with an established record of violence, into a peaceful community, with these people who then become victimized by him.

So it is hardly a question that the Federal Government does not have a stake in. It is nothing unusual for the law to recognize absolute liability, strict liability, as we call it. If you elect to keep dangerous wild animals on your property and one escapes, through no fault of your own, you are nevertheless strictly liable for anything they do, without question of fault.

Or if you maintain a dam on your property and it breaks through, no fault of your own, and people are killed or damaged, you are strictly liable, even though there was no fault.

The theory is that you knew that risk when you kept the wild animal and you knew that risk when you built the dam.

So therefore if the danger that is reasonably foreseeable occurs, you are responsible.

That is the same thing here with this program. Now the Balderson case is a typical example. Mr. and Mrs. Balderson testified before our subcommittee that they had a young son, going to college, working to get some help with his tuition at a 7-Eleven store. A Mr. Marion Pruitt, a known dangerous person, had been transported into their little community in Nebraska and suddenly went on a killing spree. Mr. Pruitt killed several people, among them their son, who was growing up in this quiet, rural Nebraska town where the Federal Government has elected to inject, for their own purposes, a dangerous criminal, a mad animal actually, who went on this killing spree.

Now how could you say that those people are not entitled to compensation unless they could prove negligence on the part of the Federal Government? How could you possibly liken it to the ordinary victims compensation, where the only fault of the Government is an omission, really, to protect against crime.

So I say this is a long-needed bill. It has a maximum cap on it of $50,000, which is hardly generous compensation for the loss of a son or a husband or a loved one at the hands of somebody transplanted by the Federal Government to serve its own purposes.

I urge strongly that we support this legislation.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Does the gentleman mean to tell me that under this program we are sending vicious criminals back into polite society to establish residence in peaceful communities where they would be a risk to the citizens?

Mr. SAWYER. No question about it. In fact the ordinary criminal is not transported and given a new identity under this kind of protection. It is the one who has been fraternizing with exceedingly dangerous people and birds of a feather very normally are together. Most all of these individuals have criminal records.

The incidents of the commission of a crime in the communities that they have been transported in, while I do not have it at the tip of my fingers, is horrendous. So it is not just a happenstance. It is a known risk of major proportions, with 25 percent of them committing additional crimes.

Now, I do not vouch for those figures.

Mr. FRENZEL. Does the gentleman believe that it is a good program if we send a group of individuals back in society where a quarter or a third of them will commit serious crimes again?

Mr. SAWYER. Well, if you are prosecuting a major crime figure and you have witnesses who are willing to testify, and without them, you could not get convictions, you grant them immunity to testify. But that is not enough, because they know they will be killed as soon as the henchmen of the ones you are prosecuting can get their hands on them.

So in order to get the testimony, the Marshals Service gives them a new identify and transports them into a new community and in effect gives them a new life. That is the only way you can get them to testify. That is the price we have to pay for sending major family heads of the Mafioso to prison. And being a former prosecutor, I know the problem.

Mr. FRENZEL. Is the risk worth it? How many of these do we have?

Mr. SAWYER. Well, we have several of them, and whenever you are a prosecuting attorney, and I was one in an urban area before I came to Congress, you very often are dealing with people who are not nice people. Whether they are the witnesses close to the criminal activity or the criminal who you are prosecuting, very often they are involved with each other. You have to make a decision. Are you going to give the witnesses some incentive to testify to get a more dangerous criminal or a bigger kingpin or are you going to let them all go—because you cannot make them testify against themselves or if they are all involved, you cannot make them testify at all.

So you have to make these decisions. They are tough decisions. You are not always right.

But in the Federal program, dealing with organized crime, you have also got to give them new identities. Now we did not have to play around with that, but we made a lot of plea bargains to nail murderers. There is no other way to do it, unhappily. It would be nice if there were. Theoretically, people say you should not plea bargain. That is fine. Then you are going to let the murderer walk. Somebody who happened to be engaged in the robbery, but did not even have a gun, are you going to let him out with something less than a life sentence in order to get him to testify? And the answer is, yes, you are.

Mr. FRENZEL. It sounds like a very risky program.

Mr. SAWYER. It is and it is a risky business.

Mr. MOORHEAD. Mr. Speaker, while this program is a very risky one, I think it should be noted in the record here that in 1981 alone, witness security measures were credited with 995 indictments or convictions. In past testimony before the Subcommittee on Courts, Civil Liberties, and Administration of Justice, then-Attorney General Rudolph Giuliani characterized the program as one of the most effective and most important tools in the prosecution of organized criminal conspiracies.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I will not impose upon the time of the Members of this body to go over what the gentleman from Michigan has so thoroughly presented to us by way of emphasis.

I would just like to say that puts it very well in a nutshell. The gentleman from Michigan has set it forth very clearly. That is the kind of risk we have, it is the kind of program it is, some of us do not happen to think it is a particularly good program. Some of us happen to have a different philosophy that says maybe if you do not do this at all, you have these evil people killing each other off at a more rapid pace and perhaps things come out better in the long run that way.

That does not happen to work all the time. Some people do make different judgments about how our society ought to be run, perhaps in a more orderly fashion, and therefore a witness protection program seems to be necessary.

So if we are going to have a witness protection program, then it does appear to me this is a special category of victim compensation that is justified. I do not happen to support broadly the concept of victims' compensation from the public coffers.

□ 1420

This is a different matter. It has been very well set forth for us by the gentleman from Michigan.

As to the other parts of the bill, I think there have been expressions that are quite adequate in that regard.

In this one area of victims' compensation plan, I think there is a bit of misunderstanding about what the nature of it is, or there has been some misunderstanding. I trust that that has been clarified by the gentleman from Michigan in his presentation, and I will therefore not further impose upon the time of my colleagues of reemphasis of that point.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would merely, in conclusion, like to touch upon two facts. One, it is true that over 90 percent of the people introduced into this program historically since 1970 do have some form of criminal record. And 25 percent of them, once in the program, will commit a felony or serious crime. In an attempt to mitigate this situation, we provide in the bill, and I quote:

> Before providing protection for any person under this chapter, the Attorney General shall make a written assessment in each case of the possible risk of danger to other persons and property and shall determine whether need for such person's testimony outweighs the risk of danger to the public. In assessing whether a person shall be provided protection under this chapter, the Attorney General shall consider the person's criminal record, alternatives to providing protection under this chapter and the possibility of securings similar testimony from other sources, the need for protecting the person, the relative importance of the person's testimony, the results of psychological examinations, and such other factors as the Attorney General considers appropriate.

We felt that it was absolutely essential that we try to bring down the risk to any community. But we know we cannot—permitting this program to continue, in the interest of justice—prevent all incidents from happening in the future in which there may be victims as a result of this program. That is why we have a victims' compensation feature. That is why, if there is Federal intervention to the extent of taking a person with a criminal record, giving that person an alias, placing him in your community, the Government does have an obligation in some small respect to provide compensation should that protected witness injure persons in that community.

Those are the two issues I think I would like, Mr. Speaker, the House to be aware of. I hope we could approve this bill. I will say to the House that the Senate has a similar bill. I trust

that 1984 will see this enacted into law.

● Mr. FISH. Mr. Speaker, I would like to indicate my support for H.R. 4249, which for the first time since the inception of the witness protection program in 1970, would provide specific statutory criteria for its operation. I think many of the problems that have engendered criticism of the program have resulted from the lack of specific statutory guidelines.

The witness protection program represents an important law enforcement tool in that its use has resulted in the convictions of numerous organized crime figures that otherwise would have been unobtainable. In 1981 alone, witness-security measures were credited with 995 indictments or convictions. In past testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, then Associate Attorney General Rudolph Giuliani characterized the program as "one of the most effective and most important tools in the prosecution of organized criminal conspiracies."

As my colleague, the gentleman from California (Mr. MOORHEAD), has pointed out, most of the provisions of H.R. 4249 are constructive. However, I share his concern over the creation of a special victim compensation fund in this bill. Such an approach is inconsistent with a comprehensive victim compensation program. Aside from this shortcoming, H.R. 4249 will significantly improve a program that has proved to be an important asset in combating organized crime.●

● Mrs. SMITH of Nebraska. Mr. Speaker, I want to express my support today for H.R. 4249, the U.S. Marshals Service and Witness Security Program Reform Act.

Of very special interest are the provisions of this bill making needed and long-overdue reforms in the protected-witness program. This program was created in 1970 by the Organized Crime Control Act, and it has proven a vital weapon in the Government's battle against organized criminal activity. Still, as I have studied this program, I have come to the conclusion that what the program has gained has too often not been worth the price we have had to pay.

In the past decade, known criminals have been put back on the street, murdering, victimizing people, selling drugs to our children, committing any number of crimes, and all at taxpayer expense and sanctioned by a program Congress created but failed to fully define and restrict. H.R. 4249 is an attempt—and I believe a very successful one, although I would have liked to see many more restrictions placed on the program—to tighten up the program and prevent these situations from being characteristic of the program in the future.

I first became aware of the shortcomings of the witness security program in 1981, when constituents of mine, Frank and Betty Balderson of Alliance, Nebr., had to endure the worst ordeal any parent can face—the death of a child. They learned that not only was their eldest son murdered, but he was murdered by a habitual, violent criminal who was free to rob and kill as a direct result of his participation in the protected-witness program. One of the most difficult things I have had to do since coming to Congress, was try to explain to Mr. and Mrs. Balderson why their son was dead because of a Federal program.

We simply cannot allow the lives of innocent people to be jeopardized by placing obviously dangerous and violent criminals in our communities. I was shocked to learn that, Balderson's murderer, Marion Albert Pruett, was even considered for the program. Perhaps under the tighter program that will exist if we approve H.R. 4249, Pruett would have been in custody rather than crisscrossing the country, killing and robbing.

H.R. 4249 restricts entry into the program, requiring more extensive screening of the potential protected witness, and requiring the Attorney General to weigh much more carefully whether the need for a person's testimony is worth the risk of danger to the public. I also support the bill's provision restricting to top Justice Department officials who can approve a witness for participation in the witness security program.

In addition, considering that 98 percent of those participating in the program have criminal records, I believe it is imperative that once a witness is given a new identity, placed into a unknowing, unsuspecting community, that the Federal Government assume responsibility for its action. I was, therefore, quite pleased to see that H.R. 4249 includes a provision establishing a victim's compensation fund for innocent persons injured in crimes of violence committed by protected witnesses.

I am optimistic and hopeful that if the Federal Government is faced with this liability, the Justice Department will be more diligent in supervising, and perhaps providing some type of rehabilitation services, to those protected witnesses with criminal records. No amount of money will bring back the Baldersons' son, and an apology about the unfortunate circumstances of the case is hardly sufficient. The Government must accept responsibility for thrusting a dangerous, convicted felon on the public.

In closing, I want to thank Chairman KASTENMEIER and his Subcommittee on Court, Civil Liberties, and the Administration of Justice, including the subcommittee staff, for all of their hard work on this bill, for the assistance they have provided me, and for the courtesy extended to myself and the Baldersons when we appeared before the subcommittee to testify for many of the reforms made in this legislation. H.R. 4249 is a long time in coming before the whole House, but it is a good bill, a needed bill, and I urge my colleagues to support it.

Thank you.●

● Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 4249, legislation which strengthens the witness protection program, provides compensation to victims of individuals in the program, and provides a new charter to the U.S. Marshals Service.

Most of the discussion in committee centered on the witness security program and the victims compensation scheme. The Government has a special responsibility relating to the witnesses it relocates. The bill recognizes this responsibility. Further, the legislation makes these individuals comply with civil judgments, including child support orders.

In establishing a new charter for the Marshals Service, the committee voted to keep all the deputy marshals in the competitive service and permit the Attorney General to appoint the U.S. marshal for each of the 94 judicial districts as excepted service positions. This provision will insure that the rights of current employees are not compromised during the transition. This provision is supported by the exclusive representive of the employees of the Marshals Service.

Further, the committee voted to provide reemployment rights for career employees of the Marshals Service who take an appointment as a U.S. marshal for a judicial district. In order to insure that these individuals are not thrown out on the street at a change of administrations, the bill provides them with the right to a job back in the competitive service. This reemployment provision parallels what we have done for the Foreign Service and for members of the Senior Executive Service. The problem with employees of the Marshals Service losing their positions in a change of administrations was brought to our attention by Congressman MATSUI.

The Committee on Post Office and Civil Service worked with the Committee on the Judiciary in developing both the competitive service and the reemployment rights provisions of the Marshals Service title of this bill.●

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4249, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENTS TO U.S. GRAIN STANDARDS ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5221) to extend through September 30, 1988, the period during which amendments to the U.S. Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 155 of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 371), is amended by striking out in the introductory clause "Effective for the period October 1, 1981, through September 30, 1984, inclusive," and inserting in lieu thereof "Effective for the period beginning October 1, 1981, and ending September 30, 1988,".

SEC. 2. Effective for the period beginning with the date of enactment of this Act and ending September 30, 1988, the United States Grain Standards Act, as amended by the Omnibus Budget Reconciliation Act of 1981, is amended by—

(1) adding at the end of section 7(j) (7 U.S.C. 79(j)) a new paragraph as follows:

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.";

(2) inserting in section 7C (7 U.S.C. 79c) after "35 per centum", the words ", and for each of the fiscal years 1985 through 1988 shall not exceed 40 per centum,"; and

(3) striking out in section 19 (7 U.S.C. 87h) "during the period beginning October 1, 1981, and ending September 30, 1984", and inserting in lieu thereof "during the period beginning October 1, 1981, and ending September 30, 1988".

SEC. 3. Notwithstanding any other provision of law, the Secretary of Agriculture shall not establish a new class of wheat designated "Red Wheat", as proposed in 49 Federal Register, pages 1730-1735, dated January 13, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes and the gentleman from Minnesota (Mr. STANGELAND) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am appearing here today in support of H.R. 5221. This bill essentially extends for 4 years, through September 30, 1988, certain amendments to the U.S. Grain Inspection Act which were adopted in the Omnibus Budget Reconciliation Act of 1981 and which otherwise would expire September 30, 1984. The bill was reported by a rollcall vote of 37 ayes to 0 nays.

The principal amendment extends the requirement for the collection of user fees to cover administrative and supervisory costs related to official grain inspection and weighing. The user-fee provision has resulted in a reduction of Federal outlays for the Federal Grain Inspection Service from approximately $24 million in fiscal year 1981 to approximately $6.9 million in the current fiscal year. The latter amount, which is funded by appropriations, represents the costs of services which benefit the general public. The Congressional Budget Office estimates that because of the extension of the user-fee authority, the bill will save $15 million in Government outlays over a 4-year period.

Another amendment which is extended by the bill is a limitation on the costs which may be incurred in spending for administrative and supervisory expenses of the Federal Grain Inspection Service. Under the amendments adopted in 1981, a cap was placed on such expenses of 35 percent of the total costs incurred for inspection and weighing, with the exception of certain listed items. This cap is raised by H.R. 5221 from 35 percent to 40 percent of the total costs of such activities. The 35-percent limitation has been found to limit the effective management of the program, since in recent years there has been a decrease in the volume of grain exported, resulting in an increase of administrative and supervisory costs as a percentage of the total. This has occurred because of the necessity to retain sufficient technically qualified personnel to insure that professional services are available and provided when needed. At the same time, the committee has not wished to eliminate the cap in its entirety, since it has served as an effective limit on the bureaucratic growth of the agency in the last few years.

Another provision which has been extended is the requirement for the establishment of an advisory committee constituted of experts in the industry to advise the Administrator in the implementation of the act. The Committee on Agriculture has found that the work done by this advisory committee has been extremely beneficial. The record produced at the hearing supports the continuation of the advisory committee.

There are two new provisions that are included in H.R 5221. The first would authorize the Administrator to invest sums collected under the Federal Grain Inspection Act in insured or collateralized interest-bearing accounts or in U.S. Government debt instruments. The effect of this action is to enable the user fees and associated sums collected by the agency to be handled in a businesslike manner and reduce in the long run the appropriations and user fees that are needed to run the program. A similar provision is contained in existing law with respect to user fees collected under other statutes.

Finally, the bill contains a prohibition against the establishment of a new class designated "Red wheat" as recently proposed in the Federal Register. The proposed new classification of wheat was designed to accommodate a new variety of wheat called Arkan. The proposal has created much controversy because of concern that it would disrupt marketing of comparable types of wheat and result in the discounting of some Hard Red Winter wheat. We are pleased to note that the Federal Grain Inspection Service has just issued a press release announcing that it has decided not to establish this new class.

Mr. Speaker, I urge Members to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STANGELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 5221, a bill requested by the administration to reauthorize the Federal Grain Inspection Service for another 4 years. Since the Omnibus Budget Reconciliation Act of 1981, the Federal Grain Inspection Service has imposed user fees for its services. This bill will continue that system through September 30, 1988. The collection of user fees has resulted in progressively greater budget savings during the last 3 years.

H.R. 5221 retains a limitation on administrative and supervisory costs related to grain inspection and weighing. Since 1981 no more than 35 percent of the user fees could be utilized for the administrative and supervisory costs of running the program. Because there was agreement that this arbitrary limit could cause undue managerial problems for FGIS during certain times of the year, that figure was changed in subcommittee markup to 40 percent, a figure agreed to by industry groups and the administration. I believe this issue has now been resolved to everyone's satisfaction. The Federal Grain Inspection Service was also given the authority to invest user fees they collect in interest-bearing accounts, with the interest available to carry out FGIS functions.

Mr. Speaker, I know of no opposition to H.R. 5221, which should serve to continue the reduction in the amount of appropriated funds necessary for the Federal Grain Inspection Service. I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just state that we had a thorough oversight hearing concerning this legislation and the Grain Inspection Service in general. There was some concern in a couple of areas, one which impacted in my area of Texas as to whether an inspection service would be continued at the Port of Brownsville, Tex.

I have been assured by Dr. Gilles, the Administrator, that his would be the case, that they would provide inspection at the Port of Brownsville, Tex., and there will be some changes, of course, in the fee schedules. But that impacts on all of the areas of inspection equally. I appreciate their cooperation in this respect.

● Mr. FOLEY. Mr. Speaker, I rise in strong support of H.R. 5221 and urge its adoption.

H.R. 5221 extends through September 30, 1988, the period during which amendments to the U.S. Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes. The amendments in the Omnibus Budget Reconciliation Act required collection of user fees to cover administrative and supervisory costs related to official grain inspection and weighing, imposed a 35-percent (increased to 40 percent by H.R. 5221) limitation on administrative and supervisory costs, authorized appropriations for standardization, compliance, and foreign monitoring activities, and required establishment of an advisory committee. These amendments enabled the Federal Grain Inspection Service (FGIS) to facilitate the orderly and timely marketing of grain in carrying out its responsibilities to provide for the establishment of official U.S. standards for grain, to promote the uniform application thereof by official inspection personnel, and to regulate the weighing and certification of the weight of grain.

Before these amendments were adopted in 1981, firms and individuals who used the inspection and weighing services paid only part of the service costs. Under the existing user fee authority which H.R. 5221 would extend for another 4 years, Federal outlays for the support of FGIS activities have been reduced by about $15 million per year.

H.R. 5221 provides a new amendment to the 1981 FGIS amendments by authorizing the Secretary of Agriculture to reinvest the funds generated by FGIS activities in an interest-bearing account until the time such funds are necessary to support FGIS activities. The purpose of the amendment is to allow the Secretary the authority to reinvest the excess funds generated by user fees during peak marketing periods until time as these funds are needed to support FGIS activities. The funds generated through the interest-bearing account would be used to reduce the appropriation and/or user fees required for operating the FGIS program.

The last amendment included in H.R. 5221 prohibits the establishment of a new class of wheat designated as "Red Wheat" as proposed in 49 Federal Register, pages 1730-1735, dated January 13, 1984. The committee's concern is that while there is a growing need to develop new technology in grading and classing wheat to keep pace with the new technologies in production agriculture, establishing a new class designated as "Red Wheat" could result in some hard red winter wheats being discounted to a lower price. The committee supports FGIS's ongoing efforts in formulating a new standard for new varieties of wheat where the wheat's visual characteristics may vary from its milling characteristics, but is of the view that the creation of a new "Red Wheat" class is not the solution to the problem.

Mr. Speaker, I move that H.R. 5221 be adopted.●

Mr. DE LA GARZA. I have no further requests for time, and I yield back the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 5221, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDMENTS TO SECTION 3a OF COTTON STATISTICS AND ESTIMATES ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2085) to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers and to authorize the Secretary of Agriculture to invest funds derived from fees for certain voluntary grading and inspection services and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

□ 1430

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective for the period beginning October 1, 1984, and ending September 30, 1988, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows:

"SEC. 3a. Effective for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, the Secretary of Agriculture shall make cotton classification servcies available to producers of cotton and shall provide for the collection of classification fees from participating producers, or from agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds from the sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: *Provided,* That (1) the uniform per bale classified fee to be collected from producers, or their agents, for such classification service in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which official statistics are available, and (2) the uniform per bale classification fee shall not be increased for any year if the accumulated reserve exceeds 20 per centum of the cost of the classification program in the previous year. Special classification services provided at the request of the producer shall not be subject to the restrictions specified in clauses (1) and (2) of the preceding sentence. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided,* That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Fees collected under this section and under section 3d of this Act and the proceeds from the sales of samples shall be credited to the current appropriation account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses of the Secre-

tary incident to providing services under such sections. Such funds may be invested by the Secretary in insured or fully-collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments, with the interest earned and any late payment penalties to be credited to the appropriation account for use by the Secretary of Agriculture in providing services under this section and section 3d of this Act. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sales of samples.".

SEC. 2. Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by inserting after "service authorized by this subsection" the following: ": *Provided*, That any operating balances from the collection of fees under this subsection may be invested by the Secretary of Agriculture in insured or fully-collateralized, interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments, with the interest earned and any late payment penalties to be credited to the trust fund account that incurs the cost of the services rendered under this Act and to be available without fiscal year limitation to cover the expenses of the Secretary of Agriculture incident to providing such services".

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Page 3, strike out the sentences beginning on line 4 and ending on line 16 and insert in lieu thereof the following: "Any fees collected under this section and under section 3d of this Act, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States debt instruments."

Page 3, strike out lines 21 through 25 and page 4, strike out lines 1 through 9 and insert in lieu thereof the following:

"SEC. 2. Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by inserting immediately before the first complete sentence the following: 'Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.' ".

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to bring to the floor for consideration today the bill S. 2085, recently passed by the Senate. The bill is noncontroversial and has the support of the administration.

S. 2085 consists of two principal provisions. First, it amends and extends, for fiscal years 1985 through 1988, the authority of the Secretary of Agriculture to charge fees for cotton classification services provided to producers by the Department of Agriculture.

Under the bill, the Secretary is required to make cotton classification services available to producers of cotton and to provide for the collection of user fees for such services from participating producers, or from agents who voluntarily agree to collect and remit the fees on behalf of producers. The amount of the fees, together with the proceeds from sales of cotton samples submitted for classification, must cover, as nearly as practicable, the cost of the services provided, including administrative and supervisory costs. Except for special classification services provided at the request of a producer, increases in the fee level are subject to certain restrictions. The fees may be deposited in interest-bearing accounts or U.S. Government debt instruments and are available without fiscal year limitation.

The second aspect of the bill relates to user fees collected for voluntary grading services performed under the Agricultural Marketing Act of 1946. The act authorizes grading to be performed upon requests for most agricultural commodities and products including, among others, rice, beans, meat, poultry, fruits, and vegetables. S. 2085 authorizes the Secretary to invest the funds contained in the trust fund account maintained under the Agricultural Marketing Act of 1946 and derived from user fees and related charges in interest-bearing accounts or U.S. Government debt instruments and to apply, without fiscal year limitation, any interest earned on such funds against the cost of providing such services.

This bill is similar to H.R. 5221, just considered by the House, which provides comparable authority with respect to the collection of user fees for inspection and weighing activities under the U.S. Grain Standards Act and authorized the investment of those fees in interest-bearing accounts.

The amendments that are offered to S. 2085 are purely technical to clarify the provisions involving investment of the user fees and related sums in interest-bearing accounts.

Mr. STANGELAND. Mr. Speaker, as the ranking minority member of the Cotton, Rice and Sugar Subcommittee, I would like to express my strong support for S. 2085, a bill to extend USDA's authority to charge producers for cotton classing services through fiscal year 1988.

S. 2085 also contains a number of improvements in the present law to permit greater efficiencies in the administration of the cotton classing program and minimize producer costs. In addition, S. 2085 affords U.S. cotton producers the protection of limiting any future increases in the uniform per bale classification fee to the previous year's rate of inflation.

Since the initial implementation of user fees for cotton classing services in fiscal year 1982, participation by producers in the cotton classing program has continued at a rate of about 97 percent—unchanged from previous years.

For fiscal year 1984 the Department recommended, for the first time, full-cost recovery for the cotton classing user fee program. This action places all USDA agricultural commodity grading services on a comparable and full-cost recovery basis.

Enactment of S. 2085 is needed to authorize the Secretary to continue recovering the cost of cotton classing services and thereby maintain equitable treatment to all users of USDA commodity grading activities.

S. 2085 has the support of the cotton industry and the administration, and I urge the Members of the House to support its passage.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. DE LA GARZA).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the H.R. 5221 and S. 2085, the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. WEBER. Mr. Speaker, I ask unanimous consent that I be allowed to proceed with my special order immediately preceding the gentleman from Pennsylvania (Mr. WALKER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE GREGORSKY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. WEBER) is recognized for 60 minutes.

Mr. WEBER. Mr. Speaker, on May 8 our colleague from Georgia (Mr. GINGRICH) and our colleague from Pennsylvania (Mr. WALKER) read into the RECORD the first two-thirds of a report by Frank Gregorsky of the Republican Study Committee entitled, "What is the Matter With Democratic Foreign Policy."

Last Thursday, in a 1-minute speech, I announced to the House my intention to read the final third of that report into the RECORD today. I sent to my colleagues on that same day a "Dear Colleague" letter inviting all those whose names are mentioned at any point in the Gregorsky Study to participate with us today in a discussion of that study after I have completed reading into the RECORD the remainder of the study.

Mr. Speaker, I ask unanimous consent that at this point the text of that "Dear Colleague" letter be included in my remarks.

DEAR ——: On Monday, May 22, during Special Order time, we will be entering into the record the final third of the Republican Study Committee document entitled "What's the Matter with Democratic Foreign Policy?" written by Frank Gregorsky. The first two thirds of the report were entered on May 8.

Because your name is one of those mentioned in the report we wanted to give you advance notification of our actions, and invite you to participate in our special order. After we complete the document, we look forward to an open and frank dialogue with any Member who wishes to come to the floor of the House.

We look forward to this very important discussion of foreign policy and the RSC report.

Sincerely,

VIN WEBER.
BOB WALKER.
NEWT GINGRICH.

[The Correction]

In a letter you received by page this morning the date of a Special Order next week was incorrect.

The Special Order given by Congressmen Weber, Walker, and Gingrich will be held immediately following regular business on Monday, May 21. Its purpose is to finish entering into the record Frank Gregorsky's article entitled "What's the Matter with Democratic Foreign Policy?".

If you have any questions call Sally Follmer, 52331.

Sincerely,

VIN WEBER.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WEBER. Mr. Speaker, I would also point out to the body that we received communications from four of our colleagues—the gentleman from California (Mr. EDWARDS), the gentleman from California (Mr. BATES), the gentleman from Massachusetts (Mr. FRANK), and the gentleman from Colorado (Mr. WIRTH)—indicating that they could not participate in today's special order even though their names are mentioned at some point.

Three of those gentlemen are not mentioned in the section that I am going to begin reading into the RECORD in a moment. The gentleman from California, Mr. EDWARD's name, will be mentioned. We extend to them an invitation to discuss their comments or anything else in the Gregorsky report at their convenience.

Again, Mr. Speaker, I am going to pick up the Gregorsky report at the point at which my other colleagues left off.

Quoting from the Gregorsky report:

Indeed, when Republican Representative TOM COLEMAN (R-Mo.) of Missouri offered an amendment instructing the President to study the likely U.S. costs for refugees displaced by "Cuban- and Nicaraguan-directed revolution," he was attacked by Democrats LES AUCOIN and BARBARA MIKULSKI (D-Md.). AUCOIN said the amendment should cover refugee effects of the "full-scale regional war which the [U.S. backed] covert war is leading to." [32]

Mikulski trashed her own nation for any and all refugee problems, saying, *"(I)f you practice gunboat diplomacy, you have to be prepared for the lifeboats on your shore."* [33]

In supporting the Wright amendment, which would give $80 million to allied governments to interdict arms shipments to El Salvador, as opposed to a policy of directly aiding Nicaraguan rebels for the same purpose, many of its 234 sponsors claimed to be for "overt" aid against "covert" aid. This was true in some cases, because there aren't 234 House Democrats with a Radical worldview.

But those Democrats who set the tenor of the debate made it clear they opposed any U.S. aid to the anti-Marxist rebels in and around Nicaragua. The House vote against covert aid was their victory more than anyone else's.

Unlike the in-and-out Grenada operation, the battle between pro-West and pro-Soviet forces in El Salvador and Nicaragua continues. Radical doctrines of friendliness and some aid were tested in the early part of the Sandinista regime. There was a rare chance for a different tack from 1981 on. The "big stick" of veiled threats, covert aid to rebels and area maneuvers by U.S. gunboats was supposed to keep the Sandinistas in line.

In late 1983, there appeared signs that seemed to contradict the notion that new Marxist regimes progressively harden into totalitarian dictatorships. On December 1, 300 counter-revolutionary activists were let out of prison, and junta leader Daniel Ortega amnestied dissident Miskitos who've resisted government social engineering attempts in northeast Nicaragua. Some 2,000 Cuban teachers and technicians were asked to go home. The promise of elections in 1985 was made again; later the date was moved up to November 1984.

□ 1440

Exiled Nicaraguans based in the United States doubt such promises. Lucia Salazar, a director of the Nicaraguan Democratic Force, said in October 1983: "What kind of election do you think can be held in a country where there is no free press, there is no freedom for anything? Even the bishop's sermons are censored." (Mrs. Salazar's brother was killed by Samoza in 1979, and her father murdered by Sandinista secret police the following year.) [34]

Defenders of Reagan's hard-line approach said Ortega and Co. were talking sweetly because they were scared, and because the redemption of Grenada from murderous Marxist chaos in late October made them nervous. The London Economist thought there was some connection:

> The American pressure seems to be having an impact. There has been more Sandinista readiness in recent months to talk to neighboring countries about a peace settlement for the region as a whole. A quarter of the Cuban advisers in Nicaragua, as well as some of the Salvadoran guerrilla leaders, have departed. And the flow of arms to El Salvador has dwindled, at least for a time . . . (A) pattern seemed evident.[35]

Not to people with a radical worldview. It is a McGovernite article of faith that military power has nothing to do with political negotiation: America can only force Marxist regimes to do bad things; the good things they decided to do on their own. Democrats said the Nicaraguan initiatives vindicated the radical worldview: the Marxists there were reaching out to the U.S. in spite of its belligerence, and it was time to sit down and negotiate in good faith.

The Kissinger Commission report had the effect of restraining, or at least further confusing, a few of the more discreet Democrats like Representatives MIKE BARNES and JIM WRIGHT. In the main, tho, it didn't move the rank and file of the House Democratic Caucus; neither did the El Salvador's spring 1984 elections (the first phase of which was called by the Economist "probably the freest in the country's history").

Footnotes appear later in the RECORD.

Representative GEORGE MILLER told a town meeting in Los Angeles that Kissinger and Co. were "never able to support its argument that the national security stakes for the United States in El Salvador were very high." Said MILLER:

Institutionalized murder by the government of El Salvador is made possible by the dollars given by this Administration with the consent of the Congress. The very survival of the oligarchy and the military corruption depend on the existence of the death squads, on political repression—and on American dollars . . . We have made El Salvador into a client state and now we are a captive of that client.[36]

Yes indeed, it's a struggle to divest oneself of unworthy allies. Congressman MILLER leaves the correct stones unturned. In his 900-word statement no blame is attributed to any Communist element anywhere. "Communist" is a term not mentioned; "Marxist-Leninist" is, prefaced by so-called. MILLER's statement was put into the RECORD by TOM DOWNEY.

Radical notions have been consistently voiced in the case of Nicaragua, but tested less finally than in Southeast Asia. Modern history would indicate we should be grateful for that. But this is a continuing story.

GRENADA: NOTHING FAILS LIKE SUCCESS

Marxism came to the tiny Caribbean island of Grenada in March 1979. Leftwinger Maurice Bishop took over from rightwinger Eric Gairy when the latter was out of the country.

The Bishop government spent the next 4½ years working with Cubans, Libyans, Russians, and East Europeans on weapons importation and economic modernization, the centerpiece of which was a $70 million airport suitable for regional leftwing operations.

Regime documents published in the March 1984 Catholicism in Crisis revealed a systematic effort to discredit organized religion.[37] Mass meetings and Marxist slogans were promoted, but there were no reliable reports of torture or other Communist commonalities.

Bishop put Grenada on alert in March 1983, saying that an invasion by the U.S. was imminent; that may have been designed to wake everyone up, Grenadians not being a people given to political hysteria.

After it was destroyed, U.S. politicians debated whether Bishop's government was acceptable or not. He never held elections, but a Time reporter said in May 1983 that he'd have won them because of the airport. "The Grenadians have been asking for this airport for almost 25 years," wrote William McWhirter, and the Cubans finally gave it to them." The government's 1982 budget was $2.5 million in surplus, and international debts were being paid back.[38]

Bishop and his partners were more Communist than they were efficient, and filling the gap with training from people who were both.

An objective estimate in mid-1983 might have been that Grenada itself was no threat to the United States, but it was run by forces keen on helping those hostile to U.S. policies in the region. Bishop supposedly came to have doubts about his hard-line junta colleagues. Without putting public distance between Grenada and its Cuban backers, he went to the U.S. in June 1983. President Reagan declined to meet with him, creating an incident from which American politicians later drew specious conclusions.

Bishop on the 7th did meet with National Security Adviser William Clark, and notes of the Grenadian ambassador show that Bishop was happy with the meeting and promised to lessen his anti-U.S. rhetoric.[39]

The pro-Bishop skeptics needed rationalizations, because on October 13, he was arrested. A day later Deputy Prime Minister Bernard Coard looked to be in charge. Yet Coard disappeared a week later, the Marxist-dominated Army, led by Gen. Hudson Austin, seized power and murdered Bishop, along with three Cabinet ministers and two pro-Bishop Union officials.

Now it's what JFK used to call "the hour of maximum danger."

On October 20, Grenada is once more the focus of attention. A 24-hour shoot-to-kill curfew is declared by military authority that hasn't even been recognized by Cuba as the new government. Five hundred U.S. students at St. George's medical school are apprehensive, if not terrified.

Grenada's neighbors, who tolerated Bishop with reluctance, are appalled at what's replaced him. Agents of Jamaica, Barbados, St. Vincent, St. Lucia, Dominica, and Antigua approach the Reagan administration; they propose a 7-nation military operation to displace Grenada's military rulers, restore order and (ultimately) democracy.

On Saturday, October 22, the President agrees. The next day, 256 U.S. marines are killed by a terrorist-driven truck of dynamite in Lebanon. Two days later, on the morning of Tuesday, October 25, the Grenada rescue operation commences. Sixteen U.S. servicemen are killed in its first few days. All the medical students are flown home, many grateful for delivery from chaos.

This is the backdrop for the reactions of rank-and-file congressional Democrats in the October 25-November 11 period. The Grenada operation stuns the Nation, unnerves the press (excluded from its decisive, opening stages), and sends dozens of Democrats into fits.

The rest of the Grenada story can be told entirely in short quotes. On one side are Democrats anxious to sanctify the Bishop regime and vilify their own country, on the other is a collection of news and opinion from liberal, noncongressional elements, Caribbean politicians, and typical Grenadians.

Here are literary snapshots of a radical worldview at peace with itself and at war with a U.S. victory for human rights.

Congressman PETE STARK (D-Calif.) on the House floor October 25:

It is essential now that the President has shown his true colors that the Congress take control of the situation . . . and bring this insane Reagan foreign policy back into line . . . (T)he President has been itching to try something like this ever since he was elected. He loves to throw American weight around, and where better than in a small island with no armed forces within our own hemisphere.[40]

President Tom Adams of Barbados:

There has seldom been in these islands such virtually unanimous support in the media and at political and popular levels for such an action so potentially divisive. West Indians have shown that we have a view of our future that is democratic, peaceloving, devoted to constitutional and not arbitrary government.[41]

Congressman TED WEISS (D-N.Y.), in the House October 26:

There is no way of distinguishing what we are doing in Grenada and what [the Soviets] have done in Afghanistan . . . In ordering the invasion of Grenada, Ronald Reagan has adopted the tactic of the Japanese attack on Pearl Harbor as the new American standard of behavior.[42]

Prime Minister Eugenia Charles of Dominica, in Washington October 25:

(T)hat these men who had for all these years accepted the Bishop regime should then . . . decide to destroy the persons whom they had accepted as their leaders for so long, made us realize that this sort of assassination must not be allowed to continue . . . It means that our people there are not safe. It means Grenadans have not been given the chance to choose for themselves . . . (I)t is necessary for us to see to it that they have the opportunity to do so.[43]

□ 1450

Congressman CHARLES SCHUMER (D-N.Y.), in the House October 25:

There are two stated reasons for this landing. The first is to protect American lives, a policy we could all agree with, except [that] the head of the medical school . . . there said not a single American life was a jeopardy. The second stated reason is a more dangerous one . . . that our nation should bring order and democracy and stability to this small island of 110,000 people.[44]

Democratic columnist Mark Shields, November 11:

House Democrats . . . were so eager to believe the worst of the United States that they rushed to embrace a medical school dean they had never heard of but who said there was no threat to the safety of the American students. Unless the Democrats can rid themselves of the overtly anti-American nonsense that was so apparent in the House on the days of Grenada, they will be rejected by people who know better: American voters in 1984.[45]

Congressman CHARLES RANGEL (D-N.Y.), in prepared House remarks November 3:

There is a common thread that links the events in Lebanon and Grenada to our commitments in El Salvador and Nicaragua . . . the philosophy of an Administration that takes great pride in using American soldiers and proxies to intervene in the internal problems of sovereign nations . . . Bishop might not have been killed if the Administration had not rebuffed his overtures and sought to isolate him.[46]

George Bernard, a 50-year-old Grenadan taxi driver, in early November:

In 1978 we had two, three, four, five cruise ships a day. Last year we had one or two a week, and this year one a week. Everything for the poor man has gone up [in price, under Marxist rule] . . . oh, they kill us. Cubans work on the airport. Grenadians don't get the work . . . I have to work in the garden to maintain my family. Right now I feel more confident. I feel more happy, and I have to say, Long live Reagan! [47]

Congressman DON BONKER (D-Wash.), in the House October 25:

[This Administration uses] military force to deal with diplomatic problems. Just last month, 4,500 U.S. troops were involved in manuevers in Honduras. Last week American troops and naval forces were sent to intervene in the Iranian-Iraqi war, if necessary . . . (C)ommitting U.S. troops in Grenada is shocking and it flies in the face of the President's condemnation of Soviet interference in other countries.[48]

Morton Kondracke, in a late October column:

Some . . . have likened the U.S. invasion to the Soviet invasion [of Afghanistan] in 1979, but when the Soviets moved in they murdered a prime minister who had shown some independence of Moscow and they have kept 100,000 troops in the country to impose their will on a hostile population, using poison gas in the process.[49]

Congressman ED MARKEY, in the House October 25:

Mr. President, where does all this military intervention end? . . . Are the Marines going to become our new Foreign Service officers? Mr. President, the American people don't want a shoot-first, ask-questions-later foreign policy. Mr. Speaker, gunboat diplomacy has a new king. Move over, Teddy Roosevelt! [50]

Mark Shields, from that November 11 column:

These House Democrats remind one member of the Gilbert and Sullivan line about the "idiot who praises with enthusiastic tone every country but this one, every country but his own." [51]

George McGovern, October 25:

[The move is] utterly irresponsible [and] part of a pattern of foreign policy errors—a growing litany of invasions and deaths suffered by Americans.[52]

Martin Williams, a Grenadian farmer, on the 17-plus random deaths caused by Gen. Austin's troops just before they shot Bishop and several others:

It was a day like today, very hot. The armored car came and blasted two shots BOOM! BOOM! at the crowd . . . A lot of people died. It was a massacre. I never thought in my life that I would see people shoot at their own people. I just can't believe that people would do that. It was savage, inhuman, wicked.[53]

Congressman MAJOR OWENS (D-N.Y.), in the House October 26:

(T)he invasion of the tiny island of Grenada is illegal, immoral, and a wasteful expenditure of human lives . . . We must reject this new policy which implies that the United States is responsible for maintaining democratic institutions in all the countries of the Western hemisphere . . . Let the people of Grenada work out their destiny.[54]

Liberal columnist William Raspberry, late November:

A month after the Marines landed in Grenada . . . the invasion remains without legal, constitutional or moral justification. [But], notwithstanding the transparency of President Reagan's after-the-fact attempts to justify the dismantling of a leftist government, the Grenadian people may be better off as a result of U.S. highhandedness.[55]

Congressman ROBERT GARCIA (D-N.Y.), in House remarks October 25:

Grenada is not a democracy; it has not been willing to lessen its ties with either Cuba or the Soviet Union. Yet the Administration made no real attempt to alter the course of Mr. Bishop's government diplomatically. It, instead, chose to isolate Grenada which, in effect, pushed it closer to the Cubans.[56]

Morton Kondracke once more:

The evidence seems to be exactly to the contrary. The minute Bishop showed signs of tilting ever so slightly away from Cuba, he was ousted and murdered. That is the appropriate parallel to be drawn between Grenada and Afghanistan.[57]

Senator JOHN GLENN (D-Ohio), quoted on NBC-TV October 25:

If our mission there is to protect American lives, then we should evacuate those who want to leave and quickly remove our forces.[58]

A street vendor in front of a pastry shop in Grenada, as two U.S. warplanes fly overhead:

Good enough. They come to us as the peace force.[59]

Congressman DENNIS ECKART (D-Ohio), on the House floor October 25:

This is nothing more than supply-side foreign policy. They supply the war. We supply the troops. We supply the arms. We supply the munitions, and now we supply the bodies too.[60]

Non-voting Delegate BALTASAR CORRADA (D), in the House October 26:

I live in Puerto Rico and we are very close to Grenada . . . We are not dealing with an established government. They do not follow the basic rules of civility and order. This action was necessary to protect the lives of 1,000 U.S. citizens and other foreign nationals, but also to protect the life and well-being of the citizens of Grenada.[61]

Congressman JIM SHANNON (D-Mass.), in the House October 26:

Maybe [Reagan] will listen to a little advice from Mr. [George] Gershwin. If Gershwin were alive today, perhaps he would consider this rewrite:

You like po-ta-to, I like po-tah-to
You say Gre-na-da, I say Gre-nah-da
Po-ta-to, Po-tah-to, Gre-na-da, Gre-nah-da,
Let's call the whole thing off [62]

Mark Shields:

At the beginning of each day's session of the House, any member can take the floor to make a one-minute statement on any topic. Because television prefers its speeches short and punchy, excerpts from these "one-minutes" . . . offer an insight on what members believe is important and wish to be recorded upon.[63]

Senator PAT LEAHY (D-Vermont), in the Post October 27:

The SPEAKER pro tempore (Mr. DE LA GARZA). Will the gentleman suspend?

The Chair must advise the Member to remind himself of the rule with regard to Members of the other body during his discussion.

Mr. WEBER. I thank the Chair.

Junior James, a young government welder in Grenada:

I didn't like the scene before, but now it has changed. I am glad for the change. I hope it's for the better. (I) had friends in the Army, but most of them were forced in. Some of them were just there to make a living, and everybody has to live. The bigger guys were pressing them to go in.[65]

Congressman DON EDWARDS (D-Calif.), in the House October 25:

(T)he American invasion . . . is against the law—18 U.S.C. 960, the Neutrality Act, makes it a crime to organize, initiate or begin a hostile expedition against a foreign country with which the United States is at peace. I have written to the Attorney-General pointing out that it is his responsibility to enforce the law.[66]

Martin Williams to a visiting Post reporter in early November:

Write the truth. The people in Grenada welcome (the U.S. invasion). There are no two ways about it . . . The Communist people made you feel it's a crime to achieve, to sacrifice, to help yourself. They take your heart away.[67]

From the Christian Science Monitor October 31:

Strongly hostile to what the President had done were Senators Gary Hart, Alan Cranston, Ernest Hollings, and former Senator George McGovern. Supporting the military action in Grenada was former Governor Reubin Askew, who comes from a state with strong anti-Castro sentiments. Cautiously critical were the two front-runners, former Vice-President Walter Mondale and Senator John Glenn.[68]

Morton Kondracke:

If the Reagan Administration is correct, Grenada was soon to become a major Cuban-Soviet outpost in the Western Hemisphere, supporting subversion not only of neighboring islands, but throughout the region. The presence of 30 Soviets, including a senior general, seems to support the fear.[69]

Congressman RICHARD OTTINGER, in House remarks November 10:

As we approach the new year, I wonder how many people will include the invasion and political management of Grenada in

their assessment of our proximity to Orwell's prophetic novel.[70]

□ 1500

Unidentified woman in a stairway in St. George's, Grenada:

God Bless America. The Americans came to help us . . . Oh, we've needed that for a long time. I am sorry they didn't come sooner.[71]

George McGovern:

The President here has demonstrated again that he's been seeing too many war movies and not enough about the reality of war itself.[72]

Grenadian businessman and activist Richard Gray, early November:

We want to see a lot of the progress of the revolutionary government continued, [altho] we deplored the reduction in freedom under Mr. Bishop . . . We've trying to get together the government again. It's not often you get a second chance.[73]

Congressman TED WEISS, in the House November 11:

The President's invasion of Grenada is . . . an impeachable offense. By ordering the invasion of Grenada on October 25, Mr. Reagan violated article I, section 8 of the Constitution of the United States. He also violated article VI of the Constitution by breaching treaty obligations of this country, under the charters of the United Nations and the Organization of American States, which prohibit the use of force against any other sovereign state.[74]

Odd-man-out Presidential hopeful Reubin Askew, October 25:

We were justified in acting to avoid further bloodshed on the island. This collective action should send a strong message to Fidel Castro.[75]

From the Christian Science Monitor October 31:

If there is anyone who has managed to separate himself from the crowd in this last week, it is . . . Askew. At the New Hampshire State Democratic Convention over the weekend, where all the candidates appeared, it was Askew who drew more boos than cheers when he said Reagan's action in Grenada was "justified".[76]

Congressman DICK CHENEY right after his time in the Caribbean:

Prime Minister Tod Adams of Barbados politely but firmly said that many black leaders around the world would appreciate it if the Congressional Black Caucus would refrain from adopting a paternalistic attitude toward Third World nations. "Do not assume," he said, "that you know better than we what is in our national interest."[77]

Walter Mondale:

They moved ahead of the facts, and in violation of the most fundamental of all principles: nonintervention of one state in the affairs of another. And I'm deeply concerned about it. . . [Grenada] undermines our ability to effectively criticize what the Soviets have done in their brutal intervention in Afghanistan, in Poland, and elsewhere.[78]

From the Wall Street Journal, January 6, 1984:

A Roper poll finds Americans more willing to use armed force. It shows a 12-percentage point increase since 1982 in respondents ready to commit U.S. troops if Russia invaded Western Europe. There is a 14-point rise in those favoring armed intervention if Cubans aided a Communist takeover in Central America.[79]

From the New York Times, January 6, 1984:

A Grenadian doctor said today that under pressure from the army he made up a cause-of-death certificate for Prime Minister Maurice Bishop without ever seeing the body . . . "Austin told me [the bodies of Bishop and his Cabinet colleagues) were all disposed of, buried, and the idea is that I make up something to show they were part of the firing."[80]

Representative WEISS's impeachment resolution, backed by Congressmen JOHN CONYERS, JULIAN DIXON, MERVYN DYMALLY, HENRY GONZALEZ, MICKEY LELAND, and PARREN MITCHELL:

Resolved, That Ronald Reagan, President of the United States, is impeached of the high crime and misdemeanor of ordering the invasion on October 25, 1983, of Grenada, a foreign state at peace with the United States, in violation of that portion of section 8 of article 1 of the Constitution of the United States, including obligations under the Charter of the United Nations and the Charter of the Organization of American States, and the said Ronald Reagan, President of the United States, is further impeached of the high crime or misdemeanor of preventing news coverage of that invasion, thereby impairing the first amendment rights of those seeking to provide news coverage and of the American public in general.[81]

All U.S. combat forces were off Grenada by December 15, 1983.

THE CARTER-MONDALE TEAM LIVES OUT THE RADICAL WORLDVIEW

Jimmy Carter became President and turned his foreign policy machinery over to people scarred by Vietnam. Every one of his top advisers except Zbigniew Brzezinski could be called "doves" if not total defeatists. They came in determined to "avoid another Vietnam."

U.N. Ambassador Andrew Young was so keen on this that in the spring of 1977 he welcomed their U.N. delegates by congratulating the North Vietnamese Communists for beating the allies of the United States and exterminating the entity of South Vietnam. In late September, after welcoming Vietnam's delegation to the U.N., Young told the General Assembly.

I would remind this assembly that Vietnam's struggle for independence was accompanied by a profound struggle within the nation I represent. Ten years ago . . . hundreds of thousands of citizens of the United States came to Dag Hammarskjold Plaza in an attempt to end the conflict. Five years ago I was elected by the citizens of Georgia to the 93rd Congress which amended our military appropriations legislation to cut off funds for the war in Vietnam.[82]

Within 24 hours, Vietnam's deputy prime-minister Nguyen Duy Trinh ripped into the United States., called for Puerto Rican independence, denounced Israel, supported "liberation" of Taiwan, and told Americans to leave Cuba's Guantanamo Bay in Cuba and the Diego Garcia base in the Indian Ocean.[83]

It was a strange time. Conservative forces could do little but fight defensive battles skillfully. From the time of his inauguration through the Soviet invasion of Afghanistan, it could fairly be said that Jimmy Carter as President was implementing a good part of what George McGovern called for as candidate:

He went to Notre Dame to denounce America's "inordinate fear of Communism," something he hoped we'd gotten over. He honored George McGovern's 1972 pledge of amnesty for Vietnam-era evaders of military service. He suggested to Defense Secretary Harold Brown that American and Soviet nuclear arsenals be cut 50 warheads each (Brown gently explained to the new President what that would do to NATO's defense).

He made human rights and arms control his top priority, as Walter Mondale and ALAN CRANSTON would later urge his successor to do, and got a SALT II pact that a Senate 58 percent Democratic could not be trusted to ratify. In 1977, he made overtures to Castro, North Vietnam, Cambodia, and the PLO. In October of that year he invited the Soviets into the Middle East to help forge a comprehensive settlement. He nearly pulled U.S. troops out of South Korea. He preached human rights to Brazil's military government at the cost of four defense agreements that country had had with the United States since 1942. He named South Africa and Chile as the biggest villains in the Southern Hemisphere, and sometimes implied they were the worst in the world.

He refused Egyptian President Sadat's offer to remove Mu'ammar Qadhafi as head of Libya. When Carter was no longer President, Qadhafi helped engineer Sadat's assassination, and had no problem with his overseas diplomats gunning down British policewomen and dissident Libyan nationals.

It is true that Mr. Carter allowed real growth in defense spending, and chafed under congressional restrictions of executive authority to do anything about Cuban forces in Africa. But these were exceptions to generally radical rules.

The Carter foreign policy was sharply different from that of any other post-World War II administration. A case could be made that it worked in Panama, where 5 years later a friendly government runs a once-U.S.-owned waterway and is an ally.

But the only clear Carter success was in the Middle East.

There is a lesson in that. In bringing Anwar Sadat and Menachem Begin to

the peace table, Jimmy Carter was working with two religious men both hostile to Communism, extremely skeptical of the U.S.S.R., and genuinely fond of America and its people. The totalitarian essence of Marxism was absent from this very special foreign policy equation, and Carter's sincerity and evangelism, mixed with billions in American aid, brought relative normalcy to Egyptian-Israeli relations.

It is hard to see where else the Carter foreign policy bolstered U.S. interests. It did not keep the Soviets from invading Afghanistan, or from helping its allies use poison gas in Southeast Asia. It did not get Castro out of Africa or make Yassir Arafat recognize Israel's right to exist. It did not reverse or even slow the nuclear arms race. It did not turn rightist authoritarian regimes like those of Brazil, Chile, and Guatemala into democracies. It did not get us a friendly Nicaragua—it did not even get us a neutral one.

In every equation which had a high Marxist factor, foreign policy according to the radical vision of the world, as tried by the Carter-Mondale administration, simply did not work.

It was not a case of Jimmy Carter being an incompetent leader; it was a case of his analysis of the world being incompetent.

A more skilled President with the radical world view would simply be more effective at implementing more incompetent decisions.

In the last year of his Presidency, it might be said that Jimmy Carter began to understand the nature of America's adversaries. His December 31, 1979, comment to Frank Reynolds about the brutal nature of Soviet aims is a monument to the power of revelation, and the stellar example of why Jimmy Carter belongs outside the pantheon of his fellow postwar Chief Executives. They knew about Soviet designs when they were sworn in.

□ 1510

Yet it is doubtful, had Jimmy Carter not been the one man most responsible for U.S. interests in a baffling, hostile world, that he would have ever had that insight. To judge from his attacks on Reagan policies in Central America, he has forgotten it. It is easy to forget when you (a) do not live in the countries your idealistic policies risk the communization of, (b) do not have to take direct charge of American foreign policy in a world that consistently unravels the radical world view, and (c) want to be a good Democrat.

POP QUIZ: HOW DEMOCRATS MAKE FOREIGN POLICY

Imagine you are an experienced speechwriter in the office of a senior lawmaker who exemplifies foreign policy radicalism. Your assignment, on short notice, is to come up with an alternative to the Kissinger report on Central America. Following the historical formula and using the rhetorical guidebook demonstrated so far, it should be easy. There is a rich vein of thought to draw from.

First, inventory your stock code words and phrases:

President (blank) fell short in his reach for a bipartisan blank check for his failing policies in (fill in country or region).

Search for diplomatic and political alternatives to more guns, more soldiers and more killing.

Long history of U.S. misunderstanding and miscalculation in (fill in region).

We have been unwilling to allow (fill in region) to solve their own problems.

Done grave damage to our standing in (fill in region) with our readiness to resort to raw military might to protect relatively narrow interests.

Negotiation is more likely to succeed than escalation.

More Peace Corps volunteers and fewer soldiers.

Adopt a policy that will encourage peaceful change instead of fueling the fires of violent revolution.

The (fill in name of ally) army does not have, and cannot win, the confidence, trust, and support of the people.

Order the fleet home; the fleet is nothing more than provocation without a purpose, an invitation to another Gulf of Tonkin incident.

Yes, all of these will do nicely. Some of them came out of the Vietnam and Angola files; they have a familiar, reassuring ring to them. They sound so reasonable, and the conservatives are tired of arguing against them and sound like Joe McCarthy when they do.

The boss' memo calls for laying out the "fundamental defects in our past conduct in the region." that will be a cakewalk:

One. The United States has intervened far too frequently in the internal affairs of other countries in this hemisphere. Such a legacy has left many Central Americans skeptical of our professed adherence to democracy and self-determination. The Kissinger report is classically interventionist.

Two. Too often we have used our superior economic and military power as a substitute for a steady and balanced foreign policy based on our own best values.

Three. The United States has allied itself far too frequently with the forces of reaction and repression in the region. Most Central Americans live in poverty, ill health, and illiteracy alongside small, oligarchic elites living in enclaves of luxury.

Four. Our policies have been distorted because we view the problems of the region through the prism of the Cold War.

That looks good enough. But better get out the foreign policy checklist, good for any part of the world, to make sure dogma is not deviated from. Let us see—yes, here is what to do and not to do:

First, do not mention the word "Communist" unless quoting an administration official you want to ridicule for using it.

Second, same for "Marxist." If the United States has a good-for-nothing ally it is wrongheadedly propping up, refer to that ally's internal enemies only as "the opposition"—which sounds vaguely democratic—and come out in favor of "bringing its leaders into the political process"—even though those leaders think the political process and free elections are incompatible.[84]

Third, do not leave any doubt that we forswear American military force in the region. Call for cutting off aid to our corrupt "allies."

Fourth, if there are Communist governments allegedly making trouble in the region, blame whatever they are doing on the United States.

Fifth, if there is a legacy of instability in the region, blame that on the United States too.

Sixth, do not mention the Russians or Cubans.

Seventh, say that we should end poverty but do not get into details. After all, everyone knows the United States cannot really end poverty anywhere, but it helps to state that as the ideal goal besides which all other options look immoral.

Eighth, allude to Vietnam and say there are still lessons to be learned.

Hmmm, yes, pretty standard fare. After all this time you know the checklist by heart. You would have followed it even if you had not dug it out of the file cabinet. But what about a positive Democratic program for Central America, after shredding Kissinger's report? This will require some inventiveness, but not too much:

Give the Nicaraguan Government some space to carry out its pledges of free elections for 1985 and insuring freedom of speech and religion inside Nicaragua.

Talk directly with Nicaragua about compliance with the Contadora 21-point plan, the single best hope for a negotiated settlement.

Press for unconditional negotiations between the Government of El Salvador and its opposition.

Discontinue our support for Reagan's war against Nicaragua.

Terminate the perpetual military maneuvering in Honduras, and halt the trend that is turning Honduras into a Central American version of Tansonhut airfield.

There, that about does it. It is good that the boss and his colleagues figured all this out so long ago; it makes

thinking and writing and policymaking so easy. A little time on the word processor and these notes and paragraphs can be whipped into a smoothly flowing attack on the Kissinger report and the administration's Central American policies.

They were. For all the enumerated checkpoints, code words, phrases and proposals, see Senator EDWARD KENNEDY's op-ed in the January 15, 1984, Washington Post.

DEMOCRATS IN TROUBLE

Jean Francois-Revel:

Each time the [European] Left feels the need to believe that the Communists have changed, are changing, will change. Each time their hopes are disappointed as they learn of some fresh proof of totalitarianism, either in the East—in Budapest, in Prague, in the Gulag—or at home in the ranks of their Communist allies. And each time the Left fails to make the connection between this latest event and all the similar events that preceded it.[85]

Revel is a Frenchman, proud of the ideals of Socialism. France must be one of the few places in the world where Socialism is not incompatible with a firm foreign policy. In the Totalitarian Temptation, he condemns apartheid and the excesses of capitalism. He knows the machinations of the fringes to his left because he has seen them close up, for decades.

In that sense, the U.S. Democratic Party would profit from a lively, publicitywise Communist Party to its left, perhaps with a few of its members in Congress. Democratic leaders would then see close up the gnarled-minded Moscow sycophants, blood relatives of the chaps they are willing to trust in Nicaragua and El Salvador.

Our Democrats would have the chance to constantly relearn the lessons Revel takes as doctrine, the insight that did not dawn on Jimmy Carter until after 3 years of White House mistakes.

Revel writes:

It is characteristic of the neurotic—and I am using the word in its literal sense—that he responds to reality with behavior based on fantasy. He is unable either to adapt to reality or to understand it. That is why his behavior is ineffectual.[86]

If we grant the sincerity of all the McGovern Democrats say about the world, then they, as of 1984, are in real trouble. They mean well but are not equipped to do well. The prognosis is bad, as everything conspires against the end of radical neuroses.

Republican responsibility for foreign policy invites Democrats to criticize irresponsibility. Eagerness to look serious on deficits tilts most Democrats toward defense budget cuts. The temptation to woo a grassroots antinuclear movement is overwhelming for most of the party's politicians. The domination of the House Democratic Caucus by the Vietnam generation renders leaders who should know better—TOM FOLEY and JIM WRIGHT, to name two—unable to put the party on a centrist path. The domination of the preprimary Presidential nomination process by radicalized activists, many of whom got their start in 1968 and 1972, forces candidates hungry for meaningless straw poll showings to move left.

Take a close look. There follows reference to Members of the other body, which I will delete.

Quoting one of the Democratic Presidential candidates:

Under Ronald Reagan, America's vision of a world of peace and freedom is being blasted by the guns of the U.S. Navy off the coast of Lebanon, by the guns of the U.S. paratroopers in Grenada, and by the guns of U.S. helicopters in Honduras and El Salvador . . .[93]

No one blinked, no one balked. This was common rhetoric. At another candidate forum February 23, Barbara Walters asked what Walter Mondale would do as President if notified that the U.S.S.R. "had launched a limited, nuclear attack on one of our European allies." That is an old, if incendiary, question in Presidential campaigns. It has been answered since Truman's time by saying an attack on a NATO ally would be the same as an attack on the United States; the rest is left to imagination.

□ 1520

But Mondale said:

Almost by definition, it's important that that question not be answered, either way. We need a strong deterrent force to prevent it. And above all we need arms control to reduce the risks . . . All we know is, if that happens, in all likelihood we will have an escalation, a nuclear war, and the human species will be destroyed.[94]

A Mondale administration will thus regard the nuclear defense of its Western European allies as the precursor to "the destruction of the human species." He answered the question, whether he meant to or not.

Walters also asked the Democratic hopefuls what they would do if a Communist-led guerrilla movement was about to take over Mexico. She said, "It is an internal matter, but Mexico is on our border. What would you do?" Here are representative samples from six of the eight candidates, with emphasis on the textbook slogans of radicalism.

From one of the candidates:

If the government requested our assistance, I would give that serious consideration . . . But what I would've tried to do beforehand is deal with the real problem of revolution, which is not Communism, it's poverty . . .

Mondale:

We have made more mistakes over the last 60 years believing that [we should impose] our notion of what, say, the Government of Nicaragua ought to be . . . and the net result is one of bitterness, suspicion, and hostility toward us . . . We have to let these people develop their own traditions, their own history, and their own respect for themselves, and show some restraint. We can't solve anything with an American gun.

From Jesse Jackson:

Our embracing of the landed gentry of the banana republic, our embracing the Somoza regime—we've helped create a mess. We're about to make the same mistake of embracing the wrong side of history . . . Nicaragua this past week made a judgment, to call for an election in November—we ought to recognize that government right now. We ought not to embrace El Salvador's . . . killer regime.

From another candidate:

In country after country in Latin America, we have been indifferent to the poverty. We have backed tyrants or even imposed tyrants on the people. We are not doing that in Mexico. Mexico tells us, "Stop doing what you're doing in El Salvador, stop backing the tyranny there, stop trying to overthrow the government of Nicaragua, and we will then be able to take care of our problems."

From George McGovern:

I agree with [Cranston] all the way. One of the things we need to be skeptical about is [your] hypothesis . . . that a revolution . . . coming out of Mexico would necessarily be a Communist revolution . . . The government [in Mexico] is reasonably responsive to the needs of its own people. The reason you had a revolution in Nicaragua that overthrew Somoza is because he was a miserable crook who should've been overthrown . . .

From George McGovern:

We're embracing the most unpopular military dictators in the world and everytime we do it we recruit people for the Communist cause.

Reubin Askew took a position somewhere between those six and what another candidate said. Anyone who has come this far in this paper could have probably guessed, down to words and phrases, the responses of these candidates.

There follows a reference to a Member of the other body.

Only once in the 1984 nomination campaign did Mr. Mondale make a serious effort to sound less than radical on foreign policy. Still desperate for votes after his March 13 victories in Alabama and Georgia allowed him to escape being driven out of the race by GARY HART, Mondale picked a fight with HART in the Illinois primary. The issue was troops in Honduras.

Mondale said HART's stance, identical to McGovern's in pledging to top all U.S. military action in Central America, meant "pulling the plug" and showed lack of foreign policy experience. He said in Chicago on March 14 that U.S. troops in Honduras might be a "bargaining chip" to get Cubans out of Nicaragua.

His opponent hit back over a week later, after blowing his lead in Illinois and losing to Mondale by 6 percent, with a commercial designed to rally the Vietnam generation in Connecticut and New York. It showed a fuse burning away, leading inexorably to another Vietnam.

To quote from that ad:

When President Reagan sent out troops to Central America he called them advisers. Remember Vietnam? Our troops now serve as bodyguards to dictators and are a slow-burning fuse to war. Vice-President Mondale agreed with President Reagan and said he too would leave some of the troops there as bargaining chips with Nicaragua. And he attacks Gary Hart for forcefully saying get them out. Our sons as bargaining chips . . . Will we never learn?

The ad was judged even by conservative observers to have been powerful, if less than responsible or accurate. HART was pushing panic buttons deep in the psyches of Democratic voters in the 25-40 age group. Mondale must have sensed this, because he understands those panic buttons as well as his opponent; he had pushed them since the early days of Richard Nixon's Presidency. So Mondale could not sustain the battle he launched for purely tactical reasons in Illinois. He caved.

In a televised debate, 6 days before the April 3 New York primary, Mondale challenged his opponent to remove the ad. His opponent did not. Mondale stressed how dangerous he thought the Reagan stance in Central America was and went on to spell out how he agreed with his opponent on Central America.

Mondale had nothing bad to say about Nicaragua, and nothing good to say about El Salvador. In the end, Mondale's only difference with his opponent was on United States troops in Honduras. Mondale called Honduras a democracy that could use some American help.

At about the same time, Honduras held an election. This made Mondale less squeamish, but did nothing to change his principal opponent's "out now" stance.

The issue faded from the Democratic campaign. A week later Mondale resumed his attack on his principal opponent for not endorsing the nuclear freeze early enough. Mondale had learned his lesson about trying to challenge his opponent on foreign policy from the center; he wouldn't believe what he had to say and it would unnerve the party activists. So don't do it; better to pursue retroactive purity on the freeze.

Commentary in late March showed an overvaluation of the Hart-Mondale jousting on Central America. Ben Wattenberg, a founder of the Coalition for Democratic Majority formed in 1973 to counter McGovernism, started feeling better about Walter Mondale. He denounced HART for taking the Democrats down the McGovern trail and predicted Mondale would win the nomination and stop the rot. Earlier, CDM executive committee chairman Penn Kemble was quoted by reporter Fred Barnes as being "encouraged" by Mondale's "general tone of realism." [96]

Washington Post columnist Stephen Rosenfeld went further, detecting a "fundamental difference" on Central America between HART and Mondale. "Mondale supports the Democratic Party's familiar, centrist, anti-communist internationalism . . ." [97]

Really?

Mondale is the man who, while occasionally admitting that the U.S.S.R. is a tyranny and something for us to worry about, has no generic complaint against Communism; he's given no speeches since the 1960's that are anything like the typical JFK speeches of 1960-63. In 1971 he voted to cut U.S. forces in Western Europe by half. In 1972-73 he voted for deep cuts in the Trident nuclear submarine program. The American Security Council found Mondale siding with KENNEDY and McGovern on 40 key national security votes during 1968-76. [98] He turned against the MX as soon as he left Carter's payroll.

In the New York debate Walter Mondale seemed genuinely shocked that GARY HART could consider him less than a pure dove on Central America, and hastened to reclaim his position on the left.

Mondale has put far more blame on Reagan than on the Soviets for the absence of an arms control breakthrough. He dodged Barbara Walters' questions on defending the relatively pro-U.S. status quo in Western Europe and Mexico. He's eager to admit that supporting the Kennedy-Johnson Vietnam policy was "the worst mistake of my political life," and has no obvious complaint with anything that's occurred in Southeast Asia since 1975.

Walter Mondale doesn't come across as a hawk in any part of the world or any major issue of defense policy. That clear-eyed observers such as Wattenberg, Kemble, and Rosenfeld want to see him other than he is indicates that long-time Democratic centrists are as blind to the essence of modern Democracy as modern Democrats are to the essence of Communism. People outside the elected national Democratic community habitually want to believe the party will rediscover its tough-minded, internationalist roots.

□ 1530

Some CDM leaders had hopes for Jimmy Carter in 1976. He seemed less liberal than MORRIS UDALL, Frank Church, or Jerry Brown, had supported Nixon on Vietnam, was from a "patriotic" part of the country, and had the gumption to attack Ford and Kissinger for detente in a televised debate four weeks before the 1976 election. That was the last anyone saw of Jimmy Carter's JFK tendencies.

In 1979, I had a college professor who was both a hawk and a Democrat. He was eager for TEDDY KENNEDY to take the nomination from President Carter. Reason? Kennedy would provide an alternative to Carter's defeatist foreign policy. Was this the TED KENNEDY who hadn't uttered a hawkish word since brother JFK died? Same one, said the professor: KENNEDY was really a "pragmatist" at heart who'd woo the center to win the White House. Scoop Jackson hoped so, too.

Jackson advised KENNEDY in January 1980 to revive his campaign by moving to Carter's left on domestic policy and to Carter's right on foreign policy. In his famous Georgetown speech of January 28, 1980, KENNEDY took half of Jackson's advice, coming out for wage-price controls and gas rationing.

In his even more famous "dream will never die" speech to the Democratic Convention that August, KENNEDY said not one word about foreign policy. It was just as well for credulous academics and Senator Jackson that he didn't, for KENNEDY was incapable in 1979-1980, and has been since, of saying anything that contradicts the radical world view. And when a politician sketches the world according to radical precepts, as Congressman SOLARZ does in appendix A, the results can embarrass.

In 1984, after JOHN GLENN's campaign collapsed in Iowa and he opted for a last-ditch stand in Alabama and Georgia, Wattenberg did a CBS radio commentary touting GLENN's chances. GLENN was now the only moderate left in the race, said Wattenberg, and could rally the traditionallist Democrats who exist in the South if they exist anywhere.

The question after March 13 was whether they exist anywhere. In Alabama, the Mondale-HART-Jackson vote totaled 74.9 percent, and in Georgia 78.7 percent. GLENN quit the race 2 days later. Yet Wattenberg still didn't realize the CDM dream was dead, finding encouragement in Mondale's trivial differences with HART over U.S. forces in Honduras.

This is not an attack on Wattenberg, or Rosenfeld, or the professor from West Georgia College. It's the basis for an observation that elected national Democrats get away with moving further left because nonelected, CDM-like centrists have no impact on what Presidential candidates and congressional caucuses do. None at all.

The centrists should stop hoping for a JFK revival in the Democratic Party infrastructure of 1984.

The Democratic Party steadily moves toward becoming the U.S. equivalent of the British Labor Party. The trend is there in House debates, in voting patterns, in the compromised leadership of JIM WRIGHT and ROBERT BYRD, in the pandering of Presidential candidates to caucus activists, in the immediate and alarmist reaction to Reagan's move into Grenada, in GARY HART's incendiary TV commercials, and in the way the once-unorthodox George McGovern blended right in

with 1984's Democratic Presidential candidates.

On March 1, 1976, departing U.N. Ambassador and a future U.S. Senator endorsed Henry Jackson for President at a Boston news conference. The gentleman said:

The world is a dangerous place, and we need a man who's got the stomach for it. In our party that man is, in my view, Scoop Jackson . . . The Russians would regard the election of Senator Jackson at the strongest possible signal that they better start taking the United States seriously.

Jackson is dead, and the Democratic Party and Walter Mondale send other kinds of signals nowadays.

Either the party or the Nation has real problems. The party has a problem if it's like, and is perceived to be like, the British Labor Party. It won't get direct control of the reins of power, and will grow even less responsible in its isolation. The Nation has a problem if a party given to defeatism and the systematic obliteration of history takes total charge of foreign policy, and reruns the Carter-Mondale administration making more mistakes more skillfully and with more ideological unity.

It may be even worse than that. Perhaps both America and the Democrats are faced with a leadership crisis.

The British Labor Party was only pulled back from pacificism in late 1930s by the overwhelming presence and mortal threat from Adolf Hitler. What's on the scene that would so change the American Democratic Party? What could the U.S. afford to withstand that could wake up the rank and file who learned every wrong lesson imaginable from Vietnam, and then stopped learning?

The ultimate horror of Vietnam may be that it wrecked the competence of one of our parties to manage American interests in the world.

CONCLUSION

Imagine you're the parent of a large brood of children. They like to go for walks in the forest back of your house. You tell them there are rattlesnakes in the woods, and every week one of your kids disappears, or turns up later the victim of poison and knowing from whence it came.

The remaining children, the ones who did not disappear or get bit, cry, "It didn't happen the way they say. It has nothing to do with snakes." But they don't know why they are losing their brothers and sisters. They're either baffled as the weeks grimly go on (and there is one fewer family member at each Sunday dinner) or they assume the missing siblings are better off in whatever new world they've become part of.

The typical national Democrat in 1984 doesn't know why—or speaks and votes as if he doesn't know why—nations turn totalitarian and stay that way. It might be the fault of Reagan, or Somoza, or General Thieu, or a falling GNP, or Lon Nol, or Nixon, or a Cuban dictator from 30 years ago.

But Communists are never to blame.

Radicals are sure that Iron Curtains, Pol Pot holocausts, and the end of free elections in country after country has nothing to do with the inexorable will to power individuals driven by communism and steered by the U.S.S.R. Today's Democratic politicians look at each newly threatened nation in isolation, their only constant being Vietnam-era chants and a refusal to understand a world consistently contemptuous of their world view.

The SPEAKER pro tempore (Mr. DE LA GARZA). The time of the gentleman from Minnesota (Mr. WEBER) has expired.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirndon, one of his secretaries.

THE GREGORSKY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. WEBER).

Mr. WEBER. I thank the gentleman from Pennsylvania for yielding.

I have just a few paragraphs left that will conclude the reading of the Gregorsky report and then I will return the time to the gentleman from Pennsylvania.

Again quoting from the Gregorsky report:

That worldview forecasts with perhaps 80-percent accuracy what Messrs. DOWNEY, DODD, BONKER, PELL, MARKEY, HARKIN, HART, and Mondale would do directing U.S. foreign policy.

It ought to unnerve you.

These Democrats are the older siblings of the children dead in the woods or slowly dying from snake poison. Communism is the snake they know isn't in the forest. They write off the lost children and pooh-pooh the sickly stragglers. They play games that call for going into the forest again, with good faith and high hopes. They criticize their parents, their aunts and uncles, who fear for the survival of the remaining children. They urge the weakest and youngest of their brothers and sisters to go back in.

"Trust us. It will be okay next time. You'll see how safe the forest really is."

FOOTNOTES

[32] Debate and vote on Coleman's amendment is pp. H. 5841-43.

[33] Ibid., p. H-5842.

[34] Interview with Salazar, *Washington Times:* October 20, 1983, p. 3C.

[35] "Mined," an editorial in the London *Economist:* April 14, 1984, p. 15.

[36] Rep. Tom Downey inserted colleague Miller's speech in the Congressional Record: April 4, 1984, pp. E-1419-20.

[37] "The Grenada Documents: Archive Of Church Subversion," including a "New Jewel Movement" history of the local church and plan to subvert it, *Catholicism In Crisis*, pp. 37-41.

[38] "Revolution In The Shade," *Time:* May 2, 1983, pp. 39-39.

[39] Reed Irvine, "The Grenada Papers," *AIM Report:* January-A 1984.

[40] Rep. Pete Stark, "U.S. Invasion of Grenada," *Congressional Record:* October 25, 1983, p. E-5103.

[41] As quoted in RNC publication *Talking Points.*

[42] Rep. Ted Weiss, "Administration Is Destroying Constitutional Framework of the United States," *Congressional Record:* October 26, 1983, p. H-8640.

[43] As quoted in *Washington Post:* October 26, 1983.

[44] Rep. Charles Schumer, "Administration's Foreign Policy Gets More And More Confusing," *Congressional Record:* Oct. 25, 1983, p. H-8582.

[45] Mark Shields, "Reflexive Anti-Americanism," *Washington Post:* November 11, 1983, p. A17.

[46] Rep. Charles Rangel, "Lebanon And Grenada: A Pattern of Violent Diplomacy," *Congressional Record:* November 3, 1983, p. E-5320.

[47] Phil McCombs, "Grenada, After The Yanks," *Washington Post:* November 3, 1983. This is a priceless piece of journalism that by itself undoes 98% of what House Democrats said during the days of Grenada.

[48] Rep. Don Bonker, "Committing U.S. Troops To Grenada Is Shocking," *Congressional Record:* October 25, 1983, p. H-8579.

[49] Kondracke's column was put into the *Congressional Record* by Rep. Henry Hyde on November 1, 1983, p. E-5258.

[50] Rep. Ed Markey, "Teddy Roosevelt Supplanted As King Of Gunboat Diplomacy," *Congressional Record:* October 25, 1983, p. H. 8580-81.

[51] Shields.

[52] This combined McGovern quote comes from the October 26, 1983, *Washington Post* and a film clip on the October 25 NBC-TV news special, "Grenada Invasion."

[53] McCombs.

[54] Rep. Major Owens, "The U.S. Risks Becoming Scapegoat For Grenada," *Congressional Record:* October 26, 1983, p. H-8640.

[55] William Raspberry, "A Caribbean 'Showcase,'" *Washington Post:* November 28, 1983.

[56] Rep. Robert Garcia, "The Tragedy of Grenada," *Washington Post:* October 25, 1983, p. E-5109.

[57] Kondracke.

[58] "Grenada Invasion."

[59] McCombs.

[60] Rep. Dennis Eckart, "Supply-Side Foreign Policy," *Congressional Record:* October 25, 1983, p. H-8582.

[61] Delegate Baltasar Corrada, "We Were There When Needed," *Congressional Record:* October 26, 1983, p. H-8641.

[62] Rep. Jim Shannon, "Let's Call The Whole Thing Off," *Congressional Record:* October 26, 1983, p. H-8641.

[63] Shields.

[64] "O'Neill Defends U.S. Policy On Marines In Beirut," *Washington Post:* October 27, 1983.

[65] McCombs.

[66] *Congressional Record:* October 25, 1983, p. H-8578.

[67] McCombs.

[68] "Presidential Candidates Split on Reagan's Grenada Tactics," *Christian Science Monitor:* October 31, 1983, p. 3.

[69] Kondracke.

[70] Rep. Richard Ottinger, "Welcome To 1984," *Congressional Record:* November 10, 1983, p. E-5460.

[71] McCombs.

[72] Film Clip on *The McLaughlin Group*, October 29, 1983.

[73] McCombs.

[74] Rep. Ted Weiss, "Impeachment Resolution Statement of Introduction," Congressional Record: November 10, 1983, p. E-5446.

[75] "Grenada Invasion."

[76] *Christian Science Monitor.*

[77] Rep. Dick Cheney, "What Bonker Missed," *Washington Post:* November 14, 1983.

[78] The composite Mondale quote comes from the October 29 *McLaughlin Group* and p. 3 of a January 23, 1984 American Security Council report,

"Foreign Policy of the Democratic Presidential Candidates."

[79] *Wall Street Journal*, January 6, 1984.

[80] "Grenadian Disavows Bishop Death Certificate," *New York Times*, January 6, 1984, p. A5.

[81] Weiss, pp. E-5446-47.

[82] "Young Warmly Welcomes Vietnam Delegation," *Human Events:* October 1, 1977, p. 4.

[83] Ibid.

[84] Rep. Henry Hyde (R-Ill.) wrote in the *Washington Times* April 25, 1984:

"As of March 22, assassins had killed five members of the Salvadoran constitutent assembly—the equivalent of murdering 36 U.S. congressmen. Imagine if terrorists murdered 36 members of Congress. Do you think there would be some concern about the identities of the assassins, their political orientation?"

American Democrats strong-arm our democratic allies to enter into "unconditional negotiations" with the people that kill their legislators.

[85] Revel, p. 52.

[86] Ibid.

[87] RSC staffer Dan Fisk, in a March 8, 1984, special report, puts Glenn's "evidence" in context:

"As for the 'documented' figures of the 'Salvadoran Catholic Church,' the source is the Legal Aid Office of the Archdiocese Commission for Justice and Peace (known as Tutela Legal). It is interesting to note the following description of Tutela Legal's counting system from the Department of State's 'Country Reports on Human Rights Practices for 1983.'

" 'Tutela Legal's figures on civilian deaths, mostly of guerrillas supporters (masas) that occur during military engagements or operations, now account for almost 80% of Tutela Legal's overall total civilian victims of political violence' (p. 55).

"The State Department report goes on to note that when one subtracts 80% of Tutela Legal's numbers the result is equal to that 'attributable to political violence reported in the Salvadoran press,' the main source for State's numbers on political violence.

"(State determines political violence-related deaths by factoring out deaths as a result of common crime, which State admits is not always easy, and people involved in a battle situation.)

"For 1983," wrote Fisk, "State's analysis attributed 1,677 deaths to political violence of the political left and right. The 1982 total was 2,629 . . ." (p. 5)

"For the period October 1979 to June 1983, 12,870 deaths (including battle-related) were attributed to the left by Radio Venceremos (operated by the guerrillas), Radio Sandino, Radio Havana, Radio Cadena (Costa Rica) and various Central American newspapers and wire services. In all, for October 1973 thru June 1983, leftist violence was responsible for 21,945 citizens killed, wounded, kidnaped or held hostage. And for 1983, 2,974 Salvadorans were reported killed by the guerrillas." (p. 4)

[88] *MacNeil-Lehrer News Hour*, August 19, 1983. Author's tape.

[89] *McLaughlin Group* Candidate Speical #2, December 10, 1983. Author's tape.

[90] "All Democratic Hopefuls Ask House to Block MX Funding," *Washington Post*: October 27, 1983.

[91] "Five Democrats Would Alter U.S. Policy in Africa, Caribbean," *Atlanta Journal & Constitution*: July 3, 1983, p. 20-B.

[92] Ibid.

[93] Alan Cranston, *Iowa Democratic Forum:* February 11, 1984. Author's tape. See also, "Cranston Asks $38 billion Defense Plan Cut," *Washington Post:* February 10, 1984.

[94] This and the next seven quotes are from the *New Hampshire Democratic Forum*: February 23, 1984. Author's tape.

[95] Ibid.

[96] Fred Barnes, "The Death Of The Jackson Wing," *American Spectator:* March 1984, p. 26.

[97] Stpehen S. Rosenfeld, "Back To Vietnam," *Washington Post*: March 29, 1984.

[98] ASC "Foreign Policy of the Democratic Presidential Candidates."

[99] *CBS Evening News*: March 1, 1976, Author's tape.

Mr. Speaker, that concludes the study "What's the Matter with the Democratic Foreign Policy," by Frank Gregorsky of the Republican Study Committee. As I mentioned at the beginning of my statement, the first two-thirds of that study were read into the RECORD on May 8 by the gentleman from Georgia (Mr. GINGRICH) and the gentleman from Pennsylvania (Mr. WALKER).

Before I yield to my colleague from Pennsylvania, I would just like to say this paper makes a very important point. It is a study of Democratic foreign policy. It is an analysis to the foreign policy of the liberal wing of the Democratic Party in the last 14 years. It is a serious study.

In no way is it an attempt to impugn anyone's patriotism, anyone's Americanism, to make any judgment whatsoever about the motives of Democratic politicians on the left, but it is an attempt to review 14 years of Democratic foreign policy formulation and make judgments as to the competence of the liberal wing of the Democratic Party to guide foreign policy in the future.

In that context we believe that the Republican Study Committee document, which I just concluded reading into the RECORD, is an essential document of our times that deserves the thorough debate of Members of both parties.

I would be glad at this point to yield to my colleague from Pennsylvania, who controls the time, to engage in a great discussion of this issue.

Mr. WALKER. I thank the gentleman for reading the rest of the Gregorsky study into the RECORD. I do want to reemphasize the point that the gentleman makes. The gentleman has said, as I said at the time I read part of the report into the RECORD, and as we have said since, that there is nothing in this report which is meant to impugn the patriotism, that is meant to in any way suggest that someone may not be acting from the very best of motives.

□ 1540

It is really a revelation of the incompetency of a radical viewpoint about foreign policy. I think that we ought to be able to discuss such imcompetency without having it called an attempt to revert to McCarthyism. It is the kind of thing, it seems to me, which does not serve the interests of this country at all to engage in what I would have to term a reverse McCarthyism to suggest that anyone who disagrees with us is engaged in some kind of a tactic which is wrong. And that, in fact, is the problem with some of the replies that we have heard from Democrats since this study began to be read in the RECORD, that instead of replying to the questions raised by the study, what we have had is their position degenerate into a series of name calling and the questioning of the motivations of many Members on this side of the aisle. That, to me, is a shame, and I think that this kind of study, which does lay out in some detail questions about a foreign policy that has been developing within the radical wing of the Democratic Party for some time, does lay it out in some substance, deserves to have the attention and hopefully, the reply from some of the people who have been responsible for precisely this policy being developed. That is the reason why the gentleman joined me and joined Mr. GINGRICH in inviting a number of our Democratic colleagues to come to the floor, specifically the people who are mentioned in this study, and engage in a discussion of those particular items. We think it would be very useful to have them come out and explain it from their standpoint. We do not want to question in any way their motivation. We do think, though, that it is a responsible area of debate to suggest that if in fact the consequences of their actions are what they appear to be, given the extent of the Gregorsky study, then they should be questioned, and if there are ways of answering those questions, that certainly we invite the members of the Democratic Party to come to this floor, engage in that kind of debate and answer those questions. We will be very pleased, from our point, to answer any questions that might be asked about our version of foreign affairs. We will be very glad to respond to the kinds of questions that get raised from their side about Republican incompetence, from their viewpoint, in foreign affairs. But to engage in simple name calling as an answer to a serious study it seems to me is a disservice to this institution and a disservice to the debate in the country.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Minnesota.

Mr. WEBER. I thank my colleague for yielding, and I just want to emphasize the critical point that he has made. There cannot really be an area that is more important in which to have serious informed discussion and debate than American foreign policy. Our existence as a free society literally depends upon it.

The gentleman makes a critical point in talking about some impediments that are put in the way of having that kind of a discussion today.

In the immediate postwar era, the late 1940's early 1950's, serious discussion about foreign policy was roadblocked by certain individuals who called other Communists. They did not analyze the quality of their arguments, the quality of their debate, they just called them Communists, and that impugned their integrity and patriotism, and so there was not a significant discussion. That was called McCarthyism. The point, though, is that it was the use of emotional labels

to prevent discussions of reasoning, discussions of fact.

Today, as the gentleman from Pennsylvania has pointed out, that very term "McCarthyism" has taken on the same use that the term "communism" was given in the late 1940's, early 1950's. Today, when one attempts to critique the foreign policy pronouncements of anyone on the left, what is the immediate reaction? McCarthyism. And what is the result of that? The result is the same as it was in the 1950's or late 1940's when those such as Senator Joe McCarthy called someone a Communist. You never get to the substance of the argument, you never debate the quality of the colleague's reasoning, the accuracy of his facts; you just debate McCarthyism, whatever that term may be.

What we are trying to do here is to have serious debate over the facts of foreign policy, of our history in foreign policy and over the analysis that some of our colleagues on the left give that.

I thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman. And I think that that is an important distinction to make, that we have said all along that it was not our intention to in any way impugn the motives of any Member of this body or anybody in the country with regard to the release of the material in this study.

I would have to say to the gentleman, though, that for each time they scream McCarthyism, that in fact is an impugning of the motives of those of us who are introducing this particular body of material into the RECORD.

Mr. WEBER. Exactly.

Mr. WALKER. And so that in itself, it seems to me, raises serious questions about the level of debate that the radical wing of the Democratic Party is willing to engage in.

I will be very glad to yield to the gentleman from Nebraska.

Mr. DAUB. I want to thank my good friend for the time. I would take but just a brief moment to refocus a little of our discussion for a minute, while the gentleman from Minnesota, my good friend (Mr. WEBER), is on his feet and in the well, for I want to commend him particularly for this third part of the three-part series which has been read into the RECORD. I do commend it to those particularly whose names have been mentioned, because it may force them, hopefully, in a very constructive way, to rethink some of the narrower views that they may hold and recast them into a broader vision of what this country needs to stand for when it deals with the very complicated and very sensitive processes of diplomacy and foreign policy.

And as I was listening to you today, here it is about quarter of four in the afternoon, it is on a Monday. I recognize some of our colleagues call this the Tuesday, Wednesday, Thursday club. But nevertheless we did conduct business today. In fact, we just received a message from the President. This is not just a normal procedure of shutting down the House and the business of the people, as some may suggest it is, from the look at the wide-angle television lenses or the postscripts so frequently now flashed across the screen under the new rules. But I was fascinated by a part of what the gentleman from Minnesota talked about a little while ago—some of us do pay attention to what these special orders give us in terms of additional information and food for thought—about Central American policy, and the author, in his work, was focusing on liberal foreign policy and some of the misconceptions that some of our brethren not only here in the House but in this 10-mile square, as it is called, bounded by reality, have about that part of the world, and I thought I would contribute to that discussion, particularly of Nicaragua, the following thought:

Last week on the 16th and 17th and 18th of May, my colleagues may recall that Nicaraguans living in this country held a vigil in front of the Longworth Building—that is one of the House buildings on the Independence Street side here in this 10-mile square called the District of Columbia in Washington, D.C.—and it was done to show their support for the Nicaraguan Contras or freedom fighters and in opposition to the ruling Sandinista government.

Flyers that they distributed stated that students and professionals alike had been fighting the Sandinista regime since 1981, originally unassisted. To suggest, as vigil participants pointed out, that the Contra movement would not exist in the absence of United States or CIA funding was an insult to the very principles for which they have been fighting.

The vigil highlighted three fallacies with the liberal foreign policy approach being advocated by some in this country with respect to Central America.

First, Sandinista Interior Minister Tomas Borge's statement that "We will never negotiate with the Contras" is a slap in the face to the idea of regional negotiations which liberals in this country now so adamantly call for.

Second, as the bipartisan Kissinger Commission found, leftist guerrillas in El Salvador "depend on external support" without which "they are unlikely to succeed." If this is the case, why do liberals in this country insist that those fighting the leftist guerrillas should "go it alone"?

Third, while church leaders and liberals in this country object to the administration's Central American policy on humanitarian grounds, why is it that church leaders in El Salvador and Nicaragua differ so markedly in their view of what is humanitarian, with respect to U.S. involvement in that region?

Now, a final point, which is important to raise, I think, is the way in which liberals in this country have framed the debate of Central American policy. Unless liberals are prepared to prove that the threats outlined in the Kissinger report, be they economic, social or security, do not exist, the debate should focus on how, not whether, the United States should apply its military and economic resources to in fact reduce those threats.

I thank the gentleman from Pennsylvania for his time and indeed commend the gentleman in the well for a very, very important contribution to the RECORD relative to our Central American policy.

Mr. WEBER. Will the gentleman yield to me?

Mr. WALKER. I thank the gentleman for his statement, and I yield to the gentleman from Minnesota.

□ 1550

Mr. WEBER. I thank the gentleman for yielding.

I would like to first of all thank my colleague from Nebraska for his kind words and for his participation in this special order. I had to be thinking as the gentleman was making reference to that demonstration outside the Capitol last week, by the Nicaraguan Freedom Fighters, that one of the points made by the paper that we have been reading into the RECORD today, involves those people.

For instance, this group of people who are fighting for their freedom in Nicaragua were branded by one of our colleagues, the gentleman from New York, our friend, Mr. DOWNEY, as "thugs, brigands, and thieves." Now that characterization is on page 46 of the Gregorsky report.

Another one of our colleagues, Congressman HARKIN, went on to say about the Sandinistas:

> Now, those who say the Sandinistas are not boy scouts, I agree they are not boy scouts, but compared to the Contras, whom we are supporting, they are Eagle Scouts.

Now it is the quality of that kind of analysis, in this case from Messrs. HARKIN and DOWNEY, but throughout the paper from a number of past and present Members of the House, that we are trying to bring into question here today. Not their motives; but is their analysis sound, is their judgment sound. Are they giving us the right kind of advice. After talking with some of those fine people who were up here last week demonstrating for the freedom of their country, the people the gentleman from Nebraska referred to, I can conclude that they could not be more wrong than they are in branding

those people "thugs, brigands and thieves."

Mr. WALKER. The gentleman from Nebraska made another good point that I think we ought to emphasize. The gentleman makes the point that we are here at about 3:45 in the afternoon holding this discussion. One of the charges made last week in the course of discussing whether or not we had fairly presented the first two-thirds of this document was a discussion of, No. 1, were Members adequately informed so that they could come to the floor and reply to this particular information within the document, and secondly, whether or not it was fair to do this late at night when the House had completed its business and everybody was going home to dinner and so on.

One of the choices that we made in deciding when we would put the last third of the report into the RECORD was to do it on a Monday afternoon when we, taking a look at the legislative schedule, assumed that we would be done by midafternoon. So that in the normal workday that most Americans would regard as being reasonable, sometime before 5 o'clock, we would be on the floor, holding this discussion so that the rest of the Members could come over and participate. It would not be late at night.

Second, that we would make certain that they were adequately informed.

I yield to the gentleman from Minnesota.

Mr. WEBER. I am glad that gentleman made that point and I tried to emphasize this when I opened my remarks. I would like to just walk through that point of advance notice.

On last Thursday morning, I announced to the House in a 1-minute speech at the opening of legislative business that we would today indeed be reading into the RECORD this last third of the Gregorsky report. So that was the first notice. I also announced that Members would be receiving by page written notification that their names were going to be mentioned when this report was read into the RECORD.

That written notice was distributed on Thursday. So on Thursday, I announced it in the well of the House, Democratic Members whose names are mentioned received written notice.

Mr. WALKER. And we know that they got it because a number of Members have since replied to the gentleman, is that not correct.

Mr. WEBER. Yes. Furthermore, I was approached by two Members, the gentleman from North Carolina (Mr. ROSE) and the gentlewoman from Colorado (Mrs. SCHROEDER), to obtain copies of the report. So we, after supplying several copies of the report out of our own office, I believe five or six of the copies of the 72-page report were Xeroxed in our machine and distributed to different Members. The gentleman from North Carolina (Mr. ROSE) then said that he would take responsibility for distributing to Members on his side of the aisle copies of the report.

So everyone on the Democratic side knew about this happening last Thursday. That seems to me to be adequate notice. Furthermore, we received notification from four Members that they could not be here because of a conflict in their schedules. The gentlemen from California (Mr. EDWARDS and Mr. BATES), the gentleman from Massachusetts (Mr. FRANK), and the gentleman from Colorado (Mr. WIRTH). All of the other Members, presumably, could be here to participate or at least did not think it significant enough to respond.

Why there is no one here to talk about it here today is a little bit beyond me.

Mr. WALKER. Let me make a point. This is that the four gentlemen that have indicated that they could not be here because of time conflicts, and we understand that, we will be perfectly willing to schedule time with them.

If they want to come to the floor and talk at some other time, we will be perfectly willing to come back and debate on the floor at a time what is convenient to them, but I have to go along with the gentleman. It puzzles me, given the nature of the notification received; the time during which this discussion is taking place, it is rather interesting to note that no one has seen fit to come to the floor and engage in a debate over these issues.

Now, that raises the question then of whether or not they simply do not want to debate; whether or not there are other things that are more important to them. You know, there may be a whole variety of reasons why they are not here. But the fact is that they are not here. That the cameras panning the floor at the present time will show that there are approximately six or seven Members here during this time, which is more than were here during the regular legislative business in some cases today, but that they are all on the Republican side.

The Republicans are here to discuss this issue; the Democrats are not here to discuss the issue.

I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I guess the gentleman is making the point that what we are engaged in today is what is known sometimes in political circles as an empty chair debate. Is that right? That is where you notify Members of the opposing side that you will be talking about a certain issue and debating it before the public and they have an opportunity to come forth and participate in the debate if at 4 o'clock in the afternoon, which is a time when most Americans are working in the factories and farms and businesses across the country, they do not want to be on the House floor debating, and in fact we have to make our points to empty chairs.

I, nonetheless, think they are very good points that you have made, and I applaud you. I was reminded when you were referring to the allegation by the Speaker that he thought that some Members were accusing other Members of being un-American. I guess today, I think what we are going to develop is a new response in the American Baseball League now, where if you are a baseball player and you are hitting .150 and the local newspaper prints your batting average, you can call up the sports editor and accuse him of questioning your patriotism by printing your batting average. I think that the Speaker has developed a great new response for hitters that just cannot seem to hit that ball.

Mr. WALKER. I thank the gentleman for his point. It is important to note that last week when the Speaker came to the floor and demonstrated his outrage at what happened, what he said over and over again was the fact that it was unfair what had happened. That there was no notification, and so on and implied that the reason why the Members could not be here is because they did not know about it. Had they known that these things were going to be said, they certainly would have been out here on the floor to defend themselves, and that this debate would have taken place, and it was just terribly unfair that the Republicans were out here doing this without notification. The fact remains that today when notification was given days in advance, an entire weekend in between copies of the report were distributed so that they would know precisely where we are coming from, they are still not here.

The Speaker this morning held a press conference in which he is quoted as saying that after consulting with his staff, even though he was notified that he could come to the floor today and debate with us, we will be very happy to engage in a debate over these issues, that he was in consultation with his staff, he decided it a better part of judgment not to come to the floor and engage in a debate. The question is why? Why will they not debate? Why will not the Speaker debate?

I yield to the gentleman from California.

Mr. HUNTER. Is the gentleman saying that there will be more empty chair debates in the future in which we will bring up issues like the balanced budget that the American people want to see? The President's comprehensive crime control package;

it will make America a safer place, if it ever passes this House.

Mr. WALKER. I hope they will not be empty chair debates. I would hope that the Democratic Party is confident enough of the positions that it takes on national issues that it can at least come to the floor and engage in a discussion, a meaningful discussion, a high-level discussion about the issues that matter to the American people.

□ 1600

Our contention from the beginning has been that those issues are not going to get to the floor through the regular legislative schedule; that the Speaker is over and over and over again making it clear that there are some issues that this Congress will not discuss if they have to come up as a part of the regular legislative schedule.

The one time that they can come up is if we bring them up during special order time. We do not want empty-chair debates out here. We would like to see a full Chamber. We would like to see Members come to this floor and talk about these issues flat out so the American people can see them. Let the American people decide who is on the winning side.

The only thing I can determine is that the Democrats have come to the conclusion that those of us who are talking about the balanced budget, who are talking about a foreign policy that has strength as its major component, who are talking about line-item veto and voluntary school prayer, are on the side of the American people and that they are not about to come to the floor and appear to be in opposition to the things that they think the majority of Americans are for. So they are better staying away, that America is better off seeing empty chairs on the Democratic side of this House, than to see them out here telling us what their real views of those issues are.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from California.

Mr. HUNTER. I would hope that our friends on the Democrat side of the aisle would come to the floor when the next empty-chair debate is held and fill those chairs, not because they are embarrassed by the wide-angle lens which shows that they are not here, but because they really think those issues are important.

I would ask the gentleman: You mentioned some other issues that we are going to be talking about in these empty-chair debates. The crime control package passed the other body some 91 to 1. That is the President's comprehensive crime control package that has about 42 points. For example, it would make the dangerousness of the criminal a criteria that the judge could look at when he is releasing accused criminals back into society or back into the community pending trial, something that would protect the American. It includes sentencing reform, and a number of other things.

Could the gentleman tell me how long the crime control package has been bottled up in this House of Representatives which is not meeting today at 4 o'clock in the afternoon?

Mr. WALKER. Well, obviously for months and months and months it has sat there, and the chairman of the subcommittee that has jurisdiction over a large portion of the package evidently feels it is more important to look at issues of drugging race horses than to look at the issues with regard to controlling crime in this country and stopping our kids from getting drugged.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield further, incidentally, does the gentleman have a notification with him, the notification that was given today? Have we got one of those notices around?

Mr. WALKER. The gentleman from Minnesota earlier put that notification into the RECORD at the beginning of his remarks.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. HUNTER. Could the gentleman describe the notice that was sent out prior to this empty-chair debate?

Mr. WEBER. Certainly. I thank the gentleman for yielding.

Mr. Speaker, I first of all announced in a 1-minute speech at the opening of business on Thursday that I was going to be holding this special order and that written notice would be arriving by page in the offices of Democratic Members that day. I will read the text of the letter. It is very brief. There is an error in the letter, which I am sorry for, but it actually heightens the amount of notice it sent out.

DEAR COLLEAGUE ——: On Monday, May 22, during Special Order time, we will be entering into the RECORD the final third of a Republican Study Committee document entitled "What's the Matter with Democratic Foreign Policy?" written by Frank Gregorsky. The first two thirds of the report were entered on May 8.

Because your name is one of those mentioned in the report, we wanted to give you advance notification of our actions, and invite you to participate in our special order. After we complete the document, we look forward to an open and frank dialogue with any Member who wishes to come to the floor of the House.

We look forward to this very important discussion of foreign policy and the RSC report.

Sincerely,

VIN WEBER.
BOB WALKER.
NEWT GINGRICH.

Then, if I can say so, the original letter that was sent out had the date wrong. It says Monday the 22d. So we sent around by page again a correction, drawing their attention to the first notice, saying that we had gotten that date wrong, and it was Monday, May 21.

As the gentleman knows, all that does is heighten the kind of notice that was given. There was plenty of notice given. We received over a dozen phone calls in our office on Thursday and Friday from Members whose names were to be mentioned in the report asking for copies of the report, and we have accommodated them, and with the help of the gentleman from North Carolina (Mr. ROSE) on the other side, have supplied presumably copies to all of the Democrats whose names were mentioned.

So there was plenty of notice, and as I pointed out also, four Members who received this notification responded to us and said that for various reasons they were unable to be here today, but 49 names are mentioned in the report, 49 individuals who were invited to come down and join us. Four of them said they could not for good and valid reasons, Messrs. EDWARDS of California, BATES of California, FRANK of Massachusetts, and WIRTH of Colorado. The other 45 were notified and made no indication whatsoever that they could not be here. there could be 45 people sitting over there to debate, but they choose not to.

If I could just take 1 additional minute, I think we have to focus on why. We are talking about a critical foreign policy discussion here today. Literally, the future of the free world and our security as a nation depends on our conduct of foreign policy. What people have to begin to understand is that it is becoming very clear the Democrats do not want to have that debate. That is why they are not here today.

The Speaker tried to cut off that debate last week when he came down into the well and debated with our colleague from Georgia (Mr. GINGRICH) by first of all screaming that there was no advance notification on the initial reading of the report into the RECORD, and then by alleging that we were all impugning Democrats' patriotism.

The point is, the one thing they do not want to do is debate the history of Democrats' foreign policy. People have to understand that they are going to do everything they can to avoid that serious debate and, instead, turn it into a debate over McCarthyism or allegations of un-Americanism, or things like that. We really need that kind of a debate.

These same people will stand in the well day after day castigating the President's foreign policy when he is,

of course, not here to debate it. That is all right. They have every right to criticize the President's foreign policy, but they do not want to talk about their own foreign policy, and that is an important point.

I thank the gentleman from Pennsylvania for yielding to me.

Mr. HUNTER. Mr. Speaker, will the gentleman yield for one last point?

Mr. WALKER. I would be glad to yield to the gentleman from California.

Mr. HUNTER. I would like to ask about some ground rules for these empty-chair debates that are commencing and will be taking place in the foreseeable future.

When an advocate of another point of view comes on the House floor, when the other side comes on the House floor, realizing that whoever has taken out the time has the time, you realize that it is within the power of the individual who has the time to deny a chance to answer to somebody who wants to respond.

I would simply ask the gentleman: Is it not our intention and our policy that any time those empty chairs become full, or become filled, and a Member comes down and wants to debate with us, we will yield him as much time as he needs to make his point? We will yield very readily and let him argue with us, let him debate with us. Is that not our policy?

Mr. WALKER. I would say to the gentleman that anybody who wants to bother to look at the RECORD compiled since the beginning of this session will find that that is precisely the case; that any time the Democrats have come to the floor to engage us in conversation on issues, any time that there has been an attempt to come and debate, we have readily yielded to the other side. We have tried as best we could to have a two-way dialog and to make certain that we did not use our control of the time to shut off discourse from the other side of the aisle.

That is the fair way to proceed. That is what is fair. I must say that we too often see instances during the regular legislative sessions when the Democrats control the time that we are not extended the same courtesy but, nevertheless, that will not be the policy here during special order time. Anyone who comes here to debate us can be assured that we really do want to debate and that it does not serve our interests to have them simply come to the floor and then not yield to them. We certainly want to yield to them. We certainly want to hear from them.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman from Pennsylvania for yielding, and I would just make a point.

Some Democrats, on occasion, rare occasion, have come down here, as the gentleman pointed out, and if I could just mention a few of them, I know on various occasions the gentleman from Oregon (Mr. WEAVER), the gentleman from Montana (Mr. WILLIAMS), and just last week the gentleman from Washington State (Mr. LOWRY) have all come to the floor, and I am sure that those individuals would readily concede that we have been more than willing to yield of our time to them.

Mr. WALKER. The gentleman from Texas (Mr. LELAND), the gentleman from Kansas (Mr. GLICKMAN), and there have been others who have come to the floor, and in each instance that I have been aware of, they have been yielded to readily. As a matter of fact, even if we had to cut into a dialog that we wanted to have, we have tended to bend over backward to yield to the Democrats who came to the floor, simply because we think the dialog would be good for the country. We think that contrasting the two parties on this floor, contrasting the policies of the mainstream of the two parties on this floor in real debate would be of immense value to the American people, would be of immense value to this institution.

□ 1610

We are disappointed that that kind of dialog does not take place in the regular legislative sessions as a result of the Speaker's intention to control the schedule in such a way as to not allow many important issues to the floor, and it cannot take place in the special order time because of the Democrats' refusal to come to the floor and debate.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I am glad to yield to the gentleman from Minnesota.

Mr. Speaker, I would just add, mainly for the benefit of those who might be watching all this and who are not fully familiar with the House rules, that people may come to the mistaken conclusion that perhaps only Republicans can take out special orders, that the Democrats who would come to the floor are subject to our whim as to whether or not we would yield to them, even though we have shown on every occasion that we are more than willing to yield.

I would just point out, of course, that that is not the case. Special order time is equally available to Republican and Democratic Members alike. Any Democratic Member who wants to come to the House floor can have 1 hour's time that he controls. And they can do that on any occasion they want. They can do so today. In fact, there are Democrats who have reserved special order time today. We have no idea whether or not they will utilize the time.

The point is that we raise issues they do not want to talk about. If they did want to talk about them, they would schedule them during the regular business and we would not have to take out special orders. But we cannot debate any of these issues during the regular business of the House of Representatives because the Speaker steadfastly refuses to schedule debate on any of them.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I think the gentleman has made a great point here. Time and time again, when Democrats and Republicans go back to their districts throughout America and speak in their townhall meetings and in their halls and at the schools and everyplace where they talk with their constituents, constituents ask, "Is there a chance we can bring up a balanced-budget amendment and have a vote on it in Congress?"

I know that because my constituents, Democrats and Republicans, in my district, which I think is pretty representative of California and the United States, ask on a regular basis, "When can we bring up a balanced-budget amendment?"

And I wonder how many of those Members from the other side of the aisle, how many of those Democrats, tell those constituents, "We are not going to bring up the balanced-budget amendment because we do not want to bring up the balanced-budget amendment."

How many of them really tell them what the facts are, and that is that the balanced-budget amendment is bottled up in the so-called graveyard for legislation in the Judiciary Committee, as I think it was called in the Congressional Quarterly in one of its recent editions, and that it is never going to get to the House floor for a vote?

Mr. WALKER. Mr. Speaker, my guess is that in many of those districts what they are told instead is, "In fact, I would love to vote for the balanced-budget amendment."

The Democrat goes back to his district and says, "I would love to vote for it. I think we ought to have it out there on the floor, but, you know, the congressional leadership just won't let it out. We have got some people within my party that will simply not let that out on the floor, and I am doing everything I can to try to get it to the floor." So people in their town meetings probably get that kind of an explanation.

What they do not say is who elected the leadership. Who in the first caucus came up here and voted for the leadership that is holding up the legislation? Who in fact installed the gen-

tleman from Massachusetts as Speaker of the House? The Republican side did not. We all voted for BOB MICHEL.

So that the question that has to be asked is that not only will they not debate the issue but they also then go back home and obfuscate the issue in a way that it seems to me misleads.

If they would come to the floor where we could draw a contrast between the two parties, where we could have a debate about who really does believe in a balanced budget, who really does believe in a tough anti-crime program, and who really does believe in a tough foreign policy, it seems to me at that point we could begin to pin the tail on the donkey. And that is exactly what happens out across the country.

This is pretty controversial stuff. I would be the first to admit that. The Gregorsky study of Democratic foreign policy is a pretty tough study. There is nothing out of bounds about it. It is simply that it is a tough analysis of what the Democratic Party has been doing for the last 50 years. It really does pin the tail on the donkey, and it seems to me that a party worth its salt would come to the floor when that kind of a tough study is made and defend its actions, but that is what we do not see. Rather, we see name-calling characterizing their reaction rather than a credible defense based upon a credible policy.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

I want to be understood that we are not just here to criticize. I kind of think of us perhaps, in bringing out this Gregorsky study, as the equivalent of batting coaches on a baseball team, and we want to see some of those .150 hitters and some of those guys who have not had a hit yet get up to a .300-batting average where they are analyzing the real world in a real way and where their foreign policy becomes something more pragmatic than what it is right now.

If they are going to make policy, if our colleagues are going to help us make policy on the House floor, we want them to get those batting averages up. So we are not here simply to criticize them for these .150 averages, although that is apparently what they have, according to some of the predictions that are made and that are manifested in the Gregorsky study.

I would ask the gentleman this one more time. I think it should be made clear that we are going to talk about the balanced budget in one of our next empty chair debates, and we would ask the Members from the other side to come into this Chamber, to fill those empty chairs and to tell America and tell us why we have not been able to even vote on a balanced-budget amendment. I think that that is a lot better than going back to those town-hall meetings and stuttering and stammering and saying, "Well, you know, we have got some people in the leadership that don't want to bring it up."

I think we ought to be accountable and people should come forth and tell us why we cannot bring up a balanced-budget amendment.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I think that is appropriate to some notification right now that that is a debate topic that is going to come up, and that we ought to say that that is one of the things we notify Members that we are going to discuss.

Mr. HUNTER. Mr. Speaker, if the gentleman would yield, we have a friend from the other side, the gentleman from California (Mr. BROWN), and he, I think, wishes to address that subject, so I would ask the gentleman to yield.

Mr. WALKER. I am glad to yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman's yielding.

I am not sure what subject the gentleman is addressing, but I did want to make a few comments, if I may be permitted.

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I appreciate that very much.

I was trying to listen in my office to the remarks of the gentleman and to the comments that were being made, as I have on occasion on prior days, and I wanted to say that I think, as you recognize, I would have certain disagreements with much of what you have been saying.

I think you started a process here which is gaining attention and which is constructive, and I would like to contribute to that process. I am not prepared to deal with it at length today, although I had reserved an hour after you gentlemen finished, but I reserved another hour tomorrow and it is my intention—and I wanted to let all of you know—to discuss some aspects of the matters that you have been bringing up.

I am a little behind you because I originally was motivated to do this when we were discussing the Logan Act and some of the aspects of that, and since I am a frequent violator of the Logan Act, I wanted to get my 2 cents worth in on that subject. I will try to use some time tomorrow, with your indulgence, to discuss that, and I want to let you know in advance that while I may mention your names and Mr. GINGRICH's name, I do so with the utmost respect and I do not intend to say anything that I feel you would consider to be derogatory.

That will not conceal my disagreement with you, but I do respect the fervor with which you are presenting a very legitimate point of view with regard to the various issues that you have brought up, the question of legislation that is not being brought to the floor, and the question of foreign policy, and I particularly appreciate the historical references and the fact that you are seeking to encourage a dialog in which we can learn from the mistakes we have made in the past.

I have been tremendously enlightened from that as I have gone back to review some of the history of these situations. Of course, some of that history in the last 20 years or so I have been a part of, and I will be prepared to speak on that.

I was even more intrigued to go back to the early debates in the Fifth and Sixth Congresses and to look at the kinds of discussions that took place, the kinds of attitudes that existed then, and the kinds of factionalism and other problems they had at that time, and I am going to make the point that one of the evidences of progress in this country is the fact that we may be able to participate in a more rational and enlightened debate today than we have been in the past.

While I have tremendous admiration for the Founding Fathers and for their enlightenment and intelligence, I find that there were occasions in which they were torn by emotions just as we are today, legitimate emotions, I might say, but that is not always the best basis upon which to make policy decisions which will guide the course of this great country of ours for future generations.

□ 1620

So I wanted to make some comments on that. Now that I see the gentleman from Georgia (Mr. GINGRICH) is here, I want to pay particular tribute to the historical analysis that he has made and indicate to the gentleman, as I did earlier, that I will comment on some of the points that the gentleman made with regard to the history of the Logan Act and the necessity for a strong executive, the role of Congressmen.

I will try to distinguish some of the areas which I think form the basis of our differences. For example, I think I would agree with the gentleman that no Member of the legislative branch has a right to negotiate contrary to the interests of the executive branch. I think that is sound policy.

On the other hand, as I think the gentleman knows, there is a very difficult distinction to be made between negotiations and free speech, expressing one's views, whether that can be done adequately within the framework of law, and I would like to ex-

plore that with the gentlemen and see if we might reach some agreement.

Again, I want to say from my own standpoint, and I do not pretend to speak for all my colleagues, I think the contribution which you gentleman have made is constructive and that it would be much more constructive if people on my side would respond constructively. I am going to try to respond as constructively as I can to the points the gentleman has raised, despite my own lack of expertise and professional background in some of these areas. I will do the best I can and I hope it will be constructive.

Mr. WALKER. Well, the gentleman I think responded precisely in the spirit that we would like to see these debates take place, I thank the gentleman for his statement and I assure him that if he uses my name in the course of the debate, it will not be the first time around here. That is a rather typical kind of thing. I will not mind in the least. I have become fairly tough-skinned at this point. I think my colleagues would probably agree with that; but the kind of research the gentleman is doing, the kind of intellectural argument that he obviously wants to engage in I think is useful and I thank him because I think that is precisely the spirit in which we would like to see a dialog take place on this floor during the special order time.

Mr. HUNTER. Mr. Speaker, would the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. HUNTER. I will make this short. I appreciate the gentleman yielding.

I appreciate the gentleman from Pennsylvania coming out and talking on this very important subject.

I would like since the gentleman is such a candid individual, I would like to ask him, we have been talking about the fact that we do not debate some of the tough ones, like the balanced budget. I mean, we all have to admit that is a tough one. We have not brought the crime package to the floor and it has been a long time. I mean, the American people I think would want to see it. The other body passed it almost unanimously.

I would ask the gentleman, why do we not bring controversial and tough issues to the House floor, whether they are liberal issues or conservative issues, why does that not happen?

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from California.

Mr. BROWN of California. I have a similar question myself as to why we do not bring these issues to the floor. My personal preference, because I am perfectly willing to take the consequences of my own votes, I have made enough votes that did not help me in the past and I am willing to do it again, but I am perfectly willing to see them brought to the floor and debated openly and voted on.

I think quite obviously there is a certain amount of political calculation going on here as to whether or not it would help or hurt Members of my party in connection with the election that is coming up this year and whether the calculation is that the vote would be embarrassing or cause some losses or would cause people to have to take positions they do not want to take publicly, there is an effort made to keep them from the floor.

On the other hand, I think in fairness the gentleman should recognize that some of those issues have on occasion been brought to the floor, sometimes against the will of the majority, and have been voted on with as far as I can see no earth-shaking consequences to the future of the Republic.

I do not make those decisions, although I suppose I should exercise a larger voice in them than I have; but I think that the gentleman has probably correctly pointed out that it is a part of a general political maneuvering in an election year that prevents that from being done.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding and I would like to thank our colleague, the gentleman from California, for the spirit with which he has approached this today, but I want to raise a very important topic that we have discussed here perhaps a little bit and perhaps the gentleman saw us discussing it on C-SPAN.

The gentleman approaches this whole subject in precisely the way that we would hope all Members would, ready to debate a very serious topic. I guess we feel that the whole chance for that kind of debate is threatened when Members on our side of the aisle as soon as they criticize past Democratic foreign policy, they are accused of McCarthyism.

Because the gentleman is a fairminded individual, albeit a man of different philosophy than myself, I would just ask if he understands why that concerns us so much, if the gentleman from Pennsylvania would yield to the gentleman.

Mr. WALKER. I would be glad to yield to the gentleman from California.

Mr. BROWN of California. Well, there are many in this body who were the subject of that kind of attacks in prior years and probably some still bear the scars.

If I can give you a personal anecdote, when I first ran for public office back in the midfifties, I took a radical position at that time with regard to the need to take steps toward normalization of relations with Communist China. That was a no-no. I was accused of being a Communist sympathizer. It was not until a respectable Republican came along who could do that, that it became respectable to do it.

We do not relish rehashing those kind of things. I do not know how you gentleman feel about the normalization of relationships with Communist China. I think it was a good and practical step in the interests of this country. I continued to support it during most of my career. That is one example of how being prematurely right is a great sin here, if I can be so presumptuous as to think I might have been right.

Of course, the other point is that there is a time in the affairs of men when it is proper to take a step and if you take it before then, you are wrong. There may be merit to that position.

Mr. WALKER. Well, I would say to the gentleman, there is no excuse in the political dialog to refer to the gentleman as a Communist sympathizer simply because he takes that kind of position. Once again, the judgment of that position at some given time is certainly subject to question within the political realm. There are some people right now who suggest that we ought to normalize relations with Cuba, for example. That does not make them pro-Communist in any way, shape, or form.

I personally would question that as a matter of international political judgment, but that is certainly no reason to label them "Communist sympathizers." That kind of dialog I think has done harm to the political process.

I think the point the gentleman from Minnesota is making is that we think it does harm to the dialog, too, that when we raise what we think are legitimate questions of policy, then the cry comes from the other side that it is McCarthyism that is being practiced.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. If the gentleman would yield further, I would condemn any effort for the gentleman to express his views with regard to the wrongness of a policy, to suppress or to belittle that view by the use of name calling or anything of that sort. That is something to be condemned regardless whether it is done by my side or by the gentleman's side.

This is one of the reasons why I am such a profound admirer of Thomas Jefferson. As the gentleman knows, he felt that regardless of the errors that men make, as long as they are free to speak their minds and to have their positions reviewed in the light of evidence and rationality, that the Republic will prosper. I thoroughly believe in that. I have no sympathy for those who do not do that.

There is an interesting debate in the Fifth Congress, as I recall, in which just that sort of thing occurred. I have forgotten whether it was the Federalists or the Republicans, and of course the Republicans were the Democrats in those days. I have forgotten which side did it, but the other party was bringing up—it may have been in connection with the Logan Act which I have been looking at recently—brought up the issue for debate and the other side en masse refused to allow that debate to take place. They spoke loudly. They coughed. They booed. They engaged in all sorts of tactics right here on the floor of the House to prohibit the other side from expressing their deeply held convictions.

Well, I hope we will not resume that kind of attitude and practice in the Congress of today. We do sometimes and I think it is something that we should strive very strongly not to do.

□ 1630

Mr. WALKER. Our cousins in the British Parliament get good at that, too, from time to time.

Mr. WEBER. I realize the gentleman's time has just about expired. I just want to make the point that when people called the gentleman from California a Communist sympathizer, in those days they were doing, in my judgment, precisely what some on the left are doing today when they call us McCarthyites. That is, seeking to prevent the discussion of views by just labeling, and throwing in an emotional label that prevents serious discussion.

That is why this whole question of McCarthyism, when that is raised, is such a serious one to us, because it is obscuring our arguments in the same way that that question of Communist sympathizers, or that emotional label was intended to obscure the very legitimate views of the gentleman from California.

I thank the gentleman for yielding.

Mr. BROWN of California. May I make another point? I do not want you to take this in too complimentary a fashion. But I think you gentlemen should all be aware that you are very astute users of the procedures of the House. You are good debaters. You are well informed. You may engender a sense of inferiority, deservedly or not, among some of our colleagues on the floor.

When that happens there is a tendency to react emotionally and you should have sympathy for this, and to understand the possible basis for it.

Mr. WALKER. The gentleman is perhaps too kind. I do not think that we may have considered it from that standpoint because we find ourselves in many cases faced with some very, very astute adversaries from your side of the aisle, too, the gentleman from California not being the least of them.

I know that from the dialog we carry on in committee from time to time.

Mr. BROWN of California. We hope to encourage more of this on our side.

Mr. WALKER. I would agree with the gentleman and say that we would hope to encourage that, too.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Arizona.

Mr. RUDD. I would like to take an extra moment, if the gentleman would yield, to comment on what you are doing here. I think it is very good.

There has been a lot of publicity given to the fact that the floor is not well occupied, but let me just point out, as I have myself, many of our colleagues are viewing what is taking place here on the televisions in their offices.

But this type of debate and statement and colloquy that has developed here has developed a real constituency, numerically very high constituency across the Nation, showing how interested the citizens of this country are in what happens to our Government and what happens specifically in the House of Representatives.

So I commend all of the people who have participated in this and particularly the gentleman from Pennsylvania today for what has taken place here.

I would also like to commend the gentleman from California (Mr. BROWN) for participating as he has today because it has brought about a feeling within the Members of Congress here that there is something important going on.

Mr. WALKER. I thank the gentleman from Arizona for his comments.

With that, Mr. Speaker, I yield back the balance of my time.

NATIONAL LEGION OF VALOR DAY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, I rise today on behalf of myself and 23 other Members of Congress to introduce a joint resolution designating August 4, 1984, as "National Legion of Valor Day."

August 4 marks the 29th anniversary of the granting of the congressional charter to the Legion of Valor of the United States of America, an organization whose membership has included distinguished Americans, both living and dead, who have received our Nation's highest decorations for valor: The Medal of Honor of the Navy, the Army, and the Air Force, and the Distinguished Service Cross, Navy Cross, and Air Force Cross.

I urge my colleagues to join me in recognizing the contributions of the men and women of the Legion of Valor who have demonstrated extraordinary heroism and risked their lives so that others might live and so that all Americans might continue to be free.

I ask unanimous consent that the resolution be printed in the RECORD at this point:

H.J. RES. 573

Joint resolution designating August 4, 1984, as "National Legion of Valor Day"

Whereas August 4, 1984, marks the 29th anniversary of the granting of the Congressional charter to the Legion of Valor of the United States of America, Inc.;

Whereas membership in the Legion of Valor is reserved for the recipients of our Nation's highest decorations for valor: the Medal of Honor of the Navy, the Army and the Air Force, and the Distinguished Service Cross, Navy Cross and Air Force Cross;

Whereas the Medal of Honor is awarded for conspicuous gallantry and intrepidity at the risk of life above and beyond the call of duty;

Whereas the Army, Navy, and Air Force Crosses are awarded for extraordinary heroism in connection with military operations against an armed enemy;

Whereas the efforts and sacrifices of the recipients of these decorations for valor inspire their comrades and all Americans to be a force for liberty and freedom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 4, 1984, is hereby designated "National Legion of Valor Day". The President is requested to issue a proclamation calling upon all Federal, State, and local government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

McCARTHYISM OF THE LEFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk this afternoon about what I guess, for lack of a better term, might be called McCarthyism of the left and the seriousness of the current crisis in American thought about foreign policy.

Out of the last 2 or 3 weeks the thing which has most disturbed me has not been that the Speaker got angry, nor has it been that we had a large and raucous debate on the House floor, nor has it even been that words were said about me sufficiently strong

that the Speaker had his words taken down.

Those things happen. The House is a human institution and people get angry. We react as humans.

But what disturbs me is both in the columns of some of our more respected news sources and in the speeches of some of our brighter Members of the leftwing of the Democratic Party there is a tendency to assume that the questions we are raising and the outline of concern that we have developed, and that the Gregorsky paper clearly talks about in terms of foreign policy, is either simply a partisan trick or, as one of the gentleman in this House from Wisconsin is fond of repeating over and over again, both in letters to his colleagues and in speeches on the floor of the House, that it is a new form of McCarthyism.

I would suggest that in fact this willingness, this desire to lump all of these serious allegations and serious concerns and serious analyses into a simple phrase is a form of McCarthyism by the left, if by McCarthyism we mean the pattern for politicians to distort and smear and lump together in order to avoid serious dialog.

The case I am trying to make is I think intellectually a very serious case. It is a very straightforward case.

Let me put it simply. I would argue that there is a form of evil in the world: Communism in its Soviet form, and that that form of evil is a tyranny leading to slavery much like Nazism, that they are remarkably similar, and that the European-American intellectual left and now the American political left has a blind spot, is unable to see or think or talk about Soviet tyranny with any kind of understanding. That all of the horrors that existed with Adolf Hitler and the Nazis are horrors which exist today with Chernenko and the Soviets.

It does not mean we have to seek war. It does not mean that we have to rattle the saber.

It does mean we have to be able to talk honestly among ourselves about what is happening.

I would suggest, furthermore, that because the American left has been unable to think openly and seriously and talk about the nature of Soviet tyranny, the nature of what some have called the Gestapo of the left, the nature of the terrorism and the colonies exported by the Soviet Union, the use of Cuba as a Soviet puppet to establish more colonies, because we cannot discuss that in an open and clear way without enormous emotional reaction from the American left, we cannot learn the lessons of the last 20 years and yet they are very grim lessons indeed.

I would suggest that there is real meaning to the fact that today there are Soviet ships in Camranh Bay and not American ships.

□ 1640

I would suggest there is real meaning in the fact that Ho Chi Minh City, once called Saigon, is a city of slavery and terror and work camps and secret police; a city dominated by a Communist colony of the Soviet Union.

I think that it matters that we have captured the documents of a Communist government in Grenada and that we have learned many new things about the Soviet Union and how it acts, because we have been able to see inside that government.

To take just one example, the fact that the Grenadian Communist government's chief of staff of their military, while being trained in Moscow in the spring of 1983, had a secret conversation with Marshal Ogarkov the head of the Soviet military, and reported that secret conversation in a secret telegram to the Communist government in Grenada; in a document which we have since captured, and he quotes Ogarkov, the head of the Soviet military, as saying the following, and I quote:

> Originally 19 years ago we had only Cuba. Today we have Cuba and Nicaragua and Grenada and the battleground is El Salvador. We are making progress.

Now, in terms of the pattern of thought of the Soviet Union, that is as clear a statement of what they think is going on as you can find. We have the head of the Soviet military saying flatly that they regard Nicaragua, Grenada, and Cuba in the same light; that is as colonies, as extensions of their power as allies and they think of themselves as fighting in El Salvador to impose tyranny and slavery in that country and they see themselves as winning.

The quote is clear; it is in a document we captured, it is in English because the Grenadians speak English, it is available. Yet has there been any great dialog on the American left? Has anyone looked up and said "Oh, all of this is real?" No.

Instead, the American left focuses on rightwing atrocities in El Salvador.

Let me be very fair and very clear here. There are problems with rightwing governments. There have been rightwing governments that have been horrible, there have been Argentinian Governments that have committed atrocities; there have been atrocities in El Salvador.

I agree with former President Truman when he said to his daughter that "we have to confront the reality that fascism, communism, Nazism are all evil and all have to be dealt with."

But at the same time I would suggest that of the great evils in the world, Nazism was defeated in World War II, fascism in Italy was defeated in World War II, and while there may be horrible human rights problems on occasion even in countries we try to defend such as El Salvador, they are less evil, they are less dangerous to America than the Soviet Union.

In World War II, Winston Churchill justified that sense of deciding which evil is greater, which is more immediate, when he was asked how, as a leading anti-Communist, he could accept Stalin as an ally and he said, "If the Devil himself were with us, I would say at least a few kind words about hell."

What Churchill was trying to say was that you have to recognize you are not going to live in a perfect world. If the United States does not have the power at any given moment to go anyplace and make it a utopia, and that you have to decide as a statesman what are the immediate grave crises that face your society, and I would suggest that the most immediate, the grave crisis, is the Soviet Union and the threat that it represents to all of freedom.

Just today in the Washington Post I noticed two articles on page 1 that I think have to be taken note of.

> SOVIET ANNOUNCES RISE IN SEA-BASED MISSILES OFF UNITED STATES
>
> Moscow, May 20.—Marshal Dmitri Ustinov, the Soviet defense minister, announced today that the Soviet Union has increased the number of submarines carrying nuclear missiles off the coasts of the United States and that the weapons could strike U.S. targets in eight to 10 minutes.

Now, they are saying, reminding us that they have the ability to launch a nuclear war with 8 to 10 minutes' warning directly off our coasts.

The article next to it:

> IZVESTIA ASSAILS WIFE OF SAKHAROV
>
> Moscow, May 20.—The Soviet government newspaper Izvestia tonight published a fierce personal attack on the wife of dissident physicist Andrei Sakharov, charging that she was exploiting her husband in her efforts to escape to the West "even if it meant over her husband's dead body."
>
> The long commentary also suggested that the Nobel Peace Prize winner's wife, Yelena Bonner, 62, may be put on trial for "anti-Soviet activities."
>
> Diplomatic observers, analyzing the obscure language in the commentary titled "Degenerates and Their Supporters," said the government apparently was preparing to try Bonner if Sakharov refuses to reach a compromise with authorities.
>
> Sakharov has been on a hunger strike since May 2 to press demands for medical treatment in the West for his wife. He was reported to have been removed May 7 from his apartment in Gorki, a city 250 miles east of here to which he was banished more than four years ago, and taken to an undisclosed location. He is believed to have been hospitalized.

Now, Sakharov is the greatest physicist in the Soviet Union, a Nobel Peace Prize winner, an honorable man. Living in a state so horrible, a secret police slavery system so terrible that to try to get his 62-year-old wife medical treatment for her heart disease, he is on a hunger strike and he is now locked up, apparently, in a hospital.

That reminded me of the article in yesterday's Atlanta Journal Constitution about the nature of certain kinds of Soviet hospitals. Again, I think the full horror of what has been called Nazism of the left can only be appreciated as you listen and consider this:

The Soviet Union has given its second-highest award to a Soviet psychiatrist who has been accused by the World Psychiatry Association of abusing his science to punish political dissidents.

The official news agency Tass said Saturday that the Order of the October Revolution was awarded to Andrei V. Snezhnevsky in recognition of his work "in developing medical science, . . .

Snezhnevsky came under heavy criticism at the 1977 meeting of the World Psychiatric Association, which accused him of directing abuses of psychiatry against dissidents.

The Soviet Psychiatric Association withdrew from the world organization . . .

Now, what are they saying to us? If you get up in the Soviet Union and you say "I don't think things are going well, I think we need to change behavior" you can be locked up in a mental institution and treated as a mental case.

In fact, there is one famous dissident who fled to America who is a two-star general in the Soviet Army, a hero of the Soviet Union, decorated again and again in World War II, locked up and given shock treatments and chemical treatments because he thought the Soviet state was a dictatorship and by definition, "If you are out of touch with political reality, you are crazy."

So what is the Soviet Union? The Soviet Union is a very, very powerful police state with no respect for human rights at all and which is very willing, very willing to punish its own citizens by putting them in mental institutions.

Furthermore, the Soviet Union is engaged systematically in extending its power through terrorism and through the use of puppets and colonies across the world.

This is not something new. Let me quote from President Truman, talking to Congress in 1947 about Greece and Turkey:

It must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.

Again from Truman to his daughter Margaret:

. . . there is no difference in totalitarian or police states, call them what you will, Nazi, Fascist, communist or Argentine republics. . . . Your pop had to tell the world just that in polite language.

Does that relate to America? The part of the new world? Is it part of the Western Hemisphere?

John F. Kennedy, in his inaugural address:

Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas.

Well, is there aggression in the Americas? If you read the documents from Grenada, there is.

The Soviet Union, through its Cuban puppets, are trying to establish more colonies in Central America. The Soviet Union has sent $114 million in equipment; military equipment in the last year. The Soviet Union is spending $300 million in military construction.

Time magazine this week, in its cover story is on, "D-day 40 Years After the Great Crusade."

□ 1650

That reminded me that once upon a time we had had to fight Nazism and we had had to deal with those problems.

So I went back to Winston Churchill, volume 1, "The Gathering Storm." Churchill made two points which I think are central to why we have issued the Gregorsky paper and why we are willing to defend our paper and to debate our friends on the left.

One day President Roosevelt told me that he was asking publicly for suggestions about what the war should be called. I said at once "The Unnecessary War." There never was a war more easy to stop than that which has just wrecked what was left of the world from the previous struggle. The human tragedy reaches its climax in the fact that after all the exertions and sacrifices of hundreds of millions of people and of the victories of the Righteous Cause, we have still not found Peace or Security, and that we lie in the grip of even worse perils than those we have surmounted. It is my earnest hope that pondering upon the past may give guidance in days to come, enable a new generation to repair some of the errors of former years and thus govern, in accordance with the needs and glory of man, the awful unfolding scene of the future.

WINSTON SPENCER CHURCHILL.

CHARTWELL, WESTERHAM, KENT, *March 1948.*

Now did Churchill, in looking back, say that Chamberlain was a traitor? Did he challenge his Britishness as the Speaker suggested last week I was challenging the Americanism of others? No. What he did say was:

It has given me pain to record these disagreements with so many men whom I liked or respected; but it would be wrong not to lay the lessons of the past before the future. Let no one look down on those honourable, well-meaning men whose actions are chronicled in these pages, without searching his own heart, reviewing his own discharge of public duty, and applying the lessons of the past to his future conduct.

Honorable men can be wrong. Honorable men can refuse to learn from the lessons of history. Honorable men can avoid reality because it is frightening or painful. Honorable men can listen to themselves while they deceive themselves, can then believe in their deception and walk themselves out on a limb of more and more inaccurate belief.

There is no dishonor in being wrong or foolish or misinformed or short-sighted, but equally honorable men and women have an obligation to question that. And I wish to explain to this House how the Gregorsky paper came to be written.

In July 1983 I sat on the floor of the House and I listened in particular to two quotes, to a very eminent gentleman from New York refer to freedom fighters as "ten thousand thugs, brigands and thieves." And to an equally eminent gentleman from Iowa say:

Now those who say Sandinistas are not Boy Scouts, I agree, they are not Boy Scouts, but compared to the Contras whom we are supporting, they are Eagle Scouts.

I sat there as a former history teacher and I thought to myself, if these honorable and intelligent and distinguished gentlemen honestly believe the people who want their freedom, people who are risking their lives to fight for democracy, to fight against communism, if these distinguished gentlemen of the American left honestly believe that freedom fighters are thugs, brigands, and thieves, it is no wonder that they do so many things I find hard to understand.

So I resolved to ask a friend of mine, who was working for the Republican Study Committee, to go back over the last 14 years and to look at the lessons of history. What did people say and what really happened.

The result is the Gregorsky report, which has now gotten a great deal of attention, a paper which outlined year by year how the American left deceived itself, how it remained blind to communism, how it failed to learn from the lessons.

Just as Churchill tried all through the late thirties to alert the people of Britain, so again and again and again we find that it is very difficult to explain, it is very difficult to talk about, it is very difficult to debate. All we are saying is simple: It is that if you look at the historical record, good, decent, well-meaning men and women of the left said certain things would happen. They said if America gets out of Vietnam there will be a political compromise. They were wrong. They said, if America gets out of Cambodia there will be peace. They were wrong. They said, if we stay out of Angola, everything will work out. They were wrong.

They said if we deal with the Russians reasonably they will not do things like invade Afghanistan. They were wrong: They said Grenada really is not a Communist base and really is not dealing with the Soviet Union. They were wrong. They said the Nicaraguan-Marxists really will not take over and really will not establish a Soviet base. They were wrong.

Now, if we were going to hire a schoolbus driver we would ask before we allowed him to drive our children that we look at their driver's record. If they had five or six or seven consecu-

tive wrecks we probably would not hire them as a schoolbus driver. And if anybody had ever told them that they should not have wrecks, we should not be surprised if they keep having wrecks.

I would suggest that the American left has a problem because it has a tendency to have wrecks and not learn from the experience.

We are at a real crisis in America. It is a crisis that requires that we look straight forward, that we deal honestly with what is going on and that we lay out our case and that we talk about it so the American people can understand.

We wish to invite our friends from the left to come and talk about the crisis. We had a number of folks, TIM WIRTH of Colorado, DON EDWARDS of California, BARNEY FRANK of Massachusetts, who could not come today. Representative JIM BATES wrote me a letter from California indicating he could not come today.

And I will put his letter in the RECORD along with my letter to him.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 18, 1984.

Hon. NEWT GINGRICH,
1005 Longworth,
Washington, D.C.

DEAR CONGRESSMAN GINGRICH: Yesterday afternoon I received a letter informing me that on Monday, May 21, 1984, portions which mention my name in the report, "What's the Matter With Democratic Foreign Policy?" will be entered in the Congressional Record. Because I will not be in Washington, D.C. Monday, and in view of the fact that two working days notice does not give me time to rearrange my schedule, I respectfully request that my name not be mentioned.

Should you insist on doing so, I will speak to this on the floor of the House of Representatives at a later date. Had I received more advanced notice, I would not object as much as I do now.

Your attention to this request will be appreciated.

Sincerely,

JIM BATES,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 18, 1984.

Hon. JIM BATES,
1632 Longworth, Washington, D.C.

DEAR JIM: I appreciated receiving your personal letter to me dated May 18, 1984.

I'm very sorry that you won't be in Washington this Monday, May 21st to share in our Special Order. As you know, this time will be used to enter into the record the final third of a Republican Study Committee document entitled, "What's the Matter with Democratic Foreign Policy?" written by Frank Gregorsky.

You asked in your letter that your name not be mentioned during this Special Order. Regretfully, that won't be possible because your name is one of those specifically mentioned in the report.

However, I will read your letter during this Special Order so that the record will show that you did make this request.

I'd be happy to schedule a Special Order with you at another time, and at your convenience, to discuss the Gregorsky report.

Please let me know if you'd like to do this. I hope to hear from you.

Sincerely,

NEWT GINGRICH,
Member of Congress.

The reason I want to put this into a framework of a dialog is because I think the American left has to begin to at least look at what its assumptions are and what it thinks the nature of the Soviet threat is and what it thinks we should be doing and then look at the historical record of the last 14 years and ask the question: What are the lessons we should learn?

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I would be delighted to yield to my friend, the gentleman from Kansas.

Mr. GLICKMAN. First of all, I want to thank my colleague for yielding.

I would like, if possible, to discuss for a few moments the issue, the United States and the Soviet Union, as reflected through the eyes of Richard Nixon, former President of the United States.

I would assume that no one can categorize Richard Nixon as a captive of the American left. Would that be a fair assumption?

Mr. GINGRICH. Sure.

Mr. GLICKMAN. Richard Nixon talked to the Newspaper Editors Association of this country and, as I am sure the gentleman is aware, wrote a piece in the Washington Post, which I would just like to read quickly and then we can talk about it.

Issues concerning the United States and Soviet relations, because they are very bad now. It is very troublesome to see Defense Minister Ustinov talking about Soviet submarines very close off our shores.

Nixon said the following, and I quote from the article:

On the one extreme we have what I call the super hawks. They point out that the Soviets lie, they cheat, they're out to do us in. That's right. On the other hand, they then go on to say that, because they do that, our only policy is to build up military superiority, to squeeze them economically, to isolate them diplomatically and, if we follow that course, inevitably the whole rotten system will collapse and new regime will come into power that will be less unfriendly to the United States. I wish that were true. But there's one thing we have to recognize about the Soviets. They have been a failure economically and ideologically, but there's one thing they are good at—they are good at getting power and keeping power.

Then Nixon talks about the extreme left.

We turn to the other extreme. Let's call them for lack of a better term, the super doves. They say that the Soviets arm because we do. If we can only convince them that we are for peace by reducing our armaments, then they will follow us and do likewise. This, however, misjudges the Soviets. With the very best of intentions President Carter tried that before Afghanistan. As we cut back on our weapons systems, they increased theirs, and that is how they acquired the military superiority in land-based missiles that they enjoy today.

I know the Russians. We don't have to convince them that we are for peace—they know that. We have to convince them that they cannot win a war and that the rewards of peace are infinitely greater than anything they could gain from war. Putting it very simply, we have to take the profit out of war, we have to put more profit into peace.

And the final quote, and this is what I would like to discuss with my colleague from Georgia.

But because of our irreconcilable differences, the government of the United States and that of the Soviet Union can never be friends. However, we cannot afford to be enemies. The most and the least we can hope to do is to develop a process, a process in which we negotiate about our differences, resolve them where possible, but develop a process where we learn to live with those differences rather than die with them.

You can call this détente, you can call it peaceful competition, you can call it cold peace. But it is infinitely to be preferred to the alternative, which is continued confrontation in a hostile way and possible nuclear annihilation.

Now I guess what I find somewhat troublesome about my colleague, my friend from Georgia's remarks, is that they appear to be geared toward that continued confrontation in a hostile way that Mr. Nixon so strongly advises and advisedly says we should not pursue. He is not naive and neither am I. Neither the superhawk chorus or the superdove chorus will serve this country well.

I guess I came to the floor to tell the gentleman that I think that it is unfair to characterize this issue in polarizing terms because that is not going to help resolve our problems with the Soviet Union. It is best to characterize them in the way President Nixon did.

Mr. GINGRICH. Let me say to my good friend that in fact I happen to agree almost precisely with President Nixon. I think if I look confrontational it is because I seek a confrontation with what President Nixon called the superdoves.

But let me quote, because it is very close to what Nixon said, Winston Churchill in his great speech on the Munich Agreement, which was made on the floor of the House of Commons, October 5, 1938:

You have to consider the character of the Nazi movement and the rule which it implies. The Prime Minister desires to see cordial relations between this country and Germany. There is no difficulty at all in having cordial relations between the peoples. Our hearts go out to them. But they have no power.

□ 1700

You must have diplomatic and correct relations, but there can never be friendship between the British democracy and the Nazi

power, that power which spurns Christian ethics, which cheers its onward course by barbarous paganism, which vaunts the spirit of aggression and conquest, which derives strength and perverted pleasure from persecution, and uses, as we have seen, with pitiless brutality the threat of murderous force. That power cannot ever be the trusted friend of the British democracy. What I find unendurable is the sense of our country falling into the power, into the orbit and influence of Nazi Germany, and of our existence becoming dependent upon their good will or pleasure. It is to prevent that that I have tried my best to urge the maintenance of every bulwark of defense * * * It has all been in vain. Every position has been successively undermined and abandoned on specious and plausible excuses.

My point is this: If you are saying to me we should negotiate with the Soviets, I agree. If you are saying to me we should find a method by which we can both live on the same planet, I agree. If you are saying to me that in the long run—and I happen to believe the Soviet State will survive for a century or more, barring a major war—that there is no reason to believe that a large, great secret policy state gives up just because it gets tired, I agree. Having said that, I would then come back to my good friend, though, and say to you: The greatest danger to the survival of freedom on this planet is the "superdove self-deception," to use the Nixon term, what I would have called the radical self-deception about the core nature of the Soviet state.

If our friends on the left were to come in and say, "All right, how are we going to be tough enough to survive with the Soviets while being peaceful enough not to threaten their existence?" we would have a whole new dialog. But instead we have—and I think we could cite you, out of the last 3 or 4 days' CONGRESSIONAL RECORD—case after case after case of our close friends, decent, honorable, intelligent people, who walk on this floor and say, "It is the United States which is at fault."

I will give you one example off this floor. Schlesinger has in today's Wall Street Journal a column entitled "Mr. Reagan's War in Central America," which I would suggest is like talking about the Battle of Britain as Mr. Churchill's war. It is not Mr. Reagan's war in Central America. It is a Soviet-inspired, Soviet-supported effort which uses the problems of poverty in order to try to impose a foreign tyranny.

I will be glad to yield to my friend from Minnesota.

Mr. WEBER. I thank the gentleman from Georgia for yielding, and I thank the gentleman from Kansas for joining in this debate.

I would just like to ask a question of the gentleman from Kansas or ask him to join in a discussional topic, because I appreciate his coming down here to engage in this debate.

I also appreciate your attempt to focus not just on the problems of what we may refer to as the superdoves but on the problems with the superhawks as well. That subject deserves discussion.

The point that I want to make and the point that I think is so troubling to some of us—and I made it a few moments ago with our colleague, the gentleman from California (Mr. BROWN)—is that when we discuss the superdoves, as they are called by Mr. Nixon, as our colleague referred to them, we do not get the opportunity to have a realistic, sensible, open discussion in which people's motives are not judged. We are hit, as we were last week, with the scream "McCarthyism."

And the point I want to make is, we are not trying to impugn anybody's patriotism by challenging the judgment of the superdoves any more than the gentleman from Kansas is by challenging the judgment of the superhawks.

And if the gentleman from Georgia would yield to him, I would ask the gentleman for his response on that point.

Mr. GLICKMAN. If the gentleman will yield, I would say I am not getting too hung up on labels here, although I do not like the labeling process. I came down here because I am trying to figure out a way that we can avoid a nuclear catastrophe, at the same time recognizing that Nixon had a very good point that what we have to pursue are balanced policies.

Now, I would submit to the gentleman that I think opposites attract in this world, and one of the reasons that has happened is in many respects the methodology of the superdoves and the superhawks are not altogether that different. There is a level of intolerance exhibited by both, and I reject that, and I would hope all gentlemen here do the same thing. But the fact of the matter is that, as Nixon talked about, what we are trying to do is to avoid confrontation in a hostile way and nuclear annihilation.

Let me go back to the Soviet Union during the Nixon years. Really, it is amazing that I am down here as a Democrat, who basically detested our former President, and then citing him chapter and verse. It is something I thought I would never do many years ago. But during those years, we saw lots of things happen. We saw cultural and scientific exchanges increase rather dramatically. By the way, these were continued into the Ford years and the early Carter years as well. We saw large numbers of Soviet Jews leaving that world, in the neighborhood of 40,000 and 50,000 a year. We saw agreements, nuclear nonproliferation treaty agreements, and others as well. And they were not agreements made out of weakness. They were agreements made out of equal bargaining powers.

And I am saying is that the splits between right and left and the name calling that is occurring both in this country and between us and the Soviet Union are not doing any of us any good in terms of trying to find an end to this process.

Now, let me make one other point the gentleman from Georgia made—and I think he makes some good points here. I did not come down here to engage in any personal name calling, as I hope the other gentleman said. We are talking about Central America and talking about Soviet-dominated war in Central America. Sure, the Soviets and the Cubans are involved. But Nixon makes another interesting point, talking about Central America. He emphasizes the historical poverty in that part of the world very dramatically, and then he said this: The people of these countries have enormous problems. The trouble is that the Communists at least talk about the problems, and too often we just talk about the Communists.

Now, I think that point is also a very constructive one. We have to be concerned about the Communists. I do not want the Cubans and the Soviets dominating Central America. But I also recognize that in many areas of the world they have been lots smarter than we have been. They have gone in and dealt with housing and medical care—at least talked about it. And I would hope that we would be smart enough to follow Mr. Nixon's advice and do the same thing, not only being concerned about the military incursion by the Soviet Union and Cuba, but also being concerned about the ultimate problems that will decide whether we will win or not in that region of the world.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman from Georgia for yielding.

I think the gentleman makes an excellent point. I would just say I think that our policy in Central America answers that criticism by view of the fact that over 70 percent of our aid to that region of the world is economic and aimed at improving the economic conditions of the people that live there. So I think the gentleman made a good point.

But I want to return to the point I made earlier, because it is very important to us on this side of the aisle, particularly those who have been involved in this debate. The gentleman made an interesting point when he said there is an intolerance shared by both the "superhawks" and the "superdoves," to use Mr. Nixon's phraseology. And I would agree with that.

When the gentleman from California (Mr. BROWN) was on the floor a little while ago he mentioned that when he first ran for office he was accused by some rightwingers as being a Communist sympathizer. I would just ask the gentleman—and I am not trying to embarrass him, I am trying to make an important point—would he agree with me that for rightwingers to call liberals Communist sympathizers is the equivalent of the superdoves calling us McCarthyites in response? Would the gentleman agree with me that there is a qualitative equality of that labeling that prevents discussion of real issues?

□ 1710

Mr. GLICKMAN. Name calling is bad. In one case you are talking about making a judgment on their substantive political views; in the other case you are talking about a style. McCarthyite is more of a style rather than a substantive issue. However, saying all of that, I would hope that the rule of reason begins to dominate this place again, and that we try to deal with what we want the policy of this country to be rather than getting involved in personalities or what kind of lashing out has been done in the previous months or years.

Mr. GINGRICH. I think it is fascinating that Richard Nixon is being resurrected as a foreign policy guru, and I think with some reason. I think he is in fact in foreign policy probably the most thoughful and intellectual American President, at least since Eisenhower, in terms of having a real sense of how you use power and how you think about power. Of course, from the standpoint of the American left, he is currently saying we need to be sort of reasonable; we need to act as adults toward the Soviet state.

Let me carry you back for a minute and remind you that Nixon's greatest contribution in creating détente was to argue that you have to be tactically very, very tough. This is, after all, the Richard Nixon who invaded Cambodia and said afterward: "I did it to prove to the Russians that I was unpredictable and they could not count on me being pushed around."

Mr. GLICKMAN. I knew the gentleman would cite an example that I might not totally agree with.

Mr. GINGRICH. It is very important. I mean if American liberals and American moderates are going to resurrect Nixon, they need to really listen in context to what he is saying, because otherwise it becomes a dialog that distorts.

Nixon also was very explicit in 1972 in bombing Hanoi during the Christmas bombings, in mining Haiphong Harbor in the spring, and I remember vividly, because I was a college professor at the time, and all sorts of liberals jumped on television, including people as sophisticated as Zbigniew Brzezinski and said, Oh, Richard Nixon has destroyed the trip to Moscow.

Nothing at all like that happened. The Russians looked on while we bombed their ally, while we sealed off the harbor, and they said: "Why do you not come to Moscow and let us have a great meeting on détente, because that is tactical down there, and we accept your right to be very tough, and we will deal with you."

Without mentioning any names, we quote in this study four leading people who I would call radicals, who I guess Nixon would have called superdoves, who said in context at the time, "Look how horrible Richard Nixon is doing all of this stuff."

We quote later another very, very intelligent guy, I just want to give you a flavor of where we are coming from in terms of a quote, without mentioning any specific names, but it is part of what bothers me so deeply, because I think it creates this framework.

He says, "I come before this committee today and ask my God why are we still financing the almost inconceivable suffering that the people of Vietnam have endured in addition to the military situation we know see the final degradation of the society in Vietnam."

He goes on to say, "Our military aid is not saving these people, it is murdering them."

Later, talking about Cambodia, "We must not prolong the agony. It is time that we allow the peaceful people of Cambodia to rebuild their nation. The administration has warned that if we leave, there will be a bloodbath. But to warn of a new bloodbath is no justification for extending the current bloodbath."

Now my point would be this: If you are going to rebuild Richard Nixon and his foreign policy, and you are going to say, you know, this guy has some very useful insights, you have to start with the understanding that Dick Nixon was for being very, very tough close up. I suspect that Nixon's policy advice on El Salvador and Nicaragua would shock the very people who are applauding him now about dealing with the Russians. I would say to you and then I would be glad to yield to you, I am not a superhawk, despite what some of your colleagues probably think. I am a very tough-minded son of a career soldier who has spent 25 years studying history. I think that the Soviets are going to be around a very long time; I personally am willing to do an awful lot and take a lot of heat from the Speaker to keep telling what I think is the truth precisely so that we neither go to nuclear war nor end up in a situation of collapse.

I think it is a very tough road for us to build and I am very grateful to the gentleman from Kansas for coming and participating in this kind of dialog about what I think may be literally the question of survival as a nation.

I yield to the gentleman from Kansas.

Mr. GLICKMAN. I had the good fortune of being in the Soviet Union last July when Congressman FOLEY took a bipartisan delegation, you are probably aware of the trip, many Members of your side went, and we had our final banquet at St. George's Palace, which is a beautiful place inside the Kremlin, and I was sitting next to a man Yuri Zhukov, who has been affectionately referred to by many as the butcher of Moscow. He was sitting right next to me. It concerned me as he was eating his dinner and being called that.

But in any event, as we were sitting there, he asked me, he said, your President, Mr. Reagan, is too provincial. I said what do you mean? He said, he is always trying to push us to the wall, he is always calling us mean names, he is always engaging in hostile rhetoric, he is always trying to make us the evil person of the world. He said, he called me young man, he was much older than me, he said that in the very room that you are in right now, in 1972, I believe it was Richard Nixon came to Moscow, you referred to it, to sign I believe the Nuclear Nonproliferation Treaty, one of the treaties that were being signed. He said to me, imagine that man came to Moscow at the very time that we had either begun or were engaging in the bombing of Haiphong Harbor. He said that he still had the courage to come here to this place to sign this treaty. I said, what is your point.

He said, my point is is that Mr. Nixon showed us respect; your current President does not. Now, I think that has two illustrative points to it: One, is that firmness and strength is important, and I do not deny that. The other thing is that Richard Nixon had a pretty intuitive knowledge of what the Russians were all about. Who they were afraid of; what set their hair on edge. What did not. What were the kinds of things that would result in demonstrably peaceful conduct, and what were not.

My point is is that I would very much like in the current policy of this Government, regardless of who is in power, that we could have policymakers to understand the Soviet psyche. The second point is that, yes, there is a lot of extreme name calling here, but some people perceive that the current administration is way over in the superhawk side of the picture. That brings out a lot of people on what you would call the superdove side of the picture to try to bring some balance. After all, President Reagan is our Chief Executive; my party is not run-

ning the country. The current President is.

I guess my point is that I felt that Nixon's comments in the Post and the ones that he made to the newspaper editor reflected some of the commonsense middle ground that we all need to pursue.

Mr. GINGRICH. I think you are right.

Let me pick up on that for just a second because, for example, President Reagan last year shocked many moderates and liberals by talking about an evil empire. It fits exactly the Soviet sense of being insulted and being treated without respect.

One of the problems that we face in this country, and I do not know how we ever work this out and maybe it is not doable in a free society; but somehow if there are enough superdoves or radicals running around saying that Soviets are reeling all right. Again, several quotes we used without mentioning any names but said in effect, gee, we forced the Soviets psychologically to shoot down the Korean airliner because we have made them frightened.

I think that is nonsense. There are a lot of good reasons why the Soviets are a paranoid state; I think they would be a paranoid state, frankly, if they had antiaircraft systems in San Francisco. I think it is nature of Soviet history to be relatively paranoid. We do not have a method right now, I say to the gentleman from Kansas, to calmly and methodically teach ourselves as a country that; (a), they are a dictatorship; (b), they are dangerous; (c), we are going to have to be very tough with them in specific cases; and (d), we are going to have to learn how to live with them.

Somehow, when the right says my God, look how terrible they are, the left suddenly says, no, no, that could lead to nuclear war, let us emphasize how reasonable they are, at which point, as you just suggested, the right then says boy, I better yell even louder how terrible they are. You presently get this cacophony of confusion and part of what I think we are seeking to do in the House is to first of all, stop everybody in their tracks, and I think we are close to being able to begin to do that, and say wait a second, a lot of this stuff is crazy. If it is crazy for a superhawk to talk about the collapse of the Soviet Union, and I think it is; I do not think the Soviet Union is going to disappear. It is equally crazy for our good friends on the left to get up and say things that are just goofy in terms of historical reality.

If we cannot get to some kind of negotiated truce on language, then I can tell you those of us on our side are going to take a very tough, hard-nosed stand because, and I think I could cite dozens of cases, the language itself ends up corrupting the debate.

If we are told over and over again that killing four Americans in El Salvador is worse than anything the Sandinistas have done, or worse than anything Castro has done, then we have a problem. How can you exist in the real world if again to quote Churchill and to paraphrase Churchill in the thirties, if the whole question of survival in 1938 is the Czechs persecuting the Nazis and the whole point of Munich is the Czechs beating up on the poor Germans, then you cannot talk about reality.

□ 1720

So we are trying to learn, and it is a difficult and painful process, I concede to my good friend from Kansas, we are trying to learn how to set a tough standard both for our friends on the left and how to encourage them to set a tough standard back for those who are superhawks, and let us begin a serious debate about how the United States is going to survive in the late 20th century and lead the Western Alliance and extend and develop freedom and ultimately, in Nixon's very felicitous phrase, make peace more profitable for the Soviet dictatorship than war could ever be.

Mr. GLICKMAN. If the gentleman would yield for one final point, it is that because of the nuclear genie, the stakes are different than they were 15, 29, 30, 40 years ago, and that is why I am hopeful that the goofiness of the right and the goofiness of the left can give way to the commonsense of the middle, which is where most solid, sound decisions are made in the foreign policy of this world.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I would be delighted to yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

Mr. Speaker, I would just say to my colleague from Kansas as he leaves, I appreciate his participation in this discussion. I think he has contributed a lot, and I just have to make my point again.

Obviously the gentleman has paid some attention to what we are talking about here, and I hope the gentleman sees, although he may not agree with everything we are saying by any means, that we are not impugning anyone's Americanism or anyone's patriotism. We have disagreements that are rather substantial, but there is no attempt in anything that we have said here to bring into question anyone's motives, anyone's Americanism or anyone's patriotism.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. GINGRICH. I thank the gentleman for his very fine contribution.

Let me go on and take a step toward wrapping up by making two points, one from the New York Times yesterday, an editorial entitled "Interventionism, Without Humbug." The problems of survival in a dangerous world are not new. In 1859, John Stuart Mill wrote an essay called "A Few Words On Non-Interventionism." Fascinating, is it not, that over 100 years ago in England a great philosopher could be writing about exactly what we are worried about today in America? He said something, and I want to quote from the New York Times, not a normal source, you might think, for a GINGRICH quote:

> The conflict in El Salvador is triangular. Marxist guerrillas get sustenance from Cuba and Nicaragua, though its magnitude may not be crucial. The right-wing Arena party led by Roberto d'Aubuisson has been generously bankrolled by wealthy Salvadoran exiles in Florida. In the middle stand the reformist democrats led by Mr. Duarte. To deny them aid would be a nonintervention that only rewards interventionists.
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> No one has described the underlying dilemma better than John Stuart Mill. To be morally legitimate, he wrote, nonintervention needs to be respected by all: "The despot must consent to be bound by it as well as free states. Unless they do, the profession comes to this miserable issue—that the wrong side may help the wrong, but the right must not help the right."

I would suggest that the first issue we wish to raise is the fact that the Soviet Union clearly is directly involved, the fact that the Soviets and their Cuban colony are directly involved, the fact that there is a war going on in El Salvador which would not go on in its current form if the Communists were not pouring massive amounts of aid and supplies into Nicaragua.

Let me close with a book review from this weeks Time magazine, May 28, which I hope will explain for most people why we take this so seriously. It is a new novel called "The Retreat" by Aharon Applefeld, an Israeli novelist. Let me quote from the book review:

> In Austria toward the end of the 1930's, Jewishness is a defect; there can be no denying such a truth. But life itself is far from perfect, and there is no room to despair because of that. Perhaps the fault is correctable, a matter of inflamed nerves, bad habits, insufficient exercise. A few months in clean mountain air should help. Early bedtime, rise at dawn. Plain food. Hard work. Early morning runs. Reform is possible. Anything is possible.
>
> The savior in whom this earnest vision burns is a prosperous Jewish horse trader named Balaban. He buys an old mountaintop hotel, formerly a monastery, near Vienna and issues a prospectus promising horseback riding, swimming, and the painless eradication of embarrassing gestures and ugly accents. And soon the place is filled with aging Jews of both sexes who have become burdens to their assimilated children.
>
> What Israeli novelist Aharon Applefeld relates in this brief, matter-of-fact story, more parable than novel, is the dissolution of life at the imagined spa. In volume after

volume the author has been obsessed with the time of clouded horror just before the Holocaust. Two previous novels, "Badenheim 1939" and "The Age of Wonders," take place in prewar Austria. "Tzili: The Story of a Life," is a fictional account partly based on Applefeld's escape from a concentration camp at the age of nine and his three years of hiding from the Nazis in the Ukrainian countryside.

In "The Retreat" there is no mention of Nazis or prophecy of war. Most of the inmates have come to the mountain because their lives have fallen apart: they have lost jobs, perhaps, or were embarrassments to their families. They are uneasy, but not really frightened, and certainly not indignant. No one, including the leader Balaban, thinks of protesting against abuse and prejudice. Other groups have defects, too, admits one guest who is stalwartly trying to rid himself of tainted habits by the prescribed self-help routines. "But their defects are healthy. People say that the Austrians are heavy drinkers. Of course they are, but that, if it can be called a defect at all, is a healthy defect . . . If only the Jews knew how to drink . . . they would surely be different.

Things get worse in the mountaintop hostel; the men who descend to the village to buy provisions are beaten up regularly. Yet no one thinks this strange; no one seems to be afflicted by a foreboding of doom. The book ends flatly, without the customary distant rumbling of a world's end, and with no sense of cautionary exhortation by the author. Any such message—that tribalistic savagery is mankind's eternal, bone-bred evil, perhaps—would be excessive. Applefeld simply and affectingly bears witness, and in the end, his sole, muted voice is more effective than a choir and louder than a roar.

I bring back again and again the Nazis, and I talk about the Soviets as Nazis of the left for a reason. The reason, stated by Winston Churchill in a speech called "The Defense of Freedom and Peace," an address to the people of the United States of America, October 16, 1938:

> No one must however underrate the power and efficiency of a totalitarian state, where the whole population of a great country, amiable, good-hearted, peace-loving people, are gripped by the neck and by the hair, by a Communist or a Nazi tyranny, for they are the same thing spelled in different ways. The rulers for the time being can exercise a power for the purposes of war and external domination before which the ordinary free, parliamentary societies are at a grievous, practical disadvantage.

So today, in summary, I have quoted from Churchill that the Nazis and the Soviets are remarkably alike. I have quoted from Harry Truman that the Nazis and the Soviets are remarkably alike. And I have quoted exhortations from Churchill again and again to learn the lessons of history. I simply close by saying that the purpose of the Gregorsky study was to lay out a 14-year track record to raise the question: Is it not time we woke up and learned to talk honestly and candidly and responsible about how freedom will survive on a planet in which there is a Soviet tyranny, on which both sides do have nuclear weapons, and on which honest, constant self-criticism and willingness to learn and to think may be the cost of freedom?

THE FAIR TAX ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada (Mr. REID) is recognized for 60 minutes.

Mr. REID. Mr. Speaker, political rhetoric about everything from Federal budget deficits to economic "yo-yo" trending, to proposed tax reforms—all incorporate one main theme. After all of the jargon and highly polished vernacular are reduced to their simplest terms, one fact remains: You can only spend what you have. When your pockets are empty the spending either stops or you get more money.

Of course, economic policymaking at a Federal level requires greater definition and detail. But, again, the principle is the same. We are all looking at the difference between what money comes in and how much goes out.

For a moment, let us take a careful look at this economic issue—a situation complicated by evolution. In reviewing this pressing dilemma, it is clear that a mandate exists; a directive to redefine our practices and policies in order to provide for our Nation's economic survival.

Because of the interrelationships between budget deficits—spending more than you have and taxation reform, trying to adjust the amounts of money coming in to cover those deficits—we will need to study the interaction of these economic principles throughout our analysis.

Let us begin with the Federal budget deficit. This deficit struggle reflects both partisan and ideological differences over the size and role of the Federal Government and how high taxes must be to support that Government.

Up to this point we have been toying with piecemeal solutions to our budget problems. We've adjusted taxes in particular industries or made some relatively minor cuts in spending. But, these sporadic bursts of change have been short lived and their overall impact just as ineffectual.

The time for tinkering has expired. Experts in economics agree we have reached the time when change is imperative. Our Government's revenue base has eroded to the point that the economy will not survive without drastic change.

Economists concur that the concern over Federal deficits is the necessary political fuel needed to prompt reform.

Recently, we Members of the House devoted time and energy to finding ways to reduce the Federal deficit.

After considering eight complex budget proposals, we approved a pay-as-you-go plan which I have always supported—to set targets for tax and spending levels.

Under this plan, during the next 3 years, we would experience a $182 billion reduction in Federal deficits.

Spending for social security, Defense, and programs for the poor would be allowed to rise with inflation.

All other programs would be allowed to rise only 3.5 percent or less than the anticipated inflation rate of about 5 percent.

In addition defense and discretionary progams for the poor would be allowed to rise another 3.5 percent, as long as offsetting tax increases are approved.

Again, that brings us back to the need for a change in our tax system. The time has come—with the national debt reaching trillion-dollar figures—to create and carry out crucial tax reform.

A word of warning: Any tax reform we design will not become the means to scoop in billions of new dollars in revenues. Realistically, such reform would succeed if it could insure that our current revenue base would not disintegrate further.

This would be a good place for us to use history as our guide, to turn the pages of the text, to learn what our tax system was designed to do, and why it can no longer perform that task successfully.

In its simplest form personal income tax was first levied during the Civil War to help defray the costs of the conflict. That early rate of 1 percent was raised to 3 percent when the war's expenses grew. Even then exemptions were carved out, including a $600 personal exemption.

In 1872 that tax system expired and for 50 years the country had no personal income tax provisions. Opponents argued that such a tax violated the constitutional requirement that direct taxes be apportioned among the States according to population.

It was not until 1913 that this particular argument was nullified with the ratification of the 16th amendment to the Constitution. The amendment simply stated that:

> Congress shall have the power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

Later that year Congress enacted the income tax which Americans have been paying ever since.

During the decades that followed, Congress has raised and lowered the rates. It has added and subtracted exemptions and credits to provide incentives for a broad spectrum of public policies. Unfortunately, however, these many exemptions, credits, and deductions have worked only to reduce the total revenues that the Govern-

ment collects in taxes, thus, substantially eroding the tax base.

Therefore, efforts to broaden the tax base must be a top priority at this time. In fact, according to the Congressional Budget Office, comprehensive income tax base broadening would allow significant reductions in tax rates while maintaining the same revenue yield.

Another reason for broadening the tax base involves equity and simplicity.

The current Tax Code is so riddled with loopholes and exemptions that taxpayers with the greatest means often pay fewer tax dollars than less affluent Americans

Not only do many millionaires payless in taxes than people earning under $20,000 a year, but there are even disparities between taxpayers earning the same salaries.

The current system technically permits, and even encourages avoidance schemes like tax shelters that cut at the tax base even more. Another offspring of the current tax system is the underground economy which encourages bartering and cash-only transactions—both highly undetectable under today's tax structure.

The ways and devices to skirt the system continue to grow. So the proposal of any reform naturally finds opposition from the people who benefit most from status quo. The power of special interests actually has the potential to become one of the biggest obstacles to revamping the tax system.

And we must be aware that these vested interests will fight to preserve the system, as it is, whether that special interest is for charitable institutions or homeowners or people who buy on credit, or the hundreds of tax sheltering schemes. Virtually anyone who gets the benefits from the current law will not want to lose those benefits.

However, this system is not working. We are running out of alternatives that could work. That is why I want to explain the Fair Tax Act, a proposal that I am sponsoring with full commitment and belief that this legislation is the most feasable solution to this ever-spiraling economic nightmare.

The basic concept is this: If you cut rates and close loopholes simultaneously, then you get economic growth. You can pass along the benefit of lower taxes while, at the same time, provide equitable benefits.

Under the bill there would be three broad tax rates for individuals, 14 percent, 26 percent, and 30 percent—depending on an individual's income—and a single 30-percent corporate rate.

Scores of deductions, credits, and exclusions would be repealed so that the lower rates would apply to substantially broader income bases. In fact, the way the bill is structured roughly four out of five taxpayers would pay only the 14-percent rate.

The 14-percent rate is the basis of this tax system. Everyone would pay at this rate.

A surtax rate of 12 percent, which is a 26-percent combined rate, would be levied on income between $25,000 and $37,500. This 26-percent rate, for joint returns, would apply to joint incomes of between $40,000 and $65,000.

The surtax rate of 16 percent, which is a combined rate of 30 percent, would apply to higher incomes.

This bill, while eliminating many existing loopholes, preserves certain deductions, credits, and exclusions which are generally available to most taxpayers.

The $1,000 exemptions for dependents, the elderly, and the blind would be retained.

Deductions which could only be taken against the 14-percent basic rate would be retained for home mortgage interest, State and local income and real property taxes, charitable contributions, medical expenses—exceeding 10 percent of income—IRA and Keogh contributions, as well as exclusions for veterans' benefits, social security benefits, and interest on general obligations bonds.

The standard deduction for those who do not itemize would be increased to $3,000 for individual returns and $6,000 for joint returns. A family of four could earn up to $11,200 before owing any taxes.

As I mentioned earlier, the effect of the Fair Tax Act on corporations would be measured in terms of a single 30-percent tax rate. While this would leave the level of corporate income tax revenues virtually unchanged, the bill would do away with most of the tax preferences that now selectively reduce tax liability and distort investment decisions.

By and large, the Fair Tax Act would accomplish several objectives. It would broaden the base of the individual and corporate income taxes. The legislation would significantly reduce tax rates. It would flatten out the rate schedules of the individual income tax and would simplify the tax laws by eliminating most credits, deductions, and exclusions. Despite all of these drastic changes the Fair Tax Act would raise about as much money as current law does.

The bill also avoids shifting the tax burden among income groups. Rather, it equalizes the tax bills of various people with comparable income, regardless of its source.

It was once said that care should be taken that taxation be done in a manner not to benefit the wealthy few at the expense of the toiling millions.

These words were spoken in 1865 by President James K. Polk.

It is obvious that the sentiment is not new and the objectives have remained constant.

What is new, and workable, is the Fair Tax Act, an opportunity that could benefit our Nation in terms of reduced budget deficits and equitable tax treatment.

We all agree with Justice Holmes when he said in an opinion, "Taxes are what we pay for civilized society," but I believe that the tax direction of this Nation has been too long directed by bureaucrats within the Internal Revenue Service, as an example, and not this Congress.

In the Federalist papers, James Madison directed that setting the tax policy was the most important duty of a legislature.

And as another judge said, Justice Musmano, "it is true that taxes are the lifeblood of any government, but it cannot be overlooked that the blood is taken from the arteries of the taxpayers and, therefore, the transfusion is not to be accomplished except in accordance with the scientific methods prescribed by the sovereign power of the state"—that is this legislature, this Congress.

I direct all my colleagues' attention to the Fair Tax Act, because it would certainly meet the needs of our constituents.

□ 1740

DEPARTMENT OF THE INTERIOR DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-224)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, May 21, 1984.)

COMMUNICATION FROM THE HONORABLE. BRUCE A. MORRISON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. BRUCE A. MORRISON:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 18, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Office of the Speaker, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: This is to inform you, pursuant to House Rule 50, that Bennett Pudlin, the Director of my District Office, has been properly served with a subpoena to testify in a civil matter before the United States District Court, District of Connecticut, on May 29, 1984. The testimony sought

involves Mr. Pudlin's performance of his official duties as an employee of the House of Representatives.

In consultation with the General Counsel, I shall make the determinations required by House Rule 50 and inform you of the result.

Sincerely,

BRUCE A. MORRISON,
Member of Congress.

REPORT ON THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

(Mr. HUGHES asked and was given permission to extend his remarks.)

● Mr. HUGHES. Mr. Speaker, recently, the New York Times published a story about a confidential report prepared by Bud Mullen, the Administrator of the Drug Enforcement Administration, for the Attorney General, which was critical of one of the administration's antidrug initiatives, the National Border Interdiction system, called NNBIS.

NNBIS was developed in the spring of 1983 after the President had been criticized for vetoing the omnibus crime bill of 1982 because it included a provision establishing a so-called drug czar.

I have not seen Bud Mullen's report to the Attorney General but the excerpts in the Times indicate that he raised some of the same concerns that the Subcommittee on Crime has been voicing about this administration's development and direction of drug enforcement. Bud Mullen is to be commended for honestly raising these issues within the administration. For too long this administration's drug policy has been steered with an eye on the press releases and not with an eye on the results.

The bottom line is bad: In 1983 more drugs were smuggled into the United States than in 1981 when this administration took office. The price of heroin on the street has gone down, and the wholesale price of cocaine has plummeted. These price drops are basic indicators that we still have yet to hit the drug smugglers where it hurts.

One of Bud Mullen's points is that the administration public relations campaign surrounding the creation of NNBIS has undermined the morale of the Drug Enforcement agents, the customs agents, the FBI agents, the BATF agents, and the Coast Guard personnel who actually make the investigations, the seizures, and the arrests because the NNBIS bureaucracy at the White House takes credit for their hard work. This hurts our effort.

The lesson from this flap is that until our Drug enforcement policies are developed and directed with unity and coherence, the separate fiefdoms will continue.

Some 33 Members have joined in sponsoring H.R. 4028 to provide for an effective, Cabinet-level drug director. We need a strong hand to direct drug enforcement efforts in the streets and the air and sea routes through which drugs flow to our country, not in the Nation's newsrooms.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HAMMERSCHMIDT (at the request of Mr. MICHEL), for May 21 and 22, on account of attending the Windsor Conference on the Role and Impact of Unions in a Free Enterprise Economy.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STANGELAND) to revise and extend their remarks and include extraneous material:)

Mr. CAMPBELL, for 60 minutes, May 24.

Mr. MCEWEN, for 60 minutes, June 4.

Mr. MCEWEN, for 60 minutes, June 5.

Mr. MCEWEN, for 60 minutes, June 6.

Mr. MCEWEN, for 60 minutes, June 7.

(The following Members (at the request of Mr. DE LA GARZA) to revise and extend their remarks and include extraneous material:)

Mr. REID, for 60 minutes, today.

Mr. BROWN of California, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. BROWN of California, for 60 minutes, May 22.

Mr. HEFTEL of Hawaii, for 60 minutes, May 22.

Mr. DOWNEY of New York, for 60 minutes, May 22.

Mr. SIMON, for 60 minutes, May 24.

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, May 24.

Mr. GINGRICH, for 60 minutes, May 30.

Mr. GINGRICH, for 60 minutes, May 31.

Mr. GINGRICH, for 60 minutes, June 1.

Mr. WALKER, for 60 minutes, May 24.

Mr. WALKER, for 60 minutes, May 30.

Mr. WALKER, for 60 minutes, May 31.

Mr. WALKER, for 60 minutes, June 1.

Mr. WEBER, for 60 minutes, May 24.

Mr. WEBER, for 60 minutes, May 30.

Mr. WEBER, for 60 minutes, May 31.

Mr. WEBER, for 60 minutes, June 1.

Mr. MACK, for 60 minutes, May 24.

Mr. MACK, for 60 minutes, May 30.

Mr. MACK, for 60 minutes, May 31.

Mr. MACK, for 60 minutes, June 1.

Mr. LUNGREN, for 60 minutes, May 30.

Mr. LUNGREN, for 60 minutes, May 31.

Mr. CRAIG, for 60 minutes, May 30.

Mr. CRAIG, for 60 minutes, May 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROOKS, to revise and extend his remarks prior to the passage of H.R. 4209, today.

Mr. BROOKS, on H.R. 5517, prior to the vote on passage, today.

(The following Members (at the request of Mr. STANGELAND) and to include extraneous matter:)

Mr. NIELSON of Utah.

Mr. KEMP.

Mr. MCKERNAN.

Mrs. JOHNSON.

(The following Members (at the request of Mr. DE LA GARZA) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. GAYDOS.

Mr. SOLARZ.

Mr. HAMILTON.

Mr. WAXMAN.

Mr. COLEMAN of Texas.

Mr. FAZIO.

Mrs. SCHROEDER.

Mr. FLORIO.

Mr. FORD of Michigan.

Mr. FEIGHAN.

Mr. RODINO.

Mr. LANTOS.

Mr. MOODY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2418. An act to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes; to the Committee on Public Works and Transportation.

S. 2678. An act to extend the authorities under the Export Administration Act of 1979 until June 28, 1984; to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4107. An act to designate the Federal building in Salisbury, Md., as the "Maude R. Toulson Federal Building"; and

H.R. 5515. An act to authorize the President to award the Medal of Honor to the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance;

S. 2079. An act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975;

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family week";

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week";

S.J. Res. 239. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week"; and

S.J. Res. 252. Joint resolution designating May 25, 1984, as "Missing Children Day."

ADJOURNMENT

Mr. REID. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 22, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3377. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the authority of the Secretary of Agriculture to refuse to provide, or withdraw, inspection service, pursuant to 31 U.S.C. 1110; to the Committee on Agriculture.

3378. A letter from the Acting Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the Army's plans to initiate the study of potential conversions from inhouse operation to commercial contract of various activities, pursuant to 10 U.S.C. 2304 at (Public Law 96-342, section 502(a) (96 Stat. 747)); to the Committee on Armed Services.

3379. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require motor vehicle dealers to remedy any motor vehicle or item of motor vehicle equipment that has been recalled for safety before selling or leasing it, pursuant to 31 U.S.C. 1110; to the Committee on Energy and Commerce.

3380. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50 million or more to the United Kingdom (Transmittal No. MC-20-84), pursuant to AECA, section 36(c) (90 Stat. 743; 94 Stat. 3136; 95 Stat. 1520); to the Committee on Foreign Affairs.

3381. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

3382. A letter from the Acting Comptroller General of the United States, transmitting a list of GAO reports issued or released in April 1984, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3383. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Inspector General, October 1, 1983 through March 31, 1984, pursuant to Public Law 95-452, section 5(b); to the Committee on Government Operations.

3384. A letter from the Governor, Farm Credit Administration, transmitting a report on FCA's activities under the Freedom of Information Act during calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3385. A letter from the Secretary of the Interior, transmitting copies of the financial exhibits of the Colorado River Storage Project and participating projects for the fiscal year ended September 30, 1983, pursuant to the Act of April 11, 1956, ch. 203, Sec. 6; to the Committee on Interior and Insular Affairs.

3386. A letter from the Acting Secretary of the Interior, transmitting a report on the Teton Dam claims program for the period January 1, 1983 through January 9, 1984, pursuant to Public Law 94-400, section 8; to the Committee on the Judiciary.

3387. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report dated November 10, 1983, from the Chief of Engineers, Department of the Army, on Great River resource management study, Great III, together with other pertinent reports, pursuant to Public Law 89-789, section 209; Public Law 90-483, section 219; Public Law 91-611, sections 216 and 217; Public Law 93-251, section 76; Public Law 94-587, section 117; ; to the Committee on Public Works and Transportation.

3388. A letter from the Assistant Secretary of the Treasury (Tax Policy), transmitting a report on the effectiveness in generating additional savings of the tax exemption on interest earned on certain savings certificates, pursuant to Public Law 97-34, section 301(c); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4567. A bill to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes; with amendments (Rept. No. 98-763, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 5297. A bill to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and other purposes; with an amendment (Rept. No. 98-793). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5642. A bill to authorize appropriations for carrying out the Hazardous Materials Transportation Act (Rept. No. 98-794, Pt. I). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5585. A bill to authorize appropriations for carrying out the Federal Railroad Safety Act of 1970, and for other purposes; with an amendment (Rept. No. 98-795). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOUCHER (for himself and Mrs. MARTIN of Illinois):

H.R. 5684. A bill to amend title 18, United States Code, to improve collection and administration of criminal fines, and for other purposes; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. LANTOS):

H.R. 5685. A bill to grant a Federal charter to the organization known as the Andrei Sakharov Institute; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H.R. 5686. A bill concerning U.S. membership in the United Nations Education, Scientific and Cultural Organization; to the Committee on Foreign Affairs.

By Mr. MITCHELL (by request):

H.R. 5687. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment and to transfer certain functions of the Small Business Administration to the Corporation; to the Committee on Small Business.

By Mr. MONTGOMERY (for himself, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. MCEWEN, Mr. EDWARDS of California, Mr. WYLIE, Mr. EDGAR, Mr. HILLIS, Mr. SAM B. HALL, JR., Mr. SOLOMON, Mr. LEATH of Texas, Mr. SMITH of New Jersey, Mr. SHELBY, Mr. DENNY SMITH, Mr. MICA, Mr. GRAMM, Mr. DASCHLE, Mr. BURTON of Indiana, Mr. DOWDY of Mississippi, Mr. SUNDQUIST, Mr. MARTINEZ, Mr. BILIRAKIS, Mr. EVANS of Illinois, Mrs. JOHNSON, Ms. KAPTUR, Mr. HARRISON, Mr. MOLLOHAN, Mr. PENNY, Mr. STAGGERS, Mr. ROWLAND, Mr FLORIO, Mr. HEFNER, Mr. BONER of Tennessee, and Mr. SIKORSKI):

H.R. 5688. A bill to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RODINO (by request):

H.R. 5689. A bill entitled the "Act for the Prevention and Punishment of the Crime of Hostage-Taking"; to the Committee on the Judiciary.

H.R. 5690. A bill entitled the "Aircraft Sabotage Act"; jointly to the Committees on the Judiciary and Public Works and Transportation.

By Mr. RUDD (for himself, Mr. ADDABBO, Mr. BADHAM, Mr. BRYANT, Mr. DANIEL B. CRANE, Mr. DOWDY of Mississippi, Mr. GRAMM, Mr. HAMMERSCHMIDT, Mrs. HOLT, Mr. HANSEN of Idaho, Mr. HARRISON, Mr. HORTON, Mr. KASICH, Mr. MCCAIN, Mr. MCEWEN, Mr. MCNULTY, Mr. ORTIZ, Mr. ROBINSON, Mr. ROE, Mr. SOLOMON, Mr. STUMP, Mr. UDALL, Mr. WYLIE, and Mr. YOUNG of Florida):

H.J. Res. 573. Joint resolution designating August 4, 1984, as "National Legion of Valor Day"; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ:

H. Res. 506. Resolution expressing the sense of the House of Representatives that the President of Mexico has been improperly impugned by an anonymous source in a U.S. newspaper column, and that the Government of the United States should apologize to the Government of Mexico for this attack; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

397. By the SPEAKER: Memorial of the general assembly of the State of Colorado, relative to the implementation by the Environmental Protection Agency of diesel emissions standards for both light and heavy-duty diesel-powered vehicles; to the Committee on Energy and Commerce.

398. Also, memorial of the House of Representatives of the State of Hawaii, relative to the appointment of at least one Hawaii resident as representative or alternate representative on the South Pacific Commission; to the Committee on Foreign Affairs.

399. Also, memorial of the legislature of the State of Minnesota, relative to establishing a National Academy of Peace and Conflict Resolution; to the Committee on Foreign Affairs.

400. Also, memorial of the legislature of the State of Minnesota, relative to the joint management by Minnesota and Ontario of their border waters; to the Committee on Foreign Affairs.

401. Also, memorial of the legislature of the State of Minnesota, relative to the persecution of the Baha'is in Iran; to the Committee on Foreign Affairs.

402. Also, memorial of the legislature of the State of California, relative to the 1984 Summer Olympic Games; to the Committee on Foreign Affairs.

403. Also, memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to deeding certain acres of land to the town of Nantucket; to the Committee on Interior and Insular Affairs.

404. Also, memorial of the legislature of the State of Minnesota, relative to the Commission on Wartime Relocation and Internment of Civilians; to the Committee on the Judiciary.

405. Also, memorial of the House of Representatives of the State of Hawaii, relative to reparations for Americans and resident aliens of Japanese ancestry and Alaskan Aleuts who were subjected to forced evacuation and incarceration in detention camps during World War II; to the Committee on the Judiciary.

406. Also, memorial of the legislature of the State of Oklahoma, relative to providing for judicial review of disability claims against the Veterans' Administration; to the Committee on Veterans' Affairs.

407. Also, memorial of the Legislature of the State of Minnesota, relative to providing medical care for former members of the military forces who were exposed to atomic radiation in the course of their duties; to the Committee on Veterans' Affairs.

408. Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the disparity and inequity of social security payments created by the notch year formula; to the Committee on Ways and Means.

409. Also, memorial of the legislature of the State of Minnesota, relative to H.R. 5081, the Fair Trade in Steel Act of 1984; to the Committee on Ways and Means.

410. Also, memorial of the legislature of the State of Arizona, relative to using copper canisters for the disposal of nuclear wastes; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RODINO introduced a bill (H.R. 5691) for the relief of Sutu Bungani William Beck; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2486: Mr. AKAKA.
H.R. 2578: Mr. MCCANDLESS.
H.R. 2700: Mr. MINETA.
H.R. 2766: Mr. MACKAY.
H.R. 3024: Mr. PAUL.
H.R. 3027: Mr. MINETA.
H.R. 3302: Mr. MCCANDLESS.
H.R. 3616: Mr. BARNARD, Mr. LOWRY of Washington, Mr. MAVROULES, Mr. STUDDS, Mr. BOSCO, Mrs. KENNELLY, Mr. WEISS, Mr. LUJAN, Mr. ROYBAL, Mr. WHITEHURST, Mr. SEIBERLING, Mr. HUGHES, Mr. AKAKA, Mr. HAMMERSCHMIDT, and Mr. FORD of Tennessee.
H.R. 4444: Mr. UDALL, Mr. PACKARD, and Mr. CHAPPIE.
H.R. 4460: Mr. RODINO, Mr. FISH, Mr. HYDE, and Mr. MOORHEAD.
H.R. 4567: Mr. WEAVER, Mr. MARTINEZ, Mr. BROWN of California, Mr. MOODY, and Mr. DELLUMS.
H.R. 4647: Mr. STANGELAND.
H.R. 4675: Mr. WILLIAMS of Montana, Mr. FEIGHAN, Mr. WEISS, Mr. LUNDINE, Mr. STARK, Mr. WHITLEY, and Mr. GOODLING.
H.R. 4760: Mr. ALBOSTA, Mr. OTTINGER, Mr. BEDELL, Mr. AKAKA, and Mr. CARPER.
H.R. 4772: Mr. BOEHLERT and Mr. BIAGGI.
H.R. 4850: Mr. FEIGHAN.
H.R. 5216: Mr. WHITLEY, Mr. DURBIN, Mr. DEWINE, Mr. JONES of Oklahoma, Mr. KASICH, and Mr. JONES of North Carolina.
H.R. 5335: Mr. MARTINEZ.
H.R. 5410: Mr. STARK.
H.R. 5459: Mr. RITTER.
H.R. 5511: Mr. WHEAT, Mr. OWENS, and Mr. STUDDS.
H.R. 5615: Mr. KINDNESS, Mr. WEBER, and Mr. ECKART.
H.R. 5624: Mr. OWENS.
H.J. Res. 71: Mr. THOMAS of California and Mr. CARPER.
H.J. Res. 89: Mr. GONZALEZ.
H.J. Res. 539: Mr. WAXMAN.
H.J. Res. 540: Mr. WAXMAN.
H.J. Res. 543: Mr. YOUNG of Missouri, Mr. HYDE, Mr. MCHUGH, Mr. ORTIZ, Mr. DAUB, Mr. KASICH, Mr. MCKERNAN, Mr. MARTIN of Illinois, Mr. MARTIN of North Carolina, Mr. PETRI, Mr. MONTGOMERY, Mr. PRITCHARD, Mr. LEVIN of Michigan, Mr. HANSON of Utah, Mr. CLAY, Mr. ASPIN, Mr. LENT, Mr. STOKES, Mr. MCCOLLUM, Mr. MARTINEZ, and Mr. CHAPPELL.
H.J. Res. 563: Mr. STENHOLM, Mr. DANNEMEYER, Mr. DARDEN, Mr. DERRICK, and Mr. BARTLETT.
H.J. Res. 572: Mr. MCHUGH, Mr. ALBOSTA, Mr. LEVIN of Michigan, and Mr. FAUNTROY.
H. Con. Res. 226: Mr. AUCOIN and Mr. UDALL.
H. Con. Res. 279: Mr. DAUB.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

367. By the SPEAKER: Petition of the Borough Council, Borough of Peapack and Gladstone, N.J., relative to cable television legislation; referred to the Committee on Energy and Commerce.

368. Also, petition of the Council, Borough of Middlesex, N.J., relative to cable television legislation; referred to the Committee on Energy and Commerce.

369. Also, petition of the Borough of Watchung, N.J., relative to cable legislation; referred to the Committee on Energy and Commerce.

370. Also, petition of the Spiritual Assembly of the Baha'is of Victor Judicial District, Apple Valley, Calif., relative to a resolution adopted by the city of Adelanto, Calif., regarding the Iranian persecution of the Baha'i community in Iran; referred to the Committee on Foreign Affairs.

371. Also, petition of the Board of Supervisors, County of Stafford, Stafford, Va., relative to the protection of local government from antitrust liability; referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5167

By Mr. LOWRY of Washington:

—At the end of title I (page 15, after line 5) add the following new section:

POLICY CONCERNING ACQUISITION OF ADDITIONAL PERSHING II MISSILES

SEC. . (a) Subject to subsection (c), funds appropriated pursuant to the authorization of appropriations in section 101(a) for procurement of missiles for the Army may be used to acquire not more than 70 additional Pershing II missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(b) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of intermediate-range nuclear missile weapons systems similar to the Pershing II intermediate-range missile weapons system authorized for the Army by this title and shall immediately transmit written notification of that determination to Congress.

(c)(1) If the President's determination under subsection (b) is that the Soviet Union is not acting in such a manner, the amount appropriated pursuant to the authorization of appropriations in section 101(a) for the acquisition of additional Pershing II missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under subsection (b), that—

(A) the obligation of such funds is in the national interest; and

(B) as of April 1, 1985, the United States is willing to act to further the control and limitation on the Pershing II intermediate-range nuclear missile weapon system authorized for the Army by this title.

(2) If the President's determination under subsection (b) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 101(a) for the acquisition of additional Pershing II missiles may be obligated. However, if after the determination under subsection (b) the President makes a further determination that the Soviet Union is not acting in good faith with respect to its willingness to take actions described in subsection (b) and transmits written notification of that determination to Congress, such funds may be obligated after the date of the receipt of that notification by Congress if, after that date, a joint resolution is enacted approving the obligation of such funds.

H.R. 5653

By Mr. ENGLISH:

—Page 11, line 15, strike out "$35,566,000," and insert in lieu thereof "$35,651,000,"; and on line 17, immediately before the colon insert ", of which $85,000 shall be available for the Northwest Oklahoma Water Study Project".

—Page 11, line 17, immediately before the colon insert ", of which $265,000 shall be available for the Kiamichi Hydropower Study, and $85,000 shall be available for the Northwest Oklahoma Water Study Project".

By Mr. OTTINGER:

—Page 21, line 5 (Energy Supply, Research and Development Activities):

Strike out "$1,986,149,000, to remain available until expended;" and insert in lieu thereof the following: "1,976,149,000 to remain available until expended; of which $577,853,000 shall be available for nuclear fission activities, of which $198,385,000 shall be available for solar energy activities, of which $202,100,000 shall be available for supporting research and technical analysis activities,".

SENATE—*Monday, May 21, 1984*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Commit Thy works unto the Lord, and Thy thoughts shall be established.—Proverbs 16: 3.

God of grace and glory, pressure begins to build: 5 days to Memorial Day recess—65 working days to target date for adjournment—ponderous issues to resolve—partisanship increasing—the relentless passing of time—and over all the imminence of conventions and elections. But this is the American way; and as our Founding Fathers needed Thy support and direction, no less do we.

Father in Heaven, give to the leadership special wisdom, understanding and patience, as they steer the Senate through troubled waters ahead. Grant to Senators up for reelection, wisdom to do what is proper to be elected—and courage to do what is right even at political risk.

Grant, O God, that as November nears, and the pressure grows, the Senators will fulfill their responsibility in ways worthy of the trust placed in them by the people. In the name of Him who was Truth Incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, under the order previously entered, after the recognition of the two leaders and a special order in favor of Senator PROXMIRE, there will be a period for the transaction of routine morning business until 1:30 p.m.

At the close of morning business, it is the intention of the leadership on this side to suggest the absence of a quorum, which I anticipate will be a live quorum. Senators should be on notice then of the possibility of a vote sometime shortly after 1:30 p.m.

The reason for this, Mr. President, is to establish the presence of a quorum, of course, but as well to firm up our estimate of absentees; because, frankly, the problem to the leadership on this side has been a difficulty in gaining the consent of Senators to go forward with a particular piece of sensitive legislation from the list of items that are available, for the very understandable reason that many Senators do not know how many Senators are here or, perhaps as a more practical matter, which Senators are here.

So, Mr. President, as I indicated on the 18th in my closing remarks, Senators should be on notice that there will be a vote today and that we will be in session and attempt to do significant work today.

I had hoped that we could proceed to the Wilkinson nomination today, and I am now advised that it may not be possible to do that until tomorrow.

I hope we can do the agent orange bill today, but I do not yet have a final report on the status of that measure. I do know that the Senator from Wyoming, the chairman of the Veterans' Affairs Committee, and the Senator from California, the ranking minority member, are still engaged in negotiations that may lead to a unanimous-consent order or a tacit understanding as to how we might proceed on that subject and to do so today. That is not yet complete.

I hope we may be able to do the bankruptcy bill, but negotiations in that regard are still underway.

It is the intention of the leadership on this side to ask the Senate to proceed, toward the end of the day, to the consideration of the debt limit bill reported by the Senate Finance Committee. That is somewhat unusual, in view of the fact that debt limit bills are revenue measures which are the unique constitutional prerogative of the House of Representatives. But since we do not yet have a House-passed measure dealing with this subject, and since the leadership on this side does not wish to wait until we do receive that measure, which would back us up against our adjournment date, it is the intention of the leadership on this side to ask the Senate later today to proceed to the consideration of the Senate-reported debt limit bill.

It is hoped that we may be able to deal with the debt limit bill in a shorter time than usual. I have explored that with a number of Senators, particularly with the minority leader. I do not have a good estimate of that yet, but I will try to have a further report a little later.

That is the program as best I can ascertain at this moment. There are a lot of hopes and question marks and tentative statements involved in this, but it is the best I can do.

Once again, there will be a live quorum at or around 1:30 this afternoon, to be followed, no doubt, by a vote on a motion to instruct the Sergeant at Arms, and Senators should be aware of that in advance. I apologize to Senators for the necessity for that, but I point out once more that in the RECORD of May 18, I indicated that there would be votes today; and I hope all Senators have taken that into account in making their arrangements and constructing their schedules.

I reserve 1 minute of my time, if I have time remaining, to use after the minority leader claims his time under the standing order.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mrs. KASSEBAUM). Under the previous order, the Democratic leader is recognized.

AFGHANISTAN: THE SECRET TERROR

Mr. BYRD. Madam President, I have made a sincere effort to try to keep up to date as best I possibly can on the recent Soviet offensive in Afghanistan.

Accurate information is skimpy at best because the Soviets have clamped a curtain around their efforts and around the country, and as a result the news media have not been able to penetrate that curtain and supply the world with information as to developments.

I have relied upon published sources to bring the best reporting forward, so that we have an idea of the scale and scope of Soviet operations.

But there is a danger to this approach. We can talk about numbers of tanks and bombers, the movement of troops, the nature of the terrain. All of this helps us appreciate the size of the war. But it does not give us a real sense of the struggle. It cannot convey the human tragedy of that war, as the Soviets have chosen to fight it. The Soviet Union is prosecuting a very unorthodox kind of war in Afghanistan.

It has great difficulty in subduing the countryside, because the elusive Afghan freedom fighters control two-thirds of the country, at least at night.

Instead, the Soviets have engaged in a program of terror and brutality which has as its objective the depopulation of the countryside and the punishment and obliteration of the resistance forces.

This approach is well documented in a reprint found in the May issue of Reader's Digest magazine. The story chronicles the efforts of a group of

French doctors whose courage and dedication is inspiring. Through their eyes, we see the effects of Soviet strategy. We learn how crops are destroyed, hospitals bombed, and children's toys boobytrapped—all with the goal of decimating the Afghan civilian population. I want to share this article with my colleagues, and with other interested Americans.

I was interested on this past Saturday evening that, as I talked with a gentleman whom I had never before met and who lives in California, his comment was that he had been reading my CONGRESSIONAL RECORD statements and articles on Afghanistan. This encourages me. Even though the exposure of the public to these items that I have heretofore placed in the RECORD is somewhat minimal, at least someone is reading the RECORD over the country, and as great oaks from small acorns grow, that is about my only hope as I continue to try to bring, from time to time, and as often as I can, anything to the attention of the Senate and the people who read the RECORD with respect to Afghanistan, news about the brave Afghan freedom fighters who stand against great odds but who are nevertheless not intimidated by those odds.

I mentioned recently that there has been a great deal of hand-wringing about the Soviet decision not to participate in the Olympics. I placed in the RECORD an excellent article by Carl Rowan that pointed up the shortsightedness of that kind of concern. For anyone who needs a reminder of why President Carter pulled the United States out of the Olympics, perhaps reading of this article will serve a good purpose. I am sorry for the frustration that young Soviet, East European, and American athletes feel.

But I am much sorrier for the Afghans who have lost their lives, who have lost their families—young Afghans who have been maimed and crippled forever, and for the carnage that continues in Afghanistan.

Madam President, I ask unanimous consent to have printed in the RECORD the article from the May issue of Reader's Digest entitled, "Afghanistan: The Soviet Terror."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Reader's Digest, May 1984]

AFGHANISTAN: THE SECRET TERROR

(By Claude Malhuret)

Médecins sans Frontières (MSF)—Doctors Without Borders—has been in Afghanistan since May 1980, five months after the Soviet invasion. We have equipped and operated 12 hospitals. Four of these were deliberately bombed and destroyed by Soviet planes. We evacuated two others. The MSF currently has 22 people working in six hospitals. From our uninterrupted presence in Afghanistan, we have been able to evaluate the Soviet style of antiguerrilla warfare.

One difference between Russians in Afghanistan and Western armies, such as the Americans in Vietnam, is that Western armies try on the one hand to fight against the enemy and on the other to obtain the support of the population. The Soviets are not so naive. They understand that a war involving guerrillas will be won by the side that makes terror reign.

The means used by the Russians to counter resistance movements do not involve the warm-bath/cold-shower tactic favored by Western armies. Instead, Soviets employ the exclusive use of boiling water—again and again and again, until both the guerrilla fighters and the population ask for mercy.

During most of 1980, for example, Soviet ground troops pillaged and burned homes, set fire to crops and dragged off the few inhabitants who had not fled into the mountains—mostly old people, whom they interrogated or summarily executed. Three of these raids took place along the Shibar Pass road. In their last attack, the Russians destroyed everything in sight, burning bazaars to the ground in several villages and leaving the former American hospital in Yakaolang in ruins.

The same kind of destruction took place in December 1980 in the northern part of Ghazni Province. When one of our medical teams arrived, fires were still smoldering in several villages, and people were being wounded by booby traps left behind by the Soviet troops. Once again, the effect sought was terror, not strictly military victory.

Since late 1980, warfare based on ground operations has dropped off, probably because the Red Army has lost too many of its troops. But the Russians have now found other ways to impose a reign of terror, particularly through the use of air raids against which the poorly equipped resistance fighters are virtually defenseless. In the Hazarajat region, the villages bombed are too numerous to list.

Military intervention carried out mainly by helicopter also includes dropping camouflaged anti-personnel mines and booby-trapped toys. The mines are designed not to kill, but to injure. In this type of war, a person is in much more trouble injured than dead. The injured person demobilizes fighters who have to transport him. In many cases, he will die several days or weeks later from gangrene or staphylococcus, with atrocious suffering, which further depresses those who must watch him die.

The MSF has also seen the damage caused by the explosion of booby-trapped toys, in some cases plastic pens or small red trucks, which are choice terror weapons. Their main targets are children whose hands and arms are blown off. It is impossible to imagine any objective that is more removed from conventional military strategy, which forswears civilian targets.

The dropping of anti-personnel mines is also intended to affect the economy. First, Soviet troops try to set up a blockade using mines that are scattered by the thousands along the passes leading to Pakistan. (They have had almost no success.) Second, they aim for livestock. When I first arrived in Afghanistan in 1980, I was struck by the number of goats and cows that had legs in splints. The herdsmen explained to me that the greatest loss is not so much the ones with splints, but rather all those animals that were killed from secondary infections. And although the Afghans clear the mines from the roads, the animals in the fields continue to get killed.

Other victims of the Russian boiling-water tactic are refugees—those still in Afghanistan as well as those who have fled. These refugees should not be considered in the traditional way, as an unfortunate but unintended consequence of the war, but rather as part of Soviet strategy. The objective: to evacuate the country in order to isolate the guerrilla fighters.

The methodical pursuit of this objective is the only possible explanation for the incredible number of Afghan refugees—an estimated four million who have fled to Pakistan and Iran alone. Out of an Afghan population of 16 million, this figure is already enormous. But to this must be added the hundreds of thousands of "internal" refugees who remain within Afghanistan. They have fled to the main towns, where they come under the control of the state army. Also, several thousand children have been sent to the Soviet Union to study to be officers one day in the Socialist Republic of Afghanistan.

International public opinion would never accept such enormities if it were informed daily on the developments in Afghanistan. The Soviets' need for secrecy explains why journalists are not allowed to travel around the country. Of course, some journalists disregard this, but they are so few that their reports draw little attention. Compare, for instance, the amount of coverage on Afghanistan with that on the war in Vietnam.

The French physicians on permanent duty in Afghanistan for the past four years have become key eyewitnesses and have made up somewhat for the negligence of the news media. The Russians cannot tolerate this, and therefore we have become their target. In 1980 and 1981, four MSF hospitals were deliberately destroyed by MI-24 helicopters. Two other hospitals, which are operated by another French organization, Aide Médicale Internationale, were destroyed in the same way. (One of the hospitals even had a big red cross clearly visible on its roof.)

The physicians themselves have been pursued by Soviet soldiers. All have managed to get away, except Dr. Philippe Augoyard, who was captured in January 1983 and jailed for five months before being released.

What will be the final outcome of the Soviet strategy? In one sense, Afghanistan is not a good example to illustrate Soviet anti-guerrilla warfare, because the Russians have so far been unsuccessful. The towns of Afghanistan, the main bases for Soviet intervention, are still poorly controlled. The Soviet strongholds of Bamian, Ghazni, Gardez and Khost are encircled by freedom fighters known as the mojahedin.

The number of armored vehicles destroyed by resistance forces is incredibly large, considering the fighters' outdated weaponry and suicidal tactics (such as leaping onto tanks with homemade gasoline bombs). In a two-year period we counted more than 600 vehicles destroyed in the areas where we work. When extrapolated, this comes to more than 3,000 for the entire country.

The Soviet economic blockade has also not succeeded. The border areas are as easily accessible as they were before it was imposed. And while setting fire to crops and storage shelters is another anti-guerrilla tactic, its effect is limited because less than half the food that was needed before the war is required now by the diminished population.

The examples illustrating the poor short-term effect of Soviet strategy suggest a

rather optimistic trend with regard to the Afghan resistance movement. But my conclusion is much less so. The balance of power in Afghanistan has not changed in four years, even though the two adversaries are unequally matched—on one side the world's biggest army, on the other a handful of people standing tall against the invader. But Russian strategy involves two aspects that may tip the balance in the Soviet Union's favor; one is the use of mass terror; the second is that the Soviets can afford a protracted war.

The Russians do not need smashing victories to announce to their citizenry, since Soviet public opinion does not influence Soviet policy. Catastrophes, such as that in the Salang tunnel, where several hundred Soviet and communist-regime troops (and civilians) were killed, do not incite an outcry in Moscow for Russian "boys" to come home. The Soviet army can wait 20 years, even longer. The Afghan resistance will hold out for a long time, but in the end it might well be beaten.

That may not happen, however, if there is a profound change in the international balance of power and in the determination of Westerners not to forget Afghanistan.

One of the most important conditions needed for Soviet success is continued secrecy. If a small organization like ours can maintain more than 20 people on permanent duty in four provinces, despite government acts of violence, the news media could do likewise.

Mr. BYRD. Madam President, does my friend from Wisconsin wish to have the remainder of the leader's time?

Mr. PROXMIRE. Yes.

Mr. BYRD. Madam President, I yield the remainder of my time to the Senator from Wisconsin if he has any use for it.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. Madam President, I thank the distinguished minority leader.

WOMAN TOPS NAVAL ACADEMY—HOW ABOUT THAT?

Mr. PROXMIRE. Madam President, now we have the answer to any of those who believe that a woman has no place in the military. This year the No. 1 graduate of the U.S. Naval Academy at Annapolis was not a young man; it was Kristine Holderied, a truly remarkable 21-year-old woman. For years, this Senator has heard some of my constituents back in Wisconsin and some of my colleagues here on the floor of the Senate argue that women should not be in the military, except maybe as nurses or clerks. Many Americans, including many women, still contend that there is no place for women in combat. Slowly but steadily, we have begun to break down that prejudice. We have begun to recognize that, sure, some women are not fit for combat and some men are not fit for it, either. But women can have the same decisiveness, force, vigor that men have. Military life including combat no longer consists simply of marching 30 or 40 miles a day and digging a foxhole. Of course, it includes that, and many women can do it. But it also includes operating complex, highly technical planes, tanks, ships, and missiles. It requires intelligence, patience, endurance, discipline and many other qualities that women possess or lack in about the same proportion as men.

Now what does Kristine Holderied, with her No. 1 graduating position at Annapolis, prove? She proves that women cannot only be good. They can be the best. It proves that this young woman, and women like her, can be top admirals someday—the Chief of Naval Command. This is good news for women because the military just happens to be the biggest employer in our country. And although women have been moving into the military modestly, they have not been winning the top command positions. After all, the first woman was admitted to Annapolis in 1976—8 short years ago. So it will be another 15 or 20 years before service academy women graduates earn the seniority to take top command. But they are on their way.

And this is why it is such great news for our country. Until now, we have used only half our person power in our military forces. Only males—until recently—were considered full-scale military material. Less than 10 percent of our military personnel is female, even today—none in positions of top command. This administration has failed to open up some of the most critical combat positions and commands to females. Kristine Holderied's record at Annapolis should begin to put a stop to that.

Finally, Madam President, just one word about Kristine Holderied, the person. It was not easy for her even to win admission to the Naval Academy. She had to secure a medical waiver for a congenital hearing defect. She did that. She went through 4 years of the Academy without a single demerit, meaning that she had to be on time for every meal, have her shoes shined precisely according to the strict Academy code every day and on every occasion, et cetera, ad inifinitum.

Very, very few Academy students are able to achieve that. I think one of the first to do it was Robert E. Lee. Of course, he was at West Point. But it is an extraordinary achievement.

She also earned a grade point average of 3.88 out of a possible 4. She has been and is a fine athlete. There is a story there too. Her high school track coach says that Ensign Holdereid is not a natural athlete, but in the coach's words: "Kris probably got the most out of her abilities of anybody I've ever seen. She had to work at being good * * * and she put everything she had into it." That is what helped her win a place on the school's championship 2-mile relay team. And that, Madam President, is why this young woman has shown why there is a full-time place for American women in the military at every level, in every service, and in every phase of military operations, including combat.

Madam President, I ask unanimous consent that an article from the Saturday, May 19, Washington Post headlined: "Woman at top of naval academy class has that extra bit of determination" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 19, 1984]

WOMAN AT TOP OF NAVAL ACADEMY CLASS HAS THAT EXTRA BIT OF DETERMINATION

(By Saundra Saperstein)

Things never came particularly easy for 21-year-old Kristine Holderied. To get into the U.S. Naval Academy she had to go the extra mile and obtain an unusual medical waiver. To make the varsity teams in high school, Holderied, never the natural athlete, had to work harder than anyone else. And to survive in the man's world inside the academy walls, she had to have that extra bit of discipline and determination.

This week the hard work and what's known in Annapolis as "good grease," academy slang for top military performance, paid off when Midshipman 1st Class Holderied made history as the first woman who will graduate at the head of any service academy class.

That feat did not really surprise anyone back at Glenely High School in Howard County, where teachers remember Holderied as the kid who couldn't stand to do less than her best.

"Some people are natural athletes, but not Kris," recalled track coach Jim deNobel, who nevertheless put her on the school's championship 2-mile relay team her senior year. "Kris probably got the most out of her abilities of anybody I've ever seen. She had to work at being good . . . and she put everything she had into it."

Despite the emphasis on her achievement as a woman, Holderied downplays the difficulties of being female at an essentially male institution, where women were first admitted only eight years ago.

"I am more and more satisfied at the acceptance of women here," she said in an interview. "There will always be some diehards who say women don't belong, just like there are in society. But we've come a long way."

"I'm not a pioneer," she added. "The pioneers were the girls that came in 1976. I owe them a lot."

Classmate and friend John Owes insisted, "We just look at each other as mids . . . . Sure, Kris deserves all the recognition, but why keep breaking it up into guys and girls."

Still, in the 329-acre bastion of lush green lawns and rocklike discipline, there is a note of defensiveness in the comments of some of Holderied's male classmates. "It doesn't bother me. It doesn't upset me," said one

midshipman, who was asked simply what he thought of Holderied's accomplishment. "What's the big deal?" another wanted to know, wondering why Holderied's ranking had brought out swarms of reporters.

"Of course, it's a big deal," said Commander Kendell Pease, the academy's public affairs officer, who said there are only 63 women in the senior class of 1,005. "Every female who graduates should be saluted, and she graduated number one."

Holderied apparently set the frontrunner pace for herself from the moment she arrived on campus.

She managed to make it through plebe summer, the academy's rigorous freshman indoctrination, without getting a single demerit, the bad conduct marks given for infractions as small as failing to have properly shined shoes or arriving late for a meal.

"During plebe summer, I was a real sweat," Holderied joked this week, explaining that "sweat" is the academy name for "a person who is at no pains to do everything right."

Holderied then went on to finish her four years with a no-demerit record, an accomplishment she brushes off by saying, "I think the key phrase is, 'I haven't been caught.'"

It was that record and high marks for her performance in professional training, physical education, military knowledge and leadership that boosted her to the top. She earned a grade point average of 3.88 out of a possible four, slightly behind the two midshipmen who will graduate second and third at Wednesday's graduation ceremonies.

Despite her abilities, Holderied almost didn't make it to the academy at all. Her application was first turned down because of a congenital hearing defect, which makes it difficult for her to hear high-frequency sounds, she said. But even before the rejection letter arrived, Holderied was preparing to apply for a "medical waiver." She succeeded in winning one of the handful of such waivers granted each year, more commonly for vision problems.

She said she was drawn to the academy for a combination of reasons, including an interest in oceanography, a scientific speciality not offered at many colleges; what she perceived as "the glamour of academy life" and a strong sense of patriotism instilled by her father Robert and Austrian-born mother Barbara.

She'll pursue a scientific career after graduation, when she will be stationed in Rota, Spain, doing meteorological surveys and weather forecasts for the Navy's 6th Fleet. As to the future, Holderied said, "The academy is not the U.S. Navy. We are a little sheltered here and I'll have to see what the Navy is like." Asked whether she dreams of becoming an admiral, Holderied, ever the diplomat, answered, "That's everyone's ideal."

Holderied though surprised by the amount of attention her ranking has spurred, is enjoying the spotlight. After trips to and from the District in television network limousines for interviews on the morning news shows this week, Holderied said, "I knew I'd arrived when the chauffeur asked to take my picture for his scrapbook."

But then, characteristically, Holderied had prepared for the onslaught of the press. Pease said she spent Tuesday afternoon watching videotapes of other midshipmen who have been interviewed and practicing for her own press conference.

"She locked herself in my office and reviewed things," Pease said. "But then, that's Kris. She wants to be the best at everything she does."

THE NUCLEAR FREEZE: COST AND BENEFITS

Mr. PROXMIRE. Madam President, the fundamental argument for negotiating a nuclear freeze with the Soviet Union is that such a freeze would end the arms race. In doing so, it would diminish the prospects of nuclear war. A nuclear war would have absolutely devastating economic consequences. Any steps this country could take that would significantly reduce the prospects of such a terrible catastrophe would obviously be worth a very considerable economic sacrifice. On the other hand, what, if any, would a nuclear freeze impose on our country? Would the economic costs, such as the loss of jobs producing nuclear arms, be worth whatever diminution in the prospects of nuclear war a freeze might achieve? The answer is a ringing yes.

Now suppose, there were no economic loss? Is it not logical that an end to the arms race might actually convey economic benefits on our country? If we stop spending money on nuclear arms testing, production, and deployment, will that Federal Government spending reduction not reduce the Federal deficit? Does not that immense Federal deficit constitute the most serious threat to the economic health of our country? The answer to these questions is easy and emphatic: Yes.

Thirty-one years ago President Eisenhower, speaking to the American Society of Newspaper Editors, put it this way—an extraordinary quotation:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children. This is not a way of life under the cloud of war, it is humanity hanging from a cross of iron.

Let me repeat those words of President Eisenhower. He said:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children. This is not a way of life under the cloud of war, it is humanity hanging from a cross of iron.

That was General Eisenhower, who was a great general, a man who understood war as no President, or few Presidents—maybe George Washington and Ulysses S. Grant—in the history of our country.

Madam President, it would seem to be as obvious as the nose on your face that stopping the nuclear arms race would reduce the Federal deficit significantly. For many weeks the Senate has labored to put together some kind of combination of painfully reduced spending and increased taxes that would enable us to make a little modest progress toward fiscal responsibility. When historians look back on this session of Congress they will be struck by the immense amount of time and energy this body poured into making a pitifully inadequate reduction in our appalling Federal deficit, while the same Congress poured billions into the nuclear arms race.

So what effect would a nuclear freeze have on the Federal budget? The Council of Economic Priorities recently proposed to answer that question. The Council concluded that the freeze would save at least $98 billion in the next 5 years. Although the Council on Economic Priorities has a long record of opposition to nuclear weapons spending, it claims that its estimated savings are conservative and this Senator is convinced that the estimated savings are very conservative, indeed. Why are these estimates conservative? First, they would exclude all classified programs such as the Stealth bomber, the advanced cruise missile, and the advances planned for the Pershing II program. Detailed and reliable cost information on these weapons is classified. So the Council simply omitted these costs entirely. In doing so the Council obviously underestimated the savings from a nuclear weapon freeze by billions of dollars.

Second, the Council accepts the present estimates of the prospective cost of future nuclear weapons. As a veteran Pentagon watcher, this Senator can testify to the lead-pipe assurance that these weapons will cost more, probably much more than the Defense Department now tells us they will cost.

Consider these examples:

First. The cost of 53 major weapons systems currently purchased by the U.S. Armed Forces has nearly doubled since they originally entered development. They have soared from $339.8 billion to $606.6 billion.

Second. The Defense Resources Board estimates that the full cost of buying all items included in the Reagan administration's 5 year military program could exceed original estimates by $750 billion.

Third. Nuclear delivery systems have in some cases exceeded their estimates by much more than this. The current $290 million cost per copy for each B–1B bomber exceeds the original B–1 cost by literally tenfold. The ground launched cruise missile has exceeded its original cost estimate by over 135 percent since 1977.

Fourth. The Council ignored the savings that could accrue from the effects of the freeze on such related military programs as civil defense, sub-

marine construction, command control, and communications, satellite warfare, and ballistic missile defense. For example, the freeze would stop the "Star Wars" research, production, and deployment. The President is asking for $2 billion just for research on Star Wars for 1985 and $25 billion over the next 5 years. A follow-on program of production and deployment would cost hundreds of billions of dollars, and maybe more. The freeze would save all of this.

None of this nuclear weapons spending is included in the Council's estimate. So in summary, it is clear that the projected $98 billion saving over the next 5 years from the nuclear freeze constitutes an extraordinary conservative estimate, in fact a gross underestimate.

Now it is true, Madam President, that many experts claim that the freeze on nuclear weapons testing, production, and deployment would require a big increase in conventional military expenditure. These experts contend that a Soviet Union undeterred by nuclear retaliation would take advantage of its massive superiority in tanks and other weapons in Europe to sweep across Europe to the English Channel. So any end of the nuclear arms race would, in their view, initiate a conventional arms race of great cost. Madam President, this argument confuses the freeze with a "no-first use" doctrine that would commit this country and NATO to abstain from defending against conventional Soviet aggression with tactical and even strategic nuclear weapons.

The freeze would not eliminate nuclear deterrence. This country would only agree not to test, manufacture, or deploy any additional nuclear weapons. The freeze would not commit us to the destruction of any nuclear weapons we have in being. After the freeze went into effect both the Soviet Union and the United States would have in place the same colossal, civilization destroying nuclear capability they have now. Deterrence would still be overwhelming. It is true that the freeze might set the stage for gradual and careful reductions in the immense redundancy of these nuclear arsenals.

Most important the freeze could permit both superpowers to move away from unstable, hair trigger nuclear weapons such as land based, MIRV'd "use'em or lose'em" weapons as both sides may agree to phase these most threatening weapons out of their arsenals.

Unfortunately, the dream that all nuclear weapons might disappear from the face of the Earth cannot be achieved. Even if Russia and the United States were to make such an agreement, they would not only have to be joined by the other four present nuclear powers, they would have to be joined by every nation on Earth with the resources to produce nuclear weapons in the future. And it would have to be a commitment binding upon future governments and future generations. Unfortunately, that would not work and it is not going to happen.

Does this mean the freeze cannot succeed in the long run? No, indeed. Madam President, we must not confuse what the freeze can do, that is stop the nuclear arms race, with what it cannot do, which is to abolish nuclear arms forever.

The freeze can save us hundreds of billions of dollars in military spending. It can greatly lessen the prospects of nuclear war. But unfortunately, mankind from now on will know how to build a nuclear arsenal. What does that mean? It means we will have to live in a nuclear armed world as long as mankind lives.

DARK DAYS FOR THE SAKHAROVS

Mr. PROXMIRE. Madam President, today is the birthday of Dr. Andrei Sakharov, the well-known Soviet Union physicist and outspoken dissident. Yet the occasion is not a joyous one because Dr. Sakharov is a virtual prisoner in Gorky as a result of his desperate appeals supporting basic human rights. In addition, this occasion also marks the 20th day since Dr. Sakharov began his hunger strike, a hunger strike undertaken because the Soviet Union has denied his wife, Yelena Bonner, the right to seek desperately needed medical treatment in the West for her serious heart condition.

Now we have word that Miss Bonner has joined Dr. Sakharov in the hunger strike. According to last Wednesday's New York Times, she has been accused of anti-Soviet slander and is also being threatened with charges of treason.

Soviet authorities have succeeded in isolating Sakharov and his wife from all contact with the outside world. We do not know the present condition of the couple. We do not know whether they are alive or dead. We do know if the hunger strike continues, the end result would be tragic and the world would lose two brave peacemakers.

Why does the Soviet Union continue to repress the Sakharovs? Two and a half years ago, the Soviet Government refused to let Lize Alekseyeva, the fiancee of Dr. Sakharov's stepson, to immigrate to the United States. The Sakharovs went on a hunger strike at that time also, and risked their lives. Finally, the Soviet Union gave in after nearly 3 weeks and let the young lady join her fiancee in the United States.

Perhaps the Soviets feel threatened by the fact that Dr. Sakharov was the 1975 Nobel Peace Prize winner. He has been called "the father of international human rights" and "the spokesman for the conscience of mankind."

Whatever reason the Soviet Government has chosen to continue their persecution of the Sakharovs, we can only hope that they will stop this madness and allow Yelena Bonner the right to seek the medical help in the West that she needs.

Tragically, our opportunities to speak out against these Soviet human rights violations are hindered. We are hindered by our own refusal to protect under international law the most fundamental human right, the right to live. The Genocide Convention would protect the right of any national racial, religious, or ethnic group to live free from fear of oppression and persecution. It has been signed by 92 nations including the Soviet Union, but the United States refuses to ratify this, the most important of human rights treaties.

The Sakharovs have bravely spoken out against human rights violations. We must support both the Sakharovs as individual human beings, and as symbols of the greater struggle for basic freedoms. In order to aid them personally, we must do what we can to end the persecution committed against them by their own government. In order to support their fight for human rights, we should end our own stalemate and ratify the Genocide Treaty.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 1:30 p.m. with statements therein limited to 10 minutes each.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Utah (Mr. HATCH) to attend the 70th session of the International Labor Conference of the International Labor Organization, to be held in Geneva, Switzerland, June 6-27, 1984.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILSON). Without objection, it is so ordered.

AMERICANS URGED TO USE THEIR BALLOTS IN ELECTIONS THIS YEAR

Mr. RANDOLPH. Mr. President, this is a quiet period in the Senate, and it

gives me an opportunity to mention a subject that I think is of critical importance, not only in the forthcoming election, but also in the years ahead.

In West Virginia, we will have our primary on June 5. On that date, we hope that West Virginians will be at the polls and will vote their considered choices.

I call attention to what is taking place in the caucuses and in the primaries across America. I have checked carefully and have found that even though it seems there is an upsurge in interest, the interest does not go to the actual casting of the ballot or the decisionmaking process.

The news media, it is understandable, describe the high level of activity of the three major Democratic candidates, former Vice President Mondale, Senator Hart, and Reverend Jackson.

The media outline the meetings and movements of these candidates as they go back and forth across a State and a region and the Nation as a whole. This campaigning is not translated into increased voter participation. What will happen at the Democratic Convention in San Francisco is at least a debatable matter at the present time.

On the Republican side, it seems there is a foregone conclusion that President Reagan will be nominated in Dallas when that party holds its convention.

From time to time the convention process and the delegate selection process have been called into question. I have been an active participant and a delegate at many Democratic conventions.

In fact, I attended my first Democratic Convention in Baltimore, Md., in 1912. If one were to carry that to its wrong conclusion, one might say, "Senator, you must be 100 years old." But I sat on the lap of my father, who was a delegate to that convention. He was pledged as a delegate from West Virginia to support Woodrow Wilson, who was then the Governor of New Jersey.

That convention pitted Woodrow Wilson against the former illustrious Speaker of the House, Champ Clark, of Missouri. I do not remember the details, of course, but I do remember the flags waving; the bands playing. I can even remember certain types of speeches that were made on that occasion.

I recall William Jennings Bryan—my father and he were very close friends. That is the way Jennings became part of my name. At that time, Mr. Bryan made a rather bold statement which he carried from the summer house at Sea Girt, N.J., to the convention. Wilson was in Sea Girt, rather than on the convention scene.

In effect, he indicated that Woodrow Wilson would be very happy to carry the banner of the Democratic Party into the election of that year as the nominee for President, provided that one consideration was observed. That stipulation was that the deciding votes to give him the nomination must not come from the delegates from New York, Tammany Hall, under Boss Murphy. It was a rather bold statement. Those delegates were in the convention. Yet, Woodrow Wilson took the position that he would accept their votes; but if they were the deciding votes, he would not accept the nomination.

This is history that is known. If one reads very carefully about that convention, one will see that what I am saying is correct. Woodrow Wilson was the nominee, and of course he selected William Jennings Bryan as his Secretary of State.

I come from that convention of 1912 to the conventions that will be held this year—and I have mentioned them—of the respective parties.

The convention system for the selection of the nominees of both parties has substantial merit. But I think that the other processes of selecting delegates is not the correct barometer of what takes place at a later time in the convention itself. The delegate selection system, particularly the caucuses, discourages voter participation.

All this is prelude to what I desire to emphasize today. It is that in this year of 1984 we may have a condition in this Republic where approximately 50 to 55 percent of the eligible voters—that is 50 out of 100 or 55 out of 100—will be voting for President of the United States. Why do I say that? Is it fear and foreboding that does not exist? No. There is fact behind what I am saying.

In 1960, John Kennedy was elected President of the United States. At that time 63 out of every 100 eligible to vote cast their ballots.

I remember that as President in 1961 he created a study commission on voting. When he made the announcement of the commission, he said he was appalled by the failure of the American people to use their ballot on election day—63 out of every 100. I do not know where that study is. It is somewhere on a shelf. We might read just the reasons that the commission found for people not voting. But there is no valid reason for not voting because in this country to each person who has the right there goes the responsibility of the use of that ballot on election day.

I am the author of the constitutional amendment, the 26th, which is the last of the amendments, that gave 18-, 19-, and 20-year-old youths not only the opportunity but the responsibility to vote.

I am saddened today because I had started that drive, legislatively as a Member of the House of Representatives in 1942. Finally it was 30 years later in 1971, the Congress approved this constitutional amendment by a very large majority—two-thirds is needed to have a constitutional amendment—and move it to the States for ratification. We have never had a constitutional amendment that was passed in such a short period of time. After being referred to the States, it was only 90 days until the job had been done and this group of young people had the great responsibility, the tremendous challenge of voting in elections.

Now, I think back over that period of time when I walked into the courthouses all over West Virginia with some 450 young people in various counties, watching them register to vote. But the youth of our country are not voting today in the degree that they should be voting. In 1980, only 24 out of every 100 young people in the 18-, 19-, and 20-year-old group cast their ballots for the President of the United States.

Their fathers and mothers are not doing very much better because in 1980, there was one State that fell below 50 percent and that was New York State, with approximately 48 percent of the eligible people casting their ballots.

I see the time coming—and I hope it will never come—when across America there will be a shadow cast over the processes of our democratic system. If we come to the time when only 49 percent of the American electorate will be casting their ballots on election day, where do we find ourselves? A condition will exist where we will be electing a President of this Republic not of the majority over the minority, but of the majority of the minority over the rest of the majority.

This causes me pause as I hope it causes a pause in the thinking process of many people at this particular time. There is the possibility—I do not want it to come to pass—in this year of 1984 that the 53.4 percent of 1980 will dip below 50 percent not only in one State but in many States.

I have been talking across America to young people, hopefully in the right way, about the opportunity that they have in casting their ballots on an election day. In one college, which I will not mention, I asked 100 students who were eligible to vote in 1980 how many voted. We counted them and only 19 out of 100 had voted. This is in a well known educational institution of our country.

Where is the citizenship teaching process in such a university or college or in the educational process of this country?

But having said that, I do hope that I have not just raised the hand of warning today. It is my hope that some may read the RECORD and see that this subject was discussed by me, and think of their responsibility to

talk within their families and circles of friends and associates of the need to vote.

I end upon something that goes beyond the borders of our own country. If we look across the world at the present time we will see that the people in some 27 democracies where there is the right to vote are accepting it as a higher responsibility than we are in the United States in America. I do not want to name all of these countries. For example, in New Zealand, there is no penalty if you do not cast your ballot and the voting booth is not just around the corner. But the people there are voting 90 out of every 100. Of the list of countries, only one country has a worse record than the United States of America in voting for its President. That country is Colombia in South America. Think of it. Of 27 democracies, the United States is next to last in voting percentage.

These facts hurt me; I think they will hurt practically every American, whether he or she is voting or not voting.

George Washington stated in his "Farewell Address": "Citizens by birth or choice of a common country, that country has a right to concentrate your fullest affections."

A reading of English in those days reveals that the words he spoke meant the responsibilities of citizenship; voting; the process that would come in this country of bringing Americans to an understanding of their democracy; their feeling of being a part of their country. So we should participate in our democratic process by voting in this election year and the years to come. Our Nation has been weakened by the failure of the American people to use their ballots, their constitutional rights, their franchises of freedom.

MEMORIAL DAY

Mr. RUDMAN. Mr. President, our country will be celebrating Memorial Day at the end of this month, a once-solemn holiday which has turned from a national commemoration of fallen heroes to a 3-day weekend during which we are urged to drive safely and be wary of sunburn.

It is always less painful to forget than to remember, as it is easier to mourn for a past which is lost than it is to build for an uncertain future. But we must remember. Remembering forces us to think of the hearts which once beat high with hope, of young lives snuffed out well before their time, of fields not planted, of homes not built, of children not born. Remembering forces us to acknowledge the hundreds of thousands of acts of selfless patriotism by Americans whose individual courage and deeds will be forever unknown to us.

Memorial Day is still a very special time in New Hampshire and throughout New England. To underline this, I would like to place two items in the RECORD for the benefit of my colleagues. The first is an article about a Memorial Day celebration in the small town of Damariscotta, Maine. The second is a poem about Memorial Day written by our gifted colleague, the Senator from Maine (Mr. COHEN). Senator COHEN writes movingly of the mixed feelings that surround this special day, and I believe my colleagues will enjoy reading both of these items.

We must remember the dead on Memorial Day, and strew their graves with our flowers and our prayers. But let us also learn if we can their lessons for those still living, so that the Earth will never become, as Pericles said to the citizens of Athens, a "tomb of warriors."

I ask unanimous consent to have printed in the RECORD the poem by Senator COHEN and the article from Reader's Digest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORIAL DAY

(By Senator William S. Cohen for Tom and Elizabeth Lambert)

Memorial Day is a moment when celebration and sadness are joined hand in hand in a strident brass band march on every Main Street at 10 a.m.

It is a holiday weekend filled with pain and potted flowers for some, you know the ones, who circle through manicured lawns in a quiet drone, searching for those now gone, sunk in brevity, carved in stone.

A time for families to gather from distant coasts and drop tears over the memory of tall ghosts, sons or brothers who gave their green for all and forever.

Then there is the parade where balloons and miniature flags are held by babies resting on their fathers' height and the shirt-sleeved crowd rejoices at the sight of some friend who steps left when the sergeant barks right.

A veteran from some ancient war steps proudly to a patriotic beat and blare, his frozen face, the subject once of an artist's special grace, strapped in a metal disc that gave thin shelter against the risk of destruction.

By the reviewing stand pass ROTC units, then a local high school band, and there, in the very rear, dressed in blue shirts and bright scarves, comes the smallest group, the youngest troop. Cub scouts, with blushing flower faces and embarrassed grins, unsure of their presence, of their particular significance.

Is it simply the promise of a continuing nation or is it instead a subtler solace to those who mourn their dead, that these sons of others will one day answer a written call and stand ready to fall in some foreign land in the name of freedom?

I really don't know, I only ask because today my son was somewhere in that parade and I couldn't bear to go.

[From Reader's Digest, March 1984]

A MEMORIAL DAY IN MAINE

(By James A. McCracken)

NOTE: It was a time to honor the dead—and to welcome new life.

It was the end of May, but Mother Nature's calendar still read March. She was wearing the same tattered gray dress she'd worn for most of the winter. Clouds, like porridge grown cold, stretched from horizon to horizon. And it was cold, cold even for Maine. The wind had been strong all month, and my wife and I would venture out between rain squalls to dig a few furrows in the garden. Then, drenched or cold, we'd come disconsolately back into the house. May was not supposed to be like this.

Tomorrow was Memorial Day. There was to be a parade, of course. Old soldiers had taken uniforms out of mothballs. A band had practiced and tootled and marched. The cannon was dragged out from its moorings and polished until it gleamed. And all this while the cold rain rattled in the gutters and downspouts of the house.

But then, sometime during the night, there came a sea change. The chilling, lonely wind backed out of the east and swung through the compass until it stood in the northwest. A clearing wind. It was as though a magician had whipped away the cloth that covered the bluebird's cage. In the morning the east window in our bedroom was bright with light. Great clouds, like coastal schooners with all sails set, fled downwind, going east, east, and out to sea. And there, through the window, we could see blue sky. Ducks paddled about in our cove of the river, and sea gulls, too. A great blue heron stood one-legged close by the shore. Downriver, harbor seals heaved themselves out of the water and up over the rocks to soak up the sun.

We see all this, my wife and I, and we remember that this is Memorial Day. This is the day we honor our dead, those who went off to war and did not come back home.

Despite the somber overtones, a parade, particularly in a small town like Damariscotta, is a festive occasion. Crowds two and three deep line Main Street, with more arriving each minute. Hello, Joe. Hi there, Everett. Lobstermen and lumbermen, bankers and buoytenders, mothers and merchants. And lots of children. We're all here.

And then my mind flies back to Memorial Days in a small town many, many miles from here. And many, many years. We lined our own street, Broad Street. There was a band. No, not really a band. Just a collection of people who could blow horns and beat drums. But they made music that stirred the soul. A company of young soldiers marched by, veterans of the war to end all wars. And then came another company. Paunches rebelled against the strictures of uniforms. They were the veterans of the Spanish-American War.

Then, ah, then the Old Soldiers in their uniforms of blue. Their single line spanned Broad Street. Some marched proud and stiff, trying to keep step. But it's difficult to keep step with someone who hobbles and another who lurches on a cane. Their flags were there. Antietam. Bull Run. Gettysburg. Valor, and the most tragic of wars.

Back in Maine now, the northwest wind is running out. The sun is hot. The spectators stand quietly, and gazes wander across the bridge that makes our town a twin of the next. The parade will be forming. But there is always something to watch. A black-and-white mongrel, just in off the farm for the

day, his tail flying like a flag, prances down the street. All eyes follow him. There are whistles and calls. He pays no attention. He has center stage. He knows what day it is.

Two weeks ago, under the direction of Commander Bud Colby, members of the American Legion cleaned and trimmed every war veteran's grave in the area. A large and devoted task. On each grave they placed a small American flag. Those flags are there this day. Those men will not hear the music or see the pageantry in their honor. But each one has his flag, the flag he fought and died for.

Quiet descends on the street. The greetings have been said. Eyes wander. Children in groups of four or five, themselves looking like small clusters of flowers, pass by, clutching balloons on strings.

There is a stir. From a distance come faint sounds of music and the thump of drums. The parade is not in sight yet. Across the street from us is a flagpole near Charlie Adams's real-estate and travel agency. The flag, like others on this day, is at half-staff; it will remain so until noon. That is the custom on Memorial Day. For the present it is lifeless. No breeze at all. The red stripes seem to be running down, down into the brown earth at the foot of the pole. Flanders Field blood.

Now come the marshal and the distinguished guests. Three Girl Scouts and the color guard. They cross the bridge, and then stop. One Girl Scout drops out of formation and walks back to the bridge. She bears a wreath. The band has fallen silent, and there is a long moment when time is suspended.

Then the voice of a minister intones a benediction. He stands, as do members of the band, in the middle of the bridge. There, too, is the firing detail of the militia from nearby Bristol. The unit has its cannon, a three-incher. A voice barks: "Ready—Aim—Fire!" The cannon roars, its thunderous voice rolling downriver, and the Girl Scout gently drops her wreath into the water.

The wreath spins and floats, a current catches it, and it moves away toward the sea. Once more the voice of the firing detail shouts: "Ready—Aim—Fire!" The cannon fires a third time, and a boy from the band raises a bugle to his lips. Taps. The wreath commemorates the lives of Maine men—sailors and soldiers alike—who have died at sea in the service of their country. The thin voice of the bugle rises, and the wreath is gone from sight.

A breath of air, light as a feather from the breast of a mourning dove, tugs at the corner of the flag. Our bugler touches the last note of taps, slides off, and then tries again. This time he holds it. He finishes. There is a pause; another bugler, standing on a pier a hundred yards away, begins. He is the "echo" of taps. The ceremony honoring the dead closes with the last note from his lips.

There is a shouted command. It sounds strident in the quiet of the moment. The marshal glances behind him; then he steps out. The guests follow, and then the color guard and the Girl Scouts. Also Boy Scouts. Floats. Kids on bikes. Some riding horses and fire trucks. The cannon begins to roll on its carriage, hauled by the firing detail.

Now a band strikes up, and marches. As though by divine plan, a breeze sweeps in off the water. The flag notices, and waves. The parade passes. People stir, and most clap. It's gone now. The music fades. Up Main Street to another monument where another wreath will be placed.

A Legionnaire walks over to a flagpole at the end of the parade route. He looks at his watch. It is twelve o'clock. The flag stands out straight in a rippling breeze. The man raises it to the top of the staff. He steps back and salutes.

The buglers who sounded taps not only played for the dead of our wars, but also signaled the death knell of winter. It died on the ebbing tide. Spring, new life, is here at last.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business is closed.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I announced earlier at the beginning of the session that at about 1:30 p.m. I would ask for a quorum call which I anticipate will go live. I also anticipate that at some time around 2 o'clock, if we have not established a quorum by that time, there will be a motion to instruct the Sergeant at Arms to request the attendance of absent Senators. Thus, once more, I urge Senators to consider that at 2 p.m. or before there will be a rollcall vote.

The reason for this is to establish a quorum, of course, and to ascertain how we will go forward on one of the several measures that must be dealt with this week. Those include the bankruptcy bill, the debt limit extension, the agent orange bill, and the Wilkinson nomination. It is the hope of the leadership on this side that all four of those items can be dealt with before our recess period beginning on May 25.

Mr. RANDOLPH. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. RANDOLPH. I do not want this misunderstood. This is asked only from the standpoint of a possible reply that may be partially hopeful, even if not completely so. There has been reported from the Labor and Human Resources Committee, as the able majority leader knows, a measure that would establish the U.S. Peace Academy. That legislation has 56 cosponsors. Hopefully, if we were able to vote on it, even with amendments which might come during its consideration in this body, there might be a considerable number beyond the 56 that might be able to support that pending measure.

I know the leader has many problems in connection with the programing of measures that are important. Yet, I just would once again hope that he would continue—and I know he will—his efforts, if possible, working with other Senators, to make it possible for the consideration of this measure before we go out at the end of this year.

Mr. BAKER. Mr. President, I thank the Senator. I know he will accept what I am about to say in the spirit in which it is intended, that is, as a semiserious and a semi-non-serious reply. But he will understand, and most others will, as well, when I say that the distinguished Senator from West Virginia is so dedicated to this bill that I could hardly pass him in the corridor without his putting this same question. And it is with reluctance then that I tell him that I do not anticipate that measure can come up before the end of this week. I am not sure it can come up before the Fourth of July break. But I can assure the Senator I will continue to talk to him about it and we will see what the circumstances dictate.

Mr. RANDOLPH. The Senator from West Virginia is very grateful and very appreciative to the majority leader. He is entirely fair in all matters. I found that to be his record on this floor.

Mr. BAKER. I thank the Senator. He is my chairman. The Senator from West Virginia was chairman of the Public Works Committee when I first came to the Senate. And I learned what little I know on that subject from him.

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum. This will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 3 Leg.]

Andrews	Helms	Rudman
Baker	Lugar	Sasser
Cohen	Randolph	Wilson

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Byrd	Heflin	Trible
Ford	Pryor	Warner
Hecht	Thurmond	

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from New York (Mr. D'AMATO), the Senator from

Alabama (Mr. DENTON), the Senator from Kansas (Mr. DOLE), the Senator from Washington (Mr. EVANS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Nebraska (Mr. EXON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DURENBERGER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 4, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—65

Abdnor	Garn	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Packwood
Baker	Hatch	Pryor
Baucus	Hatfield	Randolph
Bentsen	Hawkins	Riegle
Biden	Hecht	Roth
Bingaman	Heflin	Rudman
Boren	Heinz	Sarbanes
Boschwitz	Helms	Sasser
Burdick	Humphrey	Simpson
Byrd	Jepsen	Stafford
Chiles	Kassebaum	Stennis
Cohen	Kasten	Stevens
Cranston	Lautenberg	Symms
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Domenici	Matsunaga	Trible
Durenberger	Mattingly	Warner
Eagleton	McClure	Wilson
East	Melcher	Zorinsky
Ford	Mitchell	

NAYS—4

Goldwater	Proxmire
Johnston	Quayle

NOT VOTING—31

Bradley	Glenn	Moynihan
Bumpers	Hart	Nunn
Chafee	Hollings	Pell
Cochran	Huddleston	Percy
D'Amato	Inouye	Pressler
Denton	Kennedy	Specter
Dixon	Laxalt	Tsongas
Dodd	Leahy	Wallop
Dole	Levin	Weicker
Evans	Mathias	
Exon	Metzenbaum	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

BANKRUPTCY AMENDMENTS OF 1984

Mr. BAKER. Mr. President, as I indicated earlier, it would be the intention of the leadership, after the establishment of a quorum, to try to proceed to the bankruptcy bill.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 722.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—I do not intend to object—there are some Members on my side of the aisle who will probably want to offer amendments and possibly have some debate, but I see no purpose in objecting to the majority leader's request.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there are two matters on the calendar under "Bills and Joint Resolutions Read the First Time" which were supposed to have come over under the rule at the close of morning business. Does the majority wish to have that done? I should like to see them come over.

Mr. BAKER. Mr. President, I am prepared to do that.

TRANSPORTATION OF PASSENGERS BETWEEN PUERTO RICO AND OTHER U.S. PORTS

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 89) to permit the transportation of passengers between Puerto Rico and other United States ports on foreign flag vessels when United States flag service for such transportation is not available.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of this bill at this time.

Mr. BYRD. Mr. President, if I understood the clerk correctly, he read the title for the second time of H.R. 89, which came on a legislative day subsequent to H.R. 4193. Am I correct?

The PRESIDING OFFICER. The Democratic leader is correct.

Mr. BYRD. So it is H.R. 89.

Mr. BAKER. Mr. President, I object to further proceedings on H.R. 89.

The PRESIDING OFFICER. Objection is noted.

The bill will be placed on the calendar.

SCHOOL FACILITIES CHILD CARE ACT

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 4193) to encourage the use of public school facilities before and after school hours for the care of school-age children, and for other purposes.

Mr. BYRD. Mr. President, I believe that the chronological order here should be reversed to what it was supposed to be. This might not be a matter of great significance, but if we have a call of the calendar, the item that should come up first, as between those items, should be H.R. 4193.

I hope the majority leader will ask unanimous consent that those items appear on the calendar in the order in which they are supposed to appear.

Mr. BAKER. I make that request, Mr. President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I object to any further proceedings in connection with H.R. 4193.

The PRESIDING OFFICER. Objection has been heard.

The bill has had second reading and will be placed on the calendar.

BANKRUPTCY AMENDMENTS OF 1984

The Senate continued with the consideration of H.R. 5174.

Mr. BAKER. Mr. President, the pending business is H.R. 5174. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, for some days now, we have attempted to negotiate a unanimous-consent agreement dealing with consideration of this bill. We have not yet been able to obtain consent to the request that has been circulated. Since the circulation of that request, I am told that the Senator from Colorado may also have a matter that he wishes taken account of in the formulation of a unanimous-consent request.

The reason for this statement is to urge Senators to confer with each other and fully explore the possibility of a unanimous-consent agreement that would provide for expeditious handling of this measure, commensurate with its importance and controversy.

Mr. President, the distinguished chairman of the Judiciary Committee, I assume, will manage this bill, and I now yield the floor.

Mr. THURMOND. I thank the majority leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3083

Mr. THURMOND. Mr. President, I send to the desk an amendment to H.R. 5174.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 3083.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment, No. 3083, is printed in today's RECORD under amendments submitted.)

Mr. THURMOND. Mr. President, the amendment which I have just sent to the desk is a substitute for the provisons of the House-passed bankruptcy bill, H.R. 5174. It represents what I believe to be, after consultation with other members of the Judiciary Committee, a fair compromise of the provisions earlier approved by the Senate in S. 1013 and those sent to us by the House in H.R. 5174.

Title I of this substitute amendment contains basically the House-passed provisions regarding bankruptcy judges and court structure, with some changes which I will explain in greater detail in a few moments. Title II contains the omnibus judgeship positions as passed by the Senate in S. 1013. It authorizes the appointment of 61 district court judges and 24 court of appeals judges. Title II also contains certain provisons included in S. 1013 which pertain to retirement and insurance for members of the Federal judiciary.

Title III contains all provisions making substantive changes in the Bankruptcy Code. Subtitles A and B are essentially the same as the consumer credit and grain elevator provisions approved by the House in H.R. 5174. Subtitles C through I contain the remaining substantive provisions passed by the Senate, but not included in the House bill, such as provisions relating to shopping center tenant bankruptcies, discharge of debts incurred by persons driving while intoxicated, repurchase agreements, timeshare industry bankruptcies, bankruptcy oversight, and technical changes in the code. Subtitle J pertains to rejection of collective bargaining agreements in a chapter 11 reorganization proceeding. This subtitle preserves the balancing of the equities standard for rejection of such contracts unanimously approved by the Supreme Court in NLRB against Bildisco & Bildisco. It would, however, alter the 5 to 4 portion of that opinion regarding the debtor's right to unilaterally reject a collective bargaining agreement by providing that the debtor may not reject for at least 30 days after filing a motion to do so. I am confident that the language in subtitle J represents a fair resolution of this controversial matter. Subtitle K is entitled "Supplemental Amendments" and contains provisions pertaining to the so-called twist cap and Durrett problems. It also contains provisions amending chapter 9 of the Bankruptcy Code with regard to municipal bonds. Subtitle L, entitled "Miscellaneous," contains a severability provision and an effective date provision for title III.

Mr. President, before I discuss these various titles in greater depth, I would first like to comment that I am pleased, with few exceptions, with the bill which the House passed. By overwhelmingly approving the Kastenmeier-Kindness amendment, the House has returned to us a bill much closer to that which we passed over a year ago. I am, therefore, optimistic that Congress will be able to enact a bill finally resolving the bankruptcy court structure issues, as well as other important bankruptcy issues. We have made an effort to preserve as much of the House bill as possible, with the exception of the provisions dealing with rejection of collective bargaining agreements. The labor provisions were, of course, completely unacceptable and have been significantly modified. We have added to the House provisions those from the Senate-passed bill which we thought were necessary and important to Members in this body. The resulting package is one which I believe is fair to all concerned and which I hope that the House will expeditiously approve without further change.

Mr. President, as I stated earlier, title I of this substitute amendment contains basically the provisions of the Kastenmeier-Kindness amendment, with several changes. One of the more significant changes is our retention of the Senate provision regarding mandatory abstention. While the House bill does contain a provision on mandatory abstention, it is somewhat more limited than the Senate provision. We felt that the Senate provision more nearly effectuated the purposes of the mandatory abstention concept. The purpose of and need for such a provision is documented at length in the committee report (No. 98-55) on S. 1013. Another significant change deals with determination of the number and assignment of bankruptcy judges. While we retain the provision allowing appointment of bankruptcy judges by the courts of appeals, we felt that it should be the responsibility of Congress to determine how many bankruptcy judges there should be and the districts to which they should be assigned. These matters will be determined by Congress after careful consideration of recommendations by the Judicial Conference of the United States. The Judicial Conference would, as under the House bill, determine their official duty stations and the places of holding court. The Senate amendment sets the number of bankruptcy judges at 232, the same as provided for in S. 1013, as passed by the Senate. The districts to which they are assigned are also the same as provided for in S. 1013.

Members of this body have also expressed opposition to the provisions of the House bill grandfathering in incumbent bankruptcy judges for a period of 8 years since a given judge was last appointed or continued in office. Eight years is a very lengthy extension for many existing judges, and it would appear more appropriate to move forward as quickly as possible with all the new appointments by the courts of appeals. We have retained the "sense of the Congress" language of the House bill urging consideration of incumbent bankruptcy judges for appointment to the new posts.

In keeping with Congress retention of power to determine the number and assignments of the new bankruptcy judges, we have also included provisions which would require that Congress specifically set the salaries of bankruptcy judges and those of U.S. magistrates as well. Both the bankruptcy judges and the magistrates will

be continued at their current salary level of $66,100, but any further salary increases will have to be specifically approved by Congress. Under current law, the salaries of magistrates and bankruptcy judges are subject to automatic adjustment under provisions of the Federal Salary Act and under section 461 of title 28. The system has resulted in their receiving salary increases of over $18,000 in a 5-year period. I think that it is obviously time for Congress to reassert its authority in this area. There is also a very important practical reason why these salaries should be set and increased only by Congress. Current law, found in section 140 of Public Law 97-92, requires specific statutory authorization for salary increases for article III, judges and justices. If magistrates and bankruptcy judges were to receive automatic adjustments while article III judges did not, we might find ourselves in a rather anomalous situation of having bankruptcy judges and magistrates who receive higher salaries than article III district court and court of appeals judges.

Other changes in the Senate bill include certain modifications in the House provisions defining "core proceedings." We have also added a provision regarding jury trials. This provision was included in S. 1013, but was not made a part of the House bill. It simply states that nothing in chapter 87 of title 28 or in title 11 affects any right to trial by jury. It does not affect in any way current law determining when a party is entitled to a jury trial. The provision of S. 1013 regarding change of venue was included in this substitute. The Senate provision allowing a more generous retirement system for bankruptcy judges was also retained.

We have further added a noncontroversial provision that allows the Attorney General to fix the salaries of U.S. attorneys, assistant U.S. Attorneys General, and attorneys appointed under 28 U.S.C. 543 at rates not to exceed rates paid to members of the senior executive service at executive level IV. At present, these positions are compensated at the GS-18 level. These positions are, however, "equivalent positions" within the definition of the senior executive service and the incumbents of these positions have responsibilities equivalent to senior executive service personnel. Thus, we have added this amendment to allow the salaries of these positions to be brought into line with those in the senior executive service.

Title II of this substitute amendment, as I indicated earlier, contains the so-called omnibus judgeship positions recommended by the Judicial Conference and authorized in S. 1013 and in earlier versions of the Kastenmeier-Kindness bill and amendment. Provisions in title II would authorize 61 district court positions and 24 circuit court positions, as provided by the Senate in S. 1013. These additional judgeships are necessary to handle existing caseloads and are not directly related to the bankruptcy court issues. These new article III judges will, of course, be very useful in handling the additional burden placed on the district courts in the bankruptcy area. Certainly handling bankruptcy appeals will contribute to the district court workload. The need for these new judgeships has been carefully and fully documented, both in the committee report on S. 1013 and in the floor debate on the Senate bill on April 27 of last year.

Title III of the Senate substitute contains all of the substantive amendments to the Bankruptcy Code. Subtitles A and B pertain to consumer credit and to grain elevator bankruptcies respectively and are essentially the same as the House-passed provisions. It is my understanding that the House provisions are basically acceptable to the Senate proponents of these measures.

Subtitles C through I contain the remaining substantive provisions passed by the Senate in S. 1013. These provisions were not included in the House bill. They do, however, have broad support in the Senate and were therefore included in this substitute amendment. These provisions are as follows:

Subtitle C—Leasehold Management Amendments.

Subtitle D—Amendments to Title II, Section 523 Relating to Discharge of Debts Incurred by Persons Driving While Intoxicated.

Subtitle E—Referee's Salary and Expense Fund.

Subtitle F—Amendments Regarding Repurchase Agreements.

Subtitle G—Amendments to Title II, Section 365 to Provide Adequate Protection for Timeshare Consumers.

Subtitle H—Bankruptcy Oversight.

Subtitle I—Technical Amendments to Title II.

Subtitle J of title III pertains to rejection of collective bargaining agreements in a chapter 11 reorganization proceeding. It addresses the more controversial 5 to 4 portion of the decision of the Supreme Court in NLRB against Bildisco & Bildisco. It would not alter the standard for rejection established by the Court in that decision. Subtitle J was not a part of S. 1013 as originally passed by the Senate. The House bill contains language on rejection of collective bargaining agreements; but, in the view of many Senators, it goes too far.

Before I discuss subtitle J in greater depth, I would like to briefly comment on the two additional subtitles of title III. Subtitle K contains certain supplemental amendments not previously passed by the Senate in S. 1013. These amendments, which I understand are basically noncontroversial, pertain to the Durrett issue, to the twist cap issue, and to municipal bonds in bankruptcy proceedings. The twist cap and Durrett provisions were included at the request of Senator DOLE. The municipal bond amendments were included at the request of Senator HEFLIN and other Senators. The basic purpose of the municipal bond amendments is to provide assurances to the bond market that, in providing necessary financing to municipalities, the pledge of revenues for payment on such obligations will not be terminated and that any payment to bondholders will not be forced to be repaid. The municipal bond amendments are supported by the National League of Cities, the U.S. Conference of Mayors, and the Municipal Finance Officers Association.

Subtitle L contains certain miscellaneous amendments pertaining to severability and the effective date of title III. Section 581 is a standard severability clause. Section 582 states that, except as otherwise provided in title III, the amendments made by title III will take effect 3 months after date of enactment and shall not apply to pending cases.

On February 22, 1984, the U.S. Supreme Court decided the case of NLRB against Bildisco & Bildisco, and in so doing, upheld the right of a debtor-in-possession to reject a collective bargaining agreement in a chapter 11 reorganization case. The Court adopted the standard set by the Third Circuit Court of Appeals and rejected the standard which had prevailed in the Second Circuit under the case of Brotherhood of Railway Employees against REA Express, Inc. The test in the REA Express case essentially required the debtor to be facing liquidation before he could reject his collective bargaining agreements. Unfortunately, the House bill not only adopted the REA Express standard, but even went beyond it in the opinion of many.

I should point out to my colleagues that the Supreme Court rejected REA Express and adopted the Bildisco standard by a unanimous 9-0 vote. Yet, approximately 1 month after that decision, the House, without benefit of hearings on or study of this complex area of bankruptcy law, passed a bill which completely overturns the Supreme Court's decision. Numerous Members of the House, during the debate on H.R. 5174, pointed out the danger in moving so quickly on legislation to overturn a unanimous Supreme Court decision without hearings or careful study. I share that concern, and my initial reaction was not to include any language in this bill on that point. Organized labor is asking this Congress to change a Court decision which in my view is practical, within the policy of the Federal bankruptcy

laws, and fair to both companies and employees facing a chapter 11 reorganization. In the interests of prompt passage of a critically needed bankruptcy bill, I have been urged by many to include language addressing the 5 to 4 portion of the Bildisco decision.

Mr. President, this has been an extremely difficult issue to try to resolve. Because of the labor issue, we have had to twice extend the transition period of the 1978 Bankruptcy Act. During the period of time afforded by these extensions, members of the Judiciary Committee, and Senator HATCH in particular, have made every effort to reach a fair and acceptable compromise. We have not been able to achieve such a compromise, initially because both the business community and organized labor did not wish to do so. In recent days, however, the business community, albeit reluctantly, has agreed to a reasonable middle ground. That reasonable compromise is contained in the Senate substitute now before you. Organized labor continues to demand unreasonable, unfair, and unworkable changes in the Bankruptcy Code which would seriously jeopardize timely and effective relief for financially troubled businesses under chapter 11. The rehabilitative purpose of chapter 11 is simply too important to allow it to be undermined by organized labor's unreasonable demands in an election year.

Mr. President, the language contained in subtitle J of title III is neither the creature of business nor of labor.

I want to repeat that. The language contained in subtitle J of title III is neither the creature of business nor of labor. It was not drafted or amended in any way by business or labor. This language was provided to the committee as a suggested compromise by the National Bankruptcy Conference (NBC), an organization composed of representatives of different groups who are interested in the administration of bankruptcy law. Its membership is composed of bankruptcy judges, full-time professors of law, and practicing attorneys who specialize in bankruptcy law. The conference has over 70 members from all areas of the country.

When the NBC draft was first presented to representatives of business and labor, neither found it acceptable. Quite frankly, I thought their reaction indicated that the NBC language might represent a reasonable compromise. Since that time, as I stated earlier, the business community has reluctantly embraced these provisions as preferable to those sought by labor and for the admirable purpose of facilitating passage of this much-needed bankruptcy bill.

I want to say at this point that the business community does not prefer this but they reluctantly went along.

Thus, while business has made a significant and conciliatory shift in its position, labor has given little or nothing in its demands.

Let me briefly explain what the NBC provisions would do. First and foremost, they preserve the 9-to-0 portion of the Bildisco decision regarding the standard which must be met for rejection of a collective bargaining agreement. That standard, of course, is that the debtor must show that the collective agreement burdens the debtor's estate and that the equities balance in favor of rejection of the contract. While the NBC draft contains additional minimum conditions precedent to rejection—such as that reasonable efforts to negotiate a change in contractual terms have been made by the debtor or trustee and such efforts are not likely to produce a prompt and feasible alternative and that the inability to reach an agreement threatens to impede the success of the reorganization—this language is drawn straight from the unanimous portion of the Bildisco decision and thus does not alter the court's conclusions regarding the standard for rejection.

The NBC compromise does alter the more controversial 5-to-4 portion of the Supreme Court's decision. It would basically prevent the debtor or trustee from unilaterally abrogating the collective bargaining agreement for 30 days after filing a motion to reject. That 30-day period may be briefly extended at the request of the union unless the court determines that there is a reasonable likelihood that the trustee will prevail at the final hearing on the rejection issue. The court must hold a preliminary hearing before deciding on whether the agreement may be continued in effect. A final hearing must be commenced within 30 days after such preliminary hearing.

There remains the possibility that during the 30-day period, or extension thereof, the debtor may find himself in need of emergency relief in order to continue his business operations. The NBC provisions address this contingency by providing that the court, after notice and a hearing, may authorize the trustee to make changes in the agreement if essential to the continuation of the debtor's business or to avoid irreparable damage to the estate.

Finally, the NBC compromise provides that its changes should apply only in cases commenced on or after the date of enactment of this act. That is to say that these amendments to section 365 of the Code would not apply to pending cases. Such retroactive application could significantly affect many pending chapter 11 reorganizations, causing great confusion and possibly forcing expensive and unnecessary relitigation of issues.

Mr. President, I strongly believe that the provisions which I have just discussed represent a reasonable compromise in an extremely difficult and controversial matter. The NBC provisions preserve the 9-to-0 portion of the Bildisco decision while making reasonable and necessary changes to the 5-to-4 portion to address legitimate concerns regarding the disruptive effect of immediate unilateral rejection. Under these provisions, businesses may not file for bankruptcy and then immediately reject their collective bargaining agreements. They may not do so for at least 30 days. This 30-day period, or extension thereof, will allow time for further good faith negotiations by both sides which will hopefully result in a satisfactory settlement. At a minimum, it will allow each side to quickly set before the court its position regarding rejection of the contract. I would encourage my colleagues to support the compromise committee provisions, drafted by a group of independent bankruptcy experts, not tied to either side in this debate, business or union.

Mr. President, I further urge my colleagues to support the entire substitute amendment. While all of us might wish to make certain changes, time is of the essence; and I urge passage of this substitute as a much-needed bankruptcy package and as a fair compromise between the House-passed and Senate-passed bills. I ask unanimous consent that a section-by-section analysis of titles I and II be printed in the CONGRESSIONAL RECORD immediately following my remarks.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

[See exhibit 1.]

Mr. THURMOND. Senator DOLE will provide a section-by-section analysis of title III of the bill.

Mr. President, I yield the floor.

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS OF TITLE I

Section 101. This section amends section 1334 of title 28 of the United States Code to set forth the jurisdiction of the Federal district courts with regard to bankruptcy cases and proceedings.

Subsection (a) of the new section 1334 provides that the Federal district court shall have original and exclusive jurisdiction over all bankruptcy cases.

Subsection (b) provides that the district court would have original, but not exclusive, jurisdiction over proceedings arising under title 11 or arising in or related to cases under title 11.

Subsection (c) contains the Senate-passed provision on abstention by the Federal courts in bankruptcy proceedings. The court may abstain, in the interest of justice or in the interest of comity with State courts or respect for State law, from hearing a proceeding arising under title 11 or arising in or related to title 11. Such abstention, or decision not to abstain, is not reviewable by appeal or otherwise. On timely motion of a party, the court shall abstain from hearing a related proceeding that is a matter of State law if such proceeding has been or will

be timely instituted and prosecuted in a State forum. The decision to abstain is not reviewable by appeal or otherwise. A decision not to abstain in § 101(c)(2) is an interlocutory order and therefore reviewable by the district court, as provided in Section 104 of this title. A motion to abstain under paragraphs (1) or (2) of this subsection must be filed with the initial pleading of a party.

Subsection (d) provides that the district court in which a case under title 11 is commenced or is pending shall have jurisdiction of all the property of the debtor or of the estate. This section is essentially the same as the new section 1471(e) of the 1978 Act, with the necessary conforming change of "bankruptcy" court to "district" court.

Section 102. This section contains the venue provisions for bankruptcy cases and proceedings. These provisions are essentially the same as those in the Bankruptcy Reform Act of 1978, with necessary modifications to accommodate the continued jurisdiction of the district court over such matters. The Senate substitute includes a provision relating to jury trials, which was in S. 1013 but not included in the House bill. This provision simply clarifies that nothing in Chapter 87 of title 28 or in title 11 affects a party's right to a trial by jury. It does not change existing law regarding when a party is entitled to a jury trial. The Senate substitute also contains another provision originally in S. 1013 which pertains to change of venue. It would allow a district court to transfer a case or proceeding to another district court in the interest of justice or for the convenience of the parties.

Section 103. This section enacts the provisions for removal of bankruptcy cases contained in the Bankruptcy Reform Act of 1978 with necessary modifications to accommodate the continued jurisdiction of the district court over such matters.

Section 104. This section amends Title 28 of the United States Code by adding, after Chapter 5, the following new Chapter 6:

§ 151. Designation of bankruptcy courts

This section establishes each bankruptcy court as a unit of the Federal district court. Each bankruptcy judge, as a judicial officer of the district court, may exercise authority conferred under this chapter, except as otherwise provided by law, rule, or order of the district court.

§ 152. Appointment of bankruptcy judges

The bankruptcy judges for the judicial district established under Chapter 5 would be appointed for a 14-year term by the U.S. Court of Appeals for the circuit. Under the Senate substitute, Congress, rather than the Judicial Conference, will determine the number of bankruptcy judges and the districts to which they will be assigned, after consideration of recommendations by the Judicial Conference. The Senate substitute sets this number at 232 full-time bankruptcy judges, the same as provided for in S. 1013. The district assignments are also the same as in S. 1013. The Judicial Conference will determine the official duty stations of bankruptcy judges and places of holding court, based on recommendations of the Director of the Administrative Office of U.S. Courts in consultation with the judicial council of the circuit involved. The judges of the district courts for the territories shall also serve as bankruptcy judges, unless Congress authorizes a bankruptcy judge for a particular territory.

A bankruptcy judge may be removed only for incompetence, misconduct, neglect of duty, or physical or mental disability, and only by the judicial council of the particular circuit. A majority of judges must concur in the order of removal. Prior to such an order, the bankruptcy judges must have had full notice of the charges and a chance to be heard.

§ 153. Salaries; character of service

Each bankruptcy judge shall serve full-time and be paid at an annual rate of $66,100. Notwithstanding any other provision of law, this statutorially-set salary may not be changed except by a law specifically referring to such salaries. Thus, any change in the salary of bankruptcy judges must be affirmatively approved by Congress.

Such judges must take an oath to faithfully execute their duties. In addition, bankruptcy judges are prohibited from holding any other office and are subject to regulations of the Conference as to their conduct in office and other activities.

§ 154. Division of business; chief judge

Each bankruptcy unit having more than one judge shall by majority vote promulgate rules for the division of business, unless otherwise provided for by the district court. In addition, in each district court with more than one judge, the district court shall designate one judge as chief judge, who will ensure that the rules of the bankruptcy court and district court are followed.

§ 155. Temporary transfer of bankruptcy judges

A bankruptcy judge may serve temporarily in another district with the approval of the judicial councils of the circuits involved.

§ 156. Staff; expenses

A bankruptcy judge may appoint supporting personnel, such as a secretary, a law clerk and clerical assistants. Such personnel must be authorized by the Director of the Administrative Office. Upon a certification of need to the circuit council and to the Director of the Administrative Office, bankruptcy judges may appoint a clerk of the bankruptcy court necessary deputies. The clerk may appoint necessary deputies, in such numbers as approved by the Director.

The court may also utilize facilities or services, on or off the Court's premises, pertaining to the provision of administrative information in bankruptcy cases where the cost of such facilities or services are paid for out of the assets of the estate and not by the Federal government. The circuit council may prescribe conditions and limitations on such utilization.

§ 157. Procedures

Subsection (a) states that the district court may provide that all cases under title 11 and all proceedings arising under Title 11 or arising in or related to a case under title 11 be referred to the bankruptcy judges.

Subsection (b)(1) provides that a bankruptcy judge may hear and determine all cases under title 11 and all core proceedings arising under title 11 or in a case under title 11, subject to review under section 158.

Subsection (b)(2) lists the types of proceedings that are considered "core proceedings". Certain changes have been made in the House provisions regarding core proceedings. Language has been added to subsection (b)(2)(B) to clarify that allowance or disallowance of claims against the estate or exemptions from property of the estate does not include the liquidation or estimation of contingent or unliquidated claims against the estate. Subsection (b)(2)(N) has been deleted.

Subsection (b)(3) provides that a bankruptcy judge on the judge's own motion or the motion of a party shall determine whether a proceeding is a "core proceeding" or a proceeding otherwise related to a case under title 11. Such a determination may be appealed to the district court pursuant to section 158.

Subsection (c)(1) provides that a bankruptcy judge may hear a proceeding that is related to a case under title 11 and submit to the district court proposed findings of fact and conclusions of law. The final order or judgment shall be entered by the district court after review of the bankruptcy judge's recommendations and after de novo review of those matters objected to by the parties.

Subsection (c)(2) provides that the district court, with consent of all parties, may refer a related proceeding to a bankruptcy judge for final determination, subject to review under section 158.

Subsection (d) provides that the district court on its own motion or the motion of a party may withdraw the case of proceeding, in whole or in part; but the district court must grant a motion to withdraw a proceeding if the court determines that resolution involves consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

§ 158. Appeals

Any final judgments, orders, and decrees or, with leave of the court, any interlocutory orders or decrees of the bankruptcy judge may be appealed to the district court in the same manner as appeals are generally taken to the court of appeals from the district court. The final decisions, judgments, orders and decrees of the district court under this section may be appealed to the court of appeals. This section also authorizes the judicial council of a circuit to establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine appeals if all parties consent to their doing so. Referral of appeals may not be made to a bankruptcy appellate panel unless authorized by the district judges for the district from which such appeals have originated. A bankruptcy judge may not hear an appeal from his own district. Decisions of the bankruptcy appellate panels may be appealed to the circuit courts of appeals.

Section 105. The salary that a bankruptcy judge is paid immediately prior to enactment of this Act will remain in effect since the Senate substitute sets the current salary of $66,100 as a statutory maximum. By reference to section 153(a), this provision also clarifies that Congress must specifically authorize any changes in salaries of bankruptcy judges. This is the same statutory requirement currently in place regarding salaries of Article III judges and justices.

Section 106. This section provides that, notwithstanding section 152 of title 28, as added by this act, the term of office of an incumbent bankruptcy judge will expire on October 1, 1985, or when his successor takes office, whichever is earlier. It also provides that bankruptcy judges serving on a part-time basis may continue to serve in that capacity until October 1, 1985.

Section 107. This section makes a conforming change with regard to the section under which bankruptcy judges may be removed from office.

Section 108. This section provides that the salary of United States Magistrates shall be $66,100. It further provides that, notwithstanding any other provision of law, Congress must specifically authorize any pay increases for magistrates. This section also

allows the Attorney General to fix the annual salaries of United States Attorneys, Assistant United States Attorneys General, and Attorneys appointed under 28 U.S.C. 543 at rates not in excess of rates paid to members of the Senior Executive Service at Executive Level IV. At present, these positions are compensated at the GS-18 level despite the fact that they are "equivalent positions" within the definition of the Senior Executive Service and the incumbents of these positions have responsibilities equivalent to those of Senior Executive Service personnel.

Section 109. This section is a conforming amendment relating to the ineligibility of clerk of the court for certain offices.

Section 110. This section is a conforming amendment made with regard to Indian tribes in the State of Alaska.

Section 111. The authority for the collection of filing fees for bankruptcy cases is amended in light of the changes in court structure provided for in this Act.

Section 112. This section corrects various cross references in title 5 regarding retirement for bankruptcy judges.

Sections 113 and 114. Certain transitional provisions of the Bankruptcy Reform Act of 1978 are repealed.

Section 115. This section provides that, on the date of enactment, the district courts are vested with the jurisdiction over pending bankruptcy cases in conformance with section 1334 of title 28 of the Act. In addition, any appeals pending before bankruptcy appellate panels shall be transferred to the appropriate district court.

Section 116. This section amends provisions of title 5 of the United States Code pertaining to retirement for bankruptcy judges. It clarifies the definition of bankruptcy judge in conformance with this Act for purposes of retirement. This provision also clarifies the deductions to be taken from base pay for retirement and the eligibility for an annuity for such judges. A bankruptcy judge will receive an annuity comparable to that given Members of Congress. These provisions would allow a bankruptcy judge to receive retirement pay at a rate equal to 2.5 percent of his average salary times years of service. A bankruptcy judge will be entitled to an annuity at age 62 after 10 years of service as a bankruptcy judge. The Senate substitute retains the provision originally in S. 1013 which allows a bankruptcy judge to receive 2.5 percent for all years of service as a bankruptcy judge or referee. These changes apply to bankruptcy judges who retire on or after the effective date of this Act.

Section 117. The adjustments in retirement made by this Act are not to be construed as creating a new government retirement system.

Section 118. This section amends section 105 of title 11 and makes the necessary modifications to accomodate the continued jurisdiction of the district court and its officers.

Section 119. This section contains a severability or savings provision designed to ensure the continued operation of the law to the extent possible should any provisions be declared unconstitutional.

Section 120. This section provides for the appointment of bankruptcy judges on the basis of merit. The court of appeals should consider character, experience, ability, impartiality, health, membership in a state bar, and commitment to equal justice. In addition, an effort should be made to fill each vacancy without regard to race, color, sex, religion or national origin. Moreover, it is the sense of Congress that, when a term extended by section 106 expires the court consider for reappointment the incumbent bankruptcy judge.

Section 121. This section amends the magistrates' provisions of title 28 of the United States Code to clarify that a magistrate may be utilized to assist in handling a bankruptcy case or processing before the district court purusant to Title I of this Act. Also a bankruptcy judge may be utilized as a magistrate to handle bankruptcy matters.

TITLE II—SECTION-BY-SECTION ANALYSIS

Section 201. Subsection (a) provides for the appointment of 24 additional circuit court judges to handle current caseloads.

Subsection (b) amends the table in section 44(a) of title 28, United States Code, to reflect these new judgeships.

This section is based on the 1980 and 1982 recommendations of the Judicial Conference of the United States. These judges were part of the original Kastenmeier bill, H.R. 3257, and the Kastenmeier amendment printed in the Congressional Record on March 6, 1984. This section is identical to section 301 of S. 1013.

Section 202. Section 202 provides for the appointment of 61 district court judges.

Subsection (a) provides for the appointment of 53 additional district court judges.

Subsection (b) provides for the appointment of 8 temporary district judges. Vacancies in these judgeships will only be filled if they occur within five years of the effective date of this Act.

Subsection (c) makes permanent 2 district judgeships which previously had been authorized on a temporary basis.

Subsection (d) amends the table in section 133 of title 28, United States Code, to reflect these new judgeships.

These judges are necessary to handle the current backlog of civil and criminal cases. They will also be helpful, however, in handling the increased bankruptcy burden on the district courts resulting from the enactment of this Act.

This section is based on the 1980 and 1982 recommendations of the Judicial Conference, with 10 district court judges having been added on the Senate floor based on recommendations by the Department of Justice. Fifty-one of these judges were included in the original Kastenmeier bill, H.R. 3257, and the Kastenmeier amendment printed in the Record on March 6, 1984. This section is identical to section 302 of S. 1013.

Section 203. Subsection (a) is a technical amendment allowing the District Court for the District of Wyoming to meet at Jackson, Wyoming. This section is identical to section 303 of S. 1013.

Subsection (b) is a technical amendment allowing the District Court for the Eastern District of Louisiana to meet at Houma, Louisiana.

Section 204. This section amends section 371 of title 28, United States Code, to provide for certain changes in the retirement system for Article III judges, incorporating the so-called modified "rule of 80."

Subsection (a) allows Article III judges to retire or take senior status if they are age 65 or over and if their age plus their years of service totals 80 or more. This will give judges more flexibility than the current system which only allows judges to retire at age 70 with 10 years of service or to take senior status at age 65 with 15 years of service or at age 70 with 10 years of service. Under existing law, for example, a judge at 67 with 13 years of service may not retire because he would be 2 years short of service years and 3 years short of the statutorily required age. Under this provision, such a judge would be able to retire. This subsection also provides, as under existing law, for appointments to fill vacancies.

Subsection (b) amends the item relating to section 371 in the table of sections in Chapter 17 of title 28.

Subsection (c) provides that the provisions of subsection (a) shall apply to judges who retire on or after the date of enactment. This section is identical to section 401 of S. 1013.

Sections 205, 206, 207, and 208. These sections make certain changes in section 87 of title 5, United States Code, relating to insurance policies held by Federal judges. These changes are explained on page 29 of the Committee Report on S. 1013. (S. Rept. No. 98-55). These sections are identical to sections 403, 404, 405 and 406 of S. 1013.

Section 209. Subsection (a) provides that sections 205, 206, 207, and 208 shall apply to policies purchased after the date of enactment.

Subsection (b) provides that sections 205, 206, 207, and 208 may apply to policies in effect on the date of enactment if the issuing company agrees. This section is identical to section 417 of S. 1013.

Section 210. This section is a technical amendment to section 634(c) of title 28 clarifying a reference to title 5. This section is identical to section 418(c) of S. 1013.

Mr. THURMOND. Mr. President, I yield the floor.

Mr. HEFLIN. Mr. President, my distinguished chairman, the President pro tempore of the Senate, has performed an outstanding service to the Senate in developing a responsible and appropriate solution for our current bankruptcy situation. I wholeheartedly support his efforts and support all elements of the Thurmond substitute to H.R. 5174 with one exception, as I am sure my chairman understands. It is unresolved as to the most productive way to develop an apropriate legislative response to the recent Supreme Court decision in NLRB against Bildisco. I am confident that we can work out an appropriate legislative response.

I am not pleased with the language that I have seen in the Packwood substitute for this; nor am I pleased in the substitute that the chairman has introduced. It seems to me that there is further middle ground which could be worked out to try to reach a solution to this matter.

I have confidence that the Senate will work its will and appropriate legislation can be developed in response to this legal political problem. I am hopeful that my chairman can understand my inability to support subtitle J of title III of his substitute at this particular time. I pledge my efforts to work with him and other Members to resolve this area and lend my wholehearted support to the enactment of the remainder of this legislation.

Over the past several years, there has been an ongoing dialog in the Congress as to the proper role of our Federal bankruptcy courts and the establishment of adequate jurisdiction for the bankruptcy judges of the United States. The main focus of this legislation is in response to the U.S. Supreme Court decision of Northern Pipeline Construction Company against Marathon Pipeline Company, in which the Court ruled unconstitutional the bankruptcy court system created under the Bankruptcy Reform Act of 1978.

The Supreme Court, in the plurality opinion, held that it was unconstitutional for Congress to assign powers to decide certain bankruptcy proceedings involving State law questions to Federal bankruptcy judges who did not have life tenure and guarantee against reduction in salary contained in article III of the U.S. Constitution.

The Court stayed its decision until October 4, 1982, and later extended the stay to December 24, 1982, to give Congress an opportunity to respond. Congress failed to act by this date. The Court issued its judgment. The bankruptcy courts have since operated under an interim rule proposed by the Judicial Conference of the United States and adopted by the Judicial Council of each of the Federal circuits.

In light of the Marathon decision, with the conclusion of the transition period of the 1978 legislation on March 31, 1984, and the congressional extension of the courts authorization to May 25, 1984, it is imperative that Congress redefine the jurisdiction of the bankruptcy court consistent with the Constitution. In response to this situation, the U.S. Senate, on April 27, 1983, passed Senate bill 1013, which restructured the jurisdiction of the bankruptcy court as an adjunct of the U.S. District Court and passed other meaningful improvements in the bankruptcy substantive law and authorization for additional judicial positions for our Federal judiciary. After long and extensive deliberation, the House of Representatives adopted a restructed bankruptcy court, similar to S. 1013, as an adjunct of the district court and passed H.R. 5174 on March 21, 1984.

The concepts of the Kindness/Kastenmeier court restructuring embodied in H.R. 5174 and the structure established in Senate bill 1013 are very similar in nature. The differences are mainly on the appointment power of bankruptcy judges and the procedure of the operation of the court as an adjunct of the district court. The substitute we have before us today is a proposal merging the best aspects of the Kindness/Kastenmeier approach and S. 1013, to reestablish a constitutional bankruptcy court.

This substitute, consistent with S. 1013, authorizes the appointment of 232 new article I judges. This number includes existing permanent bankruptcy positions with at least one full-time bankruptcy judge for each Federal judicial district. These judges will serve 14-year terms and will be appointed by the court of appeals for the circuit in which the district is established, as provided in H.R. 5174.

This proposal will continue the use of article I bankruptcy judges as an adjunct to the article III district court, except that the jurisdiction and authority of the bankruptcy court would be subject to control and review of the district court and the consent of the parties. "CORE" bankruptcy cases continue to be determined by article I bankruptcy judges, while "non-CORE" Marathon-type cases could not be finally adjudicated by the bankruptcy judge without the consent of the parties.

The district court may withdraw, in whole or in part, any case referred to the bankruptcy judge and is mandated to grant a party's motion to withdraw proceedings involving both title 11 and other laws of the United States regulating organizations and activities affecting interstate commerce.

In order that maximum efficiency is achieved, and all available District Court resources are utilized, this legislation clarified that magistrates can assist the District Court in all matters under this title and that bankruptcy judges can act as magistrates to provide additional assistance to the District Court in expediting its docket.

These procedures are consistent with the "interim rule" promulgated by the various Federal Circuit Courts which is currently being used by the bankruptcy courts. This is a major departure from the system established by the Bankruptcy Reform Act of 1978, and provides procedures to permit final determination by article III judges in those matters addressed by the Marathon case.

Consistent with the marathon decision, this legislation provides an abstention section, which allows determination of State law claims or causes of action to be determined by State courts if it can be clearly demonstrated that such action can be timely prosecuted. This abstention section clarifies that unliquidated States law causes of action are determined by State law and State judicial systems. However, the actual allowance of a liquidated claim against the bankruptcy estate is within the sole discretion and jurisdiction of the Bankruptcy Court. This section provides an appropriate balance between private State-created rights which Marathon provided cannot be finally determined by article I courts, and the efficient and fair structuring of the debtor and creditor relationship which is a fundamental concern of this legislation.

In addition to the restructuring of the Bankruptcy Court, this substitute, consistent with Senate bill 1013, authorizes additional U.S. District and Court of Appeals judicial positions as recommended by the Judicial Conference of the United States to assist in the judicial determination of the swelling caseloads facing our Federal judicial system. The President is authorized to appoint with the advice and consent of the Senate 24 additional judges for the U.S. Courts of Appeal and 61 additional judges for the U.S. District Courts.

In addition, this package contains many significant substantive amendments to the existing bankruptcy law that have previously been considered and voted upon favorably by the U.S. Senate, on at least one and as many as five previous occasions within the last 3 years.

The Bankruptcy Reform Act of 1978 represented a comprehensive revision and liberalization of many aspects of the bankruptcy law. Most of the substantive reforms have worked well and have had a beneficial impact on the bankruptcy system. It has now, however, become evident that some modifications and improvements are in order if we are to insure equity and efficiency under this law.

I am very concerned with rapid increase in the rate of bankruptcies and any loopholes in the existing law which might encourage unnecessary bankruptcy filings. Since the Bankruptcy Reform Act took effect in October of 1979, the number of bankruptcies has more than doubled. While there is no doubt that the sluggish economy was a major contributor to this increase, this factor alone does not explain this unprecedented increase in bankruptcy cases. The bankruptcy law has become too liberal, particularly in the area of consumer credit transactions, and has provided an escape hatch for those overextended debtors, who in the long run could well afford to meet their obligations.

In the area of consumer bankruptcies, this legislation will tighten certain provisions of the 1978 Bankruptcy Act, revise inefficient procedures, and eliminate provisions which are unduly burdensome for good-faith creditor seeking to recover on legitimate claims. While this measure corrects abuses and oversights in the existing bankruptcy law, it retains those protections needed by deserving debtors who find themselves in financial difficulty.

This amendment also addresses other problem areas in need of revision. It provides procedures for expedited distribution of grain stored in bankruptcy elevators, and fish stored in a fish processing facility, to insure that farmers who own grain stored in the elevators and farmers who have

sold grain to a bankrupt elevator operator but who have not received payments, and fishermen in comparable circumstances are not punished financially by delays in Bankruptcy Court proceedings.

Another provision concerns the bankruptcy of shopping centers and amends the law as to affirming or rejecting leases in a shopping center. This legislation is needed to stop abuses in those instances where a shopping center tenant is in bankruptcy and is unable to fulfill his contractual obligations. This often may result in shopping center vacancies or assignment of the lease by the trustee to tenants with nonconforming uses, both of which curtail the business of fellow tenants. This proposal would establish a timetable within which trustees would have to affirm or reject leases of space held by a bankruptcy tenant, would institute rules regarding the assignment of the lease, and would insure that leases that have expired by virtue of their own terms before the filing of a bankruptcy petition are not artificially "revived" by the bankruptcy court.

Also contained in this package is a modified version of a bill introduced by Senator DANFORTH which provides that a debt incurred as a result of an act of drunk driving is not dischargeable. Under existing law, a debt resulting from a tortuous act is nondischargeable only if the debt is a result of a "willful and malicious injury" to the property or person of another. In most States, the act of the drunk driver is grounded in negligence and is thus dischargeable. By making such debts nondischargeable, we can protect victims of the drunk driver and deter drunk driving.

This legislation further includes a proposal by the Federal Reserve Board which would exempt repurchase agreements from the automatic stay in bankruptcy proceedings. This is designed to prevent a domino effect, should a major securities dealer declare bankruptcy.

Also in this package is a provision to protect holders of time-sharing agreements in the event the time-sharing contractor goes bankrupt. Under time-sharing agreements, a party purchases the right to use the property for a designated length of time each year. Under present law, when the contractor goes bankrupt, the holder of the time-sharing agreement is relegated to the position of a general, unsecured creditor. This bill would update the bankruptcy law to make it compatible with the concept of time-sharing by granting the holder of such an agreement a lien against the property if the time-sharing contract is rejected by the trustee in bankruptcy.

Mr. President, as my colleagues can see, this is an extremely complex and important package amending our existing court structure and substantive law. These matters, in one form or another, have been previously considered by the Senate and now is the time to act.

The distinguished chairman of the Judiciary Committee (Mr. THURMOND), the equally distinguished ranking minority member (Mr. BIDEN), Mr. DOLE, chairman of the Subcommittee on Courts, and many other members of the Senate Judiciary Committee and this body have had active involvement in developing this important and essential legislation.

I am proud to be part of this effort, and I hope that the Senate will act affirmatively on this meaningful amendment without delay.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I appreciate the remarks of my distinguished colleague on the Judiciary Committee and certainly the remarks of the distinguished chairman of the Judiciary Committee and the work that all of them have done on this important bill.

The Senate today is considering legislation of great significance to the economic welfare of our Nation. The importance of uniform bankruptcy standards was explicitly acknowledged by the framers of the Constitution in article I, section 8:

> The Congress shall have power * * * to establish * * * uniform laws on the subject of bankruptcies throughout the United States.

Justifying that grant of power to Congress in the Federalist, James Madison stated:

> The power of establishing uniform laws of bankruptcy is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different states, that the expediency of it seems not likely to be drawn into question.

Thus, the need for sound bankruptcy laws was considered sufficiently important by the Constitutional Convention to warrant a specific grant of congressional authority. We have a grave responsibility to enact wise standards for bankruptcy.

The Bankruptcy Court and Federal Judgeship Act of 1984 consists of five major components: First, title I of this legislation corrects a flaw in the jurisdiction of the bankruptcy courts discerned by the Supreme Court in the Marathon case. (120 S. Crt. 2858 (1982)). The bill would authorize the appointment of 227 article I judges to act as adjuncts to Federal district courts in the resolution of bankruptcy controversies. Second, title II would create 85 new Federal judgeships. Since 1977, case filings in Federal district courts have increased at an average rate of 39 percent nationwide. This alone would appear to warrant additional judgeships, but the additional bankruptcy jurisdiction explicitly conferred upon district courts by title I will further increase the caseload burden on our Federal judicial system. Third, title III contains important amendments to reform current lenient consumer credit bankruptcy procedures and standards. These changes would insure that bankruptcy does not afford debtors a financial "head start," rather than the "fresh start" the system is intended to provide. Fourth, this bill would enact several provisions restructuring the bankruptcy system to account better for the effect of insolvency on unique enterprises. For example, shopping centers often depend on a fragile tenant mix; the insolvency of an anchor store, for instance, can touch off a chain reaction of bankruptcies. Likewise, grain elevators and recreational timeshare projects present unique bankruptcy problems addressed by provisions of this legislation. Finally, this bill codifies standards under which a distressed business may reject its collective bargaining agreement. The Supreme Court recently ruled in the case of NLRB against Bildisco & Bildisco that a company in chapter 11 reorganization proceedings may unilaterally reject its labor contract and that such drastic action is valid if, in light of all the equities, the need for rejection outweighs the burden of retaining the collective bargaining agreement. This legislation specifies that a labor contract may not be rejected without court approval and clarifies the standard for this judicial ruling.

Since each aspect of this bill is important to our Nation's uniform bankruptcy system, I would like to take a few moments to address the substance of each of these major topics.

BANKRUPTCY JURISDICTION

On June 28, 1982, the Supreme Court ruled that article III of the Constitution prohibited bankruptcy judges, who lack life tenure and protections against reductions in salary, from deciding certain bankruptcy cases grounded in State law (*Northern Pipeline* v. *Marathon*, 102 S. Crt. 2858 (1982)). Since then, the bankruptcy court system has operated under an interim rule established by the Judicial Conference of the United States. Pursuant to this rule, bankruptcy judges act as adjuncts of the district courts. Thus, bankruptcy judges continue to decide most bankruptcy cases. Bankruptcy judges handle bankruptcy except when the district court elects to take the bankruptcy case or when the case involves State law issues, such as arose in Marathon, and the parties do not consent to bankruptcy court jurisdiction. The constitutional validity of this special Judicial Conference rule has been upheld in rulings by five district courts and three circuit courts. I would like to submit for the RECORD, Mr. President, a list of those cases.

Title I of this legislation is patterned after the Judicial Conference's interim rule. Article I bankruptcy judges would serve as adjuncts to article III district courts. The jurisdiction of these bankruptcy judges would be subject to the control of the district court and the consent of the parties. Core bankruptcy cases—discharging debts, lifting automatic stays, confirmation of reorganization plans, and the like—would continue to be decided by bankruptcy judges. Claims against the estate based on State law, however, would be decided in a bankruptcy forum only if all parties consent. In the absence of such consent, the bankruptcy court could hear the case that is related to a case under chapter 11, but it could not enter a decision. Instead it would submit proposed findings to the district court for de novo adjudication and judgment. A district court may withdraw any case from the bankruptcy court upon the timely motion of any party for cause shown. This is, in essence, the same system of adjudication that has operated efficiently for more than a year.

CONSTITUTIONALITY

This bill would satisfy the standards of constitutionality established by the Marathon case. As I mentioned earlier, several Federal courts have upheld the constitutionality of the Judicial Conference's interim rule, after which this legislation is patterned. The fifth, sixth, and eighth circuits all have determined that the Judicial Conference's model rule is constitutionally valid.

The Marathon case did not have a majority opinion. The plurality opinion in the Marathon case held that article I courts could only be created in three circumstances—to oversee territories, to hold military courts martial, and to adjudicate "public rights" or cases historically involving the public domain. Since the State law issues raised by the Marathon plaintiffs were "private rights," the plurality disallowed their adjudication by an article I forum. The concurring opinion, which supplied the decisive margin, decided the case on the basis that the defendant had not consented to have his case tried in an article I forum. Under either of these interpretations of article III, this Senate bill appears constitutionally sufficient. The provisions requiring consent of the parties before any issue other than a core bankruptcy proceeding can be finally adjudicated in a bankruptcy court seems to satisfy the demands of the concurring opinion of Marathon. The provisions allowing a district to recall any case that requires article III resolution should satisfy the reasoning of the plurality decision. The procedures of this bill would accommodate any case that requires article III adjudication through either the recall or consent mechanisms.

ABSTENTION ON STATE LAW ISSUES

The plurality decision in Marathon discussed extensively the attributes of article III judges and bankruptcy judges as a basis for invalidating the broad grant of jurisdiction in the Bankruptcy Reform Act. An alternative article III consideration tacitly influenced the decision, and under slightly different circumstances, might have become the primary basis for decision. This alternative article III argument recognizes that bankruptcy courts have used the practically limitless language of the Bankruptcy Reform Act of 1978 (See 18 U.S.C. 1471(b) which states that bankruptcy courts have jurisdiction over "all civil proceedings arising under title II arising in or related to cases under title II") to assert Federal question jurisdiction over non-Federal questions. Although bankruptcy is clearly a Federal question, State law claims do not automatically become subject to litigation in a Federal court, perhaps even a Federal court in a distant State, simply because it is tangentially related to a bankruptcy claim.

Article III states that the Federal judicial power extends to cases arising under this Constitution and the laws of the United States. This is the basis for Federal question jurisdiction. Justice Cardozo gave perhaps the best definition of the limits of this jurisdiction:

> How and when a case arises "under the Constitution or laws of the United States" has been much considered in the books. Some tests are well established. To bring a case within the limits of federal question jurisdiction, a right or immunity created by the Constitution or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action * * *. The right or immunity must be such that it will be supported if the Constitution or laws of the United States are given one construction or effect, and defeated if they receive another * * *. A genuine and present controversy, not merely a possible or conjectural one, must exist with reference thereto * * *. (*Gully* v. *First National Bank* 229 U.S. 109, 117 (1936)).

Disputes regarding the distribution of a bankrupt estate are clearly Federal questions. The Constitution itself, as I mentioned earlier, provides for uniform laws on the subject of bankruptcies. Thus, if the 1978 Bankruptcy Reform Act had limited its jurisdictional grant to cases arising under chapter 11, the bankruptcy courts would have been fully within the established limits of Federal judicial power under article III. The open-ended language of the Bankruptcy Reform Act, however, granted bankruptcy courts jurisdiction over matters merely related to chapter 11. Thus bankruptcy judges have taken jurisdiction over State law issues that are vaguely related to bankruptcy proceedings but have no basis in Federal law at all.

A noted commentator on bankruptcy law notes that the Bankruptcy Reform Act jurisdictional grant has no conceptual limit (1 *Collier on Bankruptcy* 3.01 (1)(e), at 3-48 to 3-49 (15th Ed. 1979)). Indeed bankruptcy courts have tended to find no limits on the sweep of their authority. For instance, bankruptcy courts have managed to find enough relationship between a bankruptcy proceeding and a wide variety of State civil proceedings to assert Federal jurisdiction, including an action brought under a State corporation law alleging willful appropriation of a corporate opportunity (*Trim Cut Co.* v. *Beasle*, 4 Bankr. Rptr. 243, 2 C.B.C. 2d 117 (D. Del. 1980)), an action to rescind a contract for purchase of a motel on grounds of misrepresentation (*Griffith* v. *Realty Executives Inc.*, 2 C.B.C. 2d 387 (D. N.M. 1980)), an action to foreclose on mortgages (*Family Savings and Loan* v. *Calabria*, 5 Bankr. Rptr. 73, 2 C.B.C. 2d 264 (D. Conn. 1980)), an action regarding the validity of liens on homestead property (*Tidwell* v. *Thomas*, 2 C.B.C. 2d 172 (N.D. Tex. 1980)), actions regarding truth in lending violations (*Cohen* v. *Beneficial Finance Co.*, 2 C.B.C. 2d 64 (M.D. Fla. 1980)) an action alleging property damage (*Thompson* v. *First State Bank*, 3 Bankr. Rptr. 312 (D. S.D. 1980)), and an action alleging breach of contract (*Colgrove* v. *Hoopa Timber Co.*, 3 C.B.C. 2d 839 (N.D. Cal. 1981)). These cases assert no "right or immunity created by the Constitution or laws of the United States," let alone asserting the type of "essential" Federal element that Justice Cardozo found necessary for Federal question jurisdiction. These are State law questions.

Federal law determines the content of the debtor's estate. In particular, Federal law governs disputes over whether property transferred prior to a bankruptcy should be returned to a bankrupt's estate to help satisfy creditors. Federal law also dictates which creditors are qualified to claim a share of the distribution of the bankrupt's remaining properties. State law defines the legal substance of those claims. The doctrine of *Erie RR.* v. *Tompkins* (304 U.S. 64 (1930) has frequently been invoked in bankruptcy litigation as a reminder that Federal courts may not create substantive legal rights that a State has chosen not to provide (See, for example *In re Faber's Inc.* 360 F. Supp. 946 (D. Conn. 1978)). Erie also has governed the failure of a Federal court to acknowledge rights created by a State (See, for example, *In re Morris*, 602 F. 2d 826 (8th Cir. 1979); *In re Transystems*, 569 F. 2d 1366 (5th Cir. 1978)), even if the State holds a minority view of commercial law *Segovia Dev. Corp.* v. *Constructor Maza Inc.* 628 F. 2d 724 (1st Cir, 1980); *In re Anselm*, 344 F. Supp. 544 (W.D.

Ky. 1972)). In short, the Federal bankruptcy courts have no authority, constitutional or otherwise, to reestablish the regime of *Swift* v. *Tyson* (41 U.S. 1 (1842); see "Bankruptcy and the Limits of Federal Jurisdiction" 95 Harv. L. Rev. 703 (1982)).

State law issues are also not subject to doctrines of ancillary jurisdiction which otherwise might operate to pull them into Federal court. State law claims are not subservient to Federal bankruptcy rights, but entirely separate causes of action which happen to involve a party who is also in bankruptcy court. The primary function of ancillary jurisdiction is to prevent relitigation of issues adjudged in an original suit (*O'Brien* v. *Richtarsic*, F. Supp. (D. N.Y.), 2 F.R.D. 42, 44). Once decided, these State law claims are not subject to relitigation in the context of bankruptcy because the State court decision has already determined with finality whether the contested property belongs in the estate. Ancillary jurisdiction is not an alternative explanation for extensive assertion of Federal jurisdiction over State law litigation.

Clearly the intent of the broad jurisdictional grant in the 1978 act was to promote a desirable goal of efficient case administration and reduce delays in estate administration occasioned by litigation outside of the Federal bankruptcy system. A recent commentary suggests, however, that "exercise of jurisdiction by bankruptcy courts to the full extent permitted by the code may impede rather than facilitate congressional goals because full exercise may congest bankruptcy courts with State law issues tangentially related to a bankruptcy. The broad jurisdictional grant, intended to eliminate delay and expense caused by jurisdictional disputes under the act, instead may create the delay and expense of crowded dockets." ("Selective Exercise of Jurisdiction in Bankruptcy-Related Civil Proceedings," 59 Texas L.R. 325 (1981)). This same commentary argues that bankruptcy courts should abstain from hearing bankruptcy-related civil proceedings on the grounds of judicial economy.

Another aspect of the efficiency question is raised by a brief reminder of the intolerable situation created by Swift against Tyson. A judicial system which permits Federal judicial officers to conjecture on the outcome of a case under State law can hardly be deemed efficient. Instead of a single uniform State law, such a system would create two separate bodies of State law, one applicable to parties before a bankruptcy court and the other applicable to the rest of the State.

Although efficiency is an important value, it simply should not be the only criterion used to set judicial policy. The purpose of our constitutional institutions has never been solely efficiency. Indeed, many of our institutions and policies are purposefully slow and deliberate to insure that the rights of all affected parties receive appropriate representation. Federalism and respect for State court processes are important values even if there is some slight cost in terms of efficiency.

This leads to a final consideration of equity and fairness. If a party to a suit has a wholly State law claim which he wishes to have decided before his local State court, what principles of equity dictate that he should be subject to the jurisdiction of a distant Federal courty simply because the other party has filed for bankruptcy? Besides considerations of expense and convenience of travel, Congress must weigh also the wisdom of allowing State courts to settle disputes involving its citizens and its laws.

Thus, considerations of constitutionality, efficiency, and equity argue persuasively for the provision of this bill which requires a Federal district court to abstain from hearing related, nonbankruptcy cases (cases other than core bankruptcy matters as defined by this bill) grounded in State law where any party requests that the case be heard in State court. This provision deals solely with cases of purely State law without any bankruptcy issues for which one party requests a State court determination. There is no diversity involved in these issues and no Federal question jurisdiction. These are purely State law questions.

This should not be construed in any way to be a return to the distinctions of summary and plenary jurisdiction that confused bankruptcy law prior to 1978. The pre-1978 determination of jurisdiction turned on the question of whether the assets of the estate were within the constructive or actual control of the court. This bifurcated jurisdiction, based as it was on undefined tenets of statutory law, engendered expensive and time-consuming disputes over jurisdiction. This provision simply acknowledges established constitutional bounds between State and Federal law issues. Purely State law claims without Federal question jurisdiction under article III will, upon the request of any party, should be adjudicated in State courts, as similar cases have been decided without jurisdictional disputes since the inception of the Constitution. Federal bankruptcy claims, cases arising under title II, will be heard in Federal courts. This is not a new statutory scheme or a return to an old bifurcated system of jurisdiction, but a continuation of the proper constitutional limits of Federal bankruptcy jurisdiction that existed prior to the overreaching 1978 act. This will correct the 1978 act's improper federalization of issues of State law in which neither diversity nor a Federal question exists.

Thus, for reasons dictated by sound constitutional policy as well as judicial economy and procedural fairness to claimants, this bill contains a requirement that a Federal district court involved in a bankruptcy matter honor the request of a party to that proceeding to have wholly State law issues resolved in State courts. While this provision is likely to be used only infrequently, its availability will strengthen the jurisdictional provisions of the bill in general.

FEDERAL JUDGESHIPS

Article III of the Constitution grants Congress the power to review the status of lower Federal courts and make adjustments "from time to time" as circumstances warrant. The Constitutional Convention wisely perceived that changing circumstances might require alterations in the size and scope of lower Federal courts. Congress has the obligation to adjust the size of the Federal judiciary when necessary. Title II of this bill is an exercise of that responsibility.

A burgeoning caseload is jeopardizing the efficient and fair administration of justice in many judical districts. When the number of cases filed in a district increases dramatically without any concomitant increase in judical resources available to resolve those disputes, intolerable strains are placed on the institution which Alexander Hamilton described as the "bulwarks of a limited Constitution," namely the Federal judiciary (*Federalist Papers*, No. 78).

Let me take a specific example to illustrate this problem. In the U.S. District Court for Utah, the number of cases filed (and remember that each of these cases demand at least some measure of a judge's precious time) has increased from 647 per year in 1977 to 1,489 in 1982. This is a 130.1-percent change. No district in the 10th circuit and only three other districts in the entire Nation have experienced a sharper climb in the rate of filings.

These filing statistics reveal a sharply expanded demands on each of Utah's three district court judges. In 1977, the Utah district had 324 filings per judgeship; in 1982, each judgeship was handling 496 filings.

In an effort to update these workload indicia, I contacted the clerk of the Utah district court. The statistics for the first 3 months of 1983 were alarming. In the first 3 months of 1982 (through March 30), a total of 364 cases were filed in the Utah district. In the same 3 month period in 1983, 606 cases were filed. Thus in a comparable period 1 year later, the number of filings had nearly doubled. Another comparison would put this 3-month figure in perspective: in all of 1977, 647 cases were filed; the first quarter of 1983 generated nearly an equivalent caseload to that annual 1977 figure.

These statistics, standing alone, build an impressive case for congressional action to increase the number of judgeships in Utah to account for the changing circumstance of a growing judicial caseload. Even these statistics, however, do not account for the impact of bankruptcy jurisdiction on the Utah district court. This legislation vests bankruptcy jurisdiction in the district courts with adjunct article I bankruptcy courts empowered to exercise such jurisdiction. The district court, under this bill, could, however, recall any case at its discretion and would be required to recall some cases at the request of either party. Thus, a restructuring of the bankruptcy system is likely to result in some additional workload for the Utah district on top of its already difficult predicament. As we have learned in trying to arrive at a sensible resolution to the bankruptcy court problem, it is difficult to estimate with exactitude the number of bankruptcy cases that the district courts, rather than the bankruptcy courts, will need to handle. In attempting to make this prediction, however, the Justice Department developed a procedure to adjust current filing statistics to account for likely increases due to this new bankruptcy jurisdiction. The Department found that the Utah district, for example, could expect 512 weighted filing per judgeship without even considering the additional bankruptcy jurisdiction and 547 weighted filings per judgeship with bankruptcy included. (These weighted filings factor in the complexity of cases and the likelihood that significant trial time will be required.) The conclusion of this study further speaks to the need for bolstering the supply of judicial resources in Utah and many other districts and circuits to meet the demand for judicial resolution skills.

I have used Utah, Mr. President, as an effective illustration of the problem faced in a multitude of judicial districts and circuits. We cannot expect to retain our most qualified jurists and the highest standard of judicial administration in the Federal court system without some relief for the growing caseload.

CONSUMER FINANCE AMENDMENTS

The number of consumer Bankruptcy Cases filed has risen dramatically each year since the Bankruptcy Code was last amended in 1978. Several witnesses before the Senate Judiciary Committee pointed to these changes in the code as the principal cause of the increase. The 1978 amendments generally eased a debtor's access to bankruptcy to avoid excessive indebtedness. Title II contains over 30 substantive amendments to curb abuses of the Bankruptcy Code and make its use truly a last resort.

An example of the types of reform included in title III is the provision which addresses the subject of repetitive filings. A debtor would not be eligible for bankruptcy relief if a prior case filed by the same debtor had been dismissed within 180 days for failure to appear at a meeting of creditors or for failure to follow orders.

The bill also creates a system of debtor counseling by the trustee to insure that debtors are apprised of the option of debt repayment plans under chapter 13. Chapter 13 is used far too rarely. If debtors are aware of the option of debt repayment, it is more likely to become a more credible alternative to liquidation. Another provision simplifies the debt reaffirmation agreement procedures to encourage debtors and creditors to make mutually satisfactory arrangements to repay debts outside of bankruptcy.

Title III also sets an aggregate dollar ceiling of $4,000 on the value of personal property that a debtor may exempt from liquidation to settle claims. Currently the Federal law only sets a limit on the claimable value of any single item which the debtor wishes to exempt. Thus the debtor is free to exempt individual items short of that dollar value without restriction, resulting in the exemption of enormous assets of the debtor. On the subject of exemptions, title III also requires a husband and wife filing jointly for bankruptcy to elect together to use State or Federal exemptions. This provision will prevent the couple from splitting their exemptions to allow the husband to benefit from State exemptions while the wife chooses the benefits of Federal exemptions.

Another important provision in title III prevents abuse of the code. If the court finds that "granting of relief would be a substantial abuse of the code," it may, after an adequate hearing, dismiss a chapter 7 petition. As I mentioned earlier, title III contains more than 30 amendments to insure that a "fresh start" does not become a "head start."

Let me just bring out a couple of other factors concerning some of the other amendments within this bill.

OTHER AMENDMENTS

As I mentioned in my introduction, the fourth part of this reform package are numerous substantive changes. One of these is of particular importance to me, Mr. President. I wish to discuss the provisions improving bankruptcy procedures with regard to shopping centers.

SHOPPING CENTER BANKRUPTCY AMENDMENTS

Subtitle C of title II, with the exception of a few minor changes, is identical to S. 2297 which was overwhelmingly approved by the committee and which unanimously passed the Senate last year.

This subtitle contains three substantive provisions which are intended to remedy serious problems caused shopping centers and their solvent tenants by the administration of the Bankruptcy Code.

The first problem which this bill would remedy is the long-term vacancy of shopping center space by a bankrupt tenant. Although in a chapter 7 case the Bankruptcy Code presently requires that the trustee decide whether to assume or reject an unexpired lease within 60 days after the bankruptcy petition is filed, there is no deadline for this decision in a chapter 11 case. Because of the unprecedented number of bankruptcy cases and the consequent delays in the bankruptcy courts, tenant space in shopping centers has been vacated for extended periods of time before the bankruptcy court forced the trustee to decide whether to assume or reject the lease. During this time, the other tenants of the shopping center are hurt because of the reduced customer traffic in the shopping center.

The bill would lessen the problems caused by extended vacancies of tenant space by requiring that the trustee decide whether to assume or reject nonresidential real property lease within 60 days after the bankruptcy petition is filed in a chapter 11 case. This time period could be extended by the court for cause, such as in exceptional cases involving large numbers of leases. One of the minor changes in this subtitle was to limit it to nonresidential real property leases.

A second and related problem is that during the time the debtor has vacated shopping center space but has not yet decided whether to assume or reject the lease, the trustee has stopped making payments due under the lease. These payments include rent due the landlord and common area charges which are paid by all the tenants according to the amount of space they lease in the shopping center. In this situation, the shopping center is forced to provide current services—the use of its property, utilities, security, and other services—without current payment. No other creditor is put in this position. In addition, the other tenants often must increase their common area charge payments to compensate for the trustee's failure to make the required payments for the debtor.

A third problem occurs when shopping center leases are assumed or assigned and then used in ways which violate the use clause of the lease and disrupt the tenant mix. The Bankruptcy Code currently provides that when a shopping center lease is assumed or assigned, assurances must be given that the lease provisions will not be substantially breached and that the tenant mix will not be substantially disrupted. Unfortunately, courts have misapplied these provisions in ways which have deprived shopping centers and their tenants of the protections

which Congress intended to provide them.

This bill would delete the word "substantially" from these provisions, thus requiring that any clause in the lease be adhered to and that any use in the lease be adhered to and that the tenant mix not be disrupted. The bankruptcy courts will still retain the flexibility to determine whether or not a proposed new use for the premises falls within any use clause of the lease and whether or not the new use would disrupt the tenant mix.

Approximately half of all U.S. retail trade is conducted in shopping centers. Retail merchants in shopping centers depend upon the operation of a carefully chosen mix of stores, all contributing to the success of the entire shopping center. If shopping center tenants especially major tenants, are not operating their stores, are not paying charges necessary for the upkeep of the shopping center or are using their space in ways not provided for in the lease and which disrupt the tenant mix, the financial health of all of the other merchants and of the shopping center itself can be threatened. This bill will reduce the likelihood that provisions of the Bandruptcy Code will themselves add to the economic distress of retail merchants in shopping centers.

LABOR PROVISION

The final major aspect of this reform package deals with the standards under which a failing business may reject a collective bargaining agreement. On February 22 of this year, in the case of NLRB against Bildisco and Bildisco, the Supreme Court set standard for rejection of collective bargaining agreements during reorganization proceedings. That significant decision can be broken down into two major components. First, the Court ruled, by a vote of 9 to 0, that collective bargaining agreements are executory contracts subject to rejection if the debtor can show that the labor contract burdens the estate and that a balancing of the interests of all the parties favors rejection. Second, the Supreme Court decided, by a narrow 5 to 4 margin, hotly disputed, that the debtor may unilaterally modify or reject an agreement prior to the bankruptcy court's formal approval. In the words of the Court:

> The fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendent loss of jobs and possible misuse of economic resources . . . Thus, the authority to reject an executory contract is vital to the basic purpose of a Chapter 11 reorganization because rejections can release the debtor's estate from burdensome obligations that can impede a successful reorganization.

The response to the Bildisco decision in the House of Representatives was swift and extreme. Exactly 1 month after the decision was announced, the House approved provisions absolutely barring unilateral rejection of a collective bargaining agreement. Moreover, under the House bill, a debtor could only reject an agreement by persuading a bankruptcy court that it had attempted to develop a complete reorganization plan at the bargaining table before ever coming to court. Once in court, the debtor would have to prove that rejection is the only way to reorganize the business and save union jobs. This would impose burdens on the struggling business more onerous than the most extreme judicial authorities prior to the Court's Bildisco decision. I fear that the House approach will produce a supreme irony: It will sweep endangered businesses right past rehabilitation into liquidation. For employees, union and nonunion alike, the House bill seems to promise only lost jobs and benefits. It may preserve a piece of paper called the labor contract, but contracts with a liquidated company offer hollow promises.

THE MERITS OF THE SENATE VERSION

The first strength of the provision of this package dealing with treatment of labor contracts in a bankruptcy proceeding is that it preserves the standard unanimously approved by the Supreme Court in the Bildisco case—I might say the legal standard unanimously approved by the Supreme Court. It would permit rejection if the court finds that the labor contract is burdensome and that, after balancing all the equities, the need for rejection outweighs the burdens of retaining the contract. This is the standard presently in effect in practically every jurisdiction in America. This is not a new test. It is a proven standard for assessing the merits of retaining or rejecting labor contracts.

Only the second circuit has a more stringent test which was enuniciated in the case of *Brotherhood of Railway Clerks* v. *REA Express,* 423 U.S. 1017 (1975). That test, which was summarily rejected by the Supreme Court is difficult, if not impossible, to apply in the early stages of a reorganization. The National Bankruptcy Conference, the group of bankruptcy experts who drafted the Senate version, states that the REA Express test can "produce inequitable results.

In addition to codifying the existing "balancing of the equities" standard, this provision includes several procedural safeguards to insure that the business has made good-faith efforts to renegotiate their labor contract before appealing to the court for rejection. The court must find that the business made good-faith efforts to negotiate contractual modifications, that such efforts have failed or are likely to fail, and that the failure to modify the contracts threatens to impede the efforts to save the company. Incidently, current law defines any attempt to use the Bankruptcy Code merely as an excuse to escape a union contract as bad faith. The Bankruptcy Code may not be abused, under this bill, by a business which is attempting to employ chapter 11 for the sole and exclusive purpose of undermining the representational status of the authorized representatives of the employees. In other words, this bill does not allow chapter 11 to be used solely as a union-busting tool.

The second strength of this bill is that it would reverse the controversial part of the Bildisco decision which permits the debtor to unilaterally disavow its collective bargaining agreement. Under this bill, a debtor must apply to the court for permission to reject its labor contract. That application will be adjudged under the balancing of the equities test. Pending the final ruling from the court, which shall come within 30 days by the terms of this bill, the labor contract remains in effect. After the 30-day period expires, the labor contract is deemed to have been rejected unless the union files a request to prolong the effectiveness of the contract.

This prolongation motion will not succeed, however, if there is a reasonable likelihood that the debtor will prevail at the final hearing on the request for rejection. The 30-day time limit is made reasonable in a further fashion by allowing emergency relief where allowing the full 30 days to transpire would jeopardize rehabilitation efforts. Again, during that 30 days, the debtor may not make any changes in the terms of the labor contract in the absence of emergency situations. This will provide time for negotiations concerning appropriate modifications of the contract to avoid rejection. During that time, the contract remains in effect.

This provision, thus, preserves the tested and tried current law standard of balancing of the equities for rejection of labor contracts. This protects the interests of all the parties to a chapter 11 proceeding without favoring any particular position. At the same time, it strikes a reasonable balance by reversing the more controversial aspect of the Bildisco decision. Accordingly, this provision would prevent a business from rejecting its collective bargaining agreement without court approval. This provision has the further merit of being the proposal of a group of bankruptcy experts without any bias or prejudice regarding labor issues. They simply know what works in bankruptcy. They feel that REA Express, and certainly any standard more onerous than REA, will not work. They have drafted this reasonable compromise. I personally am very grateful to them for having been involved in all of the negotiations involved in this matter. This standard

established in this bill by the National Bankruptcy Conference appropriately balances the interests of business and labor without tilting in either direction. And business has gotten one thing that it has wanted, and that is the removal of the right to unilaterally abrogate collective bargaining agreements.

For the reorganization process to operate efficiently and effectively, the delicate balance between all parties affected by all aspects of the struggling business simply must be maintained. This provision accomplishes that result.

There is much more that can be said on this particular bill, but I personally wish to compliment all of those who have worked so hard to try to get a bankruptcy law that will help our country and help our struggling businesses and the employees who work for them and give them a chance to succeed, a chance to overcome the hopefully temporary difficulties and to do it in a reasonable way that literally takes into consideration the needs of both business and labor. I think this bill does that.

It seems to me that there will be attempts on the floor to enact standards that are far more extreme than the one enacted here, standards that may be more extreme than the REA Express standard, and standards that attempt to give one side a leverage or advantage over the other. I think that would be a tragic thing to do under these circumstances. I really believe we ought to listen to the experts on banruptcy, who really have no axes to grind, other than a tremendous desire to have a decent bankruptcy bill that will help to solve the problems that this country is undergoing at this time but, in particular, the problems of businesses that find it necessary to go under chapter 11 bankruptcy proceedings.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum of decisions on the validity of the Judicial Conference's model rule for handling bankruptcy cases and proceedings.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

BANKRUPTCY REORGANIZATION

Decisions in the United States Courts of Appeals and United States District Courts on the validity of the Judicial Conference's Model Rule for handling bankruptcy cases and proceedings.

COURTS OF APPEALS

White Motor Corp. v. *Citibank, N.A.*, No. 82-3638, Sixth Circuit, April 1, 1983.

Hansen v. *Hansen*, No. 823-1158, Eighth Circuit, March 23, 1983.

In Matter of Braniff Airways, No. 83-1048, Fifth Circuit, February 22, 1983.

DISTRICT COURTS

In Re Lear Colorprint, No. 82-B10233, Illinois, Northern, April 19, 1983.

Moody v. *Martin*, No. 83-C-174-C, Wisconsin, Western, March 7, 1983.

In Re Matlock Trailer Corp., No. 3:83-X-5, Tennessee, Middle, February 23, 1983.[1]

Color Craft Press, Ltd. v. *Nationwide Shopper Systems, Inc.* No. C83-0140J, Utah, February 22, 1983.

In Re Braniff Airways, Inc. Misc. No. 4-221-E, Texas, Northern, January 20, 1983.

In the Matter of Northland Point Partners, No. 82-05387-W, Michigan, Eastern, January 7, 1983.

Mr. DOLE. Mr. President, at long last the Senate begins consideration of a House-passed measure dealing with the crisis situation in the Federal bankruptcy courts system.

Almost 1 year ago the Senate passed S. 1013. This was a comprehensive package of bankruptcy legislation which included not only a restructuring of the bankruptcy courts, but a number of substantive changes in the 1978 Bankruptcy Code. Included in the Senate package were measures dealing with consumer bankruptcies, grain elevator bankruptcies, shopping centers, time-share cooperative agreements, and repurchase agreements. Also included was a comprehensive list of technical amendments which had previously passed both Houses in slightly different form.

The House took no action on the Senate bill. It considered its own bill which was introduced recently. The House bill does contain some of the substantive changes which the Senate had previously approved, but with some changes added by the House. Insofar as the House bill goes, its versions of consumer bankruptcy changes and grain elevators are not unacceptable. There are some minor variations when compared with the Senate text; however, in the spirit of comity these House changes can be accepted intact.

The basic structure of the bankruptcy system which the House has approved is also acceptable. I have in mind the House provisions which provide for appointment of bankruptcy judges by circuit court counsels rather than the President which the Senate had approved. The House provisions which create the bankruptcy courts as article I adjuncts of the district courts also are acceptable. It seems that the House bill is very close to the interim emergency rules promulgated by the Judicial Conference in the wake of the Supreme Court's Northern Pipeline decision. The Senate has made some changes, but has basically used the language of the House bill. Others will comment on the differences in the two versions so I shall not dwell on them at this point.

BANKRUPTCY COURT ADMINISTRATIVE STRUCTURE

Mr. President, by ratifying the House provisions, the Senate is agreeing to give the judicial branch maximum flexibility in determining what administrative structure would be suitable and appropriate for the efficient and effective conduct of the bankruptcy court system. I do not quarrel with this broad grant, but I would add a strong admonition. As chairman of the Subcommittee on Courts, which has legislative oversight responsibilities with respect to these matters, I can assure the Senate and taxpayers that we expect implementation of the new structure to be cautious and careful. No new judicial bureaucracy is to be created. There is an opportunity, however, for new initiatives to streamline current caseloads and procedures.

The bankruptcy courts are literally gigantic papermills. Last year alone more than 350,000 new cases were filed. As of January of this year, more than 570,000 cases were pending, involving creditors claims of more than $100 billion and debtors assets of more than $80 billion. New office management technologies are now widely available, including automation and new generation techniques of record and file management. Maximum use should be made of these new resources. This should have a substantial impact on manpower and staffing requirements. Costs can be kept down and efficiency improved.

Alternatives to traditional court reporting can and should be utilized, such as electronic recording or computer-assisted reporting techniques. Already the administrative office has performed an evaluation of electronic recording for use in the Federal courts. An experiment was conducted in the bankruptcy courts in Los Angeles which should prove instructive. The authority given to the courts by the 1982 Courts Improvement Act can be utilized more in the context of the bankruptcy legislation.

SENATE BANKRUPTCY AMENDMENTS

Mr. President, for the RECORD I now include a listing of those substantive bankruptcy amendments which the Senate previously adopted in S. 1013 and which are now included in the measure before us today. A number of these amendments were passed separately by the Senate as well. The list includes:

Consumer credit amendments. S. 2000 in the 97th Congress (DOLE) as modified by committee amendments.

Grain elevator bankruptcy amendments. Text is drawn from S. 3037 in 97th Congress. Provides procedures for expedited abandonment of grain from bankrupt elevators (DOLE).

Shopping centers bankruptcy amendments. S. 2297 in 97th, S. 549 in 98th. Establishes a timetable within which trustee would have to accept or reject leases on shopping center properties in bankruptcy (HATCH).

Drunk drivers' nondischargeability of debts, S. 2159 in 97th Congress. Prohibits debts incurred as a result of an act of drunk

[1] This opinion did not uphold the validity of the Model Rule.

driving from being discharged in bankruptcy (DANFORTH).

Referee's salary and expense fund amendments. (Drawn from S. 863 in 97th Congress.) Corrects a drafting error in the 1978 act which requires a handful of corporate debtors in bankruptcy to continue making payments to the nonexistent fund.

Repurchase agreements amendments. Proposal of the Federal Reserve Board, which exempts repurchase agreements from the automatic stay in bankruptcy.

Timesharing agreements amendments. S. 3027 in the 97th Congress, S. 492 in the 98th. This subtitle provides that persons who hold timesharing agreements shall be granted a lien on the property involved when the timesharing contractor goes bankrupt and the trustee terminates the timesharing contract.

Bankruptcy oversight. This subtitle directs the administrative office to collect information on bankruptcy filings regarding levels of debtor income and assets, debtor living expenses, and total amounts recovered for creditors in proceedings under chapter 7, 11, and 13. This information will assist Congress in analyzing the functions of the bankruptcy system.

Technical and clarifying amendments. The bulk of the provisions in this subtitle are drawn from S. 863, which passed the Senate by unanimous consent in 1981. The provisions correct grammatical, punctuation, and spelling errors in the Code, clarify the intent of the drafters in certain sections, and generally refine procedures.

COLLECTIVE-BARGAINING AGREEMENTS

There are two principal issues involved in the treatment of collective bargaining agreements in bankruptcy. Prior to the decision of the Supreme Court in the Bildisco case, the law was unclear as to (1) whether or not a debtor in bankruptcy could unilaterally reject a collective bargaining agreement without a prior court hearing, and (2) what standard the Court should apply in evaluating the application for rejection.

In the Bildisco case, the Court held that (1) unilateral rejection, without prior hearing, is permitted (by a 5 to 4 vote), and (2) the standard is one of "balancing the equities" (by a 9 to 0 vote).

After extensive discussions with all sides, the language that is contained in the bill is the most reasonable compromise on legislative language to provide greater protection for collective bargaining agreements that is achievable at the present time.

Mr. President, I believe that this language is good language, and is certainly the best that can be achieved at the present time. It may be that we will have to take another look at this particular issue after House action, depending upon what happens in the House. But I am prepared to support the language that is in the bill now so that we may move forward with this very important package.

JUDGESHIP POSITIONS

The Senate-passed bill, S. 1013, contained a group of new authorizations for article III, life-tenured Federal judgeships. These new positions were carefully considered and approved, after hearings before the Courts Subcommittee. Testimony was received from the chief judges of the circuit courts requesting the increases. The Administrative Office of the U.S. Courts submitted justification material based on workload and backlog statistics of all Federal courts. On the basis of this record, the additional judgeships were approved. Unfortunately, H.R. 5174 did not include this package when the House approved it last week. This is regrettable, because a close inspection reveals that these positions were justified based on recommendations of the Judicial conference of 3 years ago.

In the intervening years, the need for these new positions has grown more desperate. New case filings have multiplied dramatically. The cases are becoming more complex. Many more cases are being tried. Appeals from administrative findings and determinations are exploding, especially social security appeals. In one circuit court, as testimony before the Courts Subcommittee last March 7 indicated, social security now composes more than 20 percent of the current docket. More than one-half of these appeals are being remanded.

The Courts subcommittee has begun a series of hearings on civil court backlog and delay. Improved management and the application of new technology can help. But the bottom line is more judgeships.

Mr. President, this is no powerplay to create a new pot of political patronage. If that were the case, the Senate would not have agreed to the House bill provisions which give the Federal circuit court councils authority to appoint the more than 230 bankruptcy judgeships. Contemporary history also reveals that the machinery for selecting, nominating, and confirming judges essentially grinds to a screeching halt in Presidential election years. The normal timeframe for filling a new judgeship created by the Congress is approximately 413 days. The record of the Reagan administration confirms that this is a complex and deliberate process. I would humbly suggest to those who might fear a Reagan runaway with the Federal court system, that there is a long way to go before President Reagan in his first term can catch up with the 253 judgeships filled by Mr. Carter during his 4-year administration.

Mr. BIDEN. Mr. President, since June 1982, when the Supreme Court held the bankruptcy courts system unconstitutional, the Congress has negotiated a series of complex compromises that are included in the bankruptcy legislation we have before us today. This legislation, aside from the labor issue which I believe we are very close to working out, is almost identical to the bill the Senate passed last year, S. 1013.

First, this legislation includes an article I bankruptcy courts system which is clearly compatible with the House-passed article I bankruptcy courts system. This system will correct the unconstitutional aspect of the bankruptcy system that was created by the 1978 Bankruptcy Act, and will put the bankruptcy courts system back on solid ground after 2 years of floundering in uncertainty.

Second, this legislation contains changes in the consumer bankruptcy laws that were achieved over a long period of difficult negotiations. This part of the package tightens a number of provisions of the 1978 act, corrects inefficient procedures, and eliminates provisions of that act which have been unduly burdensome for good-faith creditors seeking to recover on legitimate claims. This part of this legislation is identical to that of the House-passed package.

Third, this package authorizes the appointment of 61 new district court judgeships and 24 court of appeals judgeships, the same numbers that the Senate passed last year in S. 1013.

Fourth, this legislation contains a number of improvements in substantive bankruptcy law that were contained in the Senate-passed bill.

Fifth, and finally, I hope that this week the Senate will put the finishing touches on working out the portion of the package that is intended to deal with the Supreme Court's decision in the Bildisco case, relating to rejection of collective bargaining agreements by businesses going through reorganization under chapter 11 of the Bankruptcy Code.

Mr. President, I am optimistic that we are close to working out this entire package. All parties have negotiated, and continue to negotiate, in good faith, and I believe all parties have come to the realization that despite their differences, everyone involved has the same top priority—to pass this legislation without further delay.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3084

(Purpose: To clarify the provisions regarding discharges in bankruptcy dealing with child support)

Mr. EXON. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an amendment numbered 3084.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment insert the following:

SEC. . Section 523(a)(5) of title 11, United States Code, is amended by—

(1) Amending the first paragraph thereof by inserting the words "or other order of a court of record" after the words "divorce decree,"; and

(2) inserting ", or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State" after "Social Security Act".

Mr. EXON. Mr. President, without a doubt, children are this Nation's most precious natural resource. As such, we should be sure that the laws of our country carefully protect their interests. Judge Dale Fahrnbruch, district judge, Lincoln, Nebr., has called to my attention a matter that deserves prompt action. He has encountered the difficulties that this amendment will correct.

Sadly, due to the high rate of divorce and the increasing number of children born out of wedlock, more and more children are living with only one of their natural parents.

Many of these children are being deprived of the support owed to them by their noncustodial parent. The number of parents who ignore their child support obligations is a national disgrace. Already, over 2 million parents a year are delinquent on their child support payments. In dollars, the children of this Nation are being cheated out of over $4 billion a year. This, of course, places a great strain on our country's public assistance programs, and puts at risk the welfare of our children.

I offer this amendment to improve the laws affecting child support enforcement. Several very good bills have been introduced relating to child support; however, I am not aware of any bills before the Senate which address two serious problems in the current Bankruptcy Code which affect child support obligations.

In the past, Congress has shown great wisdom in making child support payments nondischargeable in bankruptcy. Indeed a parent's obligation to his or her children is worthy of special and extraordinary treatment. What this amendment does is simply make an obligation now dischargeable if the court has determined and directed paternity to out-of-wedlock born children.

Unfortunately, there is a significant loophole in the current law. Under section 423 of the Bankruptcy Code, debts owed:

. . . to a spouse, former spouse or child of the debtor, for alimony to, maintenance for, or support of such spouse or child. In connection with a separation agreement, divorce decree or property settlement agreement . . .

shall be nondischargeable in bankruptcy. This is good and proper.

Unfortunately, however, this section of the Bankruptcy Code makes no provision for child support payments when a child is born out of wedlock. Additionally, under section 17a of the Bankruptcy Act debts:

. . . for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female or breach of promise of marriage accompanied by seduction, or for criminal conversation . . .

are not dischargeable. In its attempt to eliminate the antiquated language of the prior law, Congress made a grave oversight and excluded from the protection of nondischargeability those children born out of wedlock. Such unequal treatment is unjust and must be eliminated.

The amendment I am offering today is identical to S. 2553, a bill which I introduced on April 11. It corrects this inequity by striking the limiting language, "In connection with a separation agreement, divorce decree, or property settlement." Under this revision, the security of support would depend on parentage rather than the marital status of the child's natural parents.

Such a revision is fair and necessary. Children should not be punished for the acts of their parents, and parents should not be able to escape the obligation to provide financial assistance to their offspring.

Mr. President, my amendment also addresses a related issue. Section 2 of this amendment would make nondischargeable any debt arising out of child support assigned to a Government agency. Under the current law, a custodial parent may be required to assign his or her rights to receive child support to qualify for public assistance. If the delinquent parent, married or otherwise, should file for bankruptcy, the governmental agency is prevented from recovering the full amount of the assigned child support payments.

I believe that this provision should be changed because it encourages parents to ignore their child support obligations. If a parent knew that his or her child-support obligations were inescapable, then the parent would have an incentive to make timely and full payments, or to appeal to the appropriate legal authorities to alter or amend the child-support decree or agreement.

Mr. President, I urge the managers of the bill to accept this amendment and hope that it can be signed into law quickly as part of this bankrupty improvements legislation.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we feel that the amendment offered by the distinguished Senator from Nebraska is a reasonable amendment. It should be helpful to the common good and the public. Therefore, we are willing to accept it.

Mr. HATCH. Mr. President, would the Senator yield?

Mr. THURMOND. We want a rollcall vote.

I yield.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, echoing the distinguished chairman of the Senate Judiciary Committee, I agree with the distinguished chairman of the Judiciary Committee and, of course, the distinguished Senator from Nebraska. This is a good amendment. It resolves what really is a defect in the law where unmarried parents have been able to escape from the bankruptcy requirement to make child support payments. I think it is a very good amendment. I want to compliment the distinguished Senator from Nebraska for bringing it to our attention, and bringing it to this bill.

I, like the distinguished chairman of the committee, hope that everybody will vote for this amendment.

Mr. EXON. Mr. President, let me thank my distinguished friend from South Carolina and the Senator from Utah who heads up the committee with jurisdiction on this matter. I am pleased that they support this amendment. I am very appreciative of their kind comments about my introducing this. I simply want to say for the Record, again, that the real credit goes to the hard-working district judge for calling this to my attention. Hopefully, we can get this passed, and make it a part of the law.

I have no further comment to make. May I ask the Chair, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. THURMOND. Mr. President, I suggest we proceed to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BAKER. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi

(Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. D'AMATO), the Senator from Alabama (Mr. DENTON), the Senator from Kansas (Mr. DOLE), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "yea".

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Massachusetts (Mr. TSONGAS), are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Vermont (Mr. LEAHY), and the Senator from Michigan (Mr. LEVIN) would each vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 0, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—70

Abdnor	Goldwater	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Packwood
Baker	Hatch	Proxmire
Baucus	Hatfield	Pryor
Bentsen	Hawkins	Quayle
Biden	Hecht	Randolph
Bingaman	Heflin	Riegle
Boren	Heinz	Roth
Boschwitz	Helms	Rudman
Burdick	Humphrey	Sarbanes
Byrd	Jepsen	Simpson
Chiles	Johnston	Specter
Cranston	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Lautenberg	Symms
Domenici	Long	Thurmond
Durenberger	Lugar	Tower
Eagleton	Matsunaga	Trible
East	Mattingly	Warner
Evans	McClure	Wilson
Exon	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Mitchell	

NAYS—0

NOT VOTING—30

Bradley	Glenn	Moynihan
Bumpers	Hart	Nunn
Chafee	Hollings	Pell
Cochran	Huddleston	Percy
Cohen	Inouye	Pressler
D'Amato	Kennedy	Sasser
Denton	Laxalt	Stevens
Dixon	Leahy	Tsongas
Dodd	Levin	Wallop
Dole	Mathias	Weicker

So the amendment (No. 3084) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, the distinguished Senator from Oregon has an amendment.

Mr. BAKER. Mr. President, will the Senator yield for a moment?

Mr. THURMOND. Yes.

Mr. BAKER. I will not take but just a moment. It is that time of the day when we need to figure what is in prospect. Some people have flights to catch, some people have trains to catch, and they need to make their plans. So may I inquire of the two managers if they can give us some idea about how many more amendments there are and what we can do yet this afternoon?

Mr. THURMOND. Mr. President, we have acted on the amendment of the distinguished Senator from Nebraska (Mr. EXON). We just had a rollcall vote. We are ready to act on an amendment by the distinguished Senator from Oregon (Mr. HATFIELD), which amendment I think we can accept. I do not know of any other amendment this afternoon. Senator DECONCINI I understood had an amendment. Probably he and the distinguished Senator from Alabama could get together on that and maybe by tomorrow they will have a time agreement on that.

Those are the only amendments that I know about. If any other Senator has an amendment, I wish they would let me know, except the Senator from North Carolina (Mr. HELMS) has an amendment concerning union matters and the Senator from Oregon (Mr. PACKWOOD) has an amendment on union matters.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield.

Mr. BAKER. I understand that the Helms and Packwood amendments may be the two substantial amendments with which we must deal. Could I inquire of the manager or either Senator—they are both on the floor—if they are prepared now to consider a time limitation or if either of them are prepared this afternoon to go forward with their amendment?

Mr. PACKWOOD. Mr. President, I do not mind debating it tonight. I do not know how many Senators are not present. Thirty-one were missing on the earlier vote. Frankly, we were lucky to go ahead on a controversial amendment. I am perfectly happy to have 2 hours on a side on my amendment.

Mr. BAKER. I thank the Senator.

Mr. President, I do not see the minority leader on the floor at this moment, but I will consult with him, and I hope in a few moments to make a unanimous-consent request that there be 2 hours on the Packwood amendment when we reach it, to be equally divided.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. GOLDWATER. Mr. President, the Senator from Texas is not on the floor. I just left a meeting with him. He indicates that he does have an amendment to this, and I have to object to any time limitation without his being present.

Mr. BAKER. Mr. President, the Senator from North Carolina is on the floor. I inquire of him if he is in a position to offer his amendment and/or to have a time limitation.

Mr. HELMS. The answer to both questions is "yes."

Mr. BAKER. Does the Senator anticipate a rollcall vote on his amendment?

Mr. HELMS. Yes.

Mr. BAKER. Mr. President, in view of that, I wonder if the two managers would be prepared to take up the Helms amendment after the Hatfield amendment, and that could be our last record vote for the day?

Mr. THURMOND. Mr. President, it suits us to take up the Helms amendment this afternoon.

Mr. BAKER. I inquire of the Senator from North Carolina if he could suggest a time limitation.

Mr. HELMS. I am agreeable to any time agreement. I need only 10 minutes.

Mr. BAKER. Mr. President, I suggest, once again, that I will consult with the minority leader and the managers to see if we can get 30 minutes equally divided on the Helms amendment.

Mr. HELMS. That will be entirely satisfactory.

Mr. THURMOND. That is all right with us.

Mr. BAKER. I thank all Senators. After consultation, I perhaps will have another announcement to make.

AMENDMENT NO. 3085

(Purpose: To amend certain provisions regarding the retirement of bankruptcy judges)

Mr. HATFIELD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 3085.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute amendment insert the following:

SEC. . Notwithstanding the provisions of section 8331(22) of title 5, United States Code, or any other provision of law, for purposes of section 8339(n) of title 5, United States Code, any individual appointed under section 34 of the Bankruptcy Act who served as a United States bankruptcy judge for the district of Oregon or for the Central district of California until March 31, 1984, shall receive an annuity computed with respect to his service as a referee in bankruptcy and as a bankruptcy judge, and his military service (not exceeding five years) creditable under section 8332 of title 5, United States Code, by multiplying 2½ percent of his average annual pay by the years of that service.

Mr. HATFIELD. Mr. President, my amendment is quite simple and should require very little debate.

The major bankruptcy court reform bill passed by Congress in 1978 included a provision which offered bankruptcy judges a one-half percentage point incentive to serve as bankruptcy judges during the transition period due to expire March 31, 1984.

Two bankruptcy judges, Folger Johnson of the district of Oregon and Aaron Phelps of the central district of California, relied on that enhanced retirement benefit provision and stayed on the court up to the end of the transition period. So as not to disrupt the orderly flow of business in the overwhelmed bankruptcy courts, a selection panel in each State appointed individuals to replace these two judges who served the entire transition period as provided by law.

Unfortunately, when March 31 rolled around, Congress had failed to pass bankruptcy reform legislation and chose to extend the transition by 1 month. Subsequently, another month extension was passed and now the courts are set to expire at the end of this week.

Mr. President, my amendment is necessary to avoid a grossly unfair result dictated by the law in its present form. In the case of Folger Johnson, a man who has served honorably for over 29 years as bankruptcy referee and then as a bankruptcy judge, the law would operate to deprive him of enhanced retirement benefits simply because he retired 2 months before the interim period had ended.

There is no good reason Judge Johnson should be penalized for following rules that were changed without notice at "5 minutes before midnight." I urge my colleagues to look at his situation.

Here is a man 69 years old who stayed on the court for the entire transition period: that is, he did not retire early as so many other judges did; he filed a form indicating his willingness to be reappointed; and then he served out the transition period only to find out that Congress had changed its mind and passed a new extension, a new transition deadline.

What was Judge Johnson to do? Continue serving indefinitely? Would it have been fair to have required Judge Johnson to serve 1 year or 2 years longer if Congress had decided to change the rules again? In law there is a concept known as promissory estoppel. The gravamen of this concept is that a court of equity may grant relief to parties who, while technically not protected by a contract or stated legal right, detrimentally relied upon representations made to them, and did so reasonably.

The same applies in about the same conditions with Judge Aaron Phelps of California.

According to our research and the administrative court office, these are the only two judges in the whole Nation who fall into this particular situation. This amendment would correct that, to provide them with fully enhanced retirement benefits. This amendment would protect these two judges and would award them equity for their detrimental reliance upon the law. Congress has shamefully bounced back and forth from deadline to deadline in responding to the Marathon case, and these two individuals must not see their pensions cut because of congressional fickleness. It is my understanding that no other judges in the United States are in the exact position in which Judge Johnson and Judge Phelps find themselves, and so the cost to the Government is minimal. The amendment is restricted to these two judges and their situations and I urge its immediate adoption.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the U.S. District Court of Oregon, signed by James M. Burns, chief judge, in support of this amendment and outlining some of the conditions relating to it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT,
DISTRICT OF OREGON,
Portland, Oreg., May 18, 1984.

Re amendment of proposed bankruptcy legislation enabling bankruptcy judges qualified for enhanced retirement benefits pursuant to the original requirements of title IV of Public Law 95-598 to receive such benefits.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: I am writing to urge your support for sponsorship of an amendment to the final bankruptcy legislation whereby qualification for receipt of the enhanced retirement benefits available to Bankruptcy Judges be allowed as originally intended. Specifically section 338 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598), section 8339(n) of title 5, United States Code, and section 8331(22) of title 5, United States Code, originally contained legislative requirements for receipt of such benefits, including the need to serve through March 31, 1984.

Unfortunately S. 2570, signed into law by President Reagan on April 30, 1984 not only extended the essential transition provisions of the Bankruptcy Act, but also extended the date through which a Bankrupcty Judge had to serve before qualifying for enhanced retirement.

Any requirement of extended service beyond March 31, 1984 would be manifestly unfair to the Honorable Folger Johnson, who served as a Bankruptcy Judge in the District of Oregon for over twenty-nine years prior to his retirement on April 1, 1984. He, unlike many other older Bankruptcy Judges, consciously chose to fulfill the original requirements. He did so not only to receive the additional retirement benefits justly due a man with his service record. He was also extremely concerned about the probable disruption of bankruptcy administration resulting from an early retirement and the difficulty of finding a qualified replacement, especially in the uncertain climate caused by the U.S. Supreme Court's *Marathon* decision.

I might note that in addition to service as a Bankruptcy Judge, Folger Johnson served for over four years in the Naval Reserve during the Second World War, retiring with the rank of Lieutenant Commander.

The following factors all heavily contribute to my appeal for your assistance in proposing the appropriate amendments:

1. Judge Johnson relied, hopefully not in vain and to his detriment, on Congress and its legislative mandate and both served through March 31, 1984, as well as filed the appropriate written acknowledgements of his willingness to continue in service if appointed;

2. The Administrative Office of the United States Courts advised him the enhanced benefits would be available if Congress either passed no legislation or passed a new bankruptcy law by March 31, 1984;

3. In anticipation of Judge Johnson's retirement and new bankruptcy legislation, I set up a selection panel for his replacement and ultimately appointed an extremely well qualified Elizabeth L. Perris to serve in the capacity of Bankruptcy Judge effective April 1, 1984;

4. Prior to March 31, 1984, on the advice of the Administrative Office, Judge Perris was sworn in as a Bankruptcy Judge with her appointment to be effective on April 1, 1984;

5. In anticipation of her appointment Judge Perris not only completely severed ties with her law partnership, but also interviewed and selected her secretary and law clerk. These people then quit their jobs and, for ease of transition, were already working in the court with their predecessors;

6. Due to Congress's only extending the transition provisions, and also the date of service upon which the benefits in question would apply, I was placed in the extremely difficult position of sitting in Judge Johnson's chambers on April 2, 1984 with him and Judge Perris attempting to resolve whether Judge Johnson would continue to serve as Bankruptcy Judge in hopes Congress would pass final legislation, or whether Judge Perris should actually begin service. Obviously at this point we had two extremely qualified people in the position of being treated inequitably;

7. As a resolution to this quandary, Judge Johnson agreed to retire as planned. In turn, I made a firm commitment to seek enactment of legislation which would correct the potential wrong about to be perpetrated. This letter (and earlier conversations with your staff) is my attempt to honor that commitment so that, if Congress will act, a severely unfair result will be avoided;

8. As stated above, Judge Johnson could have quite simply followed the lead of other Bankruptcy Judges and retired early;

9. Though Congress required a judge to indicate a willingness to accept appointment for another fourteen-year term if reappointed, and which he did in an appropriate and timely manner, such a requirement was unusual for a practical matter as Judge Johnson was 69 at the time;

10. Finally, congressional inability to pass legislation gives further credence to the fact that he could not have been expected to continue serving beyond March 31, 1984 (although he is still helping the court a few days a month without pay).

You may well wonder about the ultimate cost of this amendment. It is my understanding there are in fact only two or three judges who did everything humanly possible to receive these benefits, but now are about to lose them. While I am sure this number may change if further extensions are passed, I sincerely doubt whether the amendment I proposed would impose an inordinate financial burden, especially since the benefit increase is only ½%, which is an overall small but individually meaningful increment.

When one considers the unusual method originally devised to qualify for enhanced retirement benefits (which were nonetheless dutifully fulfilled), the fact that Bankruptcy Judges in essence must continue to "dangle" while Congress continues to attempt to sort out bankruptcy legislation, and the definite possibility such legislation even now may not be enacted in the near future, one can clearly see these judges were trapped into a truly inequitable position. I respectfully and strongly request that you consider supporting or proposing appropriate legislation in order to forestall the tremendous inequity about to be imposed upon not only a long time servant of the United States, but also a long time servant of the State of Oregon.

Very sincerely,

JAMES M. BURNS,
Chief Judge.

Mr. THURMOND. Mr. President, as I understand it, these are the only two bankruptcy judges who could not qualify under this new law for retirement. We think that in view of the time they have served and under the circumstances, it would be fair to allow them to come under this retirement. Therefore, we accept the amendment.

Mr. HEFLIN. Mr. President, the amendment is agreeable to the minority.

The PRESIDING OFFICER. The question is no agreeing to the amendment.

The amendment (No. 3085) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I express my deep appreciation to the managers of the bill, Mr. THURMOND and Mr. HEFLIN, and to the members of the committee for their support of this amendment.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3086

(Purpose: To amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes)

Mr. HELMS. Mr. President, it is my understanding that the leadership wishes to have an amendment laid down so that it will be pending tomorrow and I will send such an amendment to the desk in a moment, the cosponsors of which are the distinguished Senator from Arizona, Mr. GOLDWATER; the distinguished Senator from North Carolina, Mr. EAST; the distinguished Senator from Idaho, Mr. SYMMS; and the distinguished Senator from Alabama, Mr. DENTON.

Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself, Mr. GOLDWATER, Mr. EAST, Mr. SYMMS, Mr. DENTON, and Mr. GRASSLEY proposes an amendment numbered 3086.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute amendment insert the following:

SEC. . Section 316(b)(2)(C) of the Federal Election Campaign Act is amended by inserting before the period ": *Provided*, That all contributions, gifts, or payments for such activities are made freely and voluntarily, and are unrelated to dues, fees, or other moneys required as a condition of employment".

SEC. . Section 316(b)(3) of the Federal Election Campaign Act is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding after subparagraph (C) the following:

"(D) to use any fees, dues, or assessments paid to any organization as a condition of employment, or money or anything of value secured by physical force, job discrimination, or financial reprisal for (i) registration or get-out-the-vote campaigns, (ii) campaign materials or partisan political activities used in connection with any broadcasting, direct mail, newspaper, magazine, billboard, telephone banks, or any similar type of political communication or advertising, (iii) establishing, administering, or soliciting contributions to a separate segregated fund, or (iv) any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

Mr. HELMS. Mr. President, I will discuss this amendment more fully tomorrow. But let me say for the purposes of the RECORD this evening that the purpose of this amendment is to put an end to one of the most blatant violations of political freedom that can be imagined. Simply said, this amendment now pending would prohibit the use of compulsory union dues for political purposes.

Mr. President, as I say, I will elaborate on this subject tomorrow, but I will say no more this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SYMMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I make an inquiry of what the pending business is at this time.

The PRESIDING OFFICER. The amendment by the Senator from North Carolina (Mr. HELMS).

Mr. DECONCINI. Is there a time agreement on the amendment?

The PRESIDING OFFICER. There is no time agreement on the amendment.

Mr. DECONCINI. Mr. President, the bill that is before us today offered by the distinguished chairman, Senator THURMOND, and the distinguished Senator from Alabama, Senator HEFLIN, could endanger the operation of the entire Federal bankruptcy system.

The principal danger posed by the bill is contained in new section 1334(c).

That section mandates that all Federal courts, including both the bankruptcy courts and the district courts, must abstain from deciding claims based upon a State law claim or cause of action. Under that provision, any party—a creditor, a debtor, a trustee—could insist that a proceeding that involves State law would have to come to a complete halt. The parties, regardless of the expense, would have to commence a new proceeding in State court in a State that could be thousands of miles away from where the bankruptcy case is pending. After the State court rules, and presumably after all State court appeals are exhausted, the parties would go back to bankruptcy court to enforce the State court order.

Such a procedure is troublesome and would allow those who favor delay, which in some cases would be the debtor, in other cases would be a creditor, limitless opportunities to create endless delays. It is not at all clear what the drafters of this provision intended. If they intended to require a decision by a State court on all matters in bankruptcy that concern State law claims, then we might as well close down the entire bankruptcy court system, for virtually every claim in a bankruptcy case is based on a State law claim or cause of action. If every bankruptcy proceeding had to await decisions by State courts on every such matter, creditors and debtors alike would be deprived of the speedy resolution of disputes that is essential to the operation of bankruptcy.

I am considering an amendment to this. I wanted to discuss it with the members of the majority and the ranking member today.

The amendment would lead to endless disputes about whether the bankruptcy court of the State court was the proper forum, disputes that would make the lawyers rich while creditors and debtors saw all hope of any benefit from the bankruptcy proceeding evaporate.

Two examples will illustrate the dangers of the amendment. The Senate has previously enacted an amendment to the Bankruptcy Code to protect farmers whose grain is stored in a grain storage facility that enters bankruptcy. The grain elevator amendment provides a bankruptcy trustee's avoiding powers are subject to statutory and common law rights of reclamation. That provision is intended to allow a farmer to exercise his reclamation rights without having these rights upset by a trustee's preference or fraudulent conveyance powers. Reclamation rights are, however, based on State law. Under the pending amendment, and abstention provision, could a bankruptcy court decide in an expeditious fashion whether a farmer's reclamation rights can be exercised or would a lender with a lien on the grain elevator be able to insist that the bankruptcy proceeding come to a halt while a separate State court action was brought and adjudicated to decide the reclamation rights issue?

That is the trouble I have with the present amendment.

Simply the threat of an absention motion could be used by the lender to force the farmers to compromise their rights.

The same issue would arise under the leasehold management amendments that are contained in the Senate's bill. The leasehold amendments provide that a trustee may not, for example, assign a shopping center lease that has been terminated under applicable nonbankruptcy law. That law, of course, is State law. Under the abstention provision of the new bill, if a landlord opposed an assignment on the ground that the lease had terminated under State law, the debtor apparently could force the landlord to incur the expenses and the inevitable delay to go to State court to get a determination that the lease was terminated, and then return to bankruptcy court to enforce the order.

There are countless other examples. The timeshare amendment contained in the bill requires interpretation of time share plans and interests which are grounded in State law. The right of setoff, a critical right preserved by section 553 of the Bankruptcy Code, is virtually always based on State law. Other examples include:

The validity of postpetition security interest (11 U.S.C. 552);

The determination of secured claims (11 U.S.C. 506);

The ability of lenders to foreclose on mortgages and obtain possession of other collateral (11 U.S.C. 362);

The right of a trustee to sell property free and clear of liens (11 U.S.C. 363(f)).

It may well be that, after years of litigation, the courts will decide that this dangerous provision has to be narrowly interpreted in order for bankruptcy courts to operate effectively. But there is no justification for reinstituting these sorts of jurisdictional battles into the bankruptcy court system. The purposes of the 1978 Bankruptcy Reform Act was to eliminate these types of senseless jurisdictional disputes.

There is one set of disputes where absention may be justified and that is a situation like the one that the Supreme Court addressed in the Marathon decision that invalidated a portion of the 1978 act. That case involved a claim by a debtor, based on a State law claim, against a defendant who had no other connection to the bankruptcy proceeding. A defendant in that position has good grounds to object to being forced to appear in a Federal court simply, because the plaintiff is bankrupt. For that reason, the DeConcini court amendment would limit that abstention provision to causes of action asserted or brought by the trustee which do not arise under title II or in a case under title II and which could not otherwise have been brought in Federal court. My proposed amendment provides that, upon timely motion by the party against whom the action is brought, the Federal courts would abstain from determining a State law claim where a State action will be timely adjudicated and where such abstention would not be detrimental to the best interests of the estate. This approach would protect defendants from having to appear in Federal court simply because the plaintiff is bankrupt while preserving the integrity of the bankruptcy court system.

A similar problem exists in the definition of core proceedings in new section 157 of the pending bill. That section would prohibit the bankruptcy courts from issuing final orders in the liquidation or estimation of contingent or unliquidated claims against the estate. A large portion of claims against an estate are unliquidated claims; that is, claims that have not been reduced to judgment before the commencement of a bankruptcy case. There is no reason why, after years of determining and estimating such claims, the bankruptcy courts should be deprived of that jurisdiction.

It seems to me that they should have the jurisdiction.

If the bankruptcy courts are unable to determine matters as fundamental as liquidating claims, the bankruptcy system will be made far more expensive for creditors and debtors alike, and I am afraid that only the bar would do well.

On the other hand, there is a legitimate concern about the estimation of unliquidated personal injury tort claims which are brought into bankruptcy court by the fact that the defendant enters bankruptcy. Unlike a trade creditor who elects to do business with a particular company, the personal injury tort claimant does not choose to be injured by a particular debtor. It just happened. For that reason, the amendment which I am offering would permit the bankruptcy court to issue final orders estimating or liquidating all claims except for unliquidated personal injury tort claims. Those individuals with the misfortune to have personal injury tort claims against a bankrupt would have the right to have a final order entered by an article III district judge.

The other changes included in my proposed amendment are intended to allow bankruptcy courts to function efficiently while still conforming to the dictates of the Supreme Court's decision in Marathon. It requires mo-

tions to abstain or for withdrawal to the district court or to have a proceeding not be a core proceeding to be filed with the initial appearance of the party, so as to prevent forum shopping and the waste of judicial resources that would result if such motions were delayed. It preserves jury trial rights that existed on September 30, 1979, the last day before the 1978 act became effective. It clarifies the grounds for maintaining separate bankruptcy court clerk's offices, which should be maintained separately from the district court clerk's office unless the volume in the two offices is so minimal that it would be wasteful to have separate offices.

My amendment would clarify the list of core proceedings to conform to bankruptcy terminology in the area of preferences and fraudulent conveyances and would add to the list orders concerning the use or lease of property, including the use of cash collateral, which are traditional orders entered by bankruptcy courts. It also provides that the debtor, trustee, creditors' committee, examiner or representative of the estate, such as a disbursing agent, shall be deemed to have consented to have final orders entered by the bankruptcy court. These parties should not have the right to object to the exercise of jurisdiction by the bankruptcy courts.

The appeals provisions of the amendment would clarify the composition of bankruptcy appellate panels and would provide that appeals from bankruptcy court orders have to be filed within 10 days, reflecting the need for haste in bankruptcy matters.

Mr. President, my staff has composed a section-by-section analysis of my amendment. Rather than read it all this evening, I ask unanimous consent that it appear in the RECORD at this point.

There being no objections, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

1. Section 1334(c)(2). This provision would require Federal courts, upon timely motion, to abstain from proceedings brought by the trustee based upon a State law claim or cause of action which neither arises under title 11 nor arises in a case under title 11 where the claim will be adjudicated in a timely fashion in state court and abstention would not be detrimental to the best interests of the estate. This provision would protect those parties against whom such a claim is brought from having to appear in Federal court where there is no other basis for Federal court jurisdiction. This is the type of case that was before the Supreme Court in Marathon and, in most instances, Federal courts should abstain from deciding such claims.

2. Section 1334(c)(3). This provision would require a motion to abstain to be filed with the initial appearance of the party against whom the claim is brought. This would prevent the waste of judicial resources that would result if an abstention motion were made after the Federal court devoted considerable resources to the proceeding.

3. Section 1411(a). This provision would make clear that the jury trial right is preserved to the extent that such rights existed on September 30, 1979. This would conform to current law as provided in Section 1480 of title 28.

4. Section 1411(b) and Section 1412. These provisions would delete the word "district" to make clear that either the district court or the bankruptcy court may order issues arising under section 303 of title 11 (the filing of an involuntary petition in bankruptcy) to be tried without a jury or may rule upon a motion for change of venue.

5. Section 156(b). This provision would conform to current law section 771 of title 28 and make clear that the appointment of bankruptcy clerks shall be based on the need of each bankruptcy court. It would also make clear that the salaries of the clerks and any deputy clerks would be determined in the same manner as the salaries of district court clerks and their deputies.

6. Section 156(c). This provision would require the consent of the estate to the utilization of facilities or services with respect to the provision of administrative information to parties in cases filed under title 11. Since the cost of such services are to be paid out of the estate, which means that the cost would be borne by the creditors, the estate must have the right to object to the use of such non-court facilities.

7. Section 157(b)(2)(B). This provision provides that core proceedings include allowance or disallowance of claims against the estate or exemptions from property of the estate, but does not include liquidation or estimation of contingent or unliquidated personal injury tort claims against the estate. Bankruptcy courts have traditionally liquidated or estimated contingent or unliquidated claims. When a claim is based on a contract, for example, of a party dealing with the debtor, the efficient means of estimating those claims is in the bankruptcy court system. There are good grounds, however, for requiring that any final order estimating or liquidating personal injury tort claims, which are claims of parties who have not voluntarily involved themselves with the debtor, be entered by an Article III district court judge. For that reason, this provision exempts such claims from the definition of "core proceedings."

8. Section 157(b)(2) (F), (G) and (H). These provisions make technical amendments to conform to bankruptcy terminology.

9. Section 157(b)(2)(M). This provision includes in the list of core proceedings orders approving the use or lease of property, including the use of cash collateral. Such orders are traditional matters handled by bankruptcy courts.

10. Section 157(b)(3). This provision requires that any motion concerning whether a matter is a core proceeding must be filed with the initial appearance of the party in that proceeding. This provision prevents forum shopping by parties and also prevents the filing of motions simply for the purpose of delay.

11. Section 157(c)(2). This provision states that a debtor, trustee, creditors' committee, or representative of the estate (such as a disbursing agent) shall be deemed to have consented to have any proceeding referred to the bankruptcy court for entry of final orders. These parties should not have the right to delay proceedings by opposing the entry of final orders by the bankruptcy court.

12. Section 157(d). This provision concerns the withdrawal of proceedings by a district court from the bankruptcy court. It provides that withdrawal may be made on a timely motion of a party if the court determines that resolution of the proceeding requires consideration of provisions of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce so long as the district court determines that withdrawal would not unduly delay administration of the cases. It also requires that any motion of a party be filed with the initial appearance of the party in the proceeding.

13. Section 158(b)(3). This provision concerns the establishment of bankruptcy appellate panels, which may hear appeals from a decision of a bankruptcy court. Such panels shall consist of three bankruptcy judges. Appeals either from a decision of a district court or a decision of a bankruptcy appellate panel shall be taken to the Court of Appeals.

14. Section 158(c). This section provides that appeals to the district court or the bankruptcy appellate panel shall be taken in the manner as appeals are taken to the Court of Appeals from the district courts, except that appeals must be filed within 10 days of the entry of an order by the bankruptcy court. Because of the need for speedy resolution in matters of bankruptcy, the general 30-day appeal period would unduly delay resolution of bankruptcy matters.

15. Section 122. This section provides that title I and the amendments made by title I shall take effect on the date of enactment of this Act except with respect to section 1334(c), which shall not apply to cases pending on the date of enactment of this Act.

Mr. DECONCINI. Mr. President, I will file an amendment this evening. It is hopeful that the proponents of this bill will have the opportunity and time to look at it. I am not interested in upsetting the tremendous amount of time that the distinguished chairman and the Senator from Alabama have put in on this measure, but it troubles me to the point that we are really creating more litigation than is necessary. I think my amendment is somewhat in the middle, it allows personal injury tort actions to be taken out of the bankruptcy court into the district court for final adjudication, but permits the bankruptcy court to make final decisions on most other matters pending before it.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

(Additional statements and routine business transacted during the day follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 142

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one new deferral of budget authority for $8,000,000.

The deferral affects the Department of the Interior.

The detail of the deferral is contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *May 21, 1984.*

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2751) to amend the National Foundation on the Arts and Humanities Act of 1965, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 296) authorizing the use of the rotunda of the Capitol to honor the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

The message further announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through May 26, 1984, through November 24, 1984, as "National Family Week";

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, as "National Digestive Diseases Awareness Week";

S.J. Res. 239. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week"; and

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day".

At 5:31 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it request the concurrence of the Senate:

S.J. Res. 94. Joint resolution to authorize and request the President to designate May 8, 1983, to June 19, 1983, as "Family Reunion Month".

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

S.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week".

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance;

S. 2079 An act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975;

H.R. 4107. An act to designate the Federal building in Salisbury, Maryland, as the "Maude R. Toulson Federal Building";

H.R. 5515. An act to authorize the President to award the Medal of Honor to the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery;

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week";

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week";

S.J. Res. 239. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week"; and

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4193. An act to encourage the use of public school facilities before and after school hours for the care of school-age children, and for other purposes; and

H.R. 89. An act to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S. flag service for such transportation is not available.

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week."

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, May 21, 1984, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance;

S. 2079. An act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975;

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week";

S.J. Res. 228. Joint resolution designating the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week";

S.J. Res. 239. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week"; and

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day".

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM.-657. A resolution adopted by the Board of Directors of the Mor Gran Sou Electric Cooperative, Inc. relating to the Rural Electric and Telephone Revolving Fund Self Sufficiency Act; to the Committee on Agriculture, Nutrition, and Forestry.

POM-658. A resolution adopted by the Senate of the State of Alaska; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE RESOLUTION No. 5

"Be it resolved by the Senate:

"Whereas the Rural Electrification Administration (REA) has extended electric service to rural areas across the nation; and

"Whereas, as the least developed state in the union, Alaska has the greatest need for the REA program; and

"Whereas REA cooperatives, like other utilities, need continued financing for growth and redevelopment; and

"Whereas the REA revolving loan fund is being depleted by an excess of expenses over interest income; and

"Whereas the REA revolving loan fund is further threatened by loss of its $7.9 billion capital to the United States Treasury beginning in 1993; and

"Whereas Alaska's special conditions were not considered when the current REA statute was enacted and, as a result, the high-cost areas in rural Alaska do not qualify for lower interest loans now available in other states; and

"Whereas S. 1300, currently pending in the Committee on Agriculture of the United States Senate, would remedy these problems;

"Be it resolved by the Senate, That the United States Congress is respectfully urged to give expeditious and favorable consideration to S. 1300, so that this important legislation can be enacted at the earliest possible date.

"Copies of this resolution shall be sent to the Honorable George Bush, Vice President of the United States and President of the United States Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, United States Senators from Alaska."

POM-659. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Agriculture, Nutrition, and Forestry.

"RESOLUTION

"Whereas, on February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066, which resulted in the uprooting and imprisonment of all persons of Japanese ancestry on the Pacific Coast; and

"Whereas, in the spring of 1942, exactly 120,313 persons of Japanese ancestry, most of whom were American citizens, were forcibly evicted from their West Coast homes and subsequently incarcerated in what amounted to concentration camps; and

"Whereas, not a single charge of wrongdoing was ever filed against any Japanese American residing in the United States during World War II; and

"Whereas, American citizens of Japanese ancestry and their alien parents, who were legal permanent residents, were never allowed the basic constitutional right of the benefit of a hearing or trial; and

"Whereas, in addition to the $400 million in property losses estimated by the Federal Reserve Bank of San Francisco in 1942, there were immeasurable damages suffered, such as the loss of individual freedom, the destruction of personal human dignity, the loss of income and disruption of careers, and psychological trauma of having been innocent victims imprisoned for three and a half years; and

"Whereas, Japanese Americans volunteered from within barbed wire camps to join the the armed forces and demonstrated exemplary heroism, courage, and patriotic loyalty as evidenced by the fact the one unit became the most highly decorated unit in World War II for its size and length of service; and

"Whereas, the Commission on Wartime Relocation and Internment of Civilians established on July 31, 1980, conducted an inquiry and reported its findings on February 24, 1983, that the internment camps for Japanese Americans were unnecessary and unjustified; Now, therefore,

"Be it resolved by the Legislature of the State of Minnesota, That it commends the Commission on Wartime Relocation and Internment of Civilians its official investigation of the event leading to the issuance of Executive Order 9066 and its consequence upon American citizens and permanent legal residents of Japanese ancestry.

"Be it further resolved, That it urges the Commission on Wartime Relocation and Internment of Civilians to recommend to Congress of the United States, that an adequate form of monetary redress be awarded to those individuals who suffered the injustices and hardships resulting from the government's actions in 1942.

"Be it further resolved, That the Secretary of State is directed to prepare a certified copy of this memorial and present it to the Commission on Wartime Relocation and Internment of Civilians, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress."

POM-660. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE JOINT RESOLUTION No. 1019

"Whereas, the purchase of consumer goods on credit or pursuant to a credit card has become increasingly widespread and prevalent; and

"Whereas, the purchase of consumer goods pursuant to a credit card is a convenience and a privilege to the consumer; and

"Whereas, credit card companies routinely impose charges on sellers and merchants for each credit card sale they make; and

"Whereas, such sellers and merchants are presently prevented by law from passing such charges on to credit card customers in the form of surcharges and thus are forced to raise the overall price of goods; and

"Whereas, cash-paying customers are, in effect, unfairly penalized by having to subsidize credit card users; and

"Whereas, consumers should be free to choose, through cost comparision and price differences, whether to pay for goods with cash or credit; and

"Whereas, Colorado consumers are adversely affected by legislation banning surcharges on credit card purchases; and

"Whereas, sellers and merchants should be free to conduct their businesses in accordance with the tenets of free enterprise without undue governmental interference; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-fourth General Assembly of the State of Colorado, the Senate concurring herein, That this General Assembly hereby petitions the Congress of the United States to support any measure to allow merchants to voluntarily give price preference to cash paying customers, and to defeat any measure extending the present ban on giving preferential treatment to cash paying customers."

POM-661. A resolution adopted by the Council of Borough of River Edge, New Jersey urging Congress to continue its efforts to achieve Cable Legislation; to the Committee on Commerce, Science, and Transportation.

POM-662. A resolution adopted by the Council of Bridgewater Township, New Jersey relating to Cable Television; to the Committee on Commerce, Science and Transportation.

POM-663. A resolution adopted by the Council of the Borough of Manasquan, New Jersey relating to Cable Television Legislation; to the Committee on Commerce, Science, and Transportation.

POM-664. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 94

"Whereas, On June 23, 1894, the International Olympic Committee was established by Baron Pierre de Coubertin to encourage the organization and development of sport and international sports competition; and

"Whereas, The Olympic spirit has continued since then to promote and strengthen friendship among sportsmen and women of all nations; and

"Whereas, It remains the aim of the international Olympic community to ensure the regular celebration of the Games, and to make the Games ever more worthy of their proud history and high ideals; and

"Whereas, In these times of increased international tensions, we need, more than ever, the spirit of Olympic friendship and people-to-people diplomacy; and

"Whereas, The International Olympic Committee owns the rights over the Olympic Games, and the Games belong to the world; and

"Whereas, The Los Angeles Olympic Organizing Committee (LAOOC) has been chartered to hold the 1984 Summer Olympic Games in Los Angeles by the International Olympic Committee, under the stipulation that the LAOOC will comply with Olympic rules and procedures; and

"Whereas, President Reagan has given assurances to the Olympic family of the commitment of the United States to enforcing the Olympic Charter; and

"Whereas, 154 nations have been invited to attend the Games of the XXIIIrd Olympaid in Los Angeles; and

"Whereas, Political leaders and legislators at all levels of government in California can aid the Olympic movement by extending a welcome to all athletes, spectators, and officials from around the world; and

"Whereas, This action by political leaders and legislators at all levels of government in California can aid the Olympic movement by extending a welcome to all athletes, spectators, and officials from around the world; and

"Whereas, This action by political leaders and legislators is in the true spirit of the Olympics, and it would indicate a commitment to the 1984 Summer Olympic Games as a celebration of sport and an effort to unite the youth of the world in peace; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California welcomes all nations to participate in the 1984 Summer Olympic Games; and be it further

"Resolved, That the Legislature urges the people of California to be gracious hosts to all athletes, spectators, and officials from every nation which chooses to participate; and be it further

"Resolved, That the Legislature urges the President and Congress of the United States to reaffirm our nation's commitment to welcome all invited nations to this country so that they may participate in the 1984 Summer Olympic Games and to extend a welcome mat to citizens of all nations who

wish to come to the Games; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Los Angeles Olympic Organizing Committee."

POM-665. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

"RESOLUTIONS MEMORIALIZING THE SECRETARY OF THE INTERIOR TO DEED CERTAIN ACRES OF LAND TO THE TOWN OF NANTUCKET

"Whereas, the island of Nantucket is recorded in the National Register of Historical Places; and

"Whereas, the island of Nantucket is one of the few remaining coastal communities along the Atlantic seaboard which is relatively untouched from the commercialism blight which has effected other areas; and

"Whereas, the protection of open spaces, beaches, moors, marshes, ponds, dunes, wild flowers and trees and shrubs including the protection of endangered species in all forms are of prime concern; and

"Whereas, the pressure of development is encompassing our most precious natural assets, threatenting our water supply, polluting our air, and destroying our natural landscape; and

"Whereas, once these natural assets are lost they can never be replaced; and

"Whereas, the Federal Government is proceeding to sell at public auction 142 acres of pristine open land bordered by the Atlantic Ocean to the highest bidder wherein development will be the resulting factor, and once against we shall witness the demise of another beautiful section of the island of Nantucket; therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Massachusetts go on record as opposing such a sale of 142 acres and strongly recommend that the Secretary of Interior deed this area to the town of Nantucket at a 100% public benefit discount to preserve in perpetuity this prime natural resource for the benefit not only of the citizens of the Commonwealth but every citizen of the United States for time immemorial; and be it further

"Resolved, That copies of these resolutions be sent by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-666. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Environment and Public Works.

"HOUSE JOINT RESOLUTION No. 1007

"Whereas, Particulate emissions from diesel engines are thirty to one hundred times those of catalyst-equipped gasoline engines; and

"Whereas, Particulates from diesel engines are in the human respirable range and are capable of bypassing normal clearance mechanisms and lodging deep in the lungs; and

"Whereas, Particulates from diesel engines are mutagenic and contain both identified and suspected carcinogens; and

"Whereas, Particulates from diesel engines, being seventy percent elemental carbon, significantly affect visibility in Denver and, without future controls, will become a greater contributor to Denver's "brown cloud"; and

"Whereas, Diesel oxides of nitrogen emissions are higher than from gasoline-powered vehicles and contribute significantly to ambient nitrogen dioxide and acid rain; and

"Whereas, The number of light and heavy-duty diesel-powered motor vehicles is expected to increase in the future; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

"That the Congress of the United States is hereby urged to expedite implementation by the Environmental Protection Agency of diesel emissions standards mandated by the "Clean Air Act" for both light and heavy-duty diesel-powered vehicles, and to direct the Agency, with due regard for the economic and health factors, to sponsor and participate in research to control diesel engine emissions, including development of trap oxidizers and regeneration systems for new diesel-powered motor vehicles and the retrofitting of existing vehicles, development of low particulate diesel fuels, and development of oxides of nitrogen controls for diesel engines.

"Be It Further Resolved, That copies of this Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from Colorado."

POM-667. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Finance.

"A RESOLUTION MEMORIALIZING CONGRESS TO ENACT H.R. 5081, THE FAIR TRADE IN STEEL ACT OF 1984

"Whereas, the American steel industry has engaged in extraordinary self-help efforts, including the commitment of billions of dollars to modernization and the reduction of employment costs; and

"Whereas, the United States steel industry is being devastated by subsidized imports now accounting for over 20 percent of the steel consumed in the United States; and

"Whereas, over 200,000 steelworker jobs have been lost in the United States since 1977, about 5,000 jobs in Minnesota; and

"Whereas, over 175 steel plants and facilities have been closed in the past five years; and

"Whereas, during the last five years, the United States has lost 44 percent of its taxpaying steelworkers and 13,000,000 tons of steel production capacity; and

"Whereas, every major nation in the world, except the United States, subsidizes its steel industry and restricts steel imports; and

"Whereas, steel imports into the United States are expanding at an ever-increasing rate; and

"Whereas, the United States steel industry simply cannot compete with such unfair trade practices by other nations; and

"Whereas, the United States steel industry provides stability, tax revenue, employment, and support to local communities throughout the nation; and

"Whereas, the United States steel industry cannot survive without some relief from the influx of imports; and

"Whereas, the implementation of H.R. 5081 would result in a gain of at least 1.3 billion dollars in government taxes as well as a 6.1 billion dollar favorable impact on gross national product, and the creation of 92,000 additional jobs; Now, therefore,

"Be it Resolved, by the Legislature of the State of Minnesota, That the Congress of the United States should promptly enact into law H.R. 5081, the Fair Trade in Steel Act of 1984, that will temporarily limit steel imports to not more than 15 percent of our domestic consumption in the United States and limit foreign iron ore imports to 25 percent of our nation's domestic consumption and provide the industry with the means to modernize and become fully competitive in the world market. The monetary gain with results from the implementation of H.R. 5081 should be used primarily to modernize the steel industry.

"Be it Further Resolved, That the Secretary of State of the State of Minnesota is directed to transmit certified copies of this resolution to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and to each Senator and Representative from Minnesota"

POM-668. A resolution adopted the Board of Commissioners of the County of Lake, Indiana supporting the Fair Trade in Steel Act; to the Committee on Finance.

POM-669. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations.

"A RESOLUTION MEMORIALIZING CONGRESS AND THE PRESIDENT TO CONTINUE THEIR EFFORTS TO HALT THE PERSECUTION OF THE BAHA'I MINORITY IN IRAN

"Whereas, the Baha'i community in Iran is experiencing persecution, harassment, the disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture; and

"Whereas, current reports show that over 100 Baha'is and Baha'i religious leaders have been executed by the government of Iran; and

"Whereas, the continued harassment and murder of Baha'is demonstrates that the government of Iran has launched a conscious effort to destroy the Baha'i community; and

"Whereas, both the United States government and the United Nations Human Rights Commission have protested the president violations of human rights directed against the Baha'i community by the Iranian authorities; and

"Whereas, the government of Iran has outlawed the administrative institutions of the Baha'i faith in Iran and continued to severely persecute its adherents; Now therefore,

"Be it Resolved by the Legislature of the State of Minnesota, That it condemns the persecution of the Baha'i and urges the Congress and the President of the United States to continue their efforts to halt the persecution of the Baha'i community in Iran.

"Be it Further Resolved, That the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and the Secretary of the United States, Senate, the Speaker and the Chief Clerk of the United States House of Representatives and to Minnesota's Senators and Representatives in Congress."

POM-670. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations.

"A RESOLUTION MEMORIALIZING THE INTERNATIONAL JOINT COMMISSION, THE PRESIDENT AND CONGRESS TO EFFECTUATE AN AGREEMENT BETWEEN MINNESOTA AND ONTARIO ON JOINT MANAGEMENT OF THEIR BORDER WATERS

"Whereas, the State of Minnesota and the Province of Ontario are concerned about the fishing resource on concurrent border waters; and

"Whereas, Minnesota's Lieutenant Governor and Commissioner of Natural Resources have been working on an agreement with Ontario officials on a border waters settlement; and

"Whereas, legislation has been introduced in the Minnesota Legislature to help effectuate an agreement on joint management of the border waters; and

"Whereas, a resolution of the border waters problem is of serious concern to the tourism component of Minnesota's economy and our friendly relations with our neighbors in Canada; and

"Whereas, a border waters agreement may better come about by using existing governmental institutions with jurisdiction over border waters, such as the International Joint Commission; Now, therefore,

"Be it resolved by the Legislature of the State of Minnesota, That the International Joint Commission, the President and Congress should take immediate action to bring about a mutually acceptable agreement between Minnesota and Ontario on management of the border waters in 1984.

"Be it further resolved, That the Secretary of State of the State of Minnesota is instructed to transmit certified copies of this resolution to the Chairman of the International Joint Commission, the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the House of Representatives of the United States, to the Minnesota Senators and Representatives in Congress, to the Premiers of Manitoba and Ontario and to the Ambassador of Canada to the United States."

POM-671. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Governmental Affairs.

"HOUSE RESOLUTION NO. 201

"Whereas, on February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, which gave to the Secretary of War and the military commanders to whom he delegated authority, the power to exclude any and all persons, citizens, and aliens from designated areas in order to provide security against sabotage, espionage, and fifth column activity; and

"Whereas, under Executive Order 9066, more than 110,000 Americans and resident aliens of Japanese ancestry were summarily removed from their homes on the West Coast by U.S. Army troops attached to the Western Defense Command and sent to isolated detention camps surrounded by barbed wire fences and armed guards in the interior of the United States; and

"Whereas, 1,875 Hawaii residents of Japanese ancestry were removed to the mainland and incarcerated in detention camps although none of them were judged guilty of overt acts against American laws; and

"Whereas, most of these forced evacuees remained in detention camps until the policy of mass exclusion from the West Coast was ended in December, 1944, more than two and a half years after the issuance of Executive Order 9066; and

"Whereas, Alaskan Aleuts were also evacuated from their island homes by the U.S. Army following enemy attacks in 1942 and were resettled by the U.S. Department of the Interior in southeastern Alaska where they remained until allowed to return to their islands in 1944 and 1945; and

"Whereas, the Commission on Wartime Relocation and Internment of Civilians was created by the U.S. Congress in 1980 to review the facts and circumstances surrounding Executive Order 9066 and the relocation and internment of Americans and resident aliens of Japanese ancestry and Alaskan Aleuts; and

"Whereas, the Commission held 20 days of hearings in cities across the country, hearing testimony from more than 750 witnesses, including evacuees, former government officials, public figures, historians, and interested citizens; and

"Whereas, the Commission, in its written report, 'Personal Justice Denied,' found that the forced incarceration of Americans and resident aliens of Japanese ancestry was carried out despite the fact that not a single documented act of espionage, sabotage, of fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the West Coast; and

"Whereas, 80 percent of those subjected to relocation and internment under Executive Order 9066 were native-born American citizens of Japanese ancestry and most of the remainder were longtime alien residents of the United States who were prohibited by the Oriental Exclusion Act of 1924 from becoming naturalized citizens; and

"Whereas, the Commission found that the policy of mass exclusion and detention of Americans and resident aliens of Japanese ancestry from the West Coast was carried out without a process of individual review and virtually without regard for displays of personal loyalty to the United States; and

"Whereas, no mass exclusion of detention, in any part of the country, was ordered against American citizens of German or Italian descent; and

"Whereas, the Commission concluded that Executive Order 9066 and the decisions which followed from it "were not driven by analysis of military conditions" but were shaped by "race prejudice, war hysteria and a failure of political leadership"; and

"Whereas, the Commission found that the exclusion, removal, and detention inflicted tremendous human costs, including the obvious cost of homes and businesses sold or abandoned under circumstances of great distress, as well as injury to careers and professional advancement; and

"Whereas, an economic analysis performed for the Commission resulted in estimates that ethnic Japanese lost, in 1945 dollars, between $108 and $164 million in income and between $41 and $206 million in property as a result of the exclusion and detention for which no compensation was made after the war under the terms of the Japanese American Evacuation Claims Act; and

"Whereas, the Commission found that there was also a grave injustice in the loss of liberty and the personal stigma of suspected disloyalty for thousands of Japanese Americans who knew themselves to be devoted to their country's cause; and

"Whereas, the Commission also concluded that the Alaskan Aleuts who were subjected to relocation and resettlement were forced to undergo unwarranted suffering, including deplorable living conditions, inadequate medical care, lack of educational opportunities, and irretrievable loss of priceless religious artifacts; and

"Whereas, the Commission made five recommendations to remedy the injustices which were committed against American citizens and resident aliens of Japanese descent, including: (1) the establishment by Congress of a $1.5 billion fund which would be used, first, to provide a one-time per capita payment of $20,000 to each of the approximately 60,000 surviving persons of Japanese ancestry who subjected to forced evacuation pursuant to Executive Order 9066; (2) the establishment of a fund for humanitarian and public education purposes related to the wartime events which would use the remaining monies in the $1.5 billion fund; (3) the enactment of legislation which officially recognizes that a grave injustice was done and offers a national apology for the wartime acts of exclusion, removal, and detention; (4) the granting of presidential pardons to individuals who were convicted of violating the wartime statutes imposing a curfew on American citizens on the basis of their ethnicity and requiring ethnic Japanese to leave designated areas of the West Coast to report to assembly centers; and (5) the liberal review by executive branch agencies of applications submitted by Japanese Americans for the restitution of positions, status, or entitlements lost in whole or in part because of acts or events between December, 1941 and 1945; and

"Whereas, the Commission also recommended a number of actions to help Alaskan Aleuts rebuild and clean up their home islands and recover to some extent the losses they suffered as a result of the World War II evacuation; and

"Whereas, S. 2116 introduced by U.S. Senator Sparky Matsunaga in the 98th Congress, 1st Session, implements the recommendations of the Commission on Wartime Relocation and Internment of Civilians; now, therefore,

Be it resolved by the House of Representatives of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, That this body strongly supports U.S. Senator Matsunaga's Bill S. 2116 which provides for redress and reparations for Americans and resident aliens of Japanese ancestry and Alaskan Aleuts who were subjected to forced evacuation and incarceration in detention camps during World War II; and

Be it further resolved, That certified copies of this Resolution be transmitted to President Ronald Reagan, the Speaker of the U.S. House of Representatives, the Chairperson of the Senate Governmental Affairs Committee, the President of the U.S. Senate, and members of the Hawaii's Congressional delegation."

POM-672. A concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 114

"Whereas, since the 1977 decision by the United States Supreme Court in *Illinois Brick v. Illinois,* 431 U.S. 720 (1977), in which the court held that only direct purchasers may recover for damages resulting from antitrust violations, state and local governments have been left without recourse against price-fixers and bid-riggers with whom they have not dealt directly; and

"Whereas, state and local governments make over ninety percent of their purchases for goods and services indirectly through middlemen; and

"Whereas, millions of taxpayer dollars have been lost in the form of illegally inflated prices passed on to governmental entities under such contracts; and

"Whereas, the 'Taxpayer Antitrust Enforcement Act of 1983' (S. 915), cosponsored by Senators Gorton, Rudman, and Danforth, among others, authorizes the United States Attorney General and the states attorneys general to prosecute such antitrust violations; Now therefore, be it

"Resolved by the Senate, the House Concurring, That all concerned be apprised of the necessity of eliminating the void in antitrust enforcement, which resulted from the *Illinois Brick v. Illinois* decision, by the enactment of S. 915; and be it further

"Resolved, That copies of this resolution be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the Attorney General of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the state of Iowa."

POM-673. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Labor and Human Resources.

"A RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS TO ESTABLISH A NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

"Whereas, people throughout Minnesota are concerned about armed conflict between nations and within our society that is increasing at an alarming rate; and

"Whereas, recent conflicts throughout the world make it necessary to develop new and creative means of managing conflict before it escalates into violence, so that the greatest challenge facing the people of this nation is the development of new techniques to resolve and prevent violent conflict; and

"Whereas, many potentially destructive conflicts among nations and peoples have been resolved constructively and with cost efficiency at the inernational, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration; and

"Whereas, the establishment of an academy is an appropriate investment by the people of this nation to promote international peace and to resolve conflicts among nations without recourse to violence; Now, therefore, be it

"Resolved by the Legislature of the State of Minnesota, That Congress should speedily enact legislation to establish a National Academy of Peace and Conflict Resolution to serve the people and government by providing research, training, and information services on international peace and peace making. Be it further

"Resolved, That the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Chief Clerk of the United States House of Representatives and to Minnesota's Senators and Representatives in Congress."

POM-674. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Veterans Affairs.

"A RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO PROVIDE MEDICAL CARE FOR FORMER MEMBERS OF THE MILITARY FORCES WHO WERE EXPOSED TO ATOMIC RADIATION IN THE COURSE OF THEIR DUTIES

"Whereas, there are approximately 250,000 veterans in the United States who were exposed to atomic radiation during the occupation of Japan and in conjunction with at least 235 atmospheric nuclear weapons tests conducted in the 1940's and 1950's and up to as recently as 1962; and

"Whereas, these veterans are now suffering myriad health problems, including cancer, degenerative bone and nerve diseases, intestinal disorders, blood and respiratory diseases, emotional problems, and birth defects in children and grandchildren; and

"Whereas, recent medical evidence indicates that these ailments are associated with exposure to atomic radiation; and

"Whereas, these veterans have typically been hesitant to come forward for fear of prosecution under secrecy statutes and possible loss of employee medical benefits and diminished employment potential; and

"Whereas, regulations published by the United States Veterans' Administration on December 2, 1981, pertaining to the provision of health care to veterans exposed to atomic radiation do not address health symptoms other than cancer; and

"Whereas, current Veterans' Administration regulations have been used to deny 98 percent of the claims by veterans for health care and compensation; and

"Whereas, under these regulations, it is incumbent upon the veteran to prove his or her exposure to atomic radiation through his or her own initiative in securing records that often are incomplete or missing entirely; Now, therefore, be it

"Resolved by the Legislature of the State of Minnesota, That the President and Congress of the United States should direct the Administrator of Veterans' Affairs to revise the current regulations of the Veterans' Administration regarding the provision of health care to veterans exposed to atomic radiation to fully recognize the body of medical evidence associating exposure to atomic radiation with a wide range of health effects. Be it further

"Resolved, That other appropriate agencies and resources of the United States be brought to bear in an investigation of the health and genetic complaints of veterans exposed to atomic radiation and of the apparent loss of records and documentation pertaining to exposure of individuals and military units. Be it further

"Resolved, That the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, to each Senator and Representative from Minnesota in the Congress of the United States, and to the Administrator of Veterans' Affairs."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 197. A bill to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes (Rept. No. 98-468).

S. 314. A bill to encourage inflight emergency care aboard aircraft by requiring the placement of emergency equipment, supplies, and drugs aboard aircraft and by relieving appropriate persons of liability for the provision and use of such emergency equipment, supplies, and drugs (Rept. No. 98-469).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Ex. T, 96th Cong. 2d sess., Treaty Doc. 98-7, 98th Cong. 1st sess., and Treaty Doc. 98-22, 98th Cong. 2d sess.: Tax Treaty (and Proposed Protocols) With Canada With Respect to Taxes on Income and on Capital (Exec. Rept. 98-22).

Ex. Q, 96th Cong, 2d sess. and Treaty Doc. 98-12, 98th Cong. 1st sess.: Tax Treaty (and Proposed Protocol) With the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Physical Evasion With Respect to Taxes on Income (Exec. Rept. 98-23).

Treaty Doc. 98-21, 98th Cong. 2d sess.: Protocol to the Treaty With the French Republic With Respect to Taxes on Income and Property (Exec. Rept. No. 98-24).

Treaty Doc. 98-11, 98th Cong. 1st sess. Tax Treaty With the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Estates, Inheritances, and Gifts (Exec. Rept. 98-25).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG:

S. 2692. A bill to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABDNOR (for himself, Mr. STENNIS, Mr. WEICKER, Mr. MOYNIHAN, Mr. EAGLETON, Mr. INOUYE, Mr. D'AMATO, Mr. MELCHER, Mr. SYMMS, Mr. BOSCHWITZ, Mr. STEVENS, and Mr. ANDREWS):

S.J. Res. 299. A joint resolution to designate November 1984 as "National Diabetes Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG:

S. 2692. A bill to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes; to the Committee on Energy and Natural Resources.

TREATMENT OF WATER CONVEYANCE SYSTEMS

● Mr. ARMSTRONG. Mr. President, I am introducing today a bill which would amend the Federal Land Policy and Management Act of 1976 (FLPMA), to clear up title problems which have arisen over water rights-of-way crossing Federal lands and to provide for future issuance of water rights-of-way on Federal lands. Currently FLPMA requires that water rights-of-way—defined in FLPMA section 501(a)(1)—must be permitted and treated like any other rights-of-way on the Federal domain, and western water experts have advised me that these permits create a serious cloud on all water rights involved, eroding one of our most basic property rights. Simply put, such permits, and their accompanying limitations, are contrary to the concept of the supremacy of State water law.

As background, under various laws since 1866, water rights-of-way have been granted for diversion ditches crossing the Federal lands. Under the first Federal law on the subject in 1866, the only thing required to receive the rights-of-way was to simply build the ditch—no documentation whatever was required. Under an 1891 law only ditches that were longer than 10 miles had to be recorded by filing a map or plat with the Federal Government. As expected, a great number of ditches were under 10 miles and therefore not required to file. Under the later laws, rights-of-ways were granted and a small fee charged, that has since kept growing—to the concern of many rights-of-way holders. Since these early diversions had no recorded documentation, the Forest Service and the Bureau of Land Management now consider these holders in trespass and attempted last year to convert these earlier rights-of-way into FLPMA permits, charging fees and threatening termination of the rights-of-way for those who refused to comply. In addition, the agencies have informed rights-of-way holders that their ditch right-of-way cannot be transferred with the State granted water right and that any new owner of the property and water right will be required to get a new permit from the Government.

These actions by the Forest Service and the Bureau of Land Management in implementing FLPMA are grossly unfair and infringe on legitimate rights of people who have complied with earlier laws in the development of farms and ranches in the Rocky Mountain frontier—particularly since many of these irrigation ditches were constructed and in operation long before the creation of the national forests. Moreover, this inequity does not simply impact ranchers and farmers. Municipalities, at least in Colorado, have run into the same problem with ditch rights-of-way that were acquired years ago.

Last year legislation passed the House (H.R. 2982), addressing a part of this issue. However, the House passed bill only provides limited relief for a certain category of ditches in existence before the enactment of FLPMA in 1976. The bill I am introducing today would amend FLPMA to exempt all water conveyance systems, old and new, from the present permitting requirements of the act, replacing it with a recordation authority for pre-FLPMA grants and new provisions for issuance of new rights-of-way.

In pursuit of this legislation, I asked Secretary Block of the Department of Agriculture to place a moratorium on converting pre-FLPMA rights-of-way into FLPMA permits. He graciously agreed to do so at least until the end of this congressional session.

I ask that my colleagues take a close look at this legislation and urge that Senate actions be taken on this measure as soon as possible. In that vein, I ask unanimous consent that the bill and a section-by-section analysis of the proposal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. As used in this Act, the term "the Act" means the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

SEC. 2. Section 501 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1)(A) There are granted rights-of-way which traverse public lands or lands within the national forest system for facilities and systems for the impoundment, storage, transportation, or distribution of water, as described in subsection (a)(1), constructed prior to January 1, 1985, and in use or placed into use during the period beginning from October 21, 1976 and ending on January 1, 1985, including (a)(1) rights-of-way with technical difficulties relating to proof of original grant.

"(B) Grants made by this subsection are supplementary to, and not in lieu of, any other grants made by previous acts. Each such previous grant of right-of-way shall remain in full force and effect unless the holder thereof notifies the Secretary or Secretary of Agriculture, as appropriate, that he elects to be governed by the provisions of this subsection, in which case such previous grant shall be deemed to have been relinquished and shall terminate upon issuance of a new right-of-way.

"(C) any grant of right-of-way for a water system described in subparagraph (A) which is based on an Act of Congress enacted prior to October 21, 1976, shall be subject to fees to the United States, or permits or other rights-of-way authorization, only to the extent such payments or authorizations are required by the Act of Congress under which the grant is claimed. No grant issued before October 21, 1976, which is brought under this subsection shall be subject to any fees to the United or to permits or other authorization. Each such grant shall continue in effect so long as the relevant system is used solely for the purposes described in subsection (a)(1), subject to the requirement that the holder of such a grant and his successors shall comply with the requirements of paragraph (c)(2).

"(2)(A) Each grant under this subsection shall be recorded with the appropriate state office of the Bureau of Land Management or regional office of the Forest Service, according to which agency's lands are traversed, no later than January 1, 1988, and every thirty years thereafter in response to written notice by the Secretary or Secretary of Agriculture or, in the event of a transfer of such grant after January 1, 1985, no later than sixty days after the date of transfer.

"(B) Recordation required by this paragraph shall include the name and address of the holder of the grant; a description of the right-of-way, including estimated width and length, and its general location; and documentation of water right(s) held, as certified by the State granting the water right.

"(C) Rights-of-way granted under this subsection shall comply with the continued recordation requirements under this paragraph. Failure to comply with such requirements shall create a presumption of abandonment with the burden of proof on the holder to show that such failure was not intentional; except in the event that the holder of a right-of-way does not meet the above recordation requirements, but subsequently makes a valid attempt to do so, the appropriate Federal Agency will give the holder reasonable time to complete the recordation.

"(3)(A) After January 1, 1985, all applications for new rights-of-way or any proposed modifications of an existing right-of-way granted under this subsection must be filed in accordance with paragraph (c)(2). A conditional right-of-way shall be granted to the applicant for a new right-of-way at the same time the state grants the applicant its conditional decree or permit for the water rights which would supply the right-of-way, or upon the date the Federal Government receives the application, whichever is later. No conditional right-of-way shall be granted unless the respective Federal Agency is in agreement with the proposed location and construction of such a right-of-way shall become perfected when the water rights become perfected under the law of the State granting them, and should the water rights ever be abandoned under the same state law, the right-of-way is abandoned as a matter of law.

"(B) A maximum annual fee of $100 may be charged by the Federal Government for rights-of-way granted after October 21, 1976. The collection of such fee by the Federal Government shall be through means other than termination of the right-of-way.

"(4) The holder of a right-of-way granted or recorded under this subsection shall comply with the following requirements. The office of recordation must be notified within 60 days of any change of address. The holder of each right-of-way shall allows the Federal Government, State Government, and the public free and unrestricted access to, upon, and across the right-of-way for all purposes not inconsistent with the exercise and enjoyment of the right-of-way, except that the holder shall not be liable for injury resulting from access, unless caused directly by the holder's negligence. The holder shall have the right to post warnings arounds dangerous areas, unless directed otherwise by the Forest Service of the Bureau of Land Management. All physical facilities constructed on new rights-of-

way granted under this subsection, as opposed to subsection (c)(1) rights-of-way, shall be constructed, repaired, and maintained in a manner which—(A) minimizes damage caused by the physical facilities themselves to fish and wildlife habitat, and otherwise protects the environment; (B) protects lives, health, and property, including that of other lawful users of lands under the provisions of State law where the right-of-way is located; and (C) does not unreasonably obstruct or interfere with the interests of individuals living in the general area traversed by the right-of-way who have historically relied on the fish, wildlife, or other biotic resources of the area for subsistence purposes. Any environmental studies required under the National Environmental Policy Act of 1970 as a result of this subsection shall be the responsibility of the Federal Government. Any damage caused by the failure to comply with this paragraph shall be subject to the law of the State(s) where the right-of-way is located.

"(5) Upon relinquishment, abandonment, or termination of a right-of-way granted or recorded under this subjection, the holder shall within ninety (90) days cease to use the right-of-way and remove all structures and improvements except those owned by the United States, and shall restore the site insofar as reasonably possible, unless the appropriate Secretary or his delegate agrees in writing to wholly or partially waive such requirement. Structures or improvements not so removed within a reasonable time shall become the property of the United States. The holder of each right-of-way shall indemnify the United States against any liability for damage to life or property arising from the holder's negligent occupancy or use of the granted right-of-way. Upon relinquishment of such a right-of-way, such indemnification shall thereafter no longer be in effect. In the event the holder of the right-of-way allows it to deteriorate to the point of threatening life or property and refuses to do the necessary repair and maintenance, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and assess the holder for the cost.

"(6) Mineral and vegetation material, including timber, within the right-of-way granted by this subsection are reserved to, and shall remain the property of the United States, but may be available for use on the right-of-way in case of emergency.

"(7) Nothing in this subsection shall be deemed to confer any power or authority to regulate or control in any manner the reservation, appropriation, use or diversion of water for the purposes described in subsection (a)(1). Nothing in this subsection shall be deemed to confer any right or claim to the acquisition or use of water, or to require the conveyance or transfer to the Federal government of any such right or claim.".

SEC. 3. Section 505 of the Act is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to rights-of-way granted by subsection (c) of section 501.".

SECTION-BY-SECTION ANALYSIS—ARMSTRONG WATER RIGHTS-OF-WAY BILL

Section 1 of the bill defines the term "the Act" as the Federal Land Policy and Management Act of 1976 (FLPMA).

Section 2 of the bill amends section 501 of FLPMA by the addition of a new subsection (c). The new subsection authorizes the recordation of all existing rights-of-way and provides for the creation and recordation of all new rights-of-way which are described in section 501(a)(1) of FLPMA as rights-of-way crossing public lands or National Forest Service lands which are used for "reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water".

Paragraph (c)(1)(A) of the bill addresses section 501(a)(1) rights-of-way constructed prior to January 1, 1985 and in use or placed in use after the enactment of FLPMA, October 21, 1976—including rights-of-way that have encountered technical difficulties relating to documentation of the original grant. Paragraph (c)(1)(B) explains that previous rights-of-way change only if the holder elects to record the grant under the new subsection. If the holder records under the new subsection, the previous grant is relinquished upon issuance of the new right-of-way. For rights-of-way that do not record under the new subsection, paragraph (c)(1)(C) restricts the government's right to charge fees or require permits to the law under which the original right-of-way was issued. For rights-of-way issued before October 21, 1976 that are recorded under the new subsection, paragraph (c)(1)(C) prohibits the charging of any fee and no permit can be required. Any grant brought under the new subsection will remain in effect so long as it is used for the purposes described in (a)(1) and the holder records the grant under paragraph (c)(2).

Paragraph (c)(2)(A) provides for recordation of (a)(1) rights-of-way with the Bureau of Land Management or National Forest Service office that is responsible at the field level for supervision. For rights-of-way granted before January 1, 1985, the election to record under the new subsection must be exercised by January 1, 1988, and every 30 years thereafter—after written notice from the Federal Government. Also, after January 1, 1985, a new holder of a subsection (c) right-of-way must record the transfer within 60 days of its occurrence.

Paragraph (c)(2)(B) details the recordation requirement, leaving nothing to the discretion of the Federal Government. To record, the holder must file (1) name and address, (2) description of the right of way, including estimated width and length and general location, and (3) documentation of the accompanying water right.

Paragraph (c)(2)(C) provides that rights-of-way recorded or granted under the new subsection must re-record every 30 years upon notice sent by the Federal Government, and the failure to file will create a presumption of abandonment. However, the right-of-way holder will not lose his grant if he can show his failure to record was not intentional. Also the paragraph provides that the Federal Government will give the holder an opportunity to perfect the recordation, in the event that the details of the requirements in paragraph (c)(2)(B) are not met and the holder made a valid attempt to meet them.

Paragraph (c)(3)(A) pertains to new rights-of-way granted under the subsection after January 1, 1985 and to modification of rights-of-way that are controlled by this subsection. It requires that both must be recorded under subsection (c)(2). For new subsection (c) rights-of-way, the grant will be tied to the water right. If the water right is conditional, the right-of-way is conditional When the water right is perfected, i.e. put to beneficial use, the right-of-way becomes perfected. Should the water rights ever be abandoned the right-of-way is automatically abandoned.

Paragraph (c)(3)(B) provides that for post-FLPMA (a)(1) rights-of-way the Federal Government has the discretion to charge no more than $100 per right-of-way annually, but that the right-of-way cannot be terminated to collect the fee. The Federal Government, however, is authorized to collect the fee through any other means available to it.

Paragraph (c)(4) provides the list of requirements that a holder under the new subsection will be required to meet. The office of recordation must be notified within 60 days of any change of address and the holder must assure the Federal Government, State Government, and the public free access to the right-of-way, to the extent that such access is not inconsistent with the holder's exercise and enjoyment of the right-of-way. However, the holder shall not be liable for any injury resulting from access, unless it is caused directly by the holder's negligence. The holder also is given authority to post the land to warn of dangers, unless otherwise instructed by the Forest Service or the Bureau of Land Management. In addition, paragraph (c)(4) provides that all facilities constructed on new rights-of-way (as distinguished from recorded rights-of-way) granted under this subsection must be constructed, repaired, and maintained to:

i. minimize damage to fish and wildlife habitat;

ii. protect lives, health and property; and

iii. not unreasonably obstruct or interfere with the interests of people living in the area traversed by the right-of-way who have subsistence rights in the area.

The paragraph also requires that all environmental studies required by NEPA are the responsibility of the Federal Government and that any damage caused by the failure of the holder to comply with this paragraph will be subject to the law of the State(s) where the right-of-way is located.

Paragraph (c)(5) requires that upon termination of a subsection (c) right-of-way, the holder must stop using it and must reasonably restore the site—unless otherwise agreed to by the Federal Government. Structures not removed within 90 days become the property of the Government, and the holder shall indemnify the Government against any liability for damage to life or property arising from negligent occupancy of the right-of-way. If the holder allows the right-of-way to deteriorate where it threatens life or property and refuses to do the necessary repair or maintenance, the Government has the authority to do the work at the expense of the holder.

Paragraph (c)(6) reserves to the Federal Government mineral and vegetation, including timber, within the right-of-way, except in case of emergency.

Paragraph (c)(7) insures that nothing in the new subsection creates or presumes the existence of any Federal water rights.

Section 3 amends 505 of FLPMA by prohibiting its application to subsection (a)(1) rights-of-way that are granted or recorded under new subsection (c). The majority of Section 505 requirements are already incorporated into the new subsection 501(c).●

By Mr. ABDNOR (for himself, Mr. STENNIS, Mr. WEICKER, Mr. MOYNIHAN, Mr. EAGLETON, Mr. INOUYE, Mr. D'AMATO, Mr. MELCHER, Mr. SYMMS, Mr.

BOSCHWITZ, Mr. STEVENS, and Mr. ANDREWS):

S.J. Res. 299. Joint resolution to designate November 1984 as National Diabetes Month; to the Committee on the Judiciary.

NATIONAL DIABETES MONTH

Mr. ABDNOR. Mr. President, I am today introducing a joint resolution to designate the month of November 1984, as "National Diabetes Month." Although the ongoing war against diabetes has yielded significant advances in basic and clinical research aimed at prevention, diagnosis, and treatment of persons who are afflicted with this disease, much more remains to be done.

Some 11 million Americans suffer from diabetes. A significant portion of the victims are not yet even aware that they have the disease. Tens of millions of Americans—the friends and families of those with the disease—are personally affected by the grave impact which diabetes has on their loved ones. Over $10 billion are spent each year for health care, disability payments, and premature mortality costs resulting from diabetes.

Health complications resulting from diabetes affect a variety of bodily functions and organs. The lasting effects of these complications are extremely severe. For example, the National Diabetes Data Group has reported that:

Diabetes causes almost 50 percent of foot and leg amputations among adults;

20 percent of all cases of kidney failure and 15 percent of all blindness is due to diabetes;

Diabetes is a major cause of birth defects and infant mortality;

The United States ranks among the highest five nations in the world in mortality due to diabetes;

Diabetes is a major risk factor for cardiovascular disease;

Persons with diabetes spend twice as many days in hospitals as persons without the disease;

Diabetes, which is the fourth leading cause of visits to general and family practice physicians, places a major drain on our health resources; and

One in every six hundred children suffer from insulin dependent diabetes.

Mr. President, the designation of November of this year as National Diabetes Month will serve to call to the wider attention of the American people the human and economic costs of diabetes. It is my sincere hope and belief that this increased understanding of the disease—both by those afflicted and by others—will lead to more intensive research, improved methods of preventing serious complications, new types of treatment, and general awareness of the challenge we face in seeking to lessen the impact of diabetes. I urge the speedy adoption of this joint resolution.

Mr. President, I ask unanimous consent that the text of the resolution be printed in full.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 299

Whereas diabetes kills more than all other diseases except cancer and cardiovascular diseases;

Whereas eleven million Americans suffer from diabetes and five million seven hundred thousand of such Americans are not aware of their illness;

Whereas $10,100,000,000 annually are used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of non-insulin-dependent diabetes may be controllable through greater public understanding, awareness and education; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984 is designated as "National Diabetes Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 337

At the request of Mr. PACKWOOD, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 337, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers

S. 1841

At the request of Mr. THURMOND, the names of the Senator from Wisconsin (Mr. KASTEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. JEPSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. STENNIS), the Senator from Oklahoma (Mr. BOREN), the Senator from Connecticut (Mr. DODD), and the Senator from Indiana (Mr. QUAYLE), were added as cosponsors of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

S. 1842

At the request of Mr. ARMSTRONG, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 1842, a bill to amend the Colorado River Basin Salinity Control Act to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural program in the Colorado River Basin.

S. 2353

At the request of Mr. GRASSLEY, the names of the Senator from Iowa (Mr. JEPSEN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 2353 a bill to amend the Internal Revenue Code of 1954 to provide that one half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction.

S. 2423

At the request of Mr. THURMOND, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 2423, a bill to provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

S. 2436

At the request of Mr. GOLDWATER, the names of the Senator from Alaska (Mr. MURKOWSKI), the Senator from Massachusetts (Mr. TSONGAS), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 2436, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 2569

At the request of Mr. HEINZ, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2569, a bill to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder.

S. 2650

At the request of Mr. KASTEN, the names of the Senator from Massachusetts (Mr. TSONGAS), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 2650, a bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles create a substantial risk of injury to children.

S. 2687

At the request of Mr. PERCY, the name of the Senator from North Dakota (Mr. ANDREWS) was withdrawn

as a cosponsor of S. 2687, a bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938 which shall terminate on September 30, 1987, and for other purposes.

At the request of Mr. HUMPHREY, his name was withdrawn as a cosponsor of S. 2687, supra.

SENATE JOINT RESOLUTION 230

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of Senate Joint Resolution 230, a joint resolution to designate the week of October 7, 1984, through October 13, 1984, as "National Birds of Prey Conservation Week."

SENATE JOINT RESOLUTION 267

At the request of Mr. CHILES, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 267, a joint resolution to designate the week of September 23, 1984, through September 29, 1984, as "National Drug Abuse Education and Prevention Week."

SENATE JOINT RESOLUTION 292

At the request of Mr. HELMS, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the week of May 27 through June 2, 1984, as "National Animal Health Week."

SENATE RESOLUTION 372

At the request of Mr. SIMPSON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Resolution 372, a resolution expressing the sense of the Senate regarding exposure of members of the Armed Forces to ionizing radiation and to herbicides containing dioxin.

SENATE RESOLUTION 385

At the request of Mr. BENTSEN, the names of the Senator from Connecticut (Mr. DODD), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Resolution 385, a resolution urging continuation of tax deductibility of residential mortgage interest payments.

AMENDMENTS SUBMITTED

APPOINTMENT OF BANKRUPTCY JUDGES AND CHANGES IN THE BANKRUPTCY LAWS

THURMOND AMENDMENT NO. 3083

Mr. THURMOND proposed an amendment to the bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title II of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstances under which collective bargaining agreements may be rejected in cases under chapter 11, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Bankruptcy Court and Federal Judgeship Act of 1984".

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

SEC. 101. (a) Section 1334 of title 28, United States Code, is amended to read as follows:

"§ 1334. Bankruptcy cases and proceedings

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title II.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title II, or arising in or related to cases under title II.

"(c)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title II or arising in or related to a case under title II. Such decision to abstain or to not abstain is not reviewable by appeal or otherwise.

"(2) In a proceeding involving the debtor which is based upon a State law claim or cause of action neither arising under title II nor arising in a case under title II, which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon proper motion, abstain from adjudicating such claim in the bankruptcy proceeding where an action to adjudicate such claim has been or will be timely instituted and prosecuted in a State forum of appropriate jurisdiction: *Provided*, that this paragraph shall be construed to limit the applicability of the stay provided for by section 362 of title II, United States Code, only to the extent necessary to permit adjudication but not the execution of such claim by the State forum. Such abstention is not reviewable by appeal or otherwise.

"(3) A motion to abstain pursuant to this subsection shall be filed with the initial pleading.

"(d) The district court in which a case under title II is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor, or of the estate, as of the commencement of such case.".

(b) The table of sections for chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

"1334. Bankruptcy cases and proceedings.".

SEC.102. (a) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1408. Venue of cases under title II

"Except as provided in section 1410 of this title, a case under title II may be commenced in the district court for the district—

"(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eight-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title II concerning such person's affiliate, general partner, or partnership.

"§ 1409. Venue of proceedings arising under title II or arising in or related to cases under title II

"(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title II or arising in or related to a case under title II may be commenced in the district court in which such case is pending.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title II may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which the defendant resides.

"(c) Except as provided in subsection (b) of this section, a trustee in a case under title II may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title II in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title II had not been commenced.

"(d) A trustee may commence a proceeding arising under title II or arising in or related to a case under title II based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising under title II or arising in or related to a case under title II, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

"§ 1410. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title II to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title II to enjoin the enforcement of a lien against a property, or to require the turnover of property of an estate, may be commenced only

in the district court for the district in which such property is found.

"(c) A case under section 304 of title II, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.

"§ 1411. Jury trials

"(a) Except as provided in subsection (b) of this section this chapter and title II do not affect any right to trial by jury.

"(b) The district court may order the issues arising under section 303 of title II to be tried without a jury.

"§ 1412. Change of venue

"A district court may transfer a case or proceeding under title II to a district court for another district, in the interest of justice or for the convenience of the parties.".

(b) The table of sections of chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new items:

"1408. Venue of cases under title II.
"1409. Venue of proceedings arising under title II or arising in or related to cases under title II.
"1410. Venue of cases ancillary to foreign proceedings.
"1411. Jury trials.
"1412. Change of venue.".

SEC. 103. (a) Chapter 89 of title 28, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1452. Removal of claims related to bankruptcy cases

"(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.".

(b) The table of sections of chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1452. Removal of claims related to bankruptcy cases.".

SEC. 104. (a) Title 28 of the United States Code is amended by inserting after chapter 5 the following new chapter:

"CHAPTER 6—BANKRUPTCY JUDGES

"Sec.
"151. Designation of bankruptcy courts
"152. Appointment of bankruptcy judges.
"153. Salaries; character of service.
"154. Division of business; chief judge.
"155. Temporary transfer of bankruptcy judges.
"156. Staff; expenses.
"157. Procedures.
"158. Appeals.

"§ 151. Designation of bankruptcy courts

"In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge is a judicial officer of the district court, and expect as otherwise provided by law, rule, or order of the district court, may exercise the authority conferred under this chapter with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court.

"§ 152. Appointment of bankruptcy judges

"(a)(1) The United States court of appeals for the circuit shall appoint bankruptcy judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph. Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution.

"(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

"Districts	Judges
Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	1
Arizona	4
Arkansas: Eastern and Western	2
California:	
Northern	7
Eastern	4
Central	12
Southern	3
Colorado	4
Connecticut	2
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	2
Southern	3
Georgia:	
Northern	4
Middle	2
Southern	1
Hawaii	1
Idaho	1
Illinois:	
Northern	8
Central	2
Southern	1
Indiana:	
Northern	2
Southern	4
Iowa:	
Northern	1
Southern	1
Kansas	3
Kentucky:	
Eastern	1
Western	2
Louisiana:	
Eastern	2
Middle	1
Western	2
Maine	2
Maryland	2
Massachusetts	4
Michigan:	
Eastern	4
Western	2
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	1
Nevada	2
New Hampshire	1
New Jersey	5
New Mexico	2
New York:	
Northern	2
Southern	7
Eastern	6
Western	3
North Carolina:	
Eastern	2
Middle	2
Western	1
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	1
Eastern	1
Western	2
Oregon	4
Pennsylvania:	
Eastern	3
Middle	2
Western	3
Puerto Rico	2
Rhode Island	1
South Carolina	1
South Dakota	1
Tennessee:	
Eastern	2
Middle	2
Western	2
Texas:	
Northern	4
Eastern	1
Southern	3
Western	2
Utah	2
Vermont	1
Virginia:	
Eastern	3
Western	3
Washington:	
Eastern	1
Western	4
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	3
Western	2
Wyoming	1.".

"(3) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of such court shall make such appointment.

"(4) The judges of the district courts for the territories shall serve as the bankruptcy judges for such courts. The United States court of appeals for the circuit within which such a territorial district court is located may appoint bankruptcy judges under this chapter for such district if authorized to do so by the Congress of the United States under this section.

"(b)(1) The Judicial Conference of the United States shall, from time to time, and after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts after such Director has consulted with the judicial council of the circuit involved, determine the official duty stations of bankruptcy judges and places of holding court.

"(2) The Judicial Conference shall, from time to time, submit recommendations to

the Congress regrading the number of bankruptcy judges needed and the districts in which such judges are needed.

"(c) Each bankruptcy judge may hold court at such places within the judicial district, in addition to the official duty station of such judge, as the business of the court may require.

"(d) With the approval of the Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

"(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

"§ 153. Salaries; character of service

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services a salary at an annual rate of $66,100. Notwithstanding any other provision of law, such salaries shall remain at such rate unless a higher rate is authorized by a law specifically increasing the rate of pay for bankruptcy judges.

"(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

"(c) Each individual appointed under this chapter shall take or oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

"§ 154. Division of businesses; chief judge

"(a) Each bankruptcy court for a district having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided for by the rules of the district court.

"(b) In each district court having more than one bankruptcy judge the district court shall designate one judge to serve as chief judge of such bankruptcy court. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously.

"§ 155. Temporary transfer of bankruptcy judges

"(a) A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed upon the approval of the judicial council of each of the circuits involved.

"(b) A bankruptcy judge who has retired may, upon consent, be recalled to serve as a bankruptcy judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a bankruptcy judge may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference of the United States, subject to the restrictions on the payment of an annuity in subchapter III of chapter 83 of title 5.

"§ 156. Staff; expenses

"(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the Director of the Administrative Office of the United States Courts determines to be necessary.

"(b) Upon certification to the judicial council of the circuit involved and to the Director of the Administrative Office of the United States Courts that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title within a judicial district so warrants, the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges.

"(c) Any court may utilize facilities or service, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title II, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

"§ 157. Procedures

"(a) Each district court may provide that any or all cases under title II and any or all proceedings arising under title II or arising in or related to a case under title II shall be referred to the bankruptcy judges for the district.

"(b)(1) Bankruptcy judges may hear and determine all cases under title II and all core proceedings arising under title II, or arising in a case under title II, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

"(2) Core proceedings include, but are not limited to—

"(A) matters concerning the administration of the estate;

"(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, but not the liquidation or estimation of contingent or unliquidated claims against the estate;

"(C) counterclaims by the estate against persons filing claims against the estate;

"(D) orders in respect to obtaining credit;

"(E) orders to turn over property of the estate;

"(F) proceedings to determine or set aside preference;

"(G) motions to lift or modify the automatic stay;

"(H) proceedings to set aside fraudulent conveyances;

"(I) determinations as to the dischargeability of particular debts;

"(J) objections to discharges;

"(K) determinations of the validity, extent, or priority of liens;

"(L) confirmations of plans; and

"(M) orders approving the sale of property not resulting from claims brought by the estate against persons who have not filed claims against the estate.

"(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title II. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law.

"(c)(1) a bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title II. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgement shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title II to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

"(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title II and other laws of the United States regulating organizations or activities affecting interstate commerce.

"§ 158. Appeals

"(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

"(b)(1) The judicial council of a circuit may establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

"(2) No appeal may be referred to a panel under this subsection unless the district judges for the district, by majority vote, authorize such referral of appeals originating within the district.

"(3) A bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title.

"(c) An appeal to a district court under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts.

"(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees of the dis-

trict courts entered under subsections (a) and (b) of this section.".

(b) The table of chapters of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 5, the following new item:

"6. Bankruptcy judges ..... 151.".

SEC. 105. The salary of a bankruptcy judge in effect immediately before the date of enactment of this act shall remain in effect until changed as a result of an adjustment made pursuant to section 153 (a) of title 28, United States Code, as added by this Act.

SEC. 106. (a) Notwithstanding section 152 of title 28, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of enactment of this Act is extended to and expires on October 1, 1985, or when his successor takes office, whichever is earlier.

(b) Notwithstanding section 153 (a) of title 28, United States Code, as added by this Act, and notwithstanding subsection (a) of this section, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve on such basis until October 1, 1985.

SEC. 107. Section 372(c)(6)(B)(vii) of title 28, United States Code, is amended by striking out "section 153" and inserting in lieu thereof "section 152".

SEC. 108. (a) Section 634 (a) of title 28, United States Code, is amended by striking out "the rates now or hereafter provided for full-time or part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68 (a)), as amended," and inserting in lieu thereof "$66,100".

(b) Notwithstanding any other provision of law, a magistrate's annual rate of pay shall not exceed $66,100 unless a higher rate is authorized by a law specifically increasing the rates of pay of such magistrates.

(c) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates", and inserting in lieu thereof ", except bankruptcy judges".

(d) Section 548 of title 28, United States Code, is amended to read as follows:

"§ 548. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General of the United States shall fix the annual salaries of United States Attorneys, Assistant United States Attorneys General, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5.".

SEC. 109. Section 957 of title 28, United States Code, is amended by striking out "district".

SEC. 110. Section 1360 of title 28, United States Code, is amended—

(1) by striking out "or Territories";

(2) by striking out "or Territory" each place it appears; and

(3) by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 111. (a) Section 1930 of title 28, United States Code, is amended by striking out "clerk of the bankruptcy court" each place it appears and inserting in lieu thereof "clerk of the court".

(b) The heading for section 1930 of title 28, United States Code, is amended to read as follows:

"§ 1930. Bankruptcy fees.".

(c) The table of sections for chapter 125 of title 28, United States Code, is amended by striking out "Bankruptcy courts" and inserting in lieu thereof "Bankruptcy fees".

SEC. 112. Subsections (f), (j), (k), (l), and (m) of section 8339, subsections (b)(1) and (d) of section 8341, and section 8344(a)(A) of title 5, United States Code, are each amended by striking out "and (o)" and inserting in lieu thereof "and (n)".

SEC. 113. Section 402(b) of this Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682), is amended by striking out "shall take effect on April 1, 1984" and inserting in lieu thereof "shall not take effect".

SEC. 114. Sections 404, 405(a), 405(b), 405(c), 406, 407, and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

SEC. 115. (a) On the date of the enactment of this Act the appropriate district court of the United States shall have jurisdiction of—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), and

(2) cases under title II of the United States Code, and proceedings arising under title II of the United States Code or arising in or related to cases under title II of the United States Code, that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687).

(b) On the date of the enactment of this Act, there shall be transferred to the appropriate district court of the United States appeals from final judgments, orders, and decrees of the bankruptcy courts pending immediately before such date in the bankruptcy appellate panels appointed under section 405(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2685).

SEC. 116. (a) Section 8331(22) of title 5, United States Code, is amended—

(1) by striking out "adding this paragraph" and inserting in lieu thereof "of November 6, 1978 (Public Law 95-598; 92 Stat. 2549)";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) Who is serving as a United States bankruptcy judge on the date of the enactment of the Bankruptcy Court and Federal Judgeship Act of 1984, and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1985, whichever date is earlier, and who has agreed by filing a notice of such agreement with the Court of Appeals and the Director of the Administrative Office of the United States Courts, to accept an appointment as a judge of the United States bankruptcy court established by the Bankruptcy Court and Federal Judgeship Act of 1984, but who is not appointed as a judge of such court".;

(3) in subparagraph (B)—

(A) by striking out "transition period" and inserting in lieu thereof "period beginning on October 1, 1979, and ending on the date of enactment of the Bankruptcy Court and Federal Judgeship Act of 1984";

(B) by striking out the period at the end thereof and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new subparagraph:

"(C) who is appointed as a bankruptcy judge under section 152 of title 28.".

(b)(1) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by inserting "and a bankruptcy judge" before the period.

(2) The matter relating to bankruptcy judges in the table set out in section 8334(c) of title 5, United States Code, is amended—

(A) by striking out the following item:

"7 ..... After January 1, 1970.".

and

(B) by inserting in lieu of the item stricken by subparagraph (A) the following new items:

"7 ..... After January 1, 1970, to December 31, 1983.

"8 ..... After December 31, 1983.".

(c) Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

"(k) A bankruptcy judge who is separated from service, except by removal, after becoming sixty-two years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity.".

(d) Section 8339 of title 5, United States Code, is amended by—

(1) inserting "or (n)" after "(c)" in subsection (g)(2);

(2) striking out "or (c)" each place it appears in subsection (g) and inserting in lieu thereof "(c), or (n)"; and

(3) striking out "March 31, 1979, and before May 25, 1984," in subsection (n) and inserting in lieu thereof "as a referee in bankruptcy and".

(e) The amendments made by this section shall take effect on the date of enactment and shall apply to bankruptcy judges who retire on or after such date.

SEC. 117. The adjustments in the retirement provisions made by this Act shall not be construed to be a "new government retirement system" for purposes of the Federal Employees Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168).

SEC. 118. Section 105 of title 11, United States Code, is amended—

(1) by deleting the word "bankruptcy" wherever it appears therein; and

(2) by adding at the end thereof the following new subsection:

"(c) The ability of any district judge or other officer or employee of a district court to exercise any of the authority or responsibilities conferred upon the court under this title shall be determined by reference to the provisions relating to such judge, officer, or employee set forth in title 28. This subsection shall not be interpreted to exclude bankruptcy judges and other officers or employees appointed pursuant to chapter 6 of title 28 from its operation.".

SEC. 119. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

SEC. 120. (a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality

qualify such person to serve in the Federal judiciary.

(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

(b) The judicial council of the cirucit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1) Public notice of such vacancy has been given and an effort has been made, in the case of each such vacancy, to identify qualified candidates, without regard to race, color, sex, religion, or national origin,

(2) such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they are members,

(3) such persons possess, and have a reputation for, integrity and good character,

(4) such persons are of sound physical and mental health,

(5) such persons possess and have demonstrated commitment to equal justice under law,

(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7) such persons' demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

SEC. 121. Section 636 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) (1) In any case or proceeding brought under section 1334 of this title, a magistrate may be designated to exercise the powers granted magistrates pursuant to this section over any such case or proceeding.

"(2) Any bankruptcy judge appointed pursuant to section 152 of this title may act as a magistrate with all of the powers granted to a magistrate pursuant to paragraph (1) of this subsection if such designation will not adversely affect the administration of cases in the district in which such judge was appointed."

SEC. 122. This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—JUDGESHIPS

SEC. 201. (a) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the first circuit court of appeals, two additional circuit judges for the second circuit court of appeals, two additional circuit judges for the third circuit court of appeals, one additional circuit judge for the fourth circuit court of appeals, two additional circuit judges for the fifth circuit court of appeals, four additional circuit judges for the sixth circuit court of appeals, two additional circuit judges for the seventh circuit court of appeals, one additional circuit judge for the eight circuit court of appeals, five additional circuit judges for the ninth circuit court of appeals, two additional circuit judges for the tenth circuit court of appeals, and one additional circuit judge for the District of Columbia circuit court of appeals.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	Number of Judges
District of Columbia	12
First	6
Second	13
Third	12
Fourth	11
Fifth	16
Sixth	15
Seventh	11
Eighth	10
Ninth	28
Tenth	10
Eleventh	12
Federal	12.".

SEC. 202. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Alabama, one additional district judge for the district of Alaska, five additional district judges for the central district of California, one additional district judge for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the district of Delaware, three additional district judges for the southern district of Florida, one additional district judge for the middle district of Georgia, one additional district judge for the district of Hawaii, four additional district judges for the northern district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the western district of Kentucky, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Mississippi, two additional district judges for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Montana, one additional district judge for the district of Nevada, three additional district judges for the district of New Jersey, one additional district judge for the northern district of New York, two additional district judges for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the district of Rhode Island, one additional district judge for the eastern district of Tennessee, one additional district judge for the western district of Tennessee, one additional district judge for the northern district of Texas, two additional district judges for the eastern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, one additional district judge for the eastern district of Virginia, one additional district judge for the eastern district of Washington, one additional judge for the western district of Washington, and one additional district judge for the district of Wyoming.

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, one additional district judge for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the district of Massachusetts, one additional district judge for the western district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the northern district of Ohio, and one additional district judge for the western district of Washington. The first vacancy in each of the offices of district judge authorized by this subsection, occurring five years or more after the effective date of this Act, shall not be filled.

(c) The existing district judgeship for the district of Minnesota and the existing district judgeship for the northern district of Ohio, heretofore authorized by section 2 of the Act of October 20, 1978 (Public Law 95-486, 92 Stat. 1631), shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents of those offices shall henceforth hold their offices under section 133, as amended by this Act.

(d) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsection (a) and (c) of this section, such table is awarded to read as follows:

"Districts	Judges
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	22
Southern	7
Colorado	7
Connecticut	6
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	20
Central	3
Southern	3
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1

"Districts	Judges
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	6
Maine	2
Maryland	10
Massachusetts	11
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	5
Missouri:	
Eastern	5
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	14
New Mexico	4
New York:	
Northern	4
Southern	27
Eastern	12
Western	3
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	10
Southern	7
Oklahoma:	
Northern	2
Eastern	1
Western	4
Northern, Eastern, and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	4
Middle	3
Western	4
Texas:	
Northern	10
Eastern	6
Southern	13
Western	7
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	6
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2.".

SEC. 203. (a) Section 131 of title 28, United States Code, is amended in the second paragraph thereof by inserting "Jackson," after "Lander,".

(b) Section 98(a) of title 28, United States Code, is amended by inserting ", and Houma" after "New Orleans".

SEC. 204. (a) Section 371 of title 28, United States Code, is amended to read as follows:

"§ 371. Retirement on salary; retirement in senior status

"(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

"(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office.

"(c) The age and service requirements for retirement under this section are as follows:

"Attained age:	Years of service:
65	15
66	14
67	13
68	12
69	11
70	10

"(d) The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.".

(b) The item relating to section 371 in the table of sections of chapter 17 of title 28 is amended to read as follows:

"371. Retirement on salary: retirement in senior status.".

(c) The amendements made by this section shall apply with respect to any justice or judge of the United States appointed to hold office during good behavior who retires on or after the date of enactment of this Act.

SEC. 205. Section 8701(a) of title 5, United States Code, is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by adding a new paragraph (5) as follows:

"(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation;".

SEC. 206. Section 8714a(c) of title 5, United States Code, is amended by adding a new paragraph (3) as follows:

"(3) Notwithstanding paragraph (c)(1) of this section, a justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert regular optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.".

SEC. 207. Section 8714b(c) of title 5, United States Code, is amended by adding to paragraph (1) at the end thereof the following: "A justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert additional optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.".

SEC. 208. (a) Section 8706 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Under regulations prescribed by the Office, each policy purchased under this chapter shall provide that an insured Federal judge may make an irrevocable assignment of the judge's incidents of ownership in the policy.".

(b) The heading for section 8706 of title 5, United States Code, and the item relating to section 8706 in the analysis for chapter 87 of such title are each amended by inserting "; assignment of ownership" after "insurance".

SEC. 209. (a) Except as provided in subsection (b), the amendments made by this Act to section 8706 of title 5, United States Code, shall apply to policies by judges after the date of enactment of this Act.

(b) If a company which issued a policy which is in effect on the date of the enactment of this Act agrees, the amendments made by this Act shall apply to such policy.

SEC. 210. Section 634(c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

TITLE III—AMENDMENTS TO TITLE II OF THE UNITED STATES CODE

SEC. 300. This title may be cited as the "Omnibus Bankruptcy Improvements Act of 1984".

Subtitle A— Consumer Credit Amendments

SEC. 301. Section 109 of title II, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this section, no individual may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

"(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

"(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.".

SEC. 302. Section 342 of title II, United States Code, is amended—

(1) by inserting "(a)" before "There shall be given", and

(2) by adding at the end thereof the following new subsection:

"(b) Prior to the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give written notice to such individual that indicates each chapter of this title under which such individual may proceed.".

SEC. 303. Section 349(a) of title II, United States Code, is amended by inserting before the period at the end thereof "; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(f) of this title".

SEC. 304. Section 362 of title II, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.".

SEC. 305 Section 521 of title II, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(2) in paragraph (1) by inserting "a schedule of current income and current expenditures," after "liabilities,", and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) if an individual debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate—

"(A) within thirty days after the date of the filing of a petition under chapter 7 of this title or on or before the date of the meeting of creditors, whichever is earlier, or within such additional time as the court, for cause, within such period fixes, the debtor shall file with the clerk a statement of his intention with respect to the retention or surrender of such property and, if applicable, specifying that such property is claimed as exempt, that the debtor intends to redeem such property, or that the debtor intends to reaffirm debts secured by such property;

"(B) within forty-five days after the filing of a notice of intent under this section, or within such additional time as the court, for cause, within such forty-five day period fixes, the debtor shall perform his intention with respect to such property, as specified by subparagraph (A) of this paragraph; and

"(C) nothing in subparagraphs (A) and (B) of this paragraph shall alter the debtor's or the trustee's rights with regard to such property under this title;".

SEC. 306. (a) Section 522(b) of title II, United States Code, is amended by striking out "Notwithstanding" and all that follows through "either—" and inserting in lieu thereof the following: "Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate the property listed in either paragraph (1) or, in the alternative, paragraph (2) of this subsection. In joint cases filed under section 302 of this title and individual cases filed under section 301 or 303 of this title by or against debtors who are husband and wife, and whose estates are ordered to be jointly administered under Rule 1015(b) of the Bankruptcy Rules, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2) of this subsection. If the parties cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—".

(b) Section 522(d)(3) of title II, United States Code, is amended by inserting "or $4,000 in aggregate value" after "item".

(c) Section 522(d)(5) of title II, United States Code, is amended to read as follows:

"(5) The debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under paragraph (1) of this subsection.".

(d) Section 522(m) of title II, United States Code, is amended to read as follows:

"(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.".

SEC. 307. (a) Section 523(a)(2) of title II, United States Code, is amended—

(1) in subparagraph (A) by striking out "or" at the end thereof,

(2) in subparagraph (B) by inserting "or" at the end thereof, and

(3) by adding at the end thereof the following new subparagraph:

"(C) for purposes of subparagraph (A) of this paragraph, consumer debts owed to a single creditor and aggregating more than $500 for 'luxury goods or services' incurred by an individual debtor on or within forty days before the order for relief under this title, or cash advances aggregating more than $1,000 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within twenty days before the order for relief under this title, are presumed to be nondischargeable; 'luxury goods or services' do not include goods or services reasonably acquired for the support or maintenance of the debtor or a dependent of the debtor; an extension of consumer credit under an open end credit plan is to be defined for purposes of this subparagraph as it is defined in the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);".

(b) Section 523(d) of title II, United States Code, is amended to read as follows:

"(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.".

SEC. 308. (a) Section 524(a)(2) of title II, United States Code, is amended by striking out "or from property of the debtor,".

(b) Section 524(c) of title 11, United States Code, is amended—

(1) by striking out paragraph (2),

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively, and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after such agreement is filed with the court, whichever occurs later, by giving notice of rescission to the holder of such claim;

"(3) such agreement has been filed with the court and, if applicable, accompanied by a declaration or an affidavit of the attorney that represented the debtor during the course of negotiating an agreement under this subsection, which states that such agreement—

"(A) represents a fully informed and voluntary agreement by the debtor; and

"(B) does not impose an undue hardship on the debtor or a dependent of the debtor;

"(4) the debtor has not rescinded such agreement at any time prior to discharge or within sixty days after such agreement is filed with the court, whichever occurs later, by giving notice of recission to the holder of such claim;" and

(4) by amending paragraph (6), as so redesignated, to read as follows:

"(6)(A) in a case concerning an individual who was not represented by an attorney during the course of negotiating an agreement under this subsection, the court approves such agreement as—

"(i) not imposing an undue hardship on the debtor or a dependent of the debtor; and

"(ii) in the best interest of the debtor.

"(B) Subparagraph (A) shall not apply to the extent that such debt is a consumer debt secured by real property.".

(c) Section 524(d)(2) of title II, United States Code, is amended by striking out "subsection (c)(4)" and inserting in lieu thereof "subsection (c)(6)".

(d) Section 524 of title II, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Nothing contained in subsection (c) or (d) of this section prevents a debtor from voluntarily repaying any debt.".

SEC. 309. Section 525 of title II, United States Code, is amended—

(1) by inserting "(a)" before "except",

(2) by inserting "the" before "Perishable", and

(3) by adding at the end thereof the following new subsection:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

"(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

"(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

"(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.".

SEC. 310. Section 547(c) of title II, United States Code, is amended—

(1) in paragraph (5) by striking out "or" at the end thereof,

(2) in paragraph (6) by striking out the period at the end thereof and inserting in lieu thereof "; or ", and

(3) by adding at the end thereof the following new paragraph:

"(7) if, in a case filed by an individual debtor whose debts are primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $600.".

SEC. 311. (a) Section 704 of title II, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), and (9), respectively, and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) ensure that the debtor shall perform his intention as specified in section 521(2)(B) of this title;".

(b)(1) Section 1106(a)(1) of title II, United States Code, is amended by striking out "704(4), 704(6), 704(7), and 704(8)" and inserting in lieu thereof "704(5), 704(7), 704(8), and 704(9)".

(2) Section 1304(c) of title II, United States Code, is amended by striking out

"section 704(7)" and inserting in lieu thereof "section 704(8)".

(3) Section 15103(f) of title II, United States Code, is amended by striking out "704(8)" and inserting in lieu thereof "704(9)".

(4) Section 151301(b)(1) of title II, United States Code, is amended by striking out "and 704(8)" and inserting in lieu thereof ", 704(7), and 704(9)".

Sec. 312. Section 707 of title II, United States Code, is amended—

(1) by inserting "(a)" before "The court may" and

(2) by adding at the end thereof the following new subsection:

"(b) After notice and a hearing, the court, on its own motion and not at the request or suggestion of any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts if it finds that the granting of relief would be a substantial abuse of the provisions of this chapter. There shall be a presumption in favor of granting the relief requested by the debtor.".

Sec. 313. Section 1301 of title II, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Twenty days after the filing of a request under subsection (c)(2) of this section for relief from the stay provided by subsection (3) of this section, such stay is terminated with respect to the party in interest making such request, unless the debtor or any individual that is liable on such debt with the debtor files and serves upon such party in interest a written objection to the taking of the proposed action.".

Sec. 314. Section 1302(b) of title II, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9) of this title;";

(2) in paragraph (2) by striking out "and" at the end thereof.

(3) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(4) by adding at the end thereof the following new paragraph:

"(4) ensure that the debtor commences making timely payments under section 1326 of this title.".

Sec. 315. Section 1307(c) of title II, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) failure to commence making timely payments under section 1326 of this title;".

Sec. 316. Section 1322(b)(1) of title II, United States Code, is amended to read as follows:

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims for a consumer debt of the debtor if an individual is liable on such consumer debt with the debtor differently than other unsecured claims;".

Sec. 317. Section 1325 of title II, United States Code, is amended—

(1) in subsection (a) by striking out "The" and inserting in lieu thereof "Except as provided in subsection (b), the",

(2) by redesignating subsection (b) as subsection (c), and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan—

"(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the plan provides that all of the debtor's projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.

"(2) For purposes of this subsection, 'disposable income' means income which is received by the debtor and which is not reasonably necessary to be expended—

"(A) for the maintenance or support of the debtor or a dependent of the debtor; or

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.".

Sec. 318. (a) Section 1326 of title II, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and

(2) by inserting before such subsections the following new subsection:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed.

"(2) A payment made under this subsection shall be retained by the trustee until confirmation or denial of confirmation of a plan. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan. If a plan is not confirmed, the trustee shall return any such payments to the debtor, after deducting any unpaid claim allowed under section 503(b) of this title.".

(b) Section 15103(f) of title II, United States Code, is amended by striking out "1326(a)," and inserting in lieu thereof "1326(b),".

Sec. 319. Section 1329(a) of title II, United States Code, is amended by striking out "At" and all that follows through "modified to—", and inserting in lieu thereof the following: "At any time after confirmation but before the completion of payments under a plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—".

Sec. 320. The Supreme Court shall prescribe general rules implementing the practice and procedure to be followed under section 707(b) of title II, United States Code. Section 2075 of title 28, United States Code, shall apply with respect to the general rules prescribed under this section.

Sec. 321. Rule 2002 of the Bankruptcy Rules is amended by adding at the end thereof the following new subdivision;

"(n) In a voluntary case commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order.".

Sec. 322. Official Bankruptcy Form No. 1, referred to in Rule 1002 of the Bankruptcy Rules, is amended—

(1) by inserting after paragraph (5) the following:

"(6) If petitioner is an individual whose debts are primarily consumer debts. Petitioner is aware that [he or she] may proceed under chapter 7 or 13 of title II, United States Code, understands the relief available under each such chapter, and chooses to proceed under chapter 7 of such title.

"(7) If petitioner is an individual whose debts are primarily consumer debts and such petitioner is represented by an attorney. A declaration or an affidavit in the form of Exhibit 'B' is attached to and made a part of this petition.", and

(2) by inserting after Exhibit "A" at the end thereof the following new exhibit:

"Exhibit 'B'

"If petitioner is an individual whose debts are primarily consumer debts, this Exhibit 'B' shall be completed and attached to the petition pursuant to paragraph (7) thereof.

"Caption as in Form No. 1

..... "FOR COURT USE ONLY
..... "Date Petition Filed
..... "Case Number
..... "Bankruptcy Judge

"I, , the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7 or 13 of title II, United States Code, and have explained the relief available under each such chapter.

..... "Executed on
..... "Signature
..... Attorney for Petitioner".

Sec. 323. Section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687(c)), as amended by the Act of November 28, 1983 (Public Law 98-166; 97 Stat. 1071), is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986".

Sec. 324. Section 1103(b) of title II, United States Code, is amended by striking out "A person" and inserting in lieu thereof "An attorney or accountant".

Subtitle B—Amendments Relating to Grain Storage Facility Bankruptcy

Sec. 350. Section 507(a) of title II, United States Code, is amended—

(1) by striking out "(5) Fifth" and inserting in lieu thereof "(6) Sixth"

(2) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh"; and

(3) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of persons—

"(A) engaged in the production or raising of grain, as defined in section 557(b)(1) of this title, against a debtor who owns or operates a grain storage facility, as defined in section 557(b)(2) of this title, for grain or the proceeds of grain, or

"(B) engaged as a United States fisherman against a debtor who has acquired fish or fish produce from a fisherman through a sale or conversion, and who is engaged in operating a fish produce storage or processing facility—

but only to the extent of $2,000 for each such individual.".

Sec. 351. Section 546 of title II, United States Code, is amended—

(1) in the first sentence of subsection (c) thereof, by striking out "The" and inserting in lieu thereof "Except as provided in subsection (d) of this section, the"; and

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller's business (as such terms are defined in section 557 of this title) or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such fishermen's business, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such producer or fisherman to reclaim such grain or fish if the debtor has received such grain or fish while insolvent, but–

"(1) such producer or fisherman may not reclaim any grain or fish unless such producer or fisherman demands, in writing, reclamation of such grain or fish before ten days after receipt thereof by the debtor; and

"(2) the court may deny reclamation to such a producer or fisherman with a right of reclamation that has made such a demand only if the court secures such claim by a lien.".

SEC. 352. (a) Chapter 5 of title II, United States Code, is amended by adding at the end thereof the following new section:

"§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

"(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

"(b) In this section—

"(1) 'grain' means wheat, corn, flaxseed, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

"(2) 'grain storage facility' means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale; and

"(3) 'producer' means an entity which engages in the growing of grain.

"(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or the proceeds of grain the court shall, expedite the procedures for the determination of interests in and the disposition of grain and the proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable having a duration of not to exceed 120 days for the completion of the applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court, for cause, in accordance with subsection (f) of this section.

"(2) The court shall determine the extent to which such time periods shall be shortened, based upon—

"(A) any need of an entity claiming an interest in such grain or the proceeds of grain for a prompt determination of such interest;

"(B) any need of such entity for a prompt disposition of such grain;

"(C) the market for such grain;

"(D) the conditions under which such grain is stored;

"(E) the costs of continued storage or disposition of such grain;

"(F) the orderly administration of the estate;

"(G) the appropriate opportunity for an entity to assert an interest in such grain; and

"(H) such other considerations as are relevant to the need to expedite such procedures in the case.

"(d) The procedures that may be expedited under subsection (c) of this section include—

"(1) the filing of and response to—

"(A) a claim of ownership;

"(B) a proof of claim;

"(C) a request for abandonment;

"(D) a request for relief from the stay of action against property under section 362(a) of this title;

"(E) a request for determination of secured status;

"(F) a request for determination of whether such grain or the proceeds of grain—

"(i) is property of the estate;

"(ii) must be turned over to the estate; or

"(iii) may be used, sold, or leased; and

"(G) any other request for determination of an interest in such grain or the proceeds of grain;

"(2) the disposition of such grain or the proceeds of grain, before or after determination of interests in such grain or the proceeds of grain, by way of—

"(A) sale of such grain;

"(B) abandonment;

"(C) distribution; or

"(D) such other method as is equitable in the case;

"(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or the proceeds of grain; and

"(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

"(e)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

"(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

"(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

"(f) The court may extend the period for final disposition of grain or the proceeds of grain under this section beyond 120 days if the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution of grain or the proceeds of grain will not be materially injured by such additional delay.

"(g) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or the proceeds of grain, is stayed pending appeal—

"(1) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification, whether or not any entity knew of the pendency of the appeal; and

"(2) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

"(h)(1) The trustee may recover from grain and the proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or the proceeds of grain, but may not recover from such grain or the proceeds of grain any other costs or expenses.

"(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.

"(i) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.".

(b) The table of sections of chapter 5 of title II, United States Code, is amended by adding at the end thereof the following new item:

"557. Expedited determination of interests in and disposition of grain.".

SEC. 353. Section 901(a) of title II, United States Code, is amended by inserting "557," after "553,".

SEC. 354. Rule 3001 of the Bankruptcy Rules is amended by adding at the end thereof the following new subdivision:

"(g) To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title II, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quality of grain.".

Subtitle C—Leasehold Management Amendments

SEC. 361. This subtitle may be cited as the "Leasehold Management Bankruptcy Amendments Act of 1983".

SEC. 362. (a) Section 365 of title II, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

"(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

"(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

"(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

"(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

"(C) provides adequate assurance of future performance under such contract or lease.

"(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

"(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

"(B) the commencement of a case under this title; or

"(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

"(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

"(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

"(B) that any percentage rent due under such lease will not decline substantially;

"(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

"(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

"(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

"(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contacts or lease prohibits or restricts assignment of rights or delegation of duties, if—

"(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, whether or not such contract of lease prohibits or restricts assignment of rights or delegation of duties; and

"(B) such party does not consent to such assumption or assignment; or

"(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

"(3) such lease of nonresidential real property has been terminated under applicable nonbankruptcy law prior to the order for relief.

"(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

"(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real proerty or of personal property of the debtor at any time before the confirmation of a plan, but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

"(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

"(4) Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.".

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

"(l) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

"(m) for purposes of this section 365 and sections 541(b)(2) and 362(b)(9), leases of real property shall include any rental agreement to use real property.".

SEC. 363. (a) Section 541(b) of title II, United States Code, is amended to read as follows:

"(b) Property of the estate does not include—

"(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; or

"(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case.".

(b) Section 362(b) of title II of the United States Code is amended by—

(1) striking out "or" at the end of paragraph (7),

(2) replacing the period after paragraph (8) with "; or", and

(3) adding the following after paragraph (8):

"(9) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property.".

Subtitle D—Amendments to Title II, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

SEC. 371. Section 523(a) of title II, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or".

Subtitle E—Referees Salary and Expense Fund

Sec. 381. This subtitle may be cited as the "Referees Salary and Expense Fund Act of 1984".

Sec. 382. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Subtitle F—Amendments Regarding Repurchase Agreements

SEC. 391. Section 101 of title II, United States Code, is amended—

(1) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(2) by inserting after paragraph (34) the following new paragraphs:

"(35) 'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has an outstanding repurchase agreement with the debtor;

"(36) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States

against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than one year after such transfers or on demand, against the transfer of funds;".

SEC. 392. Section 362(b) of title II, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

"(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;".

SEC. 393. Section 546 of title II, United States code, is amended by inserting after subsection (e), as redesignated by section 251, the following:

"(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 394. Section 548(d)(2) of title II, United States Code, is amended—

(1) in subparagraph (A) by striking out "and" at the end thereof;

(2) in subparagraph (B) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and by inserting after paragraph (B) the following new subparagraph:

"(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.".

SEC. 395. Section 553(b)(1) of title II, United States Code, is amended by inserting ", 362(b)(7)," after "362(b)(6)".

SEC. 396. (a) Chapter 5 of title II, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Contractual right to liquidate a repurchase agreement

"The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

(b) The analysis of sections for chapter 5 of title II, United States Code, is amended by adding at the end thereof the following new item:

"559. Contractual right to liquidate a repurchase agreement.".

Subtitle G—Amendments to Title II, Section 365 of the United States Code to Provide Adequate Protection for Timeshare Consumers

SEC. 401. Title II, United States Code, section 101 is hereby amended by—

(1) redesignating paragraph (43), as redesignated by section 391, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 391:

"(43) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.".

SEC. 402. Section 365(h)(1) of title II, United States Code, is amended to read as follows:

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties: or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchases under applicable nonbankruptcy law.".

SEC. 403. Section 365(h)(2) of title II, United States Code, is amended to read as follows:

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the nonperformance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.".

SEC. 404. Section 365(i)(1) of title II, United States Code, is amended to read as follows:

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.".

Subtitle H—Bankruptcy Oversight

SEC. 411. The Director of the Administrative Office of the United States Courts shall compile statistics in a manner to be prescribed by such Director, which shall show—

(1) the assets and liabilities of debtors in bankruptcy, including the estimated income and expenses of individuals filing for relief under the provisions of title II, as such information may be available to the court from the petitions filed by such debtors;

(2) a summary of the amount of debt discharged in cases under each chapter of title II, and the total amount of disbursements to creditors by the bankruptcy courts in such cases; and

(3) the average amount of time elapsed between the filing of the case and payments to creditors in cases under each chapter of title II.

Such statistics shall be compiled for each judicial district on an annual basis.

Subtitle I—Miscellaneous Amendments to Title II

SEC. 421. (a) Section 101(2)(D) of title II of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title II of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title II of the United States Code is amended by inserting "348(d)," after "section".

(d) Section 101(14) of title II of the United States Code is amended by inserting "and" after "trust,".

(e) Section 101(24) of title II of the United States Code is amended by striking out

"stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title II of the United States Code is amended by—

(1) striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership"; and

(2) striking out "(A)(ii) and inserting in lieu thereof "(A)".

(g) Section 101(30) of title II of the United States Code is amended to read as follows:

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit, *Provided, however,* That any unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, will be considered a person for purposes of section 1102 of this title.

(h) Section 101(38)(B)(vi) of title II of the United States Code, as redesignated by section 391 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(i) Section 101(44) of title II of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "and foreclosure of the debtor's equity of redemption; and".

(j) Section 101 of title II of the United States Code is amended—

(1) by redesignating paragraphs (41) through (44), as previously redesignated, as paragraphs (45) through (48);

(2) by redesignating paragraphs (21) through (40), as paragraphs (24) through (43), respectively;

(3) by redesignating paragraphs (19) and (20) as paragraphs (20) and (21), respectively;

(4) by inserting after paragraph (18) the following:

"(19) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer;";

(5) by inserting after paragraph (21) as redesignated herein the following:

"(22) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into;

"(23) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contacts as or with merchants in commodities;";

(6) by inserting after paragraph (43) the following:

"(44) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;"; and

(7) by inserting after paragraph (48) the following:

"(49) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States;".

SEC. 422. Section 102 of title II of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

SEC. 423. Section 103(c) of title II of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

SEC. 424. Section 106 of title II, United States Code, is amended to read as follows:

§ 106. Waiver of sovereign immunity

"(a) The filing of a proof of claim against the estate by a governmental unit is a waiver by that governmental unit of sovereign immunity with respect to claims arising out of the same transaction or occurrence out of which such governmental unit's filed claim arose.

"(b) Where a governmental unit files a proof of claim and where such claim is allowed, the estate may offset against such allowed claim or interest any claim against such governmental unit that is property of the estate.

"(c) A provision of this title that contains 'creditor entity,' or 'governmental unit' applies to governmental units, and a determination by the court of an issue arising under such a provision binds governmental units without regard to sovereign immunity.".

SEC. 425. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title II of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title II of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

(c) Section 108(a) of title II of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," after "debtor".

(d) Section 108 of title II of the United States Code is amended—

(1) in subsection (c) by inserting after "bankruptcy court" the following: "or for taking other collection action, including levy,".

(2) by adding after subsection (c) the following:

"(d) If applicable nonbankruptcy law or an agreement suspends the period of limitation for assessing a tax liability of the debtor as of the commencement of a case under this title, such suspension does not expire before 90 days following the earlier of—

"(1) termination or expiration of the stay under section 362 of this title, or

"(2) the date, determined under sections 362(b)(9) and 505(c) of this title, after which assessment of such tax liability is permitted.

"(e) If applicable nonbankruptcy law fixes a period for filing a petition or otherwise commencing an action in the United States Tax Court, or in a similar judicial or administrative forum under State or local law, and if any such act is stayed under section 362 of this title, such period does not expire before 60 days after termination or expiration of the stay with respect to any such petition or action.".

SEC. 426. (a) Section 109 of title II of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(c)(5)(D) of title II of the United States Code of this Act is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(c) Section 109(d) of title II of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

SEC. 427. Section 303(b) of title II of the United States Code is amended by inserting "against a person" after "involuntary case".

SEC. 428. Section 303(j)(2) of title II of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

SEC. 429. Section 321(b) of title II of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

SEC. 430. Section 322(b)(1) of title II of the United States Code is amended by inserting "required to be" after "bond".

SEC. 431. (a) Section 326(a) of title II of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "and three percent on any amount in excess of $3,000".

(b) Section 326(d) of title II of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

(c) Section 327(c) of title II of the United States Code is amended to read as follows:

"(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment if there is an actual conflict of interest.".

SEC. 432. Section 328(a) of title II of the United States Code is amended by striking out "unanticipatable" and inserting in lieu thereof "not capable of being anticipated".

SEC. 433. (a) Section 329(a) of title II of the United States Code is amended by striking out "and" the first place it appears and inserting in lieu thereof "or".

(b) Section 329(b)(1) of title II of the United States Code is amended by striking out "trustee" and inserting in lieu thereof "estate".

SEC. 434. Section 330(a) of title II of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting in lieu thereof "nature, the extent, and the value of such services, the time spent on such services".

SEC. 435. (a) Section 330(b) of title II of the United States Code is amended by striking out "$20" and inserting in lieu thereof "$45".

(b) Section 330 of title II of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than $10 per month from any distribution under the plan during the administration of the plan.".

SEC. 436. (a) Section 341(b) of title II of the United States Code is amended to read as follows:

"(b)(1) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(2) The court may order a meeting of any equity security holders.".

(b) Section 341(a) of title II, United States Code, is amended by inserting "chapter 7 or chapter 11 of" after "under".

SEC. 437. Section 342 of title II of the United States Code as amended by section 302 is further amended by amending subsection (a) to read as follows:

"(a) There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

SEC. 438. Section 343 of title II of the United States Code is amended by striking out "examiner" the last place it appears and inserting in lieu thereof "examine".

SEC. 439. Section 344 of title II of the United States Code is amended by inserting before the period "or in accordance with such regulations as may be promulgated by the Attorney General".

SEC. 440. Section 345 of title II of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

"(c) An entity with which such moneys are deposited or invested is authorized to deposit or invest such moneys as may be required under this section.".

SEC. 441. (a) Section 346(c)(2) of title II of the United States Code is amended by striking out "operation" and inserting in lieu thereof "corporation".

(b) Section 346(f) of title II of the United States Code is amended by striking out "State or local".

(c) Section 346(g)(2) of title II of the United States Code is amended by striking out "as adjusted under subsection (j)(5) of this section,".

(d) Section 346(j) of title II of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

SEC. 442. Section 350(b) of title II of the United States Code is amended by striking out "a" and inserting in lieu thereof "A".

SEC. 443. Section 361(1) of title II of the United States Code is amended by inserting "a cash payment or" after "make".

SEC. 444. (a) Section 362(a) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "action or" after "other";

(2) in paragraph (3), by inserting "or to exercise control over property of the estate" after "estate" the second place it appears; and

(3) in paragraph (8) by striking out "Court concerning the debtor" and inserting in lieu thereof "Court or similar administrative or judicial forum under State or local law, concerning the debtor".

(b) Section 362(b) of title II of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accompanied within the period provided under section 547(e)(2)(A) of this title" after "title";

(2) in paragraph (6), by—

(A) inserting "or due from" after "held by"; and

(B) striking out "or secure commodity contracts" and inserting in lieu thereof "secure, or settle commodity contracts", and by inserting "financial institution," after "stockbroker" each time it appears.

(3) in paragraph (8) as redesignated by section 392, by—

(A) striking out "said" and inserting in lieu thereof "the"; and

(B) striking out "or" the last place it appears;

(4) in paragraph (9) as redesignated by section 392, by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding after paragraph (9) the following new paragraphs:

"(10) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law properly filed under such law before the date of the filing of the petition; or

"(11) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title II of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

(d) Section 362(d)(92) of title II of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" after "property" the first place it appears; and

(2) In subparagraph (B), by Inserting "In a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" after "reorganization".

(e) Section 363(e) of title II of the United States Code is amended—

(1) In the first sentence by inserting "the conclusion of" after "pending"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conslusion of such preliminary hearing.".

(f) Section 362(f) of title II of the United States Code is amended by—

(1) striking out "The" and inserting in lieu thereof "Upon request of a party in interest, the"; and

(2) inserting "with or" after "court,".

SEC. 445. (a) Section 363(a) of title II of the United States Code is amended by—

(1) inserting "whenever acquired" after "equivalents"; and

(2) inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title II of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless the court, after notice and hearing, orders otherwise.".

(c) Section 363(e) of title II of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title II of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title II of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title II of the United States Code is amended by striking out "compenation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title II of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "unless the court for cause orders otherwise the holder of such claim may bid at any such sale, and, if the holder".

(h) Section 363(l) of title II of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) by striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title II of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoiding"; and

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(j) Section 363 of title II of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

SEC. 446. (a) Section 365(e) of title II of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting in lieu thereof ", lease, or applicable law"; and

(2) in paragraph (2), by striking out "the trustee" and inserting in lieu thereof "an entity other than the debtor or the debtor in possession".

(b) Section 365(f)(3) of title II of the United States Code is amended by—

(1) striking out the comma after "debtor" the first place it appears, and

(2) striking out "applicable law" and inserting in lieu thereof "applicable nonbankruptcy law,".

(c) Section 365(h) of the United States Code is amended by adding at the end thereof the following new paragraph:

"(3) In the event that the lesee or timeshare interest holder shall elect to treat the lease under this subsection as terminated, any sublessee, leasehold mortgagee, or similarly situated entity may elect to succeed to the right of the lessee to remain in possession.".

(d) Section 365(i)(2)(A) of title II of the United States Code is amended by—

(1) striking out the comma after "may";

(2) inserting "under such contract" after "debtor"; and

(3) adding the following new paragraph:

"(3) in the event that the purchaser shall elect to treat such contract under this subsection as terminated, any holder of a security interest in such purchaser's interest may elect to succeed to the right of such purchaser to remain in possession as set forth in paragraph (1) of this subsection.".

(e) Section 365(j) of title II of the United States Code is amended by inserting "to or for the benefit of the debtor" before the period at the end thereof.

SEC. 447. Section 366(a) of title II of the United States Code is amended by inserting "of the commencement of a case under this title or" after "basis".

SEC. 448. Section 501(d) of title II of the United States Code is amended by inserting "502(e)(2)," before "502(f)".

SEC. 449. (a) Section 502(a) of title II of the United States Code is amended by inserting "general" before "partner".

(b) Section 502(b) of title II of the United States Code is amended—

(1) by inserting "(e)(2)," after "subsections";

(2) by inserting "in lawful currency of the United States" after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting in lieu thereof "and";

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as redesignated by paragraph (5), by inserting "the" after "exceeds";

(7) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out "the claim" and inserting in lieu thereof "such claim", and

(B) strking out the comma after "petition"

(8) by amending paragraph (6), as redesignated by paragraph (5), to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) the greater of—

"(i) the rent reserved for the rental year in which the petition was filed; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year in which the petition was filed; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting "the claim of an employee" before "for damaged";

(B) striking out "and" in subparagraph (A)(1) and inserting in lieu thereof "or";

(C) striking out "the" the first place it appears in subparagraph (B) and inserting in lieu thereof "any"; and

(D) inserting a comma after "such contract" in subparagraph (B).

(c) Section 502(c) of title II of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting "the" before "fixing"; and

(B) striking out "closing" and inserting in lieu thereof "administration"; and

(2) in paragraph (2), by—

(A) inserting "right to payment arising from a" after "any"; and

(B) striking out "if such breach gives rise to a right to payment".

(d) Section 502(e)(1) of title II, United States Code, is amended—

(1) by striking out "and (b)" and inserting in lieu thereof ", (b), and (c)"; and

(2) by striking out the commas before and after "or has secured";

(3) in subparagraph (B), by inserting "or disallowance" after "allowance"; and

(4) in subparagraph (C), by—

(A) striking out "requests subrogation" and inserting in lieu thereof "asserts a right of subrogation to the rights of such creditor"; and

(B) striking out "to the rights of such creditor".

(e) Section 502(h) of title II of the United States Code is amended by striking out "522(i)" and inserting in lieu thereof "522".

(f)(1) Section 502(i) of title II of the United States Code is amended to read as follows:

"(i)(1) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick leave pay, whether or not a proof of such claim is filed.

"(2) A claim that does not arise until after the commencement of the case for a tax entitled to priority under section 507(a)(6) of this title shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.".

(g) Section 502(j) of title II of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or tranfer made to such creditor.".

SEC. 450. Section 503(b) of title II of the United States Code is amended—

(1) by striking out the comma after "be allowed";

(2) in paragraph (1)(B)(i), by inserting "or required to be collected or withheld from another with respect to any payment made by or to the estate" after "estate";

(3) in paragraph (1)(C), by—

(A) striking out the comma after "credit"; and

(B) inserting "incurred by the estate" after "paragraph";

(4) in paragraph (2), by inserting "(a)" after "330";

(5) in paragraph (3), by inserting a comma after "paragraph (4) of this subsection";

(6) in paragraph (3)(C), by striking out the comma after "case";

(7) in paragraph (5), by striking out "and" after the semicolon;

(8) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(9) by adding at the end thereof the following new paragraph;

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

SEC. 451. Section 505(a) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "or liability of an entity for" after "or legality of";

(2) in paragraph (2)(A), by—

(A) inserting "or liability of the debtor for" after "or legality of"; and

(B) striking out "or legality" the second place it appears and inserting in lieu thereof ", legality, or liability";

(3) in paragraph (2)(B)(i), by striking out "and" and inserting in lieu thereof "or"; and

(4) by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding subparagraph (B) of paragraph (2) of this subsection, the court may offset against a claim for, or request for payment of, a tax liability any counterclaim with respect to such tax liability for the same taxable period, event, act, or failure to act, to which the claim or request for payment relates, and may, where appropriate, order a net credit or refund to be made to the estate. The preceding sentence shall not apply if, at the commencement of the case under this title, the debtor had filed suit for refund relating to such taxable period, event, act, or failure to act, and if the stay on continuation of such suit is terminated under section 362 of this title.".

SEC. 452. (a) Section 506(a) of title II of the United States Code is amended to read as follows:

"(a) An allowed claim of a creditor that is secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim.".

(b) Section 506(b) of title II of the United States Code is amended by inserting "for" after "provided".

(c) Paragraphs (1) and (2) of section 506(d) of title II of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

SEC. 454. (a) Section 507(a) of title II of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting in lieu thereof "an employee benefit plan";

(3) in paragraph (4)(B)(i), by inserting "each" after "covered by";

(4) in paragraph (7) as redesignated by section 350 by inserting "only" after "units,";

(5) in paragraph (6)(A) as redesignated by section 350 by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before commencement of the case, unless at such time the liability remained assessable under the applicable statute of limitations, solely because of an act or failure to act described in section 523(a)(1)(B) or 523(a)(i)(C) of this title.".

(b) Section 507(b) of title II of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee, after notice and a hearing, provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate, or if the court finds that there is adequate protection of such interest and if, notwithstanding such protection, the holder of an interest suffers a decrease in the value of such interest, such holder shall have a claim allowable under subsection (a)(1) of this section, and such holder's allowable claim shall have priority over every other claim allowable under such subsection except similar claims under this subsection.".

(c) Section 507(c) of title II of the United States Code is amended by striking out "shall be treated the same" and inserting in lieu thereof "has the same priority".

(d) Section 507(d) of title II of the United States Code is amended to read as follows:

"(d) If a claim of a kind specified in paragraph (3), (4), (5), (6), or (7) of subsection (a) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such paragraph, as the case may be, but only to the extend of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.

SEC. 454. (a) Section 509(a) of title II of the United States Code is amended by—

(1) striking out "subsections (b) and" and inserting in lieu there of "subsection (b) or"; and

(2) inserting "against the debtor" after "a creditor".

(b) Section 509(b)(1) of title II of the United States Code is amended by striking out "of a" and inserting in lieu thereof "of such".

(c) Section 509(c) of title II of the United States Code is amended by striking out "section 509 of this title" and inserting in lieu thereof "this section".

SEC. 455. Section 510(b) of title II of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affillate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security, except that if such security is common stock, such claim has the same priority as common stock.".

SEC. 456. Section 521(3) of title II of the United States Code, as redesignated in section 305, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

SEC. 457. (a) Section 522(a)(2) of title II of the United States Code is amended by inserting "or, with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" after "petition".

(b) Section 522(c) of title II of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1) or 523(a)(5) of this title; or

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(c) Section 522(e) of title II of the United States Code is amended by striking out "exemptions" and inserting in lieu thereof "an exemption".

(d) Section 522(1) of title II of the United States Code is amended by—

(1) striking out ", or may claim property as exempt from property of the estate"; and

(2) inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

(e) Section 522 of title II of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section the State or local law applicable under subsection (b) of this section is the State or local law in effect upon the date of the filling of the petition.".

SEC. 458. (a) Section 523(a) of title II of the United States Code is amended—

(1) is in paragraph (2), by—

(A) striking out "obtaining" each place it appears; and

(B) striking out "refinance of credit," and inserting in lieu thereof "refinancing of credit, to the extent obtained"; and

(2) by striking out "of higher education" in paragraph (8).

(b) Section 523(c) of title II of the United States Code is amended by inserting "of a kind" after "debt" the first time it appears.

SEC. 459. Section 524(a) of title II of the United States Code is amended by striking out "any act" each place it appears and inserting in lieu thereof "an act".

SEC. 460. (a) Section 541(a) of title II of the United States Code is amended—

(1) by striking out "under" the second time it appears;

(2) by inserting "and by whomever held" after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," after "section";

(4) in paragraph (5), by striking out "An" and inserting in lieu thereof "Any"; and

(5) in paragraph (6), by striking out "and" and inserting in lieu thereof "or".

(b) Section 541(c) of title II of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable nonbankruptcy law" after "provision"; and

(2) in paragraph (1)(B), by—

(A) striking out "the taking" and inserting in lieu thereof "taking"; and

(B) inserting "before such commencement" after "custodian".

(c) Section 541(d) of title II of the United States Code is amended by inserting "(1) or (2)" after "(a)".

(d) Section 541(e) of title II of the United States Code is repealed.

SEC. 461. Section 542(e) of title II of the United States Code is amended by inserting "to turn over or" before "disclose".

SEC. 462. (a) Section 543(a) of title II of the United States Code is amended by inserting ", product, offspring, rents, or profits" after "proceeds".

(b) Section 543(b) of title II of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "held by or" after "debtor"; and

(B) inserting ", product, offspring, rents, or profits" after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" after "proceeds".

(c) Section 543(c) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" after "property"; and

(2) in paragraph (3), by inserting "that has been" before "approved".

(d) Section 543(d) of title II of the United States Code is amended to read as follows:

"(d) After notice and hearing, the bankruptcy court—

"(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors and, if the debtor is not insolvent, of equity security holders would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

"(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.".

SEC. 463. Section 544(a) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "such" after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting in lieu thereof "; or"; and

(3) in paragraph (3), by—

(A) inserting ", other than fixtures," after "property"; and

(B) inserting "and has perfected such transfer" after "purchaser" the second place it appears.

SEC. 464. Section 545 of title II of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" the first time it appears;

(2) in paragraph (1)(C), by striking out "apponted" and inserting in lieu thereof "appointed or authorized to take"; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting in lieu thereof "at the time of the commencement of the case".

SEC. 465. (a) Section 546(a) of title II of the United States Code is amended in paragraph (1) by striking out "and" and inserting in lieu thereof "or".

(b) Section 546(b) of title II of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting in lieu thereof "a trustee under sections 544, 545, and".

(c) Section 546(c) of title II of the United States Code is amended—

(1) by striking out "the trustee" and inserting in lieu thereof "a trustee";

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods that has sold goods to the debtor" after "seller" the first place it appears;

(4) by striking out "of goods to the debtor" after "business,"; and

(5) in paragraph (2), by—

(A) inserting "the" after "if"; and

(B) striking out "an administrative expense" and inserting in lieu thereof "a claim of a kind specified in section 503(b) of this title".

(d) Section 546(e) of title II of the United States Code, as redesignated by section 351, is amended by inserting "financial institution" after "stockbroker".

SEC. 466. (a) Section 547(a) of title II of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title II of the United States Code is amended—

(1) by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property";

(2) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider;"

(3) in paragraph (4) by striking out "and" at the end thereof; and

(4) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph;

"(6) if such creditor at the time of such transfer had reasonable cause to believe the debtor was insolvent at the time of such transfer.".

(c) Section 547 of title II of the United States Code is amended in subsection (c)(2) thereof by striking out subparagraph (B) of such paragraph, and by redesignating subparagraphs (C) and (D) thereof as subparagraphs (B) and (C), respectively.

(d) Section 547(c) of title II of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests"; and

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or".

(e) Section 547(d) of title II of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(f) Section 547(e) of title II of the United States Code is amended in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(g) Section 547 of title II of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

SEC. 467. (a) Section 548(a) of title II of the United States Code is amended—

(1) by striking out "if the debtor" and inserting in lieu thereof "if the debtor voluntarily or involuntarily";

(2) in paragraph (1), by striking out "occurred" and inserting in lieu thereof "was made"; and

(3) in paragraph (2)(B)(ii), by inserting "or a transaction" after "engaged in business".

(b) Section 548(C) of title II of the United States Code is amended by—

(1) inserting "or may retain" after "lien on"; and

(2) striking out ", may retain any lien transferred,".

(c)(1) Section 548(d)(1) of title II of the United States Code is amended by—

(A) striking out "becomes so far" and inserting in lieu thereof "is so";

(B) striking out "such transfer could have been" and inserting in lieu thereof "applicable law permits such transfer to be"; and

(C) striking out "occurs" and inserting in lieu thereof "is made".

(2) Section 546(2)(B) of title II is amended by inserting "financial institution," after "stockbroker".

SEC. 468. (A) Section 549(a) of title II of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting in lieu thereof "(b) or (c)"; and

(2) in paragraph (2) (A), by inserting "only" after "authorized".

(3) striking out "that occurs" and inserting in lieu thereof "made";

(4) striking out "in valid against the trustee to the extent of" and inserting in lieu thereof "to the extent"; and

(5) inserting "is" before "given".

(c) Section 549(c) of title II of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filled, where a transfer of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title II of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 469. (a) Section 550(a) of title II of the United States Code is amended by striking out "549, or 724(a) of this title" and inserting in lieu thereof "549, 553(b), or 724(a) of this title".

(b) Section 550(d) of title II of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting in lieu thereof "the value of such property";

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the trustee; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title II of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 470. Section 551 of title II of the United States Code is amended by striking out "but only with respect to property of the estate".

SEC. 471. Section 552(b) of title II of the United States Code is amended by—

(1) inserting "522," after "506(c),";

(2) striking out "a secured party enter" and inserting in lieu thereof "an entity entered"; and

(3) striking out "except to the extent" and inserting in lieu thereof "except to any extent".

SEC. 472. Section 553(b)(1) of title II of the United States Code is amended by striking out "or 365(h)(1)" and inserting in lieu thereof ", 365(h)(2), or 365(l)(2)".

SEC. 473. (a) Subsections (a) and (b) of section 554 of title II of the United States Code are each amended by inserting "and benefit" after "value".

(b) Section 554(c) of title II of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.".

(c) Section 554(d) of title II of the United States Code is amended by striking out "section (a) or (b) of".

SEC. 474. Section 555 of title II of the United States Code is amended by inserting ", financial institution," after "stockbroker".

SEC. 475. (a) Chapter 5 of title II of the United States Code as amended by section 352 is amended by adding at the end thereof the following new section:

"§ 550. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amend-

ed by adding at the end thereof the following new item:

"558. Defenses of the estate.".

SEC. 476. The table of sections for chapter 7 of title II of the United States Code is amended by striking out "Succesor" in the item relating to section 703 and inserting in lieu thereof "Successor".

SEC. 477. (a) Section 702(b) of title II of the United States Code is amended by inserting "held" after "meeting of creditors".

(b) Section 702(c) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" after "claims"; and

(2) in paragraph (2), by inserting "a" after "for".

(c) Section 702(d) of title II of the United States Code is amended by striking out "subsection (c) of".

SEC. 478. Section 703(b) of title II of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

SEC. 479. Section 704 of title II of the United States Code as amended by section 311 is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (8), by striking out "with the court and"; and

(3) by amending paragraph (9) to read as follows:

"(9) file interim reports, as circumstances justify, of the condition of the estate and make and file a final report and account of the administration of the estate.".

SEC. 480. Paragraphs (1) and (2) of section 707 of title II of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

SEC. 481. (a) Section 723(a) of title II of the United States Code is amended by striking out all after "claims" and inserting in lieu thereof "which are allowed in a case under this chapter concerning a partnership and with respect to which a general partner of the partnership is personally liable, the trustee shall have a claim against such general partner for the full amount of the deficiency".

(b) Section 723(c) of title II of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property";

(3) striking out "726(a)" and inserting in lieu thereof "726"; and

(4) striking out "the kind" and inserting in lieu thereof "a kind".

SEC. 482. (a) Section 724(b) of title II of the United States Code is amended—

(1) by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (2), by—

(A) striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(B) striking out "sections" and inserting in lieu thereof "section"; and

(C) striking out "and" and inserting in lieu thereof "or";

(3) in paragraph (3), by inserting "tax" after "allowed"; and

(4) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph;

"(5) fifth, to any holder of a claim of a kind specified in section 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(5) in paragraph (6), as redesignated by paragraph (5), by—

(A) striking out "fifth" and inserting in lieu thereof "sixth";

(B) inserting "tax" after "allowed"; and

(C) striking out "tax" after "such" the third place it appears; and

(6) in paragraph (7), as redesignated by paragraph (5), by striking out "sixth" and inserting in lieu thereof "seventh".

(b) Section 724(c) of title II of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title II of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

SEC. 483. Section 725 of title II of the United States Code is amended by inserting "of property of the estate" after "distribution".

SEC. 483. Section 725 of title II of the United States Code is amended by inserting "of property of the estate" after "distribution".

SEC. 484. (a) Section 726(a) of title II of the United States Code is amended in paragraph (5), by inserting "and, after all claims have been paid interest at the legal rate, then interest at the contract rate" after "legal rate".

(b) Section 726(b) of title II of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out "administrative expenses" each place it appears and inserting in lieu thereof "a claim allowed under section 503(b) of this title"; and

(3) striking out "have" and inserting in lieu thereof "has".

(c) Section 726(c) of title II of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting in lieu thereof "Claims allowed under section 503 of this title"; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting in lieu thereof "Allowed claims, other than claims allowed under section 503 of this title,".

SEC. 485. (a) Section 727(a) of title II of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting in lieu thereof "properly";

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," after "another case"; and

(3) in paragraph (8), by inserting a comma after "371".

(b) Section 727(c)(1) of title II of the United States Code is amended by inserting "the granting of a" after "to".

(c) Section 727(e)(2)(A) of title II of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 486. (a) Section 728(c) of title II of the United States Code is amended by striking out the comma after "taxable income".

(b) Section 728(d)(2) of title II of the United States Code is amended by inserting "otherwise" after "is" and by striking out "otherwise" after "partner".

SEC. 487. Section 741 of title II of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out "the debtor" the first time it appears and inserting in lieu thereof "a person";

(B) striking out "holds" and inserting in lieu thereof "has";

(C) striking out "the debtor" the second and third time it appears and inserting in lieu thereof "such person"; and

(D) striking out "business as a stockbroker" and inserting in lieu thereof "such person's business as a stockbroker,";

(2) in paragraph (2)(B), by—

(A) striking out "holds" and inserting in lieu thereof "has";

(B) striking out "the debtor" the first place it appears and inserting in lieu thereof "a person"; and

(C) by striking out "the debtor" and inserting in lieu thereof "such person" in clause (11);

(3) in paragraph (4)(A)(i), by striking out "and that is" and inserting in lieu thereof "from and that is the lawful";

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after "petition"; and

(B) inserting "any" after "except"; and

(5) in paragraph (7), by amending such paragraph to read as follows:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

SEC. 488. Section 745(a) of title II of the United States Code is amended by inserting "the debtor for" after "by".

SEC. 489. (a) Section 752(a) of title II of the United States Code is amended by—

(1) striking out "customers allowed" and inserting in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title II of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

SEC. 490. Section 761 of title II of the United States Code is amended in paragraph (10), by striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful".

SEC. 491. Section 763(a) of title II of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

SEC. 492. Section 764(a) of title II of the United States Code is amended by inserting "by the debtor" after "any transfer".

SEC. 493. Section 765(a) of title II of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

SEC. 494. Section 766(j)(2) of title II of the United States Code is amended by striking

out "726(a)" and inserting in lieu thereof "726".

SEC. 495. Section 901(a) of title II of the United States Code is amended by inserting a comma after "1111(b)".

SEC. 496. Section 902(a) of title II of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assesment or special tax has been levied".

SEC. 497. Section 903(2) of title II of the United States Code is amended by striking out "to" the first place it appears.

SEC. 498. Chapter 9 of title II of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

SEC. 499. (a) Section 921(c) of title II of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears and after "faith".

(b) Section 921 of title II of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title II of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

SEC. 500. Section 922(a)(1) of title II of the United States Code is amended by—

(1) inserting "a" before "judicial"; and

(2) inserting "action or" before "proceeding".

SEC. 501. Section 927(b) of title II of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

SEC. 502. Section 943(b) of title II of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

SEC. 503. Section 945(a) of title II of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

SEC. 504. Section 1102(b)(1) of title II of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

SEC. 505. (a) Section 1103(b) is amended by—

(1) inserting "having an adverse interest" after "entity"; and

(2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.".

(b) Section 1103(c) of title II of the United States Code is amended—

(1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out", If a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

SEC. 506. Section 1105 of title II of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the ".

SEC. 507. Section 1106(b) of title II of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

SEC. 508. Section 1107(a) of title II of the United States Code is amended by inserting "serving in a case" after "on a trustee".

SEC. 509. Section 1108 of title II of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

SEC. 510. Section 1111(b) of title II of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under sections 554 or 557 of this title, exempted under section 522(b) of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, exempted, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half on number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, shall be secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1) of this subsection are limited to the purposes of this chapter and such paragraph shall not in any other way alter, affect, or create any right or liability of or in any other entity who may be liable with the debtor on a debt to which the provisions of such paragraph apply.".

SEC. 511. (a) Section 1112(a) of title II, of the United States Code is amended—

"(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting in lieu thereof "originally was commenced as an involuntary case under this chapter"; and

"(2) in paragraph (3), by striking out "on other than" and inserting in lieu thereof "other than on".

(b) Section 1112(b) of title II, of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting in lieu thereof "or".

SEC. 512. (a) Section 1121(c)(3) of title II of the United States Code is amended by striking out "the claims or interests of which are" and inserting in lieu thereof "of claims or interests that is".

(b) Section 1121(d) of title II of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" after "interest".

SEC. 513. (a) Section 1123(a) of title II of the United States Code is amended—

(1) by striking out "A" and inserting in lieu thereof "Notwithstanding any otherwise applicable nonbankruptcy law, a";

(2) in paragraph (1), by—

(A) inserting a comma after "classes of claims"; and

(B) by striking out "507(a)(6) of this title" and inserting in lieu thereof "507(a)(7) of this title,";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting in lieu thereof "implementation"; and

(5) in paragraph (5)(G), by inserting "of" after "waiving".

(b) Section 1123(b)(2) of title II of the United States Code is amended by—

(1) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(2) striking out "under section 365 of this title" and inserting in lieu thereof "under such section".

SEC. 514. Section 1124 of title II of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting in lieu thereof "or".

SEC. 515. (a) Section 1125(a) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting ", but adequate information need not include such information about any other possible or proposed plan" after "plan";

(2) in paragraph (2)(B), by inserting "the" after "with"; and

(3) in paragraph (2)(C), by inserting "of" after "holders".

(b) Section 1125(d) of title II of the United States Code is amended by—

(1) inserting "required under subsection (b) of this section" after "statement" the first place it appears; and

(2) inserting ", or otherwise seek review of," after "appeal from".

(c) Section 1125(e) of title II of the United States Code is amended by—

(1) inserting "acceptance or rejection of a plan" after "solicits"; and

(2) inserting "solicitation of acceptance or rejection of a plan or" after "governing".

SEC. 516. (a) Section 1126(b)(2) of title II of the United States Code is amended by striking out "1125(a)(1)" and inserting in lieu thereof "1125(a)".

(b) Section 1126(d) of title II of the United States Code is amended by inserting a comma after "such interests" the first place it appears.

(c) Section 1126(f) of title II of the United States Code is amended by—

(1) striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are conclusively presumed";

(2) striking out "solicititation" and inserting in lieu thereof "solicitation"; and

(3) striking out "interest" and inserting in lieu thereof "interests".

(d) Section 1126(g) of title II of the United States Code is amended by striking out "any payment or compensation" and inserting in

lieu thereof "receive or retain any property".

SEC. 517. (a) Section 1127(a) of title II of the United States Code is amended by—

(1) inserting "of a plan" after "After the proponent"; and

(2) inserting "of such plan" after "modification".

(b) Section 1127(b) of title II of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting in lieu thereof "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title".

SEC. 518. (a) Section 1129(a) of title II of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting in lieu thereof "title.";

(2) in paragraph (2), by striking out "chapter." and inserting in lieu thereof "title.";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof "; and";

(5) in paragraph (5)(B), by striking out "The" and inserting in lieu thereof "the";

(6) in paragraph (6), by inserting "governmental" after "Any";

(7) in paragraph (7), by—

(A) inserting "of each impaired class of claims or interests" in lieu of "each class"; and

(B) striking out "creditor's" in subparagraph (B) and inserting in lieu thereof "holder's";

(8) in paragraph (8), by inserting "of claims or interests" after "each class";

(9) in paragraph (9)(C), by inserting "507(a)(1) that results from the sale of a capital asset, recapture of an investment tax credit, recapture of depreciation, or similar event or section" after "section"; and

(10) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by an insider.".

(b) Section 1129(b) of title II of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if" and inserting in lieu thereof "If";

(2) in paragraph (2)(A), by striking out "lien" each place it appears and inserting in lieu thereof "liens";

(3) in paragraph (2)(B)(ii), by inserting "under the plan" after "retain"; and

(4) in paragraph (2)(C)(i), by—

(A) striking out "claim" and inserting in lieu thereof "interest"; and

(B) striking out "and the value" and inserting in lieu thereof "or the value".

(c) Section 1129(d) of title II of the United States Code is amended by—

(1) striking out "a party in interest that is";

(2) inserting "the application of" after "avoidance of" the second place it appears; and

(3) adding at the end thereof the following new sentence: "In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.".

SEC. 519. (a) Section 1141(a) of title II of the United States Code is amended by—

(1) striking out "Except" and inserting in lieu thereof "Notwithstanding section 510(a) of this title and except"; and

(2) striking out "any creditor or equity security holder of, or general partner in," and inserting in lieu thereof "any creditor, equity security holder, or general partner in".

(b) Section 1141(c) of title II of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

SEC. 520. (a) The heading for section 1142 of title II of the United States Code is amended to read as follows:

"§ 1142. Implementation of plan".

(b) The item relating to section 142 in the table of sections for chapter 11 of title II of the United States Code is amended by striking out "Execution" and inserting in lieu thereof "Implementation".

(c) Section 1142(a) of title II of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title II of the United States Code is amended by inserting "a" after "by".

SEC. 521. Section 1144 of title II of the United States Code is amended by inserting "if and only" after "revoke such order".

SEC. 522. (a) Section 1145(a) of title II of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting in lieu thereof "Section";

(2) in paragraph (3), by striking out "or an affiliate";

(3) in paragraph (3)(B)(i), by inserting "or 15(d)" after "13" and by inserting "or 78o(d)" after "78m";

(4) by amending paragraph (3)(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting in lieu thereof "one";

(6) in paragraph (3)(C)(ii), by striking out "180" each place it appears and inserting in lieu thereof "90"; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting in lieu thereof "stockbroker".

(b) Section 1145(b) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting in lieu thereof "from";

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting in lieu thereof "or combining"; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting in lieu thereof "from or to".

(c) Section 1145(d) of title II of the United States Code is amended by striking out "commercial".

SEC. 523. (a) Section 1146 (c) and (d) of title II of the United States Code are each amended by striking out "State or local".

(b) Section 1146(d)(1) of title II of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 524. Section 1163 of title II of the United States Code is amended by striking out "qualified" and inserting in lieu thereof "eligible, qualified,".

SEC. 525. Section 1166 of title II of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

SEC. 526. Section 1168(b) of title II of the United States Code is amended by inserting a comma after "approval".

SEC. 527. Section 1169(c) of title II of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

SEC. 528. (a) Section 1170(a) of title II of the United States Code is amended by inserting "of all or portion" after "the abandonment".

(b) Section 1170(c) of title II of the United States Code is amended by inserting a comma after "abandonment".

(c) Section 1170(d)(2) of title II of the United States Code is amended by—

(1) striking out "the abandonment of a railroad line" and inserting in lieu thereof "such abandonment"; and

(2) striking out "termination" each place it appears and inserting in lieu thereof "suspension".

SEC. 529. Section 1171(b) of title II of the United States Code is amended by striking out "such" and inserting in lieu thereof "the same".

SEC. 530. Section 1173(a)(4) of title II of the United States Code is amended by striking out "compatible" and inserting in lieu thereof "consistent".

SEC. 531. (a) Section 1301(b) of title II of the United States Code is amended by inserting "and may protest" after "of" the first place it appears.

(b) Section 1301(c)(3) of title II of the United States Code is amended by inserting "continuation of" after "by".

(c) Section 1301 of title II of the United States Code as amended in title III is further amended by adding at the end thereof the following new subsection:

"(e) The confirmation of a plan shall automatically grant relief from the stay as to any particular claim to the extent that the plan does not propose to pay any amount of that allowed claim.".

SEC. 532. (a) Section 1302(b) of title II of the United States Code as amended by section 314 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title II of the United States Code is amended—

(1) in paragraph (4), by striking out "fix" and inserting in lieu thereof "set for such individual";

(2) in paragraph (1)(A), by striking out "for such individual"; and

(3) in paragraph (2)(A), by—

(A) striking out "of" and inserting in lieu thereof "received by"; and

(B) striking out "upon all payments" and inserting in lieu thereof "of all such payments made".

SEC. 533. Section 1304(b) of title II of the United States Code is amended by striking out the comma after "of the debtor".

SEC. 534. (a) Section 1307(b) of title II of the United States Code is amended by inserting a comma after "time".

(b) Section 1307(c) of title II of the United States Code as amended by section 315 is amended—

(1) in paragraph (5), as redesignated by inserting "a request made for" before "additional";

(2) in paragraph (7), as redesignated by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(3) in paragraph (8), as redesignated by inserting "other than completion of payments under the plan" after "in the plan".

SEC. 535. (a) Section 1322(a)(2) of title II of the United States Code is amended by inserting a comma after "payments".

(b) Section 1322(b) of title II of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave unaffected the rights of holders of any class of claims" before the semicolon;

(2) in paragraph (4), by inserting "other" after "claim or any";

(3) in paragraph (7), by—

(A) inserting "subject to section 365 of this title," before "provide";

(B) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(C) striking out "under section 365 of this title" and inserting in lieu thereof "under such section"; and

(4) in paragraph (8), by striking out "any".

SEC. 536. Section 1323(c) of title II of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting in lieu thereof "such plan as modified, unless".

SEC. 537. Section 1324 of title II of the United States Code is amended by striking out "the" the second place it appears.

SEC. 538. Section 1325(a)(1) of title II of the United States Code is amended by inserting "the" before "other".

SEC. 539. Section 1326(b)(2) of title II of the United States Code as amended by section 318 is amended by inserting "of this title" after "1302(d)".

SEC. 540. (a) Section 1328(a)(2) of title II of the United States Code is amended to read as follows:

"(2) of a kind specified in section 523(a) of this title.".

(b) Section 1328(e) of title II of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting in lieu thereof "the requesting party did not know of such fraud until".

SEC. 541. Section 1329(a) of title II of the United States Code is amended—

(1) by inserting "of the plan" after "confirmation";

(2) by striking out "a plan" and inserting in lieu thereof "such plan"; and

(3) in paragraph (3), by striking out the comma.

SEC. 542. Section 15102 of title II of the United States Code is amended by striking out "chapter" the first place it appears and inserting in lieu thereof "title".

SEC. 543. Section 15103(f) of title II of the United States Code is amended by—

(1) striking out "704 (8)";

(2) inserting "1106(a)(1), 1108," after "1105"; and

(3) inserting "1302(b)(1), 1302(b)(3)," after "1302(a),".

SEC. 544. Section 15322(b)(1) of title II of the United States Code is amended by—

(1) inserting "required to be" after "bond" the first place it appears;

(2) striking out "(2)"; and

(3) inserting "of this title" before the semicolon.

SEC. 545. Section 15324 of title II of the United States Code is amended by inserting a comma after "a trustee".

SEC. 546. Section 15330 of title II of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

SEC. 547. (a) Section 15701(a) of title II of the United States Code is amended by striking out "trustees established".

(b) Section 15701(b) of title II of the United States Code is amended by striking out "such persons" and inserting in lieu thereof "the members of such panel".

SEC. 548. (a) Section 15703(a) of title II of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting in lieu thereof "and subject to the provisions of sections 701 and 15701 of this title.".

(b) Section 15703(b) of title II of the United States Code is amended by striking out "truste" and inserting in lieu thereof "trustee".

SEC. 549. Section 15704 of title II of the United States Code is amended to read as follows:

"§ 15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports, as circumstances justify, on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

SEC. 550. Section 151102(b) of title II of the United States Code is amended by striking out "interest of" and inserting in lieu thereof "interest,".

SEC. 551. (a) Chapter 15 of title II of the United States Code is amended by inserting after section 151105 the following new sections:

"§ 151106. Duties of trustee and examiner

"(a) A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the Untied States trustee, and to any other entity as the court designates.

"§ 151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the Untied States trustee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title II of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.
"151108. Authorization to operate business.".

SEC. 552. (a) Section 151302(a) of title II of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," after "The United States trustee shall serve".

(b) Section 151302(b) of title II of the Untied States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

Subtitle J—Collective Bargaining Agreements

SEC. 561. Section 365 of title II, United States Code, is amended by inserting after subsection (k) the following new subsection:

"(l) In a case under chapter 9, 11, or 13 of this title—

"(1) The trustee, after notice and a hearing, may assume or reject a collective bargaining agreement which has been made by the debtor under the authority of title II of the Railway Labor Act, the National Labor Relations Act, or other applicable law. A collective bargaining agreement shall be rejected under this section upon the request of the trustee if the court finds that reasonable efforts to negotiate a change in the contractual terms have been made by the debtor or by the trustee and are not likely to produce a prompt and feasible alternative to rejection, that the inability to reach an agreement threatens to impede the success of the debtor's reorganization under chapter 11 of this title or adjustment of debts under chapter 9 or 13 of this title, that the agreement is burdensome to the estate, and that in considering the needs of the debtor, the employees covered by the agreement, and other parties in interest, the equities balance in favor of the rejection of the agreement.

"(2) Thirty days after a request by the trustee under paragraph (1) of this subsection, the collective bargaining agreement shall be deemed not to be in effect pending a final hearing and determination under paragraph (1) unless the court, after notice and a hearing, orders the agreement continued in effect pending such final hearing and determination. A hearing under this paragraph may be a preliminary hearing, or may be consolidated with the final hearing under paragraph (1). If the hearing under this paragraph is a preliminary hearing—

"(A) the court shall order that such agreement shall not be continued in effect if there is a reasonable likelihood that the trustee will prevail at the final hearing under such paragraph (1); and

"(B) the final hearing shall be commenced within thirty days after such preliminary hearing.

"(3) If during a period when the collective bargaining agreement continues in effect, and if essential to the continuation of the debtor's business, or in the case of a municipality to the continuation of necessary services, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement changes in the terms, conditions, wages, benefits, or work rules provided by a collective bargaining agreement. Any hearing under this paragraph shall be scheduled in accordance with the needs of the trustee.".

SEC. 562. The amendments made by this subtitle shall apply in cases commenced under title II of the United States Code on and after the date of enactment of this subtitle.

Subtitle K—Supplemental Amendments

SEC. 571. Section 926 of title II of the United States Code is amended by—

(1) inserting "(a)" before "If"; and

(2) adding at the end thereof the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 572. (a) Chapter 9 of title II of the United States Code is amended—

(1) by redesignating section 927 as section 928;

(2) by inserting after section 926 the following new section:

"§ 927. Postpetition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, any special revenue or receipt acquired by the debtor after the commencement of the case remains subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues or receipts, other than municipal betterment assessments, derived from a project or system is subject to the necessary operating expenses of such project or system, as the case may be."; and

(3) by striking out "927. Dismissal" in the table of sections and inserting in lieu thereof:

"927. Postpetition effect of security interest.
"928. Dismissal.".

SEC. 573. (a) Section 925 of title II of the United States Code is amended—

(1) by addding at the end of the section heading the following: "and certain secured claims";

(2) by striking out "A" and inserting in lieu thereof "(a) A"; and

(3) by adding a new subsection (b) to read as follows:

"(b) Notwithstanding sections 506 and 1111(b) of this title, a claim payable solely from and secured only by a lien on particular revenues or receipts of the debtor is a secured claim to the extent that such claim is allowed.".

(b) Chapter 9 of title II, United States Code, is amended in the table of sections by amending the item relating to section 925 to read as follows:

"925. Effect of list of claims and certain secured claims.".

SEC. 574. Section 547(c) of title II of the United States Code is amended by adding at the end thereof the following:

"(8) to or for the benefit of a creditor to the extent such transfer was made to such creditor by a credit guarantor in payment of a debt evidenced by a note or bond issued by the debtor prior to the commencement of the case and in accordance with the terms of the debtor's credit guaranty agreement with the credit guarantor, and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, irrevocable commitment to lend funds, irrevocable note purchase agreement, or a bond of indemnity issued by a credit guarantor in the ordinary course of its business.".

SEC. 575. Section 548(d)(2) of title II, United States Code, is amended by adding at the end thereof the following:

"(D) A secured party or third party purchaser who obtains title to an interest of the debtor in property pursuant to a regularly conducted noncollusive foreclosure, power of sale, or other proceeding or provision of nonbankruptcy law permtting or providing for the realization of security upon default of the borrower under a mortgage, deed of trust, security agreement or other lien, whether before or after the date of the filing of the petition, gives reasonably equivalent value to the debtor within the meaning of this section if such creditor or third party purchaser bids in the full amount of the debt secured by such mortgage, deed of trust, security agreement or other lien at such foreclosure sale.".

Subtitle L—Miscellaneous

SEC. 581. In any provision of this title or any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

SEC. 582. Except as otherwise provided in this title the amendments made by this title shall become effective three months after the date of enactment and shall not apply to any case pending on the date of enactment of this title.

Amend the title to read as follows: "An Act to amend title 28 of the United States Code regarding jurisdiction of bankruptcy proceedings, to establish new Federal judicial positions, to amend title II of the United States Code, and for other purposes.".

EXON AMENDMENT NO. 3084

Mr. EXON proposed an amendment to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

At the appropriate place in the amendment insert the following:

SEC. . Section 523(a)(5) of title II, United States Code, is amended by—

(1) Amending the first paragraph thereof by inserting the words "or other order of a court of record" after the words "divorce decree,"; and

(2) inserting ", or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State" after "Social Security Act".

HATFIELD AMENDMENT NO. 3085

Mr. HATFIELD proposed an amendment to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

At the appropriate place in the substitute amendment insert the following:

SEC. . Notwithstanding the provisions of section 8331(22) of title 5, United States Code, or any other provision of law, for purposes of section 8339(n) of title 5, United States Code, any individual appointed under section 34 of the Bankruptcy Act who served as a United States bankruptcy judge for the district of Oregon or for the Central district of California until March 31, 1984, shall receive an annuity computed with respect to his service as a referee in bankruptcy and as a bankruptcy judge, and his military service (not exceeding five years) creditable under section 8332 of title 5, United States Code, by multiplying 2½% of his average annual pay by the years of that service.

HELMS (AND OTHERS) AMENDMENT NO. 3086

Mr. HELMS (for himself, Mr. SYMMS, Mr. EAST, Mr. DENTON, Mr. GOLDWATER, and Mr. GRASSLEY) proposed an amendment to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

At the appropriate place in the substitute amendment insert the following:

SEC. . Section 316 (b) (2) (C) of the Federal Election Campaign Act is amended by inserting before the period "; *Provided*, That all contributions, gifts, or payments for such activities are made freely and voluntarily, and are unrelated to dues, fees, or other moneys required as a condition of employment".

SEC. . Section 316 (b) (3) of the Federal Election Campaign Act is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding after subparagraph (C) the following:

"(D) to use any fees, dues, or assessments paid to any organization as a condition of employment, or money or anything of value secured by physical force, job discrimination, or financial reprisal for (i) registration or get-out-the-vote campaigns, (ii) campain materials or partisan political activites used in connection with any broadcasting, direct mail, newspaper, magazine, billboard, telephone banks, or any similar type of political communication or advertising, (iii) establishing, administering, or soliciting contributions to a separate segregated fund, or (iv) any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

DECONCINI AMENDMENT NO. 3087

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Bankruptcy Court and Federal Judgeship Act of 1984".

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

SEC. 101. (a) Section 1334 of title 28, United States Code, is amended to read as follows:

"§ 1134. Bankruptcy cases and proceedings

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title II.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title II, or arising in or related to cases under title II.

"(c)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title II or arising in or related to a case under title II. Such decision to abstain or to not abstain is not reviewable by appeal or otherwise.

"(2) "In a proceeding brought by the trustee which is based upon a State law claim or cause of action neither arising under title II nor arising under a case under title II, which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon timely motion of the party against whom the claim is brought, abstain from adjudicating such claim in the bankruptcy proceeding where (1) such claim will be timely adjudicated in a State forum of appropriate jurisdiction and (2) abstention would not be detrimental to the best interests of the estate. Such abstention is not reviewable by appeal or otherwise."

"(3) A motion to abstain pursuant to this subsection shall be filed with the initial appearance of the party.

"(d) The district court in which a case under title II is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of such case, and the estate.".

(b) The table of sections for chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

"1334. Bankruptcy cases and proceedings.".

SEC. 102. (a) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1408. Venue of cases under title II

"Except as provided in section 1410 of this title, a case under title II may be commenced in the district court for the district—

"(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title II concerning such person's affiliate, general partner, or partnership.

"§ 1409. Venue of proceedings arising under title II or arising in or relating to cases under title II

"(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title II or arising in or related to a case under title II may be commenced in the district court in which such case is pending.

"(b) Except as provided in subsection (d) of this Section, a trustee in a case under title II may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which the defendant resides.

"(c) Except as provided in subsection (b) of this section, a trustee in a case under title II may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title II in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title II had not been commenced.

"(d) A trustee may commence a proceeding arising under title II or arising in or related to a case under title II based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising under title II or arising in or related to a case under title II, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

"§ 1410. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title II to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title II to enjoin the enforcement of a lien against a property, or to require the turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

"(c) A case under section 304 of title II, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.

"§ 1411. Jury trials

"(a) Except as provided in subsection (b) of this section, this chapter and title II do not affect any right to trial by jury in a case under title II or in a proceeding arising under title II or arising in or related to a case under title 11 that was provided by any statute in effect on September 30, 1979.

"(b) The court may order the issues arising under section 303 of title II to be tried without a jury.

"§ 1412. Change of venue

"A court may transfer a case or proceeding under title II to a district court for another district, in the interest of justice or for the convenience of the parties.".

(b) The table of sections of chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new items:

"1408. Venue of cases under title II.
"1409. Venue of proceedings arising under title II or arising in or related to cases under title II.
"1410. Venue of cases ancillary to foreign proceedings.
"1411. Jury trials.
"1412. Change of venue.".

SEC. 103. (a) Chapter 89 of title 28, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1452. Removal of claims related to bankruptcy cases

"(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.".

(b) The table of sections of chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1452. Removal of claims related to bankruptcy cases.".

SEC. 104. (a) Title 28 of the United States Code is amended by inserting after chapter 5 the following new chapter:

"CHAPTER 6—BANKRUPTCY JUDGES

"Sec.
"151. Designation of bankruptcy courts.
"152. Appointment of bankruptcy judges.
"153. Salaries; character of service.
"154. Division of business; chief judge.
"155. Temporary transfer of bankruptcy judges.
"156. Staff; expenses.
"157. Procedures.
"158. Appeals.

"§ 151. Designation of bankruptcy courts

"In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge is a judicial officer of the district court, and except as otherwise provided by law, rule, or order of the district court, may exercise the authority conferred under this chapter with respect to any action, suit, or proceeding any may preside alone and hold a regular or special session of the court.

"§ 152. Appointment of bankruptcy judges

"(a)(1) The United States court of appeals for the circuit shall appoint bankruptcy

judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph. Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution.

"(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

"Districts	*Judges*
Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	1
Arizona	4
Arkansas: Eastern and Western	2
California:	
Northern	7
Eastern	4
Central	12
Southern	3
Colorado	4
Connecticut	2
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	2
Southern	3
Georgia:	
Northern	4
Middle	2
Southern	1
Hawaii	1
Idaho	1
Illinois:	
Northern	8
Central	2
Southern	1
Indiana:	
Northern	2
Southern	4
Iowa:	
Northern	1
Southern	1
Kansas	3
Kentucky:	
Eastern	1
Western	2
Louisiana:	
Eastern	2
Middle	1
Western	2
Maine	2
Maryland	2
Massachusetts	4
Michigan:	
Eastern	4
Western	2
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	1
Nevada	2
New Hampshire	1
New Jersey	5
New Mexico	2
New York:	
Northern	2
Southern	7
Eastern	6
Western	3
North Carolina:	
Eastern	2
Middle	2
Western	1
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	1
Eastern	1
Western	2
Oregon	
Pennsylvania:	
Eastern	3
Middle	2
Western	3
Puerto Rico	2
Rhode Island	1
South Carolina	1
South Dakota	1
Tennessee:	
Eastern	2
Middle	2
Western	2
Texas:	
Northern	4
Eastern	1
Southern	3
Western	2
Utah	2
Vermont	1
Virginia:	
Eastern	3
Western	3
Washington:	
Eastern	1
Western	4
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	3
Western	2
Wyoming	1.".

"(3) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of such court shall make such appointment.

"(4) The judges of the district courts for the territories shall serve as the bankruptcy judge for such courts. The United States court of appeals for the circuit within which such a territorial district court is located may appoint bankruptcy judges under this chapter for such district if authorized to do so by the Congress of the United States under this section.

"(b)(1) The Judicial Conference of the United States shall, from time to time, and after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts after such Director has consulted with the judicial council of the circuit involved, determine the official duty stations of bankruptcy judges and places of holding court.

"(2) The Judicial conference shall, from time to time, submit recommendations to the Congress regarding the number of bankruptcy judges needed and the districts in which such judges are needed.

"(c) Each bankruptcy judge may hold court at such places within the judicial district, in addition to the official duty station of such judge, as the business of the court may require.

"(d) With the approval of the Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

"(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

"§ 153. Salaries: character of service

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services a salary at an annual rate of $66,100. Notwithstanding any other provision of law, such salaries shall remain at such rate unless a higher rate is authorized by a law specifically increasing the rate of pay for bankruptcy judges.

"(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulatons to implement this subsection.

"(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

"§ 154. Division of businesses; chief judge

"(a) Each bankruptcy court for a district having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided for by the rules of the district court.

"(b) In each district court having more than one bankruptcy judge the district court shall designate one judge to serve as chief judge of such bankruptcy court. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously.

"§ 155. Temporary transfer of bankruptcy judges

"(a) A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed upon the approval of the judicial council of each of the circuits involved.

"(b) A bankruptcy judge who has retired may, upon consent, be recalled to serve as a bankruptcy judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a bankruptcy judge may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference of the United States, subject to the restrictions on the payment of an annuity in subchapter III of chapter 83 of title 5.

"§ 156. Staff; expenses

"(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the Director of the Administrative Office of the United States Courts determines to be necessary.

"(b) Based on need and after consultation with the Director of the Administrative Office of the United States Courts, the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges. The salary of an individual appointed under this section as clerk of the bankruptcy court shall be the same as the salary of an individual appointed under section 751(a) of this title. The salaries of individuals appointed by the clerk of the bankruptcy court under this section shall be the same as the salaries of individuals appointed under section 751 (b) of this title.

"(c) Any court or the clerk, with the consent of the estate, may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title II, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject only to such conditions and limitations as the pertinent circuit council may prescribe.

"§ 157. Procedures

"(a) Each district court may provide that any or all cases under title II and any or all proceedings arising under title II or arising in or related to a case under title II shall be referred to the bankruptcy judges for the district.

"(b)(1) Bankruptcy judges may hear and determine all cases under title II and all core proceedings arising under title II, or arising in a case under title II, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

"(2) Core proceedings include, but are not limited to—

"(A) matters concerning the administration of the estate;

"(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, but not the liquidation or estimation of contingent or unliquidated personal injury tort claims against the estate;

"(C) counterclaims by the estate against persons filing claims against the estate;

"(D) orders in respect to obtaining credit;

"(E) orders to turn over property of the estate;

"(F) proceedings to determine, avoid, or recover preferences;

"(G) motions to terminate, annul, or modify the automatic stay;

"(H) proceedings to determine, avoid, or recover fraudulent conveyances;

"(I) determinations as to the dischargeability of particular debts;

"(J) objections to discharges;

"(K) determinations of the validity, extent, or priority of liens;

"(L) confirmations of plans;

"(M) orders approving the use or lease of property, including the use of cash collateral; and

"(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate.

"(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title II. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law. A motion by a party under this section shall be filed with the initial appearance of the party in the proceeding.

"(c)(1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title II. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title II to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title. In any such proceeding the debtor, trustee, creditors committee, representation of the estate and examiner shall be deemed to have consented to have the proceeding referred to the bankruptcy court.

"(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title II and other laws of the United States regulating organizations or activities affecting interstate commerce. Any such motion of a party shall be filed with the initial appearance of the party in the proceeding.

"§ 158. Appeals

"(a) The district courts of the United States shall have jurisdiction to hear appeals from fiscal judgements, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

"(b)(1) The judicial council of a circuit may establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

"(2) No appeal may be referred to a panel under this subsection unless the district judges for the district, by majority vote, authorize such referral of appeals originating within the district.

"(3) A panel established under this section shall consist of three bankruptcy judges, provided a bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title.

"(c) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civilj proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

"(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.".

(b) The table of chapters of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 5, the following new item:

"6. Bankruptcy judges ..... 151.".

SEC. 105. The salary of a bankruptcy judge in effect immediately before the date of enactment of this Act shall remain in effect until changed as a result of an adjustment made pursuant to section 153(a) of title 28, United States Code, as added by this Act.

SEC. 106. (a) Notwithstanding section 152 of title 26, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of enactment of this Act is extended to and expires on October 1, 1985, or when his successor takes office, whichever is earlier.

(b) Notwithstanding section 153(a) of title 28, United States Code, as added by this Act, and notwithstanding subsection (a) of this section, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve on such basis until October 1, 1985.

SEC. 107. Section 372(c)(6)(B)(5)(vii) of title 28, United States Code, is amended by striking out "section 153" and inserting in lieu thereof "section 152".

SEC. 108. (a) Section 634(a) of title 28, United States Code, is amended by striking out "the rates now or hereafter provided for full-time or part-time reference in bankruptcy, respectively, referred to in section 49a of the Bankruptcy Act (11 U.S.C. 58 (a)), as amended," and inserting in lieu thereof "$66,100".

(b) Notwithstanding any other provision of law, a magistrate's annual rate of pay shall not exceed $66,100 unless a higher rate is authorizated by a law specifically increasing the rates of pay such magistrates.

(c) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates", and inserting in lieu thereof, "except bankruptcy judges".

(d) Section 548 of title 28, United States Code, is amended to read as follows:

"§ 548. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General of the United States shall fix the annual salaries of United States Attorneys, Assistant United States Attorneys General, and attorneys appointed under section 543 or this title at rates of compensation not in excess of the rate of basic compensation provided for Exective Level IV of the Executive Schedule set forth in section 5315 of title 5.".

SEC. 109. Section 957 of title 28, United States Code, is amended by striking out "district".

SEC. 110. Section 1360 of title 28, United States Code, is amended—

(1) by striking out "or Territories";

(2) by striking out "or Territory" each place it appears; and

(3) by striking out "within the Terrritory" and inserting in lieu thereof "within the State".

SEC. 111. (a) Section 1930 of title 28, United States Code, is amended by striking out "clerk of the bankruptcy court" each place it appears and inserting in lieu thereof "clerk of the court".

(b) The heading for section 1930 of title 28, United States Code, is amended to read as follows:

"§ 1930. Bankruptcy fees.".

(c) The table of sections for chapter 125 of title 28, United States Code, is amended by striking out "Bankruptcy courts" and inserting in lieu thereof "Bankruptcy fees".

SEC. 112. Subsections (f), (j), (k), (l), and (m) of section 8339, subsections (b)(1) and (d) of section 8341, and section 8344(a)(A) of title 5, United States Code, are each amended by striking out "and (o)" and inserting in lieu thereof "and (n)".

SEC. 113. Section 402(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682), is amended by striking out "shall take effect on April 1, 1984" and inserting in lieu thereof "shall not take effect".

SEC. 114. Section 404, 405(a), 405(b), 405(c), 406, 407, and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

SEC. 115. (a) On the date of the enactment of this Act the appropriate district court of the United States shall have jurisdiction of—

(1) cases, and matters and proceedings in cases, under the bankruptcy Act that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of Novermber 6, 1978 (Public Law 95-598; 92 Stat. 2687), and

(2) cases under title II of the United States Code, and proceedings arising under title 11 of the United States Code or arising in or related to cases under title II of the United States Code, the are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of Novermber 6, 1978 (Public Law 95-598; 92 Stat. 2687).

(b) On the date of the enactment of this Act, there shall be transferred to the appropriate district court of the United States appeals from final judgements, orders, and decrees of the bankruptcy courts pending immediately before such date in the bankruptcy appellate panels appointed under section 405(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2685).

SEC. 116. (a) Section 8331(22) of title 5, United States Code, is amended—

(1) by striking out "adding this paragraph" and inserting in lieu thereof "of November 6, 1978 (Public Law 95-598; 92 Stat. 2549)";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) who is serving as a United States bankruptcy judge on the date of the enactment of the Bankruptcy Court and Federal Judgeship Act of 1984, and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1985, whichever date is earlier, and who has agreed by filing a notice of such agreement with the Court of Appeals and the Director of the Administrative Office of the United States Courts, to accept an appointment as a judge of the United States bankruptcy court established by the Bankruptcy Court and Federal Judgeship Act of 1984, but who is not appointed as a judge of such court".;

(3) in subparagraph (B)—

(A) by striking out "transition period" and inserting in lieu thereof "period beginning on October 1, 1979, and ending on the date of enactment of the Bankruptcy Court and Federal Judgeship Act of 1984";

(B) by striking out the period at the end thereof and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new subparagraph:

"(C) who is appointed as a bankruptcy judge under section 152 of title 28.".

(b)(1) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by inserting "and a bankruptcy judge" before the period.

(2) The matter relating to bankruptcy judges in the table set out in section 8334(c) of title 5, United States Code, is amended—

(A) by striking out the following item:

"7..... After January 1, 1970.".

and

(B) by inserting in lieu of the item stricken by subparagraph (A) the following new items:

"7..... January 1, 1970, to December 31, 1983.

"8..... After December 31, 1988.".

(c) Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

"(k) A bankruptcy judge who is separated from service, except by removal, after becoming sixty-two years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity.".

(d) Section 8339 of title 5, United States Code, is amended by—

(1) inserting "or (n)" after "(c)" in subsection (g)(2);

(2) striking out "or (c)" each place it appears in subsection (q) and inserting in lieu thereof "(c), or (n)"; and

(3) striking out "March 31, 1979, and before May 25, 1984," in subsection (n) and inserting in lieu thereof "as a referee in bankruptcy and".

(e) The amendments made by this section shall take effect on the date of enactment and shall apply to bankruptcy judges who retire on or after such date.

SEC. 117. The adjustments in the retirement provisions made by this Act shall not be construed to be a "new government retirement system" for purposes of the Federal Employees Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168).

SEC. 118. Section 105 of title II, United States Code, is amended—

(1) by deleting the word "bankruptcy" wherever it appears therein; and

(2) by adding at the end thereof the following new subsection:

"(c) The ability of any district judge or other officer or employee of a district court to exercise any of the authority or responsibilities conferred upon the court under this title shall be determined by reference to the provisions relating to such judge, officer, or employee set forth in title 28. This subsection shall not be interpreted to exclude bankruptcy judges and other officers or employees appointed pursuant to chapter 6 of title 28 from its operation.".

SEC. 119. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

SEC. 120. (a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1) public notice of such vacancy has been given and an effort has been made, in the case of each such vacancy, to identify qualified candidates, without regard to race, color, sex, religion, or national origin,

(2) such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they are members.

(3) such persons possess, and have a reputation for, integrity and good character,

(4) such persons are of sound physical and mental health,

(5) such persons possess and have demonstrated commitment to equal justice under law,

(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7) such persons demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

SEC. 121. Section 636 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) In any case or proceeding in a district court pursuant to title I of the Bankruptcy Court and Federal Judgeship Act of 1984, such court may designate a magistrate who may exercise the powers granted magistrates pursuant to this section over any such case or proceeding.

"(2) Any bankruptcy judge appointed pursuant to section 152 of this title may act as a magistrate with all of the powers granted to a magistrate pursuant to paragraph (1) of this subsection if such designation will not adversely affect the administration of cases in the district in which such judge was appointed.".

SEC. 122. This title and the amendments made by this title shall take effect on the date of the enactment of this Act, except that section 1334 (c) of title 28, United

States Code, as added by section 101 of this Act, shall not apply to cases pending on the date of enactment of this Act.

NOTICES OF HEARINGS

SUBCOMMITEE ON INFORMATION MANAGEMENT AND REGULATORY AFFAIRS

Mr. DANFORTH. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Information Management and Regulatory Affairs on the administration of the Federal Advisory Committee Act. The hearing will be held on Tuesday, June 12, beginning at 10 a.m., in room SD-342 of the Dirksen Senate Office Building.

The hearing will focus on whether administrative or legislative changes are needed to improve the implementation of the act. The subcommittee will specifically consider S. 2127, the Federal Advisory Committee Act Amendments of 1983. Those who wish to testify or to submit written statements for the hearing record should write to the Subcommittee on Information Management and Regulatory Affairs, Committee on Governmental Affairs, room SD-326, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Reid Detchon, staff director, at 244-0211 or Ms. Carla Smart, chief clerk, at 224-5099.

CONFERENCE ON S. 1323

Mr. BAKER (for Mr. WEICKER), I would like to announce that the Senate-House conference on S. 1323, Small Business Act amendments, scheduled for May 22, 1984, has been postponed until further notice.

ADDITIONAL STATEMENTS

OMNIBUS DEFICIT REDUCTION ACT OF 1984—AMENDMENT NO. 3075

● Mr. DOLE. Mr. President, last Thursday the Senate adopted an amendment to the deficit reduction package offered by the Senator from New Mexico (Mr. DOMENICI), on behalf of the Senator from Kansas. That amendment (No. 3075) was of a technical nature, containing technical corrections primarily to the spending provisions of the bill within the jurisdiction of the Committee on Finance. The amendment, as drafted, also included a technical correction to a tax amendment offered by Senator HUDDLESTON and adopted by the Senate when the tax portion of the deficit reduction package was considered in April.

Senator HUDDLESTON's amendment was intended to make clear that the insurance company tax provisions included in the bill did not reduce the value of certain interest paid deductions generated by the debt-financed acquisition of an insurance company.

A technical amendment adopted shortly after the Huddleston amendment, however, inadvertently limited the effect of the earlier amendment. The technical amendment adopted last Thursday was intended to modify the Huddleston amendment to inform its original intent.

Unfortunately, the CONGRESSIONAL RECORD of May 17 erroneously failed to reflect this correction. I ask that the text of the technical correction be printed in the RECORD immediately following my remarks, and assure the Senator from Kentucky that the Senate conferees will consider the Huddleston amendment, as modified, to reflect the Senate position on this issue.

The text of the technical correction follows:

In lieu of the material added by amendment 2965 (offered by Senator HUDDLESTON) insert the following:

(k) SPECIAL RULE FOR CERTAIN DEBT FINANCED ACQUISITION OF STOCK.—If—

(1) a life insurance company owns the stock of another corporation through a partnership of which it is a partner,

(2) the stock of the corporation was acquired on January 14, 1981, and

(3) such stock was acquired by debt financing,

then, for purposes of determining the special deductions under section 806, the amount of tentative LICTI of such life insurance company shall be computed without taking into account any income, gain, loss, of deduction attributable to the ownership of such stock.●

FORMER GOV. GEORGE PARKS OF ALASKA

● Mr. MURKOWSKI. Mr. President, I would like to take a moment to honor former Gov. George Parks, who died May 11 at the age of 100.

Governor Parks lived in Alaska from the time he was 24 years old. He was appointed Governor to the territory of Alaska by President Calvin Coolidge in 1925 and reappointed in 1929. His appointment marked the first time an Alaska resident had been named to the post of territorial Governor, and he served Alaska well.

During his term, Governor Parks was especially instrumental in promoting aviation. The bush pilots which helped make Alaska famous were beginning their journeys in the 1920's, and Governor Parks worked hard for the construction of runways throughout Alaska. These runways provided lifelines for the many isolated communities in the territory.

The beautiful Alaska State flag is another reminder of Governor Parks' administration. During his term, he sponsored the school contest which resulted in the "eight stars of gold on a field of blue" which is Alaska's flag.

Throughout his long life, Governor Parks saw many changes come to Alaska, but it was the early pioneer spirit shown by the Governor and his contemporaries which made our State the great land it is today.

Alaska would be a much poorer State today without the contributions Governor Parks made as a Governor and as a faithful Alaskan.●

THE WISE USE OF CONSUMER CREDIT

● Mr. DANFORTH. Mr. President, one of the most important lessons any consumer can learn is the wise use of credit. The Missouri Consumer Credit Association-Education Foundation has worked hard to bring this message to young people in high schools throughout Missouri. Since 1975, the association has sponsored a statewide program for high school seniors to enhance their understanding of consumer credit. As part of this program, the foundation conducts an annual essay contest.

The first place winner of this year's contest is Molly Katherine Ravenscraft, a student at Palmyra High School, Palmyra, Mo. I offer my congratulations to Miss Ravenscraft, to her family, and to her friends for a job well done.

Mr. President, Miss Ravenscraft's essay reflects hard work and serious research, and her observations on the wise use of consumer credit merit our attention. I ask that her essay be printed in the RECORD.

The essay follows:

THE WISE USE OF CONSUMER CREDIT

(By Molly Katherine Ravenscraft)

Credit is a vital force in our economy. It is of economic and social importance to every family and business organization. Credit was first used in business transactions to make barter (the exchange of goods for goods) more flexible. Credit was used before the existence of money. The custom of charging interest began early, and the cost of credit is something that has been reckoned with in all of recorded history.

At one time or another almost everyone needs to use credit. It is important, therefore, that credit is available when needed. A person's credit rating or credit worthiness is an indication of the ability to secure goods, services, and money in return for a promise to pay by the consumer. It represents the ability to incur debts because some lender trusts the borrower. A favorable credit rating does not come automatically. It comes as the result of slow growth. It must be nurtured, fostered, strengthened and improved. It is an asset of tremendous value to those who develop it over a period of years. It can be destroyed easily; it is sensitive to abuse; and it usually continues only as long as it is justified. A favorable credit rating over a period of time is enjoyed only by persons who deserve it and who protect it.

A common formula for determining the credit worthiness of a person or a business consists of the "three C's"—character, capacity, and capital.

The credit system has many advantages for many people. As long as there is good source of income, the common family can live the good life . . . now. Couples who are just starting out can begin to get their lives started by accumulating all the possessions that make for a stable family life. They feel it is better to have something now while they are young than to have to wait around and save their money for the finer things that most people want. A house, a car, and home furnishings can be enjoyed now while they are being paid for. Every young family wants as many material advantages as it can sensibly afford and would like to have as many of these advantages as early in life as possible; and still provide for their children, travel and self-development. The wise use of consumer credit helps to attain these goals.

The goods and services which the American family acquires through consumer credit not only enhance its standard of living, but in many instances also make an added economic contribution. Often an extra automobile enables a wife to hold a job which increases the family income. The time and drudgery of caring for the home and family are minimized for both spouses because of labor-saving appliances bought through credit. Sometimes a wife or husband can qualify for a better job through training or education paid for through credit.

The use of credit tends to increase purchases and to stimulate business. Government officials, bankers, business people, and many others constantly watch the figures that are collected to show the amount and the nature of debt that is owed by individuals. If consumer debt increases too fast and is not being paid off, this situation indicates that buyers on credit are not able to pay their debts. Such a condition would, therefore, be an indication that we might be entering a period of bad business conditions. This is the kind of factor that shows that when credit is abused, it can turn against the borrower and be his worst enemy. The delicate economic problem is to keep purchases and payments in balance. When a debt cannot be paid, the consumer puts a burden on the retailer, who suffers a loss. Therefore, when great numbers of people buy more on credit than they can repay, we experience an overexpansion of consumer credit. The result may be that many businesses lose money because they cannot collect for goods sold on credit. All people are affected by bad business conditions that arise when great numbers of people cannot pay their debts.

To some people, a wallet full of credit cards turns them into impulsive buyers. A pretty sweater catches their eye here, a pair of pants to match the sweater there, the camera that Bill has always wanted is on a clearance sale here, and the luggage that Annie wants for college in on sale there. The bills pile up. "It's so easy to buy and buy and buy, everything you think you need," a young couple told a debt-counseling service. "Then after a while you begin to think the whole thing will just swallow you. I can't sleep, I'm so uptight. Will it ever end?" they asked. Depressed and near the brink of mental breakdown, this couple is not unique. In thousands of cases each year, mounting debts cause all kinds of grief, from ulcers to suicide attempts to divorce. Money problems are rated as one of the top concerns in marriage conflicts among people under thirty years of age.

Handing a check-out clerk the charge card somehow seems less painful than forking over hard cash. Impulse buying or spending comes more easily with a wallet full of credit cards. The interest charge stated as 1.5 to 2 percent per month looks trivial at a glance. Yet it is 18 percent per year, the maximum rate allowed by law for merchandise bought, nearly four times what your savings account pays you. The establishments where charge cards are not honored will usually charge less, as you may learn by comparison shopping.

As stated before, the wise use of consumer credit allows another very positive insight into the responsibility of money management. Because of the credit system, our nation has progressed and advanced, and America today has the world's highest standard of living. That means an impressive number of us are well fed, clothed and housed; we have a high level of health and education; and we are able to afford the material, intellectual and spiritual satisfactions of life with the help of consumer credit.●

S. 1735, THE SHOALWATER BAY INDIAN TRIBE-DEXTER BY THE SEA CLAIM SETTLEMENT ACT

● Mr. GORTON. Mr. President, I introduced this legislation on August 3, 1983. The purpose of this bill is to provide a legislative solution to a conflict that has arisen between the Shoalwater Bay Indian Tribe, owners of private property within the Shoalwater Bay Indian Reservation, and the United States as a party defendant.

On September 22, 1866, President Andrew Johnson established by Executive order the Shoalwater Bay Indian Reservation, wherein specific lands in the Washington territory were reserved from sale and set apart for Indian purposes.

On August 1, 1872, the General Land Office of the United States issued a patent for lands in the Washington territory to a George N. Brown and included in that patent lands that are claimed to have been included in the previously established reservation. It is from that patent that the conflict between the Shoalwater Bay Indian Tribe and the successors in title to Mr. Brown arises, a conflict that has resulted in a civil class action suit for ejectment, damages, and to quiet title being filed in the U.S. District Court for the Western District of Washington at Tacoma by the Shoalwater Bay Indian Tribe against those successors in title to Mr. Brown.

This legislation would, upon payment of monetary compensation to the tribe, extinguish its claim and remove the cloud over approximately 60 parcels of private property held by owners whose title derives from a patent issued by the U.S. Government 113 years ago. The bill also contains a section that authorizes the tribe to invest their own trust resources and absolves the Secretary of the Interior from any liability pertaining to the tribe's investment.

Mr. President, I appreciate the prompt consideration of this bill.●

GREENBELT, MD., POLICE DEPARTMENT COMMENDED

● Mr. SARBANES. Mr. President, the yearly commemoration of National Police Week has become an important and very worthwhile event in communities all across the country. It is important to take the time to reflect on the impressive commitment of these men and women who truly put their lives on the line in providing service and protection 24 hours a day, 365 days a year. In my own State of Maryland, the city of Greenbelt always makes an extraordinary effort during National Police Week to recognize the contribution of our Nation's police officers; and this year was no exception.

During the past several days, May 17, 18, and 19, the Greenbelt Police Department, in conjunction with the Beltway Plaza Mall Merchants Association, set up exhibits and displays throughout the mall showcasing the various law enforcement branches and the purpose each serves. In an effort to better educate the public, many law officers gave of their own personal time to answer questions and provide useful information. The highlight of the observance was a personal appearance by Mr. James Darren, who portrays Police Officer Corrigan in the television series, "T. J. Hooker," and who served as this year's celebrity chairman for National Police Week. The citizens of Greenbelt were grateful to Mr. Darren for taking the time to visit their city in an effort to emphasize the importance of public participation in this special week of recognition for our Nation's police men and women.

Mr. President, I want to commend the city of Greenbelt's Police Department, the Beltway Plaza Merchants Association, and Mr. James Darren for their outstanding efforts on behalf of National Police Week.●

ETHEL C. BECKHAM, LEADER IN EDUCATION

● Mr. CHILES. Mr. President, I pay tribute to Mrs. Ethel C. Beckham of Miami, Fla. Mrs. Beckham will soon be retiring after 16 years of dedicated and distinguished service on the Dade County School Board. Her leadership has meant a great deal to education, both in Florida and nationally. We can all be proud that the positive results of her enthusiastic and effective work on behalf of children and learning will be felt for many years to come.

Ethel has been an excellent resource and friend to me over the years. As a member of the National Advisory Council on Career Education, she helped me see the light about the necessity of preparing children adequately for life and work. As I struggled with tough decisions in the Florida Legislature and the Senate on educa-

tion, her wise and gentle counsel was always helpful.

While she may be retiring from active duty on the school board, I know that Ethel will not be retiring from her devotion to quality education. I thank her for her years of service to education and submit for the RECORD this brief summary of her accomplishments.

The summary follows:

MRS. ETHEL C. BECKHAM—DADE COUNTY SCHOOL BOARD

Soon to retire after sixteen years of service, Mrs. Ethel Beckham will be universally missed in the Dade County Public School system. Elected in 1968, she has served four consecutive terms, seven of those years as vice-chairman under four chairmen and three superintendents. Her leadership, however, has been felt far beyond Dade County.

As past president of the Florida State School Boards' Association and Southern Region School Boards' Association, she has represented us ably on the state and national scene. She maintains her outreach by contemporary membership on the Florida Education Council and the NSBA Federal Relations network. But we, as a "special interest group," are most grateful for her consecutive Presidential appointments (under the Carter and Reagan administrations) to the National Advisory Council on Career Education.

Mrs. Beckham was one of the first to recognize that . . . "education today, more than ever before, must see clearly dual objectives: education for living and education for making a living." She has been our champion, and we salute her.●

THE LIMITATION ON EARNED INCOME OF SENATORS

● Mr. GARN. Mr. President, the May 15, 1984, disclosure of Senators' income and assets once again displays the double standard and hypocrisy of the Senate in limiting earned income of Senators but not placing similar limitations on unearned income. Unearned income even escapes detailed disclosure.

It certainly is easy for the rich boys with hundreds of thousands of dollars of annual income and millions of dollars of assets to vote to limit the legal fully disclosed income of their colleagues.

I ask that the following table from USA Today be printed in the RECORD.

The table follows:

SENATORS REVEAL INCOME, ASSETS

[The 1983 financial disclosures for U.S. senators have been released. Excluded is $65,231[1] in salary, nor must homes be declared. Other income, honorariums and assets must be revealed. Disclosures are in dollar ranges, not specific amounts]

State and Senator	Outside income	Honorariums	Assets	Liabilities
Alabama:				
Howell Hefin, D	$32,800	$21710	$200,000	0
Jeremiah Denton, R	23,908	0	1,280,000	0
Alaska:				
Frank Murkowski, R	233,500	23,250	[2] 1,870,000	[2] $650,000
Ted Stevens, R	215,500	32,000	1,230,000	715,000
Arizona:				
Dennis DeConcinci, D	443,300	0	8,930,000	1,270,000
Barry Goldwater, R	102,995	20,500	1,250,000	100,000
Arkansas:				
Dale Bumpers, D	76,500	30,850	740,000	180,000
David Pryor, D	28,650	39,000	405,000	250,000
California:				
Alan Cranston, D	389,771	11,400	976,056	50,000
Pete Wilson, R	199,467	72,500	1,000,000	495,000
Colorado:				
William Armstrong, R	[2]236,000	10,100	2,070,000	[2] 250,000
Gary Hart, D	4,557	33,471	441,001	163,636
Connecticut:				
Christopher Dodd, D	2,000	84,550	0	0
Lowell Weicker, R	186,500	70,700	1,460,000	465,000
Delaware:				
Joseph Biden, D	21,945	37,92	315,000	300,000
William Roth, R	8,500	28,90	170,000	0
Florida:				
Lawton Chiles, D	300,601	0	2,360,000	1,600,000
Paula Hawkins, R	31,000	25,000	745,000	150,000
Georgia:				
Mack Mattingly, R	17,087	21,100	297,177	371,429
Sam Nunn, D	[2]295,501	25,650	690,000	[2] 370,000
Hawaii:				
Daniel Inouye, D	72,293	28,025	475,000	50,000
Spark Matsunaga, D	6,963	26,700	67,487	54,000
Idaho:				
James McClure, R	13,000	56,000	100,000	50,000
Steven Symms, R	26,805	57,000	595,000	410,000
Illinois:				
Alan Dixon, D	[2]220,721	32,000	[2] 1,630,000	50,000
Charles Percy, R	[2]1,720,000	20,300	[2] 12,100,000	[2] 500,000
Indiana:				
Richard Lugar, R	46,218	132,450	672,661	184,018
Dan Quayle, R	26,848	55,650	290,000	50,000
Iowa:				
Charles Grassley, R	23,500	24,150	465,001	115,000
Roger Jepsen, R	11,000	31,250	435,000	65,000
Kansas:				
Bob Dole, R	36,831	188,917	3,260,000	110,000
Nancy Kassebaum, R	157,000	7,000	[2] 2,500,000	[2] 750,000
Kentucky:				
Wendel Ford, D	381,384	17,550	1,210,000	200,000
Walter Huddleston, D	47,650	48,800	1,130,000	1,130,000
Louisiana:				
Bennett Johnston, D	63,400	77,740	970,000	[2] 830,000
Russell Long, D	[2]1,050,000	0	[2] 2,020,000	15,000
Maine:				
William Cohen, R	21,000	27,200	324,200	495,000
George Mitchell, D	4,500	30,650	80,000	65,000
Maryland:				
Charles Mathias, R	50,175	81,575	770,000	250,000
Paul Sarbanes, D	5,000	18,450	107,037	15,000
Massachusetts:				
Edward Kennedy, D	[2]628,000	1,350	315,000	0
Paul Tsongas, D [3]				
Michigan:				
Carl Levin, D	5,826	0	311,900	365,000
Donald Riegle, D	237,965	39,965	654,237	395,722
Minnesota:				
Rudolph Boschwitz, R	[2]521,860	8,550	1,800,000	1,100,000
David Durenberger, R	0	92,750	[2] 275,000	250,000
Mississippi:				
Thad Cochran, R	1,300	51,000	135,500	50,000
John Stennis, D	87,598	0	[2] 1,030,000	50,000

SENATORS REVEAL INCOME, ASSETS—Continued

[The 1983 financial disclosures for U.S. senators have been released. Excluded is $65,231[1] in salary, nor must homes be declared. Other income, honorariums and assets must be revealed. Disclosures are in dollar ranges, not specific amounts]

State and Senator	Outside income	Honorariums	Assets	Liabilities
Missouri:				
John Danforth, R	429,466	15,000	8,900,000	0
Thomas Eagleton, D	[2]165,000	9,300	[2] 2,240,000	50,000
Montana:				
Max Baucus, D	39,000	28,500	[2] 640,000	150,000
John Melcher, D	4,822	17,250	240,000	15,000
Nebraska:				
James Exon, D	24,500	8,800	325,000	0
Edward Zorinsky, D	134,000	11,807	850,000	0
Nevada:				
Chic Hecht, R	258,449	7,000	2,600,000	550,000
Paul Laxalt, R	8,000	76,850	160,000	0
New Hampshire:				
Gordon Humphrey, R	294,000	0	360,000	0
Warren Rudman, R	107,125	29,350	670,000	265,000
New Jersey:				
Bill Bradley, D	166,815	8,750	1,190,000	0
Frank Lautenberg, D	[2]1,930,000	0	[2] 5,500,000	[2] 750,000
New Mexico:				
Jeff Bingaman, D	637,618	4,600	843,748	410,054
Pete Domenici, R	34,500	33,100	380,000	0
New York:				
Alphonse D'Amato, R [3]				
Daniel Moynihan, D	10,600	73,175	708,600	415,000
North Carolina:				
John East, R	89,000	800	530,000	50,000
Jesse Helms, R	45,000	2,200	840,000	100,000
North Dakota:				
Mark Andrews, R	60,500	47,250	380,000	65,000
Quentin Burdick, D	64,000	0	1,000,000	0
Ohio:				
John Glenn, D	[2]1,160,000	0	[2] 4,840,000	[2] 355,000
Howard Metzenbaum, D	[2]577,838	2,900	[2] 751,000	[2] 400,000
Oklahoma:				
David Boren, D	6,300	46,300	610,000	400,000
Don Nickles, R	10,000	13,400	[2] 250,000	0
Oregon:				
Mark Hatfield, R	69,409	59,850	2,030,000	1,620,000
Bob Packwood, R [4]				
Pennsylvania:				
John Heinz, R	[2]997,261	5,250	[2] 5,010,000	[2] 500,002
Arlen Specter, R	40,277	19,650	1,140,000	250,000
Rhode Island:				
John Chafee, R	74,707	53,250	1,200,000	200,000
Claiborne Pell, D	2,400,000	10,200	11,800,000	250,000
South Carolina:				
Ernest Hollings, D	261,768	56,852	1,100,000	415,000
Strom Thurmond	101,293	34,950	1,400,000	200,000
South Dakota:				
James Abdnor, R	19,043	0	755,000	50,000
Larry Pressler, R	3,500	18,300	50,000	50,000
Tennessee:				
Howard Baker, R	[2]154,000	79,200	1,260,000	745,000
James Sasser, D	23,000	40,750	405,000	50,000
Texas:				
Lloyd Bentsen, D	1,130,000	0	2,600,000	415,000
John Tower, R	66,000	45,250	162,039	115,000
Utah:				
Jake Garn, R	2,500	99,700	420,000	280,000
Orrin Hatch, R	34,302	63,285	1,390,000	0
Vermont:				
Patrick Leahy, D	3,600	24,191	105,000	50,000
Robert Stafford, R	78,628	38,600	475,000	0
Virginia:				
Paul Trible, R	54,500	25,750	115,000	5,000
John Warner, R	756,000	0	4,300,000	250,000
Washington:				
Dan Evans, R	139,772	3,000	535,000	165,000
Slade Gorton, R	18,500	26,100	1,000,000	150,000
West Virginia:				
Robert Byrd, D	13,249	11,500	237,129	0
Jennings Randolph, D	92,914	7,050	532,000	0
Wisconsin:				
Robert Kasten, R	10,000	64,750	115,000	715,000
William Proxmire, D	141,000	18,646	245,000	0
Wyoming:				
Alan Simpson, R [3]				
Malcolm Wallop, R [4]				

[1] Average for the year: salary went up to $69,800 in July 1983.
[2] And higher.
[3] 15-day extension granted.
[4] 30-day extension granted.

Source: Senators' financial disclosure statements; compiled by Associated Press.●

ANDREI SAKHAROV'S BIRTHDAY

● Mr. RIEGLE. Mr. President, today we honor Andrei Sakharov on the occasion of his 63d birthday.

This is a day of celebration, as we note the birth of one of the world's most distinguished scientists, human rights activists, and a Nobel laureate.

But this is also a joyless day. Isolated and alone, Dr. Sakharov is now in the third week of a life-threatening hunger strike—his only weapon to protest continued Soviet refusal to grant his wife, Yelena Bonner, permission to seek medical treatment in the West.

The continued unwillingness of the Soviet authorities to grant Dr. Sakharov and his wife permission to emigrate from the Soviet Union, or even to leave temporarily for the purpose of receiving much-needed medical treatment, is a tragic indictment of that Government's professed commitment to honoring the human rights and freedoms of its citizens, which it is pledged to do as a signatory of numerous treaties and international covenants.

Mr. President, last week the Senate unanimously adopted Senate Concurrent Resolution 113, calling upon the Soviet Government to uphold its commitment to human rights by voiding all charges against Yelena Bonner, granting her an exit visa for the purpose of obtaining medical care outside of the Soviet Union, and allowing Andrei Sakharov and Yelena Bonner to live in the country of their choice.

Despite this and countless other appeals from the West, the situation with respect to Dr. Sakharov and his wife continues to deteriorate at a pace equal to that of declining East/West relations.

We are reminded of the freeze which now marks nearly every aspect of United States-Soviet relations: From the Soviet decision to boycott the summer Olympics, to the slow death that has come to efforts to negotiate limits on the nuclear arms race.

On the occasion of Dr. Sakharov's birthday, I again urge the Soviet Government to make an important gesture toward thawing the icy relationship, and grant relief to this distinguished Soviet citizen, Andrei Sakharov, and his wife.●

TIME LIMITATION AGREEMENT—S. 1651

Mr. BAKER. Mr. President, I have a unanimous-consent request to make with respect to the agent orange bill. Members will recall that in November of last year, a commitment was made by the leadership on this side that we would go to an agent orange bill before the Memorial Day recess.

I should like to thank the minority leader and especially those who are principally involved in this matter for making it possible to put this request at this time and to redeem the commitment that was made last fall and to say that I hope there will be no objection.

I ask unanimous consent that pursuant to the unanimous-consent agreement of November 18, 1983, regarding Calendar No. 636, S. 1651, the time on the bill be reduced to 1 hour to be equally divided between the chairman of the Veteran's Affairs Committee and the ranking minority member, or their designees, and that only three amendments be in order under the following time limitations:

One hour, equally divided, on an amendment in the nature of a substitute dealing with agent orange to be offered by the Senator from Wyoming (Mr. SIMPSON) and the Senator from California (Mr. CRANSTON);

Twenty minutes, equally divided, on an amendment to the substitute dealing with membership on the advisory committee to be offered by the Senator from South Dakota (Mr. PRESSLER) and the Senator from California (Mr. CRANSTON);

Twenty minutes, equally divided, on an amendment to the substitute, dealing with a limitation on the evidence which must be produced by claimants to substantiate exposures to agent orange and radiation to be offered by the Senator from Pennsylvania (Mr. SPECTER) and the Senator from California (Mr. CRANSTON);

Ten minutes, equally divided, on any motions, appeals, or points of order if so submitted to the Senate, and that the agreement be in the usual form is to the designation and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 9 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF LEADERSHIP TIME

Mr. BAKER. Mr. President, I have consulted with the minority leader on this request. I thank him for his cooperation.

I ask unanimous consent that tomorrow, the time for the two leaders under the standing order be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE

Mr. BAKER. I ask unanimous consent that, following the recognition of the two leaders under the standing order, a special order in favor of the distinguished Senator from Wisconsin (Mr. PROXMIRE) be granted for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special order, the time remaining, if any, until 9:30 a.m. be devoted to the transaction of routine morning business, in which Senators may speak for not to exceed 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TOMORROW FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Mr. President, it is the hope of the leadership on this side that we can arrange to go to the agent orange bill tomorrow at 9:30 a.m. Arrangements on that are not yet complete, but I hope they may still be completed before the evening is out.

There will be votes tomorrow throughout the day. Tomorrow, however, is Tuesday. That is our regular caucus day. I ask unanimous consent that on tomorrow, the Senate stand in recess between the hours of 12 noon and 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Now, Mr. President, might I inquire of the minority leader if he is in a position to agree that at 9:30 a.m. tomorrow the Senate will temporarily set aside the pending business, which is the bankruptcy bill, and proceed to this matter under this agreement?

Mr. BYRD. Mr. President, the request the distinguished majority leader has indicated he will make has been cleared on this side.

Mr. BAKER. I thank the minority leader. Mr. President, I make that request at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader and I especially thank those who participated in the negotiations under the agreement.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of nothing else that must be done today, and I see no other Senator seeking recognition. Therefore, I move, in accordance with the order previously entered, the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to, and at 5:37 p.m. the Senate recessed until Tuesday, May 22, 1984, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 1984:

DEPARTMENT OF DEFENSE

Donald C. Latham, of Virginia, to be an Assistant Secretary of Defense (new position—Public Law 98-94 of September 24, 1983).

M. Robert Hill, Jr., of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1989, vice Eugene M. Farber, term expired.

DEPARTMENT OF JUSTICE

Joseph Wentling Brown, of Nevada, to be a member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1986 (reappointment).

DEPARTMENT OF THE INTERIOR

Robert N. Broadbent, of Nevada, to be an Assistant Secretary of the Interior, vice Daniel N. Miller, Jr., resigned.

Frank K. Richardson, of California, to be Solicitor of the Department of the Interior, vice William H. Coldiron, resigned.

DEPARTMENT OF ENERGY

Charles G. Stalon, of Illinois, to be a member of the Federal Energy Regulatory Commission for a term expiring October 20, 1987, vice John David Hughes, term expired.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert Laxalt, of Nevada, to be member of the National Council on the Humanities for a term expiring January 26, 1990, vice Sister Joel Read, term expired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bernard P. Randolph, [redacted], U.S. Air Force.

EXTENSIONS OF REMARKKS

INTERNATIONAL CHRISTIAN EMBASSY, JERUSALEM, CALLS FOR PLACING U.S. EMBASSY IN JERUSALEM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. LANTOS. Mr. Speaker, last week at a special joint hearing before the Subcommittees on Europe and the Middle East and International Operations of the House Foreign Affairs Committee, the issue of moving the U.S. Embassy in Israel from Tel Aviv to Jerusalem was considered. One of the outstanding witnesses who appeared on that occasion was Richard A. Hellman, representing the International Christian Embassy, Jerusalem.

The International Christian Embassy, Jerusalem, is a private, voluntary organization founded in 1980 by Christians residing in Jerusalem at the time the last national embassies were being withdrawn from that city. The organization is headquartered in Jerusalem and it represents millions of Bible-believing Christians who follow the Biblical injunction to "bless Israel," "comfort my people," and "pray for the peace of Jerusalem."

On behalf of the International Christian Embassy, Jerusalem, Mr. Hellman expressed support for the bill to move the U.S. Embassy to Jerusalem "on scriptural, practical, and legal grounds." Mr. Speaker, this statement is deserving of the attention of my colleagues in the House.

STATEMENT OF RICHARD A. HELLMAN ON BEHALF OF THE INTERNATIONAL CHRISTIAN EMBASSY JERUSALEM

Dear Mr. Chairman, it is a great pleasure and an honor to appear before the joint hearing of the House Subcommittees on International Operations and Europe and the Middle East today on behalf of the International Christian Embassy Jerusalem, to express our enthusiastic support for H.R. 4877, a bill "to require that the United States Embassy in Israel be located in the City of Jerusalem." As Bible-believing Christians, we support the bill on scriptural, practical and legal grounds. Although I invite your attention to the strengthening amendments which we recommend, our support of this legislation is not contingent upon their adoption.

First, a few words about the International Christian Embassy. The Embassy is a private, voluntary organization founded in September, 1980, by Christians residing in Jerusalem as an expression of concern and love for Israel and the Jewish people at the time when the last remaining national embassies were being withdrawn from the city.

As such, the Christian Embassy is a unique entity with a different perspective from that of the other organizations interested in this legislation. It is truly international with consulates and representatives throughout the United States and in many other countries spanning all the continents of the globe. It is authentically Christian in that it represents millions of Bible believing Christians who follow the scriptural exhortations to "bless Israel," to "comfort my People," and to "pray for the Peace of Jerusalem," among others. The organization is headquartered in Jerusalem. Thus the Embassy personnel understand, as perhaps no other non-Jews can, the biblical, historic and diplomatic significance of Jerusalem in the play of international events at this historic juncture.

The Christian Embassy, through its Executive Director and others has had a close, continuing and fruitful association with Israel's Prime Minister, Cabinet and Knesset members, as well as Israeli religious, economic, social and artistic figures at all levels. This has fostered mutual understanding, respect and love between Israel and the Christian communities, both within Israel and abroad.

This relationship is expressed practically in the Christian celebration of the Feast of Tabernacles which has been held annually since 1980 during the Jewish holiday of Succoth. In this spiritual, musical and artistic pageant, thousands of Christians from around the world go up to Jerusalem" . . . to worship the King, the Lord of hosts and to keep the Feast of Tabernacles," in anticipation of that day which the prophet Zechariah foresaw (Zech. 14:16) and " . . . to comfort ye, comfort ye my People" Israel (Isaiah 40:1).

Other tangible expressions of interest and support for Israel and its people include social work projects with the Arab, Jewish and other citizens of Israel, and the encouragement of Israeli exports.

On a personal note, I was privileged to live in Jerusalem for seven years (through mid-June, 1983) first as a legal consultant to the Israeli government under a joint project with the United Nations and later as a private entrepreneur operating a business there. Thus as a Christian dealing daily—and amicably—with the Jewish, Arab and other citizens of the City, I had a unique opportunity to see Jerusalem as the dynamic, integrated functioning organism which it has become.

The Holy Scriptures declare that Jerusalem is and forever will be the capital of Israel. In a unique way, the Lord said He chose Her:

"But unto the place which the Lord your God shall choose out of all your tribes to put his name there, even unto his habitation shall ye seek and thither thou shalt come . . . Take heed to thyself that thou offer not thy burnt offering in every place that thou seest: But in the place which the Lord shall choose in one of thy tribes, there thou shalt offer thy burnt offerings and there thou shalt do all that I command thee." (Deuteronomy 12:5, 13-14)

This place the Lord has chosen is Jerusalem as He says throughout the Scriptures and particularly the Psalms, for example: "For the Lord hath chosen Zion; he hath desired it for his habitation. This is my rest forever; here will I dwell; for I have desired it." (Ps. 132:13, 14)

Jerusalem is synonymous with Zion and symbolizes not just the City but the whole land and the Jewish people. Most poignantly, this is expressed by the Psalmist:

"By the rivers of Babylon, there we sat down, yea, we wept, when we remembered Zion . . .

How shall we sing the Lord's song in a strange land?

If I forget thee, O Jerusalem, let my right hand lose her cunning.

If I do not remember thee, let my tongue cleave to the roof of my mouth; if I prefer not Jerusalem above my chief joy." (Ps. 137:1, 4-6)

Although anyone who visits or resides for a time in Jerusalem must come to love Her timeless beauty and spiritual uniqueness, only for the Jewish people does she represent the embodiment of 3,000 years of history, culture and religious experience. For most Christians there is a desire to visit, to see the actual places where the great events of the Bible took place, but not to make a permanent abode or to exercise political control over the city or the land.

In this context, it must be emphasized that the Israeli administration of Jerusalem, the system of justice (and particularly the protection of the rights of Christians, Moslems and others visiting or residing in the land) and the protection of so-called holy sites of all faiths have been exemplary. Any fairminded witness of the experience under previous regimes, notably that of Jordan, will not the striking contrast.

More immediate and tangible than the scriptural and historic reasons for relocating the U.S. Embassy to Jerusalem is the elemental need to deal fairly and honestly with a friend and ally. It is time that we recognized Israel fully as our only like-minded and dependable friend and ally in the Middle East—and one of the few in the entire world. This relationship depends on our shared system of values which goes back to Biblical truth, our democratic representative systems of government, our cultural, economic and technological cooperation, and the practical strategic objectives which we share. Any details on which we may differ are dwarfed by these fundamental shared interests.

Fairness and respect toward such a close friend and ally as Israel should preclude continuation of a forced, artificial refusal to recognize that nation's legitimate capital. By contrast it is incredible that we have placed our embassy in East Berlin, although we do not recognize the sovereignty of the German Democratic Republic, a member of the Warsaw Pact, over that city, while refusing to accord like courtesy to Israel. The fear of censure by the rejectionist Arab States should not keep us from taking the proper course of action toward a friend and an ally. Failure to relocate the U.S. Embassy to Jerusalem is a continuing example of the lack of respect and support the United States has been accused of showing to its

friends. The only remaining question is why we have waited so long to take this step.

As to the practical consequences of our Embassy being in Tel Aviv, it is unfortunate that Mr. Samuel Lewis, the highly respected U.S. Ambassador to Israel, is not here to describe the real perils and problems of dealing with the Israeli government at a distance from its capital. These are compounded by the artificial restraints on the portion of Jerusalem which he and other U.S. officials may visit, and by the fact that the Jerusalem Consul General is not under his authority, but reports directly to the State Department in Washington, a unique situation in the scheme of our worldwide diplomatic system.

While I have not discussed these matters with Mr. Lewis, we can well imagine his frustrations in attempting to convey American policies to the Israeli government and keep track of evolving Israeli perceptions and policies. This is a tough job in any country. Sam Lewis does it as well or better than any other U.S. Ambassador. But why must we continue to frustrate his effectiveness and complicate his work?

I have some personal insight into the practical aspects of the problem from four years experience as a consultant within the Israeli Ministry of the Interior. Despite good intentions on all sides, our contacts with the U.S. Science Attache at the Tel Aviv Embassy were infrequent and sporadic—albeit profitable when they materialized. In one case, an Embassy inquiry regarding DBCP, a toxic agricultural chemical that caused sterility in workers and other adverse effects, led to a valuable exchange of data between Israel and the U.S. This led to more effective health measures in both countries with minimal disruption of agriculture.

How many other valuable opportunities for productive cooperation were lost just in our office due to the distance separating us in Jerusalem from the Embassy staff in Tel Aviv will never be known. Certainly the U.S. lost commercial opportunities to promote pollution control equipment and services in a growing Israeli market. Similarly, Israeli advances in integrating cost-effective environmental measures with physical and economic planning went largely unrecognized by our Embassy staff.

This hearing is not the place or time to recount the differences in perception and understanding which have marked the course of Israeli-American relations. One need look no further than this week's newspapers, however, to see that the respective perceptions of even fairly fundamental agreements have differed widely. While the relocation of the U.S. Embassy is not a panacea for such problems, its symbolic and practical day-to-day effects will help ensure that the reality of U.S.-Israeli relations matches more closely the ideals, stated policies and rhetoric of the U.S. government and the wishes of the American public.

Based on my review of Jerusalem's legal status, Israeli clearly qualifies as the legal sovereign of Jerusalem, having acquired that sovereignty according to international law. The United States government, however, does not need to arrive at this conclusion in order to move our embassy to West Jerusalem. Since our ambassador and other officials, including visiting American presidents and cabinet officials, meet regularly with Israeli officials in West Jerusalem, and present their credentials there, this constitutes a certain *de facto* recognition and no added status would be conferred by placing our embassy there. I certainly would trust that no responsible American official expects Israeli to relinquish its authority over West Jerusalem in any political settlement.

While the International Christian Embassy Jerusalem wholeheartedly supports H.R. 4877 as introduced, the following strengthening and clarifying amendments are suggested for consideration by the Committee. These are proposed to ensure that the intent of the legislation be implemented as quickly as possible without bureaucratic foot-dragging and, as completely as practicable, with all key U.S. Embassy functions and elements transferred expeditiously to Jerusalem.

Therefore, we recommend that the legislation authorizing appropriations for the State Department be conditioned upon implementation of the terms of this bill. This would appear consistent with the original intent of the bills introduced by Congressman Lantos, and in the Senate by Senator Moynihan.

Second, we propose a section be added to the bill calling for a complete transfer of all Embassy functions and organizational elements, apart from certain consular functions, to Jerusalem within a fixed time, perhaps eighteen months.

Third, we recommend that a section be added to call for a study of the Executive Branch to be submitted to the Congress within 90 days of enactment of this legislation, which study would detail the procedures, costs and benefits involved in the transfer.

Fourth, we recommend that the legislation provide explicitly that all U.S. consular and diplomatic activities in Israel, including Judea and Samaria, be under the jurisdiction of the U.S. Ambassador.

The evidence in favor of moving our embassy to Jerusalem is conclusive and compelling. The arguments against such a move, chiefly the expediency of appeasing those who will be appeased only be Israel's destruction, are unworthy of a great power or a good friend. The hour is already late. Let us not delay any longer this urgent business.

We heartily endorse enactment of this legislation, unless, of course, the President decides to use his authority now to make the change administratively.

We appreciate the opportunity to submit this testimony in favor of H.R. 4877 and will be pleased to submit any added information regarding this or other matters affecting Israel.●

CATHERINE KELLEHER

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. FEIGHAN. Mr. Speaker, Catherine Kelleher, a 94-year-old resident of North Royalton, Ohio, is an extraordinary woman. Mrs. Kelleher is a volunteer at the Brecksville Veterans' Administration Hospital. For over 40 years, she has shown concern and compassion for the sick and disabled who have served their country in our Armed Forces. In December of last year, she set a record of 32,000 hours of voluntary service at the Brecksville Hospital, and all indications are that she has many more hours to give. I would like to share with other Members a story from the News Sun which captures the spirit and the special warmth of this remarkable volunteer.

VOLUNTEER, 95, DEVOTES LIFE TO CARING FOR POOR, DISABLED

(By Chris Studor)

Catherine Kelleher started working at age 9, cleaning house for 25 cents a day. At age 12, she worked in a silk mill. She bore nine children, and when one of her sons died in World War II, she began volunteering at a veterans hospital in his memory. Forty years later, Catherine, now age 95, is still "taking care of her vets."

A North Royalton resident, Catherine volunteers at the Brecksville Veterans Administration Hospital three times a week. She helps out by sorting and packaging surgical supplies, but her most important "chore" is being a friend to the vets.

When a vet needs someone to talk to, a shoulder to lean on or someone to share a laugh with, Catherine is there. These traits have earned her the title of "mom" with both patients and staff.

"I've been at the hospital three years now," says veteran John Boone, "and I fell in love with Catherine almost the minute I saw her.

"A person like Catherine is rare; she's like a mom and a sweetheart put together," Boone adds. "I look forward to seeing her. We talk about the war, my own mother, trips and people. It's wonderful that someone her age has given her life to the disabled and poor."

Catherine does not look at her life as a hard one but rather views hard work as the key to her longevity. On her 90th birthday, she was asked what she attributed her many years to.

"I think I owe my longevity to hard work and my philosophy about life," Catherine says. "I don't drink, smoke or chew tobacco. I don't swear or tell lies—my mother would turn over in her grave if I lied."

With only a slight problem with hearing and vision, Catherine feels she has been blessed with good health. She also has a remarkable memory, and says she remembers everything since age 4.

One of 12 children, Catherine was born in Scranton, Pa.—weighing only two pounds and eight ounces.

"My mother rubbed me with olive oil and wrapped me in cotton batting," Catherine says. "Mom said I was so tiny that my christening gown fell to the floor when she put it on."

Catherine says she moved to Ohio because she didn't want her sons to die of black lung disease from working in the coal mines of Pennsylvania. Three of Catherine's six sons were wounded in wars and one was killed in World War II.

This year marks Catherine's 40th year as a volunteer working with veterans. She has worked at the former Crile Hospital in Parma, the Veterans Administration Hospital when it was located on Broadview Road, and currently at the Veterans Hospital on Brecksville Road. As a volunteer at the hospital when it was located on Broadview Road, Catherine would walk nine miles to the hospital from her home in North Royalton.

"I think it's important to use a certain approach when you come into a vet's room," she explains. "I always enter quietly, and if they're sleeping, I'll come back later. I talk

to them kindly, ask them if they need anything and sometimes wash their face and hands.

"I work with wonderful people, both the vets and staff," she continues. "The vets respect and love me, and show me kindness. When I'm down in the dumps, working with the vets lifts my spirits."

It was the death of her son, James, which brought Catherine to volunteer work at veterans hospitals. Shortly after James was killed in World War II, Catherine went to the veterans hospital to inquire about her son's insurance.

"I remember telling Gen. Marlon to give me only half of my son's insurance and to donate the other half to charity," Catherine recalls. "I told him I was on my way to the grave with grief over my son's death and I wouldn't live long enough to use the insurance money."

Gen. Marlon told her that she had always been a hard working woman, working since she was 9, and there was no way she was going to die. He suggested she volunteer at the veterans hospital in memory of her son.

Included in Catherine's volunteer duties is helping with parties for the vets. She not only bakes about 200 cookies a month, but likes to dress in costumes for the parties. St. Patrick's Day is her favorite holiday since that's her nationality.

Catherine comes fully dressed in costume, sings Irish songs and has even been known to do a little Irish jig for us," comments Jack Randolph, director of volunteer services. "Last year, Catherine broke her hip and went around the hospital in a walker dressed in a Santa suit."

Randolf says it is rare for a volunteer director to see volunteers reach the mark of 20,000 volunteer hours. He has seen three volunteers out of about 700 at the hospital reach that goal. Catherine has gone beyond that, however, with more than 32,000 hours as of last December.

It's not only the vets and hospital staff who appreciate Catherine's devotion and admire her stamina. Randolf adds that during President Lyndon B. Johnson's first full term in office, Catherine was one of three .veteran volunteers in the U.S. honored at the White House.

"I remember that day so fondly," Catherine recalls. "Lady Byrd Johnson came up to me and said she wanted to meet the lady who 'walked nine miles to volunteer at the veterans hospital.' She smooched me and we had our picture taken in the Rose Garden."

Catherine says she plans to continue her work with the vets "as long as God grants me the good health to do so."

There also are three others in Catherine's life whom she tenderly takes care of—her three little "doggies."

After volunteering at the hospital, she comes home to keep house and often makes dinner for her son. Evening hours are frequently spent in "her" chair, singing religious and Irish songs to the three little dogs.●

THE CRIMINAL FINE COLLECTION ACT OF 1984

HON. FREDERICK C. BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. BOUCHER. Mr. Speaker, today I am introducing the Criminal Fine Enforcement Act of 1984, a bill that not only will strengthen the Federal Government's ability to collect criminal fines, but will also substantially increase the maximum fines that can be imposed upon persons convicted of Federal crimes. I am pleased to be joined in this by my able colleague from Illinois (Mrs. MARTIN), the principal sponsor of a related bill which has some 50 cosponsors.

The Subcommittee on Criminal Justice, under the leadership of our distinguished colleague from Michigan (Mr. CONYERS), began looking at Federal fine collection procedures last year. The chairman of the subcommittee, on which I serve, asked me after a hearing last month to draft a bill that would provide Federal prosecutors with additional tools to collect fines promptly and fully. He asked in addition that I incorporate in the bill provisions that would make the criminal fine a tougher and more significant form of punishment.

This task, which I was happy to accept, was carried out in consultation with a wide range of interested parties. Those consulted include: Representatives from the Justice Department's Criminal Division, Tax Division, Executive Office of the U.S. Attorneys, and Office of Legislative Affairs; the U.S. Parole Commission; representatives of the Judicial Conference of the United States and the Administrative Office of the United States Courts; the gentlewoman from Illinois (Mrs. MARTIN); and the senior Senator from Illinois (Mr. PERCY), who chairs in the other body a subcommittee that has also looked into the Federal fine collection problem and whose recommendations on improving Federal fine collection procedures were incorporated into the omnibus crimes bill passed by the Senate (S. 1762).

The Federal Fine Collection Act of 1984 is the result of this work. It contains many of the changes in Federal fine collection procedures that are incorporated in the bill sponsored by my colleague from Illinois (Mrs. MARTIN). The bill also draws upon fine provisions in pending sentencing reform and crime victim compensation and assistance legislation.

The bill contains the following measures intended to encourage convicted defendants to pay their fines promptly and in full, to assist Federal prosecutors to collect delinquent and unpaid fines, and to make the fine a tougher criminal punishment:

Maximum fine levels are substantially increased, so that a drug dealer, for example, could be fined up to the greater of $250,000 or twice the amount of money made by the dealer as a result of the crime;

It will be a criminal offense for someone willfully to fail to pay a fine;

Interest will be collected on past due fines at the rate of 1.5 percent per month, and, if the fine is past due for more than 90 days, a penalty of 25 percent of the amount due will be added;

The United States, when it files a copy of the judgment imposing the fine, has a lien with the priority of a Federal tax lien that applies to all property of the defendant, other than property that is exempt from levy under the Internal Revenue Code;

The court, when a defendant sentenced to pay a fine appeals the conviction, must, unless exceptional circumstances are present, order the defendant, first, to deposit the amount due with the court pending the outcome of the appeal, second, to provide bond or other security to insure payment of the fine, or third, not to transfer or dissipate assets; and

The U.S. Parole Commission, when it paroles a prisoner who owes a fine, will require as a condition of parole that the prisoner make a diligent effort to pay the fine.

These provisions are tough, but the legislation is not draconian. For example, the bill substantially increases maximum fine levels, but in addition directs that a court consider the defendant's ability to pay when the court is deciding whether to impose a fine and the amount of the fine. The bill makes it a crime willfully to fail to pay a fine, but provides a defense that the failure to pay the fine was occasioned by the defendant's responsibility to provide necessities for him or herself or for others financially dependent upon him or her.

The legislation is sensitive to constitutional concerns. For example, the Supreme Court has held that a person cannot be imprisoned for failure to pay a fine if that failure was due to the person's indigency. The bill, therefore, provides that before a court can impose a committed fine, a fine that requires the defendant to stay in prison until the fine is paid, the court must find that the defendant has the present ability to pay the fine.

This legislation, if enacted, would make the Federal criminal fine a tougher punishment that is likely to be fully enforced. This result in turn, should make fines more attractive as effective alternatives to prison. The legislation would also help the innocent victims of crime, for pending crime victim compensation and assistance legislation, including the administration's proposal, calls for the the proceeds from criminal files to be used to help crime victims. I an very pleased that the distinguished chairman of the Subcommittee on Criminal Justice, the gentleman from Michigan (Mr. CONYERS), has expedited consideration of the bill by the subcommittee and has scheduled markup of the bill for tomorrow.●

HONORING MICHAEL DUFF

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. FORD of Michigan. Mr. Speaker, I take great pleasure in calling to your attention the principal of the Johney M. Cheney Elementary School—Michael L. Duff. This dynamic individual has been nominated by the Cheney staff and the Willow Run Community School administration for Outstanding Principal. This is an award given by the Michigan Elementary and Middle School Principals Association. In Friday, May 25, I will join many of my friends in honoring Mike at a Michael Duff Day celebration.

The letters of recommendation written on behalf of Michael Duff do an excellent job of recording his many talents. I am including one such letter here and hope you will read it. Mike Duff is an extraordinary individual and I am proud to have you read about him today.

WILLOW RUN COMMUNITY SCHOOLS,
Ypsilanti, Mich., April 12, 1984.

To Whom It May Concern:

Permit me to introduce a gifted educational leader, Mr. Michael Duff, principal of Cheney Elementary School, Willow Run Community Schools, and tell you why he deserves to be recognized as such.

Mr. Duff began his principalship of Cheney Elementary in 1979, the time in which the District was entering its second phase in the Reorganization Plan for Quality Education.

He quickly established himself as a skillful educational leader with a unique combination of interpersonal skills and intellectual and professional abilities. These skills served to make him a pivotal principal in the transition from the Reorganization Plan to the System-wide Effective School plan. Under his leadership, the Cheney School staff and Mr. Duff as a team secured a Professional Development grant through Wayne State University with which they developed a model school discipline plan. This plan systematically informs and involves parents in school life with discipline as a part of the educational process. Also, they developed a Parent Booklet on Language Arts and Math Skills and initiated the revision of the District Promotion/Retention policy. The intense involvement of the Cheney Staff, often with donated time, attests to the respect they hold for the professional manner he models as their leader.

Mr. Duff encourages his staff to use their creative talents instructionally to fulfill the District philosophy that "all children can learn"—the education of children is his primary motivation. He is careful to deliver feedback to staff clearly and precisely to facilitate continued growth of instructional talents; his design is often modeled after the clinical supervision system.

Currently, Mr. Duff is assisting in the District Educational Leadership training program for the principals funded by the Kellogg Foundation through the Michigan Middle Cities Association. This program is designed to train principals over a three-year period to become effective educational leaders in their building. Mr. Duff is in training to be a trainer of his peers and as such, he generates interest and enthusiasm among them for the program.

Obviously, a person of Mr. Duff's stature doesn't take success for granted. He works diligently and consistently to improve the educational life of students as well as teachers. In tough times he is resolute, yet caring, in facilitating successful closure to difficult situations. He has a keen perception of peoples' needs and exhibits a sincere desire to serve them realistically and well.

On the side, Mike often serves as the chair for meetings and frequently substitutes for Central Office Staff in administrative functions.

It is a pleasure to work with Mr. Duff—a person of his stature is an asset to the educational system. He deserves to be recognized for the contributions he is making to education today—helping to develop our youth in their preparation for their future and ours as well.

As you can tell, I highly recommend Mr. Duff as "The Principal of the Year."

Sincerely,

DR. RUTH H. MOORMAN,
Assistant Superintendent for General Administration.●

HONORING FAIRFAX HIGH'S 60TH YEAR

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. WAXMAN. Mr. Speaker, one of the great landmarks of my Los Angeles congressional district is Fairfax High School. This great institution of secondary education will mark its 60th anniversary on June 3, 1984.

I am proud to represent not only Fairfax High, but also many of its students, their families, faculty and generations of alumni. I salute them and all those for whom Fairfax High School is an institution of enormous significance. I should like to bring the attention of my esteemed colleagues and the general public to the following historical account of Fairfax High from its founding up to the present time.

HISTORY OF FAIRFAX SENIOR HIGH SCHOOL

In the years since 1924, when Fairfax opened its doors, the school has graduated some 35,000 students. Fairfax has also gained a reputation for academic achievement and for launching many alumni on the road to success. Among those being installed in the Fairfax High School Hall of Fame on June 3rd are: Movie and TV luminaries Ricardo Montalban, David Janssen, Sally Eilers, Byron Allen of "Real People", Gene Allen, president of the Academy of Motion Picture Arts and Sciences; Kate Murtagh, writer/director Larry Gelbart of "Mash" fame; and Aaron Rosenberg, movie producer who also was a four year All-American football player at U.S.C.

Music entrants in the Fairfax Hall of Fame include: Herb Alpert ("Tijuana Brass"), Roger Wagner of the Roger Wagner Chorale, arranger/conductor Charles Bernstein, pianists Malcolm Bilson and Daniel Pollack, Jermaine and Marlon Jackson of the Jackson Five, Metropolitan Opera Basso Profundo Jerome Hines, string base soloist Garry Karr, Guarneri String Quartet violinist Arnold Steinhardt, singer Martha Tilton and Rock producer Phil Spector.

Those active in politics include: Congressman Jack Kemp, Los Angeles City Councilman Zev Yaroslavsky and three former Los Angeles Unified School District Board of Education Presidents—Dr. Robert Doctor, Howard Miller and Roberta Weintraub.

In addition to Aaron Rosenberg and Jack Kemp, a professional quarterback; Fairfax's star athletes include Los Angeles Dodgers pitcher and Cy Young Award winner, Sandy Koufax, Jim Hardy, former U.S.C. quarterback and quarterback for the Rams and other pro clubs as well as being the Director of the Los Angeles Memorial Coliseum; major league baseballers Norm and Larry Sherry, George Stainback, Mike Epstein; and Olympic Diving Champion Dorothy Poynton.

Entering the Hall of Fame from education are: Harry Handler, Superintendent of the Los Angeles Unified School District; UCLA professors—Kenneth Karst, law; Dean of Humanities Herbert Morris, law and philosophy; Provost of the College of Letters and Science Raymond Orback, physics; and Robert Rand, neurosurgery; from U.S.C. Professors Fred Weissman, medicine; and Stanley Azen, Biometry. Rhodes Scholar Nicholas Bunnin is an Oxford professor (The other Rhodes Scholar is Darryl Walker.) Lawrence Rauch is a Cal Tech professor who also works with the Jet Propulsion Laboratory.

There are three Fairfax generals—Jack Wright, Jack Catton and Henry Muller. Gayle Foltz is a retired Navy captain.

Among the writers are Gilbert Harrison, editor and publisher of The New Republic, and columnist Burt Prelutsky. There are three Superior Court Judges—Max Deutz, David Aisenson and Vincent Dalsimer. Herbert Kahn, Hudson Institute, was a presidential adviser.

Eight members of the current Fairfax staff are Fairfax graduates: Judith Aranoff, Mickey Braiman, Sara Eisner, Greta Olssen, Mike Piehl, Deanna Schusterman, Norma Silverman and Daniel Victor.

Today, Fairfax has an enrollment of 2,161 in the regular day school, 150 in a Visual Arts Magnet, approximately 7,000 enrolled in an Adult School and another 100+ enrolled in the Walt Whitman Continuation School on the south end of the campus. Students have come from 57 different countries and speak 20 different languages. To meet the needs of a diverse student body there are classes for the deaf and hard of hearing, orthopedically handicapped, educationally handicapped, retarded and physically handicapped in physical education. There are nearly 300 gifted students and another 300 students in the English as a Second Language program.

The ethnic composition of Fairfax is also diverse. The school has nearly 37 percent "Other White" students, 32 percent black, 18.6 percent Hispanic and 12 percent Asian and Pacific Islander.

The current curriculum has been carefully developed to meet the many needs of Fairfax students. To promote better human relations and understanding, there are courses called Hands Across the Campus, Holocaust and Afro-American Culture. There are classes in Applied Economics where students have an opportunity to begin their own businesses. There are 13 Advance Placement

classes in which students can earn college credit by passing rigorous tests.

As a result of an outstanding teaching staff, a demanding curriculum, a concerned community and a hardworking student body, Fairfax has just earned its second straight seven year accreditation, an honor given to only the strongest academic schools.

FAIRFAX HIGH SCHOOL OPENS ITS DOORS

In 1924, Fairfax High School, named for Lord Fairfax of Colonial America, opened its doors. 38,000 loads of dirt were brought in to raise (by 12 inches) the land to the Melrose frontage.

Rae G. Van Cleve, the first principal, wished to make Fairfax very "American and democratic." The Fairfax family in Virginia was contacted. They were direct descendents of Lord Fairfax. Permission was granted to use the coat of arms (Rampant Lion) and the motto "Fare Fac" ("Say and Do"). The student body chose the name "Colonials." The first boys' and girls' groups were called Lords and Ladies. The Lord High Commissioner was the student body president.

The auditorium was dedicated in 1926 and later was named the DeWitt Swan Auditorium in honor of the first boys' vice principal. The first annual in 1926 contained the dedication, "Enter to learn; go forth to serve." In 1927, the summer class dedicated the sunken gardens and the fountain that was located in front of the old building. The same year a fine arts building and a gymnasium were added to the campus. By this time, Fairfax High School (containing grades 7-12) was an established prestigious element of the Fairfax community.

New bleachers were dedicated in 1933. Mr. Van Cleve retired in 1938, and the Rotunda, complete with a statute of Abraham Lincoln, was dedicated. In 1942, Greenway Court, the Fairfax social hall, named after Lord Fairfax's Court in Virginia, was dedicated. The Senior Court, called Detter Court, was dedicated in 1947. Van Cleve Field was dedicated the next year.

In 1932, all Los Angeles was focusing on the upcoming Olympic Games, so graduation was held at the Greek Theater in Griffith Park.

EARTHQUAKES IMPACT FAIRFAX CAMPUS

Because Fairfax was not earthquake-safe, 1966 was the last year of the original campus. That year, brick by brick, the old structure came down and a completely new building arose. Students and faculty moved into the new building in 1968. Because of the unique beauty of the Rotunda and the Auditorium, a public campaign was successful in saving them and the auditorium was reinforced to assure earthquake safety.

The earthquake of 1971 crippled the facilities of Los Angeles High School; and, as a result, Fairfax students attended school only in the morning; Los Angeles students used the campus in the afternoon. One semester Los Angeles High School students moved back to their own campus.

Currently, again for earthquake safety, the northern football bleachers are being demolished. They will be replaced and, perhaps, lights will be erected on the field.

The academic tradition and excellence in extracurricular activities represented by the 35,000 graduates of Fairfax is continuing today as evidenced by the following:

Eighty percent of the graduating seniors are going on to higher education; 40 percent to 4 year schools.

Fairfax has the 4th highest stability rate among the 49 Los Angeles High Schools with 74 percent of the graduates spending all three years at Fairfax.

The Academic Decathalon team finished 5th in the City and had the highest individual scorer.

Eighty-six seniors have earned a Presidential Academic Fitness Award for maintaining at least a B+ average.

Drama hosted a festival for 61 Southern California schools and won the 5th place sweepstakes trophy.

Our seniors are being accepted at prestigious universities everywhere—three at Harvard, others at Brown, Georgetown, Cal Tech, Stanford, Berkeley, Chicago, UCLA, Smith, Bryn Mawr, Cornell and even the Sorbonne in Paris.

Students from Fairfax had more paintings and drawings exhibited at a recent Otis Art Institute show than any other school in greater Los Angeles. One of our art teachers is being flown to New York to judge a national art competition, the only judge west of the Mississippi.

An Anaheim convention voted the Fairfax annual the most improved in Southern California.

The new speech team has won numerous medals, trophies and cash; three students qualified for and went to the state tournament.

Fairfax grads attending UCLA maintain a dramatically higher grade point average compared with their high school GPA than the bulk of the other schools in Southern California.

SUCCESS IS A FUNCTION OF COOPERATION AND STABILITY

The success of Fairfax students is a function of ccoperation and stability of students, parents/community and a dedicated staff. The Community Advisory Council, presided over by Dr. Arnold Gurevitch, parent, has had an average attendance of 80 at each of its meetings. There is a free, cooperative exchange at the meetings. Attention of students, parents and staff is focused in important instructional issues.

The stability and longevity of staff is best illustrated by two teachers—Doris Siddall, former science teacher who will celebrate her 92nd birthday on June 4, 1984, and Humer Hummel, currently a math/scholar music teacher at Fairfax. Ms. Siddall was one of the original staff of Fairfax in 1924 and retired in 1957. Mr. Hummel has been teaching at Fairfax for 34 years. Another Fairfax veteran is student government sponsor George Zografos. Mr. Zografos says, "An actively involved, democratic student government is a vital ingredient in an effective school." For a quarter of a century he has been espousing this philosophy.

Under the guidance of Mr. Christian Strohmeyer, the PTSA has continued to provide badly needed services to students, from providing shoes for students to paying for advanced placement examinations to serving refreshments at athletic events.

Principals at Fairfax have been: Rae Van Cleave, 1924-39; Ralph Detter, 1939-45; William Goodwin, 1945-57; Samuel Oelrich, 1957-65; James Tunney, 1965-71; Richard Miller, 1971-72; William Layne, 1972-77; Edward Cheetham, 1977-83; Warren Steinberg, 1983.

Current assistant principals are Gertrude Dorsey and Milford James, head counselor Camille Carter, administrative dean Robert Steinhauer. Avik Gilboa is the faculty representative.

The new Fairfax High School Hall of Fame and the success of its inductees reaffirm the 1926 dedication, "Enter to learn, go forth to serve."●

PENINSULA HUMANE SOCIETY STATEMENT ON ANIMAL PROTECTION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. LANTOS. Mr. Speaker, the Peninsula Humane Society, a nonprofit animal welfare organization serving San Mateo County, has presented testimony to the Democratic Platform Committee on the subject of animal protection. The testimony was submitted by Richard Ward, executive director of the society.

The issues raised in the society's statement are important ones, and I ask that they be included in the RECORD. For those of us who are concerned with animal welfare—and this should include all of us in the House—this thoughtful statement deserves our attention and our action.

TESTIMONY TO THE 1984 DEMOCRATIC PLATFORM COMMITTEE ON ANIMAL RIGHTS

The animal welfare movement has grown in numbers and sophistication in the past decade. The Peninsula Humane Society is in the forefront of this movement. In the past, humane societies focused only on pet care. Now, we have broadened our scope and are addressing all animal protection issues; we have progressed from concerning ourselves with animal welfare to animal rights. In so doing we have become more politically oriented, campaigning for changes in society that will guarantee better treatment for animals.

Some of the issues the animal rights and protection movements are concerned about include:

(a) Factory farming is the mass production of farm animals for food by crowding a large number of chickens, pigs or other animals into small spaces so they can be managed in a cost-saving way. Billions of livestock and poultry are raised in total confinement and slaughtered after a short, miserable life. Many of our farm animals never see the light of day, don't have the freedom to graze, and rarely have the opportunity to interact with others of their own species.

(b) The care our domestic pets receive must also be addressed. Animal shelters kill approximately 18 million dogs and cats a year because we cannot find homes for them. The pet overpopulation problem is getting worse, despite low-cost spay and neuter clinics and humane education programs. It is deplorable to kill so many healthy dogs, puppies, cats, and kittens simply because people are not properly caring for or sterilizing their pets.

(c) Sixty to 80 million research animals die in laboratories annually in our country. Four billion tax dollars is spent each year on animal experimentation. Many of the experiments animals are used for are unnecessary and repetitive. We are not calling for a complete halt to animal research, but we are demanding that research animals be provided with better housing, pre- and post-surgical care, and pain relieving drugs. In

addition, we want an information service developed to prevent unintended duplication and to provide information on alternatives to animal experimentation. Furthermore, each research institution utilizing animals should have representatives from animal rights organizations on their animal care committees to represent community concerns for the welfare of the living subjects.

We must change the status of animals in our society. In order to accomplish this it is important that we strengthen the laws protecting animals and introduce more legislation to stop the injustices many animals suffer. Ideally, a day will come when our laws will reflect ethical values.

The minimum right that all animals should possess is the right not to suffer needlessly. We have not even given this basic right to the animals. At the very least, all animals should be guaranteed humane care and treatment.

The Democratic Party has championed the unfortunate, the downtrodden, the unrepresented. We challenge the Democratic Party to extend their concern to their most silent constituency—the animals. They cannot speak in their own defense; we must accept this responsibility.●

U.S. ANTISATELLITE PLAN DRAWS FIRE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. BERMAN. Mr. Speaker, as the debate on the Department of Defense authorization continues, I wanted to enter into the record the opinion of the NATO defense ministers on U.S. plans for war in space. Our NATO allies join many of us in this House in concern and dismay about proposed antisatellite weapons testing and development. I urge my colleagues to read the following article from the Washington Post of last month:

[From the Washington Post, Apr. 4, 1984]

U.S. ANTISATELLITE PLAN DRAWS FIRE: NATO MINISTERS REPORTEDLY EXPRESS SKEPTICISM, ANXIETY

(By Fred Hiatt)

CESME, TURKEY, April 3.—NATO defense ministers meeting here today expressed skepticism and nervousness about U.S. plans to prepare for war in space, according to officials from several countries.

The ministers listened politely as Defense Secretary Caspar W. Weinberger explained his administration's plans to develop a comprehensive space-based missile defense and defended its decision not to seek a treaty with the Soviet Union banning antisatellite weapons. After the session, which U.S. officials had predicted would be "harmonious," several allied ministers indicated they were not altogether reassured.

"My impression is the Europeans were broadly united in their critical questions," West German Defense Minister Manfred Woerner said, referring to what the Reagan administration calls its "strategic defense initiative." He added: "I can't see that it would provide greater protection or stability. I can only hope it would give an incentive for arms control."

Woerner's comments were echoed by other ministers as a meeting that was supposed to be calm and almost celebratory took place amid some uneasiness. The North Atlantic Treaty Organization's Nuclear Planning Group is meeting for the first time since beginning deployment of cruise and Pershing II missiles in Europe.

But with U.S.-Soviet talks on arms control broken off, and the Dutch wavering in their commitment to deploy the missiles, the ministers found that the contentious issue was not behind them. The NATO allies fear that a Dutch decision not to accept its 48 nuclear-armed cruise missiles would invigorate peace movements in the other nations that have agreed to field the medium-range missiles: West Germany, Britain, Italy and Belgium.

Dutch Defense Minister Jacob de Ruiter acknowledged that his colleagues urge him in "a loud and clear chorus" to accept the missiles. But he responded that he could make no commitment until his parliament votes in May or June.

Much of the session, taking place in a hotel overlooking the Aegean Sea in this Turkish resort, was consumed by Weinberger and other U.S. officials explaining their space program and allowing European ministers to raise questions about it.

Weinberger assured the allies, according to a U.S. official who asked not to be identified, that the missile defense program will remain in a research phase for several years, that the allies will be consulted at every step, and that European security will not be sacrified.

"There was, as there has been before, concern about whether the coverage of a strategic defense system would extend to and protect Europe as well as the United States, to which Secretary Weinberger gave an unequivocal affirmative answer," the U.S. official said, "I believe that the ministers were reassured by the secretary's very clear answer."

De Ruiter agreed that no one had urged the United States to suspend its research effort, especially in the face of a vigorous description of what U.S. officials said is an active Soviet program to develop missile defense, but de Ruiter said it remains "a discussion full of question marks. It has many aspects that can worry us."

The Europeans said they worry that a missile defense system protecting the United States might leave Europe vulnerable. They also raised the issue of a "possible danger of a defensive arms race," as Woerner said, that would be costly to them and destabilizing to U.S.-Soviet relations.

Several allies have urged U.S. officials to enter into negotations with the Soviets to ban such weapons in order to forestall an arms race in space and U.S. reluctance to do so could fuel European concern about lack of progress in arms talks in general.

Officials said Woerner and de Ruiter both noted, however, that Weinberger had ruled out a total ban on such weapons, which the Soviets have developed and the United States is now testing, but said some partial controls might be possible.●

THANKING MEXICO

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. COLEMAN of Texas. Mr. Speaker, the visit of Mexican President Miguel de la Madrid yesterday underscored the need to focus national attention on the issues involving our neighbor and ally to the immediate south. An article today in the Washington Post underscores the vital role that our ally has played in dealing with the regional turmoil in Central America as well as managing successfully its foreign debt. As the noted columnist Joseph Kraft points out.

Finally, if only because Washington has so thoroughly botched the matter with such heavy costs to this country's good name, there is a strong case for handing off Central America and its problems to the enlightened leader of Mexico. Certainly the administration has offered nothing nearly as sensible as the proposals advanced by Mexico and the other members of the so-called Contadora group for a negotiated settlement.

The article follows:

THANKING MEXICO

(By Joseph Kraft)

The global economy is so much of a piece that a basic defect can manifest itself in many different kinds of aches and pains. The immediate sore spot, we are reminded by the visit of President Miguel de la Madrid, is Third World debt.

But largely because of the Mexican president's political courage and economic sobriety, the debt problem is proving to be manageable. So it makes sense for the Reagan administration to shower kindnesses on de la Madrid, especially in the touchy matter of Central America.

Record American budget deficits of $200 billion for the foreseeable future constitute the underlying vulnerability in the world economy. The Treasury has to borrow to pay the debt. Since January there has also been brisk demand for loans from the private sector. The competition has caused interest rates to soar. In the past two months the prime rate which banks charge their best customers has climbed from 11 to 12.5 percent—a staggering rise that could yield many adverse consequences.

Recession for one. If the Federal Reserve Board moved dramatically to tighten credit, interest rates would shoot still higher. Corporate and consumer borrowing would shut down, bringing the economy to a screeching halt. But the Fed has moved gently, not in abrupt fashion. All kinds of indicators—including good retail sales for April—show that the recovery continues apace. Those administration officials who have recently been attacking the Fed for tight money only prove they don't comprehend what has been happening.

Inflation is a second awful possibility. The economy has been growing to the point where some goods and some skilled labor are becoming scarce. The experience of the last 15 years makes people wary of inflation anyhow. The huge deficits feed that wariness. If the Fed printed more money to accommodate loan demand, an inflationary

spiral could take off. But warnings by Chairman Paul Volcker and the gentle tightening of credit have made overheating of the economy a relatively distant prospect. A sudden inflationary spurt, like a bad recession, seems not on for now.

The panicky psychology engendered by uncertainty about deficits and interest rates represents a third general vulnerability. Investors all over the world sense that they are on uncharted seas. The stock market eases down despite record earnings for major companies. The bond markets go wild. Rumors of possible failure oblige the Fed and 16 private banks to put together the largest rescue package ever to save the country's ninth-largest bank, Continental Illinois.

A particular danger is that the Europeans, Japanese and other holders of big reserves might suddenly cease buying American securities in record amounts. A withdrawal would drive interest rates higher, depress economic activity and beget both recession and inflation. But that hasn't happened either, for the foreigners are continuing to pour money into this country.

That leaves the problem of the Third World debt. More than a score of countries, chiefly in Latin America, have accumulated hundreds of billions of dollars in debt to thousands of commercial banks in this country, Europe, Japan and the Middle East. The recession of 1980-1982, plus a huge rise in interest charges, made it impossible for the debtor countries to meet their obligations.

Most of the debtor countries have now worked out through the International Monetary Fund arrangements for rescheduling payment of what they owe the banks. As a condition, they have been obliged to swallow austerity programs that curb government spending, business activity and wages. Political difficulties—including protest riots—have developed in Argentina, Brazil, Peru, the Dominican Republic and other nations. The recent rise in U.S. interest rates, by suddenly increasing what the debtor countries have to pay, turns the screw sharply on the political tensions.

De la Madrid comes on stage at that point as an undisguised blessing. A sober man, trained in finance, he has assembled a Cabinet which rivals in quality—if it does not surpass—any government in the world. Mexico has led the rest of the world in rescheduling its debts, applying austerity measures and cooperating with international and U.S. authorities on joint management of the debt problem.

It was the Mexicans who came up with the idea of a Hispanic loan which saved Argentina from a default at the end of March. Similar devices to ease and postpone payments can, with Mexican cooperation, nurse the Latin American debt problem along until the danger of crisis is passed.

But the price of Mexican cooperation is American attention to some of de la Madrid's political problems. He not only deserves the reward of better terms on debt payment; he has also earned an easing of trade restrictions. Finally, if only because Washington has so thoroughly botched the matter with such heavy costs to this country's good name, there is a strong case for handling off Central America and its problems to the enlightened leader of Mexico. Certainly the administration has offered nothing nearly as sensible as the proposals advanced by Mexico and the other members of the so-called Contadora group for a negotiated settlement.●

NEW QUESTIONS ON OSHA AND DAN RIVER EXPERIMENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. OBEY. Mr. Speaker, the Washington Post on Sunday published a story which indicates that the Occupational Safety and Health Administration has permitted certain employers to forgo the expense of meeting minimal required worker health standards in the name of science. Specifically, workers would be exposed to greater concentrations of hazardous substances than permitted under Federal regulation to determine the incidence of disease that would develop among such workers.

One instance of this practice involves the Dan River Co. in Virginia. This company, unlike most of its competitors, has failed to adopt necessary engineering controls to limit employee exposure to cotton dust which is linked to serious respiratory disease. The company in return will cooperate in studying what effect this "experiment" has on its workers.

In this instance, the actual variance from normal cotton dust control requirements has been granted by the State of Virginia at the urging of the Occupational Safety and Health Administration in Washington. Virginia operates its own OSHA program under direction from the Federal agency and under legal requirement that its standards and enforcement must be at least as strict as those of the Federal Government.

Former Assistant Secretary Thorne Auchter encouraged the "experiment" in a letter to Virginia officials which states: "We at Federal OSHA have had an opportunity to review the Harley/Hatcher proposal and find that the study addresses a fundamental question in the field of cotton dust disease and has the potential for making significant contribution in that area. Except for the lack of available moneys, OSHA would have funded the project."

Human experimentation is a very sensitive and questionable proposition regardless of the value of the scientific findings that may result. It appears from documents provided by the Labor Department that OSHA was not only less than careful in assessing fundamental problems involving worker experimentation, but may have done far less than the Auchter letter implies to determine that the experiment would result in valuable or useful findings. The current OSHA chief, Patrick Tyson, confirmed in a letter which I will include at the end of these remarks, that only one written review of the study was done by OSHA. That review, was by Dr. Susan Harwood in the OSHA Office of Health Standards. It is also included at the end of these remarks. Among the statements made in her review are the following:

> It is unclear to me exactly how they intend to accomplish the objectives that are set out on page 1.
>
> This version of the background information is less biased than the last. However, it still lacks scientific objectivity.
>
> On other matters in the proposal, I am concerned about approval for human experimentation and about approval for any variance requests in connection with this study.
>
> . . . I question the value of the results of this research particularly since it is not clear how the experiment will be carried out . . .

My information indicates that only two other people saw the study and neither made written comments. One was a Dr. Weil of the Brookings Institute who told my office that he could barely remember the proposal much less any verbal comments he might have made. The other was Dr. Leonard Vance of the Office of Standards at OSHA. While as Mr. Tyson's letter point out, "Dr. Vance did not commit his review to paper," it would certainly seem that his views on the experiment must have differed radically from Dr. Harwoods. A copy of the preliminary draft of the Auchter letter to the State of Virginia which was obtained by my office demonstrates that Dr. Vance not only reviewed the research proposal but then wrote the letter which was signed by the Assistant Secretary. Nowhere in the files sent to me by the Department does there appear a response by Dr. Vance or the agency to the criticisms of the research proposal raised by Dr. Harwood. I find it intriguing that Dr. Vance appears to have countervened the only known written review of the proposal and then to have personally written the agency's recommendation to the State of Virginia, given his previous work as an assistant attorney general for the State of Virginia where his boss was Marshal Coleman, the individual who is now representing Dan River in its efforts to obtain the variance.

The Post story also pointed out that although the Dan River Co. would save an estimated $7.5 million in engineering control costs if the variance were granted, OSHA was recommending that the Federal Government pick up the tab for the $400,000 plus cost of the proposed study. OSHA recommended that NIOSH provide the funding. My office was told by officials at NIOSH that not only is NIOSH disinclined to fund any such study, but I understand that they have never even received a grant proposal from Dan River or the scientists who drafted the proposal on which the State of Virginia based its decision to grant a variance. It is unclear now whether the company plans to pay for the research

itself or how the research will be accomplished.

As serious as the whole notion of this kind of proposed experiment is, the honest pursuit of it would probably be the best light that the Labor Department's actions in this situation could be placed in. I wonder however if a less sympathetic interpretation of the Department's role might emerge? Might people get the idea that the experiment was simply agreed to so that one company would be able to save money by not having to comply with health standards that their competitors have to comply with? Documents I have received suggest that there was little effort to insure a probable increase in the scientific understanding of cotton dust disease to offset the probable damage to the lungs of that company's workers.

DEPARTMENT OF LABOR,
ASSISTANT SECRETARY FOR
OCCUPATIONAL SAFETY AND HEALTH,
Washington, D.C.

Hon. DAVID R. OBEY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN OBEY: This is in response to your letter to Secretary of Labor Raymond J. Donovan dated May 9, in which you requested several documents relating to cotton dust research and the Dan River Company.

You requested "correspondence dated November 3, 1983 from Mr. Thorne Auchter to representatives of the Dan River Company concerning a proposed study regarding the cotton dust standard." I assume that you are referring to a November 3, 1983 letter concerning this matter sent from former Assistant Secretary Thorne Auchter to Mrs. Eva S. Teig, Commissioner of Labor and Industry for the Commonwealth of Virginia. I am enclosing a copy of this letter.

You also requested a copy of the proposed study of Dan River employees entitled "Etiology of Pulmonary Dysfunction in the Cotton Textile Industry." While it appears that at least one copy of the proposed study was circulated within the National Office, it was not a controlled document and therefore not made a part of any particular file or record. Individuals who may have seen the document have been asked if they retained a personal copy but none apparently had been retained.

In response to your third question, both Dr. Leonard Vance, Director of Health Standards and Dr. Susan Hardwood of the Health Standards Directorate reviewed the proposed study. Dr. Vance did not commit his review to paper, although he recalls making some marginal comments on the proposed study. I am enclosing a copy of Dr. Harwood's written comments. Regarding your fourth question about independent peer review, Dr. Hans Weill, currently at the Brookings Institute, informally reviewed the proposed study but submitted no written comments to either Dr. Vance or Dr. Harwood.

Your final request was for "correspondence between OSHA staff and any employee or representative of the Dan River Company concerning the proposal." We have no record of any correspondence between OSHA staff and the Dan River Company on this matter.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

PATRICK R. TYSON,
Deputy Assistant Secretary.

SEPTEMBER 12, 1983.

DR. VANCE: I have only had an hour or so to read Harley's grant proposal so my comments are pretty superficial. I think that the proposal should be reviewed by some other individuals who are qualified to comment on it.

After reading the proposal, it is unclear to me exactly how they intend to accomplish the objective that are set out on page one. Do they intend to move the workers from the carding areas to the weaving rooms? How long will they stay in each job position? When will they be tested? How will they treat the area to get rid of the Actinomycetes? They give some procedures in great detail, but I did not find the basic protocol that they intend to use.

This version of the background information is less biased than the last. However, it still lacks a certain scientific objectivity. They state several times that the weave room dust contains no cotton trash dust. This is far from a scientific certainty. Although they do include an appendix with a summary of Hatcher's work on the content of this dust, I am not aware that this work has been published in a scientific journal and been subjected to the scrutiny of the scientific community. Although they obviously favor their Actinomycetes hypothesis, there is no reason to favor this over the other hypotheses. Hatcher was not able to get the results of this work published in Science.

On other matters in the proposal, I am concerned about approval for human experimentation and about approval for any variance requests in connection with this study. This should not be used as a vehicle for escaping the compliance deadlines for the cotton dust standard. I think that the $45,000 allocated for dust and bacteriologic analysis needs to be itemized. It seems excessive.

In my opinion, OSHA should not fund this research. My reasons are three-fold: (1) I question the value of the results of this research particularly since it is not clear how the experiment will be carried out, (2) This is basic research and should be funded by NIOSH or by the textile industry, and (3) I am also concerned about the possible implications of OSHA's funding this research on the standard development process and subsequent litigation.

SUSAN HARWOOD.

NOVEMBER 3, 1983.

Mrs. EVA S. TEIGS,
Commissioner, Department of Labor and Industry, Commonwealth of Virginia, Richmond, Va.

DEAR MRS. TEIGS: I understand that Virginia's Occupational Safety and Health officials are presently considering a variance request from the Dan River Corporation based on the company's participation in the research project "Etiology of Pulmonary Dysfunction in the Cotton Textile Industry" proposed by Drs. Russell Harley and John Hatcher of the Medical University of South Carolina and Clemson University.

We at Federal OSHA have had an opportunity to review the Harley/Hatcher proposal and find that the study addresses a fundamental question in the field of cotton dust disease and has the potential for making a significant contribution in that area. Except for the lack of available monies, OSHA would have funded the project.

Because of our interest, we are presently working with NIOSH in an effort to facilitate their funding of the project. In these days of tight fiscal restraints on government, however, we also have suggested that additional attempts be made to secure private funding.

The research proposal prepared by Dr. Harley and Dr. Hatcher has been reviewed by Dr. Leonard Vance, OSHA's Director of Health Standards, members of his staff and an outside peer reviewer. This review resulted in the submission of an improved, still stronger proposal.

Unfortunately, as is often necessary, we have had to regulate cotton dust on the basis of incomplete scientific information. Because we have never identified the causative agent of cotton dust disease, we can't be sure that our current standard represents the best option available for protection of the health of textile workers.

Virginia's encouragement of such studies would appear to be in the best interests of OSHA and the health of textile workers. In the recent hearings OSHA conducted on its proposed revision of the Cotton Dust Standard, a number of eminent physicians with expertise in the study and treatment of bysinosis testified to the need for further research on this disease.

On its merits the Harley/Hatcher proposal deserves your serious consideration. Understanding the cause of cotton dust disease could result in a significant advance in its control. Good science as the basis for regulation in the occupational health field is worth encouraging.

Sincerely,

THORNE G. AUCHTER,
Assistant Secretary.●

SAFETY NET HAS HOLES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. FLORIO. Mr. Speaker, one of the most devastating results of the Reagan round of spending cuts in Federal programs has been the failure of the President's so-called safety net to protect those most in need of these programs. At the outset of the Reagan war on waste and fraud in welfare programs, we were assured that the truly needy would be cushioned from the effects of the spending cuts by this special safety net. In reality, those most hurt by these spending cuts are the people who can least afford to lose their benefits: the poor, the elderly, and the handicapped.

Mr. Speaker, the people of New Jersey have been especially hard hit by these spending cuts. No welfare program was left unscathed by the Reagan spending cuts as he slashed aid to families with dependent children, food stamps, legal services for the poor, Federal health, housing and nutrition programs.

I would like to underscore for my colleagues the large numbers of people in New Jersey alone that were affected, in some way, by these spending cuts. More than 7,000 disabled people lost their benefits. Cuts in medicaid resulted in loss of health care coverage for 36,000 families. Nearly 80,000 families living in low-income federally subsidized housing were required to pay higher rents. Because of cuts in Government programs, 20,000 New Jerseyans lost their Government jobs and joined the ranks of the unemployed. Even the most vulnerable members of our society, the children, were affected. Over 36,000 poor children were removed from the free or reduced price school lunch program. All those affected are families living at or slightly above the poverty line. These statistics represent human beings that have been left penniless, homeless, and hungry, human beings that have been forced to struggle even more to make ends meet. No human being should be arbitrarily reduced to this level by another human being. In short, the safety net that we were promised never materialized.

I commend the attention of my colleagues to a recent editorial on this important issue that appeared in the Sunday Record:

THE SAFETY NET HAS FAILED

The safety net. Ronald Reagan coined the phrase in 1981 when he proposed cutting federal programs for the poor. The president said his administration would maintain a support system for the "truly needy," but would dismiss from the welfare rolls those who simply wanted to get something for nothing.

Mr. Reagan started with the presumption that lots of people fell into that category. He made hefty cuts, and Congress went along with too many of them. He slashed Aid to Families with Dependent Children, food stamps, legal services for the poor, and federal health, housing, and nutrition programs.

Last week, Record reporters explored the consequences of the Reagan budget cuts in New Jersey. The sheer numbers are staggering. More than 7,000 disabled people in the state lost their benefits. Nearly 36,000 families lost coverage under Medicaid, the federal program that funds health care for the poor. Rents went up for 80,000 low-income families in subsidized housing. Nearly 20,000 New Jerseyans lost their government jobs. Another 36,000 poor children went without free or reduced-price school lunches.

If you subscribe to Mr. Reagan's view that welfare is overrun with freeloaders, the Reagan budget cuts are an amazing success and the government has saved millions by getting the undeserving off the public dole and breaking the debilitating cycle of dependency for others. Among the working poor, the group hardest hit by the cuts, we found people who've chosen work over welfare. They're not getting ahead, but they're getting by, and are justifiably proud of that.

But the other side of the story isn't so uplifting. A good percentage of these cuts affect the most vulnerable members of our society: children in single-parent families. Life has already dealt many of these kids a bad hand. They are vulnerable to malnutrition, mental retardation, child abuse, and juvenile delinquency. Now they're losing day care while their mothers work, a nutritious meal in the school cafeteria, special attention in the classrooms, and caring adults who can detect early problems at home.

Many others who've been hurt by the president's policies are elderly. Their suffering has been less dramatic—thanks to a highly organized senior citizen's lobby in Washington. Still, the president has chipped away at their community centers and home-meals programs and undermined their security and mental health.

The president brags about his budget-cutting successes, but he doesn't say much about the people behind the statistics who were struggling even with government help and must struggle harder now. They are the mother who prays that her children won't get sick because she no longer has federal health insurance, the abused wife who'll be denied legal help to get out of her marriage, the elderly woman who can't afford dentures that Medicare will no longer pay for.

For every dollar saved, there is a hardship—some minor inconveniences, others devastating and life-threatening. The poor are confused by the changes but resigned to their effects. Their advocates are frustrated and angry. Those are the results of Mr. Reagan's war on the poor in New Jersey and across the country. By this measure, Mr. Reagan's safety net is too flimsy to protect the thousands in our state who've already fallen into poverty.●

RETIREMENT OF AL COLLIER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. RODINO. Mr. Speaker, it is with great pride, but also a certain sadness, that I rise today to recognize a man who has made a tremendous contribution to our society, Al Collier. His retirement from the Essex County Correctional Center this year marks the end of a notable era in law enforcement and prison reform in Essex County.

After 24 years in law enforcement, Al Collier has certainly left his mark on the field. His progressive and innovative programs have become role models all over New Jersey and the country.

When he became warden of Essex County Correctional Center—the State's largest county jail—a serious overcrowding crisis was brewing, which resulted in Federal litigation. It was Al Collier's professional manner and the positive programs he developed that averted a potentially explosive situation.

Chief among his many achievements would have to be the number of inmates who earned high school equivalency degrees because of Al Collier's tremendous emphasis on education and his belief that the criminal justice system ought to be a fair place offering a chance for productivity in the future.

Al Collier has worked all of his life to make our community a better place. He has inspired countless young people by encouraging them to seek higher education. He has served as a role model for others in the correctional field, and effectively recruited more minority staff members for the prison system.

In addition to his distinguished career in law enforcement, Al has been active in civic and community activities, including his role as Democratic chairman of East Orange. He was president of the New Jersey Jail Warden's Association, and is currently first vice president of the New Jersey chapter of the American Correctional Association.

Mr. Speaker, on May 24, the many friends and admirers of Al Collier will honor him with a testimonial dinner. I can think of no better way for us to pay tribute to this very special person, who has made a tremendous difference in the lives of so many in Essex County. I take this opportunity to publicly wish Al all the best in his retirement. He will certainly be missed, but he leaves behind a criminal justice system that he has improved greatly.●

A SALUTE TO MRS. GLADYS BERNSTEIN: 40 YEARS AT MIDWOOD HIGH SCHOOL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to an outstanding woman, Mrs. Gladys Bernstein, who has devoted the past 40 years of her life to public school education as a social studies teacher at Midwood High School. Next week, a celebration will be held at Midwood, organized by Dorothy Rabinoff, to honor this remarkable woman and the contributions she has made throughout her long career at Midwood.

As a former mayor of Midwood and a student of Mrs. Bernstein's social studies classes, I wanted to take this opportunity to say a few words about this wonderful woman and about the tremendous impact which talented and dedicated teachers like her have, not only on the lives of the students they teach, but also on the entire community. Mrs. Bernstein taught European history so that it was challenging and fascinating. She had extremely high standards for her students and expected all of us to measure up to those ideals. And most of her students over the years worked hard to reach those standards.

Master teachers like Mrs. Bernstein are really the essential element for educational excellence. They not only provide information and teach skills,

but they inspire their students to learn, to become knowledgeable about the past and the present, and to set goals for achievement in the future.

Teaching is not for everyone. Endless hours of preparation are needed to produce well-paced lessons, which must be followed by more hours correcting homework, planning tests, and counseling students. High school students can be ingenious at finding ways to disrupt a class, distract a teacher, or stump even the best prepared teachers with questions an Einstein or Aristotle could not answer. Yet, good teachers accept these challenges as part of the job, and keep going, working hard to maintain the interest of their students and trying to communicate their enthusiasm for learning. And Mrs. Bernstein was a good teacher whose steady performace at Midwood over the years made her almost a legend.

Fortunately for generations of high school students at Midwood, Mrs. Bernstein loved her work; and she taught her classes with endless patience and with great enthusiasm and perseverance. She kept her students on their toes, worked them hard, and refused to heed cries that her assignments were too long, the classwork too hard, or the test unfair.

I wish that I could be at Midwood this Wednesday when her colleagues and students pay tribute to her and to the standards of excellence which have been her hallmark for 40 years. If our public school systems need one resource above all, I believe it is dedicated competent teachers, like Mrs. Bernstein, who will be respected and appreciated by their community for the important work they do. For without teachers able to inspire the young people entrusted to them with the desire to learn, and to excel, our schools would be poor indeed.

I am happy to have this occasion to salute Mrs. Berstein and to thank her for all that she contributed to make Midwood such a special place. May her example inspire others to continue the important task of educating out Nation's children.●

FREE THE REPUBLICAN PLATFORM COMMITTEE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mrs. SCHROEDER. Mr. Speaker, members of the minority party, long on greasepaint and short on crowd, has been lecturing the majority in recent days on the virtues of openness and free debate.

Comes now the minority party to demonstrate how they silence dissent within their own ranks.

Will the distinguished minority whip invite the C-SPAN cameras to the Republican platform committee hearings?

[From the National Journal, May 19, 1984]

WASHINGTON UPDATE

Southpaw pachyderms . . . To counter liberal Republican's bitter complaint that the Republican platform is being drafted in back rooms, platform committee chairman Rep. Trent Lott of Mississippi says he will allow hearings in Dallas the week before the GOP national convention. But the hearings will last only a day or two and will be held before eight subcommittees, not the full committee, Lott says. Such a format isn't likely to satisfy Rep. Jim Leach, R-Iowa, who wants to testify on a long agenda of issues on behalf of the Ripon Society, which he chairs. Another GOP liberal activist, Josiah Lee Auspitz, threatens a fuss if the party fails to follow through with a study, promised at the 1980 convention, of delegate allocation rules that favor conservative western and southern states.●

OMB CRITICIZES INTERIOR ON OIL-GAS LOTTERY PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. MILLER of California. Mr. Speaker, there are few programs as riddled with fraud and abuse, or as wasteful to the American taxpayer, as the simultaneous leasing program for onshore oil and gas reserves (SOG).

Abuse is endemic to this ludicrous program. Two Secretaries of the Department of the Interior have been forced by repeated scandals to suspend the program twice since 1980. There have also been investigations by the Department of Justice, the FBI, and numerous State justice and securities agencies.

The current system, by which over 95 percent of all onshore Federal lands are leased for oil and gas exploration, is little more than a glorified church raffle. Tracts which may contain hundreds of millions of dollars, which rightly belong to the public, are leased for a $75 entry fee—a fee which was only $10 prior to the enactment of my legislation in 1981.

Even with the higher entrance fee, the public is being cheated. A recent report from the Congressional Budget Office suggests that replacing the lottery with a competitive leasing system, as my legislation H.R. 4191 would do, would yield $600 million a year for the States, and $60 million for the Federal Government. Experience with State programs, where lottery leasing has been replaced by competitive systems, shows that the public profits more, and that the role of independent operators is not diminished, by shifting to the more rationale and profitable competitive leasing system.

Everyone seems to understand this principle except the Department of the Interior, which operates the leasing program. After the latest scandal, Secretary Clark ordered several changes in the leasing system, the most significant being the requirement that participants in the leasing program pay the first year's rental in advance at the time of tendering their entry fee. The stated goal of this "reform" is to discourage mere speculators from participating in the lottery.

Yet the Interior Department, in documents circulated to Congress, admitted that the upfront rental payment is one of the least profitable, and most costly of all the leasing alternatives considered by the Department of the Interior.

There is a better way, and that is to replace the lottery with a competitive leasing program. This is the goal of legislation I have introduced, as well as legislation written by our colleagues JIM WEAVER of Oregon, and DALE BUMPERS of Arkansas.

Last month, the Office of Management and Budget joined the effort to replace the oil and gas lottery with a competitive leasing system. I would like to submit for the RECORD a letter from OMB to the Solicitor of the Department of the Interior which addresses the urgency of instituting a competitive leasing system. I am also including a letter from California Attorney General John K. Van De Kamp in which he endorses my legislation to achieve this long overdue goal.

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 16, 1984.

MARY L. WALKER,
Deputy Solicitor, Department of Interior, Washington, D.C.

DEAR MS. WALKER: Last October the Bureau of Land Management suspended Simultaneous Oil and Gas (SOG) leasing in response to reports of abuse in the program, and on March 15, 1984, the Bureau proposed regulatory changes to improve the program (49 Federal Register p. 9752). Prior to issuance of this proposal, OMB staff met with several Bureau officials to discuss alternative leasing systems and program reforms developed since October. We were impressed by the scope of alternatives considered, the thoroughness of the analysis, and the clear articulation of evaluation criteria.

We believe, however, that the alternative proposed in the March notice—advance payment of the first year's lease rental—falls short of the reforms needed in this program, and is inferior to other approaches according to the Department's evaluation criteria. In our view, a straightforward competitive offer leasing system would be by far the best cure for the deficiencies of the existing SOG program. The rental offer system (in which lands are offered initially at a very high rent, then reoffered at progressively lower rents) also appears to offer substantial advantages over the advance rental proposal.

The primary goal of the noncompetitive oil and gas leasing programs is to promote discovery and production of hydrocarbon resources by assigning leases, quickly and efficiently, to those who are willing and able to

explore and develop them. Both a competitive offer system and a rental offer system would accomplish this, without having to rely on the secondary assignment market to correct the inherently arbitrary nature of the lease awards in the current SOG system. This is the approach set forth in the Regulatory Policy Guidelines issued by the Presidential Task Force on Regulatory Relief last summer (Reagan Administration Regulatory Achievements, Presidential Task Force on Regulatory Relief, August 11, 1983, pp. 43-45).

A secondary goal of the noncompetitive program is to recover for the taxpayer the maximum practicable share of fair market value for leased resources. The proposed advance rental system is particularly poor at achieving this goal. Compared to the existing SOG system, federal revenues [1] would decline by between $17 and 37 million per year, while state revenues would remain unchanged. A rental offer system, on the other hand, could increase federal revenues by $13 million and state revenues by $108 million per year. We expect that a competitive offer system would do at least as well as a rental offer system. Overall, the current SOG program recovers between one-third and one-half of the market value of the leased lands. Alternative systems can do far better than this.

A third goal, and the motivation for this rulemaking, is to assure that leasing systems for federal lands are designed to minimize fraud and abuse. The SOG program is susceptible to fraud and abuse, as the events of the past year have demonstrated. While the proposed advance rental system might alleviate these problems somewhat, a substantial risk would remain. In contrast, a competitive offer system is highly resistent to abuse. While collusion in bidding is always a possibility, it would be extremely difficult in a market with as many potential bidders as the onshore oil and gas market. Similarly, a rental offer system would be far less vulnerable to fraud and abuse than the SOG system.

Finally, ease of administration is an important concern in evaluating alternative leasing systems. In the case of a competitive offer system, the chief administrative consideration would be whether a prior determination of fair market value was needed before conducting a sale. Even without a fair market value determination, however, we believe competitive leasing would outperform the SOG system. A rental offer system would be something of a novelty, but we see no major administrative obstacles to overcome.

We believe now is the opportune time to make thorough reforms in the noncompetitive oil and gas leasing program that would cure the current program's underlying problems as well as its symptoms. We urge you to reconsider the options that would assign leases directly to persons interested in developing them and that would recover more of their value for federal and state taxpayers. My staff is available to assist you in any way we can.

Sincerely,

CHRISTOPHER DEMUTH,
Administrator for Information and Regulatory Affairs.

[1] These figures are based on the Department's own analysis of the performance of alternative leasing options. We have not reviewed all the assumptions underlying this analysis, but the trends appear approximately correct. OMB would be happy to work with DOI staff to refine these revenue estimates.

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
May 2, 1984.

Hon. GEORGE MILLER III,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Attention: John Lawrence.

DEAR GEORGE: This is to express my support of your pending legislation eliminating the federal lottery for oil and gas leases. Many California investors have suffered from its abuses. While reforms have been attempted periodically throughout the years, the inherent deficiences in the system are best demonstrated by the fact that Wyoming—the state where perhaps the most lands subject to the federal lotteries are situated—has abandoned the state lottery system and is vehemently opposing the federal lottery.

Finally, it appears that abolition of the lottery and substitution of a realistic system of competitive bidding will result in vastly increased revenues. The Congressional Budget Office has estimated that $660 million in potential revenue (which would have been shared with the states) has been lost as a result of this discredited practice. Data supplied by both Wyoming and North Dakota at the recent Congressional hearings on this subject demonstrates rather conclusively that federal revenues will be increased as a result of abandonment of the lottery practice.

Abolition of the federal lottery system was recently called for by the unanimous resolution of the National Association of Attorneys General. I am pleased to concur in the views expressed therein, and to endorse your proposal.

Very truly yours,

JOHN K. VAN DE KAMP,
Attorney General.●

AN EVENING OF TRIBUTE TO BARNEY QUILTER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Ms. KAPTUR. Mr. Speaker, on May 23, hundreds of people from all walks of life will gather in my district for an event which is long overdue—an evening of tribute to Barney Quilter. This will be more than a standard political dinner in honor of an elected official; for Barney Quilter is respected for far more than his position as speaker pro tempore of the Ohio House of Representatives. Rather, people will be taking part in this special occasion because Barney Quilter is a truly remarkable human being.

For nearly 20 years, Barney Quilter has added the highest degree of character, loyalty, integrity, and decency to the political and legislative processes of the State of Ohio. His positive nature and strength of conviction have made him a highly successful elected official and have endeared him to all those he represents and all those with whom he comes in contact.

Though he has tremendous responsibilities in the State house, Barney Quilter, nonetheless, involves himself in a wide range of community organizations in his home district and Lucas County as a whole. He is active in the Toledo Health & Retiree Center, Inc., the VFW, American Legion, Amvets, Eagles, Boys Club, Moose, Knights of Columbus, East Toledo Club, the River East Association, and Toledo Life Care. If it affects Toledo, Lucas County or, for that matter, the State of Ohio, Barney Quilter is there providing insight, clear thought, and guidance. For those of us in public life, Barney Quilter's advice and counsel are invaluable.

Since he was elected to the Ohio House of Representatives in 1967, Barney Quilter has been an integral part of the most crucial legislative issues facing my home State. Courage and commitment to his constituents and the best interests of the State of Ohio always mark his involvement.

Many young people in my district seeking elective office have used Barney Quilter's career as a model. They do so because they know that Barney Quilter's reputation and success stem from his honesty, his ability to bring out the best in people, to offer hope and vision and his ability at all times to "roll with the punches." Barney Quilter has been and always will be a fighter—fighting for what is right and what is fair.

I commend all of those who are responsible for putting this event together. All of us are fortunate that Barney Quilter chose to turn his skills to public service. I know my colleagues in the House of Representatives join me in saluting Barney Quilter, his beautiful wife, Mary, and his entire family. We are fortunate that he is among us.●

A TRIBUTE TO WILLIAM J. WELSH

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. FAZIO. Mr. Speaker, we all too often fail to recognize the many fine Government officials who give so much of themselves in serving the American people. It was with particular delight that I learned that one of our officials in the legislative branch was honored at commencement exercises at the University of Notre Dame, in Notre Dame, Ind., on Sunday, May 20. The Reverend Theodore M. Hesburgh, C.S.C., bestowed an honorary doctor of laws on an alumnus, William J. Welsh, the Deputy Librarian of Congress, for "his imagination and good judgment . . . in this country and abroad as an innovative leader in librarianship."

As chairman of the Subcommittee on Legislative Appropriations, I have come to know and admire Bill for his deep dedication to the Library of Congress and to service to Congress and the Nation.

Bill's service at the Library of Congress dates to 1947 when he joined the staff following service in the U.S. Air Force, being discharged as a major. Bill's career at the Library of Congress has made him one of the top library experts in the world. In 1971, the American Library Association awarded him the Melvil Dewey Award for his imaginative leadership of the processing department "which has the most immediate and wide-ranging impact on other libraries of any of the departments of the Library of Congress." In 1976, Daniel J. Boorstin, Librarian of Congress, named him Deputy Librarian of Congress, the second-highest post in the Library of Congress.

As Deputy Librarian of Congress, Bill has become a frequent visitor to our subcommittee and has been a most effective advocate for Library of Congress programs. Bill's wit and keen insight has made it a pleasure to work with him.

In the last several years, Bill has devoted tremendous energy to preservation programs designed to preserve the vast storehouse of knowledge at the Library of Congress and other libraries in the United States. He has been in the forefront of the application of optical disk technology to library services and to the storage of knowledge. In 1983, he was awarded the Library of Congress' highest award, the Distinguished Service Award, for these efforts and others in behalf of the Library.

He has served in numerous positions of importance for the American Library Association, the Association of Research Libraries, the International Federation of Library Associations & Institutions, the National Library of Medicine, and the National Commission on Libraries & Information Science.

Bill's vitae establishes him as a leading U.S. librarian, but even more important are his warm human qualities as an administrator and his wide popularity with Library staff. If you travel with Bill through Library of Congress buildings, you are struck by his friendliness and his vast circle of friends on the staff.

I commend Father Hesburgh and the University of Notre Dame for bestowing this high honor on such a devoted and talented public servant.●

INTERNATIONAL SAKHAROV DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. KEMP. Mr. Speaker, today, I am proud to introduce a bill with my good friend and colleague, TOM LANTOS, to grant a Federal charter to the International Sakharov Institute. Our esteemed colleague from New York, Senator MOYNIHAN, introduced the companion bill in the Senate.

Last week Congress passed a bill calling upon the Soviet Union to honor its commitment under the Helsinki Accords to permit both Dr. Sakharov and his wife, Dr. Bonner, to live in the country of their choice, to permit Dr. Bonner to travel outside the Soviet Union to obtain the medical treatment she needs so badly, and to void all criminal charges against Dr. Bonner. The resolution also called upon President Reagan to join with other world leaders to protest the Soviet treatment of the Sakharovs.

It is most appropriate that the bill for the Sakharov Institute be introduced today. Last year, May 21 was declared by the United States and other countries as International Sakharov Day in honor of the great Soviet scientist, humanitarian, and prisoner of conscience, Dr. Andrei Sakharov. Today, Dr. Sakharov spends his 63d birthday in internal exile in Gorky with his wife, Dr. Yelena Bonner. As far as we know, Dr. Sakharov is into the 20th day of a hunger strike to protest the Soviet's refusal to permit his wife to leave the Soviet Union to receive urgently needed medical treatment. Since Gorky is a closed city, our ability to get news of the Sakharovs' current condition is limited.

A Federal charter for the Sakharov Institute would be a formal statement of support by the U.S. Congress for the work and goals of the Institute. This does not require any appropriation; it is merely a recognition of the significant contribution to our society of the organization so honored. A Federal charter also lends the institution prestige and credibility, two factors of particular importance to an institution such as the Sakharov Institute which is just beginning and whose beneficial potential for this country is so great. Other organizations which have received Federal charters include the Smithsonian Institution, Big Brothers of America, and Veterans of Foreign Wars.

The Andrei Sakharov Institute is a Washington-based organization founded by Dr. Edward Lozansky, a professor of mathematics who was forced to leave the Soviet Union because of his outspoken support of Nobel laureate Andrei Sakharov and his humanitarian ideals. The institute has been adopted by the Long Island University as its Washington, D.C., campus. Prof. Sheldon Lee Glashow of Harvard, Nobel laureate in physics, has agreed to serve as the president of the Sakharov Institute and over 40 other Nobel laureates together with presidents of Harvard, Stanford, Columbia, Maryland, Boston, and Brandeis Universities have joined on the board of the institute. Efrem Yankelevich, Dr. Sakharov's official representative in the West, has also agreed to serve on the board.

The goals of the institute are to improve the quality of science and math education, to further Sakharov's humanitarian goals, and to integrate scientific knowledge and ethics.

A further significant aim of the Sakharov Institute is to establish a Center for Soviet Studies, drawing upon the knowledge and experience of recent Soviet emigres and defectors. Given this appropriate forum, these individuals could contribute a great deal to our understanding of the Soviet Union. The center will also collect and publish research papers written by experts still living in the Soviet Union who are unable to freely express their ideas and opinions in their home country.

The establishment of the Sakharov Institute and its recognition by Federal charter would be a great and well-deserved honor for its namesake, Andrei Sakharov, who has sacrificed for the ideals of peace and freedom which he shares with us. The Sakharov Institute will formalize the U.S. support of Sakharov's commitment to scientific scholarship and memorialize his contribution to human rights and freedom of thought.

This will be a clear call to the Soviet Union and the world that Andrei Sakharov and his fellow dissidents and refuseniks are not only remembered, but duly recognized and honored for their struggle for a better world.●

COMPREHENSIVE CRIME CONTROL ACT

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. EDWARDS of Oklahoma. Mr. Speaker, it is a primary responsibility of government to protect its citizens from both external and internal sources of violence. This viability of our society depends on a collective sense of trust that those who have been vested with policymaking authority will fulfill that responsibility through a framework of law. Thomas Jefferson observed that:

It frequently happens that wicked and dissolute men, resigning themselves to the do-

minion of inordinate passions, commit violations on our lives, liberties and property of others * * * Government would be defective in its purpose, were it not to restrain such criminal acts by inflicting due punishment on those who perpetuate them * * *

Unfortunately, Mr. Speaker, this House has failed to carry out this responsibility to protect the citizens of this country because of the demonstrated lack of any serious commitment to the issue of crime by the Democratic leadership of this Chamber.

On March 16, 1983, the Reagan administration sent the Comprehensive Crime Control Act to the Congress for consideration. While the Senate went to work quickly and passed legislation embodying the major provisions of the proposal, it was not until March 7, 1984, almost 1 year later, that the bill was even referred to the relevant subcommittees in this House.

To add insult to injury, we have been told by the chairman of the Judiciary Committee that we will not even be able to consider reform of our bail laws, the exclusionary rule, habeas corpus and capital punishment because they are too controversial.

Mr. Speaker, this is a failure of leadership which strikes at one of the central purposes for which government exists. The Americn people have a right to demand more of their elected representatives. The time is long overdue for action on comprehensive criminal justice reform. The time to act is now.●

NEW GLOUCESTER, MAINE, SIXTH GRADERS PRODUCE FIRST-CLASS BOOK

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. McKERNAN. Mr. Speaker, I ask my colleagues to join me in recognizing the achievements of teacher James Plummer and his class of sixth graders at Memorial School in New Gloucester, Maine who have collaborated with over 50 Maine artists and writers to produce a book which is a treasure trove of ideas for creative inspiration.

In the book, "A Gift From Maine," the State's foremost authors and artists reveal the sources of their creativity, and invite young readers to use those sources to write a story or poem, or paint a picture, thus embarking on their own paths of discovery and learning.

For example, author E. B. White tells about the creative "itch" and recommends keeping a diary to nurture the writing instinct, and artist Jamie Wyeth contributes a drawing of a playful pig, along with instructions for capturing on paper the character of a special pet.

The project began as a result of James Plummer's wish to teach his students basic skills while motivating them to exercise their imaginations and abilities. He decided to turn to the creative community in Maine for ideas and encouragement.

Under his direction, the sixth graders wrote to many gifted people throughout the State and asked them to share their talents. Most responded, and in Mr. Plummer's words, "Each response was a gift to the children." The resulting collection is a gift to all of us.

While this high quality book is intended for children, a reader of any age will likely find inspiration in the pages of "A Gift From Maine." And we all can take pride in knowing what fine work can be accomplished when the generous spirit of a State's creative community is coupled with the energy of a sixth-grade class and its dedicated teacher.●

AN AMERICAN STORY—FRANK A. ZAPPALA, SR.

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. GAYDOS. Mr. Speaker, today I would like to share with my colleagues in the Congress of the United States a story that is typically American. It is the familiar one of a young immigrant who comes to this country and achieves success.

I have known and respected this remarkable individual for many years. I have benefited from his wisdom, his experience, and his guidance. I know of his love for this country, which he adopted as his own in 1919, and of his deep gratitude for the opportunities it afforded him and his family.

Mr. Speaker, America can be proud of Frank A. Zappala, Sr., who on Thursday, May 24, will celebrate his 87th birthday.

Mr. Zappala came to the United States at the age of 6 from the village of Santo Stefano D'Aspromonte in Italy; the youngest of four in the family that took up residence on New York City's East Side. After his graduation from high school, he found employment with an exporting firm that utilized his skill in languages. As a young man, he could speak and write in four languages: English, Italian, Spanish, and French.

Mr. Zappala soon was named to represent the company in western Pennsylvania and ultimately settled in Pittsburgh. While there he met a man who had founded a school of oratory and was impressed with Mr. Zappala's linguistic ability. He asked the young man to teach at his school and suggested he consider a career in law.

The suggestion took root. Mr. Zappala became the first in his family to attend a college of any kind. He enrolled in Duquesne University in 1920, graduating 7 years later with both a B.A. and law degree. He was admitted to the Pennsylvania Bar Association in 1927 and began his law practice by specializing in litigation and immigration, a field where his gift for languages again proved valuable.

In 1930, Mr. Zappala married Josephine Marie Andolina and the couple had four sons, all of whom followed the footsteps of their father into the legal profession.

Frank, Jr., the eldest, founded a successful real estate development corporation, Meret Development, and later cofounded with his brother, Richard, a banking firm that merged with Prescott, Ball & Turbin. Richard currently is senior vice president of the firm and also president of Prescott, Ball Realty.

The second son, Steve, went on to become a managing partner of a law firm and then a judge on the court of common pleas in Allegheny County. Today, he is a justice of the Pennsylvania Supreme Court. Charles, the youngest son, is an original partner and president of the investment banking firm of Russell, Rea & Zappala, Inc.

In the interim, Mr. Zappala's own career was flourishing. He complemented his successful legal practice by serving in the Pennsylvania State Legislature and as a magistrate in the court system of Allegheny County. Today, Frank and Josephine Zappala look back with pride on a successful marriage of 54 years and a family that has grown to include 13 grandchildren.

Mr. Speaker, in the words of young Charles Zappala, his father's story is "a true American success story and reflects with credit on the spirited and industrious nature of the people who developed western Pennsylvania."

I ask the U.S. House of Representatives to join me in applauding Mr. Frank A. Zappala, Sr. on the occasion of his 87th birthday. His story merits such recognition.●

LETTERS FROM CONSTITUENTS

HON. HOWARD C. NIELSON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. NIELSON of Utah. Mr. Speaker, recently I held some town meetings in my district where several of my constituents gave me their ideas on the line-item veto and the Federal budget issues.

I recommend to other Members of the House the reading of these excellent letters.

WEST VALLEY, UTAH.

DEAR CONGRESSMAN NIELSON: Thank you for the invitation to express my views at your upcoming town meeting. I will be out of town March 24th, so I would like to briefly state my feelings regarding the two items to be discussed.

The "line-item veto" can enhance the law making of our Nation. Often a bill presented to the Congress becomes subjected to amendments which are unrelated to the intended topic of the bill. The line item veto allows the President to more accurately state his objections to the bills in question and gives our legislature the opportunity to address particular weakenesses of bills, as pointed out by the President's veto.

The Federal budget of course, is one of the most important issues facing our nation. While the President can submit his recommendations to Congress, the ultimate responsibility for the budget rests with our legislators. This is one of the many aspects of the constitution which, I feel, too many citizens do not understand. While I am not a "constitutional scholar", I have studied it and continue to study it. My understanding of the budget process, as outlined in the constitution, leads me to believe that the problem lies not with the process, but with some members of Congress. The most flagrant disregard of responsibilities is the failure of various Senators and Representatives to adhere to a balanced budget.

In the past, deficit spending was usually necessary in times of war. The debt from the Civil War was not paid off until 1934, and the cost of interest of loans financing the following wars now exceeds the entire cost of World War I. In light of our present indebtedness, I feel that we are flirting with danger when Congress overspends. Although many important issues face our great nation, I believe that the federal deficit is the most serious problem demanding our attention. We must not continue to spend more than is collected.

I also feel that the use of "greenbacks", as Lincoln used them to finance the Civil War, should be considered. We could possibly save billions of dollars in interest by the prudent use of a similar system of financing, but we should stabilize the Federal Reserve before doing so.

(Some of my facts come from the publication,"The American Heritage and Constitution Study Course" of the Freeman Institute.)

I appreciate the opportunity to tell you, Congressman NIELSON, my opinions on these important topics. Such a seemingly basic right as expressing my views to you through a letter, and through town meetings, highlights the vast differences between our republic and those repressive, false "republics" which exist throughout the world. It is a privilege to live in this land, and I appreciate your efforts to serve us. Thank you.

Sincerely,

MICHAEL NIELSEN.

P.S. My feelings on the Federal Reserve System are essentially similar to those expressed by Dr. W. Cleon Skousen in his paper "The Urgent Need for a Comprehensive Money Reform". The "Fed" actually hinders our monetary systems; it is not a constitutional part of our government. I feel that Congress needs to fulfill its constitutional obligation to regulate the value of the dollar. If you do not have a copy of Dr. Skousen's paper, I will gladly see that you get one. Thanks.

SAMPLE BALLOT ECONOMIC PROGRESS AND PROSPECT TOWN MEETINGS

CONGRESSIONAL OPINION BALLOT

Should the Congress consider and debate on the floor of the U.S. House the following item:

1. Line-item veto, yes.
2. Balanced budget amendment to the Constitution, yes.
3. One year across the board Federal budget freeze, yes.

Do you favor passage of the following items:

1. Line-item veto, yes.
2. Balanced budget amendment to the Constitution, yes.
3. One year across the board Federal budget freeze, yes.

Your opinions will be entered into the Congressional Record. Thank you for participating in this important meeting.

Where in the Constitution does it allow Congress, to tax the people and give it away to other countries as foreign aid?

ETHEL BUTTERFIELD.

MARCH 27, 1984.

The deficit is out of control. Action must be taken now. Congress must pass a constitutional amendment requiring a balanced budget. The states are three short of requiring a constitutional convention to mandate a balanced budget amendment. Congress should act bold on the direction of these states.

BRENT OVERSON,
Utah State Senator.

PROVO, UTAH, *March 24, 1984.*

Hon. HOWARD C. NIELSON,
Member of U.S. Congress, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN NIELSON: Thank you for the opportunity of submitting a statement regarding my feelings about line-item veto process and the budget process. It is as follows:

1. I believe that a constitutional amendment requiring a balanced budget should be forthcoming to eliminate deficit financing.

2. Federal Grants should also be eliminated. Presently, local officials, unable to get money from their constituents, go to the federal government for funding. This money is paid by the same people who have been deceived into thinking someone else is paying for the grants.

3. The line-item veto appears to be an excuse for a poor job being done by Congress. Why does Congress include more than one item in a bill?

It is my opinion that the most important thing Congress can do at this time is to assume the responsibility for bills they have passed; budget deficits; too many regulations, etc.

Sincerely,

RICHARD S. WILKINS.

MR. NIELSON: We should like to express our feelings about the National budget process and the line-item veto.

We strongly believe that the nation must live within its means (as must the individual householder live within his or her means) and strongly support legislation requiring a balanced budget.

We also feel strongly that welfare "handouts" must be reduced to a minimum; that "getting something for nothing" invites wastefulness and indolence on the part of the user, and that if emergency help is granted, a requirement should be made of every able-bodied and able-minded person to give some service in return for help, or be required in some way to reimburse the funding used.

We also feel that *local* superintending of welfare needs could more accurately determine such needs, and more accurately eliminate fraud and waste.

We also strongly urge that a sunset law with teeth in it be put into effect to eliminate government bureaus no longer needed, and a firm weeding-out action take place as regards to those which are inefficient and wasteful.

We believe strongly that the line-item veto is an absolute necessity in allowing beneficial legislation to become law and weeding out non-beneficial legislation which some attempt to have passed on the coattails of that which is more worth while.

Sincerely,

J. D. GAYLORD JOHNSON.
MARIE C. JOHNSON.

STATE OF UTAH,
HOUSE OF REPRESENTATIVES,
West Jordan, Utah, March 24, 1984.

CONGRESSMAN NIELSON: My cultural and religious training teaches me to avoid the bondage of debt. I am tired of both Democrats and Republicans who gamble with our national security with deficit spending. No amount of weaponry will save us if we have a bankrupted economy.

To me the shock of the 1975 financial collapse of New York City is like the tremors before Mt. Saint Helens.

The Federal deficit is the greatest crisis facing our nation since the Civil War. My generation has been shut out of homes because of the interest rates caused by federal debt. I fear for my children. Their futures have been mortgaged for the federal debt. I am afraid our children will curse the politicians of today who lacked the courage to get our nation out of debt.

KEVIN C. CROMAR.

To: The Honorable Howard C. Nielson.
Subject: The Federal Budgeting Processes.

I believe that debt is bondage to a creditor, and I avoid it as much as possible by borrowing as little as possible and paying back my debts in full.

Our country has the economic ability to pay as we go, but we witness a Congress and a President who choose to put their favorite budget plans ahead of a balanced budget. Our current deficit is well over 100 Billion dollars per year, and has been growing throughout my entire life (I am 35 years old.). We read that there are now even Federal expenses which are not included in the official Federal budget. We also read that many Congressmen enjoy the posh life style of Washington so much that they do not return home to live after their term in office. There is much more I could relate, but it is not on the side of fiscal responsibility.

I believe that neither political party in our 2-party system is taking effective action to cure the fiscal irresponsibility among their standard bearers. I have stopped all contributions to groups and individuals that are not working diligently to: 1) cut their own expenses and 2) cause a balanced budget and 3) reduce the services of the Federal Government and 4) encourage citizens to work for every dollar they receive, whether through employment or food stamps or medicare or pension, each according to his or her health, talents and experience.

Although I don't contribute to many political parties or candidates, I believe it is important to practice thrift, industry, self-reliance and to encourage and work for a free and fiscally responsible federal and local government within the framework of our Constitution. With all of our weaknesses, our country is still the best example of government of the people, by the people, and for the people that this world now knows. Thank you, Howard, for your work in this area.

WILLIAM B. HUBBARD.
JOUSI L. HUBBARD.

OREM, UTAH, *March 21, 1984.*

DEAR HOWARD: I will be unable to attend the meetings Saturday, as I have an appointment in Vernal.

I would like to express my opinion on the budget. I do not feel we can reduce the budget deficit all at once, as it did not raise all at once. I feel the President is correct in that the country has been increasing the deficit over the last 50 years. I would say that to be fair to everyone the deficit should be reduced in all departments of Federal spending by about 5 or 6 percent each year. This would not be too drastic and we could adjust to this. Each area of spending would have to become more efficient and waste less in its total effort. The market place, inflation, and possible recession could all be controlled. The gross national product could still go up with an increasing population.

Thanks sincerely,

FLOYD W. CLEGG.

OREM, UTAH, *March 24, 1984.*

DEAR HOWARD: It is obvious that the members of Congress have too many selfish interests among themselves and their constituents to ever balance the budget.

They are hurting those that they claim to be helping with their over-taxing, over-borrowing and over-spending. They use women, children, the poor and handicapped as an excuse for their lack of courage.

Pass the Balanced Budget Amendment so that everyone will have an excuse to be responsible.

Thanks for your record in Washington.

KAY THORESON.

P.S. Pass the line-item veto as a quicker excuse to pass the buck to someone else.

PROVO, UTAH, *March 24, 1984.*

HOWARD C. NIELSON,
Member of Congress,
Washington, D.C.

DEAR HOWARD: I appreciate your letter to me dated March 14, 1984, extending a personal invitation to attend one of your special town meetings to be held Saturday, March 24. I expect to attend the meeting to be held at Orem City Center at 7:00 P.M.

According to your kind invitation I have prepared the following statement which I am handing to you herewith.

FISCAL RESPONSIBILITY

I feel very strongly that all units of government—whether city, county, state or nation should live by the principles of fiscal responsibility or face the results of fiscal irresponsibility with the resulting bankruptcy, ruin and loss of honor, reputation, and good name.

Proper and honest budgets should be prepared based on experience and anticipated revenues then expenditures planned and restricted to the provisions of the budget. Any thing less than this is dishonest and fiscally irresponsible and those who are responsible should be called to account for their lack of honesty and good judgment.

This is just as true for units of government as it is for individuals or families. Otherwise we are loading our debts and responsibilities on to those who came after us without their consent which I believe is not proper nor honest nor fair. I believe the President or any other administrative officer should line-item veto or resort to any other procedure to maintain an honest and fair budget.

Sincerely,

JOSEPH T. BENTLEY, C.P.A.

AMERICAN FORK, UTAH,
March 24, 1984.

Hon. HOWARD C. NIELSON: Yes! I think we should have Line-Item Veto. It does not make much sense to have to accept an item that is passed at great amounts above the original cost of the item, just to get a badly needed item through.

If we had a Line-Item Veto authority the President could strike these expensive Riders and hold the Budget in line with the original cost of the Item.

This may take more time to get certain Bill's through Congress, that is the price we must be willing to pay.

I think the Line-Item Veto is a must and will be a great tool in keeping the Budget in line with income. We must have it to bring Government spending under control.

Sincerely,

ANDREW M. MCCAY.

SALT LAKE, UTAH,
March 26, 1984.

DEAR CONGRESSMAN NIELSON: Thank you for the invitation to the town meeting held Saturday, March 24. Unfortunately, I received your letter too late to make plans for same. It went to my old address before it was forwarded to my current address. (Please have your secretary note my new address on this letter.) I really wanted to come. My health and energy level is often unpredictable, but I very much enjoy participating in such activities when I can. Sorry you did not hear from me regarding your invitation sooner.

Concerning the federal budget, I now believe we should cut expenses in all areas, fairly evenly—even our defense budget. I think once a government goes bankrupt, it just has to be as practical as possible about the situation, vowing to cut expenses to the MINIMUM, and finding ways to bring in new revenues through creative, proper money management techniques on all levels; local as well as national. There are many talented people all across our country well-trained in home management, business management, consumer ideas and shopping management, etc. Why not gather a board of some of the most talented money managers in the country and have them offer suggestions to President Reagan. New taxes are not the answer for the average, hard working, law abiding American—but we should be taxing (even more than we do): CRIME OF ALL VARIETIES, the TOBACCO and LIQUOR INDUSTRIES, people who promote PORNOGRAPHY via books, movies, etc. In other words, lets stop taxing and fining our good citizens and lets crack down on those who are causing us the real financial damage, not to mention the moral decay of America.

Last, but certainly not least, please lets not send any more (financial) AID or other "gifts" to foreign countries. When a family is on a tight budget and hardly has enough to get by on itself, it certainly doesn't decide to donate to charities, unless it wants to get in a worse situation. We should not be spending money we don't have, and I never believed in foreign aid. We can't buy friends. This only weakens our image and our bargaining power.

Yours truly,

LYNNE MATHEWS.

SALEM, UTAH, *March 27, 1984.*

Congressman HOWARD NIELSON,
Provo, Utah.

DEAR SIR: We're sorry we missed your Orem meeting, but do want to go on record as supporting the budget proposed by the Republicans recently. We are still strongly for President Reagan and all who will back his efforts. We wish that the budget cuts were deeper into the fraud and waste by the "middle men" bureaucrats.

Our primary reason for writing this letter is to voice hearty support for the Line-Item Veto. It's a good start; then we would like to see a law passed to stop the practice of presenting multiple propositions on one bill. Too often we get something sneaked in through the back door by voting for a desirable proposition. The suggested Line-Item Veto would take care of that on the Presidential level and for the present time; but, will we be so strongly for such Veto rights if the liberals get back into power? Each bill should have only a single purpose.

Hang in there, Howard . . . Salem loves you. May God guide you in your efforts.

Sincerely,

RUSSELL F. GARDNER,
ANNE GARDNER.●

OTTINGER-WEBER AMENDMENT TO H.R. 5653

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. OTTINGER. Mr. Speaker, when the House meets to consider H.R. 5653, the energy and water development appropriation bill, I will join with my colleague Mr. WEBER to offer an amendment to redirect energy spending priorities and cut the budget. Our amendment would shift funds from the breeder reactor program to more cost-effective nuclear and solar programs and reduce energy spending by $10 million.

The amendment proposes funding shifts in programs within the energy supply, research, and development account that would: first, add $24 million in solar program; second, add $8 million to fully fund the nuclear fuel extended burnup program and cut the breeder by $43 million; third, add $1.25 million to convert university research reactors to low-enriched uranium; and, fourth, result in budget savings of $10 million.

The cuts in the breeder program are directed at those projects which were directly or indirectly related to the Clinch River breeder reactor design and are no longer necessary for a base breeder research program.

This amendment is supported by the American Institute of Architects, Solar Lobby, Passive Solar Industries Council, Solar Energy Industries Association, Building Managers & Owners Association, National Concrete Masonry Association, Federation of American Scientists, Union of Concerned Scientists, General Board of Church & Society of the United Methodist Church, Environmental Policy Institute, Environmental Action, and Sierra Club.

Mr. Speaker, I insert a letter sent to Members from the Sierra Club endorsing the amendment in the RECORD at the end of my remarks.

The following chart describes the amendment in more detail:

	Budget	Change
H.R. 5653	$1,986,149,000	
Amendment	1,976,149,000	
Budget savings	10,000,000	
Solar energy:		
H.R. 5653	174,485,000	
Amendment	198,385,000	
Changes: Solar building energy systems	18,285,000	(+$8,400,000)
Other solar energy:		
International solar	1,000,000	(+500,000)
Solar technical transfer	6,000,000	(+1,000,000)
Federal photovoltaic utilitization	10,000,000	(+10,000,000)
Solar energy resource assessment	2,000,000	(+2,000,000)
Solar thermal	34,500,000	(+2,000,000)
Nuclear Energy Programs:		
H.R. 5653	613,003,000	
Amendment	577,853,000	
Changes:		
Breeder reactor systems	254,932,000	(−43,150,000)
Converter reactor systems (Extended burn-up)	12,000,000	(+8,000,000)
Supporting research and technical analysis:		
H.R. 5653	200,850,000	
Amendment	202,100,000	
Changes: University research reactors	1,250,000	(+1,250,000)

SIERRA CLUB,
Washington, D.C., May 21, 1984.

DEAR REPRESENTATIVE: The Sierra Club urges your support for the Ottinger Amendment to the FY '85 Energy and Water Appropriations bill (H.R. 5653). The Ottinger Amendment would add $24 million to federal programs for the development of solar technology, and $9.5 million to programs designed to increase the efficiency and safety of nuclear technology. These additions would be more than offset by cuts in the components of the Department of Energy's breeder program which were originally established to support the now defunct Clinch River Breeder Reactor. In fact, if enacted, the Ottinger Amendment will achieve significant energy gains while saving $10 million for U.S. taxpayers.

The funding shifts proposed by the Ottinger Amendment are small in relation to the $613 million appropriation for nuclear research contained in the bill. Yet they are significant. Without these additions, the Subcommittee's funding for solar energy is only marginally above the reduced levels recommended by the Reagan Administration. Even with the additions, the solar portions of the bill will still fall well below the levels recommended by the authorizing committees. They will, however, have a significant impact on the future of the U.S. solar industry, which is increasingly threatened by government-supported foreign competition.

Sincerely,

JOHN MCCOMB,
Conservation Director.●

D'ANN PRIOR, WISCONSIN'S FEMINIST OF THE YEAR

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. MOODY. Mr. Speaker, I would like to take this opportunity to pay tribute to Wisconsin NOW's Feminist of the Year, D'Ann Prior. She has justly been called the unsung heroine of the women's movement in Wisconsin. Having had the honor of representing D'Ann for the past 7 years, I am proud that she is a member of the Milwaukee community who has served it well through her care and commitment to the issues facing women today.

While, in her words, D'Ann is a "queen-maker, not a queen," her list of achievements is impressive nonetheless. She has been the Milwaukee NOW coordinator, the Midwest regional NOW conference coordinator, Wisconsin NOW's State president, and a founding member of the Wisconsin Women's Network.

D'Ann should be commended for her untiring efforts and courage in the area of gay civil rights. She has been a good role model, mentor, and friend to those who are concerned with the progress of civil rights for all citizens in this country.

Despite our successes, much remains to be done. Passage of the ERA and the Gay Civil Rights Act must be accomplished. We are lucky to have D'Ann at the forefront on these issues and I hope that I can always count on her support.

Wisconsin NOW is honoring one of its finest members.●

MEXICO DESERVES AN APOLOGY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. GONZALEZ. Mr. Speaker, today I am introducing a resolution expressing the sense of Congress that the United States should issue an apology to the Government of Mexico because of deliberate leaks intended to embarrass President de la Madrid during his visit here.

On May 15, the Washington Post and other newspapers carried an article by Jack Anderson that suggested President de la Madrid is misusing his office to amass a huge personal fortune. Supposedly, the writer had been told about what he called ultrasecret documents that revealed official misconduct by President de la Madrid. The writer was careful to say that he had not actually seen any such documents—just that he had been told that such documents exist, supposedly by people who should know. The bulk of the article then went on to talk about a predecessor, not the current President of Mexico.

It is not unusual in Washington for an administration to leak documents, or to plant rumors, when that serves the purposes of the administration. In this case, there are differences of policy and opinion between Washington and Mexico City and, clearly, it suited the administration's interest to let Mr. de la Madrid know of its displeasure through more than official channels—in this case, a particularly nasty newspaper plant. No one showed any documents to anyone; the writer was simply told that there were documents that would embarrass the President of Mexico.

The administration does have a right to its differences with Mexico—but Mexico is not the only country in the world that doubts the wisdom of Mr. Reagan's war policy in Central America. There are hardly any countries that don't share the views of Mexico. But certainly Mexico's reluctance to embrace the Reagan policies must be irritating. No matter how irritated Washington might be, however, it is clearly improper and offensive to resort to the tactic of besmirching the character of a visiting chief of state. It is a tactic that will not change the opinions held by Mr. de la Madrid—and in fact will only prove to him how small minded Mr. Reagan's minions are.

The article inspired by the administration will not only win no friends; it will lose a great deal of precious good will. It is also a tactic that is not worthy of any country, great or small. Therefore, it is a tactic that should be disavowed, and a matter that deserves an official gesture of apology. I include in the RECORD at this point the text of my proposed resolution.

H. RES. —

Expressing the sense of the House of Representatives that the President of Mexico has been improperly impugned by an anonymous source in a United States newspaper column, and that the government of the United States should apologize to the government of Mexico for this attack.

Whereas, a newspaper column by Jack Anderson, printed in newspapers dated May 15, 1984, alleged that the President of Mexico, Miguel de la Madrid, has amassed a personal fortune through abuse of his office;

Whereas, the allegations were attributed solely to so-called ultra-secret intelligence reports allegedly viewed by one or more anonymous individuals;

Whereas, the newspaper columnist does not claim to have actually seen any such

documents, secret or otherwise, nor in any way confirm their actual existence;

Whereas, there are known to be fundamental differences between the government of the United States and the government of Mexico with respect to policy in Central America; which differences make it reasonable to conclude that the newspaper column referred to herein arises from a deliberate, calculated attempt to embarrass the President of Mexico during his visit to the United States; Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) The President of Mexico has been improperly and unduly impugned by a deliberate, malicious and anonymous attack inspired by a misguided policy, and that this calculated attack is unworthy of the United States and more an embarrassment to the United States than to the government of Mexico;

(2) The government of the United States should apologize forthwith to the government of Mexico for the anonymous, malicious and wholly undocumented rumors it has spread against the President and Government of Mexico.●

U.S. MILITARY CONSTRUCTION IN CENTRAL AMERICA AND THE CARIBBEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. HAMILTON. Mr. Speaker, in the CONGRESSIONAL RECORD of May 16, 1984, I included part of an exchange of correspondence between myself and the Department of Defense concerning the disposition of U.S. forces in Central America.

I would like to bring to the attention of my colleagues a second part of the Defense Department's reply, enclosure No. 5 which is a summary of present and projected U.S. military construction activities in Central America and the Caribbean. The first part of enclosure 5 is included here; the remainder will appear in a subsequent issue of the RECORD. This summary was last revised by the Department of Defense on May 9, 1984:

[Enclosure No. 5]

SUMMARY OF MILCON ISSUES

MILCON AND SECURITY ASSISTANCE CONSTRUCTION

The Congress has recognized the need to support US interests in the region through Milcon and security assistance.

Permanent construction/improvements to existing Honduran facilities was approved by the Congress.

Improvements at Palmerola AB have been authorized and funds appropriated ($13M); construction will be complete in FY84.

La Ceiba AB project has received a full review and approval by Congress. However, DOD must submit a long range construction plan before obligating the $8.0M for this project.

Proposed FY 85 Milcon programs support contingency operations and reflect no plan for a permanent presence.

Palmerola AB relocatable buildings for 100-man intelligence contingent ($4.3 million).

Forward storage of munitions ($1.5 million) programmed.

Pre-positioning of POL, outsized barrier material, and bridge stock ($2.9 million) programmed.

DOD is reviewing regional requirements.

A report to the Congress on out-year construction is required by the FY84 Appropriations Act. Requests for future construction will be submitted to the Congress.

Regarding security assistance, all of Latin America gets only 2.6% of our worldwide security assistance.

Security assistance is a Congressionally approved program.

Combined exercises and Milcon are not related to security assistance.

The RMTC is a Honduran facility and is funded by security assistance.

Security assistance funds have been requested in FY84/85 to improve facilities.

The Administration has requested 35 million dollars over a two year period (FY84 supplemental and FY85 security assistance request) for construction, operations and maintenance.

EXERCISE RELATED ENGINEERING ACTIVITY

Engineering work at airfields/facilities temporary, minimum essential to support exercise.

Will deteriorate if not maintained.

Hondurans do not have resources to maintain.

U.S. has no plan to maintain.

Base camps consisted of tents and temporary wooden huts to house/support exercise personnel.

Huts at Camp Sea Eagle already deteriorating.

Facilities (huts) either being disposed of IAW regulations or being used in follow-on exercise activity.

Improvements at the RMTC.

21 CAT huts were constructed at the RMTC to house some of the 3/319 Field Artillery personnel during Ahuas Tara II.

Huts to be offered for sale through Defense Property Disposal System. GOH may purchase by an FMS case.

Airfield improvements at Trujillo.

Extension provided temporary C-130 facility.

Strength of pavement will not support C-130 operations.

Airfield already deteriorating.

Airfield improvements at Aguacate.

Airfield used in 2 exercise events; final exercise event in Feb. 84 included multiple simultaneous C-130 operations.

Additional spaces required for parking.

Army Training and Evaluation Program (ARTEP) requirements for Engineer BN include the activities (cut and fill/drainage techniques) accomplished at Aguacate.

Honduran Air Force had longstanding plan to improve Aguacate for A-37 use.

Extending runway met engineer training requirements, provided necessary parking space, and left an extended field, albeit requiring extensive regrading, for future Honduran use.

Must be paved before A-37s can use the airfield.

Improvements at San Lorenzo.

Camps, airfield and tank traps were temporary and required by the exercise.

CONSTRUCTION PLAN AND ENGINEERING ACTIVITIES IN CENTRAL AMERICA FY 1983–88

Project description	Fund source			Justification
	Milcon	O&M	FMS	
	Approved and Funded FY 1983 Military Construction Program			
CUBA				
Guantanamo Bay:				
Family housing (100 units)	FY 1983 (N) [1] [2] $1.9 mil			Base mission is to (1) support peacetime training of Atlantic Fleet operating forces using shore facilities and surrounding sea areas, and (2) peacetime and wartime protection of Caribbean and Gulf of Mexico sealines of communications. These projects are required to provide the necessary living and support facilities at this remote location.
Elementary school addition	FY 1983 (N) $.5 mil			Do.
HONDURAS				
Palmerola: Air base upgrade, lengthen runway to 8,000 ft., parking apron/fuel storage.	FY 1983 (AF) $13.0 mil			Contingency facilities; tactical aircraft support. COE contract, 80+% complete.
PANAMA				
Balboa: Alterations to Gorgas Hospital	FY 1983 (A) $2.7 mil			Support of existing mission; the Army is tasked with providing hospital support for U.S. forces in Central America. This project provides a safe and functional hospital.
Corozal:				
Barracks modifications	FY 1983 (A) $2.8 mil			Support of existing mission; to provide adequate living conditions for assigned troops.
Tactical equipment shop	FY 1983 (A) $.6 mil			Treaty consolidation project.
Fort Davis:				
Barracks modifications	FY 1983 (A) $1.4 mil			Support of existing mission; to provide adequate living conditions for assigned troops.
Tactical equipment shop	FY 1983 (A) $.7 mil			Treaty consolidation project.
Howard:				
Security fencing and lighting	FY 1983 (AF) $1.0 mil			Support of existing mission; to increase security of Howard AFB.
ECIP, install high efficiency air-conditioners in family housing.	FY 1983 (AF) $.4 mil			This project provides improvements to existing military family housing units to conserve energy and improve habitability of older, obsolescent family housing units.

CONSTRUCTION PLAN AND ENGINEERING ACTIVITIES IN CENTRAL AMERICA FY 1983–88—Continued

Project description	Fund source			Justification
	Milcon	O&M	FMS	
PUERTO RICO				
Roosevelt Roads:				
Operations facility	FY 1983 (N) $.3 mil.			This complex, encompassing the airfield and harbor, plus ocean range areas, training facilities on Vieques Island and control sites on St. Thomas and St. Croix Islands, is the primary training activity for the Atlantic Fleet. All Fleet aircraft and surface ships exercise on the large ocean ranges. These projects provide necessary facility support required by the base to accomplish its assigned tasks.
Standby generator	FY 1983 (N) $.9 mil.			Do.
CUBA				
Guantanamo Bay:				
Family services center	FY 1984 (N) $.7 mil.			Base mission is to (1) support peacetime training of Atlantic Fleet operating forces, using shore facilities and surrounding sea areas, and (2) peacetime and wartime protection of Caribbean and Gulf of Mexico sealines of communications. These projects are based on equipment and personnel loadings required to accomplish these missions. They provide the necessary equipment support, living and working spaces, and support facilities at this remote location.
Receiver building addition	FY 1984 (N) $1.7 mil.			Do.
Satellite earth terminal	FY 1984 (N) $1.1 mil.			Do.
HONDURAS				
La Ceiba: Goloson AB upgrade parallel taxiway/apron fuel storage.	FY 1984 (AF) $8.0 mil.			Contingency facility for use as an alternate field to Palmerola for flight safety, also required to support tactical aircraft operations and to serve as a divert field for carrier-based aircraft.
PANAMA				
Fort Amador: Computer facility improvements	FY 1984 (A) $.7 mil.			SOUTHCOM mission support; provides improved computer support. Unspecified minor MCA project currently under review for funding.
Fort Davis:				
Electrical distribution system	FY 1984 (A) $.8 mil.			Army mission is to provide for defense of the Canal and to support U.S. personnel at the School of the Americas. These projects provide the necessary personnel support and reliable utility systems.
Dining facility modernization	FY 1984 (A) $.7 mil.			Do.
Howard:				
ECIP, heat recovery	FY 1984 (AF) $.6 mil.			Support of existing mission; reduces the base energy consumption.
PUERTO RICO				
Roosevelt Roads:				
Family services center	FY 1984 (N) $1.3 mil.			This complex, encompassing the airfield and harbor, plus ocean range areas, training facilities on Vieques Island and control sites on St. Thomas and St. Croix Islands, is the primary training activity for the Atlantic Fleet. All Fleet aircraft and surface ships exercise on the large ocean ranges. All aspects of fleet training are supported from this location. These projects are required to provide necessary personnel support and operational facilities.
Range operations support center	FY 1984 (N) $1.5 mil.			Do.
FY 1985 Military Construction Program Request Submitted to Congress				
CUBA				
Guantanamo Bay:				
Refresher training building	FY 1985 (N) $3.6 mil.			Base mission is to (1) support peacetime training of Atlantic Fleet operating forces, using shore facilities and surrounding sea areas, and (2) peacetime and wartime protection of Caribbean and Gulf of Mexico sealines of communications. These projects will provide necessary working, living, and recreational facilities at this remote location.
Gymnasium	FY 1985 (N) $2.9 mil.			Do.
Family housing (100 units)	FY 1985 (N) $12.4 mil.			Do.
Palmerola:				
Relocatable camp facility semi-permanent admin/operations and living spaces for 100 men.	FY 1985 (A) $4.3 mil.			These facilities are necessary to support an Army aviation unit involved in a JCS-directed intelligence collection task. This project provides the basic working and living spaces required by the temporarily deployed units.
Air munitions forward storage	FY 1985 (AF) $1.5 mil.			These facilities are required to reduce the initial airlift requirements for heavy munitions in the event the U.S. must deploy tactical aircraft to Honduras in support of a decision to provide military assistance as outlined in the Rio Treaty.
San Lorenzo: Prepositioning facility inert/munitions/POL storage.	FY 1985 (A) $2.9 mil.			These facilities are required to provide storage for the pre-positioning of bridging and barrier materials, including wire, munitions, and POL. These facilities would significantly reduce the time required for the U.S. to provide military assistance as necessary.
PANAMA				
Family Housing: Housing improvements	FY 1985 (A) $1.0 mil.			Improvements to existing family housing units to increase habitability.
Rodman: Unaccompanied enlisted housing	FY 1985 (N) $1.6 mil.			Support of existing mission; to provide logistical support to fleet units operating in or near the Panama Canal, and coastal protection in defense of the Panama Canal. This project replaces a World War II-era wooden building that has structurally deteriorated and which provides inadequate personnel living spaces for U.S. Navy enlisted assigned to Panama.
Howard: ECIP, alter lighting	FY 1985 (AF) $.4 mil.			Support of existing mission; to replace existing lighting with High Pressure Sodium Vapor and metal halide fixtures. Payback period for this project is 4.3 years.
PUERTO RICO				
Camp Santigo: Army National Guard facility	FY 1985 (NG) $4.9 mil.			Support of existing mission; to provide adequate maintenance and on-site equipment storage facilities. This project supports the 92nd Signal Battalion and other units in the Puerto Rican National Guard. It is the minimum essential requirement to maintain all assigned equipment.
Roosevelt Roads:				
Waterfront operations facility	FY 1985 (N) $2.6 mil.			This complex, encompassing the airfield and harbor, plus ocean range areas, training facilities on Vieques Island and control sites on St. Thomas and St. Croix Islands, is the primary training activity of the Atlantic Fleet. All Fleet aircraft and surface ships exercise on the large ocean ranges. These projects are necessary to support personnel assigned and ships operating in the area.
Pay/personnel administrative support system (PASS) facility.	FY 1985 (N) $1.1 mil.			Do.
Fuel storage	FY 1985 (DLA) $10.7 mil.			Support of worldwide positioning of fuels by the Defense Logistics Agency.
St. Croix: Land acquisition	FY 1985 (N) $.6 mil.			The underwater range off St. Croix is used extensively by the Fleet for ASW training. This project provides for the land necessary to support an addition to the range operations center being programmed for inclusion in the FY 1986 Military Construction request. ●

SAKHAROV: AN UNWAVERING FLAME

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. LANTOS. Mr. Speaker, I rise to join with my good friend and colleague from New York, JACK KEMP, to introduce a bill which will grant a Federal charter for the Andrei Sakharov Institute. Today, while Sakharov spends his 63d birthday amidst the gravest danger and harshest persecution he has yet suffered since his exile from Moscow, it is an especially appropriate time for us to pay respect to the man and the ideals he so courageously embodies.

A year ago this January my wife and I visited with Yelena Bonner Sakharov, who at that time was still allowed to serve as a link between her husband and the rest of the world. We were both deeply concerned when it was reported in recent months that Mrs. Sakharov's health was deteriorating, that she has in fact suffered two mild heart attacks. The most recent outrage on the part of the Russian police state of denying this courageous and outstanding lady the opportunity of seeking the medical attention she badly needs and can obtain only in the West represents Soviet tyranny at its ugliest.

The Government newspaper Izvestia wrote on Monday that Mrs. Sakharov may be put on trial for "anti-Soviet activities." She was described as a "shallow, resentful and greedy person, ready to sell and betray everybody and everything, for her own profit." These claims would be ridiculous if they were not so dangerous and ominous.

Andrei Sakharov represents a beacon of truth and free thought on the hazardous shore of totalitarianism. His words of caution against the arms race, while treated with respect and authority in the West, have compounded his difficulties with the Kremlin. This persecution demonstrates the shallowness of the Soviet protestations of peace and good will. For nations as well as individuals, deeds speak louder than words.

The work of the Andrei Sakharov Institute will carry on the ideals of Mr. Sakharov. The institute is Washington-based and sponsored by over 40 Nobel laureates together with 200 members of the National Academy of Sciences. Following Dr. Sakharov's own academic discipline, the institute is developing a national math program to increase the quality of math education in America. The program will originate in Washington and be connected to all States via television and computer links, helping to solve the math and science crisis in the United States.

Granting a Federal charter to the Andrei Sakharov Institute does not require any appropriation by the U.S. Government. A charter is simply a formal recognition of the good work undertaken by a particular organization. A charter to the institute would specifically assist it in soliciting outside contributions, since it endorses the Institute and gives proof of its credentials.

A cartoon in this Sunday's Washington Post depicted a giant Russian bear, cringing back in horror from the flame of a candle. Written on the light of the candle is "Sakharov." Why does Sakharov and his wife so frighten the Soviet leadership? In speaking out against war and oppression, Andrei Sakharov demonstrates the potential of a human being, but a potential that does not exist in the Soviet Union. Free speech is a dangerous and unsetting element in a closed society.

This bill, while not directly relieving the Sakharovs' suffering, will assure that through the Andrei Sakharov Institute, the unwavering spirit of Andrei Sakharov will live long after his tormentors are relegated to the dustbin of history.●

CRIMINALS SHOULD PAY

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mrs. MARTIN of Illinois. Mr. Speaker, I am pleased today to join my colleague, Mr. BOUCHER, in introducing the Criminal Fine Enforcement Act of 1984. This is the successor to H.R. 4162, and it encompasses the agreements and compromises worked out by myself, Mr. BOUCHER, Chairman CONYERS, and Senator PERCY who introduced the bill in the Senate.

The point of our bill is to insure that a criminal fine becomes a sentence to be taken as seriously as incarceration. Recent studies have shown that an alarming number of fines are never paid, and, in effect, a fine sentence is the same as no sentence. Drug dealing and medicare fraud are among the crimes going unpunished.

This bill will make it a crime, punishable by incarceration, not to pay a fine, will allow the Justice Department to place a lien on the assets of a person fined and will eliminate the "$5 down, 200 years to pay" practices of the past by setting a time limit on installment fine payments and by requiring penalties and interest on unpaid fines.

It is time we get serious about white collar crime which all too often goes unpunished. The Criminal Fine Enforcement Act of 1984 is a big step in that direction.●

A SALUTE TO EARLE C. WILLIAMS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. WOLF. Mr. Speaker, Congressman STAN PARRIS and I are privileged today to bring to the attention of our colleagues in the Congress an unusual individual who has been selected for a special honor by his fellow citizens of northern Virginia. On June 9, 1984, at a dinner in his honor, Mr. Earle C. Williams, president and chief executive officer of BDM International, Inc., will be presented with the Northern Virginia Community Foundation's Founders Award by Virginia Gov. Charles S. Robb.

Six years ago a group of public spirited citizens of northern Virginia formed the Northern Virginia Community Foundation because they wished to return to the northern Virginia community some of the benefits they had received from it. The foundation receives donations from people from all walks of life, including local businesses, national corporations, and other foundations. The funds it receives are then used exclusively for the benefit of northern Virginia. The areas that have been identified to be helped by the foundation are: The arts, education, health, youth, and civic improvement.

As a part of its continuing program, the foundation each year seeks to recognize the efforts of the many community-minded citizens in northern Virginia by selecting one of their number to receive the foundation's founders award and by honoring the individual with a festive dinner dance. This year the Northern Virginia Community Foundation has chosen Earle C. Williams, a prominent businessman and community leader in Fairfax County, for this honor. He is truly deserving of this award for he has given unstintingly and unselfishly of his time and energy to further the economic development of northern Virginia and to make it a better place to live and raise a family.

We are personally delighted to be able to salute our good and valued friend and neighbor, Earle C. Williams, for his many contributions to northern Virginia. Under his leadership, BDM International has become one of the fastest growing professional services companies in the country. Since moving its corporate headquarters to northern Virginia in 1973, BDM has grown from a staff of 576 and revenues of $11.2 million to an organization with about 3,000 employees and revenues of $151.1 million. Overseeing the activities of a firm that is on a fast-growth track in a highly

competitive field does not leave Earle Williams much spare time. Nevertheless, his concerns about making northern Virginia a better place to work and live have motivated him to find the time to devote to community affairs.

From 1976–80, Earle Williams was a member of the Fairfax County Economic Development Authority and, for the last 2 years of his term served as the chairman of the authority. He has also been a vice president and director of the Fairfax County Chamber of Commerce. In these capacities, Earle has devoted his energies toward improving the business environment of Fairfax County so that it would be attractive to new business enterprises. The success of these efforts can readily be seen as one drives around Fairfax County. The county has become one of the leading areas where high technology firms are locating themselves.

As a business executive deeply involved in the expanding areas of high technology, research, and development, and professional and technical services, Earle Williams has been keenly aware of the importance of education to the business community in which he is a prominent member. Long before the general public became worried about the quality of education in our Nation, Earle was actively involved with the Fairfax County public school system and the local colleges and universities. As chairman of the industrial policy board of the George Mason University Institute, he has worked closely with the university authorities and with Commonwealth political leaders to improve and strengthen the university's educational capabilities in engineering, information sciences, and computer technology. Earle Williams has not limited his attention to helping George Mason but he has sought to strengthen the community college system throughout the Commonwealth of Virginia. He is a member of the Virginia State Board for Community Colleges as well as being on the board of directors of the Northern Virginia Community College Education Foundation. We could continue for many more minutes to name programs and activities in the field of education where he has generously given his time to participate in and support those programs and activities. He has truly been a leader in forging new and strengthening old partnerships between the business community and the educational world in the Commonwealth of Virginia.

One cannot long be associated with those organizations and activities dedicated to improving the quality of life in northern Virginia without soon hearing the name Earle Williams mentioned. Not only is he an active leader and participant in such activities, he is a firm and strong supporter. He is a familiar figure when there are things to be done for Wolf Trap, the Fairfax Symphony Orchestra, the Fairfax County Council for the Arts, and other cultural activities. The northern Virginia chapters of the Cancer Society and the Heart Association frequently look to Earle to help marshal the resources of the business community in support of their programs. Educational and public television know they have a friend and valued adviser in Earle Williams as they seek to chart a course which will contribute to the community life and well-being of northern Virginia.

The Founders Award that Earle Williams will receive on June 9 is just recognition of a man who has earned the respect and admiration of countless northern Virginians. As we reflect on the many accomplishments of this remarkable individual as he sought to serve his community, Congressman PARRIS and I on behalf of all his friends and neighbors, salute and publicly thank Earle C. Williams for his dedicated and diligent service to northern Virginia.●

CONSTITUENT POLL—30TH DISTRICT, NEW YORK

HON. BARBER B. CONABLE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. CONABLE. Mr. Speaker, my constituents in the 30th Congressional District have recently responded in large numbers to my annual questionnaire on issues of major national interest. I realize our district-wide polling does not produce a scientifically designed sampling, but it does represent a large cross section of opinion from interested citizens who take the time to consider the questions. In some cases the replies may be subject to varying interpretations, depending upon the assumptions of the constituents, but the results are instructive and interesting, nevertheless. I wish to place the results in the CONGRESSIONAL RECORD for the information of all my colleagues.

RESULTS OF 1984 CONGRESSIONAL QUESTIONNAIRE OF CONGRESSMAN BARBER B. CONABLE

(1) Severe government budget deficits are indicated for this and future years. If we are to reduce the deficits by cutting spending, which programs should be reduced? (rated in order)

(1) Foreign aid, (2) civil service pensions, (3) defense, (4) welfare assistance, (5) housing, (6) medicare and medicaid, (7) education, (8) social security.

(2) Would you be willing to pay higher taxes to help reduce the budget deficit? Yes, 28.3 percent; No, 69.6 percent.

(3) Do you favor passage of a Constitutional amendment which would more strongly press the federal government to balance the budget? Yes, 83.0 percent; No, 15.0 percent.

(4) Do you favor tightening up on illegal immigration by increasing border controls and penalizing employers for hiring illegal aliens? Yes, 85.3 percent; No, 12.5 percent.

(5) Who should bear the major cost for controlling acid rain?

(a) Federal government, 14.4 percent; (b) state government, 8.3 percent; (c) utilities and industries, 77.3 percent.

(6) Following last year's Social Security financing reform, how confident are you about the financial soundness of Social Security?

(a) Very confident, 6.4 percent; (b) somewhat confident, 45.2 percent; (c) not at all, 48.4 percent.

(7) Do you favor passage of the Equal Rights Amendment (ERA) to the Constitution? Yes, 47.3%; No., 49.6%.

(8) Do you favor a Constitutional amendment permitting prayer in public schools? Yes, 57.0%; No., 42.0%.

(9) Should the federal government, rather than the states, establish a minimum legal age for drinking alcoholic beverages? Yes, 62.0%; No., 37.0%.

(10) To reduce escalating federal government health costs, which of the following would you support?

(a) Higher deductible and individual contributions from beneficiaries, 38.0%; (b) ceilings on fees even if it means cutbacks in hospital and doctors' services, 54.7%; (c) higher payroll and other taxes, 7.4%.

(11) Should our government continue assistance to Central American countries to counter the efforts of Communist nations there? Yes, 52.6%; No., 37.9%.

(12) What is the Nation's No. 1 need?

(1) Balanced budget, (2) jobs, (3) arms reduction, (4) new leadership, (5) tax reform, (6) education.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, May 22, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 23

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on Senate Concurrent Resolution 69, expressing the sense of the Congress that the Secretary of Transportation should make available for civilian use certain satellite-directed navigational aids developed by the Department of Defense for the guidance of aircraft.
SR-253

Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men.
SD-562

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the District of Columbia, focusing on the Department of Corrections.
SD-138

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year ending September 30, 1984, for Central America.
SD-192

Banking, Housing, and Urban Affairs
Federal Credit Programs Subcommittee
To hold hearings on S. 2500, proposed Credit Accounting Reform Act.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To resume hearings on proposals to amend and extend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
SD-406

Foreign Relations
To hold hearings on the nomination of Richard Schifter, of Maryland, to be U.S. Deputy Representative in the Security Council of the United Nations, with the rank of Ambassador.
SD-419

Labor and Human Resources
To resume hearings on the nomination of Rosemary M. Collyer, of Colorado, to be General Counsel of the National Labor Relations Board.
SD-430

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings on S. 1405, proposed Federal Neutrality Act of 1983.
SD-226

1:30 p.m.
Select on Intelligence
Closed business meeting, to resume markup of proposed legislation authorizing funds for fiscal year 1985 for the intelligence community.
S-407, Capitol

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Strategic Petroleum Reserve, Naval Petroleum Reserve, and emergency preparedness.
SD-138

Judiciary
To hold hearings on pending nominations.
SD-226

MAY 24

9:00 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 707, to require most automobiles sold in the United States to be manufactured with a certain percentage of U.S. parts and labor.
SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation, Forestry, and Environment Subcommittee
To hold hearings on S. 2590 and H.R. 4263, bills to designate certain lands in Tennessee as wilderness; S. 2551 and H.R. 5076, bills to designate certain lands in Pennsylvania as wilderness; and S. 2598 and H.R. 3788, bills to designate certain lands in Texas as wilderness.
SR-328A

Governmental Affairs
To hold hearings to examine the Department of Defense procedures for estimating and reporting the cost of weapons programs.
SD-342

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for defense programs.
SD-192

Energy and Natural Resources
To hold hearings on Senate Joint Resolution 286, to approve the "Compact of Free Association."
SD-366

Environment and Public Works
To continue hearings on proposals to amend and extend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
SD-406

Foreign Relations
To hold hearings on the nomination of Weston Adams, of South Carolina, to be Ambassador to the Republic of Malawi.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Handicapped Subcommittee
To hold joint hearings on S. 2568, proposed Civil Rights Act, focusing on title IX (education equity) of the Education Amendments of 1972, and section 504 (nondiscrimination under Federal grants and programs) of the Rehabilitation Act of 1973.
SD-430

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of Edward E. Wolfe, of Virginia, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, and Richard A. Derham, of Washington, to be an Assistant Administrator of the Agency for International Development.
SD-419

2:00 p.m.
Banking, Housing, and Urban Affairs
Federal Credit Programs Subcommittee
To continue hearings on S. 2500, proposed Credit Accounting Reform Act.
SD-538

MAY 25

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Justice.
S-146, Capitol

Finance
International Trade Subcommittee
To hold hearings to examine future prospects for the U.S. footwear industry and its role in the foreign market.
SD-215

JUNE 1

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for May.
SD-106

JUNE 5

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of John P. McTague, of California, and Bernadine H. Bulkley, of Maryland, each to be an Associate Director of the Office of Science and Technology Policy, and Clyde A. Bragdon, Jr., of California, to be Administrator, U.S. Fire Administration, Federal Emergency Management Administration.
SR-253

Labor and Human Resources
Labor Subcommittee
To resume oversight hearings to examine the scope and impact of certain occupational diseases.
SD-430

10:00 a.m.
Joint Economic
To resume hearings on monetary reform and economic stability.
SD-562

JUNE 6

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on drug and alcohol use on railroads.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the transfer of information by the Internal Revenue Service and the Social Security Administration to other Federal and State government agencies and the examination of the collection of data by the Internal Revenue Service

from private sector sources to identify cases of nonfiling or underreporting of income.
SD-342

Small Business
To hold oversight hearings on the impact of government competition on small business.
SR-428A

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Veterans' Affairs
To hold oversight hearings on the activities of the Inspector General and Medical Inspector of the Veterans' Administration.
SR-418

JUNE 7

9:30 a.m.
Labor and Human Resources
To hold hearings to evaluate the status of health care technology.
SD-562

10:00 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold hearings to review recommendations to improve services for the mentally retarded.
SR-428A

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on Senate Joint Resolution 138, to establish a National Commission on Teacher Education.
SD-430

JUNE 12

10:00 a.m.
Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold hearings on S. 2127, proposed Federal Advisory Committee Act Amendments of 1983.
SD-342

JUNE 13

9:30 a.m.
Judiciary
Criminal Law Subcommittee
To hold hearings on S. 2205, to eliminate the provision of the Federal criminal code allowing for one-party-consent to certain interceptions of wire and oral communications by requiring consent by all the parties.
SD-106

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to explore the scope of drug abuse among women.
SR-325

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Veterans' Affairs
To hold oversight hearings to review the sharing agreement between the Veterans' Administration and the Department of Defense, and to discuss the Veterans' Administration's supply and procurement policy.
SR-418

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on proposals to broaden the Federal tax base and reduce tax rates.
Room to be announced

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review government and community programs to combat drunk driving.
SR-253

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 2370, to provide for the distribution of certain funds collected by the Department of Energy in settlement of overcharges resulting from alleged pricing and allocation violations under the Emergency Petroleum Allocation Act of 1973, to establish the Petroleum Overcharge Restitution Fund for those funds in excess of direct restitution, and to authorize funds for fiscal years 1985-89 for certain energy conservation and assistance programs; to be followed by oversight hearings on the implementation of the weatherization program of the Department of Energy.
SD-366

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To continue hearings on proposals to broaden the Federal tax base and reduce tax rates.
Room to be announced

JUNE 19

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

10:00 a.m.
Finance
To hold hearings on S. 1915, to repeal the capital gains tax on disposition of investments in U.S. real property by foreign citizens.
SD-215

JUNE 20

9:30 a.m.
Labor and Human Resources
To continue oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Veterans' Affairs
Business meeting, to mark up proposed legislation relating to veterans' compensation.
SR-418

JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business.
Room to be announced

9:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the proposed sale of Conrail by the Department of Transportation.
SR-253

Labor and Human Resources
To hold hearings to examine the practice of defensive medicine by the medical profession in an effort to avoid malpractice suits and its effects on the quality of medical care.
SD-430

JUNE 26

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings on Outer Continental Shelf leasing activities.
SD-366

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the status of college athletic programs.
SD-430

JUNE 27

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 10

9:30 a.m.
Labor and Human Resources
To hold hearings to evaluate competition in the health care marketplace.
SD-430

SEPTEMBER 18

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SR-325

CANCELLATIONS

MAY 22

10:00 a.m.
Environment and Public Works
To resume hearings on proposals to amend and extend the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund).
SD-406

2:00 p.m.
Conferees
On S. 1323, to provide assistance to small businesses for job-creating programs, and to provide debentures to State development companies to assist the small business community in meeting its financial obligations.
S-146, Capitol

SENATE—*Tuesday, May 22, 1984*

(Legislative day of Monday, May 21, 1984)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of the nations, who has ordained governments as Thy ministers for good, we thank Thee for our political system, born out of profound struggle. We thank Thee that the people are sovereign and that public servants must defend their records at regular intervals. We pray for those Members of the Senate whose records will be tested in November. Help them to distinguish between what must be done here and now and what can better wait for the next Congress. Give them grace to deal with the tension between their perception of what the people want and the real issues which will be determinative.

Loving Father, help the people to understand and appreciate the ambivalence and struggle which our system imposes upon incumbents. Help the people to make their judgments upon the basis of integrity rather than single issues. Guide the Senators who are candidates—give special wisdom to their organizations and help them raise the funds necessary for their campaigns. In His name in whom resides all authority. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BAKER. Mr. President, I call the Chaplain's attention to the fact that what he has done perhaps must be reported on the Federal Election Commission form for every Member of the Senate who is seeking reelection, as a contribution in kind. But if there is a topical prayer and one relevant to the concerns of many Members, I do not believe I have ever heard the Lord asked to make sure that we raise enough money to conduct our campaigns. However, I admire the technique.

I thank the Chaplain once again for a provocative and worthwhile message.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning the time for the two leaders under the standing order has been reduced.

After that time has expired or has been yielded back, and after the execution of the special order in favor of Senator PROXMIRE this morning, there will be a period for the transaction of routine morning business in the time remaining until 9:30.

At 9:30, under the order entered last evening, the Senate will proceed to the consideration of the agent orange bill under a time agreement. The attention of Members is directed to that agreement as it appears in the RECORD and in today's Calendar of Business.

It is anticipated that there will be at least one vote on that matter, perhaps as many as three votes, between now and the 12 noon recess.

When the Senate resumes session at 2 o'clock, it will resume consideration of the bankruptcy bill, at which time the Helms amendment will be the pending question.

The leadership on this side hopes that we can finish the bankruptcy bill today and do so in time to turn to other matters, which may include the Wilkinson nomination, the debt limit bill, or perhaps others.

Today will be a full day, with a number of rollcall votes, it is anticipated.

Mr. President, I believe that completes the requirement I have for time this morning, and I yield now so that the acting minority leader may claim his time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. RUDMAN). The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time reserved for the minority leader may be used by him during the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

YES, WE CAN HAVE NUCLEAR ARMS CONTROL AGREEMENTS THIS YEAR

Mr. PROXMIRE. Mr. President, if you were to walk down the street in any American city and ask the first 10 persons you met why the United States has not made any real progress in negotiating arms control agreements in the more than 3 years of this administration, most of those 10 people would give you a simple and direct answer. It would be the same answer the top experts on arms control in this administration would give. President Reagan put it succinctly some time ago. When he was asked why we do not negotiate an arms control agreement with the Soviet Union, he answered: "It takes two to tango."

Many Americans, including casual observers we meet back in our States, would agree. This line sells very easily. The overwhelming majority of Americans are patriotic. We love this country. When we compare our country with other nations, especially the Soviet Union, we find ourselves almost like sport fans. Our sentiment goes: "Lives there a sports fan anywhere, who when the game is through, will hoist two fingers in the air and shout, we're number two"? Of course, the point is that we back our football team or our country. It is our country, and if there is blame for any international misunderstanding, especially with respect to arms control, we give our country the benefit of the doubt.

In this case on arms control that is not hard. Who walked away from the intermediate nuclear arms negotiations in Europe? The Soviets. Who broke off the STARTS talks? Again, the Soviets. Were not those the two principle arms control negotiations? Yes. Has not President Reagan publically announced that he is willing to return to the arms control table to continue to negotiate whenever the Russians announce they will return? He has, indeed. Is the agenda the President pursues in these two negotiations too limited? Should the President broaden it to other subjects which the Russians might be more willing to discuss? Perhaps. But has not the President announced that everything is on the table? He has said just this.

Ah, but has the President excluded any arms control issues from negotiations? He has, Mr. President. And that brings us to an article that appeared in the New York Times on Friday,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

31-059 O-87-6 (Pt. 10)

April 13, by author and arms control expert Arthur Macy Cox.

Mr. Cox makes a very strong case that President Reagan could win nuclear arms control agreements from the Russians and soon. Cox thinks he could win agreements now. That is in the next few months. He sees no hope before the November elections for the kind of comprehensive arms control negotiations that many of us have been urging. But he sees great promise in some critical, if limited, agreements that would represent real progress toward stability. They would measurably reduce the risk of nuclear war.

Cox sees hope in a resumption of INF talks that would take up Moscow on their expressed willingness to limit their intermediate range force aimed at Europe to 120 SS-20 missiles with 360 warheads and to freeze further deployment of SS-20's in the eastern part of the Soviet Union. Cox argues that if we accepted the Russian offer, they would have to dismantle two-thirds of their intermediate force, 600 warheads, and would have smaller forces than they had in the mid 1970's. Our quid pro quo would require us not to deploy in Europe any more missiles capable of reaching Soviet territory. We would have to remove the few Pershing II missiles now deployed in West Germany. As Cox sees it, this would leave the British and French with 300 warheads, the United States with 60 cruise missiles already deployed in Britain, Germany, and Italy. NATO would have 360 intermediate range warheads facing Russia, according to Cox. The Russians would have 360 facing western Europe.

Cox has a point. But to make it, he stretches the United Kingdom and French missiles into a part of the NATO force. They are not. They are not under NATO command. This may be academic to the Russians and even to the United States. It is far from academic to the Europeans. Their little intermediate force faces not simply Soviet intermediate forces of equal size and strength but Soviet ICBM's of enormously greater size. The struggle over our INF force cannot be resolved between the two superpowers.

Our European NATO partners have a decisive stake in this decision. These negotiations have reached the kind of impasse that can probably only be handled in a comprehensive strategic arms agreement, that—as Cox argues will have to await the November election.

If we cannot reach INF agreement promptly, and if we cannot negotiate a comprehensive arms control treaty—what remains? Cox proposes an interim agreement on strategic forces. He asks: Why not make it worldwide? He says the Russians have agreed to lower the SALT II missile launcher ceiling to 1,800 from 2,250. The administration wants to go down to 1,170. Cox suggests 1,650 with 6,500 warheads as a compromise that would show genuine progress. He also would include all categories of strategic nuclear weapons including land based ICMB's where the Soviets have the big advantage and air and sea launched missiles where the United States has the lead.

Cox would go further and merge the strategic talks with the INF. That might be practical if we expect the talks to take several years. How about the next several months? During this period we could set the INF talks aside and concentrate on strategic negotiations. This could permit conspicuous progress.

Third, Cox proposes that the United States moves now to negotiate a comprehensive test ban treaty. Nuclear arms testing represents the very heart of the nuclear arms race. Testing is crucial to the development of newer and more lethal nuclear weapons. Is it feasible to stop testing and thereby stop the technological race? The answer is: Yes. No aspect of the arms race lends itself more certainly to verification than nuclear arms testing. As the head of the Livermore Lab has said, such an agreement would perform a frontal lobotomy on nuclear weapons research. Would the Soviets agree to a verificable treaty stopping all underground testing? Why not? The Russians have talked about agreeing to the deployment of monitoring stations within the Soviet Union. As long ago as 1979, we appeared on the verge of an agreement.

Unfortunately, President Carter walked away from it. And President Reagan has never returned. Cox is right on this one. The President can and should bring this country back to the bargaining table on a comprehensive test ban promptly.

Mr. Cox's final pitch pleads for the President to return tomorrow to talks to ban antisatellite weapons. President Reagan has contended that we do not have the verification we need to monitor Soviet antisatellite compliance. We should make an all-out effort to explore this problem. As Cox says:

> The destabilizing consequences of a race for space weapons would probably be more dangerous for us than for the Russians because we depend more heavily on satellite intelligence gathering.

If the antisatellite programs of both nations continue, we will in all likelihood lose any real prospect of arms control. Satellites constitute the very heart of the verification process. If both countries develop the capacity to destroy satellites, the prospects of civilization's survival become very dim, indeed.

Mr. President, I ask unanimous consent to have printed in the RECORD the article from the New York Times by Arthur Macy Cox entitled "Almost Arms Control" and dated Friday, April 13, 1984.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALMOST ARMS CONTROL

(By Arthur Macy Cox)

WASHINGTON.—It is clearly too late to negotiate a comprehensive arms control agreement with the Russians before the elections in November. Yet several interim measures could be completed in the next few months. If Mr. Reagan is serious about arms control, he need only work out the details of several general provisions already under negotiation.

First, it is not too late to reach agreement on intermediate-range missiles in Europe. Just before the United States began to deploy Pershing 2 missiles in December, Moscow indicated that it was prepared to limit its intermediate-range force aimed at Europe to 120 SS-20 missiles with 360 warheads and to freeze further deployment of SS-20's in the eastern part of the Soviet Union. The Russians currently have nearly 250 SS-20's and 200 SS-4's targeted on Europe. So, if we accepted their offer, they would have to dismantle nearly 600 warheads, or two-thirds of their intermediate force, and would end up with a smaller force than they had in the mid-1970's.

In return for this substantial Soviet reduction, the United States would agree not to deploy in Europe any more missiles capable of reaching Russian territory. We would also have to remove the small number of Pershing 2 missiles already deployed in West Germany. This would leave the British and French forces intact, with approximately 300 warheads, and would permit the United States to keep approximately 60 cruise missiles already deployed in Britain., Germany and Italy. This would leave the North Atlantic Treaty Organization with 360 intermediate-range warheads facing the Soviet Union—matching 360 Russian warheads that would face Western Europe.

Second, the President could still reach an interim agreement on strategic forces. The Russians have proposed a mutual reduction of 1,800 missile launchers. That figure is better than the 2,250 ceiling suggested in the unratified second strategic arms limitation treaty but not as low as the Reagan Administration's proposed limit of 1,170. An interim compromise might leave each side with 1,650 launchers, or 6,500 warheads. And of course, to be fair, such an agreement would have to cover all categories of stratetic nuclear weapons, including land-based intercontinential missiles, in which the Russians have the advantage, and air-launched cruise missiles and submarine-launched missiles, in which the United States has the advantage.

These two interim agreements would sharply curtail the arms race and could provide the underpinning for much deeper reductions. To prepare the ground for such progress, we should also agree now to merge negotiations on intermediate-range and strategic weapons.

Why? Largely because European security is as much endangered by both sides' strategic weapons as it is by intermediate-range ones. Thus, for example, NATO's most powerful missiles are carried by Poseidon submarines and classified as strategic, while the Russians' big, accurate SS-18 and SS-19 strategic missiles are even more capable of devastating Europe than the intermediate-

range SS-20's. Merging the talks would also provide the best forum to take account of the British and French missiles—as the Russians will insist that we do.

Third, the President is passing up the opportunity to conclude a comprehensive test ban. The draft agreement provides for continuous on-site monitoring by technical means and for on-site inspection by human observers when there is evidence of possible violation. We are within sight of a final agreement. Yet the Reagan Administration has dropped out of the talks and has made plans to expand American nuclear test facilities. Meanwhile, the United States is producing more nuclear warheads today than at any time in the last 20 years.

Finally, the Reagan Administration has dropped out of talks to ban antisatellite weapons. The Russians have produced a primitive, low-orbit antisatellite weapon, but have indicated that they are willing to destroy it if a total satellite-weapon ban can be negotiated. Mr. Reagan is worried that adequate verification may not be possible, but he has not made every effort to explore joint measures for overcoming this problem. The destabilizing consequences of a race for space weapons would probably be more dangerous for us than for the Russians because we depend more heavily on satellite intelligence gathering.

If he really wanted to, President Reagan could start tomorrow to negotiate "fair and verifiable" arms control agreements with the Soviet Union. Certainly, that would make more sense than to continue on our present course, building an even more dangerous nuclear arsenal.

RACINE RESIDENTS ENLIGHTENED TO THE ARMENIAN GENOCIDE OF 1915

Mr. PROXMIRE. Mr. President, as media reaches out and touches the lives of more and more people across the world, the morbid reality of despicable human rights transgressions, past and present, becomes more and more vivid and horrifying in people's minds.

The expanse of the media and the information it provides to us all was impressed upon me recently when the Armenian genocide of 1915, considered the first genocidal act of this century, was discussed on a Racine, WI, television station for the first time.

The program, aired April 23, 1984, was hosted by Mr. Norb Trottier and invited guests were Chris Kalvonjian of Kenosha, WI, and Dr. Levon Saryan of Milwaukee, WI. The Racine program was the first of its kind in the area and presented a well-prepared and intelligent discussion of the horrible events to which the Turks subjected the Armenians.

Dr. Saryan presented the history of the Armenian persecutions, beginning with the massacre of 300,000 Armenians from 1894-96, and culminating in a series of tragic massacres in 1915. Throughout the 20-year ordeal, 1.5 million Armenians were exterminated by the Turkish Government and thousands of survivors were disbursed throughout Syria, Lebanon, Egypt, and Greece.

Mr. Kalvonjian discussed the documentation of the killings. He stated that to this day, Turkey is denying that a genocide ever took place.

Norb Trottier concluded that he felt it was important that the topic of the genocide be discussed in the media and that people should be informed of the tragic facts of what occurred in 1915.

I applaud Norb Trottier and his two guests for enlightening my constituency in the southeast Wisconsin area to the documented facts of this atrocity.

We cannot continuously sit back and close our eyes to the inhumanities of this world which have, and unfortunately continue to occur. We are a strong, exemplary nation. Let us not only make use of the media in keeping citizens in the United States and worldwide informed of these barbaric acts, but let us use every available opportunity to bring condemnation forever upon the sickening act of genocide.

An affirmative action we must take toward this goal is the ratification of the Genocide Convention. The Genocide Convention is the strongest statement we can make under international law to show our dedication to ending genocide.

Let us make it known to all people in the world that the United States will not close its eyes to violations of human rights and is willing to use all means available to denounce man's inhumanity to man.

I urge us to make 1984 a milestone in our human rights history by ratifying the Genocide Convention during the present Congress.

S. 2693—COMPREHENSIVE STUDY ON IMPACT OF NUCLEAR WINTER

Mr. PROXMIRE. Mr. President, today I am introducing a bill to require the Department of Defense to prepare a comprehensive study for Congress of the impact of nuclear winter on U.S. defense strategy and capabilities.

This bill does not just require the Defense Department to investigate nuclear winter. No; it does more. This bill first requires the Defense Department to investigate what impact nuclear winter would have on the defense capabilities of this country.

Second, it would require DOD to assess the implications nuclear winter presents for this Nation's defense strategy and doctrine.

And third, this bill would require the Pentagon to assess what changes are necessary in its research, development, and procurement policies as a result of what it has found out about nuclear winter.

As I have said, this would be a comprehensive 1-year study. The bill also calls on the Secretary of Defense to coordinate this study with other relevant agencies, such as the Arms Control and Disarmament Agency and the Federal Emergency Management Agency.

Now some may say, "Who cares what the implications are. If deterrence fails and the button is pushed, we will all be blown up in 30 minutes anyway."

Well, that might happen. But a 30-minute Armageddon is not the only thing the Defense Department is planning for.

The Penatagon has stacks and stacks of nuclear war scenarios it is preparing for—limited nuclear war, protracted nuclear war, countervalue strategies, counterforce strategies, strategies for fighting, surviving, and winning a nuclear war—the list runs on and on.

And what is more, we spend $700 million every day on defense to prepare for all these types of wars.

It is critical that we have a clear idea of all the consequences of a nuclear conflict so we do not waste money on weapons and defense strategies that not only do not work, but would be so suicidal that we would not want them to work.

For example, we hear this talk from the Pentagon about protracted nuclear war with the Soviet Union, which supposedly would last as long as 6 months.

But the scientists have come up with disturbing new findings that indicate that the explosion of just fraction of the world's nuclear arsenals—perhaps no more than 500 to 2,000 nuclear warheads—could cause a climatic catastrophe called nuclear winter, which would have disastrous atmospheric, environmental, and biological consequences.

During a protracted nuclear war, how would the air breathing leg of our strategic triad function in an atmosphere filled for weeks with smoke, soot, and dust?

How would our military forces function under massive fallouts of radioactive debris? How would they function under the destruction of the ozone layer that protects the Earth from the Sun's ultraviolent radiation?

How will our military equipment perform in this nuclear winter, which could last for months and months?

The personnel left to fight a protracted nuclear war might face subfreezing temperatures for months, a devastated agriculture and environment, and global epidemics. Would we have any people to fight a protracted nuclear war even if the equipment worked?

I do not know the answers to these questions. But before we spend billions of dollars preparing for a protracted nuclear war, we had better find out what effect nuclear winter would have on those plans.

Scientists who have studied nuclear winter believe that this climatic catastrophe would not be confined to the Northern Hemisphere where the bombs would fall.

No, the climatic catastrophe would devastate the Southern Hemisphere. In other words there will be no escape. Even the attacker might not escape. The prevailing winds could carry nuclear winter back to the attacker's soil.

Most people have assumed that several hundred million persons would be killed in a nuclear war between the United States and the Soviet Union.

That is a frightening figure in itself, but the scientists who have studied nuclear winter believe that there could very well be no survivors in the Northern Hemisphere.

In fact, a group of 40 distinguished biologists who met a year ago concluded that a nuclear war and the nuclear winter it would bring may even bring the extinction of the entire human race.

EXTINCTION OF THE ENTIRE HUMAN RACE

Now, I know that there is disagreement among us over the best defense for this country—but I think we would all agree that the best defense is not complete, total suicide.

Clearly the threat of nuclear winter has upped the ante considerable. The difference between 300 million casualties and the extinction of the human race is nothing to sneeze at and our defense planners had better start considering it carefully.

There are other assumptions we may need to rethink.

Should we be shifting more to lower-yield warheads, whose fireballs would be less likely to penetrate the stratosphere and deplete the ozone layer?

Should we change our targeting policies to avoid as much as possible hitting cities, whose destruction causes the worst of the climatic effects?

And finally, is the $4 billion the administration wants to spend to beef up our civil defense even more of a waste of money than some of us had imagined?

Mr. President, the Federal Government has begun studying the consequences of nuclear winter. For example, the National Oceanic Atmospheric Administration and the Defense Nuclear Agency are studying nuclear winter. And it appears that the Pentagon is concerned about the policy implications of nuclear winter. It has authorized the Center for Aerospace Doctrine Research and Education at Maxwell Air Force Base to begin looking into the implications of nuclear winter on defense policy.

My bill would put a high priority on such a study and it would require that DOD present a comprehensive report to Congress on the implications of nuclear winter for U.S. defense policy. After all, it is important that Congress get as much information on the policy implications as quickly as possible.

I understand that Senator COHEN will be offering an amendment to the DOD authorization during the Armed Services Committee markup requiring a study similar to the one I am proposing in this bill.

I hope the Armed Services Committee adopts his amendment because I think that such a nuclear winter study is critically important.

Mr. President, Albert Einstein once said that, "The unleashed power of the atom has changed everything except our way of thinking."

I agree, and this has caused many unrealistic and wasteful defense policies to be foisted on the American public.

My bill would have the Defense Department take a hard look at its defense policies and report to Congress on what it has discovered. It would have DOD to study the nuclear winter phenomenon and see if the Pentagon's way of thinking about nuclear war needs to be changed.

It is a comprehensive study the Pentagon needs to begin—and begin now.

Mr. President, I ask unanimous consent to have printed in the RECORD the bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares—

(1) that recent scientific studies indicate that a nuclear war would have disastrous atmospheric, climatic, environmental, and biological consequences, sometimes known as "nuclear winter";

(2) that such studies reveal that a nuclear winter could result from a wide range of possible nuclear war scenarios, including a limited nuclear war;

(3) that more study is needed to determine the implications that the threat of nuclear winter presents with regard to the current and projected military force capabilities of the United States and with regard to the defense strategy and doctrine of the United States; and

(4) that future research and development and procurement policies of the Department of Defense should be significantly influenced by the probable effects of nuclear winter.

SEC. 2. The Secretary of Defense shall conduct a comprehensive study of the implications that the atmospheric, climatic, environmental, and biological consequences of nuclear explosions, sometimes known as "nuclear winter", present with regard to the defense capabilities and strategy of the United States. Such a study shall include, but not be limited to—

(1) a detailed review of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions;

(2) an assessment of the implications that such studies and findings present with regard to the current and projected capabilities of the nuclear forces of the United States and with regard to the current defense strategy and doctrine of the United States; and

(3) an assessment of the changes in this Nation's research and development and defense procurement policies that are necessary as a result of the studies and findings referred to in clause (1).

SEC. 3. (a) The Secretary of Defense shall submit a classified and unclassified report containing the results of the study required by this Act to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives within one year after the date of enactment of this Act.

(b) In the preparation of the report, the Secretary shall consult with the heads of all other relevant departments and agencies of the Government, including the Director of the Arms Control and Disarmament Agency and the Director of the Federal Emergency Management Agency.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 9:30 a.m. with statements therein limited to 10 minutes each.

SYNTHETIC FUELS CORPORATION

Mr. BYRD. Mr. President, on May 21 the Washington Post's lead editorial commented on the relationship between the widening war in the Persian Gulf and the mission of the Synthetic Fuels Corporation. The editorial notes that the Synthetic Fuels Corporation "is becoming the great symbol of the muddle and inconstancy of American energy nonpolicy."

The Post editorial also points out "What's needed is liquid fuel from coal—a substitute for gasoline and heating oil." I agree that liquid fuel from coal is needed. I would add that this administration has allowed one significant opportunity to produce liquid fuels from coal to slip away. It was in July 1980 that the Gulf Oil Co., the United States, Japan, and West Germany joined together to support the solvent refined coal (SRC-II) demonstration plant, which was to be constructed in Morgantown, WV. The plant would have converted 6,000 tons of coal per day into 20,000 barrels per day of boiler fuels, transportation fuels, and petrochemicals. Unfortunately, for West Virginia and the Nation, the plant was never built due to a policy decision of this administration to unilaterally cancel the international agreement. I cannot help but wonder how different the Nation's synthetic fuels program would look today if that plant had been built. I think the SRC-II plant would have been a concrete example of the economic value and the national security importance of synthetic fuels in the Nation's energy supply.

This past Sunday, the front page of the Post carried a photograph of a large Saudi Arabian oil tanker burning in the Persian Gulf after an attack by Iraqi planes. That one photograph captured the essence of our energy situation. As the Post editorial points out:

Subsidies for synthetic fuels are a kind of insurance. In view of recent developments in the Persian Gulf, it doesn't look like a bad way to spend public money—especially when you consider the alternatives.

Mr. President, I ask unanimous consent that I may have printed in the RECORD at this point the Washington Post editorial of Monday, May 21, entitled "A Footnote on Synfuels."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A FOOTNOTE ON SYNFUELS

The attacks on oil tankers in the Persian Gulf bring, inevitably, renewed speculation on the possibility of American military intervention. That, in turn, invites attention to a less dramatic event here in Washington last week. The Reagan administration demanded that Congress revoke most of the money it had earlier extended to the U.S. Synthetic Fuels Corporation. That unfortunate and mismanaged enterprise is becoming the great symbol of the muddle and inconstancy of American energy nonpolicy.

It was created in response to the last disruption of the world's oil supply by the Iranian revolutionaries. Now the Iranians are at it again, as well as their neighbors and enemies the Iraqis, and this time the response by the administration is to try to cut off all further development of synthetic fuels.

Perhaps by this time it doesn't make any difference. Perhaps the Synfuels Corporation has been so abused by poor appointments and poor judgment over the past three years that is is no longer capable of the job. The secretary of energy, Donald Hodel, may conceivably be right when he says that the only way to save the corporation is to cut it radically.

But its only major project, as things stand, is a plant to make gas out of coal. Synthetic gas is one product that the country doesn't really need. There's plenty of natural; gas. What's needed is liquid fuel from coal—a substitute for gasoline and heating oil.

The administration observes that the prices of some of the synthetic products would probably be excessive. That's true. The way to get the prices down is to undertake development of these technologies on an industrial scale. Even though the cost may be high in the early stages, it will be carefully noted in the Middle East and set an upper limit to market prices for oil. Subsidies for synthetic fuel production are a kind of insurance. In view of recent developments in the Persian Gulf, it doesn't look like a bad way to spend public money—especially when you consider the alternatives.

Mr. BYRD. I thank the Chair.

AUTHORITY TO PRINT SENATE PAMPHLET (S. DOC. 98-29)

Mr. BAKER. Mr. President, I ask unanimous consent that a pamphlet, "The Term of a Senator, When Does It Begin and End?" as prepared by the Parliamentarian, under the direction of the Secretary of the Senate, be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO BARRETT SHELTON

Mr. HEFLIN. Mr. President, on Sunday, April 22,, 1984, Alabama lost one of its truly great citizens and outstanding civic leaders when Barrett C. Shelton, Sr., passed away

Barrett Shelton was indeed one of the great public servants of my State and our Nation. He was well known among many of my colleagues here in Congress for his dedicated work both as a private citizen and as editor and publisher of the Decatur Daily. For more than 50 years, Barrett Shelton toiled in the vineyard of his community, his State, and the Tennessee Valley. As one who knew him, I know his efforts were a labor of love.

The story of Barrett Shelton's community efforts and achievements is known throughout my home region of north Alabama. It has been said that a person can pick out any worthwhile thing around his hometown of Decatur, and the chances are that his imprint can be seen on the foundation. More than the uninformed might think, that is true—from the Decatur Chamber of Commerce, the North Alabama Industrial Development Association, and the Tennessee River Valley Association, the Tennessee-Tombigee Waterway, the Tennessee Valley Association, almost every industry and plant in the area, and countless other local projects.

Since the range of Barrett Shelton's interests was so wide, his accomplishments spread across the spectrum of his beloved Tennessee Valley. He was always working for the good of the area, not personal gain.

His father, William Randolph Shelton, preceded Barrett as editor and publisher of the Decatur Daily. It was while young Barrett was a junior at Washington & Lee University that illness and the subsequent death of his father caused a brilliant student to leave that institution and become editor and publisher of the Daily. That was in 1924, and Barrett Shelton was 22 years old. Since that time, now 60 years ago, the Decatur Daily has served as a clarion trumpet for a bigger and better Decatur, a bigger and better Alabama, and a bigger and better Tennessee Valley.

In this age of huge newspaper conglomerates, it is apparent that Barrett could have sold his newspaper for a tremendous profit years ago, retiring comfortably to rest on his laurels and commendations. Instead, he chose to keep it a hometown nespaper, a family operation, whose focus was on spurring community action and improvement.

Why was Barrett Shelton so successful? In a phrase, it was because of pure, simple, old-fashioned hard work, and a total commitment to making the world a better place to live.

In his lifetime, Barrett was a pioneer in the economic and industrial development of the Tennessee Valley. He was a longtime supporter of agricultural assistance, soil conservation, crop diversification, and other agricultural developments. Barrett was in the forefront of activities designed to bring better medical care to his area, evidenced by his being awarded the William Crawford Gorgas Award by the medical society of the State of Alabama in 1969.

Barrett Shelton was a prime mover behind numerous community action programs. Among the buildings which owe their very existence to this work as chairman of their building drives are the Wheeler Basin Regional Library and Decatur's Salvation Army Headquarters. He also gave unceasingly to make the Tennessee-Tombigbee Waterway a reality.

Despite all these areas of accomplishment, I am quite certain that none were closer to his heart or brought him greater satisfaction than his long-term support of the Tennessee Valley Authority. Early on, Barrett saw TVA as the key to extracting the Tennessee Valley from the quicksands of economic impoverishments and added his vision and energies to the concept. His suport and leadership helped make TVA a strong, adaptable and responsive agency.

Barrett Shelton was an outstanding citizen in every respect, evidence of which is the almost infinite listing of awards he received. To list them all would be almost impossible; to list none would be an injustice. In 1983, he received the Distinguished Service Medal of Alabama; in 1975, he received the Audie Murphy Patriotism Award; and in 1981, he was named as the recipient of the Tennessee Valley Distinguished Citizen Award.

Barrett Shelton will be greatly missed. Alabama, Decatur, and the Tennessee Valley have lost one of its greatest citizens. I have lost a close personal friend.

Mr. President, I ask unanimous consent that articles and editorials from the Decatur Daily and the Huntsville Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Decatur Daily, Apr. 24, 1984]

BARRETT C. SHELTON

An old man going a lone highway,
Came in the evening cold and gray.
To a chasm vast and deep and wide,
The old man crossed in the twilight dim
The sullen stream had no fear for him.

But he turned when safe on the other side,
And built a bridge to span the tide.
"Old man," said a fellow-pilgrim near,
"You are wasting your strength a building here.
Your journey will end with the ending day,
You never again will pass this way.
You've crossed the chasm deep and wide,
Why build you this bridge at evening tide?"
The builder lifted his old gray head,
"Good friend, in the way I've come," he said,
"There followeth after me today,
A youth whose feet must pass this way.
The sullen stream was as naught to me,
To that fair haired youth may a pitfall be;
He too must cross in the twilight dim,
Good friend, I am building a bridge for him."

—THE BRIDGE BUILDER
by Will Allen Gromgoogle

Barrett C. Shelton knew he had a special gift as a leader and he gave of it freely. Sitting in a hotel room in Tokyo two years ago, he hatched a scheme to entice Toyota to build a plant here that would employ 10,000 people.

The plant wasn't built but the effort was an example of his never-ceasing drive to do something for his people. He never let up at trying to improve Decatur, Morgan County and the Tennessee Valley. Even as life slowly flowed from him during the three weeks he was in a Birmingham hospital, he directed projects he had under way.

Barrett Shelton had far greater vision than most people. He had a belief in himself and in his ability to bring together the right people and the right elements at the right time to transform his visions into reality. He was a builder, and he believed in people.

He knew a million people, it seemed, and each could tell a story about the "Old Man," each story sprinkled with his ever-present humor, but each with a common theme of trying to help someone, or trying to help Decatur, Morgan County, the Tennessee Valley or the state of Alabama.

It was his life. While others played golf and took vacations, he rarely did. He worked, not only at building a better newspaper, but at building a better community. He believed a job was sacred and he wanted each person to have one. Thousands of people are at work today because of him.

Barrett Shelton was inquisitive. He had a thirst for knowledge. He believed in education. He often said that he wasn't exactly sure what high tech was, but that North Alabama had to have it. He knew its companion was education.

He had a natural enthusiasm for everything but most of all an enthusiasm for life. He loved living. He was determined to whip that dreadful thing that kept tugging at his lifeline. Two days before he died, when talking was almost impossible for him, he said twice in measured deliberate words: "I will be back." The vow was to return to his office at The Daily, the place that was his life and the place where he often said "things get started."

He was more human than most of us. He felt things more keenly. Poverty made him grieve. "It's horrible," he often said. He was a pushover for hardluck stories that cost him no telling how much in personal charity.

He had a deep loyalty to his friends and to his beliefs.

He was a Democrat, always, and it pained him greatly to have to support a Republican president, a Republican senator, a Republican anything. But he saw it as his duty to support those in office, those building a better America. Building was always the key. He supported politicians because they could aid his city, his county and his people.

Of course, at election time he would be back trying to build the Democratic Party. He was a Democrat.

He felt that a newspaper's single most important function was to build. He devoted his last 15 years to that task full time and fretted that time was running out on him and that he had projects, such as downtown renovation, yet to be finished. At age 81, he had no desire to retire.

Mr. Shelton believed in quality journalism, but often practiced it a little differently from the norm. While some editors contend that the press and government should be adversaries, Mr. Shelton didn't believe a reporter should stick his finger in an elected offical's eye simply because he represented the press. But let an official violate his public trust and he became fair game.

He loved his family, and that included "The Daily Family," the men and women who produce this newspaper every day.

Barrett Shelton had an unshakable faith in God, his church, his family and his people that was the cornerstone for all that he helped build.

[From the Huntsville Times, Apr. 24, 1984]

BARRETT C. SHELTON, SR.

For more than six decades, Barrett C. Shelton Sr., who died Sunday, made his presence felt, both as editor and publisher of The Decatur Daily and as a civic leader determined to make North Alabama an industrial center of the South.

When he took over as editor of the family paper in 1924, Decatur had a population of 8,000. Now it is a thriving industrial city of 43,000. The Shelton family moved to Decatur in 1911 and a year later William Shelton established The Decatur Daily. The paper later was renamed the Albany Decatur Daily, only to return to its original name in 1927.

Shelton enjoyed a multipurpose career that included athletics and singing as well as journalism and civic enterprises. One of the highlights of his career came in 1949 when he was invited to address a United Nations conference in New York to tell the story of the Tennessee Valley Authority, a federal agency he once opposed but later viewed as a vehicle for economic prosperity.

He organized and was the first president of the Decatur Junior Chamber of Commerce, which established a baseball league and the area's first airfield, and in 1930 he organized and became the first president of a new Chamber of Commerce.

Shelton was the first chairman of the Tennessee River Valley Development Association, formed to support TVA and industrial development in north Alabama's Tennessee Valley.

Shelton was honored with many awards, both in journalism and for his civic and industrial work. He received the Audie Murphy Patriotism Award during the 1975 Fourth of July Spirit of America Festival in Decatur.

Shelton brought his fervor and love of journalism to his civic and industrial duties. He will be missed by all those who knew him, and Decatur and the Valley will be much the poorer for his passing.

NATIONAL MARITIME DAY

Mr. INOUYE. Mr. President, to promote awareness of this Nation's maritime heritage, the Congress, in 1933, designated the first transatlantic voyage of the steamship SS *Savannah* on May 22, 1918, as National Maritime Day, and requested the President to issue a proclamation annually in observance of that day.

Today, the annual merchant marine memorial service was held in the Senate park in conjunction with the official observance of National Maritime Day. This is the only national memorial which honors those American seafarers who lost their lives in service to their country.

Mr. President, on this day we should pause to recall that during World War II alone, 733 American vessels were sunk and 5,638 merchant seamen and officers were lost as a result of enemy action. Of that total, some 97 merchant ships were lost on the famed Murmansk run, the Arctic route used to supply the Russian front.

In a few days, we will be observing National Memorial Day, and on that day will be paying respects to those soldiers and sailors, marines and airmen who gave their lives in service to this country.

Today, I think we should recall that there are others who also served this country.

So on this day, let us pause and pay tribute to those men and women of the American merchant marine who gave their lives in service of our country.

Mr. BAKER. Mr. President, I thank the Senator from Hawaii for his remarks and I join with him in observance of this day.

DR. SPURGEON EURE

Mr. BAKER. Mr. President, on June 1 the Southern College of Optometry in Memphis will commemorate the retirement of its longtime president, Dr. Spurgeon Eure, by dedicating a new building in his name at the spring commencement exercises. There could be no more appropriate tribute to Dr. Eure, who has played such a great role in the building of Southern College and optometric education in general.

Actually, to say that Spurgeon Eure has played a major role in the development of optometric education is an understatement. Many of the advances in optometric education over the last two decades are a direct result of Dr. Eure's efforts. Dr. Eure's work on the optometric review committee of the then HEW Bureau of Health Professions in the late 1960's helped expand resources for the education of health professionals and resulted in improved curriculum and the upgrading of school facilities. Dr. Eure was also instrumental in the establishing of State funding for students in States where there are no optometry schools, thus

helping to improve the geographic distribution of students.

All of Dr. Eure's many great accomplishments have been aimed at one overriding goal—to improve the quality and accessibility of eye and vision care in our country. His successes have helped achieve that goal and laid the groundwork for future advances in this most important area of health care. I am pleased to join Dr. Eure's many friends and colleagues in paying him the recognition and tribute he so richly deserves.

MARIE ALLEN

Mr. HEFLIN. Mr. President, I rise with sense of sorrow but a spirit of well-wishing for my personal secretary, Marie Allen, who has made the decision to retire. I know that this was a hard decision for her to make, but, nevertheless, it was a decision made so that she may be close to members of her family. It was a hard decision because she will be leaving literally thousands of friends in the Washington area, particularly on Capitol Hill.

She has always had the capacity to make friends easily because she is kind and thoughtful. Her personality has always been a magnet to her friends. A person who knows her soon is drawn into her circle of friends because of her magnetic personality, captivating smile, and courteous manners.

One of her great and many fine traits is her loyalty. She has indeed been loyal to me, always looking after my best interests. That keen and devoted sense of loyalty has evidenced itself in too many ways to enumerate. Suffice it to say, she has been my loyal and staunch friend.

She has one of the best telephone personalities. When a constituent phones from Alabama, her smile and courtesy come through. She truly has a "voice with a smile."

My constituents will greatly miss the fine manner in which she made arrangements for breakfasts, luncheons, receptions, or a place to meet.

The summer interns will miss her and her helpful assistance. Visiting constituents will miss her guidance to the subway and to the reception room of the Senate so they might persuade their Senator off the floor.

Her "boys" in the Democratic cloakroom will miss her in many ways. They have requested that a statement about Marie Allen appear and be printed in full in the RECORD.

I will miss her as a secretary, but, even more so, I will miss her as a friend on a daily basis.

Good luck, Marie. Come back often to visit us.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement of the staff of the Senate Democratic cloakroom.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MARIE ALLEN

The staff of the Senate Democratic Cloakroom has had the opportunity to work with many fine people over the years, but few have shared the unique characteristics of Marie Allen. Her retirement, after many years of dedicated service to Senator HEFLIN, the State of Alabama, and the U.S. Senate, is altogether a fitting occasion to extend to Miss Marie our grateful thanks and warm appreciation for the opportunity to have worked with her.

THE IRAN-IRAQ WAR

Mr. DECONCINI. Mr. President, the recent news of attacks on the ships of free nations in the Persian Gulf should be a chilling warning to the West that a very serious situation is developing from the conflict between Iran and Iraq. It is a situation which responsible nations can no longer passively observe. The conflict between these two countries threatens to erupt into a scale of bloodshed beyond anyone's imagination, taking the lives of hundreds of thousands of young men in the most brutal fashion.

My thought is that we are at a window of history which displays clearly that a tragedy is taking place. It is one of those fragilities of our species, however, that our only reaction is one of paralysis. We must not let the future become as horrible as it promises to be if the Iran-Iraq war continues in its course.

Most of the alternatives available to us are of a military nature and will have far from the desired effect of reducing confrontation and death. Yesterday, a new proposal was made to this country and the world by the nationally respected petroleum analyst, Dan Lundberg. It is an idea laced with wisdom, one which we are bound to embrace.

Mr. Lundberg calls upon our country to take leadership in the world community and call for a complete cessation of the purchase of oil from both Iran and Iraq. Whoever purchases this oil is serving only to provide the capital for continued warfare. Cut the capital off, and the destructive beasts of that war will quickly starve.

The power of this appeal is both in its simplicity and in the chain of events which it is sure to spark. There is a glut of oil in the world that is being kept from the market, strictly to prop up the international price. A country like Nigeria, which is suffering from a drought that is bringing starvation to much of Africa, is being deprived of the valuable hard currency that can be gained from the sale of its oil. Rather, that currency is being channeled into the tools of warmaking destruction.

I understand that the Los Angeles Times today loudly endorsed Mr. Lundberg's initiative. Let us all do so immediately. I ask all of my colleagues to call upon our President and encourage his leadership in this most important call to the world community. Let all nations immediately suspend their purchases of oil from Iran and Iraq, and let us all work together to encourage those oil producing nations that are holding back their production to quickly fill the gap.

TRIBUTE TO COLOMBIA'S WAR WITHOUT QUARTER

Mrs. HAWKINS. Mr. President, last month a brave crusader against international drug trafficking was brutally murdered. Rodrigo Lara Bonilla, who had served as Minister of Justice of Colombia was gunned down by cocaine dealers, due to the Minister's increasingly effective efforts to curb his country's involvement in the drug trade.

The sacrifice this great man has made with his life has not been in vain, however. Colombia has declared a "state of seige" on drug traffickers, and listed below are some of what Colombian authorities have accomplished thus far: 390 persons have been arrested; 617 houses have been searched; 25 airplanes, 38 trucks and 1 ship have been seized; and 300 tons of marihuana and 164 kilos of cocaine have been confiscated. Colombia is, indeed, waging "war without quarter" on drug traffickers.

The reasons for this awakening on the part of Colombia and its citizens to the dangers of drug trafficking are not exclusively related to the nation's collective outrage over Lara Bonilla's assassination. Colombians, increasingly concerned by the growing size, aggressiveness, power and sheer arrogance of the narcotics organizations, could no longer ignore the fact that their nation was being taken over. For example, the amount of cocaine money that was coming into Colombia had grown to the extent that cocaine dollars were being blamed for wild distortions in the Colombian financial system and even for the failure of one major bank.

Another reason for this increased awareness is the alarming increase in cocaine use by Colombia's young people. The drug networks had encouraged the creation of an internal Colombian market for a cocaine product of low quality, thus not for export—basuka, a paste of semiprocessed coca leaves suitable for smoking. Their campaign was so successful that Colombian officials believe that this cocaine base is now the most abused stimulant among Colombian youth, and the most dangerous. Not only is it addictive, but it can often create a "nightmarish hangover of psychosis."

In their search for profits, then, the Colombian drug dealers do not spare

even their own. This internal marketing of cocaine has brought home to the Colombians a problem they once believed was limited to the United States and Europe. With recent developments, however, the Colombians are waking up to the devastating effects of drug trafficking on their society.

It is also obvious that the Colombians will no longer tolerate the violence of the drug underground. In Colombia, there are five guerrilla groups known to be in existence, with more than 10,000 rural and urban fighters. Murders, kidnappings and street crime occur so often in Colombian cities that private bodyguards and armored cars are considered necessities for any family of means. With estimated revenues of $500 million per year, Colombian cocaine operators are willing to use any means to protect their organizations. That situation has created such lawlessness in Colombia that the citizens of that nation are demanding a return to order.

And it is working. As the editor of Colombia's most widely read newspaper, El Tiempo, stated recently:

We are dealing with an inconceivable challenge and a monstrous provocation that obliges a change in the rules of the game . . . the people demand more authority and an iron fist.

Mr. President, the people and the Government of Colombia should be encouraged and supported in their efforts. It will not be a simple thing to rid their homeland of the scourge of drug dealers, but with the kind of determination exhibited by Rodrigo Lara Bonilla in his short time in office, we know that Colombians can and will be successful in obliterating drug trafficking.

I ask unanimous consent that the enclosed article entitled "Colombia Fights Back After Waking to Ravages of Drug Trade," in the Washington Post, dated May 21, 1984, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLOMBIA FIGHTS BACK AFTER WAKING TO RAVAGES OF DRUG TRADE

(By Jackson Dieh)

BOGOTA, COLOMBIA.—In city slums, teenagers on street corners smoke an addictive raw cocaine base that offers a brief high and often a nightmarish hangover of psychosis.

On the sparsely settled southeastern plains, police discover an "industrial complex" of narcotics: 19 laboratories, 44 buildings, an airstrip with five planes, a power plant and a communication complex. They also discover 12.5 metric tons of pure cocaine which would be worth up to $1.2 billion on the street in the United States.

In Bogota, Appeals Court Judge Rodolfo Garcia Ordonez removes a neatly typed, anonymous letter from his top desk drawer. "We order you," it says, "not to intervene again" in the case of major cocaine trafficker from the commercial center of Medellin. "Otherwise we will be obliged to submit you and your family to a fatal accident," it adds.

These are among the public manifestations of Colombia's vast narcotics underworld. It is a business that during the past five years has grown from an easy-to-ignore illicit traffic with American users to a virtual state-within-a-state maintaining its own public figures, factories and armies here. It is arrogant enough to challenge openly the official leaders of Colombia.

La mafia may have reached its apex on the evening of April 30, when two hired men from Medellin gunned down justice minister Rodrigo Lara Bonilla, who virtually alone had crusaded against the narcotics trade and tried to warn the country that it was threat.

Since then, President Belisario Betancur has declared a state of siege and a "war without quarter" on drug traffickers. Authorities have arrested more than 500 suspects. The public in this chronically troubled nation of 27 million seems to have awakened.

"The assasination showed the degree of aggressiveness and arrogance, and the sheer size that the narcotics organizations have arrived at," said Garcia, a former prosecutor of narcotics cases. "It was a shock that caused people to analyze a situation they had not paid much attention to before.

The outrage over the Lara Bonilla killing in part seems to reflect public frustration with decades of rampant violence and rural lawlessness that made Columbia a logical base for smuggling and crime.

Since 1948, when a decade-long civil war known as *la violencia* erupted between Colombia's traditional Liberal and Conservative parties, wide zones of the undeveloped countryside and the backstreets of big cities have been ruled by sucessive bands of guerrillas, smugglers and crime networks.

Today Colombia is plagued by five leftist guerrilla groups with more than 10,000 rural and urban fighters. Murders, kidnapings and street crime are so common in the cities that private bodyguards and armored cars are considered virtual necessities for any family of means. Medellin, meanwhile, has been a capital of contraband ranging from marijuna, methaqualone and emeralds to illegally imported American cigarettes.

In this vast underworld, the Colombian cocaine organizations, with their huge installations and estimated $500 million in annual revenues, have become both the dominant powers and the public symbols of national lawlessness.

* * * * *

It was not always that way. The Colombians who began in the late 1970s to establish networks for refining coca leaves grown in Peru and Bolivia into cocaine and shipping it abroad initially seemed to enjoy public indifference and occasional complicity.

The richest of the traffickers in fact became national celebrities, tolerated and even toasted for their eccentric habits and vast wealth. One of the best-known of those accused by the government of conducting the trade, Pablo Escobar Gaviria, was elected to Congress as an alternate delegate in 1982.

Escobar won support around Medellin by donating lighting systems to the stadiums of his favorite soccer teams. On his spawling ranch, he built artificial lakes and his own airport and stocked a private zoo with exotic animals. One local magazine was even moved to call him the "native Robin Hood." He is now a fugitive.

What has changed national attitudes toward such flamboyant figures has been the increasing influence of the cocaine organizations within traditional institutions and the spread of both drug consumption and violence within the country.

Eager to replace the coca plants smuggled from Peru and Bolivia with local products, the Colombian organizations several years ago began to encourage the expansion of coca growing in Colombia from a few isolated sites to more than 40,000 acres of fields by last year, according to officials here.

While vast tracts of land were thus taken over by the narcotics industry, Colombian coca leaves proved to be of relatively poor quality. So, Colombian authorities say, the drug networks have sought to create an internal market for raw cocaine base, a paste of semi-processed coca leaves suitable for smoking.

The marketing effort has been frighteningly successful. Although no accurate surveys have been done, law enforcement and family-welfare officials believe that cocaine base, or *Basuka*, may be the most abused stimulant among Colombian youth—and the most dangerous. Because it is only partly processed, the base is usually laced with impurities, such as gasoline residues, that can cause almost immediate neurological damage among users.

The internal marketing of cocaine brought home a problem that many Colombians once perceived as limited to the United States and Europe. By early this year, meanwhile, the influence of narcotics money seemed to be everywhere. Many experts blame cocaine dollars for wild distortions in the financial system and even the failure of one major bank.

Lara Bonilla charged that narcotics capital was financing six of Colombia's 14 professional soccer teams. In nationwide municipal elections in March, authorities acknowledged that millions of dollars from the traffickers had gone into the campaign funds of the Liberal and Conservative parties.

Finally, there was the violence, going beyond gangland slayings among drug traders. Lara Bonilla and U.S. officials charged that Escobar and another alleged trafficker, Carlos Lehder Rivas, helped found a right-wing terrorist group known as Death to Kidnappers, which has been blamed for hundreds of assassinations of suspected guerrillas as well as threats and attacks on judges, prosecutors, journalists and politicians opposed to the drug trade.

Evidence revealed this year by Colombian police and U.S. drug enforcement officials indicated that some traffickers had turned from infighting to cooperation with major leftist guerrilla groups. In return for arms and money, U.S. officials charged, some fronts of the Colombian Revolutionary Armed Forces were providing land and high-powered protection to cocaine-processing centers.

The assassination of Lara Bonilla, a promising young leader of the political establishment, seemed to be the last straw.

"We are dealing with an inconceivable challenge and a monstrous provocation that obliges a change in the rules of the game," wrote editor Enrique Santos Calderon in Colombia's most respected newspaper, El Tiempo. "The people demand more authority and an iron fist."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now proceed to the consideration of S. 1651, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1651), to amend title 38, United States Code, to provide for presumptions of service connection to be established by the Administrator of Veterans' Affairs for certain diseases of certain veterans exposed to dioxin or radiation during service in the Armed Forces; to require the Administrator to develop, through a process of public participation and subject to judicial review, regulations specifying standards for and presumptions applicable to the resolution of claims for disability compensation based on such exposures; to require that such regulations address certain specified diseases; and to require that all claimants for Veterans' Administration benefits be given the benefit of every reasonable doubt in claims adjudications; and for other purposes.

The Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the majority leader, with particular emphasis on his willingness to have this matter come before the body today, and particularly—and I will delve more into that during my time on my amendment—the extraordinary assistance, cooperation, and support of Senator CRANSTON, of California.

At this time, I believe the order of business is that S. 1651 has been called up, and is the order of business before us. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. Therefore, that is the measure sponsored by Senator CRANSTON. I yield to him at this time for debate on S. 1651.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I thank my friend from Wyoming, the distinguished chairman of the Veterans' Affairs Committee.

Mr. President, I yield such time as I may need.

Mr. President, I am delighted that the Senate is finally going to have the opportunity to act on the issue of how the Federal Government should respond to the very serious concerns and numerous questions about compensation that have been raised by veterans who were exposed during their service in Vietnam to dioxin as found in agent orange or who were exposed to ionizing radiation from nuclear explosions during atmospheric weapons tests or in connection with the American occupation of Hiroshima and Nagasaki following World War II.

These two very emotional matters have been of grave concern to me, and many, many others directly affected, for the last 5 or 6 years. Over the period during which I was privileged to chair the Veterans' Affairs Committee which I now serve as ranking Democratic member, we have made some real progress and also encountered much frustration in trying to deal fairly and compassionately with the concerns among veterans exposed to dioxin or radiation, their families, and others concerned about these issues. These concerns have fallen into three general categories—questions about the health effects of exposure, the need for health care for current problems that may be related to the exposure, and compensation for any such diseases or disabilities.

In the first two areas of concern—getting answers to health effects questions and provision of health care—the Congress has taken direct action by adopting legislation I proposed—first to mandate—in section 307 of Public Law 96-151 and section 601 of Public Law 98-160—the epidemiologic study of both populations of exposed veterans and, second, to provide the VA—in section 102 of Public Law 97-72—with authority to provide health care for these veterans for conditions not clearly caused by something other than their exposure. It is only in the third area—compensation—that there remains a compelling need for legislative action.

As a reflection of my concerns about this last issue, I originally introduced legislation, S. 991, early in 1983. Later, on July 20, 1983, following hearings and reports on S. 991, I joined with Senator SPECTER and Senator MITCHELL in introducing the pending measure which was derived from S. 991, Senator SPECTER's bill, S. 374, and Senator PRESSLER's bill, S. 786.

Last summer, Senator SPECTER, Senator MITCHELL, and I sought to have the text of S. 1651 put before the Senate as an amendment to S. 1388, a general VA compensation measure that our committee was then considering. Unfortunately, on a 6-to-6 tie vote, our amendment was not adopted in committee. When S. 1388 was scheduled to come before the Senate later in the year, I indicated my intention to offer the text of S. 1651 as a floor amendment. Despite a large amount of pressure to abandon that course, I persisted in it. On the last day of the first session, November 18, however, I withheld my amendment at the request of my good friend, the chairman of the committee, Mr. SIMPSON, and on the basis of his agreement to our committee being discharged from further consideration of S. 1651 and the Senate ordering that the measure be considered during this session with the understanding that this would be done before Memorial Day. Such an unanimous-consent agreement was entered into on November 18, and the agreement and the understanding are now being fulfilled with consideration of S. 1651 today.

In addition to the need to proceed with this legislation based on the longstanding concerns of the veterans, their families, and others, two recent events involving these issues in the Federal judiciary have added a further sense of urgency to our efforts. First, on May 7 came the settlement in a New York district court class action lawsuit between Vietnam veterans and the companies that manufactured agent orange. Then, on May 10 came the decision in a Federal court in Utah in the radiation exposure class action case ordering damages to be paid to 10 civilians exposed to radiation from test explosions at the Nevada test site.

BACKGROUND

Mr. President, I have had a deep and longstanding concern about the Government's response to veterans exposed in service to ionizing radiation.

Beginning in 1945 and continuing until the Limited Test Ban Treaty in 1963, the United States conducted 235 announced detonations of nuclear devices in connection with its atmospheric and underwater nuclear weapons testing program.

My involvement in this issue came about through work with individual veterans. Through contact with them, I became acutely aware of the issues of health care and compensation for disabilities which may be related to radiation exposure. I found that these veterans and their survivors face an inordinately lengthy claims process in which claims reaching the Board of Veterans Appeals were frequently remanded, on some occasions more than once, and that documentation of the service member's participation in weapons testing was frequently difficult to obtain, not obtained as a matter of standard procedure, or was classified. In addition, claims decisions made by the VA were often inconsistent with each other, and no orderly procedure or guidance existed to assist in gathering and evaluating the complex factors which can come to bear on these cases. Finally, as I will shortly elaborate further, few claims were granted at all on the basis of exposure to ionizing radiation. In addition to

these shortcomings in the claims process, exposed veterans lacked clear eligibility for health care.

As chairman of the Veterans' Affairs Committee at that time, I believed, and I continue to believe, that the Government which exposed these veterans to this acknowledged health risk has a moral obligation to take responsive action to address their concerns. Thus, on June 20, 1979, I held the first congressional hearings on veterans exposure to radiation and the difficulties experienced by veterans and their survivors in using the current VA adjudication system for radiation-related disability claims. This hearing generated significant awareness and activity in the Government on this issue and achieved among others, the following points:

The VA's agreement to issue agency-wide instructions establishing certain presumptions on test participation and directing that credible estimates of radiation exposure—even if higher than actual badge or dosimeter readings—be used in adjudicating claims;

The VA's agreement to develop, in collaboration with other appropriate Federal departments and agencies, generally accepted medical principles concerning radiation-related illnesses as well as an enumeration of areas where uncertainties exist about that knowledge;

The DOD's announcement that geographic reconstructions are used in its development of radiation exposure estimates for test participants;

The DOD's agreement to make publicly available, through declassification if necessary, any document or section of a document related to personnel participation or radiation exposure during the tests that would not jeopardize national security by its release and to make publicly available, and keep updated, a list of such documents; and

The agreement of the VA and the DOD, in a memorandum of understanding signed on June 15, 1979, and clarified during the committee's hearing, to work closely to assist claimants in gathering information in support of claims and to provide timely reconstructions, as requested with respect to the participation and exposure to radiation during the tests of individual veterans.

Over time, a number of these gains were eroded, in particular as a result of the Gott against Nimmo lawsuit and decision. I believe that S. 1651 will go a long way toward completing the efforts initiated by 1979 hearing to address the inadequacies of the adjudication process with respect to radiation-related claims.

As I mentioned earlier, because of my concerns regarding the health care needs of these veterans and my belief that the Government responsible for their exposure should take responsibility for the treatment of conditions that may have resulted from this exposure, I authored legislation, enacted in Public Law 97-72, to provide the VA with specific authority to give these exposed veterans medical care for conditions not resulting from a cause other than their exposure. When the VA issued regulations which did not implement this law with respect to radiation-exposed veteran as Congress intended, I pursued this matter rigorously and repeatedly, succeeding finally, during the course of the April 6, 1983 hearings in getting the VA to issue—17 months after enactment of the legislation—regulations to carry out the law properly.

In addition to the April 1983 hearing, two other important initiatives in the 98th Congress have brought about progress on radiation issues. First, the Congress enacted, in Public Law 98-160, a provision I authored requiring that the VA compile an indexed radiation reference guide to the scientific literature on the long-term health effects of exposure to ionizing radiation for use by VA adjudicators. The April hearings amply demonstrated that accessible information relating to scientific studies regarding the health effects of exposure to ionizing radiation was not available to regional VA claims adjudicators. This guide will help rectify this serious shortcoming. Second, the Congress also enacted in Public Law 98-160 a provision I authored to require that an epidemiological study of veterans exposed to nuclear radiation in service be conducted unless it should be determined scientifically infeasible to do so. In view of the many concerns raised by veterans regarding the long-term health effects of exposure to radiation and the strong existing body of science linking certain malignancies with exposure to ionizing radiation, I believe that the health status of these veterans should be studied directly. Thus, I was very pleased to see this measure enacted and continue to follow the progress of the assessment of the feasibility of such a study very closely.

Through these various efforts, significant progress toward responsible Government action to address the concerns about the possible adverse health effects of exposure to radiation has been made. The progress has not been easy, and I appeal to my colleagues to lend their support to efforts to continue moving forward on this important issue.

Mr. President, regarding agent orange, since 1978, when issues about the health effects of agent orange were first raised, I have been actively involved in seeking answers to the many questions involved. I have chaired, or participated as the ranking minority member, in five Veterans Affairs Committee hearings on this issue.

My efforts on agent orange and radiation have paralleled each other in many respects, although the timing of various initiatives has differed. The fundamental issue of the Government's obligation to those it exposed to hazardous substances remains the same as to both exposed populations.

Thus, the authority in section 102 of Public Law 97-72 to provide health care applies to both veterans exposed to radiation and to veterans exposed to agent orange. A major epidmiological study of Vietnam veterans, mandated by the 1979 Public Law 96-151 as modified in Public Law 97-72, is now, after significant delays, finally making progress under the Centers for Disease Control, and results are expected at the end of 1987. The agent orange counterpart to the radiation reference guide, the "Agent Orange Literature Review," was also mandated by Congress in Public Law 96-151. The VA has since undertaken and completed an update of this useful reference source, and it is now available to the public.

After succeeding in enacting legislation to address the lack of scientific knowledge, legislation to provide for health care to exposed veterans, and legislation to direct that a summary of the existing scientific literature be brought together in one reference source, I am delighted that today we have arrived at an approach to the issue of compensation that is acceptable both to the chairman of the Veterans Affairs Committee, to me, and to the veterans service organizations.

Although these legislative initiatives have been of great importance, I believe that our responsibilities actively to oversee the progress toward our goal of responsive Government action and valid scientific inquiry under these laws are every bit as critical. I will, with the assistance of my colleagues, continue to pursue these responsibilities vigorously.

BASIC PURPOSE OF S. 1651

Mr. President, the basic impact of S. 1651 is to require the VA, through a rulemaking process allowing for public participation, to develop binding regulations for the adjudication of agent orange and radiation claims in order to bring about consistency in the process and the results. In developing the regulations, the Administrator would be required to address specifically whether—based on medical and scientific evidence and resolving reasonable doubt in the claimant's favor—any presumptions as to service connection should be applied in the case of certain specified disabilities. The disabilities specified in the bill are soft tissue sarcoma, porphyria cutanea tarda, and chloracne in the case of veterans exposed to dioxin, and malignancies, polycythemia vera, and hypothryoidism or a thyroid nodule in the case of veterans

exposed to radiation. These diseases are ones as to which current scientific information provides a basis for a possible connection between the exposure and the disease. The Administrator's compliance with the required process, as well as any regulations issued by the Administrator, would be subject to challenge in Federal court, thereby providing an independent check on the results of the process.

In addition to requiring the administrator to determine which of the diseases specifically listed will have presumptions of service connection established for them, the legislation includes a provision for the administrator, during the initial rulemaking process and as the science moves forward over the years—again, by regulation and based on medical and scientific evidence and resolving doubt in the claimant's favor—to add presumptions and standards, criteria, and guidelines relating to additional diseases with reference to either type of exposure.

Mr. President, also regarding the basic purpose of S. 1651, I want to note briefly why we have proposed to approach the compensation issue by addressing the process by which the VA handles claims for veterans rather than by taking the legislative approach, advocated by some, of the Congress by law designating specific diseases or disabilities as being presumptively service connected for VA compensation purposes.

The approach reflected in S. 1651 commended itself to me for two basic reasons. First, I believe that there is room for significant improvement in the way in which the VA compensation system handles claims based on agent orange or radiation exposure. Second, I am concerned that any approach requiring Congress to make decisions to include or not include in a list of presumptively service-connected disabilities various disabilities as to which there are fundamental differences of opinion among informed scientists is fraught with many difficulties and confronts the Congress with the task of making decisions that we simply are not well-equipped to make at present.

With reference to the need for changes in the compensation system, to me the most important need is for the VA to make clear, rational, on-the-record determinations, subject to independent review, regarding the procedures and standards for handling agent orange and radiation claims and to insure that a constant approach is followed throughout the VA—that is, at the 59 VA regional offices with their over 100 different rating boards, by the Department of Veterans Benefits here in Washington, and by the VA's Board of Veterans' Appeals. I also believe that the public—including, of course, those most directly affected, the veterans with claims for compensation based on exposure to agent orange or radiation—should have a full opportunity to participate in the process of deciding how those claims should be handled and resolved. This is what S. 1651 would accomplish and, in so doing, it would help remedy the significant lack of clear direction throughout the VA system on the resolution of agent orange and radiation claims.

The present lack of consistency of results and criteria in the claims adjudication area—which I have documented on numerous occasions, such as in my additional views on S. 1388 in Senate Report 98-249, and which anyone familiar with VA claims adjudication in these areas can attest to—makes it understandably difficult for those served by the VA to trust the fairness of the agency's processes. S. 1651 would go a long way toward remedying the current situation.

Unless and until the executive branch has focused more intensively than it has thus far on the issues related to agent orange and radiation compensation, the Congress should not attempt to enact answers to the highly technical questions that are involved. The VA must address questions of the degree and type of exposure and the likely or possible health effects of such exposure and do so in a fact-finding and policymaking process in which it is forced to consider all relevant information and viewpoints and make firm reasoned decisions on the record. I believe that the agency with the responsibility and resources to make the scientific, medical, and policy judgments involved should first be required to come to grips with and resolve the key issues, and I want to insure that it does.

Mr. President, I have some figures which I would like to share with my colleagues which I believe demonstrate very clearly a key source of frustration for the veterans exposed to agent orange or radiation or their survivors.

In the radiation area, veterans were potentially exposed through their participation in the nuclear testing program prior to the ban of atmospheric testing in 1963 or through their connection with the occupation forces assigned to Hiroshima or Nagasaki immediately following World War II. As many as 380,000 veterans—250,000 test participants and 130,000 members of the occupation forces in Hiroshima or Nagasaki or who transited those areas—were potentially exposed to the hazard of ionizing radiation.

As of the present date, however, the VA has allowed no cases in which the veteran alleges exposure at Hiroshima or Nagasaki. Of the 1,646 claims related to exposure through participation in the nuclear testing program, a total of only 30 have been granted; 14 of these were granted at the regional level and 16 were granted at the Board of Veterans Appeals. I want to stress that 945—or 57 percent—of these nuclear-test related claims were for malignancies—solid tumors or cancer, as we nonmedical people would say—and for leukemias, and lymphomas. These are not frivolous claims. These are claims for benefits as a result of exposure to a hazard as to which medical science generally agrees that no level of exposure can be considered safe. Strong scientific evidence exists, based on studies of the Japanese survivors of Hiroshima and Nagasaki, as well as other populations, demonstrating the increased risk of many malignancies following exposure to ionizing radiation.

The VA's track record, in addition to the points I have just mentioned is as follows: 98 percent of all nuclear test-related cases have been denied; 97 percent of all nuclear test-related cases for malignancies have been denied; 88 percent—about 100—of all nuclear test-related cases for leukemia—as to which there is no question, with the exception of chronic lymphocitic leukemia, of its link with exposure to ionizing radiation—have been denied; as a whole, taking into account the Hiroshima and Nagasaki occupation forces, the VA's record is even worse than those figures suggest.

Mr. President, based on a record such as these figures demonstrate I believe that my colleagues can readily understand the frustration of these veterans and their survivors, and my own very strong, deep feelings that the VA claims process as to exposure to radiation and agent orange must be improved.

Mr. President, I ask unanimous consent that some tables and statistics illustrating my points here be placed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Radiation case breakdown

Total allowed (on basis of exposure)	30
Regional level (since December 1967)	14
BVA (since January 1978)	16
Estimated number of veterans potentially exposed	380,000
Test participants	250,000
Hiroshima-Nagasaki	130,000
Breakdown of atomic test-related claims filed:	
Total claims filed	1,646
Total claims for malignancies filed (57 percent of 1,646)	945

Nature of diseases in 14 allowed radiation cases/regional level/since December 1967. (Atomic tests only; includes only those allowed on the basis of exposure).

(1) Bronchiogenic sarcoma (lung cancer).
(2) Myelocytic leukemia.
(3) Thyroid Mass (nodules).

(4) Burn scars/subcutaneous tumors/rad. burn scars.
(5) Basal cell carcinoma (skin cancer).
(6) Radiation burns.
(7) Lymphoma, malignant.
(8) Skin condition.
(9) Lung cancer.
(10) Anxiety secondary to exposure to radiation.
(11) Leukemia.
(12) Leukemia.
(13) Radiation burns.
(14) Chorio retinitis.

Nature of diseases in 16 allowed radiation cases/BVA level/since January 1978 (atomic tests only).

Leukemia	11
Lung cancer	1
Hypothyroid	1
Cataracts	1
Basal cell carcinoma	2
Total	16

Mr. CRANSTON. Mr. President, as to agent orange, about which, admittedly, science can tells us much less, the record is no better.

As my colleagues know, three specific conditions—chloracne (a skin condition), P.C.T. (a rare liver condition), and soft tissue sarcoma (a rare cancer)—have all been shown to have some degree of association with exposure to dioxin, the toxic contaminant contained in agent orange. Therefore, S. 1651 would specifically require the VA Administrator to address the need for presumptions for these three conditions.

Of the 20,000 agent-orange-related claims filed, only 15 have been granted, as follows:

Of 17 P.C.T. cases filed, only 2 have been granted.

Although 13 chloracne cases have been granted service connection, the VA reported in a May 17, 1984, letter to Chairman SIMPSON that it appeared after review that none of the cases, in fact, involve chloracne.

Of the five cases of soft tissue sarcoma filed by Vietnam veterans, none has been granted.

Based on the naturally occurring incidence of soft tissue sarcoma among males aged 25 to 40 years and the number of Vietnam veterans, it is estimated that 600 to 650 Vietnam-era veterans with Southeast Asian service have already developed soft tissue sarcomas.

By providing for agency action in a public and publicly accountable process followed by the opportunity for judicial review, S. 1651 would place debate on these various difficult issues in the forum that is most appropriate at this time with a full opportunity for participation by those directly involved and other interested members of the public.

CONCLUSION

Mr. President, I want to note the excellent cooperation and assistance that I have received from the able Senator from Pennsylvania (Mr. SPECTER) throughout the development and consideration of this measure. He has had a strong interest on these issues since joining the committee in 1981, and I very much value our work together on this legislation. On February 2, 1983, Senator SPECTER introduced the first agent orange compensation legislation—S. 374—in this Congress. In fact, he introduced similar legislation in the 97th Congress as S. 1953.

I likewise thank my good friend from Maine (Mr. MITCHELL) for his fine work on this measure. With Senator SPECTER, Senator MITCHELL is an original cosponsor of S. 1651, and he has also maintained a very deep and active concern about the issue as we have moved forward.

Because of the excellent work of Senators SPECTER and MITCHELL, the veterans' organizations, and many others, we are finally moving forward on this legislation. I am delighted that we are, and also that my good friend, the committee chairman (Mr. SIMPSON) and I have been able to craft a compromise agreement which he will offer very shortly. I will speak further regarding this extraordinary effort and assistance in the context of my remarks on that agreement.

Finally, Mr. President, I am most pleased to note that the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Vietnam Veterans of America, and the National Vietnam Veterans Coalition all strongly support S. 1651.

Mr. President, I ask unanimous consent that my additional views on S. 1388 regarding the text of this measure be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF MR. CRANSTON

I am submitting these additional views in connection with an amendment I offered, on behalf of myself, Senator Specter and Senator Mitchell, that failed on a 6 to 6 tie vote during Committee consideration of S. 1388 on July 21, 1983. This amendment addressed the question of compensation for veterans exposed during their service in Vietnam to dioxin (as in Agent Orange or other herbicides) and for veterans exposed during their service to ionizing radiation from a nuclear detonation, either during participation in the nuclear test program or while serving with the occupation forces in Hiroshima or Nagasaki, Japan, following World War II.

BASIC PURPOSE

The basic purpose of this amendment would be to require the VA to develop regulations, through an informal process allowing for public participation, for the adjudication of Agent Orange and radiation claims. In developing the regulations, the Administrator would be required to address specifically whether any presumptions as to service connection should be applied in the case of certain specified disabilities (described below). The disabilities that are specified in the amendment are ones as to which current scientific information provides a basis for a possible connection between the exposure and the disease. The Administrator's compliance with the required process, as well as any regulations issued by the Administrator, would be subject to judicial review thereby providing an independent check on the fairness and results of the process.

This amendment incorporates an approach that is derived from S. 786 (introduced by Senator Pressler on March 11, 1983), which would establish, in the case of dioxin exposure, presumptions of service connection for three diseases and S. 374 (introduced by Senator Specter on February 2, 1983) and S. 991 which I introduced on April 6, 1983. S. 991 would require that the same type of process proposed for dioxin claims be followed for radiation claims as well.

TEXT OF AMENDMENT

The text of the amendment follows:

SEC. . (a) Section 312 is amended by adding at the end the following new subsection:

"(c) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, the following diseases developed to a degree of disability of 10 per centum or more shall, subject to a specification pursuant to section 354(c)(2) of this title, be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service:

"(1) In the case of a veteran who served in the Republic of Vietnam during the Vietnam era and who, during such service, was exposed to a herbicide containing dioxin—

"(A) a soft tissue sarcoma, if so developed within 30 years from the date of last departure from the Republic of Vietnam during such service,

"(B) porphyria cutanea tarda, is so developed within one year from the date of last departure from the Republic of Vietnam during such service, or

"(C) chloracne if so developed within one year from the date of last departure from the Republic of Vietnam during such service.

"(2) In the case of veteran who, in connection with such veteran's participation in the test of a nuclear device or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed to ionizing radiation from the detonation of a nuclear device during such veteran's service—

"(A) a malignancy,

"(B) polycythemia vera, or

"(C) hypothyroidism or a thyroid nodule.

"(3) In the case of a veteran described in paragraph (1) or (2) of this subsection, any other disease that is specified in a regulation prescribed by the Administration pursuant to section 354(c) of this title as being presumed to have been incurred in or aggravated by the service of veterans who were so exposed.".

(b) Section 354 is amended—

(1) in subsection (b)—

(A) by striking out all beginning with "In" through "expedition, the" and inserting in lieu thereof "The"; and

(B) by striking out "such service" the first place it occurs and inserting in lieu thereof "a veteran's service on active duty"; and

(2) by adding at the end the following new subsection:

"(c)(1)(A) The Administrator, in accordance with paragraphs (2) and (3) of this subsection, shall prescribe regulations to—

"(i) establish guidelines, standards, and criteria for the resolution of claims for ben-

efits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

"(I) in the Republic of Vietnam during the Vietnam era, to a herbicide containing dioxin, or

"(II) in connection with such veteran's participation in the test of a nuclear device or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

"(ii) ensure that subsection (b) of this section is given full effect with respect to such claims.

"(B) Promptly after each occasion on which the Administrator prescribes or amends the substance of such regulations, the Administrator—

(i) shall determine whether, in light of such guidelines, standards, and criteria and other pertinent information, any legislative action to the subject matter of such regulations is needed, and

(ii) if the Administrator determines that any such action is needed, shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the Administrator's recommendations for such legislative action, including any proposed amendments to section 312 of this title, as the Administrator considers appropriate.

"(2) In the regulations required to be prescribed by paragraph (1)(A) of this subsection, the Administrator—

"(i) shall specify, based on medical and scientific evidence and after resolving every reasonable doubt in favor of the claimants, (I) which of the diseases listed in paragraphs (1) and (2) of section 312(c) of this title (with any modifications of the maximum periods of time specified in such section) will be presumed to have been incurred in or aggravated during service, (II) which of such diseases will not be so presumed, and (III) which other diseases (and any maximum periods of time after departure from a specified geographic area or the date of separation from service within which any such other disease must have developed to a degree of disability of 10 per centum or more), will be presumed to have been incurred in or aggravated during service;

"(ii) shall specify any other presumptions (including any presumptions regarding exposure and service connection) to be applied to the resolution of such claims; and

"(iii) may not include a requirement that a veteran provide any information regarding such veteran's service in the Armed Forces other than the information included in such veteran's military service records.

"(3)(A) The Administrator shall develop the regulations required by paragraph (1)(A) of this subsection and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5 and with such procedures, in addition to those required by such provisions, as the Administrator considers appropriate to enable persons other than Veterans' Administration personnel to submit evidence, proposals, and arguments. Such process shall include (i) a public hearing, which shall be announced in the Federal Register not less than thirty days in advance of its commencement, shall be commenced not earlier than sixty days after proposed regulations or proposed amendments are published in the Federal Register, and shall afford interested parties an opportunity to make oral presentations and to comment on oral and written submissions from other parties, and (ii) consultations by the Administrator with an advisory committee appointed by the Administrator and composed of individuals with a demonstrated interest and experience relating to the subject matter of the proposed regulations or amendments. The period for public review and comment shall be completed not later than 90 days after proposed regulations or proposed amendments are published in the Federal Register.

"(B)(i) Not later than 120 days after the date of the enactment of this subsection, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required by paragraph (1)(A) of this subsection.

"(ii) Not later than 330 days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, presumptions, and criteria contained therein) required by such paragraph.

"(C) Notwithstanding section 211(a) of this title or any other provision of law, the Administrator's compliance with the provisions of, and any regulations prescribed pursuant to, this subsection shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5.".

(c) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations prescribed pursuant to paragraph (1) of subsection (c) of section 354 of title 38, United States Code, for the resolution of claims for service connection based on the exposure specified in subparagraph (A)(i)(I) of such paragraph. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than ninety days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations."

DESCRIPTION OF PROVISIONS

Subsection (a) of the amendment would amend section 312 of title 38, which lists various diseases as to which presumptions of service connection apply, by adding a new subsection (c) which would mandate the VA to address the justification for establishing certain presumptions relating to certain diseases in the cases of veterans exposed to dioxin or radiation. The diseases listed in the case of veterans exposed to dioxin during service in Vietnam—soft tissue sarcoma, porphyria cutanea tarda (PCT), and chloracne) are the same ones included in S. 786. However, maximum time limits within which the disease must have developed would be specified for each disease—thirty years from departure from Vietnam in the case of soft tissue sarcoma and within one year from departure from Vietnam for both PCT and chloracne. These time limits are included to reflect the testimony before the Committee at its June 15 and 22, 1983 hearings. With specific reference to PCT and chloracne, the testimony was that these two diseases will show up initially, if at all, shortly after exposure to dioxin.

For veterans exposed to radiation, the diseases that are listed include any malignancy, polycythemia vera, and hypothyroidism or a thyroid nodule. Because there are substantial latency periods related to each of these diseases and because the science as to the length of such periods is not clear, no time limits are included. These diseases are included on the basis of the scientific literature related to the effects of exposure to radiation and the experience in litigation and legislation related to residents of the Marshall Islands who were exposed to radiation as a result of the nuclear test program in the Pacific.

In addition to the diseases that are specifically listed in the proposed amendment to section 312, the amendment would include a provision to allow the Administrator, by regulation, to add presumptions to service connection for additional diseases with reference to either type of exposure. The intention, as recommended by the Disabled American Veterans is testimony before the Committee, is that the VA when dealing with dioxin exposure consider various diseases as set forth in a World Health Organization report which was cited in a 1979 GAO report.

The diseases listed would be presumed to be service connected for compensation purposes if the Administrator, pursuant to the provisions included in subsection (b) of this amendment, discussed below, so specifies in regulations. In this way, a framework of possible, specific presumptions would be created but the specific presumptions would take effect only following a rulemaking procedure (the design of which is derived with simplifying modifications from S. 374 and S. 991) and only to the extent specified by the Administrator on the basis of that procedure.

Subsection (b) would amend section 354 of title 38, which relates to general VA compensation provisions, to add a new subsection (c) mandating the VA to follow a public regulatory process for dealing with dioxin and radiation claims. As noted, the provisions in this subsection are derived from S. 374 and S. 991.

This subsection would also amend present section 354(b) to clarify that the VA, in benefit cases, is to resolve every reasonable doubt in favor of the claimant, not just in cases involving veterans "who engaged in combat with the enemy" as stated in current law. It is VA policy to resolve such doubts in favor of all claimants, and there is no reason for the "combat" limitation in current law that would be eliminated by this provision.

Under the regulatory process that this subsection would establish with respect to claims based on certain dioxin and radiation exposure, the Administrator would be required to issue regulations that would "establish guidelines, standards, and criteria" for the resolution of these claims. These regulations would be developed through a specifically tailored, informal rulemaking process that would include a public hearing with an opportunity for interested parties to make oral presentations and to comment on submissions from other parties. Also, the Administrator would be required to consult with an advisory committee before issuing

the final regulations. This informal process was proposed in lieu of the formal rulemaking procedures provided for in S. 374 and S. 991, which were subject to significant criticism by the VA and the Administrative Conference of the United States at the Committee's June 22 hearing. I believe that the proposed "hybrid" approach (which proceeds as the Administrative Conference suggested) will result in the degree of public participation desired while avoiding the problems of delay and undue complexity that were mentioned at the Committee hearing, such as Food and Drug Administration proceedings which the VA noted have taken from 2 to over 10 years to complete.

The rulemaking process would begin with the publication of proposed regulations not later than 120 days after the date of enactment of the subsection. The required public hearing would then have to be conducted at least 60 days after the proposed regulations are published and with at least 30 days' advance public notice. The total public review and comment period would not exceed 90 days. The Administrator would have to publish final regulations within 120 days after the close of the public review and comment period. Thus, final regulations would have to be published within 330 days after the date of enactment.

The regulations developed through this process would be required to:

Specify the diseases listed in new subsection (c) of section 312 (as proposed to be added by subsection (a) of the amendment), as well as any others, as to which a presumption of service connection would apply (the Administrator's decision in this regard would be required to be based on "medical and scientific evidence after resolving every reasonable doubt in favor of the claimants") and also specify (on the same basis) the diseases listed in new subsection (c) of section 312 as to which the presumption would not apply;

Specify any other diseases that the Administrator determines should be presumed to be service connected in the case of veterans exposed to dioxin or radiation;

Modify or establish, as appropriate, periods of time within which the disease must be manifested after service;

Specify any other presumptions (such as those regarding exposure) to be applied to the resolution of dioxin and radiation claims; and

Not include any requirement that a veteran provide any information regarding his or her service beyond what is included in the veteran's service record (this provision is derived from S. 374).

Thus, as provided for in S. 374 and S. 991, the Administrator would be required to address the subjects of dioxin and radiation claims through a specified regulatory process with a clear opportunity for public participation. This process would also address expressly the diseases listed in S. 786 without entailing that Congress make final scientific judgments.

Also, as provided for in both S. 374 and S. 991, the Administrator's compliance with the rulemaking process and any regulations issued pursuant to that process would specifically be made subject to judicial review.

Subsection (c) would amend the public law which mandates the Agent Orange epidemiological study (Public Law 96-151 as amended by Public Law 97-72) to require the Administrator, not later than 90 days after submitting required annual reports on the progress and results of the study, to evaluate the regulations issued under the provisions of subsection (b) for possible amendment. To the extent the Administrator determines that any amendments to the regulations are required, the Administrator would be required by subsection (b) to follow the process established under that subsection. This requirement should ensure that, as the results of the epidemiological study become available, they will be taken into account in considering the need for revision of VA regulations.

NEED FOR LEGISLATIVE ACTION

The concerns about Agent Orange among Vietnam veterans, their families, and others seem to fall into three general categories—questions about the health effects of dioxin exposure, health care for current problems, and compensation. Likewise, veterans who were exposed to nuclear blast radiation—whose current circumstances are closely analogous to those of veterans who were exposed to Agent Orange—are concerned about the health effects of radiation exposure, health care, and compensation.

Information about health effects

First, what veterans want is valid information about their exposure and about the likely or possible health effects of that exposure on themselves and their families. Such information cannot be legislated. Rather, it must be painstakingly gathered and developed by the medical and scientific community. As far as I know, the only way to find direct information about the veterans, and particularly about their current health, is by studying them, such as is being done in the epidemiological study mandated with respect to Agent Orange by section 307 of Public Law 96-151. My support for such a study is longstanding. In February 1979, I urged then-President Carter to undertake a major study to gather the needed information. In July 1979, I renewed this recommendation with the Secretary of Health, Education, and Welfare Joseph Califano, specifically urging that Department to initiate the needed epidemiological study. In June 1979, I first introduced the legislation that became the study provision of Public Law 96-151. It is most ironic—a bitter irony for Vietnam veterans and their families—that now, almost four years after enactment of that law, the study seems finally to be going forward under the auspices of the Centers for Disease Control.

As to the need for study of the health effects of exposure to radiation from nuclear detonations, the Committee has reported (in section 601 of S. 578) on May 23, and the Senate has passed (in section 601 of H.R. 2920) on June 28, a provision I authored to mandate an epidemiological study of such effects.

Health care

With reference to the second area of concern—health care for current problems—section 102 of Public Law 97-72, which is based on a provision I authored, provided the VA with authority to provide health care for veterans exposed to Agent Orange for conditions not clearly caused by something other than their exposure. I remain deeply committed to seeing that this health care provision is properly implemented and, to the extent that there are specific instances where that is not the case, I want to know about and follow up on them. As the ranking minority member of the Committee and before 1981 as its Chairman, I have been aware of instances in which Vietnam veterans concerned about Agent Orange have expressed general dissatisfaction with VA health care and their access to care under Public Law 97-72. However, I no longer receive many complaints from individual veterans about specific instances of problems receiving needed medical care from the VA. In the relatively few instances where I have received such specific complaints, it has generally been fairly easy to resolve the problem.

The Public Law 97-72 provision applies as well to veterans exposed to radiation and, although the VA was much slower to implement the new authority in this area as Congress intended—it took us a full seventeen months of repeated prodding before the VA finally issued proper regulations to carry out this authority—the situation today in terms of VA health care for veterans exposed to radiation is the same as described above for veterans exposed to Agent Orange.

Thus, in two of the three areas of concern about Agent Orange—information and health care—I do not believe there is any basis for further legislative activity by the Committee at this point. Our tasks should be to pursue the enactment of the radiation study, continue our very close oversight work, and ensure that adequate funds are appropriated to carry out the needed studies. It is in the third area—compensation—where I believe there is a current need for legislation action.

Compensation

Such action—based on what has been proposed to date and as reflected in legislation referred to the Committee—can take one of two forms. Congress can either pass legislation listing diseases or disabilities as to which presumptions for VA compensation will apply in the cases both of veterans exposed to Agent Orange and of those exposed to radiation, or, as proposed in the amendment I offered with Senators Specter and Mitchell, address the process by which the VA handles claims for veterans based on such exposure.

I proposed the latter approach for two basic reasons. First, I believe that there is room for significant improvement in the way in which the VA compensation system handles claims based on Agent Orange or radiation exposure. Second, I am concerned that any approach requiring Congress to make decisions to include or not include in a list of presumptively service-connected disabilities various disabilities as to which there are fundamental differences of opinion among informed scientists is fraught with many difficulties and confronts the Congress with the task of making decisions that we simply are not well equipped to make at present.

With reference to the need for changes in the compensation system, the most important need that I have identified is for the VA to make clear, on-the-record determinations regarding the procedures and standards for handling Agent Orange and radiation claims, and then to take steps to publicize its decision on those claims and ensure that a consistent approach is followed throughout the VA. I also believe that the public—including of course those most directly affected, veterans who may have claims for compensation based on exposure to Agent Orange or radiation—should have a full opportunity to participate in the process of deciding how these claims should be handled and resolved. This is what the amendment we offered would accomplish and, in so doing, would help remedy the significant lack of clear guidance and through-

out the VA system on the resolution of Agent Orange and radiation claims.

This lack of clear guidance was evidenced by three recent events. First, at the Committee's April 6 oversight hearing on radiation issues, I described to VA witnesses a claim that involved a veteran with a conceded exposure of over 7 rem and a subsequent fatal leukemia. The widow's claim had been denied at the regional office on May 26, 1982, on the basis, in part, of an opinion from a VA Department of Medicine and Surgery official that "there does not appear to be a cause and effect relationship between [the veteran's] participation in nuclear device testing and his death from leukemia and it would be mere speculation to conclude otherwise." [1]

Second, contrasted with that result is the result in a case decided by the Board of Veterans' Appeals on March 11, 1983, in which a veteran with nuclear-test recorded exposure of less than 1 rem received a service-connected adjudication for leukemia. In reaching this result, the Board noted that "medical opinions have been expressed to the effect that the development of leukemia may not be disassociated from radiation exposure."

The very great divergence in result and in the apparent standard applied in these two cases both of which involve veterans exposed to radiation who later developed leukemia, is inexplicable to me.

Third, in the Agent Orange area, testifying before a House Veterans' Affairs Subcommittee on April 26, 1983, Administrator Harry Walters stated, "If a consensus of the medical community finds with reasonable medical certainty that exposure [to Agent Orange] causes disabilities, I will insure that our veterans are fairly compensated for these disabilities." As I noted in my letter to the Administrator, dated June 3, which is appended to these views and as to which I did not receive a response until September 21, 1983, his statement seems to suggest that the VA's current standard for adjudicating Agent Orange claims involve a three-part test—a consensus of the medical community, reasonable medical certainty, and a finding of causation. Not only is each part of such a standard difficult to square with current law and regulations, but it stands in marked contrast to the way in which radiation-related claims are handled, as I just noted.

The Administrator's reply, dated September 20, 1983, which is also appended to these views, further confuses the issue of what standard the agency does or should apply in these cases. It mentions what seem to be at least two additional standards ("credibly demonstrated" and "grounded in valid scientific evidence that exposure can in fact cause delayed adverse health effects"). Moreover, in the final paragraph of his letter, the Administrator (after misconstruing what I said regarding causation) sets forth a novel, inflexible description of the role of causation. He states that a disease "first evidence after service (and after any applicable presumptive period) may be linked to service *only if* it can be connected to some causative event that occurred then [*sic*]." (Emphasis added.) Although this may accurately describe current VA practice, I have doubts that such an all-encompassing statement accurately characterizes the law. As with his other statements regarding service connection, this statement does not reflect the provisions of title 38 of the United States Code or VA regulations.

Thus, there are what could be viewed as five different standards for the adjudication of service-connected disability compensation claims based on in-service exposure to a hazardous substance or phenomenon—one standard enunciated by the VA's Department of Medicine and Surgery and relied upon by the VA's Department of Veterans' Benefits, a second enunciated by the Board of Veterans' Appeals, and three more by the Administrator himself.

The present lack of consistency of results and criteria in the claims adjudication area makes it understandably difficult for those served by the VA to trust the fairness of the agency's processes. Our amendment—by requiring the VA to set forth its presumptions, criteria, and standards in a public-participatory rulemaking process—would go a long way toward remedying the current situation. Indeed, the Administrator's recent letter convinces me more than ever of the need for the enactment of our amendment in order to require the agency to specify definitively, in such a process and subject to judicial review, what the rules will be in this area.

Unless and until the Executive Branch has focused more intensively than it has on the issues related to Agent Orange and radiation compensation—including questions of degree and type of exposure and the likely or possible health effects of such exposure—in a fact-finding and policy-making process in which it is forced to consider all relevant information and viewpoints and make firm reasoned decisions on the record, the Congress should not attempt to enact answers to the highly technical questions that are involved. I believe that the agency with the responsibility and resources to make the scientific, medical, and policy judgements involved should first be required to come to grips with and resolve the key issues, and I want to ensure that it does.

By providing for agency action in a public process followed by the opportunity for judical review, our amendment would place debate on these various difficult issues in the most appropriate forum at this time with a full opportunity for participation by interested members of the public.

CONCLUSION

I believe that the proposed amendment, by melding key provisions from S. 786 with the requirements in S. 374 and S. 991 relating to the appropriate VA regulatory process, represents a fair, appropriate, and consensual approach to the very difficult issues involved in dioxin claims as well as in radiation claims. By listing certain diseases, the measure recognizes the view held by some that there may be sufficient and medical evidence to support a presumption of service connection at this time. However, the measure would place the responsibility, in the first instance, for making a decision on those diseases, as well as on how to proceed generally in the area of compensation for dioxin and radiation exposure, on the entity—the VA—that can best marshall needed technical expertise, and would require the VA to carry out this responsibility through a process that allows for significant public involvement and judicial review.

Thus, I was very disappointed that the Committee, on a 6 to 6 vote, failed to adopt this amendment. I intend to pursue this matter further when S. 1388 comes before the Senate. I hope my colleagues will join with us at that time and support our efforts to prompt affirmative action on the very difficult question of providing compensation to these veterans who were exposed to dioxin or radiation during their service.

ALAN CRANSTON.

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[1] Despite my having called this case to the attention of top VA officials on April 6 and repeatedly since then, as of September 19, 1983, the VA has still not managed to reverse its ill-precedented negative determination in this case.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 3, 1983.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I am writing to express my concern about, and to seek clarification of, certain testimony you presented to an April 26, 1983, hearing before the House Veterans' Affairs Subcommittee on Compensation, Pension, and Insurance on H.R. 1961, legislation that would establish presumptions of service connection for certain disabilities of Vietnam veterans. Specifically, I am concerned about the following statement on page 6 of your prepared remarks: "If a consensus of the medical community finds with reasonable medical certainty that exposure [to Agent Orange] causes disabilities, I will insure that our veterans are fairly compensated for these disabilities."

This statement seems to suggest that the current standard for adjudicating Agent Orange claims involves a three-part test: a consensus of the medical community, reasonable medical certainty, and causation. Each part seems difficult to square with current law and regulations.

Under section 3.102 of title 38, Code of Federal Regulations (CFR), claims of service connection must be granted "[w]hen, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin . . . ." This "reasonable doubt rule" is to be applied where "the evidence does not satisfactorily prove or disprove the claim . . . ." The regulation also requires that there be "evidence sufficient to justify a belief in a fair and impartial mind" that the "claim is well grounded" and that the evidence must, at a minimum, raise a "substantial doubt" and not just "pure speculation or remote possibility". Even these latter requirements are much less onerous than the burdens of showing a consensus of the medical community and reasonable medical certainty would be.

Regarding the issue of causation, I would note that the provisions of title 38, United States Code, defining the circumstances under which a disability is to be considered service connected do not use the concept of causation. Rather, under section 101(16) of title 38, which defines the term "service-connected", section 105(a), which describes when an injury or disease will be deemed to have been incurred "in line of duty", and section 310, which establishes the criteria for entitlement to compensation, the basic issue is whether the disease or injury involved was incurred "during active military, naval, or air service." I am not aware of any requirement in title 38 that the disease or injury be shown to have been caused by service or by any particular event occurring during service. Likewise, under VA regulations, proof of causation is not required; for example, under section 3.03(a) of title 38, CFR, service connection generally is established when the facts show that the disease or injury "was incurred coincident with service in the Armed Forces."

Thus, I hope that you will provide clarification of your testimony in light of the per-

tinent statutory and regulatory provisions. I would also appreciate receiving any further information you can provide regarding the agency's standards for adjudicating Agent Orange cases. If you agree with the concerns I have expressed, I would also appreciate you taking steps to correct any misimpression that might have resulted from your earlier testimony.

As always, I very much appreciate your cooperation.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

VETERANS' ADMINISTRATION,
Washington, DC, September 20, 1983.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I am pleased to have this opportunity to clarify a misunderstanding you obviously have concerning remarks I made before the House Subcommittee on Compensation, Pension and Insurance several weeks ago.

That hearing concerned H.R. 1961, which would create presumptions with law with respect to veterans who served in Southeast Asia during the Vietnam era. It provides that soft-tissue sarcomas, porphyria cutanea tarda (PCT) or chloracne becoming manifest at any time after such service would be presumed service incurred or aggravated. As section 2 of the bill clearly shows, it is premised on the belief that these disorders may be caused by exposure to phenoxy herbicides and/or dioxin in service; it would create a presumption of causation.

As I stated on April 26, our objection to the bill is essentially twofold. First, if exposure to these or any other substances in service were to cause chloracne or PCT, these ailments would become manifest very near in time to exposure. A lifelong post-service presumptive period is inappropriate for what would be acute effects.

Second, there is, as yet, nothing approaching a consensus that phenoxy herbicides and/or dioxin can induce soft-tissue sarcomas or other delayed adverse health effects in humans. Hence, there currently is not justification for a presumption in law that such a relationship exists.

The provisions of H.R. 1961 differ from the presumptions regarding chronic diseases generally in 38 U.S.C. § 312(a). The latter are merely presumptions that, given a disease's proximity to service separation, its pathogenesis was in service. The presumptions proposed in H.R. 1961, limited as they are to veterans who may have been exposed to defoliants, are that exposure causes diseases that first appear years later—delayed effects. They are much more like the presumptions regarding ex-POW's in 38 U.S.C. § 312(b), which are premised on evidence that privations of internment can cause health problems in later life.

Should delayed effects of exposure to these defoliants ever be credibly demonstrated, we would issue appropriate rules regarding claims adjudication. It was to this issue that I directed the remarks you quoted in your letter of June 3. I am certain you agree with me that any such VA regulations should be grounded in valid scientific evidence that exposure can in fact cause delayed adverse health effects in humans.

Finally, you indicate issues of causation should not come into play in our claims adjudication. I cannot agree. A disease first evidenced after service (and after any applicable presumptive period) may be linked to service only if it can be connected to some causative event that occurred then. Asbestosis is a good example; was there exposure to asbestos in service that could reasonably be considered causative? The same applies with respect to claims based upon possible delayed effects of ionizing radiation. In cases involving alleged delayed effects of exposure to toxic agents in service, findings regarding causation are not only relevant but often dispositive.

Sincerely,

HARRY N. WALTERS,
Administrator.

Mr. CRANSTON. Mr. President, I ask unanimous consent that a statement by Senator SPECTER on S. 1651 appear at this point in the RECORD. He is the principal sponsor with me of this measure and will be on the floor later to offer an amendment in which I will join.

● Mr. SPECTER. Mr. President, the pain and suffering inflicted by the Vietnam war, and by atomic weapons testing continues to this day. On July 20, 1983, I joined Senator CRANSTON as primary cosponsor of S. 1651, a bill derived from three prior bills—S. 374, introduced by myself, S. 786, introduced by Senator PRESSLER, and S. 991, introduced by Senator CRANSTON. As a member of the Senate Committee on Veterans' Affairs, I have reviewed the issues with great care, and have concluded that it is imperative that we give belated recognition and relief to the thousands of brave men and women who have suffered physical harm because of their exposure to the chemical defoliant agent orange and to radiation during nuclear weapons testing.

The solemn pledge of the Veterans' Administration is "to care for him who has borne the battle, and for his widow and his orphan." If that pledge of care is to have real meaning, it must be fulfilled willingly, fairly, and expeditiously. This pledge has not been kept for the veterans of the Vietnam war and the cold war who suffer from having been exposed to agent orange and radiation.

Attention is only now being given to the plight of these veterans. It is attention that is long overdue, for due to the unique and harrowing nature of the conflicts, we allowed these veterans to return to us without fanfare, without thanks, and without concern for the special problems that might plague their lives.

There is no question that many patriotic individuals were exposed to radiation resulting from nuclear weapon detonations and agent orange in Vietnam. Having served their country, these veterans returned to civilian life not realizing the potential gravity of the consequences of exposure. Now, 10, 20, or 30 years later, we see unusually high incidences of cancer, debilitating muscle disorders, skin rashes, bone diseases, and possibly genetic damage in these veterans.

I have conducted a series of hearings throughout Pennsylvania to examine the readjustment problems of Vietnam veterans. Almost 500,000 Vietnam-era veterans live in Pennsylvania. The focus of their concerns has been the perceived Government disinterest, if not hostility, to veterans who claim to have been seriously injured by their exposure to agent orange.

However, it is impossible to gage the frustration and rage felt by many of these veterans unless you hear their stories, face-to-face. Several veterans testified that they were being treated as "the enemy" when seeking help for their injuries. Most disturbingly, many veterans who served our country out of a profound sense of duty and patriotism said they would not let their children serve in the Armed Forces because of the Government's handling of the agent orange question.

The stories told by atomic veterans are no less disturbing. Beginning in 1945, and continuing until 1963, the United States detonated some 235 nuclear weapons in atmospheric tests conducted in the Pacific and the American Southwest. The Department of Defense has estimated that approximately 250,000 American servicemen and women witnessed and participated in these tests, or served in the occupation forces in Hiroshima and Nagasaki immediately following World War II.

Nuclear weapons testing was heaviest during the mid-1950's. At many tests, 3,000 to 4,000 troups were positioned near detonation sites. At other tests, units were marched or helicoptered to ground zero soon after the explosion and run through simulated combat maneuvers to test their psychological and military response to the blast. In some instances, volunteer service personnel were placed in open trenches as close as 2,000 yards from ground zero under an airburst some 20,000 feet above them. Atomic veterans are today the living embodiment of a technology which may be sapping them of their vitality and longevity.

Last year I introduced legislation, which was subsequently passed and signed into law, declaring July 16, 1983 "National Atomic Veterans Day" in recognition of the unique contributions of the atomic veterans.

Presently, the Veterans' Administration recognizes only a few diseases as having been caused by agent orange or radiation exposure, and, therefore, eligible for compensation as a service-connected injury. No compensation is available for other injuries because of alleged lack of proven service connection.

The Federal Government has imposed an impossible burden of proof on atomic and Vietnam veterans to es-

tablish service connection for their injuries. It is a burden of proof that far exceeds any imposed on litigants in civil trials who must establish liability for injuries far less serious than those involved in veterans' cases. It is difficult to understand why these veterans, to whom we owe so great a debt, are subjected to such a singularly difficult legal barrier to just compensation.

For Vietnam and atomic veterans, there is little, if any solace in the impressive array of interagency studies being conducted on the effects of exposure to dioxin and to radiation. We must make every effort to see that progress on these scientific questions, and treatment and compensation for radiation and agent orange-related disorders, occur as rapidly as possible. Affected veterans have every right to demand a quick resolution to the controversy. It is, without question, long overdue.

Until the U.S. Government takes definitive action to recognize the plight of Vietnam and atomic veterans, and a determination on compensation is made, they will understandably continue to feel that they have been ignored by the Government they served. I therefore support the compromise reached between Senators SIMPSON and CRANSTON to address the question of compensation for veterans exposed to dioxin in Vietnam or to radiation from nuclear weapon detonations. The amendment incorporates an approach that is derived from agent orange measures introduced earlier by Senators SIMPSON, PRESSLER, CRANSTON, and myself. It is consistent with the principles embodied in S. 1651. S. 1651 would require the VA to develop regulations, through a public review and comment process, for that would address specifically whether any presumptions as to service connection should be applied in the case of certain specified disabilities. The disabilities that are specified in the measure are ones as to which current scientific information provides a basis for a possible connection between the exposure and the disease. The Administrator's compliance with the required process, as well as any regulations issued by the Administrator, would be subject to judicial review.

I cannot overstate the importance of judicial review. To date, decisions made by the Veterans' Administration have not been open to challenge in the courts. A veteran, under current law, may not sue the Government for injuries incurred due to his or her service. In two recent decisions, however, the court has found in favor of civilian victims of radiation exposure from atomic weapons testing and in favor of Vietnam veterans exposed to agent orange—the latter in a case brought against the private manufacturers of agent orange. It is only just that atomic and Vietnam veterans have their day in court.

Again, I trust that the numerous studies on the effects of exposure to agent orange and to radiation will be concluded expeditiously. However, there is a serious question in my mind whether the human price imposed by waiting for the results of these investigations should be borne by Vietnam and atomic veterans. I firmly believe that a legislative solution is necessary now.

Suffering veterans of the Vietnam and cold wars cannot wait. Let us side with those veterans to whom we owe so much, but for whom we have done too little. I urge you to join me in support of the compromise.●

AMENDMENT NO. 3088

(Purpose: To blend the provisions of S. Res. 372 with those of S. 1651 as introduced)

Mr. SIMPSON. Mr. President, at this time, I send to the desk an amendment for myself and Senator CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. CRANSTON, proposes an amendment numbered 3088.

Mr. SIMPSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof: That this Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in Southeast Asia during the Vietnam conflict and veterans who participated in atmospheric nulcear tests or the American occupation of Hiroshima or Nagasaki are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to such uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to such medical and scientific uncertainty by mandating, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by mandating, in Public Law 97-414, the development of radioepidemiological tables, currently projected for completion in summer 1984, setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There are a total of sixty-six federally sponsored research projects currently being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000, and, as of 1981, federally-sponsored research projects relating to ionizing radiation were costing the Federal Government in excess of $115,000,000.

(6) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effort relationship between herbicide exposure and adverse health in the Ranch Hand group at this time."

(7) The "film badges" which were originally issued to members of the Armed Forces of the United States in connection with the nuclear testing program have previously constituted a primary source of dose information for veterans and survivors filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(8) Such film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear blast.

(9) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(10) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(11) Such claims present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service, particularly with respect to the difficulty of determining a connection between exposure during service and increased risk of adverse health effects (especially those involving long latency periods and ambiguities of causation) arising thereafter.

(12) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue will be given to the claimant.

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or with the American occupation of Hiroshima and Nagasaki, Japan (and dependency and indemnity compensation is provided to survivors of such veterans) for all disabilities arising subsequent to such service that are connected, based on sound scientific and medical evidence, to such exposure (and for all deaths resulting from such disabilities).

SEC. 4. Section 354 of title 38, United States Code, is amended in subsection (a)—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)", and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veterans' exposure during service—

(A) in the Republic of Vietnam prior to May 8, 1975, to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to such claims, when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this paragraph shall be construed as relieving a claimant of the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation. Such guidelines shall require that, in the evaluation of such studies, the Administrator shall take into account whether the findings are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards (established pursuant to subsection (d)). Such evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in individual claims adjudications of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator, after receiving the advice of the Advisory Committee and of the apropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards regarding the diseases named or described in subparagraph (B), shall make determinations, based on sound medical and scientific evidence, with respect to each disease named or described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall be highly cognizant of the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(12). The Administrator shall set forth in such regulations such determinations, together with any modifications of the maximum periods specified in such subparagraph and with any further specifications, relating to exposure or other relevant matter, of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) In the event that the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the named or described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) In the event that the Administrator does not make a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section specification of the factors to be considered in the adjudication of the issue of service connection with respect to such disease.

(B) The diseases referred to in subparagraph (A) as being named or described in this subparagraph are:

(i) In the case of a veteran who served in the Republic of Vietnam prior to May 8, 1975, and who, during such service, was exposed to a herbicide containing dioxin—

(I) a soft tissue sarcoma, if developed to a degree of disability of 10 percent or more within 30 years after the date of last departure from the Republic of Vietnam during such service,

(II) porphyria cutanea tarda, if so developed within one year after the date of last departure from the Republic of Vietnam during such service,

(III) chloracne, if so developed within one year after the date of last departure from the Republic of Vietnam during such service, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(i) finds that there is sound scientific or medical evidence indicating a connection to exposure to such herbicide and which has so developed within any maximum period of time after departure from the Republic of Vietnam during such service.

(ii) In the case of a veteran who, in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed, during such veteran's service, to ionizing radiation from the detonation of a nuclear device—

(I) leukemia and malignancies of the thyroid, female breast, lung, bone, liver, and skin, if developed to a degree of disability of 10 percent or more,

(II) polycythemia vera if so developed,

(III) hypothyroidism or a thyroid nodule, if so developed, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(ii) finds that there is sound scientific or medical evidence indicating a connection to exposure to ionizing radiation and which has so developed within any maximum period of time after such exposure.

(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. Such process may include consideration by the Administrator of the recommendations of the Advisory Committee on Environmental Hazards and the Scientific Council thereof (established pursuant to subsection (d)) with respect to the proposed regulations, and such process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than 90 days after the proposed regulations or proposed amendments are published in the Federal Register.

(2)(A) Not later than 120 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than 300 days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

(3) Notwithstanding section 211(a) of title 38, United States Code, or any other provision of law, subsequent to the publication of the final regulations required to be prescribed by this section, the Administrator's compliance with the provisions of, and any regulations prescribed pursuant to, this section shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

(d) The advisory committee referred to in subsection (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs, of whom eleven members shall be recog-

nized medical or scientific authorities. Such eleven medical or scientific authorities shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee, and such Council shall be divided into a panel relating to dioxin and a panel relating to ionizing radiation.

SEC. 6. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation—

(1) the Secretary of Defense shall prescribe guidelines and any amendments thereto through a public review and comment process in accordance with the provisions of section section 553 title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for Veterans' Administration disability compensation and dependency and indemnity compensation.

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veterans was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doeses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a reveiw of the current state of the art with respect to scientific and technical devices and techniques such as "whole body counters" which may be useful in determining previous radiation exposure,

(B) submit a report to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques, and

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent export who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

SEC. 7. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1970 (Public Law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) a new subparagraph (B) as follows:

"(B) Immediately after the submission of each report under subparagraph (1), the Administrator, based on the results described in such report and the comments and recommendations included therein need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

Mr. SIMPSON. Mr. President, as one might say in railroad country, it has been a long haul. I want to note the extraordinary efforts of my able friend and colleague, Senator CRANSTON, who shares my deep concerns about veterans' exposure to agent orange and ionizing radiation. S. 1651 focused the Senate's full attention on these very important issues and provided an incentive for me to go forward with my views, which I did by introduction of Senate Resolution 372, which had the firm commitment of the Defense Nuclear Agency and the Veterans' Administration to implement its provisions.

In an attempt to reach a rational solution to a highly complex and emotional issue, one rampant with fear and guilt and lots of other things, I engaged in lengthy discussions with my friend, Senator CRANSTON, in a desire to achieve a workable solution to a quandary of years of uncertainty regarding exposure to agent orange and ionizing radiation. We therefore hammered out a compromise with the distinguished ranking member. Therefore, I offer now this amendment in the nature of a substitute to S. 1651, the proposed legislation dealing with agent orange and radiation, which was introduced by my good friend, ALAN CRANSTON.

I have had extended, thorough, and spirited discussions with him. We are most pleased to be able to provide and present what we hope to see as a Senate unified position on legislation dealing with exposure to agent orange and ionizing radiation. We certainly would not have come to this point without full cooperation and dedication of all, especially Tony Principi, chief counsel and staff director, who does an admirable job for me, and Jon Steinberg, minority chief counsel. They worked doggedly. I shall recognize all of that fine crew at the conclusion of my remarks.

Mr. President, I offer this substitute amendment today and urge the support of the Senate. I wish to underscore how very pleased I am with the unified efforts of all of those who worked so very hard to put aside personal and political differences in order to come up with a piece of legislation that the entire Senate might endorse and which would provide for some very real and substantive change in consideration and adjudication of claims based on exposure to agent orange and ionizing radiation.

The amendment to S. 1651 which Senator CRANSTON and I have offered today has been developed to take into account the current state of scientific and medical knowledge, and the limitations of that knowledge, which we hope to have more clearly resolved as the study results continue to come pouring in. There are many still out, 66 studies at the cost of $130 million and $115 million already expended on studies with regard to ionizing radiation.

We have taken the position that the adjudication of claims regarding exposure to agent orange and radiation, strange and unique agents in themselves, to be sure, should be treated in a certain and unique manner. The reason for this is there is really so much that is genuinely unknown about exposure and possible adverse health effects. We have taken a position that neither individual adjudication nor the establishing of presumptions which are not based on medical and scientific evidence would be appropriate.

We have instead created a general public informal rulemaking procedure that will provide that the Administrator would establish guidelines and, where appropriate, standards and criteria for the adjudication of claims associated with the exposure to these agents.

Also, the Administrator would determine, based upon sound scientific and

medical evidence, whether service connection—there is the key, service connection—should be granted for certain described diseases. This compromise is a product of many long hours of negotiation, goodwill, and tough, hard work with the ranking minority member and our excellent, bright staffs.

The amendment would provide for a number of major substantive and procedural improvements in the administering of veterans' claims for disability compensation based on exposure to either herbicides or radiation from an atmospheric weapon. Several major provisions of the measure just briefly: It would require the Administrator to establish guidelines and, where appropriate, standard and criteria for the resolution of claims of veterans exposed to agent orange in Vietnam, and those who participated in the American occupation of Hiroshima or Nagasaki or who participated in U.S. atmospheric nuclear test programs. We acceded to the VA's request that the words, "where appropriate," be applied to the words "standard and criteria."

The VA contended that it simply might not be possible to establish criteria and standards in many cases. I agree. However, I also feel that veterans' claims must be considered and decided in a consistent and equitable manner and the words "where appropriate," should not impede that process. The Senator from California and I are in agreement on the intent of the modification, and I know that he will be addressing this provision in his remarks.

The measure also requires guidelines to govern the evaluation of the fundings of scientific and medical studies insuring that new and statistical findings are taken into account when claims are adjudicated.

Third, we have the advice of a new committee, the Advisory Committee on Environmental Hazards, and the committee's scientific council regarding the diseases named in the amendment. Their advice would be taken by the VA Administrator who will determine in regulations whether service connection would be granted. The substitute requires the Administrator to make such determinations on service connection with regard to the diseases showing a strong association to agent orange exposure and radiation exposure as shown in the Veterans' Administration's program guide on radiation claims.

Senator CRANSTON and I fully agreed that the scientific council should address the other diseases contained in that guide pursuant to subparagraph (B)(ii)(IV) of section 5(b)(2).

In making these determinations, the Administrator must be highly aware of the policy of the United States with regard to individual claims for service connection as set forth in subsection 2(12). Nothing in this section is intended to alter this present policy—either expand or restrict it—which is applicable now to the adjudication of individual case—the only level at which we presently consider an approximate balance of positive and negative evidence regarding the merits of issue material to the determination of the veteran's claim. We do not change that policy. There is no intent to change that.

Fourth, in order to provide that interested parties and organizations and individuals who are knowledgeable about dioxin, radiation, and epidemiology have an opportunity to comment on the regulations, the Administrator would develop the regulations and any amendments through a public review and comment process. Then, as I say, we establish a Committee on Environmental Hazards for the purpose of presenting to the Administrator remedies he would consider to be appropriate for administrative or legislation action. The committee would contain a scientific advisory council to evaluate scientific studies relating to possible adverse health effects of exposure to ionizing radiation. Such council would make findings and evaluations regarding pertinent scientific and educational studies, and submit that to the committee and the Administrator directly. Periodic reports are called for.

Finally, we also direct the Defense Nuclear Agency to develop and implement some very clear minimum standards for dose estimates, including a requirement that all estimates contain comprehensive information of all types of doses relevant to a veteran's claims including inhaled and ingested dose.

I note again the full commitment of this administration, including the VA and the DNA, to implementing these provisions of Senate Resolution 372, the essence of which is contained in our amendment.

I want to note clearly the fine support of all of the major veterans' organizations for this concept of compromise on this issue. I greatly thank them for their extensive help and contributions to the compromise effort. They gave appreciated assistance.

Finally, this legislation will not be some miracle resolution of this tough issue but it is an honest and true step forward in dealing more uniformly and fairly with the adjudication of claims by the establishment of the policy based on current scientific and medical information for the adjudication of claims of those veterans who are deeply concerned that their disabilities may have resulted from exposure to ionizing radiation or agent orange.

So, I do urge your strong support for this amendment which represents the very expensive efforts of Republicans, Democrats, the Congress, and the executive branch—and certainly the veterans' organizations which represent the many veteran constituents who would be affected by this legislation—as we all worked diligently together, all of us, on this legislation. By enacting this compromise measure, we insure that the powerful positives of the legislation will not be diminished by divisiveness and emotional argument on the Senate floor, but instead we shall come out of this Chamber with a strengthened and thoughtful product, not some token act or a sop to zealous activists but true progress, honest progress in the difficult arena resolving veterans' anguish about possible effects of agent orange and radiation.

Mr. President, as a part of a unanimous-consent agreement, I agreed to have the bill discharged. Senator CRANSTON has reviewed that scenario. At the time of that decision, and I certainly concurred in it, where we allowed the bill to be discharged for the debate, I wished to then postpone its consideration until after the "ranch hand" agent orange study was released in order that we might then determine whether any further medical and scientific evidence could be obtained to aid us in our understanding and a better and fuller grasp of these difficult and emotional issues. Of course, the preliminary findings of the "ranch hand" study were released earlier this spring and they provided indications to us that the "ranch handers" who were most certainly and heavily exposed to agent orange have shown no greater rates of disease or death than does the general population.

The study does contain some important preliminary indications based on self-reported data which will provide direction to us for further study with respect to certain diseases and problems that were reported by the study's subjects.

The obvious problem with the Congress making those kinds of medical and scientific determinations is that very few of us are scientists or physicians and, of course, all of us are prey to the raw emotion and the searing guilt which certainly seem to have been major factors in our dealing with the returning Vietnam veterans and with those veterans exposed to radiation.

For years, we have pondered and probed and postulated and, yes, pandered and run the full gamut of emotions about these issues. We have cussed and discussed it. We have raged and debated. We have disagreed about the most appropriate course of action. We have examined and criticized the role and responsibility of the Congress and of the executive branch. There has been litigation by those who deeply sought this type of legislative response and great delay occasioned.

So now we come together in a spirit of calm and compromise to act in what I feel will be seen as being quite responsible, responsive, thoughtful, and a reasonable course. I am proud to be part of that.

Certainly the Congress has been heavily involved. Twenty-four hearings have been conducted by Senate and House committees, with six hearings in 1983 alone. Two major pieces of legislation have been enacted. The study going on with the Center for Disease Control promises to yield some significant information for us about yet unanswered questions.

Public Law 97-72 authorized the VA to give free priority health care to those veterans who were concerned about the possible health effects of agent orange in their own lives.

Each VA facility has an environmental physician. Any veteran may avail himself or herself of the examination. To date, there have been 120,000 such exams conducted.

And so we have spent $130 million to more than 60 agent orange study research projects. Ten of those studies are specific only to the Vietnam veteran. Five Federal agencies, more than 15 agent orange commissions at the State level, five scientific peer review bodies, and a Cabinet-level White House agent orange "Working Group" are all dedicated to determining thoughtfully, if possible, what, if any, problems exist.

With regard to ionizing radiation on our Nation's veterans, more than 80,000 scientific studies have been published, and the more they are published the less we seem to grasp of the issue. Public Law 97-72 established priority health care for those veterans, and Public Law 98-160 required the VA to conduct a major epidemiological study of veterans exposed to ionizing radiation.

What we do know is that from 1962 to 1971 the U.S. Air Force sprayed more than 17 million gallons of herbicides—agents orange, white, blue, purple, pink, and green—to defoliate the dense jungle growth of South Vietnam, including 10.6 million gallons of agent orange. We also do know that an estimated quantity of 368 pounds of one of the 75 kinds of dioxin, the toxic byproducts of the herbicide, were contained in agent orange.

Our task is made evermore enormous if we are to be the ones to distinguish between possible adverse health effects from the agents sprayed in Vietnam and possible health effects from exposure to dioxin and other chemicals in the environment. Industrial accidents, occupational exposure, contaminated industrial wastes, contaminated fish and food are just some of the major sources of human exposure to dioxin. It will likely never be possible to establish a direct cause-and-effect relationship between exposure to herbicides in Vietnam and ionizing radiation as a result of atmospheric nuclear tests and certain adverse health effects. We can, however, try diligently and efficiently to determine any increased incidence of disease in veterans who were so exposed.

The health effects of exposure to low-level ionizing radiation have been studied extensively—maybe really even exhaustively—over the years, and we will be studying it even more intensely under the epidemiological study mandate of Public Law 98-160. The use in the past of "film badges" in order to determine exposure has been inadequate in some cases and up to the present, no radioepidemiological tables have existed to assist us in understanding how certain diseases may be linked with certain levels of exposure of exposure. So we will add into consideration the dose reconstruction process.

There is one important constant, I think, that must be well borne in mind. The central core of the necessary data—the size and nature of the blast, the meteorological conditions, the extent and scope of participation of troops—is predominantly, if not solely, as in the case of still certain classified materials, within the control of the Federal Government. Therefore, we must have the full cooperation of the Defense Nuclear Agency in furnishing information necessary for dose reconstruction. That is essential. Constructing radioepidemiological tables and applying appropriate methodology as a location, protection, participation, post-shot activities, food sources, and many other fact situations will provide us with a more complete basis by which to judge dose information and relevance to adverse health effects. Of course, it is impossible, just as with dioxin, to make any absolute determination as to cause and effect, but we are very much looking toward the results of scientific studies in order to aid us in this difficult task.

The medical and scientific answers are only now beginning to come in and be tabulated. The results of the Air Force "ranch hand" study can serve as an encouraging sign to the Vietnam veterans who are so deeply concerned that perhaps we see no significant health effects or mortality rates were observed in the population which is believed to be the most heavily exposed of all. We, in the Congress, have been sincerely trying to incorporate all of the available medical and scientific information about agent orange and radiation prior to taking sweeping legislative action. We have observed and weighed studies that show statistically significant results and those that fall short in methodology or scientific validity. We consciously recognize that science and medicine encompass an everchanging body of knowledge, and we anticipate and await further results of the pending studies.

My personal initial reaction, after hearing so much testimony and reading extensively on these subjects, has been to say that it seems most inappropriate for Congress to proclaim that certain diseases are service-connected to exposure when, in fact, we just do not know. I have felt this way even though I am a veteran and I, like all others, wish to be responsive to veterans who anxiously await the results of congressional action and some final word about what might have happened to them—and to their lives—as a result of their service in the Armed Forces and their exposure to ionizing radiation or agent orange.

As the year progressed and momentum began to build for legislation—any legislation, mind you—I began to really ponder the role of Congress and to be concerned about the actual results if a bill would be enacted which I believed would not be responsive but which might actually be damaging to the historic veterans' compensation process, completely skewing it.

It was then that I attempted to define the real goals of the legislation being considered both in the House and the Senate, and then to compare my own goals with those. That is a tough task; yet, I know and believe that all of us share a very real desire to be responsive to veterans who fear for their health as the result of certain exposures while they were in service to their country. This country has never turned its back on its veterans, and never will, and we can furnish the evidence of that through actual legislation. All of us would desperately wish to do "the right thing" for these veterans; and I honestly feel that both H.R. 1961, Representative DASCHLE's bill, which recently passed the House, and S. 1651, Senator CRANSTON's bill, to which I propose the amendments today, are guided by that basic premise. They had approached those goals differently than I, and I respectfully found each approach to be less than adequate.

Therefore, my response was not to carp but to determine if we could begin to work out with the administration, including the Defense Nuclear Agency and the VA, an actual and substantive change in their previous position that would provide for guidelines and standards and criteria for the adjudication of agent orange and ionizing radiation disability claims, as well as establish a scientific panel which would provide the Administrator with technical advice on the possibility of an increased risk of certain diseases based on the many ongoing studies.

Obviously, I am most pleased that we were able to hammer out such an agreement. That then resulted in my submitting my resolution, Senate Res-

olution 372, which, although not being afforded the binding effect of law, had full administrative cooperation in its design and a written assurance that its implementation would be swiftly effected after Senate passage.

I then finally decided to take the essence of this resolution and to offer it in bill form, with the force of law, as a substitute amendment. This is now the compromise before the Senate, and it is supported and cosponsored by Senator CRANSTON. It has come only after many weeks of discussion on this issue with veterans' organizations, the administration, constituents, and fellow colleagues. I was genuinely concerned that a divisive floor scrap would serve only to dilute and distort all of the proposals of the three bills and divide Senators on an issue where all of us share the one common goal of providing uniform guidelines and medical and scientific advice in a structured manner in order to determine whether certain exposures provide increased risks for certain diseases.

The full staffs of the majority and minority of the Senate Veterans' Affairs Committee have worked extensively, thoughtfully, and painstakingly to provide a basis for accord on the amendment to the bill now before the Senate, which I strongly urge be adopted.

I thank especially my most capable, genial, persistent, and effective chief counsel, Tony Principi, for his really incredible efforts in reaching this compromise, as well as his tenacious and loyal deputy and legislative director, Julie Susman, and the professional members of a very alert and hardworking majority staff, Cindy Alpert, Brent Goo, and Vic Raymond, as well as the efficient staff assistants, Carol DeAngelus, Becky Hucks, Jody Sanders, and Kay Eckhardt.

My very special personal thanks also go out to Jon Steinberg, the worthy minority chief counsel, surely one of the most knowledgeable staff members on the Hill, even if he is of the "other faith," and the capable minority staff—Ed Scott, Bill Brew, Katy Burdick, and Ingrid Post.

I urge approval of the amendment.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from California.

Mr. CRANSTON. Mr. President, I am pleased to join my good friend, the Senator from Wyoming (Mr. SIMPSON) in offering the pending substitute amendment.

As with so many of the issues that come before the Veterans' Affairs Committee, AL SIMPSON and I have made a very strong effort to develop a consensual approach to the issue of compensation for veterans exposed to dioxin and radiation. When I became chairman of the committee in 1977, I soon determined that those the committee serves—America's veterans and the American people—are best served when the members of the committee are in agreement. I worked very hard to achieve that result as often as possible, and Senator SIMPSON has made the same efforts since he assumed the chairmanship in 1981. The pending amendment is just the latest evidence of this continuing relationship, and I am very gratified that we were able to reach this result which has the strong support of all the major veterans' service organizations and of the sponsors of S. 1651 and of all the veterans agent orange and radiation legislation introduced in the Senate.

Mr. President, this compromise fully vindicates the principles and basic provisions of S. 1651 as introduced. It also meets many of Senator SIMPSON's concerns on the issues as expressed in his sense-of-the-Senate resolution, Senate Resolution 372, while preserving the basic principles and provisions of S. 1651 as introduced. Indeed, in some instances, I believe the pending amendment significantly improves on S. 1651. The best example of this is in the area of fleshing out the details and functions of the advisory committee that would be established to provide scientific and other advice to the Administrator of Veterans' Affairs. These details and functions will be further specified in the amendment we are joining in offering with the Senator from South Dakota (Mr. PRESSLER).

COMPARISON OF PROVISIONS TO S. 1651 AS INTRODUCED AND SUBSTITUTE AMENDMENT

Mr. President, as introduced, S. 1651, had eight essential provisions, the purpose, substance, or text of which are carried forward into the compromise we are proposing as a substitute amendment. Had that not been the case, there would have been no compromise agreement and we would instead now be voting on language to insure those results—with the full support of the major veterans service organizations and Vietnam veterans organizations. In fact, we were fully prepared to do just that until 3:30 yesterday afternoon when we finally reached an agreement on the last issues involved in our three weeks of intensive negotiations.

I would like to outline these crucial provisions from S. 1651 and how they are reflected in the compromise.

First, the bill as introduced required that the Administrator make determinations—come to grips definitively—on whether presumptions of service connection will be established, subject to rebuttal on the grounds of intercurrent or other clear superseding causes or became of the veteran's misconduct, for certain specified diseases, as to which there is scientific indication of a possible connection to the particular exposure in question. This list is considerably broader than the diseases listed in H.R. 1961 as passed by the House in February. This requirement that determinations be made in the case of the specific listed diseases continues unabated in the substitute although the term "presumption" is no longer used in the drafting. The effect is the same, however. The Administrator must articulate at the end of the public rulemaking process, and based on medical and scientific evidence, whether the named diseases will be service connected and, if so, as to anyone that will be, under what circumstances it will be—in terms of exposure levels, latency periods, and so forth.

The named diseases remain the same except that the reference to malignancies as to which the Administration must make determinations on service connection in the case of veterans exposed to ionizing radiation is modified to refer to seven specific diseases listed by the VA in its program guide—P.G. 21-1, as amended by change No. 286, dated April 20, 1980—as those that "show strong associations" to radiation exposure. In this regard, I want to clarify that although, as to the first category to malignancies in the substitute, only those malignancies showing a strong association to radiation exposure—as identified in the VA's 1980 program guide on radiation claims—are required by the provisions in the substitute to be resolved by the Administrator as to service connection, both Senator SIMPSON and I fully intend that the other diseases listed in that guide—those showing "meaningful but less striking associations" and those showing "suggestive but unconfirmed associations"—should be addressed by the Scientific Council of the Advisory Committee, pursuant to subparagraph (B)(ii)(IV) of section 5(b)(2), in order to evaluate whether any of those malignancies should be subject to specific determinations by the Administrator on the issue of service connection.

Second, in S. 1651 as introduced these aggregate determinations as to service connection would have to be made in each instance after giving the benefit of the doubt to veterans. This is a critical point. In the VA claims adjudication process, on each issue involved in a particular claim, the veteran—or survivor—gets the benefit of reasonable doubt where the issue is a close call. This is considered by the VA, the veterans service organizations, and many other, including myself, to be an absolutely fundamental precept of the entire VA claims adjudication process. Indeed, the VA consistently stresses that point in testimony before our committee, noting how beneficient it is to veterans in the adjudication process. In fact, the substitute codifies this standard as to agent orange and radiation exposure claims—in section 5(a)(2)—using language drawn from

section 101 of S. 636, the thrice Senate-passed VA judicial review legislation.

With respect to the science issue—on the question of service connection—to be determined in the rulemaking process as to the named diseases, what is involved is an aggregate determination on each service-connection scientific issue that will be determinative of the outcome on that science question in a large number of related cases. The only effective way to preserve the application of the reasonable-doubt standard on the question of science is for the Administrator to be guided by that standard in making the aggregate determination in the rulemaking process. Unless this is done, there is a significant chance that individual veterans who might prevail—as indeed 30 have in radiation claims, most at the level of the Board of Veterans' Appeals—on their particular claims where the evidence on the science is relatively evenly balanced and the reasonable doubt standard tips the balance in the claimant's favor, would be worse off after the rulemaking, if the administration's determination in the case of their disease was not affirmative. If the Administrator does not take that reasonable doubt standard into account, such a veteran claimant will no longer receive the benefit of it on a critical issue in his or her case.

The substitute vindicates this principle while using a modified frame of reference; it requires the Administrator in making the aggregate service-connection determinations on the basis of sound scientific and medical evidence, "to be highly cognizant" of the need to maintain the VA's historic reasonable doubt standard in resolving that issue. I think this provides sufficient protection to the claimants involved.

Third, the process for focusing on specific diseases would not end with the named conditions. Rather, as the science develops, especially the preliminary and final results of the two major epidemiological studies on dioxin and radiation, respectively, to which I referred in my opening remarks, the Administrator would be required to reevaluate the regulations and make new determinations as to service connection for those diseases as to which prima facie evidence of service connection has developed. The substitute continues this open-ended, science-driven nature of the rulemaking process, assigning to the new scientific panel that would be established the decision on whether the threshold of prima facie evidence has been met in the case of a particular disease so as to require the Administrator to make a firm decision as to service connection for that particular disease.

Fourth, S. 1651 as introduced specifically made the rulemaking process and the regulations themselves, and any revisions of them or decision of certain points not to revise them, subject to review in court at the behest of an aggrieved veteran or representatives of veterans. Without judicial review being insured, the Administrator would not be held accountable for having a rational basis for his determinations. Surely veterans and the public have a right to insist that the Administrator not be free to act in an arbitrary and capricious manner or without a substantial evidentiary basis—in the unlikely event he would want to do so. Although some courts have permitted judicial review of VA regulations, others have not, and the VA and the Justice Department, despite my urging, refuse to agree to stop raising in court the bar to judicial review—section 211(a) of title 38—as a defense in all cases challenging VA regulations. Hence, judicial review in such cases is problematical. A discussion of this issue is set forth in a recent, as yet unanswered, letter I wrote to the Administrator of Veterans' Affairs on this issue and other issues.

Mr. President, I ask unanimous consent that this letter and its enclosures be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the specific provision for judicial review of the fairness and substance of the rulemaking process and its results is retained intact in the substitute.

Fifth, S. 1651 as introduced required that the rulemaking process have a public component. This was designed to insure that veterans and their representatives would have a direct opportunity to present their arguments and evidence directly to the VA and high agency officials. This purpose is carried out in the substitute by the provision for a 15-member Advisory Committee on Environmental Hazards, including 4 public members with experience and expertise in veterans matters. The committee would have the duty of advising the Administrator on the guidelines, standards, and criteria that are required to be included in the regulations as well as on the question of whether specific diseases should be determined to be service connected.

Sixth, S. 1651 as introduced, the rulemaking process for issuance of the initial regulations was time limited; it had to be completed within 330 days of enactment. In the substitute, this period is shortened to 300 days.

Seventh, under S. 1651, the Administrator would have to include in the regulations specific guidelines, standards, and criteria to govern claims adjudications in these cases. In section 5(a)(1) of the substitute, the regulations that the Administrator would be directed to prescribe relating to the adjudication of agent orange and radiation claims would be required to establish guidelines and, where appropriate, standards and criteria for the resolution of these claims. The inclusion of the phrase "where appropriate," which was not included in S. 1651, is not intended to alter in any way the basic intent of the bill that binding directives are to be issued by the Administrator to agency adjudicators on the many issues involved in the adjudication of these claims so as to insure consistency in the way these claims are adjudicated and in the results reached. The phrase is included in the amendment to avoid any implication that the VA is being required to develop standards or criteria where that could not be done consistent with sound medical and scientific evidence. Thus, as in S. 1651 as introduced, the Administrator would have to make determinations, subject of course to judicial review if challenged, as to which issues are appropriate for resolution through guidelines, which through standards, and which through criteria, and nothing in this provision remove the obligation on the Administrator to make decisions—for which he can be held accountable in court—on a national level so as to insure consistency in the adjudication of and decisions on these claims.

Also, Mr. President, several desirable provisions from Senate Resolution 372 have been included in the substitute with various modifications and improvements—most significantly to require the Secretary of Defense to prescribe regulations, subject to public review and comment under the Administrative Procedures Act, setting forth uniform minimum standards for the preparation of radiation dose estimates for comparison claims and to include in each estimate information as to all material aspects of the radiation exposure environment; to require all material aspects of the radiation exposure environment; to require the Secretary of Health and Human Services, through the Director of the National Institute of Health, to submit to the Administrator and the Congress a report on scientific methods for ascertaining previous radiation exposure; and to require the Administrator, in resolving a conflict in an individual case between a radiation dose estimate submitted by the Defense Nuclear Agency and one from another credible source, to arrange for an independent dose estimate through the Director of the National Institutes of Health. Of critical importance is that the provisions respecting these matters would no longer be expressed as advisory or exhortatory, as in a sense-of-the-Senate simple resolution, but would be directory and mandatory as a part of a legislative measure.

Finally, S. 1651 stands for the proposition that the U.S. Congress has an affirmative obligation to enact national public policy regarding the important issues involved regarding the exposure of service personnel to dioxin in agent orange and ionizing radiation from nuclear explosions. This principle is fully vindicated in the course we are pursuing today in considering S. 1651 and this substitute amendment.

The substitute promises a fair process and a fair shake to the thousands and thousands of veterans and families so very worried and alarmed about the possible health effects of dioxin and radiation exposure. It says to them and to the American public that the Federal Government will not shrink from its responsibilities toward these veterans and survivors, will deal in a straightforward manner with the issue, and will pay compensation where that is supportable on the basis of sound scientific and medical evidence and with due regard to the longstanding VA policy of giving its claimants the benefit of the doubt.

How can we do less?

We cannot.

We will not.

We must proceed today with speed and compassion and put the U.S. Senate on record clearly and forcefully on behalf of a fair and balanced approach to resolving these compensation questions. By passing this measure, we will be saying more eloquently than words can muster, that the U.S. Senate does care, and cares deeply, about the plight of the Vietnam veterans and the radiation-exposed veterans—that we have listened and heard and are prepared to respond appropriately and meaningfully, in accordance with sound scientific and medical principles and consistent with the foundation of the VA compensation system, to the very deeply felt concerns and grievances of the many veterans and families involved.

By acting favorably on this bill, we are not going to be giving away the store. But we will be proclaiming that we are minding the store and that we are ready to meet our national responsibilities to those who feel so deeply aggrieved by the Government's decisions and actions to expose millions of innocent service personnel to the risk of numerous potentially serious and unknown hazards as a result of the Vietnam defoliation and nuclear test participant policies pursued by the United States.

Mr. President, I congratulate my good friend from Wyoming (Mr. SIMPSON) for his splendid cooperation as we have worked so closely together on this issue and so intensively over the last few weeks. I look forward to continuing to work with him on these questions as this legislation proceeds down the road toward enactment as well as on all other issues that come before the committee. I also take special note of the outstanding work that has been done on this issue by the majority and minority staffs—specifically, Tony Principi and former majority general counsel Scott Wallace, along with Julie Susman, and, on the minority staff, Bill Brew, Ed Scott, Katy Burdick, and Jon Steinberg. Their efforts have been absolutely crucial in making it possible for the chairman and me to reach this very acceptable agreement.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, March 10, 1982.

Hon. ROBERT P. NIMMO,
Administrator of Veterans' Affairs
Washington, DC.

DEAR BOB: I have been following the case of *Gott* v. *Nimmo* (formerly, *Gott* v. *Cleland*) in which the Veterans' Administration's use of certain documents in the resolution of claims for benefits based on exposure to nuclear radiation is challenged. Most recently, I reviewed the District Court's Supplemental Memorandum Opinion of February 17, 1982, and I am writing to request an update on the agency's plans in response to that opinion. Specifically, I am interested in knowing whether the agency plans to comply with Judge Green's order that, within ninety days, the VA (and, in the case of the VA/Defense Nuclear Agency Memorandum of Understanding, the VA and the DNA) publish notice of proposed rulemaking to replace the documents invalidated by the Court's September 30, 1981, order. Aside from the legalities involved, I believe that taking the action directed would reflect good public policy, and I would urge full and timely compliance with the Court's order.

There can be little question that the agency should have a uniform, written policy to deal with claims based on exposure to radiation, and inviting public participation in the development of that policy can help both to ensure that the policy is as well-informed as possible and to create a greater sense of public confidence in whatever policy is ultimately developed and adopted.

Regarding the memorandum of understanding, clearly the VA has a genuine need for the type of information provided by DNA, and I believe that public participation in the development of a new memorandum of understanding between VA and DNA should help reduce some of the current mistrust that is felt by veterans who were exposed to radiation and by the survivors of veterans who were exposed, who are seeking redress from the Government.

Should you disagree with my views on this matter and ask the Jutice Department to appeal Judge Green's ruling, I strongly urge that you insist that section 211(a) of title 38 not be raised as a bar to the consideration of the merits of this litigation because this case clearly does not involve individual claims for benefits. In testimony that the VA submitted in conjunction with the Committee's July 15, 1981, hearing on judicial review, it was noted that the agency continues "to believe that there should be access to the courts for challenges to the constitutionality of veterans' benefits legislation, regulations, and procedures" and that the agency was "cognizant of an emerging trend * * * toward permitting judicial review of allegations that a regulation was promulgated in excess of the Administrator's authority or is otherwise contrary to law." As to the latter point, the VA's testimony was that "[t]his growing body of case law would seem to provide a sufficient basis for review of substantive agency actions of broad, binding application * * *" and that only "judicial review of individual benefit decisions" should continue to be precluded. You made this same point in your written response to a question I asked at your confirmation hearing when you stated:

Basically, I agree that the regulations of the VA, which constitute the Agency's interpretation and implementation of laws enacted by Congress, should be reviewable by a court for consistency with the statutory mandate, on the same basis as other Federal agencies. This is in fact occurring now.

Further, in a follow-up written response to a question I asked at the Committee's July 15 hearing on this issue, Robert Coy, then Acting General Counsel, responded * * * I have asked that the section [211(a)] not be raised in response to a clear allegation that a statute, regulation, or procedure is unconstitutional, or that a regulation or procedure exceeds the statutory authority of the Administrator.

Given what I thought, therefore, was agency policy on raising section 211(a) as a bar to court review, I was surprised to note in the Supplemental Memorandum Opinion that attorneys appearing representing the VA apparently were still seeking to raise that bar to judicial review in this case, and I would hope that, should this case be appealed, no further attempt to raise it will be made.

I look forward to your providing me with your views on this matter at your earliest convenience. Thank you for your continuing cooperation.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

VETERANS' ADMINISTRATION,
Washington, DC, March 24, 1982.

Hon. ALAN CRANSTON,
Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I am pleased to respond to your letter of March 10, 1982, in which you requested an update on, and offered several recommendations regarding, the Veterans Administration's position in *Gott* v. *Nimmo*, No. 80-0906 (D.D.C., Supplemental Memorandum Opinion and Order, February 17, 1982).

Initially, I would advise you that our counsel at the Department of Justice filed a protective notice of appeal on February 16, 1982, and that we plan to pursue further consideration of this case before the Court of Appeals. Also, in response to the district court's February 17 Order, to which you referred in your letter, the Government filed a motion on March 4 seeking, in the alternative, clarification of the order or a stay pending appeal. Finally, with regard to the nonreviewability statute at 38 U.S.C. § 211(a), the General Counsel advises me that its use in defending this lawsuit is appropriate and is consistent with Agency policy as expressed to the Committee on Veterans' Affairs last year. A brief explanation of these positions follows.

Reduced to its bare essentials, this case began as a challenge to the validity of three Government documents. They are a Memorandum of Understanding by which the De-

partment of Veterans Benefits (DVB) and the Defense Nuclear Agency (DNA) agreed on exchanges of information in development of ionizing radiation exposure data for veterans claiming disability resulting from participation in nuclear weapon tests; a section of DVB Program Guide 21-1 which contains information relating to such claims; and a section of DVB Manual 21-1 which sets forth internal VA procedures for development of information from claimants as to any possible in-service exposure to radiation from nuclear weapon detonations. Counsel alleged, on behalf of several plaintiffs, that the three documents constitute rules or regulations and therefore should have been promulgated via the notice-and-comment rulemaking procedures by which other VA regulations are issued, in accordance with the provisions of the Administrative Procedure Act at 5 U.S.C. § 553, as implemented by VA at 38 C.F.R. § 1.12. An additional contention was that two of the three documents were issued in violation of the Freedom of Information Act, 5 U.S.C. § 552, since they were not published for public information in the Federal Register (the program guide provision was so published). The court, however, has not reached that issue in the litigation.

Our defense of this litigation has been based on two major points. First, we believe the challenged documents are not rules or regulations, and contain no criteria which affect the substantive rights of individual claimants. Second, section 211(a) precludes the court from reviewing the merits of VA's handling of radiation cases because such a review would involve intervention of the court in the adjudication of individual claims.

These positions were not formulated without careful analysis, nor have we been unmindful of the Committee's concerns about the scope of section 211(a), particularly in the context of your current consideration of judicial review legislation. I continue to believe, as I stated in a written response to your question at my confirmation hearing, that VA regulations should be, and are, reviewable in the Federal courts. This principle was further explained by the Acting General Counsel last summer, when he indicated to the Committee that "legislation, regulations, and procedures" are judicially reviewable, as are "substantive Agency actions of broad, binding application."

Section 211(a) has been properly limited by the courts so that it does not protect every decision, policy, or action of the VA from judicial scrutiny. Those Agency rules and procedures of broad and binding application which affect the rights of a number of claimants to VA benefits are not protected by section 211(a). The way the VA processes and decides an individual benefit claim is clearly beyond the reach of the Federal courts, however. Because the three written provisions challenged in *Gott* do not, in our opinion, provide criteria for decision-making, and are merely procedural and instructional, they do not dictate the substantive decision in any individual case. In other words, while they tell the VA adjudicative employee what to do before he decides a claim, and give him some background about the state of the scientific knowledge of effects of ionizing radiation, they clearly do not tell him how to decide the claim. Similarly, they do not provide set criteria against which the adjudicator must judge the merits of the claim, nor do they impose additional duties on claimants. Since no VA regulatory criteria are involved, the conclusions of the VA as to the causal connection between radiation and any given disability are embodied only in its individual claim decisions, and review of those individual claims decisions is precluded by section 211(a).

The General Counsel has not changed the Agency's position on the use of section 211(a) as articulated to the Committee last summer. Section 211(a) will not be raised by the Veterans Administration, nor by Department of Justice at our recommendation, when there is either a clear challenge to the constitutionality of a statute, regulation or procedure or an allegation that a regulation or procedure is inconsistent with law. This is the general policy you cite in your letter, which was enunciated by the Acting General Counsel in his written response following the hearing of July 15, 1981, on S. 349. However, that response goes on to acknowledge that there are many cases where the allegations are not so clear. We stated that there existed "gray areas" of VA administrative issuances not clearly identifiable as binding regulations or procedures and that cases challenging these materials might be defended on the basis of section 211(a). We also cited the case of *Carter v. Cleland*, 643 F.2d 1 (D.C. Cir. 1980), as an example of this type of case.

The *Carter* case is significant because it recognizes that section 211(a) prohibits court review of administrative guidelines issued under the authority of the Administrator of Veterans Affairs, where such guidelines do not have binding effect on claimants for benefits. The Court of Appeals held that such matters are within the Administrator's discretion in handling individual benefit decisions, particularly where, as is true in *Gott*, the guidelines are not binding on the BVA. That rationale is clearly applicable to the *Gott* case, in which the documents in issue are DVB issuances not binding on BVA, are concerned merely with the development, exchange, and dissemination of information related to radiation claims, and do not establish criteria for entitlement to benefits.

I enclose copies of the challenged documents, for your ready reference. They are initially shared with the Committee at the time of their issuance. See Veterans Claims for Disabilities from Nuclear Weapons Testing: Hearing before the Comm. on Veterans' Affairs, U.S. Senate, 96th Cong., 1st Sess. 160-168, 183-187, 188-189 (1979). As we have endeavored to demonstrate to the court, none establishes binding standards for claim adjudication.

When the district held the challenged documents invalid for failure to have been promulgated under APA procedure (Memorandum Opinion and Order, September 30, 1981), VA complied by rescinding the program guide and manual provisions, which had been distributed to the regional offices, and by ceasing use of the procedures set forth in the memorandum of understanding, in cooperation with DNA. We did not, however, cease carrying out our responsibility to render decisions on claims, based upon all available evidence. The court's ultimate response was the February 17 Order, requiring VA and/or DNA to promulgate rules on "methodologies and standards to calculate radiation exposure and harm." As noted above, we have asked the court to clarify exactly what we should do to be in compliance. If conducting rulemaking on the three challenged documents would suffice, we would do so, pending appeal, even though we believe the court is mistaken. However, if the court is ordering VA to publish hard standards for radiation-claim adjudication, such as set levels of radiation exposure which would be required to establish entitlement to disability benefits, we believe it is exceeding its authority in this case. Not only do we believe the scientific uncertainties as to what levels of radiation attribute to particular adverse health effects preclude such rulemaking at this time, but we also believe an order, without a statutory basis, to issue regulations violates the discretion delegated by the Congress to the Administrator, in 38 U.S.C. § 210(c), to determine what regulations are necessary or appropriate.

As the litigation has progressed, it has become apparent that plaintiffs' counsel is primarily seeking court review of the methodology by which DNA researches or reconstructs radiation exposure data on individuals when VA requests it. Both agencies involved and the Justice Department agree that any such methodologies are beyond the scope of this litigation. Contrary to plaintiffs' and the court's impression, the VA-DNA memorandum did not establish or introduce methodologies for calculation of radiation exposure. It merely mentioned that they existed and would be used, modified, or replaced as necessary to accomplish the goals of DNA's research. See Memorandum of Understanding, paragraphs 2, 5b(2), 7b. Because the memorandum contained no such substantive matter, public participation was not sought in its development.

My principal concern in this matter is that veterans and their survivors receive the fairest and most sympathetic consideration of their claims for VA disability benefits. The purpose of the documents at issue in *Gott* was to increase the efficiency of our efforts to secure from DNA the most accurate radiation exposure data possible, for consideration along with all other evidence on file in each individual case. With or without the documents, VA decision-making on claims can proceed, under the statutory and regulatory criteria governing claims for "service connection," at 38 U.S.C. chapters 11 and 71, 38 C.F.R. parts 3 and 19.

At such time as the scientific community may reach a consensus as to the health effects of ionizing radiation at certain levels of exposure, I would consider it wise to promulgate uniform standards based upon those biomedical principles. At present, I believe the discretion of VA adjudication personnel should not be hampered by strict numerical considerations. For example, several claims have been allowed with no hard evidence of a particular level of radiation exposure, because the decision-making personnel believed that the record as a whole, considered in light of the doctrine of reasonable doubt, warranted allowance. I am concerned that attempts to introduce any dose/response tables into VA regulations at present could well lead to the denial of claims which our decision makers, within the broader discretion they now possess, might allow.

I appreciate your interest in this litigation, and am committed to resolving the many questions remaining in the area of ionizing radiation's health effects on veterans.

Sincerely,

ROBERT P. NIMMO,
Administrator.

Enclosures.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 19, 1984.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: In light of what appear to be significant contradictions between your April 10, 1984, official agency report on S. 1651 and your April 12, 1984, letter to Chairman Simpson expressing your and the Administration's support for his proposed, not yet introduced, resolution, I am writing to seek clarification of your position on a number of points related to the overall issue of Veterans' Administration compensation for dioxin and radiation exposure. Specifically, I would appreciate your prompt response to the following points:

1. What is your view on the appropriateness of addressing, in part, veterans' concerns in these areas through the development and issuance of regulations?

On this point, I note that both S. 1651 and Senator Simpson's proposed resolution (hereinafter referred to as "the S. Res.") call for the VA, pursuant to rulemaking provisions of title 5, United States Code, to prescribe regulations relating to the resolution of dioxin and radiation claims. Although the regulation-issuing process under the two measures would be different, there is a marked similarity in the apparent intent of the two rulemaking requirements. Thus, your endorsement of the S. Res., which includes a provision directing you to "prescribe regulations . . . establishing clear guidelines" for resolving dioxin and radiation claims, stands in marked contrast to a number of statements in your April 10 report on S. 1651, including the following:

"The important substantive issues involved [dioxin and radiation exposure compensation] are not suitable for resolution through rulemaking" (p. 2 of your April 10 report);

"It is unlikely that a rulemaking proceeding would uncover any useful medical or scientific evidence not already known" (p. 3);

"A reasoned approach to the issue of dioxin and radiation exposure requires that the Administrator retain the flexibility to initiate rulemaking when and if warranted by available information" (p. 4);

"We consider existing procedures to be appropriate for resolution of claims related to dioxin or radiation exposure" (p. 6); and

"Because veterans' testimony would not be medical or scientific, veterans would have little opportunity to contribute meaningfully to the [rulemaking] proceedings" (p. 7).

How do you reconcile your support for the S. Res. and its rulemaking component with these statements and, to the extent that you regard the differences between the two rulemaking procedures as the basis for your different reactions, please describe in detail what you see the differences to be and their impact on your position.

2. Do you believe a presumption of service connection in the case of Vietnam veterans is appropriate for chloracne and porphyria cutanea tarda (PCT) and, if so, what is the scientific and medical basis for that benefit?

On this point, I note that, under S. 1651, although the VA would be required to address specifically whether there should be such a presumption for chloracne or PCT manifested within a year of a veteran's departure from Vietnam, no presumption would be accorded unless and until the VA determined that such a step was appropriate after the mandated rulemaking. In contrast to that result, the S. Res. calls for the VA to add the two conditions to the list of chronic diseases as to which a one-year post-service presumption would apply. Thus, your pledge in your April 12 letter to "carry out its [the S. Res's] provisions" if the Senate passes the measure is very difficult to understand in light of the following statements from your report of two days earlier on the question of considering the creation of any presumptions:

"The only consensus in the medical and scientific communities concerning health effects of dioxin exposure is that more must be done before reliable conclusions can be drawn" (p. 3);

"Any action providing presumptions of service connection for diseases associated with dioxin or radiation exposure must be based on justifiable, scientifically supported conclusions regarding service connection. Such conclusions cannot be reached at this time with regard to the diseases identified in the bill" (p. 5); and

"The evidence does not support the creation of presumptions for [the disease specified in S. 1651]" (p. 9).

Please explain how you reconcile your support for establishing presumptions pursuant to the S. Res. with these statements and, in doing so, please note in particular any "justifiable, scientifically supported conclusions" that came to your attention between April 10 and April 12.

3. Do you see a role for an advisory committee to advise you on the issues of the health effects of exposure to dioxin or radiation? (If so, please describe the purposes you consider appropriate for such a committee.)

As you know, the S. Res. makes reference to you, as Administrator, acting "in consultation with an advisory committee, [established] by the Administrator, consisting of individuals who are recognized authorities in epidemiology and other pertinent scientific disciplines". S. 1651 would mandate consultation with a similar body. Your pledge to carry out the provisions of the S. Res. is also difficult to understand in view of the following statement from your report on S. 1651:

"Resort to advisory committees would merely provide yet another forum for public airing of conflicting viewpoints on the matters in question. Such proceedings would largely duplicate other contemplated procedural measures and would further complicate the rulemaking process, while adding little or nothing to the resolution of issues" (p. 7).

What explains this change in your evaluation of the value of an advisory committee?

4. With respect to efforts relating to veterans exposed to radiation, do you believe that those veterans who were present in Hiroshima or Nagasaki as part of the U.S. occupation force should be included in any such efforts?

The S. Res. and S. 1651 both include these veterans in the respective description of veterans exposed to radiation. Thus, your expressed support for the S. Res., in which you made no mention of excluding these veterans, is hard to reconcile with the following statement from your April 10 report on S. 1651:

"The bill's great potential for creating misimpressions is illustrated by inclusion of vetrans who participated in the post-World War II United States occupation of Hiroshima and Nagasaki. Any scientific basis for presumption of service connection for radiation-related diseases based on such exposure is totally lacking" (p. 9).

Have you changed your view on this issue or do you have the same objection to the S. Res.? If you did change your position between April 10 and April 12, please describe the basis for doing so.

5. In your April 10 report you discuss (p. 11) why you believe it is unnecessary, in light of existing case law, to provide for judicial review of any regulations issued by the agency in this area. Putting to one side the agency's actions to date in raising the section 211(a) bar to judicial review in two cases seeking such review of VA efforts in both the radiation area (*Gott v. Nimmo*, which is pending in the U.S. Court of Appeals for the District of Columbia Circuit) and Agent Orange area (*White v. Nimmo*, which is pending in the U.S. District Court for the District of Columbia), did you mean to suggest by the statement in the April 10 report that an individual would be able to gain judicial review of whether the agency determination reflected in regulations on these issues were arbitrary or capricious, a scope of review that would be permitted by S. 1651? If so, does that mean you are committing the VA not to raise a section 211(a) defense on a case raising that kind of a challenge to an Agent Orange or radiation exposure regulation?

On this issue of what degree of judicial review is currently available under existing case law, I note an exchange of correspondence that I had on this subject with your predecessor, Robert Nimmo (copies of my March 10, 1982, letter to him and his March 24, 1982, reply are enclosed). As you can see, it was my understanding at that time, based in a variety of statements, that the VA would not raise the section 211(a) bar in a case, such as *Gott*, challenging agency regulations. Thus, I was disappointed by Mr. Nimmo's response which, although affirming that the agency remained committed to the principle that the bar to judicial review would not be raised when there is "an allegation that a regulation or procedure is inconsistent with law", indicated that it was appropriate to assert the bar in the *Gott* case because of the way in which the agency had itself chosen to style the radiation material. I would appreciate it if, in responding to above question regarding the availability and scope of judicial review, you would review this exchange of correspondence and provide your views on it.

6. Finally, in light of your support for the S. Res. and your willingness to carry out its provisions following Senate passage of such a non-binding measure expressing the sense of only one House of the Congress and providing the agency with no new authority, I do not understand why you are not now moving ahead to take the various administrative steps proposed therein that you consider to be "well-reasoned" and "improvement". Thus, I would appreciate your advising me as to why you are not doing so and what, if any, actions you would take in the areas covered by the S. Res. if, by June 1, 1984, the Senate has not passed it.

Thank you, Harry, for your continuing cooperation and your prompt attention to the matters raised in this letter.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

Mr. CRANSTON. Mr. President, I yield 5 minutes to the distinguished Senator from West Virginia, Senator RANDOLPH, a leading, outstanding, ef-

fective member of this committee and of the Senate.

Mr. RANDOLPH. Mr. President, I am grateful for the opportunity to join the chairman of our committee, Mr. SIMPSON, and the ranking minority member of our committee, Mr. CRANSTON. These Senators as well as all members of the Committee on Veterans' Affairs have generally a very cooperative and understanding approach to the problems that confront us as we attempt to provide the legislation which will aid the veterans of the United States. Veterans of the Armed Forces are so important to our country in peacetime as well as in conflict in which this Nation may be engaged.

I support the agent orange and radiation exposure legislation. I am also supportive of the compromise amendment that we are now discussing. I think we are at this time perhaps doing what Congress should have done before, but very frankly our friend ALAN SIMPSON has told us that it has not been an easy procedure. I am one of those who understands that to have made too much haste perhaps would have brought to this Chamber a product which would have shortcomings and that we might do even partial damage rather than assist in solving this problem of exposure to radiation and agent orange.

Mr. President, the time is long past due that Congress recognizes the unique medical problems that may confront the veterans who served in our Armed Forces in South Vietnam during the defoliant spraying and those who participated in the testing of nuclear devices between 1945 and 1966.

This legislation is not a cure all. But it is an important step in helping to bring an understanding and a peace of mind to those exposed veterans and their families.

I believe by adopting this measure we will be taking a balanced approach in requiring that the Veterans' Administration develop regulations for the adjudication of agent orange and radiation exposure problems.

As a member of the Veterans' Affairs Committee it has been my responsibility to participate in the development of the legislative history on these issues. The snails pace that this legislation has taken has been frustrating at times. It is a difficult issue and many of the solutions are unknown. The House and Senate Veterans' Affairs Committees have conducted hearings on these problems since 1978.

It is estimated that between 1962 and 1971 the U.S. Air Force sprayed millions of pounds of herbicide over South Vietnam. It is difficult to estimate how many service personnel may have been affected by the sprayings. Several herbicides were used in the spraying, but agent orange was the most widely used.

Dioxin, a contaminant formed in the production process of the agent orange defoliant, is acknowledged by scientists to be one of the most toxic chemicals known to man.

Approximately 230,000 veterans may have been exposed to ionizing radiation as a result of atomic testing or as a part of the occupation forces in Japan.

Presently there are no conclusive scientific studies on the long-term human health effects of agent orange exposure.

On too many occasions veterans have been told that not enough data exists to back up their claims of health side effects because of exposure to agent orange.

In 1979 Congress mandated an epidemiological study on the effects of exposure to agent orange. By its expected completion date of between 1987 and 1989 the study is expected to cost about $100 million. During the 97th Congress responsibility for the study was transferred from the Veterans' Administration to the Centers for Disease Control. Other studies are being conducted at the same time.

It is known that chloracne can be discovered weeks to months and can continue for years after exposure to high concentrations of dioxin. Soft tissue sarcoma has been reported among Swedish workers exposed to phenoxy herbicides. And the time between exposure and the appearance of the soft tissue sarcoma has ranged from 10 to 20 years.

I do not believe that we can wait until all the tests are concluded to provide the aid and assistance that the affected veterans deserve. It is important that the VA be required to address whether any presumptions as to service connections should be applied in the case of specific diseases.

The legislation that we have before us will go a long way in developing the necessary benefits that those exposed to agent orange and atomic testing are due as a result of their military service.

As a cosponsor of S. 1451, I urge my colleagues to join me in supporting the compromise package that is before us today.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I acknowledge the remarks of Senator CRANSTON before I yield to Senator PRESSLER for an amendment and, indeed, my experience in dealing with Senator CRANSTON has been similar to his with me, apparently, because he has always been most candid, very upfront. We have a very fine personal relationship which I cherish. Indeed, his word is his bond and handshake has always been quite good enough for the two of us.

As to Senator RANDOLPH, my very first chairman in this place, there is no one here that I have more affection and regard for than my effective, supportive friend from West Virginia whose relationship means a great deal to me and his friendship.

I yield to Senator PRESSLER of South Dakota for an amendment.

The PRESIDING OFFICER. The Chair will say to the distinguished Senator from Wyoming it would be necessary for the managers of the bill to yield back their time on the substitute amendment before an amendment by the Senator from South Dakota will be in order.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the amendment be in order without yielding back time remaining on the bill.

The PRESIDING OFFICER. It is the time remaining on the substitute, not the bill.

Mr. SIMPSON. I know. I am aware of that. I ask unanimous consent that that be in order, without yielding time. The Chair is speaking only of the amendment.

The PRESIDING OFFICER. The substitute.

Mr. SIMPSON. Would the Chair please advise of the time remaining on the amendment?

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes 20 seconds on the substitute and the Senator from California has 20 minutes plus remaining on the substitute.

Mr. SIMPSON. Mr. President, I then ask unanimous consent that the amendment be in order without yielding back the time remaining on the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I shall be very brief.

I commend the Senators from Wyoming and California for their compromise. Both have worked long and hard as have their staffs in this matter. I wholeheartedly endorse the Simpson-Cranston substitute amendment as an agent orange measure which we can all support

It was my privilege to introduce a bill on this subject last year, S. 786, and I am pleased that parts of it have been incorporated in the bill before us today. I have long been a consistent supporter of agent orange compensation. I believe that this compromise will allow the VA to compensate victims where there is a determination that there is a connection between the health problems of veterans and their exposure to agent orange.

As one of only two Vietnam veterans in the Senate, it is highly disturbing to me that, over a decade after the Vietnam war, Congress has done little to

meet the needs of agent orange victims. All this time veterans and their families have suffered. They ask that we treat them justly. Up until now they have not been justly treated.

I recognize that many studies are still continuing in this area. Their importance is not to be understated. I also realize that some of the preliminary findings have been mixed and absolute determinations have been difficult to make. However, we must take note of the fact that the medical problems of Vietnam veterans and their families are abnormally high. The legislative measure before us today recognizes this and establishes steps to address the problem.

Mr. President, another aspect of this legislation which has not received the attention it deserves is that dealing with atomic veterans. It is worth noting that the agent orange legislation which overwhelmingly passed the House earlier this year also addressed this matter. I have long been attuned to the problems of these veterans. In fact, the very first bill I introduced in the 97th Congress provided for compensation for atomic veterans. It is my hope that their 40 years of unanswered pleas may finally be addressed.

Most people assume that U.S. servicemen who participated in atmospheric nuclear tests and the occupation of Hiroshima and Nagasaki, Japan after World War II were exposed to abnormally high amounts of ionizing radiation. The problem has been in determining the amounts of individual exposure. Some participants were issued film badges, which gave a partial estimate of radiation, while the vast majority received nothing that would provide evidence of their radiation exposure.

In recent years, however, a new technique has emerged to help meet this deficiency. This is the development of whole body counters. By use of this method very small amounts of radiation remaining in the body can be detected. In this way we are able to better measure radiation doses inhaled and ingested by veterans.

The passage of this bill would begin a process whereby the VA Administrator, the Congress, an independent advisory committee, and the general public could all participate. A number of diseases are designated for initial scrutiny. They are soft tissue sarcomas, chloracne, and a liver disease called PCT for those exposed to agent orange. For atomic veterans, malignant cancer, polycythemia vera, and hypothyroidism are singled out for close attention.

I think it is important to note that the substitute amendment is not a concrete document that locks in certain diseases as being compensable while automatically eliminating others. The key is that diseases can be added or deleted as additional scientific evidence merits such action. Thus, we can move to meet our veterans' needs, while maintaining the necessary flexibility to accommodate the findings of medical studies still in progress.

Mr. President, it is significant that the seven chemical companies that provided agent orange for use in Southeast Asia recently established a $180 million trust fund for agent orange victims and their families. This group includes the Dow Chemical Co.; Monsanto Co.; Diamond Shamrock Corp.; Hercules, Inc.; Uniroyal, Inc.; T-H Agricultural & Nutrition Co.; and the now-defunct Thompson Chemicals Corp.

While I question whether the amount of this class action settlement is sufficient, I think it establishes an important precedent. That is, the companies are admitting that agent orange has caused and continues to cause health problems among our veterans. Furthermore, they are tacitly admitting partial responsibility for their role in this matter.

It is time for the U.S. Government to establish its responsibility to our veterans regarding agent orange. The legislation before us today gives the Senate an opportunity to move in that direction. All the major veterans groups, including the Veterans of Foreign Wars, the American Legion, and the Disabled American Veterans support the Simpson-Cranston substitute amendment to S. 1651. Let us pass this legislation today so that we can begin to provide the affected veterans with compensation that is long overdue.

The names of Senators D'AMATO, SPECTER, ABDNOR, PRESSLER, MURKOWSKI, BIDEN, STAFFORD, BYRD, and Mr. RANDOLPH were added as cosponsors of amendment No. 3088, by unanimous consent.

AMENDMENT NO. 3089

(Purpose: To specify the membership qualifications, structure, and functions of the Advisory Committee on Environmental Hazards and of the Scientific Council thereof)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer it on behalf of myself, Mr. CRANSTON, Mr. SIMPSON, and Mr. HEINZ.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. HEINZ, and Mr. BYRD propose an amendment numbered 3089.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Amend the Simpson-Cranston substitute amendment on page 8 by striking out subsection (d) (of section 5) and inserting in lieu thereof:

(d)(1) The advisory committee referred to in subsections (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendation from veterans' organizations, including—

(A) eleven individuals (of whom none may be members of the Armed Forces or be employed by the Veterans' Administration or the Department of Defense and not more than three may be federal employees of other departments or agencies), appointed in consultation with the Director of the National Institutes of Health, including—

(i) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin.

(ii) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation, and

(iii) five who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations, and

(B) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(2) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration or their designees.

(3) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(4)(A) The eleven members of the Committee described in paragraph (1)(A) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee.

(B) Such Council shall be subdivided into (i) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (ii) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(C) Such Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(5) The Administrator shall designate one of the members to serve as the chairperson of the Committee and another member to serve as the chairperson of the Scientific Council.

(6) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any such member may not exceed three years. The Administrator may reappoint any such member for additional terms of service.

(7) The Administrator shall provide adminstrative support services and fiscal support for the Committee.

Mr. PRESSLER. Mr. President, I offer this amendment to establish the composition and function of the Advisory Committee on Environmental Hazards that is outlined in the Simpson-Cranston compromise. I anticipate that the committee will play an important role as we proceed to determine precisely what diseases should be compensated for as a result of agent orange and atomic radiation exposure.

I would briefly like to outline the rules under which this committee will function. It will consist of 15 members with 3 being medical or scientific authorities on dioxin, 3 being medical or scientific authorities on ionizing radiation, 5 being medical or scientific authorities in epidemiology or related fields, and 4 from the general public. Also serving on the committee as ex officio, nonvoting members will be the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their designees.

The 11 members of the scientific and medical communities who serve on the committee will also serve on a Scientific Council of the committee that will review all pertinent studies relating to dioxin and ionizing radiation. This group will advise the committee and the Administrator on their evaluations and findings,

Mr. President, the Advisory Committee on Environmental Hazards will be key as we move to implement the legislation before us. Their expert and personalized advice to the Administrator, as well as their legislative and scientific recommendations, should prove invaluable.

As I have noted before, we do not act with 100 percent certainty on the legislation at hand. More studies are in progress on the effects of agent orange and ionizing radiation and we look forward to the additional knowledge that they can give us. In particular, I would note the epidemiological study by the Center for Disease Control in Atlanta, that is scheduled for completion in 1989. It is my hope that the committee, whose function I have just outlined, can perform the indispensable task of keeping all of us up to date on any additional evidence as it becomes known.

In conclusion, Mr. President, I would say that there are many circuitous arguments that one can engage in regarding agent orange. Some say that it saved the lives of American servicemen and many would be worse off if it were not used in terms of wounds or loss of life. That debate is frequently brought up when veterans discuss the Vietnam war. It was a highly emotional time in our country's history.

Many Vietnam veterans returned to this country feeling they had not been properly recognized for their sacrifices. In part that has been changed with the Vietnam Veterans Memorial and some of the programs that have been on our public TV and radio. But there has been an emotional sense surrounding the agent orange issue, with many veterans and their families believing strongly that there was a casual relationship and with some scientific evidence to support their viewpoint.

This legislation will address that problem. It will give the VA Administrator the flexibility to compensate where he feels it is proper. It will bring to an end the debate of the Government's responsibility and clearly establish that responsibility.

With that, Mr. President, I will conclude my remarks and ask for the immediate consideration of my amendment. I will not seek a rollcall vote if, as I understand, it is acceptable to the minority and the majority.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I certainly wish to speak in favor of the amendment offered by my colleague, LARRY PRESSLER, and cosponsored by myself, Senator CRANSTON and Senator HEINZ. This amendment will indeed expand the specific references as to those who compose the Advisory Committee on Environmental Hazards and the scientific council as is established by the Simpson-Cranston amendment. I do endorse this effort and I congratulate Senator PRESSLER on his participation in this important legislation. I think the scientific council is an excellent idea and was contained in my substitute. It will provide information and recommendations to the Administrator based on current study results concerning agent orange and radiation. Senator PRESSLER's amendment would provide that there be 4 lay members of this committee and 11 scientific members, 3 who are recognized medical or scientific authorities in the area effects of the exposure to dioxin, 3 who are medical or scientific experts in understanding health effects of exposure to ionizing radiation and 5 who are recognized in the medical and scientific community as epidemiologists or other scientific experts and who are capable of determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations. I urge the Senate to adopt this amendment and I thank my colleague for his help and participation in this matter. He certainly meets the needs of the veterans of his State and the Nation, and he served with distinction during that era of Vietnam. Senator PRESSLER is to be commended for his efforts here and I thank him.

Mr. RANDOLPH. Mr President, will the Senator yield?

Mr. SIMPSON, I am happy to yield to the Senator.

Mr. RANDOLPH. Mr. President, I only ask the opportunity to join in the amendment that is offered by the able Senator from South Dakota (Mr. PRESSLER). If that is agreeable, I would like to join cosponsorship of this amendment. What the Senator from Wyoming has said about Senator PRESSLER is very true. I think that this is an added effort to strengthen the makeup of the advisory committee.

The PRESIDING OFFICER. Without objection, the name of the Senator from West Virginia is added as a cosponsor.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I congratulate the Senator from South Dakota on his amendment and his leadership in this area. I am delighted to join with him in offering this amendment to provide more specificity about the advisory committee and its scientific council. I also wish to thank him very much for the support he has given to S. 1651.

I urge adoption of the amendment.

I am prepared to yield back our time on the amendment.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from South Dakota yield time?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. PRESSLER).

The amendment (No. 3089) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I yield to Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 3090

(Purpose: To prohibit a claimant from being required to submit evidence of the veteran's exposure to agent orange or radiation if the service records are not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred)

Mr. SPECTER. Mr. President, I commend the distinguished Senator from Wyoming, Senator SIMPSON, for the outstanding work that he has done as chairman of the Veterans' Affairs Committee, and for his work on molding the legislation which is under consideration today.

Similarly, I commend the distinguished Senator from California (Mr. CRANSTON), the ranking member of the Veterans' Affairs Committee, for his

outstanding contribution in the compromises, and the adjustments which have been preliminary to the very important legislation which is being presented today.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from Pennsylvania, and the managers of the bill, that it would be necessary for the managers to yield back their time on the substitute, or obtain unanimous consent to make the amendment in order.

Mr. SIMPSON. Mr. President, I regret that I was speaking to the majority leader. I usually pay close attention. Indeed, it has a very disruptive effect on my ability to follow what comments were made by my colleague from Pennsylvania. I apologize.

Mr. President, I ask unanimous consent that the amendment be in order without yielding back further time remaining on the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I would add that the comments that the distinguished Senator from Wyoming did not hear were laudatory and complimentary comments about him.

Mr. SIMPSON. Mr. President, I will read the record late this evening, and enjoy that.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. CRANSTON, and Mr. SIMPSON, proposes an amendment numbered 3090.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the Simpson-Cranston substitute amendment by inserting on page 7 the following new paragraph after clause (ii)(IV) (of section 5(b)(2)(B));

(3) The regulations prescribed under this section shall include a provision specifying that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device shall not be required to produce evidence substantiating such veteran's exposure during service in the Armed Forces when the information in the veteran's service records and other records of the service concerned is not inconsistent with the claim that the veteran was present where and when the claim exposure occurred.

Mr. SPECTER. Mr. President, I introduce this amendment on behalf of myself, Mr. CRANSTON, and Mr. SIMPSON, because I am concerned that the Federal Government has imposed an impossible burden of proof on atomic and Vietnam veterans to establish service-connection for their injuries. It is a burden of proof that far exceeds any imposed on litigants in civil trials who must establish liability for injuries far less serious than those involved in veterans' cases. It is difficult to understand why these veterans, to whom we owe so great a debt, have been subjected to such a singularly difficult legal barrier to just compensation.

In the course of the past 3½ years, I have conducted hearings throughout Pennsylvania to examine the problems of readjustment for Vietnam-era veterans. I was deeply moved by the testimony of these veterans. They spoke of having been treated as the enemy when seeking treatment for their injuries from the Government. Some veterans testified that they were asked by the VA to provide proof and evidence as to where and when they were exposed to agent orange, when such information was in the possession of the Government.

The amendment which I proposed is derived from a provision of S. 1953, which I introduced in the 97th Congress, and S. 374, which I introduced in the first session of the 98th Congress, addresses directly the question of what evidence the veteran must provide to substantiate his or her claim to exposure. I seek to amend the Simpson-Cranston substitute to prohibit a claimant from being required to submit evidence of the veteran's exposure to agent orange or radiation if the service records are not inconsistent with the claim that the veteran was present where and when the exposure occurred.

I do not believe that it is fair to require that a veteran be required to proffer evidence which is in the principle custody of the Government. This amendment would insure that a fair standard is applied in substantiating claims of exposure, if adopted into the Simpson-Cranston proposal. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I certainly support the amendment offered by my able friend and colleague, Senator ARLEN SPECTER, and cosponsored by Senator CRANSTON. It provides regulations to be prescribed in the substitute amendment. It would include a provision to specify that a veteran who would file a claim based on exposure to agent orange, or ionizing radiation, would not be required to produce evidence substantiating such veteran's exposure during service in the Armed Forces when the information in the veteran's service records, and other records of the service concerned, is not inconsistent with the veteran's claim that he was actually present where and when the claimed exposure occurred. I believe this amendment grew out of Senator SPECTER's concern that veterans not be required to produce evidence that they would clearly be incapable of obtaining.

Being a prosecutor in his other life, Senator SPECTER is an extraordinarily capable person with regard to the effects of litigation. It would be important to avoid litigation on something such as this. I support the intent. I have found Senator SPECTER to be a tenacious advocate of veterans' rights. I have heard him relate about his own veteran father, and his impact on his life.

I am very proud to have the Senator as a member of the Veterans' Affairs Committee, where he serves with great enthusiasm, and brings his full intellectual capabilities to the table, I assure you.

I support the intent of his concern, and I urge the amendment be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield such time as the distinguished minority leader, Senator BYRD, may need.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I would defer, first, and yield to my senior colleague, who is a member of the Veterans' Committee.

Mr. RANDOLPH. Thank you very much.

Mr. President, is that agreeable?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Thank you very much, Mr. Leader.

Mr. President, I do not speak to the substance of the subject matter at this moment. But it gives me the opportunity to say "well done" to all members of the Veterans' Affairs Committee of the Senate of the United States. I have for the first time heard—and I think these matters need to be known—that our able colleague from Pennsylvania, Mr. SPECTER, during a certain period of which I am unsure how long or where the meetings were held, brought veterans together in Pennsylvania to counsel with them about this very subject that we are discussing. Hopefully we will act favorably on this amendment in a well-reasoned way within a short period of time.

Mr. President, if I am allowed to say ARLEN, this is proof positive of what does take place from time to time, hopefully more often than less, that Senators in their own States counsel with the people directly affected by the decision of the Senate on a matter of this kind. There have been reasons why perhaps this sort of judgment over a period of time had to be correlated.

Mr. President, I say again to the Senator from Pennsylvania, Mr. SPEC-

TER, thank you for that contact. I believe it is important to keep in touch always with people.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, would my distinguished friend from California, Mr. CRANSTON, yield some time to me?

Mr. CRANSTON. Of course.

Mr. BYRD. Mr. President, I commend the distinguished Senators who are the leaders in promoting this legislation. I speak especially with reference to Mr. SIMPSON, who is the chairman of the Veterans Affairs Committee, and also with regard to Mr. CRANSTON, who is the ranking Democratic member on that committee.

The committe, I am sure, has worked long and hard to develop the process which is fair and expeditious in the matter of diseases which may have been sustained by our servicemen as a result of the use of agent orange in Vietnam.

The continued lack of progress and resolution on the part of the Veterans' Administration has been a great disappointment, particularly to those men who honorably and faithfully served our Nation in Southeast Asia. The time is overdue for proper adjudication of the legitimate and rightful claims for compensation for injuries sustained by these men. It has been nearly a decade since America terminated its role in the Vietnam theater; American servicemen should not have to wait so long to resolve difficulties arising from their service.

I think it is altogether right that the Veterans' Administration put into place the regulatory scheme outlined in the substitute—a scheme wherein strict time limits are required for the Administrator to develop regulations, which are subject to mandatory judicial review.

In particular, Mr. President, I believe the Cranston substitute should be commended for requiring the Administrator to make specific determinations regarding the connection between the service performed and the disease contracted; and to give all benefit of reasonable doubt to veterans who have contracted diseases after being exposed to the dangerous dioxins contained in the agent orange herbicide. These men, by virtue of their service, placed their trust and resolved all reasonable doubt in reliance upon the military decisions which led to the use of agent orange, and that reasonable doubt should be repaid in kind by their Government. This is only fair; it is only judicious; it is only right.

In addition, Mr. President, I am very pleased that this measure also develops a process for the Veterans' Administration to adjudicate the claims of individuals exposed to radiation during the testing of nuclear devices, and during the occupation of Japan. Needless to say, compensation for victims of radiation exposure during that period is long overdue. The time has long since been ripe for these claims to be properly addressed and I commend the Senator for giving his attention to this issue.

The distinguished Senator from Pennsylvania (Mr. SPECTER), the distinguished Senator from California (Mr. CRANSTON), and the distinguished Senator from Wyoming (Mr. SIMPSON) are proposing legislation that will ease the burden of evidentiary proof required to be produced by veterans.

It simply corrects what I understand have been on occasion overly onerous burdens of proof that have been required of veterans regarding their exposure to dioxins or radiation. Given the years that have passed since the damaging exposure of a veteran, it provides that the individual not be required to produce evidence which is already uniquely in the control of the Government.

Mr. President, I believe this is a worthy amendment. I have asked my friend and colleague, the assistant Democratic leader, to add my name to the substitute amendment.

I again thank Senators SIMPSON and CRANSTON for the leadership they have demonstrated in bringing this matter to the floor. I am confident the Senate will overwhelmingly adopt it.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from West Virginia, the minority leader, for his helpfulness on this effort and for his supportive words.

Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. BYRD), the distinguished minority leader, be added as a cosponsor of our substitute amendment as well as the Pressler amendment and the pending Specter amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. CRANSTON. Mr. President, this is a fine amendment, fully in accord with the purposes and provisions of the compromise agreement. I congratulate the Senator from Pennsylvania for the amendment, and I am delighted to join with him in offering it. I would like to reiterate my words of appreciation for the excellent cooperation and assistance received from the able Senator from Pennsylvania (Mr. SPECTER) throughout the development and consideration of this measure.

The Senator has had a strong interest in these issues since joining the committee in 1981, and I very much value our working together on this legislation.

On February 2, 1983, Senator SPECTER introduced the first agent orange compensation legislation, S. 374, in this Congress. In fact, he introduced similar legislation in the 97th Congress as S. 1953.

Mr. President, I urge that the amendment be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I appreciate very much the remarks of Senator BYRD. Let me just say that he served with my father in this institution. No one can match his knowledge of this place, an institution which is as large as life itself to him. His knowledge of the rules of this body is absolutely extraordinary.

We have had disagreements. On one particular occasion I recall that I fell from grace in a rather boisterous moment. We have long ago resolved our differences. The Senator from West Virginia has given us wonderful leadership in this body, which I appreciate so much.

Mr. BYRD. Mr. President, the Senator has not at all been faced with a fall from grace. He is an outstanding Senator and I thank him for his kind remarks.

Mr. President, I wish to thank the minority whip again for his leadership and also for his kind remarks.

Mr. SIMPSON. Mr. President, I yield back the remainder of my time on the amendment.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The proponent has not yielded back his time.

Mr. SIMPSON. On behalf of Senator SPECTER, who is participating as chairman in a hearing, he suggested that I yield back the remainder of his time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

Mr. RANDOLPH. Mr. President, may I speak for one moment before the question is put?

The PRESIDING OFFICER. If the manager of the bill will yield to the distinguished Senator.

Mr. SIMPSON. I will yield whatever time I may have.

Mr. RANDOLPH. Just 30 seconds.

Mr. SIMPSON. I yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I know that Senators who are considering this matter today are certainly intensely interested in it. I want the RECORD to show that presiding over this session while this discussion takes place is an able member of the Veterans' Affairs Committee, Senator STAFFORD, from Vermont.

The PRESIDING OFFICER. The Chair appreciates the observation.

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 3090) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senator HEFLIN also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. CRANSTON. Mr. President, I yield 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. I thank the Senator from California.

Mr. President, I commend the Senator from California and the distinguished chairman of the committee, the Senator from Wyoming, for the work they have done on this legislation. It has been an honor to work with them, along with Senator RANDOLPH and other members who are in the Chamber at this time.

Mr. President, the pending legislation represents a major step toward resolving the compensation issues surrounding exposure to both agent orange as a result of service in Southeast Asia during the Vietnam conflict or to ionizing radiation as a result of service during the American occupation of Hiroshima, or Nagasaki, or this country's program of atmospheric nuclear testing following World War II.

It does so in a manner which I feel is reasoned, responsible, and equitable, supported by the present state of scientific research and consistent with present Veterans' Administration adjudication standards and practices.

This legislation would require the Administrator of the VA to develop regulations that would relate to agent orange and radiation claims. The Administrator, in consultation with an Advisory Committee on Environmental Hazards, would be required to develop rules to establish guidelines, standards, and criteria for resolving claims based on exposure to agent orange or radiation.

In developing those rules, the Administrator would be required to address whether any presumptions as to service connection should be applied in the case of specific diseases. The specific diseases listed for either type of exposure are included on the basis of the scientific literature related to the effects of exposure, and reflect testimony presented last year during lengthy hearings by the Veterans' Affairs Committee.

In addition to the diseases listed, the Administrator may add service-connected presumptions for additional diseases for either type of exposure, based on advances in medical and scientific research.

The rulemaking process required under this legislation would culminate in 300 days with the publication of final rules in the Federal Register, along with explanations of the bases for the guidelines, standards, and criteria contained within it.

I was an original cosponsor of S. 1651, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, and I believe the amendments being offered today improve that legislation.

As a result of the amendments, the process under which final rules will be promulgated has been speeded up. The list of specific diseases associated with exposure to ionizing radiation on which the Administrator must rule as to a service connection has been enlarged. And the reference to the advisory committee has been clarified, giving this committee a specific makeup and a specific role. I support all of these changes to the bill.

Our Nation's record of caring for its veterans and compensating them for injuries suffered in service began with the founding of our Republic. One of the most important promises made to our service men and women is that, if they incur injury or damage their health in the service of their Nation, their Government will provide for the treatment and compensation of their injuries or disabilities.

That commitment by this Nation to those whom it asks to risk their lives is permanent. That commitment and the way in which it is honored is among the ties that bind our diverse people into a cohesive Nation. That commitment faces its sternest test in many years on the issue of compensation for diseases based on exposure to agent orange or ionizing radiation. For many veterans, that commitment hangs in the balance.

It has been 10 years since this country ended its involvement in Vietnam. It has been 38 years since this country detonated its first atomic devices. Still the veterans who served then wait for a resolution to the controversy involving agent orange and radiation.

They wait for the next research study to be completed. They wait for the latest medical or scientific evidence to be released. They wait for some glimpse of hope for themselves and their families. They wait for their Government to finally recognize and respond to its responsibilities. They wait for this Nation to fulfill its commitment. It is time for their wait to end.

It is time for the Senate to act on the issue of compensation for these veterans exposed to environmental hazards solely as a result of their service to this Nation.

It is time for the Senate to recognize the legitimate claims for compensation made by these veterans. It is time for the Senate to face its responsibilities to these veterans as they met their responsibilities years ago on islands in the South Pacific, in the deserts in the American Southwest, in the rice paddies, forests, and jungles of Vietnam.

It is time for this country to fulfill its commitment to thousands of Vietnam and "atomic" veterans.

This legislation is one way to do so. I urge my colleagues to support S. 1651, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act.

The PRESIDING OFFICER (Mr. TRIBLE). Who yields time?

Mr. SIMPSON. Mr. President, I thank Senator MITCHELL for his remarks. I particularly acknowledge his presence on the Veterans' Affairs Committee. He has been a very remarkable participant. He brings a rare degree of thoughtfulness and some of that judicious skill to the task. I have come to know him and enjoy working with him there and also on the Subcommittee on Nuclear Regulation, which I chair. It is a distinct pleasure, and I mean that, to work with him always, as, indeed, it is productive time.

I thank the Senator.

Mr. CRANSTON. Mr. President, I wish to join in praising the role Senator MITCHELL has played in working out this legislation. He was one of the first to become involved in the effort to deal justly, fairly, and wisely with agent orange, and is one of the three original sponsors of S. 1651, with Senator SPECTER and me. He has contributed much to the progress we have made. The veterans of this Nation and all of us are deeply in his debt.

Mr. MITCHELL. Mr. President, I thank both Senators for their fine remarks and hope to continue working with them on the Veterans' Affairs Committee.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I yield to Senator HEFLIN. I believe he has some brief remarks to make about an amendment which is acceptable to

the majority and minority floor managers of the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 3091

(Purpose: To require the Administrator to give certain consideration to the connection between malignancy and exposure to radiation)

Mr. HEFLIN. Mr. President, there are some diseases which have been omitted from this bill that the scientific council should study. I feel that sometimes we look at these diseases on a class basis while there are individual cases that ought to be given very careful and deliberate consideration.

I had a close friend, Dennis Jones, who died of cancer at an early age. Dennis was a member of the 3d Marine Division and the occupational force at Nagasaki. He developed a lymph gland cancer and died at an early age after returning from Nagasaki. And there have been others. A friend of mine in Alabama named Ford Harrison developed malignancies and other problems after returning from Nagasaki. Individuals like these may not always be included in the classes, but I think that the individual facts of a case and the individual medical records ought to be considered as well as the matters the scientific council may determine in the future.

So I have an amendment which in effect says that in the adjudication of any claim of a veteran's exposure to ionizing radiation from the detonation of nuclear weapons at Hiroshima or Nagasaki, Japan, for diseases not covered under these various categories that have been listed, the Administrator shall insure that careful and deliberate consideration is given to the claimant's contention of a connection between the disability and the exposure.

I appreciate Senator SIMPSON and Senator CRANSTON accepting this amendment which calls for insuring careful and deliberate consideration in an individual case of a veteran or a widow's claim.

I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment offered by the Senator from Alabama is not contemplated in the unanimous-consent agreement. It is, therefore, necessary to secure unanimous consent that the amendment be heard.

Mr. HEFLIN. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an amendment numbered 3091.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 5(b)(2)(A) on page 6, add the following:

(iv) In the adjudication of a claim based on a veteran's exposure to ionizing radiation from the detonation of nuclear weapons at Hiroshima or Nagasaki, Japan, for a disease otherwise not covered under subparagraph (B)(ii)(I), (B)(ii)(II), (B)(i)(III), or (B)(ii)(IV), the Administrator shall ensure that careful and deliberate consideration is given to the claimant's contention of a connection between the disability and the veteran's exposure.

Mr. DENTON. Mr. President, I rise to support the amendment offered by my distinguished senior colleague from Alabama. His amendment calls attention to the individual problems of veterans who experience peculiar difficulties that may have resulted from the effects of ionizing radiation, in addition to the class of diseases already covered in the pending substitute.

I compliment my colleague for taking the initiative to direct the Veterans' Administration carefully to consider all the circumstances pertaining to individual claims. Even though a specific disability may not be addressed in S. 1651, a veteran may have health problems that are every bit as debilitating as those specified. Our "atomic veterans," many of whom live in Alabama, deserve to get the benefit of the doubt when they have serious and persistent health problems, however unique they may be, that may have been caused or aggravated by exposure to ionizing radiation.

Mr. SIMPSON. Mr. President, I ask unanimous consent that no amendment be in order to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I am prepared to accept the amendment. I believe that the minority floor manager of the bill is prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Alabama.

The amendment (No. 3091) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I am pleased that the Senate is today taking action to end the uncertainty of many veterans about the Federal Government's response to the issues surrounding agent orange and radiation exposure compensation.

These veterans have suffered as they have waited on the Congress and the President to act. Over time, new and valuable evidence has been developed. Over time, the public has become more aware of this issue. I believe the time has now arrived for Congress to take action.

This legislation provides a procedure for fair disposition of agent orange and radiation claims for service-connected compensation. It is the product of discussions and negotiations over a period of months and I am pleased that a consensus has been developed. In particular I commend the Senator from Wyoming (Mr. SIMPSON) and the Senator from California (Mr. CRANSTON) the chairman and ranking minority member of the Veterans' Affairs Committee for their leadership.

This Senate action does not end the suffering these veterans and their families have experienced. It does not erase the sometimes discouraging and uncertain responses by the Federal Government in the past. It does, however, provide a decision by the Federal Government on the issue of compensation for these veterans and a procedure to resolve questions about individual cases.

I am pleased the Senate is considering this bill today, and I hope that the agent orange compensation bill will soon be signed into law by the President.

● Mr. MURKOWSKI. Mr. President, today the Senate is acting on a measure that should offer encouragement to current and former members of the Armed Forces who are concerned about exposure to radiation and herbicides containing dioxin, more commonly known as agent orange.

For years there has been a debate regarding the possible negative health effects of radiation and dioxin exposure. Numerous studies have been performed, but we are still without conclusive evidence as to what diseases are direct effects of this exposure.

One of my main concerns is that claims by veterans who are applying for compensation are handled in a uniform and equitable fashion. The bill that was passed today, which I was proud to cosponsor, will provide for a number of major substantive and procedural improvements in the handling of veterans' claims for disability compensation based upon exposure either to herbicides or to radiation.

First, this bill provides for the immediate establishment of a presumption of service connection for two diseases presently known to be related to agent orange—chloracne and a liver disease known as PCT. It also directs the VA to promptly develop and publish a plan for the adjudication of radiation-related claims for certain types of cancers.

This bill also directs the VA to publish new guidelines for approving or rejecting the findings of scientific

studies relating to dioxin or radiation. These guidelines will be set by a newly established scientific and medical advisory board. This independent board will add much needed uniformity to the acceptance or rejection of scientific studies. It is important to note that the VA compensation system will in all probability be adjusted in the future as the many scientific studies currently under way are completed. This advisory board will play an important role in determining what diseases qualify for compensation.

With regard to veterans who may have suffered radiation exposure, this bill directs the Defense Nuclear Agency to develop for the first time minimum standards for dose estimates for all branches of the armed services.

Mr. President, the bill that we have passed today in the Senate is not the final remedy to the agent orange and radiation exposure problems. But it does go a long way in attempting to handle veterans claims in a fair, equitable, and timely fashion while we await the results of the more than 60 scientific studies that are currently underway.●

● Mr. BOSCHWITZ. Mr. President, I rise to express my strong support for S. 1651 as amended. My two fine colleagues on the Veterans' Affairs Committee, Chairman SIMPSON and Senator CRANSTON, have done extraordinary work on this legislation and deserve much praise.

Mr. President, today the Senate continues its long-running efforts to provide adequate and reasonable health care and benefits for those veterans exposed to the herbicide agent orange.

In 1979, Congress commissioned the Veterans' Administration to conduct a massive epidemiology study of the effects of agent orange exposure. Unfortunately, due to various delays, by 1982 no progress had been made. So we reassigned it to the Center for Disease Congress (CDC) and it should complete the study by 1988.

In 1981, with legislation I cosponsored, vets exposed to agent orange were given a higher priority for VA medical care. Prior to this change vets exposed to agent orange were assigned very low priority status and often did not receive care.

But as we all know, there is a huge difference between providing medical care and issuing a check every month for disability compensation. That is what today's legislation is all about.

Mr. President, S. 1651 as amended directs the VA to set up regulations within 300 days and, with the advice and direction of a science panel, to handle the compensation claims. Specifically, three diseases—cloracne, PCT and soft-tissue sarcomas—will be included in the agent orange regulations. Five other diseases, including leukemia and polycythemia vera, are also mentioned in conjunction with ionizing radiation compensation claims. These regulations would then be subject to judicial review.

In a nutshell, S. 1651 gives the VA the responsibility to resolve both agent orange and ionization radiation claims by a regulatory process. Vets then would be allowed to take the regulations to court if they feel the regs are not reasonably drafted. Currently judicial review does not apply to VA claims.

I have expressed some concerns in the past about the emphasis on the VA's rulemaking, because it seems we are shifting responsibility for handling agent orange and radiation back to the VA. And its track record has not been that great.

But I believe we have placed excellent safeguards in this bill and that we will "keep the VA's feet to the fire" on this one. The time is right to take these further positive steps in regards to agent orange—and radiation, too—these men and women have long suffered in obscurity.

My sense of justice tells me something should be done for these veterans who gave so much for their country and I believe S. 1651 is the solution. I urge my colleagues to strongly support this bill.●

● Mr. DOMENICI. Mr. President, I rise in support of the pending Simpson-Cranston amendment.

This amendment is an important first step in addressing the many concerns of veterans over compensation for illnesses that may be connected to exposure to dioxin or radiation during military service.

I am sure none of us believe this legislation will provide all the answers to the difficult questions many Vietnam-era veterans and atomic veterans are asking about these issues.

The amendment does, however, recognize the deep concern of our veterans over the possible long-term health effects of exposure to agent orange or radiation.

It does provide a reasonable approach to resolve claims for benefits based on sound medical and scientific evidence as it becomes available.

It is but another step in the search for the answers to the difficult and complex questions that are being asked by our Vietnam-era veterans and atomic veterans who have served their country so well.

This amendment gives me renewed hope that our questions will be answered and these issues will be resolved.

I hope our veterans will be reassured by this legislation. I know that 48,000 Vietnam-era veterans in New Mexico, 26,000 of whom are ground combat troops, seek the answers to such questions.

I commend the distinguished sponsor of this amendment for their diligent efforts on behalf of our Nation's veterans and urge my colleagues to support this amendment.●

● Mr. LEVIN. Mr. President, when our veterans returned from Vietnam, many of them suffered from a variety of physical and emotional illnesses. In addition, many veterans felt their country and Government had turned their backs on them. Many of these veterans were tragically treated as outcasts, instead of as soldiers who served their country when called to do so. Even today, many of these veterans continue to endure health problems related to their tours of duty. Today, with the passage of an agent orange measure, we can recognize their service, while at the same time attempt to address the problems of some of their ailments.

Mr. President, I have cosponsored S. 1651 which would require the Administrator of Veterans' Affairs to develop regulations governing veterans agent orange disability claims. This bill would require the VA to determine whether there should should be a presumption of service-connection for, among other illnesses, chloracne, porphyria cutanea—a liver condition, and soft-tissue sarcoma—a cancer. Exposure to agent orange is most often considered to be related to these diseases. It would also require the VA to determine whether the disability claims of veterans exposed to radiation during atomic weapons tests, including any malignancy, polycythemia vera—a bone marrow disease, and hypothyroidism—a disease of the thyroid system—should be presumed to be service-connected.

In January, the House of Representatives passed a bill similar to S. 1651. The House bill would require the VA to presume the above diseases to be service-connected in the cases of veterans exposed to agent orange or radiation. The Congressional Budget Office estimated the cost of this bill at $4.7 million for fiscal year 1984 and a total $25.5 million over the following 5 years. Since S. 1651 is similar to H.R. 1961, it is likely that the costs would be similar.

There is some scientific studies of dioxin—the toxic compound in agent orange—that indicate there is a causal connection between it and the above diseases. However, since doubts linger in the minds of some, Congress in 1981 commissioned a study by the Center for Disease Control to determine which diseases were indeed caused by agent orange. This study should be completed in 1987, or 1988.

I cosponsored S. 1651 because our veterans deserve the benefit of any doubt. This bill is a way to assist those who served us when asked and who today are suffering. America has recognized the sacrificies and service of our Vietnam veterans with the dedication of the Vietnam Veterans Memori-

al. Today, we can continue this recognition by giving our veterans the benefit of the doubt and passing S. 1651.●

Mr. GRASSLEY. It is with great satisfaction that I lend my support to this substitute measure on agent orange and radiation exposure. I would first like to commend the chairman of the Committee on Veterans Affairs and the ranking member for their efforts in reaching an agreement on this comprehensive package. All of us who have followed the various legislative options dealing with dioxin and radiation exposure certainly recognize and appreciate the monumental accomplishment represented by this consensus bill.

As a cosponsor of S. 786, the Vietnam Veterans Agent Orange Relief Act, I am deeply gratified that we are finally taking action on agent orange legislation. It is clear to me that the Government has done too little to provide assistance to veterans suffering from specific illnesses linked to dioxin exposure. America's veterans have suffered far too long in a legislative and administrative vacuum on these compensation matters. It is crucial that Congress finally resolve the compensation issues surrounding exposure to agent orange and ionizing radiation.

The controversy and debate over compensation to veterans suffering from disabilities tied to agent orange and radiation exposure has been lengthy and divisive. Congress now has the responsibility to regain the confidence of our veterans by demonstrating its ability to deal with the dioxin and herbicide matter. We must reassure them that both the VA and the Congress are doing everything possible to address the adjudication of claims and the issues surrounding compensation for disabilities from exposure to herbicides and to radiation from an atomic weapon. We have the opportunity to rectify the current atmosphere of distrust by adopting the Simpson-Cranston substitute.

The distinguished Senator from Wyoming has outlined the numerous studies and research efforts completed, and those currently ongoing, which seek to establish scientific and medical evidence of a causal relationship between exposure to agent orange and incidence of certain health problems. I would agree with his concerns that it would be imprudent to compensate for disabilities not linked to military service, and am supportive of the approach contained within this substitute. The integrity of the VA's compensation system is at stake. Certainly, no Senator wants to undermine that compensation system, but by the same token, we have a clear responsibility to offer our veterans more than idle promises of further research and additional studies.

The legislation now before us outlines procedures to improve the VA's ability to adjudicate radiation- and agent orange-related disability claims, improves the administration of handling such claims, and continues the necessary research to substantiate a causal link between herbicide and radiation exposure to certain diseases.

It is clear our work on this issue is not yet complete. Congress must carefully monitor the new administrative procedures and regulations developed by the VA. We must keep a watchful eye on the results of the numerous studies yet to be completed, and determine if additional legislation is warranted.

Once again, I would like to express my appreciation to Senators SIMPSON and CRANSTON for their diligence in pursuing a fair and workable compromise bill worthy of every Senator's support. We can all look to passage of this legislation with satisfaction.

● Mr. MOYNIHAN. Mr. President, I rise today to express my strong support for S. 1651, the Veteran Dioxin and Radiation Exposure Compensation Standards Act.

Congressional action to clarify the controversy surrounding agent organge is long overdue. The measure we approve today will establish procedures for public participation in the process of developing regulations on agent organge and radiation claims. This approach is a reasonable, responsible one, to facilitate the determination of the relation between certain specific diseases and service-connected exposure to agent orange and ioninizing radiation. Once these determinations are made, Congress must and will take the appropriate action to insure veterans just compensation for any disease or disability found to be service connected.

The recent settlement between thousands of Vietnam veterans and seven manufacturers of agent orange highlights the need to promptly enact this legislation. All together, nearly 12 million gallons of agent orange and other herbicides were manufactured and sold to the military between 1965 and 1970, to defoliate roadsides and jungle areas in Vietnam. Documents released in the course of this litigation demonstrate that agent orange was contaminated by varying traces of dioxin. This extremely toxic impurity, created in the manufacturing process for agent orange, has caused illness and death in laboratory animals. The effects of agent orange on humans, however, remains disputed, although several studies of its effect are now underway.

I am pleased that the Senate has had the great good sense to fashion a process through which we can determine more precisely the effects of exposure to agent orange and radiation. I am confident that the procedures contained in S. 1651 will provide for the prompt, efficient, and thorough consideration of the health effects of exposure to agent orange and radiation from nuclear tests.

The Congress—the Nation—owes our veterans nothing less, and perhaps much more.

I endorse this plan. It is equitable, fair, and just. I urge its speedy enactment.●

Mr. DOLE. Mr. President, I am pleased today to speak in support of the substitute proposal offered by the distinguished Senator from Wyoming and the distinguished Senator from California. They are to be commended for their diligent efforts to forge a consensus approach to the very serious concern of veterans' claims for disability compensation based upon exposure to herbicides or radiation.

This legislation reaffirms an important function of the Government—compensation of veterans for diseases caused by their service in the Armed Forces. It also reaffirms the role of the Congress in expanding or adjusting the Veterans' Administration compensation system.

Mr. President, veterans who served in Southeast Asia and veterans who participated in atmospheric nuclear testing have long been concerned about the long-term health effects of exposure to dioxin or radiation. Unfortunately, the best efforts of the Nation's scientific community has not provided answers to their questions. The Federal effort to study these issues and reach conclusions has been substantial. Yet, there is still great scientific and medical uncertainty regarding the health effects of exposure to agent orange and ionizing radiation. We have all heard horror stories of disorders which appear to be attributable to such exposure. On the other hand, the study of the so-called ranch hands suggests that exposure to agent orange does not produce adverse health effects. All of which leaves us with inconclusive results.

In the face of such uncertainty I believe the VA has been right in providing full health care for veterans exposed to agent orange who suffer from disorders not attributable to other causes.

It would be wrong, however, to indemnify certain disorders without an adequate scientific basis. Today's legislation strikes an appropriate balance between those conflicting objectives. Where a medical consensus exists, certain diseases are added to the list of those presumed to be service connected. Moreover, we will provide uniform guidelines for the adjudication of disability claims.

Mr. President, the Senate speaks loudest when it speaks with one voice. We are fortunate today that the good efforts of the Senator from Wyoming (Mr. SIMPSON) and the Senator from California (Mr. CRANSTON), have produced a compromise that will allow

the Senate to answer the calls for help from Vietnam veterans and radiation exposed veterans as a united body. I am pleased to lend my support to the compromise.

● Mr. SARBANES. Mr. President, I am pleased to express my support for the measure before us now to address the residual problems encountered by our service men and women who served in Southeast Asia and were exposed to dioxin-based defoliants, such as agent orange, which are now causing a range of medical complications. I have long been troubled by the refusal of the Veterans' Administration to draw preliminary conclusions concerning the biological effects of exposure to these chemical agents, as well as to exposure to radiation connected with atomic weapons testing. As much as I was pleased that the Congress acted to fund the study now being conducted by the Centers for Disease Control to research the relationship between service in Southeast Asia and the myriad complications which have become evident in our veterans who served there, we cannot continue to wait for definitive research results before addressing the Federal Government's responsibility in this matter.

The position of the administration that it could not support this type of legislation in the absence of absolute proof of service connection belies the greater issue of the treatment our Vietnam veterans have so frequently encountered. The failure to resolve these issues in a timely manner has been a large part of the problem. The suffering of these former servicemen is quite real and they have waited too long already for some evidence that the country accepts and intends to honor its commitments. We are all aware of manifestations of liver and kidney disorders, rare forms of cancer, neurological disorders and the possibility of genetic damage. The attempts by the VA to study the effects of chemical exposure were, as reported by the General Accounting Office in October 1982, too little and too late.

As many of my colleagues already know, these agents were sprayed from trucks, backpacks, and airplanes over a period of some 9 years, from 1962 until 1971. During that time some 2.4 million Americans served in Southeast Asia, many of them who remember being in areas which were being sprayed at the time. To date, over 70,000 Vietnam veterans have presented themselves at VA medical centers for agent orange physical examinations while more than 12,000 have filed claims with the VA.

We have a clear obligation to compensate veterans for injuries and disabilities stemming from service in the military. Now, over 10 years since the war ended and 18 years since the first spraying, we must ask ourselves whether we can continue to contend in good conscience that dioxin exposure in combat has not caused medical problems. In my view, the evidence is clear that at least for some diseases the connection is real and compensation is justified.

Mr. President, this legislation before us today will not solve all of the problems associated with the agent orange controversy. However, it will, in my view, begin to address the many questions raised about the readiness of the United States to accept the responsibility for compensating veterans for the long-term effects of exposure to chemical and radiological hazards and I am pleased to express my strong support for this measure. It is the least we can do for those who gave their nation the best they had.●

Mr. KENNEDY. Mr. President, I rise in support of the Veterans Dioxin and Radiation Exposure Compensation Standards Act. I wish to commend my colleagues Senator CRANSTON, Senator SPECTER, Senator MITCHELL, and Senator SIMPSON for their hard work in reaching a compromise on this critical issue. Through their efforts and the efforts of their staff, we are able to move swiftly on legislation that will begin to address the health difficulties that many of our servicemen are experiencing as a result of exposure to agent orange and radiation. This legislation requires the Veterans' Administration to develop a new administrative mechanism for determining whether any disease, including six specified diseases, should be presumed to be service connected so that veterans who have contracted such diseases will be entitled to VA disability benefits.

We are all aware of the variety of research efforts underway to investigate the connection between agent orange and the health problems being experienced today by Vietnam veterans, and those studies must continue. But, the U.S. Congress has a responsibility to its veterans, particularly to those who served in Southeast Asia. This legislation before us today is an important step toward beginning to end the war for the thousands of men and women who answered the call of service to their country. Let this first step be a voice that our veterans will hear clearly—that this country will never abandon those that did not abandon us.

● Mr. D'AMATO. Mr. President, I rise in support of this vitally necessary measure. I commend the distinguished chairman and ranking minority member for their tireless work on this matter. Their work has produced a result which I believe marks a much needed step forward in responding to our veterans' deeply felt and very serious concerns regarding the consequences of exposure to agent orange and to ionizing radiation. I am proud to be able to join with them as a cosponsor of this measure as amended.

S. 1651, as amended, makes a number of major substantive and procedural improvements in the Veterans' Administration handling of veterans' claims for disability compensation based on injuries allegedly suffered as a result of exposure to agent orange or ironizing radiation. This bill represents a compromise between the distinguished chairman's measure, Senate Joint Resolution 372, and the distinguished ranking minority member's measure, S. 1651, and contains six major provisions.

One important element of this compromise is that S. 1651, as amended, will have the force of law. This is an important distinction, providing the opportunity for this Congress to go firmly on record on the side of the veteran. Since Memorial Day will be celebrated this weekend, it is particularly timely for us to take this positive and, in my view, overdue action.

The major provisions of this bill would, first, require the Administrator of the Veterans' Administration to establish clear administrative guidance, including regulations if necessary, to allow the prompt, fair, and orderly resolution of veterans' disability benefit claims based upon exposure to herbicides in Vietnam or to ionizing radiation during our atmospheric atomic testing program or the occupation of Hiroshima and Nagasaki.

Second, this guidance is required to take into account new statistically significant scientific findings relating to the possible increased risk of adverse health effects caused by exposure to herbicides containing dioxin or to ionizing radiation.

Third, the Administrator is required by this legislation to make decisions on service connection regarding the diseases most commonly alleged to be associatied with dioxin or ionizing radiation, taking into account the finding and advice of a scientific advisory council and sound medical and scientific evidence.

Fourth, this guidance is required to be developed under the full public comment and review process of title 5, United States Code, allowing all interested parties the opportunity to participate in the process. This guidance would be subject to judicial review.

Fifth, it requires that the Administrator establish a 15-member advisory committee on environmental hazards, of which the scientific advisory council would be a subcommittee. This committee is established to make recommendations to the Administrator regarding necessary legislative or administrative action. The scientific advisory council would make findings and evaluations and make reports to the committee and the Administrator on these matters.

Finally, this bill directs the Defense Nuclear Agency to develop and imple-

ment clear minimum standards for the preparation or ionizing radiation dose estimates, and requires that all such estimates contain dosage information relevant to veterans' claims, including inhaled and ingested doses.

These provisions, taken together, will begin to answer the urgent questions so many of our veterans have regarding the health effects of their service to their country. While these questions involve some of the toughest public health issues of our times, they also affect many of our citizens. I recognize that these questions are difficult for modern science to answer, but there is a need to make the most rapid possible progress toward learning these answers.

This bill, when it becomes law, will set the Veterans' Administration on the correct path and will make certain that our veterans have a voice in the process. Indeed, a serious part of the problem has been that so many of our Vietnam veterans have had the impression that no one cares what happened to them in Vietnam or what is happening to them now as a result of their exposure to agent orange in Vietnam. Our military personnel who served in our atmospheric nuclear testing program have also been under the impression their service and the health effects of their service are not important to us or to the majority of the American people. Our support for this measure should send a powerful message to these men and women—we do hear, and we do care.

I call upon my colleagues to support this measure. I am confident our colleagues in the House will agree with the urgent need to move ahead in addressing this most urgent of problems. I strongly believe that this measure will receive swift approval in the other body and at the White House. We owe those who risked their lives in the service of their Nation a debt of honor, a debt which this measure only begins to repay. Much remains to be done, but this is an excellent and needed measure which is timely now and clearly deserves our wholehearted support.●

Mr. BRADLEY. Mr. President, as a cosponsor of Senator PRESSLER's original agent orange bill and the compromise bill, I rise in strong support of the agent orange bill now before the Senate.

This bill takes one important step toward justice for America's veterans. It requires the Veterans' Administration to implement clear procedures on an established schedule whereby veterans exposed to agent orange in Vietnam or nuclear radiation during or after World War II can be compensated.

The people of this country owe a great debt to those men and women who, while serving this Nation, were exposed to dioxin and radiation that has already or may yet cause injury, sickness, and suffering. We can never truly pay that debt. We can never even fully know the dimensions of suffering and grief visited on the veterans, their wives and husbands, and their children.

Our many veterans groups report numerous instances of veterans who have been exposed to dioxin and radiation and subsequently have contracted cancer or fathered deformed children. One such soldier was an infantryman who served two terms in Vietnam where he was exposed to agent orange. Last year at the age of 38, he contracted cancer of the liver. The doctors said that liver cancer at his age was highly unusual. That man died last fall. We owe his wife and 2-year-old daughter a lot more than this agent orange bill. Our debt to those two survivors, and the thousands of others like them, can never be measured, and it can never be paid. But they must know that the people of this great Nation bear with them a small part of their grief.

Our commitment to the veterans and their survivors is longstanding and deep. Throughout our Nation's history as a nation, we have asked millions of men and women to fight for us. We promised to support them in battle, care for them if wounded, and care for their wives and children if they should die in combat. This commitment is resolute

Mr. President, there is another reason why we should pass this bill. Those young men and women considering service to their country ought to know that this Nation stands by its commitment to its veterans. If we want to continue to rely on volunteers and patriots—instead of draftees—to defend our Nation, we must continue to support those Americans who have served in the past.

For these reasons, Mr. President, I support this agent orange bill. I urge my colleagues to do so as well.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1651, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, which I was pleased to cosponsor.

The time has come to recognize the grievous illnesses which have developed in many of those brave men and women who served in Vietnam and during World War II. These ailments have been slow to show their symptoms. They are not the kind of injuries for which a direct causal relationship is easily and obviously drawn. Yet, too many Vietnam veterans who were exposed to dioxin now have cancer, or children born with disabilities. Too many World War II veterans now have cancer—veterans who where exposed to radiation either through the nuclear weapons test program, or the occupation of Japan after the explosion of the atomic bombs. Too many veterans who have not yet developed cancer fear that they will.

Mr. President, compounding the terrible tragedy and anxiety of these veterans and their families is the slow pace of the Veteran's Administration in deciding claims of disability arising from dioxin or radiation exposure.

S. 1651 would remedy the problem. It would force the Veterans' Administration to move expeditiously to establish procedures for handling claims for disabilities resulting from exposure to dioxin and radiation. The bill would require that the VA specify which diseases shall be service-connected and under what circumstances. The bill would also maintain the established VA and U.S. Government policy of resolving doubt in favor of the claimant.

The procedures and rules for these cases would be developed after considering the recommendations of an Advisory Committee on Environmental Hazards, which would include both scientists and public members familiar with veterans' affairs.

The passage of S. 1651 represents an important step in dealing openly and fairly with the issue of agent orange and radiation exposure and resolving compensation claims resulting from this exposure. Our veterans, having served their country well, deserve to have their cases judged by an equitable standard and they deserve to receive compensation for their disabilities when they meet the standard.

Mr. HEINZ. Mr. President, I have been fighting for agent orange legislation on behalf of America's Vietnam war veterans for the past 8 years. Since the safety of dioxin was first questioned in the late 1960's, Congress has passed several pieces of legislation addressing, to some extent, the problem of agent orange. In June of 1980, in response to Vietnam veterans' complaints, I requested that the GAO investigate what I then termed "the failure of the VA to establish workable agent orange screening programs" at its 172 hospitals. With the passage of the Veterans Health Care, Training, and Small Business Loan Act of 1981, the Vietnam veterans are now entitled to priority status for treatment at VA hospitals for agent orange related problems. In 1982, Congress mandated an epidemiological study to fully examine the health effects of agent orange and other herbicides upon veterans who served in Vietnam. Despite these legislative efforts, no legislation has yet been enacted with respect to disability compensation for veterans affected by agent orange.

Today, we write another chapter—in my judgment a helpful if modest one—in getting fair treatment for our Vietnam veterans. The bill before us is the result of a carefully constructed compromise which strikes a balance between the views of those Senators who

demand that there be disability compensation for veterans affected by agent orange, and the views of those who feel that more medical and scientific evidence should be available before the Senate makes any determination on how to handle the claims of affected Vietnam veterans.

The amendment offered by Senators CRANSTON and SIMPSON would provide a mechanism by means of which a scientific advisory board and the Administrator of the Veterans' Administration will be able to issue regulations on the handling of disability compensation claims related to agent orange. Specifically, the bill addresses and provides for disability compensation claims arising from chloracne, soft-tissue sarcoma, and porphyria cutanea tarda (PCT) for veterans from the Vietnam era. In addition, for veterans who were exposed to ionizing radiation, the bill would require regulations for claims for malignancy, polycytemia vera, or thyroid cancer.

Although this bill mandates promulgation of regulations to handle veterans disability claims in these areas, it does not mandate disability compensation for claims arising from PCT, chloracne, or soft-tissue sarcoma. Present law permits the VA Administrator to authorize disability payments even when doubt exists as to whether a specified illness is service-connected.

There is no shortage of information on the subject of the adverse health effects from agent orange and radiation exposure. Over 1,000 studies and reports have been published on adverse health effects or exposure to herbicides and dioxins. Over 80,000 scientific papers on the health effects of exposure to low-level ionizing radiation have been published. Yet, despite all of this scientific literature, it is claimed that we have been unable to prove conclusively all of the adverse health effects of agent orange and low-level ionizing radiation exposure.

In the opinion of many experts, the lack of scientific certainly on these issues may continue for years. They point, for example, to the fact that the link between smoking and lung cancer took decades to establish. It is anticipated that the epidemiological study ordered by Congress in 1982 on agent orange will not be completed until 1987 at the earliest. Even then, it is not guaranteed that this and other studies will produce unequivocal results.

Mr. President, our veterans have waited over a decade for Congress to come to grips with this issue. How frustrating it must be to our young men who served in Vietnam who are concerned about what has happened to them and here in Washington.

For 10 years, our Government has maintained that dioxin was not causing health problems for our veterans. But in the case of Times Beach, Mo., the Federal Government, buying a town that was inadvertently contaminated with dioxin, has acknowledged that dioxin is so serious a health threat that the entire town needed to be permanently evacuated.

How do I explain to the veterans back in Pennsylvania that, even though the dioxin levels in agent orange are 20 times higher than those found at Times Beach, the Government is unwilling to admit that their illnesses are connected to the use of agent orange? What reason do I give for the Federal Government's refusal to pay disability compensation to affected veterans even though the dioxin levels in agent orange are 2,000 times above the Environmental Protection Agency's danger level for use of dioxin herbicides?

Requiring the VA Administrator to establish regulations to deal with the effects of agent orange and ionizing radiation is certainly a step in the right direction. But given the medical evidence available today and the precedent set by Times Beach, disability compensation for PCT, chloracne, and soft-tissue sarcoma not regulations is what the affected veterans rightly deserve.

I commend the Senate for being able to work out an agreement on this highly emotional issue. To allow the suffering of thousands of veterans and their families to continue while the scientific community, the Veterans' Administration, and the Congress continue to debate these issues would be unconscionable. While I will support this legislation, I continue to believe, however, that the Senate could go further to alleviate the suffering of these courageous men and women who so bravely served their country in a very noble endeavor.

Mr. President, I urge my colleagues to join me in pledging to continue our efforts to insure that those veterans who have suffered from exposure to agent orange or radiation receive the support and compensation which they so justly deserve.

IT IS ABOUT TIME FOR AGENT ORANGE VICTIMS

Mr. BIDEN. Mr. President, I am pleased to be a cosponsor of S. 1651, the so-called agent orange bill and want to urge, in the strongest possible terms, that my colleagues in the Senate give this important legislation their full support.

The most constant and cruel fact of life for those who faithfully and honorably served their country in Southeast Asia was uncertainty. Uncertainty about the terrain. Uncertainty as to the identity and whereabouts of the enemy. Worst of all, uncertainty about the commitment of their own Government. Always having to look over their shoulders, never for one moment certain of either safety or support.

When their tours of duty ended and they returned home, those soldiers had a right to expect that those days of uncertainty were behind them. Oh yes, there would be the uncertainties of everyday life. But there would no longer be an enemy lurking in reeds or elephant grass, no more booby traps. Most importantly, or so they thought, there would be no uncertainty as to the commitment of their Government.

Unfortunately, Mr. President, that has not been true with respect to those veterans suffering the effects of exposure to agent orange.

It became suspected soon after the American involvement in Vietnam ended nearly a decade ago that veterans exposed to agent orange were developing diseases at a rate that appeared to significantly exceed the national average. In addition, the offspring of veterans exposed to agent orange were experiencing a much higher mortality rate than would normally be expected, and that a disproportionately large number of those children were born handicapped, retarded, or with severe congenital defects.

At about the same time, research began to show that the chemical dioxin, used in many domestic herbicides in addition to agent orange, may lead to some of the same health problems being experienced by veterans who believe they had been exposed to agent orange.

Cities and towns exposed to large amounts of dioxin have turned to the Federal Government for help. In the most celebrated instance, the Federal Government bought the town of Times Beach, Mo., so that its residents could escape the harmful effects of dioxin without also having to face financial ruin.

So, too, did veterans exposed to agent orange turn to their Government. But what reaction did they get? Studies were promised, action deferred. It was the classic "we're working on it * * * we'll get back to you" situation.

Even where there was a study moving along, the actions of the Government did little to build trust among the Vietnam veterans. The so-called Ranch Hand study, which has investigated the health status of those veterans who loaded and sprayed agent orange in Vietnam, used far too small a sample to have any scientific vaildity at all. In fact, many would argue, and I would agree, that the Ranch Hand study has been looking at the wrong people. Rather then looking at the people responsible for spraying agent orange from a plane, the Government should be looking at those in the field who had to wear agent orange in their clothing; sleep with agent orange; eat food, drink and bathe in water, and breathe air contaminated with agent orange.

Well, in spite of those problems with the study, the results still indicate that exposed veterans and their offspring experience illnesses and other health problems at a greater rate than the population as a whole. But what was the reaction of the Government to the Ranch Hand findings? "Well, we'll have to look at this further; the problems we uncovered could be the result of cigarette smoking or too much exposure to the sun."

Mr. President, veterans exposed to agent orange deserve better than this. Yes, studies must be conducted, and I am confident the study currently being undertaken by the Centers for Disease Control (CDC) will resolve all doubts and confirm that Congress is on the right track with the legislation we consider here today. But in the meantime, there are substantial indications that exposure to agent orange has indeed caused some of the health problems experienced by these people. Veterans have rightly turned to their Government—the same Government that sent them to Southeast Asia and for whom these veterans sacrificed so bravely—and they should be dealt with fairly. Besides, I have always been under the impression that our veterans laws, in cases of doubt, resolved that doubt in favor of the interests and needs of the veterans.

This bill does not create a wholesale entitlement. It takes a careful, prudent approach to the issue, and will resolve the rightful claims of those with health problems that nearly everyone agrees are the result of agent orange exposure. This legislation creates a firm foundation upon which will be built a comprehensive approach to agent orange when the CDC study has been completed.

This legislation, Mr. President, sends a clear signal to these veterans that their Government is sensitive to their pleas for help, and that we will, from now on, be willing to work in a responsible way with them in order to address the problems caused by agent orange exposure. We can, and should, do no less.

Mr. SIMPSON. Mr. President, I believe that concludes the amending process, and at this time I ask for the yeas and nays on the pending amendment, as amended by Senators PRESSLER, SPECTER, and HEFLIN.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time on the substitute?

Mr. SIMPSON. Will the Chair please advise us of the status of the time remaining?

The PRESIDING OFFICER. On the substitute, the time of the Senator from Wyoming has expired; the Senator from California has 10 minutes remaining.

On the bill itself, the Senator from Wyoming has 18 minutes and the Senator from California has 9 minutes and 27 seconds remaining.

Mr. CRANSTON. I yield back my time on the substitute.

The PRESIDING OFFICER. All time is yielding back on the substitute. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—95

Abdnor	Garn	Murkowski
Andrews	Glenn	Nickles
Armstrong	Goldwater	Nunn
Baker	Gorton	Packwood
Baucus	Grassley	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Pressler
Bingaman	Hawkins	Proxmire
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Randolph
Burdick	Helms	Riegle
Byrd	Hollings	Roth
Chafee	Humphrey	Rudman
Chiles	Inouye	Sarbanes
Cochran	Jepsen	Sasser
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Lautenberg	Stevens
Denton	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Trible
Domenici	Lugar	Tsongas
Durenberger	Mathias	Wallop
Eagleton	Mattingly	Warner
East	McClure	Weicker
Evans	Melcher	Wilson
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	

NOT VOTING—5

Bumpers	Huddleston	Moynihan
Hart	Matsunaga	

So the Simpson-Cranston amendment (No. 3088), as amended, was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I am prepared to yield back the time on the bill.

Mr. SIMPSON. Mr. President, all time on the bill is yielded back on this side.

The PRESIDING OFFICER. All time is yielded back.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a statement of the administration be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 1651—AGENT ORANGE COMPENSATION

The administration supports the Simpson/Cranston compromise.

Mr. BAKER. Mr. President, let me describe the procedure that we will follow if the Senate gives its consent to do so. It would be the intention of the leadership on this side then to ask the Senate to turn to the consideration of H.R. 1961, which is the companion House measure. Assuming that is done, and after the bill is reported, the leadership will ask consent that all after the enacting clause be stricken in the House-passed measure and that the Senate bill, as amended, be substituted. We will then have a third reading of the House bill and proceed to final passage. No rollcall vote is anticipated.

Mr. President, I ask the Chair now to lay before the Senate H.R. 1961.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1961) to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to the herbicide known as "Agent Orange" and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation.

Mr. BAKER. Mr. President, I ask unanimous consent that all after the enacting clause of this measure be stricken and that the text of S. 1651, as amended, as passed by the Senate be substituted therefor, and that H.R. 1961 be read a third time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 1961), as amended, was passed, as follows:

H.R. 1961

Strike out all after the enacting clause and insert in lieu thereof: That this Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in Southeast Asia during the Vietnam conflict and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to such uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to such medical and scientific uncertainty by mandating, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by mandating, in Public Law 97-414, the development of radioepidemiological tables, currently projected for completion in summer 1984, setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There are a total of sixty-six federally sponsored research projects currently being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000, and, as of 1981, federally-sponsored research projects relating to ionizing radiation were costing the Federal Government in excess of $115,000,000.

(6) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time."

(7) The "film badges" which were originally issued to members of the Armed Forces of the United States in connection with the nuclear testing program have previously constituted a primary source of dose information for veterans and survivors filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(8) Such film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear blast.

(9) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(10) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(11) Such claims present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service, particularly with respect to the difficulty of determining a connection between exposure during service and increased risk of adverse health effects (especially those involving long latency periods and ambiguities of causation) arising thereafter.

(12) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue will be given the claimant.

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Veitnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan (and dependency and indemnity compensation is provided to survivors of such veterans) for all disabilities arising subsequent to such service that are connected, based on sound scientific and medical evidence, to such exposure (and for all deaths resulting from such disabilities).

SEC. 4. Section 354 of title 38, United States Code, is amended in subsection (a)—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)", and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act"

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veterans' exposure during service—

(A) in the Republic of Vietnam prior to May 8, 1975, to a herbicide containing dioxin, or

(B) in connection with such veterans' participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to such claims, when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this paragraph shall be construed as relieving a claimant of the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation. Such guidelines shall require that, in the evaluation of such studies, the Administrator shall take into account whether the findings are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards (established pursuant to subsection (d)). Such evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in individual claims adjudications of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator, after receiving the advice of the Advisory Committee and of the appropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards regarding the diseases named or described in subparagraph (B), shall make determinations, based on sound medical and scientific evidence, with respect to each disease named or described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall be highly cognizant of the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(12). The Administrator shall set forth in such regulations such determinations, together with any modifications of the maximum periods specified in such subparagraph and with any further specifications, relating to exposure or other relevant matter, of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) In the event that the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the named or described disease has been suffered between the date of separation from service and the onset of

such disease or that the disability is due to the veteran's own willful misconduct.

(iii) In the event that the Administrator does not make a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section specification of the factors to be considered in the adjudication of the issue of service connection with respect to such disease.

(iv) In adjudication of a claim based on a veteran's exposure to ionizing radiation from the detonation of nuclear weapons at Hiroshima or Nagasaki, Japan, for a disease otherwise not covered under subparagraph (B)(ii)(I), (B) (ii)(II), (B)(i)(III), or (B)(ii)(IV), the Administrator shall ensure that careful and deliberate consideration is given to the claimant's contention of a connection between the disability and the veteran's exposure.

(B) The diseases referred to in subparagraph (A) as being named or described in this subparagraph are:

(i) In the case of a veteran who served in the Republic of Vietnam prior to May 8, 1975, and who, during such service, was exposed to a herbicide containing dioxin—

(I) a soft tissue sarcoma, if developed to a degree of disability of 10 percent or more within 30 years after the date of last departure from the Republic of Vietnam during such service.

(II) porphyria cutanea tarda, if so developed within one year after the date of last departure from the Republic of Vietnam during such service,

(III) chloracne, if so developed within one year after the date of last departure from the Republic of Vietnam during such service, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(i) finds that there is sound scientific or medical evidence indicating a connection to exposure to such herbicide and which has so developed within any maxium period of time after departure from the Republic of Vietnam during such service.

(ii) In the case of a veteran who, in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed, during such veteran's service, to ionizing radiation from the detonation of a nuclear device—

(I) leukemia and malignancies of the thyroid, female breast, lung, bone, liver, and skin, if developed to a degree of disability of 10 percent or more.

(II) polycythemia vera if so developed,

(III) hypothyrodism or a thyroid nodule, if so developed, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(ii) finds that there is sound scientific or medical evidence indicating a connection to exposure to ionizing radiation and which has so developed within any maximim period of time after such exposure.

(3) The regulations prescribed under this section shall include a provision specifying that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device shall not be required to produce evidence substantiating such veteran's exposure during service in the Armed Forces when the information in the veteran's service records and other records of the service concerned is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. Such process may include consideration by the Administrator of the recommendations of the Advisory Committee on Environmental Hazards and the Scientific Council thereof (established by subsection (d)) with respect to the proposal regulations, and such process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than 90 days after the proposed regulations or proposed amendments are published in the Federal Register.

(2)(A) Not later than 120 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than 300 days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

(3) Notwithstanding section 211(a) of title 38, United States Code, or any other provision of law, subsequent to the publication of the final regulations required to be prescribed by this section, the Administrator's compliance with the provisions of, and any regulations prescribed pursuant to, this section shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

(d)(1) The advisory committee referred to in subsections (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendations from veterans' organizations, including—

(A) eleven individuals (of whom none may be members of the Armed Forces or be employed by the Veterans' Administration or the Department of Defense and not more than three may be federal employees of other departments or agencies), appointed in consultation with the Director of the National Institutes of Health, including—

(i) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin,

(ii) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation, and

(iii) five who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations, and

(B) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(2) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration or their designees.

(3) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(4)(A) The eleven members of the Committee described in paragraph (1)(A) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee.

(B) Such Council shall be subdivided into (i) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (ii) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(C) Such Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(5) The Administrator shall designate one of the members to serve us the chairperson of the Committee and another member to serve as the chairperson of the Scientific Council.

(6) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any such member may not exceed three years. The Administrator may reappoint any such member for additional terms of service.

(7) The Administrator shall provide administrative support services and fiscal support for the Committee.

SEC. 6. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation—

(1) the Secretary of Defense shall prescribe guidelines and any amendments thereto through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for Veterans' Administration disability compensation and dependency and indemnity compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veteran was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the current state of the art with respect to scientific and technical devices and techniques such as

"whole body counters" which may be useful in determining previous radiation exposure,

(B) submit a report to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques, and

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences beteen a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

SEC. 7. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) a new subparagraph (B) as follows:

"(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

Mr. BAKER. Mr. President, I ask unanimous consent that the title of H.R. 1961 be amended with the same text as the title of S. 1651, as amended, and that the Senate insist on its amendments and that it ask for a conference of the disagreeing votes of the two Houses on H.R. 1961 and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair (Mr. TRIBLE) appointed Mr. SIMPSON, Mr. THURMOND, and Mr. CRANSTON conferees on the part of the Senate.

Mr. BAKER. Mr. President, was the title amendment agreed to by unanimous consent?

The PRESIDING OFFICER. The title amendment has been agreed to by unanimous consent.

Mr. BAKER. Mr. President, I am advised now that the title amendment was incorrectly stated. I ask unanimous consent that the action of the Senate in adopting the title be vitiated and that the Chair now report the title amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

Amend the title so as to read:

An Act to require the Administrator of Veterans' Affairs, after public notice and comment and after considering the recommendations of an advisory committee and its scientific council and subject to judicial review, to prescribe regulations governing the adjudication of the issue of service connection based on the diseases of certain veterans who, during service in the Armed Forces, were exposed to dioxin or radiation; to require that the Administrator include in such regulations determinations as to whether and under what circumstances service connection shall be granted with respect to certain specified diseases; and for other purposes.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

Mr. BAKER. Mr. President, the bill has been passed, has it not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. And the action of the Senate in passing the bill has been reconsidered and tabled?

The PRESIDING OFFICER. That has not been done.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate measure, which is S. 1651, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to take this opportunity to thank the distinguished chairman of the committee, Senator SIMPSON, and the distinguished ranking minority member, Senator CRANSTON, for their handling of this very difficult and sensitive issue in a relatively brief period of time.

Members know, of course, and I would like the record to show, that even though we passed this bill in less than 2½ hours, literally months of negotiations went on, not only between the chairman and ranking member of the committee, but between agencies and departments of Government and organizations throughout the country who are dedicated to the concern of the American veterans, especially of Vietnam-era veterans.

I wish to congratulate staff on both sides for their excellent work on this matter and on the floor in connection with the presentation of this matter. It is a job well done.

Mr. SIMPSON. Mr. President, I would like to thank the majority leader. I know that the ranking member feels the same.

He has continually been available to us, providing us flexibility to get this matter to the floor. He has been most generous, most appropriate in his dealings with us. I think the result is obvious. We have a measure which is not something that has been filled with high drama. It is just only appropriate, reasonable, and workable. Maybe we can do that more often around this curious arena.

Mr. CRANSTON. Mr. President, I thank the majority leader for keeping his commitment to help us get this bill up before the Memorial Day.

I thank Senator SIMPSON for all his cooperation and all others who have worked so hard in bringing to pass a bill that meets a great need for national action and does so with total support from the Senate and those affected.

Mr. SIMPSON. Mr. President, I again, without reiterating, thank Senator CRANSTON for his assistance, his patience, and his understanding.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, once more I thank the distinguished chairman of the committee and the ranking member.

I always have great confidence that Senator SIMPSON will perform handsomely as will Senator CRANSTON in matters of great difficulty. That is why I was ready to give the commitment I did back in November, that we

would do this before Memorial Day. I had not the foggiest idea how we were going to do this before Memorial Day, but I had such extraordinary confidence in the two of them that I did not hesitate to give that commitment. I wish not to thank them for relieving me of my obligation.

Mr. CRANSTON. I thank the majority leader.

BANKRUPTCY AMENDMENTS OF 1984

Mr. BAKER. Mr. President, would the Chair please state the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Thurmond Amendment No. 3083, in the nature of a substitute.

(2) Helms Amendment No. 3086, to amend the Federal Election Campaign Act of 1981 to prohibit the use of compulsory union dues for political purposes.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, it is now 4 minutes before noon. Under the previous order, the Senate is scheduled to go into recess at 12 o'clock. Unless a Senator is seeking recognition now, it is my intention to put us in recess.

Mr. President, no other Senators are seeking recognition, and since we are almost at the hour of 12 noon, I ask unanimous consent that the Senate now stand in recess, in accordance with the previous order.

There being no objection, the Senate, at 11:56 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. BAKER. I thank the Chair.

BANKRUPTCY AMENDMENTS OF 1984

Mr. BAKER. Mr. President, will the Chair please state the pending business?

The PRESIDENT pro tempore. The clerk will state the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

AMENDMENT NO. 3086

The PRESIDENT pro tempore. The clerk will state the pending amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3086.

Mr. BAKER. Mr. President, the Senator from North Carolina (Mr. HELMS), the author of this amendment, has kindly offered to enter into a unanimous consent to limit time to a very brief time. I suggest to him that the better part of valor may be simply to go ahead and see if we cannot finish this amendment fairly soon. I hope we can finish this bill in its entirety and still have time to turn to the debt limit bill this afternoon.

I yield the floor.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, so we may be clear, what is the pending business? Is it the Helms amendment?

The PRESIDING OFFICER. That is correct. The pending business is the Helms amendment.

Mr. HELMS. I thank the Chair.

(The names of Mr. JEPSEN and Mr. LAXALT were added as cosponsors of amendment No. 3086.)

Mr. HELMS. Mr. President, I have a perfecting amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the perfecting amendment.

The Senator will suspend.

Until the Senator has lost his right to modify, his first-degree amendment can be only modified.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the first amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3110

Mr. HELMS. Mr. President, I ask that the perfecting amendment be stated.

The PRESIDING OFFICER. The perfecting amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3110.

At the end of amendment 3086, insert the following:

This amendment shall become effective July 4, 1984.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I withdraw the perfecting amendment.

The perfecting amendment (No. 3110) was withdrawn.

AMENDMENT NO. 3111

Mr. HELMS. Mr. President, I call up my amendment in the second degree.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3111.

The text of the amendment follows:

In lieu of the language proposed to be inserted by amendment No. 3086 insert the following:

SEC. . Section 316(b)(2)(C) of the Federal Election Compaign Act is amended by inserting before the period ": *Provided*, That all contributions, gifts, or payments for such activities are made freely and voluntarily, and are unrelated to dues, fees, or other moneys required as a condition of employment".

SEC. . Section 316(b)(3) of the Federal Election Campaign Act is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding after subparagraph (C) the following:

"(D) to use any fees, dues, or assessments paid to any organization as a condition of employment, or money or anything of value secured by physical force, job discrimination, or financial reprisal for (i) registration or get-out-the-vote campaigns, (ii) campaign materials or partisan political activities used in connection with any broadcasting, direct mail, newspaper, magazine, billboard, telephone banks, or any similar type of political communication or advertising, (iii) establishing, administering, or soliciting contributions to a separate segregated fund, or (iv) any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

SEC. . This amendment shall become effective July 4, 1984.

The names of Senator LAXALT, JEPSEN, GRASSLEY, SYMMS, EAST, DENTON, and GOLDWATER were added as cosponsors of amendment No. 3111.

Mr. HELMS. Mr. President, I ask unanimous consent that the amendment in the second degree be considered as a substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, as I said yesterday, it is high time that this amendment be considered and voted upon by the Senate. The purpose of this amendment is to stop one of the most blatant violations of political freedom that can be imagined. The pending amendment would prohibit the use of compulsory union dues for political purposes.

Thomas Jefferson, who is my personal hero in the history of this Nation, said, "To compel a man to furnish contributions for the propagation of opinions which he disbelieves is sinful and tyrannical." Yet a loophole in the Federal election laws grants organized labor a special privilege enjoyed by no other organization—the right to take money from American workers as a condition of employment and against their will, and to contribute that money to political causes and candidates the workers themselves do not necessarily support.

Contrary to what officials of organized labor have said about my proposal, I do not propose to deny labor unions, or anyone else for that matter, the right to participate freely in the political process. What I do propose is that organized labor be required to play by the same rules as everyone else and that the fundamental political freedoms of every American worker be protected.

Mr. President, this is not my first attempt to bring this before the Senate. I have introduced bills in the past three Congresses to outlaw the political spending of compulsory union dues. But big labor is politically powerful, which is why the Senate has not heretofore addressed this issue directly.

Fortunately, Mr. President, unlike the U.S. Senate, the courts of the United States have not sat silent. The court's have considered this issue at every level, including the Supreme Court of the United States. And they have ruled in favor of the political freedom of American workers.

Most recently, Mr. President, the Supreme Court ruled in favor of workers in the case of Ellis/Fails against Brotherhood of Railway, Airline & Steamship Clerks.

The Ellis/Fails case grew out of a collective bargaining agreement negotiated between Western Airlines and the Brotherhood of Railway, Airline & Steamship Clerks (BRAC) in 1971. Effective February 1971, all current employees in BRAC's bargaining unit were required to either join the BRAC union or to pay agency fees equal to full union dues. Employees hired after February 1971 were required to become members of BRAC.

This compulsory unionism agreement created a great deal of resentment among the workers suddenly forced to pay agency fees. What outraged them most was the way these fees were used. BRAC officials forwarded portions of these dues to the State and national unions, used them for lobbying activities, made political contributions, administered members-only benefit plans, and took part in other activities unrelated to collective bargaining. The nonmember employees were opposed to several of the political and ideological activities supported by BRAC officials, yet were being forced to finance them through the payment of agency fees.

In March 1973, Ellis/Fails was filed as a class action suit in the U.S. District Court in San Diego against the BRAC Grand Lodge, three California locals, and the California State Legislative Committee. The suit charged that BRAC officials had violated the Railway Labor Act (RLA) by charging agency fees above the amount needed to cover the nonmembers' share of collective bargaining costs. This practice violated the employees' rights as guaranteed under the first, fifth, and ninth amendments to the U.S. Constitution and under the RLA; and constituted a breach of the union's duty of fair representation for all members of the bargaining unit.

The suit also charged that BRAC's dues reduction procedure breached the union's duty of fair representation because of its arbitrary nature, because it offered only a small reduction of the total amount of nonbargaining spending, because it was not available to nonmembers, and because it was denied to members who had properly submitted objections.

The relief sought included a return by the union of all compulsory dues money improperly spent, injunctive relief imposing stringent requirements as to the purposes for which the union lawfully could spend future dues, and the recovery of attorneys' fees.

BRAC officials responded to the suit with two actions. They dropped the compulsory membership requirement, allowing employees to become agency fee-payors instead, and they amended their rebate scheme to provide a few more political expenditure rebates. The determination of the refund was entirely in the hands of BRAC officials, however, and was appealable only to a panel handpicked by BRAC.

In 1976, the U.S. district court ruled that protesting nonmember employees could not be forced to support financially the BRAC union's political and ideological activities, and listed 12 other categories nonmembers could not be forced to support, such as lobbying, organizing, conventions, publications, and social activities.

Damage claims were tried in 1978. The district court ruled that BRAC's internal rebate scheme adequately protected employees' rights, despite the fact that there was absolutely no review of this procedure by a nonbiased party. The court did order refunds of some other nonbargaining spending, and required BRAC officials to reduce the amount of future dues by the amount spent on nonbargaining, refundable activities the previous year. Both sides appealed.

In September 1982, the Ninth Circuit Court of Appeals reversed the rule that nonpolitical activities not essential to bargaining could not be charged to nonmembers, and affirmed the approval of BRAC's internal rebate scheme.

A petition to the Supreme Court of the United States was filed in January of 1983 and the Court agreed in April to hear the case. Oral arguments were held in January of this year.

On April 15, 1984, the Supreme Court unanimously overturned the circuit court and struck down the controversial union rebate scheme. The Court held that employees' constitutional rights were violated when their forced union dues were used to finance activities and causes they opposed, and that a simple rebate of the involuntary loans, even with interest, was inadequate to protect workers' rights.

Under the Court's new ruling, union officials will initially have to reduce the fees charged to forced dues payers, or will have to escrow the fees in an interest-bearing account while the correct chargeable amount of forced fees is determined.

The amount of the fees that employees can be forced to pay will be lower under the new Supreme Court ruling. Workers who object will no longer be required to finance union organizing and membership recruiting efforts, or union publications and litigation that are not restricted to the union's collective bargaining role. The Court also made clear that it would hold that nonmembers cannot be required to pay for union benefit programs limited to members only.

Mr. President, the Supreme Court's decision in Ellis/Fails strikes a blow for the liberty of American workers who choose not to join a labor union. It is the result of a hard-fought battle, Mr. President, and it is an important landmark in the fight for freedom.

Unfortunately, however, the decision is limited because it was decided under the Railway Labor Act. Union officials have stated that they intend to continue to use compulsory union dues for political purposes if this case does not reach them. Until a decision is reached in a case involving the National Labor Relations Act, I am afraid the practice will indeed continue.

It is therefore imperative that Congress step in and prohibit what is clearly a violation of workers' constitu-

tional rights. I urge adoption of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I think Senator FORD wants to come to the floor to speak on this amendment. He is not present at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JEPSEN). Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, it is well settled, I think, that, with several exceptions, the Federal law prohibits corporations and labor organizations from making contributions or expenditures in connection with Federal elections. There are three exceptions to this and I will discuss them.

The Federal Election Campaign Act permits corporations and labor organizations to engage in three types of campaign activities using their treasury funds or their union dues. Now they may administer and solicit funds for separate segregated accounts, better known as the political action committees or even better known as PAC's. They may also pay the cost of conducting get-out-the-vote drives, which is a constructive exercise in citizenship. Finally, a third and major exception to the prohibition on Federal election activity allows corporations and labor organizations to pay the costs involved in communicating with their members and shareholders on any subject, including their views on candidacies and parties and campaign issues.

The amendment offered by the Senator from North Carolina would change an element of this equation. Labor organizations which have collective bargaining agreements requiring employees to pay union dues would be prohibited by the Helms amendment from engaging in any of the three activities now allowed in Federal compaigns. They could not support PAC's or pay the costs of communicating their political views to the union membership and they could not conduct get-out-the-vote drives. Moreover, the Helms amendment would affect labor organization activities in State and local elections as well as in Federal elections. The amendment proposes to set aside laws in States which permit labor organization involvement in campaigns for State offices.

Mr. President, I oppose this amendment because it does not adequately protect the rights of unions and those union members who support the involvement of their labor organizations in the three types of activities permitted under current Federal law. I also do not believe that the political process would be improved at this time by undoing the balance which was intended to be created between business and labor under the Federal Election Campaign Act.

In a series of cases, the Supreme Court has declared constitutionally valid the Federal labor law provision which sanctions collective bargaining agreements requiring payment of union dues. The Court also has explained in *Machinists* v. *Street*, 367 U.S. 740, that this statutory provision does not authorize labor organizations to use dissenting employees' dues to finance political expression with which the employees disagree. In *Abood* v. *Detroit Board of Education*, 431 U.S. 209, the Court further ruled that dues of a dissenting union member may be used only to defray costs associated with collective bargaining, contract administration and grievance adjustments. More recently, in *Ellis* v. *Railway Clerks*, Slip Opinion No. 82-1150 issued April 25, 1984, the Court held that dissenters are entitled to an advance reduction of that portion of their dues which may be used for purposes other than those connected with collective bargaining. The Court found that a pure rebate after the dues were collected as not an adequate remedy. It is now clear that the rights of dissenting dues payers are protected.

The amendment that is before the Senate goes far beyond these Supreme Court rulings and, it seem to me, fails to recognize the first amendment rights of unions and union members who support the expenditure of their union funds for certain activities related to the electoral process. I continue to believe that it is desirable for a diversity of views to be expressed and discussed in our electoral contests. This is the essence of all democracies and in particular the essence of American democracy. I believe it is preferable to have more Americans rather than fewer Americans participating in the political process.

On the premise of these views, I urge the Senate to vote against the Helms amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on the amendment.

Mr. BAKER. Mr. President, I think we are ready to vote. I would ask for just 1 moment while I make a final check to see if any Senator wishes to speak.

In the meantime, I suggest the absence of a quorum.

Mr. HELMS. Will the Senator withhold?

Mr. BAKER. Yes; I withhold.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair and I thank the able majority leader.

I listened with great interest to the comments of my friend from Maryland, Mr. MATHIAS.

I would simply point out that the scope of decision of the court is limited because it was decided under the Railway Labor Act. I mentioned this earlier in my comments, but I would reiterate the point for purposes of emphasis. Union officials have stated, without equivocation, that they intend to continue to use compulsory union dues for political purposes if this case does not reach them. Until a decision is reached in a case involving the National Labor Relations Act, obviously the practice will continue.

The able Senator from Maryland was in error when he suggested that labor unions with agency shop agreements would not be allowed to participate in political activities, if this amendment is approved. My amendment would not prohibit political activity by labor unions—it would simply forbid the use of funds acquired by compulsory union dues. The language of the amendment is quite clear.

I respect my friend from Maryland but he was mistaken in his statement.

I yield the floor.

● Mr. DENTON. Mr. President, I rise today in strong support of the amendment offered by my distinguished colleague from North Carolina, Senator HELMS, and amendment which I have cosponsored, to outlaw the use of compulsory dues for political purposes.

At a time when the advocates of big labor are exerting tremendous political pressure on Congress to secure special privileges for union contracts under the Bankruptcy Code, I think it is highly appropriate to discuss the effect of compulsory union dues on our political process.

Several provisions in Federal labor law make labor unions the only private associations in our Nation that can compel workers to pay them money as a condition of employment. Ostensibly, those forced union dues are collected to cover the costs of collective bargaining. In fact, however, union officials all too often squander compulsory union dues on political, non-bargaining-related, causes opposed by many rank and file workers.

In Beck against CWA for instance, a special Federal court master in Baltimore recenty found that officials of

the Communications Workers of America had spent nearly 80 percent of dues collected from the union's members on political and other nonbargaining purposes. This year, the AFL-CIO will spend tens of millions of dollars in an effort to elect a Presidential candidate opposed by very large numbers of rank and file union members who have no alternative to paying the dues that will be used for political purposes. I cannot see how such expenditures help workers secure fair wages and working conditions, or how they legitimately can be justified as necessary to collective bargaining unless that term has somehow been defined to cover relations with elected officials rather than with employers.

A serious deficiency in the Federal Election Campaign Act allows union officials to spend compulsory dues on political cause alien to the personal convictions of many union members. The FECA does prohibit the use of forced dues for direct cash contributions to candidates. Unfortunately, the FECA fails to restrict expenditures of forced union dues for "in-kind" political services. I am referring to indirect, yet extremely valuable, forms of political assistance conducted on behalf of candidates. Union-sponsored phone banks leased back to candidates at reduced rates, get-out-the-vote drives, partisan mass mailings, and other political operations can all tap general union treasury funds consisting of money collected from workers who must pay or lose their jobs. Compulsory union dues also cover the overhead costs of running the union hierarchy's political action committees.

The unanimous decision of the Supreme Court in the Ellis/Fails case several weeks ago reaffirmed the Court's ruling in the Abood case that it is unconstitutional to use dues collected from dissenting union members for political purposes. I believe that it is high time to bring our Federal election laws in line with the rulings of the Supreme Court.

If union officials truly believe that union members stand 100 percent behind their political agenda, they have no reason to fear the effects of this amendment.

In the name of political freedom, I urge my colleagues to support the amendment offered by the senior Senator from North Carolina.●

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by my distinguished colleague from North Carolina, Senator HELMS, which would prohibit the use of compulsory union dues for any political purposes. I am pleased to be an original cosponsor of S. 1333, the bill introduced by Senator HELMS from which this amendment is derived.

Mr. President, in our country unions have been granted a special privilege through which they can require that a person pay dues as a condition of employment. It is important, I believe, that this privilege be accompanied by a responsibility on the part of unions to restrict the expenditure of compulsory dues to permissible purposes, such as collective bargaining efforts.

While current law prohibits the use of compulsory dues for direct and indirect "in-kind" cash contributions to political candidates, it does not prohibit the use of those dues for a number of other indirect means of supporting political candidates and causes.

The political freedoms of our citizens are violated when they are forced, through possible loss of employment, to financially support political candidates or causes which they may oppose. Many union members resent the fact that their past dues have been used for activities not related to union business.

Mr. President, the amendment under consideration would prohibit this misuse of employee dues. I strongly support the amendment and urge the support of my colleagues.

● Mr. FORD. Mr. President, the amendment introduced by the Senator from North Carolina would have a far reaching effect on the participation of union members in the political process. It would prohibit certain unions from spending dues money for political communications to their members and families, for voter registration and get-out-the-vote drives aimed at their members and families, and for the costs of establishing, administering and soliciting contributions to union PAC's.

This prohibition would apply to all elections—Federal, State and local.

The present law is neutral and balanced in its treatment of both corporations and unions. Both are expressly permitted to sponsor political action committees of their members by paying those costs that this amendment would prohibit. This amendment, however, is not even handed and impartial—it would prohibit such sponsorship activities only by certain labor unions and not at all by corporations.

In addition to destroying the impartiality and balance of the present law with regard to the political activities of unions and corporations, this amendment is subject to a number of other serious objections. It would interfere with the constitutionally protected right of unions to communicate with their members on political issues and candidates. It would interfere with the right of States to enact campaign finance laws governing State and local elections and could require the involvement of the FEC in the area of State and local campaign finance regulation. In addition it fails to recognize the fact that many union members join and participate in union activities voluntarily, even in situations where union security contracts are in effect and that many unions already provide a deduction from dues for any members who dissent from the union's political activities.

In short this is a complex area of the law for which there are a number of solutions available to protect the rights of dissenting members of political action committees. This amendment would impose a broad reaching prohibition without regard to the complexities and variety of solutions that could accomplish the same goal without disturbing the impartiality and balance of the present law.●

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. MATHIAS. Will the Senator withhold that?

Mr. HELMS. I will.

Mr. MATHIAS. I will advise the Senator I asked him to withhold so I could make a motion to lay this amendment on the table.

Mr. President, I move to lay the amendment on the table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Colorado (Mr. HART), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

The PRESIDING OFFICER (Mr. HATCH). Are there any other Senators in the Chamber who desire to vote?

The results was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—65

Andrews	Eagleton	Mitchell
Baker	Evans	Moynihan
Bentsen	Exon	Murkowski
Biden	Ford	Nunn
Bingaman	Glenn	Packwood
Boren	Gorton	Pell
Boschwitz	Hatfield	Percy
Bradley	Heflin	Pressler
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd	Inouye	Quayle
Chafee	Johnston	Randolph
Chiles	Kassebaum	Riegle
Cohen	Kennedy	Sarbanes
Cranston	Lautenberg	Sasser
D'Amato	Leahy	Specter
Danforth	Levin	Stafford
DeConcini	Long	Stennis
Dixon	Mathias	Stevens
Dodd	Matsunaga	Tsongas
Domenici	Melcher	Weicker
Durenberger	Metzenbaum	

NAYS—32

Abdnor	Hecht	Rudman
Armstrong	Helms	Simpson
Cochran	Humphrey	Symms
Denton	Jepsen	Thurmond
Dole	Kasten	Tower
East	Laxalt	Trible
Garn	Lugar	Wallop
Goldwater	Mattingly	Warner
Grassley	McClure	Wilson
Hatch	Nickles	Zorinsky
Hawkins	Roth	

NOT VOTING—3

Baucus	Hart	Huddleston

So the motion to lay on the table amendment No. 3111 was agreed to.

The PRESIDING OFFICER. The question recurs on the first-degree Helms amendment.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, may I inquire now of the distinguished Senator from North Carolina if he still wishes a vote on the underlying amendment?

Mr. HELMS. Mr. President, I see no point in another vote. Senators have taken their positions on the question of using compulsory union dues for political purposes. I ask unanimous consent that the yeas and nays be vitiated on the underlying amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BAKER. Mr. President, I thank the Senator from North Carolina. May I inquire now of Senators who may be on the floor as to what further amendments are to be offered that we are aware of at this time?

Mr. PACKWOOD. Mr. President, I am prepared to go on the bankruptcy amendment involving the labor provisions, and I would be willing to go under a time agreement if we can work it out.

Mr. BAKER. I thank the Senator. Mr. President, I suggest that we consider now a time limitation on the Packwood amendment. I will not now put the request. The minority leader is not on the floor, and I believe Senators have not had a chance yet to consider it, but for the sake of opening up negotiations, I would suggest not more than 2 hours equally divided, at the end of which or prior thereto, if the time is yielded back, a vote occur on or in relation to the Packwood amendment. I do not now make that request, Mr. President, but I would respectfully request that Senators consider that. I may make the request shortly. In the meantime, I encourage the Senator from Oregon to go ahead and call up his amendment if he chooses to do so.

AMENDMENT NO. 3112

(Purpose: To amend the provisions regarding collective-bargaining agreements)

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), for himself, Mr. DECONCINI, Mr. KENNEDY, and Mr. MITCHELL; proposes an amendment numbered 3112.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 116, line 5, strike out through page 117 line 25 and insert in lieu thereof the following:

SUBTITLE J—COLLECTIVE BARGAINING AGREEMENTS

SEC. . (a) Title 11 of the United States Code is amended by adding after section 1112 the following new section:

"§ 1113. Rejection of collective bargaining agreements

"(a) The debtor in possession, or the trustee (hereinafter in this section 'trustee' shall include a debtor in possession), if one has been appointed under the provisions of this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may reject or assume a collective bargaining agreement under this title only after the court approves such rejection or assumption of such agreement.

"(b)(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the trustee shall—

"(A) make a proposal, based on the most complete and reliable information available, to the authorized representative of the employees covered by such agreement, providing for the minimum modifications in such employees benefits and protections that would permit the reorganization, taking into account the best estimate of the sacrifices expected to be made by all classes of creditors and other affected parties to the reorganization; and

"(B) provide, subject to subsection (d)(3), the representatives with the information necessary to evaluate such proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

"(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);

"(2) the authorized representative has refused to accept such proposal and under the circumstances such refusal was unjustified; and

"(3) the balance of the equities clearly favors rejection of such agreement.

"(d)(1) Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than twenty-one days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and representatives agree.

"(2) The court shall rule upon such application for rejection within thirty days after the date of the commencement of the hearing. In the interests of justice the court may extend such time for a period not exceeding fifteen days, or for additional periods of time to which the trustee and representatives agree.

"(3) The court may enter protective orders on terms consistent with the need of the authorized representative to evaluate the trustee's proposal and the application for rejection, and as may be necessary to prevent the unauthorized disclosure of information in the possession of the debtor or trustee, if such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(e) No provision of this title shall be construed to permit a debtor in possession or a trustee to unilaterally terminate or alter any provisions of a collective bargaining agreement before approval or rejection of such contract under this section.".

(b) The table of sections for chapter 11 of title 11, United States Code, is amended by inserting after the item relating to section 1112 the following new item:

"1113. Rejection of collective bargaining agreements.".

(c) The amendments made by this section shall become effective upon the date of enactment of this Act.

Mr. PACKWOOD. Mr. President, I think most people in this Chamber are aware of what this amendment is. It relates to the discharge of collective bargaining contracts in bankruptcy. It stems from a Supreme Court decision called the Bildisco case which was decided in February of this year.

To those who say, "Why is this being offered now?" and "What is the urgency?" I would give two answers. One, up until the Bildisco case of 3 months ago we thought there was no emergency, and those of us who have a reverence for collective bargaining contracts—and I might add that in my younger days as a practicing lawyer, I was a labor lawyer and negotiated contracts for about 5 or 6 years from the employer's side and gained a great deal of respect for and still count among my closer friends some of the business agents and labor leaders that I negotiated with in those days—for those of us who have a reverence for collective bargaining and think that it is on balance not a bad process, we were satisifed with the state of the law in most areas of this country prior to the Bildisco case.

Therefore, we had no need to offer an amendment. The Bildisco case was decided and significantly changed what we thought was the standard and the law involving the discharge of collective bargaining contracts in bankruptcy. This amendment seeks to partially, although not totally, reverse the Bildisco case.

Now, in a nutshell, Mr. President, the difference—there are other differences—but in a nutshell the difference between the committee substitute and how it handles the discharge of collective bargaining contracts and my amendment depends upon whether you think an employer who happens to be in bankruptcy should be allowed to terminate a contract with his employees unilaterally without prior approval of the bankruptcy court.

The Bildisco case held that you could do so. The committee bill holds that you can do so, although they have offered a quasi 30-day grace period, but at the end of it, you can go ahead and unilaterally terminate the contract, anyway.

Mr. HEFLIN. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. HEFLIN. This is not the committee bill. This is a substitute. This bill was never called to the full committee, and the committee did not work its will. The House-passed bill was held at the desk. It is a substitute, but it is not a committee bill.

Mr. PACKWOOD. I stand corrected, and I thank my good friend and distinguished colleague from Alabama. I will not henceforth refer to it as a committee bill.

The House passed a bill with a standard in it known as the Railway Express Agency standard. It was a standard very satisfactory to the unions. It came to the Senate Chamber with that standard in it, and the substitute being offered by Senator THURMOND would change that standard.

I want to emphasize again the principal, fundamental difference between the bill as introduced by my friend the Senator from South Carolina (Mr. THURMOND) and my amendment. The key question is: Should an employer who has filed bankruptcy be able to terminate an existing labor relations contract without prior approval of the court?

The issue is not: Can you terminate it? The issue is not: Is the labor contract absolutely sacred, inviolate, and it cannot be touched, even though you can discharge all other contracts in bankruptcy?

The issue is: Can you unilaterally decide it on your own motion if you are an employer, without prior approval of the bankruptcy court? I do not think you should be able to do so.

So the amendment I have offered, expressed in lay language, does the following: Assume, first, that you file bankruptcy. Clearly, you cannot have bankruptcy proceeding until you file for bankruptcy.

Second, you then go to the union, if you happen to be an employer that is unionized, or the bargaining agent for the employees, if you are not a union shop. You say, "We're paying you $10 an hour and we'll go bankrupt. We want to lower the wages to $8 an hour."

The union says: "No; we can't go below $9.25. We won't do that."

You bargain, and you come to an impasse. The employer says, "I can't do it." The union says, "We can't afford to accept that." You are at an impasse.

That does not take very long in collective bargaining—and I am serious. If you are bargaining every day, you can reach an impasse quite quickly. Under my amendment, it is to the employer's interest to bargain every day. If an impasse is going to be reached, the employer can reach it as soon as possible; and you then go to the bankruptcy court and say: "I have bargained with the union in good faith, and we have reached an impasse; we cannot agree. I ask you for the right to discharge the contract."

The court will give its approval if—and here is the key—it finds that the union was unjustified in rejecting the offer and if the balance of equities clearly favors rejection of the contract. That is it. It is relatively simple.

We are not purchasing 2 by 4's or grapes. We are talking about collective bargaining contracts involving men and women who may have worked for you for years and years. Normally, these contracts are signed for a period of 2 or 3 years. In the midst of that contract, should the employer, without any prior court approval, just be able to go: "Bang, bang, over, done; I'm breaching the contract, and that's it?" I do not think so. That is the amendment, in a nutshell.

There is one other facet to this amendment involving Continental Airlines and the argument as to whether or not this particular amendment is retroactive. If it is retroactive, is that an aberration in the otherwise natural application of the law, and does that make it therefore unfair to Continental?

First, let us understand what the normal operation of law is. If we pass a bill and the President signs it, it becomes an act. It says, "This bill shall become effective upon enactment," and says nothing else. That bill affects pending cases, unless the courts find that it is manifestly unjust, in which case they will allow a party to opt out from the new standard.

The only exception to that is an operation of law that we make in criminal statutes because our Constitution prohibits the passage of what is known as ex post facto laws. Consequently, even though we may change the criminal law in the midst of a trial, a criminal is always tried in accordance with law that was in effect at the time the crime was committed. That is because of a special provision in the Constitution.

The argument is made: What other evidence do you have that we apply it to existing cases? First, it is almost so obvious that it does not need great and lengthy explanations, but I will take two of the principal cases that have existed for a long period of time—one for almost 180 years—and then a very current case involving bankruptcy, so that you can see what is the normal operation of the law.

First, let us take United States versus the schooner *Peggy*, U.S. Supreme Court, 1801, with Chief Justice, Marshall delivering the opinion for the Court.

These are the facts: The United States seized the schooner *Peggy*, a French vessel, near Port au Prince. The Federal district court in Connecticut held that the seizure violated U.S. law. The court found that the schooner *Peggy* was not armed except for self-defense; therefore, the seizure was not justified.

The appellate court reversed. It held that the schooner *Peggy* had sufficient arms to disrupt commerce, and the seizure was therefore justified.

After the appellate court decision, but before the Supreme Court decision, the United States ratified a treaty with France. If applicable, the treaty would have required reimbursement for the seized ship.

Chief Justice Marshall wrote the opinion, and the Court held that the new treaty applied to this case, even though it was agreed to after the seizure of the ship, after the law that was previously applied. That is the leading case in this country, and it has been cited numerous times.

One of the leading cases is Bradley versus Richmond School Board, U.S. Supreme Court, 1973, Justice Blackmun writing for the Court. This was a school desegregation case.

The claimants were seeking desegregation of Richmond, VA, schools and they sought attorney's fees. Attorney's fees were incurred when the case was being tried.

In 1972, Congress gave courts authority to award attorneys' fees, and the Supreme Court held that the attorney's fees should be paid in this case even though the law was changed after the case had been tried and after whatever fees would have been incurred had been incurred.

The third case, and directly on point, in "In re: Reynolds, Ninth Circuit"—which is the Western circuit—1984. It is a bankruptcy case.

The question was whether a parent can discharge child support payment

obligations through bankruptcy. At the time the parent had filed bankruptcy, Federal law allowed discharge of child support obligations through bankruptcy. Before the case was final, however, Congress changed the law, reversed the law, and said that child support payments could not be discharged in bankruptcy.

The Ninth Circuit Court of Appeals just recently held, therefore, that the obligation for child support could not be discharged because of the new bankruptcy law, even though at the time of filing the bankruptcy suit and claiming the discharge the law allowed it.

This is not an unusual application. This is the usual.

Let us now consider the exact situation of the Continental case. Here is the chronology of the Continental bankruptcy case.

In September 1983, Continental filed for bankruptcy and for what is called a chapter 11 reorganization and on the spot rejected, terminated its existing collective-bargaining contract, right then, bang terminated, with no approval, terminated the airline pilots, machinists, flight attendants, and transportation workers.

In October 1983, labor filed two petitions in bankruptcy in the court in response to Continental's actions.

In December, the first labor petition in bankruptcy in the court was rejected by the court. In January 1984, the second labor petition argument began. And this case concerned the issue whether Continental was justified in rejecting the collective-bargaining agreements. That trial lasted until mid-April. A final decision is pending.

Again go through the chronology. September 1983, Continental files for bankruptcy and terminates its contracts. As of mid-April, the hearings were finished as to whether or not they had the right to do so. In February this year, the Bildisco case is decided. Continental Airlines was not relying on the Bildisco case. The opinion had never been given in this case at the time they filed bankruptcy.

So to somehow say that what we are trying to do is to apply something retroactively and change the rules on them is not true. We are trying to apply the normal standard that is applied to all other cases when we pass laws.

Second, it is clearly not a standard they relied upon at the time of filing their bankruptcy because it was not a standard at the time they filed their bankruptcy.

Those two issues should be kept separate in our minds because in one case we are passing a law that is going to apply prospectively in all cases of bankruptcy, including those that are pending in court.

Continental Airlines, to its credit, has done good lobbying on this and has attempted to focus the issue of the amendment with their desire not to have the amendment apply to them, even though under normal circumstances it would apply to them. I understand their position, although, interestingly, they have admitted that in their judgment they can meet any standard, the Bildisco standard, the Railway Express Agency standard, on the standard in Senator THURMOND's bill. They say they can meet any of the standards and the contract would be discharged against any of them. They simply do not want to have to go back and re-present their case. It is perfectly understandable why they want to be treated differently than we would treat anyone else. If they can get an exception legislatively to be treated differently, that is what they would like to have.

I hope we will not make this exception. There is no reason for making this exception. And if the statement is accurate that they can meet any standard that anyone has suggested, they are going to be allowed eventually to discharge their contracts in bankruptcy anyway.

Now, Mr. President, I would like to discuss several of these points in more precise detail.

This amendment would rewrite the legal rules governing attempted repudiation of collective-bargaining agreements during a chapter 11 bankruptcy reorganization stated by the Supreme Court in *NLRB* v. *Bildisco & Bildisco*,—U.S.—(Nos. 82-818 and 82-852; Feb. 22, 1984). Because this subject matter is rather complex and technical, it appears to me to be helpful to briefly describe the Supreme Court's holding in Bildisco and the reaction to that holding in H.R. 5174 passed by the House of Representatives on March 21, 1984.

The Bildisco decision deals with two issues: First, the legal standard for determining whether an employer who has filed a petition for bankruptcy and is in a chapter II reoganization should be permitted to repudiate a collective-bargaining agreement; and, second, whether, pending a judicial ruling on an application to repudiate a collective-bargaining agreement such an employer should be permitted to unilaterally change the wages and working conditions of the employees covered by the agreement.

On the first of these issues, the Supreme Court held that "the Bankruptcy Court should permit rejection of a collective-bargaining agreement under section 365(a) of the Bankruptcy Code if the debtor can show that the collective-bargaining agreement burdens the estate, and that, after careful scrutiny, the equities balance in favor of rejecting the labor contract." The Court emphasized in this connection that "[t]he Bankruptcy Code does not authorize freewheeling consideration of every conceivable equity, but rather only how the equities relate to the success of the reorganization." And on the second issue, the Court held that "from the filing of a petition in bankruptcy until formal acceptance, the collective-bargaining agreement is not an enforceable contract within the meaning of [National Labor Relations Act] § 8(d)" and that an employer, on filing a bankruptcy petition, may, contrary to the rule stated in the National Labor Relations Act, unilaterally terminate or modify a collective-bargaining agreement.

In H.R. 5174, the House of Representatives responded to the Bildisco decision by providing that an employer in reorganization must abide by a collective-bargaining agreement in force pending judicial approval of an application to reject the agreement and by providing further that there shall be an expedited procedure for hearing and deciding such applications. Moreover, with regard to the legal standard to be applied in judging a rejection application the House bill provides that the court must find that: first, the employer has complied with the collective-bargaining obligations spelled out in the bill; and second, "absent rejection of such agreement, the jobs covered by such agreement will be lost and any financial reorganization of the debtor will fail." The quoted language would codify the standard for judging applications to reject collective-bargaining agreements stated by the U.S. Court of Appeals for the Second Circuit in *Railway and Airline Clerks* v. *REA Express, Inc.*, 523 F.2d 164 (2d cir. 1975).

Both the Bildisco standard on when an employer in reorganization may repudiate a collective-bargaining agreement and the REA Express standard focus on what the courts should do if the employer and the union representing that employer's employees who are covered by the agreement cannot work out in a peaceful fashion mutually satisfactory modifications to the agreement. Based on my labor relations experience, that is the wrong focus. The agreement between the proponents of the Bildisco standard and the proponents of the REA Express standard as codified in the House bill has been an argument concerning which party, the employer or the union, should have an advantage in a judicial proceeding. Both standards, rather than encouraging a negotiated settlement between labor and management, encourage the judicial interference in labor relations that is a blueprint for industrial unrest.

Moreover, the Bildisco standard suffers from two additional defects. First, that standard is so vague and general as to provide little or no guidance to the lower courts on what factors to take into account or how to weigh

those factors. In that sense, it is an abdication of lawmaking authority rather than an exercise of such authority. Moreover, the experience in the lower courts indicates that the Bildisco standard will almost always lead to approval of a repudiation application. The entire thrust of the reorganization proceeding is to give the trustee or debtor in possession every benefit of the doubt and, of course, it is a rare case in which a collective-bargaining agreement is not a "burden on the estate" in the sense of requiring higher labor standards than those provided by unorganized employers or in which relieving the employer of that burden will not, in a narrow sense, aid the "success of the reorganization." Thus, the Bildisco standard is a virtual guarantee to the employer of success in court. Obviously, such a guarantee serves as a disincentive to any inclination an employer may have to engage in a process of genuine give and take in order to reach a negotiated settlement with his employees on modifying the agreement to meet his financial exigencies.

The genius of the national labor policy as stated in the National Labor Relations Act and the Railway Labor Act is to provide a framework within which employers and their employees set wages and working conditions without Government dictation. Recognizing that, my amendment is designed to place the primary responsibility for modifying collective-bargaining agreements during a reorganization where that responsibility belongs—on the parties to the agreement—and to do so in a manner that provides a strong incentive to those parties to deal realistically and promptly with the problems confronting the enterprise. That is accomplished by requiring the trustee or debtor in possession seeking to reject a collective-bargaining agreement to "make a proposal, based on the most complete and reliable information available * * * providing for the minimum modifications in * * * employees benefits and protections that would permit the reorganization, taking into account the best estimate of the sacrifices expected to be made by classes of creditors and other affected parties to the reorganization"; by requiring the parties to confer in good faith on that proposal and by requiring the union to work out an agreement or to be prepared to demonstrate that its refusal to do so was justified under the circumstances.

This proposal is based on an approach outlined by Prof. Vern Countryman of the Harvard Law School in his article, "The Rejection of Collective Bargaining Agreements by Chapter 11 Debtors," 57 American Bankruptcy Law Journal 299. As Professor Countryman notes:

At the very minimum, no bankruptcy court should authorize the rejection of a collective bargaining agreement until the debtor establishes that it bargained in good faith with the union with respect to modifications in the collective bargaining agreement deemed necessary by the debtor for continuation of the business enterprise, and that the union refused to agree to these modifications. The court should also place a very heavy burden of justifying rejection on the debtor, given that the debtor is seeking to accomplish an act expressly forbidden by the NLRA. Moreover, the court should insure that the union is given a full opportunity to analyze the arguments and financial data submitted by the debtor or relevant to the issue, so that the union will be in a position to argue cogently that the modifications sought by the debtor are not in fact necessary to a successful reorganization, if such an argument can be made.

Placing the primary obligation on the employer and the union to negotiate, rather than litigate, is consistent not only with the national labor policy but also with the best aspect of a chapter 11 proceeding—the consensual reconciliation of conflicting interests that is the hallmark of a successful reorganization proceeding. The treatment of a collective-bargaining agreement should be analyzed in the context of the overall purpose and function of both the labor laws and of chapter 11. The labor laws, of course, stress the maintenance of industrial peace through free collective bargaining and through adherence to the terms and conditions arrived at by the parties in their negotiations for the duration of their collective-bargaining agreement.

Chapter 11 properly understood has a parallel aim—the development of an agreed-on plan of reorganization that will make a financially distressed company a productive economic entity. During the course of the chapter 11 proceeding, each of the constituencies threatened by the liquidation of the debtor is called upon to "contribute" to the resurrection effort by making financial sacrifices, and the ultimate manifestation of the sum total of all such contributions is the plan of reorganization. In the multifaceted negotiation process that produces a final plan, each interest must rationalize its sacrifice with that of each of the other affected parties and all interests generally accept the desirability of reaching an accommodation because typically each loses more in a liquidation than that party will lose in a traditional chapter 11 "workout."

In an imperfect world, of course, reasoned negotiation may not always yield a mutually satisfactory settlement. But this, in my judgment, does not require placing the courts in the position of either rubberstamping a debtor's desire for rejection, or of independently verifying a "failure of the enterprise" prediction. The better alternative, as Professor Countryman argues, is that:

[C]onsiderable weight should be given to a considered union view that rejection is not necessary. This conclusion would not follow, however, if it appeared that the union was willing for tactical reasons to sacrifice the particular employees involved and thus did not care whether the debtor in fact was forced into liquidation. In such a rare case, the bankruptcy court would be fully justified in permitting rejection. The conclusion would also not apply to a union seeking only to forestall a liquidation by several months (or perhaps years) in order to preserve short-term employment. If liquidation may be avoided by rejection of the collective bargaining agreement, a union seeking to preserve short-term employment benefits is not even acting in the best interests of the employees.

The most difficult case is presented when the bankruptcy court believes that the union is honestly mistaken in its assessment of the situation. To minimize this likelihood, the court should make every effort to insure that the union had an adequate and informed opportunity to make a detailed assessment. If, in the final analysis, the court is nevertheless persuaded that the union view is untenable and that the debtor has correctly maintained that rejection is essential, the court should permit rejection.

In sum, under my amendment, as a precondition to repudiating a collective-bargaining agreement during a chapter 11 reorganization, the employer must make a proposal for modifying the agreement limited to what he can show is needed to permit a reorganization, taking into account the financial sacrifices that are to be expected of other affected parties, and the union must negotiate with the employer in an honest, serious effort to meet the employer's financial difficulties and to avoid liquidation. If the employer makes such a proposal and the union rejects the proposal for "tactical reasons" that would "sacrifice the particular employees involved" or for reasons that given the financial facts are "untenable," repudiation is to be allowed. That, I believe, is a formula which will produce negotiated settlements in most instances and that, consistent with our best traditions, appropriately limits the judicial role in labor relations. As Professor Countryman says, court rejection of labor contracts "* * * seriously undercuts fundamental aspects of federal labor policy * * * [and] should be permitted only in extraordinary cases, where the union involved has unjustifiably refused to agree to a modification of the agreement necessary to insure a successful reorganization * * * [with] a strong presumption against * * * [contract rejection]."

The second facet of my amendment follows the approach of H.R. 5174 and, therefore, needs only brief explanation. The amendment makes it plain that employers in reorganization may not unilaterally terminate or modify a collective-bargaining agreement pending judicial action on a repudiation application and, in consideration of that restriction, provides that the court shall, in the normal course, schedule a

hearing within 21 days of the making of such an application and shall rule on the application within 30 days of the commencement of the hearing.

Finally, following the normal rule, my amendment would be effective on the date of enactment. There is no reasoned basis for departing from our customary approach in passing legislation. Those who urge that we make this legislation specifically prospective or specifically retroactive have the extremely heavy burden of justifying such special treatment. They have not met that burden. This is not—and should not be—"special" legislation, but rather a law of general application, resolving a question of nationwide social and economic policy, and should therefore be effective upon enactment as a matter of general course. If, in any specific instance affecting purely private parties or vested property rights, there is a case of "manifest injustice," that is a matter traditionally, and appropriately, for the judicial system to resolve upon the record of a given time. It is my intent in this regard that the rule stated in such cases as *Bradley* v. *School Board of Richmond*, 417 U.S. 696, shall be applied. We are here to legislate matters of general concern, not to adjudicate specific private disputes.

So, in sum, Mr. President, that is my argument.

Come back again to my initial point, which is the thrust of the amendment. Mr. President, do you think an employer should be able to terminate an existing contract with his or her employees without prior approval of the bankruptcy court, or do you think that before they can do that that the history and the sanctity of the collective-bargaining contracts and the fact that you are dealing with real people who work for you for years should at a minimum require that before you can terminate them in the middle of a contract at a minimum you should at least have the approval of the bankruptcy judge before you do so?

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. NICKLES. Mr. President, this is just for a clarification. I apologize. I caught a lot of the Senator's comments in regard to Continental Airlines and whether this amendment was retroactive or not.

Am I correct that the Senator's amendment would apply or be effective on date of enactment?

Mr. PACKWOOD. The Senator is correct.

Mr. NICKLES. Am I correct, then, that it would apply to cases which are pending which includes Continental Airlines and a host of, I do not know how many, other cases that are now in a chapter 11 proceeding?

Mr. PACKWOOD. Yes, which is the historic and normal pattern of our law that we have applied in this country for almost 200 years, that when we pass a law that is effective upon enactment, unless the court finds that it is manifestly unjust—and they have done that on occasion—it applies to pending cases, that it is not retroactive, the case is not over.

Mr. NICKLES. In the Senator's opinion, would it be manifestly unjust to go back into the Continental case and say you have to apply under the Senator's language?

Mr. PACKWOOD. It is hard to tell because I am not sure what standard—and the court has not announced its decision yet—the court has applied in the Continental case.

Mr. NICKLES. So, to further clarify, then, the Continental case would come under this amendment and, therefore, it would reopen a case which, in the case of Continental Airlines, continues to operate semisuccessfully under chapter 11?

Mr. PACKWOOD. Let me ask the Senator this: It would apply no different standard to Continental. I do not know if my good friend was here when I mentioned the bankruptcy case in the Ninth Circuit Court of Appeals that was just decided in terms of the discharge of a child support obligation.

Mr. NICKLES. I was not.

Mr. PACKWOOD. The provision law was that child support obligations could be discharged in bankruptcy along with all others. A man filed to have his child support obligation discharged. That was the law. He could do it. The bankruptcy court did it. It goes on appeal to the Ninth Circuit Court of Appeals and during that time prior to the appeal, we changed the law, Congress changed the law, and said that child support obligations are no longer dischargeable in bankruptcy and the court saying it is the law now, this case is not finished, it applies to current cases, reversed, and held the man could not discharge his obligation. Is that any different than what we are suggesting for Continental?

There is not a difference. It is the same standard.

I think the real question is because Continental is a corporation and a business and has been able to afford some good lobbying—they have done it well and honorably; I have no complaints—should we apply a different standard to Continental than we apply to everyone else in the same situation and have applied to everyone else for the entire history of this country?

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as chairman of the Subcommittee on Courts of the Judiciary Committee, it has been my responsibility along with the chairman and other members of the Judiciary Committee, to try to focus on some of the problems in bankruptcy caused by, I think, little excesses, or rather large excesses, in the Reform Act of 1978.

In addition to that, we have been trying for 2 or 3 years now to provide farmers some protection in elevator bankruptcies, and then the Senate, the Presiding Officer, in fact, had a provision with reference to shopping centers. So what we have done is, we have tried to put together a package of proposals that has broad bipartisan support.

I think it is fair to say we have passed the bankruptcy proposal four times in the Senate. And it went to this graveyard called the Judiciary Committee in the House, where nothing happened. That is where they bury things, in that committee. They never see the light of day. But, suddenly along came the Bildisco case, which alerted organized labor. They, in turn, alerted TIP O'NEILL. He, in turn, alerted the chairman of the Judiciary Committee, and suddenly we had all this action and they passed a bill.

I know the chairman of the Judiciary Committee has some differences on whether it should be article I or article III judges, and I think there is also some dispute over the so-called labor provision.

I believe—and maybe I am in a very small minority—that what we should do is not have any labor provision at all in the Senate bill and go to conference with the House—we will have our conferees, they will have their conferees; and I think there will be men and women of good will in both parties in both the House and the Senate—and let us hammer out some provision in conference that will be fair to business the so-called debtor interest, and fair to collective bargaining agreements as far as labor is concerned.

Because, unless I miss my guess, if the Packwood amendment should be adopted, that is the end of the bill. And if it is not adopted, it is probably the end of the bill.

Some of us want to get down to other areas in addition to this very important provision with reference to the Bildisco case. There are other important provisions in this bankruptcy legislation that the Senate has passed, as I said, a number of times. Now all of these provisions are being held hostage by one provision that tries to

overturn the impact of the Bildisco case.

I visited with members of organized labor and with members of the business community, and I think they both have some equity and good points on their side. But it would seem to me, as probably one of the conferees, that it would be better to let us go to conference. I am not so certain the House will not go to conference. I know some House Republicans are concerned about a conference and some House Democrats are concerned about a conference, and there is some concern there will not be any conference. There will be a conference because of this one provision, if for no other reason.

And many of my farmers would like to see the warehouse elevator bankruptcy bill resolved. I am certain many others in the financial community, banks and others, would like to see us tighten some of the provisions that were passed in 1978. So there are a lot of people for the bill.

In my own view, and maybe it is not the prevailing view, what we should do is not have this amendment up. The distinguished chairman of the committee agreed that, if the Senator from Oregon would not press his amendment, he would remove from the so-called substitute his provision with reference to the labor dispute, that is the so-called NBC amendment, worked out by a group of nonpartisan judges and others in the National Bankruptcy Conference. Even that amendment was not fully agreed to by some in the business community, but it seemed to the chairman of the committee that it was an objective proposal and it ought to be put in the substitute.

Now, maybe today we cannot reach that agreement. Maybe in the next few days, as we get into this debate, we can reach some agreement. I know there are a number of colleagues on both sides of the aisle who do not want to get into a confrontation at this point between organized labor, because they have rights and they should be protected, and the so-called business community, and they have rights and they should be protected. So it puts many Members on both sides of the aisle right in the middle of a no-win situation.

I know the Senator from Oregon, Senator PACKWOOD, has discussed this, and at this point has indicated he had no alternative but to offer the amendment. I respect that judgment. But there may still be some way to resolve the differences that exist.

As I understand it, there may be an effort to table the amendment later on this afternoon. I hope we do not have to do that. I still believe that if, in fact, we are given the opportunity, we can work this out in the conference like we work out every difference in the conference. Obviously, each side would like a little better position in conference.

It would seem to me with the House provision, on the one hand, and no provision in the Senate bill, we are in a pretty good position to come out with something that I think might satisfy both the Senator from Oregon and the Senator from South Carolina, the chairman of the committee.

Let me just say finally that I differ with my colleague on the Finance Committee and would find it necessary to vote to table the amendment or oppose his amendment if, in fact, that becomes necessary. But, again, I hope that is not necessary. I think there are a lot of us who would like to work this out with labor and business and all the other interests involved. We are not around here falling on spears one after another without any resolution.

If I felt there were going to be some resolution by adopting the Packwood amendment or adopting the Thurmond amendment, then I would say we have to make a judgment. But, in my view, that is not a solution. It is going to expand the problem.

There may be others who disagree with that, but I checked with a number of my colleagues on both sides of the aisle in the last couple of hours. I find great numbers who think this might be a good suggestion; that is, to go to conference with no labor provision, hammer it out with Chairman RODINO, the Republicans and Democrats on the House side and also with the Republicans and Democrats on the Senate side, and bring it back if we can reach an agreement. If we cannot, the conference failed.

Mr. President, I would take this opportunity to make a few brief remarks upon the amendment offered by the Senator from Oregon. Regrettably, I must differ with my colleague on the Finance Committee on this occasion and oppose the amendment.

In the fall of 1983, the Supreme Court rendered decision in the case of N.L.R.B. against Bildisco, wherein the Court addressed an issue that had been in need of clarification for some years. That issue was the question of what procedural and substantive standards should be applied to a debtor's proposed rejection of a collective bargaining agreement in bankruptcy.

Prior to Bildisco, the circuit courts were split between those courts that required a showing that rejection of a collective bargaining agreement in bankruptcy was needed because the agreement constituted a "burden upon the bankrupt's estate", and those courts that required a showing that rejection was necessary to insure the success of the debtor company's reorganization. The latter test—the more difficult of the two—was the minority view in the circuit courts and was rejected by the Supreme Court in Bildisco in favor of a balancing test that would require the bankruptcy court to weigh the debtor's legitimate need to relief against the equally important objective of protecting the contracts that are the result of the collective bargaining process.

Some would look at that and say that it is a very fair decision.

The Supreme Court's solution to the problem was, I believe, a wise one. The Court's balancing test elevates collective bargaining agreements to a higher level of protection than they previously enjoyed under the "burden upon the estate" test that was the predominant rule in the courts. That higher level of protection is, unquestionably, appropriate in light of the important part collective bargaining agreements play in preserving the balance of interests between labor and management in the work place. Furthermore, the Court imposed upon the debtor Bildisco a further requirement of showing that good faith negotiations had been pursued in an effort to avoid an outright rejection of the collective bargaining agreement.

I think the thing that concerns the Senator from Oregon, other Senators, and I hope all Senators, is there might be an effort to use this by some in the corporate community and some in the business community to wipe out any collective bargaining agreement with no protection at all for the workers.

Obviously, there is a legitimate interest here, and it is being properly proposed, properly raised. Again, I guess it is a question of whether this is the right way to proceed.

The only fault that can be found with the Supreme Court's handling of the issue in Bildisco is the Court's rejection of any requirement for a prior Court hearing and ruling upon an application for termination of a collective bargaining agreement. Thus, the debtor's rejection of a union agreement is effective from the time notice of such rejection is filed, and the union is placed at an immediate disadvantage in negotiations with the debtor to preserve employee benefits and protections. This aspect of the Bildisco decision is corrected by the proposal that is contained in the amendment which has been put forward by the Senator from South Carolina, the distinguished chairman of the Judiciary Committee. No further action is needed to protect the interests of the workingman.

We are told that the amendment offered by Senator PACKWOOD does not change the standard announced in Bildisco, but only provides teeth that will insure productive negotiations prior to a rejection. This is accomplished by requiring the debtor to put forward a proposal for minimum modifications in the collective bargaining agreement that will preserve as much of the collective bargaining agreement as possi-

ble while permitting a reorganization to go forward. The debtor must then establish that such proposal was unjustifiably refused by the union representatives before a rejection may occur. Only after meeting this stringent procedural requirement—which goes far beyond any standard previously adopted by any court—is the Bildisco balancing of equities standard applied. I submit to the Senator from Oregon that his amendment would effectively convert the bankruptcy courts into labor relations boards, with resulting damage not only to the collective bargaining process but also to the efficiency of the bankruptcy courts. Another troubling feature of this amendment is the requirement that the debtor's proposal must take into account sacrifices that are to be made by other classes of creditors, sacrifices which cannot be known with certainty to the debtor at any early stage in the bankruptcy proceedings. What is most troubling, however, is the possibility that a debtor will make best efforts to put forward an acceptable proposal for modifications in the agreement but will be second-guessed by the Bankruptcy Court, which may conclude that the debtor could have made fewer modifications—at the expense of other, important considerations—and failed to do so. While these issues are being contested in the Bankruptcy Court, the debtor is denied the immediate relief that might save jobs and keep the company operations going.

Therein is the big question. Do you want to keep the company going? Do you want to lose all the jobs? Do you want to lose part of the jobs? Do you want minor modifications? These are the questions that are raised by this amendment.

It seems to me, as I have said before, that there ought to be some way out of this dilemma. Maybe there is no way out of this dilemma. One way out of this dilemma is to forget about the Packwood proposal, forget about the NBC proposal, and pass the bill. It probably would be unanimous. We could go to conference. You will have representatives of organized labor, business, and the National Bankruptcy Conference. All of these interests can be considered in a conference where you are going to have maybe 10, 12, 15, or 20 conferees, not 100 Senators and 435 House Members. It is my view that we could resolve the differences there.

I pledge to my colleagues on both sides, if in fact the Senator from Kansas was a conferee—I assume I would be as chairman of the subcommittee—that that would be our intent. We understand our responsibility. We understand the need to protect the legitimate interests of both parties.

I do not believe we misled anybody in the efforts to do that. But I would hope that we would not in effect kill this bill. That is about what we are set to do here unless we can find some solution.

There have been Senators expressing strong concerns about, the fact if this amendment were adopted, or if it were not tabled, they would have 30, 40, or 50 amendments. I still believe rather than having a vote on a motion to table today, we might debate this fully, and find some other legislation to work on.

In fact, we hope to bring up the disability bill. We can dispose of that I believe in an hour or so. I have some indications from the distinguished Senator from Oregon that he would not object to that. That would permit us to pursue every effort to see if we cannot reach some agreement to go to conference.

Finally, Mr. President, the amendment would be effective upon enactment, with its application to pending cases to be determined by the courts before which those cases are being tried. I believe that a measure as far-reaching as this one is, if adopted, should not be imposed upon litigants who have already expended great resources in the trial of the merits of a rejection of a collective bargaining agreement; and there are a fair number of cases now pending in the courts where this is the case.

Mr. President, I will conclude by simply stating that I believe that the proposal of the National Bankruptcy Conference, incorporated in the bill now pending, is a reasonable answer to the legitimate criticisms of the Bildisco decision.

The procedures set forth in that proposal are adequate to protect against the specter of union busting through the vehicle of the bankruptcy laws, and no more stringent measures are required.

Mr. President, I ask unanimous consent for the inclusion, in the RECORD, of a New York Times editorial upon this subject which appeared in today's paper.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 22, 1984]

BANKRUPTCY IS NOT A WEAPON

Can the bankruptcy law become a tool for breaking unions? That's what organized labor says will happen unless Congress amends the law to protect union contracts in what are called Chapter 11 reorganizations.

Some of labor's friends in Congress take this threat seriously. But it's likely that labor's immediate goal is to keep wages high in the ailing airlines industy, even if that means fewer jobs. Congress would be wise to pause before rushing to judgment.

What gave the labor-bankruptcy issue a new kick was the near-collapse of Continental Airlines last September. After failing to extract concessions from two of its unions, Continental petitioned for reorganization under bankruptcy and then unilaterally suspended its labor contracts.

In February, the Supreme Court effectively supported the legality of Continental's action. It ruled that labor had no special rights over other creditors in bankruptcy reorganizatons. Horrified, the unions fought back, arguing that unless the law were changed, solvent companies would use purported bankruptcy as a way to evade collective bargaining.

That's hardly likely. Bankruptcy reorganizations are serious medicine. A corporation's assets come under court control and management is subject to dismissal by the court. Creditors, including unions, must be satisfied before the stockholders see a penny—incentive enough, one expects, to insure that bankruptcy petitions are not just gimmicks.

The real danger would come if labor were given precedence over other creditors in a bankruptcy. Where labor is intent on defending industry-wide wage patterns rather than jobs—as seems the case with airlines—such precedence would give national unions the power to force vulnerable companies into liquidation.

In ordinary circumstances, Congress would ponder long and hard before enacting such controversial reforms. But circumstances are not ordinary. There's a general rush now to rewrite the bankrupcy laws and labor is just one among many interests jockeying for benefits. Its lobbyists have agreed to support anti-consumer amendments in order to win a majority for its bill in the House. There's danger that a similar deal, sponsored by Senator Packwood, a moderate Republican, will be made in the Senate.

Both the workers and owners of ailing businesses deserve better.

Mr. DOLE. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, if I might respond to my distinguished colleague from Kansas, Mr. DOLE, about the facts as to how we got into the dilemma we are in, the House indeed passed a bill as my good friend from Kansas said. It came over here with the very strong provision in it that would make it very difficult, if not impossible, to discharge collective bargaining contracts. it comes to the Senate. At this stage I am not a party to it.

I am not on the Judiciary Committee. I was waiting to see what was going to happen.

There was extensive negotiations between representatives of business, representatives of labor, members of the Judiciary Committee in the hopes of finding a settlement that would be satisfactory to all parties. That was unavailing. At that stage, the supporters of this amendment could have come forth with a bill that had no reference to the discharge of collective bargaining contracts at all. But at that stage, they chose to come forth with an amendment that those who support my view regard it as one-sided. And now they complain because I am bringing up an amendment to attempt to rectify it. We all count votes. But for the Continential situation, which

has caused some weakening for purposes that I think are irrelevant and teriary, there are votes to pass my amendment.

At this stage, those who are opposed to it would like to forget the whole thing.

So would I, if I were in their shoes.

You win some and you lose some in this business. As I say, the Continental issue may make a difference whether some would want to filibuster. It could make some difference as to whether or not there are the votes to adopt this amendment. But on the merits of this amendment, there are clearly the votes to adopt it. Given that, I understand the suggestion of my good friend from Kansas. But had they really wanted to do nothing in the bankruptcy area, had this bill come absolutely clear with no reference to bankruptcy, my hunch is that attaching an amendment to it on that subject would be slim. It is only when they attempted to put into it an amendment that is very unacceptable to a good cross-section of this country that this issue is joined.

Mr. DOLE. Would the Senator yield for a second?

Mr. PACKWOOD. Yes.

Mr. DOLE. I would indicate that is not my position. I would say for 6 weeks I even had difficulty convincing my staff.

Mr. PACKWOOD. That is a problem we all have.

Mr. DOLE. We ought to go to conference without any provision. We go to conference on tax bills of 1,300 pages. "No, you cannot go to conference, it is too complicated." If there is one provision, do you say it is too complicated? Maybe the chairman of the committee is not too anxious to go to conference. We could have been to conference a month ago. I do not quarrel with that.

I have been saying we should not have any provision, that we ought to go to conference. We have a strong provision in the House bill. We go there with no provision, and on the other provision we work it out in conference. If it is unacceptable, that is the end of the conference.

Mr. HATCH. Will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. HATCH. I would like to ask a question, but I would like to make some comments before I do. I have been involved in this from the beginning in the committee and elsewhere, in negotiations. I remember a short time ago when we were negotiating trying to put together a package that would please both sides or at least be somewhere in the middle so both sides could resolve their problems. Keep in mind, Bildisco was the compromise between a number of circles and the REA standard and which leaned very heavily toward the REA standard though it did not go as far as that case went.

I agree with the distinguished Senator from Kansas. The only reason that this is a provision in this bill at all is because within an hour, after the Bildisco case came down, leaders of the Judiciary Committee in the House, in a flurry, said, "We have to do something about this."

Keep in mind, we had just passed an omnibus crime package 91 to 1 in the Senate and sent it to the House. The comment made over there was it was dead on arrival, and it literally has been dead ever since. It is something that could reform the criminal laws in this country which 91 Senators in the Senate of the 92 who voted agreed with.

But all of a sudden it became so monumental they are willing to shoot down the whole bankruptcy system of this country in order to solve this.

So what do we do? I know that this Senator from Utah spent hours and hours well into the evening, all night long one evening, negotiating with all parties involved, and we came up with a provision that had the support of the airline pilots union, had the support of the machinists union, and the support of the Teamsters. They seemed to be the players who are most hurt by not having the date of enactment language in the provision.

We had the support of the National Association of Manufacturers at that time, all the banking and credit institutions, and a whole variety of others. I will be honest with you why that failed. It failed because the AFL-CIO did not think it went far enough, and it failed because the chamber of commerce did not think it went far enough the other way. That is basically why it failed.

I cannot blame either side. It was a compromise and it leaned heavily toward the union side. I have to admit that a number of Senators worked very hard on this, including the distinguished Senator from Kansas, the distinguished chairman of the Judiciary Committee, and a number of others.

All of a sudden we have this bill here today and we have to come up and resolve Bildisco again.

What happened was when this provision was shot down, the negotiated position was shot down, we then were asked to go and try and negotiate something else. So we went to the National Bankruptcy Conference, the only group I know of that has no partisan interest in this other than to have a well-functioning bankrupty system. They came up with the National Bankruptcy Conference provision that the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, has placed in this bill as a substitute.

I do not think there is any desire on the part of anybody to hurt any side or any position or point of view in this matter. There is a desire to pass a bankruptcy bill that resolves the bankruptcy system in this country, that puts 227 bankruptcy judges on the bench. It also helps to resolve the problems with our judicial system in this country, which has been growing at a caseload of 39 percent per year by having 85 judges, 15 of which are circuit courts of appeal judges. It resolves shopping center bankruptcies that have problems in bankruptcy that have just been horrendous for shopping center owners, leasehold owners and others. It resolves a variety of other matters. It has a number of trial lawyer considerations in this bankruptcy bill, some of which are in dispute and which we will debate later, assuming this bill is not taken down.

I presume that if the distinguished Senator from Oregon happens to prevail on this amendment, this bill has to be taken down. It is just that simple.

I have to agree with the distinguished Senator from Kansas when he said, let us strip this out. Let us take the National Bankruptcy Conference out, let us take their language out. Let us go to conference and let us let the two Judiciary Committee sense of conferees get together.

If anybody is going to refuse to have a bankruptcy bill, let us let them refuse it. Let us see if we can hammer it out so we can have a resolution of the Bildisco matter that will be acceptable to the two committees.

To me, that is the only way we are going to resolve this.

If the distinguished Senator from Oregon prevails, I think we all lose, the whole country, the whole judicial system of this country.

I suppose that if we pass the bill with National Bankruptcy Conference provision in, I do not know that Members of the House of Representatives are going to accept that, so we may lose it anyway.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. DECONCINI. Did I hear the Senator correctly state that if the amendment of the Senator from Oregon is adopted, this bill will not proceed?

Mr. HATCH. It is my belief that if this amendment is adopted, this bill will fall. I will not control that.

Mr. DECONCINI. Will the Senator agree that it would be a very grevious thing for us not to pass some bankruptcy legislation?

Mr. HATCH. Indeed, I would. I think if it is pulled down, it will be pulled down because of the Bildisco matter and that solely. That means that there are two sides to blame, because we almost had a compromise put together, and the one side, the union

side, and the other side, the Chamber side, blew it apart, they blew it down. So we have come up with what is a nonpartisan approach to this and it is apparently unacceptable to the union side.

Mr. DECONCINI. I doubt whether the Senator from Utah would be part of the obstruction here. But does not the Senator agree with the Senator from Arizona that we ought to include in the process, that we should go through this process and adopt the bankruptcy bill because of the great need for it and because of all the good things that are in there—things that I am sure the Senator from Utah has already agreed to.

Mr. HATCH. I agree with that. I think if we strip the Bildisco matter from this bill, and pass this bill without it, as the distinguished Senator from Kansas has suggested, with whom I agree, and leave it up to the conference between the two Judiciary Committees, we will resolve this issue. I see no other way to do it. But I think that is what has to be done or otherwise it will have to be pulled down.

Mr. DECONCINI. If the amendment of the Senator from Oregon is adopted, and if the Senate passes the bill with that amendment, the conference committee would still meet and still draw up a compromise, would it not?

Mr. HATCH. I think if the amendment of the distinguished Senator from Oregon is adopted, the House will accept it.

Mr. DECONCINI. I am not aware of that.

Mr. HATCH. I think, knowing the makeup of the House, and knowing how concerned they are about the Bildisco matter and knowing how they jumped right on it within an hour after the Supreme Court decision and withstood almost every other consideration of the House Judiciary Committee to pass this particular provision, I think if the Packwood amendment is agreed to, they will accept it. However, I think you would have a continual conflict the rest of our lives in this country if the Packwood amendment is adopted and I think we would in the end lose this bill.

What I am suggesting is that if the Packwood amendment is adopted, if the amendment of the distinguished Senator from Oregon is adopted, I do not know how this bill could go forward, because it does mean——

Mr. DECONCINI. Will the Senator yield? The bill will go forward by us staying out here and putting at rest anybody who wanted to delay it for an extended period of time. There are those of us who believe it is important, whether we agree with the Senator from Oregon or not. If we really want a bill, if we want to put the bankruptcy court back in business, with or without the Packwood amendment, somebody has to stand up and resist the attempts that may be made to extend this on and on, and the Senator may know better than I of the attempts that may be made. If that means cloture votes and what have you, so be it. It seems to me this is important enough to bring to a resolution.

Mr. HATCH. Mr President, the distinguished Senator speaks with wisdom, but I have to admit that I am saying something different. I am saying if the Packwood amendment passes, I believe this bill will be pulled down. I think that is how strongly certain people feel about this.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield to the distinguished Senator from Kansas for a question.

Mr. DOLE. I want to say to the Senator from Utah I do not disagree with the Senator from Arizona. But we have a problem called the calendar. There are only so many days around here, and we have a couple or 3 left this week and when we come back in June, then there are a couple or 3 weeks where we shall have some time until the Democratic Convention. Then there are 3 weeks until the Republican Convention. There have already been commitments made to certain Senators that certain bills may come up in June. As far as this Senator knows, bankruptcy is not on that list.

It does not take any genius to figure out that if he wants to oppose the Packwood amendment, all he has to do is hang around here a couple of days and that is it. The leader has no other option because of the press of impending business. We have the debt ceiling proposed now. It was just defeated by 100 votes, I am told, a few minutes ago, but they will resurrect it somehow. There are other bills that have to be addressed.

Obviously, this is a very important piece of legislation. That is why I hope that at a certain time, we can go to conference, forget about the so-called labor provision, the Bildisco provision, the NBC provision, whatever.

I am ready to go to conference. I commend the distinguished chairman of the committee that he would be willing to take out the NBC proposal, take it out, modify his amendment. If the Senator from Oregon would do the same thing with his, I think that would be helpful.

Mr. HATCH. If the Senator will yield back to me, I think the Senator has made a good point. I think the distinguished chairman has made a good point, too. That is that rather than have this log jam on the floor, it would be better for us to pass this without either amendment in, to take out the NBC amendment and go to conference where we shall have to resolve it. I think we can do that. I do not see how we can do it if the amendment of the distinguished Senator from Oregon passes. That is the concern I have.

I share the viewpoint of the distinguished Senator from Arizona that this bill, standing alone, is so important that we cannot afford not to pass it.

Mr. DECONCINI. If the Senator will yield. I think the Senator from Utah and the Senator from Kansas might agree that this bill is important. Yet we spent 4 weeks on the budget and, needless to say, I think everybody agrees we wasted a lot of time, though I realize that is the process. But if we take the premise of the Senator from Kansas and the Senator from Utah, we are going to be operating in this body only on intimidation. We have done that before in this body, at least in the 8 years I have been here, a number of times. It seems to me that sometimes you have to stand up to it and say OK, enough. I do not know how Senator PACKWOOD's amendment is going to come out. But it seems to me that to come to the conclusion that if he should prevail, the bankruptcy legislation is dead, and we are never going to see bankruptcy legislation, is really a mistake.

Mr. HATCH. that is not what I am saying.

Mr. DECONCINI. I apologize. I thought that was what the Senator was saying.

Mr. HATCH. I believe if this amendment passes, it will be pulled down or filibustered to death in this timeframe. If, however, he withdraws his amendment and Senator THURMOND, who has admitted that he would be willing to withdraw the NBC amendment, and taking Bildisco out of the case, then I believe instead of pulling the bill down, we can go to conference and resolve it. I believe, I say to the distinguished Senator from Arizona, as hard as he has worked on this measure, along with a number of other Senators on both sides, we can go with that measure to conference and hopefully work that out. I am afraid that we will not solve it here.

Be that as it may, I am not going to make that determination. I would like to ask a couple of questions of my friend from Oregon.

The first question, with regard to his amendment, as I read the amendment, it provides that the collective-bargaining agreement remains in effect until the bankruptcy court approves a rejection of the agreement.

Mr. PACKWOOD. I did not hear the start.

Mr. HATCH. The amendment provides that the collective-bargaining agreement remains in effect until the backruptcy court approves the rejection of the agreement.

Mr. PACKWOOD. That is correct.

Mr. HATCH. During that time, the employer must honor, as I understand it, the terms and conditions of the collective-bargaining contract.

Mr. PACKWOOD. That is correct, Mr. President.

Mr. HATCH. Most often, these contracts provide a no-strike clause binding the union to refrain from a strike during the term of that particular contract. My basic question is this: There is nothing in the amendment, is there, which would render a no-strike clause unenforceable during the pendency of the rejection petition?

Mr. PACKWOOD. It would be unenforceable if the contract is discharged in toto, so whether there is a no-strike clause or not would become irrelevant. Are you talking about this period before the court approves it?

Mr. HATCH. During the pendency of the petition.

Mr. PACKWOOD. During that period the no-strike clause is in effect——

Mr. HATCH. The Senator is saying that during the pendency of the petition, the no-strike clause would be enforceable?

Mr. PACKWOOD. Yes; I am saying all the provisions of the contract are in effect so long as the contract is in effect.

Mr. HATCH. Would not the no-strike clause also be enforceable upon the filing of the reorganization petition?

Mr. PACKWOOD. I want to say to my good friend from Utah that I presume so. I do not want to get into an area of law that I am currently not versed in. As I say, I practiced labor law some 20 years ago, but I am 20 years away from the practice of labor law now.

Mr. HATCH. I think the Senator would find that it would be, but I think we should try to have some of these questions answered.

I see in the Senator's amendment that there is imposed upon the employer the duty to meet and confer in good faith with authorized representatives to reach mutually satisfactory modification of the contract. Is that correct?

Mr. PACKWOOD. That is correct. The employer is not compelled to reach a conclusion. He is compelled to bargain.

Mr. HATCH. As the Senator is aware, the NLRA imposes upon both employers and unions the duty to bargain in good faith.

Mr. PACKWOOD. Yes, that is correct.

Mr. HATCH. My question is whether the Senator's amendment imposes this mutual obligation to bargain in good faith on both employers and unions.

Mr. PACKWOOD. Oh, yes. As the Senator will see from page 2 of the amendment, it is not quite the same language that he and I are specifically familiar with in the National Labor Relations Act, but it assumes that both parties will bargain in good faith. As a matter of fact, it does say if the union does not bargain in good faith or if the union rejects a justified offer of the employer, the union's position vis-a-vis the rejection of the contract is jeopardized.

Mr. HATCH. Is it the Senator's intention to incorporate into the Bankruptcy Code all the rules and permutations developed under the NLRA for defining good-faith bargaining?

Mr. PACKWOOD. No, it is not.

Mr. HATCH. In Bildisco, as I understand it, the court ruled that because the filing for reorganization rendered the contract unenforceable, the NLRB cannot issue a complaint for the employer's unilateral modification of the bargaining agreement. Relief can only be had in the bankruptcy court itself. That is my understanding.

Mr. PACKWOOD. For some reason, I am having difficulty hearing the Senator.

Mr. HATCH. It is my understanding of the law in Bildisco that the court ruled that because filing for reorganization rendered the contract unenforceable, the NLRB cannot issue a complaint for an employer's unilateral modification of the bargaining agreement; relief can only be had in the bankruptcy court. I think the Senator will find that is a correct statement.

Mr. PACKWOOD. As the Senator is aware, Bildisco was trying to resolve a conflict between the labor law and bankruptcy law as the NBC case was between the——

Mr. HATCH. Does the Senator's amendment overrule this portion of the court's holding?

Mr. PACKWOOD. Mr. President, let me say I do not want to agree to questions the Senator is putting on which I am not specifically sure of the answers. I am not sure what he is driving at, but I do not want to make a record here as we go into conference with the House beyond that which I intend to make.

Mr. HATCH. I think what I am attempting to ask is this: If the employer does attempt to modify the labor contract pending a final ruling by the bankruptcy court, would the union's only recourse be with the bankruptcy court under his amendment?

Mr. PACKWOOD. I want to take that under advisement. I am not sure because again the Senator is getting into an area of law beyond the bankruptcy law that I am not familiar with.

Mr. HATCH. If it is not, the Senator's amendment would not resolve the problems that have to be resolved.

Mr. PACKWOOD. All I am saying is I am making a very careful record. I do not want to find myself stating things beyond what I am exactly sure of. I know what I am trying to do with the labor contract and the discharge in bankruptcy. I am 20 years away from any kind of practice of national labor relations law.

Mr. HATCH. I understand that. I am not trying to put the Senator on the spot. I am trying to look forward, assuming that the Senator's amendment passes. They are important but technical areas of labor law. In other words, if the bankruptcy court gains jurisdiction, it ought to exercise jurisdiction and that ought to be the recourse that is had by either side. That is one of the problems that we have in this very technical and difficult area.

Let me cover another worry that I have. The National Bankruptcy Conference proposal that Senator THURMOND has put into this particular substitute contains an emergency modification provision. It allows the court to approve modifications if necessary to keep the debtor in business. That is one of the things the National Bankruptcy Conference proposal does. My question to the Senator is: Does his amendment make provision for such an emergency order authorizing modification?

Mr. PACKWOOD. What we provide is an expedited court procedure. We do not give the court those emergency provisions that the Bildisco case or the bill does.

Mr. HATCH. How many days would it take then for the court to make a final determination under the Senator's amendment?

Mr. PACKWOOD. At the outside, if you accept the letter of the National Bankruptcy Conference, they use the figure 73 days but that presumes that every party on both sides, including the judge's discretion, drags it out to the ultimate. Clearly, that is very unlikely to happen because one side has a greater interest in hurrying it along faster perhaps than the other side.

Mr. HATCH. Keep in mind we had union testimony, people from some of the unions who were very concerned about their local problem in some of these cases who felt that the national and the international union located elsewhere was not very considerate of their particular needs and could care less whether there was a formal bankruptcy with a full liquidation.

Mr. PACKWOOD. That argument is raised in the New York Times also, that is it not possible that, for the sake of a national wage pattern, a national union would be inclined to let a local company and its local members——

Mr. HATCH. Go down the drain.

Mr. PACKWOOD [continuing]. Go down the drain. The answer to that is this amendment directs itself to that company that is going down the drain.

Mr. HATCH. It may not just be a national wage pattern. It may be for any agreement that the international

union feels may be advantageous to it even though it may be disadvantageous to the local union and the local group of workers.

Mr. PACKWOOD. I am fully aware of that, but I am not quite sure what point the Senator drives at. That does not prohibit the local employer about to go bankrupt or the bankruptcy judge from discharging the contract if that is required, regardless of what the national union may or may not do.

Mr. HATCH. But it takes, at the outside, 73 days to do it because the international union disagrees with the local workers.

Mr. PACKWOOD. That assumes that the employer also opts to go to the final day on the employer's option to grant.

Mr. HATCH. What the Senator is saying the employer either caves in to what the union wants or he goes to 73 days.

Mr. PACKWOOD. No, no. You only get 73 days if the judge exercises his or her discretion that the judge alone has. At the outside, under the worse of circumstances—and we have been here long enough in this business not to try to prove a generality from a worst-case scenario—at the outside, if the judge exercises every discretion he has and if the union takes every day that it can and the court takes every day that he or she can, you get to 73 days.

Mr. HATCH. But in the Senator's amendment, you have to go through lengthy negotiations before you even get to the bankruptcy stage.

Mr. PACKWOOD. No; all you have to do is negotiate to an impasse, if it were collective bargaining, and there I can speak from practical experience. You do not have to go very far in collective bargaining or the equivalent to know whether or not you are likely to get a contract or whether you are likely to reach an impasse.

Mr. HATCH. It may very well be a lengthy negotiation and it may be to the national union's advantage but to the disadvantage of its local union members.

Mr. PACKWOOD. I understand that. And the employer files bankruptcy and then it is a case because normally you conclude your contracts with the local. On occasion, if you have what you call a master contract, you would have them with a national or international union but that is not common. The autoworkers, for example, do not have industrywide contracts. You have a Chrysler contract; you have a GM contract; you have a Ford contract; you have an American Motors contract; the Teamsters Union has a national contract, a master contract with some of the trucking companies. But, by and large, you go to the court and you say, "Your Honor, I offered to meet on Monday, I offered to meet on Tuesday, I offered to meet on Wednesday. The International will not let the local come to the meetings. I have done everything to get this to impasse or a conclusion and they will not meet. I ask that you now allow the contract to be discharged."

What is the union going to come in and say? "We will not meet Monday, we will not meet Tuesday, we will not meet Wednesday because we do not" what?

Mr. HATCH. One of the questions I hope the distinguished Senator will answer for me is, should we understand the Senator's amendment to allow modification only if the court makes the requisite findings as to good faith bargaining, minimum modification proposals, unjustified refusals by the union, and so forth, as is the language in the Senator's amendment?

Mr. PACKWOOD. That is correct. The Senator is almost paraphrasing the language of it.

Mr. HATCH. I am.

Mr. PACKWOOD. Yes.

Mr. HATCH. So the only way that the modification would be allowed is if the court makes those requisite findings?

Mr. PACKWOOD. Oh, yes, it would clearly, if the union is justified in its attempts to meet, if the employer, on the other hand, is using this as a leverage and a delay, if the employer has no desire to solve this by collective bargaining. I would come back to my opening statement. I would much prefer that this be solved by collective bargaining. As my good friend from Utah is well aware, we have seen many contracts in the last 5 years opened in the middle, renegotiated, and so-called give-backs occur or reductions in wages for companies that were on the possible verge of bankruptcy. I do not know if they were or not, but they certainly convinced the union that they were. And that is what I hope will be the outcome in most cases. I hope it never gets to a bankruptcy court.

Mr. HATCH. If in most cases they never get to the bankruptcy court, it is not really a problem. It is when they get into bankruptcy whether they are concerned or not.

Mr. PACKWOOD. My amendment is specifically designed so that before they ever have to file for discharge of their labor contract, the employer and the union have reached an amicable solution.

Mr. HATCH. Everybody hopes for that, but I am not sure that the Senator's amendment really is going to force them to do that before going into bankruptcy. The question is whether the Senator's amendment will be workable afterward without liquidation of the company in chapter 11 proceedings. In other words, what we are concerned about is, if you are going to lose the chapter 11 and lose the benefits of keeping these companies alive, keeping these employees working or are we just going to give too much leverage to one side? I do not know.

I want to thank the distinguished Senator from Oregon for at least answering those questions because they are of great concern.

I have a number of problems with the amendment of the distinguished Senator from Oregon. One is that its standard for rejection is much more stringent than the strict test rejected by the Supreme Court as "fundamentally at odds" with bankruptcy policies designed to save business. I think that it is too stringent.

A second point is that the procedures in this bill require a failing business to enter into protracted bargaining reminiscent of labor arbitration at a time when survival may depend on instantaneous decisions and, the ability to attract an influx of capital.

The third point is that the "minimum modifications" test on top of the REA Express necessity standard makes it very difficult, if not impossible, for a failing business to make broad enough changes in its labor contracts to attract new capital and reestablish itself on a sound footing.

REA was considered the most extreme position on the left of this issue, and I suppose the business standard was the most extreme position on the right, and Bildisco was somewhere in the middle. The negotiated proposal that I have been working on was somewhere between Bildisco and REA but the Court rejected REA, 9 to zero.

The fourth point is that requiring the parties in negotiation—and the court thereafter—to "estimate" the "sacrifices" * * * "to be made by all classes of creditors and other affected parties" is simply unworkable. It stands the chapter 11 proceedings on its head. To me, there is no way, at the outset of a reorganization proceeding, to divine what contributions and sacrifices might be required of all creditors. That is the job of the creditors' committee, of which the union would be a part. At the outset of a chapter 11, all creditors are not even known, nor are the amounts of the obligations of the business known. To say at the outset, when the business must solve its cash flow problem to survive, that it must discern what all creditors may eventually have to sacrifice to keep the company alive, in my opinion, is nearly impossible, at least in the more complex bankruptcy situations.

In Continental, there were a lot of nonunion employees that this provision would not really protect. There were a lot of union employees who did not want to go with the international union which this provision would not protect. There are a lot of other creditors—nonunion employees, union employees, and others—who would not be protected by this provision. In other words, we would be just turning over

complete control of that chapter 11 proceeding to the union, the organized labor side of the equation. They certainly should have every right and reason to protect their creditors' rights and interests, but to turn over control to them or the nonunion people, it seems to me, is wrong.

To say at the outset, when the business must solve its cash flow problem to survive, that it must discern what all creditors may eventually have to sacrifice to keep the company alive—I repeat, it is nearly impossible, if not impossible. I think it could further protract the bargaining and could have the effect of binding creditors and other parties who are not parties to the negotiation. It is hardly a fair process. It is not in the American tradition of due process.

The fifth point is that the additional requirement that the union must have "unjustifiably rejected" the minimum modification offer further muddles this proposal. What is the standard for unjustified refusal to accept the offer? If, indeed, the business succeeds in making an offer which complies with this very strict "minimum modification" test, what could possibly justify the union's rejection of that offer? What is required beyond the strict minimal modification standard coupled with the estimated sacrifices process? It seems that this provision would give one party to this process a veto over the entire negotiation effort—a veto, moreover, that the court can only override if it is found to be unjustified. That is a high standard. Any reason might be found to justify refusal to accept the offer.

The sixth point I make is that this proposal requires the business to provide the union with all information necessary to evaluate the minimum modification offer. This would be the source of length business-killing litigation. It would be the death of the business. If the union wants to kill the business, it can. I do not see why it would, but I know that they do from time to time. Inevitably, the business will want to protect some confidential information that the union would like to assess, such as the potential profit to be earned from a new formula or planned new product line. If that new product is compromised, the business fears it will perish, in any event. The union, however, may enter into litigation on this point to force the business, which is hemorrhaging by the hour, to give further concessions in the interest of time. If modified by some standard of "reasonableness," this provision might not pose a threat to the imbalanced bargaining process proposed by the amendment of the distinguished Senator from Oregon.

The seventh point is that the timeframes are also of some concern in this amendment. If a business is in financial distress, it probably cannot afford to wait up to 28 days to get a hearing on its decision to reject, nor can it afford to wait another 45 days for the court to rule on the decision. In other words, a business must first show that it has complied with the extensive bargaining requirements of the amendment. At that time, the business may have to wait an additional 73 days before a ruling on its application. It is hard to imagine that a company in that kind of distress would be willing to risk losing its competent labor force and could survive for 73 days without some influx of capital. Yet, no investor will risk an investment in a company whose future lies in the hands of an uncertain court outcome.

Any way you look at it, those points are well taken against this amendment, although I have to admit that I have tried to resolve this between Bildisco and the REA case. I believe that the amendment of the distinguished Senator from Oregon goes even beyond REA. In fact, I have no doubt about it.

I think the National Bankruptcy Conference, a bipartisan, nonpartisan group, really has no axes to grind, other than to make sure that the bankruptcy system of this country works. They agree. The Senator's amendment goes beyond REA.

The unions in this country would have loved to have REA standard, because it would give them basic control over the chapter 11 process. They could kill any company they wanted to kill and could save any company they wanted to save.

Bildisco recognizes that that is not proper and, by 9 to 1, set up the balancing of the equity standard in order to resolve these issues among all creditors, not just unions. There are lots of other creditors, including nonunion employees, who have to be protected in these matters.

I am concerned about it because I would like to see this bill pass. I share the feelings of the distinguished Senator from Arizona. We have worked long and hard on this bill, and it could solve many problems in our society today. It solves grain elevator problems in bankruptcy. It solves shopping center problems in bankruptcy. It solves a lot of our judicial problems. It solves getting 227 bankruptcy judges. It is really an important bill.

The distinguished Senator from Kansas has made an eloquent and good suggestion, and that is that neither side prevail on this. Let us strip all provisions, and let us go to conference, and let us see if, in the interests of this country, we can put aside partisan, ideological battles and do what is best to pass this bill, and do it through a conference procedure with the committees of the House and the Senate.

I think that is the only way we will get this thing resolved. I have been wrong before, and I could be wrong today.

I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Utah, Mr. President. He has put a lot of time in this bankruptcy effort. However, I believe that he has exaggerated a little the severity of the amendment.

I am pleased to join my colleague from Oregon in sponsoring this amendment, which seeks to address one of the most difficult issues in this bankruptcy debate. This amendment represents a fair and reasonable approach to the collective bargaining issue—an approach which equitably considers the interests of both labor and business. Let me note that the amendment has received the strong support of labor. In my opinion, this amendment really represents a fundamental philosophical approach that tries to balance and be fair to the competing concerns involved here. We have a National Labor Relations Act in this country. Some people do not like it, but it is the law of the land, our national policy, and I think it is important that we do not abandon it. The Bildisco case took the theory and philosophy behind the National Labor Relations Act, and largely and summarily abandoned it.

The amendment being offered by my friend from Oregon brings together, in a workable and just manner, two very divergent policies—national labor policy and bankruptcy policy. This amendment seeks to reconcile these two competing policies by adopting an approach to the rejection of collective bargaining agreements that is different than the approach that has evolved through caselaw.

The differing caselaw standards for rejection developed by the courts have ranged from the "but for" test of the REA Express case, to which the Senator from Utah just made reference, in which a debtor could only reject a collective bargaining agreement if "but for" rejection the debtor company would collapse, to the "balancing of the equities" standard of the Bildisco decision. This amendment represents, in my judgment, a fair and reasonable compromise between these two tests.

Under this amendment, a court will approve an application for rejection of a collective bargaining agreement only if the court finds the following:

First, that prior to any hearing for rejection, good faith negotiations have taken place between the debtor and the representative of the employees. Additionally, the debtor must have submitted to the authorized representative a proposal which calls for the "minimal"—and I stress "minimal"—reductions in the collective bargaining agreement which will still permit a successful reorganization.

The requirement of this proposal is inherently reasonable, since it seeks to ascertain only those modifications in the agreement which are truly necessary to allow effective reorganization. The remedial goals of our bankruptcy system are preserved, while at the same time the interest of the employees are disrupted to the minimum extent possible.

Second, before allowing rejection, the court must find that the authorized labor representative has refused to accept the debtor's proposal and that such refusal was found by the court—not by labor, not by the trustee, not by the debtor, not by the employer but by the court—to have been under all the circumstances, unjustified, and;

Third, the court must find that the equities clearly balance in favor of rejection.

Mr. President, I do not know what else you could do to be truly fair to both the debtor and the employees. The first two conditions are clear—whether or not an offer specifying minimal reductions was made, and whether labor refused it, unjustifiably. And the court then has to make a finding of fact that the equities clearly balance in favor of rejection.

So we are not putting any great burden upon either party. The Senator from Utah is right. This process may take about 70 or 72 days. But is that too long to ask for people to try to solve such a serious and consequential problem, by making an offer of minimal disruption and having it refused or accepted—hopefully accepted? The parties then can continue either without filing in chapter 11 or going into reorganization or even into chapter 7 liquidation.

In practice, this will be a workable and effective standard. The debtor entity will undoubtedly have a lengthy financial history which will reflect its costs of doing business, including its labor costs. For the purposes of making the proposal required by this amendment, the debtor will have ready access to information detailing its financial needs and will be able, with a fair degree of accuracy, to determine the portion of the costs attributable to labor. Furthermore, in attempting to reorganize, the debtor will already be soliciting financial sacrifices from all classes of creditors and employees and will therefore be able to consider such potential sacrifices in its formulation of a proposal.

This amendment, rightly and fairly mandates that sacrifices made by collective bargaining employees not be disproportionate. The employee sacrifices should be minimal, which is precisely the degree of sacrifice that every other class of creditors will be asked to bring about.

No one party should be made to take it all on the chin. As we all know, Mr. President, everyone loses in a bankruptcy. Everyone is called on to make sacrifices. Organized labor employees must be called upon to make sacrifices to no less of a degree than anyone else. But they should not be made to unfairly bear the burden of cost reductions, where there are other classes of creditors who should be called upon to make a corresponding financial sacrifice.

Mr. President, I have had some conversations with the original sponsor, my friend from Oregon, Senator PACKWOOD, regarding the effective date of this amendment and what effect this would have on pending cases. I wish to ask the Senator from Oregon if he might consider placing in this amendment any standards that presently exist in case law which would clarify application to pending cases. Under these existing standards, it would be left to the court to make the determination whether this amendment would apply to pending cases, based on the manifest injustice standard in some of the cases such as the Bradley case or the Peggy Schoones case, that I am sure some of the Senators are aware of.

I wonder if the Senator can tell me if he is considering any alterations along those lines.

Mr. PACKWOOD. I am not considering any alterations. Earlier the sponsor of the amendment talked about the alleged unfairness of retroactivity. I went through the cases that existed now and the fact that the courts rule right now that it is manifestly unjust not to apply it.

But the normal standard is you apply laws that are effective upon the date of enactment to cases that are then pending. That is the traditional law in this country.

To make an exception by statute for Continental would be running contra to the normal rule.

As to whether or not I would be interested in an amendment which in essence I think, if what the Senator is saying is correct would be a statutory restatement of what is basically the existing common law, if I can call it that. I wish to reserve judgment on that, but as I understand that is the question the Senator is asking.

Mr. DECONCINI. The Senator is almost correct. I am not sure it is the common law that he refers to, but it is the law as set forth in several cases including those previously mentioned. So it is certainly case law that is the standard or the conclusion that I am talking about. I am not talking about a specific exemption for any particular pending case, but only restate within this amendment, and hopefully within this bankruptcy legislation we pass, what is already the law.

Mr. PACKWOOD. What I might suggest to my good friend and colleague and cosponsor of this amendment, what I would like to get for a moment is a vote on the amendment as it is. He is well aware it is open to amendment. Frankly, I do not know where the votes are on this. I do not know if there will be a motion by someone to table. After this vote, I would be in a better position to respond to the question of the Senator from Arizona and I think for further negotiations with some others.

Mr. DECONCINI. I think I understand what the Senator is saying.

I am interested in the Senator's amendment succeeding, and maybe he is satisfied that it will. Perhaps he is a far better counter of votes here than I am. But I believe that if we added that particular case law standard that I just made reference to into this amendment it would enhance the ability to see that it passed now.

This is the Senator from Oregon's amendment. I am not here to in any way impair it for him. I am trying to help him. But if the Senator is so inclined——

Mr. PACKWOOD. I tell my good friend that if we could simply have a vote on this amendment as it is now, I would be satisfied and I would feel reasonably confident. I do not know what is going to happen after that because it is open to further amendment. It is open to a filibuster, and that has been threatened. I do not know if that will happen or not.

The Senator and I have been in this body long enough to see many threatened filibusters that evaporate. So I am not going to say there will be one, but I think from the standpoint of the position the Senator and I share, he would be wise at the moment to see if we could get a vote on the amendment as it is.

Mr. DECONCINI. Mr. President, if the Senator will yield, I take it the Senator would not want to entertain any amendment of the sort that I am suggesting at this time.

Mr. PACKWOOD. Not right now.

Mr. DECONCINI. Mr. President, as I said, I am not here to disrupt the Senator's effort. but I wish the Senator would consider this Senator's request, because, as I said, there are a number of people who talked to me who feel that adding the existing standard would clarify what we know the case law to be now and make it very clear and precise. I know I would feel much more comfortable about this amendment if that were the case.

Mr. PACKWOOD. I wonder if I might ask my good friend this: Is what they are asking, "We would like what we understand to be the existing law to be restated and applied in the Continental case and all other cases, by the way, that are pending."

Mr. DECONCINI. The Senator is absolutely correct. That is why it seems to me that the suggestion the Senator

from Arizona is making contains nothing that would substantially disturb the Senator's amendment that is pending here.

Mr. PACKWOOD. I suggest both the Senator and I yield the floor, as I see the chairman wishes to talk right now.

Mr. DECONCINI. Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I am strongly opposed to the amendment offered by my distinguished colleague from Oregon, Senator PACKWOOD. Passage of this amendment would make it extremely difficult, if not impossible, for companies with a unionized work force to obtain relief under chapter 11 of the Bankruptcy Code. If we do not allow such companies the opportunity to effectively reorganize, the alternative is likely to be liquidation in which all jobs are lost.

The Packwood amendment represents the position of organized labor on this issue. Its provisions, drafted from labor's point of view, evidence a lack of understanding and concern regarding the viability of our bankruptcy laws. It stands in clear contrast to the provisions of the committee compromise drafted by an independent group of bankruptcy experts, the National Bankruptcy Conference. There can be little doubt about which provisions are fairer to both management and labor and which are more workable in the context of our bankruptcy system.

Let me briefly review the provisions of the Packwood amendment and explain why I believe its effect on financially troubled businesses would be so detrimental. One of the first and most significant problems with the Packwood amendment is the requirement found in subsection 1113(b)(1)(A) that, prior to filing a motion to reject a labor contract, the trustee must make a proposal to the union, providing for "the minimum modifications in such employees' benefits and protections that would permit the reorganization, taking into account the best estimate of the sacrifices expected to be made by all creditors and other affected parties to the reorganization." Organized labor's apparent concern here is that an employer might require its unionized employees to contribute a disproportionate share of the money to keep the company going. While this is an understandable concern, I do not think it represents what actually happens nor is this requirement workable in the context of corporate reorganizations. It ignores, for example, the sacrifices which are already being made by these affected by the reorganization. The debtor who is trying to reject his union contract has probably already cut wages and benefits for any nonunion workers he may have. Thus, nonunion employees are early contributors to the reorganization effort. Also, any suppliers of the debtor or others having any business dealings with the debtor are not likely to receive any payments from the debtor which may be due them. They cannot, however, take any legal action against him by virtue of the automatic stay provisions of the code. Thus, they are, in a sense, contributing to the debtor's reorganization.

Aside from ignoring the sacrifices already being made by others, the "minimal modifications" proposal requirement is simply not feasible in a bankruptcy context. It requires, in essence, that the trustee or debtor structure an entire reorganization plan before obtaining any relief from his labor costs. This is a process which, under normal circumstances, may take months. A debor is required by subsection (b)(l)(A) to take into account the "best estimate" of the sacrifices to be made by all classes of creditors and other affected parties. It would be very difficult, however, to estimate what those sacrifices might be unless all creditors and affected parties are contacted and at least some discussion and negotiation has occurred. Yet, this requirement must be fulfilled at a time when a creditors's committee may not even have been formed or, If formed, may have barely begun to function. Thus, it may be very difficult to obtain a response from creditors and affected other parties.

The proposal requirement may also place the debtor in a catch-22 situation with regard to obtaining further financing. If his labor costs constitute a large percentage of his overall expenses, the debtor may not be able to obtain financing unless he can demonstrate that he will be able to significantly reduce his labor costs. That, in turn, may not be possible to do in a timely manner under the provisions of the Packwood amendment.

Finally, this requirement is likely to produce nothing but litigation. Does the debtor's offer really involve only "minimal modifications"? Will such minimal modifications "permit" the reorganization? How was the "best estimate" of the sacrifices of other creditors and parties determined? Could such creditors and parties have made greater sacrifices? Litigation over these and certainly other issues will only lead to delay which, in turn, may jeopardize the debtor's ability to reorganize.

A question should also be raised regarding subsection (b)(1)(B) requiring the debtor to provide "information necessary to evaluate such proposal." Since relevant information is already available to the unions under existing rules of discovery, I question the necessity of a new statutory provision requiring the release of what may be very sensitive financial information. If this provision is intended to go beyond existing law, I think that fact should be acknowledged, explained, and clearly justified. A concern was raised at our April 10 hearing that this type of requirement might increase an employer's disclosure obligations under the National Labor Relations Act (NLRA). Herbert P. Minkel, testifying on behalf of the National Bankruptcy Conference, stated that, since the requirement to provide information related to the ability to confirm a plan, union representatives may be able to obtain information which they would not be entitled to receive under the NLRA. I suggest that existing law in this area should be maintained.

Subsection (b)(2) provides that, between the time that the debtor makes his proposal and a hearing is commenced on a rejection application, the "trustee shall meet, at reasonable times, with the authorized representatives to confer in good faith. . . ." This language is drawn directly from the National Labor Relations Act. Section 8(d) of the NLRA states in pertinent part that "to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, . . . ". Section 8(d) is, however, the specific section of the NLRA which the Supreme Court in Bildisco refused to apply in a bankruptcy context. The language of subsection (b)(2) may result in the establishment, in the bankruptcy context, of cumbersome and rigid procedures modeled after those contained in labor law. We should not risk imparting such procedures into the bankruptcy context.

Subsection (c) sets out the standard which the debtor must meet in order to reject his labor contract. While this section purports to retain a form of a "balancing of the equities" test, it is clear that this section goes far beyond the standard approved by the Supreme Court. First, the court must find that the trustee or debtor has complied with the proposal requirement of subsection (b)(1)(A). I have previously discussed the enormous difficulties in complying with that requirement. Second, the court must determine that the union has not accepted the debtor's proposal and that "under the circumstances such refusal was unjustifed." The meaning of the requirement is entirely unclear to me, as I am sure it will be to those who must comply with it. When would the union's refusal be "unjustified"? Does this mean "unjustified" in the context of labor law or of bankruptcy law? What are the "circumstances" which must be taken into account? Only after subsections (c) (1) and (2) have been met, however, does the court reach the balancing of the equities

test. Even this formulation of the balancing test is more stringent than that approved by the Supreme Court. The equities must now "clearly" balance in favor of rejection—an additional protection for the union contract.

Subsection (d) sets out the procedures to be followed after the debtor files an application for rejection. The court must hold a hearing on such application not later than 21 days after its filing. There is a possible 7-day extension of this date or an extension for such additional period of time to which the parties may agree. The court must rule on the application for rejection within 30 days of the commencement of the hearing. This may be extended for 15 days or, again, for such time to which the parties may agree. Assuming the maximum amount of time will be utilized, as I think it is safe to assume, a debtor will not be able to alter or reject his collective bargaining agreement for at least 73 days. In all probability, this time period will be longer since it does not start to run until an application to reject is made. Pursuant to subsection (b)(1), however, the debtor must have made his "minimal modifications" proposal to the union prior to filing an application to reject. This proposal, because of difficulty inherent to putting it together, is likely to take some time to formulate. The debtor must also have begun the process of meeting and conferring in good faith. Assuming a minimum of 30 days for this process, the entire time period set out in the Packwood amendment begins to exceed 100 days before the debtor obtains relief. This is simply too long to wait. The debtor, unless he has acceded to union demands, may well have had to liquidate his business by this point.

Finally, the Packwood amendment provides that the changes which it makes in existing law shall become effective on the date of enactment. This basically means that they will apply to pending cases. Such application is not, in my opinion, wise from a public standpoint. Retroactive application of these amendments may well cause extensive relitigation of issues or, at worst, may force some companies to liquidate.

Mr. President, in contrast to the Packwood amendment, the compromise labor language—that is the language proposed by the National Bankruptcy Conference—contained in the committee substitute is much fairer to all concerned and will undoubtedly be clearer to those who must comply with it. The committee substitute preserves the 9 to 0 portion of the Supreme Court decision, while the Packwood amendment adds confusing and unworkable threshold requirements to the balancing of the equities standard. The committee substitute contains the simple requirement, based on language in the Bildisco decision itself, that the court must find that reasonable efforts to negotiate changes have been made and have not been successful. The Packwood amendment contains detailed and unrealistic procedures, based on labor law concepts, for a proposal to be made to the union and for both sides to meet and confer in good faith after the debtor has filed for bankruptcy. The committee substitute keeps the collective bargaining agreement in place for 30 days, but allows immediate relief if essential to continuation of the debtor's business. The Packwood amendment could delay any relief for over 100 days, a significant delay which could force many businesses to liquidate. Finally, the committee substitute would apply prospectively, while the Packwood amendment, applied retroactively, could cause expensive relitigation of issues and possible liquidation.

Mr. President, I urge my colleagues to vote against the Packwood amendment. Its provisions are unworkable and therefore unfair to companies in severe financial difficulty. Organized labor, without any regard for the viability of our bankruptcy laws, is proposing amendments which may effectively repeal chapter 11 for unionized companies. This vote should not be viewed as a vote for or against organized labor. The legitimate concerns of labor are addressed by the provisions contained in the committee substitute. This is a vote between what is equitable and workable in our bankruptcy system and what are unrealistic demands of a special interest group.

Mr. President, at the Republican policy luncheon today, Senator DOLE suggested that I offer to delete subtitle J of title III, which is this collective bargaining provision, if Senator PACKWOOD would not offer his amendment. I considered the matter and decided if that would help us get a bankruptcy bill, maybe it ought to be given the most careful consideration. We have waited now for a year or two to get a bankruptcy call. This bankruptcy bill contains many fine provisions, the one we sent to the House, and the one the Senate passed. But the House took out some of those provisions, put in this union proposal, sent it back to us, and removed the judges as well.

As I have started, we have worked for a long time trying to reach a position that is fair to management and fair to labor. This committee substitute that I am offering—compromise proposal—is not favored by the business people, and is not favored by the labor unions. I urged the business people not to reject it. I pled with them to please go along with it, as I saw it as the only hope to get a bankruptcy bill. They finally reluctantly agreed to go along. I had hoped the labor people would do the same thing because we felt this was a middle ground that would be fair to both sides. It is the only possible way I know that we could get together on a proposal, and have a bankruptcy bill.

I was hoping that would be accepted by my good friend, Senator PACKWOOD, of Oregon. But he was conferred with the labor leaders, I believe, and they have decided not to go along.

Mr. President, again I want to offer my distinguished friend from Oregon—he is my good friend—the proposition that if I withdraw subtitle J of title III from this bankruptcy bill, is he willing to withdraw his amendment and let us get a unanimous consent that no amendment on this subject will be offered to this bill so we can go ahead and pass a bankruptcy bill?

As I stated, this National Bankruptcy Conference is composed of law professors, is composed of practicing lawyers in bankruptcy, is composed of bankruptcy judges, and we asked them to come up with a proposal which they felt was fair to both management and labor. After much hard work and much consideration they have finally done so.

Mr. President, I ask unanimous consent at this point that two letters from the National Bankruptcy Conference be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. One letter is dated May 7, 1984, and explains the provisions in the compromise or substitute which I have offered here, and the other is dated May 18, 1984, which explains the severe problems which passage of the Packwood amendment will cause.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

[Federal Express]

NATIONAL BANKRUPTCY CONFERENCE

May 7, 1984.

Re: Treatment of Collective Bargaining Agreements under the Bankruptcy Code.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR THURMOND: On April 11, 1984, I sent you a summary of my testimony in connection with the joint hearings of the Senate Judiciary and Labor Committees concerning the above-referenced subject. Enclosed with my letter was a copy of a draft bill prepared by the National Bankruptcy Conference. The following is an explanation of the provisions of the Conference's proposal:

1. The NBC bill would amend section 365 by adding a new subsection (k). This subsection would be applicable to chapter 9, 11 and 13 cases.[1]

[1] Section 901(a) makes section 365 applicable to chapter 9 municipal reorganizations. Section 903 of Title 11 provides that chapter 9 "does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State

2. The proposed section 365(k)(1) adopts the standard for rejecting collective bargaining agreements which was adopted by the Supreme Court in *National Labor Relations Board v. Bildisco & Bildisco*, —U.S.—, 104 S. Ct. 1188 (1984). In essence, it would permit rejection if the court finds that the contract is burdensome and, after a balancing of the equities, the need for rejection outweighs the burdens of assumption. For reasons set forth in greater detail in paragraph 6 of this letter, the Conference believes that the stricter standard adopted by the Second Circuit in *Brotherhood of Railway, Airline and Steamship Clerks v. REA Express, Inc.*, 523 F. 2d 164 (2d Cir.), *cert. denied*, 423 U.S. 1017 (1975), is difficult, if not impossible to apply in reorganization cases, particularly in the early stages when the issue is apt to be raised. The conference also beleives that the standard can produce inequitable results in the context of debtors with multiple operations or multiple collective bargaining units where a majority of employees or their unions are willing to make concessions. Proposed section 365(k)(1) includes minimum conditions precedent to rejection, namely, the court must find that the debtor or trustee has made reasonable efforts to negotiate contractual modifications, that such efforts have failed or are likely to fail, and that the failure to modify the contracts threatens to impede the success of the debtor's reorganization.

3. The conference's proposal would reverse that part of the *Bildisco* decision which permits the debtor to take unilateral action contrary to the collective bargaining agreement subsequent to entry of an order for relief and prior to court approval of the application for rejection. The conference felt, however, that a debtor should be required to comply with the terms of its collective bargaining agreements after entry of the order for relief only if there was an effective mechanism for (i) emergency relief where performance would jeopardize rehabilitation efforts and (ii) prompt adjudication of the issues presented by an application to reject. In addition, the Conference felt that relief from the contract should be automatically granted if the court does not hear and/or determine the rejection application promptly.

Paragraph (2) provides that during the first 30 days after the trustee has sought rejection, the agreement is continued in effect pending the final hearing. After such 30-day period, the agreement is deemed not to be in effect provided that such 30-day period may be extended by the court upon request by the union unless there is a reasonable likelihood that the trustee will prevail at the final hearing on the request for rejection. Extension of the 30-day period may be obtained by the union at a preliminary hearing which will permit both parties an opportunity quickly to set before the court the immediate needs or lack of emergency existing under the circumstances of the case. Paragraph (3) provides that during such 30-day period or an extension thereof, the trustee may not implement any changes in the terms, conditions, wages, benefits or work rules under the agreement except in an emergency situation when changes are necessary to operate or preserve the business, and then only after notice to the union and authorization by the court after a hearing. The concept and language are taken essentially from §§ 362 (d) and (e) which concern requests for relief from the automatic stay.

4. Section (2) of the proposed bill provides that the amendment of section 365 is applicable to cases commenced after the enactment of the amendment. The Conference believes it should not apply in pending cases.

5. The Committee Report or floor statement accompanying the amendment should mention that the omission of any contrary provision in the amendment means that section 365(g) applies if the court approves rejection. Therefore, if the contract has not been assumed under section 365 or under a plan confirmed in a chapter 9, 11 or 13 case, rejection of the contract constitutes a breach of such contract immediately before the filing date and thus, damages arising by reason of such rejection are prepetition claims.

6. As you are aware, on July 24, 1975, the Second Circuit decided *Shopmen's Local Union No. 455* v. *Kevin Steel Products, Inc.*, 519 F.2d 698 (2d Cir. 1975). The court held that a collective bargaining agreement is an executory contract and could be rejected in a case under Chapter XI of the Bankruptcy Act. The court also held that the determination of whether a collective bargaining agreement could be rejected should not be determined solely on the basis of whether rejection will improve the financial status of the debtor. The court cited with approval, *In re Overseas National Airways, Inc.*, 238 F. Supp. 359, 361-362 (E.D.N.Y. 1965), that the bankruptcy court should permit rejection of a collective bargaining agreement—

"Only after thorough scrutiny, and a careful balancing of the equities on both sides, for, in relieving a debtor from its obligations under a collective bargaining agreement, it may be depriving the employees affected of their seniority, welfare and pension rights, as well as other valuable benefits which are incapable of forming the basis of a provable claim for money damages. That would leave the employees without compensation for their losses, at the same time enabling the debtor, at the expense of the employees, to consummate what may be a more favorable plan of arrangement with its other creditors." 519 F.2d 707.

One month later, a different Second Circuit panel decided *Brotherhood of Railway, Airline and Steamship Clerks v. REA Express, Inc., supra.* The Second Circuit held that executory collective bargaining agreements subject to the provisions of the Railway Labor Act ("RLA") could be rejected in a Chapter XI case where, "after careful weighing of all of the factors and equities involved, including the interests sought to be protected by the RLA, a district court concludes that an onerous and burdensome executory collective bargaining agreement will thwart efforts to save a failing carrier in bankruptcy from collapse. . . ." 523 F.2d 169. The court followed the analysis of *Kevin Steel Products* that the debtor was a new juridical entity and thus was not a party to and was not bound by the terms of the collective bargaining agreement entered into prior to the filing date.[2] The court further noted that, although a debtor-in-possession, REA was not bound to assume the collective bargaining agreement of its predecessor. As a new employer, however, it was obligated to bargain collectively with the representatives of its employees. 523 F.2d 170. Following *NLRB v. Burns Int'l. Security Services, Inc.*, 406 U.S. 272 (1972), the court noted that although the debtor-in-possession, as a successor employer, had a duty to bargain collectively, "it had no obligation to refrain from changing the terms of employment before such bargaining occurred." The holding of the Supreme Court in *NLRB v. Burns Int'l. Security Services, Inc.* as articulated by the Second Circuit in *REA Express* is interesting:

"As a new employer, Burns was held to have a right unilaterally to set the initial terms on which it would hire employees. Moreover, the Court stated, to bind a successor-employer to the terms of its predecessor's collective bargaining contract could, where the terms of the agreement were onerous, discourage or inhibit a potential successor from taking over a failing business. Thus a new employer, it was emphasized, must be granted certain prerogatives at the outset in making changes in the method of operation, business structure and labor arrangements of a venture. Otherwise, the free flow of capital and efforts to revive or expand a weak enterprise might be frustrated.

"These principles are particularly applicable to the efforts of a trustee or debtor-in-possession to save a carrier from complete collapse or liquidation. Unless the debtor-in-possession is permitted to act promptly, albeit unilaterally, in avoiding onerous employment terms that will prevent it from continuing as a going concern, the enterprise, and with it the employment of its workers, may fail." 523 F.2d 170-171.

In most reorganization cases, applications for rejection of collective bargaining agreements will not be filed because contracts are either not burdensome or, in cases where the contracts are burdensome, the debtor and the employees' representatives negotiate modifications of such contracts in the ordinary course of the collective bargaining process. In its testimony during the hearings, a representative of the AFL-CIO stated that in 19 of 22 cases where the *REA Express* rejection standard was applied, the court approved rejection. In other words, in these cases the facts demonstrated that rejection of the collective bargaining agree-

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in the exercise of the political or governmental powers of such municipality. . . ."

Section 904 provides that: "Notwithstanding any power of the court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise interfere with—

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property."

[2] In *REA Express*, the Second Circuit suggests that a contract may be assumed either expressly or by conforming to its terms without disaffirmance, citing *Burke v. Morphy*, 109 F.2d 572 (2d Cir.), *cert. denied*, 310 U.S. 635 (1940). Section 365(a) requires court approval for the assumption of an executory contract. This provision insures that creditors will have an opportunity to be heard in the event that the debtor chooses to assume the contract. This is particularly important since once a contract has been assumed, damages arising by reason of the subsequent breach of the contract or rejection of the contract in a subsequent liquidation case, are entitled to priority under section 507(a)(1) as administrative expenses. Under no set of circumstances, should the debtor or trustee be bound by an executory collective bargaining agreement by reason of complying with the terms of such agreement prior to filing an application to reject. Any statutory change should be accompanied by legislative history which makes it clear that a contract may be assumed only by court order and that complying with the contract pending rejection does not change the priority of claims arising by reason of breach of the contract.

ments was necessary if the debtor was to survive. Thus, the controversy concerning the appropriate standard for rejection of a collective bargaining agreement is actually only relevant to cases where the evidence demonstrates that the collective bargaining agreement is burdensome, and where the equities favor rejection of the contract notwithstanding the fact that failure to permit rejection would not cause the collapse of the debtor as an ongoing economic entity.

Although the "balance of the equities" standard may not be necessary for relief in the majority of cases, the *Bildisco* standard is far preferable to the *REA Express* standard for several reasons. First, the *REA Express* standard cannot be accurately applied at the early stages of a reorganization case when the court and other parties in interest cannot fairly be expected to pass judgment on the depth of the debtor's financial problems and the debtor's probability of successfully reorganizing. Second, the standard is generally irrelevant in chapter 9 where the continuation of the municipality is presumed. Third, the standard is very difficult to apply under the new chapter 11 where the debtor (1) may be rehabilitated and continue as a viable economic unit or (ii) may be liquidated in whole or part. Fourth, the *REA Express* standard discourages good faith negotiations by unions in certain circumstances and may produce substantial inequities in cases where there are multiple operations or multiple bargaining units and where one collective bargaining unit refuses to modify a contract notwithstanding substantial concessions by other union or nonunion employees.

The following is an analysis of some of these factual situations:

(a) Chapter 11 of the Bankruptcy Code is a more flexible reorganization structure than either Chapter X or XI of the prior Bankruptcy Act. One aspect of this flexibility is section 1123(a)(5), which permits a plan of reorganization to provide for the liquidation of the debtor's assets. Thus, an effective reorganization is possible under chapter 11 even though the debtor will not continue as an ongoing economic entity.[3] In a liquidating chapter 11 case, all executory contracts should be terminated except for those which will enhance the value of the debtor's assets in the liquidation.[4] Various formulations of the *REA Express* standard, which have been suggested for inclusion in the proposed Senate Bankruptcy legislation, do not adequately deal with the need to preserve the flexibility which is so important in chapter 11. In those cases where the debtor has one operation covered by one collective bargaining agreement, the problem of applying the standard for rejection should be less troublesome than in the case of a debtor with multiple plants or divisions covered by different collective bargaining agreements involving different collective bargaining units. The "balancing of the equities" test better serves this latter category of cases.

(b) You should also be aware of the fact that the concern of the Second Circuit in the *Kevin Steel* case that rejection would deprive employees of rights which are incapable of forming the basis of a provable claim for money damages, is not applicable under chapter 11. The old Bankruptcy Act limited the allowance of unliquidated or contingent claims.[5] The Bankruptcy Code does not limit the allowance of contingent or unliquidated claims, but rather specifically provides for the estimation of such claims if fixing or liquidation would unduly delay the closing of the case.[6] Therefore, the Bankruptcy Code addresses the concern that the Second Circuit had about rejection of collective bargaining agreements. As the Supreme Court noted in *Bildisco*, the "balancing of the equities" test preserves the flexibility of chapter 11 in circumstances where the court should be relied upon to prevent abuse of the reorganization provisions of the Bankruptcy Code by debtors whose sole purpose in seeking relief is to avoid collective bargaining agreements.[7]

(c) A debtor may have several discrete plants or divisions or may have different collective bargaining units within a given plant or division. In those cases where employees in certain collective bargaining units are willing to grant concessions which enhance the debtor's ability to reorganize, the "balance of the equities" test permits a court to authorize rejection of a collective bargaining agreement involving a collective bargaining unit which refuses to grant concessions of the type agreed to by other collective bargaining units. Thus, the "balancing of the equities" test encourages negotiation and compromise which is the hallmark of chapter 11 and prevents the injustice of a small group of employees in one collective bargaining unit benefitting from the sacrifices of employees in other collective bargaining units. A current non-bankruptcy illustration of this situation is provided in the form of a recent Wall Street Journal article which is attached.

Very truly yours,

H. P. MINKEL, Jr.

[From the Wall Street Journal, Apr. 25, 1984]

AIR FLORIDA EMPLOYEES IN TEAMSTERS UNION REJECT PAY-CUT PLAN

MIAMI.—Air Florida said its mechanics, cleaners, and stock clerks, represented by the Teamsters union, rejected the financially troubled airline's proposal to cut their pay 10% in return for company stock.

"In view of the fact that all of our other employee groups have accepted wage concessions, we are particularly disappointed" by the vote, Donald Lloyd Jones, Air Florida's chairman, said Monday. "However, we intend to meet with this group (the Teamsters) again, and we will be requesting that they reconsider their position," he said.

An Air Florida spokeswoman said the Teamsters have collaborated with other troubled airlines and thus, Air Florida is hoping that the unions ultimately will accept the pay cut. The Teamster union, which represents 200 of Air Florida's 1,800 employees, couldn't be reached for comment.

The Air Florida spokeswoman said the union's refusal would be an "important blow, but she declined to specially comment on how the Teamsters' vote might affect the airline, which reported a loss of $39.2 million in 1983 and a loss of $93.4 million in 1982. In March, Mr. Lloyd Jones said the company would seek the wage cut as well as employee furloughs as part of a plan "to return to financial health."

Earlier this month, Air Florida's six other employee groups, which represent the majority of its work force, voted to accept the wage cuts. Acceptance by all employee groups would save the carrier $5.4 million annually.

Under Air Florida's stock ownership plan, all employees who have voted to take the 10% pay cut will be compensated in Air Florida stock equal to the dollar value of the pay they have given up. The stock, based on market value at the time, will be distributed quarterly beginning with the quarter ending June 30.

As reported, General Electric Co.'s General Electric Credit Corp. unit said it is considering acquiring as much as 55% of Air Florida's common stock. Air Florida has said the wage-cut plan isn't related to its negotiations with GE, which couldn't be reached for comment.

[Federal Express]

NATIONAL BANKRUPTCY CONFERENCE
May 18, 1984.

Re: Bankruptcy Court and Federal Judgeship, Act of 1984—Article III, Subtitle J—Collective Bargaining Agreements.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR THURMOND: We received today a copy of an amendment intended to be proposed by Senator Packwood as a substitute for the above-referenced Subtitle (the "Packwood Amendment") of the Amendment in the nature of a Substitute for H.R. 5174 intended to be proposed by you (for yourself and Senator Heflin). The following is an evaluation of the Packwood Amendment, as compared to Subtitle J of your bill.

The Packwood Amendment contains a new section 1113 relating to rejection of collective bargaining agreements in chapter 11 cases. This section would require the following findings as conditions precedent to rejection of a collective bargaining agreement: (i) the trustee or the debtor-in-possession has made a proposal to the representative of the employees "providing for the minimal modifications in such employees' benefits and protections that would permit the reorganization, taking into account the best estimate of the sacrifices expected to be made by all classes of creditors and other affected parties to the reorganization" and has provided the employees' representative with information necessary to evaluate such proposal; (ii) the representative has refused to accept such proposal and such refusal was unjustified under the circumstances; and (iii) "the balance of the equities clearly favors rejection" of the collective bargaining agreement.

The section would prohibit the trustee from unilaterally terminating or altering any provision of the collective bargaining agreement prior to court approval of the application to reject.

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[3] *See In re White Motor Corporation*, No. B-80-3361 (N.D. Ohio).

[4] For example, executory leases may be an asset of the debtor's estate and thus, may be confirmed under section 365(a) and assigned to a third party under section 365(f). If an asset is being liquidated, the debtor should be able to affirm those contracts which increase the value of the asset and reject those which diminish its value. If the continuation of a collective bargaining agreement relating to such an asset would diminish the value of the asset, the contract should be subject to rejection even though the debtor may continue as a going concern under a reorganization plan or may liquidate under a plan of liquidation.

[5] *See*, Bankruptcy Act § 57d [repealed].

[6] 11 U.S.C. § 502(c).

[7] The filing of a chapter 11 petition for the sole purpose of rejection in a collective bargaining agreement is a "bad faith" filing and the case may be dismissed pursuant to 11 U.S.C. § 1112. *See In re Tinti Construction Co.*, 10 B.C.D. 767 (E.D. Wis. 1983).

The section provides for the time periods for notice of a hearing on rejection, for the conduct of such hearing, and for the determination by the court of the application. The aggregate time period for determination of the application by the trial is 73 days.

In our view, the Packwood Amendment is inimical to orderly bankruptcy administration. The threshold condition for court determination or an application for rejection and the time periods for notice, hearing and determination of the issue could force the liquidation of a debtor in circumstances where the evidence would show that post-filing compliance with the collective bargaining agreement would cause the collapse of the debtor's rehabilitation efforts. In this sense, the Amendment would create a standard for rejection which is far more onerous than the standards set forth by the Second Circuit in *Brotherhood of Railway, Airline and Steamship Clerks v. REA Express, Inc.*, 523 F.2d 164 (2d Cir.), *cert. denied*, 423 U.S. 1017 (1975). As you are aware, the Supreme Court in *National Labor Relations Board v. Bildisco and Bilisco*, U.S. , 1, 04 S. Ct. 1188 (1984), held that the debtor was not required to adhere to the terms of a collective bargaining agreement pending the determination of an application to reject and that the standard for rejection should be that the collective bargaining agreement is burdensome and that the balancing of the equities favor rejection. In *Bildisco*, the Supreme Court followed the REA Express case to the extent that the Second Circuit held that the debtor is not required to comply with the contract after the filing date. The Supreme Court rejected the Second Circuit standard that rejection be allowed only if it could be demonstrated that failure to reject would force the debtor's liquidation.

The National Bankruptcy Conference (the "Conference") considered the competing equities of the debtor and employees covered by executory collective bargaining agreements and suggested a compromise which is embodied in Subtitle J of Title III of the Thurmond Bill. Simply stated, the proposal would require the debtor to adhere to the terms of the collective bargaining agreement pending the determination of the application to reject, but would continue existing law that rejection requires a demonstration that the contract is burdensome and that the equities favor rejection. The critical element to the suggested compromise is that the debtor would have immediate access to the court for a determination of the application to reject in emergency circumstances and that the debtor would be entitled to automatic relief if the application was not determined within 30 days of being filed.

In our testimony on behalf of the Conference in connection with the joint hearings of the Judiciary and Labor Committees on April 10, 1984, we addressed the minimal modification requirement. At that time, we stated unequivocally that the bankruptcy court could not reasonably be expected to apply the minimum modification test at the initial stages of a chapter 11 case. Chapter 11 plans of reorganization are generally negotiated between the debtor and committees representing creditors and equity securityholders. In the initial stages of a reorganization, committees generally either are not formed or, if formed, are barely functioning. In most cases, the debtor's projections and business plan are unduly optimistic and would suggest a higher percentage return to creditors than is ultimately available as, when and if, a plan is confirmed. It is unreasonable to expect a court to evaluate the ultimate issues of the case in the immediate aftermath of the filing.

It is important to remember that an application to reject a collective bargaining agreement will only be filed where representatives of employees and the debtor are unable to agree to consentual modification of the agreement. In applying the balance of the equities test, the court must consider whether the debtor has negotiated in good faith, and whether the debtor has filed its petition for the principal purpose of avoiding collective bargaining agreements. We believe that this standard protects employees against unfair use of chapter 11. We also believe that it provides the protection necessary to insure the equitable and efficient administration of bankruptcy cases.

The Packwood Amendment would require the court to make a determination concerning "the sacrifices expected to be made by the classes of creditors and other affected parties to the reorganization" at a time when it is impossible to determine what these sacrifices are likely to be and at a time when creditors and other affected parties are not organized and cannot be expected to be effectively represented. This burden should not be imposed upon a court. For the reasons stated by the Supreme Court in its 9-0 affirmation of the Third Circuit in *Bildisco*, the balance of the equities test is a reasonable method of accommodating the policies of chapter 11 and of the National Labor Relations Act.

If the debtor is required to comply with the terms of the collective bargaining agreement pending the determination of the application to reject, it must be clear that damages arising by reason of rejection are to be treated as prepetition unsecured claims. This treatment is consistent with 11 U.S.C. § 365(g).

The Conference proposal would make any amendment concerning the rejection of collective bargaining agreements effective with respect to cases filed subsequent to the date of enactment. The Conference felt that any major change in the rules of the game should be prospective in effect. The Packwood Amendment would make Section 1113 applicable to pending cases. The Amendment, as drafted, is obviously directed at Continental Airlines. The retroactive application of a change in bankruptcy law of the type contemplated by the Packwood Amendment is bad public policy. Retroactive application of the proposed Section 1113 to affect the Continental Airlines case is particularly difficult to understand. On May 16, 1984, The New York Times published an article entitled "Firing Unions" by Ray Denison, who is Legislative Director of the AFL-CIO. Mr. Denison states that:

"The Bildisco decision was the signal that scores of companies had been waiting for, permitting them to follow the lead of Continental Airlines, the most notorious practitioner of union-busting via Chapter 11 bankruptcy reorganization. This airline was not broke. It had assets and cash. Continental employees, aware that their security and future were linked to the company's solvency, many times demonstrated a willingness to sit down and work out revised contracts and make concessions. But the airline acknowledged no such link. Management filed for bankruptcy, fired two-thirds of its union workers, cut wages and benefits by 50 percent, terminated pension plans and seniority agreements—and then reopened for business."

In the aftermath of the Continental Airlines filing, the unions attempted to obtain a dismissal of Continental's petition on the basis that it was filed in bad faith for the primary purpose of rejecting the contracts. Contrary to the impression created by Mr. Denison in his article, the bankruptcy court found that Continental had "made efforts to obtain adjustments in its existing collective bargaining agreements but the unions were not required to agree to these requests and no agreement had been reached." *In re Continental Airlines Corp.*, 11 Bankr. Ct. Dec. 623, 625 (Bankr. S.D. Tex. 1984). The court also found that:

"The evidence showed that there was no way for Continental Airlines to repay its obligations nor even to continue its operations for very long in the future, as things then existed. Had the airline not filed its Chapter 11 proceeding when it did, it would not have been flying for very much longer, its 6,000 remaining employees would now be out of a job or looking elsewhere, and its ability to reorganize would have been further seriously impaired.

"This court finds that the Continental Airlines group filed their respective Chapter 11 proceedings for the purpose of attempting to keep the companies alive and functioning and that they had no other viable alternative to that end. The unions have not satisfactorily demonstrated that there was any reasonable alternative under which the airline would keep operating, and this court finds that there was none." 11 Bankr. Ct. Dec. at 625.

The court found that Continental did not file for the sole or primary purpose of rejecting collective bargaining agreements, that it filed "only when management felt it had no acceptable alternative if it were to have a chance to keep the airline flying" and "that there was no intent or motive to abuse the purpose of the Bankruptcy Code." Finally, the court concluded that "the primary purpose in filing these proceedings was to keep the airline operating so as to best utilize its going-concern value. The management of the company owed this obligation to its shareholders and to its creditors." *Id.*

In summary, the Packwood Amendment would create impediments to the prompt determination of the issues presented by an application to reject a collective bargaining agreement, which would jeopardize the orderly administration of chapter 11 cases. The Amendment would require the debtor to adhere to the terms of the collective bargaining agreement without providing for the necessary emergency relief which is contained in Subtitle J of the Thurmond Bill. The Amendment would have retroactive effect, which is unjustifiable on general principles and does not appear to be justified by the particular circumstances of the *Continental Airlines* case.

We hope that this letter will be helpful in explaining to your colleagues the position taken by the National Bankruptcy Conference with respect to collective bargaining agreements in bankruptcy. We also hope that your colleagues will support Subtitle J of your bill as drafted.

Very truly yours,

H. P. MINKEL, Jr.

Mr. THURMOND. Mr. President, again I plead with the Senators here not to adopt this Packwood amendment because if we want a bankruptcy bill it is the only hope I see to get it. We have worked so long and worked so

hard. We have worked for several years to get a bankruptcy bill. We are right on the eve of it. Why inject the union question into it at all? Why not just let me take out this provision, although we think it is a fair compromise that the National Bankruptcy Conference has come up with, remove that from the bill, and let Senator PACKWOOD withdraw his amendment and go ahead and pass this bill?

I will now ask the distinguished Senator from Oregon if he will agree to that and let us get unanimous consent that no amendments on this particular subject that we have been discussing will be in order on the floor.

Mr. PACKWOOD. As much as I would like to accommodate my good friend from South Carolina, I cannot at this stage withdraw the amendment, nor at any future state. I will be happy to enter into a unanimous consent agreement to vote on this amendment, and ask unanimous consent that there be no further amendments.

Mr. THURMOND. Mr. President, I regret that we cannot reach an agreement on this.

Does any other Senator desire to speak on either side? If not, Mr. President, I now move to table the Packwood amendment.

Mr. President, I withdraw that.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. THURMOND. Mr. President, I understand the distinguished Senator from Texas desires to come over and speak. The distinguished Senator from Maine, I believe, also wants to speak.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. I thank the Senator from South Carolina, the chairman.

Mr. President, I rise in support of the amendment offered by the Senator from Oregon. The Packwood amendment seeks to modify a controversial aspect of the recent Supreme Court decision in the Bildisco case which relates to the obligations an employer has with respect to a collective bargaining agreement at the time of filing for reorganization under chapter 11 of the Bankruptcy Act.

This is an important matter because we now confront a basic conflict between the two valid national policies set forth in the National Labor Relations Act on the one hand and in the Bankruptcy Act on the other hand.

The bankruptcy laws are designed to promote continuation of a business which faces financial difficulties, not to speed its liquidation. To that end, as the Supreme Court has often properly noted, the bankruptcy laws provide for a degree of flexibility absent in many other areas of the law. It is indeed essential, if the purpose of the bankruptcy laws is to be achieved, that neither companies nor their creditors be faced with inflexible legislative obstacles which prevent a mutually beneficial resolution of the financial obligations and claims at stake.

But that necessary flexibility is not limitless. The bankruptcy law itself recognizes that the right to a breathing space for the debtor must be balanced by a right on the part of a nondebtor party to request a court ruling that a contract be accepted or rejected within a specified time period.

And in its majority opinion in the Bildisco case, the Supreme Court specifically pointed out that even though a collective bargaining agreement constitutes an executory contract which is subject to rejection by the debtor, "because of the special nature of a collective-bargaining contract * * * a somewhat stricter standard should govern the decision of the Bankruptcy Court to allow rejection of a collective-bargaining agreement."

That judgment follows a series of appeals court decisions which virtually without exception have accorded a different status to the collective-bargaining contract than to other executory contracts in bankruptcy cases. The Congress, of course, in enacting the National Labor Relations Act, explicitly recognized that a labor contract differs in important respects from other kinds of contracts.

The purpose of the National Labor Relations Act is to promote and preserve the flow of interstate commerce by establishing and maintaining the conditions in which industrial peace will prevail. Absent industrial peace, commerce itself is disrupted, and the national interest suffers.

In a 1960 case, Justice Douglas wrote:

> The collective bargaining agreement . . . is more than a contract; it is a generalized code to govern a myriad of [sic] cases which the draftsmen cannot wholly anticipate . . . A collective bargaining agreement is an effort to erect a system of industrial self-government. When most parties enter into contractual relationships, they do so voluntarily, in the sense that there is no real compulsion to deal with one another, as opposed to dealing with other parties. This is not true of the labor agreement. The choice is generally not between entering or refusing to enter into a relationship, for that in all probability preexists the negotiations. Rather, it is between having the relationship governed by an agreed-upon rule of law or leaving each and every matter subject to a temporary resolution dependent solely upon the relative strength, at any given moment, of the contending forces. *United Steelworkers* v. *Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960).

That understanding of the purpose of the affirmative duty to bargain with employees in at the heart of our national labor policy. Recognizing the inherent disparity in economic strength of the parties to an employer-employee relationship, Congress over many decades has reaffirmed that a duty exists to bargain with employees and Congress has developed a policy whose goal is the best interests of both parties, not the ascendancy of the one over the other.

Thus, the Government role in collective bargaining is limited to process, not to outcome. The courts have generally recognized that limitation and rejected efforts by one or another party to inject a preferred outcome into the process.

By contrast, the practical effect of the Bildisco decision is to inject a strong preference for one particular outcome by elevating the policies of the bankruptcy law for above the equally valid purposes of the National Labor Relations Act.

The decision totally subordinates the policy objectives of the Labor Relations Act to those of the Bankruptcy Act, an outcome for which there is no legal or historic justification. For Congress has never intended that the filing for bankruptcy would be, in and of itself, sufficient cause for unilateral abandonment of a legally binding labor contract. It is therefore incumbent upon Congress now to develop clearer statutory language so as to properly place into perspective the balance between the Bankruptcy Act and the National Labor Relations Act.

The Court's majority opinion slights the objectives of the Labor Relations Act even though there is no legal basis on which the one law should necessarily take precedence over the other. To the extent possible, the claims of both, which are valid, should be accommodated; that is the purpose of the amendment before us.

In creating an affirmative duty to bargain collectively, and in defining the scope of that duty, Congress nowhere, either explicitly or implicitly, chose to exclude debtors in possession from that duty. Indeed, the Supreme Court's decision in Bildisco explicitly acknowledges that fact. There, the Court said:

> Nevertheless, it is important to note that the debtor-in-possession is not relieved of all obligations under the NLRA simply by filing a petition for bankruptcy. A debtor-in-possession is an "employer" within the terms of the NLRA * * * and is obligated to bargain collectively with the employees' certified representative over the terms of a new contract pending rejection of the existing contract or following formal approval of rejection by the Bankruptcy Court.

The amendment before us seeks to codify that aspect of the opinion and relate it to the standard by which a court may allow a contract to be rejected.

This amendment requires the company, before filing a chapter 11 petition, to do its best to reach accommodation with its employees. It requires that the company provide to its employees the information they need to properly evaluate their position. And

it requires that the company seek the minimum contract modification needed to assure a successful reorganization.

Obviously, at the outset of any chapter 11 proceeding, projections of financial losses, are to some extent, speculative. But that is the case in any event.

The amendment does not seek to create a degree of certainty with respect to labor contract obligations any greater than that which is commonly available with respect to other financial obligations.

The amendment calls for a proposal based on the most complete and reliable information available, not for anything more than that. It calls for a best estimate of the contributions of all classes of creditors, a projection the petitioner would be making in any event, whether there were or were not a labor contract involved.

And it does not lose sight of the fact that the central purpose of a chapter 11 petition is to promote a successful reorganization. The amendment balances that goal with the competing and complementary needs of creditors and employees.

So it does not, contrary to the claims of some, erect a legislative hurdle impossible to overcome. Instead, it codifies what the Supreme Court has explicitly said about the status of the debtor in possession as an employer under labor law and his continuing obligation to negotiate.

Additionally, while providing that employees be provided the information they need to evaluate a proposal, the amendment clearly limits the disclosure of any information which could be detrimental to the company.

The amendment facilitates a prompt resolution in the event a voluntary labor contract negotiation does not succeed. It sets definite limits to the period that either employer or employees can withhold acceptance of new contract terms, and it instructs the Court that in the final analysis, it must balance the equities in deciding whether to authorize rejection of the contract.

In fact and in effect, the amendment seeks to facilitate the process of negotiation, the traditional and only legitimate role of Government in disputes between private entities.

This amendment is a moderate and sensible way to balance the competing demands of two equally important national policies.

It takes into account the realities of time facing a chapter 11 petitioner; and it also takes into account the very real pressures upon employees faced with the threat of a total loss of jobs if a chapter 11 reorganization fails.

By requiring good-faith negotiations, it does not permit an employer simply to wait out 30 days before ignoring a labor contract, as the committee amendment allows. That would represent a fundamental and profound change in the law of this country over the past half century and would, in effect, undermine the basis of the National Labor Relations Act. That is an important matter and an important change which every Member of the Senate ought to carefully consider.

By specifically instructing the Court to determine whether the rejection of a good-faith offer was unjustified, it does not give employees any reason to believe that intransigence will ultimately lead to a better deal.

Overall, I believe the Packwood amendment is a compromise that serves, ultimately the best interests of both parties.

It serves employees by making certain that the bankruptcy laws may not be used to evade a legally binding labor contract.

And it serves the interests of chapter 11 petitioners by clearly defining the limits of their obligations as continuing employers under the National Labor Relations Act. In the absence of such definition, we can expect a continuing number of cases in which both sides seek to establish by Court decree the appropriate bounds which accommodate both bankruptcy and labor laws.

I believe such limits are best set legislatively by Congress. The Supreme Court has enunciated the continuing obligations that debtors in possession incur under our labor laws. This amendment seeks to codify those findings so as to set clear limits within which both parties may resolve their differences. Most importantly, the amendment does so in a way that maintains the balance between the two equally important national policies at stake.

Had the Supreme Court's decision given as much weight to the policies of the National Labor Relations Act as it gave to the Bankruptcy Act, such codification might not be needed. But the Court did not, and this amendment is therefore necessary.

Mr. President, I urge the Members of the Senate to support this amendment, which, as I suggested earlier and I add now in conclusion, is intended to accommodate to the extent possible the two valid objectives contained in the National Labor Relations Act and in the Bankruptcy Act. The amendment of Senator PACKWOOD establishes a procedure for doing so and then adopts a standard which is quite close in fact to the Supreme Court standard in the Bildisco case. It deals with the problem both in terms of process and in substance and in a way that accommodates, to the extent it is possible, the interests of both policies and therefore both parties to any litigation.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I not only thank my distinguished colleague from Maine, I stand in awe; he is, of course, a former Federal district court judge, and there is no man or woman in this body better suited to speak on this subject than is the distinguished Senator from Maine. More than that, however, had I not already been persuaded by the merits of my amendment, his speech would have convinced me of the merits of it, and I thank him very much for an erudite and persuasive presentation.

Mr. DENTON. Mr. President, I rise today in opposition to the Packwood amendment addressing collective-bargaining agreements. The amendment, as proposed, would effectively undermine the Supreme Court's decision in NLRB against Bildisco and Bildisco.

Briefly, in that decision the Court held unanimously that an executory labor contract may be set aside in a chapter 11, reorganization, bankruptcy proceeding upon a showing by the debtor-in-possession that the labor contract burdens the estate and if, after careful scrutiny, the bankruptcy court concludes that the equities balance in favor of rejecting the labor contract. That standard requires that the debtor has made a reasonable effort to negotiate a voluntary modification and that the effort is not likely to produce a prompt and satisfactory solution.

In accepting the balancing of the equities standard, the Court rejected the more lenient business judgment test and the more stringent test urged by organized labor, the REA Express test. The latter test was enunciated by the Second Circuit in the case of *Brotherhood of Railway Employees* v. *REA Express, Inc.*, 523 F.2d 164, 2d Circuit 1975, cert. denied, 423 U.S. 1019. That test would allow the labor contract to be set aside only if the alternative is liquidation of the business. In rejecting the REA Express test, the Court concluded that it was fundamentally at odds with the policies of flexibility and equity built into chapter 11.

By a majority vote, the Court also held that a debtor does not commit an unfair labor practice when he unilaterally rejects or modifies a collective-bargaining agreement after the filing of a reorganization petition but before the contract rejection has been approved formally by the bankruptcy court. The majority held that the labor contract is unenforceable between the time the petition is filed and the time it is approved formally, either by the NLRB in the guise of an unfair labor practice proceeding or by a union in a suit for breach of contract. "Recovery may be had," said the Court majority, "only through administration of the claim in bankruptcy," that is "through the normal administration process by which claims are es-

timated and classified" by the bankruptcy court.

Organized labor has been a constant critic of the Court's decision. A statement issued by the AFL-CIO Executive Council condemned the decision for granting employers wide permission to use the bankruptcy laws to destroy collective-bargaining agreements. Laurence Gold, special counsel to the AFL-CIO, characterized the decision as obviously enhancing the opportunity for union-busting techniques.

Organized labor lobbied long and hard to overturn the Bildisco decision, and was successful in convincing the House leadership to include a provision in its bankruptcy bill. The provision creates a new standard to be used for setting aside a collective-bargaining agreement in a reorganization proceeding. The new test would be that labor contracts could not be rejected unless any financial reorganization of the debtor will fail and adds an additional test that jobs covered by such agreement will be lost. The bill would also make labor contracts enforceable after filing and until rejected by a bankruptcy court.

It is notable that the Bildisco provision was introduced only 2 days before it was taken up on the floor, was never considered by the House Judiciary Committee in hearings or committee markups, and was brought to the House floor under a rule that did not permit the House to vote on it separately from the bankruptcy bill.

Senator THURMOND, the distinguished chairman of the Judiciary Committee, has offered a compromise version of the Bildisco provision prepared, not by labor and not by management, but by the neutral National Bankruptcy Conference (NBC). The compromise maintains the balancing of the equities standard for rejecting collective-bargaining agreements but modifies the unilateral rejection portion of Bildisco by providing that such an agreement may not be rejected after a petition under the bankruptcy code is filed until there has been a final hearing by the court and the trustee has demonstrated the necessity for rejection.

The compromise also provides that, during the first 30 days after the trustee has sought rejection, the agreement is continued in effect pending the final hearing. Finally, the compromise provides that during such 30-day period or any extension thereof, the trustee may not implement any changes in the terms, conditions, wages, benefits, or work rules under the agreement except in an emergency situation when necessary to operate or preserve the business, and then only after notice to the union and authorization by the court after a hearing.

Mr. President, the NBC compromise introduced by Senator THURMOND is fair and reasonable to all concerned parties. I commend the distinguished chairman of the Judiciary Committee for including it in the Senate consideration of H.R. 5174.

Despite the reasonable nature of the NBC compromise, however, my colleague has found it necessary to offer an organized labor response to the Bildisco decision. The response would overrule the unanimous portion of the Bildisco decision by placing so many preconditions on rejection that, even under the balancing of the equities standard, few debtors, through their trustee, would be able to reject a collective-bargaining agreement. The Packwood amendment would also overrule the unilateral rejection aspect of the Court's ruling and would, interestingly enough, allow the Court to make the provision applicable to pending cases.

Mr. President, the Packwood amendment would remove the flexibility that a financially distressed employer needs to reorganize his business, thereby forcing more companies from a chapter 11, reorganization, bankruptcy into a chapter 7, liquidation, bankruptcy. Any increase in the number of outright failures obviously would exact a heavy toll in jobs lost to both union and nonunion employees.

There have been no documented cases where bankruptcy laws were used solely to break union contracts. In fact, a union cannot be decertified under the bankruptcy code. Although wages may be decreased, at least temporarily, the union remains the official bargaining agent for the employees. Although no profitable company has successfully filed for bankruptcy merely to bust its union, many companies in serious financial trouble have gained another chance of survival by reducing their labor, as well as other, costs through the bankruptcy laws.

Labor leaders apparently misunderstand the likely effects of the reform they are pressing Congress to enact. Rather than protecting their members, the changes they urge would have the opposite effect. If the proposed amendment is adopted:

Unemployment among union and nonunion workers would increase;

Deregulated industries would go through a much more difficult and dangerous transition period;

The number of failed companies in the United States would almost certainly increase, and

With the adoption of the retroactive provision of the amendment, a company such as Continental Air Lines would be forced to pay 6 months of back wages to all of its union workers, which would engender liquidation of the company and the loss of all of its union and nonunion jobs.

Mr. President, I therefore oppose the amendment offered by Senator PACKWOOD, and I urge my colleagues to do the same.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it appears to me that we are unlikely to finish the bankruptcy bill this evening.

We have a unanimous-consent agreement cleared now on both sides, I believe, in respect to the disability bill. I will put the request now for the consideration of the minority leader and other Senators.

TIME LIMITATION AGREEMENT—S. 476

Mr. BAKER. Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate turn to the consideration of Calendar Order No. 899, S. 476, the disability amendments of 1983, and that there be 30 minutes of debate on the bill to be equally divided between the chairman of the Committee on Finance and the ranking minority member thereof or their designees.

I further ask unanimous consent that no amendments be in order except for the Finance Committee reported amendment in the nature of a substitute, and that on that amendment there be 1 hour time limitation for debate to be equally divided.

I further ask unanimous consent that the distinguished Senator from Maine (Mr. MITCHELL) be granted 30 minutes of time for debate to be under his sole and exclusive control.

And I further ask unanimous consent that there be 5 minutes equally divided on any motions, appeals, or points of order, if they are submitted to the Senate, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, does the majority leader mean debatable motions?

Mr. BAKER. Is that not what I said?

Mr. BYRD. The Senator just said any motions.

Mr. BAKER. Mr. President, the request should be "equally divided on any debatable motion, appeal, or point of order."

Mr. BYRD. Mr. President, there is only one other concern I have, which I am not sure is taken care of in every respect. It is the condition which I

have to add on behalf of a Member who is not in the Chamber right now. Would the majority leader add the condition that when action on this measure is completed the Senate will return to the now pending business?

Mr. BAKER. Yes.

Mr. President, that is the intention of the request and since we are temporarily laying aside the bankruptcy bill, I assume that we would automatically resume consideration of it when this matter is completed.

But to make it absolutely certain, I further ask unanimous consent that on the disposition of this matter, the Senate return to the consideration of the pending business which is the bankruptcy bill.

Mr. BYRD. I have no objection.

I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I say for the benefit of Senators that I do expect a rollcall vote, at least one rollcall vote, on this measure. Therefore, the Senate will be in session for another hour or so and there will be a rollcall vote or rollcall votes.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, while I have the floor, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the minority leader and I thank the managers of the bill on both sides.

SOCIAL SECURITY DISABILITY AMENDMENT OF 1984

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 476) to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Disability Amendments of 1984".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Medical improvement.
Sec. 3. Continuation of benefits during appeal.
Sec. 4. Uniform standards.
Sec. 5. Moratorium on mental impairment reviews.
Sec. 6. Qualifications of medical professionals evaluating mental impairments.
Sec. 7. Nonacquiescence in court orders.
Sec. 8. Multiple impairments.
Sec. 9. Evaluation of pain.
Sec. 10. Modification of reconsideration prereview notice.
Sec. 11. Consultative exams; medical evidence.
Sec. 12. Vocational rehabilitation.
Sec. 13. Special benefits for individuals who perform substantial gainful activity despite severe medical impairment.
Sec. 14. Advisory council.
Sec. 15. Frequency of periodic reviews.
Sec. 16. Monitoring of representative payees.
Sec. 17. Fail-safe.
Sec. 18. Measures to improve compliance with Federal law.

MEDICAL IMPROVEMENT

SEC. 2. (a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Standard of Review for Termination of Disability Benefits

"(f)(1) In the case of a recipient of benefits under this title (or title XVIII) which are based on the disability of any individual, a termination of entitlement to such benefits on the basis of a finding that the physical or mental impairment (or combination of impairments) on the basis of which such benefits are provided has ceased, does not exist, or is not disabling, may be made only as follows:

"(A) The Secretary shall notify the individual having the impairment (or combination of impairments) that a review pursuant to this subsection is to take place.

"(B) The Secretary shall provide an opportunity for such individual to be interviewed, and at such interview the review process shall be explained to the individual (including the role of medical improvement described in subparagraph (C)), and the assistance available to the individual in obtaining evidence, including medical evidence and work history, shall be explained.

"(C)(i) The Secretary shall review medical evidence concerning the individual's current and prior condition (as provided in paragraph (2)) provided by the individual and secured by the Secretary, and shall determine whether the evidence establishes that there has been no medical improvement in such individual's condition (other than medical improvement which is not related to the individual's ability to work) since the time of the most recent determination that the individual was under a disability. The individual shall bear the burden of proof under this subparagraph with respect to any finding that there has been no medical improvement.

"(ii) If the Secretary finds that the evidence does not establish that such individual's medical condition is of the same or greater severity as it was at the time of the most recent determination that such individual was under a disability (disregarding any medical improvement which is not related to the individual's ability to work), the Secretary shall make a determination under subparagraph (E) with respect to the individual's ability to engage in substantial gainful activity.

"(iii) If the Secretary finds that the evidence does establish that such individual's medical condition is of the same or greater severity as it was at the time of the most recent determination that such individual was under a disability (disregarding any medical improvement which is not related to the individual's ability to work), the benefits based upon such individual's impairment shall be continued, unless the Secretary finds that one or more of the conditions listed in subparagraph (D) apply.

"(D) In the case of a finding by the Secretary under subparagraph (C)(iii), the Secretary shall further determine whether—

"(i) such individual has benefited from medical or vocational therapy or technology.

"(ii) new or improved diagnostic or evaluative techniques indicate that such individual's impairment (or combination of impairments) is not as disabling as was believed at the time of the most recent determination that such individual was under a disability,

"(iii) a prior determination that such individual was under a disability was fraudulently obtained, or

"(iv) there is demonstrated, without taking into account the individual's current medical condition, substantial reason to believe that a prior determination that the individual was under a disability was erroneous.

The Secretary shall bear the burden of proof in making any finding under the preceding provisions of this subparagraph. If the Secretary finds that one or more of the conditions described in clauses (i) through (iv) are met, the Secretary shall make a determination under subparagraph (E) with respect to such individual's ability to engage in substantial gainful activity.

"(E) The Secretary shall make a determination whether an individual described in subparagraph (C)(ii), or who meets one of the conditions described in subparagraph (D), is able to engage in substantial gainful activity in accordance with the procedures and standards established under this section. If such individual is found to be able to engage in substantial gainful activity (or, if the individual is a widow or surviving divorced wife under section 202(e) or a widower or surviving divorced husband under section 202(f), the Secretary finds that the severity of such individual's impairment or combination of impairments is no longer deemed under regulations prescribed by the Secretary sufficient to preclude the individual from engaging in gainful activity), the benefits based upon such individual's disability shall be terminated.

"(2) Any determination under this subsection shall be made on the basis of all evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Secretary.

"(3) Notwithstanding the provisions of paragraph (1)—

"(A) the review may be ceased and the benefits continued at any point if the Secretary determines that there is sufficient evidence to make a finding that the individual is under a disability in accordance with the standards established under this section for new applicants for the type of benefits to which such individual is entitled; and

"(B) the review may be ceased and the benefits terminated at any point if the individual is engaging in substantial gainful activ-

ity, cannot be located, or fails, without good cause, to cooperate in the review or to follow prescribed treatment which could be expected to restore his ability to engage in substantial gainful activity.

"(4) For purposes of this subsection, a benefit under this title is based on an individual's disability if it is a disability insurance benefit, or a child's, widow's, or widower's insurance benefit based on disability.".

(b) Section 216(i) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) A period of disability may be determined to end on the basis of a finding that the physical or mental impairment (or combination of impairments) on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling only in accordance with the provisions set forth in section 223(f) for termination of benefits based on disability.".

(c) Section 1614(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) In the case of a recipient of benefits under this title which are based on disability, a termination of entitlement to such benefits on the basis of a finding that the physical or mental impairment (or combination of impairments) on the basis of which such benefits are provided has ceased, does not exist, or is not disabling, may be made only in accordance with the provisions set forth in section 223(f) for termination of benefits under title II based on disability.

"(B) The requirements referred to in subparagraph (A) shall not apply to the extent that such requirements would require termination of benefits under section 1619 on the grounds that the individual is engaging in substantial gainful activity.".

(d)(1) Subject to paragraphs (2), (3), and (4), the amendments made by this section shall not apply to determinations made after December 31, 1987. The Secretary shall promulgate the regulations necessary to implement such amendments within six months after the date of the enactment of this Act.

(2) The amendments made by this section shall only apply to—

(A) determinations made by the Secretary on or after the date of the enactment of this Act;

(B) determinations with respect to which a final decision of the Secretary has not yet been made on the date of the enactment of this Act and with respect to which a request for administrative review is made in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations of the Secretary;

(C) determinations with respect to which a request for judicial review in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations of the Secretary was properly pending on May 16, 1984, and which involve an individual litigant or a member of a class action identified by name in such pending action on such date; and

(D) determinations with respect to which a request for judicial review in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations of the Secretary was made by an individual litigant of a final decision of the Secretary made during the period beginning on March 15, 1984, and ending 60 days after the date of the enactment of this Act.

In the case of determinations described in subparagraphs (C) and (D), the court shall remand such cases to the Secretary for review in accordance with the provisions of the Social Security Act as amended by this section.

(3) In the case of an individual (i) who obtained a final decision of the Secretary following pursuit of all available steps in the administrative appeal process in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations issued by the Secretary; (ii) who did not personally file an action for judicial review of that decision under section 205(g) of that Act; (iii) to whom the notice of the final decision of the Secretary was mailed on or after a date 60 days prior to the filing of the class action; and (iv) who was properly certified as member of a class action (with respect to judicial review of a determination to which this section applies) prior to May 16, 1984, but was not identified by name as a member of the class on such date, the court shall remand such case to the Secretary. The Secretary shall notify such individual that he may request a review of such determination based on the provisions of the Social Security Act as amended by this section. Such individual must request such review within 60 days after the date on which such notification is sent. If such request is made in a timely manner, the Secretary shall make a determination in accordance with the provisions of the Social Security Act as amended by this section. If such request is not made in a timely manner, the amendments made by this section shall not apply with respect to such determination, and such determination shall not be subject to any further administrative or judicial review.

(4) In the case of an individual with respect to whom a final determination was made by the Secretary prior to May 16, 1984, and which is not covered under paragraph (2) or (3), including an individual not covered by paragraph (2) who is a putative member of a class action (with respect to judicial review of a determination to which this section applies) which has not been certified prior to May 16, 1984, the amendments made by this section shall not apply to such determination, and such determination shall not be subject to any further administrative or judicial review.

(5) The decision by the Secretary on a case remanded by a court pursuant to this subsection shall be regarded as a new decision on the individual's claim for benefits, which supersedes the final decision of the Secretary. The new decision shall be subject to further administrative review and to judicial review only in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations issued by the Secretary.

(e) Any individual whose case is remanded to the Secretary pursuant to subsection (d) or whose request for a redetermination is made in a timely manner pursuant to subsection (d), may elect, in accordance with section 223(g) or 1631(a)(7) of the Social Security Act, to have payments made beginning with the month in which he makes such requests, and ending as under such section 223(g) or 1631(a)(7). Notwithstanding such section 223(g) or 1631(a)(7), such payments (if elected)—

(1) shall be made at least until an initial redetermination is made by the Secretary; and

(2) shall begin with the payment for the month in which such individual makes such request.

(f) In the case of any individual who is found to be under a disability after a redetermination required under this section, such individual shall be entitled to retroactive benefits beginning with benefits payable for the first month to which the most recent termination of benefits applied.

CONTINUATION OF BENEFITS DURING APPEAL

SEC. 3. (a)(1) Section 223(g)(1) of the Social Security Act is amended—

(A) in the matter following subparagraph (C), by striking out "and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII)," and inserting in lieu thereof ", the payment of any other benefits under this title based on such individual's wages and self-employment income, the payment of mother's or father's insurance benefits to such individual's mother or father based on the disability of such individual as a child who has attained age 16, and the payment of benefits under title XVIII based on such individual's disability,"; and

(B) in clause (iii) by striking out "June 1984" and inserting in lieu thereof "January 1987".

(2) Section 223(g)(3)(B) of such Act is amended by striking out "December 7, 1983" and inserting in lieu thereof "June 1, 1986".

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In any case where—

"(i) an individual is a recipient of benefits based on disability or blindness under this title,

"(ii) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be eligible for such benefits, and

"(iii) a timely request for a hearing under subsection (c), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so eligible,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits continued for an additional period beginning with the first month beginning after the date of the enactment of this paragraph for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (I) the month preceding the month in which a decision is made after such a hearing, (II) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (III) January 1987.

"(B)(i) If an individual elects to have the payment of his benefits continued for an additional period under subparagraph (A), and the final decision of the Secretary affirms the determination that he is not eligible for such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in clause (ii).

"(ii) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under subparagraph (A) shall be

subject to waiver consideration under the provisions of subsection (b)(1).

"(C) The provisions of subparagraphs (A) and (B) shall apply with respect to determinations (that individuals are not eligible for benefits) which are made—

"(i) on or after the date of the enactment of this paragraph, or prior to such date but only on the basis of a timely request for a hearing under subsection (c), or for an administrative review prior to such hearing, and

"(ii) prior to June 1, 1986.".

UNIFORM STANDARDS

SEC. 4. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall establish by regulation uniform standards which shall be applied at all levels of determination, review, and adjudication in determining whether individuals are under disabilities as defined in section 216(i) or 223(d).

"(2) Regulations promulgated under paragraph (1) shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.".

(b) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(G) In making determinations with respect to disability under this title, the provisions of section 221(j) shall apply in the same manner as they apply to determinations of disability under title II.".

MORATORIUM ON MENTAL IMPAIRMENT REVIEWS

SEC. 5. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the criteria embodied under the category "Mental Disorders" in the "Listing of Impairments" in effect on the date of the enactment of this Act under appendix 1 to subpart P of part 404 of title 20 of the Code of Federal Regulations. The revised criteria and listings, alone and in combination with assessments of the residual functional capacity of the individuals involved, shall be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment. Such revisions shall be made in consultation with experts in the fields of mental health and vocational rehabilitation. Regulations establishing such revised criteria and listings shall be published no later than 90 days after the date of the enactment of this Act in accordance with section 221(j) of the Social Security Act.

(b)(1) Until such time as revised criteria have been established by regulation in accordance with subsection (a), no continuing eligibility review shall be carried out under section 221(i) of the Social Security Act, or under the corresponding requirements established for disability determinations and reviews under title XVI of such Act, with respect to any individual previously determined to be under a disability by reason of a mental impairment, if—

(A) no initial decision on such review has been rendered with respect to such individual prior to the date of the enactment of this Act, or

(B) an initial decision on such review was rendered with respect to such individual prior to the date of the enactment of this Act but a timely appeal from such decision was filed or was pending on or after June 7, 1983.

For purposes of this paragraph and subsection (c)(1) the term "continuing eligibility review", when used to refer to a review of a previous determination of disability, includes any reconsideration of or hearing on the initial decision rendered in such review as well as such initial decision itself, and any review by the Appeals Council of the hearing decision.

(2) Paragraph (1) shall not apply in any case where the Secretary determines that fraud was involved in the prior determination, or where an individual (other than an individual eligible to receive benefits under section 1619 of the Social Security Act) is determined by the Secretary to be engaged in substantial gainful activity.

(c)(1) Any initial determination that an individual is not under a disability, and any determination that an individual is not under a disability in a reconsideration of or hearing on an initial disability determination, in which there is evidence which indicates the existence of a mental impairment, made or held under title II or XVI of the Social Security Act after the date of the enactment of this Act and prior to the date on which revised criteria are established by regulation in accordance with subsection (a), and any determination that an individual is not under a disability in which there is evidence which indicates the existence of a mental impairment, made under or in accordance with title II or XVI of such Act in a reconsideration of, hearing on, or judicial review of a decision rendered in any continuing eligibility review to which subsection (b)(1) applies, shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on redetermination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

(3) Any individual who was found not to be under a disability pursuant to an initial disability determination or a continuing eligibility review, in which there was evidence which indicated the existence of a mental impairment, between June 7, 1983, and the date of the enactment of this Act, and who reapplies for benefits under title II or XVI of the Social Security Act, may be determined to be under a disability during the period considered in the most recent prior determination. Any reapplication under this paragraph must be filed within one year after the date of the enactment of this Act, and benefits payable as a result of the preceding sentence shall be paid only on the basis of the reapplication.

(d) If the provisions of this section entitle an individual to a redetermination, such redetermination shall be made whether or not such individual would be entitled to a redetermination under the provisions of section 2 of this Act. If such individual would not be entitled to a redetermination under such section 2, the redetermination under this section shall be made without regard to the amendments made by section 2.

QUALIFICATIONS OF MEDICAL PROFESSIONALS EVALUATING MENTAL IMPAIRMENTS

SEC. 6. (a) Section 221 of the Social Security Act is amended by inserting after subsection (g) the following new subsection:

"(h) An initial determination under subsection (a), (c), (g), or (i) that an individual is not under a disability, in any case where there is evidence which indicates the existence of a mental impairment, shall be made only if the Secretary has made every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment.".

(b) Section 1614(a)(3)(G) of such Act (as added by section 4 of this Act) is amended by striking out "section 221(j)" and inserting in lieu thereof "sections 221(h) and 221(j)".

(c) The amendments made by this section shall apply to determinations made on or after the date of the enactment of this Act.

NONACQUIESCENCE IN COURT ORDERS

SEC. 7. (a)(1) In the case of any decision rendered by a United States Court of Appeals which—

(A) involves an interpretation of the Social Security Act or any regulation issued thereunder;

(B) involves a case to which the Department of Health and Human Services or any officer or employee thereof is a party; and

(C) requires that such department or officer or employee thereof, apply or carry out any provision, procedure, or policy under such Act with respect to any individual or circumstance in a manner which varies from the manner in which such provision, procedure, or policy is generally applied or carried out,

the Secretary shall, within 90 days after the issuance of such decision or the last day available for filing an appeal, whichever is later, send to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a statement of the Secretary's decision to acquiesce or not acquiesce in such court decision, and the specific facts and reasons in support of the Secretary's decision.

(2) The requirements of this section shall not apply to a decision of the Secretary to acquiesce in a court decision which the Secretary determines is not significant.

(3) Nothing in this section shall be interpreted as sanctioning any decision of the Secretary not to acquiesce in the decision of a United States Court of Appeals.

(b) This section shall apply to court decisions rendered on or after the date of the enactment of this Act.

MULTIPLE IMPAIRMENTS

SEC. 8. (a)(1) Section 223(d)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(C) In determining whether an individual's physical or mental impairment or impairments are medically severe (without regard to age, education, or work experience), the Secretary shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity.".

(2) The third sentence of section 216(i)(1) of such Act is amended by inserting "(2)(C)," after "(2)(A),".

(b) Section 1614(a)(3)(G) of such Act (as amended by section 6 of this Act) is amended by striking out "and 221(j)" and inserting in lieu thereof ", 221(j), and 223(d)(2)(C)".

(c) The amendments made by this section shall apply to determinations made on or after January 1, 1985.

EVALUATION OF PAIN

SEC. 9. (a)(1) Section 223(d)(5) of the Social Security Act is amended by inserting

after the first sentence the following new sentence: "An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical condition which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability.".

(2) Section 1614(a)(3)(G) of such Act (as amended by section 8 of this Act) is amended by striking out "and 223(d)(2)(C)" and inserting in lieu thereof "223(d)(2)(C), and 223(d)(5)".

(3) The amendments made by paragraphs (1) and (2) shall apply to determinations made prior to January 1, 1988.

(b)(1) The Secretary of Health and Human Services shall appoint a Commission on the Evaluation of Pain (hereafter in this section referred to as the "Commission") to conduct a study concerning the evaluation of pain in determining under titles II and XVI of the Social Security Act whether an individual is under a disability.

(2) The Commission shall consist of at least twelve experts, including a significant representation from the field of medicine who are involved in the study of pain, and representation from the fields of law, administration of disability insurance programs, and other appropriate fields of expertise.

(3) The Commission shall be appointed by the Secretary of Health and Human Services (without regard to the requirements of the Federal Advisory Committee Act) within 60 days after the date of the enactment of this Act. The Secretary shall from time to time appoint one of the members to serve as Chairman. The Commission shall meet as often as the Secretary deems necessary, but not less often than twice each year.

(4) Members of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members who are not employees of the United States, while attending meetings of the Commission or otherwise serving on the business of the Commission, shall be paid at a rate equal to the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including traveltime, during which they are engaged in the actual performance of duties vested in the Commission. While engaged in the performance of such duties away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(5) The Commission may engage such technical assistance from individuals skilled in medical and other aspects of pain as may be necessary to carry out its functions. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance and any pertinent data prepared by the Department of Health and Human Services as the Commission may require to carry out its functions.

(6) The Secretary shall submit the results of the study under paragraph (1), together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1986. The Commission shall terminate at the time such results are submitted.

MODIFICATION OF RECONSIDERATION PREVIEW NOTICE

SEC. 10. (a) Section 221(i) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) In any case where the Secretary initiates a review under this subsection of the case of an individual who has been determined to be under a disability, the Secretary shall notify such individual of the nature of the review to be carried out, the possibility that such review could result in the termination of benefits, and the right of the individual to provide medical evidence with respect to such review.".

(b) Section 1633 of such Act is amended by adding at the end thereof the following new subsection:

"(c) In any case in which the Secretary initiates a review under this title, similar to the continuing disability reviews authorized for purposes of title II under section 221(i), the Secretary shall notify the individual whose case is to be reviewed in the same manner as required under section 221(i)(4).".

(c) The Secretary of Health and Human Services shall, as soon as practicable after the date of the enactment of this Act, implement demonstration projects in which the opportunity for a personal appearance prior to a determination of ineligibility for persons reviewed under section 211(i) of the Social Security Act is substituted for the face to face evidentiary hearing required by section 205(b)(2) of such Act. Such demonstration projects shall be conducted in not fewer than five States, and shall also include disability determinations with respect to individuals reviewed under title XVI of such Act. The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than April 1, 1986.

(d) The Secretary shall institute a system of notification required by the amendments made by subsections (a) and (b) as soon as is practicable after the date of the enactment of this Act.

CONSULTATIVE EXAMS; MEDICAL EVIDENCE

SEC. 11. (a) Section 223(d)(5) of the Social Security Act is amended by inserting "(A)" after "(5)" and by adding at the end thereof the following new subparagraph:

"(B) In making any determination with respect to whether an individual is under a disability or continues to be under a disability, the Secretary shall consider all evidence available in such individual's case record, and shall develop a complete medical history of at least the preceding twelve months for any case in which a determination is made that the individual is not under a disability. In making any determination the Secretary shall make every reasonable effort to obtain from the individual's treating physician (or other treating health care provider) all medical evidence, including diagnostic tests, necessary in order to properly make such determination, prior to seeking medical evidence from any other source on a consultative basis.".

(b) The amendments made by this section shall apply to determinations made on or after the date of the enactment of this Act.

VOCATIONAL REHABILITATION

SEC. 12. (a) The first sentence of section 222(d)(1) of the Social Security Act is amended—

(1) by striking out "into substantial gainful activity"; and

(2) by striking out "which result in their performance of substantial gainful activity which lasts for a continuous period of nine months" and inserting in lieu thereof the following: "(i) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, and (ii) in cases where such individuals receive benefits as a result of section 225(b) (except that no reimbursement under this paragraph shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month in which his entitlement to such benefits ceases, whichever first occurs)".

(b) The amendments made by this section shall apply with respect to individuals who receive benefits as a result of section 225(b) of the Social Security Act in or after the first month following the month in which this Act is enacted.

SPECIAL BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 13. (a) Section 201(d) of the Social Security Disability Amendments of 1980 is amended by striking out "shall remain in effect only for a period of three years after such effective date" and inserting in lieu thereof "shall remain in effect only through June 30, 1987".

(b) Section 1619 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary of Health and Human Services and the Secretary of Education shall jointly develop and disseminate information, and establish training programs for staff personnel, with respect to the potential availability of benefits and services for disabled individuals under the provisions of this section. The Secretary of Health and Human Services shall provide such information to individuals who are applicants for and recipients of benefits based on disability under this title and shall conduct such programs for the staffs of the District offices of the Social Security Administration. The Secretary of Education shall conduct such programs for the staffs of the State Vocational Rehabilitation agencies, and in cooperation with such agencies shall also provide such information to other appropriate individuals and to public and private organizations and agencies which are concerned with rehabilitation and social services or which represent the disabled.".

ADVISORY COUNCIL

SEC. 14. (a) The Secretary of Health and Human Services shall appoint the members of the next Advisory Counsil on Social Security pursuant to section 706 of the Social Security Act prior to June 1, 1985.

(b)(1) The Advisory Council shall include in its review and report, studies and recommendations with respect to the medical and vocational aspects of disability, including—

(A) alternative approaches to work evaluation for recipients of supplemental security income benefits;

(B) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits; and

(C) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process.

(2) The Advisory Council may convene task forces of experts to consider and comment upon specialized issues.

FREQUENCY OF CONTINUING ELIGIBILITY REVIEWS

SEC. 15. The Secretary of Health and Human Services shall promulgate final regulations, within 6 months after the date of the enactment of this Act, which establish the standards to be used by the Secretary in determining the frequency of reviews under section 221(i) of the Social Security Act. Until such regulations have been issued as final regulations, no individual may be reviewed more than once under section 221(i) of the Social Security Act.

DETERMINATION AND MONITORING OF NEED FOR REPRESENTATIVE PAYEE

SEC. 16. (a) Section 205(j) of the Social Security Act is amended by inserting "(1)" after "(j)" and by adding at the end thereof the following new paragraphs:

"(2) Any certification made under paragraph (1) for payment to a person other than the individual entitled to such payment must be made on the basis of an investigation, carried out either prior to such certification or within forty-five days after such certification, and on the basis of adequate evidence that such certification is in the interest of the individual entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such certifications are adequately reviewed.

"(3)(A) In any case where payment under this title is made to a person other than the individual entitled to such payment, the Secretary shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Secretary shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

"(B) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual.

"(C) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Secretary shall establish a system of accountability monitoring for institutions in each State.

"(D) Subparagraph (A) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

"(E) Notwithstanding subparagraphs (A), (B), (C), and (D), the Secretary may require a report at any time from any person receiving payments on behalf of another, if the Secretary has reason to believe that the person receiving such payments is misusing such payments.

"(4)(A) The Secretary shall made an initial report to the Congress on the implementation of paragraphs (2) and (3) within six months after the date of the enactment of this paragraph.

"(B) The Secretary shall include as a part of the annual report required under section 704, information with respect to the implementation of paragraphs (2) and (3), including the number of cases in which the payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(b) Section 1631(a)(2) of such Act is amended by inserting "(A)" after "(2)" and by adding at the end thereof the following new subparagraphs:

"(B) Any determination made under subparagraph (A) that payment should be made to a person other than the individual or spouse entitled to such payment must be made on the basis of an investigation, carried out either prior to such determination or within forty-five days after such determination, and on the basis of adequate evidence that such determination is in the interest of the individual or spouse entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such determinations are adequately reviewed.

"(C)(i) In any case where payment is made under this title to a person other than the individual or spouse entitled to such payment, the Secretary shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Secretary shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

"(ii) Clause (i) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual.

"(iii) Clause (i) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Secretary shall establish a system of accountability monitoring for institutions in each State.

"(iv) Clause (i) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

"(v) Notwithstanding clauses (i), (ii), (iii), and (iv), the Secretary may require a report at any time from any person receiving payments on behalf of another, if the Secretary has reason to believe that the person receiving such payments is misusing such payments.

"(D) The Secretary shall make an initial report to the Congress on the implementation of subparagraphs (B) and (C) within six months after the date of the enactment of this subparagraph. The Secretary shall include in the annual report required under section 704, information with respect to the implementation of subparagraphs (B) and (C), including the same factors as are required to be included in the Secretary's report under section 205(j)(4)(B).".

(c)(1) Section 1632 of the Social Security Act is amended by inserting "(a)" after "Sec. 1632." and by adding at the end thereof the following new subsection:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of paragraphs (1) through (4) of subsection (a), if such violation is committed by such person or entity in his role as, or in applying to become, a payee under section 1631(a)(2) on behalf of another individual (other than such person's eligible spouse), in lieu of the penalty set forth in subsection (a)—

"(A) upon his first such conviction, shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned for not more than one year, or both; and

"(B) upon his second or any subsequent such conviction, shall be guilty of a felony and shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 208 may not be certified as a payee under section 1631(a)(2).".

(2) Section 208 of such Act is amended by adding at the end thereof the following unnumbered paragraphs:

"Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined not more than $25,000 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"Any individual or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, and, in the case of the amendments made by subsection (c), shall apply with respect to violations occurring on or after such date.

FAIL-SAFE

SEC. 17. (a) Section 215(i) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) On or before July 1 of each calendar year after 1983, the Secretary shall—

"(i) determine whether the estimated DI trust fund ratio for the calendar year following such calendar year will be less than 20.0 percent, and

"(ii) if the Secretary finds that such ratio will be less than 20.0 percent, notify the Congress that, absent a change of circumstances, it will be necessary to reduce the

amount of the percentage cost-of-living increase otherwise payable under this subsection with respect to benefits payable from the Federal Disability Insurance Trust Fund for months after November of the calendar year in which such determination is made.

"(B) Absent a change of circumstances (before such cost-of-living increase is determined) that will allow the full amount of benefits otherwise payable from such Trust Fund to be paid in a timely fashion, the Secretary shall reduce the amount of such percentage increase (but not below zero) to the extent necessary to ensure that such ratio will not fall below 20.0 percent.

"(C) If the Secretary determines that the reductions made purusant to subparagraph (B) will be insufficient to ensure that such ratio will not fall below 20.0 percent, the Secretary shall also reduce the amount by which each of the amounts computed under subsection (a)(1)(B) for the calendar year following the year of the determination would otherwise exceed the corresponding amount computed under such subsection for the preceding calendar year, for purposes of determining any primary insurance amount on the basis of which an individual becomes eligible for benefits payable from the Federal Disability Insurance Trust Fund for the calendar year for which such reductions are made, to the extent necessary to ensure that such ratio will not fall below 20.0 percent. For purposes of all computations under subsection (a)(1)(B)(ii) for calendar years thereafter, the amount so computed shall be reduced by the cumulative total of all reductions made by reason of this subparagraph for all prior years.

"(D) For purposes of this paragraph, the term 'DI trust fund ratio' shall mean, with respect to any calendar year, the ratio of—

"(i) the amount estimated by the Secretary to be equal to the balance in the Federal Disability Insurance Trust Fund as of the start of business on January 1 of such calendar year, increased by the amount of the unrepaid balance on any loan made by such Trust Fund under section 201(l) or section 1817(j), decreased by the amount of the unrepaid balance on any loan made to such Trust Fund under section 201(l), to

"(ii) the amount estimated by the Secretary to be the total amount to be paid from such Trust Fund during such calendar year (other than payments of interest on, and repayments of loans made to such Trust Fund under section 201(l), reducing the amount of any transfer from the Federal Disability Insurance Trust Fund to the Railroad Retirement Account by the amount of any transfer to such Trust Fund from such Account), and taking into account any cost-of-living increase that otherwise would be made with respect to benefits paid from such Trust Fund during such year.".

(b) Section 215(a)(1)(B)(ii) of such Act is amended by striking out "For individuals" and inserting in lieu thereof "Except as provided in subsection (i)(6), for individuals".

MEASURES TO IMPROVE COMPLIANCE WITH FEDERAL LAW

SEC. 18. (a)(1) Paragraph (1) of section 221(b) of the Social Security Act is amended to read as follows:

"(1)(A) Upon receiving information indicating that a State agency may be substantially failing to make disability determinations in a manner consistent with regulations and other written guidelines issued by the Secretary, the Secretary shall immediately conduct an investigation and, within 21 days after the date on which such information is received, shall make a preliminary finding with respect to whether such agency is in substantial compliance with such regulations and guidelines. If the Secretary finds that an agency is not in substantial compliance with such regulations and guidelines, the Secretary shall, on the date such finding is made, notify such agency of such finding and request assurances that such agency will promptly comply with such regulations and guidelines.

"(B)(i) Any agency notified of a preliminary finding made pursuant to subparagraph (A) shall have 21 days from the date on which such finding was made to provide the assurances described in subparagraph (A).

"(ii) The Secretary shall monitor the compliance with such regulations and guidelines of any agency providing such assurances in accordance with clause (i) for the 30-day period beginning on the day after the date on which such assurances have been provided.

"(C) If the Secretary determines that an agency monitored in accordance with clause (ii) of subparagraph (B) has not substantially complied with such regulations and guidelines during the period for which such agency was monitored, or if an agency notified pursuant to subparagraph (A) fails to provide assurances in accordance with clause (i) of subparagraph (B), the Secretary shall, within 60 days after the date on which a preliminary finding was made with respect to such agency under subparagraph (A), (or within 90 days after such date, if, at the discretion of the Secretary, such agency is granted a hearing by the Secretary on the issue of the noncompliance of such agency) make a final determination as to whether such agency is substantially complying with such regulations and guidelines. Such determination shall not be subject to judicial review.

"(D)(i) If the Secretary makes a final determination pursuant to subparagraph (C) with respect to any agency that the agency is not substantially complying with such regulations and guidelines, the Secretary shall, as soon as possible but not later than 180 days after the date of such final determination, make the disability determinations referred to in subsection (a)(1), complying with the requirements of paragraph (3) to the extent that such compliance is possible within such 180-day period.

"(ii) During the 180-day period specified in clause (i), the Secretary shall take such actions as may be necessary to assure that any case with respect to which a determination referred to in subsection (a)(1) was made by an agency, during the period for which such agency was not in substantial compliance with the applicable regulations and guidelines, was decided in accordance with such regulations and guidelines.".

(2) Section 221 (a)(4) of such Act is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "subsection (b)(1)(C)".

(3)(A) Section 221(b)(3)(A) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subparagraph (D)(i) of paragraph (1), the Secretary".

(B) Section 221(b)(3)(B) of such act is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subparagraph (D)(i) of paragraph (1), the Secretary".

(b)(1) The amendments made by subsection (a) of this section shall become effective on the date of the enactment of this Act and shall expire on December 31, 1987.

(2) The provisions of the Social Security Act amended by subsection (a) of this section shall be applied after December 31, 1987, in the same manner as such provisions were applied on the day before the date of the enactment of this Act.

Amend the title so as to read: "An Act to revise provisions of titles II and XVI of the Social Security Act relating to disability, and for other purposes.".

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I wish to thank the distinguished majority leader and minority leader for expediting consideration of this measure. It is a very important measure and one that I think deserves the immediate consideration of the Senate.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. COHEN. Mr. President, I ask unanimous consent that Susan Collins be allowed the privileges of the floor during the consideration of this matter.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DOLE. Mr. President, S. 476, as amended, was approved by the Finance Committee on May 16 and reported on May 18. This bill reforms the social security disability review process, and includes a series of provisions designed to improve the accuracy of disability determinations, the uniformity of decisions between the different levels of appeal, and the consistency of such decisions with Federal law and standards. A provision is also included to insure the adequacy of financing for the disability insurance program. This is not only an important bill but also a good one, as amply demonstrated by the support it received in the committee. The Finance Committee approved S. 476, as amended, by a vote of 20 to 0.

Achieving this consensus on disability reform has been a long and difficult process. There have been many misunderstandings about the nature of the problem which have, if anything, impeded our reaching this consensus. For this reason, before describing the bill in detail, I think it would be useful to provide some background and a review of legislative and administrative developments over the past 3 years. Spencer Rich, who writes daily columns for the Washington Post lobbying for a liberal disability bill, seems to have forgotten that the main reason we are here today is because of a provision enacted in 1980. It might be well for him to review the RECORD before his next article on efforts to try to tighten up this program.

In 1980, the Congress enacted legislation—The Social Security Disability

Amendments of 1980 (Public Law 96-265)—to tighten administrative oversight and control the disability insurance program. Over the preceding decade, the cost of the program had risen five-fold, from $3.3 billion to $15.8 billion, and between 1970 and 1977 alone, the number of disabled workers on the rolls almost doubled, from 1.5 million to 2.9 million. Counting spouses and children, the number of beneficiaries reached 4.8 million. Almost a third of the people who came on the rolls since the inception of the program in 1957 came on between 1970 and 1981.

The result was that the DI program was plagued by underfinancing and continuously rising taxes. Over the 27-year life of the program, the Social Security Board of Trustees reported a long-term financing deficiency on 15 occasions. On six occasions, Congress had to take steps to increase the amount of tax revenues going to the program.

Lax administration and work disincentives were both identified as prime contributors to escalating costs. Whereas in the late 1960's, 10 percent of all DI beneficiaries were reviewed each year, in the first half of the 1970's, only about 4 percent were reviewed annually. According to a report by the General Accounting Office, the overall inaccuracy rate in the DI program could be as high as 20 percent.

In trying to respond to these problems, the Congress, I think, properly, adopted in 1980 an eligibility review requirement. It has been misinterpreted, misunderstood, maligned, and criticized. Some who write about the program even forget in which administration it happened, they are so busy attributing to President Reagan something he had nothing to do with. But, again, that is beside the point. We needed to tighten up the program and we provided in that bill that all disability insurance beneficiaries, except those with permanent impairments, must be reviewed at least once every 3 years to assess their continuing eligibility for benefits. Prior to 1980, there was no requirement in the law mandating periodic review.

Several points are worth noting about this provision, as it has been surrounded by so many misunderstandings:

First, and most obviously, the periodic review requirement is a part of the law. The administration does not have the authority to ignore this requirement or to leave people on the rolls who are found not to be disabled under the meaning of the law.

Second, the periodic review requirement was passed by Congress in 1980—by a Democratic House and Senate—and approved by President Carter. Eligibility reviews were not a creation of the Reagan administration.

Again, I would call that to the attention of the reporter for the Washington Post.

Third, there was broad support for the 1980 amendments. The conference report, of which the review requirement was just one small part, was approved by a vote of 389-2 in the House, and by voice vote in the Senate. The Senate bill had been approved by a vote of 87-1.

Fourth, the eligibility review proposal was not a new idea in 1980. The provision was a part of H.R. 14084, the DI bill approved by the House Social Security Subcommittee in 1978. Even Wilbur Cohen could be counted among the supporters of the provision, and he is known for his rather progressive or liberal views. In hearings before the Senate Finance Committee in 1979, Cohen said that if the added personnel could be made available, he would support annual reviews—every year; he was advocating review every year. This law only requires every 3 years.

Fifth, we have a strict definition of disability in the law, one that has not been changed since 1967. People found ineligible under the law—accurately and properly—can therefore have very severe impairments.

While the requirement was well conceived, its implementation has resulted in some significant problems and dislocations which were not anticipated and which have contributed to an unprecedented degree of confusion in the operation of the program. In the past 3 years, 1.1 million people have been reviewed, out of which 480,000 were found ineligible by the State disability agencies administering the reviews. Among those who appealed their termination decisions to an administrative law judge, some 60 percent had benefits reinstated. This disparity between the decisions of the States and the administrative law judges was one of the first problems the Congress had to deal with, although it should be noted that this disparity existed long before periodic reviews were mandated.

Other concerns stemmed from the fact that under present law, individuals who have been on the rolls, possibly for many years, are reviewed as if they were new applicants. The only relevant issue in an eligibility determination is whether or not the individual can engage in "substantial gainful activity." As a result, people can be—and have been—terminated from the rolls who have not medically improved since the time they were initially granted benefits. While there may be many proper reasons for this to happen, such as when an individual is erroneously allowed benefits in the first place, serious questions were nevertheless raised.

Unfortunately, there were no easy answers to these questions. In both the Senate and the House, it has taken us the better part of the past 2 years to resolve some of the difficult problems plaguing the disability reviews. The administration has been actively involved in this process. Protecting the severely disabled who have every right to receive benefits under the Social Security disability program, while not recreating an untenable and unaffordable situation of lax administration, has been our goal.

LEGISLATIVE ACTIVITY IN 1982 AND 1983

The Committee on Finance first held public hearings on the problems in the disability insurance program in August 1982. The heavy workload for States conducting the new reviews was one of the key problems that was highlighted along with the relative frequency with which administrative law judges were reversing State agency decisions.

TEMPORARY LEGISLATION APPROVED IN 1982

Emergency legislation was approved by the Congress in December 1982 to help remedy both of these situations. Public Law 97-455, enacted on January 12, 1983, allowed the Secretary of Health and Human Services to slow the flow of cases sent to State agencies to take account of the backlog of cases and potential staffing difficulties. In addition, face-to-face evidentiary hearings were mandated at the reconsideration stage of appeal for terminated beneficiaries. Under prior law, there was no requirement for face-to-face contact with a decisionmaker prior to a hearing with an administrative law judge. Finally, the legislation introduced payments pending appeal. For the first time, terminated beneficiaries were granted the option to elect continued payments pending their appeal to an administrative law judge.

Many difficult problems remained, however, to which there were no easy or obvious solutions., For example, how do we protect individuals on the rolls who are severely disabled and yet maintain the principle that people who can work must be removed from the rolls? This, after all, was the underlying premise of the 3-year review requirement in the 1980 amendments. What is the proper treatment of people first applying for benefits relative to those who have been on the rolls for many years? How can we insure that this completely Federal program is administered in a nationally uniform manner? Allowance rates vary widely among the States, and some States have taken it upon themselves to set their own rules. How can we insure more accurate and uniform decisions between the levels of adjudication? How can we insure thorough and careful development of medical and vocational cases?

The absence of quick or easy remedies was demonstrated on the House side as well. The Ways and Means Committee first drafted a bill in 1982.

It was never considered by the full House, however. In 1983, the Ways and Means Committee again drafted a disability reform bill, this time with a widely different approach. These reforms were approved by the Ways and Means Committee last fall, on September 27, although they were not reported nor were they considered by the House during the balance of the year.

Our efforts to develop comprehensive legislation in the Senate continued through the end of the session in 1983. Throughout October and November, I met frequently with concerned Members of the Senate, including Senators COHEN, LEVIN, and others. In addition, I met with Secretary Heckler and Acting Commissioner of Social Security Martha McSteen, and my staff met intensively with the staff of 10 to 15 Members of the Senate.

We made real progress. The difficulties and complexities were sizable, however, and we were unable to develop a consensus bill with the support of the administration prior to adjourning.

SENATE ACTION IN 1983

I should point out that when it became clear in the final days of the session that formulating a comprehensive bill with bipartisan support would not be possible, I brought legislation to the floor that would have insured that the provision allowing payments to continue through appeal would not expire on December 7. The amendment I offered would have extended this provision until June 7, 1984, giving Congress time to enact further legislation without penalizing those who would be terminated from the rolls during the winter months. The amendment would have also extended the vitally important section 1619, which allows severely impaired individuals to continue receiving supplemental security income and medicaid despite substantial gainful activity. This legislation was approved in the Senate by a vote of 80-0 on November 18. The House, however, failed to act on this legislation prior to adjourning.

Fortunately, the administration promptly took steps to insure that no one suffered as a result of the expiration of these two provisions. A temporary moratorium on eligibility reviews, during December and January, insured that no one would be terminated and be without benefits until at least June. In addition, the Secretary announced a demonstration project to keep the people receiving payments under section 1619 covered through 1984.

ADMINISTRATION INITIATIVES

During this entire period, many improvements were being made by the administration. Through a series of administrative initiatives, positive steps were taken to improve the accuracy and fairness of decisions.

Among other important changes, face-to-face interviews were introduced in district offices for individuals preparing to undergo eligibility reviews; all medical evidence available over a 12-month period must now be examined; more detailed explanations of decisions are required; a larger proportion of the beneficiary population has been classified as permanently impaired and thus exempted from the 3-year review requirement; and a temporary moratorium was placed on the review of two-thirds of all mental impairment cases pending a revision of the criteria used for determining eligibility.

In addition, the administration has worked closely with us in developing the legislation before the Senate today.

DEVELOPMENTS IN 1984

Fortunately for all concerned, everything has fallen into place in terms of developing legislation in recent months. On the Senate side, the Finance Committee held a hearing during the first week of the session (on January 25) on the Ways and Means Committee bill and on S. 476. On the House side, the Ways and Means Committee finally reported its disability bill, H.R. 3755, on March 14, and the bill was approved by the House on March 27 by an overwhelming vote—410 to 1.

Intensive negotiations continued on the Senate side, among Members, their staff, and the administration. Senators COHEN and LEVIN worked tirelessly to help bring S. 476 to the consideration of the Finance Committee.

Last week, the Finance Committee took up disability reform legislation in executive session on May 15 and completed action the next day, reporting out S. 476 as amended on May 18. Developing a bill with unanimous support in the committee was greatly facilitated by the efforts of Senators HEINZ, MOYNIHAN, and LONG.

SUMMARY OF THE PROVISIONS OF S. 476 AS AMENDED

There are 17 provisions in the bill, the most significant of which modifies the standard to be used for reviewing the continuing eligibility of disability beneficiaries under both the social security disability insurance (DI) and supplemental security income (SSI) programs. This new standard would not alter in any way the requirement that people be periodically reviewed, it would, however, provide major protections to people whose conditions have not medically improved since the time they were allowed on the rolls.

Under the bill, if the evidence shows that an individual's medical condition is the same as or worse than at the time of the most recent prior decision, then benefits could not be terminated in a review unless the Secretary established that there had been some other change in circumstances and that the individual can perform substantial gainful activity. (A change in circumstance would include the individual having benefited from medical or vocational technology or therapy; new or improved diagnostic or evaluative techniques which indicate the impairment is not as severe as originally believed; a fraudulently obtained or erroneous initial determination; current work activity; and failure, without good cause, to cooperate in the review.) If the individual has medically improved while on the rolls (or is unable to show that his condition is the same or worse), the Secretary would have to demonstrate ability to perform substantial gainful activity in order to terminate benefits.

This new standard applies to future eligibility reviews, to individuals who now have claims properly pending in the administrative appeals process and to certain cases pending in court. The provision sunsets on December 31, 1987.

Four of the provisions in the bill are designed to improve the accuracy of disability determinations, both for new applicants and beneficiaries undergoing review. These would direct the Secretary to: First, consider the combined effect of multiple impairments, if severe, even if none are individually severe; second, consult a treating physicial for medical evidence whenever possible prior to obtaining a consultative examination, and develop a complete record of the individual's condition over at least the preceding 12-month period; third, make every reasonable effort to use a psychiatrist or psychologist in making a termination decision for beneficiaries with mental impairments; and fourth, take into consideration subjective allegations of pain only to the extent they are consistent with medical signs and findings which show the existence of a medical condition which could reasonably be expected to produce the alleged pain, or other subjective symptoms (this statutory provision expires on December 31, 1987).

To help address the problems of uniformity in decisionmaking between the levels of appeal and also at the State agency level, the bill would require the Secretary to establish by regulation uniform standards of eligibility to be binding on all levels of adjudication in determining whether individuals are disabled under the meaning of the Social Security Act. Such regulations must be published in accordance with the rulemaking requirements of the Administrative Procedure Act (APA) (thus removing SSA's exclusion from the provisions of the APA on matters relating to the determination of disability.) In addition, the Secretary would be required to federalize disability determinations in

a State within 6 months of finding that the State is failing to follow Federal law and standards. This latter provision expires on December 31, 1987.

To insure the solvency of the DI trust fund, the bill would require the Secretary to notify the Congress by July 1, if the DI fund is projected to decline to less than 20 percent of a year's benefits. If Congress takes no other action, the Secretary would scale back (in part or full) the next cost-of-living increase for disability beneficiaries as necessary to keep the fund balance at 20 percent. If necessary the Secretary would also scale back the increase in the benefit formula used for determining benefit levels for persons newly awarded disability benefits. Measurement of the fund assets would include any funds (now $5 billion) loaned by the DI trust fund under the interfund borrowing authority.

Finally, the bill would reauthorize, until June 1986, payments pending appeal to the administrative law judge hearing, which expired in December. It would also reauthorize, until July 1987, the vitally important work incentive program in SSI—special section 1619 payments to severely impaired individuals who have earnings.

These and other provisions in the bill are described in more detail at the end of my statement.

COST OF THE BILL

According to the Office of the Actuary of the Social Security Administration, this bill has a 5-year cost of $2.5 billion to the OASDI trust funds, and a total cost of about $3 billion to $3.2 billion. The long-range impact of the bill on the OASDI trust funds is projected to be 0.005 percent of taxable payroll.

The actuaries project that DI reserves will remain above 20 percent throughout this century and thus the fail-safe is not expected to be triggered.

It is important to note that the cost of the DI program has been extremely volatile over the years and that the actuarial forecasts are subject to a higher degree of uncertainty than those for the retirement program. The value of the fail-safe is that, in the event the cost of this bill turns out to be higher than we now expect, the Congress will be notified in a timely fashion that reserves are being depleted and that remedial action is necessary. Only if such action is not taken by Congress would the automatic increases in DI benefits be scaled back to protect the solvency of the program.

It is our goal in this legislation to restore order to the administration of the disability insurance program and restore the confidence of the disabled population in the social security disability programs. The committee bill underscores our commitment to and insistence upon a nationally uniform disability program. In recent months, due both to independent actions by States that are in violation of Federal law and guidelines and to court actions, the social security disability programs are no longer being administered in a nationally uniform manner, consistent with the goals of the Federal program. (As of March 1984, prior to the announcement by Secretary Heckler of a temporary nationwide moratorium, 10 States had refused to conduct eligibility reviews and 18 were operating under court-ordered eligibility criteria or pending court action.) This is an untenable situation that undermines confidence in the disability programs—just as surely as eligibility reviews do if they lead to inaccurate findings of ineligibility.

This situation must be remedied and it is my strong belief that this legislation will make major strides in that direction.

Mr. President, I am not certain that what we have done is perfect. I wish we had known about this Supreme Court decision that was handed down today by a vote of 5 to 4. The Supreme Court today blocked the Federal courts from intervening on citizens' behalf in conflicts with social security. Critics say the ruling could keep the disabled and elderly from obtaining benefits. That is what the critics say. The problem is we have all of these Federal courts making all of this policy that far exceeds the intent of Congress. That is not unusual for courts. But the High Court agreed with the Secretary of HHS that such orders are unwarranted, increasingly burdensome, judicial intrusion, and go beyond what Congress has been willing to order.

"The consistency with which Congress has expressed concern over this issue is matched by its consistent refusal to impose on the Secretary mandatory deadlines for the resolution of disputed disability claims," Justice Lewis Powell said, writing for the majority.

I want to say again, as I said in my statement, that I want to commend a number of Senators. I do not know of anyone in this body—Democrat or Republican—who wants to take anybody off the rolls who has a severe impairment.

Yesterday, I was privileged to visit a rehabilitation institute in Chicago where there are very severely disabled people—men, women, and children. I talked with them about this particular bill. I think there is a general agreement among those who are disabled in this country that we ought to reserve the program for the disabled—not those who claim they are disabled, but for the disabled. That was the intent of the original disability legislation in 1956, which was supported by the distinguished Senator from Louisiana, and that is the appropriate intent.

There are probably a number of persons who have disabilities who are not on the program and belong on. There are also a number of persons on the program who have no serious disabilities and they ought to be terminated. And that is all we are trying to deal with in this legislation.

There has been a lot of confusion and a lot of misunderstanding. There have been long efforts by a number of Senators on both sides of the aisle to find a resolution to the difficult problems. And it is fair to say that the prime movers in trying to bring this about in a responsible way—and I underscore "responsible way"—are the distinguished Senator from Maine, Senator COHEN, the distinguished Senator from Michigan, Senator LEVIN, the distinguished Senator from Pennsylvania, Senator HEINZ, and others.

Mr. President, I reserve the balance of my time as I know the distinguished Senator from Louisiana may want to make a statement.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I have been deeply concerned about the pending proposals to amend the social security disability program. Over the course of its history since 1956, this program has proven to be far more costly than Congress intended. Moreover, there is clear evidence that the excess costs were not simply based on a failure to estimate the size of the disabled population. Rather, the problem has been that benefits have been paid to significant numbers of people who do not meet the eligibility requirement. There have been court decisions which have extended the program to those for whom Congress never intended it. There have been periods of lax administration. As a result, surveys have indicated that a significant percentage of those getting benefits are not in fact eligible.

In response to this unintended and inappropriate expansion of the program to those who are not eligible, Congress attempted in 1980 to require more careful administration and instituted a rule under which each individual on the rolls must be periodically reviewed to assure eligibility.

The implementation of this review process revealed weaknesses in the administrative structure and did result in a number of unfortunate instances in which benefits were, at least temporarily, denied to some individuals who were in fact eligible. Nevertheless, the reviews did confirm that many ineligible individuals have been receiving benefits.

We should, of course, act to remedy any administrative problems in how the reviews are conducted. But we should not abandon our efforts to con-

tain program costs by assuring that benefits are paid only to those who are, in fact, unable to work.

For these reasons, it was my view that disability legislation should not be acted on until the Committee on Finance had the opportunity to examine it and assure itself that we were not undermining the objective of insuring the integrity of the program. While I continue to have serious concerns about the bill before us, and in particular about the medical improvement standard in it, I think the Finance Committee has made several significant improvements in the bill. These improvements include a reaffirmation of congressional policy that the program should be carefully administered and that benefits should be allowed only on the basis of objective medical evidence.

I note, Mr. President, that that committee amendment had the support of the administration, and it puts in statutory form the regulation that the Secretary of HHS has been applying.

Moreover, the bill includes a fail-safe financing provision which would help prevent a recurrence of runaway costs should the medical improvement standard prove to be more costly than is now estimated by the actuaries.

The medical improvement standard approved by the Finance Committee is more limited than other similar proposals. It places the burden of proof on the claimant to establish that there has been no improvement and it allows the Secretary to fully redevelop the record of the earlier decision. Even so, it represents the first time that the statute has explicitly authorized benefits to be paid on the basis of disability even if an individual is able to work. This creates a double standard of eligibility which could lead to substantial expansion of the program. Moreover, it accounts for most of the cost of this bill—some $2.5 billion over the next 5 years.

At a time when Congress is struggling to find ways to control enormous Federal deficits, it is troubling to expend funds of this magnitude for a new entitlement provision, especially since this $2.5 billion entitlement is targeted specifically at individuals who would otherwise be found ineligible because they are able to work.

In addition to my concerns about the medical improvement provision, I am also concerned that other major problems in the social security disability program are not addressed in this bill. These problems will have to be dealt with. For all these reasons, while I voted to report the bill from committee, I did so with reservations. It would be difficult to responsibly support the bill if the safeguards incorporated by the Finance Committee are significantly weakened.

I ask that a more detailed statement of my views on this legislation be printed at this point.

There being no objection, the additional views were ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF THE HONORABLE RUSSELL B. LONG

Although I continue to have reservations about S. 476, the Finance Committee has made important modifications in the bill:

The medical improvement standard in the Committee bill is a less complete presumption of continuing eligibility for persons who were not disabled when they began receiving disability benefits.

A measure of protection of the disability insurance trust fund, if the cost of the bill far exceeds the estimates, is incorporated in a fail-safe provision which will scale back cost-of-living increases if the fund begins to deteriorate.

By incorporating a statutory definition of pain the Committee bill re-emphasizes that legislative policy is set by the Congress and that the Congress expects the Administration and the courts to interpret and apply that policy in the light of the Congressional intent that the disability insurance program be carefully administered and nationally uniform.

By providing a mandatory expedited timetable for dealing with State failure to follow Federal rules in determining eligibility, the Committee bill would prevent another protracted deterioration in State administration of this Federal program such as is now occurring.

THE MEDICAL IMPROVEMENT STANDARD

Under legislation enacted in 1980, the Administration has conducted a large number of continuing disability reviews to see if persons on the disability insurance rolls are still disabled. A significant number of persons were removed from the rolls.

Under present law, when a recipient of disability insurance benefits is reviewed to determine whether he is still disabled, the same definition of disability applies to him as is used for a new applicant, namely: is he able to engage in "substantial gainful employment"?

S. 476 as introduced would for the first time have set a different standard of continuing eligibility for a person already on the rolls. Finding him capable of engaging in substantial gainful activity would not have sufficed to end his benefits; the Secretary would also have had to show that he had undergone medical improvement since he was first determined to be disabled.

The Committee bill amends and improves this provision. The original bill would have almost totally foreclosed the Secretary from removing from the rolls a person who was not disabled when he began receiving benefits. The Committee bill instead lets the Secretary challenge the original disability determination, develop additional evidence and require the complainant to prove that his condition has not medically improved.

Even with this modification, the Social Security Act for the first time wil have permitted persons who are able to engage in substantial gainful employment to continue receiving disability insurance benefits.

The Committee bill is estimated to cost $2.5 billion over a five-year period. Virtually this entire amount will be paid to persons who are able to work.

These very significant costs of this legislation are justified by the proponents of the bill on the basis of the need to deal with the current chaotic situation which prevails in the administration of the social security disability program. Even if this argument were to be accepted, it remains deeply troubling for us to expend $2.5 billion, at a time when we are struggling to cope with alarming Federal deficits, to provide benefit payments to individuals who would be unable, despite several levels of appeal, to establish their eligibility.

The situation will be much worse if the legislation, instead of resolving the current chaotic situation, simply serves as a signal for further efforts to broaden eligibility. The bill as reported by the Committee on Finance clearly does not intend such a result. However, the costs and caseloads of this program have over the years proven highly volatile and difficult to control. The adoption by the Congress of a dual standard of eligibility creates a tension which could be laying the groundwork for further expansion of the program. It may prove difficult to maintain a situation in which individuals are denied admission to the benefit rolls—even though equally or less disabled persons who managed to get on the rolls are allowed to keep receiving benefits.

DISABILITY PROGRAM NEEDS FURTHER REVIEW AND REVISION

S. 476, as reported by the Committee on Finance, attempts to deal with major problems which now exist in the way the program is administered. I believe a number of the provisions of the bill will help in this regard. For example, the specific provision reaffirming the existing regulation on the evaluation of pain will resolve whatever confusion there may be on this issue. It emphasizes again the Congressional view of the need to limit eligibility to cases where disability can be established by objective medical evidence. The timetable for dealing with State defiance of Federal rules should help the Secretary deal with such problems more forcefully. Even the medical improvement provision, though it is troublesome from a policy perspective, at least will resolve a large body of litigation according to a policy standard which is set, as it should be, by the Congress and not the courts.

While these features of the Finance Committee bill are desirable improvements in the program, I am concerned that there remain major problems in the structure of the disability program which are not adequately addressed by the pending legislation. If Congress is to bring this program back under control and restore the confidence of both taxpayers and beneficiaries in its evenhandedness, we will need to undertake stronger measures than those contained in this bill.

Consistency of decisionmaking.—One of the arguments most frequently advanced in support of the medical improvement standard is that many, or even most, of the benefit terminations as a result of the recent eligibility reviews were erroneous. The evidence offered in support of this of this argument is that more than half of the terminations appealed to an administrative law judge (ALJ) were overturned at that level.

While the statistic is correct, the conclusion drawn from it is not. The phenomenon of a reversal rate by ALJs exceeding 50 percent is not peculiar to the recent review process. Both for continuing reviews and initial awards, the ALJs have consistently over the past ten years reversed more than half of the cases appealed to them.

This prolonged pattern of high reversal rates indicates only that different standards

are being applied at different levels of the administrative structure. This problem has been recognized for some time. The 1980 amendments attempted to address the problem by mandating a study of its causes and by requiring the Secretary to undertake to review a significant portion of cases which are reversed by ALJs. In addition to these actions, the agency has undertaken to publish rulings aimed at providing a uniform set of basic eligibility guidelines for all levels of the administrative process.

Thus far, at least, there is no evidence that any of these measures are having a significant impact. It may be too early for any results to show up, particularly in the present confused administrative atmosphere. But if the present approach does not succeed in achieving consistent decisionmaking within the present program structure, the Congress may need to consider modifications in that structure.

The role of the courts.—In the 1956 hearings on the question of establishing a disability program, witnesses from the insurance industry predicted that the courts would be only too eager to broaden the scope of the program beyond what Congress intended. That prediction has proven to be quite accurate. In the 1967 amendments, the Committee report cited several examples of ways in which the courts had broadened the original intent of the statute. The Committee then directed the Administration to report to the Congress on "future trends of judicial interpretation of this nature," and added to the statute provisions designed to counteract those court cases.

The situation has not noticeably improved. In a recent case (*Polaski* v. *Heckler*), a U.S. District Court judge excoriated the Secretary for following her own regulation in violation of what he deemed to be the "fundamental policies at the heart of the disability program." He found these fundamental policies embodied in a law review article by another judge to the effect that the disability statute "should be broadly construed and liberally applied." On the basis of his findings that the Secretary was not obeying what he calls "Eighth Circuit Law," this judge ordered the Secretary to substitute his policy judgment for hers (and that of the Congress) in carrying out the Social Security Act in an area covering seven States.

This case would not be so troubling if it were atypical. But apparently it is almost the judicial norm. Courts do, of course, have the responsibility to carry out the law and to resolve questions of interpretation. In so doing, however, they should be guided by the statute and its legislative history, not by abstract theories found in law review articles. If the judge in this case had bothered to examine the statute and legislative history, he would have ample evidence of Congress's concern not that the law be more broadly construed, but that it be more narrowly construed. He would also have found great concern on the part of Congress that this law be administered more uniformly. This might have led him to give more weight to national law than to "Eighth Circuit Law." In the United States, the law is the law of the land and it is made by Congress. The courts, including the district and circuit courts, have an important role in carrying out and enforcing the law. But Circuit courts are not regional legislatures.

In its provision on the evaluation of pain, the Committee deals with one of the areas in which the Courts have been broadening the program. However, it is clear from the law review article quoted in the Polaski case that there are many other aspects of the program on the judicial agenda. If the regional courts are going to persist in ignoring the policy objectives expressed by Congress and persist in refusing to grant appropriate deference to the duly promulgated regulations of the Secretary, the Congress may be forced to find ways of dealing with this situation.

Federal-State relationship.—A troubling recent development in the disability program is the tendency of some States to defy Federal rules in carrying out this program which is wholly Federally funded. Even more troubling is the fact that the Secretary took no action to bring the errant States back into line. The Committee bill does attempt to deal with this for the future by establishing firm and mandatory time frames for proceeding to Federalized operations in States which refuse to comply. This situation must be monitored, however, if it is not to recur.

The handicapped population.—One reason for the volatility of the disability program is that it is intentionally limited to only the most severely disabled—those who because of their impairment cannot engage in any substantial gainful work activity. This limitation is based not solely on cost but on grounds of policy. The law should not encourage those who retain the capacity for self-support to become dependent.

Unfortunately, if society cannot provide employment opportunities for handicapped individuals who are not totally disabled, they will understandably seek to be found eligible for benefits under the disability programs. And it will be difficult for the administrators of those programs to deny them eligibility.

If we are to succeed in controlling the cost of the disability insurance program, program, we must find more effective ways of opening up jobs to those handicapped people who have the capability to become productive members of society. While this problem is beyond the scope of the pending bill, our failure to solve this problem has a great deal to do with why this bill is needed. There would be no requirement for a medical improvement standard if we could offer a job to any handicapped person who could work.

I hope the Congress will turn its attention to this issue and that the Administration will consider whether it cannot recommend to Congress some significant measures to increase the availability of job openings for the handicapped.

THE GROWTH OF THE DISABILITY PROGRAM

When the disability program was enacted in 1956, it was projected that the program could be permanently financed by a combined employer-employee tax of 0.42 percent of payroll. After adjusting for the proportion of covered wages which are subject to tax, that is closer to a rate of 0.33 percent in today's terms. Since that time, the cost of the program has grown significantly. In the 1984 report of the Social Security trustees, the long-range costs of the program are estimated at 1.45 percent of payrol, some 4 times what was originally estimated. Expressed on a constant-dollar basis in relation to 1984 payroll levels, the long-range average cost of the program has increased from $5 billion per year to $23 billion per year.

There have, of course, been some changes in the eligibility requirements for disability benefits since 1956. These changes, however, explain only about one-third of the growth of the program (on the basis of the cost estimates made when they were added to the law). The bulk of the growth in the costs of the disablity program cannot be adequately explained except on the basis that the program has been administered in such a manner as to pay benefits to a broader population than Congress intended the program to serve.

Even more troubling than the mere fact that program costs are greater than originally estimated is the evidence that it remains a highly volatile program. Its costs could easily expand well beyond present levels. At the time the program was first enacted, the experts estimated that by 1990 there would be a little more than a million disabled workers drawing benefits. Today there 2.6 million workers drawing benefits. This is a large increase. But just a few years ago—in 1977—the benefit rolls were growing so rapidly that the actuaries projected they would exceed 5 million disabled worker beneficiaries by 1990. That is roughly 5 times the original estimate.

In dollar terms (using a constant dollar concept based on 1984 payroll levels), the projected long-range average costs of the program have increased from $5 billion in 1956 to $23 billion today—a fourfold increase. But today's projected costs are far from the historic high. That occurred in 1977, when instead of the original 0.33 percent of payroll or the present 1.45 percent of payroll, the long-range program costs were projected to require a tax (on a comparable basis) of about 3.4 percent of payroll—some 10 times as high as of the original estimate. This extreme point in the cost of the program was partially caused by a problem in the benefit formula. But even after that problem was corrected by the 1977 amendments, the long-range average cost of the program was estimated to be 2.49 percent of payroll—over 7 times the original cost. In comparable constant dollar terms, this translates into a long-range annual average cost of $40 billion per year.

Viewed in this perspective, it is clear that this is a program with a serious potential for getting further out of control. It could easily add billions of dollars per year to the deficit and could endanger the stability of the social security system generally. It is particularly important to note that the program is now again showing a trend towards increased costs. As a result of the actions by the States and the courts and the various moratoria imposed by the Administration, the rates of termination are on a downward trend. This is not surprising. But the program has also recently shown an upswing in the allowance rates and in application rates.

Just in the past year, the social security actuaries have been required to significantly increase their estimates of what this program will cost even if there is no additional legislation. For the 10-year period ending 1992, the 1984 trustees report indicates that without any legislative change the projected disability program costs have increased by $5.5 billion. The estimates of the long-range average annual costs have similarly increased by over $1 billion per year.

For this reason, there are grounds for serious concern over the possibility that the enactment of disability legislation could be taken as a signal which would unleash another explosion of program costs. If that were to take place, the currently estimated costs of the bill, although they are substantial, would pale in comparison with the true costs of the bill. There is good reason to expect that the enactment of this legislation in the form it passed the House or in

the form in which it was referred to the Finance Committee would produce just such results. The Finance Committee has modified this legislation and, in particular, has attempted to clarify it in several ways to limit the possibility that it could mistakenly be seen as the starting signal for another round of program growth. Even so, careful monitoring will be required, given the historic difficulty of controlling the program. In particular, it would be very difficult to responsibly support this legislation if the safeguards included by the Finance Committee were weakened in any significant degree.

Mr. LONG. Mr. President, let me say in closing that I appreciate the concerns of Members of this body who have a great interest in helping less fortunate people. My friend and my colleague on this side of the aisle, Mr. CARL LEVIN, the Senator from Michigan, has been tireless, tenacious, and unrelenting in seeking to provide further helpful consideration to persons who in his judgment were denied help and who needed help. His sincerity and his devotion to this cause is beyond the doubt of any one of us. The same thing is true, Mr. President, of the Senator from Maine, Mr. COHEN. Senator COHEN has also indicated a tremendous sympathy for persons who have been unable to receive the payments to which they were entitled.

I sympathize with what they are trying to achieve. I simply have insisted, Mr. President, and I shall try to continue to insist, that this program be limited to those disabled persons for whom it was intended. I do not think that those who pay taxes in this country would approve of us if we permitted this program to expand fivefold or eightfold. I do not think the people of this country, for example, are prepared to pay the kind of taxes it would take. I should think it would take about $1,000 per year in additional taxes for the average working man for us to pay the kind of benefits that are being paid under the liberal standard that is used in Holland today. In Holland they have about 16 percent of their work force on the disability rolls.

We were led to believe this program would require us to put only 1 percent of our work force on the disability rolls. Today we have about 2.5 percent of our work force receiving disability insurance benefits. But I would make the point that every time we liberalize the program to take an additional person on who was not previously eligible, that sets the stage for a large number of others to profit by that example, and be added to the rolls. It is not easy to maintain and control the cost of this program.

As an original sponsor of the disability program, and one who felt when we started the program that in due course it would be liberalized, I say that it is our burden to protect the taxpayers from putting people on the rolls who should be rehabilitated, who should be brought back into the mainstream, as citizens who hold a job.

I believe we have been derelict by failing to have a more effective program to encourage and require employers to do what they should do; that is, to provide employment opportunities for handicapped people who otherwise would have no income. That is a shortcoming of the situation today, the fact that we have not come forward with a good program to assure decent and meaningful employment to handicapped people. Left without employment, those people have no choice but to make every effort to find their way onto the disability rolls. That then leaves us with a situation where we have people on the rolls who should, both as a matter of business and as a matter of good human relations, be placed in the mainstream of employment by employers who could have found ways to provide more disabled people with assignments in their work force. This would have happened if these employers had made the kind of effort that I would like to see them make to bring that result about.

Mr. President, I believe the committee has done the best it could, recognizing that we have a variety of views on the committee, just as we have a variety of views in the Senate as a whole, in trying to work out a measure that we hope will meet with the approval of the Senate itself.

Mr. DOLE. Mr. President, before I yield to the distinguished Senator from Maine, I want to indicate, as the distinguished Senator from Louisiana has indicated, that this is a very sensitive problem. The record should be clear that there is not a Senator in this body who wants to do anything to adversely impact someone who has a handicap, who is disabled, who ought to be on the rolls. I think we have made that clear. From some of the things I read, I wonder if there is really an understanding.

I have wondered myself why HHS and some people who have written about this issue have not written about those people who should not be on the rolls but are on the rolls, instead of the others.

Also, I want to acknowledge that the distinguished junior Senator from New York, Senator D'AMATO, who has played a prominent role in this legislation unfortunately has a plane to catch so that he can attend a meeting of Project Return, a rehabilitation program dealing with battered wives and drug addicts. His statement has been made part of the record. Were the Senator able to stay, he would obviously vote in favor of the legislation.

I yield 10 minutes to the distinguished Senator from Maine, one of the pioneers in the efforts to modify and revise this legislation.

Mr. COHEN. I thank the Senator for yielding.

I take this opportunity, Mr. President, to extend my sincere thanks to Senator DOLE. His effort has been nothing short of herculean.

I would point out that it has been exactly 2 years since we began our first hearing back on May 25, 1982, when Senator LEVIN and I conducted oversight hearings because we had been made aware that we had a serious problem on our hands.

I also want to congratulate and commend the Senator from Louisiana, Senator LONG, for his help in coming to the floor today with a unanimous package. It really has been a long process in which a good deal of refinement has had to take place.

I must tell you, Mr. President, we have tried to take as much emotion out of this emotionally charged issue as we possibly could. We had, for example, hearings in which I, on my own accord, decided not to allow congressional witnesses to testify. Some of our colleagues came before us and wanted to testify on this issue. I said, "No, we are going to try to get at the facts. You can submit statements for the record."

That was highly unusual, but we did not want to overdramatize it. I even went to the point of not allowing persons who were severely disabled, who had been terminated, to testify so that we would not dramatize the issue because it was so provocative by its very nature.

We in Congress had mandated and joined in the efforts of the Senator from Louisiana in requiring these reviews. We found some serious deficiencies in the way they were being conducted. For example, people were not being adequately notified that their benefits were about to be terminated; we found it was not malice on the part of the administration, rather, they did not want to unduly alarm beneficiaries. They simply sent out a postcard saying, "Your case is under review."

But the SSA officials did not tell them that they woud have to come forth with additional proof, presenting new medical evidence that they were disabled.

We had the situation of people being terminated with no face-to-face meetings and no human element involved whatever. There was also the question as to who would have the burden of proof.

Another problem concerned the lack of uniformity of standards. On one hand the State claims examiners were applying one standard, the administrative law judges another, and the courts perhaps, a third.

We also examined the question of the Social Security Administration, without any public notice, eliminating the requirement that a claimant's pain

be evaluated. That is something that has been in the SSA regulations for years. Pain is a factor to be taken into account in determining whether a person is suffering from a disabling injury.

We learned of the economic hardship experienced during the long process of review. It sometimes takes a year or almost 18 months for a beneficiary to have his case heard on appeal. In the meantime, those individuals who had their disability payments cut off had to go without for months without benefits, only to be reinstated after winning on appeal.

Some people were faced with tremendous hardships and suffering. Some people committed suicide. Others tried to. We had people who died from heart attacks, many causally connected with the fact that they could no longer support themselves because they could not work. Yet they were terminated. There were people in iron lungs, people in body casts, who had their benefits terminated.

What we had was essentially a paper-oriented process, without the human element involved. We had a lot of misinformation. We had incomplete medical exams. We had conflicting standards, which I mentioned before. And we had even an issue dealing with the nonacquiescence by the Social Security Administration in decisions rendered by Federal circuit courts in which the administration would say, "We do not acquiesce in that particular decision. It only applies to the factual case at hand and any other disability claimant will have to go to court and prove his case all over again, even though we might have an identical factual case."

These deficiencies are why Senator LEVIN, Senator HEINZ, myself and so many others recommended an overhaul of the disability review process. It was not because we do not share the same views as the Senator from Kansas and the Senator from Louisiana. We do. There is nothing that I could point to where I would be in disagreement with them. They are absolutely right. We want all of those people who are not disabled within the meaning of the law of those rolls. And we do not want to see it expanded beyond what we really intended. So we share in that common goal.

I think there have been some improvements made in our legislation, and I would agree with the Senator from Louisiana that we have made a number of improvements in refining our reforms.

I am not entirely happy, frankly, with the bill as it has been reported by the Finance Committee.

But, I think it is a good compromise. We perhaps have a different view on how I believe pain should be evaluated. Aside from that, Mr. President, I simply wish to go on record as saying this is a substantial improvement over where we are right now. I believe it will provide a substantial amount of equity in the future.

Mr. President, I am pleased that the Senate is considering this legislation which Senator LEVIN and I authored to reform the social security disability program. It has been an arduous task to bring this legislation to the Senate floor, and thank Senator DOLE for his Herculean efforts in forging a compromise that enjoys the support of the administration, the sponsors of this bill, and others who now support it.

Three years ago, the Social Security Administration began reviewing the eligibility of individuals receiving disability benefits. These reviews, mandated by Congress, created chaos and inflicted pain that Congress neither envisioned nor desired when we enacted what was intended to be a sound management tool.

By now, the statistics are familiar to all of us. Since March 1981, more than 470,000 beneficiaries have been disqualified by the State agencies which apply Social Security Administration guidelines. yet, more than 160,000 people have been reinstated after appealing to administrative law judges. The hardships imposed on the truly disabled have been documented in countless hearings, studies, reports, court decisions, newspaper articles, and personal experiences.

Many of my constituents have written to tell me of their traumatic experiences with the social security disability program. Their own words best express the pain, humiliation, and despair these disabled workers have felt.

One woman, wrote of the suffering, agony, and bitterness that she had gone through since losing her husband:

> His benefits were stopped in June of 1982, and he never lived to get his hearing date set. He was a very sick man, and I'm sure the mental pressures as well as his physical problems played an important part in his death. He worked for 36 years in a pulp and paper mill so I am sure you understand my feelings about the whole system. As far as I'm concerned, he was let down by his government in a very cruel and heartless manner.

Another woman who works for an organization that assists the disabled voiced the frustration felt by her clients:

> Physical or mental disabilities have forced them, through no fault of their own, to draw these benefits. However, they are now being penalized for having these disabilities. They become discouraged, depressed, and above all desperate. The devastating effects that are imposed on these people is something that should not happen in this country. When you take away, in many cases, the only means of financial survival that a person has, you have degraded him to the lowest point.

I find it difficult to understand why American citizens who have made substantial contributions to the Social Security program, their community, society, and in many cases fought for their country, are now being deprived of what is rightfully theirs.

In a letter to me, the director of Maine's Income Maintenance Bureau summed up the problems in the disability program by declaring: "Current Federal policy on disability is completely outrageous."

My constituents painted a stark picture of a review process that sought efficiency at the expense of equity. Witnesses at hearings held by the Oversight of Government Management Subcommittee in May 1982, recounted case after case in which a truly disabled person lost benefits due to a paper oriented review process characterized by misinformation, incomplete medical examinations, inadequately documented files, conflicting standards, and erroneous decisions. The General Accounting Office has testified that the message perceived by the State agencies, swamped with cases, was to deny, deny, deny, and, I might add, to process cases faster and faster and faster. In the name of efficiency, we have scanned our computer terminals, rounded up the disabled workers in the country, pushed the discharge button, and let them go into a free all toward economic chaos.

The need for fundamental change in the disability reviews has been evident for some time. Since the reviews began, more than 12,000 individuals have filed court actions challenging the Social Security Administration's termination of their benefits. An additional 40 class action suits had been filed as of last month.

Before the administration imposed a nationwide moratorium on April 13, half of the States were refusing to follow the flawed procedures and criteria mandated by the Social Security Administration. In 10 States, including Maine, the Governors had imposed moratoriums on further disability reviews, while other States had devised their own standards for determining eligibility or were following court decisions that require medical improvement in a beneficiary's condition before benefits can be curtailed.

The legislation before the Senate today would end this chaos and insure an equitable review process. While S. 476, as reported, does not contain every provision of the legislation as introduced, it represents a worthwhile effort to improve the program and deserves our support.

First—and fundamental to a fair system—the bill would require that the claimant be given a clear and complete notice of what the review process entails. Although the Social Security

Administration has taken steps to improve its notices, this basic safeguard should be incorporated into the disability statute.

Second, S. 476 would require the standards for determining disability to be issued as regulations subject to public notice and comment. This provision would accomplish three essential objectives: It would promote uniformity in decisionmaking by requiring all adjudicators to use the same criteria; it would improve the quality and consistency of the standards by involving the public, including the medical profession, in their development; and it would insure that everyone involved has ready access to the standards. An attorney in Maine who represents the disabled describes the current criteria as secret because the internal agency guidelines used by State claims examiners are not available for public scrutiny and are so difficult for her to obtain.

Third, the cornerstone of S. 476 would establish standards for conducting the disability reviews. When Congress passed the 1980 amendments mandating the periodic reviews, we neglected to establish guidelines for determining when benefits should be ceased. S. 476 would remedy this critical omission by establishing clear criteria for continuing or terminating benefits.

As a general rule, the Secretary could terminate benefits if the evidence shows that the individual's medical condition has improved and that he can perform substantial gainful activity. If the evidence, compiled by the Secretary and the beneficiary, demonstrates that the individual's condition is the same as or worse than it was when he was first granted benefits, then he would be continued in the program unless the Secretary finds that one of the following exceptions applies:

(A) The individual has benefited from medical or vocational technology or therapy which allows him to perform substantial gainful activity;

(B) New or improved diagnostic or evaluative techniques indicate that the individual's impairment is not as disabling as it was considered to be when benefits were first granted, and he can perform SGA;

(C) There is substantial reason to believe that the initial decision was erroneous; or

(D) The benefits were fraudulently obtained.

These specific criteria would clear the confusion that shrouds the current review process and, for the first time, provide disabled workers, their attorneys, State claims examiners, and administrative law judges with lucid, fair, and unambiguous grounds for terminating or continuing benefits.

Fourth, the bill would include language on pain in the statute. For a time, the agency eliminated the evaluation of pain section from the internal guidelines which set forth the standards for disability decisions (the POMS), saying there had been an "improper emphasis on the role of pain." The deletion contradicted the SSA's own regulations which require consideration of a claimant's pain in reaching a disability determination. It also ran contrary to the weight of court decisions which have recognized the importance of pain for more than 20 years. In fact, with the exception of the medical improvement issue, no other factor in disability determinations has been the source of as much litigation as the issue of pain. Although new guidance on pain has been reinserted into the POMS, I believe it is desirable to incorporate a pain standard into the law in order to prevent future arbitrary deletions or downgrading of the role of pain.

I have reservations, however, about the specific pain language adopted by the Financial Committee. The committee approved an amendment offered by Senator LONG which simply codifies the current SSA pain regulation. This regulation requires the beneficiary to demonstrate the existence of an underlying condition that could be expected to produce disabling pain.

The problem with this language is that many pain experts contend that it is not always possible to pinpoint the cause of incapacitating pain. Yet, the existence of the pain itself can often be reliably construed though such indicators as a history of medication for pain, muscle atrophy, weight loss, and limited activities.

I share Senator LONG'S belief that subjective statements of pain should not be considered conclusive evidence of disability. I believe, however, that the language in the Levin-Cohen amendment struck the proper balance by requiring findings, established by medically acceptable clinical or laboratory diagnostic techniques, which demonstrate the existence of the pain, but by not requiring proof of an underlying medical condition. With the language substituted by the Finance Committee, we risk denying disability benefits to some workers who suffer from debilitating pain that leaves them unable to work but for which a cause cannot be pinpointed.

The committee bill also mandates a study on pain. It seems inconsistent to incorporate the current standard into law—a standard that the courts have repeatedly criticized—and at the same time order a study to improve our knowledge of how pain should be evaluated.

I hope that the conferees will agree to strike the pain standard included in the Finance Committee bill and either adopt the standard in the Levin-Cohen amendment or simply await the results of the study before legislating in this area.

Fifth, the legislation addresses the SSA's policy of issuing rulings of nonacquiescence when its officials disagree with Federal court decision but choose not to appeal it. Although the Secretary currently follows the court decision for the individual affected in a particular case, the court ruling is not always adopted as binding agency policy. When the SSA issues a ruling of nonacquiescence, it, in effect, forces an identically situated claimant in the same circuit to go to court in order to obtain relief. This renders the administrative proceedings, including the ALJ hearing, pointless as the disabled individual knows he will have to file a district court action if the ALJ obeys the SSA and ignores the court ruling.

Even though the Social Security Administration has chosen to nonacquiesce in only eight judicial opinions, these cases have involved significant issues, such as medical improvement, which would significantly alter disability determinations, were they followed.

For its part, the SSA point out that it is difficult to operate a consistent, nationwide program if it must adopt different standards for determining disability in different circuits. And the prospect of an individual being granted or denied benefits depending on which circuit he lives in is indeed troubling.

The compromise we worked out with Senator DOLE is, in my judgment, a good one. The legislation would require the Secretary to justify to Congress and to publish in the Federal Register her decision to acquiesce or not to acquiesce in a U.S. circuit court ruling within 90 days after the decision is issued. This would provide an early warning system to Congress of possible problems in the disability program so that corrective legislation could be enacted. The reporting requirement will also allow us to evaluate more carefully the SSA's policy toward Federal court rulings. Finally, the compromise includes a statement making clear that Congress is not sanctioning nonaquiescence by the Secretary.

Other important provisions of S. 476 would extend for 2 more years the continuation of benefits pending appeal; require the Social Security Administration to conduct a five-State demonstration in which a claimant would have a personal interview with a State claims examiner; and mandate more careful consideration of individuals with multiple impairments.

Mr. President, I want to emphasize that I support periodic reviews of individuals receiving disability. Since a worker does not have to be permanently disabled in order to receive benefits, it makes sense to recheck beneficiaries from time to time to insure that only those who remain disabled continue to collect disability checks. Workers who have recovered should go back to work. Periodic reviews also provide a useful check against the fraud that plagues virtually every Federal program.

But what we have now is a 40-percent solution to a 20-percent problem. The percentage of ineligibles was estimated to be about 20 percent when Congress passed the 1980 amendments, but benefits have been terminated for twice that number. Based on the administrative law judges' reversal of State termination decisions, more than 160,000 mistakes have already been made, and that does not include those severely disabled people who did not pursue an appeal because they lacked the resources, willpower, or understanding.

We should remember that individuals receiving title II benefits have paid for this protection against disabling illness. This is not a welfare program; it is an insurance program.

Government has a duty to be just, as well as efficient, and right now, the disability program is neither. As a Presque Isle, Maine woman, whose 29-year-old husband died of cancer, told me: "The emotional stress of living with cancer, knowing your husband may die, is in itself overwhelming, but to have one's own government not care because first comes the paperwork and redtape, then comes people, makes it even worse." Her words are an eloquent testament to the need for this legislation.

The time has come for the Senate to embrace permanent, statutory reforms in the disability program. We have waited far too long to remedy a clearly inhumane, inefficient, and inflexible system for deciding who should receive disability payments.

The legislation reported by the Finance Committee is not perfect. In particular, I have reservations about the 3-year sunset on the medical improvement standard and the COLA fail-safe provision, as well as the language on pain. But, on balance, this legislation includes many features that will protect disabled workers from the arbitrary decisions to curtail their benefits. Since the legislation that will emerge from conference is likely to provide even stronger protections, I urge my colleagues to support this bill.

By adopting this legislation, the Senate can reform the disability program so that its hallmarks are compassion and equity rather than indifference and injustice.

Let me take this occasion to thank Susan Collins of my staff and Linda Gustitus of Senator LEVIN's staff. Those two outstanding legislation assistants have devoted hundreds of hours to this cause and without their talent and dedication, this triumph of hope over despair would not have been possible.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I should have done this at the outset, but I would like to say at this point that we would not be on the floor today with this disability reform bill if it had not been for the efforts of a number of staff people. Without question, we would not be here had it not been for the efforts of Carolyn Weaver, a member of the Senate Finance Committee staff, who handles social security and disability matters. I am not certain how many hours Carolyn has been in conference with all of the concerned parties, but it has been a great deal. I also want to note the efforts of Joe Humphreys and Mike Stern on the minority staff, along with Susan Collins of Senator COHEN's staff, and Linda Gustitus, of Senator LEVIN's staff.

We have also had the assistance of the administration, representatives of the Justice Department, HHS, and OMB.

I must say, sometimes we bring bills to the floor as if they just fell into our laps. I know that Carolyn must have had at least 50 meetings, over the past couple of years. Make it 100, why not? That is probably an understatement. I have participated in maybe 10 or 20. Literally hundreds of hours have been spent arguing about all these things that we are now saying are perfect. We then come in and make speeches indicating that we have worked all of this out.

So I want to make certain that Carolyn Weaver and the other staff who worked so hard are properly recognized for their efforts.

This is a very, very complicated, sensitive, and emotional issue.

I think they had the same sensitivity that I hope every Member has not to do anythng that would detract from or impact on someone who should be on the rolls and to make every effort—to go the extra mile, if necessary—to protect those people and, on the other hand, be responsible in letting us review those on the rolls to see if some should not be there. I thank the staff for that.

Mr. President, Senator HEINZ has also been very concerned about this legislation and has made a number of invaluable contributions.

Mr. HEINZ. Mr. President, the bill before us today, S. 476, will, if enacted, be a meaningful step forward in reforming the current continuing disability review process (CDI's) which is currently so unfair to beneficiaries and such an embarrassment to the Congress and the administration. We should not wait any longer to protect disabled individuals and their families from an unfair review process, and put an end to the wrongful practices of the past 3 years. The legislation before us would do that. This bill represents a substantial compromise from costlier, more far-reaching proposals, and as such stands as the bare minimum necessary for comprehensive reform.

It is time for the Senate to act. The House passed a similar bill by an overwhelming vote of 410 to 1, 2 months ago. There is enormous public support for this legislation. We need decisive action to restore order, uniformity, and human decency to this program, and to eliminate the great uncertainty that plagues the program now.

The social security disability program has degenerated into a state of near anarchy. In the past year, we have witnessed an unprecedented revolt of the States and the courts against the Social Security Administration, and its management of the continuing eligibility reviews. Half the States suspended the reviews altogether, or decided to conduct them under guidelines that are more equitable than those of SSA. Many States declared moratoria on the reviews on their own initiative, in open defiance to SSA. Courts in virtually every circuit have ruled that SSA must adhere to a medical improvement standard.

On a national level, the crisis in the disability program has reached immense proportions. Since March 1981, SSA has reviewed the continuing eligibility of over 1.1 million beneficiaries. Of these, almost 500,000, or about 45 percent, have received notices informing them they are no longer eligible for disability benefits. However, for every two people determined ineligible by State agencies at the initial decision level, one has his or her benefits restored upon appeal. For those who are not reinstated, a GAO study has found that one-third are forced to go on State or local welfare rolls, and less than a quarter obtain full-time employment.

The root of this crisis is the Social Security Administration's improper, overzealous, and unfair implementation of the Social Security Amendments of 1980 that mandated a triennial review of the continuing eligibility of all nonpermanently disabled beneficiaries. Rather than removing from the rolls only those who are capable of working, SSA cut thousands who simply cannot work under any reason-

able definition. This purge of the rolls was accomplished through the hasty and haphazard application of overly restrictive administrative standards, and pressure upon State agencies to make inaccurate and unfair decisions.

The social security disability program is just that—an insurance program designed to protect American workers in the event they become disabled. The program is funded by a specific payroll tax, and has never, is not, and will not be in financial jeopardy long into the future. In fact, by 1996, trust fund reserves are expected to exceed by two times the amount necessary for annual expenditures. Given the enduring solvency of the DI trust fund, I think we have an obligation to restore administrative integrity to the disability insurance program. Disabled Americans have a right to some measure of certainty, predictability, and equity in the program they contributed to throughout their working lives.

Mr. President, as a member of the Finance Committee, I would like to be very clear about the decisions the Committee made and why we made them, as I believe a transcript of our proceedings would substantiate. I have said that the legislation before us will substantially reform the disability review process, and return fairness and uniformity to the program. Most importantly, this legislation establishes the demonstration of medical improvement as the primary criterion for review of disability cases. In particular, this means that if SSA is going to terminate eligibility for disability benefits, the evidence in the file must show that an individual's medical condition has improved to the degree that he or she can actually work.

The medical improvement standard is qualified by a number of exceptions that allow for flexibility in applying it. For instance, where improved medical or vocational technology allow a person to work despite an unchanged medical condition, or where new diagnostic techniques show an impairment is less disabling than originally thought, the medical improvement standard is waived. These provisions balance the goal of protecting beneficiaries from arbitrary termination decisions with the need to include consideration of advances in medical and rehabilitation technology in the disability review process.

Though the medical improvement standard in this bill represents an enormous advance over current practice, I have serious reservations about a number of the revisions accepted by the Finance Committee.

Specifically, I am concerned that we have placed a 3-year sunset on the standard. The purpose of establishing a medical improvement standard is to build into the review process a structural safeguard to protect the disabled from arbitrary changes in administrative guidelines or capricious shifts in the adjudicative climate that surrounds the decisionmaking process. To sunset this provision is to eliminate its signficance as a long-term reform designed to insure continuity, predictability, and fairness in this program. Insofar as one key function of this bill is to regain the trust and confidence of disabled and working Americans, I think the sunset undermines this objective.

Further, I am concerned that this sunset does not include a strong mechanism to motivate Congress to act once medical improvement is repealed at the end of 1987. It took us over 2 years to report out the legislation before us, and I fear that congressional inaction may do serious harm to the disabled again in the future.

Another key dimension of the medical improvement standard reported by the Finance Committee is the definition of who has the burden of proof in determining whether the beneficiary's medical condition has improved sufficient to work. In S. 476 as introduced and amended, and in H.R. 3755, the Pickle bill, the burden is upon the Secretary to show medical improvement. It is assumed that shifting the burden of proof to the agency protects the beneficiary, and assures that he is not in the position of having to reapply for benefits every 3 years when his case comes up for review.

It is this principle that once an individual has been deemed eligible for disability insurance benefits he should be protected from arbitrary suspension of benefits that has been incorporated into many medical improvement judicial decisions. Judges have rightly argued that once a beneficiary has been entitled to benefits, it should be the responsibility of the administering agency to show otherwise. In the current system, the individual starts out guilty and has to prove he is innocent. This does not seem appropriate in an insurance program.

In the bill before us, it is incumbent upon the beneficiary to prove that he has not improved. The Secretary must assist the individual in developing his case, but in the last analysis, it is the beneficiary who bears the entire burden of proof. I have two particular reservations about this change. First, the Secretary never has to establish an affirmative link between the fact that the individual has improved, and that this improvement is directly responsible for the individual's capacity to work. The individual has to prove a negative—that he has stayed the same or gotten worse. If the Secretary finds the argument unpersuasive, she simply evaluates his capacity to work under current standards. She never has to describe the precise relationship between the implied improvement in medical condition and actual capacity to work.

The essential purpose underpinning a medical improvement standard is that there should be a coherent, identifiable rationale for determining that a beneficiary is no longer eligible for benefits—that is, you have improved medically and this improvement enables you to work. This casual link is decoupled in the proposal before us, and I fear that SSA may terminate people whose conditions has not stayed the same, yet who has not improved enough to actually seek and engage in employment.

Second, I am concerned that this standard not be applied in a fashion that disadvantages the mentally disabled, whose very impairment may preclude them from developing and presenting their case. More generally, I fear that many beneficiaries have not meticulously held onto every medical document related to their disability, and may have problems clearly demonstrating that they have not improved since their admittance to the rolls 5, 10, or 15 years ago. It is critical that every effort be made on the part of the State agencies to assist beneficiaries in collecting such documentation.

This legislation incorporates the major features of S. 1144, a bill I introduced which passed the Senate last summer. Essentially, my bill and the parallel provisions in this legislation requires HHS to revise the rules and regulations that govern the assessment of mental impairments, and utilize qualified psychiatrists and psychologists in reviewing the medical evidence for mentally disabled beneficiaries.

It is important to note the Finance Committee did make one major change in this area. Rather than explicitly mandating that a qualified mental health professional complete the medical evaluation before a termination decision, this bill only requires that SSA make every reasonable effort to secure the appropriate personnel to do so. It is critical that this revision not be interpreted loosely. In the past 3 years, SSA has proven either uninterested or unwilling to recruit qualified psychiatrists and psychologists. In some cases, SSA has attracted the right people, but do not utilize them in evaluating mental impairment cases. In other cases, State agencies do not provide sufficient reimbursement for professional services. It is crucial that "every reasonable effort" be construed to mean both that available personnel be utilized properly and that State agencies actively recruit appropriate professionals and set fees that are

usual, customary, and prevailing for psychiatric and psychological services.

One provision in this legislation that I have serious reservations about is the legislative codification of current administrative regulations governing the assessment of pain. In this bill, we limit the Secretary to only considering pain that has a medically identifiable source of underlying impairment. Objective medical evidence of pain in which an underlying cause cannot be found is deemed irrelevant for the purposes of establishing disability. Subjective evidence of pain is also excluded. It seems to me that this standard does not conform to the state of the art in medical and scientific knowledge, and sets an overly narrow and unrealistic standard. Pain is an extraordinarily complicated medical phenomenon, and it is frequently the case that pain that can be objectively identified cannot be linked to an underlying impairment. To deny the existence of this phenomenon in this program seems to be a serious mistake, one that we will have to correct in the future.

The legislation requires SSA to consider the combined effects of multiple impairments upon a claimant's capacity to work. In the past, a person with 10 nonsevere impairments could be denied benefits, despite the interactive effects these impairments may produce. This provision, like many others in this amendment, makes the review process fairer and more realistic in evaluating an individual's capacity to function in a work environment.

The Finance Committee chose to limit the application of this provision to just the question of the severity of a claimant's medical condition, which is the second step in the sequential evaluation. This will prevent many of the worst abuses that have occurred in the past 3 years, but it is important to emphasize that the Secretary should also consider the combined effect of multiple impairments in the assessment of residual functional capacity, which is intended to serve as a review of the whole person. I am concerned that SSA's current method of evaluating residual functional capacity may be overly bureaucratic, and may not have the structural flexibility to allow for a truly individual assessment of capacity to work.

This bill continues benefits to beneficiaries through the administrative law judge stage in the appeals process for 2 years, which is critical in the period of transition between old policy and new. I feel it is important that no beneficiary suffer undue financial hardship while his or her case is still pending conclusion.

One problem that has continually plagued this program is the lack of consistency of standards among various levels of adjudication. This legislation will serve to establish uniform standards binding all levels of the decisionmaking process by bringing SSA under the requirements of the Administrative Procedures Act. This will also insure that basic review criteria can be modified only after a proposed rule change has been published and opened to public comment.

Mr. President, this legislation is desperately needed. It is supported by the States who have to administer this program. It is backed by every group concerned with the disabled. In field hearings held in Dallas and Chicago, I was struck by the unanimity of support for comprehensive reform among beneficiaries, lawyers, physicians, psychiatrists, social workers, service providers, disability examiners, State administrators, and all the other institutional actors involved with the continuing disability reviews. Though I am unhappy with some of the changes made in the Finance Committee, I think this bill represents a genuine compromise, one that I feel should be passed immediately.

Mr. DOLE. Mr. President, I ask unanimous consent that a summary of the provisions of the bill, as well as the official cost estimate for the bill, be printed in the RECORD immediately following my statement.

There being no objection, the cost estimates and summary were ordered to be printed in the RECORD, as follows:

[Memorandum]

MAY 18, 1984.

From Eli N. Donkar, Office of the Actuary.
Subject: Estimated Additional OASDI Benefit Payments Under S. 476 as Reported by the Senate Committee on Finance.

The attached table presents the estimated additional OASDI benefit payments that would result from the proposed disability amendments contained in S. 476 as reported by the Senate Committee on Finance on May 16, 1984. The estimates are based on the alternative II-B assumptions of the 1984 Trustees Report. In this respect, the basic program assumptions underlying these estimates are the same as those used for my memorandum dated May 4, 1984, showing similar estimates for earlier versions of these proposals. In particular, these estimates do not reflect the effects of the national moratorium on periodic reviews announced April 13, 1984 by Secretary Heckler.

This final Committee bill represents a combination of provisions contained in the two packages of proposals described in my earlier memorandum. In addition, S. 476 contains three new sections that provide for (1) closer monitoring of cases where benefits are sent to representative payees, (2) improved State compliance with Federal law and standards established for the disability determination process, and (3) a mechanism to automatically restrict the level of annual cost-of-living benefit increases to DI beneficiaries if DI Trust Fund assets fall below 20 percent of annual DI outlays.

The attached table indicates that there are two key provisions with respect to costs attributable to the bill under this set of assumptions. The first of these, contained in section 2, would temporarily institute a revised procedure for the determination of continuing disability eligibility. The revised procedure would include a modified "medical improvement" standard, whereby an individual's disability benefits could generally not be terminated if the individual could demonstrate that his condition had not medically improved since a previous determination of disability had been made.

The bill provides for the expiration of this new procedure at the end of calendar year 1987. The committee has indicated its intention to review the experience under the revised procedure, with the possibility that the medical improvement standard could be extended beyond its legislated expiration date. The current estimates, however, only reflect the costs resulting from the effect of the medical improvement standard during the period ending in 1987.

Previous estimates have included a range of examples with respect to the possible retrospective application of a medical improvement standard. However, the current bill includes specific language with respect to the application of this provision; it would apply to new decisions after enactment and to certain cases in the appeals "pipeline" as of the date of committee action on the bill.

The "pipeline" is defined in the bill to include those cases that (1) have not yet had a final decision of the Secretary, (2) cases covered under individual Federal court appeals, and (3) other cases covered under class action suits where the class was certified by the date of committee action. Therefore, the attached estimates for the current bill include only one set of costs for the medical improvement standard.

The second provision with a significant cost is section 3 which would provide for the continuation of benefits during the appeal of a medical cessation. Benefits could continue on appeal through the Administration Law Judge decision in cases where the initial cessation was issued before June 1986. Furthermore, no payments would be made under this provision for months after January 1987.

It should be noted that a third section of the bill has the potential for a significant impact on DI Trust Fund outlays, although under the alternative II-B assumptions it would have no effect. Section 17 provides for the automatic adjustment or benefit increases otherwise applied to benefits paid from the DI Trust Fund. Under that provision, DI benefit increases would be reduced if a specified DI "trust fund ratio" is estimated to decline below a 20-percent "trigger level." Benefits payable to new beneficiaries joining the rolls might also be affected, if required to maintain a 20-percent level of trust fund assets. Under the alternative II-B assumptions, this trust fund ratio is estimated to stay above 30 percent during the projection period 1984-89. Therefore, the cited provision would not result in benefit reductions.

Under more adverse conditions, however, such as those contained in the 1984 Trustees Report alternative III assumptions, the corresponding ratios are estimated to fall below the "trigger level" beginning in 1988. Consequently, under that set of assumptions, this provision would result in reduced benefit increases for DI beneficiaries beginning in December 1986.

The average OASDI cost over the long range (1984-2058) is estimated to be less than 0.005 percent of taxable payroll, for each section of the bill separately and for the total cost of all sections combined.

ELI N. DONKAR, Ph.D., A.S.A.,
Supervisory Actuary.

Attachment.

ESTIMATED ADDITIONAL OASDI BENEFIT PAYMENTS UNDER S. 476 AS REPORTED BY THE SENATE COMMITTEE ON FINANCE

[In millions]

Section	Proposal	Fiscal year—						Total 1984–89
		1984	1985	1986	1987	1988	1989	
2	Revised CDR procedure, including medical improvement standard [1]	$150	$440	$400	$410	$400	$250	$2,050
3	Continuation of benefits during appeal (through ALJ for initial cessations before June 1986)	60	130	110	60	50	40	450
4	Uniform standards for disability determinations	[2]	[2]	[2]	[2]	[2]	[2]	[2]
5	Moratorium and revised criteria for mental impairment cases	[3]	[3]	[3]	[3]	[3]	[3]	[3]
6	Qualifications of certain medical professionals	[2]	[2]	[2]	10	10	20	40
7	Compliance with certain court orders							
8	Multiple impairments		[2]	[2]	10	10	20	40
9	Study on evaluation of pain	[2]	[2]	[2]	[2]	[2]	[2]	[2]
10	Modification of reconsideration pre-review notice	[2]	[2]	[2]	[2]	[2]	[2]	[2]
11	Case development and medical evidence							
12	Payment of costs of rehabilitation services	[2]	[2]	[2]	[2]	[2]	[2]	[2]
14	Advisory council							
15	Regulations on frequency of reviews	[2]	[2]	[2]	[2]	[2]	[2]	[2]
16	Monitoring of representative payees	[2]	[2]	[2]	[2]	[2]	[2]	[2]
17	"Fail-safe" reduction of automatic benefit increases for DI benefit	[4]	[4]	[4]	[4]	[4]	[4]	[4]
18	Measures to improve State compliance with Federal law and standards for the disability determination process	[5]	[5]	[5]	[5]	[5]	[5]	[5]
	Total bill [6]	260	460	480	480	460	320	2,460

[1] See covering memorandum concerning which groups would be subject to the new procedure.
[2] Cost or savings less than $5,000,000.
[3] No cost is shown for this provision since existing administration initiatives are expected to accomplish the same results under present law.
[4] No cost is shown for this provision since, under this set of assumptions, the appropriate DI trust fund ratio does not fall below the 20-percent "trigger level" in this period.
[5] No cost is shown for this provision since estimates assume that any noncompliance of States would end upon enactment of a medical improvement standard for continuing disability reviews.
[6] Includes $90,000,000 due to continuation of benefits during appeal for past CDR terminations which would be reopened and evaluated under the new medical improvement standard but which would not be reinstated.

Notes: (1) The above estimates do not reflect the effects of the national moratorium on periodic review cases announced on Apr. 13, 1984 by Secretary Heckler. See memorandum dated Apr. 24, 1984, by Eli N. Donkar for a discussion of this issue. (2) Estimates shown for each section alone exclude the effects of interaction with other proposals. Total costs for bill reflect such interactions. (3) Due to the uncertainty concerning the effects of many of these proposals, actual experience could vary substantially from these estimates. (4) Estimates are based on the 1984 Trustees Report alternative II–8 assumptions.

Source: Social Security Administration, Office of the Actuary, May 18, 1984.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, May 18, 1984.

Hon. ROBERT DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the provisions of S. 476, the Social Security Disability Amendments of 1984, as ordered reported by the Senate Committee on Finance on May 18, 1984. We have not received a copy of this bill. The attached cost estimate is based on committee documents, and on conversations with committee staff.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE

1. Bill Number: S. 476.

2. Bill Title: Social Security Disability Amendments of 1984.

3. Bill Status: As ordered reported by the Senate Committee on Finance, May 18, 1984.

4. Bill Purpose: To amend Title II of the Social Security Act to provide for reform of the disability determination process.

5. Estimated Cost to the Federal Government: The following table shows the estimated costs of this bill to the federal government. These estimates assume an effective date retroactive to May 1, 1984, unless otherwise noted. The estimate was prepared without a draft of the bill. Estimates were prepared based on committee documents and on conversations with committee staff.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 476

[By fiscal years; in millions of dollars]

Budget function	1984	1985	1986	1987	1988	1989
Function 550: [1]						
Budget authority	3	10	12	11	5	6
Estimated outlays	3	10	12	11	5	6
Function 570:						
Budget authority	1	28	19	8	13	6
Estimated outlays	7	73	55	42	43	30
Function 650:						
Budget authority	−1	−14	−31	−45	−55	−67
Estimated outlays	46	220	225	127	136	121

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 476—Continued

[By fiscal years; in millions of dollars]

Budget function	1984	1985	1986	1987	1988	1989
Function 600: [1]						
Budget authority	1	5	8	10	8	11
Estimated outlays	1	5	8	10	8	11
Total cost or savings:						
Budget authority	4	29	8	−16	−29	−44
Estimated outlays	57	308	300	190	192	168

[1] Funding for entitlements that requires further appropriations action.

BASIS FOR ESTIMATE

This bill would change the disability process for those individuals who undergo continuing disability reviews (CDR's) and for those who apply for Disability Insurance (DI) and Supplemental Security Income (SSI) benefits. Historically, continuing disability reviews have been performed on medical diaried cases—those cases which the Social Security Administration (SSA) evaluates as having some chance of medical improvement within a specific length of time. In 1981, SSA began an intensified process of periodically reviewing all cases on the rolls not considered permanently disabled.

It is difficult to project the costs of the provisions in this bill for several reasons. First, there are little data available on the characteristics of the people who have been terminated from the DI rolls as a result of the continuing disability investigations. Second, the Administration has changed some of its policies regarding the review process a number of times, and it is unknown how these changes will affect the number of terminations from the program. In addition, there are many class action cases pending in the court system. The impact of this bill on the outcome of these cases is unclear. Finally, the language of the provisions allow for various interpretations which would affect costs.

This cost estimate assumes that 110,000 medical diary reviews would be performed annually. The number of periodic reviews is assumed to decline from less than 300,000 in 1984 to 120,000 in 1989, as the percentage of beneficiaries already reviewed increases. Approximately 45 percent of the medical diary reviews are estimated to result in initial terminations of benefit payments, but CBO estimates about 57 percent of these beneficiaries would have their benefits restored after appeals are reviewed. For periodic reviews, the percentage of initial terminations is projected to decline from 40 percent in 1984 to 20 percent in 1989. About 55 percent of those initially terminated from the rolls after a periodic review are estimated to have their benefits restored in the appeal process.

There are also costs to the Medicare program which would result from a larger number of recipients continuing to receive DI benefits, because most DI beneficiaries also receive assistance from the Hospital Insurance (HI) or Supplemental Medical Insurance (SMI) components of the Medicare program. Estimates of these costs are based on the average number of disabled beneficiaries receiving HI and SMI and on the average benefit payments for these programs. There are also costs to the Medicaid program because SSI beneficiaries generally receive Medicaid.

Table 2 displays CBO's outlay estimates for the major sections of the bill. Following the table is a description of the methodology used for the estimates of the outlays for each section listed in Table 2.

TABLE 2.—ESTIMATED OUTLAYS RESULTING FROM THE MAJOR PROVISIONS IN S. 476

[By fiscal years; in millions of dollars]

	1984	1985	1986	1987	1988	1989
Termination of benefits based on medical improvement:						
DI	22	86	123	130	113	90
HI and SMI	4	25	35	40	35	25
Medicaid	[1]	3	4	4	3	3
SSI	1	3	4	4	3	3
Multiple impairments:						
DI	[1]	4	7	11	13	15
HI and SMI	[1]	[1]	[1]	1	2	2
Medicaid	[1]	[1]	1	1	1	1
SSI	[1]	1	2	2	3	3
Continued payment during appeal:						
DI	25	149	112	−20	0	0
HI and SMI	3	48	20	0	0	0
Medical personnel qualifications:						
DI	[1]	[1]	[1]	10	10	20
HI and SMI	[1]	[1]	[1]	1	1	3
Medicaid	[1]	[1]	[1]	1	1	2
SSI	[1]	[1]	[1]	2	2	5
Compliance with court orders	[2]	[2]	[2]	[2]	[2]	[2]

TABLE 2.—ESTIMATED OUTLAYS RESULTING FROM THE MAJOR PROVISIONS IN S. 476—Continued

[By fiscal years; in millions of dollars]

	1984	1985	1986	1987	1988	1989
Vocational rehabilitation:						
DI	(1)	2	4	7	8	8
HI and SMI	(1)	(1)	(1)	(1)	(1)	(1)
SSI	(1)	(1)	(1)	(1)	(1)	(1)
Extension of sections 1619a and 1619b:						
Medicaid	3	7	7	6	0	0
SSI	(1)	1	2	2	0	0
Total outlays: [3]	57	308	300	190	192	168

[1] Less than $500,000.

[2] The costs of this provision cannot be estimated because they depend on future court decisions.

[3] The details do not add to the totals due to interaction between provisions.

Note.—This estimate was prepared based on conversations with committee staff. A draft of the bill as ordered reported has not been received.

TERMINATION OF BENEFITS BASED ON MEDICAL IMPROVEMENT

The medical improvement provision in S. 476 would require SSA to show that a current recipient's disabling condition has medically improved before the benefit could be terminated. Under current law, the condition of a beneficiary is compared to the medical listings and other guidelines to determine if the recipient is still disabled. SSA does not have to establish medical improvement, but only that the recipient is not disabled under current standards.

In 1979, the medical standards were made more precise; some beneficiaries who previously qualified under the old standards are now being terminated as not disabled under the new. These new standards toughened and codified stricter evaluation guidelines in determining disability. Prior to the new standards, 33.9 percent of reviews resulted in cessations; after 1979, these cessations before appeal were 40.9 percent of those reviewed. It is assumed that the resulting 20 percent increase in cessations were for those not meeting the new procedures but previously found disabled under the old. CBO assumes that 20 percent of those currently terminated are the result of this change, and are the group that would be affected by this medical improvement standard.

Of the 20 percent initially denied benefits under current law for medical improvement, we project that 85 percent would appeal and 75 percent of those who appeal would be continued on the rolls. Therefore, under current law, about 64 percent of the people losing benefits initially and whose disabilities have not improved would ultimately be continued on the DI rolls. Costs for the medical improvement provision would result from the continuation of benefits for the remaining 36 percent, who under current law, would not appeal or who would lose an appeal and would consequently be dropped from the rolls. In 1985, the first full year this provision would be in effect, it is estimated that approximately 6,500 people would be retained on the rolls as a result of this provision. The additional number of beneficiaries receiving DI as a result of this provision would fall over time as CBO's estimate of the number of CDRs performed declines. The costs to DI, including administrative expenses, are estimated to rise from $22 million in 1984 to $130 million in 1987, declining to $90 million by 1989. This estimate is assumed to be applied only to prospective cases and to certain cases currently in the court system. In SSI, only concurrent cases—those receiving both DI and SSI—would be affected because no CDRs have been planned for SSI only cases.

This medical improvement provision will expire on December 31, 1987. It is possible that a larger number of terminations than currently estimated will occur after that date, since those not terminated from the rolls in the intervening period may be reevaluated after 1987. This could negate some of the costs shown in 1988 and 1989. This estimate does not include any effect of such potential savings in 1988 and 1989.

The standards set by this provision will also apply to individual litigants in pending court cases and to certain members of certified class action suits. The impact that this part of the provision will have on the ultimate decision in the court cases is difficult to estimate. Specifying standards could facilitate judgements in favor of the claimant and result in increased program costs. However, judgements could still go against the claimant, or the law could be interpreted less favorably towards the claimant, lowering costs attributable to the bill. No impact on costs or savings is included in this estimate from the provision's impact on pending court cases.

Multiple impairments

This provision would require SSA to consider whether the combination of the applicant's disabilities is severe enough to keep the individual from working at the "significant gainful activity" level in the case where no one impairment is considered severe enough to warrant benefit payments. The SSA estimates that about 500 additional cases per year would be added to the rolls as a result of this provision. This would increase DI costs by a range of less than $500,000 in 1984 to $15 million in 1989. In SSI, about 150 cases would be added initially, increasing SSI costs by a negligible amount in 1984 and by $3 million in 1989.

Continued payment during appeal

This provision would provide for continued payment of disability benefits through the Administrative Law Judge (ALJ) level of appeal for those individuals who appeal SSA's decisions to end their benefits as a result of CDRs. This provision would affect terminations through June 1986 and continue benefit payments until January 1, 1987. The estimated costs, including administrative costs, are $25 million in 1984 and $149 million in 1985. The costs arise as a result of extra benefits paid to those who ultimately lose their appeal but do not repay the interim benefits as required under this provision. The estimate assumes that seven months of additional benefits are paid to each individual and that 15 percent of those who are finally terminated repay the extra benefits. This repayment is expected to occur in the year after the benefits are paid.

Medical personnel qualifications

This provision would require that the Secretary of HHS make every reasonable effort to ensure that a psychologist or a psychiatrist complete a medical evaluation in mental impairment case before the individual can be denied benefits. The SSA expects fewer than 500 individuals will be added to the rolls annually as a result of this change in procedure. DI costs would be less than $500,000 in 1985, rising to $20 million by 1989, while SSI costs would total $5 million by 1989.

Vocational rehabilitation

This provision changes the regulations concerning benefit payments for individuals participating in vocational rehabilitation programs. The SSA estimates that about 300 individuals per year would be affected by this change. DI costs would range from negligible in 1984 to $8 million in 1989. SSI costs would be insignificant.

Compliance with court orders

This provision requires SSA to apply the decisions of the circuit courts of appeal to all beneficiaries residing within states within the circuit, until or unless the decision is overruled by the Supreme Court. This provision could substantially increase costs but these effects cannot be estimated since they would depend on the outcome of future court decisions.

Fail-safe financing proposal

This provision would require the Secretary of HHS to reduce or eliminate the cost-of-living adjustments and to reduce benefits for current and future disabled workers if the Disability Insurance trust fund's reserve is projected to decline to less than 20 percent of a year's outlays. This mechanism would trigger only if the Congress takes no other action. The trust fund balance used for this calculation would include the funds owed to it by the OASI trust fund—currently $5 billion. CBO does not project the DI fund to fall below this level. The estimated DI costs in this bill do not trigger the benefit reduction mechanism.

Extension of sections 1619a and 1619b

Sections 1619a and 1619b provide SSI and Medicaid benefits to disabled individuals who work and who would not otherwise be eligible for benefits because their earnings exceed the "substantial gainful activity" level. These sections, which expired on December 31, 1983, are extended by these amendments through June 30, 1987. Section 1619a is estimated to add 575 persons to the SSI rolls in 1984 and 950 by 1986. Section 1619b is estimated to add 8,300 persons to the Medicaid rolls in 1984 and 10,500 by 1986.

6. Estimated cost to state and local governments: A number of the provisions of this bill would increase expenditures of state and local governments. The estimated net impact of the bill on state and local expenditures is less than $5 million a year.

The changes in SSI would increase state and local government costs because virtually all states supplement federal SSI benefits. By making more persons eligible for SSI benefits, state costs would increase. States are also affected by the added outlays in Medicaid because states finance a portion of the program. The current state financing share is 46 percent.

There could be some offsets to these added SSI and Medicaid costs to the extent that persons made eligible for DI and SSI by the bill might otherwise be eligible for general assistance or health care financed fully by states and localities. These potential offsets are not included in the cost estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Stephen Chaikind, Janice Peskin.

10. Estimate approved by: C. G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

DETAILED SUMMARY OF COMMITTEE BILL

SEC. 2. MEDICAL IMPROVEMENT

Present law

There is no distinction in the law between how eligibility for disability benefits is to be determined for people newly applying for ability benefits is to be determined for

people newly applying for benefits and those on the rolls being reviewed to assess their continuing eligibility. Eligibility or ineligibility is based on the the standards of disability (in the law, regulations, and Commissioner's rulings) in effect at the time of the most recent decision.

Under the law, disability means inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to end in death or has lasted or can be expected to last for a continuous period of at least 12 months.

Prior to the Secretary's announcement, on April 13, 1984, of a temporary, nationwide moratorium of periodic reviews, 9 States were operating under a court-ordered medical improvement standard, and 9 States had suspended reviews pending implementation of a court-ordered medical improvement standard or pending action by circuit court.

Committee amendment

The Committee amendment modifies, through December 31, 1987, the requirements and procedures used for determining continuing eligibility for disability benefits. If the Secretary finds that there has been no medical improvement in the individual's impairment(s) (other than medical improvement which is not related to his work ability), the Secretary would have the burden to show that there has been one of the following improvements or changes in circumstances prior to determining whether such beneficiary is disabled under the meaning of the law: (a) the individual has benefited from medical or vocational therapy or technology; (b) new or improved diagnostic or evaluative techniques indicate the individual's impairment(s) is not as disabling as believed at the time of the last decision; (c) the prior determination was fraudulently obtained; or (d) there is demonstrated substantial reason to believe that the prior determination was erroneous.

If none of the above factors are met, benefits would be continued (whether or not the individual would have been found to be able to perform substantial gainful activity). If any of these factors are met, the Secretary would then determine whether the individual can perform substantial gainful activity. If he can, benefits would be terminated.

If the Secretary finds that the evidence does not show that the individual's condition is the same as or worse than at the time of the prior determination, the Secretary would determine whether the individual can perform substantial gainful activity, and, if he can, benefits would be terminated.

Benefits would also be terminated if the individual is currently engaging in substantial gainful activity or if the individual cannot be located or fails, without good cause, to cooperate in the review or to follow prescribed treatment that could be expected to restore his ability to work.)

In making a determination, the Secretary shall consider the evidence in the file as any additional information concerning the claimant's current or prior condition that is secured by the Secretary or provided by the claimant. (The Secretary is thus not limited to considering only the prior decision or the evidence developed at the time of the prior decision.)

In the case of a finding relating to medical improvement, the burden of proof is on the claimant. That burden cannot be met by allegations regarding the beneficiary's condition; objective evidence containing clinical findings, laboratory findings and diagnosis, as outlined in regulations, must be provided. In other words, for benefits to be continued, the individual must state and the evidence in the file must show that the individual's medical condition is the same as or worse at the time of the last decision (or, if there is medical improvement, it is not related to work ability).

In the case of a finding relating to factors a-d, the Secretary has the burden of proof. In other words, for benefits to be terminated on the basis of any of these reasons, the evidence in the file must show that one of these factors is met.

The Committee bill requires that regulations to implement the medical improvement standard shall be published within 6 months of enactment.

Effective date

The new standard would (subject to the sunset) be applied to future determinations of continuing eligibility and to all individuals who currently have claims properly pending in the administrative appeals process. The amendment would further direct that continuing disability cases properly pending in the Courts (as of the date of Committee action) would be remanded to the Secretary for review by the Secretary under the new standard. (This amendment would also apply to new court cases which are timely filed by individuals who have completed the administrative appeals process during the period between March 15, 1984 and 60 days after enactment.) This remand procedure would apply only to individual litigants and to members of class actions identified by name.

In the case of other members of class actions, a different rule would be followed. The Secretary would be required to notify any member of a class who has, prior to the date of committee action, been properly certified as a class member (even though not individually named) that these individuals would be allowed a period of 60 days from the date of notification to request a review of the determination that they are no longer disabled. If they make such a request within the 60 days, their case will be reviewed administratively under the new standards established by the bill. The result of that review could be further appealed under rules of appeal established by the Social Security Act and Secretary's regulations. If they fail to request such a review, however, they would lose the right of judicial review of their case—just as claimants under current law lose such rights if they fail to make timely appeals, and as unnamed members of class action litigation now lose their rights of appeal if they fail to make a timely application for the relief which is ordered under the class action.

In the case of any individual with respect to whom a continuing disability determination has become administratively final prior to the date of Committee action and who has not initiated a court action either individually or as a member of a class properly certified prior to such date, the amendment would provide that the administrative determination of the Secretary is final and conclusive and not subject to appeal. In other words, the amendment would not allow for redetermination in the case of individuals who have failed to exercise their appeal rights and therefore have no reason to consider themselves protected by the certification of a class action. This would avoid the possibility that a future certification of one or more class actions—or even a nationwide class action might give the Committee decision much broader retrospective effect (and for higher cost) than the Committee intends.

Individuals remanded to the Secretary for review or those who request review within the allowable time limit could elect to receive payments on an interim basis pending redetermination of their eligibility under the new standard. These payments would commence with the month in which the individual requests that such payments be made. Individuals who are found eligible for benefits under the new standard would receive any additional benefits that may be due for the retroactive period since their benefits were ceased. Any interim payments made to individuals found ineligible under the new standard would be subject to recovery as overpayments under the same conditions that apply to payments made under the continuation of benefits during appeal provision in existing law.

SEC. 3. CONTINUATION OF PAYMENTS DURING APPEAL

Present law

DI benefits are automatically payable for the month the beneficiary is notified of ineligibility and for the 2 following months. Benefits do not generally continue during appeal. Based on a Supreme Court decision, supplemenal security income (SSI) payments must continue through opportunity for an evidentiary hearing.

Under a temporary provision in P.L. 97-455 (as extended by P.L. 98-118), individuals notified of a termination decision could elect to have DI benefits and Medicare coverage continued during appeal—through the month proceeding the month of the administrative law judge (ALJ) hearing decision. These additional DI benefits are subject to recovery as overpayments if the initial termination decision is upheld. This provision expired for terminations on or after December 7, 1983. Committee amendment: The Committee amendment reauthorizes payments pending appeal through the ALJ hearing for terminations prior to June 1, 1986.

SEC. 4. UNIFORM STANDARDS

Present law

The guidelines for making social security disability determinations are contained in regulations, social security rulings, and the Program Operating Manual System (POMS).

Regulations, or substantive rules, have the force and effect of law and are therefore binding on all levels of adjudication—state agencies, administrative law judges, the Social Security Administrations (SSA's), Appeals Council, and the Federal Courts. On a voluntary basis, SSA issues its regulations in accordance with the public notice and comment rulemaking requirements of the Administrative Procedure Act (APA). The APA requirements do not, however, apply to social security programs because of a general exception for benefit programs.

Rulings consist of interpretative policy statements issued by the Commissioner and other interpretations of law and regulations, selected decisions of the Federal courts and ALJs, and selected opinions of the General Counsel. Rulings often provide detailed elaboration of the regulations helpful for public understanding. By regulation, the rulings are binding on all levels of adjudication.

The POMS are a compilation of detailed policy instructions and step-by-step procedures for the use of State agency personnel in developing and adjudicating claims. The

POMS are not binding on the Administrative Law Judges, the Appeals Council, or the Courts.

Committee amendment

The Committee amendment would require the Secretary to establish by regulation uniform standards of eligibility to be binding on all levels of adjudication in determining whether individuals are disabled under the meaning of the Social Security Act. Such regulations must be published in accordance with the rulemaking requirements of the APA (thus removing SSA's exclusion from the provisions of the APA on matters relating to the determination of disability.)

Effective date

This provision is effective on enactment.

SEC. 5. MORATORIUM ON MENTAL IMPAIRMENT REVIEWS

Present law

Under the Disability Amendments of 1980, all DI beneficiaries with non-permanent impairments must be reviewed at least once every 3 years to assess their continuing eligibility for benefits. Individuals with permanent impairments may be reviewed less frequently. Presently, there is no distinction in the law between the rate of review for individuals with physical and mental impairments.

Under an Administration initiative (of June 7, 1983), periodic eligibility reviews have been suspended for those mental impairment cases involving functional psychotic disorders, pending a revision arrived at in consultation with outside mental health experts, or the criteria used for determining disability.

Under a subsequent Administration action (announced April 13, 1984), all periodic eligibility reviews have been suspended temporarily.

Committee amendment

The Committee amendment suspends eligibility reviews for all individuals with disabilities based on mental impairments pending a revision of the eligibility criteria. Such revisions would be made in consultation with outside mental health and vocational rehabilitation experts. Also, a redetermination of eligibility under new criteria (and reinstatement of benefits where appropriate) would be required for individuals denied benefits after enactment and prior to revision of criteria, and to those terminated from the rolls since June 7, 1983.

Effective date

Such revised eligibility criteria must be published as regulations within 90 days after enactment.

SEC. 6. QUALIFICATIONS OF MEDICAL PROFESSIONALS

Present law

By regulation, the State review team making disability determinations must consist of a State agency medical consultant (physician) and a State agency disability examiner. Under SSA operating instructions, both must sign the disability determination.

Committee amendment

The Committee amendment would require that in the case of an individual seeking benefits on the basis of a mental impairment, in which a decision unfavorable to the claimant or beneficiary is being made, the Secretary must make every reasonable effort to ensure that a qualified psychiatrist or psychologist completes the medical portion of the evaluation and any assessment of residual functional capacity.

Effective date

This provision is effective for determinations made on or after date of enactment.

SEC. 7. NONACQUIESCENCE TO CIRCUIT COURT DECISIONS AFFECTING POLICY

Present law

The Social Security Administration (SSA) abides by all final judgments of Federal courts with respect to the individuals in particular suits, but does not consider itself bound to implement the policy approach embodied in such decisions with respect to nonlitigants. In the infrequent case that a circuit court decision is contrary to the Secretary's interpretation of the Social Security Act and regulations, SSA may at times issue a ruling of nonacquiescence stating it will not adopt the court's decision as agency policy. There are now 8 rulings of nonacquiescence.

Committee amendment

In the case of U.S. Court of Appeals decisions affecting the Social Security Act or regulations, the Committee amendment would require the Secretary to send to the Committees on Finance and Ways and Means and publish in the Federal Register, a statement of the Secretary's decision to acquiesce or not acquiesce in such court decision, and the specific facts and reasons in support of the Secretary's decision. In cases where the Secretary is acquiescing, the reporting requirement would apply only to significant decisions.

The Secretary would make these reports within 90 days after the issuance of the court decision or the last day available for filing an appeal, whichever is later.

Effective date

For U.S. Court of Appeals decisions rendered on or after date of enactment.

MULTIPLE IMPAIRMENTS

Present law

In determining whether an individual is disabled, a sequential evaluation is followed: current work activity, duration and severity of impairment, residual functional capacity, and vocational factors are considered in that order. Medical considerations alone can justify a finding of ineligibility where the impairment(s) is not severe. An impairment is nonsevere if it does not significantly limit the individual's physical or mental capacity to perform basic work-related functions.

By regulation, the combined effects of unrelated impairments are considered only if all are severe (and expected to last 12 months). As elaborated in rulings, "inasmuch as a nonsevere impairment is one which does not significantly limit basic work-related functions, neither will a combination of two or more such impairments significantly restrict the basic work-related functions needed to do most jobs."

Committee amendment

In determining the medical severity of an individual's impairment, the Secretary would be required under the Committee amendment to consider the combined effect of all of the individual's impairments without regard to whether any one impairment itself would be considered severe.

Effective date

For determinations made on or after January 1, 1985.

SEC. 9. EVALUATION OF PAIN

Present law

Under the law, an individual's disability (whether mental or physical) must be medically determinable, expected to end in death or last for 12 continuous months, and must prevent any substantial gainful activity. There is no specific statement in the law as to how pain is to be evaluated. The law does provide that eligibility must be based on "an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques."

SSA's policy on how pain is to be evaluated is contained in regulations which were issued in August 1980. By regulation, symptoms of impairments, such as pain, cannot alone be evidence of disability. There must be medical signs or other findings which show there is a medical condition that could "reasonably be expected " to produce those symptoms.

Committee amendment

Under the Committee amendment, eligibility for benefits may not be based solely on subjective allegations of pain (or other symptoms). There must be evidence of an underlying medical condition and (1) there must be objective medical evidence to confirm the severity of the alleged pain arising from that condition or (2) the objectively determined medical condition must be of a severity which can reasonably be expected to give rise to the alleged pain. The committee amendment would cease to be a part of the statute after December 31, 1987. Since the provision simply codifes existing practice, the termination of the provision would not modify the rules governing the program, but it would fully restore the Administration's current degree of flexibility to implement regulatory changes which might then appear appropriate.

Also, a study is to be conducted over the next two years by a panel of at least 12 experts to be appointed by the Secretary of Health and Human Services. This body is to include in its membership significant representation from the field of medicine who are involved in the study of pain along with representation from other appropriate fields including law and administration. This panel is to be appointed within 60 days of enactment and is to report to the Committee on Finance and the Committee on Ways and Means no later than December 31, 1986.

SEC. 10. MODIFICATION OF RECONSIDERATION AND PREREVIEW NOTICE

Present law

A person whose initial claim for disability benefits is denied or who is determined after review to be no longer disabled, may request a reconsideration of that decision within 60 days. In the past, reconsideration has been a paper review of the evidentiary record, including any new evidence submitted by the claimant, conducted by the State agency.

Under a provision of P.L. 97-455, enacted January 12, 1983, disability beneficiaries found ineligible for benefits must be given opportunity for a face-to-face evidentiary hearing at reconsideration. Such hearings may be provided by the State agency or by the Secretary.

Committee amendment

The committee amendment would require the Secretary to notify individuals upon initiating a periodic eligibility review that such review could result in termination of benefits and that medical evidence may be submitted.

In addition, the Secretary would be required to conduct demonstration projects in at least 5 States in which the opportunity

for personal appearance is provided prior to determination of ineligibility (in lieu of face-to-face hearing at reconsideration). This would apply to periodic review cases only. A report would be due to Congress by April 1, 1986.

Effective date

As soon as practicable after date of enactment.

SEC. 11. CONSULTATIVE EXAMS/MEDICAL EVIDENCE

Present law

Consultative exams are medical exams purchased by the State agency from physicians outside the agency. By regulation, consultative examinations may be sought to secure additional information necessary to make a disability determination or to check conflicting information. Evidence so obtained is to be considered in conjunction with all other medical and nonmedical evidence submitted in connection with a disability claim.

Committee amendment

The Committee amendment requires the Secretary to make every reasonable effort to obtain necessary medical evidence from the individual's treating physician prior to seeking a consultation examination. The Committee amendment would also require the Secretary to develop a complete medical history for individuals applying for benefits or undergoing review over at least the preceding 12 month period.

Effective date

These provisions are effective for determinations made on or after the date of enactment.

SEC. 12. VOCATIONAL REHABILITATION

Present law

Presently, States are reimbursed for VR services provided to DI beneficiaries which result in their performance of substantial gainful activity (SGA) for at least 9 months. For such individuals, services are reimbursable for as long as they are in VR and receiving cash benefits. If the individual is reviewed and found to have medically recovered while in VR, cash benefits may continue (under Section 225(b) of the Social Security Act, a work incentive provision enacted in 1980) but VR services may not be reimbursable since the individual's ability to engage in SGA is attributable to medical improvement rather than rehabilitation.

Committee amendment

The committee amendment authorizes reimbursement for VR services provided to individuals who have medically recovered but are receiving disability benefits under Section 225(b). Reimbursable services would be those provided prior to his or her working at SGA for 9 months, or prior to the month benefit entitlement ends, whichever is earlier.

Effective date

On enactment.

SEC. 13. SPECIAL BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENTS

Present law

Under the SSI program, an individual who is able to engage in substantial gainful activity (SGA) cannot become eligible for SSI disability payments. Prior to the enactment of a provision in 1980, a disabled SSI recipient generally ceased to be eligible for SSI when his or her earnings exceeded the level which demonstrates SGA—$300 monthly.

Under Section 1619 of the Social Security Act, enacted in the Disability Amendments of 1980, SSI recipients who have severe medical impairment and who work and earn more than SGA ($300 monthly) cease to be eligible for SSI as such, but may receive a special payment and maintain medicaid coverage and social services. The amount of the special payment is equal to the SSI benefit they would have been entitled to receive under the regular SSI program were it not for the SGA eligibility cut-off. Special benefit status is thus terminated when the individual's earnings exceed the amount which would cause the Federal SSI payment to be reduced to zero (i.e., when countable monthly earnings exceed $713). Medicaid and social services may continue, however.

Section 1619 expired on December 31, 1983. It is being continued administratively, however, during 1984 under general demonstration project authority.

Committee amendment

The Committee amendment reauthorizes Section 1619 through June 30, 1987. In addition, the Secretaries of HHS and Education are required to establish training programs on Section 1619 for staff personnel in SSA district offices and State VR agencies, and disseminate information to SSI applicants, recipients, and potentially interested public and private organizations.

This provision will supersede the Secretary's one-year extension of Section 1619.

SEC. 14. ADVISORY COUNCIL

Present law

Section 706 of the Social Security Act provides for the appointment of a 13-member quadrennial advisory council on social security. It is responsible for studying all aspects of the social security and medicare programs. Each council is to be comprised of representatives of employee and employer organizations, the self-employed, and the general public.

The next advisory council is scheduled to be appointed in 1985 and to make its final report by December 31, 1986.

Committee amendment

The Committee amendment directs the next quadrennial advisory council to study and make recommendations on various medical and vocational aspects of disability, including the alternative approaches to work evaluation for SSI recipients, the effectiveness of vocational rehabilitation programs for DI and SSI recipients, and the question of using medical specialists for completing medical and vocational forms used by State agencies. The council would be authorized to convene task forces of experts to deal with specialized areas.

Members of the Council must be appointed by June 1, 1985.

SEC. 15. FREQUENCY OF PERIODIC REVIEWS

Present law

Under a provision enacted in 1980, all DI beneficiaries, except those with permanent impairments, must generally be reviewed to assess their continuing eligibility at least once every 3 years.

Under a provision enacted in 1983 (P.L. 97-455), the Secretary is provided the authority to waive this 3-year review requirement on a state-by-state basis. The appropriate number of cases for review is to be based on the backlog of pending cases, the number of applications for benefits, and staffing levels.

On April 13, 1984, Secretary Heckler announced a temporary, nationwide moratorium on periodic eligibility reviews.

Committee amendment

The Committee amendment requires the Secretary to issue final regulations, within 6 months of enactment, establishing the standards to be used in determining the frequency of periodic eligibility reviews. Pending issuance of such regulations, no individual can be reviewed more than once.

SEC. 16. MONITORING OF REPRESENTATIVE PAYEES

Present law

The Social Security Act permits the Secretary of Health and Human Services to appoint a representative payee for an individual entitled to social security or supplemental security income (SSI) benefits when it appears to be in the individual's best interest. Payees must be appointed for individuals receiving SSI based on drug or alcohol addictions.

The Social Security Act defines penalties for misuse by payees of social security and SSI payments, but places no requirements or restrictions on the selection and monitoring of payees.

A payee convicted of misusing a social security beneficiary's funds is guilty of a felony, punishable by imprisonment for not more than 5 years and/or a fine of not more than $5,000. A payee convicted of misusing an SSI recipient's funds is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year and/or a fine of not more than $1,000.

Prior to 1978, all payees except parents or spouses with custody, legal guardians and State and Federal institutions were required to account annually. Systematic accounting procedures for these payees were suspended as a work-saving measure between 1978 and March 1984. (However, State institutions are subject to an onsite accounting process at least every 3 years and this process has not been suspended.) In March 1983, a Federal district court ordered the Social Security Administration (SSA) to institute a system of periodic mandatory payee accounting within 1 year in *Jordan* v. *Heckler*. In March 1984, SSA implemented an accounting system under which a random sample of 10 percent of all payees are required to account annually. At the request of the plaintiff, the court subsequently revised its order in *Jordan* so as to require an annual accounting from all payees.

Committee amendment

The amendment would require the Secretary to: (1) evaluate the qualifications of prospective payees either prior to or within 45 days following certification, (2) establish a system of annual accountability monitoring for cases in which payments are made to someone other than the entitled individual, or parent or spouse living in the same household, (3) establish a system whereby parent and spouse payees who live in the same household as the entitled beneficiary would periodically verify that they continue to live with the beneficiary, and (4) increase the penalties for misuse of benefits by representative payees. (The amendment also permits the Secretary to establish an accounting system for State institutions which serve as payees.)

The fine for a first offense by a payee convicted of misusing SSI benefits would be increased to not more than $5,000 and, for both programs, a second offense by a payee would be made a felony punishable by imprisonment for not more than 5 years and/or a fine of not more than $25,000. Individuals convicted of a felony under either pro-

gram may not be selected as a representative payee.

Finally the Secretary would be required to report to Congress within 6 months of enactment on the implementation of the new system, and also to report to Congress annually on the number of cases of misused funds, and the disposition of such cases.

Effective date

On enactment.

SEC. 17. FAIL-SAFE FINANCING

Present law

Under permanent law, each social security trust fund is intended to have sufficient resources to meet its full benefit obligations. The main source of funding for the Disability Insurance Trust Fund is that portion of the social security tax allocated for disability. At present, the disability part of the tax is 1 percent of taxable payroll (employee and employer combined). It is scheduled to rise to 1.2 percent in 1990 and to 1.42 percent in 2000 and thereafter. Temporary legislation enacted in 1983 also allows for borrowing among the trust funds in view of the relatively low balances in the cash benefits funds at the present time. This authority expires, however, in 1988. Present law does not contain any authority for making benefits payments in the event the social security trust funds should prove to have inadequate resources.

Committee amendment

If the disability fund is projected to decline to less than 20 pecent of a year's benefits as of the start of any year, the Secretary would be required to notify the Congress by the preceding July 1. If Congress took no other action, the Secretary would scale back (in part or in full) the next cost-of-living increase for disability beneficiaries as necessary to keep the fund balance at 20 percent. If necessary, the Secretary also would scale back the increase in the benefit formula used for determining benefit levels for persons newly awarded disability benefits. In making the determination under this provision, the Secretary would be required to consider actual assets properly owned by the DI trust fund. Thus, the fund would get full credit for the approximately $5 billion which it has temporarily loaned to the OASI fund under the interim interfund borrowing arrangements. With these assets, it is now projected that the DI fund would not dip below the 20 percent level until well into the next century.

The fail-safe provision in the Committee amendment is generally similar to a fail-safe provision for the OASI and DI programs combined which the Committee recommended and the Senate approved as part of the 1983 amendment.

Effective date

On enactment.

SEC. 18. MEASURES TO IMPROVE COMPLIANCE WITH FEDERAL LAW

Present law

Since 1956, when the Disability Insurance program was enacted, the States have been responsible, on a voluntary and reimbursable basis, for determining whether individuals are disabled under the meaning of the law. Under the law, States administering the program are required to make disability determinations in accord with Federal law and the standards and guidelines established by the Federal Department of Health and Human Services. The program is 100 percent Federally financed, with all benefit costs as well as all of the administrative costs incurred by the States either directly financed or reimbursed by the Federal government.

The law provides for the Secretary to commence actions to take over the disability determination process if a State fails to follow Federal rules. However, the law includes a large number of procedural steps which must be complied with before such a Federal assumption can be accomplished. The Secretary may not commence making disability determinations earlier than 6 months after: (1) finding, after notice and opportunity for hearing, that a State agency is substantially out of compliance with Federal law; (2) developing all procedures to implement a plan for partial or complete assumption of the disability determinations which grant hiring preference to the State employees; and (3) the Secretary of Labor determines that the State has made fair and equitable arrangements to protect the interests of displaced employees.

Committee amendment

The Committee amendment would modify the provisions of law dealing with State determination of disability to assure better Federal monitoring of the situation and to require the Secretary to take prompt and effective action to deal with any future situations in which States refuse to follow Federal rules or to apply Federal standards of eligibility. The Secretary would be required to federalize disability determinations in a State within 6 months of finding that such State is failing to follow Federal law and standards.

Specifically, when the Secretary has reason to believe that a State is not following Federal law and standards, the matter must be promptly investigated and a preliminary finding must be made within 3 weeks. If the preliminary finding indicates that the State is out of compliance, the Secretary must immediately notify the State and request a response agreeing to follow Federal standards. If a satisfactory response is received within 21 days of the preliminary finding, the Secretary would simply monitor the situation over the next 30 days to determine that the State is, in fact, in compliance. If a satisfactory response has not been received by that deadline or if the State does not perform in accordance with such a response, the Secretary would be required to make a final finding, this finding would be made no later than 60 days after the preliminary finding, except that an additional 30 days would be allowed if the state requests and the Secretary, in her discretion grants, a hearing before the Secretary on the issue. The Secretary's decision on the matter would not be subject to appeal.

If the Secretary finds that the State is unwilling or unable to follow Federal guidelines in determining disability, the Secretary would be required to federalize the disability determination process in that State as quickly as possible using SSA personnel or other means of administration available to the Federal government. To the extent feasible, the Secretary would attempt to meet the requirements of existing law which are designed to provide for an orderly transfer of functions, but in no event could the full Federalization take place more than 6 months after the final finding. Moreover, even during that 6 months the Secretary would be required to take such steps as may be necessary to assure that the final decision on all claims processed by that State was made in accordance with Federal standards of eligibility. This might require a Federal re-review of all claims or of those claims involving particular issues with respect to which the State was out of compliance.

This provision expires on December 31, 1987.

Mr. BRADLEY. Mr. President, I rise to support this important piece of legislation designed to address the serious problems that have occurred as a result of the Social Security Administration's heavy-handed implementation of the disability insurance review process.

Our limited resources must be used to support only those who genuinely require our support. But, Mr. President, the Social Security Administration clearly went too far in its attempt to purge the disability rolls. Nearly half of those reviewed were terminated, and a large majority of those who have appealed their termination decision were reinstated by the administrative law judges.

Many cases have been brought to my attention of individuals who had their benefits terminated on the basis of a superficial evaluation that was completed by someone who had no qualifications in the area of the person's impairment. Of course there are extreme cases—the horror stories—and I certainly hope that they are not typical. But they serve to point out the serious problems that have resulted from current procedures for reviewing disability benefits.

Mr. President, I am told that as many as 28 States have refused to comply with the Social Security Administration's guidelines for the review process; if the current system was truly working properly, States would not be flaunting the laws, as interpreted by the Social Security Administration. My own State of New Jersey has had to stop all terminations because a court ruling binding the administrative law judges in New Jersey, mandates more stringent requirements for termination than are applied by the Social Security Administration.

Mr. President, the disability insurance reform bill offered today is not perfect, but it represents a compromise among the various proposals brought before the Senate. I urge my colleagues to support this legislation because it assures that the people in our Nation who are unable to work for reasons beyond their own control—who already suffer the pain and indignity of a severe disability—get the relief they need.

Mr. CRANSTON. Mr. President, I rise in support of this legislation, of which I am pleased to be a cosponsor, to provide equitable procedures with respect to disability reviews of social security disability insurance [SSDI] recipients.

The issue before the Senate today has been a matter of major national focus for over 3 years. In 1980, Congress responded to concerns about a

decline in the number of reviews of persons receiving SSDI benefits by enacting in the 1980 Disability Amendments a provision requiring that, unless a disability insurance beneficiary had been diagnosed as permanently disabled, the beneficiary must be reexamined every 3 years. This provision relating to continuing disability investigations [CDI's] was to go into effect in January 1982. However, the Reagan administration made the decision in March 1981 to accelerate implementation of this provision and thus precipitiously increase the number of referred cases to State agencies which conduct the reviews. It did so without assuring that the State agencies had the resources to handle the greatly increased workloads. In many cases, the result was hurried, unfair, and inadequate reviews of individual cases.

In addition, the administration has applied new, restrictive eligibility criteria retroactively. This has resulted in the termination of many seriously disabled persons who were put on the rolls years ago and whose medical conditions have not improved.

Many of the individuals who were terminated through the CDI process chose to appeal the decision, and a very significant proportion—some 61 percent—of those who appealed have been reinstated to the disability rolls—often after a very lengthy appeals process lasting, in some cases, well over 1 year's time.

Mr. President, the scope of this problem extends beyond the Federal Government and the individual beneficiaries being reviewed. Over one-half of the States, which play a major role in conducting the reviews, have either refused to process terminations, are under court order to do so, or are applying standards other than those of the Social Security Administration [SSA].

Clearly, the current review system does not work. Recipients are terminated and then overwhelming numbers who appeal are reinstated. Congress has previously recognized the problem but has yet to enact major reforms. The States are refusing to process additonal cases. Even the Reagan administration—the administration that devised the accelerated rate of reviews—has imposed a temporary moratorium on further processing of cases. The time has long since passed for comprehensive reform of the CDI process. Let us act now before more recipients are subject to reckless disability investigations.

LOSS OF FAITH

Mr. President, one of the many great tragedies associated with the disability review process is the doubt that has been raised in the minds of those unfairly terminated from the rolls—and in the minds of their families and friends and others concerned about their well-being—about the essential fairness and responsiveness of our Government.

Many of these individuals were totally disillusioned when the Government denied that they were indeed in the very condition of disability that burdened every day of their existence. They made every effort to be reinstated to the rolls, including contacting their elected representatives, but were forced to participate in an extraordinarily lengthy appeals process—in cases preceding enactment of Public Law 97-455, without continuation of benefits—before ultimately being reinstated. Some lost homes. Their families suffered. Their lives were unnecessarily disrupted. Their sense of stability was undermined. They felt betrayed by a system in which they were compelled to participate.

Is it any wonder that so many have lost faith in their Government?

For the past 3 years, individuals who feel that they have been unfairly terminated have been fending for themselves.

As have my colleagues, I have heard from many of these individuals who feel alienated and angry. That is understandable.

We cannot make reparation to all of those disabled individuals who have suffered needlessly as a result of undergoing a CDI. We can, however, try to eliminate the unfair, callous practices that have marred the CDI process from continuing any longer. There is a dire need for the reforms embodied in this legislation, even now, 3 years after the process was begun. It is long since time that Congress stepped in to correct the injustices that have been occurring.

NEED FOR COMPREHENSIVE REFORM

Mr. President, thus far, Congress has passed legislation that treated only the symptoms of the problems created by the CDI's without addressing the underlying flaws in the review process. Congress has passed short-term legislation, designed specifically to be an interim solution, in anticipation of a measure like the one before us.

As my colleagues recall, when the Congress considered H.R. 7093—enacted as Public Law 97-455 on January 12, 1983, which contained amendments making some short-term improvements in the CDI process—Senators on both sides of the aisle and members of the committee with jurisdiction acknowledged the need for comprehensive reforms of the disability review process at some future date. The provisions of that earlier measure, which I was pleased to cosponsor, primarily sought to ease the hardships on those individuals undergoing a CDI by allowing continuation of benefit payments through the appeals process—subject to repayment if the appeal were lost—and by providing for a slowing of the rate of cases referred to State agencies for review.

When these provisions expired in October of last year, Congress agreed upon legislation extending for 67 additional days, again, in anticipation of comprehensive reform measures. When the reform measures were not forthcoming at the end of the 97th Congress, and when these minimal protections for beneficiaries again expired, the administration voluntarily placed a temporary moratorium on further terminations. Despite stating at one point its intention to lift the moratorium, the administration has extended it indefinitely. Of course, the moratorium could conceivably be lifted at any time—again placing large numbers of individuals in jeopardy—and I strongly believe that it is highly desirable for the Congress to enact needed reforms now, while the moratorium is in effect. That would make it possible for the reforms to be implemented in an orderly fashion and would help to preclude persons subject to disability reviews from again being placed in much the same vulnerable position others were in when the CDI process began over 3 years ago. We have an obligation to prevent further reckless reviews.

Mr. President, the legislation before us is the result of a long, careful examination of the many aspects of the CDI process. This measure provides, until June 1, 1986, for the continued payment of benefits through the appeals process subject to forfeiture if the appeal fails, requires that the effects of multiple impairments be considered, and directs SSA to appoint a commission of experts to conduct a study relating to the presence of pain in determining eligibility for SSDI benefits. It imposes a moratorium, pending revision of the criteria for determining the existence of disabling mental impairments, on further reviews of persons with mental disorders. I am especially encouraged by the provision that requires that, unless a beneficiary has medically improved, the Secretary must have one of certain specified reasons for believing that an individual is no longer eligible for SSDI benefits before being permitted to determine whether or not the individual can perform substantial gainful employment and, if so, to drop the individual from the SSDI rolls. This is of particular significance because of the concern about persons whose physical conditions had not changed since they were put on the rolls being terminated due to an apparent retroactive application of new rules for determining disability.

These are some of the major provisions of the legislation. The issues involved in this measure have been scrutinized by Members of Congress, by groups representing disabled persons,

and by recipients of these benefits. It was slow in coming, too slow for some, and is indeed the result of hard work by numerous individuals with a common goal: An equitable and fair review process.

CONCLUSION

Mr. President, I should like to note the efforts of several of my colleagues who have worked tirelessly toward that end. In particular, I express my deep appreciation to the Senator from Michigan (Mr. LEVIN), the Senator from Maine (Mr. COHEN), and the Senator from Pennsylvania (Mr. HEINZ) for their unyielding efforts on behalf of these reforms and the disabled persons they would assist. They have demonstrated time and time again their commitment to insuring that the disability investigations be conducted in a fair manner and their effectiveness in developing legislative measures to achieve that goal.

Mr. President, as my colleagues know, the House passed a similar measure by an overwhelming 410-1 vote. In my view, the Senate should act just as decisively in repudiating the elements of the current review process which have caused such tremendous turmoil and anguish in the lives of so many disabled individuals.

We have heard countless reports, in State after State, of the grim horror stories associated with this process. The individuals subject to these reviews need the kind of humane legislative solutions that this legislation would provide. I urge all of my colleagues to support this measure.

Mr. PELL. Mr. President, for the past 3 years Members of Congress and the American people have read almost daily news stories about the termination of social security disability benefits for persons who were clearly disabled and dependent on benefit payments.

Some of these terminations of benefits resulted, tragically, in suicides by mentally disabled recipients who could not face the prospect of battling a hostile review process or of losing income on which they depended. Many of the benefit termination resulted in a needless and harmful loss of income for disabled individuals and their families.

My own office has heard from dozens of disabled persons who found themselves suddenly, and I believe mistakenly, deprived of disability benefits and forced into hardship while they sought to reverse arbitrary, bureaucratic decisions.

In all fairness, it must be said that it was the Congress that established a requirement for review of disability benefit cases, to assure that only those who had a continued disability and a continued need for assistance would receive benefits. But it was also clearly the intent of the Congress that those who have serious disabilities and have a need for assistance should continue to receive it.

The current administration, however, has seized upon the disability review requirement as a blunt weapon with which to slash Government expenditures, with an almost total disregard of the true needs and rights of the disabled.

The administration accelerated the review process, conducting hasty and inadequate case reviews to meet arbitrary quotas.

In 1982, some 497,000 recipients, or about 18 percent of all disability recipients, were subjected to review. Many of the cases were given only the most cursory review before termination decisions were rendered. State disability review offices were forced to accept enormous increases in workloads without increase in support, staff, or funding. Many reviews were no more than reviews of papers on file, or included only a 5-minute examination by a physician who had never before seen the recipient. Many termination decisions were based on a profile of disabled persons that were thought to be most likely to be able to return to work, little or no consideration of the actual condition of the individual involved.

Needless to say, with this kind of a review process, many of the termination decisions were later found to be mistaken. The statistics tell the sad story. Nationally, about 45 percent of disability recipients reviewed received notices that their benefits would be terminated. But on appeals, 12 percent of the terminations were reversed on reconsideration—the first and lowest stage of review. And more than 60 percent of the terminations appealed to social security administrative law judges were reversed.

In the case of mentally disabled persons, a study by the General Accounting Office of 1,400 appealed cases disclosed that 90 percent of the cases were reversed by administrative law judges.

And, finally, the administration, in a startling departure from long-accepted practice, has refused to change its review policies and procedures to conform with decisions and directives of the U.S. courts, limiting their compliance to the individual case before the court.

It is clear that the disability review process is being conducted in a manner contrary to the intent of the Congress.

We have a responsibility to restore principles of justice and a sense of fairness to the social security disability review process.

I have given my strong and consistent support to proposals in the Congress to reform the disability review process, and I commend Senators LEVIN and COHEN for their leadership and persistence in bringing this legislation, S. 476, before the Senate. Passage of the legislation is essential and I urge its approval.

Mr. SASSER. Mr. President, for many of us in the Senate, the legislation before us today marks the culmination of many months. Indeed many years, of struggle. The long and winding journey which has brought us here seemed at times to reach apparent dead ends.

However, today we have an opportunity to take a significant step toward alleviating the horrendous disparities which have resulted over the past 3 years in the social security disability program and to make permanent reforms with regard to the future conduct of the program.

I will not attempt to reiterate the grim statistics which have prompted widespread public outcry over the procedures employed by the present administration over the past 3 years in an attempt to purge the social security disability rolls.

Suffice it to say that since assuming office in January 1981, the policies of this administration have resulted in nearly one-half million disabled beneficiaries either losing their benefits outright or suffering the indignity of having to justify obvious disabilities through lengthy appeals procedures.

As is always the case, the poor and the elderly have suffered the most. Those individuals inflicted with mental impairments and least able to defend themselves have borne the substantial brunt of these unfair and unjust policies.

Mr. President, I have seen and heard eligible disabled beneficiaries tell of the hardships imposed upon them by such policies. I have heard and seen poor, elderly, and obviously disabled constituents of mine pour their hearts out to me, pleading for simple justice.

Further, this is not only meant to be an anecdotal testimonial. Earlier this year I held a series of congressional hearings in Tennessee. From Memphis to Kingsport to Nashville the complaints all seemed to familiar. These hearings revealed to me in a most poignant sense, the need for substantial reform of the disability review process.

The legislation before us today, coupled with the legislation which passed the House 2 months ago by a vote of 410 to 1, offer a ray of hope that such reform will be forthcoming soon.

The persistence and diligence shown by my colleagues from Maine and Michigan, Senators COHEN and LEVIN, in pursuing the remedies outlined in S. 476 must be applauded. They have worked unceasingly over the past 2 years or more to fashion an appropriate response to this problem. We all should be grateful for their efforts.

On the House side, Chairman PICKLE of the Social Security Subcommittee also deserves our gratitude. His legisla-

tion, H.R. 3755 received near-unanimous support in the House of Representatives.

While I am pleased to see that we will finally be going to conference on this matter, I must also express my dismay with several of the shortcomings of the Senate bill. In all, the House bill is far more comprehensive and effective with respect to the current structural problems existent in the disability review system. I regret that the Senate softened what I consider to be some of the most potent provisions contained in the House bill. The deficiencies in the Senate bill to which I refer include the provisions affecting the use of a medical improvement standard. The continuation of benefits pending appeal, and the so-called nonacquiescence provision.

These components contained in the Senate version fall considerably short of the sort of permanent structural reform which is necessary in the review process. The Senate bill, for instance, would sunset the use of a medical improvement standard after 3 years. This provision, which is thought to be the heart of the legislation, does not adequately protect disability beneficiaries beyond 1987. This should be a permanent provision of disability law.

Another provision which should be a permanent part of disability law is that which allows the recipient to continue to receive disability benefits pending appeal of a termination decision. Just a few years ago, it was not uncommon to have termination appeals taking up to 18 months. This effectively meant that many eligible disabled beneficiaries were without benefits for up to 1½ years. At the same time, up to 70 percent of those who appealed the State disability agency decisions were being reinstated at the administrative law judge level of appeal.

The hardships and desperation that such loss of income visited upon these recipients can seldom be quantified. The despair felt by many of these individuals actually caused some to attempt or commit suicide. Such despair is well documented both in the hearings I held as well as elsewhere.

The third component which I hope can be resolved in conference involves the so-called nonacquiescence provision. Under the Senate version, the Department of Health and Human Services is not required to follow the rulings of the circuit courts except in the specific cases to which the ruling applies.

What in effect this amounts to is the denial of benefits to thousands of eligible disabled beneficiaries despite Federal court decisions to the contrary. This practice appears to fly in the face of established rule of law and precedent and very well may violate the Constitution.

In a recent New York Times article entitled "U.S. Flouts Courts in Determination of Benefit Claims", the chief judge of the Federal District Court in Minnesota, Miles W. Lord, was quoted as saying that social security officials were acting in "direct contravention of Federal court edicts."

He further went on to write that:

> The Secretary apparently has decided to obey only the edicts of the U.S. Supreme Court. At the same time, however, the Secretary refuses to appeal adverse rulings to the Supreme Court. Thus depriving the Court of the opportunity to issue opinions on disputed issues.

Through this practice of nonacquiescence, what in effect you have to do is make new law with every individual case. This appears to me to work a great injustice on the individual claimants because they have to go to the expense of reestablishing a new point of law or making new law with each individual case.

The administrative law judges that appeared before my hearings were unanimous in their opinion that the most troublesome area, from their standpoint, in the disability review process was this particular problem.

Judge Robert Laws, the administrative law judge in charge in Nashville, testified that social security regulations often "fly right in the face of court interpretation of particular aspects of the law." He went on to further state that in holding a social security hearing he would like to feel like:

> As a practicing attorney and one who has studied the law, to feel that I could follow these court interpretations, follow this case history. But I am mandated to do otherwise.

Mr. President, I am not happy with the language contained in the Senate bill. I would hope that the conferees will see fit to adopt language closer to that contained in the House bill. I was prepared to offer the House provision as an amendment to this bill, but I do not want to appear as though I am obstructing the progress of this much-needed legislation. Therefore, I will not offer the amendment.

I will, however, once this bill passes, prepare a "Dear Conferee" letter in conjunction with several of my colleagues who have expressed interest in this matter to me which outlines these specific concerns.

In summary, this legislation is long overdue. The Senate bill does not go far enough, and I will only support it reluctantly. It is my hope that comprehensive, structural reform of a permanent nature will emerge out of the House-Senate conference. If not, I will be prepared to carry on the fight for this reform at a later date.

Mr. STAFFORD. Mr. President, I am pleased to join with my colleagues, Senator COHEN, Senator LEVIN, Senator HEINZ, and others, in support of S. 476, the social security disability reform bill.

We have all heard for some time now about problems in the Social Security Administration regarding the disability review process. Secretary Heckler at Health and Human Services has demonstrated an awareness about these difficulties and has made significant strides toward correcting them. We have waited far too long, however, for a remedy that does not appear to be forthcoming from the administration. Legislative action is needed to remove inefficiency and inflexibility from a system that decides who should continue to receive vital disability benefits and who is no longer entitled to them. This is not a welfare system, but rather an insurance program for disabled workers.

The flaws in this system have resulted in the disqualification of more than 470,000 beneficiaries. Upon appeal to administrative law judges, close to one-third of these individuals were reinstated as eligible for their benefits. I do not think it is unreasonable to assume that other disabled workers who were removed from the rolls, who lacked the necessary financial and emotional resources to pursue a lengthy appeal, might also have been reinstated.

In my own State of Vermont and in many other States around the country, frustration over congressional inaction to correct this system, resulted in the Governor imposing a moratorium on disability reviews.

S. 476 corrects many of the fundamental inequities that trouble the existing disability review process. It reforms the disability system by allowing the Social Security Administration to eliminate from the program those who are no longer disabled, while protecting the benefits of those individuals truly in need of benefits. The social security disability reform bill does not call for sweeping reform, but rather modest changes that go a long way toward humanizing a previously arbitrary and insensitive system. I encourage my colleagues to vote in support of S. 476.

Mr. DURENBERGER. Mr. President, if ever there was a case of the Government throwing the babies out with the bathwater, it is the way the Social Security Administration administered the 1980 disability amendments.

During the 1970's, public attention became focused upon the lack of oversight in the social security disability program. Members of Congress were shocked to learn that individuals were remaining on the disability rolls long after their disabilities had ceased to exist because no efforts were made to review their eligibility. As a result, the Federal Government continued to pay

disability benefits to recipients who were capable of employment.

In an effort to remedy this problem, we enacted amendments to the disability process which mandated the Social Security Administration to review disability cases every 3 years. It was our intention, at the time those amendments were passed, to remove those individuals from the rolls who were no longer disabled, but continue benefits to those who were deserving.

Unfortunately, the review process quickly became a nightmare. In an effort to remove recipients from the rolls, Social Security terminated many deserving individuals—only to have them reinstated upon appeal. In fact, over half of the 421,000 cases which are terminated by the State agencies were reinstated by administrative law judges. Despite these reinstatements, thousands of individuals have been forced to live, for an average of 6 months, without necessary benefits—both the disability payments themselves and the often equally important medicare eligibility.

So serious is this problem that the States are starting to take the administration of the program into their own hands. States have imposed moratoriums on the continuing investigation process, refusing to consider the cases sent to them by the Social Security Administration. Other States have adopted their own standards of eligibility. In my home State of Minnesota, this problem is so serious that U.S. Federal District Court Judge Miles Lord recently reinstated thousands of disability beneficiaries who were terminated in the CDI process. Additional class actions await similar rulings.

Mr. President, my first concern is for correcting the real tragedy that this process is caused—the suffering that many beneficiaries and their families endure because of the loss of benefits. I am extremely pleased that, after several years of deliberations, we are finally considering legislation to remedy this crisis and reform the social security disability review process.

I want to recognize Senator DOLE for his efforts to report this legislation from the Finance Committee. I would also like to commend the tireless work of Senators COHEN, LEVIN, and HEINZ to secure relief for thousands of disability beneficiaries who have suffered as a result of the review process.

The legislation which we are considering today will, hopefully, restore fairness and uniformity to the disability review process. Its medical improvement standard represents an appropriate balance between protecting people who have sustained disabling impairments whose conditions have not improved and removing those who are truly able to work.

The need for the medical improvement standard cannot be understated. The absence of such a standard has become a life-and-death situation. I was recently made aware of the severity of this problem when the real-life tragedy of a constituent was brought to my attention. This man nearly lost his wife as a result of his disability termination.

The man is 55 years old, has suffered numerous heart attacks and has undergone two bypass operations. He was found eligible for social security disability benefits in 1979, but was suddenly notified that he would be subjected to a continuing disability investigation in 1983. He was determined to be disqualified for benefits initially and appealed that determination to the administrative law judge.

At his hearing before the administrative law judge, over 55 medical records were introduced—showing no change in this man's medical condition. Despite this overwhelming evidence, a vocational expert, who had never examined him, submitted testimony that he could perform substantial gainful activity because he performed light housework and grocery shopping. The vocational expert did not give any consideration to the fact that the man's wife is an invalid and could not perform any of these tasks. As a result, this gentleman was penalized for his efforts to maintain his household and care for his wife.

The administrative law judge ignored the medical conclusions that this man could not undergo any stressful physical or mental activity without suffering chest pains or potential heart attacks and denied him eligibility. He was also notified that he owed over $5,000 in past benefits.

Although he has appealed the ALJ's ruling, no May check arrived to help this family meet its obligations—despite the recent CDI moratorium.

The failure of the anticipated benefit check was too much for his invalid wife and she recently attempted suicide. Although she has been dismissed from the hospital, she may have sustained permanent brain damage and may need institutionalization.

Despite the fact that he is at wit's end, the current failure of the Social Security Administration to issue regulations dealing with the moratorium has prevented the Appeals Council from moving on his case—nor can benefits be reinstated pending his appeal.

Unfortunately, this sort of tragic situation is not unusual. The impact of these reviews has been devastating and has povertized so many deserving Americans. With implementation of this medical improvement standard, people like my constituent will receive equitable consideration.

Other provisions in this legislation should also help alleviate some of the confusion that has occurred during the review process:

Disability and SSI—disability payments pending appeal through the ALJ hearing will be reauthorized until June 1, 1986.

The Social Security Administration will be subject to the rulemaking requirements of the Administrative Procedures Act on matters relating to the determination of disability and the payment of DI benefits.

Eligibility reviews for all individuals with disabilities based on mental impairments will be suspended pending a revision of the eligibility criteria.

The Secretary must make every reasonable effort to insure that a qualified psychiatrist or psychologist completes the medical portion of the evaluation or assessment of residual functional capacity.

Requires the Secretary to report to the Congress on decisions to acquiesce or not to acquiesce with U.S. court of appeals decisions affecting the Social Security Act or regulations.

Requires the Secretary to consider the combined effect of all of the individuals' impairments without regard to whether any one impairment itself would be considered severe.

Requires a study and report to be conducted on the use of subjective evidence of pain and findings which demonstrate pain in determining eligibility. Current standards would be included for 3 years.

Requires the Secretary to notify recipients upon initiating a periodic eligibility review that such review could result in termination of benefits and that medical evidence may be submitted.

Requires the Secretary to conduct a five-State demonstration project in which personal appearance is provided prior to determination of ineligibility in lieu of face-to-face hearing at reconsideration.

Requires the Secretary to make every reasonable effort to obtain necessary medical evidence from the treating physician prior to seeking a consultative examination.

Authorizes reimbursement of vocational rehabilitative services provided to persons who are receiving disability benefits under section 225(b) and who medically recover while in VR.

Reauthorizes section 1619 through June 30, 1987.

Directs the next quadrennial advisory council to study and make recommendations on various medical and vocational aspects of disability.

Requires the Secretary to issue regulations establishing the standards to be used in determining the frequency of periodic eligibility reviews. Pending issuance of such regulations, no individual could be reviewed more than once.

Strengthens the safeguards in the representative payee process.

Establishes the fail-safe financing proposal which allows the Secretary to adjust COLA benefits (and new bene-

fits) to the extent necessary to keep the trust fund from becoming insolvent. The Secretary must notify Congress, in advance, of any anticipated adjustments.

Requires the Secretary to federalize disability determinations within 6 months of finding that the State is failing to follow Federal law and standards.

Mr. President, this issue has generated a great deal of debate and many Members of this body hold divergent views on how to remedy this problem. Nevertheless, members of the Finance Committee have united to unanimously report this legislation. It is our belief that this measure effectuates the purpose to which we are all committed—to reform the disability review process, but maintain the intent of the original review legislation.

I urge my colleagues to support this legislation and am hopeful that we will move quickly to see disability reform legislation enacted into law.

Mr. PRYOR. Mr. President, today the Senate is considering S. 476, the Social Security Disability Amendments of 1984. I would like to take this opportunity to commend the chairman and ranking minority members of the Finance Committee, as well as members of their staffs, for the efforts that they have made to try to reconcile the wide variances in opinions among the Members of the Senate as to what changes are needed in the administration of the triannual reviews of the disabled.

I voted for the legislation which was reported out by the Finance Committee because I believe that it is of great importance that we get the issue resolved.

In many areas, the Senate bill does address serious problems within the program. S. 476 would impose a requirement for uniform standards, and subject the Social Security Administration to the reporting requirements of the administrative procedures act. This provision will greatly ease the discrepancies between the differing standards used at different levels of disability determination. The requirement that SSA publish, for notice and comment, standards relating to the determination of disability and the payment of benefits will help to make public the standards used within the program, and help to clarify the purposes of the disability insurance program.

In addition, S. 476 insures that the combined effect of multiple nonsevere impairments would be considered by the Social Security Administration during the review process. Clearly, a beneficiary may have impairments which, while individually assessed to be nonsevere, and therefore not classified as disabling impairments, may, in combination, have a far more serious effect on the individual's ability to engage in substantial gainful activity. It is of great importance that the existence of such impairments be considered throughout the sequential evaluation process.

These, as well as other changes, will address some of the longstanding problems within the disability program.

However, there are some provisions of the Finance Committee package which I find do not adequately resolve the program's ills.

One of the major areas which has been in need of reform within the disability program since 1981 has been the failure of the Social Security Administration to use a true medical improvement standard in its continuing disability investigations. Specifically, the SSA has taken the position that, despite wholesale changes in the medical listings and criteria for determining disability, present beneficiaries should be judged by the newer standards. The results have been catastrophic—thousands and thousands of individuals have been terminated from the benefit rolls despite the fact that the condition for which the Government originally found them disabled had not improved. The central question to the issue of medical improvement is one of fairness. Under the current practice, individuals have been told they are disabled, have not improved medically, and may have been on the rolls for a considerable amount of time, yet their benefits are being terminated.

The Finance Committee package does include a medical improvement standard which requires a sharing of the burden of proof regarding the medical improvement issue. However, this standard would only be applied for 3½ years. My concern with placing a limitation on the applicability of the new standard is that it will not substantially change or correct the crisis we now see in the disability program. While it will, to some degree, deal with the cases which are in the courts and the administrative pipeline currently, and will be applied over the next 3 years or so, I am greatly concerned over what will happen when that 3 years is concluded. I suspect that this standard will only delay the crisis—that in another 4 years we will once again begin to hear of unprecedented termination levels, and the courts will once again be backlogged with social security disability cases.

I also have serious reservations about the language relative to compliance with court orders. While I am certain that the provisions in S. 476 dealing with this issue was well-intentioned, I have serious concerns about the Congress, in essence, condoning any Federal agency's practice of nonacquiescence with court orders, and merely requiring that the agency report to the Congress when it fails to acquiesce. I believe that this sets a very dangerous precedent, one which threatens the relationships between the three branches of Government as specified by the Constitution. I believe this to be a very serious issue—one which has implications beyond disability reform.

Currently, in the western district of Arkansas, almost 30 percent of the civil cases pending in the U.S. district court are social security cases. Court backlogs and delays are one result, and this can be translated into extensive costs to litigants and the taxpayers. Many of these cases are relitigations of issues already decided by the 8th Circuit Court of Appeals, cases in which SSA has chosen not to acquiesce. This situation creates an untenable position for U.S. district court judges and the administrative law judges—if ALJ's follow the court of appeals decision, SSA remands the case to the Appeals Council, and may bring the ALJ in for counseling or place him on Bellmon review. If the ALJ follows SSA's practice, the case may be reversed by the court of appeals.

Mr. President, I also have some concerns about the Senate language relative to the issue of pain. I am seriously concerned that, by codifying the current SSA regulations on the issue of pain, we may seriously impede the progress that SSA is currently making in updating its listings relative to pain.

Despite my concerns about sections of this proposal, this bill represents an important step toward resolving the problems with the social security disability program. I will, therefore, support it and urge its approval.

Clearly, there are some serious differences between the House and Senate bills which must be worked out, and it is my hope that the members of the conference committee will closely examine these issues before the final package is reported out and signed by the President. This is a matter of great importance to hundreds of thousands of disabled individuals throughout this nation, and should be given very serious consideration.

Mrs. HAWKINS. Mr. President, I want to commend the chairman and the members of the Senate Finance Committee, who have brought this needed relief to the many disabled persons of my State of Florida in the form of this legislation we are voting on in this Senate this evening. The truly disabled have looked to us in the Senate for legislative relief ever since the onset of the regulatory changes struck unfairly at too many American families. I have cosponsored legislation in this disability relief area from the first moment the hardships of these proposed changes in eligibility were brought to my personal attention

by my constituents. I strongly support this legislation reported unanimously out of the Chairman BOB DOLE'S Senate Finance Committee. I want to take this opportunity to commend my colleagues for their hard work and cooperation, for the long hours of diligent hearings and attention to duty that went into the legislation we vote on this evening. This is not a perfect piece of legislation; but it does provide a measure of relief to the truly disabled. It does meet the glaring inadequacies of the current disability review process. It does humanize the review process. I will continue to keep the needs of our disabled citizens in mind while considering the necessary changes that need to be taken down the road to truly conform this disability review process to the traditions of this Nation. We need to care for the disabled among us who have worked at our sides, who deserve better, and who have earned the just compensation that is their due.

Mr. D'AMATO. Mr. President, I rise today in support of H.R. 3755, the Social Security Disability Amendments of 1984. I congratulate the distinguished Chairman of the Committee on Finance, the distinguished senior Senator from Maine, and the distinguished junior Senator from Michigan for their efforts on S. 476, the measure which has been substituted for the body of this House-passed bill. I am proud to be a cosponsor of S. 476.

Many New Yorkers have spoken to me and written to me regarding the hardships they or their loved ones have suffered as a result of the disability review process. Too many people, who were in fact disabled, had their disability benefits terminated. Then, in too many cases, they suffered additional health damage or even death as a result of the disabling condition which the disability review process had concluded was no longer disabling.

I concluded that this was a tragic situation, one which urgently required our attention. I corresponded with the then Commissioner of Social Security regarding the problem and received what I believed were unsatisfactory answers. Accordingly, I was pleased when the moratorium on disability reviews was adopted. At that time, I pledged my support for a permanent legislative solution to reform the review process.

This bill is the vitally needed reform. I believe it does not go far enough in some areas, but its key provisions will end the most serious problems with the present process. Most importantly, H.R. 3755, as amended, requires a showing of medical improvement before a disability beneficiary can be terminated. The only exceptions to this requirement are fraud, error, a showing that, due to new evaluative or diagnostic techniques, the condition in question is not as disabling as was first thought, or a showing that the beneficiary has benefited from medical or vocational therapy or technology.

H.R. 3755 also requires continuation of payment of disability benefits and continued eligibility for medicare benefits when a beneficiary has been determined no longer to be disabled and has appealed this determination. This is an especially key point, because of the very large number of beneficiaries who were determined to be no longer disabled, but who were subsequently restored to entitled status as a result of their appeals. The reinstatement rate was so high as to cast serious doubt on the fairness and competence of the basic review process.

This provision is vitally necessary because those who appealed suffered great hardship and, sometimes, even death as they awaited the final decision on their appeals. This situation recurred over and over again, as so many New Yorkers told me. Mortgages were foreclosed, cars and household goods were repossessed, and untold emotional suffering was caused as a result of termination decisions which were later overturned. Worst of all, there is evidence some people committed suicide as a result of this review process.

I am very pleased that we have finally worked out a solution to a deep and very serious human tragedy. I agree with the requirement for a review process. I demand, however, that the process be fair and humane. The current process failed to meet those standards. With our action on this measure, I am confident we are making the needed reform we must have. My only regret is that it comes too late for some Americans who counted upon their Government for support in their time of need, only to find that their justifiable expectations were most cruelly disappointed.

I urge my colleagues to support this most necessary measure. It serves the interests of all Americans to provide our disabled citizens the support they need and deserve and to administer the program in a manner in which we can all take pride. With your support, we can restore this program to the level of operation and function it must have.

Thank you, Mr. President.

Mr. DOLE. Mr. President, while we are awaiting the arrival of Senator LEVIN and Senator MITCHELL, I suggest the absence of a quorum to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. How much time does the Senator from New York desire?

Mr. MOYNIHAN. Five minutes.

Mr. LONG. I yield the Senator 5 minutes.

Mr. MOYNIHAN. I thank my colleague.

Mr. President, I rise today in strong support and with great satisfaction for this legislation to reform the review process for Americans receiving disability benefits. It is a question of great and pressing concern to literally millions of persons in our population. This measure evolved through the great efforts of many Members of this body to establish fair, responsible, and equitable standards and procedures for periodic eligibility review of social security disability recipients.

The measure which, I trust, we will approve today represents a critical step in improving and refining the redetermination process. Its single most important element, the medical improvement standard, will require the Social Security Administration to first determine whether a disabled beneficiary's medical condition has actually improved since he or she was declared entitled to disability benefits, before the Social Security Administration can terminate those benefits.

The need for this legislation has been clear since March of 1981, when the Social Security Administration accelerated the mandated review of disability insurance recipients. In the past 3 years, SSA has reviewed the cases of nearly 1 million Americans receiving disability benefits; nearly 500,000 have had their benefits terminated. A Federal judge in Minnesota described these procedures as "arbitrary, capricious, irrational, and an abuse of discretion." In human terms, what has happened is that the Social Security Administration has tried to reduce program cost by terminating the benefits of hundreds of thousands of truly disabled Americans. Nearly 50 percent of all those terminated had their benefits reinstated during appeal.

In response to the thousands of tragic instances of wrongful terminations, Governors from 10 States, including New York, have refused to administer the reviews as directed by SSA. Citizens throughout the country have filed class action suits against SSA, challenging the standards by which their disability benefits were terminated. Circuit courts throughout the Nation have ruled against SSA, and have ordered the reevaluation of thousands of disabled individuals under a medical improvement standard.

Finally, last month, in recognition of the disarray and disorganization which has plagued the redetermination process for the past 3 years, Secretary Heckler suspended all further reviews of disabled beneficiaries.

It is the responsibility of Congress to insure that only the genuinely disabled receive social security disability insurance benefits. Thus, I supported the adoption of the Disability Insurance Amendments of 1980, requiring SSA to reexamine everyone receiving DI benefits. However, it is also the responsibility of the Congress to insure that these reexaminations are conducted in a manner that is both fair and judicious. The administration of the periodic reviews since March 1981 have been neither fair nor judicious.

It is in response to this shameful situation that legislation to reform the disability reexamination process was formulated. On October 26, 1983, I introduced S. 2002, the companion measure to H.R. 3755, Representative J. J. PICKLE's legislation that passed the House of Representatives on March 27, 1984, 410 to 1. I am pleased many of the reforms contained in my legislation are incorporated in the measure we debate today. In addition to the adoption of the medical improvement standard, this legislation would mandate payment of benefits throughout the appeal of a determination decision. It also would establish uniform standards for all disability decisions and continued the moratorium on the review of the mentally impaired.

This legislation contains an important proposal requiring the Secretary of Health and Human Services to appoint a commission of experts to conduct a study concerning the evaluation of pain in determining eligibility for disability benefits. Quite often, an individual may suffer from excruciating, debilitating pain that is impossible to measure objectively. As yet, SSA has no guidelines for the evaluation of subjective evidence of pain, in determining disability. It is my hope that, upon review of the commission's report, we can decide whether such guidelines are feasible.

I will close with the simple observation that I do not believe, in the half century history of the Social Security Act, there has ever been a situation in which 10 States of the Union have simply refused to participate in a national, legislatively mandated program. It was the judgment of these Governors that the administrators in Washington were so distorting the intentions of the law and the purposes of the act as to make it a question of elemental justice and, indeed, a crisis in federalism. I hope, Mr. President, that this event would not go unnoticed.

It was conspicuous during our markup in the Finance Committee that no senior official in the administration was present—the fact that Federal judges were striking down their rulings; that Governors of important States were refusing to participate; and that the Congress was vastly upset—they seemed to be either unaware of this or uninterested in it. There is a measure of administrative arrogance in all this which is not very assuring in an organization that for half a century has been concerned with the aged and the disabled and, more recently, the sick.

I do not propose that there is any immediate solution, but I would like to suggest that if things continue as such, the competence of the leadership in that administration is going to be raised as an issue and, indeed, the legality of their behavior, if not by Members of this body, then surely by members of the Federal bench.

It was never the intent of Congress to terminate disabled Americans from the disability insurance program. While this measure does not contain all the features we might hope for, it does represent an important achievement in reforming the disability redetermination program, and protecting the benefits of hundreds of thousands of disabled beneficiaries. I urge, in the most strong terms I am able, the prompt enactment of this legislation.

Mr. President, I thank you for your kind attention and my colleagues, and I yield the floor.

Mr. LONG. Mr. President, I yield to the Senator from Michigan.

Mr. LEVIN. I thank my friend from Louisiana.

Mr. President, today we are bringing to an end what has turned out to be a nightmare for tens of thousands of this country's disabled workers. Many of us have been working for over 2 years to reach this day, when the Senate legislates a comprehensive reform bill that will bring fairness and justice to the social security disability system.

In passing this bill we are doing a number of things. We are requiring the Social Security Administration, SSA, to demonstrate that the medical condition of a disability benficiary has changed or improved before that person can be terminated.

We are requiring SSA to consider the cumulative effect of an individual's impairments in determining whether that individual is severely impaired.

We are requiring SSA to establish uniform standards for determining eligibility and making such standards subject to public notice and comment.

We are requiring SSA to pay disability benefits through appeal to an administrative law judge for at least 2 years.

Mr. President, on Friday, May 25, it will be 2 years to the day that Senator COHEN and I held a Senate hearing of our Subcommittee on Oversight of Government Management, which he chairs with such distinction, and took testimony on the continuing disability reviews being conducted by the Social Security Administration. We were shocked by what we heard. Forty-five percent of the persons reviewed were being terminated; 50 percent of those terminated appealed that decision to an administrative law judge, ALJ; two-thirds of those who appealed were being reinstated. During that appeal period which lasted some 9 to 18 months, benefits were not paid and medical care coverage was not provided. The consequences were tragic—homes were foreclosed on, cars were repossessed, medical care could not be afforded, disabilities worsened, and in extreme cases lives were lost in despair and anxiety. It was a brutal and unbelievable account of the administration of what was designed to be a humane and helpful program for this Nation's work force.

At that hearing, based on the statistics available at the time, we estimated that a quarter of a million disabled Americans through the course of the reviews would be terminated with benefits stopped, only to be reinstated perhaps a year of misery later. To date over 150,000 persons have experienced such a fate. The husband of Mrs. Ethel Kage from Reed City, Mich., was one of these people. Unfortunately, as Mrs. Kage so poignantly testified at that May 25 hearing, her husband was dead before the reinstatement decision was made. Mrs. Kage provided the subcommittee with letters from Mr. Kage's physicians attributing the cause of Mr. Kage's death, in part, to the disability review process itself.

Senator COHEN and I were not the only ones being made aware of the problem. Hearings in the House and in the Senate Finance and Aging Committees presented a similar story. The State agencies responsible for making the initial eligibility decisions were feeling the effects on the frontlines; the terminations were causing serious harm to their disabled residents, and SSA's guidelines for conducting the reviews were more strict than many States could tolerate. The courts began reviewing disability cases at a surprising rate and many courts responded by ordering SSA to establish a fairer standard—that of medical improvement, requiring SSA to show that a beneficiary's condition had changed in a way that could justify termination. States began to impose moratoriums on the terminations to protect their citizens; courts imposed moratoriums on reviews and terminations to protect current and future plaintiffs. A patchwork quilt of standards evolved across the country, and the fairness of the process depended upon the State in which the review was being conducted.

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In light of all of this, however, SSA held firm and continued to claim that the horror stories were only isolated examples; that while some mistakes were being made, they were only mistakes and on the whole the reviews were going well. In June 1983, Secretary Heckler announced several administrative reforms which she said would solve the expanding problems. Many of us said it was not enough, and unfortunately we were right. Legislation was and is needed, but SSA refused to accept that fact until only recently.

It was just 3 months ago that Acting Commissioner of SSA Martha McSteen appeared before the Senate Finance Committee and stated the Secretary's unequivocal opposition to any legislation. By April 13, she has changed her position. SSA finally saw the handwriting on the wall—written by the 45 cosponsors on our legislation, written by 410 Members of the House who voted for H.R. 3755 on March 27, 1984, and written by the countless number of advocates for the disabled across the country who worked tirelessly to deliver the message to Washington that something was seriously wrong in the field.

Since the emergency provision requiring the payment of benefits through appeal expired last December, we have been living on borrowed time. SSA imposed its own moratorium on terminations from December 7 through the middle of February and reinstituted it again on April 13 when the administration announced support for a legislative solution.

That brings us to today. It is not an honorable history that I have recounted here. We have treated shabbaly the people who invested their dollars and who put their trust in the social security disability program. The Social Security Administration has refused repeatedly to admit the depth and scope of the problem and has showered the Congress and the public with excuses that neither would finally buy. But Congress is not without blame. The legacy of this experience is that nothing is as simple as it seems; that these programs are complex and their administration delicate. The signals Congress sends are crucial and must be carefully thought through and evaluated for their ultimate impact. What seemed like a good idea in 1980 turned into a tragedy in its implementation, and it was Congress that failed to set standards for the reviews and the probable consequences were not throughtfully anticipated.

It has taken us 3 years to come to grips with the problems in the disability review process as a legislative body. And while it was long in coming, I am pleased with the final outcome. The bill I, along with Senator COHEN and others introduced on February 15, 1983, S. 476, as reported by the Finance Committee contains the essential ingredients to the development of a fair and responsible review process. While we have, through extensive negotiations with the Finance Committee, crafted different legislative language for some key provisions, and I am not supportive of several items contained in the bill as reported, the ultimate objective of our bill has remained intact.

First, medical improvement. Central to the reform package is the requirement that SSA demonstrate medical improvement or a change in the beneficiary's condition before termination is allowable. This provision would require SSA upon reviewing a beneficiary to first determine whether or not the beneficiary has improved in a way related to his ability to work. The evidence to support such a finding is to be acquired by the joint effort of the beneficiary and SSA. If the Secretary finds after looking at all the available acquired evidence that the beneficiary has in fact improved in a way related to his ability to work, then the Secretary must determine if the individual is able to perform substantial gainful activity (SGA) using the sequential evaluation process. If the Secretary finds, however, that the beneficiary's condition has remained the same or worsened, then the Secretary must look at the exceptions to medical improvement to determine whether or not one of these exceptions is applicable. If one is, and the Secretary can show that the individual is now able to perform SGA, then the beneficiary will be terminated. If none of the exceptions applies, the beneficiary will be continued.

We are building into the review process through this provision the right of an individual to trust that the Federal Government will not whimsically change its mind and decide today, based on the same evidence available at the time of the earlier decision, that the individual is no longer disabled within the meaning of the law. The Federal Government, to the extent possible, should be able to be trusted to keep its word. If you were found by SSA 3 years ago to be so disabled as to not be able to do any job anywhere in the national economy, SSA should not and under this bill cannot come in today and, using the same evidence and looking at the same condition, say it changed its mind from conclusions reached yesterday or last month or last year. These decisions are too subjective to place in the hands of a system whose outcome can change depending solely upon the individual performing the review. While ultimate consistency will probably always elude our grasp in a program like this, we are at least attempting to bring the system closer to the principles of basic fairness.

Unfortunately, the bill sunsets this medical improvement standard 3 years from date of implementation. While sunsetting in some instances may prove to foster better congressional oversight, in this case it is unwise. We are codifying a medical improvement standard today because we know—and the courts have demanded—that such a standard is required to bring fairness to the review process. The reasons for implementing this standard today will not likely change tomorrow or 3 years from now. Unlike the need for various Federal programs which may come and go depending upon various social and economic factors, the need for fairness is constant. The exercise of procedural fairness which this medical improvement standard provides, should not have a time limit. I urge my colleagues in both Houses to consider this limitation very carefully in conference and hopefully remove this sunset provision.

There are several other provisions in the bill which enhance the fairness of this new medical improvement determination. First, under the bill, SSA is required to give the beneficiary full and complete notice as to the nature of the review process and what is expected of the beneficiary in that process. Second, SSA is to make every reasonable effort to obtain the necessary medical evidence from a beneficiary's treating physician.

One of the major causes of compliant and dissatisfaction with the disability review process has been SSA's reliance on its own purchased medical reports by doctors who give what are known as consultative exams. Beneficiaries claim repeatedly that these exams are only cursory, conducted by doctors who are not qualified in the necessary field of medicine, and are relied upon to the exclusion of the medical findings offered by the treating physician. Consultative exams are designed to be used by SSA only where there is conflicting medical evidence that is necessary to resolve in order to make an eligibility determination. Instead, allegations abound that they are in fact ordered routinely, used as a counterpoint to the report of the treating physician, and relied upon almost exclusively.

By passing this legislation today, we are directing SSA to give great credence to the findings and reports of a beneficiary's treating physician. It is the treating physician who more often than not has lived closely with that subject's disabilities and through his/her hands-on experience has developed a more thorough knowledge of the illness than the consultative examiners who may give no more than 30 minutes for the evaluation.

SSA complains that treating physicians too often provide mere opinion without the necessary test results on

specific medical findings upon which the disability examiner can make the necessary determination. This bill is telling SSA to ask the proper questions of the treating physician so it can elicit a helpful response. If there are tests to be conducted and scientific assessments made of an individual's functional capabilities, SSA should work with the treating physician to get those answers. Under the provision in this bill, we should witness far fewer consultative exams and more thorough and factually based reports by treating physicians.

MULTIPLE IMPAIRMENTS

In assessing whether or not a person can perform SGA or is severly impaired so as not to be able to perform SGA, both as a new applicant to disability benefits and as a beneficiary being reviewed for continuing eligibility, SSA is directed by this bill to consider the combined effect of all of an individual's impairments whether or not each impairment by itself is or is not severe. SSA has testified that it considers the combined effect of all impairments now in determining whether an individual with a severe impairment is unable to perform SGA, and this bill is not intended to alter that practice. But, SSA currently does not consider the combined effect of all impairments in assessing whether or not an individual has a severe impairment. That is the threshold question that currently starts the sequential evaluation process. If an individual has three impairments, but none of them alone is deemed by SSA to be severe, then the individual under current practice is denied eligibility. This bill changes that by requiring SSA to forego the requirement that any one impairment meet SSA's test for severity and that SSA also allow for the combined effect of nonsevere impairments to be considered in determining the presence of a severe impairment.

UNIFORM STANDARDS/BENEFITS THROUGH APPEAL

One of the first problems readily identified with the continuing disability reviews was the radical difference between the rate of allowances—or determinations of eligibility—by the State disability examiners and the rate of allowances by the administrative law judges. As I stated earlier, in 1981, two-thirds of the termination decisions appealed to ALJ's were reversed by the ALJ's. Senator COHEN and I focused much of our inquiry on this problem alone, and found to our surprise that disability examiners were in fact using different standards and guidelines in making their assessments than the ALJ's. The disability examiners were governed in their decisionmaking by the program operation manual system or POM's issued by SSA, and the ALJ's who never saw the POM's followed SSA regulations and caselaw. This situation was made worse by the fact that there were radical differences in standards between the POM's and the regulations.

A consensus has developed over the last 3 years as to the program inefficiency and inadvisability of such a system. Uniform standards throughout the determination process has been a universally acknowledged goal. And, this legislation mandates and reinforces that goal. SSA has argued that by using social security rulings, which are applicable to ALJ's, and by placing important provisions now in the POM's in rulings, it has corrected the lack of uniformity. The problem with that, which is addressed by this bill, is that such rulings are not subject to public notice and comment.

Under the bill we are passing today, all standards for determining eligibility under the social security disability programs would be subject to public notice and comment rulemaking under section 553 of the Administrative Procedure Act. Flexibility is provided for the Secretary to issue guidelines on rulings which are merely procedural and not substantive. But it is the intent of this legislation that any standard affecting the eligibility determination be subject to public notice and comment. If the Secretary is to err in her judgment on this, she should err on the side of public notice and comment. The flexibility provision is only for limited use in obvious situations.

Moreover, although the administration had requested that the Finance Committee limit judicial review under this provision to that contained in section 205(g) of the Social Security Act, the Finance Committee, and with Senate passage of this bill, the full Senate, have rejected that request. Judicial review of rules and regulations promulgated pursuant to this section lies in section 706 of the Administrative Procedure Act as it does with all agencies required to issue rules pursuant to section 553 of the Administrative Procedure Act.

Because this bill provides for the application of uniform standards in the eligibility determination process, and because current law now provides for a face-to-face hearing at reconsideration, it is possible that fairness will be served eventually without requiring the payment of benefits through appeal to the administrative law judge. Time will tell. This bill provides for the payment of benefits through appeal to an ALJ for terminations through June 1986. Our original bill made such a provision permanent law. Senator COHEN and I have agreed to a 2-year limitation on this provision with the understanding that at the time this provision expires, an assessment will be made as to its importance, and if the significant procedural unfairness this bill is designed to address still remains, we will be at the head of an effort to extend this provision.

The bill also contains our provision requiring a five-State demonstration project to substitute a personal interview at the initial level of determination for the face-to-face hearing at reconsideration. The Secretary is to report on the results of that project by April 1, 1986. At that time, based on those findings and the experience with the face to face hearing at reconsideration as well as the many other reforms contained in this bill, Congress will be in a good position to judge the benefits of extending this provision permanently.

Senator COHEN and I have long favored the opportunity for a personal appearance by the disability applicant and beneficiary with the State disability examiner prior to termination or a determination of ineligibility. Such a provision was included in S. 476 as introduced. SSA attributed a cost to that provision of over $2 billion over 5 years. While we do not accept that as a valid estimate, we were unable to come up with our own. Since the face-to-face hearing at reconsideration was enacted into law in January of last year as part of the emergency package, we have agreed to pursue the personal appearance on a trial basis in five States to determine its effect on allowance decisions and the opinions of State disability examiners.

PAIN

The bill codifies the current SSA standard for the consideration of pain in determining eligibility. Basically this standard requires the presence of a medical condition which can reasonably be expected to cause the pain. The final version of our bill, as offered as a floor amendment on November 17, 1983, and as printed in the CONGRESSIONAL RECORD on March 15, 1984, is quite different. It codifies a pain standard, but it does not accept SSA's current pain standard. Our pain standard does not require evidence or a finding of a medical condition as the cause of the pain, because we recognize that an underlying medical condition cannot always be identified. Nor do we take the position that benefits should be granted based on the subjective evidence of the disabled individual alone. Our pain standard would require medical findings of the presence of pain, without the need to show a medical condition causing the pain.

SSA's pain standard has been the subject of frequent and lengthy litigation in which SSA often is the loser. The courts are not willing to accept SSA's rigid standard, for assessing pain, nor should we. In fact, while questions about the appropriate pain standard may linger in many minds, there is little doubt in my mind-and many others with more impressive credentials than I on the subject—that

the current pain standard used by SSA is not a correct one.

Since the bill requires SSA to conduct a study on the appropriate standard for pain, it would be wise for Congress to leave SSA with the flexibility to modify its pain standard in the event the issue become resolved. The bill gives SSA over 2 years to conduct the study, a period of time unnecessarily excessive in light of all we are learning and have learned about pain and in light of the work already being done by SSA on the subject. To legislate an inappropriate pain standard now might lock SSA into a position that it may seek to avoid a few months or a year from now. I hope the conferees will give careful attention to this provision and resolve to go forward with a 9 or 12 month study without codifying any standard at this time.

COMPLIANCE WITH COURT ORDERS

In June 1983, the Subcommittee on Oversight of Government Management held its second hearing on the social security disability program, with the focus this time being the role of the ALJ. We discovered at this hearing one of the difficult binds ALJ's find themselves in because of the Secretary's policy on nonacquiescence—her refusal to adopt as precedence for future determinations, decisions rendered by Federal district and circuit courts.

An ALJ takes an oath to follow the law, but may be directed by the Secretary to not follow the opinion of the appeals court of his/her circuit. This has become most visible as a problem in connection with court-ordered medical improvement standards, where the Secretary has refused to acquiesce. The result has been a spate of class action filing to force the Secretary to apply a circuit court ordered standard to all persons within that circuit. I understand there are some 30 to 40 class actions regarding the disability determination process presently pending.

With the very well-reasoned testimony of Paul Bender, constitutional law professor from the University of Pennsylvania, Senator COHEN and I concluded that the only appropriate congressional response was to require the Secretary to either acquiesce in circuit court decisions or appeal them to the Surpeme Court. The Secretary's nonacquiescence policy creates a no-win situation for affected beneficiaries, because when the Secretary decides not to acquiesce, she also refuses to appeal and since as the losing party, she is the only party to appeal, such court decisions can never get resolved by the Supreme Court.

The Secretary argues that her choices are not so easy. Were she to acquiesce in those decisions she did not choose to appeal or were the Supreme Court to deny her appeal, she would have to apply the circuit court standard within that circuit, and the result she argues could be several different standards being used in different circuits. Were she to apply a circuit court decision nationally, for the sake of uniformity, she would be elevating the circuit court to the role of the Supreme Court. At the same time, it is simply not acceptable to let the Secretary use her own unaccountable discretion to follow or not follow court precedent, and the purpose of the provision in this bill is to create the accountability by requiring the Secretary to report to Congress on all her decisions to not acquiesce and her decisions to acquiesce on significant decisions, including the specific reasons in support of her decision. This places the policy debate in the hands of Congress where it appropriately belongs.

This bill in no way sanctions the Secretary's nonacquiescence policy—indeed that is explicitly stated in the legislation; it merely provides a mechanism by which the Secretary's activity in this area can be closely monitored. It may very well turn out that the Supreme Court will settle the issue of nonacquiescence in the next few years.

COLA FAIL-SAFE

The Finance Committee chose to add a provision designed to protect the disability trust fund. The fail-safe provision would require the Secretary to adjust cost-of-living increases to disability beneficiaries if the fund is projected to decline to less that 20 percent of a year's benefits, provided Congress takes no action upon notification of such a projection.

While I can understand the committee's concern for the trust fund, I agree with my other colleagues who oppose separate treatment of beneficiaries by trust fund also oppose this system which would, in effect, allow an executive department bureaucrat to set the benefit levels for the disability program by calculating the estimated expenditures. Only Congress should have the responsibility to set benefit levels in social security programs.

FREQUENCY OF PERIODIC REVIEWS

The original S. 476 as introduced did not include a provision requiring the Secretary to establish guidelines for determining the frequency with which continuing disability reviews are to be conducted. The 1980 amendments merely require such reviews at least once every 3 years, implying they could be conducted more frequently. There is a legitimate concern, however, that without some very specific controls, disability beneficiaries could find themselves in the nightmare of continually being in the review process. This is particularly possible where a review results in an appeal to an ALJ or Federal district court which may take as much as a year or 2 years respectively.

The bill requires SSA to establish proposed guidelines for the frequency of subsequent reviews and to make such guidelines subject to public notice and comment. No one can be reviewed until these regulations are in place.

Mr. President, let me close with some acknowledgements.

Obviously, I have the sense of satisfaction that we all feel, that we are finally acting. I wish to express my gratitude and my thanks to Senator COHEN, my principal cosponsor. We have worked together on a bipartisan basis on this bill and similar bills and similar amendments on so many session days and nights of the Senate that I cannot recount them. He and his staff person, Susan Collins, have been steadfastly loyal to this cause. I commend them both on it.

I also thank all our cosponsors who have stood with us throughout. This has been a 2-year process—again, on a bipartisan basis.

I thank Senator DOLE and his staff for working with us. The Finance Committee has worked very carefully with us throughout this period and on this final legislative solution.

I am very much indebted to Senator LONG for his remarks today, for the help of his staff along the way, to try to come up with a solution which could satisfy the needs of the Social Security Administration for a fiscally sound program and the needs of the truly disabled who have been injured along the way.

I thank Linda Gustitus, of my staff, who has been at my side for 2 years on this matter. I thank all the staff for the assistance given to each other in fashioning what seems to be an equitable solution.

I look forward to a conference when we can work out the differences and come back with a final legislative package.

Mr. LONG. Mr. President, will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I congratulate the Senator from Michigan for the determined, tireless, and tenacious efforts he has extended to provide care for those who need care, for those who have a deserving case for it. I said as much at a time when the Senator was not on the floor, and I want to say it again while he is here.

The Senator does not desire that we add persons to the rolls who should not be on the rolls, persons who can obtain employment.

I hope we have a bill here that will be fair to the taxpayers as well as to the claimants.

I have said in my remarks for the RECORD and in my additional views that if this program is to succeed, we must find effective ways to open up

jobs for handicapped people who have the capacity to become productive members of society. I regret to say that this is a big oversight in our laws that exist today. When we have put that kind of employment program in place, I believe we will have a better overall program for the disabled. The fact that we do not have such a program today puts tremendous pressure on this program for persons who, because they are unable to find employment, find that they have little choice but to make the best case they can for receiving disability benefits.

I think that is part of our problem, and I believe that with the help of the Senator and others who have a similar concern for less fortunate people, perhaps in the next Congress, if not in this one, we can come up with a much more adequate program to provide employment opportunities for severely handicapped people who can be restored to the work force. We may need to provide some type of help—through a tax subsidy, if need be—to get the cooperation of employers to help make these employment opportunities available.

Mr. LEVIN. I thank the Senator from Louisiana.

I should like to address one additional remark to Senator DOLE. Senator DOLE is one of the most extraordinary Members of this body. I do not know of anybody who has greater demands on his time legislatively. He has many duties which he handles with great grace. He means a great deal to us in this body, on both sides of the aisle. Again, I want to thank him for his unwavering dedication to finding a fair solution to this problem, for his willingness and the willingness of his staff to work with people who are interested in this issue, to see if we could come up with a solution that is fair to the social security people and to the Treasury. I believe we have done that, and I express again my personal admiration to my friend from Kansas who, with all the sponsors and cosponsors of this bill, represents the best of bipartisanship in the Senate.

Mr. COHEN. Mr. President, I want to take this occasion to express my thanks to the Senator from Michigan.

Earlier this evening, I referred to the chairman of the Finance Committee as being Herculean in his efforts and accomplishments. If I had to go back into Greek mythology, I perhaps would have to draw the analogy of Sisyphus for the Senator from Michigan. He has been rolling this rock up a hill for the past 2 years; and, unlike the tragic Greek figure, he has helped to finally roll the rock to the top of the hill.

I also wish to thank Linda Gustitus for her tremendous effort on behalf of this achievement.

I thank the chairman again.

Mr. LEVIN. I thank my friend.

Mr. DOLE. Mr. President, I thank both Senators COHEN and LEVIN. As I indicated in my statement, they have been in the forefront of this matter.

I say to the distinguished Senator from Michigan that I estimated that even more important than the efforts of all Senators were the staff efforts. I said they had a hundred meetings, and I think that was low, far low. They had meetings lasting 2 or 3 hours, sometimes 4 hours, until late at night. They never gave up because their Senators never gave up.

I thank my colleagues, the Senator from Michigan and the Senator from Maine, primarily, and many others, because it has taken a long time to reach this point. This is not a perfect piece of legislation. There will be some discussions in the conference. But without the persistent efforts of these two Senators from Michigan and Maine, we would not have the bill before us.

Mr. SARBANES. Mr. President, as a cosponsor of S. 476, I am pleased to support this compromise amendment to address problems associated with the implementation of the periodic review provisions of the Social Security Disability Amendments of 1980. I have been particularly concerned that, since the Reagan administration's implementation of these provisions, my office has been deluged with requests for assistance from Marylanders who have received disability benefits for years, are unable to work, and are now being told that they are not disabled. Many feel that the accelerated review process is being conducted much too hastily and with little thought to fairness or to the consequences of removing people from the disability rolls who are, in fact, unable to work.

Earlier this year, I submitted testimony for the Senate Finance Committee's hearing on social security disability reform, and noted that some Marylanders who have contacted me are being denied disability benefits after having been declared disabled for the past 10 years or more. In some instances, the disabled citizens of my State receive notice that they are being denied disability benefits while they are actually in the hospital receiving treatment for their health problems.

Nationwide, the accelerated review process has generated such heated controversy that many States have imposed a moratorium on decisions leading to the cessation of benefits or are functioning under a court-imposed moratorium. In Maryland, the State superintendent of schools, David Hornbeck, imposed such a moratorium on October 3, 1983, noting the confusion that developed when the Social Security Administration abandoned the termination review standard of "medical improvement" in favor of a concept of "ability to engage in substantial gainful activity." In December, the U.S. District Court for the District of Maryland essentially reaffirmed this decision, finding that "in essence, the Secretary (of HHS) must establish that the claimant's medical condition has improved (in order for that claimant to be removed from the disability rolls)."

Due to the great personal injustices of the present disability review process, affirmed by several State actions and court orders, I strongly support this compromise amendment. This thoughtful legislation would allow disabled individuals to continue to receive disability benefits if their condition was the same or worse than when they were first allowed to receive benefits and if the administration fails to provide evidence that the disabled beneficiary has benefited from advances in medical or vocational therapy or technology, that the original decision was made through error or fraud, or that new diagnostic technologies show that the individual's impairment was not as serious as originally believed. These modifications seek to address the many problems Marylanders and others throughout the Nation have experienced, while still providing that those who are clearly no longer disabled and can work will be removed from the disability rolls. Because of the complexity of this issue, I know that there are still differences to be worked out between the House and the Senate, but I urge prompt passage of this measure so that this process can begin.

Mr. RIEGLE. Mr. President, today we are not simply enacting needed and critical legislation, we are writing the final lines of a sad chapter of American history. Hundreds of thousands of disabled Americans, former workers who have paid taxes and paid for their disability insurance protection, were unjustly denied disability benefits. Some died from those disabling conditions they were no longer supposed to have, others after their benefits were cut who became stricken with grief and worried sick about an uncertain financial future, took their own lives. Although it is late in coming, I am pleased, that with the passage of this legislation, we will finally put this matter behind us.

It is hard to imagine an issue that has created a greater commotion in our six Michigan regional offices than the almost constant flow of phone calls from disability beneficiaries who in utter disbelief find themselves thrown off of the disability rolls. Some of these individuals are unable to speak for themselves due to extreme physical and emotional hardships they have experienced as a result of a severe disability. Many have seen their conditions grow worse as they have been forced to endure the hardships of the administration's review process.

Hopefully, with the enactment of this legislation, those days are over.

Mr. President, even though I am extremely pleased that we are resolving this critical matter, I think it is absolutely astounding that it has taken us this long to act. A group of us, on both sides of the aisle, have been working toward this day for over 2½ years, dating back into the previous 97th Congress. In spite of all the hard evidence that was available concerning the extreme hardship and devastation that these disability reviews were having on hundreds of thousands of Americans, the administration continued to oppose corrective legislation until last month, just on the heals of the passage of a similar House bill by a 410-to-1 vote. It is sad to think that it took almost unanimous action on the part of the House of Representatives to turn the administration around on this issue. It is even more disgraceful, that more than a month after the announced moratorium on removing individuals from the rolls, 40,000 beneficiaries are without benefits due to the failure of this administration to issue regulations governing the moratorium. While public positions on this matter may have changed, it we are to judge this administration by its actions, it looks like business as usual.

The major section of this bill, introducing a medical improvement standard of review before terminating disability benefits should end the hardships and suffering we have seen over the last few years. With only a few exceptions, the administration must now show that an individual's disability has improved before discontinuing benefits. While I do not support the sunsetting of this provision after 3½ years, we should have sufficient experience with this new procedure at the end of that period to evaluate its effectiveness. There is one provision in the bill that causes me some concern—the so-called fail-safe provision. Under this provision, in the absence of congressional action—and we have seen how long it sometimes takes the Congress to act—the Secretary of Health and Human Services would have the authority to scale back cost-of-living increases for disability beneficiaries if the disability insurance trust fund falls below 20 percent of 1 year's benefits. It is my hope that this provision, which would treat disability beneficiaries different from other social security beneficiaries, will be dropped in conference.

Mr. President, in closing I should like to say that while there were many of us who worked long and hard to drag this legislation through the Congress, there is no one who deserves more credit than my good friend and colleague from Michigan, Senator LEVIN. S. 476 is his bill, and it was in large part through his personal diligence and perseverance that we were able to get to where we are today. Congress and disabled Americans across the country owe Senator LEVIN a tremendous debt of gratitude.

Mr. KENNEDY. Mr. President, today the Senate is considering legislation which will go a long way in alleviating the needless and unfair suffering of hundreds of thousands of disabled Americans who receive social security disability insurance. I wish to commend my colleagues Senator LEVIN, Senator COHEN, and Senator DOLE for their hard work in reaching a compromise on this critical issue.

I believe I can confidently say that my colleagues in the Senate are all aware of the grave situation which has existed in the SSDI program since 1981 when the Social Security Administration began using insensitive and stricter guidelines to determine disability. It is true that Congress adopted legislation in 1980 requiring SSA to conduct reviews of beneficiary disability in response to the significant increase in the number of individuals collecting SSDI benefits and the increased cost of the program. But, Mr. President, Congress did not intend for SSA to conduct these reviews based on an assumption that many beneficiaries were not truely disabled and that their benefits should be terminated. No one anticipated the kind of abuses that the Administration fostered through its use of severely restrictive review guidelines, the speedup of these reviews and the encouragement of reviewers to terminate so capriciously that over 70 percent of all denials have been reversed by the administrative law judge.

In my home State of Massachusetts, disabled citizens testified to these injustices before a special Commission on Social Security Disability. One woman testified that her benefits were terminated despite 12 recent operations on her stomach, hand, neck, and back. Another young man born with cerebral palsy testified that he was examined by a contracted physician who totally ignored this medical history. Another person who had an artificial leg and an abscessed lung lost his benefits while he was in the hospital.

People who are mentally impaired—the most vulnerable group of all—have suffered most. In some States, up to 50 percent of the mentally ill have had their benefits terminated—many left without the means to obtain shelter and food and forced to return to hospitals and institutions. Surely monetary savings cannot take precedent over alleviating the needless suffering of our disabled citizens and in some cases, preventing unnecessary deaths. The Secretary of Health and Human Services, Margaret Heckler, has responded to the outcries of disabled individuals by proposing new regulations and moratoriums on the review process. But, these actions do not go far enough. Comprehensive reform as embodied in the legislation before us today is vital to disabled Americans. The House of Representatives has already overwhelmingly passed SSDI reform legislation with just one dissenting vote.

Although I am pleased that this compromise will be acted on today, I would like to express my concern regarding some of the provisions. The 3-year sunset of the medical improvement provision is particularly troubling to me. The heart of this SSDI reform is the medical improvement standard and the requirement that medical improvement be shown before benefits to beneficiaries can be terminated. As well, this compromise places the burden of proof for substantiating that medical improvement has not taken place on the beneficiary and not on the Secretary of HHS. I believe that those individuals who are mentally ill or physically unable to gather this needed proof, will continue to suffer. The failsafe financing provision of this compromise requires that the cost-of-living increases for disability beneficiaries be scaled back to the extent necessary to maintain the SSDI trust fund balance above 20 percent. I firmly believe that our Nation's disabled citizens should not be punished in this manner. It is my sincere hope that the conferees to this bill will carefully consider the ramifications of these provisions on our disabled people during their meetings.

We have a commitment to all Americans who are disabled and we must alleviate the needless suffering of those individuals who have been unfairly denied benefits or who have suffered needless mental anguish as a result of fear of loss of benefits. I believe that our actions here today will alleviate this suffering, and I urge swift action on this legislation.

Mr. BINGAMAN. Mr. President, I strongly support S. 476, which makes substantial revisions in the social security disability reviews process. In my opinion, this legislation, of which I am a cosponsor, is badly needed and long overdue. Comprehensive reform legislation has already been passed by the House on March 28, 1984, and the administration has recently announced its plans for imposing a moratorium on removing any more disabled people from the benefit rolls until reform legislation is enacted. Very serious problems have been permitted to exist for too long as a result of this process.

I am personally aware of the tragedies which have been caused as a result of this flawed program. The volume of social security disability casework by my field offices is greater than any other issue. Disability cases are also the most heart rending. On

October 8, 1983, I was pleased to be able to hold a field hearing of the U.S. Senate Committee on Governmental Affairs in Santa Fe on the subject of social security disability reviews. Firsthand testimony was heard from a cross-section of New Mexicans who told of their painful experiences caused by an insensitive, inefficient, and dehumanizing process. Testimony was also received from doctors who treat claimants, attorneys who represent claimants, the State of New Mexico Disability Determination Unit director, an administrative law judge who hears appeals, and a representative of the Governor's office. Many others submitted testimony that will be included in the printed hearing record.

Like those cases in New Mexico I am familiar with, other Members of Congress and the American people have read and heard, on an almost daily basis, depressing stories about termination of disability benefits for individuals who are clearly still disabled. These are people who could not face the prospect of battling a hostile review process or of losing their only source of income.

Other individuals, shortly after having their benefits terminated, had died of the same illness which examiners had found no longer disabling. Nearly all of the terminations have resulted in needless pain, suffering, and loss of income for thousands of disabled individuals and their families. Ironically, many who have been found recovered and have had their benefits terminated were later, upon closer examination, eventually restored to the disability rolls. But often it was only after months of anguish at the hands of a wasteful and inefficient system.

This flood of terminations stems largely from two factors. One was the act of Congress, the so-called Bellmon amendment, which mandated in 1980 that disability recipients be reviewed every 3 years to determine if they were still eligible for benefits. These reviews, called continuing disability investigations, or CDI's, were scheduled by Congress to begin in January 1982. The second factor behind the great number of terminations was an administration bent on reducing Government spending regardless of human costs. Wielding the Bellmon amendment, the Reagan administration decided to accelerate the implementation date to March 1981, and began ordering disability reviews at an alarming rate.

In fiscal 1982, some 497,000 disability recipients, or almost 18 percent of the total, found their cases under review. Some 340,000 individuals have been cut off the rolls since March 1981 when the Reagan administration began its review program.

No one can argue with the need for review to insure that only those who are actually disabled be permitted to continue to receive disability benefits. But the manner in which the review is conducted should be sensitive to the hardships which it can cause. The review process has been frought with insensitivity, inefficiency, and blatant abuses.

Because of the abrupt acceleration of the reviews, many individual cases received only the most cursory examination. State disability determination offices were forced to accept a threefold increase in their workloads without an increase in funding or support. Many reviews were accomplished simply on paper, without ever seeing another human being, or by a 5-minute examination by a physician who had never seen the recipient before. Often the statements of personal physicians have either never been sought or simply disregarded. Most reviews centered on a profile of disabled persons who were thought most likely to be able to go back to work. Several days of hearings before the Senate Special Committee on Aging, the Senate Governmental Affairs Committee, and other groups have documented an irrefutable pattern of unfair—and improper—denials of disability benefits to individuals, particularly those suffering from severe psychiatric problems.

Nationwide, some 45 percent of the disability recipients reviewed were sent notices that their benefits would be terminated. On its face, that 45 percent would seem to indicate that a good number of recipients were no longer disabled. The records of appeals, however, tell a different story. Twelve percent of the terminations that were appealed received reversals at the reconsideration stage. Over 60 percent of the terminations appealed to social security administrative law judges were reversed. The General Accounting Office found, in a study of 1,400 appealed cases, that 9 out of 10 terminations of mentally disabled persons were reversed by administrative law judges—the first face-to-face interview for most of these individuals. These recipients were still disabled, but subjected to the stressful and unfair process of being reevaluated.

Those charged with adjudicating appeals, the administrative law judges, have been forced to endure heavier caseloads. Those who have not adhered to the goals established have been subjected to retraining and other reprisals.

The Social Security Administration, the lead administration agency, has even admitted that some physically disabled persons died soon after the agency's examiners had ruled them healthy. In 4 of 11 cases reviewed in an internal GAO study, the former disability beneficiaries died of the very illnesses that the examiners had decided were not disabling. The study admits that the decision to terminate benefits was not correct and, although error was admitted, little good it did.

So overzealous have the examiners been that one man who received the Medal of Honor for valor in Vietnam by President Reagan was cut off from disability upon review. This individual was told he could work even though he had two pieces of shrapnel in his heart, both his arms and legs were severely impaired, one lung was punctured, and he was in constant pain. Although his benefits were restored upon review, he went through countless, unnecessary hours of pain and suffering.

S. 476

S. 476, the bill as reported by the Senate Finance Committee, makes a number of important changes in the disability review process. It would require a finding of medical improvement when disability benefits are terminated, it would provide for a review and right to personal appearance prior to termination of disability benefits, it would provide for uniform standards in determining disability, it would provide continued payment of disability benefits during the appeals process, and it would provide for other important changes.

Mr. President, one provision of legislation which I find somewhat troubling is the language which would require the Secretary to give notice to the public and Congress on decisions to acquiesce or not acquiesce in U.S. court of appeals decisions affecting the Social Security Act or regulations. I feel stronger language more similar to the language in the House-approved bill, which would insure compliance with court orders is needed.

I feel very strongly that compliance with court orders is a fundamental legal principle and to not do so violates the Constitution. The current process whereby the Social Security Administration is denying benefits to thousands of people in situations similar to cases in which Federal courts have ordered payment is just plain wrong. The capricious action by a Federal agency, motivated by cost savings at the expense of human pain and suffering, needs to be corrected. With the exception of the Internal Revenue Service, which follows the precedents set by Federal appeals court decisions within the circuit where they were issued but may seek a different ruling in another circuit in the hope that the Supreme Court would agree to resolve the conflict, all other agencies other than the Social Security Administration adhere to Federal court decisions. Social Security, however, does not regard appeals court decisions as binding even in the circuit where they are issued. This arbitrary viewpoint results in unfortunate administrative burden and cost to the Government

and taxpayers for unnecessary litigation. It also results in needless cost and delay to individual beneficiaries. If language like that contained in the House-passed bill is enacted, then if a Federal appeals court issues a ruling favorable to social security recipients, the Government must either apply it uniformly to all beneficiaries living in the circuit or appeal to the Supreme Court. I urge my colleagues who will resolve the difference between the House-passed bill and the Senate bill to resolve this issue in favor of the House-passed bill—forcing Social Security to acquiesce to court decisions.

Mr. President, I ask unanimous consent that an article by Robert Pear, which appeared in the New York Times on May 13, 1984, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. FLOUTS COURTS IN DETERMINATION OF BENEFIT CLAIMS—SOCIAL SECURITY AGENCY OBEYS IN SPECIFIC CASES BUT WILL NOT EXTEND PRINCIPLES

(By Robert Pear)

WASHINGTON, May 12.—The Social Security Administration is denying benefits to thousands of people in situations similar to cases in which Federal courts have ordered payment, and Federal judges around the country have denounced the practice as lawless.

Social Security officials say they always obey decisions of the Supreme Court and apply them in cases comparable to those the Court decides. But they say they do not consider decisions of lower courts binding, except for the plaintiffs in the individual cases, when the rulings and interpretations conflict with the agency's regulations and policies.

The officials say they cannot operate a uniform nationwide program if they have to follow the potentially conflicting decisions of various courts around the country.

DISABILITY CLAIMS INVOLVED

Judges, however, say such a practice of "nonacquiescence" in the decisions of lower courts undermines the rule of law and violates the Constitution. In the last year, at least two Federal judges have threatened to cite the Secretary of Health and Human Services, Margaret M. Heckler, for contempt of court.

Many of the rulings the Social Security Administration disregards involve disputes over eligibility for disability benefits, monthly payments to people who are too ill or injured to work.

In the case of Audrey Nelson, a North Dakota woman, for example, the Social Security Administration stopped her disability benefits in 1981, saying back injuries she suffered in 1972 no longer prevented her from working.

The United States Court of Appeals for the Eighth Circuit, however, in ruling in Mrs. Nelson's favor, said the Social Security officials were disregarding several court decisions that required them to consider pain as a factor in assessing disability.

"For some unexplained reason," the appeals judges said, "the Secretary insists upon ignoring this court's statements" that she must consider subjective complaints of pain, even if they are not fully corroborated by objective medical evidence.

Many of the disregarded decisions, some of them involving old-age and survivor benefits and Supplemental Security Income, a Federal welfare program, as well as the disability payments, contain explicit guidelines for the agency's action on benefits in certain situations and say that these guidelines should apply in all similar cases.

But the Social Security Administration, either by issuing a formal notice of nonacquiescence in the court's decision or by merely disregarding it through a policy of what its officials call "informal nonacquiescence," follows the decision only in the case at issue. The officials say they do not even have to apply the court's ruling to similar situations in the same state or judicial circuit.

In a decision two weeks ago, the Chief Judge of the Federal District Court in Minnesota, Miles W. Lord, said Social Security officials were acting in "direct contravention of Federal court edicts." He wrote:

"The Secretary apparently has decided to obey only the edicts of the U.S. Supreme Court. At the same time, however, the Secretary refuses to appeal adverse rulings to the Supreme Court, thus depriving the Court of the opportunity to issue opinions on disputed issues."

AN ISSUE IN CONGRESS

In March, the House of Representatives passed a bill meant to increase compliance with court orders. Under the bill, if a Federal appeals court issues a ruling favorable to Social Security recipents, the Government must either apply it uniformly to all beneficiaries living in the circuit or appeal to the Supreme Court. But the Reagan Administration strongly opposes this provision, and it is uncertain whether the Senate will accept it.

In the last year many Federal judges have complained of the Social Security Administration's attitude toward decisions of the lower courts. In Colorado, Federal District Judge John L. Kane Jr. said the Secretary's actions "reveal a clearly rebellious frame of mind."

In California, Judge Harry Pregerson of the Court of Appeals for the Ninth Circuit said the policy was like the "pre-Civil War doctrine of nullification, whereby rebellious states refused to recognize certain Federal laws within their boundaries."

"The Secretary's nonacquiescence not only scoffs at the law of this circuit," Judge Pregerson said, "but flouts some very important principles basic to our American system of government—the rule of law, the doctrine of separation of powers imbedded in the Constitution, and the tenet of judicial supremacy." That tenet was laid down by the Supreme Court in 1803.

IRS SIMILARITY ASSERTED

In Arizona, Federal District Judge Valdemar A. Cordova struck down a recent nonacquiescene notice as "contrary to law." It manifested a "conscious and willful decision" to disregard appellate court rulings, he said.

Louis B. Hays, an Associate Commissioner of Social Security for the last three years, now temporarily assigned to the Office of Management and Budget, told Congress, "We have a policy of either acquiescing in court decisions and following them, or nonacquiescing in court decisions and not following them." He said this policy "has some similarities" to the practice of the Internal Revenue Service.

Joel Gerber, special assistant to the chief counsel of the Internal Revenue Service, said the tax agency followed the precedent set by Federal appeals court decisions within the circuit where they were issued. He said the tax agency might, at the same time, seek a different ruling in another circuit, in the hope that the Supreme Court would agree to resolve the conflict.

By contrast, Social Security officials say they do not regard appeals court decisions as binding even in the circuit where they are issued.

NO THREAT TO COURTS

For three years, the Reagan Administration has been trying to trim the disability rolls by cutting off benefits for people able to work. Officials acknowledge that they have made errors in this process, and last month, under criticism from Congress and many governors, Social Security officials suspended their efforts to cut off disability payments. But the moratorium did not apply to the thousands of people with cases pending in Federal courts or to people seeking benefits for the first time.

Some Justice Department lawyers have privately expressed doubts about the propriety of Social Security's nonacquiescence policy, but the department has often defended it in court.

Testifying recently before the Senate Finance Committee, Carolyn B. Kuhl, a deputy assistant attorney general, said, "The nonacquiescence doctrine, like the traditional Government practice of challenging settled precedents in test cases, in no way threatens the position of the judicial branch."

Mr. BINGAMAN. Mr. President, S. 476, as amended, despite the weak language on acquiesces to Federal court decisions, deserves to be approved by the Senate. This reform legislation, as a whole, is badly needed at this time. I hope my colleagues will act as expeditiously as possible to enact needed reforms and to put to an end the pain and suffering which has plagued the disability review process.

Mr. BYRD. Mr. President, ever since the Reagan administration began its all-too-enthusiastic removal of disabled beneficiaries from the social security disability insurance program rolls in 1981, it has been clear that legislation would be required to bring order to the inevitably-resulting chaos.

While it is true that the administration was responding to congressional instructions to more carefully and frequently check continued eligibility for this program, as the New York Times reported, Social Security Administration officials "quietly made clear * * * that more claims were to be denied."

The result of the administration's misguided zeal was that 485,000 persons have been abruptly found ineligible for the program since the frenzied reviews began in 1981—almost 20 percent of the program's caseload. But, in a telling comment on the absence of care and precision with which these reviews were undertaken, appeals are reversing nearly half of those terminations.

If this were the full extent of the problem with the disability insurance program, it would have been sad enough. But this disruption in the lives of beneficiaries has been visited on persons who often are neither physically nor emotionally equipped to contend with sudden adversity. As a result, some terminated beneficiaries, who either did not realize their rights of appeal or were unable financially or emotionally to pursue those rights, suffered great anguish, and in some cases, emotional breakdown.

Not only did circumstances deteriorate far beyond the level of acceptability in terms of the effect on disabled beneficiaries and their families. The States, which have been asked by the Federal Government to conduct the eligibility determination process on its behalf, have been buffeted time and again. As one illustration, State after State, on the front lines where the victims of the administration's eligibility review process are highly visible, has simply refused to continue the review process in accord with administration instructions. When coupled with those States where Federal courts have ordered the use of different review criteria, fewer than half the States currently are using the administration's review criteria—an unprecedented circumstance.

My own State of West Virginia was substantially affected by this entire situation. Hundreds of disabled persons who had relied—and many of whose families had relied—on the disability insurance benefits were shocked to learn they had been terminated. Many disabled persons had experienced no improvement of any kind in their condition since they were found initially to be eligible for the program. I have received dozens of letters expressing this shock, and always asking the question that defied answer: "Why? Why has the Federal Government done this to me?"

Ultimately, as it had in many other States, this picture became so indefensible that my State's Governor felt forced to call a halt to further terminations under the eligibility review until some degree of logic was returned to the program by either the administration or the Congress. Unfortunately, despite some highly publicized gestures that were claimed to provide sufficient and acceptable resolution to this gigantic problem, the administration failed to confront it adequately. Consequently, it was left to Congress to pick up the pieces.

Fortunately, Mr. President, there were Senators and Members of the other body who recognized early on that the administration's policies had to be changed, and that, to prevent repetition of this unacceptable episode, review procedures and criteria—that fully protected current beneficiaries and new applicants while also assuring that individuals not truly totally disabled would leave program rolls—must be enacted into Federal law.

Several Senators were key in this effort, including Senators SASSER, PRYOR, MOYNIHAN, COHEN, and HEINZ. But special attention is due the distinguished Senator from Michigan (Mr. LEVIN), who, following hearings held by the Subcommittee on Oversight on which he serves as ranking member, introduced remedial legislation with the subcommittee chairman, Mr. COHEN, and others of the Senators named previously—2 years ago.

In the intervening period, Senator LEVIN has been unswervingly committed to obtaining enactment of this vital legislation to provide relief to the Nation's disabled citizens and return order to the program's current chaotic state. Without his bulldog determination to force the Senate to address the crisis in the disability insurance program created by the administration, we would not be considering this bill today.

The distinguished chairman of the Finance Committee (Mr. DOLE) and the able ranking member, Mr. LONG, and other Senators have described the provisions of the bill in considerable detail, and I will not seek to cover the same ground. While the bill does not do everything precisely as I believe would be most desirable, I am confident that every Member of this body can say the same thing. What is most important is that a reasonable balance has been achieved between protecting the disabled, providing for an administerable program, and insuring that persons not truly disabled will be found and removed from the program in accord with a humane, careful eligibility review process that can be understood by all involved.

I am hopeful that in the conference committee with the House on this legislation, it will be possible to agree on a final bill that will come closer to the House version in assuring that persons are removed from the rolls only if their condition is medically improved from the time they were determined initially eligible; that will come closer to the House version in providing direction to the Social Security Administration on how it is to respond to Federal court decisions on appeals of eligibility denial or termination cases; and that will not jeopardize these essential benefits to fully qualified disabled citizens when the Disability Insurance Trust Fund experiences a shortfall or revenue compared to outgo.

Mr. President, I am confident that reasonable agreements on these important conference issues can be achieved. And I am certain that the legislation before us today is infinitely preferable to the state of chaos and pain that has beset this vital program for nearly 3 years.

I am pleased to support this bill, and urge all Senators to do likewise. It is essential legislation coming before us none too soon.

Mr. DOMENICI. Mr. President, I rise in support of the bill offered by the Finance Committee to strengthen the social security disability program. I want to commend my colleagues for their hard work on this very important issue.

This amendment is desperately needed to correct serious problems in the way the social security program reviews the eligibility of disabled Americans for benefits. Every Senator can point to heartbreaking cases in his or her State to confirm this. In my own State of New Mexico, I know of the tragic example of a man who had been receiving disability benefits since 1977 because of a heart condition. He was removed from the program in 1982. He appealed this decision for 12 months and was still waiting for action when the was stricken with a massive heart attack and died.

This is more than just an isolated incident. It is one of many tragedies caused by a disability review process that has been administered with too much zeal and too little compassion. Most of all, the process lacks the critical balance between the need to run an efficient program and the need to help America's disabled citizens. Numerous reports, studies, and this Senator's own direct observations confirm this.

Congress must act to restore the proper balance to the social security disability program. While the Social Security Administration (SSA) must continue to review beneficiaries to insure that they meet the standards of disability in the law, it must also improve the quality of the reviews and protect the rights of the disabled.

The amendment before the Senate addresses the major areas of concern. It would require that the SSA show that a recipient had medically improved since he or she first came on the rolls in order to remove the recipient from the program. This provision "sunsets" in 3 years. It would also require the SSA to consider the combined effect of all of an individual's impairments in determining eligibility for benefits. It would temporarily delay reviews of all mental impairment disabilities until guidelines are improved. It would allow beneficiaries removed from the program before June 1986 to continue to receive benefits while they appeal the decision. Finally, it would help insure solvency in the disability trust fund by requiring the Secretary to adjust benefits if the trust fund reserves drop so low as to endanger benefit payments.

Mr. President, I was convinced last November, when the Senate voted on a similar amendment, that this ap-

proach was the best available solution to the problems in the disability program. I voted for the amendment, but a majority of my colleagues needed more time to consider the situation.

The situation has not improved, so Congress must act. The amendment before us would permit the social disability program to carry out its basic purpose in a way that is simple, fair, and humane. It also contains provisions which I consider very important to insure that future benefit increases do not precipitate a bankruptcy crisis in the disability trust fund similar to the 1983 financial crisis in the retirement fund. I urge my collegues to join me in voting for his bill.

Mr. THURMOND. Mr. President, I wish to express my support for the measure now before the Senate, and to commend the managers of the bill, the distinguished chairman of the Finance Committee, Senator DOLE, and the able ranking member, Senator LONG, for their efforts in bringing this legislation before the Senate. I also wish to commend Senators COHEN and LEVIN, who authored the original version of this bill, for their longstanding interest in improving the social security disability program.

Mr. President, the reform of our social security disability laws is vitally important to many Americans. I have received countless phone calls and letters from South Carolinians who have suffered through the termination of disability benefits. Administrative action under current law has produced some unintended and many undesirable results. I believe that this measure will restore a great degree of fairness and equity to the disability determination system.

Mr. President, I am especially pleased to see two provisions included in this legislation. One is the section which permits individuals notified of a termination decision to elect continued disability benefits and medicare coverage during the appeal process. This is a particularly worthwhile provision which I was pleased to sponsor as an original bill. The second provision is the suspension of eligibility reviews for individuals with mental impairment-related disabilities during the revision of criteria for determining eligibility. The extensive problems in the handling of disability cases with a mental impairment basis necessitates this temporary moratorium.

Mr. President, I am pleased that this matter has been brought before the Senate, and I urge my colleagues to support it.

Mr. GLENN. Mr. President, I am pleased to be a cosponsor of S. 476, legislation to make urgently needed reforms in the disability review program. This legislation will correct many of the injustices and abuses that have occurred with the continuing disability investigations (CDI's), and will protect truly disabled persons and their families from arbitrary benefit cutoffs. I urge my colleagues to support S. 476.

This legislation is long overdue. All Senators have been hearing the same cries of outrage from their constituents about the injustice, arbitrariness, and cruelty of the disability review process. Many of our caseworkers are working overtime to help disabled persons appeal their terminations and to inject some measure of compassion and reason into the stressful review process.

I believe we have a responsibility to act as quickly as possible. Since March of 1981, when the accelerated reviews began, more than 470,000 beneficiaries have been terminated; 160,000 of those persons were reinstated after the lengthy appeals process. The appeals process is clogged with more than 120,000 cases currently pending before administrative law judges. Some individuals will have to wait 6 to 12 months for their hearing date, and we know that in a majority of cases, the administrative law judges reverse the termination decision.

Federal courts are becoming overwhelmed with disability cases—41,000 of the 44,000 lawsuits pending against the Department of Health and Human Services involve disability claimants. The lengthy appeals process presents financial hardship and physical and emotional stress to these disabled Americans.

I am particularly concerned about the situation in my home State of Ohio, where there have been 50,500 continuing disability investigations. As a result, 23,822 persons have been terminated from the disability program. An estimated 10,000 have been reinstated on appeal, indicating that many had been mistakenly terminated in the first place. The pervasive confusion and unfairness of the termination process compelled the Governor of Ohio to impose a moratorium on all continuing disability reviews. Governor Celeste has refused to allow disability reviews to resume until Congress acts to improve the process. Similar steps are being taken in other States, either under Federal court orders or by their own initiatives.

The roots of this problem date back to 1980, when Congress—in response to reports that social security disability payments were being made to able-bodied persons—asked the Social Security Administration to periodically review disability cases to insure that Federal benefits only go to those who qualify according to the law's strict standards for severe and extended disability. This was a proper and appropriate response to a legitimate concern.

Apparently, however, administration officials perceived this law as an opportunity to make dramatic budget savings, and instituted the review process at an accelerated rate, lacking carefully developed termination criteria or thorough training of disability program workers. Congressional intent has been misinterpreted and agency action has been misguided. Federal court decisions have called the agency's termination procedures unfair, unscientific, and arbitrary, and we now face a situation of continued procedural nightmares unless we pass this corrective legislation.

S. 476, as amended by the Finance Committee, includes the following elements: establishes a medical improvement standard; provides continued benefits during appeal; institutes a moratorium on reviews of persons with mental impairments until the eligibility criteria are revised; requires that reasonable efforts be made to insure that a qualified psychiatrist or psychologist participate in the evaluation of mentally impaired claimants; requires the Secretary to indicate to Congress and the public whether the agency intends to acquiesce or not acquiesce to U.S. Court of Appeals decisions dealing with social security disability; requires that the combined effect of multiple impairments be considered in determining the severity of disability; requires that a study be made concerning the evaluation of pain in determining eligibility for disability benefits; requires that terminated beneficiaries be given opportunity for a face-to-face evidentiary hearing at the reconsideration stage; requires the Secretary to make reasonable efforts to obtain an individual's complete medical records before seeking a consultative examination; reauthorizes section 1619 of the Social Security Act, which permits severely impaired individuals to receive a special supplemental security income payment and maintain medicaid eligibility despite some earnings; and establishes a "fail-safe" mechanism whereby the cost-of-living adjustment for disability beneficiaries would be adjusted if the trust fund became insolvent.

This legislation makes moderate and necessary changes to insure that we effectively remove nondisabled persons from the program without unfairly hurting truly disabled persons. Social Security disability is an insurance program; it is not welfare. Employees contribute to this program for protection against unexpected illness or injury. We are violating their trust and our promise when we allow this program to be administered so unjustly.

I encourage my colleagues to join me in supporting S. 476.

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of S. 476, the Social Security Disability Amendments of 1984. This legislation will resolve the many problems that

have developed in the administration of the disability program. It will help to overcome many of the sources of uncertainty and unfairness to which disabled workers have been subjected over the last 3½ years. As a cosponsor of this bill, I am glad that it is now being considered. It is important that we begin to put this difficult period in the disability program behind us.

The major provisions of S. 476 include a requirement that a beneficiary be found to a have medically improved before his or her benefits can be terminated; continuation of benefits for a beneficiary who is appealing a termination decision; and a moratorium on eligibility reviews for people with disabilities based on mental impairments. Other provisions include authorization for demonstrations in several States in which beneficiaries would have the opportunity to appear in person when their eligibility is being reviewed for the first time.

Mr. President, I have been disturbed by the reports that I have had from constituents about arbitrary decisions to remove from the social security rolls people who were indeed disabled and unable to work. After lengthy appeals and much anguish and hardship, many of these people were returned to the rolls and their back benefits were paid to them. These decisions to stop benefits should never have been made in the first place, and would not be made under the provisions of this bill. This bill requires that a person be maintained on the social security rolls if there has been no improvement in his impairment and the person is still unable to work. Furthermore, if a person is declared ineligible, but wishes to appeal this decision, his benefits will be continued until the appeal is decided. Should the appeal be denied, the person would, of course, be expected to repay benefits paid from the time of the original termination. These provisions will expire after several years to allow Congress to review their effectiveness.

The chaos in the disability program has harmed both the disabled people involved and the credibility of the Social Security Administration itself. Careful standards are important in a program such as this—only people who are unable to work at all should be receiving disability benefits. But in the process of maintaining the integrity of the program, only the truly ineligible should be dismissed from the rolls. The legislation being considered by the Senate today will go a long way to assuring the proper and compassionate administration of the disability program. I urge its immediate passage.

Mr. METZENBAUM. Mr. President, I have a number of concerns about the compromise bill offered by Senators LEVIN and COHEN. I support the measure because I hope it will emerge from conference in a significantly improved form.

The system of periodic review under the social security disability program has been reduced to a shambles by the heavy-handed tactics of the present administration. There is an urgent need for legislation to be passed and passed swiftly, if the program is ever to regain the confidence and trust of the American people.

Mr. President, I have recorded my criticisms of the social security disability program at some length in recent debates on this subject. Suffice it to say that what Congress intended to be an orderly and humane review became, under the present administration, an inquisition. The rights of social security disability recipients were trampled upon and, in many cases, lives were destroyed. We hope to prevent that from happening in the future by passing reform legislation.

Mr. President, there is one other major issue which this compromise bill fails to address and that is the Social Security Administration's policy of "nonacquiescence" with regard to Circuit Court of Appeals' decisions affecting the disability program.

Under the Federal judicial system, decisions of the circuit court of appeals are considered the "law of the circuit" and constitute binding case law on all district courts within the circuit. If two circuits rule differently on a particular issue, the Supreme Court will review the issue to settle the dispute.

My concern is that the Social Security Administration does not follow U.S. Courts of Appeals decisions with which it disagrees either nationwide or within the circuit of the ruling. While the agency does obey the court's ruling in the particular case being adjudicated, the interpretation of the law from the court is not considered binding by the agency either for State disability agency operations or for Federal Social Security Offices.

In addition, the agency frequently does not appeal district court or circuit court opinions with which it disagrees. Therefore, the Supreme Court is not able to review the issue and render a decision with which the agency would be forced to comply.

The policy has been vigorously criticized by Federal judges and outside legal experts since it undermines the basic rule of law and allows Social Security to use administrative inaction to circumvent the legal judgment of the Federal courts. A judge of the Court of Appeals for the Ninth Circuit has stated that this policy "flouts some very important principles basic to our system of Government," including "the rule of law."

The policy of nonacquiescence only serves to undermine the relationship between the Social Security Administration and the Federal courts. If the Federal circuit courts hand down decisions that appear at odds with the purposes or operation of the program, the Supreme Court should be given the opportunity to rule. If the agency wishes a change in the law, then it should submit legislation to Congress. However, there is no reason to allow the Social Security Administration to ignore the law as determined by the highest Federal court in each circuit, simply because the administrators view the Federal court's decision as mistaken.

I, therefore, believe that the Social Security Administration should either apply the decisions of circuit courts of appeal to at least all beneficiaries residing within States within the circuit, or appeal the decision to the Supreme Court.

Unfortunately, this compromise bill does not resolve this issue in an acceptable form. I believe there is substantial support in the Senate for the House position on this matter and I hope the Senate conferees will recede to the House position on this critical issue.

Mr. President, I ask unanimous consent that an article published in the New York Times on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PROFOUND CONTEMPT

(By Anthony Lewis)

BOSTON, May 20.—A fundamental change is taking place in America, and the world sees it. The most legal-minded of societies, as it has been by instinct and tradition, now has a Government that feels and displays a profound contempt for law.

It is a phenomenon so large that it is hard to see whole. Though Americans are aware of this or that act of official lawlessness, most do not perceive the overall pattern. But America's friends in the world increasingly do, and they are afraid. They do not know how to communicate with a United States Government of such a character.

The concern was dramatically evidenced last week in the visit of Mexico's President, Miguel de la Madrid. From the moment he arrived at the White House he made a point of urging respect for international law. "If we exclude law," he told Congress, "our only alternative is anarchy and the arbitrary rule of whoever is able to impose his will."

That a visiting head of state should feel it necessary to remind the United States of the importance of the rule of law is truly astounding. But then the reality that moved President de la Madrid to speak as he did is hard to believe—hard for me, at least. Who would ever have thought that an American Government would try to flee the jurisdiction of the World Court as if it were running from the sheriff?

Jeane Kirkpatrick, Mr. Reagan's Ambassador to the United Nations, defended the flight from the World Court by attacking its judges. They were chosen, she said, by a process "as non-political as the U.N. General Assembly." The sarcastic implication was

that they were a bunch of worthless Third-World and Communist types.

But judges from Britain, France, Italy, West Germany and Japan were among those who voted against the American position in the World Court's preliminary decision on a Nicaraguan complaint. The court was unanimous in ruling that the United States should immediately cease mining Nicaraguan ports.

At home as abroad, the Reagan Administration rejects the rule of law when it finds the law inconvenient. The outstanding current example is again one that I would never have believed possible under any Government of the United States. That is the refusal to respect decisions of Federal courts interpreting the law on disability claims under Social Security.

The U.S. Courts of Appeals and District Courts in various circuits have held that the Social Security Administration read the law too narrowly in rejecting claims. Officials then made the payments to those particular plaintiffs but refused to apply the rule laid down by the court to other cases, even in the same circuit. They said they would only respect a Supreme Court decision—but refused to take the cases to the Supreme Court.

Judge Harry Pregerson of the Court of Appeals for the Ninth Circuit said the policy reminded him of the Southern doctrine of "nullification" before the Civil War, when "rebellious states refused to recognize certain Federal laws within their boundaries." He said the policy "flouts some very important principles basic to our system of government," including "the rule of law."

The refusal to respect those court decisions is also reminiscent of a more recent period of dangerous lawlessness. That was the time after the Supreme Court's school segregation decision of 1954 when some southern politicians and lawyers argued that the decision affected only the particular plaintiffs and need not be respected as law generally.

The administration has worked to circumvent rules laid down by Congress as well as by the courts. Last week it was reported that officials have used all kinds of fake bookkeeping and circuitous arms transfers to avoid congressional limits on spending for military aid and intelligence activities in Central America.

The attitude toward law has ironic overtones in an administration that calls itself conservative. Fifty years ago the legal realists, radicals of their day, told us that law, was not an abstract embodiment of justice but always reflected political attitudes. Now Ronald Reagan and his people have given that view a more cynical turn, reducing everything to power, mocking any idea of independent value in law.

One wonders whether lawyers in this administration will begin to ask themselves why they should continue to lend their skills to such a Government. After all, they are also officers of the court—of law.

When Richard Nixon challenged his accountability to law, a unanimous Supreme Court—including his own appointees—ruled against him. Something even more flagrant than that is developing now. Ronald Reagan's administration is telling the world that it is not accountable to any institution: not to Congress, not to the World Court, not to the courts of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, the Senator from Maine has his own time. A half hour has been allotted to the Senator from Maine on this matter.

Mr. MITCHELL. That is correct.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, in view of the hour, I shall be brief.

Mr. President, I rise to express my strong reservation about the difficulties that may occur from one section of the legislation now before us.

The bill overall has my strong support. I voted for it in the Finance Committee, and I shall vote for it tonight. It meets the glaring inadequacies of the current disability review process, it serves to protect the interests of those already on the rolls, and it protects the interests of the taxpayer in being certain that benefits are paid only to those who are in need of them.

I commend those, particularly my colleague, Senator COHEN, and Senator LEVIN for their efforts on this important legislation.

I am particularly pleased that, although the administration did not wholeheartedly support the concept of uniform standards for determining continued eligibility for benefits, the Finance Committee bill includes a strong provision insuring that needed uniformity. Without that uniformity, we risk repeating the tragic and needless confusion that has beset this program since 1981. The uniform standards provide a solid foundation on which our administrative law judges can fairly and efficiently judge the merits of cases brought before them for review without risking the arbitrary and capricious outcomes which resulted from the different standards of review in use at different levels of the review process. This is a major advance.

The tragedies and hardships brought about by the review process as it has functioned are too well known to need repeating.

At the same time, I am concerned about the antideficiency provision of the bill because it threatens the benefits of those who can least afford the loss.

Mr. President, as the chairman and ranking member of the Finance Committee know, I discussed this matter in some detail before the committee and I want merely now to note briefly and in very summary fashion my concern about that provision.

That provision mandates that if reserves fall below 20 percent of projected annual benefit payments, and if Congress in the face of this fact fails to take corrective action, then the Secretary of Health and Human Services is given the authority to unilaterally act to restore that reserve level. It is anticipated that such action would require the reduction of proposed cost-of-living increases for all current recipients, in part or in full, and if such a reduction or elimination of the cost-of-living increase proved inadequate to restore the reserve levels to 20 percent, then the Secretary could further move to reduce the benefit schedules applicable to new entrants into the system. In either case, the outcome would not be equitable.

If the cost-of-living adjustment were to be cut, those relying on disability benefits for their sole source of income would have no way of protecting themselves against inflation. This is particularly unfair, since these people would not have been responsible for the conditions that might lead to a funding reserve shortfall.

Such a shortfall, as we all know, can result from economic downturns and the resultant lowered tax payments into the system, as well as from an unanticipated increase enrollments. In either case, current beneficiaries are in no sense responsible. But this provision would make them pay the cost of such an outcome.

Furthermore, if the elimination of a cost-of-living increase were not enough to replenish the reserve fund, the provision which grants authority to alter the schedule of benefits for new entrants would have the undesirable effect of creating two classes of disability income recipients, a result that Congress never intended. And it is not a result that would enhance the confidence of our people in the social security system and its promise of security.

I recognize, of course, that the provision does give Congress the prior responsibility for taking action. This is as it should be. I am taking this opportunity to express my view that if such a reserve shortfall does occur, then Congress has an obligation to act, in preference to allowing the authority to act to devolve on the Secretary of Health and Human Services by default.

The effect of this provision is to create conditions for the disability income fund which are substantially different from conditions governing the other social security funds.

That, also, is a precedent I believe is unwise. The social security system is a unified whole, designed to replace income lost by virtue of inability to work, whether that inability arises from illness or age. To treat the former more cavalierly than the latter makes no sense, and is not equitable.

So with that proviso, I will vote for the legislation, because it is a long overdue correction of an intolerable situation. I hope, however, that the House-Senate conference will eliminate the unfortunate deficiency provision to which I have referred.

I thank the chairman and I thank you, Mr. President.

Mr. DOLE. Mr. President, I have no other request for time. I am prepared

to yield back all time on the bill and the substitute.

Mr. LONG. Mr. President, I have no further request for time and in the absence of any further request, I am prepared to yield back also.

The PRESIDING OFFICER (Ms. KASSEBAUM). All time having been yielded back, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE. Madam President, I ask unanimous consent to call up H.R. 3755, calendar order No. 791, the House-passed disability bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3755) to amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Madam President, I move that all after the enacting clause be stricken and the committee substitute for S. 476 be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DOLE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—96

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hatch	Nunn
Biden	Hatfield	Packwood
Bingaman	Hawkins	Pell
Boren	Hecht	Percy
Boschwitz	Heflin	Pressler
Bradley	Heinz	Proxmire
Bumpers	Helms	Pryor
Burdick	Hollings	Quayle
Byrd	Huddleston	Randolph
Chafee	Humphrey	Riegle
Chiles	Inouye	Roth
Cochran	Jepsen	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
Danforth	Kasten	Simpson
DeConcini	Kennedy	Specter
Denton	Lautenberg	Stafford
Dixon	Laxalt	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Symms
Domenici	Long	Thurmond
Durenberger	Lugar	Trible
Eagleton	Mathias	Tsongas
East	Matsunaga	Warner
Evans	Mattingly	Weicker
Exon	McClure	Wilson
Ford	Melcher	Zorinsky

NOT VOTING—4

D'Amato	Tower
Hart	Wallop

So the bill (H.R. 3755) as amended, was passed.

Mr. DOLE. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Madam President, I send up an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title so as to read: "An Act to revise provisions of titles II and XVI of the Social Security Act relating to disability, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment to amend the title.

The amendment was agreed to.

Mr. DOLE. I ask unanimous consent that S. 476 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. BENTSEN, and Mr. MOYNIHAN conferees on the part of the Senate.

Mr. DOLE. Madam President, I want to thank again my colleague, the distinguished Senator from Louisiana (Mr. LONG) and all the other Senators and members of the staff. I think we have demonstrated by the vote of 96 to 0—and I feel that if the absentees had been here it would have been 100 to 0—that this is a good bill. We shall now go to conference and work out our differences with the House.

I yield the floor.

THE CALENDAR

Mr. STEVENS. Madam President, I inquire of my distinguished friend, the Democratic leader, if he might agree to consideration of the following calendar numbers: Order No. 850, which is S. 2556; No. 864, S. 1999; No. 884, Senate Joint Resolution 254; No. 885, which is Senate Joint Resolution 288; No. 886, Senate Joint Resolution 289; No. 888, House Joint Resolution 451; No. 905, House Joint Resolution 526. Would that meet with the approval of the Senator's side of the aisle if we considered those matters and passed them?

Mr. BYRD. Mr. President, in response to the distinguished assistant Republican leader, there is no objection to proceeding with the measures.

AMERICAN FOLKLIFE CENTER

The Senate proceeded to consider the bill (S. 2556) to authorize appropriations for the American Folklife Center for fiscal years 1985 through 1989, which had been reported from the Committee on Rules and Administration with an amendment as follows:

On page 2, after line 7, insert

SEC. 2. (a) Notwithstanding any other provision of law and subject to the provisions of paragraph (1) of subsection (b), the Capitol Police Board is authorized to disignate certain portions of the Capitol grounds (other than a portion within the area bounded on the North by Constitution Avenue, on the South by Independence Avenue, on the East by First Street, and on the West by First Street) for use exclusively as play areas for the benefit of children attending a day care center which is established for the primary purpose of providing child care for the children of Members and employees of the Senate or House of Representatives.

(b)(1) In the case of any such designation referred to in subsection (a) involving a day care center established for the benefit of children of Members and employees of the Senate, the designation shall be with the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the designation shall be with the approval of the House Committee on House Administration, with the concurrence of the House Office Building Commission.

(2) The Architect of the Capitol shall enclose with a fence any area designated pursuant to subsection (a) as a play area.

(3) The authority to use an area designated pursuant to subsection (a) as a play area may be terminated at any time by the Committee which approved such designation.

(c) Nothing in this or any other Act shall be construed as prohibiting any day care center referred to in subsection (a) from placing playground equipment within an area designated pursuant to subsection (a) for use solely in connection with the operation of such center, subject to, in the case of a day care center established for the benefit of children of Members and employees of the Senate, the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the approval of the House Committee on Administration, with the concurrence of the House Office Building Commission.

(d) The day care center referred to in S. Res. 269, Ninety-eighth Congress, first session, is a day care center for which space may be designated under subsection (a) for use as a play area.

So as to make the bill read:

S. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "and" where it appears immediately after "1983"; and

(2) by inserting after "1984" the following: ", $930,000 for the fiscal year ending September 30, 1985, $1,021,150 for the fiscal year ending September 30, 1986, $1,104,025 for the fiscal year ending September 30, 1987, $1,216,525 for the fiscal year ending September 30, 1988, and $1,319,550 for the fiscal year ending September 30, 1989".

SEC. 2. (a) Notwithstanding any other provision of law and subject to the provisions of paragraph (1) of subsection (b), the Capitol Police Board is authorized to designate certain portions of the Capitol grounds (other than a portion within the area bounded on the North by Constitution Avenue, on the South by Independence Avenue, on the East by First Street, and on the West by First Street) for use exclusively as play areas for the benefit of children attending a day care center which is established for the primary purpose of providing child care for the children of Members and employees of the Senate or the House of Representatives.

(b)(1) In the case of any such designation referred to in subsection (a) involving a day care center established for the benefit of children of Members and employees of the Senate, the designation shall be with the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the designation shall be with the approval of the House Committee on House Administration, with the concurrence of the House Office Building Commission.

(2) The Architect of the Capital shall enclose with a fence any area designated pursuant to subsection (a) as a play area.

(3) The authority to use an area designated pursuant to subsection (a) as a play area may be terminated at any time by the Committee which approved such designation.

(c) Nothing in this or any other Act shall be construed as prohibiting any day care center referred to in subsection (a) from placing playgound equipment within an area designated pursuant to subsection (a) for use solely in connection with the operation of such center, subject to, in the case of a day care center established for the benefit of children of Members and employees of the Senate, the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the approval of the House Committee on Administration, with the concurrence of the House Office Building Commission.

(d) The day care center referred to in S. Res. 269, Ninety-eighth Congress, first session, is a day care center for which space may be designated under subsection (a) for use as a play area.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended.

ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS

The Senate proceeded to consider the bill (S. 1999) to provide for the statutory designation of the position of Assistant Secretary of the Interior for Indian Affairs, eliminate the position of Commissioner of Indian Affairs, make conforming amendments, repeal unnecessary provisions of law referring to the Commissioner of Indian Affairs, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 21, after "document" insert *"And provided further,* That this shall not preclude independent, objective, administrative review of decisions of the Bureau of Indian Affairs by the Board of Indian Appeals.".

On page 9, strike lines 9 through 11 and insert:

by (1) deleting the words "Commissioner of Indian Affairs" and inserting in lieu thereof "Secretary of the Interior"; and (2) by deleting the words ", with the approval of the Secretary," both places it appears.

(l) The tenth paragraph under the subheading "COMMISSIONER" under the heading "I. GENERAL PROVISIONS" in the Act of April 30, 1908 (35 Stat. 72, 25 U.S.C. 295) is amended by deleting the words "Commissioner of Indian Affairs" before the proviso and inserting in lieu thereof "Secretary of the Interior" and by deleting the words "prescribed by him, subject to the supervision of the Secretary of the Interior" and inserting in lieu thereof "prescribed by the Secretary".

On page 10, line 1, strike "(l)" and insert "(m)".

On page 10, line 8, strike "(m)" and insert "(n)".

On page 10, line 18, strike "(n)" and insert "(o)".

On page 10, strike lines 23 through 25 and on page 11, strike lines 1 through 4.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 462 of the Revised Statutes (25 U.S.C. 1) is amended to read as follows:

"There shall be in the Department of the Interior an Assistant Secretary of the Interior for Indian Affairs who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe with respect to the conduct of Indian Affairs and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of the Interior.".

(b) Section 5316 of title 5, United States Code, is amended by deleting "Commissioner of Indian Affairs, Department of the Interior".

(c) Any reference to the "Commissioner of Indian Affairs" in any regulation, contract, agreement or other document shall be deemed to refer to the "Assistant Secretary of the Interior for Indian Affairs": *Provided,* That this shall not preclude any amendment of such a regulation, contract, agreement, or other document: *And provided further,* That this shall not preclude independent, objective, administrative review of decisions of the Bureau of Indian Affairs by the Board of Indian Appeals.

SEC. 2. (a) The following provisions are repealed:

(1) The Act of June 5, 1942 (56 Stat. 312) as amended (25 U.S.C. 2a).

(2) The eleventh paragraph under the subheading "COMMISSIONER" under the heading "I. GENERAL PROVISIONS" in the Act of March 3, 1909 (35 Stat. 783; 25 U.S.C. 10).

(b) The Act of August 8, 1946 (60 Stat. 939; 25 U.S.C. 1a), is amended to read as follows:

"Except where delegation or redelegation of a function is otherwise specifically restricted by statute or executive order, the Secretary of the Interior is authorized to delegate any of the Secretary's functions, powers, and duties with respect to the conduct of Indian Affairs to the Assistant Secretary of the Interior for Indian Affairs and such other officers and employees of the Department of the Interior as the Secretary may designate. The Secretary may amend and revoke such delegations and may authorize successive redelegations of such functions, powers, and duties. The Secretary may also make such rules and regulations as may be necessary to carry out the Secretary's functions, powers, and duties with respect to the conduct of Indian Affairs.".

SEC. 3. Each of the following provisions are amended by deleting the titles "Commissioner of Indian Affairs" and "Commissioner" each time they appear and inserting in lieu thereof in each such instance the title "Secretary of the Interior":

(1) Section 7 of the Act of May 17, 1882 (22 Stat. 88; 25 U.S.C. 3).

(2) Section 464, Revised Statutes (25 U.S.C. 8).

(3) Section 2156, Revised Statutes (25 U.S.C. 229).

(4) Section 5 of the Act of August 15, 1876 (19 Stat. 200; 25 U.S.C. 261).

(5) The provision of section 1 of the Act of March 3, 1901 (31 Stat. 1066), as amended by section 10 of the Act of March 3, 1903 (32 Stat. 1009) (25 U.S.C. 262).

(6) Section 11 of the Act of August 15, 1894 (28 Stat. 313; 25 U.S.C. 286).

(7) The first, tenth, and final paragraphs under the subheading, "COMMISSIONER", under the heading "I. GENERAL PROVISIONS" in the Act of March 1, 1907 (34 Stat. 1015, 1016, 1018; 25 U.S.C. 288).

(8) The third proviso in the seventh paragraph under the subheading "COMMISSION-

ER", under the heading "I. GENERAL PROVISIONS" in the Act of March 3, 1909 (35 Stat. 783; 25 U.S.C. 289).

(9) Section 1 of the Act of May 29, 1908 (35 Stat. 444; 25 U.S.C. 404).

(10) The final paragraph under the subheading "SECRETARY", under the heading "I. GENERAL PROVISIONS" in the Act of June 21, 1906 (34 Stat. 327; 25 U.S.C. 409).

(11) Section 1 of the Act of May 24, 1950 (64 Stat. 190; 25 U.S.C. 442).

(12) Section 11 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 471).

(13) Section 2 of the Act of August 28, 1937 (62 Stat. 92; 25 U.S.C. 544).

SEC. 4. (a) Section 463, Revised Statutes (25 U.S.C. 2), is amended by deleting the words "The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to" and inserting in lieu thereof "The Secretary of the Interior shall, subject to".

(b) Sections 2, 3, and 4 of the Act of June 26, 1892 (27 Stat. 272, 273; 25 U.S.C. 5, 6, and 7) are amended by deleting the title "Commissioner of Indian Affairs" each time it appears and inserting in lieu thereof in each instance the title "Secretary of the Interior" and by deleting the words "said office" each time they appear and inserting in lieu thereof in each such instance the words "the Bureau of Indian Affairs". Section 3 of such Act is further amended by deleting the words "the Commissioner thereof" and the words "such Commissioner" and inserting in lieu thereof in each such instance the words "the Secretary". Section 4 of such Act is further amended—

(1) by deleting the words "the Commissioner's" and inserting in lieu thereof "a"; and

(2) by deleting the words "the Commissioner" each time they appear and inserting in lieu thereof in each such instance the words "the Secretary".

(c) The tenth paragraph under the heading "I. GENERAL PROVISIONS" and the subheading "COMMISSIONER," of the Act of April 30, 1908 (35 Stat. 72) as amended (25 U.S.C. 295) is further amended by deleting the words "the Commissioner of Indian Affairs" the first time they appear and inserting in lieu thereof the words "the Secretary of the Interior" and by deleting the words "subject to the supervision of the Secretary of the Interior" and in the fourteenth and last paragraph thereof (35 Stat. 73; 25 U.S.C. 12), by deleting words "the Commissioner of Indian Affairs" each time they appear and inserting in lieu thereof in such instance the words "the Secretary of the Interior".

(d) Section 1 of the Act of February 14, 1920 (41 Stat. 414; 25 U.S.C. 53), in the second paragraph under the heading "ADVERTISEMENT FOR SALE OF INDIAN LANDS (REIMBURSABLE)" is amended by deleting the words "Any disbursing agent of the Indian Service, with the approval of the Commissioner of Indian Affairs, many authorize a clerk employed in his office to act in his place" and inserting in lieu thereof the words "Any disbursing agent of the Bureau of Indian Affairs, with the approval of the Secretary of the Interior, may authorize a clerk employed in his office to act in his place".

(e) Section 2103, Revised Statutes, as amended (25 U.S.C. 81), is further amended by deleting the words "the Secretary of the Interior and the Commissioner of Indian Affairs" and inserting in lieu thereof "the Secretary of the Interior" and by further deleting the words "the Commissioner and the Secretary" and inserting in lieu thereof "the Secretary".

(f) Section 2104, Revised Statutes (25 U.S.C. 82), is amended by deleting the words "filed with the Commissioner of Indian Affairs" and inserting in lieu thereof "filed with the Secretary of the Interior" and by further deleting the words "the Secretary of the Interior and the Commissioner of Indian Affairs shall determine therefrom whether, in their judgment," and inserting in lieu thereof "the Secretary of the Interior shall determine therefrom whether, in the Secretary's judgment,".

(g) Section 2106, Revised Statutes (25 U.S.C. 84), is amended by deleting the words "the consent of the Secretary of the Interior and the Commissioner of Indian Affairs" and inserting in lieu thereof "the consent of the Secretary of the Interior".

(h) Section 4 of the Act of August 14, 1894 (28 Stat. 312; 25 U.S.C. 99), is amended by deleting the words "The Commissioner of Indian Affairs is authorized to advertise in the spring of each year for bids, and to enter into contracts, subject to the approval of the Secretary of the Interior, for goods and supplies for the Indian Service" and inserting in lieu thereof "The Secretary of the Interior with respect to the Bureau of Indian Affairs, and the Secretary of Health and Human Services, with respect to the Indian Health Service, are each authorized to enter into contracts for goods and supplies".

(i) The ninth paragraph under the heading "MISCELLANEOUS" in section 1 of the Act of March 3, 1893 (27 Stat. 631), as amended (25 U.S.C. 178), is further amended by deleting the words "said fees shall be paid by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, on an account stated by the proper land officers through the Commissioner of the General Land Office" and inserting in lieu thereof "said fees shall be paid by the Secretary of the Interior from funds appropriated for the administration of Indian Affairs".

(j) The last proviso of section 2133, Revised Statutes, as amended (25 U.S.C. 264), is amended to read as follows: "*And provided further,* That no person other than an Indian shall be employed as a clerk by any Indian trader, except such as trade with said Five Civilized Tribes, unless licensed to do so by the Secretary of the Interior.".

(k) The second paragraph under the heading "SUPPORT OF SCHOOLS" in section 1 of the Act of April 21, 1904 (33 Stat. 211; 25 U.S.C. 292), is amended by (1) deleting the words "Commissioner of Indian Affairs" and inserting in lieu thereof "Secretary of the Interior"; and (2) by deleting the words ", with the approval of Secretary," both places it appears.

(l) The tenth paragraph under the subheading "COMMISSIONER" under the heading "I. GENERAL PROVISIONS" in the Act of April 30, 1908 (35 Stat. 72, 25 U.S.C. 295) is amended by deleting the words "Commissioner of Indian Affairs" before the proviso and inserting in lieu thereof "Secretary of the Interior" and by deleting the words "prescribed by him, subject to the supervision of the Secretary of the Interior" and inserting in lieu thereof "prescribed by the Secretary".

(m) The fourth paragraph under the subheading "COMMISSIONER" under the heading "I. GENERAL PROVISIONS" in the Act of June 21, 1906 (34 Stat. 328; 25 U.S.C. 302), is amended by deleting the words "The commissioner of Indian Affairs, under the direction of the Secretary of the Interior," and inserting in lieu thereof "The Secretary of the Interior".

(n) Section 3 of the Act of February 8, 1887 (24 Stat. 389), as amended (25 U.S.C. 333), is further amended by deleting the words "to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for action, and to be deposited in the General Land Office" and inserting in lieu thereof "in duplicate to the Secretary of the Interior for his action, one copy to be retained in the Bureau of Indian Affiars and one copy to be deposited with the Bureau of Land Management".

(o) The second proviso in the nineteenth paragraph of section 1 of the Act of August 1, 1914 (38 Stat. 586; 25 U.S.C. 376), is amended by deleting the words "the Secretary of the Interior or the Commissioner of Indian Affairs" and inserting in lieu thereof "the Secretary of the Interior".

(p) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5616(a)(1)) is further amended by deleting "Commissioner of the Bureau of Indian Affairs" and inserting in lieu thereof "Assistant Secretary of the Interior for Indian Affairs".

SEC. 5. The following provisons are hereby repealed:

(1) The two paragraphs under the subheading "INDIAN AGENTS—PROVISO" under the heading "II. GENERAL OFFICERS AND EMPLOYEES" in the Act of March 1, 1907 (34 Stat. 1020; 25 U.S.C. 66).

(2) The proviso in section 7 of the Act of March 3, 1875 (18 Stat. 450; 25 U.S.C. 96).

(3) Section 2109, Revised Statutes (25 U.S.C. 146).

(4) Section 10 of the Act of March 2, 1889 (25 Stat. 1003; 25 U.S.C. 272).

(5) The last proviso in the seventh paragraph under the heading "CURRENT AND CONTINGENT EXPENSES" in the first section of the Act of March 3, 1905 (33 Stat. 1049; 25 U.S.C. 272a).

(6) The penultimate paragraph under the heading "SUPPORT OF SCHOOLS" in section 1 of the Act of June 7, 1897 (30 Stat. 62, 83; 25 U.S.C. 274).

(7) The second paragraph under the subheading "PRESIDENT" under the heading "I. GENERAL PROVISIONS" in the Act of June 2, 1906 (34 Stat. 326; 25 U.S.C. 279).

(8) The tenth paragraph in section 18 of the Act of June 30, 1913 (38 Stat. 96; 25 U.S.C. 285).

(9) The last proviso in the third paragraph of section 1 of the Act of April 4, 1910 (36 Stat. 271; 25 U.S.C. 384).

SEC. 6. Section 3055 of title 18, United States Code, is amended by deleting the words "Commissioner of Indian Affairs, or".

SEC. 7. Nothing in this Act shall diminish or repeal any of the authorities transferred to the Surgeon General of the United States or to the Secretary of Health and Human Services pursuant to the Act of August 5, 1954 (68 Stat. 674; 42 U.S.C. 2001-2004).

SEC. 8. For purposes of this Act, any person appointed by the President by and with the advice and consent of the Senate as an Assistant Secretary for the Department of the Interior responsible for Indian Affairs and serving as such on the date of enactment of this Act shall be considered to have been appointed by the President by and with the advice and consent of the Senate as Assistant Secretary for Indian Affairs under this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended.

NATIONAL DOWN'S SYNDROME MONTH

The joint resolution (S.J. Res. 254) to designate the month of October 1984 as "National Down's Syndrome Month", was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution with its preamble, follows:

S.J. RES. 254

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down's syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers and parent groups such as the National Down's Syndrome Congress, programs are being put in place to educate new parents of babies with Down's syndrome; to develop special education classes within mainstreamed programs in schools; the provision for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down's syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down's syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down's syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down's syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Down's Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies and activities.

EMERGENCY MEDICINE WEEK

The joint resolution (S.J. Res. 288) to designate the week of September 16, 1984 through September 22, 1984, as "Emergency Medicine Week", was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution with its preamble is as follows:

S.J. RES. 288

Whereas emergency medical personnel throughout our Nation are specialists trained to handle life- or limb-threatening illness and injuries requiring immediate attention, and must be available twenty-four hours every day of the week to all patients who need medical aid;

Whereas the emergency medical services system in the United States provides emergency health care to millions of citizens annually;

Whereas vast improvements in emergency medicine have been made in the past fifteen years, and emergency department personnel have completed extensive training and continuing education to keep up with these improvements;

Whereas the efforts of these trained men and women have saved thousands of lives; and

Whereas the observance of "Emergency Medicine Week" will educate our citizens about emergency medicine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 16, 1984, through September 22, 1984, is designated "Emergency Medicine Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

NATIONAL CHILD PASSENGER SAFETY AWARENESS DAY

The joint resolution (S.J. Res. 289) to designate June 18, 1984, as "National Child Passenger Safety Awareness Day," was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 289

Whereas motor vehicle collisions are the primary cause of death of children over the age of six months in the United States;

Whereas motor vehicle collisions are the primary cause of the crippling of children in the United States;

Whereas more children under the age of five years are killed or crippled as passengers involved in motor vehicle collisions than the total number of children killed or crippled by the seven most common childhood diseases: pertussis, tetanus, diphtheria, measles, mumps, rubella, and polio;

Whereas motor vehicle collisions are the leading trauma related cause of spinal cord injuries, epilepsy, and mental retardation in the United States;

Whereas during the years 1978 through 1982 nearly three thousand and four hundred children under the age of five years were killed in traffic collisions, and more than two hundred and fifty thousand children were injured in the United States;

Whereas an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle collision, because protective devices are placed in areas more likely to benefit adults;

Whereas unrestrained children are subject to a significantly higher risk of serious head, spine, chest and abdominal injury in motor vehicle collisions than older passengers because the bodies of children are less developed and provide less protection;

Whereas an unrestrained child in a motor vehicle collision faces an increased danger of fatal or serious injury from ejection as well as injuries resulting from contact with the vehicle interior;

Whereas an unrestrained child in a motor vehicle not involved in a collision may be killed or injured as a result of sudden stops, turns, swerves, or from the unrestrained child falling from a moving vehicle;

Whereas forty-two States and the District of Columbia have enacted laws mandating the use of child safety restraint systems;

Whereas only 40 percent of children under the age of five are protected by child safety seats in the United States and national surveys show that over 70 percent of such seats are used incorrectly;

Whereas research has shown that the proper use of child restraints is 90 percent effective in preventing death and 67 percent effective in preventing injury;

Whereas death and injuries may be reduced significantly through greater public awareness, information, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 18, 1984 is designated as "National Child Passenger Safety Awareness Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies and activities.

NATIONAL ALZHEIMER'S DISEASE MONTH

The joint resolution (H.J. Res. 451) designating the month of November 1984 as "National Alzheimer's Disease Month", was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL ANIMAL HEALTH WEEK

The joint resolution (H.J. Res. 526) designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week", was considered, ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the votes by which the measures were passed or agreed to.

Mr. BYRD. I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

SENATE JOINT RESOLUTION 292 INDEFINITELY POSTPONED

Mr. STEVENS. Now, Madam President, I ask unanimous consent that Calendar Order 887, Senate Joint Resolution 292, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

REFERRAL OF H.R. 89

Mr. STEVENS. Madam President, I ask unanimous consent that H.R. 89, a bill to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available, be referred to the Committee on Commerce, Science and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank my good friend for his consideration. We started a rule XIV procedure on that, but there is a request that it go to committee.

Mr. BYRD. I thank the distinguished acting minority leader.

S. 540 PLACED ON CALENDAR

Mr. STEVENS. Madam President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 540, establishing a new National Institute of Arthritis and Musculoskeletal, and Skin Diseases and it be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 5517 HELD AT DESK

Mr. STEVENS. Madam President, I ask unanimous consent that H.R. 5517, a bill to amend the United States Code to provide certain additional experts and consultants to certain additional positions to the General Accounting Office, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 2619

Mr. STEVENS. Madam President, I ask unanimous consent that Report No. 98-449 to accompany S. 2619, the Indian Education Act, be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOLD STAR MOTHERS, INC

Mr. STEVENS. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2413.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2413) entitled "An Act to recognize the organization known as the American Gold Star Mothers, Incorporated", do pass with the following amendment:

Strike out all after the enacting clause and insert:

CHAPTER

SECTION 1. American Gold Star Mothers, Incorporated, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. American Gold Star Mothers, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to—

(a) keep alive and develop the spirit that promoted world services;

(b) maintain the ties of fellowship born of that service, and to assist and further all patriotic work;

(c) inculcate a sense of individual obligation to the community, State, and Nation;

(d) assist veterans of World War I, World War II, the Korean Conflict, Vietnam, and other strategic areas and their dependents in the presentation of claims to the Veterans' Administration, and to aid in any way in their power the men and women who served and died or were wounded or incapacitated during hostilities;

(e) perpetuate the memory of those whose lives were sacrificed in our wars;

(f) maintain true allegiance to the United States of America;

(g) inculcate lessons of patriotism and love of country in the communities in which we live;

(h) inspire respect for the Stars and Stripes in the youth of America;

(i) extend needful assistance to all Gold Star Mothers and, when possible, to their descendants; and

(j) to promote peace and good will for the United States and all other Nations.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbusement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(e) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(63) American Gold Star Mothers, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Mr. STEVENS. Madam President, I move the Senate concur in the House amendment.

The motion was agreed to.

H.R. 4307 HELD AT DESK

Mr. STEVENS. Madam President, I ask unanimous consent that H.R. 4307, the Criminal Justice Act Revision of 1984, be held at the desk until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY REUNION MONTH

Mr. STEVENS. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 94.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 94) entitled "Joint resolution to authorize and request the President to designate May 8, 1983, to June 19, 1983, as 'Family Reunion Month' ", do pass with the following amendments:

Page 2, lines 4 and 5, strike out [designating Mother's Day, May 8, 1983, to Father's Day, June 19, 1983,], and insert: *designating Mother's Day, May 13, 1984, to Father's Day, June 17, 1984,*

Amend the title so as to read: "Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as 'Family Reunion Month'.".

Mr. STEVENS. Madam President, I move that the Senate concur in the House amendments.

The motion was agreed to.

EXECUTIVE CALENDAR

Mr. STEVENS. Madam President, if I may, I wish to inquire from the distinguished Senator from West Virginia if the Senate may go into executive session by unanimous consent to consider Calendar Nos. 609 and 610 and only those nominations that are on the Executive Calendar.

Mr. BYRD. Madam President, there is no objection on this side of the aisle to proceeding with the calendar orders named by the distinguished majority whip.

EXECUTIVE SESSION

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate go into executive session for the purpose of considering those two nominations en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

SECURITIES AND EXCHANGE COMMISSION

The legislative clerk read the nominations of Charles L. Marinaccio, of Maryland, and Aulana L. Peters, of California, to be members of the Securities and Exchange Commission.

Mr. GARN. Madam President, as chairman of the Banking Committee I wish to express the committee's unanimous and enthusiastic support for the nominations of Charles L. Marinaccio and Aulana Louise Peters to be members of the Securities and Exchange Commission.

It is indeed a personal pleasure to be able to speak in support of Mr. Marinaccio's nomination. Lindy, as we all know him, has been an outstanding member of the staff of the Banking Committee for the past 9 years. Although we are of different political parties, Lindy has been of great assistance to me and other Republicans on the Banking Committee. He is a true bipartisan professional who never loses sight of the fact that it is the public interest we are all here to serve.

Prior to joining the staff of the Banking Committee in 1975, Lindy had already spent over a decade in public service to our Nation. After a very distinguished record at the George Washington University Law School where he was on the Law Review, he spent a year clerking with the Court of Appeals for the District of Columbia. He then worked 6 years as a trial lawyer with the Department of Justice serving in both the Criminal and Antitrust Divisions. Lindy in 1969 moved to the Federal Reserve as a legal adviser in the Division of Supervision and Regulation and in 1973 returned to justice as a top administrator.

Since joining the Banking Committee as counsel in 1975, he has made a major contribution to virtually every piece of banking and banking related legislation to come before our committee. He has participated directly in matters involving the Securities and Exchange Commission and has a keen understanding of the role played by the SEC in insuring investor confidence in our capital markets.

Lindy is extremely well prepared for his new job and I have made every confidence that he will be a distinguished SEC Commissioner.

Mrs. Aulana Peters is also an excellent appointee and I commend the President for nominating her. She graduated with honors from the University of Southern California Law Center and during the past 11 years has specialized in securities and corporate law litigation at the distinguished law firm of Gibson, Dunn & Crutcher in Los Angeles, Calif. I have every confidence that Mrs. Peters' distinguished academic and legal career have prepared her for the complicated and controversial issues that will face her at the SEC.

Madam President, I am pleased that true professionals like Mr. Marinaccio and Mrs. Peters have been nominated for the important positions they will fill at the SEC. I urge the Senate to give favorable consideration to their nominations.

Mr. PROXMIRE. Madam President, as former chairman, and now ranking minority member of the Banking Committee, I rise in support of the nominations of Charles Augustus Lindberg Marinaccio and Aulana Louise Peters to be members of the Securities and Exchange Commission [SEC]. It gives me particular personal satisfaction to support the nomination of Mr. Marinaccio or "Lindy" as he is known to us on the Banking Committee.

Lindy's father was only 13 years old when he came to America from Italy. He could not speak a word of English, but through hard work and determination he became a true American success story. He settled in Connecticut and raised a large and talented family, naming his last child after an authentic hero—Charles Lindberg. That son has been a credit to his father's hopes for him.

Lindy came to Washington from his native State of Connecticut in 1959 to attend the George Washington University Law School and stayed on in our Capital to serve our Republic in a variety of demanding professional positions, including 6 years as a trial lawyer with the Department of Justice.

I have known Lindy personally since 1975 when, as chairman of the Banking Committee, I hired him to work as a counsel on the committee staff. During the past 9 years he has worked on many important legislative and policy issue which have vitally affected the SEC as well as other major financial regulatory agencies including the Federal Reserve and the FDIC.

During his years with the Banking Committee Lindy has proven himself not only to be professionally competent, but also a person or the very highest integrity. I could always rely on Lindy to give me knowledgeable, honest, and balanced advice. Other members of the Banking Committee, both Democratic and Republican, share my high regard for him, both professionally and personally.

Although I do not know Mrs. Peters, as I do Lindy, I have carefully reviewed her record and am tremendously impressed by her professional achievements and public service. After graduating from law school with honors she joined the distinguished law firm of Gibson, Dunn & Crutcher and in time became a partner specializ-

ing in business and commercial litigation. In her professional duties she worked on litigation dealing with the rules and regulations promulgated and enforced by the SEC. Her background also shows public service with the Venice Legal Aid Society, Los Angeles Mayor Tom Bradley and the Organization for Economic Cooperation and Development [OECD].

I believe we must have people of the highest professional competence and personal integrity at the SEC because of the crucial role that agency plays in maintaining investor confidence in our capital markets. I feel confident that both Mr. Marinaccio and Mrs. Peters will continue to distinguish themselves if confirmed to seats on the SEC. I urge my colleagues to support their nominations.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEA-LAUNCHED CRUISE MISSILES

Mr. MATHIAS. Madam President, today I call again on my colleagues to think about the dangers of United States and Soviet nuclear sea-launched cruise missile (SLCM) deployments. The initial deployment date for U.S. nuclear SLCM's is less than 40 days away.

I have spent a good deal of time before this body making the case for a mutual and verifiable moratorium on United States and Soviet nuclear SLCM deployments until a broader agreement like START could be completed. Such a moratorium should appeal to those of us who support President Reagan's call for deep reductions in United States and Soviet nuclear arsenals.

And the reason START supporters should embrace a mutual nuclear SLCM moratorium is because a START agreement, as such, may never be possible without a nuclear SLCM moratorium in place first. Just 2 months ago, in March, a Congressional Budget Office study warned that "unless an agreement embraces emerging weapons like sea-launched cruise missiles, it may be obsolete before it is signed." We should be doing everything in our power to create a climate in which the U.S.S.R. would negotiate seriously at both sets of the Geneva arms talks, for two important reasons.

One, a ban or strict limits on nuclear SLCM deployments makes sense in and of itself; it is in the U.S. interest to remove the nuclear SLCM from the arsenal of either superpower. And second, we should be doing our best to promote the deep reductions called for by the President and proposed to the Soviets at START. Deploying the nuclear SLCM now, before a policy for its use has been enunciated and before it has been considered in the strategic arms talks, will clearly undercut President Reagan's START proposal and raise anew questions about this country's commitment to nuclear arms control.

If the United States and the Soviet Union are as interested in arms control as the rhetoric suggests, the road to agreement, while littered with obstacles, stands before us. But with every passing day, as the deployment date for U.S. nuclear SLCM's draws nearer, that open road recedes and the proper path becomes less clear.

THE PASTORAL LETTER

Mr. KENNEDY. Mr. President, many of us in the Congress have strongly opposed the Reagan administration's secret war against Nicaragua. But that does not mean we are any less opposed to the oppressive actions of the Sandinista regime in Nicaragua and their support for the Salvadoran guerrillas.

The Sandinistas claim that they want to build a pluralist society in Nicaragua. They say that they believe in tolerance and diversity. They contend that, under Sandinista rule, the people of Nicaragua will be free to express their views and to participate in genuinely open elections.

We are watching, we are waiting and we are wondering. We know that the Sandinistas have made progress—they have called for elections in November, they have made gestures toward amnesty, and they have permitted greater freedom of the press—but there is much, much more to be done if the Sandinistas are in fact to live up to their pledge.

When it comes to dealing with their critics in the Catholic Church in Nicaragua, the Sandinistas are flunking the test. And when it comes to taking concrete steps aimed at achieving a meaningful dialog with their opponents—the only real basis for an enduring national reconciliation—the Sandinistas are falling far short of their promises.

It is traditional in Nicaragua on Easter for the nine bishops to issue an Easter message. It is also customary, in their annual Easter message, for the bishops to set forth their views on national issues. They called for national healing, reconciliation and dialog among the people of Nicaragua. The Sandinistas' response brought back memories of their confrontation with Pope John Paul II when he visited Nicaragua. They called the bishops' pastoral message criminal and accused the bishops of being instruments of the counterrevolutionaries.

This is not the language of tolerance or religious freedom. These are not the words of people who are genuinely pledged to pluralism. This is not the rhetoric of a leadership determined to bring peace and reconciliation to all of the people of Nicaragua.

The bishops' April 22 letter urged the Sandinista Government to open negotiations with the leaders of the arms opposition groups in Nicaragua in the hope that progress might be made toward a peaceful settlement of the violence in that country. The bishops noted that Nicaragua "is plagued by a belligerent situation pitting Nicaraguan against Nicaraguan." They said that "the road to social peace is possible through dialog, sincere dialog that seeks truth and goodness." The bishops stated that, "all Nicaraguans inside and outside the country must participate in this dialog, regardless of ideology, class or partisan belief. Furthermore," the bishops wrote, "we think that Nicaraguans who have taken up arms against the Government must also participate in this dialog."

"If not," the bishops warned, "there will be no possibility of a settlement, and our people, especially the poorest among them, will continue to suffer and die. The dialog of which we speak is not a tactical truce of strengthen positions for further struggle but a sincere effort to seek appropriate solutions to the anguish, pain, exhaustion, and fatigue of the many, many people who long for peace, the many, many people who want to live, to rise from the ashes to see the warmth of a smile on a child's face, far from terror, in a climate of democratic harmony."

The bishops went on to say that "the majority of the Nicaraguan people live in fear of their present and uncertainty of their future." According to the bishops, most Nicaraguans "feel deep frustration, and clamor for peace and freedom. Yet their voices are not heard, muted by belligerent propaganda on all sides."

The bishops were critical of the Sandinistas. They said, "It is dishonest to constantly blame internal aggression and violence on foreign aggression."

And the bishops criticized the superpowers, saying, "They see us as support for their power, without respect for our persons, our culture and our right to decide our own destiny." They asserted that "the great powers * * * must leave the Nicaraguans free from coercion."

At first, the letter was barred from publication. When the text finally appeared in La Prensa on April 25, the Interior Ministry insisted that the newspaper also publish a statement that the letter "contains violations of the laws of our country and positions in open confrontation with the revolution.

And then, the Sandinistas attacked the letter. Interior Minister Tomas Borge branded the bishops' call for peace talks criminal, and stated flatly "We will never negotiate with the Contras." Borge argued that "the pastoral letter seeks confrontation and violates the law of the land." He continued that the letter was "more radical in its anti-Nicaraguan tone * * * than even statements by Ambassador Kirkpatrick."

Daniel Ortega, coordinator of the junta, accused the bishops of having established "a political position which supports the aggressive plans of the American administration against the Nicaraguan people." He claimed "this pastoral letter fits within the plan for internal destabilization," adding that "it is certain that Mr. Reagan is applauding this pastoral letter which is just another action in support of that 'aggressive' policy of Washington." Ortega added that these bishops had taken a position "similar to that of the past when the bishops of this country blessed the arms of the North-American marines who landed under a plan of open occupation and murder" in Nicaragua.

The Sandinistas' response to the bishops' letter is unacceptable. When the bishops voiced concern for the suffering of the Nicaraguan people, the Sandinistas accused them of abetting foreign intervention. When the bishops urged negotiations and dialog for peace, the Sandinistas accused them of criminal statements. When the bishops called for freedom, the Sandinistas accused them of seeking confrontation.

I sympathize deeply with those Nicaraguans who have lost sons and relatives in the contra attacks, and I can understand their anger at the pastoral letter if they interpreted it as an apology for the contras. Nevertheless, the vitriolic reaction of the Sandinistas against the church cannot be justified.

The Sandinistas' words are not the words of a leadership pledged to peace and reconciliation. They are the words of more war, more intolerance, more conflict. But the Sandinistas' response also exposed a double standard in Managua: Although the Sandinistas back the Salvadoran guerrillas in their demand to share power in El Salvador, they reject any thought of even negotiating with armed Nicaraguan opposition groups.

By signing the Contadora group's 21-point Document of Objectives, the Sandinistas pledge to promote actions toward national reconciliation in instances where deep divisions have developed within societies so as to allow participation, according to law, in political processes. But they have refused to open Nicaragua's November elections to all members of armed Nicaraguan opposition groups who offer to lay down their arms.

I agree with the Washington Post when it stated in its editorial of April 27,

> There is a great need for a single standard in judging political events in Central America. There is a need for it in Washington and a need for it in Managua, too.

The Sandinistas' response to the pastoral letter raises serious questions about the willingness of the Sandinistas to tolerate a truly independent religious community in Nicaragua. Last year, the Pope's mass in Managua was disrupted. And more recently, the Sandinista Government barred the live radio broadcast of Easter services and censored other letters of the church. During the first 3 months of this year, 22 churches have been attacked by gangs.

Americans must ask themselves whether this is a government that can live with religious institutions that are truly independent of government control, or whether the Sandinistas are working to install a government-controlled, government-directed, government-supported church designed merely to rubber-stamp Sandinista policies. We know that there are serious divisions within the religious community in Nicaragua. But these are matters for the churches to work out for themselves. The Government of Nicaragua should keep out of it.

I ask unanimous consent that the full text of the Nicaraguan bishops' pastoral letter appear in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PASTORAL LETTER ON RECONCILIATION FROM THE NICARAGUAN BISHOPS

To the priests and deacons in our dioceses:

To members of religious orders:

To catechists and bearers of the Word:

To our brothers and sisters in the apostolic lay movements:

To principals, teachers, and students in Catholic schools:

To all our beloved faithful:

Grace and peace from God our Father and Jesus Christ our Lord.

DEAR BROTHERS AND SISTERS: At this solemn Easter celebration, the ultimate expression of God's love for mankind through the redemption, we invite you to share more fully in the spiritual wealth of the Holy Year, which will be extended in Nicaragua by a special concession from Pope John Paul II until June 17, 1984, the feast of the Holy Trinity.

This extension and the urgent need in our society for sincere and brotherly reconciliation through individual conversion have moved us to send you this exhortation.

I. DOCTRINAL SECTION

1. Sin, the root of all evil:

When sin came into the world, all things were changed profoundly; the soil yielded brambles; civilizations and institutions passed away; man himself rebelled against his fellow man, and the empire of tyranny and death began (cf. Gen. 3:16-19; 4:7-8)

Man, created in the image of God (Gen. 1:26) did not wish to ackowledge or glorify Him; man became vain in his imagination, and his foolish heart was darkened (Rom. 1:21). There were also those who, like Satan, disguised themselves as angels of light to deceive others and lead them to perdition. (cf. II Corinthians 11:14-15). A poorly understood anthropocentrism plunged mankind into the heavy bondage of sin.

2. Redemption by Christ:

Christ, by His death and resurrection, has reconciled us to God, to ourselves, and to our brothers and sisters, has freed us from the bondage of sin (cf. Col. 1:20-22, Cor. 5:18), and has given His church the mission of transmitting His message, pardon, and grace (cf. Mt. 28:18-20, Mk. 15-20).

All this should be for us a call to conversion; it should be the beginning of a radical change in spirit, mind, and life [1] (cf. John Paul II, Bull, "Open the Doors to the Redeemer,", No. 5).

There are three aspects to this conversion, which redeems our individual and collective lives:

(A) We must avoid personal sin, any act that disrupts our baptismal alliance with God.

(B) We must banish any sinful attitudes from our hearts, that is, any habitual rejection, whether conscious or unconscious, of Christian standards and moral values.

(C) We must put an end to such sins of society as participation in injustice and violence.

3. Sin after the redemption:

Nonetheless, sin has persisted in the world since our redemption by Christ, because:

(A) Man abuses his freedom and does not accept God's grace.

(B) Society has become secularized and is no longer oriented toward God; it does not heed the church, the universal sacrament of salvation, but considers it an alienating institution.

(C) At times it claims to accept Christ and His teachings, but it repudiates the church and thereby falls into the temptation of establishing other "churches" than the one founded by the apostles and their successors, the legitimate bishops.

(D) We forget that coexistence can only be based on an accurate perception of the individual as an intelligent, free, and religious human being, with rights and duties devolving from his very nature (cf. John XXIII, Enc. *Pacem in Terris*, No. 9-10).

(E) Materialistic concepts of mankind distort the person and teachings of Christ, reduce man to merely physical terms without taking account of his spiritual nature, so he remains subject to physical forces called the "dialectics of history." And man, alienated from God and from himself, becomes

[1] Unless otherwise indicated, quotations throughout the letter have been translated without reference to any official English text.

disoriented, without moral and religious reference points, without a higher nature, insecure and violent.

II. OUR SITUATION

1. The problem of sin in the world

Pope John Paul II, in his message for the 17th World Day of Prayer for Peace on January 1, 1984, expressed his concern about the current world situation, a concern which we, too, share: "Peace is truly precarious, and injustice abounds. Relentless warfare is occurring in many countries, continuing on and on despite the proliferation of deaths, mourning, and destruction, without any apparent progress toward a solution. It is often the innocent who suffer, while passions become inflamed and there is the risk that fear will lead to an extreme situation."

2. In Nicaragua

A. Belligerent Situation:

Our country, too, is plagued by a belligerent situation pitting Nicaraguan against Nicaraguan, and the consequences of this situation could not be sadder:

Many Nicaraguan youths and men are dying on the battlefields.

Many others look toward the future with the fear of seeing their own lives prematurely ended.

A materialistic and atheistic educational system is undermining the consciences of our children.

Many families are divided by political differences.

The suffering of mothers who have lost their children, which should merit our great respect, is instead exploited to incite hatred and feed the desire for vengeance.

Farmworkers and Indians, for whom the Church reserves a special love, are suffering, living in constant anxiety, and many of them are forced to abandon their homes in search of a peace and tranquility that they do not find.

Some of the mass media, using the language of hate, encourage a spirit of violence.

B. The Church:

One, albeit small, sector of our Church has abandoned ecclesiastical unity and surrendered to the tenets of a materialistic ideology. This sector sews confusion inside and outside Nicaragua through a campaign extolling its own ideas and defaming the legitimate pastors and the faithful who follow them. Censorship of the media makes it impossible to clarify the positions and offer other points of view.

3. Foreign interference

Foreign powers take advantage of our situation to encourage economic and ideological exploitation. They see us as support for their power, without respect for our persons, our history, our culture, and our right to decide our own destiny.

Consequently, the majority of the Nicaraguan people live in fear of their present and uncertainty of their future. They feel deep frustration, clamor for peace and freedom. Yet their voices are not heard, muted by belligerent propaganda on all sides.

4. The root of these evils

This situation is rooted in the sin of each and every one, in injustice and oppression, in exploitative greed, in political ambition and abuse of power, in disregard for moral and religious values, in lack of respect for human dignity, in forgetting, abandoning, and denying God.

III. RESPONSE OF THE CHURCH

1. Conversion and reconciliation

The Church ardently desires and encourages peace and tranquility and believes that there is only one path to that end, conversion. This means that we must all turn our eyes and heart to God, our Father, who through Christ offers us the true path to reconciliation, forgiveness, and peace.

"It is not behavior alone that needs to be changed, but the heart that guides our lives. At the community level it is important to examine ourselves as persons, as groups and social units, not only as victims but also as authors of certain collective deviations from God's plan, in order to implement together God's plan for constructive human endeavor." (cf. Peace and Conversion, a Pontifical document issued by the Commission on Justice and Peace at Rome on September 30, 1983.)

The entire universe is the object of redemption since it also reveals the glory of God and must be sanctified and consecrated to God (Cf. Vatican II, Const. Lumen Gentium, No. 34). Christ resurrected is at the center of history and of the world, leading us toward its full maturity and its final liberation from all the forces of evil (Cf. Vatican II, Const. Lumen Gentium, No. 48).

2. Confession: the path to conversion

John Paul II in his address on reform and holiness given at Rome on November 26, 1983, said: "To assist such conversion, the Lord instituted the sacrament of reconciliation. In it Christ Himself goes to meet the man oppressed by the awareness of his own weakness, He raises him and gives him the necessary strength to continue his path. With the sacrament the life of the Resurrected Christ enters the spirit of the believer, bringing forth renewed generosity of purpose and an enhanced capacity to live by the Gospel."

Jesus reconciled all things, bringing peace through the Cross (Col.1:20) and transmitted this power to His disciples (cf. Jn4:21, 13:34-35, 12-17).

Preparing to receive the benefits of the sacrament of confession is an important step in conversion. A sincere examination of our sins, self-criticism of our attitudes and our life, these reveal to us our faults and make us abhor sin which is an offense against God, an affront to the Church, and damage or injury to our neighbor. It encourages us to turn totally to God and to reform our lives, it brings us back to the Church and closer to our brothers.

3. DIALOG

The road to social peace is possible through dialogue, sincere dialogue that seeks truth and goodness. "That [dialogue] must be a meaningful and generous offer of a meeting of good intentions and not a possible justification for continuing to foment dissension and violence." (John Paul II, Greeting to Nicaragua, March 4, 1983)

It is dishonest to constantly blame internal aggression and violence on foreign aggression.

It is useless to blame the evil past for everything without recognizing the problems of the present.

All Nicaraguans inside and outside the country must participate in this dialogue, regardless of ideology, class, or partisan belief. Furthermore, we think that Nicaraguans who have taken up arms against the Government must also participate in this dialogue. If not, there will be no possibility of a settlement, and our people, especially the poorest among them, will continue to suffer and die.

The dialogue of which we speak is not a tactical truce to strengthen positions for further struggle but a sincere effort to seek appropriate solutions to the anguish, pain, exhaustion, and fatigue of the many, many people who long for peace, the many, many people who want to live, to rise from the ashes, to see the warmth of a smile on a child's face, far from terror, in a climate of democratic harmony.

The terrible chain of reactions inherent in friend-enemy dialectics is halted by the word of God, who demands that we love even our enemies and that we forgive them. He urges us to move from distrust and aggressiveness to respect and harmony, in a climate conducive to true and objective deliberation on our problems and a prudent search for solutions. The solution is reconciliation. (cf. John Paul II, Peace and Reconciliation. Address by the Pope in El Salvador, March 6, 1983).

If we are not open to objective acknowledgement of our situation and the events that distress our people ideologically, politically, and militarily, then we are not prepared, in a true and Christian way, for reconciliation for the sake of the real, living wholeness of our nation.

Considering that freedom of speech is a vital part of the dignity of a human being, and as such is indispensable to the well-being of the nation inasmuch as a country progresses only when there is freedom to generate new ideas, the right to free expression of one's ideas must be recognized.

The great powers, which are involved in this problem for ideological or economic reasons, must leave the Nicaraguans free from coercion.

CONCLUSION

If we want our conversion to find true expression in the life of our national community, we must strive to lead lives worthy of the Gospel (cf. Phl:27, Ep4:1), reject all lies, all harmful or offensive words, all anger and evil utterance, and be benevolent and forgive generously as God forgave us through Christ (cf. Ep4:25-32, Col3:12-14).

It behooves us to value each life as a gift of God, help the young to find meaning and value in their lives and prepare themselves for their future roles in society, forgive enemies and adversaries, facilitate the return of those who have left their country and welcome them with an open heart, free those imprisoned for ideological differences, create a climate of friendship and peace conducive to social harmony.

"In the great task of bringing peace and reconciliation to the nation, the family as the basic unit of society cannot be ignored. Nor can respect for its rights." (Cf. Gaudium et Seps N. 52, quoted by John Paul II in his address to the bishops of El Salvador, February 24, 1984).

May the Holy Virgin, who played her part in our redemption with such exemplary fortitude, provide us with the necessary strength to perform our Christian duty of love and peace.

And may the Lord of Peace grant us all, always and in all our endeavors, the peace and tranquility which we seek (cf. 2 Th3:16).

Done at Managua, April 22, Easter Sunday, 1984 (to be read and published in the usual manner), Episcopal Conference of Nicaragua.

Pablo A. Vega, Bishop of Juigalpa, President; Bosco Vivas Robelo, Assistant Bishop of Managua, Secretary; Miguel Obando Bravo, Archibishop of Managua; Julian Barni, Bishop of Leon; Leovigildo Lopez Fitoria, Bishop of Granada; Ruben Lopez Ardon; Bishop of Esteli; Salvador Schlaeffer B.,

Bishop of Bluefields; Carlos Santi, Bishop of Matagalpa; Pedro L. Vilchez V., Prelate of Jinotega.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, The Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT—PM 143

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

As required by Section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978, I hereby transmit the fifth annual report describing Federal actions with respect to the conservation and use of petroleum and natural gas in Federal facilities.

RONALD REAGAN.

THE WHITE HOUSE, *May 22, 1984.*

ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 144

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 360D of the Public Health Service Act (42 U.S.C. 263l), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act during calendar year 1983.

The report recommends that Section 360D of the Public Health Service Act that requires the completion of this annual report be repealed. All of the information found in this report is available to Congress on a more immediate basis through Congressional Committee oversight and budget hearings and the FDA Annual Report. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

RONALD REAGAN.

THE WHITE HOUSE, *May 22, 1984.*

MESSAGE FROM THE HOUSE

At 6:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2085. An act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers and to authorize the Secretary of Agriculture to invest funds derived from fees for certain voluntary grading and inspection services.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4209. An act to amend section 15 of the Small Business Act;

H.R. 4307. An act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes;

H.R. 4734. An act to name the Veterans' Administration Medical Center in Milwaukee, Wisconsin, the "Clement J. Zablocki Veterans' Administration Medical Center";

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes;

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes;

H.R. 5617. An act to amend title 38, United States Code, to increase certain dollar limitations under Veterans' Administration housing programs, and for other purposes; and

H.R. 5618. An act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes.

The message further announced that pursuant to the provisions of section 4(b) of Public Law 94-201, the Speaker appoints Mr. Bruce Jackson, of Buffalo, N.Y., as a member from private life to the Board of Trustees of the American Folklife Center in the Library of Congress for a term ending March 3, 1990.

The message also announced that pursuant to the provisions of House Concurrent Resolution 296, 98th Congress, the Speaker appoints the following Members to represent the House of Representatives May 25 through May 28, 1984, when the remains of the Unknown American Soldier who lost his life during the Vietnam conflict will lie in state in the Rotunda of the Capitol: Mr. MURTHA, chairman, Mr. MONTGOMERY, Mr. ASPIN, Mr. EDGAR, Mr. FLORIO, Mr. HARKIN, Mr. SAM B. HALL, JR., Mr. APPLEGATE, Mr. PANETTA, Mr. FROST, Mr. RATCHFORD, Mr. SHELBY, Mr. HARRISON, Mr. MOLLOHAN, Mr. PENNY, Mr. HAMMERSCHMIDT, Mr. FISH, Mr. YOUNG of Florida, Mr. ROTH, Mr. BROWN of Colorado, Mr. COATS, Mr. EVANS of Iowa, Mr. DENNY SMITH, Mr. BILIRAKIS, Mr. RIDGE, and Mr. SUNDQUIST.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 2751. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4734. An act to name the Veteran's Administration Medical Center in Milwaukee, Wisconsin, the "Clement J. Zablocki Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5617. An act to amend title 38, United States Code, to increase certain dollar limitations under Veterans' Administration housing programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5618. An act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes; to the Committee on Veterans' Affairs.

The following bill was taken from the calendar and referred to the Committee on Commerce, Science, and Transportation:

H.R. 89. An act to permit the transportation of passengers between Puerto Rico and other United States ports on foreign-flag vessels when United States flag service for such transportation is not available.

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 4307. An act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation,

and for other purposes (until the close of business on May 23, 1984).

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes (pending further disposition).

MEASURES PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4209. An act to amend section 15 of the Small Business Act.

The Committee on Labor and Human Resources was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 540. An act to amend the Public Health Service Act to establish a National Institute of Arthritis and Muscuoskeletal and Skin Diseases, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 5188. A bill to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1985, and for other purposes (Rept. No. 98-470).

By Mr. DURENBERGER, from the Committee on Environment and Public Works, without amendment:

S. 2701. An original bill to extend the Safe Drinking Water Act, as amended, for 1 year (Rept. No. 98-472).

S. 2702. An original bill to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1985 (Rept. No. 98-473).

S. 2703. An original bill to amend the Environmental Quality Improvement Act of 1970 to authorize appropriations for fiscal year 1985, and for other purposes (Rept. No. 98-474).

S. 2704. An original bill to amend the Toxic Substances Control Act to authorize appropriations for fiscal year 1985 (Rept. No. 98-475).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2166. A bill to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes (Rept. No. 98-471).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Jacqueline E. Schafer, of New York, to be a member of the Council on Environmental Quality.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 2693. A bill to require the Secretary of Defense to conduct a comprehensive study of the impact of nuclear winter on U.S. defense strategy and capabilities and report the results of such study to the appropriate committees of the Congress; to the Committee on Armed Services.

By Mr. HEFLIN:

S. 2694. A bill for the relief of Kazim Ates Ontuna; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. LUGAR, Mr. FORD, and Mr. TRIBLE):

S. 2695. A bill to establish a Federal Coal Export Commission with the goal of expanding the United States share of the international coal market, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 2696. A bill to impose quotas on the importation of certain copper articles during calendar years 1984, 1985, and 1986 at not more than 300,000 metric tons per year; to the Committee on Finance.

By Mr. STEVENS (for himself and Mr. LAXALT):

S. 2697. A bill to amend section 2108 of title 5, United States Code, to provide that certain commissioned officers of the Public Health Service are preference eligibles for the purposes of such title; to the Committee on Governmental Affairs.

By Mr. TSONGAS:

S. 2698. A bill for the private relief of James L. Cadigan; to the Committee on Armed Services.

By Mr. GARN (by request):

S. 2699. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act, to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities among claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 2700. A bill to strengthen and refine the provisions of the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933 and the National Housing Act, to provide for more flexible premium assessment procedures, to improve insurance of accounts provisions, to establish priorities among claimants against the estates of failed institutions, to improve and clarify enforcement authority, to strengthen change of control and holding company provisions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER, from the Committee on Environment and Public Works:

S. 2701. An original bill to extend the Safe Drinking Water Act, as amended, for 1 year; placed on the calendar.

S. 2702. An original bill to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1985; placed on the calendar.

S. 2703. An original bill to amend the Environmental Quality Improvement Act of 1970 to authorize appropriations for fiscal year 1985, and for other purposes; placed on the calendar.

S. 2704. An original bill to amend the Toxic Substances Control Act to authorize appropriations for fiscal year 1985; placed on the calendar.

By Mr. MATHIAS:

S. 2705. A bill to to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. MOYNIHAN, Mr. DODD, Mr. HATCH, Mr. BOSCHWITZ, Mr. DIXON, Mr. PELL, Mr. PROXMIRE, and Mr. SARBANES):

S.J. Res. 300. A joint resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland; ordered held at the desk until the close of businesses on May 23, 1984.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 2693. A bill to require the Secretary of Defense to conduct a comprehensive study of the impact of nuclear winter on U.S. defense strategy and capabilities and report the results of such study to the appropriate committees of the Congress; to the Committee on Armed Services.

(The remarks of Mr. PROXMIRE on this legislation appear earlier in today's RECORD.)

By Mr. WARNER (for himself, Mr. LUGAR, Mr. FORD, and Mr. TRIBLE):

S. 2695. A bill to establish a Federal Coal Export Commission with the goal of expanding the U.S. share of the international coal market, and for other purposes; to the Committee on Governmental Affairs.

COAL EXPORT ENHANCEMENT ACT OF 1984

Mr. WARNER. Mr. President, I rise today to introduce, with Senators LUGAR, FORD, and TRIBLE the Coal Export Enhancement Act of 1984.

In the past, the energy dependent nations of the world have relied predominately on imported oil to meet their energy needs. The ruinous pricing policies of the OPEC nations regarding their oil precipitated a disastrous worldwide economic recession from which many nations dependent on imported oil are just beginning to recover. The recent attacks on oil tankers in the Persian Gulf underscore the need for the United States and our allies to become more energy independent.

This last economic recession has sharply driven home the point that a nation's security, is only as strong as the foundation upon which it stands. The cost as well as supply of a nation's energy base is integrally tied to its economy.

Nations dependent on imported oil have learned from the greedy, gouging policies of OPEC that they must turn

to the oil reserves of friendly nations reserves if they are to prosper and be secure from energy blackmail.

It is becoming apparent that overnight the world's oil pipeline from the Middle East can be severed with very little warning as recent events highlight. One-sixth of the oil shipped to Western countries comes through this gulf, and if America intends to provide energy security to its allies, it must make energy trade policy one of its highest priorities.

More and more, the energy dependent nations of the world are turning to coal as the alternative energy source to replace imported oil.

America, with the free world's largest coal reserves, and 25 percent of the total world supply, stands ready and willing to provide a stable, secure source of energy to those in need of it.

Moreover, the utilization of America's coal reserves would strengthen the national security of many of our allies, and lessen the pressure on our mutual defense treaty commitments.

Increasing U.S. coal exports reduces our trade balance of payments and provides jobs in American coal fields, railroads, trucking, shipping, and other related industries.

In the past, the international marketing of coal within the United States has been done primarily at the private industry level with little or no Federal Government involvement.

However, the recent focus on the vital necessity of securing a stable, energy source has raised the sale of coal to a new level, and is forcing the Federal Government to become involved in promoting coal exports to strengthen our national security goals.

Until now, the Federal Government's involvement has lacked focus. The many Federal agencies who have an interest in U.S. coal exports have often gone their separate ways, sometimes at cross-purposes with each other.

This lack of coordination by the Federal Government is causing many of our foreign buyers to question the Federal Government's commitment to maintain and increase the U.S. market share of international coal demand.

Many of the foreign coal-buying delegations with whom I have met indicate that if America expects to be a leader in the world energy policy through the sale of our coal, we must demonstrate strong support for this concept and do everything to make our coal competitive and enhance our sales in the world market.

Many of our foreign coal buyers are Government or quasi-Government entities. In order to deal effectively with them, our domestic coal industry needs the Federal Government strongly behind it, aiding it at every existing international and diplomatic negotiation level.

If America intends to provide energy security to its allies, it must make energy trade policy one of its highest priorities.

Because of the importance of this issue, a clearinghouse is needed. This would not in any way reduce any current responsibilities now being employed by the different Federal agencies. Rather, it would establish a focal point to coordinate and actively participate in country-to-country negotiations in energy trade policy.

In the past there has not been sufficient cooperation or coordination between the Federal Government and the private sector in the area of coal exports.

This lack of coordination has resulted in disjointed sales efforts and lost sales to our coal exporting competitors who have strong interaction between Government and private industry.

The Coal Export Enhancement Act of 1984, which I am introducing today, will set up a mechanism to increase the needed interplay between the Federal Government and private enterprise regarding coal exports.

The bill would create a 15-member Federal Coal Export Commission under the auspices of the U.S. Trade Representative.

The U.S. Trade Representative would direct and coordinate the Commission, since he is a Cabinet-level official with the rank of Ambassador directly responsible to the President and Congress with responsibility for setting and administering overall trade policy.

The USTR has the primary responsibility for developing international trade policy and coordinating its implementation. In accomplishing these responsibilities, policy guidance is given on issues arising in the exercise of international trade exports; namely, first, expansion of U.S. exports; second, international trade issues involving energy; third, direct investment matters to the extent they are trade related; fourth, bilateral trade and commodity issues, including East-West trade matters; and fifth, policy research on international trade, commodities, and direct investment matters.

Reorganization plan No. 3 of 1979 indicated that while the Departments of Energy and State will continue to share responsibility for international energy issues, the Trade Representative will coordinate energy trade matters.

One-third of the Commission members would represent USTR, Department of Energy, Department of Commerce, Department of State, and the National Security Council. The other 10 members of the Commission would represent export coal producers and traders, coal labor, transporters of export coal, and banking and financial institutions.

The Commission's objective would be to foster the cooperation and coordination of all parties involved in American coal exports. The activities of the Commission would include the identification of: First, diplomatic channels to increase coal exports; second, impediments to coal exports; third, foreign markets for United States, emphasis being placed on developing nations; fourth, availability of and methods of financing coals exports; fifth, examination of potential export trading companies for U.S. coal producers; sixth, problems and areas of cooperation in coal trade between United States and Japan; and seventh, how the exportation of American coal technology can be best utilized to increase sales of American coal abroad.

Mr. President, by placing the USTR as the coordinator of our overall energy policy in coal exports and establishing a commission to coordinate the private sector and the government, the Coal Export Enhancement Act of 1984 will have a positive effect on our coal sales and strengthen our international energy policy.

By Mr. DECONCINI:

S. 2696. A bill to impose quotas on the importation of certain copper articles during calendar years 1984, 1985, and 1986 at not more than 300,000 metric tons per year; to the Committee on Finance.

DOMESTIC COPPER POLICY ACT OF 1984

Mr. DECONCINI. Mr. President, I am introducing today the Domestic Copper Policy Act of 1984, a bill which is designed to stop the serious injury currently being suffered by the U.S. copper industry as a result of ever-increasing imports of foreign copper. This bill is part of my continuing effort to develop a comprehensive and effective solution to the economic crisis now facing our industry.

As part of that continuing fight, I have described before this Senate many times in the past the very dramatic injury that has been suffered by American copper producers as a result of foreign imports. The current condition of the industry remains critical. Unemployment of workers, idling of production and smelting facilities, and greatly diminished production levels all continue at record levels.

Nationwide, employment in the copper industry has declined 38 percent since 1979. In Arizona alone, over half of the 26,000 copper workers employed in 1979 have lost their jobs; 16 of Arizona's 27 copper mines are currently closed, while 2 of 7 smelters remain idle. During the period from 1981 to 1983, utilization of U.S. production capacity was only 54 percent, a decline from the level of 83 percent in 1979.

At the heart of the copper industry's economic crisis is unfair foreign com-

petition. Imports of copper from foreign producers have increased dramatically. In 1983 import levels were 506,000 tons, a 121-percent increase over imports in 1979. This increase in foreign imports is a direct consequence of persistent world overproduction of copper.

Unfortunately, Mr. President, there is no true free market for copper. Many foreign producers are government owned or heavily subsidized, and do not respond to changes in the world supply and demand of copper. Only the privately owned producers in the United States and Canada have responded to recent decreases in world demand for copper with decreased production. Since 1979, world consumption of refined copper has dropped 8 percent—18 percent in the United States. During the period from 1976 to 1983, U.S. and Canadian producers cut mine production by 493,000 metric tons, or 23 percent. Many foreign producers, however, maintained full capacity production or actually increased production, despite the decrease in demand. Production in the rest of the free world increased by 12 percent since 1976. These nations, many motivated not by market forces but by their governments' need to generate foreign exchange, maintain domestic employment, and service massive international debt obligations, regulate capacity and production virtually without regard to world demand.

One of the prime examples is Chile. Since 1979, while demand for copper was dropping, Chile increased its mine production by an annual level of 17 percent, or 178,000 metric tons. And, of course, when world demand is inadequate to accept these increasingly higher production levels, the U.S. market is used to absorb the excess. Since 1979, U.S. imports from Chile of refined and blister copper have increased 216 percent; imports from Chile now total 56 percent of U.S. imports of refined and blister copper.

World overproduction has been exacerbated by expansions of capacity in several producing countries in a manner that also completely ignores the levels of worldwide demand. And, of course, Mr. President, much of this expansion has been built and maintained with the assistance of subsidized international financing.

Because of the serious injury to the domestic industry already suffered and the threat of even worse damage in the future as a result of foreign import increases, some form of restriction is essential to allow this country's producers to recover. The bill I am introducing will provide temporary relief to the industry to allow it to overcome the effects of the last few years of unfair competition and to become competitive in the world market on a long-term basis.

This bill will place limits on the levels of imports into the United States for a period of 3 years. Imports of the major raw copper products—blister copper, refined copper, and continuous cast rod—will be restricted to 300,000 metric tons per year for the 3 years of the program. In order to avoid unfairly harming trading partners who are producing and exporting copper in a responsible fashion, consistent with world market conditions, the permissible imports will be allocated on a country-by-country basis. The Secretary of the Treasury is directed to make such allocations based on several factors, including the relative increases of imports into the United States by each country since 1979, findings of unfair trade practices regarding copper by each country, and the extent to which each country's copper producers respond to conditions of supply and demand in the world market as indicated by production and export policies.

This legislation is necessary to promote and expand the economic viability of the U.S. copper industry and to prevent further declines in its work force, production, and market position. The relief provided by this bill will provide sales volume and price relief for copper producers and will enhance the industry's ability to be truly competitive in the long term. The increased market share that will be obtained by domestic producers will allow them to achieve reductions in stocks, increase their utilization of domestic copper mining and smelting facilities, and continue their efforts to enhance efficiency and competitiveness.

Mr. President, I strongly believe that the copper industry must take full advantage of the relief this bill would give them by investing in copper facilities, reducing costs, and striving for greater efficiency. In fact, many copper producers in this country have already made a substantial commitment to pursue these means of insuring long-term viability. Much of the industry has taken steps to modernize equipment, develop and utilize technological innovation, institute extensive cost-saving programs, and increase productivity.

Unfortunately, the massive losses suffered by our Nation's copper industry in recent years have led to deferrals or cancellations of many of these needed improvements. Significant capital investment in technology and facilities is virtually impossible under current conditions in the copper industry. A continuation of high levels of imported copper jeopardizes the overall effort of the industry to modernize and enhance competitiveness. Stabilization of import levels is needed to allow reinvestment and continued gains in productivity. During the temporary period of relief proposed in this bill, the copper industry would have the opportunity, and the obligation, to make real strides in investment and cost saving. With this opportunity, however, the copper producers of this country can be competitive and viable over the long term.

Mr. President, the copper industry of the United States is critical to the maintenance of a strong industrial economy and to the national defense. The effect on this industry of unfair production and exports by foreign copper producers has been devastating. It is time that we stopped allowing the United States to be used as a repository for the overproduction of copper by producers who are unaffected by the world supply and demand. This bill will do that, and will be one step toward restoring the true competitive position of the U.S. industry.

Mr. President, I ask unanimous consent that the text of the Domestic Copper Policy Act of 1984 be printed in the RECORD. I urge my colleagues to study the bill and give it their support.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, within the customs territory of the United States.

(2) The term "Secretary" means the Secretary of the Treasury or his delegate.

SEC. 2. QUANTITATIVE RESTRICTIONS DURING 1984, 1985, AND 1986.

During each of calendar years 1984, 1985, and 1986, the aggregate quantity of copper articles provided for in items 612.03, 612.06, 612.60, and 612.72 of part 2C, of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) that may be entered may not exceed three hundred thousand metric tons per year. The quantitative limitation imposed under this section for each of such calendar years may be applied by the Secretary on a calendar quarter or other intra-annual basis if the Secretary determines that such application is necessary or appropriate to carry out the purposes of this Act.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that the aggregate quantity of copper articles described in section 2 which may be entered during calendar years 1984, 1985, and 1986 or any intra-annual period therein, does not exceed the quantitative limitation established for that year or period under this Act. The Secretary is authorized to issue such regulations as may be necessary or appropriate to affect the purposes of this Act and to enforce its provisions; except that before issuing any such regulations, the Secretary shall consult with domestic copper producers and importers, afford an opportunity for comments from interested parties, and shall consider all such comments before promulgating final regulations.

(b) ALLOCATION.—The Secretary shall equitably allocate the aggregate quantity of copper articles described in section 2 which may be entered during calendar years 1984, 1985, and 1986 among foreign countries, groups of countries, or areas, and in doing so shall be guided by—

(1) the relative increases of imports into the United States by each foreign exporting country since 1979;

(2) findings of unfair trade practices by each foreign country with respect to such copper articles;

(3) the extent to which copper production and export policies of producers in each exporting country do not reflect or are not responsive to supply and demand conditions in the world copper market; and

(4) such other considerations as the Secretary may deem appropriate.

By Mr. STEVENS (for himself and Mr. LAXALT):

S. 2697. A bill to amend section 2108 of title 5, United States Code, to provide that certain commissioned officers of the Public Health Service are preference eligibles for the purposes of such title; to the Committee on Governmental Affairs.

VETERANS PREFERENCE FOR CERTAIN OFFICERS OF THE PUBLIC HEALTH SERVICE

Mr. STEVENS. Mr. President, today I am introducing a bill for myself and my distinguished friend from Nevada, Mr. LAXALT, which provides veterans preference to commissioned Public Health Service (PHS) officers who served during the Vietnam era. Those PHS officers are now eligible to receive veterans benefits and civil service retirement credit. PHS officers, however are not currently receiving veteran preference status because existing law, in another part of the Code, does not clearly recognize that this country was at war during the Vietnam era. A minor correction to the law is needed on this point to provide relief for those PHS officers who served during the Vietnam war.

The PHS officers I refer to served as doctors, nurses, dentists, and veterinarians. Their tours were principally in stateside hospitals and medical clinics available to and used by military personnel, including veterans returning from Vietnam. A number even served on surgical teams working in Vietnam. Others participated in research to find vaccines for malaria and other diseases associated with Vietnam service. Further, the Selective Service saw their commitment as fulfillment of an obligation to military service for our country. I firmly believe PHS officers serving during the Vietnam war have earned the veteran preference eligibility status this bill provides.

By Mr. GARN (by request):

S. 2699. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act, to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities among claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 2700. A bill to strengthen and refine the provisions of the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, and the National Housing Act, to provide for more flexible premium assessment procedures, to improve insurance of accounts provisions, to establish priorities among claimants against the estates of failed institutions, to improve and clarify enforcement authority, to strengthen change of control and holding company provisions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE SYSTEM

● Mr. GARN. Mr. President, today I am introducing, by request of the FDIC and the Federal Home Loan Bank Board, two bills dealing with the Federal deposit insurance system. Both agencies have testified before the Senate Banking Committee and other congressional committees about the need for changes in our deposit insurance system and for upgrading the enforcement and supervisory tools available to the Federal insurance agencies.

These bills cover several issues of importance to the integrity of the financial system and I encourage all of my colleagues to review these proposals.

I request unanimous consent that the FDIC bill, its summary, the transmittal letter from Chairman Isaac, the Federal Home Loan Bank Board bill, and its summary be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. This Act may be cited as the "Federal Deposit Insurance Improvements Act of 1984."

SEC. 2. Section 1 of the Federal Deposit Insurance Act (12 U.S.C. § 1811) is amended:

(1) By striking out the word "hereby".

(2) By adding the following new sentence at the end thereof: "The Corporation shall have authority and discretion to define any terms used in this Act which are not specifically defined by this Act, and to interpret the definitions of any terms that are so specifically defined."

SEC. 3. Section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813) is amended to read as follows:

"(a)(1) The term 'bank' means any bank, banking association, trust company, savings bank, foreign bank, industrial bank, or other banking institution which is engaged in the business of receiving deposits other than trust funds.

"(2) The term 'savings bank' means a bank which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business: *Provided*, That the term 'savings bank' shall include a Federal savings bank.

(3) the term 'industrial bank' means a corporation chartered by a State as an industrial bank, or a corporation which the Board of Directors finds to be operating substantially in the same manner as an industrial bank.

"(b)(1) The term 'State' means any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, and the term 'United States' (when used to specify geographic limits) includes every State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Island, and the Virgin Islands.

"(2) The term 'State bank' means that is incorporated or organized under the laws of any State, and any bank (other than a national bank) which is operating under the Code of Law for the District of Columbia.

"(3) The term 'District bank' means any State bank operating under the Code of Law for the District of Columbia.

"(4) The term 'domestic branch' includes any office, agency, or additional place of business of a bank (other than the bank's primary office), which office, agency or additional place of business is located in the United States, and at which office, agency, or additional place of business deposits are received or paid or money is lent.

"(c)(1) The term 'foreign bank' means any bank other than a bank chartered by a State or by the United States: *Provided*, That as used in this subsection (c), the term "foreign bank" shall also include any company organized under the laws of a foreign country, which company is engaged in the business of banking, or any subsidiary of affiliate thereof that is organized under the laws of a foreign country; and *Provided further*, That as used in this subsection (c), the term "business of banking" shall include without limitation the activities of a foreign commercial bank, the activities of a foreign merchant bank, and any other activities that may be usual in connection with the business of banking in the country where the company is organized or operating; and *Provided further*, That as used in this subsection (c), the term "foreign country" shall refer to any country other than the United States, and shall not refer to Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(2) The term 'foreign branch' means any office or place of business of a bank, which office or additional place of business is located outside the United States, at which financial operations are conducted by the bank.

"(3) The term 'Federal branch' means a branch of a foreign bank, which branch is established and operating pursuant to section 4 of the International Banking Act of 1978.

"(d)(1) The term 'State member bank' means any State bank which is a member of the Federal Reserve System, and the term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.

"(2) The term 'national member bank' means any national bank which is a member of the Federal Reserve System, and the term 'national nonmember bank' means any

national bank which is not a member of the Federal Reserve System.

"(e)(1) The term 'insured bank' means any bank (including a foreign bank having an insured branch) the deposits of which are insured in accordance with the provisions of this Act.

"(2) The term 'insured branch' means a branch of a foreign bank any deposits in which branch are insured in accordance with the provisions of this Act.

"(3) The term 'insured Federal savings bank' means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933 and insured by the Corporation.

"(f) The term 'new bank' means a new national banking association organized by the Corporation to assume the insured deposits (together with such assets and other liabilities as the Corporation may select) of an insured bank closed on account of inability to meet the demands of its depositors, and otherwise to perform temporarily the functions prescribed in this Act.

"(g) The term 'deposit' means—

"(1) the unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the bank, or a letter of credit or a traveler's check on which the bank is primarily liable: *Provided*, That, without limiting the generality of the term 'money or its equivalent', any such account or instrument must be regarded a evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is immediately, upon delivery, primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to such bank for collection,

"(2) trust funds received or held by such bank, whether held in the trust department or held or deposited in any other department of such bank,

"(3) money received or held by a bank, or the credit given for money or its equivalent received or held by a bank, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including without being limited to, escrow funds, funds held as security for an obligation due to the bank or others (including funds held as dealers reserves) or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes: *Provided*, That there shall not be included funds which are received by the bank for immediate application to the reduction of an indebtedness to the receiving bank, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness.

"(4) outstanding draft (including advice or authorization to charge bank's balance in another bank), cashier's check, money order, or other officer's check issued in the usual course of business for any purpose, including without being limited to those issued in payment for services, dividends, or purchases, and

"(5) such other obligations of a bank as the Board of Directors, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, shall find and prescribe by regulation to be deposit liabilities by general usage, except that the following shall not be a deposit for any of the purposes of this Act or be included as part of total deposits or of an insured deposit:

"(5)(A) obligation of a bank which is payable only at an office of such bank located outside the United States; and

"(B) any international banking facility deposit, including an international banking facility time deposit, as such term is from time to time defined by the Board of Governors of the Federal Reserve System in regulation D or any successor regulation issued by the Board of Governors of the Federal Reserve System.

"(h) The term 'trust funds' means funds held by an insured bank in a fiduciary capacity and includes, without being limited to, funds held as trustee, executor, administrator, guardian, or agent.

"(i)(1) Subject to the provisions of paragraph (2) of this subsection, the term 'insured deposit' means the net amount due to any depositor (other than a depositor referred to in the third sentence of this subsection) for deposits in an insured bank (after deducting offsets) up to the maximum limits of insurance established by this Act: *Provided*, That deposits (excluding trust funds) owed to a depository institution the deposits or shares of which are insured either by the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration Board or by the Corporation or by any agency or instrumentality of a State or pursuant to any program of insurance sponsored by a State, and trust funds whose beneficial interest is owned by a depository institution the deposits or shares of which are insured either by the Federal Savings and Loan Insurance Corporation or by the National Credit Union Administration Board or by the Corporation or by any agency or instrumentality of a State or pursuant to any program of insurance sponsored by a State, shall not be eligible for insurance by the Corporation; and Provided further, That deposits owned or placed by an agency or instrumentality of the United States shall not be eligible for insurance by the Corporation. Such net amount shall be determined according to such regulations as the Board of Directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others except trust funds which shall be insured as provided in subsection (i) of section 7. Each officer, employee, or agent of the United States, of any State, of any county, of any municipality, or of any political subdivision thereof, herein called 'public unit', having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (i) of section 7, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections, in subsection (h) of section 3, and in subsections (a) and (i) of section 11 and the extent of the insurance coverage resulting therefrom.

"(i)(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(A)(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United State or any State and having its principal place of business within the United States, or

"(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act; and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.

"(j) The term 'transferred deposit' means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

"(k) The term 'receiver' includes a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank or of a branch of a foreign bank.

"(l) The term 'Board of Directors' means the Board of Directors of the Corporation.

"(m) The term 'appropriate Federal banking agency' shall mean—

(1) "the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank;

(2) "the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank),

"(B) in the case of any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) in the case of any foreign bank which does not operate an insured branch,

"(D) in the case of any agency or commercial lending company other than a Federal agency, and

"(E) in the case of supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act,

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured Bank (except a District bank) or a foreign bank having an insured branch; and

"(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank. Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with

respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank or any commercial lending company owned or controlled by a foreign bank."

SEC. 4. Section 4 of the Federal Deposit Insurance Act (12 U.S.C. § 1814) is amended—

(1) By omitting "as herein defined" wherever it appears in the first sentence of subsection (b) thereof.

(2) By amending subsection (c) thereof to read as follows:

"(c) Every Federal savings bank which is engaged in the business of receiving deposits other than trust funds shall be an insured bank from the time it is authorized to commence business until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation."

SEC. 5. Section 5 of the Federal Deposit Insurance Act (12 U.S.C. § 1815) is amended by omitting "as herein defined" in the first sentence of subsection (a) thereof.

SEC. 6. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. § 1817) is amended—

(1) By striking out "any State of" immediately after "located in", and by striking out "the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands," immediately after "the United States,", in the first sentence of paragraph (4) of subsection (a) thereof.

(2) By striking out "the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands," from paragraph (5) of subsection (b) thereof.

(3) By replacing "subsection (l)" with "subsection (g)" immediately before "of section 3 of this Act" in the first sentence of paragraph (4) of subsection (a) thereof.

(4) By amending paragraph (6) of subsection (b) thereof to read as follows:

"(b)(6)(A) The assessment base deductions shall be the amounts of cash items in the bank's possession, drawn on itself, which have not been charged against deposit liabilities at the close of business on the date as of which the report of condition is made, either in their actual amount as shown on the books of the bank, or, if not so shown, in an amount determined by means of an experience factor pursuant to regulations prescribed by the Board of Directors.

"(B) Each insured bank, as a condition to the right to make any such deduction in determining its assessment base, shall maintain such records as will readily permit verification of the correctness of its assessment base. No insured bank shall be required to retain such records for such purpose for a period in excess of five years from the date of the filing of any certified statement, except that when there is a dispute between the insured bank and the Corporation over the amount of any assessment the bank shall retain such records until final determination of the issue."

(5) By replacing "deposits; and" with "deposits." in subparagraph (B) of paragraph (7) of subsection (b) thereof, and by striking out the remainder of that paragraph (7).

(6) By amending the first sentence of paragraph (1) of subsection (d) thereof to read as follows: "As of December 31, 1984, and as of December 31 of each calendar year thereafter, the Corporation shall transfer 40 per centum of its net assessment income to its capital account and the balance of the net assessment income shall be credited, in such proportions and according to such procedures as the Corporation may be regulation prescribe, to the insured banks based upon the assessment of each bank becoming due during said calendar year: Provided, That the Corporation shall set the assessment credit for any such insured bank on the basis of the risks (including but not limited to the risk presented by the bank's capital level, the risk presented by the bank's quality of assets, and the risk presented by the bank's exposure to changes in interest rates) that the bank may present to the Permanent Insurance Fund."

(7) By replacing the first colon in the final sentence of subsection (g) thereof with a period, and by striking out the remainder of the subsection.

(8) By inserting "that are eligible for insurance by the Corporation" after "trust funds" the second time it appears in subsection (i) thereof.

(9) By placing a comma after "fiduciary capacity," and after "fiduciary bank" the first time it appears, in subsection (i) thereof.

(10) By replacing "monoplize" with "monopolize" in subparagraph (A) of paragraph (7) of subsection (j) thereof.

SEC. 7. Section 8 of the Federal Deposit Insurance Act (12 U.S.C. § 1818) is amended—

(1) By striking out the second, third and fourth sentences of subsection (a) thereof, and replacing them with the following: "Whenever the Board of Directors shall find that an insured bank or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or is in an unsafe or unsound condition to continue operations as an insured bank, or violated an applicable law, rule, regulation or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the Board of Directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the Board of Directors shall make written findings which shall be conclusive. If the Board of Directors shall find that any unsafe or unsound practice or condition or violation specified in such statement has been established, the Board of Directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention."

(2) By adding the following sentence at the end of paragraph (1) of subsection (b) thereof: "Such order may censure or place limitations on the activities or functions of the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank, or may suspend or bar for a period not exceeding twenty-four months any such person from participating in the conduct of the affairs of the bank."

(3) By adding the following sentence immediately after the first sentence of paragraph (1) of subsection (c) thereof: "Such order may place limitations on the activities or functions of the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank, or may bar any such person from participating in the conduct of the affairs of the bank pending completion of such proceedings."

(4) By replacing "injuction" with "injunction" in paragraph (2) of subsection (c) thereof.

(5) By replacing "office" the first time it appears in paragraph (1) of subsection (e) thereof with "officer".

(6) By adding the following phrase immediately before the period ending paragraph (1) of subsection (e) thereof: "and to prohibit his further participation in any manner in the conduct of the affairs of any insured bank without the prior written approval of the appropriate Federal banking agency"

(7) By replacing "remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank" with "remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank without the prior written approval of the appropriate Federal banking agency" in paragraph (2) of subsection (e) thereof.

(8) By replacing "if an order of removal or prohibition is issued" with "if an order of removal and/or prohibition from participation in the affairs of any insured bank is issued" in the second sentence of paragraph (4) of subsection (e) thereof.

(9) By replacing "or" with "and/or" the second time it appears in the first sentence of paragraph (5) of subsection (e) thereof.

(10) By replacing "an insured bank" with "any insured bank" in the first sentence of paragraph (5) of subsection (e) thereof.

(11) By replacing "or" with "and/or" the final time it appears in the third sentence of paragraph (5) of subsection (e) thereof.

(12) By replacing "or" with "and/or" the final time it appears in the fourth sentence of paragraph (5) of subsection (e) thereof.

(13) By redesignating paragraph (6) of subsection (e) thereof as paragraph (7), and by adding a new paragraph (6) as follows:

"(e)(6) The appropriate Federal banking agency's jurisdiction to proceed under this subsection against an officer, director or other person participating in the affairs of an insured bank is not affected by the officer, director or other person's voluntary or involuntary departure from office or cessation of participation in the bank's affairs."

(14) By replacing "section, and (2)" with "section; (2)" in subsection (k) thereof.

(15) By inserting "; and (3) the term 'appropriate Federal banking agency' shall not only have the meaning provided in subsection (m) of section (3) of this Act, but shall also include the Corporation in the case of any insured bank or any insured branch of a foreign bank" immediately before the final period of subsection (k) thereof.

(16) By striking out the last sentence of subsection (m) thereof, and by redesignating subsection (m) thereof as paragraph (1) of subsection (m) thereof.

(17) By adding a new paragraph (2) to subsection (m) thereof as follows:

"(m)(2) In connection with any proceeding by the Corporation under subsection (b), (c)(1), or (e) of this section involving a national bank, a District bank, an insured Federal branch, a State member bank, or an insured Federal savings bank or any director or officer or other person paticipating in the conduct of such institution's affairs, the Corporation shall provide the Comptroller of the Currency, the Board of Governors of

the Federal Reserve System or the Federal Home Loan Bank Board, as the appropriate Federal banking agency for such institution, with notice of the Corporation's intent to institute such a proceeding and the grounds therefor. Unless within such time as the Corporation deems appropriate in the light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of the appropriate Federal banking agency, the Corporation may proceed as provided in this section."

(18) By adding a new paragraph (3) to subsection (m) thereof as follows:

"(m)(3) No bank or other party who is the subject of any notice or order issued by an agency under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order."

(19) By capitalizing the word "board" and the word "directors" wherever they appear in the second sentence of subsection (o) thereof.

(20) By amending subsection (q) thereof to read as follows:

"(q) Whenever the liabilities of an insured bank or of a financial institution the deposits of which are insured by the Federal Savings and Loan Insurance Corporation shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank or other financial institution whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; and (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period. Where the deposits of an insured bank or other insured financial institution are assumed by a newly insured bank, the bank or other financial institution whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect."

(21) By replacing "therof" with "thereof" in paragraph (2) of subsection (r) thereof.

SEC. 8. Section 10 of the Federal Deposit Insurance Act (12 U.S.C. § 1820) is amended as follows:

(1) By redesignating subsection (b) thereof as paragraph (1) of subsection (b) thereof, and by adding a new paragraph (2) of subsection (b) thereof as follows:

"(b)(2) The Board of Directors of the Corporation shall have authority and discretion to set reasonable fees for examing or investigating insured banks and affiliates thereof, which fees shall be reasonably related to the costs incurred by the Corporation in conducting such examinations or investigations: *Provided*, That the Corporation shall not impose a fee for an examination of a bank which, in the opinion of the Corporation, is in full compliance with the Corporation's standards for safety and soundness and with State and federal law; and *Provided further*, That no bank shall pay, during any calendar year beginning on January 1 and ending on December 31, examination and investigation fees exceeding an amount equal to the bank's annual assessment."

(2) By replacing the phrase "appropriate Federal banking agency" in subsection (c) thereof with the phrase "Federal banking agency conducting the examination or investigation".

(3) By amending subsection (d) thereof to read as follows:

"(d) As used in this section—

"(1) The term 'affiliate' means—

"(A) any company that controls the bank and any other company that is controlled by the company that controls the bank;

"(B) any subsidiary of the bank;

"(C) any company—

"(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the bank or any company that controls the bank; or

"(ii) a majority of whose directors or trustees constitute a majority of the persons holding any such office with the bank or with any company that controls the bank;

"(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the bank or any subsidiary or other affiliate of the bank; or

"(ii) any investment company with respect to which the bank or any subsidiary or other affiliate thereof is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940;

"(E) any company determined to be an affiliate of the bank within the meaning of section 23A of the Federal Reserve Act; or

"(F) any company that the Corporation determines by regulation or order to have a relationship with the bank or any subsidiary or affiliate of the bank, such that transactions by the bank or its subsidiary with that company may be affected by the relationship to the detriment of the bank or its subsidiary.

"(2) A company or shareholder shall be deemed to have control over another company if—

"(A) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

"(B) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company;

"(C) the company or shareholder has been determined to exercise a controlling influence over the management or policies of the other company under section 23A of the Federal Reserve Act; or

"(D) the Corporation has reason to believe that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company.

"(3) The term 'bank' means an insured bank or any applicant for deposit insurance.

"(4) The term 'company' means a corporation, partnership, business trust, association, or similar organization.

"(5) The term 'subsidiary' with respect to a specified company means a company that is controlled by such specific company."

SEC. 9. Section 11 of the Federal Deposit Insurance Act (12 U.S.C. § 1821) is amended as follows:

(1) By amending paragraph (1) of subsection (a) thereof to read as follows:

"(a)(1) The assets of the Permanent Insurance Fund shall be held by the Corporation for the uses and purposes of the Corporation. On and after August 23, 1935, the Corporation shall insure the deposits of all insured banks as provided in this Act. Except as provided in paragraph 2, the maximum amount of the insured deposit of any depositor shall be $100,000."

(2) By striking out the provisions of subsubparagraph (i) of subparagraph (A) of paragraph (2) of subsection (a) thereof, and by redesignating sub-subparagraphs (ii), (iii), (iv), and (v) thereof as sub-subparagraphs (i), (ii), (iii), and (iv) respectively.

(3) By redesignating the first subsection (b) thereof as subparagraph (B) of paragraph (2) of subsection (a).

(4) By redesignating paragraph (3) of subsection (a) thereof as paragraph (2), and by striking out "time and savings" in the first sentence thereof.

(5) By amending the first sentence of subsection (e) thereof to read as follows: "Notwithstanding any other provision of law, State or Federal, or the constitution of any State, whenever any insured State bank (except a District bank) or any insured branch (other than a Federal branch) of a foreign bank shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall serve and act as receiver thereof."

(6) By redesignating subsection (f) thereof as paragraph (1) of subsection (f) thereof, and by adding a new paragraph (2) to subsection (f) thereof as follows:

"(f)(2) Notwithstanding any other provision of law, State or Federal, or the constitution of any State, whenever an insured bank or insured branch of a foreign bank shall have been closed on account of inability to meet the demands of its depositors, the Corporation as receiver shall make provision for the following order of payment on all unsecured claims against the estate of the closed bank or branch proved to the receiver's satisfaction or adjudicated in a court of competent jurisdiction:

Preference No. 1. Claims for administrative expenses of the receivership.

Preference No. 2. All claims for deposit and all other claims, whether liquidated or unliquidated, which have accrued and become unconditionally fixed on or before the date the bank or branch is closed, except as provided in succeeding paragraphs of this section.

Preference No. 3. All claims other than those which have accrued and become unconditionally fixed on or before the date the bank or branch is closed. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank or branch shall be considered as not having accrued and become unconditionally fixed on or before the date the bank or branch has closed.

Preference No. 4. Claims for subordinated debt.

Preference No. 5. Claims by shareholders based on stock ownership.

"The Corporation as receiver shall distribute the assets of the estate of the failed bank or branch to the claimants within each payment category on a pro rata basis: *Provided*, That claims falling within payment category four and claims falling within payment category five shall be paid in accordance with the claims' contractual orders of priority."

(7) By amending subsection (g) thereof to read as follows:

"(g) In the case of any closed insured bank or of any closed insured branch of a foreign bank, the Corporation, upon the payment to any depositor as provided in subsection (f)

of this section, shall be subrogated to all rights of the depositor against the closed bank or closed insured branch of a foreign bank to the extent of such payment. Such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank or closed insured branch of a foreign bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: *Provided*, That, with respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated: *Provided further*, That except as provided in subsection (f) of this section the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law."

(8) By adding "(together with such assets and other liabilities as the Corporation may select)" after "insured deposits" in subsection (h) thereof.

(9) By amending subsection (i) thereof to read as follows:

"(i) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. The new bank shall have such powers of a national bank as the Corporation may designate: *Provided*, That so long as an executive officer appointed by the Corporation's Board of Directors has authority to manage the new bank, the new shall not be subject to any limitations imposed by law that restrict the activities of a national bank by measuring the amount of investment that the bank may devote to such activities by the amount of the bank's capitalization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority."

(10) By inserting "at least" immediately before "equal" in the first sentence of subsection (j) thereof.

(11) By amending the second sentence of subsection (k) thereof to read as follows: "If the new bank has assumed the insured deposits of a closed bank with total assets of $500,000,000 or more (as determined from the closed bank's most recent report of condition), the new bank is eligible to be acquired by or to merge with an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company, in accordance with the procedures established by subsection (f) of section 13 of this Act."

(12) By inserting a new sentence after the first sentence of subsection (l) thereof, reading as follows: "If the new bank has assumed the insured deposits of a closed bank with total assets of $500,000,000 or more (as determined from the closed bank's most recent report of condition), the business of the new bank may be transferred to an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company, in accordance with the procedures established by subsection (f) of section 13 of this Act."

(13) By replacing the phrase "two years" in subsection (l) thereof with "five years".

SEC. 10. Section 12 of the Federal Deposit Insurance Act (12 U.S.C. § 1822) is amended as follows:

(1) By amending subsection (a) thereof to read as follows:

"(a) Notwithstanding any other provision of law, State or Federal, or the constitution of any State, the Corporation as receiver of a closed insured bank or closed insured branch of a foreign bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver."

(2) By inserting ", *Provided:* That the Corporation shall have authority and discretion to waive at any time prior to the expiration of such eighteen months' period its right to receive any such refunded deposits" immediately prior to the final period of subsection (e) thereof.

SEC. 11. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. § 1823) is amended—

(1) By striking out ", with the approval of the Secretary of the Treasury," before "with a Federal Reserve bank" in the first sentence of subsection (b) thereof.

(2) By replacing the first colon in the first sentence of subsection (b) thereof with a period, and deleting the remainder of the first sentence.

(3) By replacing "Receivers or liquidators of insured banks closed on account of inability to meet the demands of their depositors" in the first sentence of subsection (d) thereof with "The Corporation, in its capacity as receiver,".

(4) By striking out the third sentence of subsection (d) thereof.

(5) By striking out "in any case in which the Corporation is acting as receiver of a closed insured bank," in the final sentence of subsection (d) thereof.

(6) By redesignating subparagraphs (i), (ii), and (iii) of paragraph (4) of subsection (f) thereof as subparagraphs (A), (B), and (C) thereof respectively.

(7) By replacing "existing in-State bank" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "existing in-State depository institution".

(8) By replacing "mutual savings bank" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "savings banks organized in mutual form".

(9) By replacing "in-State bank holding company" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "in-State holding company".

(10) By striking out subparagraph (A) of paragraph (8) of subsection (f) thereof, by redesignating subparagraphs (B) and (C) of the said paragraph (8) as subparagraphs (A) and (B) thereof respectively.

(11) By striking out the provisions of subsection (g) thereof.

SEC. 12. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. § 1828) is amended—

(1) By amending paragraph (4) of subsection (c) thereof to read as follows:

"(c)(4) In the interests of uniform standards, before acting on any application for approval of a merger transaction, the responsibility agency, unless it finds that it must act immediately in order to prevent the probable failure of one of the banks involved, shall request a report on the competitive factors involved from the Attorney General. The report shall be furnished within thirty calendar days of the date on which it is requested, or within ten calendar days of such date if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action."

(2) By amending paragraph (6) of subsection (c) thereof to read as follows:

"(c)(6) The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the agency has found that it must act immediately to prevent the probable failure of one of the banks involved and the report on the competitive factors has been dispensed with, the transaction may be consummated immediately upon approval by the agency. If the agency has advised the Attorney General of the existence of an emergency requiring expeditious actions and has requested a report on the competitive factors within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency. In all other cases, the transaction may not be consummated before the thirtieth calendar day after the date of approval by the agency."

(3) By striking out the provisions of paragraph (10) of subsection (c) thereof.

(4) By amending paragraph (1) of subsection (d) thereof to read as follows:

"(d)(1) Whenever a State nonmember insured bank (except a District bank) shall establish and operate any new domestic branch, and whenever a State nonmember insured bank (except a District bank) shall move a domestic branch, the bank shall file a notice thereof with the Corporation within ten days of the date on which the bank establishes and begins to operate the branch at the new location. The notice shall be in such form as the Corporation may prescribe."

(5) By replacing "mutual savings banks" with "savings banks organized in mutual form" in the second sentence of paragraph (1) of subsection (g) thereof.

(6) By striking out the ninth sentence and the eleventh sentence of paragraph (1) of subsection (g) thereof.

(7) By replacing "foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7))," in the last sentence of paragraph (2) of subsection (j) thereof with "foreign bank".

(8) By striking out subparagraph (F) of paragraph (3) of subsection (j) thereof, and by redesignating subparagraph (G) of the

said paragraph (3) as subparagraph (F) thereof.

(9) By adding a new paragraph (5) at the end of subsection (j) as follows:

"(j)(5)(A) The Corporation may issue regulations and orders, including definitions consistent with this subsection, as may be necessary to administer and carry out the purposes of this subsection and to prevent evasions thereof.

"(B) The Corporation may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of paragraph (1) if it finds such exemptions to be in the public interest and consistent with the purposes of that paragraph."

SEC. 13. Section 19 of the Federal Deposit Insurance Act (12 U.S.C. § 1829) is amended by striking the first sentence thereof and inserting in its place the following: "Whenever a person who has been convicted or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust is employed on the date of conviction by an insured bank as an officer, director, or employee (or is performing the duties of an officer, director, or employee for an insured bank on the date of conviction), the bank shall notify the Corporation of that fact within ten business days of the date of conviction. Whenever a person who has been convicted or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as an officer, director, or employee of an insured bank, the bank shall notify the Corporation of that fact within ten business days (1) of the date on which that person enters into a formal commitment with the bank to undertake the duties of officer, director, or employee, or (2) of the date on which that person first begins performing the duties of an officer, director, or employee, whichever date is earlier. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust shall serve as a chairman of the board of directors of an insured bank, or as president of an insured bank, or as chief executive officer an insured bank."

SEC. 14. Section 22 of the Federal Deposit Insurance Act (12 U.S.C. § 1830) is repealed.

SEC. 15. Section 25 of the Federal Deposit Insurance Act (12 U.S.C. § 1831b) is amended—

(1) By striking our "mutual savings" in section (a) thereof and replacing it with "savings bank organized in mutual form which is not an insured bank,".

(2) By striking our "mutual savings and" the first time it appears in section (b) thereof and replacing it with "savings banks organized in mutual form which are not an insured bank".

(3) By striking our "mutual savings and" the second time it appears in section (b) thereof and replacing it with "savings bank organized in mutual form and such".

(4) By striking our "mutual savings and" the third time it appears in section (b) thereof and replacing it with "savings banks organized in mutual form and such".

SEC. 16. Section 26 of the Federal Deposit Insurance Act (12 U.S.C. § 1831c) is amended by striking out "mutual savings bank" in section (a) thereof and replacing it with "savings bank organized in mutual form".

SEC. 17. Section 27 of the Federal Deposit Insurance Act (12 U.S.C. § 1831d) is amended by striking out "and insured mutual savings banks" in section (a) thereof.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill provides that the bill may be called the "Federal Deposit Insurance Improvements Act of 1984".

SECTION 2

Section 2 of the Improvements Act amends Section 1 of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. § 1811, by striking out the word "hereby." The change simplifies the language of the FDI Act without altering its substance.

Section 2 also makes it clear that the Corporation has the power to define any terms used in the FDI Act that are not specifically defined by the FDI Act, and also to interpret any definitions that are specified in the FDI Act.

SECTION 3

Section 3 of the Improvements Act revises Section 3 of the FDI Act, 12 U.S.C. § 1813, by redrafting and reorganizing the definitions provided therein. For the most part, the new set of definitions is the same as the old one.

Section 3 of the Improvements Act amends Section 3 of the FDI Act by altering the definition of "foreign bank." The FDI Act currently incorporates by reference the definition provided in Section 1(b) of the International Banking Act. *See* 12 U.S.C. § 3101(b)(7). The International Banking Act's definition is not appropriate for the purposes of the FDI Act: it places companies organized under the laws of the territories of the United States, of Puerto Rico, of Guam, of American Samoa, and of the Virgin Islands on the same footing as companies organized under the laws of "foreign countries."

The new definitions prevents any overlap between foreign banks on one hand and domestic banks and other domestic companies on the other. At the same time, the new definition retains the flexibility provided by the International Banking Act: that is, it embraces foreign organizations that may be regarded as "banking institutions" in their countries of origin even though they would not ordinarily be regarded as "banks" under domestic standards.

Section 3 of the Improvements Act provides that deposits owned to depository institutions insured by the FDIC, by the FSLIC, by the NCUAB, or by any State program are not insurable. Trust funds for which a depository institution serves as trustee remain insurable—unless, of course, the beneficiary of the trust is an insured depository institution. The FDI Act defines "trust funds" to include funds "held as trustee, executor, administrator, guardian, or agent."

Section 3 of the Improvements Act further provides that deposits owned or placed by an agency or instrumentality of the United States are not insurable.

Section 3 of the Improvements Act also amends the language of Section 3 of the FDI Act in minor ways. Some changes simplify language without altering the substance of the law. Other changes do alter the substance of the law, but only to conform Section 3 with changes made elsewhere in the Improvements Act. For example, the definition of "new bank" is amended to reflect the additional powers "new banks" enjoy under the Improvements Act.

SECTION 4

Section 4 of the Improvements Act amends the language of Section 4 of the FDI Act, 12 U.S.C. § 1814, by striking out the phrase "as herein defined" wherever it appears, and by striking out the reference to the authority under which Federal savings banks are chartered. The definition provided for "Federal savings bank" already contains the reference. These changes simplify the language of Section 4 of the FDI Act without altering its substance.

SECTION 5

Section 5 of the Improvements Act amends the language of Section 5 of the FDI Act, 12 U.S.C. § 1815, by striking out the phrase "as herein defined" wherever it appears. This change simplifies the language of Section 5 of the FDI Act without altering its substance.

SECTION 6

Section 6 of the Improvements Act amends Section 7(b) of the FDI Act, 12 U.S.C. § 1817(b)(6), by altering the way assessments are calculated by excluding the adjustments for "float." See 12 U.S.C. § 1817(b)(6).

Section 6 of the Improvements Act also amends Section 7(d) of the FDI Act by giving the FDIC flexibility in setting the assessment credits to be returned to insured banks. The FDIC must continue to rebate 60% of its net assessment income to the banks. But the FDIC may rebate the overall amount "in such proportions and according to such procedures as the Corporation may by regulation prescribe." In doing so, the FDIC must set the assessment credit on the basis of the risks that the bank presents to the Permanent Insurance Fund—specifically, the risks attributable to the bank's capital level, its quality of assets, and its exposure to changes in interest rates.) *See* 12 U.S.C. § 1817(d)(1).

Section 6 amends Section 7(i) of the FDI Act to conform the provisions regarding the insurance provided to trust funds to the changes made in the definition of "insured deposit." *See* 12 U.S.C. § 1817(i).

Section 6 of the Improvements Act amends Section 7 of the FDI Act in other minor ways. The changes simplify its language without altering its substance.

SECTION 7

Section 7 of the Improvements Act amends Section 8(a) of the FDI Act, 12 U.S.C. § 1818(a), by eliminating the present requirement that the chartering authority and the insured bank be given up to 120 days to correct violations of law or to end unsafe or unsound practices. The Improvements Act expedites the administrative process for the removal of insurance from unsound institutions and enhances the FDIC's enforcement authority. It is estimated that this change will reduce the period required for reaching the final determination of any removal of insurance by six months.

Section 7 of the Improvements Act amends Section 8(b) of the FDI Act by enabling the appropriate Federal banking agency for any given bank to issue cease-and-desist orders specifically directed at the activities of any director, officer, employee, or agent of an insured bank, or at the activities of any other person participating in the conduct of the affairs of such bank. The Improvements Act also empowers the appropriate Federal banking agency to issue orders that censure or place limitations on the activities or functions of any such person, or to suspend or bar him or her from participating in the conduct of that bank's affairs for up to twenty-four months. This change will permit a less onerous

means of at least temporarily removing people whose activities do not rise to the level contemplated for total removal pursuant to Section 8(e) of the FDI Act. *See* 12 U.S.C. § 1818(b)(1).

Section 7 of the Improvements Act amends Section 8(c) of the FDI Act by authorizing the banking agencies to issue temporary orders that place limitations on the activities or functions of a bank, its directors, officers, employees, or agents, and on the activities or functions of any other person participating in the conduct of the affairs of the bank pending the completion of the proceedings. The Improvements Act also empowers the appropriate Federal banking agency to suspend or bar any such person from participating in the conduct of that bank's affairs pending the completion of the proceedings. *See* 12 U.S.C. § 1818(c)(1).

Section 7 of the Improvements Act clarifies the banking agencies' existing authority by amending Section 8(e) of the FDI Act to provide that, when a Federal banking agency has removed a person from office at one insured bank, the agency may prohibit that person from participating in the affairs of any insured bank without the agency's prior written approval. *See* 12 U.S.C. § 1818(e)(1), (2) & (4). The Improvements Act further clarifies existing authority in that it provides that the agency's power to issue orders against a bank official under Section 8(e) of the FDI Act is not affected by the official's leaving office or ceasing to participate in the bank's affairs. *See* 12 U.S.C. § 1818(e)(6).

Section 7 of the Improvements Act amends Section 8(k) of the FDI Act by providing that, as used throughout Section 8 of the FDI Act, the term "appropriate Federal banking agency" not only has its usual meaning, but also includes the FDIC in the case of insured banks and of insured branches of foreign banks. The change gives the FDIC enforcement powers over national and state-member banks. *See* 12 U.S.C. § 1818(k).

Section 7 of the Improvements Act amends Section 8(m) of the FDI Act. Section 8(m) currently provides that the FDIC may not take action against a State nonmember bank without first giving notice to the bank's State regulator. If the State regulator does not correct the conditions giving rise to the FDIC's concerns, the FDIC may proceed with its action. The amendment would require the FDIC to provide the same sort of advance notice to the Comptroller of the Currency, to the Federal Reserve Board, or to the Federal Home Loan Bank Board (as many be appropriate) when the FDIC wishes to take action against a national bank, a State member bank, a District bank, an insured Federal branch, or an insured Federal savings bank or any director or officer or other person participating in the conduct of such institution's affairs. The effect would be to establish uniformity in the statutory relationship between the FDIC and the supervisory authorities of banks against whom the FDIC intends to bring enforcement actions.

Section 7 of the Improvements Act amends Section 8(q) of the FDI Act. Section 8(q) provides that, if someone has insured deposits in two insured banks, and one of the banks acquires the other's deposits, the combined funds will remain fully insured for a specified period. Section 8(q) speaks only of cases where both institutions are insured banks, however. The Improvements Act extends the provisions of § 8(q) to cases in which an insured bank acquires the deposits of a financial institution insured by the FSLIC. *See* 12 U.S.C. § 1818(q).

Section 7 of the Improvements Act corrects typographical errors in Section 8 of the FDI Act. The Improvements Act also simplifies the language of Section 8 of the FDI Act without altering the substance of the law.

SECTION 8

Section 8 of the Improvements Act amends Section 10(b) of the FDI Act, 12 U.S.C. § 1820(b), by enabling the FDIC to charge fees for examinations and investigations of banks. The fees are required to be reasonably related to the costs that the FDIC incurs in conducting the examinations. The Improvements Act provides, however, that the FDIC may not charge fees for regular examinations of banks that are in full compliance with the FDIC's standards for safety-and-soundness and with federal and State law. The Improvements Act further provides that the annual fees any bank may incur for investigations and examinations may not exceed an amount equal to the bank's annual gross assessment.

Section 8 of the Improvements Act amends Section 10(c) of the FDI Act by specifying that any agency conducting an examination or investigation of an insured bank is authorized to administer oaths and affirmations, to examine and take and preserve testimony under oath, and to exercise the other powers listed in Section 8(n) of the FDI Act. *See* 12 U.S.C. § 1820(c).

Section 8 of the Improvements Act amends Section 10(d) of the FDI Act by altering the definition of "affiliate." The new definition substantially follows the language of Section 23A of the Federal Reserve Act, 12 U.S.C. § 371c, but modifies that language to embrace nonbank subsidiaries of a bank. The new definition also gives the FDIC authority to define "affiliate" in connection with FDIC examinations. *See* 12 U.S.C. § 1820(d).

SECTION 9

Section 9 of the Improvements Act amends Section 11(a) of the FDI Act, 12 U.S.C. § 1821(a), by providing that the insurance limits established by the Act apply only to those deposits that remain eligible for Federal deposit insurance. The special provisions relating to insurance of deposits held by federal (but not State) custodians of public funds are deleted. *See* 12 U.S.C. § 1811(a).

Section 9 of the Improvements Act amends Section 11(e) of the FDI Act by providing that, as a matter of pre-emptive Federal law, the FDIC shall serve as receiver for all state-chartered insured banks (except District banks) and all insured branches of foreign banks (except Federal branches of foreign banks). *See* 12 U.S.C. § 1821(e). Current law already provides that the FDIC shall serve as receiver for District banks and for Federal branches of foreign bank. *See* 12 U.S.C. § 1821(c).

Section 9 of the Improvements Act amends Section 11(f) of the FDI Act by establishing, as a matter of pre-emptive Federal law, the following set of priorities for payment of claims against the estate of a failed bank:

Preference #1: Claims for administrative expenses of the receivership.

Preference #2: All claims for deposit and all other claims, whether liquidated or unliquidated, which have accrued and become unconditionally fixed on or before the date the bank is closed, except as provided in succeeding paragraphs of this section.

Preference #3: All claims other than those which have accrued and become unconditionally fixed on or before the date the bank is closed. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank shall be considered as not having accrued and become unconditionally fixed on or before the date the bank has closed.

Preference #4: Claims for subordinated debt.

Preference #5: Claims by shareholders based on stock ownership.

The Improvements Act further provides that, as a matter of Federal law, the FDIC must distribute the assets among the claimants within each of these categories on a pro rata basis. For claims falling within categories four and five, however, the Improvements Act leaves room for the FDIC to acknowledge priorties based on contractual provisions (*e.g.*, giving holders of preferred stock a priority over holders of common stock). *See* 12 U.S.C. § 1821(f).

Section 9 of the Improvements Act amends Section 11(g) of the FDI Act by establishing, as a matter of Federal law, that the FDIC shall be subrogated to the rights of any depositor to whom it has made payment as provided in Section 11(f) of the FDI Act. The subrogation applies to all cases involving a closed insured bank or closed insured branch of a foreign bank. *See* 12 U.S.C. § 1821(g).

Section 9 of the Improvements Act further amends Section 11(g) of the FDI Act by providing that the rights of depositors shall be determined in accordance with State law, except to the extent that State law conflicts with the priorities—including the requirment of pro-rata distribution within a priority—established by Section 11(f) of the FDI Act. *Id.*

Section 9 of the Improvements Act amends Section 11(i) of the FDI Act by relaxing the restrictions on Deposit Insurance National Banks (DINBs). The Improvements Act confers on DINBs the powers normally enjoyed by national banks. In particular, the Improvements Act eliminates the rule that DINBs may only accept new deposits when the deposits are demand deposits (and even then only in an amount up to $100,000 per depositor). The Improvements Act also eliminates the rule that DINBs may only invest in government obligations or in government-guaranteed obligations. In recognition of the fact that DINBs do not always have capital, however, the Improvements Act frees DINBs from investment restrictions based on bank capital. *See* 12 U.S.C. § 1821(i); see generally 12 U.S.C. § 1821 (h)-(l).

Section 9 of the Improvements Act further amends Section 11 (k) & (l) of the FDI Act by providing that, when a DINB has been formed to take over the business of a failed bank, and the failed bank's assets and liabilities could have been assumed by a bank owned by an out-of-state holding company under Section 13(f) of the FDI Act, 12 U.S.C. § 1823(f), the DINB's assets and liabilities may likewise be assumed by a bank owned by an out-of-state holding company (or, alternatively, the DINB may be merged into such a bank). *See* 12 U.S.C. § 1821(k) & (l).

Section 9 of the Improvements Act further amends Section 11(k) of the FDI Act by omitting the requirements that the FDIC offer the stock of a DINB first to the owners of the failed bank whose deposits

the DINB had assumed. *See* 12 U.S.C. § 1821(k).

Section 9 of the Improvements Act further amends Section 11(l) of the FDI Act by giving the FDIC five years (rather than two) to dispose of DINB stock.

Section 9 of the Improvements Act simplifies the language of Section 11 of the FDI Act in minor ways. The changes do not affect the substance of the law.

SECTION 10

Section 10 of the Improvements Act amends Section 12(a) of the FDI Act, 12 U.S.C. § 1822, by standardizing the FDIC's powers as receiver in the matter of the use of agents and the posting of bond. *See* 12 U.S.C. § 1822(a).

Section 10 of the Improvements Act also amends Section 12(e) of the FDI Act by empowering the FDIC to waive its right to recapture deposits tranferred to an insured bank as part of an arrangement for liquidating the affairs of a failed bank, which deposits have been left unclaimed for 18 months. The change enables the FDIC to make liquidation arrangements more comprehensive and to minimize the costs of such arrangements. It also reduces the reporting burdens on banks holding such tranferred deposits. *See* 12 U.S.C. § 1822(e).

SECTION 11

Section 11 of the Improvements Act amends Section 13 of the FDI Act by giving the FDIC more flexibility in using bank accounts. *See* 12 U.S.C. § 1823(b).

Section 11 of the Improvements Act also simplifies the language of Section 13 of the FDI without altering the substance of the law.

SECTION 12

Section 12 of the Improvements act amends Section 18(c) of the FDI Act, 12 U.S.C. § 1828(c), by striking out the requirement that banking agencies must seek advisory opinions from their sister agencies when evaluating bank mergers. The Improvements Act provides that the banking agencies need only seek the opinion of the Attorney General.

Section 12 of the Improvements Act amends Section 18(d) of the FDI Act by eliminating the rule that the FDIC must approve domestic bank branches in advance. The Improvements Act provides that an insured nonmember bank need only notify the FDIC within ten days of the date on which the bank establishes and begins to operate a domestic branch at a new location. The rules regarding foreign branches remain unchanged. *See* 12 U.S.C. § 1828(d)(1).

Section 12 of the Improvements Act amends Section 18(j) by authorizing the FDIC to define terms used in Section 18(j) and to issue regulations and orders needed to carry out the purposes of Section 18(j). *See* 12 U.S.C. § 1828(j)(5).

Section 12 of the Improvements Act simplifies the language of Section 18 of the FDI Act without altering its substance.

SECTION 13

Section 13 of the Improvements Act amends Section 19 of the FDI Act by relaxing requirement that, when an insured bank wants to employ a person convicted of a criminal offense involving dishonesty or breach of trust, the bank must obtain the FDIC's prior approval. The Improvements Act still requires prior approval when an insured bank wants an ex-convict to serve as its chairman of the board, its president, or its chief executive officer. Otherwise, however, the insured bank need only notify the FDIC within ten business days of the time the ex-convict agrees to be employed by the bank or begins acting in that capacity. *See* 12 U.S.C. § 1829.

SECTION 14

Section 14 of the Improvements Act repeals Section 22 of the FDI Act, 12 U.S.C. § 1830. Section 22 of the FDI Act declares that the FDI Act is not intended to discriminate against State nonmember banks. The provision has proven to have little meaning.

SECTIONS 15, 16, AND 17

Section 15, 16 and 17 of the Improvements Act respectively amend Sections 25, 26, and 27 of the FDI Act, 12 U.S.C. §§ 1831b, 1831c, and 1831d. The changes simplify the language of the FDI Act without altering the substance of the law.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, May 21, 1984.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Last November you introduced at our request the Federal Deposit Insurance Improvements Act of 1983, S. 2103. We are enclosing a revised version of the bill that differs from last year's in several respects, the most notable of which follow:

(1) The new version curtails deposit insurance coverage for sophisticated depositors, namely insured depository institutions and federal government agencies.

(2) The new version strengthens our enforcement powers by eliminating the 120-day correction period in section 8(a) actions and by giving the banking agencies more authority to control the relationships between a bank and its officers, directors, employees, agents, and other people participating in the bank's affairs as follows:

It gives the agencies authority under section 8(b) to censure bank officials and to place restrictions on their activities, even to the point of excluding them from the bank's affairs for two years.

It gives the agencies authority under section 8(c) to suspend bank officials while hearings are pending.

It gives the agencies authority under section 8(e) to bar a bank official from the banking industry completely (but also to reinstate him/her when appropriate).

(3) Current law provides that the FDIC must notify state authorities before taking enforcement actions against state nonmember banks and give the state authorities time to correct the conditions giving rise to the FDIC's concerns. The new version of the Improvements Act establishes the same relationship between the FDIC and the other federal banking authorities.

(4) The new version of the Improvements Act still allows the FDIC to charge fees for examinations and investigations, and continues to say that the fees shall be "reasonably related" to the costs incurred by the Corporation in conducting the examinations or investigations. The new version further provides that the FDIC may not charge a bank a fee for an examination when the bank is in full compliance with the FDIC's standards of safety-and-soundness and with state and federal law. The new version also says that the fees payable by a bank in any one year shall not exceed the bank's gross assessment for that year.

(5) The new version provides that, when the FDIC fixes the assessment credit for an insured bank, the amount of the credit is to be determined "on the basis of the risks (including but not limited to the risk presented by the bank's capital level, the risk presented by the bank's quality of assets, and the risk presented by the bank's exposure to changes in interest rates) that the bank may present to the Permanent Insurance Fund." The new version thus makes it clear that the assessment credits are tied to risk, not to other factors.

Mr. Chairman, we respectfully urge the Congress to give immediate consideration to our revised proposal and to include it in any deregulation package adopted this year. While the FDIC has been and continues to be a steadfast proponent of further deregulation in the financial-services industry, we cannot overemphasize our concern about the need to make concomitant reforms in the deposit insurance system as we proceed along the deregulation path.

In particular, we must have the portion of the bill that excludes from the definition of "insured deposit" funds owned by insured depository institutions (such as credit unions, savings and loan associations and banks) and federal government agencies (such as the Bureau of Indian Affairs). These entities are placing billions of dollars in fully insured brokered deposits in problem and failed banks causing the FDIC enormous exposure. The deposit insurance system was never intended to protect these types of depositors. They either have or can retain financial advisors to assist in the placement of their excess funds in creditworthy institutions rather than simply placing the funds in marginal banks based solely on interest rates.

We are not moved by the argument advanced by some credit unions that they are unsophisticated investors. If a credit union does not have people on its staff or cannot retain an independent investment advisor to assist in the placement of money, it has no business accepting federally insured deposits from the public. Moreover, we understand that credit unions are able to place their excess funds through an established centralized network of affiliated intermediaries. These "corporate centrals" take excess funds from member credit unions and place them in depositories and other investments. Through these intermediaries, credit unions may avail themselves of the advantages of dealing in the "money markets" through professional money managers. Unfortunately, many credit unions choose not to use this convenient vehicle for investment of excess funds because they are able to receive an extra 25 or 50 basis points by dealing directly with problem banks.

We are gratified and pleased to report that the essential pieces of our deposit insurance reform package (i.e., risk-related premiums, broader enforcement powers over all banks, curtailed insurance coverage for insured depository institutions and federal government agencies, and charging problem banks for the increased cost of supervision they require) were unanimously endorsed at a recent meeting of the ABA Leadership Conference.

Your continued support of efforts to proceed with sensible deregulation, coupled with essential reforms in the deposit insurance system, is greatly appreciated. These reforms will foster a stronger, more competitive financial services industry, which will redound to the benefit of the American public.

Sincerely,

WILLIAM M. ISAAC,
Chairman.

31-059 O-87-10 (Pt. 10)

S. 2700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Insured Institutions Improvements Act of 1984."

TITLE I—INSURANCE OF ACCOUNTS

SEC. 101. This title may be cited as the "Savings Insurance Protection Act of 1984."

DEFINITIONS

SEC. 102. Section 401 of the National Housing Act (12 U.S.C. 1724) is amended—

(a) by amending subsection (a) to read as follows:

"(a) The term "insured institution" means an institution having classes of accounts which are insured under this subchapter."; and

(b) by amending subsection (c) to read as follows:

"(c)(1) Subject to the provisions of paragraph (2) of this subsection, the term "insured account" means a share, certificate, or deposit account of a type approved by the Federal Savings and Loan Insurance Corporation which is held by an insured member in an insured institution and which is insured under the provisions of this title."

"(c)(2) In furtherance of the purposes of this title, the Federal Savings and Loan Insurance Corporation shall have authority and discretion to establish by regulation classes of accounts and to determine whether accounts in any such class constitute insured accounts.".

PRIMARY AND SECONDARY RESERVES

SEC. 103. Section 402(j) of the National Housing Act (12 U.S.C. 1725(j)) is amended by adding at the end thereof the following:

"(3) The Corporation is authorized to issue such rules, regulations, and orders as it deems necessary or appropriate to define the terms used in this subsection, to enable it to administer and carry out the purposes of this subsection, and to require compliance therewith and prevent evasions thereof.".

SEC. 104. Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) is amended to read as follows:

"(c) The Corporation is further authorized to assess against each insured institution additional premiums for insurance as follows:

"(1) against all insured institutions, in an amount that does not exceed in any one year against any such institution so assessed, one-eighth of one per centum of the total amount of the accounts of its insured members, but only until the amount of such premiums equals the amount of all losses and expenses of the Corporation; and

"(2) notwithstanding any other provision of this subsection, against insured institutions whose asset investments, including the percentage of assets invested in any activity, exceed the authority granted to federal associations under the Home Owners' Loan Act of 1933, as amended, and regulations promulgated pursuant thereto. The Corporation is authorized to issue rules and regulations as it determines necessary to carry out the provisions of this paragraph.".

TITLE II—ENFORCEMENT

SEC. 201. This title may be cited as the "Savings Institutions Enforcement Act of 1984."

CEASE-AND-DESIST PROCEEDINGS

SEC. 202. Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended—

(a) by amending the first two sentences thereof to read as follows:

"(1) If the Corporation is of the opinion that an insured institution or institution-related party is engaged or has engaged, or the Corporation determines that it has reasonable cause to believe that an insured institution or institution-related party is about to engage, in an unsafe or unsound practice in conducting the business of an insured institution, or if the Corporation has reasonable cause to believe that an insured institution or institution-related party is violating or has violated, or the Corporation has reasonable cause to believe that an insured institution or or institution-related party is about to violate, a law, rule, regulation, or any written agreement entered into with the Corporation, including any agreement entered into under section 1726 of this title, the Corporation may issue and serve upon such insured institution or institution-related party, a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the insured institution or institution-related party.";

(b) by amending the fifth and sixth sentences thereof to read as follows:

"In the event of such consent, or if upon the record made at any such hearing the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the insured institution or institution-related party an order to cease and desist from any such violation or practice. Such order may require the insured institution or institution-related party to cease and desist from the same, and further to take affirmative action to correct the conditions resulting from any such violation or practice."; and

(c) by adding at the end thereof the following:

"Such affirmative action may include, but is not limited to, restitution, rescission, the disposal of loans or assets, guarantees against loss, and/or such other action as the Corporation deems to be appropriate in the circumstances.".

SEC. 203. Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) is amended to read as follows:

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q), of this section shall apply also to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in Section 408a of this act, and to any service corporation or subsidiary of a service corporation, whether wholly or partly owned, of an insured institution.".

TEMPORARY CEASE-AND-DESIST ORDERS; ENFORCEMENT

SEC. 204. Sections 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) are amended to read as follows:

"(1) Whenever the Corporation shall determine that the violation or threatened violation or that the unsafe of unsound practice or practices or threatened unsafe or unsound practice or practices specified in the notice of charges served upon an insured institution or institution-related party pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or dissipation of assets or earnings of the insured institution concerned or is likely to weaken the condition of the insured institution concerned or otherwise prejudice the interests of its insured accountholders or stockholders prior to the completion of proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Corporation may issue a temporary order requiring the insured institution or institution-related party to cease and desist from any such violation or practice and to take such affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Whenever a notice of charges shall specify that an insured institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable effort to determine the financial condition of that institution, the Corporation may issue a temporary order requiring the cessation of any institution activities as the Corporation shall deem appropriate until the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section. Any order issued under this paragraph shall become effective upon service upon the concerned insured institution or institution-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the insured institution or institution-related party, until the effective date of any such order.

"(2) Within ten days after an insured institution or institution-related party has been served with a temporary cease-and-desist order, the party served may appeal to the United States district court for the judicial district in which the principal office of the concerned institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operations, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon said party under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue said injunction.".

SUSPENSION OR REMOVAL OF DIRECTOR OR OFFICER; STAY OF SUSPENSION AND/OR PROHIBITION

SEC. 205. Sections 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) are amended to read as follows:

"(g)(1) Whenever the Corporation shall determine that—

"(a) Any institution-related party has committed any violation of law, rule, regulation or a cease and desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with an insured institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary or professional duty; and

"(b) An insured institution has suffered or will probably suffer financial loss or other damage or that the interests or its insured

accountholders or stockholders have been or could be prejudiced by reason of such violation or practice or breach or that the institution-related party has received financial gain by reason of such violation or practice or breach; and

"(c) Such violation or practice or breach is one involving personal dishonesty on the part of such institution-related party, or one which demonstrates a willful or continuing disregard for the safety and soundness of such insured institution,

The Corporation may serve upon such institution-related party a written notice of its intention to remove him from his office or his position and to prohibit his further participation in any manner in the conduct of the affairs of such insured institution. For individuals not holding an office or no longer participating in the affairs of such insured institution at the time of service of the notice, the notice shall state the Corporation's intention to prohibit such person's further participation in any manner in the conduct of the affairs of the insured institution.

"(2) Whenever the Corporation shall determine that any institution-related party has evidenced either personal dishonest or a willful or continuing disregard for the safety and soundness of another insured institution, or other business enterprise by conduct or practice with respect to such other insured institution or business enterprise that resulted in financial loss or other damage to such other insured institution or business enterprise or financial gain to such institution-related party, and, in addition, has evidenced his unfitness to continue as an institution-related party, the Corporation may serve upon such institution-related party a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the affairs of such particular insured institution.".

SUSPENSION OR REMOVAL OF DIRECTOR OF OFFICER CHARGED WITH FELONY

SEC. 206. Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended to read as follows:

"(1) Whenever any institution-related party is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or a breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of an insured institution's accountholders or stockholders, or may threaten to impair public confidence in the insured institution, by written notice served upon such institution-related party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the insured institution. A copy of such notice shall also be served upon the insured institution to which such individual is related. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such charge is entered against such institution-related party and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the insured institution's accountholders or stockholders or may threaten to impair public confidence in the insured institution, issue and serve upon such institution-related party an order removing him from office and/or prohibiting him from participation in any manner in the conduct of the affairs of the insured institution to which he is related except with the consent of the Corporation. A copy of such order shall also be served upon the insured institution, whereupon such institution-related party shall cease to be an institution-related party of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such institution-related party from office and/or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), (3) or (4) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (2) of this subsection unless terminated by the Corporation.".

ANCILLARY PROVISIONS; AFFILIATE DEFINED; SUBPOENA POWER

SEC. 207. Section 407(m)(2) of the National Housing Act (12 U.S.C. 1730(m)(2)) is amended—

"(a) by inserting after "affiliates thereof" the following: ", or of entities that were insured institutions or affiliates thereof at the time of the transactions and/or conduct, being examined";

"(b) by inserting after "affairs" in the first sentence thereof: ", assets"; and

"(c) by inserting out the last sentence and substituting in lieu thereof the following:

"Such courts shall have jurisdiction and power to order and require compliance with any such subpoena, and any failure to obey such an order of the court may be punished by such court as contempt thereof. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, in obedience to the subpoena of the Corporation, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1000 or to imprisonment for a term of not more than one year, or both."./

PENALTIES

SEC. 208. Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p)(1) Any person against whom there is outstanding and effective any notice or order (which is an order that has become final) served upon such person under subsections (g)(3), (g)(4), (g)(5) or (h) of this section, and who (A) participates in any manner in the conduct of the affairs of the institution in connection with which he engaged in or committed an act or omission which was the subject of such notice or order, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institution, or (B) without the prior written approval of the Corporation, votes for a director, or serves or acts as a director, officer, employee, or agent or otherwise participates in any manner in the conduct of the affairs of any institution the accounts of which are insured by any agency of the federal government, shall be guilty of a misdemeanor and upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director officer, employee, or agent, or otherwise participate in the conduct of the affairs of an insured institution who has been convicted of a criminal offense involving dishonesty or breach of trust. For each knowing violation of this prohibition, the institution involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

DEFINITIONS

SEC. 209. Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(a) by adding at the end of paragraph (1) thereof the following:

"(E) The terms 'director(s),' 'officer(s),' 'employee(s),' 'agent(s),' 'person(s) participating in the conduct of the affairs of an insured institution,' and 'person(s) filing notices pursuant to subsection (g) hereof,' shall include a person or persons presently holding such positions or acting in such capacities and, for a period of one year following the date that they ceased to hold such positions or act in such capacities, persons who formerly held such positions or acted in such capacities.

"(F) The term 'unsafe or unsound practice' includes any action or omission, which is, in the opinion of the Corporation, contrary to generally accepted standards of prudent operation, whether relating to the association's internal management or to any external matter, the possible consequence of which, if continued, may pose abnormal risk or loss or damage to an insured institution or any subsidiary thereof, to its stockholders or accountholders, or to the Corporation. The term 'unsafe or unsound' includes, but is not limited to practices that threaten the financial integrity of the insured institution"; and

(b) by adding at the end thereof the following:

"(5) As used in subsections (e), (f), (g), and (h) of this section, the term 'insured institution' means an insured institution, insured by the FSLIC, an institution that has insured accounts notwithstanding termination of its status as an insured institution pursuant to this section, and a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(6) As used in subsections (e), (f), (g), and (h) of this section, the term 'institution-related party' means any director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured institution, savings and loan holding company, any subsidiary of a savings and loan holding company, as those terms are defined in Section 1730a of this title, or to any service corporation or subsidiary of a service corporation, whether wholly or partly owned, of an insured institution; and any person filing or required to file a change of control notice with the Corporation pursuant to subsection (q) of this section with respect to an insured institution.".

SEC. 210. Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(s) The Board and the Corporation may seek an injunction in the United States district courts against any person or entity engaged in or about to engage in a violation of Chapter 12 or 13 of this title or of any regu-

lation, rule, order of the Board or the Corporation issued pursuant thereto, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted. No bond shall be required of the Board or the Corporation.".

TITLE III—PAYMENT OF INSURANCE

SEC. 301. This title may be cited as the "Insurance Amendments of 1984."

SEC. 302. Section 405(b) of the National Housing Act (12 U.S.C. 1728(b)) is amended by striking out "which is surrendered and transferred to the Corporation" from the first sentence thereof, and by adding at the end thereof the following: "Notwithstanding any other provision of law, the Corporation, upon payment of insurance as provided in this subsection (b), shall be subrogated to all rights of the insured member to the extent of such payment.".

SEC. 303. Section 405 of the National Housing Act (12 U.S.C. 1728) is amended by adding at the end thereof the following:

"(e) Notwithstanding any other provision of law, the Corporation may withhold payment of such portion of the insured deposit of any depositor in an institution in receivership as may be required to provide for the payment of any liability, which is due and unpaid and is determined on the date of default, (i) of such depositor as a stockholder of the institution, or (ii) of such depositor to the institution or its receiver, pending the determination and payment of such liability by such depositor or any other person liable therefor, *Provided, however,* That such liability does not include the liability of a borrower under a note or other obligation not in default on the date of default of the institution.".

SEC. 304. Section 406(b)(2) of the National Housing Act (12 U.S.C. 1729(b)(2)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of law, such payment of insurance by the Corporation shall subrogate the Corporation with respect to such insured account to the extent of such payment, but shall not affect any right which an insured member may have with respect to the uninsured portion of his account, if any, or any right which such insured member may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.".

TITLE IV—RECEIVERSHIP POWERS, AUTOMATIC STAY, AND PRIORITIES

SEC. 401. This title may be cited as the "Receivership Improvement Act of 1984."

SEC. 402. Section 406(d) of the National Housing Act (12 U.S.C. 1729(d)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, in implementing the first sentence of this subsection (d), the Corporation as conservator, receiver or legal custodian shall not be required to furnish bond for any purpose and may employ such officers, agents, attorneys, and employees as deemed necessary or appropriate by the conservator, receiver, or legal custodian, and such persons shall be employees of the conservator, receiver, or legal custodian and not of the United States, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation and may be paid by the Corporation out of funds coming into its possession as conservator, receiver, or legal custodian.".

SEC. 403. Section 406 of the National Housing Act (12 U.S.C. 1729) is amended by adding at the end thereof the following:

"(g) No agreement, which tends to diminish or defeat the right, title, or interest of the Corporation as conservator, receiver or other legal custodian of an insured institution in any asset acquired in its capacity as such conservator, receiver or legal custodian, or acquired by the Corporation under subsection (f) of this section, shall be valid against the Corporation unless such agreement (1) shall be in writing, (2) shall have been executed by the institution and the person or persons claiming an adverse interest thereunder including the obligor, contemporaneously with the acquisition of the asset by the institution, (3) shall have been approved as to the transaction or type of transaction by the board of directors of the insured institution or its loan committee, and (4) shall have been, continuously, from the time of its execution, an official record of the insured institution.

"(h) Any property, wherever located, in which the Corporation as receiver claims any interest is property of the receivership estate, and any other party to which the receiver transfers such property shall receive such title as the receiver itself possesses."

"(i)(1) The appointment of a receiver by the Board for an insured institution pursuant to section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 or section 406 of the National Housing Act operates as a stay, applicable to all entities, of:

"(A) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other proceeding against the receiver or insured institution, other than the filing and prosecution of a claim with the receiver and any appeal therefrom to the Board, that was or could have been commenced before the commencement of the receivership or that seeks to recover a claim against the insured institution that arose before the commencement of the receivership;

"(B) the enforcement, against the receiver or insured institution or any property of the receivership estate, of a judgment obtained before the commencement of the receivership;

"(C) any act to obtain possession of property of the receivership estate or from the receivership estate;

"(D) any act to create, perfect, or enforce against property of the receivership estate any lien to the extent that such lien secures a claim that arose before the commencement of the receivership;

"(E) any act to collect, assess, or recover a claim against the receiver or insured institution that arose before the commencement of the receivership;

"(F) the setoff of any debt owing to the insured institution that arose before the commencement of the receivership against any claim against the receiver or insured institution; and

"(G) the commencement or continuation of a proceeding before the United States Tax Court concerning the insured institution.

"(2) The appointment of the Corporation as receiver does not operate as a stay—

"(A) of the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

"(B) of the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

"(C) of the setoff of any mutual debt and claim that are leverage transactions, options, warrants, rights to purchase or sell securities, or options to purchase or sell securities;

"(D) of the commencement of any action by the Secretary of the Department of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by said Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or

"(E) of the issuance to the insured institution by a governmental unit of a notice of tax deficiency.

"(3) Except as provided in subdivisions (4) and (5) of this subsection the stay of an act against property of the estate under paragraph (1) of this section continues until such property is no longer property of the estate and the stay of any other act continues until the termination of the receivership;

"(4) On request of a party in interest the Board shall grant relief from the stay provided under paragraph (1) of this subsection, such as by terminating, annulling, modifying, or conditioning such stay—

"(A) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

"(B) with respect to a stay of an act against property, if—

"(i) the insured institution does not have an equity in such property; and

"(ii) such property is not necessary to an effective reorganization.

"(5) Thirty days after a request under subdivision (4) of this subsection for relief from the stay of any act against property of the estate under paragraph (1) of this subsection, such stay is terminated with respect to the party in interest making such request, unless the Board orders such stay continued in effect pending, or as a result of, a final determination under subdivision (4) of this subsection. The Board shall grant such relief from any stay provided under this subsection (i) as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is a final determination under subdivision (4) of this subsection.

"(j) When adequate protection is required under subsection (i) of an interest of an entity in property, such adequate protection may be provided by—

"(1) the receiver's agreement to make periodic cash payments to such entity, to the extent that the stay under subsection (i) results in a decrease in the value of such entity's interest in such property;

"(2) the receiver's providing to such entity an additional or replacement lien to the extent that such results in a decrease in the value of such entity's interest in such property; or

(3) the receiver's granting such other relief, as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.".

"(k) Notwithstanding any other provision of law, State or Federal, or the constitution of any State, in connection with the liquidation of insured institutions in default, the Corporation as receiver shall make provision for payment of unsecured claims against the estate of the institution in default proved to the satisfaction of the receiver of the Board in the following order:

"(1) Claims for administrative expenses of the receivership.

"(2) All claims for accounts and all other claims, whether liquidated or unliquidated, which have accrued and become unconditionally fixed on or before the date of default, except as provided in succeeding paragraphs of this section.

"(3) All claims other than those which have accrued and become unconditionally fixed on or before the date of default, including claims for interest after the date of default on claims of the second category. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the date of default shall be considered as not having accrued and become unconditionally fixed on or before the date of default.

"(4) Claims for subordinated debt.

"(5) Claims by shareholders based on stock ownership.

"The Corporation as receiver shall distribute the assets of the estate of the insured institution in default to the claimants within each payment category on a pro rata basis.

TITLE V—CHANGE IN CONTROL AMENDMENTS

SEC. 501. This title may be cited as the "Change in Control Amendments of 1984."

CHANGE IN CONTROL OF INSURED INSTITUTIONS

SEC. 502. Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended—

(a) by amending paragraph (1) to read as follows:

"(1) No person acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured institution unless the Corporation has been given 60 days' prior written notice of such proposed acquisition. Within that time period, the Corporation may disapprove the proposed acquisition or may extend up to another 30 days the period during which a disapproval may issue. The period for disapproval may be further extended only if the Corporation determines that any acquiring party has not furnished all the information required under paragraph (5) of this subsection or that any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Corporation issues written notice of its intent not to disapprove the action. The Corporation may condition its notice of intent not to disapprove the action, and subsequent consummation of the acquisition of control shall constitute consent to any such conditions. Failure to comply with any conditions so imposed shall be the basis for a civil money penalty of not more than $10,000 per day from the day on which performance was due, a requirement of divestiture within a reasonable period determined by the Corporation, a cease-and-desist order, or any combination thereof.";

(b) by amending the first two sentences of paragraph (2) to read as follows:

"(2) If the insured institution the control of which is sought to be acquired is a State chartered institution, upon receiving any notice under this subsection, the Corporation shall forward a copy thereof to the appropriate State savings and loan supervisory agency, and shall allow thirty days within which the views and recommendations of such State supervisory agency may be submitted. The Corporation shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition.";

(c) by amending paragraph (3) by striking out "three" and inserting in lieu thereof "ten";

(d) by striking out paragraph (4);

(e) by redesignating paragraph (5) as paragraph (4) and amending it by striking out "after agency hearing";

(f) by redesignating paragraph (6) as paragraph (5) and amending subparagraph (A) thereof to read as follows:

"(A) The identity, personal history, business background, and experience of each person, including all persons in control of, or controlled by, such person, by whom or on whose behalf the acquisition is to be made, including material business activities and affiliations during the past five years, and a description of any material legal or administrative proceedings in which he, or a person in control of, or controlled by him, is or was a party, and any criminal indictment or conviction by a State or Federal court of the person, or a person in control of, or controlled by, him.";

(g) by redesignating subparagraph (5)(H) as subparagraph (5)(I), and by adding a new subparagraph (5)(H) to read as follows:

"(H) Detailed business plans for the insured institution for the three years after acquisition of control.";

(h) by redesignating paragraph (7) as paragraph (6) and amending subparagraphs (C), (D), and (E) to read as follows:

"(C) the financial condition of or activities conducted by any acquiring person are such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution or be detrimental to the insurance risk of the Corporation;

"(D) the competence, experience, or integrity of any acquiring person or any of the proposed management personnel indicates that the public's trust and confidence in the insured institution may be adversely affected, or that it would not be in the interest of the depositors of the institution or of the public to permit such person to control the institution; or

"(E) any acquiring person, or person in control thereof, neglects, fails or refuses to furnish to the Corporation all the information required by the Corporation; or";

(i) by amending paragraph (6), as redesignated, by adding at the end thereof the following:

"(F) the acquiring person's business plans for the insured institution or previous operation of any other insured instituion are or were inconsistent with the safe and sound operation of such an institution, or with the purposes of an insured institution, as determined by the Corporation, or otherwise would be or were detrimental to the insurance risk of the Corporation.";

(j) by redesignating paragraph (8) as paragraph (7) and amending subparagraphs (A) and (B) to read as follows:

"(A) "person" means an individual or a group of individuals acting in concert, unless defined as a "company" under Section 408(a)(1)(C) of this Act (12 U.S.C. 1730a(a)(1)(C));

"(B) "control" means the power, directly or indirectly, or through or in concert with one or more other persons, to exercise a controlling influence over the management or policies of an insured institution or company or to vote 25 per centum or more of any class of voting securities of an insured institution or company;";

(k) by amending paragraph (7) thereof, as redesignated, by adding at the end thereof the following:

"(C) "acting in concert" includes (i) knowing participation in a joint activity or conscious parallel action towards a common goal whether or not pursuant to an express agreement, or (ii) combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise;

"(D) "stock" means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto; and

"(E) "insured institution" includes (i) a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and (ii) any "savings and loan holding company," as that term is defined in this title which has control of any such insured institution.";

(l) by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively;

(m) by striking out paragraph (13);

(n) by redesignating paragraph (14) as subparagraph (12) and amending it to read as follows:

"(12)(A) The Corporation is authorized to issue rules, regulations, and orders to define the terms used in this subsection, to enable it to administer and carry out the purposes of this subsection, and to require compliance therewith and prevent evasions thereof.

"(B) The Corporation may conduct such investigations and hold such hearings as it deems necessary or appropriate to determine whether to approve or disapprove changes of control of which it has been notified, or whether the provisions of this subsection, and rules, regulations, and orders issued thereunder, are being and have been complied with by the applicant or person in control of the insured institution. The Corporation is empowered to make rules and regulations with respect to any such proceedings. For the purpose of any investigation or hearing conducted pursuant to this paragraph, the Corporation or its designated representatives shall have power to administer oaths and affirmations, to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum, to take or cause to be taken depositions, to take evidence, and to require the production of any books, papers, correspondence, memoranda, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State or in any territory. The Corporation or its designated representatives may apply to the United States district court for the judicial district or the United States court in any territory in which any witness or company subpoenaed resides or carries on business for enforcement of any subpoena or subpoena duces tecum issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this paragraph shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(C) Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the principal office of the institution or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the

provisions of chapter 5 of Title 5 of the United States Code.

"(D) Whenever it shall appear to the Corporation that any person is engaged or has engaged in any acts or practices which constitute or will constitute a violation of the provisions of this section or any rule, regulation, or order issued thereunder, the Corporation may in its discretion bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any rule, regulation, or order issued thereunder, and for such other relief as may be appropriate, including but not limited to the divestiture of any acquisition made in violation of this section, rescission of transactions effected in violation of this section, restitution to persons suffering damage as a result of violations of this section. Upon a proper showing an injunction, decree, restraining order, order of divestiture, rescission, restitution or other appropriate order shall be granted. No bond shall be required of the Corporation.

"(E)(1) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a person controlling an insured institution of any activity or of ownership or control of a noninsured institution constitutes a serious risk to the financial safety, soundness, or stability of the insured institution controlled by such person, and is inconsistent with the sound operation of an insured institution or with the purposes of this subsection or with the Financial Institutions Supervisory Act, order such person, after due notice and opportunity for hearing, to terminate, in a manner satisfactory to the Corporation, such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured institution.";

(o) by redesignating paragraph (15) as paragraph (13); and

(p) by redesignating paragraph (16) as paragraph (14), and amending it to read as follows:

"(14)(A) Any person, other than an individual, that willfully violates any provision of this subsection, or any rule, regulation, or order issued thereunder, shall upon conviction be fined not more than $1,000 for each day during which the violation continues.

"(B) Any individual who willfully violates or participates in a violation of any provision of this subsection, or any rule, regulation, or order thereunder, shall be guilty of a misdemeanor and upon conviction be fined not more than $10,000 or imprisoned not more than one year, or both.

"(C) Any person that violates or participates in a violation of any provision of this subsection, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues, provided that the Corporation may, in its discretion, compromise, modify or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection. The penalty may be assessed and collected by the Corporation by written notice. As used in this paragraph the terms "violates" or "violation" include without any limitation, any acting or action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(D) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(E) Every person in control of and any director, officer, partner, trustee, agent, or employee of a person in control of an insured institution shall be subject to such penalties for false entries in any book, report, or statement of such person as are applicable to officers, agents, and employees of an institution the accounts of which are insured by the Corporation for false entries in any books, reports, or statements of such institution under section 1006 of Title 18.

"(F) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of Title 5, United States Code.

"(G) Any person against whom an order imposing a civil money penalty has been entered after agency hearing under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. Upon filing of the notice, such review shall be exclusive. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of Title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of Title 5, United States Code.

"(H) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(I) The Corporation may promulgate regulations establishing procedures necessary to implement this paragraph, and further define the terms used herein.

"(J) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States."; and

(q) by redesignating paragraph (17) as paragraph (15).

TITLE VI—HOLDING COMPANIES

SEC. 601. This section may be cited as the "Holding Company Amendments of 1984."

DEFINITIONS

SEC. 602. Section 408(a)(1)(B) and (C) of the National Housing Act (12 U.S.C. 1730a(a)(1)(B) and (C)) are amended to read as follows:

"(B) "uninsured institution" means any account-, or deposit-taking organization, as defined by the Corporation, the accounts or deposits of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(C) "company" means any corporation, partnership, trust, association, joint venture, pool, syndicate, unincorporated organization, Joint-stock company, or similar organization, or group acting in concert, characterized by arrangement among the participants which in any way restricts or directs their voting rights, or which provides for allocation of profits, losses, or expenses or for disposition of ownership interests, but does not include the Federal Savings and Loan Insurance Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an officer of the United States or any State in his official capacity, or by an instrumentality of the United States or any State;".

SEC. 603. Section 408(a)(1) (12 U.S.C. 1730a(a)(1)) is amended—

(a) by striking out the period in subparagraph (J) and inserting in lieu thereof a semicolon; and

(b) adding at the end thereof the following:

"(K) "acting in concert" includes knowing participation in a joint activity or conscious parallel action towards a common goal whether or not pursuant to an express agreement, or combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise;

"(L) "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security; or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right;

"(M) "market-maker" means any specialist permitted to act as a dealer; any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis; and

"(N) "underwriter" means any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. As used in this paragraph the term "issuer" shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer.".

SEC. 604. Section 408(a)(2) of the National Housing Act (12 U.S.C. 1730a(a)(2)) is amended—

(a) by amending subparagraph (A) to read as follows:

"(A) an insured institution if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 per centum of the voting shares of such insured institution, or controls in any manner the election of a majority of the directors of such institution or has contributed more than 25 per

centum of the capital of such institution;" and

(b) by amending subparagraph (D) to read as follows:

"(D) an insured institution or any other company if such person, directly or indirectly, or acting in concert with one or more other persons, has the power to exercise a controlling influence over the management or policies of such institution or other company.".

HOLDING COMPANY ACTIVITIES

SEC. 605. Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended—

(a) by striking out "and" in paragraph (1); and

(b) by adding at the end thereof the following:

"(3) notwithstanding any other provision of law, no savings and loan holding company, or insured institution, directly or indirectly, or through one or more subsidiaries or one or more transactions, shall be engaged in the activities of an underwriter or of a market-maker in (i) equity securities, or (ii) debt securities other than those secured by interests in real estate or that are eligible to be underwritten by national banks.".

PROHIBITED TRANSACTIONS

SEC. 606. Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended by inserting in the first sentence thereof after "insured institution" the following: "or subsidiary thereof," and by inserting in subparagraph (1) thereof after "as authorized by law" the following: "in the case of investment by the insured institution, or other than the parent insured institution, in the case of investment by its subsidiary".

SEC. 607. Sections 408(d)(4) and (5) of the National Housing Act (12 U.S.C. 1730a(d)(4) and (5)) are amended to read as follows:

"(4) make any loan, discount, extension of credit to (A) any affiliate, except in a transaction authorized by subparagraph (A) of paragraph (6) of this subsection, or (B) any third party on the security of any property acquired from any affiliate, or with knowledge that the proceeds of any such loan, discount, or extension of credit, or any part thereof, are to be paid over to or utilized for the benefit of any affiliate: Provided, however, that a subsidiary insured institution, or subsidiary thereof, may make a loan, discount, or extension of credit to a third party on the security of property acquired from its service corporation, and no other affiliate has a direct or indirect ownership or controlling interest in that service corporation other than through the subsidiary insured institution.

"(5) guarantee the repayment of or maintain any compensating balances for any loan or extension of credit granted to any affiliate (other than a wholly-owned service corporation) by any third party."

ACQUISITIONS

SEC. 608. Section 408(e)(1)(A)(iv) of the National Housing Act (12 U.S.C. 1730a(e)(1)(A)(iv)) is amended to read as follows:

"(iv) to become, or acquire control of, an uninsured institution without the prior written approval by the Corporation pursuant to subparagraph (C) of paragraph (3) of this subsection;".

SEC. 609. Section 408(e)(1)(B) of the National Housing Act (12 U.S.C. 1730a(e)(1)(B)) is amended—

(a) by striking out in the final sentence thereof the following: "shall approve an acquisition of an insured institution under this subparagraph unless it finds the financial and managerial resources and future proposals of the company and institution involved to be such that the acquisition would be detrimental to the institution or the insurance risk of the Corporation, and"; and

(b) by inserting in the final sentence, as amended, after "decision" the following: "under this subsection".

SEC. 610. Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended to read as follows:

"(2) The Corporation shall not approve any acquisition under paragraph (1) of this subsection if it finds that:

"(A) the financial condition of any acquiring company, or person in control thereof, are such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution or be detrimental to the insurance risk of the Corporation;

"(B) the competence, experience, or integrity of any acquiring company, or person in control thereof, any of the proposed management personnel of such company, or person in control thereof, or any of the proposed management personnel of the insured institution involved indicates that the public's trust and confidence in the insured institution may be adversely affected, or that, otherwise, it would not be in the interest of the depositors of the institution or in the interest of the public to permit such company or person to control the institution;

"(C) any acquiring company, or person in control thereof, neglects, fails or refuses to furnish the Corporation all the information required by the Corporation;

"(D) the applicant's future business plans for the insured institution or previous operation of any other insured institution are not or were not consistent with the safe and sound operation of such an institution, are not or were not consistent with the purposes of an insured institution, as determined by the Corporation, or otherwise would be or were detrimental to the insurance risk of the Corporation;

"(E) the acquisition does not serve the convenience and needs of the communities to be served;

"(F) the acquisition would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States; or

"(G) the effect of the acquisition in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

"The Corporation shall render its decision within ninety days after submission to the Board of the complete record on the application. Before approving any acquisition under subparagraphs (A)(i) or (A)(ii), or of more than one insured institution under subparagraph (B) of paragraph (1) of this subsection, the Corporation shall request from the Attorney General and consider any report rendered within thirty days on the competitive factors involved."

SEC. 611. Section 408(e)(3) of the National Housing Act (12 U.S.C. 1730a (e)(3)) is amended—

(a) by striking out "or" in subparagraph (A); and

(b) by striking out the period in subparagraph (B) and inserting in lieu thereof a semicolon;

(c) by adding at the end thereof the following:

"(C) result in a savings and loan holding company which is itself an uninsured institution, or which directly or indirectly has control of an uninsured institution; however, the Corporation may in its sole discretion, permit operation as, or control of, an uninsured institution to be acquired and/or retained for up to one year after control has been acquired of the insured institution or uninsured institution, whichever is later, if the Corporation specifically determines that such an extension would not represent an undue risk to the Corporation's Insurance Fund, or for a longer period if the Corporation specifically determines that such and extension beyond one year, including in perpetuity, assists the Corporation in preserving the Corporation's Insurance Fund or that such an extension would not represent an undue risk to such Fund; or

"(D) result in the acquisiton directly or indirectly, or through one or more transactions, of an insured institution by a company engaged in the activities of an underwriter of or market-maker in (i) equity securities, or (ii) debt securities other than those secured by interests in real estate or that are eligible to be underwritten by national banks.".

SEC. 612. Section 408(h)(1) of the National Housing Act (12 U.S.C. 1730a(h)(1)) is amended to read as follows:

"(1) The Corporation is authorized to issue such rules, regulations, and orders as it deems necessary or appropriate to define the terms used in this section, to enable it to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.".

SEC. 613. Sections 408(h)(3)(A) and (B) of the National Housing Act (12 U.S.C. 1730a(h)(3)(A) and (B)) are amended—

(a) by striking out "under subsection (a)(2)(D) or" in the first sentence in subparagraph (A); and

(b) by striking out "in subsection (a)(2)(D) or" in subparagraph (B).

SEC. 614. Section 408(h)(4) of the National Housing Act (12 U.S.C. 1730a(h)(4)) is amended by inserting after "to enforce compliance with this section or any rule, regulation or order thereunder," the following: "and for such other relief as may be appropriate, including but not limited to the divestiture of any acquisition made in violation of this section, rescission of transactions effected in violation of this section, or restitution to persons suffering damage as a result of violations of this section. Upon proper showing an injunction, decree, restraining order, order of divestiture, rescission, restitution or other appropriate order shall be granted. No bond shall be required of the Corporation."

TITLE VII—QUALIFIED THRIFT LENDERS

SEC. 701. This title may be cited as the "Qualified Thrift Lender Act of 1984."

INSURANCE ELIGIBILITY

SEC. 702. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended—

(a) by inserting in paragraph (2) after "accounts of" the following: "any institution which is a qualified thrift lender, as defined in paragraph (3) of this subsection, including"; and

(b) by adding at the end thereof the following: "(3)(A) Except as provided in subparagraph (B) of this paragraph, a qualified thrift lender is an institution that, as determined by the Corporation, has an aggregate of not less than 60 percent of its assets (including investments made by any subsidiary of such an institution) invested in:

"(i) cash,

"(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof,

"(iii) liquid assets of the type required to be maintained pursuant to regulations issued by the Federal Home Loan Bank Board under section 5A of the Federal Home Loan Bank Act,

"(iv) certificates of deposit in, or obligations of, a corporation organized under a state law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

"(v) loans secured by a deposit or share of a member,

"(vi) loans, equity positions, or securities related to domestic residential real property, manufactured housing, or real property used primarily for church purposes, including loans to facilitate the construction, improvement or equipping of domestic residential real property, manufactured housing, multi-family dwellings, property used primarily for church purposes, and shelter-providing facilities as set forth in subdivision (viii) hereof,

"(vii) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

"(viii) loans secured by an interest in educational, health, or welfare institutions or facilities, including shelter-providing facilities for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities.

"(ix) loans made for the payment of expenses of college or university education or vocational training,

"(x) property acquired through the liquidation of defaulted loans described in clauses (vi), (vii) or (viii),

"(xi) property used by an institution in the conduct of its business, and

"*Provided*, That such institution does not thereafter fall below such percentage on an average basis in three out of every four quarters in three out of every five years;

"*Provided further*, That the 60% requirement shall be reduced for any averaging period by the amount of loans relating to domestic residential real property or manufactured housing, originated and sold during such period by such institution or any subsidiary thereof, by such a percentage as the Corporation may determine appropriate.

"(B) For a twenty year period following the date of enactment of this paragraph, "qualified thrift lender" shall also include an institution chartered as a mutual savings bank under state law, provided that the Corporation determines that—

"(i) the institution has an aggregate of not less than 50 percent of its assets (including investments made by any subsidiary of such an institution) invested in assets of the type set forth in subparagraph (A) of this paragraph, and

"(ii) the institution does not decrease the percentage of its assets invested in accordance with subparagraph (A) of this paragraph below the percentage it held on the date of enactment of this paragraph, and increases such percentage of its assets invested in accordance with said subparagraph (A) by an amount at least equal to the following percentages of the difference between 60 per centum and the percentage of its assets invested in accordance with said subparagraph (A) on the date of enactment of this paragraph within the following time periods from the date of enactment of this paragraph:

"(I) within five years, 25 per centum;

"(II) within ten years, 50 per centum;

"(III) within fifteen years, 75 per centum."

"(C) Any institution that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of five years.

"(D) The Corporation may issue and enforce rules and regulations, and conduct examinations, to carry out the provisions of this paragraph, *provided that* with respect to a stock savings bank insured by the Federal Deposit Insurance Corporation, the Corporation shall rely to the maximum extent possible on examinations conducted by that agency.".

ELIGIBILITY FOR ADVANCES

SEC. 703. Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) Except as the Board may prescribe, no member, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, shall be eligible for advances unless such member is a qualified thrift lender as defined in section 403(a)(3) of the National Housing Act.".

INVESTMENT AUTHORITY

SEC. 704. Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)(B)) is amended by striking the remainder of the sentence after "except that" and inserting in lieu thereof the following: "the limitation contained herein shall be 5 per centum of the assets of an association which is a qualified thrift lender as defined in section 403(a)(3) of the National Housing Act.".

BRANCHING

SEC. 705. Section 5(r)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(r)(1)) is amended—

(a) by striking out in the first sentence "domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify.", and inserting in lieu thereof the following: "qualified thrift lender as defined in section 403(a)(3) of the National Housing Act."; and

(b) by striking out in the second sentence, "domestic building and loan association under said section 7701(a)(19)." and inserting in lieu thereof the following: "qualified thrift lender as defined in said section 403(a)(3).".

EMERGENCY THRIFT ACQUISITIONS

SEC. 706. Section 408(m)(5)(C)(i) of the National Housing Act (12 U.S.C. 1730a(m)(5)(C)(i)) is amended by striking out "domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or does not meet the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify," and inserting in lieu thereof the following: "qualified thrift lender as defined in section 403(a)(3) of this Act,".

UNITARY ACTIVITIES

SEC. 707. Section 408(n) of the National Housing Act (12 U.S.C. 1730a(n) is amended by striking out "domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954," and inserting in lieu thereof the following: "qualified thrift lender as defined in section 403(a)(3) of this Act,".

TITLE VIII—MISCELLANEOUS

FEDERAL HOME LOAN BANK BOARD; CREATION, ETC.

SEC. 801. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) Section 4(c) of the Securities Exchange Act of 1934 shall be applicable to the Board and the Federal Savings and Loan Insurance Corporation in accordance with regulations adopted by the Board.

DEMAND ACCOUNTS

SEC. 802. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. § 1464(b)(1)) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) An association may raise capital in the form of such deposits, shares, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates, or other evidence of accounts as are so authorized."; and

(2) by striking out the first and second sentences of subparagraph (B)

SEC. 803. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended to read as follows:

(a) Notwithstanding any other provision of law a depository institution is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1. This section states the title of the Act as the "Insured Institutions Improvements Act of 1984."

TITLE I—INSURANCE OF ACCOUNTS

Section 101. Section 101 of the bill provides that Title I may be cited as the "Savings Insurance Protection Act of 1984."

Section 102. Section 102 of the bill amends subsections (a) and (c) of section 401 of the National Housing Act (12 U.S.C. 1724) to enable the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, to establish by rule classes of accounts and to determine whether accounts in any such class constitute insured accounts. The purpose of the amendment is to clarify the authority of the Board to balance through rulemaking its statutory mandates to insure the accounts of institutions eligible for insurance and to safeguard the integrity of the Insurance Fund. In particular, the amendment clarifies the statutory authority for the

Board's brokered funds rule, which limits the availability of pass-through insurance for funds deposited by deposit brokers, and would better enable the Board to prevent the evasion of that rule. The amendment specifically provides that the authority and discretion of the Board are to be exercised in furtherance of the purposes of Title IV of the National Housing Act.

Section 103. This section confirms the FSLIC's authority to issue rules and regulations that are necessary and appropriate to enable the FSLIC properly to administer and safeguard the mutual-to-stock conversion process.

Section 104. Insurance Premiums. This section authorizes the FSLIC to assess an additional premium against institutions which engage in activities not authorized for federal associations or which exceed percentage of asset limitations applicable to federal associations on authorized activities.

TITLE II—ENFORCEMENT

Section 201. Section 201 provides that this title may be cited as the "Savings Institutions Enforcement Act of 1984."

Section 202. Paragraphs (a) and (b) of section 202 simplify the language of Section 407(e) of the National Housing Act and extend the coverage of the statute to include actions of institutions and "institution-related" parties, as defined in section 209(b). Section 202(c) clarifies and broadens the Corporation's authority with respect to the types of affirmative action which may be prescribed by a cease-and-desist order to include restitution, rescission, disposal of loans or assets, guarantees against loss, and other action the corporation deems equitable.

Section 203. Section 203 broadens the coverage of the Corporation's enforcement authority to include subsidiaries of service corporations.

Section 204. Section 204(a) clarifies the language of section 407(f) of the National Housing Act and strengthens the Corporation's enforcement authority by removing the requirements that the Corporation show that dissipation of assets is substantial or that the weakening of an insured institution's financial condition is serious to constitute grounds for issuing a temporary cease and desist order. The amendments would require only that the Corporation show some dissipation of assets or some weakening of the insured institution. Section 204 also provides that the Corporation may issue a temporary cease-and desist order prohibiting an association from conducting new business where it finds that an institution's books or records are so incomplete or inaccurate that the Corporation is unable to determine that institution's financial condition.

Section 205. Section 205 simplifies the language of section 407 (g)(1) and (2) of the National Housing Act, expands the categories of persons subject to removal or prohibition to include institution related parties—directors, officers, employees, agents, or any person participating in the affairs of an institution or filing a change of control notice as well as officers and directors. it also expands the grounds for removal to include a breach of professional as well as fiduciary duties.

This section strengthens the Corporation's authority by deleting the requirements that the financial loss be substantial or that prejudice to the members of an institution be serious to establish grounds for removal or prohibition and adding the receipt of financial gain by any violator as a grounds for removal or prohibition. Section 205 also extends section 407 to apply to persons who have resigned or ceased to participate in the conduct of affairs of an insured institution.

Section 206. Section 206 clarifies the language of section 407(h)(1) of the National Housing Act without making substantive changes.

Section 207. Section 207 strengthens the Corporation's enforcement and examination power by authorizing the examination of entities which were insured institutions or affiliates of insured institutions at the time of the transactions being investigated. Section 207 broadens the examination authority of the Corporation to include investigations into the quality and nature of the assets of an insured institution. Finally, this section clarifies the jurisdiction of the courts to enforce subpoenas issued by the Corporation under this section and prescribes specific penalties for failure to comply with any orders issued under this section.

Section 208. Section 208 simplifies the language of section 407(p) of the National Housing Act and amends the coverage of that section in conformity with other amendments regarding removal, prohibition, and cease-and-desist authority.

Section 209. Section 209 expands the jurisdiction of the Corporation to include persons who have resigned their positions at an insured institution for a period of one year subsequent to such resignation. This section also adds a definition of the term "unsafe or unsound practice" to include acts that the Corporation determines are contrary to standards of prudent operation and which pose a risk of loss or damage to the institution, its depositors or the Corporation.

Further, section 209 defines the term "institution-related party" to include directors, officers, employees, agents, or other persons participating in the conduct of the affairs of an insured institution and any person filing a change of control notice with the Corporation. This simplifies the current provisions and expands and clarifies the Corporation's jurisdiction with respect to persons filing change of control notices.

Section 210. Section 210 strengthens the Corporation's and the Board's enforcement authority by authorizing them to seek injunctions in the U.S. courts to halt immediately unsafe and unsound practices or violations of laws or regulations.

TITLE III—PAYMENT OF INSURANCE

Section 301. Section 301 provides that this title may be cited as the "Insurance Amendments of 1984".

Section 302. Section 302 eliminates the requirement, unnecessary in light of subsequent amendments described herein, that an account be surrendered and transferred to the Corporation before payment of insurance on such account, and also provides that the Corporation shall, where it pays insurance on accounts of a defaulted institution, be subrogated to the claims of insured members by operation of law when and to the extent that such insurance payment has been made.

Section 303. Section 303 provides that the Corporation may withhold payment of insurance to insured members to the extent of liability of a member, but not including any liability of a borrower not in default.

Section 304. Section 304 makes conforming amendments to ensure consistency between the subrogation provisions of section 405(b), as amended by Section 302, and Section 406 of the National Housing Act.

TITLE IV—RECEIVERSHIP POWERS

Section 401. Section 401 provides that this title may be cited as the "Receivership Improvement Act of 1984."

Section 402. Section 402 provides that the Corporation, in connection with its activities as receiver, shall not be required to furnish any bond, shall have authority to employ persons as it deems appropriate to conduct the business of the receivership, and that all expenses relating to such receivership activities may be paid out of the receivership funds.

Section 403. Section 403 strengthens the Corporation's position as receiver by rendering ineffective many "side deals" entered into improperly by officers, directors, employees, agents, persons participating in the conduct of the institution and persons filing a change of control notice without the approval of the board of directors of such institutions. It also provides that any property in which the Corporation as receiver claims any interest shall be property of the receivership estate. This section further provides for an automatic stay on all claims against the receivership estate analogous to that provided under the Bankruptcy Code, including provisions for adequate protection, and specifies, as a matter of preemptive federal law, priorities for satisfaction of claims against the receivership estate. Further, section 403 provides that any funds expended by the Corporation to carry out the purposes of the National Housing Act shall not be deemed to be appropriations under section 1511 of Title 31 of the U.S. Code.

Section 404. Section 404 provides that the Corporation shall be treated as a mixed ownership government corporation in section 9101 of Title 31 of the U.S. Code.

Section 405. Section 405 clarifies the Corporation's position as exempt from restrictions, statutory or otherwise, concerning personnel or apportionment of expenses.

TITLE V—CHANGE IN CONTROL

Section 501. This section provides that this title may be cited as the "Change in Control Amendments of 1984."

Section 502(a). This section eliminates the reference to acquisition of stock since it is included in the broad definition of control in Section 407(q)(7)(B) of the National Housing Act as amended by section 502(j). That change clarifies the Corporation's present authority over changes of control not resulting from transfers or purchases of stock. This section also clarifies the authority of the Corporation to issue a conditional approval of a change in control by providing explicitly that a notice of intent not to disapprove may be conditional. Enforcement is strengthened by providing that a violation of such conditions constitutes a violation of the Change of Control Act ("Act"), section 407(q) of the National Housing Act and shall be subject to a $10,000 per day penalty, divestiture order, cease-and-desist order or any combination thereof.

Section 502(b). Section 502(b) restates in clearer language the present requirement in the Act that the Corporation contact the state authorities if the acquisition is of a state-chartered institution and allow 30 days for their comment in nonsupervisory cases.

Section 502(c). This section extends from three to ten days the time within which the Corporation must notify the proposed acquiror after a decision to disapprove a proposed change in control.

Section 502(d). This section deletes the provision for an agency hearing to an ac-

quiror who receives a notice of the Corporation's intent to disapprove a proposed change in control. Because of the provisions permitting such applicants access to judicial review, additional review at the agency level is considered unnecessary.

Section 502(e). This section renumbers section 407(q)(5) as 407(q)(4) and makes technical amendments to delete references to an agency hearing to conform to the deletion of the hearing requirement in 407(q)(4).

Section 502(f). This section expands the coverage of the Act by providing that potential acquirors must disclose the identify, history, background and experience of persons who control or are controlled by such prospective acquirors.

Section 502(g). This section specifies that the notice filed with the Corporation must include a detailed business plan for the association for three years after acquisition.

Sections 502(h) and (i). These sections extend the list of conditions under which the Corporation may disapprove a change of control. First, activities conducted by the acquiring person which are detrimental to the insurance risk of the Corporation are added to the list. Second, the adverse effect on the public's trust and confidence that may result from a lack of competence, experience or integrity on the part of the acquiring person of affiliated persons is recognized as an adverse condition which may precipitate disapproval. Third, refusal to furnish information by a person in control of an acquiring person is grounds for disapproval. Finally, a history of or business plans which are inconsistent with safe and sound operation or are detrimental to the insurance risk of the Corporation are grounds for disapproval.

Sections 502(j) and (k). These sections amend the definitions used in section 407 to make several clarifications. First, the definition of person is amended to include individuals and all entities not companies under the Holding Company Act. This change is intended to make clear that acquisitions by companies are governed by the Holding Company Act while acquisitions by individuals and other entities are subject to the Change in Control Act. Section 502(j) defines control to include acquisitions by parties acting through or in concert with others. Acting in concert is defined to include any knowing participation toward a common goal, whether or not it results from an express agreement. The definitions of insured institution appearing in various places are consolidated and include savings and loan holding companies and FDIC-insured federal savings banks. The definition of stock is unchanged but is moved to this definitional section.

Section 502(1). This section makes technical changes in numbering.

Section

502(m). This section strikes out paragraph 13, which contained definitions of stock and insured institution, to conform with section 502(k).

Section 502(n). This section clarifies the authority of the Corporation to issue regulations to enforce this Act, including those designed to prevent evasions and assure compliance. It also provides that the Corporation can conduct investigations and hearings in furtherance of the goals of the Act The Corporation is given the power to issue subpoenas, to depose witnesses, and to require production of documents. The Corporation and other parties to such proceedings are provided access to the courts to secure enforcement.

Section 502(o). This section makes technical changes in numbering.

Section 502(p). This section adds criminal penalty provisions and expands the civil penalty provisions of the Change of Control Act in order to conform to the penalty provisions that are currently present in the Savings and Loan Holding Company Act, section 408 of the National Housing Act. This section provides that an individual who willfully violates the Change of Control Act may be fined up to $10,000 and imprisoned up to one year, and that a person other than an individual is subject to a fine of up to $1,000 for each day it is in violation. The Corporation is given authority in addition to impose and enforce civil penalties of up to $1,000 per day for any violation even if it is not willful. Access to the courts is provided to review the Corporation's determinations with respect to civil penalties.

Section 502(q). This section makes numbering changes.

TITLE VI—HOLDING COMPANIES

Section 601. This section provides for citation as the "Holding Company Amendments of 1984."

Section 602. This section broadens the definition of uninsured institution to include any deposit or account taking organization, other than a federal savings bank, which is not insured by the FSLIC. The definition of the term "company" is also broadened to include a group of individuals and/or companies acting in concert which has an arrangement which restricts or directs their voting rights in the insured institution or which provides for allocation of profits, losses, or expenses or for disposition of their individual ownership interests in the insured institution.

Section 603. Section 603 adds four new definitions. "Acting in concert" is defined to include knowing participation in a joint activity or conscious parallel action towards a common goal or a combination or pooling of voting or the interests in securities of an issuer for a common purpose pursuant to any agreement or other arrangement. This section also defines "equity security" to mean any stock or similar security, or any security convertible into such a security, or carrying any warrant or right to purchase such a security, or any such warrant or right. "Market maker" is defined as any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who holds himself out as being wiling to buy and sell a particular security for his own account on a regular or continuous basis. "Underwriter" has been broadly defined as any person who purchases from a issuer, or an affiliate thereof, with a view to, or offers or sells for an issuer in connection with, the distribution of a security, or participates or has a direct or indirect participation in any such undertaking or participates or has participation in the direct or indirect underwriting of such undertaking. This does not include a person who simply receives from the underwriter or dealer the usual or customary distributor's or seller's commission.

Section 604. This section expands the definition of "control" in two respects. Control of an insured institution is expanded beyond mere control of voting stock to include a person who directly, indirectly or acting in concert with another person or through a subsidiary has contributed more than 25 percent of the capital of such institution. This section also broadens the Corporation's power to determine on a case by case basis or generally that a person controls an insured institution or other company, by deleting the current hearing requirement, and by clarifying the Corporation's authority to determine the existence of control due to the power to exercise a controlling influence over the management or policies of such institution or other company. Existing provisions of the Savings and Loan Holding Company Act ("Act"), section 408 of the National Housing Act, that provide access to the courts for review of the Corporation's determination of control have been retained.

HOLDING COMPANY ACTIVITIES

Section 605. This section prohibits savings and loan holding companies, and insured institutions regardless of whether or not they are controlled by a holding company, from directly or indirectly engaging in the activities of an underwriter or market-maker in (i) equity securities or (ii) debt securities other than those secured by interests in real estate or that are eligible to be underwritten by national banks.

PROHIBITED TRANSACTIONS

Section 606. This section extends the current prohibitions on transactions between insured institutions and their parent savings and loan holding company and affiliates to transactions between subsidiaries of insured institutions and their parent savings and loan holding company and affiliates. The exception for investment by the insured institution in stocks, bonds, notes and other obligations of its service corporation has been extended to except investment by subsidiaries of the insured institution in the stock, bonds, notes and other obligations of its parent insured institution.

Section 607. Section 607 clarifies the intent of the current service corporation exception allowing the insured institution to make a loan to a third party secured by real estate acquired from the institution's wholly-owned service corporation by replacing the wholly-owned requirement with a requirement that no affiliate other than the insured institution and/or its subsidiaries have a direct or indirect controlling interest in that service corporation. Consistent with the overall expansion of the prohibitions in section 606 to include transactions between subsidiaries of insured institutions, this exception has been extended to subsidiaries of insured institutions. The requirement that the Corporation's prior approval must be obtained for such service corporation transaction has been deleted. The service corporation exception has also been restricted to service corporations which are not themselves insured institutions. In addition, the current provision that prohibits an insured institution, or, as added in section 605, a subsidiary thereof, from guaranteeing the repayment of or maintaining compensating balances for any loan granted to any affiliate by any third party has been amended to except transactions involving a loan to a wholly-owned service corporation of the insured institution or its subsidiary.

ACQUISITIONS

Section 608. This section clarifies the provision that prohibits the acquisition or retention of uninsured institutions by a savings and loan holding company by amending the provision to preclude a savings and loan holding company from itself becoming an uninsured institution or acquiring control of such an institution without the prior approval of the FSLIC pursuant to the approval standards being added by section 611.

Section 609. In conjunction with section 610, this section clarifies the Act by consolidating the criteria for disapproval of an acquisition of insured institutions by a company not already a savings and loan holding company with the approval criteria applicable to the acquisition of more than one insured institution by a company not already a savings and loan holding company and the criteria applicable to the acquisition of an insured institution by a savings and loan holding company.

Section 610. This section applies to all types of acquisitions of insured and uninsured institutions the review standard that the FSLIC "shall not approve" if specified criteria are not met. The current provisions only apply that standard to acquisitions of an insured institution by a savings and loan holding company or the acquisition of more than one insured institution by a company not already a savings and loan holding company. With regard to acquisitions of one insured institution by a company not already a savings and loan holding company, the current provisions provide that the FSLIC "shall approve" unless the criteria are not met. This section amends the review standard to emphasize that the FSLIC's exercise of its authority to approve an acquisition is discretionary and that its exercise of its authority to disapprove an acquisition is mandatory if it determines that the criteria specified exist.

The present criteria precluding approval of acquisitions that are anti-competitive or that violate the antitrust laws have been retained. The provision regarding approval of an acquisition that does not serve the convenience and needs of the communities currently applicable to acquisitions of an insured institution by a savings and loan holding company and acquisition of more than one insured institution by a holding company not already a savings and loan holding company, has been expanded to require that all acquisitions of insured and uninsured institutions meet this test.

The additional criteria imposed by this section have been taken from the Change in Control Act, section 407(q) of the National Housing Act, as amended in foregoing sections of this bill, but they are similar to the less explicitly stated criteria in the present Savings and Loan Holding Company Act, section 408 of the National Housing Act. One of those additional criteria requires the FSLIC to disapprove an acquisition if the FSLIC determines that the activities or financial condition of the acquiring company of person in control thereof might jeopardize the financial stability of the institution or prejudice the interests of its depositors or be detrimental to the insurance risk for the FSLIC. This section also provides that the FSLIC shall not approve an acquisition if it determines that the competence, experience or integrity of any acquiring company, controlling person, management of such company or of the proposed management of the insured institution to be acquired indicates that the public's trust and confidence in the insured institution are likely to be adversely affected, or that it would not be in the interest of the depositors of the institution or in the interest of the public to permit the acquisition. The FSLIC is also precluded from approving an acquisition if the acquiring company, or a person in control thereof, neglects, fails or refuses to furnish the FSLIC all the information it requires. Approval of the acquisition is also prohibited if the FSLIC determines that the acquiring company's future business plans for the insured institution or previous operation of any other insured institution are not or were not consistent with the safe and sound operation of such an institution, with the purposes of an insured institution, as determined by the FSLIC, or otherwise would be detrimental to the insurance risk of the FSLIC.

Section 611. This section prohibits the FSLIC from approving a transaction which would result in a savings and loan holding company that is itself an uninsured institution or that has control of an uninsured institution, unless authorized by the FSLIC for up to one year after control has been acquired of the insured or uninsured institution, whichever is later, if the FSLIC determines that it would not represent an undue risk to the FSLIC's insurance fund or for a longer period, including perpetuity, if the FSLIC determines that it would assist the FSLIC in preserving its insurance fund. This section also prohibits the FSLIC from approving an acquisition of an insured institution by a company engaged in the activities of an underwriter or market maker in (i) equity securities or (ii) debt securities other than those secured by interests in real estate or that are eligible to be underwritten by national banks.

Section 612. This section amends an existing provision of the National Housing Act to emphasize the FSLIC's authority to define the terms used therein.

Section 613. This section deletes a reference to another provision in the National Housing Act which was deleted by section 604.

Section 614. Section 614 adds to the FSLIC's administrative enforcement authority the power to require rescission of transactions in violation of the National Housing Act, and to require restitution to persons suffering damages as a result of such violations.

TITLE VII—QUALIFIED THRIFT LENDERS

Section 701. Section 701 provides that this title may be cited as the "Qualified Thrift Lender Act of 1984."

Section 702. Insurance Eligibility. This section conditions eligibility for FSLIC insurance by non-federal associations and FDIC-insured federal savings banks upon meeting the definition of a "qualified thrift lender". The definition is designed to insure a significant, continuing emphasis on housing and housing-related activities. A "qualified thrift lender" is required to maintain at least 60% of assets in specific housing and housing-related investments and certain liquid assets. An institution which fails to maintain "qualified thrift lender" status is ineligible to reattain such status for a period of five years.

The list of qualifying assets is sufficiently diverse to allow flexibility on the part of institution management to develop its own housing focus. The assets listed as qualifying include all loans, equity positions or securities related to domestic residential real estate or manufactured housing (including all investments in mortgage-related securities, both of the asset participation and pay-through bond type), all assets now incorporated in Section 7701(a)(19)(C) of the Internal Revenue Code, as well as all investments related to shelter-providing facilities such as hospitals, nursing homes and student dormitories, all investments in items that qualify as short-term liquid assets pursuant to section 5A of the Federal Home Loan Bank Act, and qualifying assets held by a thrift's subsidiary. In addition, in order to recognize the contribution of thrifts participating in the secondary market, this section permits the Board to reduce the 60% averaging requirement for any relevant period by a percentage of loans related to residential real estate and manufactured housing originated and sold by the thrift or its subsidiary during that period.

To provide sufficient time for state chartered mutual savings banks to conform with the new "qualified thrift lender" test, the bill allows for a gradual restructuring of their asset portfolios over a twenty year period. Additionally, the bill requires that, with respect to stock savings banks insured by the FDIC, the FSLIC must rely, to the maximum extent possible, upon examinations conducted by the FDIC.

Section 703. Eligibility for Advances. This section limits the eligibility for Federal Home Loan Bank advances by members with deposits insured by the FSLIC or FDIC to "qualified thrift lenders" as defined in the National Housing Act, except as the Board prescribes by rule or regulation.

Section 704. Service Corporations. This section increases the service corporation investment authority of federal associations with a demonstrated emphasis on housing finance by increasing the authorized level of investment therein from three to five percent of assets for federal "qualified thrift lenders". This section also deletes the current proviso requiring that associations devote half of the investment under this authority which exceeds one percent for community development purposes.

Section 705. Branching. This section substitutes the "qualified thrift lender" test for the current "domestic building and loan association" test contained in section 7701(a)(19)(C) the Internal Revenue Code with regard to limits on out-of-state branching by federal associations.

Section 706. Extraordinary Acquisitions. This section requires that a bank or bank holding company making an out-of-state acquisition of an insured institution under the authority of section 408(m) of the National Housing Act must conform to the branching limitations applicable to banks in the State in which the acquired insured institution is located if the thrift is not a "qualified thrift lender" as defined in section 403 of the National Housing Act, as amended by section 702 of this bill. Under current law, this limitation is linked to qualifying status as a "domestic building and loan association" under section 7701(a)(1)(C) of the Internal Revenue Code.

Section 707. Unitary Holding Companies. This section likewise substitutes the "qualified thrift lender" test for the "domestic building and loan association" test with regard to limits on the activities of unitary savings and loan holding companies. Under the present law, the activities of a unitary savings and loan holding company with a non-qualifying insured institution subsidiary are limited to the same extent as those of multiple savings and loan holding companies and their subsidiaries.

TITLE VIII—ACCEPTANCE OF TRAVEL SUPPORT; DEMAND DEPOSITS

Section 801. Section 801 of the bill amends section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) to make applicable to the Board and the FSLIC travel and subsistence expense provisions which are applicable to the Securities and Exchange Commission.

Section 802. Demand Accounts. This section would revise Section 5(b)(1) of the HOLA to permit federal associations to

accept demand deposits without limitation. At present, federal associations may accept demand deposits only from persons or organizations that have established a business relationship with the association, except that such accounts can also be accepted from a corporate, commercial, business or agricultural entity for the sole purpose of effectuating payments thereto by a non-business customer.

Section 803. This amendment deletes the requirement that negotiable order of withdrawal ("NOW") accounts be issued only to individuals or to non-business type organizations.●

By Mr. MATHIAS:

S. 2705. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

HIGHER EDUCATION INVESTMENT PLAN

● Mr. MATHIAS. Mr. President, George Washington in his first message to Congress said:

Knowledge is to every country the surest basis of public happiness.

The Congress would do well to heed Washington's admonition as it examines budget proposals and considers new limits on Government services.

Higher education is one of the best, most cost-effective investments for securing the future of our Nation. The Federal student loan and grant programs have proven very effective in assuring every able student access to higher education and choice in higher education. These Federal programs have permanently changed the higher education landscape of the Nation and are serving our country very well.

Although I would prefer and will support continued full funding of the direct aid and loan programs, I believe that escalating costs are higher education's worst enemy. Thus I reluctantly anticipate some adjustments and limitations on the growth of these Federal assistance programs in the years ahead.

Educators and legislators should recognize that Federal student aid in an era of tight budgets will be increasingly targeted toward the lowest income students, leaving others with few options. The challenge we must meet, if we are to develop the creativity and talent of all our young people, is to assure continued access to higher education for other able students.

With this in mind, the Citizens League of Baltimore conducted a thorough 2-year study of additional ways to help students and their families pay for higher education. Based on this study, the Citizens League has recommended a higher education investment plan that is practical, administratively simple, and economically sound.

Under this plan, individuals who set aside for educational purposes up to $2,000 per year per student beneficiary would be allowed a corresponding income tax deduction. This is the same kind of tax relief now accorded individual retirement accounts. The funds would not be taxed until after the student has graduated, and then the funds would be taxed as income to the beneficiary over a 10-year period in equal parts.

The distinctive feature of this education savings account plan is that it would benefit those who cannot save as well as those who can. Five percent of the total saved in each account would be placed in that State's scholarship pool for needy students. Taxes on this amount would be forgiven entirely.

In time of shrinking State support for higher education, this 5-percent contribution could place millions of new dollars in State treasuries for higher education. In fact, State scholarship funds could receive a good deal of money the year after the plan goes into operation, long before any student beneficiaries would draw from the individual accounts. In Maryland, for example, calculations show that if only half of the eligible families or individuals participated in the plan during its first year of operation, the State scholarship fund would increase by $11.2 million.

The education savings account plan I am introducing will:

Provide incentives for saving;

Defer taxes on principal and earnings for the investor;

Benefit many people in addition to those who can afford to save;

Make new scholarship funds available through tax-exempt contributions; and thereby

Provide additional funds to students who are otherwise unable to finance their education.

The incentives in this bill encourage financially able families to act in the public interest by assuming greater responsbility for financing their children's higher education. This proposal is basically a self-help plan that will maintain the opportunity for access and choice in higher education.

Those who have confidence enough in the future to save to finance education should be able to expect this limited Government incentive. Investments for higher education should be treated in a manner similar to other capital investments or to investments in individual retirement plans.

When we invest a dollar in higher education, we are investing in America's future. We are buying this Nation something it sorely needs. The benefits of higher education accrue to the entire society and not merely to individual students.

Young people today make up only two-fifths of our population, but the whole of our future will lie in their hands. We must act now to assure that higher education will not be out of their reach.

I ask unanimous consent that the text of the bill and the recommendation of the Citizens League of Baltimore, together with tabular material, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. EDUCATION SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction for any taxable year the sum of—

"(1) amounts paid in cash, and

"(2) the fair market value at time of transfer of stock, bonds, or other securities, which are readily tradeable on an established securities market,

transferred during the calendar year which ends with or within such taxable year by such individual to an education savings account established for the benefit of an eligible individual.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—

"(A) IN GENERAL.—An education savings account may not be established for the benefit of more than 1 individual.

"(B) ALTERNATE BENEFICIARY.—The limitation in subparagraph (A) shall not prohibit the designation of an alternate beneficiary in the case of the death of the original beneficiary or the failure of the original beneficiary to attend an eligible educational institution.

"(2) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT PER CALENDAR YEAR.—An individual who is the beneficiary of more than 1 education savings account during any calendar year shall only be treated as an eligible individual for the first account established for the benefit of such individual.

"(3) MAXIMUM DEDUCTION PER ACCOUNT.—The amount allowable as a deduction under subsection (a) to an individual for amounts paid or transferred to an account for any calendar year shall not exceed $2,000.

"(4) CONTRIBUTIONS BY MORE THAN 1 PERSON.—If more than 1 individual makes contributions to an educational savings account during a calendar year, the $2,000 amount under paragraph (3) shall be allocated proportionately among all individuals contributing to the account during the year on the basis of the amounts contributed by each such individual.

"(5) ADJUSTMENT OF LIMIT FOR INFLATION.—

"(A) IN GENERAL.—Beginning in 1985, the dollar amounts in paragraph (3), paragraph (4), and subsection (c)(2)(A) shall each be adjusted by multiplying such amounts by the inflation adjustment factor for the 12-month period ending on July 31 of the preceding calendar year and, as adjusted, shall be substituted for such amounts for taxable years ending with or within the calendar year next beginning after such 12-month period.

"(B) COMPUTATION OF INFLATION ADJUSTMENT FACTOR.—

"(i) DETERMINATION AND PUBLICATION.—The Secretary shall, not later than October 1 of each calendar year (beginning in 1984), determine and publish in the Federal Register the inflation adjustment factor for the immediately preceding 12-month period ending on July 31 in accordance with this paragraph.

"(ii) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the average monthly Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period ending on July 31 and the denominator of which is the average monthly Consumer Price Index (all items—United States city average) for the 12-month period ending on July 31, 1983.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means the taxpayer or a child of the taxpayer (within the meaning of section 151(e)(3)) unless the taxpayer has attained the age of 50 or the child has attained the age of 25 before the close of the calendar year for which the contribution is made.

"(2) EDUCATION SAVINGS ACCOUNT.—For purposes of this section, the term 'education savings account' means a trust created or organized in the United States exclusively for the purpose of paying the educational expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market, and contributions will not be accepted for the taxable year in excess of $2,000.

"(B) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the account may be invested in an annuity contract, or an endowment contract (as determined by regulations prescribed by the Secretary), issued by an insurance company which meets the following requirements:

"(i) The contract is not transferrable by the owner.

"(ii) UNDER THE CONTRACT.—

"(I) the premiums are not fixed,

"(II) the annual premium on behalf of any individual will not exceed $2,000, and

"(III) any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

"(E) The assets of the account may be invested in accordance with the direction of the individual contributing to the account, but, if more than one individual has made contributions to the account, the consent of all such individuals shall be required for any such direction.

"(F) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(G) Any balance in the account on the day before the earliest date on which—

"(i) the eligible individual, if the taxpayer, attains the age of 60,

"(ii) the eligible individual, if the child of the taxpayer, attains the age of 30, or

"(iii) three years have expired since the eligible individual attended an eligible educational institution,

will be distributed on that date to each of the individuals who have contributed to the trust in an amount which bears the same ratio to such balance as such individual's contributions bear to the sum of all such contributions.

"(H) The trustee is required to transfer 5 percent of the amount of any contribution to the trust to a qualified State educational fund.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with or within which the calendar year ends.

"(4) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(5) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution,

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution, and

"(C) a reasonable allowance for meals and lodging.

"(6) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a vocational school.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1201(a) or 491(b) of the Higher Education Act of 1965.

"(8) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 195(2) of the Vocational Education Act of 1963 which is in any State (as defined in section 195(8) of such Act).

"(9) SPECIAL RULES RELATING TO TRANSFERS TO QUALIFIED STATE EDUCATIONAL FUND.—

"(A) QUALIFIED STATE EDUCATIONAL FUND.—The term 'qualified State educational fund' means a fund established by State law or the chief executive officer of a State the assets of which are used to provide scholarship assistance to individuals attending eligible educational institutions within the State.

"(B) TIME PAYMENT MADE.—The trustee shall make the transfer described in paragraph (2) (H) with respect to any contribution not later than 30 days after the last day prescribed by law for filing the return (including extensions thereof) for the taxable year—

"(i) of the individual making the contribution, and

"(ii) within which the contribution was made or deemed to be made.

"(C) STATE TO WHICH MADE.—An individual or the executor of such individual (as defined in section 2203) making a contribution with respect to which a transfer described in paragraph (2) (H) is required shall designate the qualified State educational fund to which such transfer shall be made.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education savings account shall be included in gross income by each individual who has contributed to the account, in an amount which bears the same ratio to such payment or distribution as the amount contributed by that individual for all taxable years bears to the amounts contributed by all individuals for all taxable years, for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational expenses incurred by the individual for whose benefit the account is established, or such amount is transferred to a qualified State educational fund at the date described in subsection (c)(2)(G).

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an education savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) QUALIFIED DISTRIBUTIONS INCLUDED IN BENEFICIARY'S INCOME OVER 10-YEAR PERIOD.—The gross income of an individual for whose benefit an education savings account was established for the taxable year in which the date described in subsection (c)(2)(g) occurs and for each of the 9 succeeding taxable years shall be increased by 10 percent of the sum of the amounts paid or distributed out of the account which were used exclusively to pay the educational expenses incurred by that individual.

"(4) AMOUNTS TRANSFERRED TO QUALIFIED STATE EDUCATION FUNDS.—The gross income of any individual shall not be increased by reason of any amount paid or distributed out of an education savings account to a qualified State educational fund.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An education savings account is exempt from taxation under this subtitle unless such account has ceased to be an education savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by

section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of an individual who contributes to an education savings account, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR EDUCATIONAL EXPENSES.—If a distribution from an education savings account is made, and not distributed to a qualified State educational fund or used in connection with the payment of educational expenses of the individual for whose benefit the account was established, the tax liability of each of the individuals who has contributed to the account for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (d), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is made after the taxpayer becomes disabled within the meaning of section 72(m)(7).

"(g) DEATH OF CONTRIBUTOR.—With respect to any individual who has contributed to an education savings account, if any amount pursuant to the provisions of this section is to be distributed or included in the gross income of such individual subsequent to his death, such amount shall be distributed or included in the gross income of the individual for whose benefit such account was established.

"(h) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(i) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(j) REPORTS.—The trustee of an education savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to retirement savings) is amended—

(1) by inserting "or education" after "Retirement" in the caption of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 223 (relating to deduction of certain payments to education savings accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "education savings accounts," after "accounts," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as (3) and (4), and by inserting after paragraph (1) the following:

"(2) an education savings account (within the meaning of section 223(c)),", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNTS.—For purposes of this section, in the case of an education savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 223(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the education savings account and a distribution to which section 223(d)(2) applies shall be treated as an amount not contributed.".

(d) CONTRIBUTION NOT TO BE TREATED AS A GIFT FOR GIFT TAX PURPOSES.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(f) EDUCATION SAVINGS ACCOUNTS.—For purposes of subsection (b), any payment made by an individual for the benefit of his child to an education savings account described in section 223(c) shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 223.".

(e) Tax on Prohibited Transactions.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR EDUCATION SAVINGS ACCOUNTS.—An individual for whose benefit an education savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings acccount by reason of the application of section 223(e)(2)(A) to such account.", and

(2) by inserting "or an education savings account described in section 223(c)" in subsection (e)(1) after "described in section 408(a)".

(f) FAILURE TO PROVIDE REPORTS ON EDUCATION SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting "or education savings accounts" after "annuities" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 223(i) to file a report regarding an education account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to unreasonable cause.".

(g)(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 223 and inserting in lieu thereof the following:

"Sec. 223. Education savings accounts.
"Sec. 224. Cross references.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education savings accounts.".

(h)(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. EDUCATION SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, and except as is provided in section 223(d)(1), gross income does not include distributions from an education savings account used exclusively for the payment of educational expenses of that individual (within the meaning of section 223(c)(5)).".

(2) The table of sections for such part III is amended by inserting after the item relating to section 129 the following new items:

"Sec. 130. Education savings account distributions.
"Sec. 131. Cross references to other Acts.".

(i) Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) A payment to an individual for whose benefit an education savings account (as defined in section 223(c)) is established from that account which is excluded from the gross income of that individual under section 130 shall not be taken into account in

determining support for purposes of this section.".

(j) The amendments made by this section shall take effect with respect to taxable years beginning after December 31, 1983.

CITIZENS LEAGUE OF BALTIMORE HIGHER EDUCATION INVESTMENT PLAN

THE PLAN

Amend the U.S. Internal Revenue Code to allow an annual income tax deduction to individuals of up to $2,000 per beneficiary for amounts invested in a Higher Education Investment Plan. The $2,000 maximum allowable amount would be indexed to allow for the effects of inflation, as measured by annual changes in the Consumer Price Index of each year the plan is in effect.

ADJUSTING THE PRINCIPAL—A STATE SCHOLARSHIP POOL

Five percent of the total investment will be placed in a scholarship pool of the saver's state of residence for distribution to prospective students in that state according to financial need. Taxes are forgiven on the 5 percent contribution while taxes are deferred on the residual principal sum and on all earnings on principal until withdrawn.

For example:

Original investment in the plan	$2,200
Less: 5 percent contribution (tax forgiven)	100
Equals: Principal (tax deferred)	1,900

The resulting principal investment must remain in the account for at least one year.

USING THE FUNDS

Amounts withdrawn from the account for education expenses will be taxed to the beneficiary of the account over a ten-year period beginning the second year after completion of a course of studies at an approved institution of higher education or vocational school.

Education expenses include tuition, fees, books, supplies and equipment required for courses of instruction at an eligible educational institution, and a reasonable allowance for meals and lodging. An eligible institution is an approved institution of higher education or vocational school.

Each account will be administered by a custodian which is a bank, insured credit union or person satisfactory to the Secretary of the Treasury.

HOW THE PLAN WORKS—A HYPOTHETICAL CASE

Assume an investor with four dependents who has an annual salary of $25,000 invests in the plan. The investor's effective tax rate will be 25 percent federal and 7.5 percent state. The investor is a parent and the beneficiary is the investor's child.

The maximum of $2,000 per year is deposited over a six-year period. Deposits begin three years prior to the beneficiary's entrance into college as shown in Table 1.

TABLE 1.—RETURN TO INDIVIDUAL INVESTOR IN HIGHER EDUCATION INVESTMENT PLAN

Year	Investment year	Beginning of year	Deposit	5 percent contribution	Principal	Interest earned	End of year balance	Withdrawal
(1)	(2)	(3) (8)	(4)	(5)	(6) (4−5)	(7)	(8) (6+7)	(9)
X	1	X	$2,000	$100	$1,900	$190	$2,090	X
X	2	2,090	2,000	100	3,990	399	4,389	X
X	3	4,389	2,000	100	6,289	629	6,918	3,000
1	4	3,918	2,000	100	5,818	582	5,400	3,000
2	5	3,400	2,000	100	5,300	530	5,830	3,000
3	6	2,830	2,000	100	4,730	473	5,203	5,203
4	7	0			0	0	0	0
Total			12,000	600		2,803		14,203

Source: Citizens League Contribution.

This year it is expected that approximately 226,000 Marylanders will attend college; 171,000 in Maryland institutions and 55,000 in out-of-state institutions. Table 2 illustrates the effects of a 5 percent contribution to the Maryland Scholarship Pool under three participation rates in the plan.

TABLE 2.—EFFECTS OF 5 PERCENT CONTRIBUTION FROM THE PLAN ON STUDENT FINANCING OF HIGHER EDUCATION

	Student participation rates		
	5 percent (11,300)	50 percent (113,000)	100 percent (226,000)
Total deposited in the plan at $2,000 maximum per buyer (in millions of dollars)	$22.6	$225.8	$451.6
Amount available from 5 percent contribution (in millions of dollars)	$1.1	$11.3	$22.6
Remaining principal	$21.5	$214.5	$429.0
Interest at 10 percent, 1 year	$2.5	$21.5	$42.9
Number of students which 5 percent contribution pool will support in tuition and fees:			
Public	1,063	10,630	21,260
Private	266	2,655	5,310
Estimated tuition and fees per student in Maryland: Public—$1,063; private—$4,256			

Note.—The interest earned can be reinvested in the accounts for a greater overall return. Interest earned can also be seen as additional funds for higher education expenditures by individuals as can deferred taxes to be paid by the beneficiary.

Source: Citizens League Calculations.

BENEFITS OF THE PLAN

1. No new federal or state agencies are required to administer this plan.

2. Referring to Table 1, each person who invests a maximum of $2,000 per year per beneficiary or student over a six-year period will have:

$3,705 in taxes deferred on deposits of $12,000.

$195 in taxes forgiven on the 5% contribution to the Scholarship Pool of $600.

$982 in taxes deferred on the interest income of $2,803.

$4,882 is the total of deferred taxes and taxes forgiven.

Since deferred taxes would be paid by the beneficiary or student, later, this $4,882 per investor could represent an additional amount of spending by the investor on higher education.

3. The plan's yield should be consistently 4 to 5 percent greater than market interest rates due to the tax referral compounding.

4. Investors or buyers can create a possible tax-free source of funds for education which no other plan allows.

5. The fund may counter the coming reduction in government funds for operating costs and student loans.

6. Persons with investment capabilities may benefit others who cannot save.

7. Anyone can now make a charitable contribution, including persons who do not itemize their deductions. The plan is unique since the proposed contribution to the Scholarship Pool would be automatic.

CONSTRUCTING THE PLAN

The Citizens League analyzed the effects of the Higher Education Investment Plan with special emphasis on yield to the investor, funds going to the tuition pool, and taxes forgiven and deferred until payment by the beneficiary. The investor-beneficiary, where a person invests in his or her own education, is also considered.

The financial effects of the plan were calculated using assumptions and projections on participation rates and educational costs. The results are reasonable estimates of the financial effects of the plan. Table 1 summarizes selected participation by 226,000 Maryland residents who would be paying for public and independent higher education in and out of the state this year. The projected buyers are based upon Citizens League and State Board of Higher Education forecasts of enrollments.

It was assumed that 75 percent of all Maryland residents buying higher education in and out of the state will invest in the plan.

The effective yield of the plan is based upon:

1. The interest income earned on the adjusted principal, after the 5 percent scholarship pool contribution is deducted;

2. The taxes forgiven on this contribution; and

3. The value of the taxes deferred on the adjusted principal and its interest income.

It is assumed that the adjusted principal will yield an average of 10 percent, irrespective of the length of time invested. The average investor, it is further assumed, pays a 25 percent federal tax rate and 7.5 percent Maryland tax rate.

The third item, the value of the taxes deferred on the adjusted principal and its interest income is of major importance. If the investor is a parent, for example, and not a beneficiary, he or she is not obligated to pay income tax on the adjusted principal or on the accumulated income, and the deferral of taxes for this investor is treated as though the taxes are forgiven. This is the case since the beneficiary of the parent's investment will pay deferred taxes at a later date over a ten-year period upon graduation from a higher education institution. The beneficiary will pay the taxes at his or her own rate at the time of repayment. Table 3 illustrates the payback and compares this to the repayment of a student loan.

A comparison of the beneficiary's obligation to pay back taxes and earnings under the plan against a 9 percent student loan is illustrated in Table 3, below. This is especially appropriate at this time, since severe limitations will be placed on U.S. Government Student Loan Funds available to individual students in the immediate future.

TABLE 3.—BENEFICIARY PAYBACK COMPARISON HIGHER EDUCATION INVESTMENT PLAN VERSUS STUDENT LOAN

[Assumptions]

	Percent	Amount
(a) With investment plan principal $2,000 per year or $8,000 over.		
(b) payback period—10 years (120 months).		
(c) Assumed income tax rate:		
1st 2 years	15	$240
2nd 2 years	20	320
3d 2 years	25	400
4th 2 years	30	480
5th 2 years	35	560
(d) With Loan of $8,000.		
(e) Payback Period—10 years (120 months)		
(f) Interest rate—9 percent		

	Higher education plan	Student loan
1. Amount spent on higher education	$8,000	$8,000
2. Total amount required to payback	2,000	15,200
3. Annual payment (average)	[1] 200	[2] 1,520

[1] Taxes.
[2] Principal and interest.

Note: This table illustrates an either-or situation. Doubtless a combination of the plan and a loan would be appropriate.

QUESTIONS AND ANSWERS ABOUT THE HIGHER EDUCATION INVESTMENT PLAN PROPOSAL

1. What will be the level of administration costs; will there be a maximum; how will they be paid?

The costs of administering the fund will be set by the administering financial institution and will vary depending on the size of the fund in that institution. Usually, the smaller the fund, the larger the percentage of the principal required to offset administrative expenses. The payment of administrative expenses should be deducted from the net return, after the 5 percent contribution to the scholarship pool. Obviously, the higher the administrative costs of an institution, the lower the net return of the plan to the investor, and the less attractive it becomes.

2. Can a rate of return on an investment in the fund be guaranteed?

This will be left up to each institution managing the fund.

3. What happens to the investment of an individual who changes residence from one state to another?

Federal benefits do not depend on the state in which the institution is located. Therefore, at the end of the calendar year, the investment could be moved from an institution in the old state to an institution in the new state, or it could be left in the original institution. The option belongs to the individual investor, and the only difference might be in the burden of state and local taxes.

4. What percentage of the investor's initial investment should be contributed to the scholarship pool?

The Citizens League believes 5 percent allows the plan to remain attractive enough to potential investors and still make a significant contribution to the students. The more contributed to the pool, the less attractive the plan will become for the investor, so that too high a percent could result in less being contributed.

5. What should be the basis for the distribution of the scholarship pool?

Funds from the pool in each state will be earmarked for scholarships according to students' academic attainment and financial need. This assumes that intellectual achievement and potential have been established by the applicant in accordance with his or her state's criteria.

6. Should the fund be allowed to make loans to individuals?

No. This provision would unnecessarily burden the fund with extra administrative expenses and also preempt other agencies and institutions from organizing to make these loans.

7. Should there be any restrictions on the types of investments made by the institutions administering the fund?

None other than those for an IRA or Keogh Plan.

8. What happens to an investor's fund if it is not used for higher education expenditures?

The 5 percent contributions to the investor's state scholarship pool would not be returned. If the investor chooses, he or she may:

a. Donate the proceeds to a state scholarship fund. The transaction would be treated as a charitable contribution; or

b. Withdraw the proceeds and pay a penalty and accumulated taxes on the deferment on principal and interest earned.●

By Mr. KENNEDY (for himself, Mr. MOYNIHAN, Mr. DODD, Mr. HATCH, Mr. BOSCHWITZ, Mr. DIXON, Mr. PELL, Mr. PROXMIRE, and Mr. SARBANES):

S.J. Res. 300. Joint resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland; ordered held at the desk until the close of business on May 23, 1984, by unanimous consent.

COMMENDING THE PARTICIPANTS IN THE NEW IRELAND FORUM

Mr. KENNEDY. Mr. President, on behalf of Senators MOYNIHAN, DODD, HATCH, BOSCHWITZ, DIXON, PELL, PROXMIRE, SARBANES, myself, and other members of the Friends of Ireland in the Senate, I send to the desk a joint resolution commending the work of the New Ireland Forum. The provisions of our Senate resolution are identical to the resolution introduced on May 17, 1984 in the House of Representatives by Congressmen BRIAN J. DONNELLY and THOMAS S. FOLEY.

All of us in the United States who care about the cause of peace and an end to the violence in Northern Ireland were heartened by the historic report earlier this month by the New Ireland Forum. In my view, the work of the Forum is the most promising initiative in more than a decade toward ending the violence and conflict in Northern Ireland.

As the report itself eloquently states:

The New Ireland Forum was established for consultations on the manner in which lasting peace and stability could be achieved in a new Ireland throught the democratic process and to report on possible new strutures and processes through which this objective might be achieved.

Participation in the Forum was open to all democratic parties which reject violence and which have members elected or appointed to either House of the Oireachtas of the Northern Ireland Assembly. Four political parties took part in the Forum: the Fianna Fail Party, the Fine Gael Party, the Labour Party and the Social Democratic and Labour Party (SDLP). These four parties together represent over ninety per cent of the nationalist population and almost three-quarters of the entire population of Ireland. The parties which participated in the Forum would have greatly preferred that discussions on a new Ireland should have embraced the elected representatives of both the unionist and nationalist population. However, the Forum sought the views of people of all traditions who agreed with its objectives and who reject violence. The establishment and work of the Forum have been of historic importance in bringing together, for the first time since the division of Ireland in 1920, elected nationalist representatives from North and South to deliberate on the shape of a new Ireland in which people of differing identities would live together in peace and harmony and in which all traditions would find an honoured place and have equal validity.

Mr. President, the work of the New Ireland Forum is a promising step toward peace. In a sense, the report is a "Declaration of Interdependence" for a future in which the two great traditions of Ireland—Catholic and Protestant, Nationalist and Unionist—can respect each other's aspirations and live and prosper together in a better land.

The opportunity presented by the Forum's report may well be the last best chance to attain reconciliation and to break the intensifying cycle of killing and violence that threatens to consume both parts of Ireland.

I hope that all sides to the present conflict—in Dublin and London, in Derry and Belfast—will embrace this opportunity for peace and work together to advance the process so well begun in this auspicious report. And I also hope that President Reagan, in his visit to Ireland next month and in his talks with British and Irish leaders, will offer the full assistance of the United States in achieving this long-sought goal.

Mr. President, the full text of the report of the New Ireland Forum is printed in the CONGRESSIONAL RECORD of May 3, 1984, at page 10830. I ask unanimous consent that the text of our resolution, the statement by the Friends of Ireland of May 3, 1984, and a State Department statement of May 4, 1984, may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 300

Whereas the people and the Congress of the United States are deeply troubled by the unending cycle of violence in Northern Ireland which has been a reality of life there for too long;

Whereas the communities of Northern Ireland have suffered great loss of life, political uncertainty, and chronic high unemployment;

Whereas the young people of Northern Ireland are becoming increasingly alienated by the disintegrating society around them;

Whereas the divisions between the two communities in Northern Ireland appear to be widening;

Whereas the problems of Northern Ireland cannot be met by security measures alone, but require an increased emphasis on a political process which seeks the support of both communities;

Whereas the New Ireland Forum represents a significant initiative in Ireland, and is a unique opportunity to achieve real progress towards peace and reconciliation in Northern Ireland;

Whereas the process initiated by the New Ireland Forum is a highly ambitious effort that is based on the doctrine of consent, and not of confrontation;

Whereas all democratic parties that oppose violence, North and South, were invited to participate in the Forum's search for a just and workable framework to solve the problems of Northern Ireland;

Whereas many Americans have been concerned by the lack of progress in bringing about a just and lasting solution to the problems of Northern Ireland, and are interested in supporting initiatives that could achieve progress towards a peaceful political solution to those problems;

Whereas the New Ireland Forum issued a report on May 2, 1984, which condemns violence and those who support it, identifies the major problems in Northern Ireland, and outlines potential frameworks for resolving those problems;

Whereas the New Ireland Forum process and the May 2nd report represent an opportunity to strengthen Anglo-Irish cooperation and dialog towards resolving the Northern Ireland problem and furthering reconciliation between the two communities; and

Whereas the Prime Minister of Ireland recently visited the United States where he had important discussions with the President and the Congress: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the participants in the New Ireland Forum are to be commended for their efforts to promote potential frameworks for progress towards reconciliation of the two communities in Northern Ireland; and

(2) all political parties in Northern Ireland, the British Government, and the Irish Government, should review the findings and recommendations of the report of the New Ireland Forum in the spirit in which they were offered, that of dialog and hope.

STATEMENT BY THE FRIENDS OF IRELAND ON THE REPORT OF THE NEW IRELAND FORUM—MAY 3, 1984

We are encouraged by the Report of the New Ireland Forum and we strongly urge the British Government as well as all political leaders in Northern Ireland to review its findings and recommendations with an open mind and an open heart.

We regard the Report as the first real breakthrough on the complex issue of Northern Ireland since the collapse of the Sunningdale Agreement in 1974. For the first time since the present troubles began, the leaders of the diverse nationalist political parties in both parts of Ireland have spoken together in their condemnation of the violence, in their willingness to put aside past passions and divisions, and in their support for a new Ireland achieved by consent.

Above all, the Report is an historic—and hopeful—document because of the unprecedented commitment made by nationalist leaders in Ireland, North and South, to provide full and fair protection for the rights and aspirations of the Unionist community in the North. By extending this olive branch and developing a specific agenda for peace, the Forum has embraced and indispensable dimension in the process of reconcilation; we urge leaders on all sides to encourage this process by working together to create a framework for future progress.

As Friends of Ireland in the Congress, we believe that the United States has a constructive role to play in achieving lasting peace and stability in Northern Ireland. We renew our call to all Americans to reject the path of violence and those who advocate it. We look forward to President Reagan's visit to Ireland next month as an important and timely opportunity to advance the peace process begun so well by this remarkable Report.

STATEMENT BY STATE DEPARTMENT—NORTHERN IRELAND—NEW IRELAND FORUM REPORT—MAY 4, 1984

Irish Foreign Minister Peter Barry this morning met with Deputy Secretary Kenneth Dam to brief him on the report of the New Ireland Forum, issued May 2 in Dublin. The Deputy Secretary expressed his appreciation to the Foreign Minister for the briefing and applauded the hard work and effort that has gone into preparation of the report. The Deputy Secretary assured the Foreign Minister that he will give the report full and careful study. He expressed our hope that the Forum process and the Forum report will strengthen Anglo-Irish cooperation in resolving the Northern Ireland problem and in furthering reconciliation between the two communities.

ADDITIONAL COSPONSORS

S. 476

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 476, A bill to amend title II of the Social Security Act to require, a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 1059

At the request of Mr. DENTON, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1059, A bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this act.

S. 1651

At the request of Mr. CRANSTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1651, a bill to amend title 38, United States Code, to provide for presumption of service connection to be established by the Administrator of Veterans' Affairs for certain diseases of certain veterans exposed to dioxin or radiation during service in the Armed Forces; to require the Administrator to develop, through process of public participation and subject to judicial review, regulations specifying standards for the presumptions applicable to the resolution of claims for disability compensation based on such exposures; to require that such regulations address certain specified diseases; and to require that all claimants for Veterans' Administration benefits be given the benefit of every reasonable doubt in claims adjudications, and for other purposes.

S. 1772

At the request of Mr. MATSUNAGA, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1772, a bill to amend title XVIII of the Social Security Act to provide for direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 2118

At the request of Mrs. HAWKINS, the names of the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. JEPSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Alabama (Mr. DENTON), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 2118, a bill to establish a Commission on Missing Children.

S. 2131

At the request of Mr. DECONCINI, the names of the Senator from Ohio (Mr. METZENBAUM), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and Congressional review of conditions in El Salvador and other countries.

S. 2272

At the request of Mr. GOLDWATER, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of S. 2272, a bill to authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

S. 2338

At the request of Mr. HEINZ, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2338, a bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis.

SENATE JOINT RESOLUTION 55

At the request of Mr. MATHIAS, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

SENATE JOINT RESOLUTION 129

At the request of Mr. PRESSLER, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Montana (Mr. MELCHER), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE JOINT RESOLUTION 235

At the request of Mr. PELL, the names of the Senator from Nebraska (Mr. ZORINSKY), the Senator from Alabama (Mr. HEFLIN), the Senator from Vermont (Mr. LEAHY), the Senator from Florida (Mrs. HAWKINS), the Senator from Florida (Mr. CHILES), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of Senate Joint Resolution 235, A joint resolution to authorize the Law Enforcement Officers Memorial Fund, Inc., to establish a National Law Enforcement Heroes Memorial.

SENATE JOINT RESOLUTION 257

At the request of Mr. STEVENS, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 257, A joint resolution to designate the period July 1, 1984, through July 1, 1985, as the "Year of the Ocean."

SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the names of the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Kansas (Mr. DOLE), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

SENATE JOINT RESOLUTION 290

At the request of Mr. EAGLETON, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. HELMS), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Joint Resolution 290, a joint resolution designating the month of November 1984, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 296

At the request of Mr. D'AMATO, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Kansas (Mr. DOLE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. PRESSLER), the Senator from South Carolina (Mr. THURMOND), the Senator from Indiana (Mr. QUAYLE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Joint Resolution 296, a joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. EAST), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. HELMS), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the names of the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE RESOLUTION 122

At the request of Mr. MOYNIHAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Resolution 122, a resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market.

SENATE RESOLUTION 329

At the request of Mr. NUNN, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of Senate Resolution 329, A resolution expressing the support of the Senate for the expansion of confidence building measures between the U.S. and the U.S.S.R., including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers.

SENATE RESOLUTION 389

At the request of Mr. CRANSTON, the names of the Senator from Arizona (Mr. GOLDWATER), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 389, a resolution to express the appreciation of the Senate to the Screen Actors Guild for 50 years of representing America's film performers.

AMENDMENTS SUBMITTED

VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS ACT

SIMPSON (AND OTHERS) AMENDMENT NO. 3088

Mr. SIMPSON (for himself, Mr. CRANSTON, Mr. BIDEN, Mr. STAFFORD, Mr. D'AMATO, Mr. SPECTER, Mr. ABDNOR, Mr. PRESSLER, Mr. MURKOWSKI, Mr. BYRD, Mr. RANDOLPH, Mr. HEFLIN, Mr. LAUTENBERG, and Mr. BINGAMAN) proposed an amendment to the bill (S. 1651) to amend title 38, United States Code, to provide for presumptions of service connection to be established by the Administrator of Veterans' Affairs for certain diseases of certain veterans exposed to dioxin or radiation during service in the Armed Forces; to require the Administrator to develop, through a process of public participation and subject to judicial review, regulations specifying standards for and presumptions applicable to the resolution of claims for disability compensation based on such exposures; to require that such regulations address certain specified diseases; and to require that all claimants for Veterans' Administration benefits be given the benefit of every reasonable doubt in claims adjudications; and for other purposes.

Strike out all after the enacting clause and insert in lieu thereof: That this Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in Southeast Asia during the Vietnam conflict and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to such uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to such medical and scientific uncertainty by mandating, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both

to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by mandating, in Public Law 97-414, the development of radioepidemiological tables, currently projected for completion in summer 1984, setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There are a total of sixty-six federally sponsored research projects currently being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000, and, as of 1981, federally-sponsored research projects relating to ionizing radiation were costing the Federal Government in excess of $115,000,000.

(6) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time."

(7) The "film badges" which were originally issued to members of the Armed Forces of the United States in connection with the nuclear testing program have previously constituted a primary source of dose information for veterans and survivors filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(8) Such film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear blast.

(9) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(10) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(11) Such claims present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service, particularly with respect to the difficulty of determining a connection between exposure during service and increased risk of adverse health effects (especially those involving long latency periods and ambiguities of causation) arising thereafter.

(12) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue will be given to the claimant.

SEC. 3. The purpose of this act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan (and dependency and indemnity compensation is provided to survivors of such veterans) for all disabilities arising subsequent to such service that are connected, based on sound scientific and medical evidence, to such exposure (and for all death resulting from such disabilities).

SEC. 4. Section 354 of title 38, United States Code, is amended in subsection (a)—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)," and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

(A) in the Republic of Vietnam prior to May 8, 1975, to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to such claims, when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this paragraph shall be constructed as relieving a claimant of the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation. Such guidelines shall require that, in the evaluation of such studies, the Administrator shall take into account whether the findings are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards (established pursuant to subsection (d)). Such evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in individual claims adjudications of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator, after receiving the advice of the Advisory Committee and of the appropriate panel of Scientific Council of the Advisory Committee on Environmental Hazards regarding the diseases named or described in subparagraph (B), shall make determinations, based on sound medical and scientific evidence, with respect to each disease named or described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall be highly cognizant of the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(12). The Administrator shall set forth in such regulations such determinations, together with any modifications of the maximum periods specified in such subparagraph and with any further specifications, relating to exposure or other relevant matter, of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) In the event that the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the named or described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) In the event that the Administrator does not make a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section specification of the factors to be considered in the adjudication of the issue of service connection with respect to such disease.

(B) The diseases referred to in subparagraph (A) as being named or described in this subparagraph are:

(i) In the case of a veteran who served in the Republic of Vietnam prior to May 8, 1975, and who, during such service, was exposed to a herbicide containing dioxin—

(I) a soft tissue sarcoma, if developed to a degree of disabillity of 10 percent or more within 30 years after the date of last departure from the Republic of Vietnam during such service,

(II) porphyria cutanea tarda, if so developed within one year after the date of last departure from the Republic of Vietnam during such service,

(III) chloracne, if so developed within one year after the date of last departure from the Republic of Vietnam during such service, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(i) finds that there is sound scientific or medical evidence indicating a connection to exposure to such herbicide and which has so developed within any maximum period of time after departure from the Republic of Vietnam during such service.

(ii) In the case of a veteran who, in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed, during such veteran's service, to ionizing radiation from the detonation of a nuclear device—

(I) leukemia and malignancies of the thyroid, female breast, lung, bone, liver, and skin, if developed to a degree of disability of 10 percent or more,

(II) polycythemia vera if so developed,

(III) hypothyroidism or a thyroid nodule, if so developed, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(ii) finds that there is sound scientific or medical evidence indicating a connection to exposure to ionizing radiation and which has so developed within any maximum period of time after such exposure.

(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. Such process may include consideration by the Administrator of the recommendations of the Advisory Committee on Environmental Hazards and the Scientific Council thereof (established pursuant to subsection (d)) with respect to the proposed regulations, and such process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than 90 days after the proposed regulations or proposed amendments are published in the Federal Register.

(2)(A) Not later than 120 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than 300 days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

(3) Notwithstanding section 211(a) of title 38, United States Code, or any other provision of law, subsequent to the publication of the final regulations required to be prescribed by this section, the Administrator's compliance with the provisions of, and any regulations prescribed pursuant to, this subsection shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

(d) The advisory committee referred to in subsections (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs, of whom eleven members shall be recognized medical or scientific authorities. Such eleven medical or scientific authorities shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee, and such Council shall be divided into a panel relating to dioxin and a panel relating to ionizing radiation.

SEC. 6. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation—

(1) the Secretary of Defense shall prescribe guidelines and any amendments thereto through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for Veterans' Administration disability compensation and dependency and indemnity compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veterans was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the current state of the art with respect to scientific and technical devices and techniques such as "whole body counters" which may be useful in determining previous radiation exposure,

(B) submit a report to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques, may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques, and

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent export who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

SEC. 7. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) a new subparagraph (B) as follows:

"(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

PRESSLER (AND OTHERS) AMENDMENT NO. 3089

Mr. PRESSLER (for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. HEINZ, Mr. RANDOLPH, and Mr. BYRD) proposed an amendment to amendment No. 3088 proposed by Mr. SIMPSON (and Mr. HEINZ) to the bill S. 1651, supra; as follows:

Amend the Simpson-Cranston substitute amendment on page 8 by striking out subsection (d) (of section 5) and inserting in lieu thereof:

(d)(1) The advisory committee referred to in subsections (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee")

shall consist of fifteen members appointed by the Administrator of 'Veterans' Affairs after requesting and considering recommendation from Veterans' organizations, including—

(A) eleven individuals (of whom none may be members of the Armed Forces or be employed by the Veterans' Administration or the Department of Defense and not more than three may be federal employees of other departments or agencies), appointed in consultation with the Director of the National Institutes of Health, including—

(i) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin,

(ii) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation, and

(iii) five who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations, and

(B) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(2) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration or their designees.

(3) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(4)(A) The eleven members of the Committee described in paragraph (1)(A) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee.

(B) Such Council shall be subdivided into (i) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (ii) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(C) Such Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(5) The Administrator shall designate one of the members to serve as the chairperson of the Committee and another member to serve as the chairperson of the Scientific Council.

(6) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any such member may not exceed three years. The Administrator may reappoint any such member for additional terms of service.

(7) The Administrator shall provide administrative support services and fiscal support for the Committee.

SPECTER (AND OTHERS) AMENDMENT NO. 3090

Mr. SPECTER (for himself, Mr. CRANSTON, Mr. SIMPSON, and Mr. BYRD) proposed an amendment to amendment No. 3088 proposed by Mr. SIMPSON (and Mr. CRANSTON) to the bill S. 1651, supra; as follows:

Amend the Simpson-Cranston substitute amendment by inserting on page 7 the following new paragraph after clause (ii)(IV) (of section 5(b)(2)(B)):

(3) The regulations prescribed under this section shall include a provision specifying that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device shall not be required to produce evidence substantiating such veteran's exposure during service in the Armed Forces when the information in the veteran's service records and other records of the service concerned is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

HEFLIN AMENDMENT NO. 3091

Mr. HEFLIN proposed an amendment to amendment No. 3088 proposed by Mr. SIMPSON (and Mr. CRANSTON) to the bill S. 1651, supra; as follows:

At the end of section 5(b)(2)(A), on page 6, add the following:

(iv) In the adjucation 17 a claim based on a veteran's exposure to ionizing radiation from the detonation of nuclear weapons at Hiroshima or Nagasaki, Japan, for a disease otherwise not covered under subparagraph (B)(ii)(I), (B)(ii)(II), (B)(i)(III), or (B)(ii)(IV), the administrator shall ensure that careful and deliberate consideration is given to the claimant's contention of a connection between the disability and the exposure.

APPOINTMENT OF BANKRUPTCY JUDGES AND CHANGES IN THE BANKRUPTCY LAW

TOWER AMENDMENT NO. 3092

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill (H.R. 5174) to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and to clarifying the circumstances under which collective bargaining agreements may be rejected in cases under chapter 11, and for other purposes; as follows:

On page 2 of the matter to be inserted strike "such abstention is not reviewable by appeal or otherwise" on lines 19 and 20.

TOWER AMENDMENT NO. 3093

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill H.R. 5174, supra; as follows:

At the appropriate place in the bill, insert the following:

"(b) The table of sections of chapter 11 of title 11 United States Code, is amended by inserting after the item relating to section 1112 the following new item:

"1113. Rejection of collective bargaining agreements."

Sec. . Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) The amendments made by this title shall not apply with respect to cases under title 11 of the United States Code commenced before the date of the enactment of this Act."

TOWER AMENDMENT NO. 3094

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. PACKWOOD to the bill H.R. 5174, supra; as follows:

At the appropriate place in the amendment, insert the following:

"(b) The table of sections of chapter 11 of title 11 United States Code, is amended by inserting after the item relating to section 1112 the following new item:

"1113. Rejection of collective bargaining agreements."

Sec. . Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) The amendments made by this title shall not apply with respect to cases under title 11 of the United States Code commenced before the date of the enactment of this Act.

TOWER AMENDMENT NO. 3095

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill H.R. 5174, supra; as follows:

At the appropriate place in the Committee substitute, insert the following:

"( ) Notwithstanding any othe provision of this title, where it can be demonstrated that a labor organization, as defined in section 152 of Title 29, representing all or part of the debtors' employees called a strike against the debtor without a strike vote, or in such a manner as to constitute an unfair labor practice, the union shall be liable to the debtor, its shareholders, creditors and employees not represented by the labor organization, jointly and severally, for treble damages."

TOWER AMENDMENTS NOS. 3096 THROUGH 3098

(Ordered to lie on the table.)

Mr. TOWER submitted three amendments intended to be proposed by him to an amendment intended to be proposed by Mr. PACKWOOD to the bill H.R. 5174, supra; as follows:

AMENDMENT No. 3096

At the appropriate place in the amendment, insert the following:

"( ) Notwithstanding any other provision of this title, where it can be demonstrated that a labor organization, as defined in section 152 of title 29, representing all or part of the debtors' employees, called a strike against the debtor without a strike vote, or in such a manner as to constitute an unfair labor practice, the union shall be liable to

the debtor, its shareholders, creditors, and employees not represented by the labor organization, jointly and severally, for treble damages."

AMENDMENT No. 3097

Amend the Packwood amendment by adding a new subsection ( ) as follows:

"( ) Notwithstanding any other provision of this title, the amendments made by this title shall not apply with respect to cases under title 11 of the United States Code commenced before the date of enactment of this Act."

Explanation

Except for the "Notwithstanding any other provision of this title" language, the text of this amendment is taken from substitute D, section 299(b) of H.R. 5174 as approved by the House of Representatives. This language prohibits retroactive application.

AMENDMENT No. 3098

Amend the effective date of the Packwood amendment to read as follows:

"( ) The amendments made by this section shall become effective upon the date of enactment of this Act, except to the extent that, in the opinion of the court, their application in a pending case or proceeding would not be economically feasible or would work an injustice."

Explanation

This language would leave the determination as to whether the labor provisions should be applied retroactively to the Bankruptcy Court. The standard for the court's decision would be whether retroactive application to each pending case would be "economically feasible" or "work an injustice".

TOWER AMENDMENTS NOS. 3099 THROUGH 3109

(Ordered to lie on the table.)

Mr. TOWER submitted 11 amendments intended to be proposed by him to amendment No. 3083 proposed by Mr. THURMOND (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

AMENDMENT No. 3099

On page 22 of the matter proposed to be inserted strike "SEC. 122" on line 24 and insert in lieu thereof "SEC. 123" and add the following new section:

"SEC. 122. The Federal Aviation Administration shall conduct a study of the impact of this title on the airlines industry and shall report its findings to the Congress no later than one year from the date this title takes effect."

AMENDMENT No. 3100

On page 22 of the matter proposed to be inserted strike "SEC. 122" on line 24 and insert in lieu thereof "SEC. 123" and add the following new section:

"SEC. 122. The Interstate Commerce Commission shall conduct a study of the impact of this title on the trucking industry and shall report its findings to the Congress no later than one year from the date this title takes effect."

AMENDMENT No. 3101

On page 5 of the matter proposed to be inserted strike "justice" on line 15 and insert in lieu thereof "judicial economy".

AMENDMENT No. 3102

On page 21 of the matter proposed to be inserted strike "an effort has been made" on line 21 and insert in lieu thereof "the best efforts under the circumstances have been made".

AMENDMENT No. 3103

On page 3 of the matter proposed be inserted strike "property worth less than $1,000" on line 26 and insert in lieu thereof "property worth less than $2,500".

AMENDMENT No. 3104

On page 21 of the matter proposed to be inserted strike paragraph 2 of subsection (c) and insert in lieu thereof the following:

"(2) such persons have been members of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they are members for a period of no less than five years,"

AMENDMENT No. 3105

On page 10 of the matter proposed to be inserted strike "majority" on line 1 and insert in lieu thereof "two-thirds".

AMENDMENT No. 3106

On page 9 of the matter proposed to be inserted strike "may" on line 7 and insert in lieu thereof "shall".

AMENDMENT No. 3107

On page 2 of the matter proposed to be inserted strike "such decision to abstain or not abstain, is not reviewable by appeal or otherwise".

AMENDMENT No. 3108

On page 5 of the matter to be inserted strike "right to trial by jury" on lines 8 and 9 and insert in lieu thereof "right guaranteed under the United States Constitution to trial by jury".

AMENDMENT No. 3109

On page 21 of the matter proposed to be inserted strike "reputation" on line 20 and insert in lieu thereof "reputation within the legal profession".

HELMS AMENDMENT NO. 3110

Mr. HELMS proposed an amendment to amendment No. 3086 proposed by him to the bill H.R. 5174, supra; as follows:

This amendment shall become effective July 4, 1984.

HELMS (AND OTHERS) AMENDMENT NO. 3111.

Mr. HELMS (for himself, Mr. LAXALT, Mr. JEPSEN, Mr. GRASSLEY, Mr. SYMMS, Mr. EAST, Mr. DENTON, and Mr. GOLDWATER) proposed an amendment to amendment No. 3086 proposed by him to the bill H.R. 5174, supra; as follows:

In view of the language proposed to be inserted by amendment 3086, insert the following:

SEC. . Section 316(b)(2)(C) of the Federal Election Campaign Act is amended by inserting before the period ": *Provided*, That all contributions, gifts, or payments for such activities are made freely and voluntarily, and are unrelated to dues, fees, or other moneys required as a condition of employment".

SEC. . Section 316(b)(3) of the Federal Election Campaign Act is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding after subparagraph (C) the following:

"(D) to use any fees, dues, or assessments paid to any organization as a condition of employment, or money or anything of value secured by physical force, job discrimination, of financial reprisal for (i) registration or get-out-the-vote campaigns, (ii) campaign materials or partisan political activities used in connection with any broadcasting, direct mail, newspaper, magazine, billboard, telephone banks, or any similar type of political communication or advertising, (iii) establishing, administering, or soliciting contributions to a separate segregated fund, or (iv) any other expenditure in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for any political office.".

SEC. . This amendment shall become effective July 4, 1984.

PACKWOOD (AND OTHERS) AMENDMENT NO. 3112

Mr. PACKWOOD (for himself, Mr. DECONCINI, Mr. KENNEDY, and Mr. MITCHELL) proposed an amendment to amendment No. 3083 proposed by Mr. THURMOND, (and Mr. HEFLIN) to the bill H.R. 5174, supra; as follows:

Beginning on page 116, line 5, strike out through Page 117 line 25 and insert in lieu thereof the following:

SUBTITLE J.—COLLECTIVE BARGAINING AGREEMENTS

SEC. . (a) Title 11 of the United States Code is amended by adding after section 1112 the following new section:

"§ 1113. Rejection of collective bargaining agreements

"(a) The debtor in possession, or the trustee (hereinafter in this section 'trustee' shall include a debtor in possession), if one has been appointed under the provisions of this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may reject or assume a collective bargaining agreement under this title only after the court approves such rejection or assumption of such agreement.

"(b)(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the trustee shall—

"(A) make a proposal, based on the most complete and reliable information available, to the authorized representative of the employees covered by such agreement, providing for the minimum modifications in such employees benefits and protections that would permit the reorganization, taking into account the best estimate of the sacrifices expected to be made by all classes of creditors and other affected parties to the reorganization; and

"(B) provide, subject to subsection (d)(3), the representatives with the information necessary to evaluate such proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date

of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

"(c) The court shall approve an application for rejection of a collective bargaining agreement ony if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);

"(2) the authorized representative has refused to accept such proposal and under the circumstances such refusal was unjustified; and

"(3) the balance of the equities clearly favors rejection of such agreement.

"(d)(1) Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than twenty-one days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and representative agree.

"(2) The court shall rule upon such application for rejection within thirty days after the date of the commencement of the hearing. In the interests of justice the court may extend such time for a period not exceeding fifteen days, or for additional periods of time to which the trustee and representative agree.

"(3) The court may enter protective orders on terms consistent with the need of the authorized representative to evaluate the trustee's proposal and the application for rejection, and as may be necessary to prevent the unauthorized disclosure of information in the possession of the debtor or trustee, if such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(e) No provision of this title shall be construed to permit a debtor in possession or a trustee to unilaterally terminate or alter any provisions of a collective bargaining agreement before approval or rejection of such contract under this section.".

(b) The table of sections for chapter 11 of title 11, United States Code, is amended by inserting after the item relating to section 1112 the following new item:

"1113. Rejection of collective bargaining agreements.".

(c) The amendments made by this section shall become effective upon the date of enactment of this Act.

TARIFF TREATMENT OF CERTAIN ARTICLES

DURENBERGER (AND BOSCHWITZ) AMENDMENT NO. 3113

(Ordered to lie on the table.)

Mr. DURENBERGER (for himself and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by them to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

On page 23, between lines 6 and 7, insert the following:

SEC. 119. WALLEYED PIKE.

Part 3 of schedule 1 is amended—

(1) by redesignating item 110.15 as item 110.18,

(2) by inserting after item 110.10 the following new items with a superior heading having the same indentation as "Sea herring, smelts" in item 110.10:

"110.12	Walleyed pike: Whole, or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed.	Lb	$3 per lb		$3.01 per lb.
110.13	Scaled (whether or not heads, viscera, fins, or any combination thereof have been removed), but not otherwise processed: In bulk or in immediate containers weighing with their contents over 15 lbs each.	Lb	$3 per lb		$4.25 per lb.
110.14	Other	Lb	$3 per lb. + 6 percent ad val.		$3.00 per lb. + 25 percent ad val.
110.15	Skinned and boned, whether or not divided into pieces, and frozen into blocks each weighing over 10 lbs.; imported to be minced, ground, or cut into pieces of uniform weights and dimensions.	Lb	$3 per lb		$4.25 per lb.
110.16	Otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed).	Lb	$3 per lb		$3.025 per lb.",

(3) by inserting after item 111.15 the following new item having the same indentation as "Shark fins" in item 111.15:

"111.16	Walleyed pike	Lb	$3.01 per lb.		$4.25 per lb.",

(4) by inserting after item 111.48 the following new items with a superior heading having the same indentation as "Salmon" in item 111.48:

"111.49	Walleyed pike: In bulk or in immediate containers weighing with their contents over 15 lbs. each.	Lb	$3 per lb. +0.5 percent ad val.		$3 per lb. +1 percent ad val
111.50	In immediate containers weighing with their contents not over 15 lbs. each.	Lb	$3 per lb. +11.2 percent ad val.	$3 per lb. +10 percent ad val.	$3 per lb. +25 percent ad val."

(5) by inserting after item 111.88 the following new item having the same indentation as "Salmon" in item 111.88:

"111.90	Walleyed pike	Lb	$3 per lb		$3 per lb. +25 percent ad val.",

(6) by inserting after item 112.34 the following new item having the same indentation as "Other" in item 112.36:

"112.35	Walleyed pike	Lb	$3 per lb. +6 percent ad val.		$3 per lb. +25 percent ad val.",

(7) by inserting after item 112.90 the following new item having the same indentation as "Tuna" in item 112.90:

"112.92	Walleyed pike	Lb	$3 per lb. +9.5 percent ad val.	$3 per lb. +6.5 percent ad val.	$3 per lb. +30 percent ad val.",

(8) by striking out item 113.50 and inserting in lieu thereof the following items with a superior heading having the same indentation as "Sturgeon" in item 113.30:

"113.50	In oil: Walleyed pike.	Lb	$3+8.8 percent ad val.	$3+5 percent ad val.	$3+30 percent ad val.
113.51	Other	Lb	8.8 percent ad val.	5 percent ad val.	30 percent ad val.",

(9) by inserting after item 113.56 the following new item with the same indentation as "Tuna" in item 113.56:

"113.57	Walleyed pike	Lb	$3 per lb		$4.25 per lb.",

and

(10) by striking out item 113.60 and inserting in lieu thereof the following items with a superior heading having the same indentation as "Boiled" in item 113.35:

"113.60	Other Walleyed pike	Lb	$3 per lb. + 6 percent ad val.		$3 per lb. + 25 percent ad val.
"113.62	Other	Lb	6 percent ad val.		25 percent ad val.".

● Mr. DURENBERGER. Mr. President, today my distinguished colleague from Minnesota, Senator BOSCHWITZ, and I join together to offer an amendment to H.R. 3398, the tariff and trade amendments, which places a $3 per pound tariff on imported walleyed pike.

Walleye is one of the most common and delectable fish to be caught in any one of our 10,000 lakes. Walleye are not only caught in Minnesota lakes but are also a common catch in the boundary waters separating the United States and Canada. But because of their popularity, there exists the danger that eventually all the walleye will be taken by eager anglers. In 1983 over 180,000 pounds of walleye were taken from Lake of the Woods, the largest and by far the most favorite lake of the walleyes.

The threatened depletion of walleye from our border lakes gives rise to a concern which is expressed to me each spring by those whose way of living depends on the continued availability of fishable lakes. That is: What happens when the fish run out? Traditionally, fishing regulations fall into the jurisdiction of the State, and the State of Minnesota does a fine job of fish management through licensing requirements, imposing fish take limits and restocking the lakes each spring.

But the existence of large lakes on our border with Canada poses unique problems to consistent management of our border natural resources. Although the 1842 Webster-Ashburton Treaty and the 1906 Boundary Waters Treaty cover the use of these border lakes they do not provide any clear guidelines or direction for the management of our border resources.

Lack of consistent management of border resources has been of concern to the State of Minnesota as well as to the Province of Ontario. Both governments have attempted to manage the resources of their sides of the lake in a fair and equitable manner. For the most part they have been successful.

But the current low level of walleye in our border lakes has given rise to a whole new host of border resource management concerns. Ontario commissioner of natural resources, Alan Pope, has taken steps to restrict and preserve Ontario natural resources by imposing regulations and licensing requirements on nonresidents. Parts of the new program, a $3 per day per person camping fee, have been implemented this season. Other aspects of the new program such as a $3 per day fee for fishing in Ontario waters, will not be implemented until next year. The purpose of this new program, according to Commissioner Pope, is to "allow the Ministry of Natural Resources to better manage the natural resources so valuable to the Province of Ontario."

We too, south of the border, share Commissioner Pope's concern over the scarcity of walleye in our border lakes. Minnesota commissioner of natural resources, Joseph Alexander, has too taken steps toward reducing the pressure on the walleye population by imposing a single limit for walleye. Prior to this change a fisherman could take his limit from Canadian waters then move across the lake into Minnesota waters and take another limit; two limits from the same lake. In addition, Minnesota has lowered its commercial quota on walleye from Lake of the Woods to 164,000 pounds annually while Ontario's quota is 223,591 pounds annually.

But there is more that can be done to promote the conservation and careful use of our border resources. That is the intent of our amendment today. We share Commissioner Pope's fear that walleye may soon disappear from border waters, a loss that would be felt by walleye lovers on both shores. Enactment of this amendment will promote a carefully planned approach to commercial fishing on border waters, as the implementation of Ontario's new program for non-residents will have on Minnesota resorters and outfitters. This amendment is not to place an economic hardship on the commercial fisheries in Ontario, rather it brings U.S. regulations into closer conformity with those in Canada.

Mr. President, clearly, careful management of our border natural resources is a complex and, and at best, difficult task. We do not have a little white line to tell us when we are in Canadian or American waters, we do not even have bouys. The very nature of our border results in concerns that are best addressed by interested parties on both sides. The best management of our natural resources is done in concert, together, rather than independent of one another. This amendment is a short-term solution to some long-range problems, problems I am committed to solving in the best interests of all involved.●

● Mr. BOSCHWITZ. Mr. President, I am pleased to join my colleague from Minnesota in sponsoring an amendment to the miscellaneous tariff and reciprocity bill to increase the tariff on imported walleye pike.

According to officials of the National Marine Fisheries Service, the United States imported 5.5 million pounds of fresh and frozen pike, pickeral, yellow pike and pike-perch in 1983. Nearly all of that amount was imported from Canada.

The fact that we are importing so much Canadian pike is causing a serious problem. In some areas, Canadian officials have determined their resources are being depleted and, therefore, changes must be made.

For example, in Lake of the Woods, which traverses the Canada-Minnesota border, the Canadians have determined that the walleyed pike population is being depleted. They have published statistics that show Canadian commercial fisheries are harvesting amounts in excess of the sustainable yield. In contrast, according to an Ontario Ministry of Natural Resources study, Minnesota-based boater anglers are harvesting 4 percent of the yellow pickerel from Lake of the Woods.

Despite the limited harvest by Minnesota-based fishermen the Province of Ontario has taken action to further limit the ability of those Minnesota-based anglers to fish in Canadian waters. These actions seriously threatened the viability of many Minnesota resorters.

Since the problem appears to be that Canadian commercial fishing operations are harvesting in excess of the sustainable yield and much of the harvest is being exported to the United States, this tariff we propose will be a better way to prevent the further depletion of these resources.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 22, in executive session to mark up S. 2414, the DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROCUREMENT TASK FORCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Procurement Task Force of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 22, at 9 a.m., to mark up S. 2414, the DOD authorization bill, and S. 2489, the Small Business Competition Enhancement Act of 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, May 22, at 9:30 a.m., to hold a hearing to consider S. 2157, a bill to clarify the treatment of mineral materials on public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 22, to hold a closed session briefing on Anti-Terrorism Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 23, 1984, in order to receive testimony concerning the following nomination:

Paul G. Rosenblatt, of Arizona, to be United States district judge for the district of Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 22, 1984, in order to receive testimony concerning S. 1680, the Malt Beverage Interbrand Competition Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized

to meet during the session of the Senate on Tuesday, May 22, at 2 p.m., to hold a hearing to consider Senate Joint Resolution 277, a bill to authorize the Armed Force Monument Committee, to the U.S. Armor Association, the World War Tank Corp's Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th, 9th, 11th, 14th, and 16th Armored Division Associations jointly to erect a memorial to the "American Armored" on U.S. Government property in Arlington, VA, and for other purposes; S. 648, to facilitate the exchange of certain lands in South Carolina; S. 1859, for the transfer of certain interests in lands in Dona Ana Las Cruces, N. Mex.; S. 1889, to amend the act authorizing the establishment of the Congaree Swamp National Monument to provide that at such time as the principal visitor center is established such center shall be designated as the "Harry R.E. Hampton Visitor Center"; S. 2015 and H.R. 3825, to establish a boundary for the Black Canyon of the Gunnison National Monument, and for other purposes; S. 2036, to require the Secretary of the Interior to convey to the city of Brigham City, UT, certain land and improvements in Box Elder County, UT; S. 2082, to identify, commemorate and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes; S. 2136, to authorize the exchange of certain lands between the Bureau of Land Management and the city of Los Angeles for purposes of the Santa Monica Mountains National Recreation Area; S. 2331 and H.R. 4596, to amend section 1601(d) of Public Law 96-607 to permit the Secretary of the Interior to acquire title in fee simple to McClintock House at 16 Williams Street, Waterloo, NY; S. 1695, to amend the National Trails System Act by authorizing for study the Pony Express Trail under the provisions of the act, and H.R. 3787, to amend the National Trails System by adding the California Trail to the study list; and for other purposes; and S. 1995, to provide for the conveyance of certain mineral interests of the United States in property in Louisiana to the record owners of the surface of that property.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON BUSINESS, TRADE, AND TOURISM

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Business, Trade, and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Tuesday, May 22, at 3 p.m., to hold a hearing to consider travel for the handicapped.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ARMS CONTROL: TRACKING SOVIET VIOLATIONS

● Mr. GARN. Mr. President, the issue of Soviet noncompliance with arms control agreements raises fundamental questions concerning our country's own arms control policies. As President Reagan correctly noted in his speech to the United Nations special session on disarmament in June 1982:

> Agreements genuinely reinforce peace only when they are kept. Otherwise we are building a paper castle that will be blown away by the winds of war.

It is my opinion that arms control agreements, working in concert with a broader national security program, can contribute to the security interests of the United States and its allies. Unfortunately, it is our seemingly blind commitment to arms control and the arms control process which continues to have an adverse effect on our ability to enforce Soviet compliance with existing accords. In a recent Wall Street Journal article entitled, "An Arms-Control Craving," Mr. Carnes Lord emphasizes that our enthusiasm for arms control seems "remarkably untempered" by the failed record of the past decade.

We do not have far to look to recognize the truth in Mr. Lord's observation. Soon after the President reported to the Congress on Soviet treaty violations, Members of Congress could be found urging him to endorse ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties. Still others criticized the President's Strategic Defense Initiative because at some point, in the not yet determined future, it might necessitate modification, or possibly abrogation, of the ABM Treaty. That the Soviets are today violating that agreement seems to have done little to blunt the criticism of the administration's program on arms control grounds.

With respect to ASAT weapons, the administration is urged to seek a negotiated ban on their testing and deployment despite a recent report from the administration which concluded that: ". . . no arrangements or agreements beyond those already governing military activities in outer space have been found to date that are judged to be in the overall interest of the U.S. and its Allies." The response of the House of Representatives to Soviet use of "yellow rain" is to eliminate each year funding for needed modernization of U.S. chemical weapons stocks.

Some charge that requirements for verification are used by the administration as a smokescreen to block arms control progress. Yet, with respect to the President's proposed chemical weapons ban, even the Washington Post points out that:

> The verification demands are tough. But given the reports of (Soviet) use, who can possibly claim that what is needed is another piece of paper? What is needed is verification measures that people can have some confidence in. That the Soviet Union, a direct practitioner and apparent indirect sponsor of a form of war it solemnly renounced, may object to rigorous inspection is not an argument against it.

In the area of strategic nuclear weapons, the House drastically reduces the MX program and encumbers it with restrictive language which, in effect, rewards the Soviets for their walkout from the START negotiations. The background to this decision is Soviet flight testing of two new ICBM's, in violation of SALT II, and report of another new ICBM on the way.

It seems we have lost all perspective. Despite a 93 to 0 vote in the Senate requiring the report from the President on Soviet treaty noncompliance, comments are made that the report may have damaged the chances for success in arms control. Such concerns would not seem to have been reflected by the unanimous vote in the Senate. Outside Congress, there were those who were more concerned about the President's report on violations than they were with the violations themselves. Is there any doubt that their priorities are confused, their commitments to the process of arms control all encompassing—to the exclusion, if necessary, of arms control's intended goals of stability and security?

Mr. President, I ask that the article by Mr. Lord, together with my letter to the editor, and a good analysis of Soviet treaty violations by Mac Owens, military assistant to Senator Kasten, be printed in the RECORD. This material touches upon the issue I have addressed in this statement, and I commend them to the attention of my colleagues.

The material follows:

[From Defense Science 2002+, April 1984]

ARMS CONTROL: TRACKING SOVIET VIOLATIONS

(By Mackubin T. Owens, Jr.)

In a letter to Congress earlier this year, President Reagan took the unprecedented step of publicly charging the Soviet Union with violations of arms control agreements. The President sent his letter in response to an amendment by Sen. James McClure to the 1984 bill that required a report on such Soviet violations. (The amendment passed by a vote of 93-0.) The report itself was in many respects unremarkable; it listed "seven different matters of serious concern regarding Soviet compliance." However, it did include four violations cited by the President in his September 1983 speech before the United Nations.

These included the deployment of a major new battle-management radar installation in Siberia in apparently clear violation of the 1972 ABM Treaty; encoding of missile telemetry in violation of the 1979 SALT II agreement; testing of a new ICBM disallowed by SALT II; and use of biological

toxins in Cambodia and Afghanistan in violation of the 1975 Biological Weapons Convention.

On the other hand, it did not include some violations that had been extensively reported in the press. Critics of arms control claimed that the cited violations represented only the tip of the iceberg, and that the report was further weakened by the many caveats and disclaimers.

None of the breaches mentioned by the President is by any means trivial, and from a distance one might expect such a clear record of Soviet disregard for these treaties to call forth from the Administration a report even stronger than the one issued.

DOMESTIC POLITICAL CONSIDERATIONS

The most immediate cause for Administration diffidence on this issue has been, of course, domestic political considerations. In an election year, the President's political advisors have apparently become convinced—not surprisingly—that "credibility" on the issue of arms control will prove an important source of votes.

At the same time, many critics of the Administration have treated its willingness to keep silent about Soviet violations as, in effect, a test of its commitment to the arms control process. Reports last year that the Administration might inform the public about Soviet infractions were met by a flood of commentary urging restraint.

As one op-ed column put it in The New York Times, a public denunciation of the Soviets would call into question "the Administration's sincerity in pursuing arms control along with its defense buildup." Senators and two former Carter Administration officials warned the Administration, according to the Times, "that a public airing [of possible Soviet violations] would risk disrupting the 1979 arms accord and current talks."

Thus, by an odd twist of logic, there has been considerably less concern over the fact that the Soviets are violating arms control treaties than over the prospect that the Reagan Administration might actually reveal the existence of violations. Soviet failure to abide by the treaties has been treated less as a threat to the integrity of existing agreements than as a danger to the negotiation of future ones.

This reaction is somewhat difficult to understand until one realizes that, for many of the most active proponents of arms control, nothing takes precedence over the "agreement" itself—not even, paradoxically, the fact that the agreement is being violated. According to the view that predominates in the arms control community, it is the act of negotiating—the "process"—that is paramount, and the mere existence of violations must not be allowed to threaten it.

Whether one takes Soviet violations seriously thus depends in large part on one's view of the purpose of arms control. If one takes the straightforward military view that specific provisions of the treaties are substantively important and that serious violations could affect the strategic balance, then one is likely to worry about detailed Soviet compliance.

But if one holds the view predominant in the arms control community—that arms control is designed above all to "reduce tensions," that the whole purpose is to get the Soviets to agree that negotiations are the only means to ensure mutual survival—then no Soviet action in violation of the treaties is likely to make a difference.

Yet the problem is further complicated by the ambiguity of many potential treaty violations—ambiguities that can be traced to equivocations in the language of the treaties themselves. That so many equivocations exist can be partly explained in turn by the emphasis of the arms control community on securing "agreement," even when the provisions of the treaty prove too vague to be enforceable.

Unfortunately, the US has generally acceded to such linguistic ambiguities as the price necessary to get an agreement. Of course, this pattern lends credibility to the claim by critics of the arms control process that arms control as presently practiced cannot provide meaningful restriction on nuclear arsenals.

In all, there have been eleven nuclear arms agreements between the US and the USSR. Of these the most important are the 1972 Anti-Ballistic Missile (ABM) Treaty and Interim Agreement Limiting Strategic Nuclear Offensive Weapons (SALT I), and the 1979 SALT II Treaty and Protocol.

Although the US has not ratified SALT II, it has agreed to abide by the treaty's provisions as long as the Soviet Union also complies. In addition to the nuclear arms agreement, the superpowers are signatories to the 1925 Protocol prohibiting the use of chemical and bacteriological warfare, and to the 1972 Biological Weapons Convention. There is significant evidence that the Soviets have violated some provisions of all these agreements.

THE ABM/SALT I TREATY

This treaty expressly prohibits any testing aimed at the upgrading of anti-aircraft technology into an ABM system. But within only one year of the treaty's signing, the United States had detected Soviet tests of a radar to be used with an ABM system.

When the US protested, the Soviets denied that there was any violation. "A short time later," said the State Department, "we observed that the radar activity of concern during Soviet ballistic missile tests had ceased." This may have been true enough, but the termination of testing did not occur until after the Soviets had presumably obtained the data that they required.

In addition, the Soviets tested movable ABM radars in defiance of the treaty. They also emplaced, in the vicinity of over 100 urban areas, the most formidable air-defense system ever created. This system employs the surface-to-air missile (SA-5) in massive numbers.

It has long been feared that the Soviets would modify the SA-5 and then combine it with certain kinds of computers and radars, including components they have already tested; such a prohibited combination would provide them with a system capable of shooting down missiles as well as aircraft.

That this is indeed the Soviet intention seems to be confirmed by the fact that for some time they have been test-firing modified SA-5 and SA-2 missiles to altitudes in excess of 100,000 feet—too high for anti-aircraft intercepts—and have recently begun production of the new SA-12.

More recent, and especially disturbing, has been the deployment of the ABM battle-management radar mentioned by Mr. Reagan in his UN speech. American surveillance satellites have revealed the construction of an immense radar system north of the Mongolian border, targeted toward Alaska and employing advanced "phase-array" technology.

Such a system, in direct violation of Articles I and VI of the ABM Treaty, would enable the Soviets to predict impact areas of incoming warheads, enhancing target handling for battle-management of an ABM system. As Senator James McClure has pointed out:

"The SALT I ABM Treaty has long been regarded as the most successful strategic arms limitation treaty in history. It has been reviewed by the US and USSR twice, in 1972 and 1982, and is the only stratgic arms treaty still in effect—the SALT I Interim Offensive Weapons Agreement having expired in 1977, and the SALT II Treaty of 1979 being unratified.

"Thus, if the Soviets are flagrantly violating the only strategic arms limitation treaty in force, this is extremely significant as an indicator of Soviet intentions in negotiating a Strategic Arms Reduction Treaty (START) or an Intermediate-range Nuclear Force (INF) Reduction Treaty."

SOVIET DECISIONS

It should be noted that the long lead time required for the deployment of any component of an ABM system strongly suggests that a Soviet decision to subvert the ABM Treaty was made, at the latest, shortly after it was signed.

The basis for verifying compliance with SALT I was "national technical means" (the treaty euphemism for satellite reconnaissance and related tolls of surveillance). But even though the strictly numerical limitations on launch vehicles made verification relatively easy, the manifold linguistic ambiguities made it possible for the Soviets to exploit loopholes, violate provisions, and circumvent the various limitations.

The question of interfering with verification continues to be problematical. Once again the ambiguity of the language prevents a hard and fast judgment, but clearly the Soviets have pushed this ambiguity to the limit. The problem is that many of the elaborate attempts at concealment, even when they deliberately ignore the treaty articles prohibiting interference with "national technical means" of verification, do not technically violate the letter of the agreements.

Thus, while SALT I and the ABM Treaty were in effect, the Soviets concealed ICBM silos; developed a mobile ABM radar; concealed construction sites for nuclear submarines, preventing an accurate count of vessels under construction and denying observation of the missiles they are loaded with; and attempted to jam US electronic means of monitoring Soviet ICBM test activity.

Partly in response to such experiences, the US sought in SALT II an agreement with comprehensive and exact verification procedures. Despite the new provisions, however, verification under SALT II has not proved any more fruitful than under SALT I.

SALT II

This agreement, of course, has not been ratified by the Senate; but Mr. Reagan, following the policy established by the Carter Administration, has stated that the US will abide by its provisions as long as the Soviets do.

Yet again there is substantial evidence that the Soviets have violated the treaty, while the US has gone out of its way to conform to its constraints. The most flagrant apparent violations so far include the following:

SALT II established ceilings on launchers and specifically prohibits rapid refire of ICBMs. The Soviets have conducted extensive exercises with their heavy SS-18 "cold-

launched" ICBMs that circumvent these ceilings and prohibitions.

SALT II prohibits the deployment of mobile ICBMs. But the Soviet Union has convertly deployed 100 to 200 camouflaged and concealed mobile SS-16 ICBMs at the Plesetsk test range. This covert deployment has also violated the SALT provisions on data exchange.

SALT II prohibits the deployment of long-range air-to-surface missiles on bombers, unless those bombers are identified and counted as MIRVed launchers. The Soviets, according to intelligence reports, have equipped 100 TU-95 "Bear" bombers with long-range AS-3 "Kangaroo" air-to-surface missiles without identifying the bombers as MIRVed launchers, in violation of this provision.

In addition, the Soviets have equipped their intercontinental "Backfire" bombers with cruise missiles, violating several provisions of SALT II as well as the Brezhnev statement on the Backfire that was attached to the treaty.

Article IV of the SALT II agreement prohibits the testing of more than one new ICBM. Recently it has been charged that the Soviets have flight-tested two new ICBMs. The Soviets, of course, claim that the second ICBM being tested (designated the PL-5) is not new.

In order to be a new missile, the ICBM has to differ from earlier models in one or more of the following parameters: number of stages, length, largest diameter, launch weight, throw-weight, or type of propellant. "The values demonstrated in each of the above parameters during the last 12 of the 25 launches . . . shall not vary by more than 10 percent from any other of the corresponding values demonstrated during those 12 launches."

SALT VIOLATIONS

According to Senator McClure, the PL-5 is a violation of SALT II in one of two ways. It is a follow-on either to the older Soviet ICBM, the SS-13, or to the mobile SS-16, which is banned by SALT II. The PL-5's throw-weight is reported to be greater than the SS-16's, which is twice that of the SS-13.

If the PL-5 is a follow-on to the SS-13, its throw-weight exceeds the SS-13's by more than 200 percent, far beyond the 10 percent allowed by the Treaty. If it is a follow-on to the SS-16, which is banned by the treaty, it becomes a different kind of violation.

Finally, as was the case with SALT I, the Soviets have violated the provisions against deliberate interference with attempts to verify compliance.

This last problem is especially vexing and persistent. According to the State Department paper of August 1979 on the SALT II verification: "Deliberate concealment efforts are themselves a violation, and if detected could be grounds for abrogating the treaty, even if we are not certain what activity is being concealed. . . . Concealment measures designed to impede verification would themselves be violations."

In an earlier report, the State Department had agreed that Soviet "concealment activities associated with strategic weapons programs increased substantially [in 1974]." Although the State Department claims that none of these measures prevented US verification of compliance, and although according to the report Soviet activity in this area stopped expanding in 1975, the fact remains that the Soviets undertook directly in interfere with verification. One result of this concealment program was the underestimation by US intelligence of both the basic Soviet ICBM and SLBM levels during SALT I.

Another aspect of deliberate concealment by the USSR is the encoding of telemetry during tests—a practice referred to by Mr. Reagan in his UN address. As a missile is being tested, monitoring devices aboard measure its performance and transmit the data to ground stations. Data include launch weight, throw-weight, number of warheads, number, length, and diameter of the missile stages, type of propellant, and multiple-warhead release procedures.

Telemetry can be used by both sides to verify compliance with the treaty constraints. While "encryption of telemetry" was not addressed in SALT I, it was in SALT II. The "second common understanding" of Article XV prohibits the "deliberate denial of telemetric information (such as through the use of telemetry encryption) whenever such denial impedes verification of compliance with the provision of the treaty."

However, since encryption is permitted when compliance is not at issue, the Soviet reply to American inquiries is that none of the encrypted data is relevant to treaty compliance.

Of course, the reason that the prohibition of telemetry encryption was included in SALT II was to address problems such as arose under SALT I regarding the SS-20. The SS-20 is an intermediate-range missile capable of threatening Western Europe from the Soviet Union.

Because it is not intercontinental, it is not counted in the number of Soviet ICBMs. But once the SS-20 telemetry was decoded and analyzed in 1977, it was discovered that the missile had been tested with about 2,000 pounds of ballast, which if replaced by fuel would make the SS-20 an ICBM.

In addition, the Soviets have almost totally encrypted the telemetry from the following missile test programs: SS-NX-20 submarine-launched ballistic missile (SLBM); SS-NX-19 submarine-launched cruise missile (SLCM); SS-18 Mod X IXBM; and the new medium and light ICBMs PL-4 and PL-5.

CHEMICAL/BIOLOGICAL WARFARE TREATIES

No one can doubt that even the clearest Soviet violations of nuclear arms control agreements turn upon the interpretation of ambiguous language.

But even the staunchest advocates of arms control cannot ignore the mounting evidence that the Soviets have flagrantly and unambigously violated one of the oldest arms control agreements in existence, the 1925 Geneva Protocol prohibiting the use of poisonous gas and bacteriological methods of warfare, as well as the 1972 Biological Weapons Convention.

SOVIET CHEMICAL TERROR

Reports to numerous to ignore, as well as an increasing accumulation of physical evidence, point to the fact that the Soviet Union and its proxies have been systematically waging a clandistine war of chemical terror in Southeast and Southwest Asia.

Refugees, freedom fighters, Communist defectors, doctors who have treated refugees, journalists, and intelligence agencies provide incontrovertible evidence that thousands of men, women, and children have been indiscriminately killed with chemical weapons that include the particularly heinous "yellow rain."

A recent report by the State Department, "Chemical Warfare in Southeast Asia and Afghanistan," documents reports of nearly 400 Communist chemical attacks that have killed over 10,000 people. These are minimum figures. Other estimates of deaths from chemical warfare range up to 50,000.

Soviet chemical operations blatantly violate several international agreements, including the two already mentioned, as well as the customary law of war that prohibits the first use of chemical weapons. The Soviets have violated the prohibitions against both "asphyxiating, poisonous, or other gases" and the stockpiling or use of biological agents.

The tricothelene mycotoxins, which have been discovered to be the lethal active ingredients in yellow rain, fall within the prohibitions of both the 1925 Geneva Protocol and the 1972 Biological Weapons Convention. Regardless of whether the Soviets have technically violated the SALT agreements by taking advantage of linguistic ambiguities, their cynical violation of chemical weapons agreements raises grave doubts about Moscow's trustworthiness on any international treaty.

The implication of Soviet violations, both those that are ambiguous and those that are clear cut, is that the Soviet Union understands the purpose of arms control differently than does the United States. This is especially crucial to comprehend.

After all, there is a sterile quality to debates on verification, as the above discussion points out: When critics of the Soviets claim that there has been a violation of an arms control agreement, defenders of arms control reply that the agreements don't really quite prohibit what the Soviets are actually doing, and that anyway it's not that important. In other words, the argument revolves around the legalistic meaning of the agreements, instead of around a broader understanding of Soviet goals in this process.

There is a sharp and undeniable contrast between Soviet and American conduct toward these treaties and toward nuclear arms generally. While the US has abided by the provisions of the unratified SALT II Treaty—to the deteriment, many would say, of our national security—the Soviets have used these agreements as a means of camouflaging an uprecedented strategic buildup. This unilateral restraint has placed the United States at a distinct strategic disadvantage.

As things presently stand, the US warhead total will be less than 11,000 in 1985, and these will be mostly small, inaccurate, and vulnerable.

During the period 1977-82 the Soviets, by contrast, greatly enhanced their strategic defensive and offensive arsenals. Moreover, for the immediate future they will continue to add to their advantage.

THE SOVIET ADVANTAGE

It is expected that by 1985 the USSR will have added 6,500 more warheads to their 1977 total, mostly warheads of "counterforce" capability, for a total of 14,500; and they will have tested and deployed five new ICBMs, providing significant "counterforce" advantage (i.e., ability to strike hardened missile silos). Most of these increases are within the limits established by SALT II.

"The keystone of an international arms control agreement is the ability of each side to make sure the other side abides by it. Without adequate verification of compliance, agreements such as the bilateral strategic arms pact between the US and the USSR are bound to collapse," says Rep. Les Aspin.

But given that this is the case, what then? What should be the future of arms control given that there is an apparent asymmetry in Soviet and American goals?

Some critics would cut off arms control negotiations with the Soviet altogether and single-mindedly pursue a policy of nuclear rearmament. Arms control advocates, on the other hand, seem reluctant to let anything—even clear Soviet violations—stand in the way of obtaining new arms control agreements.

Yet there is a realistic middle ground between these extremes. The point is to understand that while arms control can be an effective part of an overall strategy, it cannot be treated as an end in itself, in isolation from our requirements for defense and even from the issue of compliance.

The proper understanding of arms control is based on the recognition that it can help limit nuclear arsenals, and, when integrated with defense planning, enhance both national security and the chances for peace. After all, the Soviet Union also has real security interests that might lead it to seek an agreement on limiting nuclear weapons.

But arms control and defense planning must be complementary approaches to national security and peace. Arms control cannot become a substitute for strategy and a comprehensive defense policy. Unless this is understood, the danger remains that the American people will mistakenly believe that the problem of security is completely and cheaply solved by negotiations.

In any event, it seems reasonable to require that arms control agreements, at a minimum, be written in such a way as to be enforceable, and that violations be confronted forthrightly rather than suppressed in the interest of securing yet more agreements to be similarly violated.

[Letter to the Editor, the Wall Street Journal, Apr. 23, 1984]

LET'S CONTROL ARMS-CONTROL HOPES

Carnes Lord's article "An Arms-Control Craving" (editorial page, April 13) is particularly on target in light of the recent Scowcroft Commission Report and the President's Report on Soviet Treaty Non-Compliance. First, Mr. Lord notes that our enthusiasm for arms control seems "remarkably untempered" by the failed record of the past decade. Nearly every major U.S. weapon program (including MX, Pershing II, GLCM, Chemical Munitions, and ASAT) needed to counter the build-up of Soviet military power is linked to one arms control initiative or another. There seems no end to the ways we devise to hamstring our defenses; yet Soviet programs are not similarly fettered.

Properly designed and conscientiously pursued in concert with a broader national security program that includes force modernization, arms control can contribute to the security interests of the U.S. and our allies. The politics of nuclear fear and election year campaigning have, however, taken us far from this reasonable formulation. In this regard, the following judgments of the Scowcroft panel are pertinent: "Arms control cannot end the threat of nuclear war . . . By itself, arms control is unlikely to reduce the casualties and damage should nuclear war occur . . . Nuclear arms controls will not enable us to make either deep or early cuts in defense budgets."

This dose of realism, from a bipartisan panel that endorses arms control as an element of national security policy, is long overdue and should not be lost on America's elected officials and political hopefuls.

The seemingly blind commitment to arms control has also had an adverse effect on our ability to enforce compliance with existing accords. Within a short time of receipt of the President's Report on Soviet Treaty Violations, members of Congress were calling on this administration to reaffirm our allegiance to the ABM Treaty and endorse ratification of the Threshold Test Ban Treaty. That the Soviets had just been charged with violating both these agreements seemed to have had no effect.

All this demonstrates little respect for the intelligence of American voters, even less regard for their safety, and encourages further Soviet transgressions. And in the end, we will come to find that neither arms control nor national security will benefit.—Jake Garn, U.S. Senate.

[From the Wall Street Journal, Apr. 13, 1984]

AN ARMS-CONTROL CRAVING

(By Carnes Lord)

Four years ago, there was every reason to believe that the 1980s would be marked by a new realism in the American approach to arms control. The failure of arms control to constrain the Soviet military buildup of the 1970s had become generally apparent; the Soviet invasion of Afghanistan shattered whatever hopes continued to be harbored for detente and stopped in its tracks the second strategic arms limitation agreement (SALT II). The election of Ronald Reagan brought to power an administration that was deeply concerned about the deterioration in the U.S.-Soviet military balance and was disposed to lay at least some of the blame for this on the exaggerated expectations generated by the advocates of arms control and on the political dynamics of the "arms-control process." This skepticism about the virtues of arms control seemed to be in harmony with the mood of the American public and Congress. To the incautious observer, it very much looked as if the Reagan administration had a clear mandate to take the problem of arms control and fix it.

Instead, of course, the past four years have witnessed a surge of antinuclear feeling in the country at large. And among the intellectual and policy elite there has been a renewal of enthusiasm for arms control that seems remarkably untempered by the experience of the recent past. As the 1984 presidential election approaches, the Democratic hopefuls have vied with one another in support for new arms-control initiatives of varying degrees of irresponsibility. More surprisingly, the president has come under steady pressure from Republicians in Congress and from elements of his own administration to demonstrate ever new flexibility, including unilateral concessions, in arms-control talks with the Soviet Union. This is in spite of the demonstrative Soviet walkouts from negotiations on nuclear weapons, and in spite of the mounting evidence of Soviet violations of existing agreements.

VERIFICATION AND COMPLIANCE

Nothing is more revealing of the dubious impulses animating the unilateralist arms-control revival than the failure of its champions to come to grips with the problem of verification and compliance. For many years, arms-control enthusiasts have paid lip service to the need for effective verification of agreements, but have failed to devote serious attention to the operational and political difficulties (as opposed to the technical limitations) that face any verification effort. On the contrary, the efficacy of existing verification methods and approaches has been consistently overstated, while compliance problems have been played down.

Above all, the evidence that has accumulated over the past decade or so of Soviet violations, near-violations, exploitation of loopholes and negotiating deception has been treated in cavalier and exculpatory fashion, when it has not been simply ignored. As if the purpose and context of agreements were wholly irrelevant to the issue, the U.S. government has been asked to concern itself only with violations in a strictly legal sense. Moreover, it has been expected to employ standards of legality which, though proper in a criminal prosecution under domestic law, are wholy inappropriate to a situation where (Russian) witnesses cannot be forced to appear, evidence is incomplete (or deliberately withheld), sources cannot always be revealed because of intelligence senstivities, and the law itself lacks an authoritative neutral interpreter. Ambiguities in factual evidence or in the language of agreements have been taken by many as sufficient reason for disregarding possible violations. Not only have Soviet explanations been credited that were palpably false; arms-control advocates have actually constructed briefs for hypothetical Soviet positions of greater ingenuity than anything the Soviets themselves were able to come up with. And even where a legal violation is recognized as certain or highly probable, its significance tends to be dismissed. In all cases (but most notably in the area of Soviet anti-ballistic missile activity), evidence for violations has been dealt with in piecemeal and isolated fashion, with little attempt to see it in the broad context of Soviet compliance behavior generally or of Soviet strategic intentions.

This complex of attitudes is currently facing its most severe test. A report submitted by President Reagan to Congress on Jan. 23 lays out the results of an intensive study of the evidence for Soviet noncompliance with arms-control agreements in seven areas. In one of these areas—chemical and biological warfare—the U.S. has for some time formally accused the Soviets of violating the relevant agreements. Despite strenuous and continuing efforts to discredit these charges, they have been confirmed by refugees and by independent analyses carried out in a number of European countries. Of the other issues, the most significant concerns the Anti-Ballistic Missile Treaty of 1972. The construction of a phased-array ballistic missile early warning (BMEW) radar by the Soviets near Krasnoyarsk in southern Siberia—in contravention of the treaty requirement that such radars can only be deployed at locations on the national periphery and oriented outward—opens an entirely new chapter in the history of Soviet compliance behavior. If Soviet activities in the chemical and biological area may be said to be the first unambiguous treaty violations of major military significance, the Krasnoyarsk radar is the first unambiguous treaty violation whose military significance bears importantly and directly on the U.S.-Soviet strategic nuclear balance.

The intent of the relevant provision of the ABM Treaty was to prevent either party from creating the base for a territorial ABM system by building a network of BMEW radars that could be used not only to warn of a missile attack but also to aid in the

tracking and interception of incoming nuclear warheads. While there is room for disagreement as to the extent to which this and similar radars already in operation on the Soviet periphery were specifically designed to perform an ABM "battle management" function, they have an inherent capability to perform that function. And the characteristics of the new radar as well as its location near a number of ICBM deployment areas suggest that its primary purpose is indeed ballistic missile defense.

A recent report by the Federation of American Scientists contained a claim that the Krasnoyarsk radar is primarily for space tracking rather than early warning or missile defense and is thus allowed under the treaty. That is simply false. While the president's report stops short of simply calling the radar a violation (it uses the phrase "almost certainly"—for reasons that have not been explained), there has been remarkable unanimity among government analysts familiar with the relevant data as to the radar's characteristics and its impermissibility.

In assessing the significance of the Krasnoyarsk radar, it is necessary to consider both how it fits into the overall picture of Soviet ABM-related activities and what it reveals about Soviet intentions. What is worrisome is not the Soviet BMEW radar net by itself, but its potential when linked with other air defense and ABM radars and interceptor missiles. For years, the Soviets have taken advantage of ambiguities in the ABM Treaty to develop and test air-defense systems against ballistic missile targets, and they have developed small ABM radars that probably could be rapidly deployed throughout Soviet territory. Should the Soviets choose to free themselves from the treaty's constraints, they would now have in place the long lead-time elements that would permit rapid expansion to an effective nationwide ABM system. As for Soviet intentions, the very fact that they seem to have been prepared to face the consequences of a deliberate and massive violation of the ABM Treaty must raise ominous questions about their next moves.

BANKRUPT APPROACHES

What is to be done? While no one will deny that it is difficult to devise effective strategies for response to violations, it is also clear that current approaches have proved to be bankrupt and are no longer an effective deterrent to further violations. To continue to pretend that all compliance issues can be resolved simply through patient discussion with the Soviets in confidential channels such as the Standing Consultative Commission is perfectly idle. This view assumes that all compliance issues rest on misunderstanding and that both parties are dealing in good faith, whereas nothing could be further from the truth.

What are needed are real penalties—withdrawal from agreements or suspension of particular provisions, and political and military countermeasures. The U.S. has never exacted such penalties for any Soviet action in any arms-control area. Unless and until we do, the Soviets will grow more brazen yet in their disregard for treaty obligations, and the U.S. will aproach ever more closely that condition—familiar from the annals of Western disarmament efforts in the 1930s—where generous forbearance and blind hope give way to impotence and appeasement.●

IBM CHAIRMAN JOHN OPEL DISCUSSES NATIONAL INDUSTRIAL POLICY

● Mr. DOMENICI. Mr. President, in these times of increasing trade balance deficits and America's problems in staying competitive in the international marketplace, I must call attention to some perceptive thoughts John Opel, the chairman of IBM, recently expressed on a national industrial policy. I ask that these remarks be printed in the RECORD.

The remarks follow:

REMARKS OF JOHN OPEL, CHAIRMAN OF IBM

In this political season, we are hearing a lot of arguments about something called a national industrial policy. Its advocates start out with the undeniable fact that America's international competitiveness is eroding. They point out that our share of world exports has dropped from about 18 percent in 1960 to 12 percent in 1982; our trade balance has gone from a $9 billion surplus in 1975 to nearly a $70 billion deficit last year, and a possible $100 billion deficit this year.

Nobody can disagree with those figures. We are slipping in international trade.

But the industrial policy advocates make some further assertions:

The United States, they say, is deindustrializing; our manufacturing industries are declining and are producing less and less of our GNP;

Our market system, they say, cannot meet world competition that is subsidized and protected by state planning;

Our deindustrialization, they say, is causing massive unemployment, the worst since the 1940's and

Our technological revolution, they say, will do two things to our labor force—increasingly throw massive numbers out of work and divide the rest into electronic wizards or drones.

From these assertions the advocates jump to their conclusion: To solve all these problems the United States needs a national industrial policy.

That phrase means different things to different people, but it nearly always comes down to "We need an institutional change." Specifically, industrial policy advocates urge the establishment in the executive branch of two new, potentially powerful organizations:

A tripartite national industrial policy board, with members from government, labor and business, which would conduct studies, recommend new industrial policies to the President and the Congress, and have specific powers to intervene in the economy, and

A national development bank, modeled on the old Reconstruction Finance Corporation of depression days. This bank would make loans and subsidies to private companies and local governments extracting concessions from affected constituents so that some remedial plan would protect selected declining industries, boost selected growth industries by subsidizing such elements as their R&D, help individuals and communities adjust to the demands of market competition and technological change, and thereby restore our ability to compete in the international marketplace.

The political proponents of a new national industrial policy are mainly Democrats and the opponents mainly Republicans. But you also find Republican proponents and Democratic dissenters including, for example, Charles Schultze, chairman of the Council of Economic Advisers under President Jimmy Carter.

I am not a political partisan but as chairman of a Business Roundtable task force to study industrial policy proposals, I have some suggestions on how we should tackle the subject.

First, we should not get tangled in political rhetoric. For example, when advocates of a national industrial policy claim that we have been deindustrializing and that our economy in the past decade has been "slowly unravelling," we ought to look at few facts.

Between 1970 and 1980, our real GNP increased at an annual average rate of 3 percent, a rate almost identical with the historic rate since 1930. Our real per capita GNP increased at 2 percent.

Between 1960 and 1980, the percentage of our GNP produced by manufacturing industries remained virtually unchanged at about 23 percent. During those years, manufacturing employment actually increased from about 17 million to 20 million.

In recent years we have gone through the longest and deepest recession since the 1930's. But we should not take a few figures from that trough, extrapolate them off the chart, and thus create a false problem. What we should do is look at some real problems which bear on our international competitiveness.

First, huge budget deficits—$200 billion a year or more, stretching out into the future as far as we can see. Deficits that one leading economist has called daggers pointed straight at the heart of our economic growth; deficits that in future years may well mean high interest rates, high inflation, a new recession, unprecedented trade deficits, or all four.

Second, high residual unemployment, even as our economic growth resumes. Unemployment that, at the peaks of our postwar economic recoveries, has grown steadily by some estimates from less than 3 percent in 1953, to nearly 5 percent in 1973, to more than 7½ percent in 1981.

Third, a rate of productivity growth which trails far behind that of our competitors. Between 1960 and 1973 Japan's productivity growth averaged about 10 percent, West Germany's 6 percent, ours 3 percent. And since 1973, when all the productivity increases of all major industrialized countries fell, ours still lagged; Japan's and Germany's came to 4 percent, ours to 1 percent.

This lag reflects, among other things, a lag in the percentage of our GNP we put into net fixed capital. Japan in the past decade invested nearly 20 percent, Germany nearly 12 percent, and the United States less than 7 percent. It also reflects the fact that our competitors devote far more of their personal income to savings than we do; Japan 18 percent, Germany 13 percent, the United States less than 6 percent. And this shortfall, in part, reflects the bias in our tax laws which still encourages consumption instead of investment in the tools of production.

Finally, an educational underpinning for our work force, which has become a national disgrace: Declining student proficiency in mathematics and English; desperate shortage of science and mathematics teachers; falling SAT scores among young men and women headed for public school teaching, and thousands of vacancies in our engineering faculties.

So there are four problems crucial to our economic health and competitiveness—deficits, hard core unemployment, inadequate productivity growth, and a deterioration in our educational system.

The argument for a national industrial policy not only originates in an assertion of a problem we do not have—the problem of massive deindustrialization—it also fails to confront the genuine problems we do have.

The proposal for a new planning board and development bank in Washington doesn't even attempt to come to grips with deficits or tax reform or the revitalization of our schools.

National industrial policy proposals do purport to attack unemployment. They do so by offering to help industries in distress by providing income maintenance for individuals who lose their jobs as a result of international competition and technological change, and by requiring extensive pre-notification before plant closings.

But these kinds of remedies fall far short of solving our unemployment problem. Most of the hard-core unemployed are not workers with many years of experience who lose their jobs because of Japanese or South Korean competition. Most of the hard-core unemployed—at least four times as many—are the disadvantaged. Men and women—usually young, usually black or Hispanic—who never had the education or the training to hold a job in the first place.

So what can we conclude from all this?

First, we should stop looking for some kind of magic solution. Particularly, we must abandon hope in the ultimate wisdom of some new government bureau. As Professor Paul McCracken of Michigan has observed, the government that built a subway line out to the Washington National Airport and then located the subway station beyond walking distance of the terminal probably lacks the omniscience to chart the future of the whole American economy.

I don't think we want to emulate the U.S. synfuels program or the French Concorde, and I don't think we should romanticize the RFC.

The RFC did work during two crises. In the early depression it helped to stabilize the economy and in World War II it helped move the United States from a peacetime to a wartime footing. But when it tried to provide commercial loans during the latter half of the depression and after World War II, it had a most uneven track record. It became riddled with corruption and in 1953 ended in disrepute.

Even if the new proposed bank could be kept free of scandal, it undoubtedly could not be kept free from politics—from pulling and hauling over its favors by every industry, company, and geographic region in America.

Moreover, in our desire for better communication among labor, government, and management, we must not romanticize the efficacy of tripartite boards. We have had more than 20 of them over the past 65 years, and with rare exception they have turned in an uninspiring performance. They seem congenitally unable to reach consensus on polarizing issues. And they have worked only in crisis—during the two World Wars, for example, and in the darkest days of Chrysler and New York City when the only alternative to concessions was bankruptcy. Today, we have neither a financial nor a military crisis.

At best the bank and board proposals are placebos. At worst, in the words of Charles Schultze, they are "a dangerous solution for an imaginary problem." But once we have given up these impossible dreams, we cannot take refuge in business as usual. We have real and present problems and we have to do many things to overcome these.

First and foremost, we need long-term, stable economic growth. Without that, every other remedy will fail. But growth alone will not suffice. With it we need policies to address specific problems.

We must cut that deficit. I agree with Federal Reserve Chairman Paul Volcker that we should not wait another year to make a start. And we cannot tax ourselves back into solvency. We have got to cut federal spending across the board in every area, from defense to entitlements.

Reducing the deficit and lowering interest rates will do much to reduce the overvaluation of the dollar and thus restore the international price competitiveness of U.S. products. But if we expect to compete internationally, we also must insist that our trading partners further open their markets.

And we must continually strive to be the low-cost producer by doing more for less, increasing our productivity, getting our costs down. That means holding down wage increases that outstrip productivity gains. It means doing better on investment in new plant and equipment. And that, in turn, means further tax reform to encourage more saving and capital investment.

On unemployment we have to distinguish the displaced from the disadvantaged. The problem of the displaced is the easier of the two. They are fewer in number—perhaps a half million to a million in any given year. Most of them have held jobs, some for a long time. American industry today is already spending some $40 billion dollars every year, unsubsidized by government, to retrain its workers and keep them up with changing technology. The problem is to integrate the displaced worker into this process.

To this end I believe both workers and industry need government incentives which will help move workers to where the jobs are and jobs to where the workers are. State and local governments can do a lot to help through innovative efforts to attract emerging industries into hard-hit regions. Pennsylvania already has such an effort underway. Many states can learn from the Ben Franklin partnerships.

On the unemployment of the disadvantaged I wish I had a simple answer. I know we have tried a lot of things over the years, thrown a lot of money at the problem, and that nothing has seemed to work. Unemployment among teenagers in Harlem, for example, still ranges up near 50 percent.

I believe that the first step is to help disadvantaged men and women become functional literate. The next step is to help them acquire a marketable skill. Both are essential. Neither will be instantaneous.

Finally, we must overhaul our obsolescent school system and restore its capacity to produce graduates who can, at a minimum, do math and read and write English.

So there are some observations on national industrial policy. You need not accept my conclusions, but I urge you to look carefully at our current problems and at the proposed answers.

And I urge you also to look at a wider question of which the national industrial policy debate is only a part—the question of whether our present democratic process lacks the capacity to resolve the toughest national issue before us.

We have, as everyone knows, a contentious, litigious advocacy society. And in the conflict among various contending groups it often seems we are getting nowhere—immobilized. That fact has been gnawing at many people. And it contributes, I believe, to their willingness to try new institutional answers:

A tripartite board of wise men, insulated from everyday politics, to hammer out the compromises the Senate and the House and the Executive Branch find impossible;

A one-term bipartisan presidential administration, as proposed by Theodore Sorensen, with a cabinet and White House staff half Republican and half Democratic to help do the same thing;

A constitutional amendment to require a balanced budget; or

A rewriting of the Constitution itself to give the President greater discipline over his fellow party members on the hill.

You have all heard these suggestions and others. I believe we should give them a thoughtful hearing. But I view with skepticism any hope that through some kind of institutional fix we can relieve ourselves forever of the need for leadership—for leaders, as George Will has said, with the courage to do simple arithmetic in public.

And whatever the right answer to our present national impasse, this I do know: we'll arrive at it only by doing what you are learning to do here—get the facts, avoid empty rhetoric and accept no solutions that aim at problems we don't have or that create new problems themselves.●

A SUCCESS FOR CONTADORA: COSTA RICAN-NICARAGUAN BORDER AGREEMENT

● Mr. KENNEDY. Mr. President, two important events occurred last week—one in Washington and the other in Panama—that offer important lessons for the future of U.S. policy in Central America.

The first event was the powerful and compelling speech delivered by President Miguel de la Madrid of Mexico at a joint session of Congress.

The second event was the announcement in Panama City by Costa Rica and Nicaragua that they had reached an agreement to set up an independent commission—under the auspices of the Contadora group—to patrol the border between those two nations and to investigate and report back on any incidents that might occur in that border area.

President de la Madrid has been a strong and courageous leader of the effort by the four Contadora nations—Mexico, Colombia, Panama, and Venezuela—whose foreign ministries first met on Contadora Island in Panama in January 1983, to seek a peaceful solution to the conflicts in Central America. In his speech to the Congress he described the efforts of the Contadora group to bring peace to Central America as "Latin American actions to solve a Latin American problem." He went on to say:

We maintain that dialogue and a negotiated solution to the conflicts are possible; we therefore reject, without exception, all military plans that would seriously endanger the security and development of the region. This continent must not be a scenario for

generalized violence that becomes increasingly difficult to control, as has occurred in other parts of the world. For our countries it is obvious that reason and understanding are superior to the illusion of the effectiveness of force.

President de la Madrid stressed the importance of pursuing negotiations—rather than military force—as the path to peace in Central America. He said:

In Central America, politics and diplomacy offer a real possibility of reaching agreements to prohibit the installation of foreign bases, to reduce and eventually eliminate the presence of foreign military advisers, to establish mechanisms against trafficking in arms, to prevent the activities of groups that undermine stability, and to discourage the arms race in the region.

As if to prove the truth of President de la Madrid's plea to Congress, the Central American nations of Nicaragua and Costa Rica were announcing—almost simultaneously with President de la Madrid's speech—that they had reached an agreement breaking new ground in the regional effort to resolve the conflicts in Central America by peaceful means rather than by resorting to military force. This agreement is an example to us all of the way to resovle other conflicts in the area. The successful efforts of Nicaragua and Costa Rica to conclude this agreement deserve the applause and support of everyone who shares the belief that, in Central America, we should give diplomacy a chance to work before turning to military force.

The agreement was reached after weeks of deteriorating relations between Nicaragua and Costa Rica. Over the past 2 years, in fact, Costa Rica has been involved in a series of firefights with Nicaraguan forces. Managua has accused San Jose of permitting anti-Sandinista guerrillas under the command of Eden Pastora to operate against Nicaragua from Costa Rican soil.

On April 23, tensions began to escalate. Costa Rica accused Nicaragua of launching "serious military attacks" on April 17 and April 19. Nicaragua rejected the charges, accusing Costa Rica of supporting Pastora's forces.

On April 29, two Nicaraguan planes made rocket attacks aginst the Costa Rican border towns of Tirisias and Pocosol. The next day a Costa Rican observation post was attacked by mortar.

Fighting flared on May 3, at the Penas Blancas border post on the Pan-American highway. The chief of the Costa Rican Civil Guard, Colonel Vidal, said that the Sandinistas fired mortar shells that "landed 4,500 meters inside Costa Rica and I ordered the Civil Guard to answer the fire." A day earlier Costa Rican President Luis Alberto Monge had ordered the Costa Rican security forces along the border "to repel with all the means in reach" any Nicaraguan attack. Colonel Vidal claimed that there had been six Nicaraguan incursions by plane, mortar fire and troops over the past year.

Costa Rican Foreign Minister Gutierrez protested the incident in a note to the Nicaraguan Foreign Minister, calling it a "premeditated attack * * * that constitutes the most grave incident that has occurred in the last 2 years and puts the relations between the two countries at the lowest point."

Nicaragua has denied deliberately attacking Costa Rican border forces, saying that any military action was aimed at anti-Sandinista guerrillas in Costa Rica. The Nicaraguan Foreign Ministry called the incident "a self-attack by the Costa Rican Rural Guard, showing its complicity in the plans conceived by the U.S administration."

The May 15 agreement reached by the Costa Rican and Nicaraguan Foreign Ministers established a joint commission of supervision and prevention, composed of representatives from the two countries as well as from the Contadora group nations. The commission will conduct border inspections and recommend solutions to the problems between the two countries. According to the joint declaration, this commission "will be willing to go anywhere in the territory of the two states."

The agreement is an important one. It demonstrates that diplomacy can defuse tensions in Central America. It also demonstrates the effectiveness of Contadora group efforts.

I ask that the full context of the Costa Rican-Nicaraguan declaration be printed in the RECORD.

[Unofficial Translation]

JOINT DECLARATION

The Ministers of Foreign Relations of Costa Rica and Nicaragua, meeting in Panama City, Republic of Panama, on May 15, 1984, in the presence of the Vice-Ministers of Foreign Relations of the Contadora Group, and in accordance with the political will of their respective governments to make the efforts necessary to bring an end to tensions and incidents in the border area, and to foment a climate of trust between both countries, have decided to create a Commission of Supervision and Prevention, the characteristics of which will be the following:

(1) The Commission will be made up of one representative and one alternative, both high level, from Costa Rica and Nicaragua, and by one representative from each of the countries of the Contadora Group. The responsibility of the representatives of the Contadora countries will be to mediate desputes. They may be designated from among the members of their diplomatic missions, two in San Jose and two in Managua.

(2) The principal function of the Commission will be the on-site inspection, as well as verifications, of facts surrounding events that may give rise to tensions or border incidents.

(3) Both states commit themselves to taking measures necessary for correcting the situations that give rise to such investigations, in accordance with the previous paragraph.

(4) This Commission will be in a position to visit any part of the territory of both states.

(5) Costa Rica and Nicaragua commit themselves to establishing the system of direct telephone and radio communication for the benefit of the Commission, as recommended in the July 1982 meeting of the bilateral commission.

(6) Both states will provide the Commission with the facilities to allow for the greatest mobility and for necessary protection, so as to allow for the proper carrying out of its mission, and for its recommendation of measures to be taken by both states.

Costa Rica, Nicaragua and the countries of the Contadora Group will designate their representatives soon enough so that the Commission of Supervision and Prevention can begin functioning at the border post of Peñas Blancas Saturday, May 26.

The Ministers of Foreign Relations of Nicaragua and Costa Rica reaffirm their trust in the efforts of the Contadora Group and the necessity of favoring direct dialogue between both states. They also recognize the positive efforts that can be developed through the channels of communications and exchange in order to promote relations of friendship, cooperation and mutual understanding between both sister nations.

Pama, May 15, 1984.

MIGUEL D'ESCOTO B.,
Minister of Foreign Relations.
CARLOS JOSÉ GUTIÉRREZ,
Minister of Foreign Relations.

Vice Ministers of Foreign Relations of the Contadora Group:

LAURA OCHOA DE ARDILA,
Colombia.
JOSÉ MARÍA CABRERO JOVANE,
Panama.
RICARDO VALERO,
Mexico.
GERMÁN NAVA CARRILLO,
Venezuela.●

TRIBUTE TO DR. TOMÁS RIVERA

● Mr. WILSON. Mr. President, I rise to offer a tribute to Dr. Tomás Rivera, the chancellor of the University of California, at Riverside, whose sudden and untimely death has deprived California and the Nation of a talented Hispanic writer and educator.

At the time of his death, Tomás Rivera served as the first and only minority chancellor in the University of California system. He was the youngest chief executive in that nine campus system.

Born December 22, 1935, in Crystal City, TX, Dr. Rivera grew up as part of the migrant labor stream that ebbed and flowed from Texas into other Southwestern States. His primary education came in Spanish instruction; he graduated from Crystal City High School and went on to earn an A.A. from Southwest Junior College, and in 1958 a bachelor's degree in education at Southwest Texas State University. He then pursued the master's degree in Spanish literature and the Ph. D. in Romance languages and literature at the University of Oklahoma. He received the doctorate in 1969.

He taught and held administrative responsibilities at the University of Texas. He served on numerous scholarly and administrative boards such as the Carnegie Foundation for the Advancement of Teaching, the task force in the Hispanic Arts of the National Endowment for the Arts, the National Council on Chicanos in Higher Education, the American Association for Higher Education, the American Council on Education, and Educational Testing Services; and most recently he was involved with the National Commission on Secondary Schooling for Hispanics.

In addition to the above activities, Tomás Rivera contributed numerous original literary works, as well as critical essays. He authored two critically acclaimed books: "Y No Se Lo Trago La Tierra/And The Earth Did Not Part," an award winning novel in 1971, and "Always And Other Poems," in 1973.

He was a corporate officer of the Times Mirror Co., the parent firm to the Los Angeles Times and a variety of other publishing interests.

He is survived by his wife, Concepcion (Concha) and his three children, Ileana, 24, of San Antonio, TX, Irasema, 23, of Austin, TX, and Javier, 18, of Riverside, CA.

Dr. Tomás Rivera's extraordinary achievements in education and the humanities will be long remembered in California and throughout our Nation. He will be sorely missed, but his legacy will be with us always.●

THE SANTA FE OPERA

● Mr. DOMENICI. Mr. President, a May 11 story in the Christian Science Monitor stated something that opera lovers in New Mexico and the Southwest have known for years. According to the Monitor, the "premier summer company in America is now the Santa Fe Opera, in terms of choice of repertoire, in beauty of locale, and in the quality of the young artists it has discovered or launched over the years." I am very proud that this excellent New Mexico cultural resource is finally getting the national attention it so richly deserves.

The Santa Fe Opera begins its 28th season this summer under the direction of its founder, Mr. John Crosby. This season, which runs from June 30 to August 25, will feature five productions, including an American premiere of Henze's "We Come to the River."

The company performs in a spectacular open-air opera house at an old working ranch which belonged to Mr. Crosby's family. Nestled in the red adobe foothills of the Sangre De Christo mountains, the productions often use the open sky as their backdrop. Mr. Crosby first fell in love with Santa Fe when as a boy he came to New Mexico to recover from a bout with asthma. A lifelong conductor of operas and musicals, John Crosby's hard work and dedication to the art he loves has propelled the Santa Fe Opera into the front rank of America opera companies.

One source of the company's strength is the apprentice program which Mr. Crosby has set up. Mr. Crosby travels to the major cities of the United States during the winter and spring, listening to as many as 900 auditions before selecting the 40 who will be the Santa Fe Opera's apprentices for the following season. Those chosen fill the chorus or take minor roles. The purpose is to provide a way for aspiring opera singers to work at their art after graduation and before beginning professional careers. The apprentices refine their singing, body movements, makeup and use of language. In this way, the Santa Fe Opera has benefited from the best young talent available, and has been instrumental in discovering and launching the careers of many promising young singers.

Mr. President, I am proud to come from a State that has produced and supported such a remarkable opera company, and I commend Mr. John Crosby and the Santa Fe Opera company to my distinguished colleagues.

The article follows:

[From the Christian Science Monitor, May 11, 1984]

THROUGHOUT THE UNITED STATES, IT WILL BE A GOOD SUMMER FOR OPERA

(By Thor Eckert, Jr.)

Opera used to be a winter pastime in major cities. Now it is a year-round affair, with the important companies fostering specific identities winter and summer.

But summer music is what this column is all about, and it is hard to know where to begin. This summer in particular is especially rich, because of visiting companies.

Specifically, the Vienna Volksoper is winding up its United States tour in Washington, D.C. (through May 20, at the Kennedy Center, on the shores of the Potomac), with performances of "The Merry Widow," "The Czardas Princess," and "Die Fledermaus." The Metropolitan Opera finishes up its annual spring tour with visits to Minneapolis (through May 26), Detroit (May 28–June 2), and Toronto (June 4–9). The repertoire includes Wagner's "Die Walküre," Puccini's "Tosca," Britten's "Peter Grimes," Mozart's "The Abduction From the Seraglio," and this year's new productions—Handel's "Rinaldo," Verdi's "Ernani," and Zandonai's "Francesca da Rimini." Since this tour commemorates the company's centennial, casting is on a high level, with the likes of Plácido Domingo, Sherrill Milnes, Renata Scotto, Jon Vickers, Benita Valente, Marilyn Horne, Johanna Meier, and Samuel Ramey on tap.

The big news this season is the visit to Los Angeles of Britain's premier company—the Royal Opera House, Covent Garden—as part of the extraordinarily ambitious Olympic Arts Festival going on up to, around, and after the summer games. Sir Colin Davis leads all performances of three operas. The tour opens July 9 with a new production of Puccini's "Turandot," being seen here before it is viewed in London. Gwyneth Jones assumes the title role, and Plácido Domingo sings Calaf. Jon Vickers sings "Peter Grimes" in the controversial Elijah Moshinsky production of Britten's opera. Mozart's "The Magic Flute" completes the repertoire.

Another visitor to these shores, winding up its tour at the Met in late June, will be London's other major opera company, the English National Opera. The repertoire includes Britten's "Gloriana" and "The Turn of the Screw," Prokofiev's "War and Peace," Verdi's "Rigoletto" (in the controvertial updated version that puts the action in Little Italy, circa mid-20th century), and Gilbert and Sullivan's "Patience." The tour includes Houston (May 24–27: "Rigoletto" and "Patience"); Austin, Texas (May 31 & June 2: "War and Peace"); the San Antonio Festival (the only domestic viewing of the company's "Turn of the Screw," June 7 and 9, and "Gloriana" June 6 and 8); and finally New York, at the Met June 20–30 (omitting only "Turn of the Screw").

The premier summer company in America is now the Santa Fe Opera, in terms of choice of repetoire, in beauty of locale, and in the quality of the young artists it has discovered or launched over the years. A spectacular natural setting—the red adobe hills and crags of New Mexico—is fully exploited. The open-air house sits high on a hill, with the balcony covering sweeping up to the stars. In many productions, the backdrop is the shimmering night sky. And there is plenty to do in Santa Fe and environs during the beautiful sunny days.

This year, the repertoire is sure to please the opera connoisseur. The only "staple" opera in Mozart's "The Magic Flute." Among the unusual works are a double bill of Korngold's "Violanta" and Zemlinsky's "A Florentine Tragedy." A rare chance is offered to see a fully staged Strauss "Intermezzo," with the noted Swedish soprano Elisabeth Soderstrom. The US premiere of Henze's 1976 opera "We Come to the River" boasts a libretto by the noted British dramatist Edward Bond. Finally, Comarosa's "Il matrimonio segreto" completes the lineup. Performances begin June 30, but the full program of five operas does not come together until August. Closing night of the season is Aug. 25.

A company that has been giving Santa Fe a run for its money is the Opera Theatre of Saint Louis, performing at the outdoor Loretto-Hilton Theater in the middle of the city's glorious Forest Park. The "novelty" this year is a production designed by Louise Nevelson of Gluck's "Orfeo and Eurydice." Other works to be heard include "The Magic Flute," Madame Butterfly," and Britten's "Paul Bunyan." The season runs from May 21 to June 24. The emphasis is on young singers, fresh productions, and an intimacy that cannot be duplicated at the larger opera houses around the country.

The Spoleto Festival of Two Worlds, Charleston, S.C., branch, has been establishing itself as a showcase for opera. The charm of the city itself is a strong calling card for the festival. This season, artistic director Gian Carlo Menotti has chosen Strauss's "Ariadne auf Naxos," Lehar's "The Merry Widow," and his own "Juana la Loca." The operatic performances at the festival run from May 25 to June 10.

Wagnerites have never been as pleased as when the Seattle Opera Association started the Pacific Northwest Wagner Festival to mount its own "Ring" cycle. This season the company offers just one cycle, in German—

a spruced-up version of its old production, with new staging by the celebrated Swedish tenor Ragnar Ulfung. It should be noted that in 1986 an entirely new "Ring" will be unveiled in the company's attractive home on the old World's Fair grounds.

Speaking of "Ring" cycles, the San Francisco Opera gets a new "Siegfried" this June, with the thrilling Hungarian soprano Eva Marton as Brunnhilde. This is a continuation of the project begun last season with stimulating presentations of "Das Rheingold" and "Die Walküre." It will be completed next season with "Götterdäamerung," when the entire cycle will be put together. Edo de Warat is the conductor, Nicholas Lehnhoff the provocative director, and John Conklin the imaginative designer. If Wagner is not for you but San Francisco in the early summer is, do not despair. The rest of the season at the War Memorial Auditorium includes "Aïda" with Leontyne Price, "Don Pasquale" with lyric tenor Francisco Araiza, and "Die Fledermaus" with Peter Hofmann. That season runs through July 1.

The San Antonio Festival, mentioned earlier because it was affording the only domestic viewing of the English National Opera's production of "The Turn of the Screw," offers not only opera but ballet, theater, and concerts. The Berlin Opera is bringing its staging of Bizet's "Carmen" to Texas (May 19, 21, 23, 25). More important, the festival itself is giving the first U.S. performance in over half a century of Rossini's final opera, "William Tell" (May 26, 29, June 1).

The festival is also mounting a production of Britten's "Noyes Fludde" in St. Mark's Episcopal Church (June 2 and 3). This festival is only in its second season, but already seems on the way to becoming an established fixture in America's spring and summer concert schedule. And it appears that the Berlin Opera and Ballet may have found a home away from home for a few weeks in May. Overall, it is a musically interesting festival, and there is the added bonus of the city itself—one of the most attractive downtown areas in any domestic metropolis.●

MEDICARE PROSPECTIVE PAYMENT SYSTEM

● Mr. DURENBERGER. Mr. President, the new medicare prospective payment system is in its 8 month of a 3-year phase-in and the effects are already dramatic. Prospective payment has fundamentally changed the economic incentives for health care providers. For the first time under medicare we are seeing hospitals aggressively pursuing management strategies that provide quality care in a cost-effective way.

I would like to submit for the RECORD, Mr. President, an article written by Carolyn Phillips that appeared in the Wall Street Journal on May 2, 1984. This article describes how hospital and related industries are responding to the new medicare prospective payment system.

Although the prospective payment system is not the be-all and end-all reform for the medicare program, it has gotten us off on the right foot toward reform that stresses cost containment, efficiency, and quality.

The article follows:

[From the Wall Street Journal, May 2, 1984]

HARSH MEDICINE: MEDICARE'S NEW LIMITS ON HOSPITAL PAYMENTS FORCE WIDE COST CUTS

(By Carolyn Phillips)

After years of runaway inflation, the U.S. health-care industry is suddenly on a cost-cutting binge.

That sounds about as believable as "the check is in the mail," but it is true, basically because Uncle Sam grew weary of putting so many checks in the mail. The federal government has changed its Medicare payment system, forcing a far-reaching shakeup.

The elderly-care program has begun paying hospitals based on what it figures treatments should cost rather than on what hospitals actually spend. Thus, hospitals that have freely run up the tab, certain of hefty reimbursements, now must keep a close eye on expenses.

Coming in under the Medicare-set mark means a profit, and exceeding it means a loss. Because Medicare recipients account for about 40% of all patient-days in the nation's acute-care hospitals, some of these institutions no doubt will become terminal cases if they fail to adjust to the new system and to other expected changes in federal reimbursements.

EARLY RAMIFICATIONS

Though only about 40% of hospitals have been phased in to the "prospective payment" system since it began last October, the shockwaves are already evident:

Hospitals are laying off staff members, buying cost-calculating computers and driving hard bargains with medical-supply companies.

Supply companies are changing their marketing tactics and lowering their growth expectations.

Doctors are taking fewer tests, and patients are using more alternative facilities. And both are concerned about what this all means for the quality of care.

Patients may also find their hospital stays shortening. When 88-year-old Ada Fish broke her arm recently, she spent a week in a Lakeland, Fla., hospital, but was then "rushed out," as she sees it. "I think I should have stayed another week," says Mrs. Fish, "but my doctor told me Washington couldn't pay all that money."

That is the heart of the matter. With health-care costs rising at more than 15% a year and with Uncle Sam footing about 30% of the nation's total health-care bill, Congress in 1982 decreed a tightening of the Medicare purse strings. The decree didn't get much attention, buried in tax legislation, but it set federal bureaucrats to laboring on an overhaul.

BASIS OF SYSTEM

The system they developed pays hospitals fixed amounts to treat specific ailments, based on categories called diagnosis-related groups, or DRGs. The amounts Medicare pays are adjusted to reflect regional average costs and whether hospitals are urban or rural.

Predictably, the changes haven't been universally acclaimed. Administratively, the new system imposes enormous burdens, and medically it runs counter to an ingrained hang-the-expense ethos. "Our fear is that if these rates are lowered too much, hospitals will have to hold back on using life-saving technology, on doing all the things they can do to save lives," says Michael D. Bromberg, the executive director of the Federation of American Hospitals, a trade group.

The real problem with the prospective-payment system, others fear, is that hospitals will become adept at getting around it. One possible tactic: arbitrarily assigning patients to DRGs that pay more than their ailments would warrant. That was a glitch in the system in New Jersey, which has had a state-run prospective-payment setup for several years. Another: shifting costs to non-Medicare patients. Some software companies are peddling computer programs they claim will show hospitals how to do it just that.

Private insurers worry about that sort of thing. "Prospective payment should be instituted for all payments to hospitals," says Colin C. Hampton, the president of Union Mutual Life Insurance Co. of Portland, Maine. "As long as they apply only to Medicare, then the act of shifting costs to private payers is exacerbated."

WIDER APPLICATION

Federal health officials say they are also interested in wider use of the prospective-payment program and are currently studying its application to doctors' fees and nursing-home charges.

Hospitals are apprehensive because under the new system, "one or two very expensive cases could bankrupt a small hospital," says Jack Flaig, the finance vice president of Tuality Community Hospital in Hillsboro, Oreg.

Some of the nation's 5,000 acute-care hospitals surely will go into bankruptcy, predicts Alex McMahon, the president of the American Hospital Association, another trade group. There is general agreement that small, not-for-profit institutions are most vulnerable. They have been much more oriented to community pride than the bottom line, and they aren't generally long on management.

Investor-owned facilities, which have always kept an eye on the bottom line and on cost controls, are expected to fare better. "Our costs are already lower than the DRG rates, so for us prospective payment is a great positive," says David Jones, the chairman of Humana Inc., a Louisville-based operator of 86 U.S. hospitals. "I see low-cost producers having a field day in this environment."

In the main, however, hospitals are scrambling to reach that point. The first step for many is slashing the payroll. In Evergreen Park, Ill., Little Company of Mary Hospital recently laid off 226 employees, or about 10% of its staff. In Lancaster, S.C., Elliott White Springs Memorial Hospital cut six of its 21 management positions, had other salaried employees take a temporary 10% pay cut and reduced the workweek for hourly employees. All over the country, hospitals are imposing hiring freezes.

They are, however, hiring legions of consultants to help streamline their operations and buying computers and software to help get a handle on their costs.

Administrators are lecturing their staffs about cost consciousness and urging doctors to reduce patient tests—or to have the tests done outside the hospital, where old reimbursement standards apply. They also are imploring doctors to think twice before admitting patients and to be quicker about discharging them.

At teaching hospitals, the new economics of health care are particularly hammered home. At the University of Alabama in Bir-

mingham, residents and physicians discuss costs as well as treatments as they make their rounds. At the University of Chicago hospitals and clinics, staff members get pocket manuals listing laboratory-test costs.

Elsewhere in Chicago, Illinois Masonic Medical Center is making moves that reflect other national trends. It has set up a "self-care" unit, where patients with relatively minor ailments can recuperate with minimal nursing and at relatively minimal cost. It should thus come out nicely ahead on prospective-payment reimbursement. Other hospitals are starting low-overhead satellite businesses, such as emergency centers and home-health-care services, both to take advantage of the new Medicare payment policy and to find new sources of revenue.

Illinois Masonic also made a local splash by announcing a 25% reduction in its semi-private-room rates. It did that partly because it had trimmed its staff 7% and partly because it was applying a classic business principle: Increased volume compensates for reduced margins. In the same spirit, other hospitals have taken to renting billboards and running newspapers, radio and television ads.

As hospitals feel the heat, they pass it on to their suppliers. "Pricing pressure has been fierce," says Karl Bays, the chairman of American Hospital Supply Corp. in Evanston, Ill. That applies even to the little things. Northwestern Memorial Hospital of Chicago recently sought competing bids for surgical gloves, to see whether it could get a break on the price it was paying. It did, lowering its cost to 33 cents from 37 cents. At 281,000 pairs a year, that is a saving of $11,000.

This newly thrifty mind-set also applies to choice of products. No-frills urinary bags are in; the fancy ones with access valves and hanging apparatuses are out. Generic cold sterilants are in favor, the brand-name ones aren't. "Hospitals are definitely looking to buy Chevys instead of Cadillacs," says Art Spirakes, Northwestern Memorial's purchasing director. "And that's got companies very nervous. We're seeing more aggressiveness on the part of sales reps. They show up more frequently and are more insistent."

Medical-supply companies are also pushing some different products and doing some different sorts of marketing. They are selling cost-figuring software, in competition with the likes of Big Eight accounting firms. They are developing more products for home health care. They are holding prospective-payment education seminars for hospitals, the better to establish themselves as stalwart friends in the storm. They are locking in customers where possible by guaranteeing quick delivery on orders to enable hospitals to keep low inventories.

Suppliers are also taking steps to trim their own costs. Baxter Travenol Laboratories Inc. has automated much of its manufacturing. Several pharmaceutical companies are developing processes to make certain drugs for less. Philadelphia-based SmithKline Beckman Corp. has laid off hundreds of workers in its diagnostic-instruments business.

It has been a painful time for companies accustomed to galloping growth in sales profits. In the 1983 fourth quarter, when the prospective-payment system kicked into gear and hospitals turned cautious in purchasing, medical-supply concerns took it on the chin, reporting depressed results.

That was a harbinger of things to come. Industry executives don't see disaster in the offing but most see an age of diminished expectations. Baxter Travenol, a company accustomed to annual earnings gains exceeding 20%, reported that first-quarter profit fell 28%, although it does expect an earnings gain for the year. American Hospital Supply, which has enjoyed similar growth rates, sees its annual profit percentage rise slipping to the mid-teens. For others, the slippage could be more severe.

"Until now, everybody's done relatively well in the health business," says Charles Aschauer, executive vice president of Abbott Laboratories of North Chicago, Ill. "But I think these new constraints are going to bring out the differences in managerial skills. The good guys will look even better. The marginal guys won't look so good."●

IN SUPPORT OF NATIONAL DIABETES MONTH

● Mr. D'AMATO. Mr. President, I am pleased to join today as a cosponsor of Senate Joint Resolution 299 designating the month of November 1984, as National Diabetes Month which has been introduced by my good friend, the junior Senator from South Dakota.

Although diabetes is a well-known disease, most people do not fully realize its seriousness. Over 16 million Americans have diabetes, including 5 million who do not know they are afflicted. Over $10 billion is spent every year on diabetes. With its complications, diabetes is the No. 3 cause of death by disease in the United States. People with this affliction are at high risk from heart disease, stroke, kidney failure, and severe nerve damage. Diabetes strikes women nearly twice as often as men and blacks are affected twice as often as whites. This disease ultimately affects a variety of bodily functions and organs, even though it is primarily a digestive disease.

I want to commend the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, however, for their exemplary research into this disease. I would also like to commend the American Diabetic Association, with its more than 700 chapters nationwide, which offers patient education and family services, counseling, and self-help programs, along with a multimillion dollar research program.

I believe this resolution will help serve the cause of fostering a deeper understanding for this chronic disease. An increased awareness will promote research and improve methods of treatment for diabetics. I urge speedy passage of Senate Joint Resolution 299.●

HEALTH CARE FOR THE ECONOMICALLY DISADVANTAGED

● Mr. DURENBERGER. Mr. President, on Friday, April 27, 1984, the Senate Finance Committee's Subcommittee on Health held a hearing on the problems that the economically disadvantaged face in obtaining health care services. As chairman of the Health Subcommittee I am deeply concerned about the extent of this problem in our country today. It is estimated that some 28 million children and adults are either uninsured or underinsured.

One of the primary objectives of the Health Subcommittee this year is to gather information on the extent of the problem faced by the economically disadvantaged in obtaining health care services and to outline a solution that will facilitate access to the health care marketplace.

I ask to have printed in the RECORD, Mr. President, a copy of the hearing testimony prepared by the Honorable Harvey Sloane, mayor of Louisville, KY, on behalf of the United States Conference of Mayors. Mr. Sloane's testimony describes the general impact that this problem is imposing on local governments.

The testimony follows:

STATEMENT OF HON. HARVEY SLOANE, M.D., MAYOR OF LOUISVILLE

Mr. Chairman, members of the subcommittee, my name is Harvey Sloane. I am a physician and mayor of Louisville, and I am here on behalf of the United States Conference of Mayors.

The subject of health care for the economically disadvantaged is one that touches me personally and professionally. Mayors as you know, are in the unique position of representing the health interests of consumers, providers and employers. The health interests of one group, the economically disadvantaged, are particularly compelling.

Who are the economically disadvantaged? We believe they are the uninsured and the underinsured. This group, according to a recent study by the Robert Wood Johnson Foundation, is made up of 21 million adults and 7 million children. Included are: those covered by medicaid, for whom coverage is incomplete—the elderly, women and children, the disabled; the working poor—who may not qualify for medicaid but cannot afford private insurance or self payment for care; and a new category, the new poor—those who have recently lost jobs and, at the same time, lost health benefits.

Let me take a moment to discuss the new poor. In cities across the country we are seeing people who are losing their jobs, exhausting their financial resources, exhausting their unemployment benefits, and losing their homes. These people are coming to health and human services agencies for the first time, and it is difficult for them to do so. Human services agencies in Evanston, Illinois reported to the Conference of Mayors in late 1982 that they have been presented with serious problems of psychological distress, alcoholism, and even violent behavior among those unable to cope with having to seek help from local agencies. Nationwide, large numbers of people are being evicted from their homes. Families in Trenton, New Jersey, for example, because they cannot afford to do otherwise, now share their homes with others, thus living in overcrowded conditions.

Others have no home, and haven't had a home in a long while. These are the homeless. People referred to as bums, bag ladies, and derelicts. Some of the long-term homeless are deinstitutionalized people who have either returned to communities from insti-

tutions or who have not been placed in institutions. In 1965, for example, there were approximately 560,000 mentally ill persons in public psychiatric hospitals in this country. Today, because of federal legislation, court decisions, and state actions, the patient populations in those institutions have shrunk to about 125,000. We estimate that there are currently over one million chronically mentally ill persons living in communities, many of whom are homeless; requiring a variety of health and social services. Their presence in the community has increased the demand for many existing health services and created the need for development of new ones.

All of the people we have been speaking about, the uninsured and the underinsured, come to us, to cities, for health care that in some measure they cannot afford. And, though we may not be able to afford to provide it, we must and we do.

Most cities do not have statutory responsibility for the provision of health services to their citizens. This responsibility often rests with the county or the state government. Many cities, however, have taken on some responsibility for planning, coordinating, and/or administering health programs for their citizens because local needs would not otherwise be met.

Law, on the other hand, does prohibit local governments from engaging in deficit finance. So, when program needs continue or grow and available funding does not keep pace, local governments must generate more local taxes. The situation grows more complicated still for the many cities constrained by shrinking tax bases caused by a move to the suburbs of businesses and taxpaying individuals. Add to this a general economic decline plus significant cuts in federal financial assistance coupled with reorganization of many categorical programs into block grants to the states and reductions in eligibility and benefits under entitlement programs, and you have, more or less, the situation facing cities trying to provide health care to the economically disadvantaged.

A Conference of Mayors survey of city human services officials at the end of October, 1982 identified health as the program in their department most severely impacted by federal budget cuts that year. In Atlantic City, New Jersey, for example, the rodent control program was abolished due to elimination of federal funding for that effort. The survey revealed, also, that only 30 percent of eligible populations in 55 respondent cities were served by any health provider. That was a drop of a full ten percent from Fiscal Year 1981, where 40 percent of eligible people were able to secure health services. And, 40 percent wasn't much to brag about.

Let me share some city experiences with you. Bloomington, Minnesota is a small, affluent community with an annual budget of under one million dollars. Yet, in 1980, a full ten percent of that budget, $100,000, of local tax money, went to provision of health services to low income people. A growing number of these people are newly unemployed whose presence is adding to the patient load at well child clinics, at family planning units, and on WIC waiting lists. This city, like so many others, finds itself at a disadvantage when it must compete, as Washington says it should, for patients no one else wants. In the area of home health, for instance, all providers are eager to serve four of five classes of patients: those with full medicare coverage; those with medicaid coverage; those with private insurance; and, those with sufficient personal resources to pay for their care. As for the fifth category, those unable to pay any or all service costs, there's no competition here. For the City of Bloomington, this group of people is there for the asking. There are no other takers and it is mandated that the city must serve all who need care without regard to ability to pay. In the days before competition was in vogue, we used to refer to this phenomenon, that of public institutions ending up with a high proportion of non-pays, as dumping.

Public hospitals and health departments in cities across the nation find themselves in a similar, untenable situation for broad categories of outpatient services.

Let me move on to some other cities. New York City's share of medicaid this year will be $.9 billion. Not included, of course, is the City's cost for care that is not covered under medicaid nor patients not covered by medicaid.

The lack of health services in Louisville also can be categorized into the three basic groups, which are the uninsured, the underinsured, and the individuals who are covered by traditional governmental third party insurers, who lack coverage in special areas.

Each of these classes of medically indigent individuals experience difficulty with access to medical services as well as difficulty in receiving services. There are approximately 195,000 uninsured and underinsured individuals in the Louisville community, and there are approximately 80,000 medicaid covered individuals. This means that approximately 40 percent of all of the residents within the boundaries of Louisville are at risk for some portion, if not all, of their medical care.

Although there is a compelling need for more funding for health services, this must be coupled with some system design changes to the present method of delivering health services. In Louisville, we are moving forward with some bold initiatives.

Particularly significant is an agreement with a private hospital corporation, the Humana Corporation, to operate the hospital which has historically provided indigent care in Louisville. As part of a unique agreement between city, county, and state governments, and the University of Louisville, the Humana Corporation is now providing unlimited health care to indigents at Humana Hospital University, which is also the University's teaching hospital.

In the first year of the agreement, the private corporation extended care valued at $6 million beyond the contributions of the three governments.

Through this involvement of the private sector in indigent care, the traditional public hospital has been used more, and more efficiently, to bring about a greater level of care for the poor who need it the most. This has been most timely, since the cost of hospital care has increased 61 percent in the past three years while government funding has increased only 41 percent.

Another local initiative designed to provide greater health care through participation with the private sector is ACCESS, a primary care center for the indigent in Louisville. This center is treating 120 people a day, many of whom are being spared a costly visit to the hospital by early outpatient care of their illness. Because of the successful reception of the community toward the ACCESS center concept, there will be another center operational this year.

Just this week, the Health Care Access Committee, a group established by the University of Kentucky, in its final report adopted a set of proposals urging more voluntary efforts by doctors and hospitals in providing indigent care. One of the proposals in this report would be the establishment of a hotline in medical society offices to link patients who can't afford their medical needs with physicians participating in the program. This concept has the endorsement of the State Medical Society and the Kentucky Hospital Association. If there is a fair participation among doctors and hospital, the indigent patient load should become more widespread, thereby not becoming an inordinate burden on any segment of health providers.

Two service areas, outpatient care and pharmaceutical supplies, still reflect great needs. There is no centralized approach to improving these areas which are critical to an individual's well-being and holding down medical costs.

I feel it is important to understand the examples of local initiatives to improve health care with available resources so you will appreciate a message I'm bringing you today, And that is, cities are not simply appealing for federal funds for health care and outstretched hands. We are launching our own innovative efforts, often with local funds. But, these initiatives are not enough to meet increasing demands on public health care. An example of the increasing demand for services is demonstrated by the increasing amount of uncompensated care by hospitals in Kentucky. These hospitals in 1979 delivered $123.7 million in uncompensated hospital care, which increased to $231.6 million in 1982. This represents a 55 percent increase after the federal and state budget cuts began in 1982.

Economic and social conditions are compounding the demand for medical care by those least able to afford it. If not treated properly and quickly, the conditions of our people in cities who have no provision for care will worsen and require even more costly care later.

Where do we go from here? First, no further cuts in health services dollars. Under the guise of reducing the nation's health spending, don't cut federal dollars and shift costs to public facilities and consumers, the latter who may well not receive needed health care.

Do develop new strategies to slow the rise in the health costs. The new diagnosis related group or DRG system for example, is acceptable if it is applied across the board with a higher financial remuneration for public facilities that are providers of the last resort and for the chronically ill, disabled or aged. For, without such provisions, it is not economically advantageous to treat such patients on a fixed rate and they are inadvertently disenfranchised from access to the health system.

Pursue the theory of competition, but do not leave cities and our county counterparts as the sole competitors for the economically disadvantaged. Give physicians financial incentives to offer quality care to this group of patients.

Reconsider development of a program of health benefits for the unemployed. The failure of the current system to respond to the financial and health needs of the recently unemployed people may have long reaching results.

Finally, if I may suggest an idea out of vogue, think about expanding entitlement coverage and putting more money into comprehensive and prevention programs which save money in the long run. In the late 1970's, the U.S. Conference of Mayors, The Robert Wood Johnson Foundation, the

American Medical Association, and the Health Care Financing Administration joined in a five city demonstration program designed to show that municipal governments by pooling the resources of the municipal hospital and the health department are an appropriate vehicle for improving the accessibility and affordability of health care services to the urban poor. HCFA allowed waivers under medicare which permitted reimbursement to participating sites for services not normally covered and eliminated, as well, standard deductibles and co-payments. The program is winding down, and the final results are not yet in. However, peliminary data compiled by the University of Chicago demonstrate that the annual cost per medicare patient in the program was substantially less than for a similar medicare patient being served in a municipal hospital or other setting.●

NATIONAL TOURISM WEEK, 1984

● Mr. ABDNOR. Mr. President, beginning this coming Sunday our Nation will observe National Tourism Week as proclaimed by President Ronald Reagan.

It is fitting that we should begin this observance during the Memorial Day weekend, which has historically kicked off the summer vacation period.

Travel and tourism is the second largest retail industry and employer in our Nation and those figures are reflected in my State of South Dakota as well. Latest figures provided by the Travel and Tourism Government Affairs Council indicate that in 1981 travel and tourism created 15,000 jobs in South Dakota, added $83 million in payroll and provided over 6 percent of all the jobs in the State.

Tourists spent over $1.4 million per day in South Dakata in 1981 resulting in an annual expenditure of nearly $530 million. Future projections are even brighter. We are proud of the efforts of the South Dakota Division of Tourism to develop a national tourism effort to attract new visitors to our State.

South Dakotans are anxious to share the "land of infinite variety" with our visitors. We are graced with the world famous Mt. Rushmore which immortalizes for all time four of our Nation's greatest Presidents. This "Shrine of Democracy" attracts nearly 2 million visitors a year. In addition the Badlands National Park, Wind Cave National Park, and Black Hills National Forest are prime visitor destinations. These destinations are supplemented by a variety of State parks and recreation areas and an abundance of native American historical sites.

As a member of the Senate Tourism Caucus, I am pleased to join in promoting United States and world travel. I should like to commend the untiring efforts of Senator WARNER and Senator SASSER, cochairmen of the U.S. Senate Tourism Caucus. Their combined efforts have done much to advance public recognition of the importance of an industry which provides our Nation with 4.6 million jobs and adds $11 billion to our Federal Treasury.●

SENIOR CITIZENS SEEK TO PLUG MEDIGAP

● Mr. DURENBERGER. Mr. President, the Minneapolis/St. Paul metropolitan area has demonstrated nationally that private health care plans can meet the needs of medicare beneficiaries.

Over 35,000 senior citizens in the Twin Cities have opted out of traditional medicare to use their medicare entitlement to purchase coverage from health maintenance organizations. Senior citizens are directing their business to the plans that best meet their personal needs—those that negotiate the best hospital rates and provide the best benefits.

In Minnesota, consumer choice under medicare has been in place and working for several years. Beginning this year, medicare beneficiaries throughout the country will have similar options.

Mr. President, the article I would like to submit for the RECORD today documents the success of the medicare demonstration in the Twin Cities. The article, written by Walter Parker, appeared in the St. Paul Pioneer Press on May 6, 1984. Once again our experience in Minnesota has led the way in national health care reform.

The article follows:

SENIOR CITIZENS SEEK TO PLUG MEDIGAP

(By Walter Parker)

Until Marlowe Muehlstedt, 72, retired from the Great Lakes Pipe Line Co., he hadn't thought much about health insurance.

The company, now Williams Pipe Line Co., "took care of everything." But when Muehlstedt retired from his job as a chemical technician, his group coverage did not follow him. He and his wife, Anne, quickly learned about the high cost of health care and the meaning of the word "Medigap."

To protect themselves from the costs of co-payments, deductibles and charges above the officially designated "reasonable and necessary" level Medicare is willing to pay—the so-called "Medigap"—the Roseville couple took out a Blue Cross and Blue Shield supplemental policy that cost them $84 a month.

Since then, however, they dropped that supplemental policy and joined Share, a health maintenance organization, where they pay $19.75 each per month for the same coverage and a few extras, such as annual physical exams and free clinic visits. When Muehlstedt had a heart pacemaker implanted, the bill was $4,600 but he never saw it.

The Muehlstedts were in the vanguard of a movement that is building powerful momentum in the Twin Cities: Senior citizens are streaming into HMOs, as the chart accompanying this story shows.

By the end of 1983 the four HMOs in the seniors' field had garnered about 18 percent of the market in the Twin Cities, said Kent Peterson, chief of HMO regulation in the Minnesota Health Department. That was nearly double the market share of a year earlier.

The pace has continued in 1984 as Medcenters Health Plan, PHR, Share and HMO Minnesota wage a marketing war for the seniors' business. Their billboards, TV and newspaper ads and brochures seem to be everywhere.

They were recently joined by a fifth competitor, Group Health Plan, the largest HMO in the Twin Cities, which previously allowed its prior members to hold their memberships after retiring, but didn't admit others. Two others, slated to include prepaid long-term nursing care as well, are waiting final federal approval.

It's not simply a war of slogans. Some of the plans offer total or partial coverage for preventive dental care, hearing aids, eyeglasses and even coverage for prescription drugs, a gap in Medicare since the program's establishment.

"It's a big market out there. Hundreds of people turn 65 every month," said Paul Jacobson, a consultant for the Minnesota Insurance Information Center. An estimated 250,000 persons in the seven-county metropolitan area are over 65.

"A 50 percent market share is more than conceivable in the next few years," said Peter Wyckoff, staff director of the Metropolitan Seniors Federation, a seniors' interest group coalition of 250 organizations totaling 50,000 members, which also acts as an endorsing agents for seniors' HMO plans.

"If people understand the rules of the game, the HMO is probably the best value you can get for your dollar in the Twin Cities," Wyckoff said. "If you don't understand the rules, or disagree with them, they can be dangerous. . . . You've got to be a wise consumer."

HMOs, beginning with SHARE in 1980, have offered coverage to senior citizens in the Twin Cities for several years. But industry insiders point to several factors that have stimulated the programs' growth among seniors:

Skyrocketing premium charges by commercial indemnity-type carriers for supplemental Medicare coverage.

Aggressive advertising for members.

Last—but certainly not least—a change in federal law effective Jan. 1, 1984, requiring HMOs to offer coverage to all senior citizens who apply, regardless of preexisting medical problems.

Virtually all offer high-option and low-option plans, however, limiting higher-risk members to the low-option plans, which still offer basic Medicare coverage and some extras. In years past, the HMOs held open enrollment periods for one month a year.

The federal government is the linchpin in all this because it holds the purse strings for Medicare funds. Under contracts between the HMOs and the federal Health Care Financing Administration, which administers Medicare, the government pays an HMO in this area about $165 a month for each Medicare recipient the HMO enrolls.

That sum is equivalent to 95 percent of the average amount Medicare would expect to spend per recipient in this area.

Advocates of the idea say its point is to save the government 5 percent up front and more in the long term by taking advantage of HMOs' much-touted cost efficiencies.

In return, HMOs are supposed to be able to provide care and stay solvent by efficient management, though they are allowed to charge premiums to the members. Members in turn, pay premiums far lower than under their former supplemental policies.

The hitch, as Wyckoff indicated, is that members have to abide by the HMO rules. One of these is that they must "lock in" their Medicare benefits to HMO doctors, clinics and hospitals, though some independent-practice HMO allow somewhat more flexibility.

Al Nistler, 76, retired as assistant treasurer of American Hardware Mutual Insurance Co. He knew all about insurance, including medical coverage. His own coverage didn't carry over into retirement, but he signed up for what he considered a good policy through a retirement group.

Slowly but surely, the Edina man said, the company watered down the benefits. He underwent open heart surgery and had to apply pressure based on his knowledge of state insurance rules to have the surgery paid for.

He joined another commercial carrier through the Metropolitan Seniors Federation, a senior citizens' lobbying group. The company found it had miscalculated its costs, however, and soon began raising rates for the 10,000 seniors who signed up, he said.

"It got to the point where I felt I might as well be self-insured as pay the rate they were looking for," he said.

About the time the rates started to rise, several HMOs in the Twin Cities were growing rapidly, but most weren't yet offering membership to senior citizens.

But then, the Seniors Federation made an arrangement with Physicians Health Plan, an HMO comprised of about 2,300 doctors in private practice, in which federation members could join. Nistler's doctor was one of the 2,000, so he joined PHP, where his monthly premiums immediately dropped in half.

To date, the HMO senior citizens' plans are still officially demonstration programs. Amendments in the 1982 Tax Equity and Fiscal Responsibility Act will change this and remove the barriers to more such programs, sources said, as soon as regulations implementing them are released by the Reagan administration.

One factor reportedly delaying the process is fear in some quarters that the HMOs will attract the best risks, or healthiest people—a phenomenon known as "adverse selection."

If this happened, Medicare would be saddled with the sickest patients—those least likely to give up their personal doctor—after having given up billions of dollars to HMOs, dollars that could have been used to spread the risk in an already squeezed Medicare fund.

One source in the Twin Cities explained the potential social downside this way:

"Nine percent of people on Medicare consume 75 percent of the health care. If the HMOs can screen out that 9 percent, they will have succeeded in getting a population that will consume less than 25 percent of the care but still get 95 percent of the per capita payment (from Medicare). They're coming out like gangbusters."

Present Medicare payments to HMOs reflect such factors as regional health costs. Wyckoff of the Seniors' Federation said he believes payments should include "a health status adjustment" as well, paying HMOs more for assuming higher risks, less for members with good health records.

Dr. Paul Ellwood, president of Interstudy, an Excelsior, Minn., HMO think tank, said the adverse selection phenomenon has never been proven. He said the evidence is, in fact, strong that HMOs have been able to actually cut costs as their senior members grow older by managing hospital use more efficiently and ordering more work done outside hospitals.

He said that one factor that is still unknown is what the impact on HMOs would be if significant numbers of their members died at about the same time. He said studies show that 30 percent of Medicare spending is during recipients' "last episode."

"I'd have to say we aren't positive about that," he said. "Since it's happening to us (Twin Citians) first it's hard to predict what that outcome will be."

Chief executive officer Robert Dittmore of SHARE commented that "the adverse selection argument goes both ways," noting that SHARE has accepted many clients who have needed cataract surgery or hip replacement soon after joining.

"When they see that heavy copayment coming up (for surgery) it makes us look pretty attractive," he said. He added that a great number of members are admitted into the high-option plan, which includes 97 percent of SHARE seniors, despite histories that include such factors as heart attacks or high blood pressure.●

DISASTER RELIEF

● Mr. BURDICK. Mr. President, today we mark the beginning of a second decade of assistance under the Disaster Relief Act of 1974. As chairman of the Environment and Public Works Subcommittee that was responsible for this act, I feel a strong sense of satisfaction in the good this program has accomplished.

Over the years many extraordinary events, such as earthquakes, volcanoes, floods, and tornadoes have tested the authority of this act. To an amazing degree, this act has demonstrated its strength.

I want to emphasize this is not an assistance act riddled with fraud and abuse, not a Government giveaway, not a complicated aid formula snarled in redtape. It is instead a means by which Government responds quickly to citizens in need.

Since the 1974 act was signed into law, 371 disasters have been declared by the President. Funds provided for disaster relief have totaled $2,856,400,000—not a large sum when one considers the number of people aided by the act. Since 1974, 828,000 families have registered in disaster assistance centers across the Nation. Of these, 135,000 families received free temporary housing assistance, 273,000 received cash grants averaging $1,500. I feel these statistics demonstrate that this act works, and touches peoples' lives in a meaningful way.

The Disaster Relief Act has worked, and worked well, but no situation is static. In order to make a good thing better, subcommittee members are continually exploring ways to improve it.

On April 2, 1984, Senator HUMPHREY and I introduced S. 2517, a set of comprehensive amendments to the act. On May 8, the Environment and Public Works Subcommittee reported it favorably on a unanimous vote.

S. 2517 contains the essential improvements and compromises that will enable us to look forward with confidence to many more years of invaluable service under the act. We offer these amendments in the hope that they will again receive the well-deserved support they did in the last session of the Senate.●

SMALL BUSINESS INVESTMENT COMPANY CAPITAL BANK

● Mr. D'AMATO. Mr. President, I rise today to lend my support to legislation that would reform the funding of small business investment companies. This legislation, S. 2686, is not yet in final form: It is a model which will be changed as the legislative process continues.

The ideas inherent in S. 2686 are novel and, thus, must be carefully scrutinized. I support this legislation therefore, as a model and a means for furthering construction of a system to finance small business investment companies.

Mr. President, small business investment companies (SBIC's) are private enterprises that receive partial funding from the Small Business Administration (SBA). SBIC's are companies that lend money or invest equity capital in startup enterprises.

These enterprises generally are high-tech, high-risk entrepreneurial ventures. These firms cannot go to their local bank and receive a traditional loan. Without the source of venture capital provided by SBIC's, these firms would not receive funding and would perish.

The supply of funds to SBIC's from the SBA is erratic, at best. Without a steady flow of funds, it is impossible for SBIC's to manage their venture capital investments.

Mr. President, S. 2686 proposes a new scheme for funding SBIC's. It would take much of the responsibility out of the SBA and put it into the private sector. A capital bank would be formed and would receive initial funding from the Nation's SBIC's.

Based on this infusion of funds, the capital bank would issue taxable bonds in the public markets. The proceeds of these bonds would be lent to the SBIC's for use as investment funds in venture capital firms. The capital bank would have a back up credit line with the Treasury Department.

I support the general structure of a capital bank proposed in this legislation. In fact, I have introduced S. 2234, legislation that would form a very similar bank structure on a State-by-State basis to finance infrastructure repairs. This proposal takes advantage of some Federal funds, but relies pri-

marily on the marketplace to raise money to finance worthy projects.

The SBIC capital bank would privatize Federal participation in venture capital. The legislation may not be perfect now, but I hope these imperfections can be remedied through the normal hearings process.

Once again, Mr. President, I am pleased to join as a cosponsor of S. 2686, an important legislative initiative.●

U.S. EUROPEAN PRIORITIES IN INTERNATIONAL ECONOMIC POLICY

● Mr. TSONGAS. Mr. President, I ask that the following report be printed in the RECORD.

The report follows:

FOWLER-MCCRACKEN COMMISSION POLICY MEETING ON SETTING UNITED STATES-EUROPEAN PRIORITIES IN INTERNATIONAL ECONOMIC POLICY FOR 1984–85 AND BEYOND

Friday-Saturday-Sunday, February 24-25-26, 1984. The Ditchley Foundation—Ditchley Park, Enstone—Oxfordshire, England

Host: John H. Harvey-Jones, MBE, Chairman, Imperial Chemical Industries PLC.

Cochairmen: Hon. Henry H. Fowler, former Secretary of the U.S. Department of the Treasury; Chairman, Goldman Sachs International Corp.; Cochairman, Fowler-McCracken Commission; Hon. Raymond Philip Shafer, former Governor of Pennsylvania and Chairman of the Republican Governors' Association; Senior Counsellor, National and International Affairs, Coopers & Lybrand.

Moderator: Hon. Charls E. Walker, Chairman, Charls E. Walker Associates, Inc.; former Deputy Secretary of the U.S. Department of the Treasury and Member of President Reagan's Economic Policy Advisory Board.

Discussion leaders: Sir Leslie Smith, Chairman, The BOC Group plc; Jacques Thierry, President, Banque Bruxelles Lambert, S.A., Hon. Charls E. Walker.

Rapporteurs: Dr. Klaus C. Engelen, International Correspondent, Handelsblatt; Paul Lewis, European Economic Correspondent, The New York Times; William Wolman, Editor, BusinessWeek.

The attached Conference Report should not be considered a statement of the views or policy positions of any single individual contributor (or the organization he/she represents) or of the Fowler-McCracken Commission. Alternate and even conflicting views and conclusions are reported with the conviction that great value can be derived through such an exchange of diverse views at the policy-formulation level. This Report is one element of the Fowler-McCracken Commission's continuing educational work on "Improving Government-Business Cooperation in the Conduct of International Economic Policy."

CONFERENCE REPORT

Before addressing specific issues, this Conference wishes to state that it recognizes and appreciates the great progress that has occurred in putting the world onto a path of stable, non-inflationary growth in recent years. With discipline on fiscal policies and restraint on protectionist pressures, we can count on international cooperation to enhance and expand trade opportunities in the future. Toward this end, we recommend that world leaders at their June 7-9 economic summit in London set a framework for formal consultation and remedial action on the critical economic problems that affect today's world economy.

The deficit in the U.S. budget

The problem of budget deficits is not confined to the United States, but is indeed prevalent in all Western democracies. The underlying cause of these deficits has been the rapid rise in government spending relative to gross national product (GNP). Deficit reduction is, therefore, part of the broader problem of controlling growth of government spending.

On the European side, high public sector deficits—combined with weak economic growth, high unemployment, rigidities in the labor market, and a crisis within the European Economic Community (EEC)—make it more difficult to cope with long-term structural industrial problems. Structural adjustment is, therefore, a high priority and one which is being tackled.

Turning to the United States, the federal budget deficit is perhaps the greatest single threat to sustained recovery in the world economy, in the judgment of a number of Conference participants. The deficit can have dire effects on interest rates, exchange rates, capital formation, and the level and distribution of world trade. Because it is perceived by many to lie behind high real interest rates, the U.S. budget deficit exacerbates the debt repayment problems of Third World countries. So far, vigorous and courageous public and private actions—such as by international agencies and commercial banks—have managed to contain the damage; but it must be realized that the outcome of Third World readjustment is precarious and uncertain. A number of participants concluded that the success of that readjustment could be ensured by a worldwide decline in interest rates. One of the working groups stated that capital inflow to these countries is necessary to preclude financial collapse of one or several of these debtor nations.

On the short-term scenario, conferees stated that in the absence of convincing steps by the United States to address its escalating fiscal crisis, "external discipline" might come into play. Large outflows of the dollar and a sharp deterioration in the value of U.S. currency could be the price of delayed action on the budget problem. The role of foreign capital inflows in helping to finance high U.S. deficits was emphasized by Americans and Europeans alike. An externally induced financial market adjustment could increase skepticism on Wall Street, raise interest rates, and rekindle inflationary pressures.

We propose that immediate action be taken to reduce the U.S. budget deficit to that level which can be managed or funded substantially from domestic sources. Failure to do so could be hazardous. Any reluctance on the part of foreign investors to continue to advance funds to the United States, and/or to maintain existing funds, would result in an immediate increase in U.S. interest rates, which would, in turn, necessarily attract funds from domestic sources. This competition for domestic funds could have instant adverse, possibly catastrophic, effects on the U.S. economy, as well as on world trade and commerce.

The conferees also agreed that no functional area of U.S. government spending should be sacrosanct, save that which is mandated by contract (i.e., interest on the public debt). Opinion was unanimous that the rate of growth of entitlement programs for health and retirement had to be reduced, with special emphasis on those programs which are not "means tested" (i.e., not allocated on the basis of need).

Opinions differed sharply as to U.S. spending on defense. Some conferees argued strongly that the FY 1985 spending cuts should be apportioned equally between the defense and non-defense components of the federal budget. Others, including several Europeans, saw higher U.S. defense spending as a welcome confirmation of America's determination to support effectively the defense of the West—but expressed anxiety that improvement on the Western economic and security fronts is jeopardized by the destabilizing effects of the U.S. "fiscal crisis." They maintained that the U.S. defense budget should be at whatever level is necessary to help assure the defense of the West, but that such spending should be adequately funded with tax revenues. The desirable level of defense outlays is not, however, considered a matter on which this Conference was competent to speak.

Looking ahead, the Conference urged that longer-run budget goals be formally incorporated into the U.S. fiscal planning process. The aim would be to reduce the U.S. deficit to manageable levels—with the budget ultimately balanced or showing a small surplus by the late 1980s. With federal spending at 24 percent of GNP and revenues at 19 percent, achievement of longer-term budget goals could be assured by steady but gradual pressure to hold down spending growth and increase revenue—with an ultimate balance at 21 to 22 percent of GNP.

Specific proposals by individual conferees included:

Reduce spending as a proportion of GNP by 1 percent, while increasing tax revenues as a proportion of GNP by 1 percent. The total budget saving in FY 1985 would be a reduction in the deficit from 5 percent to 3 percent of GNP, or approximately $70 billion.

Cut both defense and non-defense spending by one half percent of GNP, some $17-$18 billion.

The Conference felt that action to reduce the deficit must be taken now while the U.S. economy is moving up strongly. The danger of procrastination is an economic slow-down caused by high interest rates which could make political action impossible even in a non-election year. The critical timetable for action on the deficit is, therefore, an economic imperative—regardless of the political climate. That economic timetable dictates immediate action on the deficit.

Monetary policy

The Conference noted the unsatisfactory "mix" between fiscal and monetary policy in the United States today, with the Federal Reserve Board being forced to counteract the strongly expansionary impact of an explosion in federal spending.

There was general support for the Federal Reserve Board's adoption of new and slightly tighter monetary growth targets this year and a willingness to believe that Chairman Paul Volcker will not accommodate the federal deficit even if it is an election year. No one thought the Federal Reserve should return to fixing its monetary policy in terms of an interest rate or an exchange rate target.

Nevertheless, there was a strong feeling that any U.S. monetary policy which leads to higher interest rates throughout the

world would be highly unwelcome because it would impede recovery and aggravate the Third World debt crisis. Even a less tight monetary policy might well lead to higher interest rates by exciting inflationary expectations.

The answer, the Conference concluded, lay in reducing the federal budget deficit. This should ease down interest rates and perhaps allow the Federal Reserve to pursue a somewhat more expansive monetary policy in the future.

The Conference agreed that the time has arrived for the international community to begin working toward a reform of the international monetary system to facilitate more stable but adjustable exchange rates. Rather than fixed rates or heavy intervention, the key to stability was seen as improved coordination of economic policy between the major currency blocs (dollar, yen, ECU).

We do, however, see the need for some moderate changes in the conduct of international monetary policy, particularly exchange rate policies. We commend the move toward cooperative intervention to combat temporary instability in the foreign exchanges that was instituted at the Williamsburg Summit. But we feel that governments and central banks around the world have not gone far enough in implementing the agreements reached at Williamsburg.

In taking this view, the Conference recalled that the world had indeed been working toward a more stable exchange system during the early 1970s in the now defunct Committee of Twenty negotiations. But this attempt at monetary reform was "blown off" the rails by the first oil price shock and the financial turmoil it provoked. Today, ten years later, the Organization of Petroleum Exporting Countries (OPEC) is finally receding as a threat of international financial stability, and the time is ripe to pick up the unfinished work of the Committee of Twenty.

The Conference recommends that an intensive study of recent international monetary development be conducted during the next 18 months under the aegis of the International Monetary Fund (IMF). It was strongly noted that such a study should have support at the highest levels of government and proceed with some degree of urgency.

The Conference recognizes that the IMF is a vital institution without which the free world could face financial collapse. Under these circumstances, no nation should do anything to weaken the IMF; rather, its role should be enhanced. All governments should provide the IMF with positive support. In this spirit, a review should be undertaken of the adequacy of the resources available to the IMF. This is not to suggest that the IMF needs substantially more money, but is to suggest that the IMF be given the human resources to increase its ability to help governments around the world and also to catalyze the private sector to provide the financing that is key to renewed growth in the Third World. We recognize that faster Third World growth is the only viable long-term solution to the Third World debt problem. It should be noted that prior to the early 1980s, the Third World was growing twice as fast as the industrialized world.

Trade

The Conference expressed very strong concern over potential deterioration in trade relationships between the United States, the EEC, and Japan and over the growth of protectionist and unfair trading measures throughout the world.

While many of the proposed "protectionist measures" recently introduced in the U.S. Congress have not been enacted, their sudden increase nevertheless shows how attitudes are hardening. Given rapid economic growth and rising employment in the United States, the over-valued dollar is sucking in imports and pricing American goods out of foreign markets, creating a crescendo of demands for relief. At the same time, recent U.S. laws increasingly inhibit the Administration's ability to combat protectionist pressures.

In Europe, the Common Market countries are struggling to reduce some of the irritants to transatlantic trading relations by reforming the Common Agricultural Policy (CAP) this year and reducing non-tariff barriers to trade amongst themselves. The Williamsburg Summit countries are also committed to a "roll back" of protectionist measures in the Organization for Economic Cooperation and Development (OECD) this year.

The Conference noted, however, that such helpful moves could backfire. Reform of the CAP may be tied to fresh restrictions on U.S. cattle food imports, as France has demanded. And non-European companies may be excluded from the benefits of new trade liberalizing measures among the Ten. The planned "roll back" should not be permitted to be disappointing, although some participants believed it would be.

The Conference concluded that the time has come to improve the tone of the dialogue between the major trading partners. This might best be fostered by inviting member nations of the General Agreement on Tariffs and Trade (GATT) to start preparations for a new round of talks on efforts to reduce non-tariff barriers, encourage "fair, free trade" in services, create a more welcoming climate for foreign investors in the Third World, set guidelines for high technology trade, and integrate the newly industrialized countries in the trading system. Freedom of movement in the service area should be implemented within the EEC; more generally, action in this area should be proposed on the basis of close consultation between the private sector and public institutions.

Such an initiative would have the merit of showing that the major trading nations are committed to working together to combat new threats to international commerce. It would also help governments combat growing protectionist demands by enabling them to mediate trade disputes through negotiations instead of by unilateral measures.

This Conference recommends that GATT expand its powers to deal with cases of claimed injury in a relatively objective fashion. We recognize that establishing a neutral international jurisdiction is difficult, but the alternatives pose a most serious threat to the expansion of world trade, which is the key to sustained growth in output and employment in both the industrialized countries and the Third World.

The Conference noted that while much attention is being paid by governments to transatlantic trade tensions, there is often a tendency to overlook the size of imbalances between the United States and Western Europe, on the one hand, and Japan, on the other. The Conference noted that the persistent Japanese trade surplus and the continual low valuation of the yen posed growing problems for the rest of the OECD world. Given Japan's status as the second greatest nation in the OECD, it must do more to remove trade inequities by opening further its markets to foreign exports and investment and by cooperation with its Western trading partners.

The Conference recognized that launching a new trade liberalizing negotiation will be exceptionally difficult in today's world climate. There are powerful interests in Western countries opposed to any further liberalization at a time of sluggish growth and high unemployment, and many developing countries and newly industrializing nations are reluctant to open their own markets to Western service industries and foreign investment.

The World Bank and its affiliates have an essential role in promoting the growth of world trade. It is particularly important to note that the countries hardest hit during the recent world economic crisis are not those LDCs which became major debtors but, rather, the low-level LDCs that were too poor to borrow much. Economic conditions in these countries continue to be desperate, and they have almost no hope of attracting private capital. For these reasons, there should be no reduction of available resources to the World Bank, particularly the International Development Agency. Instead, these resources should be enhanced to ensure that imports of the poorest countries can again show sufficient growth to generate exports and jobs in the developed countries.

U.S. tax reform

Our discussion was confined to the unitary tax, a trade barrier that should be removed. We urge the United States federal government to reach an agreement with the States that would eliminate and prevent imposition of the negative aspects of unitary taxation. The President should be urged to use his authority and good offices to bring about such an arrangement. In addition, the States should be made aware that the continuation or acceleration of the imposition of a unitary tax will cause existing and future investors to look elsewhere for their corporate operations.

Transfer of technology

The Conference also discussed the transfer of technology. Trade relations with the Eastern Bloc should be fostered but without compromising the security of the West. The Western countries should renew their commitments to the Coordinating Committee (COCOM) to maintain effective strategic export control. In addition, since current U.S. export policies themselves inhibit trade, the government should limit its control to strategic critical technology. The United States should remove excessive and unnecessary licensing procedures for low technology and technology that does not enhance the military capability of adversarial nations.

Finally, the Conference recommends that the United States once again explore with its OECD partners the formulation of a code of ethics to which all the industrialized countries should subscribe to deal with the issue of corrupt trade practices.

PARTICIPANTS

Host: John H. Harvey-Jones, MBE, Chairman, Imperial Chemical Industries PLC.

Cochairmen: Hon. Henry H. Fowler, Chairman, Goldman Sachs International Corp.; Hon. Raymond Philip Shafer, Senior Counsellor, Coopers & Lybrand.

Moderator: Hon. Charls E. Walker, Chairman, Charls E. Walker Associates, Inc.

Discussion Leaders: Sir Leslie Smith, Chairman, The BOC Group plc; Jacques Thierry, President, Banque Bruxelles Lambert, S.A.; Hon. Charls E. Walker.

Rapporteurs: Dr. Klaus C. Engelen, International Correspondent, Handelsblatt; Paul Lewis, European Economics Correspondent, The New York Times; William Wolman, Editor, BusinessWeek.

W. J. Benson, FIB, Deputy Chairman, National Westminster Bank PLC.

Hon. Don Bonker, U.S. House of Representatives.

Gene E. Bradley, Chairman & President, International Management and Development Institute.

John C. Camp, Esq., Senior Director, Camp, Carmouche, Barsh, Hunter, Gray & Hoffman, P.C.

Roy Close, Director General, British Institute of Management.

Timothy E. Deal, Counselor for Economic Affairs, Embassy of the United States of America in the United Kingdom.

Bernard Desjardins, Directeur chargé de la Direction, des Etudes Economiques et Financières et des Risques Généraux Crédit Lyonnais.

Sir Michael Edwardes, Chairman, ICL PLC.

Edouard Finot, Executive Vice President, Banque Nationale de Paris.

Sir Reay Geddes, KBE, Deputy Chairman, Midland Bank plc.

Ronald Halstead, CBE, Chairman, Beecham Products.

Hon. Sidney L. Jones, Under Secretary for Economic Affairs, Department of Commerce.

Hon. Abraham Katz, U.S. Ambassador & Representative to the Organisation for Economic Cooperation and Development.

Comte Roland de Kergorlay, Former Head of the Delegation of the Commission of the European Communities to the United States.

Dr. Dietrich Wilhelm von Menges, Partner, Horlitz, von Menges and Partners.

Hon. Egidio Ortona, Chairman, Honeywell Information Systems Italia.

Sir Anthony Rawlinson, KCB, Joint Permanent Secretary, Department of Trade and Industry.

Hon. Emmett J. Rice, Member, Board of Governors, The Federal Reserve System.

Dr. N. Brian Smith, Director, Imperial Chemical Industries PLC.

Dr. Paula Stern, Commissioner, United States International Trade Commission.

Hon. Paul E. Tsongas, United States Senate.

Hon. Richard D. Vine, Director-General, Atlantic Institute for International Affairs.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government of a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. John Dudinsky, Jr., of the staff of Senator HAWKINS to participate in a program in Taipei, Taiwan, sponsored by Tamkang University from May 25 to June 1, 1984.

The committee has determined that participation by Mr. Dudinsky in the program in Taiwan, at the expense of Tamkang University, to participate in a cultural/educational tour, is in the interests of the Senate and the United States.●

ORDERS FOR WEDNESDAY

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. STEVENS. Madam President, I ask unanimous consent that following the time for the two leaders under the standing order there be special orders not to exceed 15 minutes each for Senators PROXMIRE, COHEN, and BAKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Madam President, following the completion of the special orders for those Senators, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. during which Senators may speak therein for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. STEVENS. Madam President, it is my understanding that following that period for the transaction of routine morning business and having arrived at the hour of 11 a.m. the Senate will resume consideration of H.R. 5174, the bankruptcy bill, with the pending amendment being the Packwood amendment No. 3112.

May I announce in behalf of the majority leader there is a possiblity that we will move to the consideration of the Wilkinson nomination and we also have the possibility of proceeding with the debt limit bill tomorrow, depending upon the action of the other body.

Madam President, I inquire if there is any further business. Does my good friend have any further business for the Senate?

Mr. BYRD. Madam President, I thank the distinguished assistant Republican leader for his characteristic courtesy. I know of nothing on this side that we need to take up.

RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Madam President, there being no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to, and at 7:57 p.m., the Senate recessed until Wednesday, May 23, 1984, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 22, 1984:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John T. Chain, Jr., [redacted], U.S. Air Force.

The following-named officer under the provisons of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David L. Nichols, [redacted], U.S. Air Force.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Robert E. Kirksey, [redacted], U.S. Navy.

The following-named officer, under the provisions of title 10, United States Codes, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. William F. McCauley, [redacted], U.S. Navy.

The following-named officer, under the provisions of title 10, United States Codes, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Joseph Metcalf III, [redacted], U.S. Navy.

The following-named officer, under the provisions of title 10, United States Codes, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Mustin, [redacted], U.S. Navy.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Gary R. Baarson, [redacted]
Maj. Ronald H. Bates, [redacted]
Maj. Jesse L. Blair, [redacted]

Maj. Steven D. Campbell, xxx-xx-xxxx
Maj. Raymond W. Dragowsky, xxx-xx-xxxx
Maj. Basil H. Evans, Jr., xxx-xx-xxxx
Maj. Milton T. Gerock, Jr., xxx-xx-xxxx
Maj. Thomas E. Grannis, xxx-xx-xxxx
Maj. Lawrence G. Haywood, xxx-xx-xxxx
Maj. John R. M. Hill, xxx-xx-xxxx
Maj. Clifton W. Leslie, Jr., xxx-xx-xxxx
Maj. William W. Lund, xxx-xx-xxxx
Maj. Bruce W. MacLane, xxx-xx-xxxx
Maj. Christine L. McGlasson, xxx-xx-xxxx
Maj. Marvin G. Meiggs, xxx-xx-xxxx
Maj. Robert W. Miller, xxx-xx-xxxx
Maj. Kenneth R. Olson, xxx-xx-xxxx
Maj. Fisk Outwater, xxx-xx-xxxx
Maj. Ralph B. Remick III, xxx-xx-xxxx
Maj. Brent J. Richardson, xxx-xx-xxxx
Maj. Theodore R. Schindler II, xxx-xx-xxxx
Maj. Donald R. Simonson, xxx-xx-xxxx
Maj. William T. Sparks, Jr., xxx-xx-xxxx
Maj. William A. Spencer, xxx-xx-xxxx
Maj. Edward C. Streit III, xxx-xx-xxxx
Maj. Gary W. Taylor, xxx-xx-xxxx
Maj. William T. Thornton, xxx-xx-xxxx
Maj. Herbert R. True, xxx-xx-xxxx
Maj. Robert E. Vega, xxx-xx-xxxx

LEGAL

Maj. Dennis T. Guise, xxx-xx-xxxx
Maj. Robert F. Howarth, Jr., xxx-xx-xxxx

IN THE NAVY

The following-named lieutenant commanders of the line of the Navy for promotion to the permanent grade of commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER (11XX/13XX)

Abbott, Robert James
Achille, Franklin Scott
Adams, Roger Clinton
Adcock, Fred Eugene
Ahern, Timothy Michael
Allen, Barry Robin
Almony, Joseph Robert
Andersen, Lewis R.
Anderson, Barton Paul
Anderson, Don Russell
Armstrong, Keith Stuart
Austin, Simeon Haile
Babetz, Jeffrey Dale
Backes, Douglas Allen
Baeder, Robert Arthur
Bailey, Bernis Hayes
Baker, Timothy Louis
Balisle, Phillip Monroe
Barber, Charles Harry, III
Barbour, Richard Edelen, Jr.
Barrowman, Glenn J.
Barrows, Richard Douglas
Batchellor, Mary Pamela
Baucom, Larry Clifford
Bauer, Louis William
Baumgartner, William Edward
Beach, Don Franklin
Beatty, Larry Vernon
Beckman, Charles Barry
Bellamy, Robert Rodney
Bender, John Frederick
Benfell, Sharolyn
Blackwood, Peter Stuart
Bock, Jim Baldwin, Jr.
Bolin, Phil Warren
Borns, Michael Oscar
Bowler, Daniel Richards
Boynton, Johnnie M.
Brawn, Michael Duane
Brennan, David Michael
Brennan, Samuel Harley, Jr.
Brewer, David Lawren, III
Brietigam, Charles Thomas
Bronson, Robert William, II
Brown, Donald Collins
Brown, Judy Lou
Brown, Tommy Raymond
Bucchi, Toney Michael
Burtchell, Steven Gerard
Butler, Gregory Clinton
Butler, Lonnie David
Butorac, George Edward
Buzzell, Brian Vivial
Cahill, Edward Aloysius, III
Cain, William Anderson
Cameron, Kerry Duane
Campbell, William Russell
Carey, Charles Daniel, III
Carley, Norman John
Carlson, David Robert
Carter, James Butler, Jr.
Casey, Rodney Len
Casko, John David
Casteel, Robert Blake, II
Caswell, Gary Joe
Charley, Michael Bryan
Chatham, Ralph Ernest
Chenevey, John Victor
Chopp, Daniel Matthew
Christianson, Robert Neal
Clark, Garnett Yelverton, III
Clark, Gerald Wayne
Clark, Richard Earl
Cleghorn, Larry Everett
Cocolin, David Paul
Coffer, Joe Ralph
Coleman, Stephen Tredway
Collins, David Oliver
Collins, Robert Samuel
Compton, James Robert, III
Condon, John Kenneth
Connell, John Clay, Jr.
Connell, Royal William, Jr.
Corcoran, Colin David
Cosgrove, Michael Alfred
Crosby, Richard Allen
Crotts, Raymond Bruce
Cumming, John Charles
Cummings, Kevin Peter
Curran, Donald Joseph, Jr.
Curtis, Keith Paul
Cutcher, John McCormack
Cyboron, Robert Edward
Dady, Mark Wayne
Dampier, Craig Richard
Dannecker, Ronald Howard
Davis, Jack Michael
Dawes, Larry Eugene
Day, Jeffrey John
Deaver, William Nelson, Jr.
Debien, Margaret Suzanne
Dejaegher, Richard Howard
Dempsey, Francis Brian
Dersch, Lynnette Rae
Dietz, Douglas Warren
Dilley, Carole Jackson
Dinger, John Parr
Dobrydney, Frank Joseph
Dodd, Jack David
Dodd, Richard Patrick
Dodge, Frederick James
Dominique, Leo G.
Doud, William Edward, Jr.
Dougherty, Thomas James
Douglas, Terry Scott
Duffy, Raymond Andrew
Duignan, Michael Joseph
Duma, David Wayne
Dunn, Franklin Thomas
Dunn, Michael Oliver
Dunne, Patrick William
Durazo, Manuel Ygnacio, Jr.
Durham, James Leighton
Duval, David Alan
Dye, Gary Thomas
Ege, Robert Frederick
Eick, Ira J.
Elfelt, James Michael
Elliott, Thomas John, Jr.
Elliott, Walter Michael
Ellison, Daniel A.
Ellison, David Roy
Epperson, Steven Paul
Ertel, Gregory William
Fahrenkrog, Steven Lock
Fahy, Edward Joseph, Jr.
Fellows, Mark Decatur
Felton, Bobby Joe
Fenn, Marshall Ray
Ferber, Allen Ashbey
Fessenden, Richard Randall
Fetzer, William Woodrow, Jr.
Fischer, William George
Fiser, Larry Dale
Fitchet, Charles Baxter
Fitzgerald, Lynd Lauroix
Flaherty, James, Jr.
Flaherty, Thomas John
Francis, John Willi
Franklin, Gary Wayne
Frasher, Steven John
Frazier, Tommy Earl
Freeman, Harold Robert
Fry, Scott Allen
Funke, Richard Harrison III
Galdorisi, George Victor
Gana, John Charles
Gantley, John Edward
Gardner, Dale Allan
Gardner, Daniel Edward
Garman, James Marshall
Gastrell, Philip Cutsworth
Gatewood, Joel Walter, Jr.
George, Caroline Wharton
Giffen, Robert Carlisle III
Giles, Blaine Richard
Goen, Lewis Willis
Golle, Stephen Joseph
Goodman, Joe Anderson
Goodnight, Lyman Evans III
Gordon, Edward Franklin
Gospodarec, Donald Stanley
Gradisnik, Gary Anthony
Graham, David L.
Graves, David Hart
Greene, Everett Lewis
Greene, Justin Noel D.
Griffin, James Calvin
Groves, Linda Katherine
Grubb, Francis Bunyan, Jr.
Guardiano, Jerry John
Guertin, Stanley Douglas
Guilford, Walter Byron
Hagee, Edmon Devoin
Haggerty, Jerry Michael
Hagood, James Timmons
Haigis, John
Hallenbeck, David L.
Halloran, John Garner
Handlers, Robert Glenn
Hanna, Norman William, III
Hensell, William Richard, Jr.
Hazelrigg, Steven Adolph
Heinz, Stephen George
Helfen, William
Henke, Milton Frederick, Jr.
Henry, Douglas Davies
Hester, William Leon, Jr.
Heyworth, Lawrence, III
Higgins, Edward Joseph
Hill, Michael Lee
Hoag, Trudy Lynne
Hobgood, William Hilton
Hogan, Daniel Timothy
Hoke, Mark Allan
Holewa, John Gregory
Hollimon, Geoffrey Lewis
Holloway, Wyman Leslie, Jr.
Houck, Andrew William
Howard, John Finley
Hughes, William Ray
Humberd, Calvin Chester, Jr.
Hume, Robert Leo
Hunter, Edward Echerd

Hutchison, John Wendell
Ide, Warren Harper, Jr.
Ihrig, Clyde James
Jacobsen, Lloyd Scott
Jahn, Theodore Benjamin, II
Jeffcoat, John Phillip
Jenkins, William Frost
Jennings, Wayne Donald
Jensen, Jon Robert
Johnson, Adolph Warner, Jr.
Johnson, Christopher Harry
Jones, Earl R.
Jones, Herbert Lee
Joyce, James Murray
Kaahanui, Melvin
Kane, John Edward, II
Karcher, James Norman
Keen, James David
Keller, Joseph Franklin
Kendall, David Carl
Kenney, James Francis
King, Robert Crippen
Kissinger, Robert John
Kistler, Jay Ross, Jr.
Klassen, Kenneth Wayne
Klich, David J.
Knutson, Andrew Christian
Kohlmeyer, Jean Louise
Koning, Jack Allen
Krupp, Thomas Michael
Kyle, William Carl
Lafleur, Timothy William
Lagrone, James Marvin
Lakser, Lawrence Joel
Lansing, William Edward
Larkins, Markel Holland
Larson, David Allen
Laska, Andrew John
Lawless, Patrick Hubert
Lehman, Jeffrey allen
Lemkin, Bruce Stuart
Lennon, Gerard Thomas, Jr.
Lerseth, Roger Gene
Lewis, Kirk Thomas
Linquist, James Earl
Liuzzi, Donato Anthony
Loessin, Michael Martin
Lohrmann, Walter Richard
Lopresti, Joseph Michael, Jr.
Lord, Francis Buffon
Lover, Kevin Francis
Lucie, Janice Morton
Luebbecke, Donald Stewart
Lundeen, Roy Alan
Lunghofer, Dennis Michael
Lunsford, Hollis Eugene
Mack, Lawrence John, Jr.
Mackenzie, Thomas Lyle
Mader, Thomas Walter
Madey, Stephen Laurance, Jr.
Magee, Terry Edward
Magnan, William James
Mahoney, Leon Francis
Malone, Michael Dennis
Manly, John Benson, Jr.
Marco, Phillip C.
Martel, Reginald Timothy
Martin, Richard Francis
Martin, Robert Stanley
Matthes, Gregory William
Matthews, Tim W.
Maxwell, Gregory L.
McAfee, John Daivd
McCamish, Michael James
McCampbell, David Perry
McClane, James Lenos
McCombie, Ryan Joseph
McClulley, Michael James
McGahan, Michael Partick
McGann, Barbara Elizabeth
McGuire, Edward Paul
McIntosh, Richard Cameron
McIntyre, Lewis Frank
McKenzie, James Robert
McMunn, Brock Allen
McPheeters, James Henry Jr.
McSorley, William Joseph, III.
McWilliams, George Randolph
Meacham, George Edward, II.
Mello, Gerald Charles
Melson, Frank Baker, Jr.
Messersmith, Ronald Edward
Metzger, James Wallace
Meyertholen, Joseph A. Jr.
Middleton, Michael Edward
Mikusi, Frank Charles
Miller, David Damien
Miller, Donald Dean
Miller, William Harvey
Moczygemba, Elaine Dolores
Moe, George Lars
Moncrief, William Dullisson
Monroe, William Howrey
Moody, Jack Owen
Moore, Richard Stewart, Jr.
Moore, Ronald Bertram
Moore, Stephen Roy
Morse, John Prescott
Mullin, Linn Anderson
Murphy, Dennis George
Muth, Michael Allen
Myers, Albert Clinton
Myers, Terry Ray
Naeve, Jerry Michael
Neal, Larry Ray
Nelson, Kenneth Lawrence
Nelson, Neal James
Nie, John Carlton
Niedenthal, William Jeffrey
Nintzel, Christopher Alan
Noll, John Byard
Normand, Martha Jane
Norris, Richard Douglas
Norris, Rick Joseph
Nurthen, William Augustine
Nute, John Packard
O'Bannon, Kenneth Leroy
O'Connell, John Thomas, Jr.
O'Dell, Paul, Jr.
O'Donnell, Brendan James
Olsen, Charles Clifford, Jr.
O'Malley, Margart Mary
Oneal, Pichard Earl
Onyon, Dale Everett
Otterbein, Thomas Gordon
Overall, Vernon Holmes
Pardee, William McKnight, Jr.
Patrick, Peter Devalangin
Perkins, Thomas Arcade, III
Perry, James Smith
Perry, Oliver Hazard, III
Petrea Howard Aldridge, Jr.
Pettitt, John Allen
Philpot, Carlton Gwynn
Pohl, John Sherman
Ponzo, James Frederick
Porter, David George
Porter, Franz Horst
Powell, George Alva
Prescott, Jesse Allen, III
Preston, John Walter
Prestridge, Robert James
Prevette, Henry Slater, Jr.
Psimas, George Nicholas, Jr.
Pudas, Terry James
Purcell, Richard Lynn
Purkat, John Robert
Radeackar, Randy James
Rawlinson, Linda Carranza
Rawls, Robert Sherwood
Reager, William Reardon
Reddering, John William, Jr.
Reed, William Scott, Jr.
Reichert, Timothy Martin
Reifsnyder, Frank William, Jr.
Reigner, Charles Buchanan
Reynolds, Rickie Gene
Richardson, Jack
Rish, Robert David
Robb, James Andrews
Roberson, William Henry, III
Roberts, Peter Garety
Robinson, Alan Russell
Robinson, John Gregory
Rockwood, Sidney Ray
Roeber, Dennis Keith
Roed, Carl James
Rogers, John Daniel
Ronnie, Scott Craig
Root, George Raymond, Jr.
Ross, Walter Lewis, Jr.
Russack, John Alexander
Russell, Paul Kim
Ryan, Dennis Leo, III
Ryan, Michael Kevin
Rylant Arboth Andrew
Saccio, Edward A.
Sanders, John Russell
Sandin, Terry Lee
Savage, Carter Dow
Schaefer, Linda Kay
Schaum, Robert Troy
Schempf, Peter William
Schild, William Alfred
Schmidt, Joseph Dunn, Jr.
Schnurrpusch, Gary Werner
Scott, George Winfield, Jr.
Scott, Gregory Joseph
Scruggs, Thomas Daniel, Jr.
Seeley, John R., Jr.
Semko, Paul Scott
Shannon, John Timothy
Shaw, David Reginald
Shea, Joseph Edward, Jr.
Shepherd, Wilber French
Sherer, Charles Thaddeus, III
Shickle, David Lester
Shields, John Thomas, III
Shuman, Edward Scott
Shutt, Michael David
Siedschlag, Daniel Doss
Sigler, William Andrew
Sims, Gary Marvin
Skahan, Michael William
Skolds, Charles Richard
Slattery, Patrick John
Smith, Douglas Vaughn
Smith, Earl Ramon
Smith, Larry Campbell
Smith, Thomas Earl
Smith, Thomas Michael
Smith, Tracy Ray
Spotts, William Warren
Stables, Thomas Bernarr, III
Stanbridge, Harold George
Stanton, Richard Wayne
Stanton, Thomas Paul
Starnes, Charles Newton, Jr.
Stockho, William Louis
Storer, David Gene
Strait, Chester Edwin
Stratton, James William
Stratton, Larry Rodger
Stromquist, David William
Stuart, Michael Frank
Suggs, Ralph Edward
Sullivan, Paul Francis
Sutter, Ellis Dee, III
Sutton, Elizabeth Blackwood
Swartz, Edward Lee
Szemborski, Stanley Robert
Thies, Denzil Delane
Thompson, Douglas Scott
Thorgerson, Arne Raymond
Tierney, Glenn Patrick
Torgerson, Larry Peter
Travis, Thomas Lee
Turville, William Charles, Jr.
Tyler, Robert Jeffrey
Vanbrocklin, Stephen Ted
Vance, Thomas Coates
Vanwie, Steven Leroy

Voelker, George Edmund
Waddell, James Barry
Wagoner, Robert Charles
Walker, Mary Anne
Walsh, Thomas Munroe
Watkins, John Bruce
Weeks, Stanley Byron
Weiscopf, Carl Eugene
Westcott, Richard Elliott
Whitaker, Charles Henry, Jr.
White, Bradley Thomas
Whitehead, Martha Louise
Whitmire, Dewey Laland
Whitt, David F.
Wilkins, Thomas William
Williams, Charles Baxter
Williams, Douglas Henry
Williams, James Michael
Willis, Thurman Lamar
Wilson, Charles Howard
Winkler, Michael Frederick
Wittkamp, Thomas Michael
Whittmann, William Warren
Woltman, Ronald Richard
Worms, Brent Leslie
Wright, Herbert Rawson, III
Wright, Jon Robert
Wuest, Mary Elizabeth
Wyckoff, William Watson, II
Yesensky, Douglas Alan
Young, Charles Bruce
Young, Elenor Carlene
Zackary, Fort Arthur, Jr.
Zambernardi, Paul Anthony
Zielinski, Margaret Mary
Zysk, Thomas Stephen

ENGINEERING DUTY OFFICER

Armstrong, David John
Boutz, Allen Ray
Bramlett, William T., II
Carney, James Mann
Clayton, Frederick W., III
Cochran, Paul Reginald, III
Conners, Jeffrey Durnell
Davis, Charles Carver
Good, Layne Walter
Grandia, David Jacob
Hergenreter, Dennis Dean
Hitt, Curtis Wayne
Houk, William Alvah
Lamartin, Douglass Hugh
Marcell, Frederick C., Jr.
May, Michael Dale
Mitchell, Larry Joseph
Moore, Edmund Eugene
Palmer, James Duane
Panico, John Russell
Perkins, Kevin Patrick
Raines, Thomas Steven
Reed, Michael Robert
Schack, Robert Paul
Schmidt, William Richard
Sharp, Larry Ralph
Simmons, John Wallace, II
Singstock, David John
Sponholz, Richard Otto
Swanson, Raymond Peter
Tettelbach, Gary John
Trytten, Dean Orville
Whiddon, William David
York, William Joe

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING) (151X)

Bender, Gene Paul
Crawford, Keith Eugene
Denson, Dwight Ellis
Dubeau, Robert William
Freedman, Robert Norman
Freybe, Harald
Ikuma, Gary Kazuyoshi
Kaiser, Michael John
Landers, Jerome Charles
Mady, Clemens James, Jr.
Mihalak, Edward
Perry, James Elmer
Roderick, Dennis Patrick
Sadowski, Dennis Richard
Schobert, Frederick G., Jr.
Silverman, George Martin
Wagner, David John
Wood, Robert Allen, Jr.

AVIATION MAINTENANCE DUTY OFFICER (AVIATION MAINTENANCE) (152X)

Adams, Michael Richard
Allen, Michael Norton
Blocker, Gerald Clinton
Crane, Larry Stanley
Folkman, Stewart Greaves
Griep, Raymond James
Gurke, Sharon McCue
Heilman, Stephen Craig
Huegel, Louise Margot
Jacques, Harry Augustine, Jr.
Kiem, Michael Christian
McCain, John Larry
Rice, Donald S.
Rizzi, Robert Anthony
Sauls, Aubrey Plowden
Snyder, Thomas Frederick
Strickland, Leroy Hickman
Williams, Galbraith Denny, Jr.

SPECIAL DUTY OFFICER (CRYPTOLOGY) (161X)

Blackburn, Gregory Richard
Bollenbacher, Robert Alan
Dimuzio, Robert Gregory
Doherty, Hugh Francis
Ellison, Curtis Joseph
Eustis, Harold Robert
Featherston, John Vernon
Frentzel, William York, II
Korinis, Peter William
Lopez, Clyde Cecil
Lunney, Francis Martin
Murray, Marshall Raymond
Russel, David Edward
Schaffer, Lawrence Carl, Jr.
Smith, Thomas William
Stephens, Grant Schneider
Taylor, Ronald Maurice
Vaurio, David G.

SPECIAL DUTY OFFICER (INTELLIGENCE) (163X)

Barkell, Marcia Matarese
Barrett, Donald Hall
Collins, Martin Edwin
Derusso, Michael Patrick
Hess, Charles Menk
Johanson, Donald William
Kennedy, Reginald R.
Kidder, Paul Alfred
Leard, Ernest Lee
Lipscomb, Jeffrey Ray
Madren, Amos Bernard
McDougall, Fred David
Miller, Barbara Jean
Mullen, Michael Charles
Muller, David Glading, Jr.
Nieuwsma, John Edward
Reed, Kenneth John
Rybinski, Michael
Sitz, William Wynn
Sweetman, James Michael
Sykes, William George
Tabing, Mark Dana
Terlizzi, Thomas Paul
Weborg, Gene Marvin
Wilmoth, James Walter

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS) (165X)

Becker, Stephen Edward
Connor, Thomas Edward
Doubleday, Michael Webb
Keefer, Jolene Kay
Mitchell, James Patrick
Prucha, Robert Stephen
Rank, Joseph Stephen
Schmidt, Dorothy Jean
Thomas, David William
Willenbrock, Eric Frederick
Wyld, Thomas Clinton

SPECIAL DUTY OFFICER (GEOPHYSICS) (180X)

Christiansen, Carl Smith
Fauquet, Ronald Le Roy
Hollister, John Edward
Hughes, John George
Karch, George William
McDonald, James Murray
Pearson, Robert Thomas
Roman, Donald A
Salinas, Manuel G
Schrobo, Stephen Michael
Sherfesee, Louis, III
Shutt, William Leroy

LIMITED DUTY OFFICER (LINE) (61XX/62XX/63XX/64XX)

Akins, Olen Charles
Anderson, Merlin Francis
Ashworth, Robert A.
Baron, Gilbert Henry
Biernesser, James Carr, Jr.
Borgmann, Frederick William
Bulmer, William Richard
Canfield, Frank Louis
Carey, John Dale
Caton, Robert Nelson
Cooper, Gary D.
Crain, Robert Levan, Jr.
Cudia, David Timothy
Deutsch, Joseph King
Erskine, Robert Sageley
Forbes, Clarence
Fox, Jerry William
Garrison, Rolland R.
Gepford, Richard Donald
Grace, Robert Michael
Greene, Bobby Eugene
Harry, Robert Meade
Heuchert, Richard Herman
Hobbs, Hurshell Benton, Jr.
Husted, George Gerald
James, Dempsey Dean
John, Paul Maret
Johnston, James Edward
Johnstone, Robert James
Jones, Isaiah John
Kilby, William Gene
Lentz, Joe Blane
Little, Charles Ernest
Malloch, James Edward
Mann, Elmer Heath
Marshall, Raymond Lee
Mead, Willie J.
Minor, Donald Arvine
Morales, Vicente
Nechvatal, Charles James
New, Melvin Roger
Nichols, Paul Malcolm
Nolan, Carl W.
Olson, John Theodore, Jr.
Orourke, Ernest Richard
Peach, Ellis Elbert
Pearl, John E., Sr.
Peele, Franklin Dale
Perry, Eugene Joseph
Phillips, William Joseph, Jr.
Poch, Henry William, Jr.
Pohl, Matthew John
Pokrywka, James Michael
Prestidge, Ronald Otis
Pruter, Thomas John
Rhudy, Carl Emory
Riddle, Richard Arnold
Rogge, John Arthur
Ross, Albert James, Jr.
Rundberg, Edward E.
Salter, Jesse Earl
Smith, Chester Burton
Stanek, David Monroe
Stuck, James Roland

Thomas, Donald Ralphael
Thompson, Robert M.
Treadway, Alton Glen
Turriff, David James
Tyler, Warner Russell
Varley, John Charles
Vettese, Anthony
Weaver, Sterrie Leon
Wertz, Bruce Neal
Westhoff, Dennis Anthony
Williams, Thomas Yeaman
Woods, Gerald B.
Zeitler, George Dean

IN THE NAVY

The following-named Naval Reserve officers to be appointed permanent ensign in the line or Staff Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Bergfield, Timothy R.
Childress, Olin T., Jr.
Earnest, Lisa M.
Mulligan, Sophia G.
Phaneuf, Jeffrey M.
White, Ann R.
Williams, Alven D.
Znacho, Michael R.

Jesse T. David, Navy enlisted candidate, to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555.

Lewis T. Patterson, medical college graduate, to be appointed permanent captain in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593.

Norman R. Silverman, medical college graduate, to be appointed permanent commander in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593.

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Sunder, Theodore R. Thompson, Eric N.

John D. Currivan, commander, U.S. Navy, to be appointed permanent commander in the Judge Advocate General's Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593.

Frank Barnes, commander, U.S. Navy, to be appointed permanent commander in the Supply Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel under provisions of title 10, United States Code, section 5912:

Bacon, Charles L., XX...
Bacon, Lester D., XX...
Beard, Robin L., Jr., XX...
Beck, Gabriel, B., XX...
Bertrand, Jerome T., XX...
Blessing, Patrick J., XX...
Boone, Latham, III, XX...
Booth, John R., XX...
Brown, Fred R., XX...
Brown, Jerry L., XX...
Buglewicz, Eugene G., XX...
Campbell, Charles P., Jr., XX...
Campbell, Harold J., Jr., XX...
Cassidy, John, J., Jr., XX...
Cederholm, Roger W., XX...
Cherico, Louis E., XX...
Choate, Thomas W., XX...
Clark, Jeffrey B., XXXX
Cochran, William S., XX...
Corson, David J., XX...
Cox, Chapman B., XX...
Custar, James G., XX...
Delgenio, Andrew T., XX...
Dilullo, Ralph S., XX...
Dremann, Timothy R., XX...
Dubose, Frank H., Jr., XX...
Duffer, Don R., XX...
Dyer, Joseph P., Jr., XX...
Everett, Robert J., XX...
Farrell, Eric T., XX...
Fitzgerald, Terrence J., XX...
Glasgow, Marc H., XX...
Gligor, Peter R., XX...
Harriss, Robert J., XX...
Higginbotham, Donald, XX...
Hoesch, Martin A., XX...
Hollingsworth, Bobby G., XX...
Human, Eppy W, Jr., XX...
Husted, Harris D., XX...
Hyde, Tristram T., IV., XX...
James, Robert H., XX...
Jennings, Alvin W., XX...
Johnson, Alfred C., Jr., XX...
Joos, Walter C., XX...
Kelly, Kenneth J., XX...
Kelly, Raymond W., XX...
Kufeldt, Edward, XX...
Lind, Stephen W., XX...
Marshall, John A., XX...
Matthews, Frederick R., Jr., XX...
Mauge, Conrad E., XX...
McConnaughey, Edward C., XX...
McGuirk, Michael, XX...
Mehlin, Robert, C., XX...
Meland, Quinten R., XX...
Miller, Robert, XX...
Mitchell, Phillip M., XX...
Molloy, Peter M., XX...
Mooney, William B., XX...
Morley, James E., Jr., XX...
Morris, Donald, XX...
Murray, John J., XX...
Neil, Michael L., XX...
Nichols, Fred E., XX...
O'Brien, Paul W., XX...
O'Donnell, Christopher, XX...
Parker, Bill D., XX...
Parks, William H., XX...
Peacock, William E., XX...
Plummer, Martin E., XX...
Quinlan, Timothy J., XX...
Quinn, Richard G., XX...
Rabert, Daryl L., XX...
Ray, Ronald D., XX...
Reece, Jerry D., XXXX
Reyna, Anthony S. M., XX...
Richmond, Alfred C., Jr., XX...
Roszak, Anthony J., XX...
Rutledge, Earl R., XX...
Severson, Michael J., XX...
Shannon, Jermiah S., III., XX...
Shoemaker, Gordon M., Jr., XX...
Slowey, Kenneth L., XX...
Smith, Walter W., XX...
Stack, Richard J., XX...
Sternburg, Judith A., XX...
Stover, Richard E., XX...
Takabayashi, Glenn, XX...
Tase, Albert G., Jr., XX...
Thomas, Dudley E., Jr., XX...
Ulrich, Robert G., XX...
Vansickle, Richard A., XX...
Waterhouse, Charles H., XX...
Watson, John D., XX...
Williams, James T., XX...
Williamson, Russell L., XX...
Willoughby, Larry G., XX...
Wilson, Joe W., XX...
Wilson, Thomas R., XX...
Wood, Charles E., XX...
Wright, Edd K., XX...
Zealley, Harold E., XX...

IN THE MARINE CORPS

The following-named officers of the Marine Corps and Marine Corps Reserve for permanent appointment to the grade of major, under provisions of title 10 United States Code, section 624:

Abney, Charles R., XX...
Adkins, Thomas M., XX...
Albano, Michael C., XX...
Alke, Frederick C., XX...
Allegro, Daniel R., XX...
Allen, Paul C., XX...
Anderson, Alan S., XX...
Anderson, Wesley M., XX...
Anzaldua, Jose J. Jr., XX...
Aplin, James C., XX...
Apodaca, Albert E., Jr., XX...
Arenas, Christophe C., XX...
Arey, Craig R., X...
Ash, Steve L., XX...
Attanasio, Henry, XX...
Atwater, Sidney E., XX...
Avila, Robert J., Jr., XX...
Bansley, Walter C., XX...
Barber, Daniel E., XX...
Barker, Thomas D., XX...
Barnebee, William C., XX...
Barnes, James F., XX...
Barrett, James A., XX...
Bartlett, David A., XX...
Baumann, Stephen B., XX...
Beadling, John B., XX...
Beale, Charles H., III, XX...
Beamon, Jesse L., Jr., XX...
Beck, Donald F., XX...
Becker, Michael D., XX...
Beeman, David L., XX...
Begert, Matthew., XX...
Bell, Billy C., XX...
Bell, Gordon M., Jr., XX...
Bell, Randy B., XX...
Benes, Thomas A., XX...
Bennett, Charles P., XX...
Berger, Kenneth, XX...
Best, William F., XX...
Biszak, George A., XX...
Bollengier, James A., XX...
Borje, Donald J., XX...
Boulton, Bruce A., XX...
Bowser, Charles J., XX...
Boyd, Michael D., XX...
Bradshaw, Alan R., XX...
Brady, Gaylen F., XX...
Brady, John M., XX...
Brickell, Randy W., XX...
Brills, Pamela A., XX...
Briner, Bowen V., XX...
Broussard, Gordon A., XX...
Brubaker, James R., XX...
Brumbach, William M., XX...
Brusca, John J., XXXX
Buck, David J., XX...
Buckingham, John C., Jr., XX...
Buerkens, Lyle R., XX...
Bull, Jentzen E., XX...
Burchinal, Charles S., XX...
Burciaga, Roberto A., XX...
Burke, James B., XX...
Burns, Ronald K., XX...
Butler, John G., XX...
Caldwell, Richard W., XX...
Canty, Richard A., Jr., XX...
Carnes, Stephen A., XX...
Carothers, James P., XX...
Carrese, Robert T., XX...
Carruthers, James P., XX...
Carthon, Mitchel, XX...
Casford, James W., XX...
Castaing, Claude C., Jr., XX...
Ceci, Thomas S., XX...
Champagne, Lynn M., XX...
Chevis, Leroy, XX...
Chinault, Dennis C., XX...
Chorak, Steven K., XX...
Clark, George A., Jr., XX...
Coddington, Steele C., Jr., XX...
Cole, Barbara J., XX...

Cole, James L., XX...
Cole, Jeffrey U., XX...
Coleman, Bruce D., XX...
Coleman, Ronald S., XX...
Condon, Joseph M., XX...
Condra, Mark E., XX...
Conway, Daniel A., XX...
Cooke, Charles E., XX...
Corr, Bradley A., XX...
Crilley, Frank, XX...
Cutchall, George C., XX...
Dahl, Conrad G., XXXX
Daly, John M., XX...
Daniel, Doris A., XX...
Daron, William S., XX...
Darrah, David T., XX...
Davenport, Richard W., XX...
Davin, William J., XX...
Davis, Bryan M., Jr., XX...
Davis, Mark S., XX...
Debruyne, David A., XXXX
Destefanis, Robert P., XX...
Diehl, Albert J., III, XX...
Dill, John S., III, XX...
Dobson, Robert K., Jr., XX...
Doucette, Bruce M., XX...
Doyle, Peter A., XX...
Driest, Charles W., XX...
Driscoll, Daniel A., Jr., XX...
Duer, Leslie F., XX...
Duke, Charles D., XX...
Duncan, Wallace G., Jr., XX...
Duncan, William K., XX...
Dunn, Kenneth D., XX...
Dunn, Richard C., XX...
Dunnigan, Richard M., XX...
Durbin, Donnie R., XX...
Dutil, Ronald V., XX...
Dykes, William H., XX...
Eady, Gary J., XX...
Eissinger, Joel P., XX...
Ericson, Carl J., Jr., XX...
Eversole, Frank R., XX...
Fairclough, Peter T., XX...
Farnen, Laurence Jr., XX...
Fenton, George P., XX...
Ferguson, Fletcher W., Jr., XXXX
Ferrari, John W., XX...
Ferris, Robert R., XX...
Finley, Jeffrey A., XX...
Finnerty, George M., XX...
Finney, Robert B., XX...
Fisher, Michael J., XX...
Flann, Richard J., XX...
Fleming, Donald E., Jr., XX...
Fletcher, William M., XX...
Foltyn, Robert W., XX...
Forte, Edward T., XX...
Foster, Barry R., XX...
Francescon, Peter O., XX...
Freitas, Marc. E., XX...
Funk, Robert C., XX...
Galloway, Robert D., XX...
Garner, John M., XX...
Garretson, Richard S., XX...
Gaskin, Walter E., XX...
Gerichten, William S., II, XX...
Gershaneck, Kerry K., XXXX
Gillette, Norman C., III, XX...
Gilman, Clarence R., Jr., XX...
Gilmer, David L., XX...
Glenn, Johnny E., XX...
Glisson, Robert H., XX...
Glueck, Kenneth J., Jr., XX...
Gobar, Henry T., XX...
Godin, Stephen L., XX...
Gombo, Johnie, XX...
Gomez, Hector, XX...
Graus, Robert J., XX...
Gray, Anthony, XX...
Greene, Ronald G., XX...
Griffin, Daniel J., XX...
Grim, Mark D., XX...
Grimes, Barney A., III, XX...
Grimmett, John L., XX...
Grogan, Leo J., XX...
Gunther, Chris J., XX...
Gunther, Katherine S., XX...
Hall, Edward A., XX...
Hardin, Verlin E., Jr., XX...
Hardwick, Michael P., XX...
Hardy, Phillips B., XX...
Harris, John C., XX...
Harrison, Stephen G., XX...
Hart, Frank C., III, XX...
Hartzell, Mark, XX...
Hayes, Robert L., III, XX...
Hayn, George J., Jr., XX...
Healey, Ellen B., XX...
Heim, Alan P., XX...
Heinle, Dennis R., XX...
Heinz, Robert E., XX...
Heinzman, William E., II, XX...
Hensley, Doyle W., II, XX...
Herold, Craig B., XX...
Hicks, Michael K., XXXX
Hitchcock, Stanley E., XX...
Hodge, Ernest, XX...
Hoffman, Carl W., Jr., XX...
Hogan, Ronald T., XX...
Hollifield, Carlos R., XX...
Holmes, Richard D., XX...
Holmquist, Gary R., XX...
Hoover, Mont K., XX...
Horn, Don E., XX...
Horvath, Timothy, XX...
Howton, Marion O., XX...
Hudson, Daniel R., XX...
Hughes, Jack L., XX...
Hulick, John B., XX...
Hylan, Joseph P., XX...
Ing, Gary R., XX...
Ingold, Richard J., XX...
Isajewicz, Edward A., Jr., XX...
Israel, David T., XX...
Jacobs, Michael D., XX...
Jacobson, David L., XX...
Jerabek, Robert E., XX...
Johnson, Dale K., XX...
Johnson, Dennis M., XX...
Johnson, Thomas V., XX...
Johnson, William D., XX...
Jones, David L., Jr., XX...
Jones, Ernest S., XX...
Jones, Octavis E., XX...
Jones, Wayne A., XX...
Juvenal, Roland L., XX...
Kaainoni, Robert E., Jr., XX...
Kammerer, Jeffrey H., XX...
Kappel, Donald J., XX...
Kelly, Ernest D., XX...
Kelly, Patrick J., XX...
Kelly, Rodney O., XX...
Kelly, Thomas R., XX...
Keogh, William P., XX...
Kerlek, George, Jr., XX...
Kiernan, Kevin M., XX...
King, David A., XX...
King, Erica F., XX...
King, Frederick T., XX...
Kirkwood, David B., XX...
Klingenhofer, David P., XX...
Knowles, Michael J., XX...
Koebke, Kent D., XX...
Kokko, Richard W., XX...
Kratsas, James J., XX...
Kutta, Timothy J., XX...
Labounty, David E., XX...
Lachowicz, Richard W., XX...
LaForest, Joseph E., XXXX
Lamb, Michael W., XX...
Lampard, Colin D., XX...
Lanahan, Lenn M., XX...
Larkin, John F., XX...
Larsen, Robert C., XX...
Larson, Robert D., XX...
Lattin, Grant E., XX...
Lauer, George S., XX...
Lauritzen, Mark, XX...
Lawrence, Dennis L., XX...
Lee, Willie, Jr., XX...
Leitch, Scott E., XX...
Leupold, Gary C., XX...
Lewis, Garry W., XX...
Lindner, Frederick H., XX...
Ling, David C., XX...
Loftis, Dennis M., XX...
Loftis, Robert S., XX...
Lord, Paul H., XX...
Lovejoy, Douglas L., XX...
Maccarone, James V., XX...
Macy, Martin S., XX...
Madrid, Ronnie R., XX...
Mallek, Conrad F., XX...
Mandis, George P., XX...
Marshall, Samuel A., II, XX...
Mattson, Jack L., XX...
Mauck, Mary P., XX...
Mayer, Edmund B., Jr., XX...
McAdams, John M., XX...
McCarthy, Dennis P., XX...
McCutcheon, Gary W., XX...
McElrath, Thomas J., XX...
McGaughey, John T., Jr., XX...
McGinnis, Charles E., XXXX
McGuigan, Edward A., Jr., XX...
McGuire, John D., XX...
McIntyre, William J., XX...
McKay, Douglas M., XX...
McKay, Patrick J., XX...
McKee, Paul S., XX...
McKenzie, Michael E., XX...
McMenamin, Joseph J., XX...
McNeal, James M., XX...
McPherson, Constance B., XX...
McReynolds, Timothy W., XX...
McSpadden, Charles W., XX...
McTague, Mark S., XX...
Mead, Sidney O., XX...
Meador, Wilburn E., Jr., XX...
Metterle, John M., XX...
Miccio, Louis R., XX...
Miller, Melvin L., XX...
Milligan, Mark A., XX...
Milstead, Robert E., Jr., XX...
Minor, Thomas E., XX...
Montez, Marvin, XX...
Montgomery, Robert D., XX...
Moorman, Donavan D., XX...
Morgan, Beverly W., Jr., XX...
Morgan, Robert W., XX...
Morris, Charles W., XX...
Muerdler, John C., Jr., XX...
Mulhern, Daniel J., XX...
Mulligan, Charles A., XX...
Mullins, Richard D., XX...
Murphy, Brian T., XX...
Murray, Samuel L., XX...
Nagy, Paul J., XX...
Naifeh, Larry F., XX...
Nicholas, Kirk M., XX...
Nicoll, Thomas E., XX...
Nielsen, Freddie R., XX...
Nolan, Michael J., XX...
O'Brian, Daniel C., XX...
Ochala, Thomas M., XX...
O'Connell, William J., XX...
O'Hara, Andrew W., XX...
O'Leary, Thomas M., XX...
O'Mahoney, Michael J., XX...
Padilla, Robert J., XX...
Parmer, Harry P., XX...
Patterson, Robert S., XX...
Pavsner, Alan R., XX...
Paxton, John M., Jr., XX...
Peabody, Thomas A., XX...
Pellecchia, Eugene D., XX...
Peno, Robert, XX...
Piermarini, Daniel F., XX...
Ponzini, Randy S., XX...
Portman, Terrance M., XX...
Powers, Earl W., XX...

Powers, James S., XX...
Preston, Harry L., XX...
Price, Robert C., XX...
Priddy, John R., XX...
Radzikowski, Joseph G., XX...
Ranville, Timothy N., XX...
Rape, Douglas C., XX...
Rawson, Steven W., XX...
Reynolds, Arthur M., Jr., XX...
Rice, Howard E., Jr., XX...
Richardella, Roland G., XX...
Riemer, James D., XXXX
Rivers, Ervin, XX...
Robert, Leonard D., XX...
Roberts, Noel D., XX...
Roberts, Samuel E., XX...
Robertson, Blake J., XX...
Robinson, Charles, XX...
Rodgers, Carl E., XX...
Rogers, Jasper P., Jr., XXXX
Roman, Juan J., XX...
Ronaghan, James T., Jr., XX...
Rook, Ronald P., XX...
Roten, Richard C., XX...
Rothfork, Anthony P., XX...
Russell, Karl R., XX...
Russo, Louis F., XX...
Sachtleben, Glen R., XX...
Sanders, Samuel E., XX...
Sannicolas, Irenio B., XX...
Saunders, William N., XX...
Sayko, Stephen L., XX...
Schalk, Richard F., XX...
Schaller, Francis A., XX...
Scherck, Russell O., XX...
Schindler, James W., XX...
Schrunk, Patrick D., XX...
Schueler, Darrel G., XX...
Schwartz, John C., XX...
Scott, Frank M., XX...
Seal, Thomas E., XX...
Seckinger, Ray L., Jr., XX...
Sergeant, John W., XX...
Sharpless, Garland L., Jr., XX...
Shirey, Trent W., XX...
Shoemake, Danny T., XX...
Shook, Steven V., XX...
Short, Francis R., XX...
Shows, Righard J., XX...
Shutler, Philip F., II, XX...
Silva, Luciano S., XX...
Smith, Dennis J., XX...
Smith, Kenneth E., XX...
Smith, Steven L., XX...
Smith, William L., XX...
Smith, William W., Jr., XX...
Snead, David E., XX...
Spies, Harry C., XX...
Stahl, Paul R., XX...
Stephan, Bradley A., XX...
Sternal, Gerald W., XX...
Stevison, Craig P., XX...
Stewart, Jeb E., XX...
Stoller, James R., XX...
St. Pierre, Richard E., XX...
Strauss, Herbert, XX...
Straw, Wade C., XX...
Stutzel, Richard K., XX...
Sullivan, Robert J., XX...
Sweatt, Tommy D., XX...
Sweet, John F., XX...
Swift, James S., XX...
Talbott, William D., Jr., XX...
Taylor John G., XX...
Taylor, Norman B., XX...
Terrebonne, Timmy J., XX...
Tessman, Robert A., XX...
Thake, Bruce A., XX...
Thiessen, Duane D., XX...
Thigpen, James E., XX...
Thompson, John H., XX...
Tiberg, Robert, XX...
Tice, Ralph F., XX...
Timpe, Earl W., Jr., XX...
Tollison, Daniel N., XX...
Tomisek, Steven J., XX...
Torrance, Alexander M., XX...
Trautman, George J., III, XX...
Triplett, Charles F., XX...
Turner, John R., XX...
Tyra, William D., III, XX...
Usher, Edward G., III, XX...
Valrie, Charles, XX...
Vanderhoof, Thomas M., XX...
Vanfleet, Duane, Jr., XX...
Vaughn, Thomas G., XX...
Velasquez, Enrico M., XX...
Velo, Allen C., XX...
Vrabel, Michael J., XX...
Wagemann, John P., XX...
Wallace, Clifton B., XX...
Walsh, James R., XX...
Warren, Michael J., XX...
Waters, Michael G., XX...
Weathersbee, George M., XX...
Webster, Ross L., XX...
Weiss, Donald L., XX...
Welter, Robert M., XX...
Wenck, Daniel J., Jr., XX...
Wesseling, Richard P., XX...
Westridge, David P., XX...
Whaley, Richard M., XX...
Wild, Michael G., XX...
Wiley, Janice, L., XX...
Williams, Willie J., XX...
Winter, Gary M., XX...
Wismer, Lance, XX...
Womack, Stephen M., XX...
Woodward, John A., XX...
Work, Robert O., XX...
Workman, David E., XX...
Wright, David L., XX...
Wright, James W., XX...
Wright, William G., XX...
Wrinkle, Kenneth D., XX...
Young, Philip A., XX...
Zell, Anthony J., XX...
Zilmer, Richard C., XX...
Zink, Francis E., XX...

CONFIRMATIONS

Executive nominations confirmed by the Senate May 22, 1984:

SECURITIES AND EXCHANGE COMMISSION

Charles L. Marinaccio, of Maryland, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1985.

Aulana L. Peters, of California, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1984, and for the term expiring June 5, 1989.

The above nominations were approved subject to the nominees' commitment to respond to the requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, May 22, 1984*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your blessing, O gracious God, be with all who labor in this place. May Your grace support the staff and Members who work diligently for justice and who see in their vocation an opportunity to save the common good. We pray, O God, that Your peace that passes all human understanding will give comfort to those who are in need, will give confidence to those who are anxious, and will give us all joy and commitment to be the people You would have us be. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 4170. An act to provide for tax reform, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4170) entitled "An act to provide for tax reform, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and that from the Committee on Appropriations, to consider those matters dealing with appropriations: Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. STENNIS, and Mr. BYRD; from the Committee on Finance, to consider those matters within that committee's jurisdiction: Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. CHAFEE, Mr. LONG, Mr. BENTSEN, Mr. MATSUNAGA, and Mr. BAUCUS; from the Committee on the Budget, to be general conferees: Mr. DOMENICI, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. TOWER, Mr. CHILES, Mr. HOLLINGS, Mr. SASSER, and Mr. JOHNSTON; be the conferees on the part of the Senate.

ANOTHER CLUMSY EFFORT BY AMNESTY INTERNATIONAL

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I find it extremely interesting that Amnesty International has come out with another, warmed-over criticism of human rights violations in El Salvador the very week that President-elect Duarte arrived in Washington to build support for his new, democratic government.

It reminds me of the years our Government struggled to support our allies in Vietnam and of the period just before human rights advocates helped bring down the Shah of Iran.

The human rights critics were in full cry then undercutting our every effort to support those friendly governments. Yet, they are strangely silent about the state of human rights in Vietnam and in Iran today.

Certainly, there is room to criticize many of our allies who have not yet attained perfection. But they are trying. We learn of their shortcomings only because they are operating in an open society.

Where are those reports on the condition of human rights in Vietnam and Iran today, Mr. Speaker? Are the people of those nations better off than they were under the imperfect governments of the past?

The timing of Amnesty International's report makes me wonder, if this is not another clumsy attempt by an international organization to undercut U.S. policy and influence Congress just before it votes on emergency Salvadoran aid.

PEACETIME GI BILL OF RIGHTS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the best bargain in town will be offered Members of Congress this week as we complete consideration of the Department of Defense Authorization Act.

It is known as the peacetime GI Bill of Rights, a program of educational assistance for America's All-Volunteer Force.

This bill has something for everyone. It is a powerful recruitment tool; we are told time and again that educational benefits are more attractive than other bonuses. And the bill helps retain qualified personnel in the numbers needed for a strong national defense and gives them the skills to keep them qualified.

Finally, there is a taxpayer bonus. Participating veterans return to the Treasury in additional taxes several times the amount spent on their educational assistance.

The GI bill will celebrate its 40th anniversary in June. And with this legislation, it will continue to meet the needs of our military personnel and our Nation.

Mr. Speaker, the inclusion of the GI bill extension is one good reason for all of us to support the defense authorization bill before us this week.

VOTE "NO" ON RAISING THE DEBT CEILING

(Mr. CRAIG asked and was given permission to address the House for 1 minute.)

Mr. CRAIG. Mr. Speaker, we are going to consider legislation today to raise the debt ceiling to over $1½ trillion—that is trillion—until June 15. Make no mistake, this vote is a vote to tax your children and their children.

All this talk about "deficit downpayments" and "deficit study commissions" is pointless. The problem is very clear. This body is fiscally irresponsible and simply spends too much money. The people have asked Congress to act on the balanced budget amendment, to get serious about reducing deficits. But we ignore that plea and go on spending and borrowing because it is the easy way out.

I am going to vote "no" on the rise in the debt ceiling. I urge my colleagues who are seriously concerned about deficits to do the same. If it does not pass today, it will pass probably next week. But it is time we sent a message to the people, to business and to the administration; these deficits are serious business. If this Congress does not act on the balanced budget amendment, the people will. They know as we do, that all these other high sounding ideas have really very little value.

Vote "no" on this extension, my friends. It is time we act in a responsible way on the deficit.

THE SAKHAROV CASE

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, just 2 months ago, I joined many of my colleagues—during a special order—and restated a widely known charge against the Soviet Government: "Anti-Semitism is on the rise in the Soviet Union." This week, that constantly ex-

panding rise in official, government-sponsored anti-Semitism reached a new peak.

Despite Dr. Sakharov's hunger strike, the Soviets refuse to allow Elena Bonner to receive medical treatment in the West. In fact, an official government news report charged that Elena Bonner had "gone too far in her anti-Soviet activities." Her safety is now in question.

This action by the government is cruel, inhumane, and common in the Soviet Union. This case made the front pages all over the world, and governments are urging the Soviets to grant Elena Bonner permission to leave. We must remember, however, that this case represents a much larger problem. Thousands of Jews in the Soviet Union are inhumanely treated and want to emigrate. Over the past several years, there has been a drastic reduction in the number of Jews allowed to emigrate from the Soviet Union.

Mr. Speaker, the Soviet Government can be assured that this tragedy will not go unnoticed by the Congress and the American people.

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A CRITIQUE ON THE ART OF READING

(Mr. MITCHELL asked and was given permission to address the House for 1 minute.)

Mr. MITCHELL. Mr. Speaker, I have here in my hand a book, a fascinating book. It is entitled, "The Great Republican Rape." The basic premise of the book is that the Republicans since 1901 have followed a strategy of manipulation which serves to rape the wallets and pocketbooks of every American who falls into the lower and middle income brackets.

I will not take a special order tonight to read the book. I am not going to waste the taxpayers' money in doing this. I do not think it makes sense.

Also I will not read it because I do not have a good reading voice. You need a voice like Orson Welles' or Sir Laurence Olivier's to read to an audience, and some folks who read just do not have that type of voice. Some who read are so dull, so devastatingly dull that they induce lassitude and lethargy and let the reader be reduced to a somnolent state.

Others have voices that I call pesky voices. I cannot quite describe what a pesky voice is, but I say it is vexatious and annoying. And then others who read have voices which sound like metal grating on metal, harsh, strident sounds that rub the nerve ends raw, that so pain the listeners that they want to shout and scream, "For heaven's sake, for God's sake, stop reading."

Mr. Speaker, I am not going to read the book, but I will give another discourse on the art of reading and the kinds of voices that others need to read for the Chamber.

PRESIDENT DUARTE PLEDGES COOPERATION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, a few minutes ago President-elect Duarte met with a group of members from the Democratic Study Group. During the meeting President Duarte pledged to support the Contadora process, prosecute those who are guilty in the killings of American nuns, promote serious land reform, and make a strong effort to improve the human rights condition in El Salvador.

I was most encouraged, however, by his pledge to eradicate the death squads in El Salvador. Especially heartening was his response to a question that I asked him, that he plans to dismiss Colonel Carranza, the head of the National Treasury Police, when his new administration starts.

That is eminently good news, Mr. Speaker. I think Mr. Duarte has made a good start. He has had serious discussions with Members of Congress and the administration, and like any American, I wish him well.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3282

Mrs. BOXER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3282.

The SPEAKER. Is there objection to the request of the gentlewoman from California?

There was no objection.

TRIAL BEGINS ON MURDERS OF AMERICAN MISSIONARIES IN EL SALVADOR

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, Amnesty International does a great service by criticizing the human rights violations in El Salvador, and one of the grossest violations was the blatant murders of four American missionaries 4 years ago by the El Salvadoran Ministry. At long last, the trial begins tomorrow. I sent my personal representative to monitor that trial.

As one who has served as a liaison to the families of the missionaries, I am not only concerned about the results of the trial tomorrow but the coverup of the murderers in which the Defense Minister of El Salvador was allegedly engaged. Is this the type of person we want to receive American tax dollars?

I think we have an obligation to question President Duarte on whether he knew of this activity as well and why he would appoint to that important position a man who was allegedly involved in a coverup from day one of the murderers of our missionaries.

NATIONAL TOURISM WEEK

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I would like to take this moment to briefly speak about National Tourism Week. This industry has provided our Nation with travel, enjoyment, and new experiences while becoming the third largest industry in the United States. As a major industry, tourism has become one of our Nation's largest private employers; in 1982, it provided over 6.7 million jobs.

The tourism industry benefits everyone. For the local communities, it is a source of employment. For the Federal Government, it is an important source of revenues—over $11 billion in taxes in 1982. And for the general public, it is a means to discover new cultures, new peoples, and to travel the world.

When we think of tourism, we almost always associate it with excitement, fun, and relaxation. What we need to remember is that the tourism industry provides jobs, revenue, and economic growth. What is more important is that this industry provides an education—an education that can only be discovered through the experience of travel. Travel is the expansion of not only our geographical boundaries, but our mental boundaries as well, and is still the most pleasurable means available to better understand both our Nation and the world.

A NEW PEACE INITIATIVE BY THIRD WORLD LEADERS

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, today, six world leaders have launched a bold new peace initiative—a four-continent peace initiative. The leaders of Greece, India, Sweden, Mexico, Tanzania, and Argentina have established their involvement and interest in the nuclear arms debate. But what can they tell us? If we listen, perhaps they can tell us a great deal.

Ten years ago, India tested a nuclear device. They have not exploded one since. If the nuclear weapons states had shown such restraint, we would

not have to be discussing this issue today.

Sixteen years ago, the Swedish Government abandoned its nuclear weapons program. They were easily within 2 years of producing atomic bombs.

Seventeen years ago, Mexican diplomats, under the leadership of Nobel Prize winner Garcia-Robles, played a key role in the establishment of a Latin American nuclear free zone.

Now, these six world leaders believe that "the survival of humankind" is in jeopardy. While they believe that it is primarily the responsibility of nuclear weapons states to prevent a nuclear catastrophe, this problem is too important to be left to those states alone.

They want to bring the parties together to help them resolve their own differences.

We should welcome the help from these courageous, prestigous third parties before it is too late.

MORE AID TO EL SALVADOR—ANOTHER VIETNAM

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, El Salvador's President-elect Duarte is visiting us today. But Congress should think twice before handing the Salvadoran Government a blank check on the strength of a lobbying visit by Mr. Duarte.

I admire President Duarte's intentions. But he was President of El Salvador 3 years ago and he was powerless to stop the death squads then.

Where are we now? We have given the Salvadoran Government $1 billion. And that Government has allowed the murder of 40,000 civilians. They have allowed the murder of American nuns and labor leaders. And not one person has been brought to justice for a death squad murder. This is no time to give the Salvadoran military a blank check.

While some consider El Salvador a faraway country, deepening military involvement there brings it closer to home each day.

Each day we get closer to another mistake, another quagmire, another Vietnam—and that is no "faraway" issue; It is one that will affect every American home and every young person in our country.

Here, in Washington, the Reagan administration may be sold on Duarte's promises. But when Ronald Reagan's policy leads us into war, it will not be the boys from Santa Barbara or Beverly Hills who get sent to the jungle to fight and die. It is always the kids from working class families who wind up fighting in the needless and the senseless wars.

Our human rights policy in Central America should be based on more than empty promises. We need results. Results should be the test.

ACID RAIN

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, 2 years ago, a question in my congressional questionnaire was, "Do you favor relaxation of the controls of the Clean Air Act?" Sixty-three percent of those responding said "no." This result is indicative of the predominant feeling in Florida that people want Government to guarantee that we have clean air and clean water.

Part of the debate on clean air focuses on the issue of acid rain. There are environmental concerns about rainfall that contains too much sulfur dioxide (SO_2) and nitrogen oxides (NO_x). Some chemical content is from natural sources such as lightning and geothermal activities. Most of the manmade sources of SO_2 and NO_x are from the burning of fossil fuels. In the Eastern United States, manmade emissions of SO_2 and NO_x are believed to be 10 times higher than those from natural sources.

There is a potential negative impact of acid rain on aquatic life in lakes and wetlands, on crops and forests, and on structures and human health.

Acid rain is one of the most important environmental policy issues of the 1980's, and there is mounting political pressure to reduce its impact.

Automobile emissions are one cause of acid rain. But most of the present debate revolves around the smokestack industries. Until new technologies are developed, most attention will be on installing expensive smokestack scrubbers at electrical powerplants and requiring the use of only low sulfur coal.

The political debate has focused on the environmentalists versus the utility companies. The National Wildlife Federation supports a bill introduced by Congressman HENRY WAXMAN—H.R. 3400. This legislation would require a 10 million tons per year SO_2 reduction by 1993. The funds to accomplish this goal would be from a fee charged to the producers of electricity and would be spread throughout the 48 contiguous States. Other legislation spreads these costs only over the 31 States east of and bordering the Mississippi River where most of the SO_2 is emitted into the air. Recently, the Waxman bill was defeated on a 10 to 9 vote in WAXMAN's own subcommittee. Its future, or any compromise for the remainder of this year, is questionable.

I think that such a delay on acid rain legislation is a mistake. The Congress should forthwith enact a law to clean up acid rain and the costs should be primarily borne by those doing the polluting. Florida is a small contributor to this pollution, much less than the Midwestern States. Florida should bear it proportional share, but Florida should not pay for more than its share.

But if the Midwest is required to pay for most of the acid rain problem, the bill will never pass in Congress. States such as Ohio and West Virginia already have high unemployment and they will argue that for them to bear the financing will kill their teetering economies. To compound the problem, most of the high sulfur coal—a contributor to the problem—is mined in West Virginia. Coal mining in that State is the major source of jobs.

Recognizing that there will have to be a shared responsibility from many sectors in order to reach consensus, the National Governors' Association is trying to reach agreement. Sulfur dioxide reductions and its costs could be apportioned on the basis of the present utility emissions in each State. If a substantial number of the Nation's Governors can reach agreement, I believe that such legislation would move quickly. It would be a fair and equitable approach to a problem that must be solved. Although acid rain's effects are most apparent in the Northeastern United States, soon the effects will be evident elsewhere, including Florida.

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THE U.S. MARSHALS SERVICE AND WITNESS SECURITY REFORM ACT

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, later today, we will be casting our votes on two bills debated under suspension yesterday. One of these bills is of particular interest to me, H.R. 4249, the U.S. Marshals Service and Witness Security Reform Act, and I want to urge my colleagues to support this legislation.

Of very special interest are the provisions of this bill making needed and long-overdue reforms in the Government's protected-witness program. As I have studied this program, I have come to the conclusion that what the program has gained in combating organized crime has too often not been worth the price we have had to pay.

I first became aware of the shortcomings of the witness security program in 1981, when constituents of mine, Frank and Betty Balderson of Alliance, NE, had to endure the worst ordeal any parent can face—the death of a child. They learned that not only was their eldest son murdered, but he was murdered by a habitual, violent criminal who was free to rob and kill

as a direct result of his participation in the protected-witness program.

I was shocked to learn that Balderson's murderer, Marion Albert Pruett, was even considered for the protected-witness program. Perhaps under the tighter program that will exist if we approve H.R. 4249, Pruett would have been in custody rather than crisscrossing the country, killing and robbing.

H.R. 4249, is overall a very good bill, making needed and long-overdue reforms. I urge my colleagues to give it their full support later today. Thank you.

CHANGING NAME OF MILWAUKEE VETERANS' ADMINISTRATION MEDICAL CENTER TO CLEMENT J. ZABLOCKI MEDICAL CENTER

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, unfortunately, I was not able to participate in yesterday's proceedings on H.R. 4734, a bill to name the Veterans' Administration Medical Center in Milwaukee the "Clement J. Zablocki Veterans' Administration Medical Center." However, I am proud to rise to speak in favor of this legislation.

Congressman ZABLOCKI aggressively supported the concerns of veterans during his tenure in the House. He was a leader in the establishment of nursing care and rehabilitation programs for veterans, and he worked diligently for the construction of the current Veterans' Administration Medical Center in Milwaukee. Congressman ZABLOCKI worked to protect the rights of our veterans, and he strongly supported legislation providing fair compensation and other benefits for military personnel and veterans.

I feel particularly strongly about naming this facility after Clement J. Zablocki because the medical center is located in the congressional district that I currently represent, and that Clem represented for 35 years.

From its start in 1867 as one of the first old soldiers' homes in the country, the Veterans' Administration Medical Center in Milwaukee has been a leader in medical treatment for veterans. They handle cases ranging up to open heart and brain surgery, and they specialize in the treatment of female veterans. The vet center's slogan is, they have "state-of-the-art technology applied with a gentle hand."

The Veterans' Administration centers across the country show our Nation's commitment to the brave men and women who have fought and struggled so that we may remain free.

Our Nation's veterans have taken great risks, and made great sacrifices, in the service of their country. It is our duty, as a nation, to care for our veterans in anyway that is necessary.

It is with this in mind that Clement J. Zablocki fought for America's veterans throughout his long and distinguished term in Congress. It is a fitting tribute to both our Nation's veterans and Congressman Zablocki that the Milwaukee Veterans' Administration Medical Center is renamed the "Clement J. Zablocki Veterans' Administration Medical Center."

THE WOMEN'S PENSION EQUITY ACT

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today we will have the opportunity to consider H.R. 4280, the Women's Pension Equity Act.

This legislation will make important changes to correct longstanding inequities in the pension laws affecting American women.

The bill incorporates key concerns that many Members, including myself, have had with the lack of protection and parity given women under current pension law.

A number of bills have been introduced in Congress, including my own H.R. 3554, the Women's Economic Parity Act, which would make the necessary changes to help guarantee pension security for women.

As a cosponsor of H.R. 4280, I would like to commend the members of the Committee on Ways and Means and the Committee on Education and Labor for having given this issue such close and prompt attention.

We now have the opportunity to support a bipartisan effort that not only acknowledges the enormous role women play in the labor force, but also guarantees greater security for all women.

Mr. Speaker, I urge my colleagues to vote for this great bill.

WORDS OF WISDOM FROM FATHER HESBURGH TO PRESIDENT-ELECT DUARTE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute.)

Mr. LUNGREN. Mr. Speaker, yesterday morning I had the privilege of attending a breakfast meeting given by the Notre Dame Club of Washington in which we had as our major speaker a 1948 graduate of the University of Notre Dame, President-Elect Duarte of El Salvador.

The President-elect was very honest in talking about the problems that he has with his country. He indicated that there is a lot of hate in the hearts of many people there and that it will take some time to replace that with respect, with love and with democracy. But he harkened back to the words that he received from Father Hesburgh, the president of the University of Notre Dame, who when in El Salvador a number of years ago encouraged President Duarte to become involved in politics and to try to take the lessons he had learned at Notre Dame and the United States with respect to democracy and respect for individuals into the political process of his own country.

President Duarte has done that over the last several decades. He has not always been a popular figure down there. He has had to suffer much for his views down there. It seems that we ought to listen very, very intently to his request for assistance, as he attempts to put his country on the road to true democracy.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, MAY 23, 1984

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, May 23, 1984.

The SPEAKER pro tempore (Mr. NEAL). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

RETIREMENT EQUITY ACT OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4280) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of

spouses who work both in and outside the home, and for other purposes, as amended by the Committee on Ways and Means.

The Clerk read as follows:

H.R. 4280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Equity Act of 1984".

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.—

(1) IN GENERAL.—Clause (i) of section 202(a)(1)(A) (29 U.S.C. 1052(a)(1)(A)(i)) is amended by striking out "25" and inserting in lieu thereof "21".

(2) SPECIAL RULE FOR CERTAIN PLANS.—Clause (ii) of section 202(a)(1)(B) (29 U.S.C. 1052(a)(1)(B)(ii)) is amended by striking out "'30' for '25'" and inserting in lieu thereof "'26' for '21'".

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 203(b)(1) (29 U.S.C. 1053(b)(1)(A)) is amended by striking out "22" and inserting in lieu thereof "18".

(c) BREAK IN SERVICE FOR VESTING UNDER INDIVIDUAL ACCOUNT PLANS.—Subparagraph (C) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(C)) is amended—

(1) by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service", and

(2) by striking out "such break" each place it appears and inserting in lieu thereof "such 5-year period".

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) MINIMUM PARTICIPATION STANDARDS.—Paragraph (4) of section 202(b) (29 U.S.C. 1052(b)(4)) is amended to read as follows:

"(4)(A) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(i) 5, or

"(ii) the aggregate number of years of service before such period.

"(B) If any years of service are not required to be taken into account by reason of a period of breaks in service to which subparagraph (A) applies, such years of service shall not be taken into account in applying subparagraph (A) to a subsequent period of breaks in service.

"(C) For purposes of subparagraph (A), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.".

(2) MINIMUM VESTING STANDARDS.—Subparagraph (D) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(D)) is amended to read as follows:

"(D)(i) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.".

(e) CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.—

(1) MINIMUM PARTICIPATION STANDARDS.—Subsection (b) of section 202 (29 U.S.C. 1052(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In the case of each individual who is absent from work for any period—

"(i) by reason of the pregnancy of the individual,

"(ii) by reason of the birth of a child of the individual,

"(iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(iv) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this subsection whether a 1-year break in service (as defined in section 203(b)(3)(A)) has occurred, the hours described in subparagraph (B).

"(B) The hours described in this subparagraph are—

"(i) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(ii) in any case in which the plan is unable to determine the hours described in clause (i), 8 hours of service per day of such absence,

except that the total number of hours treated as hours of service under this subparagraph by reason of any such pregnancy or placement shall not exceed 501 hours.

"(C) The hours described in subparagraph (B) shall be treated as hours of service as provided in this paragraph—

"(i) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in subparagraph (A); or

"(ii) in any other case, in the immediately following year.

"(D) For purposes of this paragraph, the term 'year' means the period used in computations pursuant to section 202(a)(3)(A).

"(E) A plan may provide that no credit will be given pursuant to this paragraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(i) that the absence from work is for reasons referred to in subparagraph (A), and

"(ii) the number of days for which there was such an absence."

(2) MINIMUM VESTING STANDARDS.—Section 203(b)(3) (29 U.S.C. 1053(b)(3)) is amended by adding at the end thereof the following new subparagraph:

"(E)(i) In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

"(ii) The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of such pregnancy or placement shall not exceed 501 hours.

"(iii) The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to paragraph (2).

"(v) A plan may provide that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence.".

(3) ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.—Subparagraph (A) of section 204(b)(3) (29 U.S.C. 1054(b)(3)(A)) is amended by inserting ", determined without regard to section 202(b)(5)" after "section 202(b)".

SEC. 103. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRERETIREMENT SURVIVOR ANNUITIES.

(a) GENERAL RULE.—Section 205 (29 U.S.C. 1055) is amended to read as follows:

"REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY

"SEC. 205. (a) Each pension plan to which this section applies shall provide that—

"(1) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant shall be provided in the form of a qualified joint and survivor annuity, and

"(2) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity shall be provided to the surviving spouse of such participant.

"(b) This section shall apply to—

"(1) any defined benefit plan,

"(2) any individual account plan which is subject to the funding standards of section 302, and

"(3) any participant under any other individual account plan unless—

"(A) such plan provides that the participant's nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant's surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under subsection (c)(2)(A), to a designated beneficiary),

"(B) such participant does not elect the payment of benefits in the form of a life annuity, and

"(C) with respect to such participant, such plan is not a transferee of a plan which is described in paragraph (1) or (2) or to which this subparagraph applied with respect to the participant.

"(c)(1) A plan meets the requirements of this section only if—

"(A) under the plan, each participant—

"(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

"(ii) may revoke any such election at any time during the applicable election period, and

"(B) the plan meets the requirements of paragraphs (2) and (3).

"(2) Each plan shall provide that an election under paragraph (1)(A)(i) shall not take effect unless—

"(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

"(B) the participant establishes to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

"(3) Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary may prescribe), a written explanation of—

"(A) the terms and conditions of the qualified joint and survivor annuity,

"(B) the participant's right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

"(C) the rights of the participant's spouse under paragraph (2), and

"(D) the right to make, and the effect of, a revocation of an election under paragraph (1).

"(4)(A) The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

"(B) For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

"(5) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

"(A) relaying on a consent or revocation referred to in paragraph (1)(A), or

"(B) making a determination under paragraph (2),

then such consent, revocation, or determination shall be treated as valid for purposes of discharging the plan from liability to the extent of payments made pursuant to such act.

"(6) For purposes of this subsection, the term 'applicable election period' means—

"(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

"(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant's death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

"(d) For purposes of this section, the term 'qualified joint and survivor annuity' means an annuity—

"(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(e) For purposes of this section, the term 'qualified preretirement survivor annuity' means a survivor annuity for the life of the surviving spouse of the participant if—

"(1) the payments to the surviving spouse under such annuity are the same as (or the actuarial equivalent of) the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan if—

"(A) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate qualified joint and survivor annuity on the day before the participant's date of death, or

"(B) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

"(i) separated from service on the date of death,

"(ii) survived to the earliest retirement age,

"(iii) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

"(iv) died on the day after the day on which such participant would have attained the earliest retirement age, and

"(2) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

"(f)(1) Except as provided in paragraph (2), a plan may provide that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

"(A) the participant's annuity starting date, or

"(B) the date of the participant's death.

"(2) For purposes of paragraph (1), if—

"(A) a participant marries within 1 year before the annuity starting date, and

"(B) the participant and the participant's spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant's death,

such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant's annuity starting date.

"(g)(1)(A) A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed $3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to such distribution.

"(B) Except as provided in subparagraph (C), any distribution under subparagraph (A) shall be made—

"(i) directly to an eligible retirement plan (within the meaning of section 402(a)(5)(D)(iv) of the Internal Revenue Code of 1954) which is designated in writing by the participant or the surviving spouse and which is demonstrated to the satisfaction of the plan administrator to be such a plan which is willing to accept such distribution, or

"(ii) if the participant or the surviving spouse does not make such a designation and in writing requests payment in a manner and to an extent permitted by the plan, in the manner and to the extent so requested.

"(C) If the participant or the surviving spouse makes no designation or request referred to in subparagraph (B) within the 60-day period following notice of the distribution, the plan may make such distribution in cash.

"(2) If—

"(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $3,500, and

"(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution,

the plan may immediately distribute the present value of such annuity.

"(3) For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribution and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

"(h) For purposes of this section—

"(1) the term 'vested participant' means any participant who has a nonforfeitable right (within the meaning of section 3(19)) to any portion of the accrued benefit derived from employer contributions,

"(2) the term 'annuity starting date' means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability), and

"(3) the term 'earliest retirement age' means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

"(i) A plan may take into account in any equitable manner (as determined by the Secretary) any increased costs resulting from providing a qualified joint or survivor annuity or a qualified preretirement survivor annuity.

"(j) In prescribing regulations under this section, the Secretary of the Treasury shall consult with the Secretary of Labor.".

"(b) CLERICAL AMENDMENT.—The table of contents in section 1 is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

"Sec. 205. Requirement of joint and survivor annuity and preretirement survivor annuity.".

SEC. 104. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

"(a) IN GENERAL.—Section 206(d) (29 U.S.C. 1956(d)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Paragraph (1) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that paragraph (1) shall not apply if the order is determined to be a qualified domestic relations order. Each pension plan shall provide for the payment of benefits in accordance with the applicable requirements of any qualified domestic relations order.

"(B) For purposes of this paragraph—

"(i) the term 'qualified domestic relations order' means a domestic relations order—

"(I) which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

"(II) with respect to which the requirements of subparagraphs (C) and (D) are met, and

"(ii) the term 'domestic relations order' means any judgment, decree, or order (including approval of a property settlement agreement) which—

"(I) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, or child of a participant, and

"(II) is made pursuant to a State domestic relations law (including a community property law).

"(C) A domestic relations order meets the requirements of this subparagraph only if such order clearly specifies—

"(i) the name and the mailing address (if available) of the participant and the name and mailing address of each alternate payee covered by the order,

"(ii) the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

"(iii) the number of payments or period to which such order applies, and

"(iv) each plan to which such order applies.

"(D) A domestic relations order meets the requirements of this subparagraph only if such order—

"(i) does not require a plan to provide any benefits which are not otherwise available under the plan,

"(ii) does not require a plan to make payment of benefits in a form other than the form in which such benefits would otherwise be payable under the plan,

"(iii) does not require a plan to honor an election which may not otherwise be made under such plan,

"(iv) does not require the payment of benefits to an alternate payee specified in the order to the extent that such benefits have been provided to another alternate payee under a previous qualified domestic relations order,

"(v) does not require, in any case in which the participant survives until the date on which the payment to an alternate payee commences, the payment to such alternate payee of benefits the total actuarial present value of which (as of the date on which such payment commences), together with the total actuarial present value (as of such date) of all remaining benefits provided under the plan with respect to the participants, is greater than the total actuarial present value (as of such date) of the benefits which would be provided under the plan with respect to the participant if such order had not been issued, and

"(vi) does not require, in any case in which the participant does not survive until the date on which the payment to an alternate payee commences, the payment to such alternate payee of benefits the total actuarial present value of which (as of the date on which such payment commences), together with the total actuarial present value (as of such date) of all remaining benefits provided under the plan with respect to the participant, is greater than the total actuarial present value (as of such date) of the survivor benefits which would be provided under the plan with respect to the participant if such order had not been issued and if payment of such survivor benefits commenced on such date.

"(E) A domestic relations order shall not be treated as failing to meet the requirements of clauses (i) through (iii) of subparagraph (D) solely because such order requires that payment of benefits be made to an alternate payee—

"(i) on or after the date on which the participant attains (or would have attained) the earliest retirement age (within the meaning of section 205(h)(3)),

"(ii) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only benefits actually accrued), and

"'(iii) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

"(F) To the extent provided in any qualified domestic relations order—

"(i) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of section 205, and

"(ii) if married for at least 1 year, the former spouse shall be treated as meeting the requirements of section 205(f).

"(G)(i) In the case of any domestic relations order received by a plan—

"(I) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and

"(II) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(ii) Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Such procedures—

"(I) shall be in writing,

"(II) shall provide for the notification of each person specified in a domestic relations order as entitled to payment of benefits under the plan (at the address included in the domestic relations order) of such procedures promptly upon receipt by the plan of the domestic relations order, and

"(III) shall permit an alternate payee to designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

"(H)(i) During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

"(ii) If within 2 years the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

"(iii) If within 2 years—

"(I) it is determined that the order is not a qualified domestic relations order, or

"(II) the issue as to whether such order is a qualified domestic relations order is not resolved,

then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

"(iv) Any determination that an order is a qualified domestic relations order which is made after the close of the 2-year period shall be applied prospectively only.

"(I) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

"(i) treating a domestic relations order as being (or not being) a qualified domestic relations order, or

"(ii) taking action under subparagraph (H),

then the plan's obligation to the participant and each alternate payee shall be discharged to the extent of any payment made pursuant to such act.

"(J) A person who is an alternate payee under a qualified domestic relations order shall be considered for purposes of any provision of this Act a beneficiary under the plan. Nothing in the preceding sentence shall permit a requirement under section 4001 of the payment of more than 1 premium with respect to a participant for any period.

"(K) The term 'alternate payee' means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

"(L) In prescribing regulations under this paragraph, the Secretary shall consult with the Secretary of the Treasury.".

(b) CLARIFICATION OF PREEMPTION PROVISION.—Subsection (b) of section 514 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

"(7) Subsection (a) shall not apply to qualified domestic relations orders (within the meaning of section 206(d)(3)(B)(i)).".

SEC. 105. RESTRICTIONS ON MANDATORY DISTRIBUTIONS.

(a) GENERAL RULE.—Section 203 (29 U.S.C. 2053) is amended by adding at the end thereof the following new subsection:

"(e)(1) If the present value of any accrued benefit exceeds $3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

"(2) For purposes of paragraph (1), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 204(d) (29 U.S.C. 1054(d)(1)) is amended by striking out "$1,750" and inserting in lieu thereof "$3,500".

SEC. 106. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (c) of section 105 (29 U.S.C. 1025(c)) is amended by inserting at the end thereof the following new sentence: "Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.—

(1) IN GENERAL—Subparagraph (A)(i) of section 410(a)(1) (relating to minimum age requirement for participation) is amended by striking out "25" and inserting in lieu thereof "21".

(2) SPECIAL RULE FOR CERTAIN PLANS.—Subparagraph (B)(ii) of section 410(a)(1) (relating to special rules for certain plans) is amended by striking out "'30' for '25'" and inserting in lieu thereof "'26' for '21'".

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22.) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 411(a)(4)- (relating to service included in determination of nonforfeitable percentage) is amended by striking out "22" and inserting in lieu thereof "15".

(c) BREAK IN SERVICE FOR VESTING UNDER DEFINED CONTRIBUTION PLANS, ETC.—Subparagraph (C) of section 411(a)(6) (relating to 1-year break in service under defined contribution plan) is amended—

(1) by striking out "1-YEAR BREAK IN SERVICE" in the subparagraph heading and inserting in lieu thereof "5 CONSECUTIVE 1-YEAR BREAKS IN SERVICE",

(2) by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service", and

(3) by striking out "such break" each place it appears and inserting in lieu thereof "such 5-year period".

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) MINIMUM PARTICIPATION STANDARDS.—Subparagraph (D) of section 410(a)(5) (relating to breaks in service) is amended to read as follows:

"(D) NONVESTED PARTICIPANTS.—

"(i) IN GENERAL.— For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.— If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) NONVESTED PARTICIPANT DEFINED.— For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions."

(2) MINIMUM VESTING STANDARDS.—Subparagraph (D) of section 411(a)(6) (relating to breaks in service) is amended to read as follows:

"(D) NONVESTED PARTICIPANTS.—

"(i) IN GENERAL.—For purposes of paragraph (4), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.—If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) NONVESTED PARTICIPANT DEFINED.— For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions."

(e) CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.—

(1) MINIMUM PARTICIPATION STANDARDS.— Paragraph (5) of section 410(a) (relating to breaks in service) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

"(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service (as defined in section 411(a)(6)(A)) has occurred, the hours described in clause (ii).

"(ii) HOURS TREATED AS HOURS OF SERVICE.— The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of such absence,

except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

"(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) YEAR DEFINED.—For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to paragraph (3).

"(v) INFORMATION REQUIRED TO BE FILED.— A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence."

(2) MINIMUM VESTING STANDARDS.—Paragraph (6) of section 411(a) (relating to breaks in service) is amended by adding at

the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

"(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

"(ii) HOURS TREATED AS HOURS OF SERVICE.—The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

"(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) YEAR DEFINED.—For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to section 411(a)(5).

"(v) INFORMATION REQUIRED TO BE FILED.—A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence."

(3) ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.—Subparagraph (A) of section 411(b)(3) (relating to year of participation) is amended by inserting ", determined without regard to section 410(a)(5)(E)" after "section 410(a)(5)".

SEC. 203. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRERETIREMENT SURVIVOR ANNUITIES.

(a) GENERAL RULE.—Paragraph (11) of section 401(a) (relating to requirement of joint and survivor annuities) is amended to read as follows:

"(11) REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.—

"(A) IN GENERAL.—In the case of any plan to which this paragraph applies, except as provided in section 417, a trust forming part of such plan shall not constitute a qualified trust under this section unless—

"(i) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant is provided in the form of a qualified joint and survivor annuity, and

"(ii) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity is provided to the surviving spouse of such participant.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any defined benefit plan,

"(ii) any defined contribution plan which is subject to the funding standards of section 412, and

"(iii) any participant under any other defined contribution plan unless—

"(I) such plan provides that the participant's nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant's surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under section 417(a)(2)(A), to a designated beneficiary),

"(II) such participant does not elect a payment of benefits in the form of a life annuity, and

"(III) with respect to such participant, such plan is not a direct or indirect transferee of a plan which is described in clause (i) or (ii) or to which this clause applied with respect to the participant.

"(C) CROSS REFERENCE.—For—

"(i) provisions under which participants may elect to waive the requirements of this paragraph, and

"(ii) other definitions and special rules for purposes of this paragraph,

see section 417."

(b) DEFINITIONS AND SPECIAL RULES.—Subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 417. DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF MINIMUM SURVIVOR ANNUITY REQUIREMENTS.

"(a) ELECTION TO WAIVE QUALIFIED JOINT AND SURVIVOR ANNUITY OR QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

"(1) IN GENERAL.—A plan meets the requirements of section 401(a)(ii) only if—

"(A) under the plan, each participant—

"(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

"(ii) may revoke any such election at any time during the applicable election period, and

"(B) the plan meets the requirements of paragraphs (2) and (3) of this subsection.

"(2) SPOUSE MUST CONSENT TO ELECTION.—EACH PLAN SHALL PROVIDE THAT AN ELECTION UNDER PARAGRAPH (1)(A)(I) SHALL NOT TAKE EFFECT UNLESS—

"(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

"(B) the participant establishes to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

"(3) Plan to provide written explanation of joint and survivor annuity form of benefit.—Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary may prescribe), a written explanation of—

"(A) the terms and conditions of the qualified joint and survivor annuity,

"(B) the participant's right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

"(C) the rights of the participant's spouse under paragraph (2), and

"(D) the right to make, and the effect of, a revocation of an election under paragraph (1).

"(4) Special rules where plan subsidizes costs.—

"(A) IN GENERAL.—The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

"(B) DEFINITION.—For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

"(5) APPLICABLE ELECTION PERIOD DEFINED.—For purposes of this subsection, the term 'applicable election period' means—

"(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

"(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant's death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

"(b) DEFINITION OF QUALIFIED JOINT AND SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term 'qualified joint and survivor annuity' means an annuity—

"(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(c) DEFINITION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term 'qualified preretirement survivor annuity'

means a survivor annuity for the life of the surviving spouse of the participant if—

"(1) the payments to the surviving spouse under such annuity are the same as (or the actuarial equivalent of) the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan if—

"(A) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate qualified joint and survivor annuity on the day before the participant's date of death, or

"(B) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

"(i) separated from service on the date of death,

"(ii) survived to the earliest retirement age,

"(iii) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

"(iv) died on the day after the day on which such participant would have attained the earliest retirement age, and

"(2) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

"(d) SURVIVOR ANNUITIES NEED NOT BE PROVIDED IF PARTICIPANT AND SPOUSE MARRIED LESS THAN 1 YEAR.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan shall not be treated as failing to meet the requirements of section 401(a)(11) merely because the plan provides that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

"(A) the participant's annuity starting date, or

"(B) the date of the participant's death.

"(2) TREATMENT OF CERTAIN MARRIAGES WITHIN 1 YEAR OF ANNUITY STARTING DATE FOR PURPOSES OF QUALIFIED JOINT AND SURVIVOR ANNUITIES.—For purposes of paragraph (1), if—

"(A) a participant marries within 1 year before the annuity starting date, and

"(B) the participant and the participant's spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant's death,

such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant's annuity starting date.

"(e) RESTRICTIONS ON CASH-OUTS.—

"(1) PLAN MAY REQUIRE DISTRIBUTION IF PRESENT VALUE NOT IN EXCESS OF $3,500.—A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed $3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant (or where the participant has died, the surviving spouse) consents in writing to such distribution.

"(2) PLAN MAY DISTRIBUTE BENEFIT IN EXCESS OF $3,500 ONLY WITH CONSENT.—If—

"(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $3,500, and

"(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution,

the plan may immediately distribute the present value of such annuity.

"(3) DETERMINATION OF PRESENT VALUE.—For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribution and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section and section 401(a)(11)—

"(1) VESTED PARTICIPANT.—The term 'vested participant' means any participant who has a nonforfeitable right (within the meaning of section 411(a)) to any portion of the accrued benefit derived from employer contributions.

"(2) ANNUITY STARTING DATE.—The term 'annuity starting date' means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability).

"(3) EARLIEST RETIREMENT AGE.—The term 'earliest retirement age' means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

"(4) PLAN MAY TAKE INTO ACCOUNT INCREASED COSTS.—A plan may take into account in any equitable manner (as determined by the Secretary) any increased costs resulting from providing a qualified joint or survivor annuity or a qualified preretirement survivor annuity.

"(5) CONSULTATION WITH THE SECRETARY OF LABOR.—In prescribing regulations under this section and section 401(a)(11), the Secretary shall consult with the Secretary of Labor."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 417. Definitions and special rules for purposes of minimum survivor annuity requirements."

SEC. 204. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

(a) PROHIBITION AGAINST ASSIGNMENT NOT TO APPLY IN DIVORCE, ETC., PROCEEDINGS.—Paragraph (13) of section 401(a) (relating to assignment of benefits) is amended—

(1) by striking out "(13) A trust" and inserting in lieu thereof the following:

"(13) ASSIGNMENT AND ALIENATION.—

"(A) IN GENERAL.—A trust", and

(2) by adding at the end thereof the following new subparagraph:

"(B) SPECIAL RULES FOR DOMESTIC RELATIONS ORDERS.—Subparagraph (A) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that subparagraph (A) shall not apply if the order is determined to be a qualified domestic relations order."

(b) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—Section 414 is amended by adding at the end thereof the following new subsection:

"(o) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—For purposes of this subsection and section 401(a)(13)—

"(1) IN GENERAL.—

"(A) QUALIFIED DOMESTIC RELATIONS ORDER.—The term 'qualified domestic relations order' means a domestic relations order—

"(i) which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

"(ii) with respect to which the requirements of paragraphs (2) and (3) are met.

"(B) DOMESTIC RELATIONS ORDER.—The term 'domestic relations order' means any judgment, decree, or order (including approval of a property settlement agreement) which—

"(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, or child of a participant, and

"(ii) is made pursuant to a State domestic relations law (including a community property law).

"(2) ORDER MUST CLEARLY SPECIFY CERTAIN FACTS.—A domestic relations order meets the requirements of this paragraph only if such order clearly specifies—

"(A) the name and the mailing address (if available) of the participant and the name and mailing address of each alternate payee covered by the order,

"(B) the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

"(C) the number of payments or period to which such order applies, and

"(D) each plan to which such order applies.

"(3) ORDER MAY NOT ALTER AMOUNT, FORM, ETC., OF BENEFITS.—A domestic relations order meets the requirements of this paragraph only if such order—

"(A) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

"(B) does not require the plan to provide increased benefits, and

"(C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

"(4) EXCEPTION FOR CERTAIN PAYMENTS MADE AFTER EARLIEST RETIREMENT AGE.—A domestic relations order shall not be treated as failing to meet the requirements of subparagraph (A) of paragraph (3) solely because such order requires that payment of benefits be made to an alternate payee—

"(A) on or after the date on which the participant attains (or would have attained) the earliest retirement age (within the meaning of section 417(f)(3)),

"(B) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only benefits actually accrued), and

"(C) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

"(5) TREATMENT OF FORMER SPOUSE AS SURVIVING SPOUSE FOR PURPOSES OF DETERMINING SURVIVOR BENEFITS.—To the extent provided in any qualified domestic relations order—

"(A) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of sections 401(a)(11) and 417, and

"(B) if married for at least 1 year, the surviving spouse shall be treated as meeting the requirements of section 417(d).

A plan shall not be treated as failing to meet the requirements of subsection (a) or (k) of section 401 which prohibit payment of benefits before termination of employment solely by reason of payments to an alternate payee pursuant to a qualified domestic relations order.

"(6) PLAN PROCEDURES WITH RESPECT TO ORDERS.—

"(A) NOTICE AND DETERMINATION BY ADMINISTRATOR.—In the case of any domestic relations order received by a plan—

"(i) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and

"(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(B) PLAN TO ESTABLISH REASONABLE PROCEDURES.—Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.

"(7) PROCEDURES FOR PERIOD DURING WHICH DETERMINATION IS BEING MADE.—

"(A) IN GENERAL.—During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

"(B) PAYMENT TO ALTERNATE PAYEE IF ORDER DETERMINED TO BE QUALIFIED DOMESTIC RELATIONS ORDER.—If within 2 years the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

"(C) PAYMENT TO PLAN PARTICIPANT IN CERTAIN CASES.—If within 2 years—

"(i) it is determined that the order is not a qualified domestic relations order, or

"(ii) the issue as to whether such order is a qualified domestic relations order is not resolved,

then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

"(D) SUBSEQUENT DETERMINATION OR ORDER TO BE APPLIED PROSPECTIVELY ONLY.—Any determination that an order is a qualified domestic relations order which is made after the close of the 2-year period shall be applied prospectively only.

"(8) ALTERNATE PAYEE DEFINED.—The term 'alternate payee' means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

"(9) CONSULTATION WITH THE SECRETARY OF LABOR.—In prescribing regulations under this subsection and section 401(a)(13), the Secretary shall consult with the Secretary of Labor."

(c) TAX TREATMENT OF DIVORCE DISTRIBUTIONS.—

(1) ALLOCATION OF INVESTMENT IN THE CONTRACT.—Subsection (m) of section 72 (relating to special rules applicable to employee annuities and distributions under employee plans) is amended by adding at the end thereof the following new paragraph:

"(10) DETERMINATION OF INVESTMENT IN THE CONTRACT IN THE CASE OF QUALIFIED DOMESTIC RELATIONS ORDERS.—Under regulations prescribed by the Secretary, in the case of a distribution or payment made to an alternate payee pursuant to a qualified domestic relations order (as defined in section 414(o)), the investment in the contract as of the date prescribed in such regulations shall be allocated on a pro rata basis between the present value of such distribution or payment and the present value of all other benefits payable with respect to the participant to which such order relates.".

(2) ROLLOVER OF DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS.—Paragraph (6) of section 402(a) (relating to special rules for rollovers) is amended by adding at the end thereof the following new subparagraph:

"(F) QUALIFIED DOMESTIC RELATIONS ORDERS.—If—

"(i) within 1 taxable year of the recipient, the balance to the credit of the recipient by reason of any qualified domestic relations order (within the meaning of section 414(o)) is distributed or paid to the recipient,

"(ii) the recipient transfers any portion of the property the recipient receives in such distributions to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(D)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(3) CLARIFICATION OF ELIGIBILITY OF PARTICIPANT FOR LUMP SUM TREATMENT.—Paragraph (4) of section 402(e) (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new subparagraph:

"(M) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, subsection (a)(2) of this section, and section 403(a)(2), the balance of the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(o))."

SEC. 205. RESTRICTION ON MANDATORY DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 411 (relating to minimum vesting standards) is amended by adding at the end thereof the following new paragraph:

"(11) RESTRICTIONS ON CERTAIN MANDATORY DISTRIBUTIONS.—

"(A) IN GENERAL.—If the present value of any accrued benefit exceeds $3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended by striking out "$1,750" and inserting in lieu thereof "$3,500".

SEC. 206. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (e) of section 6057 (relating to individual statement to participants) is amended by adding at the end thereof the following new sentence: "Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date."

SEC. 207. NOTICE OF ROLLOVER TREATMENT REQUIRED TO BE GIVEN TO RECIPIENT OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees trusts) is amended by adding at the end thereof the following new subsection:

"(f) NOTICE OF RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making a qualifying rollover distribution, provide notice to the recipient that—

"(A) such distribution, to the extent transferred to an eligible retirement plan under subsection (a)(5) or section 403(a)(4), will not be subject to tax, and

"(B) such transfer must be made within 60 days of the date on which the recipient received such distribution.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'qualifying rollover distribution' and 'eligible retirement plan' have the respective meanings given such terms by subsection (a)(5)(D)."

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN QUALIFYING ROLLOVER DISTRIBUTIONS.—In the case of each failure to provide notice as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $5,000."

TITLE III—GENERAL PROVISIONS

SEC. 301. CODIFICATION OF TREATMENT OF CERTAIN PLAN AMENDMENTS AND ACTUARIAL ASSUMPTIONS.

(a) CERTAIN PLAN AMENDMENTS TREATED AS REDUCING BENEFITS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 411(d) of the Internal Revenue Code of 1954 (relating to accrued benefit not to be decreased by amendment) is amended to read as follows:

"(6) ACCRUED BENEFIT NOT TO BE DECREASED BY AMENDMENT.—

"(A) IN GENERAL.—A plan shall be treated as not satisfying the requirements of this section if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974.

"(B) TREATMENT OF CERTAIN PLAN AMENDMENTS.—For purposes of subparagraph (A), a plan amendment which has the effect of—

"(i) eliminating or reducing a subsidy or an early retirement benefit, or

"(ii) eliminating an optional form of benefit,

with respect to benefits accrued before the amendment shall be treated as reducing accrued benefits. In the case of a terminated plan, the preceding sentence shall not apply to a subsidy where the conditions for the subsidy have not been satisfied at the time of termination."

(2) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (g) of section 204 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(g)(1) The accrued benefit of a participant under a plan may not be decreased by an amendment of the plan, other than an amendment described in section 302(c)(8).

"(2) For purposes of paragraph (1), a plan amendment which has the effect of—

"(A) eliminating or reducing a subsidy or an early retirement benefit, or

"(B) eliminating an optional form of benefit,

with respect to benefits accrued before the amendment shall be treated as reducing accrued benefits. In the case of a terminated plan, the preceding sentence shall not apply to a subsidy where the conditions for the subsidy have not been satisfied at the time of termination."

(b) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Subsection (a) of section 401 of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (24) the following new paragraph:

"(25) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—A defined benefit pension plan shall not be treated as providing definitely determinable benefits unless, whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions are specified in the plan in a way which precludes employer discretion."

SEC. 302. GENERAL EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section or section 303, the amendments made by this Act shall apply to plan years beginning after December 31, 1984.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, except as provided in section 303, the amendments made by this Act shall not apply to plan years beginning before the earlier of—

(1) the date on which the last of the collective bargaining agreements relating the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 1987.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by title I or II shall not be treated as a termination of such collective bargaining agreement.

(c) NOTICE REQUIREMENT.—The amendments made by section 207 shall apply to distributions after December 31, 1984.

SEC. 303. TRANSITIONAL RULES.

(a) AMENDMENTS RELATING TO VESTING RULES; BREAKS IN SERVICE; MATERNITY OR PATERNITY LEAVE.—

(1) MINIMUM AGE FOR VESTING.—The amendments made by sections 102(b) and 202(b) shall apply in the case of participants who have at least 1 hour of service under the plan on or after the date of the enactment of this Act.

(2) BREAK IN SERVICE RULES.—If, as of the day before the first day of the first plan year to which the amendments made by this Act apply, section 202(a) or (b) or 203(b) of the Employee Retirement Income Security Act of 1974 or section 410(a) or 411(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not require any service to be taken into account, nothing in the amendments made by subsections (c) and (d) of section 102 of this Act and subsections (c) and (d) of section 202 of this Act shall be construed as requiring such service to be taken into account under such section 202(a) or (b), 203(b), 410(a), or 411(a); as the case may be.

(3) MATERNITY OR PATERNITY LEAVE.—The amendments made by sections 102(e) and 202(e) shall apply in the case of absences from work which begin on or after the first day of the first plan year to which the amendments made by this Act apply.

(b) SPECIAL RULE FOR AMENDMENTS RELATING TO MATERNITY OR PATERNITY ABSENCES.—If a plan is administered in a manner which would meet the amendments made by sections 102(e) and 202(e) (relating to certain maternity or paternity absences not treated as breaks in service), such plan need not be amended to meet the such requirements until the earlier of—

(1) the date on which such plan is first otherwise amended after the date of the enactment of this Act, or

(2) the beginning of the first plan year beginning after December 31, 1986.

(c) REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.—

(1) REQUIREMENT THAT PARTICIPANT HAVE AT LEAST 1 HOUR OF SERVICE OR PAID LEAVE ON OR AFTER DATE OF ENACTMENT.—The amendments made by sections 103 and 203 shall apply only in the case of participants who have at least 1 hour of service under the plan on or after the date of the enactment of this Act or have at least 1 hour of paid leave on or after such date of enactment.

(2) REQUIREMENT THAT PRERETIREMENT SURVIVOR ANNUITY BE PROVIDED IN CASE OF CERTAIN PARTICIPANTS DYING ON OR AFTER DATE OF ENACTMENT.—In the case of any participant—

(A) who has at least 1 hour of service under the plan on or after the date of the enactment of this Act or has at least 1 hour of paid leave on or after such date of enactment,

(B) who dies before the annuity starting date, and

(C) who dies on or after the date of the enactment of this Act and before the first day of the first plan year to which the amendments made by this Act apply,

the amendments made by sections 103 and 203 shall be treated as in effect as of the time of such participant's death.

(3) SPOUSAL CONSENT REQUIRED FOR CERTAIN ELECTIONS AFTER DATE OF ENACTMENT.—Any election (after the date of the enactment of this Act and before the first day of the first plan year to which the amendments made by this Act apply) not to take a joint and survivor annuity shall not be effective unless the requirements of section 205(c)(2) of the Employee Retirement Income Security Act of 1974 (as amended by section 103 of this Act) and section 417(a)(2) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) are met with respect to such election.

(d) AMENDMENTS RELATING TO ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.—

(1) IN GENERAL.—The amendments made by sections 104 and 204 shall take effect on the date of the enactment of this Act (without regard to whether the order was issued before, on, or after such date of enactment).

(2) TREATMENT OF ORDERS ISSUED BEFORE DATE OF ENACTMENT.—Any domestic relations order (within the meaning of section 414(o) of the Internal Revenue Code of 1954, as amended by this Act) which is issued before the date of the enactment of this Act shall be treated as a qualified domestic relations order for purposes of section 401(a)(13) of such Code and section 206(d)(3) of the Employee Retirement Income Security Act of 1974—

(A) with respect to benefits to an alternate payee in pay status on the date of the enactment of this Act, and

(3) with respect to benefits not described in subparagraph (A) but only to the extent the order is consistent with the plan.

(e) TREATMENT OF CERTAIN PARTICIPANTS WHO SEPARATE FROM SERVICE BEFORE DATE OF ENACTMENT.—

(1) JOINT AND SURVIVOR ANNUITY PROVISIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 APPLY TO CERTAIN PARTICIPANTS.—If—

(A) a participant had at least 1 hour of service under the plan on or after September 2, 1974,

(B) section 203 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not (but for this paragraph) apply to such participant,

(C) the amendments made by sections 103 and 203 of this Act do not apply to such participant, and

(D) as of the date of the enactment of this Act, the participant's annuity starting date has not occurred and the participant is alive,

then section 203 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall apply to such participant.

(2) TREATMENT OF CERTAIN PARTICIPANTS WHO PERFORM SERVICE ON OR AFTER JANUARY 1, 1976.—

(A) IN GENERAL.—If—

(i) a participant had at least 1 hour of service on or after January 1, 1976,

(ii) the amendments made by sections 103 and 203 would not (but for this paragraph) apply to such participant,

(iii) when such participant separated from service, such participant had at least 10 years of service under the plan and had a

nonforfeitable right to all (or any portion) of his accrued benefit derived from employer contributions, and

(iv) as of the date of the enactment of this Act, such participant's annuity starting date has not occurred and such participant is alive,

then such participant may elect to have the qualified preretirement survivor annuity requirements of the amendments made by sections 103 and 203 apply.

(B) PERIOD DURING WHICH ELECTION MAY BE MADE.—An election under subparagraph (A) may be made by any participant during the period—

(i) beginning on the date of the enactment of this Act, and

(ii) ending on the earlier of the participant's annuity starting date or the date of the participant's death.

(C) REQUIREMENT OF NOTICE.—

(i) IN GENERAL.—Every plan shall give notice of the provisions of this paragraph in the first summary annual report made after December 31, 1984.

(ii) PENALTY.—If any plan fails to meet the requirements of clause (i), such plan shall pay a civil penalty to the Secretary of the Treasury or his delegate equal to $1 per participant for each day during which such failure continues; except that the amount of such penalty imposed on any plan shall not exceed $2,500.

(D) RESPONSIBILITIES OF SECRETARY OF LABOR.—The Secretary of Labor shall take such steps (by public announcements and otherwise) as may be necessary or appropriate to bring to public attention the provisions of this paragraph.

SEC. 304. STUDY BY COMPTROLLER GENERAL OF THE UNITED STATES.

(a) GENERAL RULE.—The Comptroller General of the United States shall conduct a detailed study (based on a reliable scientific sample of typical pension plans of various designs and sizes) of the effect on women of participation, vesting, funding, integration, survivorship features, and other relevant plan and Federal pension rules.

(b) GENERAL ACCOUNTING OFFICE ACCESS TO RECORDS.—For the purpose of conducting the study under subsection (a), the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy—

(1) any pension plan books, documents, papers, records, or other recorded information within the possession or control of the plan administrator or sponsor, or any person providing services to the plan, and

(2) any payroll, employment, or other related records within the possession or control of any employer contributing to or sponsoring a pension plan,

that is pertinent to such study. The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(c) DEFINITIONS.—For purposes of this section, the terms "pension plan", "administrator", "plan sponsor", and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974, as amended.

(d) COOPERATION WITH OTHER FEDERAL AGENCIES.—In conducting the study under subsection (a), the Comptroller General shall consult with the Internal Revenue Service, the Department of Labor, and other interested Federal agencies so as to prevent any duplication of data compilation or analyses.

(e) REPORT.—Not later than January 1, 1990, the Comptroller General shall submit a report on the study conducted under this section to the Committee on Ways and Means of the House of Representatives, the Committee on Education and Labor of the House of Representatives, the Committee on Finance of the Senate, the Committee on Labor and Human Resources of the Senate, and the Joint Committee on Taxation.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, for purposes of debate, I yield 10 minutes to the gentleman from Missouri (Mr. CLAY) from the Committee on Education and Labor, pending which I yield myself such time as I may consume.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, for purposes of debate, it is my intention to yield 10 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today in strong support of H.R. 4280, the Retirement Equity Act of 1984, and urge immediate passage of this important legislation.

H.R. 4280 is designed to improve the treatment of women under private pension plans. Inequities exist under present law which disadvantage both women as workers and women as surviving spouses. This bill represents the bipartisan efforts of many Members to make pension plans more responsive to the special needs of women. This legislation carefully balances the important needs of women and the costs of employers who sponsor pension plans. H.R. 4280 provides the greatest additional benefits to women consistent with reasonable employer costs.

The first problem this legislation addresses is the special work history of many women. Women tend to enter and leave the work force more frequently and tend to have longer periods of absence than men. Historically, wives have had to leave their jobs to permit family mobility for their husbands. Also, women tend to have longer absences from the work force in order to care for young children.

In recognition of the problems that women face, H.R. 4280 reduces from 25 to 21 the maximum age an employer can require an employee to attain before becoming a participant in the employer's pension plan. In addition, the bill lowers the age at which service must be counted for vesting purposes from 22 to 18. These rules will insure that women, who tend to enter the work force earlier, will be able to begin earning pension credits for their service.

The bill also revises the rules that permit an employer to disregard an employee's prior service after the employee has been absent from work for a period of time. These rules have been detrimental to working women because each time a woman leaves the work force for childbearing and rearing, she faces the potential loss of pension credits. Under the bill, this problem is significantly reduced because an employee's prior service could not be disregarded until the employee has been gone for at least 5 years. In addition, H.R. 4280 provides special service-crediting rules for people who take maternity or paternity leave.

In addition to focusing on the problems of the women as a compensated worker, H.R. 4280 recognizes the important roles that women play as spouses. Women who work in the home provide important support and assistance to their husbands.

Present law has provided inadequate protection to wives who survive their husbands. Under present law, a plan can deny a widow any pension benefits if her husband dies after earning significant retirement benefits. This occurs because present law permits the forfeiture of all pension benefits if an employee dies before retirement age and because present law does not require that a spouse participate in a decision to waive survivor benefits under a pension plan.

H.R. 4280 provides that the surviving spouse of an employee who has vested benefits under a pension plan is entitled to a portion of those benefits if the employee dies before retirement. The bill will alleviate some of the problems of young widows. In addition, H.R. 4280 provides that survivor benefits may not be waived without the consent of the spouse.

H.R. 4280 also deals with the division of retirement benefits in the case of a divorce. In part, problems have arisen in this area because of uncertainty as to the relationship between Federal and State law with respect to pension plans. The bill sets minimum standards of specificity with respect to a domestic relations order as it relates to a pension benefit. These standards balance the needs of the former spouse for flexibility to provide appropriate support, and the plans' needs for clear rules.

In addition, the bill establishes a procedure for the resolution of disputes as to whether a plan is required to follow a domestic relations order. These procedures are designed to assure that a pension plan will not be unduly burdened when an employee is divorced.

Mr. Speaker, because of the shared jurisdiction on ERISA legislation gen-

erally, H.R. 4280 was referred to both the Committee on Education and Labor and the Committee on Ways and Means. In considering this legislation, the two committees adopted slightly different approaches to several of the issues addressed by the bill. After completing the work on the bill, the two committees met informally to discuss the two versions of the legislation. The minor changes necessary to coordinate the two approaches were then reflected in the version of the bill reported by the Committee on Ways and Means. It is that version of the legislation that is before the House today. While both committee reports can, of course, be used as sources for legislative history where differences in interpretation exist, the report of the Committee on Ways and Means is reflective of the actual agreement of the committees and the legislation being considered by the House.

Mr. Speaker, much time and effort have gone into the development of this legislation. I urge my colleagues to join me in support of this important bill.

□ 1230

Mr. CONABLE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I strongly support the Retirement Equity Act, H.R. 4280. The purpose of the bill is to assure that individuals will be able to provide retirement security for themselves and for their dependents and survivors despite changes in the work patterns and the status of marriage as an economic partnership.

Much of the bill is quite technical in nature and, like many such measures, makes for dry reading. But the circumstances in people's lives which motivate this legislation dramatically illustrate its impact with an intensity not conveyed in the committee reports. One woman testified before our committee that after 24 years with IBM, her husband was stricken with cancer. He was concerned that unless he could live until his 55th birthday, his wife would receive nothing from his pension. He died the morning of our hearing. He had lived only until age 50. Another witness was married 36 years to a repairman in Kentucky coal mines for 27 years. About a month after his fatal heart attack at age 54 in 1980, his pension fund sent her a letter saying she would get no widow's benefits because he had died "too early." Had he lived for only 4 more hours, she would have received widow's benefits.

Situations such as these ought not to occur. Employees who have worked loyally for most of their adult lives for firms with qualified pension plans should be able to count on survivor's benefits for their spouses without having to meet arbitrary age or duration of work requirements. Accordingly, the bill requires qualified pension plans to provide automatic survivor's benefits both for participants who retire and for vested participants who die before reaching retirement age. Further, the bill tries to protect these survivor benefits by providing that they can be waived only with the written, witnessed consent of the participant's spouse. Vested participants who have gone on to other jobs since December 31, 1975 will also be able to elect preretirement survivor annuities. Plans must include notice of this right to make an election in their summary annual reports and a penalty will be imposed on plans which fail to include such a notice in their reports. (A separate penalty under present law applies to failure to send out the reports). We are also calling upon the Department of Labor to publicize these transition features for separated participants.

Many women enter the work force immediately upon leaving school and, after working for number of years, take time off as they begin having children. Under present law, they may end up without vesting toward pension benefits despite a considerable attachment to the work force. Their years prior to age 25 are not counted, and breaks in service during their childbearing years may wipe out any credit toward vesting and participation they may have accrued. In response to their problem, the bill reduces the minimum age for pension participation to 21 and the minimum age for vesting to 18. Years of work before a break in service will not be lost for vesting and participation purposes unless the number of consecutive 1-year breaks equals or exceeds 5 years or the number of years of prior service. Special provisions protect vesting and participation during unpaid leaves because of the birth or adoption of a child. Although these provisions will apply, of course, to both men and women, they will be especially helpful to women by assuring them credit for their early years of employment and by permitting them to take adequate maternity leave without sacrificing pension participation and vesting.

A third problem area addressed by the bill has to do with the disposition of pensions as part of divorce settlements. ERISA preempts State laws that permit assignment of pension benefits. However, some courts have held that the ERISA preemption provision does not prevent the attachment of benefits to meet certain family support obligations such as child support and alimony. When domestic relations courts order the payment of a participant's pension to an alternate payee, a pension plan may find itself between two conflicting authorities. H.R. 4280 resolves this conflict by spelling out when and how a participant's benefit is to be paid in the event that a qualified domestic relations orders requires payment to an alternate payee. These guidelines also will help pension plan administrators determine how to pay benefits in the event of disputes.

When we contemplate mandatory expansions of retirement rights, benefits and coverage, we are aware that these changes generally involve additional costs to participants, to employers or to both. I believe the bill before us has struck a fair balance between assuring workers and their dependents fair coverage which recognizes their family responsibilities and preventing an unduly heavy additional cost to employers which might discourage them from providing adequate pension plans.

Although this bill was motivated largely by concerns that women as workers and dependents were not being treated fairly by many pension plans under present law, these concerns are also, to a large extent, concerns of family security. Most workers want to be sure that in the event of their untimely death, there will be some benefit from their pensions for their families. Families want to be able to have a parent home with very young children without sacrificing pension benefits based on years of work experience. The bill will improve considerably the ability of pension plan participants to provide for their spouses and ex-spouses and for employees, particularly women, to receive full credit for years of service while accommodating family responsibilities.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4280, the Retirement Equity Act of 1984. This bill is a modest but necessary first step toward insuring that workers and their spouses receive fairer treatment under our Federal pension law, the Employee Retirement Income Security Act of 1974 (ERISA). Our goal is twofold: To increase the number of women who have a vested right to a pension benefit and to provide adequate protection for spouses who may or may not be employed outside the home. Because we wanted to achieve these goals without imposing unreasonable costs on pension plans, the bill does not address several issues which are of great concern to me—portability of pension benefits, the length of service necessary for vesting, and integration of plan benefits with social security. Our committee will be studying these issues carefully and in the next Congress is likely to bring before the House legislation addressing some or all of these problems.

The private pension system is intended to deliver benefits to supplement those provided by the social security system. Tragically, unforeseen faults in the fundamental design of both retirement systems stand in the

way of meeting our national goal—to insure the well-being of our elderly.

The private pension system, like the social security system, generally rewards a certain kind of work behavior—that is, a lifetime of steady work and high earnings. Women's work patterns do not usually conform to this model. Women are likely to spend part of their careers at work inside the home without pay and part of their careers at work outside the home for pay. When in paid employment, a woman is likely to be in part-time work and segregated into low-paying service fields that are tolerant of departure and reentry. Given this trend, it is rare that women earn pension benefits in their own right. Only 19 percent do.

In part, this failure may be traced to the kinds of jobs most readily accessible to women—jobs in which the existence of a pension plan is unlikely. In part, also, this failure is due to the kinds of barriers women (and other workers with similar work patterns) face as a result of ERISA's minimum standards. These standards are not designed to accommodate workers who enter the work force at relatively early ages (18 to 21), leave the work force for a period of time, and then return to work. Nor are the standards designed to accommodate workers who change jobs frequently out of economic necessity, through events beyond their control or by choice.

H.R. 4280 lowers the age of participation from 25 to 21 and reduces the vesting age from 21 to 18. This will insure that those who begin their careers at younger ages will no longer be denied credit for that service. The bill also amends the break-in-service rules to provide that previous service will not be discounted if the break in service is fewer than 5 years and provides that maternity and/or paternity leave for up to 1 year will not constitute a break in service. The bill thereby affords couples an opportunity to begin raising a family without forfeiting pension credits.

By any objective analysis of the facts, older women are suffering dire economic hardships. In 1981, the median total money income of women over 65 was $4,757, a sum hardly adequate to meet their housing and long-term health care needs. Women are now 72 percent of the elderly who live in poverty.

For most women, the only hope of supplementing their social security dependent's benefit is in claiming a joint share of their husband's pension. These women face serious vulnerabilities as a result of current pension law.

Women whose husbands have the misfortune to die after a substantial period of service but before reaching that magic number—the earliest retirement age under the pension plan—have been denied survivor benefits. In addition, workers can unilaterally sign away survivor protection, without even informing their spouse that benefits have been rejected. In those cases, the death of the participant is a double tragedy. Not only has the surviving spouse lost her mate, she has also lost her financial base of support and may be totally unprepared financially for such an occurrence. H.R. 4280 provides significantly greater protection for a surviving spouse than does current law.

Finally, women may be denied their rights to pension benefits by the dissolution of a marriage by divorce, regardless of how many years she served as an economic partner to a man covered by a pension plan. Even in cases in which the State domestic relations court is willing to consider the pension an asset of the marriage and award the ex-wife a share of it, her rights have been thwarted. Pension plans have refused to honor those court orders, claiming that they required an impermissible assignment of benefits and were preempted by ERISA.

H.R. 4280 makes it clear that honoring a legitimate State court order awarding an ex-spouse some or all of a worker's pension does not violate the antiassignment clause of ERISA. In addition, the legislation creates an exception from ERISA's broad preemption of State laws for qualified domestic relations orders.

A summary of the bill follows:

Issue	House bill (H.R. 4280)
Participating age	21.
Vesting age	18.
Rule of parity	Can't disregard previous service until 5 consecutive 1 year breaks-in-service have occurred.
Maternity/paternity leave	Leave of 1 year not treated as break-in-service if due to pregnancy, birth, adoption, or child care immediately following birth or adoption.
Joint and survivor benefits:	
a. Pretreatment survivor annuity (PSA).	Survivor benefits provided automatically if participant vested at death (and no election to waive benefits in effect; see (c) below).
b. Survivor benefits at normal retirement age (J&S).	Must be provided as an annuity by all pensions plans (i.e., all defined benefit plans and all money purchase plans) and any other defined contribution plans which do not pay to the surviving spouse at the death of the participant the value of the full nonforfeitable accrued benefit.
c. Election to waive J&S and PSA	Both participant and spouse must consent in writing; signatures must be notorized or made in presence of plan official.
d. Time for election	PSA: period beginning on 1st day of plan year in which participant becomes 35 and ends on date of death. J&S: period beginning 90 days before annuity starting date and ending on that date.
e. When survivor can begin to draw benefits.	Date on which participant would have reached the earliest retirment age under the plan.
f. 1 year marriage rule	Participant and spouse must be married for 1 year or earlier of annuity starting date or date of death. Exceptions: if qualified domestic relations order awards benefit to alternate payee or if participant marries after annuity starting date but is married for 1 year at death.
g. 2 year nonaccidental death rule	Repeals rule.
h. Cash-outs	If present value of entire nonforfeitable benefit above $3,500, plan can cash out only with consent. If present value below $3,500, plan cash-out without consent but in determining whether below $3,500, plan must use PBGC rate for valuing lump sum distributions for terminating plans and plan must rollover eligible amounts to IRA or another plan if participant or survivor requests.
Domestic relations orders:	
a. General	Compliance with qualified domestic relations order (QDRO) is not an assignment or alienation of benefits under ERISA; state domestic relations law is not preempted by ERISA if state court issues a QRDO.
b. Content of QDRO	Name/address of participant and each alternative payee, amount, duration of payments, plan to which order relates.
c. When determination that order is (or is not) a QDRO must be made..	Reasonable period after order is received by the plan.

Issue	House bill (H.R. 4280)
d. Subsequent orders	Subsequent QDROs can only divide portion of benefit which still belongs to participant after all prior QDROs are taken into account.
e. Payment of benefits if order in dispute.	If order is in dispute, plan must escrow both participant and alternate payee benefits for up to 2 years; if dispute settled within that period, escrowed amounts distributed; if dispute not settled within that time, entitlement prospective only.
f. Status of alternate payee	Treated as a beneficiary for all purposes except that separate PBGC premium should not be assessed.
Involuntary cash-outs of benefits	Amount raised to $3,500 but in determining whether value of benefits is below $3,500 must use PBGC rate for valuing lump sum benefits for terminating plans.
Participant notification	Participant must be notified that he/she will forfeit benefits if he/she dies before eligible for the PSA benefit by adding such a statement to the individual benefit statement required under section 105 of ERISA.
Codification of Rev. Rulings 79-90 and 81-12.	These rulings related to actuarial assumptions and cutbacks in accrued benefits.
Effective dates:	
a. General	Non-collectively bargained plans: plan years beginning after 12/31/84. Collectively bargained plans: earlier of the expiration of the last applicable collective bargaining agreement or 1/1/87.
b. Participation rules	Same as general effective dates (prospective only).
c. Vesting rules	Generally the same as the general effective dates but if the new vesting rules apply to a particular participant, plan must go back and give credit for years back to 18.
d. Rule of parity	Same as the general effective dates but for participants who are on leave on those effective dates, new rule applied if previous service not already lost through application of the current rule of parity.
Special rules:	
a. Domestic relations orders issued prior to effective date.	Plans must honor all orders in pay status on effective date; plans must treat all orders pending on effective date as QDRO's to the extent that they are consistent with the plan.
b. PSA	If participant is vested and has 1 hour of service after the date of enactment, the survivor is entitled to PSA if the participant dies after the date of enactment.
c. Terminated vested participants	Two special rules are provided: 1. Vested participants who were employed after 9/1/74 but terminated employment prior to the effective date of this Act, are not yet in pay status, and survive until normal retirement age, will receive their benefits in the form of a J&S, unless waived (joint consent to waive not required). 2. Participants who were employed after 12/31/75, were vested with at least 10 years of service when they terminated employment prior to the effective date of this Act, are alive and not in pay status on the effective date may elect PSA coverage. That election must be made while the participant is alive (surviving spouse can't come in later to claim it) and before the participant begins to draw benefits. Notice of right to elect coverage must be in summary annual report; DOL must develop public service messages to alert participants.
d. Consent to waive benefits	Joint consent necessary for waivers after date of enactment.
GAO study	GAO required to study effect on women of participation, vesting, funding, integration, survivorship rules. Report due no later than 1/1/90.

The bill before the House today enjoys broad bipartisan support. It also reflects the careful deliberations of two committees. Because the Committee on Ways and Means has jurisdiction over the revenue portions of the bill, H.R. 4280 and its predecessors, H.R. 1641 and H.R. 2100 were jointly referred. The Committee on Education and Labor acted first.

In the 97th Congress, the Subcommittee on Labor-Management Relations held hearings on H.R. 1641, introduced by Representative GERALDINE FERRARO of New York, on October 14, 1982 in San Francisco, Calif., and on December 13, 1982 in Washington, D.C. In the 98th Congress, hearings were held on H.R. 2100, also introduced by Representative FERRARO on September 29 and November 1, 1983 in Washington, D.C. On November 1, 1983, the subcommittee, by a unanimous voice vote, adopted an amendment in the nature of a substitute for H.R. 2100 and ordered H.R. 2100, as amended, reported to the full committee. The amendment embodied key concepts found in proposals put forth by Representative FERRARO (H.R. 2100), the Senate (S. 1978) and Congressman JOHN ERLENBORN on behalf of the administration (H.R. 4032).

At the same time, as chairman of the subcommittee, I announced my intention to introduce as a clean bill the text of H.R. 2100 as amended. That bill, H.R. 4280, was introduced on November 2, 1983, and jointly referred to the Committee on Education and Labor and Ways and Means.

On November 16, 1983, the committee adopted by unanimous rollcall vote (28 to 0) an amendment in the nature of a substitute for H.R. 4280 offered by Representative ERLENBORN, and ordered the bill, as amended to be reported. H.R. 4280 was reported by the committee on April 5, 1984 (H. Rept. 98-655, part 1).

The Committee on Ways and Means held hearings on the general subject of retirement equity on October 25-26, 1983. On March 27, 1984, that committee by voice vote ordered H.R. 4280 as amended to be reported. The bill reported by the committee was quite similar to the version reported by the Committee on Education and Labor. Because the Committee on Ways and Means had jurisdiction over only the revenue portions of the bill and the Committee on Education and Labor had jurisdiction over the remainder of the bill, several differences between the reported bills existed. Working together, however, the two committees reached a consensus. The Committee on Ways and Means then reconsidered H.R. 4280 and amended it to reflect the agreed upon changes. H.R. 4280 was reported by the committee on May 17, 1984 (H. Rept. 98-655, part 2).

Thus, the bill before the House today represents the joint effort of the Committees on Education and Labor and Ways and Means. It also represents the hard work of many people whom I would like to recognize today.

First, I would like to thank the distinguished members of the Committee on Education and Labor, particularly Chairman PERKINS, and my colleagues, MARGE ROUKEMA and JOHN ERLENBORN the ranking minority members of the Subcommittee on Labor Management Relations and the full committee respectively. Next, I must acknowledge the cooperation and assistance of Chairman ROSTENKOWSKI, the other members of the Committee on Ways and Means, and their staff.

A special word of thanks must go to my distinguished colleague from New York, GERALDINE FERRARO, and the members of the Congressional Caucus on Women's Issues for bringing these issues to the attention of Congress 4 years ago. It is Congresswoman FERRARO's bill that is the core of the legislation before us today.

The key people in organizations which provided technical assistance and encouragement to the committee include Karen Ferguson and Ann Moss of the Pension Rights Center, Alice Quinlan of the Older Women's League, Pat Reuss of the Women's Equity Action League, Judy Schub and Lauri Lewis of the National Federation of Business & Professional Women's Clubs, Diane Doughty of the National Organization for Women, Joanna Mendelson and Patricia Smith of the American Association of University Women, and Marcia Ackerman of Congresswoman FERRARO's staff.

Especially helpful in drafting the legislation were Stuart Sirkin and Donald Myers of the U.S. Department of Labor and Lawrence Johnston of the Office of House Legislative Counsel. Jeff Lewis, a consultant to the Assistant Secretary of Labor for Legislative Affairs, greatly assisted the committee by serving as liaison to the administration.

Finally, I would like to thank the subcommittee staff and our congressional fellow from the Women's Research and Education Institute, Karen Mudd.

I am proud to have participated in the development of this legislation and look forward to its speedy enactment.

OLDER WOMEN'S LEAGUE,
Washington, DC, May 22, 1984.

Hon. WILLIAM CLAY,
Chairman, Subcommittee on Labor-Management Relations, House Education and Labor Committee, Washington, DC.

DEAR MR. CLAY: I want to express to you the wholehearted support of the Older Women's League for H.R. 4280, the pension equity bill on which the House will vote today.

Pension equity is one of the most important issues women face in their struggle for a decent level of retirement income, and an issue that the Older Women's League has advocated since its founding.

While the bills separately drafted by your committee and by the Ways and Means Committee each had advantages for women, we commend you and Mr. Rostenkowski for working together to put forward the best possible pension equity legislation.

We believe that in its present form H.R. 4280 is a very significant improvement over the bill passed by the Senate in November, and hope you will be able to maintain these gains for women when the House-Senate conference committee meets.

Thank you for your commitment to pension equity for women, and for your leadership in developing a vehicle to bring about positive change. We appreciate the considerable contributions made by your staff over the past year as well.

Sincerely,

TISH SOMMERS, *President.*

Mrs. ROUKEMA. Mr. Speaker, I yield myself 5 minutes.

Mr. CONTE. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of H.R. 4820, the Women's Pension Equity Act. This legislation addresses many of the inadequacies contained in the Employment Retirement Income Security Act, commonly known as ERISA.

ERISA was built on a predominantly male working model, and it needs to be reshaped so that it can better respond to the needs of male and female working patterns. H.R. 4820 makes those necessary revisions, and its provisions would:

Lower from 22 to 18 the minimum age for vesting, and from 25 to 21 for participation;

Protect pension benefits during maternity/paternity leave, and generally liberalize break-in-service rules;

Grant automatically joint and survival benefits unless both spouses opt out; and

Clarify that the antiassignment clause in ERISA does not apply necessarily to divorced spouses.

It is important to note that this measure differs in two important respects from the version approved earlier by the Senate. First, both bills secure a spouse's survivor benefits if an employee dies before attaining early retirement age. The Senate bill, however, requires that the worker reach the age of 45 before survivor benefits are secured, while H.R. 4820 rejects establishment of any arbitrary age limit. Once the employee is vested in the plan, survivor benefits are guaranteed.

Second, under the Senate bill, survivor benefits are forfeited if an employee dies of natural causes within 2 years of electing those benefits. No such forfeiture provision is contained in the House bill.

H.R. 4280 is stronger than its Senate counterpart on both counts. It operates on the premise that once an employee has worked long enough to receive a pension, neither the worker nor his or her spouse can be deprived of pension benefits. Our colleagues on the Education and Labor and Ways and Means Committees are to be congratulated for their diligent efforts in drafting this bipartisan legislation, and for ensuring that it be brought to the floor for action.

In conclusion, Mr. Speaker, we must not lose sight of the fact that H.R. 4280 is but one component of a comprehensive equity package being pieced together by this House. In November of last year, this body approved the Child Support Enforcement Act, and this year tax-exempt status for dependent care facilities was included as a provision of the House-approved omnibus tax bill.

It is my hope that today we will approve a third link in that equity package. It is a link that will not only help reverse the devastating effects from the feminization of poverty, but, more importantly, will address one of its primary causes—pension inadequacies. I hope that my colleagues will join me in lending their unequivocal support to this important legislative initiative.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 4280, the Retirement Equity Act of 1984, which eliminates existing inequities in the pension laws and brings those laws into conformity with the changing status of women in contemporary society.

It should be noted that this bill is the product of both the Ways and Means Committee and the Education and Labor Committee and has been drafted to accommodate and concerns of both committees.

As the ranking minority member on the Labor-Management Relations Subcommittee, I want to particularly commend the chairman of the subcommittee, BILL CLAY, for his forthright leadership and my colleague from Illinois, JOHN ERLENBORN, whose expertise and wisdom were essential to bringing a financially sound proposal.

In addition, I want to commend the gentlewoman from New York, GERALDINE FERRARO, who pioneered these reforms long before gender issues were in political fashion. In addition, the gentlewoman from Maine, OLYMPIA SNOWE, has played a key role, particularly in her leadership in bringing this problem to the attention of the administration, whose support has been essential.

This legislation addresses a small portion of a much larger problem: The economic plight of growing numbers of women of retirement age who simply do not receive an adequate income. Despite the importance of a pension to financial well-being at this age, four out of five of these women receive no private pension. The remainder receive an average annual benefit of $2,586, compared to $4,349 for men.

These inequities are not usually a result of overt discrimination, but, instead, reflect the unique work histories and wages of women. Unfortunately, the present pension laws—the Emloyee Retirement Income Security Act (ERISA)—do not recognize these disparities or attempt to accommodate them.

The bill we consider today finally provides recognition within ERISA of certain realities that were not as ap-

parent when the law was enacted 10 years ago.

First, the jobs of child rearing and homemaking are finally being considered of equal importance to work performed outside the home.

Presently, under current law: A man may work 30 years for an employer while supported at home by his wife who draws no paycheck and has no pension contributions in her own name. The man dies at 54, having long since vested in a pension with a substantial accrual of benefits. Present law assumes that, until the husband reaches the age of early retirement—normally 55—only he has a legitimate claim to that pension and in the event of his death no pension benefits are therefore required to be paid to his widow regardless of her faithful and dutiful contribution to the family life and his career. In the situation I have described, the wife would receive no pension, simply because of the unfortunate timing of her husband's death.

Even in situations where the husband has died after reaching the early retirement age, the law is inadequate. ERISA does require that plans provide a "joint and survivor" option which, if taken, guarantees that the widow will receive a pension after the worker dies. However, 60 percent of workers vested in pension plans have unilaterally and legally rejected this option because it means a somewhat smaller pension benefit while they are still alive. Unfortunately, this option leaves their widows without any pension income.

The Retirement Equity Act of 1984 would insure that the role of the surviving spouse is properly recognized in such situations. It would require the availability of a joint and survivor benefit option for the spouse of any employee who has vested in a pension plan—which normally means 10 years of service—regardless of when the employee dies. In addition, the benefit would automatically be provided unless both the employee and his spouse indicate otherwise.

A second reality addressed by the bill is the increasing numbers of women who interrupt their work for child rearing and return to their careers. Consequently, we find more and more women entering, leaving, and then reentering the work force at various stages of their careers.

Unfortunately, these new career patterns run up against a number of roadblocks in our pension system—some which cannot now be remedied by law, but others which can.

In the first place, the law currently requires that a pension plan include as participants only those who are age 25 or older. This means that when years of service are calculated into the pension benefits, no credit is given for work performed before the age of 25. In addition, vesting credits, which determine whether an employee acquires a right to accrued benefits, need not be provided for work performed before the age of 22.

However, these requirements ignore the fact that women between the ages of 20 and 24 participate more heavily in the work force than any other age group of women. In addition, a significant number of women begin working immediately out of high school, working 10 years or so, and then quitting in their late twenties or early thirties to raise a family. The current minimum age requirements deprive these women of vesting and participation credits during the bulk of their career.

This bill addresses these work patterns by requiring that persons age 21 and over must be included as participants in the pension plan and that persons age 18 or over must receive vesting credits.

In addition, the bill eliminates shortcomings in the present law which frequently deprive women of credit for work performed before taking a maternity leave even when they return to work for the same employer. This bill will insure that, in most instances, those credits are not lost.

The final reality this bill recognizes is the tragic frequency of divorce in our society. In many instances, a woman who is divorced finds herself foreclosed from receiving any pension survivor benefits, even though she may be morally entitled to a share through her long years of work and support in the home.

This bill significantly increases the coverage of divorced women by providing that, when the divorce takes place after the pension benefits have begun, the joint and survivor benefits may be paid to the divorced spouse in accordance with the qualified domestic relations court order. In addition, the bill clears up confusion caused by a lack of clarity in the present law that has inhibited a number of courts from awarding pension benefits in divorce cases, for fear of violating the prohibition in ERISA against assignment of benefits.

These and other provisions of H.R. 4280 will bring our pension laws into the 1980's with regard to the role and needs of women. The urgency of this legislation is underscored by the fact that 81 percent of all women over the age of 65 who live alone are living in poverty. The importance of a pension in this regard is illustrated by the fact that 98 percent of those who receive a pension and social security are above the poverty level, while 34 percent of those who just receive social security are below that level.

We must reform our laws now before more women enter a period of their lives when the security of a pension can make the difference between financial survival and poverty. One witness who appeared before our subcommittee stated the problem in a most eloquent fashion: "The price of child rearing may be an old age of poverty."

Mr. Speaker, I urge my colleagues to pass this essential measure to remedy as soon as possible these inequities.

□ 1240

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Mrs. KENNELLY), who on the Ways and Means Committee pioneered this legislation, gave us inspiration and innovation, and worked fervently to achieve a product in which we all share justifiable pride.

Mr. FEIGHAN. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. FEIGHAN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise today in support of H.R. 4280, the Women's Pension Equity Act. In 1974, Congress enacted the Employee Retirement Income Security Act to regulate private pension plans. But ERISA failed to take into account the working patterns of women, which differ significantly from those of men. Women's participation in the labor force peaks between the ages of 20 to 24 while it is highest for men between the ages of 35 and 44, women, more often than men, must interrupt their careers in order to fulfill family obligations. And women, more often than men, are forced to take part-time jobs in order to survive in these economically difficult days.

All of these facts of life make it much more difficult for women to participate in private pension plans, which require several uninterrupted years of employment in order to qualify for full benefits.

Compared to men, a much smaller percentage of women receive a pension upon retirement. It is estimated that only 10.5 percent of women over 65 receive a private pension, with average benefits of $2,427 a year. But 28 percent of all men receive pensions, with average benefits of $4,152 a year. These facts speak for themselves. Because of these inequities, three-quarters of this Nation's elderly poor are women.

The Women's Pension Equity Act effectively deals with the problems that plague the administration and regula-

tion of private pension plans. The bill permits women and men to begin participating in pension plans at an earlier age and will provide greater flexibility for workers who interrupt their careers, particularly for maternity and paternity leave. This legislation also provides survivor benefits if a vested employee dies before retirement age, requires the written consent of both spouses before survivor benefits can be waived, and allows a divorced spouse to receive a portion of his or her former spouse's pension benefits if a court order so specifies.

I was proud to cosponsor this bill as part of the Economic Equity Act, and I rise today to urge its adoption.

Mrs. KENNELLY. Mr. Speaker, it gives me great pleasure to rise today in support of H.R. 4280, the Retirement Equity Act of 1984, major legislation to remedy inequities facing women in the practices of private pension systems.

H.R. 4280 is an excellent bill. It makes meaningful changes in pension law, yet it is balanced so as not to create undue costs or administrative burdens for pension plan sponsors. The bill is the result of a great deal of work on the part of members of the Ways and Means and Education and Labor Committees. Based on provisions of the Economic Equity Act, H.R. 4280 was developed very carefully in each committee, and then the few differences that existed were modified in such a way that all who worked on H.R. 4280 can be proud and pleased with the final product. The broad support this bill has earned is a measure of the need for these reforms.

Many people deserve credit for their individual efforts on this legislation. I want to single out Representative GERALDINE FERRARO, a tireless champion of elderly women. She introduced the original legislation on which H.R. 4280 is based and has been an active participant in moving pension equity legislation forward. In addition, I would like to recognize the meticulous work of the Education and Labor Committee leadership, making this bill a well-crafted piece of legislation, much improved over the companion bill adopted last fall by the other body. Finally, I believe Chairman ROSTENKOWSKI and Representative BARBER CONABLE should be congratulated for their leadership on the issue of pension equity. Their keen desire to protect the pension rights of American workers, both men and women, has meant we have a strong and significant bill here today.

H.R. 4280 is important for women in three respects. First, it changes pension law to better reflect the employment patterns of working women. Second, it clarifies pension law with respect to the treatment of pensions in divorce, reinforcing the principle that marriage is an economic partnership. And third, the bill protects the retirement income of many widows who under current law would lose pensions, particularly women whose spouses have the tragic misfortune to die too early to qualify now for survivor benefits.

Over the last 25 years, women's labor force participation has doubled, yet women's work histories do not fit the traditional pattern which pension plans most generously reward. Women's participation rate in the paid labor force is highest in the 20- to 24-year-old group. Unfortunately, it is permissible under current law for young women to work for a number of years, yet be denied credit for this service if their pension plans requires them to be 25 for participation or 22 for vesting. To remedy this inequity, H.R. 4280 reduces the maximum age participation that can be required for participation from 25 to 21 and the maximum age for vesting from 22 to 18. To protect workers' pension rights during maternity and paternity leave and to reflect the fact that women interrupt employment to raise children or care for elderly dependents, H.R. 4280 workers can maintain their pension credits if they do not take a temporary leave for greater than 5 consecutive years.

To remedy the inequities that may arise from the plight of divorced spouses, H.R. 4280 ends the controversy now surrounding the assignment and alienation provisions of ERISA. The bill clarifies that pension benefits can be divided at the time of divorce in the same way as other resources held by the family. Furthermore, the bill puts in place several reasonable steps for the pension plan to follow to verify the fact that a domestic relations order is qualified and otherwise to honor the rights of the divorced spouse who has been awarded benefits from the plan.

Finally, to remedy in part the often desperate plight of elderly women who live in poverty, this legislation makes several important changes in pension law to protect the rights of widows. When the Ways and Means Committee held hearings on the Economic Equity Act last fall, compelling testimony came from widows deprived of retirement income because of harsh quirks in pension rules. The worst cases involved men who died minutes too soon to qualify for a pension, leaving their widows nothing of the earned benefits both expected for their later years.

In other cases, husbands had signed away survivor benefits without their wives' knowledge or consent, and the women who expected an annuity were unprepared to cope with the lack of income. Other husbands had made provisions for their wives, yet because the worker died within 2 years, even though the illness was not one they suffered from at the time of electing a survivor option, the survivor benefits were lost. Under H.R. 4280, these horror stories will no longer occur. Whenever a worker is vested, his survivor is entitled to the pension benefit. When the value of the benefit is over $3,500, the survivor will be entitled to receive the benefit in the form of an annuity at the time when her husband would have reached early retirement age. In addition, H.R. 4280 repeals the 2-year accidental death rule. Pension plan participants will no longer be able to waive survivor benefits without the written consent of his or her spouse.

H.R. 4280 does not answer all the problems of insuring adequate retirement income for American workers and their survivors. Too few workers enjoy private pension plan coverage and women's retirement benefits will continue to be too low until there is equity in pay, yet this bill is an excellent first step—one which I hope will soon be enacted—to promote economic equity for women in retirement.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Colorado (Mrs. SCHROEDER) who also worked fervently for this legislation.

Mrs. SCHROEDER. Mr. Chairman, I want to thank everybody here for working so hard on this. As you know, as the cochair of the congressional caucus on womens issues, we have made the feminization of poverty one of our major issues.

Mr. Speaker, I rise in support of H.R. 4280. As a longtime activist for pension equity for the spouses of Federal employees, I have heard thousands of stories from women who were literally left out in the cold when their husbands died or divorced them. The maximum age under current law that employees may be excluded from participation in a private pension plan is 25. I have heard from women who worked before that age, or not at all while they were raising their children, or on and off during those child-raising years. Yet after a full career as mother and homemaker, and that is a very full career, few have pension rights or are receiving far less than the average pension paid to men. Many found out at the time of death that the survivor benefits they thought they could count on were nonexistent.

In 1981, women made up almost 60 percent of the population over 65. More than half were widows. More than half live in poverty.

The recent spouse protection legislation for foreign service and CIA spouses established spousal consent provisions for the waiver of survivor benefits and returned to the State courts the right to consider pension benefits among the marital assets in

divorce cases. Many of the women who benefited from those laws would be on public welfare had we not passed legislation recognizing their pension rights.

Not only does H.R. 4280 recognize these pension rights in the private sector, it also recognizes the work patterns of the 9 out of 10 women who work because they have no other choice. The bill lowers from 25 to 21 the maximum age at which workers can be excluded from participation in pension plans. It requires employers to take into account all service from the time a worker turns 18, rather than 22, as under current law, in computing length of service for vesting. It prohibits maternity or paternity leave from being considered as a break in service.

This bill takes a giant step toward pension equity. Let us pass it.

I have been working very hard in the Federal area, when Congresswoman FERRARO came forth with this effort in the private sector. We appreciate especially the Ways and Means Committee, because when we put the economic equity package together an awful lot of the jurisdiction went to the Ways and Means Committee.

I want to say to the chairman he has been most kind as we have chased him around saying, "Now we have four more pieces we would like through." He has moved, as has Education and Labor.

We appreciate all the help from everybody in such expedited action.

I cannot say how nice it is to have so much of the women's economic equity package already through in this very, very busy, busy year.

The women in poverty I am sure especially appreciate it and hopefully the next generation of women will not be moving into poverty quite so rapidly.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the able gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I support the Women's Pension Equity Act. I voted for it in the Ways and Means Committee, and I intend to vote for it today.

The bill will eliminate a few provisions in ERISA that have been perceived as being discriminatory against women. These include lowering the maximum age a qualified plan can require an employee to attain as a condition for praticipating in a plan from 25 to 21, and providing special rules for breaks in service.

The most important provision in the bill concerns joint and survivor annuity benefits. Once the bill is enacted, spouses will be provided greater protection from the possibility of completely losing any benefits due to the unforeseen death of the working spouse, or due to actions the working spouse may have taken.

Although this is generally a good bill it is a timid step forward. My biggest complaint concerning the bill is that it does not do enough. Despite the improvements noted above, the bill is more a symbolic gesture than a package of real benefits to working women.

In addition, I strongly feel that while the committee was working on changes in ERISA to benefit women, other problems with ERISA should have been considered as well. These changes include changes in the prudent man rule so that pension funds can more easily invest in residential mortgages, an changes relating to the unfunded liabilities of multiemployer pension plans and the withdrawal liability that results from such unfunded liabilities.

With respect to withdrawal liability and unfunded liabilities in multiemployer pension plans, the Congress has been aware of the flaws in ERISA relating to these issues since the day ERISA was enacted. The 1980 Multiemployer Pension Plan Amendments Act attempted to address this problem, but, like the bill currently before us with respect to women's pension rights, did little to address the main problems.

Although, as I stated before, I shall certainly vote for H.R. 4280, I would hope that, in the near future, the Congress will undertake the difficult, but necessary task of comprehensively reexamining ERISA.

Mr. Speaker, I yield back the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewomen fom Maine (Ms. SNOWE).

Ms. SNOWE. Mr. Speaker, I rise in strong support of H.R. 4280, the Retirement Equity Act of 1983. As cochair of the congressional caucus on women's issues, I urge each of my colleagues to support this important legislation, which draws heavily from the private pension reform section of the Economic Equity Act. A number of people on a bipartisan basis deserve a tremendous amount of credit for this bill, and I want to commend the chairman, ranking members, and the members of the Committees on Ways and Means and Education and Labor for addressing this important issue, and especially the gentlelady from New York, GERALDINE FERRARO, who was the original sponsor of this legislation.

At a time when older women comprise one of the fastest growing poverty groups in the country, the lack of financial security in retirement and the inadequacy of our pension laws with respect to women are two fundamentally important issues. Tragically, 81 percent of women over age 65 who live alone, also live in poverty. One of the primary causes of this poverty is their failure to receive pension income. In fact, in 1981, only 10.5 percent of women over age 65 were receiving a private pension averaging $2,427 a year. By comparison, 27.7 percent of men received a private pension or annuity averaging $4,152 a year. Equally alarming, only 5 to 10 percent of surviving spouses receive any pension benefits at all.

Columnist Ellen Goodman once cautioned that any woman "selfish enough to want to take care of her own children, had better find a husband who will never leave her, and never get sick—and never, ever die." Although society has traditionally placed a high value on a woman's decision to remain at home with her children, it is these women, according to Goodman, who place themselves in extreme financial jeopardy later in life. The Retirement Equity Act will help women remove themselves from this jeopardy.

Mr. Speaker, women suffer as workers, as widows, and as wives under our existing pension policies—both public and private. They suffer from policies that fail to recognize the significant contributions they have made to the wageearner's ability to earn wages. They suffer from plans that do not take into account their unique work patterns, which often revolve around childrearing. H.R. 4280 will go a long way toward eliminating many of these inequities by modifying ERISA to better reflect the average work cycles of women, and expanding the opportunities for women to build retirement credits on their own.

In the past year the principle of pension equity for women has received support from the President, the Supreme Court, and Members of the House and Senate. The Retirement Equity Act is an important step in the right direction, and deserves the support of every Member of this body.

□ 1250

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN).

The SPEAKER pro tempore. Without objection, the gentleman from Michigan (Mr. LEVIN) is recognized for such time as he may consume.

There was no objection.

Mr. LEVIN of Michigan. Mr. Speaker, I rise in support of the women's pension equity bill. This bill would take an important step toward assuring that a particularly vulnerable segment of our population—widows and divorced women over age 45—would not be denied the right to benefits in case of their husbands' death or divorce.

Many of the women in this age group have spent years as homemakers, not working full time outside the home, and having little or no opportunity to accumulate pensions of their own. They relied on their husband's pension for retirement income. This bill would protect these homemakers in two important ways. In the case of

the death of the husband, it would automatically provide survivor's benefits if a vested employee were to die before retirement age. It would also require the written consent of both spouses before survivor benefits could be waived.

Like widows, divorced women over age 45 are often displaced homemakers. Their numbers are increasing: in 1960, there were 53 divorced women aged 45 to 63 for every 1,000 married couples. By 1982, this group of older women had increased to 129 per 1,000 couples. For many of these women, starting back to paid employment is very difficult and entry-level jobs are low paying. These women would benefit from the protection in the bill, which would make it possible to follow up on a court order specifying that the husband's pension be divided with the wife. Current law prohibits such assignment of benefits.

Because this bill would provide needed protection for widows and divorced women and would be especially beneficial to the growing group of displaced homemakers over age 45, I give it my full support.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. BURTON).

The SPEAKER pro tempore. Without objection the gentlewoman from California (Mrs. BURTON) is recognized for 1 minute.

There was no objection.

Mrs. BURTON of California. Mr. Speaker, I rise in support of H.R. 4280, The Retirement Equity Act of 1984. This bill will correct a terrible injustice that occurs all too frequently under current pension law. If a worker dies before the earliest retirement age under the pension plan, his widow gets nothing. Even though he may have worked for 20 or 30 years, she will not get even 1 penny of the benefit he earned. This bill will change all that. Under the bill, if the participant is vested when he dies, his widow would be entitled to a survivor benefit. For those women, receiving the pension benefit may mean the difference between and old age spent in poverty and an old age in which some personal dignity is preserved.

My husband, Phillip Burton, strongly supported this legislation. In fact, he held subcommittee hearings on an earlier version of this bill in San Francisco in 1982.

I know he would be delighted to see the House finally pass it. I commend the gentleman from Missouri (Mr. CLAY) and Chairman ROSTENKOWSKI for their hard work in producing this bill which deserves the unanimous support of my colleagues.

I particularly want to stress that the gentlewoman from New York (Ms. FERRARO) first introduced this bill. I commend her for it.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the distinguished ranking Republican member of the committee, the gentleman from Illinois (Mr. ERLENBORN).

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. ERLENBORN) is recognized for 2 minutes.

There was no objection.

Mr. ERLENBORN. Mr. Speaker, today's consideration of H.R. 4280, the Retirement Equity Act of 1984, represents another milestone in the evolution shaping this Nation's pension policy that began with the passage of ERISA in 1974.

The private pension system, even after its struggles to cope with the regulatory effects of ERISA, MEPPA, and more recently TEFRA, remains a strong and dynamic economic force important to the maintenance of our social fabric and free enterprise system. As our economic and social patterns change, we can expect that those changes will be reflected in the structure of our varied systems of providing retirement income security. Since the passage of ERISA, there has been a growing demand that the private pension system improve the delivery of retirement benefits and provide for greater equity by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside the home.

The Retirement Equity Act reflects these concerns by extending the ERISA participation and vesting standards to the younger and more highly mobile segment of the labor force in industries having private pension plans. While these changes will probably increase overall pension coverage by less than 10 percent, their effects and costs will be felt most heavily among those industries with younger than average work forces. It is for this reason I regret that the compromise bill as worked out between the Committee on Education and Labor and the Committee on Ways and Means does not contain the participation provision in the bill reported by our Education and Labor Committee which would have allowed defined benefit plans an optional "look-back" to age 21, thus preserving all accrued benefits but reducing unnecessary administrative costs while hurting no one. It would indeed be unfortunate if such administrative costs deter the establishment of defined benefit plans in the future. We should continue to monitor these changes and other provisions of ERISA to identify and modify any features which might unnecessarily add administrative or other obstacles hindering the establishment of defined benefit plans—the type of plan which provides the greatest retirement income security to participants.

The earlier participation and vesting provisions in the bill coupled with the early availability of a preretirement spousal death benefit will undoubtedly result in an increase in the number of involuntary cash outs of benefits made by pension plans. Under the bill the involuntary cash out limit is doubled from $1,750 to $3,500. To encourage recipients to preserve these smaller lump-sum distributions for retirement purposes, the bill requires such participants and beneficiaries to be made aware by the distributing plan of their option to have their distribution rolled over by the plan directly into an IRA—individual retirement account or annuity—or plan for which they may be eligible. The participant or spouse would have to furnish the distributing plan with evidence of acceptance by the receiving plan or IRA. In addition, the distributing plan would have to provide information to the recipient of the tax consequences and procedures connected with a tax-free rollover of the distribution.

The bill also includes important protections for spouses and dependents in the revised ERISA joint and survivor and domestic relation order provisions. Generally the spouse of a plan participant with vested benefits would be eligible to receive a 50-percent joint and survivor annuity in the event of the participant's death either before or after retirement. The participant would be given the option to elect out of the preretirement and the postretirement survivor coverage, but only with the written consent of the spouse. These changes will remedy the tragic situations which occur under present law in which a spouse is denied a survivor annuity because a worker dies just a few weeks or years short of reaching early retirement or in which misunderstanding, inadvertent mistakes, and administrative problems lead to the forfeiture of survivor coverage.

Spouses and other dependents, and pension plans as well, are afforded certainty of treatment under the bill in connection with benefit rights extended by means of domestic relations orders relating to alimony, child support, or marital property rights.

Another provision in the bill, a modification of one originally included in my ERISA Simplification Act (H.R. 3071), preserves and clarifies the original broad preemption of State law under ERISA section 514 while carving out an appropriate and well-defined exception for domestic relations orders meeting specific standards; that is, qualified domestic relations orders. Domestic relations orders not meeting the qualification requirements would continue to be preempted under ERISA and considered a prohibited as-

signment and alienation under both ERISA and the Internal Revenue Code until they are modified to meet such requirements. To protect plans and participants, the bill makes specific provision for when benefits can commence, the form in which they can be paid, the present value of the amount on which they are based, and nonduplication in the event of multiple court orders.

Deserving of comment are several provisions amending the Internal Revenue Code. The bill provides that benefits distributed to a divorced spouse under a qualified domestic relations order can be rolled over, tax free, to an IRA. Under the version of the legislation adopted by the Committee on Education and Labor, the spouse would have had an option, as does the plan participant, to elect 10-year income averaging with respect to the allocated lump sum. I think it unfortunate that revenue considerations caused this more equitable approach to be dropped in the compromise bill.

Another provision exclusive to the tax section of the bill, section 301, is explained in the report of the Committee on Ways and Means as codifying two revenue rulings (Rev. Rul. 81-12 and 79-90). My understanding is that the intent is merely to codify these rulings and that there is no intent to change the definition of accrued benefit so as to in any way affect benefits payable under a terminated plan or benefit guarantees made available under title IV of ERISA. I have begun to receive comments questioning whether the language in section 301 is limited to its intended purpose, and I must therefore reserve judgment on the language pending its clarification in conference.

In conclusion, the Retirement Equity Act of 1984 adds a significant milestone in retirement income security and comes at a propitious time on the 10th anniversary of ERISA. As has always been the case in the pension area, our chairman of the Subcommittee on Labor-Management Relations, BILL CLAY, has acted in a responsive and bipartisan manner to bring to the floor legislation for which we can be proud. I also want to commend my colleague MARGE ROUKEMA, the ranking Republican on the Subcommittee on Labor-Management Relations, for her interest and leadership in expediting the passage of this legislation. This legislation is a demonstration of the kind of product which can result when our committees here in the House, the President, the Senate, which has passed similar provisions, and many diverse outside groups work together in harmony toward a common goal—in this case pension equity.

The following is a brief explanation of the bill we are considering today.

SUMMARY OF RETIREMENT EQUITY ACT OF 1984—MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS

PENSION PLAN PARTICIPATION

Under current law an employee who is not age 25 or does not have 1 year of service can be excluded from participation in a pension plan. The bill changes this rule so that age 21 is, in general, the relevant age for participation. The age for participation for certain plans of educational institutions having immediate vesting is reduced from age 30 to age 26.

VESTING

Under current law once an employee becomes a plan participant, all years of service with the employer from age 22 must be credited for purposes of determining the employee's right to any nonforfeitable (i.e., vested) benefits.

The bill requires service from age 18 to be credited toward meeting the plan's vesting requirement.

RULE OF PARITY

Under current law "rule of parity," a nonvested participant who has a break-in-service that equals or exceeds the number of years of covered service prior to the break loses credit for the years before the break for purposes of determining participation, vesting, and benefit accrual.

Under the bill, participants with fewer than 5 years of service are considered to have 5 years of service for purposes of applying the rule of parity. For example, if a nonvested worker has been employed 3 years, leaves employment for 4 years, and then returns to work, the worker would receive full credit for the first 3 years since the years prior to the break-in-service (i.e., 3 years) are fewer than 5.

MATERNITY AND PATERNITY LEAVE

Under current law unpaid maternity or paternity leave can result in a break-in-service, in which case an employee may lose past credit for vesting, participation, and benefit accrual.

Under the bill, a participant who is absent for maternity of paternity reasons (specified as pregnancy, childbirth, adoption, or child rearing immediately after birth or adoption) would be given limited service credit (up to 501 hours) so that a break-in-service will not occur for participation and vesting purposes. This provision applies to any absence, not just approved leave. However, it does not change the current rules for crediting service for paid leave. The plan may require timely information to establish that the absence is for the stated purpose. It should be noted that under the rule of parity as modified, participants with fewer than 5 years of service would not lose credit for those years if they have breaks-in-service for any reason but come back to work within 5 years.

JOINT AND SURVIVOR ANNUITIES: WAIVER OF JOINT AND SURVIVOR (J&S) BENEFITS

Under current law, pension plans that provide for an annuity as the normal form of benefit must provide a joint and survivor (J&S) benefit to married participants who reach normal retirement age under the plan. Participants can waive the J&S benefit in favor of a higher pension based on just their own life exectancy.

The bill provides in the case of married participants that any election to waive the J&S benefit can be made only with the consent of the participant's spouse. The plan must provide certain information so that the couple can make a reasoned decision.

PRERETIREMENT SURVIVOR BENEFIT

Current law does not require a survivor benefit to be paid in cases where a worker dies before reaching the plan's early retirement age (often age 55) or if the worker dies more than 10 years before reaching normal retirement age (not later than age 65) whichever is later.

Under the bill, all participants who are vested under the plan must be provided with a qualified preretirement survivor annuity, unless the participant and spouse elect to waive the survivor protection. The plan is not required to provide such an election until the plan year in which the participant attains age 35. The earliest time the survivor annuity is required to commence is the date the participant would have attained the earliest retirement age under the plan.

1-YEAR MARRIAGE RULE

Current law permits a plan to require that the participant and the participant's spouse be married for at least 1 year on both the date the pension begins and the date the participant dies. This rule has effectively prevented divorced spouses from receiving survivor benefits.

The bill permits the plan only to require that they be married for 1 year on the earlier of the two dates. The bill also provides in the case of a participant who has not been married for at least 1 year on the annuity starting date that the plan provide a J&S benefit when the couple satisfies the 1-year rule, unless the participant and spouse elect not to receive it. In addition, a domestic relations court may provide in a qualified domestic relations order that survivor benefits are payable to a former spouse even though this 1-year marriage rule might otherwise permit the plan to deny survivor benefits to the former spouse.

2-YEAR NONACCIDENTAL DEATH RULE

To prevent what is referred to as "adverse selection" against the plan, current law permits plans to provide that any election, or revocation of an election, regarding survivor annuities may not become effective if the participant dies from natural causes within 2 years of the election or revocation.

The bill repeals the 2-year nonaccidental death rule.

EXCEPTION FROM RULE REQUIRING SURVIVOR ANNUITIES

Under current law, plans that offer a life annuity only as an optional form of benefit rather than the normal form need not offer a J&S benefit as the normal form of benefits for married participants.

The bill continues to exempt participants in individual account plans (other than those subject to ERISA funding) from the J&S requirement provided the participant's account balance is payable in full to the spouse (or if unmarried, or if the spouse consents, to a designated beneficiary) upon the death of the participant and the participant does not elect payment of benefits in the form of an annuity.

SPECIAL RULES FOR ASSIGNMENT OF PENSION BENEFITS IN DIVORCE

Current law prohibits pension benefits from being assigned or alienated (i.e., rights to future pension benefits cannot be given away). In addition, ERISA preempts all State laws insofar as they relate to employee benefit plans. The anti-assignment provision coupled with the preemption clause has created conflict between (1) State interests in enforcing court orders connected with di-

vorce and (2) Federal interests in assuring the availability of the plan benefits to the employee and in assuring uniformity of plan administration. The courts are divided on the question of whether the anti-assignment clause applies to State domestic relations orders and on the question of whether the preemption clause refers to State domestic relations laws and court orders.

The bill makes it clear that (1) neither the anti-assignment nor the preemption provision applies to qualified domestic relations orders and (2) the court orders have to meet specific "qualification" requirements if they are to be honored by the plan. The bill also amends the current broad federal preemption provisions of ERISA (sec. 514) to reflect the limited exception that the bill provides to allow the enforcement of domestic relations orders that meet the qualification requirements. While the orders must meet specific federal requirements, the general policy underlying the bill's provisions is that the domestic relations court is the appropriate forum to balance the equities between the parties.

Under the bill, an alternate payee can begin collecting benefits at the plan's early retirement age regardless of whether the participant survives to or continues working past early retirement age. The maximum amount that can be paid to the alternate payee is based on the present value of the amount the participant would have received if he or she retired on the date on which the alternate payee started to collect. Once that amount is determined, any future increases in the participant's benefits because, for example, of continuing service, increases in salary, improvements in plan benefits, or ad hoc cost-of-living increases would not apply to the alternate payee. If the participant remarries, the new spouse would automatically have a J&S benefit, but only with respect to that portion of the benefit left by the court to the participant.

OTHER PROVISIONS: TAX TREATMENT OF DIVORCE DISTRIBUTIONS

The bill provides that participants irrespective of distributions to an alternate payee (e.g., former spouse) can continue to elect the favorable tax treatment for lump sum payments (i.e., 10-year averaging). The 10-year averaging is not available with respect to distributions to an alternate payee, however such sums may be rolled over, tax-free, into an IRA.

INCREASE IN ALLOWABLE MANDATORY DISTRIBUTIONS

Under current law, unless the participant consents, plans cannot (without incurring certain costs with respect to rehires) "cash out" a participant's benefit upon separation from employment by providing a lump sum cash distribution if the present value of the future stream of benefits is in excess of $1,750.

To avoid the administrative expense of providing small pension benefits, the bill increases the cash out level to $3,500, prohibits cash outs above $3,500 without consent, and places a limit on the interest rate plans can use in calculating the present value of the pension. The interest rate cannot exceed that permissible under PBGC regulations with respect to computing lump sum distribution upon plan termination.

Plans can also provide for a cash out of a participant's or survivor's benefit at any time, including before the time when annuity payments would ordinarily begin, if the present value of the benefit is $3,500 or less. To encourage saving for retirement, the bill requires that plans at the request of the participant or survivor provide for direct payment of the amount cashed out to an IRA or other pension plan (if that pension plan so provides) as long as evidence of acceptance of such payment is provided to the distributing plan. Notice of rollover tax treatment is also required to be provided persons eligible for lump sum payments.

RESTRICTIONS IN CUTBACK OF ACCRUED BENEFITS

The bill amends ERISA and the Internal Revenue Code to codify Revenue Rulings 81-12 and 79-90 relating to actuarial assumptions and certain restrictions in cutting back accrued benefits. The provisions relating to Rev. Rul. 81-12 do not apply to a subsidy in the case of a terminated plan where the conditions for the subsidy have not been satisfied at the time of the plan termination. It is generally understood that this provision is not intended to affect benefits accrued or guaranteed for purposes of Title IV of ERISA.

STUDY BY GENERAL ACCOUNTING OFFICE

Not later than January 1, 1990 the GAO is to report the findings of a detailed study of the effect on women of participation, vesting, funding, integration, survivorship, and other relevant plan and Federal pension rules.

EFFECTIVE DATES

The bill provides specific effective dates for certain sections. In general, the amendments apply to (1) noncollectively bargained plans for plan years beginning after December 31, 1984, and (2) collectively bargained plans for years beginning on the earlier of the termination of the last collective bargaining agreement in effect on the date of enactment or of January 1, 1987.

In addition certain transitional rules apply, the most significant relating to joint and survivor annuity protection for vested participants terminated between the date of enactment of ERISA and the Retirement Equity Act (REA). For those terminated between September 2, 1974 and January 1, 1976 with vested benefits and whose annuity starting date occurs after the date of enactment of REA, the automatic joint and survivor provisions of current law apply with respect to such persons' retirement benefits. For those terminated between January 1, 1976 and the date of enactment of REA, the automatic joint and survivor provisions of REA apply and the participant may elect to have the preretirement survivor annuity provisions of REA apply. In addition any election by a participant not to take a joint and survivor annuity after the date of enactment of REA requires spousal consent. Also a survivor annuity is automatically made available with respect to active participant deaths occurring between the date of enactment and the effective date of REA.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. NIELSON), a member of the committee.

The SPEAKER pro tempore. Without objection, the gentleman from Utah (Mr. NIELSON) is recognized for 1 minute.

There was no objection.

Mr. NIELSON of Utah. Mr. Speaker, I rise in support of H.R. 4280.

Because women are more likely to be in part-time work that is low paying and because they are in work that is tolerant of departure and reentry for maternity and other reasons, very few of them ever get vested. They start work earlier in life and do not qualify because their present age is 25.

Also, as the law exists presently, a woman may be denied rights to pension benefits with the breakup of a marriage, by death or divorce, regardless of how many years she served as an economic partner to her husband. Her joint and survivor annuity can be signed away by the husband without her consent or even her knowledge.

These are but a few of the many inequities that women face in life and I think H.R. 4280 will be a very good first step in correcting these inequities.

I commend both committees for their work in this regard.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. CAMPBELL), a distinguished member of the Ways and Means Committee.

Mr. CAMPBELL. Mr. Speaker, I rise in support of H.R. 4280, the Retirement Equity Act of 1984. I think both the chairman and the ranking minority member of the Ways and Means Committee should be commended for getting this legislation to the floor for consideration today.

This bill continues the effort to combat and eliminate the economic discrimination which confronts women in America. Currently, our private pension system rewards a certain kind of worker, one whose employment is full time, long term and uninterrupted. Present laws disadvantage those with nontraditional work patterns, most notably women.

Because she is often the primary home and child caretaker, a woman's work pattern means that, in many cases, she may not be eligible for a pension. The situation is even worse for those women who choose to work in the home and whose benefits are based on their status as dependents of wage earning spouses. Death, disability, and divorce diminish, and too often deprive, these women of retirement income which their spouses have earned, and which they have earned by their contribution to the home and family.

This legislation makes some long overdue changes, and I am sure that my colleagues will recognize the need for enacting this bill.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (MR. RINALDO).

Mr. RINALDO. Mr. Speaker, I rise in strong support of H.R. 4280, the Retirement Equity Act of 1984.

The 98th Congress promises to be a historic one for women on many fronts. With my strong support, the House has already passed the Child Support Enforcement Act, which requires States to withhold overdue

child support payments from an absent parent's salary or from State income tax refunds. A provision in the tax bill clarifies that nonprofit day care centers are "educational," and thus eligible for tax-exempt status and tax-deductible contributions.

The Select Committee on Aging's Task Force on Social Security and Women, of which I am an ex officio member, continues its hearings on the treatment of women in social security, with particular concentration on the earnings sharing concept.

By passing the Retirement Equity Act of 1984, the House today can take another step forward to insure that women are fairly and equitably treated in the critical area of retirement income.

As ranking minority member of the Select Committee on Aging and an original cosponsor of H.R. 4280, I am pleased that the Aging Committee has given this issue a top priority in the 98th Congress. At the committee's hearing on women's pension equity on June 14, 1983, I noted that, in part because of historic work patterns, and in part because of inequities built into the pension law itself, women are on the short end of the stick when it comes to retirement income.

While expanded employer pension and welfare plans over the past 30 years have dramatically improved the income security of current workers and the retired, there is alarming evidence that Federal pension laws and employer-sponsored plans have not kept pace with changing economic realities. Whereas women account for 60 percent of the population over 65, they represent 73 percent of the elderly poor. Although three-quarters of older men are married and living with their spouses, only a little more than one-third of older women are in similar circumstance. And while 43 percent of the Nation's work force is female, less than one-third of working women are pension plan participants.

H.R. 4280 amends the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code to improve the rights of homemakers, spouses, mothers, widows, and workers to receive pension benefits. Some of its key features are as follows:

First, the bill expands opportunities for working women to earn pension benefits by lowering from age 25 to 21 the age at which employees must be allowed to participate in a qualified plan. The permitted exclusion of younger women is particularly harmful to younger workers because female labor force participation is highest—over 70 percent—between the ages of 20-24. This change alone could result in the overall plan participation rate by women to increase up to 16 percent.

Second, a related change lowers the minimum age for counting years of service for obtaining a vested—that is, nonforfeitable—pension right from 22 to 18. Currently, only service from age 22 must be taken into account in determining the vested status of the employee, and all earlier years may be disregarded—another rule which hurts younger women in the work force.

Third, the legislation protects women who temporarily leave the work force for child rearing by providing that maternity—or paternity—leave for up to 1 year will not result in a break in service. Thus, the bill provides that individuals on maternity or paternity leave will not lose past pension credits for purposes of participation, vesting, or benefit accrual on account of absence from work for purposes of childbirth or care for a natural or adopted child. Employees taking such leave would pick up their accrued rights where they left off upon returning to work, rather than jeopardizing their prebreak pension credits.

Fourth, the bill greatly enhances the probability that a widow will receive pension benefits based on her late husband's account by requiring written spousal consent for a worker to waive benefits. Now, the decision to have benefits paid in the form of a joint and survivor annuity is exclusively that of the participant. Not only does the nonparticipant spouse have no say in this decision, but the spouse may often be totally unaware of a participant's decision not to take a joint and survivor annuity, and thus may be unprepared financially for the death of the participant—and the cessation of the participant's annuity.

Statistics indicate that nearly half of all workers elect out of survivor benefits in order to receive an actuarially higher lifetime benefit. This provision gives the nonparticipant spouse a veto over any decision of the participant to elect out of a joint and survivor annuity. A related amendment provides automatic survivor benefits to the spouses of vested participants even if the participant had not reached normal retirement age at death.

Fifth, the legislation resolves an ambiguity in existing law by clarifying that a judge may divide pension benefit between the spouses pursuant to alimony, child support, and property settlement orders and decrees. Some participants and employers have pleaded that the Federal preemption and antiassignment provisions of ERISA prohibit such divisions. This provision recognizes that women are full and equal economic partners of a marriage, and is consistent with previously enacted Federal law which allows the apportionment of Foreign Service, civil service, and military pensions in similar circumstances. Moreover, the former spouse would be able to receive benetifs whether or not they had begun to the participant, as long as the participant has reached the plan's early retirement age. Nor would benefits be contingent upon the survival of the participant.

Mr. Speaker, I am pleased to note that this legislation reflects a broad, bipartisan consensus and contains many of the same features embodied in the administration's proposal. It is legislation to which employers may easily adapt. It creates no new or increased budget authority, nor does it create new tax expenditures. What it will do is measurably improve the economic well-being at retirement of the 44.5 million women now in the American labor force and millions more who choose to work inside the home.

Mr. Speaker, I urge adoption of H.R. 4280.

□ 1300

Mr. CLAY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

The SPEAKER pro tempore. Without objection, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for such time as she may consume.

There was no objection.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I rise in enthusiastic support of the Retirement Equity Act and in gratitude to all of those who have worked so diligently to bring about this splendid compromise.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

The SPEAKER pro tempore. Without objection, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 1 minute.

There was no objection.

Ms. OAKAR. Mr. Speaker, I want to commend my friend, Congresswoman FERRARO, for this legislation, and I want to commend Congresswoman KENNELLY for being the point person on the Ways and Means Committee and the two heroes, who are the chairmen of the committee who pushed this legislation through. You know, the poorest person in the country is a woman over 65 years and for women it is a catch-22 situation. If she works, she earns less than 62 cents for every dollar. If she is a homemaker, her contribution does not count as an economic contribution. And pensions and insurance are based on contributions.

So this is a very important step in the right direction.

As chair of the Task Force on Social Security and Women, I hope we do not forget that only 15 percent of the women are covered by pensions and that most women are covered by social security. And that is where the inequity exists, as well, and some of us are working on this.

I hope this is the kind of legislation that will mean we will steamroll ahead

in other areas of inequity in terms of pension, insurance, and pay equity.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

The SPEAKER pro tempore. Without objection, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 1 minute.

There was no objection.

Mr. OBERSTAR. Mr. Speaker, in 1974, ERISA laid the cornerstone in establishing pension security for most workers in our society. H.R. 4280 adds a further dimension to ERISA—a strong building block for pension security for women. While ERISA was gender neutral on its face, 10 years of experience have shown that male workers benefited the most and that millions of women either are never covered by pension plans or lose their coverage by breaks in service.

Working people in this country are counseled repeatedly not to rely solely on social security. The harsh reality, however, for most elderly women is that pensions are nonexistent. This is true whether they devoted their work life to service within the home or spent countless years in the paid labor force. The reason for this is that ERISA has its greatest impact on continuous, long-term service while women's labor force participation is interrupted by family responsibilities.

The legislation before us today emphasizes the fact that marriage is an economic partnership as well as a personal one. Both partners have an interest in the benefits of their joint labors. An automatic joint or survivor option would assure a widow that she would no longer face the double shock of losing a husband followed by the unexpected news that all pension entitlement died with him. Under this legislation, both husband and wife will be able to make a joint decision on survivor protection. In the event of separation of divorce, a court will have jurisdiction over the appropriate distribution of pension assets acquired during marriage.

Enactment of this legislation will go a long way toward assuring that "elderly woman" and "poor" are not synonymous terms. I urge my colleagues a yes vote on this important measure.

With the approval of this legislation, only one group of surviving spouses of vested workers will remain without any pension protection whatsoever. That group is survivors of railroad workers who severed their connection with the railroad industry after 10 years of service, but prior to reaching retirement age. Legislation I sponsored, which was included in the 1981 Budget Reconciliation Act, partially protected pensions for surviving spouses of workers with 25 or more years of railroad service. Survivors of workers with more then 10, but less than 25, years remain totally unprotected. I am today introducing legislation to extend some of the benefits of H.R. 4280 to this group also. I urge each of my colleagues to join in support of my bill.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. DAUB).

The SPEAKER pro tempore. Without objection, the gentleman from Nebraska (Mr. DAUB) is recognized for one minute.

There was no objection.

Mr. DAUB. Mr. Speaker, I rise in support of H.R. 4280. This legislation is long overdue in reforming the Employee Retirement Income Security Act of 1974 to reflect the special circumstances of women in the labor force. My only regret is that it has taken this body so long to act.

This legislation is not strictly a bill to assist women. It provides a number of changes that will benefit all American workers. The legislation reduces from 25 to 21 the maximum age that a qualified pension, profitsharing, or stock bonus plan may require an employee to attain as a condition for participation in the plan. Moreover, a plan may not ignore service after the age of 18 for determining what portion of a benefit has vested.

The most important aspect of this portion of the legislation is the establishment of rules concerning breaks in service as a result of maternity or paternity leave for determining whether a break in service has occurred under participation and vesting rules.

This legislation recognizes not only the female role in our society but that of the family. This legislation would require payments to a spouse of a vested employee even in cases where the employee dies before retirement. Further in the area of survivor benefits, the approval of both spouses is required to waive the survivor annuity option. No longer will the employee—without the consent of his or her spouse—be able to waive survivor benefits in exchange for a larger lifetime annuity.

My interest in the economic condition of women is of long standing. My legislation allowing the establishment of individual retirement accounts for women who choose to work inside the home was part of my response to the fact that only about one-third as many women as men receive a private pension. This is one of the reasons that so many elderly women have lower incomes.

The economic status of these senior Americans is the result of many things. Some are purely social conditions that we, in the Congress, can do little about. But where the law has had a hand in contributing to these conditions, it is our responsibility to change that law so that its effect is evenhanded with regard to sex.

There are some who would insist that no laws reflect sex but we live in a world that does and it is incumbent upon us to legislate in that fashion. Many women do leave the workplace to care for small children, we need to allow them the opportunity to fund their private retirement accounts during that period. This legislation before us today reflects the fact that women, as a rule, begin work at an earlier age than men so we have reduced the ages for participation and vesting to accommodate that fact. Women often leave employment for periods of time to care for small children and lose pension benefits; this law would change that.

I think it is very appropriate that we consider this legislation on this day when the Supreme Court has unanimously declared that the civil rights laws apply to partnerships. As you may know, this case involved an Atlanta attorney who was denied a partnership in the Atlanta firm of King and Spaulding. Her case was dismissed on the grounds that the civil rights law did not apply to partnerships such as law firms. This decision rightly extends those laws to include law firms, advertising agencies, and other professional associations.

This is real, substantial legislation that will make a difference in the lives of American women. I am proud to support it.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

The SPEAKER pro tempore. Without objection, the gentleman from New York (Mr. BIAGGI) is recognized for such time as he may consume.

There was no objection.

Mr. BIAGGI. Mr. Speaker, as a cosponsor of the pending bill, I rise in support of H.R. 4280 and urge the House to approve it as a tangible demonstration of our commitment to pension equity.

The bill before us would, in my judgment complement and rectify an unintended oversight in the landmark law passed some 10 years ago by the Congress. As one who was an original cosponsor of the Employee Retirement Income Security Act (ERISA), I believe that its benefits should be provided as a matter of right to all those who have worked toward a pension. As a background to our consideration of this legislation, let us consider some relevent facts. Women in this Nation have different working patterns than men, based on such factors as usually beginning work at an earlier age, interrupting or terminating entirely their work in order to raise a family. Women work in part-time jobs more regularly than men.

The different work patterns of women work to their direct detriment when trying to acquire a pension. Pen-

sions are strongly skewed toward those who work for substantial periods in an uninterrupted fashion, in many ways precisely the way many women do not work. As a result based on 1981 figures, only 37 percent of women workers were covered by pension plans as compared to 50 percent of all men. Perhaps even more revealing is the fact that less than 20 percent of elderly women received pension benefits as of 1980, as compared to 35 percent of elderly men. The graphic reality of this is that women comprise nearly three-quarters of the elderly poor of this Nation—a group which is rising far too rapidly as it is.

Let me review the important features of this legislation. Under current law, employees who are not yet 25 years old and do not have 1 year of service may be excluded from participation in a private pension plan. H.R. 4280, in recognition of the earlier age work patterns of women lowers the maximum age at which workers may be excluded in participation to 21 but does retain the 1-year service requirement.

Further, H.R. 4280 requires employers to take into account all service from the time the worker turned 18—rather than 22 as under current law in computing the length of service required for vesting. Once employees are vested, they have a right to all pension benefits accrued during their years of pension plan participation. The ERISA law of 1974 made facilitated-vesting easier and this bill enhances this by taking into account the special working characteristics of women.

Another essential element of this bill has to do with changes in the so-called breaks in service requirements. The bill would allow nonvested employees with less than 5 years of service to take up to 5 consecutive years off before returning to their job without losing pension credit for those years prior to the break in service. Under current law, employees may lose pension credit if their break in service equals or exceeds their total years of covered service.

In addition, the bill makes an important provision for maternity or paternity leave. It would prohibit either maternity or paternity leave from being considered a break in service. More specifically, the bill stipulates that an employee may be absent from work for 1 year on account of pregnancy, childbirth, adoption, or childrearing without losing pension credits.

Another problem that this bill addresses is perhaps one of the most inherent and invidious discrimination problems that women face with respect to pensions. Most pensions allow for payments to a surviving spouse after the death of the worker. However, this coverage is optional and workers often forgo this option because the benefits paid during the worker's life are reduced to compensate for coverage of the surviving spouse. As a result, women are often left with no pension benefits upon the death of her husband.

H.R. 4280 makes some important reforms in this area of pension policy. It specifies that the spouse of a vested employee automatically be entitled to receive survivor benefits even if the employee's death occurred prior to the early or normal retirement age. The bill says that a surviving spouse can only begin to receive these benefits at the point at which the worker would have reached the early retirement age. Under current law, survivor benefits are only provided when the covered worker reaches retirement age. Further current law does not require that any survivor benefits be available to the spouse of an employee who dies before early retirement—even if the employee is vested.

This bill also makes an important revision in the policy relative to the forgoing of survivor benefits by stating that a married employee cannot forgo without the written consent of the spouse.

Another provision I wish to note in this bill includes the ability to transfer a lump sum survivor benefits below $3,500 into an individual retirement account at the direction of the surviving spouse.

The House can take a historic step forward with the passage of this legislation today. We are considering an important component of a most critical and comprehensive bill, the Economic Equity Act. It is far more than just an issue which can be couched under the phrase "equal rights." It is an issue of equity of fairness and one that recognizes the importance that women play in the work force. I urge its adoption as a meaningful step in the process of reforming inherently discriminatory and antiquated policies.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. MATSUI).

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. MATSUI) is recognized for 1 minute

There was no objection.

Mr. MATSUI. Mr. Speaker, in considering H.R. 4280 today, we take an historic step toward economic justice for women.

This bill fills numerous gaps in our laws governing private pensions. This measure means greater economic certainty and peace of mind for American women as they plan for their retirement years.

For too long, our laws have ignored the special needs of women. For the first time, this bill acknowledges that women's work patterns differ greatly from those of men. The bill's provisions enfranchise women. It does so by modifying break-in-service rules and allowing workers to begin accruing pension credits at an earlier age. This is essential because women begin work earlier and leave the work force during their prime productive years to fulfill family commitments.

H.R. 4280's also reverses statutes detrimental to surviving spouses. I urge my colleagues to adopt this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 4280, the Women's Pension Equity Act, and to commend the two chairmen and their committees for bringing this measure to the floor. As a cosponsor of the bill, I am gratified that agreement was reached on the many important issues affecting younger workers, and particularly women—whose work patterns or careers may not fall into the traditional mold.

Because of the mobility of our society, changing technology, and economic factors, workers today change jobs and even careers more frequently, interrupt their careers to obtain further education or to raise a family, or move because of a spouse's career advancement. These factors were not taken into consideration in the original enactment of ERISA. In addition, the original law overlooks the contribution of the homemaker in the work partnership.

This bill corrects those defects, providing benefits and guarantees for the nonpaid spouses, and for the younger worker and the worker whose career is interupted by childraising or other demands. Although it takes account of "nontraditional" work styles, it actually reinforces traditional values of home and career, bringing equity to both partners. It also allows younger workers to become vested sooner in the pension plans where they work.

Mr. Speaker, I urge an "aye" vote for the bill.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. GREEN).

Mr. GREEN. I thank my colleague from New York for yielding, and I want to express my support for H.R. 4280.

Mr. Speaker, I had a town meeting in my district on Sunday addressing senior citizen problems, and I can tell the House that the issues addressed by this bill are among the most important to senior citizens. The bill, by strengthening ERISA, particularly in ways that are likely to affect the rights of women under pension plans, makes a major step forward in terms of the retirement needs of senior citizens in general and women in particular.

I commend all of those who have participated in putting this legislation

together, and I urge my colleagues to adopt it.

Mr. CLAY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. FERRARO), the original sponsor of this bill and the driving force behind its successful legislative history.

The SPEAKER pro tempore. Without objection, the gentlewoman from New York (Ms. FERRARO) is recognized for such time as she may consume.

There was no objection.

Ms. FERRARO. Mr. Speaker, on February 4, 1981, when I introduced the original version of the pension equity bill we are considering today, I said the following:

> This legislation proposes practical, inexpensive solutions to some of the most serious problems women face in the private pension system. The importance of equitable pension benefits cannot be overstated. The existence of a private pension is often the difference between an old age of poverty and a comfortable retirement.

Since 1981, the desperate poverty experienced by so many elderly women has increasingly attracted the attention and concern of this body and the American public. Elderly women living alone—widows, divorcees, single women—are 72 percent of our elderly poor population.

Hearings conducted by the Select Committee on Aging and by the two committees which have so ably and effectively crafted this bill—and, Mr. Speaker, this bill in its present form is even better than when it was first introduced—have established that one of the root causes of this poverty is loopholes in our pension laws.

The legislation addresses these major problems: The widow who learns her husband's pension went to the grave with him because he waived her survivor benefits without her knowledge; the divorced woman who finds courts will not award her any share of her ex-husband's major asset, his pension; the young mother who returns from a maternity leave to find her prior years of work erased from the books; the woman who worked 10 years only to discover that many of her early years did not count toward vesting; and, of course, more seriously and most tragic, the widow who finds out that because her husband died the day before his 55th birthday that he died too young so she receives no benefit, despite 30 years in the work force.

H.R. 4280 addresses each of these major issues and closes each of the loopholes which make private pension rights a game of Russian roulette for so many women.

It establishes two principles that I consider fundamental: That the partner in a marriage has earned a stake in the fruits of that marriage, one of these being a pension; and that once a worker has become vested in a plan, neither he nor his spouse can be arbitrarily deprived of that earned benefit.

As part of the Economic Equity Act, the legislation is a key piece in the effort to remove the handicaps and barriers to the full participation of women in our Nation's economy.

Many of my colleagues deserve a great deal of credit for recognizing the importance and urgency of these concerns. I particularly want to thank the chairman and ranking minority member of the Ways and Means Committee, the chairman and ranking minority member of the Education and Labor Committee, and the chairman and ranking minority member of the Education and Labor Subcommittee on Labor-Management Relations.

I would be remiss if I did not recall the early support and concern of our much missed colleague from California, the late Phillip Burton, who, in his role as chairman of the Labor Subcommittee, really helped me develop and refine this legislation.

I hope this body today will give its unanimous support to this major step toward economic equity for women. It is our first step in dealing with the problem that has become pervasive in this Nation, known as the feminization of poverty. It is certainly a step toward rights for women that have not been recognized before, and I thank the distinguished chairman of the subcommittee for his help, my distinguished colleague, as well, BARBARA KENNELLY from Connecticut, without whose help this could not have occurred today.

The SPEAKER pro tempore. All time of the gentleman from Missouri (Mr. CLAY) has expired.

The gentleman from New York (Mr. CONABLE) has 1 minute remaining and the gentlewoman from New Jersey (Mrs. ROUKEMA) has 1 minute remaining.

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BARTLETT), a member of the committee.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. BARTLETT) is recognized for 1 minute.

There was no objection.

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Mr. BARTLETT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise to support H.R. 4280 because it finally enfranchises women in private pension law by recognizing their roles in society, their material and moral contribution to marital relationships, and their changing work patterns. A true gender gap has existed for too long in ERISA with regard to women's rights under private pension plans. This pension plan "gender gap" can be found—

In vesting ages that do not reflect women's real work patterns;

In compromised benefits if a woman takes maternity leave;

In the absence of any requirement that a wife know whether her husband has signed away her right to survivor benefits; and

In ERISA's ambiguity that allows a pension plan to refuse to honor a State domestic-relations order issued after a divorce dealing with payment of joint and survivor annuities.

H.R. 4280 closes the private pension plan gender gap correcting these—and other—blindspots in ERISA.

In considering this legislation, we need to ask a fundamental question: What is the purpose of deferred compensation in the first place? Pensions are designed to provide income security primarily in retirement years for people who have spent the most productive years of their lives providing goods and services. On another level, our private pension system represents a statement that a life spent in productive labor is valuable and that one way we can express societal appreciation is by equitably providing and prudently protecting the income of retirees and their survivors. With ERISA, Congress made great strides toward insuring that workers could depend on the promise of a secure retirement in return for years of sacrifice and labor. Unfortunately, those strides were not enough. Women in the American work force got the short end of the pension stick. For many women, the result has been lower benefits than is their due; for others, the result has been outright disaster—no pension benefits at all. It is to these women, as well as to those now and in the future a part of the work force—including spouses who provide invaluable support to their husbands—that H.R. 4280 is offered as pension enfranchisement.

Sepecifically, this legislation acknowledges the relatively early age when many women begin work. To this end, the maximum age for plan participation is lowered from 25 to 21. In recognition that women leave and reenter the work force more frequently than men because of their role in the home, the bill requires that years of service before single-year breaks be counted for participation and vesting purposes. It also credits service for persons who have a break in service due to child care, thus eliminating the tradeoff that many mothers have to make: motherhood or pension benefits.

One of the most tragic deficiencies in current law is in the survivor benefit area. The Labor-Management Relations Subcommittee heard rending testimony from women who have been denied joint and survivor benefits because their husbands died before the annuity starting date or their husbands signed away their joint and survivor benefits without the wives'

knowledge. H.R. 4280 provides automatic survivor annuity benefits to a participant who retires under the plan and to surviving spouses when a vested participant dies before the annuity starting date. The bill clearly requires that a spouse be made aware of any waiver of joint and survivor benefits by a participant.

The legislation also clarifies the authority of domestic relations orders to assign benefits. Ambiguity in ERISA allows pension plans to ignore such orders to the detriment of those who have a rightful claim to these benefits.

This is important legislation that finally brings pension equity to women after too long a period of pension disenfranchisement. I urge my colleagues to support this measure wholeheartedly.

Mr. CONABLE. Mr. Speaker, I yield myself my 1 remaining minute.

The dynamic for this bill comes, of course, originally, Mr. Speaker, from the women Members of this body who had taken a special interest in the problems of women. The two committees, Ways and Means and Education and Labor, however, have been fully cooperative in the technical and practical development of this bill, which to us clearly represented ideas whose time had come.

The problems of the aging, as has been said here, are the problems of women, and it is clear that we must address these problems in an institutional way and provide needed reforms so that women can take care of themselves through existing avenues of security like the pension system.

I am glad that we have arrived at this point; I think the Members of the House should give almost unanimous support to a bill which has become virtually a consensus bill. That this reform is overdue is not a matter of recrimination; let us be grateful instead that its achievement is so imminent.

Mrs. JOHNSON. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Mr. Speaker, I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in very strong support of this legislation.

Mr. Speaker, financial security is rapidly becoming an elusive dream for growing numbers of older women. Three-fourths of this country's elderly poor are women; one-half of all widows and single women live in poverty.

Despite recent demographic changes that have brought more mothers in the workforce than ever before, despite the skyrocketing divorce rate and statistics that suggest that 40 percent of marriages end in divorce, and despite the fact that a large number of women continue to outlive their husbands, our current pension policy does not recognize a woman's role in the economy, either as a wage-earner or as the wife or widow of a wage-earner. That is why we must vote today to suspend the rules and pass H.R. 4280, the Retirement Equity Act of 1984.

The Employee Retirement Income Security Act (ERISA), which regulates the private pension system, reflects the work patterns of men. Current vesting requirements, minimum age requirements for participation in pension plans, break-in-service rules, and the lack of credit for maternity/paternity leave work to the disadvantage of woman employees, who tend to enter the work force early, and who need to be able to decide to leave to have children without forgoing vesting and some measure of retirement security.

The impact is evident: four out of five women of retirement age who live alone receive no pension, and of the scant number who do, it is but half the annual average annual benefit of men.

Only 5 to 10 percent of surviving spouses receive pension benefits. Under ERISA, a surviving spouse may lose benefits if even a fully vested worker dies before the early retirement age. Benefits may be forfeited if a worker dies within 2 years of electing to provide survivor benefits. Married workers may choose to cancel survivor benefits without the consent of their spouse.

Moreover, should the couple divorce, a homemaker is often left without benefit of her spouse's retirement and no retirement income of her own. Since ERISA makes no provision for the allocation of benefits in a divorce settlement, her indirect contribution to the pension is ignored.

The Retirement Equity Act radically changes our retirement laws and recognizes that women deserve retirement protection. This major legislation lowers the minimum age for vesting from 22 to 18 and the minimum participation age from 25 to 22. It liberalizes the break-in-service rules and protects against the loss of pension benefits as the result of a maternity/paternity leave. It clarifies State authority to divide the pension should the couple divorce.

In the unfortunate event of a vested beneficiary's death prior to early retirement, H.R. 4280 guarantees his benefits to his survivors, and strikes the ERISA regulation canceling survivor benefits if the employee dies within 2 years of choosing to provide them. Under this bill, joint and survivor benefits would be automatic unless both partners consented to waive them—in writing.

I call on my colleagues to support these reforms, which are essential to providing equal opportunity to women to achieve retirement security. Through the enactment of the legislation before us today, we will assure a women's ability to plan for her retirement and repeal the penalties the current system imposes for childbearing and homemaking. Mr. Speaker, the women of America have earned the right to a secure retirement. America is now recognizing that right and providing that opportunity.

Mr. CHANDLER. Mr. Speaker, today I join my colleagues in support of the Retirement Equity Act of 1984. Our current pension laws put women at a serious disadvantage. It is time that we change these laws to reflect the present circumstances that women are now facing at home and in the workplace. These laws must be adapted to meet the many demands placed on women in the 1980's as a full-time employee outside the home, and as a wife and mother. We must eliminate the tragedies that happen all too frequently where women are left with no pension rights or benefits when their husbands die before retirement age.

These problems also extend to divorce and child-bearing, putting women at a severe disadvantage in all areas: as workers, as widows, and as former spouses of male employees. These inequities are largely due to the unique work patterns of women and the failure of our current laws to recognize marriage as an economic partnership. The Retirement Equity Act makes a number of necessary changes in our pension laws aimed at alleviating these problems:

First, it insures the availability of a "joint and survivor benefit" for widows and widowers of vested workers who die at an early age (present law only requires this once the worker has reached the age of 55, in most cases);

Second, it automatically provides "joint and survivor benefits" unless both spouses reject this option (current law permits the worker to unilaterally reject these benefits; 60 percent of all workers reject it because it means a somewhat smaller benefit while they are still alive);

Third, it lowers the age of pension plan participation from 25 to 21 and pension vesting credits from 22 to 18, in recognition of the fact that women between the ages of 20 and 24 participate more heavily in the work force than any other age group of women;

Fourth, it significantly increases protection against loss of pension credits during maternity and paternity leave;

Fifth, it increases pension protection for divorced women who deserve a share of their former spouse's vested benefits.

H.R. 4280 is a positive step forward for women and deserves your vote. I think we all agree that it is unacceptable that three-fourths of our elderly poor are women and that only 5 to 10 percent of surviving spouses receive any pension benefits. All elderly men and women deserve a fair chance at

achieving retirement security. I hope you will join me in support of the Retirement Equity Act to help guarantee retirement security for all American women.

● Mr. RIDGE. Mr. Speaker, I rise today in strong support of H.R. 4280, the Retirement Equity Act of 1984. This legislation, designed to expand private pension coverage, acknowledges that certain rules of present pension law tend to disadvantage women—whether they work inside or outside of the home.

Recent data and statistics paint the picture of women's pension benefits as it truly is—bleak. According to 1981 data, just 10.5 percent of women aged 65 and over were receiving private pension benefits. Of those women currently in the work force, only 35 percent were covered by a private pension plan as compared to 55 percent of men. Benefits of those women who do receive a pension are approximately half that of their male counterparts.

The situation for women who have never entered the work force, but rather work all or part of their adult lives as homemakers, is even more serious. Pension benefits for these women are most often based on their status as dependents of wage-earning spouses. Death, disability, and divorce too often deprive these women of retirement income which they have earned by their contribution to the home and family.

Mr. Speaker, it is important to recognize yet another very important statistic in the discussion of pension equity. The poverty which is so sadly rampant among the elderly is predominantly the poverty of women. Fully three-fourths of the elderly poor are single women. We are well aware that social security is not enough to live on. Average benefits are currently about $5,000 a year for people now retiring after a lifetime of work. This is $3,000 less than the Bureau of Labor Statistics estimates is needed to live modestly in most cities. Clearly, a supplemental retirement income is not a luxury for most elderly women, but a necessity.

Anyone familiar with this issue has heard countless stories of widows left without pensions because their spouse dies at the wrong time, and other injustices caused by divorce, maternity leave, or extended leave for child rearing. Women in these situations have found themselves harshly treated under current pension laws. Consequently, I am pleased to be a cosponsor of this bill that seeks to correct these inequities. Although no legislation can overcome the pension problems women have faced in the past, we can now say with confidence that there's hope that women can truly benefit from our Nation's private pension system.●

● Mr. LELAND. Mr. Speaker, I rise in strong support of the Retirement Equity Act of 1984. H.R. 4280, which amends the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1954. Under current private pension law, women, both as workers and as widows or former spouses of male employees, are at a severe disadvantage with respect to pension benefits. H.R. 4280 would eliminate many of the inequities in private pension law which disproportionately affect women.

ERISA regulations concerning worker participation and vesting in private pension plans were founded upon male working patterns. These regulations do not reflect the unique work histories and wages of women. As a result, four out of five women of retirement age who live alone receive no pension. Furthermore, the average pension benefit for women is only $2,586 annually, as compared to the average annual annuity of $4,359 received by men.

In addition, spousal survivor benefits; pension benefits in the event of divorce, particularly with respect to homemakers; and pension credit during maternity and paternity leave, are not adequately protected.

The Retirement Equity Act of 1984 will: guarantee spousal survivor benefits regardless of the age of death of the vested worker; provide automatic and joint survivor benefits unless both spouses consent to waive them; increase pension protection for divorced women; and will increase protection of benefits during maternity/paternity leave as well as liberalize break-in-service rules. These latter provisions are particularly important in light of the fact that the working pattern of women often differs from that of men during child-rearing years. Finally, recognizing that women between the ages of 20 and 24 years participate in the work force to a greater extent than any other age group of women. H.R. 4280 will lower the age of pension plan participation from 25 to 21 years, and pension vesting credits from 22 to 18 years.

Mr. Speaker, I commend the members of both the Ways and Means and Education and Labor Committees for their diligent efforts on this issue, and urge my colleagues to adopt this bill. The financial security and equality of women is an often ignored issue. H.R. 4280, the Retirement Equity Act of 1984, is a significant first step toward parity of the sexes in pension law and is of benefit to all Americans. Most importantly, it begins to reform the economic injustices which oppress the women of our Nation.●

● Mr. BEDELL. Mr. Speaker, I strongly support the Pension Equity Act in its intent to eliminate so many of the inequities still existing in our Nation's private pension programs. As most of our pension systems presently operate, women must accept disadvantages as workers, as widows, and as divorced spouses. If we were to allow these inequities to continue the statistics that show women as a large portion of our Nation's poor will just continue to grow. Right now elderly women already constitute nearly three-quarters of the elderly poor. Instead of looking to our public assistance programs as a way to help these people, we must look to the causes of the proverty—lack of adequate retirement security.

Congress took an important step in 1974 when it passed the Employee Retirement Income Security Act (ERISA) to regulate private pension plans by establishing some minimum standards. Unfortunately, ERISA did not take into account the different working patterns that women have throughout their working lifetime. Their participation in the labor force peaks at an earlier age compared to men—ages 20 to 24 for women and ages 35 to 44 for men. Women are more likely to interrupt their work, usually for child bearing and child-rearing, and women hold parttime jobs more often than men. It is these factors combined that make it extremely difficult for women to qualify for pension plans.

The Pension Equity Act tries to address these problems. The bill reduces the maximum age at which workers may be excluded from participation to age 21—currently 25 years of age—but retains the 1-year service requirement. The bill also requires employers to take into account all service from the time the workers turned age 18—currently age 22—in computing the length of service required for vesting. And the bill eases the interruptions in service requirements by allowing nonvested employees with less than 5 years of service to take up to 5 consecutive years off before returning to their job without losing pension credit for those years prior to the break in service. In addition, maternity or paternity leave cannot be considered a break in service, unless it exceeds 1 year.

The Pension Equity Act provides important changes for widows and former spouses through several targeted provisions. One such targeted provision would require the written consent of both spouses for survivor benefits to be waived. Current law permits married workers to waive the right to survivor benefits without the consent of their nonworking spouse.

Another provision specifies that the spouse of a vested employee automatically be entitled to receive survivor benefits, even if the employee's death occurred prior to the early or normal retirement age. The spouse, of course, could not actually begin to receive these benefits until the point at which

the worker would have reached the early retirement age.

And finally, the bill clarifies State court authority to distribute pension benefits between spouses upon divorce.

A great deal of cooperation and commitment went into this bill resulting in a strong bipartisan measure. Consideration of this bill has long been due and I am pleased to have the opportunity to lend my full support to passage of the Women's Pension Equity Act.●

● Mr. SHANNON. Mr. Speaker, I rise in strong support of H.R. 4280, the Women's Pension Equity Act. This legislation addresses one of the most pressing problems facing us—the growing number of older women living in poverty.

In hearings on this legislation, we have seen that the receipt of a private pension can be the main factor in keeping a retiree above the poverty level. However, the private pension system, under ERISA, does not recognize the economic contributions of the homemaker to a family's income. Neither does it take into account the unique working patterns of women. As women move in and out of the paid labor force for child bearing and rearing, they are all too often forced to forfeit any pension credits they may have earned.

As a result of these ERISA regulations, women are less likely to receive pension benefits and when they do, their benefits are substantially lower. In 1981, only 10.5 percent of older women were receiving private pensions which averaged $2,427 a year. In contrast, 27.7 percent of men received private pensions averaging $4,152 a year. In addition, women are not adequately protected with survivor benefits. Only 5 to 10 percent of surviving spouses actually receive their spouses' pension benefits.

H.R. 4280 makes great strides forward in eliminating some of these inequities. By providing breaks-in-service for maternity and paternity leaves and lowering the age for vesting, the bill recognizes that men and women have different working patterns which need to be accommodated. The provision concerning joint and survivor benefits and the distribution of pension benefits in divorce cases is a recognition of marriage as an economic partnership.

Mr. Speaker, passage of H.R. 4280 would be an important step forward in eradicating poverty among older Americans and discrimination against women. I urge my colleagues to give this legislation their full support.●

● Mr. STARK. Mr. Speaker, I join my colleagues in urging support for H.R. 4280 the Retirement Equity Act.

As former chairman and now ranking member of the Public Assistance and Unemployment Compensation Subcommittee, I have become all too familiar with the plight of older women. Instead of "golden years" the years after age 65 for too many women become a constant struggle for mere survival. Because women are less likely to qualify for social security, have lower incomes and live longer than men, they are more likely to become part of the elderly poor. As a result older women make up a disproportionate share of those receiving welfare benefits. For example, older women comprise 74 percent of aged recipients of supplemental security income, a program to aid the needy aged, blind, and disabled.

Until the millions of employed women and wives of insured men in this country have access to adequate private pension benefits, older women will continue to account for the majority of those struggling in poverty.

H.R. 4280 provides a number of reforms that will make pension benefits more accessible to women by closing several of the loopholes that presently deny them benefits or reduce their benefits. First, by lowering the minimum age for vesting from 22 to 18 and requiring participation at age 21 rather than 25, many more women will qualify for retirement benefits. Second, by liberalizing break in service rules and eliminating the break in service due solely to pregnancy, childbirth, or adoption more women will receive higher pension benefits. Third, by requiring automatic joint and survivor benefits unless both spouses consent to waive them, widows will not be denied benefits after their husbands die. Fourth, by guaranteeing survivor benefits once the employee has become vested in the plan without arbitrary age limitations, we will eliminate the heartbreaking stories of women being denied benefits because their husbands died hours or days before qualifying for benefits. Lastly, by clarifying State court authority to distribute pension benefits between spouses upon divorce, divorced women will not automatically be denied their ex-spouses' pension.

In short, women working for pay, divorced women, wives and widows can benefit from the Retirement Equity Act. Although this bill does not eliminate all of the inequities in the pension system, it is an important step in the right direction. A vote for this bill will mean fewer women will need to turn to the Federal Government for assistance. I believe all of my colleagues can support the twin goals of saving taxpayer dollars while providing greater retirement security for older women.●

● Mr. RICHARDSON. Mr. Speaker, the House of Representatives today has the opportunity to partially correct the disparity that exists between the lot of American men and women. Passage of the Women's Pension Equity Act will be yet another step on the path toward full equality and simple justice for American women. The fact that it has taken this long to take these steps is nothing less than embarrassing and shameful.

Women's retirement benefits simply do not fairly reflect the important contribution they have made to the social security system or to family income. Working women often have no pension plans or do not qualify for existing plans because family responsibilities keep them from building up the required seniority in the workplace.

This legislation which would greatly reform private and civil service pension rules to insure equal treatment of women deserves the support of every Member of the Congress. It would also widen women's opportunities to save through the individual retirement account program. Additionally, the measure goes a long way to guaranteeing equity for women in areas of pension participation and vesting, maternity leave, and survivor benefits.

Every American woman deserves fair treatment, not only at work, but in life. They deserve equity, not simply because they are women, but because they are now denied it. That denial handicaps the productive contribution they can make and weakens our whole society. The women who constitute more than half of our whole society must no longer be treated as less than whole citizens in our economy. We must not rest or retreat until our country at long last holds this truth to be self evident—that not only all men, but all people, are created equal.●

● Mr. WALGREN. Mr. Speaker, I want to add my strong support for H.R. 4280, the Retirement Equity Act. If passed, this bill will go a long way toward achieving equal status for men and women in our society.

The pension area is one of the more concrete examples of how women are treated unfairly in our society. While the Employee Retirement Income Security Act (ERISA) did much to protect the rights of the American workers, it was based on traditional male working patterns and, in many respects, operates to the disadvantage of women both as workers and as widows and former spouses of male employees. For example, over 10 percent of women over age 65 receive private pensions averaging under $2,500 per year. Also, because ERISA allows a total forfeiture of spousal survivor benefits even though the worker is fully vested, only 5 to 10 percent of surviving spouses receive any pension benefits. Finally, the current law fails to recognize the contribution of the homemaker to a worker's pension. In the event of a divorce, the homemaker is left without any retirement security, even though she contributed to her husband's career during their marriage.

The Retirement Equity Act addresses each of these problems. It protects pension benefits during maternity leave, requires joint and survivor benefits unless both spouses agree to waive them, and it clarifies State court authority to distribute pension benefits between spouses upon divorce.

This bill is the first part of the Comprehensive Women's Equity Act to reach the floor of the House of Representatives. The other parts of the Women's Equity Act are no less important, and I hope the leadership will bring the remaining bills to the floor as quickly as possible.●

● Ms. KAPTUR. Mr. Speaker, by passing H.R. 4280, the Retirement Equity Act of 1984, the House has a significant opportunity to rectify inequities in pension laws affecting women. This legislation amends the Employee Retirement Income Security Act (ERISA) in a number of important ways to insure equitable pension treatment of women in their roles as workers in the private sector, as wives, divorced spouses, and widows of male employees. ERISA was originally enacted by Congress in 1974 to regulate private pension plans.

Pension security is essential for the economic well-being after retirement. However, because women traditionally have different work patterns and wage histories (due to family obligations and other reasons), they are less likely to receive pension benefits, and those who do, average lower benefits. In fact, the value of women in the work force has never been fully taken into account in calculating pension benefits. Fewer women workers than men are covered by pension plans, and even fewer are likely to receive a pension upon retirement. Is it no wonder that the great majority of elderly women living alone are poor?

H.R. 4280 would make the following needed modifications to ERISA in order to address these problems and to insure that women will have a greater opportunity to receive private pension benefits:

It would reduce the maximum age for vesting from 22 to 18 and for participation from 25 to 21. This provision takes into consideration the fact that women's participation in the work force is highest between the ages of 20 and 24.

Second, it would protect pension benefits during maternity and paternity leave. An employee may be absent from work for 1 year on account of pregnancy, child birth, adoption, or child rearing without losing pension credits. Furthermore, the bill eases break-in-service requirements.

Third, it requires automatic joint and survivor benefits unless both spouses consent to waive them. It also guarantees survivor benefits once the employee has become vested in the plan without arbitrary age limits.

Because many women are homemakers, they are dependent on their husband's pension benefits. Current law allows for the forfeiture of spousal survivor benefits in various situations. As a result, women are often left with no pension security upon the death of their husband. This provision guarantees critical survivor benefits.

Fourth, in the case of a divorce, the bill provides pension protection for divorced women who deserve a share of their former spouse's vested benefits by clarifying State court authority relating to the distribution of pension benefits.

These and other delineated protections in H.R. 4280 will provide significant pension security to women. This legislation is an important component of the Economic Equity Act and it deserves our full support.●

● Mr. KOSTMAYER. Mr. Speaker, I rise in support of H.R. 4280, the Women's Pension Equity Act.

This legislation is long overdue, and is needed to help insure pension and economic security for women.

Current pension law was drafted according to the working patterns of men, who are less likely to leave a job to raise children. As a result, 35 percent of all elderly men received pension benefits in 1980, while only half that many elderly women received such benefits. The feminization of poverty is an issue which many of us have brought to the attention of this body in the past. This trend is particularly severe among the elderly. Nearly three-fourths of the elderly poor are women. Inequitable pension law is one of the reasons for this disturbing pattern.

I cosponsored and am voting for H.R. 4280 because I believe that it is a fair and effective way to insure that pension laws do not discriminate against women. This bill would lower the minimum wage for vesting from 22 to 18 and for participation from 25 to 21. This is an important provision, since women's participation in the labor force is highest between the ages of 21 and 24. H.R. 4280 would also protect pension benefits during maternity/paternity leave and ease break-in-service requirements, enabling parents to take time off from their jobs to bear and raise their children without losing credit for the years they have accumulated toward vesting in a pension.

In other words, Mr. Speaker, this important amendment to the law will better protect the pension benefits of today's working women—both single and married—and give them added flexibility in making their career and family planning decisions.

H.R. 4280 also addresses the special problems of widows and divorced spouses. By requiring joint and survivor benefits unless both spouses consent to waive them, it would safeguard against hasty, short-sighted decisions not to set aside part of a pension for the surviving spouse. It would also guarantee survivor benefits once the employee has become vested in the plan even if he or she dies before reaching retirement age. Finally, this bill would clarify State court authority to distribute pension benefits between spouses upon divorce.

I want to congratulate the members of the congressional women's caucus for taking the initiative to correct the inequities in our pension system and for working to bring this legislation to the floor. I urge my colleagues to approve this important bill.●

● Mr. LEHMAN of Florida. Mr. Speaker, I would like to express my strong support for the passage of H.R. 4280, the Women's Pension Equity Act. This legislation amends for Employee Retirement Income Security Act (ERISA) to take into account the different working patterns of men and women.

H.R. 4280 would change ERISA regulations to account for women's early participation in the work force, which is often highest between the ages of 20 and 24. In addition, the fact that women often leave their jobs to fulfill family obligations, such as childbearing and child raising responsibilities, would be addressed. This bill would permit employees to participate in and become vested in private pension plans at an earlier age and would provide greater flexibility for workers who interrupt their working careers, particularly for maternity and paternity leave. H.R. 4280 would not permit maternity or paternity leave to be considered as a break in service, and an employee could be absent from her job for 1 year on account of pregnancy, childbirth, adoption, or child rearing without losing pension credits.

Women are less likely than men to receive a pension upon retirement which helps to explain why women constitute nearly three-quarters of our elderly poor. Many women choose to remain at home as a homemaker, which makes them more dependent on the pension benefits of their husband. However, current private pension policy fails to recognize the contribution of the homemaker to a worker's pension. This legislation helps to correct this problem by providing survivor benefits if a vested employee dies before retirement age and by requiring the written consent of both spouses before survivor benefits can be waived.

This bill also clarifies the authority of State courts to distribute pension benefits between spouses if a divorce occurs. A court order would be permitted to specify that a former spouse of a pension plan participant is entitled to receive a portion of the participant's pension benefits.

H.R. 4280, by amending several provisions of the Employee Retirement Income Security Act, would result in significant improvements in the ability of women to collect private pension benefits.●

● Mr. MINETA. Mr. Speaker, I rise today in support of H.R. 4280, the Women's Pension Equity Act. This bill seeks to remedy inequities women face in the private pension system.

The private pension system, as regulated by ERISA, affects women in their roles as wives, divorced spouses, and widows of men who participated in company pension plans, and as workers in the private sector who may or may not become eligible for pensions of their own. Women suffer from retirement income policies which fail to recognize that both spouses make significant contributions toward an employee's ability to earn wages, and that women have unique work patterns involving childrearing and other family responsibilities.

Older women bear the economic brunt of inequities in the private pension system which results from the disregard of women's economic value as housewife and worker. In 1981, women were 59.1 percent of the U.S. population over age 65, and more than half of these women were widows. Single women over 65 living alone are 85 percent of all elderly people living alone below the poverty line. Statistics and studies all point to the same conclusion: Older women are the fastest growing poverty group in America.

The Women's Pension Equity Act takes a number of bold steps to address the problems of pension inequities. The act draws heavily on original proposals in the Economic Equity Act, a measure of which I am a cosponsor, and amends ERISA to bring pension laws into conformity with social changes affecting the role of women.

H.R. 4280 insures the availability of a "joint and survivor benefit" for widows and widowers of vested workers who die at an early age. This changes the current law which has set the limit at age 55. Another change is that joint and survivor benefits would be automatically provided unless both spouses reject this option. Previously, the law has allowed a worker to unilaterally reject these benefits.

The Pension Equity Act lowers the age of pension plan participation from 25 to 21, and pension vesting credits from 22 to 18. This recognizes that women between the ages of 20 and 24 participate more heavily in the work force than any other age group of women. The bill also significantly increases protection against loss of pension credits during maternity and paternity leave, and increases pension protection for divorced women who deserve a share of their former spouse's vested benefits.

These and other provisions will bring our pension laws up to date with the 1980's and the demographics of the American work force. American women and the growing ranks of the elderly poor need this important economic legislation. I urge my colleagues to join me in voting in support of H.R. 4280.●

● Mr. RITTER. Mr. Speaker, I would like to take this opportunity to state my strong support for the Women's Pension Equity Act, H.R. 4280. This legislation is urgently neded to ensure that pension laws adequately reflect the needs of working women as well as working men.

In 1974, Congress enacted the Employee Retirement Income Security Act (ERISA) to regulate private pension plans. It established minimum standards for private pension plans and provided greater protection for workers. Unfortunately, however, ERISA does not specifically take into account the different working patterns of women.

Whether a women works inside or outside the home, her career pattern of employment will frequently be different from that of her male counterpart. Thus, pension plans which are tailored to the male career working pattern tend not to serve women in the intended manner.

In addition, the increasing awareness of marriage as a joint partnership has prompted a reevaluation of federal laws such as ERISA, which allow one spouse to waive coverage for the other spouse without that spouse's consent.

These differing work patterns and Federal laws which do not provide for joint decisionmaking responsibility have resulted in significantly fewer women being covered by pension plans.

For example, in 1981, only 37 percent of working women were covered by pension plans, as compared to 50 percent of men. Further, in 1980, 35 percent of elderly men received pension benefits, while only half that percentage of elderly women received such benefits. These disparities help to account for the nearly three-quarters of the elderly poor who are women.

The Women's Pension Equity Act addresses these problems by:

First, allowing employee participation and vesting in private pension plans at an earlier age,

Second, providing greater flexibility for breaks in service, especially for maternity and paternity leave,

Third, automatically providing survivors benefits if a vested employee dies before retirement age,

Fourth, requiring the written consent of both spouses before survivor benefits can be waived, and

Fifth, allowing a divorced spouse to receive a portion of the benefits if so specified by a court order.

Mr. Speaker, I strongly support this legislation to help protect the pension rights of women who work either inside or outside the home. It is imperative that all workers in this country are accorded the right to fair and equitable pensions. I believe that this legislation goes a long way toward achieving that right.●

● Mr. ROYBAL. Mr. Speaker, today the number of women entering the work force is increasing daily. More women are heading households, a substantial number remain in the home to rear children, while others are pursuing a range of careers from professional to assembly line workers. In whatever role women may find themselves there is a need which must be fulfilled for each. That is that women as a group or as individuals need the assurance of a financially secure retirement after their productive working years end. In recognition of those impediments which jeopardize or otherwise deprive women of that financially secure retirement, the Congress has today passed legislation which will substantially enhance the ability of women to obtain a financially secure retirement.

The inequities that have faced women under our Nation's private pension system are in some ways not dissimilar to those problems which women have faced throughout our history. The ability to obtain and enforce legal rights, to be treated fairly, to have equity in fact as well as in law, have come slowly to women in our society. Examples abound, from the founding of the Nation it took some 143 years for women to gain the right to vote. Many women could not enter into a contract or own property in their own behalf for over a century. Based on the most recent statistics of the Current Population Survey (CPS) of the Census Bureau, over 43 million, or 42.8 percent, of the labor force is composed of women. Only about 9 million, or 21 percent, of these women are covered under a pension plan of an employer. On average, the amount of pension benefits a woman receives is smaller than the amount received by men.

In 1974, the Congress passed the Employee Retirement Income Security Act (ERISA) to protect workers covered by pension and welfare benefit programs offered by their employers and employee organizations. This law was enacted to protect the millions of American workers who look forward to and will rely on their pensions to support them in retirement. While passage of this law represented a tremendous step in securing pensions for our workers, it is clear that the next step is at hand, that the inequities against women permitted under present law must be removed.

I and the other members of the House Select Committee on Aging are pleased that through enactment of this landmark legislation, women will now enjoy a future which holds a secure promise rather than a mere spectre of financially secure retirement.●

● Mr. BETHUNE. Mr. Speaker, I am pleased that we are having the opportunity to debate and vote today on H.R. 4280, the Women's Pension Equity Act. I believe this bill will go a long way toward correcting many of the problems women face in their pension benefits.

One of the reasons I have been an opponent of the equal rights amendment (ERA) has been my belief that inequities can be best corrected through legislative actions. This bill is a good example of the type of bills that we should be considering and I hope we will see more.

Obviously, much more needs to be done. The reason we are considering this bill today is because of pay inequities and differences in work patterns that have led to the pension problems. Again, I believe we are dealing with this in the best way possible—through legislative actions and not through the Constitution.

Mr. Speaker, I hope all Members will join with me in supporting H.R. 4280 and in urging consideration of other measures that will correct inequities.●

● Mr. LAFALCE. Mr. Speaker, the 1964 Civil Rights Act forbids discrimination by employers on the grounds of sex in offering fringe benefits to employees. Given that clear piece of legislation, the U.S. Supreme Court ruled in Arizona v. Norris in July 1983 that the Civil Rights Act prohibits an employer from offering a pension benefit plan that discriminates on the basis of sex. The court found that even though women, as a class, live longer than men, and therefore receive benefits for a longer period of time, an employer still may not adopt a retirement plan that treats individual women less favorably than individual men.

That finding gave a positive push to legislation I have cosponsored to bring about broad changes in pension law, particularly for homemakers who depend on the pensions of their working spouses and for wage earners who take time off for maternity or paternity leave. H.R. 4280, the "Retirement Equity Act of 1984" is such a bill.

This pension equity bill would amend the Employment Retirement Income Security Act (ERISA), the landmark 1974 legislation that established minimum Federal standards for private pension plans. In many respects, ERISA operates to the disadvantage of women both as workers and as widows and former spouses of male employees.

For instance, ERISA regulations regarding worker participation and vesting (entitlement to receive pension benefits) in pension plans are established upon the pattern of the working male. They fail to credit women for their early participation in the work force or to recognize the worth of women's childbearing and childrearing responsibilities. In 1981, 10.5 percent of women over the age of 65 were receiving a private pension averaging $2,427 a year. By comparison, 27.7 percent of men receiving a private pension or annuity averaging $4,152 a year.

ERISA permits a total forfeiture of spousal survivor benefits even though the worker is fully vested in the plan when he dies. This leaves many women without any pension income and totally dependent upon social security for their retirement income. Only 5 to 10 percent of surviving spouses receive any pension benefits.

In addition, current private pension policy fails to recognize the contribution of the homemaker to a worker's pension. No provision is made for the allocation of these benefits in the event of divorce, leaving the homemaker without any retirement security.

The Retirement Equity Act of 1984 eliminates these inequities. It makes spouses eligible for joint and survivor pension benefits if a wage earner dies before he reaches retirement age but after he is vested in the pension plan. The bill lowers the age of pension plan participation from 25 to 21 and pension vesting credits from 22 to 18, in recognition of the fact that women between the ages of 20 and 24 participate more heavily in the work force than any other age group of women.

Under the provisions of this bill, the worker and the spouse must agree together to forgo joint and survivor benefits in order to collect a higher pension payment for as long as the wage earner lives. In addition, wage earners are allowed to take off as many as 5 years for employer-approved maternity or paternity leave before returning to work without losing prior service time as counted for enrollment and vesting in the pension. The bill also permits State courts to divide up pension benefits in divorce cases.

The Senate version of this legislation was adopted on November 18, 1983. I urge my colleagues to vote for this comprehensive bill to help guarantee pension security for American women.●

Mrs. MARTIN of Illinois. Mr. Speaker, I rise today in strong support for H.R. 4280, the Retirement Equity Act. Not many people would find the technical language of the Retirement Equity Act to be very interesting reading, but I hope a majority of my colleagues here in the House will find this legislation to be very good public policy.

A review of the legislative history of the Employee Retirement Security Act of 1974, a landmark bill and law which codified pension practices of businesses in the private sector, shows that when this legislation was considered by the Congress absolutely no consideration whatsoever was given to potential differences in its effects upon men and women. In the time since ERISA's enactment, however, dramatically different results have been realized by our Nation's retirees based on gender. While there are no discriminatory motives evident in those who crafted ERISA 10 years ago, still the result has been a marked difference in the way women and men live out their retirement years. The main difference is money.

The Retirement Equity Act seeks to rectify problems which have been caused by oversights in differences in employment patterns between women and men. I am pleased that the bill now before us addresses some major concerns that women of all ages have presented and that this bill has been brought up for full consideration so soon after it was proposed.

I am particularly supportive of provisions in the Retirement Equity Act which seek to protect retired women who have no private pension of their own and who suddenly find themselves widowed. Under current law, a worker vesting for his private pension may unilaterally decide, without any consultation with his spouse, to forgo the right of his spouse to draw survivor's benefits from his pension plan. The incentive of slightly higher monthly benefits to the couple while they are both alive often entices the husband to cancel his wife's survivor benefits.

Not long ago, a woman called my office, overwrought with grief from her husband's sudden death. Her husband's former employer, she explained, refused to continue retirement payments which she was sure she was due. Never had she consented to relinguish her right to survivor's benefits. Never had her husband asked her to forgo these important benefits to order to realize a higher monthly retirement check while they both lived. Perhaps not realizing the consequences of doing so, he had signed a waiver for survivor benefits. Not only did this woman suffer the anguish of losing the most important person in her life and the psychological and moral support he provided, but a major portion of her retirement income, which she fully and rightfully expected to be there, had also disappeared.

The Retirement Equity Act which is now before us will make it impossible for this horrible surprise to hit widowed women in the future. In order to waive survivor benefits under the pro-

visions of this bill, both spouses must consent to forgo this option and sign a legal statement to that effect. Any woman who gives up her right to survivor benefits will at least know that she is giving up that right rather than be faced with an unexpected financial trauma.

I commend the sponsor of this economic rights legislation and those involved at all levels who have worked so diligently to get it to the floor today. In the strongest terms I urge my colleagues to approve the bill before us. No more unfair pension surprises for widows.

Mr. MAZZOLI. Mr. Speaker, as a cosponsor of H.R. 4280, the Women's Pension Equity Act, I proudly rise in support of this legislation to address one of the major economic problems faced by homemakers, widows, and women in the work force—inequitable treatment under private pension plans.

Our distinguished colleagues, Representative PAT SCHROEDER and Representative OLYMPIA SNOWE, cochairs of the Congressional Caucus for Women's Issues, put it best when they said, in an op-ed piece for the New York Times, "Instead of sending candy this year for Mother's Day, why not do something useful for Mom * * * several bills that could reshape the lives of American women, especially those who work, are pending before Congress."

H.R. 4280 is one of those bills and it deserves to be promptly enacted into law.

Here are some of the ways in which the regulations of the Employee Retirement Income Security Act (ERISA) governing private pension plans work to the disadvantage of women:

There is no allowance in ERISA today taking into consideration, for vesting purposes, the unique working patterns of female employees who enter the work force at early ages and who lose years of participation in fulfilling childbearing and rearing responsibilities;

ERISA today allows a total forfeiture of spousal benefits, even though the worker is fully vested at death, for where the worker failed to achieve a certain age at the time of death;

There is no recognition in ERISA today of the contribution a homemaker makes to a worker's pension when it comes time to allocate pension benefits at the time of divorce (I have seen this problem graphically illustrated in the Intelligence Subcommittee on Legislation which I chair. The subcommittee intends to take corrective action this session to guarantee benefits to divorced spouses of CIA officers and agents.)

As a consequence, older women are suffering severe economic hardship in the United States today. They are our fastest growing poverty group.

The time to correct inequities in pension laws is now. H.R. 4280 is a modest proposal, yet its significance in the battle to insure economic equity is tremendous.

H.R. 4280:

Lowers the minimum wage for vesting from 22 to 18, and for participation form 25 to 21;

Protects pension benefits during maternity/paternity leave and liberalizes break-in-service rules;

Requires automatic joint and survivor benefits unless both spouses agree in writing to waive them;

Guarantees survivor benefits once the employees has become vested without arbitrary age limitations; and

Clarifies State court authority to distribute pension benefits between spouses.

The record in Congress this year on women's economic equity issues and on issues related to family and children has been positive.

Both the House and Senate have passed measures to assist in collection and payment of child support. The House just last week passed the School Facilities Child Care Act permitting the use of public school facilities for child care centers. It is designed to meet the needs of "latchkey children" who would otherwise return home after school to an empty home because both parents work.

While there are several other measures which will assist in providing economic equity for women, waiting in the legislative wings—and which I hope will pass this year—still the adoption today of H.R. 4280 is a step in the right direction. And, it is one concrete way to wish the mothers—and all the women of America—a belated Happy Mother's Day.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4280, as amended.

The question was taken.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING SENSE OF CONGRESS THAT PARTICIPANTS IN NEW IRELAND FORUM ARE TO BE COMMENDED

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 310) expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

The Clerk read as follows:

H. CON. RES. 310

Whereas the people and the Congress of the United States are deeply troubled by the unending cycle of violence in Northern Ireland which has been a reality of life there for too long;

Whereas the communities of Northern Ireland have suffered great loss of life, political uncertainty, and chronic high unemployment;

Whereas the young people of Northern Ireland are becoming increasingly alienated by the disintegrating society around them;

Whereas the divisions between the two communities in Northern Ireland appear to be widening;

Whereas the problems of Northern Ireland cannot be met by security measures alone, but require an increased emphasis on a political process which seeks the support of both communities;

Whereas the New Ireland Forum represents a significant initiative in Ireland, and is a unique opportunity to achieve real progress towards peace and reconciliation in Northern Ireland;

Whereas the process initiated by the New Ireland Forum is a highly ambitious effort that is based on the doctrine of consent, and not of confrontation;

Whereas all democratic parties that oppose violence, North and South, were invited to participate in the Forum's search for a just and workable framework to solve the problems of Northern Ireland;

Whereas many Americans have been concerned by the lack of progress in bringing about a just and lasting solution to the problems of Northern Ireland, and are interested in supporting initiatives that could achieve progress towards a peaceful political solution to those problems;

Whereas the New Ireland Forum issued a report on May 2, 1984, which condemns violence and those who support it, identifies the major problems in Northern Ireland, and outlines potential frameworks for resolving those problems;

Whereas the New Ireland Forum process and the May 2nd report represent an opportunity to strengthen Anglo-Irish cooperation and dialog towards resolving the Northern Ireland problem and furthering reconciliation between the two communities; and

Whereas the Prime Minister of Ireland recently visited the United States where he had important discussions with the President and the Congress: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the participants in the New Ireland Forum are to be commended for their efforts to promote potential frameworks for progress towards reconciliation of the two communities in Northern Ireland; and

(2) all political parties in Northern Ireland, the British Government, and the Irish Government, should review the findings and recommendations of the report of the New Ireland Forum in the spirit in which they were offered, that of dialog and hope.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. FASCELL) will be recognized for 20 minutes and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 310, a resolution introduced by our colleagues Mr. DONNELLY and the distinguished majority whip, Mr. FOLEY. I wish to commend our colleagues for their diligent effort in bringing this resolution before the House.

This resolution commends the participants of the New Ireland Forum for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems in Northern Ireland. In addition, the New Ireland Forum is significant in that it presents a new agenda for discussion of the problems in Northern Ireland.

The report, above all, condemns the use of violence and all those who support or condone it and calls for the strongest possible support for political progress through a democratic process rather than through violent means. The New Ireland Forum was established to study both the obstacles and practical prospects for achieving a resolution to the problems in Northern Ireland within a democratic context. For the first time since 1920, the elected nationalist representatives from the north and the south met to review ways in which lasting peace and stability could be achieved in a new Ireland. The Forum sought the views of people of all traditions including those of nationalist and union traditions. Unfortunately, the unionists in the north declined to participate in the Forum.

One of the most important elements of the report, and one which provides an anchor for hope, is that the New Ireland Forum for the first time made an unprecedented commitment to preserve and protect the rights of the unionist community in the north. In addition, the report outlines several options, and I repeat options, for a possible political solution to the problems in Northern Ireland. The report does not endorse one option over another but rather seeks to encourage the political process for resolving the problems in Northern Ireland. Furthermore, the Forum report does not close that door to other options either and welcomes other views to achieve a political solution.

It is my hope that the Forum process and its report will strengthen Anglo-Irish cooperation in resolving the Northern Ireland problem and that all parties to the conflict—the Governments in Dublin, London, and those in Northern Ireland—will seek to promote a peaceful political solution which will further reconciliation between the two communities in Northern Ireland.

Mr. Speaker, I urge the adoption of this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DONNELLY).

Mr. DONNELLY. I thank the gentleman for yielding time to me.

Mr. Speaker, Northern Ireland has been torn apart by a continuing cycle of violence for the last 15 years.

In an area barely the size of Connecticut and with a population only half as large, the last decade and a half have seen the brutal deaths of 2,300 men, women, and children.

That is proportional to 350,000 deaths in the United States.

The prison population in Northern Ireland has increased fourfold, to 2,500. That is the highest rate per capita in Western Europe.

The Governments of Britain and the Republic of Ireland have paid out nearly $8 billion in additional security costs and compensation for deaths and injuries.

Indirect economic losses total more than $6 billion in lost investments, lost jobs, lost tourism.

Unemployment in Northern Ireland stands at depression levels, and it is getting worse, as the continuing threat of violence drives away additional investment.

Every act of violence, every act of repression, every show of intolerance, every show of force further erodes the support for constitutional, democratic, political solutions to the divisions that rend the fabric of Northern Ireland.

With every passing day, the cost of doing nothing to resolve the divisions increases and the chance of finding peaceful answers diminishes.

The tragedy of the violence in Northern Ireland is a legitimate concern of the United States.

We are concerned by the danger of a hotbed of instability in Western Europe.

We are concerned alike by acts of terrorism, by violations of human rights, and by violations of due process.

We are concerned by the loss of respect for constitutional and democratic institutions.

But our concern as a government cannot be fully separated from our concern as a people for members of both traditions in Northern Ireland people with whom we share large measures of our heritage.

Forty-four million Americans claim Irish ancestry, and many of us can empathize with our cousins who seek affiliation with an Irish state.

It is as friend and relative to both traditions that Americans desire to see a reconciliation in Northern Ireland and it is in that spirit that we should embrace the process begun by the New Ireland Forum.

Participation in the New Ireland Forum was open to the democratic parties in Northern Ireland and the Republic of Ireland that reject violence.

While the Unionists of Northern Ireland declined to participate, their opinions were solicited and their contributions were noted in the forum's final report.

For 11 months, the forum met to take testimony from all quarters interested in the future of Northern Ireland.

The final report of the New Ireland Forum was issued early this month.

It stresses that any resolution of the divisions within Northern Ireland will have to come by consent, not by confrontation.

It acknowledges the legitimacy of the concerns of the Unionist community in Northern Ireland.

It recognizes the strong desire of the Nationalists in Northern Ireland for recognition of their Irish culture and traditions, and for ties to the Irish State.

And while it openly concedes that its recommendations for political solutions are colored by the Nationalist perspective of the members of the Forum the report invites further discussion and negotiation among all parties who yearn, above all, for a peaceful resolution based on democratic and constitutional principles.

As we approach the bicentennial of our Constitution in the United States, we can be justifiably proud of the constitutional guarantees that have protected the religious and cultural identities of all our people in this great Nation.

The people of Northern Ireland, of both traditions, seek similar guarantees.

The report of the New Ireland Forum is an important step in that direction. It defines in greater detail than any document before it the complexity and the depth of the problems facing the people of Northern Ireland.

It recognizes the need for guaranteeing the political and religious rights of minorities.

Most importantly, the report does not seek to impose a specific system on Ireland. Instead, it offers an opening for reasonable, rational, and sensitive discussions that may lead to a resolution satisfactory to all parties that desire to live in peace and harmony.

When the President of our Nation travels to Ireland next week, he should be able to carry with him the message that the representatives of the American people have endorsed the courageous, creative, and generous

efforts of the Irish leaders who made up the New Ireland Forum.

And when our President meets a few days later with the leaders of Great Britain, he should be able to carry with him the message that the representatives of the American people urge our close allies there to respond in kind to the New Ireland Forum: with courage, creativity, generosity, and most especially, hope.

The New Ireland Forum represents an important opportunity to start the process of peacemaking in Northern Ireland. An opportunity of this kind has been a long time in coming. It must not be allowed to slip away. And it is entirely proper for the U.S. Congress to encourage our friends on all sides of the Northern Ireland dispute to seize this opportunity now.

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Mr. Speaker, let me say in conclusion, I would like to thank the chairman and the ranking minority member for their efforts and their expeditious handling of this resolution.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is an extraordinary day. It was more than 10 years ago when I became involved with this issue and later in 1977 became the chairman of the Ad Hoc Congressional Committee for Irish Affairs which now numbers some 104 members. When that occurred, there was humor, there was laughter, there was even criticism. Notwithstanding this, we took an issue that was completely obscured and we raised it from obscurity to international visibility. We helped to arouse the moral thinking people of the world about the injustices done Northern Ireland. The United States has responded, the Irish community has responded, and the international family of nations and Congress is responding and with this resolution which hopefully will be passed and passed quickly. The message will be delivered to the United Kingdom and all of those who are supporters of justice and freedom throughout the world that the U.S. Congress has spoken in its most authoritative fashion in support of a political solution to the Irish question.

As chairman of the bipartisan 104-member Ad Hoc Congressional Committee for Irish Affairs, I rise to lend my support to House Concurrent Resolution 310, expressing the sense of Congress in favor of the report and work of the New Ireland Forum.

I am obviously pleased to see the issue of Northern Ireland being discussed on the floor of the House, even in this somewhat limited context. To that end, let me pay a special tribute to the chairman of the Foreign Affairs Committee, my good friend DANTE FASCELL, whose leadership in getting this important matter before the House is indicative of his overall concern for the problems in Northern Ireland.

This resolution addresses itself to the May 2 final report issued by the New Ireland Forum. On that score, I am in agreement with this resolution. The New Ireland Forum did have as its main recommendation, a call for a unitary state for Ireland, one that completely "safeguards" the rights of all its citizens. In expressing a preference for a United Ireland, the Forum participants noted:

> The particular structure of political unity which the forum would wish to see established is a unitary state, achieved by agreement and consent, embraced the whole Island of Ireland providing irrevocable guarantees for the protection and preservation of both the unionist and nationalist identities.

I am in particular agreement with the thrust of this recommendation and commend the Forum for making it their main recommendation. It is true that the Forum also recommended a federal or confederal state for Ireland and/or to have London and Dublin share equal responsibility for all aspects of the Government of Northern Ireland. However, largely due to the efforts of one of the Forum participants, the Honorable Charles J. Haughey, the former Prime Minister of Ireland, the unitary state recommendation did emerge as the main recommendation of the Forum.

However, I do have certain problems with the second thrust of this resolution today.

The resolution expresses its support for the New Ireland Forum process as a way of strengthening Anglo-Irish cooperation and dialog toward resolving the situation in Northern Ireland and furthering reconciliation between the two communities. That "process" that we salute today has some distinct problems largely because it did exclude some important and legitimate segments of political thought in Northern Ireland. The participants in the Forum included the three principal parties from the Republic of Ireland—the Fine Gael Party led by the present Prime Minister Dr. Fitzgerald, the Labor Party led by Deputy Prime Minister Dick Spring and the Fianna Fail Party led by former Prime Minister Charles Haughey. The fourth participant represented the Social Democratic and Labor Party of Northern Ireland headed by John Hume.

Those excluded came from both communities and both have a vital stake in the outcome of any political solution for Ireland. I consider the New Ireland Forum process to be flawed for this reason—and believe that it can only be remedied if there is full participation by all segments of political thought in any and all steps which may be taken to implement the recommendations of the report.

I wish, therefore, to express my reservation about this dimension of the resolution before us and hope that as a body we can stand in support of a more open process in Ireland, one that can emerge with a lasting and viable political solution that respects and recognizes all people's right to peace, justice, human rights, and freedom.

This is not the first time I have discussed this report in the CONGRESSIONAL RECORD. On May 9 during a 1-minute speech I rose in support of the New Ireland Forum report as did the distinguished majority whip, Mr. FOLEY, and the equally distinguished minority leader, Mr. MICHEL. I said essentially what I have said today with one addition. I was highly critical of the position taken by the Reverend Ian Paisley, leader of the Democratic Unionist Party in the north of Ireland. In response to a question about the New Ireland Forum, Paisley pledged "fierce resistance" to a united Ireland. When asked if he meant violence, he stated, "it could come to that." As I stated then and repeat today, "this type of inflammatory rhetoric makes a mockery of the process now underway to move toward a political rather than a military solution. Reverend Paisley seems content to be forever part of the problem in Northern Ireland rather than the solution."

Obviously, on an occasion such as this it is important to restate my total opposition to all forms of violence in Northern Ireland. I contend that those who commit acts of civilian and or official violence impede the road to peace and reconciliation. I contend that those who believe that peace will be achieved through a military rather than a political solution will never play a role in the real peace that we all want for Ireland. I contend that the United States should be equally as aggressive in its condemnation of all forms of violence in Northern Ireland if it is to have a legitimate stake in helping the peace process.

The New Ireland Forum report has provided us with an opportunity to discuss a foreign policy issue which deserves more attention by this institution. Today we pay tribute to what may emerge as an important development in the eventual movement toward a peaceful political solution for all of Ireland.

As we all know, President Reagan does embark on a trip to Ireland which begins on June 1. I have called upon the President to review the New Ireland Forum report and schedule meetings with the participants in the forum as a further demonstration of our Nation's interest and support for a political solution in Ireland.

I wish the opportunity was before us for a wider discussion of the Northern

Ireland issue and the U.S. role and perhaps that day will come. We have come a long distance in the 15 years I have served in this House and especially in the almost 7 years that I have served as chairman of the Ad Hoc Congressional Committee for Irish Affairs.

Just over 2 months ago Prime Minister FitzGerald from the Republic of Ireland addressed a joint session of Congress and included an extensive discussion of Northern Ireland. That was a historic event. I trust that this issue will continue to get attention in the House.

At this point in the RECORD I wish to insert the entire report of the New Ireland Forum so Members may have an opportunity to review it and also an article from the Irish Echo discussing the Forum.

NEW IRELAND FORUM REPORT

CHAPTER 1—PREFACE

1.1 The New Ireland Forum was established for consultations on the manner in which lasting peace and stability could be achieved in a new Ireland through the democratic process and to report on possible new structures and processes through which this objective might be achieved.

1.2 Participation in the Forum was open to all democratic parties which reject violence and which have members elected or appointed to either House of the Oireachtas or the Northern Ireland Assembly. Four political parties took part in the Forum: the Fianna Fáil Party, the Fine Gael Party, the Labour Party and the Social Democratic and Labour Party (SDLP). These four parties together represent over ninety percent of the nationalist population and almost three-quarters of the entire population of Ireland. The parties which participated in the Forum would have greatly preferred that discussions on a new Ireland should have embraced the elected representatives of both the unionist and nationalist population. However, the Forum sought the views of people of all traditions who agreed with its objectives and who reject violence. The establishment and work of the Forum have been of historic importance in bringing together, for the first time since the division of Ireland in 1920, elected nationalist representatives from North and South to deliberate on the shape of a new Ireland in which people of differing identities would live together in peace and harmony and in which all traditions would find an honoured place and have equal validity.

1.3 The leaders of the four participating parties met on 14 and 21 April, 1983 to consider arrangements for the Forum. Those present were the Taoiseach, Dr. Garret FitzGerald TD, Leader of the Fine Gael Party; Mr. Charles J. Haughey TD, Leader of the Fianna Fáil Party; the Tánaiste, Mr. Dick Spring, TD, Leader of the Labour Party; and Mr. John Hume MP, MEP, Leader of the Social Democratic and Labour Party. The Party Leaders made the following arrangements: the Chairman to be Dr. Colm Ó hEocha, President of University College Galway and the Secretary to be Mr. John R. Tobin, Clerk of Seanad Eireann; the Forum would be assisted by an independent secretariat;[1] membership of the Forum would comprise 27 members and 14 alternate members from the four parties.

1.4 The members and alternates nominated were:—

Fianna Fail Party—Members and Alternates: Charles J. Haughey TD, Brian Lenihan TD, David Andrews TD, Gerry Collins TD, Eileen Lemass TD, Ray MacSharry TD, Rory O'Hanlon TD, Jim Tunney TD, John Wilson TD, Paudge Brennan TD, Jackie Fahey TD, Jimmy Leonard TD, John O'Leary TD; Secretary: Veronica Guerin.

Fine Gael Party—Members and Alternates: Garret FitzGerald TD, Taoiseach, Peter Barry TD, Minister for Foreign Affairs, Myra Barry TD, Senator James Dooge, Paddy Harte TD, John Kelly TD, Enda Kenny TD, Maurice Manning TD, David Molony TD, Nora Owen TD, Ivan Yates TD; Secretary: John Fanagan.

Labour Party—Members and Alternates: Dick Spring TD, Tanaiste and Minister for Energy, Frank Cluskey TD, Senator Stephen McGonagle, Frank Prendergast TD, Mervyn Taylor TD, Eileen Desmond TD, Senator Mary Robinson; Secretary: Diarmaid McGuinness.

Social Democratic and Labour Party—Members and Alternates: John Hume MP, MEP, Seamus Mallon, Austin Currie, Joe Hendron, E. K. McGrady, Sean Farren, Frank Feely, Hugh Logue, Paddy O'Donoghue, Paschal O'Hare; Secretary: Denis Haughey.

Proceedings of the forum

1.5 The first session of the Forum was held in public in Dublin Castle on 30 May, 1983. It was opened by the Chairman, Colm O hEocha and was addressed by the Leaders of the four participating parties. There was a total of 28 private sessions and 13 public sessions and there were 56 meetings of the Steering Group, comprising the Chairman and the Party Leaders. In addition, subgroups of the Forum examined in detail economic issues and the structures outlined in Chapters 6, 7 and 8.

1.6 Since the Forum was concerned to hear the widest possible range of opinion, in particular from Northern Ireland, written submissions were invited through advertisements in a wide range of newspapers, North and South. A total of 317 submissions was received from both parts of Ireland and from Britain, the United States of America, Belgium, France and Canada. These reflected many views, including those of the nationalist and unionist tradition, and covered a wide spectrum of topics such as economic, social, political, constitutional, legal, religious, educational and cultural matters. The Forum invited oral presentations from 31 individuals and groups in order to allow for further elaboration and discussion of their submissions. These sessions took place at 11 public meetings of the Forum from 20 September, 1983 to 9 February, 1984. The proceedings of these sessions have been published by the Forum. Appendix 1 lists the publications containing these proceedings. Appendix 2 lists individuals and groups who made written submissions.

1.7 A Forum delegation from the four participating parties visited the North on 26 and 27 September, 1983 and met groups representative of a wide range of opinion. On 23 and 24 January, 1984, another Forum delegation held discussions in London with groups from the Conservative Party, the Labour Party, the Liberal Party and the Social Democratic Party.

1.8 The following reports, which analyse in detail different aspects of the problem, were prepared by the Forum and have been published separately: The Cost of Violence arising from the Northern Ireland Crisis since 1969; the Economic Consequences of the Division of Ireland since 1920; and a Comparative Description of Economic Structure and Situation, North and South. These reports contribute to an understanding of the problems involved and provide an important point of reference. The following studies were commissioned by the Forum and have been published: The Macroeconomic Consequences of Integrated Economic Policy, Planning and Co-ordination in Ireland by DKM Economic Consultants; and The Legal Systems, North and South by Professor C. K. Boyle and Professor D. S. Greer. Studies on the implications of integration in the agriculture, energy and transport sectors, prepared for the Forum, are being published separately.

Acknowledgment of assistance received

1.9 The forum records its gratitude to all who make submissions, written and oral. It acknowledges with thanks the contributions of those who acted as consultants on many aspects of the Forum's work. The very positive response to requests for assistance by the Forum and the large number of submissions and offers of help received bear striking testimony to the widespread and urgent desire among all traditions in Ireland that the Forum should succeed in contributing to peace and stability.

CHAPTER 2—INTRODUCTION

2.1 The Forum has been imbued with an overriding sense of the importance and urgency of its task. It was established against a background of deep division, insecurity and violence that threaten society, primarily in Northern Ireland but also in the Republic and to a certain extent in Britain. The continuing crisis in Northern Ireland has reached critical proportions, involving intense human suffering and misery for many thousands of people. The persistence of division and of conflict on such a scale poses a fundamental challenge to those who support and practise democratic principles as a means to resolve political problems; in particular, since Britain exercises direct responsibility, it is a serious reflection on successive British Governments. More than thirty years after European statesmen successfully resolved to set aside their ancient quarrels and to work together in the European Community, the continuation of the conflict in Northern Ireland represents a dangerous source of instability in Western Europe and a challenge to the democratic values which Europe shares in common with North America and the rest of the Western World.

2.2. The analysis by the Forum of the crisis in Northern Ireland (Chapters 3 and 4) illustrates the inherent instability of the 1920 constitutional arrangements which resulted in the arbitrary division of Ireland. Each generation since has suffered from the discrimination, repression and violence which has stemmed from those constitutional arrangements.

2.3 The study by DKM Economic Consultants shows that the economic outlook for the North is very bleak as long as the present political paralysis and violence continue. This study indicates that on the basis

[1] Members: Walter Kirwan (Co-ordinator), Kieran Coughlan, Hugh Finlay, Colm Larkin, Martin McMahon, Ciaran Murphy, Richard O'Toole, Frank Sheridan, Ted Smyth. Administration, Press and Secretariat Staff: Margaret Beatty, Josie Briody, Nora Daffy, Nuala Donnelly, Theresa Enright, Jacqueline Garry, Desmond Morgan, Mary O'Leary, Kathleen Redmond, Patrick Sherlock.

of foreseeable economic trends, and in the absence of a political settlement leading to an end to violence, there will be virtual stagnation in the economy and a further substantial increase in unemployment. Unemployment in the North would increase from an estimated 122,000 in 1984 to as much as 166,000 (about 32 per cent of civil employment) by the 1990s. Without political progress the scale of economic and social problems will increase greatly, exacerbating a highly dangerous situation. This will make increasingly intolerable the social and economic burden for both sections of the community in the North. It will also lead to a major increase in the financial burden on Britain because of the mounting cost of security and the increased expenditure necessary to shore up the economy and living standards of the area. For the South, there will be a further diversion of resources to security where expenditure is already disproportionately greater than that of Britain, while the adverse effects on the economy, particularly on the border areas, will be prolonged.

2.4 The immediate outlook for the North is extremely dangerous unless an acceptable political solution is achieved. The long-term damage to society worsens each day that passes without political progress. In political, moral and human terms there is no acceptable level of violence. There are at present no political institutions to which a majority of people of the nationalist and unionist traditions can give their common allegiance or even acquiesce in. The fundamental social bonds which hold people together in a normal community, already tenuous in the abnormal conditions of Northern Ireland, have been very largely sundered by the events and experience of the past fifteen terrible years. However, despite the drawing apart of the two traditions since 1969, respect for basic human values was for a time maintained within each tradition. But as sensibilities have become dulled and despair has deepened, there has been a progressive erosion of basic values which is in danger of becoming irreversible. The immense challenge facing political leaders in Britain and Ireland is not merely to arrest the cancer but to create the conditions for a new Ireland and a new society acceptable to all its people.

2.5 The need for progress towards this objective is now so urgent that there can be no justification for postponing action. A major reassessment by Britain which at present exercises direct responsibility for Northern Ireland is required. There is an overwhelming need to give urgent and sustained priority to the initiation of a political process leading to a durable solution.

2.6 The conflict inherent in the Northern situation has surfaced dramatically in the past 15 years and the situation is progressively deteriorating within the present structures. The alienation of nationalists in Northern Ireland from political and civil institutions, from the security forces and from the manner of application of the law has increased to major proportions. There is fear, insecurity, confusion and uncertainty about the future in the unionist section of the community. Northern Ireland today is characterists by the fact that neither section of the community is happy with the *status quo* or has confidence in or a sense of direction about the future. It is essential that any proposals for political progress should remove nationalist alienation and assure the identity and security of both unionists and nationalists. Accordingly, in the search for the basis of a political solution the British and Irish Governments must together initiate a process which will permit the establishment and development of common ground between both sections of the community in Northern Ireland and among the people of this island.

CHAPTER 3—ORIGINS OF THE PROBLEM

Failure of 1920 settlement

3.1 The existing political systems in Ireland have evolved from the 1920 constitutional arrangements by Britain which resulted in the arbitrary division of the country. Prior to 1920 and during many centuries of British rule, Ireland was administered as an integral political unit. The establishment of Northern Ireland as a separate political unit was contrary to the desire of the great majority of Irish people for the political unity and sovereignty of Ireland as expressed in the last all-Ireland election of 1918. That election also confirmed that the Protestants of North-East Ulster, fearful for the survival of their heritage, opposed separation of Ireland and Britain. Although the (British) Government of Ireland Act, 1920 contemplated the eventual establishment of an all-Ireland Parliament within the United Kingdom, the settlement in fact entailed the partition of Ireland into two separate political units.

3.2 The Government and Parliament set up in the North were broadly acceptable to the unionist majority in the North and to the British Government; while maintaining their desire for Irish unity, when this was not attained, nationalists in the South dedicated themselves to building up the Southern state. Two groups found that their interests were not accommodated—the Northern nationalists and the Southern unionists. However, the constitutional, electoral and parliamentary arrangements in the South specifically sought to cater for the minority status of Southern unionists and did so with considerable, if not total, success. The intention underlying the creation of Northern Ireland was to establish a political unit containing the largest land area that was consistent with maintaining a permanent majority of unionists. Since they were now in a minority, the Northern nationalists were the principal victims of the arrangements and, although some hoped that the Boundary Commission would bring within the jurisdiction of the South areas of predominantly nationalist population, this did not take place.

3.3 Because of the failure of the British government to accept the democratically expressed wishes of the Irish people and because of the denial of the right of nationalists in the North to political expression of their Irish identity and to effective participation in the institutions of Government, the 1920 arrangements did not succeed. The fundamental defects in the resulting political structures and the impact of ensuing policy led to a system in the North of supremacy of the unionist tradition over the nationalist tradition. From the beginning, both sections of the community were locked into a system based on sectarian loyalties.

3.4 The failure of the arrangements was clearly acknowledged by the British Government in 1972 when they replaced the Government and Parliament of Northern Ireland, established under the Government of Ireland Act, 1920, with direct rule. The subsequent Northern Ireland Constitution Act, 1973 was intended to provide a framework for agreed government in Northern Ireland but, following the collapse in 1974 of the ensuing Sunningdale arrangements, many of the provisions of the 1973 Act have been effectively in abeyance. Thus, over 60 years after the division of Ireland, workable and acceptable political structures have yet to be established in the North.

Consequences of the division of Ireland up to 1968

3.5 During the Home Rule for Ireland debates in the British Parliament in 1912, many arguments were advanced by British political leaders in favour of maintaining the unity of Ireland. The British Government had introduced a Bill that proposed to give Ireland a separate Parliament with jurisdiction over her internal affairs while reserving power over key issues. However, faced with the unionist threat to resist this Bill by unlawful force, the British Government and Parliament backed down, and when the Government of Ireland Act of 1914 was placed on the statute book in Westminster, there was a provision that it would not come into operation until after Parliament had an opportunity of making provision for Ulster by special amending legislation. The message—which was not lost on unionists—was that a threat by them to use violence would succeed. To the nationalists, the conclusion was that the democratic constitutional process was not to be allowed to be effective. This legacy continues to plague British-Irish relations today.

3.6 Although partition was established by the British Parliament in the Government of Ireland Act, 1920, that Act also made provision for the two parts of Ireland coming together again, and it sought to encourage this process through a Council of Ireland. In the period immediately after 1920, many saw partition as transitory. It soon became clear, however, that successive British Governments were in practice willing to allow a system of untrammelled one-party rule in Northern Ireland to be exercised by and on behalf of the majority unionist population. Not only were the wishes of the people of the rest of Ireland as a whole discounted but the identity of nationalists in the North was disregarded.

3.7 Since its establishment, partition has continued to overshadow political activity in both parts of Ireland. The country as a whole has suffered from this division and from the absence of a common purpose. The division has absorbed the energies of many, energies that otherwise would have been directed into constructing an Ireland in which nationalists and unionists could have lived and worked together. Instead of a positive interaction of the unionist and nationalist traditions, the emphasis in both parts of Ireland was on the predominant value system of each area, leading to a drifting apart in laws and practices. The most tragic measure of the Northern Ireland crisis is the endemic violence of the situation. Moreover, the situation has persistently given rise to tensions and misunderstandings in the British-Irish relationship in place of the close and harmonious relationship that should normally exist between neighbouring countries that have so much in common.

3.8 In its report, The Economic Consequences of the Division of Ireland since 1920, the Forum noted that division gave rise to considerable economic costs, North and South. For example, in the absence of co-ordinated long-term planning, capital investment in areas such as energy, education and health has entailed considerable duplication of expenditure. The impact on areas contiguous to the border was particularly adverse. Not only were they detached from

their trading hinterlands, but the difficulties of their location were worsened by their transformation into peripheral regions at the dividing line of two new administrative units. Had the division not taken place, or had the nationalist and unionist traditions in Ireland been encouraged to bring it to an end by reaching a mutual accommodation, the people of the whole island would be in a much better position to benefit from its resources and to meet the common challenges that face Irish society, North and South, towards the end of the 20th century.

3.9 Since 1922, the identity of the nationalist section of the community in the North has been effectively disregarded. The symbols and procedures of the institutions to which nationalists are required to give allegiance have been a constant reminder of the denial of their identity. Apart from a few local authorities and the power-sharing Executive which was briefly in being following the Sunningdale Agreement of 1973, they have had virtually no involvement in decision-making at the political level. For over 50 years they lived under a system of exclusively unionist power and privilege and suffered systematic discrimination. They were deprived of the means of social and economic development, experienced high levels of emigration and have always been subject to high rates of unemployment. The consequences of this policy became particularly evident in those areas which have a predominantly nationalist population.

3.10 Unionists had to cope with a situation which was not their first choice. Originally, they opposed change and sought to keep all of Ireland in the United Kingdom. They later opposed Home Rule and then independence for the whole island. In the event, the South became a Dominion, and later a Republic outside the Commonwealth. Provision was made for the two parts of Ireland to come together in a Council of Ireland but the North was also given the option not to be part of the new Irish State and to revert to the United Kingdom. This option was exercised at once and the north found itself with a Home Rule devolved government which it had not sought. From the beginning, unionist insecurity in regard to their minority position in the island as a whole had a profound effect on the manner in which political structures were organised in the North. Political dialogue with the nationalists was avoided for fear of undermining the unionist system of exclusive power and privilege. Fears were stimulated of forcible absorption of unionists into an all-Ireland Republic, dominated as unionists saw it by a Roman Catholic and a Gaelic ethos. those fears led many unionists to equate Roman Catholicism with nationalism and to regard the nationalist minority in the North as a threat to the survival of their power and privilege.

3.11 As result, the people in both sections of the community lived under the shadow of sectarian politics and the fear of domination of one tradition by the other.

3.12 Irish nationalism found sovereign and international expression in partial fulfillment of its objectives through the establishment of an independent, democratic state in the South. Since 1922, the primary efforts of successive Governments have been concentrated on consolidation and development of the State which has a record of significant achievement. The process of development of an institutional and legal framework, of international assertion of sovereignty, and of concentration on industrial, economic and social development resulted, however, in insufficient concern for the interests of the people of Northern Ireland. Efforts were made from time to time by all nationalist parties to highlight the effects of the partition of the country, and the injustices which the nationalist population of the North had to suffer, without response from successive British Governments. Moreover, the experience of partition has meant that for two generations there has been no unionist participation in political structures at an all-Ireland level. Rather, the Southern state has evolved without the benefit of unionist influence.

Consequences of the crisis since 1969

3.13 Since 1969, Northern Ireland has endured a sustained political crisis. This crisis has been different from previous manifestations of the underlying problem, not only because of the scale of the violence, but also because the crisis has shown no signs of early resolution. On the contrary, the political conflict underlying the violence has worsened and will continue to do so unless there is urgent action to bring about significant political progress.

3.14 The present crisis in the North arose when non-violent campaigns in the late 1960s for basic civil rights and for an end to systematic discrimination in the areas of electoral rights, housing and employment were met with violence and repression. Even modest steps towards dialogue and reform undertaken by the unionist administration of Northern Prime Minister Terence O'Neill met with vigorous opposition from certain sections of unionist opinion. Some of that opposition found expression in sectarian attacks against nationalists and bomb attacks on public utilities. The partial attitude of the local institutions of law and order; especially the B-Special Constabulary, resulted in failure to protect the nationalist population against sectarian attacks, which were particularly virulent in West Belfast. The conditions were thus created for revival of a hitherto dormant IRA which sought to pose as the defenders of the nationalist people. The resulting conflict gave rise to the deployment of the British Army on the streets of Northern Ireland in 1969.

3.15 The British Army was initially welcomed by the nationalist population as providing protection from sectarian attacks. However, the relationship between the nationalist population and the British Army deteriorated shortly afterwards. This was due to insensitive implementation of security measures in nationalist areas and a series of incidents in which the British Army was no longer perceived by nationalists to be acting as an impartial force. 1970 was thus a critical turning point and the experience of nationalists then and subsequently has profoundly influenced their attitudes, especially in regard to security. Among the major incidents which contributed to this alienation were the three-day curfew imposed on the Falls Road in June 1970; the internment without trial in August, 1971 of hundreds of nationalists; the subsequent revelation that some of those taken into custody on that occasion were subjected to treatment later characterised by the Strasbourg Court of Human Rights as "inhuman and degrading"; the shooting dead of 13 people in Derry by British paratroopers in January, 1972; and the beatings and ill-treatment of detainees in Castlereagh Barracks and Gough Barracks in 1977/78, subsequently condemned in the official British Bennett Report.

3.16 Some hope of an improvement in the plight of nationalists followed the introduction of direct rule by Westminster in 1972. Negotiations in 1973 between the Northern parties and subsequently at Sunningdale between the Irish and British Governments, with Northern nationalist and unionist participation, brought about the short-lived Executive in which nationalists and unionists shared power in Northern Ireland. Provision had also been made as part of the Sunningdale Agreement for a new North-South dimension through a Council of Ireland. Both the Irish and British Governments made declarations on the status of Northern Ireland in which the Irish Government recognised that there could be no change in the status of Northern Ireland until a majority there desired it, and the British Government affirmed that if in the future the majority of the people of the North should indicate a wish to become a part of a united Ireland, the British Government would support that wish. However, faced with extremist action by a section of the unionist community, a new British Government in 1974 failed to sustain the Sunningdale Agreement. The collapse of the Sunningdale arrangements dashed the hopes of nationalists and seriously damaged the prospects of achieving peace and stability in Northern Ireland. It recalled the earlier backdown of 1914: to unionists it reaffirmed the lesson that their threat to use force would cause British Governments to back down; to nationalists it reaffirmed their fears that agreements negotiated in a constitutional framework would not be upheld by British Governments in the face of force or threats of force by unionists.

3.17 Until the Downing Street Declaration in 1969, the plight of Northern nationalists was ignored by successive British Governments and Parliaments. However, notwithstanding the attempts to remedy some of the worst aspects of discrimination and the introduction of direct rule from London in 1972, the structures in Northern Ireland are such that nationalists are still discriminated against in social, economic, cultural and political terms. Their representation and influence in the private and public structures of power remain very restricted. There is, in practice, no official recognition of their identity nor acceptance of the legitimacy of their aspirations. In the economic sphere, as the reports of the Fair Employment Agency have shown, discrimination against Catholics in employment persists. Their day-to-day experience reinforces nationalist convictions that justice and effective exercise of their rights can come only from a solution which transcends the context of Northern Ireland and which provides institutions with which they can identify.

3.18 Despite the British Government's stated-intentions of obtaining political consensus in Northern Ireland, the only policy that is implemented in practice is one of crisis management, that is, the effort to contain violence through emergency measures by the military forces and the police and through extra-ordinary judicial measures and a greatly expanded prison system. The framework within which security policies have operated and their often insensitive implementation have, since 1974, deepened the sense of alienation of the nationalist population. Inevitably, as during the 1080/81 hunger strikes when the warnings of constitutional nationalists were ignored by the British Government, security issues have been exploited by the paramilitaries in order to intensify alienation and with a view to increasing their support. Such alienation

threatens the civilised life and values of entire communities and undermines the belief that democratic policies alone can offer peace, justice and stability.

3.19 The paramilitary organisations of both extremes feed on one another and on the insensitivity of British policy and its failure to provide peace and stability. Their message is one of hatred and of suppression of the rights of those of the other tradition. Their actions have caused appalling loss of life, injury, damage to property and considerable human and economic loss to the people of both traditions. They succeed only in sowing fear, division and distrust within the whole community.

3.20 The negative effect of IRA violence on British and unionist attitudes cannot be emphasised enough. Their terrorist acts create anger and indignation and a resolve not to give into violence under any circumstances. They have the effect of stimulating additional security measures which further alienate the nationalist section of the community. They obscure the underlying political problem. They strengthen extremist unionist resistance to any form of dialogue and accommodation with nationalists. Similarly, terrorist acts by extreme loyalist groups which affect innocent nationalist people have a correspondingly negative impact on nationalist attitudes. The involvement of individual members of the security forces in a number of violent crimes has intensified this impact. Every act of murder and violence makes a just solution more difficult to achieve. The great threat to the paramilitary organisations would be determined constitutional action to reach and sustain a just and equitable solution and thus to break the vicious circle of violence and repression. No group must be permitted to frustrate by intimidation and threats of violence the implementation of a policy of mutual accommodation.

3.21 The Forum's report, The Cost of Violence arising from the Northern Ireland Crisis since 1969, has attempted to quantify the human loss and economic costs of violence and political instability in the North. The most tragic loss is that of the deaths of over 2,300 men, women and children. These deaths in an area with a population of 1½ million are equivalent in proportionate terms to the killing of approximately 84,000 in Britain, 83,000 in France or 350,000 in the United States of America. In addition, over 24,000 have been injured or maimed. Thousands are suffering from psychological stress because of the fear and tension generated by murder, bombing, intimidation and the impact of security measures. During the past 15 years, there have been over 43,000 recorded separate incidents of shootings, bombings and arson. In the North the prison population has risen from 686 in 1967 to about 2,500 in 1983 and now represents the highest number of prisoners per head of population in Western Europe. The lives of tens of thousands have been deeply affected. The effect on society has been shattering. There is hardly a family that has not been touched to some degree by death, injury or intimidation. While the South and Britain have not suffered on the same scale, they too have been affected directly by the violence—by bombings, armed robberies and kidnappings and by other acts resulting in deaths, maiming and threats to security; they have also had to bear a significant price in terms of extraordinary security and judicial measures.

3.22 As that report also shows, the economic and financial costs have been very high. They include additional security costs and compensation for deaths, injuries and considerable damage to property. Since 1969, the estimated total direct cost, in 1982 prices, is IR£5,500 million[1] incurred by the British Exchequer in respect of the North and IR£1,100 million[2] incurred by the Irish Exchequer in the South. Over the past 15 years the violence has destroyed opportunities for productive employment, severely depressed investment that could have led to new jobs and greater economic well-being, and greatly damaged the potential of tourism. These further indirect costs in terms of lost output to the economies of the North and the South could be as much as IR£4,000 million[3] and IR£1,200 million,[4] respectively, in 1982 prices.

CHAPTER 4—ASSESSMENT OF THE PRESENT PROBLEM

Assessment of recent British policy

4.1 The present formal position of the British Government, contained in Section 1 of the Northern Ireland Constitution Act, 1973, is that the only basis for constitutional change in the status of Northern Ireland within the United Kingdom is a decision by a majority of the people of Northern Ireland. In practice, however, this has been extended from consent to change in the constitutional status of the North within the United Kingdom into an effective unionist veto on any political change affecting the exercise of nationalist rights and on the form of government for Northern Ireland. This fails to take account of the origin of the problem, namely the imposed division of Ireland which created an artificial political majority in the North. It has resulted in a political deadlock in which decisions have been based on sectarian loyalties. Sectarian loyalties have thus been reinforced and the dialogue necessary for progress prevented. The Sunningdale Agreement of 1973 introduced dialogue and partnership to the government of Northern Ireland. However, the hopes thus raised were dashed by a number of factors, amongst them, the refusal of the then British Government to support the power-sharing Executive in the face of extremist loyalist disruption.

4.2 Since the Sunningdale Agreement of 1973, several initiatives have been undertaken in response to circumstances with the stated aim of resolving the problem in a context limited to Northern Ireland. These initiatives foundered largely because the problem itself transcends the context of Northern Ireland. It is only in a fundamental change of context that the effective exercise on an equal basis of the rights of both nationalists and unionists can be permanently ensured and their identities and traditions accommodated. Although the policy of the British Government was to favour power-sharing, there was no firm determination to insist on implementation of this policy in practice. Nor was recognition of the Irish identity of Northern nationalists given any practical expression. Thus it is that initiatives, which may give the appearance of movement and flexibility to domestic and international opinion, have been inadequate through not addressing the fundamental nature of the problem. Instead the crisis has been addressed as a security problem and the political conditions which produced the conflict and sustain the violence have in effect been ignored.

4.3 The immobility and short-term focus of British policy—the fact that it has been confined to crisis management and does not take account of fundamental causes—is making an already dangerous situation worse. There is increasing frustration with the state of political paralysis, uncertainty as to long-term British intentions and growing mutual mistrust between both sections of the community. The failure to provide the nationalist population of the North with any constructive means of expressing its nationalism and its aspirations is undermining constitutional politics. The net effect of existing policy is to drive both sections of the community in Northern Ireland further apart, alienating them from each other and providing a breeding ground for despair and violence. It has thus contributed to the emergence in both sections of the community of elements prepared to resort to violence, on the one side to preserve, and on the other to change the existing constitutional position.

4.4 The problem of security is an acute symptom of the crisis in Northern Ireland. Law and order in democratic countries and, in particular, the introduction of emergency measures depend on a basic consensus about society itself and its institutions. Present security policy has arisen from the absence of political consensus. In Northern Ireland extraordinary security actions have taken place that call into question the effectiveness of the normal safeguards of the legal process. This has led to harassment of the civilian population by use of abnormally wide powers of arrest and detention, exercised not for the purpose of bringing suspects before a court of justice and making them amenable to a process of law but for the purpose of gathering information and unjustifiably invading the privacy of a person's life; e.g. between 1978 and 1982 more than 22,000 people were arrested and interrogated, the vast majority being released without charge. This has the consequence that the availability of the legal remedy of habeas corpus in Northern Ireland is in practice extremely limited. It has also at different periods led to the use of internment without trial combined with inhuman interrogation methods that have been found to be in breach of the European Convention on Human Rights; the trial and conviction of people on evidence of paid informers; the use of plastic bullets; and killings by some members of the security forces in doubtful circumstances. The various measures were introduced on the basis that they were essential to defeat terrorism and violent subversion, but they have failed to address the causes of violence and have often produced further violence.

4.5 Nationalists, for the most part, do not identify with the police and the security forces. It is clear that the police will not be accepted, as they are in a normal democratic society, by the nationalist section of the community nor will they themselves feel confident in their relations with nationalists, until there is a change in the political context in which they have to operate.

Nationalist identity and attitudes

4.6 The parties in the Forum, representing a large majority of the people of Ireland, reaffirm that their shared aim of a unified Ireland will be pursued only by democratic political means and on the basis

[1] Equivalent to Stg.£4,507m. or US$6,501m. at current (30 March 1984) exchange rates.

[2] Equivalent to Stg.£901m. or US$1,300m. at current (30 March 1984) exchange rates.

[3] Equivalent to Stg.£3,278m. or US$4,728m. at current (30 March 1984) exchange rates.

[4] Equivalent to Stg.£983m. or US$1,418m. at current (30 March 1984) exchange rates.

of agreement. For nationalists, a central aim has been the survival and development of an Irish identity, an objective that continues in Northern Ireland today as nationalists seek effective recognition of their Irish identity and pursue their rights and aspirations through political means. For historical reasons, Irish nationalism may have tended to define itself in terms of separation from Britain and opposition to British domination of Ireland. The positive vision of Irish nationalism, however, has been to create a society that transcends religious differences and that can accommodate all traditions in a sovereign independent Ireland united by agreement. The aim of nationalists, therefore, in seeking Irish unity is to develop and promote an Irishness that demonstrates convincingly to unionists that the concerns of the unionist and Protestant heritage can be accommodated in a credible way and that institutions can be created which would protect such concerns and provide fully for their legitimate self-expression.

4.7 The division of Ireland inevitably gave rise to the unconscious development in both parts of Ireland of partitionist attitudes on many political, economic, cultural and social questions of importance, diminishing significantly the development of a prosperous democratic society on the whole of the island. Such attitudes persist up to the present day. However, the tragedy of Northern Ireland and the suffering of the people there has stimulated among nationalists in both parts of Ireland a new consciousness of the urgent need for understanding and accommodation. The work of the Forum has underlined the urgent need for sustained efforts and practical steps in the political, economic, cultural and social spheres to transform the present nationalist/unionist relationship and to promote and secure consensus. In addition both parts of Ireland, North and South, face a number of economic and social realities which contribute to the sense of urgency in providing for a political solution. These include the demographic profile of the population and the very high unemployment rate in both parts of the island, and the problem of steady emigration from Northern Ireland of a substantial proportion of educated young people.

Unionist identity and attitudes

4.8 Unionists have tended to view all forms of nationalist self-expression as being directed aggressively against them and the North's status within the United Kingdom. Although the true nationalist ideal rejects sectarianism and embraces all the people of Ireland whatever their religion, Northern Protestants fear that their civil and religious liberties and their unionist heritage would not survive in a united Ireland in which Roman Catholicism would be the religion of the majority of the population. They base this fear on a number of factors including the diminution of the numbers of Southern Protestants since partition and the perception that the Constitution and certain laws in the South unduly favour the ethos of the predominant religion. The Forum has attempted not only to determine "what do unionists seek to prevent?" but also "what do they seek to protest?" What they seek to prevent varies to some degree but includes: an all-Irish State in which they consider that the Roman Catholic Church would have undue influence on moral issues; the breaking of the link with Britain; and loss of their dominant position consequent upon giving effective recognition to the nationalist identity and aspiration. In attempting to answer the more important question of "what do unionists seek to protect?" and to identify what qualities in the unionist ethos and identity must be sustained, nationalists must first of all acknowledge that unionists, sharing the same island, have the same basic concerns about stability and security as nationalists. The major difference between the two traditions lies in their perceptions of how their interests would be affected by various political arrangements. These perceptions have been largely formed by different historical experiences and communal values.

4.9 In public sessions of the Forum, contributors who put forward the unionist point of view were asked "what is it that the unionists wish to preserve?" Three elements were identified in their replies:

(1) Britishness.

(2) Protestantism.

(3) The economic advantages of the British link.

The degree of emphasis on each of these three elements varied among those who made submissions.

4.9.1 Unionists generally regard themselves as being British, the inheritors of a specific communal loyalty to the British Crown. The traditional nationalist opposition to British rule is thus seen by unionists as incompatible with the survival of their own sense of identity. Unionists generally also regard themselves as being Irish even if this does not include a willingness to live under all-Ireland political institutions. However, many of them identify with Ireland and with various features of Irish life and their culture and way of life embrace much that is common to people throughout Ireland.

4.9.2 The Protestant tradition, which unionism seeks to embody, is seen as representing a particular set of moral and cultural values epitomised by the concept of liberty of individual conscience. This is often accompanied by a Protestant view of the Roman Catholic ethos as being authoritarian and as less respectful of individual judgement. There is a widespread perception among unionists that the Roman Catholic Church exerts or seeks to exert undue influence in regard to aspects of the civil and legal organisation of society which Protestants consider to be a matter for private conscience. Despite the implicit separation of Church and State in the 1937 Constitution, many unionists hold the view that the Catholic ethos has unduly influenced administration in the South and that the latter, in its laws, attitudes and values has not reflected a regard for the ethos of Protestants living there.

4.9.3 There is also an economic concern in the perception of unionists in the North which is shared by nationalists. Studies by the Forum show that while living standards, North and South, are now broadly comparable, the North is heavily dependent on, and its economy sustained by the financial subvention from Britain. While a settlement of the conflict entailing an end to violence and the dynamic effects of all-Ireland economic integration would bring considerable economic benefits, reconstruction of the Northern Ireland economy and the maintenance of living standards in the meantime would require the continuing availability of substantial transfers from outside over a period of years, whether from Britain, the European Community and the United States of America, or from Ireland as a whole.

4.10 There are other factors that are important in understanding the unionist opposition to a united Ireland. Among unionists there are fears rooted in history and deriving from their minority position in Ireland as a whole. In more recent times the campaign of IRA violence has intensified those fears. Tensions have also arisen in regard to the South's extradition laws. There are similar fears in the nationalist tradition, based on experiences of discrimination, repression and violence. In modern times, the unionist sense of being besieged has continued. Unionist leaders have sought to justify their opposition to equal treatment for nationalists in Northern Ireland on the basis that the demand for political expression of the nationalist identity, no matter how reasonable and justified, would lead to nationalist domination over the unionist population in a united Ireland.

Need for accommodation of both identities in a new approach

4.11 The Forum rejects and condemns paramilitary organisations and all who resort to terror and murder to achieve their ends. It strongly urges people in Ireland of all traditions and all those who are concerned about Ireland elsewhere in the world to refuse any support or sympathy to these paramilitary bodies and associated organisations. The acts of murder and violence of these organisations, and their denial of the legitimate rights of others, have the effect of undermining all efforts to secure peace and political progress. Constitutional nationalists are determined to secure justice for all traditions. The Forum calls for the strongest possible support for political progress through the democractic process.

4.12 Before there can be fundamental progress a major reassessment by Britain of its position is now essential. Underlying British thinking is the fear that the risks of doing something to tackle the fundamental issues are greater than the risks of doing nothing. This is not the case. The situation is daily growing more dangerous. Constitutional politics are on trial and unless there is action soon to create a framework in which constitutional politics can work, the drift into more extensive civil conflict is in danger of becoming irreversible, with further loss of life and increasing human suffering. The consequences for the people in Northern Ireland would be horrific and it is inconceivable that the South and Britain could escape the serious threats to stability that would arise. With each day that passes, political action to establish new structures that will resolve the fundamental problems becomes more pressing. Such political action clearly carries less risk than the rapidly growing danger of letting the present situation drift into further chaos.

4.13 The new Ireland must be a society within which, subject only to public order, all cultural, political and religious belief can be freely expressed and practised. Fundamental to such a society are freedom of conscience, social and communal harmony, reconciliation and the cherishing of the diversity of all traditions. The criteria which relate to public legislation may not necessarily be the same as those which inform private morality. Furthermore, public legislation must have regard for the conscientious beliefs of different minority groups. The implementation of these principles calls for deepening and broadening of the sense of Irish identity. No one living in Ireland should feel less at home than another or less protected by law than his or her fellow citizen. This implies in particular, in respect of Northern Protestants, that the civil and religious lib-

erties that they uphold and enjoy will be fully protected and guaranteed and their sense of Britishness accommodated.

4.14 It is clear that a new Ireland will require a new constitution which will ensure that the needs of all traditions are fully met. Society in Ireland as a whole comprises a wider diversity of cultural and political traditions than exists in the South, and the constitution and laws of a new Ireland must accommodate these social and political realities.

4.15 The solution to both the historic problem and the current crisis of Northern Ireland and the continuing problem of relations between Ireland and Britain necessarily requires new structures that will accommodate together two sets of legitimate rights: the right of nationalists to effective political, symbolic and administrative expression of their identity; and the right of unionists to effective political, symbolic and administrative expression of their identity, their ethos and their way of life.

So long as the legitimate rights of both unionists and nationalist are not accommodated together in new political structures acceptable to both, that situation will continue to give rise to conflict and instability. The starting point of genuine reconciliation and dialogue is mutual recognition and acceptance of the legitimate rights of both. The Forum is convinced that dialogue which fully respects both traditions can overcome the fears and divisions of the past and create an atmosphere in which peace and stability can be achieved.

4.16 A settlement which recognises the legitimate rights of nationalists and unionists must transcend the context of Northern Ireland. Both London and Dublin have a responsibility to respond to the continuing suffering of the people of Northern Ireland. This requires priority attention and urgent action to halt and reverse the constant drift into more violence, anarchy and chaos. It requires a common will to alleviate the plight of the people, both nationalists and unionists. It requires a political framework within which urgent efforts can be undertaken to resolve the underlying causes of the problem. It requires a common determination to provide conditions for peace, stability and justice so as to overcome the inevitable and destructive reactions of extremists on both sides. Both Governments, in co-operation with representatives of democratic nationalist and unionist opinion in Northern Ireland, must recognise and discharge their responsibilities.

CHAPTER 5—FRAMEWORK FOR A NEW IRELAND: PRESENT REALITIES AND FUTURE REQUIREMENT

5.1 The major realities identified in the Forum's analysis of the problem, as set out in earlier chapters, may be summarised as follows:—

(1) Existing structures and practices in Northern Ireland have failed to provide either peace, stability or reconciliation. The failure to recognize and accommodate the identify of Northern nationalists has resulted in deep and growing alienation on their part from the system of political authority.

(2) The conflict of nationalists and unionist identities has been concentrated within the narrow ground of Northern Ireland. This has prevented constructive interaction between the two traditions and fostered fears, suspicions and misunderstandings.

(3) One effect of the division of Ireland is that civil law and administration in the South are seen, particularly by unionists, as being unduly influenced by the majority ethos on issues which Protestants consider to be a matter for private conscience and there is a widespread perception that the South in its laws, attitudes and values does not reflect a regard for the ethos of Protestants. On the other hand, Protestant values are seen to be reflected in the laws and practices in the North.

(4) The present formal position of the British Government, namely the guarantee, contained in Section 1 of the Northern Ireland Constitution Act, 1973, has in its practical application had the effect of inhibiting the dialogue necessary for political progress. It has had the additional effect of removing the incentive which would otherwise exist on all sides to seek a political solution.

(5) The above factors have contributed to conflict and instability with disastrous consequences involving violence and loss of life on a large scale in Northern Ireland.

(6) The absence of political consensus, together with the erosion of the North's economy and social fabric, threatens to make irreversible the drift into more widespread civil conflict with catastrophic consequences.

(7) The resulting situation has inhibited and placed under strain the development of normal relations between Britain and Ireland.

(8) The nationalist identity and ethos comprise a sense of national Irish identity and a democratically founded wish to have that identity institutionalized in a sovereign Ireland united by consent.

(9) The unionist identity and ethos comprise a sense of Britishness, allied to their particular sense of Irishness and a set of values comprising a Protestant ethos which they believe to be under threat from a Catholic ethos, perceived as reflecting different and often opposing values.

(10) Irish nationalist attitudes have hitherto in their public expression tended to underestimate the full dimension of the unionist identity and ethos. On the other hand, unionist attitudes and practices have denied the right of nationalists to meaningful political expression of their identity and ethos.

(11) The basic approach of British policy has created negative consequences. It has shown a disregard of the identity and ethos of nationalists. In effect, it has underwritten the supremacy in Northern Ireland of the unionist identity. Before there can be fundamental progress Britain must reassess its position and responsibility.

5.2 Having considered these realities, the Forum proposes the following as necessary elements of a framework within which a new Ireland could emerge:—

(1) A fundamental criterion of any new structures and processes must be that they will provide lasting peace and stability.

(2) Attempts from any quarter to impose a particular solution through violence must be rejected along with the proponents of such methods. It must be recognised that the new Ireland which the Forum seeks can come about only through agreement and must have a democratic basis.

(3) Agreement means that the political arrangements for a new and sovereign Ireland would have to be freely negotiated and agreed to by the people of the North and by the people of the South.

(4) The validity of both the nationalist and unionist identities in Ireland and the democratic rights of every citizen on this island must be accepted; both of these identities must have equally satisfactory, secure and durable, political, administrative and symbolic expression and protection.

(5) Lasting stability can be found only in the context of new structures in which no tradition will be allowed to dominate the other, in which there will be equal rights and opportunities for all, and in which there will be provision for formal and effective guarantees for the protection of individual human rights and of the communal and cultural rights of both nationalists and unionists.

(6) Civil and religious liberties and rights must be guaranteed and there can be no discrimination or preference in laws or administrative practices, on grounds of religious belief or affiliation; government and administration must be sensitive to minority beliefs and attitudes and seek consensus.

(7) New arrangements must provide structures and institutions including security structures with which both nationalists and unionists can identify on the basis of political consensus; such arrangements must overcome alienation in Northern Ireland and strengthen stability and security for all the people of Ireland.

(8) New arrangements must ensure the maintenance of economic and social standards and facilitate, where appropriate, integrated economic development, North and South. The macro-economic and financial implications are dealt with in the study by DKM Economic Consultants published with this Report which is based on a range of assumptions with regard to the availability of external financial transfers.

(9) The cultural and linguistic diversity of the people of all traditions, North and South, must be preserved and fostered as a source of enrichment and vitality.

(10) Political action is urgently required to halt disillusionment with democratic politics and the slide towards further violence. Britain has a duty to respond now in order to ensure that the people of Northern Ireland are not condemned to yet another generation of violence and sterility. The parties in the Forum by their participation in its work have already committed themselves to join in a process directed towards that end.

5.3 It is clear that the building of a new Ireland will require the participation and co-operation of all the people of Ireland. In particular, it is evident that the people of the South must whole-heartedly commit themselves and the necessary resources to this challenge and to accommodate the realities and meet the requirements identified by the Forum. However, Britain must help to create the conditions which will allow this process to begin. The British Government have a duty to join in developing the necessary process that will recognise these realities and give effect to their requirements and thus promote reconciliation between the two major traditions in Ireland, and to make the required investment of political will and resources. The British and Irish Governments should enter into discussions to create the framework and atmosphere necessary for this purpose.

5.4 Among the fundamental realities the Forum has identified the desire of nationalists for a united Ireland in the form of a sovereign, independent Irish state to be achieved peacefully and by consent. The Forum recognises that such a form of unity would require a general and explicit acknowledgement of a broader and more comprehensive Irish identity. Such unity would, of course be different from both the existing Irish State and the existing arrangements in Northern Ireland because it would necessarily accommodate all the fundamental elements in both traditions.

5.5 The Parties in the Forum are convinced that such unity in agreement would

offer the best and most durable basis for peace and attractions:

It would restore the historic integrity of Ireland and end the divisions in the country.

It would enable both traditions to rediscover and foster the best and most positive elements in their heritages.

It would provide the most promising framework for mutual interaction and enrichment between the two traditions.

It would give unionists the clearest sense that all of Ireland, in all its dimensions, and not just Northern Ireland, is their inheritance and the opportunity to share in the leadership and to shape the future of a new Ireland.

It would end the alienation and deep sense of injustice felt by nationalists.

It would provide a framework within which agreed institutions could apply economic policies suited to the particular and largely similar circumstances and interests of both parts of the country, and in which economies of scale and the possibilities of integrated planning could be fully exploited.

It would best allow for the advancement internationally of the particular and largely common interests of Ireland, North and South and for the contribution, based on distinctive shared values, which the people of all traditions can make to the European and international communities.

It would end the dissipation of energies in wasteful divisions and redirect efforts towards constructive endeavour, thus giving a major impetus to the social, cultural and economic development of the entire country.

5.6 The Parties in the Forum will continue to work by peaceful means to achieve Irish unity in agreement. There are many varying constitutional and other structures of political unity to be found throughout the world, for example. Australia, France, Italy, Spain, Switzerland and the United States of America which recognize to the extent necessary the diversity as well as the unity of the people concerned and ensure constitutional stability. It is essential that any structures for a new Ireland must meet both these criteria.

5.7 The particular structure of political unity which the Forum would wish to see established is a unitary state, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the unionist and nationalist identities. A unitary state on which agreement had been reached would also provide the ideal framework for the constructive interaction of the diverse cultures and values of the people of Ireland. A broad outline of such a unitary state is set out in Chapter 6.

5.8 Constitutional nationalists fully accept that they alone could not determine the structures of Irish unity and that it is essential to have unionist agreement and participation in devising such structures and in formulating the guarantees they required. In line with this view, the Forum believes that the best people to identify the interests of the unionist tradition are the unionist people themselves. It would thus be essential that they should negotiate their role in any arrangements which would embody Irish unity. It would be for the British and Irish governments to create the framework and atmosphere within which such negotiations could take place.

5.9 The Forum in the course of its work, in both public and private sessions, received proposals as to how unionist and nationalist identities and interests could be accommodated in different ways and in varying degrees in a new Ireland. The Forum gave careful consideration to these proposals. In addition to the unitary state, two structural arrangements were examined in some detail—a federal/confederal state and joint authority—and a broad outline of these are set out in Chapters 7 and 8.

5.10 The Parties in the Forum also remain open to discuss other views which may contribute to political development.

CHAPTER 6—UNITARY STATE

6.1 A unitary state would embrace the island of Ireland governed as a single unit under one government and one parliament elected by all the people of the island. It would seek to unite in agreement the two major indentities and traditions in Ireland. The democratic basis of a unitary state in Ireland has always existed in modern times. Historically up to 1922 Ireland was governed as a single unit and prior to the Act of Union in 1801 was constitutionally a separate and theoretically equal kingdom. Such a state would represent a constitutional change of such magnitude as to require a new constitution that would be non-denominational. This constitution could only be formulated at an all-round constitutional conference convened by the British and Irish Governments. Such a constitution would contain clauses which would guarantee civil and religious liberties to all the citizens of the state on a basis that would entail no alteration nor diminution of the provisions in respect of civil and religious liberties which apply at present to the citizens of Northern Ireland. These guarantees could not subsequently be changed, except in accordance with special procedures.

6.2 The rights of all citizens would be guaranteed in the constitution. Reinforcing guarantees would incorporate in the constitution the clauses of the European Convention on Human Rights with a right of access to the European Court of Human Rights.

6.3 In a unitary state, there would be a single legal and judicial system throughout the island. The study by Professors Boyle and Greer, *The Legal Systems, North and South* shows that there would be no significant technical obstacle to the creation of a unified legal system.

6.4 Political and administrative arrangements in a unitary state would be devised to ensure that unionists would not be denied power or influence in a state where nationalists would be in a majority. For example, provision could be made for weighted majorities in the Parliament in regard to legislation effecting changes in provisions on issues agreed to be fundamental at the establishment of the new state. In the Senate unionists could be guaranteed a minimum number of seats. The powers of the Senate could include effective blocking powers in regard to the issues agreed to be fundamental. Mechanisms for ensuring full Northern participation in an integrated Irish civil service would have to be devised.

6.5 A unitary state would have a single police service recruited from the whole island so designed that both nationalists and unionists could identify with it on the basis of political consensus.

6.6 A redefined relationship between Britain and Ireland would take account of the unionists sense of Britishness. In a unitary state, persons in Ireland, North and South, who at present hold British citizenship would continue to have such citizenship and could pass it on to their children without prejudice to the status of Irish citizenship which they would automatically acquire. The state could develop structures, relationships and associations with Britain which could include an Irish-British Council with intergovernmental and interparliamentary structures which would acknowledge the unique relationship between Ireland and Britain and which would provide expression of the long-established connections which unionists have with Britain.

6.7 All the cultural traditions in Ireland, North and South, would be guaranteed full expression and encouragement. The educational system would reflect the two main traditions on the island. The Irish language and culture would continue to be fostered by the state, and would be made more accessible to everyone in Ireland without any compulsion or imposition on any section.

6.8 A unitary state achieved by agreement between the nationalist and unionist traditions would for the first time allow full participation by all traditions in the affairs of the island. This would require a general and more explicit acknowledgement of a broader and more comprehensive Irish identity. A unitary state would promote administrative and economic efficiency in the island by ending duplication and separate planning and investment programmes and by facilitating integrated promotion of investment, exports and tourism. Natural resources, oil, gas and minerals will be developed for the benefit of all the people of Ireland and could make a significant contribution to securing the economic basis of the state. With no scope for conflicts of jurisdiction and with single taxation and currency systems, the implementation of an integrated economic policy suitable to the largely similar needs of the economies, North and South, would be facilitated, with consequent benefit Integrated economic policies, would ensure a united voice in advancing vital interests of both parts of Ireland, especially in the European Community, within which both North and South have common interests in areas such as agriculture and regional policy which diverge from the interests of Britain.

CHAPTER 7—FEDERAL/CONFEDERAL STATE

7.1 A two state federal/confederal Ireland based on the existing identities, North and South, would reflect the political and administrative realities of the past 60 years and would entrench a measure of autonomy for both parts of Ireland within an all-Ireland framework. While protecting and fostering the identities and ethos of the two traditions, it would enable them to work together in the common interest.

7.2 A federal/confederal constitution would be non-denominational and capable of alteration only by special procedures. There would be safeguards within each state and in the country as a whole for the protection of individual and minority rights. There would be a federal/confederal Supreme Court to interpret the constitution and to adjudicate on any conflicts of jurisdiction between federal/confederal and state governments, which could be made up of an uneven number of judges, one of whom could be from another country—possibly a Member State of the European Community—with the remaining judges coming in equal numbers from North and South. There would either be a special Bill of Rights or, alternatively, all the rights already defined and accepted in international conventions to which Ireland and the UK are signatories would be incorporated in the new federal or confederal constitution. This

constitution could only be formulated at an all-round constitutional conference convened by the British and Irish governments.

7.3 In a federation, residual power would rest with the central government. Certain powers would be vested in the two individual states. A confederation would comprise the two states which would delegate certain specified powers to a confederal government.

7.4 In a federal/confederal arrangement, each state would have its own parliament and executive. Authority for security would be vested in the federal/confederal government in order to gain widespread acceptability and to ensure that the law and order functions were administered in the most effective and impartial manner.

7.5 In a federation, the federal parliament could have one or two chambers, a House of Representatives, and/or a Senate. Laws relating to previously agreed fundamental issues could be passed only if they received the support of a weighted majority of the Senate in a two chamber system or of the House of Representatives in a one chamber system. The federal government would be approved by and be responsible to the federal parliament. The powers held at the federal level would be a matter for negotiation but in an Irish context matters such as agriculture, industry, energy, transport, industrial promotion and marketing might be more efficiently administered on an island basis at federal level, while other services such as education, health, housing and social welfare might best be administered by the individual states. The functions of Head of State could be carried out by a President, the office alternating between persons representative of the Northern and Southern states.

7.6 In a confederal arrangement, the powers held at the centre could be relatively limited (for example, foreign policy, external and internal security policy and perhaps currency and monetary policy), requiring a less elaborate parliamentary structure at the confederal level. It might suffice to have an arrangement whereby the representatives of the two states would determine jointly issues of policy relating to the powers of the confederation. The decisions taken by the confederation would, as appropriate, e.g. implementation of EEC directives, fall to be implemented by the authorities in the individual states.

7.7 A federal/confederal arrangement would, in particular, provide institutions giving unionists effective power and influence in a new Ireland. The Northern parliament would have powers which could not be removed by an Act of another parliament. Existing civil and religious rights in the North would be unaffected. With a federal/confederal framework unionists would have parallel British citizenship and could maintain special links with Britain. Mechanisms for ensuring full Northern participation in the federal/confederal civil service would have to be devised. Provision would be made for the full recognition and symbolic expression of both traditions.

7.8 A federal/confederal arrangement would allow the retention within the North and South of many laws and practices reflecting the development of both areas over the past 60 years. All the cultural traditions in Ireland, North and South, would be guaranteed full expression and encouragement.

7.9 A federal/confederal arrangement would allow all those living on the island to share and give expression to the common aspects of their identity while at the same time maintaining and protecting their separate beliefs and way of life. The central authority would promote their common interests while the state authorities protected individual interests.

CHAPTER 8—JOINT AUTHORITY

8.1 Under joint authority, the London and Dublin governments would have equal responsibility for all aspects of the government of Northern Ireland. This arrangement would accord equal validity to the two traditions in Northern Ireland and would reflect the current reality that the people of the North are divided in their allegiances. The two governments, building on existing links and in consultation with nationalist and unionist opinion, would establish joint authority designed to ensure a stable and secure system of government.

8.2 Joint authority would give political, symbolic and administrative expression of their identity to Northern nationalists without infringing the parallel wish of unionists to maintain and to have full operational expression of their identity. It would be an unprecedented approach to the unique realities that have evolved within Ireland and between Britain and Ireland.

8.3 Joint authority would involve shared rule by the British and Irish Governments. Although this could be exercised directly, there would be enabling provision for the exercise of major powers by a locally-elected Assembly and Executive.

8.4 There would be full and formal recognition and symbolic expression of British and of Irish identity in Northern Ireland and promotion of the cultural expression of the two identities. Joint citizenship rights would be conferred automatically on all persons living in Northern Ireland, resulting in no diminution of the existing rights of Irish or British citizenship of persons living in Northern Ireland.

8.5 A comprehensive and enforceable non-denominational Bill of Rights for Northern Ireland would be promulgated ensuring the protection of both individual and communal rights and freedoms.

8.6 The overall level of public expenditure would be determined by the two Governments. Problems of external representation of Northern Ireland would be resolved between the two Governments.

8.7 Under joint authority the two traditions in Northern Ireland would find themselves on a basis of equality and both would be able to find an expression of their identity in the new institutions. There would be no diminution of the Britishness of the unionist population. Their identity, ethos and link with Britain would be assured by the authority and presence of the British Government in the joint authority arrangements. At the same time it would resolve one basic defect of (a) the failed 1920-25 attempt to settle the Irish Question and (b) the present arrangements for the government of Northern Ireland—the failure to give satisfactory political, symbolic and administrative expression to Northern nationalists. Structures would thus be provided with which the nationalists in the North could identify, which might reverse their progressive alienation from existing structures. Security arrangements in which for the first time both nationalists and unionists could have confidence could be developed, thus providing a basis for peace and order. The climate would thus be created for the emergence of normal political life, of compromise and of mutual confidence based on security in the reciprocal acceptance of identity and interests.

FORUM FAVORS UNITARY STATE

DUBLIN.—The long-awaited report of the New Ireland Forum was issued last week and its main thrust was in favor of a "unitary state." The report listed other options, but its emphasis was for uniting Ireland.

Participating in the forum were the three principal parties in the Republic of Ireland—the Fine Gael Party led by Prime Minister Garret FitzGerald, the Labor Party led by Deputy Prime Minister Dick Spring and the Fianna Fail Party led by former Prime Minister Charles J. Haughey—and the Social Democratic and Labor Party of Northern Ireland led by John Hume.

The four parties represent over 70 percent of the people and 90 percent of the nationalists in Ireland.

The report which was issued at a press conference on May 2 in Dublin Castle is the product of 11 months deliberation. The forum met 97 times and received 317 submissions.

Its object was to find ways through which lasting peace and stability could be achieved in Ireland through the democratic process.

The forum's report called upon Britain to study the recommendations contained in the report and enter into discussions "to create the framework and atmosphere necessary" to "promote reconciliation between the two major traditions in Ireland."

The report said that Irish nationalists regarded a unitary state that completely safeguarded the rights of all its citizens as the best model to be pursued, but it recognized that other "arrangements" might be the only forms acceptible to the British and Unionists in Northern Ireland.

In expressing a preference for a united Ireland, the forum participants said, "The particular structure of political unity which the forum would wish to see established is a unitary state, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the Unionist and Nationalist identities."

In addition to the unitary state model, the forum report examined two other possible modes of government.

One would be a federal or confederal state based on the two existing political units, North and South, each with its own parliament and executive, but sharing a common president and with a central body that would handle among other duties, foreign policy and security.

In the other, London and Dublin would share equal responsibility for all aspects of the government of Northern Ireland.

The form report states that, "Political action is urgently required to halt disillusionment with democratic politics and the slide toward further violence. Britain has a duty to respond now in order to ensure that the people of Northern Ireland are not condemned to yet another generation of violence and sterility, and the parties in the forum by their participation in this work have already committed themselves to join in a process directed towards that end."

The forum goes on to state that the British Government has a duty to join in developing the necessary process that will recognize these realities and give effect to these requirements and thus promote reconciliation between the two major traditions in Ireland: and to make the required investment of political will and resources.

"The British and Irish Governments should enter into discussions to create the

framework and atmosphere necessary for this purpose," the report said.

In a significant passage in the report, the forum parties state that there are three constituent elements in the identity of the Unionist tradition.

The forum said these elements in the self-identification of the Unionist tradition are: Britishness; Protestantism and the economic advantages of the British link.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution.

Our policy toward Northern Ireland, as outlined in President Reagan's statement on March 17, 1983, emphasizes that it is not for outsiders to impose a particular solution to the Northern Ireland problem. Rather, the United States believes that the two communities of Northern Ireland, their elected leaders, and the leaders and Governments of the Irish Republic and of the United Kingdom are fully capable of finding a solution within a democratic context.

In May 1983, Irish Prime Minister FitzGerald convened, in Dublin, the New Ireland Forum—a Congress of elected nationalist leaders from both parts of Ireland—to study the obstacles and the prospects for achieving Irish unity through a democratic process. The recent report of the New Ireland Forum has recommended a constructive blueprint for a new nation—expressing a preference for an Ireland, united with the consent of all factions. What is especially new and significant is the document's emphasis on conciliation and the preservation of religious and political rights of minorities. Most importantly, the document condemns the violence that has cost 2,300 lives since 1969 and provoked 43,000 shootings while bleeding the economies of Northern and Southern Ireland alike.

For the first time since the present troubles began, the leaders of the diverse parties in both parts of Ireland have spoken together in their condemnation of the violence and in their support for a new Ireland to be achieved by democratic consent. As a result, I am encouraged by the New Ireland Forum's report which dramatically contributes to the peace process in that region of the world, and I urge my colleagues to pass the resolution before us today.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. I thank the gentleman from Michigan for yielding this time to me.

Mr. Speaker, it is no secret that the Government of Great Britain has not in recent years given a high priority to trying to resolve the issues that have caused so much violence and whiffiness in Ireland. I hope that the action of the New Ireland Forum in bringing forth a realistic set of options, options which very much recognize the need to protect the rights of all groups in Northern Ireland, would now cause the Government of Great Britain to address this issue forthrightly.

The New Ireland Forum has brought forward a set of options as to how to proceed on which it would not be at all difficult for the Government of Great Britain to go to the bargaining table to resolve the issues that have led to so much death and destruction.

For that reason, I want to commend the gentleman from Massachusetts (Mr. DONNELLY) and the gentleman from Washington (Mr. FOLEY) for their introduction of this resolution. I would be remiss at this point if I did not particularly commend the gentleman from Washington (Mr. FOLEY) for his leadership in organizing and carrying on the work of the Friends of Ireland, which has been so useful to so many of the Members of the House, including me, in exploring the issues in that unhappy land, and in raising the sensitivities of many Members of Congress to the need for progress there.

The New Ireland Forum proposals have enormous potential to resolve those issues. I conclude by again urging the Government of Great Britain to seize on this opportunity to move ahead.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. I want to thank the chairman for yielding this time to me.

Mr. Speaker, I want to begin by commending my colleague from Massachusetts (Mr. DONNELLY) and the distinguished majority whip, the gentleman from Washington (Mr. FOLEY), for introducing this very important resolution.

For too long we have watched the continuing cycle of violence in Northern Ireland, and waited for a beginning of the dialog that will transcend the violence. The New Ireland Forum report stands as a starting point to that dialog.

For the first time, the economic effects of the violence have been documented, and the economic consequences of a unitary state have been examined. The report points out that violence will continue absent real attention to democratic processes and constitutional change in Northern Ireland and in Ireland itself.

Perhaps the single most remarkable aspect of the report is its consideration of the Unionist tradition. After defining the qualities inherent in the two traditions in Ireland, the report recommends major institutional and constitutional change to preserve the heritage and protect the rights of both traditions. The report concludes by recommending a unitary state as the most plausible future for the island and suggests two other options (a confederal Ireland and joint sovereignty) which remains open for discussion.

This report offers new hope for a resolution to the troubles facing the island. It is certainly the most significant breakthrough since the collapse of the Sunningdale Agreement in 1974, and may become the most important development in 60 years.

I commend the efforts that produced this important document; I hope that it will become a springboard for bringing all interested parties into a complete discussion; and I look forward to a time when the New Ireland will become a reality.

□ 1330

Mr. Speaker, I think it is particularly fitting that this resolution should be considered on this floor today as we prepare for the trip of the President to Ireland. I think it is appropriate that Members of Congress should call on him to reach out to the Government of Great Britain and try to urge them to move to accept the ideas inherent in this important report. Americans have a role to play in ending the violence in Ireland. This resolution addresses that role. I hope our President follows through and expresses that sentiment to the Government of Great Britain.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Speaker, I rise today to express my support for the resolution before us which will send a message of good will from the Members of this Congress to those committed individuals who initiated and participated in the New Ireland Forum.

As my colleagues know, 1 year ago this month the four leading nationalist parties on the island of Ireland joined together to establish the New Ireland Forum. The purpose of this group was to explore ways to peacefully and democratically solve the problems in Northern Ireland that have continued to divide this small nation for over a decade. This month, after 97 meetings and countless hours of debate and study, the Forum has issued its report. The men and women who dedicated so much time and energy to this worthy effort are to be congratulated.

The Forum solicited the views of all nonviolent parties and individuals in an attempt to formulate an evenhanded and bipartisan evaluation of the problems, but unfortunately, the Protestant parties in the North and the British Government refused to attend the discussions. The Protestant factions in Northern Ireland were fearful that the Forum's sponsors were trying to undermine their position and were not sensitive to their allegiance to Britain. While the underly-

ing theme of the report is to unite Ireland, the authors are realistic in their endeavor and consistently note in the report that no workable solution can be achieved without the consent of all the people on the island and that the two very different traditions must be preserved.

Chapter 5 of the report states, in sum, that any agreement must be made with the consent of all the people on a democratic basis; the validity of both the nationalist and unionist identities in Ireland and the democratic rights of every citizen on the island must be accepted; lasting stability can be found only in the context of new structures in which no tradition will be allowed to dominate the other; civil and religious liberties and rights must be guaranteed; and cultural and linguistic diversity must be preserved.

For more than a decade, Northern Ireland has been plagued by a violent and destructive war between a people similar in heritage, but divergent in tradition. The division is rooted deeply in their history and only increases as each passing day fails to effectuate a workable solution. Past attempts to formulate an answer have obviously failed to gain support or to free Ireland from the violence that is destroying its community.

There are no easy answers to this complex tragedy, but the New Ireland Forum report makes a number of realistic points and suggestions that deserve the recognition of the Protestants in Northern Ireland and the British Government. The Nationalist coalition has done its part to evaluate the situation in Northern Ireland and initiate a dialog. It is now London's responsibility to join in some form of deliberations and encourage the Unionist and Alliance parties to do the same. A workable solution to the stalemate in Northern Ireland can only be achieved through peaceful negotiations that include all the parties involved, especially Great Britain.

Prime Minister Garret FitzGerald stated during the closing session of the New Ireland Forum:

> Our report is, as I said, not a blueprint but rather an agenda; an agenda that pre-supposes further action. This report will be judged historically not by the skill with which divergent views have been meshed together or by its literary style, but by whether it did in fact lead to action that brought peace and stability to our island.

The New Ireland Forum has planted the seeds for peace. It is my hope that this worthwhile and substantive effort will not be lost as a result of inaction, for the consequences of inaction are far too costly.

I urge my colleagues to support this resolution to commend the dedicated peacemakers who participated in the New Ireland Forum.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I thank the chairman of the committee, and I want to pay tribute to my colleague, the gentleman from Massachusetts (Mr. DONNELLY), for his leadership on this.

The importance of this New Ireland Forum report is very great. First, it reemphasizes that the situation that currently exists in Northern Ireland is intolerable, and that the intolerance and the denial of true political rights that exist there must be changed.

Second, it is cause for commendation to those in Ireland, both in the Republic and in Northern Ireland, who have taken the leadership in trying to show that a democratic and peaceful solution is possible if people of good will collaborate.

It is essential that the Congress show its support for the leadership, both in the Republic and Northern Ireland, of those decent, democratic people, very courageous people, who are determined to find a solution to the intolerable situation that now exists in Northern Ireland.

Mr. FASCELL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. FEIGHAN).

Mr. FEIGHAN. Mr. Speaker, the history of Ireland and of the Irish people has all too often been a story of oppression, injustice, and violence. Even in our time, the divisions in Irish society have led to extremes of bloodshed and terror that seem to belie any possibility of peaceful accommodation. In the last 15 years, over 2,500 lives have been lost in the sectarian violence that has become a way of life for so many people in Northern Ireland. There, the divisions between Catholic and Protestant believers have produced an atmosphere of continued alarm and fear that at any moment passions may erupt in uncontrolled violence.

Many writers have commented on the sad fact of international terrorism's links to the situation in Northern Ireland. The divisions in that society have led those who seek instability in the world to prey on the lives of innocents. No one, no matter what their belief on the question of Irish unity, can justify the use of terror by extremist elements in Northern Ireland. They must bear the final responsibility for the bloodshed that has done so much to harm the possible success of peaceful negotiations and change. While it is obviously true that repression often leads to retaliation, violence can never be the answer. It serves only to destroy, only to maim the spirit of those who hope to live in peace.

In an atmosphere where conflict still is prevalent, it is hopeful news to view the recent report of the New Ireland Forum. The Forum, composed of members of four democratic Irish parties—Fianni Fail, Fine Gael, Labor, and the Social Democratic Labour Party—has met since last May in Dublin Castle.

During the last year, members of the Forum have heard testimony from witnesses touching on every aspect of the problems facing the Republic of Ireland and Ulster. Although members of the Sinn-Fein—the political wing of the Irish Republican Army—and the predominantly Protestant Unionist Party did not participate, the Forum was able to come to a consensus on a road for peaceful union of the divided island of Ireland.

The report of the New Ireland Forum sends a ray of hope through the political darkness. It seeks to end the continued violence and to replace it with a process of consultation, negotiation, and respect for minority rights.

Most important of all, the Forum report is a step away from the terror and the violence that has engulfed the lives of too many people in Northern Ireland.

On St. Patrick's Day this year, I had the honor of introducing to a luncheon in Cleveland, Ohio, a founding member of the New Ireland Forum, Jone Hume. As leader of the Social Democratic Labour Party in Northern Ireland, Mr. Hume has been a tireless and articulate spokesman for peaceful change.

The report he has helped to fashion makes recommendations for three alternative roads to peace: a unified Irish state; a federation, composed of Northern Ireland and the Republic; or joint sovereignty over Northern Ireland by the Republic and the United Kingdom. While Members of this House may not agree with any of these proposals, or may find one of them more to their liking than the others, I believe we should recognize what a step forward the proposals are.

They indicate a willingness on the part of some in Northern Ireland to make a positive political contribution. We can only be encouraged by that. The New Ireland Forum stands proudly for hope. It stands as a beacon, a way out of the darkness that has fallen over the landscape of Northern Ireland.

President John F. Kennedy reminded the world that, "Our task is not to place the blame for the past, but to set a course for the future." The report of the New Ireland Forum sets a course for a peaceful future.

I urge my colleagues to join in support of this resolution.

Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the majority whip, the cosponsor of the legislation, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of this resolution which I

have the honor to cosponsor with the distinguished gentleman from Massachusetts (Mr. DONNELLY), its principal sponsor.

The resolution recognizes the outstanding and important work of the New Irish Forum and the emphasis it has given to reconciliation and the peaceful resolution of the problems that have plagued Ireland not only over the last 15 years of bitter violence but since its division in 1920.

This is the first time since 1920 and since the collapse of the Sunningdale Agreements in 1974 that the Irish parties of nationalist concern of both north and south—the Fine Gael, Fianna Fail, the Labour Party, and the SDLP of Northern Ireland—have met together in serious discussion and examination of various means of achieving a solution to the problems that are plaguing Ireland.

During their 11 months of arduous endeavor, submissions were taken from over 300 different sources, with witnesses being heard from every scope and nature of opinion. From this experience the final report of the Forum emphasizes the need for a political solution freely negotiated between the people of the south and the people of the north. While it recommends as a preferred solution a unitary state, it not only recognizes the possibility of a "federation" and shared sovereignty but leaves open the opportunity for other approaches that may contribute to political progress in resolving the problems as seen by the various parties.

The report takes a very strong stand against violence, the use and support of which the Forum repeatedly speaks against in the most trenchant terms. Quoting it directly:

> The Forum rejects and condemns paramilitary organizations and all who resort to terror and murder to achieve their ends. It strongly urges people in Ireland of all traditions and all those who are concerned about Ireland elsewhere in the world to refuse any support or sympathy to these parliamentary bodies and associated organizations. The acts of murder and violence of these organizations and their denial of the legitimate rights of others have the effect of undermining efforts to secure peace and political progress.

These eloquent words, as spoken by parties that represent 70 percent of the people of Ireland and 90 percent of the nationalist spirit of Ireland, should remind us again that any in this or any other country who aid in the support of violence do so against the will and against the interests of the Irish people.

The New Irish Forum has taken a strong, deliberate, extraordinarily constructive and positive step forward toward achieving a political solution to the problems that plague the people of Ireland. Equally important, it does so based on consent in an atmosphere of peace and with a firm resolve against violence. What we can do in this House is to give our own strong support and endorsement for their courageous work. It is with this in mind that I hope the House will overwhelmingly adopt this resolution.

Mr. Speaker, I want to commend the distinguished chairman of the committee, the gentleman from Florida (Mr. FASCELL) and the ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD). I also want to thank the gentleman from New York (Mr. GREEN) for his generous comments, and to particularly commend my esteemed colleague, the gentleman from Massachusetts (Mr. DONNELLY), who has brought this resolution before us.

● Mr. MICHEL. Mr. Speaker, I am glad to have this opportunity to join with our colleagues in commending the participants in the New Ireland Forum.

I cannot pretend to have any special expertise in this area. But I think it is important that bipartisan concern be shown. This is a subject that transcends party labels, both here and in Ireland.

The problems in Northern Ireland concern not only the Irish and the British, but Europe as well. The triumph of violence in Northern Ireland would be a threat to European security.

We in the United States have a legitimate and profound interest in this tragedy. We have an interest in the democratic values and human rights that are under attack.

And if terrorism or threats of violence—from either side—are allowed to dictate the future of Northern Ireland, who will be the next victim of such violence?

Since 1969, there have been over 2,300 men, women, and children killed by the violence in Northern Ireland. This is out of a population of 1½ million.

In proportionate terms, that is as if during the last 15 years, 84,000 British, or 350,000 Americans had been killed through violence of this sort.

But there is a long-term tragedy in Northern Ireland as well.

The young are giving up on democracy in Northern Ireland because they have not seen it work in their lifetime. That means the survivors of this new generation will grow to adulthood never having known even the promise of democracy.

That generation is a time bomb waiting to go off. And the effects of its explosion will not be limited to Ireland.

So something has to be done, quickly, by all those, in Ireland and in Great Britain, who want to make democracy work.

I leave it to the experts to discuss this important document in detail. But I just wanted to go on record as saying that the report of the New Ireland Forum is a major event.

It is my hope that it serves a basis for policy initiatives in Ireland and Great Britain.●

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I conclude simply by saying that the Committee on Foreign Affairs has several copies of the report referred to in the resolution, and that we will be delighted to make them available to any interested Members of Congress.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution presently under consideration.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. GILMAN), a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to commend the gentleman from Massachusetts (Mr. DONNELLY) and the gentleman from Washington (Mr. FOLEY) for bringing this resolution to the House floor at this time. The New Ireland Forum has been the focus of a great deal of attention throughout the past several months as the hopes and aspirations of many Americans for a peaceful solution to the Northern Ireland problem are being explored. Members of Congress know all too well how difficult it has been throughout the years to engage in a meaningful dialog leading to peace in Northern Ireland.

The New Irish Forum has been meeting over the past year, involving the four principal nationalist parties in Ireland in a discussion of ways to solve what has become to be known as the Irish problem. Prime Minister Garrett FitzGerald of the Republic of Ireland has been a major force behind the Forum which is considered a landmark effort in bringing all sides in the Irish conflict into a dialog. In a report issued earlier this month, the New Ireland Forum charged that Great Britain has been operating under a system of crisis management for too long in Northern Ireland, and that a new system should be devised whereby both Catholic and Protestant constituencies in Ireland can live free. Since 1969, there has been 43,000 shootings and almost 2,400 people have died because of violence in Northern Ireland. The prospects for peace are still grim.

The Forum's report states that a united Ireland is the option which will lead to the most lasting and most successful resolution of the Northern Ireland problem. Other options are also spelled out in the report which is considered a first step in a serious discussion of the Northern Ireland situation.

The Forum considers that:

> The immediate outlook for the North is extremely dangerous unless an acceptable political solution is achieved. The long-term damage to society worsens each day that passes without political progress. In political, moral and human terms, there is no acceptable level of violence.

Our Congress appreciates the difficult situation which is facing the people and the politicians in Northern Ireland. Violence, stalemate, and malaise have characterized the atmosphere in Ireland as uncertainty and distrust continues to grow. It is time that the people of Ireland—perhaps led by the recommendations of the Forum—find for themselves a system and a new way of life which will lead to peace.

Accordingly, I urge my colleagues to join in supporting the work of the Northern Ireland Forum and I thank the gentleman for bringing this resolution to our attention.

● Mr. LAFALCE. Mr. Speaker, the tragic strife of Northern Ireland has distressed our Nation for many years, and at times the suffering of that sorrowful country seem unending. The long history of bitter antagonism, senseless violence, and mutual distrust weighs so heavily on the people of Northern Ireland that peace remains a distant dream. A spark of hope was lit for them, though, when the New Ireland Forum reminded us that solutions to the Irish troubles may be within our reach.

The New Ireland Forum brought together people of diverse backgrounds and perspectives, who share a desire for a peaceful settlement in Northern Ireland. Those who participated in the Forum reminded the world that any settlement must be just and fair to all parties involved; and above all, it must be negotiated without violence. Negotiation, not intimidation, will be the only means to a lasting and secure peace. Those who support the tactics of terrorism used by both sides in the struggle only spill new blood to dilute the old. They accomplish nothing for the cause of justice, and help to insure that justice will never be realized.

We cannot pretend that stopping the bloodshed will create a truly united and tolerant society in Northern Ireland. We Americans know from our own painful experience that the sores of bigotry heal very slowly. Healing is not possible at all, however, until peace allows tolerance to begin to grow where it has for many years been chafed away by fear and hatred.

After cessation of violence, a number of possible actions can be taken to solve justly and permanently the real political issues of Northern Ireland, and there is no denying that real issues must be addressed. The New Ireland Forum has also brought these issues into focus for us, and recommended ways to confront them through compromise and continued dialog. I join my colleagues in endorsing the Forum's principle that legitimate disputes must be, and can be, ended by legitimate solutions.

We Americans care deeply for the fate of our Irish brothers and sisters, and will continue to watch with sincere interest as they strive for a peaceful and just society. We applaud the efforts of those who have brought them closer to those goals through the New Ireland Forum, and wish them the greatest success in continuing their worthy enterprise.●

● Mr. HUGHES. Mr. Speaker, I rise today in support of the resolution (H. Con. Res. 310) and urge my colleagues to support this call to commend the participants of the New Ireland Forum and urge the serious consideration of their recommendations for reconciliation and peace.

The New Ireland Forum was created to provide all democratic parties which reject violence and have elected or appointed members to the Southern and Northern Ireland legislative bodies an opportunity to come together to discuss their common problems and hopes for the future. The four political parties which participated represented over three-fourth of the entire population of Ireland. Written submissions were invited through advertisements in newspapers in Ireland and the Forum invited oral presentations from individuals and groups. Great care was taken in gathering a wide range of opinion from both parts of Ireland as well as Britain, the United States and Europe.

On May 2, the New Ireland Forum issued a report outlining their conclusions and recommendations. The Forum is asking the British Government to reassess their policy toward Northern Ireland and to help the participants in the forum to reach a nonviolent solution to the problems there. They emphasized the need to guarantee the protection of individual human rights and of the communal and cultural rights of both nationalists and unionists. The creation of a new Ireland will require the participation, cooperation and consent of all the people of Ireland.

The New Ireland Forum is a bold initiative to strive for new ways to bring about a just and peaceful solution to the problems in Northern Ireland. The whole of Ireland has been torn apart for too many years, and it is time for us to work toward a new Ireland, an Ireland for all.

I urge my colleagues to support this resolution to send a message of encouragement and support to the participants of the New Ireland Forum.●

● Mr. BORSKI. Mr. Speaker, I am hopeful that the New Ireland Forum's report will facilitate discussions on the complex problems that have consumed Northern Ireland and the entire island of Ireland for so many years.

I think that all Members of this Congress can agree that the tragedy that has claimed over 2,500 lives during the past 15 years must end. The people—and especially the children—cannot continue to live in the atmosphere of hatred.

I look forward to the British Government's response to the forum's report and hope that the British will join a process that will lead to a resolution of this tragedy.●

● Mr. BOLAND. Mr. Speaker, almost a year ago a number of my colleagues who share my concern with the troubling and violent situation in Northern Ireland took the House floor to draw attention to the beginning of an initiative designed to achieve a peaceful solution to the differences which divide the Irish people. At that time the New Ireland Forum was merely a light on the horizon, holding out a promise for the future of Ireland. However, it was a tremendous sign of hope to me that four opposing parties representing over 70 percent of Ireland's population would agree to meet under peaceful terms for a wide-ranging dialog on the situation in Ireland. Last year, I expressed my belief that the Forum would be a step in the right direction—a step toward an end to the violence in Northern Ireland.

Now, 11 months later, the report of the Forum has been submitted. The report clearly indicates the members of the four parties have made real progress on problems that have existed for decades. As Prime Minister Garret FitzGerald, who was a valiant leader and active participant in this undertaking, said in his address to the closing session of the Forum,

> The ideas we have put forward together show an openness to the other tradition in this Island, and a sensitivity to the preoccupations of those who belong to that tradition, which have no precedent in Irish history. I believe that this openness will be recognized publicly by many, and possibly privately by many more among those who do not share our perspective.

In that vein and in that spirit, it is important that our Government recognize the New Ireland Forum, and the laudatory efforts it has made to resolve some of the most difficult domestic problems that any country has ever faced. It is absolutely necessary that we show our support for the work of the Forum and for the commitment to a unified Ireland which it embraced. If we are a peace-loving people, and if we are citizens of a country committed to

world peace, it follows that we should commend and encourage the Forum in its efforts to bring peace to a land that desperately needs it. The proposals set forth in the Forum's report represent progress—progress down a road which will hopefully lead to a just and lasting solution to the troubles in Northern Ireland. What are needed now are open minds and trusting hearts in Ireland, Britain, and among all those who desire a political solution in Ireland. Support such as is expressed in House Concurrent Resolution 310 is essential and I urge my colleagues to adopt this important measure.●

● Mr. McGRATH. I would like to take this opportunity to comment on House Concurrent Resolution 310. I will vote in favor of the resolution as an expression of my support for a peaceful settlement to the years of strife and bloodshed, which have plagued the citizens of Northern Ireland.

Like many other areas of the world divided by sectarian or partisan violence, deep seated and longstanding hatred often blurs or distorts efforts to achieve a meaningful exchange of ideas. I believe the efforts of the New Ireland Forum have been inhibited by the refusal to allow participation by Sinn-Fein and the refusal of the Unionist Party to join the Forum's deliberations.

Any attempts to mediate a conflict as complex as the situation in Northern Ireland must take into account all of the interests involved. Allowing full participation by all political organizations does not condone violence or any particular activities of those groups. Representation of all sides in the New Ireland Forum would be a major step toward ending the divisiveness which has prevented past efforts to bring about full recognition of the rights and dignity of all citizens of Ireland's six northern counties.

It is my fervent hope that the goals of the New Ireland Forum will some day be achieved. At the same time, mistrust generated by decades of conflict will not vanish without complete participation by all parties to the dispute.

I hope my comments have amplified and encouraged the objectives espoused in House Concurrent Resolution 310.●

● Mr. McNULTY. Mr. Speaker, this measure represents the first initiative since 1948 by the U.S. House of Representatives in matters dealing with Ireland. It is a manifestation of the deep desire of this Congress that this motion be instituted and the progress be made toward a political solution of a difficult problem. It is not merely that the alternative is continued death, injury, and destruction; it is that people who share common ideas about civilization and who will search for the good will in their own hearts can indeed identify the things that bring them together and emphasize less, or even lay aside, the things which divide.

Mr. DONNELLY has done a useful and courageous act in claiming the attention of the House of Representatives. Those intended to be addressed by this effort are all those weary of mindless violence, all those who know that seeking solutions is as noble as finding them, all those of whatever religious persuasion, all those in all the political entities who demand that the strong, that is those who will not be intimidated by bullies, reclaim the initiative from the hands of the reckless.●

● Mr. MOAKLEY. Mr. Speaker, I rise in support of House Concurrent Resolution 310, which commends the participants of the New Ireland Forum.

We are all deeply concerned over the continuing violence and unrest in Northern Ireland. Since 1969, there have been 43,000 shootings and nearly 2,400 deaths as a result of the turmoil. At times, it has seemed as if there would never be peace in Northern Ireland—just continuous civil strife.

The New Ireland Forum, however, offers us hope that a peaceful resolution can and will be reached. Four opposing parties, representing 70 percent of Ireland's population, assembled to discuss the various domestic and foreign policy problems confronting Ireland. After 11 months of diligent and hard work, they have issued a report stating their conclusions and recommendations. This report represents a bold and positive step toward real peace.

Mr. Speaker, I want to again applaud the participants of the New Ireland Forum for taking an important first initiative toward ending the bitter violence that currently exists in Northern Ireland. It is my sincere hope that their efforts will encourage all factions in the Irish struggle to meet at the negotiating table.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 310.

The question was taken.

Mr. DONNELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponded.

□ 1340

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained, and then on the motions on which further proceedings were postponed on Monday, May 21, 1984.

Votes will be taken in the following order:

H.R. 4280, House Concurrent Resolution 310, H.R. 4145, and H.R. 4249.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RETIREMENT EQUITY ACT OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4280, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4280, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 20, as follows:

[Roll No. 156]

YEAS—413

Ackerman	Byron	Dyson
Addabbo	Campbell	Early
Akaka	Carney	Eckart
Albosta	Carper	Edgar
Alexander	Carr	Edwards (AL)
Anderson	Chandler	Edwards (CA)
Andrews (NC)	Chappell	Edwards (OK)
Andrews (TX)	Cheney	Emerson
Annunzio	Clarke	English
Anthony	Clay	Erdreich
Applegate	Clinger	Erlenborn
Archer	Coats	Evans (IA)
Aspin	Coelho	Evans (IL)
AuCoin	Coleman (MO)	Fascell
Badham	Coleman (TX)	Fazio
Barnard	Collins	Feighan
Barnes	Conable	Ferraro
Bartlett	Conte	Fiedler
Bateman	Cooper	Fields
Bates	Corcoran	Fish
Bedell	Coughlin	Flippo
Beilenson	Courter	Florio
Bennett	Coyne	Foglietta
Bereuter	Craig	Foley
Berman	Crane, Daniel	Ford (TN)
Bethune	Crane, Philip	Fowler
Bevill	Crockett	Frank
Biaggi	Daniel	Franklin
Bilirakis	Dannemeyer	Frenzel
Bliley	Darden	Frost
Boehlert	Daschle	Fuqua
Boggs	Daub	Garcia
Boland	Davis	Gaydos
Boner	de la Garza	Gejdenson
Bonior	Dellums	Gekas
Bonker	Derrick	Gibbons
Borski	DeWine	Gilman
Bosco	Dickinson	Gingrich
Boucher	Dicks	Glickman
Boxer	Dixon	Gonzalez
Breaux	Donnelly	Goodling
Brooks	Dorgan	Gore
Broomfield	Dowdy	Gradison
Brown (CA)	Downey	Gramm
Brown (CO)	Dreier	Gray
Broyhill	Duncan	Green
Bryant	Durbin	Gregg
Burton (CA)	Dwyer	Guarini
Burton (IN)	Dymally	Gunderson

Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—0

NOT VOTING—20

Britt
Chappie
Conyers
D'Amours
Dingell
Ford (MI)
Gephardt
Hall (IN)
Hammerschmidt
Hance
Hansen (ID)
Hubbard
Kogovsek
Rahall
Rangel
Rose
Sharp
Simon
Waxman
Wise

□ 1400

Messrs. WHITTAKER, WRIGHT, and PAUL changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KILDEE). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

EXPRESSING SENSE OF CONGRESS THAT PARTICIPANTS IN THE NEW IRELAND FORUM ARE TO BE COMMENDED

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 310.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 310, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 16, as follows:

[Roll No. 157]

YEAS—417

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt

St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—0

NOT VOTING—16

Britt
Chappie
Dingell
Hall (IN)
Hammerschmidt
Hance
Hansen (ID)
Hubbard
Kogovsek
Rahall
Rangel
Rose
Sharp
Simon
Waxman
Wise

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1410

STATE JUSTICE INSTITUTE ACT OF 1983

Mr. SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4145, as amended.

The Clerk read the title of the bill.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4145, as amended, on which the yeas and nays are ordered.

The Chair reminds the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 243, nays 176, not voting 14, as follows:

[Roll No. 158]

YEAS—243

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Breaux
Brooks
Brown (CA)
Bryant
Burton (CA)
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
Dellums
Dicks
Dixon
Donnelly
Downey
Dwyer
Dymally
Early
Edgar
Edwards (AL)
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Garcia
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Gregg
Guarini
Hall, Ralph
Hall, Sam
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Horton
Howard
Hoyer
Huckaby
Hughes
Hyde
Jeffords
Jenkins
Johnson
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Lundine
Markey
Marriott
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Oxley
Panetta
Patman
Patterson
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Ratchford
Ray
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Shelby
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Vucanovich
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Williams (MT)
Williams (OH)
Wirth
Wolf
Wolpe
Wright
Yates
Yatron
Young (AK)
Young (MO)

NAYS—176

Andrews (TX)
Anthony
Applegate
Archer
Badham
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bilirakis
Bliley
Bosco
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carper
Chandler
Chappell
Cheney
Clinger
Coats
Coleman (MO)
Conable
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
Derrick
DeWine
Dickinson
Dorgan
Dowdy
Dreier
Duncan
Durbin
Dyson
Eckart
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Fields
Frenzel
Fuqua
Gaydos
Gekas
Gibbons
Gingrich
Goodling
Gradison
Gramm
Gunderson
Hall (OH)
Hamilton
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Hopkins
Hunter
Hutto
Ireland
Jacobs
Jones (NC)
Jones (OK)
Kasich
Kemp
Kolter
Kostmayer
Kramer
Lagomarsino
Latta
Leach
Leath
Lent
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NC)
McCain
McCandless
McCloskey
McEwen
Michel
Mikulski
Miller (OH)
Molinari
Mollohan
Murphy
Myers
Nelson
Nielson
O'Brien
Olin
Packard
Parris
Pashayan
Paul
Pease
Penny
Pursell
Quillen
Regula
Ritter
Roberts
Robinson
Roukema
Rudd
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Tallon
Tauke
Taylor
Thomas (CA)
Vander Jagt
Vandergriff
Volkmer
Walker
Watkins
Weber
Whitehurst
Whittaker
Whitten
Wilson
Winn
Wortley
Wyden
Wylie
Young (FL)
Zschau

NOT VOTING—14

Britt
Chappie
Dingell
Hall (IN)
Hammerschmidt
Hance
Hansen (ID)
Hubbard
Kogovsek
Rahall
Rangel
Sharp
Simon
Wise

Mr. FRANKLIN changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

U.S. MARSHALS SERVICE AND WITNESS SECURITY REFORM ACT OF 1984

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4249, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4249, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 376, nays 41, not voting 16, as follows:

[Roll No. 159]

YEAS—376

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Barnard
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Bryant
Burton (CA)
Campbell
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dixon

Donnelly	Kramer	Ratchford
Dorgan	LaFalce	Ray
Dowdy	Lagomarsino	Regula
Downey	Lantos	Reid
Dreier	Latta	Richardson
Duncan	Leach	Ridge
Durbin	Lehman (CA)	Rinaldo
Dwyer	Lehman (FL)	Ritter
Dymally	Leland	Rodino
Dyson	Lent	Roemer
Early	Levin	Rose
Eckart	Levine	Rostenkowski
Edgar	Levitas	Roukema
Edwards (AL)	Lewis (CA)	Rowland
Edwards (CA)	Lewis (FL)	Roybal
Edwards (OK)	Lipinski	Russo
English	Lloyd	Sabo
Erdreich	Loeffler	Savage
Erlenborn	Long (LA)	Sawyer
Evans (IA)	Long (MD)	Schaefer
Evans (IL)	Lott	Scheuer
Fascell	Lowery (CA)	Schneider
Fazio	Lowry (WA)	Schroeder
Feighan	Luken	Schulze
Ferraro	Lundine	Schumer
Fiedler	Lungren	Seiberling
Fields	MacKay	Sensenbrenner
Fish	Madigan	Shannon
Flippo	Markey	Shaw
Florio	Marlenee	Shelby
Foglietta	Marriott	Sikorski
Foley	Martin (IL)	Siljander
Ford (MI)	Martin (NC)	Sisisky
Ford (TN)	Martin (NY)	Skeen
Fowler	Martinez	Skelton
Frank	Matsui	Slattery
Franklin	Mavroules	Smith (FL)
Frost	Mazzoli	Smith (IA)
Fuqua	McCain	Smith (NE)
Garcia	McCloskey	Smith (NJ)
Gaydos	McCollum	Smith, Robert
Gejdenson	McCurdy	Snowe
Gekas	McDade	Solarz
Gephardt	McEwen	Solomon
Gibbons	McGrath	Spence
Gilman	McHugh	Spratt
Gingrich	McKernan	St Germain
Glickman	McKinney	Staggers
Gonzalez	McNulty	Stangeland
Goodling	Mica	Stark
Gore	Michel	Stenholm
Gradison	Mikulski	Stokes
Gramm	Miller (CA)	Stratton
Gray	Mineta	Studds
Green	Minish	Swift
Gregg	Mitchell	Synar
Gunderson	Moakley	Tallon
Hall (OH)	Molinari	Tauke
Hall, Ralph	Mollohan	Tauzin
Hall, Sam	Montgomery	Thomas (CA)
Hamilton	Moody	Thomas (GA)
Harkin	Moore	Torres
Harrison	Moorhead	Torricelli
Hatcher	Morrison (CT)	Towns
Hawkins	Morrison (WA)	Traxler
Hayes	Mrazek	Udall
Hefner	Murphy	Valentine
Heftel	Murtha	Vander Jagt
Hertel	Myers	Vandergriff
Hightower	Natcher	Vento
Hiler	Neal	Volkmer
Hillis	Nelson	Walgren
Horton	Nichols	Walker
Howard	Nowak	Watkins
Hoyer	O'Brien	Waxman
Huckaby	Oakar	Weaver
Hughes	Oberstar	Weber
Hunter	Obey	Weiss
Hutto	Olin	Wheat
Hyde	Ortiz	Whitehurst
Ireland	Ottinger	Whitley
Jacobs	Owens	Whittaker
Jeffords	Oxley	Whitten
Jenkins	Packard	Wilson
Johnson	Panetta	Winn
Jones (NC)	Parris	Wirth
Jones (OK)	Pashayan	Wolf
Jones (TN)	Patman	Wolpe
Kaptur	Patterson	Wortley
Kasich	Pease	Wright
Kastenmeier	Penny	Wyden
Kazen	Pepper	Yates
Kemp	Perkins	Yatron
Kennelly	Petri	Young (AK)
Kildee	Pickle	Young (FL)
Kindness	Porter	Young (MO)
Kleczka	Price	Zschau
Kolter	Pritchard	
Kostmayer	Pursell	

NAYS—41

Badham	Hartnett	Rogers
Bateman	Holt	Roth
Bevill	Hopkins	Rudd
Brown (CO)	Leath	Shumway
Burton (IN)	Livingston	Shuster
Byron	Lujan	Smith, Denny
Conable	Mack	Snyder
Corcoran	McCandless	Stump
Crane, Daniel	Miller (OH)	Sundquist
Crane, Philip	Nielson	Taylor
Dickinson	Paul	Vucanovich
Emerson	Quillen	Williams (MT)
Frenzel	Roberts	Wylie
Hansen (UT)	Robinson	

NOT VOTING—16

Chappie	Hansen (ID)	Sharp
Dingell	Hubbard	Simon
Guarini	Kogovsek	Williams (OH)
Hall (IN)	Rahall	Wise
Hammerschmidt	Rangel	
Hance	Roe	

□ 1420

Mr. WILLIAMS of Montana and Mr. ROGERS changed their votes from "yea" to "nay."

Mr. TAUKE and Mr. RALPH M. HALL changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT DURING CALENDAR YEAR 1983—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, May 22, 1984.)

FIFTH ANNUAL REPORT DESCRIBING FEDERAL ACTIONS WITH RESPECT TO CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, May 22, 1984.)

PERMISSION FOR SUBCOMMITTEE ON MERCHANT MARINE OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT AT 10 A.M. ON WEDNESDAY, MAY 23, 1984

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries be permitted to sit at 10 a.m. on Wednesday, May 23, 1984, for the purpose of holding a hearing on H.R. 1511—to provide for jurisdiction over common carriers by water engaging in foreign commerce to and from the United States utilizing ports in nations contiguous to the United States.

The ranking minority member of the committee, the gentleman from Washington (Mr. PRITCHARD) and the ranking minority member of the subcommittee, the gentleman from Kentucky (Mr. SNYDER), have been apprised of the hearing time and date and are in accord with this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPRESSING SENSE OF CONGRESS REGARDING PERSECUTION OF MEMBERS OF BAHA'I RELIGION IN IRAN BY GOVERNMENT OF IRAN

Mr. YATRON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 226) expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 226

Whereas more than one hundred and fifty members of the Baha'i faith have been brutally executed by Iranian authorities since the 1979 Islamic revolution;

Whereas many Baha'is in Iran have disappeared and others have been tortured, persecuted, and deprived of their fundamental rights to personal property and employment;

Whereas an edict issued by Iran's Prosecutor General on August 29, 1983, has far-reaching implications that threaten the lives of three hundred thousand Baha'is residing in Iran and places the future practice of Baha'ism in jeopardy by dismantling the administrative structure of the Baha'i religion; and

Whereas these actions for the first time establish an expressed national policy which lays the legal foundation for executions, arrests, the confiscation of property, denial of jobs and pensions, expulsion of Baha'i children from schools, and other pressures which may be brought to bear by Iranian authorities on the Baha'is: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) holds the Government of Iran responsible for upholding the rights of all its nationals, including the Baha'is;

(2) condemns the recent decision taken by the Government of Iran to destroy the Baha'i faith by labeling as "criminal acts" all Baha'i teaching and organized religious activities, including the attempts by Baha'is to elect their own local and national leaders, to meet in assemblies, to communicate among themselves, and to work for volunteer committees; and

(3) calls upon the President—

(A) to work with appropriate foreign governments and the allies of the United States in forming an appeal to the Government of Iran concerning the Baha'is;

(B) to cooperate fully with the United Nations in its efforts on behalf of the Baha'is and to lead such efforts whenever it is possible and appropriate to do so; and

(C) to provide, and urge others to provide, for humanitarian assistance for those Baha'is who flee Iran.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. YATRON) is recognized for 1 hour.

Mr. YATRON. Mr. Speaker, I yield 30 minutes to the gentleman from Iowa (Mr. LEACH), pending which I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Illinois for originally sponsoring and authoring House Concurrent Resolution 226, legislation regarding the persecution of the Baha'is in Iran. This resolution condemns the Iranian Government's decision to destroy the Baha'i faith, and calls upon the President to work with foreign governments and our allies in formulating an appeal to the Government of Iran on behalf of the Baha'is.

The Subcommittee on Human Rights and International Organizations, which I chair, has long recognized the severity of the situation facing the Baha'i community in Iran. In May of 1982 under the leadership of Mr. Bonker, the subcommittee conducted a hearing on the Baha'is in Iran. Just recently, on May 2, 1984, we held a second hearing on the persecution of the Baha'is in Iran. As a result of these hearings we were able to help call attention to the grievous problems of Iran's largest religious minority.

The Baha'i faith is not recognized in Iran, and Baha'is are deprived of their basic human rights. Members of this peace-loving community are the principal targets of the current regime. Over 170 prominent Baha'is have been executed since Khomeini came into power. The places of worship have been destroyed, their possessions have been confiscated, and their religion banned.

The Baha'is are not the only Iranians who must suffer. Executions of political or religious victims are an almost daily occurrence. Since 1979, according to Amnesty International, approximately 5,500 people have been summarily executed by the Iranian Government. Those citizens who have not lost their lives encounter restrictions of their basic freedoms—freedom of speech, political freedom, and freedom of religion. Countless numbers of Iranians sought shelter from this tyranny in other countries.

Baha'is in Iran have always experienced tremendous pressure and persecution but they are being slaughtered by the Khomeini regime for adherence to their faith. For this reason, I urge my colleagues to support House Concurrent Resolution 226.

□ 1430

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. YATRON. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman and urge the support of House Concurrent Resolution 226. The Baha'is have indeed been persecuted, tortured, and unjustly imprisoned in Iran for many years. The American people cannot sit back and witness this without raising a loud voice of objection.

I hope this will be a step in the direction of bringing justice to a peace-loving, gentle folk who deserve our concern. I appreciate both the gentlemen's concern and the gentleman from Illinois for introducing this resolution.

Mr. YATRON. Mr. Speaker, I want to thank the gentleman for the fine work that he has done and the leadership he has shown in this area.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 226, expressing the sense of the Congress regarding the persecution of members of the Baha'i religion by the Islamic Republic of Iran.

I want to take this opportunity to commend the gentleman from Illinois (Mr. PORTER) for his leadership on this issue, as well as the gentleman from Pennsylvania (Mr. YATRON) for pressing for expeditious floor action. In addition, it should be stressed that the Department of State "enthusiastically supports" the resolution.

Three weeks ago, on May 2, 1984, the Subcommittee on Human Rights and International Organizations held a hearing on the "Religious Persecution of the Baha'is in Iran." The subcommittee heard eloquent testimony from representatives of the American Baha'i community indicating that some 20 more Baha'is have been executed since the resolution before us was drafted, bringing the total to date to over 170 victims. Included among those 170 victims were men, women, and teenage girls. Thousands of others have been arrested, tortured, and lost their jobs and property. Baha'i holy places have been confiscated and demolished. Members of the Baha'i religion are under constant pressure to recant their faith and embrace Islam in order to escape the horrors of persecution.

Two years ago, in May 1982, our subcommittee held a similar hearing on the persecution of the Baha'is. But as Judge James F. Nelson, chairman of the National Spiritual Assembly of the Baha'is of the United States, recently noted: "It is heartbreaking that in the 2 years since this committee heard our initial testimony the situation in Iran has not improved." Judge Nelson went on to point out that in spite of pleas from government officials and parliaments as well as other prominent persons and organizations, the number of those executed had increased over that 2-year period and that whereas 150 were imprisoned in May 1982, today over 700 Baha'is are under detention.

One cannot help but conclude that the aim of the Iranian Government is the extirpation of the Baha'i faith from Iran, either by forced conversion of Baha'is to Shiite Islam or "extermination." The analogies between Iran today and Germany under Hitler are towering.

The acts of inhumanity and brutality that have been heaped upon members of a peaceful religion are incomprehensible to civilized humanity. Among those recently executed are 10 women including 3 teenage girls. The Revolutionary Guard tortures others in prison, whipping them with metal cables, pouring boiling water on their heads.

While there is some tentative glimmer of hope that worldwide protests against this persecution may have diminished the Iranian authorities' appetite for executions, the abuses continue to occur and demand our unflagging efforts to bring all pressure possible to bear on that Government for its crimes. The lawabiding international

community must continue to make clear to the Iranian Government—through national actions and efforts by international organizations like the UN Human Rights Commission—that it cannot escape full responsibility for its actions to eliminate the Baha'i faith.

Mr. Speaker, it is my hope that those Baha'is who remain in Iran and who live in the darkness of this terror will hear our words and know of our actions today.

Accordingly, I urge the unanimous support of my collegues for this resolution as a symbol that the Islamic Republic of Iran cannot perpetrate an evil of this nature in silence. International protests may prove futile, but ignoring the plight of this gentle, committed people would be morally negligent.

The Baha'is are a very special people with a very special faith. They are special people because of the intellectual and personal depth of the convictions they hold. Their faith is special because it draws on so many religions and emphasizes, above everything else, tolerance.

This Congress by this resolution expresses the profoundest possible respect for the Baha'is and implicitly for all citizens of the world who have been persecuted for holding minority religious views.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER) whose resolution we are considering.

Mr. PORTER. Mr. Speaker, I first want to commend the chairman of the Subcommittee on Human Rights, the gentleman from Pennsylvania, and the ranking minority member, the gentleman from Iowa, for their leadership on this issue, for their commitment to it, for their bringing the resolution to the floor, and for the excellent hearings that were held before the subcommittee on May 2, and the earlier hearings on religious persecution that were held under the chairmanship of Mr. BONKER of Washington.

I think it is particularly appropriate that we consider this resolution today. It was 140 years ago today that the Baha'i religion was founded in Persia, incorporating as it did the essential tenets of all organized religions and emphasizing the unity of mankind, world peace, world order, the social equality of all people, pacificism, and tolerance.

It is an ironic crime against all humanity that these gentle and peaceful people have been persecuted in their homeland through 140 years of history but especially since the rise to power of the murderous Khomeini regime.

Today also marks 1 year since President Reagan's historic appeal on behalf of the Baha'is, and I want to take a moment of the time of the House to quote from the President's letter of just a year ago.

"These individuals," the President said, "are not guilty of any political offense or crime, they have not plotted the overthrow of the regime, and they are not responsible for the deaths of anyone. They only wish to live in accordance with the dictates of their own consciences. I strongly urge other world leaders to join me in an appeal to the Ayatolla Khomeini and the rest of Iran's leadership not to implement the sentences that have been pronounced on these innocent people."

Mr. Speaker, what has happened since that time, during the year since the President appealed for restraints from the Ayatolla Khomeini? It has to be said that the situation in Iran has worsened and worsened appreciably. Iran is the only place on Earth today where people are being persecuted, tortured, and executed solely for their religious beliefs.

I ask the House to consider these recent reports from Iran and try to put ourselves in the position of the individual Baha'is toward whom this persecution has been directed: Since the beginning of the Islamic revolution in 1979, more than 300 residences of Baha'is have been plundered or set on fire, and the people have nowhere to turn for help. One hundred and seventy Baha'is, most of them prominent members of the Baha'i community, have been killed by a variety of methods, but principally through execution by firing squads and by hangings.

One woman lost her husband who was shot before a firing squad and then, as a widow, was demanded to pay the cost of the bullets for his execution. Three teenage girls were hanged whose only crime was a refusal to recant their religious beliefs.

In urban areas, properties belonging to hundreds of families have been seized, and in rural areas, orchards have been destroyed, farms and arable lands confiscated with no chance for redress. The Ministry of Works and Social Affairs of Iran formally instructed industrial and commercial institutions not to pay the salaries of Baha'is that were on their staffs. More than 10,000 Baha'is employed in government offices or in the private sector have been summarily discharged, their rights to pensions and other employment benefits simply revoked, and in many cases demands were made of them to return the salaries they had earned. Students have been dismissed from universities and other institutions of higher learning simply because they affirmed a belief in the Baha'i religion. In most cities and provinces, Baha'i children have been denied an education, the opportunity to attend school and to learn.

Some 700 Baha'is including men, women, and children are being held in various prisons today throughout Iran. For more than 9 months, visits to 40 Baha'i prisoners have been strictly prohibited by the authorities; no one knows what their fate is. In some prisons, Baha'i prisoners are undergoing relentless torture in an effort on the part of authorities to force them to admit to false charges of engaging in espionage and acting against the Islamic Republic of Iran.

For a period of months they have been subject to floggings of all parts of the body, particularly the legs and feet. Sometimes up to 400 strokes by wire cables have been administered to a single prisoner, and then that prisoner is forced to crawl back on his hands and knees to the darkness of his cells.

Prisoners are regularly whipped in the head and face with thick plastic tubes in some prisons, and similar procedures are used, to a lesser degree, in others. A number of these victims of torture have lost their sight and hearing; others, their mental competence.

□ 1440

The bodies of four prisoners subjected to such treatment were seen being buried recently. It has been reported recently that three of the Baha'is broke under this torture and gave confessions that they were part of a CIA or Zionist plot against the regime. These confessions were reportedly videotaped for use as propaganda on Iranian TV. Lies, Mr. Speaker; all lies.

The Baha'is are unsafe in their own homes, which are entered at will, day or night, by revolutionary guards who harass the inhabitants, insulting them and threatening them and berating them, and if the Baha'i individual they are looking for is not present, they seize others as hostages, including women, and even children.

Recently a Baha'i woman gave birth and she was instantly slain by a fanatical Moslem mob, her child taken to be raised in the "true faith."

Whenever the head or some other important member of the family has been killed, and often when such a person has been imprisoned, those remaining behind have been forced from their homes and not permitted to take any belongings, even in the dead of winter, with them. They have no redress for these grievances.

Religious shrines have been destroyed. The place of the founding of the Baha'i faith was systematically torn down by the government. We can only imagine a government tearing down our church or temple and having to stand by helplessly, with no means of protest.

Recently four more Iranian Baha'is were executed. All had been tortured prior to their executions, and another died in prison as a result of his torture.

Last year the Prosecutor General of Iran issued an edict banning all Baha'i religious activity as criminal acts. Like the Nuremberg laws, this edict establishes the so-called legal grounds for mass arrests and genocide, and that is what is occurring, Mr. Speaker—genocide. In response to this decree, elected leaders of the Baha'i faith in Iran did dissolve all Baha'i institutions there, citing obedience, as they always do, to the civil law of the land. But, Mr. Speaker, this has done nothing to prevent more torture, more persecution, and more executions.

I think it is important to call attention worldwide to the plight of the Baha'is. In this generation, we have witnessed other attempts at genocide—the Armenians, the Cambodians, 6 million Jews in World War II. The setting in Iran today resembles Nazi Germany during Hitler's rise to power, Mr. Speaker, and the world must speak out against it.

The purpose of the resolution is threefold. First, it holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is. Second, it condemns the Prosecutor General's edict banning the Baha'is. And third, it calls upon the President of the United States to work in the United Nations and other forums with leaders of other countries to form a broad-based appeal to the Iranian Government.

Mr. Speaker, I know that it is impossible to fight murder and torture and genocide with resolutions, but we here in this free land sometimes forget that injustice toward anyone anywhere on this globe is in reality injustice toward each of us. We are all diminished by what is being done today in Iran.

Mr. Speaker, we debated a long time whether public exposure of this situation by Members of the Congress might jeopardize Baha'is in Iran even further. However, after several discussions with members of the National Spiritual Assembly of the Baha'is in the United States, I now believe that calling attention to the plight of the Iranian Baha'is might help improve the atmosphere there and reduce the excesses.

The world must learn what is happening in Iran and bring the pressure of civilized opinion to bear on this barbaric situation. As Firuz Kazemzadeh, the Secretary of the Baha'i Assembly in America, a professor of Russian history at Yale and a gentle and thoughtful man so representative of the adherents of this faith, said recently: "It is more difficult to kill, more difficult to torture, in broad daylight."

Mr. Speaker, House Concurrent Resolution 226 has 188 cosponsors, including many members of the Congressional Human Rights Caucus. It deserves not only enactment, but more importantly, that its concerns be brought to the attention of people all over the world. This resolution will not, in itself, change anything, but the people of this planet, united in their opposition to genocide in any form, can.

Mr. LEACH of Iowa. Mr. Speaker, I would like to commend the gentleman from Illinois for a very profound statement.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. I thank the gentleman for yielding. Mr. Speaker, I rise in support of this resolution, and also to commend the gentleman from Illinois.

Members of the House of Representatives and indeed all of the United States view with alarm and revulsion the continued persecutions and repressions of the Baha'is by the Ayatolla Khomeni.

The Baha'i faith is represented by over 7,200 locations in the United States with a significant number in my own State of South Carolina. Since the 1979 revolution in Iran at least 150 members of the Baha'i faith have been executed, more than 550 believers have been imprisoned, and many more are missing. Thousands of Baha'is have lost their homes, jobs, and possessions; no child of Baha'i parentage has been allowed to attend school; and all places holy to the faith, properties, and cemeteries have been confiscated or destroyed. Most recently, the followers of Khomeni have banned all Baha'i organizations and worship services.

To those of us from a country founded on religious freedom, these actions are abhorrent. Though we may not all believe the same, we do all believe in the sanctity of life. Khomeni's senseless and brutal treatment of the Baha'is is an affront to all peace-loving peoples, and I join my colleagues in condemning the actions of Khomeni and his thugs.

I hope that this resolution will focus light on these atrocities so that these murders and tortures may be lessened and the Baha'is may, in fact, live in peace.

● Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 226, expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran.

At the outset, I would like to especially commend two Members for their energetic leadership on this issue—the Honorable JOHN PORTER, cochairman of the Human Rights Caucus and sponsor of the resolution, and the Honorable GUS YATRON, chairman of the Subcommittee on Human Rights and International Organizations, whose subcommittee conducted hearings and considered the resolution. House Concurrent Resolution 226 has broad support in the House with cosponsorship of over 180 Members.

The persecution of the Baha'is in Iran is not a new occurrence—it has persisted throughout their 140 year history. Most unfortunately, the abuses have intensified to an intolerable degree since the 1979 Islamic Revolution. Over 150, of the 300,000 Baha'is in Iran have been executed since that time. Estimates of the number of Baha'is incarcerated there range from 500 to over 700—many have been tortured, and some have died in prison. Even women and children among this pacifistic minority have been tormented and executed.

In an egregious disregard for the Baha'is, not only did the Government officially ban the Baha'i religion in August 1983, but it has targeted these peace-loving people for extreme abuse. Baha'is have been fired from their jobs, denied their pensions, and had their property and businesses confiscated—even their religious shrines and cemeteries have been desecrated and destroyed. The basic tenets of the Baha'i beliefs—pacifism, social equality, and tolerance—make them particularly vulnerable to the merciless fanaticism directed against them.

Other religious minorities in Iran have also been subjected to persecution—Jews, Christians, and Zoroastrians. The attacks against the Baha'is have been the most flagrant, however.

The resolution before us charges the Iranian Government with responsibility for respecting the rights of all its citizens, including the Baha'is; condemns that Government's decision to label all Baha'i activities as "criminal acts"; and calls on the President to work with other nations to appeal to Iran on behalf of the Baha'is, and to encourage cooperation with U.N. efforts, and to provide humanitarian assistance to Baha'is fleeing from Iran.

Mr. Speaker, as a humanitarian appeal to Iran to encourage its sensitivity toward the Baha'is, I urge the adoption of House Concurrent Resolution 226.●

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5580, AUTHORIZING FINANCIAL ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 98-797) on the resolution (H. Res. 507) providing for the

consideration of the bill (H.R. 5580) to amend the Public Health Service Act to authorize financial assistance for organ procurement organizations, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5290, COMPASSIONATE PAIN RELIEF ACT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 98-798) on the resolution (H. Res. 508) providing for the consideration of the bill (H.R. 5290) to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5244, DEPARTMENT OF ENERGY CIVILIAN RESEARCH AND DEVELOPMENT ACT FOR FISCAL YEARS 1985, 1986, AND 1987

Mr. BEILENSON, from the Committee on Rules, submitted a privilege report (Rept. No. 98-799) on the resolution (H. Res. 509) providing for the consideration of the bill (H.R. 5244) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal years 1985, 1986, and 1987, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 226, which was just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3795, WINE EQUITY ACT

Mr. MRAZEK. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 3795, the Wine Equity Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1450

INCREASE OF PUBLIC DEBT LIMIT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 503 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 503

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5665) to provide for a temporary increase in the public debt limit, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived, and all points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 503 provides for the consideration of H.R. 5665, providing for a temporary increase in the public debt limit. The resolution allows for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

In order to provide for expeditious consideration of this urgent measure, House Resolution 503 is a modified closed rule permitting only the consideration of amendments recommended by the Committee on Ways and Means which themselves are not subject to amendment.

The rule waives section 402(a) of the Congressional Budget Act of 1974 against consideration of the bill. Section 402(a) prohibits consideration of legislation containing new budget authority not reported on or before May 15 prior to the fiscal year in which it is to become effective. This waiver is necessary because section 3 of H.R. 5665 authorizes appropriations for miscellaneous administrative functions of the Secretary of the Treasury effective upon enactment of the bill, thus effective in fiscal year 1984.

In addition, House Resolution 503 waives clause 5(a) of rule XXI—prohibiting appropriations in measures reported by legislative committees—against the bill. This waiver is necessary because the increase in the public debt limit automatically furnishes new authority to pay interest on the increased debt under the provisions of the Second Liberty Bond Act, which constitutes an appropriation. This waiver of clause 5(a), rule XXI, is routinely granted for bills increasing the public debt limit.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, the current limit on the public debt is $1.49 trillion. As of May 11 the outstanding public debt was $1.481 trillion, or less than $9 billion below the current statutory limit. The Secretary of the Treasury has testified before the Committee on Ways and Means that the current level is adequate to meet the Federal Government's financing needs until May 24, 1984. If the present limit is not increased, the Federal Government will be unable to meet its obligations by the day after tomorrow.

The bill made in order by the rule provides for a temporary increase of $30 billion in the public debt limit to a level of $1.52 trillion. This temporary increase, which would be operative through June 15, 1984, was reported from the Committee on Ways and Means on a bipartisan basis with the realization that subsequent action to extend the debt limit would be necessary. The appropriate level for a more substantial increase in the debt limit will be determined as the deficit reduction plans adopted by both Houses emerge from conference.

H.R. 5665 would also increase by $50 billion the authority for the Treasury to issue bonds bearing interest rates in excess of 4¼ percent. In addition, the bill contains 10 separate provisions which authorize appropriations for various administrative functions of the department. All of these provisions were requested by the administration.

Mr. Speaker, the speedy passage of this legislation is essential to the functioning of the Federal Government. Failure to adopt this measure would raise the possibility of the U.S. Government defaulting on its obligations. I urge my colleagues to allow its consideration by adopting House Resolution 503.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 503 is a modified closed rule providing for 1 hour of general debate on the bill H.R. 5665 which provides for a temporary increase in the public debt limit through June 15, 1984. The rule waives section 402(a) of the Budget Act against consideration of the bill because it was reported after May 15 of the current fiscal year. The rule also waives clause 5(a) of rule 21 against consideration of the bill. That clause prohibits appropriations in a legislative bill. This waiver is necessary because any increase in the public debt automatically provides new authority to pay interest on the increased debt under the provisions of the Second Liberty Bond Act.

The only amendments made in order under this rule are committee amendments, which shall not be subject to amendment. A request was made by several Members to make in order a nongermane amendment to create a bipartisan commission on the deficit, but the Rules Committee did not make that amendment in order. Finally, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 5665 would provide for an increase of $30 billion in the public debt limit, from $1.49 trillion to $1.52 trillion through June 15 of this year. Although we do have a procedure under House Rule 49 for automatically placing the debt limit figure in the budget resolution in a joint resolution, this bill is necessary because we have not yet adopted the first budget resolution for fiscal 1985, which includes a revised budget resolution for fiscal 1984 as well.

Mr. Speaker, like many of my colleagues, I am not happy about once again having to raise the public debt limit. But, this is one of those necessary evils we have to confront from time to time until we do a better job of bringing down deficits and controlling the mounting public debt and the interest we are paying on it. I therefore reluctantly support this rule and the bill it makes in order, and urge my colleagues to do likewise.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. OLIN), for purposes of debate only.

Mr. OLIN. Mr. Speaker, I will not be able to support the rule for H.R. 5665, and I would like to take a few moments to state my reasons.

We are asked once again to extend the public debt limit. Most of us do not like taking a vote like this, but we have no other choice.

Mr. Speaker, we have an opportunity to really do something about the growth in the Federal deficit. Last Thursday, I and three of our colleagues asked the Rules Committee to permit an amendment to H.R. 5665 which would establish a national, bipartisan commission on the deficit. The establishment of this commission would be a condition for raising the limit on the public debt.

The Rules Committee denied our request, and I respect its decision.

The vote we take today on H.R. 5665 will carry us only through June 15 this year. The other body has approved an extension until the end of June 1985.

I want to urge that the House conferees remain firm on a relatively short extension of the debt limit. And when the debt limitation expires again, I would urge that we take action then to establish a national commission to solve the deficit crisis for good.

The establishment of such a commission has already been proposed by two of our colleagues, LES AUCOIN and CHALMERS WYLIE. Last fall, they introduced House Joint Resolution 382 which calls for a 15-member commission. Five members would be appointed by the President, five by the House, and five by the other body. Its recommendations would be due after the November elections.

That joint resolution now has 153 cosponsors from both sides of the aisle and from Members representing constituencies from all over our country.

Mr. Speaker, our experience with the Commission on Social Security is a good example of how difficult problems can be worked out in a way that can be supported by many Members of the House, the administration, and the other body. Finding ways to reduce the deficit will be much more difficult than solving the problems we faced with social security. The answers must be arrived at in a bipartisan fashion. That is what a national commission has to offer us.

By adopting the AuCoin-Wylie resolution, we will be sending a clear message to the American public that we are serious about this problem and that we are taking strong steps to come to grips with it.

The bill on raising the public debt limit is a perfect opportunity to really do something about the deficit.

My colleagues and I were not successful in getting permission to offer an amendment that would establish this commission. That is why I want to urge the House conferees not to extend the debt limit beyond June of this year and to let those of us who support a national deficit commission have our chance to present our plan to the full membership.

Mr. Speaker, when the debt ceiling next comes before us again in June, I intend to request a rule which allows consideration of a National Deficit Reduction Commission and I urge all Members to support this positive action on the Nation's No. 1 economic problem.

□ 1500

Mr BEILENSON. Mr. Speaker, we have no further requests for time on this side.

Mr. LOTT. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 503 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5665.

The Chair designates the gentleman from Georgia (Mr. RAY) as Chairman of the Committee of the Whole and requests the gentleman from Washington (Mr. LOWRY) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5665) to provide for a temporary increase in the public debt limit, and for other purposes, with Mr. LOWRY of Washington (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the substantive content of this bill (H.R. 5665) is not unusual. Each of the three sections in the bill relates to matters that the House has debated and passed on every year or two of the past several decades. I will describe the bill first and then discuss the committee's reasons for reporting the bill in this form.

AUTHORIZATION OF TREASURY DEPARTMENT APPROPRIATIONS

The Treasury Department has received appropriations over a number of years for administrative items and official function and representational activities. These appropriations have been enacted without proper authorization. At the request of the Treasury Department (submitted in executive communication 1410), the Ways and Means Committee in section 3 of the

bill has approved permanent authorizations for 10 activities. The bill authorizes the Secretary of the Treasury to conduct these activities, only to the extent that funds are provided in advance in appropriations acts.

Generally, these authorizations relate to reciprocal agreements between law enforcement agencies in the Treasury Department and those in State and local governments, and to various kinds of administrative and housekeeping activities in the United States but primarily in foreign countries. A description of the authorizations is in the appendix to this statement.

INCREASED EXCEPTION FROM 4¼ PERCENT INTEREST RATE LIMIT

For the past dozen years or so, Congress has allowed the Treasury Department to issue to the public a limited amount of bonds that pay an interest rate above 4¼ percent. (A bond when issued will mature more than 10 years later.) This exception has been provided in recognition that interest rates on bonds will remain above 4¼ percent for the foreseeable future.

Increases in this authority have been provided about every 2 years. These periodic increases of limited authority allow Congress to review the debt management practices of the Treasury Department.

Present law permits up to $150 billion in bonds to be issued above the 4¼ percent ceiling. This authority will be exhausted late this year or early in 1985. Section 2 of the bill increases the limit to $200 billion, which should carry the Treasury Department through 1985 and probably into 1986 and provide it with a reasonably long planning period for management of long-term debt issues.

One of the collateral benefits of the long-term bond authority exceptions has been a gradual lengthening of the average maturity of the public debt. This development has been an important objective of the debt managers in the Treasury Department, and the House and the Ways and Means Committee has shared in this goal. In the past 8 years, the steady growth of the market for Treasury bonds has contributed to lengthening the average maturity of the public debt from 2 years and 5 months in March 1976 to 4 years and 4 months at the end of March 1984.

INCREASE IN PUBLIC DEBT LIMIT

The committee has approved an increase of $30 billion in the public debt limit, which will increase the present limit from $1,490 billion to $1,520 billion. This $30 billion increase is in the bill as reported for the period through June 15, 1984. At the request of the Senate Committee on Finance, I will offer a committee amendment at the conclusion of general debate to substitute June 22, 1984, for the June 15 date. This committee amendment will not change the size of the debt increase contained in the committee bill but only extend its duration for 7 days. An increase in the debt limit covering a longer period of time will be reported by the Ways and Means Committee when the budget effects of pending tax and spending bills are known. The short-term increase is being made now because the Treasury Department has informed the committee that the present limit of $1,490 billion will be adequate only to finance Federal outlays until about May 24—the day before the Memorial Day recess begins.

The present situation is tight. At the close of business on May 16, the outstanding public debt was just $25 million below the statutory ceiling—at $1,489,975 billion—and the operating cash balance was $9.6 billion. With the debt at the ceiling, the cash balance is virtually the only source for paying bills until the debt limit is increased, and the May 16 cash balance amounted to an average $1.6 billion for each working day from the 16th to the 24th.

The tight situation regarding the debt limit explains why the Ways and Means Committee has brought a debt limit bill to the floor today, but why does it provide only temporary adjustment? Why does the committee choose to return to the House floor in less than a month with another request to increase the debt limit—probably by a greater amount and for a longer time period, especially when the committee is usually very sensitive to the hostility of the House to annual, large increases in the public debt limit?

Mr. Chairman, the Committee on Ways and Means comes to the floor with this brief extension of the statutory debt limit for two reasons. The first is that the time available for acting on the bill is unquestionably inadequate for properly debating the historically unprecedented debt limit increases requested by the administration for a long-term extension. The second, and more serious concern is the paradox of having struggled for months on a deficit reduction package and then sending the President a Memorial Day recess package that only expands the Government's ability to borrow money by unprecedented amounts. This can only mislead the American people, the financial markets and others around the world who are concerned about America's ability to manage its own fiscal affairs. Before we give the administration the long extension it wants, we ought to complete work on the tax reform bill and the outlay reduction package.

The chronology of our efforts reflects both the frustration and the delay. On January 25, in his state of the Union message, the President called for a "downpayment" deficit reduction of $100 billion over the next 3 years. The House welcomed this President's new found willingness to explore the deficit problem and expand it into a downpayment of a far greater magnitude. On February 1, the Committee on Ways and Means announced hearings on the President's 1984 revenue program. On March 1, the committee completed its consideration of that program and included it in our pending tax reform package.

On March 31, working on an expedited schedule, the House Budget Committee recommended to the House a deficit reduction package going considerably beyond the scope outlined by the President and encompassing the entire Ways and Means Committee's revenue and outlay reduction bill. On April 5, the House approved the budget for the fiscal year 1985 and in rapid succession implemented the budget blueprint by approving the tax reform bill and the spending reduction bill that combined the outlay reductions recommended by the Ways and Means and other House committees.

Since then, Mr. Chairman, we have waited. We have waited almost 2 months for the Senate to complete action on its budget resolution and on the implementing legislation.

As we consider this debt limit bill today, Mr. Chairman, we recognize that the Senate body has acted on its aggregate package but the outlook for the future remains uncertain. The conference ahead will be trying. We must not only deal with items not truly related to deficit reduction, but also face a controversial procedural device, in the form of appropriations caps, which ostensibly limits discretionary spending (but which carries the practical effect of allowing a level of defense spending higher than most Members in this body have indicated a willingness to accept).

Thus, Mr. Chairman, this will be a difficult conference for the Ways and Means Committee and the other committees involved. To show our commitment to the passage of a trim, effective deficit package, we must move quickly. If the conferees apply the same seriousness of purpose which was demonstrated in the House (and by the Senate Finance Committee), we can pass this package before June 22. Once the House has completed action on the conference report, the Committee on Ways and Means would bring to the floor a further debt limit extension to carry the Government well into 1985.

Under section 3 of the bill, the Secretary of the Treasury may, to the extent provided in advance in appropriations acts;

First, contract for the temporary services of experts or consultants;

Second, contract with and reimburse the Department of State for health

and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

Third, obtain insurance for official motor vehicles operated in foreign countries;

Fourth, install and maintain facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by the U.S. Government;

Fifth, maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

Sixth, enter into reciprocal assistance agreements with State and local law enforcement agencies;

Seventh, provide for official functions, and reception and representation activities;

Eighth, provide athletic and related activities for students at the Federal Law Enforcement Training Center;

Ninth, acquire real property in foreign countries by lease and personal property by purchase or lease, when necessary for the performance of official business; and

Tenth, provide laboratory assistance to State and local law enforcement agencies.

□ 1510

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, during the past year, it seems many Members of Congress finally got the message that we have run out of money to spend. But tragically, this awareness has not slowed down our propensity for appropriating the people's money. We are bankrupt, yet we spend as if our coffers were flush. I can think of no words adequate to describe this childish behavior.

Now we are once again engaging in the shameful and cowardly action of increasing the national debt. We have two clear choices: Continue to live it up today and leave the bills for those not yet born; or, decide it is time to stop spending money that we do not have and immediately balance the budget by reducing spending. An "aye" vote for increasing the debt ceiling is a vote to ignore the consequences of our budgets. It will be our children and grandchildren who will pay the ultimate price for our folly and frivolity. That price is one of broken dreams, lost hopes, and hundreds of billions of dollars in unpaid bills. The only consolation the next generation will have is the knowledge that their parents and grandparents lived it up. But is future prosperity so cheap that we would sacrifice it to our narrow, short run self-interest?

The consequences of the national debt are terrifying. Yet, why do we hear so little about it in the media? While the Members of this body capture headlines bickering about camera angles, a legacy is being created that threatens our liberty and our prosperity. The conclusions of the Grace Commission indicate where we are headed: A Federal debt of $13 trillion and annual interest payments on the debt of $1.5 trillion, just 16 years from now. Our actions today in approving an increase in the debt ceiling will take us a step closer to this disaster. It is especially alarming to note that the administration is anticipating the need to raise the debt ceiling to $1.824 trillion, a jump of $240 billion, during fiscal year 1985 which is more than $334 billion above the current ceiling. This indicates the administration does not trust its own deficit predictions.

We must start saying no to special interests. By saying no today to this debt ceiling increase, we can keep the national debt from increasing by $334 billion—a 22-percent jump—over the next 16 months. The process of restoring fiscal responsibility must start with a decision that $1½ trillion in debt is enough. Then we can begin to reduce spending. First, we eliminate foreign loans and foreign giveaways, which enrich foreign leaders and impoverish their citizens. We must also eliminate subsidies to Communist nations, so that they, not the American people, have to foot the bills for their war machine. And, let us begin reducing appropriations for misguided domestic programs which lock Americans into poverty. The process will not be easy—it never is easy to say no. But each dollar we save for the taxpayers will help create a private sector job and an income for some worker.

Finally, let us heed the warning of Thomas Jefferson:

I place economy among the first and most important virtues, and public debt as the greatest of dangers. To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our choice between economy and liberty, or profusion and servitude. If we can prevent the Government from wasting the labors of the people under the pretense of caring for them, they will be happy.

Mr. CONABLE. Mr. Chairman, I now yield myself such time as I may consume.

Mr. Chairman, at the outset I would like to read a couple of paragraphs from a letter sent by the Secretary of the Treasury to the chairman of the committee, which is a matter of public record. But I think it expresses the need for this legislation quite clearly.

The United States has not defaulted on any of its debt obligations and has not had its checks returned for insufficient funds since the founding of the Republic. Hence, this country possesses the strongest credit in the world. The full consequences of a default by the United States are impossible to predict and awesome to anticipate. Denigration of the full faith and credit of the United States would have incalculable effects on the domestic money markets and on the value of the dollar in exchange markets. The Nation can ill afford taking the risks involved in default.

If the Congress does not act and the debt limit is not increased by May 24, the Government likely will be unable to meet all of its essential obligations when they fall due including social security checks, payroll checks, unemployment checks, defense contracts, and principal interest on its securities.

In the light of this not unexpected communication, Mr. Chairman, I support the passage of H.R. 5665, which would increase the Federal debt ceiling by a relatively slight amount for a relatively short period of time.

The bill, as reported by the Committee on Ways and Means, would provide a $30 billion increase in the debt ceiling until June 15, 1984. A committee amendment to change that date to June 22 (a 1-week extension) will be offered by our chairman at the conclusion of general debate, and I intend to vote for the amendment as well as the bill.

The current ceiling is $1,490 billion and the Treasury Department estimates that its borrowing requirements will reach that level by May 24. If we do not raise the ceiling by that date, Treasury obligations cannot be met, and the Government will begin grinding slowly to a halt.

The dollar amount of the proposed increase in the debt ceiling is, of course, essential. But also of importance is the time limit in the bill.

If a conference on the deficit down payment package were not pending, our committee probably would be before you today seeking an increase of much longer duration. I think my chairman and I agree on that. But the conference is imminent, and we want to expedite action on it. By imposing a new debt ceiling deadline, near the end of next month, we are providing an additional incentive for the conference, and the Congress, to complete work promptly on the deficit downpayment.

Obviously, the deficit downpayment permits us to anticipate additional debt requirements in the future as well.

As the chairman of our committee has indicated, the amendment to extend the debt deadline to June 22 will be offered at the request of the Finance Committee. There was some realistic apprehension in the other body, as I understand it, that the downpayment package might not be completed by June 15. As far as I am concerned, the extension is acceptable. As long as we can finish our task on revenues and expenditures by the end of June, we will have reached a major fiscal objective.

Although the leading purposes of H.R. 5665 are to provide a downpayment deadline and give the Treasury temporary relief, the measure does

have other elements. It also increases the amount of market-rate Treasury bonds which may be issued from $150 billlion to $200 billion. The current market rate for Treasury bonds is in the low 13-percent range. Without special action to increase the authority to issue market-rate Treasury bonds, the Government would be unable to pay more than 4¼ percent interest to investors. At a 4¼-percent interest rate, it is likely that no one would but the securities. The Treasury Department should, I think, finance our debt by issuing securities with a broad spectrum of maturities. It gives balance and stability to our debt financing operations.

Finally, H.R. 5665 provides the Department with authority it has requested to carry on several miscellaneous administrative activities. These include authorization to enter reciprocal agreements with State and local law enforcement agencies; to obtain automobile insurance for vehicles operated in foreign countries and to reimburse the State Department for medical services provided to Treasury personnel serving outside the United States. H.R. 5665 respects the role of the appropriations process by making these authorizations subject to relevant appropriation bills.

These appear to me to be worthwhile provisions, and deserving of our support. For the overriding reason we are here, Mr. Chairman, is to increase the debt ceiling enough to allow the Congress to complete action on a deficit reduction downpayment package. I submit that is reason enough, and I urge my colleagues to vote in favor of H.R. 5665.

□ 1520

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. I thank the gentleman for yielding time to me.

Mr. Chairman, I asked for the time because I am concerned over a provision of H.R. 5665, which amends title 31 of the United States Code, to authorize the Secretary of the Treasury to install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned or under jurisdiction and control of the U.S. Government and, subsequently, to remove the facilities therefrom.

In 1976, after my committee had exposed the expenditure of over $17 million in Government funds on President Nixon's private homes, the Congress passed the Presidential Protection Assistance Act of 1976, Public Law 94-524. Our investigation showed that the excesses and abuses were partially attributable to the indefiniteness of existing laws governing such expenditures.

Public Law 94-524 established a comprehensive statutory scheme to govern such expenditures by the Secret Service. Provisions of law included the requirement that one nongovernmental property be designated to be fuly secured on a permanent basis, a limitation of $10,000 on expenditures for protection of additional nongovernmental properties, provisions governing disposition of property upon termination of Secret Service protection, and reporting requirements on expenditures made by Federal protective agencies for nongovernmental properties.

In order to avoid any misinterpretation of the relationship between authority contained in H.R. 5665 and the statutory scheme of Public Law 94-524, I would ask the chairman of the Ways and Means Committee whether it is intended the authority granted in H.R. 5665 be subject to the provisions of Public Law 94-524.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, the gentleman is correct. The authority contained in H.R. 5665 regarding provision of facilities as necessary for the performance of protective functions of the Department of the Treasury on nongovernmental property is subject to the provisions and requirements of Public Law 94-524.

Mr. BROOKS. Mr. Chairman, I want to thank the gentleman from Illinois very much.

Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nevada (Mrs. VUCANOVICH).

Mrs. VUCANOVICH. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the debt limit extension. In a very matter of fact manner, the House today will approve another $30 billion in public debt—that on top of the $1.490 trillion we already owe. We need this money to provide cash for Government operations through June 15 of this year. Otherwise we will run out on or about May 24.

That means that, by the close of business today, we will have OK'd another 130 dollars worth of debt for every American. Add that to what we have already borrowed, and every citizen in this country can say he or she has cosigned a note for this Government. And, that note amounts to just over $6,000 in principle—per person, not per family.

That is the most debt we have ever piled on our people. It is too high, it is symptomatic of a greater problem, and we are the only ones who can stop it.

And, as we discuss this measure that we all know will pass, we will hear some of our colleagues decrying the administration for its inability to control the budget, some of our colleagues making the good management argument for why we need this money, and some colleagues remaining silent knowing they will vote "aye," but not liking it one bit.

Ironically, those who today will decry the administration are the same distinguished members of this body who, earlier this year, labeled the President's budget "dead on arrival" and proceeded to force on this Nation this year's first concurrent budget resolution, complete with its "tax as you spend" provision, called "pay as you go" for media purposes, that mandates both higher spending and higher taxes in coming years, and does nothing to attack the real problem of congressional overspending.

And, those who will make the good management argument will be absolutely correct, if their argument is viewed in the bureaucratic vacuum of Capitol Hill. But if you take that good management argument to its logical conclusion as my constituents in Nevada do, you must ask the question, Why is congressional good management always remedial? Why are not we good managers at appropriations time? Why must we wait for that unpleasant call from the banker before we adopt this good management posture?

Our good management has produced public debt that accounts for 44 percent of this Nation's GNP. And, contrary to what we will hear today, it has not all happened since Ronald Reagan took office. Under Jimmy Carter, the Congress piled up debt of just over $900 billion. And, since that time, public debt as a percentage of GNP has been increasing to the point where it is projected to reach 50 percent by 1987.

The bottom line is simply this: It does not matter who is President. Public debt has been piling up since 1917 when Congress authorized the borrowing of $7.5 billion. Since then, with few exceptions, its been growing continuously and has not fallen in the last 20 years. I urge my colleagues to oppose this measure.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the vigilant gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I thank the distinguished Member from New York for yielding me this time.

At a time like this I think there are certain principles that speak very eloquently on what we are about.

The first one asks who is responsible for the level of spending in this country?

Now we will hear political pundits around the Nation say, Well, it is the President; he is in the White House. But the fact of the matter is if we the Congress do not approve this increase in the debt ceiling, the President no matter who he or she is, cannot spend the money. So the buck stops here. We are responsible, the Congress of the United States, for the spending level of this country.

The second question comes up:

Well, we have already appropriated the money, this is kind of a pro forma routine we are going through. You know, we have made the obligations on the part of the Government; come along now, do not cause all this trouble. Let us just go ahead and raise this ceiling a little higher, and pay our bills.

I do not fall into that school for a very simple reason. In many cases this Member from California did not vote for the appropriations which have resulted in the necessity of raising the debt ceiling.

But even if I had, the question comes up and should be in the mind of all of us: What happens if we do not approve this increase in the debt ceiling? It is very simple. We will find ways to cut the spending so as to conform to the existing national debt.

Well, when you propose to do that, immediately comes the question where to cut: There are several alternatives that have been proposed this year. One is to freeze Federal spending for 1985 to what we spent in 1984. Depending on whose figures you believe and what is included within the freeze, we could save at least $35 to $45 billion with that.

Another alternative that could be considered to avoid adding this additional $30 billion, is the Grace Commission recommendations. The Presidential Commission recommended spending cuts totaling some $424 billion over 3 years. The CBO in analyzing that work product has said, "Well, they only total $98 billion." Well, that is $98 billion we can use.

The point is I think each of us in our political system should be accountable for what we do. Our rollcall vote on how we vote can tell or speak eloquently to our constituents whether a Member of this House is responsible for raising the debt on our grandchildren and great grandchildren, yet another notch.

So I ask my colleagues to reject this measure.

□ 1530

Mr. CONABLE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Chairman, I take a position that I know is not shared with some of our leaders on the Republican side of the aisle who believe that the responsible thing to do is to raise the debt ceiling, while, in my judgment, that is not the responsible alternative for fiscal conservatives.

I share the sentiments of my good friend from California here on that subject.

An important thing for all Members faced with this vote to acknowledge is their role in contributing to the necessity for hiking the debt ceiling. Interestingly enough, the National Taxpayers Union has just come out with its latest rating of the Congress for the first session of this term. It is instructive for people to review the contents thereof because the National Taxpayers Union rates us on the basis of the total number of dollars we vote to spend. They do not make subjective evaluations as to good spending versus bad spending, it is all spending, from welfare to weapons.

If you examine the contents of that rating one can pretty well identify those who have the responsibility to cast the vote to hike the debt ceiling as a means of providing for the levels of spending that were dictated by their earlier votes.

Now, there is something else that needs some clarification, namely, the whole subject of responsibility for spending. U.S. News & World Report, in their recent issue with red ink spilling over the Capitol dome, attempted to suggest that Presidents have something to do with budgets.

Presidents have nothing to do with budgets, have nothing to do with spending except in a negative way and that is through exercise of the veto.

Can you imagine trying to run a corporation as a chief executive officer sitting down with your board of directors at the beginning of the year and then charting the anticipated expenditures for that year and as CEO, when you knew you could make an economy while still carrying out the intent of the board, failing to do so? You would get your pink slip by the end of the year.

But the fact is that is the way our National Government is run. You remember back in the days of Richard Nixon when in attempting to carry out the congressional mandate he impounded money, that is, he saved money to the taxpayer. And what did this body do? It promptly passed the Anti-Impoundment Act which says you cannot make those economies even if you see opportunities to do so.

The fact of the matter is that from the beginning of the Republic all general spending bills, general appropriation bills, have always originated in this Chamber. Just like constitutionally the tax function is a mandated responsibility of this Chamber. That means not only do we originate the spending, we originate the taxation, we originate the policies, and the arrangement of priorities. These are first and foremost House functions.

For anyone who wants to assess blame based on any partisan consideration, I would simply remind my colleagues on the other side of the aisle, that in the last 52 years Republicans have controlled this Chamber only 4 years, and the last time was 30 years ago.

In addition to that, if you look at the pictures of Presidents depicted as U.S. News & World Report did over budget surpluses or budget deficits in the post-World War II era, Harry Truman looks very good. I think it was four of the six budget surpluses that we have had in the last 40 years in this country that he presided over. But one of those Congresses that gave him budget surpluses was what he called the do-nothing Congress. It was not a do-nothing Congress, it was one of those two Republican Congresses that we have had in better than half a century. They were responsible at least for giving this Nation budget surpluses.

The concern I have on this point is a startling fact that everybody in this Chamber ought to chew on, especially if you have children. If we balance the budget every year for the next 16 years—and if you harken back over the previous 16 to 1968, we only did it once—if we balance the budget for the next 16 years running to the year 2000, we finance it at 10 percent interest rates—and that is another very optimistic assumption—our $1.5 trillion national debt goes to $7.5 trillion by the year 2000. Now that is with no aggravation of this grave problem that is confronting our country and is threatening, in my estimation, to kill the goose that lays the golden eggs.

This is not a partisan issue. All of us have a profound stake in what goes on here in terms of trying to rein in the excessive spending.

Let me give my colleagues a quick example of what has been done in our neighboring State of Delaware.

Pete du Pont, former colleague, came to the Governor's office in 1977. At that time they were running deficits 50 percent of their annual revenues, Delaware's bond rating was No. 50 out of 50 States, and they had amongst the highest taxes in this country.

What they did in the State of Delaware was to pass a constitutional amendment requiring balanced budgets. They cannot spend more than 98 percent of what they take in. They have run budget surpluses every year since, their bond rating has gone from No. 50 up to 15. In addition to that, Pete du Pont got the first tax cut in the history of the State of Delaware passed in 1982, and there is another one scheduled for this summer.

I think it speaks to the importance of imposing some kind of external discipline. As Thomas Jefferson said—"Bind the rascals down with the chains of the Constitution."

This is one area where we have not been bound and where some kind of discipline is desperately neeeded.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from Oregon.

Mr. AuCOIN. I thank the gentleman for yielding.

Before the week is over the gentleman may have an opportunity to vote for some $20 billion in further reductions by voting against the MX missile.

Would the gentleman support such an amendment?

Mr. PHILIP M. CRANE. I will not vote against the MX missile.

And if I may reclaim my time for a second, I would like to address the fiction that this irresponsibility is because of defense spending because the gentleman knows we are spending less than Carter recommended.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask my colleague from Oregon and I would like to extend a question to my colleague. Is the gentleman aware that over the last 20 years defense spending in this country, expressed in 1972 constant dollars adjusting for the impact of inflation is up 25 percent, whereas social spending is up 350 percent; is the gentleman aware of that?

Mr. AuCOIN. If the gentleman will yield to me, I would say to the gentleman from California that the answer to that question is: So what?

The real question is how much is needed to defend this country. This idea of bandying about percentage comparisons between domestic and military spending does not make any sense at all. It is certainly no basis on which to justify a first strike weapon, which will drain $20 billion out of the Treasury.

I am surprised the gentleman, who is against spending, would vote for the MX.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the vigliant and acerbic gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, once again we find ourselves faced with the need to increase the public debt limit, so that the Treasury Department can continue to borrow the funds necessary to keep the Government in operation.

It is perhaps ironic that at the same time we are increasing the debt limit, we are also in the process of completing work on the 1985 budget resolution, the 1985 reconciliation package, and the Tax Reform Act of 1984, the third tax increase bill to be considered by the Congress in as many years.

The fiscal year 1985 budget was not my budget. I did not support it in the Budget Committee, and I did not vote for it. Nor am I likely to vote for the final conference agreement this year.

Because the Congress has approved the budget, and because the money has been spent, I believe we must borrow the money to pay the bills. Congress has danced, and so have its beneficiaries. This bill pays the piper. H.R. 5665, with the committee amendment, provides for a temporary increase in the public debt limit of $30 billion, to $1.520 trillion. This additional authority to increase the public debt will expire on June 22.

Now I know that many of my colleagues do not like to vote for increases in the public debt limit. For no rationale reason, debt ceiling expansions have become symbolic of waste and deficits, while the spending and entitlement bills that cause the debt are by the same convoluted rationale, good.

It is important to realize, however, that this is a temporary increase, and that the enactment of this bill will provide the Congress with an incentive to rapidly come to an agreement with respect to the fiscal year 1985 budget resolution, the fiscal year 1985 budget reconciliation package, and the Tax Reform Act of 1984.

H.R. 5665 also contains an increase in the Treasury Department's authority to issue long-term bonds at interest rates above 4¼ percent. Although the long-term bond market has not exactly been beating down the doors of the Treasury for additional long-term issues, the increased authority is necessary so that the Treasury Department will have the flexibility it needs to develop the best overall fiscal plan for managing the country's debt.

I urge my colleagues to join me in voting for this important legislation.

□ 1540

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume once again.

Mr. Chairman, like my friend, the gentleman from Minnesota, I feel it is an obligation in this body to vote for this distasteful but necessary measure. I urge my colleagues to do their duty on this issue, regretfully.

Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I would like to take this opportunity to express my support for the legislation we are considering today to provide a temporary increase in the public debt limit.

As we are all aware, a further increase in the permanent limit on the public debt will be necessary. The appropriate amount of this subsequent increase in the limit will not be known until after the House and Senate have concluded action on spending and revenue for fiscal year 1985.

My support for H.R. 5665 is qualified due to my concern that we have not succeeded in gaining control over our growing Federal deficit. Although I expect that Congress will approve savings of $150 billion over 3 years as contained in the legislation currently before the House and Senate, the demand for revenue will continue and will be enormous. The estimated Federal budget deficit over the next 3 years is $600 billion. I believe that consideration of an increase in the public debt limit late this year should be conducted in the context of detailed and viable proposals on Federal budget deficit reduction.

In addition, I believe that the pressure on the Ways and Means Committee to raise revenue to reduce the deficit will commit the committee during the next year to a comprehensive review of the Tax Code for the purpose of accomplishing substantial reform of the Code. I look forward to this process and to devising alterations in the Code to simplify it and make it more equitable.

● Mr. DASCHLE. Mr. Chairman, we are once again faced with an occurrence that is becoming all to frequent. We are considering, once again, legislation to temporarily increase the debt limit ceiling. I use word "temporarily" advisedly, because there appears to be no way, absent some unexpected reversals in the spending patterns of both the administration and the Congress, for us to ever reduce the debt below these temporary limits.

There is no one among us, I suppose, who does not want to reduce the national debt, and produce a balanced budget so we will not have to go through these exercises again. But when we are faced with opportunities to actually reduce the debt, or at least not add any more to it, we come up short. I have proposed in the past, and still favor, a one-time 10-percent across-the-board spending cut and tax surcharge, both as a deficit reducing measure and as a hold on the increasing public debt. This would be a severe measure, but such an across-the-board slashing appears to me to be the only way to evenly spread the sacrifices that will certainly be demanded if we are to get our financial house in order.

I have also long supported, sponsored, and voted for, a constitutional amendment mandating a balanced Federal budget, an action that would force us to make the hard choices that

we seem unable or unwilling to make. Although we achieved a majority vote for that amendment in the last Congress, we still do not appear to have the two-thirds necessary to get positive congressional action on it.

Without a commitment, through votes, to reduce deficit levels substantially, and without a consensus on the need for a mandated balanced budget, we will continue to go down the road of piling up higher and higher deficits, and that road will inevitably lead us to economic disaster. Hiding our heads in the sand, and passing debt limit increase after debt limit increase, all the while piously declaiming our abhorrence of budget deficits, will only perpetuate the problem.

We will, of course, hear all kinds of horror stories about what will happen if we do not pass this increase. The Government will come to a stop, it will be said. Vital functions will not be able to be performed, it will be said. I ask my colleagues not to be deceived by these predictions. If we vote down this increase, and keep voting down future increases, the only thing that will happen is that the Treasury will not be able to go out and borrow more money, further dominating a shrinking pool of available credit. The lack of this borrowed money may make agencies of the Government, including the Pentagon, for the first time in a long time take a look at their bloated budgets and really decide what is essential, and what is just icing on the cake. Maybe, just maybe, we will find out that all it takes to make us live within our means is finding ourselves in a position in which we simply have no other choice.

It is this possibility which convinces me that the responsible budgetary position on this issue is one in opposition to a debt limit increase. To do anything else will simply let the agency spenders know that we are not really serious about cutting the fat out of budgets, and that, indeed, it is business as usual. For that reason, I will vote against this increase, and urge my colleagues to do likewise.●

● Mr. ANDERSON. Mr. Chairman, I rise to express my strong opposition to H.R. 5665, to increase the public debt ceiling to $1.520 trillion through June 15 of this year. In other words, this legislation partially satisfies the administration's request and increases the public debt ceiling by roughly $30 billion over the present law of $1.490 trillion.

Although I am opposed to this bill, I do commend the Committee on Ways and Means for not following the Senate Finance Committee's recommendation to allow a much larger debt limit increase to $1.753 trillion, carrying the Government through June 28, 1985. It is my understanding, however, that even the Republican-controlled Senate Committee could not accept the President's request to raise the debt ceiling limit to $1.829 trillion through September 30, 1985.

Earlier this year, correspondence from the National Association of Manufacturers caught my attention because it described in a most interesting way how enormous the deficit really is. It said:

> • • • A billion seconds ago was 1951. Jesus Christ was alive a billion minutes ago. A billion hours ago no one on this planet was walking erect on two feet. A billion dollars ago, in Washington, was only 10.3 hours.

I have yet to come across anyone, either here in this distinguished Chamber or back home in my district, who feels that the deficit is not a serious problem.

It is important to keep in mind, however, that these mammoth multibillion dollar annual deficits, which are now discussed so casually, just did not occur by chance. They are, of course, a direct result of the administration's inequitable economic policies that provide extensive tax cuts for wealthy individuals and major corporations and a radical increase in defense spending.

1980 Presidential candidate John Anderson said balancing the budget under this plan could only be done with mirrors; candidate George Bush referred to it as "voodo" economics; and, even the President's top ally in the Senate, majority leader HOWARD BAKER, called it a "riverboat gamble."

In a speech before the Washington Press Club earlier this year, the chairman of the House Budget Committee, Hon. JAMES R. JONES, said:

> • • • Under policies in effect on January 1, 1981, the deficit in fiscal year 1987 would have been $39 billion. Under the policies put in place under Ronald Reagan and in effect on January 1, 1984, the deficit in fiscal year 1987 would be $248 billion.

During one of the 1980 Presidential debates, candidate Reagan said:

> I have submitted an economic plan • • • [that] can provide for a balanced budget in 1983 if not earlier • • •.

Further, in a televised speech in October 1980, he said:

> Mr. Carter is acting as if he hadn't been in charge for the past 3½ years; as if someone else ran up nearly $200 billion in red ink; as if someone else is responsible for the largest deficit in American history; and as if someone else was predicting a budget deficit for this fiscal year of $30 billion or more.

I think it is safe to assume that nearly everyone—whether they be on Wall Street or Main Street—would love to have only a $30 billion deficit this year.

In February 1981, the President projected the following budget deficit/surplus figures:

Deficit or surplus

	Billions
1982	−$45.0
1983	−23.0
1984	+0.5
1985	+7.0
1986	+30.0
Total	−30.5

As you can see, the President told us that for the years 1982–86, the total deficit would be $30.5 billion.

In February of this year, the nonpartisan Congressional Budget Office (CBO) reestimated the President's 1985 budget request, including projected deficits. The CBO's figures are as follows:

Deficit or surplus

	Billions
1982	−$110.7
1983	−195.4
1984	−186.0
1985	−192.0
1986	−211.0
Total	−895.1

There is a tremendous difference between the President's 1981 figures and the CBO's 1984 figures. I might add that the CBO also estimates that the deficit for 1987 alone, will be a whopping $233 billion. Thus, for the years 1982–87, the CBO projects a total deficit of $1.128 trillion.

In contrast, from the year 1789 (George Washington's first budget) to 1981 (Jimmy Carter's last budget), the total debt was about $935 billion. Thus, President Reagan's deficits will be more than those of all previous administrations combined. Using current projections, the debt will cross the $2 trillion threshold in early 1986.

Mr. Chairman, I have reintroduced legislation in this Congress to amend the Constitution of the United States to provide for balanced budgets and eliminate our national debt once and for all. Briefly, my proposal (H.J. Res. 94) would:

First, require Congress to assure that outlays of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year;

Second, permit expenditures to exceed national revenues in time of a national emergency, as declared by the President, but never be more than 10 percent; and,

Third, provide that during the fifth fiscal year beginning after ratification of this amendment, and for the next 19 succeeding fiscal years, in order to retire the Federal debt, the total receipts of the Government shall exceed outlays by an amount equal to 5 percent of the Federal indebtedness at the beginning of the fifth fiscal year.

You will recall, on October 1, 1982 the House considered House Joint Resolution 350, the balanced budget/tax limitation constitutional amendment, as endorsed by the President. I voted in support of that bill. Nearly identical legislation, House Joint Resolution 243, is now pending before the Judiciary Committee.

I have consistently opposed legislation to increase the national debt ceiling, and I intend to oppose this bill before us today. We can only hope that the administration will alter its policies that have brought us multibillion dollar annual deficits which are, of course, greater than those of any previous administration.●

Mr. ROSTENKOWSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment.

The text of the bill, H.R. 5665, is as follows:

H.R. 5665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on June 15, 1984, the applicable public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $30,000,000,000.

SEC. 2. INCREASE IN LIMIT ON LONG-TERM BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking our "$150,000,000,000" and inserting in lieu thereof "$200,000,000,000".

SEC. 3. AUTHORITY TO OBTAIN CERTAIN SERVICES AND FACILITIES AND INCUR CERTAIN ADMINISTRATIVE EXPENDITURES.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 332. Miscellaneous administrative authority

"The Secretary of the Treasury may to the extent provided in advance by appropriation Acts—

"(1) contract for the temporary or intermittent services of experts or consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the per diem equivalent to the rate for GS-18;

"(2) contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

"(3) provide for official functions, and reception and representation activities, the expenses for which shall not exceed amounts included therefore in appropriation Acts;

"(4) maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

"(5) provide athletic and related activities for students at the Federal Law Enforcement Training Center, Glynco, Georgia;

"(6) install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned or under jurisdiction and control of the United States Government and, subsequently, to remove the facilities therefrom;

"(7) enter into reciprocal assistance agreements with State and local law enforcement agencies and, in connection with the agreements and otherwise, train employees of those agencies, when necessary, with or without reimbursement;

"(8) provide laboratory assistance to State and local law enforcement agencies, with or without reimbursement;

"(9) obtain insurance for official motor vehicles operated in foreign countries; and

"(10)(A) when necessary for the performance of official business—

"(i) acquire in foreign countries real property by lease for periods not greater than 10 years and personal property for use in foreign countries by purchase, lease, or otherwise, and

"(ii) manage, maintain, repair, improve, and insure by purchase of commercial insurance policies properties referred to in clause (i), and

"(B) when appropriate, dispose of (by sale, rent, transfer, or otherwise) properties referred to in subparagraph (A)(i)."

(b) GENERAL AMENDMENT.—The analysis for subchapter II of chapter 3 of such title 31 is amended by adding at the end thereof the following new item:

"322. Miscellaneous administrative authority."

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: In section 1 of the bill, strike out "June 15, 1984" and insert in lieu thereof "June 22, 1984".

Mr. ROSTENKOWSKI. Mr. Chairman, this committee amendment is the one that I alluded to in my opening remarks. It simply extends the duration of this temporary debt limit for 7 days—from June 15 to June 22. No additional increase in the level of the debt is necessary since the level from June 15 will be sufficient to carry us through June 22.

This one additional week extension is being done in this bill at the request of the Senate Finance Committee which is concerned that the June 15 debt will not give us sufficient time to finish all our business on the deficit reduction package. If this committee amendment is agreed to, it would be my hope that the Senate could simply accept this House-passed extension bill and clear it for the President's signature.

Mr. CONABLE. Mr. Chairman, I rise in support of the amendment. I believe this amendment is entirely appropriate, in view of the expectancy that the other body will not be back next week but until the week following. This amendment will give us additional time to work on the conference report for the tax and spending bill which represents the deficit reduction downpayment.

I think, therefore, the amendment should be supported.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ASPIN) having assumed the chair, Mr. RAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5665) to provide for a temporary increase in the public debt limit, and for other purposes, pursuant to House Resolution 503, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 150, nays 263, answered "present" 5, not voting 15, as follows:

[Roll No. 160]

YEAS—150

Addabbo	Edwards (AL)	Kleczka
Andrews (TX)	Edwards (CA)	Kostmayer
Annunzio	Erlenborn	Leath
Aspin	Evans (IL)	Lehman (FL)
Barnard	Fascell	Levin
Barnes	Flippo	Levine
Bateman	Foglietta	Lewis (CA)
Bedell	Foley	Lipinski
Beilenson	Ford (MI)	Livingston
Berman	Ford (TN)	Loeffler
Bevill	Fowler	Long (LA)
Bliley	Frank	Lott
Boehlert	Frenzel	Lowery (CA)
Boggs	Frost	Lundine
Boland	Garcia	Markey
Bonior	Gephardt	Matsui
Bonker	Gibbons	Mavroules
Borski	Gore	McCain
Brooks	Gradison	McCloskey
Burton (CA)	Green	McDade
Carper	Gregg	McHugh
Chandler	Guarini	McKernan
Cheney	Hall (OH)	McKinney
Clarke	Hamilton	McNulty
Clay	Harrison	Michel
Clinger	Horton	Mikulski
Coleman (TX)	Hoyer	Mineta
Conable	Hunter	Moakley
Conte	Hyde	Mollohan
Corcoran	Jeffords	Morrison (CT)
Coyne	Jenkins	Morrison (WA)
Dicks	Johnson	Murtha
Donnelly	Jones (NC)	Nowak
Downey	Jones (OK)	Panetta
Duncan	Kemp	Parris
Dwyer	Kennelly	Pease
Edgar	Kildee	Pepper

Perkins	Schulze	Synar
Pickle	Schumer	Tauke
Porter	Shannon	Thomas (GA)
Price	Sisisky	Udall
Pritchard	Skelton	Vander Jagt
Quillen	Snowe	Vento
Rangel	Solarz	Waxman
Ratchford	St Germain	Whitehurst
Rodino	Stark	Williams (MT)
Rostenkowski	Stokes	Wirth
Roukema	Stratton	Wolf
Roybal	Studds	Wright
Schneider	Sundquist	Yates

NAYS—263

Ackerman	Fuqua	Murphy
Akaka	Gaydos	Myers
Albosta	Gejdenson	Natcher
Alexander	Gekas	Neal
Anderson	Gilman	Nelson
Andrews (NC)	Glickman	Nichols
Anthony	Gonzalez	Nielson
Applegate	Goodling	O'Brien
Archer	Gramm	Oakar
AuCoin	Gunderson	Oberstar
Badham	Hall, Ralph	Obey
Bartlett	Hall, Sam	Olin
Bates	Hansen (UT)	Ortiz
Bennett	Harkin	Ottinger
Bereuter	Hartnett	Owens
Bethune	Hatcher	Oxley
Biaggi	Hawkins	Packard
Bilirakis	Hayes	Pashayan
Boner	Hefner	Patman
Bosco	Heftel	Patterson
Boucher	Hertel	Paul
Boxer	Hightower	Penny
Breaux	Hiler	Petri
Britt	Hillis	Pursell
Broomfield	Holt	Ray
Brown (CA)	Hopkins	Regula
Brown (CO)	Howard	Reid
Broyhill	Huckaby	Richardson
Bryant	Hughes	Ridge
Burton (IN)	Hutto	Rinaldo
Byron	Ireland	Ritter
Campbell	Jacobs	Roberts
Carney	Jones (TN)	Robinson
Carr	Kaptur	Roe
Chappell	Kasich	Roemer
Coats	Kastenmeier	Rogers
Coelho	Kazen	Rose
Coleman (MO)	Kindness	Roth
Collins	Kolter	Rowland
Conyers	Kramer	Rudd
Cooper	LaFalce	Russo
Coughlin	Lagomarsino	Savage
Courter	Lantos	Sawyer
Craig	Latta	Schaefer
Crane, Daniel	Leach	Scheuer
Crane, Philip	Lehman (CA)	Schroeder
Crockett	Leland	Seiberling
D'Amours	Lent	Sensenbrenner
Daniel	Levitas	Shaw
Dannemeyer	Lewis (FL)	Shelby
Darden	Lloyd	Shumway
Daschle	Long (MD)	Shuster
Daub	Lujan	Sikorski
Davis	Luken	Siljander
de la Garza	Lungren	Skeen
Dellums	Mack	Slattery
Derrick	MacKay	Smith (FL)
DeWine	Marlenee	Smith (IA)
Dickinson	Marriott	Smith (NE)
Dixon	Martin (IL)	Smith (NJ)
Dorgan	Martin (NC)	Smith, Denny
Dowdy	Martin (NY)	Smith, Robert
Dreier	Martinez	Snyder
Durbin	Mazzoli	Solomon
Dymally	McCandless	Spence
Dyson	McCollum	Spratt
Early	McCurdy	Staggers
Eckart	McEwen	Stangeland
Edwards (OK)	McGrath	Stenholm
Emerson	Mica	Stump
English	Miller (CA)	Tallon
Erdreich	Miller (OH)	Tauzin
Evans (IA)	Minish	Taylor
Feighan	Mitchell	Thomas (CA)
Ferraro	Molinari	Torres
Fiedler	Montgomery	Torricelli
Fields	Moody	Towns
Fish	Moore	Traxler
Florio	Moorhead	Valentine
Franklin	Mrazek	Vandergriff
Volkmer	Whitley	Wyden
Vucanovich	Whittaker	Wylie
Walker	Whitten	Yatron
Watkins	Williams (OH)	Young (AK)
Weaver	Wilson	Young (FL)
Weber	Winn	Young (MO)
Weiss	Wolpe	Zschau
Wheat	Wortley	

ANSWERED "PRESENT"—5

Fazio	Lowry (WA)	Swift
Gray	Sabo	

NOT VOTING—15

Chappie	Hance	Rahall
Dingell	Hansen (ID)	Sharp
Gingrich	Hubbard	Simon
Hall (IN)	Kogovsek	Walgren
Hammerschmidt	Madigan	Wise

□ 1600

The Clerk announced the following pair:

On this vote:

Mr. Dingell for, with Mr. Hance against.

Messrs. KOLTER, MARRIOTT, OXLEY, ORTIZ, and DE LA GARZA changed their votes from "yea" to "nay."

Messrs. LEWIS of California, HUNTER, and SCHUMER changed their votes from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to consider was laid on the table.

REQUEST FOR CONSIDERATION OF BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. DANNEMEYER. Mr. Speaker, under the rules of the House, the Speaker has ruled that in order for me to make a unanimous-consent request to bring up the proposed constitutional amendment requiring a balanced budget on the floor of the House, I need the approval of the leadership on the minority side and the approval of the leadership on the majority side. I have that approval of the leadership on the minority side, and in view of the fact that the House has wisely voted 150 to 263 not to raise the national debt limit, I would hope it is appropriate at this time to make a unanimous-consent request to bring up the proposed constitutional amendment.

I ask if there is somebody on the Democratic side leadership who would grant the necessary authority so we can bring up that proposed constitutional amendment right now for a vote.

The SPEAKER pro tempore (Mr. MURTHA). Does the gentleman have a parliamentary inquiry?

Mr. DANNEMEYER. I am making a unanimous-consent request, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LONG of Louisiana. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3282, CLEAN WATER ACT

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3282.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1610

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5653, ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1985

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 501 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 501

Resolved, That during the consideration of the bill (H.R. 5653) making appropriations for energy and water development for the final year ending September 30, 1985, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, line 17 through page 3, line 21; beginning on page 4, lines 3 through 18; beginning on page 6, line 12 through page 10, line 23; beginning on page 11, line 8 through page 14, line 19; beginning on page 20, line 12 through page 32, line 19, except against the proviso beginning on page 22, line 7 and ending with the figure "$135.00" on line 9; beginning on page 33, line 17 through page 34, line 14; and beginning on page 36, lines 12 through 21; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 20, line 17 through page 21, line 12; and beginning on page 31, lines 4 and 11. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

SEC. 2. All points of order for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived against the consideration of any general appropriation bill reported by the Committee on Appropriations making appropriations for fiscal year 1985.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, as is the custom, I yield 30 minutes for the purpose of debate only to the distinguished gentleman from Tennessee (Mr. QUILLEN) and pending that, I

yield myself such time as I may consume.

Mr. Speaker, House Resolution 501 waives points of order against certain provisions of H.R. 5653, the energy and water development appropriation bill for fiscal 1985. The rule does not provide for the bill's consideration since general appropriations measures are privileged. Also, the time devoted to general debate will be determined by unanimous consent and the bill itself is open to amendment.

House Resolution 501 waives points of order against certain sections of the bill under clause 2, rule XXI, which prohibits unauthorized appropriations and legislation in an appropriations bill. It also waives points of order against clause 6, rule XXI, which prohibits reappropriation. The precise sections for which waivers are recommended are fully stated in House Resolution 501 by page and line number.

The waivers of clause 2 are necessary largely because authorizing legislation for the programs involved has not yet been enacted into law. Most, if not all, of the programs needing waivers, have authorizing legislation under active consideration at some stage of the legislative process. In addition, several of these provisions contain matters which are legislative in nature, and thus are prohibited from being included in a general appropriations bill. The waiver of clause 2, rule XXI, therefore, covers both lack of an authorization, and legislation in an appropriations bill, in several instances.

Clause 6 waivers are necessary because the bill transfers unexpended funds from one account to another in appropriating funds for Department of Energy supply, research and development activities.

House Resolution 501 also waives all points of order for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974, which prohibits consideration of new spending authority prior to adoption of the first budget resolution for the fiscal year in which the spending becomes effective.

This waiver applies to H.R. 5653, as well as to the consideration of any general appropriations bills reported by the Committee on Appropriations making appropriations for fiscal year 1985. As members know, the first budget resolution was passed by the House in April and by the other body last week. While we all are hopeful that final action on that resolution will be forthcoming, the probability is high that a lengthy conference will be required to resolve the many differences between the two versions. Therefore, the Rules Committee agreed to the request of the chairman of the Appropriations Committee to permit action on the fiscal 1985 bills to go forward. The chairman of the Appropriations Committee emphasized that the bills being brought forward are in accordance with the House approved budget resolution, and H.R. 5653 specifically complies with the policies and spending assumptions contained therein.

This en bloc waiver is by no means to be interpreted as setting a precedent for the routine granting of such waivers in the future, Rules Committee members made it quite clear that individual consideration of each legislative measure is in the best interest of all parties, and that the committee will continue to exercise its appropriate jurisdiction in matters affecting the rules of the House. The members of the Rules Committee agreed to this unusual procedure only after considerable discussion in this regard, and in recognition of the unusual circumstances of this year's legislative calendar.

This procedure would insure consideration of the appropriations bills through the regular legislative process. Otherwise, we risk the possibility of a late agreement on the budget resolution which, in turn, could force packaging of many of the appropriations bills into a continuing resolution. I would like to emphasize to my colleagues that the procedure only waives violations of section 303(a) of the Budget Act. Any and all other provisions of a general appropriations bill which violate rules of the House would be subject to a point of order.

Mr. Speaker, H.R. 5653 appropriates over $15.4 billion in fiscal 1985 for energy and water development programs of the Department of Defense Corps of Engineers, the Department of the Interior's Bureau of Reclamation, and the Department of Energy. The programs addressed in this bill are critical to the safe and economic operation of the Nation's waterways and energy research and development.

Mr. Speaker, H.R. 5653 is of considerable consequence. I urge my colleagues to adopt this rule so that the House may work its will on this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this unusual rule has been ably explained. It does waive section 303(a) of the Budget Act on all general appropriation bills for fiscal year 1985. The Committee on Rules had grave reservations about the waiver, but in order to expedite the business of this House, we felt it was mandatory that we do something, and hence the waiver.

I want to express my appreciation to the gentleman from Alabama (Mr. BEVILL), the gentleman from Indiana (Mr. MYERS), the gentleman from Tennessee (Mr. BONER), and others for including certain provisions in this measure which affect my district. And let me say at the outset that the measure is a very good one. It should be passed by this House, and this rule should be adopted.

The subcommittee added $250,000 to TVA's budget to accelerate the cleanup of Boone Lake in my district. These funds should help assure that we never have another situation like this at Boone Lake where inadequate monitoring of sewerage lines forced State health officials to close portions of the lake to human contact last year.

□ 1620

State water quality control officials and health officials are looking to TVA for technical advice and assistance in repairing the damage done to Boone Lake. TVA reprogramed $170,000 of this year's appropriation to provide an immediate response to this emergency, and this $250,000 will help them take action to insure that the problem never repeats itself.

The subcommittee report language is also very helpful because it provides a requirement that TVA undertake a monitoring program to assure that no further leakage from breaks in such outfall lines is allowed to foul the lake's waters.

The committee has made it clear that it is the intent of Congress that this monitoring will henceforth become a TVA service obligation to help maintain water quality in its reservoir. The monitoring program is required to apply to any sewage outfall lines from any source running across TVA easements or into the waters of Boone Reservoir.

It is clear now that the lack of such a program was undoubtedly a contributing factor in the situation that developed at Boone Lake. This reservoir is one of the most utilized TVA assets in my district. An unfortunate set of circumstances led to its pollution, because each level of government was assuming that someone else was responsible for keeping an eye on things.

Now, however, all local, State and Federal resources are being utilized to see that this mistake is corrected. All levels of government, as well as a great number of private citizens, are working together to save this great regional asset.

This bill assures that TVA will have the financial resources to meet this crisis, and it establishes once and for all that TVA is responsible for seeing that such a crisis never occurs again. Working together, we shall solve this problem.

Mr. Speaker, I urge adoption of the rule and the passage of the bill.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank the gentleman for yielding.

I thank the members of the Rules Committee who attempted to protect one particular section of our bill,

which I think is vitally important to the American consumer and to our country on the whole. That is the provision that sets the maximum price that the Department of Energy might charge for the separative work units, or the SWU's. Those are the enriched uranium that is used now in fuel for the reactors that produce electricity around the world and also for our reactors on submarines.

Today the U.S. Government is the only enricher of our uranium and it must produce all of it; 10 years ago the Government, our country, produced all the SWU's, all the nuclear energy produced in the world for reactors for peaceful operation. Since that time we have reduced down to something like 40 percent because of price.

We have a peculiar system in our country that we must recover the cost of production, plus the capital invested in any 1 year. We have to recover it all in 1 year. Because of that, we cannot amortize the cost of plant capital investment and because of that our price now has artificially gone high.

Now, we are told by the Department of Energy that it costs something in the range, something just a little under $100 to produce, actually produce a separative work unit of nuclear energy; however, we must charge much more than that. Because of this, we have lost our competition around the world.

The committee recognized that this was legislation, but in the interests of holding down utility costs in this country and in the interests of making it more competitive where we would not lose any more than we have already lost and able to regain it, we had hoped to set that maximum figure at $135; but now I understand there is going to be an attempt made to knock that out because it is not protected by the rule, and, frankly, we would have to concede it; but I want you to know that it was because of this that your committee wanted to protect those 13,000 jobs we still have who are actively participating in producing the SWU's, plus about 25,000 others.

Now, there are two things happening that we are providing in this bill to reduce that price, but it is going to take a little time to do it. First, at Portsmouth, OH, we now have an advanced gas centrifuge system which is much improved from the old gaseous diffusion that is used now to produce all our nuclear energy today. It is gaseous diffusion, a very high consumer of electric power, very expensive.

The separative work units, the SWU's, cost so much more today, but with the gaseous centrifuge that is coming in, it is going to significantly reduce that, because it does not take as much energy to produce the SWU's.

We also have a decision that is going to be made in the next year hopefully, in the very near future, in any event, which also considers lasers, using a laser instead of the gaseous centrifuge, and this laser separation might even be cheaper yet, but it is not on line yet. Portsmouth will soon be on line, but it would buy time. We have set this at $135, so then we could really be competitive and recapture all that we have lost.

But there is one other thing that I think everyone here should be interested in and that is the nonproliferation. If we have lost 60 percent of production of uranium enrichment in the world, we lost absolute control to make sure that some of that power, that energy does not go into weapons. With the conditions now we have on export, we in the United States could control what happens to those separative work units. If we allow this particular SWU $135 maximum price to be struck from the bill, it means that we are going to have to charge more. We will lose even more of that world competition and lose the effectiveness of being able to hold down proliferation.

So on balance, I think it would be a tragic thing for anyone to make an objection. I realize they have every right to make that objection and it would have to be sustained, no question about it; but your committee was attempting to protect jobs in this country, to protect nonproliferation, making sure that this country is a better producer and can be more competitive in the world.

Mr. QUILLEN. Mr. Speaker, in the Rules Committee I offered an amendment to waive points of order on the proposition that the gentleman from Indiana (Mr. MYERS) has mentioned. That amendment failed. I wish it had been adopted, because I agree with the gentleman wholeheartedly. It would provide jobs if the provision is not knocked out of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. MCEWEN).

Mr. MCEWEN. Mr. Speaker, I thank the gentleman for yielding and wish to associate myself with the remarks made by my colleague, the gentleman from Indiana. I emphasize once again the fact that 1984 employment in this industry is in the neighborhood of 30,000 jobs. Sales this past year alone in this industry were $3.67 billion and DOE, the Department of Energy sales of this enriched uranium in the years 1980 through 1984 are in the tens of billions.

The market share is declining, as was pointed out by the gentleman from Indiana. It was just a mere 10 years ago that the United States had 100 percent of this market, but due to inappropriate actions by the Congress of the United States, in my opinion, they have interfered in the marketplace and have thus far declined our market share from 100 to 40 percent.

Now the Department of Energy is attempting to recoup a greater percentage of the world market. DOE has a new contract for purchase of enriched uranium. Thus far letters of intention have been signed by Japan, by Taiwan, South Korea, and Mexico. We expect very shortly letters of intent from Sweden, Switzerland, West Germany, England, Yugoslavia, Egypt, France, Spain, and the Netherlands.

The very worst thing that could be done at this juncture would be for the Congress to insert itself with threats to the future viability of the uranium enrichment business and create uncertainty in customers' minds by their incessant nay-saying and irresponsible hypothesizing as to what the future of this market would be.

Mr. Speaker, the prospects of the uranium enrichment industry are bright. We cannot let this valuable industry down. The stakes are too high and the opportunities are too great.

I am very disappointed that the action was taken in the Rules Committee that permitted the misrepresentation of this market to the Rules Committee causing them to believe that the guaranteeing of the SWU price for the future would not be in the best interests of our country. I feel that a $135 SWU price indeed is, not only for the Nation, not only for the free world, but for the thousands and thousands of jobs involved in this industry.

I thank the gentleman once again for yielding.

□ 1630

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Members, this rule that we will shortly be asked to vote upon contains an element that is another first in the evolution in the process of the House whereby we diffuse accountability for our actions. You see, the game that is played here in the House is that we do not want our constitutents to know who is truly responsible for the level of spending and how it comes about, and so where we can do it we will avoid that accountability by subtle little ways that diffuse who did what to whom, when.

I am advised by members on our Rules Committee that this rule contains a paragraph and a feature that is a first in recent memory here in the House. It is not unusual when we take up a rule or a bill for it to contain a budget waiver. We all know the budget process exists so that we, by establishing levels of spending once a year, we actually, under the rules, are required twice a year to perform this function but the last couple of years it has only been once a year. We did it a month ago. A budget resolution was passed by

the House in which we fixed a certain amount for this function; namely, the Energy Department.

Now the Budget Act also contains a clause that we may not take up appropriation bills until the Budget Act is finalized so as to establish limits on what we spend. That finalization has not yet taken place.

The other body has passed its version and the House has passed its version. Probably in a week or two we will get to an accommodation of what the budget resolution totals will be for different categories.

Now we have an appropriation bill, 1 of the 13 that we will be asked to consider this year. But what does the rule do? It contains a paragraph that we are not only waiving the Budget Act for this appropriation bill, but we are waiving the Budget Act for all appropriation bills that will come before the House for the balance of the year.

Is that not nice? If we approve this rule we are ducking the Budget Act for the whole rest of the year for consideration of appropriation bills.

Think what liberty that will give to the spenders in the House.

If, for example, a category for spending for international affairs, for instance, establishes a spending level for $12 billion, or whatever, and the appropriation bill comes to the floor at $13 billion, and a Member stands up and objects on the grounds that the appropriation bill is in excess of the budget resolution, the Parliamentarian will rule that there is no point of order because the rule today being considered contains a waiver of compliance with the Budget Act.

In other words, we are waiving that.

I do not think that is any way we should run this railroad. We are supposed to have accountability around here for our actions.

I respect the fact that if we want to take up the appropriation bill for the Department of Energy I do not object to having a waiver of the Budget Act for that appropriation bill only because we have not quite got the budget resolution adopted. That is probably 2 weeks ahead.

But for us today in voting on this rule to waive the Budget Act for every appropriation bill that is going to come down the pike for the balance of the year is just making a mockery, a continued mockery, an expanded mockery of what is supposed to be the budget process in the House. And I frankly do not think responsible Members should adopt any part of it. I think we should reject this rule and suggest to our distinguished colleagues on the Rules Committee, if they want a budget waiver, limit the waiver to this particular appropriation bill. Do not expand it for all of them.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, I rise in opposition to this rule which waives points or order to the energy and water development appropriations. This budget waiver would not only app;y to this appropriation bill but to all the other appropriation bills we might consider prior to the adoption of a budget resolution. There is some historical precedent that would lead you to believe that this Congress may never adopt a budget in the balance of this year.

Mr. Speaker, this is irresponsible. Why bother with a Federal budget process at all if we are going to take up individual appropriation bills before we adopt a budget that they are a part of.

We hear constant rhetoric in this body, urging us to do something about our outrageous budget deficit. But we are only adding to the budgetary crisis if we start waiving points of order like the one before us. We are only going to make it more difficult to reach an agreement on the budget and are clearly hastening the demise of the budget process itself.

I believe its about time the leadership of this House took our budgetary problems seriously. I support the energy and water development appropriation bill and I intend to vote for it—but we our doing the Nation a disservice if we ignore the fact that we need to have a budget resolution before we adopt these appropriation bills.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I will be happy to yield.

Mr. WEAVER. Does the gentleman mean that if this rule were passed that we would in effect have no budget resolution, that the budget resolution would be simply meaningless?

Mr. PARRIS. I think the gentleman understands the premise of my argument.

Mr. WEAVER. I am asking a question. I am going to vote against the rule if this is the case.

Mr. PARRIS. If the gentleman would permit me to respond to his question, the rule before us waives section 303(a) of the Budget Act, which provides that new spending authority is not in order before the first budget resolution is adopted, which is in fact the case in the Congress today. Therefore, the rule that we are now considering waives this point of order against any general appropriation bill reported by the Committee on Appropriations for fiscal year 1985.

Mr. WEAVER. What would be the purpose of a budget resolution if this rule were adopted, then?

Mr. PARRIS. There is none, I submit to the gentleman.

Mr. WEAVER. That was my question.

Mr. PARRIS. That is the point I am trying to make.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. I thank my distinguished colleague on the Rules Committee, the gentleman from Louisiana, for yielding.

I had another concern about the rule, an inequity in this kind of rule that troubles me. The gentleman from Tennessee said that the Rules Committee itself was troubled by the waiving of points of order for legislating on appropriation bills and, or course, we do not always want to approve legislating on appropriation bills. Sometimes it is necessary.

But the inequity that I point out to my distinguished friend from Louisiana is that if you do legislate here, as you do on page 26 of the bill, dealing with the Bonneville Power Administration, you do not allow amendments to that legislating. So we have a compounded error. One, we legislate on an appropriation bill but then we do not allow an amendment to that legislation.

I would like to ask the gentleman if that does not strike him as unfair as well.

Mr. LONG of Louisiana. Will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Louisiana.

Mr. LONG of Louisiana. The gentleman is correct in that what it does is, allow perfecting amendments to authorizing legislation on an appropriation bill but it does not allow substantive amendments.

The gentleman is correct.

Of course, the problem is that the legislative committee of jurisdiction in this matter raised no objection at all. It was an orderly manner by which we could move.

If we had gone ahead and left it wide open to amendment we would have opened the whole subject matter up. We are very reluctant to grant any waivers at all for legislation on appropriation bills and we are certainly not going to do it unless absolutely necessary.

Let me make one additional point. If the gentleman had come before the Rules Committee and asked that his amendment be made in order, we would have considered that at that time.

But I think the gentleman would agree with me that we could not make any amendments in order and make the whole authorizing amendment itself subject to amendment.

□ 1640

Mr. WEAVER. I appreciate very much the words of the gentleman from Louisiana. I am chairman of the subcommittee that has legislative ju-

risdiction on this. I was not aware of this language going into the bill until the last few days at which time I took up with our dear friend and distinguished chairman of the appropriations subcommittee and he said that we probably could rectify this on the House floor. But it turned out there was opposition within the committee to my change and therefore such rectification was impossible.

Then I wanted to offer an amendment and I find out I cannot. So that is the reason I did not come before the Rules Committee. The gentleman says we can offer perfecting amendments?

Mr. LONG of Louisiana. Under the rule.

Mr. WEAVER. What does that mean? What could I offer to this?

Mr. LONG of Louisiana. If a perfecting amendment is required to change a line number, it is a technical amendment really, and it is something that obviously needs to be done to clarify a point it could be done. It is of no relief to the gentleman.

Mr. DANNEMEYER. Will the gentleman from Oregon yield?

Mr. WEAVER. I would hope next time we do not do this.

My time has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. WHITTEN).

The SPEAKER pro tempore. The dean of the House is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, there appears to be a whole lot of misunderstanding here. As all of you know, I was cochairman of the study group that recommended the Budget Act. I voted for the Budget Act and each and every time I have supported the various budget resolutions. However, various people talk as though we have a budget resolution in place. We do not have it. The Budget Act calls for the conference report on the budget resolution to be reached by May 15. When May 15 passed without a conference agreement, we had only the House-passed resolution to fall back upon.

I went to the Speaker earlier in the year to discuss our procedures and schedule and he asked us to get through with our appropriations bills in committee so we could have them on the floor in the middle of May and through the end of June. This is based on the tight schedule we have this year because of the conventions of the Democratic and Republican Parties.

This is what we were faced with and the reason we asked for this waiver. You have 58 days until the end of the fiscal year and when you count out Mondays and Fridays, you have only 36 days remaining to do the work of the Congress.

As various colleagues have pointed out, section 303 of the Budget Act calls for the Budget Committee to report a concluded budget resolution by May 15 and we cannot begin our work until they file it. I would like to quote from the act:

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year; or

(4) new spending authority described in section 401(c)(2)(C) to become effective during a fiscal year;

until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301.

Let me say that when I saw we were faced with this situation I called the subcommittee chairmen together and there has been every effort made to live within the budget resolution. The subcommittee chairman of 13 of the subcommittees, said they would keep their bills in line, they agreed that they would keep their bills within the House-passed Budget Committee resolution. That is the best benchmark we have.

The House and Senate have not agreed on final figures. You do not have any budget resolution that is applicable. You do not have anything that requires a so called 302 allocation. I would like to quote from the act:

SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

We have met and have agreed, the chairmen of the subcommittees, and I have advised the Republican leader on our Appropriations Committee about how we intend to proceed with this. Our subcommittees have agreed that we would hold the total within the limits of the House-passed budget resolution which is the best yardstick that we have.

Now you either let us do that or go before the Rules Committee 13 times asking that you waive the obvious fact that you have not got an agreement on the budget resolution. Now that is where the problem is. And it is not the fault of the chairman of the Committee on the Budget, Mr. JONES, or our committee on this side. I want to say that quite clearly. The other body has brought this upon us.

But I want to assure the gentleman that the action we have taken is the honest action of staying within the limits of your resolution as it passed the House which is the best yardstick we have.

You say, "Why do not we publicize the figures?" In a budget and appropriations process such as ours, with 13 subcommittees covering all of the Government, we have to rearrange from time to time to live with the changing situation, so I ask you to go along with us. We have to reserve that right as long as we stay within your ceiling.

I want to say that last year we followed this same procedure and did what we are asking to do here; we took the House-passed resolution and lived within it. I can assure you we are going to do it again.

Ten subcommittee chairmen are moving their bills through the process, and our ranking member of the committee from the Republican side has been informed about this, general process and the other three subcommittees agreed that their total would be within the limit as well when they are ready to produce their bills.

So the question is, are you going to give yourself a chance to act within the 36 days we have left or are you going to have a massive continuing resolution that you will be forcing on us which will cover everything under the Sun? We will handle as best we can, but every legislative committee in this House will be asking us to take this side or that side, because a continuing resolution is an authorization and an appropriation. You do not want this. We do not, either. We want to minimize this. We have had to accept the assignments every time. But we surely do not want to.

So I will tell you again we are doing exactly what you want us to do, the law does not require anything because we do not have a final budget resolution. We have the House action which is the nearest thing to it. We are living within that.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the chairman of the Committee on the Budget, Mr. JONES of Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, the issue that has been raised to me and to others concerns the blanket waiver provision in this rule that would say that all appropria-

tions bills could waive section 303 of the Budget Act as opposed to waivers on each one of the appropriations bills that come up.

Let me say first of all with regard to the bill before us, the energy and water development appropriations bills, it clearly fits within the guidelines of the assumptions of the first budget resolution passed in the House of Representatives, on the nondefense discretionary appropriation.

Mr. WHITTEN. Could I ask the gentleman a question?

If he was the chairman of the Committee on Appropriations and had no budget, what would the gentleman do in my situation?

Mr. JONES of Oklahoma. Let me finish this and we will get into that. This particular bill clearly falls within the guidelines that were assumed in the budget resolution.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 additional minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. May I say to my colleague that we want to go along with him. We always have. It is not his fault that he has not an agreement with the Senate. But it might be somebody's fault if we had to postpone our bills because we have go to before the Rules Committee 13 times and then ended up with a continuing resolution.

But may I tell you again as long as I am chairman, and with the subcommittee chairmen that we have, we are going to stay within the limits. If you do not pass a budget resolution we are going to stay within the House-passed figures we have, which is what we are doing here.

I ask you to think about 36 days remaining, that is active days; do you want the responsibility of being forced to have a massive continuing resolution covering the entire Government? It is not necessary. We are cooperating with the chairman of the Budget Committee.

I am for anything that would help us hold down. We will hold down this time. Give us a chance to do our job and give yourself a chance to pass the regular bills and not have a continuing resolution including everything.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I do not yield.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to our distinguished leader on this side, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I am opposed to this rule; this is not the way we ought to be conducting the business of the House. Everywhere you turn around here we are sidestepping the rules; we are cutting corners; playing fast and loose with procedure.

Expedience seems to be the rule of the day. And this rule waives, and has been alluded to any number of times, section 303 of the Budget Act. I can accept that. What I cannot accept, as I think the problem with the gentleman from Oklahoma is, is that attitude that if we give, well, he will not say it that way; but I say if you given him an inch he will take a mile.

This rule not only waives the rule on the energy and water bill, it waives the section for all appropriations bills, bills which have not even been written or marked up, let alone reported from the committee.

And I once served on that Appropriations Committee, some 24 years. I do not like to be arguing with my good friends on that committee and I am no great fan of how we have been implementing the Budget Act.

I think I made that clear when we acted on the budget.

But the Budget Act is the law and it is the law that we have got to live with. You cannot simply snap your fingers in the Rules Committee and make it disappear because it is not going to happen.

I get the impression that my friends on the Appropriations Committee decided to do just that, snap your fingers and make the Budget Act go away. Now are we really in such a rush, I guess, to beat the other body over there at passing bills that we cannot afford to pay attention to the finer points of legislation?

This dump-and-run play is not going to get us any yardage, I do not think, in the long run. We are going to conference I believe on the Budget Act later on this week. We have covered a lot of ground few thought we could cover. I would say, let us see it through.

□ 1650

Let us also not belittle the authorization process around here either. We are rushing to judgment on this and on other appropriation bills at the expense of authorization bill, particularly the defense authorization. There is a time and place for both.

If the majority wants to change the whole structure of the legislative process, then those changes should be made in an orderly and a deliberative sort of way and they should be made for the right reasons.

If you want to dump on the other body, do not do it at the expense of the important issues that we have before us here today. If you want to dump on the budget process, do it by changing or abolishing the Budget Act. This is not really a demolition derby in which we are engaged. It is a deliberative body. There is enough wreckage and havoc left over, I think, from past procedural polemics and we ought to get about to doing the right thing.

I just think this carte blanche waiver of all appropriation bills, some that we have no idea of what is going to be before us, have not been marked up, just is the wrong way to do business. We ought to take them one at a time. If they warrant it, we will be happy to give them a waiver.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I just make the point that the concern that the gentleman has expressed is not a partisan concern. I think the one thing that we have to believe in, if we have any credibility remaining, is that there is some sanctity left to the budget process.

What this provision would do, in advance of even seeing any subcommittee action on appropriations bills, is waive the Budget Act.

We have precious little credibility left in the budget process. This is evidenced by the reaction of the stock market, the bond market, interest rates, and numerous other signs. If it is now reported to the public that we are, in advance, waiving the Budget Act, then we are tearing the Budget Act to shreads right now. We will be tearing it apart even though it is the responsibility and the fault of the other body, even though our Budget Committee and this House has acted responsibly, even though our Appropriations Committees will report and we will pass appropriation bills. We are tearing it apart just as I tear this piece of paper. I do not think we are ready to do that, and I hope that we do not do so now.

Mr. MICHEL. Well, the gentleman makes a very valuable contribution.

As I said, I have full confidence in members of the Appropriations Committee on both sides. I know their intentions, at least for the moment, are to stay under those ceilings and to do the best job they possibly know how. But to at this date, without having that knowledge beforehand, to give a blanket waiver, I think we are doing the whole process a disservice.

I would urge Members to vote against the rule and let us do it in a more orderly way by taking them on an individual basis.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I want to give my colleagues a specific example of what they are voting on.

I hope the appropriations bill that I handle will come to the floor a week from tomorrow. I did not intend to go to the Rules Committee to get a rule.

Now if we do not pass this rule with the waiver, it is necessary for every ap-

propriations bill to go to the Rules Committee and get a rule at which time we will waive all kinds of points of order. We never bring a rule here on an appropriations bill that does not waive points of order, and violate the general rules with regard to authorizing committees. Pressure groups descend upon the Rules Committee seeking special provisions and then additional problems must be decided on an appropriations bill.

I will give you an example. One problem in the bill I handle regards the FTC. FTC has not been authorized for 3 years because the gentleman from Georgia on one side and the gentleman from New Jersey (Mr. FLORIO) on the other are in an argument over what should be in that authorizing bill.

So they use our bill, our appropriations bill, as a vehicle to settle authorizing matters.

Well, if you vote against this rule and do not grant this blanket waiver, I cannot bring that bill to the floor without having a big argument on the authorizing legislation for FTC.

Why should I have to go to the Rules Committee to get the rule. Let someone knock out FTC on a point of order, if they cannot get together. That is the only way we are going to encourage them to get together. If they can fight out their problem and get their way on one side or the other on the appropriations bill by going to the Rules Committee, they will never get together on an authorizing bill.

When you vote against this, if you do, what you are saying is that every bill on appropriations must go to the Rules Committee first, at which time we will have a fight over authorizing legislation and the House will run roughshod over all the authorizing committees on a number of the provisions that are in these bills.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Let me simply say this, I have made it very clear on the point the gentleman has made that I agree with him. I have never placed any impediment to the authorizing bill on the FTC coming to the floor. I welcome it under an open rule so that we can adopt "the son of legislative veto", an approval of these FTC rules that amount to legislation of major proportions.

But what I am concerned about with this rule is that we will have a recurrence of SALT II. That is, are we saying we will abide by something we have not ratified—namely the budget limits. If it is simply a matter of good faith, or of taking someone's word, that would be one thing. No one doubts the integrity of the chairman of the Appropriations Committee, or the subcommittee chairmen. But we are talking about an entirely different matter—the budget. Without the discipline of a budget, we have no assurance of any limits in the House.

Mr. SMITH of Iowa. The point is that we went to the Rules Committee and there was a fight up there on FTC and it would not have made any difference which way the Rules Committee proposed to settle the issue in the recommended rule, it would have been controversial. We came to the floor and then a rule was turned down on the floor. The Rules Committee was defeated on the rule.

So if you do not pass this rule, we are not going to have orderly procedures and the authorizing committees should be the strongest proponents for this provision in this bill. A no vote on the rule would be a vote in favor of delaying appropriations bills until a continuing resolution would be necessary.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, once again the Appropriations Committee has been put in the position here of sounding and looking like the villain. We certainly do not appreciate being placed in this position because of things not being done, the budget not being passed. We are sorry that the Rules Committee also is put in this box. But what we are trying to do here is to avoid some of the things being discussed here.

I quite agree with the minority leader that it is not the way to do business. Ideally, we would not have to do it this way, but if we are to have an appropriation bill passed by the time that we are going to have to leave here for various occasions of the Democrat National Convention, the Republican National Convention, and get out at a reasonable time to campaign this fall—which I am sure all Members are interested in—we are going to have to have just a few—about 36 days—to pass 13 major appropriation bills.

Now, the ideal way, of course, would be to have the budget bill pased, but because of no fault of our own, we do not have it passed.

The next best thing is for us to live within the spirit of that budget. And this is what we have done in this particular bill, the energy and water development bill, and the chairman of our committee, the gentleman from Mississippi (Mr. WHITTEN), whose reputation here for credibility is impeccable and you have the word of some of the rest of us we are going to live within—as the bills come along—the limitations by the budget passed here in the House. If one becomes law we are going to live within that.

But in order not to have to go back every time to the cumbersome process we are doing this. But if we have to go back every time and make this kind of battle on each one of these 13, you know what is going to happen? We are not going to have enough of them passed by the end of this fiscal year to hang your hat on. We are going to have a great big continuing resolution which is really not the way to do business.

So we are faced with the lesser of two evils, either we accommodate so we can expedite our business here and get this appropriations process completed on our side, or we fall back to that continuing resolution, which none of us likes.

Now frankly, ideally, if it could have been written into the resolution, section 2 of the rule, that this section terminates when a budget resolution has been adopted. But you have the word of the chairman and all of us who are members of the Appropriations Committee on the floor today, which is the next best thing, that we will do that. We are going to live within the means.

So we ask you today in order to expedite this House's business so we can get our work done, vote for the rule because we are going to live within the spending limitations on each of these bills. We give that commitment to you and what else can we do?

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. MYERS. I yield to my friend from Oklahoma.

Mr. WATKINS. I appreciate the gentleman yielding.

I stand in support of this rule with the gentleman. I appreciate the gentleman trying to prevent us from having a continuing resolution. The President does not like it, most of us do not like it.

Also, one other thing. We may not get that continuing resolution. We may end up in a lameduck session. And I think all of us do not want to end up having another lameduck session. I appreciate the gentleman trying to prevent that from happening.

□ 1700

Mr. MYERS. We may not be able to avoid it, but at least this is an attempt to get our work done in a timely fashion.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I oppose House Resolution 501, the rule for the consideration of the energy and water development appropriations bill for fiscal year 1985. Of all the sloppy, wanton rules I have seen in 14 years here—and there have been plenty—I judge this to be the sloppiest and most wanton.

We have not yet passed our budget resolution. We have not yet passed the necessary authorizations. The rules of

the House and the controls of the Budget Act require that we not pass appropriations bills until we have passed both the budget and authorizations.

Because of this shoddy procedure, we are waiving the rule against authorizations in an appropriations bill seven times. Moreover, section 2 of the rule waives the prohibition in the Budget Act of consideration of appropriations bills before passage of the budget. The rule waives this prohibition not simply for this bill, but for all other appropriations bills for fiscal year 1985 as well.

Mr. Speaker, there is nothing new this year to justify this irresponsible rule. Irresponsibility is, in fact, our only rule here. All other rules are waived or ignored.

In the 9 years in which the Budget Act has been in effect, we have passed a budget conference report before the end of May in 6 years. For fiscal year 1981 we passed the budget on June 12. For fiscal year 1982 we did so on June 21. For fiscal year 1984 we did so on June 23. Altogether, that is a terrible performance when measured against the requirements of the law.

However, until last year, we never passed an appropriations bill until after we had a budget. Last year we totally lost control, and passed five appropriations bills in June—all before the budget was passed. That was a mistake which we ought not repeat.

It makes sense for us to pass a budget first. Appropriations should be the last step in the spending cycle, not the first. We ought to know our limits before we open our checkbook. The rules of the House and the Budget Act are sensible, and ought to be followed. But our leadership and our majority Democrats are asking us to be slovenly.

Mr. Speaker, we are about to go to conference on the budget. Our schedule is not so crowded that we cannot possibly wait to follow the regular order. We have twiddled our thumbs all year until last week. There is no emergency which requires quick action.

This is a bad rule that devastates what tiny little control we have left. I shall vote against it, and I urge my colleagues who have any interest at all in a little budget discipline to do likewise.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES), chairman of the Committee on the Budget.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, let me try to put in perspective what the issue is that we are discussing. And let me say at the outset that those who are opposing the rule are not expressing their anger against JAMIE WHITTEN or the Appropriations Committee. The fact is that in the past few years the Appropriations Committee has lived within the budget limitations strictly, and they have met those obligations. That is not what we are discussing today. What we are discussing today pertains to the rule that gives a blanket waiver for all appropriations bills to come before the House even though a budget resolution has not been enacted, has not been passed by both bodies.

The reason we find ourselves in this position is that the House of Representatives has been well ahead of the other body. We passed a budget resolution on April 5. The next week we passed the reconciliation portion, and we passed the tax portion of that budget. It was not until May 18, last Friday, that the other body passed their own reconciliation, tax, and budget resolutions. That was 3 days after the Budget Act has said we have to have the first budget resolution in place.

So we inherit a situation where we either wait for this conference to start, which now cannot start until about June 6, because the other body wants to take off tomorrow and not come back until about June 5, or we move ahead. We have been waiting for 2 months for the other body to pass their budget resolution, to go to conference to work out this agreement.

So if we wait to go to conference on June 6 and hold up all appropriations bills until after the time, it is not likely that we we will pass the appropriations bills before both bodies go out for the July 4 recess, the two political conventions, and then it is not likely that we will pass permanent appropriations before the election.

So if we are going to put some firm limitations on discretionary spending, it seems that we have to pass through the House the appropriations bills as quickly as possible in the month of June.

Now, the real issue is: Should the Appropriations Committee—all of the appropriations bills—have a blanket waiver, or should the waiver be granted on each of the appropriations bills?

Frankly, I would rather have seen a waiver granted on each appropriation bill that comes before us, or I would like to have seen a rule that would left the blanket waiver once a budget resolution was passed. That was not the rule that was reported out. So now we rely on the next best thing which around here ought to be just as reliable, and that is the good faith and word of the chairman of the committee and the leadership who schedules the bills.

In that connection, we have heard today that the chairman of the committee has indicated that each of the subcommittees of appropriations have informally divided up the total pie that we passed in the House earlier this year and have agreed that they are going to live within the constraints of that total pie.

We have also gotten a commitment from the Speaker, who will be in charge of scheduling these bills, that as each one of these appropriations bills comes before us, if that part of the total pie exceeds the House budget resolution limitations so that the total limitation would be breached, then that appropriation bill or that bill from an entitlement authorizing committee would not be scheduled before this body.

Now, is there any legal assurance that that is going to happen? Obviously no. But I hope the spirit of comity in this body and a person's word and the faith of a fellow Member is still good. I can assure you that from the perspective of the Budget Committee we will be giving the 302(a) allocations, in other words, taking the budget resolution, which was passed in the House, a budget resolution which I would remind my colleagues reduced the projected 3-year deficits far greater than the other body reduced those deficits, we will be taking the budget resolution which passed the House earlier this year, reducing those total projected deficits by $182 billion, and we will be monitoring each of the bills, whether it is from the Appropriations Committee or whether it is from an entitlement authorizing committee. If that good faith that we are relying on, that the individual parts not exceed the total deficit reduction package that we passed, then the Budget Committee will be calling that to the attention of the House and, hopefully, the House will prevent that from being considered at that time.

Mr. LONG of Louisiana. Mr. Speaker, if the gentleman from Tennessee has no further requests for time, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 166, not voting 21, as follows:

[Roll No. 161]

YEAS—246

Ackerman	Barnes	Bosco
Addabbo	Bateman	Boucher
Akaka	Bates	Boxer
Albosta	Beilenson	Breaux
Alexander	Bennett	Britt
Anderson	Bevill	Brooks
Andrews (NC)	Biaggi	Brown (CA)
Andrews (TX)	Bliley	Brown (CO)
Annunzio	Boggs	Bryant
Anthony	Boland	Burton (CA)
Applegate	Boner	Byron
Aspin	Bonior	Carney
AuCoin	Borski	Carper

Carr	Huckaby	Price
Chappell	Hughes	Quillen
Clarke	Hutto	Rangel
Clay	Jenkins	Ratchford
Coelho	Jones (NC)	Regula
Coleman (TX)	Jones (OK)	Reid
Collins	Jones (TN)	Richardson
Conte	Kaptur	Rinaldo
Conyers	Kastenmeier	Robinson
Cooper	Kazen	Rodino
Coyne	Kennelly	Roe
D'Amours	Kildee	Roemer
Darden	Kleczka	Rogers
Daschle	Kolter	Rose
de la Garza	Kostmayer	Rostenkowski
Dellums	LaFalce	Roybal
Derrick	Lantos	Rudd
Dicks	Leath	Sabo
Dixon	Lehman (CA)	Savage
Dorgan	Lehman (FL)	Scheuer
Dowdy	Leland	Schumer
Downey	Levin	Seiberling
Dwyer	Levine	Shannon
Dymally	Lipinski	Shelby
Dyson	Livingston	Sikorski
Early	Lloyd	Sisisky
Eckart	Long (LA)	Skelton
Edwards (AL)	Long (MD)	Smith (FL)
Edwards (CA)	Luken	Smith (IA)
Edwards (OK)	Markey	Smith (NE)
Emerson	Martinez	Smith, Robert
English	Matsui	Snyder
Erdreich	Mavroules	Solarz
Evans (IL)	McCloskey	Spratt
Fascell	McCurdy	St Germain
Fazio	McDade	Staggers
Feighan	McHugh	Stark
Flippo	McNulty	Stokes
Florio	Mikulski	Stratton
Foglietta	Miller (OH)	Swift
Foley	Mineta	Synar
Ford (MI)	Minish	Tallon
Ford (TN)	Mitchell	Tauzin
Fowler	Moakley	Taylor
Frank	Mollohan	Thomas (CA)
Franklin	Montgomery	Thomas (GA)
Fuqua	Moody	Torres
Garcia	Moore	Torricelli
Gaydos	Mrazek	Towns
Gejdenson	Murphy	Traxler
Gephardt	Murtha	Udall
Gibbons	Myers	Valentine
Gilman	Natcher	Vento
Gonzalez	Neal	Volkmer
Gray	Nichols	Watkins
Green	Nowak	Waxman
Guarini	Oakar	Weiss
Hall (OH)	Oberstar	Wheat
Harkin	Obey	Whitley
Harrison	Olin	Whitten
Hatcher	Ortiz	Williams (MT)
Hayes	Ottinger	Wilson
Hefner	Owens	Wirth
Heftel	Patman	Wright
Hertel	Patterson	Wyden
Hightower	Penny	Yates
Horton	Pepper	Yatron
Howard	Perkins	Young (FL)
Hoyer	Pickle	Young (MO)

NAYS—166

Archer	Crane, Philip	Gore
Badham	Crockett	Gradison
Barnard	Daniel	Gramm
Bartlett	Dannemeyer	Gregg
Bedell	Daub	Gunderson
Bereuter	Davis	Hall, Ralph
Bethune	DeWine	Hall, Sam
Bilirakis	Dickinson	Hamilton
Boehlert	Donnelly	Hansen (UT)
Broomfield	Dreier	Hartnett
Broyhill	Duncan	Hiler
Burton (IN)	Durbin	Hillis
Campbell	Edgar	Holt
Chandler	Erlenborn	Hopkins
Cheney	Evans (IA)	Hunter
Clinger	Ferraro	Ireland
Coats	Fiedler	Jacobs
Coleman (MO)	Fields	Jeffords
Conable	Fish	Johnson
Corcoran	Frenzel	Kasich
Coughlin	Frost	Kemp
Courter	Gekas	Kindness
Craig	Glickman	Kramer
Crane, Daniel	Goodling	Lagomarsino
Latta	Moorhead	Shuster
Leach	Morrison (CT)	Siljander
Lent	Morrison (WA)	Skeen
Levitas	Nelson	Slattery
Lewis (CA)	Nielson	Smith (NJ)
Lewis (FL)	O'Brien	Smith, Denny
Loeffler	Oxley	Snowe
Lott	Packard	Solomon
Lowery (CA)	Panetta	Spence
Lowry (WA)	Parris	Stangeland
Lujan	Pashayan	Stenholm
Lundine	Paul	Studds
Lungren	Pease	Stump
Mack	Petri	Sundquist
MacKay	Porter	Tauke
Madigan	Pritchard	Vander Jagt
Marlenee	Pursell	Vandergriff
Marriott	Ray	Vucanovich
Martin (IL)	Ridge	Walker
Martin (NC)	Ritter	Weaver
Martin (NY)	Roberts	Weber
Mazzoli	Roukema	Whitehurst
McCain	Rowland	Whittaker
McCandless	Russo	Williams (OH)
McCollum	Sawyer	Winn
McEwen	Schaefer	Wolf
McGrath	Schneider	Wolpe
McKernan	Schroeder	Wortley
McKinney	Schulze	Wylie
Mica	Sensenbrenner	Young (AK)
Michel	Shaw	
Molinari	Shumway	

NOT VOTING—21

Berman	Hance	Rahall
Bonker	Hansen (ID)	Roth
Chappie	Hawkins	Sharp
Dingell	Hubbard	Simon
Gingrich	Hyde	Walgren
Hall (IN)	Kogovsek	Wise
Hammerschmidt	Miller (CA)	Zschau

□ 1720

Mr. SCHAEFER changed his vote from "yea" to "nay."

Mr. EMERSON and Mr. THOMAS of California changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill (H.R. 5653) making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1985

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5653) making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Indiana (Mr. MYERS) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. BEVILL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5653, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Alabama (Mr. BEVILL) will be recognized for 30 minutes and the gentleman from Indiana (Mr. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, we bring to you today for your favorable consideration the energy and water development appropriation bill for 1985. I am joined in this effort by my colleagues and my very fine and able committee staff on the Energy and Water Development Subcommittee who have worked long and hard to bring this legislation to the floor. Let me express my special appreciation to our ranking minority member, the gentleman from Indiana (Mr. MYERS). As in years past, he and I have worked together with the subcommittee without any trace of partisanship to fashion a bill that meets the present and future needs of our entire country. I also want to express my appreciation and thanks to the members of the subcommittee, the gentlelady from Louisiana (Mrs. BOGGS), the gentleman from Florida (Mr. CHAPPELL), the gentleman from California (Mr. FAZIO), the gentleman from Oklahoma (Mr. WATKINS), the gentleman from Tennessee (Mr. BONER), the gentlelady from Nebraska (Mrs. SMITH), and the gentleman from Arizona (Mr. RUDD).

Mr. Chairman, the bill before the committee today would provide $15,470,725,000 in new budget authority to the Army Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and six independent agencies and commissions. This is $974,670,000 more than was provided in last year's appropriation legislation and it is $404,066,000 less than the amounts requested in the President's

1985 budget. The increases over fiscal year 1984 is principally related to increase in atomic energy defense activities. The bill is consistent with the House-passed budget resolution pursuant to section 302 of the Budget Act. We believe the outlays associated with this bill also are well under the estimated outlay targets established by CBO for the programs funded in the bill.

TITLES I AND II—WATER RESOURCE DEVELOPMENT

Mr. Chairman, in fiscal year 1985, and in the years ahead, our Nation will continue to face an issue that has been with the American Republic since it was founded over 200 years ago. Indeed, it is an issue that every civilization has had to deal with all throughout recorded history—the wise and prudent development of our water resources.

As shown on page 2 of the report, title I includes $2,873,857,000 for the Corps of Engineers which provides for 191 water resource projects in the planning or construction phases. This includes three new planning starts.

Title II includes $1,025,026,000 for the Bureau of Reclamation which provides for 99 water resources projects in the planning or construction phases. This title contains six new planning starts.

While the subcommittee has received many requests for new construction starts, including those proposed by the administration, legislation addressing the issue of "innovative financing" which would require up-front financing and cost sharing from non-Federal sponsors has not been enacted into law.

However, the Public Works and Transportation Committee has reported H.R. 3678 which addresses these issues and that bill is expected on the floor in the near future.

In addition, as you know, the House passed the water resources development appropriation bill (H.R. 3958) last October. This bill has been reported by the Senate Committee on Appropriations and is awaiting floor action by the Senate.

Pending enactment of H.R. 3678 or similar legislation and Senate action on H.R. 3958 your committee believes it would not be prudent to include new construction starts in the regular fiscal year 1985 energy and water development appropriation bill.

However, as stated on page 4 of the report:

> The Committee fully intends to revisit the issue of new construction starts in September 1984. That should provide the authorizing committees sufficient time to complete action of authorizing legislation.
>
> The Committee on Appropriations in September 1984 may well recommend for full House consideration a new construction program for the Corps of Engineers and the Bureau of Reclamation.

Titles I and II provide for continuation of ongoing construction projects and operation and maintenance programs. Within the available funds, the subcommittee has attempted to accommodate the most critical needs identified through the extensive hearings conducted with administration witnesses, the public, State, and local officials and Members of Congress.

TITLE III—DEPARTMENT OF ENERGY

In title III, for the Department of Energy, the recommendation provides a total of $10,846,412,000, an increase of $664,411,000 over the fiscal 1984 appropriation and $571,088,000 below the President's budget. We are recommending $7,404,901,000 for the National Security programs and $3,441,511,000 for all other energy programs. The amount recommended for energy programs is $179,720,000 or 5 percent below the current appropriations. However, the recommendations include numerous changes in the request which are summarized in the report. I will mention a few.

In the energy programs of the Department of Energy, several changes are worth mentioning:

For solar and renewable energy programs, we are recommending $245,354,000 compared to the request of $226,518,000. The committee believed the administration's proposed reductions in the level of effort on solar and renewable energy were too drastic.

For magnetic fusion, the recommendation provides $420,000,000, a decrease of $64,000,000 below the requested level of $484,000,000.

Progress is continuing in developing and demonstrating the technological basis for the safe disposal of nuclear waste. On a pilot scale, the program has demonstrated the technology to solidify nuclear wastes, to provide suitable overpack containers and to provide suitable casks for transporting the containers to a disposal site. Test emplacements in geologic storage are beginning to confirm the ability to engineer and utilize stable geologic formations for long-term isolation. There remain the confirmatory programs and resolution of political and institutional barriers to put this problem behind us.

For general science and research, the committee recommendation provides a total of $726,905,000 compared to $641,250,000 in fiscal year 1984. There continues to be exciting and important discoveries on the frontiers of basic knowledge concerning the structure and nature of matter from this program. The application of nuclear science for medical purposes also has provided some important new discoveries and potential breakthroughs in the treatment of cancer and other medical disabilities. The committee recommendation continues our strong support for this program.

The recommendations for defense programs fully support the President's goal of achieving real spending growth for necessary programs in the defense area. The amount recommended is $844,131,000 above the current appropriations and $400,924,000 below the budget request. The recommendation accommodates increased research, development, testing, and production requirements associated with weapons stockpile levels established by the President. The recommendation reflects changes in program emphasis and is consistent with the recommendations of the Armed Services Committee.

The committee recommendation provides $95,677,000 for the Federal Energy Regulatory Commission instead of $100,677,000 as requested. In addition, the bill includes language which would permit FERC to use up to $60,000,000 in revenues from licensing and other activities to offset part of the appropriations. It is the committee's view that statutory authority exists for FERC to collect additional revenues, but the appropriation language does not require FERC to collect the entire $60,000,000 in estimated revenues.

TITLE IV—INDEPENDENT AGENCIES

Title IV of the bill includes $725,430,000 for six independent agencies. This is $15,952,000 above last year's level.

We have provided $160,000,000 for the Appalachian Regional Commission; $438,200,000 for the Nuclear Regulatory Commission; $126,308,000 for the Tennessee Valley Authority and $922,000 for three river basin commissions. The following specific programs warrant additional comment beyond what is in the committee report.

Appalachian Regional Commission. The committee's action provides a total of $160,000,000 for the Appalachian Regional Commission in fiscal year 1985. The administration had proposed to terminate the ARC as of October 1, 1982, and had, therefore, not requested funding for fiscal year 1983. The Congress agreed in the fiscal year 1981 Supplemental/Rescission Act (Public Law 97-12) that the ARC would be maintained but at a reduced level; while much has been accomplished in Appalachia as a result of the Commission's programs and much remains to be done.

Nuclear Regulatory Commission. The recommendation provides $438,000,000 for the Nuclear Regulatory Commission in fiscal year 1985, a decrease of $30,000,000 from the request. The committee continues to be concerned about the Commission's progress in licensing of nuclear powerplants.

Tennessee Valley Authority. The recommendation provides $126,308,000 in new budget authority for the TVA

in fiscal year 1985 to continue the important programs of this agency.

GENERAL PROVISIONS

The bill contains the customary general provisions carried in prior years to permit the agencies funded in this bill certain flexibility and to limit other activities.

COMMITTEE REPORT

The report accompanying the bill provides a good explanation of the recommendations reflected in the bill. I would encourage the Members to look through it.

This is a good bill and report. It is under the President's budget. I recommend its adoption by the committee.

Mr. Chairman, I would like to call the Members' attention to several printing and typographical errors in the report (H. Rept. 98-755) accompanying the committee bill (H.R. 5653).

On page 24, under General Investigations, "Northwest" should be "Northeast".

On page 31, under Construction General, following the word "ramp", add "and day use facilities similar to Oak Grove."

On page 170, the first sentence of the third paragraph under Additional Views should read "I have never opposed the general proposition that North Dakota needs federally assisted development of its water resources."

On page 143, the first item in the second paragraph entitled "Quality Assurance Problems" should read "(1) from within the current manpower ceiling, the NRC should increase the on-site inspection by at least one inspector per facility."

In addition, as a matter of clarification, I wish to point out that it is the committee's intent that the major portion of the funds included in the bill for the Muskingum River basin are to be applied to the Wolf Creek and Tuscarawas River flood study.

□ 1740

Mr. Chairman, we can finish this bill by 7:30. We can even finish it before then if we just do not get too long on whatever amendments are offered and if you will just vote them down, we can move on and finish this bill, because the leadership says we can stay here until we finish it; so if you will, those of you who are going to be offering amendments, please make them as brief as you can so we can move on.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I will yield to the gentleman from Florida as soon as I can, but my colleague, the gentleman from Indiana (Mr. MYERS) wants to go ahead, and then I will yield to the gentleman.

Mr. MYERS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the chairman of our subcommittee, the gentleman from Alabama (Mr. BEVILL) has done his usual outstanding job in explaining the content of this appropriation bill which is the first appropriation bill of 13 to come, we hope 13 to come before this chamber this year.

This particular bill, the energy and water bill, as our chairman has said, is a sizable bill, but manageable.

I, too, join my chairman in thanking the Members of Congress serving on this subcommittee for the long hours they have contributed to the hearings. Every member of this subcommittee has spent hundreds of hours on this bill in hearings and markups, and our fine staff who has worked thousands of hours on this particular bill, working late into the night and often weekends preparing this bill.

I have served on a great many different subcommittees through the years, as the chairman has. The gentleman and I both came to Congress together.

I will say this, I do not know of any committee I have ever served on that is as fair as this one. Our chairman is absolutely nonpartisan, not only just bipartisan, but nonpartisan, as is the full committee. Partisan issues just do not come before our committee. We are concerned about the projects that are before our country. For this, our committee does have some concerns, because we have some responsibilities here for providing for the future of our country.

You know, it was once said that our universe is composed of land, air, fire, and water. This subcommittee has two of those, water and fire responsibilities for our country.

We are deeply concerned that we are not providing adequately for our children and grandchildren, first in the area of energy and fire. I am afraid we are going to run out of available energy in the next 20 years in this country, not because we have not got the energy, but because we just have not had the will or have not allocated resources to develop our energy. This is one of the responsibilities of this subcommittee. We have been working with this.

Also water: We have too much water in many areas of our country today and not enough in others.

So we are not properly, I must say in all fairness to the hard work of our committee, we are not doing the kind of job which really needs to be done.

We have to restrict spending this year to stay under the 303 and under the President's budget. Many high priority items have to be delayed, pushed back on the shelf again.

We had the testimony of a great many Members of Congress. We had the testimony of many Governors, of State officials, of local officials, including a great many mayors and legislators, and they all had fine projects, but there just is not enough money to meet the needs of our country, so we necessarily have had to reduce this bill to make it manageable and one that we can get signed, and we have one that the President will sign. I will talk about that in a moment.

As the chairman has said, there are four titles to this bill. The first, of course, is the Corps of Engineers developing the water resources of our country. Specifically, we have provided an increase of $34 million over the President's request for general investigations. These are high priority items in the judgment of your committee, having to do in many cases with flood control, flood management, navigation programs, where there is safety involved.

The General Accounting Office has made many, many reports on some of these projects.

Our Office of Management and Budget has been somewhat critical because in title I we have provided more money than the President requested, a difference in judgment of what is needed for our country, but very frankly, your subcommittee here dealing with this problem is much more familiar with the water needs of our country than the Office of Management and Budget is, with all due respect to Mr. Stockman and his group. They are doing a very diligent effort to hold down spending and we are trying to help them, but we have a difference in priorities because we have visited many of these projects.

Yes, we are starting to fund some of these projects that probably are going to go to construction after September, but advanced engineering has to be completed before we can actually go to construction.

So in general investigations, we have spent about $34 million more than the President requested.

In construction, we have $59 million more than the President has requested, because we had some very high priority items here that we had to expedite, to move them up because of some conditions in our country.

In flood control on the Mississippi River and its tributaries, where we had serious flooding last year and tornadoes hit this year and again flooding this year, we have added $22 million because there is a great need in the lower regions of the Mississippi River to provide this needed protection to save property and lives.

In operation and management of the projects in the Corps of Engineers, we have increased that by $22 million.

We have a lock and dam on the Ohio River at Gallipolis that this year because of its age and its very small size of the lock that has presented many, many problems. They had 17 days of closure of that lock at one time because a tug got caught and broke one of the gates and that lock was closed for 17 days, costing the consumers of this country more than $2 million just

for that one closure because the lock is inadequate to take care of today's needs.

We have a great many locks and dams operated by the Corps of Engineers in our 25,000 miles of water transportation in this country that are outdated, that are worn out and we just have not had the money to pass to do all the repairs that need to be done, so we just cannot continue to delay this. So we have increased this more than the President requested.

In the Department of the Interior, there are general reductions in Department of the Interior projects which the Bureau of Reclamations operates.

In GI, general investigations, we reduced that by $85,000.

Construction, we reduced by $56 million. Generally that is the Garrison diversion that we have heard so much about in recent years. We cut out all the money for the Garrison diversion this year.

We had increased the operation and maintenance by about $15 million, because they, too, are suffering from outdated equipment.

In the Department of Energy, this is where we really have made some cuts. As the chairman has said, in defense activities, atomic energy defense activities, we have cut a little over $400 million.

We generally have just delayed capital investment for the Department of Energy for its defense activities.

Many people do not realize that the Department of Energy is in charge of the responsibility in the Department of Defense for the development, for the engineering, for the production, for the handling of all nuclear weapons, to actually deliver to the Department of Defense and also for the surveillance of the integrity of our treaties that the Department of Energy does this for our State Department and our other agencies of the Federal Government for the surveillance of treaties, making sure the treaties we have around the world are abided by, dealing with nuclear energy and nuclear weapons.

One area that the chairman touched on is the Nuclear Regulatory Commission. We did make a $30 million reduction in the Nuclear Regulatory Commission's research and development, because the Nuclear Regulatory Commission is doing less today than it did 5 years ago. The Nuclear Regulatory Commission has not had one new application for license in 8 years, and there are no foreseen applications in the foreseeable future, so they do not need to do the research that they needed to.

There are some other problems. They have interior management in the Nuclear Regulatory Commission.

This committee has been after the Nuclear Regulatory Commission to be more efficient for the last 3 or 4 years. We have asked them for a number of things, first to have a pilot licensing project, one which is absolutely the same regardless of who the applicant is.

We have asked them for a typical type project for engineering and so forth, so there could be a common project that an applicant could look to and say, "This is the way we want to build our plant," but they have ignored all these requests that we have made, so we have reduced them by about $30 million.

They have been negligent, I think. The Three Mile Island is an example in Pennsylvania where that accident was more than 5 years ago, yet Unit No. 1 has not been brought back or anything done with it.

□ 1750

Still the Nuclear Regulatory Commission is trying to decide what to do. After 5 years they are trying to decide what to do with Three Mile Island.

We had the Diablo Canyon in California that has now gone to low fuel, 5 percent of loading. But it was delayed for some time because of one objector who did work for the Nuclear Regulatory Commission, and at the very last moment said, "Well, here is something I knew all of the time."

So there is something wrong internally.

And we discovered this year what they call the ex parte rule, which is of course part, a very necessary part of our Administrative Procedures Act. But their interpretation of the ex parte rule is the fact that their staff that works for the Commission itself cannot talk to them ahead of time. Or if three of them get together over a cup of coffee as members of the Commission they cannot talk to each other.

So any organization like this cannot be effective. So we have tried too, after trying many years to make the Nuclear Regulatory Commission more effective, more efficient, we have tried to put some teeth into it, to say we are going to start demanding it be done. We just simply have to get the Nuclear Regulatory Commission moving again.

In closing I want to say that the administration has sent us a letter, and while they do have some disagreement, such as the use of funds that are unexpended this year on last year, your committee decided that Congress should decide how those unexpended funds from 1984 or 1983 fiscal year should be used, not somebody else down at the administration. And we have appropriated those funds this year in disagreement with the Office of Management and Budget.

We also have disagreed about the new starts. We feel we are going to wait for our Congress to act. There are 40-some new starts that could be going right away. We did not fund those, as the chairman has said.

So the President and the administration do not oppose this bill, but I hope you folks do favor it.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I would like to voice my opposition to H.R. 5653, the energy and water appropriations bill, because it includes funding for the Falmouth Dam on the Licking River in Kentucky. This bill appropriates $300,000 for further study of the Falmouth Dam under the heading of general investigations. This funding is unwarranted and unjustified at a time of record budget deficits.

The Falmouth Dam was first authorized in 1936. Since that time approximately $1 million has been spent on studies and no funds have ever been approved for construction. In fact, in 1981 the Corps of Engineers declared the project inactive.

This project will only return 60 cents worth of benefits for every $1 invested using the current Corps of Engineers interest rate of 8 percent. Current law will not allow the corps to construct a project with such a poor cost-benefit ratio. The Kentucky State Senate asked the Congress to deauthorize the project in 1980. The Falmouth Dam is vehemently opposed by many organizations including the National Taxpayers Union, the American Farm Bureau, the Kentucky Farm Bureau, the Coalition for Water Project Review, the National Audubon Society, Friends of the Earth, the Sierra Club, the Kentucky Rivers Coalition, the Licking Rivers Protective Association, the Kentucky Conservation Council, and the Lexington Herald-Leader newspaper.

The Congress will be able to decide whether this project merits the special treatment necessary to revive it when H.R. 3678, the "Water Resources, Conservation, Development, and Infrastructure Improvement and Rehabilitation Act" comes to the floor. I believe it is premature to waste taxpayers' hard-earned dollars to study a project which Congress has chosen not to build for 48 years and which may be effectively stopped in the near future and which has already received $1 million worth of studies.

Mr. BEVILL. Mr. Chairman, I now yield 3 minutes to the distinguished chairman of the Science and Technology Committee, the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I would ask the gentleman a question regarding the level of unobligated balances remaining in the uranium enrichment program.

As the gentleman knows, the Department of Energy agreed with the Science and Technology Committee recommendation to retain at least $73 million in unobligated balances from uranium enrichment in order to provide a contingency fund for advanced enrichment technologies. Can the gentleman assure me that the transfer of $60 million in unobligated balances in the bill will not affect the ability of the DOE to comply with this recommendation by providing such a contingency fund for AGC and AVLIS for fiscal year 1985 and fiscal year 1986?

Mr. BEVILL. Mr. Chairman, if the gentleman will yield, that is correct. With the transfer of $60 million to the energy supply R&D account, to our knowledge at least $73 million still remains in unobligated balances of the uranium enrichment program for this and other contingencies.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for this assurance.

Would the gentleman answer a question regarding the funding for the modular high temperature gas-cooled reactor which is included within the recommendation for the converter reactor program? As I understand it, there is $34.6 million contained in the bill for high temperature reactor technolgy.

Mr. BEVILL. The gentleman is correct.

Mr. FUQUA. The Science and Technology Committee recommended that the modular HTGR effort be funded at $22 million for fiscal year 1985 within a program for which the recommended total is $47 million. Does the subcommittee chairman agree that the Congress should support a proportionate thrust in this bill, that is, a $16 million modular R&D activity within the high temperature gas reactor program?

Mr. BEVILL. Yes, I believe that funding level represents a reasonable distribution of effort within the DOE request for this program.

Mr. FUQUA. In the Science and Technology Committee report which explains the initiative for the modular gas-cooled reactor the program goals are set forth. The report states that the goals "* * * should be toward the successful development, fabrication, assembly, installation and testing of the largest sized reactor that can meet the criteria of passive safety and can also benefit from the factory fabrication, assembly, and inspection of major systems."

I would ask the gentleman if he finds himself in agreement with these goals.

Mr. BEVILL. Yes, I concur in the statement of these goals, and believe that this option has sufficient promise that it should be aggressively pursued.

Mr. FUQUA. Would the gentleman respond to an inquiry regarding the magnetic fusion energy (MFE) program?

Mr. BEVILL. I would be glad to respond.

Mr. FUQUA. As the gentleman knows, the Science and Technology Committee has strongly encouraged industry involvement in the MFE program. Would the gentleman agree that the language in the Appropriations Committee report is not intended to discourage industry participation in the engineering development aspects of the mainline fusion program or in supporting development and technology activity?

Mr. BEVILL. The gentleman is correct.

Mr. MYERS. Mr. Chairman, I yield such time as he may consume to the ranking Republican member of the full Appropriations Committee, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, let me begin by commending the chairman of the subcommittee, the distinguished gentleman from Alabama (Mr. BEVILL) and the ranking minority member, the gentleman from Indiana (Mr. MYERS), for producing a bill that nearly all of us can support. They and the other members of the committee have labored long and hard on this bill, and I believe that the outcome is a tribute to their efforts.

The traditional controversal projects that have so often hampered our consideration of this bill are gone. I am pleased to note that there is no new money for the Tennessee-Tombigfee Waterway; there is no new money for the Clinch River breeder reactor; there is no new money for the O'Neill project in Nebraska; there is no money here for construction of the Oregon Inlet project in North Carolina; and—my favorite—I am especially pleased to note that there is no money in this bill for the Garrison diversion project in North Dakota.

In the case of the Garrison project, the battle this year, like last year, will be in the Senate. But just in case there is any doubt, I want the record to show that I will continue to oppose further funding for the Garrison project until an alternative can be designed to meet the environmental, international, and cost problems with this bill. As I said in my additional views on the committee report:

I have never opposed the general proposition that North Dakota needs federally assisted development of its water resources . . . (But) Garrison was conceived as the answer to the dustbowl of the 1930's . . . Let us cease building this antiquated, destructive and costly "solution" to a non-existent problem. Let's determine what the present and future water resource needs of North Dakota are, and let's look for a solution to the problems of the 1980's and the 1990's, not the 1930's.

Mr. Chairman, even though these controversial projects are not in the bill, I do not want to hear anyone up here asking—"Where's the pork?"

There are enough projects in this bill for just about everyone to bring home a little piece of the bacon. The bill provides $933 million for continued work on more than 150 Corps of Engineers projects, and $152 million for more than 250 Corps of Engineers planning and feasibility studies.

The bill also provides $708 million for construction of more than 90 Bureau of Reclamation projects, and nearly $36 million for about 49 Bureau of Reclamation project feasibility studies. So there are still enough water projects here to talk about back home.

In the energy area, the committee has done a good job of formulating a balanced program of energy research and development. I was especially pleased by the committee's funding of the regional biomass program at the 1984 program level. There are a number of very promising projects underway in New England under this program, and I would urge the Department of Energy to recognize the need for increased support in this area when funds are allocated to the various regions.

Mr. Chairman, this is a responsible bill—and again, I commend the members of the committee for their restraint. I have received a letter from my good friend at OMB, the young slasher, Mr. Stockman, and I would like to quote from that letter:

While the Administration has some technical and substantive concerns about the Appropriations Committee's action on this bill, it is pleased with the restraint that has been shown. The total amount approved by the Committee is generally consistent with the freeze benchmark derived from the Rose Garden deficit reduction plan.

With those assurances from the administration, I believe that this is a bill that all Members can support.

Mr. Chairman, in his letter Mr. Stockman indicated some concern with the committee's opposition to upfront financing and cost-sharing for water project studies or new construction starts, and I would like to touch briefly upon that point.

My colleagues may have noted the articles in this morning's Washington Post and New York Times concerning a National Wildlife Federation analysis of Inspector General audits of several Bureau of Reclamation water projects.

That analysis concluded that the Department of the Interior had failed to achieve the timely recovery of billions of dollars invested in six major water projects of the Bureau of Reclamation, and had ignored the recommendations made by the Inspector General for greater cost recovery.

Clearly this is a serious problem that will require additional consideration by the Congress. There is no excuse

for failing to recover costs that are currently recoverable under existing law.

In addition, there is legislation pending in the Congress that would reform our national water policy in a number of areas, including cost sharing and up-front financing. I share OMB's concern over the committee's refusal to let our water resource agencies even study such proposals, and look forward to the House's consideration of water policy reform measures in the near future.

Mr. Chairman, let me conclude by stating once again that I believe this is a responsible bill, and one for which I urge my colleagues' support.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 22, 1984.

Hon. SILVIO CONTE,
Committee on Appropriations, House of Representatives, Washington, DC.

DEAR SIL: As the House prepares to consider the 1985 Energy and Water Development appropriation bill, I would like to outline the Administration's position.

While the Administration has some technical and substantive concerns about the Appropriations Committee's action on this bill, it is pleased with the restraint that has been shown. The total amount approved by the Committee is generally consistent with the freeze benchmark derived from the Rose Garden deficit reduction plan.

Technically, we disagree with the Committee's assumption that savings were achieved by the use of unobligated balances as a substitute for new budget authority. Adjusting for this difference, we estimate that the Committee's action on non-defense programs exceeded the President's request by $92 million. In addition, the Committee did not take into account the President's proposal on May 2, 1984 to reduce the request for atomic energy defense activities by $400 million on the condition that the balanced deficit reduction plan that he and the Republican leadership agreed upon is enacted by the Congress.

Substantively, two areas of major increase are of particular concern. The first is an unwarranted increase of $158 million for the Corps of Engineers. The Committee failed to include $47 million for new Corps of Engineers and Bureau of Reclamation construction starts supported by the Administration, allocated $69 million to 20 projects for which the Administration requested no funds, including one new construction project and beginning design on several others. In addition, the Committee action opposes up front financing and cost-sharing for studies or new construction starts and, in some cases, lowers or eliminates the minimal cost-sharing requirements already in law.

The second major objection is the Committee's rejection of the President's proposal to terminate the Appalachian Regional Commission. The Committee provided $60 million to continue the Commission and its regional development programs. There is also an increase of $20 million over the President's request for the Appalachian Highway System.

In addition, the Committee failed to adopt proposed new appropriation language for selected Department of Energy accounts. This language would have strengthened the Department's ability to manage its programs through improved use of recovered prior year obligations achieved as a result of management reform initiatives.

Although the total amount provided for Energy Supply R&D activities is below the President's budget, the Administration is concerned about selected add-ons for energy demonstration projects such as the Sacramento Municipal Utilities District (SMUD) photovoltaics project and a new biomass gasification pilot plant, and the deletion of previous requirements established by the Committee for substantial private cost sharing for the Mod-5 wind machine demonstration.

The administration urges the House to address these issues and eliminate the unwarranted increases in spending.

Sincerely,

DAVID A. STOCKMAN,
Director.

STATEMENT OF ADMINISTRATION POLICY,
MAY 22, 1984

H.R. 5653, ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1985 (SPONSOR: WHITTEN (D), MISSISSIPPI)

While the Administration has some technical and substantive concerns about the Appropriations Committee's action on this bill, it is pleased with the restraint that has been shown. The total amount approved by the Committee is generally consistent with the freeze benchmark derived from the Rose Garden deficit reduction plan.

The major features of the Committee action that are of substantive concern are:

An unwarranted increase of $158 million for the Corps of Engineers. The Committee failed to include $47 million for new Corps of Engineers and Bureau of Reclamation construction starts supported by the Administration, yet allocates $69 million to 20 projects for which the Administration requested no funds, including one new start and beginning design on several others.

Opposition to up front financing and cost-sharing for studies or new construction starts and, in some cases, lowering or eliminating the minimal cost-sharing requirements already in law.

Rejection of the President's proposal to terminate the Appalachian Regional Commission. The Committee provided $60 million to continue the Commission and its regional development programs. In addition, there is an increase over the President's request of $20 million for the Appalachian Highway System.

Failure to adopt proposed new appropriation language for selected Department of Energy accounts. This language would have strengthened the Department's ability to manage its programs through improved use of recovered prior year obligations achieved as a result of management reform initiatives.

Selected add-ons for energy demonstration projects such as the Sacramento Municipal Utilities District (SMUD) photovoltaics project and a new biomass gasification pilot plant, and the deletion of previous requirements established by the Committee for substantial private cost sharing for the Mod-5 wind machine demonstration.

On a technical level, the Administration does not agree that the use of unobligated balances as a substitute for new budget authority should be scored as a saving. Consequently, we estimate that the Committee's action exceeds the President's request for non-defense programs by $92 million. In addition, the Committee did not take into account the President's May 2, 1984 letter proposing to reduce the request for atomic energy defense activities by $400 million on the condition that the balanced deficit reduction plan that he and the Republican leadership agreed upon is enacted by the Congress.

The Administration urges the full House to address these issues and eliminate the unwarranted increases in spending and the objectionable language provisions.

[From the Washington Post, May 22, 1984]

ENVIRONMENTALISTS FAULT WESTERN WATER PROJECTS

(By Cass Peterson)

The nation's largest environmentalist group yesterday launched a new attack on western water projects, accusing the government of "unbusinesslike practices" that may cost the taxpayer more than $10 billion over the next 50 years.

In a 119-page analysis of seven federal audits, the National Wildlife Federation said the Interior Department had ignored the advice of its own inspector general and side-stepped recommendations that could have brought in millions of dollars a year to help pay for the complex systems that have brought cheap hydroelectric power and irrigation water to the arid West.

"At a time when the United States is saddled with enormous federal deficits, it is utterly incongruous for the Department of the Interior to fail to secure the fullest return permitted on the taxpayers' investment in costly water projects," said federation director Jay D. Hair.

The battle is not a new one for the National Wildlife Federation, which has a long history of opposition to major water projects, considering them environmentally unwise and bearing a strong aroma of pork.

But in its new report, the federation played down the environmental effects of the projects, choosing instead an approach that not only allies it with President Reagan's cost-cutting Grace Commission but also opens a clear line of fire on Reagan's own campaign against waste, fraud and abuse in government programs.

"This administration came in setting some fairly high standards for itself on government waste and inefficiency," said federation official Edward Osnann. "There isn't a private business in the country that would handle its books the way the Bureau of Reclamation does."

The bureau is responsible for building and overseeing multipurpose water projects in 17 western states under a federal law that obligates the government, with some exceptions, to recover the costs of the projects, with interest.

The federation report contended that the bureau "has followed a policy of financial forgiveness" that "leaves the impression that the agency views itself more as the financial guardian of its client beneficiaries than of the federal taxpayers who financed the project.

Interior officials declined to comment on the report, which was based on audits of seven of the nation's largest water projects.

The audits, begun under President Ford and completed early in the Reagan administration, found repayment problems in every case. In some cases, the government was charging lower-than-market rates for power and water. Federal dams in Pick-Sloan Missouri Basin program, for example, are giving away 20 percent of the power they generate.

In other cases, the audits found that the governments was charging substantially lower interest rates than allowed by law and

was granting virtually indefinite extensions for repayment.

According to the federation's analysis, the financial outlooks for two audited projects—the Bonneville Unit of the Central Utah Project and the San Felipe Division of the Central Valley Project—are so bleak that the government may have to abandon the projects or undertake a major federal bailout.

Interior, however, has closed six of the seven audits without adopting any of the inspector general's major recommendations. The questions raised in the San Felipe Division audit, now more than five years old, are still not resolved.

Meanwhile, according to the report, the inspector general's office at Interior has reduced by more than 30 percent the staff time devoted to audits of federal water projects, while funding levels for the Bureau of Reclamation have increased by 25 percent in the past three years.

[From the New York Times, May 22, 1984]

U.S. FAILS TO RECOVER MILLIONS IN WEST, WILDLIFE GROUP SAYS

(By Philip Shabecoff)

WASHINGTON, May 21.—The Government is losing millions of dollars a year by failing to recover Federal funds advanced for the construction of six major water and power projects in the West, according to a report issued today by the National Wildlife Federation.

The report said that unless changes were made to require repayment for the projects built by the Interior Department's Bureau of Reclamation, the Treasury would lose $10 billion over the next 50 years.

It also said the Interior Department was failing to carry out recommendations by its own inspector general to reform procedures for recovering the funds used by the bureau.

The report is based on audits conducted by the inspector general's office of the Central Valley Project in California, the Southern Nevada Water Project, the Central Arizona Project, the Fryingpan-Arkansas Project in Colorado, the Colorado River Storage Project in five Rocky Mountain and Western states, and the Pick Sloan Missouri Basin Project in five states. The federation said it obtained the audits under the Freedom of Information Act.

Edward R. Osann, director of the wildlife federation's water resources program, said the six projects could represent only the tip of the iceberg of the Bureau of Reclamation's failure to recover funds.

PRACTICE SEEN AS WASTEFUL

Jay D. Hair, executive vice president of the federation said that at a time of huge Federal deficits, "It is utterly incongruous for the Department of the Interior to fail to secure the fullest return permitted on the taxpayer's investment in costly water projects."

The federation and other conservation groups often oppose big, federally assisted power and water projects, asserting that the construction and use of these projects can cause widespread environmental damage. But increasingly these opponents are basing their opposition on economic rather than ecological grounds.

Reducing subsidies to provide cheap power and water would help protect natural resources, the conservationists say.

According to the report, a number of practices are responsible for the Interior Department's failure to recover costs from the projects to the extent prescribed by law.

SOME LOANS WERE FORGIVEN

According to the federation, the Government has inappropriately forgiven the repayment of loans in some cases. In other cases the Government has charged interest rates for money it is owed that are well below what it pays to borrow money.

In the Missouri Basin project, the federation found residential customers were receiving two kilowatts of electricity without cost for every eight kilowatts they purchase. The Interior Department says it will recover these costs from the sale of power from future projects.

Douglas Baldwin, a spokesman for the Interior Department, said the department received the report this evening and would have no comment on its contents until it could be studied.

ADDITIONAL VIEWS OF HON. SILVIO O. CONTE

I wish to concur with the decision of the House Appropriations Committee to put no money in the FY85 Energy and Water Appropriations bill for the Garrison Diversion project in North Dakota. In December 1982, the House of Representatives—by an overwhelming one-hundred vote margin—voted not to fund this project. This was the last clear cut vote by the House on the substantive issue of whether to appropriate money for Garrison, and the House resoundingly said "no" to the project. It is appropriate and correct that we reflect the clear wishes of the House in the FY85 Energy and Water Appropriations bill.

It is important to note that some members of this Committee attempted to develop language for this bill directing the Department of the Interior to develop alternatives to the Garrison project. Some believed that the Department should be allowed to continue full speed construction of the present project at the same time it was looking for alternatives to it. I strongly disagree with that position. Construction activities must cease while the Department looks for an alternative project or projects. The whole purpose behind a departmental analysis of alternatives is to come up with a better project—one that is cost-effective, less environmentally damaging and one that meets the present day needs of North Dakota—and then implement that alternative. It is pointless to waste money developing a better alternative to the Garrison project if construction is already too far along for modifications to be meaningful. Continued construction precludes the options that now exist for creative and responsible water resources development in North Dakota. Continued construction makes any Department of the Interior study of alternatives irrelevant before it begins.

I have never opposed the general proposition that North Dakota needs federally assisted development of its water resources. But while I wholeheartedly endorse the concept of looking for alternative water resources projects for North Dakota, I want to state again some of the reasons why I have so vigrously opposed the Garisson project in the past and will continue to oppose future funding and construction. For me, perhaps the most significant problem is that the project currently under construction in North Dakota will have devastating effects on waterfowl and waterfowl habitat:

This project will destroy some 60,000 acres of prime prairie potholes (which are already vanishing at an alarming rate) and harm twelve National Wildlife Refuges in North Dakota—all-important habitat in a state which produces more ducks each year than any other in the lower 48.

This project will result in the average annual loss of some 178,000 ducks in North Dakota and another 35,000 in Canada.

This project will have significant adverse impacts on waterfowl using the Central and Mississippi Flyways. The Mississippi Flyway is now on record against the Garrison project.

Construction underway now and scheduled for FY85 will inundate the Sheyenne Lake National Wildlife Refuge and Kraft Slough—a unique habitat area of incredible diversity and rich wildlife populations.

The present mitigation plan is inadequate. It does not even consider impacts of the project on the National Wildlife Refuge System and on unique habitat areas in the state.

I have other concerns as well.

Garrison will cost an estimated $1.2 billion. This amounts to roughly $3,800 per acre so that some dryland farmers can switch to irrigated crops. This is a large subsidy heaped on top of an already large federal subsidy to North Dakota: a state which has the highest Payment-In-Kind (PIK) participation in the country.

There continues to be the perplexing and confusing question of just what it is we are buying with $1.2 billion. The Interior Department has justified its request for funds for Garrison on the basis of building the authorized 250,000 acre project. Canada has strenuously objected to the 250,000 acre project because it fears that the foreign fish and biota transferred from the Missouri River Basin to the Hudson Bay drainage will cause serious and irreversible damage to the huge commercial and sport fisheries in Manitoba. To neutralize the Canadian opposition to the project, the Bureau of Reclamation is now building Garrison in phases beginning with an initial 85,000 acre Phase I. The United States has stated that it will not proceed to Phase II of the project until Canada's concerns have been met and U.S. obligations under the Boundary Waters Treaty have been satisfied. It is quite possible that Phase I is all that will ever be built of Garrison.

Phase I, by itself, is an economic and environmental disaster. Phase I involves the construction of all of the major reservoirs and pumping plants and 67 percent of the canals of the full project. It will cost almost three-quarters of a billion dollars, but it will provide only one-third of the benefits of the 250,000 acre project. The cost-benefit ratio of Phase I, using the most generous calculations and assumptions, is 0.92. Using the present discount rate, the cost-benefit ratio would be 0.43. In other words, we are building most of the project and causing a substantial portion of the environmental damage in Phase I, and getting very, very little in return.

Garrison was conceived as the answer to the dustbowl of the 1930s. Nearly one-half century later, we are just beginning to build a project to solve the dustbowl problems—fifty years too late.

It is crucial that we begin a serious search for alternatives to Garrison. Let us cease building this antiquated, destructive and costly "solution" to a non-existent problem. Let's determine what the present and future water resources needs of North Dakota are, and let's look for a solution to the problems of the 1980's and 1990's, and the 1930's.

Looking for alternatives is not a novel idea. Alternatives have been found for other controversial water projects: Orme Dam in

Arizona and the O'Neill project in Nebraska come to mind as examples. In both instances, responsible studies have gone forward while construction was halted and compromises have been developed in relatively short order.

I regret that this committee was not able to agree upon the conditions necessary to get this process of looking at alternatives underway. But I pledge to continue my efforts to seek reasonable and responsible alternatives to the present project. I know that I can count on friends and colleagues in the Congress and in the conservation community to support me in this effort. But a condition of this pledge is that construction of Phase I must stop while the alternatives are developed. I cannot condone the damage now being done to the prairie potholes and vanishing wildlife habitat of North Dakota; nor can I be a party to any study which may only be a sham.

□ 1800

Mr. BEVILL. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Chairman, last October the gentleman fulfilled a commitment to me to include startup funding for the Baltimore Harbor dredging project in the fiscal 1984 water resources development bill, and I thank him for that commitment.

That legislation, H.R. 3958, was adopted by the House by a large margin. The bill had been given further approval by the Senate Appropriations Committee and is currently awaiting action by the full Senate.

I have asked the Senate majority leader to put the Senate bill on the Senate Calendar for immediate consideration.

If the Senate should fail to act on this vital port development legislation, am I correct to understand that the gentleman intends to include funding for the Baltimore Harbor dredging project in a supplemental appropriations bill perhaps as early as September?

Mr. BEVILL. The gentleman is correct. That is a very urgent project.

Mr. LONG of Maryland. So it is the gentleman's intention to include funds to support port development projects and if the Senate fails to continue to act, to give the Baltimore Harbor project top priority for funding?

Mr. BEVILL. That is correct.

Mr. LONG of Maryland. I want to thank the gentleman for his dedication.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Interior of the Committee on Appropriations, the gentleman from Illinois (Mr. YATES).

Mr. YATES. I thank the gentleman for yielding.

I should like to ask him a question.

Mr. Chairman, is it your intention that $1.6 million for the Argonne tandem line accelerator system funding comes from other nuclear physics funding at Argonne?

Mr. BEVILL. No, it is not.

Mr. YATES. Where does the gentleman expect that funding to come from?

Mr. BEVILL. I expect the Department to find this amount which is less than 1 percent of the nuclear physics budget by a small adjustment in other budget items. As you know, it is not cost-effective to expend large amounts of money to construct a new facility and then not appropriate sufficient operating funds.

Mr. YATES. I thank the gentleman for his reply.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

Mr. MYERS. Mr. Chairman, I yield 3 minutes to a very valued member of the subcommittee, the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I do commend the chairman of the subcommittee for the direction that he has given this, together with the ranking member, the gentleman from Indiana. I think it is worth noting that the ranking member of the full committee, the gentleman from Massachusetts, has indicated wholehearted support for this bill which indicates the goodness of the bill.

Mr. Chairman, I rise in support of H.R. 5653, the fiscal year 1985 energy and water development appropriations bill.

This bill will help to build America. Through the development of new energy resources, and the development of our water resources, as well as flood protection, we provide the infrastructure that is needed for this Nation to work, prosper, and add to our Nation's economic future.

Water and energy are the basics of life. Without them, in abundant quantities, we cannot grow, we cannot provide a better world for our children. This bill provides $15.4 billion worth of commitment to continue the work to develop our precious energy and water resources.

In my own State of Arizona, it is expected that the population will double in the next 16 years. Where will the water for that increase in population come from? In part, from the efforts on water development contained in this bill. Almost half a century ago, statesmen wiith the foresight to see the need for water in Arizona, developed a plan to bring more water into the State. This has become the central Arizona project. It was first conceived in 1947 and authorized in 1968 and is now well under construction and nearing completion. The central Arizona project will bring in the additional water for the growing population, a population that grows food and works in an increasingly high tech industrial base providing goods for the rest of the Nation.

The ability to develop water resources where they are needed, or to provide flood protection where it is needed, has benefits above and beyond those accruing to the immediate area. When and wherever possible, efficient and economic water and energy development helps the Nation as a whole.

I urge my colleagues to vote for this bill. It is a vote for the future.

I thank the gentleman for yielding.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to my good friend and colleague, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I thank the distinguished subcommittee chairman.

I wonder if I could just ask him a couple of questions. I notice that the Energy and Water Development Subcommittee added $100,000 to the administration request for the Muskingum River Basin, is that correct?

Mr. BEVILL. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. SEIBERLING. Although the report does not so indicate, is it the intent of the committee that the major portion of this money is to be applied to a study of the Wolf Creek and Tuscarawas River flooding problem?

Mr. BEVILL. That is correct.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman very much and I am sure the people of the area in both Mr. REGULA's district and mine are going to be very interested in pursuing that study because it does mean a great deal to solving some of the serious flooding problems.

Mr. Chairman, I rise today in strong support of the uranium enrichment section of the energy and water appropriations bill, especially the funds appropriated for the gas centrifuge enrichment project (GCEP) currently under construction at Portsmouth, Ohio.

The centrifuge project, including the advanced gas centrifuge technology now being developed, will provide uranium enrichment services at a lower cost than would the energy-intensive gaseous diffusion process currently used by DOE. The U.S. Government now supplies much of the enriched uranium required for domestic and foreign commercial purposes. This product comes from three plants, including the one at Portsmouth, which currently enrich the uranium using the gaseous diffusion process. The centrifuge method for uranium enrichment under development at the Portsmouth plant would be far superior to the gaseous diffusion process because it would use only 5 percent of the electricity consumed by the gaseous diffusion method.

I believe that the uranium enrichment budget included in this bill reflects the substantial progress on the part of DOE in bringing the costs and objectives of the enrichment program under the control of a rational market-based management strategy. DOE has decided to slow the purchase and installation of centrifuge machines in the Portsmouth gas centrifuge plant. DOE has carefully examined the costs and benefits of various construction schedules at Portsmouth and has determined that proceeding to complete two centrifuge buildings is the best and most economical course under their overall marketing, research, and production plan. I am pleased to see that the Appropriations Committee has approved the DOE plans in this area.

The continued development of the gas centrifuge technology is extremely important to the United States because it will help the United States remain competitive in the international marketplace for uranium enrichment services. The United States needs a low-cost uranium enrichment process so that we can keep our leverage in international affairs in order to prevent further nuclear proliferation. There is also the fear that without the GCEP program, U.S. consumers of enriched uranium might become dependent on unstable foreign sources of the fuel. The United States should be seeking energy self-sufficiency, not greater dependence on imported energy sources. The operation of nuclear powerplants in the United States using domestically produced enriched uranium is one way in which we can achieve that goal.

I urge my colleagues to support this section of the bill. I would also like to thank Congressman BEVILL for all his hard work on this bill, and for bringing it to the floor at this early date.

Mr. MYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. ROGERS) a member of the Appropriations Committee.

Mr. ROGERS. Mr. Chairman, I rise today in strong support for the bill H.R. 5653, the Energy and Water Development Appropriations Act for fiscal year 1985. And I would especially like to commend the distinguished chairman, Mr. BEVILL, and my good friend, the ranking minority member, Mr. MYERS, for their effective leadership on this bill. They have presented us today with a well-balanced bill to meet our Nation's demand for public works and nonfossil energy.

While staying $404 million below the administration's request, the bill provides funding for many important programs. Let me highlight just a few.

It includes $4 billion for the Corps of Engineers and Bureau of Reclamation. This will fund projects in 48 States and territories. And it is vitally important for programs ranging from the development of waterways essential to our Nation's commerce to needed flood mitigation measures. And considering the harsh flooding and other disasters which have swept through many portions of our country, there is no denying the need for such effective flood control measures.

It includes $10.8 billion for the Department of Energy, funding programs ranging from atomic energy defense programs to R&D on geothermal and solar energy. There are those who might have wanted more funding for DOE and those who might have wanted less—but the bill provides for a 6-percent increase above the fiscal year 1984 level and a 5-percent decrease below the administration request, which does seem to be a reasonable compromise.

And the bill includes $157 million for the Appalachian Regional Commission, including $100 million for highways and nearly $60 million for development porograms. These programs are extremely important to the Appalachian region which is struggling to help itself and I applaud the subcommittee for providing these needed funds.

Finally, I am especially appreciative of funding in this bill for several projects which I believe are especialy important. One such item is the section 202 project.

And in addition to providing needed funds, the bill resolves a dispute concerning the level of funding to be provided in Barbourville, KY. The bill makes absolutely clear that this project is to be built at the standard project flood level.

Never has the need for flood protection in Barbourville and in the other communities along the Upper Cumberland River been more apparent than it has been this spring. Earlier this month, floods again rampaged through communities all along the Upper Cumberland, After receiving word that some communities had already been flooded and that more was expected, teams of volunteers began evacuation efforts. And then came the waiting. We sat by our phones, radios, and televisions, helplessly listening to the reports of the rapidly rising waters. Knowing that flood protection already mandated by the Congress would have prevented the terror and the hardship of these floods, I was determined once again to continue our efforts to bring these communities the protection they need.

This region is a poor region—with an average income of about $4,600. Our unemployment is nearly 20 percent. Our elderly population constitute about 30 percent of our total population. What all this points to is one clear fact: after having suffered from one terrible round of flooding just 7 years ago, flooding which plunged these families into crippling long-term debt, this population simply cannot afford another round of devastation from floods. They are struggling to help themselves—to develop their region, providing jobs, and homes, and a decent standard of living for themselves and their families. It is not asking too much for the Government to provide flood protection, to give these people a fighting chance to help themselves.

More than 1,000 families have already filed into the disaster centers to file for disaster assistance. Various churches in the area have banded together to help countless others by providing food, shelter, and blankets. Folks have opened their doors to their neighbors. On behalf of each of these families left homeless, on behalf of each of these families that has lived in terror that they or their loved ones would be swept away in the rushing waters, and, yes, on behalf of each elderly citizen who has lost those precious possessions bring back sacred memories, I thank the committee for providing the funds needed to continue this flood protection.

□ 1810

Mr. BEVILL. Mr. Chairman, I yield 4 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, I rise in support of H.R. 5653 and in commendation of the chairman (Mr. BEVILL), the ranking member (Mr. MYERS), and all of the other subcommittee members. I would like to discuss two important aspects of the bill: Support for flood control and support for navigation.

One of the most important projects funded in this bill is the Mississippi River and tributaries project. This project, which has been under construction for over 50 years, is part of our commitment to reducing the ravages of floods which have beset the people of the great Mississippi River Valley.

This project has more than paid for itself in reduced monetary losses in only one flood. It has reduced human suffering, improved the health and well-being of the people, and enhanced the economic development potential of the States along the Mississippi River. The productivity of millions of acres of low-lying lands adjacent to the main stem of the Lower Mississippi River are totally dependent upon the integrity of the flood control works built as part of this project.

The Mississippi River levees are our main line of defense against the annual floods that ravage the heartland of America. Fully 41 percent of the water in the continental United States passes through the Mississippi River watershed. A levee failure in the valley would have a devastating effect

upon the national economic and social well-being. This project is essential.

Another important aspect of this legislation is its impact of navigation and commerce. Our deep-draft ports in Louisiana have played an ever-increasing role in the growth of the U.S. share of international markets. Growth of commerce on the Mississippi has been such that tonnages double every 10 to 12 years. Today, inland waterway traffic on the main channels and all tributaries of the Mississippi, Illinois, Missouri, and Ohio Rivers is approximately 363 million tons annually. This magnificent inland waterway system services the foreign trade as well as domestic commerce of mid-America.

It is estimated that approximately 207,000 jobs throughout the mid-American States are related to foreign, oceangoing trade. The Louisiana ports are handling 21.5 percent of the Nation's foreign waterborne trade. By comparison, in 1971 that percentage share was only 9.6 percent. The river is essential to our future economic growth.

Recently released statistics on grain and coal exports from the Lower Mississippi River ports reveal that 50 percent of the U.S. grain with a value of $9.7 billion exported in 1982 and 7.3 percent of the U.S. coal with a dollar value of $411 million exported was through Louisiana's deep draft ports. The dollar value of the Lower Mississippi River exports was $9.7 billion for grain and $411 million for coal. Interestingly, the grain comes from 17 States and the coal comes from 7 States in the Mississippi River Valley.

Mr. Chairman, these are two among the many important aspects of the water resource projects funded in this bill. Water resource projects are among the most worthwhile and cost effective funded in the Federal budget.

I would like to commend my colleagues on the subcommittee for their hard work and for their recognition of the importance of the projects that have enabled us to tame and exploit the power of the Mississippi River.

In addition, I would like to thank the committee for its recognition of the importance of the need for a new facility for the Vitreous State Laboratory at Catholic University of America. The VSL continues to conduct a broad range of research programs in glassy-state physics, many of which promise to contribute significantly to the Nation's energy future. As a result of our support for the construction of a new and modern facility, this research will progress far more rapidly, and produce a handsome return for the Nation's on its investment in the VSL's work.

I urge the passage of the bill.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 5653, the energy and water development appropriation bill for fiscal year 1985, and to commend the chairman, Mr. BEVILL, the ranking member, Mr. MYERS and the committee for their diligent work in balancing the demands of our Nation's job-producing infrastructure with our always finite resources. As usual, the committee and its staff have done an outstanding job.

Mr. Chairman, I would like to engage the chairman of the subcommittee my colleague from Alabama, Mr. BEVILL in a colloquy with regard to the need to maintain the Corps of Engineers' responsibility for dredging at Santa Barbara Harbor in my district in California.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Alabama.

Mr. BEVILL. The gentleman is correct.

Mr. LAGOMARSINO. I thank the gentleman. As you know, Mr. Chairman, the corps for many years has assumed the responsibility for dredging Santa Barbara Harbor, annually removing an average of 350,000 cubic yards to provide access for the Coast Guard cutter, work boats, commercial and sports fishermen, and recreational users, and in fact last year entered into a 3-year contract with the city of Santa Barbara for dredging at the harbor. Although funds are provided in the fiscal year 1984 budget for dredging, the list of navigation projects specifically mentioned in the bill for fiscal year 1985 does not include Santa Barbara Harbor, although the corps estimates it will need approximately $1.1 million to dredge an estimated 400,000 cubic yards in the harbor in fiscal year 1985. The corps estimates that closure of the harbor would lead to a loss of revenues ranging upward from $900,000 for a 2-month closure to many millions for a longer closure, to say nothing of the claims or losses incurred by the users and removal of the harbor as a harbor of refuge, with possible loss to life and property.

If I may ask the Chairman, is it the intention of the committee that the corps should honor its obligation to maintain the harbor in the event dredging is needed during fiscal year 1985?

Mr. BEVILL. The gentleman is correct. This is the intention of the committee.

Mr. LAGOMARSINO. I thank the gentleman for his words, and for his continuing attention to the needs of our coastal communities and industries.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. DYSON).

Mr. DYSON. Mr. Chairman, I rise today in support of H.R. 5653, the fiscal year 1985 energy and water development appropriations bill. I want to commend the chairman of the Energy and Water Development Subcommittee, Representative TOM BEVILL, for his continued leadership in protecting our natural resources. I would like to ask the distinguished chairman to engage in a brief colloguy concerning a project included in this bill that is important to my congressional district?

Is it your intention, and the committee's intention, that the Corps of Engineers begin the critical construction of a project at Tall Timbers, MD, to correct shoreline erosion caused by the corps' Herring Creek project?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. DYSON. I yield to the gentleman from Alabama.

Mr. BEVILL. Yes, the committee believes that corps has gathered enough information to act on this project in the very near future. Also, based on the information submitted to the committee, we believe the erosion at tall timbers is the result of the corps' Herring Creek project. Given the willingness of the St. Mary's County Government to provide some limited short-term relief for erosion damages during fiscal year 1984, the committee believes the corps should assume all costs for the construction of this comprehensive shoreline project as authorized under section 111 of the Rivers and Harbors Act.

Mr. DYSON. Since the corps is required to complete its final plans regarding this situation soon, would you support additional construction funds for this project when required?

Mr. BEVILL. Given the committee's instructions to the corps in our report, the committee will be happy to consider including additional construction funds for tall timbers when required.

Mr. DYSON. I thank the chairman for his interest and support in preserving the water resources of the Chesapeake Bay and the entire State of Maryland.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I want to first recall to my colleagues the devastation left by flooding in my congressional district in April 1983. That was the second of two 100-year floods within 6 years in that area. I would remind my colleagues that a 100-year flood is the level at which flooding should only occur once in every 100 years. There is a 1-percent chance each year of a 100-year flood and we have had two now in 6 years.

At that time I went to the Energy and Water Subcommittee to request funding for a general investigation of the Amite and Comite River flooding on the west side of my congressional district. That subcommittee responded by providing last year $350,000 in the appropriations bill to fully accommodate a corps of engineers study. Your responsiveness is genuinely appreciated.

This appropriations bill calls for continued funding of that study of $150,000 to fully meet the corps' cost of investigation of the Amite and Comite Rivers, which I very much support and, again, we thank you.

Additionally, in the spring of 1983, the Pearl River, on the east side of my district, overflowed its banks and created devastating flood conditions in that area of Louisiana and Mississippi.

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This appropriations bill calls for continued funding of an existing study of this river at a level of $813,000, The Corps of Engineers has assured the committee that this amount is adequate to keep the flood control study on schedule and to complete it by June 1985. I strongly support the continuation of this study.

There are several more rivers which are causing flooding between the Amite and the Pearl Rivers, which we hope to have authorized in the energy and water authorization bill later this year. Flooding is a major problem to us, and this bill is most helpful in resolving those problems.

Also included in this bill is an important appropriation of $1 million for the continuation of planning and engineering for a 55-foot-deep channel from the Gulf of Mexico to Baton Rouge in the Mississippi River. This appropriation will allow for continued study and review of existing projects and for engineering project design activities. There are still outstanding questions that will be addressed by the House when we consider the energy and water authorization bill later this year on this project, including how the private share of the project will be financed.

In the meantime, however, it is critical that the planning continue as this project could insure better water transportation and port utilization. Within the Baton Rouge Port area, approximately 8.5 million tons of coal, grain, and petroleum are shipped. This provides significant jobs and revenue for our economy.

Therefore, the continuation of these projects are critical to the area I represent. I urge Members to support this bill to insure that adequate flood control and river projects are continued.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to our colleague and friend, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to express my support for H.R. 5655, the fiscal year 1985 Energy and Water Development Appropriations.

At the outset, let me congratulate the chairman of the subcommittee, Mr. BEVILL, and the ranking member, Mr. MYERS, on another fine job.

I would like to take just a moment to comment on a few projects which are important to my area.

First, $500,000 is contained within the general investigations section of the Corps of Engineers' budget for phase 2 of the so-called 2020 Los Angeles-Long Beach Harbors study. Phase 1, which will be completed this year, will help better determine navigational channels and land transportation and cargo requirements at the ports through the year 2020. Phase 2 will center around continued model testing and a computerized ship navigation safety study.

Also contained within this section of the bill is $250,000 to begin a previously authorized review study of the navigational problems associated with the entrance to Ventura Harbor. Although Ventura Harbor is not located in my district, it is located in Congressman LAGOMARSINO'S, I did want to express my support for this badly needed study which, I am sure, will go a long way to solving the shoaling problems that have occurred at the harbor's entrance.

Moving to the section of the bill dealing with the corps' operation and maintenance, I want to express my support for the $600,000 earmarked to dredge the mouth of the Los Angeles River. I encourage the corps to move on the city of Long Beach's request to use the dredged material for the replenishment of sand down coast from the Los Angeles River.

Last, $130,000 is also contained in the corps' O&M budget for the Los Angeles-Long Beach Harbors model. As you know, this sum of money would provide only for maintenance of the model, located in Vicksburg, MS—no testing could occur. Later, I will offer an amendment to appropriate an additional $1.2 million for continuation of a 5-year tidal circulation and wave energy study at the model. The corps told me just this morning that they do have the capability to continue this study if it is funded.

In closing, let me again express my support for this measure and urge all of my colleagues to support it.

Mr. MYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MCEWEN).

Mr. McEWEN. Mr. Chairman, let me express my strong support for the Department of Energy's fiscal year 1985 budget request of $350 million for the gas centrifuge enrichment plant [GCEP] at Portsmouth, OH. The uranium enrichment enterprise has enormous strategic and economic importance for our Nation. Up until the 1970's the United States provided 100 percent of the world's enriched uranium requirements. Today, our country supplies only approximately 50 percent of the enriched uranium worldwide. The cost to our country in lost jobs and revenues is of colossal proportions. The United States must not lose its ability to compete in the world energy market.

The Department of Energy is taking important steps to make the United States more competitive in order to regain our preeminence in the domestic and international enriched uranium market. The Department's request is aimed at reducing the costs of producing enriched uranium, thereby enabling the United States to sell this product at a lower world market price. In addition, the United States must show potential customers worldwide that we are the most reliable source of uranium enrichment. We must demonstrate that our uranium enrichment enterprise is conducted in a dependable, business-like fashion—efficient and devoted to the free market spirit of competition.

Strong marketing efforts are already underway to secure as many contracts as possible with foreign and domestic utility services which are fueled by enriched uranium. The Department of Energy has informed me that since January of this year, three-quarters of our potential customers have either signed a letter of intent or demonstrated a willingness to contract with the U.S. uranium enrichment enterprise, of which GCEP figures prominently. We must not lose this potential market share. We must not disappoint those customers who have shown such a positive inclination to do business with us. Let me add that this high percentage of potential customers promises to grow even larger if we can maintain a competitive edge in the world enrichment market.

As you can see, Mr. Chairman, the prospects for the uranium enrichment industry are indeed bright. We cannot let this valuable industry down—the stakes are too high and the opportunities too great. I urge my colleagues to join me in supporting the Department of Energy's budget request for the gas centrifuge enrichment plant.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. Mr. Chairman, last year the Public Works Committee included in its authorization a project for erosion control at Tangier Island in Chesapeake Bay on an emergency basis, in view of a very dangerous and alarming situation there. This bill for policy reasons contains no new starts, and I rise to ask if the distinguished

chairman of the subcommittee and the ranking minority member might give me some assurance that in September this matter will be revisited and that there will then be consideration of appropriation to go forward with this desperately needed project.

Mr. BEVILL. If the gentleman will yield, the gentleman is correct; that is our plan.

Mr. BATEMAN. I thank the gentleman.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. I thank the chairman for yielding, and I rise in support of the bill. I would like to commend the gentleman from Alabama and the gentleman from Indiana for their outstanding work.

Mr. Chairman, in 1980, Congress authorized the acquisition of the Tensas National Wildlife Refuge in my district in Louisiana. This 50,000-acre refuge has been referred to as the Redwoods of the South because it is the last remaining large tract of bottomland hardwoods in the entire Mississippi Delta region. The bulk of the funds for this acquisition are being acquired through Corps of Engineers appropriations as mitigation lands. It was intended in 1980 that the land would be acquired in four phases, in 1982, 1983, 1984, and the final acquisition in 1985. Unfortunately, the bill before us today does not provide enough funding to complete this acquisition. It is my understanding that the Senate appropriation bill will provide for $16.2 million to enable us to complete the entire acquisition.

I would ask the chairman if he would support the Senate's position in conference.

Mr. BEVILL. If the gentleman will yield, the gentleman is correct, I will support it in conference.

Mr. HUCKABY. I thank the gentleman for his cooperation.

Mr. MYERS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Chairman, I wanted to simply confirm for the record my appreciation for the inclusion as a routine matter, it appears now, for the Harrisburg flood project for the Army Corps of Engineers.

I did want to pose a question, however, to the ranking minority member, if I could, on the Appalachian Regional Commission's finds specifically for the highways part. Did not the Governors of the affected States meet with the committee and make certain proposals for finish up? They do not seem to be reflected in the final decision of the subcommittee.

I would yield for that purpose.

Mr. MEYERS. The Governor of Maryland appeared, of course, as chairman of the Appalachian Regional Commission. He did appear in that capacity. If you will note, the President did have $80 million in the request under Department of Transportation for highways, and that would put in this, plus other money also, for continuation of the Appalachian Regional Commission. We did put some language in the report also having to do with expediting the economic programs. But in the highways, yes, we put the 80 in but added to it.

Mr. GEKAS. I thank the gentleman.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinuished gentleman from Minnesota (Mr. PENNY).

Mr. PENNY. Mr. Chairman, flood control for Rochester, Minn., is fully supported by the Corps of Engineers and is a top priority for the city. Our city has begun collecting local revenues to help support construction of this important project, and the city has also acquired much of the property needed for this project.

H.R. 5653 includes $400,000 in planning and design funds for flood control in Rochester. These funds are essential for two reasons. First, to prevent a possible costly delay in construction; and, second, to determine the channel configuration and the design of the project through the city's downtown core area.

I want to thank the chairman and the members of the Appropriations Subcommittee for including these necessary planning funds in H.R. 5653 and for their strong and ongoing support of the Rochester flood control project.

The CHAIRMAN. All time of the gentleman from Indiana (Mr. MYERS) has expired.

The gentleman from Alabama (Mr. BEVILL) has 4 minutes remaining.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Appropriations Committee's recommendation in H.R. 5653 that the Appalachian Regional Commission be funded at the level of $157 million for fiscal year 1985. The administration proposed the elimination of ARC; I endorse the committee's rejection of this proposal.

The ARC has a proven record of programs which improve the economies of the underdeveloped areas of the Appalachian region. Through the ARC, a relatively small Federal investment is returned many times over in terms of an improved economy, new jobs for unemployed workers, improved health care facilities, higher local tax revenues, and an enhanced standard of living. Because unemployment still ranges above 20 percent in many parts of the Appalachian region, we cannot afford to forgo the economic growth which a continuation of the ARC will provide.

Since its creation in 1965, the ARC has provided more than $89 million in economic aid to southwest Virginia localities for the development of highways, water and sewer systems, industrial parks, schools, and health care facilities. We can attribute much of southwest Virginia's economic growth during the 1970's to the ARC's work, but at the present many of our localities do not have sufficient public facilities to accommodate additional industrial growth; therefore, if we are to enjoy the economic expansion in the 1980's that benefited us in the 1970's, it is vitally important that the work of the ARC continue.

I commend the gentleman from Alabama for his leadership in this area, and I thank him for providing this opportunity for me to speak in support of the Appalachian Regional Commission.

● Mr. FRENZEL. Mr. Chairman, I am opposed to H.R. 5653, energy and water development appropriations for fiscal year 1985.

I objected to the procedure for consideration of this bill. We have not yet passed the budget resolution for fiscal year 1985, nor have we passed the necessary and required authorizations bills. For those procedural reasons alone we should reject this bill. And for those alone, I would vote against it.

My substantive objection to this bill, though, is the spending involved. This bill will cost $15,470,700,000. That is $974.6 million, or 6.7 percent, more than last year.

Advocates of this bill will favorably compare it to the House-passed budget resolution and the President's request. The problem with that sort of comparison is that this bill is always too expensive, and the spending baseline has been raised too high.

It is like giving a raise to grossly overpaid employees. Our budget simply compounds the mistakes of years past by granting a regular increase to spending categories that were too high in the first place. I am not comforted by the fact that this year the committee was able to restrain itself to a mere 6.7-percent increase.

However, this bill looks bad even compared to the two versions of the budget passed by the House and the other body. Our budget calls for a CPI-freeze on non-means-tested domestic discretionary spending. This is about a 4.8-percent increase. The other body caps such spending at 2 percent.

That means that this bill is already above what will no doubt be formulated in our budget conference. It is a clue as to why we are rushing to pass this bill before the budget is passed,

and why we waived every rule in the book to take it up.

We are also certain to add supplementals to this bill. Last year we added $189 million to the regular appropriations, and another $3.036 billion is pending before the other body. The committee has already warned us that they intend to consider at least an additional $29 million to finance 14 new projects. We can expect more.

Mr. Chairman, this is a lousy bill presented under a bad procedure by a tired and confused leadership. Anyone with any respect for responsible procedures and any desire to lower the deficit has only one alternative. The vote is "no."●

● Mr. RAHALL. Mr. Chairman, on May 7 and 8, the waters of the Tug and Levisa Forks of the Big Sandy River again left their banks wrecking havoc among the 33,000 plus residents of the Tug Valley.

The Tug Fork's crest topped the floodwall in Williamson, WV, and the President has declared four counties in my congressional district—Mingo, McDowell, Logan, and Wayne—a disaster area.

It is for this reason I find the $10 million appropriation for the Tug Valley flood control project contained in H.R. 5653, the energy and water development appropriation bill for fiscal year 1985, to be of the utmost importance.

Portions of this appropriation will be spent on Williamson area projects, such as the design and planning of the floodwalls, continued construction of a pump station and for land acquisition for snagging and clearing. According to the U.S. Army Corps of Engineers, to date $31 million has been spent and an estimated total of $184 million will be needed to finish the Williamson and Kentucky projects. The Williamson project should be completed in September 1990 under the corps schedule.

I would urge the corps to move forward in an expeditious manner to provide for the protection of the livelihood of those who are affected by flooding on the Tug Fork.

At this time, I would like to provide some history behind another provision of H.R. 5653. The language in section 107 of the bill and accompanying report language (98-755) is intended to insure that the Huntington District of the U.S. Army Corps of Engineers operate the Summersville Lake project in West Virginia in accordance with all of its project purposes including whitewater recreation on the Gauley River.

The 26-mile segment of the Gauley River below the Summersville Dam is one of the premier whitewater rafting rivers in the East. Revenue generated by this activity runs into the millions of dollars and creates needed jobs in a severely depressed region.

Last autumn, because of the lack of rainfall, the Huntington district operated the dam so as to facilitate low-flow augmentation on the Kanawha River and as such, only one weekend of suitable whitewater releases was provided. It is believed that if the corps had chosen to pulse the flows from the dam during the annual fall drawdown, three additional weekends of whitewater rafting activities could have been provided without interfering with low-flow augmentation operations or other project purposes.

Because the corps did not choose to pulse the flows, millions of dollars of revenue which would have been generated by whitewater recreation on the Gauley River was lost.

Since recreation is already a recognized project purpose of the Summersville project, the language in section 107 of this bill is intended to alleviate any fears the Huntington district may have that operation of the dam to facilitate whitewater recreation is not within the scope of its authorization.

I would note that in a February 1984 letter from Assistant Secretary of the Army William Gianelli to the Eastern Professional River Outfitters Association, the Secretary stated:

> I am optimistic that the corps will be able to make releases that will better serve your needs without undue adverse effects on other interests.

Another situation at this project also deserves to be mentioned. The Huntington district has produced a study which recommends that a hydroelectric power station be constructed at a point 3 miles downstream of the project on the Gauley River. The generating station would be connected to the Summersville project by a 3-mile tunnel. This so-called long tunnel proposal has been widely discredited. In hearings before the Subcommittee on Water Resources last year, the corps failed to justify the need for this project. Indeed, virtually every party during both the public comment period and at the hearing testified against the modification including local units of government and chambers of commerce, the United Mine Workers of America, whitewater outfitters and enthusiasts, and concerned citizens.

As a result, the Huntington district requested that the feasibility report on the Summersville modification study which was under review by the Board of Engineers for Rivers and Harbors be returned for revision.

I had considered promoting language to prohibit the corps from further acting upon this study. Expending additional resources on this study would be a waste of the taxpayers' dollars. However, by letter of February 24, 1984, Col. John Devens, district engineer, assured me that: "We are not pursuing further planning on the project, and we have no plans to do so in the foreseeable future."

For this reason, I have withheld proposing a legislative prohibition of this study. I would strongly suggest that the corps maintain the posture indicated by Colonel Devens' letter.

Let me state that I am a very strong supporter of the work of the U.S. Army Corps of Engineers. The Huntington district has been fulfilling its mandate with respect to the flood control project for the Tug Fork in a faithful manner. This is the type of project the corps should direct its manpower and resources toward, and not some pie-in-the-sky long-tunnel hydroelectric project in the heart of the greatest coalfields in the United States. Indeed, the Huntington district is in line to undertake other valuable projects such as the replacement of the Gallipolis Locks and Dam on the Ohio River and possibly, of the Winfield Locks and Dam on the Kanawha River.

Mr. Chairman, I commend Chairman BEVILL and the Committee on Appropriations for bringing H.R. 5653 to the floor. I urge my colleagues to support this critical legislation.●

● Mr. MINETA. Mr. Chairman, I rise today in support of H.R. 5653, energy and water appropriations for 1985. In keeping with congressional intent to alleviate the Federal deficit, this bill contains no funding for new water project construction. And, following our congressional mandate to strengthen America's commitment to conservation and alternative energy sources, the measure does increase funding above what the administration has proposed for sound energy programs.

I would like to commend Chairman WHITTEN, Chairman BEVILL, and members of the subcommittee for compiling the moderate energy and water package we have before us today. There are several projects of particular interest to me for which the subcommittee has seen fit to recommend appropriations. I am grateful for their confidence in these programs.

The first is a Corps of Engineers project, the Guadalupe River flood control survey in Santa Clara and Alameda Counties. A fiscal year 1985 appropriation of $145,000 will allow this crucial study to continue on the Guadalupe River and adjacent streams. A low-income neighborhood has suffered tremendous losses due to severe flooding in recent winters, and I am pleased the Federal Government will continue to assist my constituents with solving this problem.

My district is also a participant in the San Francisco Bay shoreline study, a project begun in 1978 to investigate tidal and related flooding problems in low-lying areas of six bay area counties. This invaluable study, which

seeks to balance flood protection with preservation of some of our Nation's richest wetlands, is progressing smoothly. I thank the subcommittee for appropriating $620,000 toward this worthwhile program.

A Bureau of Reclamation project of benefit to the Santa Clara Valley is the well-known San Felipe division. I am pleased to report that construction is right on schedule and we envision a completion date in 1987. I am grateful to the subcommittee for its consistent support over the years for this essential addition to our water supply system. The President has recommended an appropriation of $74,763,000 for fiscal year 1985, and I commend the subcommittee for maintaining the President's recommendation.

Turning now to energy programs, I do not need to inform my colleagues that California and its universities are on the cutting edge of basic energy sciences and high energy physics. The Center for Advanced Materials at Lawrence Berkeley Laboratory is embarking on an ambitious program to perform high-quality materials research which is responsive to the long-range needs of high-technology, energy-related American industries. I am delighted with the subcommittee's recommendation that CAM receive an appropriation of $10,790,000 for fiscal 1985.

Also, there are two significant energy programs underway at Stanford University. The Stanford Synchrotron Radiation Laboratory (SSRL) is constructing an x ray undulator to put on the beamline at PEP. The undulator will study kinetic phenomena, how atomic particles change over time in chemical processes. The result of this project will be highly refined, superior x ray capability, the finest developed thus far in the world. This program has great potential for crucial breakthroughs in medical science, and will be assisted by a 1985 funding level of $9,130,000.

Last, I must once again commend the subcommittee members for continuing their commitment to SLAC, the Stanford Linear Accelerator. SLAC will be completing a new linear collider in 1986 and will rely on the $60,500,000 in its appropriations for next year to complete this project on schedule. When operating, the new collider will broaden our basic understanding of nuclear physics and how atoms and subatomic particles form matter.

Again, I thank the Energy and Water Appropriations Subcommittee for its leadership in guiding these six important projects through the legislative process, and for renewing our commitment to both sophisticated scientific advancement, and to the more tangible problems of flood control, water supply, and shoreline management. I ask that my colleagues join me in supporting H.R. 5653, endorsing the programs I have outlined as well as the many worthwhile projects on which our great Nation has embarked.●

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Mr. BEVILL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

TITLE I—DEPARTMENT OF DEFENSE—CIVIL DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would like to congratulate the gentleman from Alabama and the gentleman from Indiana for an excellent job and say I will enthusiastically support the bill. I will offer an amendment eventually to try and revise priorities somewhat from breeder reactor moneys that are primarily left over from the Clinch River project, and try and get the solar moneys back up closer to what the authorization committee has done.

I think the job that this subcommittee has done consistently has been very good, and I recognize that they have brought back the solar funds from the deep cuts that the administration has sought to wreak upon them.

I take this time to engage in a colloquy in which perhaps the gentleman from Arizona (Mr. UDALL) might participate in with respect to the Mill Tailings Act.

Chairman UDALL, I bring to your attention a section of the report of the Committee on Appropriations accompanying the Energy and Water Appropriations Act which is intended to affect the ability of the Department of Energy to meet the requirements of the Uranium Mill Tailings Radiations Control Act. The report states that "no federal funds are available for relocation" of the mill tailings pile in Salt Lake City.

The Mill Tailings Act of 1978 required the Department to enter into cooperative agreements with each State in which these piles are located to establish the manner in which the Department's cleanup responsibilities will be discharged. At the time it was recognized that there were two primary means for cleaning up the piles, either stabilization in place, or relocation of the piles to remote areas where they would be less likely to affect the public health and safety or the environment.

I was pleased to have been informed last November that the Department had reached agreement with the State of Utah for the disposition of the Vitro pile located in Salt Lake City. That agreement provided that the State of Utah would provide a remote site within the State to which the pile could be relocated. The State has found such an area and has arranged for the pile to be removed under the management of the State of Utah. Although this is a more expensive method of handling the wastes, the State of Utah and other experts agree that it provides a permanent and more economic solution for this particular pile. Since the pile is located in a highly populated area, it would have to be monitored and repaired for the decades or centures during which the pile presents a danger to public health and safety and to the environment.

Although one could argue whether or not one would support the arrangement entered into by the Department and the State of Utah, it would be hard to argue that the arrangement is not reasonable, is inordinately expensive, or in any way unjustified. It was arrived at through the process established by Congress in the Mill Tailings Act, after an extensive period of negotiation and consultation. I see no reason to jerk the rug out from under the Department at this late date and to revoke one of the two options the Department was authorized to utilize to clean up this national problem.

Both committees of jurisdiction in the House have reported the DOE authorization bill with approval for the DOE-Utah agreement, and, the Commerce Committee increased funding for this program to insure that sufficient funds are available for the required relocation. I believe the reports of the Energy and Commerce and Interior Committees provide sufficient guidance to the Department on the limits of its authority and the extent of its obligations under the Mill Tailings Act.

I note that the chairman of the Interior and Insular Affairs Committee, which share jurisdiction with the Energy and Commerce Committee over this program, is present. Mr. Chairman, have I fairly characterized your committee's actions in support of the DOE-Utah agreement for the disposition of the Vitro Mill tailings pile in Salt Lake City?

I yield at this time to the gentleman from Arizona (Mr. UDALL) for purposes of his reply.

Mr. UDALL. Mr. Chairman, I support Mr. OTTINGER's remarks. It seems to me the agreement between the Governor of Utah and the Secretary of Energy is binding under the terms of

the Uranium Mill Tailings Radiation Control Act.

I would like to indicate my support for comments made by Mr. OTTINGER regarding implementation of the Uranium Mill Tailings Radiation Control Act. The Appropriations Committee report on H.R. 5653, the Energy and Water Appropriations Act, prohibits the Department from carrying out an agreement it has entered into with the State of Utah for relocation of a pile of uranium mill tailings to a site outside of Salt Lake City. Mr. OTTINGER notes that this prohibition conflicts with requirements of the Mill Tailings Control Act.

Although I sympathize with the budgetary concerns which led the Appropriations Committee to oppose the relocation of the Salt Lake City tailings pile, I believe that the process and the agreement leading to the decision to relocate the pile are consistent with the requirements of the Tailings Act. The act requires the State and the Department to negotiate a mutual agreement regarding site control and program management, and sets a limit of 10 percent on the State's share of the costs of cleaning up each site. Where the Department has agreed with the State that a pile should be relocated, the Appropriations Committee recommendation that the State payment exceed the 10-percent limit cannot hold.

The Vitro tailings pile in Salt Lake City is an exceptional case in the uranium mill tailings cleanup program. Very few other sites pose similar long-term health threats if left in their current locations. This site, located in a densely populated area, would require intensive maintenance and monitoring over the years, which would be the responsibility of the Federal Government. Although the cost of moving the pile out of the city is substantial in the near term, it is probably economic over the long term.

The Secretary of Energy in negotiating these agreements with the States has, I believe, made deliberate attempts to keep the cost of remedial actions down. Where reasonable agreements cannot be entered into with States, it may not be possible to carry out remedial actions using Federal funds. In the case of the Salt Lake City site, an agreement has been struck and I believe it is binding under the Tailings Act and should be carried out.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Utah.

Mr. MARRIOTT. I appreciate the gentleman yielding to me.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the committee and Mr. MYERS if I could, at this time. It has to do with the tailings situation in Utah.

Mr. Chairman, I appreciate the work of the chairman on this committee and I do support this bill wholeheartedly, but I would like to clarify a couple of areas of the language of the report on page 83.

It is the intention of the committee, that if no additional health criteria is submitted to the Department of Energy, then the Federal Government will pay, under the 90-10 split, the $40 million estimated for stabilization in place.

Under this same assumption, if the State wishes to relocate the tailings, the difference between the relocation cost and the stabilization cost, would be paid by the State.

That is if stabilization in place will cost $40 million, relocation would cost $45 million, the State would pay $9 million. That is 10 percent of the $40 million plus an additional $5 million. The DOE would have the authority to move the tailings.

Is that the understanding of the chairman?

Mr. BEVILL. The gentleman is correct.

Mr. MARRIOTT. On one other issue which is very important to us too. If the State establishes the evidence proving stabilization in place would be detrimental to the health and safety of Utahns, if they can prove that the engineering design of the clay liner is uncertain or unsafe and that the groundwater would be contaminated, and the DOE concurs, is it the committee's understanding that removal of the tailings would be funded under the 90-10 Federal/State share, regardless of the cost differential?

Mr. BEVILL. Again, the gentleman is correct.

If the health and safety factor is substantiated by the State and the U.S. Department of Energy, the committee will support the 90-percent Federal funding commitment to relocate the existing tailings at the Vitro site as mandated in the authorizing legislation.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(On request of Mr. MARRIOTT and by unanimous consent, Mr. OTTINGER was allowed to proceed for 5 additional minutes.)

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Utah.

Mr. MARRIOTT. I would thank the chairman for those remarks, and I believe that says what we would like to have on record.

I would just like to conclude by saying that I rise today in opposition to the committee's report language that would indicate that there is no health hazards associated with stabilizing the Vitro inactive uranium mill tailings in Salt Lake City.

Let me share with the committee several reasons why it is essential that the tailings be moved to a remote area rather than stabilized on site in their present location.

First of all, the mill tailings in Salt Lake City are located in the middle of a metropolitan area with a population of roughly 700,000 people. This site is approximately 4 miles from the State capital and 1 mile from the nearest elementary school.

The 1.9 million tons of tailings are currently surrounded by a broken fence without the benefit of warning signs. Tailings are being carried away by unsuspecting parents filling their children's sand boxes.

The tailings pile is extremely potent. On the superfund point scale these toxic chemicals receive 70 points which places the Vitro pile in Salt Lake City in the top 10 percent of hazardous wastesites in the Nation. It is unfortunate that the superfund moneys cannot deal with this problem.

Radioactive materials in the tailings, basically radon gas emission, increase the risk of cancer. Heavy toxic metals contaminate the public drinking water.

Shallow ground water is already contaminated by the tailings with such toxic materials as uranium, arsenic, chromium. These metals can move to principal water aquifers which are protected only by artesian pressures. If these pressures are reduced, toxic chemicals migrates into the aquifers. With tailings stabilized, with a 40-foot high pile of rock, pressure will be altered and contamination is highly possible.

The integrity of the clay liner to be used in stabilization is in question. EPA disputes the liners effectiveness beyond 40 years. Such factors as settling, human activities, instability of the soil and other factors can cause the liner to stretch and crack and thus seepage contaminates the public drinking water.

DOE acknowledges the potential earthquake hazards in the Vitro area. The clay liner has not met any stress tests under serious earthquake conditions. It is estimated that this area has an 80 percent chance of having an earthquake within the next 50 to 100 years.

The facts are Mr. Chairman, it is not worth the risk to stabilize in place.

Both DOE and the State of Utah agree that stabilization in place would cost approximately $42 million when the requirement to preload the site to structurally stabilize the foundation is factored in. When one adds in the cost of a 1-foot deeper clay liner, that adds up to even $4 million extra. The continued problem of monitoring the liner will further increase the costs.

It is estimated that the cost of removal would be no more than $45 mil-

lion when we take into account alternative modes of transportation such as trucking versus rail transports. Competitive bids are already coming into the State at around $45 million level.

Mr. Chairman, stabilizing the tailings in place simply do not make sense. Your figures do not take into account the cost of going back and redoing a wrong decision. They do not take into account the cost and illness and even fatalities, if that decision turns out to be a wrong one. We are looking at a difference of maybe $3 or $4 million, if we stabilize in place of removal. The potential risks, however, to the State of Utah by making the wrong choice would be into the multimillions.

For that reason I ask the committee to reconsider their decision and to listen to the State of Utah and DOE as they make a case for the outright removal. Lets get the problem behind us once and for all. In the long run it will be the least expensive decision.

Mr. OTTINGER. Mr. Chairman, I would just like to conclude by saying that I think that there is a real health factor to consider here and that it was the intention of the authorizing committees that relocation should be permitted. That the agreement between the DOE and the State of Utah does make that provision based upon substantial evidence of the effects of this pile on public health and safety and the environment. I am very appreciative to the chairman and the ranking minority Member for clarifying their language to recognize the importance of health considerations.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Utah.

Mr. MARRIOTT. There is one concern that I would like to point out, and that is that I know the committee is concerned about setting a bad precedent here, and I would like to just make the case that the Salt Lake City side is much different than any other side.

It is very unique, and it should not set a bad precedent for removing all the tailings around the country, and I would hope the committee might consider that, too. I know it is very important issue.

Mr. OTTINGER. Mr. Chairman, I yield back the balance of my time.

Mr. CHENEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take advantage of this opportunity to enter into a colloquy with the distinguished chairman of the subcommittee (Mr. BEVILL) and the gentlewoman from Nebraska (Mrs. SMITH).

Let me begin by complimenting my colleagues for the work they have done on this bill; it is an excellent piece of legislation and I look forward to supporting it.

Mr. CHENEY. Mr. Chairman, may I have the attention of the chairman of the subcommittee (Mr. BEVILL) and the gentlewoman from Nebraska? I am seeking clarification of certain report language in the report of the Committee on Appropriations for the energy and water development appropriations bill for fiscal year 1985. This language has to do with the provision by the Corps of Engineers of technical assistance to develop flood control measures and bank stabilization structures under section 55 of Public Law 93-251. The committee report, at page 21, provides for the earmarking of certain funding for such projects in Nebraska. However, as the chairman and the gentlewoman are aware, areas in Wyoming and in Colorado, also on the Platte River, have also sustained erosion damage and other problems similar to those in Nebraska. Would the committee agree, therefore, that the committee allowance under this provision is intended also to include not to exceed an additional $200,000 from existing funds in each of the States of Colorado and Wyoming, for similar work, in order to provide a survey of the damage and an engineering assessment of the work required to control such damage?

□ 1840

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I am happy to yield to the subcommittee chairman, the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, that would be agreeable to me.

Mrs. SMITH of Nebraska. If the gentleman would yield, we would have no objection to that.

Mr. CHENEY. I thank my colleagues, and I yield back the balance of my time, Mr. Chairman.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been a close observer of energy and water appropriations bills through the last several years. I have held to the view that the funding priorities and policies reflected in these bills have not represented the best or wisest use of scarce Federal dollars and precious natural resources. I have therefore taken the well each year to oppose the committee on specific projects and on our underlying disagreements about water policy.

The committee continues to fund several of the projects which I have opposed in the past, such as the Stonewall Jackson Dam and the Dallas and Dolores Creek projects. But, by and large, this year's bill limits funding for new project starts and holds overall spending to a reasonable level. I congratulate the committee for its wisdom, restraint and patience in allowing the policy process to work in the form of new authorizing legislation. The Public Works and Transportation Committee anticipates bringing a water policy bill to the floor very soon, and this should afford us the opportunity to work together for a policy based on merit selection of projects and fair assessment of our true water needs.

I should point out, though, that while our national water policy waits for legislation to direct it many of the same mistakes of the past are still being repeated in this bill. I opposed and still oppose construction of the Tennessee-Tombigbee Waterway, a multibillion-dollar navigation project whose ultimate usefulness is still very much in doubt. Funding for the Tenn-Tom was closed out in 1983, but work on the project will continue for some time with the funds provided in last years appropriation.

I also have serious reservations about the huge increase in Bureau of Reclamation funding for Western water projects which has taken place during the term of the Reagan administration. Funding for Reclamation projects has increased by 25 percent, to over $1 billion annually from 1981 to 1984, and this bill continues the trend. During the same period of time, funding for Corps of Engineers projects has fallen off, while funding for other domestic programs, such as education, health care, and environmental protection, has been slashed.

Today, the National Wildlife Federation released a report which follows up on the actions taken by the Interior Department to respond to internal audits of six major western water projects. The report clearly shows that the Reagan administration has fallen into the old pattern of supporting wasteful projects, subsidizing excessive use of water and energy, and ignoring the Government's own rules on recovering a fair share of project costs. This is the old, familiar story of minimal financial responsibility on the part of local project beneficiaries, forgiveness of multimillion-dollar debts to Uncle Sam, and cozy relations between Government officials and local recipients of Federal subsidies. The Wildlife Federation's report should deeply concern the Government agencies and committees of Congress with oversight responsibilities on these programs.

The problems with the water program should concern all of us in Congress because at the same time we have been increasing funding for water projects we have been cutting back funding to aid public transit for the urban poor. We have slashed the school lunch programs, thrown the disabled off social security rolls, and refused to adequately fund the education of our children.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 5 additional minutes.)

Mr. EDGAR. Mr. Chairman, it is my hope and belief that there have been some gradual changes in attitudes about water policy and general public works policy over the past several years. I certainly realize that we have enormous needs for public works investment, especially in the area of repair and rehabilitation of our existing facilities. We also need to deal with an enormous Federal deficit, and we have pressing requirements to preserve our natural resources and the quality of our environment. We cannot meet all of these obligations if we continue to do business as usual on public works spending.

I really look forward to the day when I can wholeheartedly support the chairman and my friends on the committee on a public work appropriation which we all feel is fair and adequate. That bill which I could support would require significant local commitment to projects; proper concern for environmental protection and conservation of resources; and attention to the rehabilitation of existing infrastructure and the diverse needs of the different regions of our Nation.

This bill, as responsible as it is on its own terms, still does not pass under on those basic tests.

So, Mr. Chairman, I rise in commendation of the committee and in general support of the actions of this bill, but not in support of the total policy initiatives that are still reflected in this legislation.

Now I would like to call on the chairman for a colloquy, and I thank the gentleman for being willing to answer this question.

Today I received a copy of a report, which I believe was distributed to every Member, outlining the apparent failure of the Department of the Interior to comply with the recommendations of the Inspector General to recover a greater share of the costs of Bureau of Reclamation water projects. One aspect of this report that is most distrubing is that the Bureau of Reclamation is proceeding with construction on such projects as the Bonneville Unit of the central Utah project and the San Felipe Division of the central valley project in full knowledge that its repayment contracts with local interests are inadequate to recover the funds now being spent. Of even greater concern is that the Bureau fully expects the Central Utah Water Conservancy District to seek a legislative waiver of a portion of its repayment obligations, yet the Bureau has continued to request full funding for this project.

Can the distinguished chairman of the subcommittee tell us whether any legislative rider is included in this bill to waive local repayment requirements for the central Utah project?

Mr. BEVILL. Mr. Chairman, will the gentleman yield.

Mr. EDGAR. I yield to the subcommittee chairman.

Mr. BEVILL. I can assure the gentleman that the bill contains no such language.

Mr. EDGAR. Mr. Chairman, I thank the subcommittee chairman. If the gentleman will respond further, is it the intent of the subcommittee in providing funds for the reimbursable costs of projects in this bill—such as the central Utah project and the San Felipe Division—that such costs will, indeed, be repaid by local interests, in a business-like manner?

Mr. BEVILL. That is precisely the intention of the subcommittee.

Mr. EDGAR. What assurances can the distinguished chairman give this House about the attitude of the House conferees to any repayment waiver provision that might be added to this bill in the other body?

Mr. BEVILL. I cannot predict the outcome of a conference, of course, but I can assure the gentleman and the rest of our colleagues that, for a variety of reasons, such a legislative waiver of repayment obligations would be inappropriate on this bill, and objectionable to the House conferees.

Mr. EDGAR. Mr. Chairman, I thank the gentleman.

□ 1850

Mr. ENGLISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had earlier planned to introduce an amendment today to provide funding for a much-needed study in northwest Oklahoma, the northwestern Oklahoma water supply study project, but in working with the subcommittee chairman and the committee, I think that we might be able to solve the problem.

I have reason to believe that the Senate might include funding for this project in the Senate appropriations bill, and I am hopeful that in any conference that might be held this project would be included.

Specifically, Mr. Chairman, I am urging support for providing $85,000 to fund the northwest Oklahoma water supply project. The Bureau of Reclamation included this study in its recommended budget for general investigations in fiscal year 1985. It is my understanding that due to an inadvertent omission, the funding does not appear in the appropriations bill, as reported out of committee.

The Bureau's study would address the water situation in eight northwestern Oklahoma counties. According to the Bureau, these counties comprise one of the most water-deficient areas of the State. Further, the ground water supply level is declining and is posing a critical situation in the area. Communities in the region are projected to have needs for additional municipal and industrial water supplies.

The study is aimed at analyzing the current and projected situation and formulating plans to convey available water resources. The Bureau estimates the total study project completion cost at $670,000.

Mr. Chairman, I have made Senator BOREN from my own State of Oklahoma aware of the situation, and I am hopeful that the Senate appropriations language will include the Bureau's recommended funding level for this project. I am also hopeful, Mr. Chairman, that the House conferees will support such a Senate provision and agree to its inclusion in the conference report.

With that, Mr. Chairman, I would like to ask the subcommittee chairman, the gentleman from Alabama (Mr. BEVILL), if he would personally support and accept such Senate language, and will he urge the other conferees to support and accept such Senate language should it be included.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the subcommittee chairman.

Mr. BEVILL. Mr. Chairman, the gentleman is correct.

Mr. ENGLISH. Mr. Chairman, in the event that the Senate appropriations bill does not provide for the Bureau's recommended funding for the northwestern Oklahoma water supply study project, or in the event that the conference report does not contain such funding, I am hopeful that the Appropriations Committee would include this recommended funding in supplemental appropriations legislation.

Will the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL), personally support and urge his committee colleagues to support the inclusion of the Bureau's recommended funding for the northwestern Oklahoma water supply study project in supplemental appropriations legislation if it is not included in the Senate legislation?

Mr. BEVILL. Mr. Chairman, the gentleman is correct.

Mr. ENGLISH. Mr. Chairman, I thank the subcommittee chairman very much. I deeply appreciate the subcommittee's cooperation and assistance in this matter. I thank my colleagues, and I will forgo the consideration of an amendment.

Mr. LOTT. Mr. Chairman, I move to strike the last word.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I rise in support of H.R. 5653, energy and water development appropriations for fiscal year 1985. I would like to congratulate Chairman WHITTEN, Mr. CONTE, Chairman BEVILL, and Mr. JOHN MYERS for their hard work and diligence in bringing this bill to the House. I would also like to express my gratitude to the subcommittee for their support for the Falmouth Dam project near Falmouth, KY. Because of their efforts $300,000 in general investigations funds will be made available to carry out further planning for this vitally needed water resources project in my congressional district.

Mr. Chairman, the Falmouth project was first authorized in 1936 and that authorization was modified in the Flood Control Act of 1938. To date, $948,000 in Federal funds have been expended on the project.

The project is part of a comprehensive program which encompasses 74 flood control reservoirs intended to reduce flood flows on the Ohio River; secondarily, the Falmouth Dam will reduce flood damages of the Licking River including the city of Falmouth. Some sections of the city have been flooded almost annually, and it has been hit with major floods in 1937 and 1948, and an especially severe flood in 1964, which put about three-fourths of the city under water. By the same token, when the residents of the area are not trying to cope with the disasters of flooding, they are inflicted with prolonged shortages of rainfall, as with the terrible drought of 1983.

The main reason that the project has not been built has been the reluctance of the State of Kentucky to cost-share the recreational aspects of this project. As the Members know, the State would have to pay 50 percent of the costs associated with the recreational development. Because of the lack of agreement over recreation, the flood damage prevention benefits have been denied to the residents of Licking River watershed and, to some extent, the Ohio River Basin.

H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1983, will soon be before the House. Section 301(b) of this bill makes the necessary modifications to allow the Falmouth project to finally be implemented.

I want my constituency to realize the benefits of this project as soon as possible. If we can begin this year to fully fund the corps capability for this already authorized project, then we will be able to enjoy flood protection in Falmouth that much sooner. This is certainly a priority consideration for the residents of this area who have been subject to flooding almost annually. Following the 1964 flood, Mr. Kenneth Marquette wrote about the fear and terror of those who had to be rescued by boat from their homes. Mr. Marquette observed that "such a pitiful sight I hope never to see again." I asked this distinguished subcommittee to help us this year to begin to realize Mr. Marquette's hope by including $300,000 in the energy and water appropriation and they have responded favorably on behalf of my constituents, I thank them.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of this measure.

Mr. Chairman, I rise today to applaud the recent actions of the Energy and Water Development Subcommittee of the Appropriations Committee in appropriating funds for the initiation of the Port Jervis ice jam feasibility study and the continuation of engineering and design for the Elmsford flood control project.

These two areas have continued to plague area residents with perennial flooding. The purpose of the Port Jervis ice jam feasibility study is to explore measures to reduce flood damages caused by ice jams in the upper portion of the Delaware River Basin. Currently, a reconnaissance study to define the problem along with potential solutions is in progress and will be completed in October 1984. The budget request for $120,000 is for the initiation of the feasibility study. Participating in this project will be both State and local interests.

The village of Elmsford and portions of the unincorporated town of Greenburgh in Westchester County have experienced perennial flooding. Recently, Westchester County, was devastated by torrential rains which hit the villages of Elmsford and Ardsley particularly hard. Historically, the village of Elmsford and the town of Greenburgh have experienced severe flood damage due to frequent flooding of the river. The flood of June 1972, with an estimated frequency of about 12.5 years, inundated 70 acres of urbanized development consisting of 17 commercial establishments, 7 industries, and 4 dwellings, resulting in $476,500 damage—June 1972 price levels. The recurrence of this flood under present conditions would result in damage of about $1,296,000. Coincidently, the most recent flooding of April 5, 1984, was of such devasting proportion that a Presidential disaster declaration was issued for both public and private assistance.

The current budget request for $200,000, would be used to continue advance engineering and design. The reformulated plan consists of channel modifications and bridge replacements along the Saw Mill River in Elmsford and Greenburgh.

These two most recent appropriations are timely in light of the recent disaster declaration for both Orange and Westchester Counties. I would hope the subcommittee continues to fund these essential projects along with the Ardsley flood control project and the Ramapo and Mahwah flood control projects currently undergoing study.

Accordingly, I urge my colleagues to support this appropriation measure.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I rise today to support H.R. 5653, the committee's energy and water development appropriations legislation for fiscal year 1985. I would like to commend the chairman of the Energy and Water Development Subcommittee and the members of that subcommittee for the work they have done on this bill. And, of course, I would like to commend the full Appropriations Committee for its efforts.

The bill strikes a delicate balance between our energy and water-related needs and the intense pressure on us to reduce Federal budget deficits.

The bill meets the budget that President Reagan proposed in his most recent budget submission—the so-called Rose Garden budget. Yet, despite working under those constraints, the committee has still managed to direct needed Federal resources to worthy areas. In many if not most of these water-related areas, States and localities do not have the wherewithal to address their problems alone.

The committee has recognized this, and has provided funds for navigation and for flood protection that would otherwise be unavailable. The committee wisely built upon the recommendations of the Army Corps of Engineers to fund a number of projects which can best be described as Federal investments. These projects, several of which I am very familiar with, will deliver manifold benefits from the investments that the committee has made to them. I urge my colleagues to support this worthy legislation. It fits the two basic criteria for good legislation: it respects the budget goals we have already established; and it invests the taxpayers' money in projects that will deliver needed benefits and new development and revenue sources.

The House should support H.R. 5653.

Mr. LOTT. Mr. Chairman, I want to commend the chairman and members of the Subcommittee on Energy and Water Development for the fine work they have done in bringing this bill, H.R. 5653, to the House floor. Although no new construction starts are included in the 1985 appropriations bill, I want to take a few minutes to point out one project that was given particular attention by the committee

this year—the Gulfport Harbor project.

There has been a desperate need for a number of years to deepen the harbor and approaches at the State Port of Gulfport, a relatively small port which has the potential of expanding its operations and boosting the economic benefits to the State of Mississippi tremendously. After many years of planning and studies, the Gulfport Harbor project has been found to be technically correct, environmentally sound and to have survived those benefit cost analyses which show it to be of positive net economic value to the Nation.

The project has been authorized for construction twice, by the full House in 1978 and by the Public Works Committee in the pending water resources bill, H.R. 3678. The Senate Appropriations Committee has likewise approved startup funds for the project.

I am pleased that the committee has seen fit to recognize the importance of the Gulfport Harbor project in its report to the 1985 energy and water development appropriations bill. If I may inquire of the Chairman, am I correct that the committee is cognizant of the current limitations placed on vessels calling at Gulfport by the existing 30-foot channel, and the need to deepen the channel and approaches in order to maintain existing lines and to attract new lines?

Mr. BEVILL Mr. Chairman, if the gentleman will yield, that is correct. The gentleman certainly has the support of the committee on his project. It is very good.

Mr. LOTT. I would also like to inquire of the subcommittee chairman if it is the intent of the committee to provide the necessary funds for the Gulfport Harbor project when authorizing legislation has been approved by this body?

Mr. BEVILL. The gentleman is correct.

Mr. LOTT. Mr. Chairman I thank the gentleman.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, too, would like to commend the chairman, and the other members of the subcommittee for the compromise that they have developed with regard to this bill and the effort that they made to meet the limits that were set by the budget resolution.

I would also like to draw the attention of the chairman and the members of the subcommittee to a particular project within my district called the Santa Cruz Harbor. As the chairman and other Members know, I have drawn attention to this time and time again.

It is a multipurpose harbor which is used by both commercial fishermen and recreational boaters, and it serves as a harbor of refuge for coastal sailors as well. The harbor, unfortunately, has experienced massive shoaling ever since its construction, and even with annual dredging the harbor is forced to close for 3 to 4 months every year at considerable cost to the local economy.

The harbor is currently attempting, in cooperation with the Corps of Engineers, to obtain a dredge for its own use. It was hoped that this equipment could be in place in time for this winter's dredging, but negotiations are still continuing and it now appears that the process of obtaining a dredge cannot be completed this year. As a result, maintenance dredging will once again be necessary.

Because of these ongoing negotiations and the questions which were still remaining at the time H.R. 5653 was reported, dredging funds for Santa Cruz Harbor were withheld pending the conclusion of those negotiations. I think it is now clear that maintenance dredging will once again be necessary in fiscal year 1985.

Accordingly, I have been in contact with the Senate on this matter and have every indication that with the cooperation of the Senators from California, every effort will be made to include the necessary dredging funds in the Senate bill.

So, Mr. Chairman, if that is the case, I would like to inquire of the subcommittee chairman whether in his view this project is important enough to merit the committee's support in conference.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the subcommittee chairman.

Mr. BEVILL. Yes, the committee is certainly well aware of the importance of Santa Cruz Harbor, and I can assure the gentleman that we will give the matter every possible favorable consideration in conference.

Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $913,014,000, to remain available until expended, of which, for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, $1,300,000 shall be made available for the Ocean Township to Sandy Hook reach with the first Federal construction increment being a berm of approximately 50 feet at Sea Bright and Monmouth Beach extending to and including a feeder beach in the vicinity of Long Branch with the non-Federal share of construction and maintenance of the Ocean Township to Sandy Hook reach to consist of monies expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey; and of which $3,000,000 shall be made available for the construction of the South Williamson, Kentucky, floodwall as authorized by Public Law 96-367, section 202 (94 Stat. 1339); and of which $4,000,000 shall be made available for the construction of the West Turning Basin extension of the Canaveral Harbor, Florida project, as authorized in the Rivers and Harbors Act of 1962; and in addition, notwithstanding any other provision of law, $20,000,000, to remain available until expended, for the construction of the Yatesville Lake construction project.

□ 1900

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: On Page 2, line 25: Strike "$913,014,000," and insert in lieu thereof "$912,014,000,".

Mr. BEVILL. Mr. Chairman, I understand that the distinguished gentleman from Oregon is agreeable to 10 minutes equally divided between each side, the proponents and the opponents, so I ask unanimous consent that debate on the amendment of the gentleman from Oregon be limited to 10 minutes, to be equally divided between the proponents and the opponents.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. The gentleman from Oregon, accordingly, is recognized for 5 minutes and the gentleman from Alabama will then be recognized for 5 minutes.

Mr. WEAVER. Mr. Chairman, I, too, want to join my colleagues in expressing my appreciation for the good work of the chairman of the subcommittee, the gentleman from Alabama, the gentleman from Indiana, the ranking Republican member, and the other members of the subcommittee for a job this is well done. The restraint is commendable.

Mr. Chairman, I am offering this amendment to delete $1,000,000 from title I of the fiscal year 1985 Energy and Water Development appropriation bill for the express purpose of removing funding for the construction of Elk Creek Dam in southwestern Oregon. Congress has repeatedly rejected this unnecessary, uneconomical, and ill-advised project and I urge my colleagues to reject it once again.

This project, originally authorized nearly 20 years ago, has been studied endlessly. It has already drained the Federal Treasury of millions of dollars and has provided no benefits of any kind. Any further appropriation for this project would fly in the face of

sound resource management and fiscal responsibility.

The Corps of Engineers concluded a self-initiated reevaluation of the costs and benefits of the Elk Creek Dam in February of this year. In a memorandum to the Assistant Secretary of the Army for Civil Works, Maj. Gen. John F. Wall, Director of Civil Works, concluded:

> The Elk Creek Project does not yield an excess of net benefits at the current discount rate, and therefore is not economically justified as the last added element in a larger system of reservoirs.

Wall reached this conclusion even when considering the project with discount interest rates, less expensive construction technology, and potential hydropower development. Wall pointed out that the corps did not develop new data, but based the reevaluation on existing data. He stated, however, "It is likely that a more exhaustive analysis would only confirm the results of the assessment."

The corps' own reevaluation is only the latest of many analyses that have found the Elk Creek project to be a complete waste of money. The General Accounting Office investigated this project and concluded in March of 1982 that the benefits estimated by the corps were far overstated, and the costs far understated. The GAO presented its findings in a report titled "Corps of Engineers Should Reevaluate the Elk Creek Project's Benefits and Costs." In this report the GAO recommended that the Secretary of the Army require the Chief of the Corps to "* * * reexamine the economic feasibility of the Elk Creek project and resolve the questions on project benefits and costs * * *."

Mr. William R. Gianelli, Assistant Secretary of the Army, Civil Works, concurred in this recommendation and stated that no funds for construction should be requested before such a study was completed. Further, Mr. David A. Stockman, Director of the Office of Management and Budget, wrote to me in June of 1983:

> My office supports Assistant Secretary Giannelli's recommendation to restudy the project before construction funds are committed to it. The fact that no funds were requested for such a restudy in 1983 or 1984 indicates that Elk Creek is a low priority for the Corps at this time. Be assured that the project will be very carefully examined before construction funds are requested.

The corps still has not completed a thorough study of the project and did not request any funds for study or construction of Elk Creek in fiscal year 1984. The convincing results of the corps' recent reexamination of the existing data make further study completely unnecessary. Assistant Secretary of the Army William R. Giannelli wrote to me in February of this year:

> * * * the Director of Civil Works concludes that a more exhaustive analysis (such as we envisioned in asking for a reevaluation) would only confirm the results of the assessment.

Several other analyses have also found Elk Creek to be sadly lacking. In fact, the corps' own analysis, using a 1980 water projects interest rate of 7⅛ percent, found that this project would return only $0.32 in benefits for every taxpayer dollar invested. The U.S. Fish and Wildlife Service investigated the project and concluded that, "* * * construction of the Elk Creek Dam is unwarranted." Further, the House Subcommittee on Environment, Energy, and Natural Resources held oversight hearings on this dam and sharply criticized it as a "* * * wasteful water project."

Any appropriation for this project would be directly contrary to the GAO's findings and recommendations, the corps' own determination of the dam's feasibility, congressional oversight findings and sound fiscal and resource management. Building this dam would devastate the fishery in the Rogue River drainage and irreparably harm southern Oregon's timber industry by flooding forested lands. The Boise Cascade Corp., one of the largest wood products companies in the region, reflects the position of the entire Southern Oregon Timber Industries Association in its vigorous opposition to the dam.

The House Appropriations Committee did not include any funds for this project in the 1983 appropriations bill and neither the House nor the Senate appropriated any funds for the project for fiscal year 1984. The Elk Creek Dam is simply not a sound investment and it should be abandoned. Eliminating this kind of boondoggle is a vital first step toward reducing the deficit. I ask my colleagues to join me in deleting this $1,000,000 from H.R. 5653.

Mr. BEVILL. Mr. Chairman, I understand that this project is in the congressional district of our friend and colleague, the gentleman from Oregon (Mr. ROBERT F. SMITH); so I oppose the amendment and yield to the gentleman from Oregon (Mr. ROBERT F. SMITH) such time as he may desire.

Mr. ROBERT F. SMITH. Mr. Chairman, let me say at the outset that I do truly appreciate the kindness extended to me by the gentleman from Alabama, the subcommittee chairman, not only to me but to those Oregonians who came more than 3,000 miles to testify regarding this issue. That kind of hospitality I do appreciate, Mr. Chairman.

Let me just say first of all that this is not a question of building the Elk Creek Dam. That is not the issue here.

I would debate and discuss at some length my colleague's accusations about the cost benefit ratio of Elk Creek or whether or not it should be built, or I will debate with the Corps of Engineers regarding their latest analysis of Elk Creek. I do not want to do that, because that is not the issue.

The issue here today is the question of whether or not there ought to be an additional million dollars appropriated under this bill that the committee and the chairman have so graciously heard regarding the situation around the Elk Creek Dam, and here is the problem. Currently there are two bridges across the area that the corps now controls. It owns the land. The Government, we have spent, the people's money has already spent $13 million on this project. That has already been spent. It is there.

But in the reservoir area, there needs to be built a road around the reservoir area, or two bridges must be improved. If they are not, we cannot get the timber out that lies behind this reservoir area.

Now, if we are going to build Elk Creek, we will debate that another day, whether or not we do. If we are going to build it, then we ought not to fix the bridges.

This information is as current as this afternoon in my discussions with the Corps of Engineers in Oregon. They need the authorization to either build a road around the reservoir, and that is what this money is for. And why is it necessary? Because that community, Jackson and Josephine County depend upon the timber resources for their livelihood. It builds schools, it furnishes opportunities for children to go to school, it buys roads, and I can tell you that it is the foundation of the economics of that area. Without this appropriation, that road cannot be completed and we cannot continue the flow of timber from that area.

Therefore, I am not asking the decision to be made here by the Congress to build Elk Creek Dam. I can challenge the figures. I will not do that.

I am asking to listen to the committee who has heard this bill, who has listened to the testimony and the chairman who so graciously brought it and follow their lead and do not strike this amendment to the bill.

Mr. WEAVER. Mr. Chairman, will the gentleman yield for 10 seconds?

Mr. ROBERT F. SMITH. I will yield.

Mr. WEAVER. I just want to point out that the timber industry strongly opposes the dam because it would curtail their logging in the vast watershed behind it.

Mr. ROBERT F. SMITH. Well, the timber industry does not oppose the dam, and I want to correct my colleague.

Actually, I should accuse him of trespass. He did represent the area, but now I represent the area, so I am bringing you what I consider to be the exact position. There is one timber company that has timber that might

be in the flood plain zone. They are not too happy about it.

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But the timber industry supports the basic construction of the dam and they certainly support this amendment which allows the timber to be taken out.

Without it we cannot survive.

Mr. BEVILL. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,339,683,000, to remain available until expended, of which $15,000,000, shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601).

AMENDMENT OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON:

Page 5, line 5, strike out "$1,339,683,000" and all that follows through line 9 and insert in lieu thereof the following:

$1,339,553,000, to remain available until expended, of which $15,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965 (16 U.S.C. 4601).

For expenses necessary for the operation and maintenance of the Los Angeles-Long Beach Harbor Model, $1,330,000, to remain available until expended.

Mr. ANDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Chairman, I know that you and the other distinguished members of your committee have been pulled and tugged by most of our colleagues these past few months asking that funding be provided for projects which they feel are essential and warranted. And I know that you have had to make many hard decisions in rejecting or reducing these requests in order that the appropriations measure we are considering today would be in consonance with the overall dictates of our budget guidelines.

Many of these requests for funds have been for new construction or expansion of ongoing projects, and some are extremely costly. But the amendment I am offering today adds funding to continue a study at the Corps of Engineers' facilities in Vicksburg, Miss. And this is a study which, if not continued, may well prove to be a classic case of pennywise and pound foolish as we look at the years ahead.

Let me explain why I say this. I just read this past week that customs collections for the Ports of Los Angeles/Long Beach exceeded for the first time those of the New York district. This fulfills a prophecy made some years ago that the two ports would move ahead of the large New York/New Jersey complex in customs collection as demands for their facilities increased.

In order to meet this anticipated increase in throughput of the Los Angeles/Long Beach Ports, they have made extensive plans for the deepening of channels to permit acceptance of almost all vessels in service today, and for the creation of additional land by use of the dredged material. This land will be used not only for normal port dockside activities, but a portion of it will be set aside for the storage and handling of hazardous cargos. This is now accomplished in proximity to inhabited areas, and the potential danger that this presents has been a point of concern of mine and of my constituents living in this area for some time.

What my amendment will do is add money to the Corps of Engineers' appropriations under the "General Operations and Maintenance section" to continue the collection of prototype data to upgrade the Vicksburg model of the two ports. This will permit a study of the wave and tidal action effects that will be caused by this additional dredging and landfill and a determination of the optimum configuration of the landfill. This is necessary not only from the viewpoint of safe ship mooring, anchorage, and handling, but especially important to determine what the environmental impacts will be upon our two harbors. I think the net result of the study will show that both ports can be expanded safely and efficiently.

Until a study is completed on the Vicksburg model we will not know how to best do the work, and the potentially adverse effects of doing such a massive project wrong are too frightening to contemplate. That is why the study should be made, and why I am proposing an amendment to H.R. 5653 which would add $1.2 million so that this vital study can continue on schedule and be completed in fiscal year 1987. The total cost of this study is estimated at $6.8 million; $1.1 million has already been expended, and $700,000 was appropriated for fiscal year 1984.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman.

Mr. BEVILL. I thank the gentleman for yielding.

If the gentleman will withdraw this amendment, we are familiar with it, and we would be glad to support this item in the conference if we can do that and move along with out bill.

Mr. ANDERSON. I thank the gentleman and I will do that, as I told him earlier. It has to be done eventually. Whether we get it in the conference, and I will try to work with the other body to get language there, but if we cannot get it there you will probably see me in the supplemental. But you will see me down the road.

I will withdraw my amendment with that understanding, and I thank the gentleman.

Mr. BEVILL. We thank the gentleman and we will support his project.

Mr. ANDERSON. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read.

Mr. BEVILL. Mr. Chairman, I know of no more amendments, and I ask unanimous consent that the remainder of title I be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of title I?

Are there any amendments to the remainder of title I?

If not, the Clerk will read.

Mr. BEVILL. Mr. Chairman, we know of no more amendments, and I ask unanimous consent that the title II be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

Are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 19 for replacement only), $1,986,149,000, to remain available until expended; of which $60,000,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in fiscal year 1984, and of which $7,000,000 shall be available to establish a supercomputer center and computational institute as described in the report accompanying this Act; and acquisition of one aircraft for replacement only at no cost by transfer from the National Science Foundation.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 21, line 5, strike "$1,986,149,000" and insert in lieu thereof "$1,976,149,000".

Mr. BEVILL. Mr. Chairman, I ask unanimous consent that the debate on the amendment offered by the gentleman from New York (Mr. OTTINGER) and all amendments thereto be limited to 15 minutes to be divided equally between opponents and proponents.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. There will be 7½ minutes allocated to each side, and the gentleman from New York (Mr. OTTINGER) is recognized for 7½ minutes.

Mr. OTTINGER. Mr. Chairman, as I indicated at the outset, I am very appreciative of the fine work done by the gentleman from Alabama (Mr. BEVILL) and the gentleman from Indiana (Mr. MYERS), the ranking minority member, and I am particularly appreciative that a very dreadful condition in my own area is handled in this bill.

Mr. Chairman, my amendment is an amendment on priorities in the energy budget. It is also a cost-cutting amendment.

Let me begin by briefly explaining the amendment. First, it reduces energy spending by $10 million. Second, it redirects $43 million out of breeder reactor research into the following three programs: Solar energy research; nuclear fuel extended burnup research; and assistance to universities to convert research reactors to low-enriched uranium. This amendment is supported by the American Institute of Architects, Solar Lobby, Passive Solar Industries Council, Solar Energy Industries Association, Building Managers & Owners Association, National Concrete Masonry Association, Federation of American Scientists, Union of Concerned Scientists, General Board of Church and Society of the United Methodist Church, Environmental Policy Institute, Environmental Action, and Sierra Club. I will describe each of these reductions and additions in detail, but first let me give some background on energy budgets in general.

Back in 1981, the last budget before President Reagan took over, we had a very balanced energy budget. Spending was spread reasonably even among all energy technologies: nuclear fission and fusion, solar energy, conservation, and fossil energy.

When President Reagan took office, this balance was destroyed. Since 1981, solar energy programs have been cut by 70 percent. Conservation programs have been cut by 50 percent. Fossil energy was cut by over 80 percent. Meanwhile, nuclear fission—including waste—and nuclear fusion have remained about the same. The net result is an energy budget heavily weighted toward nuclear technologies, and away from programs with a proven cost-effectiveness record. Let me note that these cuts would have been still greater if Congress had not stepped in to restore some funding.

Let me give my colleagues some sense of the proportions by which these programs have suffered under the Reagan administration. The solar and renewables budget has decreased from $771 million to $191 million. Meanwhile, the nuclear fission budget—including nuclear waste—has gone from $1 billion to $946 million. Even with the reductions made by this bill, the fusion program has still increased compared to 1981.

So today we have an opportunity to either ratify this shift toward an all-nuclear budget or to modify the budget to restore at least some balance, and direct the spending toward cost-effective research rather than pork barrel projects.

Let me explain where the reduction will come from. The amendment reduces breeder reactor research by $43,150,000. So the budget for breeder reactor research is reduced to $254,932,000—a level which is higher than the entire solar energy budget. We are, therefore, not gutting the breeder research program, but we are trimming it. What we are specifically trimming is wasteful research designed to support the design of the Clinch River breeder reactor, which the Congress terminated last year. Every committee that has looked at this year's breeder budget has noted that the program has changed little since the demise of Clinch River, and is in need of some serious rethinking. While I would support larger cuts in this program, I have chosen to make a modest one, terminating only truly wasteful aspects of the program.

The amendment directs a portion of these funds toward programs which have been truly gutted. One program is solar building research. This program, which was funded in 1981 at $77 million, would get only $9.8 million under the bill. This is a 40-percent reduction from this year alone, and an 87-percent reduction from 1981. The amendment raises the funding to the level authorized in a bill reported by the Science and Technology Committee. The program conducts basic research on solar collector materials, solar physics, cooling applications, dehumidifiers, and other areas to lower the cost of solar buildings applications. The work has shown great promise. The Appropriations Committee report gives no explanation for this large cut.

The amendment adds $500,000 to the solar international budget to improve our balance of trade by assisting companies to assess export markets. This program was directed by the House late last year when it passed H.R. 3169, the Renewable Energy Export Development Act.

The amendment adds $1 million to the technology transfer program. This is consistent with the administration's request.

The amendment adds $10 million for the Federal photovoltaic utilization program. This program promotes cost-reduction in photovoltaics by increasing production. Although $98 million was authorized for this program in 1978, only $22 million has been spent. The Reagan administration zeroed out this program despite the fact that DOE has identified 15,000 cost-effective photovoltaic applications in 25 agencies.

The amendment adds $2 million for solar resource assessment. This level is slightly below the level authorized by the Science Committee.

The amendment adds $2 million to the solar thermal budget. This is still below the administration's request. It directs funds toward distributed receiver programs like the parabolic dish and solar ponds, as recommended by DOE's own Energy Research Advisory Board.

The amendment also redirects funds toward a nuclear program which deserves more support—the extended burnup program. By adding $8 million we can continue this important program which promises to reduce spent fuel at existing light water reactors by 40 percent or more. Testimony before our subcommittee indicated that at funding levels, less than $12 million, several of the five nuclear reactor vendors will be forced out of the program. Without full participation in demonstrating this technology we will not

achieve the significant benefits which could occur. According to the General Accounting Office, the program could result in savings to consumers of $13 billion over the next 20 years. The amendment is consistent with the authorization level in the bill reported by our committee, H.R. 5048.

The amendment also provides $1,250,000 to 25 universities across the country with research reactors. In an action which I support as reducing nonproliferation risks, the Nuclear Regulatory Commission is about to require universities to convert their reactors to low-enriched uranium. This order will be costly for these universities. The amendment provides a minimum amount to assist the universities in the cost of conversion.

In closing, let me emphasize a few points. First, this amendment will not gut the breeder research program. In fact we will be spending more on breeders than on all solar energy programs combined. Second, it will prevent other programs from being gutted. Third, it directs spending into cost-effective programs in both the nuclear and solar area. Fourth, it is directed toward restoring balance to the energy budget. Fifth, it stays within the program levels authorized by the authorizing committees. And sixth, it saves the taxpayers $10 million compared to the bill reported by the Appropriations Committee.

I urge you to adopt this amendment.

A detailed description of the additions and reductions in the amendment follows. The amendment adds $23,900,000 to solar energy programs. Of this amount, $8,400,000 is designated for solar building energy systems, raising the total for this program to $18,285,000.

The solar buildings program conducts basic research and testing on solar transfer mediums, collector materials, collector physics, cooling applications, dehumidifiers, and daylighting in order to increase the efficiency and lower the cost of solar building applications. This work has already demonstrated great promise. For example, performance data for 21 first-generation solar commercial buildings showed a 25- to 35-percent potential reduction in electricity use. Passive solar buildings research is not research that would otherwise take place in the private sector. As DOE's Energy Research Advisory Board concluded in its "Report on Federal Energy R&D Priorities":

> Continued Federal support for basic and applied research in passive solar technology will pay high dividends. The building industry is fragmented and has no institutions capable of supporting this R&D activity.

The amendment provides an increase of $1 million for solar technology transfer raising the program level to $6 million. Within this amount, $3,200,000, is intended for the solar technical information program at the Solar Energy Research Institute—SERI—and $2 million for the Conservation and Renewable Energy Inquiry and Referral Service—CAREIRS—and $400,000 shall be used to continue to compile, update, and publish data on the performance, cost-effectiveness, and further potential for energy-saving solar technologies in new and retrofitted residential and nonresidential buildings at the Lawrence Berkeley Laboratory.

Solar International would be increased by $500,000 to a total program level of $1 million.

The Federal photovoltaic utilization program—FPUP—is authorized under title V, part 4, of the National Energy Conservation Policy Act (Public Law 96-619) at $98 million; $22 million of the $98 million was actually appropriated and spent; 26 Federal organizations participated in securing 600 kilowatts of photovoltaic systems.

Although all funds have been obligated, FPUP has continued an information transfer program, whereby the Department provides system procurement, design, and installation assistance to other Federal agencies. The FPUP information transfer program is due to be terminated at the end of fiscal year 1984.

The amendment would provide $10 million for the continuation of FPUP. This is approximately equal to the level of funds obligated during FPUP's peak and is the level authorized in H.R. 5048, reported by the Energy and Commerce Committee last week. In addition to systems procurement, funds are intended to be used to expand the existing FPUP information transfer program and to reactivate the advisory committee which has been established under FPUP.

The amendment adds $2 million for solar thermal technologies for a total program level of $34,500,000. This amended level is still a $3 million reduction from the administration's request. I am concerned that large scale, centralized solar thermal technologies have received a disproportionate amount of funding by the Department, to the neglect of distributed receiver programs such as the parabolic dish and solar pond technologies. Therefore, the amendment would provide $7,100,000 for distributed receiver research and development. This level is consistent with the Department request and would include funding for the operation of two distributed receiver experiments under the small community solar program. The $3 million reduction would be distributed among the other solar thermal programs as the Department considers appropriate.

The amendment adds $8 million to the extended burnup program, raising the program level to $12 million. This level of funding is designed to continue the projects of the two remaining vendor participants and to restore participation of the three remaining nuclear fuel vendors. The funds are also sufficient to permit the Secretary to fully evaluate the potential to extend nuclear fuel burnup and the effects on the Department's efforts to subsequently manage higher burnup fuel wastes. This study is directed in authorization legislation.

The amendment adds $1,250,000 for the university research support program to assist the 23 universities currently using highly enriched uranium fuel to commence analytical studies which could lead to the utilization of low-enriched uranium fuel on a timely basis.

The Department of Energy is directed to complete a comprehensive cost assessment of the budget impact of converting each of the university research reactors serviced to LEU fuel and report to the committee on the results of this assessment by December 31, 1984, so that the committee can determine the optimal distribution of funds in the fiscal year 1986 budget process.

The amendment deletes $43,150,000 from the breeder program for certain activities that are directly or indirectly related to the design of the Clinch River breeder reactor project which Congress terminated last year. It also eliminates funding for activities that clearly do not deal with advanced breeder concepts. It fully funds all DOE R&D activities that are appropriate for a restructured breeder program that emphasizes advanced breeder development.

The amendment would eliminate CRBR-related activities as well as those oriented toward conventional breeder technologies. It fully funds legitimate advanced breeder activities.

Full funding of $19 million is provided for advanced breeder concepts and development efforts. This portion of the base program, according to DOE, "will verify industry designs, test proposed fuel arrangements, and develop and test advanced components."

No funds are provided for power conversion technology. The administration requested $22,500,000. This portion of the base program deals heavily with improving the reliability of current technology and components, especially sodium pumps and steam generators which are the same as or similar to the CRBR and similar follow-on designs.

In fact, the list of accomplishments last year—fiscal year 1984—for this program—formerly known as engineering system and components—includes: "Successful completion of sodium testing of the Clinch River breeder reactor project 35,000 GPM pump," and the "hockey stick steam generator."

Consequently, funds for these activities are inapproriate for long-range advanced base program and are deleted under the amendment.

Fuels performance and supply activities are fully funded by the amendment at $32,700,000. The scope of these activities are entirely consistent with an advanced breeder base program. The use of the fast flux test facility—FFTF—in Hanford, WA, to test advanced oxide, carbide and metal fuels and advanced alloys is at the heart of the base program. Moreover, all activities in the fuel supply area, including the secure automated facility—SAF—to demonstrate breeder fuel fabrication technology are also continued.

Nuclear systems technology activities are also appropriate to an advanced breeder base program and are fully funded at $36,650,000. According to the DOE budget request, this program focuses "on demonstrating experimentally in existing DOE facilities, the feasibility of advance reactor concepts of varied design, size, and fuel type."

A portion of the activities at the Argonne National Laboratory-West have to do with testing and demonstration of current breeder technology equipment and components. The amendment cuts $12 million from these activities reducing funding to $27 million.

The Energy Technology Engineering Center—ETEC—is the breeder program's principal nonnuclear sodium component test center. Funding for this facility is reduced from $22,650,000 to $4,100,000. In past years, the Clinch River breeder reactor project prototype steam generator was tested at the sodium component test installation and a large test of a prototype Clinch River hockey-stick steam generator was planned in the current fiscal year 1985 budget.

Another ETEC facility, the sodium pump test facility is being used to test the Clinch River breeder reactor project prototype sodium pump. According to DOE, in fiscal year 1984—

In the small components test loop (SCTL), sodium testing on small valves for the Clinch River breeder reactor program will be continued and testing of commercial valves will continue.

These activities are clearly associated with CRBR and near-term breeder technology and funds are deleted by the amendment.

Hanford Engineering Development Laboratory—HEDL—plays a key role in breeder reactor development and test activities. The amendment provides for full funding—$65,250,000—of the fast flux test facilities—FFTF—which is a major test bed for demonstrating and evaluating the performance of breeder reactor fuel assemblies and the development of abandoned materials—alloys—essential to long life, high performance LMFBR core components.

All remaining activities in the DOE breeder base program are fully funded by the amendment.

The committee's report directs the Department of Energy to review the entire nuclear research program, to establish a balanced and sensible approach for the future and to reflect its new priorities in the fiscal year 1986 budget. I applaud the committee's directive. However, I believe it does not go quite far enough to assure that the Department will fully consider all important factors that should guide the future of nuclear research and nuclear power use in the United States.

In its fiscal year 1986 fission budget the Department should, in addition, undertake a full consideration of the criteria described below. It is clear that if any alternative nuclear fission option does not measure up to those criteria, they will not and should not be implemented as an energy source in the United States.

The first criterion is economic competitiveness. The Department must not lose sight of the fact that the objective of all nuclear power technologies is to deliver economic electricity at prices competitive with coal and emerging solar electric options.

The second criterion to be met is that any new nuclear option must meet a level of safety which is at or above the safety of current generation of U.S. light water reactor powerplants.

The third criterion is proliferation resistance. Whatever future nuclear alternative technology is proposed, it should not significantly increase the risk of spreading nuclear weapons materials above the risks posed by current technology. Any alternative technology must provide proliferation resistance approximately the same as that of a conventional LWR, operated on a once-through fuel cycle with supervised inspection of the storage and disposal of unreprocessed spent fuel.

In addition, the Department should vigorously explore more cost-sharing arrangements with the nuclear industry in its research program. In particular, for research programs which have near-term commercial value to the industry, such as for the HTGR and LWR systems program, contractors should be persuaded to waive their contract fee and perform the work at cost.

The Department should make every effort to fully evaluate its fiscal year nuclear fission budget proposal in light of these essential criteria.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from Michigan and thank him for his support.

Mr. WOLPE. I thank the gentleman for yielding.

Mr. Chairman, I do rise in support of the gentleman's amendment. I wanted to draw particular attention to that aspect of the amendment that would direct $8 million to the extended burn up program. This is an element of the nuclear program; it is not a question of diverting funds away from the nuclear effort. Rather, it is an effort to attempt to make that nuclear effort far more efficient.

I think it is important to emphasize that that amendment adds $8 million to a program that is designed to increase by 40 percent the energy output of nuclear fuel used in commercial nuclear powerplants. It is estimated that nearly $13 billion in savings to commerce would result by the year 2000, a cost-benefit ratio of 1 to 385. I do not think that we have hardly an example in the entire energy budget of a greater, more positive cost-benefit ratio. It is the kind of initiative that I think would really begin to direct ourselves in a way that would have the greatest impact on addressing this Nation's energy future.

Mr. Chairman, I commend the gentleman on his initiative.

Mr. OTTINGER. I would like to point out that this amendment has bipartisan support; it is supported by Congressman WEBER and Congresswoman SCHNEIDER on the Republican side of the aisle.

I cannot yield; we only have 7½ minutes. I will be glad to yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, I would also like to add that there is bipartisan support for this particular amendment. Congressman CONTE and Congressman VIN WEBER, formerly on the Science and Technology Committee, have acknowledged the value of this particular amendment.

I urge my colleagues to support it because as a member of the Science and Technology Committee, I will tell you it becomes exceedingly frustrating year after year to hear the testimony come forward to indicate the value of the programs we are talking about here today.

I would like to emphasize that this amendment is taking $43 million from the nuclear breeder project funds.

Now in that committee, there is already $256 million still available. We bumped out the Clinch River breeder reactor last year as a cost-saving measure, as an effort to reduce pork barrel and excessive Federal spending.

We have the opportunity now to save another $10 million in the energy budget. And what we are doing is to redirect these dollars so that they can be efficiently used not for new programs, not for new high-falutin things but rather technology transfer.

What is the value of us putting any money into research and development unless that research and development information can be transferred to the market for the public sector to capitalize on? This is precisely what this legislation is doing and we have heard a great deal of scientific data that shows there are promising activities in the materials energy components area.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BEVILL) for 7½ minutes.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman I rise in strong support for this legislation, H.R. 5653. This amendment which is mischievous at best because it is intended to savage a technology program which the DOE is now restructuring to support a number of advanced breeder designs. A strong technology effort is needed here to allow the Department and industry to develop low-cost liquid metal breeders, which also have very attractive safety features. This amendment would cripple the breeder reactor systems program by reducing funding by $53 million under the request and a full $38 million under our Science and Technology Committee recommendation. It would cut the liquid metal base technology program by at least $18 million from the level authorized in H.R. 5244, which our committee felt already called for some very painful choices by the DOE.

I chair the Energy Research and Production Subcommittee whch authorizes Nuclear Fission R&D programs and we recommended a level of $6 million for the High Burn-up program in light Water Reactor Systems, which is funded at $4 million in this bill. There is no compelling evidence for funding this program at $12 million, as this amendment suggests, given the modest priority which is assigned to this program within Fission R&D. The administration did not request any funding for this program in fiscal year 1985. The DOE can enter into some new contracts and continue the present program with a number of fuel fabrication vendors given the funding that is already in the bill.

The Science and Technology Committee carefully considered the question of the requirements for converting university reactors to low-enriched fuel. The committee added $1.25 million for the university reactor fuel assistance program for this purpose and it seems to me that the DOE can accommodate this funding within university research support given this obvious requirement. Thus, I do not feel that such funding needs to be added through this amendment.

The amendment would add $10 million for the Federal photovoltaic utilization program (FPUP). This funding was not recommended by our Science and Technology Committee because we decided that technology development funding was much more useful than reinforcing obsolete technology by large purchases of solar cells.

I hope that the House will vote to defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Washington State (Mr. MORRISON).

Mr. MORRISON of Washington. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New York.

The amendment further reduces funding for the base research program for the breeder reactor, a technology which holds the promise of an essentially inexhaustible supply of energy, and increases funding for programs which have already been generously increased by the committee bill. This amendment, Mr. Chairman, is an example of misplaced budget priorities.

At a time when threats to the Persian Gulf oil supply again dominate the news headlines, additional cuts in the breeder base program are more than simply inappropriate; they are shortsighted and risk the economic well-being and security of our country.

When Congress decided last year to terminate the Clinch River breeder reactor project, it was clear that Congress was voting against a specific project, not the breeder reactor as an energy technology. Many of my colleagues declared that we can terminate Clinch River because we have an advanced breeder base program to carry on American leadership in development of the breeder reactor. Well, Mr. Chairman, this amendment could cripple this base program and further erode the U.S. international leadership role at the same time every other major industrial country is pursuing an aggressive breeder development program.

The breeder base program has already suffered its fair share of budget cuts. The breeder reactor systems budget was cut by 27 percent in the fiscal year 1985 budget request and the committee bill has further reduced the breeder program by an additional $10 million. The Ottinger amendment would go even further and cut $43 million more. These cuts would emasculate the program and could shut down currently successful operating facilities.

One of the facilities in jeopardy is this Nation's largest test reactor, the fast flux test facility [FFTF]. The FFTF is a 400-megawatt—thermal—sodium-cooled test breeder reactor which has had an unparalleled operating history. Just last month, the FFTF established a world record for the longest period of continuous, full-power operation of a breeder reactor, 101 consecutive days.

Because of the loss of Clinch River, other elements of our base program have been the focus of our country's breeder program. The operating success of several facilities proves that our breeder base program is alive and well and we can still lead the world in breeder fuel cycle development without Clinch River. Now is not the time to cut the breeder base program when the investment is paying off and the record books are being rewritten.

The Ottinger amendment, Mr. Chairman, would increase funding for other energy programs which have already been increased. The amendment provides additional funding for the solar photovoltaics program which has already been increased by almost $10 million by the committee bill, a 20-percent increase. The amendment by the gentleman from New York also increases the uranium extended burnup program by $8 million; that program was increased by $4 million in the committee bill, one of two programs in the entire nuclear fission budget which received some increases.

The Ottinger amendment would effectively take funding from a program which has been decreased—the breeder—and use the money to fund programs which have already been increased. The amendment repudiates the good work of the Appropriations Subcommittee and reverses the direction established by them.

Mr. Chairman we have heard the reasons why we should develop the breeder reactor technology many times on the House floor, but still it is worth repeating. Since the breeder converts an uneconomical fuel—uranium-238—to a readily usable, economic nuclear fuel—plutonium-239—the reactor greatly extends our domestic uranium reserves.

In fact, the uranium already mined and stored as tailing from the Government's enrichment plants could provide the energy equivalent of 1.4 trillion barrels of petroleum when used in breeder reactors. This represents approximately four times the estimated oil reserves of the Middle East. The U.S. supplies of this otherwise useless uranium stockpile would be the equivalent of $50 trillion in oil imports.

Next to fusion energy, and direct conversion applications of solar energy, the breeder is our only limitless source of domestic energy; and the breeder, unlike the others, is currently within our technological grasp. This country must not consciously walk away from this investment in our Nation's security and economic health.

In the end, Mr. Chairman, if we prevail and secure commercialization of the breeder reactor, our future genera-

tions will be grateful that we exhibited the foresight to develop it.

I urge my colleagues to show foresight into our energy future and to defeat the Ottinger amendment.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Ottinger amendment. My good friend from New York proposes to cut $43.1 million from the breeder program to save approximately $10 million. However, he would reallocate the remaining $33.1 million in the following way: $24 million to solar programs; $8 million to the nuclear fuel extended burnup program, and $1.25 million to convert university research reactors to low-enriched uranium.

Solar energy research clearly is needed and should be continued but not at the expense of developing other equally important alternative sources of energy which promise to meet out Nation's energy needs both today and for tomorrow. No one here today would even deny for a moment the importance of solar energy and its attractiveness as an energy source. The Congress, the President, and many, many others recognize it. In fact, the administration felt so strongly about it in fiscal year 1984 that it requested $86 million to sustain the solar energy program and received an appropriation of $181.6 million—a more than 111 percent increase. And again this year, the administration requested $163.6 million for this program and the committee provided $174.4 million—this time an increase of 7 percent. I submit this as sufficient proof of our firm commitment to solar energy, and especially to its development as a major source of energy.

For more than two decades, a cadre of dedicated scientists has worked long and hard to develop and expand our understanding on nuclear energy always with a view toward its practical applications for meeting man's energy needs. This high-caliber research has led to many innovative changes and improvements in the field of nuclear energy, particularly in the area of nuclear reactor research. Recent technical advances have made possible a different type of breeder reactor that is both cheaper and safer than conventional nuclear reactors, that is completely self-contained and has highly diversion-resistant fuel cycles. The program is at a critical point, at a crossroads, and it appears that the day when this new breeder will begin to produce is close at hand. The new breeders are far more energy and cost efficient, boast greater energy-generation potential and are capable of completely reprocessing radioactive wastes.

The advantages of our new breeder program outweigh in nearly every respect the known benefits available through the use of solar energy. The breeder program has already been reduced this year to a level $125 million below the amount funded for it in fiscal year 1984.

While this amendment would further reduce the breeder program by an additional $43.1 million, nowhere therein is it mentioned that by cutting $43.1 million from the breeder program—and saving only $10 million—we will also be voting to terminate 700 related jobs nationwide. In addition, we will be cutting off at the knees a program that is of tremendous importance to this Nation and would help it solve its energy problems. It is interesting to note that the Deparment of Energy estimates that by the year 2000, in the absence of a nuclear breeder research program, the United States might be forced to reply so heavily on the Japanese and French for this type of research and technology that it would be almost comparable to our present dependence on the Arab countries for oil.

I urge my colleagues on both sides of the aisle to oppose this amendment. We are at the critical point of transition in the breeder program between research and final implementation. In opposing the Ottinger amendment, you will be voting to support the further development of the new and practical generation of breeder reactors while at the same time protecting 700 jobs nationwide and helping to insure our Nation's energy independence.

If you try to balance breeder reactor research against solar—there is no comparison. The payoff enormously favors the breeder reactor.

□ 1930

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I think the gentleman from New York is ill advised and misadvised in offering this amendment.

It cuts some $43 million from the base breeder reactor program. Argonne National Laboratory, which is located in my district, has been cut in other programs and is in jeopardy. They have a fine program of research into a breeder reactor program called the integral fast reactor. Facilities both in Illinois and Idaho are used in this project.

By cutting this $43 million we will be jeopardizing that program and many jobs in the State of Illinois, as well as elsewhere. These funds would be moved to another program as my colleague from Illinois (Mr. O'BRIEN) said that cannot stand any scrutiny with the breeder reactor program as a possibility for furnishing energy needs for our future.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY), the distinguished House whip.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I rise in support of the amendment offered and authorized by my good friend and colleague from New York (Mr. OTTINGER). I believe he offers a reasonable and fiscally responsible approach by shifting some of the priorities of this bill—specifically his reduction of $43 million in funds for breeder reactor research and adding $33 million for a variety of important programs including solar energy.

However my main reason for supporting the Ottinger amendment has to do with its providing of some $1 million to assist university research nuclear reactors make an expected conversion from highly enriched uranium to low enriched uranium; 1 of the 24 university reactors happens to be located at Manhattan College which is located in my congressional district.

The need for these funds is based in large part on an expected ruling later this month by the Nuclear Regulatory Commission which will require the aforementioned conversion from the highly enriched uranium to the low enriched uranium. While a final cost figure is in doubt for all 24 reactors the Ottinger amendment will at least provide some of the initial funding to allow for some conversion work. It would certainly be enough to provide real assistance to Manhattan College's conversion which is expected to cost some $200,000.

The need for this conversion is more preventative than anything else. The highly enriched uranium represents a dangerous commodity and not all universities can provide the guaranteed protection we would all want. Simply put, to allow this fuel to get into the hands of saboteurs or others with evil intent would be an invitation to a disaster that no one wants to have happen in their locality.

A Washington Post editorial entitled "Uranium on the Campus" observed:

> Throughout the world, the efforts to prevent the proliferation of nuclear weapons depend crucially on maintaining to the widest extent possible clear and sharp distinctions between the peaceful uses of nuclear energy on one side of the line and, on the other, the manufacture of weapons. One way to do it is to keep out of research laboratories those matrials that are capable of military uses.

The action we take today is inherently sensible and in the best interest of our national security. While most experts including those at Manhattan College do consider the risk associated

with their research reactor to be extremely low—it does not seem worth the risk to continue to have this highly enriched uranium in a less than totally secure environment.

I urge support of this amendment. It is important and demonstrates good fiscal sense. At this point in the RECORD I would like to insert two articles—one the aforementioned Washington Post editorial and the second from the award winning Riverdale Press from the Bronx, NY, entitled "Is College Nuke Terrorist Proof?"

URANIUM ON THE CAMPUS

Running a university's research reactor on highly enriched uranium is not, on the whole, a good idea. There are now two dozen reactors on campuses around the country that use it. Most of them could be shifted over the next several years to fuel enriched only to much lower levels. It is not sufficiently urgent to require emergency action. But there are good reasons for getting on with it promptly.

The chance of theft from any of these machines is pretty remote. The fuel is not easily accessible, nor would it be a simple matter to refabricate the uranium for use as an explosive. But not all universities' security forces are capable of providing absolute protection and, more conspicuously, there is a principle here that reaches well beyond the campus.

Only highly enriched fuel is capable of being used for a bomb. At low levels of enrichment, the fuel cannot be used for explosives or weapons of any sort, and the possibility of diversion to terrorism or covert military purposes is zero.

Throughout the world, the efforts to prevent the proliferation of nuclear weapons depend crucially on maintaining, to the widest extent possible, clear and sharp distinctions between the peaceful uses of nuclear energy on one side of the line and, on the other, the manufacture of weapons. One way to do it is to keep out of research laboratories those materials that are capable of military uses. As long as Americans do not uphold that rule in university laboratories here, they are in a poor position to persuade other countries to accept it in their own research laboratories. The character of some of those labs is at best ambiguous, and it greatly complicates the process of international inspection to use highly enriched fuel where other types are adequate.

The desirability of converting the American universities' reactors to less highly enriched uranium has been under discussion within the government for some time. The Nuclear Regulatory Commission will vote May 31 on a rule to require the change, contingent on funding. The cost—by one estimate, $9 million to $15 million for all of the reactors—is in the range that is very large by the standards of a university but rather small by those of the Department of Energy, which provides the fuel. If the NRC adopts this rule, it will then be up to Congress to provide the money. It's a modest cost for an important contribution to the practice of nonproliferation.

IS COLLEGE NUKE TERRORIST PROOF?

(By Eve Rosenzweig)

The amount of energy generated by Manhattan College's nuclear reactor "isn't enough to heat a cup of tea." So say Manhattan College officials in answer to a warning that the enriched uranium in its reactor could be used to manufacture a bomb, if it falls into the wrong hands.

The 3.2 kilograms (about seven pounds) of highly enriched uranium at the college is not the stuff that nuclear weapons are made of, said the officials during a recent tour of the reactor.

Answering charges in an article that appeared in The New York Times at the end of January, Dr. Ronald Kane, chairman of the Department of Mechanical Engineering and reactor administrator, said security measures would make the reactor extraordinarily difficult to break into.

Even more difficult would be the collection of the uranium which is bonded through another alloy and stored in 15 cylinders that are submerged in an eight-foot deep water tank.

The Paolini Gerli Reactor is housed in the School of Engineering on Corlear Ave. near 238 St., a building that used to be a Fanny Farmer candy factory.

The Manhattan College reactor is one of 23 in colleges and universities across the country. The only operating reactor in a New York institution of higher learning, it is the smallest of the 23. Though the reactor belongs to the college, the U.S. government owns the uranium.

The reactor would probably have marked its 20th anniversary, which falls on March 24, quietly, had not a physicist charged that enriched uranium at universities was "highly undesirable and dangerous."

The Times quoted Dr. Theodore B. Taylor, a physicist who was on the staff of Los Alamos Scientific Laboratory and sat on the panel that investigated the Three Mile Island accident, as saying he would be "very concerned" about the theft of even one kilogram of highly enriched uranium.

Dr. Kane does not share Dr. Taylor's concern. The allegation in the Times article that the uranium "could be easily stolen by terrorist groups or nations" was not levelled specifically against Manhattan College, he insisted, and does not apply to the College.

He stressed the "multiple mechanical, electronic and human devices" that he believes makes Manhattan College's reactor secure against theft.

The Nuclear Regulatory Commission, which owns the uranium used in the reactor, told Dr. Kane that the fuel "was not weapons grade and did not have the proper chemical form to be used in manufacturing a bomb," a spokesman for the College said. "Its presence is no danger to anyone."

Pressed to describe security precautions at the reactor, the spokesman, Tom Gray, director of college relations, said, "a determined band of gunmen might be able to force their way in, but they wouldn't get out." All College labs are "heavily secured," he said, to safeguard expensive equipment and toxic chemicals. The NRC imposes additional security on the reactor, he said.

The NRC has been considering having colleges switch from highly enriched uranium to low grade uranium. NRC has been studying the matter for at least six months, according to Dr. Kane.

Manhattan College is amenable to such a conversion, if the Federal government bears the cost, estimated at more than $200,000. More than the annual budget of the College of Engineering. No college or university can finance conversion on its own, said Brother Gabriel Kane, chief reactor supervisor at Manhattan, and no relation to Dr. Ronald Kane.

He emphasized that Manhattan College was not included in the proposed NRC rules change, because the amount at Manhattan is so small.

There is no comparison between the quantity of uranium, at Manhattan and at other institutions. Dr. Kane contends, citing the 100 pounds of fuel at MIT as an example. The MIT reactor generates five megawatts of electricity, whereas the Manhattan reactor generates one-tenth of a watt. So little energy is generated at Manhattan that its reactor produces no nuclear waste, according to Dr. Kane.

Brother Gabriel called the reactor "an ideal teaching tool. It's turned on about two hours a week" to teach students how reactors operate, safety procedures and the effect of radiation on man. The courses also include discussions of the pros and cons of nuclear energy, he said.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SLATTERY).

Mr. SLATTERY. Mr. Chairman, I rise in support of the Ottinger amendment, specifically that provision providing assistance to universities in converting their nuclear research reactors from high-enriched uranium to low-enriched uranium.

Currently, there are 25 university research reactors across the country using weapons-grade nuclear fuel. One of those universities, the University of Kansas, is located in my district. In fact, K.U. is located in the town of Lawrence, KS, the setting for the film, "The Day After."

At a recent meeting of the NRC, Dr. Theodore Taylor, a former nuclear weapons designer, stated that the theft of 1 kilogram—or about 2.2 pounds—of high-enriched uranium would have profound implications for constructing a nuclear weapon or establishing a credible terrorist blackmail threat. Because of the nature of a college campus and university research programs, it is very difficult and would be very expensive to provide the level of security needed to assure that this fuel will not become the target of terrorist activity.

The Nuclear Regulatory Commission directed the Commission staff to expedite the development of a rule requiring the conversion as soon as possible. I believe this move by the NRC is a wise national policy.

However, since the move is being mandated by the Federal Government as a Federal policy, I believe there is a Federal responsibility to help defray the costs to the conversions incurred by the universities. A number of universities have indicated they would have to consider terminating their research reactor programs if they are forced to convert without Federal assistance.

The Ottinger amendment would provide the initial funding needed to begin conversion.

I believe the conversion from weapons-grade fuel to low-enriched urani-

um for university research reactors is a wise policy.

It will not diminish the quality of the research at those schools, but it will reduce the risk that weapons-grade nuclear fuel might be improperly obtained and fall into the hands of terrorists.

I urge Members to support the Ottinger amendment, and I thank the gentleman from New York for his efforts to assist the universities in maintaining their research facilities while reducing the risk of nuclear nightmare.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. DURBIN).

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. MYERS) the ranking minority member of the committee.

Mr. MYERS. Mr. Chairman, the intention of this amendment, of course, is to trade technology, the research in technology from one field—the field that this committee has decided would realize more benefits for the dollar spent—than to put them into solar. This committee has not been antisolar, as some have accused us of being.

Quite to the contrary, over the years we have increased solar. But with this particular year, when we are limited on the amount of money we can spend on these research programs and technology development, we believe that there can be more attained by going back, not to Clinch River, but to the breeder base, where we will have a balance in the resources we have and develop a known resource in the country.

To cut $43 million from this program and to add back $33 million in another program is ill advised in the judgment of this committee.

We examined this very closely as we marked the bill up and we feel that it is very necessary that we do support the committee in this instance.

Mr. BEVILL. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I would like to introduce the letter received from the Secretary of Energy today in anticipation of this amendment. As I stated earlier we have this amendment every year. Regardless of the amount of money for solar energy, we always have the amendment to add more.

This committee unanimously supports the solar energy program, but as the Secretary has pointed here:

> No single energy source will meet our future energy needs. It will require a combination of fossil, nuclear, solar, and other renewable energy sources, as well as a strong commitment to conservation, to meet the projected demand.

I will make this letter a part of the RECORD.

I urge everyone to vote against this amendment because we have added more funds for solar energy in this bill than was recommended by the administration.

I urge my colleagues to defeat this amendment and to vote "no."

The letter follows:

THE SECRETARY OF ENERGY,
Washington, DC, May 22, 1984.

Hon. TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that there may be a move on the House floor during consideration of H.R. 5653, the fiscal year 1985 Energy and Water Development Appropriations Bill, to increase funding for Solar Energy at the expense of the Breeder Reactor program. I solicit your aid to defeat such a proposal.

The Administration has made a special effort in fiscal year 1985 to develop a balanced energy budget. No single energy source will meet our future energy needs. It will require a combination of fossil, nuclear, solar, and other renewable energy sources, as well as a strong commitment to conservation, to meet the projected demand.

One of the first duties I assigned to the new Under Secretary was to make an extensive review of the Solar Energy program to determine what the proper level of funding should be. The result of this review was a substantial modification to the budget the Department requested in its submission to OMB, which ultimately became the Department Congressional budget request for fiscal year 1985. The fiscal year 1985 Solar Energy request of $164 million is almost a 100 percent increase over the request for fiscal year 1984 and is within $18 million of the amount appropriated for Solar Energy in fiscal year 1984. The House Appropriation Committee already has recommended increasing Solar energy funding by $11 million over the President's request. If further additions to this level are made at the expense of the Breeder program it will jeopardize the balance we have been striving to obtain in our energy programs.

In summary, I am very concerned about this potential change to our fiscal year 1985 Breeder and Solar programs and the adverse impact it could have on the Nation's future energy alternatives. Your efforts in heading off any movement to effect any such budgetary change for the Department would be greatly appreciated. Please be assured I stand ready to assist you in this matter in any way I can.

Sincerely,

DONALD PAUL HODEL.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 229, not voting 33, as follows:

[Roll No. 162]

AYES—171

Ackerman	Guarini	Ottinger
Addabbo	Gunderson	Owens
Albosta	Hall (OH)	Panetta
Anderson	Hamilton	Patterson
Aspin	Harkin	Pease
AuCoin	Hayes	Penny
Barnes	Heftel	Pepper
Bates	Hertel	Pursell
Bedell	Hopkins	Rangel
Beilenson	Howard	Ratchford
Bereuter	Hughes	Reid
Berman	Ireland	Richardson
Biaggi	Jacobs	Ridge
Boehlert	Jeffords	Rinaldo
Boland	Johnson	Rodino
Bonior	Kaptur	Roybal
Bonker	Kastenmeier	Savage
Borski	Kennelly	Scheuer
Bosco	Kildee	Schneider
Boxer	Kleczka	Schroeder
Brown (CA)	Kostmayer	Schumer
Brown (CO)	LaFalce	Seiberling
Bryant	Lantos	Shannon
Carper	Leach	Sikorski
Clarke	Lehman (FL)	Simon
Clay	Leland	Slattery
Coleman (TX)	Levin	Smith (FL)
Conte	Levine	Smith (NJ)
Conyers	Levitas	Snowe
Coughlin	Lowry (WA)	Solarz
Courter	Luken	Spratt
Dellums	Lundine	St Germain
Derrick	MacKay	Staggers
Downey	Madigan	Stark
Dwyer	Markey	Stokes
Early	Martin (IL)	Studds
Eckart	Martinez	Synar
Edgar	Matsui	Tallon
Edwards (CA)	Mavroules	Tauke
Evans (IA)	McCloskey	Torres
Evans (IL)	McHugh	Torricelli
Fascell	McKernan	Towns
Feighan	McKinney	Traxler
Ferraro	Mikulski	Vento
Florio	Mineta	Waxman
Foglietta	Minish	Weaver
Ford (MI)	Moakley	Weber
Frank	Molinari	Weiss
Garcia	Moody	Wheat
Gejdenson	Morrison (CT)	Williams (MT)
Gephardt	Neal	Wirth
Gilman	Nelson	Wise
Glickman	Nowak	Wolf
Goodling	Oakar	Wolpe
Gray	Oberstar	Wyden
Green	Obey	Yates
Gregg	Ortiz	Zschau

NOES—229

Akaka	Cheney	Emerson
Alexander	Clinger	English
Andrews (NC)	Coats	Erdreich
Andrews (TX)	Coelho	Erlenborn
Annunzio	Coleman (MO)	Fazio
Anthony	Collins	Fiedler
Applegate	Conable	Foley
Archer	Cooper	Ford (TN)
Badham	Corcoran	Franklin
Barnard	Coyne	Frenzel
Bartlett	Craig	Frost
Bateman	Crane, Daniel	Fuqua
Bennett	Crane, Philip	Gaydos
Bethune	Daniel	Gekas
Bevill	Dannemeyer	Gibbons
Billirakis	Darden	Gonzalez
Bliley	Daschle	Gradison
Boggs	Daub	Gramm
Boner	de la Garza	Hall, Sam
Boucher	DeWine	Hansen (UT)
Breaux	Dickinson	Harrison
Britt	Dicks	Hartnett
Brooks	Dixon	Hatcher
Broomfield	Donnelly	Hefner
Broyhill	Dorgan	Hightower
Burton (CA)	Dowdy	Hiler
Burton (IN)	Dreier	Hillis
Byron	Duncan	Holt
Campbell	Durbin	Horton
Carney	Dymally	Hoyer
Carr	Dyson	Huckaby
Chandler	Edwards (AL)	Hunter
Chappell	Edwards (OK)	Hutto

Jenkins	Montgomery	Shumway
Jones (NC)	Moore	Shuster
Jones (OK)	Moorhead	Siljander
Jones (TN)	Morrison (WA)	Sisisky
Kasich	Mrazek	Skeen
Kazen	Murphy	Skelton
Kemp	Murtha	Smith (IA)
Kindness	Myers	Smith (NE)
Kolter	Natcher	Smith, Denny
Kramer	Nichols	Smith, Robert
Lagomarsino	Nielson	Snyder
Latta	O'Brien	Solomon
Lehman (CA)	Olin	Spence
Lent	Oxley	Stangeland
Lewis (CA)	Packard	Stenholm
Lewis (FL)	Parris	Stratton
Lipinski	Pashayan	Stump
Livingston	Patman	Sundquist
Lloyd	Perkins	Swift
Loeffler	Petri	Tauzin
Long (LA)	Pickle	Taylor
Long (MD)	Porter	Thomas (CA)
Lott	Price	Thomas (GA)
Lowery (CA)	Quillen	Udall
Lujan	Ray	Valentine
Lungren	Regula	Vandergriff
Mack	Ritter	Volkmer
Marlenee	Roberts	Vucanovich
Marriott	Robinson	Walker
Martin (NC)	Roe	Watkins
Martin (NY)	Roemer	Whitehurst
Mazzoli	Rogers	Whitley
McCain	Rostenkowski	Whittaker
McCandless	Roth	Whitten
McCollum	Roukema	Winn
McCurdy	Rowland	Wortley
McDade	Rudd	Wright
McEwen	Russo	Wylie
McGrath	Sabo	Yatron
McNulty	Schaefer	Young (AK)
Mica	Schulze	Young (FL)
Michel	Sensenbrenner	Young (MO)
Miller (OH)	Shaw	
Mollohan	Shelby	

NOT VOTING—33

Chappie	Hall (IN)	Mitchell
Crockett	Hall, Ralph	Paul
D'Amours	Hammerschmidt	Pritchard
Davis	Hance	Rahall
Dingell	Hansen (ID)	Rose
Fields	Hawkins	Sawyer
Fish	Hubbard	Sharp
Flippo	Hyde	Vander Jagt
Fowler	Kogovsek	Walgren
Gingrich	Leath	Williams (OH)
Gore	Miller (CA)	Wilson

□ 1950

Messrs. McCURDY, LIVINGSTON, DYMALLY, and DOWDY of Mississippi changed their votes from "aye" to "no."

Mrs. MARTIN of Illinois and Mr. CONYERS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with the operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 171 of which 154 are replacement only); $1,650,300,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,650,300,000 in fiscal year 1985, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided further*, That the price charged for a separative work unit (SWU) for utility services contracts shall not exceed $135.00: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1985 so as to result in a final fiscal year 1985 appropriation estimate at not more than $0.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER).

POINT OF ORDER

Mr. OTTINGER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, I make a point of order against the proviso on page 22, lines 7 through 9, on the grounds that the proviso violates clause 2(b) of rule 21, which prohibits the reporting in any general appropriations bill of any change in existing law.

The proviso establishes a limitation on the price that the DOE may charge utilities and other customers for enriched uranium used in nuclear powerplants. No such limitation is established or authorized in existing law. Furthermore, section 161v of the Atomic Energy Act of 1954, as amended, requires the Government to recover its costs over a reasonable period of time. Thus, the proviso is both contrary to existing law and sets a limitation on the existing authority of the DOE that is neither established nor authorized in existing law. The committee report recognizes the provision as affecting existing legislation.

I am forced to raise a point of order against this provision to insure that the Department of Energy is not necessarily restricted by legislation which controls the price of the nuclear fuel that they sell. A recent GAO report submitted to our committee disclosed that the current contract being offered by the Department contains a $135 ceiling price which could result in the underrecovery of costs by more than $6 billion. This provision may therefore mandate nonrecovery of costs, thereby fundamentally changing the nature of the program from one that pays its own way, to another taxpayer-subsidized nuclear program. The Department currently has the flexibility to adjust its prices as needed, Congress should not arbitrarily remove that flexibility. By striking this provision, we will not be tampering with current contracts.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Mr. OTTINGER. Mr. Chairman, I would like to take this opportunity to raise some of the concerns my committee has been pursuing with the Department of Energy uranium enrichment program over the past year on this issue.

My subcommittee has held numerous hearings on the Department's troubled enrichment program, the most recent being March 1, 1984. At that hearing, the General Accounting Office testified that the $135 per SWU ceiling price contained in the utility service contract "may hinder the Department's ability to recover the Government's costs." Subsequent to the hearing, I requested the GAO to review the Department's program in greater detail and respond to specific questions regarding this statement. On April 24, 1984, the GAO responded with a report stating that the accounting changes which had been implemented in an effort to meet the $135 price had resulted in a cost to the Government of $3.4 billion, and, that even with these changes, DOE would fall short of recovering its costs by an additional $3.3 billion over the next 10 years. So, what we are talking about here is a possible unauthorized, hidden subsidy to the nuclear industry of $6.7 billion.

I was also surprised to read the Appropriations Committee report endorsing the accounting changes unilaterally developed and implemented by the Department this year. These "accounting changes" are not merely restructuring the Department's accounts, but constitute a complete redefinition of program costs which must be received from the customers. These costs have already been borne by the taxpayer, in what was intended to be a "loan." The "accounting changes" have had the effect of redefining "loan" to "gift."

The General Accounting Office had documented these effects in its April 24, 1984, report to this committee. These changes immediately reduce the costs to be recovered by the Department of $3.4 billion. Costs which are not recovered by the Government are paid by the taxpayers. This change was made by the Department without any of the usual prior notification and period of consideration by committees of jurisdiction.

I am sympathetic to the Department's desire to reestablish this program on an economically viable basis, but I am not sympathetic to doing so at the expense of the taxpayer who is

forced to subsidize the nuclear industry through this program.

In its first accounting change, the Department decided to write off the 60 percent of the production capacity which is currently not utilized. This is a standard and acceptable accounting principle for private industry, because it results in shareholders rather than customers paying for the mistakes of the company or changes in the market. It is disingenuous for the Department to assert that this accounting principle is equally applicable to its program because the shareholders of the enrichment program are the Federal taxpayers, not shareholders who receive the benefits of the enterprise. The effect of this one change alone will cost the taxpayers $1.2 billion.

Even if inequity were not sufficient, section 161v of the Atomic Energy Act requires the Department to recover the Government's costs over a reasonable period of time, or 10 years. The Department does not dispute that these costs were incurred by the Government and have not been recovered. Nonetheless, it argues the need for transferring the costs to the taxpayer in order to keep the uranium enrichment program economically viable. If the Department really believes it cannot recover the Government's costs and remain economically viable, the Department should submit legislation to the appropriate committees of Congress for a restructuring of the statutory requirements of the program.

The other accounting change consists of devaluing the uranium feed inventory the Department purchased in the late 1950's for the program by $2.2 billion. The feed was purchased at a cost averaging $9.40 per pound. In the early 1970's, the Department decided to offer this material for sale and, due to the perceived need to replace the material at some future date, valued the feed at current market value, which is currently around $40 per pound. The cost of the feed inventory is a component of the enrichment price, thus any decrease in the value of the inventory will result in lower cost for enrichment services.

The value of the uranium feed is established in the criteria for enrichment pricing. The Atomic Energy Act requires any change in the criteria to be submitted to Congress, for a consideration period of not less than 60 days. This notification and consideration has not occurred, although a notice announcing the new policy appeared in the April 7, 1984, Federal Register.

The reasons the Department originally priced the uranium feed at current market value are as relevant today as they were when adopted. The current operating plan of the Department shows that the Department will work off the current inventory by 1991, assuming the $9.40 price, and will resume making uranium feed purchases in 1992. Of course, those purchases will be made at the prevailing market price. In a total reversal of the old entreprenurial adage of "buy cheap, sell dear" the Department will "sell cheap in order to buy dear," a curious stance for a program which prides itself on its new businesslike management. Together, these two "accounting changes" cost the Federal taxpayers $3.4 billion.

Subcommittee staff and GAO have been working with the Department since the issuance of the new contract to understand the justification for the selection of the $135 price ceiling. To date, the Department has not been able to present evidence that the new contract and accounting practices will not result in this loss to the program.

The Department's latest financial statement, for fiscal year 1983, reflects a total Government investment of $6,973,720,000. Assuming that nearly $2 billion of that amount represents retained earnings and other noncost items, there remains an unrecovered Government investment of $5 billion from this program—a loan from the taxpayers to the nuclear industry. A loan, which by the terms of the Atomic Energy Act must be repaid. To date, I am not aware of the repayment to the Treasury of 1 cent on that loan. A further reduction in the Department's ability to recover its costs is moving in exactly the opposite direction than the Department needs to move in order to fulfill its statutory mandate.

Both the subcommittee and the Department are aware of the need to improve the competitive posture of this program, and are hopeful this can be accomplished within the existing statutory framework. The jury is still out, and the program is in a state of flux.

However, I believe that if there is to be a "free market in energy," as the President insists, at least for solar, conservation, and renewable energy, that established energy resources, such as nuclear power, must compete in the same market, and that means on its economic and technical merits. Congress has repeatedly refused to subsidize the uranium enrichment program, and has insisted that the program pay its own way. Subversion of this principle can only result in greater hostility to the nuclear option. For these reasons, Mr. Chairman, I asserted the point of order against the provision of the energy and water appropriations bill which would lock these costs out of the customer price and onto the taxpayer's back for years to come. This committee will continue to work with the Department to assure that this Nation has the strongest uranium enrichment program possible, within the framework established by Congress.

Mr. BEVILL. Mr. Chairman, the committee felt the need to address the issue of the price of uranium enrichment at this time because of several reasons.

First, the United States has been losing much of the world market for enriched uranium. By establishing a price ceiling, the committee hopes to stop some of this market erosion.

Second, the committee feels it is vital to our national interests to maintain a domestic uranium enrichment enterprise. Right now 12 percent of all U.S. electricity comes from nuclear power and by the end of this decade, about 20 percent will be from nuclear. It is essential to have a domestic source of fuel to meet our domestic needs.

Third, the Congress should be involved in setting the price for enriched uranium because it is an entirely Government-owned and controlled business. Having a statutory price on enrichment services assures a continuity of pricing that guarantees customers for the U.S.-owned business. The committee endorses the recent revisions in accounting practices and the steps proposed by the Department of Energy to maintain a viable uranium enrichment enterprise.

Fourth, the price of $135 per SWU established in the appropriation bill is more than enough to fully recover all costs associated with the uranium enrichment enterprise. Since 1971, the average cost per SWU charged has been about $91. Furthermore, the Department of Energy says that the current cost per SWU is less than $100. So there will be no subsidy to the nuclear power industry caused by this proposal. It is, in fact, a means of holding down electric bills for ratepayers throughout the Nation.

Finally, the Congress has the right to consider this matter in legislation and to vote on it. I hope that the authorization committees will see the need to preserve a domestic supply of enriched uranium so that the United States does not become dependent on foreign sources of supply as we have in oil. I would hope the authorization committees will bring to the House floor a legislative proposal that will solve this problem and address the question of how much electric power customers should have to pay for fuel from a Government-owned enterprise.

I am including for the RECORD a letter from the Secretary of Energy and the Edison Electric Institute indicating his support of the committee's objectives as set forth in the report accompanying this bill.

THE SECRETARY OF ENERGY,
Washington, DC, May 21, 1984.

Hon. TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for my views on the House Energy and Water Development Appropriation Bill for 1985. Your confidence in our ability to manage the program in the highly competitive environment that exists in the world today is appreciated. It is the Department's objective that the United States strengthen its position as a reliable supplier of enrichment services at the lowest possible cost. By so doing, we will further our nuclear nonproliferation objectives as well as establish a secure source of supply for our domestic customers. The programmatic changes that we recommended in the FY 1985 budget and that your bill endorses are crucial to reestablishing the United States as the least cost supplier.

It is my firm conviction that these objectives will be met while assuring that all forward costs be recovered within the $135 per separative work unit price ceiling set forth in the Department's Utility Services contract and as referred to in the Committee's report on the appropriation bill. Our specific funding plans and objectives for each element of the uranium enrichment program will be reflected in our annual budget submissions in Congress.

Thank you very much for your interest and continued strong support to the U.S. uranium enrichment enterprise.

Sincerely,

DONALD PAUL HODEL.

EDISON ELECTRIC INSTITUTE,
Washington, DC, May 21, 1984.

Hon. TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the Department of Energy's uranium enrichment program for FY 1985, a vital program that is part of the Energy and Water Development Appropriations Bill for FY 1985, H.R. 5653. Edison Electric Institute, the association of the Nation's investor-owned electric utilities, includes in its membersip the vast majority of DOE's domestic uranium enrichment customers. The Utility Services (US) Contract should be allowed to send as DOE offered it on January 18, 1984, including the $135.00 ceiling price. This would be in the best interests of the electricity customer and the Nation.

The original contract offered by the United States Government for enrichment services, the Requirements Contract, was market-oriented and permitted customers to purchase services as and when needed at reasonable prices. The Requirements Contract was not offered after December 1972 and until January 18, 1984 the U.S. Government offered enrichment services contract that were a form of take or pay contracts and not market-oriented. During this period, enrichment customers worldwide were not sufficiently able to adjust their enrichment purchase commitments as their nuclear power programs slowed. This resulted in the current, large imbalance in the world market for enrichment services. Had DOE not developed the market-oriented US Contract, thus allowing a controlled balancing of supply and demand, strong market forces would have done so in an uncontrolled manner with the potential of great damage to DOE's program to construct, develop and research future technologies that will bring down the cost of enrichment. Our March 1, 1984 testimony on the subject before the House Subcommittee on Energy Conservation and Power is enclosed; it states our position in greater detail.

The current controversy centers around DOE's ability to recover its costs over a reasonable period of time. We have reviewed the General Accounting Office report "Information on DOE's Costing and Pricing of Uranium Enrichment Services," GAO/RECD-84-156 (April 25, 1984), and found it lacking. In short, we conclude that GAO's claims about DOE's inability to recover its costs over a reasonable period of time are incorrect. GAO appears to have narrowly focused its review on a few, albeit important, items and concluded that DOE will not recover its costs over a reasonable period of time. We believe that when a broader view is taken, incorporating all accounting techniques and DOE's program flexibility, it is clear that DOE will recover its costs over a reasonable period of time. Historically, DOE always had recovered its costs over a reasonable period of time and there is no reason to believe that that will not continue. There is no subsidy to nuclear power in DOE's uranium enrichment program.

The Utility Services Contract is vitally important to the electric utilities, electric ratepayers and the National as a whole. With it, we can eventually bring the supply and demand of enrichment services in balance, and maintain DOE's sales and revenues to continue to construct, develop and research the future technologies needed to bring down the cost of enrichment. Without it, DOE will lose it's sales base to foreign suppliers, which would further increase the Nation's trade deficit, increase the unit cost of enrichment and not provide the funding needed to pursue the cost efficient future technologies. Furthermore, those domestic DOE customers who remain will pay unnecessarily higher enrichment prices. A key element of the US Contract is its $135.00 ceiling price. By having the ceiling price, DOE pledges to the customer to control costs and maintain competitive pricing. If the ceiling price were removed and DOE was forced to use a price of $160.00, as implied in the GAO report, the unnecessary, additional cost to the United States electric ratepayer would be about $2.4 billion over the next ten years.

In summary, Mr. Chairman, we believe that the US Contract is necessary and desirable, that DOE can recover costs over a reasonable period of time with a US Contract ceiling price of $135.00, and that there is no subsidy for nuclear power in the DOE uranium enrichment program. It is to the electricity customers" benefit for DOE to offer this contract.

EEI appreciates your support and understanding of this issue. We stand ready to meet with you or your staff to discuss our position further, if you desire.

Sincerely,

JOHN J. KEARNEY,
Senior Vice President.

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, has the Chair ruled on the point of order?

The CHAIRMAN. The Chair ruled that the point of order has been conceded and sustained.

Mr. OTTINGER. I thank the Chairman for the clarification.

Mr. McEWEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I believe the Subcommittee on Energy and Water has drafted an excellent and much-needed piece of legislation and I strongly support it. It includes funding for the Appalachian Regional Commission; its important highway programs in particular. It also provides funding for the Euclid General Hospital, Logan and Nelsonville Floodwall in Hocking County, Ohio, Maumee Bay and State park expansion in Toledo, Ohio, the Gallopolis Lock and Dam as well as the Gas Centrifuge Enrichment Plant in Portsmouth.

My particular concern and interest in rising at this point goes to the objection by the gentleman from New York, the chairman of the Subcommittee on Energy, Conservation and Power of the House Committee on Energy and Commerce.

I particularly am disappointed at his opposition to certain lines on page 22 of title III of this bill.

I believe that his objections arise from a report by the General Accounting Office addressing the implications for recovering Department of Energy's costs of providing enrichment services at the $135 ceiling price provision contained in the new enrichment services contract.

Mr. Chairman, in providing enrichment services to its customers, DOE is required under section 161(v) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(v)), to price such services so that the Government's enrichment costs will be recovered over a reasonable period of time. The intent of recovering costs over a reasonable period of time is to prevent sharp fluctuations in the prices charged under this program. Ten years was initially established as being a reasonable period and over the years it has been accepted as such by DOE and cognizant congressional committees. Thus, enrichment prices have been adjusted annually by DOE to reflect the projected costs of providing enrichment services over the ensuing 10-year period.

During the 1980's DOE's prices for enrichment services, which currently range from $138.65 to $149.85 per separative work unit, have generally been the highest in the world. Foreign suppliers reportedly are providing comparable services at prices ranging from $100 to $117 per separative work unit and prices on the secondary market are even much lower with some transactions taking place at prices as low as $90 per unit.

In order to help curtail the continuing deterioration of its market share, DOE developed and has begun to implement a new strategy for the uranium enrichment program. According to DOE, that strategy includes first, offering a new contract that is more responsive to customer needs and provides a degree of price stability, second, reducing the program's costs, and third, planning to finance future investments by private sector contributions as much as possible.

On January 18, 1984, DOE began offering its new contract to existing and prospective customers. The new contract, called the utility services contract, contains a number of provisions which DOE officials say will enable it to retain its current customers and obtain new business, thereby strengthening the program's competitive position in the worldwide enrichment market. One of the provisions of the new contract is a guaranteed ceiling price of $135 per separative work unit. Except for annual adjustments for power costs and inflation, DOE must provide 10 years notice to change the ceiling price. DOE officials believe this price, in conjunction with other contract provisions, will enable DOE to be competitive in the enrichment market.

Thus far letters of intention to sign this new contract have been received from Japan, Taiwan, South Korea, and Mexico. During present negotiations, we can expect favorable responses from Sweden, Switzerland, West Germany, England, Yugoslavia, Egypt, France, Spain, and the Netherlands.

It is disappointing to me, Mr. Chairman, that the gentleman has opposed this provision of the act which would provide to our customers an assurance of stability in the pricing of the separative work units done by the Department of Energy.

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Mr. LUJAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time simply to ask for a little clarification from the chairman, the gentleman from Alabama (Mr. BEVILL).

In the report, on page 91, the report reads that the committee encourages the Office of Fusion Energy to explore significantly less expensive ways of producing an ignited-plasma experiment that can explore all the remaining relevant physics of tokamaks.

In that connection, because of the concern for the high cost of the large machines, in the authorizing committee we included in the report of the authorization a set-aside of $2½ million for cost-shared copper magnetic development program.

I would like to ask the chairman of the subcommittee if in any way the new wording in the appropriations report excludes the Department from setting aside that $2½ million for cost sharing as I just described.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be happy to yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, we do have provisions in the report that carry out the gentleman's wishes. It is a study and it gives them several options there that will carry out the gentleman's wishes.

Mr. LUJAN. I thank the gentleman.

I have one other concern that I would like to express, and that is that in the money that is included in the bill for a vertical axis wind turbine, there is in the budget $5.7 million for vertical axis wind turbines, and of this total, $2.6 million is needed to design and fabricate an advanced research test tube in the 5-kilowatt size range.

I would like to ask the gentleman if there is anything in the bill that would preclude the Department of Energy from continuing forward with that funding of $2.6 million for the 500-kilowatt size range of the vertical axis wind turbine.

Mr. BEVILL. If the gentleman will yield further, no, there is not. We support the gentleman's position.

Mr. LUJAN. I thank the gentleman.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be happy to yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Chairman, for the purpose of clarification, I intended to offer an amendment under title III, page 21, lines 8 and 9, with reference to the establishment of a supercomputer center and computational institute. My amendment would be to the effect that funds may not be obligated or expended for the acquisition of any supercomputer which is not purchased under competitive bidding guidelines and regulations applicable to aquisitions for major Department of Energy laboratories.

It is my understanding, in talking with the chairman of the committee, that that is the committee's intention. May I have a clarification on that matter from the chairman?

Mr. BEVILL. If the gentleman will yield, we support the position of the gentleman from New York. We support you.

Mr. BOEHLERT. I thank the gentleman.

Mr. BEVILL. Mr. Chairman, we know of no more amendments, and I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any points of order against any of the remaining parts of the bill?

The Chair hears none.

Are there any amendments to the remainder of the bill?

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will only take 1 minute. On page 26 there is a limitation on the lending authority of the Bonneville Power Administration. The Bonneville Power Administration should have come to the legislative authorizing committee for this language. Instead, we legislate in an appropriations act.

I would hope, and as a matter of fact, insist that in any future attempt that the Bonneville Power Administration come to the legislative authorizing committee.

This limitation on loans not to exceed $40 million by the Bonneville Power Administration also limits any loan guarantees, loan guarantees, of course, being the same kind of obligation as a loan itself.

The CHAIRMAN. Are there further amendments?

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MOAKLEY) having assumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R 5653) making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes, with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 46, not voting 38, as follows:

[Roll No. 163]

YEAS—349

Addabbo	Fascell	Mack
Akaka	Fazio	MacKay
Albosta	Ferraro	Madigan
Alexander	Fiedler	Markey
Anderson	Flippo	Marlenee
Andrews (NC)	Florio	Marriott
Andrews (TX)	Foglietta	Martin (IL)
Annunzio	Foley	Martin (NC)
Anthony	Ford (TN)	Martin (NY)
Applegate	Frank	Martinez
Aspin	Franklin	Matsui
AuCoin	Frost	Mavroules
Barnard	Fuqua	Mazzoli
Barnes	Garcia	McCain
Bateman	Gaydos	McCandless
Bates	Gejdenson	McCloskey
Bedell	Gekas	McCollum
Beilenson	Gephardt	McCurdy
Bennett	Gibbons	McEwen
Bereuter	Gilman	McGrath
Berman	Glickman	McHugh
Bethune	Gonzalez	McKernan
Bevill	Goodling	McNulty
Biliraki s	Gradison	Mica
Billey	Gray	Michel
Boehlert	Green	Mikulski
Boland	Guarini	Miller (OH)
Boner	Gunderson	Mineta
Bonker	Hall (OH)	Minish
Borski	Hall, Sam	Moakley
Bosco	Hamilton	Molinari
Boucher	Hansen (UT)	Mollohan
Boxer	Harkin	Montgomery
Breaux	Harrison	Moore
Britt	Hartnett	Morrison (WA)
Brooks	Hatcher	Mrazek
Brown (CA)	Hayes	Murphy
Brown (CO)	Hefner	Murtha
Bryant	Heftel	Myers
Burton (CA)	Hightower	Natcher
Byron	Hiler	Neal
Campbell	Hillis	Nelson
Carney	Holt	Nichols
Carper	Horton	Nielson
Carr	Howard	Nowak
Chandler	Hoyer	O'Brien
Chappell	Huckaby	Oakar
Cheney	Hughes	Oberstar
Clarke	Hunter	Olin
Clay	Hutto	Ortiz
Clinger	Ireland	Ottinger
Coats	Jeffords	Owens
Coelho	Jenkins	Oxley
Coleman (MO)	Johnson	Packard
Coleman (TX)	Jones (NC)	Panetta
Collins	Jones (OK)	Parris
Conte	Jones (TN)	Pashayan
Conyers	Kaptur	Patman
Cooper	Kasich	Patterson
Corcoran	Kastenmeier	Pease
Coughlin	Kazen	Penny
Courter	Kemp	Pepper
Coyne	Kennelly	Perkins
Craig	Kildee	Pickle
Daniel	Kindness	Porter
Darden	Kleczka	Price
Daschle	Kolter	Pursell
Daub	Kostmayer	Quillen
de la Garza	Kramer	Rangel
Dellums	Lagomarsino	Ratchford
Derrick	Lantos	Ray
DeWine	Lehman (CA)	Regula
Dickinson	Lehman (FL)	Reid
Dicks	Leland	Richardson
Dixon	Lent	Ridge
Donnelly	Levin	Rinaldo
Dorgan	Levine	Roberts
Dowdy	Levitas	Robinson
Downey	Lewis (CA)	Rodino
Duncan	Lewis (FL)	Roe
Durbin	Lipinski	Roemer
Dwyer	Livingston	Rogers
Dymally	Lloyd	Rose
Dyson	Loeffler	Rostenkowski
Early	Long (LA)	Roth
Eckart	Long (MD)	Roukema
Edwards (AL)	Lott	Rowland
Edwards (CA)	Lowery (CA)	Roybal
Edwards (OK)	Lowry (WA)	Rudd
Emerson	Lujan	Sabo
English	Luken	Savage
Erdreich	Lundine	Schaefer
Erlenborn	Lungren	Scheuer
Schneider	Staggers	Waxman
Schumer	Stangeland	Wheat
Seiberling	Stark	Whitehurst
Shannon	Stenholm	Whitley
Shaw	Stokes	Whittaker
Shelby	Stratton	Whitten
Shumway	Stump	Williams (MT)
Shuster	Sundquist	Winn
Siljander	Synar	Wirth
Simon	Tallon	Wise
Sisisky	Tauzin	Wolf
Skeen	Taylor	Wolpe
Skelton	Thomas (CA)	Wortley
Smith (FL)	Thomas (GA)	Wright
Smith (IA)	Torres	Wyden
Smith (NE)	Torricelli	Wylie
Smith (NJ)	Towns	Yates
Smith, Robert	Traxler	Yatron
Snowe	Udall	Young (AK)
Snyder	Valentine	Young (FL)
Solarz	Vandergriff	Young (MO)
Spence	Volkmer	Zschau
Spratt	Vucanovich	
St Germain	Watkins	

NAYS—46

Ackerman	Feighan	Schroeder
Archer	Frenzel	Schulze
Badham	Gramm	Sensenbrenner
Bartlett	Gregg	Sikorski
Bonior	Hertel	Slattery
Broomfield	Hopkins	Smith, Denny
Broyhill	Jacobs	Solomon
Burton (IN)	Latta	Studds
Conable	Leach	Tauke
Crane, Daniel	McKinney	Vento
Crane, Philip	Moody	Walker
Dannemeyer	Moorhead	Weaver
Dreier	Morrison (CT)	Weber
Edgar	Obey	Weiss
Evans (IA)	Petri	
Evans (IL)	Ritter	

NOT VOTING—38

Biaggi	Hall (IN)	Mitchell
Boggs	Hall, Ralph	Paul
Chappie	Hammerschmidt	Pritchard
Crockett	Hance	Rahall
D'Amours	Hansen (ID)	Russo
Davis	Hawkins	Sawyer
Dingell	Hubbard	Sharp
Fields	Hyde	Swift
Fish	Kogovsek	Vander Jagt
Ford (MI)	LaFalce	Walgren
Fowler	Leath	Williams (OH)
Gingrich	McDade	Wilson
Gore	Miller (CA)	

□ 2020

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 5692

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it shall be in order, section 402(a) of the Congressional Budget Act of 1974 to the contrary notwithstanding, to consider the bill H.R. 5692 in the House tomorrow or any day thereafter, and that the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. (Mr. WEISS). Is there objection to the request of the gentleman from Illionis?

Mr. CONABLE. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman what his intention is. I realize that there was a modest ambush sprung this afternoon and that it may take us a little time to fall back and regroup, but I assume this measure as reported in the unanimous consent request is roughly the same as the measure brought up by the committee and rejected by the House today, but has been changed adequately to comply with the rules of the House and is to be brought up again. Is that correct?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

The gentleman is asking what the intention of the gentleman from Illinois is, it is to bring the bill up when he feels that there is an understanding as to whether or not the bill has the possibility of being passed.

Mr. CONABLE. I appreciate the gentleman's assessment. I trust it will not be Friday, but I assume that if it is necessary to put it over Friday, we are perfectly capable of doing that. Is that correct?

Mr. ROSTENKOWSKI. Well, if the gentleman from Illinois is assured there is a possibility of passage, that is when the bill will be brought up. I hope it is not Friday, and I agree with the gentleman.

Mr. CONABLE. I trust we can accommodate the Members of the House who wish to change their votes in this respect.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE INTEGRITY OF THE INSTITUTION

(Mr. MACK asked and was given permission to address the House for 1 minute and to extend his remarks and include extraneous material.)

Mr. MACK. Mr. Speaker, in January 1983 I cast my first vote for Speaker of the House—it was my first time on the floor of any legislative House and I was a bit nervous. My young son Connie was at my side, giving me advice. He kept saying vote for BOB MICHEL, vote for MICHEL. And when my name was called I hollered out MICHEL. And how proud I am that I did.

While many are defining the issue as Camscam, or are raising questions about the use or abuse of cameras with threats of further censorship, my leader, the minority leader is reflective, he points out his concern, and beliefs in an op ed piece in Sundays Post, and I quote, "recent events make me more concerned about the integrity of

the institution in which I serve." He goes further stating:

The first step toward wisdom is to admit our problems lie not within our television cameras but in ourselves. All the cameras do is record what we do. It is precisely what we do—and how we do it that makes a difference.

Mr. MICHEL, thank you for your brand of leadership. You do us proud.

The editorial follows:

POLITICS IN THE AGE OF TELEVISION

(By Bob Michel)

There has been an undercurrent of emotional strain running through the House for a good long while, and it finally surfaced in the last week with a volcanic eruption the likes of which I haven't seen in some time.

The exchanges were so heated that the propriety of what the Speaker said on the floor was brought into question and in fact ruled out of order by the presiding officer. I don't ever remember such an occurrence.

What may be partially responsible for the outbursts is the mixing of two highly volatile ingredients: partisanship and television.

A match was put to this mixture last week.

Those who believe that such incidents are "inside baseball" and of little concern to the general public or of little relevance to the governance of the nation are sadly mistaken. What is happening in the House is of broad and profound consequence. Anyone who holds the least bit of reverence and respect for the House as an institution and a great deliberative body ought to sit up and take notice.

The incidents of last week reflect a growing degree of partisanship in the House and a profound new effect that partisanship is having on the legislative process.

Partisanship is not new to the House or the legislative process. I would not be so naive as to even suggest it is. But partisanship in an electronic age has become different in kind, with far greater potential for directing or misdirecting the activities of the legislative body and bringing about fundamental changes in the way we govern.

It began shortly after the 98th Congress convened in 1983, and since then it has in good measure dictated the scheduling, the flow and the outcome of legislation in the House. The Speaker's endorsement of a presidential candidate represented a clear departure from the past, for he is the Speaker of the whole House, and it helped set the tone for the rest of Congress. The manner in which the Equal Rights Amendment was considered was an extension of that partisan influence. The delay of immigration reform is intended to help Democrats in the Democratic primary in California. Bankruptcy legislation has been held up in part to meet the needs of organized labor and prevent Republican appointment of judges.

I suspect that the Senate-passed crime bill and urban enterprise zones legislation have been bottled up because their passage would serve Republican campaign interests. Unparliamentary attacks on the floor of the House against the president have been unusually bitter and disparaging. The president has been called a liar and a warmonger. Republicans have had their humaneness challenged and their sensitivity to the needy in our society maligned. And that's just our side of the story.

Partisanship by itself can be debilitating, but when it is mixed with gavel-to-gavel television coverage of the House, a whole new dimension is added.

Communications in this media age are faster and in more detail. Few words uttered on the floor are left unrecorded or unreported. In this environment there is less chance—and, yes, less desire—to sit down and work our problems out in a bipartisan fashion. There are fewer opportunities to work compromise, to deliberate, to "come together" (which, after all, the definition of Congress is—a "coming together") prior to the members' being locked into positions or forced into partisan exchanges by the swiftness of mass communication.

There isn't enough wiggle room. There is little room to make mistakes and too little opportunity to correct them.

If this sounds like the nostalgic cry of one who remembers a day when less legislation moved through the House at a slower rate and with time for journalism and the public to digest the facts—so be it. The old days had some good points.

Electronic communication has made a spectator sport of the legislative process. It has tended to make the politics of the process, the simple solution, the immediate response and the dramatic exaggerated, emotion-clad appeal far more enticing than the cumbersome refinements of lawmaking.

Recent events make me more concerned about the integrity of the institution in which I serve. A full restoration of that integrity may not be within our grasp as members of the House alone. The new art of mass communication makes us less in control of events and circumstances than anyone might imagine. But we have to deal with it. If we do not, the process of civility and the nature of comity that have been the foundation of our legislative process will be eroded beyond repair.

But the first step toward wisdom is to admit our problems lie not within our television cameras but in ourselves. All the cameras do is record what we do. It is precisely what we do—and how we do it—that makes a difference.

It cannot be left unsaid that the heaviest burden of leadership in the conduct of the House falls upon the Speaker. He is by history, tradition, and rule, the leader of the whole House, not the majority, not the minority, but the whole. The Speaker must drop the mantle of partisanship the day he assumes office. He must leave the partisanship to the partisans. The power, the integrity and the honor of his office demand nothing less. I know the pressures to do otherwise are immense, but if we are to contribute something worthwhile to the legislative process and to the American people, it must begin with the Speaker, be sustained by the Speaker, and end with the Speaker.

LET US HAVE A SERIOUS DISCUSSION OF DEMOCRATIC FOREIGN POLICY

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, I ask unanimous consent that following my 1-minute speech I be permitted to insert in the RECORD an editorial from the Atlanta Journal.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WEBER. Mr. Speaker, yesterday I took out a special order, as I announced I would last week, to read into the RECORD the final one-third of the Gregorsky report which caused so much controversy in this House last week. The first two-thirds of that report were, of course, inserted in the RECORD on May 8 by our colleagues, the gentleman from Georgia (Mr. GINGRICH) and the gentleman from Pennsylvania (Mr. WALKER).

I would like to thank particularly two of our colleagues from the Democrat side, the gentleman from California (Mr. BROWN) and the gentleman from Kansas (Mr. GLICKMAN) for coming down to participate in that debate. It is my hope that we can now proceed with a serious discussion of the issues raised about Democratic foreign policy and foreign policy generally in the Gregorsky paper.

It is my sincere hope that we no longer have to fight through the smokescreen of charges of McCarthyism that seek to prevent us from having a serious discussion of these issues.

Mr. Speaker, the Atlanta Journal, in an editorial earlier, commented on this whole controversy and put the real issues in proper perspective, and I commend that editorial to my colleagues.

The editorial is as follows:

[From the Atlanta Journal, May 20, 1984]

WHY IS O'NEILL REALLY MAD?

Speaker of the House Tip O'Neill managed that rarest and most difficult of feats in his attack on Representative Newt Gingrich the other day: He was right and wrong at the same time.

Unfortunately, he was wrong about the most important part and right on what is at best a minor issue.

There probably is something a bit disingenuous about the new television tactic the Georgia Republican and some of his collegues have been using to attack Democrats. They make speeches at the end of the day, when there is virtually no one in the House; the C-SPAN network cameras record them and then show them on cable television. Since the cameras usually focus only on the speechmaker, it appears to viewers that the congressmen are dishing it out face-to-face with their opponents.

O'Neill, angered by the tactic, ordered the cameras to show the rest of the room so viewers would know that these are staged orations, not really part of the congressional process at all. That seems reasonable to us; politics is near enough to show business without adding phony television appearances to it. (We might wonder, however, how this differs from the age-old practice of inserting into the Congressional Record reams of speeches and comments that were never spoken in any House session.)

But the speaker's tirade went further than a complaint about technique and into an attack on the content of one of Gingrich's speeches. He accused the 6th District representative of "challenging the Americanism" of 10 Democratic House members when Gingrich complained about the letter

they wrote to Nicaraguan leader Daniel Oretga.

There are two problems for O'Neill here. First, Gingrich did not make his feelings known about the Democrats' letter only in one of his staged speeches; he also wrote to each of the 10 and to the House Republican leadership about it.

Second, and most important, Gingrich's criticism was absolutely correct. It was wrong for a handfull of congressmen to take it upon themselves to go around not only the right of the executive branch to conduct foreign policy but the normal process of Congress itself. They deserved to be called on it, whether in letters, on television or by wigwag from the Capitol steps.

Could it be that O'Neill's blast about Gingrich's manipulation of the television cameras is really intended to draw attention away from his dead-right criticism of the speaker's allies in the House?

ORDER OF BUSINESS

Mr. DOWNEY of New York. Mr. Speaker, I ask unanimous consent that my special order may precede that of the gentleman from Pennsylvania (Mr. WALKER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

WORLD ARMS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 60 minutes.

Mr. DOWNEY of New York. Mr. Speaker, let me begin by thanking my friend and colleague, the gentleman from Pennsylvania (Mr. WALKER) for allowing me to proceed ahead of him. It is an act of graciousness and I approciate it.

Mr. Speaker, today was an extrordinary day. I think that history will recall in the future that six world leaders decided to stop being spectators in the nuclear arms race and participate and it will mark a day that we will long remember as a day where we began to stop the headlong race in the appointment with Armageddon.

□ 2030

Mr. Speaker, I am referring to the activities of six world leaders: Mr. Papandreou from Greece, the Prime Minister, Mrs. Ghandi, the Prime Minister of India, Mr. Miguel de la Madrid, the President of Mexico, Julian Nyerere, the President of the United Republic of Tanzania, Olof Palme, the Prime Ministrer of Sweden, and Raoul Alfonsin, the President of Argentina.

These world leaders have signed a joint declaration. At this point I include that declaration in the RECORD:

The declaration referred to follows:

JOINT DECLARATION

(By H.E. Mrs. Indira Gandhi, Prime Minister of India; H.E. Mr. Miguel de la Madrid, President of Mexico; H.E. Mr. Julius Nyerere, President of the United Republic of Tanzania; H.E. Mr. Olof Palme, Prime Minister of Sweden; H.E. Mr. Andreas Papandreou, Prime Minister of Greece; Raoul Alfonsin, President of Argentina; issued in Athens, Dar es Salaam, Mexico City, New Delhi, and Stockholm; May 22, 1984)

Today, the survival of humankind is in jeopardy. The escalating arms race, the rise in international tensions and the lack of constructive dialogue among the nuclear weapons states has increased the risk of nuclear war. Such a war, even using part of the present stockpiles, would bring death and destruction to all peoples.

As leaders of nations, member states of the United Nations, we have a commitment to take constructive action towards halting and reversing the nuclear arms race. The people we represent are no less threatened by nuclear war than the citizens of the nuclear weapons states. It is primarily the responsibility of the nuclear weapons states to prevent a nuclear catastrophe, but this problem is too important to be left to those states alone.

We come from different parts of the globe, with differences in religion, culture and political systems. But we are united in the conviction that there must not be another world. On this, the most crucial of all issues, we have resolved to make a common effort in the interests of peace.

Agreements which merely regulate an arms build-up are clearly insufficient. The probability of nuclear holocaust increases as warning time decreases and the weapons become swifter, more accurate and more deadly. The rush towards global suicide must be stopped and then reversed. We urge, as a necessary first step, the United States and the Soviet Union, as well as the United Kingdom, France and China, to halt all testing, production and deployment of nuclear weapons and their delivery systems, to be immediately followed by substantial reductions in nuclear forces. We are convinced that it is possible to work out the details of an arrangement along these lines that takes into account the interests and concerns of all, and contains adequate measures for verification. This first step must be followed by a continuing programme of arms reductions leading to general and complete disarmament, accompanied by measures to strengthen the United Nations system and to ensure an urgently needed transfer of substantial resources from the arms race into social and economic development. The essential goal must be to reduce and then eliminate the risk of war between nations.

We will do everything in our power to facilitate agreement among the nuclear weapons states. We will continue to keep in touch with one another about the best ways and means of achieving this objective. We will be consulting with the leaders of the nuclear weapons states and with other world leaders as well as pursuing discussions through United Nations channels.

We affirm our belief in detente and mutual understanding, with broad international co-operation and respect for the right of each state to a peaceful, secure and independent existence and the right of each people to organise its life according to its own aspirations. There can be no assurance of safety for one side only. That is why we attach such importance to a halt in the nuclear arms race that allows for renewed talks on nuclear disarmament.

All people have an overriding interest in common security and the avoidance of a nuclear war which threatens human survival. Citizens throughout the world are expressing, as never before, their concern for the future; this public discussion of peace and disarmament must continue and increase. The support and encouragement of an informed public will greatly strengthen governmental action to reverse the nuclear arms race.

We have faith in the capacity of human beings to rise above the current divisions and create a world free from the shadow of nuclear war. The power and ingenuity of the human race must be used, not to perfect weapons of annihilation, but to harness the resources of the earth so that all people may enjoy a life of security and dignity in an international system free of war and based on peace and justice.

Today, the world hangs in the balance between war and peace. We hope that our combined efforts will help to influence the outcome.

Mr. DOWNEY of New York. The joint declaration is a recognition on the part of the world leaders that their constituents, the people in their country, are no less threatened by nuclear war than are the people in the United States and the Soviet Union. And with that understanding they have started a process of mediating between the superpowers and attempting to bring the Soviet Union and the United States, Great Britain, France, and China to understand that more nuclear weapons do not bring us closer to peace; they only bring us closer to war.

Now, skeptics will say that for 30 years we have had bilateral negotiations. Why stop that process.

Mr. Speaker, I have had an opportunity to witness for 4 years the SALT process. The United States tables language that supports their position. The Soviet Union tables language that supports their position. And if the United States says anything other than the Soviet position is unacceptable we find that people in our country will say that the United States is giving in to the Soviet Union. The Soviet Union has the same problem. If they say "We accept the language that the United States has tabled," they are in a compromise position.

So historically what has happened in the SALT and START talks, the United States expresses its position, the Soviet Union expresses their, and over the period of years and months hopefully some language mutually acceptable can be worked out.

The problem is that the arms race goes on and on and on during the period of time when those negotiations were taking place.

What these world leaders are saying is:

Let us help you. We are not going to tell you what your arms package will be or what

is in the interest of your own security. That is up to you to do. We can play a role as facilitator. We can make a draft joint treaty that you can both criticize, but that recognizes your mutual interest.

There is ample historic precedent for this, most recently in Camp David when President Carter brought Anwar Sadat and Menachem Begin to agree to the Camp David accords. He did so by allowing both leaders to criticize a mutual position and work back from there. It is a classic negotiating technique, and there is no reason why it could not work now.

What these leaders have recognized is that the United States and the Soviet Union need help and, indeed, those of us who have been studying the problem between our two countries realize that right now as we speak the relationship between the United States and the Soviet Union is about at its lowest point in the cold war. And we cannot afford to continue to have this gulf of misunderstanding.

Now the world leaders have been brought together by an organization known as Parliamentarians for World Order.

At this point, Mr. Speaker, I include a number of documents explaining what this organization is and how they originated this four-continent peace initiative.

The documents referred to follow:

THE FOUR CONTINENT PEACE INITIATIVE
ORIGINS AND POTENTIAL

The Initiative was first proposed by Parliamentarians for World Order (PWO), a new international network of legislators in 31 countries. Their effort began in the summer of 1983, when small groups of parliamentarians set out around the world to meet with key national leaders who shared a growing concern over the deteriorating relations among the nuclear weapons states.

In the months that followed, working in complete secrecy, the officers of PWO crisscrossed the globe, carrying with them drafts and option papers which were developed, expanded and revised in consultation with each of the leaders. At the same time, the heads of government were in direct contact with each other to exchange ideas on the form their action might take.

Final plans were laid at two confidential meetings at India House in London in February and March of this year. The meetings were attended by top foreign policy advisors to each national leader, and four representatives of PWO: John Silkin (UK), Olafur Grimsson (Iceland), Rep. Thomas Downey (USA) and Nicholas Dunlop, PWO Secretary-General. It was decided to launch the Four Continent Peace Initiative in simultaneous press conferences on the 22nd of May.

The Initiative was conceived when, in January 1983, the PWO International Council met at Church House, London—a building which housed the British Parliament during World War II, as well as early meetings of the United Nations—to consider the growing danger of nuclear war. The parliamentarians concluded that only action at the highest level held any hope of breaking the stalemate in nuclear negotiations. "It is our belief," they wrote in their first letter to the leader, "that at this cross-roads in human history, a cross-roads between war and peace, you personally occupy a critically important position. You and a small number of your fellow heads of government can provide leadership which no other people can offer."

The parliamentarians agreed that the most effective action could come from a small group of five or six leaders. They set out to contact heads of government whose position and reputation could enable them to articulate the concerns of millions of people in Europe, Asia, Africa and the Americas, people who live in fear of nuclear war but feel powerless to influence the nuclear weapons states.

In PWO's view, the Four Continent Group could play a crucial role in helping to negotiate a halt to the arms race. It could do so in several important ways.

The leaders could put forth balanced proposals which have credibility on both sides of the East-West divide, where as proposals from Moscow or Washington are immediately suspect on the other side.

The leaders could use the "single text" negotiating technique to develop proposals which reflect the legitimate interests of all sides. In this approach, which has been refined by Harvard Professor Roger Fisher (an advisor to PWO), the leaders and their representatives would carry between the nuclear capitals a draft outline of an agreement and repeatedly re-draft it in the light of comments and suggestions received. This process has the great advantage that a sound basis for agreement can be developed without either side being required to make a series of "concessions" in the face of threats.

The heads of government of major nations can talk to the leaders of the nuclear weapons states as equals, and could provide a direct channel for constructive communication between them. This in turn could help to lift the nuclear negotiations from the technical level to the level of political decision-making.

Finally, the Four Continent Group could provide a new focus for the efforts of parliamentarians and citizens who are working for disarmament and peace.

Following their announcement on May 22, the five leaders will consult with their counterparts in the nuclear weapons states to explore the possibilities for progress in arms negotiations. At the same time, PWO will assemble an expert working group to develop detailed recommendations for the leaders as to how their proposal for a halt to the arms race might be implemented. Those involved in PWO's drafting process will be travelling to Moscow, Washington and the other nuclear capitals to seek comments and advice from knowledgeable experts and officials. They will make clear at all times that they are representing only PWO, not the Four Continent leaders. The leaders themselves will remain in contact, perhaps meeting together as a group, to review the responses they have received and to consider possible next steps.

For thirty years, the two nuclear superpowers have been negotiating together in Geneva. During those years, the atomic stockpiles have steadily increased. The time has come when the rest of humankind is no longer content to wait on the sidelines while relations between the nuclear powers worsen and the threat of war increases. Today, leaders from four continents are raising a new voice on behalf of planet Earth. As a group, they have the potential to act as the honest broker for survival which the world so desperately needs.

OVERVIEW

Reflecting a deepening gloom over the collapse of all nuclear arms control talks and a belief that the nuclear weapons states are beginning a drift toward war, five world leaders who are independent of both Washington and Moscow took the unusual step of advancing an arms control initiative of their own. They will personally release it in simultaneous press conferences held in their respective capitals today.

Launching this "Four Continent Peace Initiative" are Indian Prime Minister Indira Gandhi, Mexican President Miguel de la Madrid, Swedish Prime Minister Olof Palme, Greek Prime Minister Andreas Papandreou, and Tanzanian President Julius Nyerere.

The five vow to "do everything in our power to facilitate agreement among the nuclear weapons states" on an across-the-board halt to the nuclear arms race, according to the joint nine-point declaration that will explain their initiative.

They hope to break the political impasse by using their combined influence to appeal directly to the United States and the Soviet Union, as well as to the other nuclear weapons states, France, Britain and China, to put a halt to what the leaders call "the rush towards global suicide."

"We come from different parts of the globe, with differences in religion, culture and political systems," the five national leaders stated in their declaration. "But we are united in the conviction that there must not be another world war."

The effort has taken more than a year of intense consultations to prepare, and is intended to begin a new process to stem the arms race.

Nuclear arms control has taken such a downward spiral, the leaders said, that nonnuclear states can no longer sit idly by. "The people we represent are no less threatened by nuclear war than the citizens of the nuclear weapons states," they stated in their declaration.

Mirroring this view, Prime Minister Gandhi explained, "What the scientists tell us is that the whole world will be affected. This is an issue on which men and women, young and old, all nationalities, should stand together. We are all neighbors on this planet."

The leaders have taken the unusual step of sending their United Nations Ambassadors to deliver the declaration to the U.N. Mission chiefs of the United States, the Soviet Union, France, Britain and China. The five Ambassadors will go as a group to each of the missions on May 22nd.

All five leaders will be consulting with the heads of government of the nuclear weapons states. They plan to remain in close contact with each other following the declaration in order to track the political response and to review possible next steps.

"If any program is left to the technical level then it can get bogged down in details and complexities," said Mrs. Gandhi, "whereas the need is to raise it above that to a level of statesmanship which only the leaders can give."

The Four Continent Peace Initiative was born last year when a group of parliamentarians assembled in Church House in London to consider efforts they could undertake to confront the worsening tensions among the nuclear weapons states. The members belonged to a five year-old organization known as Parliamentarians for World Order. Starting in mid-1983, they dis-

patched delegations to meet with a select group of government leaders in order to discuss proposals for joint action.

"This is the first group of political leaders that really has the ability to play an effective third party role in negotiations to end the arms race," observed Nicholas Dunlop, Secretary-General of the organization, who has shuttled back and forth across continents for most of the past year.

Commenting on the implications of the appearance of a newly organized "third" political force between East and West, Prof. Roger Fisher, head of the Harvard Negotiation Project noted, "What is unique about this initiative is not just the content of the proposals but the process of which they are a part. It's already a success because it is changing the structure of the nuclear debate."

Among those parliamentarians who participated behind the scenes on behalf of this effort are: Olafur Grimsson (Iceland), Douglas Roche, M.P. (Canada), John Silkin, M.P. (United Kingdom), Relus Ter Beek (Netherlands), Rep. Tom Downey (USA), Rep. Berkley Bedell (USA), and Senator Silvia Hernandez (Mexico).

The text of the joint declaration of the leaders will be available on May 22, 1984.

THE FOUR CONTINENT LEADERS: INFORMATION AND QUOTES

H.E. Mrs. Indira Gandhi, Prime Minister of India: Since taking office in January, 1966, Mrs. Gandhi has taken a prominent role on the international scene. She has travelled widely, making numerous official visits to both the Soviet Union and the United States. The daughter of the late Jawarharlal Nehru, Mrs. Gandhi has carried on his work with the Non-Aligned. She is now Chairwoman of the Group of Non-Aligned Nations. She has had a long-standing interest in disarmament and sent a special message to the Second Special Session on Disarmament at the United Nations, calling for a concrete programme of action to achieve comprehensive disarmament.

H.E. Mr. Miguel de la Madrid, President of Mexico: After serving as Under-Secretary of Finance and Minister of Planning, Miguel de la Madrid was elected President of Mexico in 1982. Under his leadership Mexico has played an important role in the Contadora Group, an effort undertaken by the governments of Mexico, Colombia, Panama and Venezuela to resolve the conflicts in Central America through dialogue and negotiation.

H.E. Mr. Julius Nyerere, President of the United Republic of Tanzania: Julius Nyerere has been President of Tanzania since the country's first election in 1964. Nyerere has been a spokesman for his own and many other liberation movements in Africa, and his leadership in the O.A.U., his commitment to non-violence, and his vision of Pan-Africanism inspired hope throughout the Third World at a time when dozens of nations all over the globe were coming to independence.

H.E. Mr. Olof Palme, Prime Minister of Sweden: In 1982, Olof Palme became Prime Minister of Sweden, a position which he also held from 1969 to 1976. Palme has served as a U.N. envoy between Iran and Iraq, and has been supportive of the proposal for a nuclear weapon free zone in the Scandinavian region. Palme also headed the Independent Commission on Disarmament and Security Issues, the final document of which contains recommendations for strong arms control and reductions measures.

H. E. Mr. Andreas Papandreou, Prime Minister of Greece: Andreas Papandreou became Prime Minister of Greece in 1981 after years as an exile in opposition to the fascist and military dictatorships which plagued Greece on and off for twenty years. He lived for fifteen years of this period in the U.S., teaching economics. Since 1982, he has been promoting a nuclear weapon free zone in the Balkan Peninsula, and he has also been outspoken in calling for a halt to further nuclear deployments by all nations.

COMMENTS BY PRIME MINISTERS GANDHI AND PAPANDREOU FROM INTERVIEWS PRIOR TO THE ANNOUNCEMENT

I read somewhere that 50% of young Americans believe that there will be a nuclear war within twenty years. I feel this is a very depressing thought and I can only hope and pray that they will be proved wrong. But frankly I am deeply distressed and also astonished at the apathy which one sees, almost resignation, acceptance of such a horrifying event. And I think this is where some of us can help, in trying to arouse people. I think if our voice is strong enough and more and more people join, especially young people, it will make a difference.—Prime Minister Gandhi.

There's no objection to the nuclear weapons states settling the matter. But we are also concerned because the danger and the threat of nuclear war is a very widespread one; it would envelop the entire globe. It's too important an issue to be left to them, especially as they're not moving much . . . I am convinced that answers can be found which take into account the interests and concerns of the countries which are so busy stockpiling.—Prime Minister Gandhi.

All the great leaders of thought have stressed brotherhood, compassion and goodwill among men and we would like to bring about such a world, not just for Mahatma Gandhi's sake—although that would be the greatest memorial to him—but also for ourselves and coming generations.—Prime Minister Gandhi.

The real thing I would like to focus on is bringing a sense of urgency. Everybody's talking about nuclear war, but they're talking as if it's just another problem. It isn't. It is the crucial problem of today. If what the scientists say—and we have no reason to disbelieve them—comes true as a result of nuclear war, then everything else is irrelevant. Every day lost we are increasing the danger.—Prime Minister Gandhi.

What we want to impress upon the leadership of the two superpowers is that there has to be a way to put an end to this mad race which is likely to lead to a nuclear war unless we wake up . . . I think this is a group which has the potential for mediating between the nuclear powers. One cannot speak about oneself, but these are people of great international visibility. They represent pretty much all the continents, and accordingly it should be as good a group as any I can think of. I hope this effort may have some good results. It is essential that it does.—Prime Minister Papandreou.

I believe that the prevention of nuclear war is not an issue that concerns only superpowers. It is of direct concern to all of us since it threatens our lives. Therefore, any attempt aiming at achieving a positive solution cannot be left exclusively to the superpowers.—Prime Minister Papandreou.

NOTE.—Pre-interviews have not yet been conducted with President de la Madrid, President Nyerere and Prime Minister Olof Palme.

SOME QUESTIONS

An interview with Dr. Olafur Grimsson (Iceland), Chairman of the Council of Parliamentarians for World Order.

1. Why have you launched the initiative now?

The situation is worse now than it's ever been. There is a total breakdown in nuclear disarmament negotiations, and increasing hostility on all fronts between the superpowers. Even the Olympic Games have felt the chill and this touches the hearts of people all over the world. So the time is ripe for other leaders to step in to influence the course of events.

2. What's new about the initiative?

It's the first time that the non-nuclear states have collectively acted at the highest levels to intervene in a field long considered the exclusive domain of the nuclear powers. It's also the first group of national leaders with the potential to play an effective, ongoing third party role in nuclear negotiations. They are prepared to explore new approaches to advance negotiated agreements. But there's more. Even the launching is unprecedented. Never before has a group of Prime Ministers and Presidents on different continents scheduled simultaneous press conferences to announce a joint initiative like this. In a way, it's a bit of history in the making.

3. Do you think these leaders know more about nuclear weapons than do experts in the United States, the Soviet Union and other nuclear weapons states?

No. We believe it is possible that impartial third parties may be able to facilitate the process for dealing with the arms race.

4. But what can they actually do to get the nuclear powers to agree on disarmament?

Nuclear disarmament is not a technical problem, rather it's a political problem. It requires political experience and understanding such as the members of this group have in abundance. They know the difficulties but they also know how to get things moving. They've got to help the superpowers solve the problem without losing face. And in this the Four Continent Group will have the help of experts, parliamentarians and we hope, public opinion.

5. Why should the non-nuclear states be concerned about a U.S.-Soviet nuclear confrontation? Isn't it primarily their problem?

No, scientists have recently shown that even a small nuclear war could very probably destroy the basis of life on earth. It concerns us all. If either of the superpowers attacked the other it would create a nuclear winter even if the second power did not retaliate. If Britain, France or China used their small arsenal of nuclear weapons it would also create the same effect. And people thousands of miles from the nuclear powers are beginning to realize it would affect them too. Therefore leaders from Asia and Africa—as well as Europe and the Americas—have come together to launch this initiative.

6. What do you think is wrong with the present bilateral U.S.-Soviet process?

For one thing, they're not talking. While they were, the proposals tended to be partisan and one-sided. The bargaining process would turn into a contest to see which government would be slowest to change its position. And the process is terribly slow when any change in a government's position requires a ponderous bureaucratic decision-making process. The Four Continent Group can improve communication, put some im-

partial ideas on the table, and develop new approaches without requiring a formal commitment from anyone.

7. Hasn't the U.N. already called on the nuclear-weapons states to end the arms race? What can you do that is different?

So far, the nuclear arms race has been seen as a special subject of concern to the Soviet Union and the United States. Most of the time most other countries have seen themselves as reluctant spectators, passing resolutions urging the nuclear powers to do better but doing nothing more. These heads of government have decided to change that. Success for us means changing the process to one in which the concerns, ideas and suggestions of other countries are actively involved.

8. What then will be the next steps of these five leaders?

First they have declared they will engage themselves in this business. They are convinced that it can't be solved just by two powers around one table. It can only be solved in a complex way with a variety of political methods. In the coming months these leaders are going to have discussions with the leaders of the nuclear powers. They'll use all their access. In addition their advisors and those who have prepared this Initiative will create a continuing process of consultation. There will be a lot of action.

9. Do you think the nuclear powers might simply ignore the four Continent Group?

This group is too important and its leaders have too much personal prestige to be ignored. Neither the Soviet Union nor the United States can afford to ignore their important neighbours, India and Mexico. Britain and France can't afford to ignore their fellow Europeans, Sweden and Greece, and the moral stature of Julius Nyerere stretches far beyond Africa.

PARLIAMENTARIANS FOR WORLD ORDER: BACKGROUND

Parliamentarians for World Order (PWO) is an international network of politicians working together on disarmament and development. As key politicians from different political parties, PWO members command a unique access to every level of the political system, from the upper echelons of government down to the grass roots. As an action network of individual parliamentarians, PWO also has the ability to coordinate simultaneous legislative action on a global scale.

Drawing on these political resources, PWO was able to establish contact with a number of world leaders who are united today in the Four Continent Peace Initiative. During the summer of 1983, PWO sent these leaders a proposal for a new approach to break the deadlock in arms negotiations. In the months prior to the launching of this Initiative, PWO delegations met with the leaders, and continued to submit more detailed documents for their consideration. In this unprecedented endeavour to reverse the arms race, PWO has acted both as a catalyst and as a channel of communication between the national leaders.

Since its founding in 1980, PWO has consistently pursued bold and dramatic actions related to disarmament. In 1982, PWO drafted and coordinated the circulation of a Call For Global Survival, which urges a complete halt in the nuclear arms race to be followed by comprehensive world-wide disarmament and strengthened global institutions for security and economic development. This document now carries the signatures of nearly 1000 Members of Parliament from 55 countries. In the same year, a high level PWO delegation flew first to Moscow and then to Washington. The Call and an accompanying Action Programme For World Security were presented to Soviet and American leaders in personal discussions at the White House and the Kremlin. As a corollary to this action, PWO members acting in concert were introducing and debating resolutions based on the CALL in parliaments of countries as far apart as the United States, Iceland and New Zealand.

While maintaining its efforts to help defuse the East/West conflict, PWO also devotes considerable time to the pressing issues of economic development and the improvement of North/South relations. PWO has organized four highly successful parliamentary conferences at the United Nations on such topics as "The Politics of Human Survival," "Revitalizing the World Economy," and "Global Militarization Versus Economic Development." An international conference on hunger, entitled "The Poor Can't Eat Theories," took place in Rome recently under PWO auspices. These meetings have provided attending party leaders, Chairmen of Foreign Affairs and Development Committees as well as other prominent parliamentary figures with the opportunity to discuss and develop proposals for action in consultation with experts.

PWO now has 650 members in 31 countries: Australia, Belgium, Bolivia, Canada, Costa Rica, Denmark, Federal Republic of Germany, France, Iceland, India, Ireland, Italy, Jamaica, Japan, Kenya, Mexico, Netherlands, New Zealand, Norway, Peru, Philippines, Spain, Sweden, Switzerland, Thailand, United Kingdom, USA, Venezuela, Zaire, Zambia and Zimbabwe. The organization's activities are coordinated and administered by its international secretariat in New York and funded by contributions from foundations, corporations, individuals and national parliaments.

Today, 800 million people remain trapped in absolute poverty. The threat of nuclear annihilation is growing. But in every nation of the world there are people working for development and disarmament, bound together by the hope of overcoming these threats. Parliamentarians for World Order links together influential politicians who share this hope, and provides them with an effective vehicle for action.

Mr. DOWNEY of New York. As the chairman of the U.S. group, it has been my esteemed privilege to work with my colleagues, the gentleman from Iowa (Mr. BEDELL), the gentleman from California (Mr. LEVINE), the gentleman from Iowa (Mr. LEACH), the gentleman from California (Mr. MILLER), the gentleman from California (Mr. BROWN), and the gentleman from Massachusetts (Mr. FRANK).

Over the last year Parliamentarians from all over the world have attempted to influence and excite the world leaders to the proposition that their intermediary role will work.

I visited Mr. Papandreou personally and Mr. Trudeau. Mr. BEDELL visited President de la Madrid and Prime Minister Bob Hawke. And Mr. Olafur Grimsson, a member of Parliamentarians for World Order, visited Mr. Nyerere, Mr. Palme, and Mrs. Ghandi, and Mr. Ceausescu. So this has been a process where different Parliamentarians have been involved in attempting to bring people together.

People will say, "Well, now that they have issued this joint declaration, what is next?"

Frankly, Mr. Speaker, what I hope is next is that both in the United States and the Soviet Union the superpowers will appreciate this effort to mediate and offer some suggestions to representatives of those governments, and at some time in the future, and hopefully in the not too distant future, we will be able to put together a joint draft treaty text to be offered both in the United States and the Soviet Union.

Mr. Speaker, I hope that over the weeks and months to come that we will be able to tell this House and this country more and more about this process and I hope that the world leaders who are involved remain as active and as vibrant participants in this process as they have been heretofore.

I want to congratulate them and I hope that my colleagues will sign a letter urging President Reagan to consider their efforts seriously.

I include that letter at this point in the RECORD.

The letter referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 22, 1984.

President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to you to commend to your attention the joint declaration issued today by the heads of states of India, Mexico, Tanzania, Sweden, Greece and Argentina as part of the Four Continent Peace Initiative. In the months to follow, these world leaders have pledged to do what they can to break the political deadlock attendant to the arms race. This unprecedented effort reflects the concern with which people of all continents, all races, all religions, and all politcal systems view the danger inherent in the prolification of weapons of mass destruction, and reminds us how dependent all of humanity is on the responsible actions of all government, particularly the superpowers.

Recent scientific evidence suggesting that even a small nuclear exchange could rob the global environment of its ability to sustain life provides an apt background to the six leaders' declaration. In light of such evidence, it is ever more clear that arms control is not just the responsibility of the superpowers, but is the obligation of large and small countries alike.

Recognizing that reasonable people and responsible governments may differ on precise approaches to arms control, we urge you to receive the Four Continent Peace Initiative in the spirit in which it is offered: as a sincere effort to break the present political impasses and to marshall the efforts of all of humankind to preserve and increasingly imperiled world.

Sincerely,

THOMAS J. DOWNEY.
BERKLEY BEDELL.
PAUL SIMON.
JIM LEACH.
GEORGE MILLER.
MIKE BARNES.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY of New York. I will be happy to yield to my friend and colleague from Iowa (Mr. BEDELL).

Mr. BEDELL. I thank the gentleman for yielding. I want to commend him for his leadership he has shown in this effort and for the great work he has done in this effort.

We have many opportunities, because of our service here in the Congress, and I am delighted that I have had an opportunity to participate in this particular effort. We never know whether these efforts will work or whether they will not work. We do know that things are not working today, and certainly there is great hope that by using these other leaders of other countries as mediators and facilitators that they may be able to bring some sense to what is happening today between the two superpowers.

It was our privilege recently to hear Dr. Carl Sagan tell us about what their research has indicated would occur in the event of a nuclear war. In summary, what they have found is that whereas in the past as countries went to war other countries could sit on the sidelines and watch what was happening, that will no longer be the case. And if indeed we get into a major exchange between ourselves and the Soviet Union it will not only be our countries that will be destroyed but very likely all of the countries of the planet and very possibly human life on this planet itself.

So I am delighted that some of these other leaders have recognized the opportunity that they have and have decided that they are going to participate in efforts to try to bring the leaders together, to try to bring some sense to what is happening today. And they are in a unique position to do that because they do have access to the leaders of both countries.

So frequently when we become engaged in conflicts where we get farther and farther apart and more and more polarized, what we need is some neutral party or parties in order to come between us and help to bring some sense to the dialog.

I am delighted with the effort that my colleague has put forth and the effort others have put forth. I am delighted that I have had an opportunity to be a part of it and I pray to God that this may prove to be the one thing that will help to bring some reduction in the tensions that exist today and bring some hope to the people of the world, that it is much less likely that we will end up with the devastation of this planet.

I want to thank the gentleman.

Mr. DOWNEY of New York. I want to thank my colleague from Iowa for his participation which has been generous and on such short notice in many instances.

Mr. LEVINE of California. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY of New York. I now yield to my colleague from California (Mr. LEVINE).

Mr. LEVINE of California. I would like to begin as did my colleague from Iowa by commending our colleague from New York (Mr. DOWNEY) for the leadership he has taken in this extremely important, not just with regard to the specific declaration but with regard to the whole series of activities that the Parliamentarians for World Order have been pursuing, and our colleague from New York has taken a leadership position and played an extremely significant role.

I was pleased to learn about these activities only recently, and I must tell you that I was delighted to hear that the leaders from the six countries that were mentioned earlier this evening have agreed to take this very significant role.

When we are talking about issues as serious and potentially devastating as the issue of nuclear winter, and when we are talking about the fact that the possibility of a nuclear war could not only devastate the civilization that we have known in this country and that our principal adversary, the Soviet Union, would have known in its country, but also could devastate cultures far beyond those of the United States and the Soviet Union, and even continents beyond those of Europe, even Asia and North America, I think we can understand the urgent reason why the nations such as those that have come together today in this historic statement have to do everything that they possibly can to try to bring some sanity to the arms race.

□ 2040

The very fact that these six world leaders have come together and have decided to take a strong position urging the leadership of not just the United States and the Soviet Union, but of the other three nuclear powers as well to sit down, come to grips with the arms race, do everything that they can to inject some dialog and some discussion into the arms race is an extremely encouraging sign.

For the first time in 15 years, there are no ongoing nuclear arms control talks. Relations between the United States and the Soviet Union have reached perhaps their lowest postwar point. At the same time, the nuclear arms race continues to escalate with both countries deploying new destabilizing weapons.

Other technology programs dealing with strategic defense may in the future stimulate a new and more dangerous round in the arms race. All of these developments threaten the continued viability of the unofficially observed SALT II agreement and the ABM Treaty, possibly the most significant arms control agreement of the postwar era.

It is clear that we live in dangerous times requiring extraordinary efforts to halt the nuclear arms race. The four continent peace initiative, issued by India, Mexico, Sweden, Greece, Tanzania, and Argentina calls on the five nuclear powers "to halt all testing, production and deployment of nuclear weapons and their delivery systems to be immediately followed by substantial reductions in nuclear forces." It is an expression of deep concern, not only on the part of the four cosponsors, but also by the Parliamentarians for World Order (PWO), a new international network of legislators in 31 countries, which first proposed the initiative.

Mr. Speaker, the four-continent peace initiative demands close attention and support. It is the responsibility of the five nuclear powers, and above all the two superpowers, to prevent a nuclear catastrophe. However, the prospect of possible global suicide naturally concerns all the nations of the world. Hopefully, our administration as well as the other nuclear weapons states will pay attention to increasing global concern and begin to seriously address the most pressing issue of our times.

Again I commend the gentleman from New York for his leadership and I thank him for calling this special order.

Mr. DOWNEY of New York. Mr. Speaker, I thank my colleague from California.

I yield to my other colleague from California.

Mr. BROWN of California. I thank my friend for yielding.

I want to join in commending him for the leadership he has displayed in furthering this program to involve other important nations in the world in the processes of establishing peace in the world. Obviously, it is a concern that all of us share.

I am proud, personally, to be identified as a part of this effort. I have not been as successful as some of the others in that I sought to involve one of the Iron Curtain countries, which I knew to be sympathetic to this effort, to participate in it, and, because of the fact that the environment in which these countries exist is not conducive to participation in activities of this sort at this time, they chose not to be part of it.

However, I think that in a different climate we are going to be able to involve countries from all parts of the ideological spectrum and that this movement which we are commenting on tonight may well become one of the critical international movements in

the world during this period in history.

So I am personally pleased to note the effort that is being made here. I want to continue to participate in it and I look forward to even greater successes in this initiative for global peace in the future.

Mr. DOWNEY of New York. I thank my friend from California. We look forward to his important contributions. I might add that this is, while it has not received the coverage, frankly, that I would have liked this evening on I believe ABC Television and this morning, Mrs. Gandhi appeared and Mr. Papandreou appeared to express their interest in seeing the superpowers pay some attention to this initiative, I think one point needs to be made over and over and over again.

This is not the same sort of U.N. resolution that people vote on and walk away from and then go back and tell their people in their country, we have done everything we can on the arms race. That frankly is not enough. What they have to recognize is their own additional responsibility here to do something.

The United States and the Soviets will continue to put forward extreme positions that benefit their own nuclear arsenals and their own constituency at home.

What needs to be done is a recognition that a middle ground that can be supported by both the United States and the Soviet Union can be accomplished. And I frankly believe that with the pace of armament going as it is and the gentleman is a leader in attempting to slow that pace down, especially in the area of antisatellite weaponry, that the time is now to put a halt to the arms race.

The United States and the Soviet Union are frankly not going this alone. They need the help of these countries. The fact that these world leaders are prepared to put their prestige on the line is quite remarkable. And we can only hope and pray that both Moscow and Washington pay some attention to their urgent call.

Mr. BROWN of California. If the gentleman will yield further.

Mr. DOWNEY of New York. I yield to the gentleman from California.

Mr. BROWN of California. I thoroughly concur in the statement that he has made.

Let me point out that it is one of the great assets of this country, and the other democratic countries of the world, that we are free to communicate, and to plan, and to seek to unite ourselves in bringing about the improvement of the conditions that exist in the world today and that it can make us be proud of the fact that we are part of a great parliamentary democracies.

Mr. DOWNEY of New York. I want to conclude with the last paragraph of the joint declaration which says that: "Today the world hangs in the balance between war and peace. We hope that our combined efforts will help to influence the outcome."

Once again, I want to thank my colleague from Pennsylvania (Mr. WALKER) for his generosity in allowing me to precede him in this evening's special orders, and I yield back the balance of my time.

□ 2050

DEFICITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Deficits, deficits, deficits, even in this empty Chamber we hear that word so often that it seems to echo from the walls. We talk deficits all the time around here.

I though it might be interesting to reflect a little bit this evening on how we get the deficits and what they really mean.

We have heard an awful lot from both political parties over the last several months about deficits. We have heard, I think, from them enough to know the deficits are bad for the economy, they are bad for the country. We know flat out that deficits are one of the factors which brings about increased interest rates. We know flat out that we have a problem with deficits because they try the Federal budget process in ways that become irresponsible. We know that deficits simply cannot be sustained at the levels at which they presently exist for long periods of time without causing major economic problems.

The question that we have to ask ourselves, it seems to me, is: How do we get deficits? Are deficits created when a President sends to the Hill a budget which shows in it $178 billion or $180 billion more than the revenues we expect to collect? Is that what creates deficits?

Well, that may be a factor. If we get a budget passed here in the House of Representatives that has the amount of spending out of whack with the amounts of money that we are going to raise in revenue, does that create deficits?

Well, that may be in part a factor.

But what really creates deficits? What one factor really creates deficits is when this Congress spends money. That is when deficits are created. Deficits are not created by the budget mechanisms, they are not created by the President of the United States. They are created here in Congress when Congress spends the money.

In other words, deficits are created in the appropriations process.

Today we began the appropriations cycle in Congress. We began the appropriations cycle in Congress by passing what I regard as a wholly irresponsible rule, a rule which, it seems to me, will end up increasing the deficits by inordinate amounts.

What did that rule say? That rule said that during the appropriations process that we will go through for the next several weeks, we can ignore the budget process, that we simply waived the Budget Act, and said that we do not have to bother with that any longer. Any limits that were set in the Budget Act have been thereby rendered inoperable because we passed a rule here on the floor saying we can ignore that.

So forget the budget as a way of controlling deficits. We just said on the House floor today the budget is meaningless with regard to controlling deficits. We are simply going to waive the provisons of the Budget Act that was meant to control us.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentlemen from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

I want to focus on this point for 1 minute because the gentleman, and myself, and other Members have tried to focus on this problem since the beginning of the year.

When we go back to our constituents and we talk to them about the problems of the country and the economy, they focus a great deal on the deficits and on the problem of the budget. Their questions are fairly straight forward and reflect the commonsense of the people who both the gentleman and I represent. They say: "Why don't you just balance the budget? Why don't you just cut the budget? Why is this problem growing inordinately?"

And we are forced to give rather complex explanations because the rules of this institution are rather complex.

So I think it is very important for people to understand that today is a vote on a rule, a supposedly procedural vote, a vote that no Member or very few Members are going to likely be held accountable for by their constituents—because, after all, those are just procedural votes, we do not talk about the procedural and technical votes, we can always fool our constituents about those—this was a vote that really reflected the reason why or one of the major reasons why the budget is out of control.

I think the gentleman is raising an important point, but I would ask him to explain a little more clearly exactly how it is that a rule affects a bill that is to be considered and why it is that this vote on a rule, a procedural vote, is important to the budget process.

Mr. WALKER. This was a rather interesting rule because this rule not only affected the bill that we were

about to consider, it was a rule that affected all appropriations bills that are going to come hereafter.

The way in which we proceed in this Chamber is that if you have a measure which is going to be considered on the House floor, you go to the Rules Committee and you get a rule. That is the pattern for consideration of that legislation.

It says, for instance, how much time the bill will be debated, if it is a closed rule, as many of the rules we get on the floor today are. It limits what amendments may be offered, if any. And it has other fairly standard provisions in it.

The one thing it does also though, that is important, is if you are going to violate the rules of the House, or if you are going to try to get around some other law that exists, what you can put in the rule is a waiver that says that if we pass this rule during the consideration of this bill, we can waive the rules that we passed previously, we can obviate the law that might exist that applies to this particular measure. In other words, we can cheat. We can simply say that all of these things that we have put in place in the past, supposedly to control ourselves, we will simply abandon for the purpose of this bill.

In the case of the appropriations bill today, what we said is we are going to abandon the Budget Act, which was supposed to be a controlling mechanism for this Congress, we will simply abandon the Budget Act, not only for this bill, but for all appropriations bills to follow.

□ 2100

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida, who is a member of the Budget Committee, who ought to be somewhat concerned about what happened today.

Mr. MACK. I am concerned, but I guess I am not surprised; and, frankly, I do not think that the gentleman from Pennsylvania is surprised either, because, frankly, what we have seen going on in this House for several months, and I guess those of you who have been here for several years probably would say it has been going on that long also, is we have just one more indication of the total disregard for the rules of the House. I mean we go through all of the shenanigans to set up how things are going to be run around here, and then when things just do not fit into the pattern, the easiest thing to do is just to go and change the rules, I mean that should not be a surprise, though. We have been seeing that since early this year.

Mr. WALKER. I would say to the gentleman that I sometimes appear to be more surprised and more indignant about these things than I actually am. I have come to accept them. When you come right down to it, the fact is that this goes on around here all the time. The gentleman is absolutely right.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman from Pennsylvania for yielding.

I want to set this whole discussion in proper context for those who may be listening in.

Now, as the gentleman has pointed out, the rule that was voted today by the Democratically controlled House of Representatives permits the waiver of the budget resolution. The budget resolution, however, that it waives was not an austerity budget, was it? Was it a balanced budget?

Mr. WALKER. Oh, good heavens no. The gentleman may remember that not only was it way out of sync, in terms of the deficits that it had, but it was predicated on a lot of additional taxation that we were going to do, and it was actually a very big spender's budget. I mean this was a spending budget. And what we have said today by waiving the Budget Act is that we have given ourselves the power to spend even more money than the Budget Act anticipated.

Mr. WEBER. Will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. WEBER. I do not know the exact figure. These figures get pretty big. But I think the figure in the budget was a deficit of $180 billion or more, if I am not incorrect.

Mr. WALKER. Something in that order.

Mr. WEBER. And so when the people at home grow greatly concerned about a $180 billion deficit, as rightly they should, they should know today that the House of Representatives, the Democratically controlled House of Representatives of the United States, voted to waive not a balanced budget but voted to waive a budget of $180-plus billion deficit, in other words, voted explicitly to create a larger deficit than that that they had even agreed to earlier, which is causing so many economic problems today; is that not correct?

Mr. WALKER. Well, that is my interpretation of what took place here today. And I think we ought to also recognize that when we came forth with the reconciliation package, after passing that budget, we had a reconciliation package out here on the floor that supposedly implemented the savings that they had in the budget in order to bring down the deficit. It turned out, though, that all of the savings that were in there were nonbinding in the years 1986 and 1987, and that actually we end up spending more money in 1985. We had an add-on deficit in 1985 in the reconciliation bill that was supposed to hold down the spending, and now we come along and begin to understand why all of that is the case. We pass a rule that says, "Well, we will just waive the Budget Act completely and go on our merry way spending."

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Michigan.

Mr. SILJANDER. Now, I am not on the Budget Committee, as the gentleman from Florida is. I have maybe not followed quite as closely as the gentleman from Pennsylvania or the gentleman from Minnesota. But I am abhorred by the fact that you are telling me, to put it in very simplistic terms, that the majority rulership of this Congress changes rules at will in order to pass budget deficit bills whenever they so choose. Is that a very overly simplistic way of putting it? Is it an accurate way of putting it? I guess with all the talk about deficits and rule changes I want to know, in very simple terms, what has happened. I am still a little bit confused.

Mr. WALKER. Well, in this case we not only changed the rules, but we waived the law.

The Budget Act is the law of the land. So what we are doing in this case is we are waiving the law.

Mr. SILJANDER. I am not a lawyer either, so I am sitting quite in the dark. Are you telling me that the Congress of the United States, the lawmakers, have purposely and willfully broken the rules and the laws of the body in order to manipulate the situation to pass these incredibly high $180 billion-plus budget bills? Is that what the gentleman from Pennsylvania is telling me?

Mr. WALKER. Well, I would not characterize the fact that we have broken the law. I said a little while ago that it borders on cheating. You are not really breaking the law because what you are doing is waiving the law. We give ourselves the power to be above the law. What we say is that if it does not suit us at a particular time, we will simply waive the provisions of it and not pay any attention to it.

We do that all the time. I am sure the gentleman knows—he is an astute observer of the House—there is a Public Law that exists on the books today, Public Law 95-435, which requires a balanced budget. It said in the beginning of fiscal year 1981 we were going to have a balanced budget. We passed it here back in the late 1970's when it was a good political vote to tell everybody that "I am going to go home and say I voted for a balanced budget." So we passed this bill. That law is still on the books, Public Law 95-435.

Over the last couple of years, I came out on the floor and suggested, when we had some bills before us, that we ought not spend any money in violation of that law. I did not win one of those votes. Even when we were voting for a Franklin Roosevelt memorial around here, I thought maybe that is one place where we ought to at least do it in the context of the balanced budget law that we have put on the books and which should be obeyed. Guess what. When the votes lined up, and so on, there was nobody—there were very few people; I should not say there was nobody—there were very few people who wanted to vote against that memorial in order to comply with the balanced budget law. That was not the only bill I did it on. I did it on a number of different acts.

So what I am saying is that it is not unusual for the House to simply say that we are above the law and when we so deem the laws to be unworkable in this particular instance, we are simply going to ignore them.

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. SILJANDER. The American people often, anywhere I think many of us travel in the country, our own districts and elsewhere in the Nation, wonder why does Congress seem so confusing, why are there not more Members in the Chamber during daily debate and discussions, such as tonight. Where are all the Members? Why do things seem to go through Congress with either tremendous ease or, if it suits the majority who are in control, they change the rules to suit their own needs?

My response to them has been, in my observation of about 3 years here, that Congress is a body that tends to initiate among themselves great confusion. We are amongst confusion because there are only a few people, from my observation, who really control this body. There are only a few people who pull the strings, who make a decision, and if the decisions do not suit the majority, I repeat, as the gentleman from Pennsylvania has said tonight, they simply change the rules of the game to accommodate their needs and their goals.

This bothers me. I think it bothers many of the American people. And anyone who has ever had the opportunity to watch this House in session and wonder where is everyone and why are things done the way they are, the biggest answer and the simplest answer I can give to them is I just do not know because I am not the majority leader or Speaker of the House. Because any day, on any given day, anything goes and anything can happen.

A case in point: The ERA, one of the most heated controversial issues in American social issue history, we were given 24 hours notice it was coming up. Each side was given 20 minutes. That means 435 Members were given a total of 40 minutes to discuss one of the most controversial issues of the day.

Now, could MARK SILJANDER, with an amendment which I feel would make the ERA a better, more palatable bill, could I offer an amendment? There were no amendments allowed. Who made that decision? It was a unilateral decision.

Mr. WALKER. The gentleman does not think that one-tenth of a minute per Member was an adequate amount of time to debate that bill?

Mr. SILJANDER. Well, obviously your quick mathematics makes a clear point of how preposterous, confusing, chaotic, and often dictatorial things can get on the House floor. Your example of the budget shenanigans, and I think the example we just mentioned regarding the ERA, two important issues, the economic issue, the future fiscal soundness of our country, to me that is rather important. Social justice for men and women in this Nation, that is an important issue. But is it not too bad that so often we do not really avail ourselves of the full opportunities here because we are stepped on? I say the foot comes in our face, our mouths are shut because of rules limiting our behavior, limiting our freedom of expression of opinion. So as a result, what is our only option? One-tenth of a minute is not enough for Members to speak on the ERA. So many of us come to the floor of the Congress during special orders, the only time we are afforded a clear opportunity to express our opinions without being manipulated by rule changes or ruled out of order or ruled nongermane for one reason or another.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman from Pennyslvania for yielding, and I will not take a lot of time because I know our distinguished colleague and friend from California wants to speak. But I would just point out to my colleague from Michigan that, as outraged as he is over the one-tenth of 1 minute that we got on ERA—and I was equally outraged—I would point out that that is one-tenth of 1 minute more than we have gotten in the regular order of business during this session of Congress to discuss the balanced budget constitutional amendment, line-item veto, the school prayer amendment which has been bottled up for almost 20 years in committee, the President's comprehensive crime package. As offensive as it is to all of us that the Speaker and the Democratic majority imposed a rule on us which gave us one-tenth of a minute per Member to discuss the equal rights amendment to the Constitution, the ERA got better treatment than the balanced budget amendment, the line-item veto, the President's crime package, and a whole range of other pieces of legislation that have not been given any time on the floor of this House simply because of one reason, because the majority party, the Democratic Party, does not want to debate them in regular order.

□ 2110

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. SILJANDER. Just a point to make that if any of the Members should happen to be observing through the television C-Span, you might notice there was recently a wide angle used and most of the Members are gone today. Well, this is our only opportunity, I will reiterate, that we have to express our opinions. There are at least four of us here that are representing the minority party. There is one, happily, tonight from the majority party, and I would simply inquire where is everyone else as we discussed these important issues of the age.

Mr. WALKER. Well, I have some fear that they may be back in their offices figuring out the next place they are going to waive the rules on us.

I yield to the gentleman from California.

Mr. BROWN of California. I regret that there are not more Members here myself. I suspect it is because they heard I was going to speak so they all left early. I am interested.

Mr. WEBER. They were intimidated by the knowledge that you were going to be here.

Mr. BROWN of California. Well, I doubt that. I have listened with great interest to the gentleman's description of the budget process and the fact he has I think rather one sidedly, indicated that there is just one part of the budget process; namely, spending money.

I have been in public office for a little over 30 years, a lot of that at the State and local level, and we always spent money. We did not hesitate to appropriate money for purposes that were necessary for the benefit of the community, just as we do for the benefit of the Nation here. Then we recognized that there was another side of the equation; that you had to raise the money in order to spend it.

Of course, the problem is that we do not raise the money; it is much more popular to reduce taxes, than it is to raise taxes than it is to spend money. That is a difficulty. But it is true, and I think the gentleman would recognize that we could balance the budget by

bringing taxes and expenditures in balance.

Mr. WALKER. Well, the gentleman is absolutely right. Of course, from this gentleman's perspective, we have seen a massive increase in taxes since the mid-1970's. We have seen the amount of revenue collected by the Federal Government move from about the $300 billion level to twice that in a short, 10-year period of time or by some people's calculations, an even shorter period of time.

So the fact is that taxes do continue to go up despite the fact of all of the talk of tax rate cuts that took place in the Reagan program, which I am an enthusiastic supporter of. Tax revenues have increased for the Federal Government throughout the whole period of time that the Reagan administration has been in office. That is in part because we have increased taxes during that period of time. Social security taxes, a variety of different taxes have been increased so that it is not a case that the revenue base has been in real terms diminished; but at the same time that we have had those taxes going up we have seen the spending climb at an even greater rate. That in fact the deficits are a function of the spending levels rather than a function of the tax reduction levels.

I yield to the gentleman from Pennsylvania.

Mr. GRAY. Well, I am glad to just have an opportunity. I heard the gentleman mention the fact that taxes have gone up under this administration, which I think the resident at 1600 Pennsylvania Avenue would find surprising since he constantly has said that taxes have been cut under his administration.

Mr. WALKER. What I said was that tax revenues have continued to increase, and that we are collecting more in taxes now than we were collecting in taxes when this administration came to office, and that is in part because there have been tax increases.

The gentleman certainly knows that the President supported, for example, the TEFRA tax increase. The gentleman certainly knows that the President supported the social security tax increase.

Mr. GRAY. Also the President supported the 1982 $99 billion tax increase.

Mr. WALKER. That is TEFRA; that is precisely the point. We have had an increase in tax revenues throughout that period of time. The thing is, however, while we have been increasing the burden of taxes on the American people, we have also been increasing the burden of debt on the American people by increasing spending at an even greater rate than we were increasing taxes. The question becomes whether or not we believe the American people are fundamentally undertaxed.

I happen to believe that the American people are fundamentally overtaxed; not undertaxed. Insofar as they are overtaxed, then it seems to me that it is our responsibility to do something about the spending side of the equation as we seek to bring the budget into greater balance.

I yield to the gentleman from Minnesota.

Mr. WEBER. I think that this tax question that the other gentleman from Pennsylvania has raised is a significant one because, as the gentleman from Pennsylvania in the well has pointed out, taxes as a percent of GNP have remained relatively constant throughout this administration. The gentleman has pointed out properly that the President has supported some tax increases, some of which I have not supported.

However, the major reason that taxes have remained constant as a percent of GNP, is because that even though the President has managed to reduce income taxes, and income taxes, as a percent of GNP have gone down by about 2 percent since the time the President came into office. Social security taxes have increased, not because of the increases enacted since this President became President, but because of tax increases enacted by the Democratic Congress under President Carter.

Furthermore, if you look at the debate that has taken place over taxes, what do we find from our friends on the Democratic side? First of all, they harp day after day after day against the tax reductions supported by President Reagan in income taxes and if you look at the debate over the Social Security Act that we passed, which I voted for, the only criticism that most Members of the Democratic side had was that it did not increase taxes enough. They resisted those portions of the social security reform package that were anything other than tax increases.

So I think that President Reagan has done as good a job as possible given the steadfast opposition of the Democratic majority in holding down and reducing taxes where he can.

Mr. WALKER. In fact, when that social security bill was on the floor, the chief spokesman for the Democratic Party on social security matters, Mr. PEPPER, came to the floor with an amendment to increase taxes. Now, it did not win, but that certainly was his solution to the long-term social security problem.

I yield to the gentleman from Pennsylvania.

Mr. GRAY. I would just like to comment to the remarks made by the distinguished gentleman from Minnesota with regard to the tax and the Democratic participation in it. First of all, as my colleague in the well from Pennsylvania has pointed out, the President has supported some tax measures, including a $99 billion one; including the compromise agreement on social security. That was not the Democrats; it was bipartisan supported by the administration.

Mr. WALKER. But the gentleman will agree that Mr. PEPPER did bring an extra tax measure to the floor.

Mr. GRAY. Mr. PEPPER brought it as the sponsor because he is the person who is the chief spokesperson on the majority side. But to say that that is a Democratic package, as the gentleman alluded to, misses the point that it was a bipartisan compromise, supported by the President of the United States. Thus, to say that it was "the Democrats who raised social security taxes" is totally, I think, a little bit off.

Let me just conclude and say that one of the things that we have to recognize is that even though there have been tax increases, why have we had them? As one who serves on the Budget Committee, the reason we have had them is because in 1981 we gave a $750 billion tax cut to the American public. We saw spending get cut, particularly in the social programs, in nondefense discretionary programs. We saw some cuts in entitlements, but what happened is we saw increases, dramatic increases in defense spending, and as a result we saw deficits increase, and thus, as a result of that, as the gentleman pointed out correctly, we saw a 2-percent loss in revenues; we saw a 2-percent increase in Federal spending, and as a result, that is where we get the deficits from.

I would just point out to the gentleman that it is not to allude to these tax measures that have come down since 1981 as being Democratic is I think, totally inaccurate.

□ 2120

There was the tax package in 1981 of the President that was passed overwhelmingly by this body that gave the President exactly what he wanted. There was the 1982 $99 billion tax bill supported by the President, which was supported bipartisanly, and there was also the social security package which was a bipartisan compromise which just happened that because Mr. PEPPER was the spokesperson for the Select Committee on Aging and of Rules chaired that and spoke, but it was also the President's.

So to put the imprimatur that that was Democratic action, I think is not quite accurate. That is all I would like to say.

Mr. WALKER. I thank the gentleman for his observations. I would simply point out to the gentleman that the majority of the votes for the Pepper amendment were Democratic votes. The Pepper amendment got very few Republican votes, so, therefore, I think there is some indication

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that, in fact, as a part of the Democratic strategy, the Pepper bill did have some validity.

The other thing I would point out to the gentleman is that some recent figures that I developed with regard to defense are rather interesting, and that is that if you take the Carter projected defense figures in his last budget going through 1985, you find that the Reagan administration's spending figures in defense are slightly lower than the Carter figures in real dollars.

The one point I will make on it is that the Carter figures were predicated on higher inflation figures than what have actually taken place; that there were higher inflation figures. But in terms of the amount of spend out, the dollar figures are very much the same. The Reagan people have added in a number of programs, but that has been as a result of the success on the inflation front, and I do not think that we ought to be talking about penalizing the economy because we have been successful on the inflation front.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Let me yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding on that point, and I thank him for yielding just to make a very important point.

I think the gentleman from Pennsylvania has made a very valuable point in saying that the Carter administration initiated the defense buildup. Maybe we can argue about whether or not they would have built it up as much as President Reagan has; however, we should look now to the statements of the Democratic candidates who are challenging President Reagan, Mr. HART and Mr. Mondale.

What are they saying about the Reagan defense buildup? Are they saying we have overbuilt and should cut back? No; they are saying we should increase defense spending by 4 to 5 percent in real terms in the next few years. Now, granted, that calls for slower increases than the President wants.

Mr. GRAY. That is not 18 percent.

Mr. WEBER. But if we have truly overbuilt in defense under Reagan, those Democratic candidates would be calling for reductions today; instead, they are calling for real dollar increases of 4 percent or more. Is that not correct?

Mr. GRAY. If the gentleman would yield, I would like to respond to that.

Mr. WALKER. I would be glad to yield to the gentleman from Pennsylvania.

Mr. GRAY. I think the gentleman's characterization is absolutely accurate. They are calling for a slower growth pattern, a much more realistic one, of about 4 percent, 3 percent real growth above inflation. However, this is in comparison to the 1985 fiscal year request of the President's first budget that called for an 18-percent growth, with 13 percent of that being real growth. Then, of course, we had the second request from the President on his budget that called for an 8-percent real growth plus 4½ percentage points for inflation.

So, therefore, if you request 4 percent growth as opposed to 13 percent real growth, that is a significantly lower growth and, thus, would be viewed by some as a cut. In fact, as a member of the Budget Committee, I can remember here on this floor it being argued from that side of the aisle, when the House Budget Committee came out with a 3.5-percent real growth, it was argued from that side of the aisle, not by the gentleman from Minnesota but by some of his colleagues, that what we were doing was, we were cutting defense. It seems to me one could say it is a slowing in growth or a cutting.

I think the policies that we need in defense are a much more rational approach to defense growth, and certainly when one looks at the fact that in fiscal year 1980 our outlays were $146 billion, and under the proposal of the administration for 1985 fiscal year it would have been $303 billion in outlays except that this House passed a 3.5 percent real growth, which is substantially lower, and even the President's party in the Senate passed one that called for about 8 percent growth. So when we go to conference when we come back from Memorial Day, we will be talking about not 18 percent, but we will be talking about 3.5 percent in the House, and not even the Senate would vote for that.

So I am just simply saying that to characterize the Democrats as cutting defense, no; what we have said is that there must be a much more rational growth in defense rather than what we have seen in the last 3 years which has given us partly these massive deficits.

Mr. WALKER. It is interesting, though, to notice how the language changes, depending on whether it is the Democrats talking about defense or Republicans talking about social programs, or Democrats criticizing Republicans on social programs.

What has happened in social programs, the gentleman from Pennsylvania referred here a few moments ago to the fact that social programs have been cut.

Mr. GRAY. $250 billion.

Mr. WALKER. In fact, the programs have been reduced in their rate of growth. The vast majority of social program spend-out is at a higher level today than it was when the President came to office. What has happened there is, the rates of growth of those programs have been cut. They have not, in fact, been cut in real terms; they have been cut in terms of rates of growth.

When we make that point, no, no, no, you cut the programs. You have emasculated these programs. In fact, they are bigger today in most instances than they have ever been before in history, and the language there is cuts rather than increases.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Let me yield to the gentleman from Florida, and then I will come back to the gentleman from Pennsylvania.

Mr. MACK. I want to thank the gentleman for yielding.

Mr. WALKER. For finally getting to the gentleman from Florida.

Mr. MACK. It has been a long, long time, and I am going to have to check with him a little bit later to see what I have done to bring about this wrath.

Mr. Speaker, in listening to this discussion, and I guess really having the time to listen to it, some other thoughts came to my mind.

This is a classical discussion of the budget and economics that takes place in this House and in committee. I think the gentleman from Pennsylvania and I share some time in the Budget Committee. But what we have heard, and I am going to add a little bit to it before I get into my final point that I want to make, we always hear the comment over the last 3 or 4 years that the reason we have these huge deficits is because we have just slashed taxes.

The figure was used of $750 billion, and I think we all have different sources of information. The set of numbers that I saw that run over a 5-year period started out in 1981 by saying over a 5-year period we would reduce tax revenues by $960 billion. Well, the first thing that happens is that over that 5-year period the combination of bracket creep and moving forward the payroll taxes ate up two-thirds of that tax reduction.

Then in 1982 there was a tax bill passed of approximately $270 billion over the same 5-year period, quickly followed up with a $16 billion increase in the gasoline taxes, and then followed just last year another increase in payroll taxes. The end result was a $35 billion increase in taxes.

So I do not buy the argument that we created these deficits because we cut taxes.

No. 2: We then find ourselves always getting into the debate about it is their fault because they have cut defense and we have raised defense, and it is our fault because we have slashed social programs and they have raised social programs. We get involved in that discussion, and it goes back and forth and we argue about, "Well, you see, over a 15-year period there was

only a 5-percent real growth in defense and at the same time there was a 95 percent increase in social spending," and the argument goes on and on, and on, and on.

The question we really ought to be asking ourselves, and I think what has happened over the last 3 or 4 years again points out that there is no control. There is absolutely no control over spending here whatsoever. Everyone gets up and talks about it but nobody really does anything about it.

My suggestion, and it is not a new one, is that if Congress does not have control, then I think what the American people are saying to us is, "We do not believe that you have control," and we ought to do something about that and pass an amendment to the Constitution to require a balanced budget.

I know there are people all over the country who support it and there are also people who say, "No; that is the worst thing you can do." You can get economists from all sides of the spectrum on economics who will argue to the end that that is the right——

□ 2130

Mr. WALKER. It sure would cause you to get serious about budgeting; would it not?

Mr. MACK. The point is this: If you say that there is only a fixed amount of money that you can deal with, then we really have to get into the debate about what percent goes to defense and what percent goes to social spending.

There are two ways to tax the American people, two broad ways. One is the direct tax, which we are all kind of scared of apparently, but the second tax, which we just do not mind doing at all, is borrow, borrow, borrow.

So again to me the answer is that we have to put a cap, we have to say there is a limit, and we have to then learn how to live within that limit.

Mr. WALKER. Mr. Speaker, let me yield to the gentleman from Pennsylvania (Mr. GRAY). The gentleman from California (Mr. BROWN) has been waiting here too, but let me yield to the gentleman from Pennsylvania first.

Mr. GRAY. Mr. Speaker, if my colleague will yield, I would just simply like to clarify this. I did not mean to infer—and maybe I was not articulate enough—or to imply that the tax cuts were the cause of the deficits. I think I said that we did have a tax cut of $750 billion, and that is the figure from CBO, as well as many independent analyses, of what we did with the 1981 tax bill.

Of course, as has been pointed out, we added some things back such as the $99 billion bill in 1982, which by the way, dropped the deficit a little bit, loosened up the money supply, et cetera, and interest rates dropped a little bit and helped to spur the kind of recovery that we have seen.

Mr. WALKER. Mr. Speaker, if the gentleman would on that point just let me recover my time, it could not have been all that good because that fact is that we did not get very much of it. By the time we repealed the withholding tax, there was not very much of that $99 billion bill left, and so I think to attribute all factors of the economic recovery to the pittance that bill ended up being would be kind of a misnomer.

Mr. GRAY. I did not attribute all of the so-called recovery to that bill. I just simply said it was one of the factors.

My point to my distinguished colleague, the gentleman from Florida, who has deep roots in the State of Pennsylvania, is that what I said was that when you combine a large tax cut with increased spending, you produce deficits. That is what I said.

So I was not saying it was the tax cut that produced the deficit. No tax cut has produced the deficit. It is when you cut taxes and increase spending, and even the cuts that were made were insufficient to cover the gap between the lost revenues and the increased spending.

And as the gentleman from Pennsylvania said, as I heard him say earlier—and this is what prompted me to come over or to stop and add a comment—our spending has increased. It has gone to 24 percent of the gross national product, and our revenues have dropped from 20 to 18 percent of GNP.

So as a result, you do not need a Ph.D. from Harvard or a degree from MIT to simply figure out that if you are spending more and your revenues are less, you are going to have a deficit.

Mr. WALKER. The latest figure, I would say to the gentleman——

Mr. GRAY. We have cut social programs, and I would agree with my colleague, the gentleman from Pennsylvania, let us not get hung up on semantics; I would say slow the growth—just as we are not going to get hung up on slowing the growth on defense or cutting the defense, or tax enhancers as opposed to a tax increase, and troop withdrawal as opposed to troop redeployment.

The point is that there has been a reduction, a slowing of the growth in social programs. I would agree with that. Some of us say there have been some cuts in real dollars. We can debate that. But essentially if we are talking about dealing with the deficits, if we are really talking about dealing with the deficits, it means we have got to apply the budgetary scalpel of austerity to more than one function of our budget, which we have not been willing to do very clearly. And until we do that, we are going to continue to have deficits which this year will go over $180 billion, as the gentleman from Florida knows. And in the out years they are projected by every economist to be in the neighborhood of over $250 billion, and that has a driving influence on interest to make it climb. We have seen interest rates climb by 1 percent, and no one wants that.

I am not here to blame anybody. I am not here blaming my colleague, the gentleman from Florida, who works on the Budget Committee with me. I think there is enough responsibility and blame to go around to all of us.

Essentially, though, I think it is inappropriate to simply say that some of these things happened because of certain actions by certain Members on one side of the aisle when, if you look at those tax bills, if you look even at the budget which was passed out of here by the House Budget Committee, one-third of the Members on that side of the aisle voted for the House Budget Committee report that called for a slowing of the growth of our defense at 3.5 percent and the installation of certain programs for the poor, as well as a $17 billion cut in entitlements.

So I think what we have got to do, if we really want to deal with this problem of insuring the economic recovery of this Nation and making sure that it goes beyond 1984, is that we are going to have to take some really tough steps in reducing spending, and, yes, at the same time recognizing that as we reduce that spending and get those deficits down, that is going to be the greatest insurance of an economic recovery because it will mean that our interest rates will be low, and that will help economic growth. And I think we are all about that.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his comments.

The one point I do want to make to the gentleman is that the only point I quarrel with some of what he had to say is with regard to his figures on the tax revenue drop.

On economic growth, the most recent figures I have seen show that they have held steady at 19.2 percent rate of revenue in terms of GNP, and that, therefore, it has not been any kind of tax reductions that contributed to it, that in fact we have had stable revenue at the Federal level, and it has been the increase from about 22 percent to almost 25 percent of GNP that has been the major factor in expanding that deficit picture.

The other thing I would want to say to the gentleman, too, is that the premise of this discussion early on was that we have got a problem in large part because we are ignoring the budget process to which the gentleman refers. Those very constraints that he referred to in the budget proc-

ess are the problem in that we passed a rule today saying ignore the budget process, the budget is irrelevant to what we are doing, and it is now time to spend the money and we do not want to be burdened by constraints put on us by the budget process when it comes to actually spending the money.

Mr. Speaker, let me now yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, let me first, in all sincerity, thank the gentleman for his generosity in sharing time among all the rest of us here. There were many of our colleagues who thought the expression the gentleman has made so often that he really wanted to create a dialog here was not exactly accurate, and he has demonstrated this evening that he is interested in creating a dialog.

I think we have had a very interesting dialog, and let me assure the gentleman that in the time I have, both now and at any time in the future, I welcome his participation, and I will be more than happy to share the time in the same spirit that he has evidenced here.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. BROWN of California. I originally rose to participate in this merely to point out that there is more than one side to the budget deficit question, that it does involve both the level of taxation and the level of expenditures, and I thought the gentleman was being a little one-sided in originally focusing just on the expenditures.

Mr. WALKER. Well, within the Republican Conference we do see it as a one-sided issue, I must tell the gentleman, but I understand that the opposition might have a different side to the picture.

Mr. BROWN of California. Well, I understand also your feelings about taxation, that we are taxed more heavily than we should be, and I know there is a good part of the American people that agrees with him on that. But we are forced to make hard decisions in situations of this sort.

I might say one of the reasons the Democrats bit the bullet and advocated and voted for additional taxes as they have is not because it is politically popular but because we were fundamentally concerned about reducing the deficit.

Admittedly, we are reluctant to cut some of these social programs which benefit our constituencies, but we were willing to do something equally obnoxious, which was to provide a level of taxation which would bring this equation into a little better balance.

Now, if the gentleman will allow me, I have just one point, and I hope to catch him up on this. The gentleman started his remarks this evening by his diatribe against the passage of the rule which waived the Budget Act today.

Now, the gentleman is a hardened vocal exponent of the balanced-budget amendment. He has mentioned it and others have mentioned it frequently in these late-night shows we have had here.

Now, as I recall—and the gentleman will correct me if I am wrong—this balanced-budget amendment would embed in the Constitution a requirement that we balance the budget but would provide that in the event of emergencies there may be a waiver by a 60-percent vote. Now, if I am wrong, correct me on this.

Mr. WALKER. I think the gentleman is correct, that at least some of the versions of the balanced-budget amendment have that kind of a provision in it.

Mr. BROWN of California. All I am trying to point out to the gentleman is that the rule by which we waived the Budget Act today was passed by a 60-percent vote, and if the constitutional amendment providing for a balanced budget would have been in effect, we would have waived it.

Mr. MACK. I think we ought to raise that percentage.

Mr. BROWN of California. And we would have gone right ahead and done the dastardly deed we did and passed the appropriation bill.

□ 2140

Mr. WALKER. The gentleman is absolutely correct.

Mr. BROWN of California. The gentleman's support for this great amendment is absolutely without effect. It would not have changed the results today one iota.

Now, will the gentleman rise to that bait?

Mr. WALKER. Well, the gentleman is absolutely right. I suppose what that says is that in addition to passing the constitutional amendment to balance the budget, people out across the country are going to have to elect some different Congressmen as well who will not provide that 60 percent.

I would say to the gentleman that I do believe that the passage of the constitutional amendment would force us into a situation where such a vote would create a constitutional crisis and that that would weigh far more heavily on the minds of most Members of this body when we were taking that kind of step than is obvious in what we are doing when we waive the Budget Act. The Budget Act waiver has become merely a matter of waiving the rules around here.

I have to believe that even the biggest spender in Congress would be somewhat less cavalier about the idea of violating a constitutional provision in the same way.

I think that is the advantage to it. There is no guarantee in it, but we do know in the States where they have embedded it in the Constitution it has had the effect of limiting spending.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

I think that the balanced budget amendment would impose a measure of discipline on the process.

Mr. BROWN of California. The Budget Act would, too.

Mr. WEBER. The only point that I would make to my colleague, the gentleman from California, is that if indeed the balanced budget constitutional amendment is as toothless as the gentleman suggests, then why is it that the Democratic majority opposes it so strongly, so strongly that they will not even permit it to come to the floor of the House for a vote?

Mr. BROWN of California. Because if it is a good thing, we want to be the author of it, and if it is bad, we do not want it.

Mr. WEBER. In the gentleman from California we have found that one honest man.

Mr. WALKER. I would say to the gentleman that I think from our viewpoint we would be very glad to see someone from the gentleman's side author the amendment, if it could be brought out for a vote at that point.

Mr. BROWN of California. If I offer the amendment, I am going to put a 75-percent waiver on it.

Mr. WALKER. I would agree with that amendment.

Mr. MACK. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I would be glad to yield to the gentleman from Florida.

Mr. MACK. I would just like to add a couple comments to what the gentleman from Minnesota has said.

There is reason to believe that there are two sides to the question about whether there should be a balanced budget amendment. Maybe because we have offered it, it does not get a lot of play; but one of the things I have noticed around here for the past year and a half is that there are times when there has been good debate; I mean, some real good strong debate and I do not mean just trying to pick at one another. I am talking about real honest debate and trying to come to solutions to the problems that face the country.

My point would be this. I think we as a nation, we as a Congress, the people of this country would be so much better off if at least we would debate it, if we would just have the opportunity to get it out here on the floor to discuss it.

We are here tonight at a quarter to 10 talking about this, not because we

love to be out at this hour of the evening. In fact, my wife told me the other night that because of the way the cameras now pan the floor that she can tell when I am going to be giving special orders, so I had better give her the right information about what we are going to be doing this evening. She really appreciates the point the Speaker has made about panning the floor.

But again, I think if we could just get down to the point of discussing the question, or being able to debate the issue, and I do not mean under a suspension of the rules or a closed rule-type of discussion. I mean a real good open debate. I would suggest that maybe there would be some good solutions that would come out of it.

Mr. WALKER. The gentleman has just provided a whole new dimension in the panning of the floor for me. I mean, imagine the poor sucker, who for years has been telling his wife that he is on the House floor at night, can no longer do that. It is a whole new dimension that I had not thought of before.

Mr. WEAVER. Mr. Speaker, will the gentleman yield.

Mr. WALKER. I yield to the gentleman from Oregon.

Mr. WEAVER. Well, I thank my good friend from Pennsylvania for yielding. I do not intend to be as nice and pleasant and decent as my two colleagues.

Mr. WEBER. We expect no less from the gentleman from Oregon.

Mr. WEAVER. I expect some real give and take here.

I completely concur. I want to balance the budget and I vote to balance the budget.

Where are you going to balance the budget? Sixty-five percent of the Federal budget is military and interest on the national debt.

Now, the largest single item, social security I think you are probably going to allude to, is balanced. It has its own taxing system and it has its own benefits and they are balanced. Now, if you want to get up and tell the audience right now that you want to cut social security, you go ahead and, therefore, reduce social security taxes. You can cut social security if you wish, but it would not affect the rest of the Federal budget.

Here is the chart right here. This is the Federal budget. These are President Reagan's budget figures. This is military. This is by far the largest. This is interest on the national debt.

This is, by the way, all social spending.

Mr. WALKER. This is the nonunified budget the gentleman is talking about.

Mr. WEAVER. This is all social spending and it is so small I even include unemployment compensation in there, because otherwise it is small. If you cut out all social spending in the budget, all of it, food stamps, medicaid, welfare, housing assistance, unemployment compensation, cut it all out, you would reduce the deficit by one-third, by around 35 percent.

Now, I am going to ask the gentleman and look the gentleman in the face. How did the gentleman vote on the largest single item in the national budget, the defense appropriations bill? How did the gentleman vote on it?

Mr. WALKER. Well, I generally vote for the defense appropriations.

Mr. WEAVER. Then the gentleman votes for the largest single item, the biggest spending item in the budget.

Mr. WALKER. I would say to vote no on the defense appropriations bill, which the gentleman evidently does, we would have absolutely no defense for the country, so I do not think that is a very responsible position, either.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Florida.

Mr. MACK. The chart the gentleman is holding up there, could the gentleman give us the source? Normally we use the Congressional Budget Office around here for information pertaining to the budget.

Mr. WEAVER. No, this is President Reagan's budget.

Mr. MACK. What is the source of it?

Mr. WEAVER. Also similar to the CBO.

Mr. MACK. I just looked at that, and there is nothing on there except some bars that the gentleman has put there. Apparently the gentleman prepared that.

Mr. WEAVER. In my office I have it actually prepared with the actual figures, but I did not come from my office.

Mr. MACK. But there are no numbers on there. There is no indication which bars are which. In fact, it is a blank piece of paper, except for the bars.

Mr. WEAVER. Sure. I would be glad to bring down the actual figures.

Mr. MACK. Bring them down, the next time the gentleman has an opportunity, if he would bring them down.

Mr. WEAVER. Delighted.

Mr. MACK. Wait a minute, let me finish. If the gentleman would bring down the Congressional Budget Office spending in the various categories, I am sure that the gentleman is going to find the defense and interest is not 65 percent of the budget.

Mr. WEAVER. Oh, yes, it is.

Mr. WALKER. If the gentleman would allow me to reclaim my time, I think the gentleman has made it clear here that he is talking about a nonunified budget. For instance, he is eliminating the whole social security program, so therefore what he is talking about is only that portion of the budget that does not include social security spending and I assume there may be a couple other items. If you do a nonunified budget, that in fact does show up figures something similar to what the gentleman is doing here.

Mr. WEAVER. It certainly does.

Mr. WALKER. So the gentleman is not talking in terms of the budget as we talk about it on the floor. It does have a point, but it does not have much relevance to the way we debate it here on the floor.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. WEBER. The gentleman from Oregon, if I might say so, is making an unfair leap. I mean, he is presenting to us a budget that is not the budget that we debate on the floor of the House, that is not the budget discussed by the President or the Budget Committee or Members on either side of the aisle.

Mr. WEAVER. That is absolutely false.

Mr. WEBER. He is presenting a budget to us which is the Weaver version of the budget. He is entitled to discuss it in those terms and then without giving us—let me conclude—and without giving us the explanation of how he comes up with those numbers that are so different than anyone else in either party, then he quickly jumps to the next thing, which is to ask us if we will cut social security.

I think the gentleman from Oregon has an obligation to explain to us what that budget means in the totality of Federal spending and taxes.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Sure, I would be glad to yield.

Mr. WEAVER. Social security for most of its lifetime was never in the Federal budget.

Mr. WEBER. Until 1965.

Mr. WEAVER. Until 1967, actually, was the operative year when Lyndon Johnson put it in to disguise the cost of the Vietnam war. Now, he did that purposely to deceive the American people, just as the people who now continue to put it in the budget try to deceive the American people in that that is the kind of spending that is going on in this Government.

Now, we actually took out social security from the accounts budget in the Budget Act of last year. It is now out.

The effective date again is not for several years down the pike, but the act of Congress that was passed in 1983 took social security out. Social security has its own taxing system. It is $217 billion going in from taxes and it is $217 billion going out and it is balanced.

Now, if you want to stand up and tell the American people that you want to cut social security benefits, fine. That is your privilege. That is your privilege. But that is balanced.

□ 2150

Let me just finish. This is the actual budget of the United States of America paid out of the general taxes, paid out of the General Treasury fund. This is the budget, and 65 percent of its is military, military foreign aid and interest on the national debt.

And if you take out all of the social programs, all of them, send 10 or 20 million people out on the streets, fine, I am not arguing that, but if you did that you would reduce the deficit one-third.

Now I am asking you, the largest single item in the budget by far was the military appropriations. You are talking about cutting the budget, balancing the budget. How did you vote on the military appropriation bill, which is the only place if you want to talk about cutting where you are going to even come close to hitting that deficit.

Mr. WALKER. I would say to the gentleman that I, for one, told him how I voted on the budget, on the military bill, because I think we do need to defend the country. But I would say to the gentleman that I think those of us on our side who are here would classify ourselves as cheap hawks. We very much want to defend the country, but we do not do like the gentleman has indicated he does, vote against any defense whatsoever for the country.

But we would like to see major changes in the Defense Department budget that would reduce costs. We, for instance, think that you can make major changes in procurement, that you can make major changes in the way the military is structured, and that you can make major changes in the way in which the military is run and save enormous amounts of money.

We would say that one place that you can start to do this is by taking the Grace Commission recommendations which included several billions of dollars, as a matter of fact, tens of billions of dollars of savings that can take place in defense.

Also included, I would say to the gentleman, were tens of billions of dollars that could take place in cuts of other areas of the budget, and we would like to see some of those as well. So then you would begin to see a reduction in the overall levels of spending in the portions of the budget the gentleman refers to as well as other portions of the budget.

But I would also say to the gentleman, by totally taking out the entire social security program, it seems to me he leaves some major loopholes. For example, there are programs within social security that have been added over the years that are essentially social welfare programs that have been added by Democratic majorities when they felt it was well to take these out of the general revenues and put them over into a protected area.

I would say to the gentleman that we might also want to take a look at some of those programs and find out whether or not some of them should not be reformed in a way that would save some money.

That is not any change whatsoever in the retirement program. It is a change in some of the social welfare programs that I think in many ways are helping to pull down the retirement system of social security.

Mr. WEAVER. Will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oregon.

Mr. WEAVER. First of all, I completely concur on what you have just said about social security. Those programs should not be in the retirement trust fund. I have sponsored bills since I have been in Congress to do that, and I agree. Let us get together and work on it. Fine. They should have their own program.

Mr. WALKER. But the gentleman has taken those out of his budget.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

DEFICITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. WEBER) is recognized for 60 minutes.

Mr. WEAVER. Will the gentleman yield so I could finish?

Mr. WEBER. I will certainly yield to the gentleman from Oregon.

Mr. WEAVER. What you said on the military is a charade. It is the same old charade that we want to take out fraud and abuse and that sort of thing. That is nonsense.

Let me tell you one fact. Let me tell you one fact and then I am done.

Mr. WEBER. Oh, no, you are not.

Mr. WEAVER. Well, I am done for this point.

One fact, and that is, and think about this, when you talk about streamlining the military here is what the military budget used to look like about 1970. Inflation has been part of this increase.

Mr. WEBER. A big part.

Mr. WEAVER. Right. Right. A big part of it.

Mr. WEBER. A majority of it.

Mr. WEAVER. No. No. But it has been a big part.

Mr. WEBER. If I can reclaim my time for a minute, because during the entire period of the 1970's the military budget did not even keep pace with inflation.

Mr. WEAVER. Let me say this: An enormous change has occurred in the military in the last 15 years, in the military budget. This budget right down here was two-thirds personnel, operation and maintenance, the armed services, the people, the soldiers and sailors. One-third was procurement of weapons systems.

Now, this nice, big, fat 1985 huge budget allocation for the military is reversed. Two-thirds of it is now procurement and one-third operations and maintenance.

Mr. WEBER. That is not true.

Mr. WEAVER. I take the President's figures and that is all I can do.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I will yield to the gentleman from Florida and appeal to our colleague from Oregon not to leave the floor quite yet.

Mr. MACK. I am at somewhat of a handicap since I do not have all of the budget numbers in front of me, and I do not really feel comfortable in making up these graphs at this point. But since we used the 1983 budget, I think it might be helpful to use some of the numbers out of that and put in context where these figures came from.

The budget for 1983 was $860 billion. If I could have the attention of the gentleman from Oregon?

Mr. WEBER. Excuse me. We are not paying attention to our colleague.

Mr. MACK. Which is very disappointing at 5 minutes of 10.

What I said was I wanted to reform the discussion about the percentages. I said unfortunately I do not have the budget numbers with me, but I recall some of them. Approximately $860 billion in expenditures in 1983, $177 billion of which was social security.

If you do some quick mathematics, that figures out to be about 20 percent of the budget as social security.

What I did then was I subtracted out social security spending out of that number and came up with the balance. Then I took $213 billion in outlays, which is the outlay number for 1983 in the defense budget and I took a percentage of that.

I did not include interest in it. I grant you that. But 30 percent of the remaining budget, 30 percent of it, not 65 percent—if you want to add back in interest, go ahead, but I do not think that is more than maybe 15.

Mr. WALKER. That would be $110 billion approximately.

Mr. MACK. We have 30 percent of the budget.

Mr. WEAVER. Are you asking me?

Mr. MACK. I am directing that to you.

Mr. WEBER. I will be glad to yield to the gentleman from Oregon to respond.

Mr. WEAVER. I thank the gentleman.

The 1985 budget figures from the President are $925 billion for total budget. But let us get this phony business of having social security in the budget out of there, as you did. Then $217 billion, that reduces the actual Federal budget to $708 billion.

Now the military is $300 billion, and interest on the national debt total, gross interest on the national debt is about $147 billion. That would make roughly $450 billion out of $700 billion, and that is approximately between roughly 62, 63 percent, or 64 percent.

Mr. MACK. Let us look at 470 instead of the 500 that you mentioned and let us look at 706 or $753 billion, and then give me the percentages and then subtract out your interest and give me a percentage, because I do not understand how one can count in all of the interest costs and relate it to it.

I mean you are trying to tie that into the defense number. I do not think that is very relevant at all.

Mr. WEAVER. Forgive me, if you would yield. I cite interest on the national debt as the second figure because I do this in all of the times I talked to my constituents, because it is frightening. It is beginning to double every 2 years. It is going to the exponential curve. I am sure you know what the exponential curve is. That is where Y equals E to the X power and that is the exponential curve, and these are the actual deficits from Truman through Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan. And we are going into the exponential.

Mr. WEBER. Not inflation adjusted.

Mr. WEAVER. No, no.

Mr. WEBER. If it was inflation adjusted the curve would be much flatter.

Mr. WEAVER. We are about to go to the exponential curve.

Mr. MACK. And who was in control of the House during all of those years?

Mr. WEAVER. But my point is you cannot reduce interest. You have to pay it and so, therefore, the really real discretionary spending in the budget is military. It is a huge, huge amount.

Mr. WEBER. Let me reclaim my time for a moment so that I could ask my colleague from Oregon a question.

First of all, let us agree that we are not going to agree on a definition of what should be the Federal budget tonight. We have discussed that a little bit. We will have to discuss that some other time.

But let me ask my colleague from Oregon a question. The gentleman has identified defense spending and interest as the two major sources of the expanding deficit. We are pretty much agreed. We are limited in what we can do about interest.

Mr. WEAVER. Yes, except by balancing the budget. We can take that step.

Mr. WEBER. Except by balancing the budget, which is the question we are pursuing here tonight.

Then we are left by the gentleman from Oregon's analysis with the defense budget. We have a huge deficit. We have to do something to bring it under control. As I pointed out earlier in the debate, the candidates for President from the gentleman's party, Mr. Mondale and Mr. HART, are proposing real dollar after inflation increases in the defense budget of 4 percent plus.

Now, I would ask the gentleman, and my point to the gentleman is the defense budget increase that we got last year was less than that, it was 3.8 percent. So in reality, the candidates for President from the gentleman's party are telling us that we should be increasing defense spending more rapidly than we did in the last 12 months.

□ 2200

In view of that, how does the gentleman suggest that the Democrats would choose to balance the budget if we are going to give a 4-percent increase in real dollar terms in defense spending?

Mr. WEAVER. I am not happy with either party and never have been; ever since I have been here, I have seen my side of the aisle vote money and your side of the aisle vote money; somewhat more hypocritically because you call yourselves fiscal conservatives yet you vote the big money just as well; but I am disappointed that the Democratic Presidential candidates are only one-third as low as President Reagan.

President Reagan wants to increase it by 13 percent, the Democrats by 4, which is way too much. We should reduce it. We should cut out—well we will not get into the debate on systems.

Mr. WEBER. What does the gentleman think we should do?

Mr. WEAVER. Well, I voted for a $50 billion defense cut in military because I think it would strengthen this country.

Mr. MACK. Was that $50 billion in 1 year?

Mr. WEAVER. Absolutely.

Mr. WEBER. So the gentleman endorses the Jesse Jackson budget?

Mr. WEAVER. I endorse the budget offered on the floor of the House and voted for it. I know nothing about Mr. Jackson's budget at all, never heard of it.

Mr. WEBER. The reason I suggest that is he is the only Democratic candidate today who is calling for a real dollar reduction in the defense budget which is what the gentleman from Oregon seems to be calling for.

The only two candidates this time around calling for real dollar reductions were Jesse Jackson and McGovern.

So it is the Jackson-McGovern line on Defense that the gentleman is suggesting.

Mr. WEAVER. I do not ally myself with anybody. This is the "Jim Weaver" budget I am talking about. But I am telling you something; I hope we pass a constitutional amendment to balance the budget. I hope this side of the aisle wakes up and votes for it because if we do there is only one place you can balance the budget.

The only place you can balance the budget is by cutting the military, and we will stick it to you.

Mr. MACK. Would the gentleman yield?

Mr. WEBER. I yield to the gentleman from Florida.

Mr. MACK. I thank the gentleman. A couple of comments and then, believe it or not, I am going to give up, I am going to head home. I think again it is important to put this debate or discussion in perspective.

First of all, let me thank you for coming out here and getting involved in the dialog with us. I really mean that.

Mr. WEAVER. I enjoy it immensely.

Mr. MACK. I think it is great for the American people. This is their only opportunity to hear this, because they sure do not hear it from noon to 5, 6, or 7.

Mr. WEAVER. I completely concur.

Mr. MACK The second point I want to make is this: We have just been going what, an hour and a half, an hour and 15 minutes?

Mr. WEAVER. Time flies when you are having a good time.

Mr. MACK. We are spending all this time talking about where we would cut the budget. And the gentleman just made the comment just a moment ago, if we balance this budget or if we passed an amendment to require a balanced budget, there is only one thing we can do and that is go after defense.

Mr WEAVER. There is no question about it.

Mr. MACK. Let me raise one other area that I really think needs to be discussed in Congress, not just the balanced budget amendment and not how much you are going to take out of defense, because as the gentleman just said he would take $50 billion out of defense.

Let us say you can do it. There is another $150 billion to go. Here is my point: We ought to start spending some time around this city talking about how do we increase economic growth in this country, because if we increase economic growth and a 1 percentage increase in real economic growth in a 5-year period reduces deficits by $329 billion over a 5-year period, all I am saying is that I think and I had prepared some remarks this

evening about monetary policy, because today, once again, the Fed Open Market Committee met behind closed doors to decide what monetary policy was going to be in this country and I have just spent the last 2 years on the Budget Committee trying to guess, trying to balance fiscal policy with monetary policy and guess what they were doing.

So I would like to see some time in the future that we talk about some of the other aspects of deficit reduction, which are basically how do we create economic growth; how do we increase the productivity of this country; how to increase the capacity of the country to produce and at the same time I think we ought to be talking about some openness and reform as far as Federal Reserve monetary policy is concerned.

Mr. WEAVER. If you would yield, my dear friend, I would love to comment on that because you see I follow U.S. Treasury bond and bill market closely, and they are scared to death of growth.

I think you are right. I think increased growth is a great way to do it. But the markets right now, U.S. Treasury bonds are at 14 percent, U.S. Treasury bonds right now, 14 percent. It is incredible with a deflator factor of, or inflation of 3.7 percent. It is an incredibly high real rate of interest.

But, therefore, they want the economy to slow down, they want the growth of 8.8 percent in the first quarter to actually slow down because they are afraid interest rates will go higher.

Now if interest rates go higher, add 1 percent to the national debt of $1.8 trillion and you get——

Mr. MACK. It is $92 billion over the next 5 years, is what it amounts to.

Mr. WEAVER. Tens if not hundreds of billions of dollars more on the deficit and the national debt, if interest rates go higher. So we are betwixt and between, we are on the horns of a dilemma.

I think the only thing we can do, frankly, is cut spending. I am willing to go and freeze across the board, cut across the board so long as it is across the board.

Mr. MACK. I share the gentleman's comments.

I have one more thing to ask: Would you sign a public discharge petition with me to call for a balance budget amendment?

Mr. WEAVER. I have polled my constituents asking them if they want it. I am for the constitutional amendment to balance the budget, if I thought it worked. That is not a charade. We heard the 60 percent thing from Mr. BROWN tonight; contitutional crisis, all these sorts of things.

If I can demonstrate, or you can demonstrate it is workable, I am for it in a second. The only thing I have against it is as of this time is I am afraid it would put our budget in the law courts. Otherwise, I am for it, believe it is essential, absolutely.

Because I do not see this Congress or this President either coming close to balance the budget.

Mr. WEBER. If I may reclaim my time, it has been an issue that has been around here for a long time.

Would the gentleman vote for it?

Mr. WEAVER. No, I have not voted for it in the past because of its unworkability. But I am prepared to at any time now if it is workable, because I will tell you, look at your own figures; you are going to have to cut the military and cut the military sharply if you have a constitutional amendment to balance the budget.

Mr. WALKER. The Conable approach on balanced budget is generally what we are generally talking about.

Would the gentleman sign a discharge petition and vote for that?

Mr. WEAVER. I am for a workable constitutional amendment.

Mr. WALKER. That is the specific—that is a specific bill is what I am trying to refer to.

Mr. WEAVER. I will answer that question if you will answer me, Will you cut social security?

Mr. WALKER. I will not cut social security because I think the retirement program is a contract with the American people.

Mr. WEAVER. Then where are you going to cut?

Mr. WEBER. Reclaiming my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. WEBER) has the time.

Mr. WEBER. The gentleman from Pennsylvania did answer the question that the gentleman from Oregon put to him. I would just ask the gentleman from Oregon if he will now answer the question he asked; would you vote for the Conable amendment?

Mr. WEAVER. I do not know the Conable amendment. I am telling you right now I am for a workable constitutional amendment to balance the budget. At another night, I will read the Conable amendment and come back.

Mr. WEBER. I yield to the gentleman.

Mr. WALKER. I thank the gentleman.

The Conable amendment is the same amendment that came on the floor under a discharge petition about 2 years ago. The language has remained the same. It is the amendment developed in consultation with a number of prominent psychologists—it probably should be developed with the help of some psychologists—but with the help of a number of prominent economists such as Nobel Prize Winner Milton Friedman.

It is the mechanism that is probably the most accepted by those who have been a part of the balanced budget movement. So, I am simply asking the gentleman if that were to come to the floor would the gentleman vote for that? I told the gentleman how I would vote on social security.

Would he tell me?

Mr. WEBER. If I can reclaim my time, the gentleman voted against this amendment once. The gentleman from Oregon is a real straight shooter; I do not know why he has any trouble answering this question.

Mr. WEAVER. I do not have any trouble answering the question and I will tell you why. I started out by telling you that my only complaint on the constitutional amendment is I am afraid it would put the budget in the law courts.

But I see this curve of spending going up so high, so fast and beginning to double, the deficits doubling every 2 years from now on, scares me so much that I am willing to take the risk of a constitutional amendment that would put our budget into the courts instead of into the Congress, and the White House where the Constitution said it originally belongs.

Let us do this: I will read the Conable amendment. Again, let us come back another night and I will be prepared to say absolutely yes or absolutely no, period; if you will also come prepared to say exactly how you would balance the fiscal year 1985 budget, exactly how you would do it, dollars and cents on each and every item in the budget, each and every item in the budget, if that constitutional amendment were in effect for fiscal year 1985.

□ 2210

I will have my budget and I will have my answer. You have your budget and let us do that.

Mr. WALKER. I can tell the gentleman right now how I would proceed toward a balanced budget in the year 1985.

Mr. WEAVER. And every succeeding year. None of these phony things about selling the loans, the portfolio, Bonneville Power, none of that idiocy.

Mr. WEBER. The gentleman makes a good point.

If I may reclaim my time, I will make one point and then I will yield to my colleague from Pennsylvania.

I do not think that you want to try to balance the budget next year. I understand that is not realistic.

However, the amendment would obviously not take effect next year.

I think the gentleman makes a reasonable request though if he says that we should have a plan for balancing the budget by the date at which that amendment would become law.

Mr. WEAVER. I believe we have to balance the budget next year. I think we are in danger in this country.

Mr. WEBER. So what we should see then is the gentleman's plan for the budget which calls for balancing it next year and our plan for balancing the budget by a date certain——

Mr. WEAVER. No, no. You come in and you show—if the constitutional amendment—let us not weasel and worm our way out of this now—were in effect from 1985—obviously, 1986, 1987, 1988—how would you balance the budget for the fiscal year 1985? That is what you want to come up with. I will have my answer at the same time.

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I think that you can look at ways in which that can be done. For example, if we would limit the rate of Government growth substantially and simply have the Government growing no faster than the economy as a whole grows you could save substantial billions of dollars. It comes to about $25 billion by limiting the rate of growth, not totally freezing the budget, but simply limiting the rate of growth to the same rate that the GNP is growing.

Then the other thing that we need to do, it seems to me, is implement the Grace Commission recommendations. The Grace Commission has said that you can save $426 billion over a 3-year period by implementing certain recommendations of it.

Now there is some argument over those figures, but let us assume that the Grace Commission did do honorable work and I happen to believe they did. And let us assume that Congress cannot bring together the political courage and the political will to do everything that the Grace Commission says. Let us assume, for example, that we can only do half. Facing $200 billion a year deficits we ought to be able to do half of what the Grace Commission recommends. That is a total of $210 billion over a 3-year period.

All right. That would mean then that you are saving a total of $70 billion a year. If you do that and add the $25 billion in you have just saved $95 billion out of the budget. You save $95 billion out of the budget. Paul Volcker has testified in Congress that for each $50 billion that you save that you would be able to lower interest rates by 1 point. If we dropped interest rates by 2 points on that savings, we would thereby save the Federal Government another $20 billion. You have just dropped the budget deficit down below $100 billion pretty rapidly.

If you in fact dropped interest rates in this country 2 points, you would bring about the kind of economic growth that would certainly drop unemployment by a couple of more points. That would lead to about a $60 billion reflow into the Federal Government.

You put all of those things together and you are awfully close to a balanced budget, without even talking then about some of the things that we can do in terms of revising defense beyond what the Grace Commission recommended.

So there is a scenario by which you can achieve a balanced budget in a 1-year period. It demands some courage on the part of the Congress. It demands the political will to implement some very tough things that the Grace Commission recommended. But, in fact, you can get to a balanced budget. It is phony to suggest that Congress has the will, I think, to do that, but it is not an impossibility if, in fact, we were faced with that kind of mandate.

I thank the gentleman.

Mr. WEBER. I thank the gentleman for his contribution. The point I tried to make—I am sorry that our colleague from Oregon left, although he made a valuable contribution. I appreciate his joining us for the debate—I see our colleague from California (Mr. BROWN) is still on the floor—on a couple of occasions is that if we are serious about balancing the budget next year—and I happen to be one that said it is not necessary to balance it next year, it is necessary to bring it closer to being in balance, and it would be nice if we could balance it, balancing it is not critical—and this is a political point, but an important one in an election year, is that when you have the Democratic Presidential candidates commiting themselves to a 4-percent rate of real growth in the defense budget or better and the Democratic Presidential candidate saying you basically cannot reduce domestic——

Mr. WALKER. If the gentleman would yield, with the exception of Jesse Jackson, who is calling for real cuts in defense.

Mr. WEBER. The gentleman is correct.

And when you have the Democratic President candidates all saying we cannot cut domestic spending and most of them calling for increases in certain areas of domestic spending, then you really have to come to the conclusion that that is going to be somewhat close to the position that the Democratic Party takes should they be given the reins of Government in the White House and the Congress next year, what are we talking about? We are talking about increasing defense modestly, not cutting, and perhaps increasing domestic spending. We are left with only one conclusion as to how the Democrats would balance the budget and that is rather radical tax increases. I do not hear that in the debate from most Members of the majority party and I am not sure that that message is getting through. Instead, it is obscured by talk about bloated defense budgets and tax giveaways to the rich.

The reality is, in my judgment, what the Democratic Party is promising people in 1984 is a very big tax increase to balance the budget. I do not think that the American people want that. I also do not think that that is a good thing for the economy, because I think it will slow down that rate of real growth in our economy, which has been the only thing so far that has reduced the deficit at all.

We had a $195 billion deficit the last fiscal year; $185 billion at the beginning of this fiscal year; it has now been recomputed at $160 perhaps $170 billion this year because of increased revenues and reduced expenditures, only because of increased economic growth.

So when we hear suggestions for big tax increases or changes in monetary policy by the Federal Reserve Board that call for actually slowing down the rate of growth in the economy, it has to concern me a whole lot because that so far is the only thing that we have been able to do actually that will reduce the deficit at all.

Slowing down the economy seems to be the worst thing and that is what I fear from the big tax increase, which seems to me to be the only route that the Democratic Party can take if it is going to live up to the commitments that it has made in the 1984 election year.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I think he is quite correct that we are not hearing a great deal of talk about tax increases because it is an election year and it is not the sort of thing that one likes to go out to his constituency and campaign on.

But I think as the gentleman well knows in all of the halls around here there is talk about how after the election we can reduce this deficit.

I think that package is going to have to be worked out in a spirit of compromise with all of the parties. I think the gentleman on his side and we on our side are going to have to make sacrifices. You may have to take some tax increases, some reductions in the military budget, we may have to take some additional cuts in social programs on this side.

I can tell the gentleman from my own experience with our distinguished President, when he was Governor of California, that in his second term he did enter into compromises with the Democratic legislature, he changed his position on taxes, he utterly reversed himself on withholding, for example, a position which he said he was fixed in concrete on prior to his election to the

second term. He, quite properly in retrospect, endorsed and supported a major tax increase in California, which produced a budget surplus and helped to compensate for some of the artifically low taxes that had been maintained by his predecessor, the Democratic Governor of California.

So I think that you can expect that this President, as a pragmatic political leader, is probably going to ask you to take some bitter medicine next year. I hope that you will be willing to do that.

Mr. WEBER. I thank the gentleman for his point.

The only thing that bothers me and perhaps when I have been here a little longer will not bother me so much, but the gentleman is quite right in saying that in the halls around this town, out of public view, there is all sorts of talk about a deal after the election to reduce the deficit on a bipartisan basis. In my brief experience here whenever we talk about working something out behind the scenes on a bipartisan basis, it usually means we are going to stick it to the taxpayers.

□ 2220

And that bitter pill that I am going to be asked to swallow does not bother me so much because it is a bitter pill for me but because it is a bitter pill for many of my constituents. That is from my standpoint. I understand that there are other points of view. The gentleman from California has a legitimate point of view. I happen to think that the burden of taxation on working people, small businessmen, farmers, outside of interest rates, which is the biggest problem, is the greatest burden many of them face in terms of the Federal Government, and that, to me, is the least palatable means of balancing the budget, But I tend to agree with the gentleman that if Congress is left to its own devices and Washington acts as it usually acts, it will probably raise taxes, because that is easier than cutting spending.

I will be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, and I come back to where we originally started this discussion. The fact is that what Congress indicated today in adopting the rule that we adopted on the floor is that Congress is going to go on a spending spree. It may well be that we will come back in a lameduck session and pass some sort of plan. But the fact is what we have an indication of preelection here today is the fact that Congress is about to go on a spending spree, that we are about to bring the appropriation bills out here, we are going to forget the budget process, we are going to forget the authorization process. All limits are off. We are about to spend the money. In spending the money, we are in fact going to impact on the deficits.

The gentlemen from the other side who have talked during the evening about tax policy and the various things that will also have an impact on the deficit are absolutely right. That is true. But it is congressional spending that is the dominant factor in the deficit-increasing process. That is what we said today on this House floor that we were going to go about, and we were going to go about it in a way that ignores the budget law and ignores the authorization process. I think that is a shame. And despite all of the talk here of all of the problems that we face—and the problems are certainly a multitude—we created an additional problem for the American people today when we said that the rules and the law be hanged, it is now time to spend the money.

I thank the gentleman for yielding.

Mr. WEBER. I think the gentleman makes an excellent point. I appreciate all gentlemen who participated in the debate tonight, especially our colleague from California (Mr. BROWN) and our colleague from Oregon (Mr. WEAVER).

The hour is genuinely getting late tonight, and I know that our colleague from California——

Mr. BROWN of California. I hope the gentleman is not thinking of leaving.

Mr. WEBER. I can see by the look on the face of the gentleman from California that any thought I may have had of leaving should fly away quickly.

Mr. WALKER. I think the gentleman is about to discuss the Logan Act.

Mr. WEBER. I am about to yield back my time. Does the gentleman wish for me to do that, or would be like me to yield to him?

Mr. BROWN of California. I think it would be better if the gentleman yielded back. Then he would not be constrained to remain if he finds my remarks to be boring.

Mr. WEBER. Well, I have every confidence that the gentleman from California will do anything but bore me. But I recognize that he has a desire to control his time, as we have ours. I thank him again for participating in these special orders, and I yield back the balance of my time.

ORDER OF BUSINESS

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that I may proceed with my special order for 1 hour.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE LOGAN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 60 minutes.

Mr. BROWN of California. Mr. Speaker, let me apologize to my distinguished colleagues who remain here for the lateness of the hour. I know that this is an imposition on them and on their families, as it is on mine, and I appreciate their willingness to remain to the extent that they have.

I asked for this time to discuss a specific item having to do with the Logan Act which was originally brought up by our distinguished colleague from Georgia (Congressman GINGRICH).

Before I go into that, I want to say that I personally believe that Congressmen NEWT GINGRICH, ROBERT WALKER, VIN WEBER, and other of our colleagues are trying to encourage and contribute to a more sharply focused debate on issues which they consider critical to the future of the United States and the world. Most Members of Congress share that goal, but many, and I include myself in that number, have lacked the energy, the ideological fervor, the intellectual discipline, or the talent to pursue it as vigorously as they have.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Minnesota.

Mr. WEBER. I do not intend to harass the gentleman because I know he has a statement to make. I want to make a point, though.

Did the gentleman notify the gentleman from Georgia (Mr. GINGRICH) that he was going to be mentioning his name on the floor tonight?

Mr. BROWN of California. Oh, yes. I appeared on the floor last night and I told him I would appear tonight, and I most sincerely regret that he is not here.

Mr. WEBER. I just wanted to make that point. I thank the gentleman for that clarification.

Mr. BROWN of California. I assured him that I would say nothing which I would consider to be derogatory, but it will be critical.

Mr. WEBER. I thank the gentleman for yielding.

Mr. BROWN of California. Perhaps those of us who disagree with these Members should reexamine our own course, making an effort to match them in dedication and discipline, in defense of our own principles rather than criticizing this hardy band of zealots so ferociously for their misguided "extremism in defense of liberty," to paraphrase the distinguished Senior Senator from Arizona.

A layman's review of even a little history will show that, with a few notable exceptions, the most rapid and vociferous proponents of radical poli-

cies of whatever ideological persuasion have rarely succeeded in making fundamental improvements in the conditions of a society. The few exceptions are recognized and celebrated, generally long after their death, as prophets, saints, and statesmen.

But the long, arduous course of social and political progress, particularly in our country, has been marked by the effort to secure continued growth in the quality and breadth of political discourse both in this body and in other public arenas. It has been my judgment that even in these last few weeks of emotion-laden dialog over many crucial issues, including the use of "Special Orders" to attack absent Members before a "television only" audience, the rhetorical and intellectual content of the debate and the breadth of participation have been superior on the average to similar debates of 20 years ago. I believe NEWT GINGRICH and his colleagues deserve some credit for that.

I also believe that, until we all recognize the need to focus on improving the quality of our discourse, there will be too many examples of unproductive emotional diatribes, and too few opportunities for the reasoned exposition of fundamental positions, which can lead to some improved understanding of social and political reality, and the synthesis of better policies to cope with that reality. In a sense, I am suggesting that we apply to our political discourse some of the lessons we have learned from the explosive growth of science—that we apply to our efforts to understand and control our political environment some of what we have learned from our efforts to understand and control our natural environment including the use of critical analysis and peer review. While the parallels are not exact, there are possibilities of fruitful interrelationships.

It is in this spirit of careful study, critical analysis and peer review and freedom of thought that I wish to comment on NEWT GINGRICH'S discussion of the Logan Act, as it may relate to the "Dear Commandante" letter signed by several of our distinguished colleagues. I was originally motivated to make these comments by NEWT GINGRICH'S special order of May 1, 1984, and his subsequent piece in the Op Ed section, Washington Post of May 7.

It is my thesis that NEWT GINGRICH has used his considerable expertise as a professional historian to promote his particular political philosophy, selecting from a range of historical facts those which supported that philosophy, and neglecting those which did not. In doing this, he has presented an unbalanced and distorted picture of reality, contrary to the highest standards of his profession, and to the extent that he has believed his own analysis, he has been led into erroneous policy positions which could damage the welfare of our country.

I shall do my best to defend this thesis, focusing upon his treatment of the Logan Act as an example.

I will confess to some ambivalence about undertaking to make these comments, for three reasons. First, I am not a historical scholar, and I respect the historical expertise of NEWT GINGRICH. Second, I have not hesitated in the past, nor will I in the future, to violate the Logan Act, and am therefore to be suspected of lack of impartiality and a self-serving desire to defend my own actions. Third, the Federalist Party and its President, John Adams, who did so little to calm the war hysteria directed against the French during the late 1790's, and who were responsible for the Logan Act and the various alien and sedition acts of the same period, were, as a direct result, soundly defeated by Jefferson and the Republican Party in the Presidential election of 1800. Left unrestrained, I would hope that those supporting that same philosophy today would meet a similar fate.

Because of the parallels between the administration of John Adams and of Ronald Reagan, I have given great consideration to following the course of Thomas Jefferson, then Vice President and leader of the Republicans, who was very cautious in expressing his views about Adams and his policies. In so doing, he was relying upon the good judgment of the American people to repudiate the war hysteria against the French, the increased taxes necessary to support the burgeoning military forces, and the infringement upon free expression by individuals and the press represented by the repressive legislation of the administration. As Jefferson expressed himself at the time, "A little patience, and we shall see the reign of witches pass over, their spells dissolve, and the people, recovering their true sight, restore their government to its true principles" (Dumas Malone, Jefferson and the Ordeal of Liberty, vol. 3, pp. 381-82). This was almost a reiteration of the language he had drafted 20 years earlier in a bill for establishing religious freedom in the General Assembly of Virginia, in which he had expressed his "faith in the triumph of truth under conditions of free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them" (Malone, p. 393). To Jefferson, "Freedom of thought was an absolute, and it may be assumed that he applied not merely to religious opinion but to all opinion this maxim: Reason and free inquiry are the only effectual agents against error" (Malone, p. 393).

As I have stated earlier, this is the fundamental postulate of science, and it is appropriate that Jefferson, one of the finest scientific minds of his time, should also apply it to politics. It is probably the greatest heritage that Jefferson left to succeeding generations, and the primary basis of my great admiration for him.

Jefferson's views in opposition to the policies and actions of the Adams administration were shared by most other Republicans. James Madison, in a letter to Jefferson dated May 13, 1798 (shortly before the Federalist-controlled Congress had passed the Sedition Act and unilaterally abrogated the treaties with France), remarked, "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger real or pretended from abroad" (Malone, p. 379). Monroe, Gerry, Mason, and many of the other "Founding Fathers" shared Jefferson's views in opposition to both the Alien and Sedition Acts and the Logan Act, which was passed on what would today be called a party-line vote by the margin of 58 to 36 in the House.

A point that needs to be made in this cursory review is that historians are human, and, despite whatever analytical expertise and knowledge they may possess, they are capable of viewing history through the distorting prism of their own political philosophy. On the evidence of his current positions, including his support for the Logan Act. NEWT GINGRICH would probably have been a High Federalist, possibly a follower of Alexander Hamilton. Hamilton was a brilliant man, but one who, according to Stinchcombe "* * * had schemed against Adams in 1792 and 1796, just as he would do again in 1800 * * *" (William C. Stinchcombe—the XYZ Affair—1980, p. 17). Thought by most of his contemporaries to seek a much stronger central government, free from criticism by an ignorant press and populace (he strongly supported the Alien and Sedition Acts), possibly even to look longingly upon a restoration of monarchy.

GINGRICH stated (Washington Post, May 7, 1984) that the "Dear Commandante" letter "* * * would clearly have been considered unconstitutional and illegal by the Founding Fathers, whose culminating act in restricting private citizens and legislators was the Logan Act of 1799." Certainly this is equally clear a highly partisan extrapolation of the views and actions of a bitterly divided Congress in 1799, a Congress which itself was repudiated in the following election. It may be nitpicking, but it seems to me that canonizing the Logan Act as the carefully reasoned product of our revered and ostensibly unanimous Founding Fathers stretches the facts a little too much.

Most of what GINGRICH says in his Op Ed piece about the emotions, attitudes and intentions of the Congress

of 1799 (or at least the Federalist members of that particular Congress) is true. They saw revolutionary France as a nation aspiring to universal domination. They saw the "French disease" as infecting Americans of all kinds. They saw the rise of democratic societies, led by the Democratic Society of Pennsylvania, devoted to criticism of government policies, as hotbeds of Jacobin philosophy. Adams shared these views. According to Stinchcombe "No French official who studied American politics deluded himself about Adams' detestation for the French Government." (William C. Stinchcombe—the XYZ affair. 1980 p. 39.) What GINGRICH does not see is that this mass hysteria of the Federalists was an aberration then, just as its more recent manifestations in the 1950's and today are aberrations. The difference that may be crucial is that today we may not have the rational leadership, the Jeffersons and the Madisons, who may be able to set us on a better course before it is too late. Instead we have a party and a President closely resembling the Federalists and Adams.

Let us examine again the act we are discussing. It reads:

> Any citizen of the United States wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures, or conduct of any foreign government or any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000.00 or imprisoned not more than three years, or both [18 U.S.C. 953 (1964)].

Why the Logan Act remains on the statute books is a mystery I have never been able to unravel. As I have said, Adams and the Federalists who passed it were repudiated at the next election. The Alien and Sedition Acts, similar contemporary manifestations of the hysteria of the times, were promptly repealed as being unconstitutional. The same authority that GINGRICH cites in his special order of May 1, 1984 (Michael Seitzinger, American Law Division, Library of Congress) on page 9 of his study of the Logan Act quotes the court in a 1964 case as saying:

> Another infirmity in defendants' claim that plaintiff violated the Logan Act is the existence of a doubtful question with regard to the constitutionality of that statute under the Sixth Amendment. That doubt is engendered by the statute's use of the vague and indefinite terms, "defeat" and "measure." Neither of these words is an abstraction of common certainty or possesses a definite statutory or judicial definition.

And in his conclusion (p. 12), Seitzinger hints at why it is still on the books when he states that "the act has not been forgotten and [that] it is at least a political weapon against anyone who without authority interferes in the foreign relations of the United States."

Vagts, another authority on Logan, summarizes his views as follows:

> • • • The writer's instinct is to say that the combination of Constitutional problems which the Logan Act presents is probably enough to bring it down. The statute does seem to be both broader than necessary to confront the evils aimed at and wooly in its language. The technique of saving legislation by reliance on an unlawful intent would not seem applicable where so much of the constructional difficulty with the law is precisely in the area of defining what sort of intent is called for. Particularly when, as here, the conduct prohibited is apt not to be based on selfish personal motivation or destructive impulses, but rather on idealistic—if occasionally misguided or overbearing—intentions, the standard of clarity demanded of a statute is apt to be a more exacting one than the Logan Act in its present form could meet ("The Logan Act: Paper Tiger or Sleeping Giant?," Detlev F. Vagts, American Journal of International Law," v. 60, April 1966).

As a political weapon, of course, is how the act has been used. No one has ever been brought to trial under the act, and those friendly to the administration in power who engage in private correspondence, intercourse, or negotiations with foreign powers aimed at defeating the measures of the United States are quickly absolved of all sin. But J. Parnell Thomas, speaking for the House Un-American Activities Committee, could announce to the world that the Department of Justice was obligated to prosecute Henry Wallace for making speeches abroad critical of American policy toward Russia. The Logan Act, Thomas argued, "covers Wallace like a cloak" (Frederick B. Tolles, William and Mary Quarterly, vol. 7, January 1950). Others mentioned as possibly violating the Logan Act, in addition to our colleagues who signed the "Dear Commandante" letter, include Senator Warren G. Harding, Ex-President William Howard Taft, Senator Joseph France, Senator William Borah, William C. Bullitt, Leo Szilard, Harold Stassen, Jesse Jackson, Senator Joseph McCarthy, Cyrus Eaton, Representative Alvin O'Konski, Representative GEORGE HANSEN, the Cuban Tractors for Freedom Committee, and myself. I apologize for the numerous omissions of those whose names do not come to mind immediately.

Tolles (p. 23), in the article cited above, sums up the views of most when he said:

> To shrewd observers it was apparent that the so-called Logan Act was essentially a political maneuver calculated to discredit Jefferson and his supporters. On the day before the bill's final passage, Jefferson himself wrote to James Madison, "The real views in the importance they have given to Logan's enterprise are mistaken by nobody."

I would only add that Mr. Jefferson could not have predicted the rise to high office of our distinguished colleague, NEWT GINGRICH, and his friends, and their capacity to reinterpret history. Of course, such capacity is not unique to our colleagues in the House. During the debate in the Senate over the Cuban Tractors for Freedom Committee,

> • • • several Senators drew attention to the Logan Act. Senator Dirksen foreshortened history somewhat when he stated, "it gets its name from the late distinguished Senator Logan from Kentucky, whom it was my pleasure to know quite well" [107 Cong. Rec. 9722 (1901)].

Some may inquire as to what kind of a man was the infamous Mr. George Logan. A few paragraphs from Tolles (Tolles, pp. 5–6) provide a capsule description of the man.

George Logan was a scion of one of the first families of Pennsylvania in the honorific if not the strictly chronological sense. His grandfather was a Scotch-Irish Quaker who had come to America in 1699 as secretary to William Penn. After Penn's departure two years later, James Logan remained behind to look after the Proprietor's interests. During the next half-century he dominated Pennsylvania politics, earned a distinguished reputation as a savant, and, incidentally, amassed a sizable fortune as the province's leading fur merchant. As Mayor of Philadelphia, Secretary of the Provincial Council, Chief Justice, and Acting Lieutenant Governor, he established a tradition of public service which his grandson was to carry on. James Logan was a man of vast and wide-ranging erudition, who achieved a minor niche in the history of botanical science by virtue of the experiments with Indian corn which he conducted at his country estate of Stenton, outside Philadelphia. This interest also passed to his descendants, taking in his son William and his grandson George the more practical form of a zeal for the improvement of the local agriculture.

Both James Logan and his son William were members of the Society of Friends. The former renounced the pacifism of his fellow quakers by maintaining the right of defensive warfare, but the latter was strict in his adherence to the Quaker peace testimony, being the sole member of the Governor's Council to vote in opposition to the declaration of war against the Delaware Indians which brought an end in 1756 to William Penn's "holy experiment." George Logan apparently reverted to his grandfather's position, for he was disowned from the Society of Friends in 1791 for "associating with others in bearing of arms." Nevertheless he manifested throughout his life a deep concern for peace and was as willing as any more consistent Quaker Pacifist to sacrifice material wealth or reputation in carrying out his concern.

The early years of American Revolution found him in Scotland studying medicine at the University of Edinburgh; he had left America at the age of twenty-one, just a month after the battle of Lexington. On his return to Pennsylvania in 1780 after completing his studies, he found the family fortune depleted by inflation and the family estate laid waste by British troops. Abandoning the thought of practicing medicine, he set himself to the task of returning his acres to profitable cultivation and soon made Stenton a model farm. There he conducted experiments to determine the best rotation of crops and put into practice the latest methods recommended by English ag-

ricultural reformers. He was a founder of the Pennsylvania Society for the Promotion of Agriculture, one of the pioneer organizations of this kind in the United States, and his advice was sought by progressive agriculturists like Thomas Jefferson, who called him "the best farmer in Pennsylvania" (Tolles, pp. 5-6).

He served several terms in the Pennsylvania Assembly before undertaking his mission to France in 1798 in an effort to end the cold war between the two countries. According to Tolles:

Personal embassies to the rulers of nations have frequently been undertaken in times of stress by members of the Society of Friends acting under a religious "concern" for the preservation of peace, and to a man of Logan's Quaker background such a seemingly chimerical act may well have appeared an inescapable duty (Tolles, p. 9).

The Federalist press saw his mission as a treasonous plot. The Philadelphia Gazette declared that:

There cannot be the least question but the Doctor, from his inordinate love of French liberty, and hatred to the sacred constitution of the United States, has gone to the French Directory, fraught with intelligence of the most dangerous tendency to this country (Tolles, p. 10).

Logan took with him letters from the French Consul in Philadelphia, from the Chief Justice of Pennsylvania, and from the Vice President, Thomas Jefferson, and was able to meet on a cordial basis with Talleyrand and three members of the French Directory. He received assurances that France desired peace with the United States and would raise the embargo against U.S. ships and release all American seamen confined in French prisons.

There is some reason to believe that the Directory had already come to a decision to take these actions before Logan arrived in Paris. Thus his role could hardly have been more than to crystallize the determination to take specific actions already decided upon in principle (Tolles, p. 17).

After 3 weeks in Paris, Logan returned to the United States with official dispatches to the President and Secretary of State containing notification of the actions of the French Government. He delivered his message to Secretary of State Pickering, only to be told, "Sir it is my duty to inform you that the Government does not thank you for what you have done" (Tolles, p. 21). Two weeks later, on November 26, 1978, he had a long conference with President Adams, who was unexpectedly gracious, and apparently convinced of the sincerity of his mission. Nevertheless, in his address to Congress on December 12, Adams asked that such interference in public affairs be inquired into and corrected. Thus was the Logan Act quickly passed, and signed into law on January 30, 1799.

It is interesting to compare another of the problems facing Adams and the Federalists with the situation of today. In addition to the cold war with the French, repressive legislation, and large tax increases to support the newly created Army and Navy, Adams faced bitter divisions within the party. Hamilton was constantly maneuvering to enhance his own position. Several key Cabinet members were holdovers from Washington's administration or forced on Adams against his better judgment. This led to a general atmosphere of dissension and distrust. It is possible that Adams was better served by Logan than by Timothy Pickering, his Secretary of State. In any event, these problems came to a head a few months later, and Adams dismissed Pickering and two other Cabinet members. Pickering's own views of the nature of his office are set forth in a letter to another of the fired Cabinet members. "He had never thought," Pickering wrote, "that Cabinet officers should be bound by the rule of implicit obedience or resignation. On the contrary, I should think it is their duty to prevent, as far as practicable, the mischievous measures of a wrongheaded President" (Page Smith, John Adams, vol. II, 1966). In other words, in the view of the Secretary of State, while it was a crime for an ordinary citizen to seek peace between this country and other it was the duty of the Secretary of State to oppose the "mischievous measures of a wrongheaded President."

In light of the views thus expressed by Pickering, it probably should not surprise, us, although it is a rather ironic twist of fate, that he was one of the first to be accused of violating the Logan Act. Detlev F. Vagts, a Harvard law professor, who has made one of the more exhaustive studies of the Logan Act describes the situation as follows:

The final episode of the early period under the Logan Act was one in which one of its protagonists, Mr. Pickering, was accused of violating it. In 1808, now in opposition, he entered into correspondence with Mr. George Rose, a special British envoy, taking a New England Federalists pro-British position on various issues then in controversy between the Administration and Great Britain. The exchange continued until 1812. Although the facts seem to indicate a fairly clear-cut violation of the Act, the correspondence was apparently not then known and no steps were then taken to indict him. (Smith, p. 272)

I am sure that Mr. Pickering felt that it was perfectly proper for him to side with the British in his correspondence, although we were at war with them in 1812, even though he had adamently opposed the peacemaking effort of Logan with the French in 1798.

As for Logan, on December 21, 1798, just 9 days after the President's reference to his "officious interference," he was elected again to the Pennsylvania Assembly by a resounding majority. Three years later, after the defeat of the Federalists in 1800, he sent to the U.S. Senate, where he served for 6 years as a faithful lieutenant of President Thomas Jefferson (Tolles, p. 24).

I am sure that Mr. GINGRICH can understand my feelings about his interpretation of the Logan Act, and his applicaton of it to our colleagues who signed the "Dear Commandante" letter. I am sure that he would likewise understand that if I had been in politics in those historic days, I would have been a Republican seeking an honest peace with France and fighting for the rights of individuals, of the press, and of the States to be free from unnecessary Federal interference. If I had been in Congress, I might even be seeking the improvement of agriculture and of science, and the moderation of the defense budget, as I am today. In all probability, I would have been advising President Jefferson of his numerous errors of policy, as he sought to steer the new Nation through troubled waters at home and abroad, and been frustrated that the President paid so little attention to my advice, just as I am today.

But I would have been at one with Jefferson in his distrust of all authoritarianism and his fear of government power in any form. And I share with him a profound faith in the limitless potentiality of unfettered intelligence. Jefferson expressed this thought in a letter to a young friend, William Green Mumford, as follows:

I am one of those who think well of the human character generally. I consider man as formed for society, and endowed by nature with those dispositions which fit him for society. I believe also, with Condorcet, as mentioned in your letter, that his mind is perfectible to a degree of which we cannot as yet form any conception * * *

I join you therefore in branding as cowardly the idea that the human mind is incapable of further advances. This is precisely the doctrine that the present despots of the earth are inculcating, and their friends here reechoing; and applying especially to religion and politics; but thank heaven the American mind is already too much opened, to listen to these impostures; and while the art of printing is left to us science can never be retrograde. What is once acquired of real knowledge can never be lost. To preserve the freedom of the human mind then and freedom of the press, every spirit should be ready to devote itself to martyrdom, for as long as we may think as we will, and speak as we think, the condition of man will proceed in improvement. (Malone, p. 418)

As I have noted before, I have been accused of violating the Logan Act on more than one occasion. Such accusations have been based on speeches which I have made to members of foreign parliaments and conversations I have had with officers of other Governments in which I have expressed the same objections to the policies and actions of the Government of the United States that I express on the floor of this House. These objections

involved my own party as often as the other, for which I am twice condemned.

I do not believe that we can condemn the rulers in the Kremlin for suppressing the correspondence and speeches of a Sakharov critical of the Soviet Union unless we are willing to grant the right of an American to speak critically of his own country, even to representatives of another country. I do condemn the rulers in the Kremlin for their application of the Soviet Logan Act of their citizens, and I will continue to defy similar acts in the United States.

I believe that the issues at stake in the world today are too enormous to allow restrictions in their full and free discussion across national boundaries, regardless of whether the expressions conform to some transitory party or national line. In that view I am an unabased idealist, moved by the most profound religious instincts, just as I think George Logan was. I do not pretend to negotiate for my country or to interfere with its official negotiations, but I will speak my honest convictions, and if those convictions influence the views of another country, so be it.

In this light, I think my colleagues should know that I have accepted invitations to speak in Europe before groups, including public officials, who oppose U.S. weapons policy. I will communicate to them the same views i communicate to my colleagues in this House. I oppose the nuclear arms race and the weaponization of space. I can make pretty good speeches on that subject and I intend to.

If I were concerned about the application of the Logan Act to my activities, I might seek to circumvent it by merely distributing copies of the speeches I have made on the floor, where they are protected by the speech and debate clause of the Constitution. But I am not afraid. I can think of nothing I would relish more than have to my Government indict me for violating that act, so strongly do I object to its intent. To have a part in correcting this historical error would add great meaning to my congressional service.

And I thank NEWT GINGRICH, ROBERT WALKER, VIN WEBER, and their colleagues for this inspiration to become a zealot in the cause of peace, just as they are zealots for their cause.

And for those who wish proof that I have violated the Logan Act, I submit the text of a speech I made before the annual conference of the British Labor Party at Scarborough, England on October 3, 1967. This is one of many speeches which I made to parliamentarians in other countries during the Vietnam war:

SCARBOROUGH: LABOUR CONFERENCE

(By George E. Brown, Jr.)

I have joined you tonight with a feeling of urgency I think you all share. It is, perhaps, unorthodox, if not unprecedented for Members of Congress to address a partisan political audience abroad. No doubt there will be some who think it presumptuous and improper. But on issues of war and peace, the imperatives of conscience transcend frontiers. And though we may rue many of the reasons, the course that America takes today effects radically the opportunities available to Great Britain. So I am here because our business is your business.

I am here as well for more personal reasons. I was told by your Representatives who visited America recently that it would be meaningful for us to come. I think I appreciate how the war in Vietnam is a great source of anguish to you all, all the more because the Labour Party, with all its passionate internal debate, has sought to be an agency of world peace since the days of Hardie and MacDonald, and Attlee, and Bevan and Gaitskell and, of course, your present leaders who view Southeast Asia with the gravest alarm.

I am not here, however, for sentiment; and I shall offer you no ritual tribute to the famous Special Relationship between our countries. For it is today a relationship most special for the strains it raises between us, for the limits it places on your own freedom, and for the dissension with which the Labour Party, like my own Democratic Party, finds itself beset daily.

Of party dissension I shall say nothing—though I rather expect to learn a good deal about it in the next few days. What I want to do very briefly is set before you several factors which may hopefully be relevant to your deliberations today and through the week.

To begin, I can bring you no reassuring word from Washington. The administration continues to be committed to a familiar course in Vietnam—the course of military escalation and diplomatic myopia. The course my country pursues today in Vietnam is, to my mind, the most disastrous, tragic, and immoral in our history. It is a course which is releasing the most deadly qualities in the American character: messianic faith in a self-appointed moral mission, arrogance in the exercise of unprecedented power, and an inability to see the faces, hear the voices, understand the words, and feel the suffering of oppressed people.

It gives me no satisfaction to say what I do. It gives me pain. For to serve in the Parliament of one's country is to love the nation that body seeks to represent. Many of us, in Congress and throughout America, do not find it comfortable to be in such passionate disagreement with the policies of our nation. But we have made a resolve, millions of us, to work with all we have, despite the costs, to bring America to its senses and to reverse our tragic error in Asia.

To understand the proportions of our goals, you must try to appreciate the obstacles we face. There is still little tradition of concern for foreign affairs in our country, let alone a tradition of high debate. And if today we are committed all over the world, we are nonetheless isolated from an appreciation of the ideas which move more than two-thirds of the globe: revolution, aspiration, race and pride in civilizations totally alien to our own.

For these reasons and others, Americans rally behind their leaders in diplomacy and war—all the more so when the cause can be represented as a death struggle between the legions of light and the forces of darkness.

So those of us who seek to reverse an enormous national commitment, which has cost us up-to-date close to $100 billion, face a difficult task indeed. We are up against a tradition. We are up against habit. And we are up against an incredibly powerful institution, the American War machine, the military-industrial complex, with influence and resources that would stagger you.

Despite all this, however, I believe we have built something we can call a movement—a movement for peace which can ultimately succeed. I doubt if this is the message you are receiving here in England today. And yet if I can report no basis for optimism in the policies of American leaders, I think I can honestly present reason for hope in the emerging attitudes of the American people. Slowly, painfully, the American people are beginning to perceive the terrible error of Vietnam. The signs are to be found in public opinion polls, in the rapidly increasing number of Congressmen and Senators, from both parties, who are openly attacking administration policy, and in the simple conversations one has with one's constituents, perhaps the most dependable barometer of opinion.

Americans, to begin with, are beginning to appreciate the reality of military stalemate. The casualties grow. Yet no one sees progress. The draft calls continue and increase. But there is no convincing evidence of success, and the ritual claims of military spokesmen are discarded as meaningless. We burn South Vietnam. And our adversaries remain steady in resolve, sufficient in resources, and strong in self-rectitude. We bomb North Vietnam. And the will to resist is stiffened—which should come as no surprise to the British people.

Americans are beginning to appreciate all this, despite the difficulties of understanding the complex reality of jungle warfare. That appreciation, in turn, is reinforced by a growing awareness of the costs of Vietnam. We face terrible disruption in our cities; its cause, the neglect of domestic problems which is the necessary consequence of the war. We confront a racial crisis of proportions we may be even yet be able to measure; its cause, a system of national priorities which has us fighting for putative freedom ten thousand miles from our shores when we cannot guarantee many freedoms within our own borders. Americans face economic inflation and a ten percent tax surcharge; its cause, Vietnam.

All this is beginning to tell. Our mood is one of war weariness. If American troops were somehow to be withdrawn tomorrow, in honor, the American reaction would be one of enormous relief. And Vietnam would become what it once was, the name of a strange land.

We are not, then, a country beset by a lust for victory. There is not to be found in America the blind hatred of enemy so common to all societies at war. However perverse it seems, America wants to get out of Vietnam—finally, because we really do not know what we're doing there. So it is confusion which marks the American mood: confusion, incredulity, restlessness. And that is at once more hopeful and more dangerous.

This is one of the reasons why I have come to you tonight. The war in Vietnam is at a turning point. For we face a very real possibility that the mood of the American people might conceivably support a desperate spasm of escalation stimulated by the wild, Western hope that power and technology must ultimately prevail. "Get it over or get out." That is an attitude which carries much weight in the United States. And "get it over" means further escalation, and the

real possibility of massive engagement with China.

There is, however, the possibility that American opinion will accept the course of conciliation, negotiation, and disengagement from Vietnam. An appreciation of the difficulties in the field and the cost at home may yet move Americans to decide to reject the pursuit of victory and accept a negotiated peace.

Opinion in the United States, then, is flexible and volatile and uncertain. It is coming our way. But there are no guarantees that this momentum will be sustained. How to relate to all this? Again and again, many of us in Congress and elsewhere ask ourselves this question. And an answer is beginning to emerge. We simply must speak out, again and again and again, forcefully and with conviction, to the administration and, more importantly, to our people. Many have done so. I have done so for over three years. More are beginning to speak out.

But there are still those who seek to use private influence with the councils of American government, rather than taking a strong, public stand. I say that that influence is an illusion! The present councils of American government are not listening to secret voices of moderation! They have not been listening for years!

There are events in history for which acquiescence is complicity. Vietnam is such an event. Many in America are beginning to realize that. Many are beginning to see that the time for quiet counsel are given way to a new demand: the demand for open opposition and forthright dissent. That demand is morally sound. But sweet reason and morality will not overcome the enormous investment of personal prestige which marks the men who control American policy in Vietnam. Aggressive political pressure, and that alone, is necessary today. For there are two great impulses presently at work in America: the impulse of escalation, armed with the enormous power of the American military establishment, and the impulse of conciliation which has only the power of access to the people.

The job we face is still very great. But we simply must try. We simply must do what we can, each of us. We can have no guarantee that small acts of conscience will bear fruit. There is no assurance that a single act of opposition to the war, whether by an individual, a political party, or a nation, will be sufficient to end that war. And we can none of us assume that effective action can be taken without risk and sacrifice. We are political men and we all realize that. The stakes are very high indeed.

But we can decide to take seriously the democratic hypothesis: that the people will respond to reason if they are given it openly, honestly, and forcefully.

We can, in turn, deprive those who press on in this war of the arguments they use to justify their course, reinforce their position and sway public opinion. One such argument, repeated again and again, is that our action has the support of our allies. Now some of our allies of Asia may have no choice but to remain hostage to American power. But there is no reason why the Great Democracies of the West cannot step forward to speak their minds frankly. There is no reason why the views of the people of Europe cannot be made very clear to the people of America. And, if this be the case, there is no reason why those who do not support the war cannot now make that position absolutely clear.

Again let me say, the freedom to speak freely is often bought at high price. But those of us who oppose the war in the country which is fighting it have decided that Vietnam ultimately asks each of us who we really are, what kind of public servants, what kind of private men.

America is not sure where Britain stands in the war. We are told repeatedly of official British support. We hear little of public opinion. And I should say too that Americans do not appreciate the great difficulties and limitations placed upon your nation by the war in Vietnam. We are not disposed to perceive, after all, the consequences of our own power upon those tied to it. But many of us are beginning to understand that the present structure of international relations demands review and reform. Many of us see the need for a total reassessement of European security, for major steps in world disarmament, for a realistic attitude to China, for an enlightened program of aid to the underdeveloped world.

Vietnam is our nightmare. And it is not just an American problem. It is the great problem of the West. It is, if I may say so, Britain's problem as well as America's, your problem as well as mine. So I have come tonight not so much as an American Congressman, but rather as a member of the Parliament of the West. Those of us in America who seek to end this war are beginning to feel some signs of hope in public opinion if not public policy. We are building a momentum which, if sustained, can ultimately achieve its goals. But that momentum must be replenished with energy by events in America, in Vietnam, in the United Nations, in the Vatican and the other great churches of the world, in the Communist Nations, and in all the great Democracies whose commitment to peace and skill in diplomacy are beyond dispute. We need support and solidarity. And it is in this spirit that I have come to address you.

Just one more word in conclusion. I had some trepidation, as I prepared these remarks in ignorance of the scheduling of your action here, that some might take offense at what might have seemed to be an effort to influence your decisions. I understand, from the actions which you have taken this morning, that I need have no such fears. You have alreadey acted in the hightest traditions of free men, or moral men, in the resolution you have taken on Vietnam.

I salute you for it, and I urge you to persevere in the course you have taken.

Mr. Speaker, let me conclude by saying that in my humble opinion our distinguished colleague Mr. GINGRICH has attempted to justify his opposition to the policy position of a group of his colleagues—a policy position which seeks to bring about peace in Central America by encouraging democratic development of Nicaragua and its nonintervention in the affairs of its neighbors—by resort to a one-sided analysis of a distant and troubled time in our own country's history. From those times he has abstracted, in my opinion, facts which present the worst policy side of our great country, and used them to attempt to perpetuate those same policies in the setting of today. I do not claim my analysis is either exhaustive or unbiased. We all have our biases. But I do think that it provides facts, equally as valid as those of Mr. GINGRICH, which helps to balance the picture he has presented. I have undertaken this, for me, rather unaccustomed task, in order to rise to the challenge Mr. GINGRICH and his colleagues have given us. I hope other Members find it as useful as I have.

□ 2300

Mr. WEBER. Will the gentleman yield?

Mr. BROWN of California. I will be pleased to yield.

Mr. WEBER. I thank the gentleman from California for yielding. I think this has been a very instructive discussion of the Logan Act, and I look forward to our colleague from Georgia responding.

I have to just clarify on one point, though. The gentleman mentioned my name and the gentleman from Pennsylvania, as well, in thanking us for inspiring this debate. And while I am anxious to have a debate on many aspects of foreign policy, I know very little about the Logan Act, and I have never spoken on the Logan Act.

Mr. BROWN of California. You know a lot more now.

Mr. WEBER. In fact, I do know a lot more now. The sum total of my knowledge on the Logan Act is what I have heard from by colleague from Georgia and what I have heard from the gentleman tonight.

I just want to clarify that I have never challenged the gentleman or any other Member on any aspect of the Logan Act. And I have not presented myself as an authority on the Logan Act. In fact, our colleague from Georgia has made some intellectual points with regard to the Logan Act, but most of what we are discussing, foreign policy quite aside from the implications of the Logan Act, in fact the sum total of what the gentleman from Pennsylvania and myself have brought to the attention of the Members of this Congress has nothing to do with the Logan Act.

Mr. BROWN of California. I agree with the gentleman. I think that you and others of like mind have a legitimate case to make against those on our side who take a particular attitude about what should be done in Central America.

Unfortunately, this legitimate criticism of a policy position was brought in under color of the Logan Act, and the Logan Act is a criminal statute. And I thought that it needed some clarification.

Now, I have no objections to the discussions of policy.

Mr. WEBER. Will the gentleman yield?

Mr. BROWN of California. Certainly.

Mr. WEBER. I understand what the gentleman is saying, and I understand his justifiable sensitivity. But let us clarify.

The gentleman from Georgia has been specifically critical of one piece of communication with the Government of Nicaragua, the "Dear Commandante" letter and has brought that one piece of communication to light in the context of the Logan Act. Everything that we have discussed, and most of which is contained in what is known as the Gregorsky paper, "What Is the Matter With Democratic Foreign Policy," as the title, has nothing to do with the Logan Act, whatsoever.

Mr. BROWN of California. That is correct.

Mr. WEBER. I thank the gentleman.

Mr. BROWN of California. However, that does not conceal the many defects of the particular document that you have mentioned. The same line of reasoning contained in that document was used during the Adams administration to justify a similar erroneous policy, erroneous attitudes toward the Government of France and almost precipitated an unnecessary war.

Mr. WEBER. Will the gentleman yield further?

Mr. BROWN of California. I yield.

Mr. WEBER. But the point I am trying to make, and the reason I am sensitive to it is because the gentleman's point in debating the Logan Act is that we are, in the gentleman's words, attempting to silence criticism.

I believe the gentleman made that argument, used that phrase during the discussion of the Logan Act. And the point I have made is that there is nothing in the Gregorsky paper, which I was glad to have participated in discussing, that in any way attempts to silence criticism, that in any way is impugning the patriotism of Members. It disputes the judgment of Members of Congress over a period of time about certain foreign policy decisions, which is quite different from saying they violated any law.

Mr. BROWN of California. Let me tell the gentleman what my position is. I was originally intrigued by your colleague's discussion of the Logan Act, and it took me several days of reading to get into all of this. And by that time we had progressed to the reading of the document that you are referring to.

Mr. WEBER. The gentleman made that point.

Mr. BROWN of California. It will take me a week or two to catch up with that. And I hope to have a similar rebuttal because there are some instructive comparisons between the policy position expressed in that document and the policy position taken by the Federalists in the 1790's. I think they need to be brought out.

Mr. WALKER. Will the gentleman yield?

Mr. BROWN of California. Certainly.

Mr. WALKER. I thank the gentleman for yielding because I, like my colleague from Minnesota, do not claim any expertise whatsoever on the Logan Act. The gentleman from Georgia is our expert on this, and I will anxiously await his reading of what the gentleman has to say.

Mr. BROWN of California. I cannot wait.

Mr. WALKER. And to hear his reply to it.

But one thing I have heard him discuss at one point, I would just ask the gentleman's clarification because he is obviously the expert on the floor here this evening on it, is it not true that in the 1960's, the mid-1960's the Supreme Court did uphold the Logan Act as being still applicable at that time?

Mr. BROWN of California. There is a case in which a court, and I am not sure it was the Supreme Court, did rule. I think that our colleague cited that case in his extensive discussions in the RECORD, and he is correct.

I have not quarreled with the facts in any way that he has presented. I respect his professional capability too much, and they check out. I am merely asserting that it is an unbalanced presentation and I have cited language from another court and from several distinguished scholars which present the other side. That is all I am trying to say.

Mr. WALKER. I understand, and if the gentleman would yield further, I think that is an excellent point. That is the reason why a dialog between the gentleman and Mr. GINGRICH would be particularly valuable because at that point, then some of these places where expert opinions on both sides come into conflict might be very interesting and the gentleman from Minnesota, and particularly myself, are not expert enough to engage in that kind of a discussion.

I would say to the gentleman, though, I was most interested in the fact that he brought up the fact that Mr. Logan was, in fact, a distinguished Pennsylvanian, a distinguished agrarian from Pennsylvania. And so having been in Logan Circle in Philadelphia on may occasions, which I think at least was from that family name if not the gentleman himself, that is a little bit of history that I never understood, and I will now appreciate Logan Circle a little more.

Mr. BROWN of California. I might say, of course, that the process that the gentleman has suggested in which our distinguished colleague will read in the RECORD what I have said, and I hope he will analyze it as critically as I have analyzed what he has done, this is what we call——

Mr. WALKER. I think you can probably count on that.

Mr. BROWN of California. This is what we call peer review. I am not saying that I am claiming to be his peer. I am not in terms of historical criticism.

□ 2310

But when sufficiently incensed, I am willing to go to the work of digging up some of this kind of material and I will do my best to keep up with it.

Mr. WALKER. The gentleman has done a marvelous job on that. Obviously spent a good deal of time on preparing the material. I found it fascinating. I will certainly recommend to Mr. GINGRICH when he returns to town tomorrow, he is down addressing an honors banquet for his daughter who is graduating this week, but when he gets back to town tomorrow morning I will be very certain that I point out to him that there is a presentation in the RECORD from the evening before that he ought to familiarize himself with.

Mr. WEBER. Will the gentleman yield?

Mr. BROWN of California. Certainly.

Mr. WEBER. I thank the gentleman.

In order to pare down somewhat the work of our colleague from Georgia in analyzing the gentleman's arguments, let me make reference to some of the earlier statements in the gentleman's presentation. The gentleman in discussing that period of time in which the Logan Act was passed, that Congress, also made several references to the Alien and Sedition Acts. I understand how that is relevant to the gentleman's presentation, that it was reflective of the mood at that time and in the gentleman's view, in my view as well, mistakes made by our governing leaders at that time.

But for the purposes of the debate that the gentleman is having, specifically with the gentleman from Georgia, the Alien and Sedition Acts are not really in question.

I mean this gentleman, the gentleman from Pennsylvania, certainly not the gentleman from Georgia, are not suggesting the Alien and Sedition Acts were good pieces of legislation. I am certain the gentleman is not suggesting to us that we need to debate that.

Mr. BROWN of California. No; I am not.

It could be argued that that was extraneous. But the point is that those acts were of a nature with the Logan Act, they were passed at the same time, they were passed for the same purpose.

Actually there were four of those acts and they were meant to reduce the capability of individuals and the President to criticize the Government within the country. The Logan Act was intended to prevent them from going outside the country and criticizing the Government.

Mr. WEBER. Will the gentleman yield?

Mr. BROWN of California. Certainly.

Mr. WEBER. I thank the gentleman. I have one additional question. This is prefaced again by saying I claim no expertise in the Logan Act. But I was intrigued by one element in the gentleman's presentation, and I would ask the gentleman to comment.

The Logan Act, as I understand it, was directed at Americans in terms of their attitude toward the French.

Mr. BROWN of California. It was directed toward George Logan, yes, and others like him.

Mr. WEBER. The French were the enemy, if you will.

Mr. BROWN of California. Yes.

Mr. WEBER. Today the Soviet Union is the enemy.

Mr. BROWN of California. Yes.

Mr. WEBER. I would like the gentleman to clarify for me what he thinks the historical parallel is between the threat to this country from France in the late eighteenth century and the threat to this country from the Soviet Union today.

Mr. BROWN of California. Well, the French were engaged in actual overt activities against American ships and American sailors. They were actually capturing them, they were imprisoning the American seamen. They were trying to subvert the Government of this country.

They made a definite effort to influence the election of the President. They did not want Adams. That is one of the reasons that he detested them so much.

It was what you would call trying to undermine the Government of the United States, plus engaging in acts of war against them.

The only difference, I would say, is that that was a much more real threat than what we face from the Soviets today, which I would term is more of a threat based upon our interpretation of what the intentions of the Soviets are, but not upon basic facts.

Mr. WEBER. I thank the gentleman for that clarification.

Mr. BROWN of California. Mr. Speaker, I yield back the balance of my time.

BUDGET UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I had intended to engage in a discussion of the budget which did not nearly as much border on the "Alice and Wonderland" description of the budget which I heard earlier tonight.

Given the fact it is 11:15, I think it would be ludicrous to proceed, and I will do so at another time.

Mr. Speaker, I yield back the balance of my time.

THE 36TH ANNIVERSARY OF THE STATE OF ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I take great pleasure in saluting the people of Israel on the occasion of the 36th anniversary of the founding of their nation; 36 years ago, at midnight May 14-15, 1948, the fifth and sixth days of Iyar, 5708, under the Jewish calendar, the British mandate for Palestine came to an end and the State of Israel proclaimed its independence.

The founding of Israel is a vital, living monument to the persistence and heroism of a people who have suffered many centuries of persecution and have known only too well the bitterness and despair of an existence without even the most basic freedoms.

From the destruction of the Second Temple in A.D. 70 and their final courageous stand against the Romans at Massada in A.D. 73, until May 14, 1948, the Jewish people were without a homeland, and in the Diaspora—dispersed throughout the world but without loss of their identity.

Throughout these centuries, in most of the countries of the world, the Jews were severely restricted in their civil and religious liberties, as well as the subjects of periodic physical harassment or outright persecution. This sad history of abuse culminated in the Holocaust, a conscious effort to completely erase the existence, the culture, and the history of a proud and compassionate people.

Seen in this context of tears and tragedy, the establishment of the State of Israel is a momentous turning point in the history of the Jewish people to achieve self-determination. The nation was carved out of bedrock, desert, and malarial swamps, and was transformed into a modern agricultural and technological State, and this was all done in the presence of hostile neighbors, who have repeatedly tried to destroy this tiny nation. Nevertheless, the commitment of Israel's people to peace in this region of the world has never been abandoned, nor has their willingness to make great sacrifices in order to achieve this goal.

Mr. Speaker, I join with the citizens of Israel and their friends in the 11th Congressional District of Illinois which I am honored to represent, and their many friends throughout the world, in celebrating this 36th anniversary of the founding of the State of Israel. May Israel continue to be a source of encouragement and inspiration for all peoples of the world, who desire to determine the course of their own destinies, without fear of persecution.●

LEGISLATION RELATING TO TENDER OFFERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, today, a number of my colleagues on the Subcommittee on Telecommunications, Consumer Protection, and Finance have joined me in sponsoring legislation to address certain unproductive and unfair tactics used in hostile corporate takeovers.

This legislation and other proposals will be the subject of a hearing in the subcommittee on Wednesday, May 23, 1984. The introduction of this legislation, consisting of four separate bills, is part of a lengthy and comprehensive review begun by the subcommittee in the last session of this Congress. As part of that review, the subcommittee undertook a widespread solicitation of the views of leaders of consumer and labor groups, investors, State officials, academics, economists, corporate leaders, lawyers, and investment bankers. We have worked closely with the Securities and Exchange Commission and with members of its advisory committee on tender offers, and held a hearing on the issues on March 28 of this year.

The bills introduced today are not final products, but are intended to focus the debate on specific legislative proposals. We still have much work to do. But the broad cosponsorship of the bills by subcommittee members reflects a bipartisan concern about the takeover process, and a resolve by the Members to deal with the problems legislatively during this Congress if at all possible.

In that connection, I am especially pleased and encouraged that my good friend and ranking minority member of the subcommittee (MATTHEW J. RINALDO) has joined me on two of the proposals, and that I am joined in sponsorship of some or all of the bills by my other colleagues on the subcommittee, EDWARD J. MARKEY, AL SWIFT, MICKEY LELAND, JOHN BRYANT, HENRY A. WAXMAN, and CARLOS J. MOORHEAD.

Two of the bills represent proposals of the SEC. In that connection, I should note that SEC Chairman John Shad has played an important leadership role in focusing attention on problems in the takeover area.

There has been much discussion in recent months about the impact of takeovers on individual companies and on the economy, especially in the oil industry. This is, and should be, a major concern of the Congress.

But, quite apart from issues of economic efficiency, or whether a particular merger or acquisition will impede competition, we must be concerned about the intense, high-level corporate

warfare that has become part of the takeover process.

In recent years, front-page battles for corporate control have heightened public and congressional concern about tactics used by corporate raiders seeking to gain control, as well as tactics used by corporate managements seeking to defend against takeovers. Strategies used by bidders, such as two-tier, front-end loaded tender offers, have been said to coerce or stampede shareholders into accepting an offer. Defensive tactics with exotic names such as the poison pill, sale of crown jewels, and scorched earth defense reflect the corporate gamesmanship involved in attempts by management to thwart hostile takeovers through actions that may, at the same time, damage the target company itself.

In the heat of a takeover contest, as the offensive and defensive battle escalates, important shareholder, employee, and community interests may be overlooked.

Since 1968, the Federal securities laws have provided a framework for the regulation of corporate takeovers in the national marketplace. But the tactics and strategies used by both bidders and targets in recent years have raised questions about the adequacy of current laws to insure the fundamental fairness of the takeover process. At hearings before the Subcommittee on Telecommunications, Consumer Protection, and Finance on March 28, the use of these tactics, and their impact on the fairness of the takeover process, was debated.

Is it fair for a bidder to offer a high, cash price in the front end of a two-tier tender offer in order to gain a controlling interest in a company, but offer lower valued securities for the remaining shares? Can a shareholder confronted with a front-end loaded tender offer make an objective decision about selling his shares, or is he coerced into selling quickly, out of fear that he will end up with the lower valued second-tier price?

New York lawyer Martin Lipton noted that such offers are "devices through which unsophisticated shareholders are taken advantage of by professional investors. * * * They are devices by which a target's own balance sheet is used to finance a raid." At the hearing, he proposed legislation to restrict bids of this kind, and his proposal is reflected in one of the bills introduced today. SEC Chairman Shad testified that there is "an element of coercion" in such bids, and is studying the issue further.

Is it fair that a corporate raider can accumulate a large block of stock, threaten a takeover, and command an enormous premium above the market to sell his shares back to the company? This practice, dubbed "greenmail," is a "disgrace and should be eliminated," said Mr. Lipton. The legislation proposed by the SEC is intended to deal with the problem by requiring a shareholder vote before shares can be repurchased from the raider at a premium.

Should the law permit, as it now does, the accumulation of large, control blocks of a company's stock, without offering the remaining shareholders the benefit of the tender offer process? Bruce Wasserstein, managing partner of First Boston, testified that, once an acquiror has purchased 10 percent of a company's stock, "the public should have equal access to a change of control buying program. Otherwise, in the long term, the tender offer process will be vitiated." He stressed that this "is an issue of fundamental fairness to the public investor." This issue is also addressed in part in the legislation introduced today.

Does the current Federal scheme, which allows a takeover to be accomplished in as few as 20 business days, permit adequate time to consider the impact of a takeover on all constituencies of the company, including its employees and the affected communities? State securities regulators testified that 60 days would be more appropriate, and this will be a subject of discussion at the subcommittee's hearing tomorrow.

What about defensive tactics used by managements to avoid a hostile takeover? Is it fair that corporate management has virtually unlimited discretion to use or sell corporate assets to defend against a takeover? In the case of a hostile takeover, it is clear that management's interest in perpetuating its control may conflict with the interest of the shareholders, the employees, and the company itself.

Management in the past has defended its actions by replying on a theory of State corporation law called the business judgment rule. At the hearing, SEC Chairman Shad testified that management's conduct should continue to be governed by this rule, although there should be more judicial recognition of potential conflicts of interest. But Mr. Wasserstein testified: "If there is abuse, there should be clearer legislative remedy rather than hoping for court decisions." One of the proposals introduced today tackles this difficult issue.

Even apart from the macroeconomic question of whether takeovers are good or bad for the economy in general, it is clear that takeover tactics themselves have severely damaged the financial health of some companies. Companies have engaged in enormous bank borrowings to conduct Pac Man defensive offers and self-tenders simply as defensive tactics.

In the midst of the battle for control of Gulf, the New York Times reported that Gulf management had warned that if Boone Pickens ever acquired 51 percent of the company, Gulf management "might use six billion dollars in bank credits to buy the rest, turning itself into a financial cripple." Can tactics of that sort ever be good for the economy?

Perhaps even more disturbing is the impact of the threat of takeovers on companies that may never take part in a takeover battle. The mere possibility that they may be subject to a future hostile tender offer has forced many companies to spend valuable time and management resources devising creative shark proofing strategies and defensive techniques to guard against takeovers.

The chairman of Control Data, William Norris, testified at the subcommittee's hearing that the threat of hostile takeovers has caused many managers to focus on short-term earnings—to insure that share prices stay high to prevent any temporary dip in prices from providing an opportunity for a hostile takeover.

When we as a nation are worried about capital formation—and when we are concerned about productivity and international competitiveness—we must consider these consequences of takeovers.

There are few legislative days remaining in this Congress, and I believe all of us would acknowledge the difficulties inherent in moving a bill at this time. However, I am hopeful that congressional attention on the legislation introduced today, as well as on other proposals, will begin a process to lower the level of combat we now see in contests for corporate control, and to insure that the takeover process is fairer to shareholders and all corporate constituencies.●

A NEW PEACE INITIATIVE BY THIRD WORLD LEADERS

(Mr. RUSSO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RUSSO. Mr. Speaker, I wholeheartedly support the joint declaration of Third World leaders referred to by the gentleman from New York (Mr. DOWNEY) in his 1-minute speech earlier today, and, by unanimous consent, I am including it in the RECORD, as follows:

JOINT DECLARATION BY H.E. MRS. INDIRA GANDHI, PRIME MINISTER OF INDIA; H.E. MR. MIGUEL DE LA MADRID; PRESIDENT OF MEXICO; H.E. MR. JULIUS NYERERE, PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA; H.E. MR. OLOF PALME, PRIME MINISTER OF SWEDEN; H.E. MR. ANDREAS PAPANDREOU, PRIME MINISTER OF GREECE; PRESIDENT RAOUL ALFONSIN

Issued in Athens, Dar es Salaam, Mexico City, New Delhi, and Stockholm, 22 May 1984.

Today, the survival of humankind is in jeopardy. The escalating arms race, the rise in international tensions and the lack of constructive dialogue among the nuclear weapons states has increased the risk of nuclear war. Such a war, even using part of the present stockpiles, would bring death and destruction to all peoples.

As leaders of nations, member states of the United Nations, we have a commitment to take constructive action towards halting and reversing the nuclear arms race. The people we represent are no less threatened by nuclear war than the citizens of the nuclear weapons states. It is primarily the responsibility of the nuclear weapons states to prevent a nuclear catastrophe, but this problem is too important to be left to those states alone.

We come from different parts of the globe, with differences in religion, culture and political systems. But we are united in the conviction that there must not be another world war. On this, the most crucial of all issues, we have resolved to make a common effort in the interests of peace.

Agreements which merely regulate an arms build-up are clearly insufficient. The probability of nuclear holocaust increases as warning time decreases and the weapons become swifter, more accurate and more deadly. The rush towards global suicide must be stopped and then reversed. We urge, as a necessary first step, the United States and the Soviet Union, as well as the United Kindgom, France and China, to halt all testing, production and deployment of nuclear weapons and their delivery systems, to be immediately followed by substantial reductions in nuclear forces. We are convinced that it is possible to work out the details of an arrangement along these lines that takes into account the interests and concerns of all, and contains adequate measures for verification. This first step must be followed by a continuing programme of arms reductions leading to general and complete disarmament, accompanied by measures to strengthen the United Nations system and to ensure an urgently needed transfer of substantial resources from the arms race into social and economic development. The essential goal must be to reduce and then eliminate the risk of war between nations.

We will do everything in our power to facilitate agreement among the nuclear weapons states. We will continue to keep in touch with one another about the best ways and means of achieving this objective. We will be consulting with the leaders of the nuclear weapons states and with other world leaders as well as pursuing discussions through United Nations channels.

We affirm our belief in detente and mutual understanding, with broad international co-operation and respect for the right of each state to a peaceful, secure and independent existence and the right of each people to organise its life according to its own aspirations. There can be no assurance of safety for one side only. That is why we attach such importance to a halt in the nuclear arms race that allows for renewed talks on nuclear disarmament.

All people have an overriding interest in common security and the avoidance of a nuclear war which threatens human survival. Citizens throughout the world are expressing, as never before, their concern for the future; this public discussion of peace and disarmament must continue and increase. The support and encouragement of an informed public will greatly strengthen governmental action to reverse the nuclear arms race.

We have faith in the capacity of human beings to rise above the current divisions and create a world free from the shadow of nuclear war. The power and ingenuity of the human race must be used, not to perfect weapons of annihilation, but to harness the resources of the earth so that all people may enjoy a life of security and dignity in an international system free of war and based on peace and justice.

Today, the world hangs in the balance between war and peace. We hope that our combined efforts will help to influence the outcome.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SILJANDER) to revise and extend their remarks and include extraneous material:)

Mr. SAWYER, for 60 minutes, June 5.
Mr. SAWYER, for 60 minutes, June 19.
Mr. GREGG, for 60 minutes, May 23.
Mr. BOEHLERT, for 60 minutes, June 13.
Mr. SILJANDER, for 60 minutes, May 22.
Mr. SILJANDER, for 60 minutes, May 23.
Mr. SILJANDER, for 60 minutes, May 24.
Mr. SILJANDER, for 60 minutes, June 5.
Mr. SILJANDER, for 60 minutes, June 6.
Mr. SILJANDER, for 60 minutes, June 7.
Mr. SILJANDER, for 60 minutes, June 12.
Mr. SILJANDER, for 60 minutes, June 13.
Mr. SILJANDER, for 60 minutes, June 14.
Mr. SILJANDER, for 60 minutes, June 19.
Mr. SILJANDER, for 60 minutes, June 20.
Mr. SILJANDER, for 60 minutes, June 21.

(The following Members (at the request of Mr. LEVINE of California) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CHANDLER, to revise and extend his remarks on H.R. 4280 in the House today.

Mr. LOWRY of Washington, immediately prior to the vote on H.R. 4145 today.

Mrs. MARTIN of Illinois, in support of H.R. 4280 immediately following debate on the bill today.

Mr. MICHEL on House Concurrent Resolution 310, immediately following Mr. FOLEY.

Mr. MAZZOLI, during debate on H.R. 4280 today.

Mr. MCEWEN, on the subject of the point of order raised by Mr. OTTINGER on H.R. 5653 in the Committee of the Whole today.

(The following Members (at the request of Mr. SILJANDER) and to include extraneous matter:)

Mr. CONTE in two instances.
Mr. PHILIP M. CRANE.
Mr. LEWIS of California.
Mr. BEREUTER.
Mr. VANDER JAGT.
Mr. BADHAM.
Mr. DANIEL B. CRANE in two instances.
Mr. LAGOMARSINO in three instances.
Mr. YOUNG of Alaska.
Mr. PETRI.
Mr. RUDD.
Mr. GOODLING.
Mr. GREGG.
Mr. WOLF.
Mr. HUNTER.
Mr. COURTER in two instances.
Mr. LEWIS of Florida.
Mrs. SMITH of Nebraska.
Mrs. JOHNSON.
Mr. MCCOLLUM.
Mr. RITTER.
Mr. MCDADE.
Mr. GRADISON.
Mr. FISH.
Mr. BETHUNE.
Mr. GILMAN.
Mr. MCEWEN.

(The following Members (at the request of Mr. LEVINE of California) and to include extraneous matter:)

Mr. STARK in three instances.
Mr. OTTINGER.
Mr. MILLER of California.
Mr. LANTOS in two instances.
Mr. LAFALCE.
Mr. WEISS in two instances.
Mr. BONER of Tennessee.
Mrs. BOXER in two instances.
Mr. PEASE.
Ms. OAKAR.
Mr. VALENTINE.
Mr. MARTINEZ.
Mr. WIRTH.
Mr. LEHMAN of Florida.
Mr. ROYBAL.
Mr. NICHOLS.
Mr. RICHARDSON.
Mr. LONG of Maryland.
Mr. CHAPPELL.
Mr. OBEY.
Mr. MATSUI.
Mr. KOSTMAYER.
Mr. MONTGOMERY.
Mr. EDGAR.
Ms. KAPTUR in two instances.
Mr. WILLIAMS of Montana.
Mr. TORRICELLI.
Mr. GEJDENSON.

Mr. LUNDINE.
Mr. ST GERMAIN.
Mr. HALL of Ohio.
Mr. RODINO.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee has examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2751. An act to amend the National Foundation on the Arts and the Humanities Act of 1965 and for other purposes

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 23, 1984, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3389. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the Navy's proposed decision to convert to contractor performance the Custodial Services function at the Naval Hospital, Charleston, S.C., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

3390. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the Navy's decision to convert to contractor performance the Custodial Services function at the Naval Hospital, Groton, Conn., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

3391. A letter from the Acting Secretary of the Interior, transmitting a report on the overall impact of the urban park and recreation recovery program since its inception in 1978, pursuant to Public Law 95-625, section 1015(a); to the Committee on Interior and Insular Affairs.

3392. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the revised National Airspace System Plan, pursuant to Public Law 97-248, section 504(b)(1); to the Committee on Public Works and Transportation.

3393. A letter from the Acting Comptroller General of the United States, transmitting a report entitled "The 1978 Navy Shipbuilding Claim Settlement At Electric Boat—Status As Of July 2, 1983" (GAO/NSIAD-84-83, May 18, 1984), pursuant to Public Law 95-485, section 821(c); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on pay equity: EEOC's handling of sex-biased wage discrimination complaints. (Rept. No. 98-796). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 507. Resolution providing for the consideration of H.R. 5580, a bill to amend the Public Health Service Act to authorize financial assistance for organ procurement organizations, and for other purposes. (Rept. No. 98-797). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 508. Resolution providing for the consideration of H.R. 5290, a bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer. (Rept. No. 98-798). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 509. Resolution providing for the consideration of H.R. 5244, a bill to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal years 1985, 1986, and 1987. (Rept. No. 98-799). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3953. A bill to amend the Panama Canal Act of 1979 in order that outside-the-locks claims for vessels damaged may be resolved in the same manner as those damaged inside the locks, and for other purposes; with amendments (Rept. No. 98-800). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself and Mr. CONABLE):

H.R. 5692. A bill to provide for a temporary increase in the public debt limit, and for other purposes; to the Committee on Ways and Means.

By Mr. WIRTH (for himself, Mr. MARKEY, Mr. SWIFT, Mr. LELAND, Mr. BRYANT, Mrs. COLLINS, Mr. WAXMAN, Mr. RINALDO, Mr. SCHEUER, and Mr. GORE) (by request):

H.R. 5693. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself, Mr. MARKEY, Mr. LELAND, Mr. BRYANT, Mr. SCHEUER, Mr. WAXMAN, and Mr. MOORHEAD):

H.R. 5694. A bill to amend the Securities Exchange Act of 1934 to prohibit acquisitions of corporate control except by means of tender offers for all outstanding shares, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself, Mr. MARKEY, Mr. LELAND, Mr. BRYANT, Mr. SCHEUER, and Mr. WAXMAN):

H.R. 5695. A bill to permit shareholders and the Securities and Exchange Commission to seek injunctive relief from harmful defensive tactics by management in corporate takeover situations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself, Mr. SWIFT, Mr. LELAND, Mr. BRYANT, Mr. SCHEUER, Mr. WAXMAN, Mr. RINALDO, Mrs. COLLINS, and Mr. GORE):

H.R. 5696. A bill to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934; to the Committee on Energy and Commerce.

By Mr. ACKERMAN:

H.R. 5697. A bill to amend title II of the Social Security Act to prohibit the payment of benefits thereunder to individuals who have been denaturalized because of the concealment or misrepresentation of facts bearing upon their pro-Nazi activities during World War II; to the Committee on Ways and Means.

By Mr. BREAUX (for himself and Mr. YOUNG of Alaska):

H.R. 5698. A bill to approve an 18-month extension of the governing international fishery agreements with Poland and the Soviet Union; to the Committee on Merchant Marine and Fisheries.

By Mr. FAUNTROY (by request):

H.R. 5699. A bill to establish Federal and District of Columbia Government responsibilities for the provision of mental health services in the District of Columbia; to the Committee on the District of Columbia.

H.R. 5700. A bill to establish the National Capital Mental Health Services Corporation, and for other purposes; to the Committee on the District of Columbia.

By Mr. FOLEY:

H.R. 5701. A bill to amend the Saccharin Study and Labeling Act to extend for 3 years the period during which the Secretary of Health and Human Services may not prohibit or restrict the sale or distribution of saccharin or products containing saccharin; to the Committee on Energy and Commerce.

By Mr. LATTA:

H.R. 5702. A bill providing for the conveyance of certain public lands, Seneca County, Ohio; to the Committee on Interior and Insular Affairs.

By Mr. McCAIN:

H.R. 5703. A bill to provide for the administration and probate of certain estates under laws of the Salt River Pima-Maricopa Indian Community, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR:

H.R. 5704. A bill to amend the Railroad Retirement Act of 1974 to provide survivors' annuities to certain employees' survivors not currently eligible for such annuities, and to provide for reductions in annuities otherwise due to persons likely to become such survivors and employees; to the Committee on Energy and Commerce.

By Mr. SHELBY (for himself and Mr. SMITH of New Jersey) (by request):

H.R. 5705. A bill to amend title 38, United States Code, to authorize direct appropriations to the Veterans' Administration loan

guaranty revolving fund; to the Committee on Veterans' Affairs.

By Mr. BREAUX:

H.R. 5706. A bill to amend title 31 of the United States Code to provide that interest on a money judgment in a civil action against the United States shall run from the date of the commencement of such action instead of the date the judgment becomes final; to the Committee on the Judiciary.

By Mr. CONYERS (for himself and Mr. HAYES):

H.R. 5707. A bill to translate into practical reality the right of all Americans who are able, willing, and seeking to work to have the opportunity for useful paid employment at fair rates of compensation; to promote genuine economic recovery in local communities and States throughout the Nation; and to promote full employment by means of a transfer of funds from the Department of Defense to civilian job training and employment programs; jointly, to the Committee on Education and Labor and Armed Services.

By Mr. DELLUMS (for himself, Mr. FAUNTROY, and Mr. MCKINNEY):

H.R. 5708. A bill to transfer the operation and financial responsibility of St. Elizabeth Hospital to the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. GUARINI:

H.R. 5709. A bill to require certain flammable liquid storage facilities to have overflow alarm systems, and for other purposes; to the Committee on Education and Labor.

By Ms. KAPTUR:

H.R. 5710. A bill to extend duty-free treatment to metal umbrella frames; to the Committee on Ways and Means.

By Mr. PHILIP M. CRANE:

H. Con. Res. 311. Concurrent resolution expressing the sense of the Congress with respect to the right of all Americans to keep and bear arms in defense of life or liberty and in the pursuit of all other legitimate endeavors; to the Committee on the Judiciary.

By Mr. MCEWEN:

H. Res. 510. Resolution providing for the consideration of the bill (H.R. 5345) to provide that no Federal educational funds may be obligated or expended to any State or local educational agency which discriminates against any meetings of students in public secondary schools who wish to meet voluntarily for religious purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 421: Mr. GONZALEZ.

H.R. 1415: Mr. OBEY.

H.R. 1617: Mr. BURTON of Indiana, Mr. PENNY, Mr. STAGGERS, Mr. KOSTMAYER, Mr. SLATTERY, Mr. PHILIP M. CRANE, Mr. MCEWEN, Mr. CHAPPELL, Mr. NICHOLS, Mr. PRITCHARD, Mr. ROWLAND, Mr. FLORIO, Mr. GOODLING, and Mr. DASCHLE.

H.R. 1676: Mr. MAZZOLI, Mr. MORRISON of Connecticut, and Mr. STUDDS.

H.R. 2137: Mr. DUNCAN.

H.R. 2977: Mr. SUNDQUIST.

H.R. 3277: Mr. MARTINEZ.

H.R. 3858: Mr. WEBER.

H.R. 4080: Mr. DEWINE and Mr. MCCURDY.

H.R. 4098: Mr. BILIRAKIS and Mr. BURTON of Indiana.

H.R. 4356: Mr. TAUKE, Mr. OTTINGER, and Mr. MAZZOLI.

H.R. 4373: Mr. MORRISON of Connecticut.

H.R. 4395: Mr. RITTER, Mr. GOODLING, and Mr. LEVINE of California.

H.R. 4464: Mr. SUNIA and Mr. MRAZEK.

H.R. 4465: Mr. HOWARD, Mrs. BOXER, Mr. FAZIO, Mr. EDGAR, Mr. WON PAT, and Mr. ACKERMAN.

H.R. 4475: Mr. GORE, Mr. MARTINEZ, and Mr. BRYANT.

H.R. 4571: Mr. RAY.

H.R. 4720: Mr. STUDDS and Mr. MAVROULES.

H.R. 4772: Mr. HERTEL of Michigan.

H.R. 4876: Mr. LANTOS.

H.R. 4892: Mr. BEILENSON and Mr. IRELAND.

H.R. 4905: Mr. SOLOMON.

H.R. 4961: Mr. KOGOVSEK, Mr. MACK, and Mr. DEWINE.

H.R. 4965: Mr. ACKERMAN and Mr. GONZALEZ.

H.R. 4966: Mr. EDWARDS of California.

H.R. 5008: Mr. LEVIN of Michigan.

H.R. 5015: Mr. MARTINEZ.

H.R. 5078: Mr. PEASE.

H.R. 5093: Mr. SOLOMON.

H.R. 5107: Mr. LEVIN of Michigan and Mr. CROCKETT.

H.R. 5108: Mr. MARTINEZ and Mr. WHITLEY.

H.R. 5110: Mr. RITTER, Mr. MCHUGH, Mr. MARTINEZ, and Mr. RICHARDSON.

H.R. 5111: Mr. MARTINEZ and Ms. OAKAR.

H.R. 5143: Mr. D'AMOURS, Mrs. KENNELLY, and Mr. ECKART.

H.R. 5151: Mr. LEVINE of California, Mr. EDGAR, Mr. LEHMAN of California, and Mr. KOSTMAYER.

H.R. 5180: Mr. MARTINEZ.

H.R. 5267: Mr. MORRISON of Connecticut, Mr. BOEHLERT, Mr. JONES of North Carolina, and Mr. MARTINEZ.

H.R. 5370: Mrs. VUCANOVICH, Mr. YOUNG of Alaska, Mr. SCHAEFER, Mr. PATTERSON, and Mr. BOUCHER.

H.R. 5381: Mr. LUKEN, Mr. ACKERMAN, and Mr. WAXMAN.

H.R. 5411: Ms. KAPTUR, Mr. DIXON, Mr. FAZIO, Mr. LELAND, Mr. MITCHELL, Mr. OWENS, Mr. RATCHFORD, Mr. SIMON, Mr. LEVIN of Michigan, Mrs. HALL of Indiana, Mr. HORTON, Mr. BEDELL, Mr. GARCIA, Mr. EDGAR, Mr. VENTO, Mr. CROCKETT, Mr. MINISH, Mr. REID, Mr. MORRISON of Washington, Mr. BERMAN, and Mr. GEJDENSON.

H.R. 5438: Mr. PATMAN.

H.R. 5446: Mr. MCCOLLUM and Mr. FRANK.

H.R. 5452: Ms. MIKULSKI.

H.R. 5490: Mr. HAMILTON, Mr. BOUCHER, Mr. BATES, Mr. FASCELL, Mr. DE LUGO, Mr. CLARKE, Mr. ACKERMAN, Mr. HEFTEL of Hawaii, Mr. BIAGGI, Mr. BOSCO, Mrs. COLLINS, Mr. COURTER, Mr. DASCHLE, Mr. DELLUMS, Mr. GONZALEZ, Mr. LEVIN of Michigan, Mr. LOWERY of California, Mr. MORRISON of Connecticut, Mr. PORTER, Mr. SAWYER, Mr. SEIBERLING, Mr. SLATTERY, Mr. SMITH of Florida, Mr. SYNAR, Mr. WHITEHURST, Mr. WORTLEY, and Mr. KOGOVSEK.

H.R. 5577: Mr. BERMAN, Ms. KAPTUR, Mr. STUDDS, and Mr. FEIGHAN.

H.R. 5581: Mr. CARPER.

H.R. 5582: Mr. VENTO, Mr. LAFALCE, Mr. MARTINEZ, and Mr. FRANK.

H.R. 5616: Mr. RINALDO.

H.R. 5627: Mr. OWENS.

H.R. 5640: Mr. GOODLING and Mr. SUNIA.

H.R. 5648: Mr. MCCAIN.

H.R. 5680: Mr. FAZIO, Mr. BARNES, Mr. WON PAT, Mr. DICKS, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. HOWARD, Mr. LANTOS, Mr. MATSUI, Mr. ROE, Mr. WAXMAN, Mr. SIKORSKI, Mrs. COLLINS, Ms. MIKULSKI, and Mrs. BYRON.

H.R. 5682: Mr. BONER of Tennessee, Mr. FORD of Tennessee, and Mr. COOPER.

H.R. 5688: Mr. BRYANT.

H.J. Res. 174: Mr. BEDELL, Mr. JACOBS, and Mr. JENKINS.

H.J. Res. 205: Mr. EDWARDS of Oklahoma, Mr. LEWIS of California, Mr. SOLARZ, Mr. YOUNG of Florida, Mr. WHITLEY, Mr. LEWIS of Florida, and Mr. AKAKA.

H.J. Res. 389: Mrs. KENNELLY.

H.J. Res. 420: Mr. BROOKS, Mr. BROYHILL, Mr. DYSON, Mr. GRAMM, Mr. GOODLING, Mr. LOWRY of Washington, Mr. MURTHA, Mr. OBEY, Mr. ROWLAND, Mrs. SCHROEDER, Mr. SIMON, Mr. SMITH of Iowa, Mr. STRATTON, Mr. TAYLOR, Mr. WRIGHT, and Mr. VALENTINE.

H.J. Res. 482: Mr. MADIGAN, Mr. SAWYER, Mr. ST GERMAIN, Mr. WINN, Mr. MCCURDY, Mr. BETHUNE, Mr. ENGLISH, and Mr. LUJAN.

H.J. Res. 504: Mr. MAZZOLI and Mr. MADIGAN.

H.J. Res. 514: Mr. SOLARZ, Mr. DERRICK, Mr. PERKINS, and Mr. BIAGGI.

H.J. Res. 530: Mr. ANDREWS of North Carolina, Mr. ANTHONY, Mr. BETHUNE, Mr. BREAUX, Mr. BROYHILL, Mr. CLARKE, Mr. D'AMOURS, Mr. DOWDY of Mississippi, Mr. EARLY, Mr. EMERSON, Mr. EVANS of Illinois, Mr. FOLEY, Mr. FRENZEL, Mr. GREGG, Mr. KOSTMAYER, Mr. LIVINGSTON, Mr. LONG of Louisiana, Mr. MCDADE, Mr. MCKERNAN, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MOLLOHAN, Mr. MOORHEAD, Mr. NEAL, Mr. OXLEY, Mr. PASHAYAN, Mr. PATMAN, Mr. PATTERSON, Mr. PRICE, Mr. RAHALL, Mr. SCHAEFER, Ms. SNOWE, Mr. WALGREN, Mr. YOUNG of Missouri, and Mr. MARTIN of North Carolina.

H.J. Res. 544: Mr. TOWNS, Mr. WON PAT, Mr. WEAVER, Mr. MCDADE, Mr. HOYER, Mr. REID, Mrs. SCHNEIDER, Mr. RAY, Mr. SCHAEFER, Mr. RATCHFORD, Mr. KOGOVSEK, Mr. HOWARD, Mr. ASPIN, Mr. FAUNTROY, Mr. MATSUI, Mr. GEJDENSON, Mr. STARK, Mr. JONES of North Carolina, Mrs. KENNELLY, Mrs. BURTON of California, Mr. FAZIO, and Ms. MIKULSKI.

H.J. Res. 554: Mrs. HALL of Indiana, Mrs. BOXER, Mr. FISH, Mr. PURSELL, Mr. LUKEN, Ms. OAKAR, Mr. PATTERSON, Mr. LONG of Louisiana, Mr. EDGAR, Mr. BRYANT, Mr. HIGHTOWER, Mr. JONES of Tennessee, Mr. WAXMAN, Mr. WYDEN, Mr. GOODLING, Mr. DURBIN, Mr. FROST, Mr. COOPER, Mr. CONTE, and Mr. WEISS.

H. Con. Res. 23: Mrs. HOLT.

H. Con. Res. 260: Mr. SABO, Mr. ANNUNZIO, and Mr. PANETTA.

H. Con. Res. 292: Mr. FISH, Mr. GORE, Mr. MORRISON of Connecticut, Mr. GEKAS, Mr. SPRATT, Mrs. SCHNEIDER, Mr. RICHARDSON, Mr. AUCOIN, Mr. HUGHES, Mr. LANTOS, Mr. BERMAN, Mr. BOEHLERT, Mr. DEWINE, Mr. DAUB, Mrs. HALL of Indiana, Mr. MINETA, Mr. SMITH of Florida, Mr. WEBER, and Mr. WORTLEY.

H. Con. Res. 301: Mr. LANTOS, Mr. BROWN of California, Mr. TOWNS, and Mr. MITCHELL.

H. Con. Res. 310: Mr. BOLAND, Mr. DOWNEY of New York, Mr. KOSTMAYER, Mr. NOWAK, Mr. COYNE, Mr. DWYER of New Jersey, Mr. GREEN, Mr. ROE, Mr. FRANK, Mr. DYSON, Mr. MCNULTY, Mr. HERTEL of Michigan, Mr. HUGHES, Mrs. BOGGS, Mr. GEJDENSON, Mr. MURPHY, Mr. HOWARD, Mr. MARKEY, Mr. FAUNTROY, Mr. DEWINE, Mr. FAZIO, Mr. DICKS, Mr. CORRADA, Mr. BERMAN, Mr. MADIGAN, Ms. FIEDLER, Mr. MOODY, Mr. SCHUMER, Mr. GEKAS, Mr. WALGREN, Mr. FRENZEL, Mr. BOUCHER, Mr. OWENS, Mr. WYDEN, Mrs. MARTIN of Illinois, Mr. DURBIN, Mr. HYDE, Mr. TOWNS, Mr. KINDNESS, Mr. EVANS of Illinois, Mr. LELAND, Mr. CARPER, Mr. FEIGHAN, Ms. FERRARO, Mr. MOAKLEY,

Mr. ANNUNZIO, Mr. MCCLOSKEY, Mr. MCDADE, Mr. EARLY, Mr. HORTON, Mr. MCKINNEY, Mr. MAVROULES, Mr. STUDDS, Mr. COUGHLIN, Mrs. KENNELLY, Ms. MIKULSKI, Mr. SHANNON, Mr. CONTE, and Mr. LANTOS.

H. Res. 441: Mr. LAGOMARSINO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3282 Mrs. BOXER.
H.R. 3282 Mr. SCHUMER.
H.R. 3795 Mr. MRAZEK.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1510

By Mr. DYMALLY:

—Page 90, after line 2, insert the following new part (and conform the table of contents accordingly):

PART C—NATURALIZATION

PERMITTING THE NATURALIZATION OF CERTAIN FILIPINO WAR VETERANS

SEC. 221. Notwithstanding sections 310(d) and 329(d) of the Immigration and Nationality Act (8 U.S.C. 1421(d), 1440(d)) and clause (3) of section 701 of the Nationality Act of 1940, the Attorney General shall provide, in accordance with the provisions of title III of the Nationality Act of 1940 (as in effect before December 24, 1952), for the naturalization of nationals of the Philippines who—

(1) are present in the United States,

(2) would have been eligible for naturalization under such title as of December 31, 1946, but for the fact that they did not file a petition for naturalization under such title before January 1, 1947, and

(3) apply (or have applied) for such naturalization not later than 90 days after the date of the enactment of this Act.

H.R. 5167

By Mr. ASPIN:

(To any amendment offered in title I.)

—In the section proposed to be inserted by the amendment, strike out all after "SEC." and insert in lieu thereof the following: "Notwithstanding any other provision of this title, amounts authorized to be appropriated for fiscal year 1985 for the MX missile program shall be as provided under section 103(a) and such program shall be carried out in accordance with section 110.".

(To any amendment offered to title I, as amended.)

—At the end of the section proposed to be inserted by the amendment, insert the following: "Notwithstanding any other provision of this title, amounts authorized to be appropriated for fiscal year 1985 for the MX missile program shall be as provided under section 103(a) and such program shall be carried out in accordance with section 110.".

(Substitute amendment for any amendment offered by title I.)

—At the end of title I (page 15, after line 5) insert the following new section:

MX MISSILE PROGRAM

SEC. . Notwithstanding any other provision of this title, amounts authorized to be appropriated for fiscal year 1985 for the MX missile program shall be as provided under section 103(a) and such program shall be carried out in accordance with section 110.

(To any substitute amendment offered to title I.)

—In the section proposed to be inserted by the substitute amendment, strike out all after "SEC." and insert in lieu thereof the following: "Notwithstanding any other provision of this title, amounts authorized to be appropriated for fiscal year 1985 for the MX missile program shall be as provided under section 103(a) and such program shall be carried out in accordance with section 110.".

To any amendment offered to title I.

—In the matter proposed to be inserted by the amendment, strike out all after "SEC. 101." and insert in lieu thereof the following:

(a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Army as follows:

For aircraft, $3,763,100,000.

For missiles, $3,196,200,000.

For weapons and tracked combat vehicles, $4,863,100,000.

For ammunition, $2,165,000,000.

For other procurement, $5,359,800,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $60,500,000 to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation resulting from the sale of M48A5 tanks under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund; and

(ii) $113,300,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation.

(B) There is hereby authorized to be transferred to, and merged with, amounts appropriated for other procurement for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $5,400,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Army remaining available for obligation.

(b) From the amount appropriated pursuant to the authorization in subsection (a) for aircraft for the Army that is available for procurement of AH-64 helicopters, not fewer than 18 AH-64 helicopters shall be provided for the Army National Guard.

(c) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft, EH-60A aircraft, M-1 tanks or subsystems, TOW missiles, 5-ton trucks, Bushmaster Vehicle Rapid-fire weapon system, and shop equipment contact maintenance, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of EH-60A and UH-60A aircraft under a multiyear contract.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft for the Navy in the amount of $10,884,700,000.

(2) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $132,100,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Navy remaining available for obligation.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $4,400,100,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,451,900,000.

For the MK-48 torpedo program, $33,700,000.

For the MK-46 torpedo program, $256,000,000

For the MK-60 torpedo program, $128,500,000.

For the MK-30 mobile target program, $21,300,000.

For the MK-38 minimobile target program, $2,500,000.

For the antisubmarine rocket (ASROC) program, $25,900,000.

For the modification of torpedoes and related equipment, $141,100,000.

For the torpedo support equipment program, $96,000,000.

For the MK-15 close-in weapon system program, $163,900,000.

For the MK-75 76-millimeter gun mount program, $10,900,000.

For other weapons, $68,300,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $11,888,700,000 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,415,000,000.

For the SSN-688 nuclear attack submarine program, $2,880,000,000.

For the aircraft carrier service life extension program (SLEP), $764,500,000.

For the CG-47 Aegis cruiser program, $3,150,000,000.

For the DDG-51 guided missile destroyer program, $1,173,900,000.

For the LSD-41 landing ship dock program, $489,500,000.

For the LHD-1 amphibious assault ship program, $39,200,000.

For the LPD-4 amphibious transport dock service life extension program, $15,000,000.

For the MCM-1 mine countermeasures ship program, $349,500,000.

For the TAO-187 fleet oiler program, $562,600,000.

For the TAGOS ocean surveillance ship program, $129,900,000.

For the TAGS ocean survey ship program, $245,000,000.

For the strategic sealift ready reserve program, $31,000,000.

For the TACS auxiliary crane ship program, $44,000,000.

For the TAVB aviation logistics support ship program, $42,800,000.

For the LCAC landing craft air cushion program, $230,100,000.

For service craft and landing craft, $93,100,000.

For outfitting and post delivery, $383,600,000.

The sum of the amounts authorized for programs under this subsection is reduced by $150,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1985 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of $676,200,000 as follows:

(A) For the Trident submarine program, $340,000,000 of which—

(i) $40,000,000 shall be derived from funds appropriated for fiscal year 1983 for the FFG-7 guided missile frigate program and shall be available only for an x-band phased array radar; and

(ii) $300,000,000 shall be derived from funds appropriated for fiscal year 1984 for the FFG-7 guided missile frigate program.

(B) For the battleship reactivation program, $336,200,000, to be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1985 for other procurement for the Navy in the amount of $5,319,000,000, of which—

(1) $787,100,000 is available only for the ship support equipment program;

(2) $1,799,800,000 is available only for the communications and electronics equipment program; and

(3) $1,152,600,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,901,300,000.

(f) MULTIYEAR CONTRACTS.—The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft and AN/SSQ-36 sonobuoys. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(g) STRATEGIC SEALIFT READY RESERVE PROGRAM.—(1) None of the funds appropriated pursuant to the authorization of appropriations for the strategic sealift ready reserve program under subsection (c) may be obligated or expended for the acquisition of a specific vessel for that program until (A) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed acquisition of that vessel for that program, and (B) a period of 30 days of continuous session of Congress has expired following the date on which that notice was received by those committees.

(2) For purposes of paragraph (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30 day period.

(h) DDG-51 DESTROYER PROGRAM.—None of the funds appropriated pursuant to the authorization of appropriations in subsection (c) for the DDG-51 guided missile destroyer program may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that the lead ship in that program is capable of being equipped with a Rankine-Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification to the ship.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows:

For aircraft, $25,243,200,000.

For missiles, $7,756,601,000.

For other procurement, $8,421,700,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $99,000,000 to be derived from amounts available for fiscal years 1983, 1984, and 1985 for procurement of aircraft for the Air Force remaining available for obligation resulting from the sale of aircraft under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund; and

(ii) $86,200,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Air Force remaining available for obligation.

(b) None of the amounts appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for procurement of subsystems unique to the F-15E Dual Role Fighter program—

(1) until the Secretary of Defense provides to the Committee on Armed Services of the Senate and House of Representatives a comprehensive master plan for acquisition of ground and air defense for United States airbases in Europe; and

(2) unless a request for funding to implement that master plan is included in the budget request of the Department of Defense for fiscal year 1986 in an amount equal to or greater than the amount requested for that fiscal year for subsystems unique to the F-15E aircraft program.

(c) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of engines for the F-15 aircraft.

(d) The Secretary of the Air Force may enter into a multiyear contract for the purchase of F-16 aircraft in accordance with section 236(h) of title 10, United States Code. Such contract may include an unfunded cancellation ceiling. In the event funds are not made available for the continuation of such contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(e) The Secretary of the Air Force shall acquire two additional used T-43 type aircraft to be used to augment T-43 national security airlift operations. Such aircraft shall be acquired using amounts which were appropriated for fiscal year 1984 for procurement of equipment for the Air National Guard and which remain available for obligation.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1985 for the defense agencies in the amount of $1,160,000,000.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

SEC. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot system for the Federal Republic of Germany, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $100,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $50,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $25,000,000.

For acquisition of point air defense of United States air bases in Turkey, $25,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(2) for acquisition in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat 1100), is amended by striking out "fiscal year 1984" each place it appears and inserting in lieu thereof "fiscal year 1985".

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

SEC. 107. The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

SEC. 108. The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation

Act, 1984 (Public Law 98-212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

SEC. 109. Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

SEC. 110. (a) It is the policy of Congress not to take any action that would reward the Soviet Union through the unilateral cancellation by the United States of the MX strategic nuclear missile weapon system for which funds are authorized in this title while the Soviet Union continues to act in a manner indicating that it is unwilling to take actions to further the control and limitation of similar types of strategic nuclear missile weapon systems.

(b)(1) Subject to paragraph (3), funds appropriated pursuant to the authorization of appropriations in section 103(a) for procurement of missiles for the Air Force may be used to acquire not more than 15 additional MX missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(2) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of strategic nuclear missile weapon systems similar to the MX strategic missile weapons system authorized for the Air Force by this title and shall immediately transmit written notification of that determination to Congress.

(3)(A) If the President's determination under paragraph (2) is that the Soviet Union is not acting in such a manner, the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under paragraph (2), that—

(i) the obligation of such funds is in the national interest; and

(ii) as of April 1, 1985, the United States is willing to act to further the control and limitation on the MX strategic nuclear missile weapon system authorized for the Air Force by this title.

(B) If the President's determination under paragraph (2) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated. However, if after the determination under paragraph (2) the President makes a further determination that the Soviet Union is not acting in good faith with respect to its willingness to take actions described in paragraph (2) and transmit written notification of the determination to Congress, such funds may be obligated after the end of the 30-day period beginning on the date of the receipt of that notification by Congress unless, before the end of such 30-day period, a joint resolution is enacted disapproving the obligation of such funds.

(c) Obligation for the MX missile program of funds appropriated pursuant to the authorization of appropriations in section 103(a) is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

SEC. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components for or the establishment of a production base for such munitions.

(Substitute amendment for any amendment offered to title I.)

—Strike out title I (page 2, line 5 through page 15, line 5 (and the sections inserted after line 5)) and insert in lieu thereof the following:

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Army as follows:

For aircraft, $3,763,100,000.

For missiles, $3,196,200,000.

For weapons and tracked combat vehicles, $4,863,100,000.

For ammunition, $2,165,000,000.

For other procurement, $5,359,800,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $60,500,000 to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation resulting from the sale of M48A5 tanks under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund; and

(ii) $113,300,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation.

(B) There is hereby authorized to be transferred to, and merged with, amounts appropriated for other procurement for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $5,400,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Army remaining available for obligation.

(b) From the amount appropriated pursuant to the authorization in subsection (a) for aircraft for the Army that is available for procurement of AH-64 helicopters, not fewer than 18 AH-64 helicopters shall be provided for the Army National Guard.

(c) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft, EH-60A aircraft, M-1 tanks or subsystems, TOW missiles, 5-ton trucks, Bushmaster Vehicle Rapid-fire weapon system, and shop equipment contact maintenance, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of EH-60A and UH-60A aircraft under a multiyear contract.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft for the Navy in the amount of $10,884,700,000.

(2) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $132,100,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Navy remaining available for obligation.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $4,400,100,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,451,900,000.

For the MK-48 torpedo program, $33,700,000.

For the MK-46 torpedo program, $256,000,000.

For the MK-60 torpedo program, $128,500,000.

For the MK-30 mobile target program, $21,300,000.

For the MK-38 minimobile target program, $2,500,000.

For the antisubmarine rocket (ASROC) program, $25,900,000.

For the modification of torpedoes and related equipment, $141,100,000.

For the torpedo support equipment program, $96,000,000.

For the MK-15 close-in weapon system program, $163,900,000.

For the MK-75 76-millimeter gun mount program, $10,900,000.

For other weapons, $68,300,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $11,888,700,000 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,415,000,000.

For the SSN-688 nuclear attack submarine program, $2,880,000,000.

For the aircraft carrier service life extension program (SLEP), $764,500,000.

For the CG-47 Aegis cruiser program, $3,150,000,000.

For the DDG-51 guided missile destroyer program, $1,173,900,000.

For the LSD-41 landing ship dock program, $489,500,000.

For the LHD-1 amphibious assault ship program, $39,200,000.

For the LPD-4 amphibious transport dock service life extension program, $15,000,000.

For the MCM-1 mine countermeasures ship program, $349,500,000.

For the TAO-187 fleet oiler program, $562,600,000.

For the TAGOS ocean surveillance ship program, $129,900,000.

For the TAGS ocean survey ship program, $245,000,000.1

For the strategic sealift ready reserve program, $31,000,000.

For the TACS auxiliary crane ship program, $44,000,000.

For the TAVB aviation logistics support ship program, $42,800,000.

For the LCAC landing craft air cushion program, $230,100,000.

For service craft and landing craft, $93,100,000.

For outfitting and post delivery, $383,600,000.

The sum of the amounts authorized for programs under this subsection is reduced by $150,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1985 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of $676,200,000 as follows:

(A) For the Trident submarine program, $340,000,000, of which—

(i) $40,000,000 shall be derived from funds appropriated for fiscal year 1983 for the FFG-7 guided missile frigate program and shall be available only for an x-band phased array radar; and

(ii) $300,000,000 shall be derived from funds appropriated for fiscal year 1984 for the FFG-7 guided missile frigate program.

(b) For the battleship reactivation program, $336,200,000, to be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1985 for other procurement for the Navy in the amount of $5,319,000,000, of which—

(1) $787,100,000 is available only for the ship support equipment program;

(2) $1,799,800,000 is available only for the communications and electronics equipment program; and

(3) $1,152,600,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,901,300,000.

(f) MULTIYEAR CONTRACTS.—The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft and AN/SSQ-36 sonobuoys. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(g) STRATEGIC SEALIFT READY RESERVE PROGRAM.—(1) None of the funds appropriated pursuant to the authorization of appropriations for the strategic sealift ready reserve program under subsection (c) may be obligated or expended for the acquisition of a specific vessel for that program until (A) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed acquisition of that vessel for that program, and (B) a period of 30 days of continuous session of Congress has expired following the date on which that notice was received by those committees.

(2) For purposes of paragraph (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(h) DDG-51 DESTROYER PROGRAM.—None of the funds appropriated pursuant to the authorization of appropriations in subsection (c) for the DDG-51 guided missile destroyer program may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that the lead ship in that program is capable of being equipped with a Rankine-Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification to the ship.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows:

For aircraft, $25,243,200,000.

For missiles, $7,756,601,000.

For other procurement, $8,421,700,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $99,000,000 to be derived from amounts available for fiscal years 1983, 1984, and 1985 for procurement of aircraft for the Air Force remaining available for obligation resulting from the sale of aircraft under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise to be deposited in the Special Defense Acquisition Fund; and

(ii) $86,200,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Air Force remaining available for obligation.

(b) None of the amounts appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for procurement of subsystems unique to the F-15E Dual Role Fighter program—

(1) until the Secretary of Defense provides to the Committees on Armed Services of the Senate and House of Representatives a comprehensive master plan for acquisition of ground and air defenses for United States airbases in Europe; and

(2) unless a request for funding to implement that master plan is included in the budget request of the Department of Defense for fiscal year 1986 in an amount equal to or greater than the amount requested for that fiscal year for subsystems unique to the F-15E aircraft program.

(c) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of engines for the F-15 aircraft.

(d) The Secretary of the Air Force may enter into a multiyear contract for the purchase of F-16 aircraft in accordance with section 2306(h) of title 10, United States Code. Such contract may include an unfunded cancellation ceiling. In the event funds are not made available for the continuation of such contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(e) The Secretary of the Air Force shall acquire two additional used T-43 type aircraft to be used to augment T-43 national security airlift operations. Such aircraft shall be acquired using amounts which were appropriated for fiscal year 1984 for procurement of equipment for the Air National Guard and which remain available for obligation.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1985 for the defense agencies in the amount of $1,160,000,000.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

SEC. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $100,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $50,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $25,000,000.

For acquisition of point air defense of United States air bases in Turkey, $25,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1984" each place it appears and inserting in lieu thereof "fiscal year 1985".

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

SEC. 107. The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

SEC. 108. The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

SEC. 109. Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

SEC. 110. (a) It is the policy of Congress not to take any action that would reward the Soviet Union through the unilateral cancellation by the United States of the MX strategic nuclear missile weapon system for which funds are authorized in this title while the Soviet Union continues to act in a manner indicating that it is unwilling to take actions to further the control and limitation of similar types of strategic nuclear missile weapon systems.

(b)(1) Subject to paragraph (3), funds appropriated pursuant to the authorization of appropriations in section 103(a) for procurement of missiles for the Air Force may be used to acquire not more than 15 additional MX missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(2) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of strategic nuclear missile weapon systems similar to the MX strategic missile weapons system authorized for the Air Force by this title and shall immediately transmit written notification of that determination to Congress.

(3)(A) If the President's determination under paragraph (2) is that the Soviet Union is not acting in such a manner, the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under paragraph (2), that—

(i) the obligation of such funds is in the national interest; and

(ii) as of April 1, 1985, the United States is willing to act to further the control and limitation on the MX strategic nuclear missile weapon system authorized for the Air Force by this title.

(B) If the President's determination under paragraph (2) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated. However, if after the determination under paragraph (2) the President makes a further determination that the Soviet Union is not acting in good faith with respect to its willingness to take actions described in paragraph (2) and transmits written notification of that determination to Congress, such funds may be obligated after the end of the 30-day period beginning on the date of the receipt of that notification by Congress unless, before the end of such 30-day period, a joint resolution is enacted disapproving the obligation of such funds.

(c) Obligation for the MX missile program of funds appropriated pursuant to the authorization of appropriations in section 103(a) is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

SEC. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components for or the establishment of a production base for such munitions.

(To any substitute amendment offered to title I.)

—In the matter proposed to be inserted by the substitute amendment, strike out all after "SEC. 101." and insert in lieu thereof the following:

(a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Army as follows:

For aircraft, $3,763,100,000.

For missiles, $3,196,200,000.

For weapons and tracked combat vehicles, $4,863,100,000.

For ammunition, $2,165,000,000.

For other procurement, $5,359,800,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $60,500,000 to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation resulting from the sale of M48A5 tanks under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund; and

(ii) $113,300,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation.

(B) There is hereby authorized to be transferred to, and merged with, amounts appropriated for other procurement for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $5,400,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Army remaining available for obligation.

(b) From the amount appropriated pursuant to the authorization in subsection (a) for aircraft for the Army that is available for procurement of AH-64 helicopters, not fewer than 18 AH-64 helicopters shall be provided for the Army National Guard.

(c) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(k) of title 10, United States Code, for the purchase of UH-60A aircraft, EH-60A aircraft, M-1 tanks or subsystems, TOW missiles, 5-ton trucks, Bushmaster Vehicle Rapid-fire weapon system, and shop equipment contact maintenance, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of EH-60A and UH-60A aircraft under a multiyear contract.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft for the Navy in the amount of $10,884,700,000.

(2) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, $132,100,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Navy remaining available for obligation.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $4,400,100,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,451,900,000.

For the MK-48 torpedo program, $33,700,000.

For the MK-46 torpedo program, $256,000,000.

For the MK-60 torpedo program, $128,500,000.

For the MK-30 mobile target program, $21,300,000.

For the MK-38 minimobile target program, $2,500,000.

For the antisubmarine rocket (ASROC) program, $25,900,000.

For the modification of torpedoes and related equipment $141,100,000.

For the torpedo support equipment program, $96,000,000.

For the MK-15 close-in weapon system program, $163,900,000.

For the MK-75 76-millimeter gun mount program, $10,900,000.

For other weapons, $68,300,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are herby authorized to be appropriated for fiscal year 1985 in the total amount of $11,888,700,000 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,415,000,000.

For the SSN-688 nuclear attack submarine program, $2,880,000,000.

For the aircraft carrier service life extension program (SLEP), $764,500,000.

For the CG-47 Aegis cruiser program, $3,150,000,000.

For the DDG-51 guided missile destroyer program, $1,173,900,000.

For the LSD-41 landing ship dock program, $489,500,000.

For the LHD-1 amphibious assault ship program, $39,200,000.

for the LPD-4 amphibious transport dock service life extension program, $15,000,000.

For the MCM-1 mine countermeasures ship program, $349,500,000.

For the TAO-187 fleet oiler program, $562,600,000.

For the TAGOS ocean surveillance ship program, $129,900,000.

For the TAGS ocean survey ship program, $245,000,000.

For the strategic sealift ready reserve program, $31,000,000.

For the TACS auxiliary crane ship program, $44,000,000.

For the TAVB aviation logistics support ship program, $42,800,000.

For the LCAC landing craft air cushion program, $230,100,000.

For service craft and landing craft, $93,100,000.

For outfitting and post delivery, $383,600,000.

The sum of the amounts authorized for programs under this subsection is reduced by $150,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1985 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided an appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of $676,200,000 as follows:

(A) For the Trident submarine program, $340,000,000, of which—

(i) $40,000,000 shall be derived from funds appropriated for fiscal year 1983 for the FFG-7 guided missile frigate program and shall be available only for an x-band phased array radar; and

(ii) $300,000,000 shall be derived from funds appropriated for fiscal year 1984 for the FFG-7 guided missile frigate program.

(B) For the battleship reactivation program, $336,200,000, to be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1985 for other procurement for the Navy in the amount of $5,319,000,000, of which—

(1) $787,100,000 is available only for the ship support equipment program;

(2) $1,799,800,000 is available only for the communications and electronics equipment program; and

(3) $1,152,600,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,901,300,000.

(f) MULTIYEAR CONTRACTS.—The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft and AN/SSQ-36 sonobuoys. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(g) STRATEGIC SEALIFT READY RESERVE PROGRAM.—(1) None of the funds appropriated pursuant to the authorization of appropriations for the strategic sealift ready reserve program under subsection (c) may be obligated or expended for the acquisition of a specific vessel for that program until (A) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed acquisition of that vessel for that program, and (B) a period of 30 days of continuous session of Congress has expired following the date on which that notice was received by those committees.

(2) For purposes of paragraph (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(h) DDG-51 DESTROYER PROGRAM.—None of the funds appropriated pursuant to the authorization of appropriations in subsection (c) for the DDG-51 guided missile destroyer program may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that the lead ship in that program is capable of being equipped with a Rankine-Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification to the ship.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows:

For aircraft, $25,243,200,000.

For missiles, $7,756,601,000.

For other procurement, $8,421,700,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $99,000,000 to be derived from amounts available for fiscal year 1983, 1984, and 1985 for procurement of aircraft for the Air Force remaining available for obligation resulting from the sale of aircraft under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund; and

(ii) $86,200,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Air Force remaining available for obligation.

(b) None of the amounts appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for procurement of subsystems unique to the F-15E Dual Role Fighter program—

(1) until the Secretary of Defense provides to the Committees on Armed Services of the Senate and House of Representatives a comprehensive master plan for acquisition of ground and air defenses for United States airbases in Europe; and

(2) unless a request for funding to implement that master plan is included in the budget request of the Department of Defense for fiscal year 1986 in an amount equal to or greater than the amount requested for that fiscal year for subsystems unique to the F-15E aircraft program.

(c) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of engines for the F-15 aircraft.

(d) The Secretary of the Air Force may enter into a multiyear contract for the purchase of F-16 aircraft in accordance with section 2306(h) of title 10, United States Code. Such contract may include an unfunded cancellation ceiling. In the event funds are not made available for the continuation of such contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(e) The Secretary of the Air Force shall acquire two additional used T-43 type aircraft to be used to augment T-43 national security airlift operations. Such aircraft shall be acquired using amounts which were appropriated for fiscal year 1984 for procurement of equipment for the Air National Guard and which remain available for obligation.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1985 for the defense agencies in the amount of $1,160,000,000.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

SEC. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organizaton as follows:

For acquisition of the Patriot missile system for the Federal Republic of German, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $100,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $50,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $25,000,000.

For acquisition of point air defense of United States air bases in Turkey, $25,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1984" each place it appears and inserting in lieu thereof "fiscal year 1985".

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

SEC. 107. The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

SEC. 108. The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

SEC. 109. Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

SEC. 110. (a) It is the policy of Congress not to take any action that would reward the Soviet Union through the unilateral cancellation by the United States of the MX strategic nuclear missile weapon system for which funds are authorized in this title while the Soviet Union continues to act in a manner indicating that it is unwilling to take actions to further the control and limitation of similar types of strategic nuclear missile weapon systems.

(b)(1) Subject to paragraph (3), funds appropriated pursuant to the authorization of appropriations in section 103(a) for procurement of missiles for the Air Force may be used to acquire not more than 15 additional MX missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(2) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of strategic nuclear missile weapon systems similar to the MX strategic missile weapons system authorized for the Air Force by this title and shall immediately transmit written notification of that determination to Congress.

(3)(A) If the President's determination under paragraph (2) is that the Soviet Union is not acting in such a manner, the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under paragraph (2), that—

(i) the obligation of such funds is in the national interest; and

(ii) as of April 1, 1985, the United States is willing to act to further the control and limitation on the MX strategic nuclear missile weapon system authorized for the Air Force by this title.

(B) If the President's determination under paragraph (2) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated. However, if after the determination under paragraph (2) the President makes a further determination that the Soviet Union is not acting in good faith with respect to its willingness to take actions described in paragraph (2) and transmits written notification of that determination to Congress, such funds may be obligated after the end of the 30-day period beginning on the date of the receipt of that notification by Congress unless, before the end of such 30-day period, a joint resolution is enacted disapproving the obligation of such funds.

(c) Obligation for the MX missile program of funds appropriated pursuant to the authorization of appropriations in section 103(a) is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

SEC. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components for or the establishment of a production base for such munitions.

(To any amendment offered to title I, as amended.)

—At the end of the matter proposed to be inserted by the amendment, insert the following:

MX MISSILE PROGRAM

SEC. . Notwithstanding any other provision of this title, amounts authorized to be appropriated for fiscal year 1985 for the MX missile program shall be as provided under section 103(a) and such program shall be carried out in accordance with section 110.

By Mr. NICHOLS:

—Page 134, after line 9, insert the following new title (and redesignate the succeeding title and sections accordingly):

TITLE X—PROCUREMENT REFORM

SHORT TITLE

SEC. 1001. This title may be cited as the "Defense Spare Parts Procurement Reform Act."

CONGRESSIONAL FINDINGS AND POLICY DIRECTION

SEC. 1002. The Congress finds that recent disclosures of excessive payments by the Department of Defense for replenishment parts have undermined confidence by the public and Congress in the defense procurement system. The Secretary of Defense should make every effort to reform procurement practices relating to replenishment parts. Such efforts should, among other matters, be directed to elimination of excessive pricing of replenishment spare parts and the recovery of unjustified payments. Specifically, the Secretary should—

(1) direct that officials in the Department of Defense refuse to enter into contracts unless the proposed prices are fair and reasonable;

(2) continue and accelerate ongoing efforts to improve defense contracting procedures in order to encourage effective competition and assure fair and reasonable prices;

(3) direct that replenishment parts be acquired in economic order quantities and on a multiyear basis whenever feasible, practicable, and cost effective;

(4) direct that standard or commercial parts be used whenever such use is technically acceptable and cost effective; and

(5) vigorously continue reexamination of policies relating to acquisition, pricing, and management of replenishment parts and of technical data related to such parts.

PERSONNEL EVALUATIONS TO INCLUDE EMPHASIS ON COMPETITION AND COST SAVINGS

SEC. 1003. (a) Chapter 137 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2317. Encouragement of competition and cost savings

"The Secretary of Defense shall establish procedures to ensure that personnel appraisal systems of the Department of Defense give appropriate recognition to efforts to increase competition and achieve cost savings in areas relating to contracts covered by this chapter.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2317. Encouragement of competition and cost savings.".

IDENTIFICATION OF SOURCES OF SUPPLIES

SEC. 1004. (a) Section 2384 of title 10, United States Code, is amended to read as follows:

"§ 2384. Supplies: identification of supplier and sources

"(a) The Secretary of Defense shall require that the contractor under a contract with the Department of Defense for the furnishing of supplies to the United States shall mark or otherwise identify supplies furnished under the contract with the identity of the contractor, the national stock number for the supplies furnished, and the contractor's identification number for the supplies.

"(b) The Secretary of Defense shall prescribe regulations requiring that, whenever practicable, each contract for supplies require that the contractor identify—

"(1) the name of the actual manufacturer or producer of the item or of all sources of supply of the contractor for that item;

"(2) the national stock number of the item or, if there is no such number, the identification number of the actual manufacturer or producer or of each source; and

"(3) the source of any technical data delivered under the contract.

"(c) Identification of supplies and technical data under this section shall be made in the manner and with respect to the supplies prescribed by the Secretary of Defense.".

(b) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2384. Supplies: identification of supplier and sources.".

PROHIBITION OF LIMITING DIRECT SALES BY SUBCONTRACTORS TO THE UNITED STATES

SEC. 1005. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2402. Prohibition of contractors limiting subcontractor sales directly to the United States

"(a) Except as provided in subsection (b), each contract for the purchase of supplies or services made by the Department of Defense shall provide that the contractor will not—

"(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) like those made, or services like those furnished, by the subcontractor under the contract (or any follow-on production contract); or

"(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

"(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2402. Prohibition of contractors limiting subcontractor sales directly to the United States.".

DEFINITIONS

SEC. 1006. Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(4) 'Technical data' means recorded information (regardless of the form or

method of the recording) of a scientific or technical nature. It does not include computer software.

"(5) 'Unlimited rights' means, with respect to technical data required to be delivered to the United States under a contract, legal authority of the United States to use, duplicate, and disclose the technical data for any purpose and the legal authority to have or permit others to do so.

"(6) 'Developed at private expense' means, with respect to an item (or technical data relating to an item) delivered to the United States under a contract, developed without direct payment by the United States under a provision of the contract which requires the performance of the development effort.".

PLANNING FOR PROCUREMENT OF SUPPLIES

SEC. 1007. Section 2304 of title 10, United States Code, is amended by adding at the end thereof the following new subsections:

"(j) The Secretary of Defense shall ensure that before a contract for the delivery of supplies to the Department of Defense is entered into—

"(1) when the appropriate officials of the Department are making an assessment of the most advantageous procedure for acquisition of the supplies (considering quality, price, delivery, and other factors), there is a review of the availability and cost of each item of supply—

"(A) through the supply system of the Department of Defense; and

"(B) under standard Government supply contracts, if the item is in a category of supplies defined under regulations of the Secretary of Defense as being potentially available under a standard Government supply contract; and

"(2) there is a review of both the procurement history of the item and a description of the item, including, when necessary for an adequate description of the item, a picture, drawing, diagram, or other graphic representation of the item.

"(k)(1) The Secretary of Defense shall prescribe regulations requiring that, whenever practicable, an offeror submitting a proposal for a contract shall furnish information in the proposal identifying—

"(A) with respect to all items that will be delivered to the United States under the contract (older than items to which paragraph (2) applies), those items for which technical data will not be provided to the United States; and

"(B) with respect to technical data that will be delivered to the United States under the contract, any of such technical data that will not be provided with unlimited rights.

"(2) With respect to items that will be delivered to the United States under a contract described in paragraph (1) with respect to which it would be impracticable to ascertain, at the time the contract is entered into, the information required to be furnished under that paragraph, the contract shall require that the contractor provide identifying information similar to that required to be furnished under that paragraph at a time to be specified in the contract.

"(3) The Secretary of Defense shall ensure that information furnished under paragraph (1) is considered in selecting the contractor for the contract.".

RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE

SEC. 1008. (a)(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2386 the following new section:

"§ 2386a. Rights in technical data and computer software

"(a) A contract for supplies entered into by the Department of Defense which provides for delivery of technical data or computer software to the United States shall provide that the United States shall have unlimited rights in—

"(1) technical data and computer software resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in a Government contract or subcontract;

"(2) computer software required to be originated or developed under a Government contract or generated as a necessary part of performing a contract;

"(3) computer data bases prepared under a Government contract consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

"(4) technical data necessary to enable manufacture of end-items, components, and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under a Government contract or subcontract in which experimental, developmental, or research work is or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense;

"(5) technical data and computer software prepared or required to be delivered under a Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

"(6) technical data pertaining to end-items, components, or processes prepared or required to be delivered under a Government contract or subcontract for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements;

"(7) manuals or instructional materials prepared or required to be delivered under the contract or any subcontract of the contract for installation, operation, maintenance, or training purposes;

"(8) technical data or computer software which is in the public domain or which has been or is normally released or disclosed by the contractor or subcontractor without restriction on further disclosure; and

"(9) technical data or computer software for which unlimited rights in such data or software are otherwise provided for under the contract.

"(b)(1) Each contract for the acquisition of supplies which includes a requirement for the contractor to furnish technical data or computer software to the United States shall provide—

"(A) that the contractor agrees to have a data management system approved by the Department of Defense in operation before the United States accepts delivery of any data required to be delivered to the United States under the contract; and

"(B) that the United States may ignore, correct, or cancel any restriction on the release of technical data or computer software that is not authorized by the contract if the contractor fails to substantiate, within 60 days after receiving a written request from the United States for such substantiation, the propriety of the restriction.

"(2) Each contract described in paragraph (1) shall provide that if—

"(A) the contractor asserts that the United States is not entitled to unlimited rights in technical data relating to an item, component, or process; and

"(B) the assertion is not sustained and it is determined that the assertion was not substantially justified,

the contractor shall be required to pay to the United States the costs to the United States of contesting the assertion.

"(3) Rights of the United States under paragraphs (1)(B) and (2) may not be asserted after the end of the three year period beginning on the date of final payment by the United States under the contract, unless the contract provides for a different period of time.

"(4) Notwithstanding the inspection and acceptance by the United States of technical data furnished under a contract and notwithstanding any provision of the contract concerning the conclusiveness of such inspection and acceptance, the contractor shall warrant in the contract that all technical data delivered under the contract will at the time of delivery to the United States conform with the specifications and all other requirements of the contract or the contractor will correct the technical data to so conform. The period of such a warranty shall be as provided for in the contract.

"(c) The Secretary of Defense shall prescribe by regulation standards for determining whether a contract entered into by the Department of Defense shall provide that, after a time to be specified in the contract, the United States shall have the right to use (or have used) for any purpose of the United States all technical data (including technical data of subcontractors at any tier) required to be delivered to the United States under the contract. The time specified in a contract with respect to such a right of the United States in any such data may not exceed seven years from the date the data was required to be delivered to the United States or the date an item to which such data relates was required to be delivered to the United States, whichever is earlier.

"(d) Nothing in this section shall be construed as affecting rights of the United States or of any contractor or subcontractor with respect to patents, copyrights, or any other law establishing particular rights in technical data.

"(e) In this section, 'technical data', 'unlimited rights', and 'developed at private expense' have the meaning given those terms in section 2302 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2386 the following new item:

"2386a. Rights in technical data and computer software.".

(b)(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a plan for a system for the acquisition and management of technical data appropriate for the acquisition of supplies under the jurisdiction of that department. The plan shall address the possibility of a uniform system that would allow exchange of information among the military departments and the Defense Logistics Agency. The plan shall also address the possibility of a centralized system to identify the repository location of technical data relating to any item and the types of data on file in that repository.

(2) The Secretary of Defense shall ensure that the plan developed under paragraph (1) is implemented not later than five years after the date of the enactment of this Act.

COMPETITION ADVOCATES

SEC. 1009. (a) Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§ 2306a. Competition advocates

"(a) The head of each agency shall designate a person within that agency to be the competition advocate for the agency and shall designate a competition advocate for each procuring activity of the agency. The competition advocates shall promote the use of competitive methods of procurement.

"(b) The head of each agency shall prescribe by regulation the functions of competition advocates. Such regulations shall provide that each competition advocate shall—

"(1) advocate changes to policies and procedures to encourage maximum consideration of opportunities for competition during the acquisition process (including the supply process); and

"(2) challenge practices and procedures that inhibit competition, including unnecessarily restrictive statements of agency needs, unnecessarily detailed or restrictive specifications, use of procurement method codes, and other actions that could result in an inappropriate noncompetitive procurement.

"(c) The head of each agency shall ensure that—

"(1) programs designed to increase competitive procurement of supplies are maintained and periodically reassessed;

"(2) there is a system within the agency for review on noncompetitive acquisitions; and

"(3) each competition advocate within the agency has access to personnel within the agency who can advise the competition advocate in specialized areas relating to competition, including persons who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

"(d) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2306 the following new item:

"2306a. Competition advocates.".

ANNUAL REPORT

SEC. 1010. Chapter 137 of title 10, United States Code, is amended by adding after section 2317 (as added by section 3) the following new section:

"§ 2318. Annual report on competition for supplies

"(a) The Secretary of Defense shall submit to Congress, not later than December 15 of each year, a report on the management by that department of the acquisition of supplies during the preceding fiscal year.

"(b) Each report under this section shall include—

"(1) a report on the activities of the competition advocates of the Department of Defense during the preceding fiscal year; and

"(2) the rate of competition for contracts for supplies entered into by the Department during the preceding fiscal year, shown (A) by the number of contracts awarded competitively as a percentage of the total number of contracts awarded, and (B) by the dollar value of contracts awarded competitively as a percentage of the total dollar value of contracts awarded.

"(c) All information in reports under this section shall be shown for the Department as a whole and for each of the military departments and the Defense Logistics Agency.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2317 (as added by section 3) the following new item:

"2318. Annual report on competition for supplies.".

PUBLICATION OF PROPOSED REGULATIONS

SEC. 1011. Section 2303 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A regulation prescribed under this chapter by the Secretary of Defense or the Secretary of a military department that would have an effect beyond the internal operating procedures of the Department of Defense or that would have a cost or administrative impact on contractors may not take effect until 30 days after such regulation has been published in the Federal Register for public comment.".

EFFECTIVE DATE

SEC. 1012. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act and shall apply with respect to contracts for which bids or proposals are solicited after the end of such period.

(b)(1) Sections 1002 and 1008(d) and the amendments made by sections 1010 and 1011 shall take effect on the date of the enactment of this Act.

(2) The amendments made by sections 1003 and 1009 shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

—At the end of the bill add the following new section:

LIMITATION ON CONTRACTING-OUT CORE LOGISTICS FUNCTIONS

SEC. . (a)(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

(2) The Secretary of each military department and the Director of each defense agency shall identify those logistics functions that are necessary to maintain the logistics capability described in paragraph (1).

(b)(1) Except as provided in paragraph (2), performance of a logistics function identified by the Secretary or Director concerned under subsection (a)(2) may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as "OMB Circular A-76").

(2) The Secretary of the military department concerned or the Director of the defense agency concerned may waive paragraph (1) in the case of any logistics function and provide that performance of such function shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary of Defense and shall be based on a determination by the Secretary or Director concerned that Government performance of the function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of a logistics function identified under subsection (a)(2) is no longer required for national defense reasons.

(3) A waiver under paragraph (2) may not take effect until—

(A) the Secretary or Director concerned has submitted a report on the waiver to the Committees on Armed Services of the Senate and House of Representatives; and

(B) a period of 30 days of continuous session of Congress has passed after the receipt of the report by those committees.

(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(c)(1) Identification of logistics functions that are necessary to maintain the logistics capability described in subsection (a)(1) shall be completed, and a report describing those functions (including a detailed specification or listing) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, not later than April 1, 1985.

(2) During the period beginning on the date of the enactment of this Act and ending on March 31, 1985, no logistics function of the Department of Defense may be converted to performance by contractor personnel in accordance with the procedures and requirements of OMB Circular A-76.

By Mr. SKELTON:

—At the end of title V (page 61, after line 13) insert the following new section:

REDUCTION IN NUMBER OF FLAG OFFICERS OF THE NAVY

SEC. 507. The number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be on active duty in grades above captain is reduced by ten.

H.R. 5653

By Mr. BOEHLERT:

—Page 21, line 10, insert immediately before the semicolon the following: ", except that such funds may not be obligated or expended for the acquisition of any supercomputer which is not purchased under competitive bidding guidelines and regulations applicable to acquisitions for major Department of Energy laboratories".

EXTENSIONS OF REMARKS

WILLIAM F. SANTELMANN

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, May 22, 1984

● Mr. MATHIAS. Mr. President, one of the great institutions of the U.S. Marine Corps is the U.S. Marine Band which never fails to lift the spirits of those of us fortunate to hear it. It is with great regret that I share with you today the sad news of the death of William F. Santelmann, who served as leader of the Marine Band for 15 years.

Colonel Santelmann was a soldier as well as a musician. He served with distinction in the Marine Corps for a total of 37 years. He was only the third director to receive an officer's commission and was the first to supervise 14 corps field bands. I am sure that all of you who have had the privilege to hear the beautiful concerts performed under the baton of Colonel Santelmann will join Mrs. Mathias and me in expressing our sympathy to his family.

Mr. President, I ask that an article from the Washington Post describing Colonel Santelmann's rich career be printed into the RECORD.

The article follows:

[From the Washington Post, Apr. 2, 1984]

LT. COL. WILLIAM SANTELMANN DIES AT 82

(By Richard Pearson)

William F. Santelmann, 82, a retired lieutenant colonel who had served for 15 years as leader of the Marine Band before retiring from active duty in 1955, died March 30 in Tempe, Ariz., after a heart attack.

Col. Santelmann, who lived in Alexandria, was stricken after serving as guest conductor of the Marine Band at a concert at the annual convention of the American Bandmasters' Association.

Col. Santelmann was a native of Washington and a 1921 graduate of the old McKinley Technical High School. He began studying the violin at the age of six, and attended the Washington College of Music and the New England Conservatory before first trying to get a job with the Marine Band.

In a Marine Corps career that spanned 37 years, all with the band, he became only the third director to receive an officer's commission and the first to supervise 14 Corps field bands. He directed literally thousands of concerts and traveled an estimated quarter of a million miles with the band.

His band career got off on a sour note. Although he became a Marine private and member of the band in 1923, he made the band only on his second try. He failed his first audition because of a dual band-orchestra rule the band director had established, which called for string players to double on a brass instrument. While Col. Santelmann was judged to be quite skilled on the violin, he did not do well on his brass instrument, the euphonium, or baritone horn.

The band director who rejected him was Capt. William H. Santelmann, his father. The elder Santelmann, who directed the band from 1898 to 1927, had succeeded legendary March King John Philip Sousa and was the first band leader to hold a commission.

William H. Santelmann did not succeed Sousa. He followed Francisco Fanciulli, who succeeded John Philip Sousa.

Once Col. Santelmann became a member of the band, his rise was rapid. In 1930, he became the band's concertmaster. In 1934, he became a principal musician. From 1935 to 1939, he was assistant band leader. He also spent 10 years as violin soloist and eight years as concertmaster for the band's symphony concerts before becoming director of the band in 1940. He became its 18th director, succeeding Capt. Taylor Branson.

The 85-member band he directed was the oldest military musical organization in the United States. The band traced its origins to 1775, when the enrollment of "fifes and drums" was started in the Corps of Marines authorized by the Continental Congress. The band was authorized by the U.S. Congress in 1798.

If Col. Santelmann operated under the twin disciplines of the Corps and of history itself he still managed to achieve some lighter moments during his stewardship.

When Dwight D. Eisenhower, a man not often identified with the Marine Corps, was president, he ordered Col. Santelmann and his band to entertain at a party that celebrated both the president's 38th wedding anniversary and a reunion of fellow West Point classmates.

The guests had gathered informally in the East Room and a planned 15-minute singalong went on for nearly an hour. President Eisenhower suggested that the songfest be wound up with two numbers: The National Anthem and, diplomatically, the Marines' Hymn.

By all accounts, the singing continued apace, with Eisenhower, the old soldier, joining the rest in two lusty choruses of the Marines' Hymn. Suddenly, neither the president nor any of his Army friends could remember the third. It was left to Col. Santelmann, standing alone in the middle of the room to sing the lines ending:

If the Army or the Navy
Ever look on Heaven's scene,
They will find the streets are guarded by
The United States Marines.

Amid a roar of laughter and applause, Eisenhower bowed and saluted the colonel. Col. Santelmann then suggested one last song. To the tune of "Anniversary Waltz," President Eisenhower and his wife danced around the room.

Col. Santelmann was a member of the Gridiron Club, where he had played in the band and directed the male chorus. He also had been musical director of the Military Order of the Carabao, and was a past president of the American Bandmasters' Association.

Survivors include his wife of 58 years, the former Margaret Randall, of Alexandria; a son, William F., of Lexington, Mass.; a daughter, Betsy Grunwell of Lynchburg, Va., and seven grandchildren.

Colonel Santelmann was a former member of the Gridiron Club.●

REPRESENTATIVE STARK CREDITED WITH EXPOSING ABUSES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. MILLER of California. Mr. Speaker, of all the boondoggle Federal programs which have wasted taxpayer money for dubious, if not preposterous, reasons, the payment-in-kind program set some kind of a record.

Not only did the PIK program balloon far beyond its original cost estimate, but restrictions on how much any one farmer could receive were ignored by the Department of Agriculture. The General Accounting Office reported last November that USDA had illegally violated a 1949 law which sets a $50,000 per farmer limit on farm subsidy payments.

USDA did not just slightly violate the $50,000 limitation. In California, six corporations received $6.5 million, and one of these received nearly $4 million. Nowhere were these outrageous overpayments more absurd than in the case of the "Golden Pond"—the Tulare Lake area of central California.

At the "Golden Pond," more than $2.5 million in PIK benefits were paid to farmers for not planting 10,100 acres of farmland—even though the land was under 10 feet of water.

The scandalous abuses at the "Golden Pond," and in the PIK program in general, were exposed by our colleague, Congressman PETE STARK, through investigations of his Subcommittee on Select Revenue Measures. Two stories in the Oakland Tribune recently documented Congressman STARK's good work in revealing these wasteful abuses, which will end the misuse of the commodity programs and save taxpayers billions of dollars.

I would like to share these two stories with Members of the House.

The articles follow:

[From the Oakland Tribune, Apr. 8, 1984]

UPROAR RISES OVER BIG U.S. PAYMENTS IN FARM SUBSIDIES

U.S. Department of Agriculture officials were worried that the country was in deep trouble.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

It was late 1982, and there were huge surpluses of cotton and grains in the United States. World grain stocks were nearing record levels.

These surpluses hurt farmers by keeping prices down, and government-owned supplies cost taxpayers' money to store, insure and handle.

There were other farm subsidy programs in force, but all used cash to pay a farmer to take land out of production or guarantee a minimum price for a crop.

What federal officials wanted was a Payment In Kind (PIK) program to reduce next year's crop by paying a farmer to idle land—not with cash but with government-owned surplus commodities—to reduce the stockpiles on hand.

A farmer idling land in wheat PIK, for instance, would get paid in government wheat which he could sell or otherwise use as if he'd grown it.

Archivists noted that the department had operated "in kind" programs twice before to combat surpluses: in the mid-1930s, there was one in cotton, and in the 1960s, another program targeted both cotton and feed grains.

The federal law establishing PIK became effective on July 30, 1982. With the USDA at the helm, the PIK signup period opened from Jan. 24 to March 11, 1983.

There would be PIKs in five surplus ridden commodities; wheat, corn, sorghum grain, rice and cotton. to qualify, land had to have a 5-year production history of the appropriate commodity.

As news of the program spread to California, the state faced the wettest year in recorded history. With huge snows accumulating in the Sierra, farmers looked at fields in danger of flooding and flocked to enroll their land in PIK.

Nature obliged with a vast snow runoff.

Its effect was the flooding of 83,000 acres of the old Tulare Lakebed in Kings County. There, six corporations enrolled more than 23,000 acres of lakebed land—including about 14,000 flooded acres—in PIK.

The corporations received $6.5 million in PIK commodities, including $4.8 million for the flooded acreage.

The nation's largest PIK was in wheat valued at $3.7 million to the J. G. Boswell Co., which put a small part of the 147,500 acres it farms at the lower end of the Central Valley into the program.

Gary Gamble, Boswell vice president for California farm operations, declined to comment on the payments.

Another huge payment, worth $3.6 million, went to C. J. Ritchie, of Tulare County, for cotton.

Gilkey Farms in Gilkey received $722,000 in cotton.

Although statewide figures have not been tabulated, some spot checks show that more than 20 California PIK payments exceeded $1 million in value, 16 in the San Joaquin Valley alone. Scores exceeded $100,000.

In a Congress-ordered survey of large PIK payments, the General Accounting Office examined 708 farms in the nine states with the largest PIK participation. The average payment was $175,000. There were 35 payments of more than $500,000, including seven of more than $2 million each.

The GAO found that of the 10 largest payments in its survey, eight were to California cotton growers. The GAO survey missed the largest of all, Boswell's, because it did its checks on wheat payments in the Midwest wheat states.

The largest Midwest PIK wheat payment was grain worth $637,000 to a North Dakota operator.

In California, the GAO sampled 21 of the state's nearly 4,000 cotton farms and found that PIK payments to the 21 totaled more than $27 million in value.

In rice, the GAO checked 26 California growers, finding an average payment worth $447,000 with four farms exceeding $1 million each.

While investigating the payments, the GAO informed the Agriculture Department last November that it had illegally ignored a $50,000-per-farmer limit on farm subsidy payments, enacted by Congress in 1949.

But PIK, administered by Everett Rank, director of the Agricultural Stabilization and Conservation Service, responded that the limit applied to cash payments, not payments in kind, and continued with its program.

The USDA's inspector general's office also criticized the program in a series of three audits. In a Nov. 25 report to Rank, the inspector said: "Use of such land . . . defeats a basic program objective, the reduction of crop surpluses, and results in unnecessary government payments on crops that would not have been produced in the absence of PIK or any other program."

Using the GAO report and hearings by his Select Revenue Measures subcommittee, California Congressman Fortney H. "Pete" Stark Jr., D-Oakland, criticized the 1983 PIK, calling it "a welfare program for the Reagan Administration's rich friends."

"Popular? Of course it was popular," Stark said. "Another popular federal program would be for me to stand at 14th and Webster and pass out dollars.

"PIK was just absolutely a circus," Stark said. "I farm about 100 acres of grapes up in Sonoma County and I don't get one cent of subsidy, so I understand the risks of a crop.

"All these poor little fellows like Prudential Insurance Co. I mean, they got a piece of the rock. The Agriculture Department did a poor job of administering PIK.

"They gave money away to everybody who applied for it and they had no idea of how much it was going to cost. And they gave mostly to the big farmers.

"Agriculture bills are not normally my province, but government rip-offs are and this is one of the biggest I've seen. It finally became embarrassing."

Stark charged that department policy of ignoring the $50,000 limit greatly increased PIK payments to Cinco Farms, a Fresno County corporation in which Rank is one of five participants. Cinco got about $1 million worth of PIK cotton.

"He'd better be ready to pay income taxes on that because in my book that is still income to him," Stark said.

Rank's connection with Cinco did result in a conflict-of-interest investigation by the Agriculture Dept.'s inspector general's office. He was cleared.

Rank admitted the program was controversial but defended it as something distasteful that had to be done.

"We were willing to take this criticism and get this (surplus situation) off the backs of the taxpayers," Rank said.

The crop surpluses that the 1983 PIK targeted threatened farmers by depressing prices and cost the government $2.7 billion in storage costs and loans to farmers, Rank noted.

Rank also defended PIK's removal of the $50,000 payment limit last year, the policy that resulted in those massive individual payments.

"We had 80 percent of the crops produced by 20 percent of the farmers," Rank explained.

"We had to get our production down. With a $50,000 limit, we would have been spinning our wheels. We wouldn't have gotten anywhere."

A long-time resident of Fresno County, Rank said that as early as January 1983, he worried that flooded Tulare Lake land would get into PIK.

"I don't think land that is flooded and incapable of being planted should be in a diversion program, he said. "It was never our intent that land under water be eligible for PIK."

Rank noted that the original PIK rules were designed to prevent such occurrences. The Tulare Lake loophole was designed by U.S. Rep. Jamie L. Whitten (D-Miss.), chairman of the powerful House Appropriations Committee, who wanted Mississippi Delta land to benefit from the program, he said.

Rank also admitted leasing about 7,000 acres of land to Cinco "since around 1971."

He said he owns a 17.5-percent share of the Cinco corporation, which pays no dividends, and makes his money from fixed lease payments from Cinco.

He said he has asked Cinco to "set up a special fund" for last year's PIK payments and to design a new arrangement for any government payments since he's been with the USDA, so he will not benefit from his own decrees.

Cinco is working on that now, Rank said.

Meanwhile agricultural observers continued to weigh the pros and cons of 1983 PIK.

"It wasn't an ideal program by any stretch of the imagination," said Fred Cannon, agricultural economist for the Bank of America.

"You can look at PIK and there were a lot of things that weren't fair on a case-by-case basis. ASCS never had to regulate anything so large on such a fast basis. The program came out at the end of January 1983, for a 1983 crop."

Don Villarejo, director of the California Institute For Rural Studies, a private, nonprofit research organization in Davis, sees 1983 PIK as "a disaster" for California agriculture.

"It handed millions of dollars to the richest people in the state, those who need it the least," Villarejo said. "It took from the poor to give to the rich. That's exactly what this program has been doing."

Rank conceded that "Tulare Lake may have been one of our little warts."

[From the Oakland Tribune, Apr. 15, 1984]

PIK BONANAZA DRIES UP AT TULARE LAKE

TULARE LAKE.—The pumps have stopped, and most of the runoff water of 1983 remains.

But gone are the farm subsidy rules that last year turned the flooded farmland of this old lakebed into a "Golden Pond" of federal farm dollars for a few corporate farmers.

Those were rules that allowed six farm corporations to collect almost $5 million in commodities so they wouldn't grow crops on lakebed land that melting Sierra snow had put under nine feet of water.

Whether the changes came from public outcry, derision in Congress or the months of internal opposition in the U.S. Department of Agriculture is not clear.

But the rules of the nationwide Payment In Kind program—known as PIK—are different this year and nowhere is that more evident than at Tulare Lake.

"The land that is under water will not be planted in 1984," said Gary Gamble, vice president for California farm operations of the giant J. G. Boswell Co., one of the Tulare Lake corporate farmers.

"As far as I know, there will be no participation on any government program at Lake Tulare this year."

PAYMENTS FOR 10,000 FLOODED ACRES

The corporation received the nation's largest 1983 PIK payment—$3.7 million in wheat—for taking 14,600 acres out of production. More than 10,100 of those acres were flooded, accounting for $2.6 million of the PIK payment.

This year, there will be no PIK payments on the flooded acres to help bail out the farmers.

PIK's new rules, sent out to county offices by the Agriculture Department in late January, prevent land that is flooded at the planting time for wheat (probably in July at the latest here) from being in PIK at all.

Further, PIK now will limit payments to individual operators to wheat worth $50,000, in line with a General Accounting Office legal opinion that PIK last year had illegally ignored that value limit on farm subsidy payments set by Congress in 1949.

Further still, corn, sorghum grains, rice and cotton are eliminated from PIK altogether, leaving only wheat.

California last year was the second largest rice and cotton-producing state, and some of the lakebed's flooded land was in cotton PIK.

With dozens of multimillion-dollar PIK commodity payments gaining attention around the nation, Tulare Lake stood out even in that company.

Title to land in the lake basin is held by about 50 owners who lease virtually all of it to about a dozen big farm operators.

The sharpest critic of the PIK program, Democratic Congressman Fortney Stark of Oakland, says that what happened at Tulare Lake is "like the Florida swamp thing or selling the Brooklyn Bridge. They are all these right-wing Republicans down in the Valley talking about government efficiency."

MANY ACRES AND DOLLARS INVOLVED

Tulare Lake was singled out in inspector general's reports "simply because there were an awful lot of acres involved and dollars involved in benefits," according to Robert Miller, deputy to the USDA assistant inspector general for audit.

"That, in our mind, was a good example of what could happen with the regulations as (then) currently written," Miller told The Tribune.

What persuaded the USDA to bar flooded lands this year is not clear.

Everett Rank, director of the USDA's Agricultural Stabilization and Conservation Service, which administers PIK, says he never wanted to include it in the first place.

And Stark, in hearings of his Select Revenue Measure sub-committee, had been criticizing the entire PIK program.

Last Dec. 28, about three weeks before the new rules excluding flooded lands went out, Stark fired off a letter to Rank asking whether there would be 1984 changes to assure that there will be no PIK payments for the "the non-planting of land which is under water in the Tulare Lake Basin."

More of such payments would be a "scandalous waste of taxpayers' money," Stark wrote, adding that even last year's payments were "beyond imagination."

"This incident holds the entire farm program up to ridicule and derision," Stark's letter declared. Unless there were changes, Stark promised that he would offer an amendment to the USDA's appropriations bill "prohibiting such waste."

But Tulare Lake's corporate farmers are trying to pan still more gold from the "Golden Pond."

PAYMENT FOR DIVERSION

The Boswell-dominated Reclamation District No. 749 (where more than half the district's land is Boswell's and three of its five directors are Boswell employees) is seeking reimbursement from the Federal Emergency Management Agency (FEMA) for $12 to $15 million—75 percent of the money spent diverting more than 800,000 acre feet of water from flowing into Tulare Lake and pumping some out.

Unconvinced that the pumping was an emergency FEMA's San Francisco office turned down the Boswell request for repayment.

Stark wrote FEMA "strongly" urging that emergency assistance to the pumpers be rejected, and included reports showing that Tulare Lake floods regularly, to some extent, one year in three.

"These farmers—who are well able to finance their own projects—know perfectly well that the lake is subject to periodic flooding," he wrote.

FEMA's skeptical attitude contrasts sharply with that earlier of the Army Corps of Engineers and Gov. Deukmejian's office. Both quickly and easily made "emergency" findings to allow last summer's pumping.

In November, at a congressional fact-finding hearing on the corps' role in the pumping, Rep. Mike Synar, D-Oklahoma, a fourth generation rancher, boggled when corps economist Joseph Roy said he had found that an "immediate, unforeseen and significant economic hardship" existed at Tulare Lake without suspecting "at the time" that part of the flooded land had been enrolled in PIK for months and was earning almost $5 million.

IMPACT ON FISHERIES WAS IGNORED

Roy further said he had paid no heed to the impact of the scouring of a dozen miles of King River channel by the pumpers, or to the potential damage to the multi-million-dollar Delta fishing and tourist industries.

(The pumping was halted by the state Department of Fish and Game last January, with 70,000 acres still under water, for fear eggs and tiny offspring of the lake's voracious white bass would be pumped northward with the flood water where they could prey on valuable salmon and striped bass in the Sacramento-San Joaquin Delta.)

Synar also wondered how an "immediate and unforeseen" emergency could be declared when the lake's flooding record has been well documented for more than a century.

"What's unforeseen about that?" he asked.

In FEMA's San Francisco office, Roy Gorup, head of the public section that rejected the reclamation district's claim, stressed that his staff considered several aspects of the pumping, not just the impact on the lakebed farmer.

FEMA's definition of an emergency also requires a situation to be "a threat to health and safety and a hazard to the general public," Gorup said.

The reclamation district has appealed and the matter is pending in FEMA's Washington office.●

REAGAN SOAKS THE RICH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring the following article by Hank Cox, editor of the Business Action Network: Washington Watch, to the attention of my colleagues. The article which appeared in the May 1984 issue, makes a point that many of us as supporters of the administration's tax cuts have claimed all along—the tax cuts assisted everyone but the wealthy. Those members who charge that the tax breaks made the rich richer and the poor poorer had better take a look at the facts. They prove the opposite is true.

REAGAN SOAKS THE RICH

(By Hank Cox)

Ronald Reagan's "tax breaks for the rich" appear destined to become the rallying cry of the Democratic party in 1984.

The three candidates for the Democratic presidential nomination differ on many issues, but they are united in their condemnation of Reagan's tax cuts and unanimous in their promise to sock it to the rich if and when one of them is elected to the Oval Office.

At first glance—and this subject rarely gets more than a first glance—the candidates appear to have a valid point. Ronald Reagan did in fact bring about a reduction in the top marginal tax rate, from 70 to 50 percent, and the primary beneficiaries of this action are people of means.

What the pundits and politicians—even of the Republican persuasion—neglect to point out is that this action was designed to increase, not decrease, tax payments by the wealthy. And it has done precisely that.

In 1982, the first year of the tax cuts, people earning more than $100,000 a year paid 13 percent more in taxes than the year before. Those earning over $50,000 paid 6 percent more.

Simultaneously, those with incomes less than $20,000 paid 12 percent less than the year before, and those with incomes in the $20,000–50,000 range paid 4 percent less.

As a percentage of the total taxes paid, the shift of the burden from the poor to the rich was even more dramatic. From 1981 to 1982, the percent of total income tax collections paid by those with incomes under $20,000 fell from 17.1 percent to 15.5 percent. At the same time, the share paid by those with incomes above $50,000 rose from 32.9 percent to 35.4 percent. The share paid by those above $100,000 rose from 15 to 17.3 percent.

The logic behind these numbers is simple. Reduction of high marginal tax rates reduces the incentive for wealthy people to avail themselves of tax shelters and other methods of reducing their tax liability. It is plausible to suppose that a further reduction of the top marginal rate would increase tax payments from the rich even more, reducing further the burden on poor and middle income people.

One would think the politicians who claim to champion the cause of the poor would applaud this shift of the tax burden and demand a further reduction in the top mar-

ginal rates. Yet they choose instead to condemn it and promise to raise tax rates. With friends like these, the poor have no need of enemies.

Perhaps, the paradox is too great for the champions of big government to comprehend. In any case, there is a limit to the possibilities of "soaking the rich." It all personal income in excess of $50,000 a year were confiscated by the government—every last dime—the surplus would fund the federal spending machine for less than a week.●

IN SUPPORT OF THE CRIMINAL JUSTICE ACT REVISION OF 1984

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1984

● Mr. CORRADA. Mr. Speaker, I rise in strong support of the Criminal Justice Act Revision of 1984 which increases the rates of compensation for attorneys representing indigent defendants in Federal criminal cases.

I believe the revision of these rates is of crucial importance to insure the adequate legal representation of insolvent defendants as predicated by the sixth amendment of the U.S. Constitution. Currently, in many instances, the courts are forced to compromise the most proper representation of indigent defendants. This is so because of the significant economic sacrifice the present legal fees pose which deters the more competent lawyers from being available for such services. This measure recognizes the impact of inflation on legal costs and adjusts the fees accordingly.

The bill would allow the recruitment of competent attorneys on a consistent basis. This would translate in the proper unfolding of the sixth amendment's mandate of legal representation for every defendant, even the less fortunate.

I urge my colleagues to vote for the passage of this legislation.●

AMERICAN PARTICIPATION AND PROCUREMENT IN MULTILATERAL DEVELOPMENT INSTITUTIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BEREUTER. Mr. Speaker, as the ranking member of the International Financial Institutions Subcommittee of the Committee on Banking, Finance and Urban Affairs, I would like to bring to the attention of my colleagues the very poor showing of American businesses in winning contracts for the development projects of the Asian Development Bank (ADB). While this Bank has certainly done a good job in promoting economic development in the Asian and the Pacific region and continues to merit the full financial support of this country, the procurement issue would seem to merit further scrutiny.

The U.S. share of ADB procurement is low relative not only to our share of contributions but also to that of other donor nations. In 1982 the U.S. share of procurement was only 6 percent for the ADB and was a scant 4.3 percent for the Asian Development Fund (ADF), but our share of the capital for these organizations was 16 percent—more than three times the average procurement shares at the ADB and the ADF, combined.

In contrast, Germany, for example, contributed significantly less capital to the Bank while its procurement share was 50 percent higher than that of the United States. It is the Japanese, however, who are the biggest benefactors from the Bank and the Fund. Their procurement shares for these institutions are a respective 16 and 32 percent.

If present trends continue, this country will be permanently relegated to a minor share of the procurement benefits from this multilateral Bank. There is, however, one bright spot in the otherwise bleak procurement picture: The U.S. share of consulting services provided through ADB technical assistance programs remained at an impressive 28 percent through 1982—the fact remains that our share of procurement is far too low.

Remedial actions are now underway including earlier notification of procurement opportunities for U.S. businesses, better coordination of interagency procurement efforts, and further speaking tours for the U.S. Executive Director to the ADB. But further efforts are also necessary including the convening of procurement trade fairs by U.S. firms which have successfully bid on ADB projects, better coordination between an Executive Director at the ADB and the regional offices of the Commerce Department, and Government help in organizing trips by U.S. businessmen to the ADB headquarters in Manila and to some ADB projects in the field.

A recent article in the Washington Post on the procurement procedures within the Asian Bank raises other disturbing questions about the ability of American and all non-Japanese firms to compete successfully for ADB contracts. The article below notes that the contract for rice mills in Burma worth $12 million was initially supposed to go to a German firm but it was awarded to a Japanese business after several unusual and controversial procurement review practices were undertaken. The concern expressed in the article is that the Japanese President of the Bank is deliberately favoring the bids of Japanese companies. While I am not in a position to judge the accuracy of these observations, they are of some concern to me, especially in light of the disturbing performance of U.S. firms in the procurement area. The article follows:

[From the Washington Post, Apr. 28, 1984]

CONTRACT AWARD BY ASIAN BANK PROMPTS QUESTIONS

(By Dinah Lee)

HONG KONG.—The Asian Development Bank's award of a $15 million contract for 12 rice mills in Burma to a Japanese firm has raised concerns within the bank about its guarantee that contracts are not influenced by national favoritism.

In a series of background interviews in Manila recently, ADB officials from both developed and developing countries expressed concern that the actions in the Burma case may jeopardize the bank's reputation for even-handed procurement of contracts and services.

The Burma contract, initially recommended to be awarded to a German firm by a procurement committee at the bank, was later given to the Japanese firm Satake on the basis of a report by a highly unusual special committee named by bank president Masao Fujioka after the Burmese government indicated its preference for Satake. Fujioka, a former official in the Japanese Ministry of Finance, had also received a message from the Japanese representative to the bank, relaying concern in Tokyo about the contract award, according to an internal memo.

ADB officials said they fear that Fujioka's departure from usual procedure, and the fact that a Japanese company was the beneficiary, may fuel opposition to develolpment aid in Asia and anti-Japanese sentiment simmering in Washington. "The U.S. is an important source of funds [for the ADB], and if, because of this thing, there is a diminution it could be very serious. This is the only decent international institution in Asia where the U.S. has a broad-level representation," said one high-level ADB official.

According to bank sources, the Burma rice mill deal is also the subject of an inquiry in the Treasury Department in Washington. Although the Treasury has no direct jurisdiction over the ADB, U.S. officials in Manila and Washington have been pressing for tougher examination of loan policies at the 18-year-old bank, where the U.S. and Japan each hold 16.4 percent of the bank's shares. With an average of $62 million a year in aid contributions, the U.S. is the bank's second largest contributor behind Japan.

[A Spokesman at the U.S. Treasury said he had "no comment" on the reported inquiry.]

Some ADB executives say they are concerned that the 12-member board of the Manila-based bank is on the verge of being controlled by a Japanese-dominated majority and that Tokyo's ambition to extend Japan's already considerable commercial influence in such countries as Burma threatens to erode the banks' apolitical foundations.

Fujioka, answering questions in Amsterdam Sunday where the bank's 45 governors met this week for an annual review of bank policies, said he was not aware of any friction between him and the board. "There may be differences of views with individual directors but all matters of importance are discussed freely and frankly in the board

and most decisions are taken by a process of consensus," he said.

In 1981, when the first bidding round opened for Burmese contract under the ADB, the Burmese authorities drew up a tender document riddled with imprecision—not uncommon in less developed countries, according to aid veterans. According to confidential ADB records, the first bidding was deemed invalid for the that reason.

One leading bidder, Satake of Japan, came in at the lower price, although it failed to meet specifications on 41 courts with four major deviations from the requirements. The other top bidder was the West German firm. Unionmatex, which bid a price far above the figure budgeted by the ADB. At the same time, the executing agent in Burma, the Agriculture and Farm Produce Trade Corp. of Burma, had recommended the German firm, while higher-level officials inside the Burmese government were in favor of Satake.

Usually, a borrowing country makes only one recommendation through its technicians, but the Burmese government's decision to overrule its own technicians worried officers at the development bank, which is sensitive to the possibility of corruption on aid projects.

The second round of bidding, which closed in December 1982, did not resolve the dispute, ADB files show. The Burmese had failed to follow ADB requirements and had failed to make clear in the tender documents how the bids would be evaluated.

Again both companies failed to perfectly match the tender requirements and the procurement committee had to recalculate the two firms' bids to meet the contract. These recalculations would later prove important in the dispute over whether the award to Satake was fair.

In May 1983, the procurement committee found that the German firm's bid was lower, and therefore that it must be recommended to the borrowing country under the bank's rules, according to documents.

Given the preference expressed by the government in Rangoon for Satake in the first go-round, several bank officials said they expected the Burmese would be unhappy with the procurement committee's decision. One important reason, as documents show, was that the Satake bid would cost the Burmese government less for necessary public works for the rice mills than the German bid, although the bank had not been instructed to weigh this as a factor.

Confidential bank files show that while the decision of the procurement committee was to be relayed to the Burmese (who had just bilaterally awarded another rice mill contract to Japan), ADB Vice President A. T. Bambawale suggested to bank President Fujioka that a compromise split of the contract be discussed with the government in Rangoon.

The Burmese had their own counterproposal, which was to award seven of the mills to Satake and re-tender the remaining five, which would give the Japanese so great an advantage in the remaining bidding that the bank rejected it outright.

Two ADB missions visited Burma, and both returned to add further weight to the procurement committee's decision to give the full contract to the German firm, according to a report.

However, pressure from another quarter now made itself felt, according to documents. On Jan. 16, 1983, Japan's executive director at the ADB, Minoru Ohashi, told Fujioka that five days before, he had met former Japanese finance minister and ex-ADB governor, Michio Watanabe, still a powerful figure within Japan's ruling Liberal Democratic Party. Fujioka, formerly director of the bureau of international finance in the Finance Ministry in Japan, was named head of the bank in 1981 when Watanabe was finance minister.

According to the note, Watanabe told Ohashi, "Why does the ADB insist on her own choice in case where borrower wishes another? Of course it is understandable to oppose or ask the borrower to reconsider if the borrower's choice is quite unreasonable. But in this case, borrower's choice is not unnecessarily unreasonable and the difference in price is not so much."

Watanabe is reported in the note as adding, "If such kind of things are going on in ADB, I cannot agree to subscribe to the capital of the ADB."

On Jan. 26, 1983, Fujioka set up a special committee to "review a certain procurement matter on the Burma second rice-processing-industries project."

Officials at the highest level of the bank became concerned. "We all live with the idea that there is a close connection between the president and the Japanese Ministry of Finance," said one board director. By tradition, the bank's president has always been a Japanese.

Fujioka said a review was needed because "the procurement committee's decision was totally unacceptable to the borrower and the contract award could not be resolved for more than two years."

"There have been a few cases where the procurement committee's decision did not work and reviews had to be made," he added.

In a move that veterans at the bank said was without precedent, Fujioka named senior staff members to review the Burma contract, including Chun Pyo Jhong, the general counsel to the bank; Lewis Hiyashi, the chief of the Central Projects Services office; and Soeksmono B. Martokoesoemo, the director of the agriculture department.

In an interview, Jhong confirmed that Fujioka "mentioned to me the concern of the Japanese who have received information on the way procurement was handled in the bank, and that he thought of using this case for the purpose of reviewing how procurements are made."

Jhong produced a 36-page report on Feb. 24 which concluded, "The choice that is most logical and appropriate . . . is to approve the [Burmese] government's original proposal to award the contract to Satake."

Hiyashi wrote a 15-page annotated rebuttal to the Jhong account with 71 corrections or objections to evidence which it claimed was taken out of its original context.

In his cover memo, Jhong makes a brief mention of hesitations on the part of two committee members—Hiyashi and Soeksmono—over the final conclusion. Hiyashi told The Washingon Post that he stands by his recommendation that if the Burmese would not accept a compromise to split the contract, the bank has no alternative under its guarantees to donor members but to re-tender the contract.

The dispute over the rice-mills contract points to other issues at the bank, bank officials say.

The board has six members representing developing nations and six from developed countries, including Japan. In recent meetings, the director for South Korea, Hoon Mok Chung, held the last, and therefore the deciding vote, and occasionally disagreed with Fujioka. He is now being recalled to Seoul "for not cooperating enough with president Fujioka," a reliable bank source said. Fujioka said he had no information about Chung's departure. Some bank officials feel that without Chung, Japan will have controlling influence over the board.●

INFLATION WATCH

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. MITCHELL. Mr. Speaker, the staff of the Joint Economic Committee has undertaken an inflation watch project. They are monitoring recent key developments affecting prices and reviewing the outlook for inflation.

The May 1 Wall Street Journal contains an article titled "Our Inflation Defenses Aren't What They Used to Be," by Lindley H. Clark, Jr. Mr. Clark makes several important points about inflation:

First, a recent survey of institutional investment decisionmakers indicates that they expect inflation of 6.5 percent in the 12 months ending in December 1984—up from 5.08 percent in the same poll 2 months earlier. They also predict that inflation will average 6.75 percent over the next 10 years, which would be 92 percent for the decade as a whole.

Second, we incurred budget deficits in the 1950's and 1960's, but they were miniscule in comparison with current projections for 1984 and future fiscal years. Last week the Treasury announced that the deficit, which had shown some improvement, "lurched sickeningly upward." These deficits greatly complicate monetary policy for the Federal Reserve.

Third, the civilian unemployment rate was 7.8 percent in March, which means that overall there is substantial slack in the labor force. But labor shortages exist in certain geographical areas and in certain skills. This may lead to upward pressures on wages in those areas.

Fourth, the capacity utilization rate in manufacturing is currently about 82 percent. A study at the Federal Reserve Bank of San Francisco indicates that at this level inflation is not likely to accelerate, but this is near the threshold area where further increases may contribute to inflation.

[From the Wall Street Journal, May 1, 1984]

Our Inflation Defenses Aren't What They Used to Be

(By Lindley H. Clark, Jr.)

Last week the Bureau of Labor Statistics announced that the consumer price index rose by a tiny 0.2% in March, making the increase in the past 12 months 4.7%. There was a time in the not distant past when that would have been considered a lot of infla-

tion, but to many people it now seems to be about the best we can hope for.

Amid the deep recession of 1981-82, and in the period immediately afterward, there were three months in which consumer prices actually declined, the first time there had been any decline since 1965. But sensible folk knew that it wouldn't last.

The President's Council of Economic Advisers this year did predict consumer prices would be rising a little more slowly in the latter years of the decade, but it looks for an inflation rate of 3.6% even in 1989.

That's probably optimistic.

Richard B. Hoey, chief economist of the investment firm of A. G. Becker Paribas, regularly polls institutional-investment decision makers on a variety of subjects. The latest poll shows that respondents expect 6.5% inflation in the 12 months ending December 1984, up from 5.08% in the poll two months earlier.

More ominously, the decision makers see inflation at 6.75% for the next 10 years.

What has disturbed the investment community, as well as a lot of the rest of the country, is that the economy plainly is growing at an unsustainable pace. Some commentators, trying to reassure us, maintain that this has been an average recovery, but it just isn't so.

Lacy Hunt, chief economist of the investment firm of CM&M Group, notes that in the first five quarters of recovery the inflation-adjusted gross national product has grown 8.3%. That compares with an average for the first five quarters of the post-Korean War recoveries of 7.8%.

We used to have better defenses against inflation.

There were many periods of soaring prices through U.S. history. One of the most noteworthy was the Civil War, when prices rose 75% in four years. But stable prices were considered to be the norm; no one thought that 3.6% inflation would be a mighty fine achievement.

Prices went up, but shortly thereafter they went down. It is not a precise statement, but it's reasonably accurate to say that the general price level in 1940 was about what it was in 1800.

So one defense against inflation was more or less built in. When prices went up, a lot of people stopped buying. They knew that prices before long would come down, so if they could wait, they did. In the meantime the economy sagged; no one, then or now, has figured out a good way to avoid that side effect. Suppliers of goods and services found ways to cut their prices.

Until the 20th century, the government didn't mess around in the process very much. There were exceptions. President Andrew Jackson denied a new charter to the Second Bank of the U.S. and helped to bring on the depression of 1837.

During the Civil War, Congress, desperate for funds, authorized the issuance of $450 million in greenbacks, unbacked paper money. After the war, there were arguments against redemption, but the sound-money forces won out. The greenbacks were made redeemable in gold and prices declined steadily.

The Federal Reserve did not exist until 1913, and it was many years after that before the Fed decided one of its primary purposes was to fight inflation. It didn't know how to wage the fight, so, then as now, it improvised.

One improviser was William McChesney Martin, who headed the Federal Reserve Board from 1951 to 1970. Mr. Martin's frequent phrase was "leaning against the wind." When prices started rising or the economy started roaring along at a pace he considered too fast, he would arrange to pull some money out of the system.

Simple as it might sound, it worked pretty well for about 15 years. In the mid-1960s it began to come apart, but that only showed that the Fed couldn't do the job alone.

Through the 1950s and into the 1960s, the Fed had the help of administrations and Congresses that were determined to keep Federal spending under control. They didn't do a perfect job, but by current standards they achieved miracles. There were budget deficits more often than not, but nearly all of them were single-digit deficits—$2 billion or $3 billion or so.

There were arguments then and there are arguments now about whether budget deficits are inflationary. Whatever the answer, big budget deficits clearly complicate monetary policy for the Fed. The Treasury has to sell securities to finance the deficit, and the Fed is its fiscal agent. So besides worrying about whether the economy has the right amount of credit to finance noninflationary growth, the Fed has to worry about whether there is enough money out there to soak up the Treasury issues.

The two tasks aren't always easy to reconcile, especially when deficits are running up toward $200 billion. Last week, on the same day that the Bureau of Labor Statistics announced the tiny rise in consumer prices, the Treasury announced that the budget deficit, which had been looking a little better, had lurched sickeningly upward. Mr. Hunt says he now thinks that the deficit for the fiscal year ending Sept. 30 will be in the mid-$170 billion neighborhood, a perfectly terrible neighborhood, about $10 billion higher than he had thought before.

Yet another of our defenses against inflation is "slack." Slack consists of unemployed workers and idle production facilities.

When there are a lot of unemployed workers, strong growth in the economy doesn't put much upward pressure under wages for a while. The labor market is by no means a perfect market, but supply and demand do operate.

In recent years, economists have argued that there is a "natural" unemployment rate. A certain portion of the labor force is always moving among jobs, and another portion, at least for a while, finds it preferable to live on jobless pay rather than opt for a job that is, or that they believe is, beneath their skills.

Thanks in large part to the rise in transfer payments, the natural rate has been rising; some economists put it around 6%. The current rate is 7.8%, so there is some slack in the labor force. But it has been dwindling, and it is uneven; labor shortages have arisen in certain areas and certain skills, with the result that wages have been bid higher.

The capacity-utilization rate is in an even touchier area. Manufacturers in the current quarter will be using an estimated 82% of their capacity. Rose McElhattan of the San Francisco Federal Reserve Bank says at that level there is no tendency for inflation to increase. But somewhere around there is the threshold area where further increases will contribute to inflation.

So our inflation defenses aren't in particularly good shape. The optimists think that the economy will cool off in a comfortable way, not so abruptly that it will raise unemployment and lead to a new recession.

The pessimists are those who say that a soft landing would be nice but that it isn't something we've shown much ability to achieve.●

HONORING MR. RAYMOND L. BRADLEY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to express my appreciation and gratitude for the dedication and hard work of one of my constituents, Mr. Raymond L. Bradley. Mr. Bradley is a prime example of the spirit of contribution and community interest of which all Americans should be proud. As chief of the South Deerfield Volunteer Fire Department for 45 years, Mr. Bradley's record of service to his neighbors in the First District of Massachusetts is certainly impressive.

Mr. Raymond L. Bradley joined the South Deerfield Volunteer Fire Department in 1939 at the age of 18. At that time, he began his volunteer duty with this organization which serves South Deerfield and the surrounding towns of Conway, Whately, Sunderland, and Greenfield. This mutual aid system between the towns was developed during Mr. Bradley's tenure with the fire department. In 1965 there was a desperate need for a new chief of the fire department and Mr. Bradley stepped in to do the job. As one might expect, Mr. Bradley selflessly came forward to help out when he was needed.

It is not easy to be a volunteer firefighter. Long and unpredictable hours of rigorous preparation and labor are standard and unavoidable. Few men have the strength of character to accept such a demanding assignment. Fewer will do it without the incentive of payment. Mr. Bradley, however, has exhibited to us his charitable nature and we, as residents of the first district, are indebted to Mr. Bradley to an extent beyond measure.

In June of this year, Mr. Bradley will be retiring from his post as fire chief, but his community-minded efforts will not be forgotten. He remains committed to the improvement of the area's public schools and we are fortunate to have him continue his work there. Mr. Bradley is a fine citizen and a truly giving person whose 45 years of duty with the South Deerfield Volunteer Fire Department will be an example to firefighters of the future. His retirement is well-earned, but he will continue to be a guiding force both of the fire department and the South Deerfield community.●

PIOUS PRO-SANDINISTA PUFFERY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LAGOMARSINO. Mr. Speaker, the following article clearly states what many have known for some time, but what few have been willing to report. The human rights situation in Nicaragua is far from brotherhood—many groups are being terrorized, persecuted, and have little or no freedoms under Sandinista rule. I had the opportunity of recently chairing a forum, well attended by those truly interested in human rights in Latin America, which received testimony from Jose Esteban Gonzalez, from representatives of the Catholic Church, a former Maryknoll nun, a representative of the Indian groups and one evangelical minister tortured by members of the Sandinista Army. I recommend the op-ed piece, from the Washington Times, May 16, 1984, to all my colleagues.

PIOUS PRO-SANDINISTA PUFFERY

(By Charles E. Wheeler)

A Nicaraguan who fought for human rights under Anastasio Somoza has sharply criticized the recent report issued by a worldwide Catholic relief organization as an attempt to whitewash the Sandinistas.

Five years ago, Jose Esteban Gonzalez, founder of the Permanent Commission on Human Rights in Nicaragua, traveled to Europe to plead for the political and economic isolation of Mr. Somoza.

But last week he was in Washington to speak to the White House's Central American Outreach Program and to testify before the Organization of American States about human rights abuses in Nicaragua under the Sandinistas.

One reason, in particular, for his American visit was to ask Catholic leaders to repudiate the "Central America Mission Report," which contends that the Sandinista revolution "remains faithful to its primary objectives of popular participation, and to the system created in the interests of the majority."

In the report, the International Cooperation (sic) for Development and Solidarity (CIDSE)—a consortium that includes the U.S.-based Catholic Relief Services—analyzes the current political, military, economic, and human rights situation in El Salvador, Guatemala, and Nicaragua.

Mr. Gonzalez says it is "full of wrong information, misinterpretation . . . and ridiculous statements that, for us Nicaraguans who know the reality, are a kind of comedy." He points out that throughout the report one standard was used for Nicaragua and another for El Salvador and Guatemala.

Even at first glance, the artwork makes a pro-Sandinista political statement.

To depict El Salvador, an angry young man confronts a Salvadoran soldier; in El Salvador, there is military repression.

For Guatemala, a solemn peasant woman is shown cradling her half-naked child in Guatemala, there is overwhelming poverty.

The Nicaraguan artwork, however, shows an earnest young woman teaching a youngster to read: In Nicaragua, there is brotherhood.

This double standard also is used when the guerrilla factions in Central America are portrayed.

There is the surprising admission that the communist guerrillas in El Salvador *have* been receiving military equipment from Nicaragua, but that "the FMLN is less dependent on the Nicaraguan link now." Both the FMLN and the Sandinastas repeatedly have denied that arms shipments from Nicaragua exist. There is, however, no censure of Nicaragua for armed aggression against its neighbor.

One finds another standard, though, for the anti-Sandinista Nicaraguans, or "contras:"

"For the past several months, Nicaragua has been the victim of armed aggression from outside it borders."

How are these "contras" portrayed? Are they described as Nicaraguans who also fought against Somoza? As Nicaraguans who fight still because they believe the Sandinista revolution has been betrayed to Marxist-Leninism? No. According to the report, they are "primarily Somoza's exguardsmen; Miskito Indians . . . rallied to the opposition *voluntarily or otherwise;* [Emphasis mine] and finally, entire battalions of Chilean and Argentinian mercernaries, called on for help."

Mr. Gonzalez, who states emphatically he is not affiliated with either of the "contra" groups fighting the Sandinastas, says the implication that Miskito Indians are being forced to fight simply "is not true." Of the supposed battalions of Chilean and Argentine mercenaries, he says "this is absolute nonsense."

In addition, a clear double standard appears in the area of human rights. The CIDSE delegation, highly critical of the human rights situation in El Salvador, visited four human rights organizations there, two of them church-related. the criticism was based on the reports of three of these groups, which were characterized as "independent."

A fourth organization, however, was discounted as El Salvador's "government Human Rights Commission." "It is very clear," says the report, "that the main purpose and function of the commission is to improve the government's and the country's tarnished human rights image."

Fair enough.

In Nicaragua, though, the Sandinista regime's National Human Rights Commission is presented as a credible source of information on the human rights situation in that country. There is no comment about this organization's admitted connection to the Sandinista government. And remarkably, there was no contact with the Permanent Commission on Human Rights, which is the only independent human rights organization operating in Nicaragua and which the Sandinistas endorsed as official *before* they came to power.

Like the political pilgrims from the West who whitewashed the Soviet Union in the '30s, the delegation reports *no* signs of abuse of political prisoners in Nicaragua and says that recently "the number . . . has decreased considerably."

Those *few* that do remain are in "open or semi-open prisons . . . where the 'internees' [they do not use the word 'prisoners'] have land to work on, and organize their own lives. They even go to sell their produce themselves in the city, and have *two weeks vacation a year.* [emphasis added.] Somoza's exguardsman and Miskitos from the opposition, all detained there, could easily escape, but none of them have done so."

By the way, if you're wondering who briefed the delegation on this remarkable treatment of political prisoners and on human rights in Nicaragua, wonder no more. It was Sandinista Minister of the Interior Tomas Borgé. "That," says Mr. Gonzalez, "is like going to Poland and asking Jaruzelski about what is going on with Solidarity."●

THE TEACHER AND THE CONSTITUTION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. DANIEL B. CRANE. Mr. Speaker, in this Chamber, many seem to espouse the principles of our Constitution and what the Founders meant when they wrote it without having researched and studied the material in depth themselves. Plain old logic and commonsense, an understanding of our history, and the absence of political ploys would make our job much easier. This address delivered by Superintendent L.C. Ward before the teachers of Fort Wayne seems to encompass the above-mentioned qualities.

The address follows:

THE TEACHER AND THE CONSTITUTION

(An address delivered by Superintendent L.C. Ward before the teachers of Fort Wayne at the opening of school, Sept. 8, 1923)

TO THE PARENTS OF FORT WAYNE CHILDREN: The Board of School Trustees at its regular meeting of September 10, 1923, directed the Superintendent to have printed enough copies of his annual address to the teachers of your children, that each of you might have a copy. Their object in this action is to enable you to know the ideal of service which underlies the work of the school. We ask all of you to join with us in preserving the ideals of the Fathers, and in holding sacred for your children the great heritage of Freedom which has come to you.

THE PREAMBLE OF THE CONSTITUTION

We, the people of the United States, in order to form a more perfect Union, to establish Justice, to provide for the common defence, to promote the general welfare, to assure domestic tranquility, and to secure the blessing of liberty for ourselves and our posterity, to ordain and establish this Constitution for the United States of America.

We, the people of the United States

In 1789 we were a homogeneous people, three millions of us, descendents in the fourth and fifth generations of those British ancestors, English, Scotch, Welsh and Irish, who had found their home lands intolerable. They came to wild America because they could no longer endure the harsh economic, religious and political conditions under which they and their fathers had lived. They left a Great Britain, a land of comparative civilization, to endure the

hardships of life in a forest, a wilderness peopled with wild beasts and wilder men, in order to secure for themselves and their children certain spiritual advantages which in their minds far outweighed the physical discomforts. And when finally it appeared to their 3,000,000 decendants that complete spiritual freedom could never be had with a political connection over-seas,—when they found that a new system of government was essential to a full development of their spiritual and mental powers, their leaders in convention assembled stated the purposes of such government in the preamble of the Constitution,—the one paragraph which must stand so long as this government itself shall endure. All the rest of that great document is technical detail. Some of it we have found necessary to change by amendments, by interpretation, by common consent. It is certain that as time goes on we shall change more of its provisions as necessity shows the wisdom of change, for "New occasions teach new manners, Time makes ancient good uncouth."

But the essence of this government, expressed in the preamble, we dare not change, if government of the people, by the people and for the people is not to perish from the earth.

We, the people of the United States

In 1923 thirty millions of us are descendents of the three millions who founded this government. Thirty millions more are descendents of their compatriots and of those who came to our shores animated by similar ideals of political, religious and economic existance. Fifty millions are of alien nationalities and races. There are in the United States more Italians than live in Rome, more Greeks than live in Athens, more Jews than in Palestine, more Poles than in Warsaw, more Russians than live in Moscow. And yet these heterogeneous peoples with every possible discord in thought, with every possible experience in civic ideals, in religious ideals, in economic conditions, must somehow be welded into one people whose guiding principles shall be substantially the same. It for us to study anew the cardinal purposes for which this nation was founded, to examine our work as teachers of children from these diverse stocks, and to highly resolve that at our hands no harm shall come to the fabric of our government.

To form a more perfect union

We shall agree that the formal union of the States into a nation is completed. Our fathers and grandfathers confirmed that union in 1861—1865; and the growth of the nation in the sixty years has cemented the States more firmly as the years have gone. But what shall we say of the inner union of thought and national feeling which alone can make of us a nation? Is not our National Legislature, our State Legislature developing into a government by "blocs" in which many powerful influences are working for dissension rather than union? Are we not witnessing an insidious change in the spirit of our government in which men are pleading and striving for special interests rather than the interests of the nation as an entity? Is there not room still, my fellow teachers, for us to work with energy and determination in order that this nation may have a more perfect Union?

To establish justice

We shall agree that in our system of law substantial justice is done to all of us, and that when we err, we err upon the side of mercy. But let us not forget that a loud and insistent minority is constantly attacking our courts with the vicious hope of destroying the confidence of the people in the uprightness of their final source of appeal for justice. Let us not forget that as teachers we afford to children their first contact with organized society. Let us remember that as those who make and enforce the first body of laws which govern our citizens, we must legislate with wisdom and justice, enforce with discretion and impartiality, and punish without fear or favor. With all my heart do I believe that much of the man's attitude toward his country and toward society is determined by the legislative and executive ability of his teacher during his childhood.

To provide for the common defense

Unhappily, we have found it necessary in the years gone by to provide for a common defence against the enemy without our gates, and the enemy within. A great share of our revenues is spent upon wars past and to come. Doubtless we shall continue to find it necessary to provide for defence in the future. But defence against armies and navies is, comparatively speaking, easy. We need only enough money and enough men. They will not be lacking in such quantity as is needed to assure the nation's life, if only we provide adequate defence, first of all, against the destructive thought which seeks to destroy from within. You know, as do I, that a persistent propagandum is being waged against our institutions, against things which we have been taught to hold sacred. You know that great sums of money are being spent by someone to maintain a printing press, a speaker's bureau which seeks by innuendo, by misrepresentation, by bold lying, to discredit the ideals of the Fathers, and to attack at its very source the stream of our national existence. I plead with you as teachers, to make of yourselves, soldiers of peace in maintaining our common defence. I urge of you that you resist in word and in deed the mad violence of those revolutionists who would destroy the safest government yet devised for mankind.

To promote the general welfare

How else can that be done save through education? How can men be made to save their bodies, except by instruction in habits of decent living? How can a general welfare which depends upon intelligent voting be preserved save by general education? How can generous action be secured save by thorough grounding in the principles of morality and right living? The teacher, with the other educative influences, the press and the pulpit, can alone lift the standard of the general welfare to such a place as to assure

Domestic tranquillity

Is any man so rash as to say that we are today a tranquil people? Have we developed a calmness of disposition, an orderly sense of living which makes for domestic tranquility? Again it seems to me that the duty of the school is plain. Let the teacher develop for herself, for himself a sense of values for the things of society. Let us not be over persuaded into pursuit of the hectic things of the day. Let us remember that school is still school, not a three ringed circus. I do not wish to decry unduly the things about school which seem to have caught the ear and the eye of the populace. The school athletic contest, the school play, the social life of the school, the affairs which today take up so much of our time and thought, all have their places in our scheme of all-around education; but they are not the important things. It is still true that the chief function of the school is to train for intelligent thinking, for orderly living, and for effective action, for these make for domestic tranquillity. I must urge for my conscience' sake that in this school year we return to the paths of sanity and peace, and that the school throw more of its influence toward those things of the spirit which alone can make us free of the petty matters which soon become a burden to the soul.

To secure the blessings of liberty to ourselves and our posterity

The blessings of liberty! All worth living for and dying for summed up in four words! As it seems to me, the very essence of Liberty is Tolerance. That which I expect for myself in matters of religion, of politics, of business, I must be ready and glad to yield to my neighbor. Those of us who venture to speculate find much food for thought in the attitude of considerable sections of our people today. This Constitution of ours is a guarantee to every man to worship God as he sees fit; to protect every man in his civic rights as duly established by law; to make no distinction in fundamental rights upon any basis of race, color or previous condition. Any attempt by any organization, however weak or however powerful to remove that guarantee, that protection, save by the orderly processes of law, is a body blow at the Constitution, and a fatal blow at the principle of Tolerance which underlies a government by the people. If the public school serves its full purpose as the chief agent of democracy, it must stand for the principle of Tolerance at whatever price must be paid. I would have you as teachers express the principle in your daily contact with children. I would have you emphasize that principle in your classes of History and Civics, to the end that we may continue to live as one people, in one nation, under one flag.

What then is a teacher under the Constitution? She is, first of all, the chief molder of public opinion. Her task is weighty and of the utmost importance. This country cannot long survive her indifference and neglect. She is the arbiter of Destiny for this country. The real melting pot of humanity is the public school, and the teacher is the alchemist who for a thousand shards and pieces recasts the perfect metal. It is upon your shoulders that the fate of the nation rests. I call upon you to keep your hearts clean, in order that you may worthily inspire those who come after you. Truly the Master thought of teachers when he said:—

"Ye are the salt of the earth, but if the salt have lost his savor, wherewith shall he be salted?"●

SIGNS OF HOPE FOR START

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LAGOMARSINO. Mr. Speaker, the United States and the Soviet Union have an awesome responsibility to other nations in the world. On the stability of our bilateral relationship, the world relies. Arms control seeks to reduce international tensions through mutual trust, arms reductions and confidence-building efforts aimed at low-

ering the risk that conflict between the superpowers will erupt.

The United States has remained consistent on one aspect of arms control—we will negotiate in good faith for an equitable, verifiable agreement serving the interests not only of the United States, but also of the U.S.S.R. and all other nations, great or small.

The following op-ed piece by the chief negotiator at the Strategic Arms Reduction Talks (START) in Geneva, clearly states that while the Soviets have walked away from the negotiating tables, there is hope for an agreement in the future because the two countries privy to these negotiations do have mutual interests, most notably avoiding the greatest of all disasters, global thermonuclear war.

I recommend Ambassador Rowny's remarks to my colleagues and all interested parties.

[From the Washington (DC) Times, May 16, 1984]

SIGNS OF HOPE FOR START

(By Edward L. Rowny)

Many people today are concerned about the possibility of another war. Relations with the Soviet Union and the United States are not good. But let us keep things in perspective; they were worse during the Berlin blockade, the Cuban missile crisis and the Middle East war of 1956. the charge by the Soviets that relations have never been worse is a scare tactic which the Soviets hope will gain them concessions they were not able to obtain at the negotiating table.

Publicly, the Soviets choose to ignore the fact that negotiations are proceeding on a wide range of issues. The United States and our allies are conducting a number of multilateral negotiations with the U.S.S.R., including the Stockholm conference on disarmament in Europe, negotiations on chemical weapons and other issues in the U.N. Committee on Disarmament in Geneva, and negotiations on conventional forces in Vienna. On a bilateral basis, we are negotiating with the Soviets on such issues as reopening consular offices, upgrading the hotline between us, and several other issues.

Let me emphasize that President Reagan is deeply committed to the process of negotiating a verifiable strategic arms control agreement. The president has chaired 16 National Security Council meetings on START issues. In addition, the president and I have met 14 additional times to discuss the issues involved in START. Thirty meetings in two years is a very large commitment of presidential time to one issue. But it has been time well spent, because avoiding nuclear war is one of the most important problems facing mankind.

Our START proposal would reduce the roughly 7,500 ballistic missile warheads on each side by one-third, to equal levels of 5,000. Thus, since both nations would have to reduce by roughly the same number of warheads, there is something in our proposal for the Soviets as well as for ourselves.

Our START proposal, unlike SALT II, would reduce not only missiles, but also the number of warheads. This is important, because whereas our missiles carry a maximum of three warheads, many of the Soviet missiles carry 10 warheads. A ballistic missile can be likened to a rifle tube, the warhead to the bullet it fires. Thus it is the number and size of warheads which represent the destructive potential of a ballistic missile force.

I am encouraged that the Soviets have joined us in recognizing the fallacy of limiting only the number of missiles. The good news here is that the Soviets now are willing to limit the number of warheads on ballistic missiles. The bad news is that the Soviets also seek to limit the number of retaliatory weapons carried on long-range bombers.

At the present juncture in U.S.-Soviet relations, it is more important than ever before that we remember the need for patience in dealing with the Soviets. By walking out of the Intermediate-Range Nuclear Forces negotiations and failing to agree to resume the START negotiations, the Soviets are clearly testing us. They hope that the hiatus in nuclear negotiations will cause such concern among the people of the United States and Europe that Western governments will be forced to offer new concessions simply to get the Soviets back to the negotiating table. So far, this Soviet ploy has failed and it will continue to do so as long as we remember the need for patience.

Our approach toward arms control negotiations will be more successful if we recognize the differences which exist between our two societies in freedom of speech and information. Put simply, our society is open and free; Soviet society—like the tsarist society before it—is pervasively secretive and closed. The Russians have never experienced the freedoms of speech and assembly which we Americans take for granted. We must recognize that our open society creates certain handicaps in dealing with the U.S.S.R. The Soviets play their cards close to their chest; we play ours face up on the table. The Soviets need to do little more than read the vast amount of information which appears in the U.S. press and other open sources, much of it, unfortunately, of a very sensitive nature. We, on the other hand, have no comparable sources of information about the workings of the Soviet government.

Let me close this section on negotiating with the Soviets by trying to answer a question I am constantly asked: "Can we trust the Soviets enough to negotiate with them?"

The short answer is that international agreements cannot depend on trust. Therefore, it is very important that we ensure that our treaties can be adequately verified. Lack of provisions for adequate verification was one of the major flaws of the SALT II treaty. This administration has made it clear that we will insist that any START agreement be effectively verifiable. We will insist that an agreement provide for whatever on-site inspection is necessary to verify Soviet compliance with the terms of an agreement.

In the area of verification, the news is not all bad. There are encouraging signs that our insistence on effective verification is bearing some fruit. For example, the Soviets in the START talks have indicated a willingness to consider cooperative measures to supplement so-called national technical means. They have thus signaled a willingness to go beyond reliance just on satellites and the like, which have traditionally been used to verify arms control agreements. In the multilateral talks on chemical weapons the Soviets have indicated a willingness to agree to a limited form of on-site presence with regard to weapons destruction.

The United States has proposed a draft treaty banning chemical weapons which includes the full range of verification measures necessary to make such a ban workable in practice. There is much negotiating which needs to take place before we can arrive at a verifiable ban on chemical weapons. Nevertheless, we welcome hints of Soviet greater openness, and hope that this means a more responsive attitude on the part of the Soviets regarding verification. The Soviets must understand that we will settle for nothing less than fully and effectively verifiable agreements.

So, the question remains: "Will START resume, and if so, when? Of course, I have no crystal ball, but I am firmly convinced that a mutually acceptable agreement between the United States and the U.S.S.R. is within our grasp.

Even before his death in February of General Secretary Yuri Andropov, President Reagan extended an olive branch to the Soviet leadership. He made it clear that we wish an improvement in relations with the Soviet Union. The United States has made it clear to the Soviets, both in public statements and through diplomatic channels, that we remain ready to return to the negotiations at any time, without preconditions.

Sooner or later, and one would hope sooner rather than later, the Soviets will complete their reassessment and return to START in Geneva. They will do so because they are realists and know that a reduction of nuclear arms is in their interests as well as ours.

Both sides should cooperate rather than threaten, negotiate rather than remonstrate. In this way we can secure the present for ourselves and the future for our children.

Neither we nor the Soviets can shirk the awesome responsibility we have as major world powers to guarantee the peace.●

BOULDER COUNTY WILL MISS JACK MURPHY

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. WIRTH. Mr. Speaker, on April 27, an era in my home county of Boulder came to an end. On that day, the revered Boulder County commissioner Jack Murphy, announced his retirement from public office, deciding not to seek reelection from his eastern Boulder County seat this fall.

Jack's retirement culminates some 17 years of service to the people of Boulder County. After these many years of service, Jack's wisdom and leadership, and that of his wife Gen, will be sorely missed. While I am confident that we will continue to be able to draw on Jack's experience in the years to come, no one expects the weekly sessions of the Boulder County commissioners to ever be quite the same again.

Shortly before his difficult decision was made public, the Boulder Daily Camera ran a fine article summarizing Jack's career and his unique ways of doing business in Longmont, CO. I want to take this opportunity to salute

Jack Murphy and to share with my colleagues the aforementioned article.

[From the Boulder Daily Camera, Apr. 15, 1984]

JACK MURPHY: FOUR TERM COUNTY COMMISSIONER ALWAYS VOTES HIS CONSCIENCE

(By Sally McGrath)

Officially, the seat of Boulder County government is the Courthouse in downtown Boulder. On most mornings, however, the seat of power is a cafe-style restaurant in downtown Longmont.

That is where senior commissioner Jack Murphy holds court as he drinks coffee with a dab of cream and eats a sweet roll or pancakes with bacon.

The silver-haired patriarch is in his 17th year as a commissioner, his 69th year of life. He will soon decide whether to seek a fifth elected term.

He is keeping his plans a close secret. "In American politics you have to keep people guessing and worry the opposition—that is the name of the game."

Eggberts is the kind of restaurant that attracts the same crowd day after day to eat pancakes, bacon and eggs for breakfast and open-faced roast beef sandwiches for lunch.

A lot of business is conducted between tables in the bright, clean, roomy restaurant. People can drink coffee and discuss the world's problems as long as they like.

The restaurant's name has often changed, but the regulars have not. They are businessmen and retirees for the most part. They talk about farming, the economy and politics.

Just about anyone who needs to see Murphy about county business knows they can find him at Eggberts.

Murphy's days have started in the same seat at the same table at Eggberts for nearly 40 years. "No one sits in my seat," he said. "They hold it until 8."

Traditionally, Republicans sit at one end of the table, and Democrats at the other. "Politics don't stop us from being good friends," said Tuts Sanderson, an Eggberts regular who sits opposite Murphy but has voted for Murphy in every election.

Tuts is 56 years old. He owns a used furniture store and has known Murphy since he was a child.

"Jack is still really a good ole down-to-earth person," he said. "And there aren't too many like that left. I don't know if we have anyone to run who's as good as Jack. That worries me. We need someone over here to look after us."

After breakfast, Murphy goes to Boulder if the commissioners are meeting. He goes to his Longmont office, which used to be Longmont City Hall, if they aren't.

On a recent day, Murphy arrived at his office to find an elderly man waiting to see him—just to talk.

The phone rang, and an elderly, blind woman asked Murphy to help find a job for her young caretaker, a cook. Murphy said, "Send him to Eggberts." He got a job.

The woman also asked about Murphy's political plans. "I haven't made my mind up yet," he responded. "Anytime I can help you, let me know because you're one of my dearest friends."

Murphy hung up the phone and sighed. "That lady was just begging me, 'you're going to run aren't you,'" Murphy said. "You know, it's ahelluva lot of pressure. They just don't know what they're going to do if I don't run. My God, they'd do something if I died. These old people, oooh boy."

It is obvious Murphy, who will turn 70 on Oct. 24, does not consider himself old.

The phone rang again, and it was an elderly man complaining about his taxes. Murphy shouted into the telephone because the man was hard of hearing. He told him to take his complaints to Boulder County Assessor Bill Goodyear because "the commissioners don't assess property." Never mind that they set tax rates.

There are more phone calls and more visits. So goes a day in the life of Jack Murphy.

Murphy has always drawn a crowd. He claims he was such a cute baby that his mother would park his carriage outside the house to satisfy the neighbors who wanted a peek.

Most of the people who now crowd around him at Eggberts would be surprised to learn that the cute tyke was not a local product.

He was actually born in Scranton, Pa., in 1914 to first-generation Irish parents.

His mother "didn't want to rear us in that town," said Murphy, who grew up with two brothers and a cousin. "It was a tough town. It would be like living in Erie."

His family moved to Longmont when Jack was five, after the Eastern coal mines gave out. Jack's father established John P. Murphy Implement Co. and sold John Deere farm equipment.

Longmont was a quiet farm town of 4,000. "The only thing that hasn't changed in Longmont since I got here is the railroad station," Murphy said.

He attended Longmont Catholic and public schools, graduating from Longmont High school in 1932.

He went to Regis College on a football scholarship, graduating in 1936 with a degree in economics.

After college, Murphy went to work for the John Deere implement company, eventually becoming manager of the Kansas City and Denver branches.

During World War II, Murphy commanded three ships in the South Pacific for the Navy.

"The nicest thing that happened to me while I was in the military was that I met my wife," Murphy said. He married Lt. Genevieve Mulcahy midway through his tour.

They have three sons: John, a lieutenant colonel with the Air Force; Tim, a San Francisco attorney, and Patrick, assistant U.S. attorney in Denver.

After the military service, Murphy returned to John Deere, which he expanded to Loveland and Greeley and managed and owned until 1974. "It was the oldest John Deere dealership that had remained in the hands of one family west of the Mississippi," Murphy said.

Murphy traces his interest in politics and his political persuasion to his days at Regis and to Benjamin Massey, a professor and Jesuit priest who "got us interested in government. Good God, everyone who came out of that class was interested in politics."

Among his classmates are former New Mexico U.S. Sen. Joseph Montoya; former Colorado Gov. Steve McNichols; Lawrence Henry, who became a U.S. attorney; Colorado Supreme Court Justice Paul Hodges, and U.S. Supreme Court Justice Byron "Whizzer" White.

"It seemed like one man could make a difference," Murphy recalled. "It was during the Depression and I saw people in soup lines. I saw people starving and I saw the Republicans, Hoover, not doing a thing about it and the nation was about to go broke."

Murphy dedicated himself to championing the individual. And that, according to longtime Murphy watchers, has been his key to success as a commissioner.

"I see Jack as being the leader through the years who tried to meet the needs of Individual citizens," said County Clerk and fellow Democrat Charlotte Houston. "If you have a problem, he gets right to the root of it and finds a solution."

"What I try to do is weigh the common good," Murphy said. "I realize that you have 205,000 people in Boulder County, practically. That meeting room over there (for the three commissioners' sessions) will hold 60 people. I never allow myself to be influenced because I know the ones that are there are a self-interest group. I realize that when I'm sitting there listening. I know the other 200,000 are out there and I think, 'what do they want; what's best for them?' That's been my philosophy. I make up my mind and I hang right in there. I'm not afraid to speak out."

That philosophy, coupled with Murphy's charisma, equals a special style of leadership that, for many, inspires allegiance.

"This is your friendly commissioner," he'll say when he answers the phone. "If there's ever anything I can help you with, let me know," he'll say as he hangs up. And he'll mean it.

"I don't have a label," Murphy said in explaining his success. "I'm not a rightist and I'm not a leftist. I'm really a centrist, down the middle. The hard-core right stays completely away from me; and the same way with the hard-core left. They know I'm going to vote my conscience. They're not going to influence me; they're not going to scare me."

"Jack is probably at the far right end of the Democratic spectrum," said Boulder County Republican Chairman Rick Samson, "which may make him more conservative than some of our more liberal Republicans."

And indeed he is as likely to side with Republican Commissioner Buz Smith as with his Democratic counterpart Josie Heath.

Murphy's Irish wit, sense of humor and candor are unmatched. His mind is filled with quotes and parables ready to summon at any occasion.

"We're caught in the vortex of a cyclone," he is likely to say when describing a controversial decision. Or perhaps he'll say: "We're placed in the position of King Solomon who was to decide the ownership of the child."

Murphy started climbing the political ladder as a precinct committeeman, working his way up to the state Democratic Central Committee and to chairman of 2nd Congressional District Democrats.

"I hewed the wood and carried the water," Murphy said.

He was chairman of the Longmont Planning Commission for 16 years, and he donated his time to a variety of community organizations.

"God, I was chairman of every committee in Longmont," he recalls.

His only unsuccessful political try was in November 1962 when he ran for state representative. He said he only ran to fill the ticket.

Murphy was appointed District II commissioner in 1967 following the death of Democrat W. D. McCaslin. With Republican Gov. John Love out of state, Murphy was quickly appointed by Democratic Lt. Gov. Mark Hogan.

Murphy was re-elected in 1968, 1972, 1976 and 1980. He never faced any competition in

the primaries, but the Republicans usually managed to find an opponent to face him in the general election.

Commissioners are elected countywide to represent one of three districts. District II encompasses the northeastern part of the county, including Longmont, Lyons, Lafayette and a sliver of Erie.

"This is an extremely difficult county to be a county commissioner in," Murphy said. You have to satisfy everybody from Nederland—all those kooks up there that come out of those bushes when we have meetings—then all the way up to Allenspark, which is a retirement community, really conservative, and I've carried that. Then you go through Longmont, which is really conservative, then up into the northeast here where you've got the farmers. Then I have to worry about Lafayette, Louisville. Then Broomfield, which is conservative and I never win down there."

But Murphy, with his business and agricultural background and populist leadership, had the formula for success with a diverse electorate.

Murphy said the Republicans could find little to use against him during his 17 years in office.

"They said the same thing they say about all Democrats . . . that we're big spenders," Murphy said. "But they didn't have a helluva lot they could say about me. We are the only county in the state that doesn't have a nickel's worth of indebtedness, so that was out. They'd try to tie me to the party."

But Murphy said that tie didn't exist.

He said he's always been his own man, refusing to give in to any special interest groups, including the Democratic party.

"I ran my own campaigns. I never tied up with the whole big group."

He didn't need the party to win an election. His base of support reached beyond political lines.

"I never had a big committee. I never sent out a letter soliciting funds. I never had the wine and cheese parties where you drop $25 in the glass. I never had a benefit. But the money would come in. I never asked anybody for it. That way I was independent. I wasn't in anybody's pocket."

Murphy steers his own course and the people of Boulder County know that, he said. "I'm very proud of the fact that I've never been approached for a bribe 'Cause if I was, I'd knock them dead, and they know it. And if this isn't the truth, the Lord can strike me dead."

His years in office alone are proof of the power the lifelong Democrat wields in a county that usually has more Republicans than Democrats. No one has ever come close to beating the venerable politician in his four elections. In 1968, a Republican landslide year, Murphy won more votes than anyone else running for a county position on either ticket.

"You might say politics are forgotten when you have a man like Jack Murphy," said Ben House, a former farmer and friend of Murphy's for 25 years, who is a Republican.

Neither can GOP Chairman Samson find much negative to say about Murphy. "I think Jack has served the county very well during his reign," Samson said. "Jack does what he thinks is right. I don't think Jack votes party-line; I think he votes his conscience. It's difficult to fault someone for that.

Jack Murphy leaned back in his chair and thought about the old days in Boulder County.

He remembered Longmont as a "dream city" of about 15,000 people. Now it has 50,000.

He remembered the farms and the farmers. He thought about quality of life, and pronounced it best in the '50s.

"I miss the agriculture; it's gone," Murphy said. "That was my business. Within a month, the last farm equipment dealer in Longmont is closing." Murphy remembers when there were nine.

"We don't have a feed mill in this town. We used to have six elevators. I bet there aren't 125 bona fide farmers in Boulder County right now. I mean, we see these guys running around with five acres and a horse trailer and a pickup truck with a great big brand on it, and they've got two head of cows.

"I've seen a complete transformation. I liked it better before."

Murphy could not stop the growth in his role as commissioner. He could only help shape it.

"I think this county has grown in a rather orderly fashion," Murphy said. "In fact, it's been planned so well people are attracted here. They love Boulder County; everybody wants to come to Boulder County."

The problem of growth will continue to be a major one, Murphy predicts. "There has to be orderly growth. If you don't have it, we're going to wind up a megalopolis. You can compromise orderly growth between the environmentalists and those of the private sector."

Murphy has another prediction: "If the elected officials do not afford proper attention to orderly growth, the people through referendum will demand it. They'll impose growth limits on these towns."

Besides shaping growth, Murphy has a long list of other accomplishments and awards. He is credited for leadership in founding the Boulder County Justice Center, Boulder County Mental Health Center, the Alcohol Recovery Center, the North Broadway Center, the Sheltered Workshop and county annexes in Longmont and Louisville.

He organized a nine-county conference that meets annually as a forum to dicuss mutual problems and concerns.

His district is known for having the best roads in the county. Murphy attributes that to "constant maintenance. I never allowed them to deteriorate. And I'm the only department in Boulder County that has the same number of employees in 1984 as I had in 1967. I never added a man."

Privately, some say Murphy should drop out of politics while he is ahead. They say although his mind is sharp as a tack, he is not physically able to serve another four-year term.

He suffers an almost annual bout of pneumonia. He has knee problems. Although he's been the victim of skin cancer and lung inflammation, he stubbornly refuses to give up cigarettes.

Critics say Murphy misses too many meetings. A check of meeting minutes showed that Murphy has missed 14 of 110 meetings during the past 15 months. Colleague Heath missed one more than that. Commissioner Smith holds the best attendance record, having missed only two meetings since his appointment in January 1983.

"I think it's time for a change," said Republican Chairman Samson. "Jack is older; he's in failing health." But the Republicans so far have been unable to find anyone willing to challenge Murphy.

Murphy refutes his critics. "I'm in damn good health," he said. "If you can't find anything else to criticize a man about, well that's a pretty good target. We had a president one time who served for four terms who had polio, Franklin Roosevelt. We had Eisenhower who had two heart attacks. Johnson had a heart attack. It's nothing new. They always attacked them for their health. All you have to do in politics is catch a cold and they'll get you. You're exposed. You're living in a fishbowl."

If he does decide to quit, Democrats have another strong contender on hold. State Senate Minority Leader Ron Stewart plans to run for the seat if Murphy does not. He has said he will not challenge Murphy.

Murphy insists he has not decided his political future. "I've been so damn busy all my life, I don't know whether I could stop," he said. "I can't all of a sudden just quit."●

SENATE—*Wednesday May 23, 1984*

(Legislative day of Monday, May 21, 1984)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we invoke Thy presence in this sanctuary this morning. Nothing here is hidden from Thee: The thoughts of our hearts—the word yet unspoken on our tongues—the desires which we dare not share with anyone—personal needs which we do not want to admit even to ourselves.

Thou knowest, Lord, the motives which rule our actions. Save us from unworthy motivation which would be dilatory or destructive. Thou knowest the human chemistry which influences this body making it explosive or peaceful—frustrating or freeing legislation.

May Thy love fill us with compassion for each other and the will to finish the task that must be done. In Thy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, today is Wednesday. The Senate will probably initiate the adjournment resolution for the Memorial Day recess. I anticipate that it will provide for an adjournment of the Senate from Thursday, Friday, or Saturday of this week until Thursday, the 31st of May, next week. The House of Representatives will be in session next week beginning on Wednesday, I believe.

The purpose of coming in on the 31st of May instead of the 4th of June, as originally announced, is to await the action of the House. If they are involved in appropriation bills, there is nothing we can do about that and the chances are that then we would go out and await their further action. If there is other action that they take at that time, then the Senate will be prepared to deal with it. But the leadership on this side anticipates that if the House, as expected, is dealing only with appropriation bills which have not yet been finished and thus have not yet reached us, the Senate would go out from Thursday until Monday.

REALLOCATION OF SPECIAL ORDER TIME

Mr. President, today, after the recognition of the two leaders, there are three special orders. One is in favor of this speaker. I ask unanimous consent that the time allocated to me may be transferred to the control of the distinguished Senator from Maine (Mr. COHEN).

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. After the execution of the special orders there will be a period for the transaction of routine morning business until 11 a.m. At 11, the Senate will resume consideration of the pending business, which is H.R. 5174, the bankruptcy bill, at which time the Packwood amendment to the Thurmond amendment will be the pending question. I anticipate that we will continue on that measure during the day.

Sometime during the day, it may be desirable to turn to the consideration of a debt limit matter. That is not yet resolved. I would remind Members that the Treasury estimates they will run out of money tomorrow. So it is essential that we deal with this matter before midnight tomorrow night. I am also advised by the Speaker, with whom I spoke this morning, that the House is not likely to act on the debt limit until tomorrow. That leaves us with the alternative of initiating a debt limit bill, which would not be the ordinary arrangement, or waiting until tomorrow to receive such a measure from the House. I will try to advise the Senate further on our options and the decision that is made on that matter later in the day.

In addition to the debt limit legislation, which might be taken up today, there is a strong possibility that the Senate will be asked to turn to the consideration of the Wilkinson nomination on the Executive Calendar. That has been mentioned several times now and I urge Senators to consider that there is a distinct possibility that we will turn to the Wilkinson nomination at sometime during the day. I have asked my cloakroom to notify Senators who have asked to be notified when that nomination is coming up. But there is a strong possibility that it will occur sometime during this session today.

I have been asked by a number of Senators about whether we would be in late today or not. And I do not know, is the answer. We will, if we can do useful work, but in the nature of things it may be tomorrow before we can finally dispose of the debt limit, for instance, and perhaps other matters. So I will have to reserve on that question as well. But for the moment it would appear that the Senate will not be in late. I urge Senators, however, to make their plans, if they do make plans for this evening, tentatively. I will have another announcement to make later. In that connection, may I suggest that there is a strong probability that tomorrow will be a late day.

Mr. President, the agenda now for the balance of this week is bankruptcy, debt limit, the Wilkinson nomination, and perhaps reciprocity.

Mr. President, I believe that is all I can say at the moment. I am prepared now to yield the floor so that the acting minority leader may claim his time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. COCHRAN). The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the minority leader be reserved for his later use today.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin, Mr. PROXMIRE, is recognized for not to exceed 15 minutes.

SOVIET CHEATING AND THE FUTURE OF NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, what is the heart of nuclear arms control? Answer: an agreement between nuclear powers that effectively slows or stops the arms race or channels it into more stable, less dangerous weapons systems. What is the Achilles heel—the most vulnerable weakness of nuclear arms control? Answer: it is the effectiveness of the agreement. Will it work? Will the other side cheat and in cheating gain significant military advantage? Those who would discredit arms control and rely primarily on "winning" the nuclear arms race charge that arms control cannot work.

Why can it not work? Because, they say the Russians will cheat. They will simply use arms as a means of preventing the United States from building the nuclear weapons we need to maintain our security. Meanwhile these arms control opponents charge that the Russians will pay little or no attention to the limitations written into the agreements and cheat at will.

Mr. President, politically this is a very savvy and effective argument.

The overwhelming majority of Americans love this country. We believe our leaders will not cheat. Most Americans do not like the Communist Government of Russia, and most believe that the Communist Government will cheat whenever they believe they can get away with it. When these anti-arms controllers charge the Russians have been cheating, many Americans will believe it. Very few will try to get the facts. Fewer still will argue the facts. After all, who wants to be put into the position of defending the Soviet Union on anything, anytime, anywhere, on any issue? If there is a political no-no in this country, appearing to stand up for the Soviet Union in any argument that involves them and us has to be the political equivalent of beating up on your mother in public. This Senator, as a political animal, does not intend to be put into that position. Nevertheless, the time has come when we should take a hard look at the facts. Have the Soviets cheated on the nuclear arms control agreements we have in effect? If they have, how significant militarily has that cheating been?

A few weeks ago in their March letter, the Federation of American Scientists met this problem head on. Their analysis of Soviet compliance, or cheating, on nuclear arms control agreements is direct and concise.

Here is what they find: First, even if all the charges of Soviet cheating were absolutely true, they would give the Soviets no significant military advantage. Nothing the Soviets could have done in cheating would endanger our submarine deterrent—which as the Secretary of the Navy has testified is not vulnerable now to Soviet attack, and will not be vulnerable for many years to come. The only conceivable threat to our submarine deterrence is a single, very large, and also very vulnerable radar. But it is only a radar, not a comprehensive antiballistic missile system. Does that radar involve a violation by the Soviets of the ABM Treaty? The Federation of American Scientists argues that that boils down to a matter of intent.

How about alleged testing by the Soviets of nuclear weapons in violation of the 150-kiloton treaty limit? Could these constitute Soviet violations? Of course, this is possible. But our experts argue that the difference in Earth composition between the United States and the Soviet Union can probably account for the seismic differences between the Soviet explosions and the 150-kiloton limit. Furthermore, an explosion marginally above the 150-kiloton limit would give the Soviets no strategic or military advantage. The 150-kiloton limit is so high that it has permitted both of the superpowers to test virtually every significant new nuclear weapon they wished to develop.

Ironically, Mr. President, most of the complaints have centered on alleged Soviet violations of treaties this U.S. Senate has failed to ratify. Meanwhile, compliance by both sides to those unratified treaties is voluntary and temporary. We have not ratified the 150-kiloton limit for underground testing. And we in this U.S. Senate have not ratified that SALT II Treaty. And yet, most of the allegations of Soviet violations relate to these two unratified treaties.

Mr. President, of course the Soviets have pushed these treaties as far as they could. They have taken advantage of ambiguities and loopholes as we certainly might expect. But it is critical that we appreciate how very useful these treaties have been in keeping a lid on the unbridled explosion of nuclear arms that we could expect absent these arms control treaties.

These allegations of Soviet cheating might push this country to simply say: "To hell with it. Abandon the treaties we have in place and forget about any future arms control agreements with the Soviet Union." As the federation points out "abandoning the ABM Treaty could incur enormous costs and strategic uncertainty." Much of our deterrent and that of the British and French would become vulnerable. Collapse of the comprehensive Test Ban Treaty would not only magnify the arms race but could with no restraint on above ground testing lead to tragic atmospheric pollution. If the 150-kiloton limit were lifted weapons in the megaton range would come on with a vengeance.

Mr. President, this Senator does not expect that we will walk away from the present very limited arms control framework we have built over the past 30 years. It is more likely that these loud complaints of Soviet cheating will poison the public and congressional support for the nuclear arms control progress we so urgently need in the future. In this tragically dangerous nuclear world, the continued arms race can lead only to the death of civilization, and perhaps of mankind as a species. So what can we do about it? Our salvation lies in a prompt and vigorous extension of comprehensive arms control, buttressed by specific, detailed and carefully enforced verification procedures.

Mr. President, I ask unanimous consent that the article to which I have referred from the March 1984 issue of the Journal of the Federation of American Scientists be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of the Federation of American Scientists, March 1984]

CHARGES OF TREATY VIOLATIONS: MUCH LESS THAN MEETS THE EYE

There is much less than meets the eye in the Administration's charges of Soviet violations. First of all, most of the violations in question involve legal and technical issues operating at the fringes of the stated treaty provisions. In the case of the PL-5 (SS-X-25) ICBM and Soviet encryption of telemetry, the Soviets are obviously trying to exploit treaty loopholes and ambiguities, as they have done in the past and will doubtless continue to do in the future.

The dispute over the radar at Abalakova boils down to a question of the interpretation of intent, while the evidence of Soviet testing violations and deployment of SS-16 missiles is shaky at best. Given the ambiguity of some of the treaty provisions, as well as the inconclusive nature of U.S. evidence, few, if any, of the alleged violations can be proven.

WHAT IS AT STAKE

Even if the charges were all incontrovertibly true, what would they amount to strategically?

Not much. In a world in which we have 5,000 warheads on highly invulnerable submarines, perhaps only an ABM could shake our confidence in our basic deterrent. And here the only issue is a single enormous and vulnerable radar of disputable purpose—not a whole new ABM system.

The Threshold Test Ban limits were always so high as to have very little strategic significance anyway; here the main violation, so to speak, is not having negotiated a Comprehensive Test Ban.

And because SALT II expires in December 1985, the most the Soviets could gain through exploiting a SALT loophole would be a few years advance on a second ICBM—a mobile missile many within the U.S. defense community view as a welcome development.

Most important, the Administration's charges have nothing approaching the strategic significance of the complete abrogation of the treaties themselves. Yet it is precisely that dangerous outcome which can result from mishandling suspicions of Treaty violations.

In particular, abandoning the ABM Treaty could incur enormous costs and strategic uncertainty. Without the Treaty, the effectiveness of our most prized strategic force, the Poseidon-Trident submarine-based missile force, could become theoretically vulnerable to a potential Soviet ABM system based on new radars and existing air defense missiles. A similar fate would befall the British and French nuclear missiles. The slower SLBMs and small force of European missiles will be more susceptible to Soviet ABMs than will our land-based deterrent, which has survivability problems of its own. If the Treaty is abrogated, people will suddenly realize how much its presence did to hold down defense alarms of many kinds.

Compared to these problems, a radar of controversial purposes is a minor issue.

Similarly, the SALT II regime has favored the United States by restraining hot Soviet production lines that have always been more capable of churning out new missiles than anything we have ever had open at one time. It is the Soviet side that can best exploit a breakdown of the SALT II regime. Should SALT collapse, the dramatic buildups that will undoubtedly occur on both sides would dwarf the significance of extra, and allegedly illegal, Soviet missiles.

Or again, highly suspect charges that the Soviet side is conducting underground nuclear tests above the 150 kiloton threshold amount to little compared to the tests which would become possible in the absence of the Threshold Test Ban Treaty. More than anything, this Treaty was designed to prevent the testing of weapons in the megaton range—nuclear warheads that would prove useful as each side attempts to increase its counterforce, first-strike capability.

COMPLIANCE AND RATIFICATION

It is remarkable to note that two of the three treaties involved are ones that have never come into force. And they never did so precisely because the United States refused to ratify them. Charging violation of treaties which one has refused to ratify is a tricky business; and when the U.S. is complying with the treaties precisely because it recognizes the greater Soviet ability to break out of the treaties, it is a dangerous business as well.

One cannot read the following analyses without reflecting on how easy it is, with any complicated treaty, to find activities of a suspicious or provocative nature. Indeed, the Soviets have responded by making public complaints about our treaty compliance—a matter we will address in a future newsletter.

None of the issues seems to be beyond resolution—on the contrary. The radar at Abalakova seems to be an isolated event which could be resolved in a number of negotiable ways. The Soviets have made offers to resolve the encryption issue. The Threshold Test Ban Treaty issue can best be resolved, ironically, by ratifying the Treaty and acquiring the data that is mandated by the Treaty's verification provisions. The resolution of the PL-5 and SS-16 issues will require continued efforts at greater clarification of the relationship between the terms of the SALT II Treaty and the exact details of Soviet activities.

The resolution of these complex issues will require hard-nosed private consultation and negotiation, not public condemnations and posturing. They also require a firm commitment to the future of arms control. The Soviets will have little incentive to cooperate on such matters as encryption and the PL-5, if it appears that offensive arms limitations will end with the expiration of SALT II in 1985.

We can and must expect Soviet negotiators to drive a hard bargain—and where they can—exploit treaty ambiguities and loopholes. We must expect a certain amount of chiseling on the spirit of the treaties that is nonetheless within the letter of the agreement. Hard bargaining of this kind goes on not only with the Soviet Union, but throughout our own commercial sector.

If the issues prove to be beyond resolution, there is nothing involved here which we cannot match in our own activities where absolutely necessary, or otherwise offset. There is little at this point that threatens our security. Most certainly, there is nothing that poses as much of a problem to our security as not having the treaties at all.

What the public should learn from this affair is a sense of perspective: how little is at issue, how complicated the treaties really are, how much negotiation must go on even after treaties are signed, and how much more important the treaties are than anything charged thus far.

We ought not, and we need not, tolerate violations. And we can almost always respond to those real violations that we cannot resolve in ways that fall short of (cutting off our nose to spite our face by) canceling the whole agreement. All of this can and should be done without ruining the atmosphere necessary to keep existing agreements while working toward new ones.

These are, to our mind, the morals of the great violation uproar of 1984, with respect to the five of seven charges reviewed thus far. A subsequent issue of the Public Interest Report will review the two remaining U.S. charges concerning chemical warfare and the Helsinki Agreement, and the Soviet charges of U.S. violations.

VIOLENCE IN ZIMBABWE AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on another subject, several weeks ago, Western reporters were allowed to observe and investigate the situation in Matabeleland in southwestern Zimbabwe. This area has been off limits to foreigners since the government's counterinsurgency efforts began in February of this year. Accounts of atrocities committed by the army of Zimbabwe on civilians and the Zimbabwe Government's defensive response have both appeared in a series of articles in the Washington Post.

Denying allegations of the army's role in the killings, beatings, and extensive hunger in the region, the Government of Zimbabwe is nevertheless unable to erase the images of brutality created by the testimonies of the violated villagers. Victims have displayed the scars from disabling beatings, and witnesses have given accounts of numerous executions and rapes. American physicians and nurses at mission hospitals nearby have confirmed that the assaults took place.

In Matabeleland, the conflict is not only one of political rivalry, for the victims of the violence are primarily members of the Ndebele-speaking minority who the officials have associated with government opposition. The Government of Zimbabwe under Prime Minister Mugabe assures the world that it is not involved in the barbarism, claiming that the accusations are fabricated or that the dissidents themselves are guilty of the crimes against civilians. Clergymen in Zimbabwe, however, charge the Army with the killing, torturing, and raping of innocent people. According to the Washington Post, one Catholic priest has accused the government of pursuing "genocide" against the Ndebele-speaking minority in Matabeleland.

Mr. President, we do not know whether or not there is genocide taking place in Matabeleland. We do know that there is physical abuse against the ethnic minority there, and it is clear that the situation must not be permitted to evolve into one of genocide.

By ratification of the Genocide Convention, we can show the intensity of our disapproval of such inhumane activities. We must send the message to the Zimbabwe Army that we will not permit their senseless torturing, and by ratifying the Genocide Convention we can give our position validity and consistency.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR COHEN

The PRESIDING OFFICER. Under the previous order, the Senator from Maine (Mr. COHEN) is recognized for not to exceed 30 minutes.

Mr. COHEN. Thank you, Mr. President.

DOMESTIC FOOTWEAR INDUSTRY

Mr. COHEN. Mr. President, as chairman of the Senate Footwear Caucus, I am pleased to have this opportunity to discuss the problems of the domestic footwear industry, and specifically the devastation imported footwear has caused this important manufacturing sector.

Imported footwear currently comprises 70 percent of the retail market. We hear of statistics about what has happened to the automobile industry, and what has happened to the steel industry. We are talking there about foreign penetration of 20, or 26 percent. Here, 70 percent of the market is now owned by foreign importers.

That is up just from 3 years ago, where it was only 50 percent. We now have leaped up to 70 percent foreign import penetration.

Unemployment in the industry exceeds 15 percent compared to 8 percent in the overall U.S. manufacturing sector. Company profitability has closely tracked the loss of the industry markets with as many U.S. firms barely staying afloat financially.

In 1981 the International Trade Commission, the ITC, found that additional time was needed for restructuring the industry, and it recommended a renewal of the orderly marketing agreements for a 2-year period. Unfortunately, these so-called OMA's were terminated, and the industry has declined dramatically since that decision.

I would point to the State of Maine alone. We have lost nearly 2,000 footwear manufacturing jobs since 1981 by the termination of these OMA's.

Nearly 11,000 jobs have been lost since 1968 when the imports began their upward march. This year alone, we have lost an additional 700 jobs.

While competitive U.S. companies are expected to compete head-on with foreign companies in the U.S. market, they are prohibited from benefiting from lucrative markets in other countries.

The United States is the only major market which allows virtually unlimited footwear imports. Most of our major trading partners have restrictions ranging from formal global quotas to excessive tariffs and licensing arrangements. Just this week Canada announced the continuation of its global quota program for an additional 18-month period.

So the U.S. industry is getting hit from two sides. On one hand they are being flooded with an unmitigated wave of imports, and on the other, they are being prohibited from selling and distributing their goods abroad. It is not exactly a system that celebrates free trade.

No matter what economic indicators you use, you will find that the footwear industry today is in far worse shape than it was before when the ITC unanimously found that imports were harming the domestic industry. There is no other recourse left: the industry must have relief in order to survive, unless this country is prepared to simply let it die. By the way, the ITC is currently conducting its investigation as to whether or not the industry is in danger from this flood tide of imports and, if so, what relief it will recommend. There is no other course left for us but to seek relief through the ITC and hopefully the President of the United States.

Mr. President, I believe that the industry retains the commitment and drive to compete on a fair basis with its foreign competition. The industry, however, must have some breathing room and further time to restructure. I am hopeful that the International Trade Commission will look favorably on the industry's petition and recommend the relief this industry so desperately needs.

I would simply point out, Mr. President, that we are seeking fairness in our treatment for our own citizens. They find it hard to believe that this country could turn its back on what has been one of the most significant industries in a number of States, certainly including my State of Maine. There have been over 100,000 jobs lost in this industry. They are not asking for a protectionist system; all they are saying is a measure of reasonable protection, 50 percent of the market. Can we not have 50 percent of the market?

I cannot go back to Maine and say, "Look, you are going to have to compete a little bit harder with South Korea." In South Korea they pay their workers 88 cents an hour. It is a bit higher in Taiwan. People in Maine are not going to work for 88 cents an hour. Nor, would I suggest, are the people of New Hampshire, Massachusetts, Missouri, or Tennessee. I am happy to have the majority leader as a member of the Senate footwear caucus. In none of these States are we going to be able to persuade our citizens to accept 88 cents an hour.

The one advantage we do have, however, is that we can make technological changes. We can have time to put more capital improvements in our industry in order to make it more competitive. But in order to do that we need some time.

What I am trying to say to the President of the United States, and certainly to the ITC, is you have to have a measure of fairness in dealing with our own citizens. Free trade sounds wonderful, but it ought to be fair trade. We do not have fair trade right now.

If you want to try to sell a pair of shoes in Brazil, let us say, they have about a 150 percent tariff, in addition to a global quota saying no shoes are coming in.

If you would like to sell a pair of shoes in Panama, what do you think the global quota in Panama is, if you want to market some Maine-Bath shoes or some wedgees or L.L. Bean boots, or Acorn slippers, or Dexter shoes? I could go on with a list of all the shoes made in Maine. You can sell 12 pairs of shoes globally from global marketing in Panama.

I could go through country by country and show, including Canada and all the others, that we are the only ones to open our shores with absolutely no restrictions, no reservations, no measure of cushion for our domestic producers. That, to me, is falling down and paying tribute to a false god.

Mr. FORD. Will the distinguished Senator from Maine yield for a question?

Mr. COHEN. I yield to the Senator.

Mr. FORD. We in Kentucky have some of the same problem although with a different product. We are always threatened with retaliation, that if we do this they are going to retaliate. In listening to the distinguished Senator from Maine, if you can only sell 12 pairs of shoes to Panama on a global basis, they could not do much more to us, could they?

Mr. COHEN. They could not inflict any kind of retaliation that I am aware of. The same is true of these other countries. We are not allowed to market our products there. I can give you the case of the Acorn slipper. This is a slipper that is manufactured in Maine. Our astronauts wear it. It has a leather sole and either a cotton or wool upper. They wear these because of the comfort they can gain and keep warm in space. As a result of the marketing strategy of this very small, tiny company in Lewiston, Maine, Japan, for example, some people in Japan, saw this advertising. They placed an order for 30,000 pairs. They were about to ship them out and suddenly the Government came in and said, "No, we have a quota over here and you cannot ship those slippers in."

I went to Bill Brock and complained about this kind of reciprocity we get from Japan. He started working on it and started to make some headway, as he made some headway on beef recently, according to the papers. Five months went by and by that time the order was canceled.

So we run into these nontariff type of trade barriers as well.

Mr. FORD. If the Senator will yield further, I wonder if this small company in Lewiston, Maine, had already started to prepare the 30,000 order. They were probably left there to eat them.

Mr. COHEN. They were gearing up to sell them and doing fairly well. But, that is right, when the order was canceled, they had to market them elsewhere.

It is fairly insidious, what is taking place. We were asking for relief. For example, Senator DANFORTH, Senator HEINZ, myself, and others went to the President in 1981 and said, "We need relief. Otherwise this industry will really be dramatically injured."

We failed. They said, "No, it is free trade. We do not believe in any kind of protection out there."

At that particular point, the foreign competitors owned 50 percent of the market. That was 1981. When the OMA's came off, it jumped to 70 percent. The indications are if we do not have some relief in the next couple of years, it is going to be totally extinguished. We will simply not be able to compete. The jobs will be lost.

Mr. FORD. The Senator makes a very good point, but I might say there is a need for a look at this in all aspects of our import-export. We have to look at automobiles, we have to look at farm products, we have to look at all the others. One of the problems we face, to my understanding, is that the strong dollar is a problem. It has grown 52 percent in the last 2 years in the 10 major currencies in the world. If they buy, they get 52 percent less; and if we buy from from them, we get 52 percent more. There is nothing fair about that.

The Senator is touching on one point. It seems to me a comprehensive study needs to be made as it relates to the total economic import-export business.

Mr. COHEN. I would agree entirely. I have focused my attention on shoes, of course.

Mr. FORD. Mr. President, I compliment the Senator for looking after his constituency.

Mr. COHEN. Mr. President, let me say I speak for potatoes here as well. We had a problem on potatoes and our own Commerce Department found that Canada was undercutting the market by some 36 percent on the price. That does not take into account the monetary exchange rate differential of another 20 percent. So it was really closer to 60 percent undercutting. This is what our Commerce Department found after investigation.

Yet they went before the ITC and the ITC said, well, we see what the Commerce Department has found, but we think your problem is caused by other factors, and they denied relief there.

We have problems across the board in terms of how we deal with other countries who target our industries, who pick out potatoes or lumber or fish or shoes and subsidize their own industries to take that market away from us.

Mr. RUDMAN. Mr. President, the footwear industry is vital to the economic health of New Hampshire. Footwear firms rank first in all manufacturing for the State and are among the top three major employers in three-fifths of our counties. In Strafford County, one of our most heavily populated areas, it is the largest manufacturing industry. Over 7,800 New Hampshire residents are employed in direct manufacturing in the State, and another 1,500 to 2,000 are employed in other aspects of the industry. Footwear, for New Hampshire, means 7 percent of all manufacturing employees and over 80 million payroll dollars.

These are important statistics for any industry, and New Hampshire's citizens are proud of their role in one of the top footwear producing States in America. The grim reality is, however, that New Hampshire's footwear industry, like that of many other States, is reeling from the impact of rising import penetration.

In 1968, New Hampshire had 17,700 people employed in 71 establishments producing 46.4 million pairs of shoes. By 1982, 7,800 people were employed in 31 plants producing 17 million pairs of shoes. During the same time, imports increased 232 percent and 402 plants were lost nationwide. Over 100,000 employees lost jobs in direct manufacturing. Import penetration in the domestic footwear market has reached record proportions, and imports of nonrubber footwear account for 6 percent of the 1983 record trade deficit.

In 1984, footwear manufacturing continues its decline. Earlier this year, we lost yet another plant in New Hampshire. During my travels around the State, I have witnessed the frustration and anger of my constituents. Yankee competitiveness and determination are legendary, but the determination to compete is useless when the plants are closed and the jobs have disappeared.

My constituents who work in the footwear industry ask only the chance to compete fairly for a share of the domestic market. The U.S. nonrubber footwear industry clearly has demonstrated a commitment to survive. For example, when orderly marketing agreements ("OMA's") were negotiated with Korea and Taiwan following the International Trade Commission's second unanimous finding of injury, the footwear industry spent precious capital on research, development, and modernization. The results were just beginning to show when President Reagan decided to terminate the OMA's.

With a comprehensive import relief program in operation, the footwear industry will have the opportunity to adjust to import competition. My constituents have the resources and commitment to keep the footwear industry alive. Further, if it has the ability to compete fairly, this industry can grow. I urge the ITC, therefore, to give every consideration to the petition filed by those involved in the footwear industry.

Mr. COHEN. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 17 minutes and 50 seconds.

Mr. COHEN. Mr. President, I do not wish to take up more of the time because other Members of the Senate who would like to speak are here. I believe a number of other Senators are going to try to be here. I see the Senator from Arkansas (Mr. BUMPERS) is here. I yield such time as he may need to the Senator.

Mr. BUMPERS. I thank the Senator from Maine.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BUMPERS. Mr. President, I thank the Senator from Maine for arranging the time this morning for some of us who are deeply concerned about a very important problem that affects some States, such as Arkansas and Maine, much more than it does other States.

Recently, there was a section 201 filing before the International Trade Commission. The shoe industry is seeking reasonable relief from that organization and here are the hard facts and the sombar story regarding the shoe industry in this country.

The section 201 petition has been filed by the Footwear Industries of America, the Amalgamated Clothing and Textile Workers Union, AFL-CIO, and the United Food and Commercial Workers International Union, AFL-CIO.

The U.S. nonrubber footwear industry today is in deep trouble, and the 201 filing reflects this. This filing is not a reflection of mild concern by the industry at the loss of a small fraction of its domestic market, far from it. Rather, this 201 filing is an act of last ditch self-preservation for the industry and especially the thousands of jobs which are teetering on the bare edge of existence. Without the relief sought in this 201 petition, those jobs will topple over the edge into oblivion. They would be joining the thousands of other footwear industry jobs lost in the last couple of years that today are nothing but a bitter memory, leaving nothing in their wake but shattered lives, shaken communities, and swollen welfare lines.

The footwear industry's survival is on the line. The cold hard facts tell a somber story: Imported footwear now accounts for 70 percent of the footwear sold in this country. All indications are that without help, this proportion will grow still larger. Thus, despite the overall growth of the U.S. footwear market in the last 15 years, U.S. nonrubber footwear production has actually dropped almost 50 percent, from 642 million pairs in 1968 to 341 million pairs in 1983.

Let me repeat that, Mr. President. Despite the overall growth of the U.S. footwear market in the last 15 years, nonrubber footwear production has dropped from 642 million pairs in 1968 to 341 million pairs in 1983. That is roughly a 50-percent drop. This is the lowest U.S. production level since the Great Depression. During this same period nonrubber footwear imports skyrocketed, nearly quadrupling from 175 million pairs in 1968 to 580 million pairs last year.

What is more, these trends are accelerating. In 1968, domestic footwear claimed almost 80 percent of the market. By 1975, this figure had fallen to 59 percent. As recently as 1981, domestic footwear still had about 50 percent of the market. However, in 1983 market share dropped to 36 percent, and now in 1984 it has dropped further to 30 percent, as imports have increased 24 percent in just 1 year. No other major industry in this country has as high an import penetration level as the footwear industry. Nobody doubts that this trend is going to continue unless something is done. And with only 30 percent of the market remaining, and going fast, there is not much time left.

Once again, this is not a question of free trade. Other countries have significantly higher tariff and nontariff barriers than does the United States. In some cases, these countries ban imports of footwear. In sharp contrast, the United States has the most open market for footwear in the world, a fact other countries, shut out else-

where in the world, have been quick to exploit.

The impact of this foreign penetration of the U.S. footwear market has been devastating on the U.S. industry, and especially on its labor force. Since 1981, 27,000 people have been thrown out of work by factory closings; not layoffs, but factory closings. This is more than 10 percent of the footwear labor force and is equivalent to losing one job every hour since 1981. Already in 1984, about 20 factories have shut their doors, throwing 2,000 more people out of work, including two factories in my State of Arkansas—one in De Queen and the other in Leachville. Arkansas has lost 2,000 jobs in the footwear industry since 1976, and now is down to 6,000 workers.

While any factory closing works a hardship, a footwear factory closing poses an especially difficult labor problem. Unlike many manufacturing industries, a significant proportion of footwear plants are located in small towns and rural areas where there are few employment alternatives for former footwear manufacturing employees. For example, five of the six counties in Arkansas where footwear is the largest manufacturing industry have a population below 25,000. In two of these counties, Clay County—population 20,900—and Montgomery County—population 8,100—footwear employees make up over half of all the manufacturing jobs in those counties. So, when those workers are thrown out of work, we do not have a Silicon Valley or a high technology industry waiting to hire them. In the first place, footwear workers are not high-tech, with high tech skills. The footwear industry has always provided jobs for women, older workers, and the less educated. Almost two-thirds of all footwear workers are female, more than a third of the workers are age 50 or older, and less than half have completed high school. Footwear workers are among the lowest paid of all U.S. manufacturing workers, earning little more than half the average U.S. manufacturing wage. Many of these workers are farmers' wives helping to keep the family farm going. When these jobs are lost, America suffers in many ways.

The footwear industry is in serious trouble. It neither needs nor wants a handout—but it does need time. It needs this time to expand and proliferate its already impressive program of productivity improvement, plant modernization, and capital investment. Industry spending on research and development has doubled since 1977. One Arkansas producer, Mount Ida Footwear, even won second place, out of all Arkansas manufacturers, in the U.S. Senate State productivity award. We are making progress, as I said earlier. All we need is time.

The investment necessary to insure the future of the U.S. footwear industry requires some expectation that the industry will be able to survive and compete. It is clear that the facts here meet the statutory tests: Nonrubber footwear is being imported in increasing quantities; the industry has suffered and will suffer serious, even devastating injury, and the increased imports are a substantial cause—they are in fact the primary cause—of the injury. Thus, some form of import relief is critical for the future of the footwear industry. That is why I strongly endorse the section 201 filing which the ITC has under consideration right now.

Mr. President, if I may just add this: I have opposed domestic content legislation and I have always considered myself a free trader. One of the reasons I am opposed to domestic content legislation is it deals only with automobiles and there are other industries such as this which are just as devastated, in fact, are much more devastated than the automobile industry has been.

Second, we ought not to codify requisite percentages of domestic content in law when the President has the authority right now to deal with the problem on a day-to-day basis.

I can tell you that the pressure is inexorable on people like me, who support the President's position in opposition to domestic content legislation, to do something to save the footwear industry. I told the International Trade Commission a couple of weeks ago, when I testified there, that unless they take action, unless the President takes action, Senators COHEN, MITCHELL, and BUMPERS will not be back before the Commission to argue again on behalf of shoes, because there will be no shoe industry left to defend.

I yield the floor, Mr. President.

THE FOOTWEAR INDUSTRY IN WEST VIRGINIA

Mr. BYRD. Mr. President, as a member of the Footwear Caucus, I would like to join with my colleagues in expressing concern about the impact of unfair foreign competition on the footwear industry nationwide, and in West Virginia in particular.

My colleague and friend from Arkansas, Senator BUMPERS, noted in his remarks that many footwear manufacturing operations are located in rural areas and serve as one of the few available employment opportunities. His remarks hold true for my own State.

More communities in West Virginia depend on small footwear manufacturing operations than in any other State. In fact, such small factories account for more than 80 percent of manufacturing employment in Gilmer, Hampshire, and Pendleton Counties. In other counties, like Tucker, footwear operations have been significant.

Between 1968 and 1979, the West Virginia footwear industry was a growing source of jobs—adding an estimated 1,700 employees to payrolls during that time. But, within the past 5 years, the industry has begun an alarming decline. This year alone, two factories in West Virginia—one in White Sulfur Springs, and another in Elkins—were forced to close. Until recently, the footwear industry and allied industries accounted for some 3,000 jobs in West Virginia, and an estimated $20 million in payroll. As factory after factory has closed, these hard-working people have been added to the unemployment line, adding to my State's unenviable national record of 16 percent unemployment.

The administration's decision to ignore this problem will not make it go away.

Mr. President, I ask unanimous consent that an excellent article by Mr. Rodney A. White from the Herald-Dispatch of Huntington, W. Va., entitled "U.S. Shoes: From Riches to Rags" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SHOES: FROM RICHES TO RAGS

(By Rodney A. White)

The Perry Norvell plant in Huntington is only one of about 700 shoe manufacturing plants in the country, but its future along with others is cloudy as industry and government officials seek some kind of accommodations with shoe imports.

The Huntington plant is owned by Kinney Shoes Corp., a subsidiary of F. W. Woolworth Co. Since March 4, the Perry Norvell plant's employees have been laid off temporarily. Union officials representing the plant's 295 hourly workers say they don't know when, or if, the plant will reopen.

Officials will only say the plant remains on temporary shutdown. Those who could be reached would not comment, while other officials declined to return calls placed by the Herald-Dispatch.

Kinney, according to David Gray, head of the United Food and Commercial Workers Footwear Division, is the nation's second largest footwear retailer. "If they can't sell their shoes, how can the little guy survive?" he asked.

Larger and more numerous shoe factories are located in other states, such as Maine, Missouri and Pennsylvania. But in West Virginia, there are more communities that depend on small shoe manufacturers than any other state in the country, according to Fawn Evenson, exectutive director of the Footwear Industries Association, Inc.

"If some of those plants in places like Gilmer, Hampshire or Pendleton counties close down, then those communities are really going to be hurt," she said. "There simply are no other jobs in those communities."

The domestic shoe industry's problems with imports date back to 1968, but the issue became acute following President Reagan's March 1981 decision not to renew quotas on non-rubber shoes coming into the United States from South Korea and Taiwan, according to industry spokesmen and published accounts.

Since then, shoes from South Korea and Taiwan have flooded the U.S. market. More

than 38 percent of the shoes shipped into America last year came from Taiwan, which alone has captured more than 20 percent of the market in the United States, according to U.S. Department of Commerce statistics.

Currently, foreign producers supply 60 percent of the U.S. market, according to the Footwear Import Action Committee, a coalition made up of Footwear Industries of America, a trade group, the United Food and Commercial Workers Union and the Amalgamated Clothing and Textile Workers Union.

In a telephone interview from his Washington office, Gray said figures from the first three months of this year indicate that imports may capture 80 percent of the U.S. market during 1983.

Imports started flowing into the United States after 1968 when this country approved an international General Agreement on Tariffs and Trade, according to the FIA.

Between 1968 and 1976, domestic production declined from 642.4 million to 422.5 million, FIA figures show. The number of plants declined from 1,200 to 700 and the number employed dropped from 243,000 to about 164,000.

Printed FIAC material says more than 66 percent of those working in shoe factories are women and a thrid of the employees are 50 or older. More than half of the employees nationwide, according to a U.S. Department of Labor study, have not completed high school.

Supporters of free trade frequently claim that U.S. industries seeking protection from imports do so because they are not competitive. Free trade advocates also have blamed that lack of competitiveness on U.S. wage rates.

The average hourly wage for U.S. footwear industry employees is about $5.71 an hour, according to the FIA. Labor costs in Taiwan are, on the average, $1.17 an hour, Brazil 96 cents and Korea 74 cents.

"We just can't compete with low-cost, labor-intensive industries," Ms. Evensen said. Gray said it might be possible for U.S. industries to compete if they could buy new, more expensive equipment, "but they simply don't have the money."

In 1977, President Carter imposed a so-called "Orderly Marketing Agreement" with Taiwan and Korea and limited exports. But industry labor claims that decision did not affect other importers.

By 1981, the labor group said foreign exporters had captured 50 percent of the U.S. market.

Quotas on imports from Taiwan and Korea expired that year when Reagan refused to extend the OMA. The results are history. Fewer than 700 domestic factories exist, producing less than 50 percent of the shoes Americans buy. There are only 125,000 to 130,000 jobs remaining in domestic footwear, according to the FIAC.

What the industry and unions will do now is unclear. Companies intend to press through the FIAC their petitions to United States Trade Representative William Brock. Under section 301 of the U.S. Trade Act of 1974, domestic firms can ask the federal government to negotiate the elimination of trade barriers with other countries.

The FIAC petitions claim that nine exporting countries have erected tariff barriers to U.S.-made shoes. At the same time, some foreign governments, directly or indirectly, are subsidizing exports of their manufacturers.

The Reagan administration has accepted four of the nine cases filed, but progress made by Brock has been slow.

According to a letter from Brock to U.S. Rep. Nick Rahall, D-W. Va., "consultations which have focused on the extent to which any illegal trade barriers have restricted U.S. footwear exports will be pursued vigorously in every instance in which the petitions allegations appear to be well-founded."

The letter was dated April 13, a month after Rahall had written to Brock about Perry Norvell's shutdown. Spokesmen for Rahall said Brock said nothing about imports. "We're still waiting for further follow-up on their so-called consultations that they are having with these four cases," said Rahall's press secretary, Mike Serpe.

Efforts to get further comment from Brock's office last week were unsuccessful.

Ms. Evensen said the real test of administration intentions will be known this week if the International Trade Commission, an agency of the federal government, rules in favor of Spain, Brazil and India on tariffs.

Those countries have contended that their imports into the U.S. market are not harmful to U.S. industry, despite the fact their operations are subsidized, Ms. Evensen said. They have asked the ITC to revoke U.S. trade restrictions.

"Their decision could be another nail in our coffin," she said. "If the ITC revokes the tariffs, then we will have to look for other avenues."

The unions already have decided that they will file a petition with the U.S. trade representative, Gray said, asking the government to restrict all imports.

But Gray said he doubts that petition would be approved because Brock and Reagan "are free traders."

"They simply don't care what happens to the industry," he said.

The only recourse is Congress, but Gray said there simply isn't much sympathy there for what might be perceived as protectionism.

He also acknowledges that since the numbers of people involved in the domestic shoe industry has declined substantially, they aren't very influential.

"Your Senator (Robert) Byrd (D-W. Va.) has shown interest and Congressman Rahall has tried to be helpful," he said. "But Senator Howard Baker (the Senate majority leader), who has far more people in his state (Tennessee) involved in the shoe business than West Virginia, is against quotas."

"I don't think we will have a domestic shoe industry in this country by 1985," Gray said, "unless we do something now."

Mr. MITCHELL. I thank my colleague, Senator COHEN, and I commend him and Senator BUMPERS on their remarks.

Mr. COHEN. Mr. President, will the Senator yield? How much time is remaining?

The PRESIDING OFFICER. Seven minutes and fifty seconds.

Mr. COHEN. I ask unanimous consent that Senator MITCHELL be allowed to control the remainder of the time if he does not consume that 7 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MITCHELL. I thank the Senator.

Mr. President, the shoe industry is one of the most important parts of Maine's economy.

In 1983 over 16,000 workers in 60 plants earned over $170 million. More shoes are made in Maine than in any other State.

Today the American shoe industry is facing disaster. Thousands of jobs are at stake. Thousands of others already have been lost.

Sixteen years ago, over 26,000 persons worked in 82 shoe plants in Maine. But, as a result of trade negotiations that occurred during the Kennedy administration, the United States began in 1968 a phased reduction of tariffs on imported shoes. By 1972 those tariffs had been reduced by 50 percent.

Then a flood of imports hit our shores and washed away thousands of American jobs. By 1975 imports reached 256 million pairs of shoes and accounted for 40 percent of all shoes sold in the United States. The shoe industry, acting under the provisions of our trade law, petitioned our Government for relief. The International Trade Commission investigated, found the industry's position to be justified, and recommended import relief.

But under the law the President is not bound by the ITC's recommendation.

President Ford rejected the ITC's recommendation and did nothing.

In 1976, with imports steadily rising, the Senate Finance Committee asked the Commission to review their earlier study and the more recent figures. Again, the Trade Commission recommended that import relief be extended. Again, President Ford refused to act.

By 1977, imported shoes were taking almost 48 percent of our market. The ITC again recommended relief. And shortly after he was inaugurated, President Carter acted. He established a modest import relief program, in the form of Orderly Marketing Agreements with Taiwan and Korea.

The record shows that when import relief is enforced, it works. In the first 2 years, enforcement of the restrictions on Taiwan and Korea was slack, and the 68 other exporting countries simply increased their sales to the United States. But in 1979, when enforcement of the quota limits was tightened, and the other countries were advised that our trade laws apply to them as well as Taiwan and Korea, the results were dramatic.

By 1980, under the import relief program, imports fell from 404 million pairs of shoes to 365 million. The imports share of the market which has risen to 51 percent actually fell to 49 percent. And American factories and workers were able to retool, devise better marketing strategies, and begin to regain a competitive edge.

In 1981, the International Trade Commission reviewed the record and, because only 2 of the 4 years of import

relief had been working as they should have, recommended a 2-year extension of quotas and monitoring of the other nations' imports.

President Reagan rejected the ITC recommendation. He ended the import relief program.

When he did so I and many others, in and out of the shoe industry, warned that his decision would result in disaster for the shoe industry.

Tragically, our worst predictions have come to pass.

In the first 15 months after President Reagan terminated the import relief program, 16,700 jobs in the shoe industry were lost. Maine lost 2,000 footwear jobs last year. Almost 50 plants have closed around the Nation, 13 of them in Maine. The reason is obvious.

From an import level of 375 million pairs of shoes in the year President Reagan abandoned import relief, a flood of imported footwear has been coming into our markets.

In 1982, the following year, 480 million pairs of shoes were sold to the United States.

Last year, the figure was 588 million.

In 1981, imported shoes had a 40-percent share of our market. By 1983, they took a 65-percent share. And in the first 2 months of this year, 70 percent of the shoes sold in this country today are made in other countries.

Not only did President Reagan refuse to continue import relief when he had the chance, but in 1982, when the industry asked him to at least treat other nations the way they treat us, he refused.

The Commerce Department publishes a book outlining the restrictions other nations place on footwear imports. According to that book, 51 nations place major barriers in the way of footwear imports.

Ironically enough, some of the nations which most restrict imports into their countries are the major footwear exporters.

Brazil, for instance, whose sales to the American market have surged by 60 percent in the last year, slaps a duty of 170 percent on all imported footwear and bars American footwear entirely. Taiwan and Korea virtually embargo all American-made footwear. They want to sell their shoes in the United States, but they will not permit us to sell our shoes in their country.

Despite the clear evidence that free trade is the exception, not the rule, the President has refused to take the action needed to open up other markets to our producers so that we would have a chance to compete.

The President says that people who want to use our trade laws to enforce fair trade "believe we should run up the flag in defense of our markets, embrace protectionism and insulate ourselves from world competition."

If President Reagan does not know the difference between protecting our markets against unfair trade and "embracing protectionism," he should try to get a shoe importing license from the Japanese. He will not be able to do so.

He should try selling American shoes in Taiwan. He will not be able to do so.

We do not fear free trade if it is fair trade. What we rightly fear is that our efforts to be competitive will be sacrificed to a free-trade ideal that does not exist in the real world.

Free trade will benefit us only when it is fair trade.

The United States now has a record trade deficit, over $100 billion this year, and if we want to correct it, we must use our trade laws to enforce fair trade. We must concentrate as much energy on opening the markets of other countries as they spend getting into ours.

Since 1981, when President Reagan abandoned the modest import relief program for our footwear industry, 27,000 jobs have been lost in manufacturing and suppliers businesses. Imports have risen by over 50 percent. Almost 50 factories have closed down.

There are now 133,000 jobs in footwear manufacturing and 90,000 jobs in the supplier businesses. Those 223,000 American jobs are at stake.

The President has often said that a domestic policy to create 200,000 jobs by Government spending is too expensive.

I believe a trade policy that risks losing 200,000 jobs is too expensive.

It is time we changed that policy.

Mr. LEVIN. Mr. President, the citizens of Michigan are painfully acquainted with the effects of sustained import penetration of our domestic markets. We have attempted, in the past several years, to cope with high unemployment, the accompanying strain on social services, and the loss of tax revenue. The personal and economic toll has been mindboggling.

I am disturbed, therefore, to witness the record level of import penetration that the domestic footwear industry has experienced. Since 1968, when tariffs were decreased, imports have increased by 232 percent. They accounted for 64 percent of the U.S. market in 1983. During the same time period, 402 plants closed and more than 100,000 employees lost their jobs in direct manufacturing alone.

In 1983, imports increased 21.3 percent. Import penetration reached 63.6 percent of the market, and imports jumped to 170.5 percent of U.S. production. Imports of nonrubber footwear were $3.7 billion of the record total U.S. trade deficit in 1983, a full 6 percent.

The industry has made every effort to compete with imports despite the strangling effect that imports have had on the industry's capital available for investment. The industry can be saved if it is given time to adjust to import competition. New technology is now available, and the domestic industry has made an extensive commitment to research, development, and modernization despite the scarce resources for capital.

The nonrubber footwear industry needs relief from the unremitting assaults by imports on its domestic market. The footwear industry has recently submitted a petition for import relief pursuant to section 201 of the Trade Act of 1974. The petition requests that the Commission recommend import relief in the form of quantitative restrictions on nonrubber footwear from all foreign sources for a 5-year period.

Mr. President, in view of the devastating impact that imports have had on the nonrubber footwear industry, I urge that the International Trade Commission will carefully review this petition and the evidence supporting it. I hope that they can recommend that a comprehensive and effective import relief program be established to enable the domestic industry to become fully competitive with imports. I am confident, with import relief in place, that the domestic nonrubber footwear industry will regain an equitable share of the domestic market and continue to serve the U.S. consumer with quality, affordable products.

Mr. RANDOLPH. Mr. President, the footwear industry in West Virginia employs nearly 2,058 people in direct manufacturing in 10 establishments and another 260 in rubber and plastic footwear manufacturing. In addition, an estimated 200 people are employed in tanning and shoe cut stock and findings. This accounts for over 18 million payroll dollars.

At one time, footwear was a growing industry in our State. It added 1,700 employees to its payroll between 1968 and 1979, but has begun a decline in recent years with the closing of four factories since 1982.

The footwear industry is very important to West Virginia as the primary source of employment for several communities. In three counties it is the only substantial source of employment, accounting for 80 percent to 91 percent of all manufacturing. It is a major employer in three other counties, accounting for 25 percent to 29 percent of all manufacturing.

Imports of footwear have increased 232 percent since 1968, accounting for 64 percent of the U.S. market in 1983. At this rate, there will only be further deterioration and possibly complete elimination of the industry.

The domestic industry is seeking a comprehensive program to temporarily halt the floor of imports so the in-

dustry has the time and opportunity to become fully competitive. I strongly support the nonrubber footwear industry's petition.

Mr. PRYOR. Mr. President, I commend the Senator from Maine (Mr. COHEN) for his leadership as chairman of the Senate Footwear Caucus.

I simply want to reiterate my steadfast support for the domestic nonrubber footwear industry's effort to secure meaningful import trade relief. This is a matter of paramount concern and importance to the many shoe manufacturing companies in my home State of Arkansas, as well as to the communities in which they are located.

Since 1979, at least 10 Arkansas shoe factories have shut their doors. The many lost jobs and the detrimental effects on local economies is startling, yet these statistics fail to make clear the human tragedy which is the result of these closings. However, the statistics do make one thing clear: It is time for our Government to give this industry a fair chance to keep factory doors open.

The footwear industry in Arkansas is a productive one. I am proud to say that one of the runners-up for the 1983-84 U.S. Senate Productivity Award in Arkansas was Mount Ida Footwear, which was selected for this recognition by an independent board of productivity experts. But productivity in and of itself will not save this vital industry. Import trade relief is essential if we hope to save shoe manufacturers in Arkansas and across the Nation.

Finally, today I again urge the International Trade Commission to recognize the devastating impact which spiraling imports are having on this industry. Senator BUMPERS and myself—both members of the Senate Footwear Caucus—along with the House Footwear Caucus members from Arkansas—Congressmen ALEXANDER, ANTHONY, and HAMMERSCHMIDT—will continue to press for attention to the problems of the footwear industry.

Mr. HELMS. Mr. President, the U.S. domestic footwear industry is confronting an unprecedented crisis resulting from the flood of imports that continue to pour into this country. In early 1984, imports accounted for 70 percent of the domestic footwear market—70 percent, Mr. President. Sixteen factories have closed already this year, and some 2,000 U.S. jobs in direct manufacturing have been lost.

Similar problems face our domestic textile, apparel, and furniture industries. Our massive balance of trade deficit and the loss of jobs as a result of imports have reached serious proportions. I welcome this opportunity to join some of my Senate colleagues in calling attention to this problem and urging that remedial steps be taken in time to save the jobs we have left, and recover those which have been lost.

Mr. President, American workers are up against seemingly insurmountable odds in trying to compete against foreign workers, especially those in the Far East. The average U.S. footwear employee, for example, earns an hourly wage that is roughly 40 percent lower than the average wage for all U.S. manufacturing. Yet foreign workers are paid far less, giving foreign manufacturers a decided advantage in terms of labor costs.

Foreign manufacturers do not face many of the added costs that push up the price of goods made in the USA. For example, they do not have to pay social security taxes, unemployment taxes, income taxes; and they do not have to pay the costs associated with complying with various regulatory edicts such as OSHA, the Clean Air Act, the Clean Water Act, and so on.

Mr. President, the handwriting is on the wall, and if something is not done we could end up with no domestic footwear industry. And if this could happen to footwear, it could also happen in textiles, apparel, furniture, and other industries as well. But are we going to sit idly by and let this happen? I certainly am not, and I trust that my colleagues in the Senate feel the same way.

Since footwear imports have caused serious injury to the domestic industry's economic health and in all liklihood will continue to cause serious injury, the domestic industry is seeking a comprehensive program to temporarily halt the flood of imports in order to give the U.S. industry time to get back on its feet.

The domestic industry has filed a petition under section 201 of the 1974 Trade Act seeking relief from the flood of foreign imports. The International Trade Commission is being asked to recommend import relief, and assuming that their recommendation is favorable, the President will be asked to approve such relief.

I support the U.S. footwear industry and its workers in their petition for relief, and I intend to do everything possible to insure that they get it. We simply must put the brakes on imports in order to preserve this vital domestic industry.

Mr. KASTEN. Mr. President, I welcome this opportunity to talk about footwear imports. It is a subject affecting the lives of many of our workers and one with which I have personal experience.

Unrestrained shoe imports have had a devastating effect on an American industry that predates our Revolution. In just the past decade and a half, such imports have cost us hundreds of factories and some 10,000 jobs. These were not temporary downturns in some cyclical business; they were permanent closings and permanent job losses. And time is running out for footwear manufacturers. If we do not move quickly to stem the flood of imports, we will not have a shoe industry left to save.

I speak from experience. My family owned and operated a shoe manufacturing business in Wisconsin for some time. But the relentless onslaught of shoe imports was more than we could fight. That is the main reason why we had to close our two manufacturing operations, with the resulting loss of some 200 jobs. In the shoe business, where workers tend to be older and unskilled, the closing of a plant can cause terrible hardships.

Fortunately, the industry is fighting back. The International Trade Commission has now before it a petition by footwear manufacturers asking for import relief. I support this petition and have asked the ITC to grant it. Twice already, the ITC has found that our shoe industry was being harmed by imports, and in 1977 it gave our manufacturers some relief, but that was simply not enough. Our workers and manufacturers need more help, and they need it at once.

The footwear industry is not just asking for Government help, however. It is also taking its case to the people. The American shoe industry is letting the public know that it still produces quality products at a fair price. For instance, the Footwear Industries of America, which includes the Allen Edmonds Co. from Wisconsin and others, recently put on a footwear fashion show to publicize U.S. footwear products. I was tapped for the honor of participating in this show. Although I would like to think that all the applause I heard was for my debut as a fashion model, I know that the response was for the quality and appeal of the American-made shoes I and my Senate colleagues wore.

Mr. President, as a member of the Senate Footwear Caucus, I am concerned about jobs for Americans and about the future of the footwear industry. I hope my colleagues understand the full impact of what has been happening to this part of our economy, where in barely 15 years American shoe manufacturers have lost half their business and almost half of their employees. Something must be done, and quickly, if we are to be effective in helping an industry that has worked hard to survive the foreign onslaught.

I thank my distinguished colleague from Maine, Senator COHEN, for his efforts on behalf of the footwear industry, and for his remarks here today. I look forward to our continued work together on this important matter.

Thank you, Mr. President.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 11 a.m. with statements therein limited to 2 minutes each.

GOVERNMENT BONDS: A MARKET IN TROUBLE

Mr. BUMPERS. Mr. President, I have an article that is a little longer than I usually like to put into the RECORD because each page of the RECORD is expensive. It is from the May 28 Business Week magazine and is entitled "Government Bonds: A Market in Trouble." It deals with the Treasury's efforts to finance these huge deficits and to continue to refinance the debt that already exists. The facts set out in the article are so compelling that I think each Senator should read it.

I have predicted on the floor of the Senate in the past couple of weeks that one day the Treasury is going to hold a bond auction and nobody is going to come, nobody is going to bid. I am not at all sure that that has not already happened.

The week before last, a $4.7 billion bond issue by the Treasury brought 13.6 percent, and there is some significant question as to who bought those bonds. This article goes into that and points out that, in all probability, Wall Street ate some of the losses on those bonds and the Federal Reserve Bank had to jump in very quickly and buy securities to prop up the bond market. That does not sound draconian or scary to people who do not know anything about what is going on so far as the deficit is concerned, but I can tell you that it scares Wall Street and it scares this Senator.

Between now and December 31 of this year, the Treasury must sell $3 billion worth of bonds every working day to refinance the debt that exists and to finance the remaining $175 billion of the deficit.

Who in his right mind believes that this country can remain great and viable economically and spend $600 million a day more than we are taking in? Who believes he is better off now than he was 4 years ago, when his individual share of the national debt will have increased by almost $3,000 in 4 years?

In January 1981, the month Ronald Reagan became President, the share of the national debt for each man, woman, and child in the United States was $4,400; and as of September 30 of this year, each person's share will be $7,300, almost $3,000 more; and by the end of 1985, it will be well over twice what it was the day Ronald Reagan was inaugurated President.

My point is this: I voted for almost every amendment that came up on this floor in the past 5 weeks that would reduce the deficit. I voted "no" with respect to the so-called downpayment on the deficit, the so-called rose garden plan, because it was not in truth an actual downpayment; and, as this article points out, the people on Wall Street considered it merely a token.

Do you know what happened the night we passed the President's proposal for the downpayment on the deficit? The market went down 10 points the next day. The next day, we passed the full bill, including the amendment dealing with the President's downpayment, and the market the next day went down another 10 points.

Does that sound like a market that believes Congress is doing anything about the deficit? It sounds as if the sharp-money financial managers on Wall Street really know that Congress has abdicated its responsibility and has done nothing about the deficit.

I will tell you the only thing we are doing about the deficit: We are praying to God that the whole thing does not fall in on us before November 1984, and that is all we are doing.

To anybody who thinks we can run a $180 billion or $190 billion deficit this year and then do something next year, I say next year may very well be too late. If the economy is growing at 8 percent, as it did in the first quarter, and if it grows this quarter at 6 to 8 percent, that will be the fastest growth rate in the history of the United States since the end of World War II, and we are still running a $200 billion debt.

What will we do next year, when many economists in the country say we are facing an economic calamity? Do we think we are going to raise taxes next year to close the deficit if unemployment starts back up and factories are closing? Of course we are not. I will tell you what you are looking at for 1985: You are looking at a $300 billion deficit.

Mr. President, I hope my colleagues will take the time to read this very comprehensive and sagacious article in Business Week, because it deals not only with the Government bond market being in trouble; it also deals with the United States being in trouble.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Businessweek, May 28, 1984]

GOVERNMENT BONDS: A MARKET IN TROUBLE—TREASURY'S EFFORTS TO FINANCE HUGE DEFICITS STRAIN THE SYSTEM

May 11 was the kind of day in the government bond market that can generate aftershocks for months—even years. Dealers had just bought about half of the $4.75 billion of 30-year bonds auctioned by the Treasury, only to discover to their horror that—even at a yield topping 13%—hardly any investors would take the securities off their hands. Panic-stricken, dealers slashed prices. In two dizzying hours, the new bonds plunged $143 million in value. Then, as if to taunt those who had swiftly unloaded at a loss, the market inexplicably rocketed almost all the way back up.

Bond traders had not seen such volatility since the market recoiled in dread at Jimmy Carter's budget in 1980, forcing him to rip it up when the red ink was barely dry. And after a weekend of reflection, the market resumed a yearlong slide, treating the world's safest securities with a frostiness usually reserved for those of the shakiest corporations. The gulf between the economy's current strong condition and the investor's somber assessment of its future—as tangibly expressed in bond prices—has never been wider.

The market's deterioration has brought stunning losses to investors and Wall Street dealers alike. The relentless slide in bond prices calls sharply into question the capability of this huge, crucial—and remarkably freewheeling—market. Some critics are already calling for more regulation, especially because many of the firms in it are so thinly capitalized, and the market's task is evermore-Herculean: smoothly and safely finding a home for the Treasury's monster pile of securities. Debt that cannot be sold to the public must be bought by the Federal Reserve. And that prospect terrifies the market, since Fed purchases pump up money growth, planting the seeds for another bout of inflation.

Indeed, the shunning of the 30-year T-bonds amounts to "an investor strike" akin to that imposed on Britain's Labor governments in the 1970s, says David Hale, an economist with Kemper Financial Services Inc. The month of May, he says, is "Bastille month" for the Administration and Treasury Secretary Donald T. Regan. "Regan said, 'Let them eat bonds,' and the bond market revolted," says Hale. "If this were any other country, the Treasury Secretary would have resigned this weekend."

"The market tells the truth," delares David G. Bunting, managing director at First Boston Corp. Bond market participants, by "demanding a hell of a premium to get involved right now, [are] sending a message that something is seriously wrong."

The whiff of panic appears to be forcing the Federal Reserve Board into nursing the market by buying more securities, mainly to provide liquidity to a financial system shaken by the tremors from Continental Illinois Corp. and from struggling Third World debtors. That extra liquidity may be sparking a short-term bond market rally. But most observers expect the basic bear market in bonds to continue. The yield on long Treasury bonds, as low as 11.6% early in 1984, is now at 13.6%, within hailing range of the record high of 15.2% set 2½ years ago.

Already, a staggering $155 million pretax loss from a $2 billion speculative position in Treasury bonds has been disclosed by the nation's largest insurance broker, Marsh & McLennan Cos. Before Wall Street could fathom what really went wrong there, Lion Capital Group taught a lesson to a roster of stunned school districts—by filing for Chapter 11 and leaving them unable to touch millions of dollars in Treasury securities they had lent to Lion for its above-average returns. Every uptick in rates intensifies anxieties about more damaging failures ahead—and, in turn, makes them more likely.

"The market is a shambles," says Thomas W. Strauss, a managing partner of Salomon Bros. "Investor psychology is such that no one even wants to hear about a bond. It is a real rout." Adds Howard A. Shallcross, chairman of Merrill Lynch Government Securities Inc.: "The only positive for the market is that it will be another four weeks until the next auction," when the market epxects another $16 billion slug of Treasuries.

SHARING THE BLAME

In his public statements to date, Secretary Regan has blamed rising interest rates on congressional budget inaction and on the Fed's sparing creation of money. But now, Reagan tells Business Week that the Reagan Administration, at least in an operational sense, must share in the blame. "We issued a lot of securities, which increased the supply, and when you increase the supply, you can get an increase in rates." He insists that, if President Reagan can win reelection with a mandate to cut the $200 billion annual deficits in prospect after this year, the markets will recover.

The stakes are high, and not only for the Administration. Since Treasury securities are backed by the full faith and credit of the U.S. and are the most liquid financial investment available, they are the benchmark for interest rates. The rates on other corporate or individual debts are scaled up from the Treasury standard. Furthermore, Treasury securities are the vehicle for implementing U.S. monetary policy. Thus, any problems in the Treasury market can be transmitted into interest rates, capital flows, and inflationary pressures around the world.

Never has this market had to shoulder a heavier load. The Treasury must borrow about $175 billion this year, meaning it will have to issue an average of some $3 billion worth of securities every working day for the rest of 1984 to retire existing debt and take on new debt.

To be sure, dealers have shown considerable resourcefulness in increasing their ability to handle their growing load. They have broadened the market to individual retirement accounts by selling Treasuries' interest and principal components separately. More than 20 U.S. firms have set up offices in London and elsewhere overseas recently to search for new investors. And they have, in effect, stretched their capital by fueling the phenomenal growth of the futures and options markets as they hedge against sudden price swings.

Nevertheless, the 37 dealers that bear the primary responsibility for buying new Treasury securities must distribute the increasingly massive volumes of debt on modest capital bases in the midst of high and volatile interest rates. Since something like 95% of the securities handled by the dealers must be financed by borrowing, the high level of rates raises the cost of holding unsold securities. And since a sharp drop in prices can wipe out a sizable share of the value of a securities portfolio, the dealers that handle the debt can pay a devastating penalty for a single misstep.

The Drysdale Government Securities Corp. failure on May 17, 1982, still ranks as the most spectacular, in no small measure because some of its principals were marched off in handcuffs. But since the upstart firm missed a $160 million interest payment on borrowed Treasury securities, a series of other firms with either a direct or indirect interest in the government securities market have paid dearly for their mistakes.

The latest episodes, which have included some controversial tax shelters keyed to Treasury securities are reviving the dormant post-Drysdale concerns that the free-wheeling Treasury market is perhaps too freewheeling for its own good. At the very least, the problems encountered by various firms inhibit the market's efficiency when dealers become cautious about whom they do business with. "Every time one of these accidents occurs, you see more flags raised," says Richard C. Keller, senior executive vice-president for the financial markets sector at Marine Midland Banks Inc.

OVERWHELMING SUPPLY

But the biggest problem is that supply-and-demand trends are out of whack. Demand for government bonds is shrinking at the precise time that the supply is swelling. Now that oil-producing countries are no longer amassing the surpluses they once cached in Treasury securities, Washington is necessarily nervous about whether other foreigners will keep on buying enough securities to prevent further sharp price declines. Last year foreigners added $17 billion worth of Treasuries to their holdings, but if they become spooked by jitters about U.S. banks and bond houses, it could take substantially higher interest rates simply to hold their allegiance. One specific step the Treasury wants to take, and which has a good chance of clearing Congress this year, would phase out the withholding of 30% of the Treasury's interest payments to overseas investors.

It is among domestic investors, however, that the buyers' strike is most dramatic. At the end of last year, commercial banks held $189 billion of Treasury securities, or 18% of total marketable debt. But to meet mounting corporate loan demand, the big banks cut their Treasury holdings by $1 billion in the first four months of this year—a sharp contrast to the $6 billion in Treasuries added to bank portfolios in the same period last year. "So an institutional buyer—a massive buyer last year—has completely withdrawn from this market at a time when borrowings are still very large," says economist Henry Kaufman of Solomon Bros.

What the banks are doing is typical. But what is not typical is that the deficit should be so large despite the rising tax revenues and falling government benefit payments that accompany a recovery. The deficit has declined a bit, to $175 billion in the fiscal year ending Sept. 30 from $195 billion the year before, Treasury Secretary Regan estimates. And he remains hopeful that interest rates will soon be better behaved. "There are more savings this year and more corporate cash flows this year," he says.

But from the market's perspective, the growth in savings and corporate cash flows is slowing as both consumer and business spending picks up. Furthermore, the best news on the deficit is almost over. After corporate tax payments flow into the Treasury in June, the government is expected to begin borrowing heavily again: $100 billion in the second half of 1984 and some $200 billion annually after that, even if President Reagan's proposed downpayment on the deficit is approved. And with interest rates on an upward course, the borrowing job directed by Beryl W. Sprinkel, Treasury Under Secretary for monetary affairs, becomes tougher. Ryan Financial Strategy Group estimates that another one-percentage-point rise in rates this spring would force the Treasury to borrow an additional $2 billion in the second half.

With that kind of pressure on the Treasury, the markets worry how long the government can continue to keep doing so much of its borrowing in the longer maturities. The Treasury has nearly doubled the average maturity of its debt, to four years and four months, since 1975. That has left more room in the short-term market for corporations to borrow, but analysts worry what will happen if investors' reluctance to buy long maturities prompts the Treasury to compete with companies more directly. "If the Treasury begins shortening maturities, then we will really have a problem," says Kaufman.

ON THE SPOT

With investors on strike and the Treasury utterly dependent on the credit markets for financings, the 37 primary dealers are squarely on the spot. These dealers, which mostly are units of big banks or brokerage houses, have been absorbing about 56% of securities auctioned by the Treasury. The Federal Reserve Bank of New York closely monitors the financial condition and the trading activity of the primary dealers. "If you are not taking down your share, you'll get a call from the Fed," says one dealer.

The primary dealers reaped huge profits in the bull market of 1982 and the first half of 1983, adding greatly to the capital of their parent firms. Even so, the required capital of the primary dealers on average amounts to only about 1.5% or 2% of the value of the securities they hold. The flood of new Treasury securities and the even more dramatic jump in trading volume have forced all dealers to lean more heavily on bank borrowings and the use of repurchase agreements, or repos.

In a simple repo, one party sells or lends a security to another party and agrees to repurchase it at a higher price, usually the next day. A corporation with idle cash, for example, would buy Treasury bills from a securities dealer for a specified period. The dealer can use that cash to buy additional securities. When the repo is unwound, the higher price at which the corporation sells the security back would represent its return on the deal. The primary dealers account for only about $40 billion of the $100 billion daily volume in repo transactions, according to the Public Securities Assn. A group of highly visible, secondary dealers and an exploding contingent of small firms operating on the shadowy periphery of the market account for most of the rest.

THE LEVERAGE LURE

"Anybody can hang out a shingle and attempt to make a market in government securities," says Edward J. Geng, senior vice-president of the New York Fed. The new players are drawn by the immense leverage available in government securities and, in some cases, the anonymity the market affords. They are not required to register with any government agency, and they operate without the minimum capital requirements imposed in most other securities markets. A buyer need put up very little cash—far less than the margin requirement of 50% in the stock market—and with no cash at all can participate in "when-issued" trading in Treasury securities that have been announced but not yet issued.

"You can leverage yourself so severely in this business that a swing of only a point can be a catastrophe," says John Feeney, president of Moore & Schley Municipals Inc. While most dealers use futures and options to hedge, these markets can also be used to boost speculative leverage. On May

11, bond futures established a record volume of 228,000 contracts, which at $100,000 face value per contract represent an underlying value of $22.8 billion

For months now most dealers have continually underestimated the depth of investor pessimism. Their own bidding for the recent $16.5 billion package was fairly strong, even for the $4.75 billion in long bonds. In the wake of the May 11 debacle, though, once-bullish dealers are pulling in their horns. "The dealers are gun-shy," says Merrill's Shallcross.

Most have sustained sizable losses in recent months. Losses of about $20 million in the first quarter at Lehman Bros. Kuhn Loeb Inc. are thought to have helped precipitate the investment banking firm's recent decision to sell out to Shearson/American Express Inc. (BW—Apr. 30). Despite the bloodbath, "I doubt you will see any major dealer go under," says Ralph F. Peters, chairman of Discount Corp. of New York, one of the oldest primary dealers.

Although Peters insists that the market has a big enough base of capital to handle the coming flood of new Treasury debt, not everyone is so sanguine. "I think people realize at some point there is going to be a problem," says Keller of Marine Midland, which recently acquired Carroll McEntee & McGinley Inc., a primary dealer. "The growth of the supply is greater than the capital growth of those who are the distribution system."

In addition to Marine Midland, the nation's 15th-largest bank, several other companies, including British merchant bank Kleinwort Benson Ltd., have swallowed up some of the smaller primary dealers in recent months. And Irving Bank Corp. is currently negotiating to buy Briggs, Schaedle & Co. The Treasury is actively encouraging the establishment of additional primary dealers, and at the moment there are two applicants, one of which is the Canadian investment bank Wood Gundy Ltd.

However, in the wake of Lion Capital's collapse, the capital adequacy of nonreporting dealers is of much more immediate concern to bond market players. Lion, one of a series of firms using the government securities markets to generate trading losses passed on to tax-shelter investors, was leveraged to the teeth. As of Dec. 31, 1983, it had assets of $2.7 billion and partners' capital in April was only $4.5 million.

Most traders suspect Marsh & McLennan's $2 billion portfolio of Treasury bonds was assembled entirely with borrowed funds in the when-issued market. The company originally announced that it had lost $60 million aftertax in "unilateral" trading by a single trader. But in announcing an additional $30 million in losses in early May, Marsh's chairman, John M. Regan Jr., said that as a result of the discovery of "unauthorized" trading the company's treasurer's department is under review.

OTHER MISTAKES?

The losses sustained by Marsh Mac, as the company is known on Wall Street, shook the government market far more than did Lion's collapse, which was widely characterized as a nonevent by major dealers. Traders assumed that Marsh Mac would try to unload quickly its unwanted portfolio of bonds, adding to the glut in the long end of the market. That prospect pushed bond prices down.

What is more, says First Boston's Bunting, the debacle "raises the question of whether there might be other people out there that made the same mistake"—but might not be as willing as Marsh Mac to make good on obligations to trading partners. Such a refusal could trigger a series of dealer failures and impair the functioning of the entire market.

A calamity of that kind was narrowly avoided when Drysdale collapsed after failing to remit interest due on billions of dollars of securities it had borrowed via repos. Because most of them were arranged through Chase Manhattan Bank, many parties to the transactions did not know they were dealing with Drysdale. Chase balked at first, but amid panic on Wall Street, it made good on Drysdale's obligations, taking an aftertax loss of $117 million in the process.

Since Drysdale, major dealers have become more selective in extending credit to trading partners. Reporting dealers have either set up or expanded credit-review committees. "To take a $100 million risk to make one-sixty-fourth of a point is really not worth it unless you know exactly who you are dealing with," says one dealer.

But the days of gentlemanly self-policing may be numbered. Representative John D. Dingell (D-Mich.), chairman of the House Energy & Commerce Committee, and Representative Timothy E. Wirth (D-Colo.), chairman of one of Dingell's subcommittees, have asked Securities & Exchange Commission Chairman John S. R. Shad for a report on what happened to Marsh & McLennan. They have also asked Shad to submit legislative or regulatory proposals that would "enhance the integrity of the government-bond market and address the deficiencies apparent in the current system." The House Banking Committee's monetary policy subcommittee is scheduled to hold hearings on the government securities market at the Federal Reserve Bank of New York on May 31.

The dealers have their own agenda for Congress, starting with a passage of a law clarifying the status of repos, a key issue in the Lion Capital affair. The securities collateralizing the agreements, and the interest on the securities, now can be frozen by a bankruptcy court. Legislation letting securities lenders get the collateral back has been pending in Congress but has been bottled up with general bankruptcy legislation. But now the focus appears to be shifting to the regulation—or nonregulation—of the market.

As of now, the essence of the New York Fed's oversight of the dealer community is reporting. The Fed has long required the select group of primary dealers to report daily on their transactions and positions in government securities. That surveillance is expanded or focused as developments warrant. Recently, for example, the Fed asked 50 dealers to report any positions exceeding $5 million in the when-issued market—the field that tripped up Marsh & McLennan. Except for the primary dealers, the reports would be purely voluntary, since neither the Fed nor any other agency has any legislated authority over the market.

The Fed also is preparing to set capital standards for all dealers. As contemplated now, says the New York Fed's Geng—who is the closest thing to a policeman in the government securities market—the capital guidelines would have little practical effect on the primary dealers. Since they are supervised either by bank regulators or the SEC, their positions are backed by the parent companies' overall capital. The idea is to set guidelines that would provide a benchmark for nonreporting dealers, in hopes that dealers who do not provide the information—certified by auditors—would be shunned by the rest of the market.

Many primary dealers insist they already require certified financial statements from firms with which they do business. So there is no great enthusiasm for interposing even voluntary standards on the market. "In this business, a man's word is his bond," says Discount Corp.'s Peters who has spent 30 years in the buisness. "It's an over-the-telephone business, and it could not work if you couldn't rely on that." Geng shares the dealers' basic sentiments. "Regulation tends to be stifling to efficiency and liquidity and adds to costs," he says. But he adds, "If this doesn't work, we might have to go to regulation."

But while the efficiency of a market under intense stress is hardly a matter to be taken lightly, there is little doubt that the more central issues spawned by the market's current travails are the size of the deficit and the pressure it is putting on monetary policy.

MONETIZING DEBT

At the moment, with no conclusive action on the deficit in sight, the markets crave evidence that the Fed will not be forced into becoming the "buyer of last resort." And some "monetization" of government debt seems to be getting under way. After steadily reducing its share of government securities in recent years, the Fed has greatly accelerated its buying. After the Fed trimmed its portfolio of government securities in January and held even in February, it added $2.5 billion worth in March and an additional $5.5 billion in April. This $4 billion average pace for March and April far exceeds the monthly average of $1.5 billion in 1983. And most recently, the Fed had to help bail out the Treasury by purchasing about $1.8 billion worth of its May 15 auction.

When the Fed purchases Treasury debt, it increases bank reserves, allowing banks to make more loans, and thereby increasing the money supply. The Fed, of course, must buy a certain amount of Treasury securities to keep money growth on a steady path. But when it is forced by huge deficits to buy ever increasing amounts of bonds, the result is excessive growth of money.

Even though M1 has risen at an annual rate of less than 5% for the last couple of months, almost all analysts expect it to take off again in coming weeks. CM&M Group economist Lacy H. Hunt is expecting M1 to grow at a 14.5% annual rate in May and 13% in June. W. Lee Hoskins, economist at PNC Financial Corp., predicts it will grow by about 8% for the year, following growth rates of 8.5% in 1982 and 10% in 1983. That would make the early 1980s the fastest three-year period of money growth since World War II.

Ultimately, what shakes investors in the belief that despite its vaunted independence the Fed cannot resist political pressures and will be forced to pump out more and more money. These fears are intensified every time the Administration attacks the Fed for being too tight, as the White House did just before the May 11 bond market rout. Congress and the Administration may well agree on a $150 billion downpayment on the budget deficit in coming weeks. But that downpayment is widely perceived in the financial markets as only a token gesture.

"I have no doubt that the desire to finance higher government spending provides pressures over the long run that lead to inflation," says Nobel laureate Milton Friedman. "It does so because Congress wants to

spend more money than current taxes are bringing in." And Congress usually prefers to borrow rather than to raise taxes, according to Friedman. "Congress puts pressure on the Fed to inflate," Friedman emphasizes. "The Fed is very sensitive to political pressures."

Investors share Friedman's conviction, even though Fed Chairman Paul A. Volcker has labored mightily to change it. He helped push the economy into its 1981-82 downturn, the most severe since the Great Depression, to wing inflation out of the economy. And he has helped keep interest rates high—so high as to push the world financial system to the edge of a major debt crisis—in an effort to preserve the hard-won gains against inflation. And time and again he has gone head-to-head with Congress and the Administration over cutting the budget deficit, trying to prove that he would not loose the monetary reins to accommodate the deficit—even if it meant a downturn.

Nevertheless, bond prices keep sinking and yields keep rising. Even the sharp rise in interest rates recently leaves investors fearing that the Fed may be already monetizing the debt. "If the Fed had not been supplying ample credit, rates would have risen even faster," says CM&M Group's Hunt. In addition to the Treasury, borrowing by households and corporations have been growing fast. Commercial and industrial loans grew at a torrid 30% annual rate during March, and consumer credit from banks jumped at a 23% rate.

Investors, it appears, will be convinced that the Fed will hold firm against monetization only if it lets interest rates keep climbing so sharply that the economy slows down, or the Administration and Congress finally strike in earnest at the deficts. Because neither of these conditions appears likely to be met in an election year, investors can do little but brace for further depression of the prices of their bonds—posing even greater tests for the already strained government bond market.

SECRETARY OF AGRICULTURE JOHN BLOCK'S FINANCIAL DISCLOSURE

Mr. EXON. Mr. President, recent news articles have indicated that Secretary of Agriculture John Block's various farm operations and partnerships may be on shaky financial ground. This highlights the most devastating distress facing agriculture today, by far the most serious since the 1930's. According to a news story printed in the Cedar Rapids Gazette, Cedar Rapids, Iowa, entitled "Block Partnerships' Debts in Millions," Secretary Block has received between $1.5 and $2.5 million in unsecured loans. I have informally discussed Secretary Block's problem with a few other Senators serving on possible committees of jurisdiction to seek at a minimum appropriate inquiry from the Secretary as to what exactly the facts are on the now-public controversy.

I have confidence in the Secretary. I have confidence in his integrity. But I am confused and concerned by the apparent conflicts with reportedly unsecured loans from a highly troubled bank in Chicago. There may be nothing improper at all with the Secretary's financial dealings, but there are conflicting statements which need explaining.

In view of some of the obvious financial difficulties in Secretary Block's farming operations during the last 4 years, it could be that his response to my questions in the Senate Budget Committee on March 8 of this year were not forthcoming at best. He testified that his net worth in 1984 was "about the same" as 4 years ago; that overall farm net income was up and going higher.

I wonder how his financial statement and cash flow statement with his bank would square with that.

What I am saying is that I am fearful his salesmanship for the administration's farm policies may have gotten in the way of the facts.

The upshot of this may all be positive. It may be that the Secretary of Agriculture, through his own personal experience, will now come to realize that the administration's policies have been devastating to agriculture for the past 4 years. Maybe now we, who want to take action to correct problems in agricultural policy, will meet with cooperation and not confrontation from the Department of Agriculture.

If Secretary Block cannot make it on his farm with unsecured loans and a well-diversified farm operation, it mirrors the great difficulty of farmers who are less fortunate.

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD following my remarks: First, Secretary Block's March 8, 1984, testimony before the Senate Budget Committee; second, a news story by David Lynch, appearing in the May 19, 1984, Cedar Rapids Gazette newspaper in Cedar Rapids, Iowa; third, a news story by David Lynch appearing in the Lincoln Star newspaper, Lincoln, Nebr., and fourth, a news story from the Omaha World Herald of May 23, 1984.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF AGRICULTURE JOHN BLOCK BEING QUESTIONED BY U.S. SENATOR J. JAMES EXON

Senator EXON. Thank you, Mr. Chairman. Welcome, Mr. Secretary. I am glad you are here.

Those of us who are concerned about agriculture and family-sized farmers are optimistic by nature and if we were not optimistic, I guess many of our food producers would have given up a long time ago.

However, as we look to the future, Mr. Secretary, I do not believe we can look at it through rose-colored glasses and I am afraid that your testimony this morning is so rose-colored that it may take us beyond the area of reason.

Now, you start out by saying the U.S. agricultural sector has benefited from the recovery in many ways.

The facts that I have just simply do not agree with that at all, Mr. Secretary. If there is one sector of our economy that has not shared in the economic recovery it is agriculture. I think they are the most disaffected of the so-called economic recovery which I think is very selective. It is certainly true that agriculture has not shared, has it, in the economic recovery as many of our other industries?

Secretary BLOCK. Well, Senator, I am not here to tell you that agriculture has fully recovered from the recession and from the difficult times that we have had because agriculture has not. I think we are all quite aware of that. But we have made some progress. In fact, I think we have made considerable progress.

We got into the situation by paying 21-percent interest and there is nothing legal that I know of where you can make 21 percent.

Senator EXON. Now, wait a minute. Let us try to be reasonable in our figures. I want to try to be reasonable on my figures.

How many farmers in Illinois pay 21-percent interest? Now, I can speak for Nebraska. I cannot speak for Illinois.

The going rate for most farmers in even those high interest times was about 18 percent, is not that closer than 21?

Secretary BLOCK. It is true, they paid about 18½ percent.

Senator EXON. OK, then let us use 18 and not the 21 figure.

Secretary BLOCK. Right.

Anyway, 18 is a very high percentage any way. We could not make it on that and I think we both agree on that.

Senator EXON. And what are they paying today, just so we can agree—I know it's about 14 percent.

Secretary BLOCK. About 13½ percent.

Senator EXON. Which is still—I said 14, but OK.

Secretary BLOCK. But it is still too high, you and I both agree on that too. But agriculture got into a lot of difficulty paying those rates, they are not down enough yet. The worldwide recession which has hurt our demand for our product, domestic recession frankly has hurt demand for beef and some of our other products there. And two big crops that caused large surpluses for this country.

Now the question is: Are we doing any better now? Have we made some progress? And I am just saying I think we have. Crop prices are up 20 percent from a year ago, livestock prices are up 6 percent.

Senator EXON. Wait a minute. Some crop prices are up.

Secretary BLOCK. I know. I am talking—

Senator EXON. What about wheat? They are not up 20 percent.

Secretary BLOCK. Wheat would not be. But I am just talking overall.

I guess maybe in response to your concern, I need to concede that there is some commodities that have not done as well as others, there are some States, some counties, some individuals. The progress is uneven as it probably almost would be and the drought hurt farmers in a very uneven fashion nationwide last year. But yet overall crop prices up 20 percent, livestock prices up 6 percent, we are projecting net farm income this year to be near a record over $30 billion, and it is up from $22 billion two years ago. And these are good progressive steps. We have stabilized our exports. We are not exploding yet with exports but we are not going down any more this year; in dollar terms we are going up and in terms of volume it is going to be about a flat wash. And I think that things are looking better and I think that the figures will indicate

they are. But that does not mean there are not individuals who are not still hurting. I know that some of yours are because we talked about it yesterday and the day before.

Senator EXON. Mr. Secretary, just to kind of keep this all in perspective, let me ask this question:

You say here in the third page of your testimony, "The economic recovery, together with the PIK program, has led to higher net farm income. Net farm income, which was $22.1 billion in calendar year 1982, rose to an estimated $22-24 billion in Calendar year 1983. In 1984, net farm income may climb to $29 billion to $34 billion."

I think when you came up with that figure, you put your rose-colored optimistic glasses on that you were probably born with as a very young farmer. I agree. I hope it is up to that. I suspect it will not be.

But let us say—let us take this situation. Right now, aside from income which we could argue about, speculating into the future, what is the net worth today of the average farmer? Is it lower or is it higher than it was four years ago?

Secretary BLOCK. I do not know.

Senator EXON. Well, I know. What about your net income? You are a farmer. Is your net worth larger or smaller than it was four years ago?

Secretary BLOCK. I am guessing that it is about the same over that period of time.

Senator EXON. You have not had the drop in land values in Illinois that we have had in Nebraska?

Secretary BLOCK. Well, we had a pretty severe one and it has tended to stabilize in Illinois. I think that you will probably find that it may be probably roughly flat and in cases, certainly in cases it could be down and in some cases up some, but not much.

Senator EXON. How much are land values off, rural agricultural land values off in the State of Illinois on average from four years ago?

Secretary BLOCK. I would be guessing but I would say there are probably—you may have a figure on it, Bill, but I am guessing they are off about 7 or 8 percent or 10 percent. Probably 10 percent. I would say 10 percent.

Senator EXON. If I——

Secretary BLOCK. You may have a figure there.

Senator EXON. While he is looking that over, let us go to another situation.

I have been advised by everybody that I have talked to that while there are some differences, the land values in the State of Nebraska are off at least 30 percent in the last four years and it may be that Illinois is not off that much. If they are only off 10 percent as you just estimated, than I am delighted to hear that. That is not the case in Nebraska. That is not the case in most of our food producing States. And what I keep getting back to is that I really believe that as the Secretary of Agriculture, you should not only project what you think the net income of farmers will be in the year ahead but I think you have an obligation to look and see what is happening to the net balance sheet, the net worth of farmers. And I think, Mr. Secretary, that you will find that it is off dramatically over four years ago or to put it another way, the economic recovery after the disastrous recession has not benefited the family-sized farmer and I think that you will find that he is in much worse shape today.

I want to simply say, Mr. Secretary, I do not believe that there is a concern and there may not be the understanding that there is a cancer of crisis, a cancer of crisis spreading across the land for our family-sized food producers, not unlike the 1930's. And I simply am not being dramatic. I am simply saying that I do not think the Federal Reserve Board, nor I do not believe that the Department of Agriculture understands the depth of seriousness. You say in another part of your statement here that credit is good. Credit is fine.

Credit is terrible. You say among—along the improvement the net farm income there has been an improvement in the farm credit situation.

Mr. Secretary, this is simply not true. There is a disaster out there. It is not that the banks that supply farmers do not have the money, they have money running out of their ears. But because of the net worth of farmers, and the fact that they cannot sell their products profitably overseas, coupled with the fact that interest rates are 14 percent when they used to be 18 percent—let me put it another way.

John Block is a farmer, I suspect, and most other farmers of the United States, were, are far, far better off, at least at that time four years ago when they were paying 18 percent interest rates and we had inflation, because at least at that time they had the appreciation in their land values that were continuing and their net worth today is down dramatically over what it was four years ago. And I think that that should come into play as we try and fashion a farm program with the help of you and those of us who are concerned about this in the future.

Secretary BLOCK. Senator, I know that there was a lot of optimism as we emerged from the '70s and the inflationary spiral and the excitement about an endless demand for our product really was spurring people on and it did create speculative demand for product and everything else associated with agriculture, and I realize that. But it was a wild scene of speculation and excitement about the future that just never materialized for all of us. And that everyone set back a little bit, including the total economy of this country and now we are all trying to adjust to a change in expectations. And it is not easy for agriculture as it is not easy for other segments of the economy. And I fully understand what you are saying and I know that there are some—very definitely some of the specific problems that you are talking about exist. I know that there are those but I am optimistic that with the statistics I have quoted that there is an indication things can start looking up and we have to get across—I kind of looked at this thing as a '70s, where things were wonderful and rosy and all of a sudden we hit this ravine and everything collapses on us with this worldwide recession and domestic recession.

Now we are trying to get across this ravine, we tried to bridge it with the PIK program, hopefully a program this years farmer will sign up in and more credit than we provided ever before for exports, far more credit, more credit for farmers, operating money to keep them in business to get across this ravine, to span the gap until we get over here where things are on solider ground again, the recession is over and things pick up, so I look forward to working with you on a new farm program and a new policy to help this industry.

Senator EXON. Thank you.

My time is up, Mr. Chairman, but let me make one last statement and maybe you can answer it as we proceed. Maybe we will have a second round.

I am very much concerned, Mr. Secretary, that some of the things that you might want to do as Secretary of Agriculture—and I have known you a long time and we have been in farm meetings together way back to when I was Governor and I have always found you at least reasonable to talk to and a man who would at least listen to us.

I wonder how effective your message is getting through?

Secondly, I am still concerned about what is going on today and I wonder if the President of the United States, who has an awful lot of things on his mind, is attuned to the crisis that we are facing out there today. And that is why I take issue with the optimistic rose-colored glasses approach that you have taken.

If I could—if I can have him answer this question, Mr. Chairman.

Have you discussed the situation as I view it with the President or have you simply told him that things are just looking great as your statement indicates? And if the President is not informed, then I suspect that we are not going to have the hammer that the President can put on the Director of the Office of Management and Budget and others to get through farm programs that maybe you and I would like to see.

Is the President informed on this situation?

Secretary BLOCK. Let me just say that I did not inform him as you suggest, in the way that you have described it. But I think I gave him a balanced—he has a balanced review of the situation and he is fully aware of the difficulties that agriculture faced and he realizes that we are not out of the woods yet. But I think he has had a balanced review of the situation and is continuing to watch this total economy of this country develop, the small businessmen along with agriculture. And I think he knows.

Senator EXON. My time is up.

Can I interject just one thought here?

Senator ANDREWS. I would be glad to.

Senator EXON. And then I would like to ask some other questions.

Yes, Mr. Secretary, there was grave concern in Nebraska in this area and since I tried to be objective I would say that there are some cases that have been reported to me where the Farmers Home Administration has been very forthcoming and very helpful in certain areas. I have just the opposite reports in other areas.

I believe that the Secretary has recently indicated and put some more people in the Farmers Home offices in Nebraska to try and expedite the paper work, the banking industry has supplied some money to hire some people, we are jammed up out there and I suppose they are jammed up in other States with just the mere processing of these things. And I encourage you to do even more in that area, Mr. Secretary.

Secretary BLOCK. I would report that we formed two or three or four crisis teams that we will send to a State for a problem, part of a State within 24 hours if there is a problem there. We will send them out and try to get problems ironed out and get things under way because this is such a critical time for these producers to get their finances lined up so that they know what they are doing and they are ready to farm this spring.

Senator EXON. Thank you, Mr. Chairman.

Mr. Secretary, I think all too often we get boxed in with our concern for stopgap programs, but I think you agree with me above and beyond everything else that if we could have a steady farm program that the farm-

ers knew what was coming and their financial backers knew what was coming over an extended period of time, but at least they could try and make their decision much better rather than the stop and go on farm program situations they seemingly are confronted with.

Speaking about new initiative in this area, sometimes I—in fact for a long time I have been concerned about the fact that we have had a tendency to treat the genius of production of our family-sized farmers as just a terrible thing. Just really bad that they are such excellent and efficient producers.

I suggested to the President in letter form and otherwise, I think you know about it, maybe a new initiative, thinking beyond the horizon if you will, about using our ability, our farmers' ability to produce food, you know, food for peace plan of some type and specifically I suggested that why do not we tie-in food for peace initiative with our present attempts to entice the Russian bear down that road to some kind of a common understanding for reduction in armaments, especially ICBM's? Certainly the Soviets do not need oil, they are self-sufficient in energy. Certainly they do not need gold, they are the second largest gold producer in the world, certainly they do not need more armaments, certainly it is in the interest of the people of the United States and the people of the Soviet Union and their two governments to get together on some kind of an understanding, verifiable, call it what you will, to break down the arms build up. Why would not it be a good idea to use food for a peace plan, somewhat along the lines of getting them to agree to arms reduction to tie it in with the long-term agreement for both raw and finished food products even to the extent of tying in some new initiatives to get a break in the arms reduction talks in Geneva by the President saying we would consider a long-term proposal for raw and finished food products along the lines, if necessary, that we would subsidize our farmer's wheat, for example, or corn or what have you at 10 cents a bushel below the world price in a long-term agreement with the Soviet Union. That would establish an attractive price level, it would provide something that the Soviets really need.

They do not need the other things that I talked about but they do need food.

You have had some dealings with the Soviet Union and I was glad to see that you at least got some increase through in sales to them.

If we gave them a break above and beyond the favored nation trade status, would not that—could not that have—maybe a possible break in this present icy jam that we have with them over arms negotiations? Would not that be a good idea?

Secretary BLOCK. Well, Senator, I think we all want to see some kind of breakthrough in our arms negotiations but I do not think that you can offer some special privilege to the Soviet Union. We have got a lot of close friends and allies that would like to have a special privilege, too. Take Japan for instance, a huge customer of ours. I do not think you can go out and reach to a country that we have been in worldwide contest with and give them some kind of special treatment. I think the fact that we have a new agreement with them providing a 50-percent increase in minimums and that we have proven to be a reliable supplier in the last few years, I think that is encouraging to them and I do think, I really do agree with you that our agricultural bounty that this country has is truly a blessing and we need to use it more effectively as a tool for peace in trading with countries and sharing our technology. And I think it can be very useful.

Our recent trip to Algeria is a good example of that. I was there in January and we signed a memorandum of understanding with that country. And four or five years ago we were hardly trading with them or doing much of anything. But we signed a memorandum of understanding to strengthen our trade relationship. We culminated a million metric ton wheat credit said to Algeria. We signed an agreement to cooperate in agricultural technology and there is some exciting things on the horizon there. And I think it is agriculture as you suggested, used as a tool for peace and also selling products for the American farmer.

Senator EXON. Mr. Secretary, again I think our thinking is narrow. I think it is not imaginative. When you start talking about—what country was it you just mentioned?

Secretary BLOCK. Algeria.

Senator EXON. Algeria, OK. Friendly country.

When you start talking about trade with Algeria, and I am talking about trade with the Soviet Union, I think it demonstrates the microscopic, if you will pardon the expression, attitude that we have.

Now, you mention Japan, they would not like it if we did something like that. If there is anybody that is trading us out of our socks, including agricultural products as you know very well, it is the Japanese. Now, what I am trying to do is to enlarge the scope of this thinking. What you are really saying is that it would be unfair for us to offer some kind of an incentive, especially to the Soviet Union. I say that would only go into effect if and when we can get an arms reduction, that would be good for all of mankind. And I say to you that it would certainly—we could certainly provide an awful lot of wheat, corn, feedgrains, red meat and rice and cotton and everything else that the Soviets need by subsidizing our farmers 10 cents a bushel below whatever the world price is. And it is a lot cheaper than building MX missiles, for example.

What I am trying to say is let us not talk just about trade with countries, I am glad that you are doing trading with some of these countries. What I am trying to say is cannot we figure out some way to use our great food-producing ability of our farmers to help us out?

On to another subject. Mr. Secretary, one group that has been particularly hard hit by the drought are the cow-calf operators. I think you are aware of that. The USDA's latest edition of economic indicators of the farm sector shows that in 1982 only 37 cents per brood cow was available after total cash expenses were paid. When capital replacement costs were considered there was a net outflow, I emphasize outflow, of over $61 per cow and their residual return or loss to management and risk was a minus $289 per cow in 1982.

What do you see for the cow-calf operator with the rather optimistic presentation that you made earlier this morning?

Secretary BLOCK. I think even the beef cattle industry would concede that prices of cattle have been stronger recently and the indications are that they are going to be even stronger later in the year. So there is some room for optimism in the beef industry.

Senator EXON. Mr. Secretary, you gave us a pretty rosy report earlier on the chances for further exports of agricultural products and yet I call your attention to the USDA outlook and situation summary of January 19, 1984. That forecasts a 3-percent drop in agricultural export volume in fiscal year 1983.

How do you reconcile that with your statement, other than I suppose, you are going to say we are going to get a higher price and therefore what dollars are going to be—you are not forecasting, are you, that we are going to have an increase in bushels?

Secretary BLOCK. There is not going to be an increase in bushels this year but it is going to be about a wash-out in terms of volume.

Last year we did have though a decrease as we had the year before.

Senator EXON. Turning to another matter, getting back to the reserve program, I think you know, Mr. Secretary, that for the first time since 1979 you as Secretary of Agriculture have not allowed farmers to put their crops into the farmer's own reverse without first putting them through a nine-month nonrecourse loan program.

Why is that? And why are you not allowing direct entry into the reserve from the 1984 wheat crop, for example, if direct entry were allowed, would not that be beneficial to the farmer?

Secretary BLOCK. We did allow direct entry one year and I think that was 1982. We did allow it one year but we got so much in and the stocks were so great that it does not look like a very good idea to keep building these reserve stocks. And so we changed the policy on that.

Senator EXON. One last question and then I will thank the Secretary for his patience in coming here this morning.

Getting back to the Farmers Home Administration, since you are from Illinois and know Illinois very well, I am sure you are familiar with the February 24, I believe it was, this year's story in the Decatur Herald Review that indicated that some Farmers Home Administration employees had purchased farmland after first acting in their official capacity for the agency in turning down loan requests from farmers who intended to purchase the same land. This happened right down in the home country of Director Charles Schuman.

First, I want to know whether or not this is true, whether that report was true? And if it is true, I think you would agree that that tends to lessen the respect for and the confidence in the Farmers Home Administration by farmers. And if it is true, what have you done to insure that something like this will not happen in the future?

Secretary BLOCK. I assume that it is true and I immediately upon finding out about it, I directed the Inspector General to investigate the situation and report accordingly.

Senator EXON. And what has he reported back?

Secretary BLOCK. He has not reported to me as yet.

Senator EXON. He has not reported?

Secretary BLOCK. No.

Senator EXON. When can we expect that report?

Secretary BLOCK. It should be soon, but I cannot tell you. I will make that available though.

Senator EXON. I would hope so. For the record, I would like to ask for that. And if that could be made available to us, I would hope that we could get on this very rapidly indeed, because I think with all the difficulties that we are having with the Farmers Home Administration today we ought to

straighten that out as quickly as we can. And if there is wrongdoing there, I assume that you will take appropriate action.

Thank you, Mr. Secretary. Thank you, Mr. Chairman.

[From the Cedar Rapids (Iowa) Gazette, May 19, 1984]

BLOCK PARTNERSHIPS

(By David Lynch)

WASHINGTON.—Agriculture Secretary John Block's various farming partnerships have received between $1.5 million and $2.5 million in unsecured loans, while some Iowa farmers are bitterly complaining they cannot receive loans to put in this year's crop.

And sources within the Illinois banking community say bankers are "getting anxious" over the partnerships' ability to repay the loans.

The secretary is an officer in partnerships with assets of up to $5 million and debts of almost $8 million, according to Block's financial disclosure statement for 1982, which makes reference to 18 loan packages made without collateral.

A number of the Block partnerships loans came from the troubled Continental Illinois National Bank which has received a $7.5 billion federal assistance package from federal banking regulation agencies to stay afloat.

Block's disclosure statement for 1983 was due Tuesday, but his Galesburg, Ill., accountants asked for a two-week filing extension.

At this confirmation hearings before the Senate Agriculture Committee on Jan. 6, 1981, Block said he and his father control on operating partnership owning hogs, corn and machinery.

"I own some land; he (his father) owns some land; my wife and I own some land," he told the panel. Block also said the operating partnership cash rents or leases the land from he and his wife as landowners.

That partnership "on occasion would borrow up to $100,000 or $200,000 for operating money, but most of our debt is in land loans from the Federal Land Bank or other lending institutions," Block said at the hearings.

Asked by Sen. John Melcher, D-Mont., about his debt at that time, Block said: "I would say that practically all of it is secured by land mortgages on the land, and some of that is with a partner of something like that. It is very complicated."

Melcher then asked if the debt was in excess of $5 million.

"I am not sure," Block answered.

Melcher then asked if it was between $3 million and $5 million, and Block answered: "I would guess, yes."

John Ochs, Block's chief spokesman, contacted the secretary in Atlanta, Ga., Friday for comment on this story. Block told Ochs that most of the unsecured loans were obtained before he became secretary, and the $2.5 million figure was "a little high."

However, a Nov. 28, 1983, letter that Block's accountants sent the U.S. Department of Agriculture's personnel office would appear to indicate the unsecured loans were made after Block became secretary.

Ochs said the secretary is confident most of the loans were obtained before he took office.

John Hattery, with McLaughlin, Hattery, Simpson and Sullivan, the Galesburg accounting firm that handles Block's accounts, last week said he could not discuss the secretary's finances until Block authorized him to do so.

Ochs was asked to seek this authorization from the secretary Thursday, but on Friday said he was unable to make the request before Block left for a business trip to Atlanta.

Wayne Martin, a vice president at First Farmers National Bank of Knoxville, Ill., which has extended unsecured loans to Block partnerships, Friday said he was not personally involved in the unsecured loans to the Block partnerships, but he was confident Block's cabinet position had nothing to do with the granting of the loans that are not backed by collateral.

"I'm sure (Block's cabinet post) couldn't be used as a factor," Martin said in a telephone interview. The bank looks at "everybody's individual circumstances and then goes from there" in deciding to give an unsecured loan.

The interest rates on the 15 unsecured loan packages obtained by the Block partnerships since 1981 range from 11 percent to 21 percent.

Block is an officer in the following partnerships: Block Farms, farm management; Block and Clark, apartments and contract equity; Block, Curry, Clark, farming and contract equity; Block, Baily, Curry, contract equity; Block, Curry, Clark, Main, farming; Block, Curry, Clark, Main, Oborwortmann, farming; Block, Curry, Lambin, Love, Main, Roberts & Tracy, farming and investment; and John R. Block and Cynthia Block, farming.

John "Bill" Curry, one of Block's major partners, recently ran into financial problems with his purchase of 11,000 acres of southern Iowa farmland because of declining land values, rising interest rates and last summer's drought, which he said caused about $2 million in crop losses.

Curry, a member of four Block partnerships, was having trouble raising cash for operating expenses and payments on the 11,000 acres. Curry is also chief executive of J. Catton Farms, an Illinois-based farm corporation, which filed for reorganization under the bankruptcy code last April and is said to be on the verge of collapse.

Ironically, Block's financial difficulties appear to be partially due to the sagging farm economy that he, as secretary of agriculture, oversees.

Most of the investments made by the Block partnerships were in farmland in the Midwest that peaked in value in 1981 and has since fallen in value by an average of 18 percent.

Farmers, especially those who sought operating loans this year, are fully aware of impact of the decreasing land value on their chances of obtaining loans.

In fact, the situation has become so acute, the Farmers Home Administration—which had been basing most of its loans on land values and other assets over the last few years—this year began putting a higher priority on cash flow.

Those farmers who have gone under because of declining land values, high interest rates, the drought and the inability to get emergency loans have become increasingly embittered over the situation.

A number of farm groups, including the "Drought '83" organization in Bloomfield, Iowa, have obtained copies of Block's financial disclosure statements and are angrily questioning why the secretary of agriculture can obtain millions of dollars in unsecured loans, loans not backed by collateral, and they cannot receive loans to get back into the field.

The White House has also expressed interest in the secretary's annual financial disclosure reports, asking the secretary to provide additional information for the past two years.

Hattery, Block's accountant, indicated the administration's interest when he sent a letter to Block's secretary that began: "We recently received a telephone call from Mr. Peter C. Sleight, deputy "ethics officer in the Office of Personnel of the USDA.

"He indicated that the White House has requested certain additional information" concerning the financial disclosure form.

Sleight last summer asked for further details, such as maturity dates and interest rates on the unsecured loans. Hattery provided that information in a Nov. 28, 1983, letter to Sleight.

It could not be determined late Friday who in the White House had requested the additional information, or why.

[From the Lincoln, Nebr., Star, May 22, 1984]

EXON WANTS INVESTIGATION OF AG SECRETARY'S FINANCES

(By David E. Lynch)

WASHINGTON.—Sen. J. James Exon, D-Neb., Monday called for a congressional investigation into Agriculture Secretary John Block's personal finances.

Reports indicate that the secretary's partnerships have run up secured and unsecured debts of almost $8 million.

Exon said he planned to talk to Sen. William Proxmire, D-Wis., ranking Democrat on the Banking Committee, about the matter as well as members of the Senate Agriculture and Government Operations committees.

Block is an officer in farm and real estate partnerships with assets of up to $5 million and debts of almost $8 million, with between $1.5 million and $2.5 million of that debt unsecured by collateral, according to Block's financial disclosure statement for 1982.

A number of the loans to the Block partnerships came from the troubled Continental Illinois National Bank, which last week received a $7.6 billion bailout hastily arranged by federal banking regulators.

Block's disclosure statement for 1983 was due last week, but his Galesburg, Ill., accountants asked for a two-week filing extension.

"Thousands of farmers in Nebraska would like to get unsecured loans," Exon said. "But some of them even have trouble getting secured loans."

The revelations about Block's personal finances reminded Exon of a March 3 Senate Budget Committee hearing on the federal agriculture budget.

At that session, Exon, a member of the committee, asked Block if the net worth of the average farmer had fallen or increased over the last four years.

"I do not know," Block answered.

"Well I know," Exon said. "What about your net income? You are a farmer. Is your net worth larger or smaller than it was four years ago?"

Block said, "I am guessing that it is about the same over that period of time."

Exon asked, "You have not had the drop in land values in Illinois that we have had in Nebraska?"

The secretary replied, "Well, we had a pretty severe one and it has tended to stabilize in Illinois. I think that you will probably find that it may be probably roughly

flat and in cases, it certainly in cases it could be down and in some cases, up some, but not much."

COLLATERAL PROVIDED SINCE JAN. 1—EXON IS CRITICAL OF BLOCK'S LOANS

Reports that U.S. Agriculture Secretary John Block's partnerships have received unsecured loans triggered comments Tuesday about the effectiveness of the USDA's farm policy.

"If John Block can't make it on the farm with unsecured loans and a well-diversified operation, it mirrors the difficulty of farmers not so fortunate," Sen. J. J. Exon told The World-Herald's Washington Bureau.

But Exon, D-Neb., said Block's awareness of the plight of farmers and the effect of administration policies could lead to "cooperation rather than confrontation with the USDA. The upshot of all of this may be positive."

Exon said he plans to talk to Sen. William Proxmire, D-Wis., the ranking Democrat on the Senate banking Committee, as well as to members of the Senate Agriculture and Government Operations Committees about the matter.

FARM, REAL ESTATE

Block is an officer in farm and real estate partnerships with assets of up to $5 million and debts of almost $8 million. Between $1.5 million and $2.5 million of that debt was not secured by collateral such as property, Block's financial disclosure statement for 1982 indicated.

A Block aide said Tuesday, however, that Block and his partners have put up the collateral to cover most of their unsecured loans.

"They did so with farmland they already owned and had paid off," said John Ochs.

Ochs said that Block, who owns a 3,000-acre farm near Galesburg, Ill. will be filing a new financial disclosure statement covering 1983 in a week or two.

"Although it will not appear in the 1983 statement," he said, "most of the secretary's loans have been secured since the first of the year. That will be reflected in the 1984 statement, which comes next year."

Ochs said most of the unsecured loans in which Block was involved were made before he became a Cabinet member in 1981.

"In fact, he has not bought any farmland since he has been in office," Ochs said.

He described the unsecured loans as "a minor portion" of Block's indebtedness.

"Keep in mind the debt is not Block's alone," he said. "It reflects the debt of several business partners."

Ochs said he did not think it was unusual for banks to make unsecured loans.

"I'd guess most banks base loans on their perception of the borrower's ability to repay loans," he said.

Rep. Tom Harkin, D-Iowa, said the secretary's personal finances should be investigated. He said he and his staff have examined Block's previous disclosure reports and are waiting to see the overdue statement for 1983.

"When the top USDA administrator has access to unsecured money and easy credit, it is understandable that USDA policy would fail to reflect the real credit crisis facing Iowa farmers," Harkin said.

JEPSEN'S CONCERN

Rep. Berkley Bedell, D-Iowa, said it "looks like the secretary has problems similar to what the farmers in Iowa have. We've had a devil of a time convincing the secretary to authorize loans for farmers, and you would think he would have a great deal of empathy."

Sen. Roger Jepsen, R-Iowa, said he is "concerned with any unfairness to constituents," but he plans to wait until the latest statement is filed before commenting on Block's finances.

Wayne Mastin, a vice president at First Farmers National Bank of Knoxville, Ill., which has extended unsecured loans to Block partnerships, told the Cedar Rapids Gazette he was not personally involved in the unsecured loans to the Block partnerships.

However, he said he was confident that Block's cabinet position had nothing to do with the granting of the loans that are not backed by collateral.

"I'm sure (Block's cabinet post) couldn't be used as a factor," Mastin said. The bank looks at "everybody's individual circumstances and then goes from there" in deciding to give an unsecured loan.

Mr. EXON. Mr. President, I thank the Chair, and I yield the floor.

PROHIBITION OF COMPULSORY UNION DUES FOR POLITICAL PURPOSES

Mr. SYMMS. Mr. President, I am a cosponsor of S. 1881—legislation which would outlaw the use of compulsory dues for political and ideological purposes. Today I rise in support of the same proposal offered in amendment form to the bankruptcy bill, H.R. 5174, by my distinguished colleague from North Carolina.

In my opinion it is very unfair that union members, through compulsory dues, are forced to finance issues and candidates they do not support. There are numerous instances where union members are forced to pay for phone banks, brochures, and mailings during a political campaign in order to keep their jobs.

Supreme Court decisions which tightened the restrictions on how union officials can spend money collected from workers are not enough. The abuses of dissenting workers' rights continue. The problem stems from a loophole in Federal election law allowing union political operatives to funnel forced dues into Federal elections through "in-kind" spending.

The Federal Election Campaign Act does prohibit the use of forced dues to make direct cash contributions to candidates; however, unlike direct cash contributions to political campaigns, union's indirect or in-kind spending can be drawn from compulsory dues and are not required to be reported to the Federal Election Commission. This so-called soft money totals tens of millions of dollars worth of unreported, undisclosed services such as phone banks, voter registration, get-out-the-vote drives, and precinct organization.

I believe these activities are a blatant violation of the basic constitutional rights of American working men and women which should not be allowed to continue. Let me point to some of the most notable examples of this widespread practice.

In the last few months the AFL-CIO made headlines by endorsing a certain candidate for President. During the same month, a New York Times CBS poll revealed that union members are far from united in their choice for President—34 percent favored one candidate while 29 percent of the union members favored another candidate.

Yet 100 percent of the national AFL-CIO's political expenditures will be spent on only one candidate—financed in part by the compulsory dues of those union members who support and will vote for other candidates.

This was equally true in 1980, when—despite the 40 percent of union members who voted for President Reagan—the AFL-CIO machine spent 100 percent of its political treasury fund expenditures for the reelection of the incumbent.

The union hierarchy is clearly out of step with many of its members when it uses a member's dues money on behalf of a candidate the member opposes. This abuse of workers' rights and hard-earned dollars is not, however, limited to election years.

In 1981, this city was besieged with over 100,000 marchers supposedly demonstrating the "solidarity" of American workers against the Reagan administration's policies of military strength and fiscal restraint. The demonstration was called Solidarity Day.

Interestingly, a poll conducted by Opinion Research Survey, Inc., of AFL-CIO members—and sponsored by the AFL-CIO itself—revealed that 65 percent of AFL-CIO members support a balanced budget, while 72 percent oppose cutting defense spending. Yet national union officials, once again out of step with their rank and file, used their members' compulsory dues to finance massive demonstrations against the President's economic and national defense policies, policies which enjoyed the support of union members.

Officials of the National Education Association, NEA, are just as guilty of being out of step with the Nation's teachers—and abusing their compulsory dues dollars.

In a nationwide poll of teachers published in September 1981, by Instructor magazine, which has a circulation of 275,000 and computed more than 10,000 responses—72 percent of them union members—84 percent of American teachers expressed support for state right-to-work laws, which in themselves would eliminate the problem of compulsory dues politics by prohibiting compulsory dues. Predictably enough, the NEA union that year went on record formally opposed to right-to-work laws and spent the compulsory dues dollars of pro-right-to-work teachers to lobby against such laws.

According to the NEA's 1982-83 handbook, the union is officially on record in favor of gun control legislation, in favor of decriminalization of marihuana, in favor of affirmative action hiring of homosexual teachers, national health insurance, the ERA, tax-financed abortions, a unilateral nuclear freeze, and drafting women.

The union is officially opposed to a balanced budget, U.S. aid for our allies in Central America, or the right of school children to have voluntary prayer in school.

Do NEA union officials expect us to believe that all those teachers forced to pay NEA dues as a condition of employment—thereby financing the union's lobbying efforts—approve of the use of their money for this type of NEA agenda?

The greater question is—should any teacher or any worker, or any union member, be forced to subsidize such an agenda?

I believe not. And according to Instructor magazine, 77 percent of all teachers agree with my opposition to forced payment of union dues. But the NEA's money machine rolls on into 1984, spending the compulsory dues through in-kind contributions to finance candidates that teachers do not support.

There is no greater abuse of compulsory unionism—under which workers are forced to join or pay dues to a union as a condition of employment—than the forced subsidization through those dues of political candidates and causes the individual worker may oppose.

Senator HELMS' amendment would end this abusive infringement on the rights of individual Americans, while guaranteeing their right to voluntarily contribute and participate on behalf of the candidate or cause of their choice.

No one truly interested in campaign reform should have difficulty with this legislation. Again, I urge my colleagues to support this legislation and the positive impact it would have on the workers of this country.

THE SPEECH REAGAN SHOULD—BUT WON'T—GIVE

Mr. SYMMS. Mr. President, 3½ years ago, the American people voted for fundamental changes in Washington. They elected Ronald Reagan and a more conservative Congress with a mandate to halt runaway spending, taxes, and debt.

The administration and Congress have made some progress in these areas, but not enough. We have cut taxes, but raised them again. We have slowed down the growth of some spending programs, but allowed others to continue growing at a cancerous rate. And we have failed—there is no other word for it—to do anything about the flood of red ink that threatens to engulf this Nation.

There is still time to alter this course and make those fundamental changes that the American people expected in 1981—but time is running short. And it will require boldness and strong leadership from the President.

He could begin by delivering a remarkably candid speech written for him by syndicated columnist Louis Rukeyser. The speech appeared this week in Rukeyser's column in the Boise Statesman under the heading "The Speech Reagan Should—But Won't—Give."

I wish he would give it. I ask unanimous consent that it be printed in the RECORD, so that my colleagues in the Senate and the House—and perhaps the White House speechwriters—will read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boise Statesman, May 21, 1984]

THE SPEECH REAGAN SHOULD—BUT WON'T—GIVE

(By Louis Rukeyser)

NEW YORK.—The speech President Reagan ought to make about the economy—but probably won't:

"My fellow Americans:

"First, let me apologize. We started much too slowly in 1981. I knew where I wanted to go, but I was taken in by the conventional advice of some fellows who I thought were my friends here in Washington. I, of all people, should have known better!

"If I had listened to those guys when I was running for president, I never would have run in the first place—since their notion seems to be that the ideas I was espousing all along will never catch on with the American people.

"I'm not sure how those 'advisers' think I got nominated and elected; maybe they think Bob Dole or Howard Baker really won in 1960, and I'm just an impostor.

"Oh, don't misunderstand me. I'm proud of some of the things we did in those early days. We moved swiftly to decontrol oil prices, for example—and, to the total surprise of the old-line Washington crowd, consumer prices promptly came down, as we had said they would. What do you know!

"I'm glad, too, that we moved as successfully as we did to lower income-tax rates. I really think that's an important reason we got such a vigorous economic recovery in 1983 and 1984.

"To tell you the truth, my only regret is that Congress didn't move more decisively; the 'remedial' 1982 tax increases—with which I foolishly went along—helped assure that the federal government would, in fact, be taking a larger share of the people's taxes that year than it had in 1980.

"That was foolish, and counterproductive, and I should have said so at the time.

"But I can't escape my own more fundamental failure on the spending side. I did propose many spending reductions in 1981, and we did achieve several of them, but I didn't go nearly far enough.

"To tell you the honest truth, I'm embarrassed as I can be by the size of these deficits. Just imagine what I would be saying if I were still out of office, and some other president had presided over this much red ink. Why, I can think of a whole bunch of sizzling one-liners I could be reading off those 3-by-5 cards tonight!

"By failing to get the deficits down, as I promised, I have allowed the big-government crowd to get away with blaming it all on the tax cuts. That's just plain silly. Not only did the tax cuts demonstrably help the economy in 1983, but even now the tax level is at least as high as it was when we were producing balanced budgets—and even surprises—a generation ago.

"So, if you'll give me a second term, I promise to face the facts this time and let you in on that confrontation.

"Fact 1 is that every part of the budget is going to have to come under unprecedented scrutiny to eliminate waste and inefficiency, and that most certainly does include defense.

"Fact 2 is that there's no way we can ever solve this deficit problem until we get at the authentic root of the problem—the out-of-control government transfer and 'entitlement' programs. And—contrary to what I've suggested up to now—I'm going to be offering specific suggestions to restrain the growth of Social Security and Medicare, which otherwise will point us toward bankruptcy.

"Fact 3 is that it's high time to restructure the tax code to discourage consumption and reward savings, and you can be sure that I'll be presenting proposals to do exacting that in 1983.

"Finally if this makes sense to you, please vote for me—but don't stop there. Make sure that the candidate you support for Congress is on my side in making these changes, I should have done more myself, and I promise I will if you re-elect me but I can't do it all myself—so I need your help twice in November.

"Give it to me, and I pledge that, this time, I'll give you a clear and consistent economic policy that will turn our country in the direction of freedom and prosperity for generations to come. Honest and truly!"●

THE TIME HAS COME TO ACT ON THE GENOCIDE CONVENTION

Mr. PELL. Mr. President, 2½ years ago the Foreign Relations Committee held a hearing on the Genocide Convention. It was the hope of many of us that within a reasonable period of time after that hearing the committee would be able to report the convention favorably with the support of this administration.

At the time of the committee's December 3, 1981 hearing, the administration was conducting a review of the Genocide Convention as well as other human rights conventions. As a result, the committee deferred action until the administration could complete its review. That was a reasonable thing to do, but it seems to me that after more than 3 years in office the administration should have arrived at a conclusion on the Genocide Convention.

As my colleagues are aware, the Genocide Convention was a response to the Holocaust that claimed the lives of some 9 million Jews and other minorities in Europe. The convention has been before the Senate for 35 years,

and although it has been reported favorably by the Foreign Relations Committee four times, it has been considered on the floor of the Senate only once—in late 1973 and early 1974.

At that time, opponents successfully filibustered the convention, as two attempts at cloture failed. One of the reasons, in my view, that cloture was not achieved was the opposition of the American Bar Association, which felt that the convention dealt with matters that were not legitimate subjects for a treaty. In February 1976, however, the ABA reversed itself, and it is now an active supporter of the treaty.

More than a decade has passed since the Senate debated the Genocide Convention, and it is time for us to return to this issue. America cannot stand tall as the moral leader of the world as long as we are not a party to a convention that declares genocide to be a crime under international law.

On May 8, I wrote to Secretary of State Shultz asking to be advised of the results of the administration's review of the Genocide Convention and whether the administration is prepared to support Senate advice and consent to the convention. I further expressed my hope that the Senate could act on the convention before the end of this session of Congress.

I urge the administration to support early Senate action, and I ask unanimous consent that the full text of my letter to Secretary Shultz be printed in full at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 8, 1984.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In 1981, the Foreign Relations Committee held hearings on the Genocide Convention. The Committee withheld action on the Convention pending the outcome of an Administration review of the issues involved.

I would appreciate it very much if you would advise me of the results of the Administration's review and whether the Administration is prepared to support Senate advice and consent to the Convention. It is my hope that the Senate will be able to act on the Convention before the end of this session of Congress.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. STEVENS) to attend the 36th annual session of the International Whaling Commission, to be held in Buenos Aires, July 18-22, 1984.

MEMORIAL DAY

Mrs. HAWKINS. Mr. President, as we approach Memorial Day 1984, we must all pause to honor those brave men and women who gave their lives so that we might live free. For many of us the Memorial Day weekend marks the beginning of the summer. It is the first chance we have to get away with family or friends and to enjoy a long weekend. But, Mr. President, Memorial Day is much more than just another 3-day weekend. It is a special day. It is a day on which we should all pause and reflect on the blessings that have been bestowed on our country. This is also a day on which we should say thank you in our hearts and minds to those who made the ultimate sacrifice so that we might live as a free people. In the First World War 53,513 people died in battle. In World War II the number of battle-deaths increased almost 6 times to 292,131, in the Korean war 33,629 Americans gave their lives for their country and during the Vietnam war 47,752 died.

Mr. President, our freedom has been bought at a high price. So many have given their lives for us that it is easy to only sight numbers. But each of these is not a number, they were individuals. They were a husband, a brother or a son and a mother or a daughter. I believe that it is important that we remember and honor these people—as individuals.

I hope, however, that we will not restrict our honor and our pride only to those who gave their lives because those who were their family have also suffered. These people have lived through the loneliness and emptiness that can only come through the loss of a loved one. While they might not have been on the front lines—they have shared the cost and deserve our respect.

In our Nation's Capital, this Memorial Day takes on an added importance because the service to inter the remains of an American who served in Vietnam will be interred in the Tomb of the Unknown Soldier. I am pleased that this great tribute is at last being paid to those who served and died in that long and costly conflict. They have for too long been forgotten.

When you stop and think about all those who fought and died to preserve all that is good and decent about our country, I sometimes find it difficult to come up with the right words that will adequately express my gratitude for what has been done on my behalf and on behalf of our great country. Fortunately this year I have had some help. A Floridian has recently sent me two beautiful poems that he had authored. These are moving poems that I would like to share with you. The poems are written by Mr. William Halikman who is a 91-year-old veteran of World War I who served his country well, was wounded and received the Purple Heart with cluster. By helping us honor those who gave their lives for our country, Mr. Halikman continues to serve his country well.

Mr. Halikman, I thank you and I am sure that all who read or hear these poems will thank you for putting into words what we all feel in our hearts.

Mr. President, I ask unanimous consent that these poems be included in the RECORD at this point.

MEMORIAL DAY

(By William Halikman)

Memorial Day—Is Remember Day.
To Honor those who did their duty.
And for it—their lives did pay
In the Service of their country.

Memorial Day—Is a Sacred Day.
For those who did not return—
That is why we all should pray
And for their souls we mourn.

Memorial Day—Is everyday
For dear ones that were lost
And the price they did pay
Was at a tremendous cost.

Memorial Day—We should never forget
Those who fought for peace
The sacrifice we deeply regret
And pray that all wars cease.

OUR DAY

(By William Halikman)

Let the White House
Be a lighthouse
To watch over the brave and free.

Let the Army and Navy
Keep "Old Glory" Wavey
That flag means liberty.

Let us all pray for peace
And that all wars cease
We cherish our democracy.

Let the world know today
We are prepared—come what may
To guard "Our Land," the "U.S.A."

SEA-LAUNCHED CRUISE MISSILES

Mr. MATHIAS. Mr. President, in my comments in the Senate on the pitfalls associated with nuclear sea-launched cruise missile—SLCM—deployments by either superpower, I have focused primarily on the arms control and diplomatic dangers involved. I would like to continue the focus on the arms control consequences today, but I will enlist the help of a former senior arms control negotiator and State Department official to do so.

Thomas J. Hirschfeld, former deputy chief negotiator to the mutual and balanced force reduction—MBFR—talks, has written extensively on arms control issues. In a Christian Science Monitor article of June 29, 1983, Mr. Hirschfeld takes a close look at how nuclear SLCM's will complicate the entire negotiating process and endanger the prospects for future accords. I ask unanimous consent that Mr. Hirschfeld's article "Try Banning Nuclear Cruise Missiles at Sea" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRY BANNING NUCLEAR CRUISE MISSILES AT SEA

(By Thomas J. Hirschfeld)

Beginning in September, American Navy submarines and surface vessels will have operational cruise missiles on board. These are weapons launched from ships which fly like aircraft to their targets. The first cruise missile will have a range of some 300 nautical miles. As of March 1984, some of these missiles are expected to carry nuclear warheads; by next June, these same ships will have such missiles with ranges of up to 1500 nautical miles. The Russians seem about to do something similar. The cruise missile is a relatively cheap and increasingly accurate weapon. By deploying it on surface ships, the Navy increases the distance at which warships can strike enemy vessels and targets on land. In this way, other kinds of ships substitute for or supplement the expensive manned attack airplanes on Navy carriers. Deploying cruise missiles on attack submarines, which can fire from submerged positions, gives these silent, hidden hunters, which once had only anti-submarine or anti-ship functions, new roles against targets on land. All to the good? Not entirely.

The prospect of nuclear warheads for some of these missiles has complicated arms control negotiations in a way that can be compared only to deploying multiple warheads on strategic missiles ten years ago. Everyone regrets that decision now. From that decision came the vulnerability of our land-based strategic missile force, and almost all the strategic missile problems the Administration is trying to correct with the START proposal. Deploying sea-launched cruise missiles nuclear warheads has the same kind of effect. There is no way we or the Russians could tell which ship has nuclear cruise missiles on board, and which has only conventional ones. Thus, in arms control negotiations we both must count all long-range cruise missiles as nuclear-armed. This so-called counting rule means that if one missile has been tested with a nuclear warhead, then all missiles of the same type must be counted as having nuclear warheads.

Thus, once the long-range cruise missiles are deployed, the Soviets will want to take account of them in START. Under existing rules, they will count the entire U.S. sea-based cruise missile force as nuclear, insist on limiting their numbers, or on reducing them or getting compensation for them out of other parts of the U.S. strategic forces, like bombers, ballistic missile submarines or land-based missiles like MX. More likely, they would insist on the right to deploy equal numbers of nuclear-tipped missiles of their own. The latter case would make a mockery of START; no one would know how many nuclear weapons would actually be deployed at sea. What then would be the value of the remaining proposed START limitations? How could one negotiate them? START could stop.

Because both the U.S. and the U.S.S.R. have tested air-, ground- and sea-launched cruise missiles, and because they have a useful conventional role, banning them altogether may no longer be practical, although this would be the optimal solution. In START, the Soviets have proposed limits on long-range cruise missiles, defined in SALT as over 600 kilometers (324 nautical miles). This idea is to the Soviet's advantage because it prevents deployment at sea of the more versatile cruise missiles in the American inventory; unless there were some offsetting advantage to us, it would be hard for us to accept.

Nevertheless that very proposal presents the U.S. with an opportunity. The President could show his interest in arms control—often avowed but seldom demonstrated—by offering not to deploy nuclear cruise missiles provided the Soviet Union did the same. Non-nuclear missile deployments could proceed on schedule. The offer would depend on the development of new, mutually-acceptable counting rules or mutually-acceptable verification procedures during a two-year period. During that time both sides would have a chance to work out ways to assure themselves beyond a reasonable doubt that the other was not cheating, such as permitting a limited number of in-port challenge inspections, for example. During the moratorium period, evidence of even one violation would serve to end the offer.

If this proposal doesn't work, nothing that matters will have been lost. If it does, fundamental complications will be removed from START negotiations.

There is even a strategic benefit to the U.S. in this proposal. Targets in the U.S.S.R. will be mostly out of range of the American cruise missiles, but this will not be the case for Soviet sea-based cruise missiles. Once the Soviets get within striking distance of our coasts, much of what they would want to strike in wartime would be vulnerable especially to cruise missiles mounted on Soviet submarines. So limiting their ability to deploy nuclear cruise missiles makes military sense. Deploying our own nuclear missiles does nothing about American vulnerability to theirs.

Not deploying nuclear cruise missiles at sea and challenging the Russians to do likewise would cost little, but would gain time. It might even convince some of the Administration's critics that the President really cares about verifiable arms control, instead of just saying so.

(Thomas J. Hirschfeld is a former senior arms control negotiator and retired state department official. He is affiliated with the Committee for National Security, a public interest organization concerned with defense policy.)

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BANKRUPTCY AMENDMENTS OF 1984

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5174, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Thurmond amendment No. 3083, in the nature of a substitute.

(2) Packwood amendment No. 3112, relating to collective-bargaining agreements.

AMENDMENT NO. 3112

(Purpose: To amend the provisions regarding collective-bargaining agreements)

The PRESIDING OFFICER. The pending business is the Packwood amendment No. 3112.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order notwithstanding the Pastor rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD TRADE WEEK 1984—LOST LEADERSHIP

Mr. BYRD. Mr. President, World Trade Week—May 20-26—is a joint Government and industry observance of the role of international trade in the life of the American economy. Appropriately, this year's slogan is "United States Exports Mean Jobs." The Department of Commerce estimates that every $1 billion in exports creates 25,000 jobs. Unfortunately, every $1 billion in exports lost to our economy translates into 25,000 jobs lost or not created. As we face the largest trade deficit in our history, the role that exports play in generating new jobs is becoming painfully clear.

Many workers and companies in my own State of West Virginia appreciate the importance of trade. Nearly 20 percent of all products manufactured in my State are exported, making West Virginia third in the Nation in the percentage of goods exported. West Virginia's chemicals and primary metals lead the list of manufactured exports with coal, glass products, machinery, and electrical equipment making significant contributions to the West Virginia trade surplus.

I have tried to assist West Virginia companies in their efforts to develop overseas markets. During the past year, I offered an amendment to fund a lumber export promotion program to help West Virginia wood products achieve their potential in world markets. In addition, West Virginia small

businesses will benefit from an international teletype system at the University of Charleston's Small Business Center. I was pleased to be able to offer legislation in the Senate which cleared the way for that project. And most recently, I hosted a West Virginia Export Opportunities Day program in Charleston where Federal officials talked with West Virginia company officials about how the Government can assist businesses in breaking into the international market.

As I have said, many West Virginians understand the importance of the international market, and many are very active and successful exporters. Recently, I had the pleasure to announce that the Standard Instrumentations Co. of Charleston has received an "Excellence in Exporting Award" from the Department of Commerce for that company's accomplishments in increasing its export sales. And last month, Porter Associates International of Ceredo, W. Va., became one of the first 50 companies nationwide to establish itself as an export trading company.

But the pride and satisfaction I feel about our recent successes in West Virginia are tempered by the knowledge that we need to do more to export more or our products and create more jobs. That need is equally compelling for the rest of the country.

Last year, we experienced the largest trade deficit in our history—a staggering $69.7 billion. In the first 3 months of this year, we set another record with a quarterly trade shortfall of almost $30 billion. This has led some economists to predict that our trade deficit for 1984 could be double the size of last year's record.

In 1983, the United States experienced its first-ever trade deficit with Eastern bloc Communist countries, and with China. And our traditional trade surplus with our Western European allies disappeared in the face of a $456 million trade shortfall. That disturbing trend is continuing, and our March trade deficit with Western Europe was more than $2 billion. At the same time, last year's record $20 billion deficit with Japan shows every sign of growing even larger this year. Despite negotiations now underway to internationalize the yen, our 1984 trade gap with Japan again may be the largest trade discrepancy between any two countries in the world.

How did the world's greatest trading nation become the world's largest trade loser? Over the past 4 years, the Reagan administration has presided over an unprecedented decline in America's position in the world's economy. The same big deficit policies that give us high interest rates at home serve to weaken our stature in the international market. Those record deficits result in an overvalued dollar which acts as a 30-percent tariff on American goods, and a subsidy on foreign products.

At the same time, this administration—like other administrations in the past, both Democratic and Republican—has stood aside while many of our trading partners have engaged in unfair anticompetitive practices which put American goods and services at a disadvantage. The latest manifestation of this short-sighted view of free trade came earlier this month when, after a 2-year delay, the President decided that the ferroalloys industry should not receive relief, despite its urging that the national security was being adversely affected by subsidized foreign products. If we lose our domestic capacity to produce ferroalloys, we will be completely at the mercy of foreign producers—including the Soviet Union—for ferroalloys are vital to steel processing and the manufacture of many strategic products.

The administration's policies have given American workers and companies very little reason for optimism during World Trade Week 1984. I am pleased that Senator CHILES and Senators CHAFEE and WEICKER and others have worked diligently over the past several weeks to make responsible reductions in the burdensome Federal deficit. These measures could help American firms stay competitive in the international market. I am also pleased to report that Senator KENNEDY's task force will be introducing legislation to address some of the basic challenges we face in world trade. I look forward to that initiative in the belief that, by next year, World Trade Week will be an occasion to review our accomplisments—not just to recall a loss of jobs and world leadership.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I have indicated earlier, as late as the opening of the session today, that at some point today the leadership would ask the Senate to go into executive session for the purpose of considering the nomination of James Harvie Wilkinson III, of Virginia, to be U.S. circuit judge for the fourth circuit. I think that time has arrived. I believe that those parties who have indicated an interest in that matter on this side have been notified. The minority leader is on the floor, and I have talked to other Senators. I believe everyone is fully aware of what the leadership on this side will now attempt to do.

Mr. President, I move that the Senate go into executive session for the purpose of considering the nomination of James Harvie Wilkinson III.

Mr. BYRD. Mr. President, the motion is not debatable. I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I did this in order to ask the majority leader if my understanding is correct that once the Wilkinson nomination is disposed of, the Senate will then be back on the bankruptcy bill.

Mr. BAKER. Yes, Mr. President. That would happen automatically, I believe. In any event, it is the intention of the leadership on this side to take up where we left off.

Mr. BYRD. I thank the majority leader.

I see no reason for anything other than a voice vote.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

NOMINATION OF JAMES HARVIE WILKINSON III TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of James Harvie Wilkinson III, of Virginia, to be U.S. circuit judge for the fourth circuit.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise today to voice my support for Mr. J. Harvie Wilkinson III, of Virginia, to be a U.S. circuit court judge for the Fourth Circuit Court of Appeals.

Mr. President, some questions have been raised concerning Mr. Wilkinson's qualifications for this important position. As chairman, it is my duty to insure that the qualifications of each nominee submitted to the Judiciary Committee are appropriately examined. I feel that Mr. Wilkinson has been subject to this requirement. I would, however, at this time like to clarify the record concerning this nomination. Mr. Wilkinson was nomi-

nated by the President on November 10, 1983, and a hearing before the Judiciary Committee was held on November 16, 1983. I was unable to be present at that time and Senator MATHIAS was kind enough to chair that hearing.

It should be noted that the November 16, 1983, hearing was not the final hearing on this nomination. Mr. Wilkinson was scheduled for a vote by the committee at the business meeting on November 17, 1983. Prior to the meeting on that date, I received letters from several civil rights organizations requesting an additional hearing on Mr. Wilkinson's nomination in order that they could publicly state their views. I felt their request was reasonable, and I, therefore, laid the nomination over, pending an additional hearing.

Due to the Christmas recess, the nomination was returned to the White House and Mr. Wilkinson was not renominated until January 30, 1984. A second hearing was held on February 22, 1984, and at that time 11 witnesses appeared before the committee, including Mr. Wilkinson. All interested parties were given an opportunity to state their views. No Senators were present at this hearing other than myself, and only Senator DENTON submitted questions for Mr. Wilkinson to respond to in writing.

The nomination was then placed on the agenda for a vote on February 23, 1984. At that time, the minority exercised their right under the rules of the committee to lay the nomination over. The nomination was again scheduled for a vote on March 8, 1984. However, at the request of Senator KENNEDY, the nomination was laid over in order to allow the American Bar Association sufficient time to respond to questions from Senators BIDEN, KENNEDY, and METZENBAUM. These Senators had written the ABA on March 5 stating their concern over an allegation that the ABA may have deviated from its normal procedure in rating Mr. Wilkinson. I consented to lay the nomination over for a third time if the minority would agree to vote at the next business meeting. That agreement was reached, and the nomination was again scheduled for a vote on March 15, 1984, some 4 months after it originally came before the committee.

At the business meeting on March 15, 1984, Senator KENNEDY expressed his concern over the response received from the ABA, and again made a request to delay the vote pending a future hearing involving the ABA, Department of Justice, and Mr. Wilkinson.

I did not agree with Senator KENNEDY's request as I felt that the ABA had satisfactorily responded to the questions raised by the minority Senators. I did agree, however, with Senator SPECTER's request to have the committee hold a hearing on the practice and procedures followed by the ABA in rating candidates for Federal judgeships. That matter is presently before the Subcommittee on Courts, and a hearing should be held as soon as is practical. And I have asked the distinguished Senator from North Carolina, Senator EAST, to hold that hearing.

A vote was then taken on Mr. Wilkinson's nomination, and he was favorably reported out of committee by a vote of 11 to 4. Senator MATHIAS was not present at the time of the committee vote on March 15, 1984. However, his vote opposing the nomination was recorded that afternoon. The nomination was reported to the full Senate the same day.

At this time, I feel that the nomination has been thoroughly examined by the Judiciary Committee, and that Mr. Wilkinson has been found to be deserving of the position for which the President has nominated him. In addition, no new information to my knowledge has been developed which would warrant any additional action.

Mr. President, with regard to the actions of the American Bar Association, I would like at this time to quote certain germane portions of a letter I received from Mr. Frederick Buesser, Jr., chairman of the ABA's Standing Committee on Federal Judiciary. Mr. Buesser was responding to questions raised in a letter from Senators BIDEN, KENNEDY, and METZENBAUM relative to their concern over the ABA investigation of Mr. Wilkinson.

> The circuit member conducts an in-depth investigation; if, in the course of that investigation, concern is developed, he advises the chairman and suggests that a second committee member become involved to assist in the investigation. This is not an uncommon occurrence.
>
> Such was the case in the Wilkinson matter, and a second committee member was designated to assist in the investigation. The two members worked together and interviewed the candidate. A single report on his qualifications was prepared. It was accompanied by separate statements of the two investigators in which each cited the conclusions he had reached. One member found the candidate qualified, the other found him not qualified. The report was circulated to all members, together with the different opinions of the two circuit members. A substantial majority of the committee found Mr. Wilkinson qualified. A minority found him not qualified. When Mr. Wilkinson was nominated, both the Senate Judiciary Committee and the candidate were advised of the ratings. The committee does not reveal how its members voted, but the term "substantial majority" has been adopted to indicate that the candidate has strong, but not unanimous, endorsement. . . .
>
> Your letter states that "We are particularly concerned about testimony that on numerous occasions in recent years, the committee has applied the guidelines inflexibly and has advised the administration that women and minority nominees who do not meet the 12-year/trial experience test would not be found qualified by the ABA . . ."
>
> Several years ago, the committee, in recognition of the relatively recent influx of substantial numbers of women and minorities into the legal profession, amended its standards to provide:
>
> "In evaluating experience, the committee recognizes that women and members of certain minority groups have entered the profession in large numbers only in recent years, and that their opportunities for advancement in the profession may have been limited."
>
> The suggestion that in recent years the committee has applied the guidelines inflexibly to the detriment of women and minority nominees is not borne out by the facts. Of the 11 candidates with less than 12 years at the bar who were rated qualified or better by our committee during the Carter administration, time at the bar ranged from 5 years in one instance to 11 years in six instances. Two candidates had been admitted 8 years, one 9 years, and another 10 years. These included four women, one of whom was a member of a minority, five men who were members of minorities, and two Caucasian men.
>
> During the Reagan administration there have been five candidates admitted to the bar less than 12 years who the committee found qualified. Two of these were women, one was a Hispanic male, and two were Caucasian males . . .
>
> We have reviewed recent nominees to the various courts of appeal whom we have found qualified or better who had very limited trial experience. At least four of these had teaching backgrounds and had demonstrated intellectual accomplishments and writing ability. I believe that the action of a substantial majority of the committee in finding Mr. Wilkinson qualified was entirely consistent with our action in the cases of the academics referred to above.
>
> You have also expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case there was only one vote taken. At about the time the formal report was circulated to the committee, several committee members called me in accordance with our practice to advise that they had received telephone calls on behalf of the candidate. I was personally concerned that it had apparently become known that the investigating committee members were not in agreement, and that a vote was being taken. I took up that concern with the Justice Department. I am convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply this to the investigating committee members. The members of the committee are experienced in the handling of this kind of information, and indeed welcome it. In this particular case, it was the timing of these calls which was objectionable.
>
> It should be made clear that the investigating committee members sought the views of several members of the Supreme Court, including Justice Powell, for whom Mr. Wilkinson had clerked. These gentlemen had a unique opportunity to judge his performance and his abilities. The Justices contacted were uniformly enthusiastic . . .
>
> Let me say on behalf of the committee that for more than 30 years it has sought to bring the independent good judgment of knowledgeable lawyers to the Judicial selection process. We never have candidates. Our sole responsibility is to evaluate those names sent to us. The integrity of the proc-

ess depends upon the integrity of each committee member, and I am proud to be associated with 13 people of great character.

Mr. President, as I previously stated, I received this letter from Mr. Frederick Buesser, Jr., of the ABA and without objection, I ask unanimous consent that the letter be printed in its entirety in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., March 12, 1984.
[Confidential]

Hon. STROM THURMOND,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR THURMOND: I respond to the March 5 letter from Senators Kennedy, Biden and Metzenbaum with reference to the pending nomination of Mr. James Harvie Wilkinson, III. In doing so, it may be helpful to review the Committee's standard operating procedures.

The process begins when the Justice Department asks the Chairman that a candidate be investigated for a particular vacancy. Ordinarily the matter is referred to the Committee member for the circuit in which the vacancy exists, assuming that such member is readily available and not already overburdened. At the same time the Justice Department sends the Personal Data Questionnaire to the candidate with instructions to complete it and furnish a copy to the Chairman, the circuit member and the Justice Department.

The circuit member conducts an in-depth investigation. If in the course of that investigation concerns develop, he advises the Chairman and suggests that a second Committee member become involved to assist in the investigation. This is not an uncommon occurrence.

Such was the case in the Wilkinson matter and a second Committee member was designated to assist in the investigation. The two members worked together and interviewed the candidate. A single report on his qualifications was prepared. It was accompanied by separate statements of the two investigators in which each cited the conclusions he had reached. One member found the candidate qualified. The other found him not qualified. The report was circulated to all members together with the differing opinions of the two circuit members. A substantial majority of the Committee found Mr. Wilkinson qualified; a minority found him not qualified. When Mr. Wilkinson was nominated both the Senate Judiciary Committee and the candidate were advised of the ratings. The Committee does not reveal how its members voted but the term "substantial majority" has been adopted to indicate that the candidate has strong, but not unanimous, endorsement.

It must be understood that when a Formal Report has been prepared by one or more circuit members and circulated to the entire Committee, each circuit member considers the matter privately and makes his own decision as to the rating he believes appropriate. Such ratings are promptly conveyed to the Chairman and tabulated. Decisions are a matter of individual judgment and it is impossible to know the precise rationale which prompted each one.

Our guidelines provide "that ordinarily a prospective appointee to the federal bench should have been admitted to the bar for at least twelve years" (emphasis added). Our records indicate that Mr. Wilkinson was admitted to the Bar of the State of Virginia on February 1, 1972. When his name was sent to us for investigation at the end of July of 1983, he then had virtually, and certainly by now has, satisified the 12 year requirement.

Your letter states that "We are particularly concerned about testimony that, on numerous occasions in recent years, the Committee has applied the guidelines inflexibly, and has advised the Administration that women and minority nominees who do not meet the twelve year-trial experience tests would not be found 'qualified' by the ABA. . . ." Several years ago the Committee, in recognition of the relatively recent influx of substantial numbers of women and minorities into the legal profession, amended its standards to provide:

"In evaluating experience, the Committee recognizes that women and members of certain minority groups have entered the profession in large numbers only in recent years and that their opportunities for advancement in the profession may have been limited."

The suggestion that in recent years the Committee "has applied the guidelines inflexibly" to the detriment of women and minority nominees is not borne out by the facts. Of the eleven candidates with less than twelve years at the bar who were rated qualified or better by our Committee during the Carter Administration, time at the bar ranged from five years in one instance to eleven years in six instances. Two candidates had been admitted eight years, one nine years and another ten years. These included four women, one of whom was a member of a minority; five men who were members of minorities and two Caucasian men.

During the Reagan Administration there have been five candidates admitted to the bar less than twelve years who the Committee found qualified. Two of these were women, one was a Hispanic male and two were Caucasian males.

Our evaluation criteria further provide:

"Substantial trial experience (as lawyer or a trial judge) is important for a prospective nominee to both the appellate courts and the trials courts. Additional experience which is similar to court trial work . . ., *teaching trial advocacy* or other clinical law school courses, etc.—is considered in evaluating a prospective nominee's trial experience qualifications. *In exceptional cases, when there is significant evidence of distinguished accomplishment in the field of law, an individual with limited trial experience may be found qualified.*" (emphasis added)

Our records indicate that Mr. Wilkinson taught at the University of Virginia Law School from 1973 to 1978 and again in 1981/82 and that he regularly taught the following courses:

Federal Courts—Subjects covered include case or controversy, federal question jurisdiction, implied remedies and rights of action, federal common law, pendent jurisdiction, abstention, adequate and independent state grounds, section 1983, and federal habeas corpus.

Criminal Procedure—Topics covered are Fourth, Fifth and Sixth Amendment rights at different stages of the criminal process—search, arrest, interrogation and line-up, bail and preliminary hearings, grand jury proceedings, and trial.

Constitutional Law—Subjects included the reach of congressional authority under Article I, Section 8, substantive and procedural due process, the equal protection clause, state action, and the speech and religion clauses of the First Amendment.

In addition thereto the experience of clerking for a Justice of the United States Supreme Court has to be given much weight, and in the opinion of prominent appellate justices, makes up for a lack of practical experience. A clerk to an appellate judge sees the best and the worst briefs and listens to some of the finest and some of the poorest arguments. In this process he should learn quickly to distinguish those things that are important and critical to the decisional process.

The guidelines further state—

"Without demeaning the scholarly qualities necessary for the trial courts, the Committee nonetheless looks for an especially high degree of scholarship and academic talent in prospective nominees for the appellate courts. The abilities to write lucidly and persuasively, to harmonize a body of law and to give guidance to the trial courts in future cases are matters of great concern for the evaluation of prospective nominees for the appellate courts.

"Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues (in contrast to witnesses, parties, jurors, live testimony and the theater of courtroom) *the Committee may place somewhat less emphasis on the importance of extensive trial experience as a qualification for the appellate courts.*" (emphasis added)

Mr. Wilkinson's extensive writings were furnished to the Committee and show him to be an unusually able writer and legal scholar with the apparent capacity to become an outstanding appellate judge. A number of law professors were among those whose views were solicited with respect to this nomination, and they were uniformly of the view that his legal scholarship was of a very high order.

It is apparent that all of the criteria set forth in the Standing Committee's brochure were taken into account by a substantial majority of the Committee in reaching the decision that Mr. Wilkinson was qualified. I want to assure you that I do not personally believe the Committee applied a double standard in rating Mr. Wilkinson nor that its action was unprecedented. In support thereof we have reviewed recent nominees to the various courts of appeal whom we have found qualified or better who had very limited trial experience. At least four of these had teaching backgrounds and had demonstrated intellectual accomplishment and writing ability. I believe that the action of a substantial majority of the Committee in finding Mr. Wilkinson qualified was entirely consistent with our action in the cases of the academics referred to above.

You have also expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case there was only vote taken. At about the time the Formal Report was circulated to the Committee, several Committee members called me in accordance with our practice to advise that they had received telephone calls on behalf of the candidate. I was personally concerned that it had apparently become known that the investigating Committee members were not in agreement and that a vote was being taken. I took up that concern with the Justice Department. I'm convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special informa-

tion about a candidate under investigation to voluntarily supply this to the investigating Committee members. The members of the Committee are experienced in the handling of this kind of information and indeed welcome it. In this particular case, it was the timing of these calls which was objectionable.

It should be made clear that the investigating Committee members sought the views of several members of the Supreme Court, including Justice Powell for whom Mr. Wilkinson had clerked. These gentlemen had a unique opportunity to judge this performance and his abilities. The Justices contacted were uniformly enthusiastic.

In closing, let me say on behalf of the Committee that for more than thirty years it has sought to bring the independent good judgment of knowledgeable lawyers to the judicial selection process. We never have candidates. Our sole responsibility is to evaluate those names sent to us. The integrity of the process depends upon the integrity of each Committee member, and I am proud to be associated with thirteen people of great character.

Respectfully,

FREDERICK G. BUESSER, Jr.,
Chairman.

Mr. THURMOND. Mr. President, I believe all the facts as outlined above reflect the true record with regard to this nomination. The Judiciary Committee made a complete and thorough evaluation of Mr. Wilkinson's qualifications. The American Bar Association conducted a similar investigation and there is no evidence to indicate that their guidelines were in any way altered to accommodate the nominee. Mr. Wilkinson has been found to be qualified for the position of circuit court judge by both the ABA and the Judiciary Committee. He is a man of knowledge, ability, and integrity. I am confident he will bring credit to the fourth circuit and I urge my colleagues to vote in favor of his nomination.

Mr. President, I now yield to the distinguished Senator from Alabama, Senator DENTON.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. I thank the distinguished chairman of the Judiciary Committee, the President pro tempore of this body, and I thank the Chair.

Mr. President, I rise today in strong support of the nomination of J. Harvie Wilkinson III, of Virginia, to be a judge of the Fourth Circuit Court of Appeals. Mr. Wilkinson is uniquely qualified and will be an able addition to the Federal bench.

Mr. Wilkinson, a 1967 graduate of Yale University and a 1972 graduate of the University of Virginia Law School, began his law career over 12 years ago as a law clerk for the Honorable Lewis F. Powell, Jr. Justice of the U.S. Supreme Court. As a law clerk to an appellate judge, Mr. Wilkinson was in a position to review some of the best and some of the worst legal briefs and to monitor some of the finest and some of the poorest oral arguments. In this process, as the American Bar Association noted, Mr. Wilkinson learned quickly to distinguish those things that are important and critical to the decision process.

Mr. Wilkinson then became a professor at the prestigious University of Virginia law school from 1973 to 1978, where he regularly taught courses in Federal courts, criminal procedure and constitutional law. As a professor, Mr. Wilkinson was revered by his colleagues and students alike for his unmatched scholarly ability. I must inject, Mr. President, that one of those students was my oldest son, Jerry, who now practices law in Norfolk, Va., and who has told me on many occasions, particularly on the occasion of his graduation, that Mr. Wilkinson was one of the most popular professors on campus and earned the respect of liberals and conservatives alike for his scholarship.

If my colleagues on the other side of the aisle might permit me to boast, that eldest son became the president of the student body of the University of Virginia law school. But, in all fairness to my colleagues, I must confess that, alas, that same son became a Democrat and has been asked by Democratic officials in eastern Virginia to run for the seat of Congressman BILL WHITEHURST when BILL retires. Phenomenally, in a family with only one previous political candidate in the history of my genealogy, my third son, Jim, may be running against Jerry. Personally, I hope BILL WHITEHURST never retires. [Laughter.]

Mr. Wilkinson's scholarship is reflected in his extensive writings. As the ABA noted, a number of law professors were among those whose views were solicited with respect to the Wilkinson nomination. They were uniformly of the view that Mr. Wilkinson's legal scholarship was of a very high order and showed him to be an unusually able writer and legal scholar with the apparent capacity to become an outstanding appellate judge.

In September 1978, Mr. Wilkinson became editor of the Norfolk Virginia-Pilot where he continued his scholarly writings and where I further developed an association with him. His editorials supported such progressive ideas as a holiday honoring the late Dr. Martin Luther King, Jr., and minority recruitment to the city police department's volunteer emergency response team.

Mr. Wilkinson served as deputy assistant attorney general for the civil rights division, U.S. Department of Justice, from July 1982 to August 1983. In that position, Mr. Wilkinson was involved in and supervised complex litigation in various Federal courts. Mr. Wilkinson has returned to the University of Virginia where he is currently teaching law.

As indicated by his scholarship and wide-ranging employment background, Mr. Wilkinson is without question eminently qualified. Yet despite Mr. Wilkinson's distinguished background, and despite the fact that the ABA found him to be qualified, there are people who suggest that he lacks the requisite trial experience for the Federal bench.

I not only question trial experience as an essential qualification for an appellate court judge but note that, during the last 8 years, a number of nominees for the U.S. Courts of Appeals, including a former chief counsel for the Senate Committee on the Judiciary, have had limited trial experience but have been easily confirmed. I also note that Justice Felix Frankfurter, whose primary background was in academic life, served on the Supreme Court with distinction despite the fact that he had not had significant trial experience. Many judges with limited trial experience have served with distinction on our courts of appeals.

Mr. President, Mr. Wilkinson is highly qualified by his background and experience for a position on the U.S. Court of Appeals for the Fourth Circuit. He possesses a rare combination of extraordinary intellect and practical experience which will enable him to serve with great distinction on the Federal bench. I will therefore vote in favor of the nomination, and I urge my colleagues to do the same.

Under instruction from the floor leader, I yield to my distinguished colleague, the Senator from North Carolina (Mr. EAST).

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Mr. President, I wish to speak on behalf of the nomination of James Harvie Wilkinson III, to be a judge on the Fourth U.S. Circuit Court, which includes, among others, my own State of North Carolina.

As a member of the Judiciary Committee, and having followed this nomination with considerable care and interest, candidly, I do not see how reasonable minds could differ over the qualifications of this man for the job for which he has been nominated.

I shall make my remarks concise. Because of the quality of the candidate, I do not think that extended remarks are necessary. As has been noted, Mr. Wilkinson is a graduate of Yale University. He attended law school at the University of Virginia, which is among America's more prestigious law schools. He served as a clerk to the Honorable Lewis F. Powell, Jr., a Justice of the U.S. Supreme Court. It is the finest kind of compliment that can be paid to a law school graduate: To be made a clerk to a Supreme Court Justice.

Justice Powell said this about Mr. Wilkinson: "Of the some 45 fine clerks

I have had in my 12 years on the Court, James Harvie Wilkinson III ranks among the best."

In addition he said: "He is an exceptionally gifted legal scholar and a compassionate and thoughtful human being."

After service as a law clerk for the Honorable Lewis F. Powell, Jr., of the U.S. Supreme Court, he returned to the University of Virginia, where he was an assistant professor of law for a brief period of time, and then was promoted to the position of associate professor of law. For a brief period of time, he served as editor of the Norfolk Virginian-Pilot, which gave him experience in writing on a variety of legal and nonlegal subjects and also for gaining, I think one could well argue, a larger perspective on the public, social, and economic issues facing this country.

From 1982 to 1983, Mr. Wilkinson served as Deputy Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice. Then he returned to the University of Virginia Law School as a professor of law. He is now 39 years of age.

Anyone who knows anything about law schools, the quality of law schools, and the quality of academic talent it takes to become a full professor of law at one of America's prestigious universities knows that to achieve a full professorship of law at a major prestigious American law school like that of the University of Virginia is a singular accomplishment of the first order.

So, it occurs to me in looking at the record that I do not see how, candidly, if I might use the language of lawyers, reasonable minds could disagree over this nomination. Some concern has been raised as to whether the ABA guidelines were somewhat modified in order to allow Mr. Wilkinson's approval by the ABA. The ABA, in a very thoughtful letter to those Senators so inquiring; namely, to wit: the distinguished Senator from Massachusetts, Mr. KENNEDY; the distinguished Senator from Delaware, Mr. BIDEN; the distinguished Senator from Ohio, Mr. METZENBAUM—I think very carefully, very thoughtfully, and in a very articulate fashion, answered those concerns.

The ABA had, in recent years, developed a certain flexibility on one guideline; namely, the length of time one had to serve as a "member of the bar." Ironically, they had done it for the expressed purpose of allowing minority groups and women to qualify for service on the bench.

The figures bear out that during the Carter administration, 11 such appointments were made to the Federal bench, and the figures revealed that they were overwhelmingly either women or else members of minority groups, be they Hispanic or black Americans. Under the Reagan administration, there have been four appointees with less than 12 years, and they too fall into those categories: Hispanics and women and black.

The curious thing is that some of the objections being made are that because Mr. Wilkinson is a white, Caucasian male, that the rule ought to be applied more strictly with regard to him. That is candidly and bluntly reverse racism, or whatever you wish to call it. So it would be curious that those who would support a flexible guideline on years of admission to the bar would object when it is applied to other than those falling into so-called minority classifications.

In any case, by the time he would be appointed he would have passed the 12-year mark. I look upon that, very bluntly, Mr. President, as a red herring issue. That, to my knowledge—and I will happily stand corrected by any opponent here on the Senate floor—has been the single and sole objection to why this man ought not to be approved quickly, unanimously, and indeed by a voice vote. But I defy anyone to look at the academic experience, to look at the practical experience, to consider the fact that he is being appointed to a court of appeals, which takes great skill in terms of sorting out the good briefs from the bad briefs, writing opinions, and the like. All of his experience has been geared in that direction—his academic writing, his service on the U.S. Supreme Court as a law clerk.

This is a flawless nominee. I commend the Reagan administration for making this nomination. Again, I am somewhat dumbfounded, and appalled, that we should even be out here debating the issue.

So it is without reservation, Mr. President, in any way, shape, or form that I would commend this nominee for overwhelming approval by my colleagues in the U.S. Senate.

Mr. President, as a member of the Committee on the Judiciary, I am pleased to speak in strong support of President Reagan's nomination of J. Harvie Wilkinson III to be a U.S. circuit judge for the fourth circuit. Inasmuch as the State of North Carolina is within the jurisdiction of the fourth circuit, I take particular pride in the fact that the President has made such a fine choice to fill the vacancy on that bench.

While, at 39 years of age, Professor Wilkinson is a relatively young man, he has an unusually rich diversity of experience and background that will serve him well as a Federal appellate judge. Let me summarize it here.

Born in New York City on September 29, 1944, Professor Wilkinson attended Yale University, from which he graduated with the bachelor of arts degree in 1967. Professor Wilkinson went on to attend the distinguished law school at the University of Virginia. He earned his juris doctor degree from that noted institution in 1972.

Immediately upon the completion of his legal education, Professor Wilkinson embarked upon 1 year's service as a law clerk to Associate Justice Lewis F. Powell, Jr. at the U.S. Supreme Court. This initial substantive legal experience will be of considerable benefit to Professor Wilkinson in his new capacity. It is widely recognized that an appellate law clerk reads the best and the worst legal briefs. He hears some of the finest, as well as some of the poorest, oral arguments. In the process, he acquires the capacity for the kind of efficient, incisive, critical analysis that is so important to the appellate decisionmaking process. Indeed, in his tenure as a clerk, Professor Wilkinson learned these lessons so well that Justice Powell has commented that "of the some 45 fine clerks I have had in my 12 years on the Court, J. Harvie Wilkinson III, ranks among the best."

Upon the completion of his clerkship at the Supreme Court, Professor Wilkinson returned to the University of Virginia as a member of the law school's teaching faculty. He taught at the law school between 1973 and 1978, and again from 1983 through the present time. Professor Wilkinson has been a regular teacher of the Federal courts, criminal procedure, and constitutional law courses.

In addition to his teaching responsibilities Professor Wilkinson has devoted much of his time to developing an impressive array of scholarly legal writings in his several fields of interest. In this way, Professor Wilkinson has enriched his analytical skills as a legal writer. This talent and ability will be of special importance to him as he seeks to write legal opinions that lucidly explain the rationale for appellate decisions that are designed, in significant part, to serve as guidance for Federal district judges.

Between his two periods of service on the faculty at the University of Virginia Law School, Professor Wilkinson served as the editor of a significant metropolitan daily newspaper and as a high-ranking official at the U.S. Department of Justice. Both experiences form an important part of the reasons why Professor Wilkinson is so well qualified to be a Federal court of appeals judge.

As the editor of the Norfolk Virginian-Pilot, Professor Wilkinson honed further his strong writing skills. This position required him to shift his focus from writing for a scholarly audience in the legal world to writing for a lay audience. I have no doubt that this exercise was a beneficial one for Professor Wilkinson's future as a writer of judicial opinions. Perhaps equally important, as an editor and an editorial writer, Professor Wilkinson

immersed himself in a wide variety of public issues that undoubtedly broadened his horizons in a manner that will make him a more well-rounded judge.

Serving as a Deputy Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice supplemented Professor Wilkinson's already impressive experience as a Supreme Court law clerk, law professor, and newspaper editor. At the Justice Department, Professor Wilkinson gained the new perspective of the branch of the Federal Government that executes and enforces the laws. It is an expertise that has served well several current members of the U.S. Supreme Court. Chief Justice Warren E. Burger, as well as Associate Justices Byron R. White, Thurgood Marshall, and William H. Rehnquist, all served in high-level positions at the U.S. Department of Justice before taking their seats on the Supreme Court.

In summary, Mr. President, as the Senator from a State that lies within the Fourth Circuit of the U.S. Court of Appeals, I am proud to be counted among those supporting the President's nomination of Professor Wilkinson to be a member of that court. As a member of the Judiciary Committee who voted in favor of his nomination, I found that Professor Wilkinson has the education, the background, and experience, and the ability as a thinker and a writer, to be an exemplary Federal judge. In the words of Justice Powell, "he is an exceptionally gifted legal scholar, and a compassionate and thoughtful human being."

I commend President Reagan for nominating J. Harvie Wilkinson III to the Fourth Circuit Court of Appeals. And I strongly recommend him to my colleagues for confirmation by the Senate.

Thank you, Mr. President.

I thank you, Mr. President, for the opportunity to speak on behalf of this very fine and distinguished nominee.

I yield the floor.

Mr. THURMOND. Mr. President, if anybody else wishes to speak, they now have the opportunity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I take the floor this afternoon to urge that the Senate not vote on the pending nomination of Professor Wilkinson until there have been further hearings before the Judiciary Committee to take up very important factors as they relate to Professor Wilkinson and the procedures and performance of the American Bar Association in their evaluation of Professor Wilkinson.

There are two interrelated issues as I see it. First is the issue of Professor Wilkinson's qualifications, and second is the independent issue of how the American Bar Association is performing the responsibility for reviewing judicial nominees. And that evaluation of the American Bar Association would be made in the context of the approval for Professor Wilkinson.

The position which I advocate is that there be a hearing on these important outstanding issues, and in pursuing this objective, I do not say that Professor Wilkinson is or is not qualified to be a judge for the Court of Appeals for the Fourth Circuit but only that there are vital questions to be answered as to his qualifications as it was found by the American Bar Association.

The questions which are raised relate to possible undue influence on the American Bar Association Committee. Those issues have already been addressed briefly by others who have spoken, and I will discuss them to some extent.

I take this position today, Mr. President, after having sought hearings in the Committee on the Judiciary before the vote on Professor Wilkinson was taken. The Committee on the Judiciary met in executive session on March 15, 1984, under an arrangement where there had been an agreement to vote on that day on Professor Wilkinson's nomination. I had not participated in any of the proceedings prior to that day and had been, in fact, prepared to vote on Professor Wilkinson when the matter came before the Judiciary Committee on prior occasions.

Shortly before the March 15 executive session of the Judiciary Committee, there appeared in the public domain the reports that there had been pressure on the American Bar Association by officials of the Department of Justice and a report that Supreme Court Justice Powell had called a member of the American Bar Association Evaluating Committee.

At the March 15 meeting of the Judiciary Committee, as the transcript shows, I said the following:

Senator SPECTER. Mr. Chairman, up until this morning I had been prepared to vote on this nomination on the prior occasions when it was listed, but I am concerned about what has been disclosed more recently about the American Bar Association's standards. There were very extensive hearings on a matter involving Mr. Sherman Unger. Senator Hatch presided at those hearings on about five days. Some of them started at the beginning of the day and went past six o'clock. I was very much concerned about what the ABA was doing, as was disclosed in the Unger proceeding. That matter did not come to fruition, unfortunately, because Mr. Unger died after we had had five hearings before this Committee. But I, for one, place great reliance on what the American Bar Association says. It is not possible for this Committee, for members to attend the sessions and really give the kind of attention to these individuals who come before the Committee. I think that many of us place a lot of reliance of what the ABA does. I believe that we ought to——

The CHAIRMAN. Senator, I have a letter from the ABA explaining all of it. I would like to take that up, if you would not object, at this time. I think that would satisfy your question.

Senator SPECTER. Well, Mr. Chairman, if I may just finish very briefly. I would be delighted to look at the letter. I have not seen the letter. It had not been made available.

My sense of this is that we ought to find out what the ABA is doing generally. This nomination is an important occasion to do it. So, I would join in the request that we do have a hearing, Mr. Chairman.

The CHAIRMAN. Thank you.

I might say that we do not have to act on what the American Bar recommends, but we do call upon them for recommendations. Now, as to how they go about it, they explain the whole thing here. I think I can give a brief summary here that will explain their position here. This is in response to a letter that was written by the distinguished Senator from Massachusetts——

Senator KENNEDY. I welcome the opportunity to discuss this. We do have the Prime Minister, who is addressing a joint session. Some of us are on the committee, the escort committee. We are requested to be there as of ten minutes ago. I think out of courtesy to the Prime Minister—I thought we would get to these discussions, but there were members who wanted to talk about the Meese nomination. I thought we would get to this discussion earlier today but——

The CHAIRMAN. Senator, this nomination has been here since November. You had ample time to get all the information you wanted. You agreed to vote today. We have the American Bar's statement as to how they go about this. We do not have to agree with them. We may disagree with the way they go about making their recommendations, but——

Senator KENNEDY. Is the Chair's position that——

The CHAIRMAN. Let me get through now. The point is they have set that out in full. Here are five or six pages from the American Bar explaining their whole procedure and explaining what they did here in this case. We are not bound by it. We can vote for him or against him. But it is really unfair to keep this nomination.

If the Senator from Pennsylvania wants me to go into detail with the American Bar procedure, we can do it; but it really does not affect the nomination . . .

Senator SPECTER. Mr. Chairman, my preference would be to have the hearing on what the ABA does before we vote on this man.

The CHAIRMAN. What differences would that make?

Senator SPECTER. Short of that, I would request the Chair would schedule hearings on what the ABA does, even if we vote on Mr. Wilkinson today.

A few days later, on April 5, I wrote to the chairman requesting the hearings. Somewhat later, after discussing the matter again with the chairman of the Judiciary Committee and with Senator DOLE, the chairman of the

Subcommittee on Courts, and with Senator BAKER, there had been a date set of May 17 to have a hearing on the ABA procedures. As I understood it, that hearing would have taken up what went on with Professor Wilkinson. When I sought to have certain witnesses appear at that hearing, Senator THURMOND responded that he had not anticipated that the hearing on the ABA procedures would take up the Wilkinson matter, and that he was not prepared to have a hearing on the ABA procedures intermixed with Professor Wilkinson.

I stated my position to Senator THURMOND, that I thought it indispensible that there be a hearing on the ABA procedures which did involve Professor Wilkinson, because otherwise it would be relatively meaningless to go into the ABA procedures in the abstract, without considering what was done in the case of Professor Wilkinson; and beyond that, if the Senate's constitutional duties regarding Professor Wilkinson were concluded, there would not be the same point or the same vitality in looking into what the American Bar Association had done.

Senator THURMOND responded that he was not prepared to have hearings before the Wilkinson matter was concluded on the floor of the Senate. I responded that it seemed to me that that was the appropriate course. That is why I am making this statement today, in an effort to see if some procedure can be worked out so that before we vote on Professor Wilkinson's nomination, we have a full scope Judiciary Committee hearing on the issues related to possible undue influence on the American Bar Association committee; because that directly bears upon whether the ABA approved Professor Wilkinson based upon the merits or whether the ABA committee approved Professor Wilkinson for some other reason.

In considering the nomination of Professor Wilkinson for a lifetime appointment to the Court of Appeals for the Fourth District, it is important to understand and articulate the distinction, at least as I see it, between the advise and consent responsibility of the U.S. Senate under the Constitution, where we deal with an executive appointment of an official who serves at the pleasure of the President, or whether we deal with a judicial appointment where the appointee serves for life, during good behavior, and where the appointee, for example, a man 39 years of age, as is Professor Wilkinson, would be likely to outlive many Presidents.

I, for one, believe that the Senate has a totally different advice and consent responsibility on judicial appointees. If we are talking about the confirmation of the nomination of a Cabinet officer, someone to serve on the team at the pleasure of the Chief Executive, to carry out his policies, to be terminated as the Chief Executive sees fit, that is one thing. But where we have someone as a member of the judiciary, in the independent branch of Government, given all the responsibilities for checks and balances, then it seems to this Senator that we have a different and a much higher line of responsibility in the discharge of our constitutional duty for advice and consent.

It is my view that there is enormous importance to the Federal judiciary and to the lifetime appointees who serve on the Federal judiciary.

I have a personal reverence for the constitutional Government of the United States of America and the rule of law which distinguishes our Nation from most other nations of the world.

As a youngster in the late 1930's, I grew up in the era of Adolf Hitler, when tyranny and despotism and the abolition of the rights of the individual were the rule of the day, as Hitler spread his sway over Europe. Speaking personally, it was at that time that I decided to become a lawyer, because of my concern for the protection of individual rights as the most important of all pursuits. It is a view I have carried with me in the intervening years to this day, as a lawyer, practicing law since graduation from law school in 1956, as a district attorney, as a member of the Committee on the Judiciary, and really for precisely the kind of issue which is before the Senate today and of which I speak today.

Under our system of law, Mr. President, the U.S. Constitution vests a position of preeminence in the judiciary. While we talk about three branches of Government, separate but equal, there is one branch of Government under our system which has reached preeminence for a number of reasons—three factors, essentially.

The first is that there must be one branch of Government which makes the final judgment. Not surprisingly, that authority has fallen to the judicial system in the United States, because it was the judicial system which found the first occasion to make the decision as to which branch would have the ultimate authority.

In Marbury against Madison, in 1803, the Supreme Court of the United States decided that the Supreme Court of the United States would make the final judgments as to what the Constitution meant. One would not expect the Supreme Court to decide that the ultimate power resided elsewhere. It was a logical decision, but it was their decision; and for the intervening 181 years, the United States of America has prospered, to become the greatest nation this Earth has ever seen, with the preeminence of the Supreme Court of the United States.

A second factor which gives preeminence to the judiciary is the fact of life tenure of judges. That has resulted in an extraordinary group of talented men and women who make up the Federal judiciary and who pass upon some of the most difficult matters and render some of the most important judgments that anyone is called upon to make in our Nation or, for that matter, in the world. They constitute a group of high intellect, of extensive educational background, of extensive experience, and of real commitment. There are few, if any, in the Federal judiciary who could not make much more money by practicing law or engaging in other pursuits outside of the Federal bench. They have chosen the bench for a variety of reasons. Prominent among them is the prestige which attaches to being a Federal judge, the life tenure, the independence in their ability to decide matters in accordance with their conscience. But that life tenure distinguishes them immediately from members of the executive branch, where the President runs for office and his appointees serve at his pleasure; from members of the legislative branch, where we run for office and serve at the pleasure of the electorate.

A third factor which I think has led to the preeminence of the U.S. judicial system turns on the difference in the constituencies, contrasting the judiciary with the executive and legislative branches.

The executive and Congress are designed to be political institutions. Both the President and Members of the Senate and Members of the House of Representatives must accommodate to public opinion and to popular will.

Our constituency is the electorate. The courts' constituency is the Constitution, and that makes an enormous difference in the view of issues and problems as they come to the executive branch or to the legislative branch, contrasted with the view where those problems come to the judicial branch.

The President must constantly seek the consensus and find the way to appeal to a majority of the voters as our President does quite properly in the year 1984. And all those who run for the Senate or the House of Representatives similarly seek a consensus, seek an accommodation on ways to win a majority of votes to retain the positions in the political branch.

But judges in the federal system have the opportunity, really the luxury, not to be concerned about what is the popular will, what will be approved, what will be disapproved. They can look to the principles of the Constitution, the principles of the statutes, and they can decide cases in accordance with the loftier objectives and the loftier pronouncements of the

law without seeking to accommodate to a consensus or the political factors.

We just celebrated this year, Mr. President, the 30th anniversary of Brown against Board of Education, where for the first time the law of the land held that discrimination was unconstitutional. It was in 1896 in the case of Plessey against Ferguson that the Supreme Court of the United States handed down the doctrine of separate but equal. And as we review the passage of time from 1954 until 1984, one must wonder how we could ever say that the Constitution of the United States was being enforced and the equal protection clause of the 14th amendment was being observed, when blacks were compelled to ride in the back of the bus, blacks were compelled to go to separate schools, and blacks were discriminated against in so many ways.

But I daresay, Mr. President, that if it were up to the executive or legislative branches of the Government of the United States or the executive or legislative branches of State governments where action could have been taken, it is highly likely and probable that even in the year 1984 segregation would still be the rule of law in this country if it had not been for the detachment and objectivity, perhaps bravery—maybe it is not bravery when those nine U.S. Supreme Court Justices have life tenure and can take a look at the Constitution and interpret it as they see it without regard to whether they will hold their office because people will be unhappy with them. They, simply stated, cannot be voted out of office.

The Supreme Court of the United States has handed down many, many decisions which have been unpopular, and they have handed down those decisions because of their unique status. After the fact, many who denounced the decisions as being tyrannical or a usurpation of power or inappropriate, or who called for the impeachment of those who sat on the Court, after a period of time there has been an accommodation and even the bitterest critics of the Supreme Court of the United States have come to see that the Court's judgments had merit.

For most of my professional life I have worked in the criminal law field, as assistant district attorney, later as a district attorney, and had very close connections with the evolving field of decisions by the Supreme Court of the United States on criminal law.

In 1963, the Supreme Court of the United States decided the case called Gideon against Wainwright where for for first time the Court ruled that any defendant who was hailed into court had, as a matter of constitutional right, the right to counsel.

I started practicing law in 1956 and I became an assistant district attorney in 1959. I was a short-term voluntary defender in 1958 at the time when the city of Philadelphia had a defender's office supported by the United Way as a public charity with five lawyers who sought to represent the indigent defendants in that county. Those lawyers, in an office which now numbers in excess of 100, could not begin to represent all of the people who appeared in the criminal courts, and it was only in the most serious cases that an attorney was provided on a voluntary basis and those attorneys were not very experienced and were hardly adequate or competent counsel.

But Pennsylvania, which has prided itself, and still does, on being a forward-looking State which accords appropriate regard to individual rights, had not seen fit to provide counsel to indigents who were hailed into court and were then tried, subject to the deprivation of their liberty. Only in murder cases, capital cases, was counsel provided at the expenses to the State, and that was done only because in Betts against Brady the Supreme Court of the United States had some years earlier required that.

But in Gideon against Wainwright the Supreme Court of the United States ruled that thereafter no one could be hailed into court, using Justice Black's language, without having an attorney provided for him by the State wherever the case could deprive him of his liberty.

And then, by the mid-1960's or late 1960's, we marveled at how we had gotten along in the judicial system for so long without according defendants their right to have a lawyer represent them.

In 1967 the Supreme Court of the United States decided a case called Gault, where for the first time the Supreme Court said that as a matter of due process of law juveniles were entitled to the same procedural safeguards which adults had, the right to cross-examination of accusers, the right to confrontation, the full panoply of rights absent only the right to jury trial.

In 1966 the Supreme Court decided the case—and this is the last Supreme Court case that I am going to refer to in this sequence—of Miranda against Arizona, and I do so because it is illustrative of a case which I thought was conclusively wrong, which hamstrung law enforcement and prosecutors and which was an absolute anathema, and notwithstanding my personal disagreement with the case it seemed to me as a matter of principle that there ought not to be a constitutional amendment which would change that judicial decision.

In Miranda against Arizona, the Supreme Court of the United States ruled that before a statement or confession by a suspect could be introduced into evidence in a trial the defendant would have to be given specific warnings by the law enforcement officials and make specific waivers. The defendant would have to be advised that he had a right to remain silent, that anything he said could and would be used against him in a trial, that he had a right to counsel, that he had a right to counsel appointed by the State if he could not afford one and if he started to speak at any time he could change his mind and stop speaking. After these warnings were given the Supreme Court ruled that there had to be an express waiver of the defendant regarding his right to each one of those constitutional rights.

The Supreme Court then decided a week later that no statement or confession could be introduced into evidence in any trial started after June 13, 1966, the date of the Miranda decision unless the defendant had been accorded his constitutional rights on those warnings and waivers prior to the time the statement or confession was obtained.

Now it was hardly possible to have someone given those warnings and make those waivers in the time prior to the Miranda decision, because no one knew, prior to June 13, 1966, what the Supreme Court was going to decide.

One case is illustrative, on a man named Hickey, who was arrested in Philadelphia and charged with murder on an incident which occurred in May 1966 where Hickey confessed. The police did not give Hickey the Miranda warnings because the Miranda warnings were unknown as of that date, were not known until approximately 1 month later. But after Hickey confessed, the police went to his apartment, found the gun, found the fruits of the taxicab robbery, and developed a case which showed conclusively that the defendant Hickey was in fact guilty of robbery-murder, murder in the first degree.

A month later Miranda came down. The Supreme Court said that no confession could be introduced unless the rights had been given on any matter which had not gone to trial prior to June 13, 1966. Hickey moved to suppress the confession and the fruits of the confession. The motion was granted and Hickey walked out scot-free.

The Miranda case imposed, as I say, extraordinary burdens on law enforcement and the retroactivity aspect of Miranda, in my judgment, made absolutely no sense. The Philadelphia district attorney's office filed petitions for reconsideration and sought review in the Supreme Court of this decision, and all to no avail.

When the National District Attorney's Association took up the issue of a possible challenge, some members of the National District Attorney's Association took up the issue of trying to amend the Constitution. It was my

view that we should not do so because, while we might disagree with a specific decision by the Supreme Court of the United States, in the long run the Court expressed the national moral conscience and ought to be observed; and we could get involved in the extended debate about whether the Court was legislating as opposed to interpreting, but somebody had to make that final decision on what was legislation and what was interpretation, and that ought to be the Court.

I speak at some length about Miranda and Hickey illustrative of the depth of the disagreement which I had with the Court on that position, but concluded that, in the history of the court, its procedures and its practices were so important on the final word that they ought to be respected whether or not any of us agreed with any of the individual cases which the Court decided.

It is against this background of my personal view that it seems to me that the utmost attention, analysis, and scrutiny ought to be paid to those who seek appointment and confirmation to the Federal courts of the United States. The Judiciary Committee has traditionally given great weight to the recommendations of the American Bar Association committee.

The ABA has established a committee with representatives serving in each of some 13 regions around the United States. Their recommendations are made to the Department of Justice. The Department of Justice conducts an investigation which includes an investigation by the Federal Bureau of Investigation going principally to the issue of character and, for all practical purposes, the American Bar Association review is the most emphatic item on the issue of qualifications of those who seek confirmation by the U.S. Senate.

The American Bar Association opposed the nomination of Sherman Unger, Esquire, a matter which came before the Judiciary Committee last fall. The ABA was very firm in its opposition to Mr. Unger and very stern in its pronouncement that the highest standards had to be observed. Notwithstanding the President's appointment of Mr. Unger, the ABA contested Mr. Unger's qualifications in very extensive proceedings before the Judiciary Committee.

I participated in those hearings, which were some five in number and lasting very protracted periods of time. One of them started about 9 a.m. and went until past 6 p.m. And it was more than a hearing on Mr. Unger, it was really a trial or a series of trials on quite a number of activities of Mr. Unger, on his professional life.

Unfortunately, Mr. Unger died before the hearing process was concluded, before the committee had made a recommendation or decision.

It was in sharp contrast to the kind of a practice which characterized the American Bar Association's activities as to Sherman Unger that the ABA has apparently performed when it has come to Professor Wilkinson.

There is a wide variety of material in the file on the subject of contacts with the members of the American Bar Association Committee. One of the contacts was made by a Justice of the Supreme Court of the United States, the Honorable Louis F. Powell, Jr. There was an inquiry made by Senators KENNEDY, BIDEN, and METZENBAUM of Justice Powell. Justice Powell responded by letter dated March 12, 1984, as follows:

Gentlemen, this is in response to your letter of March 9, received by me at about 4:30 p.m.

The press reports I have seen are substantially accurate as to my conversations with three members of the ABA Judiciary Committee. It also is true that Mrs. Powell and I have known the Wilkinson family well for many years.

Mr. James Howard, a Committee member from my state of Virginia, called me last summer and asked my opinion as to the qualifications of J. Harvie Wilkinson, III, who clerked for me here. I responded favorably, noting the difference in the qualifications appropriate for a District Court judge and those for a Circuit Court Judge.

Mr. Lane, the Committee member for D.C., called me later (in November, I believe). As I recall, he stated he was calling me as a Virginian, and because of the negative report from Mr. Howard. I repeated the substance of what I had said to Mr. Howard. Also, responding to Mr. Lane's inquiry, I agreed that my name could be used. I wrote Mr. Howard informing him of Mr. Lane's call.

I was concerned by what Mr. Lane had said about the report from my state. This prompted me to call Gene W. Lafitte, of New Orleans, on my own initiative. Mr. Lafitte is a Committee member and friend with whom I have been associated in the American College of Trial Laywers. In a brief conversation with him, I told him of Mr. Lane's call, and repeated my view as to the qualifications of Mr. Wilkinson. I did not inquire where he stood; nor do I know how he voted.

I have had no other occasion to speak to members of the Committee. It is, of course, not unusual for federal judges to be asked their opinion as to the qualifications of persons under consideration for appointment to the federal bench.

In view of your inquiry and your proper interest in Mr. Wilkinson's qualifications, I can say with confidence that of the some 45 fine clerks I have had in my 12 years on the Court, J. Harvie Wilkinson, III, ranks among the best. He is an exceptionally gifted legal scholar, and a compassionate and thoughtful human being. In my opinion, he is fully qualified to serve on a Court of Appeals.

Sincerely,

—what appears to be the signature of Lewis F. Powell, Jr., addressed to Senators BIDEN, KENNEDY, and METZENBAUM, Committee on the Judiciary, U.S. Senate, Washington, D.C.

In my own personal opinion, Justice Powell has every right to express an opinion about Professor Wilkinson or anyone else. But in a context where, as outlined in Professor Wilkinson's letter, there had been a negative report from the first person who evaluated Mr. Wilkinson, where there was later an affirmative report, where there was an issue as to the procedures before the ABA, and where Justice Powell, as he puts it, on his own initiative called a member of that committee, then I believe that Justice Powell ought to respond like any other citizen to questions in a hearing conducted by the Committee on the Judiciary.

There is obviously some reason to believe that there has been a shift of position by the American Bar Association committee, as the committee has reviewed the qualifications of Mr. Wilkinson.

There were other allegations as to contacts made by representatives of the U.S. Department of Justice. Part of that is included in the letter from Mr. Frederick G. Buesser, Jr., chairman of the American Bar Association committee.

Mr. President, since the full context of the letter has been printed in the Record earlier today, I intend to read only a portion of it.

On page 5 of the letter to Senator THURMOND, copies to Senators KENNEDY, BIDEN, and METZENBAUM, Mr. Buesser writes as follows:

You have also expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case there was only one vote taken. At about the time the Formal Report was circulated to the Committee, several Committee members called me in accordance with our practice to advise that they had received telephone calls on behalf of the candidate. I was personally concerned that it had apparently become known that the investigating Committee members were not in agreement and that a vote was being taken. I took up that concern with The Justice Department. I'm convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply this to the investigating Committee members. The members of the Committee are experienced in the handling of this kind of information and indeed welcome it. In this particular case, it was the timing of these calls which was objectionable.

According to press reports, telephone calls were made to the members of the committee by Deputy Attorney General Edward Schmults and by Assistant Attorney General Jonathan Rose. It is my personal view that there ought to be a thorough inquiry into all contacts made between anyone and any member of the American Bar Association committee which was passing on Professor Wilkinson given the underlying facts of this case—that one representative of the committee found Professor Wilkinson unqualified, then

a second member found him qualified, and that there was some disagreement among the committee as to his ultimate status on their report. At page two of Mr. Buesser's letter he points out: "The report was circulated to all members together with the differing opinions of the two circuit members. A substantial majority of the committee found Mr. Wilkinson qualified; a minority found him not qualified."

In the context of Mr. Buesser's statement that there was an objectionable feature to these calls—being the timing—I believe that the Judiciary Committee has an obligation to find out the underlying facts, and it may well be that there was something more objectionable than just timing.

There have been reports that Mr. Buesser summoned individuals who had been applying the information, if not pressure, and told them to cease and desist. But the procedures involved in this case by the American Bar Association, Mr. President, bear very directly upon whether the ABA followed the appropriate practices in its judgment on Professor Wilkinson.

There may be others who will speak about the qualifications of Professor Wilkinson. I am not prepared to do that at this time because I believe our record is incomplete as to Professor Wilkinson's qualifications.

Some may say that the Senate may make its judgments regardless of what the American Bar Association may do. That may be true, if in fact there were procedures established in the Senate to make the kind of in-depth, independent investigation which could lead the Senate to determine the question of qualification.

But I submit that is not in fact done; that there is great reliance placed upon what the American Bar Association committee does, and that both of the questions are of tremendous importance. Before we pass upon the qualifications of Professor Wilkinson, we need to know what anyone said to all of the members of the ABA committee which passed judgment—whatever their rank may be, whether they be Supreme Court Justice Powell, or the Deputy Attorney General of the United States, or the Assistant Attorney General of the United States, or whoever they may be—to decide whether the conclusion by the ABA committee was the result of undue influence or not. This matter is of great importance in evaluating what the ABA has been doing, what we may expect the ABA to do, so that the Judiciary Committee can decide, or at least I as a member of the committee can decide, what reliance if any to place upon the committee's recommendations in the future.

Mr. President, there is an article of some significance on this subject raising allegations, which is worth commenting on briefly, as it appeared in the Washingon Post on March 15, 1984.

It is reported in some greater detail on some of the surrounding circumstances to Mr. Buesser's letter. The Post article recites as follows:

> In a letter this week to the three Democrats, Buesser said he became "personally concerned that it had apparently become known that the investigating committee members were not in agreement and that a vote was being taken. I took up that concern with the Justice Department."
>
> Buesser said he also complained to Justice that several committee members had received telephone calls, timed to coincide with the secret ballot, urging approval of Wilkinson. "In this particular case, it was the timing of these calls which was objectionable," Buesser said.
>
> Former deputy attorney general Schmults said yesterday that he was the Justice official to whom Buesser complained. Schmults also acknowledged that he and Rose had made calls to several committee members, mentioning the fact that Howard and Lane were split on Wilkinson's qualifications for the bench.
>
> "I regretted that and I wrote that to Buesser," Schmults said. "How they, (the two investigators) were leaning should be confidential."
>
> Schmults said he and Rose made the telephone calls because they had not been consulted by the ABA investigators on Wilkinson's qualifications. Wilkinson served from 1982 to 1983 as deputy assistant attorney general under the two men.
>
> "We were surprised," Schmults said. "We had worked with Jay a long time and had a good idea of his qualifications. . . . We did no more than give (the committee) additional information so they could make a better decision."

Mr. President, little is generally known about the scope and importance of a judge of the court of appeals. Those of us who had occasion to practice before the courts of appeals may have some knowledge, but even in the U.S. Senate where we deal with lawmaking and where many of us are members of the bar, relatively few of us have had recent occasions to appear in courts of appeals, and certainly with our workload, we have no occasion to be conversant with the scope, the depth, and the importance on a continuing basis of the decisions which courts of appeal judges make.

For purposes of illustrating the great importance of this position and the kind of care and attention which I submit we ought to be giving to it, I will refer to a number of such decisions which have been decided on a 2-to-1 basis. As the Presiding Officer knows, the practice of the courts of appeals is to sit in panels of three, and decisions are made on the basis of 2-to-1 votes in many, many cases, hearings before the courts of appeal en banc which may consist of nine or more members being a relatively infrequent occurrence.

One circuit court judge, therefore, has the power to make final decisions in cases of great importance and in cases where the circuit court, for all practical purposes, is the final reviewing court, where the circuit court is not reviewed by the Supreme Court of the United States which takes, by certiori or appeal, a very limited number of cases.

Mr. President, in a case of great significance decided earlier this year, January 18, 1984, by a 2-to-1 decision, the Court of Appeals for the Second Circuit decided a case involving very important first amendment rights. The case is captioned *Securities and Exchange Commission* v. *Lowe*, reported at 725 Fed. Reporter, 2d series, page 892.

In that case, the Securities and Exchange Commission sought an order enjoining the publisher of investment material and the corporations he controlled from continuing to publish such materials. The U.S. district court, Judge Weinstein presiding, had found that the Investment Advisers Act could not be construed to permit the SEC to revoke the investment adviser's registration and thus bar him from publishing his newsletters without violating the U.S. Constitution.

An appeal was taken. The court of appeals, by a split 2-to-1 decision, held that, first, the investment adviser's newsletters were subject to the registration requirement of the act, and the authority to revoke the investment adviser's registration, and, as a result, bar him from publishing his newsletters did not violate the first amendment.

In a case of great importance involving the Civil Rights Act, decided by the Court of Appeals for the Third Circuit, rehearing denied February 9, 1984, this year, in a case captioned *Lewis* v. *University of Pittsburgh*, reported at 725 Federal, 2d, 910, a black female had brought an employment discrimination action against the university and the university bookstore on the ground that she was denied promotion because of race.

The district court rendered a judgment in favor of the defendants, and on appeal, by 2-to-1 split decision, the Court of Appeals in the Third Circuit ruled that the civil rights statutes all require the showing of "but for" causation in employment discrimination suits, and that it was not enough for plaintiff to show that race was a "substantial" or a "motivating" factor leading to the defendants' decision not to promote her, and that the jury was properly instructed on the correct test to be employed in determining employment discrimination, notwithstanding that instruction referred to race in terms of "the determinative factor."

Obviously, that case, distinguishing "but for causation" from "substantial" or "motivating factor," was decided, in effect, by a single court of appeals judge having the effect of ruling law

over a great area with millions of people in this country.

An important decision was handed down interpreting the Fair Housing Act by the Court of Appeals for the Fourth Circuit on January 6 of this year, as reported in 724 Fed. Reporter, 2d series, page 419. In that case, a black insurance agent, Charles E. Mackey, sued Nationwide Insurance Co., challenging redlining practices as a violation of the civil rights laws, the Fair Housing Act, and also the antitrust laws.

The district court dismissed the complaint, and the court of appeals held that the antitrust claims were barred by the McCarran-Ferguson Act, that the agent lacked good standing to attack redlining practices under the Civil Rights Act, and the Fair Housing Act did not deal with the issue. There, again, a matter of great importance decided, in effect, by one circuit judge.

The anti-obscenity statute, first amendment rights, were involved in a case captioned J. R. Distributors, Inc. against Eikenberry, decided by the Court of Appeals for the Ninth Circuit, as reported in 725 Fed. 2d, 482, where challenges were brought to the anti-obscenity statute of the State of Washington and the district judge concluded that the statute was constitutional. The U.S. District Court for the District of Washington upheld the statute, and appeal was taken. The court of appeals, by a 2-to-1 decision, ruled that facial challenge was proper, that there was no basis for abstention by the Federal courts, that the definition of "prurient," which included "lust" was unconstitutional, and that the provision of the statute imposing a fine based upon all sales from places where moral nuisance occurred, including sales of protected material, was unconstitutional. That question again was decided by a single judge.

The U.S. Court of Appeals for the District of Columbia, in a case captioned "NAACP Legal Defense and Educational Fund, Inc., et al., v. Donald J. Devine, Director, U.S. Office of Personnel Management," decided a case with substantial first amendment issues. There, the Legal Defense Fund brought suit alleging that an executive order unconstitutionally excluded them from participating in a charitable fundraising drive involving Federal employees and military personnel. The district court held that the exclusion of legal defense funds from designated contribution portion of a fundraising drive was unconstitutional, and the appeal was taken.

The Court of Appeals for the District of Columbia Circuit, again by a split decision, 2 to 1, held that the Government's restrictions on which charities could participate in fundraising drives involved restrictions on first amendment activity and the Government's exclusion of the Legal Defense Fund from fundraising drives was not reasonable. Therefore, whether or not the drive was a public forum, the action therein violated the first amendment.

Mr. President, I see my distinguished colleague, the Senator from New Hampshire (Mr. RUDMAN) has arrived on the floor. While I have a long list of cases and substantially more to say, in deference to my—I was about to say learned colleague, but I shall not, since he is not a judge. That is an appellation given by judges to judges and for judges. A more appropriate designation in this body is distinguished, and he genuinely is. At this moment, I yield the floor.

I thank the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I thank the Chair, and I thank my friend from Pennsylvania.

I rise somewhat reluctantly to speak on this issue because, quite frankly, I do not enjoy opposing any nomination of an individual who, in my view, is of high personal character, great integrity, and unquestioned scholarly ability. But I do rise today, and although I do subscribe generally to the comments that were made here by my friend from Pennsylvania, I rise today for reasons other than what we have heard so far.

It seems to me that what the American Bar Association wants to do or not do is important. It seems that what standards they apply to one class of Americans as opposed to another class of Americans might be important. And I think it is also of great interest to this body how pure or sterile, if you wish, the appointment, nominating, and lobbying practices are in what is supposed to be some sort of very pure and impartial evaluation by the American Bar Association. That would be very interesting to look into, and I could talk about that. But, Mr. President, it seems to me that there is something in this particular nomination which is much more basic than that.

Anyone who has practiced law, who has appeared before appellate courts, trial courts, or the U.S. Supreme Court, as I have had the privilege to appear, ought to have some personal standards to apply to one who is nominated to a position as lofty as that of a judge on the U.S. Circuit Court of Appeals for the Fourth Circuit. That circuit, encompassing Maryland, the Carolinas, West Virginia, and Virginia, is, as are all of our circuits, a very important circuit court of appeals.

As the distinguished Senator from Pennsylvania alluded to a few moments ago, in many instances, the decisions that are made are made on the closest margin of all, a 2-to-1 margin. What is generally not known to most people who do not practice law is that a great number of issues of great importance to this country have not been decided by the U.S. Supreme Court. In many cases, those cases are decided by circuit courts. In most cases, the writ of certiorari applied for at the U.S. Supreme Court is denied so that the decisions of the Circuit Court of Appeals stand.

Therefore, it is important to consider the importance of the nominating process for an appointment to the circuit court. I, for one, apply totally different standards to a nomination for life to the Federal court system than I would to that of a nomination by the President of the United States for someone on his personal staff or as a Secretary who would serve at his pleasure. The reason I have a different point of view is fairly simple. I think a President of the United States should be given the benefit of every doubt as it pertains to the kind of people that he wants to carry out and implement his policies.

But, Mr. President, when we appoint someone to a circuit court of appeals, or any other Federal court for that matter, we are putting someone on the bench for life who will, no doubt, decide hundreds and hundreds of cases involving the lives of Americans and, in the case of Professor Wilkinson, at the very young age of 39, for many, many years to come. So I think, when you come down to that kind of nomination, each Member of the Senate ought to apply his or her own personal standards to that judicial nominee.

Really, Mr. President, it is a copout to rely on the ABA. Anyone in this Chamber who has spent any amount of time in the courts ought to have some personal standards. I have mine, and I would like to discuss this gentleman's qualifications.

First, let me stipulate so there will be no misunderstanding that, from what I have learned of this nominee, he is of the highest character, of superior intellect, no doubt a legal scholar, and probably has a very bright future in teaching and possibly in the courts—certainly in the courts if he is confirmed by the Senate. So there need be no argument from this Senator as to whether or not this gentleman is of good character and of very, very high intellectual capability. But let us look at what he has done.

One of my colleagues on the floor earlier compared this gentleman to Justice Frankfurter, a comparison to which I think even Professor Wilkinson would probably blush if he were in the gallery.

This gentleman's qualifications are quite unusual. He graduated from a very fine law school. He was an editor of a newspaper for 3 years. He spent a little over a year as a Deputy Attorney General of the United States in the

Civil Rights Division of the Justice Department. During that time, according to my information—I will be very happy to be corrected if I am wrong—he appeared in the courtroom once, and that was for the purpose of filing a motion. That has been his only courtroom appearance ever in a district court or a circuit court of appeals or U.S. Supreme Court. He clerked for a year for a U.S. Supreme Court Justice, which is certainly excellent experience. And for approximately 6 years, Professor Wilkinson has been a law professor of high ability at the University of Virginia Law School. Those are his qualifications.

Now, there are those who might say that being a legal scholar alone qualifies you for the appeals court, be it circuit court of appeals or U.S. Supreme Court. In certain circumstances that is probably true, but in the case of most of those who have gone to the court via that route I can think of none that I know of, including Justice Breyer in the first circuit, who did not have extensive court experience at some time including circuit court of appeals experience and in the case of Professor Breyer, now Judge Breyer, he, of course, was at the Harvard Law School for a great number of years and had achieved a national reputation in certain areas of constitutional law.

In the case of the late Justice Frankfurter, he was a legal giant when appointed to the U.S. Supreme Court. He was an adviser to Presidents; he was probably one of the greatest intellects of any man or woman who ever practiced law in this country, and he was in a special category.

When you start looking at all of the others who have been appointed to the circuit over the past 20 years, what you find are people with extensive experience practicing law, being judges at lower courts or in some cases practicing law and going directly to the circuit court.

Now, why do I think this experience is so important? Judges do not decide cases in a vacuum, particularly circuit court judges. In many cases they are examining procedure and courtroom conduct, and they are reviewing the practices of trial judges and trial lawyers. I do not think it is possible to sit as a circuit court of appeals judge and do that kind of thing, no matter how great your intellect, if you have not been in the arena, and this nominee has not been in the arena.

Mr. President, I am not particularly concerned about whether the American Bar Association likes him or not. I have never been terribly impressed by the ABA in many ways. They are, after all, the lobby for lawyers, mainly corporate lawyers, and they have their internal politics and we who know anything about the ABA, at least in this Senator's viewpoint, take what they might do or say with a grain of salt.

There is a very interesting record in this particular nomination as to how they finally arrived at their conclusion. I hope that the chairman of the Judiciary Committee will have a hearing someday on that, aside from this nomination, because the American Bar Association either ought to be conducting a fair, detached, neutral, and impartial investigation of these nominees or none at all. If we want to subject nominees to lobbying, let them be nominated directly because people know how to lobby around this place very well. We do not need any intermediary screens. But as far as this nominee is concerned, we need not get to the question of whether the American Bar Association approved him or once approved him and once disapproved him. We need not get to the question of whether he is of high character. He obviously is. We do not have to debate what his intellect is. We can stipulate to that. What no one can say about this nominee is that he has any of the kinds of experience needed to decide the kinds of cases and the kinds of causes that will come before the very important Fourth Circuit Court of Appeals.

Mr. President, I hope, if a motion is made to send this back to committee for further study and further hearings, my colleagues will support it because it seems to me we would be setting a very important precedent of putting someone on a high Federal bench with so very little experience in the true life of the law. That is what this particular nominee, in fact, lacks.

Mr. President, I see no one else ready to speak at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, we are not trying to rush anyone who wants to speak. If there are any other speakers, though, we will be glad to hear from them. If there are not, I think we could proceed to a vote on this nomination.

Mr. RUDMAN. Will the chairman yield?

Mr. THURMOND. I am very pleased to yield to the able distinguished Senator from New Hampshire.

Mr. RUDMAN. I simply advise the chairman that I know of three other Senators who intend to speak and intend to do so in the very near future. I would suggest that it might be a good idea to continue the quorum call and I will make every effort to make sure that Senator SPECTER, who has taken a lead in this particular matter, tells those people to get to the floor because I concur with the chairman.

Mr. THURMOND. The Senator from Massachusetts (Mr. KENNEDY) was to be here at 2 o'clock to speak against, and I have not seen him. Has the Senator seen him?

Mr. RUDMAN. The Senator from Massachusetts was here, and I believe it was agreed that the Senator from Pennsylvania would proceed first and then the Senator from Pennsylvania asked if I would follow him. I believe the Senator from Massachusetts does intend to be present shortly to speak, as does the Senator from Maryland.

Mr. THURMOND. I wonder if the Senator will tell the others we are ready to proceed; if they are ready to speak, we will be pleased to have them come forward.

Mr. RUDMAN. I think the chairman has a point well taken.

Mr. THURMOND. We would be glad to extend every courtesy to them.

Mr. RUDMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, this is a difficult debate. It is not a debate that any of us have welcomed.

It is a debate into which I enter with reluctance but with some sense of obligation.

If, at the conclusion of this debate, there is to be a motion to recommit the nomination of J. Harvie Wilkinson III to the Judiciary Committee, I will be forced to support it, because in my judgment the nomination of Professor Wilkinson to serve on the U.S. Court of Appeals for the Fourth Circuit is not ripe for Senate action.

I say this out of a very personal sense of responsibility, because, Mr. President, I was the only member of the Committee on the Judiciary who was present at the time Professor Wilkinson first appeared before the committee. I must say to the Senate that he made a very favorable personal impression on me. He is clearly a man of intelligence. He is a man with command of the language. He is a man who has knowledge of the law.

The favorable impression I gained of him is fortified by the fact that during that hearing, by coincidence, my friend, my mentor of long standing, the late Clarence Mitchell, Jr., was present. He commented to me after the hearing that he thought Professor Wilkinson's answers to the questions that were propounded to him were reasonable; to my best recollection,

reasonable was the word he used to describe them.

The difficulty is that that hearing occurred before a number of the allegations that have since been made had come to light.

I feel that I personally have some responsibility to the Members of the Senate to repeat here as I have done previously the request that there be 1 more day of hearings on this nomination. At that hearing, all of these allegations, which were not examined when Professor Wilkinson was before the committee, should be raised. Now there may be adequate answers to them. There may be complete explanations to every charge. But we will never know unless we have that hearing.

Few duties of a Member of the Senate are more important than the consideration of nominees to the courts of the United States and certainly to the courts of appeals, one level below the Supreme Court of the United States itself.

The decisions of the men and women who serve on the 13 courts of appeals stand in all but the most exceptional cases as the law of the land. Last year the circuit judges decided nearly 29,000 cases and fewer than 1 percent of these will ever be reviewed by the Supreme Court. As a practical matter, it is upon the judges of the courts of appeals that Americans must depend for fair, evenhanded and impartial justice. Accordingly, the Senate has a duty to scrutinize with great care the qualifications of those whom the President nominates to serve with life tenure as the judges of these courts. The only reason that I am on this floor today is that I have a conviction that we have not yet discharged that duty.

Of course, the people of Maryland have a particularly strong interest in the bench of the Court of Appeals for the Fourth Circuit. These judges will decide cases arising from the district courts in Maryland as well as the district courts in Virginia, West Virginia, North Carolina, and South Carolina. It is a busy circuit. Last year the fourth circuit decided nearly 2,300 cases. During the same period only 21 of the fourth circuit's decisions were granted review by the Supreme Court.

For the people of Maryland, the members of the bar of Maryland, and for their clients, the confirmation of a nominee to the Court of Appeals for the Fourth Circuit is an event very nearly as important as the selection of a justice of the Supreme Court of the United States.

I think these statistics make it clear that this is a nomination of almost unsurpassed significance. Before the Senate acts upon it we must have before us a full record on the fitness of J. Harvie Wilkinson III to serve as a judge of the U.S. Court of Appeals. As we take up this nomination today, that record is not complete. We should stay our hand until the record is complete.

Now, it will be said I am sure, "Well, the committee held two hearings," the first one, at which I was present, took place on November 16, 1983, which was just a few days after the President nominated Professor Wilkinson. A second hearing was held on February 22, 1984, at which representatives of several groups testified largely in opposition to the nomination and mostly on the grounds of the nominee's inexperience.

Professor Wilkinson was present at the hearings, and though he did not appear as a witness he did make a few brief remarks which appear on the record.

Since that second hearing, a number of allegations have arisen that relate to Professor Wilkinson's qualifications for the post for which he has been nominated. Most of these allegations concern the circumstances surrounding the favorable recommendation on the Wilkinson nomination by the Standing Committee on the Judiciary of the American Bar Association.

Questions have been raised about the nominee's role in obtaining this recommendation and about the part played by officials of the Justice Department in the events leading up to the vote on this matter by the Standing Committee of the American Bar Association. Since other members of the Judiciary Committee have spread upon the record the details of these allegations, I am not going to repeat them here, but I think that Senators will agree that they do raise questions of substance that ought to be answered before the Senate gives its consent to the nomination.

As I said before, there may be entirely satisfactory answers to the questions that now surround Professor Wilkinson's nomination. But we shall never know if we do not have the chance to ask, and, as of this moment, we have not had that chance.

Twice since the Judiciary Committee reported this nomination, I have asked our distinguished chairman to schedule 1 additional day of hearings on the nomination of J. Harvie Wilkinson III. I understand that at least six other members of the committee, representing both sides of the aisle, have made similar requests. Regrettably, none of these requests has been granted.

I take this opportunity to urge once more the chairman of the committee to grant that additional day of hearings. It will not involve a long delay. The bench of the fourth circuit has waited a long time. No one is more anxious than I to see the vacancy filled.

But I do not believe that 1 day of hearings will be a significant delay, and that 1 additional day of hearings should eliminate the unsettling possibility that Professor Wilkinson might ascend to the bench of the Fourth Circuit Court of Appeals under the cloud of unexamined and unanswered allegations.

There is a question of fairness at stake here, not the least of which is fairness to the nominee. To act without another hearing would not reflect well upon the ability of the U.S. Senate to discharge its constitutional responsibility to advise and consent, and I do not believe that it would serve the best interests of millions of Marylanders, Virginians, West Virginians, North Carolinians, and South Carolinians.

Citizens in each of these five States are following these proceedings with particular interest. They have a vital stake in the selection of a judge who, for a long time to come, if we can believe the actuarial tables, will have the final word in resolving many of the legal controversies in which they may become embroiled.

They are depending on us to give this nominee's qualifications the objective scrutiny and the thorough examination that is required by the Constitution. They are depending on us to resist any temptation to render a verdict before all of the evidence is in. They are counting on us to do our job responsibly and on the basis of a full and complete record.

If we plunge ahead, if we make a premature decision, if we dispose of this nomination without the deliberation for which the Senate was, in times past, famous, we will of course have succeeded in clearing the Executive Calendar before we all scatter for a recess for Memorial Day. We will have cleared the calendar, but will we have cleared our conscience? Because we know we will have disappointed the hopes of those of our citizens who have the most legitimate interest in the outcome of this issue.

As between those competing considerations, we should not find it very difficult to choose. Therefore, if our urgent and sincere request for further hearings is not granted, I see no alternative but to attempt to send this nomination back to committee by a vote of the Senate. It is not a desirable route, but I think it is the only course that we can honorably follow.

Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

Mr. BAKER. Mr. President, no one is speaking at the moment. I hope that we shall go on with the debate on this nomination. I have no prediction on this side. There is no intention of moving off it at the moment. I urge and encourage Senators who wish to do so to come to the floor and make their remarks as soon as possible.

May I say also, Mr. President, that I anticipate that the Senate will be in session a while today. There are a number of reasons for that, but this Senator anticipates that we shall be here at least until 7 p.m. and perhaps later than that.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, with regret, I shall not support this nomination. To me, courts of appeal to which one is appointed for life should be comprised of persons who have had experience in trial courts. The very nature of the intermediate court in our judicial system is to assure that the conduct of trials at the first level are consistent with our Constitution, laws, and judicial procedure. That process, in my opinion, should be assured by appointment of persons to the courts of appeal with at least some experience in the trial courts.

I applaud the President for nominating younger persons to the appellate courts, and I congratulate the Senators from Virginia for pursuing the confirmation of their nominee.

But, somewhere each of us must draw a line. I have practiced before courts of appeal. And I have spent lots of time in trial courts. I cannot support the confirmation of a nominee to the court of appeals who has neither practiced in or been a judge on a trial court.

Mr. THURMOND. Mr. President, I notice the distinguished ranking member of the Judiciary Committee just came on the floor.

I would like to say to the Senator, we are on the Wilkinson nomination, as he knows, and we have been on it for several hours. We have been wasting a lot of time waiting on speakers. Could the Senator be of assistance to us to try to get some speakers?

Mr. BIDEN. I can be of assistance to suggest we go off the nomination.

I apologize for not having been present. I have been in the Intelligence Committee with Senator LUGAR the entire afternoon on the intelligence budget. I know that Senator KENNEDY has a keen interest in this, as does Senator METZENBAUM.

I will be happy to make a call to both. I do not know where they are. I just walked on the floor a few minutes ago.

Mr. THURMOND. We are ready to vote, but we want to extend every courtesy we can. So if they wish to speak, would the Senator please tell them to come over now; we are ready to vote.

Mr. BIDEN. I will be happy to make that communication with the assistance of the minority staff to see where they are. I have not the slightest idea.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I observe that the distinguished Senator from Massachusetts (Mr. KENNEDY) is in the Chamber. We have been waiting some time for him to speak, and I am very glad he is here. If the Senator is ready, we can go ahead.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I inquire of the distinguished Senator from Massachusetts if he desires to talk on this nomination. If not, we are ready for a vote.

Mr. KENNEDY. Mr. President, I believe a quorum call is in progress.

The PRESIDING OFFICER. There is a quorum call in progress.

Mr. THURMOND. I think it was called off.

The PRESIDING OFFICER. The Senator from Massachusetts put the quorum call back. There is a quorum call in process now.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I strongly support the position of my colleagues who have spoken here today, the Senator from Pennsylvania and others, that there should be another hearing in the Senate Judiciary Committee on the nomination of J. Harvie Wilkinson III to be a judge on the Fourth Circuit Court of Appeals.

This nomination is not ready for action by the Senate. The record on this nomination is not complete, and the Senate has the responsibility to assure that it does not vote on a nomination until a complete record is before this body.

Last Thursday, May 17, I put materials into the CONGRESSIONAL RECORD concerning this nomination. I hope that all Senators have had the opportunity to review those materials before voting on the motion to recommit.

The Wilkinson nomination presents four fundamental questions:

Should the Senate confirm a nominee to the circuit court of appeals who has zero trial experience and who would be the least experienced judge in the history of the courts of appeals?

Should the Senate confirm a nominee who apparently orchestrated a lobbying campaign to influence the votes of members of the ABA Standing Committee on the Federal Judiciary, who were supposed to be evaluating the nominee on his merits?

Should the Senate confirm a nominee who does not meet the standards for appointment which have been applied inflexibly to disqualify women and minority candidates for judicial appointment?

Should the Senate confirm a nominee who is under a cloud of disturbing allegations and unanswered questions, when another hearing on the nomination would either put the questions to rest or make clear that the nominee is not suited to be a Federal appellate judge?

Serious issues about the qualifications and judicial temperament of J. Harvie Wilkinson III were first raised at the second hearing on the nominee and in subsequent published reports. These issues include the procedures used by the American Bar Association's Standing Committee on Federal Judiciary to evaluate Mr. Wilkinson, and the role of the Justice Department, the nominee himself, and others in the evaluation process.

The initial confidential indepth investigation of Wilkinson by the ABA committee member for Virginia assigned to carry out the investigation raised numerous concerns about his qualifications. Under the committee procedures, a second member was then named to assist in the investigation. A single formal report was prepared for the 14-member committee, with the first investigator concluding that Wilkinson was "unqualified" and the second investigator finding him "qualified."

Wilkinson has zero trial experience. If confirmed, he would become the first judge to take a seat on a circuit court of appeals with no trial experi-

ence since these appellate courts were first created in the 19th century.

A double standard is being applied by the ABA committee for the benefit of Wilkinson. During the previous administration, the committee guidelines on trial experience were enforced inflexibly to disqualify women and minority candidates who actually had substantial trial experience. Two cases illustrate the point:

First, Carin A. Clauss was the Department of Labor Solicitor responsible for supervising the litigation of the Department's 300 attorneys. In a preliminary finding, she was rated "unqualified" by the ABA to be a Federal district judge and her nomination was not submitted to the Senate.

Second, Joan Krauskopf, a member of the bar for 20 years, had been in private practice in Colorado, had supervised a legal aid clinic in Missouri, and had handled cases as a court-appointed attorney and in a pro bono capacity. After an initial investigation, she was rated "unqualified" by the ABA to be a Federal appellate judge for the eighth circuit, and her nomination was not submitted.

Mr. Wilkinson, who was admitted to the bar in 1972, in fact has fewer years as a member of the bar than any circuit court nominee from the creation of the circuit courts of appeal in 1891 through the end of 1980. And 3 of those years were actually spent outside the field of law, as an editorial writer for the Norfolk Virginian-Pilot newspaper. In an editorial of July 29, 1983, the Virginian-Pilot opposed the nomination.

I and other Senators on the Judiciary Committee have made repeated requests for more than 2 months to have another hearing on this nomination. Indeed, if our early requests for another hearing had been agreed to, and if our questions about Mr. Wilkinson had been satisfactorily answered, we might be ready to confirm this nominee now. Sadly, this has not occurred. Instead, the serious allegations and questions about Mr. Wilkinson's fitness to serve as a Federal judge remain unanswered.

The most disturbing allegations are the following:

Officials of the Justice Department obtained and improperly divulged the results of the confidential ABA investigation to the nominee, informing him that the ABA investigation committee members were in disagreement, that a vote was about to be taken by the committee, and that his approval by the committee was in jeopardy.

The nominee used the information improperly obtained from Justice Department officials to organize an intensive lobbying campaign on his behalf to persuade the ABA committee to rate him "qualified."

Officials of the Justice Department who were supporters of Mr. Wilkinson conducted their own lobbying campaign to secure enough votes for a rating of "qualified" by the ABA committee.

Even Supreme Court Justice Lewis F. Powell, Jr., was part of the lobbying campaign. Justice Powell has been a close family friend of Wilkinson's parents for many years, and Wilkinson served as a law clerk to Justice Powell in the 1970's.

Powell had initially been contacted by the two ABA committee investigators. The second investigator told Powell that the first investigator was compiling a negative report on Mr. Wilkinson. Powell then contacted a third member of the committee whom Powell knew, and lobbied for Mr. Wilkinson.

Key votes on the ABA committee were changed because of the lobbying campaign and telephone calls directed by the nominee and others. The chairman of the committee stated that "it was the timing of these calls which was objectionable."

The ABA committee was concerned enough about the lobbying campaign for Wilkinson, that it summoned Justice Department officials to the ABA midwinter meeting in Las Vegas to reprimand them.

Notwithstanding the ABA committee's written guidelines which recommend substantial trial experience and specify at least some trial experience as a minimum requirement for approval, the ABA committee found Wilkinson to be qualified, the committee has never before given a qualified rating to such a nominee.

Other academics nominated for Federal appellate judgeships and found qualified by the ABA committee in fact had far more distinguished credentials than Wilkinson, far more years at the bar, and at least limited trial experience. There is simply no comparison between Wilkinson's qualifications and those other academics appointed to appellate courts in recent years.

In addition to his improper activities during his confirmation process, Mr. Wilkinson, while at the justice Department, participated in interviewing at least one candidate for the fourth circuit vacancy he has been nominated to fill, after he himself expressed interest in being nominated to fill that vacancy.

These allegations raise serious questions which the Senate needs answered before it votes on Wilkinson's nomination. These questions include the following:

Why was Wilkinson's nomination in trouble with the ABA committee before the intensive lobbying campaign was launched by Wilkinson and others?

Why did Justice Department officials violate the trust of their special position as liaison between the Federal Government and the ABA committee to provide Wilkinson with confidential inside information about the deliberations of the ABA committee?

What did Mr. Wilkinson do with the information that this nomination was in trouble, which he obtained improperly from Justice Department officials?

Whom did Mr. Wilkinson ask to contact ABA committee members?

What effect did the boiler room operation conducted by Mr. Wilkinson and Justice Department officials have on the ABA decision to find Mr. Wilkinson qualified?

What do Wilkinson's actions in furtherance of his nomination reveal about his suitability to be a Federal appellate judge?

What effect did lobbying by Justice Powell have on the decision of the ABA to find Mr. Wilkinson qualified?

Why did the ABA discard its guidelines concerning trial experience to find Mr. Wilkinson qualified?

How would the ABA have rated Mr. Wilkinson absent the lobbying campaign?

Can it be fairly said that Mr. Wilkinson is qualified to be a Federal judge?

J. Harvie Wilkinson III, who is 39 years old, may be a bright young lawyer and a popular professor at the University of Virginia Law School. But the questions that have been raised about his nomination cast grave doubts on his fitness, maturity, and demeanor to serve as a judge of the Fourth Circuit Court of Appeals.

The Senate's duty to advise and consent means more than rubber-stamping a nominee. Until the many questions surrounding the Wilkinson nomination are responsibly addressed, the Senate should withhold action on the nomination.

The integrity of the judicial selection process is fundamental to the integrity of our judicial system. We must not abdicate our responsibility to assure that the Senate confirmation proceedings are full, fair and unbiased. I urge my colleagues to support our efforts in trying to get the Judiciary Committee to hold a subsequent hearing to address these serious questions.

I would be glad to address those questions to the chairman of the committee, but the chairman of the committee, who has the responsibility for this nominee, is not on the floor at this time to respond to my questions.

Mr. President, I ask unanimous consent that materials relating to the qualifications of other circuit court nominees who have been discussed here today, and other materials relating to this nomination, be inserted in the RECORD at the conclusion of my remarks.

The qualifications of other circuit court nominees who have been described as lacking trial experience

reveal that in sharp contrast to Mr. Wilkinson, these judges had significant trial experience and long and distinguished academic careers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STEPHEN BREYER BACKGROUND

Sixteen years out of law school when appointed to the first circuit.

As a lawyer in the Antitrust Division of the Department of Justice, he prepared the brief, argued the case and won a favorable antitrust decision in the sixth circuit.

Acting Chief of appellate section in Antitrust Division for 1 year; in charge of all appeals.

Two years interviewing witnesses, preparing criminal cases on the staff of Watergate Special Prosecutor Archibald Cox.

While professor at Harvard Law School, consultant on antitrust matters with Wilmer, Cutler & Pickering law firm in the District of Columbia.

Chief Counsel to Senate Judiciary Committee for 2 years.

RICHARD POSNER BACKGROUND

Nineteen years out of law school when appointed to the seventh circuit.

Clerked for U.S. Supreme Court Justice William Brennan.

Served for 2 years as legal assistant to the Commissioner of the Federal Trade Commission.

Two years as an attorney at the Department of Justice in the Office of the Solicitor General.

General Counsel to the President's Task Force on Communications Policy.

Faculty at Stanford Law School for 1 year, followed by 12 years at the University of Chicago Law School.

RALPH WINTER BACKGROUND

Twenty-one years out of law school when appointed to the Second Circuit.

Clerk at district court level and then for Second Circuit Court of Appeals Judge Thurgood Marshall.

Professor at the Yale Law School for 19 years.

Along with his teaching duties at Yale, Judge Winter was a senior fellow of the Brookings Institution for 2 years and an adjunct scholar at the American Enterprise Institute for 9 years.

Lead counsel in Buckley against Valeo; litigated up to Supreme Court.

PATRICIA WALD BACKGROUND

Twenty-eight years out of law school when appointed as U.S. Circuit Judge for the District of Columbia.

Clerked for the Second Circuit Court of Appeals.

As an attorney she had worked at the Justice Department, the National Council on Bail and Criminal Justice, the Neighborhood Legal Services law reform unit, and the Center for Law and Social Policy.

Codirector of the Ford Foundation drug abuse research project.

Served as legal consultant to the National Conference on Law and Poverty, the President's Commission on Crime in the District of Columbia, the President's Commission on Law Enforcement and the Administration of Justice, National Advisory Commission on Civil Disorders, and the National Commission on the Causes and Prevention of Violence.

Four years working for mental health law project as well as the Council for the Mentally Impaired.

Returned to Justice Department in 1977 to be the Assistant Attorney General, a post she held until her appointment to the bench, in 1979.

RUTH BADER GINSBURG BACKGROUND

Twenty-seven years out of law school when appointed to the Court of Appeals for the District of Columbia.

Clerked at Federal district court.

Faculty of Rutgers Law School for 1 year and at Columbia Law School for 10 years.

While teaching, she also engaged in extensive litigation promoting the cause of equal justice for both men and women.

LOUIS POLLAK BACKGROUND

Thirty years out of law school when appointed to the Eastern District of Pennsylvania.

Served as clerk to Supreme Court Justice Wiley Rutledge and as special assistant to Ambassador-at-Large Philip Jessup.

Spent 2 years as assistant counsel with the Amalgamated Clothing Union.

Nineteen years as a professor at Yale Law School, including 5 years as the dean of Yale Law School.

Served as visiting professor of law at Columbia Law School, Howard Law School, and the University of Michigan Law School.

Dean of the University of Pennsylvania Law School, where Mr. Pollak was also the Albert Greenfield Professor of Human Relations.

Over 30 year career, authored over 30 articles on American legal system which appeared in major legal and scholarly journals.

KENNETH STARR BACKGROUND

Ten years out of law school when appointed to the District of Columbia circuit.

Clerked at both the U.S. Court of Appeals and the Supreme Court.

Four years at the Los Angeles law firm of Gibson, Dunn & Crutcher.

Two years at the U.S. Department of Justice as Counsellor to the Attorney General.

ANTONIN SCALIA BACKGROUND

Twenty-two years out of law school when appointed to District of Columbia Circuit.

Associate for 3 years at Jones, Day, Cockley & Reavis.

Professor of law for 4 years at the University of Virginia Law School and 5 years at the University of Chicago Law School.

Visiting professor at both Georgetown and Stanford Law Schools.

General counsel in the Executive Office of the President for Telecommunications Policy.

Two years as chairman of the Administrative Conference of the United States.

Three years as an Assistant Attorney General at the Office of Legal Counsel in the Department of Justice.

Harvard University Sheldon Fellow—1 year; resident scholar American Enterprise Institute—1 year.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, D.C., May 23, 1984.

DEAR SENATOR: We strongly urge you to vote to recommit the Wilkinson nomination to the Senate Judiciary Committee for further hearings. Important questions, questions that have been raised since the last day of hearings, which bear directly on the nomination must be addressed and answered before the full Senate exercises its advise and consent responsibilities.

With warm regards,

Sincerely,

BENJAMIN L. HOOKS,
Chairperson.
RALPH G. NEAS,
Executive Director.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 17, 1984.

DEAR COLLEAGUE: We are writing to express our concern over the nomination of J. Harvie Wilkinson III of Virginia to be a judge of the U.S. Court of Appeals for the Fourth Circuit. Mr. Wilkinson is currently Associate Professor of Law at the University of Virginia Law School, and briefly served as a deputy attorney general in the Civil Rights Division of the Department of Justice during this administration.

The nomination was reported favorably to the Senate by the Judiciary Committee by a vote of 11-5 on March 15 and is now on the Senate calendar. The Majority Leader has announced his intention to proceed to the consideration of the nomnination shortly.

This nomination is not ready for action by the Senate.

The nomination was submitted to the Senate on November 10, 1983. A Judiciary Committee hearing was held on November 16, at which Wilkinson was the only witness. The nomination lapsed at the end of the First Session of the 98th Congress, and was resubmitted to the Second Session on January 30, 1984. A further hearing was held on February 22, 1984, at which Wilkinson also appeared and at which numerous public witnesses testified in opposition to his nomination.

At the second hearing and in subsequent published reports, substantial and disturbing questions were raised for the first time about the nomination, including the procedures used by the American Bar Association's Standing Committee on Federal Judiciary to evaluate Mr. Wilkinson, and the role of the Justice Department, the nominee himself and others in the evaluation process.

The initial confidential in-depth investigation of Wilkinson by the ABA Committee member for Virginia assigned to carry out the investigation raised serious concerns about his qualifications. Under the Committee procedures, a second member was then named to assist in the investigation. A single formal report was prepared for the 14-member Committee, with the first investigator concluding that Wilkinson was "Unqualified" and the second investigator finding him "Qualified."

Wilkinson has zero trial experience. If confirmed, he would become the first judge to take a seat on a Circuit Court of Appeals with no trial experience.

A double standard is being applied by the ABA Committee for the benefit of Wilkinson. During the previous Administration, the Committee guidelines on trial experience were enforced inflexibly to disqualify women and minority candidates who actually had substantial trial experience. Two cases illustrate the point:

(1) Carin A. Clauss was the Department of Labor Solicitor responsible for supervising the litigation of the Department's three hundred attorneys. In a preliminary finding, she was rated "Unqualified" by the

ABA to be a federal district judge and her nomination was not submitted.

(2) Joan Krauskopf, a member of the bar for 20 years, had been in private practice in Colorado, had supervised a legal aid clinic in Missouri, and had handled cases as a court-appointed attorney and in a pro bono capacity. After an initial investigation, she was rated "Unqualified" by the ABA to be a federal appellate judge for the Eighth Circuit, and her nomination was not submitted.

Wilkinson, who was admitted to the bar in 1972, in fact has fewer years as a member of the bar than any Circuit Court nominee from the creation of the Circuit Courts of Appeal in 1891 through the end of 1980. And three of those years were actually spent outside the field of law, as an editorial writer for the Virginian-Pilot newspaper. In an editorial of July 29, 1983, the Virginian-Pilot opposed the nomination.

Numerous requests by several Senators for an additional Judiciary Committee hearing on the nomination to clear up these allegations have been unsuccessful. A proposed hearing on ABA procedures, tentatively scheduled for May 17, 1984, by the Judiciary Subcommittee on Courts, was indefinitely postponed on May 10 to avoid addressing the Wilkinson nomination prior to consideration of the nomination by the full Senate.

The Senate has a responsibility to have the full record on this nomination before it, in advance of the vote on whether Wilkinson should be confirmed as a judge with life tenure on the Fourth Circuit Court of Appeals. Also, the nominee has the right to refute the allegations and answer the questions—set out fully in the attachment hereto—which have been raised about his qualifications and fitness since the Committee hearing. It would be extremely embarrassing if negative answers to the questions surrounding this nomination were revealed after the nominee is sitting on the federal appellate bench. We believe that the record can be completed by a one day hearing at which Wilkinson, ABA Committee members, and Justice Department officials would be invited to testify.

There is no doubt that J. Harvie Wilkinson III, who is 39 years old, is a bright young lawyer and a popular professor at the University of Virginia Law School. But the unanswered questions that have been raised about his nomination cast grave doubts on his fitness, maturity, and temperament to serve as a judge of the Fourth Circuit Court of Appeals.

The Senate's duty to advise and consent means more than rubber-stamping a nominee. The Senate should not be bound by the investigation or the recommendation of the ABA. Until the many questions surrounding the Wilkinson nomination are responsibly addressed, the Senate should withhold action on the nomination.

For these reasons, when and if the Senate turns to the consideration of the Wilkinson nomination, we intend to offer a motion to recommit the nomination to the Judiciary Committee for the purpose of holding another hearing.

The integrity of the judicial selection process is fundamental to the integrity of our judicial system. We must not abdicate our responsibility to assure that the Senate confirmation proceedings are full, fair and unbiased. We urge you to join us in supporting the motion to recommit the Wilkinson nomination to the Judiciary Committee.

Sincerely,

EDWARD M. KENNEDY.
JOSEPH R. BIDEN, JR.
HOWARD M. METZENBAUM.

ATTACHMENTS TO KENNEDY, BIDEN, AND METZENBAUM LETTER

1. Allegations of Questionable Activities Relating to the Wilkinson Nomination and Unanswered Questions on the Wilkinson Nomination.
2. Editorials—Asheville (North Carolina) Citizen, Norfolk (Virginia) Virginian-Pilot.
3. ABA Letter Rating Wilkinson.
4. Excerpts from ABA Guidelines for Judicial Nominees.

ALLEGATIONS OF QUESTIONABLE ACTIVITIES RELATING TO THE WILKINSON NOMINATION

Officials of the Justice Department obtained and improperly divulged the results of the confidential investigation to the nominee, informing him that the ABA investigating committee members were in disagreement, that a vote was about to be taken by the Committee, and that his approval by the Committee was in jeopardy.

The nominee used the information improperly obtained from Justice Department officials to organize an intensive lobbying campaign on his behalf to persuade the ABA Committee to rate him "Qualified."

Officials of the Justice Department who were supporters of Wilkinson conducted their own lobbying campaign to secure enough votes for a rating of "Qualified" by the ABA Committee.

Supreme Court Justice Lewis F. Powell, Jr. was also part of the lobbying campaign. Wilkinson served in the 1970's as a law clerk to Powell, who had known the Wilkinson family well for many years. Powell has initially been contacted by the two ABA Committee investigators. The second investigator told Powell that the first investigator was compiling a negative report on Wilkinson. Powell then contacted a third member of the Committee whom Powell knew, and lobbied for Wilkinson.

Key votes on the ABA Committee were changed because of the lobbying campaign and telephone calls directed by the nominee and others. The Chairman of the Committee stated that "it was the timing of these calls which was objectionable."

The ABA Committee was concerned enough about the lobbying campaign on Wilkinson, that it summoned Justice Department officials to the ABA midwinter meeting in Las Vegas in February, 1984 to reprimand them.

Notwithstanding the ABA Committee's written guidelines which recommend substantial trial experience and specify at least some trial experience as a minimum requirement for approval, the ABA Committee found Wilkinson to be "Qualified." The Committee has never before given a "Qualified" rating to such a nominee.

Other academics nominated for federal appellate judgeships and found "Qualified" by the ABA Committee in fact had far more distinguished credentials than Wilkinson, far more years at the bar, and at least limited trial experience.

In addition to his improper activities during his confirmation process, Wilkinson participated in interviewing at least one candidate for the Fourth Circuit vacancy he has been nominated to fill, after he expressed interest in being nominated to fill that vacancy.

UNANSWERED QUESTIONS ON THE WILKINSON NOMINATION

The questions which the Senate needs answered before it votes on the Wilkinson nomination include the following:

What did Wilkinson do with the information that his nomination was in trouble, which he obtained improperly from Justice Department officials?

Whom did Wilkinson ask to contact ABA Committee members?

What effect did Wilkinson's lobbying have on the ABA Committee decision to find him qualified?

What do Wilkinson's actions in furtherance of his nomination reveal about his suitability to be a federal appellate judge?

Why was Wilkinson's nomination in trouble with the ABA Committee before the intensive lobbying campaign was launched by Wilkinson and others?

What effect did lobbying by Justice Department officials and Justice Powell have on the decision of the ABA to find Wilkinson qualified?

Why did the ABA discard its guidelines concerning time at the bar and trial experience to find Wilkinson qualified?

How would the ABA have rated Wilkinson absent the lobbying campaign?

Can it be fairly said that Wilkinson is qualified to be a federal judge?

[From the Asheville (N.C.) Citizen, Apr. 3, 1984]

REAGAN COURT CHOICE LACKS QUALIFICATIONS

One of the enduring measurements of a president is the quality of his judicial appointments. So if President Reagan's choice of J. Harvie Wilkinson III to fill a vacancy on the 4th Circuit Court of Appeals is indicative of this chief executive's record, then he and the public are in deep trouble. The court hears cases from the Carolinas, the Virginias and Maryland.

Wilkinson, a University of Virginia law professor, should not have been appointed. He lacks the basic credentials of an appeals court judge.

His lack of qualifications is staggering. He has no judicial experience. He has never had a private client. He has yet to argue a case in court. He has never drafted a legal brief by himself. He has been in the law for only eight years. He is not even entitled to practice before either the appeals court or any of the trial courts it supervises.

What happened to the American Bar Association standards that appointees to the appellate courts have at least 12 years of legal experience and "substantial" trial experience?

Some powerful people are asking that question. They should ask it.

Fact is, there is just enough evidence available to believe the ABA, self-appointed guardian of the nation's courts and law, caved in to political pressure on the Wilkinson nomination. ABA screening committee members now admit to being contacted by two of Wilkinson's friends prior to the panel's vote on the nomination. The committee decided to waive the requirements cited above regarding legal and trial experience.

What do you think would have happened if a woman or black with Wilkinson's lack of legal credentials had come before the august ABA? The ABA would have found the woman or black unqualified. The Senate Judiciary Committee would have balked. The president would have been forced to withdraw the nomination.

A double standard is at work in this case. There is one standard imposed for women, blacks, and most white nominees to appellate courts. There is another standard for

nominees in the Reagan ideological mold. A Washington lawyer did not exaggerate much when he said: "This nomination is symbolic of a con game. The administration talks of merit selection, but Mr. Wilkinson is probably the least experienced appellate nominee ever seen."

Wilkinson's nomination brings to mind the story involving House Speaker Sam Rayburn's visit to the Kennedy White House and his introduction to "the best and brightest."

Mr. Sam returned to his protege, Lyndon Johnson, and offered, "Lyndon, I'd feel a lot better if one of those fellas had run for sheriff."

If Wilkinson becomes a member of the 4th Circuit bench, some lawyers and clients appearing before him may harbor thoughts similar to Mr. Sam's: "If only this guy had tried a case . . ."

A scholarly temperament indeed is a necessary requirement for an appellate judge. Wilkinson, because he teaches law, may possess that ability. But his lack of judicial experience disqualifies him for this position. President Reagan should withdraw the nomination, or the Senate Judiciary Committee should reject it. This man has no business on a court that is one heartbeat away from the Supreme Court, and one heartbeat away from a trial court to which he is a stranger.

[From the (Norfolk) Virginian-Pilot, July 29, 1983]

WILKINSON AS JUDGE?

News reports indicate that the Reagan administration is going to nominate J. Harvie Wilkinson III, a former editor of The Virginian-Pilot, for the vacant judgeship on the U.S. 4th Circuit Court of Appeals. If so, it is further evidence that the administration, in selecting federal judges, does not place judicial experience high on its list of criteria.

What should those criteria be? Certainly an administration would want to consider a potential judge's (1) judicial philosophy, (2) age, (3) intellect and (4) experience.

As far as the Reagan administration is concerned, Mr. Wilkinson fits categories (1), (2) and (3) perfectly. He is a conservative. He is young enough, 38, to serve on the bench for many years and thus inject his philosophy into the federal judiciary. And he has shown a powerful intellect in his years as author, law-school professor and editorial writer.

On experience, however, Mr. Wilkinson comes up short. As a law clerk at the U.S. Supreme Court and as a professor of law, he has learned the legal process. But that is not the same as actually participating in trials.

This is the same drawback that faced the administration's first choice for the judgeship, Kenneth W. Starr, who was opposed by Virginian Sen. John W. Warner and now has been nominated for a seat on U.S. Court of Appeals for the District of Columbia.

In March, writing about the possibility of the Starr nomination, we noted his limited experience and added: "Obviously, he is a bright young man in a hurry, and no doubt his time will come—but what's the rush?

The same question applies to Mr. Wilkinson. His credentials are substantial. Without a doubt, the Reagan administration could make a far worse choice. The question that should be considered, however, is whether the administration can find a judge with all Mr. Wilkinson's attributes—plus experience in the courtroom.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON FEDERAL JUDICIARY,

Chicago, Ill., January 31, 1984.

Re James Harvie Wilkinson III, C.A., Fourth.

Hon. STROM THURMOND,

Chairman, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR THURMOND: Thank you for affording this Committee an opportunity to express an opinion pertaining to the nomination of James Harvie Wilkinson for appointment as Judge of the United States Court of Appeals for the Fourth Circuit.

A substantial majority of our Committee is of the opinion that Mr. Wilkinson is qualified for this appointment. The minority found him to be not qualified.

With kind regards, I am

Sincerely,

FREDERICK G. BUESSER, Jr.,
Chairman.

AMERICAN BAR ASSOCIATION—STANDING COMMITTEE ON FEDERAL JUDICIARY

Chairman and Member-at-Large: Frederick G. Buesser, Jr., 4190 Telegraph Road, Bloomfield Hills, MI 48013.

John M. Harrington, Jr., 225 Franklin Street, Boston, MA 02110.

Robert B. Fiske, Jr., One Chase Manhattan Plaza, New York, NY 10005.

Lewis H. Van Dusen, Jr., 1100 Philadelphia, National Bank Bldg., Broad & Chestnut Streets, Philadelphia, PA 19107.

James A. Howard, Sr., 1700 First Virginia Bank Tower, 101 St. Paul's Blvd., Norfolk, VA 23510.

Gene W. Lafitte, One Shell Square, 50th Floor, New Orleans, LA 70139.

Stuart J. Dunnings, Jr., Duncan Building, 530 South Pine Street, Lansing, MI 48933.

Steven E. Keane, Suite 3800, 777 E. Wisconsin Avenue, Milwaukee, WI 53202.

James W. Hewitt, P.O. Box 80268, Lincoln, NE 68501.

Victor E. Chavez, Suite 575, Beneficial Plaza Building, 3700 Wilshire Boulevard, Los Angeles, CA 90010.

John Gavin, P.O. Box 2249, 120 N. Naches Ave., Yakima, WA 98907.

John S. Pfeiffer, 1200 American Natl. Bank Bldg., 818 17th Street, Denver, CO 80202.

M. Roland Nachman, Jr., P.O. Box 668—8 Commerce St., Montgomery, AL 36101.

John D. Lane, 1666 "K" Steet, N.W., Washington, D.C. 20006.

Board of Governors Liaison: Marion Edwyn Harrison, 6th Floor, 1000 Thomas Jefferson St., N.W., Washington, D.C. 20007.

Staff Assistant: Diane Livingston, 33 W. Monroe Street, 7th Floor, Chicago, IL 60603, 312/621-9576.

EXCERPTS FROM EVALUATION CRITERIA OF THE AMERICAN BAR ASSOCIATION ON APPOINTMENTS TO THE DISTRICT COURTS, THE COURTS OF APPEALS AND THE OTHER LOWER FEDERAL COURTS

* * * * *

As to experience, the Committee believes that ordinarily a prospective appointee to the federal bench should have been admitted to the bar for at least twelve years. Substantial trial experience (as a lawyer or a trial judge) is important for prospective nominees to both the appellate courts and the trial courts. Additional experience which is similar to court trial work—such as appearing before or serving on administrative agencies or arbitration boards, teaching trial advocacy or other clinical law school courses, etc.—is considered in evaluating a prospective nominee's trial experience qualifications. In exceptional cases, when there is significant evidence of distinguished accomplishment in the field of law, an individual with limited trail experience may be found qualified.

In evaluating experience, the Committee recognizes that women and members of certain minority groups have entered the profession in large numbers only in recent years and that their opportunities for advancement in the profession may have been limited.

The Committee believes that political activity and public service are valuable experience, but that such activity and service are not a substitute for significant experience in the practice of law.

* * * * *

Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues (in contrast to witnesses, parties, jurors, live testimony and the theater of the courtroom), the Committee may place somewhat less emphasis on the importance of extensive trial experience as a qualification for the appellate courts. This same contrast in day-to-day experience may also cause the Committee to evaluate temperament for the appellate courts in slightly different terms.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 5, 1984.

Mr. FREDERICK G. BUESSER,

Chairman, Standing Committee on Federal Judiciary, American Bar Association, Washington, D.C.

DEAR MR. BUESSER: We are writing as members of the Senate Judiciary Committee to inquire about the method by which the Standing Committee on Federal Judiciary has interpreted the American Bar Association's guidelines in assessing the qualifications of Mr. J. Harvie Wilkinson III, who has been nominated to be a member of the United States Court of Appeals for the Fourth Circuit.

As we understand it, the ABA guidelines suggest that nominees for federal appellate courts should have been admitted to the bar for at least 12 years and should have substantial trial experience. We are concerned about two issues relating to the application of these guidelines in the Wilkinson case.

First, there is the appearance that the Standing Committee's action in this case is unprecedented, and that the committee has applied a double standard in rating Mr. Wilkinson "qualified." We are particularly concerned about testimony that, on numerous occasions in recent years, the committee has applied the guidelines inflexibly, and has advised Administrations that women and minority nominees who do not meet the twelve year/trial experience tests would not be found "qualified" by the ABA, with the result that such candidates were not even considered for nomination to the federal judiciary.

Second, we are concerned about published reports of lobbying activities designed to influence members of the Standing Committee in their application of the ABA guidelines and in their assessment of Mr. Wilkinson's qualifications.

We would appreciate your detailed response to these concerns, so that as we consider Mr. Wilkinson's nomination, we may

have a complete understanding of the procedures followed by the Standing Committee.

Sincerely,

EDWARD M. KENNEDY.
JOSEPH R. BIDEN, Jr.
HOWARD M. METZENBAUM.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON FEDERAL JUDICIARY,

Chicago, Ill., March 12, 1984.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR THURMOND: I respond to the March 5 letter from Senators Kennedy, Biden and Metzenbaum with reference to the pending nomination of Mr. James Harvie Wilkinson, III. In doing so, it may be helpful to review the Committee's standard operating procedures.

The process begins when the Justice Department asks the Chairman that a candidate be investigated for a particular vacancy. Ordinarily the matter is referred to the Committee member for the circuit in which the vacancy exists, assuming that such member is readily available and not already overburdened. At the same time the Justice Department sends the Personal Data Questionnaire to the candidate with instructions to complete it and furnish a copy to the Chairman, the circuit member and the Justice Department.

The circuit member conducts an in-depth investigation. If in the course of that investigation concerns develop, he advises the Chairman and suggests that a second Committee member become involved to assist in the investigation. This is not an uncommon occurrence.

Such was the case in the Wilkinson matter and a second Committee member was designated to assist in the investigation. The two members worked together and interviewed the candidate. A single report on his qualifications was prepared. It was accompanied by separate statements of the two investigators in which each cited the conclusions he had reached. One member found the candidate qualified. The other found him not qualified. The report was circulated to all members together with the differing opinions of the two circuit members. A substantial majority of the Committee found Mr. Wilkinson qualified; a minority found him not qualified. When Mr. Wilkinson was nominated both the Senate Judiciary Committee and the candidate were advised of the ratings. The Committee does not reveal how its members voted but the term "substantial majority" has been adopted to indicate that the candidate has strong, but not unanimous, endorsement.

It must be understood that when a Formal Report has been prepared by one or more circuit members and circulated to the entire Committee, each circuit member considers the matter privately and makes his own decision as to the rating he believes appropriate. Such ratings are promptly conveyed to the Chairman and tabulated. Decisions are a matter of individual judgment and it is impossible to know the precise rationale which prompted each one.

Our guidelines provided "that *ordinarily* a prospective appointee to the federal bench should have been admitted to the bar for at least twelve years" (emphasis added). Our records indicate that Mr. Wilkinson was admitted to the Bar of the State of Virginia on February 1, 1972. When his name was sent to us for investigation at the end of July of 1983, he then had virtually, and certainly by now has, satisfied the 12 year requirements.

Your letter states that "We are particularly concerned about testimony that, on numerous occasions in recent years, the Committee has applied the guidelines inflexibly, and has advised The Administration that women and minority nominees who do not meet the twelve year/trial experience tests would not be found 'qualified' by the ABA. . . ." Several years ago the Committee, in recognition of the relatively recent influx of substantial numbers of women and minorities into the legal profession, amended its standards to provide:

"In evaluating experience, the Committee recognizes that women and members of certain minority groups have entered the profession in large numbers only in recent years and that their opportunities for advancement in the profession may have been limited."

The suggestion that in recent years the Committee "has applied the guidlines inflexibly" to the detriment of women and minority nominees is not borne out by the facts. Of the eleven candidates with less than twelve years at the bar who were rated qualified or better by our Committee during the Carter Administration, time at the bar ranged from five years in one instance to eleven years in six instances. Two candidates had been admitted eight years, one nine years and another ten years. These included four women, one of whom was a member of a minority; five men who were members of minorities and two Caucasian men.

During the Reagan Administration there have been five candidates admitted to the bar less than twelve years who the Committee found qualified. Two of these were women, one was an Hispanic male and two were Caucasian males.

Our evaluation criteria further provide:

"Substantial trial experience (as lawyer or a trial judge) is important for a prospective nominee to both the appellate courts and the trials courts. Additional experience which is similar to court trial work . . ., *teaching trial advocacy* or other clinical law school courses, etc.—is considered in evaluating a prospective nominee's trial experience qualifications. *In exceptional cases, when there is significant evidence of distinguished accomplishment in the field of law, an individual with limited trial experience may be found qualified.*" (emphasis added).

Our records, indicate that Mr. Wilkinson taught at the University of Virginia Law School from 1973 to 1978 and again in 1981/82 and that he regularly taught the following courses:

Federal Courts—Subjects covered include case or controversy, federal question jurisdiction, implied remedies and rights of action, federal common law, pendent jurisdiction, abstention, adequate and independent state grounds, section 1983, and federal habeas corpus.

Criminal Procedure—Topics covered are Fourth, Fifth and Sixth Amendment rights at different stages of the criminal process—search, arrest, interrogation and line-up, bail, and preliminary hearings, grand jury proceedings, and trial.

Constitutional Law—Subjects included the reach of congressional authority under Article I, Section 8, substantive and procedural due process, the equal protection clause, state action, and the speech and religion clauses of the First Amendment.

In addition thereto the experience of clerking for a Justice of the United States Supreme Court has to be given much weight, and in the opinion of prominent appellate justices, makes up for a lack of practice experience. A clerk to an appellate judge sees the best and the worst briefs and listens to some of the finest and some of the poorest arguments. In this process he should learn quickly to distinguish those things that are important and critical to the decisional process.

The guidelines further state—

"Without demeaning the scholarly qualities necessary for the trial courts, the Committee nonetheless looks for an especially high degree of scholarship and academic talent in prospective nominees for the appellate courts. The abilities to write lucidly and persuasively, to harmonize a body of law and to give guidance to the trial courts in future cases are matters of great concern for the evaluation of prospective nominees for the appellate courts.

Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues (in contrast to witnesses, parties, jurors, live testimony and the theater of the courtroom) *the Committee may place somewhat less emphasis on the importance of extensive trial experience as a qualification for the appellate courts.*" (emphasis added).

Mr. Wilkinson's extensive writings were furnished to the Committee and show him to be an unusually able writer and legal scholar with the apparent capacity to become an outstanding appellate judge. A number of law professors were among those whose views were solicited with respect to this nomination, and they were uniformly of the view that his legal scholarship was of a very high order.

It is apparent that all of the criteria set forth in the Standing Committee's brochure were taken into account by a substantial majority of the Committee in reaching the decision that Mr. Wilkinson was qualified. I want to assure you that I do not personally believe the Committee applied a double standard in rating Mr. Wilkinson nor that its action was unprecedented. In support thereof we have reviewed recent nominees to the various courts of appeal whom we have found qualified or better who had very limited trial experience. At least four of these had teaching backgrounds and had demonstrated intellectual accomplishment and writing ability. I believe that the action of a subsantial majority of the Committee in finding Mr. Wilkinson qualified was entirely consistent with our action in the cases of the academics referred to above.

You have also expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case there was only one vote taken. At about the time the Formal Report was circulated to the Committee, several Committee members called me in accordance with our practice to advise that they had received telephone calls on behalf of the candidate. I was personally concerned that it had apparently become known that the investigating Committee members were not in agreement and that vote was being taken. I took up that concern with The Justice Department. I'm convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply this to the investigating Committee members. The members of the Committee are experienced in the handling of this kind of information and indeed welcome it. In this particular case, it was

the timing of these calls which was objectionable.

It should be made clear that the investigating Committee members sought the views of several members of The Supreme Court, including Justice Powell for whom Mr. Wilkinson had clerked. These gentlemen had a unique opportunity to judge his performance and his abilities. The Justices contacted were uniformly enthusiastic.

In closing, let me say on behalf of the Committee that for more than thirty years it has sought to bring the independent good judgment of knowledgeable lawyers to the judicial selection process. We never have candidates. Our sole responsibility is to evaluate those names sent to us. The integrity of the process depends upon the integrity of each Committee member, and I am proud to be associated with thirteen people of great character.

Respectfully,

FREDERICK G. BUESSER, Jr.,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 9, 1984.

Hon. LEWIS F. POWELL, Jr.,
Associate Justice, U.S. Supreme Court, Washington, D.C.

DEAR MR. JUSTICE POWELL: We are writing as members of the Senate Judiciary Committee, which is currently considering the nomination of one of your former law clerks, Mr. J. Harvie Wilkinson III, to be a judge of the United States Court of Appeals for the Fourth Circuit.

According to published reports, you were contacted by two members of the ABA Standing Committee on Federal Judiciary in the course of its review of Mr. Wilkinson's qualifications, and you in turn contracted a third member of the ABA committee.

In light of the issues raised about Mr. Wilkinson's nomination and the procedures followed by the ABA committee in applying its guidelines to this case, we would appreciate your assistance in informing us of the specific contacts in circumstances of those contacts.

We are enclosing for your information a copy of the letter we sent earlier this week to the ABA committee.

Respectfully,

EDWARD M. KENNEDY.
JOSEPH R. BIDEN, Jr.
HOWARD M. METZENBAUM.

SUPREME COURT OF THE UNITED STATES, CHAMBERS OF JUSTICE LEWIS F. POWELL, Jr.,
Washington, D.C., March 12, 1984.

Senators KENNEDY, BIDEN, and METZENBAUM,
Committee on the Judiciary, U.S. Senate, Washington, D.C.

GENTLEMEN: This is in response to your letter of March 9, received by me at about 4:30 p.m.

The press reports I have seen are substantially accurate as to my conversations with three members of the ABA Judiciary Committee. It also is true that Mrs. Powell and I have known the Wilkinson family well for many years.

Mr. James Howard, a Committee member from my state of Virginia, called me last summer and asked my opinion as to the qualifications of J. Harvie Wilkinson III, who clerked for me here. I responded favorably, noting the difference in the qualifications appropriate for a District Court judge and those for a Circuit Court Judge.

Mr. Lane, the Committee member for D.C., called me later (in November, I believe). As I recall, he stated he was calling me as a Virginian, and because of the negative report from Mr. Howard. I repeated the substance of what I had said to Mr. Howard. Also, responding to Mr. Lane's inquiry, I agreed that my name could be used. I wrote Mr. Howard informing him of Mr. Lane's call.

I was concerned by what Mr. Lane had said about the report from my state. This prompted me to call Gene W. Lafitte, of New Orleans, on my own initiative. Mr. Lafitte is a Committee member and friend with whom I have been associated in the American College of Trial Lawyers. In a brief conversation with him, I told him of Mr. Lane's call, and repeated my view as to the qualifications of Mr. Wilkinson. I did not inquire where he stood; nor do I know how he voted.

I have had no other occasion to speak to members of the Committee. It is, of course, not unusual for federal judges to be asked their opinion as to the qualifications of persons under consideration for appointment to the federal bench.

In view of your inquiry and your proper interest in Mr. Wilkinson's qualifications, I can say with confidence that of the some 45 fine clerks I have had in my 12 years on the Court, J. Harvie Wilkinson III, ranks among the best. He is an exceptionally gifted legal scholar, and a compassionate and thoughtful human being. In my opinion, he is fully qualified to serve on a Court of Appeals.

Sincerely,

LEWIS F. POWELL, Jr.

[From the Washington Post, Feb. 28, 1984]

WILKINSON, RACING FOR TOP, REACHES KEY HURDLE TODAY

(By Philip Smith)

When J. Harvie Wilkinson III was editorial page editor of the Virginian-Pilot in Norfolk, his colleagues noted that Wilkinson wrote his articles longhand on legal pads and had a secretary type them into the newspaper's computer system.

That practice led some to conclude that a man who did not type also did not intend to stay long in the newspaper business. "He had no experience as a newspaper editor and seemed disinclined to learn it," says former Virginian-Pilot editorial writer A. Robert Smith.

Indeed, Smith says, Wilkinson once confided to him a desire to succeed his old Richmond family friend, Justice Lewis F. Powell Jr., on the Supreme Court—"in no uncertain terms."

The impression that the 39-year-old Wilkinson is a young lawyer in a hurry is likely to be reinforced today when the Senate Judiciary Committee is expected to approve President Reagan's nomination to make Wilkinson one of the youngest federal appeals court judges in the nation.

Driven by social ties, wealth, educational distinction and old family connections that reach with ease into the Supreme Court itself, Wilkinson's campaign for a seat on the 4th Circuit Court of Appeals in Richmond is likely to clear the GOP-controlled Senate Judiciary Committee.

It appears unlikely that a host of bitter complaints by spokesmen for minorities and women—that Wilkinson's premier qualities are that he is bright, rich, Republican, white and male—will do more than dent Wilkinson's prospects.

"He's a wonderful teacher," says fellow University of Virginia law professor Steven Salzberg, "and a fine, traditional constitutional scholar." Wilkinson's boss, law school dean Richard A. Merrill, said, "Students berate us when we move him into a smaller classroom. His leaving would be a major loss for us."

Wilkinson's critics concede his intellect—he graduated magna cum laude from Yale—but they have protested that he falls short of the American Bar Association's guideline that federal appeals court judges should have at least 12 years' experience in law-related activities. Wilkinson, who won the ABA's backing anyway, has nine.

"It is a formidable combination of inadequacies," testified Elaine Jones, an NAACP Legal Defense Fund lawyer and former law school classmate of Wilkinson, at Senate hearings last week. "If a minority or a woman, with the amount of experience Mr. Wilkinson has, had been interested in an appellate judgeship, she/he would not have gotten to first base."

Since graduating in 1972 from law school in Charlottesville, he has clerked for Powell in Washington; served three years at The Virginian-Pilot; taught law at Virginia for six years and served a year in the Reagan Justice Department as deputy assistant attorney general in the Civil Rights Division. In 1970 he ran for Congress as the GOP's nominee in the conservative Richmond-area district, but was overwhelmed by incumbent Rep. David Satterfield, a Democrat.

He wrote speeches for Republican Linwood Holton's successful 1969 campaign for governor, and as recently as 1982 he worked with a Virginia group promoting former Fairfax County legislator Wyatt B. Durrette, another Republican, for governor in the state's 1985 elections.

Still, his bid for the appeals court lacks the strong endorsement of Sen. John W. Warner, Virginia's senior Republican, who initially supported older and more judicially experienced candidates for the position.

Warner said last week that if the Judiciary Committee backs Wilkinson, he will vote for his confirmation. The senator has said the White House wanted Wilkinson because it has wanted to name young lawyers to appeals court seats.

In a 1979 Virginia-Pilot editorial being circulated by his critics, who say it demonstrates hypocrisy, Wilkinson wrote that "the [Virginia] Bar Association took the correct position when it insisted . . . that merit should rule judicial selections . . . It is never too soon to begin stressing merit over connections. . . ."

When it came time for Wilkinson's bid for the bench, his opponents note, connections, including Powell, were not entirely absent. Powell—a wealthy ex-Richmond lawyer and longstanding friend of Wilkinson's father, a former chairman of United Virginia Bank—acknowledges that he told two members of the ABA rating committee who called him that he "strongly favored Jay." When asked by one of the callers to contact a third committee member, Powell did so.

Wilkinson ultimately won a luke-warm rating of "qualified."

[From the Washington Post, Mar. 8, 1984]

BAR ASSOCIATION'S STANDARDS DISPUTED

(By Philip Smith)

Three Senate Democrats, accusing the American Bar Association of a double standard in rating judicial nominees, have asked the ABA to explain why it found a University of Virginia law professor qualified for a federal appeals court judgeship.

Sens. Edward M. Kennedy of Massachusetts, Howard M. Metzenbaum of Ohio and Joseph R. Biden Jr. of Delaware said in a letter to the ABA they were concerned that J. Harvie Wilkinson III was rated qualified even though he does not have 12 years' legal experience, the standard that the organization recommends for appellate judges.

"We are particularly concerned about testimony that, on numerous occasions in recent years, the [ABA] committee has applied the guidelines inflexibly and has advised . . . that women and minority nominees who do not meet the [standard] would not be found 'qualified,'" the legislators said.

The three senators also said that they were "concerned about published reports of lobbying activities designed to influence members" of the ABA's Standing Committee on the Federal Judiciary, which investigates and rates White House nominees for the bench.

Supreme Court Justice Lewis F. Powell Jr. told The Washington Post recently that he had been approached about Wilkinson by two ABA committee members and assured them that he "strongly favored Jay." Powell said that he was asked by one of the callers to contact a third committee member and did so.

"I have no apologies whatsoever for supporting [Wilkinson]," Powell told The Post.

Powell is a longtime family friend of Wilkinson, 39, a wealthy Republican attorney and teacher whose father is a former chairman of United Virginia Bank in Richmond.

It was unclear whether the Democrats' request for more details on Wilkinson's ABA endorsement would delay a Senate vote on his nomination by President Reagan to a vacancy on the 4th U.S. Circuit Court of Appeals.

The GOP-controlled Senate Judiciary Committee, of which Kennedy, Metzenbaum and Biden are members, is to take up the Wilkinson nomination today. Detroit attorney Frederick G. Buesser Jr., chairman of the ABA committee, said yesterday that it will take at least a week to reply to the letter.

[From the Washington Post, Mar. 9, 1984]

SENATORS WANT ABA WORD ON JUDGE CHOICE

The Senate Judiciary Committee won't vote on the nomination of University of Virginia law professor J. Harvie Wilkinson III to a judgeship on the 4th U.S. Circuit of Appeals until the American Bar Association explains why it found Wilkinson qualified for the post, congressional aides say.

Three Democrats on the panel—Sens. Edward M. Kennedy of Massachusetts, Joseph Biden of Delaware and Howard M. Metzenbaum of Ohio—have asked why Wilkinson apparently was not held to the ABA's standard that nominees for federal appeals courts have substantiated trial experience.

Wilkinson has no trial experience.

The Virginia State Bar Association pronounced Wilkinson "qualified" for the nomination, despite the fact that he does not meet the ABA's minimum standard for federal judicial nominees of 12 years of legal experience.

[From the Washington Post, Mar. 13, 1984]

POWELL SAYS HE LOBBIED MEMBER OF ABA PANEL FOR WILKINSON

(By Philip Smith)

Supreme Court Justice Lewis F. Powell Jr. acknowledged yesterday that he telephoned a member of an American Bar Association investigating committee last fall to voice support for the controversial nomination of his former law clerk, J. Harvie Wilkinson III, to a federal appeals court judgeship.

The action is considered unusual for a sitting judge and is likely to become an issue Thursday when the Senate Judiciary Committee is scheduled to vote on the nomination of Wilkinson, a University of Virginia law professor, to the 4th Circuit Court of Appeals.

Separately, a Capitol Hill source said yesterday that Reagan administration lobbying on Wilkinson was so intense that it angered some members of the ABA committee and later drew an apology from a former senior Justice Department official.

The source said Jonathan C. Rose, former assistant attorney general in the Reagan administration, delivered a "semi-mea culpa" at the ABA's midwinter convention in Las Vegas last month to irritated members of the organization Standing Committee on the Federal Judiciary.

Rose could not be reached yesterday for comment. Wilkinson declined to comment.

Sources also said that a surge of last-minute lobbying by Wilkinson backers in the Justice Department, where Wilkinson once worked, may have cost the 39-year-old former newspaper editor some votes among ABA committee members who were annoyed by the administration's telephone campaign.

Spokesmen for women's and minority groups have charged that Wilkinson lacks sufficient legal experience to meet the ABA's guidelines for appellate judges and have accused the ABA of employing a double standard for white male nominees.

Powell's statement yesterday came in response to a request for details about his role from three Democratic members of the GOP-controlled Senate Judiciary Committee. It is common for ABA investigators to contact judges who know a nominee, but it is considered questionable practice for a sitting judge to initiate such contacts, according to several lawyers.

In a letter to Sens. Edward M. Kennedy (D-Mass.), Howard M. Metzenbaum (D-Ohio) and Joseph R. Biden Jr. (D-Del.), Powell called press reports that he had initiated such a call "substantially accurate."

Powell said he became concerned about the prospects for Wilkinson, a family friend from Richmond, after he learned that an ABA investigator, lawyer James Howard of Norfolk, was compiling a "negative report."

"This prompted me to call Gene W. Lafitte of New Orleans [another ABA committee member] on my own initiative," Powell said. "in a brief conversation with him, I . . . repeated my view as to the qualifications of Mr. Wilkinson. I did not inquire where he stood, nor do I know how he voted."

Powell said he had been queried last year by Howard and another ABA investigator, District Lawyer John D. Lane, about Wilkinson's qualifications before he contacted Lafitte.

The 14-member ABA committee, which investigates and rates judical nominees, subsequently found Wilkinson "qualified" to fill the 4th Circuit vacancy. The vote tally that led to that rating has not been disclosed.

The ABA committee chairman, Frederick G. Buesser Jr. of Michigan, confirmed yesterday that Rose attended last month's convention at the committee's invitation.

[From the Washington Post, Mar. 15, 1984]

ABA PANEL COMPLAINED JUSTICE AIDES LOBBIED FOR WILKINSON

(By Philip Smith)

An American Bar Association screening committee complained to the Justice Department last fall after two senior Justice officials pressured committee members to rate a former colleague "qualified" for a federal appeals court judgeship.

The ABA said this week the complaint came after the two officials—former deputy attorney general Edward C. Schmults and former assistant attorney general Jonathan C. Rose—divulged details of a confidential ABA investigation of J. Harvie Wilkinson III during their contacts with committee members.

Some committee members found the timing of the officials' lobbying—on the eve of balloting on Wilkinson—objectionable, the ABA said. The committee subsequently rated Wilkinson qualified.

Supreme Court Justice Lewis F. Powell Jr. said earlier this week that, in an unusual action for a sitting judge, he also contacted a member of the ABA committee to encourage a favorable vote on Wilkinson, his former law clerk.

Details of the lobbying efforts are likely to fuel attempts by Democrats on the GOP-controlled Senate Judiciary Committee to scuttle the White House's nomination of Wilkinson, 39, a conservative University of Virginia law professor, for a vacancy on the 4th U.S. Circuit Court of Appeals in Richmond. The committee has the nomination on its agenda today.

Sens. Edward M. Kennedy (D-Mass.), Howard M. Metzenbaum (D-Ohio) and Joseph R. Biden Jr. (D-Del.) have held up Wilkinson's nomination pending explanations of the lobbying from Powell and Frederick G. Buesser Jr. of Michigan, chairman of the ABA's Standing Committee on the Federal Judiciary.

Wilkinson was investigated last year by two members of the ABA committee. One, James Howard of Norfolk, submitted a negative recommendation. The other, John D. Lane of the District, rated him qualified.

Those confidential findings were circulated in a 75-page report to the 14 ABA committee members nationwide prior to balloting.

In a letter this week to the three Democrats, Buesser said he became "personally concerned that it had apparently become known that the investigating committee members were not in agreement and that a vote was being taken. I took up that concern with the Justice Department."

Buesser said he also complained to Justice that several committee members had received telephone calls, timed to coincide with the secret ballot, urging approval of Wilkinson. "In this particular case, it was the timing of these calls which was objectionable," Buesser said.

Former deputy attorney general Schmults said yesterday that he was the Justice official to whom Buesser complained. Schmults also acknowledged that he and Rose had made calls to several committee members, mentioning the fact that Howard and Lane were split on Wilkinson's qualifications for the bench.

"I regretted that and I wrote that to Buesser," Schmults said. "How they [the two investigators] were leaning should be confidential."

Schmults said he and Rose made the telephone calls because they had not been con-

sulted by the ABA investigators on Wilkinson's qualifications. Wilkinson served from 1982 to 1983 as deputy assistant attorney general under the two men.

"We were surprised," Schmults said. "We had worked with Jay a long time and had a good idea of his qualifications . . . . We did no more than give [the committee] additional information so they could make a better decision."

One former Justice official, who asked not to be identified, said yesterday that there was "a rather inbred Virginia view" that the judgeship should be filled by a member of the Virginia bar. That would have excluded Wilkinson, whose nomination has been attacked because he lacks courtroom experience.

Schmults yesterday praised Wilkinson as someone who would make "a fine federal judge." The ABA's Buesser also said that several judges, including members of the Supreme Court, were "uniformly enthusiastic" about Wilkinson.

In a letter to the Democratic members of the Judiciary Committee, Justice Powell said he had found Wilkinson, an old family friend from Richmond, "an exceptionally gifted legal scholar and a compassionate and thoughtful human being."

[From the Washington Post, Mar. 16, 1984]

SENATE PANEL APPROVES WILKINSON FOR U.S. JUDGESHIP

(By Philip Smith)

The Senate Judiciary Committee approved the embattled nomination of J. Harvie Wilkinson III to a federal appeals court judgeship yesterday amid renewed complaints by Democrats that the 39-year-old Virginia law professor is unqualified for the post.

The 12-to-4 vote followed unsuccessful attempts by Sen. Edward M. Kennedy (D-Mass.) to persuade the committee's Republican majority to reopen hearings on Wilkinson, who has been attacked by minority and women's groups in Virginia as much less experienced than some female and black lawyers.

"What's very clear is that there's a dual standard," Kennedy said angrily. "[Wilkinson] has never had one client, never. By ramming this through, you're sending a message to women in this society, as well as countless minorities. It's a dual standard, my friends."

If the chairman, Sen. Strom Thurmond (R-S.C.), "wants to hammer this through," Kennedy added, "he has the ability to do it."

Thurmond rejected Kennedy's request for further delay, noting that Wilkinson has been waiting for Senate confirmation since November. The nomination, for a vacancy on the 4th U.S. Circuit Court of Appeals in Richmond, now goes to the Senate floor. Once approved by the Judiciary Committee, such nominations are rarely rejected by the Senate.

Wilkinson, on the faculty at the University of Virginia law school, is a former newspaper editorial writer and served from 1982 to 1983 as deputy assistant attorney general in the Justice Department's civil rights division. He declined to comment yesterday.

One of Wilkinson's harshest critics, Edythe Harrison of Norfolk, an official of the National Women's Political Caucus, blamed Sen. John W. Warner (R.-Va.) for yesterday's pro-Wilkinson vote. Harrison is a Democratic candidate for the seat held by Warner, who is up for reelection this fall.

"I don't admire Senator Warner's lack of courage," Harrison said. "His silence was consent. As long as he gave tacit approval [of Wilkinson], the die was cast."

Warner, the state's senior Republican, has had no comment on the Wilkinson controversy and has said he would vote for Wilkinson if the nomination reached the Senate floor.

The fight over Wilkinson has centered on charges he was found qualified by an American Bar Association screening committee even though, his critics say, he does not meet ABA standards for appeals judges. The ABA recommends a minimum of 12 years' experience. Wilkinson joined the bar in 1972, but spent three years as editorial page editor of The Virginian-Pilot in Norfolk.

"The bar obviously changed the rules for Mr. Wilkinson," Harrison said yesterday. "If we [women's groups] had put forward such a candidate, you can imagine the outcry."

Kennedy yesterday cited the cases of two female attorneys who he said were more qualified than Wilkinson but who were rated as unqualified by the ABA for other court seats. "It would appear there is one set of standards in this case," Kennedy said, "and a different set with regard to women."

In his request for more hearings, Kennedy also recalled recent statements by Supreme Court Justice Lewis F. Powell Jr. and former deputy attorney general Edward C. Schmults that they contacted ABA committee members on Wilkinson's behalf before the voting.

Sen. Arlen Specter (R-Pa.), saying he was concerned about those actions, called on Thurmond yesterday to hold hearings on the ABA's procedures in investigating and rating federal judicial candidates. Thurmond promised to do so.

Sen. Orrin G. Hatch (R-Utah) joined in the criticism of the ABA, accusing the organization of waging a "vendetta" against the late Sherman E. Unger. The ABA rated Unger unqualified in his bid last year for a seat on the U.S. Court of Appeals for the Federal Circuit, touching off a bitter fight in the Judiciary Committee.

"Senator Kennedy's point was well taken against the ABA," Hatch said yesterday. "It was not well taken against this nominee," referring to Wilkinson.

The 4th Circuit has jurisdiction over Virginia, West Virginia, Maryland and North and South Carolina.

[From the New York Times, Apr. 1, 1984]

CRITICS QUESTION EXPERIENCE OF REAGAN'S CHOICE FOR JUDGESHIP

(By David Margolick)

WASHINGTON, March 31.—J. Harvie Wilkinson 3d, President Reagan's choice to fill a Federal appellate court vacancy in Virginia, is in many ways an unorthodox candidate for the bench.

Mr. Wilkinson, a 39-year-old law professor at the University of Virginia, has worked in jobs related to his profession for only eight years. He has never had a private client, argued a case in court or written a legal brief by himself. He has no judicial experience and is not entitled to practice before either the court he hopes to join or any of the trial courts it supervises.

An American Bar Association screening committee, despite sharp internal disagreements, found Mr. Wilkinson, a onetime law clerk for Justice Lewis F. Powell, Jr. of the Supreme Court, "qualified" for the seat.

Earlier this month the Senate Judiciary Committee voted 11 to 5 in favor of the appointment of Mr. Wilkinson to the United States Court of Appeals for the Fourth Circuit, which hears cases from Virginia, West Virginia, Maryland and the Carolinas.

CRITICISM OF THE NOMINATION

Normally, the Senate would ratify the Judiciary Committee's choice. But in the past few weeks, criticism of the nomination has both intensified and broadened beyond groups representing women and minorities who are critical of what they perceive as his limited legal experience, insensitivity and parochialism.

In a brief appearance before the Judiciary Committee last November, Mr. Wilkinson cited a yearlong stint in the Justice Department under Mr. Reagan, scholarly activities and three years as editorial page editor of a Norfolk newspaper as experiences that qualified him for the appellate bench. Other law professors, he observed, had been named to the bench and made "marvelous" contributions despite their limited legal practice.

At least two Senators, Edward M. Kennedy of Massachusetts and Howard M. Metzenbaum of Ohio, both Democrats, have temporarily blocked a vote by the full Senate on the nomination. In addition, Mr. Kennedy, joined by Senators Charles McC. Mathias Jr., Republican of Maryland, and Patrick J. Leahy, Democrat of Vermont, have called on Senator Strom Thurmond, a South Carolina Republican who is chairman of the Judiciary Committee, to hold additional hearings on the nomination bench.

The senators critical of the Wilkinson nomination hope to scrutinize his performance as a Deputy Assistant Attorney General as well as the role played by the Justice Department and Mr. Wilkinson's former mentor, Justice Powell, in lobbying for his nomination.

At the same time, they want to examine the role of the bar group's standing committee on the Federal judiciary, which screens candidates for Federal judgeships. Critics of the nomination have charged that the criteria normally used, notably that candidates be lawyers for at least 12 years and have "substantial" trial experience, were unjustifiably waived for Mr. Wilkinson. The critics say the same criteria sometimes disqualify women and members of minority groups.

"This nominaton is symbolic of a con game," said Armand Derfner, a Washington lawyer who testified against the nomination. "The Administration talks of merit selection, but Mr. Wilkinson is probably the least experienced appellate nominee ever seen."

While the Republican-controlled Senate still seems likely to confirm Mr. Wilkinson, some people are hedging their bets.

"It's too early to say what the final outcome of the Wilkinson nomination will be," said Peter Loomis, press secretary to Senator John W. Warner, Republican of Virginia. "It could dangle for a month or two and die on the vine."

Mr. Warner, whose own choices for the vacancy were rejected by the White House in favor of Mr. Wilkinson, has offered him only token support.

But a Reagan Administration spokesman, who requested anonymity, said, "We're confident that he'll be confirmed after this thing plays out."

BORN TO AFFLUENT SURROUNDINGS

The term most frequently used to describe Mr. Wilkinson is "to the manner born." His father, J. Harvie Wilkinson Jr., was president of one of Virginia's largest banks, and

he grew up in Richmond's affluent West End, long a seat of power in the state.

A graduate of Lawrenceville School and Yale University, Mr. Wilkinson harbored political ambitions, and while a student at the University of Virginia Law School in 1970 he ran unsuccessfully for Congress.

Two years later, however, he won a clerkship with Justice Powell, also from Richmond and a longtime friend of the Wilkinson family. Mr. Wilkinson spent the next five years teaching law at the University of Virginia in Charlottesville, when he left to become the editorial page editor of The Norfolk Virginia-Pilot. He served as Deputy Assistant Attorney General in the civil rights division of the Justice Department from 1982 to 1983, when he returned to teaching.

At hearings in February, witnesses from the NAACP Legal Defense and Educational Fund, the National Women's Political Caucus and several other groups said Mr. Wilkinson was insensitive to minority concerns and had less experience than some women and minority candidates that the bar screening committee had found unqualified.

"If a minority or a woman with the amount of experience Mr. Wilkinson has had been interested in an appellate judgeship she/he would not have gotten to first base," Elaine R. Jones of the legal defense fund testified.

Senator Kennedy and others have suggested that in finding Mr. Wilkinson "qualified" the bar screening committee may have bowed to political pressure. The other designations are "exceptionally well qualified," "well qualified" and "not qualified."

Two former high-ranking Justice Department officials, Edward C. Schmults and Jonathan C. Rose, made telephone calls to committee members before the vote on Mr. Wilkinson. The two admit, moreover, that they divulged details of a confidential, negative, preliminary report on Mr. Wilkinson to others. They said they had hoped that, by demonstrating the nomination might be in jeopardy, they could enlist supporters of Mr. Wilkinson to petition the committee on his behalf.

Frederick G. Buesser Jr. of Bloomfield Hills, Mich., chairman of the bar screening panel, said Mr. Schmults and Mr. Rose "used poor judgment on behalf of a friend." He asserted, however, that "not one vote" had been altered by their action.

Moreover, earlier, this month, Justice Powell acknowledged that he had grown concerned over Mr. Wilkinson's prospects and called one committee member on his own initiative. He has described his former clerk as "an exceptionally gifted legal scholar and a compassionate and thoughtful human being" who is "fully qualified" for the court seat.

Mr. Wilkinson's critics have based their judgments largely on the editorials he wrote for The Virginian-Pilot. Last July the newspaper, which had been one of the state's more liberal organs before Mr. Wilkinson's tenure, came out against his appointment. Mr. Wilkinson, it said, "came up short" on experience.

"Obviously, he is a bright young man in a hurry, but what's the rush?" it said in an editorial titled "Wilkinson as Judge?"

NATIONAL WOMEN'S POLITICAL CAUCUS,
Washington, D.C., September 9, 1983.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: I am writing to express the National Women's Political Caucus' serious concern over the probable nomination of J. Harvie Wilkinson III to the U.S. Fourth Circuit Court of Appeals.

Mr. Wilkinson's lack of experience in the legal arena is well known. In the 11½ years since graduating from law school, he has never practiced law, and has been involved in legal matters for only about eight years. This background falls short of the minimum 12 years experience recommended by the American Bar Association. Surely you will agree that this country, and the State of Virginia, deserves better than that.

In November, 1982, the National Women's Political Caucus forwarded to the Justice Department the names and resumes of four highly qualified women for this position. Each of our recommended nominees has broad experience in the court system, and any one would be an admirable choice for the position under consideration.

It is unfortunate that not one of these women, nor any other of the many equally qualified women attorneys in your state, was included in your list of recommended nominees sent to the president. Your failure to choose a single woman is all the more disturbing in light of the fact that, of 21 Circuit Court nominations made by President Reagan as of September 1, 1983, not one has gone to a woman.

I strongly urge you to bring your influence to bear to see to it that Mr. Wilkinson is not nominated and that a qualified woman is named for this very important post.

Sincerely,

KATHY WILSON,
National Chair,
National Women's Political Caucus.

TESTIMONY AT A HEARING OF THE SENATE JUDICIARY COMMITTEE ON THE NOMINATION OF JAMES HARVIE WILKINSON III, FEBRUARY 22, 1984

STATEMENT OF EDYTHE C. HARRISON

Mr. Chairman, I am Edythe C. Harrison, a resident of Norfolk, Virginia, speaking for the National Women's Political Caucus. I am a past member of the Virginia General Assembly, and have been a community activist in a variety of projects in the arts, education, and community development for many years.

I came to know Mr. Wilkinson personally when he resided in Norfolk as the Editorial Page Editor of the Virginia-Pilot. I am well acquainted with his beliefs and modes of expression through his writings and personal conversations. I am here to comment on Mr. Wilkinson's judicial temperament as believed in his own writings while at the newspaper and in his books.

It is with some uneasiness that I testify due to what I consider a good personal relationship with Mr. Wilkinson. However, as the Chair of the 2nd District Women's Political Caucus and as a concerned citizen, I feel obligated to share with this committee my knowledge on this appointment.

Mr. Wilkinson lacks experience representing clients whether in or out of court. He lacks experience either as a lawyer sweating out a case with a client whose life, liberty, or fortune are at risk, or as a judge called upon day after day to render discriminating opinions about often difficult matters. In view of these facts, it is more than relevant to consider his performance as an editorial writer to glean insight into this man as a journalist, lawyer and as a person. This is essentially so, in view of the fact that Mr. Wilkinson cites his three years as an editorial writer in support of his experience for this appellate judgeship. I must ask if he was temperate in his judgments? Did his editorials reveal the writer as a person of depth, learning, and mature insight, or someone deficient in these qualities? Was he arrogant? Was his language precise and thoughtful? Did he enlighten as well as provoke? Did he liken his responsibilities in the post of Editor to those of a judge, who must give due weight to all sides of a controversy, examine and state carefully the arguments on all sides of a controversy, and make his decision from the best evidence available to him?

Unfortunately, my conclusion is that Mr. Wilkinson falls short in all aspects. An editorial writer does what a judge does. Editorial writers, like judges, confront controversial issues and both should be fair minded, look at both sides of the question, and pose reasonable solutions. Since Mr. Wilkinson is relying heavily on his editorial experience as a basis for his appointment, it is appropriate that we look at his editorial writings for the qualities that would indicate judicial temperament. In evaluating his editorials we look for evidence of fair mindedness, compassion, and one who understands complexities and practical implications inherent in legal disputes.

A judge may be a political appointee but judges are not politicians. Mr. Wilkinson's style has the forensic tone of a campaigning politician or of an adversary lawyer in front of a jury, not the mediating tone of an impartial judge. His discourse suggests a prejudgment that would obstruct his ability to judge fairly. Mr. Wilkinson obviously is intelligent and aware of the problems of this society. In his editorials he asks all the provocative rhetorical questions—often inflammatory in style but he offers no solutions to these problems. This is acceptable for a teacher or writer who can deal in hypotheticals, but it is not appropriate for a judge—or even an editorial writer who must feel a responsibility to the community who looks to him for enlightenment—but it is certainly not appropriate for a judge who must take responsibility for his words knowing they will become law.

His editorials cover a number of highly controversial subjects. A look at his editorial language tells us something about his ability to be fair minded. The issues are arguable. Mr. Wilkinson does not argue the case if arguing means weighing the arguments for and against and coming to one's own conclusions. His adversarial style forces the argumentation to move exclusively between two absolute extremes. I give a couple of examples: Through emotionally laden lexical choices such as, and I offer as direct quotes from his editorials the following language: "nightmares of the Holocaust; malignant mobs; stalking presidents; sanctity of innocent live; heinous crimes," he forces the reader into these extremes and then concludes that there is no other choice. This crystallization into two irreducibly opposed viewpoints is more the discourse of a lawyer than that of a judge. In fact, his adversarial rhetoric repeatedly defies logic. Indeed he deals ruthlessly with the very principles of logical argumentation, all the while maintaining a facade of logical structure.

Mr. Wilkinson is given to extravagant, misinformed, intemperate, inflammatory, stereotypic statements. For example: Regarding one minority group, Mr. Wilkinson very unsympathetically writes, "their rhetoric was that of the maligned. The march urges an end to all social economic, judicial, and legal oppression of lesbian and gay people. Their demands," said Mr. Wilkinson, "should be resisted because the last thing we need is a fresh wave of lawsuits whenever some employee is allegedly dismissed or passed over because of 'sexual preference' " Does Mr. Wilkinson define justice in terms of a reduced caseload? Is justice a matter of convenience for the judges? Is this what we mean by judicial economy? All that most people ask of government is that they be accorded the same legal rights as other citizens, being held accountable for what they are as individuals, not because of their minority differences. This is a point that should not have to be explained to a man who may sit on the bench.

It should also not have to be explained that while it may be appropriate to support capital punishment, it is inappropriate to support capital punishment because, quoting Mr. Wilkinson, "I just don't trust parole agencies." That kind of injudicious statement casts aspersions on a whole class of hardworking public servants and is certainly a dubious reason for supporting this issue.

We all know what the problems are. As an editorial writer, he inflamed us with the problems but never enlightened us with solutions or even attempts at solutions. A judge does not have the luxury of avoiding solutions to important, complex legal problems. Professors and editorial writers, for all the useful work they do, have the luxury of approaching problems from an ivory tower perspective. I am not an attorney but I understand why the American Bar Association requires a particular number of years out of school—and legal practice for a number of years. I understand the reasons for this standard. Mr. Wilkinson's youth, lack of experience and immaturity are impediments to wise decision making.

On the most agonizing questions of race, education, and equal opportunity, Mr. Wilkinson offers not enlightenment, but empty rhetoric with a scholarly intellectual gloss which is useless as a guide to reasonable resolution of fundamental social problems.

"Compulsory busing is madness, compulsory busing betweeen city and suburb is madness multiplied," writes Mr. Wilkinson. Is this the best thinking of a legal scholar who has explored the complex issues involved in dismantling separate but unequal racially identifiable schools? Is all busing "madness"? Is busing in conjunction with paired and magnet generally upgraded schools, teaching and educational programs "madness"? Is busing to remedy state caused inequities in the financial support of schools invariably "madness"? Is judicious busing, not for the purpose of racial balance but for the purpose of good libraries, good order, and good learning programs in all of a city or regions schools "madness multiplied"?

In the controversial and highly emotional subjects of busing, capital punishment, bilingual education, and in vitro fertilization Mr. Wilkinson used the editorial page to confuse and inflame rather than explain. These are issues that beg for discourse and reason and not inflammatory rhetoric that never solves problems. Unfortunately these are not the only subjects that received the same type of treatment.

As if Mr. Wilkinson's lack of judicial temperament were not enough, there is some serious question as to how he achieved this nomination. Achieved is the right word because he engaged actively in the process of getting himself nominated. He lobbied for his own position. A Congressional aide was quoted, "he did everything except take out a billboard." This is especially distressing when in editorial after editorial, Mr. Wilkinson has been harshly critical of the role of politics in judicial appointments. But even all this lobbying does not explain the American Bar Association endorsement. By their own rules he is clearly not qualified but he received the endorsement anyway. It is generally understood that Justice Powell "permitted his name to be used" in support of Mr. Wilkinson's nomination and this may have turned the tables in so far as the ABA endorsement is concerned.

I am not saying there is anything improper, but the Committee should be aware there is a long standing connection between Justice Powell and Mr. Wilkinson. He was clerk for Justice Lewis Powell. The relationship of these two men is well known. Justice Powell's law firm represented the bank that Mr. Wilkinson's father headed. Mr. Wilkinson even worked at the Powell law firm in high school. After clerking, Mr. Wilkinson wrote about Mr. Powell in his book "Serving Justice" and said in that book that when Mr. Powell was appointed to the Supreme Court Mr. Wilkinson felt the Supreme court had been saved and "I could not help thinking my chances for clerkship."

This inside track to a judicial nomination runs counter to everything Mr. Wilkinson has written about merit appointments to the bench. Writing on the theme of merit versus raw political selection of judges was a recurrent theme during his editorship. Concerning the selection of judges by the Virginia General Assembly he writes, "Judges ought to be selected on the basis of merit, not on the basis of political ties. At present, the choice of new judges rests, in practice, with the legislative delegations from jurisdictions involved. The temptations are great—at times irresistible to elevate to the bench the law partners, colleagues, and cronies of legislators." Mr. Wilkinson expressed hope that the proposed Bar Judicial Nomination Commission which would have been appointed by the Bar Association would provide a "high grade and less political review of the character, temperament, intelligence, mental and physical fitness, education, legal ability, experience, general interest and past conduct of each person considered." Mr. Wilkinson said, "It is never too soon to begin stressing merit over connections." We agree.

Testimony of Elaine R. Jones of the NAACP Legal Defense Fund

Mr. Chairman, my name is Elaine R. Jones and I am an associate counsel with the NAACP Legal Defense Fund. I am a native Virginian; I attended law school with Mr. Wilkinson, and I have practiced law in the federal courts, including the Fourth Circuit, for over thirteen years.

I have testified before this Committee several times on subjects of mutual interests, subjects ranging from the voting rights act to procedures for evaluating judicial nominees.

Yet at no time have I been more reluctant to appear than today. But as a matter of fairness and principle I have little choice.

Since he has been President, Mr. Reagan has nominated more than 125 persons to the Federal bench, many of whose philosophy and views on fundamental social issues might differ from mine. However, prior to this appearance I have not appeared before this Committee to testify on a single one of Mr. Reagan's nominees. Mr. Wilkinson's is my first appearance on a judicial nominee during this administration.

After having read Mr. Wilkinson's submissions, having interviewed and talked with people with whom he has worked and reviewing his overall record, I have concluded that it would be fundamentally unfair for this committee to confirm Mr. Wilkinson.

There is a fundamental question of fairness here that must be raised. And that is the issue of fairness with regard to the judicial selection process. It is a question that runs to the American Bar Association's Standing Committee on the Federal Judiciary.

We have before us a nominee who, when viewed objectively, is facially unqualified for appointment to the appellate bench.

At the time of his nomination he had been in the field of law barely eight years, six of those as a law professor. Even adding the three years of his newspaper experience, at the time of nomination Mr. Wilkinson did not have twelve years at the bar which is the requirement of the American Bar Association (ABA). A very strong argument can be made that 12 years at the bar, which is the ABA standard, means for an appellate nominee 12 years of law-related work, in which case Mr. Wilkinson has only 8. For the six years that he has taught law school we understand that Mr. Wilkinson is highly regarded as a law professor, yet we do not think that that qualifies as "significant evidence of distinguished accomplishment in the field of law," which is the applicable language in the ABA standards when one has limited trial experience (p. 3). However, Mr. Wilkinson has no trial experience, nor any out of court experience representing the interests of a client. Nor, we understand, is he even a member of the Circuit court to which he has been nominated to serve. It is then quite confusing to see how, if one uses principles of merit selection, that Mr. Wilkinson merits this appointment. In his testimony before this Committee on Wednesday, November 16, 1983 Mr. Wilkinson refers to the nomination of Stephen Breyer (1st Circuit), Ralph Winter (2nd Circuit), Antonia Scalia (D.C. Circuit) and Richard Posner (7th Circuit) for the proposition that academics can serve ably on the appellate courts. That is true.

However, the issue is not whether academics can serve (they certainly can and should), the issue is the qualifications of Mr. Wilkinson to serve, with 8 years of law-related experience and only 6 years in academic life with no advocacy experience whatever.

At the time of his nomination, Stephen Breyer had 16 years of law-related experience, 12 of those as a law professor at Harvard; Ralph Winter had 22 years teaching experience and taught at Yale Law School; Antonio Scalia had been a member of the bar over 20 years, had taught law for nearly 12 years at the University of Chicago, Stanford and the University of Virginia, an additional 6 years in the actual practice of law and 6 more years in government service. Richard Posner had over eighteen years at the bar, 11 years in academic life and more than six years in government service. Mr. Wilkinson's comparisons simply do not hold up when one reads the record. Much has been made by Mr. Wilkinson himself of his

similarity to others "academics" who were successfully appointed to the bench. A survey of those appointed in the last few years to the appellate bench shows that there is no other member of any Circuit Court of Appeals who has been out of law school such a short period of time, has so little law-related experience, and who has no courtroom or advocacy experience. It is a formidable combination of inadequacies.

Minorities and women have often been reminded that as a general proposition they do not have the requisite experience to serve on the appellate bench because they have only graduated from law schools in significant numbers over the past 10-15 years. Every minority and woman appointed to the appellate bench in the last two administrations has objectively met and/or exceeded the applicable ABA standard.

If a minority or a woman, with the amount of experience Mr. Wilkinson has, had been interested in an appellate judgeship she/he would not have gotten to first base. First, they would have most certainly been found unqualified by the ABA; secondly, they would not have received the nomination; and thirdly, if they had received the nomination, I do not believe they would have ever passed the scrutiny of this Committee.

If no advocacy experience and limited teaching experience is enough to earn a qualified rating for the appellate bench, then the ABA standard is meaningless, as is the selection process.

The Committee now considers the nomination of a white male from a privileged background who has connections of power and who does not meet the qualification standards now met by every federal appellate jurist in the Country. We urge the Committee to act on principle. If Mr. Wilkinson is confirmed it will tell the world more clearly than anything else, that there is a double standard: one for minorities, women and all other appellate judges and another for Mr. Wilkinson.

We ask now only for fairness: that the standard that applies to all other federal appellate jurists in the Country be applied to Mr. Wilkinson. If that is done, this nominee will not be confirmed.

STATEMENT OF BOBBY B. STAFFORD, PRESIDENT OF THE OLD DOMINION BAR ASSOCIATION

Mr. Chairman, I am Bobby B. Stafford, President of the Old Dominion Bar Association ("ODBA"). The Old Dominion Bar Association (ODBA) is a statewide bar organization which has existed since 1941 in the Commonwealth of Virginia. I am pleased to have this opportunity to appear before the committee; however, it is with significant pain and reluctance that the ODBA expresses its opinion respecting the nomination of Mr. J. Harvie Wilkinson as a judge for the United States Court of Appeals for the Fourth Circuit. However, as attorneys who practice before the U.S. Court of Appeals for the Fourth Circuit, it is ODBA's obligation to come forward and speak up on this nomination. The ODBA firmly believes that the appointment of Mr. Wilkinson to the United States Court of Appeals for the Fourth Circuit would diminish the respect of the bench and bar for the quality of judicial experience on the court and for the appointment and selection process for judicial judges.

As practitioners before this court, we are keenly aware of the need for and the expectation that the judges who adjudicate our cases will possess exemplary judicial qualifications who have been carefully selected from the most experienced and able members of the bench or bar. We again wish to emphasize that there are tremendous risks for a bar association to oppose a lifetime judicial appointment. However, in the event the Senate confirms Mr. Wilkinson for appointment to the Fourth Circuit, the high quality of the judiciary could be seriously compromised.

The constitutional importance of an independent and able federal judiciary is unquestioned. And, the Senate's duty to confirm each nominee for the federal judiciary is clear evidence of the profound public interest in assuring that qualified persons are entrusted to the powerful position of a federal judgeship.

To facilitate the public interest, the American Bar Association Standing Committee which evaluates judicial nominees, long ago established minimum evaluation criteria a nominee for the federal bench should possess. The ABA criteria clearly require (1) admission to the bar at least a minimum of twelve years, (2) substantial trial experience as a lawyer or federal judge, and (3) in exceptional cases limited trial experience will suffice where the nominee has distinquished accomplishments in the field of law. Mr. Wilkinson is believed not to possess any of these qualifications. The ODBA has recently learned that Mr. Wilkinson is not even admitted to practice before the U.S. Court of Appeals for the Fourth Circuit for which he seeks an appointment, nor any of the federal district courts in the Circuit. This is alarming.

Notwithstanding its evaluation criteria, the ABA has expediently and miraculously found Mr. Wilkinson qualified for appointment as a federal judge. In your consideration of the ABA's departure from its evaluation criteria, it should be noted that the ABA evaluation criteria and its recommendation are merely an aid to the Senate and not a supplement nor substitute for the judgment of this committee or the United States Senate. The ODBA considers the ABA's finding that Mr. Wilkinson is qualified to be a federal judge an affront to deserving and qualified practitioners and jurists of all races and both sexes in the Commonwealth of Virginia. Mr. Wilkinson has not had any practical legal experience to carry to the bench. Practical legal experience is not limited to trial experience, but may be derived from client contact, motion practice, administrative proceedings, or other advocacy experience.

Attorneys who argue cases before judges of the Fourth Circuit must have unquestioned confidence in the ability of the judges to understand quickly, soberly and intelligently the issues presented. Attorneys generally have only thirty (30) minutes to argue their cases, whether legal issues raised are procedural or substantive or whether such issues involve preservation of life, liberty or property. The judges must often resolve issues presented based on the law cited in a short brief as well as based on their prior experience as a jurist and/or practicing attorney. There is no time—and there should be no need—to explain to the judges the exigencies of a legal practice, whether plaintiff's or defendant's counsel or as a defense attorney or prosecutor in order to assure that the judges evaluate the issues in the proper framework. Accordingly, in view of Mr. Wilkinson's lack of practical experience at the bar or on the bench, he would be substantially disadvantaged as an appellate judge and this would inure to the profound detriment of the lawyers who will appear before him. It must not be forgotten that these lawyers will be representing clients who have important legal and factual disputes.

At the time of his nomination, Mr. Wilkinson has been a member of the bar not quite twelve years, he also has not had the benefit of having attorney-client relationships. An attorney derives significant growth through the wide breath of attorney-client relationships. The attorney-client relationship critically affects the decisions that counsel makes and directly influences and shapes the posture of counsel's case as it appears before the appellate court. Absent practical experience derived through attorney-client relationships, Mr. Wilkinson would be required to make his decisions by vicariously considering or hopelessly speculating about practical considerations that affect legal issues and inferences. These practical considerations which are so vital to the appellate bench in the fair resolution of important controversies would be "second nature" to an experienced lawyer or judge. Such a glaring deficiency in Mr. Wilkinson's qualifications can only lead him to apply mechanically principles of law to resolve legal issues, while failing to comprehend or perceive practical considerations that will impact on his opinions. The federal bench, the bar and the public deserve and expect a truly qualified appointment who has the requisite experience and depth to consider justly those disputes which will come before the bench.

In conclusion, having had no attorney-client relationships, no trial experience, no distinguished accomplishments in the field of law and/or no judicial experience, Mr. Wilkinson is clearly unsuited for the federal appellate bench. Given his record of achievement in various and sundry endeavors, with time Mr. Wilkinson may be able to obtain the requisite legal experience to qualify for appointment to federal bench.

Mr. Chairman, the ODBA respectfully requests this committee on behalf of its members and all the trusting citizens of the Fourth Circuit to give Mr. Wilkinson an opportunity to obtain the requisite legal experience before being thrust into the position of a federal appellate judge. It is our considered opinion as practitioners in the Circuit that this nomination should not be confirmed.

Thank you.

TESTIMONY OF HELEN C. GONZALES, ASSOCIATE COUNSEL, MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

Good afternoon, I want to thank the Chairman and the distinguished members here today for allowing me to testify on behalf of the Mexican American Legal Defense and Educational Fund (MALDEF). My name is Helen Gonzales and I am the Associate Counsel for the Washington, D.C. office. MALDEF is a national legal and educational organization devoted to protecting the civil rights of close to fifteen (15) million Mexican Americans and other Hispanic Americans. Currently, we have offices in San Francisco, Los Angeles, Sacramento, Denver, San Antonio, Chicago and here in Washington, D.C.

I appear before you today to express our opposition to the nomination of J. Harvie Wilkinson to the U.S. Court of Appeals for the Fourth Circuit. Our opposition, Mr. Chairman, is based on the fact that Mr. Wilkinson does not meet the threshold qualifi-

cations for appointment as a federal judge. Thus, it becomes clear that the nomination is premised solely on the conservative political philosophy which Mr. Wilkinson shares with this Administration. If this nomination is approved it will be but another slap in the face to minorities and women alike who are repeatedly told that they cannot be given judicial or other appointments because they lack the qualifications necessary for those positions.

Federal appellate judges serve a very important role in our society. Their decisions can have a tremendous impact on individuals and communities. It is, thus, critical that individuals appointed to these positions be of the highest professional caliber.

In order to promote this goal, the American Bar Association (A.B.A.) has developed minimal criteria for evaluating a nominee to the federal bench. An individual should be admitted to the Bar a minimum of twelve years, have substantial trial experience as a lawyer or federal judge, and, in exceptional cases, limited trial experience will suffice where the nominee has distinguished accomplishments in the field of law.

Since leaving law school J. Harvie Wilkinson served one year as a U.S. Supreme Court law clerk, six years as a law professor, and one year in the U.S. Department of Justice. He also spent three years as an editorial page editor for the Virginian-Pilot. Thus, Mr. Wilkinson has only a total of eight years of legal experience, none of which includes trial work. While the A.B.A.'s minimal criteria calls for "substantial trial experience," this standard has been broadened, in its application, to include advocacy work, generally. However, even under this broader view, Mr. Wilkinson fails to meet the A.B.A. standard. He is not even admitted to practice before the Court of Appeals to which he has been nominated nor to any of the federal district courts within that Fourth Circuit.

Mr. Wilkinson's positions at the University of Virginia Law School and at the Justice Department left him completely unexposed to either client representation or practical advocacy experience. Thus, the record clearly shows that he lacks the experience necessary for appointment to the appellate bench.

It is also interesting to note that during Mr. Wilkinson's tenure as an editor to the Virginian-Pilot, a number of editorials were published which criticized the judicial selection process for being unduly political.[1] One such editorial concluded that, "it is never too soon to begin stressing merit over connections."[2] In this case, however, since "merit" is lacking one must presume, as a recent editorial by the Virginian-Pilot did, that Mr. Wilkinson's greatest qualification to serve on the bench is his conservative philosophy.[3] Based on this lack of practical, legal experience even his former employer had to admit that his nomination should not be confirmed.

It is ironic, then, that Mr. Wilkinson would seek a position for which he lacks sufficient credentials to meet his own "merit" standard. In the selection of judges he, understandably, supported review of such criteria as legal ability and experience.[4] As indicated above, however, he falls short on these two key prerequisites.

It is also ironic that despite Mr. Wilkinson's insistence that appointments be based on merit and not political considerations, he has apparently been lobbying extensively on his own behalf.

This point is reflected in the comment attributed to a Virginia congressional aide who described Mr. Wilkinson's political lobbying for the judgeship: "He's made phone calls, visited Congressmen's offices, and done everything except take out billboards and airplanes with streamers."[5]

Thus, one has to surmise that Mr. Wilkinson believes that he need not follow his own advice.

The Reagan Administration has consistently denounced the use of affirmative action on the ground that it leads to the appointment, or hiring, of unqualified individuals. Mr. Wilkinson, himself, wrote, or approved, editorials during his tenure as an editor, strongly raising this same implication.[6] Yet, both he and the Administration, now appear willing to subvert their own "merit selection" philosophies when it concerns the appointment of a white male.

Therefore, allowing Wilkinson to become a federal judge is fundamentally unfair to the many qualified Hispanics, Blacks, and women who have been repeatedly denied federal judgeships because they, allegedly, failed to meet the A.B.A.'s minimal standards. Appointment of Mr. Wilkinson, despite his current lack of more than eight years of legal experience, would create a double standard. Clearly there must be others including, women and minorities, who are, in fact, qualified under the A.B.A.'s standards for this appellate judgeship. The A.B.A.'s minimum standards, under which others are judged, should not be waived merely because a candidate is of the correct political philosophy.

TESTIMONY OF JOSEPH MICHAEL TREVINO, DIRECTOR OF LEGISLATION, LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC)

Good afternoon, Mr. Chairman, distinguished members of the Senate. First, I would like to thank you on behalf of the League of United Latin American Citizens (LULAC) for allowing me, Joseph Michael Trevino, LULAC Legislative Director, to present our views regarding the judiciary generally and Mr. J. Harvie Wilkinson's nomination to the 4th Circuit Court in particular. LULAC is the oldest and largest Hispanic organization with a membership of over 100,000 members in 43 states recently established councils in Mexico, Central America, West Germany, and Okinawa. Founded in Corpus Christi, Texas, LULAC's central concerns are for full social, political, economic, and educational rights for Hispanics in the United States.

Mr. Chairman, let me begin by stating that the League's interest in the certification process is longstanding and in keeping both with the responsibilities of an informed citizenry and advocating for an independent judiciary which administers the law in a fair, evenhanded and effective manner. Speaking about the judiciary system in this, our country, brings to mind a conversation I had with Mr. Jim Range, formerly legislative director for Senator Howard Baker. Mr. Range recounted to me conversations he had had with persons whom he encountered while traveling abroad. Mr. Range was surprised to hear that the one aspect of American life which was most respected and was admired in fact the U.S. judicial system, which in their mind was and continues to be free, independent, and above all, just. We, at LULAC, actively support and advocate for a free, independent and just judiciary. Regarding Mr. J. Harvie Wilkinson's nomination to the bench for the 4th Circuit Court, LULAC urges this body to reject his nomination on the following grounds:

Mr. Wilkinson is guilty of "intellectual dishonesty," while the nominee was editor of the editorial page of the Virginian-Pilot during 1979 through 1981 a public debate ensued regarding the selection of judges for four newly created federal judgeships. It can be assumed that the editorials published during that time carried the approval of the nominee. Several editorials referring to the then present day procedure for selecting judgeships were published. (Attachments 1, 2, and 3.)

Among the conclusions reached by these editorials was the fact that "the secrecy of the whole process darkens public distrust." (Attachment 1.) But of particular interest is the editorial entitled "Choosing Judges on Merit." (Attachment 2.) This editorial supported the notion of a Judicial Nominations Commission in the hope "that the Commission will provide a high-grade and less political review of 'the character, temperament, intelligence, mental and physical fitness, education, legal ability, experience, general interest, and past conduct of each person considered."

Were we to hold Mr. Wilkinson to the same standard the editorial suggested, we must conclude that the nominee does not meet those standards. For example, with respect to the criterion of experience, Mr. Wilkinson does not nearly meet the level of experience which most nominees have to the appellate level bench. Mr. Wilkinson does not have any significant or noteworthy advocacy experience which could compensate for not meeting the American Bar Association's minimum of 12 years post-law school experience for judgeship nominees. While Mr. Wilkinson is an author and editor for the editorial page, neither of these literary experiences could be construed to compensate for the absence of evidentiary, procedural, trial or advocacy experience. At best, his literary interest, as reflected in the editorials, is one of posing present day social problems and criticizing the government and courts for implementing alternatives and solutions where he has not supported one solution over another, much less pose an alternative himself.

With respect to his character, Mr. Wilkinson's activities in pursuit of his self-interest cast a shadow of doubt on this most important of judicial traits. For example, Mr. Wilkinson in a published comment attributed to a Virginia congressional aide has "done everthing except take out billboards and airplanes with streamers." (Attachment 3.) If

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[1] "Choosing Judges on Merit," The Virginian-Pilot, Feb. 9, 1979; "Change It," The Virginian-Pilot, Feb. 21, 1980; "Was It Really Racist," The Virginian-Pilot, March 8, 1980.

[2] See, e.g. "Politics Behind the Robe," The Virginian-Pilot, Jan. 18, 1979.

[3] "Wilkinson as Judge?" The Virginian-Pilot, Jul. 29, 1983. Mr. Wilkinson's published views on a number of issues parallel those of this Administration. See, e.g. "Busing Embers," The Virginian-Pilot, Sept. 15, 1978; "Busing Blues," The Virginian-Pilot, Feb. 11, 1980 (editorials during Wilkinson's tenure at The Virginian-Pilot opposing busing); See also Former Pilot Editor Named To Top U.S. Civil Rights Post, The Virginian-Pilot, June 6, 1982 (quoting Wilkinson for his opposition to court-ordered busing and numerical quotas).

[4] "Choosing Judges on Merit," The Virginian-Pilot, Feb. 9, 1980.

[5] "J. Harvie Wilkinson's Inconsistencies," The Virginian-Pilot, Nov. 15, 1983.

[6] "Politics Behind the Robe," Supra, and "Hire Faculty for Quality," The Virginian-Pilot, Dec. 22, 1980.

accurate, this report raises serious questions about Mr. Wilkinson's perception of a federal appellate level judgeship. LULAC asks, does the nominee perceive the bench as a position to be lobbied for, or one which is deserved on the basis or merit?

Of all the editorials attributed to Mr. Wilkinson during his tenure at the Virginian-Pilot, which were researched, the one entitled "Capital Punishment Is Necessary," April 23, 1981 is particularly troubling. Mr. Wilkinson supports capital punishment on the basis that "I just don't trust parole agencies." (Attachment 4.) The nominee supports capital punishment and questions whether this irreversible penalty serves as a deterrent. His response, "Maybe it does. And maybe it doesn't. But let's at least give the innocent the benefit of this doubt." Mr. Wilkinson is prepared to sentence people to death despite studies which indicate that the murder rate per 100,000 population in non-death penalty states has been consistently lower by about 100% than in states which have the death penalty. (Congressional Record, February 9, 1984 at 2459 Attachment 5.) On the grounds that the nominee distrusts parole agencies, he supports capital punishment despite the "Bureau of Justice Statistics reports that for all of calendar year 1982, 'about half the 64 persons who left death row by means other than death had both their convictions and their sentences vacated.'" (Congressional Record, February 9, 1984 at 2462 Attachment 6.) Given this example of the danger of error and that almost six percent or 66 of the 1276 men and women on death row are Hispanics, it is troubling to seek support for a nominee that has exhibited a pre-disposition of opting for such dire and irreversible punishment on such grounds.

Finally, from LULAC's perspective and with respect to bi-lingual education, Mr. Wilkinson has displayed both ignorance and a callous disregard for the contribution of Hispanics both to this country's industrial development and military efforts. Mr. Wilkinson, in the editorial "Bilingual Madness," September 5, 1980, asks, "What feelings and loyalties will they [Spanish-Speaking Americans] develop toward a country whose dominant tongue many but dimly understand." (Attachment 7.) It seems Mr. Wilkinson is unaware that Hispanics have the highest number of medal of honor winners of any ethnic group in our country. Is Mr. Wilkinson unaware that during each of the major world conflicts it is the Mexican of yesterday who is the Hispanic-American of today that has and does work where most Americans wouldn't. Further, it seems that Mr. Wilkinson is unaware that the 1980 census report found that well over 75% of the Hispanic-American families claim English as the language spoken at home. Clearly, Mr. Wilkinson's oppostion to bi-lingual education does not reflect a well informed nor well reasoned opinion, both skills considered pre-requisites to a judicial appointment.

In summary, Mr. Chairman, Mr. Wilkinson has, through his editorials, provided us a window into his mind. From our vantage point, Mr. Wilkinson is a bright man, but he lacks the advocacy experience which contributes to the overall requirements of an appellable level judge. While he must be given and fairly deserves credit for his accomplishments, LULAC questions why someone with Mr. Wilkinson's credentials has been chosen above other white males, minorities, and women who are qualified and should be considered by this committee?

In closing, it is LULAC's position that confirmation of this nominee would be tantamount to implementing on-the-job training at the Federal appellate level bench.

Thank you.

TESTIMONY OF ARMAND DERFNER

For most cases in the federal courts, the circuit courts of appeal are effectively the law of the land. They decided 28,000 cases last year. In about 2500 of these cases, the Supreme Court was asked to hear a further appeal, but it could so in only about 100.

The responsibility of the circuit courts is carried out by fewer than 150 judges in thirteen circuits. J. Harvie Wilkinson III, of Virginia, has been nominated to fill one of those seats. He would sit on the Fourth Circuit, which hears all the appeals from the States of Maryland, Virginia, West Virginia, and North and South Carolina. Last year the Fourth Circuit decided 2700 cases.

Mr. Wilkinson is 39 years old and has been out of law school for 11-plus years.

The American Bar Association's standards for federal judicial nominees call for a minimum of 12 years experience. No person in recent memory has been nominated for the appellate bench with less. The ABA has three levels of acceptable recommendation—exceptionally well qualified, well qualified, and qualified. Mr. Wilkinson received a rating of qualified, the lowest acceptable rating. It is reported that even the decision to give Mr. Wilkinson the rating of "qualified," rather than "not qualified," was a subject of considerable controversy on the ABA committee.

The problem with Mr. Wilkinson is not simply the short time he has been out of law school, but his dearth of experience since that time. His résumé may be that of a bright young man with promise for the future, but there is nothing to suggest that he is ready now for a judgeship, especially on the United States Court of Appeals. Such positions, as the ABA points out, should be reserved for those men and women who meet not only the stringent criteria required of any federal judges but in addition "have an unusual degree of overall excellence that would provide an inspiration and an example to trial judges."

Since leaving law school, Mr. Wilkinson's 8 years of legal experience consists of a year as a Supreme Court law clerk, 6 years as a law professor, and a year in the Justice Department. The other 3 years since law school graduation were spent as a newspaper editor in Norfolk.

During his 8 years of law-related work, it does not appear that he has ever represented a client, tried a case, written a brief, or argued an appeal, whether for a paying client or in a pro bono matter. Indeed, it appears that even today he is not admitted to practice in the very court on which he is to sit, nor in any district court in the circuit (or any other district court).

His sole experience came during his single year in the Justice Department. There he screened the work of lawyers engaged in cases, but could hardly do any real supervising, and took virtually no active role in any cases himself. The closest he got to a case appears to have been a simple motion he presented in the Baton Rouge school desegregation case.

Of course there have been first-rate judges who had little litigation experience before going on the bench, but these others at least had experience in other types of law practice, whether in advising clients, negotiating transactions, engaging in administrative proceedings, or any of a large number of other ways that lawyers can gain experience.

Likewise, some of our finest judges have had academic backgrounds, but they have been distinguished teachers of long-standing, and have generally leavened their academic experience with exposure to other aspects of the law. For example, the Fourth Circuit has another judge who came from a law school, U.S. Circuit Judge J. Dickson Phillips. Phillips had been Dean of the School of Law of the University of North Carolina for 15 years at the time of his appointment in 1978. He had been admitted to the Bar for 30 years, and in addition to his eminence as a teacher, had also been in private practice a dozen years. At the first hearing on Mr. Wilkinson's nomination, a comparison was made to Justice Felix Frankfurter—but of course there is no real comparison. When Justice Frankfurter was nominated in 1939 he had been a law professor for a quarter of a century, and in addition to his nationwide preeminence in the academic world, his other experience was extraordinarily varied, beginning with his five years as an Assistant United States Attorney in the Southern District of New York, and never stopping after that. Finally, Mr. Wilkinson mentioned several other former law teachers—Judges Winter, Posner, Scalia, and Breyer—but again a short look at their careers shows just how far different their situations are from Mr. Wilkinson's.

The paucity of Mr. Wilkinson's experience is all the more curious in light of his own steadfast insistence on pure merit selection of judges—in the past. His newspaper editorials include at least a dozen repeatedly criticizing the selection of judges on any basis other than merit. His criticism extends not only to appointment for political reasons, but also to appointment of people without sufficient experience, particularly women and blacks. In light of these editorials, perhaps it is not surprising that his own newspaper, the Norfolk Virginian-Pilot, has criticized his nomination.

The lack of experience is not a technical issue. We appoint our judges not to be theoretical philosophers of the law, but to decide cases, great and small, that raise live issues between live litigants. We also insist that those cases be decided not on the basis of abstractions, but on factual records consisting of evidence produced at trials. Circuit judges, especially, need to be sensitive to that fact because they will not see the witnesses, but will be confronted with cold records and will have to try to put themselves in the shoes of the district judges who have been there. While litigation experience may not be absolutely essential for a judge, some awareness of the problems of proving and defending a case is essential. That awareness can be gained in many ways, none of which Mr. Wilkinson has ever gone through.

His Justice Department service—essentially reviewing drafts of briefs and memoranda to make certain they did not contradict the policy goals of the Attorney General—illustrates the problems created by his inexperience. Apart from displaying a great unfamiliarity with the problems of presenting cases, two good, specific examples of his failure to understand the realities of litigation involve the questions of remedies and intervention.

Remedies—The Administration claims that it has sought more effective remedies for discrimination—for example, dealing with employment discrimination by empha-

sizing recruitment of qualified minority applicants rather than specific hiring goals. Yet Mr. Wilkinson has consistently blue-penciled efforts in specific cases that are necessary to make recruitment an effective remedy. Any litigator knows that recruitment will not work unless there are incentives such as recruitment goals (not to be confused with hiring goals), or reporting provisions. Such provisions were and remain a standard approach in cases in other sections of the Civil Rights Division, and they do not raise whatever philosophical problems some people have with hiring goals; yet Mr. Wilkinson refused to allow their use, even when a school district was willing to agree. The net result is to make it impossible for recruitment to do the job claimed for it, which means either going to a more stringent remedy or more likely (since Mr. Wilkinson is apparently unwilling to adopt any stronger remedy under any circumstances) just giving up on any remedy of any kind.

Intervention.—In many areas of the law, enforcement suits can be brought by both the Justice Department and by private citizens. Frequently, the Justice Department will intervene in an ongoing private suit, or vice versa. Until two years ago, it was virtually unheard-of for the Justice Department to oppose intervention by private citizens where those citizens had a direct interest in the controversy (for example, black parents intervening in a Justice Department suit to desegregate their school district). Yet, in recent cases supervised by Mr. Wilkinson, the Department has adopted the position that intervention by black parents should be denied on the ground that the Department adequately represented their interests—even while Department personnel said privately the reason they opposed intervention was because they regarded the intervenors as their adversaries. These cases have resulted in great embarrassment to the Department because, in addition to the transparency of the claim that the Department was adequately representing the intervenors' interests, there were several cases about the same time where the Justice Department supported the intervention of white petitioners for intervention. Moreover, in one of Mr. Wilkinson's cases (Charleston County, South Carolina) the Department stood alone in its anti-intervention position because even the school board defendants did not oppose intervention; in the other case (Choctaw County, Mississippi) Mr. Wilkinson redrafted a memorandum, turning it from one supporting intervention into one opposing it on the ground that the Department could do everything the intervenors were complaining about. The net result is that (1) the intervenors have been kept out of the case, (2) they have been prevented from filing their own case, under a fifth circuit rule—which Mr. Wilkinson was either unaware of or unconcerned about—providing that only one lawsuit may be filed in such circumstances, and (3) more than a year later, not one thing has been done in the case.

Mr. Wilkinson's editorials reflect the same attitude: a preoccupation with opposition to remedies for problems. He says he is opposed to certain remedies—school busing and hiring quotas. If that were all he was opposed to, he would obviously have some company. In fact, though, there is little sign that he has ever supported any remedy. Thus, he has written editorials saying hiring goals should be scrapped in favor of encouraging recruitment—only to oppose effective recruitment when the opportunity came his way in the Justice Department. Likewise, among his editorials and his Justice Department tenure, the list of his dislikes includes bi-lingual education and effective remedies for discrimination against handicapped people.

How he would propose to solve any of these problems he does not say. Yet these are precisely the problems that a federal judge, especially a circuit judge, must grapple with.

Mr. Wilkinson is probably the least experienced appellate nominee ever seen. For many years, efforts to appoint qualified minority people and women to the federal bench were stymied by claims that there were few potential nominees with enough experience. Only in the past few years have numbers of blacks and women had the experience necessary to meet the exacting standards of the ABA and the United States Senate. Ignoring the standards for Mr. Wilkinson, after all the talk over the years, is simply unfair.

If a black or a woman with his qualifications were nominated, Mr. Wilkinson would be the first to write an editorial insisting on merit selection rather than "affirmative action." Mr. Wilkinson does not meet the standards for confirmation as a United States Circuit Judge. If he is confirmed, that will send us all a clear message that the standards don't really mean anything after all.

ARMAND DERFNER,
ATTORNEY AT LAW,
Washington, D.C., November 25, 1983.

Re J. Harvie Wilkinson.

ELAINE R. JONES, Esq.,
NAACP Legal Defense Fund, Inc.,
Washington, D.C.

DEAR ELAINE: Enclosed is a copy of a 33-page letter of resignation (with 36 documents attached), dated October 18, 1983, by a Justice Department lawyer named Timothy Cook. It is a long list of recent Justice Department actions to undermine civil rights enforcement. It goes into detail about the internal decision-making process, and refers at a number of places to J. Harvie Wilkinson.

It goes into most detail about matters involving handicapped people (which is apparently the section that Cook was in), but there are numerous descriptions of situations in other areas. To get a real assessment of Wilkinson's role, each of the incidents would have to be looked at by someone who is familiar with the particular area of the law. Also, it is not always clear just what his role in a particular incident was, because there are a number of incidents where he may have been involved but in which he is not mentioned by name, and there are others where his name comes up but he may not have done anything other than receiving a memorandum or passing on a message. As a start, though, the following are the places in the resignation letter where Wilkinson is mentioned by name:

(1) Page 6—W explains Reynolds' decision not to intervene in St. Louis State Hospital case involving mistreatment of mentally retarded patients.

(2) Page 12—W hopes for a way to get out of the *Baylor* case ("I recall vividly the sadness I felt at seeing Deputy Assistant Attorney General for Civil Rights J. Harvie Wilkinson rejoice at the news that the federal judge for the case had threatened to rule against the government for failing (due to intentional delay in the front office) to file pre-trial papers on time—it was a way out, and it could be blamed on the judge.")

(3) Page 14—W explains Reynolds' decision to delete a citation in a brief to a Supreme Court case which supports agency powers to adopt broad regulations.

(4) Pages 21-22—W opposes use of recruitment goals in employment discrimination cases.

In addition, Wilkinson's name comes up in a number of the appendices:

(1) Appendix A, an earlier memo from Cook to Attorney General Smith, refers to W several times in discussing enforcement of laws protecting handicapped people. See especially pp. 4-5n.3, suggesting that Reynolds and W were jointly responsible for certain policy proposals.

(2) Appendix D, a memo from a department lawyer to W, asks whether it is true that a settlement conference was held in a case without the knowledge of the line lawyers on the case. (The significance of this memo depends on whether W participated in or was responsible for the secret settlement conference, or whether he just happened to be the Deputy to whom this inquiry went.)

(3) Appendix E, a memo from W to Reynolds, recommends certain provisions in a proposed settlement.

(4) Appendix K-1, a memo from a Department lawyer to W, objects to a draft brief in which a twisted legal argument is advanced in order to undercut agency enforcement regulations. (Was W responsible for the twisted legal argument?)

(5) Appendix Q, a set of documents drafted by W to oppose intervention by black parents in a school desegregation case which had been brought by the government some years earlier, may be very significant. It argues against intervention on the grounds that the parents cannot show their interests are not being adequately represented by the Justice Department, even if the Department and the parents differ as to relief. Essentially, this is a slick pleading designed to keep black school children and their parents from interfering with the Justice Department's efforts to make sure that the relief afforded them is sharply limited in keeping with the ideology of current Justice Department officials. Wilkinson is certainly entitled to hold those views, as he does, but pretending that that position adequately represents the interests of the school children and parents is not very honest.

(Appendix Q, should be read together with Appendix P, a similar document filed a short time earlier in the Charleston, S.C., school case, and also arguing against intervention on the grounds that the Justice Department adequately represents the interests of the school children and parents. The Charleston case is the one where Reynolds is reported to have instructed the line lawyers to make "those bastards . . . jump through every hoop" because he regarded the intervenors as adversaries; it is also a case where the Department has been guilty of the worst foot-dragging, which is what prompted the motion to intervene in the first place. Arguing in court that you adequately represent the interests of people whom you privately refer to as adversaries is a fraud on the court. Was Wilkinson involved in the Charleston case, or in the development of a general approach to intervention petitions?)

In addition to the specific references to Wilkinson cited above, the resignation letter and appendices refer to a number of legal

and enforcement debates within the Department, including the debate over whether particular anti-discrimination statutes or regulations require proof of discriminatory purpose; whether agencies have the authority to adopt anti-discrimination regulations; whether the sanctions for violations should be program-specific or institution-wide; whether certain forms of financial assistance trigger coverage under anti-discrimination laws: whether particular laws authorize private rights of action; and finally, recurring disputes over the scope of remedies appropriate in particular cases. In most of these issues, it is not clear whether Wilkinson played a major role, but it is likely enough to make it worth looking into.

Overall, this material suggests some serious questions about J. Harvie Wilkinson's qualifications to sit on a court that plays a critical role in the interpretation and enforcement of this Nation's civil rights laws.

First, a serious question is raised about the way he treats legal authority in dealing with the interpretation of civil rights laws. It is not simply a question of his views; he is obviously entitled to believe what he wants. The question is what he will do to make those views seem like the law of the land. The attached material shows a willingness by someone to twist precedent, legislative history, and other source of statutory construction in order to cut the heart out of civil rights statutes. The people who have been involved in this process were essentially using tricks to smother the law, and seem to believe that they were perfectly free to ignore the law—a hypocritical view coming from people who claim to believe that legislation is the job of Congress. We do not know from these materials what role Wilkinson played in these matters but if he was involved to any significant degree, he is certainly not the kind of person we ought to trust to be a judge.

Second, a serious question is raised about his apparent opposition, in case after case, to virtually any remedy that is likely to be effective. He is of course entitled to oppose specific remedies (such as bussing or quota hiring), but if so he has an obligation to find other remedies that will work. He apparently recognizes this, because he has been quoted as saying he prefers other remedies. Yet the enclosed pages show him repeatedly opposing other remedies, such as numerical recruitment goals, reporting requirements, and basically any remedy other than a Biblically simple "thou shalt sin no more" injunction. I do not see any indication of his support for any remedy except in one case where he argues in favor of including a remedy because the State of Connecticut has agreed to. The question is whether his opposition is just to bussing and quotas or whether it is to all effective remedies.

This issue also relates to Wilkinson's lack of experience, because it appears that his complete lack of experience has left him with no sense of the frustration of trying to get an effective remedy. Instead, he simply rejects remedy after remedy, without ever saying what the remedy ought to be or what remedy will work.

As I noted at the beginning of this letter, the enclosed materials are too skimpy to form final judgments, but they raise some alarming questions and tell us where we ought to look deeper.

Because I borrowed someone's only copy, I would appreciate your copying whatever you need and returning the set.

Sincerely,

ARMAND DERFNER.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABDNOR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TRIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. TRIBLE. Mr. President, I am pleased to rise and respond to the statements of the gentleman from Massachusetts. I must say that, although it is good that we study judges carefully, we ought not study judges forever. I welcome the opportunity to talk about this nomination on the merits.

The strategy of the opposition has been one of silence and delay to this hour. Now it is time to talk about this man, his credentials, and his ability to serve on the Federal bench.

Interspersed with long moments of silence today, we have heard objections tendered by a number of my colleagues. They take several different forms. Primarily they concern Professor Wilkinson's qualifications; and, next, they concern the procedures of the ABA, and the need for additional information. I think it is of some note that those who have risen today to speak against this nomination did not feel compelled to take part in the hearing process. There have already been two hearings on Mr. Wilkinson. Yet, today, there is a request for an additional hearing. I say it is time for this body to act.

Let me respond, first to arguments presented here today with reference to Mr. Wilkinson's qualifications for this position.

Mr. Wilkinson, Mr. President, has distinguished himself in every endeavor. Indeed, he is a young man. But just as there is a place for young men in the Senate of the United States, so also is there a place for young men on the Federal bench. Mr. Wilkinson is a nationally respected legal scholar. He has written three books, and a large number of law review articles. His writings have been well reviewed, in popular and in legal periodicals. They have been used in textbooks in universities across this land. They have been relied on by courts. As the ABA Committee noted in its report to the Judiciary Committee:

Mr. Wilkinson's extensive writings were furnished to the Committee and show him to be an unusually able writer and legal scholar with the apparent capacity to become an outstanding appellate judge. A number of law professors were among those whose views were solicited with respect to this nomination, and they were uniformly of the view that his legal scholarship was of very high order.

Mr. Wilkinson is also an outstanding teacher at a prominent, nationally recognized law school, the University of Virginia. Each of the courses he teaches—Federal courts, constitutional law, criminal procedures—is directly relevant to the questions he will face on the Federal bench. The dean of Virginia Law School has acknowledged "students berate us when we move him into a smaller classroom. His leaving would be a major loss for us." In recognition of his teaching abilities, he was presented with the first Outstanding Young Teacher Award for the entire university.

Mr. Wilkinson has also distinguished himself in fields beyond that of legal scholarship and of the legal classroom. He has distinguished himself as a Supreme Court clerk. Louis Powell has called him among the very finest of his 45 clerks. The ABA Committee noted that the investigating committee also sought the views of members of the Supreme Court other than Justice Powell, and it reported "the justices contacted were uniformly enthusiastic" about Mr. Wilkinson's abilities.

Mr. Wilkinson possesses a breadth of experience unusual in a lawyer of any age. He was the first student ever to serve on the governing body of a State institution in Virginia, the Board of Visitors of the University of Virginia. He was a congressional candidate in 1970 from the Third Congressional District of Virginia. He was the editor of the editorial page of the Norfolk Virginian-Pilot, one of the principal newspapers in my State. While that experience is not a legal one, it did acquaint Mr. Wilkinson with a broad range of issues, especially those involving the first amendment. I daresay, from my own practice before the bar, if judges met opinion deadlines with the same promptness that newspaper editors meet copy deadlines, our legal system would be far better off.

Mr. Wilkinson also served as the Deputy Assistant Attorney General in the Civil Rights Division of the Department of Justice. His responsibilities were general litigation and special litigation sections, where he supervised not 1, not 5, not 10, but 50 litigating attorneys. There, he also directed settlement efforts and reviewed motions, pleadings, briefs, and correspondence on a daily basis.

I would say, moreover, his academic record is impeccable. He graduated Phi Beta Kappa, magna cum laude, scholar of the house with exceptional distinction from Yale in 1967. At Virginia Law School, he was notes editor of the Law Review and graduated Order of the Coif.

This is a man of quality. This is a man of distinction. This is a man who will add great dignity and ability to the Federal bench.

I have had an opportunity to practice in the Federal system. I have prac-

ticed before district court and the Fourth Circuit Court of Appeals. I have had the opportunity to see judges, good ones and not so good ones. Mr. Wilkinson would be an excellent addition to the Federal bench.

Let me address specifically some of the other information and misinformation presented here today. Let us talk about the record. Is Mr. Wilkinson's lack of private practice and trial experience a handicap for this position?

For a trial court it might be. But this is an appellate judgeship. As one columnist has said, "the work of an appellate court demands special qualities—intellect, legal learning, detachment, analytical and rhetorical powers—far more than prior litigating time." The columnist, Mr. Edwin Yoder, noted that Mr. Wilkinson "emphatically" possessed these attributes.

Courts require persons of varied strengths and backgrounds. We are not talking about the one judge who will preside. We are talking about one of many. It is valuable for judges to complement one another in their background, their training, indeed their philosophy. These with trial experience can make important contributions. So can those with academic skills. The ability to research and write clearly on difficult questions of law is crucial to appellate judging. Mr. Wilkinson has the undisputed ability to perform this task with distinction.

Let me make a further point. The appellate bench boasts many distinguished judges whose backgrounds are primarily academic in nature. In spite of what you have heard today, the Justice Department reports that, in the last 5 years, a half dozen individuals completely lacking in trial experience have been appointed to the court of appeals.

President Carter appointed Dorothy Nelson to the ninth circuit, Carolyn Randall to the fifth circuit, and Stephen Breyer to the first circuit, although none of them had conducted even one trial. President Reagan has appointed three circuit judges completely lacking in trial experience: Ralph Winter of the second circuit, Richard Posner of the seventh circuit, and Pauline Newman of the Federal circuit.

The ABA has acted consistently in the case of all six circuit judges and Mr. Wilkinson, rating each of them "qualified." It has been the ABA's position that while trial experience is essential in a candidate for the district court, it is not required for an appellate court.

On a related matter, I note that it has been alleged that the ABA committee has been more strict in evaluating women without trial experience. I find that allegation somewhat incredible, considering that for much of the time the committee chairman was a woman. Further, this allegation is disproved by the fact that three of the six circuit court nominees without trial experience, found "qualified" by the ABA and confirmed by the Senate over the last 5 years, have been women.

Mr. Wilkinson's background places him well within the range of qualifications of academics appointed to the circuit court of appeals during the last 5 years. That is the record, and is indisputable on the facts.

One of these appointees of the previous administration deserves particular note. Judge Stephen Breyer, now on the first circuit, was then chief counsel of the Judiciary Committee. He was supported strongly for his current position by the senior Senator from Massachusetts. The careers of Judge Breyer and Mr. Wilkinson are so strikingly similar that it is difficult to understand how anyone could support the one and oppose the other based on their backgrounds and their qualifications.

At the time of confirmation, Judge Breyer was 42 years of age, while Mr. Wilkinson is 39. Judge Breyer had been admitted to the bar for 14 years, compared to 12 years for Mr. Wilkinson. Judge Breyer had been married 13 years and had three children; Mr. Wilkinson has been married 11 years and has two children. Both gentlemen had clerked for the Supreme Court, Judge Breyer for Justice Goldberg and Mr. Wilkinson for Justice Powell.

While Judge Breyer had 10 years experience as a full-time professor of law compared to 7 years for Mr. Wilkinson, the latter's subjects—constitutional law, governmental procedure, and Federal courts—are more relevant to service on a regional circuit court than Judge Breyer's rather narrow expertise in antitrust law and regulated industries.

The parallels between their careers are even more striking. Both gentlemen served 1 to 2 years at the Justice Department—Judge Breyer as a Special Assistant in the Antitrust Division and Mr. Wilkinson as a Deputy Assistant Attorney General in the Civil Rights Division. The principal duties of each were to write and edit briefs and to supervise trial attorneys, but not to try cases. In fact, in the personal data questionnaires that both gentlemen completed for the ABA and the Justice Department, each gentleman admitted to having no trial experience, and having presented exactly one oral argument on a question of law. Both gentlemen spent 3 of their years following law school in nonlegal occupations—Judge Breyer as a Senate staffer and Mr. Wilkinson as an editorial writer. Both gentlemen have written the same number of publications; 3 books and 10 legal articles.

With this amazing number of similarities between the two, it is not surprising that the ABA gave each gentleman a rating of qualified. By any standard, J. Harvie Wilkinson's credentials are impressive.

Let us move on to another subject broached on this floor today: Lobbying—the recommending of this man to the ABA for consideration for this high post.

Mr. Wilkinson clerked with Justice Powell for 2 terms. Justice Powell was intimately acquainted with his capacities as a lawyer. It was hardly out of order, therefore, for Justice Powell to relate his appraisal for Mr. Wilkinson's abilities to a member of the ABA committee.

Mr. KENNEDY. Will the Senator from Virginia yield?

Mr. TRIBLE. Not at this time. I will be happy to yield later.

Mr. KENNEDY. I would like to ask a question.

Mr. TRIBLE. I say to the Senator from Massachusetts that I would like to finish this thought process, and then I will be happy to yield to him and discuss this matter at great length.

Mr. KENNEDY. I am sure we will have that opportunity tomorrow.

Mr. TRIBLE. Similarly, Mr. Wilkinson had worked as a Deputy Assistant Attorney General for the Justice Department. The Deputy Attorney General, who also knew his legal work well, communicated that relevant information to the ABA committee.

There is no impropriety here. To say that references from former employers have no bearing on the evaluation of a prospective judge is untenable.

These gentlemen had a unique opportunity to assess Mr. Wilkinson's performance. Far from an impropriety, it is heartening to know that they in fact thought highly of this man.

Mr. Frederick Buesser, chairman of the ABA Standing Committee on the Federal Judiciary, responded to the inquiries advanced here today directly. These are his words:

> I am convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply this to the investigating committee members. The members of the committee are experienced in the handling of this kind of information and indeed welcome it.

What we have here, then, are people who have had an opportunity to judge this man, to see him act, see him think, who had a high regard for his ability, and who recommended him to the ABA committee. That is appropriate, that is routinely done, and the chairman of the ABA committee has responded and said, "We welcome that kind of information."

There was only one vote. No votes were changed and no one was unduly persuaded or influenced to vote one way or the other by what they heard.

It seems to me that that responds very adequately to the concerns expressed here today. Indeed, it is most appropriate, I suggest, that this kind of information be gathered by the ABA as it goes about its task.

As I conclude these brief remarks, Mr. President, I want to move to a more personal note. I did not advance J. Harvie Wilkinson's name. I did not proffer his name to the President. The President proffered his name to the Senate because he believed in him, because he believed that he possesses those attributes essential to the Federal bench and, indeed, an appropriate philosophy of Government. But I do know him. I have known him for many years. I have great respect for him.

Jay Wilkinson is a fair man, a compassionate man, a devoted husband and father, a man who does not believe that he has all the answers, a man who will listen and reflect before reaching judgment in a case.

In short, I submit to my colleagues that he possesses the appropriate judicial temperament, that he will serve ably on the Federal bench, and that a courtroom background, although an asset to judging, perhaps is not as important as the breadth of experience, the qualities of reflectiveness, the gifts of mind and pen that J. Harvie Wilkinson will bring to this bench. I wholeheartedly support his nomination. I urge his prompt confirmation.

Mr. THURMOND. Mr. President, if there are no other speeches on this subject, I think we are ready to vote.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, one of the most exasperating parts of an effort at leadership is when Members tell you that they are not going to let you vote. I am not built by nature to be proud and vain, but I can make us vote. I do not want to do that, but I want to get on with this debate.

What I would like to do is to find the time to regularize procedure and a schedule that would let us deal with this nomination, and I am prepared now to stay for whatever time it takes to make those arrangements. But I simply cannot stand by and let the debate go on indefinitely without any hope of coming to a conclusion. We have other matters with which to deal. If this is a filibuster against this nomination, it is also a filibuster against bankruptcy. If this is a filibuster against this nomination, it is also a filibuster against the debt ceiling, and not the least of which it is also a filibuster against adjournment.

Mr. President, I urge Senators to consider that I am not prepared to simply stand down and agree that we are not going to deal with this nomination. I hope someone will come up with a suggestion on how we might agree in an ordinary and regular way on a time to address this issue, as the Senate does on all issues, almost all issues, sooner or later. I am prepared to talk to anyone who will talk to me. If they will not talk to me, then we will have to resort to something else.

Mr. LONG. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. LONG. Mr. President, the Senator from Louisiana just walked into the Chamber and heard the Senator's statement. I heard some of the debate on the squawk box outside. Why can we not discuss a vote on this matter tomorrow?

Mr. BAKER. I would be happy to do that. We can. But, Mr. President, I would like to have some idea about when tomorrow. I might even settle for a vote on the motion to recommit. I had first thought that there was going to be a motion to recommit.

The first negotiations we had, as the Senator may know, was that we would set a time for the motion to recommit; and if it was not recommitted, the nomination would be up for debate. I might even settle for that. But I do not feel inclined to settle for nothing.

Mr. LONG. The Senator from Louisiana was led to believe that there was going to be a motion to recommit, and he was considering voting for it. He had not decided, but he was considering voting for it. Anyone can make a motion to recommit. If no one else does, I might do it.

It seems to me that it would be better that the matter go over until tomorrow. We can take up something else this evening, if the Senator wishes.

It seems to me that there has been some very relevant debate on both sides, and perhaps on tomorrow we could resolve this matter. I did hear enough to understand that the Senator from Massachusetts wanted to ask a question of the two Senators from Virginia, and apparently it was not convenient for him to ask the questions at that point, and he indicated that he was disposed to discuss the matter tomorrow. If that is the case, I presume that the Senator would like to be here tomorrow. I do not see him here at the present time.

No one has informed the Senator from Louisiana that a filibuster is intended on this matter.

Mr. BAKER. I have had two Senators tell me that they are not going to let me vote, and I have to confess that that sort of got my dander up.

Mr. LONG. The Senator from Louisiana has no knowledge of that.

Mr. BAKER. I do not often lose my cool, but I do not plan to let that occur.

I am perfectly willing to do this tomorrow. I am perfectly willing to set a time to do it tomorrow, and I will even do it on a motion to recommit. But I do not want to stand by and be told that we are not going to be permitted to vote, because, one way or another, we will vote.

The Senator knows that I am not talking about him.

Mr. LONG. One way or another, I think the majority leader will bring it to a vote, and I respect that. I gained the impression, from listening to the debate electronically, that we might put it over until tomorrow.

Mr. BAKER. When the Senator mentions "electronically," the Senator tempts me to talk about television, but I will not.

Mr. LONG. I heard the Senator on the radio.

Mr. BAKER. I genuinely appreciate the Senator's willingness to discuss the matter with me. So far, I have not had anybody discuss it with me.

Mr. LONG. I am willing to listen.

Mr. BAKER. So am I.

Mr. President, I am going to suggest the absence of a quorum, which will run until 6 p.m., if the Senate will permit me to call it off at that time, and I think it will. If not, we will go to something else. At 6 p.m., I should like to make a judgment as to how long we will stay tonight and whether or not we can get some sort of vote tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to state now a unanimous-consent request that I believe has been cleared all around. We are in executive session, still, are we not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that at the hour of 11 a.m. tomorrow, the Senate resume debate on the pending nomination and that there be 1 hour of debate on that

nomination beginning at 11 a.m., to be equally divided between the chairman of the Judiciary Committee (Mr. THURMOND) and the Senator from Massachusetts (Mr. KENNEDY) or their designees and that at the hour of 12 o'clock, the Senate proceed to vote on or in relation to a motion to recommit the nomination.

Let me withhold this for just a moment. I withdraw the request and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, let me attempt to restate a unanimous-consent request that I hope will prove satisfactory on this matter.

Mr. President, first I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the Senator from Wisconsin (Mr. PROXMIRE) be recognized on special order of not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business until 11 a.m.; that at the hour of 11 a.m. the Senate resume consideration of the pending nomination in executive session, and at that time the Senator from Massachusetts (Mr. KENNEDY) or in the alternative another Senator, as may be designated by the minority leader, will be recognized for the purpose of making a motion to recommit the nomination of James Harvie Wilkinson III, of Virginia, to be U.S. Circuit Judge for the Fourth Circuit Court of Appeals.

Mr. President, I ask unanimous consent that on that motion to recommit there be 1 hour of debate to be equally divided between the distinguished chairman of the Judiciary Committee (Mr. THURMOND) and the Senator from Massachusetts (Mr. KENNEDY) or their designees.

Mr. President, I then ask unanimous consent that at 12 noon the Senate proceed to vote either on the motion to recommit or on a motion to table the motion to recommit, at the election of the manager of the nomination, the Senator from South Carolina, the chairman of the committee; that if a motion to table the motion to recommit does not prevail, the Senate then without further action without further debate or further action proceed to vote on the motion to recommit itself.

Mr. President, that is the request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, may I make two suggestions to see if the distinguished majority leader thinks well of them and would include them in the request?

Instead of their designees, inasmuch as there is provision made in the request as put for the designee to be chosen by the minority leader, rather than by Mr. KENNEDY, if he would say the designee because their designees goes back to Mr. KENNEDY.

Mr. BAKER. Mr. President, I do amend the request in that respect.

Mr. BYRD. I thank the majority leader. The only other question I would have would be if the majority leader would phrase his request in such a way as to prevent any intervening motion or debate or point of order or appeal rather the word "action."

Mr. BAKER. Yes. Mr. President, I include that in the request. May I say, by the way, that "action" I had hoped contemplated all of those things, but I include them in the request.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. MATHIAS. Did I understand the majority leader to say that if the motion to table were to prevail or if the motion to recommit were to fail the Senate would then move immediately?

Mr. BAKER. No. Mr. President, what I said was if the motion to table prevailed—I mean if the motion to table——

Mr. MATHIAS. Motion to table failed.

Mr. BAKER. If the motion to table the motion to recommit fails, the Senate, without further debate, motion, point of order or appeal, will go directly to a vote on the motion to recommit.

Mr. MATHIAS. And then thereafter there would be the possibility of further debate on the nomination itself?

Mr. BAKER. Yes. Mr. President, the question of debate after the disposition of the motion to recommit is not touched in this request.

Mr. MATHIAS. I thank the majority leader.

Mr. BAKER. I thank the Senator from Maryland.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Reserving the right to object——

Mr. BAKER. Mr. President, I have a request now to amend the request in one other respect, which I now do. I ask that the vote occur at no later than 12 o'clock as distinguished from at 12 o'clock and that the request be amended in that manner.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I have no objection.

The PRESIDING OFFICER. Is there now objection to the unanimous-consent request of the majority leader, as amended?

The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a period now for the transaction of routine morning business, not to extend beyond 7 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a folder of things that appear to be cleared for action by unanimous consent. I ask the minority leader if he is prepared to proceed on these matters. I believe our staffs have already worked on them.

Mr. BYRD. Mr. President, I am ready to proceed.

SMALL BUSINESS DEVELOPMENT CENTER IMPROVEMENT ACT OF 1984

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1429.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1429) entitled "An Act to amend the Small Business Act to extend and strengthen the small business development center program, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Small Business Development Center Improvement Act of 1984".

CONTRACT TERM

SECTION 1. Section 21 of the Small Business Act is amended by adding at the end of paragraph (1) of subsection (a) the following: "The term of such grants shall be made on a calendar year basis or to coincide with the Federal fiscal year.".

MATCHING REQUIREMENT

SEC. 2. Section 21 of the Small Business Act is amended by inserting after the first proviso in paragraph (2) of subsection (a) the following: "Provided, That salaries paid by the applicant shall not be treated as other than in-kind contributions unless they are paid (A) to full-time employees or (B) to other than full-time employees in an aggregate amount not to exceed 100 per centum of the aggregate amount paid to full-time employees:".

STATE PLAN

SEC. 3. Section 21 of the Small Business Act is amended by striking from paragraph (1) of subsection (b) "During fiscal years

1981, 1982, and 1983, financial" and by inserting in lieu thereof "Financial".

CENTER—SBA PARTNERSHIP

SEC. 4. Section 21 of the Small Business Act is amended by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting the following new paragraph prior thereto:

"(2) The Small Business Development Center program shall be under the general management and oversight of the Administration, but with recognition that a partnership exists under this section between the Administration and the applicant for the delivery of assistance to the small business community. Services shall be provided pursuant to a negotiated cooperative agreement with full participation of both parties.".

CENTER OPERATIONS AND FACILITIES

SEC. 5. Section 21 of the Small Business Act is amended by striking all of paragraph (2) of subsection (c) through clause (A) and by inserting the following:

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing subcenters when necessary. To the extent practicable, each intake center and each intake subcenter shall be located in easily accessible facilities in such places as shall provide maximum accessibility and benefits to the small business community. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have—

"(A) a full-time staff, including (i) a full-time director who shall have the authority to make expenditures under the center's budget and who shall manage the program activities, and (ii) at least a full-time director at each subcenter unless the level of activity at such location makes it impractical to do so;".

CENTER EVALUATION

SEC. 6. Section 21 of the Small Business Act is amended by striking subsection (j) and inserting in lieu thereof the following:

"(j) The Administration shall develop a program proposal for an onsite biannual evaluation of each small business development center. The evaluation shall be both qualitative and quantitative and shall measure the effectiveness of the program and the cost of delivery, make an assessment of the benefits accruing to the areas served, and report on such other matters as the Administration deems appropriate. It also shall provide for participation in the evaluation by the representative of at least one other small business development center on a cost-reimbursement basis. The Administration's program proposal shall be formulated by employees of the Administration in consultation with representatives of the small business development centers, and it shall be submitted to the Senate Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1985.".

SMALL BUSINESS DEVELOPMENT CENTER DATA

SEC. 7. Section 21 of the Small Business Act is amended by adding the following new subsection:

"(l) In lieu of the current contract, the Administration may study development of an in-house computer system to provide a management information system for the small business development center program. Implementation of any such change shall not occur prior to October 1, 1986, nor until such time as the Administration evaluates the cost effectiveness of the change and reports to the Senate Committee on Small Business and the House Committee on Small Business on the need and effectiveness of providing such a system in-house. In the interim, the Administration shall continue to contract out for a management information system to provide data on the operation of the program to the small business development centers and for its own use.".

AUTHORIZATION

SEC. 8. Section 21 of the Small Business Act is amended by adding the following new subsection:

"(m) There are hereby authorized to be appropriated each year such sums, which shall remain available until expended, as may be necessary and appropriate (1) to carry out the provisions and purposes of the small business development center program provided herein, but not to exceed an annual leave as specified in paragraph (2) of subsection (a), (2) to pay the expenses of the National Small Business Development Center Advisory Board as provided in subsection (h), (3) to pay for contracting for a data base as provided in subsection (l), and (4) to reimburse centers for participation in evaluations as provided in subsection (k).".

SUNSET

SEC. 9. Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302) is amended by striking "January 1, 1985" and by inserting in lieu thereof "October 1, 1988".

EFFECTIVE DATE

SEC. 10. This shall be effective October 1, 1984, except that section 2 shall not apply to contracts for performance commencing prior to January 1, 1985.

Amend the title so as to read: "An Act to improve the small business development center program, and for other purposes.".

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. WEICKER, Mr. HATCH, Mr. BOSCHWITZ, Mr. BUMPERS, and Mr. NUNN conferees on the part of the Senate.

JUDICIARY COMMITTEE DISCHARGED FROM CONSIDERATION OF HOUSE JOINT RESOLUTION 487

Mr. BAKER. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 487, "D-Day National Remembrance," and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF INTELLIGENCE AUTHORIZATION ACT

Mr. BAKER. Mr. President, I ask unanimous consent that once the Select Committee on Intelligence reports the Intelligence Authorization Act for fiscal year 1985, it be referred jointly to the Committees on Armed Services and Foreign Relations for the 30-day time period provided in section 3(b) of Senate Resolution 400, 94th Congress, provided that the Committee on Foreign Relations be restricted to the consideration of title VI. If either of said committees fails to report said bill within the 30-day time limit, such committee shall be automatically discharged from further consideration of said bill in accordance with section 3(b) of Senate Resolution 400, 94th Congress.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

CALENDAR

Mr. BAKER. Mr. President, I have three items on the Calendar of Business today that appear to be cleared for action by unanimous consent. I advise the minority leader that the items cleared are Calendars Nos. 792, 809, and 847. I inquire of the minority leader if he can clear all or any portion of that list for action at this time.

Mr. BYRD. Mr. President, the three calendar orders alluded to by the distinguished majority leader have been cleared on this side.

Mr. BAKER. Mr. President, I thank the minority leader.

If the minority leader would not object further, I would propose to act on these matters en bloc.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I make that request, Mr. President, as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

VARIABLE INTEREST RATES FOR INDIAN FUNDS

The Senate proceeded to consider the bill (S. 2000) to allow variable interest rates for Indian funds held in trust by the United States, which had been reported from the Select Committee on Indian Affairs with an amendment as follows:

On page 2, line 8, strike "maturities" and insert "maturities: *Provided*, That such interest shall be paid at the average of the highest rates payable on short term marketable obligations of the United States during the term that any funds, both principal and interest, upon which interest is not otherwise authorized by law, carried on the books of the United States and are carried on the books of the United States Treasury to the credit of Indian tribes under the provisions of this Act.".

So as to make the bill read:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of February 12, 1929 (25 U.S.C. 161a) is amended to read as follows: "That all funds held in trust by the

United States and carried in principal accounts on the books of the United States Treasury to the credit of Indian tribes shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities: *Provided*, That such interest shall be paid at the average of the highest rates payable on short term marketable obligations of the United States during the term that any funds, both principal and interest, upon which interest is not otherwise authorized by law, carried on the books of the United States and are carried on the books of the United States Treasury to the credit of Indian tribes under the provisions of this Act.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as amended.

CIVILIAN AGENCY MULTIYEAR CONTRACTING ACT OF 1984

The Senate proceeded to consider the bill (S. 2300) to amend the Federal Property and Administrative Services Act of 1949 to authorize multiyear contracts in certain cases, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 2, line 7, strike "when used with respect to the purchase of property or services, means a contract for the purchase of property or services" and insert "means a contract in effect".

On page 2, line 11, strike "An" and insert "Subject to subsection (e), an".

On page 2, line 15, strike "purchase" and insert "acquisition".

On page 2, line 15, strike "purchase only" and insert "acquisition".

On page 2, line 22, strike "or termination of".

On page 3, line 1, strike "promoting" and insert "achieving".

On page 3, lines 10, 13, and 17, strike "purchased" and insert "acquired".

On page 4, line 1, strike "term" and insert "period".

On page 4, line 10, strike "canceled for such fiscal year or the contract shall be terminated" and insert "canceled".

On page 4, line 13, strike "or termination of".

On page 4, line 13, strike "shall" and insert "may".

On page 4, line 24, strike "contracting and is in effect on the date of enactment of the Civilian Agency Multiyear Contracting Act of 1984" and insert "contracting".

On page 5, line 5, insert

"(2) This section does not authorize an agency head to acquire property or services by means of a multiyear contract unless the agency head is otherwise authorized by law to acquire such property or services.".

So as to make the bill read:

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civilian Agency Multiyear Contracting Act of 1984".

SEC. 2. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 305 (41 U.S.C. 255) the following new section:

"MULTIYEAR CONTRACTS

"SEC. 306. (a) For the purposes of this section, the term 'multiyear contract', means a contract in effect for a period not exceeding five years.

"(b) Subject to subsection (e), an agency head may enter into a multiyear contract for the acquisition of property or services when—

"(1)(A) appropriations are available and adequate for the payment for such acquisition for the first fiscal year during which the contract is in effect; and

"(B) there is a reasonable expectation that, during the period the contract is in effect, such agency head will request funding for the contract at the level necessary to avoid cancellation of the performance under the contract; and

"(2) such agency head determines that—

"(A) such a contract will serve the best interests of the Government by—

"(i) reducing costs under the contract;

"(ii) achieving economies in administration, performance, and operation;

"(iii) increasing quality of performance by or service from the contractor; or

"(iv) encouraging effective competition;

"(B) during the proposed contract period—

"(i) there will be a continuing or recurring need for the property or services; and

"(ii) the minimum need for the property or services to be acquired is expected to remain substantially unchanged in terms of rate of production or performance, rate of acquisition, and total quantity or extent of services;

"(C) the specifications for the property or services are expected to be reasonably stable, and the technical risks associated with the acquisition are not excessive; and

"(D) such a contract will not inhibit small business concerns from submitting a bid or proposal for such contract.

"(c) A multiyear contract authorized by this section may include—

"(1) a provision that the performance under the contract during the second or any subsequent fiscal year included in the contract period is contingent on the appropriation of funds for such year; and

"(2) a provision for the payment of a reasonable cancellation charge to the contractor if the performance is cancelled pursuant to a provision described in clause (1).

"(d)(1) If appropriated funds are not available for expenditure on a multiyear contract during the second or subsequent fiscal year included in the contract period, the performance under the contract shall be canceled.

"(2) Any cost of the cancellation of performance under the contract may be paid from appropriated funds which—

"(A) were originally available for performance of the contract;

"(B) are then currently available for the acquisition of similar property or services and are not otherwise obligated; or

"(C) are made available for the payment of such costs.

"(e)(1) Nothing in this section is intended to modify or affect any other provision of law which authorizes multiyear contracting.

"(2) This section does not authorize an agency head to acquire property or services by means of a multiyear contract unless the agency head is otherwise authorized by law to acquire such property or services.".

(b) The table of contents at the beginning of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"306. Multiyear contracts.".

SEC. 3. The amendments made by section 2 of this Act shall take effect with respect to contracts entered into after September 30, 1984.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 2300, the Civilian Agency Multiyear Contracting Act of 1984. The purpose of this legislation is to improve the effectiveness and efficiency of the Federal procurement process by extending multiyear contracting authority Government-wide.

Each year, the Federal Government spends more than half of its discretionary budget on the procurement of property and services, ranging from weapons systems to janitorial services, from the private sector. In fiscal 1983, the dollar value of Government contracts exceeded $175 billion. I strongly believe that significant savings can be achieved through procurement reform.

The Governmental Affairs Subcommittee on Oversight of Government Management, which has jurisdiction over procurement issues, has taken several steps over the years to promote implementation of significant Government-wide procurement reforms. Based on hearings held on hurry-up spending in 1979 and 1980, the Oversight Subcommittee worked with the Office of Federal Procurement Policy (OFPP) in developing a policy directive to curtail this wasteful, yearend spending practice. In 1981, the Oversight Subcommittee held hearings on Federal debarment and suspension practices and again worked with the OFPP on a policy directive to establish new, Government-wide procedures. Last year, the Oversight Subcommittee drafted two procurement reform bills: The Competition in Contracting Act, which was approved unanimously by the Senate in November, and the OFPP reauthorization bill, which was enacted into law in December.

Another procurement reform, which enjoys widespread support throughout the procurement community, is to extend multiyear contracting authority Government-wide. Under the Federal Acquisition Regulation (FAR), which became effective April 1 of this year, multiyear contracting may be used only when no year or multiyear funds are available or, in the case of 1-year funds, when multiyear contracting is specifically authorized by statute. Presently, the Department of Defense has such statutory contract authority. Civilian procuring agencies, however, generally do no have mul-

tiyear contracting authority and are consequently precluded by fiscal law restrictions—such as the Anti-Deficiency Act—from entering into contractual agreements requiring obligations in excess or in advance of appropriations.

S. 2300, the Civilian Agency Multiyear Contracting Act, which I introduced on February 9, 1984, along with Senators CHARLES H. PERCY, CARL LEVIN, and JOHN C. DANFORTH, authorizes civilian procuring agencies to enter into multiyear contracts, not to exceed 5 years, when such contracts are determined to be in the Government's best interest.

The genesis of S. 2300, like most of the Oversight Subcommittee's previous procurement reform proposals, dates back to the Commission on Government Procurement. In 1972, the Commission reported to Congress that the advantages of multiyear contracting exceed the disadvantages, and recommended that such method should be used, when appropriate, on a Government-wide basis. The General Accounting Office agreed in a 1978 report, entitled "Federal Agencies Should Be Given Multiyear Contracting Authority for Supplies and Services," recommending that legislation should be enacted, with appropriate safeguards, to provide such authority. The Office of Federal Procurement Policy also endorsed the concept of Government-wide multiyear contracting in its February 1982 proposal for a uniform Federal procurement system, as did the Grace Commission in its June 1983 report on procurement.

The Oversight Subcommittee held a hearing on March 13 to consider S. 2300 and received testimony from Donald E. Sowle, Administrator of the Office of Federal Procurement Policy; Ray Kline, Acting Administrator of the General Services Administration; Vico E. Henriques, president of the Computer and Business Equipment Manufacturers Association; William D. Russell, representing the U.S. Chamber of Commerce and the National Council of Technical Service Industries; and Dwight A. Ink, chairman of the panel on deregulation of Government management, National Academy of Public Administration. In addition, the subcommittee solicited written comments from the civilian procuring agencies, associations, and other procurement experts.

S. 2300 was reported unanimously by the Oversight Subcommittee on March 19 and approved by the Governmental Affairs Committee on April 9.

Under S. 2300, as reported, civilian procuring agencies would be authorized to contract on a multiyear basis, provided the following criteria are met.

First, appropriations must be available for the first year of the multiyear contract and there must be a reasonable expectation that, during the remaining years the contract is in effect, additional funding will be requested.

Second, the agency head awarding the multiyear contract must determine that the contract will serve the best interests of the Government by reducing costs; achieving economies in administration, performance, and operation; increasing quality of performance by or service from the contractor; or encouraging effective competition.

Third, during the proposed contract period, there will be a continuing need for the property or services, and this minimum need is expected to remain substantially unchanged.

Fourth, the specifications for the property or services being procured are expected to be reasonably stable.

And fifth, the use of such contracting method will not inhibit small business participation.

The objective of these selection criteria is to insure that multiyear contracting will be used judiciously and to safeguard against any possible abuse. These criteria, which in some respects are more stringent than the criteria in title 10 governing DOD's multiyear contracting authority, are designed to limit the use of multiyear contracting for civilian agencies to only those circumstances when there is great potential for benefits and less potential for cancellation.

The primary benefits of extending multiyear contracting authority government wide are reduced costs, improved quality, and increased competition.

Multiyear contracting, used appropriately, provides significant reductions in the cost of procurement resulting from lower contract prices as well as lower administrative expenses.

According to OFPP estimates based on data used within the Defense Department, approximately 15 to 20 percent of civilian agency procurement costs could be saved when multiyear contracting is used. The Grace Commission estimated that savings of $1.8 billion could be realized annually through the expanded use of multiyear contracting, which includes savings by the Defense Department, as well. GSA officials stated that the GSA could save up to $200 million annually through multiyear contracting. Finally, the Congressional Budget Office estimated that S. 2300 would result in "substantial" savings of up to $400 million annually.

These cost savings result from increased competition, economies of scale, improved contractor productivity, or a contractor's ability to amortize nonrecurring start-up costs. Annual contracts frequently involve start-up costs which must be recovered during the year. This has a direct impact on the price of property or services offered to the Government. Under a multiyear contract, such nonrecurring costs could be prorated over the life of the contract, thus reducing the unit cost of the work performed and consequently the price offered to the Government.

In some cases, multiyear contracting would allow agencies to take advantage of greater price discounts. For example, GSA recently analyzed the pricing practices of a major ADP equipment vendor and found that the vendor's prices varied significantly based on its customer's ability to commit for multiple-year leases of equipment. Those customers—all commercial—who would commit to a 5-year lease were granted discounts ranging from 62 to 75 percent of the 1-year rates. The maximum volume discounts given to those customers who could only commit to a single year was 5 percent of the 1-year rate. In effect, customers such as the Government who leased equipment for several years, but who could only contractually commit themselves to a lease of 1 year, have paid as much in 2 years as other customers pay in 5 years.

Administrative costs to the Government could also be reduced. For annual contracts, agencies expend a significant amount of time and money to accomplish a variety of contract formation functions, including market research, preparation of solicitations, evaluation of offers, negotiation of price, terms and conditions, and technical analyses. Agencies could reduce their cost of doing business if these administrative activities were performed on other than an annual schedule.

In addition to savings in contract prices and administrative costs, the quality of performance and service from contractors is likely to improve. The GAO found in its 1978 report that multiyear contracting can improve contractor performance and service by reducing the uncertainty of continued Government business, providing continuity in the delivery of recurring supply and service needs, and enabling the contractor to maintain a stable, well-trained work force.

Many contracts, particularly those for the provision of services, experience a learning curve phenomenon where a new contractor's performance improves steadily as its workers gain experience with the peculiarities of the Government's work requirements. When annual contracts are required and successive contracts are awarded to different firms, the impact of the initial stages of the performance learning curve is felt each year. With multiyear contracts, this impact is felt only in the initial year of the contract. Subsequent years should experience a sustained level of quality performance.

The third and perhaps most important benefit of multiyear contracting, which contributes to reduced costs and

improved quality, is increased competition in contracting.

Many companies are often unwilling or unable to make significant capital investments for 1-year contracts, because it is difficult to recoup such investments and be price competitive. Multiyear contracts would make such undertakings more attractive by providing longer periods of assured business in which to recoup capital investments, thereby encouraging more companies to compete for the contracts.

An example of an annual procurement which would have been competitive had it been awarded on a multiyear basis involves a GSA contract for converting waste into fuel. The GSA received proposals from firms indicating an interest in contracting with GSA to collect trash from Federal buildings, convert it into refuse-derived fuel, and sell it back to GSA for burning in Federal heating plants. GSA's contracting authority for such a service contract, however, is currently limited to a 1-year period. Considering the large front-end investment that would be required for a contractor to acquire the necessary equipment and facilities, potential contractors were unwilling to make such an investment for a 1-year contract. According to GSA, if multiyear contract authority were enacted, GSA would be able to contract competitively for conversion of waste to fuel, with anticipated savings in cost and energy resources.

Small businesses, in particular, stand to benefit substantially from multiyear contracting. According to the Commission on Government Procurement's report:

> Authorizing all executive agencies to enter into multiyear contracts with annual appropriations will permit small firms to become more competitive for contracts requiring substantial start up costs and capital outlays. Usually such expenditures are more burdensome to small than to big business. The ability to amortize such costs over longer periods should be helpful for small firms in competing for service and support contracts.

In other words, small businesses would now be able to submit offers on multiyear contracts by prorating nonrecurring start-up costs which, for a 1-year contract, would preclude these businesses from competing.

The Oversight Subcommittee found from its survey that the prospective uses of multiyear contracting for civilian agencies are varied and numerous.

The General Services Administration anticipates that multiyear contracting could be used for recurring support services, such as janitorial, maintenance and repair of real and personal property, protection, trash and snow removal services. GSA would also consider using such authority selectively in the procurement of certain common use supplies and ADP and telecommunication equipment. Multiyear contracting could also be used for small demand items which, when bought in larger quantities, might encourage increased competition.

The Department of Agriculture listed numerous areas in which multiyear contracting would be considered, including shuttle bus service, janitorial services, requirement contract for items such as back tags for cattle and bleeding needles, food stamp production, ADP services and equipment, telecommunication services and equipment, reforestation projects, road maintenance projects, and construction.

The Department of the Interior stated that multiyear contracting may be used for construction programs, research programs, service contracts (such as janitorial and other routine services), management and operating contracts, seedling production and reforestation contracts. Leases of equipment, in appropriate circumstances, would also be considered as possible candidates.

The National Academy of Public Administration put together a laundry list of potential uses, including first, procurement of services, such as janitorial, maintenance, utilities and a wide variety of building and base operations; second, lease-purchase arrangements, such as photocopying, communications, and computer equipment; third, high-volume usage of commercial articles, such as copying paper, typewriters, other office supplies, and automobiles; and fourth, procurement of specially designed equipment or highly specialized capital items, where a large investment is required in plant or equipment which could be amortized over several years.

In my judgment, multiyear contracting is especially appropriate for civilian agencies, considering the nature of their procurements. Recurring, common-use goods and services, for which there will always be a need, are not technologically sophisticated, involve no research and development, and consequently do not entail the risks inherent in multiyear contracting for major weapons systems. It is highly unlikely, therefore, that the civilian agencies will ever incur significant cancellation costs, in contrast to the DOD experience. The bottom line is that civilian agencies will obtain benefits from multiyear contracting, similiar to those experienced by the Defense Department, but without assuming as great a risk.

To insure effective and uniform implementation, the Governmental Affairs Committee recommended in its report to accompany S. 2300, 98-417, that the Office of Federal Procurement Policy—the central procurement policy office in the executive branch—should take the lead in monitoring the use of this new authority and fostering the exchange of ideas and experiences between the agencies. The OFPP should consider establishing an interagency task group on multiyear contracting for these purposes.

The committee also recommended that the OFPP, working together with the General Services Administration, should incorporate management controls in the Federal acquisition regulation to insure proper use of this broadened authority. Proposed management controls should: first, require a determination and finding for using multiyear contracting, and second, require that multiyear contracts above an established threshold be reviewed by the agency's procurement executive.

Taken together, statutory guidance, regulatory controls, and management oversight should go far to insure effective and uniform implementation. Government contracting, however, comprises a series of judgment calls which cannot always be legislated, regulated, or managed. Appropriate use of mulityear contracting, therefore, will depend as much on improved training of the procurement work force. After all, we should not only focus upon the reforms in the process, but the personnel who will implement these reforms.

The committee recommended that the Federal Acquisition Institute, now a part of GSA, should coordinate this training program to instruct agency procurement personnel how to: first, select candidates for multiyear contracting; second, conduct the initial market research which precedes the formulation of solicitations; third, obtain comparative quotations based on single-year and multiyear quantities; fourth, provide incentives for greater competition both at the prime and subcontractor levels; and fifth, assess what would constitute a reasonable cancellation charge in the event the contract cannot be continued.

For many civilian agencies, multiyear contracting is new and untested. While the potential benefits are great, inexperience may also lead to potential problems. The committee therefore recommended that those agencies inexperienced in multiyear contracting should first conduct pilot programs to insure appropriate use of this new authority.

In closing, Mr. President, considering the support throughout the procurement community for extending multiyear contracting authority Government wide, the potential benefits to be gained, and the prospective uses, I am hopeful that my colleagues will lend support to this legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as amended.

31-059 O-87-18 (Pt. 10)

DISTRIBUTION OF FILM ENTITLED PEACE, FRIENDSHIP AND FREEDOM

The bill (S. 2371) to provide for the distribution within the United States of the U.S. Information Agency film entitled "Peace, Friendship and Freedom," was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(A) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Peace, Friendship and Freedom"; and

(B) subject to paragraph (2), the Administrator shall reimburse the Director for any expenses of the agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(2) The Administrator shall carry out his duties under clause (B) of paragraph (1) only after the United States Government has acquired, after the date of enactment of this Act, any remaining license or other rights which are not Government-held before such date and which are required for distribution within the United States of the film entitled "Peace, Friendship and Freedom" without use of funds appropriated or otherwise made available to any department, agency, instrumentality, or office of the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the several items were agreed to.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT SENATE JOINT RESOLUTION 300 BE PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I have discussed this request with the distinguished majority leader, and I believe it is cleared. I ask unanimous consent that Senate Joint Resolution 300, New Ireland Forum, which was held at the desk yesterday, be considered to have been read twice and placed on the calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, may I simply say to the minority leader that, pursuant to our conservation, I am happy to report this is cleared on this side, and I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

MEASURE REFERRED

The following bill, received from the House of Representatives on May 22, 1984, and ordered held at the desk until the close of business on May 23, 1984, was referred to the Committee on the Judiciary.

H.R. 4307. An act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution; which was placed on the calendar.

H.J. Res. 487. Joint resolution to designate June 6, 1984, as "D-Day National Remembrance."

The following joint resolution, which was being held at the desk, was placed on the calendar:

S.J. Res. 300. Joint resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3249. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the authority of the Secretary of Agriculture to refuse to provide, or withdraw, inspection service; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3250. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report entitled "Report to the Congress, Teton Claims Program, Public Law 94-400," for the period January 1, 1983 through January 9, 1984; to the Committee on Energy and Natural Resources.

EC-3251. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The 1978 Navy Shipbuilding Claim Settlement at Electric Boat—Status as of July 2, 1983"; to the Committee on Armed Services.

EC-3252. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require motor vehicle dealers to remedy any motor vehicle or item of motor vehicle equipment that has been recalled for safety before selling or leasing it; to the Committee on Commerce, Science, and Transportation.

EC-3253. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the 1983 annual report on the Youth Conservation Corps program; to the Committee on Energy and Natural Resources.

EC-3254. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notification of the intent of the Service to make certain refunds of excess royalty payments; to the Committee on Energy and Natural Resources.

EC-3255. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notification of the intent of the Service to make certain refunds of excess royalty payments; to the Committee on Energy and Natural Resources.

EC-3256. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3257. A communication from the Assistant Secretary of the Treasury (Tax Policy), transmitting, pursuant to law, a study on the impact of allsavers certificates on savings; to the Committee on Finance.

EC-3258. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to May 15, 1984; to the Committee on Foreign Relations.

EC-3259. A communication from the Secretary of State, transmitting, pursuant to law, the fourth report on the professional development programs of the agencies authorized to use the personnel system of the Foreign Service Act of 1980; to the Committee on Foreign Relations.

EC-3260. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Assessment of SES Performance Appraisal Systems"; to the Committee on Governmental Affairs.

EC-3261. A communication from the Acting Administrator of the General Service Administration, transmitting, pursuant to law, the third biennial report on excess and surplus personal property programs under Public Law 94-519 for the period October 17, 1981, through October 16, 1983; to the Committee on Governmental Affairs.

EC-3262. A communication from the Assistant Secretary of Health and Human Services for Health, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3263. A communication from the Administrator of the Office of Federal Procurement Policy, transmitting, pursuant to law, a report on procurement actions of the Department of Defense during the one-week period ending September 30, 1983; to the Committee on Governmental Affairs.

EC-3264. A communication from the Executive Secretary in the Office of the Secretary of Defense, transmitting, pursuant to law, the report on Defense procurement from small and other business for the

period October through December 1983; to the Committee on Small Business.

EC-3265. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the first quarter of 1984; to the Committee on Appropriations.

EC-3266. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics, transmitting, pursuant to law, a report on a decision to convert the custodial services function at the Naval Hospital, Charleston, S.C. to performance under contract; to the Committee on Armed Services.

EC-3267. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics, transmitting, pursuant to law, a report on a decision to convert the custodial services function at the Naval Hospital, Groton, Conn., to performance under contract; to the Committee on Armed Services.

EC-3268. A communication from the Chairman of the Securities and Exchange Commission transmitting a draft of proposed legislation to prohibit certain activities during specified tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-3269. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1984 annual report on highway safety improvement programs; to the Committee on Commerce, Science, and Transportation.

EC-3270. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the revised National Airspace System Plan; to the Committee on Commerce, Science, and Transportation.

EC-3271. A communication from the Secretary of the Interior, transmitting, pursuant to law, a copy of the 1983 annual report on the Outer Continental Shelf Oil and Gas Leasing and Production Program; to the Committee on Energy and Natural Resources.

EC-3272. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on committees which provide advice and consultation during the year; to the Committee on Finance.

EC-3273. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General of AID for October 1, 1983, through March 31, 1984; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 44. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes with additional and minority views (Rept. No. 98-476).

By Mr. HATCH, from the Committee on Labor and Human Resources, with amendments:

S. 2615. A bill to revise and extend programs conducted by the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and for other purposes (Rept. No. 98-477).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1400. A bill to enhance the detection of motor vehicle theft and to improve the prosecution of motor vehicle theft by requiring the Secretary of Transportation to issue standards relating to the identification of vehicle parts and components, by increasing criminal penalties applicable to trafficking in stolen vehicles and parts, by curtailing the exportation of stolen motor vehicles and off-highway mobile equipment, and by establishing penalties applicable to the dismantling of vehicles for the purpose of trafficking in stolen parts, and for other purposes (Rept. No. 98-478).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2706. An original bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986, and for other purposes (Rept. No. 98-479).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2341. A bill to authorize a program to enhance the access to and the quality of vocational education, and for other purposes.

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2490. A bill to amend and extend the Library Services and Construction Act.

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2491. A bill to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes.

S. 2496. A bill to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By McCLURE, from the Committee on Energy and Natural Resources:

Ben C. Rusche, of South Carolina, to be Director of the Office of Civilian Radioactive Waste Management.

(The above nomination was reported from the Committee on Energy and Natural Resources with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

Terry Edward Branstad, of Iowa, to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1987.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Gen. Robert T. Marsh, U.S. Air Force, (age 59) to be placed on the retired list, Gen. Lawrence A. Skantze, U.S. Air Force, to be reassigned in the grade of general, Lt. Gen. Larry D. Welch, U.S. Air Force, to be general, in the Air Force Reserve there are 13 appointments to the grade of major general and below (list begins with Herman J. Carpenter), Lt. Gen. Donald M. Babers, U.S. Army, to be reassigned in the grade of lieutenant general, Maj. Gen. William E. Odom, U.S. Army, to be lieutenant general, Maj. Gen. Lawrence F. Skibbie, U.S. Army, to be lieutenant general, Vice Adm. Edward S. Briggs, U.S. Navy, (age 57) to be placed on the retired list, Vice Adm. Eugene A. Grinstead, Jr., U.S. Navy, (age 60) to be placed on the retired list, Lt. Gen. William H. Fitch, U.S. Marine Corps, (age 54) to be placed on the retired list, Lt. Gen. Harold A. Hatch, U.S. Marine Corps, (age 59) to be placed on the retired list, Lt. Gen. John H. Miller, U.S. Marine Corps, (age 59) to be placed on the retired list, Maj. Gen. George B. Crist, U.S. Marine Corps, to be lieutenant general, Maj. Gen. Alfred M. Gray, Jr., U.S. Marine Corps, to be lieutenant general, Maj. Gen. Keith A. Smith, U.S. Marine Corps, to be lieutenant general, Lt. Gen. Clarence E. McKnight, Jr., U.S. Army, to be reassigned in the grade of lieutenant general, Maj. Gen. Emmett Paige, Jr., U.S. Army, to be lieutenant general, and Maj. Gen. Elvin R. Heiberg III, U.S. Army, to be lieutenant general. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force there are 29 permanent promotions to the grade of colonel and below (list begins with David J. Kempi, Jr.), in the Air Force Reserve there are 60 appointments to the grade of colonel (list begins with Edward L. Bailey), in the Air National Guard there are 26 promotions into the Air Force Reserve to the grade of lieutenant colonel (list begins with Will T. Abernathy, Jr.), in the Air Force there are 2 appointments to the grade of captain (list begins with John E. Loffland), and in the Marine Corps and Marine Corps Reserves there are 338 appointments to the grade of lieutenant colonel (list begins with Donald L. Abblitt). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of

printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 8, 1984, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD from the Committee on Commerce, Science, and Transportation:

S. 2706. An original bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986, and for other purposes; placed on the calendar.

By Mr. BOSCHWITZ (for himself and Mr. D'AMATO):

S. 2707. A bill for the relief of Wladyslaw Wyrwa; to the Committee on the Judiciary.

By Mr. PERCY (for himself, Mr. PELL, and Mr. INOUYE):

S. 2708. A bill to provide, exclusive, and equitable compensation, as a substitute for inadequate tort remedies, for disabilities or deaths resulting from occupational exposure to asbestos, and for other purposes; to the Committee on Finance.

By Mr. PERCY:

S. 2709. A bill for the relief of J. L. Simmons Company, Inc. of Chicago, Illinois; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY:

S. Res. 391. A resolution to refer S. 2709 entitled "A bill for the relief of J. L. Simmons Company, Inc. of Chicago, Illinois" to the chief judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself, Mr. PELL, and Mr. INOUYE):

S. 2708. A bill to provide prompt, exclusive, and equitable compensation, as a substitute for inadequate tort remedies, for disabilities or deaths resulting from occupational exposure to asbestos; and for other purposes; to the Committee on Finance.

ASBESTOS WORKERS' RECOVERY ACT

Mr. PERCY. Mr. President, I am introducing today the Asbestos Workers' Recovery Act. This legislation is intended to address the extremely serious problem of how to provide compensation for workers who have been injured through exposure to asbestos.

It is of particular concern to me for several reasons. First, many of my constituents in Illinois have been afflicted with injuries caused by asbestos, and many more have been exposed and may contract an asbestos-related disease in the future. Second, the compensation system for victims of asbestos-related disease has proven inadequate to the task. Workers have had to seek relief through the courts, and asbestos claims litigation is now clogging our overburdened Federal judicial system. Third, I believe that the Federal Government must shoulder some of the responsibility for the personal tragedy and economic distress which has resulted from widespread use of asbestos. Many of those injured were initially exposed during their work in Government shipyards and other Federal installations. Fourth, lawsuits filed against several large corporations have reached such staggering proportions that the corporations have sought the protection of the Federal bankruptcy laws.

This litigation has been exceedingly expensive. A high percentage of the damages awarded by our courts has gone to plaintiffs' attorneys, rather than to deserving victims of asbestos-related disease. These problems have now reached a dimension where national legislation is needed.

I believe the bill I am offering today contains a reasonable approach and an acceptable solution. I do not believe it is the only solution to this problem, although it has many desirable features. But it is a proposal which merits serious discussion as those of us in the Senate concerned with this issue seek the best possible legislative solution to what has become an increasingly complex and challenging problem.

By any standard, the asbestos issue is a major one. As many as 27 million Americans have been exposed. Estimates of the number who will contract some form of disease as a result range from 80,000 to 300,000. Many of these will die.

There are three major forms of asbestos-related disease, any of which can be fatal. Asbestosis, discovered in the 1930's, is a chronic lung disease that takes 10 to 20 years to develop. It is caused by breathing microscopic airborne asbestos fiber into the lung. If diagnosed early, asbestosis need not cause disability, since subsequent exposure can be limited. But where the disease reaches an advanced stage, scarring of the lung tissue may prevent oxygen from reaching the body through the blood stream, or stop the flow of blood through passages in the lung. The result can be a heart attack.

Asbestos has also been closely linked to lung cancer. This second form of disease occurs almost exclusively among individuals who smoke, and can take as long as 40 years to develop.

The third asbestos-related illness is mesothelioma, a rare and diffuse form of cancer which may take up to 40 years to develop, but which is always fatal. One of the most tragic aspects of mesothelioma is that it can even reach people who have not themselves worked with asbestos. Andrea Kilroy discovered when she was 36 that she had contracted this devastating form of cancer. She was exposed because her father was a rigger in the Boston Naval Shipyard, and worked in the holds of ships, where asbestos insulation was installed or removed from pipes. When he returned home from work, his family came into contact with asbestos dust on his workclothes. That was enough to produce a deadly cancer in his daughter, years later.

Those who have fallen ill through exposure to asbestos have sought compensation through several well-known and familiar mechanisms—workers' compensation programs, private medical disability programs, public assistance programs, and tort litigation. Although almost 90 percent of those who file workers' compensation claims receive an award, relatively few of those apparently entitled actually do file. Instead, there has been a strong trend for claimants to seek recourse through the courts. Today, more than 25,000 suits have been filed, principally against those companies which manufacture asbestos, although some of the suits are against shipbuilding and construction firms and companies in other industries where asbestos is used in the workplace. Two hundred and fifty companies have been named as defendants, and 60 insurance companies are exposed to potential liability.

Unfortunately, although it has been highly lucrative for some law firms and some plaintiffs, asbestos litigation has not served the majority of asbestos workers well at all. In the first place, the results of litigation are notoriously uncertain. The outcome may depend on the judge, or the jury, or the facts of one's case, or the competence of a plaintiffs' or defendants' attorney. Plaintiffs who have been seriously injured may get nothing, while those with no injuries other than a smokers' cough may get a substantial sum as part of a block settlement, even though their exposure to asbestos may be medically insignificant.

Even more distressing is the amount of money spent on lawyers that might more productively be used to compensate victims. Studies performed by the Rand Corp., for the Institute of Civil Justice show that of every $100,000 a defendant company spends in litigation, only $37,000 ultimately reaches the afflicted worker. The other $63,000 goes to plaintiffs' and defense attorneys. If these legal costs could be removed or drastically reduced, the

same amount of resources could cover twice or three times as many victims.

I am sure my colleagues are familiar with the economic consequences of asbestos litigation. Manville, UNARCO in my own State of Illinois, and other major corporations have already projected the likely costs of these lawsuits, and come to the staggering realization that they might have to liquidate their corporations in order to pay off the claims. It is not outside the realm of possibility that one or more of these large businesses may vanish completely, if we fail to find a better solution to this problem.

And my colleagues should be warned that the potential risk extends not just to the manufacturers of asbestos, but to many companies and other organizations. Asbestos has been used in the workplace for many, many years. Just because the shipbuilding and construction industries have not yet been sued as frequently and with such success as the manufacturers does not mean that they are immune from such suits. It only means that, for the time being, the manufacturers are more inviting targets for the relatively few, highly skilled plaintiffs' attorneys who have made asbestos litigation their principal stock in trade.

Mr. President, I believe the Federal Government has an important responsibility to bear in providing for an improved asbestos compensation system. I great many of those now afflicted with asbestos-related diseases where initially exposed while they were employed by the Government, or by companies which were directed by Government standards or specifications to use asbestos. Asbestos was used as an insulator and flame retardant in ships, and in military facilities around the globe. During the Second World War, it was viewed as a miracle fiber, and the military had a top priority on all that was produced. Furthermore, it was the Government that established the working conditions in shipyards and other facilities where many of those now ill were first exposed. But because of the defense of "sovereign immunity", none of these victims has successfully sued the United States for compensation. Instead, the burden has fallen on private companies that were in many cases acting only as instruments of the Government.

In my view, this issue has to be squarely addressed. The extent and scope of the Government's liability for asbestos-related illness should be carefully defined. By no means do I believe that the Federal Government should bear the full cost of a new compensation program. Far from it. But I think the Government has a responsibility to participate in a thoughtfully constructed program. In my view, Federal participation in such a program can mean success or failure to the entire effort. Given the extent of past Federal involvement, I think this is only appropriate.

The Asbestos Workers' Recovery Act which I am proposing today has a number of important features. First, it would only cover occupationally related asbestos diseases. To determine what injuries fall within that category, it would establish a national medical panel of scientists. All those who have been exposed to asbestos in their occupation would be eligible under the system, including those whose injuries arise from the occupational exposure of a spouse or parent.

Second, instead of creating a wholly Federal system, the Asbestos Workers' Recovery Act relies on existing State workmen's compensation programs to adjudicate causality and disability issues. Even today, State programs recognize asbestos-related diseases as compensable occupational injuries. As a result, they already make the kind of determinations necessary for injured workers to receive disability benefits. Any Federal program should build on this existing structure, rather than supplanting it completely.

Third, the act would establish a uniform system of benefits to replace the erratic and unpredictable tort system. Benefits for total disability or death would be equal to 92 times the State average weekly wage. This amount would be reduced proportionately in the same degree as the disability is less than total. Such benefits would be supplemental and in addition to applicable State workers' compensation benefits which now cover payment of medical expenses, lost wages, and survivor benefits.

Fourth, the program would be financed by defendants in asbestos tort cases, their insurers, and the U.S. Government. Costs of the program would be allocated among the participants, according to a percentage share based on their experience. The allocation formula would be reviewed at least every 3 years to fairly reflect sources of exposure reported by successful claimants. Public and private sector funds for the program would be paid into a fund established for that purpose.

Fifth, this bill would make the benefits provided under the act a claimant's exclusive remedy for personal injuries arising out of occupational exposure to asbestos. The act would not apply to litigation that has already matured to full judicial determination. But it would apply to other claims currently before the courts, and prospectively to all claims for asbestos injury. Tort remedies would remain available against corporations and other defendants failing to participate and pay their fair share of the expenses involved in funding the system established under the act.

In closing, Mr. President I would like to emphasize four things. First, enactment of this program could result in actual savings to the U.S. Government. The Urban Institute has estimated that each asbestos lawsuit costs the Government an average of $4,000 per year, or a total of more than $48 million. These costs, according to the Department of Justice, could exceed half a billion dollars in the next decade alone. Prompt action is needed to reduce or eliminate these staggering costs, which go simply for running the court system needed to try these cases, and never reach the needy victim of asbestos disease.

Second, this program is not a bailout of the asbestos manufacturers or any of the other defendants. They would remain responsible for a very substantial proportion of the total program costs. But by replacing the existing tort system with a predictable program based on the structure of State workmens' compensation systems, the extent of the defendants' liabilities could be estimated with much greater certainty than it now can be.

Third, the program I propose is not another Federal black lung program. The deficiencies and shortcomings of that program have been documented: Claims approved with little or weak evidence of compensable disease; presumptions written into the program resulting in very high numbers of benefit awards; and an administrative mechanism more susceptible to political pressures. The Asbestos Workers' Recovery Act has been designed to overcome any such weaknesses. For example, unlike black lung diseases, asbestos-related diseases can be diagnosed with a high degree of certainty. Thus there is much less need for legislatively established presumptions. Whereas State workmens' compensation programs had widely failed to recognize black lung diseases as compensable, this has not been true of asbestos-related diseases. For these and other reasons, I am persuaded that we can construct a workable asbestos compensation system that has none of the flaws that have dogged the black lung program.

Fourth, the bill does not set up a Federal workmen's compensation system and there is no way I would propose such a measure. Instead, it carefully builds on existing State-level programs, using familiar, time-tested mechanisms. It is, I believe, the most appropriate and swiftest way to bring necessary relief to affected workers, remove the specter of bankruptcy that has reached many of our large and respected corporations, and eliminate the burden of asbestos litigation on the overburdened judicial systems of this country.

Mr. President, the case for an asbestos compensation program is a strong one. We must think in terms of fairness to the workers afflicted with as-

bestos disease, and of the profound costs to the economy and society at large of doing nothing. I do not suggest that the Asbestos Workers' Recovery Act is the only acceptable solution to this pressing national problem. What I do suggest is that my proposal deserves fair and careful consideration. I commend those of my colleagues in the Senate who have joined in the effort to deal with the asbestos issue.

Mr. PELL. Mr. President, I am pleased to join today with Senator PERCY and Senator INOUYE in introducing the Asbestos Workers' Recovery Act. This legislation is designed to provide a remedy for one of the most serious problems facing American workers: the tragedy of cancer and other deadly diseases caused by exposure in the workplace to asbestos dust.

According to the National Cancer Institute, an estimated 1.6 to 2.1 million American workers will die over the next 30 years from cancers caused by exposure to asbestos dust. Moreover as many as 3 million more may suffer asbestosis, a noncancerious asbestos-related lung disease. This is a national tragedy that it is already too late to avert, because in nearly all instances the exposure that resulted in mesothelioma or the other asbestos-caused cancers occurred anywhere from 20 to 40 years ago. While we cannot prevent the tragedy that has already struck thousands of workers, we can and should act ot provide adequate compensation to the affected workers, their dependents, and their survivors. The bill we are introducing today will replace the currently unworkable system of litigation and State workmen's compensation laws which are totally inadequate to respond to the complexity of this problem. It substitutes an asbestos trust fund which will insure that workers receive fair compensation without waiting through years of often inconclusive litigation.

This legislation authorizes a Government contribution to the trust fund of $150 million for the 1985 fiscal year and the same amount for each fiscal year thereafter. An identical amount will be contributed to the fund under this bill by the asbestos manufacturers and their insurance companies. It is appropriate for the Government to participate in this trust fund, not only in the interests of insuring that workers are quickly and fairly compensated, but also in recognition of the fact that much of the exposure to asbestos occurred in Government shipyards during World War II and the Korean war, when an estimated 4.5 million workers were exposed in naval shipyards. I have a particular concern for this problem because my State, which has the highest per capita cancer rate in the country, was a major source of Government shipbuilding during World War II.

The more than 25,000 asbestos claimants and their families today are facing a nightmare of endless litigation, unresponsive State worker's compensation laws, and staggering medical costs. Moreover the flood of asbestos litigation in the courts today is only the tip of the iceberg. I believe that the Congress has a duty to see that asbestos victims and their families are fairly treated, and I view this legislation as a major step in that direction. I urge my colleagues to join in the effort to provide adequate compensation to those who have been struck by the tragedy of asbestos-related disease.

By Mr. PERCY:

S. 2709. A bill for the relief of J. L. Simmons Co., Inc. of Chicago, Illinois; to the Committee on the Judiciary.

RELIEF OF J.L. SIMMONS CO., INC.

Mr. PERCY. Mr. President, in 1949 a company based in Champaign, Ill.—J.L. Simmons Co.—contracted with the Veterans' Administration to build a hospital in Chicago, Ill. Because of improperly designed pile foundations—a mistake of the Veterans' Administration—the Illinois-based company suffered greatly increased costs for which it sought reimbursement from the contracting agency.

Unfortunately, the Veterans' Administration denied the company's claim for extra compensation and forced the company to institute costly and time-consuming litigation to recover its claim. In 1965, the U.S. Court of Claims set aside the findings of an appeal board constituted by the Veterans' Administration saying the procedure the board followed "must shock the conscience of anyone familiar with even the rudimentary concepts of good faith and fair dealings embedded in our constitutional system."

In 1969 and 1970 the Court of Claims granted the Simmons Co., some relief. However, the court found itself unable to make allowance by way of interest for the unconscionable delay in paying the claim. The legislation I am introducing today would provide for such an award in the amount of $1,024,338.44. At the same time, I am introducing a resolution which would refer this legislation to the U.S. Claims Court for a determination as to the legal and equitable merits of the bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay to the J. L. Simmons Company, Inc. of Chicago, Illinois, out of any money in the Treasury not otherwise appropriated, the sum of $1,024,338.14, in full settlement of all legal and equitable claims by the said J. L. Simmons Company against the United States for compensation for costs and added expenses due to erroneous plans, specifications, and directions by the United States relating to the construction of a Veterans' Administration hospital pursuant to a contract entered into by the said J. L. Simmons Company and the United States in 1949.

(b) The sum appropriated pursuant to subsection (a) shall be paid as additional compensation to any judgment of the United States Claims Court relating to *J. L. Simmons Co.* v. *United States,* 412 F. 2d 1360 (1969).

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

ADDITIONAL COSPONSORS

S. 764

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 764, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

S. 1754

At the request of Mr. BENTSEN, the name of the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 1754, a bill to direct the Secretary of Agriculture to convey, without consideration, to the Sabine River Authority of Texas approximately 34,000 acres of land within the Sabine National Forest, Texas, to be used for the purposes of the Toledo Bend Project, Louisiana and Texas.

S. 1841

At the request of Mr. THURMOND, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

S. 1975

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1975, a bill to enact the Gifted and Talented Children's Education Act.

S. 2014

At the request of Mr. SPECTER, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2025

At the request of Mr. NUNN, the name of the Senator from Arizona

(Mr. GOLDWATER) was added as a cosponsor of S. 2025, a bill to amend the Highway Improvement Act of 1982 to provide additional funds for the completion of certain priority primary projects.

S. 2031

At the request of Mr. MOYNIHAN, the names of the Senator from Washington (Mr. GORTON), the Senator from Missouri (Mr. EAGLETON), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2031, a bill relating to the residence of the American Ambassador to Israel.

S. 2256

At the request of Mr. HUDDLESTON, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2256, a bill to exempt restaurant central kitchens from Federal inspection requirements.

S. 2353

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2353, a bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction.

S. 2456

At the request of Mr. BRADLEY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2456, a bill to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine.

S. 2525

At the request of Mr. QUAYLE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2525, a bill entitled the "National Science Foundation Amendments of 1984."

S. 2592

At the request of Mr. BAKER, the name of the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2592, a bill to authorize the President to award a Medal of Honor to the Unknown American of the Vietnam era.

S. 2650

At the request of Mr. KASTEN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2650, a bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement, or refund of certain toys or articles intended for use by children if such toys or articles create a substantial risk of injury to children.

S. 2673

At the request of Mr. D'AMATO, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2673, a bill to make permanent the prohibition of credit card surcharges.

S. 2687

At the request of Mr. PERCY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2687, a bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938 which shall terminate on September 30, 1987, and for other purposes.

SENATE JOINT RESOLUTION 86

At the request of Mr. HEINZ, the name of the Senator from Washington (Mr. EVANS) was added as a cosponsor of Senate Joint Resolution 86, a joint resolution to designate the week of June 12, 1983, through June 16, 1983, as "National Brick Week."

SENATE JOINT RESOLUTION 129

At the request of Mr. PRESSLER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE JOINT RESOLUTION 268

At the request of Mr. WARNER, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of Senate Joint Resolution 268, a joint resolution to authorize and request the President to proclaim the day of June 6, 1984, as "D-Day National Remembrance Day."

SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from Connecticut (Mr. DODD), and the Senator from North Carolina (Mr. HELMS) were added as a cosponsor of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

SENATE JOINT RESOLUTION 294

At the request of Mr. BOREN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Mr. RIEGLE), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 294, a joint resolution to designate the week of July 1, 1984, through July 7, 1984, as "National Softball Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. D'AMATO, the names of the Senator from Nebraska (Mr. ZORINSKY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Georgia (Mr. NUNN), the Senator from Indiana (Mr. LUGAR), the Senator from Michigan (Mr. LEVIN), the Senator from North Carolina (Mr. EAST), the Senator from Alabama (Mr. HEFLIN), the Senator from New York (Mr. MOYNIHAN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Wisconsin (Mr. KASTEN) were added as cosponsors of Senate Joint Resolution 296, a joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

SENATE JOINT RESOLUTION 300

At the request of Mr. BAKER, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Joint Resolution 300, a joint resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE CONCURRENT RESOLUTION 111

At the request of Mr. MATHIAS, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 111, a concurrent resolution expressing the sense of the Congress regarding a mutual and verifiable moratorium on any further deployment of sea-launched cruise missiles equipped with nuclear warheads, and for other purposes.

SENATE RESOLUTION 329

At the request of Mr. NUNN, the names of the Senator from Michigan (Mr. RIEGLE) and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Resolution 329, a resolution expressing the support of the Senate for the expansion of confidence building measures between the United States and the U.S.S.R., including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers.

SENATE RESOLUTION 391—REFERRING THE BILL S. 2709 TO THE U.S. CLAIMS COURT

Mr. PERCY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 391

Resolved, That S. 2709, "A bill for the relief of J. L. Simmons Company, Inc. of Chicago, Illinois" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the U.S. Claims Court. The chief judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the nature and character of the demand as a legal or equitable claim against the United States or gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED

APPOINTMENT OF BANKRUPTCY JUDGES AND CHANGES IN THE BANKRUPTCY LAWS

TOWER AMENDMENT NOS. 3114 THROUGH 3124

(Ordered to lie on the table.)

Mr. TOWER submitted 11 amendments intended to be proposed by him to amendment No. 3112 proposed by Mr. PACKWOOD to the bill (H.R. 5174) to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and clarifying the circumstances under which collective bargaining agreements may be rejected in cases under chapter 11, and for other purposes; as follows:

AMENDMENT NO. 3114

Beginning on page 1, line 16 of the Packwood amendment, No. 3112, insert the following new subsection:

"( ) Subsequent to filing a petition for reorganization under this title, employees covered by a collective bargaining agreement with the trustee shall not strike. If a strike is commenced in contravention with this provision, upon application by the trustee, the court shall issue an emergency restraining order against the striking employees and its collective bargaining unit. The penalty for such strike shall not be less than $100,000 per day to be assessed against the appropriate local and national collective bargaining units."

AMENDMENT NO. 3115

Beginning on page 1, line 16 of the Packwood amendment, No. 3112, insert the following new subsection:

"( ) Subsequent to filing a petition for reorganization under this title, employees covered by a collective bargaining agreement with the trustee shall not strike. If a strike is commenced in contravention with this provision, upon application by the trustee, the court shall issue an emergency restraining order against the striking employees and its collective bargaining unit. The penalty for such strike shall not be less than $100,000 per day to be assessed against the appropriate local and national collective bargaining units.

"Notwithstanding any other provision of law, provided, further, that the penalty assessed by the court shall be paid from the pension fund of the employees represented by the collective bargaining unit."

AMENDMENT NO. 3116

Beginning on page 1, line 16 of the Packwood amendment, No. 3112, insert the following new subsection:

"( ) Subsequent to filing a petition for reorganization under this title, employees covered by a collective bargaining agreement with the trustee shall not strike. If a strike is commenced in contravention with this provision, upon application by the trustee, the court shall issue an emergency restraining order against the striking employees and its collective bargaining unit. The penalty for such strike shall not be less than $100,000 per day to be assessed against the appropriate local and national collective bargaining units.

"Provided, further, that a strike shall result in an immediate loss of all pre-petition claims of the employees represented by the collective bargaining unit and the unit against the estate of the trustee."

AMENDMENT NO. 3117

Beginning on page 3, line 7 of the Packwood amendment, No. 3112, insert the following sentence:

"Notwithstanding any provisions to the contrary, the trustee shall not be required to reimburse the collective bargaining unit for legal and professional fees incurred by the unit in conjunction with the chapter 11 proceeding."

AMENDMENT NO. 3118

Beginning on page 3, line 30 of the Packwood amendment, No. 3112, strike out through line 31 and insert in lieu thereof the following:

"The Interstate Commerce Commission shall conduct a study of the potential impact of this title on the trucking industry and shall report its findings to the Congress no later than one year from the date of enactment. Provided, however, that the provisions of this title shall not become effective until three years from the date on which the Congress receives the report from the Department. Provided, further, that upon the effective date, the amendments made by this title shall not apply with respect to cases under title 11 of the United States Code commenced on or before the date of enactment of this Act."

AMENDMENT NO. 3119

Beginning on page 3, line 30 of the Packwood amendment, No. 3112, strike out through line 31 and insert in lieu thereof the following:

"The Department of Transportation shall conduct a study of the potential impact of this title on the airlines industry and shall report its findings to the Congress no later than one year from the date of enactment. Provided, however, that the provisions of this title shall not become effective until three years from the date on which the Congress recieves the report from the Department. Provided, further, that upon the effective date, the amendments made by this title shall not apply with respect to cases under title 11 if the United States Code commenced on or before the date of enactment of this Act."

AMENDMENT NO. 3120

Insert on page 2, at the end of line 12, a new subsection, to-wit:

"(C) the proposal required by paragraph (1)(A) must be submitted to the membership of the authorized representative for a secret ballot vote and be accepted by a majority of the membership within seven days after receipt of the proposal by the authorized representative. Acceptance by such majority shall satisfy the provisions of this subtitle which shall then cease to apply."

AMENDMENT NO. 3121

Beginning on page 3, line 30 of the Packwood Amendment, No. 3112, strike out through line 31 and insert in lieu thereof the following:

"The Department of Labor shall conduct a study of the potential impact of this title on all industries affected and shall report its findings to the Congress no later than one year from the date of enactment. *Provided, however*, That the provisions of this title shall not become effective until three years from the date on which the Congress receives the report from the Department. *Provided, further*, That upon the effective date, the amendments made by this title shall not apply with respect to cases under title 11 of the United States Code commenced on or before the date of enactment of this Act."

AMENDMENT NO. 3122

Beginning on page 3, line 30 of the Packwood Amendment No. 3112, insert the following new subsection:

"(g) The debtor in possession or the trustee if one has been appointed, acting on behalf of the interests of the employees, the secured and unsecured creditors and bankrupt company, shall have a claim against the Federal government for any damages or additional costs incurred as a result of legislative changes having been made and applied retroactively to the procedural and substantive provisions of the bankruptcy laws. In connection with any claim for damages or cost incurred, the District Court must find that the debtor in possession or the trustee filed for a Chapter 11 reorganization prior to the February 22, 1984 Supreme Court decision in the *Bildisco* case and reasonably relied upon the provisions of existing bankruptcy law while reorganizing and restructuring the company."

AMENDMENT NO. 3123

Beginning on page 2, line 28 of the Packwood amendment No. 3112, strike the word "and" and insert in lieu thereof the following, "or".

AMENDMENT NO. 3124

Beginning on page 2, line 26 of the Packwood amendment No. 3112, strike out lines 27, 28, and 29, and insert in lieu thereof the following:

"(2) a majority of the membership has refused to accept such proposal by a secret ballot vote within seven days after the trustee makes a proposal to the authorized representative; and".

BAN ON WEAPONS IN SPACE OR WEAPONS DESIGNED TO ATTACK OBJECTS IN SPACE

PERCY (AND OTHERS) AMENDMENT NO. 3125

(Ordered to lie on the table.)

Mr. PERCY (for Mr. PRESSLER) (for himself, Mr. TSONGAS, Mr. PELL, Mr. PERCY, Mr. COHEN, Mr. MATHIAS, Mr. CRANSTON, Mr. LEAHY, Mr. BUMPERS, Mr. BRADLEY, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. KENNEDY, Mr. PROXMIRE, Mr. SARBANES, Mr. SPECTER, Mr. BURDICK, Mr. HART, Mr. STAFFORD, Mr. HUDDLESTON, Mr. RIEGLE, Mr. DODD, Mr. DIXON, Mr. METZENBAUM, Mr. HEINZ, Mr. LEVIN, Mrs. KASSEBAUM, Mr. MELCHER, Mr. ROTH, Mr. INOUYE, Mr. BAUCUS, Mr. FORD, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the joint resolution (S.J. Res. 129) calling upon the President to seek a mutual and verifiable ban on weapons in space and or weapons designed to attack objects in space; as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That the President should seek mutual agreement with the Soviet Union to—

(1) immediately resume negotiations on a mutual and verifiable ban or strict limitations on the testing, development, deployment and use of antisatellite weapons;

(2) institute, as appropriate, a mutual and verifiable moratorium on the testing in space of antisatellite weapons during the period of negotiations; and

(3) seek on a urgent basis, a verifiable treaty restricting the testing, development, deployment and use of space-directed weapons systems and prohibiting the testing, development, deployment and use of space-based weapons systems, if such systems are designed to inflict injury or cause any other form of damage on the Earth, in the atmosphere, or on objects places in space.

SEC. 2. (a) Such agreements should not restrict operations in space not involving weapons, such as the United States space shuttle program.

(b) Increased funds should be allocated to improve the survivability of satellites and other space-based assets.

(c) Funds should be made available, as needed, to enhance monitoring and verification capabilities for space arms control agreements.

SEC. 3. Not later than September 1, 1984, the President shall submit to the chairman of the Committee on Foreign Affairs and the chairman of the Committee on Armed Services of the House of Representatives and the chairman of the Committee on Foreign Relations and the chairman of the Committee on Armed Services of the Senate a report detailing actions undertaken since the date of enactment of this joint resolution to open negotiations on antisatellite weapons and space-based and space-directed strategic defense systems. Such report shall be submitted in unclassified form with such classified annexes as may be necessary.

Amend the title so as to read: "A joint resolution calling upon the President to seek a mutual and verifiable ban or strict limitations on weapons in space and on weapons designed to attack objects in space.".

Mr. PERCY. Mr. President, today I am submitting an amendment to the Senate Joint Resolution 129, the resolution on negotiations on space-based and space-directed weapons systems which the Foreign Relations Committee approved unanimously last summer.

I offer this amendment on behalf of myself and Senators PRESSLER, TSONGAS, and approximately one-third of the U.S. Senate including Senators PELL, COHEN, MATHIAS, CRANSTON, LEAHY, BUMPERS, BRADLEY, MURKOWSKI, MATSUNAGA, KENNEDY, PROXMIRE, SARBANES, SPECTER, BURDICK, HART, STAFFORD, HUDDLESTON, RIEGLE, DODD, DIXON, METZENBAUM, HEINZ, LEVIN, KASSEBAUM, MELCHER, ROTH, INOUYE, BAUCUS, FORD, and LAUTENBERG.

On March 31, the Congress received the administration's report on its policy on antisatellite (ASAT) negotiations. I wish that I could take more comfort from this report. After all, the report notes that test bans for selected types of ASAT's might be verifiable. The report also observes that verification problems could be mitigated by new technologies or by cooperative measure that might be reached in future arms control agreements.

Unfortunately, having left the door open for at least modestly constructive ASAT negotiations, administration officials still refuse to walk through it. I simply cannot agree with a report that concludes that urgently required proposals for preventing an arms race in space must necessarily remain under study for the indefinite future.

This is 1984, not 1981, and appropriate officials within the administration have had over 3 years to develop an effective strategy for space arms control. During these 3 years, time has not been standing still. On the contrary, the Soviets have continued to improve their existing operational ASAT system, and the United States has now begun testing of its own miniature vehicle (MV) ASAT. Even more disturbing, administration officials have formalized a so-called strategic defense initiative (SDI) that raises grave questions as to its cost, goals, technological feasibility, effect on crisis stability and consistency with longstanding U.S. arms control policy.

Mr. President, the Foreign Relations Committee under the chairmanship of the subcommittee chairman, Senator PRESSLER, conducted hearings during which many grave questions were raised about the implications of a space arms race.

In the late 1960's, I vigorously opposed the proposed deployment of the Safeguard ABM. At that time, I was convinced that whatever investment the United States made in strategic defensive weaponry would have inevitably been overtrumped by additional Soviet investments in relatively less expensive offensive systems. The net result would have been that each side would have spent tens of billions of dollars simply to maintain the strategic stalemate at a much higher, more costly and less stable level. The nuclear arms race would have accelerated dramatically.

I wish to pay tribute to many of my colleagues that fought that battle with us together, that sat through hours, days, and months, of hearings to probe the problems of ballistic missile defense. I want to also pay tribute to the Central Intelligence Agency, that gave policy-relevant, factual material that helped our deliberations, and to the outstanding scholars in the field of arms control that testify before us. Certainly, I wish to also pay tribute to Senator Jake Javits, Senator John Sherman Cooper, and Senator PROXMIRE. I remember when they stood side by side with me on the floor until we saw that fight through.

I am deeply concerned that the SDI proposal repeats the error of the original ABM deployment proposal 15 years ago. In light of determined Soviet research and development efforts in directed energy weapons programs, the United States must maintain a prudent level of R&D in these areas as a hedge against a possible Soviet breakthrough. But there is a great difference between a hedge and a top-priority development program that is designed to lead to a deployment decision.

Once you start going down that deployment road, it is very hard to stop the momentum of new weaponry. It is very hard to keep down the cost, and the diversion of priorities and resources. After an arms race starts, it is much harder to begin negotiations and it is much more difficult to succeed in talks.

In a report released in March, the Scowcroft Commission warned that "extreme caution" should be applied before plunging ahead with the SDI. I could not agree more. I believe that the United States should exercise extreme caution before it deploys its ASAT or invests tens of billions developing other space-based or space-directed weaponry.

One element of a policy of caution is arms control. I do not know if arms control can succeed in this area. It could be that the Soviets would reject all our proposals for effective verification of a total ASAT and space weapons ban. It could be that we would have to settle for the time being for a partial ban, one that only prohibited high-altitude ASAT's. But I do know that we should try. The Reagan administration has wisely called for a total ban on chemical weapons, with all the challenges for verification that that entails. I regret that to date administration officials are unwilling to do the same with ASAT's.

Mr. President, on March 28, I wrote the distinguished majority leader, Senator BAKER, to advise him that in light of the accelerated pace of space-based and space-directed weapons development, I believe it is important that the Senate be afforded an early opportunity to debate all the implications of the growing militarization of space. I remain convinced that Senate Joint Resolution 129 should be made the pending business of the Senate before it turns to the fiscal year 1985 defense authorization bill. It is entirely appropriate that the Senate declare itself with regard to the broader policy implications of arms control negotiations on space weapons before it takes up the detailed funding issues associated with ASAT's and the SDI in the defense bill.

The amendment that we are offering today reflects our commitment to take all concerns in this area into account, especially those relating to the verifiability of an ASAT ban or restriction. What this amendment says is that the Senate simply does not agree with the administration's decision not to enter into any negotiations on space-based or space-directed weaponry. We believe the United States should propose such negotiations, if not on a total ban, then at least on as strict a set of restrictions as can be negotiated consistent with our national security interests.

The amendment also underscores our belief that arms control should precede any decision to deploy elements of the SDI. We do not believe that arms control in space should be held in abeyance for years while development of SDI programs carries forward, as the President's science adviser recommended in testimony before the Foreign Relations Committee on April 25. If we were to accept this approach, we would only insure that development of space-based weaponry would proceed beyond the point where arms control could ever be expected to save us from an unregulated competition.

Mr. President, I would just ask the Senate to think through what would have happened if we had not thought through the implications of ABM deployment. In the end, the United States and the Soviet Union agreed to permit two ABM sites, one to protect a missile field and one to protect our capital cities. We have not even gone ahead with those projects. We wisely agreed that you could always build an offensive weapon much cheaper than you could build a defensive weapon. If you build 100 defensive and you build 101 offensive, you have penetrated. If you build 200, you can build 201, and you have penetrated. It just goes on and on, and contributes to the escalation of the nuclear arms race.

Had we built ABM systems in the early seventies, capital cost would have been in the tens of billions of dollars range, just to begin with. The ultimate costs, including maintenance, would have been far higher.

What would we have had after those expenditures? We would have had a system on both sides that would be destabilizing. These systems would have simply encouraged the production and deployment of more and more offensive weaponry. I believe the Senate made the right decision in its earlier consideration of ABM systems.

Mr. President, I invite all Members of the Senate to look at this amendment, to cosponsor it either by signaling their intention to cosponsor tonight and be an original cosponsor, or to let us know after full and thorough study whether they would want to become cosponsors.

I again urge the underlying resolution be made the pending business as soon as possible.

Mr. PRESSLER. Mr. President, after long and careful deliberation and consultations with many of our colleagues, the cosponsors of Senate Joint Resolution 129 and I have agreed to offer this amendment to the resolution. This new language clarifies and improves upon the content of Senate Joint Resolution 129, which calls upon the President to seek agreement with the Soviet Union on the control of space weaponry.

This amendment makes it clear that above all else, we must begin immediately to talk with the Soviet Union if we are to avoid a potentially costly and dangerous space arms competition.

We are of the view that an agreement controlling space weapons can be achieved, given seriousness and flexibility on both sides in negotiations. Claims that any and all types of space weapons agreements cannot be verified are without foundation. Many leading experts have stated that many space arms control arrangements can be effectively verified. This view is shared by a panel of specialists convened at my request by the Office of Technology Assessment, chaired by former National Security Adviser McGeorge Bundy. It is the opinion of this group of representatives from the nuclear weapons laboratories, defense industries, universities and think-tanks that at least some antisatellite—ASAT—arms control provisions can be verified with "high confidence."

This amendment reinforces our commitment to strong and effective verification procedures by calling for increased funding to enhance U.S. monitoring and verification capabilities.

In cases where an outright ban on ASAT weapons is blocked for lack of sufficient verification capabilities, this amendment urges that "strict limitations" be imposed instead. It is our hope that bans against the deadliest threats to our satellites can be reached. The SS-9-launched Soviet ASAT is the prime example of this type of weapon. In the case of the SS-9 ASAT weapons, prospects are good that a ban can be effectively verified. It is associated with a few known launch facilities. If the Soviets are serious about avoiding a space arms race, they may be willing to dismantle the SS-9 launchers. This procedure can be verified. Without the appropriate launchers, the Soviet Union could not make effective use of ASAT interceptors and SS-9 boosters that are covertly stored or manufactured in violation of a dedicated ASAT ban.

As for other systems with significant ASAT potential, the United States should seek strict limitations in an ASAT accord. If we fail to act now, we are sure to witness the development, testing, and deployment of increasingly deadly space weapons that will place more and more U.S. space assets in jeopardy.

We strongly believe that as a first order the United States must engage the Soviets in talks. If agreement banning the SS-9 system cannot be reached, we should seek limitations to prevent an escalation of the space arms competition. One possibility is an accord banning more advanced ASAT development, testing, and deployment, while "grandfathering" the United States and Soviet systems. But negotiations are required if we are to learn what may and may not be possible in space arms control.

I urge Senators to support this amendment which also voices our concern about the implications of futuristic ballistic missile defenses. These concerns are shared by many experts on ballistic missile defense, strategy and arms control, including Gen. Brent Scowcroft and Gen. Glenn Kent. These programs are sure to require a vast financial investment by the United States. Deployments are likely to require budgeting a trillion or more dollars. Yet, today, there are serious doubts that these weapons will ever provide protection to the American population. Questions raised about the implications of strategic defenses for strategic stability have also been raised. To date, these questions have not been fully addressed.

I am a strong proponent of research on strategic defense as a hedge against a Soviet breakthrough and a breakout from the ABM Treaty. The level of effort contemplated under the SDI goes beyond that required as insurance against Soviet research efforts. There is evidence to indicate that the strategic defense initiative undermines our ability to deal with the Soviet breakout problem in this decade and the next. The SDI is a long-term program, investigating uncertain technologies. We will have to wait decades to learn whether such exotic defenses

can be developed and deployed. In the meantime, funding the SDI has required a cut in research efforts on traditional ballistic missile defense concepts. With the long-term SDI plan, we may face increased vulnerability to the Soviet ABM breakout potential in the short term.

Senate Joint Resolution 129 and this amendment urge that the United States speak with the Soviet Union on the issues raised by all ballistic missile defense proposals. Given serious reservations on the merits of these systems, we should be working to enhance the ABM Treaty. Negotiations with the Soviet Union are required in meeting this objective.

A space weapons race poses the most serious new challenge to U.S. national security and global stability in many years. The U.S. Senate must address this issue and should do so quickly. I have, therefore, worked closely with the majority leader, cosponsors, and other Senators in both parties to gain a full and early debate of this resolution which was unanimously endorsed by the Foreign Relations Committee. This amendment aims to improve upon Senate Joint Resolution 129. We believe that this new language clarifies our position on the need for talks with the Soviet Union. We have been assured a full debate will begin shortly on this important resolution. I would urge Senators to join in cosponsoring this amendment. By this action, you can demonstrate your support for talks on space weaponry. Talks are our only viable option available for avoiding a space arms race.

Mr. MURKOWSKI. Mr. President, Senate Joint Resolution 129 calls upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space. I was a cosponsor of the original resolution as it was passed in the Senate Foreign Relations Committee. There is an amendment in the nature of a substitute which has been proposed to meet the concerns of some Members with respect to specific language in the original Resolution 129 as passed in committee. I have also cosponsored this substitute amendment because it also meets the purpose of the original resolution.

The primary message to be sent by Senate Joint Resolution 129 is that talks should begin between the United States and the Soviet Union with respect to weapons in space. We should attempt to talk before we proceed on a major antisatellite system. Development of weapons in space or of weapons designed to attack objects in space could prove to be a very expensive high risk program. We should not embark on such a program if there is any safe way to avoid doing so.

Acceptance of this resolution would be a step in avoiding entry into a space weapons race unnecessarily. At the same time this resolution does not expose the United States to dangers caused by unreasoned unilateral actions. The resolution asks only for a reasonable and balanced approach. Acceptance of this resolution by the Senate will send a message to the President that it is our belief that talks should begin. If talks do not begin it should not be because the United States is unwilling to engage in such talks or has neglected to signal to the Soviet Union the desire to enter into meaningful negotiations.

Mr. LEAHY. Mr. President, I rise in support of the amendment to Senate Joint Resolution 129. This amended resolution is a balanced, moderate effort to express the Congress will that the United States should pursue negotiations to ban or to limit antisatellite weapons. Senators PERCY, PELL, PRESSLER, and TSONGAS are to be strongly commended for their leadership in helping us all to reach this pragmatic compromise. Senate Joint Resolution 129 should now draw even greater bipartisan support.

Mr. President, I am deeply concerned about ASAT arms control for many reasons, but two of the most important are strategic stability and implications for U.S. national security. It is difficult to conceive of anything more dangerous or destabilizing during an intensive crisis between the United States and the Soviet Union than real or perceived acts aimed at each other's warning and reconnaissance satellites. In the interests of crisis stability, we should do everything possible to avoid situations in the future when leaders, under the unimaginable strain of a deep confrontation which would lead to nuclear war, would also have to react to possible attacks on the satellites which provide them vital information for decisions affecting the life or death of our Nation.

Second, Mr. President, it is well understood that the United States is more dependent on our more advanced and reliable warning and reconnaissance satellites than is the Soviet Union. An ASAT race cannot help but favor the Soviet Union, because it has much less to lose if highly effective antisatellites are deployed than we do. Protecting our satellites through mutual, verifiable ASAT limitations is a step we should take out of a tough-minded calculation of what is best for our security. You do not have to be a zealot for arms control to recognize the security value for the United States of an agreement or agreements which head off major advances in Soviet ASAT systems.

Today, the United States is beginning the testing of an advanced ASAT weapon, the prototype miniature air launched system (PMALS). This small, easily concealable, highly sophisticated direct ascent system, to be launched from F-15 fighters, is far more advanced than the primitive and ineffective Soviet orbital system. Their device, with its poor test record, is mounted atop a ponderous, modified SS-9 booster, and launched to orbit the Earth as it chases its target. It could take this Soviet ASAT 2 hours to reach its attack point. PMALS, in direct ascent, and capable of being launched wherever an F-15 can take off, could destroy its target in a fraction of that time.

A Soviet analog of PMALS would present possibly insuperable verification difficulties once sufficiently tested to be operational. I have no doubt whatever that our advantage with PMALS will be temporary. At whatever cost, the Soviets will eventually devise an ASAT system equivalent or nearly so, to PMALS.

There is a third problem with ASAT which worries me, also. That is the not widely understood fact that ASAT systems are a back door to circumvent the Anti-Ballistic Missile Treaty. Many technologies necessary for effective antisatellite weapons are relevant to ABM systems as well. Much that would be useful for an ABM breakout scenario could be developed and tested in the guise of ASAT's, where there is no treaty to limit such activities. This osmosis between ASAT and ABM technology, and the implications of unfettered ASAT research and development for the viability of the ABM Treaty should be borne in mind by all Senators.

The administration is resistant to the very idea of entering into negotiations with the Soviets on ASAT. The President's recent report to the Congress indicates that comprehensive ASAT limitations would be impossible to verify. Very well, let us be more modest in our aims: If we cannot at the outset develop a comprehensive ban which would be verifiable, let us seek strict limitations on parts of the problem, such as testing against targets in space, against systems capable of attacks on satellites in high, geosynchronous orbits, against basing ASAT systems in space, and other limitations which would impede the development of an across-the-board ASAT threat to the entire architecture of our satellite system.

Mr. President, as in the case of MIRV, once again we are at a point where we have an opportunity to cut off an escalation in technology which will, in the end, leave us less secure than before it came along. Senate Joint Resolution 129, as amended, will send a signal—a very important signal—to the President that the Congress of the United States wants him to make a good faith effort to negotiate verifiable limitations on ASAT weapons, and to do it now. We have given him flexibility, we have given

him time, we have given him bipartisan support. Now let us enact this resolution and let the President act in accordance with the will of Congress.

Mr. TSONGAS. Mr. President, I would like to express my strong support for the amended version of Senate Joint Resolution 129, which Senator PERCY and cosponsors have just introduced. This joint resolution calls upon the President to seek a mutual and verifiable ban, or strict limitations, on weapons in space and on weapons designed to attack objects in space. The resolution is simply an expression of our mounting concern that the arms race is expanding inexorably into space and must be checked before it is too late.

Modifications were made in the text of the resolution, as reported out last summer by the Foreign Relations Committee, in response to a number of recent developments which bear on the issues of antisatellite (ASAT) and other space weapons and on arms control options which best serve our national interests.

This resolution calls on the President to seek mutual agreement with the Soviet Union to immediately resume the ASAT negotiations we walked out of in 1979. Ambassador Robert Buchheim, who led the U.S. delegation during the 2 years of ASAT negotiations, 1977-79, recently testified in Congress that substantial progress had been made during negotiations toward an agreement that would have protected all of your satellites today. There are two Soviet draft treaties, a 1981 and a 1983 version, banning ASAT's and space weapons, currently pending in the United Nations. Chairman Andropov personally conveyed last summer to the Senate delegation led by Senator PELL, a strong Soviet interest in negotiating a ban on ASAT and space weapons. He has also declared a unilateral moratorium on further Soviet testing of ASAT and expressed Soviet willingness to dismantle the existing ASAT's.

What can be said about current Soviet willingness to negotiate ASAT's? The new Soviet leader, Constantin Chernenko, has also identified space arms control as a high priority item for bilateral negotiations. We will never know how sincere the Soviets are unless we engage them in negotiating.

So far, this administration has not responded to these strong overtures, nor has it indicated even a willingness to return to negotiations, even though we have vital interests in space and vulnerable assets to protect. It is clearly in our national interest to protect these by treaty now and in the future, especially in view of our space station plans and growing interests in commercial activities in space.

The key words in the updated version of this resolution are "mutual and verifiable ban or strict limitations on the testing, development, deployment and use of antisatellite weapons."

The administration's March 31, 1981, "Report on U.S. Policy on ASAT Arms Control" for Congress, can be briefly summarized as a no arms control policy. It made the case that a comprehensive ban on ASAT weapons is not verifiable; and that partial bans on specialized kinds of ASAT weapons, while verifiable, are not in our best national interest. The report stated that existing treaties governing military activities in space, such as the Outer Space Treaty and the ABM Treaty, suffice for now to protect our space assets. The report leaves the door open only to continued study of space arms control options for specialized ASAT classes, such as high-altitude ASAT's that would endanger most of our high orbit satellites. Current United States and Soviet ASAT systems threaten only a small number of meteorological and reconnaissance satellites in lower orbits. Future upgraded ASAT's would however jeopardize satellites on which both nations depend for early warning, nuclear attack assessment, electronic intelligence, military and civilian communications, and verification of arms control agreements. These vital communication and early warning satellites are not presently at risk from the primitive and low-confidence, coorbital Soviet ASAT. The report pleads insurmountable verification obstacles to an ASAT treaty, ignoring the fact that it is a lot easier for the United States to monitor a ban on the larger and unwieldy Soviet SS-9-launched ASAT, than for the Soviets to ascertain that any F-15 taking off does not carry a small MHV interceptor that will impact and destroy one of their satellites within 15 minutes from launch.

Since the words "ban" and "comprehensive verifiable treaty" in Senate Joint Resolution 129 were previously interpreted by some as being total, absolute and therefore not realistically achievable, we have now modified the language to offer considerable flexibility in the choice of options available for an ASAT arms control treaty. There are a number of substantial treaty options that are verifiable, as a recent OTA workshop on arms control in space confirmed. The 24 participating leading experts on defense and arms control policy discussed five types of ASAT arms control agreements, covering a broad spectrum of restrictions and limitations. All experts agreed that a ban on both testing and use of ASAT's is readily verifiable and would effectively prevent more capable and dedicated systems from being developed. The residual ASAT threats, which the administration contends cannot be dealt with, and which therefore make a comprehensive ban unrealistic, are manageable threats that we have been living with. All experts agreed that in the absence of restrictions, both the level of threat to satellites and the current potential treaty verification problems will certainly worsen. The OTA workshop confirmed that adequately verifiable testing bans are possible and that they would severely limit the development of truly threatening antisatellite weapons.

The second clause of the present resolution calls for a mutual and verifiable moratorium on ASAT testing in space, as appropriate, during the period of negotiations. This would be an important measure of good faith during sensitive negotiations. A push to place our ASAT weapon on operational status during negotiations would clearly prejudice the process and induce both parties to walk out under suspicion. Yet, the resolution does not require such a moratorium but reserves it as another option available to both negotiating parties.

The Soviets have been observing a unilateral moratorium on further ASAT tests since last summer, when the offer was made to refrain from testing for as long as the United States does the same. However, last January we tested our ASAT against a point in space; advanced tests against an object in space are scheduled for next fall. I wish to note that the Tsongas amendment to the 1984 DOD authorization is legally barring this type of test, until and unless the President certifies to Congress that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on ASAT weapons; and that, pending agreement, such tests are necessary to avert clear and irrevocable harm to our national security. Congress has not received this Presidential certification on these pressing matters so far. My amendment restrains further ASAT testing until these legal requirements are fulfilled.

The third clause of the resolution calls for negotiations on a treaty pertaining to the new generation of star wars space weapons called for in the President's strategic defense initiative (SDI). In the past year, the administration has taken great strides in accomplishing the star wars blueprint: We have two classified high-level reports on the so-called strategic defense initiative. The first, the Fletcher Panel report, optimistically assumes the President's vision of a global multitiered defense umbrella in space is achievable but the price tag will run into the hundreds of billions of dollars and the promising technologies are not yet developed nor tested. As Dr. DeLauer and other administration officials admitted in congressional testimony, these visions of orbiting laser battle stations are just "castles in the

sky." The research and development program envisioned by the administration is estimated to cost $28 billion over the next 5 years. This figure easily triples when other program components are added according to independent studies by the Federation of American Scientists (FAS) and Union of Concerned Scientists (UCS).

The Fletcher Panel recommendations far surpassed the earlier high-frontier proposals: Whereas the latter envisages only some 450 orbiting battle stations, each armed with about 50 nonnuclear warheads, the administration endorsed a far more grandiose, expensive, and dangerous SDI concept. A recently released independent scientific analysis of ballistic missile defense (BMD) by the Union of Concerned Scientists raises the specter of an armada of up to 2,500 orbiting lasers loaded with toxic or explosive chemicals, 5 tons per laser, probably powered by active nuclear reactors and battle managed by one software package. To emplace and refuel these weapons would take thousands of shuttle launches. To develop and maintain these white elephants could cost as much as $500 billion. This is the arms control policy and vision of the future that this administration offers.

However, the future strategy study Hoffman panel concluded that while a global defense may not be achievable, limited or point defenses may be both feasible and desirable. This is an extraordinary admission for while the President promises to protect the people from nuclear holocaust, his administration wants to build weapons to defend our weapon silos and thus enhance our first-strike capability.

We have heard much in Congress and in the press recently about the pandora's box of issues raised by the SDI, but most alarming is the specter of instability that could lead to a global nuclear war long before any defensive shield is emplaced in space. SDI would provide the incentive for a Soviet first strike to preempt a less vulnerable opponent. Even General Abrahamson, the star wars czar, testified before the Senate Armed Services that, without arms control we can never hope to place lasers and battle-stations in space to protect us from nuclear weapons. Why? Because the most effective and cheapest way to break through the opponent's defense is to overwhelm it with more nuclear warheads. Embarking on a space-based, or on ground-based and space supported, BMD will lead to an even more horrendous proliferation of weapons in the superpower arsenals.

It has been pointed out that testing in space only one of the new gadgets planned for the star wars arsenal; namely, the nuclear-pumped, X-ray laser, could violate simultaneously three of the existing arms control treaties: The Outer Space Treaty, the Limited Test Ban Treaty, and the ABM Treaty.

It is clear that a new and broader treaty must be negotiated to afford protection from the new generation of space weapons being conceived under SDI programs. This is the intent of the third clause in the present Senate Joint Resolution 129 version; namely, to prevent further weaponization of space.

There are also adverse foreign policy implications of the SDI programs: Our NATO allies have expressed grave concern that this policy will leave them unprotected and decoupled from the U.S. strategic defenses, while promoting a confrontation of the superpowers.

By calling for a negotiated treaty, this resolution calls for prior policy considerations of all these problems before embarking on SDI and discarding bilateral and international arms control treaties.

By controlling these new classes of weapons now, the United States will not only save billions of dollars and vital resources, but also substantially enhance our Nation's security.

The amended resolution recommends that funds be made available to enhance our treaty verification and compliance-monitoring capabilities. The anticipated breakthroughs that would enable star wars weapons to be built, will certainly enable us to verify all arms control treaties with greater confidence than ever achievable to date. The resolution does not intend to interfere with research efforts that have been integrated under the SDI programs. Balanced research on forefront technologies should certainly continue as a safeguard against Soviet breakouts or breakthroughs.

Further, a new clause urges increased funding for improving the survivability of our space assets, to minimize threats from any residual ASAT capability. Hardening, maneuverability and electronic or other interference with homing sensors can protect our satellites from any offensive threat. A better survivability strategy for our satellites would remove the risk to our vital satellites from minor Soviet cheating on an ASAT treaty—which the administration report to Congress views as unacceptably high at present. A redundant and quickly replaceable satellite fleet would not be threatened by any covert Soviet breakout from an ASAT treaty. Hence a major obstacle to negotiating such a treaty would be removed by enhancement of our satellites survivability.

Senate Joint Resolution 129 in its present form, can and must serve as the basis for a broad consensus in the Congress that the time is ripe to call for a major high-level arms control initiative in order to restrain ASAT's and other space weapons. A verifiable treaty restricting weapons in space is negotiable, desirable, and clearly in our best national interest.

A vote for Senate Joint Resolution 129 is simply a vote for arms control and a vote for our future security in space. It is also a vote for the unhindered commercial development of space as well as for safeguarding communications, exploration and other peaceful and legitimate military uses of space.

I ask unanimous consent that statements by three leading scientists, Drs. Garwin, Gottfried, and Drell, regarding ASAT and space weapons technologies and arms control options be printed in the RECORD immediately after statements by other cosponsors of this amendment.

Mr. BURDICK. Mr. President, I am pleased to join as a consponsor of Senate Joint Resolution 129. I believe this legislation is one of the most important arms control initiatives to come before the Senate in some time.

For several decades, this country has devoted a great deal of effort and energy to controlling nuclear weapons on Earth. Progress has come in fits and starts. There have been notable successes and failures. The process is painstaking and frustrating, and we have a long way to go.

Since we have not yet figured out how to control weapons on Earth, does it make any sense to embark on a course that propels the United States and the Soviet Union into an arms race in space? I think not.

We have the opportunity to stop such a dramatic and dangerous escalation of the arms race. The militarization of space is not inevitable. There is a passage from the play "Rosencrantz and Guildenstern Are Dead" which is often quoted in arms control debates, and is particularly applicable to weapons in space. In the play, after all the carnage has stopped, Rosencrantz turns to Guildenstern and says, "There must have been a time, somewhere near the beginning, when we could have said no."

This Nation is "somewhere near the beginning" in space-based weapons, and we have the chance now to say no.

It is important for the American people to understand that our legislation does not call for unilateral action. Rather, the resolution calls on the President to seek a mutual and verifiable ban or strict limitations on weapons in space and on weapons designed to attack weapons in space.

Mutual means the United States and the Soviet Union. Although the Soviets may not be interested in dealing on arms control for the next several months, they will eventually come back to the negotiating table because arms control is in their national interest as well as ours. Our legislation simply states that when the Soviets

are ready to talk, weapons in space should be a principal item in the agenda.

It is vitally important for the Senate to go on record on this issue, and it is important for us to do it now, because the 1985 defense budget funds the initial commitment to a perilous and enormously expensive military adventure in space.

There being no objection, the material referred to by Senate TSONGAS was ordered to be printed in the RECORD, as follows:

VERIFICATION AND LIMITS ON ASAT

(By Richard L. Garwin)

Although I cannot testify at the ASAT hearing April 12, 1984, I am pleased to have been invited to provide this Testimony for the Record on the important matter of treaties to limit anti-satellite capabilities and testing, and on verification as applied to these treaties. My involvement with defense technology and strategic systems does begin in 1950. My involvement with arms control treaties and negotiations back to 1958, when I was a member of the U.S. delegation to the Conference on Prevention of Surprise Attack. I have long worked in military space and continue to this day as a consultant to several government agencies and as a member of the Satellite Advisory Panel of the President's Foreign Intelligence Advisory Board (PFIAB). My brief biography is attached. Of course, I am speaking for myself alone and not for any organization with which I am affiliated.

I testified on related matters to the arms control and Space Subcommittee of the Senate Foreign Relations Committee on September 20, 1982, and on May 18, 1983. On the latter occasion, I joined with two colleagues, Professor Kurt Gottfried and Admiral Noel Gayler, to introduce into the record a draft treaty banning ASAT, which we had drafted in collaboration with a few others under the auspices of the Union of Concerned Scientists. We felt strongly at that time (and I continue to believe) that U.S. security interests would be served by the absence of Soviet ASAT tests, and that on balance it was strongly in our interests that we introduce strict treaty limitations on ASAT.

As you know, the U.S. government had not responded to a Soviet draft treaty of 08/81 introduced into the UN, and our own draft of 05/18/82 was to advance the understanding of ASAT treaty limitation by remedying some glaring deficiencies in the Soviet 1981 draft.

The Soviet Union responded in August 1983 by introducing once again into the UN a draft treaty "Banning the Use of Force in Space . . ." which incorporated almost all of the improvements of our draft of 05/18/83 and retained none of the deficiencies of the Soviet 1981 draft except for the continued unacceptability of a clause which denied (solely) to manned reusable spacecraft any military role, while allowing a military (but not "weapons carrying") role to unmanned spacecraft. In August 1983, also, Yuri Andropov committed the Soviet Union to a moratorium on launching into orbit ASAT weapons so long as the U.S. did not test its ASAT.

On 03/31/84, President Reagan transmitted to the Congress a report dealing with verification of ASAT limitations, which seemed to conclude that one could not verify a treaty which would impose militarily significant limitations on Soviet ASAT activities. Unfortunately, that report had no specifics as to what limitations of Soviet ASAT programs would be required to maintain and improve U.S. security, or even a definition of a "comprehensive" ASAT ban which it judged unverifiable.

It is fundamental that the ability to detect noncompliance with a treaty ("verify the treaty") depends strongly on what is banned under the treaty. In the rest of my testimony, I hope to persuade you that important restrictions on Soviet activity can be imposed and verified.

First, verification cannot be and need not be absolute. A treaty is a contract, very much like a contract for buying or selling a house. Certain things are of primary importance—that one get the money (to the one selling the house), or that one not be committed to go through with the purchase if the house burns down before final transfer. Such provisions are important, and it is appropriate that they be spelled out and that compliance be ensured.

Somewhat closer to the enhancement of national security by arms control constraint on capabilities of the other side, is the "verification" of the ban on carrying weapons into the cabin of civil aircraft in the United States. Verification (in part) is by x-ray inspection of carry-on baggage, and by the passenger passing through a magnetometer, capable of detecting metallic guns, knives, and other substantial objects. There is an optimum threshold for the sensitivity of the magnetometer; it is easy enough technically to make a magnetometer which will detect a single dime or earring, but under those circumstances one need not have a magnetometer—a red light and buzzer would do, because almost everyone would be stopped for failing the test. At present, with reasonable threshold, those who fail the "verification" instrument are subject to "on-site inspection," and the question of compliance is resolved. It is possible to argue that even small coins could be used to injure the cockpit crew, short out the aircraft electrical system, and the like, but a rule of reason has prevailed in the limitation on behavior of passengers on aircraft. There is value in aircraft travel, and the constraint on behavior and the verification requirements imposed must not eliminate that value.

Similarly, there is great value to the U.S. in limiting Soviet activities by arms control treaties, and the limitations and verification requirements should not be so onerous that they totally eliminate any incentive the Soviet Union may have to participate in such an accord, or delay the impositions of the restraints.

Verifiability depends on the nature of the accord. Of course there are treaties (or a wish list) which are not verifiable. For instance, the Administration Report maintains that a "comprehensive treaty" is not verifiable.

Indeed, some in and close to the Administration who are avowedly totally opposed to space arms control include in their "comprehensive" description of ASAT activity interference with the communication link from the satellite ground station to Washington, and they maintain that a pair of wire cutters or a charge of explosives constitute a capability for such interference. How would it be possible, then, to ban wire cutters from Soviet inventory, and to verify compliance with that ban? This is an extreme and nonserious definition of "ASAT activity." One can also interfere with the utility of ASATs (in a system which is not designed for operation in wartime) by attack on the ground station, by local jamming of the ground-station receivers, by jamming of the satellite sensors themselves, and the like. In our draft treaty of 05/18/83, we undertake "not to destroy, damage, render inoperable or change the flight trajectory of space objects of other States." We did not ban jamming, the provision of decoys, deception, attack on the ground stations, and the like. As regards National Technical Means, such deception and interference is already banned by the ABM Treaty and the Limited Offensive Agreement. As regards destruction of ground stations, that would be an act of war, but it need not be banned by an ASAT treaty.

We then go on (Article II) to ban the "placing in orbit around the earth weapons for . . ." doing the tasks forbidden in Article I, and we also undertake (II.3) "not to test such weapons in space or against space objects." This bans the testing (or use) of the banned activities against one's own satellites, which would otherwise not be forbidden by Article I. In this way, one prevents a State from practicing to perform an act which is banned by the treaty.

Would it be possible for the U.S. to detect a test of the Soviet ASAT, and thus to detect non-compliance with a test ban? The U.S. has announced with confidence the existence and the results of tests of the Soviet satellite interceptor; presumably it has additional information not released to the public. It is perfectly clear that a small fraction of the observation capabilities which would be required of the Strategic Defense Initiative (and which for that application would have to operate durably and invulnerably in wartime against thousands of simultaneous launches) would suffice to monitor and to provide detailed information on every missile launch in the Soviet Union or anywhere in the world; so verification capability exists and can be augmented. Similarly, to verify the absence of testing of high-power ground-based lasers (or space-based lasers) against targets in space would require observation of Soviet satellites which might serve as test objects, or (alternatively) observation of ground sites which might house high-power lasers.

Remember, however, that a treaty is reasonably symmetrical. We might wish to ban not only Soviet ASAT tests but also any kind of activities which involve going outdoors in the Soviet Union. We would be unwilling to accept such a limitation on our own activity, and so it is hardly serious to propose it.

There are of course additional ASAT threats which cannot be banned as capabilities, but could be banned in use or in test. For instance, if the U.S. space shuttle made a rendezvous with a Soviet satellite, and an astronaut stepped outside and sprayed paint over the satellite's optical sensor, that event could reasonably be observed by the Soviet Union. It would be banned by the general prohibition in Article I of our treaty. The practicing of such activity against U.S. satellites is banned by Article II, but one might ask how it can be verified that in one of our rendezvous we are not practicing such nefarious deeds. A rule of reason is involved here. It is all too easy to provide a small self-destructive explosive charge for a satellite, such that the satellite if disturbed would destroy itself mildly, and the shuttle or astronaut alongside it.

Ultimately, an ASAT ban is in our interest because it would reduce the threat to our valuable peace-keeping and military-support

capabilities in orbit. It is valuable to us because by reducing the threat to Soviet satellites which continue to ensure the Soviet Union that the United States is not launching a strike against the Soviet Union, we reduce the Soviet propensity to ready their weapons against us. An ASAT ban:

1. helps preserve our satellites in peacetime.

2. helps preserve our satellites in non-nuclear war.

3. gains time before satellites are vulnerable in the event of abrogation of an ASAT ban.

On the other hand, without an ASAT ban we could have our own ASAT. It has been claimed that a U.S. ASAT would confer the following benefits:

1. Supposedly, it would deter the use of a Soviet ASAT by allowing us to respond "in kind" to Soviet destruction of a low-altitude U.S. satellite.

2. Supposedly, whether or not the Soviets have an ASAT we "need" an ASAT in order to be able to destroy Soviet military-support satellites during non-nuclear war—particularly the Soviet Radar Ocean Reconnaissance Satellites (RORSAT) which can locate and provide targeting information on U.S. aircraft carriers.

3. Supposedly, our ASAT can counter (destroy) the Soviet co-orbital ASAT and thus protect U.S. low-altitude satellites.

Let me take these one at a time.

The ability to protect U.S. satellites by destroying the Soviet co-orbital interceptor before it strikes is just technically not there. If the Soviets cooperated in not maneuvering their ASAT during the one or two orbits during which it is accompanying its quarry, then we might be able to attack the ASAT. But the Soviet ASAT is maneuverable, and the U.S. ASAT has obviously a very small allowable "basket" in which the quarry satellite must appear if we are to be able to home on it and destroy it.

A typical U.S. low-altitude satellite has a mission life of several years, and it must be a very expensive and very capable vehicle in contrast with a Soviet satellite of few-week lifetime. How much would it deter Soviet attack on our valuable satellite (on which we depend very greatly), to be able to destroy one of their less valuable ones? Deterrence of Soviet attack on U.S. satellites can be achieved by threatening to impose comparable total damage on the Soviet Union, and that cannot be done by destroying one of their satellites if they destroy one of ours.

Finally, the ability to destroy the Soviet RORSAT is unnecessary to protect our fleet. We can deny its utility by jamming, deception, and by other means. In fact, as has been put very perceptively by Admiral Noel Gayler, retired, (former Commander-in-Chief of U.S. forces in the Pacific, former Director of the National Security Agency, and so on) U.S. carriers and other major ships can survive only with the aid of our own satellites, by the use of low probability of intercept (LPI) communications from the ships to the satellites, so that the ships are not vulnerable to location by the Soviet Electronic Intelligence Satellites (EORSAT) or by other means. Thus, countering Soviet RORSAT by non-damaging electronic warfare means, and countering EORSAT by "silent communication" to our own satellites would be a positive benefit and does not depend in any way upon our possession of an ASAT capability.

If there is no ban on ASAT, obviously the Soviet Union will not stop with their crude and unreliable existing ASAT. They will mimic the U.S. to find a capability which will be far more useable in terms of instantaneous flexible destruction of U.S. satellites. Furthermore, nations which are constrained in their access to nuclear weapons have no such impediment in regard to non-nuclear ASAT capability, and we can be confident of seeing Japanese, German, as well as British and French ASATs on the scene.

A particular instability arises in the presence of a program to provide a highly reliable space defense against nuclear weapons. Under these circumstances (which Secretary Weinberger has dubbed a "strategic nightmare" if the Soviet Union begins to deploy such a system) ASATs could well be used immediately to destroy such a nascent defensive capability.

But, some ask, how about "residual" ASAT capabilities, even if all ASAT tests and use are banned? We have already mentioned docking practice, and one might imagine a possibility that some of the Soviet ASAT interceptors were hidden instead of destroyed. Furthermore, new-development ASATs might have been developed secretly, although not tested in space, and these would have some (even if negligible) capability.

More important is a capability against low-altitude satellites posed by nuclear-armed ABM interceptors, such as those around Moscow. Most important (and a capability available to both the U.S. and the Soviet Union) would be the use of ICBMs (with their nuclear warheads) for point-in-space intercept. The U.S. has long assumed that the Soviets could put their ICBMs on silo targets in the United States with an accuracy of a small fraction of a second. Using the same ICBM against a target which is a point along the orbit of a quarry satellite would provide a highly flexible nuclear-wartime ASAT capability. There is no way in which this capability could be eliminated by any ban on ASAT possession or test.

Nevertheless, it would be unreasonable to assume that any ASAT treaty would protect satellites in nuclear war, at a time in which the U.S. and the Soviet Union were exploding nuclear weapons on another's territory.

Note that our draft treaty of 05/18/83 did not propose to ban possession of ASAT capabilities—only use and test. We made this choice consciously in order to be able to verify everything which we required. Nevertheless, Yuri Andropov offered in August 1983 to destroy existing ASATs, and the Soviet draft treaty of August 1983 contains this provision. In a negotiation, we ought to accept the Soviet offer, and request of them the detailed assurances as to how we can be certain that they have destroyed their existing ASAT.

In considering verifiability of an ASAT treaty (called into question in large part by those who enthusiastically support the President's Strategic Defense Initiative), one should compare the verification requirements for ASAT with the observation requirement for the effective defense called out in the SDI.

Recommendations. We should urgently negotiate with the Soviet Union a treaty to ban antisatellite use, and test, and also ban weapons in space. We should accept the Soviet 1983 offer of a moratorium on the launch of ASAT weapons until that treaty is concluded.

The resulting treaty, based initially on the Soviet draft of August 1983 which is presumably acceptable to the Soviet Union except for the ban on military use of manned reusable spacecraft (which is no more acceptable to them than to the United States), should be of indefinite duration, but it should be clearly understood in the United States that if after 15 or 20 or 30 years the perception of the strategic situation should have changed to encourage one that defense would be not only effective but desirable, the treaty could be renegotiated, or it could be abandoned in accord with a provision for six-months notice in support of the supreme national interest of any of the Parties.

In this way we would have the protection of the treaty afforded to our peace keeping and military-support satellites in the near term, and we would have whatever prospects for defense are available in the long term.

In my opinion it is both feasible and urgent to negotiate a ban on weapons in space, and I believe that it could be concluded in a month. I do believe that there is considerable support from high-level active military officials for such an ASAT treaty; it should certainly not be taken for granted that our military leaders oppose it.

Encl:

05/18/83 "A Draft Treaty Limiting Anti-Satellite Weapons," presented by UCS to a Subcommittee of the Senate Foreign Relations Committee. (051883TLAW)

08/19/83 "Request for Inclusion of a Supplementary Item in the Agenda of the Thirty-eighth Session of the UN General Assembly 'Conclusion of a Treaty on the Prohibition of the Use of Force in Outer Space and from Space Against the Earth' Letter dated 19 August 1983 from the Minister for Foreign Affairs (Andrei Gromyko) of the Union of Soviet Socialist Republics addressed to the Secretary-General," (Javier Perez de Cuellar). Official UN translation. (081983 . . AG)

TESTIMONY OF KURT GOTTFRIED—UNION OF CONCERNED SCIENTISTS

(Kurt Gottfried is Professor of Physics at Cornell University, and serves on the Board of Directors of the Union of Concerned Scientists (UCS). He obtained his doctorate at the Massachusetts Institute of Technology, and taught at Harvard University before joining the Cornell faculty. He is a former chairman of the Division of Particles and Fields of the American Physical Society, a former senior staff member of the European Organization for Nuclear Research (CERN) in Geneva, and a Fellow of the American Academy of Arts and Sciences. He recently co-chaired the UCS panel which produced the report "Space-Based Missile Defense.")

Mr. Chairman, I would like to thank the Committee for offering me the opportunity to express the views of the Union of Concerned Scientists (UCS) on the crucial issue of anti-satellite (ASAT) arms control.

1. THE ADMINISTRATION REPORT OF MARCH 31

In the winter of 1983 UCS decided that the evolution of ASAT technology deserved far more attention than it was receiving. For that reason we convened a panel of distinguished experts on military and civilian space technology, arms control, and international law, which I had the privilege of chairing. To be quite frank, we began our deliberations with the prejudice that U.S. security would be best served by negotiated constraints on the further development of Soviet ASAT capabilities. But we were keenly aware of the verification problems that ASAT arms control faces. For that reason we thought it quite likely that we

would not be able to formulate a treaty that would enforce meaningful constraints on the ASAT threat. Somewhat to our surprise, we found that a verifiable treaty could be constructed provided one keeps one's eye firmly fixed on the objective of preventing the growth of Soviet ASAT capabilities to the point where they would become a significant threat to our military satellites. This objective can be met by a verifiable ASAT test ban. On May 18, 1983, three members of our panel, Dr. Richard L. Garwin, Admiral Noel Gayler and I, presented a draft for such a test ban treaty to the Senate Foreign Relations Committee. (The complete treaty test is attached.)

If one allows one's sight to shift to a host of secondary objectives and concerns, a verifiable treaty quickly disappears from view. That is precisely what the Administration's March 31 Report "U.S. Policy on ASAT Arms Control" does. This document is really a laundry list of problems facing ASAT arms control, intermingled with totally irrelevant points. It does not distinguish issues that must be settled prior to negotiations from those that can only be settled by negotiation. Above all, it does not draw up a balance sheet that weighs the advantages and disadvantages of the unrestrained ASAT competition that it supports, as compared to the treaty-constrained regime that it discards. I shall draw up such a balance sheet. But before doing so, it is necessary to separate the chaff from the wheat in the Administration Report.

2. CHAFF

The Report states that satellites and their ground support systems can be attacked by ballistic missiles. But what has that to do with ASAT arms control? There is only one way of preventing such attacks: remaining at peace. Surely no one expects such arms control to actually protect military installations of any kind from attack by strategic weapons.

Another set of problems raised in the Report can only be answered by entering into negotiations. The most glaring example is the speculation that the Soviet draft treaty submitted to the United Nations in August 1983 is merely a ploy to hinder our ASAT program. This may well be true, but there is only one way of finding out: negotiating. While the one they submitted to the U.N. two years earlier. As the Report states, the 1983 draft still suffers from certain ambiguities, and has language that seems to impose unacceptable restrictions on the Shuttle, but that hardly disqualifies it as a useful point of departure. Or does the Administration expect the Soviets to propose a treaty text that we could sign and ratify without any negotiations?

There are two other straw men that should be mentioned: the fear that highly sensitive information will have to be disclosed in setting up the co-operative measures that would be part of a treaty, and the concern that adequate definitions of ASAT activities will not be found. These are problems that must be addressed in negotiations. They cannot be settled by a monologue in Washington.

The most curious aspect of the March 31 Report is the assertion that the Soviets are anxious to impede our ASAT program by offering a test moratorium. This is probably correct, but that would only mean that the U.S. ASAT program is now playing the "bargaining chip" role for which it was primarily designed. Let us not forget that when the Carter Administration took us down this road, negotiations and ASAT development were to go hand-in-hand. Now we are at a fork in the road. Shall we negotiate to see whether we should cash in the bargaining chip, or shall we opt out of the game because we have, once again, fallen in love with the bargaining chip itself?

3. WHEAT

We can now turn to the real issues that must be settled before negotiations begin.

First, we must answer a fundamental question: Do we want to have ASATs? In addressing this question it is natural to immediately bring in the Soviet ASAT. But that confuses two issues, for one might want to acquire ASATs even if the Soviets had none. So, for the sake of clarity, I shall for a moment ignore the Soviet ASAT, and ask whether our security would be enhanced by the possession of ASATs. In so doing I shall assume that, in the long run, both sides will have comparable ASAT capabilities.

To decide whether we want ASATs or not we must answer several questions. The first, and most important, is never posed in the Administration's Report:

1. Are we more or less dependent on military space systems than the Soviets? We are an open society and a global power. We face an adversary that is a closed society and a continental power. Hence we rely on satellites for intelligence gathering, and for long-range communications across the oceans. In contrast, the U.S.S.R. has an extensive ground-based and airborne military communications system, and according to professional students of the Soviet military, the Soviets at this time view their satellite communications systems as a back-up facility. Other things being equal, it is therefore in our interest to keep our satellites free of ASAT risks even if that leaves the Soviets in the same position.

2. Do Soviet satellites pose such a threat to U.S. forces that we must have the ability to destroy such satellites? In particular, does the threat to our Navy from Soviet ocean reconnaissance (EORSAT and RORSAT) satellites require us to have ASATs? With the Chairman's permission I would like to introduce a statement into the hearing record by Admiral Noel Gayler, whose experience as Commander-in-Chief, Pacific, and as Director of the National Security Agency, make him a singularily qualified authority on this matter. In a nutshell, Admiral Gayler concludes that the Navy should cope with Soviet ocean surveillance satellites with passive countermeasures, such as spoofing and jamming, and prevent interception of its signal traffic by using tightly focused high-frequency antennas to communicate via satellite. The latter requires secure U.S. satellites, and therefore means that we had better avoid ASATs. That leaves us with the question of whether we wish to be able to destroy Soviet satellites that would be used in military operations against U.S. ground forces. But we too have such satellites—a fact that one could never discern from reading the Administration Report. Given the greater sophistication of our satellites, and our lead in virtually every technology exploited by satellites (see Richard DeLauer, FY 1985 Department of Defense Program for Research, Development and Acquisition, February 27, 1984; page II-32), it is reasonably certain that U.S. satellites used in support roles for conventional operations are superior to their Soviet counterparts. Hence the Administration's contention that we must have the ability to destroy Soviet satellites of this variety does not withstand closer scrutiny.

3. Is crisis stability enhanced or diminished by ASATs? Satellites are "force multipliers" because they enhance the destructive power and the defensive posture of the forces that they serve. This is increasingly true of low orbit satellites in conventional operations as their ability to gather and promptly transmit all-weather night-and-day intelligence improves. The capacity to destroy such satellites could be irresistably seductive on the eve of hostilities despite the risk of escalation. Hence a prompt and comprehensive ASAT capability against low-orbit satellites could destabilize a crisis or low-level conflict. A similar capability against high altitude (geosynchronous) satellites would pose far graver risks for these satellites are a central part of the nervous system that governs the strategic forces.

4. What would ASAT deployment imply for arms race stability, and for strategic arms control? This depends to a considerable degree on the ASAT technology. Low-altitude ASAT interceptors of the current generation do not have a direct impact on the strategic balance, or on strategic arms control. On the other hand, more sophisticated technologies, such as laser weapons, have a long-term ballistic missile defense (BMD) potential, and to the extent that they are developed for ASAT purposes they will inevitably erode confidence in the ABM Treaty. This "ASAT loophole" is a serious defect in the ABM Treaty. Since all existing strategic arms control is a lineal descendant of the ABM Treaty, unfettered ASAT activity could trigger a chain reaction that would unravel the treaty constraints on strategic offensive forces.

All these considerations therefore converge on the conclusion that we would be best off in a world without ASATs.

4. THE SOVIET ASAT

Unfortunately we do not live in such a world. Since 1968 the Soviets have reportedly conducted some 20 ASAT tests, whose results are summarized in Figure 1. We must therefore assess whether this Soviet system requires us to enter into an ASAT competition, or whether we can find some combination of measures that would provide an adequate approximation to the ASAT-free world that we would prefer.

What is the threat posed by the Soviet ASAT? Here I can be brief, for in testimony to the Senate Foreign Relations Committee on July 11, 1979, the Air Force Chief of Staff, General Lew Allen, said: "I think we give it a very questionable operational ability for a few launches. In other words, it is a threat that we are worried about, but they have not had a test program that would cause us to believe it is a very credible threat."

As Figure 1 shows, since that day the Soviets have held four tests. Of these only one was successful, and it employed the radar homing technique that had been most extensively tested before 1979, and which formed the basis for General Allen's statement. The three other tests used a more sophisticated homing device instead of radar, and all failed. Hence General Allen's assessment stands intact.

Factors beyond the poor test performance enter into that assessment. First, as Figure 2 shows, a minority of U.S. satellites are within reach of the Soviet ASAT, and none of these are of importance to U.S. strategic forces in wartime. Second, since the Soviet ASAT is launched from the ground, it can only attack a satellite whose ground track runs close to the launch site; because of the

turning of the earth and the motion of satellites, that only happens once every six hours on average for any given satellite. Third, in the successful test, radar homing occurs some three hours after launch of the ASAT, which offers the would-be target opportunities for jamming and for evasive maneuvers. Fourth, the ASAT is lofted by a very massive booster; only a handful of suitable launch sites exist for this purpose in the Soviet Union, and re-loading of the liquid-fueled booster would be time-consuming.

All this tells us that we are really not far from an ASAT free world at this time. The Soviets have a primitive and inflexible system of "very questionable operational capability" that does not pose a "very credible threat". We have a far more versatile and prompt interception scheme against low orbit targets under development, but it will not be an operational system until it is tested against targets in space. If all ASAT field testing and deployment were to stop now, we would have to cope with a small and continuing ASAT contamination whose effects can be controlled by well-known medications. On the other hand, if ASAT development is allowed to continue unhindered, the military space assets of both superpowers will become exposed to an epidemic of ominous threats. The Administration proposes to contain this epidemic by threatening retaliation against Soviet satellites, but that is hardly credible preventive medicine since we are more dependent on satellites than they are.

Prudence therefore dictates that we should strive to maintain as ASAT-free an environment as we possibly can. That can only be done by negotiating a verifiable test ban treaty.

5. VERIFICATION OF AN ASAT TEST BAN

Ideally one would want a treaty that would not only ban tests, but also possession of ASATs. We agree with the Administration that national technical means by themselves could not establish that the Soviets had no supply of their current interceptor. But our primary concern should be to prevent the enhancement of the Soviet ASAT threat, and it would therefore be most unwise to forego a treaty that would achieve that goal because of the desire to eliminate the relatively minor threat posed by a cache of Soviet co-orbital interceptors. Hence our concern is to assure that a test ban can be verified with adequate confidence, and that measures exist that will protect our satellites against any clandestine Soviet ASAT activity that may evade detection.

As Figure 1 illustrates, the space surveillance system at the disposal of the U.S. intelligence service have enabled us to keep a close eye on the Soviet ASAT program. This system is undergoing continuous improvement. The North American Air Defense (NORAD) Command's radar network has recently been upgraded to provide greater tracking accuracy and improved coverage. The Ground-based Electro-Optical Deep Space Surveillance (GEODSS) system will provide highly detailed optical and orbital data on space objects from 3,000 miles to beyond geosynchronous altitudes (22,000 miles).

Clandestine tests of the existing Soviet ASAT would therefore be very difficult at best. The only tests that would stand any chance of evading detection would have to attack a point in space, leave the interceptor interact, and avoid deft approach maneuvers characteristic of ASAT activities. Such constrained tests would be of very limited value. They could perhaps confirm that the ASAT performs as in the past. Perhaps they could even demonstrate that improvements have made the device less reliable. But the Soviets could not rely on such tests to evaluate new homing devices or approach tactics, because a point in space, even if moved by computer, is not a maneuvering source of infrared radiation.

Next we turn to covert tests of new ASATs, but in doing so it is essential to remember that these will face equally new space surveillance capabilities. The Administration Report presents a one-eyed view of the verification problem because it pits an evolving ASAT technology against a static surveillance capability. It does not do so because the Administration has never heard of space surveillance. On the contrary, the Administration has a two-track sales policy: when it addresses committees of Congress concerned with ASAT arms control, it speaks of the insuperable difficulty of monitoring an ASAT test ban, but when it comes before committee that must approve funds for the President's Space Defense Initiative (SDI), or "Star Wars" in the Vernacular, it becomes eloquent about space surveillance systems of incredible refinement. In testimony by Dr. Richard DeLauer to the House Armed Services Committee on March 1, 1984, a "surveillance, acquisition, tracking and kill assessment (SATKA)" program is described. SATKA is supposed to develop the capability to detect, track and identify the tens of thousands of space objects that must be handled by a ballistic missile defense. To that end it will explore new airborne long-wavelength infrared sensors, and new radar imaging techniques, as well as "ladar", which is similar to radar, but uses laser beams to attain far more refined spatial resolution. And on top of everything, this "system must operate reliably even if the presence of disturbances caused by nuclear weapons effect or direct enemy attack."

Any organization that proposes to construct such a marvel should find it easy to build a bargain basement "micro-SATKA" which would keep a hawk's eye on clandestine ASAT tests in space. This system could be augmented by spacecraft expressly designed for the purpose of monitoring treaty compliance. Such vehicles could carry telescopes to watch suspicious activities, measure the infrared emission from space objects to see whether they are being heated by lasers, and generally monitor legitimate space activities that have a potential for clandestine ASAT tests.

Potential ASATs may be broken down into several categories: fast approach interceptors, slow approach maneuvering spacecraft, directed energy weapons, and space mines.

The surveillance systems in existence and under construction should make clandestine tests of fast-approach interceptors visible, and reveal telemetry and other signatures from a wide variety of suspicious space activities. If the Administration really believes that these surveillance facilities would not suffice, it should augment them with some tiny portion of what it proposes as part of SDI. Slow approach interceptors are more difficult to distinguish from legitimate space activities, but slow-approach ASATs cannot be used for a simultaneous surprise attack against a widely dispersed set of satellites. We would quickly see that a set of Soviet spacecraft are sidling up to our satellites, and this sort of attack is therefore of questionable military utility.

Space mines pose a very serious potential threat to satellites at all altitudes, and it would be one of the principal aims of a test ban treaty to impede their deployment. The evolution of space mines would be greatly hampered by a test ban, while monitoring facilities would steadily improve, as would satellite protective measures, which will be discussed in a moment. A mine that can persistently follow a satellite that is maneuvering to evade it is a sophisticated device, and military commanders could not place confidence in it if it had not been tested under reasonably realistic conditions.

Space-based and air-borne lasers with a large kill range face such serious technical problems, and have such visible external characteristics, that their clandestine development to the stage of an operational weapon would be an unproductive undertaking. Ground-based lasers could perhaps be developed clandestinely, but their ASAT utility is not so obvious. If the target is a low orbit satellite, the laser weapon suffers from all the disadvantages of any ground-launched ASAT, as already described in connection with the Soviet ASAT; it would have the additional handicap of requiring a clear sky overhead. If the laser is intended for attack on geosynchronous satellites, the density fluctuations of the atmosphere would create a serious problem. These ever-present fluctuations, which cause stars to appear as if they were twinkling, will produce an outward flaring of the laser beam, with the result that the beam spot at geosynchronous range will be unacceptably large and diffuse. In ballistic missile defense, where the laser beam is sent to a mirror of one's own whose shape can be modulated, this problem could, at least in principle, be overcome. (This technique is called adaptive optics.) But a target satellite will not deploy a mirror to support its own destruction. So the owner of the clandestine ground-based laser ASAT would need some space-based components to make this system effective, and that makes the chances of successful evasion not good.

If the Administration were to decide that the national technical means of verification that have been sketched did not suffice, it could try to negotiate treaty clauses that would limit certain undesirable movements of spacecrafts, the encoding of telemetry, prior announcement of certain classes of space activities, etc. Once again, only negotiations can determine whether a combination of technology and treaty language that would serve our security goals is attainable.

6. SATELLITE PROTECTIVE MEASURE

While a test ban would put a rather tight lid on the development of ASAT technology, it would leave us free to enhance the survivability of our satellites. Certain steps towards that end are already underway, but much more could be done if that were deemed necessary. Indeed, the pace and scope of the steps that have been taken show that we are not as concerned by the Soviet ASAT as is often claimed.

A good description of what can be done to enhance the security of our military space system is to be found on pages 9 and 10 of the Administration Report. If one is concerned with the residual threat posed by Soviet ASAT interceptors that may have been secreted away under a treaty-constrained regime, a small subset of the diverse array of protective measures available should suffice to provide high confidence in the integrity of our military space facilities. In brief, one could equip low-orbit satellites

with a maneuvering capability to attempt evasion of the Soviet interceptor whose arrival would be predicted by radar tracking several hours before contact. At that point homing with the current Soviet radar devise could be opposed by on-board jammers. Refueling of the satellite engines could be done by the Shuttle. A very limited capability to launch spare satellites quickly could also be provided for or, at lower cost, ICBMs could be used to loft C^3I packages to support conventional forces that had been deprived of their satellite support.

7. IS ASAT DEPLOYMENT ECONOMICALLY SENSIBLE?

It is essential to compare the cost of maintaining a given level of satellite security in the presence and absence of ASATs.

If ASATs are being developed and deployed legitimately, a continuous stream of Soviet space activities will have to be scrutinized. On the other hand, if there is an ASAT test ban, a set of isolated and sporadic events will have to be analyzed at a more leisurely pace. Obviously a far more versatile and quick-acting space surveillance system will be needed if there is unrestrained ASAT activity than if there is an ASAT test ban. Our satellites would have to be supplied with much better protective measures, and with a much more elaborate backup system if tested weapons are ready to attack them as compared to the situation where one only fears a threat from a tightly constrained ASAT threat that may not even exist.

So if one is about to approve an ASAT system, one should reckon that before long one will also have to foot the bill for a host of protective measures and surveillance facilities that will be far more expensive than what would have been needed if one had an ASAT test ban treaty. The Administration claims (see page 10) that it will avoid these costly steps by threatening deterrence against Soviet satellites, but the emptiness of that threat has already been made clear. The Report clings to the current philosophy of "of developing space systems of greater sophistication and longer expected mission lifetime", and admits that the alternative "would require considerable investment, not now evisioned, in boosters, spacecraft production, launch facilities, and ground support". But if it follows the ASAT weapons route, and rejects negotiation, the Administration will not have the luxury of choosing its space philosophy. The Soviet Union will choose our space systems deployment philosophy by fielding a new generation of far more capable ASATs. We shall then be forced to spend vast sums for satellite protection and redundancy, and those expenditures will not prevent the erosion of our security.

8. CONCLUSION

The Administration speaks with many voices. Some barely hide their desire to exploit the ASAT loophole in the ABM Treaty to undermine that treaty, and arms control quite generally. The President's science advisor speaks of laser ASATs as a stepping stone towards space-based ballistic missile defense. Others claim that the Administration's sole concern in refraining from ASAT negotiations is its desire to have weapons that could destroy those Soviet satellites that enhance the capability of Soviet military forces. Perhaps the common denominator is best described by the director of DARPA, Dr. Robert Cooper, in testimony to the House Armed Services Committee on March 17, 1983: "The policy for the first time recognizes the need to be able to control space as a military environment".

That is the hub of the issue. Are we to strive for domination in space in the hope that our technological prowess will provide us with a new dimension of strategic superiority? Or are we finally going to learn the bitter lesson of post-war history, and recognize that our technological arrogance has brought us into an ever more precarious situation. If we have learned that lesson, we should negotiate. We should not be deflected by those who only support non-existent arms control agreements that provide a hermetic seal against all imaginable threats, no matter how implausible. For if one is serious about arms control as one component of defense policy, one must compare the risk posed by activities that may escape surveillance with the threat that a treaty-free regime would produce. That we have done. We have shown that in a treaty-constrained regime satellites would be at a small risk which is quite well understood, and which can be effectively countered by measures that are technically and fiscally sensible. On the other hand, if there is to be an all-out space weapons competition that consumes vast resources, everyone's satellites would become increasingly vulnerable to prompt destruction, and crisis stability would be significantly lowered. Such a balanced analysis, free of technological hubris, demonstrates the urgent need for immediate negotiations towards ASAT arms control.

TESTIMONY ON SPACE BASED AND SPACE DIRECTED WEAPONS

(By Sidney D. Drell)

Thank you for this opportunity to appear before this committee and testify on this vital and timely subject. The President's "star wars" speech last year challenged the most basic premises of the U.S.-Soviet strategic relationship. It has led to the Administration's new strategic defense (AMB) initiative which deserves the most careful examination. Advances in ABM technology will inevitably contribute to advances in anti-satellite technology (ASAT) which is a much simpler technical challenge. Hence policy and restraints in both areas should be coupled to one another. In my statement I will first address the issues raised by the defense initiative; and then ASAT.

I have appended my curriculum vitae to my written statement. It documents 25 years of substantial and continuing involvement on my part as an adviser to the U.S. Government on the strategic, arms control, and technical issues of defense and satellite systems. My statement to the Committee represents no one or organization other than my personal views.

THE STRATEGIC DEFENSE INITIATIVE: AN OVERVIEW

In his address to the nation on March 23, 1984, President Reagan called for a shift from deterrence based on the mutual fear of nuclear retaliation to reliance on defense against nuclear annihilation. The impulse to look to our weapons and armed forces to defend us rather than threaten others is a natural one with strong moral appeal, and is deeply ingrained with long historical precedent in the era before nuclear weapons. However we must also look to the practical side of this issue under the shadow of current nuclear arsenals.

The President's call raises once again two critical questions that we have faced since the advent of nuclear weapons and the development of intercontinental ballistic missiles more than twenty years ago:

1. Is it realistic—on technical grounds—for us to build an effective shield (ABM) to protect us from nuclear annihilation?

2. How will an intensified effort to develop ABM's change the basic U.S.-Soviet strategic relationship and affect U.S. security and the likelihood of nuclear war?

Our last national debate on these issues occurred 15 years ago and led to the acceptance by the U.S. and the Soviet Union of the very severe limitations on ABM negotiated at SALT in 1972. This did not reflect any lack of awareness of strategic defense and the arguments for it. Rather it was a pragmatic conclusion. Whatever the theoretical desirability of ABM defenses as opposed to deterrence based on assured destruction, in the 1970s each of the superpowers judged the deployment of a nationwide ABM shield, in sum, to be futile on technical grounds, destabilizing to the strategic balance, and very costly.

As the question of strategic defense is now reopened in 1984, has anything happened to alter that prior judgment?

There have indeed been tremendous advances in recent years in the technology pertinent to this problem that have removed some of the shortcomings of previous defense concepts. These include producing directed energy beams of high power that travel as accurate bullets at the speed of light, and more efficient gathering, processing and transmitting of vast quantities of data for the purpose of battle management. There have also been major improvements in the offensive forces. I have concluded, based on long experience and recent intense work on this problem, that we do not now know how to build an effective nationwide defense, nor is there any prospect for achieving one in the foreseeable future, unless the offensive threat is first tightly constrained technically and greatly reduced numerically as a result of major progress in arms control. I agree with Dr. Richard DeLauer, Undersecretary of Defense for Research and Engineering, who has said,[1] "With unconstrained proliferation, no defensive system will work."

The major technical fact that has not changed with time is the overwhelming destructive power of nuclear weapons. To speak, as President Reagan did, of rendering nuclear weapons "impotent and obsolete" by defending one's vital national interests—people, industries, cities—against a massive nuclear attack still requires a defense that is almost perfect. Technical assessments of ABM concepts cannot escape this awesome systems requirement. If but 1 percent of the approximately 8,000 nuclear warheads on the current Soviet force of land-based and sea-based ballistic missiles succeeded in penetrating a defensive shield and landed on urban targets in the U.S., it would be one of the greatest disasters in all history!

Many components form a defensive system against ballistic missiles, and all are

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[1] As quoted in the New York Times, May 18, 1983 by Richard Halloran, for an interview with reporters on the previous day.

Dr. James C. Fletcher, Chairman of the Defensive Technologies Study Team (summer of 1983), which has been used by the Departments of Defense and Energy as the technical guidance for the Strategic Defense Initiative, testified on March 1, 1984, to the House Committee on Armed Services that "I would like to say at the outset that no one knows how effective defensive systems can be made, nor how much they might cost." The Fletcher report was concerned with defining a technology development toward what is "conceivable" for an effective defense.

crucial to its effective operation. These include the sensors providing early warning of an attack; the communication links for conveying that information to the analysis centers for interpretation, to the command centers with authority to make decisions as to the appropriate national response, and to the military forces to implement the decisions; the sensors of the ABM that acquire, discriminate, track, point, fire and assess the effectiveness of the attack; and finally the interceptors or directed energy sources that make the kill. The systems for managing the battle and for delivering destructive energy concentrations must be operational at the initiation of an attack and must remain effective throughout. This means being on station, yet being able to survive direct attack. The ability to satisfy these two requirements simultaneously is a major operational challenge. Even if the very ambitious and costly R and D program recently proposed by the Administration achieves all of its major goals, far beyond presently demonstrated technologies, great operational barriers will still remain.

DEFENSE-IN-DEPTH

The concept of a "defense in depth" has developed since no single technology alone is adequate to provide an impenetrable defensive shield, or anti-ballistic Maginot Line. The first layer attacks the rising missiles during their boost phase while their engines are burning. Typically, this phase lasts three minutes for modern missiles which are powered by rockets that burn solid fuel, and up to five minutes for liquid fuel boosters. During this time the missile rises above the atmosphere or heights of two to three hundred kilometers. The second (and perhaps third) layer of the defense attacks the warheads, or re-entry vehicles, as well as the post-boost vehicle (which is the small bus that arms and dispenses the individual MIRVs) during their midcourse trajectories lasting about 20-25 minutes. The final or terminal layer of the defense attacks the re-entry vehicles during the last minute or two of the flight as they re-enter the atmosphere which strips away the lighter decoys accompanying them in mid-flight. A three-layer system, each of whose layers is 90% effective, would allow only 8 out of an attacking force of 8,000 RVs to arrive on target and would, if achievable, be very effective, though less than perfect, as a defense.

BOOST PHASE INTERCEPT

As one looks at each layer of this defense, one encounters problems of monumental magnitude. In order to illustrate some of them I will describe the possibility of boost-phase intercept. It is the principal new element in considering ABM technologies. It also has the highest potential payoff for two reasons:

1. Whatever success is achieved in this initial layer of the defense reduces the size of the attacking force to be engaged by each subsequent layer.

2. If a missile is destroyed during boost when it is relatively vulnerable, all of its warheads and decoys are destroyed with it.

Following the missile boost phase, the defense has more time for performing its functions of acquiring and discriminating warheads from decoys, attacking its targets and confirming their destruction. On the other hand, although not so severely constrained by very short engagement times, it must also cope with many more objects since a single large booster is capable of deploying tens of warheads and many hundreds of decoys. Thus the two defensive layers for boost-phase and for mid-course intercept face very different technological challenges. Moreover an effective boost-phase layer which greatly reduces the number of objects that subsequent layers must analyze and attack is crucial to overall effectiveness of a defensive system.

CHEMICAL LASERS BASED IN SPACE

One of the most widely discussed systems for boost-phase intercept is a constellation of very high-powered chemical lasers and large optical systems operating to near-perfection that orbit the earth in space. Very well focused laser beams have the attractive feature for ABM of traveling vast distances with the speed of light in space above the atmosphere. The disadvantages of space-based lasers are that they are complex and expensive and vulnerable to direct attack; each laser platform, as it circles the earth, will be "on station" over the launch areas of Soviet ICBMs only a small percentage of the time therefore will have to be replicated many times over; and the offense can reduce the lethal effectiveness of the laser beams by relatively simple measures to harden his missiles. Just imagine how many lasers will have to be put into orbit. If we extrapolate the technology far beyond what has been demonstrated today to what is believed to be attainable in practice, and we assume perfect systems operation, this number comes out to be in excess of three hundred.[2] Not surprisingly, so extensive a space-based system is very expensive—there have been published cost estimates ranging upward from $500 billion. However, the most serious problem for this or for any space-based system is its extreme vulnerability to direct attack. Most simply, the space stations can be destroyed by relatively cheap space mines placed in nearby orbits and detonated by radio command from ground. Indeed the space stations themselves are more vulnerable than the ICBMs against which they are targeted. A space-based laser system does not offer a credible prospect of an effective defense layer.

A "POP-UP" SYSTEMS OF X-RAY LASERS

In order to avoid the vulnerability of space basing, the battlestations may be mounted on a missile based on ground poised to launch—i.e. to "pop-up"—upon receipt of notification of enemy attack. The most promising "pop-up" system of this type is an X-ray laser pumped by a nuclear explosion and designed to destroy attacking missiles during boost phase.

By itself, a nuclear explosion releases a very large amount of energy which is not focussed, but which emerges in all directions. However, if a sufficiently large fraction of the energy from the nuclear explosion can be used to drive one or more lasers, and thus be focused into very highly collimated beams, it can cause severe impulsive damage to objects at very great distances. This technology is still very immature and improvement by many orders of magnitude in efficiency will have to be achieved before a practical weapon can be designed. I will proceed on the assumption that the necessary technology is achieved.

In considering the possibility of a practical "pop-up" system of this type, the most difficult and important operational issue to address is whether it can be launched sufficiently rapidly even to attempt a boost-phase intercept. Modern ballistic missiles complete their powered flight, or boost phase, within three to five minutes after launch. This means that the X-ray lasers have only 3-5 minutes in which to do their job. However, X-rays are absorbed by the atmosphere, and so such a defensive system must itself reach an altitude well above 100 miles within that same short time interval in order to be able to shoot at the attacking missile. Furthermore, it would have to be based far off-shore near to Soviet territory. Otherwise, due to curvature of the earth, it will be impossible for the X-ray laser beams to "see" the booster above the horizon before the end of burn.

Since the X-ray laser will have to be launched literally within seconds due to the severe time constraints, the system will have to be fully automated. This includes turning over to computers the release authority for the weapons.

I have described formidable operational problems, but beyond these the offense can implement counter-measures that deny any possibility of such a pop-up X-ray laser defense. He can defeat this possibility of a defense by redesigning his missiles to burn more rapidly and complete their boost within the atmosphere before they can be attacked. To do so the offense will have to pay a penalty in efficiency of no more than 10-15 percent according to unclassified studies presented to the Fletcher Panel.[3]

A HYBRID SYSTEM

Other technologies and systems concepts have been proposed in an effort to escape the drawbacks of space-based and "pop-up" systems. One such concept is that of a system of ground-based lasers whose beams are aimed up to a small number of large relay mirrors at high altitudes, in or near synchronous orbits at 40,000 km altitude. These relay mirrors at high altitudes then direct the beams to various mission mirrors orbiting earth at lower altitudes from which they are redirected on to their targets. This hybrid system has the advantage of putting fewer parts in orbit than the space-based laser system, and it also avoids the severe time constraints of a pop-up system for boost-phase intercept. On the other hand it must conquer severe technological obstacles of transmitting its light through the atmosphere without loss of focusing due to atmospheric turbulence and without loss of energy due to absorption. Even assuming these technical challenges are mastered (including developments in active optics) there still remains a serious and unavoidable operational question; i.e., the few large focusing mirrors in space are themselves a small number of high-value and expensive targets vulnerable to attack. They and the large ground-based laser stations are reminiscent of the large phased array radars of the earlier generation of ABM systems at the time of SALT I which proved to be their technologies other than laser beams are even less far along as candidates for ABM systems. Particle-beam technology is the least

[2] This analysis is contained in a recently completed report on the strategic defense initiative, now being prepared for publication, done in collaboration with Philip Farley and David Holloway at the Stanford University Center for International Security and Arms Control. The key assumptions are a laser brightness of 3.5×10^{20} watts/steradian and a booster hardness of 20 kilojoules/sq.cm. corresponding to a kill range of 1500 km. so that the lasers will be on station 5% of the time. The threat size is the current Soviet ICBM force of 1400 boosters and the engagement time is 3 minutes. It will take some 300 shuttle launches just to fuel these lasers.

[3] Briefings in July 1983.

mature of the directed-energy technology efforts.

OPERATIONAL ISSUES

The data-handling—or battle management—problem is thought by many to represent the most stressing technological problem, and it is not fully understood at present.

On top of all these problems, the entire system with its many hundreds of advanced sensors and interceptors, and its severe battle management requirements, would have to work to almost 100% perfection the first time it was used—although never fully tested under realistic conditions in the midst of nuclear explosions!

STRATEGIC IMPLICATIONS OF THE DEFENSE INITIATIVE

These fundamental technical and operational difficulties are implicitly recognized in the strategic defense R and D plan submitted to Congress by the Defense Department last month. In addition to addressing the President's goal of escaping from a reliance on deterrence, it gives predominant emphasis to addressing the alternative, or interim, which goal of enhancing deterrence by deploying a defense that is only partially effective.

Whether the goal of the ABM is to transcend deterrence or the more limited one of enhancing it, we have to ask the second critical question that I posed at the outset, of what effect the President's initiative can have on the heart of the U.S.-Soviet strategic relationship and our approaches to avoidance of nuclear war. On this point I find no basis for altering our conclusion from that of our last national debate on ABM 15 years ago. Intensified national program in pursuit of ABM defenses can, and are likely to, prove harmful to our security as each nation fears the purpose as well as the capability of its opponent's defenses.

We may view our defenses, even though they are admittedly only partially effective, as enhancing deterrence by increasing the uncertainty of the Soviets about the potential effectiveness and success of their first strike. On the other hand, the Soviets may see our defensive programs, taken together with an ongoing intensive effort to modernize and improve our offensive forces, as evidence of preparations for a first strike; a first strike that would leave them with a weakened retaliatory force against which our defenses, although imperfect, would be relatively more effective—just as a leaky umbrella is more effective against a drizzle than a downpour. Of course the same is true for the Soviet Union vis-a-vis the U.S.

It is important to recognize that the President's strategic defense initiative differs significantly from the U.S. program to date which is a prudent "hedge" or contingency to be alert to technological breakthroughs and to guard against Soviet advances and even unilateral ABM development. The new initiative as defined so far is a long-term R and D program, costing $26 billion for the first 5 years alone. While it does not specify any systems deployment, it is directed toward a Presidentially-stated goal that is at odds with the premises of current U.S. and Soviet strategic relations. Furthermore, at present this is a unilateral change—to which the Soviet Union will have to respond in accordance with its perception of what may be the intended or actual impact on Soviet security of what the U.S. is doing. Soviet adjustments in their ABM and offensive strategic programs, and in their positions in the START negotiations, to take account of prospective new U.S. ABM capabilities cannot be deferred until the U.S. makes its deployment decisions 5 or 10 years hence. They will not want to lag behind our ABM programs. And in the face of a Presidential commitment to ABM which threatens their deterrent capability, will they look sympathetically at U.S. START proposals for deep reductions in their most effective deterrent missiles and warheads?

Thus the new defense initiative of the U.S.—whatever its eventual fate—is not a cost-free enterprise, in strategic and arms control terms as well as economic terms. The MIRV precedent is a caution to keep in mind. MIRVs were originally designed to maintain, and enhance, the effectiveness of the U.S. deterrent forces in the face of the initial limited Soviet ABM deployment around Moscow and in anticipation of further system growth. However the momentum of the U.S. MIRV program continued even after the SALT I treaty limitations on Soviet ABM removed the original argument for MIRVs. Then as the Soviets in turn deployed MIRVs, especially on their large land-based ICBMs, they became a focus of strategic instability.

SUMMARY OF ABM

To summarize: Based on technological and strategic considerations, I conclude that, if defensive systems are ever to contribute to a safer and more stable strategic relationship between the U.S. and the Soviet Union, they will first have to be embedded in a strict arms control regime that limits offensive systems. Technology alone will not solve the political problem of managing the strategic relationship with the Soviet Union—nor does it offer an escape from deterrence in a world heavily armed with nuclear weapons. Accelerated pursuit of ABM will give a new impulse to expansion and diversification of offensive forces. It will undermine deterrence by imperiling the ABM treaty. Sooner or later an extensive test program will be required in order to establish confidence in the technical performance of a large and technically sophisticated defensive system. This will conflict with Article V of the ABM Treaty of SALT I which includes the statement:

"Each party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

I value the ABM Treaty highly and concur with the statement in the final report to President Reagan by his Commission on Strategic Forces, dated March 21, 1984, and signed by General Brent Scowcroft, commission chairman: "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972. . . . No move in the direction of the deployment of active defense should be made without the most careful consideration of the possible strategic and arms control implications. . . . The strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution in proceeding to engineering development in this sensitive area."

Additionally, the U.S. must not let the new fascination with ABM detract us from taking important measures to assure our deterrent capability and to maintain adequate conventional strength. Crisis stability and deterrence depend pivotally on the survivability of the offensive strategic forces—which can be better assured by programs to lessen dependence on vulnerable fixed highly-MIRVd ICBMs than by defenses—and on the mutual awareness that unleashing nuclear war would be suicidal, a fact that the ABM treaty vividly establishes. We should maintain adequate conventional strength so we need not continue to rely on our current policy of "early first use" of nuclear weapons in NATO.

LIMITATIONS ON ASAT

Turning to ASAT, it is important to recognize that ASAT is a much simpler problem than ABM defenses that operate above the atmosphere (exoatmospheric ABM). This is because the ASAT targets are many fewer and generally more vulnerable and easier to discriminate than are those that must be destroyed by a strategic defense. Moreover they are predictable both in their position and time, they are not easily replaced, and they have communication and control links up and back from earth that can be attacked. Thus any exoatmospheric ABM will have an ASAT capability.[4]

The significance of ASAT for strategic defense lies in the threat it poses against the space platforms of the ABM, in particular against the warning, acquisition and battle management sensors. On the other hand, the significance of the strategic defense initiative for ASAT is that it will spur technical developments that, inevitably, will be threatening to the critical communication and early warning satellite links on which a ballistic missile defense must rely. This presents an unavoidable dilemma: ASAT threatens ABM, but ABM developments contribute to ASAT. Furthermore it will be difficult, if not impossible, to distinguish R and D component testing and technology demonstrations for ABM from similar activities for ASAT. Thus it is very likely to prove to be impractical to negotiate ASAT limitations with the Soviet Union if the strategic defensive initiative proceeds.

I strongly disagree with the Administration's conclusion [5] that it would not be "productive to engage in formal international negotiations" on ASAT arms control at this time, and I support Senate efforts calling for the U.S. to return to the negotiating table on ASAT. The negotiations will be tough, and U.S. concerns about verification and the potential for treaty breakout raise serious and important issues. But as Senator Pressler said on January 30, 1984 in his remarks to the "Workshop on Arms Control in Space" organized by the Congressional Office of Technology Assessment, "The ASAT problem is . . . only the forward edge of a potentially ominous trend in the military uses of space." This makes it all the more urgent to pursue serious negotiations in a timely fashion.

The Administration position emphasizes the potential vulnerability of the high-value U.S. satellite platforms to ASAT activities that the Soviets might undertake in violation of treaty provisions. From a technical point of view, that is hardly the place for the U.S. to give primary emphasis to its concerns. There are appropriate actions that the U.S. should initiate to enhance security of our satellites against the threat of hostile action, and to improve the ability to monitor compliance with ASAT restraints. However, it is generally much more difficult and expensive to go after satellite platforms in space rather than to destroy, damage, or

[4] Initially against satellites in low-earth orbits at altitudes below 1000 kilometers, and eventually up to synchronous orbit altitudes of 40,000 kilometers.

[5] In its Report to the Congress on U.S. Policy on ASAT Arms Control (March 31, 1984).

otherwise interfere with the few large and relatively vulnerable ground stations. The electromagnetic links of the satellites to ground are also much more vulnerable to disruption—except in the case of the most advanced technology.

Given the operational difficulties and the high energy requirements, it will be years before a practical and reliable ASAT that depends on intercept and destruction of space platforms will exist, capable of competing with the alternative means available to the Soviet Union for destroying the effectiveness of these systems as mentioned above. In making this statement I include the currently existing and very modest Soviet orbital intercept capability. Now is the time—before it is too late—to start and pursue with urgency the negotiating effort to head off such threats that would be counter to U.S. interests. It is also the time to redress potential near-term threats by improving the survivability of our satellite ground stations and by making our communication links to space more jam-proof.

I believe it is strongly in the national security interest of the U.S. to enter into prompt and vigorous negotiations for balanced and verifiable ASAT limits. U.S. satellites for early warning, intelligence, and military communications are of great importance to our security and to reducing the risk of war—especially in view of the nature of the U.S. as a sea power with extensive, vital overseas interests and commitments, and in view of the tightly closed character of the society of our principal military adversary, the Soviet Union. We should therefore seek ASAT treaty restraints that improve their survivability. A very useful and practical first step, en route to more comprehensive restraints that may be more difficult to achieve, would be to negotiate a ban on testing. I support Senate Joint Resolution 129 declaring "an immediate mutual and verifiable moratorium of limited duration on the testing in space of antisatellite weapons," and calling for immediate resumption of negotiations toward a comprehensive verifiable treaty limiting ASAT.

CONCLUSION

I see no prospect today of finding a technological fix to our perilous strategic situation with nuclear weapons. The path to a more secure world must be paved, at its start and for a long distance en route, with constructive efforts at understanding and negotiating toward reducing their threat. This makes it all the more important for us to pursue effective arms control with the Soviet Union, while simultaneously maintaining stable and secure deterrent forces. The absence of Soviet space-based and space-directed weapons—both ABM and ASAT—does a lot more for our deterrence and strategic stability than would the existence of such U.S. weapons.

While working toward a long-term goal of making nuclear weapons obsolete, a goal of considerable merit, we must also use a mixture of diplomatic and defense measures to work to ensure that the nuclear weapons are never used. For the present, I believe this calls for reaffirming the basic concepts of the U.S.-Soviet strategic relationship as reflected in the ABM treaty. It also calls for us to make a determined effort—through sensible program restraints as well as through negotiations—to keep space form being one more dimension of unnecessary weapons competition between the U.S. and the Soviet Union.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 23, in executive session to mark up S. 2414, the DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TASK FORCE ON SELECT DEFENSE PROCUREMENT MATTERS

Mr. BAKER. Mr. President, I ask unanimous consent that the Task Force on Select Defense Procurement Matters, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Wednesday, May 23, at 9 a.m., to continue marking up S. 2414, the DOD authorization bill and to mark up S. 2489, the Small Business Enhancement Act of 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 23, at 10 a.m., to consider the nomination of Richard Schiftler to be Deputy Representative in the Security Council of the United Nations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 23, at 4:45 p.m., for a closed briefing on the Persian Gulf situation to be offered by officials of the Departments of State and Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 23, at 1:30 p.m., to continue marking up proposed legislation for the fiscal year 1985 Intelligence budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

U.S. ECONOMIC AND SECURITY ASSISTANCE IN CENTRAL AMERICA

● Mr. JOHNSTON. Mr. President, I am submitting today a copy of the report filed by myself and Senator CHILES on our recent factfinding visit to Central America which I believe many of our colleagues will find of interest.

The report follows:

REPORT ON U.S. ECONOMIC AND SECURITY ASSISTANCE IN CENTRAL AMERICA

(Submitted by Senator J. BENNETT JOHNSTON and Senator LAWTON CHILES)

INTRODUCTION

On April 3, 1984, Senator Mark O. Hatfield, Chairman of the Senate Appropriations Committee, authorized foreign travel by a Committee delegation for the purpose of conducting an on-site survey of U.S. economic and military assistance programs in Central America.

The following report was prepared by Senator J. Bennett Johnston and Senator Lawton Chiles who comprised the delegation which visited El Salvador, Honduras, Panama and Nicaragua. It is being made available in a summary, unclassified form in order to achieve a broad dissemination of the information gleaned in the course of the survey. The focus of the report is on matters relating to the President's request for $659.1 million in supplemental fiscal year 1984 funding and $1375.9 million in fiscal year 1985 funding for economic and security assistance programs for the region. Much of the information bearing on these matters is highly classified and cannot be revealed in an unclassified report. Nonetheless, it was the judgement of the delegation that an unclassified report, which could be widely discussed, would be of more benefit than one requiring restricted distribution.

The President's request for supplemental assistance to Central America in 1984 includes $259.1 million in security assistance and $400.0 million in economic and developmental aid. The President's 1985 request includes $255.9 million in military aid and $1120.0 million in economic and other assistance. The President's request encompasses the recommendations of the National Bipartisan Commission on Central America, the so-called Kissinger Commission.

We would suggest, however, that to consider the elements of the President's proposals without reference to the ends and purposes they are intended to serve would be to rob the proposals of meaning and fail to illuminate the political, economic and military context in which the President's Central American policy is embedded. An understanding of this context is key to gaining a perspective on the current crisis in Central America and evaluating any U.S. aid program to the region. Accordingly, the delegation did not confine its inquiry into the costs and essential components of the proposed assistance, but also sought to investigate the broader economic situation, the political dynamics in each country visited, the military dimensions of the conflict, human rights concerns, and other factors bearing on the establishment of a comprehensive peace in the region. To achieve this, the delegation entered into frank discussions with significant political and public figures of various aspects of the conflict in Central America, including the status of pending elections, the redistribution of wealth and resources, human rights concerns, and the impact of the growing militarization of the region.

In the course of its inspection, the delegation visited El Salvador, Honduras, Panama and Nicaragua. The pace of the legislative calendar compelled us to limit our inspection to the period from April 15 through April 20, 1984. Nonetheless, the delegation

was able to compress into this brief period meetings with Provisional President Alvaro Alfredo Magana Borja of El Salvador and Commandante Daniel Ortega Saavedra, Coordinator of the Junta of the Government of National Reconstruction of Nicaragua, as well as extended discussions with leading political and military figures in the region, such as Jose Napoleon Duarte, now President-elect of El Salvador, General Walter Lopez Reyes and Carlos Roberto Flores Facusse of Honduras, Carlos Rodriquez and Nicholas Barletta of Panama and others.

These discussions, together with meetings with other political and military authorities in Central America and briefings by various United States government officials, gave us a firm appreciation of the complexities of the Central America situation. It is a dynamic and fluid situation unusually complicated by the interwining of key political, military and economic problems not only in individual national contexts, but also in the necessary interactions between the seven nations which comprise Central America.

It is the observation of this delegation that no individual aspect of this crisis can be dealt with in isolation. The achievement of a lasting peace in the region will require improvement in all elements of the Central American equation: political, social, economic and military.

It is hoped that this report will contribute to the Senate's understanding of the issues which influence peace and stability in Central America.

EL SALVADOR

The delegation was in El Salvador during the period April 15 to April 17, 1984. During its stay in El Salvador, the delegation met for 45 minutes with outgoing Provisional President Alvaro Alfredo Magana Borja for discussions on the May 6, 1984 elections in El Salvador. Other activities in El Salvador included a lengthy meeting with Jose Napoleon Durate, the presidential candidate of the Christian Democratic Party and now the President-elect of El Salvador; briefings by United States Ambassador Thomas Pickering; a visit with Foreign Minister Fidel Chavez Mena; a session with Bishop Marcos Rene Revelo; various meetings with business, labor and campesino organizations; and tours of the towns and military cuartels in Santa Ana, San Lorenzo, San Vicente, San Miguel, and La Union. The delegation requested a meeting with Roberto D'Aubuisson, the ARENA party candidate who most closely challenged Duarte for the presidency. Mr. D'Aubuisson did not choose to meet with the delegation.

It is the sense of this delegation that, as inconclusive and frought with danger as this period might be, there currently exists a period of hope and opportunity for El Salvador. Our discussions with Mr. Duarte and others led this delegation to believe that El Salvador is in a position to take great strides in resolving its own problems. However, our optimism is tempered by the realization that in order to solve these problems, the leaders and people of El Salvador must make hard political choices over the coming months and years. Equally, the American people and their leaders face difficult decisions on how best to support Salvadoran attempts to achieve peace and stability.

Political issues

El Salvador, as described by many people the delegation met with, is in the process of a "democratic revolution"—a revolution which must succeed if El Salvador is to achieve peace and prosperity. The general elections which took place in April, and the run-off elections on May 6, 1984, were a major step forward in the process of reform which began in October of 1979 when a group of young officers staged a coup d'etat to replace the brutal regime of General Romero. The young officers persuaded the Christian Democratic party to join them in an interm coalition until a new government could be freely elected. Elections for a constituent assembly were held in 1982 with presidential elections held in 1984.

During the delegation's visit, two and one-half hours were spent in discussions with Christian Democratic candidate Jose Napoleon Duarte, the winner of the May 6 run-off and, at this writing, the President-elect of El Salvador. Duarte fervently spoke of the need for El Salvador to move away from the five key power groups which have controlled the country in the past: the government, the political parties, the military, the private sector, and the influence of the United States. Duarte hopes to establish a government built on a broader base of support, encompassing elements of all of these constituencies. To do this, he recognized that when he takes office, he will need to reach out beyond his own constituency and create incentives for his political opponents to participate in the new government. The delegation believes that with the right support from the United States, Duarte can develop this broader constituency, including support within the armed forces.

We do not dismiss the substantial difficulties in building this new coalition. Discussions with a variety of public figures made the delegation aware of the long-standing and visceral animosities between key political groups, a history of hatred that will make government exceedingly fragile. Moreover, since the Christian Democrats have insufficient voting members to control the constituent assembly, it will be difficult for Duarte to develop a cohesive legislative plan. This can, of course, create opportunities. Duarte will have to reach some kind of consensus with other political entities to institute his policies. If he is forthcoming in these efforts, he may be able to develop a heretofore unprecedented degree of non-violent exchange between all Salvadoran political groups. Thus, it may be possible to create conditions for peaceful social change.

Duarte expressed to the delegation his belief that the conditions placed on U.S. aid to El Salvador in the past have been helpful in curbing human rights abuses. Duarte also made it clear that he understood the need for El Salvador to control violence on both the extreme right and the extreme left. He fully understands the need for civilian authorities to maintain control over the armed forces and, based on discussions with both political and military leaders, the delegation left El Salvador with the very clear impressions that both the civilian and military leadership in El Salvador is committed to continuing development of a professional military which will remain responsive to civilian control.

The delegation was impressed by Duarte's forceful commitment to improving social and economic justice in El Salvador. This too will prove a complicated task, particularly during a period when Duarte will need to reach out to such powerful groups as the private sector in order to create the necessary political coalition to govern. Many of the political entities which Duarte will need to reach out to will feel the most threatened by efforts to achieve a more equitable social and economic situation in the country. The immediate period which lies ahead in the political future of El Salvador will require a degree of political sophistication and a generosity of spirit for which the past has left the people of El Salvador ill prepared. Yet, in the midst of war, the human spirit often triumphs and perhaps, in El Salvador, a new history is being created which will make the people more ready to accept change.

As part of his efforts to achieve these ends, Duarte stated his intention to come to Washington shortly after he takes office in order to achieve, in his words, "a historic compact with the United States" on the goals for not only El Salvador but the entire region. The U.S. reponse to Duarte's forthcoming overture will be critical to his ability to implement his agenda for El Salvador. The delegation believes that Duarte's ability to ensure the continuation of U.S. military and economic assistance programs will be a key tool in convincing his political opponents that only through development of a peaceful coalition under his leadership can they insure continued U.S. support which is critical to the Salvadoran economic and military situation. However, in this request, Duarte will ask for a generous degree of faith and an absence of conditions attached to future U.S. aid.

The delegation believes that a peaceful future for El Salvador may well be tied to ability of a few individuals committed to a new future. As such, the importance of Jose Napoleon Duarte's individual role should not be minimized. Although Duarte represents a larger group committed to reform, it was not clear to the delegation whether this movement could be sustained without its leader.

The delegation also met with a key group generally opposed to Duarte, representatives of El Salvador's private sector. The leadership of the private sector remains concerned about the prospects of Duarte's presidency. Their principal concern lies in Duarte's commitment to further land reform measures and the prevalent belief the Duarte committed to a widespread transfer of private assets to labor and campesino groups.

Duarte recognizes that alienation of the private sector would be devastating to the country's economy. The Christian Democrats talk of the need to build a "silver bridge" to the private sector and to involve them in the new government. While the private sector's expertise is critical to El Salvador's economic recovery, Duarte will need to convince them that traditional capitalist incentives will be retained.

Discussions with individuals involved in Salvadoran legal circles impressed the delegation with the realization that to achieve social and economic justice, El Salvador will need to move aggressively in the area of judicial reform. The delegation was disturbed by the universal concern in El Salvador for the state of its judiciary. Clearly, El Salvador needs to create a credible and independent judiciary.

The inclusion of the left in the political process remains a key problem for any new government in El Salvador. While the delegation believes that a true political solution in El Salvador can only be achieved through free elections in which all political groups can participate, it did not see any evidence that the far left has a legitimate claim for power-sharing with the new government. Instead, the delegation believes that the future role for the left can only be legitimately determined through the electoral process. The delegation hopes that the new

government can take strides to ensure nonviolent participation of the left in the 1985 assembly and mayoral elections. The delegation found no indications of a significant political constituency supporting the leftist guerillas.

Security issues

Concern over security is, unfortunately, the dominant aspect of U.S. policy in El Salvador. The military situation during the delegation's visit characterized the ever changing pattern of conflict; with the initiative alternating between the government and the guerilla forces. During the delegation's visit, government forces were involved in counterinsurgency operations in the western portion of the country, and a four-battalion operation was underway in San Vicente Province, in the central part of the country. The guerillas, on the other hand, had managed to stage a major ambush on the Pan American Highway, killing 37 government troops.

Overall, the delegation was impressed by the morale and discipline of the Salvadoran military. The motivation and willingness of government troops to fight was substantially better than anticipated. The training and quality of the government forces also exceeded expectations. However, the performance of government forces is clearly linked to the quality of leadership. When adequately led and supported, the Salvadoran armed forces give every indication of being an effective and disciplined force. They are clearly a seven-day-a-week army. U.S. and Salvadoran officials did, on the other hand, relate to the delegation some incidence of problems with motivation and morale where leadership was lacking.

The delegation was favorably impressed with the results of U.S. training of the Salvadoran armed forces. Not only is this training improving Salvadoran tactics and combat skills, it also appears to be having a profound effect on the professionalism of El Salvador's military. Salvadoran military leaders acknowledged that their U.S. trained troops had in the course of their exposure to U.S. personnel developed a more professional, and less political, orientation. The delegation believes that this can be an important step forward in improving the role of the military in El Salvador and winning broader support for the political leadership in the countryside.

Although the delegation was favorably impressed with the Salvadoran troops encountered, it did note several shortfalls. The most serious concerned transportation, particularly trucks. All local military commanders the delegation met with decried the lack of trucks to transport men and materiel. Local commanders currently rent trucks off the local economy to move units into combat. In addition to alerting the guerillas to impending operations, this represents an unacceptable drain on the local economy.

The national command authorities in San Salvador stressed the need for more utility helicopters for both transportation and medical evacuation. El Salvador currently has 19 UH-1H "Huey" utility helicopters with an additional four in the process of being delivered. The four additional helicopters are specially configured for medical evacuation. Minister of Defense, General Vides Casanova noted that some 50% of the helicopters fleet is under maintenance at any one time and expressed his opinion that the lack of helicopters was a serious impediment to the Salvadoran military's ability to carry the war to the guerrillas.

Another major shortfall concerned control of the battlefield. In meetings with both national and local area commanders it became clear that government forces did not control or police the battlefield after engagements with the guerrillas. Not only does this raise questions concerning the reliability of government reporting on guerrilla casualties; but in a war where capture and retention of equipment is vital to sustaining the guerrilla effort, government failure to control the battlefield allows the guerrillas to acquire and retain the arms used by the casualties or left behind by both forces in an engagement.

The delegation was struck by the fact that all regional military commanders who met with the delegation stressed the need for economic assistance as the most vital measure in addressing security concerns. High unemployment (in some areas as high as 40%) clearly provides fertile recruiting grounds for the guerrillas. Getting future economic aid out of San Salvador and into the countryside will be an important asset in addressing security needs.

Foreign Minister Chavez Mena also expressed his concern that Nicaragua must be forced to cease its support of the Salvadoran guerrillas if there is to be peace in El Salvador. Chavez Mena urged the United States to put all possible pressure on the Sandinistas to force Nicaragua towards a more democratic position.

The delegation was briefed on U.S. intelligence activities supporting the Salvadoran military. While the details of these activities are highly classified, it is the opinion of the delegation that such operations are of exceedingly high value to the Salvadoran forces and of very low risk to the United States. The delegation believes these operations should be continued. Furthermore, future assistance must address the fact that much of the immediate value of the intelligence is lost due to the lack of mobility of the Salvadoran armed forces.

Future U.S. actions

The level and nature of U.S. support to the newly elected government of Jose Napoleon Duarte will be a critical factor in the eventual success or failure of the "democratic revolution" in El Salvador. The delegation believes that continuing U.S. military and economic assistance programs to El Salvador are essential.

The delegation believes that the U.S. security assistance program has been both appropriate and necessary. Future U.S. military assistance must be oriented towards giving El Salvador the tools to contain and neutralize the guerilla threat. Furthermore, the scale of the U.S. aid effort should be sufficient to allow the Salvadoran government to gain the initiative in the war.

This does not, however, mean that the development of a Salvadoran military force capable of permanently eradicating the guerillas through military means alone is either easily achievable or appropriate. The eventual settlement of the guerilla threat to El Salvador must come through a combination of military strength, economic well-being and political freedom. Without all three of these conditions, El Salvador will not be able to achieve peace and stability.

The delegation believes that the basic military aid program at the levels approved by Congress is essentially appropriate. The most serious shortfall in the program is the where-with-all to allow the Salvadoran military to respond more quickly to guerilla activity. To this end, the delegation would strongly recommend immediate measures to provide El Salvador with trucks and other transportation assets. Some increases in the Salvadoran helicopter force to improve mobility and provide for medical evacuation may also prove warranted. Military training of the Salvadoran forces, which is beginning to pay dividends, should be continued and increased.

The delegation would not, however, recommend steps which would substantially raise the technological sophistication of the Salvadoran military. Increasingly sophisticated equipment, such as advanced helicopter gunships, which require advanced maintenance and training do not appear appropriate and could undermine the military's overall improvement program.

Economic aid will be a vital part of addressing both political and security concerns. The U.S. economic aid program should be sized and oriented toward the following goals:

1. Economic aid should be sufficient to stabilize El Salvador's economy and address the nation's external debt problem.

2. U.S. economic and developmental aid should encourage private sector involvement in El Salvador's future. This will be critical in improving Duarte's prospects for building the necessary coalition to govern El Salvador.

3. U.S. aid should be labor intensive and oriented toward creating the maximum number of jobs and economic infrastructure in the countryside. As discussed above, this is a necessary aspect in addressing security concerns.

HONDURAS

The delegation was in Honduras from April 17 through April 18, 1984. During its stay, the delegation met with Minister of the Presidency Carlos Roberto Flores Facusse and General Walter Lopez Reyes, the newly installed Commander-in-Chief of the Honduran Armed Forces. Other activities in Honduras included briefings by United States Ambassador John D. Negroponte; meetings with leaders of the Honduran opposition parties and press; and a tour of the Honduran air base at Palmerola. The itinerary was to include tours of the refugee camp at Colomoncagua, under the auspices of the United Nations High Commissioner for Refugees and tours of military facilities in Comayagua and Cucuyagua; however, the delegation's itinerary was necessarily cut short after the helicopters carrying the delegation came under guerrilla fire near the Honduran-Salvadoran border.

Security issues

The Nicaraguan military buildup is the dominant security issue and preoccupation in Honduras. Concern about Nicaraguan military intentions were voiced by virtually all the Hondurans the delegation met with.

Although the delegation did meet with individuals whose overriding concern was with the growing militarization of the region, the prevailing view expressed by most Hondurans was that, with the rapid Nicaraguan arms buildup, Honduras had no alternative but to enhance its own military forces.

Both Minister of the Presidency Flores and General Lopez expressed growing concern over Nicaraguan actions, the belief that the Nicaraguan military buildup was disproportionate to its own security requirements, and the view that Nicaragua was actively engaged in subversion and terrorism in Honduras. Both officials maintained that while Honduras could live with a "socialist" government in Nicaragua, they could not live with a "communist" government on its borders. The distinction, of course, being the presumed commitment to exporting rev-

olution. Although there remains anxiety in Tegucigalpa over the Nicaraguan buildup and the potential for subversion in Honduras, any such efforts to promote insurgencies have so far failed.

The delegation noted what appears to be a growing (but cautions) rapproachement with El Salvador. It was not too long ago, in 1969, that these countries fought a brief but bloody war over unresolved border disputes, exacerbated by nationalistic feelings following a series of soccer games. Currently, Honduran and Salvadoran troops are being trained at the U.S.-sponsored Regional Military Training Center in Honduras. Additionally, Honduras is considering a request by El Salvador to move two battalions of Honduran infantry into the border area to act as a blocking force for operations against Salvadoran guerrillas operating near the border. The delegation believes that this growing cooperation, which remains fragile, can be seen as a positive role which the U.S. is playing in bringing the region together. The delegation believes that this role should continue and be enhanced. At the same time, the delegation must caution that unless U.S. policy makers remain sensitive to the issues divide El Salvador and Honduras, a heavy handed approach could undermine prospects for cooperation.

Clearly, Honduran security concerns are driven by outside forces. In addition to the Nicaraguan military buildup, Honduran security is affected by the war in El Salvador and the resulting refugee flow into Honduras. A major security issue for Honduras is how to deal with these refugees, particularly those in the refugee camps sponsored by the United Nations High Commissioner for Refugees (UNHCR). These camps lie immediately across the border in Honduras and are widely believed to provide bases of support for Salvadoran guerrilla forces. With UNHCR approval, Honduras is considering moving these camps away from the border areas, but faces the dilemma of disrupting other areas of the country which would have to accept some 50,000 Salvadoran refugees. Nevertheless, the delegation left Honduras with the conviction that the refugee camps must be moved away from the border in order to undermine the Salvadoran guerrilla effort and secure Honduran border areas.

Another key security issue the delegation discussed with Honduran officials and other public figures was the potential impact on Honduras of a cut-off of funding to the Nicaraguan contra activities. All Hondurans consulted believed that an abrupt cut-off of U.S. support to the contras would create a genuine threat to Honduran security.

This security threat was discussed from three perspectives. The principal and immediate concern was the potential impact of large numbers of armed contras set loose in Honduras to fend for themselves. The second concern was the potential for Nicaragua to react to a cut-off of U.S. funding by stepping up its arms trafficking to El Salvador and subversive activities against Honduras. The third concern was the broader implications of such a decision to U.S. allies in the region. For example, in response to the delegation's questions, Minister Flores indicated that the general sentiment in Latin America is that the United States abandons its allies. In his view, a funding cut-off would only heighten this perception. Not only would this embolden communist forces in the area, he said, but it would also complicate U.S. efforts to stabilize the region.

Although we will discuss the purpose and influence of the contra program in the chapter below on Nicaragua, the delegation notes that with one exception, the Hondurans with whom the delegation met supported what they perceived to be the goal of the contra effort: to overthrow the Sandinista regime in Nicaragua.

Political issues

Although the present government of President Roberto Suazo Cordova and the Liberal Party is stable and all political parties appear committed to the democratic process, officials, of the opposition parties which met with the delegation expressed concern about the current voting registration process for the 1986 elections. Several individuals expressed concern that the ruling Liberal Party is taking steps which would lead to a skewed voter registration and strengthen Liberal Party control.

Many expressed confidence in the symbolic significance of the recent removal of General Gustavo Alvarez Martinez, the previous Commander-in-Chief of the Armed Forces, and his replacement by General Lopez. While the actual sequence of events which led to the deposition of General Alvarez is not widely known, there is general acceptance that his removal diminishes the threat of excess militarization of Honduras and lessens the threat to the development of democratic institutions which was presented by his forceful personality and his concentration of power within the military. General Lopez did acknowledge his control over the armed forces and pledged the military's allegiance to the President. However, it is too early to tell whether the removal of Alvarez represents demonstration of civilian control over the military or a successful effort on the part of junior officers to restore traditional lines of authority within the military. Further, it is uncertain what changes this shift in power will bring to the evolving U.S.-Honduran military relationship.

NICARAGUA

The delegation was in Nicaragua during the period April 19 to April 20, 1984. During its stay in Nicaragua, the delegation met for one and one-half hours with the Coordinator of the Junta of the Government of National Reconstruction, Commandante Daniel Ortega Saavedra for wide ranging discussions on Nicaragua and its role in Central America. Commandante Ortega was accompanied at the meeting by the Minister of Foreign Affairs, Father Miguel D'Escoto Brockman. Other activities in Nicaragua included a lengthy meeting with Deputy Minister of Foreign Affairs, Victor Hugo Tinoco; briefings by outgoing United States Ambassador Anthony Quainton; and, discussions with various opposition figures.

Security issues

During the course of its survey, the delegation was thoroughly briefed by both U.S. and Central America authorities on the extensive and unprecedented military buildup in Nicaragua. In addition to the widely discussed stategic implications for the United States, the military buildup in Nicaragua is a key catalyst in the escalating militarization of the region. The delegation believes that establishing the conditions to defuze the potentially explosive militarization of the region should be a central goal for U.S. policy toward Central America.

Nicaragua's willingness to participate in a reduction of military forces has not been evident. While Commandante Ortega expressed a desire to take steps to reduce tensions, the willingness of Nicaragua to take concrete steps to do so is not clear. Ortega justified the rapid buildup in Nicaragua's military forces on two grounds: (1) as a response to the contras; and, (2) to meet the perceived threat of a U.S. invasion. For example, Ortega claimed that the current Nicaraguan army (some 100,000 personnel) were sized to provide a 10:1 ratio is forces to deal with the contras (which he claimed to number 10,000). A 10:1 ratio is often cited as the minimum ratio of forces necessary to defeat a counterinsurgency campaign.

The delegation notes, however, that this conflicts with statements made by the Sandinistas shortly after they seized power, where they pledged to build a military force of some 100,000 personnel. Furthermore, the delegation notes that the Nicaraguan military buildup started before the political opposition to increasing Sandinista dominance became a fighting force.

Regardless of the rationale, the Nicaraguan military buildup is seen by neighboring countries as the major threat to their security. This buildup, and the resulting responses by neighboring states, is evolving into a dangerous pattern of escalation and counter-escalation. The delegation believes it is essential that this pattern be broken.

The role and impact of the Nicaraguan contras was a major issue in all of the countries we visited in Central America. Clearly the contras represent extraordinary leverage for getting the Sandinistas to the bargaining table. Such leverage should not be disposed of lightly.

The contras are, in the words of Commandante Ortega, causing great social, military and economic pressure on the Sandinistas. It was the impression of the delegation that the contras are a major preoccupation of the Sandinistas. This preoccupation is generally seen by others in the region as a major advantage since the contras divert Nicaragua's capability for creating more mischief in the region. As one Salvadoran military leader claimed, "If there were 5,000 contras operating in Cuba, there would not be 50,000 Cubans in Africa."

The tactics the Sandinistas are using against the contras exacerbate their economic and social problems. For example, the Sandinista tendency to use militia to combat the contras (as opposed to regular forces) diverts farm workers from harvesting duties to fulfill militia responsibilities, thus lowering agricultural productivity. Additionally, conscription appears to be causing some degree of social unrest, particularly as mothers object to the conscription of younger Nicaraguans into the military.

The delegation did note the very real disconnect between U.S. policy vis-a-vis the contras, as stated by the President, and the perceived role of the contras by those living in the region. While the U.S. position is that the U.S. interest in the contras is in obtaining leverage against the Nicaraguans, the perceived goal of the contras (by everyone the delegation talked with in Central America) was to overthrow the Sandinista regime. This disconnect between policy and perception can only further the confusion in the region concerning U.S. goals and intentions.

The delegation believes that a sudden and complete withdrawal of U.S. support for the Nicaraguan contras would not only dramatically weaken our negotiating leverage with Nicaragua, but it would break faith with our allies and create potentially disastrous problems for neighboring states. Additionally, a U.S. withdrawal of U.S. support for the contras would raise significant questions in the region on the reliability of the U.S. as an ally.

Nonetheless, the Sandinista leadership which met with the delegation indicated a willingness to negotiate, particularly through the Contadora process. The Nicaraguans claimed that past initiatives on their part had been largely ignored by the United States. Although the delegation remains somewhat skeptical of the sincerity of the Nicaraguan desire to negotiate, we do believe that it is time to test the Sandinista willingness to participate in meaningful discussions. Naturally, the sincerity of the Nicaraguans will need to be demonstrated in deeds and not just words.

A Nicaraguan move to cease their support for the leftist guerrillas in El Salvador could help free the new government in El Salvador to deal with the more insidious problems they face with the economy and the extreme right. President-elect Duarte indicated a desire to discuss this matter with the Nicaraguans. Therefore, the delegation believes that opportunities to negotiate with Nicaragua should not be ignored, though at this point the initiative should be with Duarte.

The delegation noted in its discussions with Commandante Ortega, the lack of direct Sandinista criticism of Duarte. The Sandinistas did, however, state their belief that the Salvadoran political right and military would conspire to keep Duarte from effectively governing.

Economic issues

Although the delegation concentrated on security issues while in Nicaragua, from discussions with a variety of individuals, we received an impression that Nicaragua is beginning to face significant economic difficulties. Shortages of consumer goods and rationing of staples appears to be becoming the norm. While it would be premature to claim that the economy is failing, Nicaragua's growing economic problems should place increasing pressure on the Sandinista's to negotiate alternatives to their military buildup.

PANAMA

The delegation was in Panama during the period April 18 to April 19, 1984. During its stay in Panama, the delegation met with leadership of the two major political parties, Nicolas Ardito Barletta, of the National Democratic Union party and Carlos Rodriquez, the First Vice President candidate of Arnulfo Arias Madrid, the candidate of the Democratic Opposition Alliance party. During its stay, the delegation also held lengthy discussions with General Paul Gorman, Comander-in-Chief of the United States Southern Command, to discuss the overall military situation in the region. The delegation was also briefed by United States Ambassador Evertt Briggs on the Panamanain political situation.

Political issues

During its stay in Panama, the delegation focused its discussions on the forthcoming elections in Panama. The May 6, 1984 elections mark the first democratic elections in Panama in sixteen years. The delegation visited Panama to assess the forthcoming transition of power from military to civilian rule through free elections.

The delegation views the return of democratic elections to Panama as a significant step forward not only for Panama but for the entire region. Not only does Panama continue to have strategic significance for the United States, Panama has an increasing important role in Central American affairs. For example, Panama is a core member of the Contadora group which is working to establish democratic systems and free elections across Central America. Equally, the delegation came to realize the symbolic importance of the Panamanian elections to the other nations of Central America. If the democratic process were to fail in Panama, the country with the closest ties to the United States in the region, it would surely raise profound questions about the credibility of U.S. intentions throughout the region.

The delegation was disturbed by the preceptions of some Panamanian political figures that there remained significant potential for voting fraud in the May 6, 1984 elections and the possibility of the Panamanian military to interfere with the elections. However, the threat of military interference was not shared by all the people who met with the delegation.

Through discussions with United States Ambassador Briggs and Panamanian political leaders it became clear to the delegation that while the U.S. had and should remain neutral to the outcome of the elections, it was vital that the United States clearly discourage any interference in the return to a full democratic process in Panama.

THE AMERICAN TRADE DEFICIT IN PERSPECTIVE

● Mr. LAXALT. Mr. President, Ambassador Burns' speech of April 5, 1984, on "The American Trade Deficit in Perspective" is one of the most objective and thoughtful analysis I have seen of the major challenges facing the West in the 1980's. Ambassador Burns provides the wisdom of a historian and economist which, I believe, merits wide exposure. Consequently, I ask that the Ambassador's speech to the Industrie Club, Duesseldorf, Federal Republic of Germany be printed in the RECORD.

The speech follows:

THE AMERICAN TRADE DEFICIT IN PERSPECTIVE

(By Arthur F. Burns)

I very much appreciate the opportunity to address this distinguished audience today. The topic I have chosen to discuss with you is the merchandise trade of the United States with other countries. My reasons for focusing on this subject are not parochial. In the first place, it is important for Europeans to understand that the strong recovery in America's over-all production and employment has been accompanied by further deterioration in its foreign trade. Second, the poor trade performance of the United States in recent years reflects a disequilibrium in the world economy as well as in our domestic economy. Widespread political strains have been the inevitable result. The promises of last year's Williamsburg Summit with regard to international trade and finance have not been fulfilled. If anything, international tensions arising from economic issues have increased during the past year.

Let me begin by reciting some of the essential facts about the foreign trade of the United States. Until 1970, my country enjoyed a surplus in its merchandise trade with the rest of the world. Since then, with oil prices higher and competition from our trading partners keener, trade deficits have been the rule. For a time this served a constructive international role in view of America's surplus on other items in its international accounts. But the trade deficit took a quantum jump towards the end of the 1970's when it reached a rate of about 30 billion dollars per year—a rate that was maintained through the first half of 1982. More recently, the trade deficit has grown by leaps and bounds. It reached an annual rate of 75 billion dollars in the final quarter of 1983, and is expected to exceed 100 billion dollars this calendar year.

To be sure, the deterioration in America's merchandise trade is still being offset by our traditional surplus on trade in services and on investment income from abroad. Even so, the deficit in our international current account—which allows for these items—reached over 40 billion dollars during 1983, and ran at a much higher annual rate in its final quarter. The counterpart of this dramatic current account deficit has been a huge flow of funds from abroad to the United States combined with a sharp contraction in our traditional capital exports. That is hardly a welcome development for a nation with the largest and richest economy in the world.

There is a widespread belief in American circles that many of our industries can no longer compete against more efficient Japanese firms. There is worry as well that American producers are being victimized by unfair competition from low-wage producers in developing countries and subsidized products of European and other foreign enterprises. Such explanations of our foreign trade deficit contain an element of truth, but hardly more than that. The principal causes of America's recent trade deterioration are to be found elsewhere—in the high value of the dollar in foreign exchange markets, in the faster rebound from recession in the United States than in Western Europe or Japan, and in the unavoidable need of debt-ridden developing countries to practice austerity.

The strength of the dollar in foreign exchange markets in the past few years is well known in Europe. Between late 1980 and early this year the dollar appreciated about 30 percent against the Swiss franc, 40 percent against the British pound, 50 percent against the German mark, 100 percent against the French franc. The dollar's appreciation against the Japanese yen and Canadian currency was much less. Nevertheless, taking the currencies of the ten major industrial countries together, the dollar appreciated on the average about 50 percent during that period. The high cost of the dollar obviously has made American goods less attractive to foreign buyers, while the low cost of foreign currencies has made foreign products more attractive to Americans. Although the dollar has weakened since the start of this year, it still retains the greater part of the appreciation against other currencies that occurred after 1980.

Another major cause of America's trade deterioration is the difficulty that many developing countries have been experiencing during the past two to three years in borrowing abroad. By 1982 an increasing number of commercial bankers and other suppliers of credit finally realized that they had been less than prudent in accommodating—in fact, often even encouraging—the eagerness of developing countries to pile up indebtedness. Once lending to these countries was curtailed, one after another of them found it impossible to meet its scheduled debt repayments or even the interest due on its indebtedness. To prevent outright bankruptcy, their governments had to plead

for financial assistance from the International Monetary Fund, other governments, and the private financial community; but such help could not remove the need to practice austerity—particularly, to cut imports and expand exports. The nations of Latin America, which have especially close commercial ties with the United States, were foremost among those suffering a shortage of foreign exchange. Not surprisingly, the dollar value of our exports to Latin America was cut almost in half between the first quarter of 1981 and the final quarter of 1983.

A third factor in America's trade deterioration is the uneven cyclical development of the major industrialized countries. Economic recovery began in the United States towards the end of 1982 and gathered momentum rapidly. The economy of Canada recovered about the same time and advanced almost as rapidly. Other industrial countries did not do as well. Japan's economy continued to advance but at a diminished rate. Great Britain and Germany recovered more gradually than the United States, while the rest of Western Europe continued to experience stagnation or recession. Because of the lag of the recovery process outside the United States, our exports to Europe and Japan became very sluggish while our imports soared—as always happens during the expansion phase of the business cycle.

In addition to the several major causes of America's trade deficit on which I have dwelt—namely, the strong dollar, the distress of developing countries, and the rapid rebound of the American economy—a host of other factors played some part. Two of them deserve special mention: first, the world-wide drop in oil demand which forced OPEC members to cut back their imports; second, recent developments in world agriculture—a subject to which I will need to return—which also contributed to the deterioration of America's foreign trade.

The piling up of these unfavorable trade developments has become a matter of widespread concern in the United States. Farm income was already depressed during the late 1970's; and with foreign sales declining, it has plummeted since 1980. Moreover, the shrinkage in exports of our manufactured products resulted in a reduction of both jobs and profits in numerous firms—particularly those engaged in producing machinery, civil aircraft, and other capital goods. Meanwhile, the rise in imports kept adding to the displacement of workers involved in the manufacture of various consumer as well as capital goods.

Professional economists often look upon such vicissitudes of trade as normal workings of a competitive market, and they are apt to express confidence that the difficulties will eventually be corrected through the marketplace. In principle, there is considerable justification for such views.

As the economy of the United States continues to expand, its rate of expansion is bound to moderate. Meanwhile, signs of economic recovery in Western Europe, which have been gradually reemerging, are likely to multiply. With the gap in economic performance between Europe and the United States narrowing, America's trade deficit will tend to diminish. On balance, Latin American developments should also be less damaging to our foreign trade. During the past year, the heavily indebted countries of Latin America have experienced significant improvement in their current account balances with the rest of the world. Hence, the recent sharp reduction in their imports from the United States can hardly be expected to become still larger. Moreover, since the purchasing power of the dollar over commodities appears to be appreciably overvalued relative to other currencies, it would not be at all surprising if the decline in the foreign exchange value of the dollar that has occurred since its January peak were moderately extended over the next year or two. In short, one can reasonably argue that the marketplace is already releasing forces that before long will diminish the American trade deficit.

Relaxed thinking along these lines, however, is rarely shared by American businessmen, farmers, and workers who happen to have been adversely affected through foreign trade. Nor is it shared by politicians—particularly in an election year. Of late, American advocates of restrictive trade policies have become bolder, and their complaints about trade practices of other countries have become more strident. Their calls for new import barriers are being echoed by similar calls in Europe. After all, numerous European industries have also experienced an economic setback in recent years, and unemployment is now extensive throughout Western Europe. With the virus of protectionist sentiment spreading, the need for economic statesmanship both in the United States and in Europe has become urgent.

America's foreign trade problem is also Europe's problem, and it is important for both Europeans and Americans to try to see from an international viewpoint the trade and financial issues that have caused political tensions among us. In the process of doing that, we are all bound to find that what Americans regard as their special problem involves common international concerns that require better mutual understanding—and often also corrective measures—on both sides of the Atlantic.

One of the problems that has been especially troublesome in the relations between the United States and Western Europe involves agricultural trade. Americans have long complained about the protectionist thrust of the European Community's agricultural policy—a policy that relies heavily on price supports to maintain the income of its farmers. Each year the Community's member governments fix common prices of various agricultural products. These prices run above world prices. The domestic market of the Community is then protected by variable levies that tend to keep out lower-priced imports. In part as a result of this policy, the Community's share of America's total agricultural exports has tended to decline.

The decline would have been sharper if the Community's restrictions had also been applied to soybeans and soybean products—which loom large in American exports. This has been precluded by prior international agreements that permit soybeans and their derivatives to be shipped duty-free into the Community. That access has recently been threatened by the proposal of the European Commission to impose a consumer tax on vegetable oils. Quite obviously, such a tax would have much the same effect as an explicit import barrier.

The American government is also troubled by the commission's proposal to restrict imports of corn gluten—a product used in animal feeds—which now also enters the Community duty-free on the basis of previous agreements. Since American farmers have not shared in the recent economic recovery, concern over restrictive measures against corn gluten and soybeans has become acute in the United States.

These new European proposals have thus intensified a perennial complaint of the United States—namely, that our market is far more open to agricultural imports than the Community's market. There can be no denying, however, that Europeans have some legitimate complaints about American agricultural policies. The United States, for example, has long maintained import quotas on dairy products—a protectionist measure that has hurt European farmers. Again, American wine producers have recently been seeking Congressional limitation on wine imports.

The deplorable clamor for increasing protectionism in agriculture is not only interfering with the efficient use of labor and capital. It may also release new inflationary pressures—directly by raising food prices, indirectly by repercussions on labor markets. Nor is this all. Agricultural policies in Europe and the United States are becoming a heavy burden on governmental budgets. Programs for supporting farm prices and incomes cost the American government 28 billion dollars in fiscal year 1983—an enormous increase over the preceding two years. The cost of supporting agriculture has also increased rapidly in the European community, reaching over 13 billion dollars in 1983. Indeed, the member governments of the Community are now engaged in an anxious search for ways of limiting the impact of agricultural expenditures on their budgets—a search that has caused severe political strains in Europe.

Foreign trade in agricultural products is thus an intra-European problem as well as a problem involving the United States and Western Europe—for that matter, much of the rest of the world as well. A basic cause of this common problem is the tendency toward excessive production of various agricultural products. Here the Europeans have perhaps been more at fault than Americans, for the agricultural support programs of the United States have usually included some incentives to cut back production while European support programs have not. In fact, the Community's disposal of its surpluses through subsidized sales on world markets has been a source of considerable friction between the United States and the Community.

As we look ahead, the problem of oversupply may become more acute because of continuing advances in agricultural technology—especially in the grain and dairy sectors. This is clearly a problem that Community and American farmers have in common. Although our several governments recognize this, they have not yet tackled together the challenge posed by world overproduction. Fortunately, both the American government and the Community have of late moderated their rhetoric on agricultural trade issues, restrained their actions, and tried quietly to resolve their outstanding differences. The German government, in particular, has expressed firm opposition to a European consumer tax on vegetable oils. It should be a source of some comfort to both Americans and Europeans that powerful voices of reason are being heard at a time when pressures on governments from agricultural interests have become so insistent.

Trade in steel products is another perennial irritant in relations between the United States and the European Community. Problems in this area have recently become more troublesome, largely as a result of declining demand for steel products during the recession, but partly also because of larger production and exports by some developing

countries. In view of these changed market conditions, steel firms on both sides of the Atlantic have been forced to curtail production, close some entire plants, and release many workers.

In the early 1980's, American steelmakers petitioned our government for protection against rising steel imports from the European Community. The Americans argued that European firms were benefiting unfairly from export subsidies and that some of their products were being sold in the United States below their fair value. If their complaint had run the full course permitted by American law, the result would certainly have been a sharp reduction in European exports of carbon steel products. Fortunately, mutual good will prevail over legal contests. After long and difficult negotiations, involving both steel producers and governments, an agreement was reached in October 1982, under which the Community undertook to limit moderately its exports of certain steel products to the United States through the end of 1985.

This agreement has worked reasonably well thus far, but it has by no means quieted the steel trade issue. The specialty steel branch of the American industry, which was not covered by the 1982 agreement, has also suffered declines in profits and employment in recent years. Its urgent appeal for relief under American law led in July 1983 to the President's approval of temporary quotas and extra tariffs for specialty steel imports. This action was severely criticized in Europe—in part, no doubt, because it came so soon after the Williamsburg Summit. At any rate, the European Community responded, as it has the right to do under GATT rules, by limiting certain imports of equivalent value from the United States. At times during the past year, the specialty steel problem threatened to provoke a serious rift in the relations between the United States and Western Europe. Once again, however, the matter was settled amicably thanks to the willingness of the concerned parties to make the necessary compromises. Unfortunately, both American producers and their organized workers have now joined in fresh appeals for restricting imports of steel generally. Difficulties over steel trade thus remain with us.

In view of the restlessness that continues to afflict international steel trade, there can be no escape from the conclusion that arrangements such as Americans and Europeans have recently succeeded in working out are merely temporary expedients. The critical fact is that both the United States and Europe face a common problem of overcapacity in their respective areas—a problem that is being accentuated by rising imports from the more advanced of the developing countries. It is only by addressing together these broader issues that we can have a reasonable chance of finding lasting solutions to our perennial problems in steel trade.

Because of limitations of time, as well as of my own knowledge, I shall not comment on other specific trade issues—as in the case of copper, footwear, machine tools, and wines—that are being accorded public attention in this election year. But in view of my past involvement in central banking, I do want to make a few observations about financial questions surrounding America's trade deficit that have stirred wide interest and controversy.

Let us take first the case of the dollar's appreciation. It has served to reduce inflationary pressures in the United States, but it has had the opposite effect in Europe—since a very large part of Europe's imports is denominated in dollars. On the other hand, the dollar's appreciation has severely hurt America's foreign trade, while it has benefited the trade of other countries—including those in Western Europe. Discerning Europeans recognize that the trade deficit of the United States has served, in effect, to drive the world economy forward. They have not, however, rejoiced over their trade advantage, since they realize that the dollar's strength will not last indefinitely and therefore fear that the industrial structure of their countries could become distorted in the process of responding to a temporary trade advantage.

Europeans naturally prefer a stable dollar to one that oscillates in buying power, and so for that matter do Americans. But neither Europeans nor Americans have as yet found an acceptable method of returning to the kind of stability in exchange rates that existed before the abandonment of the Bretton Woods system. In a world in which capital movements often overshadow trade movements and in which inflation rates of individual countries diverge widely, central bank intervention in foreign exchange markets—a remedy that is still popular in some political circles—cannot accomplish anything beyond smoothing out the very short-run fluctuations of exchange rates.

To be sure, many Europeans feel that the appreciation of the dollar has been largely due to the relatively high interest rates in the United States. Their argument typically runs as follows: first, high American interest rates are damaging European economies by attracting to the United States funds that otherwise would be directed to capital investment at home. Second, European interest rates are also higher than they would be in the absence of the outflow of capital to the United States. Third, the gigantic debt burden of developing countries is being compounded by the high American interest rates. Fourth, the United States could correct these difficulties by bringing down its interest rates, and this could best be accomplished by reducing the enormous deficits in the American government's budget. Finally, the American economy as well as the entire international economy would benefit in the process.

This line of reasoning has not been confined to Europeans. Many Americans have shared it—which is not surprising since the above argument does embody a substantial element of truth. I must nevertheless point out that the above argument is incomplete. It overlooks the fact that the dollar is a haven of safety for Europeans and others in times of international political turmoil such as we have experienced in recent years. It overlooks the fact that there are causes of high interest rates beyond budget deficits. It overlooks the fact that the high American interest rates have not proved an obstacle to a robust recovery in the United States, including a revival of both residential construction and business investment in fixed capital. More important still, the European argument overlooks the fact that profit opportunities in the United States have become distinctly more favorable than in Western Europe. Even with American interest rates remaining as they are, if European governments moved more boldly to improve prospects for business profits in their countries, the chances are that the flow of capital to the United States would be materially checked—indeed, that American capital on balance might well start moving to Europe.

The American government can surely be helpful to the European economy as well as to its own by proceeding resolutely to reduce its projected budget deficits. That is fully recognized by now both by the Reagan Administration and the Congress. I am entirely confident that a significant budgetary correction will be accomplished before long—perhaps even by this summer, but certainly by next spring. As awareness of this forthcoming development spreads through financial markets, current pressures on interest rates will tend to be eased and financial investments in the United States may thus become less attractive to foreigners. But Europe can also do its part—namely, by improving the environment for business risk-taking, innovation, and capital investment. In short, European governments as well as the American government could take actions—as indeed some are already doing—to reduce the many difficulites that have been caused by high interest rates and the strong dollar. To some degree, with prospective profits in Europe beginning to improve, a wholesome process of economic revitalization may already be getting under way.

While the United States will have to emphasize one set of policies in dealing with the dollar's strength and Europe quite another, their approaches can and should be similar in dealing with the indebtedness of the developing countries—again a problem that the United States and Western Europe have in common. Fortunately, this has been recognized on both sides of the Atlantic. Indeed, speedy action by the International Monetary Fund and the Bank for International Settlements, working in concert with the governments of the leading industrial countries as well as with their central and commercial bankers, has staved off what might otherwise have been an international financial collapse. These constructive rescue missions have not, however, solved the underlying debt problem of the developing countries, since the debtors are being burdened with interest charges that some—perhaps many—of them may find it impossible to meet.

All concerned parties have some further contribution to make. As governments of the industrial countries continue to work at fostering sustainable growth of their economies, the developing countries will gain opportunities to increase their exports. That, along with efforts to bring down interest rates and curb protectionist impulses, is fundamental. For their part, commercial banks—especially the large institutions that play a leadership role in international finance—need in their self-interest, as well as for the sake of stability in the international financial system, to do more than they have yet done to ease the payments problem of debtor countries.

Typically, of course, when commercial bankers run into a debt problem of one of their business customers, they devise means of scaling down the size of the debt or the interest on it, and at times even accept the debtor company's stock in place of all or part of the outstanding debt. That business approach is suggestive of actions that could be taken in handling the indebtedness of some of the more necessitous developing countries.

One possibility would be for a dozen or so of the major international banks to proceed on their own to cut substantially the interest rates charged to those of the less developed countries that have run into insuperable difficulties in complying with the financial program worked out in their behalf by

the International Monetary Fund. Such voluntary interest-rate reductions could not in practice be generalized to cover all banks, since many of the smaller banks would balk at following the initiative of the major banks. That, however, is not a fatal objection, since the relief granted by the major international banks would of itself reduce appreciably the financial burden facing necessitous debtors.

In any event, leadership by the major international banks in interest-rate reductions is not the only possible route to relief. For example, near-term interest payments due from seriously troubled countries could be transformed into debt obligations that extend sufficiently into the future to provide the debtors essential breathing space.

Moreover, the governments of the United States and Western Europe can play a more direct role in helping the less developed countries to reestablish their credit worthiness and resume economic growth. Legislation calling for renewal of our system of trade preferences for developing countries that is now before the Congress is important in this regard. The European Community is likewise involved in renegotiating the Lome Convention which permits duty-free access of raw materials from developing countries. The existing European and American systems of general trade preference deserve extension and some further liberalization.

The developing countries must, nevertheless, be constantly reminded that it is decisively to their own benefit to expose their economies in greater degree to market forces. Continued reliance on preferential treatment is a dead-end policy, and one that will not be accepted indefinitely by the industrial nations. Developing countries must be particularly encouraged to pursue financial policies that will attract foreign investors, besides enticing back some of the enormous amounts of capital that their own frightened citizens and businesses had moved abroad. However difficult such policies may be, there is no other way for the developing countries to achieve the full partnership that they seek in the investment and trading system of the modern world.

In bringing this address to a conclusion, I want—even at the cost of some repetition—to leave several basic thoughts with you. First of all, it is well to keep in mind that prior to last year, the biggest current account deficit that any country had ever experienced in a single year was about 15 billion dollars. The 70 to 80 billion dollar shortfall that my country is headed for this year is awesomely different from anything experienced in the past. Since America's trade problem involves Europe deeply, it is essential that Europeans and Americans seek better understanding of their mutual economic concerns and work together toward their resolution.

Second, as previously suggested, the United States can best contribute to easing the trade and debt problems that now confront the world by moving decisively toward greater fiscal discipline. This needs to be combined with a skillful monetary policy that tempers the robustness of economic growth and thus guards against inflationary pressures. In Europe the foremost need is for confidence-building measures that foster job creation, so that Europe can contribute more significantly to the recovery of world trade.

Third, since the problem of international indebtedness is also without precedent—either as to dimension or disruptive potential—it is highly important to seek ways of enlarging upon the progress that has been achieved in the current phase of crisis management. We need, in particular, constructive initiatives that will enable the world to ride out difficulties even if economic developments in the years ahead should prove disappointing.

Fourth, the danger of protectionism has been growing despite some improvement in the condition of the international economy. In that regard, both Americans and Europeans must be concerned about the effects of protectionism on the developing world as well as about the weakening of our own economies through further protectionist actions. Even more important than that, we need to keep in mind that enmities created by trade restrictions at times spill over into the political arena, and may even affect the capacity of the partners in the North Atlantic Alliance to cooperate as effectively as they should in meeting challenges to their common security.

Fortunately, the several dangers and needs that I have emphasized are increasingly recognized on both sides of the Atlantic. Indeed, some have already been dealt with or are at present being considered constructively. I see, therefore, ample basis for hope of a better economic future than has been our lot in the past few years.

In the course of my life, I have seen many crises come and go. I have also seen crises that were widely anticipated fail to materialize. It is always unwise to underestimate the capacity of human ingenuity and good will to resolve economic problems—whether they be domestic or international. Let us not underrate that capacity now. As Americans and Europeans we know in our hearts that the ethical, political, and cultural values that we share in common are overwhelmingly more important than the trade or financial issues that now and then excite us.●

NORTHERN VIRGINIA FOUNDATION'S FOUNDERS AWARD

● Mr. WARNER. Mr. President, on June 9, 1984, the friends, colleagues, and associates of Earle C. Williams, a businessman and resident of northern Virginia, will gather at the Hyatt Regency Hotel in Crystal City, Va., for a festive dinner to see Earle Williams receive a special honor. At that dinner, Virginia Gov. Charles S. Robb will present the Northern Virginia Community Foundation's Founders Award to Earle Williams.

Each year, the Northern Virginia Community Foundation selects a citizen of northern Virginia who has made an unusual contribution to the northern Virginia community to receive this honor. In this manner, the foundation seeks to give public recognition to those individuals who serve their community and neighbors.

The Northern Virginia Community Foundation was formed in 1978 by a group of public spirited citizens of northern Virginia to "return to the community some of the riches that they had received from it." Five areas of concern have been identified to benefit from the endowment funds for year to year: the arts, education, health, youth and civic improvement.

The foundation receives charitable gifts from people from all walks of life with all levels of income—individual families, businesses, national corporations and foundations. Donations are used exclusively to benefit northern Virginia. The foundation recently began encouraging businesses to participate in a scholarship and student loan program that will aid their young people of northern Virginia in their pursuit of higher education.

This year, the foundation has chosen Earle C. Williams, president and chief executive officer of BDM International, Inc., to receive the 1984 founders award. Earle Williams was selected for his many initiatives and activities to foster the economic development of northern Virginia, to improve the educational system of the area, and to better the quality of life available to his neighbors in northern Virginia. Earle Williams personifies the type of individual President Reagan has in mind when he calls upon the American people to do more for themselves and not to always look to their Government to fulfill their wants and needs.

Earle Williams is a great believer in the free enterprise system and an individual of unusual entrepreneurial ability. Since becoming president of BDM in 1972, the company's annual revenues have increased from $7.7 million to $151.1 million in 1983 and net income has increased from $277,000 to $6.3 million. Under his leadership, the company has broadened its client base substantially and has become recognized as an innovative and aggressive professional services organization.

The energies, intelligence, and dedication which have served to make Earle Williams a successful businessman have been carried over to his service to the community of northern Virginia. He has been a leader in developing a strong, meaningful, and purposeful relationship between the business and education communities in northern Virginia. As a businessman deeply involved in high technology, research and development, and professional services, he very early recognized the importance of a sound educational system to his business activities and the economic development of northern Virginia. Not only did Earle become personally involved in educational matters but his company, BDM International, also has played a role in supporting programs being undertaken by the school system.

Earle Williams has been a major spokesman and proponent for an educational system in northern Virginia that will meet the needs of the high technology oriented businesses and industries which are locating in the northern Virginia area and will devel-

op individuals to be responsible citizens and good neighbors as well. Earle was an active participant in the efforts to strengthen George Mason University's capability in engineering, information sciences, and computer technology and to establish the center for innovative technology in the northern Virginia area.

The honor that will be bestowed on Earle Williams when he is given the Northern Virginia Community Foundation Founders Award by Governor Robb is one this distinguished citizen and businessman truly deserves for his many accomplishments and his dedicated service to the community. No better evidence can be found than in the listing of professional and civic affiliations contained in his corporate resumé.

Mr. President, I ask that a list of Mr. Williams' professional and civic affiliations be printed in the RECORD.

The material follows:

PROFESSIONAL AND CIVIC AFFILIATIONS OF EARLE C. WILLIAMS

Member, Naval Research Advisory Committee, 1984.

International vice president (1979-1982) and member, board of directors, Armed Forces Communications and Electronics Association, 1978-1982, AFCEAN of the year 1980. President of Washington, D.C. chapter 1982-1983.

Director, Professional Services Council, 1974-present (president, 1976-1979).

Member, Virginia State Board for Community Colleges 1980-present.

Chairman, George Mason (University) Institute Industrial Policy Board, 1982-present.

Member, American Business Conference, 1982-present.

Member, board of directors and treasurer, Wolf Trap Foundation, 1984.

Member, President's Export Council Subcommittee on Export Administration, 1982-1983.

Member, (Virginia) Governor's advisory board on revenue estimates, 1982-1983.

Vice president (1979-1982) and member, board of directors, Fairfax County Chamber of Commerce, 1976-present. County Citizen of the Year, 1980.

Director (1978-present) and member, executive committee (1979-1980), Central Virginia Educational Television Corporation.

Director, Northern Virginia Community College Educational Foundation, Inc., 1979-present (president, 1979-1980).

Member, board of directors, Fairfax Unit, American Cancer Society, 1979-present. Chairman, men's committee, Northern Virginia Ball, 1983.

Member, advisory board, Fairfax Symphony Orchestra, 1978-present.

Member, board of directors, USO of Metropolitan Washington, 1983-1984.

Member, superintendent's (Fairfax County public schools) business/industry advisory council, 1983-1984.

Fairfax County chairman, U.S. savings bond program, 1983-1984.

Commissioner, Fairfax County Economic Development Authority, 1976-1980 (chairman, 1978-1980).

American Management Association.

The Presidents Association.

National Society of Professional Engineers.

Member, committee to study the means of encouraging industrial development in Fairfax County, 1976.

Member, board of trustees, El Paso (Texas) Community College 1969-1970.

Eta Kappa Nu.●

S. 1739—LET'S GET TO THE DEBATE

● Mr. STAFFORD. Mr. President, S. 1739, the Water Resources Development Act, is currently before the Committee on Finance under a limited referral. That referral covers two important sections in the bill—sections 502 and 1006—and expires on June 8, 1984.

Once the referral is concluded, S. 1739 will be returned to the calendar and be available for floor debate.

I hope that floor action can occur in a timely manner. This Senator intends to do what he can to encourage floor action on S. 1739 next month so there will be sufficient time for what could be a lengthy conference with the House of Representatives.

I am ready to enter into a reasonable time agreement. I hope that the bill and any amendments can be disposed of in no more than a day.

As we approach floor action on this bill, I also believe it is also important that we keep in mind several points, points that will guide the floor managers during discussion of the bill:

We want a water resources bill, but not any bill. It must be a balanced bill, one that recognizes the budget realities, as well as the strong commitment of the Committee on Environment and Public Works to environmental improvement.

Our goal is a stronger, tighter, more uniform program, one that strengthens non-Federal responsibilities.

The bill's two navigation titles—titles V and X—may need to be improved with some technical and clarifying changes, but they remain basically sound, defensible, and balanced; they provide a reasonable base for negotiations with provisions in the House bill that will be far more costly to the taxpayers.

The National Board of Water Policy—title IX—is needed to improve coordination among the three departments holding major responsibilities in water resources. It must not be eliminated nor dissected.

Proposals that would limit any uniform cost-sharing rules to the Army Corps of Engineers may prove unwise policy, but such proposals may be necessary compromises in this bill at this time.

Controversial projects or policy changes never brought before the committee for review should generally be resisted, unless these issues materialized only after committee consideration of the bill last fall.

Additional project amendments should be discouraged, unless they meet the standards used previously in committee—a positive study by the Chief of Engineers. Since the bill already carries a cost of some $10 billion, we must seek to restrain significant increases in cost.

S. 1739, as it was reported by the Committee on Environment and Public Works, remains basically sound. Effort to move away from a balanced approach and toward greater Federal subsidies and more development at the expense of environmental interests must and will be resisted strongly.

Mr. President, we have a duty to move forward this year, if at all possible, with water resources development legislation. I intend to do all that I can toward that goal. I shall do all I can to obtain a responsible bill, one we can pass with dispatch, one that will give us flexibility in conference with the House, and one that will produce a conference report we can send on to the President with confidence that he will sign it. I hope my colleagues will join me in that mission.●

MILITARY SPOUSE DAY

● Mr. MURKOWSKI. Mr. President, today, May 23, 1984, has been proclaimed by President Reagan as "Military Spouse Day." I would like to take a moment to recognize the many contributions and sacrifices made by U.S. military spouses throughout the world.

Although most people recognize the sacrifices made by members of the armed services, they often overlook those made by the spouses. These individuals often have to put their own personal and professional preferences aside in order to support the military personnel. They go through long periods of separation from their spouse, or uproot their families and households in order to keep up with the frequent changes of duty stations. Military spouses are often unable to pursue their own career opportunities, in order to keep their families together. When stationed overseas, they become unofficial ambassadors for the United States.

Military people around the world are well aware of the many sacrifices made and services provided by their spouses, enabling them to do their own jobs more effectively.

Alaska has a large number of military installations throughout the State. We have seen firsthand the contributions that military spouses make to the entire community through their many volunteer organizations. I am proud of Alaska's key role in the defense of the United States, and of the fine relationship that has developed between civilian and military families. I am very pleased, therefore, to join President Reagan in honoring this special group, the military spouses.●

PROGRAM

Mr. EXON. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I find myself in great sympathy with the majority leader, as I have on frequent occasions, even when the minority leader was the majority leader.

Would it be possible at this time, since very little was accomplished toward some must legislation that I think has to be taken up, for the majority leader to outline what his plans will be on tomorrow and on Friday and on Saturday and on Sunday?

Mr. BAKER. What a terrible thought.

Mr. President, in answer to the Senator from Nebraska, tomorrow at 11 a.m. we will be back in executive session and resume consideration of this nomination, in accordance with the request which has been granted.

If the motion to recommit prevails, that will be the end of that. If the motion to table the motion to recommit succeeds, or if the motion to recommit fails, there will be further debate on the Wilkinson nomination. I cannot predict now how long that will go on, but I would not be surprised to see it go on for a while.

Sometime during the day, I anticipate that the House of Representatives will favor us with a bill to extend the debt limit. I have talked to the Speaker today and the minority leader and the chairman of the Finance Committee and the chairman of the House Ways and Means Committee, and I do believe we will have a bill on the debt limit tomorrow, a House bill, shortly after midday.

When that bill arrives here, it will be the intention of the leadership on this side to ask the Senate to proceed to consider it as promptly as possible. I hope it will not take a long time to deal with the debt limit, under the circumstances.

Then, Mr. President, at some point tomorrow we will resume consideration of the bankruptcy bill. It is my hope that some way will be found to accommodate the divergent and differing opinions of Members so that we can pass that bill without devoting too much time to it. The leadership on this side is determined to try to pass that bill, and we will return to it until we are sure it can be passed or cannot be passed before the recess period.

Mr. President, I anticipate now that we will be in session all day tomorrow, perhaps late tomorrow. There is a tiny chance that we will not be in on Friday. The adjournment resolution will provide for an adjournment on Thursday, Friday, or Saturday. If I were planning, and I am planning, I would not plan on getting away Thursday night. I would plan to be here on Friday as well.

Mr. President, ordinarily I would have replied in this detail to the minority leader's inquiry, and I apologize to him for doing that now.

I thank the Senator from Nebraska for asking, and I thank the minority leader.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. EXON. Before we adjourn for the week's recess, the majority leader's priorities are the measure that is presently before us, which may or may not be resolved by noon tomorrow; then the debt ceiling extension, if and when it comes from the House of Representatives; and then we would go back on the matter that we have been on for most of the week, which is the bankruptcy bill.

Mr. BAKER. That is right.

Mr. EXON. Earlier, in caucus, the minority leader had told us that the majority leader had hoped to take up the matter of television in the U.S. Senate before the Memorial Day recess. Do I assume correctly that that will not come up this week?

Mr. BAKER. Mr. President, I once said that if ever I had a secret, it is not much of a secret, but it may be the only existing secret in the District of Columbia. Nobody else has a secret but I. It is not a big secret, but I keep it and treasure it because it is all I have.

One of my tiny secrets is what I plan to do about television in the Senate. From time to time, I do include that, and I do it in all sincerity and earnestness because I am devoted to it.

I can promise the Senator or threaten the Senator—which I would never do—as the case may be perceived, that one of these days we are going to get on that. I must say that as the hours move on, it is less likely that we will have a debate on television in the Senate before Friday than it was, say, 2 weeks ago.

Mr. EXON. I thank the majority leader.

Mr. BAKER. I thank the Senator from Nebraska.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, that is all I have. I see no other Senators seeking recognition. Therefore, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 10 a.m. on tomorrow.

The motion was agreed to; and at 6:59 p.m., the Senate, in executive session, recessed until Thursday, May 24, 1984, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 23, 1984*

The House met at 10 a.m.

The SPEAKER. Today we have a guest chaplain, one of the employees of the House, the Reverend Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, Md.

Rev. Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, Md., offered the following prayer:

Blessed are those whose way is blameless, who walk in the law of the Lord! Blessed are those who keep his testimonies, who seek him with their whole hearts, who also do no wrong, but walk in His ways! Psalms 119: 1-3.

Father we petition You on behalf of our Speaker, the leadership, the entire membership, and the staff of our legislative body. Give them the intuitive awareness of their individual and singular value to the whole of this legislative system. And grant that their efforts bring both a sense of fulfillment and a sense of achievement worthy of the admiration of all self-governed people.

Help us to exemplify to the free world parliaments our attentiveness to an intelligent, truthful, and caring approach to the application of Your laws among Your people.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will advise Members that we expect to go immediately into the Committee of the Whole. There will be no 1-minutes today. It is the intent of the Chair to stay with the Defense Authorization Act, excepting when emergency legislation comes up, and we expect to be here until 11 o'clock tonight.

The vote was taken by electronic device, and there were—yeas 366, nays 26, answered "present" 4, not voting 37, as follows:

[Roll No. 164]

YEAS—366

Ackerman	Corcoran	Hall (OH)
Akaka	Courter	Hall, Ralph
Albosta	Coyne	Hall, Sam
Alexander	Craig	Hamilton
Anderson	Crane, Daniel	Hammerschmidt
Andrews (NC)	Crane, Philip	Hansen (UT)
Andrews (TX)	D'Amours	Hartnett
Annunzio	Daniel	Hatcher
Anthony	Dannemeyer	Hawkins
Archer	Darden	Hayes
Aspin	Daschle	Hefner
Badham	Daub	Hertel
Barnard	Davis	Hightower
Barnes	de la Garza	Hiler
Bartlett	Dellums	Hillis
Bateman	DeWine	Hopkins
Bates	Dicks	Horton
Bedell	Dingell	Howard
Beilenson	Donnelly	Hoyer
Bennett	Dorgan	Hubbard
Bereuter	Dowdy	Huckaby
Berman	Downey	Hughes
Bevill	Dreier	Hunter
Biaggi	Duncan	Hutto
Bilirakis	Dwyer	Hyde
Bliley	Dyson	Ireland
Boehlert	Early	Jeffords
Boggs	Eckart	Jenkins
Boland	Edgar	Johnson
Boner	Edwards (CA)	Jones (NC)
Bonior	Edwards (OK)	Jones (OK)
Bonker	English	Jones (TN)
Borski	Erdreich	Kaptur
Bosco	Erlenborn	Kasich
Boucher	Evans (IL)	Kastenmeier
Boxer	Fascell	Kazen
Breaux	Fazio	Kennelly
Britt	Feighan	Kildee
Brooks	Ferraro	Kindness
Broomfield	Fiedler	Kleczka
Brown (CA)	Fields	Kogovsek
Brown (CO)	Flippo	Kolter
Broyhill	Florio	Kostmayer
Bryant	Foglietta	Kramer
Burton (CA)	Foley	LaFalce
Burton (IN)	Ford (TN)	Lagomarsino
Byron	Franklin	Lantos
Campbell	Frost	Latta
Carney	Fuqua	Leach
Carper	Garcia	Leath
Carr	Gaydos	Lehman (CA)
Chandler	Gekas	Lehman (FL)
Chappell	Gephardt	Leland
Cheney	Gibbons	Lent
Clarke	Gilman	Levin
Clinger	Gingrich	Levine
Coats	Glickman	Levitas
Coelho	Gonzalez	Lewis (CA)
Coleman (MO)	Gore	Lewis (FL)
Coleman (TX)	Gradison	Lipinski
Collins	Gramm	Livingston
Conable	Gray	Lloyd
Conte	Green	Loeffler
Conyers	Guarini	Long (LA)
Cooper	Gunderson	Long (MD)
Lott	Parris	Smith, Robert
Lowery (CA)	Pashayan	Snowe
Lowry (WA)	Patman	Snyder
Lujan	Patterson	Solarz
Luken	Paul	Spence
Lungren	Pease	Spratt
MacKay	Pepper	Staggers
Markey	Perkins	Stangeland
Marlenee	Petri	Stark
Marriott	Pickle	Stokes
Martin (IL)	Porter	Stratton
Martin (NC)	Price	Studds
Martin (NY)	Pritchard	Stump
Martinez	Pursell	Sundquist
Matsui	Quillen	Swift
Mavroules	Ratchford	Synar
Mazzoli	Regula	Tallon
McCain	Reid	Tauke
McCandless	Richardson	Tauzin
McCloskey	Ridge	Taylor
McCollum	Rinaldo	Thomas (CA)
McCurdy	Ritter	Thomas (GA)
McDade	Robinson	Torres
McEwen	Rodino	Torricelli
McHugh	Roe	Towns
McKernan	Rogers	Traxler
McNulty	Rose	Udall
Mica	Rostenkowski	Valentine
Michel	Roth	Vander Jagt
Mikulski	Roukema	Vandergriff
Mineta	Rowland	Vento
Minish	Roybal	Volkmer
Moakley	Rudd	Vucanovich
Molinari	Savage	Watkins
Mollohan	Sawyer	Waxman
Montgomery	Schaefer	Weaver
Moody	Scheuer	Weber
Moore	Schneider	Weiss
Moorhead	Schulze	Whitehurst
Morrison (CT)	Schumer	Whitley
Morrison (WA)	Seiberling	Whittaker
Mrazek	Shannon	Whitten
Murphy	Shaw	Williams (MT)
Myers	Shelby	Williams (OH)
Natcher	Shumway	Winn
Nelson	Shuster	Wirth
Nichols	Siljander	Wise
Nielson	Simon	Wolf
O'Brien	Sisisky	Wolpe
Oakar	Skeen	Wortley
Obey	Skelton	Wright
Olin	Slattery	Wyden
Ortiz	Smith (FL)	Wylie
Owens	Smith (IA)	Yates
Oxley	Smith (NE)	Yatron
Packard	Smith (NJ)	Young (MO)
Panetta	Smith, Denny	Zschau

NAYS—26

Chappie	Gejdenson	Roberts
Clay	Goodling	Roemer
Coughlin	Harkin	Sabo
Derrick	Jacobs	Schroeder
Dickinson	Mack	Sikorski
Durbin	McGrath	Solomon
Emerson	Miller (OH)	Stenholm
Evans (IA)	Mitchell	Walker
Frenzel	Penny	

PRESENT—4

Dymally	Ottinger
Oberstar	St Germain

NOT VOTING—37

Addabbo	Ford (MI)	Heftel
Applegate	Fowler	Holt
AuCoin	Frank	Kemp
Bethune	Gregg	Lundine
Crockett	Hall (IN)	Madigan
Dixon	Hance	McKinney
Edwards (AL)	Hansen (ID)	Miller (CA)
Fish	Harrison	Murtha

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Neal	Russo	Wilson
Nowak	Sensenbrenner	Young (AK)
Rahall	Sharp	Young (FL)
Rangel	Walgren	
Ray	Wheat	

□ 1020

Mr. OTTINGER changed his vote from "yea" to "present."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 451. Joint resolution designating the month of November 1984 as "National Alzheimer's Disease Month"; and

H.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week."

The message also announced, that the Senate agrees to the amendment of the House to the bill (S. 2413) entitled "An act to recognize the organization known as the American Gold Star Mothers, Inc."

The message also announced, that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 94) entitled "Joint resolution to authorize and requested the President to designate May 8, 1983, to June 19, 1983, as 'Family Reunion Month'."

CALENDAR WEDNESDAY

The SPEAKER. This is Calendar Wednesday. The Clerk will call the committees.

The Clerk called the committees.

HIGHER EDUCATION ACT OF 1965 AMENDMENTS

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5287) to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 15, insert:

SEC. 2. (a) Section 510 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended by striking out beginning with the semicolon in clause (1) all matter through the end of the sentence and inserting in lieu thereof: "for each such year; and

"(2) $12,989,000 shall be available for each of the fiscal year 1982 and 1983, and $14,961,000 shall be available for fiscal year 1984 for the Office of Inspector General.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

SEC. 3. Section 5 of the joint resolution entitled "Joint Resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program", approved October 19, 1972, is amended to read as follows:

"SEC. 5. There are authorized to be appropriated $1,500,000 for the fiscal year 1984, $1,500,000 for the fiscal year 1985, $2,000,000 for the fiscal year 1986, $2,000,000 for the fiscal year 1987, $2,500,000 for the fiscal year 1988, and $2,500,000 for the fiscal year 1989 to carry out the provisions of this joint resolution.".

SEC. 4. (a) Notwithstanding any other provision of law, the total amount which may be appropriated to carry out part E of title IX of the Higher Education Act of 1965, relating to law school clinical experience programs, shall not exceed $1,500,000 in fiscal year 1985, $2,000,000 in fiscal year 1986; $2,000,000 in fiscal year 1987, $2,500,000 in fiscal year 1988, and $3,000,000 in fiscal year 1989.

(b)(1) Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended by striking out "and" at the end of clause (2), by inserting "and" at the end of clause (3), and by inserting after such clause the following new clause:

"(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965,".

(2) Such section is further amended by inserting "(or $1,000,000 in the case of the program referred to in paragraph (4))" after "fiscal year 1981".

SEC. 5. Section 555(b) of the Education Consolidation and Improvement Act of 1981 is amended by inserting before the period at the end thereof a comma and the following: "except that such definition shall be modified to include children of migratory fisherman, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity".

SEC. 6. (a)(1) The Secretary is authorized to make grants to the Urban Education Foundation of Pennsylvania, Inc., located in Philadelphia, Pennsylvania, for the purpose of reconstruction and renovation (and related costs) of the combined graduate and undergraduate facilities at the urban research park established as the Urban Education Foundation of Pennsylvania, Inc.

(2) There is authorized to be appropriated $3,400,000 to carry out the provisions of paragraph (1) of this subsection.

(b)(1) Notwithstanding any other provision of law, from any amounts recovered by the Department of Education from prior fiscal year obligations for the Higher Education Appropriation Account for the Department of Education, the Secretary may use not to exceed $1,000,000 to carry out the provisions of subsection (a) of this section.

(2) The amount authorized to be appropriated by paragraph (2) of subsection (a) shall be reduced by any amounts expended under paragraph (1) of this subsection.

Page 2, line 16, strike out "2." and insert: "7.".

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Kentucky to explain the legislation he just called up.

Mr. PERKINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill before us today, H.R. 5287 as passed by the Senate, includes several needed authorization provisions that the House has already endorsed in other bills.

In addition to making a modification in the title III program for developing institutions, the Senate added provisions extending the authorizations for three small, successful education programs: the Ellender fellowship program operated by the Close Up Foundation, the law school clinical experience program, and the law-related education program.

For the Ellender fellowship, the bill authorizes $1.5 million for each of the fiscal years 1984 and 1985, $2 million for each of the fiscal years 1986 and 1987, and $2.5 million for each of the fiscal years 1988 and 1989. This program enables low-income secondary students and their teachers to participate in the Close Up Foundation's program of promoting understanding of the Federal Government. The authorization for the fellowships expires at the end of fiscal year 1984.

H.R. 5287 also extends the authorization for the law school clinical experience program at levels of $1.5 million for fiscal year 1985, $2 million for fiscal year 1986, $2 million for fiscal year 1987, $2.5 million for fiscal year 1988, and $3 million for fiscal year 1989. This program makes grants available to accredited law schools to establish or expand clinical training programs in the practice of law for law students. The fiscal year 1984 authorization for this program was $1 million.

The bill also amends the education block grant created by chapter 2 of the Education Consolidation and Improvement Act to upgrade the status of the law-related education program. This is accomplished by setting aside $1 million within the Secretary's discretionary fund for this program. The law-related education program provides grants to educational agencies, institutions, and organizations for programs to equip nonlawyers with knowledge and skills about the law, the legal process, and the legal system. This reservation will insure that this worthy program is continued.

These three programs were extended, and their authorizations increased, in a bill that already passed the House, H.R. 3324.

The legislation contains a few other small provisions. In the title III, higher education program, the bill takes care of a problem whereby 21 institutions of higher education would be denied title III aid inadvertently due to an amendment adopted last year. The bill also increases the fiscal year 1984 authorization for the Office of the Inspector General in the Department of Education from

$12,989,000 to $14,961,000. Finally, the legislation addresses a problem in the chapter 1 migrant education peculiar to the State of Alaska, where a single school district covers a very large amount of territory. The bill states that in an instance where a child of a migratory fisherman resides in a school district of more than 18,000 square miles and migrates 20 miles or more to engage in fishing activity, that child will be eligible for the migrant education program.

I urge the Members to join with me in supporting H.R. 5287 to extend these programs which are not costly but which are very important.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of H.R. 5287.

The legislation before us passed the House by a voice vote on May 1. On May 16 it was considered and amended by the Senate to make several small but important changes to several education laws.

The most important provision in H.R. 5287 is the technical correction to the Challenge Grant Amendments of 1983. This legislation unintentionally terminated the eligibility of several title III institutions for challenge grants. H.R. 5287 would restore the eligibility of these institutions and allow them to once again receive challenge grants for programmatic activities.

The legislation also would provide increased funds for the Office of Inspector General at the Department of Education. In recent months I have been encouraged by the progress the Department is making in improving the administration of Federal education programs and in reducing fraud and abuse in Federal student financial assistance programs. The additional funds that would be made available would allow this important work to continue.

The legislation also makes $3.4 million available to the Urban Education Foundation. The foundation is located in Philadelphia, Pa., and enjoys the strong support of the administration. I spoke with Secretary Bell earlier today regarding this program.

Finally, the bill extends several small education programs, including the law school clinical experience program and the law-related education program. While I am not entirely supportive of extending these programs in this particular bill, I believe that the inclusion of these provisions in H.R. 5287 will not jeopardize the President signing H.R. 5287.

In closing, Mr. Speaker, let me once again express my support for H.R. 5287. I urge an "aye" vote.

GENERAL LEAVE

Mr. ERLENBORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks concerning the legislation under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

● Mr. SIMON. Mr. Speaker, I want to join my colleague, the distinguished chairman of the Committee of Education and Labor, in supporting final House action on the bill H.R. 5287. This bill, which originated in my subcommittee and was intended as a technical amendment to title III, part C of the Higher Education Act, now includes several new authorizations which have not been considered by this House. Although H.R. 5287 includes several Senate amendments which have my strong support—a 5-year authorization for the close-up program and increases in the authorization for the law school clinical experience program—title IX of the Higher Education Act—and the law-related education program—it also includes several new authorizations which have not been carefully studied by our committee or in the House.

I am reluctantly supporting final House action on H.R. 5287 because of its importance to the Morehouse School of Medicine and the 21 other institutions of higher education which were the original focus of the bill. I believe it is also important to agree to the provisions of the bill which have already been the subject of House action.

I have spoken with my friend, Senator STAFFORD, who chairs the Senate subcommittee responsible for the Senate legislation, regarding my concerns. I expect that the Senate will favorably view several issues of concern to Members of the House which might be addressed in legislation currently pending on the Senate Calender.●

Mr. ERLENBORN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

There was no objection.

A motion to reconsider was laid on the table.

ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 518) to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, S. 518 was passed by the Senate on March 26, 1984. A similar bill was introduced in the House of Representatives last year by the gentleman from Iowa, Mr. COOPER EVANS, as a companion to the original Senate bill, and was referred to the Committee on Education and Labor.

After the passage of the bill by the Senate, the staffs of the Committees on Education and Labor and the Committee on Energy and Commerce developed legislative language to assure that the Environmental Protection Agency (EPA) has the necessary legal authority to make grants to, and enter into cooperative agreements with, private nonprofit organizations which have been designated under title V of the Older Americans Act. The General Counsel of EPA had determined that legislative clarification was needed in order to continue agreements with those organizations to carry out activities which will be described in greater detail momentarily. Enactment of this legislation has been requested by the Administrator of EPA, Mr. William Ruckelshaus.

This legislation is supported by members of the Committee on Education and Labor on a bipartisan basis.

I wish to express appreciation to the chairman of the Committee on Energy and Commerce (Mr. DINGELL) for the cooperation of this committee in drafting acceptable language for the consideration of the House in acting upon this legislation. We know of no objection to its enactment, and we understand that it is agreeable to members of the authorizing committee in the Senate.

Mr. Speaker, this legislation authorizes the Administrator of EPA to make grants to or enter into cooperative agreements with private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965, to utilize the talents and experience of our Nation's older workers in programs authorized by other provisions of law administered by the Administrator, in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 or the Job Training Partnership Act.

The objective of these projects is to enable older persons to be employed in jobs relating to the prevention and control of environmental pollution.

This is not a new idea. Older individuals have worked in similar environmental projects since 1976 when the senior environmental employment program began. These projects began under the direction of EPA and the Administration on Aging, then a part of the Department of Health, Education and Welfare. These two agencies signed an agreement which provided the basis for the senior environmental employment demonstration project.

We are here today merely to authorize EPA to make grants or enter into cooperative agreements with those organizations designated under title V in order that our older persons may continue to work in environmental projects. This bill does not permit the displacement of individuals currently employed by the environmental agency, either through reduction of nonovertime hours, wages, or employment benefits, nor would it result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned.

This bill will certainly enable us to continue to more fully utilize the experience of our Nation's senior citizens while assisting others in our communities to improve our environment. I therefore strongly urge my colleagues to vote for this bill.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of S. 518, the Environmental Programs Assistance Act.

The legislation before us provides for a 3-year authorization of a pilot program begun at the Environmental Protection Agency in 1976. This program, known as the senior environmental employment (SEE) program, utilizes senior citizens to help provide monitoring and other services in several important environmental programs.

The senior environmental employment program represents one of the most exciting and fruitful results of the establishment of the senior community service employment program under title V of the Older Americans Act. Like other title V programs, retired, unemployed older workers are provided with an opportunity to provide services to their communities while earning a small stipend. The considerable talent and experience of many of the participants in the program allows the program to return services to the community worth well in excess of the Federal costs associated with it.

I am most pleased, Mr. Speaker, that the Members interested in this legislation were able to develop compromise language which will enable this important program to continue. I am told that if we had failed to act very shortly, many of the senior citizens working in the SEE program would have had to have been let go, at least temporarily.

I am also happy to note that this legislation is enthusiastically supported by the administration and by the Administrator of EPA, Mr. Ruckelshaus. It is also my understanding that the proponents of this legislation in the other body have reviewed the compromise language and support it.

In considering this legislation, I want to congratulate particularly the gentleman from Iowa, Mr. EVANS, who is largely responsible for this bill being before us today. The dedication of the gentleman to the needs of older Americans is well known in this body and his involvement in S. 518 is but one more chapter in this aspect of his distinguished career.

I also want to commend the efforts of the gentleman from North Carolina, the chairman of the Subcommittee on Human Resources and the gentleman from Kentucky, the chairman of the full Committee on Education and Labor.

I urge adoption of S. 518.

Mr. Speaker, I yield to the gentleman from Iowa (Mr. EVANS).

Mr. EVANS of Iowa. Mr. Speaker, as Members of this body will remember, a few years ago, a very successful demonstration project under the Environmental Protection Agency, the Administration on Aging, and the Department of Labor, established the senior environmental employment program in 10 States.

Senate 518 contains a permanent authorization for the senior environmental employment program and would allow the Administrator of EPA to continue and expand the older workers program currently in place and to operate it in the manner in which it has operated during the past 4 years.

The authorization in Senate 518 would achieve the same goal—the continuance of the SEE program—as would a bill, which I introduced early in this Session in the House—H.R. 569, which currently has 32 cosponsors.

The test demonstration—conducted a few years back—was a project which hired over 200 senior citizens for a variety of activities. Examples of these activities include: a statewide survey of hazardous waste generators and implementation of a hazardous waste manifest system in New Jersey, and an Illinois program to monitor the quality of the State's water supplies.

The program—as authorized under this bill—would enable older Americans to work in Federal, State, and local environmental agencies. The primary task of these participants would be to assist State and local governments with environmental control programs in the office and in the field.

During the demonstration period, the Foundation for Applied Research, an independent contractor to the Agency on Aging (AOA) examined the results of the program. They concluded that the demonstration was a great success—not only because it helped environmental programs in a way that cannot be measured in dollars and cents—or because the program provided cost-beneficial employment to a segment of the society which is too often presumed to be unproductive—but also because the program provided cost-beneficial employment to a segment of the society which is too often presumed to be unproductive—but also because the program provided an opportunity for socially beneficial activity by senior citizens who only too often are isolated.

Mr. Speaker, even against a tough, analytic yardstick, the SEE program is productive. During the demonstration project, the evaluation revealed that employment of senior citizens in environmental areas resulted in a cost-saving of 16.4 percent of labor costs. The demonstration was so successful that the final evaluation recommended that it be expanded to all 50 States—just what this legislation will accomplish.

The Environmental Programs Assistance Act authorizes expanded use of senior citizens in both EPA national and regional offices, and in State and local environmental agencies. It will allow the employment of the elderly, eligible under the Older Americans Act, on such activities as air monitoring and emission testing, pesticide inventory and control, water supply sampling and monitoring, technical libraries and public information, carcinogenic surveys and followups, hazardous waste materials routing surveys, rural health screening, and noise abatement and control programs.

This bill requires that SEE participants not replace existing activities within a State. The participants must augment or improve existing programs. SEE will not displace EPA employees.

This program allows environmental agencies to tap a highly motivated, highly skilled, and experienced work force. Approximately 1.4 million older Americans are unemployed and seeking work. These older Americans already possess a broad range of skills. They also have excellent records of hard work, reliability, and low absenteeism.

In addition to the older Americans who are seeking work, there are hundreds of thousands of workers over the age of 55 who are so-called discouraged workers—people who have given up looking for a job but would take one if it were offered. Many of these citizens are economically disadvantaged. And yet the demonstration project showed that these older workers, if given the chance, can be more productive per dollar of Federal cost

than other workers in the same fields of endeavor.

In closing, Mr. Speaker, I say that this program will help the EPA stretch its already lean budget and assist older Americans to obtain productive and meaningful employment by allowing them to give future generation the benefits of cleaner and safer environment.

Further, I would like to take this opportunity to commend and give credit to certain Members from the other body, Senators STAFFORD, CHAFEE, and GRASSLEY; and the gentlemen from Kentucky (Mr. PERKINS), Michigan (Mr. DINGELL), and Illinois (Mr. ERLENBORN) for their assistance in helping make consideration of this legislation possible.

GENERAL LEAVE

Mr. ERLENBORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

● Mr. RINALDO. Mr. Speaker, I rise in strong support of S. 518, the Environmental Programs Assistance Act.

This legislation, which would formally establish a program of grants administered by the Environmental Protection Agency to aid State and local programs of pollution prevention, abatement, and control by utilizing the skills and talents of older individuals, accomplishes the same goal as legislation which I have cosponsored in the House.

While the EPA's senior environmental employment program first began as a demonstration project in 1976, a recent General Accounting Office reinterpretation of the law has thrown into doubt the statutory authority of the EPA to continue this worthwhile program.

Shortly after the EPA announced it could no longer fund the SEE program without explicit authorization of the Congress, I wrote to the President in December, urging that the program continue until Congress could take up the issue this year.

The White House agreed and gave the program and its 2,000 senior citizen workers a temporary reprieve.

Now, however, the Congress must act to pass authorizing legislation to insure the future of these critically needed projects.

The SEE program marshals the experience and knowledge of older workers to assist the EPA, and State and local environmental agencies in air monitoring and emission control, water supply sampling, pesticide inventory and control, carcinogenic survey and followup, and hazardous material routing.

They also help maintain technical libraries and public information projects.

In my own State of New Jersey, SEE workers are concluding a statewide survey of asbestos in the schools, and have analyzed hazardous wastes at the EPA laboratory in Edison.

This legislation also insures that SEE workers will not displace individuals currently employed by the environmental agency concerned, and that the program will be coordinated with the older worker programs under title V of the Older Americans Act and the Job Training Partnership Act.

S. 518 has attracted bipartisan support and is endorsed by the administration. Its passage would guarantee the continuation and expansion of a successful, cost-effective program, which not only provides significant and challenging job opportunities for older workers, but enables government at all levels to redouble their efforts to improve the environmental quality of American life.

Mr. Speaker, I want to commend the gentleman from Iowa (Mr. EVANS) for his leadership on this legislation and urge its adoption.●

● Mr. BIAGGI. Mr. Speaker, I rise to express my support for this legislation that would assure the continuation of the Senior Environmental Employment Corps within the Environmental Protection Agency (EPA). This is a program which provides meaningful employment to older Americans in jobs to assist State and local governments with environmental control and monitoring projects.

At present, there are approximately 2,000 seniors participating in this program. Without this legislation, the continuation of these jobs remained in jeopardy due to the lack of specific statutory authorization which allows for EPA to administer the program.

This program is based upon a highly successful demonstration project funded through title IV of the Older Americans Act. Eligibility for the SEE program is identical to the title V senior community service employment program under the Older Americans Act. Passage of this legislation will increase meaningful employment opportunities for older Americans in environmental programs which will augment the already-successful programs run through title V. In addition to expansion of job opportunities, this program will also provide an important increase in the enviromental employment pool. Enforcement inspections have been seriously curtailed due to funding cuts in EPA-administered programs. This is a cost-efficient way of securing highly motivated employees that will provide important community services.

I also wish to reiterate the fact that with this legislation, we are not intending to alter the existing distribution of title V funds between the so-called national contractors and State and area agencies on aging, which administer title V. This bill before us allows EPA to enter into interagency agreements with the Department of Labor through the Job Training Partnership Act (JTPA) and the Administration on Aging through the Older Americans Act. In doing so, it is our intent that the current funding distribution would not be changed through any interagency agreements that might occur as a result of the authority provided in this bill. I intend to monitor this situation closely to assure that the intent of Congress in this matter is carried out accordingly.

As an original member of the House Select Committee on Aging as well as the Education and Labor Committee, I join with my colleagues in urging support for this legislation. It complements legislation that we have recently reported from the full committee, H.R. 4785, a bill to extend the Older Americans Act programs, including title V, through fiscal year 1987. Title V remains one of the major success stories of the Older Americans Act and the SEE program is a clear continuation of this success.●

Mr. ERLENBORN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Programs Assistance Act of 1984".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) protection of the environment is of primary importance to the citizens of the United States;

(2) enforcement of enviromental protection programs is suffering due to low funding levels; and

(3) there is a growing need for experienced persons to assist State and local governments in carrying out environmental protection programs.

(b) It is the purpose of this Act to assist State and local governments in carrying out environmental protection programs through grants from the Environmental Protection Agency.

ENVIRONMENTAL PROGRAMS

SEC. 3. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is authorized and directed to develop a program, through grants or contracts, designed to assist Federal, State, and local environmental agencies in carrying out projects of pollution prevention, abatement, and control.

(b) The program established under this section may include, but shall not be limited to, projects such as—

(1) air monitoring and emission testing;
(2) pesticides inventory and control;
(3) water quality sampling and monitoring;
(4) water supply sampling and monitoring;
(5) technical libraries and public information projects;
(6) carcinogenic surveys and followup;
(7) hazardous materials routing surveys;
(8) health screening in rural areas and among migrant workers; and
(9) noise abatement and control.

(c) The Administrator of the Environmental Protection Agency shall prepare and submit to the Congress within one hundred and eighty days after the date of the enactment of this Act, a report identifying projects which meet the purposes of this Act. The report shall include the organizational and administrative commitments of the Administrator in carrying out the provisions of this Act.

(d) The Administrator shall consult with affected and interested representatives of State and local environmental agencies for the purpose of developing mechanisms for the successful implementation of this Act.

(e) In carrying out the program established under this Act the Administrator shall utilize, to the fullest extent possible, the talents of older Americans available for participation in projects funded under such program, and shall consult with the Secretary of Labor and the Administrator of the Administration on Aging to ensure coordination with similar projects in effect, or previously in effect, under the Older Americans Act of 1965 or the Job Training Partnership Act.

AGREEMENTS WITH INSTITUTIONS AND INDIVIDUALS

SEC. 4. (a) The Administrator is authorized to enter into agreements with public and private institutions and individuals to develop and maintain an effective program under this Act.

(b) The Administrator is authorized to—
(1) make grants or cooperative agreements with public or private institutions or individuals to carry out the purposes of this Act;
(2) utilize individuals participating in projects established under this Act in assisting the Environmental Protection Agency and State and local environmental agencies; and
(3) provide training to individuals to prepare them to accomplish environmentally related activities.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State or local environmental agency for the funding of any activities under this Act unless such agency certifies that such activities will not—
(1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);
(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or
(3) impair existing contracts for services.

(d) Grants or agreements entered into under this section will be subject to prior appropriations Acts.

ELIGIBILITY FOR FUNDING UNDER OTHER ACTS OF CONGRESS

SEC. 5. Environmentally related programs as described in section 3 of this Act shall be eligible for funding through title V of the Older Americans Act of 1965, and title IV of the Job Training Partnership Act.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS: Strike all that appears after Section 1 and insert the following:

ENVIRONMENTAL PROGRAMS

SEC. 2. (a) Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and title IV of the Job Training Partnership Act.

(b) Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—
(1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);
(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or
(3) affect existing contracts for services.

(c) Grants or agreements awarded under this Act shall be subject to prior appropriation Acts.

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5293

Mrs. LLOYD. Mr. Speaker, the gentleman from Pennsylvania (Mr. MURTHA) has reconsidered his cosponsorship of H.R. 5593, one version of a coal bill we recently introduced. Although he will join me in sponsoring the other version of this bill, I ask, on his behalf, unanimous consent to remove him as a cosponsor from H.R. 5293.

The SPEAKER. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

PERSONAL EXPLANATION

Mr. AUCOIN. Mr. Speaker, on Tuesday, April 24, I mistakenly voted "aye" on rollcall vote No. 93, an amendment that would have reduced certain authorizations for the National Science Foundation by $58.5 million.

Though the amendment failed, I want to clarify, for the record, that I do not support cuts of this magnitude in the NSF budget.

Mr. Speaker, I ask unanimous consent that immediately following rollcall No. 93 on the permanent RECORD, it appear that my intention was to vote "no."

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

□ 1030

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATION BILL, 1985

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes.

Mr. CONTE reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, STATE, AND RELATED AGENCIES APPROPRIATION BILL, 1985

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Departments of Commerce, Justice, State, and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

Mr. CONTE reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

The SPEAKER. Pursuant to House Resolution 494 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5167.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, May 17, 1984, title I was open for amendment at any point.

Are there any further amendments to title I?

Mr. PRICE. Mr. Chairman, I move to strike the last word.

Following completion of this statement, I intend to ask for unanimous consent that all time on amendments and amendments thereto on titles I through IX be completed by 10 p.m. this evening.

Mr. Chairman, I am not seeking to disadvantage anyone nor am I trying to prevent anyone from offering amendments to this legislation. However, I believe that with the 2 previous days we have spent on title I plus the remainder of today, there will be sufficient time to adequately consider all amendments. Also, of course, the general provisions title will remain—to which 26 amendments are already pending.

In my judgment, it is important that the House complete this legislation if at all possible by tomorrow evening. The House Calendar will become overcrowded soon because of appropriations legislation and it is important that this authorization bill be completed before the defense appropriation is considered.

Mr. Chairman, therefore I ask unanimous consent that further debate on all amendments and amendments thereto to titles I through IX of H.R. 5167 be completed by 10 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mrs. SCHROEDER. Mr. Chairman, reserving the right to object, I think there is a real problem with the proposal because I understand that there are all sorts of emergency issues that could come over here and preempt the time. I understand that the urgent supplemental may come over, bankruptcy may come over, the debt ceiling limitation may come over, and it would be a wonderful way to shut off all debate.

I only remind you that the 2 days we did spend on the bill we basically spent on two amendments. There are many more very critical issues and I would hope that the gentleman would withdraw his request because I really think that it could stifle all debate.

Mr. PRICE. Will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois.

Mr. PRICE. I would indicate to the gentlewoman that we have been on this bill now for some time and we do not know whether the issues she mentions will come today or tomorrow. We do not know that.

Mr. DICKINSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Alabama.

Mr. DICKINSON. We discussed this with the leadership and also with the Speaker. It was our understanding that the problems that you have mentioned, the likelihood of their occurring did exist, but it would not be today. For that reason we were trying to finish through title IX today. Tomorrow, if the bankruptcy, the supplemental, the debt ceiling and so forth should come to the floor and preempt us, we would have only title X, general provisions, remaining. We may be able to finish that title by the end of tomorrow.

Mrs. SCHROEDER. Further reserving the right to object, I think that leaves us in a terrible position, though. We may end up with no debate on very critical issues. Issues outside the committee's control could preempt the time.

As the gentleman knows, the debate so far has really been on two major amendments and that is it. There are many more very important issues. If those things get preempted we will have cut ourselves out of the time.

Mr. DICKINSON. No. I think we have a disconnect. There will be no limitation on title X. If it is preempted tomorrow or not, there will still be whatever time would normally be allotted to it. The only limitation would be on the first nine titles.

We are providing 12 additional hours for that today.

Mrs. SCHROEDER. But if the gentleman will yield, the money happens to be in the first nine titles, and I think that it is the critical part of the bill. When you get to the general provisions, those are just language, and we are really interested in the substance, not the form. So what you are doing is limiting us on the substance by this unanimous-consent request and saying that we can debate from here to kingdom come.

I am much more interested in the substance and the money provisions because that is really what we should focus with the phenomenal debt we are facing.

Mr. DICKINSON. I understand what you are saying. Recognizing the constraints that we are operating under, we had hoped that 12 hours of additional debate would not be considered an imposition on the Members because that is how much we will have today for the first 9 titles, 12 additional hours. And we were hoping to complete that.

Mr. WEISS. Will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentlewoman for yielding.

I wonder if the Chairman, through the gentlewoman from Colorado, would tell us how many amendments have been noticed for titles I through IX?

Mr. PRICE. Will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois.

Mr. PRICE. About in the neighborhood of 15 or 16, I think.

Mr. WEISS. I thank the gentleman.

Mrs. SCHROEDER. Mr. Chairman, on that basis then I feel constrained to object, because I feel that it is just not adequate time.

The CHAIRMAN. Objection is heard.

Are there amendments to title I?

AMENDMENT OFFERED BY MR. LOWRY OF WASHINGTON

Mr. LOWRY of Washington. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOWRY of Washington:

At the end of title I (page 15, after line 5) add the following new section:

POLICY CONCERNING ACQUISITION OF ADDITIONAL PERSHING II MISSILES

SEC. . (a) Subject to subsection (c), funds appropriated pursuant to the authorization of appropriations in section 101(a) for procurement of missiles for the Army may be used to acquire not more than 70 additional Pershing II missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(b) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of intermediate-range nuclear missile weapon systems similar to the Pershing

II intermediate-range missile weapons system authorized for the Army by this title and shall immediately transmit written notification of that determination to Congress.

(c)(1) If the President's determination under subsection (b) is that the Soviet Union is not acting in such a manner, the amount appropriated pursuant to the authorization of appropriations in section 101(a) for the acquisition of additional Pershing II missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under subsection (b) that—

(A) the obligation of such funds is in the national interest; and

(B) as of April 1, 1985, the United States is willing to act to further the control and limitation on the Pershing II intermediate-range nuclear missile weapon system authorized for the Army by this title.

(2) If the President's determination under subsection (b) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 101(a) for the acquisition of additional Pershing II missiles may be obligated. However, if after the determination under subsection (b) the President makes a further determination that the Soviet Union is not acting in good faith with respect to its willingness to take actions described in subsection (b) and transmits written notification of that determination to Congress, such funds may be obligated after the date of the receipt of that notification by Congress if, after that date, a joint resolution is enacted approving the obligation of such funds.

Mr. LOWRY of Washington (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. LOWRY of Washington. Mr. Chairman, I again, as I did last week, want to compliment and thank the chairman and the ranking members on the Democratic side, and the ranking member and the senior members on the Republican side for how well they have facilitated debate on this bill, and I mean that very sincerely.

The amendment, Mr. Chairman, that I bring to the floor today is an extremely important amendment. I asked that the Clerk read the first part of the amendment to see if it sounded familiar to the Members of the body because it applies to the Pershing II, exactly the language adopted by the House that the Price-Aspin-Pritchard amendment applied to the MX as an encouragement to the Soviet Union to return to the arms control table.

It is the exact language applied to the Pershing II as the House did adopt last week in applying to the MX.

I think we would all agree that one of the dominant items stated over and over and over again and recognized by Members of this House as to why the Soviets left the arms control talks, was the beginning of the deployment of the Pershing II's in Europe, our scheduled deployment.

□ 1040

My colleague from California (Mr. DELLUMS), who is a cosponsor with me of this amendment, has been a leader on the problem of the Pershing II's for many years in this Congress.

Every Member of this body wants us and the Soviet Union to return to arms control talks; every Member of this body knows how important that is. We have had a lot of discussion about that. This amendment is the amendment that would be a real gesture to the Soviet Union to encourage them to return to the arms control talks by applying the Price-Aspin-Pritchard language that was applied to the MX, saying to the Soviet Union that for the 70 Pershing II's scheduled for procurement in 1985, under this authorization bill, that no dollars for those 70 Pershing II's procurement could be obligated until April 1, 1985. And then on April 1, 1985, the President would determine and would send a declaration to Congress stating whether the Soviet Union was operating in a way that could get us to arms control talks and if they were operating in a way under a declaration by the President, then the funds still would not be obligated for 70 Pershing II's.

If they were not, then by a joint resolution of approval we could agree with the President to go ahead and spend the dollars for procurement.

Last week, the House adopted exactly that language on the MX missile and a major reason made on the floor was to give the Soviet Union encouragement to return to the arms control talks.

Well, the Pershing II's more than the MX are the reason that the Soviet Union left the arms control talks and this language applied to the Pershing II's would be exactly the thing this body should do to give the Soviets the reason to come back.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I would be happy to yield to the gentleman from Texas.

Mr. KAZEN. I think the gentleman is missing the mark. The Russians have said they have left the table because we have deployed the missiles, not because we are going to build or intend to build missiles.

Now if the gentleman really thinks he can get them back, if that is his reason for presenting this amendment——

Mr. LOWRY of Washington. Yes.

Mr. KAZEN. Then the gentleman should present an amendment that will take out our missiles instead of having them deployed. That is the reason that the Russians say they have left the table, not because we are going to build, but because we have already deployed.

Mr. LOWRY of Washington. The gentleman makes a very good point and a point that as author of this amendment I considered.

I chose not to do that for two reasons: One, we need a real offer made by our country that would have a chance on this floor. Second, to stop the existing deployment schedule of 1984 procurred missiles would require concurrence by our allies and would not be in order in this bill.

I thereby chose the pending language as a middle ground that would still be a meaningful gesture to the Soviets hoping they would respond positively by moving back to the arms control table.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. GEKAS and by unanimous consent, Mr. LOWRY of Washington was allowed to proceed for 2 additional minutes.)

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding.

Is there not a significant difference in the Pershing concept from the MX concept that you are talking about; in that on the MX issue that we are acting unilaterally so to speak to the Soviet Union while the Pershing issue involves our NATO allies?

If we were to follow the gentleman's amendment and approve it, would we not be acting against our own vis-a-vis contracts with the NATO countries? That is what disturbs me and that is the significant difference between yours, it seems to me, and the MX conditionality.

Mr. LOWRY of Washington. I thank the gentleman for raising that point because I considered that point and it was the major reason I did not address this amendment to the existing 1984 deployment schedule and existing purchase.

We are under a deployment schedule at this time, which is classified. But we are under a deployment schedule at this time and this is a schedule that would still have continuity going with it, that this amendment would not, it itself, break that continuity to any great extent.

Second, our allies, as ourselves, as the gentleman knows, have always taught and wanted the dual track on the Pershing II, the dual track of the arms control negotiations and the deployments going side by side.

Since we are in the situation we are in on the arms control negotiations now, I believe this amendment, which applies to the 1985 procurement only, would actually be staying very much

in concept with the United States and our allies have talked about, about how to handle this very dangerous situation.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank my good friend and colleague for yielding.

Mr. Chairman, I unfortunately must rise and oppose this amendment. I appreciate the thrust of what the gentleman is trying to do, but it appears to me that above all it is important that we maintain consistency in our relationships, our bargaining.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. HUCKABY and by unanimous consent, Mr. LOWRY of Washington was allowed to proceed for 2 additional minutes.)

Mr. HUCKABY. Mr. Chairman, will the gentleman continue to yield?

Mr. LOWRY of Washington. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding again.

If we, once again, say "We will delay if you will come back to the bargaining table," let us keep in mind this all started back under President Carter, with the massive buildups of the SS-20's, which the Russians went ahead and deployed, when we were urging them not to.

Those missiles are in place. Will not we have a better chance when we get back to the bargaining tables if we have our Pershings intact, our own schedule of getting the Russians to agree to reduce and perhaps eliminate their SS-20's?

Mr. LOWRY of Washington. I thank the gentleman for his important point. And that is of course the question we are looking at.

Mr. Chairman, I firmly believe that one of the two sides of this deadlock has got to make a gesture to get us back to the arms control negotiations. One side has to step forward to break the deadlock. That is specifically what this amendment is intended to do. If we just stay fixed in concrete and say, "No, we are staying our way" and they stay their way, we will not be back to arms control talks, and we will be moving toward that terrible situation we all want to avoid.

Mr. HUCKABY. It seems to me we would be negotiating with ourselves unilaterally and not with the Russians sitting on the other side of the table.

Mr. LOWRY of Washington. I would disagree with the gentleman on that. If that is so, then the argument used for the Price-Aspin-Pritchard amendment on the MX was totally faulty; because that was applied to the MX, and yet the Pershing II, even more than the MX, I think all would agree, had more to do with the breaking up of the arms control talks.

It was not the only thing; please do not get me wrong. A lot of other things went into it. But if it applied to the MX, certainly it must apply much more to the Pershing II.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from California.

Mr. DELLUMS. I think the gentleman has already made a major argument to my distinguished colleague.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. LOWRY of Washington was allowed to proceed for 2 additional minutes.)

Mr. LOWRY of Washington. I continue to yield to the gentleman from California.

Mr. DELLUMS. If the gentleman will continue to yield, I think the direct response to my distinguished colleague is if you are arguing that the Pershing missile is a bargaining chip, we have already begun deployment.

Part of this system is already deployed. What we are saying, in effect, is let us save ourselves some money. If the ultimate answer is negotiation to dismantle all of these resources as a response to the Soviet's deployment of the SS-20 and what we want to do is negotiate back from the SS-20, back from the Pershing, back from the cruise, we are saying we have already deployed a number of these missiles. So the political statement has already been made.

What we are saying in this amendment is let us save the American taxpayer some funds, if the ultimate answer is removal of these weapons through negotiation, we are saying let us postpone procurement until such time as the Soviet Union and the United States come back to the bargaining table and begin the diligent processes of negotiating back from the brink of nuclear war.

□ 1050

Mr. LOWRY of Washington. I thank the gentleman.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

I think we must look at the history of Russia, the Russian mind set, they have time, they are willing to sit back and wait and wait and wait. They can negotiate from strength. They truly have strength.

The gentleman and I both want to get rid of the Pershing missiles. We both want to get rid of the SS-20's. What is the best way to do it? That is what we are talking about here today, as the gentleman said earlier.

I think the gentleman from California would agree with me also that the Russians are much more concerned about the deployment of the Pershing missiles than they are the MX missiles. As the gentleman has so adequately stated here in the well before, we have certainly reduced that fuse time from 20 minutes to some 5 to 7 minutes.

Mr. LOWRY of Washington. I think the gentleman first makes a very sincere point. Second, he also makes the point why this amendment would give us again the chance, which is the only way, to prevent the Soviets very dangerous buildup, which is go back to the arms control table.

The CHAIRMAN. The time of the gentleman from Washington (Mr. LOWRY) has again expired.

(At the request of Mr. BURTON of Indiana and by unanimous consent, Mr. LOWRY of Washington was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Throughout the day, as we debate this issue, I will be asking the question of the majority, so I will tell the gentleman in advance what the question will be.

Has the gentleman read this book, "Soviet Military Power, 1984," and if so, is the gentleman really conversant with what is in it?

I would like to just cite a few examples of what I found in this book which in some detail tells what the Soviet Union has been doing. The book was published by the Department of Defense after a great deal of research on what we are doing and what the Soviet Union is doing.

Is the gentleman aware that the Soviet Union is building at an extremely rapid rate while our NATO allies, for instance, are dismantling a lot of their nuclear intermediate range ballistic missiles? For instance, to date, in October 1983, NATO decided to withdraw 1,400 nuclear warheads from Europe. This decision will bring to 2,400 the total number of warheads to be removed from Europe since 1979. Moreover, the current reduction will reduce NATO's nuclear stockpile to the lowest level in over 20 years.

Now, bear in mind, that the Soviet Union is deploying one new three warhead intermediate range ballistic missile SS-20 per week, while they are doing this.

Mr. LOWRY of Washington. May I reclaim my time and I do not choose to cut off the very important information the gentleman is giving. The gentleman can get his time to do that and I think that is very important. We only have a couple of seconds left.

Yes, I am aware, although I am not a student of that study, I am aware of the tremendous Soviet buildup. I want us to go to the arms control table so that we can put a ceiling, a stop, a dismantling and removal of that tremendous Soviet buildup and that is why we have to go back to the arms control table.

Mr. BURTON of Indiana. On that point, I would just like to ask: How can you ever hope to negotiate a meaningful intermediate range disarmament treaty if you continue to negotiate from a position of weaker and weaker strength?

Mr. LOWRY of Washington. If we were negotiating from a position of weaker and weaker strength, then that would be true, but we are not doing that. And you cannot negotiate if you are not at the table. My amendment puts us at the table.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Washington inserted his rationale for this amendment in the RECORD the day before yesterday and the title of his statement was, "Encourage the Soviet Union to Negotiate by Putting a Moratorium on the Pershing II Just Like the MX."

I think it is important that the gentleman, who is the author of the amendment, should read more carefully the statements issued from the Soviet Union. A document issued by the Soviet Information Department of the Soviet Embassy on the 20th of April, referring to the meeting of the Warsaw Treaty Foreign Ministers Committee, quoted those Ministers as stating that—

> The states represented at the meeting insist that an end be put to the deployment of American medium range nuclear missiles in Western Europe and declare that should measures leading to the withdrawal of the missiles already deployed be taken, steps will simultaneously be taken to cancel the countermeasures and this will lay the groundwork for the resumption of talks reaching appropriate agreements on freeing Europe of nuclear weapons.

As the point was made earlier by another speaker, the gentleman from Texas (Mr. KAZEN), the Soviet Union is only going to come back to the bargaining table if we withdraw the missiles that are already deployed.

So the Lowry amendment misses the whole point and would not succeed in doing anything because the Soviets have only one condition for coming back to the INF talks; namely, that those missiles be withdrawn that were originally put in there.

The point was made, I believe by the gentleman from Pennsylvania (Mr. GEKAS), that this is not an American deployment, this is a NATO deployment. We have no authority to rescind the decision of the NATO nations, many of whom underwent difficult election campaigns based on this proposal, which was originally recommended by the Social Democratic Chancellor of West Germany back in 1979. Therefore, the Lowry amendment would be an infraction of our NATO Treaty and our NATO arrangements. I think it would certainly be out of line for us to approve this kind of an amendment.

What is even more disturbing is that if the House were to approve the Lowry amendment, it would be a tacit admission on our part that we were the ones that were really responsible for upsetting the talks, for forcing the walkout. That is the Soviet line and we would be adhering directly to it.

I think this amendment certainly would be the wrong kind of action to take, the wrong kind of signal to send, at a time when the Soviet Union has increased their submarines off of our east coast, at the time that they have walked out of the Olympics, and at the time that they are continuing to threaten us in the most direct way that has ever occurred between this country and the Soviet Union.

I think the worst action that we could take would be to break a solemn NATO agreement and to adopt this amendment.

I hope it will be thoroughly defeated.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Let me say that I certainly subscribe to what the gentleman says.

As the gentleman will recall, earlier this year we met in our committee room with our counterparts from the North Atlantic Assembly. We had delegates there from Great Britain, West Germany, Portugal, France, the Netherlands.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(At the request of Mr. DICKINSON and by unanimous consent, Mr. STRATTON was allowed to proceed for 3 additional minutes.)

Mr. DICKINSON. We meet with them once a year, we go to Europe, they come over here once a year. It is a very meaningful discussion because we discuss many things dealing with NATO and with defense. These are members of the parliaments of NATO countries who come and meet with us and vice versa, as the gentleman knows.

I cannot help but remember the conversation that occurred when they met with us, when the gentleman from California (Mr. DELLUMS) asked, "Why don't we negotiate instead of deploying?"

Pete Peterson of the Bundestag in West Germany replied to the gentleman from California, "Mr. Congressman, we have negotiated. We negotiated in 1977, but they deployed. We negotiated again in 1978, but they deployed. We have negotiated and negotiated year after year, they have deployed year after year to the point now where they have over 370 SS-20's in place. They talk, they talk, they talk, but they keep deploying. Nothing has stopped them from deploying."

□ 1100

As I say, over 370 in place, 3 warheads each, 5,000 kilometer range, covering every major target in Europe.

Now, they—our NATO friends—have said, "Hey, we got to have some relief here. We are being targeted, and we are not doing anything from the NATO side."

So in conjunction with our NATO allies, we said, "Well, we will go forward with the GLCM and the Pershing as some counter if the Soviets will not agree to withdraw."

And that is exactly where we are now.

So the people in the Kremlin have to be laughing up their sleeves at our naivete in this country in our belief that talking more is going to get them back to the table. We have talked, and while we talk, we try to make these major decisions. While we talk, however, they deploy. So if we are ever going to get them back to the table it is by going forward with our proposed plan, because that is the thing that is upsetting the Soviet Union, not what we talk about over here, but what we do. And if we unilaterally just cancel production and say, "Well, we are going to cancel it and show our good faith and see if we can get them back to the table," that is not the way to do it. Let us go forward with action.

I thank the gentleman for yielding.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Indiana.

Mr. HILLIS. I appreciate the gentleman's yielding.

I just came in on the debate, but I did have this thought about it, as I listened to the gentleman's argument. I think he is so right about the difference between the MX situation and the deployment under a NATO agreement.

I recall a few years ago when the previous administration talked about the deployment of a neutron bomb in Europe.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. HILLIS and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. I yield to the gentleman.

Mr. HILLIS. A neutron device to be used to stop heavy concentrations of armor. And that was to be only just placed there but to be used by our force. I am sure the gentleman recalls that as well. Then after the political advice was sought and the political decisions were made—and they were very difficult decisions by those local European communities but not as difficult as the decision on the NATO basing for GLCM and Pershing—the then administration pulled the rug out said, "Well, we are not going to do it." And I remember all of the backwash. It shook NATO almost to its foundation. And I feel what the gentleman is saying here is very, very true. This would be a repeat of that exercise. Does the gentleman agree?

Mr. STRATTON. The gentleman from Indiana makes an excellent point. It certainly would be a repetition of that fiasco, and we certainly do not want to start doing that kind of thing again.

Mr. DELLUMS. Mr. Chairman, would my colleague yield to me?

Mr. STRATTON. Yes, I will be glad to yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague for yielding.

Mr. Chairman, I would simply like to point out to the distinguished gentleman from New York and the ranking minority Member that this amendment in no way affects deployment. So the statements made by the distinguished gentleman from New York and the statements made by the distinguished gentleman from Alabama, with all due respect, are irrelevant to the amendment proposed by my distinguished colleague from Washington (Mr. LOWRY).

To go back, the amendment delays procurement for fiscal year 1985 of the Pershing missile for 6 months, pending the potential possibility of the United States and the Soviet Union going back to the negotiating table.

Mr. STRATTON. Let me just reclaim my time, because the point I made at the outset was that the gentleman from Washington (Mr. LOWRY) has a statement in the CONGRESSIONAL RECORD of May 21 that the way to get the Russians back to the negotiating table is to accept his amendment. The Soviet line itself is that the only thing that is going to bring them back to negotiations is our removal of the missiles that are already there.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I get into the major portion of the presentation that I would like to make, I seek my own time to say to the distinguished gentleman from New York and the distinguished gentleman from Alabama that this amendment does not affect deployment. This gentleman intends in title X to offer an amendment that would in fact delay deployment of the weapon pending negotiation. But that is not the amendment before us. And it would seem to me that my colleagues ought to keep their pearls of wisdom so that they can respond at the appropriate time in the debate. But at this particular moment, that is not the issue that is before us. This is title I. Title I relates to procurement. My distinguished colleague from Washington has offered an amendment taking the same language, the very same language that my more moderate and conservative colleagues on both sides of the aisle fashioned in order to preserve the MX missile, and has attached it to the procurement of the Pershing missile.

With resepct to the deployment question, the fiscal year 1984 legislation is at this point at work.

So this amendment does not affect deployment. It simply says, "Let us not expend American taxpayer dollars for the purposes of procuring this weapon with the hope that 6 months will provide an atmosphere within which the Soviet Union and the United States would come back to the negotiating table."

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield.

Mr. DELLUMS. I yield to the gentleman at this point.

Mr. BURTON of Indiana. I have two questions. First of all, how can you deploy if you do not procure and build first? And let me give the gentleman the second question, too.

Mr. DELLUMS. I will take back my time and answer the gentleman's question now, and then I will yield for the second question. We have time. I am here to debate the gentleman; I am not here to run.

Mr. BURTON of Indiana. The second question goes along with the first question.

Mr. DELLUMS. Let us answer the first question first, because there is a very rational and intelligent response.

Last year the distinguished gentleman and I served in this body, the Congress passed the fiscal year 1984 authorization bill. In that fiscal year 1984 authorization bill, accompanied with the fiscal year 1984 appropriation bill on the Department of Defense, it provided the necessary authorization and moneys necessary to procure the Pershing missile for the purposes of deployment.

That deployment is going forward as a result of the fiscal year 1984 legislation. This amendment does not impact on that.

I yield further to the gentleman.

Mr. BURTON of Indiana. The second question is: The Soviets in the last year have deployed over 40 additional SS-20's, intermediate range ballistic missiles, adjacent to our NATO allies, and the question is: If we do not produce the Pershing II and ground cruise missiles so that in the event they are needed that they can be deployed, how in the world are you ever going to be able to force the Soviet Union back to the negotiations?

Mr. DELLUMS. Two points: With respect to the question of "if needed," I am not sure what the interpretation is, how to interpret the gentleman's comment. If needed means fighting nuclear war, as I have said on this floor before, anyone who thinks that we can fight and survive a nuclear war, by definition is certifiably disturbed. So I hope that that is not about the use of the weapon.

If we are talking about using the weapon as a bargaining chip, we have already deployed this weapon. And what we are saying is, why expend more funds? We have already made the political statement. Last year the argument was made, "Let's deploy, to make the political statement." We have already made the political statement. In the course of my remarks I am going to try to make the argument that we have made the political statement but in so doing we have taken the world to the brink of thermonuclear war, and I am going to try to make that point as intelligently and as aggressively as I can.

I yield to the gentleman.

Mr. BURTON of Indiana. Well I do not seem to understand the rationale of the gentleman's thinking when he continues to indicate in his remarks that if we continue to negotiate from a position weaker and weaker that we are ever going to be able to get the Soviets to negotiate on anything. They increase their deployment and we are cutting back.

Mr. DELLUMS. If I may reclaim my time, let me answer the gentleman this way: When we talk about weakness, that is a level of absurdity that one must respond to. No. 1, we have nuclear weapons on forwardly deployed bombers; we have nuclear weapons on submarines; we have nuclear weapons on land. The French have the Force de Frappe; the British also have a nuclear force.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. And so anyone who makes the argument that we are talking from a position of strength is living in an absurd world.

Force de Frappe, the French nuclear weapon capability; British nuclear weapon capability; U.S. strategic submarine nuclear capability; U.S. strategic forwardly deployed bomber capa-

bility; tactical nuclear weapons. There are weapons such as the Pershing I that are also presently deployed in Europe at this time.

So anyone who says that we are negotiating with the Soviet Union from a position of weakness if just not doing their homework.

I yield to the gentleman from New York.

Mr. DOWNEY of New York. I thank the gentleman for yielding and, of course, I agree with what he said.

I think it is important, just for a moment, if I can walk through with the gentleman a little history of this, so that we can confront the reality of what has happened with respect to the Pershing and cruise missiles, because we find ourselves claiming that the only way that we can keep the alliance together is by doing something that severely hurts the alliance; namely, deploying Pershing missiles in Germany, and cruise missiles in Italy, the Netherlands, and the United Kingdom. Now that the Social Democrats oppose it—they were the party that originally asked for it—it is clear that the Dutch will not accept the cruise missiles at some time in the future. So it has had profound impact on the alliance, when it was originally designed as a gesture to show the alliance solidarity.

□ 1110

Let us look back at the original deployment of SS-20's by the Soviet Union. I believe initially they started to deploy the SS-20 as a replacement for the old 4's and 5's, which were pretty old weapons. I think, frankly, they have gone too far in the deployment of the SS-20, but I also believe that we were not very clever politically in dealing with them.

In 1979, Brezhnev made an offer before the two-track decision to limit the number of SS-20's to 81, I believe was the number. This was a clear attempt to short circuit deployment of Pershing II and cruise. We claim that the only way you could really deal with removing the SS-20 was by deploying Pershing and cruise missiles, and Helmut Schmidt at the time was worried that the United States in the context of the SALT II agreement was going to decouple Europe from U.S. nuclear strategy. So we started with this monsterous proposal, based on, again, this irrational notion that the only way you can negotiate is from a position of strength that neglects the strength that you already have.

We do not need to place Pershing and cruise missiles in Europe to deal with the Russians. Now remember their initial offer; 81 SS-20's plus their ancient SS-4's and SS-5's.

From 1979, and then during the period of time when President Reagan was in office and we decided not to negotiate, we lost about a year, we have only focused on the question of deployment. Fred Ikle said to me he has told others, that the only way you would get the Soviets to seriously negotiate is to deploy cruise missiles and Pershings.

The last stated offer by the Soviet Union was 120 SS-20's at that level in Europe with and maintenance of these eastern SS-20's. Now, if you examine the fact, that if we had accepted the initial offer without the two-track decision, you would have never gone through the issue of rending the alliance on the question of cruise and Pershing. You would have only 81 SS-20's there. You would be able to rather than cruise and Pershing to dedicate if you so chose, another U.S. submarine to provide a defense, which, frankly, is more survivable than either the cruise or the Pershing, and you would obviated this incredible process that we find ourselves in now where we believe that arguing from a positon of strength is the only thing to do, and it has ended the arms talks. The Soviets have dedicated themselves to putting possibly another 100 or more SS-20's in Europe, and the whole world is drawing closer to the question of nuclear war.

Now, I know some of the Members are going to say, "How can you possibly argue this, because it concedes the Soviets a certain number of missiles, and requires that we take no action." I understand the visceral reaction against that, I really do. While I understand it, what I would ask you to understand is the outcome of your argument that we can only negotiate from positions of strength means that now we have Pershing and cruise and the Soviets have 200 or 300 SS-20's, SS-22's, SS-23's and SS-24's.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(On request of Mr. DOWNEY of New York and by unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield further?

Mr. DELLUMS. I yield to the gentleman.

Mr. DOWNEY of New York. The end result of both sides believing they can only argue from a position of strength is both sides are now weaker, both sides are more dangerous, and both sides have more weapons that frankly neither side needed at the outset.

Have I stated fairly and accurately, I think, at least from my perspective, the history that the gentleman is also aware of?

Mr. DELLUMS. I think the gentleman had laid it out extremely well, and I would simply add one point.

We are talking about the two-track decision. One track was deployed, but deployed only if negotiations failed. The great emphasis in the two-track decision was on the question of negotiation. If you go back and read the minutes that accompanied the two-track decision in NATO, the overriding issue was not "let us deploy"; the overriding question was "let us negotiate". If we cannot negotiate, as a last resort, let us deploy.

It would seem to me that we need to keep that emphasis in clear focus as we go forward debating this issue this afternoon. I think the gentleman has made an enormous contribution to this debate by restating the history in a very clear, unequivocal way.

Mr. Chairman, in the remainder of my time, let me try to make one additional argument, and if my colleague seeks to yield, I will be more than happy to do it. I just wanted my time back to answer that question, and we can always go forward. Sometimes you cannot deal with several points at once; we need to deal with one at a time so we do not lose each other.

Let me indicate in my argument, Mr. Chairman, that there are several reasons why I think we ought to not purchase this weapon. One, there is no military rationale for this weapon; it is a redundant weapon. In response to my distinguished colleague, I have already pointed out that we have a number of nuclear weapons dedicated to any kind of "European scenario."

Second, I truly believe that it undermines in a very profound and provocative way our relationship with our NATO allies, and I think that that is going forward at this moment. It is certainly, in my estimation, not a constructive response to Soviet SS-20's. Missiles do not challenge missiles. Just because the Soviet Union has SS-20's does not mean that we have to go forward with another set of nuclear weapons when we all know we have enormous power dedicated to any situation in Europe.

The next point I would like to make is that I believe that the issue really ought to be negotiated and cling tenaciously to some kind of rigid deployment schedule, it seems to me, is absurd.

Finally, let me just make this argument, Mr. Chairman, because it is the basis of my argument. Here is my major argument: This weapon is extremely dangerous, extremely dangerous, and will take the world in a quantum fashion to the brink of thermal-nuclear war. The Pershing missile is considered the most accurate warhead that this country has developed. It can travel between 1,000 and 1,200 nautical miles. In fact, we now do not even debate the question that this missile can reach Moscow, which means that maybe we were underplaying the capability of this missile. Maybe it can go as far as 1,500 or more nautical miles.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. So this weapon can travel at least 1,200 nautical miles. It is extremely accurate. We are deploying this weapon in West Germany. Now that is significant, because to deploy this ICBM in West Germany means that it can be on target in the Soviet Union sometime between 6 and 10 minutes. Some people argue 6 and 8; some argue 7 and 9. Six to ten minutes.

Now, when you stop and consider the enormous implications for human life on this planet, 6 to 10 minutes is an incredibly short amount of time. We have reduced human reaction time down to zero. Now keep that in your mind's eye, because I would like to return to it, my colleagues, just for a moment.

All of us on the Armed Services Committee, many of us in this Congress, and many American people know that on more than one occasion our planes have scrambled into the air based upon a computer malfunction; a computer mistake on the part of this country that announced that the United States was under attack from the Soviet Union. But it takes a missile traveling from the Soviet Union to the United States or from this country to the Soviet Union somewhere between 30 and 40 minutes.

Thirty to forty minutes, as I perceive it, is again a restricted amount of time when you consider we are talking about thermal-nuclear war here. Now, let us go back to the 6 to 10 minutes. Consider this question: What happens if we have Pershing missiles deployed in West Germany 6 to 10 minutes from the Soviet Union and the Soviet Union's computer malfunctions? Now, do they have the same 10 or 15 minutes that our people had in NORAD when they sat down to determine whether their computers had made a mistake? Do they have 5, 10, or 15 minutes to evaluate this? While all of us slept quietly at night, someone was sitting there 10 or 15 minutes, trying to figure out whether the computer had malfunctioned.

Now, with a 6 to 10 minute turnaround time, if the Soviet Union's computer malfunctioned, Question: How much time does the Soviet Union have? Do they have time to call President Reagan on the Red phone? Do they have time to assemble the Politburo to make a political decision about a response to the missile? No, if we deploy this weapon, you force the Soviet Union to put their missiles on a launch-on-warning situation which takes the world to an incredibly irrational place. You force the Soviet Union to put their missiles on a computer.

□ 1120

If that does not frighten you, it certainly frightens me, because the Soviet Union is not a first-rate computer power. It is not even a second-rate computer power. It is not even a third-rate computer power. It is a fourth-rate computer power, and the President of the United States has gone on television and said to the American people, "We shall not export sophisticated computer capability to the Soviet Union."

It seems to me an intelligent response would be, if you are crazy enough to deploy this dangerous weapon in West Germany, then the Soviet Union ought to have the best computers that they can have available to them for my children and my children's children's future, because the whole world may hang on the credibility and the integrity of the Soviet's computer system.

That is how dangerous and provocative this thing is.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

The Soviet submarines off our east and west coasts, how long does it take a missile launched from them to hit any one of our American cities?

Mr. DELLUMS. Six to ten minutes.

Mr. BURTON of Indiana. All right I thank the gentleman.

Mr. DELLUMS. The reason why it is 6 to 10 minutes is that they are now responding to our deployment of 6 to 10 minutes. They have their weapons on submarines. We are talking about responding to weapons on a computer.

Second point: These weapons will be deployed in a very vulnerable mode, which means that here is an ICBM pointed at the Soviet Union, 6 to 10 minutes on target, hitting their command and control. There would be great motivation for the Soviet Union to take out these weapons in a crisis, which means as we sit there, there is great motivation on the part of the United States to, in the vernacular of the Soviet Union, use them or lose them.

So there is great pressure on both sides. That is why this weapon is extremely destabilizing and extremely dangerous. This is perhaps the most destabilizing act that the United States can engage in, and that is to continue to go forward with the deployment of the Pershing missile 6 to 10 minutes from the Soviet Union. It puts the world in an irrational place.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has again expired.

Mr. KRAMER. I ask unanimous consent that the gentleman from California be allowed to proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Does the gentleman in the well request additional time?

Mr. DELLUMS. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. STRATTON. Reserving the right to object, Mr. Chairman, the chairman of the committee (Mr. PRICE) tried about an hour ago to see if we could not limit time. Members are concerned about the schedule that we have for today, which is projected to continue until 11 o'clock tonight. If we do not complete the bill then, we are going to be in even later on tomorrow.

It seems to me that the gentleman from California, who is one of our most eloquent orators, has in title I a further amendment that not only embraces the Pershing, but a number of other systems, and it seems to me that we ought to limit our debate so that all Members could have an opportunity to participate, or at least establish the proposal that the chairman of the committee has offered in all good faith.

Mr. DELLUMS. If the gentleman would yield to me under his reservation, the gentleman from California would say that, given the fact that my distinguished colleague, the gentleman from Washington (Mr. LOWRY) has decided to offer this particular amendment, this gentleman shall not offer the Pershing amendment that I had anticipated offering to title I.

Mr. STRATTON. Further reserving the right to object, I think the gentleman has a couple other amendments that he is going to deal with, still under title I, and if the gentleman is going to command most of the time, we are not going to be able to meet the proposal of the gentleman from Illinois, the chairman of the committee. I think we ought to at least give him an opportunity to be considered on that.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California (Mr. DELLUMS) is recognized for 3 additional minutes.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. May I yield first to the gentleman from Massachusetts and then I will be happy to yield to the gentleman from Indiana.

Mr. MAVROULES. I want to thank the gentleman very much for yielding to me.

Mr. Chairman, I think perhaps this discussion this morning will take away from title X when we get into title X, because that is where we have all the language provisions. So I think this is a very meaningful debate.

But I do want to address one issue here, and I think it is poignant that we understand one thing here: That we are not an impotent country. In response to the gentleman from Indiana (Mr. BURTON) who said, "Have you read this report on Soviet Union might?" Let me assure you that the United States certainly is not impotent.

If we take all the NATO alliance nations versus the Warsaw nations pact with the Soviet Union, I would venture to say that we spend about $90 to $100 billion more per year for weapons systems and national security. I am not saying that we are building more. What I am saying is, we are competitive. Since we are competitive, you have the deterrent factor which is so important in trying to bring people to arms control agreements.

I just thought I would clear the air on that. In the meantime, while you show the strength of the Soviet Union, I have yet to see the kinds of strength that we have, or the qualitative edge that we have, the qualitative edge that gives you that deterrence, and we have that. Let me make this statement, and I will say it very proudly: We are superior qualitatively to the Soviet Union.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. Let me yield to the gentleman from Colorado (Mr. KRAMER) and then I will yield to the gentleman from New York.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, I disagree with the statement of the gentleman from Massachusetts about U.S. superiority, but that is a different issue. I have a question that I wanted to ask the gentleman about just what this amendment does and what it does not do.

I believe I understood the gentleman to say that this was a companion to the MX provision that we passed several days ago, but as I read this amendment, and correct me if I am wrong, when we get to the bottom line, this kills the program until such time as Congress takes additional affirmative action and approves the obligation of funds after April 1985 which, if I am correct in that interpretation, is far different than the language that we passed with MX, which does not, indeed, require additional congressional action.

Mr. DELLUMS. Mr. Chairman, in order to give my colleague the most accurate response to that, I would yield to the gentleman from Washington (Mr. LOWRY) who is the author of the amendment.

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Chairman, in answer, specifically on the 1st of April, 1985, the President would make a declaration as to what the Soviet actions would be, and then Congress would act upon approving that declaration by a joint resolution.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I just want an additional minute.

As I understand it, though, in order for MX to go forward after we work through all the provisions and the provisos and the but fors, and the whereases, and so forth, it requires Presidential certification. It requires time to elapse, but it does not require an affirmative vote of Congress to allow the obligation of funds, whereas, this amendment does, after we work through all the ands and the buts and the semicolons, and so forth; we do need affirmative action of Congress. So in effect what this amendment does, as I read it, is that it totally kills the program until at least April 1985, at which time Congress, if it chooses to do so in its own discretion, and if the provisions of the commas, and so forth, are met, then Congress may affirmatively approve funds.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I would yield to the gentleman from Washington to respond.

Mr. LOWRY of Washington. I thank the gentleman for yielding.

My friend, the gentleman from Colorado, reads the amendment very well. That is specifically what the Aspin amendment does. Specifically, the gentleman from Wisconsin (Mr. ASPIN) has said that specifically his amendment would require a positive approval by Congress in a joint resolution by which to approve the going ahead of the MX funds. He specifically told that to Members on this floor, and there is one gentleman from California who I would hope would come here and state that, because they said they would not have voted for the Aspin amendment if the gentleman had not said that.

Mr. KRAMER. If the gentleman will yield further, you may be correct, but if that indeed is the case, we were sold a bill of goods, and that certainly, hopefully, is not what the understanding is. Perhaps someone can clarify that.

Mr. DELLUMS. If I might reclaim my time for a moment, I think that point has been made very clear.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. Let me just for a moment yield to my colleague, the gentleman from New York.

Mr. STRATTON. I appreciate the gentleman yielding.

Mr. Chairman, I just wanted to get the attention of the gentleman from Massachusetts (Mr. MAVROULES) who said that this discussion might be very helpful in connection with title X.

□ 1130

I would point out to him that the proposal of the chairman of the committee was that all debate on the first nine titles be completed in 10 hours, and, therefore, this debate is not going to have any impact on title X. We hope that by the time we get to the end of title IX we may have worn out some of our orators, but, if not, we will have to go over into tomorrow.

Mr. DELLUMS. Mr. Chairman, if I may reclaim my time, let me make a couple of quick points.

No. 1, the whole notion of nuclear superiority, in this gentleman's estimation, is a fleeting concept. What nuclear superiority means in the context of the 1980's is that one day we have a missile, the next day they catch up, and we go forward and they go forward. So the whole notion of nuclear superiority is a very fleeting concept and, in my estimation, a very dangerous one and finally a very absurd one.

With respect to the question the gentleman asked, with the Soviet submarines off the coast of the United States having a capacity to launch an attack against the United States or fire a missile 6 to 10 minutes from targets in the United States, we now have weapons targeted against them in 6 to 10 minutes.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 30 additional seconds.)

Mr. DELLUMS. Mr. Chairman, I just want to conclude this.

The point that this gentleman is trying to make is that we are making the world an insanely dangerous place. When we are placing weapons 6 to 10 minutes from each other, whether it is the United States or the Soviet Union, what I am saying is that we have achieved the level of insanity that we need to deal with. We are frightening our children to death with all this madness, and with a weapons system 6 to 10 minutes away, we are saying to our children, "You shall not achieve adulthood," and I think we have as adults a responsibility to say something much more intelligent and more

rational, and that means not deploying this weapon.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it always amazes me that the United States is the "insane" body that is leading us into a thermonuclear war and we continue to ignore what the Soviet Union is doing.

Two or three days ago we voted on the MX amendment, and in effect this is what it did—and I did not like that amendment. I did support it because it was the only game in town, and to get 15 missiles on a "come" basis rather than none was preferable to us doing nothing. But what that amendment did was in effect to give the Soviet Union veto power over our actions. If they come back to the conference table, even if they are not well-intentioned, they are going to be able to stop us from building those 15 missiles while they continue to build at a very, very rapid rate.

Let us look at what is really going on. I submit to my colleagues that they really ought to read this book, "Soviet Military Power." I know a lot of you say you have read it, but I do not believe you have. Now, let us just take a look at what is really going on.

To date the Soviets have deployed 378 SS-20 multiple-warhead weapons. That is an increase of over 40 in just the last year. Of these 243 are opposite NATO.

"The mobility of the SS-20 system enables both on-road and off-road operation.

"Force expansion is continuing, and the number of deployed SS-20 launchers could increase by at least 50 percent" within this decade. And they are doing it.

"In addition to the SS-20 force, the Soviets still maintain some 224 SS-4" intermediate-range ballistic missiles. By the end of 1983, all SS-5 intermediate-range ballistic missiles were being retired.

Now, get this: "In October 1983, NATO decided to withdraw 1,400 nuclear warheads from Europe. This decision will bring to 2,400 the total number of warheads to be removed from Europe since 1979. Moreover, the current reduction will reduce NATO's nuclear stockpile to the lowest level in over 20 years * * *."

At this precise time the Soviet Union is building at a very rapid rate, and they—NATO—are reducing their number of warheads. And this will not be affected by the deployment of the new Pershing II and ground cruise missiles, because one warhead will be removed for each Pershing II missile or ground-launched cruise missile during the deployment.

Now, what have the Soviets been doing in the meantime?

"The SCUD, normally deployed in brigades at army and front level, is expected to be replaced by the SS-23,"—another new weapons system—"a tactical surface-to-surface missile with improved accuracy and a range of 500 kilometers, versus the SCUD's 300 kilometers." So they are upgrading that system right now.

"The SS-12/Scaleboard missile, with a range of about 900 kilometers, is expected to be replaced by the SS-22 of similar range but greater accuracy.

"The Soviets are likely to improve the SS-20. They already have in advanced testing, and nearing development, ground-, air-, and sea-launched long-range cruise missiles. There is evidence they are developing a new short-range ballistic missile, possibly for deployment later this decade or in the early 1990's."

We all want to take these weapons apart. Nobody in their right mind wants a nuclear war. If I had my way, every nuclear weapon in the world would be taken apart today—not tomorrow but today. But the fact of the matter is if we are going to get a meaningful disarmament treaty with the Soviet Union, we are not going to get it by continually becoming weaker and weaker as they become stronger and stronger. Why would they want to negotiate?

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my friend, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I applaud the gentleman's statement about the dismantling of weapons, and I believe that is the gentleman's concept. But what I am suggesting to him is that in going forward with this concept of preparing for peace by preparing for war, you are doing two things: First, you are moving radically away from the notion of nuclear deterrence to the development of nuclear warfighting capability with enormously frightening implications.

Second, in modernizing the nuclear force, we are developing more exotic and sophisticated levels of nuclear technology that create enormous problems of verifiability, and the gentleman knows that the bottom line of any treaty relationship between the United States and the Soviet Union is that we have always insisted upon verification. We are developing weapons that go beyond verification, and, finally, we are deploying weapons that, as I pointed out earlier, have a destabilizing effect upon the world.

Mr. BURTON of Indiana. Mr. Chairman, let me reclaim my time.

There is an old adage that those who do not profit from history are destined to make the same mistakes over and over again. Prior to World War II Winston Churchill talked about the Communists and the Nazis.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BURTON) has expired.

(On request of Mr. DELLUMS, and by unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 5 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, Winston Churchill said in a major address in this country in 1938, "Does anyone believe that a call to military preparedness is a call to war? Quite the contrary," he said, "it is the only guarantee of peace."

I believe we should profit from history. If we are not prepared, if we do not have a nuclear deterrent force, then we invite aggression on the part of the Soviets when they perceive that they are so strong they can defeat us.

Let me just finish by saying one more thing. The gentleman talked about verifiability. The SS-20, with canisters and other types of reloading devices, is not going to be a single launching weapon, they are going to be able to reload it time and time again. So as far as verifiability is concerned, we have real problems right now, and the Soviets, to my knowledge, are not allowing a lot of on-site inspection, even with all the previous treaties we have negotiated with them.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield at that point?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

First of all, with respect to the issue of history, the gentleman cites 1930's history. We were talking then in the context of conventional war. As you and I stand on this floor, we are talking in the context of global, strategic nuclear war, and that is a very, very different thing.

I would remind my colleague that Einstein once said, "Once we develop nuclear capability, everything has changed on the face of the Earth except the way we think."

Mr. BURTON of Indiana. Mr. Chairman, let me reclaim my time.

I do not want to get into a philosophical discussion, but the times change, the methods of war change, and the magnitude of war changes, but the basic concept is the same, and what Winston Churchill was saying was that if you are not strong, you invite aggression. And for us to put ourselves in a weaker and weaker position I think puts us in a very untenable situation.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my friend, the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I appreciate the gentleman's yielding. I think perhaps for a second we ought to trace the statements of Soviet officials starting back in December 1977

when they first started to deploy the SS-20 missiles.

At that point, in December 1977, the Soviet Union had 600 warheads. We had zero in October 1979, Brezhnev said, and I quote, "A balance of forces has taken shape in Europe."

At that point they had 800 warheads. We had zero. Remember, in 1977 they had 600 warheads. So now they are up to 800 warheads in October 1979, and Brezhnev says, "A balance of forces had taken shape in Europe."

Then in October 1980, the U.S.S.R. negotiators said, "A balance now exists." They now have 900 warheads; we still had zero.

Then we go to February 1981, and there is Brezhnev again who says, "There is approximate equality now." They now have 1,000 warheads in Europe; we have zero.

□ 1140

Then we look at August 1982. Marshal Ustinov says, "Approximate parity of forces continues to exist today." At that point they have 1,200 warheads. We have zero.

Tass in October 1983 says, "Currently, existing parity." They now have 1,300 warheads in Europe. We have zero.

Then in January 1984, Pravda says, "Even today there remains an approximate balance." The Soviets have 1,400 warheads. We now have one battery of Pershing II's in West Germany.

So here are one, two, three, four, five, six, seven statements where the Soviets claimed parity existed when, in fact, it did not. Every time they said parity existed they went forward to build more with claims of "finally we have reached parity," all at the same time we did nothing. We did though enter into negotiations that called for elimination of all these weapons, intermediate range weapons in Europe. We were not met with any success.

As I have said before, it is the Soviets who left the table, not the United States.

I frankly think that now that we have started to deploy, come next year following this November election, we will see the Soviet Union back at the table. We will see them in hard negotiations with this country, but to go from 1977 when they had 600 warheads to January 1984 when they had 1,400 warheads, saying consistently, "Finally we have reached parity, finally we have reached parity," when we did nothing, I think it certainly makes good sense for us along with our NATO allies to meet this threat and to give them a reason to come back to the table and negotiate.

I appreciate the gentleman yielding.

Mr. BURTON of Indiana. Mr. Chairman, I thank my colleague from Ohio.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I appreciate the gentleman's point of view and I believe he is sincere when he says that he does not want to see or like to see nuclear warheads dismantled. I think the question is, how do you get there from here?

Let me ask the gentleman about Brezhnev's offer in 1979 prior to the cruise and Pershing, that he would limit the number of SS-20's to 81.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(At the request of Mr. DOWNEY of New York, and by unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 3 additional minutes.)

Mr. DOWNEY of New York. Mr. Chairman, if the gentleman will yield further, it seems to me that notwithstanding the fact that we have to be strong, because I believe we do and I also believe that we are, that there is something about the recent pattern of events that would suggest to us that our effort to offset Soviet SS-20 deployment with more weapons of our own has not led us (A) to reduce the SS-20's; and (B) has not led us to very meaningful discussions in the way of arms control.

I am not trying to pin the gentleman down. I really want to get the gentleman's perspective as to whether or not he thinks it would have been better in 1979 to accept the 81 SS-20's and the existing SS-4's and SS-5's that eventually would have been deactivated, or is it better in the long run, in the gentleman's view, to suffer the consequences of having the Soviets build more SS-20's, SS-22's, SS-23's, and SS-24's, as well as put the Pershings and cruise into our arsenal.

Mr. BURTON of Indiana. In answer to the gentleman's question, I was not at the talks that took place at that time. Our negotiators felt, and the President of the United States who was privy to those negotiations, felt that it was not in our national interests or the interests of our allies to negotiate that agreement at that time.

Now, hindsight is 20/20. Maybe in retrospect it should have been done, but as I said, I was not privy to those negotiations.

Mr. DOWNEY of New York. The only point I want to make, and the gentleman from Ohio has made it in a way, is that it seems to me—and I am not just blaming the United States, we can argue that the United States because we are a great free nation that that is our strength, and that is why the Soviets in my view are inevitably flawed to make more and more mistakes, because they are a closed society—but the consequences of both our actions have made us both weaker and have made the situation more dangerous.

I agree, they have to show some restraint at some point or there cannot be negotiations. The point I just come back to, especially in the area of the SS-20's, is that our deployment has not led them to reduce theirs and it has not led us any closer to a situation where there is not going to be war in Europe.

Let me make one other point and I will not trespass on the gentleman's time any more. This idea that we have no warheads in Europe, which is constantly discussed, is just inaccurate. We have never decided to have land-based missiles there because we have agreed that an attack on West German soil would be the same as an attack on the United States and we could respond from weapons in our country, and this recoupling is only done really to assuage European concerns, so I really wish we would get away from this notion that they have x number of land-based missiles and we have none, because nobody argues that the strategic balance is altered one way or the other by a couple hundred SS-20's, Pershing II's or cruise missiles.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman.

I just would like to say, the Soviet Union has built at an extremely rapid rate. Our building in NATO has been virtually zero until the deployment of the Pershing II and ground missiles, so we are still not at parity as far as those weapons are concerned.

I just would like to make one final point, if I may, Mr. Chairman, and that is this is not a unilateral decision on the part of the United States of America. Germany, Great Britain, Italy, and other allies of ours have said that in order for there to be security for their countries, they had to have the deployment of the Pershing II and ground cruise missiles; so it is not a unilateral decision that we made and I think that we ought to work with our allies to make sure that they are secure and the world is secure from further Soviet aggression.

Mrs. BOXER. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I will be happy to yield to my friend, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for yielding.

This gentleman would like to make just one additional point. Just a few days ago the Soviet Union indicated that they had deployed a number of additional submarines off the coast of the United States as a response to the U.S. deployment of Pershing and cruise missiles in Europe.

The second point they made was that in any nuclear exchange that

they would be forced not only to respond to the point of origin of the missile, but respond to the point of origin of the decision, which means that they would then respond not only to Europe, but they would respond to the United States; the point being that there is no such thing as a limited nuclear war, that once you start down that road, you are going to engulf the entire world in thermonuclear war.

It seems to me the intelligent response to my colleague's argument about intermediate range warheads in Europe is that intermediate range warheads are an absurdity. Once you trigger a nuclear weapon, we are going to go to strategic nuclear war and you are going to change the world as you know it with tens of millions of human beings dying; so playing this game of how many intermediate range weapons are in Europe is like talking about how many angels dance on the head of a pin. It is absurdity. It is irrelevant. It is unnecessary. We are talking about a much larger danger, a danger that engulfs the world.

I thank the gentlewoman for yielding.

Mrs. BOXER. Mr. Chairman, I was happy to yield to my eloquent colleague, the gentleman from California.

Mr. CHAIRMAN. I am here to support the amendment that is before us by the gentleman from Washington. I want to address first the issue that has been continually raised by those who oppose this amendment, that we are negotiating right now from weakness and therefore we must move forward with all these programs.

Now, if I did not know where I was, I would think I was Alice in Wonderland. I want to spend a couple minutes looking at this so-called weakness.

I am very shocked that my friends on this side of the aisle who have spoken today perceive us as weak. So let us take a look at how weak we are or how strong we are.

I want you to know that today the United States can inflict 1 million Hiroshimas on the world. So can the Soviet Union.

I want you to know that considering our nuclear arsenal today, we are ready to fight 6,000 World War II's. So can the Soviet Union.

And finally, the United States today has the capability now to destroy 50 billion people, and so can the Soviet Union.

My friends, there are only 4.4 billion people in the world today. What are we doing, in the name of God?

If we keep this up, the meek will never even have a chance to inherit the earth.

I listened to the President very carefully and he says he is not afraid of the submarines off our coast. He said with some humor, "If I were afraid, I couldn't sleep here in the White House."

Well, I am afraid and I think the American people are afraid. That is why I am supporting this amendment, because this amendment makes the risk of triggering that holocaust far less than it would otherwise be.

So let us talk about this amendment, not what you think it is, but what it really is, and I want to read what it really does.

The amendment requires the President to notify a Congress immediately after April 1, 1985, whether the Soviet Union has acted to further control and limit intermediate range nuclear missiles similar to Pershing II.

□ 1150

If the President finds they have acted, we will not deploy. If he does not and the Congress agrees, we will deploy.

So what it does, my friends, is it gives us one more chance to cast a vote on this very important issue without losing any of our strength, without giving up one thing that enables us to destroy every man, woman, and child on this Earth over and over again.

Mrs. SCHROEDER. Will the gentlewoman yield?

Mrs. BOXER. I am happy to yield.

Mrs. SCHROEDER. I really want to congratulate the gentlewoman from California on a very, very eloquent statement. I think you are bringing us back to reality.

We get off on to all of this stuff about what weapons the other side has and we forget to look at what both sides have. I think you are putting that into context and I really compliment you for your very, very excellent statement.

Mrs. BOXER. I thank the gentlewoman. The gentlewoman has been one of my inspirations in the House.

Mr. LOWRY of Washington. Will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. I would like to thank the gentlewoman for an excellent statement in support of this amendment.

The objective of this amendment is somebody has to make the first step to get us back to arms control. It must be done and if the argument was correct for the Aspin-Pritchard-Price amendment on the MX then it has to be correct on the Pershing II.

I thank the gentlewoman for her contribution.

Mrs. BOXER. I am very pleased at the gentleman's remarks and again I praise him for this amendment because what this amendment does, ladies and gentlemen, is very, very important. We are caught in a difficult situation with respect to Europe because the people of Europe in poll after poll have shown that they do not want these missiles on their soil. Not all of them, but most of them. They do not want them. They are afraid.

The CHAIRMAN pro tempore (Mr. PICKLE). The time of the gentlewoman from California (Mrs. BOXER) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mrs. BOXER was allowed to proceed for 2 additional minutes.)

Mrs. BOXER. They would rather see negotiations.

But yet the governments at this point are still pursuing them with the exception of a couple of governments that look like they are changing their mind. It does put us in a very difficult position because we have to deal with those governments and not directly with the people of Europe.

So it puts us in a difficult bind. And the reason I so applaud this amendment is that it gives us time.

Let us wait and see what those governments decide. There seems to be more discussion within those European governments about a better way to proceed.

This amendment is a wise amendment. It is wise for us.

Last year I was visited by some people from Europe, women of all political persuasions. They begged me and they said: "If you do nothing else, please delay this deployment. We feel there is a better way."

Mr. Chairman, whether it is in Central America or the Middle East or in Europe the world is at a very troubled time. I think by supporting the Lowry amendment we lose absolutely nothing and we gain the time so that sanity on both sides can come to the table.

Mr. DELLUMS. Will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman.

Mr. DELLUMS. I thank the gentlewoman for yielding briefly to me.

I realize that the debate is closing and I simply would like to add this one very simple, yet I think pointed, comment. We are prepared in this Chamber to make decisions that risk war. It would seem to me that we ought to be willing to make decisions that risk peace.

I certainly think that the benefits of the latter certainly outweigh the former, and I think that is a terribly important statement.

I thank the gentlewoman for yielding.

Mrs. BOXER. I agree with the gentleman and thank him.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. LOWRY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. LOWRY of Washington. Mr. Chairman, I demand a recorded vote,

and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 165]

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Sabo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

□ 1210

The CHAIRMAN. Four hundred thirteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Washington (Mr. LOWRY) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 122, noes 294, answered "present" 1, not voting 16, as follows:

[Roll No. 166]

AYES—122

Ackerman
Addabbo
AuCoin
Bates
Bedell
Beilenson
Berman
Bonior
Bonker
Bosco
Boxer
Brown (CA)
Burton (CA)
Carr
Clarke
Clay
Conte
Conyers
Coughlin
Coyne
Crockett
Daschle
Dellums
Dicks
Dorgan
Downey
Durbin
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IL)
Fazio
Feighan
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gibbons
Goodling
Gray
Hall (OH)
Harkin
Hawkins
Hayes
Jacobs
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levine
Long (MD)
Lowry (WA)
Markey
Martinez
Matsui
Mavroules
McKinney
McNulty
Mikulski
Mineta
Moakley
Moody
Morrison (CT)
Mrazek
Nowak
Oakar
Oberstar
Obey
Ottinger
Owens
Panetta
Paul
Penny
Rangel
Ratchford
Rodino
Roybal
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sikorski
Staggers
Stark
Stokes
Studds
Swift
Torres
Torricelli
Towns
Udall
Vento
Walgren
Waxman
Weaver
Weiss
Wheat
Williams (MT)
Wirth
Wolpe
Wyden
Yates

NOES—294

Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Badham
Barnard
Barnes
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Borski
Boucher
Breaux
Britt
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (IN)
Byron
Campbell
Carney
Carper
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Conable
Cooper
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daub
Davis
de la Garza
Derrick
DeWine
Dickinson
Dingell
Donnelly
Dowdy
Dreier
Duncan
Dwyer
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fascell
Fiedler
Fields
Fish
Flippo
Franklin
Frenzel
Frost
Fuqua
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gore
Gradison
Gramm
Green
Gregg
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kazen
Kemp
Kindness
Kleczka
Kramer
Lagomarsino
Lantos
Latta
Leath
Lent
Levin
Levitas

Lewis (CA)	Ortiz	Smith (NE)
Lewis (FL)	Oxley	Smith (NJ)
Lipinski	Packard	Smith, Denny
Livingston	Parris	Smith, Robert
Lloyd	Pashayan	Snowe
Loeffler	Patman	Snyder
Long (LA)	Patterson	Solarz
Lott	Pease	Solomon
Lowery (CA)	Pepper	Spence
Lujan	Perkins	Spratt
Luken	Petri	St Germain
Lungren	Pickle	Stangeland
Mack	Porter	Stenholm
MacKay	Price	Stratton
Madigan	Pritchard	Stump
Marlenee	Pursell	Sundquist
Marriott	Quillen	Synar
Martin (IL)	Regula	Tallon
Martin (NC)	Reid	Tauke
Martin (NY)	Richardson	Tauzin
Mazzoli	Ridge	Taylor
McCain	Rinaldo	Thomas (CA)
McCandless	Ritter	Thomas (GA)
McCloskey	Roberts	Traxler
McCollum	Robinson	Valentine
McCurdy	Roe	Vander Jagt
McDade	Roemer	Vandergriff
McGrath	Rogers	Volkmer
McHugh	Rose	Vucanovich
McKernan	Rostenkowski	Walker
Mica	Roth	Watkins
Michel	Roukema	Weber
Miller (OH)	Rowland	Whitehurst
Minish	Rudd	Whitley
Molinari	Sawyer	Whittaker
Mollohan	Schaefer	Whitten
Montgomery	Schulze	Williams (OH)
Moore	Shaw	Wilson
Moorhead	Shelby	Winn
Morrison (WA)	Shumway	Wise
Murphy	Shuster	Wolf
Myers	Siljander	Wortley
Natcher	Simon	Wright
Neal	Sisisky	Wylie
Nelson	Skeen	Yatron
Nichols	Skelton	Young (AK)
Nielson	Slattery	Young (FL)
O'Brien	Smith (FL)	Young (MO)
Olin	Smith (IA)	Zschau

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—16

Collins	Lundine	Ray
Dixon	McEwen	Russo
Fowler	Miller (CA)	Sensenbrenner
Hall (IN)	Mitchell	Sharp
Hance	Murtha	
Hansen (ID)	Rahall	

□ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell for, with Mr. Ray against.

Mr. Dixon for, with Mr. Hance against.

Mr. MARKEY changed his vote from "no" to "aye."

Mr. REID changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 10, line 18, strike out "$25,243,200,000" and insert in lieu thereof "$25,256,200,000".

Page 11, strike out lines 19 through 22 and insert in lieu thereof the following:

(c) The Secretary of the Air Force may not make a contract for the procurement of aircraft engines unless the amount under the contract for the warranty required by section 797 of the Department of Defense Appropriation Act, 1983 (as contained in section 101(c) of Public Law 97-377), or section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), does not exceed 10 percent of the total contract price.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Chairman, the President's budget request included $53 million for a warranty on 40 F-15 engines, the amount proposed by the contractor in the fighter engine competition. The committee felt that $53 million, which represented 40 percent of the cost of the engine itself, was just too much to pay for a warranty, and so H.R. 5167 deletes the $53 million and provides a waiver of the warranty requirement.

The gentleman from California (Mr. LEVINE) had earlier offered an amendment with respect to this particular issue, and in fact the gentleman's amendment has made us realize that perhaps we should deal with this problem even more than we had already done with our own legislation. This amendment in effect states that the Secretary of the Air Force cannot contract for the procurement of aircraft engines unless the amount under the contract for the warranty required by section 797 of the Department of Defense Appropriation Act or section 794 of the Department of Defense Appropriation Act for 1984 does not exceed 10 percent of the total contract price. And we have in effect adopted Mr. LEVINE's basic approach.

At this point I would be happy to enter into a colloquy with the distinguished gentleman from California who brought this matter to the attention of the committee, for which we thank him very warmly.

I yield to the gentleman from California (Mr. LEVINE).

Mr. LEVINE of California. I thank the chairman very much and I thank him for his leadership on this. I would like to ask the chairman a couple of questions with regard to this amendment that he is now offering.

As the gentleman has indicated, I had intended to offer an amendment to the Defense authorization bill today to strike the warranty waiver for the Air Force F-15 fighter engines and to require the Air Force to renegotiate with Pratt & Whitney to obtain a warranty at a cost no greater than 8 percent of the price of the contract. Would the gentleman from New York describe the committee amendment that he is offering at this point?

Mr. STRATTON. Yes; I would be very happy to do so.

As I have indicated, in addition to striking the warranty waiver for the Air Force F-15 fighter engines, which the gentleman's amendment originally would also do, which in fact would to a large extent have let Pratt & Whitney off the hook on a warranty when the cost is excessive, our committee amendment requires the Air Force to negotiate with Pratt & Whitney to obtain a warranty that would cost no more than 10 percent of its contract price.

In addition, Mr. Chairman, the committee amendment sets a ceiling of 10 percent on all Air Force engine warranties, not just those provided by Pratt & Whitney.

Mr. LEVINE of California. Is it the intent of the gentleman's amendment both to preserve a strong warranty law and to prevent contractors from asking exorbitant prices for their warranties?

Mr. STRATTON. Yes. The gentleman is absolutely correct. That is the precise intent of our amendment. It is to maintain pressure on the Department of Defense to acquire warranties at a reasonable price. We have no difficulty with the idea of the warranty, but we do not think that a manufacturer should require the kind of expense on the warranty that was required in the case of Pratt & Whitney, where the cost of the warranty was about a third of the cost of the engine itself.

Mr. LEVINE of California. I would like to commend the gentleman for his amendment. The committee had been placed in a very difficult position when Pratt & Whitney attempted to charge $53 million for its warranty. The committee was asked to accept something that simply was unacceptable. I think that the gentleman, in offering this amendment, has crafted a method of doing the correct thing, and that is to preserve the warranty requirement and at the same time reject the exorbitant cost that would have been attached to this particular warranty.

In light of the gentleman's explanation, which I appreciate and respect, I will have no objection to this amendment.

I would like again to thank the gentleman for his leadership and support. I will not offer my amendment and instead will support the gentleman's amendment and urge my colleagues to do the same.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. Mr. Chairman, I just want to commend the gentleman from California for his leadership in this matter and in fact I think, as he

has indicated in some informal conversation, this amendment applies only to the Air Force aircraft. At some later time the committee will I think want to discuss the subject of other warranties and their possible costs. We appreciate the gentleman's help.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Ohio.

Mr. KASICH. I appreciate the gentleman's yielding, and I want to first of all commend the chairman of the House Procurement Subcommittee, one of the finest Members of the House of Representatives, and to also commend the hard work and persistence of the gentleman from California.

As our chairman points out, and I am sure the gentleman from California (Mr. LEVINE) would agree with this, this issue of warranty is something that we are going to have to hammer out. As we had our first hearing in the subcommittee on the whole warranty question, there were some fireworks in that meeting. And this should serve as a message to those who want to stand in the way of warranties that we mean business in this House, that we are willing to listen to reasonable arguments about when it should apply and when it should not; but the thrust of this is that we need warranty legislation; we need tough, firm warranty legislation, and I am confident that the chairman of the Procurement Subcommittee will call further hearings, in connection with Mr. NICHOLS, so that we can arrive at what I think is a very strong but fair warranty law.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New Jersey.

□ 1230

Mr. COURTER. I thank the gentleman for yielding.

Mr. Chairman, I would like to congratulate both the gentleman from New York and the gentleman from California, who have both been very much involved with the warranty issue in hammering out this particular compromise on this particular area. I think it is important that both sides of the debate, both parties, recognize that validity of warranties across the board, and I think that type of a compromise that the two gentlemen have worked out is in the best long-term interest of getting a Defense Department that is responsive to the needs of the American taxpayer.

I congratulate both gentlemen. I am very much in favor of the compromise.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. MORRISON of Connecticut and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I would like also to join in commending the gentleman from California and the gentleman from New York for their very balanced approach in dealing with what initially was a serious problem. There was clearly a conflict between the need to have an adequate warranty and the price of the warranty that was initially requested by the contractor, Pratt & Whitney, a price which is unreasonable and should not be funded by this Congress.

I have had repeated discussions with Pratt & Whitney, which has a larger facility in my district about the need to resolve this problem, and I know that they are satisfied with the proposal advanced by the distinguished chairman of the Procurement Subcommittee.

I want very much to thank the gentleman from New York and the gentleman from California for the cooperative way in which they have resolved this issue.

We have preserved the principle of the warranty, and yet we have done it in a way that is cost effective. I am pleased to support this amendment.

Mr. STRATTON. I thank the gentleman for his remarks, and I hope that the action that we are taking here will in fact convince Pratt & Whitney that they would be better to come forward with more reasonable warranty costs.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. DURBIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to add my praise to your efforts to proffer this amendment to the body and also to my colleague, freshman colleague, MEL LEVINE. The New Members Democratic Caucus has made a special effort to make warranties part of this Department of Defense authorization bill. We were happy that the gentleman from New York has acceded to this request. We look forward to embodying this in the future.

Mr. Chairman, I would like to speak in strong support of this amendment.

This Congress passed a bill last year requiring that contractors include warranties on all major weapons systems—over the vocal objections of the Defense Department and industry. This bill, which was subsequently signed into law by the President, goes a long way toward curbing the well-publicized abuses in our defense contracting practices by requiring that manufacturers take responsibility for the weapons they produce.

Mr. STRATTON's amendment upholds that law by specifying that the Secretary of the Air Force may not sign a contract to procure any aircraft engines unless the cost of the warranty on the engine is less than 10 percent of the total contract price.

This amendment was spurred by the $53 million price tag which Pratt & Whitney placed on its warranty for the F-15 engines it will manufacture for the Department of Defense. This figure represents over one-third of the total cost of the engines. Many people's initial inclination was to grant Pratt & Whitney a waiver of its warranty requirement because the $53 million price was simply too high. While agreeing that this figure was indeed too high, many other people, myself included, feel that the way to address this warranty problem is not simply to bypass the law enacted just last year in forcing the Air Force to bear the risk of poor performance itself.

Waiving the warranty requirement for Pratt & Whitney would set a very dangerous precedent by giving the wrong message to industry. In allowing this waiver, Congress would be telling industry that placing an exorbitant price tag on a warranty will allow them to avoid taking responsibility for what they produce.

Mr. STRATTON's amendment allows no such waiver to take place. Instead, it requires that Pratt & Whitney renegotiate the price of its warranty with the Air Force. It also places a limit of 10 percent on the cost of all Air Force aircraft engine warranties. In doing so, it insures that the Congress upholds the law it passed last year by requiring that contractors guarantee the quality of the engines they produce.

I urge my colleagues to support this amendment as another measure to insure that our tax dollars are spent in a responsible manner.

Mr. STRATTON. I thank the gentleman.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. LEVINE of California. I thank the gentleman for again yielding.

Mr. Chairman, I would just like to add my thanks to the New Members Caucus and by our chairman, our colleague from Illinois, for his hard work; for all of our colleagues from Connecticut for working with the contractor and working with the committee, and to our colleagues on the other side of the aisle. Both our colleague from Ohio, our colleague from New Jersey, our colleague, Mr. CRANE, from Illinois; all of whom were very helpful on this issue.

I would like to add my thanks to them as well as to the chairman of the subcommittee for their meaningful and successful work in bringing this particular issue to a successful resolution.

Mr. STRATTON. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: Page 10, line 18, strike out "25,243,200,000" and insert in lieu thereof "18,140,600,000 none of which shall be available for the B-1B bomber program".

Mr. DELLUMS. Mr. Chairman, clearly we have gone around this bush a number of times. It probably would shock my colleagues if I got up and said, do you remember the eloquent speech that we made on the B-1B last year? Ditto on that this year with special emphasis, but that would be out of character. So let me summarize the arguments as to why I think we ought to oppose the B-1B program.

First, put the amendment in proper perspective. This is an amendment to title I procurement. By accepting this amendment, we cut $7,102,600,000 for the procurement of 34 B-1B planes and spare parts. For those colleagues who wish to reduce the deficit; for those colleagues who wish to be defined as fiscally conservative, this is the amendment that you are to grasp, because there is no military nor budgetary reason to go forward with the B-1B.

I would like to make several quick arguments. This weapon system is an unnecessary system; it is a wasteful system. It has no role, no multirole, it is too costly, and it is wasteful and expensive.

With respect to the first argument that this is an unnecesary system, the primary rationale for the B-1B bomber is to improve our strategic bomber force. Mr. Chairman, our present force of more than 300 B-52's and more than 60 FB-111's are more than adequate for the foreseeable future with respect to our "manned, penetrating bombers."

I would also add to that comment for those colleagues who believe we are to go forward aggressively with Stealth technology: It is anticipated that we will break through Stealth technology by the end of this decade. Query: Why do we need a B-1B program and a Stealth bomber program simultaneously? That is an argument, in my estimation for redundancy and an incredible waste of taxpayers' resources.

The second argument that I would make is that this is a wasteful system. It is anticipated, depending upon which expert's opinion one solicits, that we would not bring these planes on line until somewhere around 1988. That we would not be able to penetrate Soviet air defense beyond 1990. So we are talking about a fourth of 100 B-1B planes that may be useful in the context of how we are procuring them, for maybe 1 or 2 years. That, in my estimation, is extraordinarily wasteful.

With respect to the issue of no role and no multirole, in light of this shortcoming, the B-1B has been billed as a multirole plane. Here too, the B-1B is superfluous. It is expensive, it is too sophisticated a weapon system to then gut by the year 1990 to make it a cruise missile carrier. This is an absurdity. We are talking about a very sophisticated weapon system that by 1990 we would reduce to the role of a cruise missile carrier. We can use a number of other planes to act as a cruise missile carrier without spending this extraordinary amount of funds in order to do it. It duplicates existing and less expensive weapon systems if we attempt to use them in some theater context.

The weapon system is too costly, Mr. Chairman. The administration projects the cost of this plane to be $20.5 billion in 1981 terms. Now, the Office of the Secretary of Defense has now adjusted those figures and said, we believe the cost of this plane, in 1981 dollars, will be $26.7 billion. However, the Congressional Budget Office's projection placed the total expense of these planes at $398 million per plane, which means that the cost of this weapon system would not be $20.5 billion.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 2½ additional minutes.)

Mr. DELLUMS. The cost of this weapon system would not be $26.7 billion, but closer to $40 billion. Nearly $400 million per plane. This is an incredible, incredible cost. The Congressional Budget Office figures assume that the first bomber would be available by October 1986, and that the fourth would be completed by 1989, as we indicated, and that we probably would not be able to penetrate Soviet air defense beyond 1990. So we are talking about maybe a 1- or 2-year timespan for this incredibly expensive weapon system.

□ 1240

Judging by prior aircraft purchases, the total life cycle—and maybe this is a more realistic figure—the total life cycle cost of this plane will approach $100 million. Now we are talking about extraordinary amounts of money.

Finally, I do not believe that we will stop this assembly line after 100 planes. Can anyone tell me when we last stopped a major plane from being developed, when we actually shut down a line in someone's congressional district or in someone's State? Once in a great, great while. I believe that once we get to 100 B-1B's, someone will march into the well and say, "We need a few more," so the cost, it seems to me, will go even further.

Finally, it is too expensive. It is unwise, it seems to me, to risk a $400 million plane in some kind of theater mission.

To summarize: On both military and fiscal grounds, Mr. Chairman, there is no persuasive argument that one can make in favor of the B-1B plane. It seems to me that this is a ridiculous amount of money. Here is an opportunity for us to cut in excess of $7 billion. We cannot argue in support of it on military grounds, so it is a big boondoggle. It would seem to me in the context of a big boondoggle that is not necessary militarily, in the context of this Department of Defense authorization for fiscal year 1985 that we ought to be willing to stop a weapons system that has no military value, serves no military purpose for us.

We need the $7 billion against the deficit or against social programs to address the human misery in various forms that is visited upon the multiplicity of our constituency and here is an opportunity to do it, and I would hope my colleagues would join me.

Mr. DICKINSON. Mr. Chairman, I rise in opposition to the amendment.

Just very briefly, Mr. Chairman, we have plowed this ground many times before and I think we are pretty well familiar with the arguments that have been so eloquently espoused by my colleague from California. But just let me say, in regard to the figures that were used, we pegged this program at $20.5 billion 4 years ago. As of the last report we had in the last hearing, it is at or below this figure. It has not grown.

Five years ago, or six years ago, when it was canceled by President Carter, we were going to buy 244 B-1's at about the same figure. It was canceled. When it was revived again, we were going to buy 100, less than half, and for the same amount of money.

So as of right now we have over 50 percent of the total subcost already expended. After this authorization is passed today, and I hope it will be, we will be about 80 percent completed. So I think it would be very foolish indeed to throw away the tremendous investment that we have today. The first one will fly this coming September or October, the B-1B. We are about to start a good production line; the costs

are contained; they are just what they were represented to be. It is one of the best managed programs fiscally that the Department of Defense has ever done.

I think it would be terribly foolish to throw that all away, cancel it now, and support the gentleman's amendment. For that reason, I ask for a no vote.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield briefly to me?

Mr. DICKINSON. I would be pleased to yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman's argument with respect to costs. All this gentleman is asserting is the concept of cutting one's losses. I think that we started down this road and it was a mistake, and this gentleman is simply saying if it is a mistake, let us stop, let us get out, let us cut our losses, and if that means we have lost a few dollars, fine, but let us not continue to go down that course. That is all this gentleman is advocating.

Mr. DICKINSON. I understand the gentleman's statement.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be glad to yield to the other gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Chairman, I just want to rise in strong support of the gentleman's language. The program is below cost. They are moving rapidly to completion of the buildings. It happens to be in my district where the final assembly of the B-1 is taking place.

From all accounts, it is the kind of program that I think most of us who are looking for a good return on our investment of defense dollars would fine very appealing.

Mr. Chairman, the B-1B bomber is an integral part of President Reagan's program to modernize America's strategic deterrent. The aging B-52 bomber, originally designed as a high-altitude bomber, can no longer be safely relied upon to perform the primary mission it as been assigned—of penetrating the airspace of the Soviet Union.

In contrast, the B-1B was designed as a penetrating bomber to come in low under radar coverage. With the improvements that have been incorporated to reduce the B-1B's radar cross-section and enhance its electronic countermeasure capabilities, it will serve as a penetrating bomber well into the 1990's.

With America's ICBM force already dangerously vulnerable to a Soviet first strike, the manned bomber leg of our strategic triad must assume added responsibility in posing a credible deterrent to the Soviet Union. The B-1B bomber is the necessary aircraft for this crucial task.

I would hope that my colleagues would not be beguiled by the argument that we need to abandon the B-1B in favor of the Stealth bomber. The Stealth, we are told, is just over the horizon. But I fear, just like the horizon, Stealth will recede as we advance toward it.

Our strategic needs call for a manned penetrating bomber—now, not sometime in the future, and the B-1B is ready, on time, and under cost.

I would urge my colleagues to join with me in opposing this amendment.

Mr. DICKINSON. Let me say, Mr. Chairman, I just wish that every program that is on going in the Department of Defense, every weapons system, were nearly as good in cost containment and cost control as is the B-1 program. It is exemplary and I am glad to use this as an example.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to the gentlewoman from Maryland.

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Chairman, let me say first of all that it is not only in on cost, but it is under cost. Not only is it on schedule, but it is ahead of schedule. And not only needed, but it is very much needed.

I think this body has debated long and hard the fact that when this program was canceled several years ago that the need was still there, that now when it has been brought back time and time again that need has been documented time and time again.

Above and beyond that, we have already spent $14 billion on this program. Above and beyond that, there would be enormous cost at this time, with the first two aircraft nearing final assembly, to cancel a program at this time.

So I cannot agree with the gentleman from California. I am most strongly in support of the continuation of the B-1 program and project.

Mr. DICKINSON. I thank the gentlewoman for her remarks.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, I just want to associate myself with the comments of the gentleman from Alabama and with the gentlewoman from Maryland.

We have here a major weapon system which is ahead of schedule, below cost, and already has saved $500 million. It was aptly called a procurement success story in the February 8 Wall Street Journal editorial, and I think we need to learn from what has made this program such a success.

Let me say to the gentleman, and perhaps the gentleman from California would agree, the threat of canceling this major weapon system that has hung over the heads of all the contractors for years has probably been the greatest incentive for contractors to operate this program within budget. I think it is important that we take a look at the success story with the B-1B and extrapolate it to other major weapons systems.

Mr. JONES of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I think what has been said about the B-1 needs to be reiterated. The B-1 is a success story in a Pentagon often criticized for many cost overruns. This is a weapon system that is below cost and is ahead of schedule. It is a weapon system that gives us a dual capability of beefing up our conventional forces, and at the same time giving us a necessary nuclear capability as an important part of our triad system.

I think that is particularly important. In the triad system, the B-1 bomber is the only weapon system that can be recalled in case the tensions cool and we think we should not launch nuclear weapons. That cannot be said of an ICBM launched from a land-based site. So I think this B-1, having already demonstrated that it is economically efficient, that it does have the capability to penetrate Soviet defenses, that it is ahead of schedule and below cost, clearly ought to be included in this budget.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I would be happy to yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I would just like the gentleman to comment, if he would, that not only is this a strategic weapon, but it has other uses, too. It does not have to carry a nuclear bomb.

Mr. JONES of Oklahoma. I thank the gentleman, and I think that is one of the most important points here. Very clearly, anyone who has looked at our air capability recognizes that we have to have a follow-on bomber force to replace the B-52. The B-52's that are flying today often are older than the pilots who are flying them. What the B-1 gives us is both the conventional and the strategic capability. Our conventional airpower has to be improved. The B-1B will certainly do that.

□ 1250

Mr. DELLUMS. Mr. Chairman, will the gentleman in the well yield to me?

Mr. JONES of Oklahoma. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for yielding, and I simply ask this question:

When you emphasize the conventional role of the B-1B, what are we talking about here? Are we talking about this very sophisticated, strategic weapon flying over some Third World country and dropping conventional bombs? I mean what scenario can the gentleman conjure up that would allow us to use this incredibly expensive, very sophisticated strategic weapons system in some conventional situation?

I cannot think of one that would not conjure up horror in this gentleman's mind.

Mr. JONES of Oklahoma. Mr. Chairman, I think any type of use of a conventional or nuclear weapon conjures up horror in this gentleman's mind or in your mind. But I think in this particular case I can certainly envision the B-1B penetrating Soviet defenses in the near term, and I think, quite frankly, Stealth technology could be applied to the B-1B perhaps in the future at a cost much less than the Stealth bomber would be and also make it capable of penetrating Soviet defenses into the next century.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman.

Mr. JONES of Oklahoma. Mr. Chairman, the B-1 is a defense success story. And we need some successes, because all we read about and all our constituents hear about are the horror tales. We learn about 19-cent wrenches that cost us thousands of dollars. We see television specials on complex technology that just does not work. But we often overlook much of the good news.

Well, the B-1 is a weapon system that is ahead of schedule and below cost. It is a workable example of high technology that will improve our deterrence without creating instability between the United States and the Soviet Union—a weapon that can also improve our neglected conventional military capabilities and thus make early resort to nuclear weapons less likely.

Since we first voted money for the B-1B in 1981, opponents of this airplane have raised about every argument possible. I have listened carefully to these arguments, and I find that most of them just do not hold water.

For instance, how do you account for someone who says they favor realistic testing before buying a weapon system and who then opposes the B-1 which has thousands of hours of flight test?

Or people who say they want to control defense cost overruns, but then oppose the B-1 which is below cost? Instead, many of these critics say we should wait for Stealth, an airplane that has not been built, and whose cost is known but to God. Back in Oklahoma, we call that buying a pig in a poke.

Finally, I just do not understand the folks who say that we do not spend enough on conventional forces, but who then turn around and go against the B-1, which is the world's best conventional bomber, and say they want Stealth, which is designed only for nuclear warfare.

Our national security depends on a capable defense. Our defense must have reliable, workable weapons. But the weapons we build cannot put us in a position where they create instability or where our path to meaningful arms control is blocked.

We need the B-1 because the B-52 is too old and is unsafe for our airmen. The B-52 no longer makes the Kremlin worry as much as it used to about American air power.

We need the B-1 because Stealth is too far in the future. Stealth depends on uncertain technology, and it may be prohibitively expensive.

The B-1 is cost-effective. It is a smart investment, it can fly a wider variety of military missions than the B-52 or the Stealth. Most importantly, the B-1 can strengthen our neglected conventional forces, thus reducing the likelihood of nuclear war.

We know what the B-1 will cost. We know this because Democrats in the Congress insisted on a public law that instituted the most stringent cost-management program in history for a weapons program. The cost overruns that many people predicted just have not happend. All the evidence to this day says that the program is below cost. I think this is due largely to the eagle eye that we in Congress have kept on the B-1.

We know the B-1 will work. It has been tested under rigorous simulated combat conditions. We have over 2,000 hours of flight tests. As a matter of fact, over 37,000 miles have been flow—almost 1½ times around the world—over 37,000 miles have been flown at altitudes below 400 feet.

And often we overlook the B-1's strongest point. The B-1, unlike our missiles—the ICBM's and the submarine-launched missiles—offers us deterrence, survivability, and stability, all combined with the ability of recall. Even after launch from their bases, the B-1's can be called back if the crisis cools down. Not so the missiles. Once they are on their way, they can not be ordered back.

The B-1 is completely under human control at all times. With our very existence at stake, if we cannot beat all the swords into plowshares, the least we can do is to make certain that people, not computers, are in control of the weapons that defend our Nation.

Mr. LEWIS of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the gentleman's amendment.

I certainly appreciate the gentleman's viewpoint and where he is coming from, but I would like to ask my colleagues to consider two points:

America cannot afford not to build the B-1 bomber; America cannot afford to stop the cost-effective funding strategy for this procurement.

America cannot afford not at this point in time to build the B-1 bomber. To give up on the B-1 bomber and wait until the Stealth comes on line is a bad decision. It would mean that we would stay with the B-52 for at least 20 more years.

Nothing could be more foolish, nothing could be more expensive, and certainly nothing could be more dangerous than to stake our Nation's security on a fighter-bomber or a Stealth with a low radar signature when we do not know at this point when it would come on line or be produced.

We do not know when the Stealth will fly. We do not know how much the Stealth will cost, and, on the other hand, the B-52 certainly needs to be replaced. It was originally designed in the 1940's as a propeller-driven bomber. The newest of the big planes is now almost 20 years old. They average 25.7 years while the pilots who are flying them average 25.

When one of these pilots graduates from high school, many, many times they wind up with a new car, but when they graduate from flight school in the U.S. Air Force, we give them an antiquated bomber.

If we modify the B-52, its capability will still be limited. We must continue the B-1 program because it will use the best technology and equipment available for our Naiton's defense. America needs this multirole bomber whose advanced electronics and capability to perform a variety of missions will take us well into the 21st century, at least maybe another 30 years.

I want the Members to look at the B-1 bomber's merits. It carries a greater payload than the B-52. It is faster and requires a shorter takeoff time than the B-52. It can penetrate sophisticated air defense systems, and it can provide necessary air support and defense in a variety of strategic situations.

Mr. Chairman, Congress cannot afford to stop the cost-effective funding of the B-1. This funding strategy calls for a 5-year procurement which saves money down the road. Thanks to good management by DOD, the Air Force, and the contractor, we have a major weapons system running ahead of schedule and below cost. It is at

least 6 months ahead of schedule and approximately 3 percent below cost.

However, if we interrupt the funding strategy again, as was done a few years ago, then Congress deserves the blame for a program-busting cost overrun.

For those who want to keep defense costs down, if you vote for the amendment, you will destroy the cost discipline in a program that is ahead of schedule and under cost.

Mr. Chairman, I urge my colleagues to defeat the amendment before us so that we can continue to modernize our bomber fleet at the lowest possible cost and provide the greatest security for this nation.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the principal problem with the B-1 is not an arms control problem, it it merely a matter of money. There is nothing wrong with it as a weapons system as weapons systems go. The problem is that it is not the right weapons system at the right time.

Earlier this year, I placed in the RECORD—and I have copies here if anyone wants to see them—three brilliant articles by one of the reporters for Knight-Ridder newspapers about how the B-1 emerged from the ashes after President Carter thought he had canceled it. The title of the series is, "B-1, the Plane That Could Not Be Shot Down."

The articles were a classic case history of how a determined group of members of the military-industrial complex organized to foist an unneeded and costly weapons system on the American people even though the commanding general of the Strategic Air Command, Gen. Richard Ellis, and many other experts opposed it.

It is a story of manipulation, conflicts of interest, falsified cost estimates, and, above all, masterful political organization on the part of the prime contractor, Rockwell International Corp.

In the process, the cost per plane has gone from $29 million in 1969 to $390 million in November 1981, according to the most recent Congressional Budget Office estimate.

Thirteen years ago, I participated in an analysis of the B-1 bomber which concluded that, while in some respects it was an improvement over the B-52, it was not needed, it was technologically obsolete, and it would be immensely expensive. In the 13 years that have intervened, nothing has happened to change our original conclusions, except that the cost has escalated and the plane has become even more obsolete and less mission-capable.

If we ever needed an example of how the Pentagon wastes billions of dollars on weapons systems which add only marginally to our defense needs, the B-1 bomber is it.

Mr. Chairman, let me just read a couple of paragraphs from the first of the articles that I introduced in the record. I am quoting:

As the story of the B-1 illustrates, this close alliance—christened the "military industrial complex" by President Dwight Eisenhower—has developed a weapons-buying system that produces profits and promotions in peacetime, even if it provides questionable tools for war.

It is an alliance that is well beyond checks. Indeed, the defense establishment has become so powerful that in the case of the B-1, even Defense Secretary Caspar W. Weinberger got only the answers the plane's proponents wanted him to have when he questioned the wisdom of buying the bomber.

The Air Force's premier B-1 proponent, Lt. Gen. Kelly Burke, deputy chief of staff for research, development and acquisition orchestrated acceptance of the bomber within the Pentagon before he retired. Then he accepted a White House job as a consultant on strategic and space systems, and hired on as an adviser to Rockwell International which in addition to its lion's share of B-1 contracts, has big interests in military satellites and strategic weapons.

But that "ain't" all. The story that the articles brought out can only bring one to the depressing conclusion that deception of Congress and conflicts of interest by high military and civilian officials have become a way of life at the Pentagon. It is a story of the stacking of a supposedly objective Science Advisory Board to produce biased results, of the exclusion from its sessions of civilians and generals alike who dissented from its preordained conclusion, of the diversion of money from the Stealth bomber project to make the B-1 budget look smaller than it really is and even of the development of two different cost estimates, one that showed the "official" cost, and the other what the planners really thought it would cost. The technique is reminiscent of the "dual system" of reporting which the military used during the Vietnam war to deceive Congress and the public and conceal the fact that the Air Force was secretly bombing Cambodia.

All in all, the article says, $5 to $7 billion have been shifted from the B-1 to other accounts or obtained from the top secret Stealth technology accounts to conceal the true cost of the B-1 project.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, the article points out that Lt. Gen. Kelly Burke, who masterminded the project, has since retired and is now a lobbyist and consultant for Rockwell International, the prime contractor on the B-1, although he failed to report that fact for 9 months after becoming a consultant while he was an adviser to the White House on the military uses of outer space.

Most discouraging of all, the article points out that if Secretary Weinberger, who initially opposed the B-1, had ever decided to challenge the project, he would have found if difficult to find the resources, accountants, or military experts to develop a case, since he himself downgraded the Defense Department's Planning, Analysis and Evaluation Office, and demoted its chief executive from an Assistant Secretary to a mere director.

□ 1300

That office had come under attack in the 1980 Republican Party platform in a section written by John Lehman, who was then a consultant for several defense contractors and is now Secretary of the Navy.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I would be happy to yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I thank the gentleman for yielding.

Is the gentleman aware that the first one of the B-1B's will be rolling out in September? The plane is coming off the assembly line and it will be continuing to come off.

Is the gentleman also aware that if the Dellums amendment were enacted, which would cancel the whole contract for the B-1, that the cancellation costs add up to $2.5 billion? Does the gentleman want to add that amount of money to the defense budget?

Mr. SEIBERLING. I am not a defense specialist, but I will concede for the sake of argument that that is the case. However, we are talking about a program that if we carry it through, just the initial cost is going to be $40 billion. Subtract $2.5 billion from that and you will still have a savings of $37.5 billion. That is the cost of the planes, and over the lifetime of the systems, you are talking about $100 billion when you add in the operating costs.

Furthermore, the B-1 is taking money that is preventing the accelerated development of the Stealth bomber and that is what I want to get into next.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Sure; I would be glad to yield.

Mr. DICKINSON. For several years, General Burke came before our Research and Development Subcommittee. I always found him a very forthright, capable, professional military officer, one in which our committee, as far as I know, had the highest regard.

By the statements of the gentleman from Ohio, the gentleman has implied

as far as I can gather, that he has done something either illegal or unethical.

Mr. SEIBERLING. I simply stand on the facts as I stated.

Mr. DICKINSON. The gentleman is hiding behind somebody else's article that we cannot even get to to question.

What I am saying, I think this is a slur. I think it is improper for us to infer something from some newspaper article.

If the gentleman has got something to say, if it is illegal or unethical, he could take it to the Justice Department. He could take it anywhere, but for the gentleman to come down here and wave a newspaper account of what somebody else said, that nobody else can answer, I just do not think it is the proper thing to do.

Mr. SEIBERLING. Well, I have not said that he has done anything illegal.

Mr. DICKINSON. No, the gentleman has not said it, he just read an article where somebody else implied it.

Mr. SEIBERLING. The article did not say General Burke had done anything illegal. It merely stated certain facts.

Mr. DICKINSON. Well, what else can we draw from it when the gentleman says that he went to work at the White House. What is wrong with that? Then he went to work for Rockwell. What is wrong with that?

The implication is there that he might have done something improper. I am asking the gentleman, is that what the gentleman is trying to imply, that he did something illegal or unethical? If so, state it.

Mr. SEIBERLING. All right. I will say it flat out. I think the system whereby high ranking officers and civilians in the Pentagon, when they retire go and become consultants and lobbyists for the very people whom they worked with in developing a weapons project, is not only unethical, it is one of the greatest scandals that is facing this country right now.

I have not said it is illegal, but it is wrong.

General Burke's action is just one of many.

Mr. DICKINSON. The gentleman is entitled to his opinion, but I do really think the gentleman is besmirching the character and reputation of an outstanding general and someone in whom we have a great deal of confidence, built over years of activity in dealing with him. I just think the gentleman is not treating the man very fairly.

Mr. SEIBERLING. I am not making a personal criticism of him. I am making a criticism of the whole system.

Mr. DICKINSON. How else can we take it when the gentleman reads his name and makes the statements that he has made?

Mr. SEIBERLING. All I can say is that if he thought he was being libeled, why did he not sue Knight-Ridder Newspapers?

Mr. CONYERS. Mr. Chairman, will the gentleman from Ohio yield?

Mr. SEIBERLING. I will be happy to yield.

Mr. CONYERS. I just wanted to say, I have observed the gentleman's performance here and listened carefully to him. He recited the facts which I do not think anyone has disputed here. They sounded reasonable.

I think that there was nothing said that was intended to be defamatory or derogatory, but the process is what the gentleman is talking about.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield.

Mr. CONYERS. I think what the gentleman is suggesting is the process. He has not impugned the integrity or the honor of anybody to whom he has referred.

As one who has been embarrassed by this incestuous relationship between the military and the manufacturers who change uniforms and become lobbyists, who become representatives, after having worked in their military career on the same weapons with frequently the same people, is an incestuous relationship which I applaud the gentleman for bringing to our attention. Some day it will be illegal. I would like to help make that day come.

Mr. SEIBERLING. It is a national scandal and a disgrace and one of the reasons for the tremendous costs of our defense program.

I thank the gentleman.

Let me also mention another general.

Gen. Richard Ellis, the former commanding general of the Strategic Air Command—and I assume the gentleman from Alabama has a very high regard for his professional capability—General Ellis opposed the B-1 bomber, and after he retired, he came in person to my office and he said, "Congressman, I just came here to tell you one thing. You have been right all these years in opposing the B-1 bomber. It is a waste of money, and furthermore it is preventing us from developing the Stealth bomber as soon as we should, which is something we really will need in the 1990 timeframe."

So I submit that even some of the top ranking Air Force generals concede that this is a wasteful weapons system.

Now, I do not blame the gentleman from California (Mr. THOMAS) or the gentleman from Kansas (Mr. GLICKMAN) for supporting this program. It means a tremendous influx of money and jobs into their particular congressional districts. But North American-Rockwell did not let it stay at that. They worked out a subcontracting system so that a piece of this project goes into 48 of the 50 States of the Union, so that there is hardly a State in the Union that does not have a piece of this contract, and that includes my own congressional district. That is one of the ways they sell these things to Congress, and that is another scandal, that we are allowing this engine of spending taxpayers' money for defense programs to be used to propagandize and lobby and manipulate the Congress so that it continues in a self-perpetuating machine that President Eisenhower himself described in the classical phrase, "Military-industrial complex."

If the B-1 bomber is not exhibit A of the workings of this, then I do not know what is.

Let me just say one other thing on this score. Not only that, but the way the thing has been structured by North American-Rockwell, according to the Knight-Ridder articles, is that in the last year of the contract, they will be making 48 planes and when they end those 48 planes, does anyone suppose that this Congress is going to say, "Well, we are going to terminate it. We built a hundred B-1's"?

No. North American-Rockwell is counting on the fact that we will not want to put all those people out of work just like that and they will sell another 50 or 100 planes, and that is the way the system works.

Let me just say one other thing, and then I will yield.

When I first came to Congress, Rockwell came to me to try to show how much of the business would come to my district. Does anyone think they did that just to be polite? After their visit, I had a calculation made by my staff, using Defense Department and other information, the best we could get, and it showed that the cost to the taxpayers in the district was far greater than what came back to businesses in the district. Recently, I had an updated calculation made, with similar results. It showed that while the B-1 will produce for this coming fiscal year $5 million worth of contracting in my congressional district, it will cost the people of my congressional district an estimated $18 million, for a net loss of $13 million. That $13 million could do a lot of things for the people of my congressional district or any congressional district. That is the real fact of each congressional district in this country, with the exception of a very, very few that get a huge bonanza. I will concede that Columbus, Ohio, and the Los Angeles area will get a huge bonanza from this project; but the rest

of the country is being drained dry by this and other wasteful programs that contribute only marginally to our defense needs.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be happy to yield to the gentleman.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding. I think he is making a terribly important point and has made a number of important points throughout his presentation, but with respect to this issue of jobs in the various congressional districts, I have told the story once. Let me tell it again very briefly.

I recall a few years back when the major contractors for the B-1 bomber came to the California delegation, the Democratic members of the California delegation.

The CHAIRMAN pro tempore (Mr. PANETTA). The time of the gentleman from Ohio has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield further, when the contractors came before the Democratic members of the California delegation with a very sophisticated presentation in defense of the B-1 bomber, at that time the total program was $20.5 billion.

The contractors were going through their flip charts and just before they got to one, they said, "And the gentleman from California"—referring to this gentleman—"would be very interested in the following chart," and he flipped the chart and it said, "This program will generate 125,000 jobs and this is why you should support this B-1 program."

□ 1310

I said, "Well, with very simple mathematics, if we wanted to employ 1 million people and pay them $20,000 a year to do a variety of public service work, we would have $500 million to administer the program, we could put 1 million people to work at $20,000 a year, generating income in the economy. Or if we wanted to reduce it to $10,000 per year, we could generate 2 million jobs."

The gentleman's face turned red, and he said, "I understand the point the gentleman from California is making and I think you make a very good point."

We should never try to justify a weapons system based upon how many jobs it would generate, 125,000 jobs, $20.5 billion, but whether or not we need the program. That is the bottom line.

I do not believe that we need this program. We have changed in our nuclear triad to the air-breathing wing of the nuclear triad in order to include cruise missiles. So manned penetrating bombers, it seems to me, is a very obsolete technology that is in no way useful.

If you do not want to argue it on that ground, then you can argue it on the jobs grounds and I can certainly give you many more jobs for this amount of money than all of those jobs, and it seems to me that this is absurd.

Mr. SEIBERLING. I would like to reclaim my time for 1 minute and then I will be glad to yield.

Let me just tell you what one of the experts in the other body, who I think is generally conceded to be an expert on military procurement, that is Senator SAM NUNN, said about this business of leaving 48 planes until the last year of the contract. Here is what he said, as quoted by the Knight-Ridder articles:

> The production line will be so hot, so geared up, and involve so many people—50,000 to 60,000—that going from 48 to zero in 1 year, at the same time we are trying to decide on the advanced technology bomber (Stealth), would be virtually politically impossible.

In other words, the schedule is being manupluated to create political pressure to continue with more B-1's, whether needed or not.

I think Stealth may well be a technologically sound approach to the military needs of the future, but certainly the B-1 is not.

Mr. THOMAS of California. Will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. THOMAS of California. I thank the gentleman for yielding.

One of the interesting things around here is impugning one's own motives to others, and there was some indication——

Mr. SEIBERLING. I have not impugned anybody.

Mr. THOMAS of California. There was some indication that the gentleman from California was supporting the B-1B system because of jobs. Perhaps some people are not familiar with my district.

Contained within my district I have the Naval Weapons Center, at China Lake, Edwards Air Force Base, and Air Force Plant No. 42. There have been and will be a number of weapons systems developed in my district, including perhaps the follow-on to the B-1B, and the Stealth bomber, which gives me the luxury of choosing between different systems, because in all probability, all of the major strategic bombers of the triad for the foreseeable future are going to be final assembled in my district, if I happen to represent that area at the time.

So I just want the record to be very clear that my choice of the B-1B is not on the basis of jobs, because if you have a choice between weapons systems, I am in the position of realizing that any manned bomber weapons system is probably going to have final assembly in my district, and that I am on record supporting the B-1B because it is the appropriate weapons system at the right time.

Mr. SEIBERLING. I will say to the gentleman I am sure that he is stating that in entire good faith. But, even so, if he did not support the B-1B in his district, he would not be representing it very long. And the same is true of Members who represent other areas where the great bulk of this plane is going to be built.

Mr. LEWIS of Florida. Will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Florida.

Mr. LEWIS of Florida. I have listened to the gentleman from Ohio, and I am rather confused. I think any weapons system developed in this country you are going to find a series of Congressmen in their districts involved in the procurement and the jobs.

If we hold the line, as you are indicating, and certainly I hope I misunderstood you, then we cannot build any weapons systems in this country. Would you suggest that we go to the Soviet Union to procure them?

Mr. SEIBERLING. No. That is obviously a rhetorical question that does not even need an answer.

Mr. LEWIS of Florida. I think it does when you make the statements that you did and referred to the gentleman.

Mr. SEIBERLING. Let me simply say this: We should make decisions on weapons systems on the basis of the merits of the system, period, and not on the basis of whether they provide jobs or do not provide jobs, because the same amount of money spent on almost anything other than a new weapons system is going to produce twice as many jobs.

The CHAIRMAN pro tempore. The Chair would advise the gentleman and other Members not to make reference to statements made by Members in the other body.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Like the gentleman from California (Mr. THOMAS) I do not think it is useful to impugn motives in this place. I opposed the B-1 bomber originally when it was President Carter's decision to terminate it, and I supported him in that termination. And some of the work on the B-1 at that time was done in my district at the Boeing Military Airplane Co.

About 2 years ago I went out to an air show, and talked to some B-52 pilots who told me that that airplane they were flying would require so much expensive work in order to keep

flying for the next 20, 30, and 40 years, that they would not satisfy America's requirements as a primary manned bomber. And when they indicated to me, these men that we entrust to defend this country, that this bomber was not suitable over the long term, that it might not be safe over the long term, that it required huge amounts of work, I must tell you I reconsidered and started voting for the B-1 2 years ago for that basic purpose, before other decisions were made that might affect my particular district.

Now the fact of the matter is that this Nation needs a manned bomber. We can either go with the B-52 for the next 20 or 30 years or we can dream about a Stealth, a Stealth which is a paper airplane, which I would bet you that if we come back 30 years from now will never be built because it will be too darn expensive.

I admit to you that the B-1 is expensive. That is true. It is more expensive than I would like to pay for a weapons system. But the B-1 has some Stealth technology to it. It does have a smaller radar image than it did in the B-1A, and in terms of having a manned bomber, it is the only game in town.

I think it is appropriate and in our national interest to have a manned bomber for several reasons. No. 1 is that we have always been the leader in the world in aeronautics. The development of the manned bomber and having an effective manned bomber keeps this Nation at the helm, at the leadership of producing the best airplanes around the world. And nobody else can produce airplanes as good as we can.

We have over 1 million jobs in this country directly related to the aviation industry. To a large extent that is based upon the military component, the military leadership of that program, and I am not saying vote for the B-1 because you are going to get civilian spinoffs to that airplane. You will. I am saying vote for it because it will keep this country in a leadership role both in terms of bomber capability and in terms of spinoffs to make this Nation continue to be the leading aviation nation in the world.

One more point, and that is to echo what my colleague from Oklahoma, JIM JONES, said. The fact of the matter is, one, I think the Soviets do respect bombers. We are better than they are in building bombers. You can recall a bomber. A bomber is inherently less destabilizing than any other weapons system we have. It may be terribly expensive. I do not like the military-industrial complex either. I know that it exists. I know that it is real. I know that it tends to perpetuate weapons systems that may not be necessary of our national security.

I am just telling you that the choice today, is do you want a bomber or not. I say we do need a bomber and the only game in town is the B-1.

Mr. HILLIS. Will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield.

Mr. HILLIS. I thank the gentleman for yielding and certainly commend the gentleman on his remarks and associate myself with his remarks.

First of all, I think we can say basically none of us would want to fly back to our own districts in a DC-3, and that is about the same technology as the B-52 is in the bomber technology in the world today. The newest B-52 I think was produced about the time of the Cuban missile crisis, for example.

I also admire what the gentleman is saying because we hear so much about people taking this floor and advocating this system or that system only to find that a great percentage of such system is produced in their own district.

I happen to know of my own personal knowledge that if the B-52's were to be refitted that it would be done in the gentleman's own district in Wichita, Kans., his home district, and I respect and admire the gentleman for standing up and taking the position that he has taken here today.

Mr. SEIBERLING. Will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield.

Mr. SEIBERLING. Of course, I understand the Boeing is not the prime contractor on the B-1. And I did not mean to indicate that the gentleman's vote on the B-1 was influenced by the fact that there was a plant in his district.

I merely meant to indicate that where someone has a really big chunk of this particular program in his district, with thousands and thousands of jobs dependent on it, he would not be in Congress very long if he opposed it.

I agree with the gentleman that, from the standpoint of arms control and recallability, and so forth, the B-1 bomber is no problem. It is a much better system than missiles, for example.

What I am saying is that the Air Force has told us time and again, when they were not trying to sell the B-1, that the B-52, with air-launched cruise missiles, would be a satisfactory system.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Will the gentleman continue to yield?

Mr. GLICKMAN. I will be glad to yield.

Mr. SEIBERLING. They tell us it would be a satisfactory system well into the 1990 timeframe. In addition, Gen. Richard Ellis said, if we want to fill in any technological gap, we can do so at far less cost by buying a few stretched FB-111's. We can get by with a satisfactory third leg of the triad without going with the B-1.

□ 1320

The Stealth is something else again. And the idea that the B-1 is going to incorporate features of Stealth is something that Rockwell International has sold in an effort to get the B-1 as the ongoing bomber instead of having to lose that business to Boeing, which is the prime developer of Stealth.

Mr. GLICKMAN. If I may reclaim my time, I would say one or two things. Number one is the B-52 is a very old airplane. If you talk to the people who fly the plane, they will tell you that at times it scares them to think it is going to be flying for another 20, 30 years.

Two, Stealth is a dream. If people believe they are voting down the B-1 to get Stealth, you are just having daydreams and night dreams as well. It is probably not going to happen. It is too expensive.

Third, I make the final point. I raise the issue that I think we need a manned bomber. That is what Mr. DELLUMS talked about, talk about the substance of issues. The fact of the matter is this Nation leads the world in aeronautics. I am not saying build this plane because it is going to necessarily produce more jobs in either the Defense or the civilian sector, but we need to retain that lead in aeronautics. This plane is substantially completed. I think it would be a serious mistake to cancel it now.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I agree with the gentleman that the manned bomber is an important part of the triad for defense purposes. The question is whether the Defense Department has any credibility left after the processes by which they used to put this bomber over, after it had been canceled by President Carter.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DELLUMS).

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A record vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 254, not voting 16, as follows:

[Roll No. 167]

AYES—163

Ackerman	Frank	Oberstar
Addabbo	Frenzel	Obey
Albosta	Garcia	Ottinger
Andrews (TX)	Gejdenson	Owens
Aspin	Gephardt	Panetta
AuCoin	Gibbons	Paul
Barnes	Gray	Pease
Bates	Green	Penny
Bedell	Guarini	Petri
Beilenson	Gunderson	Pursell
Berman	Hamilton	Rangel
Biaggi	Harkin	Ratchford
Boland	Harrison	Reid
Bonior	Hayes	Rodino
Bonker	Hertel	Roe
Borski	Horton	Roth
Bosco	Howard	Roybal
Boxer	Hughes	Sabo
Britt	Jacobs	Savage
Brooks	Jeffords	Scheuer
Brown (CO)	Kaptur	Schneider
Burton (CA)	Kastenmeier	Schroeder
Carper	Kennelly	Schumer
Carr	Kildee	Seiberling
Clay	Kogovsek	Shannon
Clinger	Kolter	Sikorski
Collins	Kostmayer	Simon
Conte	LaFalce	Smith (FL)
Conyers	Lantos	Smith (IA)
Cooper	Leach	Solarz
Coughlin	Lehman (CA)	St Germain
Coyne	Lehman (FL)	Staggers
Crockett	Leland	Stark
D'Amours	Levin	Studds
Dellums	Lipinski	Swift
Derrick	Long (MD)	Tauke
Dingell	Lowry (WA)	Torricelli
Donnelly	MacKay	Towns
Downey	Markey	Traxler
Durbin	Martinez	Udall
Dwyer	Mavroules	Vento
Early	Mazzoli	Walgren
Edgar	McCloskey	Waxman
Edwards (CA)	McHugh	Weaver
Evans (IL)	McKinney	Weber
Fascell	McNulty	Weiss
Fazio	Mikulski	Wheat
Feighan	Miller (CA)	Williams (MT)
Ferraro	Mineta	Wirth
Fish	Minish	Wise
Florio	Moakley	Wolpe
Foglietta	Moody	Wyden
Ford (MI)	Morrison (CT)	Yates
Ford (TN)	Mrazek	
Fowler	Nowak	

NOES—254

Akaka	Coats	Fiedler
Alexander	Coelho	Fields
Anderson	Coleman (MO)	Flippo
Andrews (NC)	Coleman (TX)	Foley
Annunzio	Conable	Franklin
Anthony	Corcoran	Frost
Applegate	Courter	Fuqua
Archer	Craig	Gaydos
Badham	Crane, Daniel	Gekas
Bartlett	Crane, Philip	Gilman
Bateman	Daniel	Gingrich
Bennett	Dannemeyer	Glickman
Bereuter	Darden	Gonzalez
Bethune	Daschle	Goodling
Bevill	Daub	Gore
Bilirakis	Davis	Gradison
Bliley	de la Garza	Gramm
Boehlert	DeWine	Gregg
Boggs	Dickinson	Hall (OH)
Boner	Dicks	Hall, Ralph
Boucher	Dixon	Hall, Sam
Breaux	Dorgan	Hammerschmidt
Broomfield	Dowdy	Hansen (UT)
Brown (CA)	Dreier	Hartnett
Broyhill	Duncan	Hatcher
Bryant	Dymally	Hawkins
Burton (IN)	Dyson	Hefner
Byron	Eckart	Heftel
Campbell	Edwards (AL)	Hightower
Carney	Edwards (OK)	Hiler
Chandler	Emerson	Hillis
Chappell	English	Holt
Chappie	Erdreich	Hopkins
Cheney	Erlenborn	Hoyer
Clarke	Evans (IA)	Hubbard
Huckaby	Mollohan	Shumway
Hunter	Montgomery	Shuster
Hutto	Moore	Siljander
Hyde	Moorhead	Sisisky
Ireland	Morrison (WA)	Skeen
Johnson	Murphy	Skelton
Jones (NC)	Murtha	Slattery
Jones (OK)	Myers	Smith (NE)
Jones (TN)	Natcher	Smith (NJ)
Kasich	Neal	Smith, Denny
Kazen	Nelson	Smith, Robert
Kindness	Nichols	Snowe
Kleczka	Nielson	Snyder
Kramer	O'Brien	Solomon
Lagomarsino	Oakar	Spence
Latta	Olin	Spratt
Leath	Ortiz	Stenholm
Lent	Oxley	Stratton
Levine	Packard	Stump
Levitas	Parris	Sundquist
Lewis (CA)	Pashayan	Synar
Lewis (FL)	Patman	Tallon
Livingston	Patterson	Tauzin
Lloyd	Pepper	Taylor
Loeffler	Perkins	Thomas (CA)
Long (LA)	Pickle	Thomas (GA)
Lott	Porter	Torres
Lowery (CA)	Price	Valentine
Lujan	Pritchard	Vander Jagt
Luken	Quillen	Vandergriff
Lungren	Ray	Volkmer
Mack	Regula	Vucanovich
Madigan	Richardson	Walker
Marlenee	Ridge	Watkins
Marriott	Rinaldo	Whitehurst
Martin (IL)	Ritter	Whitley
Martin (NC)	Roberts	Whittaker
Martin (NY)	Robinson	Whitten
Matsui	Roemer	Williams (OH)
McCain	Rogers	Winn
McCandless	Rose	Wolf
McCollum	Rostenkowski	Wortley
McCurdy	Roukema	Wright
McEwen	Rowland	Wylie
McGrath	Rudd	Yatron
McKernan	Sawyer	Young (AK)
Mica	Schaefer	Young (FL)
Michel	Schulze	Young (MO)
Miller (OH)	Shaw	Zschau
Molinari	Shelby	

NOT VOTING—16

Barnard	Lundine	Sharp
Hall (IN)	McDade	Stangeland
Hance	Mitchell	Stokes
Hansen (ID)	Rahall	Wilson
Jenkins	Russo	
Kemp	Sensenbrenner	

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell for, with Mr. Hance against.

Mr. Stokes for, with Mr. McDade against.

Messrs. MOAKLEY, ROTH, WEBER, DWYER of New Jersey, and MINISH changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DANIEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my good friend, Mr. STRATTON, this gentleman, and others in this body spent years studying the pros and cons of multiyear procurement and I wish to address one of the first Army contracts issued for a 5-year multiyear procurement of a vehicle using commercially proven components, in order that this body will have the benefit of learning of its tremendous success.

First, let me say that the program is the Army's new 10-ton truck, the HEMTT.

Traditionally, a vehicle such as the HEMTT would have taken 6 to 8 years to develop with RDT&E funds. Then a competition would be held to determine who would produce the vehicle and up to 10 years would have passed before the vehicle was sent to our troops in the field. Unfortunately, requirements change and we have too often seen a product become obsolete before it enters the military inventory.

Fortunately for the American taxpayer, this is not the case with the HEMTT.

The Army followed the directions of Congress and established the performance and design parameters using commercially proven components for the HEMTT in 1980, issued a RFP and awarded 5-year multiyear contract in 1981. Today, less than 3 years later, the vehicle is operating with our troops here at home and in Europe. Modifications were required to the Army initial concept and changes were incorporated on the production line and older trucks were retrofitted.

We have here a program that fielded the first vehicle at least 6 years ahead of any prior truck program and it is on schedule, at cost with a quality product.

It is my understanding that 2 years remain on the contract and the Army has identified additional requirements which will necessitate more vehicles after the initial buy. I want to point out to the Army that when the industrial base is in place and producing at such an efficient and cost-saving rate that Congress insists the military take advantage of these benefits to produce the required amount of equipment they need and can justify.

I want to compliment the Army and the contractor for their dedication to this program and encourage both the military and Congress to use the multiyear option whenever the conditions warrant it.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DANIEL. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Virginia for being a very staunch supporter of multiyear contracting. We have just seen in the program that the House of Representatives has once again supported the B-1 bomber, a signal example of the savings that can be accrued as a result of multiyear funding. On the B-1 bomber we have saved a total of $359.6 million by proceeding in that way. I think the gentleman's statement is well justified.

Mr. DANIEL. Mr. Chairman, I thank the gentleman.

Mr. KRAMER. Mr. Chairman, I move to strike the last word.

On March 23, 1983, President Reagan issued a historic call for the American people to take up the challenge of ending forever the threat of nuclear war. He called upon our scientific, technical, and military leaders to turn their talents to the formidable but hope-inspiring task of finding "the means of rendering * * * nuclear weapons impotent and obsolete," to save lives rather than avenge them. Thus was born the strategic defense initiative.

We desperately need to escape from the policy and moral dead end of MAD—mutual assured destruction—and to find a way to truly defend our country, our people, and our allies, while at the same time bringing forth genuine opportunities for real arms control. I am talking about developing the means to put in place a policy of "build up/build down"—deployment of strategic defensive systems coupled with a simultaneous dismantling of strategic weapons of mass destruction.

Such a policy is the only one that offers a prospect of real arms control. History graphically demonstrates that for too many years, arms control has been an illusion. For example, under SALT I—which was sold as a nuclear weapons freeze—the Soviets have deployed a total of 29 new and modified strategic offensive systems. I am for arms control that will truly make the world safer, not arms control as we have known it, which has been used for domestic political rhetoric and gives us a dangerous, misleading facade of safety.

The President's SDI request for fiscal year 1985 begins the coordinated, focused effort we need to accomplish the research that must be done—and I emphasize: Research only. It totals about $2 billion next year and approximately $26 billion over the next 5 years. Yes, a lot of money.

But when one considers that over the past 30 years, we have spent at least $1 trillion and probably closer to $2 trillion on strategic offensive weapons—weapons of mass destruction to devastate populations and cities—$26 billion becomes an amount we cannot afford not to spend. It is money spent on the promise of real defense, real peace, real security, on the first opportunity for real strategic arms control and reduction since the age of nuclear terror began.

The Armed Services Committee, concerned about growing Federal deficits, saw fit to recommend a 25-percent reduction in SDI spending—from the $2 billion requested to $1.5 billion.

□ 1350

Although I share the committee's desire to restrain spending, I believe this vital program is so important that I am hopeful the other body will see fit to approve the full request and that we, of the House, will ultimately concur.

Meanwhile, I urge all Members of this House to support, as a minimum, the committee's recommendations for SDI. I firmly believe this is the first installment of the most important investment this Nation has ever made.

Public opinion polls show that. A recent poll showed 75 percent in favor.

Last week, I had the distinct pleasure of lunching with Lt. Gen. James A. Abrahamson, the newly appointed Director of the SDI program. "General Abe," as he is known to his colleagues and those who work for him, is a personable, knowledgeable, experienced, "can-do" man. I am certain that he is the right person, in the right place, at the right time.

I would like to leave you with his thoughts, quoted from testimony before a House subcommittee last week:

We are dedicated to a program that will provide our future leaders with options to enhance deterrence and stability by eliminating the threatening role that ballistic missiles play in our world. The mere promise of such options may remove the pall of fear and anxiety that overshadows our young and provide them with the confidence that their future need not be dominated by the overriding fear of nuclear destruction.

I ask you, what better legacy could we leave them?

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: At the end of the title I (page 15, after line 5), insert the following new section:

LIMITATION ON TOTAL AMOUNT AUTHORIZED

SEC. 110. The total amount that may be appropriated pursuant to authorizations of appropriations in this title may not exceed the amount equal to 106.5 percent of the total amount appropriated for procurement for fiscal year 1984 (including amounts transferred to procurement appropriation accounts for that year) in title IV of the Department of Defense Appropriations Act, 1984 (Public Law 98-212).

Mrs. SCHROEDER. Mr. Chairman, the amendment I offer today would save the taxpayer $4.5 billion next year and additional billions in years after that. It would hold growth in procurement to a 6½-percent increase over the last.

My amendment cuts only the level of procurement. It does not take 1 penny from operations and maintenance, which has suffered damaging cuts in the past. And, it does not require the cancellation or scaling back of any specific weapons program. Rather, it requires a cut of about $4.5 billion from the committee's bill.

The United States is currently under an unprecedented attack by a hostile enemy. If this adversary gets its way, our form of government, our standard of living, our future will all be drastically altered. This is a foe with whom we cannot negotiate. Either we destroy this hostile force or it will destroy us.

I am talking about a $200 billion deficit and a $1.5 trillion national debt. In the four budgets of the Reagan administration, deficits have totaled $730.8 billion. At 12 percent interest, the interest alone on this is $88 billion a year. Nearly half of the deficit for fiscal year 1985 is attributable to prior Reagan deficits.

The reason for these high deficits is that Congress went along with two poorly thought out Reagan administration proposals. One was to cut taxes more than we can afford. The other, which we can do something to turn around today, was to engage in a defense spending binge which was destructive to our economic security.

I submit to you that we are in as great a danger of losing our way of life to the economic enemy as to a military enemy. Interest rates have already started a steep climb, rising more than one and a half points in the last few months. Soon, prices on goods and services are going to start being adjusted upward to take into account the higher cost of money. Our international trade situation is dreadful, with American gold flowing out to buy cheaper foreign goods. Unemployment seems to have stabilized at 8 percent, a level far too high. Unless we do something to get the deficit under control, we are going to find ourselves going into a recession in 1985 as deep as the recession of 1981-82.

Holding procurement at zero real growth, as my amendment proposes to do, would be one of the largest single actions we could take to fight the economic enemy. It would strengthen our economic security.

What would it do to our military security? Clearly, the $97.6 billion this bill authorizes for procurement of weapons systems is intended to be used for items which will improve the security of our country. Some of it is clearly wasteful, but most of the items funded do have some military utility. Still, I believe cutting $8.5 billion out of the procurement accounts is possible and desirable.

On May 3, Secretary of Defense Casper Weinberger appeared before the Senate Armed Services Committee and listed $13.9 billion in cutbacks from the administration's February request for Pentagon funding. Many of these cuts were already made by the House Armed Services Committee, but there are at least $2 billion which the House Committee missed. The big items overlooked are the M-1 tank, the TOW missile, the Bradley fighting vehicle, the Patriot missile, the Apache helicopter, the Sergeant York gun, a nuclear attack submarine, the AMRAAM missile, and the C-5 cargo

plane. None of these systems were proposed for elimination by Secretary Weinberger, but all were scaled back more than the House Armed Services Committee scaled them back. So, if we take the Weinberger list, there is only $2.5 billion still to cut.

Meeting this total should be no problem. Permit me to discuss a sample of the procurement budget to demonstrate how much low priority or wasteful buying this bill authorizes. I do not mean to be all inclusive in my criticism of weapons systems. I have missed some bad ones. Nor do I mean to suggest there are no good ones; there are. But, when the Armed Services Committee says the $97.6 billion for procurement cannot be cut, consider the following:

MX MISSILE

The committee's bill has $2,722 billion authorized for the MX. We have just discussed and voted on this issue. This is a terribly destabilizing system and a terribly expensive one. We should scrap it.

B-1B MANNED BOMBER

The committee's bill provides $7.7 billion for this flying white elephant. The committee now lists it as the B-1B multirole bomber. Since the plane's ability to penetrate Soviet air defenses is in doubt, the B-1's advocates now talk about its multiple missions. Whatever its mission, the B-1 is $200 million a copy. Cruise missiles and strategic weapons systems can do the job that B-1 was designed for at a fraction of the cost. Further, the Stealth program can, if we fund it, produce aircraft which have a greater likelihood of penetrating enemy airspace. We are robbing the technology which has a chance at success to fund a technology which is already obsolete. Cancellation of the B-1B, or even a slowdown, could meet the entire reduction contained in my amendment.

CHAPARRAL

The Army asked for no funds for this short range air defense system. The committee put in $32 million, primarily to provide the Army National Guard with these missiles. I think the Army is right about the antiquated system.

TOW II

This is another antitank weapon, which would enable us to do a better job if World War II recurs. At $16,900 a missile, this seems to be an enormously expensive armor piercer. And, the 15,000 missiles the committee wants to buy is a huge number. Cannot we cut this buy down, at least until we have some better evaluation data on the TOW?

PERSHING II

Our deployment of the Pershing II in Germany has caused a breakoff in the intermediate nuclear force talks. Yet, the committee wants to buy another 70 missiles at $368 million. The House has voted to procure these missiles rejecting sound arguments made by Mr. DELLUMS and others about the disruption this weapon system causes to the nuclear balance in the world. I suggest that economic, as well as strategic, arguments call for the cancellation of this item. Besides, our NATO allies are showing increased reluctance to have these missiles on their soil. And, why not? Listening to the Reagan administration, they are led to believe that we are going to ask them to fight our nuclear war with Pershings on their land, while we protect ourselves from Soviet ICBM's through some new Buck Rogers ASAT system. Cancelling Pershing procurement for a year and inviting the Soviets to rejoin us in Vienna would do a great deal for world peace and a great deal for the Western Alliance.

BRADLEY FIGHTING VEHICLE

With a sticker price of $1.4 million, the Bradley fighting vehicle does not really fight. Although it has guns, it does not have the firepower of a tank. Rather, it is for surveillance. This enormous truck is supposed to sneak around the countryside to spot the location of enemy troops. It is not really a troop carrier because it cannot carry very many troops. So, what is the purpose of this albatross? You get the sense that because the Air Force got a new plane and the Navy got new ships during the Reagan spending binge, the Army wanted something new too. Interservice competition has degenerated into sibling rivalry.

M-1 TANK

DOD wanted 720 of these $2 million beauties. The committee said, "Why be so stingy? How about 840?" The committee then put together a financial deal which would make an investment banker blanch. $1,418 million is authorized; another $113.3 million is taken from prior year lapsed authorizations; finally, $60.5 million is taken from foreign military sales proceeds of the M-48 tank, despite the fact that Congress has rejected the notion of setting up a revolving fund for foreign military sales. I just do not understand why we are spending so much to refight World War II. Maybe we ought to be buying antielephant weapons in case a modern day Hannibal tries another assault across the Alps. And, we already have 3,000 of these tanks. There is not enought room on the autobahn to get them all to the front.

DIVAD

At $3.9 million a gun, this antiaircraft gun costs more than many of the planes it will be shooting down. The DIVAD or Sergeant York gun might make some sense if we had no Air Force. But the notion of the Army fighting without air support just does not make sense. The program is way behind schedule. I suggest we terminate it.

9-MM HANDGUN

The bill contains $13.4 million to buy nearly 40,000 of these pistols. Each year the appropriations bill blocks expenditures for these handguns. At $333 a pistol, I hope we are getting pearl handles.

F-18 FIGHTER

The bill authorizes 84 units of this $28 million plane. It is far more expensive than the planes it replaces, the A-7's, and has not met its specifications.

A-6E ATTACK AIRCRAFT

The Navy has no earthly idea what it is going to do with the A-6. The plane costs $36 million a unit but lacks the power and weapons systems to do much of a job. It is doubtful the plane could penetrate an enemy's fleet. The committee told DOD to tell them what the plans are for the A-6. Perhaps we ought to wait for their report before we buy another six of these planes.

HH-60 UTILITY HELICOPTER

This is another one of those systems which the Navy doesn't want, but the Armed Services Committee does. The committee wants to spend $12 million to buy two of these for the Reserves. I am all for equipping the Reserves, but the budget deficit dictates against spending money for very low priority items such as this.

TRIDENT II BALLISTIC MISSILE

The committee recommends going full speed ahead with the new Trident II sea-launched ballistic missile. Clearly, submarine launched missiles are the strongest and least vulnerable part of our nuclear triad. The new Trident II will substantially increase the insecurity of the Soviet Union. It will bolster their paranoia that we are planning a first strike. I would like to see deployment slowed and arms control negotiations reconvened. Further, procurement money of $128 million for fiscal year 1985 is unnecessary since the ninth *Ohio*-class submarine will not enter the fleet for another 5 years. We ought to use this leadtime to see if we can negotiate some arms reduction.

HARM MISSILE

The committee report is interesting reading on the subject of the Harm missile. First, the committee expresses its concern about the expense of this $385,000 missile. Then, it authorizes appropriations of $248.2 million for 603 missiles, or $411,610 per missile for the Navy and another $288 million for 746 missiles ($386,000 per missile) for the Air Force. Last year's authorization and appropriations bills told DOD to have the Naval Weapons Center in China Lake, Calif., develop a cheaper seeker system for the missile. I think we ought to defund the current Harm until a more economical seeker system is perfected.

PENGUIN MISSILE

Here again, the committee recommends spending $11.7 million to fund a program the Pentagon does not want. The Penguin is a Norwegian air-to-surface missile which is to be used from helicopters. With our current budget squeeze, we ought to be seeking ways to cut DOD's proposal, not add our own wish list.

SUBSIDY FOR PRIVATE SHIPYARDS

Using rhetoric about maintaining the industrial base, private shipyards are seeking a Government handout in this bill. Since 1977, the percentage of private shipyard work which is done on Navy contract has risen from 62 to 85 percent. But this is not good enough for the private yards. On pages 85 and 86 of the committee report, the committee says that these yards ought to get 40 percent of all repair and overhaul work and 50 percent of all nonnuclear work. This despite the fact that public yards do a better job at a cheaper price with better management control. But so as not to trouble the public yards, the committee says that no action should be taken to "affect the maintenance of the existing public shipyard industrial base." That is, no layoffs. The cost of this commitment to both public and private yards will be staggering. No line item is contained in the bill for this bailout plan, but then there is no line item for other waste and mismanagement expenses either. We have to stop this waste of public funds. I oppose the use of quotas to bail out privately owned shipyards.

ARLEIGH BURKE CLASS DESTROYER

We have had remarkable success over the last few years in reactivating and modernizing ships at a fraction of the cost of buying a new one. Yet, the committee wants to spend $1.17 billion to build a new class of destroyer. This ship is a further extention to our Navy's belief that bigger and more complicated is better. Upgrading and extending the lives of our current destroyer fleet would make much more sense.

AEGIS CRUISER

The bill provides for buying three new *Aegis* cruisers at $1.05 billion a ship. These would be the 14th, 15th, and 16th ships of this class. Yet, this ship has not been fully tested and evaluated. It is another effort at bigger and more complicated. I think we ought to slow down the procurement of these cruisers. How about one a year? It would save us over $2 billion next year.

NUCLEAR ATTACK SUBMARINE

The bill provides for the purchase of four new *Los Angeles* class attack submarines (SSN-688) at $566 million a boat. Secretary Weinberger is willing to dispense with one. I think we could safely slow our annual purchase rate down to two a year and save an additional $566 million.

F-15 FIGHTER

At $38 million a plane, the F-15 wins the prize for the most expensive tactical fighter. I just wish it were worth the sticker price. The committee wisely cut eight planes out. Even Secretary Weinberger was willing to let go of six. I think we could do fine with last year's level of 36 or fewer. The Air Force intends to base most of these planes at virtually defenseless European air bases. Without a place to land, these fighters would be useless in war. The Air Force ought to get its ground support operation in shape before it splurges on these planes.

LANTIRN

When originally authorized in the late seventies, the Lantirn navigation and targeting system was supposed to come in at about $93 million. Now it looks like the total cost will be close to $5 billion. Installation will be $6 million per plane. This is a system that was gotten out of hand and should be terminated before we throw more good money after bad.

AMRAAM

This is the type of program which makes you believe that all contractors are greedy manipulators and the Pentagon is a bunch of patsies. The committee report does a good job talking about the time delays, cost underestimates, and contracting shenanigans surrounding this small missile. The committee decided to cut the program in half. I think we should bag the other half as well and work on upgrading the Sparrow.

ANTISATELLITE MISSILE SYSTEM

Most of the money and most of the debate on ASAT will come as part of the research and development part of this bill. Still, at least $215 million is in the bill for procurement of some parts of this system. Separate from the valid arguments about what this system will do to the nature of deterrence, there are persuasive arguments that we should not start buying parts of this system until we are sure that the whole thing works. We are at least 5 years from that point. Let us cut the procurement money now.

The 24 programs I mentioned highlight the excess in the procurement accounts. Total elimination of each would hardly be necessary to hold procurement spending to last year's constant dollar level. Rather, the expense and number of these programs show that the cuts required by my amendment can be achieved without weakening our military posture.

Mr. Chairman, I do not think we should unilaterally disarm to the economic enemy in order to give the appearance of greater military readiness. Let us protect ourselves. To do so, I urge adoption of my amendment.

Mr. STRATTON. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I hesitate to take issue with my good friend from Colorado because over the weekend when I delivered a baccalaureate address at a college in my district where she had won an honorary degree some years ago, I was commenting on the way in which women have progressed in the political process in the last few years, and pointed out that one dramatic indication of that progress was that if the distinguished gentleman in the other body, who is one of the candidates for President, in one of the great national parties, were to be successful, she, in all probability, would be the Secretary of Defense in the Hart administration.

So I do hesitate to take issue with her, but I know that this is all in just good fun.

Mrs. SCHROEDER. If the gentleman will yield, is that a nomination?

Mr. STRATTON. The gentlewoman can take it in any way she wishes. But she is a very amiable member of the committee and we know that in a good many cases what she proposes she does not really mean seriously; it is just a good little bit of fun. In fact, this morning the Schroeder amendment was, as she pointed out herself, 103 percent of what we expended last year, and then after the clock passed 12, it turns out to be 106.5 percent.

So I do not really think she means us to take this amendment very seriously. It is a frivolous exercise, one of those cute little amendments designed to give Members a chance to vote for massive reductions in that terrible old defense budget without actually having to vote to cut a single solitary progam.

The author of the amendment apparently has no specific programs in mind. She indicated that she had read some of the proposals that the Secretary of Defense had sent to the Committee on Armed Services of the other body; but she is leaving it to anybody who might come up with an idea to decide exactly where those cuts should be applied.

I do not think this is really what the Founding Fathers intended that Congress ought to be doing in connection with the national defense or with any other serious program.

This amendment would reduce the procurement aspect of this budget by $4.5 billion below what the committee bill, as amended, has already come up with, which is $11 billion below the request of the President of the United States. This little frivolous amendment, however, would still further reduce it by another $4.5 billion without any Member being required to stand up and say exactly what program it is that he or she wants to cut.

For example, House did not want to cut the B-1 bomber, as we found out a moment ago, and it has refused to cut a number of other items in the procurement title.

But just so that Members are under no illusion that we can somehow reduce the procurement aspect of this bill by $4.5 billion without taking any real cuts, let me give you a list of representative cuts that one might select to total up to the $4.5 billion reduction that the gentlewoman from Colorado is proposing; and then ask yourselves if you would vote to cut these program. Here are some examples.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I would like to continue my thought, if I may, and then I certainly will be happy at the conclusion of my analysis of this amendment.

For example, in the Army, if you want to take $4.5 billion out of the Army, you could take 72 Apache helicopters, including the 18 that we have in there for the National Guard, and you would save $600 million.

And you could also take 43 Black Hawk helicopters, 8 of which have already been designated for the National Guard. That would add another $225 million.

You could knock out the Chaparral missiles, which have also been given to the National Guard to protect their airfields. That would give you $32 million more.

You could cut out 210 of those M-1 tanks at a cost of $450 million. But that, of course, would leave our tank forces in NATO even lower and smaller than the Soviet Union force than it is today.

You could cut out 50 of the Divad guns. One of the Members of the gentlewoman's party proposed that the other day, although the House turned it emphatically down. That would be $250 million more taken out.

In the Navy, you could cut out 22 AH-1T Cobras for the Marine Corps at $80 million. But the marines would not be able to get into Grenada as effectively as they did last year.

And you could cut out five P-3C's for the Navy at $285 million. That would impair our antisubmarine warfare program, at the exact time the Soviets have increased their Atlantic submarine force.

You could also cut 20 F-18 aircraft for $535 million, the Navy's newest aircraft.

And you could get another $750 million more if you are willing to cut out all of those AV-8B's for the Marine Corps, the Harrier VSTOL aircraft.

If you would like to take some of it out of the Air Force, you could cut the 30 F-16's, all of which we have designated for the National Guard, and save $600 million more.

But we could cut out $750 million for the reengining of the KC-135, but the distinguished gentleman from Kansas (Mr. GLICKMAN), I think, would not be happy with this.

Looking toward the total cut of $4.5 billion, we could take out eight C-130's for the Air National Guard, at $150 million. Those are manufactured down in Georgia, and Georgians might not like it.

And we could knock another $400 million out in Air Force aircraft spares. But then we would have to cut back on the readiness of Air Force aircraft since there would not be any spares left.

This is just one indication of what this amendment really adds up to, and how damaging it would be. I would hope that the gentlewoman, if she does some day assume the responsibility for the Department of Defense, would not want to put this kind of thing into effect during her administration of our Nation's top security forces.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I would be happy to yield to my friend, the gentlewoman from Colorado.

Mrs. SCHROEDER. I would like to address the argument of the gentleman that this is a frivolous amendment.

Mr. Chairman, I must say that I started with an amendment for 103 percent because I felt that that was adequate and I had voted for budgets proposed on this floor that allowed 103-percent growth. Other Members said they were going to amend my amendment to allow 106.5-percent growth because that was the budget that passed this House. I also voted for that budget that passed allowing 3½-percent real growth.

I decided for the sake of saving time, since I have been the one protesting about cutting off debate, I would shorten the process by condensing it and only offering the amount in the budget that passed. I am sorry that the gentleman feels that the budget process is so frivolous. I feel that we debated budget targets for a long time and that the House position is not a frivolous position. I also feel the budget process is very serious.

I have listed specific programs, you have listed specific programs, and the overall price tag we are talking about now is $96.6 billion. My amendment makes a cut of $4.5 billion of that $96.6 billion. If it passes, you would still have $91.2 billion for weapons, that is a lot more than the $35.7 billion we passed in 1981.

Mr. STRATTON. If I can reclaim my time, Mr. Chairman, I have researched the gentlewoman's amendment and I do not find any list of any specific cuts. So these are not really serious cuts or else the gentlewoman would have indicated precisely what they are. If the gentlewoman is in favor of eliminating all of this equipment our subcommittee for the National Guard and Reserves and for the Marine Corps and for the Air Force, it would be much simpler to indicate precisely what the gentlewoman really wants to cut out. Otherwise this is an exercise in futility.

Apparently the gentlewoman must have wanted to put something specific worth about $1.2 billion in before breakfast this morning, when she switched from 1 percentage between breakfast and lunch time. That is where the aura of frivolity comes out so clearly.

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I will be brief in my analysis of this and not take the full 5 minutes, but it appears to our side that this amendment would be very damaging not only to the bill but to the program generally to keep readiness at a high level and to procure the systems that are needed for our national security.

For example, initially the administration had a request that was presented to Congress of, I believe, $313 billion for the total package cost.

□ 1410

The Armed Services Committee met with the chairman and after long discussion it was decided to go for substantial reductions, as I recall, in the neighborhood of $11.5 billion. And we each took in the various subcommittees an area of responsibility to make reductions. These reductions were made, and the rate of growth in the bill was held at that point to about 6.5 percent.

Now, that gave credence to inflation, and it allowed a small pay increase which had been programed at 5.5 percent. We reduced it to 3.5 percent, and the committee went out to do its job in all areas.

Now, I realize that we are talking only about procurement here, but if what is done to procurement is done to other titles, it will eviscerate the entire bill. As we look at the rate of growth that is really projected here, it is about 1.7 percent when we take out inflation.

The gentlewoman has talked about the great growth in the procurement account from some 30 billions of dollars up into the 90 billions of dollars. She does not mention the reason for that growth, and it had to do with mo-

derization of all of our services. It had to do with an army that had not had new systems since the Vietnam war, an army that was using tanks that were of a vintage of the early 1960's and Sheridan vehicles that were technically unsafe and would not function. We built a new tank and a new Bradley fighting vehicle, just to name a couple of systems. When I was at Operation Quicklook a few weeks ago, I saw it fielded in Germany, and we need those very much. We should not interrupt these programs at this time.

The next thing I would say is that it will threaten not the future of those programs but such other cost-effective things as the multiyear contracting. It will perhaps cause a stretch out of these systems, and we will end up over the long pull paying more and not less. As it impacts on ammunition and trucks and articles of that nature, it will have a serious impact on readiness.

So all in all, I can do nothing but ask the House to overwhelmingly defeat the amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I just want to make it very clear that, as the gentleman did point out, this only goes to title I, the procurement title. I have no intention of offering this amendment in the readiness title because I agree that readiness has been bled white and I think we are not putting emphasis on it.

But I do think in the procurement section we have way overloaded it. There are any number of things in it. I have left it to the discretion of the Secretary of Defense, who has already come up with $2 billion more in cuts than we did ourselves, in this bill. I do not think that the Secretary is leading us down the garden path.

So I really think, if the gentleman is worried about my offering this cut in every title, no, this is only title I am doing it on, because I feel this is the area that is overloaded. My amendments only brings us to the budget level where we said we would be before when we passed the House budget.

Mr. Chairman, I thank the gentleman for yielding.

Mr. HILLIS. Mr. Chairman, I appreciate the gentlewoman's words, and I am glad to know that she is limiting it only to this title. I do not happen to serve on the Procurement Subcommittee, but I know that subcommittee has worked very hard in making its share of the reductions that were agreed to, to bring the overall cost of the bill down to what we thought the figures would be in the budget request, the final budget figure by both the House and the Senate, and that is what we are trying to operate by.

But if we go this route, we might as well disband the Procurement Subcommittee of the Armed Services Committee, and maybe the whole committee, and just turn the whole thing over to Appropriations or Budget or somebody else and not go through this whole exercise.

Mr. Chairman, I think it is a poor approach on the floor to take a meat ax and chop away and undercut the Members who have spent weeks and sometimes months, through hearings, to determine what the priorities in the system should be.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I heard what my colleague, the distinguished gentleman from New York, asked: Where can we get the money?

I recall several years ago, when I introduced a medicare amendment to retrieve the medicare money that the President wanted to take out of the pockets of senior citizens, the amount was $4.6 billion. So I asked the Pentagon for a list that year of cost overruns that were over 25 percent.

Finally, on the day that I was going to introduce the amendment and speak on it, they came up with a list, and, as my colleagues who were here at the time remember, the list for 1 year of the cost overruns in budget contracts from the Defense Department was 14 feet long. It was a computerized list.

My amendment was really very simple. All I did was ask my colleagues, if they thought more of cost overruns, $4.6 billion for a helicopter project, than they did of senior citizens?

So I think this is a modest amendment. This amount of $4.6 billion is the amount that you can get probably today from another helicopter project.

Just today we are reading that a Federal judge has accepted a guilty plea from Sperry Corp. for illegally billing the Government $325,000 on the MX missile project, and it is the first criminal prosecution of a major defense contractor for overcharges. Then it goes on to say that some people question why the Justice Department did not ask for the full $3.5 million. But they did not do that.

So one wonders, if this particular plea was put forward, how many other cost overruns there are in the Defense Department alone.

My constituents are aghast at this. When I hold up a nut, bolt, and screw that cost them $150,000 they cannot get over that.

So what we are seeing is that it is not the quality of defense, it is the quantity. I think this is a modest amendment. We can get it very simply by putting a cap on the so-called overruns that corporations charge our Government, the charity that we give to them in these special interest contracts.

So, Mr. Chairman, I urge support of the amendment. It will not hurt one project. We can get it very, very simply. I think it is a very fine amendment, and I hope we all agree to it. It has nothing to do with the quality of defense. It will not hurt the quality of defense one bit.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at this point I would like to dissent from the characterization of the gentleman from New York that this amendment is somehow "cute" or frivolous. I think it is a very important amendment and a very serious approach to a problem that faces us here in the United States.

In the first instance, I would like to commend the gentlewoman from Colorado (Mrs. SCHROEDER). I believe the act that she has targeted this amendment to the procurement section of the defense authorization bill is a responsible approach to what we know is existing in terms of our national security. It is clear, and very clear, that as we increased our spending throughout the last 3 years on the military budget, we have not had a commensurate increase in combat readiness.

We have found that our conventional forces are wanting in terms of ammunition, spare parts, and training, and we find ourselves many times playing into a difficult situation. If our conventional forces cannot be responsive, at some future date we may find ourselves forced to use nuclear weapons as a result. That is why I believe the gentlewoman's amendment is on target. it goes after that level of spending where clearly we must look for some sacrifice.

It is ironic to me that several weeks ago on both sides of the aisle we heard many speeches about the need for restraint and the need for us to cut spending in order for us to reduce the Federal deficit, and after many proposals were brought before this Congress, the budget resolution which was enacted by the House of Representatives held the real increase to 3½ percent for the Department of Defense.

Today we are considering that section of the Department of Defense authorization relating to procurement and asking with this amendment that we in fact stay true to our word, that as a body we will hold spending to a 3.5-percent real increase.

To say this, I think, is responsible. To turn our backs on this part of the budget and to say it is somehow sacred, inviolate, and cannot be touched, and that in fact any other approach to it is a meat-ax approach, I think, is grossly unfair, and in fact it denigrates the whole process of coming up with a budget resolution.

I would add as well that I believe that what we are going to accomplish with this amendment is to force the Department of Defense to impose internal controls on their own spending, to be a little bit tighter with the taxpayers' dollars when it comes to procurement, to avoid the overruns, and to avoid the horror stories that we have heard.

I commend the gentlewoman for her approach and for her amendment. I support it, and I ask all those who have given speeches—and there are many of us on both sides—on the need to cut back on spending and reduce the deficit to take this first step on procurement and hold the spending level at exactly the level of the budget resolution which we enacted several weeks ago.

Mr. Chairman, I yield back the balance of my time.

□ 1420

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Senator Everett Dirksen used to have a saying that you talk about a billion dollars here, a billion dollars there, and pretty soon you are talking about big money.

Hearing this discussion, what triggers me off on this occasion is the fact that the specific amendments offered in the name of economy are fine and dandy. I do not rise to speak either in favor or against the merits of the pending amendment, but the remarks of the gentlewoman from Ohio do motivate my rising for the record, because I think that the overall issue should be the serious responsibility that the Congress abdicated about 5 years ago when it did away with the only watchdog ability to oversee what nobody likes to call war profiteering.

What we have before us now with the exponential increases in demands of the defense budget is really more than a defense budget. This is really a war budget. Let us not kid ourselves about it and what it is now and particularly has become in the last 5 years is the happy hunting ground of the war profiteers.

You can talk about saving $4.6 billion. Maybe that is a saving, maybe it is false economy, but the real issue is what protection have we given the American people since World War II to ward off what we have always been victimized with: war profiteering.

George Washington having his soldiers with frostbitten feet and hands in the Delaware was victimized by the war profiteers then.

War profiters have always been amongst us, but never have we left the American people naked, stripped naked from the war profiteers as we are now.

We have, some of us, attempted fruitlessly for the last 5 years, in fact I have by way of explanation come up when the authorization bills have been up and offered an amendment to reestablish the renegotiation board that on two occasions I have even withdrawn as a symbolic gesture to remind the Congress that it has a continuing responsibility that it cannot afford to abdicate any longer to set up safeguards, even if it means reinstituting the old renegotiation board, as frail as it was. At least it was a minimal protection against what is rampant now.

Some of us have studied this matter a great deal since the first efforts were made in 1967 to do away with the renegotiation board.

Today the need is greater than ever. There is no safeguard whatsoever in over 70 percent of the procurement where you have sole source negotiated contracts with absolutely no oversight and no accountability.

Now, $4.6 billion is a drop in the bucket. Our latest estimate among those of us who have continued to study this matter, we have had hearings on the Renegotiation Subcommittee of the Banking Committee, of which I am the ranking member. We have had reiterization ad nauseum in the testimony showing the dire need for this.

So that what I am saying at this point is that perhaps yes, perhaps no on a specific item, but the overall question is how are we able to account to the American people at this time?

Our estimates show that right now with the volume of renegotiation processes, that if we had reinstituted the weak, anemic renegotiation board that we created in 1979, we would have over $10 billion recovered for the American taxpayers, and that is an extremely conservative sum.

So I hope that as we discuss these issues we do not forget the fundamental overall issue, just as in the case of the overall question.

The world has changed, but our policies have not.

Mr. LEVIN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in favor of this amendment. I did not intend to speak, but I am moved to do so by the comments of the distinguished gentleman from New York. He has attempted to respond to the amendment by ridiculing it.

I want to indicate that many of us take the amendment, the effort within it, very seriously.

We passed a budget resolution that provided for 3.5 or 3.6 percent real increase in defense. Most of us, if not all of us, who voted for that budget resolution took that figure seriously. The bill that came out of the Armed Services Committee goes considerably beyond the figure in the budget resolution. It goes beyond it considerably.

At the very least, what this amendment expresses is a seriousness of intention for those of us who voted for the budget resolution that it be adhered to and that in negotiations with the Senate over the budget resolution that there not be an easy retreat from that figure.

Now, there can be and there are legitimate differences of opinion about what should be the level of defense spending and what should be the components within it.

I voted with the chairman of the subcommittee on the floor some minutes ago. I often vote the other way, but I think we move backward when we approach an amendment that touches a serious subject by means of ridicule. It deserves much better than that. I intend to vote for it.

I am not in favor of major cuts in the defense budget in other sections. I am worried about the level of our conventional resources. I am concerned about the level of support for operation and maintenance, but the fact of the matter is that there has been a dramatic growth in the procurement side of the budget and it is a subject of legitimate debate and difference of opinion on the floor of this House.

I do not rise to use ridicule, to paint the picture of the opposition position. I do not think it is appropriate to do the same when a distinguished member of the Armed Services Committee rises to oppose a serious amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. LEVIN of Michigan. I would be glad to yield.

Mr. STRATTON. The gentleman has pointed out that the House adopted a budget figure of 3.5 percent.

Mr. LEVIN of Michigan. Real growth.

Mr. STRATTON. Real growth. I would point out to the gentleman, however that is a figure that applies not just to the procurement section of the House bill; it applies to the entire defense budget once the House and Senate agree on a budget figure. In our bill, if the gentleman was listening when I made my statement, we have already cut $11 billion from the procurement section of the administration's bill.

Mr. LEVIN of Michigan. Mr. Chairman, let me reclaim my time. I want to respond to the gentleman.

Mr. STRATTON. The point is that the gentleman is proposing that we take the entire cut out of the procurement section of the House bill, when we have in fact a bill that is going to be coming over from the Senate, and we in the House have several other sections that are included in our bill.

Mr. LEVIN of Michigan. Let me reclaim my time, if I might, Mr. Chairman, because I want to respond.

The gentleman is right. It is a 3½ percent and it covers the whole bill.

It is also correct that the subcommittee and the committee made some changes, some cuts in procurement.

What the gentlewoman from Colorado suggested is that to reach the budget figure, there should be further reductions in procurement.

Where are you going to cut it if the 3½-percent figure is sustained?

All I am saying—let me finish.

Mr. STRATTON. The 3.5-percent figure cannot be sustained on the final defense bill. You have another body that is involved in the budget process. The Senate has approved a figure of 7.8, which harmonizes with the President's agreement with the Senate so the final figure overall will be close to 5.5 percent. It makes no sense to insist that procurement in the House bill should carry all the cuts.

Mr. LEVIN of Michigan. I understand that.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. LEVIN of Michigan was allowed to proceed for 1 additional minute.)

Mr. LEVIN of Michigan. The Senate is likely to disagree, has disagreed with us. It is possible that our figure will be sustained. It may not be sustained.

My point is that it is a legitimate proposal to say that if further cuts are to be made, they should be taken further out of procurement and that is not an argument that deserves ridicule on this floor. It is an argument that is seriously maintained by the gentlewoman from Colorado and by numerous other people who have voted for further cuts in procurement.

□ 1430

Mrs. SCHROEDER. Will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman from Michigan. I think he is making a very important point.

As the bill stands right now it allows 6.3 percent real growth. If this amendment passes, in the overall bill it will be 3.5 percent real growth. And I am targeting my amendments so the cuts come out of the procurement because I feel the other areas have been cut enough.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 250, answered "present" 1, not voting 9, as follows:

[Roll No. 168]

AYES—173

Ackerman	Gray	Pease
Addabbo	Green	Penny
Albosta	Guarini	Perkins
Anderson	Gunderson	Rahall
Anthony	Hall (IN)	Rangel
AuCoin	Hall (OH)	Richardson
Barnes	Harkin	Ritter
Bates	Harrison	Roberts
Bedell	Hawkins	Rodino
Beilenson	Hayes	Roemer
Bereuter	Hertel	Roth
Berman	Howard	Roukema
Bonior	Hoyer	Roybal
Bonker	Jacobs	Sabo
Borski	Johnson	Savage
Boxer	Jones (OK)	Scheuer
Brown (CA)	Kaptur	Schneider
Brown (CO)	Kastenmeier	Schroeder
Bryant	Kildee	Schulze
Burton (CA)	Kogovsek	Schumer
Clay	Kolter	Seiberling
Coelho	Kostmayer	Shannon
Collins	LaFalce	Sikorski
Conte	Lantos	Simon
Conyers	Leach	Slattery
Coughlin	Lehman (CA)	Smith (FL)
Coyne	Lehman (FL)	Smith (IA)
Crockett	Leland	Smith (NE)
Daschle	Levin	Snowe
Dellums	Levine	Snyder
Derrick	Lowry (WA)	Solarz
Dixon	MacKay	Staggers
Donnelly	Markey	Stark
Dorgan	Martin (IL)	Stokes
Downey	Martinez	Studds
Durbin	Matsui	Swift
Dwyer	McCloskey	Tallon
Dymally	McKernan	Tauke
Early	McKinney	Torres
Eckart	Mikulski	Torricelli
Edgar	Miller (CA)	Towns
Edwards (CA)	Miller (OH)	Traxler
Evans (IA)	Mineta	Udall
Evans (IL)	Minish	Vento
Fazio	Mitchell	Walgren
Feighan	Moakley	Waxman
Ferraro	Moody	Weaver
Florio	Morrison (CT)	Weiss
Foglietta	Mrazek	Wheat
Ford (MI)	Nowak	Whitten
Ford (TN)	Oakar	Williams (MT)
Frank	Oberstar	Wirth
Frenzel	Obey	Wolpe
Garcia	Olin	Wyden
Gejdenson	Ottinger	Wylie
Gephardt	Owens	Yates
Gibbons	Panetta	Zschau
Goodling	Paul	

NOES—250

Akaka	Carney	Dowdy
Alexander	Carper	Dreier
Andrews (NC)	Carr	Duncan
Andrews (TX)	Chandler	Dyson
Annunzio	Chappell	Edwards (AL)
Applegate	Chappie	Edwards (OK)
Archer	Cheney	Emerson
Aspin	Clarke	English
Badham	Clinger	Erdreich
Bartlett	Coats	Erlenborn
Bateman	Coleman (MO)	Fascell
Bennett	Coleman (TX)	Fiedler
Bethune	Conable	Fields
Bevill	Cooper	Fish
Biaggi	Corcoran	Flippo
Bilirakis	Courter	Foley
Bliley	Craig	Fowler
Boehlert	Crane, Daniel	Franklin
Boggs	Crane, Philip	Frost
Boner	D'Amours	Fuqua
Bosco	Daniel	Gaydos
Boucher	Dannemeyer	Gekas
Breaux	Darden	Gilman
Britt	Daub	Gingrich
Brooks	Davis	Glickman
Broomfield	de la Garza	Gore
Broyhill	DeWine	Gradison
Burton (IN)	Dickinson	Gramm
Byron	Dicks	Gregg
Campbell	Dingell	Hall, Ralph
Hall, Sam	Martin (NY)	Rostenkowski
Hamilton	Mavroules	Rowland
Hammerschmidt	Mazzoli	Rudd
Hansen (UT)	McCain	Sawyer
Hartnett	McCandless	Schaefer
Hatcher	McCollum	Shaw
Hefner	McCurdy	Shelby
Heftel	McDade	Shumway
Hightower	McEwen	Shuster
Hiler	McGrath	Siljander
Hillis	McHugh	Sisisky
Holt	McNulty	Skeen
Hopkins	Mica	Skelton
Horton	Michel	Smith (NJ)
Hubbard	Molinari	Smith, Denny
Huckaby	Mollohan	Smith, Robert
Hughes	Montgomery	Solomon
Hunter	Moore	Spence
Hutto	Moorhead	Spratt
Hyde	Morrison (WA)	St Germain
Jeffords	Murphy	Stangeland
Jenkins	Murtha	Stenholm
Jones (NC)	Myers	Stratton
Jones (TN)	Natcher	Stump
Kasich	Neal	Sundquist
Kazen	Nelson	Synar
Kemp	Nichols	Tauzin
Kennelly	Nielson	Taylor
Kindness	O'Brien	Thomas (CA)
Kleczka	Ortiz	Thomas (GA)
Kramer	Oxley	Valentine
Lagomarsino	Packard	Vander Jagt
Latta	Parris	Vandergriff
Leath	Pashayan	Volkmer
Lent	Patman	Vucanovich
Levitas	Patterson	Walker
Lewis (CA)	Pepper	Watkins
Lewis (FL)	Petri	Weber
Lipinski	Pickle	Whitehurst
Livingston	Porter	Whitley
Lloyd	Price	Whittaker
Loeffler	Pritchard	Williams (OH)
Long (LA)	Pursell	Wilson
Long (MD)	Quillen	Winn
Lott	Ratchford	Wise
Lowery (CA)	Ray	Wolf
Lujan	Regula	Wortley
Luken	Reid	Wright
Lungren	Ridge	Yatron
Mack	Rinaldo	Young (AK)
Madigan	Robinson	Young (FL)
Marlenee	Roe	Young (MO)
Marriott	Rogers	
Martin (NC)	Rose	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—9

Barnard	Hansen (ID)	Russo
Boland	Ireland	Sensenbrenner
Hance	Lundine	Sharp

□ 1450

Mr. LATTA and Mrs. BOGGS changed their votes from "aye" to "no."

Messrs. ROYBAL, ROTH, PERKINS, ROBERTS, MRAZEK, SLATTERY, and GEPHARDT, and Mrs. SMITH of Nebraska changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Armed Services Committee is well aware, maintaining early warning surveillance capabilities for our naval forces is a mission of highest priority. The ability to see hundreds of miles beyond the horizon around the clock is a task which is under increasing challenge due partly to improvements in the Soviet cruise-missile-armed submarine and surface

fleets. In 1982, we witnessed the difficulty caused to the British Fleet in the Falklands by the lack of radar picket assets—those fixed winged aircraft able to climb to high altitude and pinpoint threats all the way from high-altitude aircraft to sea-skimming cruise missiles, fortunately, in the E-2C Hawkeye aircraft, we have what has been called the best early warning surveillance platform in the world.

In order to maintain the superior capability of the E-2C, the Navy has embarked upon an engine modernization program to extend the endurance of the aircraft and address other concerns relating to the growing demands placed upon the airframe in terms of added payload capacity and maintaining a margin of safety in all takeoff configurations and weather conditions. Such a program recognized the proven design of the T-56 engine and reliability of the derivative engine—(T-56 series IV, program element 64252N). Continuation of this aircraft propulsion improvement project will obviate the need for going to a totally new aircraft to fulfill the E-2C's vital mission. At a time when the expense of many weapons programs is undergoing intense scrutiny, it is gratifying to see this engine improvement effort which capitalizes on proven technologies to assure the performance of this vital carrier-based asset.

For this reason, I was concerned about the decision to reduce the Navy's request for this item in the RDT&E budget from $35 to $20 million. It is my purpose here to gain assurances from the distinguished committee chairman, Mr. PRICE, that such action was done without prejudice.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Illinois.

Mr. PRICE. The gentleman is correct. The committee had to make choices. The reduction of this particular item was definitely without prejudice.

Mr. McCLOSKEY. I thank the gentleman very much.

Mr. Chairman, I believe the gentleman from Indiana (Mr. HILLIS) also shares my concern.

Mr. HILLIS. Mr. Chairman, I rise in support of my colleague from Indiana and share his concern relative to the committee's decision to reduce funding for development of the T-56 derivative engine. I feel the advances in development programs for this type of turbine engine is an important key to premium aircraft power for the future.

In assessing the future needs of its turbo-prop aircraft, the Navy has reviewed all possible options and has determined that the T-56 derivative engine is the most practical development route in terms of necessary increases in performance, fuel economy, and altitude capability.

My colleague has stressed the importance to our fleet of the early warning capabilities of the E-2C. The T-56 derivative engine provides a much needed solution to current power problems involving carrier launches on hot days, thereby assuring the continued safety of the pilot and crew.

The derivative engine also provides for a planned increase in aircraft gross weight due to added surveillance equipment, as well as higher altitude and increased search time for improved surveillance tactics.

In addition, it should be pointed out that the availability of the advanced T-56 will provide the option for improved performance and mission capability for all T-56 powered aircraft including Air Force and Navy C-130's, Navy P-3's, and Navy C-2's.

In view of the importance of this program to maintaining high aircraft performance standards, I add my request for assurance from the distinguished committee chairman, Mr. PRICE, that the $15 million reduction in funding for this program element was done without prejudice.

The CHAIRMAN. Are there any further amendments to title I? If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, $4,527,344,000.

For the Navy (including the Marine Corps), $8,929,757,000.

For the Air Force, $12,569,215,000.

For the Defense Agencies, $4,187,205,000.

For the activities of the Director of Operational Test and Evaluation of the Department of Defense, $62,000,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1985 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

LIMITATION ON FUNDS FOR THE ARMY

SEC. 202. Of the amount authorized in section 201 for the Army, $78,978,000 is available for the Joint Tactical Missile system only if the Patriot T-16 missile or the Lance T-22 missile is selected as the delivery vehicle for that system.

LIMITATION OF FUNDS FOR THE NAVY

SEC. 203. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) $45,000,000 is available only for continued development of the Rankine-Cycle Energy Recovery (RACER) system to ensure compatibility of the RACER system with all ships of the DDG-51 class, including the lead ship;

(2) $20,000,000 is available only for the development of a derivative of the Navy SH-60 helicopter for the aircraft carrier inner-zone anti-submarine warfare helicopter mission;

(3) $35,795,000 is available only for the Mark 92 fire control system;

(4) $30,000,000 is available only for advanced submarine technology initiatives to enhance the effectiveness of the Navy new design attack submarine designated SSN-X and subsequent submarines;

(5) $25,000,000 is available only for continued development of the low cost anti-radiation guidance and control system for the High-Speed Anti-Radiation Missile (HARM) and other delivery vehicles;

(6) $5,000,000 is available only for the development of the diesel rotary engine for Army and Marine Corps applications;

(7) $26,603,000 is available only for the development of the Vertical Launch Anti-Submarine Rocket system;

(8) $5,000,000 is available only for the development of the Submarine Laser Communication system; and

(9) at least $15,000,000 is available only for the investigation, research, development, test, and evaluation of a modified F-14 aircraft for the Navy attack mission.

(b) None of the amount authorized for the new design attack submarine may be obligated or expended unless and until the Secretary of the Navy provides to the Committees on Armed Services of the Senate and House of Representatives written certification that, based on current national intelligence estimates approved by the Director of Central Intelligence, the new design attack submarine will be capable under operational conditions of engaging the known Soviet submarine threat.

LIMITATIONS ON FUNDS FOR THE AIR FORCE

SEC. 204. Of the amount authorized in section 201 for the Air Force, (1) $127,285,000 is available only for development of the C-17 cargo transport aircraft, and (2) $2,000,000 is available only to complete test and evaluation of the C-5 cargo transport aircraft.

LIMITATION ON FUNDS FOR THE DEFENSE AGENCIES

SEC. 205. Of the amount authorized in section 201 for the Defense Agencies, $35,000,000 is available only for the Strategic Laser Communication Technology program.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. BADHAM

Mr. BADHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BADHAM: At the end of title II (page 18, after line 13) add the following new section:

FREE ELECTRON LASER TECHNOLOGY FOR MEDICAL RESEARCH

SEC. 206. Of the amount authorized to be appropriated in section 201 for the Strategic Defense Initiative program, $10,000,000 is available only for the application of free electron laser technology for medical research.

Mr. BADHAM. Mr. Chairman, I would like at this time to discuss for a few moments an important aspect of the SDI program that has both weapons applications and, because of its exceptional characteristics, realistic medical and material science applications.

The free electron laser is a unique lasser system that has been funded by

the Department of Defense as part of the high energy laser directed weapons program. Funding for this project is continuing; however, two important additional issues should be addressed at this time. These are scientific/technical manpower training and potential medical/scientific research applications.

I propose that $10 million be made available within the strategic defense initiative to create several regional multidisciplinary resource research centers to investigate potential medical applications, expedite scientific and engineering training and develop programs to utilize this advanced technology in support of DOD basic and applied research.

I believe both the distinguished chairman and the ranking minority member of the committee are aware of the special characteristics of the FEL and of how they might be utilized for medical and scientific applications.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the distinguished chairman, the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, I agree with the gentleman from California. I believe that the potential benefits that can be derived from research and free electron lasers are extremely high and I have no objection to the amendment offered by the gentleman from California requiring that $10 million of the amount authorized for the strategic defense initiatives be used for this purpose.

Mr. BADHAM. I thank the chairman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the distinguished ranking minority member, the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

As I understand the amendment, this adds no money. It simply earmarks part of the money already in the bill to be authorized for use for medical purposes by using the laser that the gentleman described; is that correct?

□ 1500

Mr. BADHAM. That is correct.

Mr. DICKINSON. I think it is a good amendment, and we certainly accept it on this side.

Mr. BADHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BADHAM).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: At the end of title II (page 18, after line 13) add the following new section:

LIMITATION ON FUNDS FOR ANTISATELLITE WEAPONS

SEC. 206. No funds appropriated pursuant to authorizations of appropriations in this title may be used for testing of the Space Defense system (antisatellite weapon) against an object in space unless and until the President certifies to Congress that the Soviet Union has conducted, after the date of enactment of this Act, a test of a dedicated antisatellite weapon.

Mr. BROWN of California. Mr. Chairman, I was caught a little bit by surprise at the speed with which we approached this particular section, and I apologize to the Members for my lack of preparation.

I am offering this amendment on behalf of the gentleman from Pennsylvania (Mr. COUGHLIN) and about a dozen other Members of the House who join with me in support of this amendment.

What the amendment does, very briefly, is as follows: It continues for 1 more year the existing moratorium on the testing of antisatellite weapons by both sides, by both the Soviets and the United States.

The Soviets have not tested their antisatellite weapon in the past 2 years. Because of a moratorium contained in the current year's appropriation bill, the so-called Tsongas amendment, which was put in on the Senate side, the United States has not tested its antisatellite weapon.

My amendment, very simply, continues this situation. It says as long as the Soviets do not continue to test, that we will not continue to test.

Now, our next test was scheduled for about this time. It has been postponed now until November. And it was intended to be the first in a series of tests of the weapon against an actual object in space. We have not as yet tested the system on such an object. This is the F-15 miniature homing vehicle system to which I am referring. We have not yet tested it against a vehicle in space. The Soviets, who have had a system which is considered by some to be operational, has continued to test their system, with various modifications. In other words, we may consider it operational, but they are still changing it and testing these changes.

I think most of you know the nature of their system. We could compare it to a Model T. And they are testing this Model T with various modifications, such as the explosive system, the guidance system, and so on. The first version of it was a radar-guided system which exploded when it approached the vicinity of the target. They have now changed over to a system which actually fires projectiles, pellets, at the target and which has an infrared guidance system. That probably is an improved technology. But their recent tests with that system have not shown it to be particularly good. I think they have had less than 50-percent success with their tests, which is not as good as their original Model T test results, which had a higher ratio of success, but was a cruder system.

So they are still engaged in the process of upgrading their system.

I think previous discussions, last year's discussions, have indicated that ours is a superior technology. It is based upon a little gizmo that one of our great defense contractors began developing about 15 years ago to use as part of their anti-ballistic-missile system, and in their efforts to sell it, they converted it to an anti-ballistic-missile system. It is a pretty good little machine. It destroys on impact. It has a very good infrared guidance system. It is technically very sophisticated, although I would still consider it a Model A. And we have, of course, a number of Cadillacs in the research stage which we are prepared to deploy in the not too distant future.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the committee chairman.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that further debate on this amendment and amendments thereto be limited to 2 hours, to be divided one-half to the gentleman from California (Mr. BROWN) and the other half to be equally divided between myself and the gentleman from Alabama (Mr. DICKINSON).

The CHAIRMAN pro tempore (Mr. AUCOIN). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California (Mr. BROWN) is recognized for 1 hour.

Mr. BROWN of California. Mr. Chairman, I had previously agreed with the distinguished chairman of the full committee that I would have no objection to a 2-hour limit, knowing that we are eager to move ahead with this.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, just as a parliamentary matter, I was wondering how the gentleman would like to proceed. Does the gentleman want to take the 1 hour himself, or just do 10 minutes? How would the gentleman prefer to handle it?

Mr. BROWN of California. Mr. Chairman, it would be my intention to share my hour with the gentleman from Pennsylvania (Mr. COUGHLIN), and to proceed alternately, if that is satisfactory to the gentleman.

Mr. DICKINSON. For the first hour; and then as to the gentleman

from Illinois (Mr. PRICE) how would that happen? I do not care, but I just want to know what the rules are.

Mr. BROWN of California. I would prefer to alternate between the pro and the anti side as we proceed. I think that gives a fairer presentation.

Mr. DICKINSON. Mr. Chairman, it is my understanding, if the gentleman will yield further, that there will be offered an amendment or a substitute for the gentleman's amendment, and I assume we will be discussing that in connection with it.

I thank the gentleman for yielding.

Mr. BROWN of California. Mr. Chairman, I want to be very brief, because we have discussed this subject, at some length last year. I would like to distinguish between the amendment which I offered last year and this year's amendment.

Last year we had in this same corresponding bill the first funds for the actual procurement of equipment for the deployment of the system. It was a small amount, $19 million. And my amendment proposed to eliminate that $19 million, from the bill, which would, of course, have precluded any further efforts to deploy the system. That amendment did not succeed, and in its place, by virtue of language on the appropriation bill, offered on the Senate side, we had instead a moratorium on testing. This was an effort to move the administration back into negotiations with the Soviets, in order to achieve an agreement on not deploying an antisatellite system, for all of the reasons you have heard many times. So this year it was my thought that instead of trying to strike the funds for the procurement of the system itself that we would continue the moratorium in the hopes that the administration might be willing to accept this as a way of saving money, if nothing else, and that it might be willing to go back to discussions with the Soviets about not deploying an antisatellite system on either side and, in fact, destroying the present systems that may exist.

Now, I recognize that the administration does not wish to engage in arms limitation talks on ASAT's. They said that in their report to the Congress on March 31. But it was my view and therefore the reason I have offered this amendment that if they delay testing a little bit longer, that the realities of the fiscal picture, if nothing else, will catch up with them. This is not a high priority system. It is one with huge costs down the road. And if they are forced into a situation where there has to be some cap on military spending, this system will probably be the first one to go. Therefore, if we can delay further testing—and there is about another 2 years of testing scheduled—there will be no great loss to anybody when the time comes to make the necessary decisions with regard to financing this system.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Colorado.

Mr. KRAMER. I very much appreciate the gentleman's courtesy in yielding. I do have some problems with the gentleman's amendment. First, let me say that I am troubled by the trend that I see on the House floor to abrogate our own responsibilities of meeting our vital security interests, especially in cases where tremendous disparity exists between the United States, as it does in the case of the Soviets' predominance in the field of ASAT's, where we have no capability, and then in effect allowing the Soviet Union unilaterally to decide the course of action on whether or not we are going to have programs like the MX, and so forth, and especially in this case, like ASAT.

□ 1510

Because as I read your amendment, in effect, as long as the Soviet Union continues to refrain from future testing, discounting all the past testing that they have done, the 20-odd tests that they have run, 9 of which at least are successful in terms of having kills, we will restrain ourselves unilaterally from going forward to build an equality in our capabilities. That disturbs me.

It disturbs me that we leave the Soviets in effect, with not only preeminence in this field, but with total domination in that my understanding of their present capability is that indeed they have a reliable and operational antisatellite system that puts at risk all of our present reconnaissance capability; in other words, our eyes and our ears.

In fact, most of the rest of our space-borne assets, everything out to about 3,000 miles is put at risk by the Soviet system, and under the gentleman's amendment, we would not, in effect, make up this discrepancy. We could not move to equality with the Soviet Union. We would be institutionalized in a framework of inferiority and no equal capability, which of course, I think does not add to deterrence.

If deterrence means equality of capability, certainly to allow them the total access to space-borne assets or the destruction of space-borne assets and not a corresponding capability in us can do nothing but to in effect give the Soviets some incentive somewhere down the line to us that exclusive capability that they possess.

Could the gentleman respond to those points?

Mr. BROWN of California. I know the gentleman wants to be fair.

Mr. KRAMER. I do appreciate the gentleman yielding to me his time.

Mr. BROWN of California. I am always pleased to yield for comments, but if the gentleman wishes to make extended speeches in opposition to my amendment, I think in fairness he ought to use the time already allocated to the opponents.

I will be happy to respond to the gentleman's comments. The gentleman has overstated the situation somewhat in my opinion. The gentleman has used the term "an operational system of high effectiveness" to describe the system of the Soviets. I indicated in my opening remarks that theirs is a Model T system; that it is not of high effectiveness. It is in the process of modifications. The modifications have not been tested and proven to be workable, and in the minds of many observers, it is not a fully operational system and not of high quality.

We had this same debate last year. You know, poor, helpless America at the mercy of this great, sophisticated system. Somewhere on the floor I have been distributing copies of an article from one of the leading aerospace magazines, which lists the history of 25 years, not only of ASAT testing by the United States, but the actual deployment of an ASAT system during the period of 1964 to 1975.

We had deployed, operated, a system with the same capability that they have today, 15 years ago, and we scrapped it. It was a Thor missile with a nuclear warhead, but it had been tested with both nuclear and nonnuclear warheads. It showed the capability to achieve proximity to the target and to destroy that target, and we deployed it as operational in 1964. Now, that is just about a proper representation of the relationship between our ASAT capabilities.

What they have today and are still working on, we demonstrated would work 20 years ago. Now we are trying to upgrade that system. We, of course, no longer want to use a nuclear warhead, because we found out from testing nuclear warheads that we are not sure how many of them we want to explode in space. But if it will reach the proximity of the target and it will explode with a nuclear or nonnuclear warhead, that is exactly the system that the Soviets have today.

So we are not in the posture of technological inferiority that the gentleman is trying to present here. We are not leaving ourselves helpless against further developments, either. I want to go ahead with a strong research and development program in this area.

The gentleman knows, as do other members of the Armed Services Committee, that we are spending literally billions of dollars on testing the next generation of ASAT which will have far more capability than this crude, kinetic weapon on which it is proposed

to spend somewhere between $3.5 and $15 billion. We cannot afford to sacrifice our capability to deploy superior weapons in the near future by wasting all of our resources on something like this. It is ridiculous.

I am making this argument to appeal to those of you who want the best possible ASAT system. I do not happen to want any; I would prefer to keep arms out of space, but the practical reality is, that we have in being right now systems which probably can be deployed within 5 to 10 years that are far superior to this system that we are proposing to spend, as I say, somewhere between $3.5 and $15 billion on.

So that is my response to the comments that the gentleman has made.

Mr. Chairman, I know that there are others who would like to be heard on this issue, and I would like to reserve the balance of my time at this point.

The CHAIRMAN. The Chair would state that the gentleman from California (Mr. BROWN) has 1 hour which he may choose to yield in whole or in part to other Members, including Members on the other side of the aisle.

The gentleman from Illinois (Mr. PRICE) has 30 minutes, and the gentleman from Alabama (Mr. DICKINSON) has 30 minutes.

Mr. BROWN of California. Mr. Chairman, if I may clarify the statement of the Chair, I indicated that I would yield one-half hour to the gentleman from Pennsylvania (Mr. COUGHLIN) on the other side of the aisle, also in support of the amendment.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the gentleman's amendment because I believe there are many aspects of technology development for ASAT systems which have implications for missile defense. The antisatellite (ASAT) systems are strongly linked to star wars technologies through ballistic missile defense (BMD) requirements. I believe the gentleman from California is very familiar with the OTA background paper entitled "Directed Energy Missile Defense in Space" since he serves as a House Representative on the OTA Board.

This paper, prepared by Dr. Ashton B. Carter of MIT, is a most valuable document in terms of raising technological issues about defense systems, and particulary the various directed energy approaches to ballistic missile defense. What has not been generally appreciated is the strong connection between these directed energy weapons technologies, such as space-based chemical lasers, ground-based excimer lasers, space-based particle beams and kinetic energy weapons, and the development of potent antisatellite (ASAT) weapons. As the OTA paper states, "Successful development of effective directed-energy BMD weapons virtually presupposes development of potent antisatellite (ASAT) weapons." I am afraid that technology development for ballistic missile defense systems (BMD) which are identified as the most promising, as well as DSAT satellite defense systems, will be greatly hindered by constraints on ASAT testing.

The House should recognize the emphasis which the OTA paper puts on this ASAT-BMD link in terms of two of the principal judgments and observations of the paper. I summarize these for my colleagues:

It is clear that potent directed-energy weapons will be developed for other military purposes (even is such weapons are never incorporated into effective BMDs.) Such weapons might have a role in nuclear offense as well as defense, in anti-satellite (ASAT) attack, in anti-aircraft attack, and in other applications of concern to nuclear policy arms control. Defense and arms control policy will thus need to face the advent of these new weapons, irrespective of their BMD dimension.

There is a close connection, not explored in detail in this Background Paper, between advanced BMD concepts and future antisatellite (ASAT) systems. This connection springs from four observations: (1) ASAT attack on space-based weapons and sensors is probably the most attractive countermeasure to boost-phase BMD; (2) directed-energy weapons are more likely to succeed in the easier mission of ASAT than in the more difficult mission of boost-phase BMD; (3) to a degree dependent on technical details, early stages of development of boost phase BMDs might be conducted in the guise of ASAT development, stimulating anxieties about the health of the ABM Treaty regime; (4) to a degree dependent on technical details, concluding a treaty with the Soviet Union limiting ASAT development would impede BMD research at an earlier stage than would occur under the terms of the ABM Treaty alone.

I am afraid the gentleman's amendment, although well-intended, actually undermines the U.S. capability to perform research, development, testing and evaluation (RDT&E) of promising BMD systems and muddies the water in terms of our ability to develop such stabilizing systems from an arms control perspective by approaching these defense systems with realistic goals which can truly strengthen deterrence.

□ 1520

PARLIAMENTARY INQUIRY

Mr. COUGHLIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COUGHLIN. Am I correct that I have a half hour of time?

The CHAIRMAN. The gentleman is correct.

Mr. COUGHLIN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I am very pleased to join with the gentleman from California (Mr. BROWN) in sponsoring the pending ASAT testing moratorium amendment.

As a Member who has served on both the authorizing and appropriations committees for our space program, I recognize the crucial importance of our satellites for our economy and national defense. I believe very strongly that we must make every effort to build on the Limited Test Ban Treaty which exists and the Outer Space Treaty which exists, to preserve space for peaceful uses in the future.

Now, my colleagues who are here, and those who are back in their offices watching this, let me be very clear what this amendment does do and what it does not do. This amendment does not cut off any funding for ASAT system development. This amendment does not—I repeat, it does not—prevent the development of an ASAT by the United States. I repeat: The amendment does not prevent the testing of an ASAT by the United States. The amendment only prevents the testing of an ASAT against an object in space, unless the President certifies that the Soviets have tested an ASAT.

Under this amendment, an ASAT still could be built, it still could be tested against a point in space. The amendment does not prevent that technology from being developed by the United States.

The amendment is needed because a window of opportunity that presently exists for negotiating a mutual ban with the Soviet Union on antisatellite weapons will close late this year when the U.S. plans to test an ASAT system against a target in space. The sophisticated U.S. ASAT system uses an F-15 to fire a miniature homing vehicle (MHV) which locates its targets by means of infrared telescopes, a laser gyroscope, and a set of small jets to guide its trajectory.

Once the United States achieves an operational ASAT system by testing against a target in space, the Soviets will almost certainly abandon their 2-year-old ASAT testing moratorium in order to begin development of a more advanced system. At present the Soviets have a primitive ASAT system using a modified SS-9 missile to place a satellite interceptor in orbit. The interceptor must be manuevered close to its target and is then exploded, killing the satellite with shrapnel. By all accounts, the Soviet system is clumsy. It has failed about half of the 20 tests conducted on it. It can be fairly inexpensively countered by various survivability measures—hardening of our own satellites, increasing their maneuverability, or by using decoys and spares for quick relaunch.

Although the crude Soviet ASAT system has been judged operational, it has not been tested for nearly 2 years and poses a potential threat to only a relatively small number of low-orbit U.S. weather, reconnaissance, electronic intelligence and 9 navigation satellites. Most of our militarily significant satellites that would be critical in time of international crisis are in geosynchronous orbit at altitudes well beyond present Soviet ASAT capabilities. Those few low-orbit U.S. satellites that serve important military purposes are being moved to high orbits out of range of present Soviet ASAT's.

However, in the absence of a mutual ban on testing ASAT's, the Soviets can be counted on to develop a whole new generation of ASAT's designed to match or surpass our own current technology. It will then be only a matter of time before our vital high-altitude satellites used for early warning, nuclear attack assessment, military communications, and arms control verification will become vulnerable to Soviet ASAT attack. Since we depend more heavily on satellites than do the Soviets, an all-out arms race in ASAT's will damage our national security more than theirs.

I would draw my colleagues' attention to a letter I have received from Gerard C. Smith, an arms control adviser to seven Presidents, President Nixon's chief arms control negotiator and principal architect of SALT I. In expressing support for the Brown-Coughlin ASAT testing amendment, Mr. Smith writes:

I have long been concerned about the threat that anti-satellite weapons pose to military satellites and, therefore, to strategic stability. I also believe that most experts are convinced that the United States is substantially more dependent on the continued integrity of its military satellites than is the U.S.S.R. Therefore, I believe that a mutual moratorium on testing satellite killers clearly would be in the security interests of the United States.

A ban on testing is the most sensible way to slow down the ASAT race. The Office of Technology Assessment points out that:

A test ban would make it difficult to develop a reliable, high-performance anti-satellite system. Without testing . . . no country could be confident that a new system would perform well in a crisis.

Moreover, a ban on testing of an ASAT system is more easily verifiable than would be a ban on ASAT deployments. Once the threshold of a U.S. test against an object in space has been crossed, any agreements banning ASAT's will have to deal with deployment which poses far more complex and difficult verification problems.

The House Appropriations Committee's fiscal year 1984 defense appropriations bill report states that:

While the Committee recognizes the existence of Soviet systems with low-altitude antisatellite capabilities, and the arguments on the need for a deterrent to use of those systems, the most desirable outcome for dealing with this threat must be a ban or strict limitation on their development and deployment. Similarly, an Interim Report on the Administration's Space Arms Control and Defense Policy issued this week by the Foreign Affairs Subcommittee on International Security and Scientific Affairs notes that an increase in both United States and Soviet ASAT capabilities . . . may well prove unavoidable, if efforts to limit these weapons are not mutually made by both superpowers.

The Brown-Coughlin amendment will allow a year to pursue these negotiations, at the end of which the U.S. position on ASAT testing can be re-evaluated. Despite claims by those opposed to this amendment, it does not cut a single penny from the research and procurement funds authorized in the bill for the ASAT program. That program can continue in all respects except that testing against an object in space could not occur unless the Soviets test their own ASAT.

The General Accounting Office has estimated that an operational ASAT system could cost in the tens of billions of dollars, far more than the current official price tag of about $4 billion. A costly and destabilizing arms race in space, beginning with ASAT's, is in no one's interest and now is the time to pursue negotiations before either side demonstrates and accurate and sophisticated capability to destroy vital military satellites of the other.

I urge support of the Brown amendment; and I reserve the balance of my time.

□ 1530

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I will be happy to yield to the gentleman.

Mr. KRAMER. Mr. Chairman, I appreciate the gentleman yielding.

I would like to express my appreciation for the remarks of my colleague, the gentleman from California, to which I am sensitive. I will try to be brief on the gentleman's time, but I think three things, at least the way I hear them coming across, really come out of the gentleman's statements.

No. 1, we are indeed leaving up to the Soviets under the gentleman's amendment whether we, the United States, can have an operational capability like theirs.

No. 2, they do presently have the capability of silencing our reconnaissance ASAT's which are in low orbit.

No. 3, Ambassador Smith, who the gentleman quotes in his statement, as I recall in his testimony before the Senate in support of the SALT I agreement and the ABM treaty at the time of the early seventies stated clearly that he believed that those agreements would constitute in effect a nuclear freeze, a freeze on the arms race.

Despite those assertions on the part of Mr. Smith, what happened in the ensuing years, in less than 15 years the Soviets have deployed 29 new and modified strategic systems.

I thank the gentleman for yielding.

Mr. COUGHLIN. Mr. Chairman, let me just reclaim my time and respond to the gentleman.

It is very clear that the Brown-Coughlin amendment does not prohibit the United States from developing an ASAT system and from testing an ASAT system, that we would have a capability to kill satellites of other nations just as the Soviets have.

It is very clear that what the Soviets have is a primitive system which has been tested with some success. We would have a very modern system that would be tested, but not against objects in space.

We would have the ability to defend and to put Soviet satellites in jeopardy, just as they have the ability to put some of our satellites in jeopardy.

As far as Mr. Girard Smith is concerned, let me point out that he is directly responding to the question of producing and testing an ASAT at this time because that testing would be important to the deployment.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. COUGHLIN. Mr. Chairman, I yield myself 2 additional minutes and I yield to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well, the gentleman from Pennsylvania, in support of the Brown-Coughlin amendment. I think the amendment is needed because a window of opportunity that presently exists for negotiations. The United States timewise is in an excellent position for negotiations that will come after the elections. A limited test ban treaty and an outer space treaty is essential to preserve space for peaceful uses in the future. This amendment would place a moratorium on ASAT and slow down the ASAT race. I congratulate the sponsors of the amendment.

Mr. COUGHLIN. Well, I thank my colleague, the gentleman from Michigan. He has always been a very perceptive Member of this body and I appreciate his support.

Mr. Chairman, I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consid-

eration the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, had come to no resolution thereon.

TAX REFORM ACT OF 1984

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, at the conclusion of this 1-minute statement, it is my intention to seek to go to conference on the tax spending bill passed by the Senate on May 17, 1984.

I would like to take this opportunity to inform my colleagues of the procedural situation. The Senate has passed H.R. 4170, our Tax Reform Act, and added to it a variety of outlay reductions primarily within the jurisdiction of the Ways and Means Committee, but within the jurisdiction of other House committees as well. My request of the House will be to simply insist on our version of the tax bill, with an amendment which is to add the text of H.R. 5394, the House-passed reconciliation bill, so that both bills can be conferenced at the same time.

It is my understanding that if this request is agreed to, the Speaker will appoint conferees from the appropriate committees to the appropriate titles of H.R. 4170, as amended, and the Senate amendment thereto.

APPOINTMENT OF CONFEREES ON H.R. 4170, TAX REFORM ACT OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4170) to provide for tax reform, and for other purposes, with Senate amendments thereto, and occur in the Senate amendments with an amendment, insist on the House amendment to the Senate amendments, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Resolved, That the bill from the House of Representatives (H.R. 4170) entitled "An Act to provide for tax reform, and for other purposes", do pass with the following amendments: Strike out all after the enacting clause and insert:

TITLE I—TAX REFORMS GENERALLY

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title and titles II, III, IV, V, VI, VII, and VIII may be cited as the "Deficit Reduction Tax Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title and titles II, III, IV, V, VI, VII, and VIII an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

TITLE I—TAX REFORMS GENERALLY

Sec. 1. Short title; amendment of 1954 Code; table of contents.

SUBTITLE A—DEFERRAL OF CERTAIN TAX REDUCTIONS

Sec. 11. Short title.
Sec. 12. Amount of used property eligible for the investment tax credit.
Sec. 13. Finance lease provisions.
Sec. 14. Election to expense certain depreciable business assets.
Sec. 15. Employee stock ownership credit.
Sec. 16. Excise tax on communications services.
Sec. 17. Postponement of net interest exclusion.
Sec. 18. Foreign earned income of individuals.
Sec. 19. Effective date.
Sec. 20. Modification of election or agreement under section 2032A.

SUBTITLE B—TAX-EXEMPT ENTITY LEASING; SERVICE CONTRACTS

Sec. 21. Short title.
Sec. 22. Denial of tax incentives for property used by governments and other tax-exempt entities.
Sec. 23. Motor vehicle operating leases.

SUBTITLE C—TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS

Sec. 25. Treatment of bonds and other debt instruments.
Sec. 26. Technical and conforming amendments related to original issue discount changes.
Sec. 27. Technical and conforming amendments related to treatment of market discount and acquisition discount.
Sec. 28. Effective dates.

SUBTITLE D—CORPORATE PROVISIONS

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

Sec. 31. Dividends received deduction reduced where portfolio stock is debt financed.
Sec. 32. Treatment of dividends from regulated investment companies.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

Sec. 35. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.
Sec. 36. Distribution of appreciated property by corporations.
Sec. 37. Extension of holding period for losses attributable to capital gain dividends of regulated investment companies or real estate investment trusts.

PART III—MISCELLANEOUS PROVISIONS

Sec. 41. Denial of deductions for certain expenses incurred in connection with short sales.
Sec. 42. Nonrecognition of gain or loss by corporation on options with respect to its stock.
Sec. 43. Amendments to accumulated earnings tax.
Sec. 44. Phase-out of graduated rates for large corporations.
Sec. 45. Increase in reduction in certain corporate preference items from 15 percent to 20 percent.
Sec. 46. Restrictions on golden parachute payments.
Sec. 47. Provisions relating to earnings and profits.
Sec. 48. Two-year delay in application of the net operating loss rules added by the Tax Reform Act of 1976.
Sec. 49. Target corporation must distribute assets after reorganization described in section 368(a)(1)(C).
Sec. 50. Definition of control for purposes of nondivisive reorganizations under section 368(a)(1)(D).
Sec. 51. Collapsible corporations.
Sec. 52. Eligibility to file consolidated returns.

SUBTITLE E—PARTNERSHIP PROVISIONS

Sec. 55. Partnership allocations with respect to contributed property.
Sec. 56. Determination of distributive shares when partner's interest changes.
Sec. 57. Payments to partners for property or certain services.
Sec. 58. Contributions to a partnership of unrealized receivables, inventory items, or capital loss property.
Sec. 59. Transfers of partnership and trust interests by corporations.
Sec. 60. Application of section 751 in the case of tiered partnerships.
Sec. 61. Section 1031 not applicable to partnership interests; limitation on the period during which like-kind exchanges may be made.

SUBTITLE F—TRUST PROVISIONS

Sec. 65. Treatment of property distributed in kind.
Sec. 66. Treatment of multiple trusts.

SUBTITLE G—ACCOUNTING CHANGES

Sec. 71. Certain amounts not treated as incurred before economic performance.
Sec. 72. Amortization of construction period interest and taxes for residential real property held by corporations.
Sec. 73. Capitalization of start-up expenditures.
Sec. 74. Treatment of certain deferred payments for use of property or services.

SUBTITLE H—PROVISIONS RELATING TO TAX STRADDLES

Sec. 75. Repeal of exception from straddle rules for stock options and certain stock.
Sec. 76. Section 1256 extended to certain options.
Sec. 77. Regulations under section 1092(b).
Sec. 78. Limitation on losses from hedging transactions.
Sec. 79. Clarification that section 1234 applies to options on regulated futures contracts and cash settlement options.
Sec. 80. Wash sale rules to apply to losses on certain short sales.
Sec. 81. Time for identification by taxpayer of certain transactions.

SUBTITLE I—PENSIONS

PART I—GENERAL PROVISIONS

Sec. 85. Deduction limits for qualified pension plans.
Sec. 86. Provisions relating to top-heavy plans.
Sec. 87. Distribution rules for qualified pension plans.
Sec. 88. Rollover of certain partial distributions permitted.
Sec. 89. Treatment of distributions of benefits substantially all of which are derived from employee contributions.
Sec. 90. Repeal of estate tax exclusions for qualified pension plan benefits.
Sec. 91. Affiliated service groups, employee leasing arrangements, and collective bargaining agreements.

PART II—WELFARE BENEFIT PLANS

Sec. 95. Additional requirements for tax-exempt status of certain organizations.
Sec. 96. Excise taxes involving funded welfare benefit plans.
Sec. 97. Treatment of certain medical, etc., benefits under section 415.
Sec. 98. Employer and employee benefit association treated as related persons under section 1239.

PART III—RETIREMENT SAVINGS INCENTIVES

Sec. 100. Special rules relating to individual retirement accounts.

PART IV—EMPLOYEE STOCK OWNERSHIP PROVISIONS

Sec. 101. Nonrecognition of gain on stock sold to employees where qualified replacement property acquired.
Sec. 102. Deductibility of certain dividend distributions from employee stock ownership plans.
Sec. 103. Exclusion of interest on loans used to finance acquisition of employer securities by an ESOP.
Sec. 104. Reduction in capital gains tax with respect to sales of stock in corporations with employee ownership.
Sec. 105. Assumption of estate tax liability by ESOP receiving employer securities.
Sec. 106. Deduction from taxable estate of half the proceeds from sales of employer securities to employee stock ownership plans or certain worker-owned cooperatives.
Sec. 107. Certain contributions to ESOP treated as charitable contributions.
Sec. 108. Excise tax on certain dispositions and allocations of employer securities by employee stock ownership plans.

PART V—MISCELLANEOUS

Sec. 111. Elimination of retroactive application of amendments made by Multiemployer Pension Plan Amendments Act of 1980.
Sec. 112. Treatment of certain distributions from a qualified terminated plan.
Sec. 113. Partial termination for certain pension plans.
Sec. 114. Distribution requirements for accounts and annuities of an insurer in a rehabilitation proceeding.
Sec. 115. Extension of time for repayment of qualified refunding loans.
Sec. 116. Pension portability involving telecommunications divestiture.

SUBTITLE J—FOREIGN PROVISIONS

PART I—GENERAL

Sec. 121. Treatment of related person factoring income.
Sec. 122. Taxation of certain transfers of property outside the United States.
Sec. 123. Section 1248 to apply to certain indirect transfers of stock in a foreign corporation.
Sec. 124. Treatment of United States source original issue discount in case of foreign persons.
Sec. 125. Treatment of certain transportation income.
Sec. 126. Application of collapsible corporation rules to foreign corporations.
Sec. 127. Definition of foreign investment company.
Sec. 128. Distributions and interest payments by certain United States-owned foreign corporations treated as derived from United States sources for purposes of limitation on foreign tax credit.
Sec. 129. Certain distributions treated as interest for purposes of limitation on the foreign tax credit.
Sec. 130. Treatment of certain distributions and interest received by United States-owned foreign corporations.
Sec. 131. Amendments related to foreign personal holding companies.

PART II—FOREIGN INSURANCE

Sec. 135. Provisions relating to amount and withholding of excise taxes on policies issued by foreign insurers.
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Subtitle A—Deferral of Certain Tax Reductions

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Tax Freeze Act of 1984".

SEC. 12. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended—

(1) by striking out "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$125,000 ($150,000 for taxable years beginning after 1987)", and

(2) by striking out "$150,000 (or $125,000" each place it appears and inserting in lieu thereof "$125,000 (or $150,000".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 48(c)(2) is amended by striking out "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$62,500 ($75,000 for taxable years beginning after 1987)".

SEC. 13. FINANCE LEASE PROVISIONS.

(a) FOUR-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1987".

(2) FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1988".

(3) TECHNICAL AMENDMENTS.—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee's property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "1986" and inserting in lieu thereof "1990".

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out "1985" each place it appears and inserting in lieu thereof "1989".

(b) TERMINATION OF SAFE HARBOR LEASING RULES.—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (3)(G) or (5) of section 208(d) of such Act.

(c) TRANSITIONAL RULES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall not apply with respect to any property if—

(A) a binding contract to acquire or to construct such property was entered into by the lessee before March 7, 1984, or

(B) such property was acquired by the lessee, or the construction of such property was begun, by or for the lessee, before March 7, 1984.

(2) SPECIAL RULE FOR CERTAIN AUTOMOTIVE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to property which is placed in service before January 1, 1988—

(i) which is automotive manufacturing property, and

(ii) with respect to which the lessee is a qualified lessee (within the meaning of section 208(d)(6) of the Tax Equity and Fiscal Responsibility Act of 1982).

(B) $150,000,000 LIMITATION.—The provisions of subparagraph (A) shall not apply to any agreement if the sum of—

(i) the cost basis of the property subject to the agreement, plus

(ii) the cost basis of any property subject to an agreement to which subparagraph (A) previously applied and with respect to which the lessee was the lessee under the agreement described in clause (i) (or any related person within the meaning of section 168(e)(4)(D) of the Internal Revenue Code of 1954),

exceeds $150,000,000.

(C) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this paragraph, the term "automotive manufacturing property" means—

(i) property used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacturing of automobiles or trucks (other than truck tractors) with a gross vehicle weight of 13,000 pounds or less,

(ii) machinery, equipment, and special tools of the type included in former depreciation range guideline classes 37.11 and 37.12, and

(iii) any special tools owned by the taxpayer which are used by a vendor solely for the production of component parts for sale to the taxpayer.

(3) SPECIAL RULE FOR CERTAIN COGENERATION FACILITIES.—The amendments made by subsection (a) shall not apply with respect to any property which is part of a coal-fired cogeneration facility—

(A) for which an application for certification was filed with the Federal Energy Regulatory Commission on December 30, 1983,

(B) for which an application for a construction permit was filed with a State environmental protection agency on February 20, 1984, and

(C) which is placed in service before January 1, 1988.

SEC. 14. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, 1986, or 1987	$5,000
1988 or 1989	7,500
1990 or thereafter	10,000."

SEC. 15. EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by subtitle G of title VIII of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:	The applicable percentage is:
1983, 1984, or 1985	0.5
1986 or 1987	0.75
1988 or thereafter	0."

SEC. 16. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"With respect to amounts paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1985, 1986, or 1987	3
During 1988 or thereafter	0."

SEC. 17. POSTPONEMENT OF NET INTEREST EXCLUSION.

Paragraph (1) of section 302(d) of the Economic Recovery Tax Act of 1981 (relating to the effective date of the partial exclusion of interest) is amended by striking out "1984" and inserting in lieu thereof "1987".

SEC. 18. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000."

SEC. 19. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years ending after December 31, 1983.

SEC. 20. MODIFICATION OF ELECTION OR AGREEMENT UNDER SECTION 2032A.

(a) IN GENERAL.—Section 2032A(d) (relating to election and agreement) is amended by adding at the end thereof the following new paragraph:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) within the time prescribed for filing such election, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or agreements.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1976.

(2) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of the enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

Subtitle B—Tax-Exempt Entity Leasing; Service Contracts

SEC. 21. SHORT TITLE.

This subtitle may be cited as the "Governmental Lease Financing Reform Act of 1984".

SEC. 22. DENIAL OF TAX INCENTIVES FOR PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended by redesignating subsection (j) as subsection (l) and by inserting after subsection (i) the following new subsections:

"(j) PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, the deduction allowed under subsection (a) (and any other deduction allowable for depreciation or amortization) for any taxable year with respect to tax-exempt use property shall be determined—

"(A) by using the straight-line method (without regard to salvage value), and

"(B) by using a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(I) Property not described in subclause (II) or subclause (III).	The present class life.
(II) Personal property with no present class life.	12 years.
(III) 20-year real property.	40 years.

"(2) OPERATING RULES.—

"(A) RECOVERY PERIOD MUST AT LEAST EQUAL 125 PERCENT OF LEASE TERM.—In the case of any tax-exempt use property used by the tax-exempt entity pursuant to a lease, the recovery period used for purposes of paragraph (1) shall not be less than 125 percent of the lease term.

"(B) CONVENTIONS.—

"(i) PROPERTY OTHER THAN 20-YEAR REAL PROPERTY.—In the case of property other than 20-year real property, the half-year convention shall apply for purposes of paragraph (1).

"(ii) 20-YEAR REAL PROPERTY.—In the case of 20-year real property, the amount determined under paragraph (1) shall be determined on the basis of the number of months in the year in which the property is in service.

"(C) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLIES.—Paragraph (1) shall not apply to any recovery property if the recovery period applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under this subsection.

"(D) DETERMINATION OF CLASS FOR PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any property which is not recovery property, for purposes of this subsection, the determination of whether such property is 20-year real property shall be made as if such property were recovery property.

"(E) COORDINATION WITH SUBSECTION (f)(12).—Paragraph (12) of subsection (f) shall not apply to any tax-exempt use property to which this subsection applies.

"(F) SPECIAL RULE FOR PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) IN GENERAL.—In the case of tax-exempt use property which is used by a foreign person or entity pursuant to a lease, the deduction under paragraph (1) shall be determined—

"(I) without regard to subparagraph (A) of this paragraph, and

"(II) by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction.

"(ii) SPECIAL RULE FOR 1984.—In the case of property placed in service during 1984 which is used during 1984 by a foreign person or entity pursuant to a lease entered into before 1985, clause (i) shall be applied—

"(I) without regard to subclause (I) thereof, and

"(II) by substituting '175 percent' for '150 percent'.

"(iii) DEDUCTION CANNOT EXCEED AMOUNT UNDER METHOD OTHERWISE AVAILABLE.—In the case of property described in clause (i), the deduction allowable under subsection (a) (and any other deduction allowable for depreciation or amortization) shall not exceed the amount of such deduction determined without regard to this subsection.

"(G) 20-YEAR REAL PROPERTY TO INCLUDE 15-YEAR REAL PROPERTY.—For purposes of this subsection, the term '20-year real property' includes 15-year real property.

"(3) TAX-EXEMPT USE PROPERTY.—For purposes of this subsection—

"(A) PROPERTY OTHER THAN 20-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means any tangible property used by a tax-exempt entity.

"(B) 20-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 20-year real property, the term 'tax-exempt use property' means—

"(I) property owned by a tax-exempt entity, and

"(II) that portion of any property used by a tax-exempt entity in a disqualified use.

"(ii) DISQUALIFIED USE.—For purposes of this subparagraph, the term 'disqualified use' means any use of the property by a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) such use is pursuant to a lease under which there is a fixed or determinable price purchase or sale option which involved such entity (or a related entity) or there is the equivalent of such an option,

"(III) such use is pursuant to a lease which has a lease term in excess of 20 years, or

"(IV) such use occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity).

"(iii) THRESHOLD TESTS.—Subclause (II) of clause (i) shall apply to any property only if—

"(I) the aggregate portion of such property used by all tax-exempt entities in disqualified uses is more than 50 percent of the property, or

"(II) the portion of such property used by 1 tax-exempt entity (and any related tax-exempt entities) in disqualified uses is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of subclauses (I) and (IV) of clause (ii), improvements to a property (other than land) shall not be treated as a separate property.

"(v) CERTAIN SALE-LEASEBACKS NOT TAKEN INTO ACCOUNT.—Subparagraph (IV) of clause (ii) shall not apply to any property which is leased within 3 months after such property is placed in service by the tax-exempt entity (or any related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as used by a tax-exempt entity merely by reason of use pursuant to a short-term lease.

"(ii) PROPERTY OTHER THAN 20-YEAR PROPERTY.—For purposes of this subparagraph, except as provided in clause (iii), the term 'short-term lease' means any lease which has a lease term not in excess of the greater of—

"(I) 1 year, or

"(II) 30 percent of the property's present class life (to the extent such present class life does not exceed 10 years).

"(iii) 20-YEAR REAL PROPERTY.—For purposes of this subparagraph, in the case of 20-year real property, the term 'short-term lease' means any lease which has a lease term of 3 years or less.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property predominantly used by the tax-exempt entity in an unrelated trade or business the income of which is subject to tax under section 511.

"(E) SPECIAL RULES FOR CERTAIN INTERNATIONAL ORGANIZATIONS.—If any domestic corporation which is not a tax-exempt entity is a member of the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, or any successor organization of either such organization, the term 'tax-exempt use property' shall not include such domestic corporation's proportionate share (determined after the application to tax-exempt entities of rules which are based on the principles of paragraph (9)) of property owned by or leased to such organization or successor organization. The preceding sentence shall not apply to any property (or any portion thereof) to the extent such property (or portion thereof) is tax-exempt use property by reason of use by a tax-exempt entity other than such organization or successor organization.

"(4) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 20 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(I) subject to tax under this chapter, or

"(II) is included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)).

"(C) FOREIGN PERSON OR ENTITY.—For purposes of subparagraph (A), the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection and paragraph (5) of section 48(a), a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if all of the activities of such corporation are subject to tax under this chapter.

"(5) SPECIAL RULES FOR TAX-EXEMPT ORGANIZATIONS.—For purposes of this subsection and paragraph (4) of section 48(a)—

"(A) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—An organization shall be treated as an organization described in subparagraph (A)(ii) of paragraph (4) with respect to any property of which such organization

is the lessee if such organization (or a predecessor organization which was engaged in substantially similar activities) was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such organization first used such property.

"(B) ORGANIZATION MAY AVOID APPLICATION OF THIS PARAGRAPH IF IT ELECTS TO BE TAXED.—

"(i) IN GENERAL.—If subparagraph (A) applies to an organization formerly described in section 501(c)(12), such organization shall not be treated as an organization described in subparagraph (A)(ii) of paragraph (4) with respect to any property of which such organization is the lessee if such organization elects, in such manner and at such time as the Secretary may prescribe, not to be exempt from tax imposed by this chapter during the tax-exempt use period.

"(ii) TAX-EXEMPT USE PERIOD.—For purposes of clause (i), the term 'tax-exempt use period' means the period—

"(I) beginning with the taxable year in which the property described in clause (i) is placed in service, and

"(II) ending with the close of the 15th taxable year following the last taxable year of the recovery period with respect to such property.

"(iii) ELECTION TO APPLY TO SUCCESSOR ORGANIZATIONS.—Any election under clause (i) shall apply to any successor organization which is engaged in substantially similar activities.

"(iv) ELECTION IRREVOCABLE.—Any election under clause (i), once made, is irrevocable.

"(6) SPECIAL RULES FOR SHORT-LIVED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax-exempt use property' shall not include property with a present class life of 6 years or less.

"(B) PARAGRAPH NOT TO APPLY IF LEASE TERM EXCEEDS CERTAIN PERIOD.—Subparagraph (A) shall not apply to any property which is used by a tax-exempt entity pursuant to a lease if the term of the lease exceeds—

"(i) except as provided in clause (ii), 75 percent of the present class life of the property, or

"(ii) in the case of property with a present class life of 6 years, 5 years.

"(C) SPECIAL RULE FOR HIGH TECHNOLOGY MEDICAL EQUIPMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), high technology medical equipment shall be treated as property with a present class life of 6 years.

"(ii) EXCEPTION WHERE SECRETARY DETERMINES PROPERTY NOT SHORT-LIVED.—Clause (i) shall not apply to any property placed in service after the date on which the Secretary publishes in the Federal Register final regulations under which such property is determined to have a present class life greater than 6 years.

"(iii) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this subparagraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(7) SPECIAL RULES RELATING TO LEASE TERMS.—

"(A) LEASE TERM.—In determining a lease term for purposes of this subsection—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are entered into—

"(I) as part of the same transaction, and

"(II) with respect to the same or substantially similar property,

shall be treated as 1 lease.

"(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS.—For purposes of clause (i) of subparagraph (A), in the case of 15-year real property, there shall not be taken into account any option to renew at fair rental value, determined at the time of the renewal.

"(8) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership; or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection, section 46(f), paragraph (4) or (5) of section 48(a), or clause (vi) of section 48(g)(2)(B).

"(9) TREATMENT OF PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—If—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is held by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

such tax-exempt entity's proportionate share of such property shall be treated as tax-exempt use property of the partnership.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same percentage share of each item of income, gain, loss, deduction, credit, and basis of the partnership (and such share remains the same) during the entire period the entity is a partner in the partnership, and

"(ii) meets the requirements of section 704(b)(2).

For purposes of clause (i), items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property held by a partnership shall be determined on the basis of such entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) OTHER PASS-THRU ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), and (C) shall also apply in the case of any trust or other pass-thru entity.

"(k) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES.—For purposes of this chapter—

"(1) IN GENERAL.—A contract which purports to be a service contract shall not be treated as a service contract if such contract is more properly treated as a lease of property, taking into account all relevant factors including whether or not—

"(A) the service recipient is in physical possession of the property,

"(B) the service recipient controls the property,

"(C) the service recipient has a significant economic or possessory interest in the property,

"(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

"(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the tax-exempt entity, and

"(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

"(2) OTHER ARRANGEMENTS.—An arrangement (including a partnership or other pass-through entity) which is not a service contract and which purports not to be a lease shall be treated as a lease if such arrangement is more properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

"(3) SPECIAL RULES FOR CONTRACTS OR ARRANGEMENTS INVOLVING SOLID WASTE DISPOSAL, ENERGY, AND CLEAN WATER FACILITIES.—Notwithstanding paragraph (1) or (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

"(A) with respect to—

"(i) the operation of a qualified solid waste disposal facility,

"(ii) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility,

"(iii) the providing of energy conservation or energy management services, or

"(iv) the operation of a water treatment works facility, and

"(B) which purports to be a service contract,

shall be treated as a service contract.

"(4) PARAGRAPH (3) NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (3) shall not apply to any facility or property used under a contract or arrangement described in such paragraph if—

"(i) the service recipient (or a related entity) operates such facility or property,

"(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

"(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility or property are less than the standards of performance or operation under the contract or arrangement, or

"(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility or such property at a fixed and determinable price (other than for fair market value).

"(B) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) WITH RESPECT TO CERTAIN RIGHTS AND ALLOCATIONS UNDER THE CONTRACT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any right of a service recipient to inspect any facility or property, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

"(ii) any allocation of any financial burden or benefits in the event of any change in any law.

"(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) IN THE CASE OF CERTAIN EVENTS.—

"(i) TEMPORARY SHUT-DOWNS, ETC.—For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility or property for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or other financial difficulty of the service provider.

"(ii) REDUCED COSTS.—For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

"(5) DEFINITIONS.—For purposes of paragraph (3)—

"(A) QUALIFIED SOLID WASTE DISPOSAL FACILITY.—The term 'qualified solid waste disposal facility' means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

"(B) COGENERATION FACILITY.—The term 'cogeneration facility' means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

"(C) ALTERNATIVE ENERGY FACILITY.—The term 'alternative energy facility' means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

"(D) WATER TREATMENT WORKS FACILITY.—The term 'water treatment works facility' means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this subsection.".

(b) DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOREIGN PERSONS.—

(1) Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended by striking out the first and second sentences and inserting in lieu thereof the following:

"Property used—

"(A) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(B) by any foreign person or entity (as defined in section 168(j)(4)(C)), but only with respect to property to which section 168(j)(4)(A)(iii) applies (determined after the application of section 168(j)(4)(B)),

shall not be treated as section 38 property other than for purposes of the rehabilitation investment credit. The preceding sentence shall not apply to any property to the extent such property is treated as not being tax-exempt use property under section 168(j)(3)(E) (relating to special rule for certain international organizations).".

(2) The heading of paragraph (5) of section 48(a) is amended by striking out "GOVERNMENTAL UNITS" and inserting in lieu thereof "GOVERNMENTAL UNITS AND CERTAIN FOREIGN PERSONS".

(c) REHABILITATION CREDIT NOT TO APPLY TO TAX-EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Subparagraph (B) of section 48(g)(2) (relating to certain expenditures not treated as qualified rehabilitation expenditures) is amended by adding at the end thereof the following new clause:

"(vi) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(j)(3)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.".

(2) TECHNICAL AMENDMENT.—Clause (i) of section 48(g)(2)(B) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any expenditure to the extent subsection (f)(12) or (j) of section 168 applies to such expenditure.".

(d) SHORT-TERM USE RULES FOR PURPOSES OF INVESTMENT TAX CREDIT.—Section 48(a) (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL SHORT-TERM USE RULES FOR PURPOSES OF PARAGRAPHS (4) AND (5).—

"(A) IN GENERAL.—Paragraphs (4) and (5) shall not apply to any property for any taxable year if such property is used by a tax-exempt organization described in either such paragraph (or any related tax-exempt entity) for less than 6 months during such taxable year (determined after application of section 168(j)(7)) under a lease or other arrangement the term of which is less than 6 months.

"(B) EXCEPTION FOR CERTAIN OIL DRILLING PROPERTY AND CERTAIN CONTAINERS.—In the case of—

"(i) property which is used in offshore drilling for oil and gas, including drilling vessels, barges, platforms, and drilling equipment and support vessels, and

"(ii) any container described in section 48(a)(2)(B)(v) (without regard to whether such container is used outside the United States) or any container chassis or container trailer with a present class life of not more than 6 years,

rules similar to the rules of section 168(j)(3)(C) shall apply for purposes of paragraphs (4) and (5).".

(e) INVESTMENT TAX CREDIT ALLOWABLE WITH RESPECT TO CERTAIN FACILITIES.—Paragraph (5) of section 48(a) (relating to property used by governmental units), is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any facility or property subject to a contract or agreement to which section 168(k)(3) applies.".

(f) INVESTMENT TAX CREDIT FOR PROPERTY LEASED BY CERTAIN PERSONS NOT TO EXCEED CREDIT ALLOWED IF SUCH PERSONS OWNED PROPERTY.—Section 46(e) (relating to limitations with respect to certain persons) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES WHERE SECTION 593 ORGANIZATION IS LESSEE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), if an organization described in section 593 is the lessee of any section 38 property, the lessor of such property shall be treated as an organization described in section 593.

"(B) EXCEPTION FOR SHORT-TERM LEASES.—This paragraph shall not apply to any property for any taxable year if such property is used by the organization described in section 593 for less than 6 months during such taxable year (determined after application of section 168(j)(7)) under a lease or other arrangement the term of which is less than 6 months.".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply—

(A) to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date, and

(B) to property placed in service by the taxpayer on or before May 23, 1983, if the use by the tax-exempt entity is pursuant to a lease entered into after May 23, 1983.

(2) LEASES ENTERED INTO ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to—

(A) a lease entered into on or before May 23, 1983 (or a sublease under such a lease), or

(B) any renewal or extension of a lease entered into on or before May 23, 1983, if such renewal or extension is pursuant to an option exercisable by the tax-exempt entity which was contained in such lease on May 23, 1983.

(3) BINDING CONTRACTS, ETC.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to 1 or more written binding contracts which, on May 23, 1983, and at all times thereafter, required—

(A) the taxpayer (or his predecessor in interest under the contract) to acquire, construct, reconstruct, or rehabilitate such property, and

(B) the tax-exempt entity (or a tax-exempt predecessor thereof) to use such property.

(4) PROPERTY USED BY THE POSTAL SERVICE.—In the case of property used by the United States Postal Service, paragraphs (1) and (2) shall be applied by substituting "October 31" for "May 23".

(5) MASS COMMUTING VEHICLES.—The amendments made by this section shall not apply to any qualified mass commuting vehicle (as defined in section 103(b)(9) of the Internal Revenue Code of 1954) which is financed in whole or in part by obligations the interest on which is excludable from gross income under section 103(a) of such Code if—

(A) such vehicle is placed in service before January 1, 1988, or

(B) such vehicle is placed in service on or after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) CERTAIN TURBINES AND BOILERS.—The amendments made by this section shall not apply to any property described in section 208(d)(3)(E) of the Tax Equity and Fiscal Responsibility Act of 1982.

(7) CERTAIN FACILITIES FOR WHICH RULING REQUESTS FILED ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any facilities described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (relating to certain sewage or solid waste disposal facilities), as in effect on the day before the date of the enactment of this Act, if a ruling request with respect to the use of such facility by the tax-exempt entity was filed with the Internal Revenue Service on or before May 23, 1983.

(8) EXCEPTION FOR CERTAIN PROJECTS WHERE QUALIFYING ACTIONS TAKEN.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to property placed in service in connection with projects described in the following table:

Project	Location	Qualifying Action	Date of Action
Paramount Theater	Portland, Oregon	Appropriation of funds	January 14, 1981
Ordway Music Theater	St. Paul, Minnesota	Resolution authorizing sale-lease-back	January 12, 1983
Westside Convention Center	New York, New York	Legislation authorizing construction	April 3, 1979
Sabine Laboratory	Denver, Colorado	Purchased building	July, 1982
Share-HMO	Minneapolis-St. Paul, Minnesota	Bonds issued	September 17, 1982
Kleinhans Music Hall and Shea's Buffalo Theater.	Buffalo, New York	Federal legislation enacted	March 24, 1983
Presbyterian Hospital, Harrison-Walnut Neighborhood project.	Oklahoma City, Oklahoma	Inducement resolution adopted UDAG application.	April 25, 1983 April 28, 1983
St. Paul Civic Center	St. Paul, Minnesota	Inducement resolution adopted	April 21, 1983
Saratoga Springs City Convention Center	Saratoga Springs, New York	State law creating authority	July 27, 1983
Atlantic City Convention Hall	Atlantic City, New Jersey	Bond resolution adopted	December 8, 1982
Old Main Building	Fayetteville, Arkansas	Authorized by State law	October 31, 1983
Snug Harbor Children's Museum	New York, New York	Construction begun	Before May 23, 1983
Roger L. Stevens Center	Winston-Salem, North Carolina	Congressional approval of enabling legislation.	Before May 23, 1983
44 Beaver St.	New York, New York	$3,700,000 budgeted for 1983	1983
San Antonio Convention Center	San Antonio, Texas	Approved feasibility study and design	Before May 23, 1983
Penn Station	Newark, New Jersey	Purchase negotiations begun	Before October 31, 1983
Los Angeles Public Library	Los Angeles, California	$250,000 spent on design	Before May 23, 1983
Philadelphia Convention Center	Philadelphia, Pennsylvania	Feasibility study, as approved by inducement resolution of Philadelphia Authority for Industrial Development on December 20, 1983.	June 10, 1982
Oakland Convention Center	Oakland, California	Project completed	Before May 23, 1983
San Francisco Ferry Building	San Francisco, California	Feasibility study approved and negotiations begun.	Before May 23, 1983
San Francisco Stadium	San Francisco, California	City spent $300,000 for consultant study, which is completed.	June, 1983
Sacramento Municipal Utility District	Sacramento, California	Agreements signed	Before May 23, 1983
Convention Center Project	Industry Hills, California	Studies completed negotiations begun	Before May 23, 1983
Ventura Parking Facility	Ventura, California	Negotiations completed	Before May 23, 1983
City Hall/Public Auditorium	Riverside, California	Feasibility study completed	Before May 23, 1983
UCLA Royce Hall Renovation	Los Angeles, California	Planning and design complete, construction begun.	Before May 23, 1983
UCSD Campus Clinical Center	San Diego, California	University financed study begun	Before May 23, 1983
San Diego California Health Services Complex.	San Diego, California	Request for proposal issued negotiations begun.	Before May 23, 1983
Office of Power Building	Chattanooga, Tennessee	Construction contract signed	November 19, 1980
St. Ignatius College Prep	Chicago, Illinois	Illinois State Board of Conservation approval.	March 23, 1983
Anchorage Waste-Energy Project	Anchorage Municipality, Alaska	Negotiations begun	April, 1983
Buluga Station	Anchorage Municipality, Alaska	Negotiations begun	Before October, 1983
Bernice Lake Station	Kenai Peninsula, Alaska	Negotiations begun	Before October, 1983
City of Bethel Housing Project	Bethel, Alaska	Under construction	March 14, 1983
Mt. Vernon Mills State Museum	Columbia, South Carolina	Appropriation of funds for feasibility	June 21, 1983
Mills-Babcock Complex	Columbia, South Carolina	Approval by Governor and Budget and Control.	Before November 30, 1983
Lexington County Hospital Medical Office Building.	West Columbia, South Carolina	Inducement Resolution adopted	January 11, 1983
Harden Street Medical Office Building	Columbia, South Carolina	Inducement Resolution adopted	April 19, 1983
Sebring Utilities Commission Building	Sebring, Florida	Sought revenue ruling	Before July 21, 1983
Salt Lake City Office Building	Salt Lake City, Utah	Significant governmental action	Before May 23, 1983
Battle Creek City Hall and Police Department Buildings and the attendent parking lots.	Battle Creek, Michigan	Authorizing resolution	May 17, 1983
Downtown Convention Hotel Centre	Tampa, Florida	Request for proposals	July 29, 1983
Pinellas Sports Authority Stadium	St. Petersburg, Florida	Official government action	Before May 23, 1983
Lexington Market Arcade	Baltimore, Maryland	Official approval and significant expenditures.	Before May 23, 1983
Baltimore City Zoo Hospital	Baltimore, Maryland	Official approval and significant expenditures.	Before May 23, 1983
Culinary Arts Institute	Baltimore, Maryland	Official approval and significant expenditures.	Before May 23, 1983
Wilmington Woods Project	Dayton, Ohio	Substantial expenditures	Before September 30, 1983
Center for Excellence in Government and Public Service at Clemson University.	Clemson, South Carolina	Substantial sums expended	Before May 23, 1983
Rushmore Plaza Civic Center	Rapid City, South Dakota	Inducement resolution	May 31, 1983
Masonic Temple Building	Denver, Colorado	Binding contract to sell and lease back	June 24, 1983
St. Stephen's Gilmour Academy	Gates Mills, Ohio	Executive committee approval	February 28, 1983
Metropolitan Center for High Technology	Detroit, Michigan	UDAG Application Expenditure of Funds by State of Michigan.	Before May 23, 1983
The Madison Center	Detroit, Michigan	Approval of UDAG application	April 2, 1982
Teachers Federal Credit Union	Farmingville, New York	Construction completed	Before May 23, 1983
Wittner Center Parking Structure	St. Petersburg, Florida	Total city funds of over $600,000 expended on project.	Before May 23, 1983
Pier Park Recreation Complex	St. Petersburg, Florida	Resolution approving development services contract.	April 6, 1983
Salve Regina College	Newport, Rhode Island	Formal proposal presented	Before December 31, 1983
Old Wayne County Building	Detroit, Michigan	Feasibility study and design approved	June 23, 1983
St. Francis Community Hospital Medical Office Building.	Greenville, South Carolina	Inducement resolution adopted	October 4, 1983
Providence Hospital Medical Office Building II.	Columbia, South Carolina	Inducement resolution adopted	September 6, 1983
Milwaukee Arts District Project	Milwaukee, Wisconsin	Authorization and commitment of funds	Before December 31, 1983
Morrison Hotel	Seattle, Washington	Approval by City Council	October, 1982

Project	Location	Qualifying Action	Date of Action
Doctors Medical Plaza	Oklahoma City, Oklahoma	Inducement resolution adopted	August 4, 1983
Montgomery Fair Building	Montgomery, Alabama	Negotiations begun	June, 1982
Providence Hebrew Day School	Providence, Rhode Island	Board of Directors approval	December, 1982
West Building Project	Providence, Rhode Island	Inducement resolution adopted	February 28, 1983
Garbose Building	Gardner, Massachusetts	Construction scheduled	Before July, 1983
Memorial Hall Library	Andover, Massachusetts	City authorization of sale leaseback	April, 1983
Capital Mall Development Project	Nashville, Tennessee	Substantial sums expended	Before October 25, 1983
Tulane Central Building	New Orleans, Louisiana	Financial analysis completed	May, 1983
GE VA Theatre	Rochester, New York	City ordinance authorizing purchase option	December, 1982
North Star Burough Building	Fairbanks, Alaska	Request for Proposal	Before May 23, 1983
Anchorage Office Complex	Anchorage Municipality, Alaska	State land acquisition and planning costs of $12,000,000.	Before May 23, 1983
Bloomfield Company Holden Joint Venture	Juneau, Alaska	Bid advertised	June 15, 1983
Anchorage Parking Facilities	Anchorage Municipality, Alaska	Negotiations Begun	April 1983
Albuquerque Convention Center, Phases I & II.	Albuquerque, New Mexico	Negotiations Begun	Before May 23, 1983
Lincoln Plaza	Sacramento, California	Site work commenced	May, 1982
Downtown Government Center Cogeneration System.	Miami, Florida	Project design approved, contract negotiations begun, and established funds expended.	Before May 23, 1983
Lincoln Plaza	Sacramento, California	Site work commenced	May, 1982
Westside Mall Parking Facility	Santa Maria, California	Approved feasibility study	November, 1982
Civic Center Complex	Monterey Park, California	Approved feasibility study	November, 1982
Martin Luther King Civic Center and Center Street and Sather Gate Parking Garages.	Berkeley, California	Financing approved	February, 1983
Greenville Coliseum	Greenville, South Carolina	Substantial sums expended and official government actions.	Before May 23, 1983

(B) LIMITATION.—Subparagraph (A) shall only apply to the extent such property (including existing property) was substantially included or contemplated in such project at the time of the qualifying action.

(9) EXISTING APPROPRIATIONS.—The amendments made by this section shall not apply to personal property leased to or used by the United States if—

(A) an express appropriation has been made for rentals under such lease for the fiscal year 1983 before May 23, 1983, and

(B) the United States or an agency or instrumentality thereof has not provided an indemnification against the loss of all or a portion of the tax benefits claimed under the lease or service contract.

(10) SPECIAL RULES RELATING TO FOREIGN PERSONS OR ENTITIES.—

(A) IN GENERAL.—In the case of tax-exempt use property which is used by a foreign person or entity, the amendments made by this section shall not apply to any property which—

(i) is placed in service before January 1, 1984, and

(ii) is used by such foreign person or entity pursuant to a lease entered into before January 1, 1984.

(B) SPECIAL RULE FOR SUBLEASES.—If tax-exempt use property is being used by a foreign person or entity pursuant to a sublease under a lease described in subparagraph (A)(ii), subparagraph (A) shall apply to such property only if such property was used before January 1, 1984, by any foreign person or entity pursuant to such lease.

(C) 50 PERCENT OF INVESTMENT CREDIT ALLOWED FOR PROPERTY PLACED IN SERVICE DURING 1984.—Notwithstanding the amendment made by subsection (b), in the case of property which—

(i) is placed in service during 1984, and

(ii) is used during 1984 by a foreign person or entity pursuant to a lease entered into before 1985,

there shall be allowed with respect to such property 50 percent of the amount of the credit otherwise allowable under section 38 of the Internal Revenue Code of 1954 (determined without regard to the amendment made by subsection (b)).

(D) USE AFTER 1983.—Qualified container equipment placed in service before January 1, 1984, which is used before such date by a foreign person shall not, for purposes of section 47 of the Internal Revenue Code of 1954, be treated as ceasing to be section 38 property by reason of the use of such equipment before January 1, 1985, by a foreign person or entity. For purposes of this subparagraph, the term "qualified container equipment" means any container, container chassis, or container trailer of a United States person with a present class life of not more than 6 years.

(11) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—

(A) IN GENERAL.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired, directly or indirectly, before January 1, 1985, by any partnership described in subparagraph (B) or (C).

(B) PARTNERSHIP ORGANIZED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized and publicly announced the maximum amount of interests which would be sold in the partnership, and

(ii) the marketing of partnership interests in such partnership was completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interest in such partnership sold does not exceed the maximum amount described in clause (i).

(C) APPLICATION FILED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum amount of interests in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

(iii) the marketing of partnership interests in such partnership is completed not later than the 90th day after the latter of the date of enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate amount of interests in such partnership sold does not exceed the amount described in clause (i).

(12) SPECIAL RULE FOR SERVICE CONTRACTS NOT INVOLVING TAX-EXEMPT ENTITIES.—In the case of a service contract or other arrangement described in section 168(k) of the Internal Revenue Code of 1954 (as added by this section) with respect to which no party is a tax-exempt entity, such section 168(k) shall not apply to—

(A) such contract or other arrangement if such contract or other arrangement was entered into before November 5, 1983, or

(B) any renewal or other extension of such contract or other arrangement pursuant to an option contained in such contract or other arrangement on November 5, 1983.

(13) DEFINITIONS.—For purposes of this subsection—

(A) TAX-EXEMPT ENTITY DEFINED.—The term "tax-exempt entity" has the same meaning as when used in section 168(j) of the Internal Revenue Code of 1954 (as added by this section), except that such term shall include any related entity (within the meaning of such section).

(B) FOREIGN PERSON OR ENTITY DEFINED.—The term "foreign person or entity" has the meaning given to such term by section 168(j)(4)(C) of such Code (as added by this section).

SEC. 23. MOTOR VEHICLE OPERATING LEASES.

(a) IN GENERAL.—Section 168(f) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(13) MOTOR VEHICLE OPERATING LEASES.—

"(A) IN GENERAL.—For purposes of this title, the fact that a motor vehicle operating agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MOTOR VEHICLE OPERATING AGREEMENT.—The term 'motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) under which the lessor—

"(I) is personally liable for the repayment of, or

"(II) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement.

"(ii) TERMINAL RENTAL ADJUSTMENT CLAUSE.—The term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by

reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.".

(b) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN THAT HE WAS OWNER.—Section 210 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN.—Subsection (a) shall not apply to deny a deduction for interest paid or accrued claimed by a lessee with respect to a qualified motor vehicle agreement on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954 which was filed before the date of the enactment of this Act or to deny a credit for investment in depreciable property claimed by the lessee on such a return pursuant to an agreement with the lessor that the lessor would not claim the credit.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to agreements described in section 168(f)(13) of the Internal Revenue Code of 1954 (as added by subsection (a)) whether entered into before, on, or after the date of the enactment of this Act.

(2) POSITION ON RETURN.—The amendment made by subsection (b) shall take effect as if included in the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982.

Subtitle C—Treatment of Bonds and Other Debt Instruments

SEC. 25. TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) GENERAL RULE.—Subchapter P of chapter 1 (relating to special rules for capital gains and losses) is amended by adding at the end thereof the following new part:

"PART V—SPECIAL RULES FOR BONDS AND OTHER DEBT INSTRUMENTS

"Subpart A. Original issue discount.

"Subpart B. Market discount.

"Subpart C. Discount on short-term obligations.

"Subpart D. Miscellaneous provisions.

"Subpart A—Original Issue Discount

"Sec. 1271. Treatment of amounts received on retirement or sale or exchange of debt instruments.

"Sec. 1272. Current inclusion in income of original issue discount.

"Sec. 1273. Determination of amount of original issue discount.

"Sec. 1274. Determination of issue price in the case of certain debt instruments issued for property.

"Sec. 1275. Other definitions and special rules.

"SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.

"(a) GENERAL RULE.—For purposes of this subtitle—

"(1) RETIREMENT.—Amounts received by the holder on retirement of any debt instrument shall be considered as amounts received in exchange therefor.

"(2) ORDINARY INCOME ON SALE OR EXCHANGE WHERE INTENTION TO CALL BEFORE MATURITY.—

"(A) IN GENERAL.—If at the time of original issue there was an intention to call any debt instrument before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to—

"(i) the original issue discount, reduced by

"(ii) the portion of original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)),

shall be treated as ordinary income.

"(B) EXCEPTIONS.—This paragraph (and paragraph (2) of subsection (c)) shall not apply to—

"(i) any tax-exempt obligation, or

"(ii) any holder who has purchased the debt instrument at a premium.

"(3) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is—

"(i) issued on a discount basis, and

"(ii) payable without interest at a fixed maturity not more than 1 year from the date of issue.

Such term does not include any tax-exempt obligation.

"(C) ACQUISITION DISCOUNT.—For purposes of this pararaph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

"(b) EXCEPTIONS.—This section shall not apply to—

"(1) NATURAL PERSONS.—Any obligation issued by a natural person.

"(2) OBLIGATIONS ISSUED BEFORE JULY 2, 1982, BY CERTAIN ISSUERS.—Any obligation issued before July 2, 1982, by an issuer which—

"(A) is not a corporation, and

"(B) is not a government or political subdivision thereof.

"(c) TRANSITION RULES.—

"(1) SPECIAL RULE FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1955.—Paragraph (1) of subsection (a) shall apply to a debt instrument issued before January 1, 1955, only if such instrument was issued with interest coupons or in registered form, or was in such form on March 1, 1954.

"(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(A) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(i) an amount equal to the original issue discount, or

"(ii) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be treated as ordinary income.

"(B) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(C) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.

"(d) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section and sections 1272 and 1286 shall not require the inclusion of any amount previously includible in gross income.

"SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT.

"(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRUMENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—For purposes of this subtitle, there shall be included in the gross income of the holder of any debt instrument having original issue discount issued after July 1, 1982, an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation.

"(B) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(C) SHORT-TERM OBLIGATIONS.—Any debt instrument which has fixed maturity date not exceeding 1 year from the date of issue.

"(D) OBLIGATIONS ISSUED BY NATURAL PERSONS BEFORE MARCH 2, 1984.—Any obligation issued by a natural person before March 2, 1984.

"(E) LOANS BETWEEN FAMILY MEMBERS.—

"(i) IN GENERAL.—Any amount loaned by an individual to a member of such individual's family (within the meaning of section 267(c)(4)), if the amount of such loan (when increased by the outstanding amount of prior loans by such individual to such member) does not exceed $10,000.

"(ii) CLAUSE (i) NOT TO APPLY WHERE TAX AVOIDANCE A PRINCIPAL PURPOSE.—Clause (i) shall not apply if the loan has as one of its principal purposes the avoidance of any Federal tax.

"(iii) TREATMENT OF HUSBAND AND WIFE.—For purposes of this subparagraph, a husband and wife shall be treated as one person. The preceding sentence shall not apply where the spouses lived apart at all times during the taxable year in which the loan is made.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any debt instrument shall be determined by allocating to each day in any accrual period its ratable portion of the increase during such accrual period in the adjusted issue price of the debt instrument. For purposes of the preceding sentence, the increase in the adjusted issue price for any accrual period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the debt instrument at the beginning of such accrual period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), over

"(B) the sum of the amounts payable as interest on such debt instrument during such accrual period.

In applying subparagraph (A)(ii) to an accrual period of less than 1 year, proper adjustments shall be made in the yield to maturity.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any debt instrument at the beginning of any accrual period is the sum of—

"(A) the issue price of such debt instrument, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such accrual period.

"(5) ACCRUAL PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'accrual period' means a 6-month period (or the shorter period from the date of original issue of the debt instrument) which ends on a day in the calendar year corresponding to the maturity date of the debt instrument or the date 6 months before such maturity date.

"(6) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, in the case of any purchase after its original issue of a debt instrument to which this subsection applies, the daily portion for any day shall be reduced by an amount equal to the amount which would be the daily portion for such day (without regard to this paragraph) multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is a fraction—

"(i) the numerator of which is the excess (if any) of—

"(I) the cost of such debt instrument incurred by the purchaser, over

"(II) the issue price of such debt instrument increased by the sum of the daily portions for such debt instrument for all days on or before the date of purchase (computed without regard to this paragraph), and

"(ii) the denominator of which is the sum of the daily portions for such debt instrument for all days after the date of such purchase and ending on the stated maturity date (computed without regard to this paragraph).

"(b) RATABLE INCLUSION RETAINED FOR CORPORATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any debt instrument issued by a corporation after May 27, 1969, and before July 2, 1982—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such debt instrument during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the debt instrument.

"(3) MONTH DEFINED.—For purposes of this subsection—

"(A) COMPLETE MONTH.—A complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

"(B) TRANSFERS DURING MONTH.—In any case where a debt instrument is acquired on any day other than a day determined under subparagraph (A), the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the debt instrument.

"(4) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include its share of the acquisition premium.

"(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any month's share of the acquisition premium is an amount (determined at the time of the purchase) equal to—

"(i) the excess of—

"(I) the cost of such debt instrument incurred by the holder, over

"(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph),

"(ii) divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such debt instrument.

"(c) EXCEPTIONS.—This section shall not apply to any holder—

"(1) who has purchased the debt instrument at a premium, or

"(2) which is a life insurance company to which section 811(b) applies.

"(d) DEFINITION AND SPECIAL RULE.—

"(1) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means—

"(A) any acquisition of a debt instrument, where

"(B) the basis of the debt instrument is not determined in whole or in part by reference to the adjusted basis of such debt instrument in the hands of the person from whom acquired.

"(2) BASIS ADJUSTMENT.—The basis of any debt instrument in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.

"SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE DISCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'original issue discount' means the excess (if any) of—

"(A) the stated redemption price at maturity, over

"(B) the issue price.

"(2) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the debt instrument).

"(3) ¼ OF 1 PERCENT DE MINIMIS RULE.—If the original issue discount determined under paragraph (1) is less than—

"(A) ¼ of 1 percent of the stated redemption price at maturity, multiplied by

"(B) the number of complete years to maturity,

then the original issue discount shall be treated as zero.

"(b) ISSUE PRICE.—For purposes of this subpart—

"(1) PUBLICLY OFFERED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any issue of debt instruments—

"(A) publicly offered, and

"(B) not issued for property,

the issue price is the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such debt instruments were sold.

"(2) PRIVATELY PLACED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any privately placed issue of debt instruments not issued for property, the issue price of each such instrument is the price paid by the first buyer of such debt instrument.

"(3) DEBT INSTRUMENTS ISSUED FOR PROPERTY WHERE THERE IS PUBLIC TRADING.—In the case of a debt instrument which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such debt instrument shall be the fair market value of such property.

"(4) OTHER CASES.—Except in any case—

"(A) to which paragraph (1), (2), or (3) of this subsection applies, or

"(B) to which section 1274 applies,

the issue price of a debt instrument which is issued for property shall be the stated redemption price at maturity.

"(5) PROPERTY.—In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.

"(c) SPECIAL RULES FOR APPLYING SUBSECTION (b).—For purposes of subsection (b)—

"(1) INITIAL OFFERING PRICE; PRICE PAID BY THE FIRST BUYER.—The terms 'initial offering price' and 'price paid by the first buyer' include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

"(2) TREATMENT OF INVESTMENT UNITS.—In the case of any debt instrument and an option, security, or other property issued together as an investment unit—

"(A) the issue price for such unit shall be determined in accordance with the rules of this subsection and subsection (b) as if it were a debt instrument,

"(B) the issue price determined for such unit shall be allocated to each element of such unit on the basis of the relationship of the fair market value of such element to the fair market value of all elements in such unit, and

"(C) the issue price of any debt instrument included in such unit shall be the portion of the issue price of the unit allocated to the debt instrument under subparagraph (B).

"SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF CERTAIN DEBT INSTRUMENTS ISSUED FOR PROPERTY.

"(a) IN GENERAL.—In the case of any debt instrument to which this section applies, for purposes of this subpart, the issue price shall be the lesser of—

"(1) the stated principal amount, or

"(2) the imputed principal amount.

"(b) IMPUTED PRINCIPAL AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), the imputed principal amount of any debt instrument shall be equal to the sum of the present values of all payments due under such debt instrument.

"(2) DETERMINATION OF PRESENT VALUE.—For purposes of paragraph (1), the present value of a payment shall be determined in the

manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the sale or exchange, and

"(B) by using a discount rate equal to 120 percent of the applicable Federal rate, compounded semiannually.

"(3) FAIR MARKET VALUE RULE IN POTENTIALLY ABUSIVE SITUATIONS.—

"(A) IN GENERAL.—In the case of any potentially abusive situation, the imputed principal amount of any debt instrument received in exchange for property shall not exceed the fair market value of such property.

"(B) POTENTIALLY ABUSIVE SITUATION DEFINED.—For purposes of subparagraph (A), the term 'potentially abusive situation' means—

"(i) a tax shelter (as defined in section 6661(b)(2)(C)(ii)), and

"(ii) any other situation which, by reason of—

"(I) recent sales transactions,

"(II) nonrecourse financing,

"(III) financing with a term in excess of the economic life of the property, or

"(IV) other circumstances,

is of a type which the Secretary specifies by regulations as having potential for tax avoidance.

"(c) DEBT INSTRUMENTS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any debt instrument given in consideration for the sale or exchange of property if—

"(A) the stated redemption price at maturity for such instrument exceeds the imputed principal amount of such debt instrument which would be determined under subsection (b) if a discount rate equal to 110 percent of the applicable Federal rate were used, or

"(B) the stated redemption price at maturity for such instrument exceeds the stated principal amount.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) SALES FOR LESS THAN $1,000,000 OF FARMS BY INDIVIDUALS OR SMALL BUSINESSES.—

"(i) IN GENERAL.—Any debt instrument received—

"(I) by an individual, estate, or testamentary trust,

"(II) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

"(III) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3),

as consideration for the sale or exchange of a farm (within the meaning of section 6420(c)(2)) by such individual or entity.

"(ii) $1,000,000 LIMITATION.—Clause (i) shall apply only if it can be determined at the time of the sale or exchange that the sales price cannot exceed $1,000,000. For purposes of the preceding sentence, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(B) SALES OF PRINCIPAL RESIDENCES.—Any debt instrument received by an individual as consideration for the sale or exchange of his principal residence (within the meaning of section 1034).

"(C) SALES INVOLVING TOTAL PAYMENTS OF $250,000 OR LESS.—

"(i) IN GENERAL.—Any debt instrument received as consideration for the sale or exchange of property if the sum of the following amounts does not exceed $250,000:

"(I) the aggregate amount of the payments due under such debt instrument and all other debt instruments received as consideration for the sale or exchange, and

"(II) the aggregate amount of any other consideration to be received for the sale or exchange.

"(ii) CONSIDERATION OTHER THAN DEBT INSTRUMENT TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—For purposes of clause (i), any consideration (other than a debt instrument) shall be taken into account at its fair market value.

"(iii) AGGREGATION OF TRANSACTIONS.—For purposes of this subparagraph, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(D) DEBT INSTRUMENTS WHICH ARE PUBLICLY TRADED OR ISSUED FOR PUBLICLY TRADED PROPERTY.—Any debt instrument to which section 1273(b)(3) applies.

"(E) ANNUITIES.—Any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(F) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), any amount contingent on the productivity, use, or disposition of the property transferred.

"(G) SALES OR EXCHANGES TO WHICH SECTION 483(g) APPLIES.—Any debt instrument to the extent section 483(g) (relating to certain land transfers between related persons) applies to such instrument.

"(d) DETERMINATION OF APPLICABLE FEDERAL RATE.—For purposes of this section—

"(1) APPLICABLE FEDERAL RATE.—

"(A) IN GENERAL.—

"In the case of a debt instrument with a term of:	The applicable Federal rate is:
Not over 3 years	The Federal short-term rate.
Over 3 years but not over 9 years.	The Federal mid-term rate.
Over 9 years	The Federal long-term rate.

"(B) DETERMINATION OF RATES.—Within 15 days after the close of—

"(i) the 6-month period ending on September 30 of any calendar year, or

"(ii) the 6-month period ending on March 31 of any calendar year,

the Secretary shall determine the Federal short-term rate, mid-term rate, and long-term rate for such 6-month period.

"(C) EFFECTIVE DATE OF DETERMINATION.—Any Federal rate determined under subparagraph (A) shall—

"(i) apply during the 6-month period beginning on January 1 of the succeeding calendar year in the case of a determination made under subparagraph (B)(i), and

"(ii) apply during the 6-month period beginning on July 1 of the calendar year in the case of a determination made under subparagraph (B)(ii).

"(D) FEDERAL RATE FOR ANY 6-MONTH PERIOD.—For purposes of this paragraph—

"(i) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any 6-month period shall be the rate determined by the Secretary to be equal to the average market yield (during such 6-month period) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or less.

"(ii) FEDERAL MID-TERM AND LONG-TERM RATES.—The Federal mid-term rate and long-term rate shall be determined in accordance with the principles of clause (i).

"(2) RATE APPLICABLE TO ANY SALE OR EXCHANGE.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

"(3) TERM OF DEBT INSTRUMENT.—In determining the term of a debt instrument for purposes of this subsection, under regulations prescribed by the Secretary, there shall be taken into account options to renew or extend.

"SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. Except for purposes of section 1271, such term also includes any other obligation.

"(2) ISSUE DATE.—

"(A) PUBLICLY OFFERED DEBT INSTRUMENTS.—In the case of any debt instrument which is publicly offered, the term 'date of original issue' means the date on which the issue was first issued to the public.

"(B) PRIVATELY PLACED ISSUES.—In the case of any debt instrument to which section 1273(b)(2) applies, the term 'date of original issue' means the date on which the debt instrument was sold by the issuer.

"(C) OTHER DEBT INSTRUMENTS.—In the case of any debt instrument not described in subparagraph (A) or (B), the term 'date of original issue' means the date on which the debt instrument was issued in an exchange.

"(3) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation if—

"(A) the interest on such obligation is not includible in gross income under section 103, or

"(B) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(4) SPECIAL RULE FOR DETERMINATION OF ISSUE PRICE IN CASE OF EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted price of the old debt instrument,

then the issue price of the debt instrument so issued shall be treated as equal to the adjusted issue price of the old debt instrument.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument in its issue price, increased by any original issue discount previously allowed as a deduction.

"(b) INFORMATION REQUIREMENTS.—

"(1) INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.—

"(A) IN GENERAL.—In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

"(i) the amount of the original issue discount, and

"(ii) the issue date,

be set forth on such instrument.

"(B) SPECIAL RULE FOR PRIVATELY PLACED INSTRUMENTS.—In the case of any privately placed issue of debt instruments, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

"(2) INFORMATION REQUIRED TO BE SUBMITTED TO SECRETARY.—In the case of any issue of debt instruments having original issue discount, the issuer shall (at such time and in such manner as the Secretary shall by regulation prescribe) furnish the Secretary the following information:

"(A) The amount of the original issue discount.

"(B) The issue date.

"(C) Such other information with respect to the issue as the Secretary may by regulations require.

For purposes of the preceding sentence, any person who makes a public offering of stripped bonds (or stripped coupons) shall be treated as the issuer of a publicly offered debt instrument having original issue discount.

"(3) EXCEPTIONS.—This subsection shall not apply to any obligation referred to in section 1272(a)(2) (relating to exceptions from current inclusion of original issue discount).

"(4) CROSS REFERENCE.—

"For civil penalty for failure to meet requirements of this subsection, see section 6706.

"(c) TREATMENT OF BORROWER IN THE CASE OF CERTAIN LOANS FOR PERSONAL USE.—

"(1) SECTIONS 1274 AND 483 NOT TO APPLY.—In the case of the obligor under any debt instrument given in consideration for the sale or exchange of property, sections 1274 and 483 shall not apply if such property is personal use property.

"(2) ORIGINAL ISSUE DISCOUNT DEDUCTED ON CASH BASIS IN CERTAIN CASES.—In the case of any debt instrument, if—

"(A) such instrument—

"(i) is incurred in connection with the acquisition or carrying of personal use property, and

"(ii) has original issue discount (determined after the application of paragraph (1)), and

"(B) the obligor under such instrument uses the cash receipts and disbursements method of accounting,

notwithstanding section 163(e), the original issue discount on such instrument shall be deductible only when paid.

"(3) PERSONAL USE PROPERTY.—For purposes of this subsection, the term 'personal use property' means any property substantially all of the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an activity described in section 212. The determination of whether property is described in the preceding sentence shall be made as of the time of issuance of the debt instrument.

"(d) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, or other circumstances, the tax treatment under this subpart (or section 163(e)) does not carry out the purposes of this subpart (or section 163(e)), such treatment shall be modified to the extent necessary to carry out the purposes of this subpart (or section 163(e)).

"(e) CROSS REFERENCE.—

"For rules relating to annual interest amounts in the case of certain deferred payments, see section 467.

"Subpart B—Market Discount on Bonds

"Sec. 1276. Disposition gain representing accrued market discount treated as ordinary income.

"Sec. 1277. Deferral of interest deduction allocable to accrued market discount.

"Sec. 1278. Definitions and special rules.

"SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME.

"(a) ORDINARY INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this section, gain on the disposition of any market discount bond shall be treated as ordinary income to the extent it does not exceed the accrued market discount on such bond. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITIONS OTHER THAN SALES, ETC.—For purposes of paragraph (1), a person disposing of any market discount bond in any transaction other than a sale, exchange, or involuntary conversion shall be treated as realizing an amount equal to the fair market value of the bond.

"(3) GAIN TREATED AS INTEREST FOR CERTAIN PURPOSES.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount treated as ordinary income under paragraph (1) shall be treated as interest for purposes of this title.

"(b) ACCRUED MARKET DISCOUNT.—For purposes of this section—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection or subsection (c), the accrued market discount on any bond shall be an amount which bears the same ratio to the market discount on such bond as—

"(A) the number of days which the taxpayer held the bond, bears to

"(B) the number of days after the date the taxpayer acquired the bond and up to (and including) the date of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any bond, the accrued market discount on such bond shall be the aggregate amount which would have been includible in the gross income of the taxpayer under section 1272(a) with respect to such bond for all periods during which the bond was held by the taxpayer if such bond had been—

"(i) originally issued on the date on which such bond was acquired by the taxpayer,

"(ii) for an issue price equal to the adjusted basis of the taxpayer in such bond immediately after its acquisition.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of applying subparagraph (A)—

"(i) the stated redemption price at maturity of such bond shall be treated as equal to its revised issue price, and

"(ii) the determination of the portion of the original issue discount which would have been includible in the gross income of the taxpayer under section 1272(a) shall be made under regulations prescribed by the Secretary.

"(C) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any bond, shall be irrevocable.

"(c) TREATMENT OF NONRECOGNITION TRANSACTIONS.—Under regulations prescribed by the Secretary—

"(1) TRANSFERRED BASIS PROPERTY.—If a market discount bond is transferred in a nonrecognition transaction and such bond is transferred basis property in the hands of the transferee, for purposes of determining the amount of the accrued market discount with respect to the transferee—

"(A) the transferee shall be treated as having acquired the bond on the date on which it was acquired by the transferor for an amount equal to the basis of the transferor, and

"(B) proper adjustments shall be made for gain recognized by the transferor on such transfer (and for any original issue discount or market discount included in the gross income of the transferor).

"(2) EXCHANGED BASIS PROPERTY.—If any market discount bond is disposed of by the taxpayer in a nonrecognition transaction and paragraph (1) does not apply to such transaction, any accrued market discount determined with respect to the property disposed of to the extent not theretofore treated as ordinary income under subsection (a)—

"(A) shall be treated as accrued market discount with respect to the exchanged basis property received by the taxpayer in such transaction if such property is a market discount bond, and

"(B) shall be treated as ordinary income on the disposition of the exchanged basis property received by the taxpayer in such exchange if such property is not a market discount bond.

"(3) PARAGRAPH (1) TO APPLY TO CERTAIN DISTRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—For purposes of paragraph (1), if the basis of any market discount bond in the hands of a transferee is determined under section 334(c), 732(a), or 732(b), such property shall be treated as transferred basis property in the hands of such transferee.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (b) of section 1245 shall apply for purposes of this section; except that—

"(A) paragraph (1) of such subsection shall not apply, and

"(B) an exchange qualifying under section 354(a), 355(a), or 356(a) (determined without regard to subsection (a) of this section) shall be treated as an exchange described in paragraph (3) of such subsection, and

"(2) appropriate adjustments shall be made to the basis of any property to reflect gain recognized under subsection (a).

"(e) SECTION NOT TO APPLY TO MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—This section shall not apply to any market discount bond issued on or before the date of the enactment of this section.

"SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any market discount bond shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the portion of the market discount allocable to the days during

the taxable year on which such bond was held by the taxpayer (as determined under the rules of section 1276(b)).

"(b) DISALLOWED DEDUCTION ALLOWED FOR YEAR OF DISPOSITION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the disallowed interest expense with respect to any market discount bond shall be treated as interest paid or accrued by the taxpayer in the taxable year in which such bond is disposed of.

"(2) NONRECOGNITION TRANSACTIONS.—If any market discount bond is disposed of in a nonrecognition transaction—

"(A) the disallowed interest expense with respect to such bond shall be treated as interest paid or accrued in the year of disposition only to the extent of the amount of gain recognized on such disposition, and

"(B) the disallowed interest expense with respect to such property (to the extent not so treated) shall be treated as disallowed interest expense—

"(i) in the case of a transaction described in section 1276(c)(1), of the transferee with respect to the transferred basis property, or

"(ii) in the case of a transaction described in section 1276(c)(2), with respect to the exchanged basis property.

"(3) DISALLOWED INTEREST EXPENSE.—For purposes of this subsection, the term 'disallowed interest expense' means the aggregate amount disallowed under subsection (a) with respect to the market discount bond.

"(c) NET DIRECT INTEREST EXPENSE.—For purposes of this section, the term 'net direct interest expense' means, with respect to any market discount bond, the excess (if any) of—

"(1) the amount of interest paid or accrued during the taxable year on indebtedness which is incurred or continued to purchase or carry such bond, over

"(2) the aggregate amount of interest (including original issue discount) includible in gross income for the taxable year with respect to such bond.

In the case of any financial institution to which section 585 or 593 applies, the determination of whether interest is described in paragraph (1) shall be made under principles similar to the principles of section 291(e)(1)(B)(ii).

"(d) SPECIAL RULE FOR GAIN RECOGNIZED ON DISPOSITION OF MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—In the case of a market discount bond issued on or before the date of the enactment of this section, any gain recognized by the taxpayer on any disposition of such bond shall be treated as ordinary income to the extent the amount of such gain does not exceed the amount of the disallowed interest expense with respect to such bond allowable under subsection (b)(1) for the taxable year in which such bond is disposed of.

"SEC. 1278. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this part—

"(1) MARKET DISCOUNT BOND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'market discount bond' means any bond having market discount.

"(B) EXCEPTIONS.—The term 'market discount bond' shall not include—

"(i) SHORT-TERM OBLIGATIONS.—Any obligation with a fixed maturity date not exceeding 1 year from the date of issue.

"(ii) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation (as defined in section 1275(a)(3)).

"(iii) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(iv) INSTALLMENT OBLIGATIONS.—Any installment obligation to which section 453B applies.

"(A) IN GENERAL.—The term 'market discount' means the excess (if any) of—

"(i) the stated redemption price of the bond at maturity, over

"(ii) the adjusted basis of such bond immediately after its acquisition by the taxpayer.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of subparagraph (A), the stated redemption price of such bond at maturity shall be treated as equal to its revised issue price.

"(C) DE MINIMIS RULE.—If the market discount is less than ¼ of 1 percent of the stated redemption price of the bond at maturity multiplied by the number of complete years to maturity (after the taxpayer acquired the bond), then the market discount shall be considered to be zero.

"(D) EXCEPTION FOR GAIN REPORTABLE UNDER SECTION 453.—The term 'market discount' shall not include any income reportable under section 453, except to the extent of accrued market discount not recognized on the disposition of any market discount bond in exchange for an installment obligation.

"(3) BOND.—The term 'bond' means any bond, debenture, note, certificate, or other evidence of indebtedness.

"(4) REVISED ISSUE PRICE.—The term 'revised issue price' means of the sum of—

"(A) the issue price of the bond, and

"(B) the aggregate amount of the original issue discount includible in the gross income of all holders for periods before the acquisition of the bond by the taxpayer (determined without regard to section 1272(a)(6)).

"(5) ORIGINAL ISSUE DISCOUNT, ETC.—The terms 'original issue discount', 'stated redemption price at maturity', and 'issue price' have the respective meanings given such terms by subpart A of this part.

"(b) ELECTION TO INCLUDE MARKET DISCOUNT CURRENTLY.—

"(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

"(A) sections 1276 and 1277 shall not apply, and

"(B) market discount on any market discount bond shall be included in the gross income of the taxpayer for the taxable years to which it is attributable (as determined under the rules of subsection (b) of section 1276).

"(2) SCOPE OF ELECTION.—An election under this subsection shall apply to all market discount bonds acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"Subpart C—Discount on Short-Term Obligations

"Sec. 1281. Election for current inclusion in income of discount on certain short-term obligations.

"Sec. 1282. Deferral of interest deduction allocable to accrued discount.

"Sec. 1283. Definitions and special rules.

"SEC. 1281. ELECTION FOR CURRENT INCLUSION IN INCOME OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.

"(a) IN GENERAL.—In the case of any short-term obligation to which an election under this section applies, for purposes of this title, there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such bond.

"(b) ELECTION TO HAVE SECTION APPLY.—

"(1) IN GENERAL.—A taxpayer may make an election under this section to have this section apply to all short-term obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(2) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

"(b) SECTION NOT TO APPLY TO OBLIGATIONS TO WHICH ELECTION UNDER SECTION 1281 APPLIES.—This section shall not apply to any short-term obligation to which an election under section 1281 applies.

"(c) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b), (c), and (d) of section 1277 shall apply for purposes of this section.

"(d) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1283. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) SHORT-TERM OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'short-term obligation' means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity day not exceeding 1 year from the date of issue.

"(B) EXCEPTIONS FOR TAX-EXEMPT OBLIGATIONS.—The term 'short-term obligation' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).

"(2) ACQUISITION DISCOUNT.—The term 'acquisition discount' means the excess of—

"(A) the stated redemption price at maturity (as defined in section 1273), over

"(B) the taxpayer's basis for the obligation.

"(b) DAILY PORTION.—For purposes of this subpart—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection, the daily portion of the acquisition discount is an amount equal to—

"(A) the amount of such discount, divided by

"(B) the number of days after the day on which the taxpayer acquired the obligation

and up to (and including) the day of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any obligation, the daily portion of the acquisition discount for any day is the portion of the acquisition discount accruing on such day determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any obligation, shall be irrevocable.

"(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any short-term obligation which is not a short-term Government obligation (as defined in section 1271(a)(3)(B))—

"(A) sections 1281 and 1282 shall be applied by taking into account original issue discount in lieu of acquisition discount, and

"(B) appropriate adjustments shall be made in the application of subsection (b) of this section.

"(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have paragraph (1) not apply to all obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(d) OTHER SPECIAL RULES.—

"(1) BASIS ADJUSTMENTS.—The basis of any short-term obligation in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to section 1281.

"(2) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—Section 1281 shall not require the inclusion of any amount previously includible in gross income.

"(3) COORDINATION WITH OTHER PROVISIONS.—Section 454(b) and section 1271(a)(3) shall not apply to any short-term obligation to which section 1281 applies.

"Subpart D—Miscellaneous Provisions

"Sec. 1286. Tax treatment of stripped bonds.

"Sec. 1287. Denial of capital gain treatment for gains on certain obligations not in registered form.

"Sec. 1288. Treatment of original issue discount on tax-exempt obligations.

"SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1272(a) as a bond originally issued on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond while held by such person and before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1271(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1271(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by section 1273(a)(2).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(6) PURCHASE.—The term 'purchase' has the meaning given such term by section 1272(d)(1).

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.

"SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.

"(a) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"SEC. 1288. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.

"(a) GENERAL RULE.—Original issue discount on any tax-exempt obligation shall be treated as accruing—

"(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (6) thereof), and

"(2) for purposes of determining the adjusted basis of the holder, in the manner provided by section 1272(a) (determined with regard to paragraph (6) thereof).

"(b) DEFINITIONS.—For purposes of this section—

"(1) ORIGINAL ISSUE DISCOUNT.—The term 'original issue discount' has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 1273(b)(1) for purposes of the preceding sentence, an issue shall be treated as registered with the Securities and Exchange Commission if it is a publicly offered tax-exempt obligation.

"(2) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' has the meaning given to such term by section 1275(a)(3).".

(b) AMENDMENT OF SECTION 483.—Section 483 (relating to interest on certain deferred payments) is amended to read as follows:

"SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.

"(a) AMOUNT CONSTITUTING INTEREST.—For purposes of this title, in the case of any payment—

"(1) under any contract for the sale or exchange of any property, and

"(2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

"(b) TOTAL UNSTATED INTEREST.—For purposes of this section, the term 'total unstated interest' means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

"(1) the sum of the payments to which this section applies which are due under the contract, over

"(2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2) using a discount rate equal to 120 percent of the applicable Federal rate determined under section 1274(d).

"(c) PAYMENTS TO WHICH SUBSECTION (a) APPLIES.—

"(1) IN GENERAL.—Except as provided in subsection (f), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

"(A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

"(B) under which, using a discount rate equal to 110 percent of the applicable Federal rate determined under section 1274(d), there is total unstated interest.

"(2) TREATMENT OF OTHER DEBT INSTRUMENTS.—For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.

"(3) DEBT INSTRUMENT DEFINED.—For purposes of this subsection, the term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(d) PAYMENTS INDEFINITE AS TO TIME, LIABILITY, OR AMOUNT.—In the case of a contract for the sale or exchange of property under which the liability for, or the amount or due date of, any portion of a payment cannot be determined at the time of the sale or exchange, this section shall be separately applied to such portion as if it (and any amount of interest attributable to such portion) were the only payments due under the contract; and such determinations of liability, amount, and due date shall be made at the time payment of such portion is made.

"(e) CHANGE IN TERMS OF CONTRACT.—If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed, the 'total unstated interest' under the contract shall be recomputed and allocated (with adjustment for prior interest (including unstated interest) payments) under regulations prescribed by the Secretary.

"(f) EXCEPTIONS AND LIMITATIONS.—

"(1) COORDINATION WITH ORIGINAL ISSUE DISCOUNT RULES.—This section shall not apply to any debt instrument to which section 1272 applies.

"(2) SALES PRICES OF $3,000 OR LESS.—This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed $3,000.

"(3) CARRYING CHARGES.—In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

"(4) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), this section shall not apply to any amount contingent on the productivity, use, or disposition of the property transferred.

"(5) ANNUITIES.—This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(g) MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS OF LAND BETWEEN RELATED PARTIES.—

"(1) IN GENERAL.—In the case of any qualified sale, the discount rate used in determining the total unstated interest rate under subsection (b) shall not exceed 7 percent, compounded semiannually.

"(2) QUALIFIED SALE.—For purposes of this subsection, the term 'qualified sale' means any sale or exchange of land by an individual to a member of such individual's family (within the meaning of section 267(c)(4)).

"(3) $500,000 LIMITATION.—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds $500,000.

"(4) NONRESIDENT ALIEN INDIVIDUALS.—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.".

(c) PENALTY FOR FAILURE TO MEET INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. ORIGINAL ISSUE DISCOUNT INFORMATION REQUIREMENTS.

"(a) FAILURE TO SHOW INFORMATION ON DEBT INSTRUMENT.—In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of $50 for each instrument with respect to which such a failure exists.

"(b) FAILURE TO FURNISH INFORMATION TO SECRETARY.—Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed $50,000 for such issue.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Original issue discount information requirements.".

SEC. 26. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO ORIGINAL ISSUE DISCOUNT CHANGES.

(a) IN GENERAL.—

(1) Sections 1232, 1232A, and 1232B are hereby repealed.

(2) Clause (i) of section 103A(i)(2)(C) (defining yield on the issue) is amended by striking out "section 1232(b)(2)" and inserting in lieu thereof "sections 1273(b) and 1274".

(3) Subsection (e) of section 163 (relating to original issue discount) is amended to read as follows:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any debt instrument issued after July 1, 1982, the portion of the original issue discount with respect to such debt instrument which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) DEBT INSTRUMENT.—The term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1272(a) (without regard to paragraph (6) thereof and without regard to section 1273(a)(3)).

"(3) CROSS REFERENCES.—

"(A) For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.

"(B) For special rule relating to original issue discount on obligation incurred to acquire personal use property, see section 1275(c)(2).".

(4) Paragraph (3) of section 165(j) (relating to denial of deductions for losses on certain obligations not in registered form) is amended by striking out "subsection (d) of section 1232" and inserting in lieu thereof "section 1287".

(5) Paragraph (1) of section 249(b) (relating to limitation on deduction of bond premium on repurchase) is amended by striking out "section 1232(b)" and inserting in lieu thereof "sections 1273(b) and 1274".

(6) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out "section 1232(a)(3)(A)" and inserting in lieu thereof "section 1271(a)(3)(A)".

(7) Paragraph (1) of section 405(d) (relating to taxability of beneficiary of qualified bond purchase plan) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(8) Paragraph (1) of section 409(b) (relating to income tax treatment of bonds) is

amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(9) Paragraph (3) of section 811(b) (relating to amortization of premium and accrual of discount), as amended by this Act, is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(10) Subsection (b) of section 1037 (relating to application of section 1232) is amended—

(A) by striking out "section 1232(a)(2)(B)" in paragraph (1) and inserting in lieu thereof "section 1271(c)(2)",

(B) by striking out "section 1232" in paragraphs (1) and (2) and inserting in lieu thereof "subpart A of part V of subchapter P", and

(C) by striking out "SECTION 1232" in the subsection heading and inserting in lieu thereof "ORIGINAL ISSUE DISCOUNT RULES".

(11) Subsection (h) of section 1351 (relating to special rule for evidences of indebtedness) is amended by striking out "section 1232(a)(2)" and inserting in lieu thereof "section 1273(a)".

(12) Paragraph (6) of section 6049(d) (relating to treatment of original issue discount) is amended—

(A) by striking out "section 1232A" each place it appears in subparagraph (A) and inserting in lieu thereof "section 1272", and

(B) by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(13) Subparagraph (A) of section 871(a)(1) (relating to income other than capital gains) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(14) Paragraph (1) of section 881(a) (relating to imposition of tax) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"PART V. Special rules for bonds and other debt instruments.".

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the items relating to sections 1232, 1232A, and 1232B.

SEC. 27. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO TREATMENT OF MARKET DISCOUNT AND ACQUISITION DISCOUNT.

(a) DEFINITION OF SUBSTITUTED BASIS PROPERTY; ETC.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(42) SUBSTITUTED BASIS PROPERTY.—The term 'substituted basis property' means property which is—

"(A) transferred basis property, or

"(B) exchanged basis property.

"(43) TRANSFERRED BASIS PROPERTY.—The term 'transferred basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

"(44) EXCHANGED BASIS PROPERTY.—The term 'exchanged basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

"(45) NONRECOGNITION TRANSACTION.—The term 'nonrecognition transaction' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.".

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 1016 is amended by striking out the last sentence.

(b) ELECTIONS MADE IN MANNER PRESCRIBED BY SECRETARY.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Paragraph (12) of section 341(e) (related to nonapplication of section 1254(a)) is amended by striking out "and 1254(a)" and inserting in lieu thereof "1254(a), and 1276(a)".

(2) Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

(3) Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out "and an oil, gas, or geothermal property (described in section 1254) and inserting in lieu thereof "an oil, gas, or geothermal property (described in section 1254), and a market discount bond (as defined in section 1278)", and

(B) by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

SEC. 28. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years ending after the date of the enactment of this Act.

(b) TREATMENT OF DEBT INSTRUMENTS RECEIVED IN EXCHANGE FOR PROPERTY.—

(1) IN GENERAL.—

(A) Except as otherwise provided in this subsection, section 1274 of the Internal Revenue Code of 1954 (as added by section 25) and the amendment made by section 25(b) (relating to amendment of section 483) shall apply to sales or exchanges after December 31, 1984.

(B) Section 1274 of such Code and the amendment made by section 25(b) shall not apply to any sale or exchange pursuant to a written contract which was binding on February 28, 1984, and at all times thereafter before the sale or exchange.

(2) REVISION OF SECTION 482 REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall modify the safe harbor interest rates applicable under section 483 of such Code by reason of the amendments made by section 25.

(3) CLARIFICATION OF INTEREST ACCRUAL; FAIR MARKET VALUE.—

(A) IN GENERAL.—In the case of any sale or exchange after February 28, 1984, and before January 1, 1985—

(i) nothing in section 483 of the Internal Revenue Code of 1954 shall permit any interest to be deductible before the period to which such interest is properly allocable, and

(ii) in any case where the Secretary of the Treasury or his delegate establishes by clear and convincing evidence the fair market value of any property, nothing in section 483 of such Code shall be construed as permitting the basis of such property to exceed the fair market value of such property as so established.

(B) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (A) shall not apply to any sale or exchange pursuant to a written contract which was binding on February 28, 1984, and at all times thereafter before the sale or exchange.

(C) INTEREST ACCRUAL RULE NOT TO APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL PAYMENTS.—Clause (i) of subparagraph (A) shall not apply to any debt instrument with substantially equal annual payments.

(c) MARKET DISCOUNT RULES.—

(1) ORDINARY INCOME TREATMENT.—Section 1276 of the Internal Revenue Code of 1954 (as added by section 25) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(2) INTEREST DEFERRAL RULES.—Section 1277 of such Code (as added by section 25) shall apply to obligations acquired after the date of the enactment of this Act in taxable years ending after such date.

(d) RULES RELATING TO DISCOUNT ON SHORT-TERM OBLIGATIONS.—Subpart C of part V of subchapter P of chapter 1 of such Code (as added by section 25) shall apply to obligations acquired after the date of the enactment of this Act.

(e) ELECTIONS WITH RESPECT TO TREATMENT OF SHORT-TERM OBLIGATIONS.—

(1) ELECTION TO HAVE PROVISIONS APPLY TO ALL OBLIGATIONS HELD DURING THE TAXABLE YEAR.—A taxpayer may elect to have section 1282 of the Internal Revenue Code of 1954 (and, if applicable, section 1281 of such Code) apply to all short-term obligations which were held by the taxpayer at any time during the taxpayer's first taxable year ending after the date of the enactment of this Act.

(2) ELECTION FOR INSTALLMENT PAYMENT OF TAX.—

(A) IN GENERAL.—If the taxpayer makes an election under this paragraph—

(i) the taxpayer may pay part or all the tax for the taxable year referred to in paragraph (1) in 2 or more (but not exceeding 5) equal installments, and

(ii) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(I) the tax for such taxable year determined by taking into account paragraph (1), over

(II) the tax for such taxable year determined by taking into account paragraph (1) but by not taking into account any gain recognized on the disposition of any short-term obligation to the extent that the taxable income would have been increased for the preceding taxable year if section 1282 of such Code (and, if applicable, section 1281 of such Code) had applied to all short-term obligations held during such preceding taxable year.

An election under this paragraph may be made only if the taxpayer makes an election under paragraph (1).

(3) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under paragraph (2), the first installment under paragraph (2) shall be paid on or before the due date for filing the return for the taxable year referred to in paragraph (1), and each suc-

ceeding installment shall be paid on or before the date which is 1 year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(4) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under paragraph (2) shall be determined without regard to paragraph (2).

(5) FORM OF ELECTION.—An election under paragraph (2) shall be made not later than the time for filing the return for the taxable year referred to in paragraph (1) and shall be made in the manner and form required by regulations prescribed by the Secretary. The election shall set forth—

(A) the amount determined under paragraph (2)(B) and the number of installments elected by the taxpayer, and

(B) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(f) TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.—Section 1288 of such Code (as added by section 25) shall apply to obligations issued after September 3, 1982, and acquired after March 1, 1984.

(g) REPEAL OF CAPITAL ASSET REQUIREMENT.—Section 1272 of such Code (as added by section 25) shall not apply to any obligation issued on or before December 31, 1984, which is not a capital asset in the hands of the taxpayer.

(h) REPORTING REQUIREMENTS.—Section 1275(c) of such Code (as added by section 25) and the amendments made by section 25(c) shall take effect on the day 30 days after the date of the enactment of this Act.

(i) OTHER MISCELLANEOUS CHANGES.—

(1) ACCRUAL PERIOD.—In the case of any obligation issued after July 1, 1982, and before January 1, 1985, the accrual period, for purposes of section 1272(a) of the Internal Revenue Code of 1954 (as amended by section 25(a)), shall be a 1-year period (or shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the obligation.

(2) CHANGE IN REDUCTION FOR SUBSEQUENT ACQUISITION.—Section 1272(a)(6) of such Code (as so amended) shall not apply to any purchase on or before the date of the enactment of this Act, and the rules of section 1232A(a)(6) of such code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such acquisition.

(j) CLARIFICATION THAT PRIOR TRANSITIONAL RULES NOT AFFECTED.—Nothing in the amendment made by section 25(a) shall affect the application of any transitional rule for any provision which was a predecessor to any provision contained in part V of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (as added by section 25).

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

SEC. 31. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

(a) GENERAL RULE.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by inserting after section 246 the following new section:

"SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

"(a) GENERAL RULE.—In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245 a percentage equal to the product of—

"(1) 85 percent, and

"(2) 100 percent minus the average indebtedness percentage.

"(b) SECTION NOT TO APPLY TO DIVIDENDS FOR WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION ALLOWABLE.—Subsection (a) shall not apply to—

"(1) qualifying dividends (as defined in section 243(b) without regard to section 243(c)(4)), and

"(2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

"(c) DEBT FINANCED PORTFOLIO STOCK.—For purposes of this section, the term 'debt financed portfolio stock' means any stock of a corporation if—

"(1) as of the beginning of the ex-dividend date, the taxpayer does not own stock of such corporation possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote and does not own at least 50 percent of the total number of shares of all other classes of stock of the corporation, and

"(2) at some time during the base period there is portfolio indebtedness with respect to such stock.

"(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'average indebtedness percentage' means the percentage obtained by dividing—

"(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

"(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

"(2) SPECIAL RULE WHERE STOCK NOT HELD THROUGHOUT BASE PERIOD.—In the case of any stock which was not held by the taxpayer throughout the base period, paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer.

"(3) PORTFOLIO INDEBTEDNESS.—

"(A) IN GENERAL.—The term 'portfolio indebtedness' means any indebtedness directly attributable to investment in the stock.

"(B) CERTAIN PROCEEDS OF SHORT SALE TREATED AS INDEBTEDNESS.—For purposes of subparagraph (A), any proceeds attributable to a short sale shall be treated as indebtedness for the period beginning on the day on which the short sale is made and ending on the day the short sale is closed. The preceding sentence shall not apply if no deduction was allowable with respect to payments in lieu of dividends in connection with such short sale by reason of section 263(h).

"(4) BASE PERIOD.—The term 'base period' means, with respect to any dividend, the shorter of—

"(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day before the ex-dividend date for the dividend involved, or

"(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

"(e) REDUCTION IN DIVIDENDS RECEIVED DEDUCTION NOT TO EXCEED ALLOCABLE INTEREST.—Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction (including any deductible short sale expense) allocable to such dividend.".

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by inserting after the item relating to section 246 the following new item:

"Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act in taxable years ending after such date.

SEC. 32. TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.

(a) INCREASE IN REQUIRED AMOUNT OF DIVIDENDS.—Subparagraph (B) of section 854(b)(1) (relating to other dividends) is amended by striking out "75 percent" and inserting in lieu thereof "95 percent".

(b) CERTAIN DIVIDENDS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF COMPUTING DEDUCTION UNDER SECTION 243.—Subsection (b) of section 854 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR COMPUTING DEDUCTION UNDER SECTION 243.—For purposes of computing the deduction under section 243, an amount shall be treated as a dividend for purposes of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company (determined after the application of section 246 (without regard to subsection (b) thereof) and as if section 243 applied to dividends received by a regulated investment company).".

(c) SPECIAL RULES FOR COMPUTING AMOUNT OF DIVIDEND DEDUCTION AND GROSS INCOME.—

(1) AMOUNT OF DIVIDENDS RECEIVED DEDUCTION.—Section 854(b)(1) (relating to deduction under section 243) is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following new flush matter:

"then, in computing the deduction under section 243, there shall be taken into account only that portion of the dividend which the regulated investment company designates in writing within 45 days after the close of the taxable year of such company, except that the aggregate amount so designated with respect to dividends received by such company during such taxable year shall not exceed the aggregate dividends received (determined after application of paragraph (4)) for such taxable year.".

(2) GROSS INCOME.—Subparagraph (A) of section 854(b)(4) (defining gross income) is amended by inserting "held by the regulated investment company for more than 6 months" after "securities".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

SEC. 35. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1059 as section 1060 and by inserting after section 1058 the following new section:

"SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

"(a) GENERAL RULE.—If any corporation—

"(1) receives an extraordinary dividend with respect to any share of stock, and

"(2) sells or otherwise disposes of such stock before such stock has been held for more than 1 year.

the basis of such corporation in such stock shall be reduced by the nontaxed portion of such dividend.

"(b) NONTAXED PORTION.—For purposes of this section—

"(1) IN GENERAL.—The nontaxed portion of any dividend is the excess (if any) of—

"(A) the amount of such dividend, over

"(B) the taxable portion of such dividend.

"(2) TAXABLE PORTION.—The taxable portion of any dividend is—

"(A) the portion of such dividend includible in gross income, reduced by

"(B) the amount of any deduction allowable with respect to such dividend under section 243, 244, or 245.

"(c) EXTRAORDINARY DIVIDEND DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'extraordinary dividend' means any dividend with respect to a share of stock if the amount of such dividend equals or exceeds the threshold percentage of the taxpayer's adjusted basis in such share of stock (determined without regard to this section).

"(2) THRESHOLD PERCENTAGE.—The term 'threshold percentage' means—

"(A) 5 percent in the case of stock which is preferred as to dividends, and

"(B) 10 percent in the case of any other stock.

"(3) AGGREGATION OF DIVIDENDS.—

"(A) AGGREGATION WITHIN 85-DAY PERIOD.—All dividends—

"(i) which are received by the taxpayer (or person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates within the same period of 85 consecutive days,

shall be treated as 1 dividend.

"(B) AGGREGATION WITHIN 1 YEAR WHERE DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED BASIS.—All dividends—

"(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates during the same period of 365 consecutive days,

shall be treated as extraordinary dividends if the aggregate of such dividends exceeds 20 percent of the taxpayer's adjusted basis in such stock (determined without regard to this section).

"(C) SUBSTITUTED BASIS TRANSACTIONS.—In the case of any stock, a person is described in this subparagraph if—

"(i) the basis of such stock in the hands of such person is determined in whole or in part by reference to the basis of such stock in the hands of the taxpayer, or

"(ii) the basis of such stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of such stock in the hands of such person.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a) by reason of any distribution which is an extraordinary dividend shall occur at the beginning of the ex-dividend date for such distribution.

"(2) DISTRIBUTIONS IN KIND.—To the extent any dividend consists of property other than cash, the amount of such dividend shall be treated as the fair market value of such property as of the date of the distribution.

"(3) DETERMINATION OF HOLDING PERIOD.—For purposes of determining the holding period of stock under subsection (a)(2), rules similar to the rules of section 246(c) shall apply; except that '1 year' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(4) EX-DIVIDEND DATE.—The term 'ex-dividend date' means the date on which the share of stock becomes ex-dividend.

"(5) EXTENSION TO CERTAIN PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash) to which section 301 applies—

"(A) such distribution shall be treated as a dividend without regard to whether the corporation has earnings and profits, and

"(B) the amount so treated shall be reduced by the amount of any reduction in basis under section 301(c)(2) by reason of such distribution.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section including regulations providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions.".

(b) RULES FOR COMPUTING HOLDING PERIODS.—

(1) Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by adding at the end thereof the following new paragraph:

"(4) HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—

"(A) IN GENERAL.—The holding periods determined under paragraph (3) shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

"(i) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

"(ii) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

"(iii) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar property.

"(B) EXCEPTIONS.—

"(i) QUALIFIED COVERED CALLS.—Subparagraph (A) shall not apply in the case of any qualified covered call (as defined in section 1092(d)(7) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss).

"(ii) EXCEPTION FOR CERTAIN ORDINARY INCOME PROPERTY.—Clause (iii) of subparagraph (A) shall not apply in the case of any stock which is held by a dealer primarily for sale to customers in the ordinary course of his trade or business or which is part of a hedging transaction.".

(2) Subparagraph (B) of paragraph (1) of subsection (c) of section 246 is amended by striking out the words "substantially identical stock or securities" and inserting in lieu thereof "positions in substantially similar property".

(3) Paragraph (3) of section 246(c) is amended by striking out the last sentence.

(c) HOLDING PERIOD OF CORPORATE DISTRIBUTEE OF APPRECIATED PROPERTY.—

(1) IN GENERAL.—Section 301 (relating to distributions of property) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR HOLDING PERIOD OF APPRECIATED PROPERTY DISTRIBUTED TO CORPORATION.—For purposes of this subtitle, if—

"(1) property is distributed to a corporation, and

"(2) the basis of such property in the hands of such corporation is determined under subsection (d)(2)(B),

then such corporation shall not be treated as holding the distributed property during any period before the date on which such corporation's holding period in the stock began.".

(2) CROSS REFERENCE.—Paragraph (13) of section 1223 (relating to holding period of property) is amended to read as follows:

"(13) CROSS REFERENCES.—

"(A) For special holding period provision relating to certain partnership distributions, see section 735(b).

"(B) For special holding period provision relating to distributions of appreciated property to corporations, see section 301(e).".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1059 and inserting in lieu thereof the following new items:

"Sec. 1059. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.

"Sec. 1060. Cross references.".

(2) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "and without regard" and inserting in lieu thereof "without regard to any adjustment under section 1059, and without regard".

(3) Section 1016(a) (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

SEC. 36. DISTRIBUTION OF APPRECIATED PROPERTY BY CORPORATIONS.

(a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRECIATED PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 311(d) (relating to appreciated property used to redeem stock) is amended to read as follows:

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This subsection shall be applied after the application of subsections (b) and (c).".

(2) EXCEPTIONS.—

(A) Paragraph (2) of section 311(d) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) a distribution to an 80-percent corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution which is made with respect to qualified stock if—

"(i) section 302(b)(4) applies to such distribution, or

"(ii) such distribution is a qualified dividend;".

(B) Subsection (e) of section 311 is amended by adding at the end thereof the following new paragraphs:

"(3) 80-PERCENT CORPORATE SHAREHOLDER.—The term '80-percent corporate shareholder' means, with respect to any distribution, any corporation which owns—

"(A) stock in the corporation making the distribution possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends).

"(4) QUALIFIED DIVIDEND.—The term 'qualified dividend' means any distribution of property to a shareholder other than a corporation if—

"(A) such distribution is a dividend,

"(B) such property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)(B)), and

"(C) such property is not property described in paragraph (1) or (4) of section 1221.".

(3) CLERICAL AMENDMENT.—The subsection heading of subsection (d) of section 311 is amended to read as follows:

"(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to distributions declared after March 15, 1984, in taxable years ending after such date.

(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to distributions before February 1, 1986, if—

(i) the distribution consists of property held on March 7, 1984 (or property acquired thereafter in the ordinary course of a trade or business) by—

(I) the controlled corporation, or

(II) any subsidiary controlled corporation,

(ii) a group of 1 or more shareholders (acting in concert)—

(I) acquired, during the 1-year period ending on February 1, 1984 at least 10 percent of the outstanding stock of the controlled corporation,

(II) held at least 10 percent of the outstanding stock of the common parent on February 1, 1984, and

(III) submitted a proposal for distributions of interests in a royalty trust from the common parent or the controlled corporation, and

(iii) the common parent acquired control of the controlled corporation during the 1-year period ending on February 1, 1984.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) The term "common parent" has the meaning given such term by section 1504(a) of the Internal Revenue Code of 1954.

(ii) The term "controlled corporation" means a corporation with respect to which 50 percent or more of the outstanding stock of its common parent is tendered for pursuant to a tender offer outstanding on March 7, 1984.

(iii) The term "subsidiary controlled corporation" means any corporation with respect to which the controlled corporation has control (within the meaning of section 368(c) of such Code) on March 7, 1984.

(3) EXCEPTION FOR CERTAIN DISTRIBUTION OF PARTNERSHIP INTERESTS.—The amendments made by this section shall not apply to any distribution before February 1, 1986, of an interest in a partnership the interests of which were being traded on a national securities exchange on March 7, 1984, if—

(A) such interest was owned by the distributing corporation (or any member of an affiliated group within the meaning of section 1504(a) of such Code of which the distributing corporation was a member) on March 7, 1984,

(B) the distributing corporation (or any such affiliated member) owned more than 80 percent of the interests in such partnership on March 7, 1984, and

(C) more than 10 percent of the interests in such partnership was offered for sale to the public during the 1-year period ending on March 7, 1984.

(4) TRANSITION RULE.—The amendments made by this section shall not apply to distributions declared before the date of enactment of this Act and paid before December 31, 1984 if—

(A) such distributions consist solely of not more than 51 percent of the then outstanding common stock of a corporation which was formed on or before March 15, 1984 and which is controlled (within the meaning of section 368(c)) by the distributing corporation immediately before the distributions,

(B) such distributions are made pursuant to a proposal which was initially considered by the distributing corporation before February 15, 1982, and such initial consideration is reflected in one or more memoranda or other documentation prepared by or on behalf of the distributing corporation before February 15, 1982,

(C) such proposal was actively considered by the management of the distributing corporation before November 15, 1983,

(D) such distributions are an integral part of a proposal approved in principle by the Board of Directors of the distributing corporation before February 15, 1984, and

(E) such proposal was publicly announced by the distributing corporation before March 15, 1984.

SEC. 37. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES OR REAL ESTATE INVESTMENT TRUSTS.

(a) REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subparagraph (A) of section 852(b)(4) (relating to loss attributable to capital gain dividend) is amended to read as follows:

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as a long-term capital gain, and

"(ii) such share is held by the taxpayer for 6 months or less,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.".

(2) DETERMINATION OF HOLDING PERIODS.—Subparagraph (C) of section 852(b)(4) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

"(i) '6 months' for purposes of subparagraph (A), and

"(ii) '30 days' for purposes of subparagraph (B).".

(3) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(D) LOSSES INCURRED UNDER A PERIODIC LIQUIDATION PLAN.—To the extent provided in regulations, subparagraph (A) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares.".

(b) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (7) of section 857(b) (relating to loss on sale or exchange of stock in real estate investment trust) is amended to read as follows:

"(7) LOSS ON SALE OR EXCHANGE OF STOCK HELD 6 MONTHS OR LESS.—

"(A) IN GENERAL.—If—

"(i) subparagraph (B) of paragraph (3) provides that any amount with respect to any share or beneficial interest is to be treated as a long-term capital gain, and

"(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) DETERMINATION OF HOLDING PERIOD.—For purposes of this paragraph, the rules of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock or beneficial interest; except that '6 months' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(C) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—To the extent provided in regulations, subparagraph (A) shall not apply to any loss incurred on the sale or exchange of shares of stock of, or beneficial interest in, a real estate investment trust pursuant to a plan which provides for the periodic liquidation of such shares or interests.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act.

PART III—MISCELLANEOUS PROVISIONS

SEC. 41. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.

(a) SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVIDENDS.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(h) PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES.—

"(1) IN GENERAL.—If—

"(A) a taxpayer makes any payment (or other distribution) with respect to any stock used by such taxpayer in a short sale and such payment or distribution is in lieu of a dividend payment on such stock, and

"(B) the closing of such short sale occurs on or before the 15th day after the date of such short sale,

then no deduction shall be allowed for such payment or distribution. The basis of the stock used to close the short sale shall be increased by the amount not allowed as a deduction by reason of the preceding sentence.

"(2) LONGER PERIOD IN CASE OF EXTRAORDINARY DIVIDENDS.—If the payment described in paragraph (1)(A) is in respect of an extraordinary dividend, paragraph (1)(B) shall be applied by substituting 'the day 1 year after the date of such short sale' for 'the 15th day after the date of such short sale'.

"(3) EXTRAORDINARY DIVIDEND.—For purposes of this subsection, the term 'extraordinary dividend' has the meaning given to such term by section 1059(c); except that such section shall be applied by treating the amount realized by the taxpayer in the short sale as his adjusted basis in the stock.

"(4) SPECIAL RULE WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—The running of any period of time applicable under paragraph (1)(B) (as modified by paragraph (2)) shall be suspended during any period in which—

"(A) the taxpayer holds, has an option to buy, or is under a contractual obligation to buy, substantially identical stock or securities, or

"(B) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar property.

"(5) DEDUCTION ALLOWABLE TO EXTENT OF ORDINARY INCOME FROM AMOUNTS PAID BY LENDING BROKER FOR USE OF COLLATERAL.—

"(A) IN GENERAL.—Paragraph (1) shall apply only to the extent that the payments or distributions with respect to any short sale exceed the amount which—

"(i) is treated as ordinary income by the taxpayer, and

"(ii) is received by the taxpayer from the person providing the stock used in the short sale as compensation for the use of any collateral with respect to such stock.

"(B) EXCEPTION NOT TO APPLY TO EXTRAORDINARY DIVIDENDS.—Subparagraph (A) shall not apply if one or more payments or distributions is in respect of an extraordinary dividend.".

(b) INVESTMENT INTEREST TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Subparagraph (D) of section 163(d)(3) (defining investment interest) is amended to read as follows:

"(D) INVESTMENT INTEREST.—

"(i) IN GENERAL.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(ii) CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.—For purposes of clause (i), the term 'interest' includes any amount allowable as a deduction in connection with the personal property used in a short sale.".

(c) APPLICATION OF SECTION 265(2) TO SHORT SALES.—Section 265 (relating to denial of deduction for interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2) IN THE CASE OF SHORT SALES.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The term 'interest' includes any amount paid or incurred in connection with personal property used in a short sale, including any amount paid by the person providing the stock used in the short sale as compensation for use of collateral with respect to such stock,

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amount which—

"(i) the taxpayer is required to pay to a person providing personal property used in the short sale, and

"(ii) the taxpayer receives an equivalent amount from another person to whom the taxpayer provided the personal property in connection with the short sale.

"(C) SEPARATE APPLICATION.—Paragraph (2) shall be applied separately with respect to interest described in subparagraph (A) (and any collateral for the use of the personal property described in such subparagraph).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to short sales after the date of the enactment of this Act in taxable years ending after such date.

SEC. 42. NONRECOGNITION OF GAIN OR LOSS BY CORPORATION ON OPTIONS WITH RESPECT TO ITS STOCK.

(a) GENERAL RULE.—Subsection (a) of section 1032 (relating to exchange of stock for property) is amended by adding at the end thereof the following new sentence: "No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options acquired or lapsed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 43. AMENDMENTS TO ACCUMULATED EARNINGS TAX.

(a) CLARIFICATION THAT TAX APPLIES TO CORPORATIONS WHICH ARE NOT CLOSELY HELD.—Section 532 (relating to corporations subject to accumulated earnings tax) is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION DETERMINED WITHOUT REGARD TO NUMBER OF SHAREHOLDERS.—The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation.".

(b) TREATMENT OF CAPITAL GAINS AND LOSSES.—Subsection (b) of section 535 (defining accumulated taxable income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

"(5) CAPITAL LOSSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be allowed as a deduction an amount equal to the net capital loss for the taxable year.

"(B) RECAPTURE OF PREVIOUS DEDUCTIONS FOR CAPITAL GAINS.—The aggregate amount allowable as a deduction under subparagraph (A) for any taxable year shall be reduced by the lesser of—

"(i) the nonrecaptured capital gains deductions, or

"(ii) the amount of the accumulated earnings and profits of the corporation as of the close of the preceding taxable year.

"(C) NONRECAPTURED CAPITAL GAINS DEDUCTIONS.—For purposes of subpargraph (B), the term 'nonrecaptured capital gains deductions' means the excess of—

"(i) the aggregate amount allowable as a deduction under paragraph (6) for preceding taxable years beginning after the date of the enactment of the Deficit Reduction Tax Act of 1984, over

"(ii) the aggregate of the reductions under subparagraph (B) for preceding taxable years.

"(6) NET CAPITAL GAINS.—

"(A) IN GENERAL.—There shall be allowed as a deduction—

"(i) the net capital gain for the taxable year (determined with the application of paragraph (7)), reduced by

"(ii) the taxes attributable to such net capital gain.

"(B) ATTRIBUTABLE TAXES.—For purposes of subparagraph (A), the taxes attributable to the net capital gain shall be an amount equal to the difference between—

"(i) the taxes imposed by this subtitle (except the tax imposed by this part) for the taxable year, and

"(ii) such taxes computed for such year without including in taxable income the net capital gain for the taxable year (determined without the application of paragraph (7)).

"(7) CAPITAL LOSS CARRYOVERS.—

"(A) UNLIMITED CARRYFORWARD.—The net capital loss for any taxable year shall be treated as a short-term capital loss in the next taxable year.

"(B) SECTION 1212 INAPPLICABLE.—No allowance shall be made for the capital loss carryback or carryforward provided in section 1212.

"(8) SPECIAL RULES FOR MERE HOLDING OR INVESTMENT COMPANIES.—In the case of a mere holding or investment company—

"(A) CAPITAL LOSS DEDUCTION, ETC., NOT ALLOWED.—Paragraphs (5) and (7)(A) shall not apply.

"(B) EARNINGS AND PROFITS.—For purposes of subchapter C, the accumulated earnings and profits at any time shall not be less than they would be if this subsection had applied to the computation of earnings and profits for all taxable years beginning after the date of the enactment of the Deficit Reduction Tax Act of 1984.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 44. PHASE-OUT OF GRADUATED RATES FOR LARGE CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to amount of tax imposed on corporations) is amended by adding at the end thereof the following new flush sentence:

"In the case of a corporation with taxable income in excess of $1,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $20,000.".

(b) CONFORMING AMENDMENT.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain control corporations) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (1), in applying the last sentence of section 11(b) to such component members, the taxable income of all such component members shall

be taken into account and any increase in tax under such last sentence shall be divided among such component members in the same manner as amounts under paragraph (1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 45. INCREASE IN REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS FROM 15 PERCENT TO 20 PERCENT.

(a) IN GENERAL.—Each subsection (other than subsection (a)(2)) of section 291 (relating to special rules for corporate preference items) is amended by striking out "15 percent" each place it appears and inserting in lieu thereof "20 percent".

(b) DEFERRED FSC INCOME.—Paragraph (4) of section 291(a) (relating to certain deferred DISC income) is amended to read as follows:

"(4) CERTAIN DEFERRED FSC INCOME.—If a corporation is a shareholder of the FSC, in the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to such corporation by substituting—

"(A) '32 percent' for '34 percent' in paragraph (2), and

"(B) '16/23' for '17/23' in paragraph (3).".

(c) MINIMUM TAX.—

(1) IN GENERAL.—Paragraph (1) of section 57(b) is amended to read as follows:

"(1) IN GENERAL.—

"(A) POLLUTION CONTROL FACILITIES; BAD DEBT RESERVES.—In the case of any item of tax preference of a corporation described in paragraph (4) or (7) of subsection (a), only 59⅙ percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(B) IRON ORE AND COAL.—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.".

(2) CERTAIN CAPITAL GAINS.—Paragraph (2) of section 57(h) (relating to capital gains) is amended by striking out "71.6 percent" and inserting in lieu thereof "59⅙ percent".

(d) DEFERRED DISC INCOME.—Section 995(b)(1)(F)(i) (relating to deemed distributions) is amended by striking out "one-half" and inserting in lieu thereof "one-seventeenth".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) 1250 GAIN.—The amendments made by this section to section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1984, in taxable years ending after such date.

(3) POLLUTION CONTROL FACILITIES.—The amendments made by this section to section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1984, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—The amendments made by this section to section 291(b) of such Code shall apply to expenditures after December 31, 1984, in taxable years ending after such date.

SEC. 46. RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280F. PAYMENTS UNDER GOLDEN PARACHUTE AGREEMENTS.

"(a) IN GENERAL.—In the case of a golden parachute agreement, no deduction shall be allowed under this chapter for any amount paid or incurred (or property transferred) pursuant to such agreement.

"(b) GOLDEN PARACHUTE AGREEMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'golden parachute agreement' means any agreement to make one or more payments (or transfers of property) to an applicable individual if—

"(A) such payments are contingent upon a change or threatened change (of a kind specified in the agreement) in the ownership or control of the corporation or a significant portion of its assets,

"(B) the present value (determined in accordance with section 1274(b)(2)) of the aggregate amount (including property) to be received under such agreement by such applicable individual exceeds 200 percent of the highest compensation includible in gross income by such applicable individual from such corporation for any taxable year during the 5-year taxable period preceding the date the agreement is entered into, and

"(C) any portion of such payments does not constitute a reasonable allowable for salary or other compensation for personal services actually rendered by such applicable individual.

"(2) CERTAIN AGREEMENTS SPECIFIED BY SECTION.—To the extent provided in regulations prescribed by the Secretary, the term 'golden parachute agreement' shall include any agreement which the Securities and Exchange Commission classifies as unreasonable in cases similar to the case described in paragraph (1)(A).

"(3) PRESUMPTION OF UNREASONABILITY.—For purposes of paragraph (1)(C), an agreement described in paragraph (1) (without regard to subparagraph (C)) shall be presumed to be unreasonable compensation for services unless the taxpayer establishes otherwise.

"(4) APPLICABLE INDIVIDUAL.—For purposes of this section, the term 'applicable individual' means any individual who—

"(A) is an employee, independent contractor, or other person specified in regulations prescribed by the Secretary who performs personal services for any corporation, and

"(B) is an officer, shareholder, or highly compensated individual.".

(b) EXCISE TAX ON AMOUNTS RECEIVED.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 46—GOLDEN PARACHUTE AGREEMENTS

"Sec. 4999. Payments under golden parachute agreements.

"SEC. 4999. PAYMENTS UNDER GOLDEN PARACHUTE AGREEMENTS.

"(a) IN GENERAL.—There is hereby imposed on any person who receives any amount (including property) under a golden parachute agreement a tax equal to 20 percent of the amount of such payment.

"(b) GOLDEN PARACHUTE AGREEMENT.—For purposes of this section, the term 'golden parachute agreement' has the meaning given such term by section 280F(b).".

(c) FICA TAXES.—Paragraph (2)(C) of section 3121(v) (relating to treatment of certain nonqualified deferred compensation plans) is amended by adding at the end thereof the following new sentence: "Such term shall not include a golden parachute agreement (within the meaning of section 280F(b)).".

(d) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280F. Payments under golden parachute agreements.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under agreements entered into after March 15, 1984, in taxable years ending after such date.

SEC. 47. PROVISIONS RELATING TO EARNINGS AND PROFITS.

(a) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(1) IN GENERAL.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(n) ADJUSTMENTS TO EARNINGS AND PROFITS TO MORE ACCURATELY REFLECT ECONOMIC GAIN AND LOSS.—For purposes of computing the earnings and profits of a corporation, the following adjustments shall be made:

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—

"(A) IN GENERAL.—In the case of any amount paid or incurred for construction period interest and taxes—

"(i) no deduction shall be allowed with respect to such amount, and

"(ii) the basis of the property with respect to which such interest and taxes are allocable shall be increased by such amount.

"(B) CONSTRUCTION PERIOD INTEREST AND TAXES DEFINED.—For purposes of this paragraph, the term 'construction period interest and taxes' means all—

"(i) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry property,

"(ii) property taxes, and

"(iii) similar carrying charges,

to the extent such interest, taxes, or charges are attributable to the construction period for such property and would be allowable as a deduction in determining taxable income under this chapter for the taxable year in which paid or incurred (determined without regard to section 189).

"(C) CONSTRUCTION PERIOD.—The term 'construction period' has the meaning given such term by section 189(e)(2) (determined without regard to any real property limitation).

"(2) INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—

"(A) INTANGIBLE DRILLING COSTS.—The amount allowable as a deduction in determining taxable income for any taxable year under section 263(c) shall be allowable as a deduction ratably over the 60-month period beginning with the month in which the tax the assets to which such amount relates are placed in service.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—The amount allowable as a deduction in determining taxable income for any taxable year under section 616(a) or 617 shall be allowable as a deduction ratably over the 120-month period beginning with the month in which the assets to which such amount relates are placed in service.

"(3) CERTAIN AMORTIZED AMOUNTS AND DEFERRED EXPENSES.—In the case of the amount of any expenditure with respect to which a deduction in determining taxable income is

allowable under section 173, 177, or 248, such amount shall be chargeable to capital account.

"(4) CERTAIN UNTAXED APPRECIATION OF DISTRIBUTED PROPERTY.—In the case of any distribution of property by a corporation described in section 311(d), earnings and profits shall be increased by the amount of any gain which would be includible in gross income for any taxable year if section 311(d)(2) (other than subparagraph (A) thereof) did not apply.

"(5) LIFO INVENTORY ADJUSTMENTS.—Earnings and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount (determined under section 336(b)(3)) as of the close of each taxable year, except that any decrease below the LIFO recapture amount as of the close of the taxable year preceding the first taxable year to which this paragraph applies shall be taken into account only to the extent provided in regulations prescribed by the Secretary.

"(6) INSTALLMENT SALES.—In the case of any installment sale, earnings and profits shall be computed as if all payments with respect to such sale are made in the taxable year in which such sale occurs.

"(7) COMPLETED CONTRACT METHOD OF ACCOUNTING.—In the case of a taxpayer who uses the completed contract method of accounting, earnings and profits shall be computed as if such taxpayer used the percentage of completion method of accounting.

"(8) REDEMPTIONS.—If a corporation distributes amounts in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of such corporation accumulated after February 28, 1913, attributable to the stock so redeemed.".

(2) CONFORMING AMENDMENTS.—

(A) Section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out paragraph (3).

(B) Subsection (e) of section 312 is hereby repealed.

(b) ADJUSTMENT TO EFFECT OF DEPRECIATION ON EARNINGS AND PROFITS.—The table contained in section 312(k)(3)(A) (relating to recovery property), as amended by this Act, is amended by striking out "35 years" in the item relating to 15-year real property and 20-year real property and inserting in lieu thereof "40 years".

(c) DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGINAL ISSUE DISCOUNT.—

(1) EFFECT ON EARNINGS AND PROFITS.—

(A) Paragraph (2) of section 312(a) (relating to effect of earnings and profits) is amended to read as follows:

"(2) the principal amount of the obligations of such corporation (or, in the case of obligations having original issue discount, the aggregate issue price of such obligations), and".

(B) Section 312, as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(o) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For purposes of subsection (a)(2), the terms 'original issue discount' and 'issue price' have the same respective meanings as when used in subpart A of part V of subchapter P of this chapter.".

(2) TREATMENT UNDER ORIGINAL ISSUE DISCOUNT RULES.—Subsection (a) of section 1275 (relating to other definitions and special rules), as added by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF OBLIGATIONS DISTRIBUTED TO CORPORATIONS.—Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property.".

(d) EFFECTIVE DATES.—

(1) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(A) IN GENERAL.—Except as provided in this paragraph, the amendments made by subsection (a) shall apply to amounts paid or incurred in, or distributions or redemptions occurring in, taxable years beginning after the date of the enactment of this Act.

(B) SPECIAL RULE FOR DISTRIBUTION OF APPRECIATED PROPERTY.—The provisions of section 312(n)(4) of the Internal Revenue Code of 1954, as added by subsection (a), shall not apply to any distribution to which the amendments made by section 36 of this Act do not apply.

(C) LIFO INVENTORY.—The provisions of section 312(n)(5) of such Code (as so added) shall apply to taxable years beginning after the date of the enactment of this Act.

(D) SPECIAL RULES FOR INSTALLMENT SALES AND CERTAIN CONTRACTS.—The provisions of section 312(n)(6) and (7) of such Code (as so added) shall apply to any sale made or contract entered into after March 15, 1984, unless such sale or contract was made pursuant to a binding contract which was in effect on March 15, 1984, and at all times thereafter.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply with respect to distributions declared after March 15, 1984, in taxable years ending after such date.

SEC. 48. TWO-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

(a) IN GENERAL.—Subsection (g) of section 806 of the Tax Reform Act of 1976 (26 U.S.C. 382 note) (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) is amended—

(1) by striking out "June 30, 1984" in paragraph (2) and inserting in lieu thereof "December 31, 1985";

(2) by striking out "January 1, 1984" in paragraph (2)(B) and inserting in lieu thereof "January 1, 1986"; and

(3) by striking out "January 1, 1984" in paragraph (3) and inserting in lieu thereof "January 1, 1986".

SEC. 49. TARGET CORPORATION MUST DISTRIBUTE ASSETS AFTER REORGANIZATION DESCRIBED IN SECTION 368(a)(1)(C).

(a) IN GENERAL.—Paragraph (2) of section 368(a) (relating to special rules for paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(G) DISTRIBUTION REQUIREMENT FOR PARAGRAPH (1)(C).—

"(i) IN GENERAL.—A transaction shall fail to meet the requirements of paragraph (1)(C) unless the corporation substantially all of the properties of which are acquired distributes, during the 12-month period beginning on the date of acquisition, all of its assets (other than assets retained to meet claims).

"(ii) EXCEPTION.—The Secretary may by regulations waive the application of clause (i) to any transaction subject to any conditions the Secretary may prescribe in such regulations.".

(b) ALLOCATION OF EARNINGS AND PROFITS IN SECTION 368(a)(1)(C) TRANSACTION.—Subsection (h) of section 312 (relating to allocation in certain corporate separations) is amended to read as follows:

"(h) ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.—

"(1) SECTION 355.—In the case of a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the Secretary.

"(2) SECTION 368 (a)(1)(C).—In the case of a reorganization described in section 368(a)(1)(C)—

"(A) with respect to which one corporation has control of the corporation substantially all of the assets of which are acquired, or

"(B) which is described in regulations prescribed by the Secretary

proper allocation with respect to the earnings and profits of the transferor corporation shall, under regulations prescribed by the Secretary, be made between the acquiring corporation and the transferor corporation.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 50. DEFINITION OF CONTROL FOR PURPOSES OF NONDIVISIVE REORGANIZATIONS UNDER SECTION 368(a)(1)(D).

(a) IN GENERAL.—Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) CONTROL DEFINED.—

"(1) IN GENERAL.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(2) SPECIAL RULE FOR CERTAIN SUBSECTION (a)(1)(D) REORGANIZATIONS.—In the case of a transaction which is described in subparagraph (D) of subsection (a)(1) and with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met—

"(A) paragraph (1) shall be applied by substituting '50 percent' for '80 percent' each place it appears, and

"(B) section 318(a) shall apply in determining stock ownership for purposes of paragraph (1), except that—

"(i) section 318(a)(2)(C) shall be applied by substituting '5 percent' for '50 percent', and

"(ii) section 318(a)(3)(C) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such corporation bears to the value of all stock in such corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transac-

tions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 51. COLLAPSIBLE CORPORATIONS.

(a) DEFINITION.—Subparagraph (A) of section 341(b)(1) (relating to collapsible corporations) is amended by striking out "a substantial part" and inserting in lieu thereof "2/3".

(b) LIMITATIONS.—Subsection (d) of section 341 (relating to limitations on application of section) is amended by adding at the end thereof the following sentence: "In determining whether property is described in subsection (b)(1) for purposes of applying paragraph (2), all property described in section 1221(1) shall, to the extent provided in regulations prescribed by the Secretary, be treated as one item of property.".

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 341(d) is amended by striking out "so manufactured, constructed, produced, or purchased" and inserting in lieu thereof "described in subsection (b)(1)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to sales, exchanges, and distributions made after December 31, 1984.

(2) PROPERTY A SUBSTANTIAL PART OF THE INCOME FROM WHICH IS REALIZED PRIOR TO 1985.—If, prior to January 1, 1985, a corporation has realized a substantial part of the taxable income to be derived from any property—

(A) for purposes of applying section 341(b)(1)(A) of the Internal Revenue Code of 1954, such corporation shall be treated as having realized two-thirds of the taxable income to be derived from such property, and

(B) for purposes of applying section 341(d)(2) of such Code, such property shall not be aggregated with any other property by reason of the last sentence of section 341(d).

SEC. 52. ELIGIBILITY TO FILE CONSOLIDATED RETURNS.

(a) IN GENERAL.—Section 1504 (defining affiliated group) is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF AFFILIATED GROUP FOR TAXABLE YEARS BEGINNING AFTER 1984.—For taxable years beginning after December 31, 1984—

"(1) IN GENERAL.—Except as provided in paragraph (6), or by regulation, for purposes of this chapter only, the term 'affiliated group' means 1 or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

"(A) stock possessing—

"(i) at least 80 percent of the voting power of all outstanding stock, and

"(ii) at least 80 percent of the total value of shares of all outstanding stock of each of the includible corporations (except the common parent corporation),

is owned directly by 1 or more of the other includible corporations, and

"(B) the common parent corporation owns directly stock possessing—

"(i) at least 80 percent of the voting power of all outstanding stock, and

"(ii) at least 80 percent of the total value of shares of all outstanding stock,

of at least 1 of the other includible corporations.

"(2) SPECIAL RULE FOR INITIAL DETERMINATION.—No affiliated group shall be eligible to file a consolidated return unless, on the first day of the first taxable year to be included in such consolidated return, the requirements of paragraph (1) are met. The preceding sentence shall not apply to any affiliated group filing a consolidated return for a taxable year which includes December 31, 1984.

"(3) SPECIAL RULE FOR TERMINATION OF AFFILIATED GROUP.—The determination of whether an affiliated group on each day of any taxable year continues to be an affiliated group (or whether any includible corporation continues to be a member of such group) shall be made by substituting 'more than 50 percent' for 'at least 80 percent' in clause (ii) in paragraph (1)(A) and clause (ii) of paragraph (1)(B).

"(4) 5 YEARS MUST ELAPSE BEFORE REAFFILIATION.—

"(A) IN GENERAL.—For purposes of determining whether any corporation is a member of an affiliated group, a corporation and any successor of such corporation which has ceased after April 11, 1984, to be a member of any affiliated group may not be treated as a member of such group (or of any other affiliated group the common parent of which is the common parent, or any successor of such common parent, of such group) before the 5th taxable year of such corporation after its first taxable year for which it ceases to be a member of such affiliated group. The preceding sentence shall not apply to any domestic insurance company described in subsection (c)(2)(A).

"(B) SECRETARY MAY WAIVE APPLICATION OF SUBPARAGRAPH (A).—The Secretary may waive the application of subparagraph (A) to any corporation for any period subject to such conditions as the Secretary may by regulations prescribe.

"(5) STOCK.—For purposes of this subsection, the term 'stock' does not include nonvoting stock which is limited and preferred as to dividends and in redemption and liquidation and which is not convertible into stock of any other class.

"(6) CORPORATIONS AFFILIATED ON APRIL 11, 1984.—For taxable years beginning before January 1, 1988, subsection (a) (and not paragraphs (1), (3), (5), or (7) of this subsection) shall apply for purposes of determining whether a corporation continues to be a member of an affiliated group of which it was a member on April 11, 1984. The preceding sentence shall apply only if the affiliated group files a consolidated return for its taxable year which includes April 11, 1984.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

"(A) which treat warrants, obligations convertible into stock, and other similar interests as stock, and stock as not stock, for purposes of this chapter,

"(B) which treat options to acquire or put stock as having been exercised,

"(C) which disregard changes after April 11, 1984, in voting power disproportionate to changes in the total value of shares of all outstanding stock, and

"(D) which do not permit an includible corporation to be a member of an affiliated group where there is a plan pursuant to which it is to cease meeting the qualification requirements for treatment as such a member.".

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 1504 (relating to includible insurance companies) is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a) or (f), as the case may be,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle E—Partnership Provisions

SEC. 55. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—With respect to property contributed to the partnership by a partner, depreciation, depletion, and gain or loss shall, under regulations prescribed by the Secretary, be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution.".

(b) CONFORMING AMENDMENTS.—The fourth sentence of section 613A(c)(7)(D) and the third sentence of section 743(b) are each amended by striking out "an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account" and inserting in lieu thereof "property contributed to the partnership by a partner, section 704(c) (relating to contributed property) shall apply in determining such share".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date.

SEC. 56. DETERMINATION OF DISTRIBUTIVE SHARES WHEN PARTNER'S INTEREST CHANGES.

(a) GENERAL RULE.—Section 706 (relating to taxable years of partner and partnership) is amended by adding at the end thereof the following new subsection:

"(d) DETERMINATION OF DISTRIBUTIVE SHARE WHEN PARTNER'S INTEREST CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if during any taxable year of the partnership there is a change in any partner's interest in the partnership, each partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for such taxable year shall be determined by the use of any method prescribed by the Secretary by regulations which takes into account the varying interests of the partners in the partnership during such taxable year.

"(2) CERTAIN CASH BASIS ITEMS PRORATED OVER PERIOD TO WHICH ATTRIBUTABLE.—

"(A) IN GENERAL.—If during any taxable year of the partnership there is a change in any partner's interest in the partnership, then (except to the extent provided in regulations) each partner's distributive share of any allocable cash basis item shall be determined—

"(i) by assigning the appropriate portion of each such item to each day in the period (during the taxable year) to which it is attributable, and

"(ii) by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(B) ALLOCABLE CASH BASIS ITEM.—For purposes of this paragraph, the term 'allocable cash basis item' means any of the following items which are described in paragraph (1) and with respect to which the partnership uses the cash receipts and disbursements method of accounting:

"(i) Interest.

"(ii) Taxes.

"(iii) Payments for services or for the use of property.

"(iv) Any other item of a kind specified in regulations prescribed by the Secretary as

being an item with respect to which the application of this paragraph is appropriate to avoid significant misstatements of the income of the partners.

"(C) ITEMS ATTRIBUTABLE TO PERIODS NOT WITHIN TAXABLE YEAR.—To the extent that any allocable cash basis item is attributable to—

"(i) periods before the beginning of the taxable year, such item shall be assigned under subparagraph (A)(i) to the first day of such taxable year, or

"(ii) periods after the close of the taxable year, such item shall be assigned under subparagraph (A)(i) to the last day of the taxable year.

"(3) ITEMS ATTRIBUTABLE TO INTEREST IN OTHER PARTNERSHIP PRORATED OVER ENTIRE TAXABLE YEAR.—If—

"(A) during any taxable year of the partnership there is a change in any partner's interest in the partnership, and

"(B) such partnership is a partner in another partnership,

then (except to the extent otherwise provided in regulations) each partner's distributive share of any item attributable to the other partnership shall be determined by assigning an equal portion of each such item to each day during the taxable year of the partnership (during which such partnership is a partner in the other partnership) and by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(4) TAXABLE YEAR DETERMINED WITHOUT REGARD TO SUBSECTION (C)(2)(A).—For purposes of this subsection, the taxable year of a partnership shall be determined without regard to subsection (c)(2)(A).

"(5) ELECTION TO TREAT CHANGES DURING MONTH AS OCCURRING ON FIRST DAY OF MONTH.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), at the election of a partnership, any change in any partner's interest in such partnership during any taxable year shall be treated as occurring on the first day of the month in such year in which such change occurs.

"(B) EXCEPTION FOR DISPOSITION OF ENTIRE INTEREST.—Subparagraph (A) shall not apply to any change in any partner's interest in a partnership if such change is described in subparagraph (A) of subsection (c)(2) or is related to a change so described.

"(C) ELECTION.—The election under subparagraph (A) shall apply to all changes in each partner's interest in such partnership (not described in subparagraph (B)) occurring during the taxable year for which such election is made.".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 706(c) is amended—

(1) by striking out the last sentence of subparagraph (A), and

(2) by striking out ", but such partner's distributive share of items described in section 702(a) shall be determined by taking into account his varying interests in the partnership during the taxable year" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of items described in section 706(d)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)), to amounts attributable to periods after March 31, 1984, and

(2) in the case of items described in section 706(d)(3) of such Code (as added by subsection (a)), to amounts paid or accrued by the other partnership after March 31, 1984.

SEC. 57. PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.

(a) GENERAL RULE.—Subsection (a) of section 707 (relating to transactions between partner and partnership) is amended to read as follows:

"(a) PARTNER NOT ACTING IN CAPACITY AS PARTNER.—

"(1) IN GENERAL.—If a partner engages in a transaction with a partnership other than in his capacity as a member of such partnership, the transaction shall, except as otherwise provided in this section, be considered as occurring between the partnership and one who is not a partner.

"(2) TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR SERVICES.—Under regulations prescribed by the Secretary—

"(A) TREATMENT OF CERTAIN SERVICES AND TRANSFERS OF PROPERTY.—If—

"(i) a partner performs services for a partnership or transfers property to a partnership,

"(ii) there is a related direct or indirect allocation and distribution to such partner, and

"(iii) the performance of such services (or such transfer) and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in his capacity as a member of the partnership,

such allocation and distribution shall be treated as a transaction described in paragraph (1).

"(B) TREATMENT OF CERTAIN PROPERTY TRANSFERS.—If—

"(i) there is a direct or indirect transfer of money or other property by a partner to a partnership,

"(ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and

"(iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale of property,

such transfers shall be treated either as a transaction described in paragraph (1) or as a transaction between 2 or more partners acting other than in their capacity as members of the partnership.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply—

(A) in the case of arrangements described in section 707(a)(2)(A) of the Internal Revenue Code of 1954 (as amended by subsection (a)), to services performed or property transferred after February 29, 1984, and

(B) in the case of transfers described in section 707(a)(2)(B) of such Code (as so amended), to property transferred after March 31, 1984.

(2) EXCEPTION FOR CERTAIN TRANSFERS.—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) that is made before December 31, 1984, if—

(A) such transfer was proposed in a written private offering memorandum circulated before February 28, 1984;

(B) the out-of-pocket costs incurred with respect to such offering exceeded $250,000 as of February 28, 1984;

(C) the encumbrances placed on such property in anticipation of such transfer all constitute obligations for which neither the partnership nor any partner is liable; and

(D) the transferor of such property is the sole general partner of the partnership.

SEC. 58. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS, OR CAPITAL LOSS PROPERTY.

(a) GENERAL RULE.—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

"SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED UNREALIZED RECEIVABLES, INVENTORY ITEMS, AND CAPITAL LOSS PROPERTY.

"(a) CONTRIBUTIONS OF UNREALIZED RECEIVABLES.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

"(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

"(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—In the case of any property which—

"(1) was contributed by a partner to the partnership, and

"(2) was a capital asset in the hands of such partner immediately before such contribution,

any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

"(d) DEFINITIONS.—For purposes of this section—

"(1) UNREALIZED RECEIVABLE.—The term 'unrealized receivable' has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

"(2) INVENTORY ITEM.—The term 'inventory item' has the meaning given such term by section 751(d)(2) (determined by treating any reference to the partnership as referring to the partner and by applying section 1231 without regard to any holding period therein provided).

"(3) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a), (b), or (c) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction (including such property). A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351 for property described in subsection (a), (b), or (c).".

(b) AMENDMENT OF SECTION 735.—Section 735 (relating to character of gain or loss on disposition of distributed property) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—

"(1) WAIVER OF HOLDING PERIODS CONTAINED IN SECTION 1231.—For purposes of this section, section 751(d)(2) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

"(2) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351 for property described in subsection (a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property.".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property contributed to a partnership after March 31, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property distributed after March 31, 1984, in taxable years ending after such date.

SEC. 59. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to transfer of interests in a partnership) is amended by adding at the end thereof the following new section:

"SEC. 744. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

"(a) CORPORATE DISTRIBUTIONS.—For purposes of determining the amount of gain recognized by a corporation on any distribution, any distribution of an interest in a partnership shall be treated as a distribution of the corporation's proportionate share of the recognition property of such partnership.

"(b) SALES OR EXCHANGE TO WHICH SECTION 337 APPLIES.—For purposes of determining the amount of gain recognized on a sale or exchange described in section 337, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation's proportionate share of the recognition property of such partnership.

"(c) RECOGNITION PROPERTY.—For purposes of this section, the term 'recognition property' means any property with respect to which gain would be recognized to the corporation if such property—

"(1) were distributed by the corporation in a distribution described in section 311 or 336, or

"(2) were a result in a sale described in section 337,

whichever is appropriate. In determining whether property of a partnership is recognition property, such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

"(d) EXTENSION TO TRUSTS.—Under regulations, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust.".

(b) ADJUSTMENT OF TRANSFEREE'S BASIS IN PARTNERSHIP PROPERTY.—Subsections (a) and (b) of section 743 (relating to optional adjustment to basis of partnership property) are each amended by inserting ", by distribution," after "sale or exchange".

(c) TECHNICAL AMENDMENT TO SECTION 751(c).—The last sentence of section 751(c) (defining unrealized receivables) is amended by striking out "at its fair market value".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 744. Transfers of partnership and trust interests by corporations.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

SEC. 60. APPLICATION OF SECTION 751 IN THE CASE OF TIERED PARTNERSHIPS.

(a) GENERAL RULE.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS, ETC.—In determining whether property of a partnership is—

"(1) an unrealized receivable, or

"(2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

SEC. 61. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP INTERESTS; LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE.

(a) IN GENERAL.—Subsection (a) of section 1031 (relating to nonrecognition of gain or loss from exchanges solely in kind) is amended to read as follows:

"(a) NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND.—

"(1) IN GENERAL.—No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

"(2) EXCEPTION.—This subsection shall not apply to any exchange of—

"(A) stock in trade or other property held primarily for sale,

"(B) stocks, bonds, or notes,

"(C) other securities or evidences of indebtedness or interest,

"(D) interests in a partnership,

"(E) certificates of trust or beneficial interests, or

"(F) choses in action.

"(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED AND THAT EXCHANGE BE COMPLETED NOT MORE THAN 180 DAYS AFTER TRANSFER OF EXCHANGED PROPERTY.—For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

"(A) such property was not identified (as of the date on which the taxpayer transfers the property relinquished in the exchange) as property to be received in the exchange, or

"(B) such property is received after the earlier of—

"(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

"(ii) the due date (determined with regard to extensions) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle F—Trust Provisions

SEC. 65. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subchapters A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF PROPERTY DISTRIBUTED IN KIND.—

"(1) BASIS OF BENEFICIARY.—The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

"(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

"(B) any gain or loss recognized to the estate or trust on the distribution.

"(2) TREATMENT OF PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash)—

"(A) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

"(3) ELECTION TO HAVE PARAGRAPH (2) NOT APPLY.—In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

"(A) paragraph (2) shall not apply, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of the basis of such property in the hands of the beneficiary (as determined under paragraph (1)) or the fair market value of such property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date.

SEC. 66. TREATMENT OF MULTIPLE TRUSTS.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(e) TREATMENT OF MULTIPLE TRUSTS.—For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

"(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

"(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 1, 1984.

Subtitle G—Accounting Changes

SEC. 71. CERTAIN AMOUNTS NOT TREATED AS INCURRED BEFORE ECONOMIC PERFORMANCE.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN LIABILITIES NOT INCURRED BEFORE ECONOMIC PERFORMANCE.—

"(1) IN GENERAL.—For purposes of this title, in determining whether an amount has been incurred with respect to any item during any taxable year, all of the events which establish liability for such amount shall not be treated as having occurred any earlier than when economic performance with respect to such item occurs.

"(2) TIME WHEN ECONOMIC PERFORMANCE OCCURS.—Except as provided in regulations prescribed by the Secretary, the time when economic performance occurs shall be determined under the following principles:

"(A) SERVICES AND PROPERTY.—If the liability of the taxpayer requires a payment to another person for—

"(i) the providing of services to the taxpayer by another person, economic performance occurs when such person provides such services,

"(ii) the providing of property, economic performance occurs when the person provides such property, or

"(iii) the use of property by the taxpayer, economic performance occurs as the taxpayer uses such property.

"(B) PROVIDING OF SERVICES OR PROPERTY BY THE TAXPAYER.—If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides such property or services.

"(C) WORKERS COMPENSATION, TORT, AND EMPLOYEE BENEFIT LIABILITIES OF THE TAXPAYER.—If the liability of the taxpayer requires a payment to another person and—

"(i) arises under any workers compensation act,

"(ii) arises out of any tort, or

"(iii) arises under any contractual liability of the taxpayer to provide benefits to employees of the taxpayer other than benefits—

"(I) provided through a plan subject to the requirements of section 404 or 404A or a welfare benefit fund described in section 4976(e), or

"(II) which are paid before the date which is 2½ months after the close of the taxable year of the taxpayer, in which the liability arises

economic performance occurs as the payments to such person are made. Subparagraphs (A) and (B) shall not apply to any liability described in the preceding sentence.

"(D) OTHER ITEMS.—In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Secretary.

"(3) SUBSECTION NOT TO APPLY TO CERTAIN CASES TO WHICH OTHER PROVISIONS OF THIS TITLE SPECIFICALLY APPLY.—This subsection shall not apply to any item to which any of the following provisions apply:

"(A) Subsection (c) or (f) of section 166 (relating to reserves for bad debts).

"(B) Section 463 (relating to vacation pay).

"(C) Section 466 (relating to discount coupons).

"(D) Any other provisions of this title which specifically provides for a deduction for a reserve for estimated expenses.

"(4) SPECIAL RULES FOR CERTAIN NUCLEAR DECOMMISSIONING AND RECLAMATION AND CLOSING COSTS.—

"(A) IN GENERAL.—This subsection shall not apply to any portion of any liability with respect to which the taxpayer makes an election under subsection (i) or (j).

"(B) LIABILITIES WITH RESPECT TO WHICH ELECTION NOT MADE.—If the taxpayer fails to make an election under subsection (i) or (j)—

"(i) in the case of any liability with respect to the decommissioning of a nuclear powerplant (or unit thereof), economic performance occurs as the decommissioning is performed, and

"(ii) in the case of any liability with respect to any qualified reclamation or closing expenses (within the meaning of subsection (j)), economic performance occurs as the reclamation or closing activities occur.

"(i) SPECIAL RULE FOR LIABILITIES IN CONNECTION WITH THE DECOMMISSIONING OF A NUCLEAR POWERPLANT.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection, there shall be allowed as a deduction for any taxable year the amount of payments made by the taxpayer to a Nuclear Decommissioning Reserve Fund (hereinafter referred to as the 'Fund') during such taxable year.

"(2) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the lesser of—

"(A) the amount of nuclear decommissioning costs which is included in the taxpayer's cost of service for ratemaking purposes for such taxable year, or

"(B) the ruling amount applicable to such taxable year.

"(3) INCOME AND DEDUCTIONS OF THE TAXPAYER.—

"(A) INCLUSION OF AMOUNTS DISTRIBUTED.—There shall be includible in the gross income of the taxpayer for any taxable year—

"(i) any amount distributed from the Fund during such taxable year, other than any amount distributed to pay costs described in paragraph (5)(B)(ii) (unless such distribution is to the taxpayer),

"(ii) the amount of any deemed distribution under paragraph (5)(F) if the Fund is disqualified in such taxable year, and

"(iii) the balance in the Fund as of the time the Fund is terminated under paragraph (5)(G).

"(B) DEDUCTION WHEN ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction under paragraph (1), there shall be allowable as a deduction for any taxable year the amount of the nuclear decommissioning costs with respect to which economic performance (within the meaning of subsection (h)(2)) occurs during such taxable year.

"(4) RULING AMOUNT.—For purposes of this subsection—

"(A) REQUEST REQUIRED.—No deduction shall be allowed for any payment to the Fund unless the taxpayer requests, and receives, from the Secretary a schedule of ruling amounts.

"(B) RULING AMOUNT.—The term 'ruling amount' means, with respect to any taxable year, the amount which the Secretary determines under subparagraph (A) to be necessary to—

"(i) to fund the future nuclear decommissioning costs of the taxpayer with respect to the nuclear powerplant (or unit thereof), multiplied by a fraction—

"(I) the numerator of which is the number of taxable years between the taxable year in which the Fund is established and the taxable year in which decommissioning is reasonably expected to commence, and

"(II) the denominator of which is the useful life of the nuclear powerplant (or unit thereof), and

"(ii) to prevent any excessive funding of such costs or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

"(C) REVIEW OF AMOUNT.—The Secretary shall at least once during the useful life of the nuclear powerplant or unit thereof (or, more frequently, upon the request of the taxpayer) review, and revise if necessary, the schedule of ruling amounts determined under subparagraph (A).

"(5) NUCLEAR DECOMMISSIONING TRUST FUND.—

"(A) IN GENERAL.—Each taxpayer who elects the application of this subsection shall establish a Nuclear Decommissioning Trust Fund with respect to each nuclear powerplant (or unit thereof) to which such election applies.

"(B) TAXATION OF FUND.—There is imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the maximum rate in effect under section 11(b), except that—

"(i) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under paragraph (1), and

"(ii) there shall be allowed as a deduction any amount paid by the Fund described in subparagraph (D)(ii) (other than to the taxpayer).

"(C) CONTRIBUTIONS TO FUND.—The Fund shall not accept any payments (or other amounts) other than payments with respect to which a deduction is allowable under paragraph (1).

"(D) USE OF FUND.—The Fund shall be used exclusively for—

"(i) satisfying, in whole or in part, any liability of any person contributing to the Fund for the decommissioning of a nuclear powerplant (or unit thereof), and

"(ii) to pay administrative costs (including taxes) and other incidental expenses of the Fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the Fund.

"(E) PROHIBITIONS AGAINST SELF-DEALING.—Under regulations prescribed by the Secretary, for purposes of section 4951 (and so much of this title as relates to such section), the Fund shall be treated in the same manner as a trust described in section 501(c)(21).

"(F) DISQUALIFICATION OF FUND.—In any case in which the Fund violates any provision of this subsection or section 4951, the Secretary may disqualify such Fund from the application of this subsection. In any case to which this subparagraph applies, the Fund shall be treated as having distributed all of its funds on the date such determination takes effect.

"(G) TERMINATION UPON COMPLETION.—Upon completion of the nuclear decommissioning of the nuclear powerplant (or unit thereof) with respect to which a Fund relates, the taxpayer shall terminate such Fund.

"(j) SPECIAL RULES RELATING TO CERTAIN RECLAMATION AND CLOSING COSTS.—

"(1) IN GENERAL.—In the case of any qualified reclamation or closing expenses, there shall be allowed as a deduction for any taxable year an amount equal to the current reclamation and closing costs of the taxpayer with respect to such expenses if the taxpayer—

"(A) elects the application of this subsection, and

"(B) establishes a separate account as of the close of such taxable year—

"(i) for each property or portion thereof to which the costs arising in such taxable year relate (as determined under paragraph (7)), and

"(ii) which meets the requirements of this subsection.

"(2) ADJUSTMENTS TO ACCOUNT.—Any account established with respect to any qualified reclamation or closing expenses shall—

"(A) be increased by the amount of the current reclamation or closing costs,

"(B) be credited with interest (compounded semiannually) at a rate equal to one-half the discount rate in effect under section 483—

"(i) with respect to the Federal short-term rate in the case of current reclamation costs, and

"(ii) with respect to the Federal long-term rate in the case of current closing costs, and

"(C) reduced by the amount paid by the taxpayer for qualified reclamation and closing expenses allocable to such account.

"(3) INCLUSION IN INCOME OF CERTAIN AMOUNTS.—

"(A) IN GENERAL.—There shall be includible in the gross income of any taxpayer for any taxable year the aggregate amount of the reductions under paragraph (2)(C) in any account of the taxpayer during such taxable year.

"(B) SPECIAL RULES FOR RECLAMATION ACCOUNTS.—In the case of any account established with respect to qualified reclamation expenses—

"(i) all amounts in such account shall be withdrawn as of the close of the 3rd taxable year after the taxable year in which such account is established, and

"(ii) such amounts shall be included in the gross income of the taxpayer for such 3rd taxable year.

"(4) ALLOWANCE OF DEDUCTION AS ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction allowable under paragraph (1), a deduction shall be allowable for any qualified reclamation and closing expenses in the taxable year in which economic performance (within the meaning of subsection (h)(2)) occurs.

"(5) CURRENT RECLAMATION AND CLOSING COSTS.—For purposes of this subsection—

"(A) CURRENT RECLAMATION COSTS.—The term 'current reclamation costs' means the qualified reclamation expenses which would be incurred (on the date the account with respect to such expenses is established) if the reclamation activities to which such expenses relate were commenced on such date.

"(B) CURRENT CLOSING COSTS.—The term 'current closing costs' means, with respect to any taxable year, the excess of—

"(i) the qualified closing expenses (determined on a unit-of-production method of accounting) as of the last day of such taxable year as if the activities to which such expenses relate were commenced on such day, over

"(ii) the amount determined under clause (i) as of the beginning of such taxable year.

"(C) 2 PERCENT DISCOUNT.—For purposes of this paragraph, any amount under subparagraphs (A) and (B) shall be discounted under regulations prescribed by the Secretary, using a discount rate equal to 2 percent, compounded annually, for each calendar year (or fraction thereof) between—

"(i) in the case of—

"(I) subparagraph (A), the date the account is established, or

"(II) subparagraph (B), the first day of the taxable year, and

"(ii) the date on which the activity to which the qualified reclamation or closing expenses relate is reasonably expected to commence.

"(6) QUALIFIED RECLAMATION EXPENSES.—For purposes of this subsection, the term 'qualified reclamation expenses' means any of the following expenses:

"(A) MINING RECLAMATION.—Any expenses incurred for any land reclamation activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof) which is submitted pursuant to—

"(i) the provisions of section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984) and which is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

"(ii) any other Federal or State law which imposes reclamation and permit requirements substantially similar to the requirements imposed by title V of such Act (as so in effect).

"(B) SOLID WASTE DISPOSAL.—

"(i) IN GENERAL.—Any expenses incurred for any land reclamation activity in connection with solid waste disposal sites which is conducted in accordance with—

"(I) any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring such activity, or

"(II) any other Federal or State law which is substantially similar to such Act.

"(ii) EXCEPTION FOR CERTAIN HAZARDOUS WASTE SITES.—Clause (i) shall not apply to any hazardous waste disposal site to which the Comprehensive Environmental, Compensation, and Liability Act of 1980 applies.

"(7) QUALIFIED CLOSING EXPENSES.—The term 'qualified closing expenses' means any expenses in connection with any activity with respect to the closing of a mine or solid waste disposal site which is conducted in accordance with any Federal or State law requiring such activity.

"(8) ESTABLISHMENT OF SEPARATE ACCOUNTS.—The Secretary shall prescribe regulations for the allocation of specific property (or portions thereof) to the separate accounts required to be established under paragraph (1) with respect to property disturbed during any taxable year.".

(b) LIMITATION ON CERTAIN PREPAID FARMING EXPENSES.—

(1) SECTION 464 MADE APPLICABLE TO PERSONS PREPAYING 50 PERCENT OR MORE OF EXPENSES.—Section 464 (relating to limitations on deductions in case of farming syndicates) is amended by inserting "or any other person for any taxable year for which such person is described in subsection (f)" after "subsection (c))" in subsections (a) and (b).

(2) PERSONS TO WHOM LIMITATIONS APPLY.—Section 464 is amended by adding at the end thereof the following new subsection:

"(f) SECTION TO APPLY TO CERTAIN PERSONS PREPAYING 50 PERCENT OR MORE OF FARMING EXPENSES.—

"(1) IN GENERAL.—This subsection applies to any taxpayer who—

"(A) computes taxable income for the taxable year on the cash receipts and disbursements method of accounting, and

"(B) fails to meet the requirements of paragraph (2).

"(2) PREPAID EXPENSES MUST BE LESS THAN 50 PERCENT.—A taxpayer meets the requirements of this paragraph for any taxable year if—

"(A) the taxpayer's deductible farming expenses for the taxable year with respect to which economic performance occurs in any succeeding taxable year are less than 50 percent of—

"(B) the taxpayer's aggregate deductible farming expenses for such taxable year.

"(3) DEFERRAL OF DEDUCTIONS FOR ADDITIONAL ITEMS.—In the case of a taxpayer to whom this subsection applies, no deduction shall be allowable for any deductible farming expense to which subsection (a) does not apply until the taxable year in which economic performance with respect to such expense occurs (or, if later, the taxable year when paid).

"(4) SUBSECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—

"(A) IN GENERAL.—This subsection shall not apply to any eligible taxpayer for any taxable year if—

"(i)(I) the aggregate expenses described in paragraph (2)(A) for the 3 taxable years preceding such taxable year are less than 50 percent of,

"(II) the aggregate expenses described in paragraph (2)(B) for such 3 taxable years, or

"(ii) the taxpayer fails to meet the requirements of paragraph (2) by reason of any change in business operation directly attributable to extraordinary circumstances.

"(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' means any taxpayer—

"(i) whose principal residence (within the meaning of section 1034) is on a farm,

"(ii) who has a principal occupation of farming, or

"(iii) who is a member of the family (within the meaning of subsection (c)(2)(E)) of a taxpayer described in clause (i) or (ii).

"(5) DEDUCTIBLE FARMING EXPENSES.—For purposes of this subsection, the term 'deductible farming expenses' means any amount allowable as a deduction under this chapter (including any amount allowable as a deduction for depreciation or amortization) which is properly allocable to the trade or business of farming.

"(6) ECONOMIC PERFORMANCE.—For purposes of this subsection—

"(A) IN GENERAL.—Economic performance shall be treated as occurring at the time determined under section 461(h)(2).

"(B) CERTAIN PROPERTY.—In the case of any property described in section 461(h)(2)(A)(ii), economic performance shall be treated as occurring at the time such property is used or consumed.".

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 464 is amended by striking out "IN CASE OF FARMING SYNDICATES" and inserting in lieu thereof "FOR CERTAIN FARMING EXPENSES".

(B) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of farming syndicates" in the item relating to section 464 and inserting in lieu thereof "for certain farming expenses.".

(c) 10-YEAR NET OPERATING LOSS CARRYBACK PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY DEDUCTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(K) SPECIAL RULE FOR DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—In the case of a taxpayer which has a deferred statutory or tort liability loss (as defined in subsection (k)) for any taxable year beginning after December 31, 1983, the deferred statutory or tort liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.".

(2) DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DEFINITIONS AND SPECIAL RULES RELATING TO DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For purposes of this section—

"(1) DEFERRED STATUTORY OR TORT LIABILITY LOSS.—The term 'deferred statutory or tort liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such taxable year, reduced by any portion thereof attributable to—

"(i) a foreign expropriation loss, or

"(ii) a product liability loss, or

"(B) the sum of the amounts allowable as a deduction under this chapter (other than any deduction described in subsection (j)(1)(B)) which—

"(i) is taken into account in computing the net operating loss for such taxable year, and

"(ii) is for an amount incurred with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer and—

"(I) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of such taxable year, or

"(II) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of such taxable year.

A liability shall not be taken into account under the preceding sentence unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

"(2) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a deferred statutory or tort liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(K), be carried back to each of the taxable years during the period—

"(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

"(B) ending with the taxable year preceding the loss year.

"(3) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), a deferred statutory or tort liability loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(4) NO CARRYBACK TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—No deferred statutory or tort liability loss (other than any portion of such loss described in paragraph (2)) may be carried back to a taxable year beginning before January 1, 1984, unless such loss may be carried back to such year without regard to subsection (b)(1)(K).".

(3) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 172(b)(1)(A) is amended by striking out "and (J)" and inserting in lieu thereof "(J), and (K)".

(B) Subsections (h) and (j) of section 172 are each amended by striking out "subsection (b)" in the matter preceding paragraph (1) and inserting in lieu thereof "this section".

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 461(f) (relating to contested liabilities) is amended by inserting "determined after application of subsection (h)" after "taxable year)".

(e) INCLUSION IN INCOME OF NUCLEAR DECOMMISSIONING COSTS INCLUDED IN THE TAXPAYER'S RATE BASE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 88. CERTAIN AMOUNTS WITH RESPECT TO NUCLEAR DECOMMISSIONING COSTS.

"In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer's cost of service for ratemaking purposes, there shall be includible in the gross income of such taxpayer the amount so included for any taxable year.".

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 88. Certain amounts with respect to nuclear decommissioning costs.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection and subsection (g), the amendments made by this section shall apply to amounts—

(A) with respect to which a deduction would be allowable under chapter 1 of the Internal Revenue Code of 1954 (determined without regard to such amendments) after the date of enactment of this Act, or

(B) with respect to which—

(i) a deduction is allowed under chapter 1 of such Code (as so determined) before the date of the enactment of this Act, and

(ii) a deduction would be allowable under chapter 1 of such Code (determined with regard to such amendments) after the date of the enactment of this Act.

In the case of an amount described in subparagraph (B), such amendments shall not be applied to disallow a deduction for any taxable year ending before the date of the enactment of this Act.

(2) PREPAID FARMING EXPENSES.—The amendment made by subsection (b) shall apply to amounts paid after March 31, 1984 in taxable years ending after such date.

(3) SECTION 461(h) TO APPLY IN CERTAIN CASES.—Notwithstanding paragraph (1), section 461(h) of the Internal Revenue Code of 1954 (as added by this section) shall be treated as being in effect to the extent necessary to carry out any amendments made by this section which take effect before section 461(h).

(4) CHANGE IN METHOD OF ACCOUNTING.—For purposes of section 481 of the Internal Revenue Code of 1954, the application of the amendments made by this section shall be treated as a change in method of accounting.

(g) EXCEPTION FOR CERTAIN EXISTING ACTIVITIES AND CONTRACTS.—

(1) EXISTING ACCOUNTING PRACTICE.—If, on March 1, 1984, any taxpayer was regularly computing a deduction for mining reclamation activities under a method substantially similar to the method described in section 461(j) of the Internal Revenue Code of 1954 (as added by this section), the liability for such reclamation activities for land disturbed before the date of the enactment of this Act shall be treated as having been incurred when such land is disturbed.

(2) FIXED PRICE SUPPLY CONTRACTS.—

(A) IN GENERAL.—In the case of any fixed price supply contract entered into before March 1, 1984, the amendment made by this section shall not be applied in computing any deduction for mining reclamation and closing expenses with respect to land disturbed to acquire minerals covered by such contract, except that this subparagraph shall apply only if the taxpayer deducts only the estimated current costs of such expenses.

(B) NO EXTENSION OR RENEGOTIATION.—Subparagraph (A) shall not apply—

(i) to any extension of any contract beyond the period such contract was in effect on March 1, 1984, or

(ii) to any renegotiation of, or other change in, the terms and conditions of such contract in effect on March 1, 1984.

SEC. 72. AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES FOR RESIDENTIAL REAL PROPERTY HELD BY CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(1) by striking out paragraph (2), and

(2) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984, with respect to construction beginning after March 15, 1984.

SEC. 73. CAPITALIZATION OF START-UP EXPENDITURES.

(a) IN GENERAL.—Section 195 (relating to start-up expenditures) is amended to read as follows:

"SEC. 195. START-UP EXPENDITURES.

"(a) CAPITALIZATION OF EXPENDITURES.—Except as otherwise provided in this section, no deduction shall be allowed for start-up expenditures.

"(b) ELECTION TO AMORTIZE.—

"(1) IN GENERAL.—Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction prorated equally over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the active trade or business begins).

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a trade or business is completely disposed of by the taxpayer before the end of the period to which paragraph (1) applies, any deferred expenses which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

"(c) DEFINITIONS.—For purposes of this section—

"(1) START-UP EXPENDITURES.—The term 'start-up expenditure' means any amount—

"(A) paid or incurred in connection with—

"(i) investigating the creation or acquisition of an active trade or business, or

"(ii) creating an active trade or business, or

"(iii) any activity engaged in for profit and for the production of income before the day on which the active trade or business

begins in anticipation of such activity becoming an active trade or business, and

"(B) which, if paid or incurred in connection with the operation of an existing active trade or business (in the same field as the trade or business referred to in subparagraph (A)), would be allowable as a deduction for the taxable year in which paid or incurred.

"(2) BEGINNING OF TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of when an active trade or business begins shall be made in accordance with such regulations as the Secretary may prescribe.

"(B) ACQUIRED TRADE OR BUSINESS.—An acquired active trade or business shall be treated as beginning when the taxpayer acquires it.

"(d) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (b) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the trade or business begins (including extensions thereof).

"(2) SCOPE OF ELECTION.—The period selected under subsection (b) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.".

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 195 and inserting in lieu thereof the following:

"Sec. 195. Start-up expenditures.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1984.

SEC. 74. TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 467. CERTAIN PAYMENTS FOR USE OF PROPERTY OR SERVICES.

"(a) ACCRUAL METHOD AND INTEREST FOR USE OF PROPERTY.—In the case of the payor or payee of any deferred rental payment agreement, there shall be taken into account for purposes of this title for any taxable year—

"(1) that portion of the constant rental amount with respect to such agreement which is allocable to such taxable year, and

"(2) that portion of the annual interest amount with respect to such agreement which is allocable to such taxable year.

"(b) SERVICES.—In the case of the payor or payee under any deferred services payment agreement, there shall be taken into account for purposes of this title for any taxable year that portion of the annual interest amount allocable to such taxable year.

"(c) CONSTANT RENTAL AMOUNT AND ANNUAL INTEREST AMOUNT DEFINED.—For purposes of this section—

"(1) CONSTANT RENTAL AMOUNT.—The term 'constant rental amount' means, with respect to any deferred payment rental agreement, the amount which, if paid as of the close of each lease period (or portion thereof) under the agreement, has a present value equal to the present value of the aggregate payments required under the agreement.

"(2) ANNUAL INTEREST AMOUNT.—The term 'annual interest amount' means, with respect to any lease period, interest, computed at the rate determined under subsection (g)(3), on the sum of—

"(A) the excess of—

"(i) the constant rental amount, over

"(ii) any payments under the agreement for such lease period, and

"(B) any unpaid annual interest amount as of the close of the lease period for any preceding lease period.

"(3) SPECIAL RULE FOR SERVICES.—The annual interest amount with respect to any deferred service payment agreement shall be computed in the same manner as the annual interest amount under paragraph (2), except that the Secretary may by regulations provide for adjustments to such amount in any case where services are not performed ratably over the period of the agreement.

"(4) LEASE PERIOD.—The term 'lease period' means, with respect to any deferred rental payment agreement, the 12-month period beginning on the first day to which such agreement applies and each succeeding 12-month period or portion thereof.

"(d) DEFERRED RENTAL PAYMENT AGREEMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred rental payment agreement' means any agreement for the use of tangible property under which—

"(A) there is at least 1 amount allocable to the use of property during a calendar year which is to be paid after the close of the calendar year following the calendar year in which such use occurs, or

"(B) there is at least one amount allocable to use of property for any lease period which is not commercially reasonable.

"(2) COMMERCIALLY REASONABLE.—

"(A) IN GENERAL.—The determination of whether any amount described in paragraph (1)(B) is not commercially reasonable—

"(i) shall be made as of the time the agreement is entered into, and

"(ii) shall be made by taking into account the type of property and the area in which the property is located.

"(B) SPECIAL RULES FOR SALE-LEASEBACKS, ETC.—In the case of any agreement which is part of a transaction described in subparagraph (C), an amount payable under such agreement for the use of property for any lease period shall be treated as not commercially reasonable if the increase over the amount payable for the immediately preceding lease period is more than the greatest of—

"(i) the percentage increase during such period in the Consumer Price Index (or in any other index specified in regulations),

"(ii) the Federal short-term rate determined under section 1274(d) which is in effect as of the time the agreement is entered into, or

"(iii) the increase during such period in specified costs for the property payable by the lessor to unrelated persons.

"(C) APPLICATION OF SUBPARAGRAPH (B) IN THE CASE OF QUALIFIED STEP PERIODS.—

"(i) IN GENERAL.—In the case of any qualified step period, subparagraph (B) shall be applied—

"(I) by substituting 'qualified step period' for 'lease period' each place it appears, and

"(II) by cumulating and compounding the rates under clause (i) or (ii) of subparagraph (B) for the number of years in the qualified step period.

"(ii) QUALIFIED STEP PERIOD.—For purposes of clause (i), the term 'qualified step period' means, with respect to any deferred rental payment agreement—

"(I) the period beginning on the first day to which such agreement applies and ending more than 1 year but not later than 5 years from such date and each succeeding period of the same length, but only if

"(II) the rental payments required under such agreement for all lease periods within any period described in subclause (I) are equal.

"(D) DESCRIPTION OF SALE-LEASEBACK, ETC. TRANSACTIONS.—For purposes of subparagraph (B), a transaction is described in this subparagraph if it involves—

"(i) a sale or lease of property by any person, followed by

"(ii) a leaseback within 2 years to such person (or a related person).

"(E) SPECIAL SALE-LEASEBACK, ETC., RULES NOT TO APPLY IN CERTAIN CASES.—Subparagraph (B) shall not apply in the case of any agreement if, pursuant to a request filed not later than the date on which such agreement was entered into, it is established to the satisfaction of the Secretary that such agreement did not have as 1 of its principal purposes the avoidance of any Federal tax.

"(e) DEFERRED SERVICE PAYMENT AGREEMENT DEFINED.—For purposes of this section, the term 'deferred service payment agreement' means an agreement to provide services under which there is at least 1 amount allocable to services performed in a calendar year which is to be paid after the close of the calendar year following the calendar year in which the services are performed.

"(f) EXCEPTIONS.—

"(1) SECTION NOT TO APPLY TO DEFERRED PAYMENTS OF $250,000 OR LESS.—This section shall not apply to any amount to be paid for the use of property (or services) if the sum of the following amounts does not exceed $250,000—

"(A) the aggregate amount of payments received as consideration for such use of property (or such services), and

"(B) the aggregate value of any other consideration to be received for such use of property (or such services).

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 1274(c)(2)(C) shall apply.

"(2) COORDINATION WITH SECTION 1273(b)(3).—This section shall not apply to any transaction in which any debt instrument to which section 1273(b)(3) applies is issued.

"(3) PAYMENTS TO WHICH OTHER SECTIONS APPLY.—Sections 83, 267, 404, 404A, and 706(a) shall be applied before the application of this section, and this section shall not apply to any payment to which any such section applies.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PAYEE.—The term 'payee' means the person to whom the deferred payment is to be made.

"(2) PAYOR.—The term 'payor' means the person required to make the deferred payment.

"(3) DISCOUNT AND INTEREST RATE.—For purposes of computing present value and interest under subsection (c), the rate used shall be equal to 120 percent of the applicable Federal rate determined under section 1274(d) (compounded semiannually) which is in effect at the time the agreement is entered into with respect to debt instruments having a maturity equal to the term of the agreement.

"(4) RELATED PERSON.—The term 'related person' has the meaning given to such term by section 168(d)(4)(D).

"(5) CERTAIN OPTIONS TO RENEW TAKEN INTO ACCOUNT.—Except as provided in regulations prescribed by the Secretary, there shall not be taken into account in computing the term of any agreement for purposes of this

section any extension which is solely at the option of the lessee.

"(h) COMPARABLE RULES WHERE AGREEMENT FOR DECREASING PAYMENTS.—Under regulations prescribed by the Secretary, rules comparable to the rules of this section shall also apply in the case of any agreement where the amount paid under the agreement for the use of property or performance of services decreases during the term of the agreement.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 467. Certain payments for use of property or services.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to agreements entered into after March 15, 1984.

(2) EXCEPTIONS.—The amendments made by this section shall not apply—

(A) to any agreement entered into pursuant to a written agreement which was binding on March 15, 1984, and at all times thereafter,

(B) subject to the provisions of paragraph (3), to any agreement to lease property if—

(i) there was in effect a firm plan, evidenced by a board of directors' resolution, memorandum of agreement, or letter of intent on March 15, 1984, to enter into such an agreement, and

(ii) construction of the property was commenced (but such property was not placed in service) on or before March 15, 1984, and

(C) to any agreement to lease property if—

(i) the lessee of such property adopted a firm plan to lease the property, evidenced by a resolution of the board of directors or a duly authorized committee of such board of directors of such lessee on February 10, 1984,

(ii) the sum of the present values of the rents payable by the lessee under the agreement equals at least $81,000,000, using a 12.6 percent annual discount rate, and

(iii) during—

(I) the first 5 years of the lease, at least 9 percent of the rents payable under the agreement are paid, and

(II) the second 5 years of the lease, 16.25 percent of the rents payable under the agreement are paid.

Paragraph (3)(B)(ii)(II) shall apply for purposes of clause (iii) of subparagraph (C).

(3) SCHEDULE OF DEEMED RENTAL PAYMENTS.—

(A) IN GENERAL.—In any case to which paragraph (2)(B) applies, for purposes of the Internal Revenue Code of 1954, the lessor shall be treated as having received or accrued (and the lessee shall be treated as having paid or incurred) rents equal to the greater of—

(i) the amount of rents actually paid under the agreement during the taxable year, or

(ii) the amount of rents determined in accordance with the schedule under subparagraph (B) for such taxable year.

(B) SCHEDULE.—

(i) IN GENERAL.—The schedule under this subparagraph is as follows:

Portion of lease term:	Cumulative percentage of total rent deemed paid:
1st ⅓	10
2nd ⅓	25
3rd ⅓	45
4th ⅓	70
Last ⅓	100

(ii) OPERATING RULES.—For purposes of this schedule—

(I) the rent allocable to each taxable year within any portion of a lease term described in such schedule shall be a level prorata amount properly allocable to such taxable year, and

(II) any agreement relating to property which is to be placed in service in two or more stages shall be treated as two or more separate agreements.

(C) PARAGRAPH NOT TO APPLY.—This paragraph shall not apply to any agreement if the sum of the present values of all payments under the agreement is greater than the sum of the present values of all the payments deemed to be paid or received under the schedule under subparagraph (B). For purposes of computing any present value under this subparagraph, the annual discount rate shall be equal to 12 percent, compounded semiannually.

Subtitle H—Provisions Relating to Tax Straddles

SEC. 75. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR STOCK OPTIONS AND CERTAIN STOCK.

(a) REPEAL OF EXCEPTION FOR STOCK OPTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 1092(d)(2) (relating to special rule for stock options) is amended to read as follows:

"(B) EXCEPTION FOR QUALIFIED COVERED CALL OPTIONS.—The term 'position' shall not include any qualified covered call option.".

(2) QUALIFIED COVERED CALL OPTION DEFINED.—Subsection (d) of section 1092 is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED COVERED CALL OPTION DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified covered call option' means any option granted by the taxpayer to purchase stock held by the taxpayer (or acquired by the taxpayer in connection with the granting of the option) but only if—

"(i) such option is traded on a national securities exchange which is registered with the Securities and Exchange Commission or on a similar exchange which the Secretary determines has rules adequate to carry out the purposes of this paragraph,

"(ii) gain or loss with respect to such option is not ordinary income or loss,

"(iii) such option is granted more than 30 days before the day on which the option expires, and

"(iv) such option is not a deep-in-the-money option.

"(B) DEEP-IN-THE-MONEY OPTION.—The term 'deep-in-the-money option' means an option having a strike price lower than the lowest qualified bench mark.

"(C) LOWEST QUALIFIED BENCH MARK.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'lowest qualified bench mark' means the highest available strike price which is less than the applicable stock price.

"(ii) SPECIAL RULE WHERE OPTION IS FOR PERIOD MORE THAN 90 DAYS AND STRIKE PRICE IS $50 OR MORE.—In the case of an option—

"(I) which is granted more than 90 days before the date on which such option expires, and

"(II) with respect to which the strike price is $50 or more,

the lowest qualified bench mark is the second highest available strike price which is less than the applicable stock price.

"(D) STRIKE PRICE.—For purposes of this paragraph, the term 'strike price' means the price at which the option is exercisable.

"(E) APPLICABLE STOCK PRICE.—For purposes of this paragraph, the term 'applicable stock price' means, with respect to any stock for which an option has been granted—

"(i) the closing price of such stock on the most recent day on which such stock was traded before the date on which such option was granted, or

"(ii) the opening price of such stock on the day on which such option was granted, but only if such price is greater than 110 percent of the price determined under clause (i).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations may include modifications to the provisions of this paragraph which are appropriate to take account of changes in the practices of option exchanges or to prevent the use of options for tax avoidance purposes.".

(b) REPEAL OF EXCEPTION FOR STOCK.—

(1) IN GENERAL.—Paragraph (1) of section 1092(d) (defining personal property) is amended by striking out "(other than stock)".

(2) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—Subsection (d) of section 1092 is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7) respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1), the term 'personal property' does not include stock, other than—

"(A) any interest in stock which is part of a straddle (determined as if such interest was personal property) one of the offsetting positions of which is any option to buy or sell actively traded stock, or

"(B) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

For purposes of determining whether subsection (e) applies to any transaction to which subparagraph (B) applies, all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(c) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—If—

"(1) the taxpayer holds any stock, and

"(2) at any time while the taxpayer holds such stock, there is outstanding an option granted by the taxpayer to purchase such stock and such option has a strike price less than the applicable stock price,

any amount which (but for this subsection) would be treated as long-term capital gain with respect to such stock (or any substituted basis property with respect to such stock) shall be treated as short-term capital gain to the extent of any short-term capital loss recognized on the option.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments

made by this section shall apply to positions established after December 31, 1983, in taxable years ending after such date.

(2) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—In the case of any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder, the amendments made by this section shall apply to positions established on or after May 23, 1983, in taxable years ending on or after such date.

(3) SUBSECTION (C).—The amendment made by subsection (c) shall apply to positions established after March 1, 1984, in taxable years ending after such date.

SEC. 76. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.

(a) GENERAL RULE.—

(1) Section 1256 (relating to regulated futures contracts marked to market) is amended—

(A) by striking out "regulated futures contract" each place it appears and inserting in lieu thereof "section 1256 contract", and

(B) by striking out "regulated futures contracts" each place it appears and inserting in lieu thereof "section 1256 contracts".

(2) Subsection (b) of section 1256 is amended to read as follows:

"(b) SECTION 1256 CONTRACT DEFINED.—For purposes of this section, the term 'section 1256 contract' means—

"(1) any regulated futures contract,

"(2) any foreign currency contract,

"(3) any nonequity option, and

"(4) any dealer equity option."

(3) Subsection (g) of section 1256 is amended to read as follows:

"(g) DEFINITIONS.—For purposes of this section—

"(1) REGULATED FUTURES CONTRACTS DEFINED.—The term 'regulated futures contract' means a contract—

"(A) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market, and

"(B) which is traded on or subject to the rules of a qualified board or exchange.

"(2) FOREIGN CURRENCY CONTRACT DEFINED.—

"(A) FOREIGN CURRENCY CONTRACT.—The term 'foreign currency contract' means a contract—

"(i) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

"(ii) which is traded in the interbank market, and

"(iii) which is entered into at arm's length at a price determined by reference to the price in the interbank market.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subparagraph (A), including regulations excluding from the application of subparagraph (A) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.

"(3) NONEQUITY OPTION.—The term 'nonequity option' means any listed option which is not an equity option.

"(4) DEALER EQUITY OPTION.—The term 'dealer equity option' means, with respect to an options dealer, any listed option which—

"(A) is an equity option,

"(B) is purchased or granted by such options dealer in the normal course of his trade or business, and

"(C) is listed on the national securities exchange or domestic board of trade on which such options dealer is registered.

"(5) LISTED OPTION.—The term 'listed option' means any option (other than a right to acquire stock from the issuer) which is traded on (or subject to the rules of) a qualified board or exchange.

"(6) EQUITY OPTION.—The term 'equity option' means any option—

"(A) which settles in stock, or

"(B) the value of which is determined directly or indirectly by reference to any stock or stock index.

"(7) QUALIFIED BOARD OR EXCHANGE.—The term 'qualified board or exchange' means—

"(A) a national securities exchange which is registered with the Securities and Exchange Commission,

"(B) a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or

"(C) any other exchange or board of trade which the Secretary determines has rules adequate to carry out the purposes of this section.

"(8) OPTIONS DEALER.—The term 'options dealer' means—

"(A) any person registered with the Securities and Exchange Commission and an appropriate national securities exchange as a market maker or specialist in listed options, or

"(B) a person who—

"(i) is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission, and

"(ii) purchases or sells any option on any regulated futures contract and such option is on, or subject to the rules of, the domestic board of trade described in clause (i).".

(b) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—Subsection (f) of section 1256 (relating to special rules) is amended by adding at the end thereof the following new paragraphs:

"(3) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—

"(A) IN GENERAL.—For purposes of this title, gain or loss from trading of section 1256 contracts (whether or not such trading is in the ordinary course of the taxpayer's trade or business of trading section 1256 contracts) shall be treated as gain or loss from the sale or exchange of a capital asset.

"(B) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—Subparagraph (A) shall not apply to any section 1256 contract to the extent such contract is held for purposes of hedging property if any gain or loss with respect to such property in the hands of the taxpayer would be ordinary income or loss.

"(C) TREATMENT OF UNDERLYING PROPERTY.—For purposes of determining whether gain or loss with respect to any property is ordinary income or loss, the fact that the taxpayer is in the trade or business of trading section 1256 contracts related to such property shall not be taken into account.

"(4) SUBSECTION (a)(3) NOT TO APPLY TO CERTAIN LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—Paragraph (3) of subsection (a) shall not apply to any gain or loss separately computed with respect to dealer equity options which are allocable to limited partners or limited entrepreneurs (within the meaning of subsection (e)(3)).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1256 (relating to terminations, etc.) is amended—

(A) by striking out "by taking or making delivery," in paragraph (1) and inserting in lieu thereof "by taking or making delivery, by exercise or being exercised by assignment or being assigned, by lapse,",

(B) by striking out "takes delivery under" in paragraph (2) and inserting in lieu thereof "takes delivery under or exercises", and

(C) by striking out "TAKES DELIVERY ON" in the heading of paragraph (2) and inserting in lieu thereof "TAKES DELIVERY ON OR EXERCISES".

(2) Subsection (d) of section 1092 (as in effect before the amendments made by section 75) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) SPECIAL RULE FOR SECTION 1256 CONTRACTS.—In the case of a straddle at least 1 (but not all) of the positions of which are section 1256 contracts, the provisions of this section shall apply to any section 1256 contract and any other position making up such straddle.

"(5) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given such term by section 1256(b).".

(3) Subsection (c) of section 1212 (relating to carryback of losses from regulated futures contracts to offset prior gains from such contracts) is amended—

(A) by striking out "net commodity futures loss" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contracts loss",

(B) by striking out "regulated futures contracts" each place it appears (including in any headings) and inserting in lieu thereof "section 1256 contracts", and

(C) by striking out "net commodity futures gain" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contract gain".

(4) Paragraph (1) of section 1234A (relating to gains or losses from certain terminations) is amended by striking out "a regulated futures contract" and inserting in lieu thereof "a section 1256 contract".

(5) The section heading for section 1256 is amended by striking out "regulated futures contracts" and inserting in lieu thereof "section 1256 contracts".

(6) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out **"Regulated futures contracts"** and inserting in lieu thereof **"Section 1256 contracts"**.

(7) Subparagraph (B) of section 263(g) (relating to certain interest and carrying costs in the case of straddles) is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma and "or", and by adding at the end thereof the following new clause:

"(iii) the amount of any dividends includible in gross income with respect to such property for the taxable year.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (e), the amendments made by this section shall apply to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(2) SPECIAL RULE FOR OPTIONS ON REGULATED FUTURES CONTRACTS.—In the case of any option with respect to a regulated futures contract (within the meaning of section 1256 of the Internal Revenue Code of 1954), the amendments made by this section shall apply—

(A) in the case of a nonequity option (within the meaning of section 1256(g)(3) of such Code, is added by such amendments), to positions established after October 31, 1983, in taxable years ending after such date, and

(B) in the case of an equity option (within the meaning of section 1256(g)(6) of such

Code, is added by such amendments), to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(e) ELECTIONS WITH RESPECT TO PROPERTY HELD ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.—At the election of the taxpayer—

(1) the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer on the date of the enactment of this Act, effective for periods after such date in taxable years ending after such date, or

(2) in lieu of an election under paragraph (1), the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer at any time during the taxable year of the taxpayer which includes the date of the enactment of this Act.

(f) ELECTION FOR INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO STOCK OPTIONS.—

(1) If the taxpayer makes an election under this subsection—

(A) the taxpayer may pay part or all of the tax for the taxable year referred to in subsection (e)(2) in 2 or more (but not exceeding 5) equal installments, and

(B) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(i) the tax for such taxable year determined by taking into account subsection (e)(2), over

(ii) the tax for such taxable year determined by taking into account subsection (e)(2) and by treating—

(I) all section 1256 contracts which are stock options, and

(II) any stock which was part of a straddle including any such stock options and the income on which is ordinary income to the taxpayer,

and which were held by the taxpayer on the first day of such taxable year as having been acquired for a purchase price equal to their fair market value on the last business day of the preceding taxable year.

An election under this subsection may be made only if the taxpayer makes an election under subsection (e)(2).

(2) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under this subsection, the first installment under paragraph (1) shall be paid on or before the due date for filing the return for the taxable year described in paragraph (1), and each succeeding installment shall be paid on or before the date which is one year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under this subsection shall be determined without regard to this subsection.

(4) FORM OF ELECTION.—An election under this subsection shall be made not later than the time for filing the return for the taxable year described in paragraph (1) and shall be made in the manner and form required by regulations prescribed by the Secretary. The election shall set forth—

(A) the amount determined under paragraph (1)(B) and the number of installments elected by the taxpayer,

(B) each section 1256 contract which is a stock option held by the taxpayer on the first day of the taxable year described in paragraph (1), and the date such contract was acquired,

(C) the fair market value on the last business day of the preceding taxable year of every contract described in subparagraph (B), and

(D) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(g) DELAY OF IDENTIFICATION REQUIREMENT.—Section 1256(e)(2)(C) of the Internal Revenue Code of 1954 shall not apply to any stock option or stock acquired on or before the 60th day after the date of the enactment of this Act.

(h) DEFINITIONS.—For purposes of subsections (e) and (f)—

(1) SECTION 1256 CONTRACT.—The term "section 1256 contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as amended by this section).

(2) STOCK OPTION.—The term "stock option" means any option to buy or sell stock which is described in section 1092(d)(2)(B) (as in effect before the amendments made by this Act).

SEC. 77. REGULATIONS UNDER SECTION 1092(b).

(a) GENERAL RULE.—Subsection (b) of section 1092 (relating to character of gain or loss; wash sales) is amended to read as follows:

"(b) REGULATIONS.—The Secretary shall prescribe such regulations with respect to gain or loss on positions which are part of a straddle as may be necessary to carry out the purposes of this section. To the extent consistent with such purposes, such regulations shall include rules applying the principles of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233.".

(b) REQUIREMENT THAT REGULATIONS BE ISSUED WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.—The Secretary of the Treasury or his delegate shall prescribe regulations under section 1092(b) of the Internal Revenue Code of 1954 (including regulations relating to mixed straddles) not later than the date 6 months after the date of the enactment of this Act.

(c) EFFECTIVE DATE OF REGULATIONS WITH RESPECT TO MIXED STRADDLES.—The regulations described in subsection (b) with respect to mixed straddles shall not apply to any position established before January 1, 1984.

SEC. 78. LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.

(a) GENERAL RULE.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS ALLOCABLE TO LIMITED PARTNERS OR ENTREPRENEURS.—

"(A) IN GENERAL.—

"(i) LIMITATION.—Any separately computed hedging loss for a taxable year which is allocable to any limited partner or limited entrepreneur (within the meaning of paragraph (3)) shall be allowed only to the extent of the taxable income of such limited partner or entrepreneur for such taxable year attributable to the trade or business in which the hedging transactions were entered into. For purposes of the preceding sentence, taxable income shall be determined by not taking into account items attributable to hedging transactions.

"(ii) CARRYOVER OF DISALLOWED LOSS.—Any hedging loss disallowed under clause (i) shall be treated as a deduction attributable to a hedging transaction allowable in the first succeeding taxable year.

"(B) EXCEPTION WHERE ECONOMIC LOSS.—Subparagraph (A)(i) shall not apply to any hedging loss to the extent that such loss exceeds the aggregate unrecognized gains from hedging transactions as of the close of the taxable year.

"(C) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—In the case of any hedging transaction relating to property other than stock or securities, this section shall only apply in the case of a taxpayer described in section 465(a)(1).

"(D) HEDGING LOSS.—The term 'hedging loss' means the excess of—

"(i) the deductions allowable under this chapter for the taxable year attributable to hedging transactions (determined without regard to subparagraph (A)(i)), over

"(ii) income received or accrued by the taxpayer during such taxable year from such transactions.

"(E) UNRECOGNIZED GAIN.—The term 'unrecognized gain' has the meaning given to such term by section 1092(a)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 79. CLARIFICATION THAT SECTION 1234 APPLIES TO OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.

(a) GENERAL RULE.—Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.—

"(1) REGULATED FUTURES CONTRACTS.—Gain or loss shall be recognized on the exercise of an option on a regulated futures contract (within the meaning of section 1256(g)(1)).

"(2) CASH SETTLEMENT OPTIONS.—

"(A) IN GENERAL.—For purposes of subsections (a) and (b), a cash settlement option shall be treated as an option to buy or sell property.

"(B) CASH SETTLEMENT OPTION DEFINED.—For purposes of subparagraph (A), the term 'cash settlement option' means any option which on exercise settles in (or could be settled in) cash or property other than the underlying property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options purchased or granted after October 31, 1983, in taxable years ending after such date.

SEC. 80. WASH SALE RULES TO APPLY TO LOSSES ON CERTAIN SHORT SALES.

(a) IN GENERAL.—Section 1091 (relating to losses from wash sales of stock or securities) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN SHORT SALES OF STOCKS OR SECURITIES.—Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of stock or securities if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—

"(1) substantially identical stock or securities were sold, or

"(2) another short sale of substantially identical stock or securities was entered into.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to short

sales of stock or securities after the date of the enactment of this Act in taxable years ending after such date.

SEC. 81. TIME FOR IDENTIFICATION BY TAXPAYER OF CERTAIN TRANSACTIONS.

(a) IDENTIFIED STRADDLES.—Clause (i) of section 1092(a)(2)(B) (defining identified straddles) is amended to read as follows:

"(i) which is clearly identified as an identified straddle before the earlier of—

"(I) the close of the day on which the straddle is acquired, or

"(II) such time as the Secretary may prescribe by regulations.".

(b) DEALERS IN SECURITIES.—Section 1236(a)(1) (relating to capital gains of dealers in securities) is amended by striking out "(before the close of the following day in the case of an acquisition before January 1, 1982)" and inserting in lieu thereof "(or such earlier time as the Secretary may prescribe by regulations)".

(c) MIXED STRADDLES.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "acquired".

(d) HEDGING TRANSACTIONS.—Subparagraph (C) of section 1256(e)(2) (defining hedging transactions) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "entered into".

(e) EFFECTIVE DATE.—The amendment made by this section shall apply to items identified after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle I—Pensions

PART I—GENERAL PROVISIONS

SEC. 85. DEDUCTION LIMITS FOR QUALIFIED PENSION PLANS.

(a) MODIFICATION OF SECTION 404(a)(7) LIMITS.—Paragraph (7) of section 404(a) (relating to limits on deductions of employers to employee trusts, etc.) is amended to read as follows:

"(7) DEDUCTION LIMITS.—

"(A) IN GENERAL.—If, in connection with 2 or more trusts (or 1 or more trusts and an annuity plan), amounts are deductible under—

"(i) paragraphs (1) and (3),

"(ii) paragraphs (2) and (3),

"(iii) paragraphs (1), (2), and (3), or

"(iv) paragraph (1) with respect to a defined contribution plan and a defined benefit plan,

the total amount deductible for a taxable year under such trusts and plans shall not exceed the lesser of the amount determined under subparagraph (B) of this paragraph or the amount determined under paragraph (11).

"(B) AMOUNT OF LIMITATION.—The amount determined under this subparagraph shall be equal to the greater of—

"(i) 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries of the trusts or plans described in subparagraph (A), or

"(ii) an amount equal to the amount of employer contributions for all defined benefit plans to which subparagraph (A) applies which is necessary to satisfy the minimum funding standard under section 412 for the plan year of such plans which end with or within such taxable year (or for any prior plan years).

"(C) CARRYOVER OF EXCESS AMOUNTS.—

"(i) IN GENERAL.—In any case in which—

"(I) the amount paid into the trusts or plans to which subparagraph (A) applies for any taxable year, exceeds

"(II) the amount determined under subparagraph (A),

such excess shall, except as provided in clause (ii), be allowed as a deduction in any succeeding taxable year in order of time.

"(ii) LIMITATION ON CARRYOVER.—The amount allowable for any succeeding taxable year under this subparagraph, when added to the amount otherwise allowable for such taxable year for payments to trusts or plans to which subparagraph (A) applies, shall not exceed the lesser of the amount determined under subparagraph (B)(i) of this paragraph or the amount determined under paragraph (11).

"(D) PARAGRAPH NOT TO APPLY.—This paragraph shall not reduce the amounts otherwise deductible under paragraphs (1), (2), and (3) if no employee is a beneficiary under more than one trust or under a trust and an annuity plan.".

(b) DEDUCTION LIMITED TO 100 PERCENT OF COMPENSATION.—

(1) IN GENERAL.—Section 404(a) is amended by adding at the end thereof the following new paragraph:

"(11) 100 PERCENT OF COMPENSATION LIMIT.—

"(A) IN GENERAL.—The amount allowable as a deduction—

"(i) with respect to any trust or plan under paragraph (1), (2), (3), (9), or (10), or

"(ii) with respect to one or more trusts or plans to which paragraph (7) applies,

shall not exceed the aggregate amount of compensation paid or accrued during the taxable year to the beneficiaries of the trusts or plans described in clause (i) or (ii).

"(B) CARRYOVER OF UNUSED AMOUNT.—In any case in which—

"(i) the amount paid into any trust or plan for which subparagraph (A) applies for any taxable year, exceeds

"(ii) the amount determined under subparagraph (A),

such excess shall, subject to the limitations of subparagraph (A) of this paragraph and paragraph (7), be allowed as a deduction in the succeeding taxable year.

"(C) COMPENSATION TO INCLUDE CERTAIN BENEFITS.—For purposes of this paragraph, there shall be taken into account as compensation the amount of any benefits paid to a beneficiary of any trust or plan to which subparagraph (A) applies during the taxable year who did not receive any compensation from any employer maintaining the trust or plan during such taxable year to the extent such benefits do not exceed the limitation under section 415(b)(1)(A) in effect with respect to such beneficiary for such taxable year.".

(2) CONFORMING AMENDMENTS.—Paragraph (8) of section 404(a) (relating to self-employed individuals) is amended by inserting "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(c) SECTION 415 LIMIT ON CERTAIN EMPLOYERS WITH DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Subsection (e) of section 415 (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN NONINTEGRATED, NON-TOP-HEAVY PLANS.—

"(A) IN GENERAL.—In the case of an individual who is a participant in plans to which this paragraph applies, paragraphs (2) and (3) shall be applied by substituting '1.4' for '1.25' each place it appears.

"(B) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to all plans maintained by any employer if, at all times after June 30, 1982, no plan of the employer is—

"(i) a top-heavy plan (within the meaning of section 416(g)), or

"(ii) an integrated plan (within the meaning of section 408(k)(3)(E)).".

(d) EXTENSION OF FREEZE ON COST-OF-LIVING ADJUSTMENTS TO PENSION PLAN LIMITATIONS.—

(1) GENERAL RULE.—Paragraph (3) of section 415(d) (relating to freeze on adjustment to define contribution and benefit limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1988".

(2) TECHNICAL AMENDMENT.—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 86. PROVISIONS RELATING TO TOP-HEAVY PLANS.

(a) REPEAL OF SPECIAL BENEFIT REQUIREMENT FOR CERTAIN TOP-HEAVY PLANS.—

(1) IN GENERAL.—Paragraph (2) of section 416(h) (relating to exception where benefits for key employees do not exceed 90 percent of total benefits, etc.) is amended to read as follows:

"(2) EXCEPTION WHERE ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraph (B) of this paragraph are met with respect to such plan.

"(B) MINIMUM BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

"(ii) MODIFICATIONS.—For purposes of clause (i)—

"(I) paragraph (1)(B) of subsection (c) shall be applied by substituting '3 percent' for '2 percent', and by increasing (but not by more than 10 percentage points) 20 percent by one percentage point for each year for which such plan was taken into account under this subsection, and

"(II) paragraph (2)(A) shall be applied by substituting '4 percent' for '3 percent'.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(b) DEFINITION OF KEY EMPLOYEE.—

(1) IN GENERAL.—Clause (i) of section 416(i)(1)(A) (defining key employee) is amended by inserting "having an annual compensation greater than 200 percent of the amount in effect under section 415(c)(1)(A) for any such plan year" after "employer".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(c) ACCRUED BENEFIT OF INDIVIDUAL NOT EMPLOYED WITHIN LAST 5 YEARS DISREGARDED.—

(1) IN GENERAL.—Paragraph (4) of section 416(g) (relating to other special rules) is amended by adding at the end thereof the following new subparagraph:

"(E) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST 5 YEARS.—If any individual has not received any compensation from any employer maintaining the plan (other than benefits under the plan) at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(d) SALARY REDUCTION ARRANGEMENTS MAY BE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 416(c) (relating to minimum benefits for defined contribution plans) is amended by striking out subparagraph (C).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(e) CERTAIN GOVERNMENTAL PLANS EXEMPT FROM TOP-HEAVY PLAN RULES.—

(1) IN GENERAL.—Paragraph (10)(B) of section 401(a) (relating to plan requirements regarding top-heavy plans) is amended by adding at the end thereof the following new clause:

"(iii) EXEMPTION FOR GOVERNMENTAL PLANS.—This subparagraph shall not apply to any governmental plan.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(f) QUALIFICATION REQUIREMENTS MODIFIED IF REGULATIONS NOT ISSUED.—

(1) IN GENERAL.—If the Secretary of the Treasury or his delegate does not publish final regulations under section 416 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) before January 1, 1985, the Secretary shall publish before such date plan amendment provisions which may be incorporated in a plan to meet the requirements of section 401(a)(10)(B)(ii) of such Code.

(2) EFFECT OF INCORPORATION.—If a plan is amended to incorporate the plan amendment provisions described in paragraph (1), such plan shall be treated as meeting the requirements of section 401(a)(10)(B)(ii) of the Internal Revenue Code of 1954 during the period such amendment is in effect but not later than 6 months after the final regulations described in paragraph (1) are published.

(3) FAILURE BY SECRETARY TO PUBLISH.—If the Secretary of the Treasury or his delegate does not publish plan amendment provisions described in paragraph (1), the plan shall be treated as meeting the requirements of section 401(a)(10)(B) of the Internal Revenue Code of 1954 if—

(A) such plan is amended to incorporate such requirements by reference, except that

(B) in the case of any optional requirement under section 416 of such Code, if such amendment does not specify the manner in which such requirement will be met, the employer shall be treated as having elected the requirement with respect to each employee which provides the maximum vested accrued benefit for such employee.

SEC. 87. DISTRIBUTION RULES FOR QUALIFIED PENSION PLANS.

(a) CERTAIN DISTRIBUTION REQUIREMENTS TO APPLY TO 5-PERCENT OWNERS RATHER THAN KEY EMPLOYEES.—Section 72(m)(5) (relating to penalties applicable to certain amounts received by owner-employers) is amended—

(1) by striking out "key employee" each place it appears in subparagraph (A) and inserting in lieu thereof "5-percent owner",

(2) by striking out "in a top-heavy plan" in clause (i) of subparagraph (A), and

(3) by striking out "the terms 'key employee' and 'top-heavy plan'" in subparagraph (C) and inserting in lieu thereof "the term '5-percent owner'".

(b) REQUIRED DISTRIBUTIONS.—

(1) IN GENERAL.—Paragraph (9) of section 401(a) (relating to required distributions), as in effect before the amendments made by section 242 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended to read as follows:

"(9) REQUIRED DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee will be distributed in accordance with the requirements of—

"(i) subparagraph (B) or (C)(i) in the case of distributions commencing before death, and

"(ii) subparagraph (C)(ii) or (D) in the case of—

"(I) distributions commencing after death, or

"(II) distributions commencing before death to which subparagraph (B) applies.

"(B) DISTRIBUTION BEFORE ATTAINMENT OF CERTAIN AGE.—The requirements of this subparagraph are met if the entire interest of an employee will be distributed to the employee not later than 90 days after the later of—

"(i) the taxable year in which the employee attains age 70½, or

"(ii) the taxable year in which the employee retires.

"(C) DISTRIBUTIONS BASED ON LIVES AND PERIODS NOT GREATER THAN LIFE EXPECTANCY.—Except as provided in subparagraph (E), the requirements of this subparagraph are met if—

"(i) ENTIRE INTEREST.—The entire interest will be distributed, commencing not later than the date determined under subparagraph (B)—

"(I) over the life of the employee or over the lives of the employee and the beneficiary of the employee, or

"(II) over a period not extending beyond the life expectancy of the employee or the life expectancy of the employee and the beneficiary of the employee.

"(ii) REMAINDER INTEREST.—The remainder interest of the employee or of the surviving spouse will be distributed, commencing not later than 90 days after the date of death of the employee or the surviving spouse—

"(I) over the life of the beneficiary of the employee or of the beneficiary of the surviving spouse, or

"(II) over a period not extending beyond the life expectancy of such beneficiary.

"(D) DISTRIBUTIONS WITHIN 5 YEARS OF DEATH.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the remainder interest of an employee or other beneficiary will be distributed—

"(I) commencing not later than 90 days after the date of death of the employee or beneficiary, and

"(II) within 5 years after the date determined under subclause (I).

"(ii) SUBPARAGRAPH NOT TO APPLY TO SURVIVING SPOUSE.—In any case in which the beneficiary of the employee is the employee's surviving spouse—

"(I) this subparagraph shall not apply, and

"(II) the requirements of clause (i) or (ii) of subparagraph (C) must be met with respect to the surviving spouse.

"(E) IMMEDIATE ANNUITY REQUIREMENT IN CASE OF BENEFICIARY OTHER THAN SPOUSE.—

"(i) IN GENERAL.—In the case of any interest of an employee—

"(I) to which subparagraph (C) applies, and

"(II) with respect to which the beneficiary is not the spouse of the employee,

the requirements of subparagraph (C) shall be met only if the entire interest or remainder interest is applied, before the commencement date under such subparagraph, to the purchase of an immediate annuity contract which provides for payments over the period which is applicable under such subparagraph.

"(ii) DEFINED BENEFIT PLAN.—A defined benefit plan may satisfy the requirements of clause (i) in any case to which subparagraph (C) applies by providing for the payment of an annuity in lieu of the purchase of an immediate annuity contract.

"(F) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) 5-PERCENT OWNERS.—Clause (ii) of subparagraph (B) shall not apply with respect to any employee who is a 5-percent owner (as defined in section 416) with respect to the plan year in which the employee attains age 70½.

"(ii) LIFE EXPECTANCY.—For purposes of subparagraph (C), the life expectancy of an employee and the employee's spouse (other than in the case of a life annuity) shall be determined not more frequently than annually.

"(iii) EXTENSION OF COMMENCEMENT DATE.—The Secretary may by regulation extend the date on which distribution of any interest is required to commence under this paragraph.

"(iv) REMAINDER INTEREST DEFINED.—The term 'remainder interest' means, with respect to any employee or beneficiary, that portion of the employee's interest which remains undistributed as of the date of death of such individual.

"(v) DISTRIBUTIONS IN ACCORDANCE WITH REGULATIONS.—Any distribution under this paragraph shall be made in accordance with regulations prescribed by the Secretary.".

(2) REPEAL OF SECTION 242.—Section 242 of the Tax Equity and Fiscal Responsibility Act of 1982 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 408(a) (defining individual retirement account) is amended by adding at the end thereof the following new flush sentence:

"For purposes of this paragraph (other than for a life annuity), the life expectancy of any individual for whose benefit the trust is maintained or his spouse shall be determined not more frequently than annually.".

(2)(A) Subsection (a) of section 408 is amended by adding at the end thereof the following new paragraph:

"(8) Under regulations prescribed by the Secretary, the trust shall be treated as meeting the requirements of paragraph (7) if the trust meets requirements similar to the requirements of subparagraphs (C)(ii) and (E) of section 401(a)(9) in the case of a beneficiary other than the spouse. For purposes of the preceding sentence, such requirements shall be treated as met only if the immediate annuity contract is distributed to the owner or beneficiary immediately after its purchase.".

(B) Subsection (b) of section 408 (defining individual retirement annuity) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Under regulations prescribed by the Secretary, the contract shall be treated as meeting the requirements of paragraph (4) if the contract meets requirements similar to the requirements of subparagraphs (C)(ii) and (E) of section 401(a)(9) with respect to any beneficiary other than the spouse. For purposes of the preceding sentence, such requirements shall be treated as met only if the immediate annuity contract is distributed to the owner or beneficiary immediately after its purchase.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1984.

(2) REPEAL OF SECTION 242.—The amendment made by section (b)(2) shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982.

(3) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (b)(1), by reason of distributions under a designation (before January 1, 1984) by any employee in accordance with a designation described in section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (as in effect before the amendments made by this Act).

(4) SPECIAL RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954), paragraph (1) shall be applied by substituting "1986" for "1984".

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1988.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 88. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) QUALIFIED TRUSTS.—Clause (i) of section 402(a)(5)(A) (relating to rollover amounts) is amended to read as follows—

"(i) any portion of the balance to the credit of an employee in a qualified trust is paid to him,",

(2) QUALIFIED ANNUITIES.—Clause (i) of section 403(a)(4)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him,".

(3) SECTION 403(b) ANNUITIES.—Clause (i) of section 403(b)(8)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an annuity contract described in paragraph (1) is paid to him,".

(b) SPECIAL RULES FOR ROLLOVERS OF PARTIAL DISTRIBUTIONS.—Paragraph (5) of section 402(a) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) REQUIREMENTS.—Subparagraph (A) shall apply to a partial distribution only if—

"(I) such distribution is of an amount equal to at least 50 percent of the balance to the credit of the employee in a qualified trust (determined immediately before such distribution and without regard to subsection (e)(4)(C)),

"(II) such distribution is not one of a series of periodic payments, and

"(III) the employee elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have subparagraph (A) apply to such partial distribution.

"(ii) PARTIAL DISTRIBUTIONS MAY BE TRANSFERRED ONLY TO INDIVIDUAL RETIREMENT PLANS.—In the case of a partial distribution, a plan described in subclause (IV) or (V) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan.

"(iii) DENIAL OF 10-YEAR AVERAGING AND CAPITAL GAINS TREATMENT FOR SUBSEQUENT DISTRIBUTIONS.—If an election under clause (i) is made with respect to any partial distribution paid to any employee—

"(I) paragraph (2) of this subsection,

"(II) paragraphs (1) and (3) of subsection (e), and

"(III) paragraph (2) of section 403(a),

shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan).

"(iv) SPECIAL RULE FOR UNREALIZED APPRECIATION.—If an election under clause (i) is made with respect to any partial distribution, the second and third sentences of paragraph (1) shall not apply to such distribution.".

(c) PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EMPLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLLOVER.—Paragraph (7) of section 402(a) (relating to rollover where spouse receives lump-sum distribution at death of employee) is amended to read as follows:

"(7) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTIONS AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, paragraph (5) shall apply to such distribution in the same manner as if the spouse were the employee.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "qualifying rollover distribution" each place it appears and inserting in lieu thereof "qualified total distribution"—

(A) section 402(a)(5)(B),

(B) section 402(a)(5)(E)(i) (as redesignated by subsection (b)), and

(C) section 402(a)(6)(E)(i).

(2) Subparagraph (B) of section 402(a)(5) is amended by adding at the end thereof the following new sentence: "In the case of any partial distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to subparagraph (A)).".

(3) Clause (ii) of section 402(a)(5)(E) (as redesignated by subsection (b)) is amended by striking out "gross income" and inserting in lieu thereof "gross income (determined without regard to this paragraph)".

(4) Clause (v) of subparagraph (E) of section 402(a)(5) (as redesignated by subsection (b)) is amended to read as follows:

"(v) PARTIAL DISTRIBUTION.—The term 'partial distribution' means any distribution to an employee of any portion of the balance to the credit of such employee in a qualified trust; except that such term shall not include any distribution which is a qualified total distribution.".

(5) Subparagraph (F) of section 402(a)(5) (as redesignated by subsection (b)) is amended by striking out "subparagraph (D)(iv)" each place it appears and inserting in lieu thereof "subparagraph (E)(iv)".

(6) Paragraph (6) of section 402(a) is amended by striking out "paragraph (5)(D)(i)" each place it appears and inserting in lieu thereof "paragraph (5)(E)(i)".

(7) Clauses (iii) and (iv) of section 402(a)(6)(D) are each amended by striking out "employee contributions" and inserting in lieu thereof "employee contributions (or, in the case of a partial distribution, the amount not includible in gross income)".

(8) Clause (i) of section 402(a)(6)(E) is amended by striking out "paragraph (5)(D)(i)(II)" and inserting in lieu thereof "paragraph (5)(D) or (5)(E)(i)(II)".

(9) Subparagraph (B) of section 403(a)(4) is amended by striking out "(B) through (E)" and inserting in lieu thereof "(B) through (F)".

(10) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) IN GENERAL.—In the case of any distribution other than a total distribution, rules similar to the rules of clauses (i) and (ii) of section 402(a)(5)(D) shall apply.

"(ii) TOTAL DISTRIBUTION.—For purposes of subparagraph (A), the term 'total distribution' means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a), or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 7205).

"(iii) AGGREGATION OF ANNUITY CONTRACTS.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.".

(11) Subparagraph (C) of section 403(b)(8) is amended by striking out "(D)(v), and (E)(i)" and inserting in lieu thereof "(F)(i)".

(12) Clause (ii) of section 408(d)(3)(A) is amended by striking out "rollover contribution from an employee's trust" and inserting in lieu thereof "rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) from an employee's trust".

(13) Subparagraph (C) of section 409(b)(3) is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: "This subparagraph does not apply in the case of a transfer to such an employee's trust or such an annuity unless no part of the value of such proceeds is attributable to any source other than a qualified rollover contribution. For purposes of the preceding sentence, the term 'qualified rollover contribution' means any

rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) which is from such an employee's trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under such plan), and which did not qualify as a rollover contribution by reason of section 402(a)(7).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 89. TREATMENT OF DISTRIBUTIONS OF BENEFITS SUBSTANTIALLY ALL OF WHICH ARE DERIVED FROM EMPLOYEE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR PLANS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of any plan or contract to which this paragraph applies, subparagraph (D) of paragraph (5) shall not apply to any amount received from such plan or contract.

"(B) PLANS OR CONTRACTS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any trust or contract described in clause (i) or subclause (I) or (II) of clause (ii) of paragraph (5)(D) if substantially all of the accrued benefits under the plan of which such trust is a part (or which purchases such contract) are derived from employee contributions, and

"(ii) any contract described in subclause (III) of clause (ii) of paragraph (5)(D) if substantially all of the benefits are derived from amounts which are not excluded from gross income under section 403(b)(1).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 72(e)(5) (relating to contracts under qualified plans) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (7), this".

(2) Paragraph (3) of section 72(p) (defining qualified employer plan) is amended by inserting "other than a plan described in subsection (e)(7)" after "section 219(e)(3)".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to any amount received or loan made after the 90th day after the date of the enactment of this Act.

SEC. 90. REPEAL OF ESTATE TAX EXCLUSION FOR QUALIFIED PENSION PLAN BENEFITS.

(a) IN GENERAL.—Section 2039 (relating to inclusion in the gross estate of annuities) is amended by striking out subsections (c), (d), (e), (f), and (g).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1984.

(2) EXCEPTION FOR PARTICIPANTS IN PAY STATUS.—The amendments made by this section shall not apply to the estate of any decedent who—

(A) was a participant in any plan who was in pay status on December 31, 1984, and

(B) irrevocably elected before the date of the enactment of this Act, the beneficiary and form of benefit.

(3) PAY STATUS RULE EXTENDED TO $100,000 LIMITATION.—Subsection (c) of section 245 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting ", except that such amendments shall not apply to the estate of any decedent who was a participant in any plan who was in pay status on December 31, 1982, and irrevocably elected before January 1, 1983, the beneficiary and form of benefit".

SEC. 91. AFFILIATED SERVICE GROUPS, EMPLOYEE LEASING ARRANGEMENTS, AND COLLECTIVE BARGAINING AGREEMENTS.

(a) ATTRIBUTION RULES FOR AFFILIATED SERVICE GROUPS.—

(1) IN GENERAL.—Subparagraph (B) of section 414(m)(6), as in effect for taxable years beginning after December 31, 1983, is amended by striking out "section 267(c)" and inserting in lieu thereof "section 318(a)".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(b) EMPLOYEE LEASING EXCEPTION ONLY APPLIES TO NON-EMPLOYEES.—

(1) IN GENERAL.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1983.

(c) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—

(1) IN GENERAL.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(46) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term 'employee representatives' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on April 1, 1984.

PART II—WELFARE BENEFIT PLANS

SEC. 95. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).

"(a) CERTAIN REQUIREMENTS MUST BE MET IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).—

"(1) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS, ETC.—An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of paragraphs (1), (2), and (3) of subsection (b).

"(2) SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFIT TRUSTS.—A trust described in paragraph (17) of subsection (c) of section 501 shall not be exempt from tax under section 501(a) unless the plan of which such trust is a part meets the requirements of paragraphs (1) and (3) of subsection (b).

"(3) EXCEPTION FOR MULTIEMPLOYER PLANS.—Paragraphs (1) and (2) shall not apply to any organization which is part of a multiemployer plan (within the meaning of section 414(f)) maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.

"(b) REQUIREMENTS.—

"(1) LIMITATION ON BENEFITS PROVIDED TO KEY EMPLOYEES.—A plan meets the requirements of this paragraph for a year only if, with respect to each class of benefits, the benefits of such class provided under the plan (determined without regard to actual benefit payments) during such year to key employees do not exceed 25 percent of the benefits of such class provided under such plan (as so determined) during such year.

"(2) NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph only if—

"(i) each class of benefits available under the plan benefits a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

"(ii) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated employees.

A life insurance, disability, severance pay, or supplemental unemployment benefit shall not be considered to fail to meet the requirements of clause (ii) merely because the class of benefits bears a uniform relationship to the total compensation, or to the basic or regular rate of compensation, of employees covered by the plan.

"(B) AGGREGATION RULES.—Rules similar to the rules of section 4976(h)(4) shall apply for purposes of this subsection.

"(3) PLAN MUST MEET OTHER REQUIREMENTS FOR EXCLUSION.—A plan meets the requirements of this paragraph for any taxable year only if with respect to each class of benefits—

"(A) which is excludible from gross income under this title, and

"(B) with respect to which the plan must meet any requirements of this title before such benefits are so excludible,

the plan meets such requirements.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) KEY EMPLOYEE.—

"(A) IN GENERAL.—The term 'key employee' has the meaning given such term by section 416(i)(1) (determined without regard to clause (ii) or (iv) of subparagraph (A) thereof).

"(B) MEMBERS OF FAMILY OF KEY EMPLOYEE.—Any member of the family (within the meaning of section 318(a)(1)) of a key employee shall be treated as a key employee.

"(C) INDIVIDUAL CONTINUES TO BE KEY EMPLOYEE.—Any individual who becomes a key employee with respect to any plan shall continue to be treated as a key employee with respect to such plan whether or not the key employee continues to be described in section 416(i)(1) (as modified by this paragraph).

"(2) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the term 'highly compensated individual' has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting '10 percent' for '25 percent'.

"(3) APPLICATION WITH SECTIONS 127 AND 129.—If section 127 (relating to educational assistance) or section 129 (relating to dependent care assistance) apply to 1 or more classes of benefits under a plan to which this

section applies, paragraphs (1) and (2) of subsection (b) shall not apply to such classes of benefits.

"(4) FAILURE WITH RESPECT TO FACILITIES.—An organization to which this section applies shall not fail to be exempt from tax under section 501(a) merely because the plan fails to meet the requirements of paragraph (1) of subsection (b) with respect to a class of benefits which consists of the use of a facility.

"(5) PLANS DEFINED; INDEPENDENT CONTRACTORS.—Rules similar to the rules of paragraphs (2) and (3) of section 4976(h) in application of this section.

"(6) REGULATIONS RELATING TO CLASSES OF BENEFITS.—The Secretary may prescribe regulations for determining—

"(A) the method by which benefits may be assigned to a class for purposes of subsection (b), and

"(B) the amount of benefits allocated to an employee under subsection (b)(1).

"(7) REPORTING REQUIREMENT.—Any employer who maintains an organization to which this section applies shall include, in any return of the tax imposed by chapter 1 for any taxable year, information as to whether such organization meets the requirements of this section for years of the organization ending with or within such taxable year.

"(8) ORGANIZATION.—The term 'organization' includes any trust to which this section applies.".

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 96. EXCISE TAXES INVOLVING FUNDED WELFARE BENEFIT PLANS.

(a) IN GENERAL.—Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4976. TAXES INVOLVING FUNDED WELFARE BENEFIT PLANS.

"(a) GENERAL RULE.—If any employer maintains a welfare benefit fund and such fund—

"(1) is a top-heavy welfare benefit plan for any year, and

"(2) has an excess reserve amount as of the close of such year,

there is hereby imposed on such employer a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) shall be equal to the sum of the amounts determined under paragraphs (2) and (3).

"(2) TAX ON EXCESS RESERVE AMOUNT.—The amount determined under this paragraph with respect to any year shall be equal to the product of—

"(A) the excess of—

"(i) the excess reserve amount as of the close of the year, over

"(ii) the portion of the excess reserve amount taken into account under subsection (a) for any preceding year, multiplied by

"(B) the highest rate of tax imposed by section 11(b) for taxable years beginning in the calendar year with or within which such year ends.

"(3) TAX ON DEFERRED AMOUNT.—The amount determined under this paragraph shall be equal to the amount of interest (computed under section 6621) on the amount of the excess described in paragraph (2)(A)—

"(A) which is allocable to any year preceding the year described in paragraph (2) which begins after the date of the enactment of this section, and

"(B) over the period beginning with the close of the year described in subparagraph (A) and ending with the close of the year described in paragraph (2).

For purposes of this paragraph, any amount which is allocable to any year beginning before the date of the enactment of this section shall be treated as allocable to the first year beginning after such date.

"(4) ALLOCATION OF RESERVE AMOUNTS.—For purposes of paragraph (3), the excess reserve amount as of the close of any year to which paragraph (2) applies shall be allocable to the first year of the fund to which paragraph (3) could apply unless the taxpayer establishes that such excess reserve amount is allocable to other years.

"(c) EXCISE TAX ON KEY EMPLOYEES.—If, for any year, a welfare benefit fund is a top-heavy welfare benefit fund, there is hereby imposed for such year on each key employee a tax equal to—

"(1) the amount of benefits (excluding the fair market value of the use of any facility), multiplied by

"(2) the highest rate of tax imposed under section 1(c).

"(d) SEPARATE EXCISE TAXES WITH RESPECT TO FACILITIES.—

"(1) TAX ON KEY EMPLOYEES.—

"(A) IN GENERAL.—If the benefits provided to key employees for the use of any facility exceed 25 percent of the benefits provided to all employees for use of such facility for any year, there is hereby imposed on each key employee a tax equal to the fair market value of the use of such facility by such key employee during the year.

"(B) EXCEPTION FOR EDUCATIONAL OR DEPENDENT CARE FACILITY.—Paragraph (1) shall not apply to the use of any facility to provide educational assistance or dependent care assistance (within the meaning of sections 127 and 129).

"(2) TAX ON EMPLOYERS.—

"(A) IN GENERAL.—If, as of the close of any year, a welfare benefit fund is a top-heavy welfare benefit fund, there is hereby imposed on the employer maintaining such fund a tax equal to the product of—

"(i) the fair market value (as of such time) of any facility of the fund used to provide benefits, multiplied by,

"(ii) the highest rate of tax imposed by section 11(b) for taxable years beginning in the calendar year with or within such year ends.

"(B) NO DOUBLE TAX.—No tax shall be imposed under subparagraph (A) with respect to any facility to the extent of the fair market value of such facility with respect to which a tax was previously imposed on such employer under subparagraph (A).

"(C) TOP-HEAVY WELFARE BENEFIT FUND.—For purposes of this paragraph, the term 'top-heavy welfare benefit fund' has the meaning given such term by subsection (f), except that subsection (f) shall be applied without regard to the phrase '(other than use of facilities)'.

"(e) WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'welfare benefit fund' means any fund—

"(A) which is part of a plan of an employer, and

"(B) through which the employer provides welfare benefits to employees or their beneficiaries.

"(2) WELFARE BENEFIT.—The term 'welfare benefit' means any benefit other than a benefit with respect to which—

"(A) section 83(h) applies,

"(B) section 404 applies,

"(C) section 404A applies, or

"(D) an election under section 463 applies.

"(3) FUND.—The term 'fund' means—

"(A) any organization described in paragraph (7), (9), (17), or (20) of section 501(c), and

"(B) any trust, corporation, or other organization (including any account held for an employer by such organization) not exempt from the tax imposed by this chapter.

"(f) TOP-HEAVY WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'top-heavy welfare benefit fund' means any welfare benefit fund under which the percentage of any class of benefits (other than the use of facilities) provided for key employees exceeds 50 percent of the benefits of such class provided under such plan during such year.

"(2) SPECIAL RULE FOR EDUCATIONAL AND DEPENDENT CARE BENEFITS.—In the case of a welfare benefit fund, such fund shall be treated as a top-heavy welfare benefit fund only if, in the case of a class of benefits to which section 127 or 129 applies, the fund fails to meet the requirements of paragraph (1) and the requirements of section 127 or 129 with respect to such class of benefits.

"(g) EXCESS RESERVE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess reserve amount' means the excess of—

"(A) the sum of—

"(i) the money and the fair market value of other property of the welfare benefit fund as of the close of the year, and

"(ii) the amount of benefits paid by the fund during such year, reduced by any contributions received by the fund during such year, over

"(B) the reserve limit with respect to such year.

"(2) RESERVE LIMIT.—The term 'reserve limit' means the sum of—

"(A) 3 times the average annual benefits paid by the welfare benefit fund during the year and the preceding year to employees with permanent and total disabilities (within the meaning of section 105(d)(4)) on account of such disabilities, and

"(B) one-third of the average annual benefits paid by the welfare benefit fund during the year and the preceding year for medical care (within the meaning of section 213), severance pay, and supplemental unemployment compensation.

For purposes of this paragraph, there shall not be taken into account as benefits paid any amount paid for insurance premiums.

"(h) DEFINITIONS AND OTHER SPECIAL RULES.—

"(1) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 505(c)(1).

"(2) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF PLAN.—If—

"(A) there is no plan, but

"(B) there is a method or arrangement of employer contributions or benefits which has the effect of a plan,

this section shall apply as if there were a plan.

"(3) EXTENSION TO PLANS FOR INDEPENDENT CONTRACTORS.—If any fund would be a welfare benefit fund (as modified by paragraph

(2)) but for the fact that there is no employee-employer relationship—

"(A) this section shall apply as if there were such a plan, and

"(B) any references in this section to the employer shall be treated as a reference to the person for whom services are provided, and any reference in this section to an employee shall be treated as a reference to the person providing the services.

"(4) AGGREGATION RULES.—For purposes of this section—

"(A) AGGREGATION OF FUNDS OF EMPLOYER.—All welfare benefit funds of an employer shall be treated as one fund.

"(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(m)(5)(B) shall be applied by substituting 'section 318' for 'section 267(c)'.

"(5) PLAN MAINTAINED BY MORE THAN 1 EMPLOYER.—In the case of a plan maintained by more than 1 employer, this section shall be applied to such plan in accordance with regulations prescribed by the Secretary.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4976. Taxes involving funded welfare benefit plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 97. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS UNDER SECTION 415.

(a) GENERAL RULE.—Section 415 (relating to limitations on benefits and contributions under qualified plan) is amended by adding at the end thereof the following new subsection:

"(l) TREATMENT OF CERTAIN MEDICAL BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, contributions allocated to any individual medical account which is part of a pension plan for any year for which such plan is a top-heavy plan (within the meaning of section 416) shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c).

"(2) INDIVIDUAL MEDICAL BENEFIT ACCOUNT.—For purposes of paragraph (1), the term 'individual medical benefit account' means any separate account—

"(A) which is established for a participant under a pension plan, and

"(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents.".

(b) REQUIREMENT THAT SEPARATE ACCOUNT BE MAINTAINED FOR 5-PERCENT OWNER.—Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) in the case of an employee who is a 5-percent owner, a separate account is established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a 5-percent owner) are only payable to such employee (and his spouse and dependents) from such separate account.

For purposes of paragraph (6), the term '5-percent owner' means any employee who, at any time during any of the 5 preceding plan years, is a 5-percent owner (as defined in section 416(i)(1)(B)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after the date of the enactment of this Act.

SEC. 98. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION TREATED AS RELATED PERSONS UNDER SECTION 1239.

(a) GENERAL RULE.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYER AND RELATED EMPLOYEE ASSOCIATION.—For purposes of subsection (a), the term 'related person' also includes—

"(1) an employer and any person related to the employer (within the meaning of subsection (b)), and

"(2) a welfare benefit fund (within the meaning of section 4376(e)) which is controlled directly or indirectly by persons referred to in paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

PART III—RETIREMENT SAVINGS INCENTIVES

SEC. 100. SPECIAL RULES RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) INCREASE IN AMOUNTS INDIVIDUALS MAY CONTRIBUTE ON BEHALF OF THEIR SPOUSE.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of any individual—

"(A) with respect to whom a deduction is otherwise allowable under subsection (a) for any taxable year, and

"(B) who files a joint return for such taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of the individual's spouse.

"(2) LIMITATION ON AMOUNT OF DEDUCTION.—The amount allowable as a deduction under paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) the applicable amount, or

"(ii) an amount equal to the sum of the compensation includible in the individual's and the spouse's gross income for the taxable year, over

"(B) the sum of the amounts allowed as a deduction for such individual and such spouse under subsection (a) for the taxable year.

In no event shall the amount allowable for a deduction under paragraph (1) exceed $2,000.

"(3) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be determined in accordance with the following table:

"In the case of a taxable year beginning in:	The applicable amount is:
1985 and 1986	$2,750
1987 and 1988	$3,250
1989 and 1990	$3,750
1991 and thereafter	$4,000.".

(b) CERTAIN ALIMONY TO BE TREATED AS COMPENSATION.—

(1) IN GENERAL.—Paragraph (1) of section 219(f) (defining compensation) is amended by adding at the end thereof the following new sentence: "The term 'compensation' shall include any amount includible in the individual's gross income under paragraph (1) of section 71(a) (relating to decree of divorce or separate maintenance).".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 219 is amended by striking out paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

PART IV—EMPLOYEE STOCK OWNERSHIP PROVISIONS

SEC. 101. NONRECOGNITION OF GAIN ON STOCK SOLD TO EMPLOYEES WHERE QUALIFIED REPLACEMENT PROPERTY ACQUIRED.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF STOCK TO EMPLOYEES.

"(a) NONRECOGNITION OF GAIN.—

"(1) IN GENERAL.—If—

"(A) qualified securities are sold by the taxpayer to a tax credit employee stock ownership plan (as defined in section 409A) or to an employee stock ownership plan (as defined in section 4975(e)(7)), or to an eligible worker-owned cooperative, and

"(B) within the qualified period, qualified replacement property is purchased by the taxpayer,

then the gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the amount realized on such sale exceeds the cost to the taxpayer of such qualified replacement property.

"(2) ELECTION.—The election under paragraph (1) shall be made by filing with the Secretary a statement (in such manner as the Secretary may by regulations prescribe) of such election not later than the last day prescribed by law (including extensions thereof) for filing the return of the tax imposed by this chapter for the taxable year in which the sale occurs.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SECURITIES.—The term 'qualified securities' means employer securities (as defined in section 409A(l))—

"(A) which are issued by a domestic corporation that has no securities outstanding that are readily tradable on an established securities market,

"(B) with respect to which the taxpayer's holding period is more than 1 year, and

"(C) which were not received by the taxpayer in a distribution from a plan described in section 401(a) or as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(2) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' means any organization—

"(A) to which part I of subchapter T applies,

"(B) a majority of the membership of which is comprised of employees of such organization,

"(C) a majority of the voting stock of which is owned by members,

"(D) a majority of the board of directors of which is elected by the members on the basis of 1 person 1 vote, and

"(E) a majority of the allocated earnings and losses of which are allocated to members on the basis of—

"(i) patronage,

"(ii) capital contributions, or

"(iii) some combination of clauses (i) and (ii).

"(3) QUALIFIED PERIOD.—The term 'qualified period' means the period which begins 3 months prior to the date on which the sale of qualified securities occurs and which ends 12 months after the date of such sale.

"(4) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means any security (as defined in section 165(g)(2)) issued by a domestic corporation which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1362(d)(3)(D)) in excess of the limitation set forth in section 1375(a)(2).

"(5) STOCK ACQUIRED BY UNDERWRITER.—No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a purchase for purposes of subsection (a).

"(c) BASIS OF QUALIFIED REPLACEMENT PROPERTY.—The basis of the taxpayer in qualified replacement property purchased by the taxpayer during the qualified period shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one item of qualified replacement property is purchased, the amount of reduction applicable to any item of such property shall be determined by multiplying the total gain not recognized by reason of subsection (a) by a fraction the numerator of which is the cost of such item of property and the denominator of which is the total cost of all such items of property.

"(d) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any qualified securities and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase qualified replacement property within the qualified period, or

"(C) a failure to make such purchase within the qualified period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1223 (relating to holding period of property), as amended by this Act, is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following:

"(13) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1041(b)) the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1041(b)), there shall be included the period for which such qualified securities had been held by the taxpayer.".

(2) Subsection (a) of section 1016 (relating to adjustments to basis), as amended by this Act, is amended—

(A) by striking out "and" at the end of paragraph (25),

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(27) in the case of qualified replacement property, the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1041(c).".

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of Stock to Employees.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of securities in taxable years beginning after the date of enactment of this Act.

SEC. 102. DEDUCTIBILITY OF CERTAIN DIVIDEND DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.

(a) DEDUCTION.—Section 404 (relating to deductions for employer contributions to an employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) DIVIDENDS PAID DEDUCTIONS.—In addition to the deductions provided under subsection (a), there shall be allowed as a deduction to an employer the amount of any dividend paid in cash by that employer (or any member of the controlled group as described in section 409A(l)(4)) during the taxable year with respect to the stock of the employer if—

"(1) such stock is held on the record date for the dividend by a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)), and

"(2) in accordance with the plan provisions—

"(A) the dividend is paid in cash to the participants in the plan, or

"(B) the dividend is paid to the plan and is either—

"(i) distributed in cash to participants in the plan not later than 60 days after the close of the plan year in which paid, or

"(ii) applied by the plan to the repayment of a loan (as described in section 404(a)(10)) incurred for the purpose of acquiring stock of the employer.".

(b) DENIAL OF PARTIAL EXCLUSION.—Section 116 (relating to partial exclusion of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) shall not apply to any dividend described in section 404(k).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SEC. 103. EXCLUSION OF INTEREST ON LOANS USED TO FINANCE ACQUISITION OF EMPLOYER SECURITIES BY AN ESOP.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

"(a) IN GENERAL.—Gross income does not include 50 percent of the interest received by a bank (within the meaning of section 581), an insurance company to which subchapter L applies, or a corporation actively engaged in the business of lending money on a securities acquisition loan.

"(b) SECURITIES ACQUISITION LOAN.—For purposes of this section, the term 'securities acquisition loan' means a loan the proceeds of which are used by an employee stock ownership plan (within the meaning of section 4975(e)(7)) to acquire employer securities (within the meaning of section 409A(l)) for the plan.".

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 132 and inserting in lieu thereof the following:

"Sec. 132. Interest on certain loans used to acquire employer securities.

"Sec. 133. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans extended after the date of the enactment of this Act.

SEC. 104. REDUCTION IN CAPITAL GAINS TAX WITH RESPECT TO SALES OF STOCK IN CORPORATIONS WITH EMPLOYEE OWNERSHIP.

(a) REDUCTION IN AMOUNT OF NET CAPITAL GAIN INCLUDED IN INCOME OF INDIVIDUALS.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 80 percent of the qualified corporate gain of the taxpayer for such taxable year, plus

"(2) 60 percent of the excess (if any) of—

"(A) such net capital gain, over

"(B) the qualified corporate gain of the taxpayer for such taxable year.".

(b) REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX RATE FOR CORPORATIONS.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended—

(1) by striking out "plus" at the end of paragraph (1), and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a tax of 10 percent of the qualified corporate gain of the taxpayer for the taxable year, plus

"(3) a tax of 28 percent of the excess (if any) of—

"(A) such net capital gain, over

"(B) the qualified corporate gain of the taxpayer for the taxable year.".

(c) DEFINITIONS AND SPECIAL RULES.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1203. DEFINITIONS AND SPECIAL RULES RELATING TO QUALIFIED CORPORATE GAIN.

"(a) QUALIFIED CORPORATE GAIN.—For purposes of this part, the term 'qualified corporate gain' means the net capital gain of the taxpayer for the taxable year resulting from the sale or exchange of qualified securities of employee-owned corporations.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SECURITIES.—The term 'qualified securities' means any shares of stock acquired by the taxpayer as part of the original issue of such securities which have been held by the taxpayer for at least 3 years.

"(2) EMPLOYEE-OWNED CORPORATION.—The term 'employee-owned corporation' means any domestic corporation—

"(A) not less than 50 percent of the total value of shares of all classes of stock of which is owned by, or on behalf of, qualified employees of such corporation, and

"(B) not less than 50 percent of the qualified employees of which own not less than 25 percent of such shares of stock.

"(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of the corporation (other than the taxpayer) who is not an officer or a member of the board of directors of the corporation.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR DETERMINING WHETHER A CORPORATION IS AN EMPLOYEE-OWNED CORPORATION.—The determination of whether a corporation is an employee-owned corporation shall be made at the time the qualified corporate gain is realized after taking into account the sale or exchange described in subsection (a).

"(2) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a corporation which is a member of a controlled group, all members of such group at any time during the calendar year shall be treated as one corporation for such calendar year.

"(B) CONTROLLED GROUP DEFINED.—Persons shall be treated as members of a controlled group if such persons would be treated as a single employer under subsection (b) or (c) of section 414.

"(3) STOCK HELD BY QUALIFIED PLANS.—For purposes of subsection (b)(2)(A), all shares of stock of the employer held by an employees' trust described in section 401(a) which is maintained by a corporation shall be considered as owned by qualified employees of the corporation.

"(4) RELATED EMPLOYEES.—Any employees whose relationship to one another is described in section 267(b)(1) shall be treated as a single employee.".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 170 (relating to contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" in paragraph (1)(B) and inserting in lieu thereof "the applicable percentage", and

(B) by adding at the end thereof the following new paragraph:

"(5) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) in the case of a taxpayer other than a corporation—

"(i) whose charitable contribution consists of qualified securities of employee-owned corporations (within the meaning of section 1203), 20 percent, or

"(ii) whose charitable contribution consists of other property, 40 percent, or

"(B) in the case of a corporation—

"(i) whose charitable contribution consists of such qualified securities, 10/46, or

"(ii) whose charitable contribution consists of other property, 28/46.".

(2) The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1202 of the following new item:

"Sec. 1203. Definitions and special rules relating to qualified corporate gain.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges of qualified securities (within the meaning of section 1203 of the Internal Revenue Code of 1954) which are acquired by the taxpayer after the date of enactment of this Act in taxable years ending after such date.

SEC. 105. ASSUMPTION OF ESTATE TAX LIABILITY BY ESOP RECEIVING EMPLOYER SECURITIES.

(a) IN GENERAL.—Subchapter C of chapter 11 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

"SEC. 2210. LIABILITY FOR PAYMENT IN CASE OF TRANSFER OF EMPLOYER SECURITIES TO AN EMPLOYEE STOCK OWNERSHIP PLAN.

"(a) IN GENERAL.—If—

"(1) a qualified amount of employer securities—

"(A) are acquired by an employee stock ownership plan from the decedent,

"(B) pass from the decedent to such a plan, or

"(C) are transferred by the executor to such a plan, and

"(2) the executor elects the application of this section and files the agreements described in subsection (e) (in such manner as the Secretary shall by regulations prescribe) at the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof),

then the executor is relieved of liability for payment of that portion of the tax imposed by section 2001 which an employee stock ownership plan is required to pay under subsection (b).

"(b) PAYMENT OF TAX BY EMPLOYEE STOCK OWNERSHIP PLAN.—

"(1) IN GENERAL.—An employee stock ownership plan—

"(A) which has acquired a qualified amount of employer securities from the decedent, or to which such securities have passed from the decedent or been transferred by the executor, and

"(B) with respect to which an agreement described in subsection (e)(1) is in effect,

shall pay that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in paragraph (2).

"(2) AMOUNT OF TAX TO BE PAID.—The portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent that is described in this paragraph is equal to the lesser of—

"(A) the excess of—

"(i) the tax imposed by section 2001 with respect to such taxable estate, over

"(ii) the tax imposed by section 2001 with respect to such taxable estate determined by excluding from the gross estate of the decedent employer securities conveyed under subsection (a)(1), or

"(B) the tax imposed by section 2001 with respect to such taxable estate reduced by the sum of the credits allowable against such tax.

"(c) INSTALLMENT PAYMENTS.—

"(1) IN GENERAL.—If—

"(A) the executor of the estate of the decedent (without regard to this section) may elect to have the provisions of section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) apply to payment of that portion of the tax imposed by section 2001 with respect to such estate which is attributable to employer securities, and

"(B) the plan administrator provides to the executor the agreement described in subsection (e)(1),

then the plan administrator may elect, before the time prescribed by section 6075(a) for filing the return of such tax, to pay all or part of the tax described in subsection (b)(2) in installments under the provisions of section 6166.

"(2) INTEREST ON INSTALLMENTS.—In the case of a plan administrator who elects to pay all or a portion of the tax described in subsection (b)(2) in installments under section 6166, section 6601(j) shall be applied with respect to the entire amount of tax imposed by section 2001 with respect to the estate.

"(d) GUARANTEE OF PAYMENTS.—Any employer—

"(1) whose employees are covered by an employee stock ownership plan, and

"(2) who has entered into an agreement described in subsection (e)(2) which is in effect,

shall guarantee the payment of any amount such plan is required to pay under subsection (b), including any interest payable under section 6601 which is attributable to such amount.

"(e) AGREEMENTS.—The agreements described in this subsection are as follows:

"(1) A written agreement signed by the plan administrator consenting to the application of subsection (b) to the plan.

"(2) A written agreement signed by the employer whose employees are covered by the plan described in subsection (b) consenting to the application of subsection (d).

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AMOUNT OF EMPLOYER SECURITIES.—The term 'qualified amount of employer securities' means an amount of employer securities the value of which equals or exceeds that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in subsection (b)(2).

"(2) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409A(l).

"(3) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).".

(b) EXEMPTION FROM TAX ON PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 (relating to exemptions from the tax on prohibited transactions) is amended—

(1) by striking out "or" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof ", or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) any transaction in which employer securities are transferred to an employee stock ownership plan and the plan (or the employer on behalf of the plan) pays that portion of the decedent's estate tax described in section 2210(b)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Section 2002 (relating to liability for payment of estate tax) is amended to read as follows:

"SEC. 2002. LIABILITY FOR PAYMENT.

"Except as provided in section 2210, the tax imposed by this chapter shall be paid by the executor.".

(2) The table of sections for subchapter C of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2210. Liability for payment in case of transfer of employer securities to an employee stock ownership plan.".

(3) Section 6018 (relating to estate tax returns) is amended by adding at the end thereof the following new subsection:

"(c) ELECTION UNDER SECTION 2210.—In all cases in which subsection (a) requires the filing of a return, if an executor elects the application of section 2210—

"(1) RETURN BY EXECUTOR.—The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

"(2) RETURN BY PLAN ADMINISTRATOR.—The plan administrator (as defined in section 414(g)) shall make a return with respect to that portion of the tax imposed by section 2001 which the employee stock ownership plan is required to pay under section 2210(b).".

(4) Subsection (j) of section 6166 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(6) PAYMENT OF ESTATE TAX BY EMPLOYEE STOCK OWNERSHIP PLAN.—For provision allowing plan administrator to elect to pay a certain portion of the estate tax in installments under the provisions of this section, see section 2210(c).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 106. DEDUCTION FROM TAXABLE ESTATE OF HALF THE PROCEEDS FROM SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR CERTAIN WORKER-OWNED COOPERATIVES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) IN GENERAL.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the aggregate amount of the qualified proceeds from the sale of employer securities to a tax credit employee stock ownership plan (as defined in section 409A) or to an employee stock ownership plan (as defined in section 4975(e)(7)), or to an eligible worker-owned cooperative which are realized by the decedent at any time before the date on which the return of the tax imposed by section 2001 is required to be filed (including any extensions) disregarding any portion of the proceeds from the sale of employer securities under this subsection to the extent that such securities are allocated under the plan for the benefit of—

"(1) the taxpayer or decedent,

"(2) any person related to the taxpayer or decedent under the provisions of section 267(b)(1), or

"(3) any other person who owns more than 25 percent in value of any class of outstanding employer securities under the provisions of section 318(a).

"(b) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409A(l).

"(2) QUALIFIED PROCEEDS.—The term 'qualified proceeds' means the proceeds from the sale of employer securities as described in subsection (a), provided such securities were not received by the taxpayer in a distribution from a plan described in section 401(a) or as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1041(b)(2).".

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Sales of employer securities to employee stock ownership plans or worker-owned cooperatives.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 107. CERTAIN CONTRIBUTIONS TO ESOP TREATED AS CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (c) of section 170 (defining charitable contribution) is amended by inserting after paragraph (5) the following new paragraph:

"(6) A tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if—

"(A) such contribution or gift consists exclusively of employer securities (within the meaning of section 409A(l));

"(B) such contribution or gift is allocated (over a period not in excess of three plan years), pursuant to the terms of such plan, to the employees participating under the plan in a manner consistent with section 401(a)(4);

"(C) no part of such contribution or gift is allocated under the plan for the benefit of—

"(i) the donor,

"(ii) any person who is a member of the family of the donor (within the meaning of section 267(c)(4)), or

"(iii) any other person who owns more than 25 percent in value of any class of outstanding employer securities under the provisions of section 318(a);

"(D) such contribution or gift is made only pursuant to the provisions of such tax credit employee stock ownership plan or such employee stock ownership plan;

"(E) such plan treats such employer securities as being attributable to employer contributions;

"(F) no deduction under section 404 and no credit under section 38 or 44G is allowed with respect to such contribution or gift;

"(G) any allocation under the plan of such contribution or gift which is based on compensation of the participants does not take into account any portion of the compensation of a participant that exceeds $100,000 per year.".

(b) PERCENTAGE LIMITATIONS.—Subparagraph (A) of section 170(b)(1) (relating to percentage limitations for individuals) is amended—

(1) by striking out "or" at the end of clause (vii),

(2) by inserting "or" at the end of clause (viii), and

(3) by inserting after clause (viii) the following new clause:

"(ix) a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)),".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 2055 (relating to transfers for public, religious, and charitable uses) is amended—

(A) by striking out "or" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) to a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if the requirements of section 170(c)(6) are met.".

(2) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended—

(A) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(B) by adding at the end thereof the following new paragraph:

"(5) a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if the requirements of section 170(c)(6) are met.".

(3) Section 415 (relating to limitations on benefits and contributions under qualified plans), as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(m) CHARITABLE CONTRIBUTIONS.—The limitations provided under this section shall not apply with respect to any contribution or gift described in section 170(c)(6) if the requirements of section 170(c)(6) are met.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SEC. 108. EXCISE TAX ON CERTAIN DISPOSITIONS AND ALLOCATIONS OF EMPLOYER SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension plans) is amended by adding at the end thereof the following new section:

"SEC. 4977. TAX ON CERTAIN DISPOSITIONS AND ALLOCATIONS BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

"(a) DISPOSITIONS OF SECURITIES BEFORE CLOSE OF MINIMUM HOLDING PERIOD.—

"(1) SECURITIES ACQUIRED IN SALE TO WHICH SECTION 1041 APPLIES.—

"(A) IMPOSITION OF TAX.—There is hereby imposed a tax on the disposition by any employee stock ownership plan or eligible worker-owned cooperative of any qualified securities which were acquired by such plan or cooperative in a sale with respect to which the application of section 1041 was elected if such disposition occurs during the 84-month period which begins on the date of such sale.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) is 10 percent of the gain from the sale described in subparagraph (A) of qualified securities to the employee stock ownership plan or eligible worker-owned cooperative.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by the employee stock ownership plan or the eligible worker-owned cooperative, as the case may be.

"(3) NO APPLICATION TO CERTAIN DISPOSITIONS.—This subsection shall not apply with respect to any disposition of qualified securities which is made by reason of—

"(A) the death, disability, or separation from service of the employee,

"(B) a transfer of the employee to the employment of an acquiring corporation from the employment of the selling corporation in the case of a sale to the acquiring corporation of substantially all of the assets used by the selling corporation in a trade or business conducted by the selling corporation, or

"(C) the disposition of a selling corporation's interest in a subsidiary when the participant continues employment with such subsidiary.

"(b) IMPROPER ALLOCATIONS OR ACCRUAL OF BENEFITS.—

"(1) SECURITIES ACQUIRED IN SALE TO WHICH SECTION 1041 APPLIES.—

"(A) IMPOSITION OF TAX.—There is hereby imposed a tax on the allocation of, or accrual of benefit with respect to, more than 25 percent of the fair market value of qualified securities described in subsection (a)(1) (determined at the time of sale) to—

"(i) the person who sold such securities to the employee stock ownership plan or eligible worker-owned cooperative,

"(ii) any person who is a member of the family (within the meaning of section 267(c)(4)) of the person described in clause (i), or

"(iii) any person who owns (under the rules of section 318(a)) more than 25 percent of the value of any class of outstanding employer securities.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) is 10 percent of the gain from the sale described in subparagraph (A) of qualified securities to the employee stock ownership plan or eligible worker-owned cooperative.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by the employee stock ownership plan or the eligible worker-owned cooperative, as the case may be.

"(c) FAILURE TO MAINTAIN STATUS AS AN EMPLOYEE-OWNED CORPORATION.—

"(1) IMPOSITION OF TAX.—If—

"(A) any gain from the sale or exchange of stock of a corporation is qualified corporate gain (within the meaning of section 1203), and

"(B) such corporation ceases to be an employee-owned corporation at any time during the 2-year period beginning on the date of such sale or exchange,

there is hereby imposed a tax on such cessation of status as an employee-owned corporation in an amount equal to 10 percent of the gain from such sale or exchange.

"(2) LIABILITY FOR PAYMENT OF TAX.—The tax imposed by paragraph (1) shall be paid by the corporation described in paragraph (1).

"(3) CERTIFICATION OF STATUS AS AN EMPLOYEE-OWNED CORPORATION.—

"(A) FAILURE TO CERTIFY TREATED AS CESSATION.—If a corporation fails to meet the requirements of subparagraph (B), such corporation shall, for purposes of this subsection, be treated as having ceased to be an employee-owned corporation on the date such failure occurs.

"(B) CERTIFICATION REQUIREMENT.—If any gain from the sale or exchange of stock of a corporation is qualified corporate gain (within the meaning of section 1203), such corporation shall certify that such corporation is an employee-owned corporation on each return of the tax imposed by chapter 1 which is required to be filed (not including any extensions) during the 2-year period which begins on the date of such sale or exchange.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYEE STOCK OWNERSHIP PLAN.—

"(A) IN GENERAL.—The term 'employee stock ownership plan' has the meaning given to such term by section 4975(e)(7).

"(B) TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.—The term 'employee stock ownership plan' includes any tax credit employee stock ownership plan (within the meaning of section 409A).

"(2) QUALIFIED SECURITIES.—The term 'qualified securities' has the meaning given to such term by section 1041(b)(1).

"(3) EMPLOYEE-OWNED CORPORATION.—The term 'employee-owned corporation' has the meaning given to such term by section 1203(b)(2).

"(4) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given to such term by section 1041(b)(1).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4977. Tax on certain dispositions and allocations by employee stock ownership plans and certain cooperatives.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

PART V—MISCELLANEOUS

SEC. 111. ELIMINATION OF RETROACTIVE APPLICATION OF AMENDMENTS MADE BY MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.

(a) IN GENERAL.—

(1) LIABILITY.—Any withdrawal liability incurred by an employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.) as a result of the complete or partial withdrawal of such employer from a multiemployer plan before September 26, 1980, shall be void.

(2) REFUNDS.—Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer, less a reasonable amount for administrative expenses incurred by the plan sponsor in calculating, assessing, and refunding such amounts.

(b) CONFORMING AMENDMENTS.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) Sections 4211 (b) and (c), 4217(a), and 4235(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1391(b) and (c), 1397(a), and 1415(a)) are amended by striking out "April 28, 1980" each place it appears and inserting in lieu thereof "September 25, 1980".

(B) Sections 4211 (b) and (c), 4217(a), 4219(c)(1)(C)(iii), and 4402(e) of such Act (29 U.S.C. 1391 (b) and (c), 1397(a), 1399(c)(1)(C)(iii), and 1461(e)) are amended by striking out "April 29, 1980" each place it appears and inserting in lieu thereof "September 26, 1980".

(C) Section 4402(f)(1) of such Act (29 U.S.C. 1461(f)(1)) is amended by striking out "April 29, 1985" and inserting in lieu thereof "September 26, 1985".

(2) MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 108(d) of the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C. 1385 note) is amended—

(A) by striking out "April 29, 1982" in paragraph (1) and inserting in lieu thereof "September 26, 1982"; and

(B) by striking out "April 29, 1980" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "September 26, 1980".

(c) NO INCREASE IN LIABILITY.—The amendments made by this section shall not be construed to increase the liability incurred by any employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.), as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980.

(d) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS.—In the case of an employer who, on September 26, 1980, has a binding agreement to withdraw from a multiemployer plan, subsection (a)(1) shall be applied by substituting "December 31, 1980" for "September 26, 1980".

SEC. 112. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, if—

(1) a distribution was made from a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such Code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977,

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a)(5)(D) of such Code) and shall not be includible in the gross income of such employee for the taxable year in which paid.

(b) QUALIFIED TERMINATED PLAN.—For purposes of this section, the term "qualified terminated plan" means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

SEC. 113. PARTIAL TERMINATION FOR CERTAIN PENSION PLANS.

For purposes of section 411(d)(3) of the Internal Revenue Code of 1954 (relating to minimum vesting standards in the case of partial terminations), a partial termination shall not be treated as occurring if—

(1) the partial termination is a result of a decline in plan participation which—

(A) occurs by reason of the completion of the Trans-Alaska Oil Pipeline construction project, and

(B) occurred after December 31, 1975, and before January 1, 1980, with respect to participants employed in Alaska,

(2) no discrimination prohibited by section 401(a)(4) of such Code occurred with respect to such partial termination, and

(3) the plan precludes reversion of plan assets to employers under the plan as a result of the exclusion of the participants from further participation in such plan.

SEC. 114. DISTRIBUTION REQUIREMENTS FOR ACCOUNTS AND ANNUITIES OF AN INSURER IN A REHABILITATION PROCEEDING.

(a) IN GENERAL.—For purposes of sections 401(a)(9)(A), 408(a)(6) and 408(b)(3) of the Internal Revenue Code of 1954—

(1) a trust, custodial account, or annuity or other contract forming part of a pension or profit-sharing plan, or a retirement annuity, or

(2) a grantor of an individual retirement account or an individual retirement annuity,

shall not be treated as failing to meet the requirements of such sections if such account, annuity, or contract was issued by an insurance company which, on March 15, 1984, was a party to a rehabilitation proceeding under the applicable State insurance law.

(b) LIMITATION.—Subsection (a) shall only apply during the period such insurance company continues to be a party to the proceeding described in subsection (a).

SEC. 115. EXTENSION OF TIME FOR REPAYMENT OF QUALIFIED REFUNDING LOANS.

Paragraph (2) of section 236(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR NON-KEY EMPLOYEES.—In the case of a non-key employee (within the meaning of section 416(i)(2) of the Internal Revenue Code of 1954), this paragraph shall be applied by substituting 'January 1, 1985' for 'August 14, 1983' each place it appears.".

SEC. 116. PENSION PORTABILITY INVOLVING TELECOMMUNICATIONS DIVESTITURE.

(a) IN GENERAL.—The recognition after December 31, 1983, of creditable service, and the treatement after such date of associated accrued benefits and assets, in the case of any transfer of any qualifying employee between any entity subject to the modified final judgment shall be governed by the provisions of the modified final judgment as such provisions applied during calendar year 1984 with respect to or from the divesting corporation and any divested exchange carrier.

(b) QUALIFYING EMPLOYEE.—A qualifying employee, for purposes of this subsection, is an individual who is an employee of an entity subject to the modified final judgment, who is serving in a covered position, and who, on December 31, 1983, was an employee of any such entity serving in a covered position.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "covered position" means any position which (A) is not a supervisor position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152(11)) or (B) the annual base pay rate for which is not more than $50,000, adjusted by the percentage in the consumer price index since December 31, 1983;

(2) the term "modified final judgment" means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, numbered 82-0192, as modified;

(3) the term "entity subject to the modified final judgment" means any carrier divested as a result of such judgment, the corporation owning such carrier before divestiture, and any affiliate (excluding Sandia Corporation of Albuquerque, New Mexico), of any such carrier or corporation; and

(4) the term "consumer price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) LIMITATION ON BENEFITS.—Nothing in this subsection shall be construed to limit benefits which would otherwise be provided under the modified final judgment or under applicable law..

(e) COORDINATION WITH SECTION 415.—For purposes of computing any limit on contributions and benefits with respect to a qualified employee who was an employee of a party to the modified final judgment on December 31, 1983, under section 415 of the Internal Revenue Code of 1954, there shall be taken into account all contributions and benefits with respect to the qualified employee under a plan maintained by the divesting corporation and any divested exchange carrier.

Subtitle J—Foreign Provisions

PART I—GENERAL

SEC. 121. TREATMENT OF RELATED PERSON FACTORING INCOME.

(a) TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(1) IN GENERAL.—Subsection (a) of section 553 (defining foreign personal holding company income) is amended by adding at the end thereof the following new paragraph:

"(8) INCOME FROM TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED PERSONS.—

"(A) IN GENERAL.—Income from a trade or service receivable.

"(B) TRADE OR SERVICE RECEIVABLE.—For purposes of subparagraph (A), the term 'trade or service receivable' means any account receivable or evidence of indebtedness arising out of the disposition of property described in section 1221(1), or the performance of services, by a related person.

"(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given to such term by section 267(b).".

(2) EXCEPTION FOR TRADE OR SERVICE RECEIVABLES OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (A) of section 954(c)(4) (relating to certain income received from related persons) is amended by inserting before the semicolon at the end thereof the following: "or income from a trade or service receivable (as defined in section 553(a)(8)(B)) acquired directly from such a related person".

(b) TREATMENT OF UNITED STATES PROPERTY.—Subsection (b) of section 956 (defining United States property) is amended by adding at the end thereof the following new paragraph:

"(3) TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

"(A) Notwithstanding paragraph (1) or (2), except as provided in subparagraph (B), the term 'United States property' includes any trade or service receivable (as defined in section 553(a)(8)(B)) acquired directly or indirectly from a related person (within the meaning of section 267(b)) who is a United States person.

"(B) EXCEPTION FOR CERTAIN EXPORT RECEIVABLES.—Subparagraph (A) shall not apply to any trade or service receivables which arise out of the disposition or rental of export property (within the meaning of section 993(c)), the income from which would be treated as qualified export receipts under subparagraph (A) or (B) of section 993(a)(1) (without regard to whether the taxpayer is a DISC). The preceding sentence shall not apply to any receivables arising out of any transaction involving a DISC or FSC (without regard to whether the export property disposed of or rented is held by the DISC or FSC).".

(c) SOURCE RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) INCOME FROM TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

"(1) IN GENERAL.—For purposes of subsection (a) and section 862(a)—

"(A) income from a trade or service receivable acquired directly or indirectly from a related United States person shall be treated as income from sources within the United States, and

"(B) any distribution from a foreign corporation (and any amount included in gross income under section 951) to the extent attributable to income described in subparagraph (A) shall be treated as income from sources within the United States.

"(2) SPECIAL RULE FOR CERTAIN EXPORT RECEIVABLES.—In the case of any trade or service receivable described in section 956(b)(3)(B), paragraph (1) shall be applied by inserting '50 percent of' before 'income' the first place it appears in subparagraph (A).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TRADE OR SERVICE RECEIVABLE.—The term 'trade or service receivable' has the meaning given to such term by section 553(a)(8)(B).

"(B) RELATED UNITED STATES PERSON.—The term 'related United States person' means any related person (within the meaning of section 267(b)) who is a United States person.".

(d) SPECIAL RULE FOR POSSESSIONS.—

(1) PUERTO RICO.—Subsection (d) of section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR TRADE OR SERVICE RECEIVABLE.—Any income from a trade or service receivable (as defined in section 553(a)(8)(B)) shall not be treated as income described in subparagraph (A) or (B) of paragraph (1).".

(2) VIRGIN ISLANDS.—Section 934(b) (relating to exception for certain corporations) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any income from any trade or service receivable (as defined in section 553(a)(8)(B)) shall not be treated as income derived from sources within the Virgin Islands.".

(e) FOREIGN BASE COMPANY INCOME.—Section 954(b)(3)(A) (relating to special rule for foreign base company income) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, income from any trade or service receivable (as defined in section 553(a)(8)(B)) shall be treated as foreign base company income.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to accounts

receivable and evidences of indebtedness transferred after March 1, 1984 in taxable years ending after such date.

SEC. 122. TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (a) of section 367 (relating to transfers of property from the United States) is amended to read as follows:

"(a) TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

"(1) GENERAL RULE.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.

"(2) EXCEPTION FOR CERTAIN STOCK OR SECURITIES.—Except to the extent provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

"(3) EXCEPTION FOR TRANSFERS OF CERTAIN PROPERTY USED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by such foreign corporation in the active conduct of a trade or business outside of the United States.

"(B) SUBPARAGRAPH (A) NOT TO APPLY TO CERTAIN PROPERTY.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to any—

"(i) property described in paragraph (1) or (3) of section 1221 (relating to inventory and copyrights, etc.) to which subsection (d) does not apply,

"(ii) installment obligation, accounts receivable, or similar property,

"(iii) foreign currency or other property denominated in foreign currency,

"(iv) intangible property (within the meaning of section 936(h)(3)(B)) to which subsection (d) does not apply, or

"(v) property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

"(C) TRANSFER OF FOREIGN BRANCH WITH PREVIOUSLY DEDUCTED LOSSES.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that—

"(i) the sum of losses—

"(I) which were incurred by the foreign branch before the transfer, and

"(II) with respect to which a deduction was allowed to the taxpayer, exceeds

"(ii) the amount which is recognized under section 904(f)(3) on account of such exchange.

Any gain to which subparagraph (A) does not apply by reason of the preceding sentence shall be treated for purposes of this chapter as ordinary income from sources outside the United States.

"(4) SPECIAL RULE FOR TRANSFER OF PARTNERSHIP INTERESTS.—Except as provided in regulations prescribed by the Secretary, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subsection, be treated as a transfer to such corporation of such person's pro rata share of the assets of the partnership.

"(5) SECRETARY MAY EXEMPT CERTAIN TRANSACTIONS FROM APPLICATION OF THIS SUBSECTION.—Paragraph (1) shall not apply to the transfer of any property which the Secretary, in order to carry out the purposes of this subsection, designates by regulation.".

(b) SPECIAL RULES FOR TRANSFERS OF INTANGIBLES.—Subsection (d) of section 367 (relating to special rule for transfer of intangibles by possession corporations) is amended to read as follows:

"(d) SPECIAL RULES RELATING TO TRANSFERS OF INTANGIBLES.—

"(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United States person tranfers any intangible property (within the meaning of section 936(h)(3)(B)) to a foreign corporation in an exchange described in section 351 or 361—

"(A) subsection (a) shall not apply to the transfer of such property, and

"(B) the provisions of this subsection shall apply to such transfer.

"(2) TRANSFER OF INTANGIBLES TREATED AS TRANSFER PURSUANT TO SALE FOR CONTINGENT PAYMENTS.—

"(A) IN GENERAL.—If paragraph (1) applies to any transfer, the United States person transferring such property shall be treated as—

"(i) having sold such property in exchange for payments which are contingent upon the productivity, use, or disposition of such property, and

"(ii) receiving over the useful life of such property amounts which reasonably reflect the amounts which would have been received—

"(I) annually in the form of such payments, or

"(II) or in the case of a disposition following such transfer (whether direct or indirect), at the time of the disposition.

"(B) EFFECT ON EARNINGS AND PROFITS.—For purposes of this chapter, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount of income required to be included in income under subparagraph (A).

"(C) AMOUNTS RECEIVED TREATED AS UNITED STATES SOURCE ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income from sources within the United States.".

(c) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—Section 367 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—In the case of any distribution described in section 336 by a domestic corporation which is made to a person who is not a United States person, except as otherwise provided in regulations, gain shall be recognized by the domestic corporation under principles similar to the principles of this section.".

(d) SECRETARY MUST BE NOTIFIED OF TRANSACTIONS DESCRIBED IN SECTION 367(a).—

(1) NOTIFICATION REQUIREMENT.—Subpart A of part III of subchapter A of chapter 61 is amended by adding after section 6038A the following new section:

"SEC. 6038B. NOTICE OF TRANSFERS DESCRIBED IN SECTION 367(a).

"(a) IN GENERAL.—Each United States person who transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or to a foreign person in an exchange described in section 336, shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange as the Secretary may require in such regulations.

"(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 25 percent of the amount of gain realized on such exchange.

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect.".

(2) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION WHERE SECRETARY NOT NOTIFIED.—Subsection (c) of section 6501 (relating to exceptions to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) FAILURE TO NOTIFY SECRETARY UNDER SECTION 6038B.—In the case of any tax imposed on any exchange by reason of section 367(a), the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange under section 6038B(a).".

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding after the item relating to section 6038A the following new item:

"Sec. 6038B. Notice of transfers described in section 367(a).".

(e) REPEAL OF DECLARATORY JUDGMENT PROVISIONS INVOLVING TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

(1) IN GENERAL.—Section 7477 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out subparagraph (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(B) The table of sections for part IV of subchapter C of chapter 76 is amended by striking out the item relating to section 7477.

(f) TRANSFERS TO AVOID INCOME TAX.—

(1) IN GENERAL.—Section 1492 (relating to nontaxable transfers) is amended—

(A) by striking out paragraphs (2) and (3) and by inserting in lieu thereof—

"(2) To a transfer—

"(A) described in section 367, or

"(B) not described in section 367 but with respect to which the taxpayer establishes to the satisfaction of the Secretary that no gain should be recognized under principles similar to the principles of section 367.", and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Section 1494(b) (relating to abatement or refund) is amended by striking out all that follows "that" and inserting in lieu thereof "no gain should be recognized on such transfer under principles similar to the principles of section 367".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by

this section shall apply to transfers or exchanges after December 31, 1984, in taxable years ending after such date.

(2) RULING REQUESTS BEFORE MARCH 1, 1984.—The amendments made by this section shall not apply to any transfer or exchange after December 31, 1984, made pursuant to a request filed under section 367(a) of the Internal Revenue Code of 1954 (as in effect before such amendments) before March 1, 1984.

SEC. 123. SECTION 1248 TO APPLY TO CERTAIN INDIRECT TRANSFERS OF STOCK IN A FOREIGN CORPORATION.

(a) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in foreign corporations) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN INDIRECT TRANSFERS.—

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, for purposes of this section, the stock of the foreign corporation received in such exchange shall be treated as if it had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption of his stock.

"(2) 10-PERCENT CORPORATE SHAREHOLDER DEFINED.—For purposes of this subsection, the term '10-percent corporate shareholder' means any domestic corporation which, as of the day before the exchange referred to in paragraph (1), satisfies the stock ownership requirements of subsection (a)(2) with respect to the foreign corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to exchanges after the date of the enactment of this Act in taxable years ending after such date.

SEC. 124. TREATMENT OF UNITED STATES SOURCE ORIGINAL ISSUE DISCOUNT IN CASE OF FOREIGN PERSONS.

(a) NONRESIDENT ALIEN INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale, exchange, or retirement of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this clause only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by subparagraph (A) thereon), and".

(2) DEFINITIONS AND SPECIAL RULES.—Section 871, as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—For purposes of this section and section 881—

"(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original issue discount obligation' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

"(B) EXCEPTIONS.—The term 'original issue discount obligation' shall not include—

"(i) CERTAIN SHORT-TERM OBLIGATIONS.—Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

"(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

"(2) DETERMINATION OF PORTION OF ORIGINAL ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—The determination of the amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law).

"(3) SOURCE OF ORIGINAL ISSUE DISCOUNT.—Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment, sale, exchange, or retirement as if such payment, sale, exchange, or retirement involved the payment of interest.

"(4) STRIPPED BONDS.—The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section.".

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale, exchange, or retirement of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and".

(2) CROSS REFERENCE.—Subsection (c) of section 881 (relating to doubling of tax) is amended to read as follows:

"(c) CROSS REFERENCES.—

"For doubling of tax on corporations of certain foreign countries, see section 891.

"For special rules for original issue discount, see section 871(h).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the payments, sales, exchanges, or retirement made on or after the 60th day after the date of the enactment of this Act with respect to obligations issued after March 31, 1972.

SEC. 125. TREATMENT OF CERTAIN TRANSPORTATION INCOME.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

"(c) SOURCE RULE FOR CERTAIN TRANSPORTATION INCOME.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, all transportation income attributable to transportation which begins and ends in the United States (or in any possession of the United States) shall be treated as derived from sources within the United States.

"(2) TRANSPORTATION INCOME.—For purposes of this subsection, the term 'transportation income' means any income derived from, or in connection with—

"(A) the use (or hiring or leasing for use) of a vessel or aircraft, or

"(B) the performance of services directly related to the use of a vessel or aircraft.

For purposes of the preceding sentence, the term 'vessel or aircraft' includes any container used in connection with a vessel or aircraft.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 126. APPLICATION OF COLLAPSIBLE CORPORATION RULES TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subsection (f) of section 341 (relating to collapsible corporations) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR FOREIGN CORPORATIONS.—To the extent provided in regulations prescribed by the Secretary—

"(A) any consent given by a foreign corporation under paragraph (1) shall not be effective, and

"(B) paragraph (3) shall not apply if the transferee is a foreign corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 127. DEFINITION OF FOREIGN INVESTMENT COMPANY.

(a) GENERAL RULE.—Paragraph (2) of section 1246(b) (defining foreign investment company) is amended to read as follows:

"(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in—

"(A) securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) commodities, or

"(C) any interest (including a futures or forward contract or option) in property described in subparagraph (A) or (B),

at a time when 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or of the total value of all classes of stock, was held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to sales and exchanges (and distributions) on or after October 31, 1983, in taxable years ending on or after such date.

(2) STOCK HELD ON OCTOBER 31, 1983.—In the case of a sale or exchange (or distribution) not later than the date which is 1 year after the date of the enactment of this Act, the amendment made by subsection (a) shall not apply with respect to stock held by the taxpayer continuously from October 31, 1983, to the date of such sale or exchange (or distribution).

SEC. 128. DISTRIBUTIONS AND INTEREST PAYMENTS BY CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES FOR PURPOSES OF LIMITATION ON FOREIGN TAX CREDIT.

(a) IN GENERAL.—Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DISTRIBUTIONS AND INTEREST PAYMENTS BY CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES.—

"(1) IN GENERAL.—For purposes of this section, the United states-connected percentage of any distribution or interest payment made by a United States-owned foreign corporation shall be treated as derived from sources within the United States.

"(2) UNITED STATES-CONNECTED PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States-connected percentage' means, with respect to any distribution or interest payment made by any foreign corporation during any taxable year, the percentage of the gross income of such corporation for the base period which is—

"(i) derived from sources within the United States, or

"(ii) effectively connected with the conduct of a trade or business within the United States.

"(B) EXCEPTION WHERE UNITED STATES-CONNECTED PERCENTAGE LESS THAN 10 PERCENT.—The United States-connected percentage shall be zero in any case in which the percentage determined under subparagraph (A) is less than 10 percent.

"(C) BASE PERIOD.—The term 'base period' has the meaning given such term by section 904(d)(3)(C)(ii).

"(D) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe regulations for the application of this paragraph in cases of distributions or payments made through 1 or more entities.

"(3) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' means any foreign corporation if 50 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).

"(4) DISTRIBUTION.—For purposes of this subsection, the term 'distribution' includes any amount required to be included in income under section 951.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to distributions and interest payments made by a United States-owned foreign corporation after the date of the enactment of this Act, in taxable years of such corporation ending after such date, to the extent attributable to income received or accrued by such corporation after such date.

(2) SPECIAL RULE FOR APPLICABLE CFC.—

(A) IN GENERAL.—In the case of qualified interest received or accrued by an applicable CFC before January 1, 1992—

(i) such interest shall not be treated as income described in clause (i) or (ii) of section 904(h)(2)(A) of the Internal Revenue Code of 1954 (as added by subsection (a)) for purposes of computing the United States-connected percentage, except that

(ii) clause (i) shall not apply for purposes of applying section 904(h)(2)(B) of such Code (relating to exception where United States-connected percentage is less than 10 percent).

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the term "qualified interest" means—

(i) the aggregate amount of interest received or accrued during any taxable year by an applicable CFC on United States affiliate obligations held by such applicable CFC, multiplied by,

(ii) a fraction (not in excess of 1)—

(I) the numerator of which is the sum of the aggregate principal amount of United States affiliate obligations held by the applicable CFC on March 31, 1984, but not in excess of the applicable limit, and

(II) the denominator of which is the average daily balance of United States affiliate obligations held by such applicable CFC during the taxable year.

(C) ADJUSTMENT FOR RETIREMENT OF CFC OBLIGATIONS.—The amount described in subparagraph (B)(ii)(I) for any taxable year shall be reduced by the sum of—

(i) the excess of (I) the aggregate principal amount of CFC obligations which are outstanding on March 31, 1984, but only with respect to obligations issued before March 8, 1984, or issued after March 7, 1984, by the applicable CFC pursuant to a binding commitment in effect on March 7, 1984, over (II) the average daily outstanding principal amount during the taxable year of the CFC obligations described in subclause (I), and

(ii) the portion of the equity of such applicable CFC allocable to the excess described in clause (i) (determined on the basis of the debt-equity ratio of such applicable CFC on March 31, 1984).

(D) APPLICABLE CFC.—For purposes of this paragraph, the term "applicable CFC" means any controlled foreign corporation (within the meaning of section 957)—

(i) which was in existence on March 31, 1984, and

(ii) substantially all the activities of which consist of the issuing of CFC obligations and lending the proceeds from the issuance of such bonds to affiliates.

(E) UNITED STATES AFFILIATE.—For purposes of this paragraph—

(i) IN GENERAL.—The term "United States affiliate" means any United States person which is an affiliate of the applicable CFC.

(ii) AFFILIATE.—The term "affiliate" means any person who is a related person (within the meaning of section 482 of the Internal Revenue Code of 1954) to the applicable CFC.

(F) UNITED STATES AFFILIATE OBLIGATIONS.—For purposes of this paragraph, the term "United States affiliate obligations" means any obligation of (and payable by) a United States affiliate.

(G) CFC OBLIGATION.—For purposes of this paragraph, the term "CFC obligation" means any obligation of (and issued by) a CFC and which is described in section 163(f)(2)(B) of the Internal Revenue Code of 1954 (without regard to clause (ii)(II) thereof).

(H) TREATMENT OF OBLIGATIONS WITH ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, in the case of any obligation with original issue discount, the issue price of such obligation shall be treated as its principal amount.

(I) APPLICABLE LIMIT.—For purposes of subparagraph (B)(ii)(I), the term "applicable limit" means the sum of—

(i) the equity of the applicable CFC on March 31, 1984, and

(ii) the aggregate principal amount of CFC obligations outstanding on March 31, 1984, which were issued by an applicable CFC—

(I) before March 8, 1984, or

(II) after March 7, 1984, pursuant to a binding commitment in effect on March 7, 1984.

(3) SPECIAL RULE FOR CERTAIN OBLIGATIONS HELD ON MARCH 7, 1984, BY CORPORATIONS OTHER THAN APPLICABLE CFC.—In the case of any foreign corporation which is not an applicable CFC (as defined in paragraph (2)), the amendments made by subsection (a) shall not apply to interest on any term obligation held by such corporation on March 7, 1984.

(4) DEFINITIONS.—Any term used in this subsection which is also used in section 904(h) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall have the meaning given such term by such section 904(h).

SEC. 129. CERTAIN DISTRIBUTIONS TREATED AS INTEREST FOR PURPOSES OF LIMITATION ON THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsection (d) of section 904 (relating to limitation on foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN DISTRIBUTIONS BY CORPORATIONS TREATED AS INTEREST.—

"(A) IN GENERAL.—Any distribution made by a corporation to which this paragraph applies out of that portion of the earnings and profits of such corporation which is attributable to interest described in paragraph (2) (including amounts treated as interest described in paragraph (2) by reason of this paragraph) shall be treated for purposes of this subsection as interest income described in paragraph (2).

"(B) CORPORATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any United States-owned foreign corporation (within the meaning of subsection (h)(3)), and

"(ii) any regulated investment company.

"(C) EXCEPTION FOR DISTRIBUTIONS BY CORPORATIONS HAVING SMALL PERCENTAGES OF INTEREST INCOME.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any distribution made by a corporation during a taxable year if less than 10 percent of the earnings and profits of such corporation for the base period with respect to such taxable year is attributable to interest income described in paragraph (2) (including amounts treated as interest described in paragraph (2) by reason of this paragraph).

"(ii) BASE PERIOD.—For purposes of clause (i), the term 'base period' means, with respect to any taxable year—

"(I) the period of 3 taxable years preceding such taxable year,

"(II) if a corporation has not been in existence during such 3-taxable year period, so much of such period as the corporation is in existence, or

"(III) if such taxable year is the first taxable year of existence, such taxable year.

"(D) DISTRIBUTION.—For purposes of this paragraph, the term 'distribution' includes any amount required to be included in income under section 951.

"(E) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe regulations for the application of this paragraph

in cases of distributions made through 1 or more entities.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions by a corporation to which section 904(d)(3) of the Internal Revenue Code of 1954 (as added by this section) applies which are made after the date of the enactment of this Act, in taxable years of such corporation ending after such date, to the extent attributable to interest income received or accrued by such corporation in taxable years beginning after such date.

(2) TERM OBLIGATIONS OF FOREIGN CORPORATIONS WHICH ARE NOT APPLICABLE CFC'S.—The amendment made by subsection (a) shall not apply to any distribution by a corporation to which section 904(d)(3) of the Internal Revenue Code of 1954 applies and which is not an applicable CFC (as defined in section 128(b)(2)) to the extent such distribution is attributable to interest on any term obligation held by such corporation on March 7, 1984.

(3) BASE PERIOD.—For purposes of computing any base period under section 904(d)(3)(C)(ii) of the Internal Revenue Code of 1954 (as added by this section) for purposes of applying the amendments made by this section, a corporation shall not be treated as being in existence for any taxable year beginning before the date of the enactment of this Act.

SEC. 130. TREATMENT OF CERTAIN DISTRIBUTIONS AND INTEREST RECEIVED BY UNITED STATES-OWNED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 535 (defining accumulated taxable income) is amended by adding at the end thereof the following new subsection:

"(d) UNITED STATES INCOME RETAINS SOURCE EVEN THOUGH DISTRIBUTED TO UNITED STATES-OWNED FOREIGN CORPORATION.—

"(1) IN GENERAL.—For purposes of this part, if more than 10 percent of the earnings and profits of any foreign corporation for any taxable year—

"(A) is derived from sources within the United States, or

"(B) is effectively connected with the conduct of a trade or business within the United States,

any distribution out of such earnings and profits (and any interest payment) received (directly or through 1 or more other entities) by a United States-owned foreign corporation out of such earnings and profits shall be treated as derived by such corporation from sources within the United States.

"(2) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' has the meaning given such term by section 904(h).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to distributions and interest received by a United States-owned foreign corporation on or after May 23, 1983, in taxable years ending on or after such date.

(2) CORPORATIONS IN EXISTENCE ON MAY 23, 1983.—In the case of a United States-owned foreign corporation in existence on May 23, 1983, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(3) DEFINITIONS.—For purposes of this subsection, the terms "distribution" and "United States-owned foreign corporation" have the respective meanings given such terms by section 904(h) of the Internal Revenue Code of 1954.

SEC. 131. AMENDMENTS RELATED TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) ATTRIBUTION FROM FAMILY MEMBERS AND PARTNERSHIPS.—Section 554 (relating to stock ownership) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES FOR APPLICATION OF SUBSECTION (A)(2).—For purposes of the stock ownership requirement provided in section 552(a)(2)—

"(1) stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through family membership as owned by a citizen or by a resident alien individual who is not the spouse of the nonresident individual, and

"(2) stock of a corporation owned by any foreign person shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in such corporation (determined after application of subsection (a) and paragraph (1), other than attribution through partners).".

(b) INCLUSION IN INCOME OF UNITED STATES PERSONS HOLDING INTEREST THROUGH FOREIGN ENTITY.—Section 551 (relating to foreign personal holding company income taxed to United States shareholders) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) STOCK HELD THROUGH FOREIGN ENTITY.—For purposes of this section, stock of a foreign personal holding company owned (directly or through the application of this subsection) by—

"(1) a partnership, estate, or trust which is not a United States shareholder, or

"(2) a foreign corporation which is not a foreign personal holding company,

shall be considered as being owned proportionately by its partners, beneficiaries, or shareholders. In any case to which the preceding sentence applies, the Secretary may by regulations provide for such adjustments in the application of this part as may be necessary to carry out the purposes of the preceding sentence.".

(c) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT FOR FOREIGN PERSONAL HOLDING COMPANY DETERMINATION.—

(1) IN GENERAL.—Paragraph (1) of section 553(a) (defining foreign personal holding income) is amended by inserting ", other than dividends and interest described in section 954(c)(4)(A)" after "annuities".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 552(a) (defining foreign personal holding company) is amended by striking out "; and" at the end thereof and inserting in lieu thereof a period and "For purposes of this paragraph, there shall not be included in gross income dividends and interest described in section 954(c)(4)(A).".

(d) COORDINATION OF SUBPART F WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—Subsection (d) of section 951 (relating to coordination with foreign personal holding company provisions) is amended to read as follows:

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholder), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after March 15, 1984.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act.

(3) 1-YEAR EXTENSION FOR CERTAIN TRUSTS CREATED BEFORE JUNE 30, 1953.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years of a foreign corporation beginning after December 31, 1984, with respect to stock of such corporation which is held (directly or indirectly, within the meaning of section 554) by a trust created before June 30, 1953, if—

(i) none of the beneficiaries of such trust was a citizen or resident of the United States at the time of its creation or within 5 years thereafter, and

(ii) such trust does not, after July 1, 1983, acquire (directly or indirectly) stock of any foreign personal holding company other than a company described in subparagraph (B).

(B) DESCRIPTION OF COMPANY.—A company is described in this subparagraph if—

(i) substantially all of the assets of such company are stock or assets previously held by such trust, or

(ii) such company ceases to be a foreign personal holding company before January 1, 1985.

PART II—FOREIGN INSURANCE

SEC. 135. PROVISIONS RELATING TO AMOUNT AND WITHHOLDING OF EXCISE TAXES ON POLICIES ISSUED BY FOREIGN INSURERS.

(a) UNIFORM RATE OF TAX ON INSURANCE AND REINSURANCE POLICIES.—Section 4371 (relating to excise tax on policies issued by foreign insurers) is amended to read as follows:

"SEC. 4371. IMPOSITION OF TAX.

"(a) IN GENERAL.—If any foreign insurer or reinsurer issues a policy of insurance, indemnity bond, annuity contract, or policy of reinsurance, there is hereby imposed on such policy, bond, contract, or policy of reinsurance a tax equal to—

"(1) in the case of—

"(A) a policy of casualty insurance or an indemnity bond which is issued to or for, or in the name of, an insured (within the meaning of section 4372(d)), or

"(B) a policy of reinsurance covering any such contract or bond,

4 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy, or bond, or on such policy of reinsurance; and

"(2) in the case of—

"(A) a policy of life, sickness, or accident insurance or an annuity contract, or

"(B) a policy of reinsurance covering any such policy or contract,

1 percent of the amount of the premium retained by the foreign issuer or reinsurer on such policy or contract, or on such policy of reinsurance.

No tax shall be imposed under paragraph (2) on any policy or contract with respect to

which the insurer is subject to tax under section 819.

"(b) AMOUNT OF PREMIUM RETAINED.—For purposes of subsection (a), the term 'amount of the premium retained' means, with respect to any policy, bond, or contract described in subsection (a), the excess of—

"(1) the gross premium (and other consideration) received by a foreign insurer, over

"(2) the premiums (and other consideration) paid by such insurer with respect to reinsurance ceded with respect to such policy, bond, or contract.".

(b) LIABILITY FOR TAX.—Section 4374 (relating to liability for tax) is amended—

(1) by striking out "or for whose use or benefit the same are made, signed, issued, or sold", and

(2) by striking out the last sentence.

(c) WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.—

(1) IN GENERAL.—Chapter 34 (relating to policies issued by foreign insurers) is amended by adding at the end thereof the following new section:

"SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.

"(a) IN GENERAL.—In any case in which—

"(1) a foreign insurer issues a contract to which this section applies, or

"(2) a foreign reinsurer issues a policy of reinsurance covering any contract to which this section applies,

the insured or any withholding agent shall deduct and withhold from the gross premium (and other consideration) paid an amount equal to the amount determined under subsection (b).

"(b) AMOUNT TO BE WITHHELD.—The amount to be deducted and withheld under subsection (a) shall be equal to—

"(1) in the case of any contract described in subsection (d)(1)(A) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 4 percent of the gross premium (and other consideration) paid, and

"(2) in the case of any contract described in subsection (d)(1)(B) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 1 percent of the gross premium (and other consideration) paid.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to any contract or policy of reinsurance—

"(1) the premium on which is exempt from tax under section 4373, or

"(2) with respect to which the Secretary by regulations provides for an exemption from the requirement to deduct and withhold under subsection (a).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRACT TO WHICH THIS SECTION APPLIES.—This section shall apply to any contract which—

"(A) is a policy of casualty insurance or an indemnity bond with respect to an insured, or

"(B) any policy of life, sickness, or accident insurance or an annuity contract (within the meaning of section 4372(e)) with respect to which the issuer is not subject to tax under section 819.

"(2) INSURED.—The term 'insured' has the meaning given such term by section 4372(d).

"(3) WITHHOLDING AGENT.—Except as provided in regulations prescribed by the Secretary, the term 'withholding agent' means, with respect to any premium paid by an insured to a foreign insurer or reinsurer (or to any nonresident agent, solicitor, or broker), the person who controls, receives, has custody of, disposes of, or pays such premium.

"(4) PROCEDURAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of subchapter C of chapter 3 shall apply to any amount required to be deducted and withheld under this subsection.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 34 is amended by adding at the end thereof the following new item:

"Sec. 4375. Withholding of excise tax on foreign insurers.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act.

SEC. 136. SERVICES RELATING TO INSURANCE POLICIES ARE TREATED AS PERFORMED IN COUNTRY OF RISK.

(a) IN GENERAL.—Subsection (e) of section 954 (defining foreign base company services income) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 267(b)) shall be treated as having been performed in the country within which the insured hazards, risks, losses, or liabilities occur, and except as provided in regulations prescribed by the Secretary, rules similar to the rules of section 953(e) shall be applied in determining the income from such services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act.

PART III—WITHHOLDING OF CERTAIN FOREIGN TAXES

SEC. 141. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS BY CERTAIN FOREIGN PERSONS REQUIRED.

(a) WITHHOLDING OF TAX.—

(1) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1445. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any acquisition of a United States real property interest (as defined in section 897(c)) from a foreign person, the transferee, any transferee's agent, or any settlement officer shall be required to deduct and withhold a tax equal to whichever of the following is the smallest:

"(1)(A) in the case of a corporate transferor, 28 percent of the amount realized on the disposition, or

"(B) in the case of a transferor who is an individual, partnership, estate, or trust, 20 percent of the amount realized on the disposition,

"(2) the portion of the transferee's consideration (as defined in subsection (h)(4)) which is at any time within the withholding agent's custody or control, or

"(3) if there is a transferor's maximum tax liability (as defined in subsection (h)(5)), the amount of such liability.

"(b) TRANSFEREE OR SETTLEMENT OFFICER MUST KNOW OR HAVE NOTICE THAT TRANSFEROR WAS A FOREIGN PERSON.—

"(1) IN GENERAL.—The transferee, any transferee's agent, or any settlement officer shall not be required to deduct and withhold a tax under subsection (a) with respect to any acquisition unless the transferee, transferee's agent, or the settlement officer—

"(A) knows that the transferor is a foreign person, or

"(B) has received a notice provided for in subsection (c).

"(2) TIME FOR APPLYING PARAGRAPH (1).—Paragraph (1) shall be applied immediately before each payment of the consideration with respect to the acquisition of the United States real property interest.

"(c) REQUIREMENTS TO FURNISH NOTICE.—

"(1) TRANSFEROR MUST FURNISH NOTICE TO TRANSFEREE AND TO SETTLEMENT OFFICER.—If the transferor is a foreign person, he shall so notify the transferee, any agent of the transferee, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(2) TRANSFEROR'S AGENT.—

"(A) IN GENERAL.—

"(i) TRANSFEROR'S AGENT TO FURNISH NOTICE.—If any transferor's agent has at any time before the time specified in subsection (b)(2) reason to believe that the transferor may be a foreign person, he shall so notify the transferee, any transferee's agent, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(ii) REQUIREMENT OF REASONABLE INQUIRY.—For purposes of this subsection, a transferor's agent who fails to make reasonable inquiry into whether the transferor is a foreign person shall be treated as having reason to believe that the transferor may be a foreign person.

"(iii) TRANSFEROR'S AGENT MAY RELY IN GOOD FAITH ON TRANSFEROR'S WRITTEN STATEMENT.—A transferor's agent will not be treated as having reason to believe that a transferor may be a foreign person if the transferor's agent relies in good faith on a written statement of the transferor (or, in the case of a transferor's agent retained by another agent of the transferor, a written statement by such other transferor's agent) that the transferor is a United States person.

"(B) ONLY 1 NOTICE TO EACH PERSON.—Under regulations, the requirements of paragraph (1) and of subparagraph (A) of this paragraph shall be treated as met with respect to the transferee, any transferee's agent, and any settlement officer if at least 1 notice which meets the requirements of paragraph (1) or such subparagraph (A) is furnished to such transferee, transferee's agent, and settlement officer.

"(C) TRANSFEROR'S AGENT.—Except as provided in subparagraph (D), for purposes of this subsection, the term 'transferor's agent' means any person who represents the transferor (or another agent of the transferor)—

"(i) in any negotiation with the transferee or any transferee's agent relating to the transaction, or

"(ii) in settling the transaction.

A person will be considered to represent the transferor (or another agent of the transferor) if such person retains another person to represent the transferor (or such other agent) in any negotiations with the transferee or transferee's agent relating to the transaction or in settling the transaction.

"(D) SETTLEMENT OFFICER NOT TREATED AS TRANSFEROR'S AGENT.—For purposes of this paragraph, a person shall not be treated as a transferor's agent with respect to any transaction merely because such person performs 1 or more of the following acts:

"(i) the receipt and the disbursement of any portion of the consideration for the transaction, or

"(ii) the recording of any document in connection with the transaction.

"(3) FAILURE TO FURNISH NOTICE.—

"(A) DUTY TO WITHHOLD.—If any transferor's agent—

"(i) is required by paragraph (2) to furnish notice, but

"(ii) fails to notify the transferee and the transferee's agent and the settlement officer at such time or times and in such manner as may be prescribed by regulations,

such agent shall have the same duty to deduct and withhold (with respect to the transferee's consideration within the transferor's agent's custody and control) that the transferee would have if the transferor's agent had complied with paragraph (2).

"(B) TREATMENT OF COMPENSATION.—In any case to which subparagraph (A) applies, the transferee's consideration shall be treated as including the compensation received by the transferor's agent in connection with the transaction.

"(d) EXEMPTIONS.—

"(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a transaction if paragraph (2), (3), or (4) applies to the transaction.

"(2) TRANSFEROR FURNISHES QUALIFYING STATEMENT.—

"(A) IN GENERAL.—This paragraph applies to the transaction if the transferor (at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe) furnishes a qualifying statement to the person who (but for this paragraph) would be required to withhold.

"(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the transferor either—

"(I) has reached agreement with the Secretary for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) or any gain recognized by the transferor on the disposition of the United States real property interest, or

"(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of United States real property interest, and

"(ii) the transferor has satisfied any transferor's unsatisfied withholding liability or has provided adequate security to cover such liability.

"(3) PRINCIPAL RESIDENCE WHERE AMOUNT REALIZED IS NOT MORE THAN $200,000.—This paragraph applies to the transaction if—

"(A) the amount realized by the transferor does not exceed $200,000, and

"(B) the property is acquired by the transferee for use as his principal residence.

"(4) STOCK TRANSFERRED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies to a disposition of stock in a corporation if the transaction takes place on an established United States securities market.

"(e) ADJUSTMENTS IN AMOUNT REQUIRED TO BE WITHHELD.—

"(1) CANNOT EXCEED TRANSFEROR'S MAXIMUM TAX LIABILITY.—

"(A) REQUEST.—At the request of the transferor or of any withholding agent, the Secretary shall establish, with respect to any disposition, the transferor's maximum tax liability.

"(B) LIMIT ON WITHHOLDING REQUIREMENT.—The amount required to be withheld under subsection (a) with respect to any disposition shall not exceed the amount (if any) established with respect to such disposition under subparagraph (A).

"(2) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT.—At the request of the transferor or of any withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by this section or section 871(b)(1) or 882(a)(1).

"(3) PROCEDURAL RULES.—

"(A) REGULATIONS.—Requests for—

"(i) qualifying statements under subsection (d)(2),

"(ii) determinations of transferor's maximum tax liability under paragraph (1) of this subsection, and

"(iii) reductions under paragraph (2) of this subsection in the amount required to be withheld,

shall be made at the time and manner, and shall include such information as the Secretary shall prescribe in regulations.

"(B) REQUESTS TO BE HANDLED WITHIN 30 DAYS.—The Secretary shall take action with respect to any request described in subparagraph (A) within 30 days after the Secretary receives the request.

"(f) RULES RELATING TO CERTAIN PARTNERSHIPS, TRUSTS, AND ESTATES.—Pursuant to such terms and conditions as may be provided by regulations, a domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required under subsection (a) to deduct and withhold tax from amounts of which such partnership, trustee, or executor has custody which are—

"(1) attributable to the disposition of a United States real property interest (as defined in section 897(c)(1)), and

"(2) either—

"(A) includible in the distributive share of a partner of the partnership who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate;

"(B) includible in the income of a beneficiary of the trust or estate who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate; or

"(C) includible in the income of a nonresident alien individual, foreign corporation, partnership, trust, or estate under the provisions of section 671.

"(g) WITHHOLDING TO BE REQUIRED FOR DISTRIBUTIONS BY FOREIGN CORPORATIONS IN THE CASE OF CERTAIN OTHER TRANSACTIONS.—Except as otherwise provided in this section, in the case of any transaction involving a United States real property interest on which gain is recognized under section 897 (d) or (e), a corporation shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of an amount equal to the fair market value of such interest (as of the time of the transaction) reduced by its adjusted basis.

"(h) DEFINITIONS.—For purposes of this section—

"(1) TRANSFEROR.—The term 'transferor' means the person disposing of the United States real property interest.

"(2) TRANSFEREE.—The term 'transferee' means the person acquiring the United States real property interest.

"(3) SETTLEMENT OFFICER.—The term 'settlement officer' means the person who, in connection with the settlement, receives and disburses any portion of the consideration for the transaction.

"(4) TRANSFEREE'S CONSIDERATION.—

"(A) IN GENERAL.—The term 'transferee's consideration' means the cash and the fair market value of the other property which is consideration in connection with the transaction.

"(B) INDEBTEDNESS.—Except to the extent provided in regulations, if—

"(i) the transferee assumes indebtedness of the transferor or indebtedness to which the property is subject, or the transferee acquires the property subject to an indebtedness, and

"(ii) such indebtedness was incurred within 2 years of the transaction,

then, for purposes of applying subsection (a)(2) with respect to the transferee, the transferee's consideration shall include the amount of such indebtedness and the amount of such indebtedness shall be deemed to be within the withholding agent's custody or control.

"(5) TRANSFEROR'S MAXIMUM TAX LIABILITY.—The term 'transferor's maximum tax liability' means, with respect to the disposition of any interest, the maximum amount which the Secretary determines the transferor could owe—

"(A) as tax under section 871(b)(1) or 882(a)(1) by reason of such disposition, plus

"(B) the transferor's unsatisfied withholding liability with respect to such interest.

"(6) TRANSFEROR'S UNSATISFIED WITHHOLDING LIABILITY.—The term 'transferor's unsatisfied withholding liability' means the withholding obligation imposed under this section on the transferor's acquisition of the United States real property interest or on the acquisition of a predecessor interest, to the extent such obligation has not been satisfied.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1445. Withholding of tax on dispositions of United States real property interests.".

(b) DISCRETION TO CURTAIL REPORTING WHERE WITHHOLDING REQUIRED.—Subsection (e)(2) of section 6039C (relating to returns with respect to United States real property interests) is amended to read as follows:

"(2) RETURNS, ETC.—

"(A) GENERAL RULE.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe.

"(B) CASES IN WHICH WITHHOLDING IS REQUIRED.—Except when required by the Secretary, the returns, statements, and information otherwise required to be made or furnished under this section shall not be required if a transferee, a transferee's agent, or any other person is required under section 1445 to deduct and withhold tax on the acquisition of the property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any payment of consideration with respect to the acquisition of a United States real property interest made more than 30 days after the date of the enactment of this Act.

SEC. 142. REPEAL OF THE 30 PERCENT TAX ON INTEREST RECEIVED BY FOREIGNERS ON CERTAIN PORTFOLIO INVESTMENTS.

(a) REPEAL OF TAX ON NONRESIDENT INDIVIDUALS.—

(1) IN GENERAL.—Section 871 (relating to 30 percent tax on income not connected with United States business), as amended by this Act, is amended by redesignating subsection

(i) as subsection (j) and by adding at the end thereof the following new subsection:

"(i) PHASE-OUT OF TAX ON INTEREST OF NONRESIDENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a nonresident individual from sources within the United States, paragraph (1)(A) or (1)(C) of subsection (a) shall be applied by substituting the applicable percentage for '30 percent'.

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of portfolio interest received:	The applicable percentage is:
After the date of enactment of this subsection and before January 1, 1985	5 percent.
During 1985	4 percent.
During 1986	3 percent.
During 1987	2 percent.
After December 31, 1987 and before July 1, 1988	1 percent.
After June 30, 1988	zero.

"(3) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which—

"(i) is not in registered form, and

"(ii) is described in section 163(f)(2)(B).

"(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the United States person who is, or would otherwise be, required to deduct and withhold tax from such interest under section 1441(a) has received a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person.

"(C) CERTAIN ASSUMED OBLIGATIONS.—Interest which is paid on an obligation which resulted from the assumption after the date of enactment of this subsection by a domestic corporation of an obligation—

"(i) which was issued on or before such date,

"(ii) which was guaranteed by a domestic corporation at the time of its issuance,

"(iii) which was issued pursuant to arrangements described in section 163(f)(2)(B)(i), and

"(iv) with respect to which the domestic corporation meets, under regulations prescribed by the Secretary, reporting and similar requirements of this title which would be imposed on the person from whom such obligation was assumed.

"(4) PORTFOLIO INTEREST NOT TO INCLUDE INTEREST RECEIVED BY 10-PERCENT SHAREHOLDERS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'portfolio interest' shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

"(B) 10-PERCENT SHAREHOLDER.—The term '10-percent shareholder' means—

"(i) in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

"(C) ATTRIBUTION RULES.—For purposes of determining ownership of stock under subparagraph (B)(i), the rules of section 318(a) shall apply, except that—

"(i) section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation therein, and

"(ii) any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

"(5) CERTAIN STATEMENTS.—A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by—

"(A) the beneficial owner of such obligation, or

"(B) a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

"(6) SECRETARY MAY PROVIDE SUBSECTION NOT TO APPLY IN CASES OF INADEQUATE INFORMATION EXCHANGE.—

"(A) IN GENERAL.—If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period—

"(i) beginning on the date specified by the Secretary, and

"(ii) ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax by United States persons.

"(B) EXCEPTION FOR CERTAIN OBLIGATIONS.—Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary's determination under such subparagraph.

"(7) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the same meaning given such term by section 163(f).".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 871(a) (relating to tax on income other than capital gains) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (g), there".

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 881 (relating to tax on income of foreign corporations not connected with United States business), as amended by this Act, is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) PHASE-OUT OF TAX ON INTEREST OF FOREIGN CORPORATIONS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a foreign corporation from sources within the United States, paragraph (1) of subsection (a) shall be applied by substituting the applicable percentage (within the meaning of section 871(g)(2)) for '30 percent'.

"(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which is described in section 871(g)(3)(A).

"(B) CERTAIN ASSUMED OBLIGATIONS.—Interest which is paid on an obligation which is described in section 871(g)(3)(C).

"(C) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the person who is, or would otherwise be, required to deduct and withhold tax from such interest under section 1442(a) has received a statement which meets the requirements of section 871(g)(5) that the beneficial owner of the obligation is not a United States person.

"(3) PORTFOLIO INTEREST SHALL NOT INCLUDE INTEREST RECEIVED BY CERTAIN PERSONS.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest described in subparagraph (A) or (C) of paragraph (2) which—

"(A) is received by a controlled foreign corporation (within the meaning of section 957(a)),

"(B) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business, or

"(C) is received by a 10-percent shareholder (within the meaning of section 871(g)(4)(B)).

"(4) SECRETARY MAY CEASE APPLICATION OF THIS SUBSECTION.—Under rules similar to the rules of section 871(g)(6), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(g)(6).

"(5) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the meaning given such term by section 163(f).".

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 881 (relating to imposition of tax) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (c), there".

(c) AMENDMENT OF SECTION 864(c)(2).—Paragraph (2) of section 864(c) (relating to effectively connected income, etc.) is amended by striking out "section 871(a)(1) or section 881(a)" and inserting in lieu thereof "section 871(a)(1), section 871(g), section 881(a), or section 881(c)".

(d) AMENDMENT OF SECTION 2105.—Subsection (b) of section 2105 (relating to property without the United States) is amended to read as follows:

"(b) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.—For purposes of this subchapter—

"(1) amounts described in section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States were

such interest received by the decedent at the time of his death,

"(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business, and

"(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(g)(5) has been received, any interest thereon would be eligible for the phase-out of tax under section 871(g)(1) were such interest received by the decedent at the time of his death,

shall not be deemed property within the United States.".

(e) WITHHOLDING.—

(1) NONRESIDENT ALIENS.—Subsection (c) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new paragraph:

"(9) INTEREST INCOME FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—In the case of portfolio interest (within the meaning of 871(g)(3)), the amount of tax required to be deducted and withheld from such interest shall be reduced as provided in section 871(g)(1) unless the person required to deduct and withhold tax from such interest knows, or has reason to know, that such interest is not portfolio interest by reason of section 871(g)(4).".

(2) FOREIGN CORPORATIONS.—The last sentence of section 1442(a) is amended—

(A) by striking out "and" after "section 881(a)(4),", and

(B) by inserting ", and the references in section 1441(c)(9) to section 871(g)(1) and 871(g)(4) shall be treated as referring to sections 881(c)(1) and 881(c)(3)".

(f) EFFECTIVE DATES.—

(1) The amendments made by this section (other than subsection (d)) shall apply to portfolio interest received after the date of the enactment of this Act, in taxable years ending after such date.

(2) The amendment made by subsection (d) shall apply to the estates of decedents dying after the date of enactment of this section.

Subtitle K—Reporting, Penalty, and Other Provisions

SEC. 145. ORGANIZERS AND SELLERS OF INVESTMENT PLANS, ETC., MUST KEEP LISTS OF INVESTORS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6111 as section 6112 and by inserting after section 6110 the following new section:

"SEC. 6111. ORGANIZERS AND SELLERS OF INVESTMENT PLANS, ETC. MUST KEEP LISTS OF INVESTORS.

"(a) IN GENERAL.—Any person—

"(1) who—

"(A) organizes, or engages in the operation of, any entity, investment plan or arrangement, or other plan or arrangement described in section 6700(a)(1)(A), or

"(B) sells any interest in an entity, investment plan, or arrangement described in subparagraph (A), and

"(2) who makes or furnishes (in connection with such organization or sale) a statement with respect to—

"(A) the allowance of any deduction or credit,

"(B) the exclusion of any income, or

"(C) the securing of any other tax benefit,

by reason of holding an interest in the entity or participating in the plan or arrangement,

shall maintain a list of each person who was sold an interest in such entity, plan, or arrangement.

"(b) FORM OF LIST.—Any list required under subsection (a)—

"(1) shall be maintained separately for each entity, plan, or arrangement, and

"(2) shall include—

"(A) the name, address, and TIN of each person to whom an interest in the entity, plan, or arrangement was sold, and

"(B) such other information as the Secretary may by regulations prescribe.

"(c) SPECIAL RULES.—

"(1) EXCEPTIONS.—Subsection (a) shall not apply to—

"(A) any organization of, or sale of an interest in, a partnership or S corporation, or

"(B) any person whom the Secretary determines is otherwise required to maintain the information described in subsection (b)(2).

"(2) AVAILABILITY FOR INSPECTION; RETENTION OF INFORMATION ON LIST.—Any person who is required to maintain a list under subsection (a)—

"(A) shall make such list available for inspection upon request by the Secretary, and

"(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

"(3) LISTS WHICH WOULD BE REQUIRED TO BE MAINTAINED BY 2 OR MORE PERSONS.—The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list, the maintenance of such list by one of such persons shall be treated as the maintenance of such list by the other person.".

(b) PENALTY FOR FAILURE TO MAINTAIN LIST.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. FAILURE TO MAINTAIN LISTS OF INVESTORS.

"(a) IN GENERAL.—Any person who is required to maintain a list under section 6111 with respect to any person who was sold an interest in an entity, plan, or arrangement described in section 6111(a)(1) shall pay a penalty of $50 for a failure to include such person on such list, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6111 and inserting in lieu thereof the following new items:

"Sec. 6111. Organizers and sellers of investment plans, etc. must keep lists of investors.

"Sec. 6112. Cross reference.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Failure to maintain lists of investors.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and organizations made after December 31, 1984.

SEC. 146. REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6112 as section 6113 and by inserting after section 6111 the following new section:

"SEC. 6112. REGISTRATION OF TAX SHELTERS.

"(a) REGISTRATION.—

"(1) IN GENERAL.—Any person who organizes a tax shelter shall register such tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) by the earlier of—

"(A) the day which is 15 days after the date such tax shelter is first offered for sale, or

"(B) December 31 of the calendar year in which such tax shelter is first offered for sale.

"(2) INFORMATION INCLUDED IN REGISTRATION.—Any person registering a tax shelter under subsection (a) shall provide the Secretary with—

"(A) information identifying and describing the tax shelter,

"(B) information describing the potential tax benefits of the tax shelter to investors, and

"(C) such other information as the Secretary may prescribe.

"(b) FURNISHING OF TAX SHELTER IDENTIFICATION NUMBER.—

"(1) PROMOTERS.—Any person who sells an interest in a tax shelter shall (at such times as the Secretary shall prescribe) furnish to each investor who purchases an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter. Such identification number shall be furnished by such person to such other persons under such other circumstances as the Secretary may prescribe by regulations.

"(2) INVESTORS.—Any investor in a tax shelter shall furnish the identification number assigned by the Secretary to such tax shelter to such persons under such circumstances as the Secretary may prescribe by regulations.

"(c) TAX SHELTER.—For purposes of this section.—

"(1) IN GENERAL.—The term 'tax shelter' means any investment—

"(A) with respect to which representations are made in connection with the offering of that investment that the investment will result, for any of the taxable years ending within the 5-year period that begins on the date the investment is made, in—

"(i) deductions in excess of the income attributable to the investment, or

"(ii) credits against tax in excess of 50 percent of the income attributable to the investment, and

"(B) which—

"(i) is required to be registered under a Federal or State law regulating securities, or

"(ii) is offered to sophisticated investors.

"(2) SOPHISTICATED INVESTORS.—An investment is offered to sophisticated investors if the aggregate amount invested exceeds $200,000 and such aggregate investment is made by 10 or more investors.

"(d) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments for purposes of applying subsection (c), and

"(2) exemptions from the requirements of this section.".

(b) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING TAX SHELTERS.

"(a) FAILURE TO REGISTER TAX SHELTER.—

"(1) IMPOSITION OF PENALTY.—If a person who is required to register a tax shelter under section 6112(a)—

"(A) fails to register such tax shelter on or before the date described in section 6112(a)(1), or

"(B) files false or incomplete information with the Secretary with respect to such registration,

such person shall pay a penalty with respect to such registration.

"(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any registration of a tax shelter shall be an amount equal to the sum of—

"(A) $500, plus

"(B) 1 percent of the portion of the aggregate amount invested in such tax shelter that exceeds $1,000,000.

"(b) FAILURE TO FURNISH TAX SHELTER IDENTIFICATION NUMBER.—

"(1) PROMOTERS.—Any person who fails to furnish the identification number of a tax shelter to a person who is required to be furnished with such number under section 6112(b)(1) shall pay a penalty of $100 for each such failure.

"(2) INVESTORS.—Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6112(b)(2) shall pay a penalty of $50 for each of such failures, unless such failure is due to reasonable cause.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6112 and inserting in lieu thereof the following new items:

"Sec. 6112. Registration of tax shelters.

"Sec. 6113. Cross references.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6707. Failure to furnish information regarding tax shelters.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1984, with respect to interests sold on or after such date. The Secretary may by regulations delay the date on which such amendments take effect.

SEC. 147. RETURNS RELATING TO CASH AND MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050H. RETURNS RELATING TO RECEIPT OF CASH OR MORTGAGE INTEREST IN TRADE OR BUSINESS.

"(a) CASH RECEIPTS OF $10,000 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives $10,000 or more in cash or foreign currency in 1 transaction (or 2 or more related transactions),

shall make the return described in subsection (c) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

"(b) MORTGAGE INTEREST OF $2,300 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any other person interest (including amounts treated as interest under section 483)—

"(A) on 1 or more obligations which are secured by the same real property, and

"(B) which is in excess of $2,300 for any calendar year,

shall make the return described in subsection (c) with respect to each person from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the person from whom the cash or interest was received,

"(B) the amount of cash or interest received,

"(C) in the case of a return under subsection (a), the date and nature of the transaction, and

"(D) such other information as the Secretary may prescribe.

"(d) EXCEPTION WHERE CASH RECEIVED IS OTHERWISE REQUIRED TO BE REPORTED.—Subsection (a) shall not apply to any transaction which is required to be reported under subchapter II of chapter 53 of title 31, United States Code.

"(e) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of subsection (b)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (b) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (b) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) or (b) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of cash or interest received by the person making such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) or (b) was made.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (iii),

(B) by inserting "or" at the end of clause (iv), and

(C) by inserting after clause (iv) the following new clause:

"(v) subsection (a) or (b) of section 6050H (relating to cash and mortgage interest received in trade or business),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by inserting "or subsection (a) or (b) of section 6050H" after "section 6041A(b)".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6052(b)" and inserting in lieu thereof "6052(b), or 6050H(f)", and

(B) by striking out "or 6052(a)" and inserting in lieu thereof "6052(a), or 6050H (a) or (b)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050H. Returns relating to receipt of cash as mortgage interest in trade or business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1984.

SEC. 148. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other people) is amended by adding at the end thereof the following new section:

"SEC. 6050I. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

"(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness,

"(2) determines that property in which such person has a security interest has been abandoned, or

"(3) after, or in connection with, such acquisition or abandonment, is allowed a deduction under section 166 (or is allowed any addition to a reserve for bad debts) with respect to such indebtedness,

shall make a return described in subsection (b) with respect to each of such acquisitions, abandonments, or allowances of deduction (or addition to reserve) at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURN.—The return required under subsection (a) with respect to any acquisition or abandonment of property or allowance of deduction (or addition to reserve), as the case may be, shall—

"(1) be in such form as the Secretary may prescribe,

"(2) contain—

"(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured or for which such deduction (or addition to reserve) was allowed,

"(B) a general description of the nature of such property and such indebtedness,

"(C) in the case of a return required under subsection (a)(1)—

"(i) the amount of such indebtedness at the time of such acquisition, and

"(ii) the manner in which such property was acquired,

"(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment,

"(E) in the case of a return required under subsection (a)(3), the amount of such deduction (or addition to reserve) allowed, and

"(F) such other information as the Secretary may prescribe.

"(c) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name and address of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(e) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) (as amended by section 147 of this Act) is further amended—

(A) by striking out "or" at the end of clause (iv),

(B) by adding "or" at the end of clause (v), and

(C) by inserting after clause (v) the following new clause:

"(vi) section 6050I (relating to foreclosures),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out "or subsection (a) or (b) of section 6050H" and inserting in lieu thereof ", subsection (a) or (b) of section 6050H, or section 6050I".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050H(f)" and inserting in lieu thereof "6050H(f), or 6050I(d)", and

(B) by striking out "or 6050H (a) or (b)" and inserting in lieu thereof "6050H (a) or (b), or 6050I(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050I. Returns relating to foreclosures and abandonments of security.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acquisitions of property and determinations of abandonment of property made after December 31, 1984, and with respect to deductions (or additions to reserves) allowed after such date.

SEC. 149. INCREASE IN PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Subsection (a) of section 6700 (relating to promotion of abusive tax shelters) is amended by striking out "$1,000 or 10 percent" and inserting in lieu thereof "$2,000 or 20 percent".

(b) CLARIFICATION OF PENALTY.—Paragraph (2) of section 6700(a) (relating to abusive tax shelters) is amended by striking out "sale)" and inserting in lieu thereof "sale or incidental to the activity of such entity, plan, or arrangement)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to actions occurring after the date of enactment of this Act.

SEC. 150. INCREASED RATE OF INTEREST FOR TAX SHELTER CASES.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end thereof the following new subsection:

"(d) INTEREST ON TAX SHELTER DEFICIENCIES AND OVERPAYMENTS.—

"(1) IN GENERAL.—In the case of interest payable under section 6601 or 6611 with respect to any tax shelter deficiency or overpayment, the annual rate of interest established under this section shall be 150 percent of the adjusted rate established under subsection (b).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) TAX SHELTER DEFICIENCY OR OVERPAYMENT.—The term 'tax shelter deficiency or overpayment' means any portion of a deficiency or overpayment which is attributable to any qualified tax shelter.

"(B) QUALIFIED TAX SHELTER.—The term 'qualified tax shelter' means any tax shelter (within the meaning of section 6661(b)(2)(C)(ii)) in which more than 34 persons participate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to interest accruing after December 31, 1984.

SEC. 151. AUTHORIZATION TO DISREGARD APPRAISALS OF PERSONS PENALIZED FOR AIDING IN UNDERSTATEMENTS OF TAX LIABILITY.

(a) IN GENERAL.—Section 330 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may—

"(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

"(2) bar such appraiser from presenting evidence or testimony in any such proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 152. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) CLARIFICATION THAT REGULATIONS MAY REQUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRIBUTIONS RELATE.—Subsection (i) of section 408 (relating to individual retirement accounts) is amended by inserting "(and the years to which they relate)" after "contributions".

(b) INCREASE IN PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts and annuities) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) CONTRIBUTIONS REQUIRED TO BE MADE ON OR BEFORE UNEXTENDED RETURN FILING DATE.—Subparagraph (A) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out "including" and inserting in lieu thereof "not including".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions made after the date which is 30 days after the date of enactment of this Act for taxable years beginning after December 31, 1983.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to failures occurring after the date of the enactment of this Act.

SEC. 153. STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(d) STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.—If any broker—

"(1) transfers securities of a customer for use in a short sale or similar transaction, and

"(2) receives (on behalf of the customer) a payment in lieu of—

"(A) a dividend,

"(B) tax-exempt interest, or

"(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open,

the broker shall furnish such customer a written statement (at such time and in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received after December 31, 1984.

SEC. 154. MODIFICATIONS TO CHARITABLE CONTRIBUTION RULES AND INCORRECT VALUATION PENALTY.

(a) SUBSTANTIATION OF CONTRIBUTIONS OF PROPERTY.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and inserting after subsection (i) the following new subsection:

"(j) FURTHER SUBSTANTIATION OF CERTAIN CONTRIBUTIONS OF PROPERTY REQUIRED.—

"(1) GENERAL RULE.—For each item of property described in subparagraph (A) or (B), a qualified appraisal shall be obtained and an appraisal summary shall be attached to any return on which a deduction under this section is first claimed by any individual, closely held corporation, or personal service corporation, for the contribution of property (other than publicly traded securities) if—

"(A) the claimed value of such property exceeds $2,000 for any single item of such property or set of similar items donated to a donee, or

"(B) the claimed value of all items of such property not described in subparagraph (A)

donated to one or more donees exceeds in the aggregate $5,000.

Such return also shall include such additional information, including the cost basis and the acquisition date of each item of such property, as the Secretary prescribes by regulations. The qualified appraisal shall be retained by the taxpayer.

"(2) APPRAISAL SUMMARY.—For purposes of this subsection, the appraisal summary shall be in such form and include such information as the Secretary prescribes by regulations. Such summary shall be signed by the qualified appraiser preparing the qualified appraisal and shall contain the TIN of such appraiser.

"(3) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means an appraisal prepared by a qualified appraiser which includes—

"(A) a description of the property appraised,

"(B) the fair market value of such property on the date of contribution and the specific basis for the valuation,

"(C) a statement that such appraisal was prepared for income tax purposes,

"(D) the qualifications of the qualified appraiser, and

"(E) the signature and TIN of such appraiser.

"(4) QUALIFIED APPRAISER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified appraiser' means an appraiser qualified to make appraisals of the type of property donated, who is not—

"(i) the taxpayer,

"(ii) a party to the transaction in which the taxpayer acquired the property,

"(iii) the donee, or

"(iv) any person employed by any of the foregoing persons or related to any of the foregoing persons under section 267(b).

"(B) APPRAISAL FEES.—For purposes of paragraph (3), an appraisal shall not be treated as a qualified appraisal if all or part of the fee paid for such appraisal is based on a percentage of the appraised value of the property. The preceding sentence shall not apply to fees based on a sliding scale that are paid to a generally recognized association regulating appraisers.

"(5) DISALLOWANCE OF DEDUCTION FOR FAILURE TO SUBSTANTIATE.—

"(A) GENERAL RULE.—If a taxpayer fails to comply with the requirements of this subsection, an amount equal to the greater of—

"(i) the amount of the otherwise allowable deduction in excess of the basis of the property contributed, or

"(ii) 10 percent of the amount of the otherwise allowable deduction,

shall be disallowed.

"(B) WAIVER OF DISALLOWANCE.—The Secretary in his discretion may waive all or any part of the disallowance under subparagraph (A) on a showing by the taxpayer that there was reasonable cause for the failure to meet any or all of the requirements of this subsection.

"(6) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) CLOSELY HELD CORPORATION.—The term 'closely held corporation' means any corporation (other than an S corporation) with respect to which the stock ownership requirement of paragraph (2) of section 542(a) is met.

"(B) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' means any corporation (other than an S corporation) which is a service organization (within the meaning of section 414(m)(3)).

"(C) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.".

(b) DISALLOWANCE OF CHARITABLE DEDUCTIONS.—Section 170 (relating to charitable, etc., contributions and gifts) (as amended by subsection (a) of this section) is further amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION IN THE CASE OF VALUATION OVERSTATEMENTS.—

"(1) IN GENERAL.—If the claimed value of property (described in subparagraph (A) or (B) of section 170(j)(1)) with respect to which a charitable contribution deduction is taken is 150 percent or more of the amount determined to be the correct value of such property, the deduction shall be disallowed according to the following table:

"If the claimed value is the following percent of the correct value—	The resulting disallowance equals:
150 percent or more but less than 175 percent.	1/2 of the amount of the otherwise allowable deduction in excess of basis.
175 percent or more but less than 200 percent.	The amount of the otherwise allowable deduction in excess of basis.
200 percent or more	The amount of the otherwise allowable deduction.

"(2) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—The disallowance imposed in paragraph (1) shall apply regardless of the assessment of the penalty imposed by section 6659.".

(c) MODIFICATION OF PRESENT INCORRECT VALUATION PENALTY.—

(1) EXTENSION OF PENALTY TO INCORRECT ESTATE AND GIFT TAX VALUATIONS.—

(A) IN GENERAL.—Subsection (a) of section 6659 (relating to addition to tax in the case of valuation overstatements for purposes of the income tax) is amended—

(i) by inserting "or estate" after "individual" in paragraph (1), and

(ii) by striking out "chapter 1 for the taxable year" and inserting in lieu thereof "chapter 1, 11, or 12".

(B) CONFORMING AMENDMENT.—Subsection (d) of section 6659 (relating to underpayment must be at least $1,000) is amended by striking out "for the taxable year".

(2) PENALTY FOR VALUATION UNDERSTATEMENT.—

(A) IN GENERAL.—Subsection (c) of section 6659 is amended by inserting "or a valuation understatement" after "valuation overstatement".

(B) APPLICABLE PERCENTAGE DEFINED.—Subsection (b) of section 6659 (defining applicable percentage) is amended—

(i) by striking out all matter before the table in the first sentence and inserting in lieu thereof the following:

"(1) VALUATION OVERSTATEMENT.—For purposes of subsection (a), in the case of a valuation overstatement, the applicable percentage shall be determined under the following table:", and

(ii) by adding at the end thereof the following new paragraph:

"(2) VALUATION UNDERSTATEMENT.—For purposes of subsection (a), in the case of a valuation understatement, the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
50 percent or more but not more than 66⅔ percent.....	10
40 percent or more but less than 50 percent.....	20
Less than 40 percent.....	30.".

(C) CONFORMING AMENDMENT.—Subsection (d) of section 6659 is amended by inserting "or understatements" after "overstatements".

(3) VALUATION OVERSTATEMENT AND UNDERSTATEMENT DEFINED.—Subsection (c) of section 6659 (defining valuation overstatement) is amended to read as follows:

"(c) VALUATION OVERSTATEMENT AND VALUATION UNDERSTATEMENT DEFINED.—

"(1) VALUATION OVERSTATEMENT.—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), and

"(2) VALUATION UNDERSTATEMENT.—For purposes of this section, there is a valuation understatement if the value of any property claimed on any return is 66⅔ percent or less of the amount determined to be the correct amount of such valuation.".

(4) TECHNICAL AMENDMENT.—Paragraph (2) of section 6659(f) (relating to other definitions) is amended by striking out "described in section 465(a)(1)(C)" and inserting in lieu thereof "with respect to which the stock ownership requirements of paragraph (2) of section 542(a) are met".

(5) CLERICAL AMENDMENTS.—

(i) The section heading for section 6659 is amended by striking out "FOR PURPOSES OF THE INCOME TAX" and inserting in lieu thereof "OR UNDERSTATEMENTS".

(ii) The table of sections for subchapter A of chapter 68 is amended by striking out "for purposes of the income tax" in the item relating to section 6659 and inserting in lieu thereof "or understatements".

(d) INFORMATION REPORT REQUIRED BY DONEE ON SALE.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 6050J. RETURNS RELATING TO CERTAIN DISPOSITIONS OF DONATED PROPERTY.

"(a) IN GENERAL.—If the donee of property described in section 170(j)(1)(A) sells, exchanges, or otherwise disposes of such property within 2 years of receipt, the donee shall make a return, in accordance with forms and regulations prescribed by the Secretary, showing—

"(1) the name, address, and TIN of the donor, or

"(2) a description of the property,

"(3) the date of the contribution,

"(4) the amount received on the disposition, and

"(5) the date of such disposition.

"(b) STATEMENTS TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) shall furnish to the donor a copy of such statement.".

(2) PENALTY FOR FAILURE TO FILE REPORT.—Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns), as amended by sections 147 and 148 of this Act, is further amended—

(A) by striking out "or" at the end of clause (v),

(B) by inserting "or" at the end of clause (vi), and

(C) by inserting after clause (vi) the following new clause:

"(vii) section 6050J(a) (relating to returns relating to certain dispositions of donated property),".

(3) PENALTY FOR FAILURE TO FILE STATEMENT.—Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050I(d)" and inserting in lieu thereof "6050I(d), or 6050J(b)", and

(B) by striking out "or 6050I(a)" and inserting in lieu thereof "6050I(a) or 6050J(a)".

(4) CLERICAL AMENDMENT.—The table of sections of subpart B of part III of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050J. Returns relating to certain dispositions of donated property.".

(e) EFFECTIVE DATES.—

(1) SECTIONS 170 AND 6050J.—The amendments made by subsections (a) and (d) shall apply to charitable contributions made after December 31, 1984.

(2) SECTIONS 170 AND 6659.—The amendments made by subsections (b) and (c) shall apply to returns filed after December 31, 1984.

SEC. 155. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO CERTAIN CITIES.

(a) IN GENERAL.—Subsection (b) of section 6103 (relating to definitions for confidentiality and disclosure of returns and return information) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) STATE.—The term 'State' means—

"(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

"(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p)(8), any municipality—

"(i) with a population in excess of 2,000,000 (as determined under the most recent census data available),

"(ii) which imposes a tax on income or wages, and

"(iii) with which the Secretary has entered into an agreement (in his sole discretion) regarding disclosure.", and

(2) by adding at the end thereof the following new paragraph:

"(10) CHIEF EXECUTIVE OFFICER.—The term 'chief executive officer' means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 156. INCREASE IN JURISDICTIONAL LIMIT FOR SMALL TAX CASES IN THE UNITED STATES TAX COURT.

(a) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $5,000 or less) is amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$10,000".

(b) CONFORMING AMENDMENTS.—

(A) The section heading for section 7463 is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "$5,000" in the item relating to section 7463 and inserting in lieu thereof "$10,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of enactment of this Act.

SEC. 157. FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.

(a) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

"(f) FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.—If the taxpayer does not file with the Secretary a request to change the method of accounting, the absence of the consent of the Secretary to a change in the method of accounting shall not be taken into account—

"(1) to prevent the imposition of any penalty, or the addition of any amount to tax, under this title, or

"(2) to diminish the amount of such penalty or addition to tax.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SEC. 158. INTEREST ON CERTAIN ADDITIONS TO TAX.

(a) IN GENERAL.—Paragraph (2) of section 6601(e) (relating to interest on penalties and additions to tax) is amended to read as follows:

"(2) INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—

"(A) IN GENERAL.—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1), 6659, or 6661) only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

"(B) INTEREST ON CERTAIN ADDITIONS TO TAX.—Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1), 6659, or 6661 for the period which—

"(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

"(ii) ends on the date of payment of such addition to tax.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after the date of enactment of the Act with respect to additions to tax for which notice and demand is made after such date.

SEC. 159. PENALTY FOR FRAUDULENT WITHHOLDING EXEMPTION CERTIFICATE OR FAILURE TO SUPPLY INFORMATION.

(a) IN GENERAL.—Section 7205 (relating to penalty for fraudulent withholding exemption certificate) is amended—

(1) by striking out "in lieu of" each place it appears and inserting in lieu thereof "in addition to", and

(2) by striking out "(except the penalty provided by section 6682)" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions and failures to act occurring after the date of enactment of this Act.

SEC. 160. LIMITATION ON MAILING OF DEPOSITS OF TAXES.

(a) IN GENERAL.—Subsection (e) of section 7502 (relating to mailing of deposits) is amended by adding at the end thereof the following new paragraph:

"(3) NO APPLICATION TO CERTAIN DEPOSITS.—Paragraph (1) shall not apply with respect to any deposit of $20,000 or more by any person who is required to deposit the tax more than once a month.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deposits made after June 30, 1984.

SEC. 161. APPLICATION OF PENALTY FOR FRIVOLOUS PROCEEDINGS TO PENDING TAX COURT PROCEEDINGS.

Paragraph (2) of section 292(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the United States Tax Court which—

"(A) is commenced after December 31, 1982, or

"(B) is pending in the United States Tax Court on the day which is 120 days after the date of enactment of the Deficit Reduction Tax Act of 1984.".

SEC. 162. FURNISHING OF TIN UNDER BACKUP WITHHOLDING.

(a) IN GENERAL.—Section 3406(e)(1) (relating to backup withholding) is amended by inserting at the end thereof the following new sentence: "The Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 163. REPORTING OF STATE TAX REFUNDS.

(a) IN GENERAL.—Section 6050E (relating to State and local income tax refunds) is amended—

(1) by striking out the second sentence of subsection (b),

(2) by redesignating subsection (c) as subsection (d), and

(3) by inserting after subsection (b) the following new subsection:

"(c) TIME OF STATEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the written statement required under subsection (b) shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(2) PAYMENTS OF REFUNDS.—In the case of any payment of refunds, the written statement required under subsection (b) may be furnished to the individual with such payment.".

(b) PENALTY FOR FAILURE TO FILE STATEMENT.—Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(1) by inserting ", 6050E(b)" after "6052(b)", and

(2) by inserting ", 6050E(a)" after "6052(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any payment of refunds made after the date of enactment of this Act.

SEC. 164. STUDY ON TAX SHELTERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a

study of the entire area of tax shelters. Such study shall specifically examine—

(1) further extensions or expansions of minimum tax requirements,

(2) the revision of the "at-risk" and "recapture" rules,

(3) the impact of full basis adjustment for the investment tax credit, and

(4) proposals to limit the deductibility of artificial accounting losses.

(b) REPORT.—Not later than December 1, 1984, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this section, with specific recommendations addressing the problem of stemming abusive tax-shelter activities.

SEC. 165. CLARIFICATION OF CHANGE OF VENUE FOR CERTAIN TAX OFFENSES.

Section 3237(b) of title 18 of the United States Code is amended to read as follows:

"(b) Notwithstanding subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1954, or where venue for prosecution of an offense described in section 7201 or 7206 (1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law) is based solely on a mailing to the Internal Revenue Service, and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: Provided, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information.".

Subtitle L—Depreciation

SEC. 171. RECOVERY PERIOD FOR MOST REAL PROPERTY EXTENDED TO 18 YEARS.

(a) IN GENERAL.—Subsection (b) of section 168 (relating to amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) 18-YEAR REAL PROPERTY.—

"(A) IN GENERAL.—In the case of 18-year real property, the applicable percentage shall be determined in accordance with tables prescribed by the Secretary. In prescribing such tables, the Secretary shall—

"(i) assign an 18-year recovery period (19 years for property placed in service by the taxpayer before January 1, 1986, and after December 31, 1984, and 20 years for property placed in service by the taxpayer before January 1, 1985, and after March 15, 1984) to the property, and

"(ii) assign percentages generally determined in accordance with use of the 175 percent declining balance method, switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

In the case of 18-year real property, the applicable percentage in the taxable year in which the property is placed in service shall be determined on the basis of the number of months in such year during which the property was in service.

"(B) SPECIAL RULE FOR YEAR OF DISPOSITION.—In the case of a disposition of 18-year real property, the deduction allowable under subsection (a) for the taxable year in which the disposition occurs shall reflect only the months during such year the property was in service.".

(b) LOW INCOME HOUSING.—Subparagraph (A) of section 168(b)(2) (relating to 15-year real property) is amended—

(1) by striking out "175 percent declining balance method (200 percent declining balance method in the case of low income housing)" and inserting in lieu thereof "200 percent declining balance method", and

(2) by striking out the last sentence thereof.

(c) DEFINITIONS.—Paragraph (2) of section 168(c) (relating to recovery property) is amended—

(1) by redesignating subparagraph (F) as subparagraph (G),

(2) by inserting the following new subparagraph after subparagraph (E):

"(F) 18-YEAR REAL PROPERTY.—The term '18-year real property' means section 1250 class property which—

"(i) does not have a present class life of 12.5 years or less, and

"(ii) is not 15-year real property.", and

(3) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) 15-YEAR REAL PROPERTY.—The term '15-year real property' means section 1250 class property which—

"(i) does not have a present class life of 12.5 years or less, and

"(ii) is low-income housing.

For purposes of the preceding sentence, the term 'low-income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).".

(d) TRANSITIONAL RULE FOR COMPONENTS.—Subparagraph (B) of section 168(f)(1) is amended to read as follows:

"(B) TRANSITIONAL RULES.—

"(i) BUILDINGS PLACED IN SERVICE BEFORE 1981.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such buildings placed in service after December 31, 1980, and before March 16, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after December 31, 1980. For purposes of the preceding sentence, the method of computing the deduction allowable with respect to such first component shall be determined as if it were a separate building.

"(ii) BUILDINGS PLACED IN SERVICE BEFORE MARCH 16, 1984.—In the case of any building placed in service by the taxpayer before March 16, 1984, for purposes of applying subparagraph (A) to components of such buildings placed in service after March 15, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after March 15, 1984. For purposes of the preceding sentence the method of computing the deduction allowable with respect to such first component shall be determined as if it were a separate building.".

(e) CONFORMING AMENDMENTS.—

(1) Subsections (b)(3)(B)(iii), (f)(2)(B), (f)(2)(C)(ii)(II), (f)(2)(E), and (f)(5) of section 168 are each amended by inserting "or 18-year real property" after "15-year real property" each place it appears.

(2) Clause (ii) of section 168(b)(3)(B) is amended by inserting "or 18-year real property," after "15-year real property".

(3) Subparagraph (B) of section 168(d)(2) is amended by inserting ", or 18-year real property," after "15-year real property".

(4) Clause (i) of section 168(f)(2)(C) (relating to recovery period for property used outside United States) is amended by inserting the following item after the item relating to 15-year real property in the table:

"18-year real property..... 35 or 45 years.".

(5) Sections 57(a)(12)(A), 312(k)(3)(A), and 1245(a)(5) are each amended by inserting "or 18-year real property" after "15-year real property" each place it appears in the text and headings.

(6) Subparagraph (B) of section 57(a)(12) (relating to items of tax preference) is amended to read as follows:

"(B) 15-YEAR REAL PROPERTY; 18-YEAR REAL PROPERTY.—With respect to each recovery property which is 15-year real property or 18-year real property, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using the straight-line method (without regard to salvage value) over a recovery period of—

"(i) 15 years in the case of 15-year real property, and

"(ii) 18 years (19 years for property placed in service by the taxpayer before January 1, 1986, and after December 31, 1984, and 20 years for property placed in service by the taxpayer before January 1, 1985, and after March 15, 1984), in the case of 18-year real property.".

(7) Subparagraph (E) of section 57(a)(12) is amended by inserting "'18-year real property',' after "'15-year real property',".

(8) Paragraph (2) of section 48(g) (relating to qualified rehabilitation expenditure) is amended—

(A) by striking out "property" each place it appears in subparagraph (A)(i) and inserting in lieu thereof "real property",

(B) by inserting "or 18" after "15" in subparagraph (A)(i), and

(C) by striking out "15 years" in subparagraph (B)(v) and inserting in lieu thereof "18 years (15 years in the case of 15-year real property)".

(9) Subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended—

(A) by striking out "under paragraphs (1) and (2)" and inserting in lieu thereof "under paragraph (1), (2), or (4)", and

(B) by inserting after the item in the table relating to 15-year real property the following new item:

"18-year real property..... 18, 35 or 45.";

and

(C) by adding at the end thereof the following new flush sentence:

"In the case of 18-year real property, the table shall be applied in the case of property placed in service by the taxpayer—

"(i) after March 15, 1984, and before January 1, 1985, by substituting '20' for '18', and

"(ii) after December 31, 1984, and before January 1, 1986, by substituting '19' for '18'.".

(f) BASIS ADJUSTMENT FOR CERTIFIED HISTORIC STRUCTURES.—Section 48(q)(3) (relating to special rule for basis adjustment for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure."

(g) REDUCTION IN REHABILITATION PERCENTAGE.—Section 46(a)(2)(F)(i) (defining rehabilitation percentage) is amended to read as follows:

"(i) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	10
40-year building	15
Certified historic structure	25.".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service by the taxpayer after March 15, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1987, if—

(A) the taxpayer or a qualified person entered into a binding contract to purchase or construct such property before March 16, 1984, or

(B) construction of such property was commenced by or for the taxpayer or a qualified person before March 16, 1984.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer, but only if such property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 172. RECAPTURE IN CASES OF INSTALLMENT SALES.

(a) IN GENERAL.—Section 453 (relating to installment method) is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection:

"(j) APPLICATION WITH SECTIONS 1245 AND 1250.—

"(1) IN GENERAL.—In the case of an installment sale of property, subsection (a) shall not apply, and for purposes of this title, all payments to be received shall be deemed received in the year of disposition.

"(2) LIMITATION.—Paragraph (1) shall apply only to the extent of the amount which is treated as ordinary income under section 1245 or 1250 with respect to the property.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to dispositions made after March 15, 1984.

(2) EXCEPTION.—The amendments made by this Act shall not apply with respect to any disposition conducted pursuant to—

(A) a contract which was binding on March 22, 1984, or

(B) an agreement entered into in principle before March 23, 1984.

(3) SPECIAL RULE FOR PROPERTY OTHER THAN REAL PROPERTY.—In the case of property other than real property, the amendment made by this section shall apply to dispositions after April 12, 1984, except for dispositions pursuant to contracts binding on April 12, 1984.

SEC. 173. PROVISIONS RELATING TO SOUND RECORDINGS AND FILMS.

(a) SOUND RECORDINGS.—

(1) IN GENERAL.—Section 48 (defining section 38 property) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) SPECIAL RULES RELATING TO SOUND RECORDINGS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any sound recording, the original use of which commences with the taxpayer, the taxpayer may elect to treat such recording as recovery property which is 3-year property to the extent that the taxpayer has an ownership interest in such recording.

"(2) FAILURE TO MAKE ELECTION.—If a taxpayer does not make an election under paragraph (1) with respect to any sound recording—

"(A) no credit shall be allowed under section 38 with respect to such recording, and

"(B) such recording shall not be treated as recovery property.

"(3) PREDOMINANT USE TEST AND AT RISK RULES NOT TO APPLY; QUALIFIED INVESTMENT.—In the case of any sound recording—

"(A) sections 46(c)(8), 46(c)(9), and 48(a)(2) shall not apply, and

"(B) in determining the qualified investment under section 46(c)(1), there shall be used (in lieu of the basis of the property) an amount equal to the production costs which are allocable to the United States (as determined under rules similar to the rules of section 48(k)(5)(D)).

"(4) OWNERSHIP INTEREST.—For purposes of determining the credit allowable under section 38, the ownership interest of any person in a sound recording shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such sound recording.

"(5) SOUND RECORDING.—For purposes of this subsection, the term 'sound recording' means any sound recording described in section 280(c)(2).

"(6) PRODUCTION COSTS.—

"(A) IN GENERAL.—For purposes of this section, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation for services performed by song writers, artists, production personnel, directors, producers, and similar personnel,

"(iii) costs of 'first' distribution of records or tapes, and

"(iv) the cost of the material being recorded.

"(B) CERTAIN COSTS NOT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C), the term 'production costs' shall not include—

"(i) 'residuals' payable under contracts with labor organizations, or

"(ii) participations or royalties payable as compensation to song writers, artists, production personnel, directors, producers, and similar personnel, or

"(iii) any other contingent amounts.

"(C) CERTAIN CONTINGENT AMOUNTS TAKEN INTO ACCOUNT.—Subparagraph (B) shall not apply to contingent amounts incurred in the taxable year in which the sound recording is placed in service or in the first succeeding taxable year. Such amounts shall be treated as 3-year recovery property and qualified investment placed in service in the year in which they are incurred as costs to the taxpayer.

"(7) ELECTION MADE SEPARATELY.—An election under paragraph (1) shall be made separately with respect to each sound recording and must be made by all persons having an ownership interest in such recording.

"(8) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the possessions of the United States.".

(2) CONFORMING AMENDMENTS.—Section 168(f) (relating to special rules), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(14) SPECIAL RULES FOR SOUND RECORDINGS.—In the case of a qualified sound recording (within the meaning of section 48(r)), the unadjusted basis of such property shall be equal to the production costs (within the meaning of section 48(r)(6)).".

(b) FILMS AND OTHER PROPERTY.—

(1) FILM AND VIDEO TAPES NOT TREATED AS RECOVERY PROPERTY.—Section 168(e) (relating to property excluded from application of this section) is amended by adding at the end thereof the following new paragraph:

"(5) FILMS AND VIDEO TAPES NOT RECOVERY PROPERTY.—The term 'recovery property' shall not include any motion picture film or video tape.".

(2) APPLICATION OF RECOVERY PROPERTY EXCEPTIONS.—Section 168(e) is amended by striking out "section" and inserting in lieu thereof "title" in the matter preceding paragraph (1).

(3) MOVIES NOT SUBJECT TO INVESTMENT CREDIT AT-RISK RULES.—Paragraph (4) of section 48(k) is amended—

(A) by inserting ", section 46(c)(8), or section 46(c)(9)" after "section 48(a)(2)" in subparagraph (A), and

(B) by inserting "or at-risk rules" after "test" in the heading thereof.

(4) BASIS ADJUSTMENT FOR MOVIES.—Section 48(q) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED FILMS.—If a credit is allowed under section 38 with respect to any qualified film (within the meaning of subsection (k)(1)(B)) then, in lieu of any reduction under paragraph (1)—

"(A) to the extent that the credit is determined with respect to any amount described in clause (v) or (vi) of subsection (k)(5)(B), any deduction allowable under this chapter with respect to such amount shall be reduced by 50 percent of the amount of the credit so determined, and

"(B) the taxpayer's ownership interest (within the meaning of subsection (k)(1)(C)) shall be reduced by the excess of—

"(i) 50 percent of the amount of the credit determined under subsection (k), over

"(ii) the amount of the reduction under subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) SOUND RECORDINGS.—The amendments made by subsection (a) shall apply to property placed in service after March 15, 1984, in taxable years ending after such date.

(2) FILMS AND OTHER PROPERTY.—

(A) The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall apply as if included in the amendments made by the Economic Recovery Tax Act of 1981, except that the amendments made by paragraph (1) of subsection (b) shall not apply to any qualified film placed in service prior to December 31, 1984, and for which at least 20 percent of the costs of production have been expended prior to March 16, 1984, and for which ACRS was claimed.

(B) The amendment made by paragraph (4) of subsection (b) shall take effect as if included in the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 174. DEFINITION OF SECTION 38 PROPERTY IN SALE-LEASEBACK TRANSACTIONS.

(a) IN GENERAL.—Subsection (b) of section 48 (defining new section 38 property) is amended to read as follows:

"(b) NEW SECTION 38 PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'new section 38 property' means section 38 property—

"(A) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1961, or

"(B) acquired after December 31, 1961, if the original use of such property commences with the taxpayer and commences after such date.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1961.

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of paragraph (1), in the case of any section 38 property which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person within 3 months of the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease.

"(3) SPECIAL RULE FOR ENERGY PROPERTY.—The principles of paragraph (2) shall be applicable in determining whether the original use of property commences with the taxpayer for purposes of section 48(l)(2)(B)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after April 11, 1984.

Subtitle M—Miscellaneous Provisions

SEC. 175. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.

(a) IN GENERAL.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended to read as follows:

"SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.

"(a) DEDUCTIONS.—Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce income subject to tax.

"(b) TREATMENT OF CARRYOVERS.—For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery takes place shall be treated as reducing income subject to tax.

"(c) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

"(1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

"(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out the item relating to section 111 and inserting in lieu thereof:

"Sec. 111. Recovery of tax benefit items.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.

SEC. 176. LOANS WITH BELOW-MARKET INTEREST RATES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new sections:

"SEC. 7872. GIFT LOANS WITH BELOW-MARKET INTEREST RATES.

"(a) IMPUTED INTEREST.—In the case of a gift loan, the borrower shall be treated for purposes of this title as having paid to the lender (and the lender treated as having received from the borrower) on the last day of each outstanding taxable year of the borrower an amount of interest equal to the sum of the amounts of interest imputed on such loan under subsection (c) for each day within such taxable year on which such loan is outstanding.

"(b) IMPUTED GIFTS.—For purposes of this title—

"(1) DEMAND LOANS.—In the case of a gift loan which is a demand loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the last day of each outstanding taxable year of the borrower a gift in an amount equal to the sum of the amounts of interest imputed on such loan under subsection (c) for each day within such taxable year on which such loan is outstanding.

"(2) TERM LOANS.—

"(A) IN GENERAL.—In the case of a gift loan which is a term loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the date the loan is made a gift in an amount equal to the excess of—

"(i) the principal of the loan, over

"(ii) the present value (at the time the loan is made) of the payments of principal and interest which are required to be made under the terms of the loan.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of each payment shall be determined by using the designated market interest rate applicable at the time the loan is made, compounded semiannually.

"(c) AMOUNT OF INTEREST IMPUTED DAILY.—For purposes of this section, the amount of interest imputed on a loan for any day within the taxable year of the borrower is the excess of—

"(1) the amount of interest which would have accrued on the outstanding balance of the loan during such day if interest accrued on the loan at an annual rate equal to the designated market interest rate applicable for—

"(A) in the case of a demand loan, such day, or

"(B) in the case of a term loan, the day on which the loan was made, over

"(2) the portion of interest actually paid or accrued on the loan that is properly attributable to such day.

"(d) LIMITATIONS APPLICABLE TO LOANS MADE DIRECTLY BETWEEN INDIVIDUALS.—

"(1) MINIMUM OUTSTANDING BALANCE.—

"(A) IN GENERAL.—No interest shall be taken into account under subsections (a) and (b)(1) with respect to any day on which the aggregate amount of loans outstanding between the borrower and the lender is $10,000 or less.

"(B) IMPUTED GIFT ON TERM LOANS.—Subsection (b)(2) shall not apply to a loan if the aggregate amount of loans outstanding between the borrower and the lender on the date such loan is made is $10,000 or less.

"(2) NET INVESTMENT INCOME LIMITATIONS.—

"(A) MINIMUM NET INVESTMENT INCOME.—If the sum of—

"(i) the net investment income of the borrower for the taxable year, and

"(ii) the net investment income of the spouse of the borrower for the taxable year ending with or within such taxable year of the borrower,

does not exceed $1,000, no interest shall be taken into account under subsection (a) with respect to any qualifying day within such taxable year.

"(B) IMPUTED INTEREST NOT TO EXCEED NET INVESTMENT INCOME.—The aggregate amount of interest which may be taken into account under subsection (a) with respect to qualifying days within the taxable year of the borrower shall not exceed the sum described in subparagraph (A) for such taxable year.

"(C) NO APPLICATION TO LOAN USED IN ACQUIRING SECURITIES.—This paragraph shall not apply with respect to any loan which is made for the purpose of acquiring or carrying any marketable securities (other than evidences of indebtedness).

"(D) QUALIFYING DAYS.—For purposes of this paragraph, the term 'qualifying day' means any day on which the aggregate amount of loans outstanding between the lender and the borrower does not exceed $100,000.

"(3) LOANS BETWEEN INDIVIDUALS.—This subsection shall only apply with respect to gift loans made directly between individuals.

"(4) SUBSECTION NOT TO APPLY TO CERTAIN LOANS.—

"(A) TAX AVOIDANCE.—This subsection shall not apply with respect to a loan if tax avoidance is a principal purpose of such loan.

"(B) LOANS USED TO PURCHASE INVESTMENTS.—The provisions of this subsection (other than paragraph (2)(B)) shall not apply with respect to any loan which is incurred or continued to purchase or carry investments which produce net investment income.

"(5) MODIFICATION UNDER REGULATIONS.—The Secretary may prescribe regulations which modify the provisions of this subsection with respect to a loan if the lender, borrower, or any person related to the lender or borrower—

"(A) has engaged in any activities a principal purpose of which was the deferral of receipt of net investment income, or

"(B) can control the time at which net investment income is received by the borrower or the spouse of the borrower.

"(6) DETERMINATION OF AGGREGATE AMOUNT OF LOANS OUTSTANDING BETWEEN BORROWER AND LENDER.—In determining the aggregate amount of loans outstanding between a borrower and a lender on any day for purposes of this subsection, any loan between—

"(A) the lender and the spouse of the borrower,

"(B) the spouse of the borrower and the spouse of the lender, or

"(C) the borrower and the spouse of the lender,

shall be treated as a loan between the borrower and the lender.

"(e) DESIGNATED MARKET INTEREST RATE.—For purposes of this section—

"(1) DEMAND LOANS.—In the case of a demand loan, the designated market interest rate is the Federal short-term rate.

"(2) TERM LOANS.—In the case of a term loan, the designated market interest rate shall be determined in accordance with the following table:

"In the case of a loan with a term of:	The designated market interest rate is:
Less than 3 years	The Federal short-term rate
Over 3 years but not over 9 years.	The Federal mid-term rate
Over 9 years	The Federal long-term rate.

"(3) FEDERAL RATES.—For purposes of this subsection, the terms 'Federal short-term rate', 'Federal mid-term rate', and 'Federal long-term rate' have the respective meaning given to such terms by section 1274(d).

"(4) TERM OF A LOAN.—Options to renew or extend the term of a loan shall be taken into account in determining the length of the term of the loan.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) GIFT LOANS.—The term 'gift loan' means any below-market loan with respect to which interest is foregone with donative intent.

"(2) BELOW-MARKET LOAN.—The term 'below-market loan' means any loan on which interest is payable at a rate less than the designated market interest rate.

"(3) NET INVESTMENT INCOME.—

"(A) IN GENERAL.—The term 'net investment income' has the meaning given to such term by section 163(d)(3).

"(B) ADDITIONAL AMOUNTS TREATED AS INTEREST.—In determining the net investment income of a person for any taxable year—

"(i) any amount which is included in the gross income of such person for such taxable year by reason of section 1272, and

"(ii) any amount which would be included in the gross income of such person for such taxable year by reason of section 1272 if such section applied to deferred payment obligations,

shall be treated as interest received by such person for such taxable year.

"(C) DEFERRED PAYMENT OBLIGATIONS.—The term 'deferred payment obligations' includes market discount bonds, short-term government obligations, annuities and any similar obligations.

"(4) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time upon the demand of the lender.

"(5) TERM LOAN.—The term 'term loan' means any loan which is not a demand loan.

"(6) OUTSTANDING TAXABLE YEAR.—The term 'outstanding taxable year' means, with respect to any loan, any taxable year which includes at least one day on which such loan is outstanding.

"(7) APPLICATION WITH OTHER PROVISIONS RELATING TO IMPUTATION OF INTEREST.—Subsection (a) shall not apply to any loan to which section 483 or 1274 applies.

"(8) NO BACKUP WITHHOLDING OF INTEREST.—Section 3406 shall not apply with respect to any interest which is treated as having been paid and received by reason of this section.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section.

"(2) ESTATE TAX.—The Secretary may prescribe regulations which require that a gift loan be taken into account in determining the gross estate of a decedent in a manner consistent with the provisions of subsection (b).

"SEC. 7873. OTHER LOANS WITH BELOW-MARKET INTEREST RATES.

"(a) TERM LOANS.—For purposes of this title—

"(1) IMPUTED WAGES, DIVIDENDS, AND OTHER PAYMENTS.—

"(A) IN GENERAL.—In the case of an applicable loan which is a term loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the date the loan is made wages, a dividend, or any other payment, as the case may be, in an amount equal to the excess of—

"(i) the principal of the loan, over

"(ii) the present value (at the time the loan is made) of the payments of principal and interest which are required to be made under the terms of the loan.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of each payment shall be determined by using the designated market interest rate applicable at the time the loan is made, compounded semiannually.

"(2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT.—For purposes of this title—

"(A) IN GENERAL.—Any applicable loan that is a term loan shall be treated as having original issue discount in an amount equal to the excess described in paragraph (1)(A).

"(B) ADDITIONAL ORIGINAL ISSUE DISCOUNT.—Any original issue discount which an obligation is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such obligation (determined without regard to subparagraph (A)).

"(b) DEMAND LOANS.—For purposes of this title—

"(1) IMPUTED INTEREST.—In the case of an applicable loan which is a demand loan, the borrower shall be treated as having paid to the lender (and the lender treated as having received from the borrower) on any day on which such loan is outstanding the amount of interest imputed on such loan under subsection (c) for such day.

"(2) IMPUTED WAGES, DIVIDENDS, AND OTHER PAYMENTS.—In the case of an applicable loan which is a demand loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on any day on which such loan is outstanding wages, a dividend, or any other payment, as the case may be, in an amount equal to the amount of interest imputed on such loan under subsection (c) for such day.

"(c) AMOUNT OF INTEREST IMPUTED DAILY.—For purposes of this section, the amount of interest imputed on a loan for any day is the excess of—

"(1) the amount of interest which would have accrued on the outstanding balance of the loan during such day if interest accrued on the loan at an annual rate equal to the designated market interest rate applicable for such day, over

"(2) the portion of interest actually paid or accrued on the loan that is properly attributable to such day.

"(d) LIMITATIONS APPLICABLE TO EMPLOYMENT RELATED LOANS.—

"(1) TERM LOANS.—Subsection (a) shall not apply to a term loan between—

"(A) an employer and an employee, or

"(B) an independent contractor and a person for whom such contractor provides services,

if the aggregate amount of loans outstanding between the borrower and the lender on the date on which such loan is made is $10,000 or less.

"(2) DEMAND LOANS.—In the case of a demand loan between two persons described in either subparagraph (A) or (B) of paragraph (1), subsection (b) shall not apply with respect to any day on which the aggregate amount of loans outstanding between the borrower and the lender is $10,000, or less.

"(3) NO APPLICATION TO LOANS USED IN ACQUIRING TAX-EXEMPT BONDS.—This subsection shall not apply with respect to any loan made to acquire or carry any obligation the interest on which is wholly exempt from taxation under this title.

"(e) NO WITHHOLDING OF IMPUTED AMOUNTS.—Sections 3102, 3202, 3402, and 3406 shall not apply with respect to any amount which is treated as having been paid and received by reason of this section.

"(f) APPLICATION WITH OTHER PROVISIONS RELATING TO IMPUTATION OF INTEREST.—Subsection (a) shall not apply to any loan to which section 483 or 1274 applies.

"(g) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE LOANS.—

"(A) IN GENERAL.—The term 'applicable loan' means—

"(i) a loan made between a corporation and shareholder of such corporation,

"(ii) a loan made by an employer to an employee,

"(iii) a loan made to an independent contractor by any person for whom such contractor performs services, and

"(iv) such other loans as the Secretary may prescribe by regulations.

"(B) EXCLUSION OF GIFT LOANS.—The term 'applicable loan' shall not include a gift loan (within the meaning of section 7872(f)).

"(2) DESIGNATED MARKET INTEREST RATE.—The term 'designated market interest rate' has the meaning given to such term by section 7872(e).

"(3) DEMAND LOANS; TERM LOANS.—The terms 'demand loan' and 'term loan' have the respective meaning given to such terms by section 7872(f).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end thereof the following new sections:

"Sec. 7872. Gift loans with below-market interest rates.

"Sec. 7873. Other loans with below-market interest rates.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to amounts outstanding on loans after the date of enactment of this Act.

(2) TERM LOANS.—The amendments made by this section shall not apply to term loans made before February 1, 1984.

SEC. 177. LIFO CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.

(a) GENERAL RULE.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end thereof the following new subsection:

"(g) CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.—

"(1) IN GENERAL.—Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

"(2) GROUP OF FINANCIALLY RELATED CORPORATIONS.—For purposes of paragraph (1), the term 'group of financially related corporations' means—

"(A) any affiliated group as defined in section 1504 determined by substituting '50 percent' for '80 percent' each place it appears in section 1504(a) and without regard to section 1504(b), and

"(B) any other group of corporations which consolidate or combine for purposes of financial statements.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 178. MODIFICATION OF INCOME ELIGIBILITY FOR INCOME AVERAGING.

(a) BASE PERIOD SHORTENED TO 3 YEARS.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related definitions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof "⅗".

(4) Paragraph (3) of section 1302(c) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 179. LIMITATIONS ON BUSINESS DEDUCTIONS FOR PROPERTY WHICH IS PARTIALLY USED FOR PERSONAL PURPOSES.

(a) IN GENERAL.—Section 274 (relating to disallowance of certain entertainment expenses) is amended by redesignating subsection (i) as subsection (k) and by inserting after subsection (h) the following new subsections:

"(i) AUTOMOBILES USED FOR NONBUSINESS PURPOSES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, if the taxpayer's business use of an automobile does not meet the requirements of paragraph (2)(A) for any taxable year, the aggregate amount allowable as a deduction for such taxable year and any subsequent taxable year with respect to such automobile for—

"(A) operating expenses (including repairs),

"(B) license and registration expenses,

"(C) depreciation and expensing,

"(D) lease payments, and

"(E) insurance,

shall not exceed a mileage allowance prescribed by the Secretary under regulations.

"(2) SUFFICIENT BUSINESS USE.—

"(A) IN GENERAL.—A taxpayer's business use of an automobile meets the requirements of this subparagraph for the taxable year if the number of miles for which such automobile is used in carrying on a trade or business of the taxpayer (or in any activity described in section 212) during the taxable year equals or exceeds 90 percent of the aggregate number of miles for which such automobile was used for any purpose during such taxable year.

"(B) AUTOMOBILES KEPT AT RESIDENCE OVERNIGHT.—

"(i) IN GENERAL.—A taxpayer's business use of an automobile shall be treated as failing to meet the requirements of subparagraph (A) for the taxable year if such automobile is kept at the residence of the taxpayer overnight more than 14 nights during the taxable year.

"(ii) EXCEPTIONS.—This subparagraph shall not apply if—

"(I) the trade or business of the taxpayer is described in section 62(2)(D), or

"(II) the residence of the taxpayer is the principal place of business of the principal trade or business of the taxpayer.

"(C) REQUIREMENTS MUST BE MET FOR AT LEAST 2 TAXABLE YEARS.—The taxpayer's business use of an automobile shall be treated as failing to meet the requirements of subparagraph (A) for the qualifying taxable year if the taxpayer's business use of such automobile fails to meet the requirements of subparagraph (A) for the taxable year succeeding the qualifying taxable year. The amount of any deduction or credit claimed in the qualifying taxable year which is not allowable by reason of the preceding sentence shall be included in gross income, or added to tax, as appropriate, for the year following the qualifying year.

"(3) RECAPTURE.—If the taxpayer's business use of an automobile fails to meet the requirements of paragraph (2)(A) for any taxable year beginning after the taxable year which succeeds the qualifying taxable year, there shall be included in the gross income of the taxpayer for the taxable year in which such failure occurs an amount of ordinary income equal to—

"(A) in the case of a taxpayer who is a lessee of such automobile and who deducts amounts in excess of those provided for in paragraph (1), a percentage (determined under regulations) of the aggregate amount of deductions for lease payments which were allowed the taxpayer with respect to such automobile for all previous taxable years, or

"(B) in all other cases, the excess of—

"(i) the sum of—

"(I) the aggregate amount allowed the taxpayer as a deduction for depreciation or amortization with respect to such automobile, plus

"(II) the aggregate amount allowed the taxpayer as a deduction under section 179 with respect to such automobile, over

"(ii) the aggregate amount of depreciation deductions which would have been allowable to the taxpayer with respect to such automobile for all previous taxable years if the taxpayer had depreciated the automobile to its fair market value as of the beginning of the year in which the failure occurs.

"(4) USE BY OTHER PARTIES.—If the taxpayer's automobile is used by another person, any use of the automobile by that other person—

"(A) which is not directly connected with a trade or business or income producing activity of the taxpayer,

"(B) which does not give rise to income to the other person and, with respect to an employee, is treated as wages to the employee for purposes of chapter 24, or

"(C) for which a fair rent is not paid,

shall not be treated (for purposes of applying this subsection with respect to the taxpayer) as used in the trade or business of the taxpayer or in any activity described in section 212.

"(5) NO APPLICATION TO SHORT LEASES.—This subsection shall not apply with respect to the lessee of any automobile leased for a period (including renewals) that does not exceed 30 days.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) AUTOMOBILE.—The term 'automobile' has the meaning given to such term by section 4064(b)(1).

"(B) QUALIFYING TAXABLE YEAR.—The term 'qualifying taxable year' means—

"(i) in the case of a taxpayer who is a lessee of the automobile, the taxable year in which the lease begins, and

"(ii) in the case of any other taxpayer, the taxable year in which the taxpayer places the automobile in service.

"(j) CERTAIN DEPRECIABLE PROPERTY USED FOR NONBUSINESS PURPOSES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, if the taxpayer's business use of any applicable property does not meet the requirements of paragraph (2)(A) for any taxable year, the aggregate amount allowable as a deduction for such taxable year and any subsequent taxable year with respect to such property for depreciation, expensing, or amortization shall not exceed the amount of such deduction which would be allowable for such taxable year if such property were depreciated under the straight line method over a 12-year recovery period (without regard to salvage value and using a half-year convention).

"(2) SUFFICIENT BUSINESS USE.—

"(A) IN GENERAL.—A taxpayer's business use of applicable property meets the requirements of this subparagraph for the taxable year if the use of such property in carrying on the trade or business of the taxpayer (or in any activity described in section 212) for the taxable year equals or exceeds 90 percent of the aggregate use of such property for the taxable year.

"(B) REQUIREMENTS MUST BE MET FOR AT LEAST 2 TAXABLE YEARS.—The taxpayer's business use of applicable property shall be treated as failing to meet the requirements of subparagraph (A) for the qualifying taxable year if the taxpayer's business use of such property fails to meet the requirements of subparagraph (A) for the taxable year succeeding the qualifying taxable year. The amount of any deduction or credit claimed in the qualifying year which is not allowable by reason of the preceding sentence shall be included in gross income, or added to tax, as appropriate, for the year following the qualifying year.

"(3) LEASE PAYMENTS.—Notwithstanding any other provision of this title, if the taxpayer's business use of applicable property leased by taxpayer does not meet the require-

ments of paragraph (2)(A) for any taxable year, the aggregate amount allowed as a deduction for such taxable year and any subsequent taxable year with respect to such property for lease payments made in such taxable year shall not exceed a percentage (prescribed in regulations) of the portion of such payments which corresponds to the taxpayer's business use.

"(4) RECAPTURE.—If the taxpayer's business use of applicable property fails to meet the requirements of paragraph (2)(A) for any taxable year beginning after the taxable year which succeeds the qualifying taxable year, there shall be included in the gross income of the taxpayer for the taxable year in which such failure occurs an amount of ordinary income equal to—

"(A) in the case of a taxpayer who is a lessee of such property, a percentage (prescribed in regulations) of the aggregate amount of deductions for lease payments which were allowed the taxpayer with respect to such property for all previous taxable years, or

"(B) in all other cases, the excess of—

"(i) the sum of—

"(I) the aggregate amount allowed the taxpayer as a deduction for depreciation or amortization with respect to such property, plus

"(II) the aggregate amount allowed the taxpayer as a deduction under section 179 with respect to such property, over

"(ii) the aggregate amount of depreciation deductions which would have been allowable to the taxpayer with respect to such property for all previous taxable years if the taxpayer had depreciated the property under the straight line method over a 12-year recovery period (without regard to salvage value and using a half-year convention).

"(5) USE BY OTHER PARTIES.—If the taxpayer's property is used by another person, any use of the property by that other person—

"(A) which is not directly connected with a trade or business or income producing activity of the taxpayer,

"(B) which does not give rise to income to the other person and with respect to an employee, is treated as wages to the employee for purposes of chapter 24, or

"(C) for which a fair rent is not paid,

shall not be treated (for purposes of applying this subsection with respect to the taxpayer) as used in the trade or business of the taxpayer or in any activity described in section 212.

"(6) NO APPLICATION TO SHORT LEASES.—This subsection shall not apply with respect to the lessee of any property leased for a period (including renewals) that does not exceed 30 days.

"(7) APPLICABLE PROPERTY.—For purposes of this subsection, the term 'applicable property' means—

"(A) any property used as a means of transportation (other than an automobile as defined in subsection (i)(6)(A)),

"(B) any property of a type generally used for purposes of entertainment, recreation, or amusement,

"(C) any computers, or

"(D) such other property as the Secretary may prescribe by regulations,

with respect to which a deduction for depreciation (or deductions in lieu of depreciation) is allowable.".

(b) INVESTMENT TAX CREDIT.—

(1) DENIAL OF CREDIT.—Subsection (e) of section 46 (relating to limitations with respect to certain persons), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(5) PROPERTY USED FOR NONBUSINESS PURPOSES.—

"(A) AUTOMOBILES.—No credit shall be allowed under section 38 with respect to any automobile (within the meaning of section 4064(b)(1)) if the taxpayer's business use of such automobile fails to meet the requirements of section 274(i)(2)(A) for the taxable year in which such automobile is placed in service by the taxpayer or for the succeeding taxable year.

"(B) OTHER PROPERTY.—No credit shall be allowed under section 38 with respect to any property to which section 274(j) applies if the taxpayer's business use of such property fails to meet the requirements of section 274(j)(2)(A) for the taxable year in which such property is placed in service by the taxpayer or for the succeeding taxable year.".

(2) RECAPTURE OF CREDIT.—Section 47 (relating to dispositions of section 38 property) is amended by adding at the end thereof the following new subsection:

"(e) PROPERTY USED FOR NONBUSINESS PURPOSES.—If—

"(1) the taxpayer's business use of an automobile (within the meaning of section 4064(b)(1)) fails to meet the requirements of section 274(i)(2)(A), or

"(2) the taxpayer's business use of any other property to which section 274(j) applies fails to meet the requirements of section 274(j)(2)(A),

for any taxable year beginning after the taxable year succeeding the taxable year in which such automobile or other property was placed in service by the taxpayer, such automobile or such other property shall be treated, for purposes of this section, as having ceased to be section 38 property within the taxable year in which such failure occurs.".

(c) COMPLIANCE.—Section 274(d) is amended by—

(1) striking out "or" at the end of paragraph (2),

(2) adding "or" at the end of paragraph (3),

(3) adding after paragraph (3) the following new paragraph:

"(4) for any item described in subsections (i) or (j),",

(4) striking out "or by sufficient evidence corroborating his own statement", and

(5) by adding at the end thereof "Any income tax return preparer who prepares a return of the tax imposed by this chapter for any taxable year shall verify that adequate contemporaneous records have been kept supporting deductions to which this subsection may apply before signing such return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) property placed in service after March 15, 1984, and

(2) leases of property entered into after such date.

SEC. 180. AMENDMENTS TO SECTION 267.

(a) ALLOWANCE OF DEDUCTION WHERE EXPENSES AND INTEREST ARE PAID TO RELATED CASH-BASIS TAXPAYERS AFTER 2½-MONTH PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended to read as follows:

"(a) IN GENERAL.—

"(1) DEDUCTION FOR LOSSES DISALLOWED.—No deduction shall be allowed in respect of any loss from the sale or exchange of property (other than a loss in case of a distribution in corporate liquidation), directly or indirectly, between persons specified in any of the paragraphs of subsection (b).

"(2) MATCHING OF DEDUCTION AND PAYEE INCOME ITEM IN THE CASE OF EXPENSES AND INTEREST.—If—

"(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

"(B) at the close of the taxable year of the taxpayer for which (but for this paragraph) the amount would be deductible under this chapter, both the taxpayer and the person to whom the payment is to be made are persons specified in any of the paragraphs of subsection (b),

then any deduction allowable under this chapter in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph).".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 267 (relating to rule where last day of 2½-month period falls on Sunday, etc.) is hereby repealed.

(b) EXTENSION OF SECTION 267 TO CERTAIN RELATED ENTRIES.—

(1) PASS-THRU ENTITIES.—Section 267 is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(1) IN GENERAL.—In the case of any amount paid or incurred by, to, or on behalf of, a pass-thru entity, for purposes of applying subsection (a)(2)—

"(A) such entity,

"(B) in the case of—

"(i) a partnership, any person who owns (directly or indirectly) any capital interest or profits interest of such partnership, or

"(ii) an S corporation, any person who owns (directly or indirectly) any of the stock of such corporation,

"(C) any person who owns (directly or indirectly) any capital interest or profits interest of a partnership in which such entity owns (directly or indirectly) any capital interest or profits interest, and

"(D) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to a person described in subparagraph (B) or (C),

shall be treated as persons specified in a paragraph of subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations the partnership described in such subparagraph or to an interest in such partnership.

"(2) PASS-THRU ENTITY.—For purposes of this section, the term 'pass-thru entity' means—

"(A) a partnership, and

"(B) an S corporation.

"(3) CONSTRUCTIVE OWNERSHIP IN THE CASE OF PARTNERSHIPS.—For purposes of determining ownership of a capital interest or profits interest of a partnership, the principles of subsection (c) (other than paragraph (3)) shall apply.

"(4) SUBSECTION (a)(2) NOT TO APPLY TO CERTAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—In the case of any amount paid or incurred by a partnership, subsection (a)(2) shall not apply to the extent that section 707(c) applies to such amount.

"(5) EXCEPTION FOR CERTAIN EXPENSES AND INTEREST OF PARTNERSHIPS OWNING LOW-INCOME HOUSING.—

"(A) IN GENERAL.—This subsection shall not apply with respect to qualified expenses and

interest paid or incurred by a partnership owning low-income housing to—

"(i) any qualified 5-percent or less partner of such partnership, or

"(ii) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to any qualified 5-percent or less partner of such partnership.

"(B) QUALIFIED 5-PERCENT OR LESS PARTNER.—For purposes of this paragraph, the term 'qualified 5-percent or less partner' means any partner who has (directly or indirectly) an interest of 5 percent or less in the aggregate capital and profits interests of the partnership but only if—

"(i) such partner owned the low-income housing at all times during the 2-year period ending on the date such housing was transferred to the partnership, or

"(ii) such partnership acquired the low-income housing pursuant to a purchase, assignment, or other transfer from the Department of Housing and Urban Development or any State or local housing authority.

"(C) QUALIFIED EXPENSES AND INTEREST.—For purposes of this paragraph, the term 'qualified expenses and interest' means any expense or interest incurred by the partnership with respect to low-income housing held by the partnership but—

"(i) only if the amount of such expense or interest (as the case may be) is unconditionally required to be paid by the partnership not later than 10 years after the date such amount was incurred, and

"(ii) in the case of such interest, only to the extent such interest accrues at an annual rate not in excess of 12 percent.

"(D) LOW-INCOME HOUSING.—For purposes of this paragraph, the term 'low-income housing' means—

"(i) any interest in low-income housing (as defined in paragraph (5) of section 189(e)), and

"(ii) any interest in a partnership owning low-income housing (as so defined).".

(2) CERTAIN CONTROLLED GROUPS.—

(A) Paragraph (3) of section 267(b) is amended to read as follows:

"(3) Two corporations which are members of the same controlled group (as defined in subsection (f));".

(B) Section 267 is amended by adding at the end thereof the following new subsection:

"(f) CONTROLLED GROUP DEFINED.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 1563(a), except that—

"(1) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(2) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.".

(3) CORPORATION AND PARTNERSHIP OWNED BY SAME PERSONS.—Paragraph (10) of section 267(b) is amended—

(A) by striking out "An S corporation" and inserting in lieu thereof "A corporation", and

(B) by striking out "the S corporation" and inserting in lieu thereof "the corporation".

(4) S CORPORATION AND C CORPORATION OWNED BY SAME PERSONS.—Paragraph (12) of section 267(b) is amended by striking out "the same individual" and inserting in lieu thereof "the same persons".

(5) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 170(a) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(B) Clause (iii) of section 514(c)(9)(B) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(C) Subsection (d) of section 1235 is amended—

(i) by striking out "section 267(b)" in the matter preceding paragraph (1) and inserting in lieu thereof "section 267(b) or persons described in section 707(b)",

(ii) by striking out "section 267 (b) and (c)" and inserting in lieu thereof "section 267 (b) and (c) and section 707(b)", and

(iii) by striking out "section 267(b)" in paragraph (1) and inserting in lieu thereof "section 267(b) or 707(b)".

(D) Subparagraph (F) of section 368(a)(2) is amended by striking out clause (viii).

(c) DEFERRAL (RATHER THAN DENIAL) OF LOSS FROM SALE OR EXCHANGE BETWEEN MEMBERS OF A CONTROLLED GROUP.—Section 267 (relating to losses, expenses and interest with respect to transactions between related parties), as amended by this section, is amended by adding at the end thereof the following new subsection:

"(g) DEFERRAL OF LOSSES FROM SALES OR EXCHANGES BETWEEN MEMBERS OF CONTROLLED GROUPS.—In the case of any loss from a sale or exchange of property between members of the same controlled group to which subsection (a)(1) applies (determined without regard to this subsection)—

"(1) subsections (a)(1) and (d) shall not apply to such loss, but

"(2) no deduction shall be allowed with respect to such loss to the transferor of such property until the first taxable year of such transferor in which the transferee—

"(A) sells, exchanges or otherwise disposes of such property (or substituted basis property with respect to such property) to a person other than a member of such controlled group (determined as of the time of the disposition), and

"(B) recognizes gain or loss on such disposition.".

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b)(1).—The amendments made by subsections (a) and (b)(1) shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or the postponement of deductions under section 267 of such Code.

(2) SUBSECTIONS (b)(2) AND (c).—The amendments made by subsections (b)(2) and (c) shall apply to transactions after December 31, 1983, in taxable years ending after such date.

(3) EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any amount paid or incurred—

(i) on indebtedness incurred on or before September 29, 1983, or

(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

(B) TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.

SEC. 181. LOSSES ON SALES AND EXCHANGES OF PROPERTY USED IN THE TRADE OR BUSINESS.

(a) GAINS EXCEED LOSSES.—Subsection (a) of section 1231 (relating to property used in the trade or business and involuntary conversions) is amended to read as follows:

"(a) CHARACTER OF GAINS AND LOSSES.—For purposes of this subtitle—

"(1) GAINS EXCEED LOSSES.—If during the taxable year, the sum of—

"(A) the recognized gains on sales or exchanges of property used in the trade or business, plus

"(B) the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of—

"(i) property used in the trade or business, or

"(ii) capital assets held for more than 1 year,

into other property or money,

exceeds the sum of the recognized losses from such sales, exchanges, and conversions, such gains shall be treated as long-term capital gains and such losses shall be treated as long-term capital losses.

"(2) LOSSES EXCEED GAINS.—

"(A) IN GENERAL.—If the sum of the gains described in paragraph (1) does not exceed the sum of the losses described in paragraph (1), such gains shall not be treated as gains from sales or exchanges of capital assets and such losses shall not be treated as losses from sales or exchanges of capital assets. The portion of such losses which—

"(i) exceeds the sums of such gains, and

"(ii) does not exceed the sum of the qualified section 1231 gains of the taxpayer for the 3 taxable years preceding the taxable year,

shall not be allowed as a loss.

"(B) CARRYBACK OF LONG-TERM CAPITAL LOSSES.—Any losses incurred in the taxable year (hereinafter in this subparagraph referred to as the "loss year") which are disallowed by subparagraph (A) shall be a section 1231 loss carryback to each of the 3 taxable years preceding the loss year. The entire amount of such losses shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be the excess, if any, of—

"(i) the entire amount of such loss, over

"(ii) the sum of the qualified section 1231 gains for each of the prior taxable years to which such loss may be carried.

For purposes of the preceding sentence, the net capital gain attributable to gains described in paragraph (1) for any such prior taxable year shall be computed without regard to the section 1231 loss carryback for the loss year or for any taxable year thereafter.

"(C) NET CAPITAL GAIN TREATED AS ORDINARY INCOME TO THE EXTENT OF SECTION 1231 LOSSES.—Any net capital gain attributable to gains described in paragraph (1) for the taxable year shall not be treated as gain from the sale or exchange of capital assets to the extent such net capital gain is less than the sum of the qualified section 1231 losses for the 3 taxable years preceding such taxable year which have not previously been taken into account under this subparagraph.

"(D) QUALIFIED SECTION 1231 GAIN.—For purposes of this paragraph, the term 'qualified section 1231 gain' means the excess of—

"(i) the gains described in paragraph (1) for the taxable year, over

"(ii) the losses described in paragraph (1) for the taxable year.

"(E) QUALIFIED SECTION 1231 LOSS.—For purposes of this paragraph, the term 'qualified section 1231 loss' means the excess of—

"(i) the losses described in paragraph (1) for the taxable year which are not disallowed for the taxable year by reason of subparagraph (A), over

"(ii) the gains described in paragraph (1) for the taxable year.".

(b) SPECIAL RULES.—Section 1231 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF WHETHER GAINS EXCEED LOSSES.—In determining under subsection (a) whether gains exceed losses—

"(A) the gains described in such subsection shall be taken into account only if, and to the extent, such gains are taken into account in computing gross income,

"(B) the losses described in such subsection shall be taken into account only if, and to the extent, such losses are taken into account in computing taxable income, and

"(C) section 1211 shall not apply.

"(2) LOSSES FROM DESTRUCTION, THEFT, ETC.—Losses (including losses not compensated for by insurance or otherwise) upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of—

"(A) property used in the trade or business, or

"(B) capital assets held for more than 1 year,

shall be considered losses from a compulsory or involuntary conversion.

"(3) CERTAIN INVOLUNTARY CONVERSIONS.—In the case of any involuntary conversion (subject to the provisions of subsection (a) but for this paragraph) arising from fire, storm, shipwreck, or other casualty, or from theft, of any property used in the trade or business or of any capital asset held for more than 1 year, subsection (a) shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6511(d) (relating to limitations on credits or refunds) is amended—

(A) by striking out "or a capital loss carryback" each place it appears and inserting in lieu thereof ", a capital loss carryback, or a section 1231 loss carryback",

(B) by striking out "or net capital loss" in subparagraph (A) and inserting in lieu thereof ", net capital loss, or loss described in section 1231 (a)(2)(B)",

(C) by striking out "OR CAPITAL LOSS CARRYBACK" in the paragraph heading and inserting in lieu thereof ", CAPITAL LOSS CARRYBACKS, OR SECTION 1231 LOSS CARRYBACKS",

(D) by striking out "such deduction or with respect to" in subparagraph (B) and inserting in lieu thereof "such deduction, with respect to",

(E) by striking out "capital loss, to the extent" in subparagraph (B) and inserting in lieu thereof "capital loss, with respect to the determination of a long-term capital loss and the effect of such long-term capital loss, to the extent", and

(F) by striking out "deduction or short-term capital loss" in subparagraph (B) and inserting in lieu thereof "deduction, short-term capital loss, or long-term capital loss".

(2) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or loss described in section 1231 (a)(2)(C)";

(B) by inserting "by a Section 1231 loss carryback provided by section 1231(a)(2)(C)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a); and

(C) by striking out "or a capital loss carryback (or" in the second sentence of subsection (a) and inserting in lieu thereof ", capital loss carryback, or section 1231 loss carryback (or,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 182. DEDUCTION DISALLOWED WHERE TAXPAYER USES PROPERTY SIMILAR TO PROPERTY OF THE TAXPAYER FOR PERSONAL USE.

(a) IN GENERAL.—Section 262 (relating to disallowance for personal, living, and family expenses) is amended—

(1) by striking out "Except" and inserting in lieu thereof:

"(a) IN GENERAL.—Except", and

(2) by adding at the end thereof the following new subsection:

"(b) PERSONAL USE OF PROPERTY SIMILAR TO PROPERTY OWNED BY THE TAXPAYER.—In any case in which—

"(1) a taxpayer uses property of another person for personal purposes and such other person (or any other person) uses similar property of the taxpayer for personal purposes, or

"(2) under regulations prescribed by the Secretary, the taxpayer is a member of a partnership, joint venture, or other entity one of the principal purposes of which is to allow members of such entity to acquire property and to use such property or similar property for personal purposes,

the taxpayer shall, for purposes of this section, be treated as using the taxpayer's property for personal purposes during any period the taxpayer is entitled to use such similar property for personal purposes.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the use of property after February 22, 1984, in taxable years ending after such date.

SEC. 183. SPECIAL RULE RELATING TO SALES OR EXCHANGES OF CERTAIN ECONOMIC INTERESTS IN COAL BETWEEN RELATED PARTIES.

(a) IN GENERAL.—The last sentence of section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is amended by inserting "or coal" after "iron ore" each place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions after September 30, 1985.

SEC. 184. REPEAL OF EXCLUSION FOR DIVIDEND REINVESTMENT IN STOCK IN PUBLIC UTILITIES.

(a) REPEAL OF SECTION 305(e).—Section 305 (relating to distribution of stock and stock rights) is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

(b) AMENDMENT OF SECTION 305(d).—Paragraph (1) of section 305(d) (defining stock) is amended by striking out "this section (other than subsection (e))" and inserting in lieu thereof "this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1984, in taxable years ending after such date.

SEC. 185. ESTIMATED INCOME TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 6654(g) (defining tax for purposes of failure by individual to pay estimated income tax) is amended by striking out "(other than by section 55)".

(b) CONFORMING AMENDMENTS.—Subsection (d) of section 6654 (relating to exception to addition to tax for underpayment of estimated tax by individuals) is amended—

(1) by inserting "and alternative minimum taxable income" after "taxable income" each place it appears in paragraph (2), and

(2) by inserting ", the actual alternative minimum taxable income," after "actual taxable income" in paragraph (3).

(c) WAIVER OF IMPOSITION OF ADDITION TO TAX IN CERTAIN CASES.—Section 6654 (relating to failure by individuals to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(i) WAIVERS.—

"(A) IN GENERAL.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

"(4) WAIVER FOR NEWLY RETIRED OR DISABLED.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

"(A) the taxpayer—

"(i) retired after having attained at least 62 years of age, or

"(ii) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

"(B) such underpayment was due to reasonable cause and not to willful neglect.".

(d) TECHNICAL AMENDMENT.—Subsection (d) of section 6015 (defining estimated tax for individuals) is amended by striking out "(other than the tax imposed by section 55)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 186. REPEAL OF EXEMPTION FROM FEDERAL TAX OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) REPEAL OF EXEMPTION.—Subsection (d) of section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(d)) is amended—

(1) by striking out "by the United States,",

(2) by striking out "possession thereof," and inserting in lieu thereof "possession of the United States", and

(3) by striking out the last sentence.

(b) TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANKS WHICH ARE ALLOCABLE TO DIVIDENDS FROM THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—Subsection (a) of section 246 (relating to denial of dividends received deduction for dividends from certain corporations) is amended to read as follows:

"(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—

"(1) IN GENERAL.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the

next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DIVIDENDS OF FEDERAL HOME LOAN BANKS.—

"(A) DIVIDENDS OUT OF CURRENT EARNINGS AND PROFITS.—In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

"(i) the dividends received by the FHLB from the FHLMC for such taxable year, bears to

"(ii) the total earnings and profits of the FHLB for such taxable year.

"(B) DIVIDENDS OUT OF ACCUMULATED EARNINGS AND PROFITS.—For purposes of subparagraph (A), in the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

"(i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—

"(I) for taxable years ending after December 31, 1984, and

"(II) which were not taken into account under subparagraph (A), bears to,

"(ii) the sum of—

"(I) the retained earnings of such FHLB as of January 1, 1985, and

"(II) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid which are allocable to periods after December 31, 1984.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) FHLB AND FHLMC.—The terms 'FHLB' and 'FHLMC' mean any Federal Home Loan Bank or the Federal Home Loan Mortgage Corporation, respectively.

"(ii) TAXABLE YEAR.—The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year.".

(c) TREATMENT OF NET OPERATING LOSSES OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) IN GENERAL.—Subparagraph (H) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended—

(A) by inserting ", or a net operating loss of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984" after "1981",

(B) by striking out "the FNMA mortgage disposition loss (within the meaning of subsection (i))" in clause (i) and inserting in lieu thereof "the FNMA mortgage disposition loss or the FHLMC mortgage disposition loss (within the meaning of subsection (i)), respectively,", and

(C) by inserting "or the FHLMC mortgage disposition loss" after "FNMA mortgage disposition loss" in clause (ii).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 172(i)(1) is amended—

(i) by striking out "the term 'FNMA mortgage disposition loss' " and inserting in lieu thereof "the terms 'FNMA mortgage disposition loss' and 'FHLMC mortgage disposition loss' ", and

(ii) by inserting "by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is appropriate" after "indebtedness" in clause (i).

(B) Paragraphs (1)(B) and (2) of section 172(i) are each amended by inserting "or FHLMC mortgage disposition loss" after "FNMA mortgage disposition loss".

(C) The headings for subsection (i) and paragraphs (1) and (1)(B) of subsection (i) of section 172 are each amended by inserting "or FHLMC mortgage disposition loss" after "loss".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1985.

(2) TRANSITION RULE FOR GAINS AND LOSSES.—The adjusted basis of any asset of the Federal Home Loan Mortgage Corporation held on the first day of the first taxable year of such corporation to which this section applies shall—

(A) for purposes of determining any loss, be equal to the lesser of the adjusted basis of such asset or the fair market value of such asset as of such date, and

(B) for purposes of determining any gain, be equal to the higher of the adjusted basis of such asset or the fair market value of such asset as of such date.

(3) TREATMENT OF PARTICIPATION CERTIFICATES.—

(A) IN GENERAL.—Paragraph (2) shall not apply to any asset which was represented by any mortgage pool participation certificate or other similar interest in any mortgage.

(B) NONRECOGNITION FOR CERTAIN SALES.—If any gain is realized on the sale or exchange of an interest in any mortgage pool participation certificate or other similar interest after March 15, 1984, and before January 1, 1985, the gain shall not be recognized when realized, but shall be recognized on January 1, 1985.

(4) NO ACCUMULATED EARNINGS AND PROFITS.—For purposes of the Internal Revenue Code of 1954, the Federal Home Loan Mortgage Corporation shall be treated as having no accumulated earnings and profits as of January 1, 1985.

(5) ADJUSTED BASIS.—For purposes of paragraph (2), the adjusted basis of any asset shall be determined under part II of subchapter O of the Internal Revenue Code of 1954.

SEC. 187. APPLICATION OF RELATED PARTY RULE TO SECTION 265(2).

(a) IN GENERAL.—Section 265(2) (relating to denial of deduction for interest relating to tax-exempt income), as amended by this Act, is amended—

(1) by inserting "of the taxpayer or a related person" after "indebtedness" the first place it appears, and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'related person' has the meaning given such term by section 1239(b).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to indebtedness incurred after the date of the enactment of this Act, in taxable years ending after such date.

(2) DEMAND LOANS.—In the case of a demand loan in effect on the date of the enactment of this Act, the amendments made by this section shall apply to any indebtedness continued under such loan after the 60th day after such date.

SEC. 189. LIMITATION ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT ALLOWABLE FOR LUXURY AUTOMOBILES.

(a) GENERAL RULE.—Subsection (d) of section 168 (relating to unadjusted basis; adjustments) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION IN CASE OF LUXURY AUTOMOBILES.—

"(A) IN GENERAL.—In the case of a passenger automobile, the aggregate basis of such automobile taken into account by all persons holding interests in the automobile—

"(i) for purposes of determining the amount of the deduction allowable under this section (and any other deduction allowable for depreciation or amortization),

"(ii) for purposes of determining the amount of the credit allowabale under section 38, and

"(iii) for purposes of section 179,

shall not exceed $15,000 increased by the automobile price inflation adjustment (if any) for the calendar year in which the automobile is placed in service.

"(B) PASSENGER AUTOMOBILE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'passenger automobile' means any 4-wheeled vehicle—

"(I) which is manufactured primarily for use on public streets, roads, and highways, and

"(II) which is rated at 6,000 pounds gross vehicle weight or less.

"(ii) EXCEPTION FOR CERTAIN VEHICLES.—The term 'passenger automobile' shall not include—

"(I) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

"(II) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

"(III) under regulations, any truck or van.

"(C) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI automobile component for November of the preceding calendar year, exceeds

"(II) the CPI automobile component for November of 1983.

In the case of calendar year 1984, the automobile price inflation adjustment shall be zero.

"(ii) CPI AUTOMOBILE COMPONENT.—The term 'CPI automobile component' means the automobile component of the Consumer Price Index for All Urban Consumers published by the Department of Labor.

"(D) COORDINATION WITH SECTION 1031.—In the case of an exchange described in section 1031 where the property received in the exchange is a passenger automobile, the excess of the fair market value of such property over the limitation of subparagraph (A) shall be treated as an amount received in cash for purposes of section 1031.

"(E) TREATMENT OF LEASES.—

"(i) EXCEPTION FOR LESSORS.—This paragraph shall not apply to any passenger automobile leased or held for leasing by any person regularly engaged in the business of leasing passenger automobiles.

"(ii) TREATMENT OF LESSEES.—For purposes of determining the amount allowable as a deduction under this chapter for rentals or other payments under a lease of a passenger automobile, only the allowable portion of such payments shall be taken into account.

"(iii) ALLOWABLE PORTION.—The term 'allowable portion' means, with respect to any lease of an automobile, the fraction—

"(I) the numerator of which is the limitation of subparagraph (A) in effect for the calendar year in which the automobile is placed in service under the lease, and

"(II) the denominator of which is the fair market value of such automobile when so placed in service.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after March 15, 1984, in taxable years ending after such date.

TITLE II—LIFE INSURANCE PROVISIONS

SEC. 201. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Life Insurance Tax Act of 1984".

(b) TABLE OF SECTIONS FOR PART I OF SUBCHAPTER L.—Under the amendment to part I of subchapter L made by section 211(a), the subparts and sections of such part I will be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.
Sec. 805. General deductions.
Sec. 806. Special deductions.
Sec. 807. Rules for certain reserves.
Sec. 808. Policyholder dividends deduction.
Sec. 809. Reduction in certain deductions of mutual life insurance companies.
Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.
Sec. 812. Definition of company's share and policyholders' share.
Sec. 813. Foreign life insurance companies.
Sec. 814. Contiguous country branches of domestic life insurance companies.
Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.
Sec. 817. Treatment of variable contracts.
Sec. 818. Other definitions and special rules.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

SEC. 211. AMENDMENT OF SUBCHAPTER L.

(a) GENERAL RULE.—Part I of subchapter L of chapter 1 is amended to read as follows:

"PART I—LIFE INSURANCE COMPANIES

"Subpart A. Tax imposed.
"Subpart B. Life insurance gross income.
"Subpart C. Life insurance deductions.
"Subpart D. Accounting, allocation, and foreign provisions.
"Subpart E. Definitions and special rules.

"Subpart A—Tax Imposed

"Sec. 801. Tax imposed.

"SEC. 801. TAX IMPOSED.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the life insurance company taxable income of every life insurance company. Such tax shall consist of a tax computed as provided in section 11 as though the life insurance company taxable income were the taxable income referred to in section 11.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—

"(A) IN GENERAL.—If a life insurance company has a net capital gain for the taxable year, then (in lieu of the tax imposed by paragraph (1)), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)).

"(B) AMOUNT OF TAX.—The amount of the tax imposed by this paragraph shall be the sum of—

"(i) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income reduced by the amount of the net capital gain, and

"(ii) an amount determined as provided in section 1201(a) on such net capital gain.

"(C) NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT IN DETERMINING SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of subparagraph (B)(i), the amounts allowable as deductions under paragraphs (2) and (3) of section 804 shall be determined by reducing the tentative LICTI by the amount of the net capital gain (determined without regard to items attributable to noninsurance businesses).

"(b) LIFE INSURANCE COMPANY TAXABLE INCOME.—For purposes of this part, the term 'life insurance company taxable income' means—

"(1) life insurance gross income, reduced by

"(2) life insurance deductions.

"(c) LIFE INSURANCE COMPANY TAXABLE INCOME INCREASED BY DISTRIBUTIONS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

"For provision increasing life insurance company taxable income for distributions to shareholders from pre-1984 policyholders surplus account, see section 815.

"Subpart B—Life Insurance Gross Income

"Sec. 803. Life insurance gross income.

"SEC. 803. LIFE INSURANCE GROSS INCOME.

"(a) IN GENERAL.—For purposes of this part, the term 'life insurance gross income' means the sum of the following amounts:

"(1) PREMIUMS.—

"(A) The gross amount of premiums and other consideration on insurance and annuity contracts, less

"(B) return premiums, and premiums and other consideration arising out of indemnity reinsurance.

"(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 807(a) to be taken into account under this paragraph.

"(3) OTHER AMOUNTS.—All amounts not includible under paragraph (1) or (2) which under this subtitle are includible in gross income.

"(b) SPECIAL RULES FOR PREMIUMS.—

"(1) CERTAIN ITEMS INCLUDED.—For purposes of subsection (a)(1)(A), the term 'gross amount of premiums and other consideration' includes—

"(A) advance premiums,
"(B) deposits,
"(C) fees,
"(D) assessments,
"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and
"(F) the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts.

"(2) POLICYHOLDER DIVIDENDS EXCLUDED FROM RETURN PREMIUMS.—For purposes of subsection (a)(1)(B)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'return premiums' does not include any policyholder dividends.

"(B) EXCEPTION FOR INDEMNITY REINSURANCE.—Subparagraph (A) shall not apply to amounts of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

"Subpart C—Life Insurance Deductions

"Sec. 804. Life insurance deductions.
"Sec. 805. General deductions.
"Sec. 806. Special deductions.
"Sec. 807. Rules for certain reserves.
"Sec. 808. Policyholder dividends deduction.
"Sec. 809. Reduction in certain deductions of mutual life insurance companies.
"Sec. 810. Operations loss deduction.

"SEC. 804. LIFE INSURANCE DEDUCTIONS.

"For purposes of this part, the term 'life insurance deductions' means—

"(1) the general deductions provided in section 805,

"(2) the special life insurance company deduction determined under section 806(a), and

"(3) the small life insurance company deduction (if any) determined under section 806(b).

"SEC. 805. GENERAL DEDUCTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed the following deductions:

"(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

"(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

"(3) POLICYHOLDER DIVIDENDS.—The deduction for policyholder dividends (determined under section 808(c)).

"(4) DIVIDENDS RECEIVED BY COMPANY.—

"(A) IN GENERAL.—The deductions provided by sections 243, 244, and 245 (as modified by subparagraph (B))—

"(i) for 100 percent dividends received, and

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

"(B) APPLICATION OF SECTION 246(b).—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the life insurance company taxable income, computed without regard to—

"(i) the special life insurance company deduction and the small life insurance company deduction,

"(ii) the operations loss deduction provided by section 810,

"(iii) the deductions allowed by sections 243(a)(1), 244(a), and 245, and

"(iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not in-

clude any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).

"(D) CERTAIN DIVIDENDS RECEIVED IN THE CASE OF FOREIGN CORPORATIONS.—Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5).

"(E) EXCEPTION TO 100 PERCENT DIVIDEND LIMITATION.—

"(i) QUALIFYING DIVIDENDS.—Notwithstanding the last sentence of subparagraph (C), the term '100 percent dividend' includes a dividend distributed by—

"(I) a life insurance company, if such company and all other life insurance companies which are members of the same controlled group compute the company's share of dividends (other than 100 percent dividends) received and of tax-exempt interest as if such company and all such other companies were one life insurance company;

"(II) an insurance company other than a life insurance company or a reinsurance company, to the extent that the surplus of such company is not greater than 30 percent of the value of its assets and that the value of the tax-advantaged investments of such company is not greater than 60 percent of the value of its assets; and

"(III) a reinsurance company, only if, and to the extent authorized by, regulations prescribed by the Secretary.

"(ii) OVERALL LIMITATION.—Subdivisions (II) and (III) of subdivision (i) shall not apply to the extent that the value of the investments of the life insurance company that receives the dividend in companies or corporations described in such subdivisions exceed the statutory surplus of such life insurance company.

"(iii) SPECIAL LIMITATIONS.—For purposes of subdivision (II) of subdivision (i)—

"(I) the assets of a company shall be reduced by an amount equal to the reserves ceded to such company under reinsurance agreements entered into after December 31, 1983;

"(II) in determining the surplus to assets percentage, the assets of a company shall be reduced by an amount equal to the reserves attributable to risks reinsured by another company; and

"(III) the assets of a company shall not include assets attributable to life insurance reserves held by such company.

"(iv) REGULATIONS.—Subdivision (i) shall not apply to a dividend to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

"(v) DEFINITIONS.—For purposes of this subparagraph—

"(I) a 'reinsurance company' is an insurance company whose reserves relating to reinsurance agreements exceed 80 percent of the total reserves of such company; and

"(II) the term 'tax-advantaged investments' means obligations to which section 103(a) applies and stock in a corporation that is not a member of the same affiliated group as the owner of such stock.

"(vi) STATEMENT GAIN FROM OPERATIONS ADJUSTMENT.—The statement gain or loss from operations (defined in section 809(g)(1)) shall not include dividends in excess of post-1983 earnings and profits paid from any company that qualifies for an exception under this subparagraph.

"(vii) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 1986.

"(5) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 810).

"(6) ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.—The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

"(7) REIMBURSABLE DIVIDENDS.—The amount of policyholder dividends which—

"(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

"(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

"(8) OTHER DEDUCTIONS.—Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

"(b) MODIFICATIONS.—The modifications referred to in subsection (a)(8) are as follows:

"(1) INTEREST.—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

"(2) BAD DEBTS.—Section 166(c) (relating to reserve for bad debts) shall not apply.

"(3) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—In applying section 170—

"(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

"(i) the deduction provided by section 170,

"(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

"(iii) the special life insurance company deduction and the small life insurance company deduction,

"(iv) any operations loss carryback to the taxable year under section 810, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

"(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

"(4) AMORTIZABLE BOND PREMIUM.—

"(A) IN GENERAL.—Section 171 shall not apply.

"(B) CROSS REFERENCE.—

"For rules relating to amortizable bond premium, see section 811(b).

"(5) NET OPERATING LOSS DEDUCTION.—Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

"(6) DIVIDENDS RECEIVED DEDUCTION.—Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.

"SEC. 806. SPECIAL DEDUCTIONS.

"(a) SPECIAL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of section 804, the special life insurance company deduction for any taxable year is 20 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).

"(b) SMALL LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds $3,000,000.

"(3) SMALL LIFE INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(c) TENTATIVE LICTI.—For purposes of this part—

"(1) IN GENERAL.—The term 'tentative LICTI' means life insurance company taxable income determined without regard to—

"(A) the special life insurance company deduction, and

"(B) the small life insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESS.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if it is of a type traditionally carried on by life insurance companies and—

"(i) is carried on for investment purposes but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(ii) involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

"(C) TREATMENT OF NONINSURANCE GAINS AND LOSSES.—For purposes of this part and section 1503(c), in computing LICTI of any life insurance company, any noninsurance gain or loss shall be treated as if it were a gain or loss of a noninsurance member that joined in the filing of a consolidated return with that life insurance company.

"(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (a) and (b)—

"(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

"(B) any special life insurance company deduction and any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

"(2) NONLIFE INSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (b)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(4) ELECTION WITH RESPECT TO LOSS FROM OPERATIONS OF MEMBER OF GROUP.—

"(A) IN GENERAL.—Any life insurance company which is a member of a controlled group may elect to have its loss from operations for any taxable year not taken into account for purposes of determining the amount of the special life insurance company deduction for the life insurance companies which are members of such group and which do not file a consolidated return with such life insurance company for the taxable year.

"(B) LIMITATION ON AMOUNT OF LOSS WHICH MAY OFFSET NONLIFE INCOME.—In the case of that portion of any loss from operations for any taxable year of a life insurance company which (but for subparagraph (A)) would have reduced tentative LICTI of other life insurance companies for such taxable year—

"(i) only 80 percent of such portion may be used to offset nonlife income, and

"(ii) to the extent such portion is used to offset nonlife income, the loss shall be treated as used at a rate of $1 for each 80 cents of income so offset.

For purposes of the preceding sentence, any such portion shall be used before the remaining portion of the loss from the same year and shall be treated as first being offset against income which is not nonlife income.

"(C) NONLIFE INCOME.—

"(i) IN GENERAL.—The term 'nonlife income' means the portion of the life insurance company's taxable income for which the special life insurance company deduction was not allowable and any income of a corporation not subject to tax under this part.

"(ii) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—In the case of a taxable year beginning before January 1, 1984, all life insurance company taxable income shall be treated as nonlife income.

"(5) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection.

"(e) ELECTION OF THE ALTERNATIVE LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—Any life insurance company may elect for the taxable year to treat as the aggregate of the special life insurance company deduction under subsection (a) and the small life insurance company deduction under subsection (b) for such year the amount of the deduction computed under this subsection.

"(2) AMOUNT OF DEDUCTION.—

"(A) IN GENERAL.—The amount of the deduction computed under this subsection for any taxable year is the sum of—

"(i) an amount equal to 20 percent of the life insurance company's qualified first-year premiums for the taxable year, multiplied by the phase-out percentage for the taxable year, plus

"(ii) an amount equal to the aggregate deductions which (but for the election under this subsection) would be allowed under subsections (a) and (b) for the taxable year, multiplied by the phase-in percentage for such year.

"(B) PHASE-OUT AND PHASE-IN PERCENTAGES.—The phase-out and phase-in percentages for any taxable year shall be determined in accordance with the following table:

"For taxable years beginning in:	The phase-out percentage is:	The phase-in percentage is:
1984	80	20
1985	60	40
1986	40	60
1987	20	80
1988 or thereafter	0	100

"(3) QUALIFIED FIRST-YEAR PREMIUMS.—

"(A) IN GENERAL.—For purposes of this paragraph, the term 'qualified first-year premium' means (i) the premiums received by the life insurance company during the taxable year for the first year of coverage under any newly issued qualified contract (which was directly issued by such company with respect to the life or health of an individual during the taxable year), reduced by (ii) premiums paid for reinsurance ceded with respect to such contracts.

"(B) MAXIMUM PREMIUM TAKEN INTO ACCOUNT.—The amount taken into account under subparagraph (A) with respect to the first year of coverage under any contract shall not exceed 200 percent of the net level premium required for the benefits provided under the contract, computed by assuming that the contract extends for and premiums are payable until the insured attains age 95 or, if later, the maturity date of the contract.

"(C) NEWLY ISSUED.—A contract shall be treated as newly issued only if—

"(i) the contract is not a renewal of another contract, and

"(ii) such contract does not provide coverage to an individual who was covered (during the taxable year or the preceding taxable year) under another contract of the same type issued by such company or by a company which is in the same controlled group (within the meaning of subsection (d)(3)) as such company.

"(D) QUALIFIED CONTRACT.—For purposes of this paragraph, the term 'qualified contract' means any individual ordinary life insurance or individual noncancellable accident and health insurance contract, and does not include—

"(i) any annuity contract,

"(ii) any group contract,

"(iii) any credit life contract,

"(iv) any single premium contract, and

"(v) any contract having the term of one year or less.

"(4) SPECIAL RULES RELATING TO ELECTION.—An election may be made under paragraph (1) for any taxable year only if it is made for the taxable year by all life insurance companies which are members of the same controlled group (within the meaning of subsection (d)(3)) as the electing company. Any such election, once made, shall apply to all taxable years beginning before 1988 unless such company revokes such election for any taxable year. A revocation of such election by one member of a controlled group (within the meaning of subsection (d)(3)) shall be treated as a revocation of such election by all members of such group. A company which has revoked its election under this subsection for any taxable year may not make an election under this subsection for any succeeding taxable year.

"(5) DEDUCTION ALLOWED ONLY AGAINST LIFE INSURANCE INCOME.—Under regulations prescribed by the Secretary, if the amount of the deduction under this subsection creates or increases a loss from operations for a life insurance company for any taxable year—

"(A) the portion of such loss so created or increased shall not be allowed as an offset against nonlife income (as defined in subsection 806(d)(4)(C)) of such company or any other company, and

"(B) paragraph (4) of subsection (d) shall not apply.

"SEC. 807. RULES FOR CERTAIN RESERVES.

"(a) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

"(1) the opening balance for the items described in subsection (c), exceeds

"(2)(A) the closing balance for such items, reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year,

such excess shall be included in gross income under section 803(a)(2).

"(b) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

"(1)(A) the closing balance for the items described in subsection (c), reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year, exceeds

"(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

"(c) ITEMS TAKEN INTO ACCOUNT.—The items referred to in subsections (a) and (b) are as follows:

"(1) The life insurance reserves (as defined in section 816(b)).

"(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

"(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

"(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

"(5) Premiums received in advance, and liabilities for premium deposit funds.

"(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.

"(d) METHOD OF COMPUTING RESERVES FOR PURPOSES OF DETERMINING INCOME.—

"(1) IN GENERAL.—For purposes of this part (other than section 816), the amount of the life insurance reserves for any contract shall be the greater of—

"(A) the net surrender value of such contract, or

"(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in section 809(b)(4)(B)).

"(2) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

"(A) the tax reserve method applicable to such contract,

"(B) the prevailing State assumed interest rate, and

"(C) the prevailing commissioners' standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

"(3) TAX RESERVE METHOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax reserve method' means—

"(i) LIFE INSURANCE CONTRACTS.—The CRVM in the case of a contract covered by the CRVM.

"(ii) ANNUITY CONTRACTS.—The CARVM in the case of a contract covered by the CARVM.

"(iii) NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—In the case of any noncancellable accident and health insurance contract, a 2-year full preliminary term method.

"(iv) OTHER CONTRACTS.—In the case of any contract not described in clause (i), (ii), or (iii)—

"(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

"(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

"(B) DEFINITION OF CRVM AND CARVM.—For purposes of this paragraph—

"(i) CRVM.—The term 'CRVM' means the Commissioners' Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(ii) CARVM.—The term 'CARVM' means the Commissoners' Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(C) NO ADDITIONAL RESERVE DEDUCTION ALLOWED FOR DEFICIENCY RESERVES.—Nothing in any reserve method described under this paragraph shall permit any increase in the reserve because the net level premium (computed on the basis of assumptions required under this subsection) exceeds the actual premiums or other consideration charged for the benefit.

"(4) PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of the nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

"(B) WHEN RATE DETERMINED.—Except as provided in subparagraph (C), the prevailing State assumed rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

"(C) ELECTION FOR NONANNUITY CONTRACTS.—In the case of a contract other than an annuity contract, the issuer may elect (at such time and in such manner as the Secretary shall by regulations prescribe) to determine the prevailing State assumed rate as of the beginning of the calendar year preceding the calendar year in which the contract was issued.

"(5) PREVAILING COMMISSIONERS' STANDARD TABLES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing commissioners' standard tables' means, with respect to any contract, the most recent commissioners' standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

"(B) INSURER MAY USE OLD TABLES FOR 3 YEARS WHEN TABLES CHANGE.—If the prevailing commissioners' standard tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the 'year of change') is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

"(C) SPECIAL RULE FOR CONTRACTS FOR WHICH THERE ARE NO COMMISSIONERS' STANDARD TABLES.—If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary.

"(D) SPECIAL RULE FOR CONTRACTS ISSUED BEFORE 1948.—If—

"(i) a contract was issued before 1948, and

"(ii) there were no commissioners' standard tables applicable to such contract when it was issued,

the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

"(E) SPECIAL RULE WHERE MORE THAN 1 TABLE OR OPTION APPLICABLE.—If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

"(e) SPECIAL RULES FOR COMPUTING RESERVES.—

"(1) NET SURRENDER VALUE.—For purposes of this section—

"(A) IN GENERAL.—The net surrender value of any contract shall be determined—

"(i) with regard to any penalty or charge which would be imposed on surrender, but

"(ii) without regard to any market value adjustment on surrender.

"(B) SPECIAL RULE FOR PENSION PLAN CONTRACTS.—In the case of a pension plan contract, the balance in the policyholder's fund (determined without regard to any market value adjustment) shall be treated as the net surrender value of such contract.

"(2) ISSUANCE DATE IN CASE OF GROUP CONTRACTS.—For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) QUALIFIED SUPPLEMENTAL BENEFITS TREATED SEPARATELY.—For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

"(i) shall be computed separately as though such benefit were under a separate contract, and

"(ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(B) SUPPLEMENTAL BENEFITS WHICH ARE NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(C) QUALIFIED SUPPLEMENTAL BENEFIT.—For purposes of this paragraph, the term 'qualified supplemental benefit' means any supplemental benefit described in subparagraph (D) if—

"(i) there is a separately identified premium or charge for such benefit, and

"(ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

"(D) SUPPLEMENTAL BENEFITS.—For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) convertibility,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

"(4) CERTAIN CONTRACTS ISSUED BY FOREIGN BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or

administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

"(B) QUALIFIED FOREIGN CONTRACT.—For purposes of subparagraph (A), the term 'qualified foreign contract' means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

"(i) such contract is issued on the life or health of a resident of such country,

"(ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such country) to operate in such country through a branch, and

"(iii) such foreign country is not contiguous to the United States.

"(5) TREATMENT OF SUBSTANDARD RISKS.—

"(A) SEPARATE COMPUTATION.—Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) QUALIFIED SUBSTANDARD RISK.—For purposes of subparagraph (A), the term 'qualified substandard risk' means any substandard risk if—

"(i) the insurance company maintains a separate reserve for such risk,

"(ii) there is a separately identified premium or charge for such risk,

"(iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and

"(iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

"(C) LIMITATION ON AMOUNT OF LIFE INSURANCE RESERVE.—The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

"(D) LIMITATION ON AMOUNT OF CONTRACTS TO WHICH PARAGRAPH APPLIES.—The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

"(6) SPECIAL RULES FOR CONTRACTS ISSUED BEFORE JANUARY 1, 1989, UNDER EXISTING PLANS OF INSURANCE, WITH TERM INSURANCE OR ANNUITY BENEFITS.—For purposes of this part—

"(A) IN GENERAL.—In the case of a life insurance contract issued before January 1, 1989, under an existing plan of insurance, the life insurance reserve for any benefit to which this paragraph applies shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) BENEFITS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph applies to any term insurance or annuity benefit with respect to which the requirements of clauses (i) and (ii) of paragraph (3)(C) are met.

"(C) EXISTING PLAN OF INSURANCE.—For purposes of this paragraph, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company using such contract in one or more States before January 1, 1984, and is on file in the appropriate State for such contract.

"(f) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES.—

"(1) 10-YEAR SPREAD.—

"(A) IN GENERAL.—For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

"(i) the amount of the item at the close of the taxable year, computed on the new basis, and

"(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

"(B) METHOD.—The method provided in this subparagraph is as follows:

"(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii), 1/10 of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

"(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i), 1/10 of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

"(2) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

"SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.

"(a) POLICYHOLDER DIVIDEND DEFINED.—For purposes of this part, the term 'policyholder dividend' means any dividend or similar distribution to policyholders in their capacity as such.

"(b) CERTAIN AMOUNTS INCLUDED.—For purposes of this part, the term 'policyholder dividend' includes—

"(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

"(2) excess interest,

"(3) premium adjustments, and

"(4) experience-rated refunds.

"(c) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

"(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EXCESS INTEREST.—The term 'excess interest' means any amount in the nature of interest—

"(A) paid or credited to a policyholder in his capacity as such, and

"(B) determined at a rate in excess of the prevailing State assumed interest rate for such contract.

"(2) PREMIUM ADJUSTMENT.—The term 'premium adjustment' means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

"(3) EXPERIENCE-RATED REFUND.—The term 'experience-rated refund' means any refund or credit based on the experience of the contract or group involved.

"(e) TREATMENT OF POLICYHOLDER DIVIDENDS.—For purposes of this part, any policyholder dividend which—

"(1) increases the cash surrender value of the contract or other benefits payable under the contract, or

"(2) reduces the premium otherwise required to be paid,

shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium.

"SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL LIFE INSURANCE COMPANIES.

"(a) GENERAL RULE.—

"(1) POLICYHOLDER DIVIDENDS.—In the case of any mutual life insurance company, the amount of the deduction allowed under section 808 shall be reduced (but not below zero) by the differential earnings amount.

"(2) REDUCTION IN RESERVE DEDUCTION IN CERTAIN CASES.—In the case of any mutual life insurance company, if the differential earnings amount exceeds the amount allowable as a deduction under section 808 for the taxable year (determined without regard to this section), such excess shall be taken into account under subsections (a) and (b) of section 807.

"(3) DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this section, the term 'differential earnings amount' means, with respect to any taxable year, an amount equal to the product of—

"(A) the life insurance company's average equity base for the taxable year, multiplied by

"(B) the differential earnings rate for such taxable year.

"(b) AVERAGE EQUITY BASE.—For purposes of this section—

"(1) IN GENERAL.—The term 'average equity base' means, with respect to any taxable year, the average of—

"(A) the equity base determined as of the close of the taxable year, and

"(B) the equity base determined as of the close of the preceding taxable year.

"(2) EQUITY BASE.—The term 'equity base' means an amount equal to—

"(A) the surplus and capital,

"(B) adjusted as provided in paragraphs (3), (4), (5), and (6) of this subsection.

"(3) INCREASE FOR NONADMITTED FINANCIAL ASSETS.—

"(A) IN GENERAL.—The amount of the surplus and capital shall be increased by the amount of the nonadmitted financial assets.

"(B) NONADMITTED FINANCIAL ASSETS.—For purposes of subparagraph (A), the term 'nonadmitted financial asset' means any nonadmitted asset of the company which is—

"(i) a bond,

"(ii) stock,

"(iii) real estate,

"(iv) a mortgage loan on real estate, or

"(v) any other invested asset.

"(4) INCREASE WHERE STATUTORY RESERVES EXCEED TAX RESERVES.—

"(A) IN GENERAL.—If—

"(i) the aggregate amount of statutory reserves, exceeds

"(ii) the aggregate amount of tax reserves,

the amount of the surplus and capital shall be increased by the amount of such excess.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected pre-

mium if the establishment of such reserve is not permitted under section 811(c).

"(ii) TAX RESERVES.—The term 'tax reserves' means the aggregate of the items described in section 807(c) as determined for purposes of section 807.

"(5) INCREASE BY AMOUNT OF CERTAIN OTHER RESERVES.—The amount of the surplus and capital shall be increased by the sum of—

"(A) the amount of any mandatory securities valuation reserve,

"(B) the amount of any deficiency reserve, and

"(C) the amount of any voluntary reserve not described in subparagraph (A) or (B).

"(6) ADJUSTMENT FOR NEXT YEAR'S POLICYHOLDER DIVIDENDS.—The amount of the surplus and capital shall be increased by 50 percent of the amount of any provision for policyholder dividends (or other similar liability) payable in the following taxable year.

"(c) DIFFERENTIAL EARNINGS RATE.—For purposes of this section, the differential earnings rate for any taxable year is the excess of—

"(1) the imputed earnings rate for the taxable year, over

"(2) the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

"(d) IMPUTED EARNINGS RATE.—

"(1) IN GENERAL.—For purposes of this section, the imputed earnings rate for any taxable year is—

"(A) 16.5 percent in the case of taxable years beginning in 1984, and

"(B) in the case of taxable years beginning after 1984, an amount which bears the same ratio to 16.5 percent as the current stock earnings rate for the taxable year bears to the base period stock earnings rate.

"(2) CURRENT STOCK EARNINGS RATE.—For purposes of this subsection, the term 'current stock earnings rate' means, with respect to any taxable year, the average of the stock earnings rates determined under paragraph (4) for the 3 calendar years preceding the calendar year in which the taxable year begins.

"(3) BASE PERIOD STOCK EARNINGS RATE.—For purposes of this subsection, the base period stock earnings rate is the average of the stock earnings rates determined under paragraph (4) for calendar years 1981, 1982, and 1983.

"(4) STOCK EARNINGS RATE.—

"(A) IN GENERAL.—For purposes of this subsection, the stock earnings rate for any calendar year is the numerical average of the earnings rates of the 50 largest stock companies.

"(B) EARNINGS RATE.—For purposes of subparagraph (A), the earnings rate of any stock company is the percentage (determined by the Secretary) which—

"(i) the statement gain or loss from operations for the calendar year of such company, is of

"(ii) such company's average equity base for such year.

"(C) 50 LARGEST STOCK COMPANIES.—For purposes of this paragraph, the term '50 largest stock companies' means a group (as determined by the Secretary) of stock life insurance companies which consists of the 50 largest stock life insurance companies which are subject to tax under this chapter.

"(D) TREATMENT OF AFFILIATED GROUPS.—For purposes of this paragraph, all stock life insurance companies which are members of the same affiliated group shall be treated as one stock life insurance company.

"(e) AVERAGE MUTUAL EARNINGS RATE.—For purposes of this section, the average mutual earnings rate for any calendar year is the percentage (determined by the Secretary) which—

"(1) the aggregate statement gain or loss from operations for such year of mutual life insurance companies, is of

"(2) their aggregate average equity bases for such year.

"(f) RECOMPUTATION IN SUBSEQUENT YEAR.—

"(1) INCLUSION IN INCOME WHERE RECOMPUTED AMOUNT GREATER.—In the case of any mutual life insurance company, if—

"(A) the recomputed differential earnings amount for any taxable year, exceeds

"(B) the differential earnings amount determined under this section for such taxable year,

such excess shall be included in life insurance gross income for the succeeding taxable year.

"(2) DEDUCTION WHERE RECOMPUTED AMOUNT SMALLER.—In the case of any mutual life insurance company, if—

"(A) the differential earnings amount determined under this section for any taxable year, exceeds

"(B) the recomputed differential earnings amount for such taxable year,

such excess shall be allowed as a life insurance deduction for the succeeding taxable year.

"(3) RECOMPUTED DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this subsection, the term 'recomputed differential earnings amount' means, with respect to any taxable year, the amount which would be the differential earnings amount for such taxable year if the average mutual earnings rate taken into account under subsection (c)(2) were the average mutual earnings rate for the calendar year in which the taxable year begins.

"(4) SPECIAL RULE WHERE COMPANY CEASES TO BE MUTUAL LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if—

"(A) a life insurance company is a mutual life insurance company for any taxable year, but

"(B) such life insurance company is not a mutual life insurance company for the succeeding taxable year,

any adjustment under paragraph (1) or (2) by reason of the recomputed differential earnings amount for the first of such taxable years shall be taken into account for the first of such taxable years.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement—

"(A) determined with regard to policyholder dividends (as defined in section 808) but without regard to Federal income taxes,

"(B) determined on the basis of the tax reserves rather than statutory reserves, and

"(C) properly adjusted for realized capital gains and losses and other relevant items.

"(2) OTHER TERMS.—Except as otherwise provided in this section, the terms used in this section shall have the same respective meanings as when used in the annual statement.

"(3) DETERMINATIONS BASED ON AMOUNT SET FORTH IN ANNUAL STATEMENT.—Except as otherwise provided in this section or in regulations, all determinations under this section shall be made on the basis of the amounts required to be set forth on the annual statement.

"(4) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement for life insurance companies approved by the National Association of Insurance Commissioners.

"(5) REDUCTION IN EQUITY BASE FOR PORTION OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSINESS IN NONCONTIGUOUS WESTERN HEMISPHERE COUNTRIES.—The equity base of any mutual life insurance company shall be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction—

"(A) the numerator of which is the portion of the tax reserves which is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere which are not contiguous to the United States, and

"(B) the denominator of which is the amount of the tax reserves allocable to life insurance contracts.

The preceding sentence shall not apply unless the fraction determined under the preceding sentence exceeds 1/20.

"(6) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED BEFORE JANUARY 1, 1985.—In determining the amount of tax reserves of a mutual insurance company for purposes of subsection (b)(4), section 811(e) shall not apply with respect to any life insurance contract issued before January 1, 1985, under a plan of life insurance in existence on July 1, 1983.

"(7) REDUCTION IN EQUITY BASE FOR MUTUAL SUCCESSOR OF FRATERNAL BENEFIT SOCIETY.—In the case of any mutual life insurance company which—

"(A) is the successor to a fraternal benefit society, and

"(B) which assumed the surplus of such fraternal benefit society in 1950,

the equity base of such mutual life insurance company shall be reduced by the amount of the surplus so assumed plus earnings thereon, (i) for taxable years before 1984, at a 7 percent interest rate, and (ii) for taxable years 1984 and following, at the average mutual earnings rate for such year.

"(h) TREATMENT OF STOCK COMPANIES OWNED BY MUTUAL LIFE INSURANCE COMPANIES.—

"(1) TREATMENT AS MUTUAL LIFE INSURANCE COMPANIES FOR PURPOSES OF DETERMINING STOCK EARNINGS RATES AND MUTUAL EARNINGS RATES.—Solely for purposes of subsections (d) and (e), a stock life insurance company shall be treated as a mutual life insurance company if stock possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock of such stock life insurance company entitled to vote, or

"(B) at least 80 percent of the total value of shares of all classes of stock of such stock life insurance company,

is owned at any time during the calendar year directly (or through the application of section 318) by 1 or more mutual life insurance companies.

"(2) TREATMENT OF AFFILIATED GROUP WHICH INCLUDES MUTUAL PARENT AND STOCK SUBSIDIARY.—In the case of an affiliated group of corporations which includes a common parent which is a mutual life insurance company and one or more stock life insurance companies, for purposes of determining the average equity base of such common parent (and the statement gain or loss from operations)—

"(A) stock in such stock life insurance companies held by such common parent (and dividends on such stock) shall not be taken into account, and

"(B) such common parent and such stock life insurance companies shall be treated as

though they were one mutual life insurance company.

"(3) ADJUSTMENT WHERE STOCK COMPANY NOT MEMBER OF AFFILIATED GROUP.—In the case of any stock life insurance company which is described in paragraph (1) but is not a member of an affiliated group described in paragraph (2), under regulations, proper adjustments shall be made in the average equity bases (and statement gains or losses from operations) of mutual life insurance companies owning stock in such company as may be necessary or appropriate to carry out the purposes of this section.

"(i) TRANSITIONAL RULE FOR CERTAIN HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the average equity base of a high surplus mutual life insurance company for any taxable year shall not include the applicable percentage of the excess equity base of such company for such taxable year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) EXCESS EQUITY BASE.—The term 'excess equity base' means the excess of—

"(i) the average equity base of the company for the taxable year, over

"(ii) the amount which would be its average equity base if its equity percentage equaled 130 percent of the numerical average of the equity percentage for the 50 largest mutual life insurance companies for such taxable year.

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means these determined in accordance with the following table:

"For taxable years beginning in:	The applicable percentage is:
1984	100
1985	80
1986	60
1987	40
1988	20
1989 or thereafter	0.

"(C) HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANY.—The term 'high surplus mutual life insurance company' means any mutual life insurance company if, for the taxable year beginning in 1984, its equity percentage exceeded 130 percent of the numerical average of the equity percentages for the 50 largest mutual life insurance companies for such taxable year.

"(D) EQUITY PERCENTAGE.—The term 'equity percentage' means, with respect to any mutual life insurance company, the percentage which—

"(i) the average equity base of such company (determined under this section without regard to this subsection) for a taxable year bears to

"(ii) the average of—

"(I) the assets of such company as of the close of the preceding taxable year, and

"(II) the assets of such company as of the close of the taxable year.

For purposes of the preceding sentence, the assets of a company shall include all assets included under this section in its equity base.

"(E) 50 LARGEST MUTUAL LIFE INSURANCE COMPANIES.—The term '50 largest mutual life insurance companies' means a group (as determined by the Secretary) of mutual life insurance companies which consists of the 50 largest mutual life insurance companies which are subject to tax under this chapter.

"(3) DETERMINATION OF AVERAGE OF EQUITY PERCENTAGES FOR ALL COMPANIES.—The average of the equity percentages for the 50 largest mutual life insurance companies for any taxable year shall be such average as determined by the Secretary using the most recent data available as of the close of such taxable year.

"SEC. 810. OPERATIONS LOSS DEDUCTION.

"(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

"(1) the operations loss carryovers to such year, plus

"(2) the operations loss carrybacks to such year.

For purposes of this part, the term 'operations loss deduction' means the deduction allowed by this subsection.

"(b) OPERATIONS LOSS CARRYBACKS AND CARRYOVERS.—

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 15 taxable years following the loss year, and

"(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

"(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

"(c) COMPUTATION OF LOSS FROM OPERATIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'loss from operations' means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

"(2) MODIFICATIONS.—For purposes of paragraph (1)—

"(A) the operations loss deduction shall not be allowed, and

"(B) the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) as modified by section 805(a)(4).

"(d) OFFSET DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the term 'offset' means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804) for such year to zero.

"(2) OPERATIONS LOSS DEDUCTION.—For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

"(e) NEW COMPANY DEFINED.—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

"(f) APPLICATION OF SUBTITLES A AND F IN RESPECT OF OPERATION LOSSES.—Except as provided in section 805(b)(5), subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

"(g) TRANSITIONAL RULE.—For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

"Subpart D—Accounting, Allocation, and Foreign Provisions

"Sec. 811. Accounting provisions.

"Sec. 812. Definition of company's share and policyholders' share.

"Sec. 813. Foreign life insurance companies.

"Sec. 814. Contiguous country branches of domestic life insurance companies.

"Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

"SEC. 811. ACCOUNTING PROVISIONS.

"(a) METHOD OF ACCOUNTING.—All computations entering into the determination of the taxes imposed by this part shall be made—

"(1) under an accrual method of accounting, or

"(2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(b) AMORTIZATION OF PREMIUM AND ACCRUAL OF DISCOUNT.—

"(1) IN GENERAL.—The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

"(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(B) in all other cases, in accordance with regulations prescribed by the Secretary.

"(2) SPECIAL RULES.—

"(A) AMORTIZATION OF BOND PREMIUM.—In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

"(B) CONVERTIBLE EVIDENCE OF INDEBTEDNESS.—In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

"(3) EXCEPTION.—No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

"(A) interest to which section 103 applies, or

"(B) original issue discount (as defined in section 1232(b)).

"(c) NO DOUBLE COUNTING.—Nothing in this part shall permit—

"(1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,

"(2) the same item to be counted more than once for reserve purposes, or

"(3) any item to be deducted (either directly or as an increase in reserves) more than once.

"(d) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to such agreement or a conduit between related persons), the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

"(e) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 816), amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which—

"(1) exceeds the prevailing State assumed interest rate for the contract for such period, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

"(f) SHORT TAXABLE YEARS.—If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as 'short period'), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

"SEC. 812. DEFINITION OF COMPANY'S SHARE AND POLICYHOLDERS' SHARE.

"(a) GENERAL RULE.—

"(1) COMPANY'S SHARE.—For purposes of section 805(a)(4), the term 'company's share' means, with respect to any taxable year, the percentage obtained by dividing—

"(A) the company's share of the net investment income for the taxable year, by

"(B) the net investment income for the taxable year.

"(2) POLICYHOLDERS' SHARE.—For purposes of section 807, the term 'policyholders' share' means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

"(b) COMPANY'S SHARE OF NET INVESTMENT INCOME.—

"(1) IN GENERAL.—For purposes of this section, the company's share of net investment income is the excess (if any) of—

"(A) the net investment income for the taxable year, over

"(B) the sum of—

"(i) the policy interest, for the taxable year, plus

"(ii) the gross investment income's proportionate share of policyholder dividends for the taxable year.

"(2) POLICY INTEREST.—For purposes of this subsection, the term 'policy interest' means—

"(A) required interest (at the prevailing State assumed rate) on reserves under section 807(c) (other than paragraph (2) thereof),

"(B) the deductible portion of excess interest, and

"(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

"(i) a policyholder's fund under a pension plan contract for employees (other than retired employees), or

"(ii) a deferred annuity contract before the annuity starting date.

"(3) GROSS INVESTMENT INCOME'S PROPORTIONATE SHARE OF POLICYHOLDER DIVIDENDS.—For purposes of paragraph (1), the gross investment income's proportionate share of policyholder dividends is—

"(A) the deduction for policyholders' dividends determined under sections 808 and 809 for the taxable year, but not including—

"(i) the deductible portion of excess interest,

"(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

"(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

"(B) the fraction—

"(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and

"(ii) the denominator of which is life insurance gross income (including tax-exempt interest) reduced by the excess (if any) of the closing balance for the items described in section 807(c) over the opening balance for such items for the taxable year.

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means 90 percent of gross investment income.

"(d) GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' means the sum of the following:

"(1) INTEREST, ETC.—The gross amount of income from—

"(A) interest (including tax-exempt interest), dividends, rents, and royalties,

"(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

"(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

"(2) SHORT-TERM CAPITAL GAIN.—The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

"(3) TRADE OR BUSINESS INCOME.—The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

"(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).

"(f) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

"SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

"(a) ADJUSTMENT WHERE SURPLUS HELD IN THE UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

"(1) IN GENERAL.—In the case of any foreign company taxable under this part, if—

"(A) the required surplus determined under paragraph (2), exceeds

"(B) the surplus held in the United States, then its income effectively connected with the conduct of an insurance business within the United States shall be increased by an amount determined by multiplying such excess by such company's current investment yield.

"(2) REQUIRED SURPLUS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'required surplus' means the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year determined and proclaimed by the Secretary under subparagraph (B).

"(B) DETERMINATION OF PERCENTAGE.—The percentage determined and proclaimed by the Secretary under this subparagraph shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities.

"(3) CURRENT INVESTMENT YIELD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current investment yield' means the percent obtained by dividing—

"(i) the net investment income on assets held in the United States, by

"(ii) the mean of the assets held in the United States during the taxable year.

"(B) DETERMINATIONS BASED ON AMOUNT SET FORTH IN THE ANNUAL STATEMENT.—Except as otherwise provided in regulations, determinations under subparagraph (A) shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SURPLUS HELD IN THE UNITED STATES.—The surplus held in the United States is the excess of the assets (determined under section 806(b)(3)(C)) held in the United States over the total insurance liabilities on United States business.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this subsection, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(5) REDUCTION OF SECTION 881 TAXES.—In the case of any foreign company taxable under this part, there shall be determined—

"(A) the amount which would be subject to taxes under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894, and

"(B) the amount of the increase provided by paragraph (1).

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A); but such reduction in taxes shall not exceed the increase in taxes under this part by reason of the increase provided by paragraph (1).

"(b) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the amount of any excess determined under paragraph (1) of subsection (a) with respect to such taxable year.

"(c) CROSS REFERENCE.—

"For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

"SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term contiguous country life insurance branch means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) SEPARATE ACCOUNTING REQUIRED.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.—

"(1) REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) REPATRIATION OF INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

"(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the tentative LICTI of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to tentative LICTI pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(C) TRANSITIONAL RULE.—For purposes of this paragraph, in the case of a prior taxable year beginning before January 1, 1984, the term 'tentative LICTI' means life insurance company taxable income determined under this part (as in effect for such year) without regard to this paragraph.

"(f) OTHER RULES.—

"(1) TREATMENT OF FOREIGN TAXES.—

"(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred

pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

"SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.

"(a) GENERAL RULE.—The life insurance company taxable income (within the meaning of section 801(b)) for any taxable year of any stock life insurance company which has an existing policyholders surplus account shall be increased by any direct or indirect distribution to shareholders from such account. For purposes of the preceding sentence, the life insurance company taxable income (within the meaning of section 801(b)) shall be treated as not less than zero.

"(b) ORDERING RULE.—For purposes of this section, any distribution to shareholders shall be treated as made—

"(1) first out of the shareholders surplus account, to the extent thereof,

"(2) then out of the policyholders surplus account, to the extent thereof, and

"(3) finally, out of other accounts.

"(c) SHAREHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue its shareholders surplus account for purposes of this part.

"(2) ADDITIONS TO ACCOUNT.—The amount added to the shareholders surplus account for any taxable year beginning after December 31, 1983, shall be the excess of—

"(A) the sum of—

"(i) the life insurance company's taxable income (determined without regard to this section),

"(ii) the special deductions provided by section 806, and

"(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by section 805(a)(4)) and the amount of interest excluded from gross income under section 103, over

"(B) the taxes imposed for the taxable year by section 801 (determined without regard to this section).

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the shareholders surplus account for any taxable year the amount which is treated under this section as distributed out of such account.

"(d) POLICYHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue such account.

"(2) NO ADDITIONS TO ACCOUNT.—No amount shall be added to the policyholders surplus account for any taxable year beginning after December 31, 1983.

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

"(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

"(B) the amount by which the tax imposed for the taxable year by section 801 is increased by reason of this section.

"(e) EXISTING POLICYHOLDERS SURPLUS ACCOUNT.—For purposes of this section, the term 'existing policyholders surplus account' means any policyholders surplus account which has a balance as of the close of December 31, 1983.

"(f) OTHER RULES APPLICABLE TO POLICYHOLDERS SURPLUS ACCOUNT CONTINUED.—Except to the extent inconsistent with the provisions of this part, the provisions of subsections (d), (e), (f), and (g) of section 815 (and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as in effect before the enactment of the Life Insurance Tax Act of 1984 are hereby made applicable in respect of any policyholders surplus account for which there was a balance as of December 31, 1983.

"Subpart E—Definitions and Special Rules

"Sec. 816. Life insurance company defined.

"Sec. 817. Treatment of variable contracts.

"Sec. 818. Other definitions and special rules.

"SEC. 816. LIFE INSURANCE COMPANY DEFINED.

"(a) LIFE INSURANCE COMPANY DEFINED.—For purposes of this subtitle, the term 'life insurance company' means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

"(1) its life insurance reserves (as defined in subsection (b)), plus

"(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term 'insurance company' means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

"(b) LIFE INSURANCE RESERVES DEFINED.—

"(1) IN GENERAL.—For purposes of this part, the term 'life insurance reserves' means amounts—

"(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

"(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

"(2) RESERVES MUST BE REQUIRED BY LAW.—Except—

"(A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

"(B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

"(3) ASSESSMENT COMPANIES.—In the case of an assessment life insurance company or association, the term 'life insurance reserves' includes—

"(A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and

"(B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

"(4) AMOUNT OF RESERVES.—For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

"(c) TOTAL RESERVES DEFINED.—For purposes of subsection (a), the term 'total reserves' means—

"(1) life insurance reserves,

"(2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and

"(3) all other insurance reserves required by law.

"(d) ADJUSTMENTS IN RESERVES FOR POLICY LOANS.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

"(e) GUARANTEED RENEWABLE CONTRACTS.—For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as noncancellable life, accident, and health insurance.

"(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR HEALTH CONTINGENCIES.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in life insurance reserves or in total reserves.

"(g) BURIAL AND FUNERAL BENEFIT INSURANCE COMPANIES.—A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 821 or section 831.

"SEC. 817. TREATMENT OF VARIABLE CONTRACTS.

"(a) INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 807, the sum of the items described in section 807(c) taken into account as of the close of the taxable year with respect to any variable contract shall, under regulations prescribed by the Secretary, be adjusted—

"(1) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with subsection (c) by reason of appre-

ciation in value of assets (whether or not the assets have been disposed of), and

"(2) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

The deduction allowable for items described in paragraphs (1) and (6) of section 805(a) with respect to variable contracts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

"(b) ADJUSTMENT TO BASIS OF ASSETS HELD IN SEGREGATED ASSET ACCOUNT.—In the case of variable contracts, the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

"(1) increased by the amount of any appreciation in value, and

"(2) decreased by the amount of any depreciation in value,

to the extent such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items referred to in subsection (a) with respect to such contracts.

"(c) SEPARATE ACCOUNTING.—For purposes of this part (other than section 809), a life insurance company which issues variable contracts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such variable contracts. For such items as are not accounted for directly, separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) VARIABLE CONTRACT DEFINED.—For purposes of this part, the term 'variable contract' means a contract—

"(1) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

"(2) which—

"(A) provides for the payment of annuities, or

"(B) is a life insurance contract, and

"(3) under which—

"(A) in the case of an annuity contract, the amounts paid in, or the amount paid out, reflect the investment return and the market value of the segregated asset account, or

"(B) in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting the requirements of paragraph (3) after such cessation.

"(e) PENSION PLAN CONTRACTS TREATED AS PAYING ANNUITY.—A pension plan contract which is not a life, accident, or health, property, casualty, or liability insurance contract shall be treated as a contract which provides for the payments of annuities for purposes of subsection (d).

"(f) OTHER SPECIAL RULES.—

"(1) LIFE INSURANCE RESERVES.—For purposes of subsection (b)(1)(A) of section 816, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

"(2) ADDITIONAL SEPARATE COMPUTATIONS.—Under regulations prescribed by the Secretary, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with subsection (c), as may be necessary to carry out the purposes of this section and this part.

"(g) VARIABLE ANNUITY CONTRACTS TREATED AS ANNUITY CONTRACTS.—For purposes of this part, the term 'annuity contract' includes a contract which provides for the payment of a variable annuity computed on the basis of—

"(1) recognized mortality tables, and

"(2)(A) the investment experience of a segregated asset account, or

"(B) the company-wide investment experience of the company.

Paragraph (2)(B) shall not apply to any company which issues contracts which are not variable contracts.

"(h) TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.—

"(1) IN GENERAL.—For purposes of subchapter L, section 72 (relating to annuities), and section 7702(a) (relating to definition of life insurance contract), a variable contract which is otherwise described in this section and which is based on a segregated asset account shall not be treated as an annuity, endowment, or life insurance contract unless the investments made by such account are, in accordance with regulations prescribed by the Secretary, adequately diversified. For purposes of the preceding sentence, beneficial interests in a regulated investment company or in a trust shall not be treated as 1 investment if all of the beneficial interests in such company or trust are held by 1 or more segregated asset accounts of the company issuing the contract.

"(2) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS INVESTING IN UNITED STATES OBLIGATIONS.—In the case of a segregated asset account with respect to variable life insurance contracts, paragraph (1) shall not apply in the case of securities issued by the United States Treasury which are owned by a regulated investment company or by a trust all the beneficial interests in which are held by 1 or more segregated asset accounts of the company issuing the contract.

"(3) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors.

"SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) PENSION PLAN CONTRACTS.—For purposes of this part, the term 'pension plan contract' means any contract—

"(1) entered into with trusts which (as of the time the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a), (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);

"(2) entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and (22) of section 401(a);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) (or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws), or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing;

"(5) entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b); or

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A).

"(b) TREATMENT OF CAPITAL GAINS AND LOSSES, ETC.—In the case of a life insurance company—

"(1) in applying section 1231(a), the term 'property used in the trade or business' shall be treated as including only—

"(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 1 year, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1) (A), (B), or (C), and

"(B) property described in section 1231(b)(2), and

"(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

"(c) GAIN ON PROPERTY HELD ON DECEMBER 31, 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED AFTER 1958.—

"(1) PROPERTY HELD ON DECEMBER 31, 1958.—In the case of property held by the taxpayer on December 31, 1958, if—

"(A) the fair market value of such property on such date exceeds the adjusted basis for determining gain as of such date, and

"(B) the taxpayer has been a life insurance company at all times on and after December 31, 1958,

the gain on the sale or other disposition of such property shall be treated as an amount (not less than zero) equal to the amount by which the gain (determined without regard to this subsection) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis for determining gain as of such date.

"(2) CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 1958.—In the case of property acquired after December 31, 1958, and having a substituted basis (within the meaning of section 1016(b))—

"(A) for purposes of paragraph (1), such property shall be deemed held continuously by the taxpayer since the beginning of the holding period thereof, determined with reference to section 1223,

"(B) the fair market value and adjusted basis referred to in paragraph (1) shall be that of that property for which the holding period taken into account includes December 31, 1958,

"(C) paragraph (1) shall apply only if the property or properties the holding periods of which are taken into account were held only by life insurance companies after December 31, 1958, during the holding periods so taken into account,

"(D) the difference between the fair market value and adjusted basis referred to in paragraph (1) shall be reduced (to not less than zero) by the excess of (i) the gain that would have been recognized but for this subsection on all prior sales or dispositions after December 31, 1958, of properties referred to in subparagraph (C), over (ii) the gain which was recognized on such sales or other dispositions, and

"(E) the basis of such property shall be determined as if the gain which would have been recognized but for this subsection were recognized gain.

"(3) PROPERTY DEFINED.—For purposes of paragraphs (1) and (2), the term 'property' does not include insurance and annuity contracts and property described in paragraph (1) of section 1221.

"(d) INSURANCE OR ANNUITY CONTRACT INCLUDES CONTRACTS SUPPLEMENTARY THERETO.—For purposes of this part, the term 'insurance or annuity contract' includes any contract supplementary thereto.

"(e) SPECIAL RULE FOR CONSOLIDATED RETURNS.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(f) ALLOCATION OF CERTAIN ITEMS FOR PURPOSES OF FOREIGN TAX CREDIT, ETC.—

"(1) IN GENERAL.—Under regulations, in applying sections 861, 862, and 863 to a life insurance company, the deduction for policyholder dividends (determined under section 808(c)), reserve adjustments under subsections (a) and (b) of section 807, and death benefits and other amounts described in section 805(a)(1) shall be treated as items which cannot definitely be allocated to an item or class of gross income.

"(2) ELECTION OF ALTERNATIVE ALLOCATION.—

"(A) IN GENERAL.—On or before September 15, 1984, any life insurance company may elect to treat items described in paragraph (1) as properly apportioned or allocated among items of gross income to the extent (and in the manner) prescribed in regulations.

"(B) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subclause (IV) of section 72(e)(5)(D)(i) is amended by striking out "section 805(d)(3)" and inserting in lieu thereof "section 818(a)(3)".

(2) Subsection (a) of section 80 (relating to restoration of value of certain securities) is amended by striking out "802" and inserting in lieu thereof "801".

(3)(A) Subparagraph (C) of section 243(b)(3) (relating to effect of election) is amended by striking out clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(B) Paragraph (6) of section 243(b) (relating to special rules for insurance companies) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(4) Subsection (d) of section 381 (relating to carryover in certain corporate acquisitions) is amended by striking out "section 812(f)" and inserting in lieu thereof "section 810".

(5) Paragraph (24) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "section 805(d)(6)" and inserting in lieu thereof "section 818(a)(6)".

(6)(A) Paragraph (1) of section 453B(e) (relating to life insurance companies) is amended by striking out "section 801(a)" and inserting in lieu thereof "section 816(a)".

(B) Paragraph (2) of section 453B(e) is amended to read as follows:

"(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS NOT RELATED TO INSURANCE BUSINESS.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

"(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

"(B) as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3)).".

(7) Paragraph (5) of section 542(b) (relating to certain dividend income received from a nonincludible life insurance company) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(8) Subsection (b) of section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(9) Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out "section 801(b)" and inserting in lieu thereof "section 816(b) but determined as provided in section 807" and by striking out "section 801" and inserting in lieu thereof "section 816".

(10) Section 841 (relating to credit for foreign taxes) is amended—

(A) by striking out "section 802," each place it appears and inserting in lieu thereof "section 801,", and

(B) by striking out "section 802(b)" and inserting in lieu thereof "section 801(b)".

(11)(A) Subsection (a) of section 844 (relating to special loss carryover rules) is amended—

(i) by striking out "section 812," and inserting in lieu thereof "section 810 (or the corresponding provisions of prior law),", and

(ii) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)".

(B) Subsection (b) of section 844 is amended—

(i) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)", and

(ii) by striking out "section 812(b)(1)(C)" in paragraph (2) and inserting in lieu thereof "section 810(b)(1)(C)".

(12) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out "802" and inserting in lieu thereof "801".

(13)(A) Subsection (b) of section 953 (relating to income from insurance of United States risks) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Paragraph (2) of section 953(b), as redesignated by subparagraph (A), is amended to read as follows:

"(2) The following provisions of subchapter L shall not apply:

"(A) The special life insurance company deduction and the small life insurance company deduction.

"(B) Section 805(a)(5) (relating to operations loss deduction).

"(C) Section 832(c)(5) (relating to certain capital losses).".

(C) Paragraph (3) of section 953(b), as redesignated by subparagraph (A), is amended by—

(i) striking out "section 809(c)(1)" and inserting in lieu thereof "section 803(a)(1)", and

(ii) by striking out "section 809(c)(2)" and inserting in lieu thereof "section 803(a)(2)", and

(iii) by striking out "section 809(d)(2)" and inserting in lieu thereof "section 805(a)(2)".

(D) Paragraph (2) of section 953(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

(E) Paragraph (4) of section 953(b), as redesignated by subparagraph (A), is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(14) Paragraph (17) of section 1016(a) is amended by striking out "section 818(b)" each place it appears and inserting in lieu thereof "section 811(b)".

(15) Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(16) Paragraph (1) of section 1201(b) (relating to cross references) is amended by striking out "section 802(a)(2)" and inserting in lieu thereof "section 801(a)(2)".

(17) Subparagraph (B) of section 1232A(c)(4) (relating to original issue discount) is amended by striking out "section 818(b)" and inserting in lieu thereof "section 811(b)".

(18)(A) Paragraph (1) of section 1351(a) (relating to treatment of recoveries of foreign expropriation losses) is amended by striking out "802" each place it appears and inserting in lieu thereof "801".

(B) Paragraph (2) of section 1351(c) (relating to amount of recovery) is amended by striking out "section 810(c)" and inserting in lieu thereof "section 807(c)".

(C) Paragraph (3) of section 1351(i) (relating to adjustments for succeeding years) is amended by striking out "section 812" and inserting in lieu thereof "section 810".

(19)(A) Subsection (c) of section 1503 (relating to special rules for application of certain losses against income of insurance companies taxed under section 802) is amended by striking out "section 802" each place it appears and inserting in lieu thereof "section 801".

(B) Paragraph (1) of section 1503(c) is amended by striking out the third sentence.

(C) The subsection heading of section 1503(c) is amended by striking out "SECTION 802" and inserting in lieu thereof "SECTION 801".

(20) Subsections (b)(2), (c)(1), and (c)(2)(A) of section 1504 (defining affiliated group) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(21)(A) Subsection (a) of section 1561 (relating to limitations on certain multiple tax

benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraphs (3) and (4), by adding "and" at the end of paragraph (1), and by striking out the comma at the end of paragraph (2) and inserting in lieu thereof a period, and

(ii) by striking out "paragraphs (2), (3), and (4)" in the last sentence and inserting in lieu thereof "paragraph (2)".

(B) Subsection (b) of section 1561 is amended—

(i) by striking out paragraphs (3) and (4) and by adding "and" at the end of paragraph (1), and

(ii) by striking out ", (2), (3), or (4)" and inserting in lieu thereof "or (2)".

(22) Subsections (a)(4) and (b)(2)(D) of section 1563 (defining controlled group of corporations) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(23) Paragraph (2) of section 4371 (relating to imposition of tax on policies issued by foreign insurers) is amended by striking out "section 819" and inserting in lieu thereof "section 813".

(24)(A) Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(B) Subsection (k) of section 6501 (relating to reductions of policyholders surplus account of life insurance companies) is hereby repealed.

(25) Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(26) Subsection (d) of section 6601 (relating to interest on underpayments, etc.) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(27) Subsection (f) of section 6611 (relating to interest on overpayments) is amended by striking out paragraph (4).

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

Subpart A—Effective Date

SEC. 215. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983.

Subpart B—Transitional Rules

SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH START.

(a) RECOMPUTATION OF RESERVES.—

(1) IN GENERAL.—As of the beginning of the first taxable year beginning after December 31, 1983, for purposes of subchapter L of the Internal Revenue Code of 1954 (other than section 816 thereof), the reserve for any contract shall be recomputed as if the amendments made by this subtitle had applied to such contract when it was issued.

"(2) PREMIUMS EARNED.—For the first taxable year beginning after December 31, 1983, in determining 'premiums earned on insurance contracts during the taxable year' as provided in section 832(b)(4) of the Internal Revenue Code of 1954, life insurance reserves which are included in unearned premiums on outstanding business at the end of the preceding taxable year shall be determined as provided in section 807 of the Internal Revenue Code of 1954, as amended by this subtitle, as though section 807 was applicable to such reserves in such preceding taxable year.".

(b) FRESH START.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of any insurance company, any change in the method of accounting (and any change in the method of computing reserves) between such company's first taxable year beginning after December 31, 1983, and the preceding taxable year which is required solely by the amendments made by this subtitle shall be treated as not being a change in the method of accounting (or change in the method of computing reserves) for purposes of the Internal Revenue Code of 1954.

(2) TREATMENT OF ADJUSTMENTS FROM YEARS BEFORE 1984.—

(A) ADJUSTMENTS ATTRIBUTABLE TO DECREASES IN RESERVES.—No adjustment under section 810(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) attributable to any decrease in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in any taxable year beginning after 1983.

(B) ADJUSTMENTS ATTRIBUTABLE TO INCREASES IN RESERVES.—

(i) IN GENERAL.—Any adjustment under section 810(d) of the Internal Revenue Code of 1954 (as so in effect) attributable to an increase in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in taxable years beginning after 1983 to the extent that—

(I) the amount of the adjustments which would be taken into account under such section in taxable years beginning after 1983 without regard to this subparagraph, exceeds

(II) the amount of any fresh start adjustment attributable to contracts for which there was such an increase in reserves as a result of such change.

(ii) FRESH START ADJUSTMENT.—For purposes of clause (i), the fresh start adjustment with respect to any contract is the excess (if any) of—

(I) the reserve attributable to such contract as of the close of the taxpayer's last taxable year beginning before January 1, 1984, over

(II) the reserve for such contract as of the beginning of the taxpayer's first taxable year beginning after 1983 as recomputed under subsection (a) of this section.

(C) RELATED INCOME INCLUSIONS NOT TAKEN INTO ACCOUNT TO THE EXTENT DEDUCTION DISALLOWED UNDER SUBPARAGRAPH (B).—No premium shall be included in income to the extent such premium is directly related to an increase in a reserve for which a deduction is disallowed by subparagraph (B).

(3) REINSURANCE TRANSACTIONS AND RESERVE STRENGTHENING AFTER SEPTEMBER 27, 1983.—

(A) IN GENERAL.—Except as provided in this paragraph—

(i) any reinsurance agreement entered into after September 27, 1983, and before the first day of the first taxable year beginning after December 31, 1983,

(ii) any modification of any reinsurance agreement after September 27, 1983, and before such first day, and

(iii) any reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before such first day,

shall not be taken into account for Federal income tax purposes until such first day.

(B) EXCEPTIONS FOR DETERMINING WHETHER COMPANY IS A LIFE INSURANCE COMPANY, ETC.—Subparagraph (A) shall not apply for purposes of sections 801 and 815 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

(C) EXCEPTION FOR COMPUTATION OF RESERVES ON NEW CONTRACTS IN CUSTOMARY MANNER.—Subparagraph (A)(iii) shall not apply to the computation of reserves on any contract issued if such computation employs the reserve practice used for purposes of the most recent annual statement filed before September 27, 1983, for the type of contract with respect to which such reserves are set up.

(4) ELECTIONS UNDER SECTION 818(C) AFTER SEPTEMBER 27, 1983, NOT TO TAKE EFFECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any election after September 27, 1983, under section 818(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not take effect.

(B) EXCEPTION FOR CERTAIN CONTRACTS ISSUED UNDER PLAN OF INSURANCE FIRST FILED AFTER MARCH 1, 1982, AND BEFORE SEPTEMBER 28, 1983.—Subparagraph (A) shall not apply to any election under such section 818(c) if more than 95 percent of the reserves computed in accordance with such election are attributable to risks under life insurance contracts issued by the taxpayer under a plan of insurance first filed after March 1, 1982, and before September 28, 1983.

(5) RECAPTURE OF REINSURANCE AFTER DECEMBER 31, 1983.—If (A) insurance or annuity contracts in force on December 31, 1983, are subject to a conventional coinsurance agreement entered into after December 31, 1981, and before January 1, 1984, (B) paragraph (3) of this subsection does not apply, and (C) such contracts are recaptured by the reinsured in any taxable year beginning after December 31, 1983, then—

(i) if the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, that the reinsurer would have taken into account under section 810(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) exceeds the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, taken into account by the reinsurer under section 807(c) of the Internal Revenue Code of 1954 (as amended by this subtitle), such excess (but not greater than the amount of such excess if computed on January 1, 1984) shall be taken into account by the reinsurer under the method described in section 807(f)(1)(B)(ii) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture, and

(ii) the amount, if any, taken into account by the reinsurer under clause (i) for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 shall be taken into account by the reinsured under the method described in section 807(f)(1)(B)(i) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture.

For purposes of this paragraph, the term "reinsurer" refers to the taxpayer that held reserves with respect to the recaptured contracts as of the end of the taxable year preceding the first taxable year beginning after December 31, 1983, and the term "reinsured" refers to the taxpayer to which such reserves are ultimately transferred upon termination.

(c) ELECTION NOT TO HAVE RESERVES RECOMPUTED.—

(1) IN GENERAL.—If a qualified life insurance company makes an election under this paragraph—

(A) subsection (a) shall not apply to such company, and

(B) as of the beginning of the first taxable year beginning after December 31, 1983, and thereafter, the reserve for any contract issued before the first day of such taxable year by such company shall be the statutory reserve for such contract (within the meaning of section 809(b)(4)(B)(i) of the Internal Revenue Code of 1954).

(2) ELECTION WITH RESPECT TO CONTRACTS ISSUED AFTER 1983 AND BEFORE 1989.—

(A) IN GENERAL.—If—

(i) a qualified life insurance company makes an election under paragraph (1), and

(ii) the tentative LICTI (within the meaning of section 806(c) of such Code) of such company for its first taxable year beginning after December 31, 1983, does not exceed $3,000,000,

such company may elect under this paragraph to have the reserve for any contract issued on or after the first day of such first taxable year and before January 1, 1989, be equal to the statutory reserve for such contract, adjusted as provided in subparagraph (B).

(B) ADJUSTMENT TO RESERVES.—If this paragraph applies to any contract, the statutory reserves for such contract shall be adjusted as provided under section 805(c)(1) of such Code (as in effect for taxable years beginning in 1982 and 1983), except that section 805(c)(1)(B)(ii) of such Code (as so in effect) shall be applied by substituting—

(i) the prevailing State assumed interest rate (within the meaning of section 807(c)(4) of such Code), for

(ii) the adjusted reserves rate.

(3) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of this subsection, the term "qualified life insurance company" means any life insurance company which, as of December 31, 1983, had assets of less than $500,000,000 (determined in the same manner as under section 806(b)(3) of such Code).

(4) SPECIAL RULES FOR CONTROLLED GROUPS.—For purposes of applying the dollar limitations of paragraphs (2) and (3), rules similar to the rules of section 806(d) of such Code shall apply.

(5) ELECTIONS.—Any election under paragraph (1) or (2)—

(A) shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and

(B) once made, shall be irrevocable.

SEC. 217. OTHER SPECIAL RULES.

(a) NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A.—For purposes of section 814 of the Internal Revenue Code of 1954 (relating to contiguous country branches of domestic life insurance companies)—

(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as an election under such section 814, and

(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.

(b) TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2).—If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in section 806(c)(3) of the Internal Revenue Code of 1954).

(c) DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983.—If—

(1) a corporation domiciled in Alabama, Oklahoma, or Texas acquired the assets of 1 or more insurance companies after 1979 and before April 1, 1983, and

(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1954 or such corporation made an election under section 338 of such Code with respect to such assets,

then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).

(d) SPECIAL RULE FOR ALLOCATION IN CASE OF REINSURANCE AGREEMENTS.—Subsection (d) of section 811 of the Internal Revenue Code of 1954 (as amended by this title) shall not apply with respect to any risk arising and reinsured before September 27, 1983, under a reinsurance agreement entered into before such date.

(e) TREATMENT OF CERTAIN COMPANIES OPERATING BOTH AS STOCK AND MUTUAL COMPANY.—If, during the 10-year period ending on December 31, 1983, a company has, as authorized by the law of the State in which the company is domiciled, been operating as a mutual life insurance company with shareholders, such company shall be treated as a stock life insurance company.

(f) TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE COMPANIES.—

(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1954 (as amended by this subtitle) if such tables were—

(A) in use since 1965, and

(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

(A) has been in existence since 1965, and

(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

(3) STATUTORY RESERVES.—For purposes of this subsection, the term "statutory reserves" has the meaning given to such term by section 809(b)(4)(B) of such Code.

(g) TREATMENT OF REINSURANCE AGREEMENTS REQUIRED BY NAIC.—Effective for taxable years beginning after December 31, 1981, and before January 1, 1984, subsections (c)(1)(F) and (d)(12) of section 809 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not apply to dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of accident and health policies reinsured under a reinsurance agreement entered into before June 30, 1955, pursuant to the direction of the National Association of Insurance Commissioners and approved by the State insurance commissioner of the taxpayer's State of domicile. For purposes of subchapter L of chapter 1 of such Code (as in effect on the day before the date of the enactment of this Act) any such dividends shall be treated as dividends of the reinsurer and not the taxpayer.

(h) SPECIAL RULE FOR INSURANCE COMPANIES REQUIRED TO DIVEST REINSURANCE BUSINESS.—No amount shall be required to be included in life insurance company taxable income (within the meaning of section 801(b) of the Internal Revenue Code of 1954) under section 815 of such Code by reason of the divestiture of the reinsurance business of a life insurance company, pursuant to an order by the Board of Governors of the Federal Reserve System requiring such divestiture by September 1, 1984.

(i) DETERMINATION OF ASSETS OF CONTROLLED GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COMPANY DEDUCTION FOR 1984.—

(1) IN GENERAL.—For purposes of applying paragraph (2) of section 806(d) of the Internal Revenue Code of 1954 (relating to nonlife insurance members included for asset test) for the first taxable year beginning after December 31, 1983, the members of the controlled group referred to in such paragraph shall be treated as including only those members of such group which are described in paragraph (2) of this subsection if—

(A) an election under section 1504(c)(2) of such Code is not in effect for the controlled group for such taxable year,

(B) during such taxable year, the controlled group does not include a member which is taxable under part I of subchapter L of chapter 1 of such Code and which became a member of such group after September 27, 1983, and

(C) the sum of the contributions to capital received by members of the controlled group which are taxable under such part I during such taxable year from the members of the controlled group which are not taxable under such part does not exceed the aggregate dividends paid during such taxable year by the members of such group which are taxable under such part I.

(2) MEMBERS OF GROUP TAKEN INTO ACCOUNT.—For purposes of paragraph (1), the members of the controlled group which are described in this paragraph are—

(A) any financial institution to which section 585 or 593 of such Code applies,

(B) any lending or finance business (as defined by section 542(d)),

(C) any insurance company subject to tax imposed by subchapter L of chapter 1 of such Code, and

(D) any securities broker.

(j) SPECIAL ELECTION TO TREAT INDIVIDUAL NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS AS CANCELLABLE.—

(1) IN GENERAL.—A mutual life insurance company may elect to treat all individual noncancellable (or guaranteed renewable) accident and health insurance contracts as though they were cancellable for purposes of section 816 of subchapter L of chapter 1 of the Internal Revenue Code of 1954.

(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—

(A) TREATED AS MUTUAL LIFE INSURANCE COMPANY.—Any stock life insurance company which is a member of an affiliated group which has a common parent which made an election under paragraph (1), for purposes of part I of subchapter L of the Internal Revenue Code of 1954, such stock life insurance company shall be treated as though it were a mutual life insurance company.

(B) INCOME OF ELECTING PARENT TAKEN INTO ACCOUNT IN DETERMINING SMALL LIFE INSURANCE COMPANY DEDUCTION OF ANY SUBSIDIARY.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phase-out of small life insurance company deduction).

(3) ELECTION.—An election under paragraph (1) shall apply to the company's first taxable year beginning after December 31, 1983, and all taxable years thereafter.

(4) TIME AND MANNER.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(k) CERTAIN ACTIVITIES TREATED AS NONINSURANCE BUSINESSES.—For purposes of section 806(c)(3) of the Internal Revenue Code of 1954, the ownership by a life insurance company through a partnership of which the life insurance company is a partner of the stock of another corporation acquired on January 14, 1981, by debt financing shall be considered a noninsurance business and shall not be considered of a type traditionally carried on by life insurance companies.

SEC. 218. UNDERPAYMENTS OF ESTIMATED TAX FOR 1984.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent—

(1) such underpayment was created or increased by any provision of this subtitle, and

(2) such underpayment is paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after the date of the enactment of this Act.

Subtitle B—Taxation of Life Insurance Products

SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7702. LIFE INSURANCE CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the term 'life insurance contract' means any contract which is a life insurance contract under the applicable law, but only if such contract—

"(1) meets the cash value accumulation test of subsection (b), or

"(2)(A) meets the guideline premium requirements of subsection (c), and

"(B) falls within the cash value corridor of subsection (d).

"(b) CASH VALUE ACCUMULATION TEST FOR SUBSECTION (a)(1).—

"(1) IN GENERAL.—A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

"(2) RULES FOR APPLYING PARAGRAPH (1).—Determinations under paragraph (1) shall be made—

"(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

"(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

"(C) by taking into account under subparagraphs (A) and (C) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

"(c) GUIDELINE PREMIUM REQUIREMENTS.—For purposes of this section—

"(1) IN GENERAL.—A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

"(2) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(A) the guideline single premium, or

"(B) the sum of the guideline level premiums to such date.

"(3) GUIDELINE SINGLE PREMIUM.—

"(A) IN GENERAL.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract.

"(B) BASIS ON WHICH DETERMINATION IS MADE.—The determination under subparagraph (A) shall be based on—

"(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

"(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and

"(iii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed on issuance of the contract.

"(C) WHEN DETERMINATION MADE.—Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

"(4) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting '4 percent' for '6 percent'.

"(d) CASH VALUE CORRIDOR FOR PURPOSES OF SUBSECTION (a)(2)(B).—For purposes of this section—

"(1) IN GENERAL.—A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

"(2) APPLICABLE PERCENTAGE.—

"In the case of an insured with an attained age as of the beginning of the contract year of: More than	But not more than:	The applicable percentage shall decrease by a ratable portion for each full year: From	To
0	40	250	250
40	45	250	215
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

"(e) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

"(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100, and

"(C) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date described in subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

"(2) LIMITED INCREASES IN DEATH BENEFIT PERMITTED.—Notwithstanding paragraph (1)(A)—

"(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract, and

"(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PREMIUMS PAID.—

"(A) IN GENERAL.—The term 'premiums paid' means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any other amounts received with respect to the contract which are specified in regulations.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED TO POLICYHOLDER.—If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CASH VALUES.—

"(A) CASH SURRENDER VALUE.—The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

"(B) NET SURRENDER VALUE.—The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

"(3) DEATH BENEFIT.—The term 'death benefit' means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

"(4) FUTURE BENEFITS.—The term 'future benefits' means death benefits and endowment benefits.

"(5) QUALIFIED ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) family term coverage,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed under regulations.

"(B) TREATMENT OF QUALIFIED ADDITIONAL BENEFITS.—For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

"(C) TREATMENT OF OTHER ADDITIONAL BENEFITS.—In the case of any additional benefit which is not a qualified additional benefit—

"(i) such benefit shall not be treated as a future benefit, and

"(ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

"(6) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary there shall be proper adjustments in future determinations made under this section.

"(B) CERTAIN CHANGES TREATED AS EXCHANGE.—In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.

"(8) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

"(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

"(9) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS.—In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

"(g) TREATMENT OF CONTRACTS WHICH DO NOT MEET SUBSECTION (a) TEST.—

"(1) POLICYHOLDER'S CONTRACT TREATED AS ANNUITY CONTRACT.—

"(A) IN GENERAL.—If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), such policyholder shall, for purposes of this title for such taxable year and any succeeding taxable year, be treated as having purchased an annuity contract for an amount equal to the cash value of such contract as of the beginning of such taxable year (or, if lesser, the investment in the contract as of such date).

"(B) TREATMENT OF AMOUNTS USED TO PAY COSTS OF LIFE INSURANCE PROTECTION.—In the case of any taxable year for which a contract is treated as an annuity contract under subparagraph (A), the excess (if any) of—

"(i) the cost of life insurance protection provided under the contract for such taxable year, over

"(ii) the amount of premiums paid under the contract during such taxable year reduced by any policyholder dividends received during such taxable year,

shall be treated as an amount received by the taxpayer during such taxable year to which section 72(e) applies.

"(C) COST OF LIFE INSURANCE PROTECTION.—For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

"(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

"(ii) the mortality charge (if any) stated in the contract.

"(2) IMPOSITION OF 10-PERCENT EXCISE TAX ON LIFE INSURANCE COMPANY.—

"(A) IN GENERAL.—If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), there is hereby imposed on the person issuing such contract a tax equal to the sum of—

"(i) 10 percent of the net surrender value of such contract as of such time, and

"(ii) 100 percent of any tax imposed by clause (i) which is passed on to the policyholder.

"(B) TAX TREATED AS IMPOSED UNDER SUBTITLE D.—For purposes of this title, any tax imposed under subparagraph (A) shall be treated as a tax imposed under subtitle D.

"(3) TREATMENT OF AMOUNT PAID ON DEATH OF INSURED.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

"(h) ENDOWMENT CONTRACTS RECEIVE SAME TREATMENT.—

"(1) IN GENERAL.—References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

"(2) DEFINITION OF ENDOWMENT CONTRACT.—For purposes of this title (other than paragraph (1)), the term 'endowment contract' means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

"(i) TRANSITIONAL RULE FOR CERTAIN 20-PAY CONTRACTS.—

"(1) IN GENERAL.—In the case of a qualified 20-pay contract, this section shall be applied by substituting '3 percent' for '4 percent' in subsection (b)(2).

"(2) QUALIFIED 20-PAY CONTRACT.—For purposes of paragraph (1), the term 'qualified 20-pay contract' means any contract which—

"(A) requires at least 20 nondecreasing annual premium payments, and

"(B) is issued pursuant to an existing plan of insurance.

"(3) EXISTING PLAN OF INSURANCE.—For purposes of this subsection, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) 1-YEAR EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—

(1) IN GENERAL.—Paragraph (1) of section 266(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1985".

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 101(f) is amended by striking out "flexible premium life insurance contract" and inserting in lieu thereof "flexible premium life insurance contract issued before January 1, 1985".

(B) The subsection heading of subsection (f) of section 101 is amended by striking out "FLEXIBLE PREMIUM CONTRACTS" and inserting in lieu thereof "FLEXIBLE PREMIUM CONTRACTS ISSUED BEFORE JANUARY 1, 1985".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7702. Life insurance contract defined.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED DURING 1984.—

(A) IN GENERAL.—The amendments made by this section shall also apply to any contract issued during 1984 if—

(i) such contract was not issued to a pre-March 15, 1984, plan of insurance, or

(ii) such contract provides an increasing death benefit and has premium funding more rapid than 10-year level premium payments.

(B) PRE-MARCH 15, 1984, PLAN OF INSURANCE.—For purposes of subparagraph (A), the term 'pre-March 15, 1984, plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before March 15, 1984, and which is on file in the appropriate State for such contract.

(3) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) shall take effect on January 1, 1984.

(4) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into account with respect to any insured shall be the first date on which such insured is covered under such contract.

(5) EXCEPTION FOR CERTAIN POLICIES OF $5,000 OR LESS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any contract which was issued before June 1, 1984 and—

(i) which was issued under a plan of insurance in existence on March 15, 1984, and

(ii) with respect to which the amount payable as an initial death benefit does not exceed $5,000.

(B) ONLY ONE CONTRACT PER INSURED.—If a life insurance company issues more than one contract described in subparagraph (A) to the same person during the period beginning December 31, 1983, and ending May 31, 1984, subparagraph (A) shall only apply to the first contract so issued. For purposes of the preceding sentence, any contract issued by a member of the same controlled group (within the meaning of section 806(d)(3) of

the Internal Revenue Code of 1954) as the life insurance company shall be treated as issued by such company.

SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.

(a) PENALTY ON PREMATURE DISTRIBUTIONS.—Paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(1) IMPOSITION OF PENALTY.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount which is includible in gross income.".

(b) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—Section 72 (relating to annuities; certain proceeds of endowment, and life insurance contracts) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—

"(1) IN GENERAL.—A contract shall not be treated as an annuity contract for purposes of this title unless it provides that, if the holder of such contract dies before the annuity starting date—

"(A) except as provided in subparagraphs (B) and (C), the entire interest in such contract will be distributed within 5 years after his death,

"(B) in the case of any interest in the contract to which the surviving spouse of the decedent succeeds, the entire amount of such interest will be distributed not later than the date 5 years after the death of the surviving spouse, and

"(C) in the case of any interest in the contract to which a qualified dependent succeeds, the entire amount of such interest will be distributed to such qualified dependent not later than the date on which such dependent attains age 26.

Nothing in subparagraph (B) or (C) shall require a distribution to be made earlier than the time on which such distribution is required to be made under subparagraph (A).

"(2) SPECIAL RULE FOR HANDICAPPED DEPENDENTS.—If—

"(A) a qualified dependent who is a handicapped individual succeeds to the decedent's interest in the contract, and

"(B) the distribution of such qualified dependent's interest begins before such dependent attains age 26 and is over a period not in excess of the life of such dependent,

for purposes of paragraph (1)(C), the qualified dependent's interest in the contract shall be treated as if it were distributed to such dependent before the date on which he attains age 26.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any dependent (as defined in section 152) of the holder of the contract (or his surviving spouse) for any 2 of the last 5 taxable years of such holder (or surviving spouse).

"(B) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who is permanently and totally disabled (within the meaning of section 37(d)(3)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after the day which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

SEC. 223. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) SECTION 79 EXTENDED TO FORMER EMPLOYEES.—

(1) Section 79 (relating to group-term insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(e) EMPLOYEE INCLUDES FORMER EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee.".

(2) Paragraph (1) of section 79(b) is amended to read as follows:

"(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),".

(b) AMOUNT OF INCLUSION IN CASE OF DISCRIMINATORY PLANS.—Paragraph (1) of section 79(d) (relating to nondiscrimination requirements) is amended to read as follows:

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan—

"(A) subsection (a)(1) shall not apply with respect to any key employee, and

"(B) the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c).".

(c) CLARIFICATION OF COORDINATION WITH SECTION 83.—Subsection (e) of section 83 (relating to application of section) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph:

"(5) the cost of group-term life insurance to which section 79 applies.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) INCLUSION OF FORMER EMPLOYEES IN THE CASE OF EXISTING GROUP-TERM INSURANCE PLANS.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply—

(i) to any group-term life insurance plan of the employer in existence on January 1, 1984, or

(ii) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in clause (i),

but only with respect to an individual who attained age 55 on or before January 1, 1984.

(B) SPECIAL RULE IN THE CASE OF DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—In the case of any plan which, after March 15, 1987, is a discriminatory group-term life insurance plan (as defined in section 79(d) of the Internal Revenue Code of 1954), subparagraph (A) shall not apply in the case of any individual retiring under such plan after March 15, 1987.

(C) BENEFITS TO CERTAIN RETIRED INDIVIDUALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER PLAN IS DISCRIMINATORY.—For purposes of determining whether after March 15, 1987, a plan described in subparagraph (A) meets the requirements of section 79(d) of the Internal Revenue Code of 1954 with respect to group-term life insurance for former employees, coverage provided to employees who retired on or before March 15, 1987, shall not be taken into account.

SEC. 224. TREATMENT OF CERTAIN EXCHANGES OF INSURANCE POLICIES.

(a) GENERAL RULE.—Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "a life insurance company as defined in section 801" and inserting in lieu thereof "an insurance company subject to tax under subchapter L".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all exchanges whether before, on, or after the date of the enactment of this Act.

Subtitle C—Studies

SEC. 231. STUDIES.

(a) REVENUE REPORTS.—Not later than July 1, 1984, and July 1 of each calendar year thereafter, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the aggregate amount of revenue received under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 for the most recent taxable years for which data are available,

(2) a comparison between the amount of such revenue and the amount anticipated by reason of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 or the Life Insurance Tax Act of 1984, and

(3) the reasons for any difference between such aggregate revenues and anticipated revenues.

(b) REPORT WITH RESPECT TO SEGMENT BALANCE, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a full and complete study of the operation of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 during 1984, 1985, and 1986. Such study shall also include an analysis of life insurance products and the taxation thereof. Such study shall also include an analysis of whether part I of such subchapter L operates as a disincentive to growing companies.

(2) ITEMS TO BE INCLUDED.—The study conducted under paragraph (1) shall include—

(A) an analysis of the portion of the taxes paid by mutual life insurance companies and stock life insurance companies, and

(B) any other data considered relevant by either stock life insurance companies or mutual life insurance companies in determining appropriate segment balance, such as the respective amounts of the following items held by each segment of the industry—

(i) equity,

(ii) life insurance reserves,

(iii) other types of reserves,

(iv) dividends paid to policyholders and shareholders,

(v) pension business,

(vi) total assets, and

(vii) gross receipts.

Such report shall also include an analysis of the extent to which taxes paid by stockholders of life insurance companies shall be included in analyzing segment balance.

(3) REPORTS.—

(A) INTERIM REPORTS.—The Secretary of the Treasury shall submit interim reports on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986, 1987, and 1988.

(B) FINAL REPORT.—Not later than January 1, 1989, the Secretary of the Treasury shall submit a final report on the study conducted under this subsection to the Committee on Ways and Means of the House of Represent-

atives and the Committee on Finance of the Senate.

(c) AUTHORITY TO REQUIRE DATA.—The Secretary of the Treasury shall have authority to require reporting of such data with respect to life insurance companies and their products as may be necessary to carry out the purposes of this section.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Private Foundation Tax Treatment Revision Act of 1984".

SEC. 302. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.—Paragraph (1) of section 170(b) (relating to percentage limitations for individuals) is amended—

(1) by striking out "described in subparagraph (D)" in subparagraph (A)(vii) and inserting in lieu thereof "as defined in section 509(a)",

(2) by striking out subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(b) CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—The first sentence of section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) in the case of a charitable contribution of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), 40 percent (28/46 in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of enactment of this Act.

SEC. 303. EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

"(2) EXEMPT OPERATING FOUNDATION.—For purposes of this subsection, the term 'exempt operating foundation' means, with respect to any taxable year, any private foundation if—

"(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

"(B) such foundation has been publicly supported for at least 10 taxable years,

"(C) at all times during the taxable year, the governing body of such foundation—

"(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

"(ii) is broadly representative of the general public, and

"(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PUBLICLY SUPPORTED.—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

"(B) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to any private foundation, an individual who is—

"(i) a substantial contributor to the foundation,

"(ii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

"(iii) a member of the family of any individual described in clause (i) or (ii).

"(C) SUBSTANTIAL CONTRIBUTOR.—The term 'substantial contributor' means a person who is described in section 507(d)(2).

"(D) FAMILY.—The term 'family' has the meaning given to such term by section 4946(d).

"(E) CONSTRUCTIVE OWNERSHIP.—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii).".

(b) REQUIREMENT OF EXPENDITURE RESPONSIBILITY NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.—Paragraph (4) of section 4945(d) (defining taxable expenditure) is amended to read as follows:

"(4) as a grant to an organization unless—

"(A) such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2)), or

"(B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or".

(c) EFFECTIVE DATE.—

(1) FOR SUBSECTION (a).—THE AMENDMENT MADE BY SUBSECTION (A) SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1984.

(2) FOR SUBSECTION (b).—The amendment made by subsection (b) shall apply to grants made after December 31, 1984, in taxable years ending after such date.

(3) CERTAIN EXISTING FOUNDATIONS.—A foundation which was an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1954) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of such Code (as added by subsection (a)).

SEC. 304. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Subchapter C of chapter 42 (relating to abatement of second tier taxes) is amended by redesignating section 4962 as section 4963 and by inserting after section 4961 the following new section:

"SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST TIER TAXES IN CERTAIN CASES.

"(a) GENERAL RULE.—If it is established to the satisfaction of the Secretary that—

"(1) a taxable event was due to reasonable cause and not to willful neglect, and

"(2) such event was corrected within the correction period for such event,

then any private foundation first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

"(b) PRIVATE FOUNDATION FIRST TIER TAX.—For purposes of this section, the term 'private foundation first tier tax' means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subchapter C of chapter 42 is amended to read as follows:

"Subchapter C—Abatement of First and Second Tier Taxes in Certain Cases".

(2) The table of sections for subchapter C of chapter 42 is amended by striking out the item relating to section 4962 and inserting in lieu thereof the following:

"Sec. 4962. Abatement of private foundation first tier taxes in certain cases.

"Sec. 4963. Definitions."

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Abatement of first and second tier taxes in certain cases."

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events occurring after December 31, 1984.

SEC. 305. CERTAIN RELIANCE RULES.

(a) RELIANCE UPON DETERMINATIONS BY THE SECRETARY.—Section 4946 (relating to special rules for application of the private foundation rules) is amended by adding at the end thereof the following subsection:

"(e) RELIANCE UPON DETERMINATIONS BY THE SECRETARY.—A grant by a private foundation to an organization which has been determined by the Secretary to be an organization described in paragraph (1), (2), or (3) of section 509(a) or in paragraph (3) of section 4942(j) shall be treated as a grant to such an organization provided that the grant or other expenditure is made prior to the earlier of the date of publication of notice by the Secretary that the organization is no longer described in paragraph (1), (2), or (3) of section 509(a) or in paragraph (3) of section 4942(j) or the date on which the foundation acquires actual knowledge that the organization has been notified by the Secretary of such a change in the organization's status, and provided that the foundation was not responsible for (other than by making a grant or grants) or aware of such a change in the organization's status.".

(b) The amendments made by this section shall apply to grants made after December 31, 1984.

SEC. 306. MISCELLANEOUS AMENDMENTS.

(a) DEFINITION OF FAMILY MEMBER.—Subsection (d) of section 4946 (defining members of family) is amended to read as follows:

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, children, grandchildren, and the spouses of children and grandchildren.".

(b) REQUIREMENT THAT ANNUAL NOTICE INCLUDE TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.—Subsection (d) of section 6104 (relating to public inspection of private foundations' annual returns) is amended by striking out "shall state the address of the private foundation's principal office" and inserting in lieu thereof "shall state the ad-

dress and the telephone number of the private foundation's principal office".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 307. ADDITIONAL PERIOD TO DISPOSE OF GIFTS, BEQUESTS, ETC. WHERE DISPOSITION NOT POSSIBLE DURING ORIGINAL 5-YEAR PERIOD.

(a) IN GENERAL.—Section 4943(c) (defining excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(7) ADDITIONAL PERIOD TO DISPOSE OF GIFTS, BEQUESTS, ETC. WHERE DISPOSITION NOT POSSIBLE DURING ORIGINAL 5-YEAR PERIOD.—

"(A) IN GENERAL.—The Secretary may extend for one additional period the application of paragraph (6) to holdings described in such paragraph if the Secretary determines that—

"(i) the private foundation has made diligent efforts during the 5-year period described in paragraph (6) to dispose of such holdings,

"(ii) disposition of such holdings within the 5-year period described in paragraph (6) was not possible (other than at substantially below fair market value) by reason of—

"(I) the large fair market value of such holdings,

"(II) the complex structure or diversity of holdings of the underlying business enterprise in which such holdings represent an interest,

"(III) any Federal, State, or local law which effectively prevented disposition of such holdings during the 5-year period described in paragraph (6), or

"(IV) any order of any Federal or State court which effectively prevented disposition of such holdings during the 5-year period described in paragraph (6); and

"(iii) the foundation meets the requirements of subparagraph (B).

"(B) FOUNDATION TO SUBMIT PLAN TO APPROPRIATE STATE OFFICIALS.—A foundation meets the requirements of this subparagraph if the private foundation—

"(i) submits to the Secretary, within the period under paragraph (6), a plan under which, as determined by the Secretary, the disposition of such holdings may reasonably be expected to occur before the end of the additional period described in subparagraph (A), and

"(ii) submits—

"(I) the plan described in clause (i) to the Attorney General (or other appropriate State official) having administrative or supervisory authority or responsibility with respect to the foundation's disposition of the excess business holdings described in paragraph (6), and

"(II) to the Secretary any response of the Attorney General (or other appropriate State official) to such plan.

"(C) ADDITIONAL PERIOD.—

"(i) BEGINNING DATE.—The additional period shall begin on the date on which the 5-year period described in paragraph (6) ends.

"(ii) LENGTH OF ADDITIONAL PERIOD.—The length of the additional period described in subparagraph (A) shall be 5 years plus the number of days that a court order described in clause (iii) is in effect after the last day of the 5-year period described in paragraph (6).

"(iii) COURT ORDER.—A court order is described in this clause if it is issued by a Federal or State court before the expiration of the additional period described in subparagraph (A) and it prohibits the disposition during such additional period of holdings described in paragraph (6) with respect to which the 5-year period described in paragraph (6) has been extended under this paragraph.".

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 4943(c) of the Internal Revenue Code of 1954 is amended by inserting "or (7)" after "paragraph (5)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1954 ends on or after November 1, 1983.

(2) TRANSITIONAL RULE.—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1954 (as added by subsection (a)).

SEC. 308. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES NOT TO REDUCE PERMITTED PERCENTAGE OF HOLDINGS WHERE DECREASE IS 2 PERCENT OR LESS.

(a) GENERAL RULE.—The second sentence of clause (ii) of section 4943(c)(4)(A) (relating to present holdings) is amended to read as follows:

"For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as—

"(I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and

"(II) the number of shares held by the foundation is not affected by any such issuance or redemption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to increases and decreases occurring after the date of the enactment of this Act.

SEC. 309. AGGREGATION OF STOCK HOLDINGS OF PRIVATE FOUNDATION AND DISQUALIFIED PERSONS IN APPLYING 95 PERCENT OWNERSHIP TEST.

(a) GENERAL RULE.—Clause (i) of section 4943(c)(4)(B) (relating to present holdings) is amended by striking out "the private foundation has" and inserting in lieu thereof "the private foundation and all disqualified persons have".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 101(b) of the Tax Reform Act of 1969.

SEC. 310. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS RESULTING FROM CERTAIN ACQUISITIONS BY DISQUALIFIED PERSONS.

(a) GENERAL RULE.—Paragraph (6) of section 4943(c) (relating to 5-year period to dispose of gifts, bequests, etc.) is amended by adding at the end thereof the following new sentence:

"In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain the phrase 'or by a disqualified person' in the material preceding subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 311. RETENTION OF BUSINESS HOLDINGS BY CERTAIN PRIVATE FOUNDATIONS.

Section 101(l)(4) of the Tax Reform Act of 1969 (26 U.S.C. 4940 note) (relating to savings provisions for section 4943) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Section 4943 of the Internal Revenue Code of 1954 (other than the phrase 'but in no event shall the percentage so substituted be more than 50 percent' in subsection (c)(4)(A)(i), and subsection (c)(4)(D)) shall apply to any excess business holdings held, or treated as held under section 4943(c)(5) of such Code, on May 26, 1969, by a private foundation if on and after the date of divestiture of such holdings required under section 4943, such foundation meets all of the following conditions:

"(I) Disqualified persons (other than persons who are disqualified persons solely as foundation managers) and officers, directors, or employees of any business enterprise in which such foundation has such excess business holdings do not together constitute more than 25 percent of the governing board of such foundation.

"(II) Directors, trustees, or officers of the foundation do not together constitute more than 25 percent of the governing board of any such business enterprise.

"(III) No disqualified person (other than persons who are disqualified persons solely as foundation managers) can be a foundation manager after March 12, 1984, unless such person was a foundation manager on March 12, 1984.

"(IV) No disqualified person receives compensation (or payment or reimbursement of expenses) from both the foundation and any such business enterprise, other than director fees (and the payment or reimbursement of expenses incident thereto) which are not excessive.

"(V) Such foundation does not incur liability for any taxes imposed under section 4942 of such Code.

"(VI) Such foundation does not incur liability for any taxes imposed under section 4943 of such Code with respect to holdings of any business enterprise in which such foundation has holdings subject to this clause.

"(ii) For purposes of this subparagraph, the terms 'disqualified person' and 'foundation manager' have the meaning given to such terms by subsections (a) and (b) of section 4946 of such Code, respectively.".

SEC. 312. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN STOCK PURCHASES.

(a) GENERAL RULE.—Section 4941 of the Internal Revenue Code of 1954 (relating to taxes on self-dealing) shall not apply to the purchase during 1978 of stock from a private foundation (and to any note issued in connection with such purchase) if—

(1) consideration for such purchase equaled or exceeded the fair market value of such stock,

(2) the purchaser of such stock did not make any contribution to such foundation at any time during the 5-year period ending on the date of such purchase,

(3) the aggregate contributions to such foundation by the purchaser before such date were less than $10,000 and less than 2 percent of the total contributions received by the foundation as of such date, and

(4) such purchase was pursuant to the settlement of litigation involving the purchaser.

(b) STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may,

nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 313. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR AFTER 10 YEARS WITH NO CONNECTION TO FOUNDATION.

(a) GENERAL RULE.—Paragraph (2) of section 507(d) (defining substantial contributor) is amended by adding at the end thereof the following new subparagraph:

"(C) PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR IN CERTAIN CASES.—

"(i) IN GENERAL.—A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

"(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

"(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

"(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

"(ii) RELATED PERSON.—For purposes of clause (i), the term 'related person' means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 314. OTHER AMENDMENTS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(1) Subparagraph (B) of section 4942(a)(2) (relating to taxes on failure to distribute income) is amended by striking out "subsection (j)(4)" and inserting in lieu thereof "subsection (j)(2)".

(2) Paragraph (1) of section 4942(f) (defining adjusted net income) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (j)".

(3) Paragraph (3) of section 6501(n) (relating to special rule for chapter 42 and similar taxes) is amended by striking out "section 4942(g)(2)(B)(i)(II)" and inserting in lieu thereof "section 4942(g)(2)(B)(ii)".

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) AMENDMENT OF 1969 TAX REFORM ACT.—

(1) Subparagraph (A) of section 101(l)(4) of the Tax Reform Act of 1969 is amended by striking out "by substituting '51 percent' for '50 percent'" and inserting in lieu thereof "as if it did not contain the phrase ', but in no event shall the percentage so substituted be more than 50 percent'".

(2) The amendment made by paragraph (1) shall apply as if included in the amendment made by section 101(l)(4) of the Tax Reform Act of 1969.

(c) REQUIRED DISTRIBUTION INCREASED BY AMOUNT OF CERTAIN REPAYMENTS, ETC.—

(1) Paragraph (1) of section 4942(d) (defining distributable amount) is amended to read as follows:

"(1) the sum of the minimum investment return plus the amounts described in subsection (f)(2)(C), reduced by".

(2) The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1984.

(d) EXCEPTION TO DEFINITION OF DISQUALIFIED PERSONS.—

(1) Subsection (d) of section 4943 (relating to definitions and special rules with respect to taxes on excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(4) DISQUALIFIED PERSON.—The term 'disqualified person' (as defined in section 4946(a)) does not include a plan described in section 4975(e)(7) with respect to the holdings of a private foundation described in paragraph (4) or (5) of subsection (c).".

(2) The amendment made by paragraph (1) shall apply with respect to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ENTERPRISE ZONES

SEC. 401. SHORT TITLE.

This title may be cited as the "Enterprise Zone Act of 1984".

SEC. 402. PURPOSES.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

Subtitle A—Designation of Enterprise Zones

SEC. 411. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (e).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1985.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate—

"(I) more than 75 nominated areas as enterprise zones under this section, and

"(II) more than 25 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(II) which are outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(III) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(4) NOMINATION PROCESS FOR CERTAIN AREAS LOCATED OUTSIDE RESERVATIONS.—An Indian tribal government may nominate an area described in subsection (c)(2)(C)(iii), in con-

junction with the local government and the State in which such area is located, for designation as an enterprise zone.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as an enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subclause (I) or (III) of subsection (a)(2)(C)(ii)) is located within a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)) with a population of 50,000 or more, or

"(II) 1,000 in any other case,

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior),

"(iii) is—

"(I) nominated by the local government and State government of such area and by an Indian tribal government, and

"(II) located entirely within a radius of 50 miles from any point on the border of the reservation over which such Indian tribal government has jurisdiction, or

"(iv) is located in Alaska—

"(I) within the jurisdiction of an Indian tribal government, or

"(II) within a muncipality at least 50 percent of the resident population of which (as determined by the 1980 census of the United States) consists of Indians, Eskimos, or Aleuts.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section, and

"(C) one of the following criteria is met—

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period, or

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract, (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) SPECIAL AREAS OUTSIDE RESERVATIONS.—For purposes of this section, any area described in paragraph (2)(C)(iii) which is designated by an Indian tribal government shall be treated as meeting the requirements of paragraph (3) if any area within the reservation over which such tribal government has jurisdiction meets the requirements of paragraph (3).

"(5) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for one area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the enterprise zone.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action under paragraph (1) following designation.

"(e) SPECIAL AREAS OUTSIDE RESERVATIONS.—A nominated area described in subsection (c)(2)(C)(iii) may be designated an enterprise zone only if the Secretary determines that a substantial portion of the benefits of such designation will accrue to the members of the Indian tribe that nominated such area.

"(f) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the strongest and highest quality contributions (other than those described in subsection (d)(2)) have been promised as part of the course of action,

"(2) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(3) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(4) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(5) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(6) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D—Designation of Enterprise Zones".

SEC. 412. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 413. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or Federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7891 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

PART I—CREDITS FOR EMPLOYERS AND EMPLOYEES

SEC. 421. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 441. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under any section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an enterprise zone employment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an enterprise zone employment credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1984, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(C) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—If the number of taxable years during the period—

"(i) beginning with the taxable year after the unused credit year, and

"(ii) ending with the taxable year in which the designation of the enterprise zone to which the credit under subsection (a) relates expires under section 7891,

exceeds 15, then subparagraph (A) shall be applied by substituting such number for '15', such number plus 3 for '18', and such number plus 2 for '17'.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (d).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the enterprise zone was designated as such under section 7891, or

"(ii) the date on which the enterprise zone is designated under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (f)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the taxable year for which the amount of the credit under subsection (a) is being computed.

"(d) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	30
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date.	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time—

"(i) during which the individual is unemployed, and

"(ii) by any period of time before the designation of the area as an enterprise zone under section 7891 during which the individual is employed by a taxpayer while the area is designated as an enterprise zone under State law enacted after January 1, 1981.

"(e) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(f) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM CREDIT IS ALLOWED UNDER SECTION 44b.—The term 'qualified employee' shall not include an individual with respect to whom any credit is allowed the employer for the taxable year under section 44B (relating to credit for employment of certain new employees).

"(g) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7891 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family that had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs that on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 44F(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (c)(2)(A), and the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (e)(2) and the 90 percent and 50 percent tests set forth in subsection (f)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(i) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7891, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7891(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(j) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit allowed under subsection (a) for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before, the close of the period referred to in paragraph (1), becomes disabled and therefore is unable to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart.".

(b) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for that portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(d) RULE FOR SECTION 44I CREDITS.—No deduction shall be allowed for that portion

of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 44I (relating to the employment credit for enterprise zone businesses). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection (b).".

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (B) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended—

(i) by striking out "or 44F" in clause (i) and inserting in lieu thereof "44F, or 44I", and

(ii) by inserting "44I (b)(1)," after "44F (g)(1)," in clause (ii).

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(31) CREDIT UNDER SECTION 44I.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44I, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44I in respect to the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused credits and capital losses), as in effect for taxable years to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by inserting "to any unused credit of the corporation under section 44I(b)(2)," after "44G(b)(2)," and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(D) Section 383 (as in effect on the day before the amendments made by the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44I(b)(2)," after "44G(b)(2)," and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "enterprise zone employment credits," after "employee stock ownership credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and enterprise zone employment credit carryback."

(B) Section 6411 (relating to quick refunds in respect to tentative carryback adjustments) is amended—

(i) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused enterprise zone employment credit carryback;"

(ii) by inserting ", by an enterprise zone employment credit carryback provided by section 44I(b)(2)," after "by an employee stock ownership credit carryback provided by section 44G(b)(2)" in the first sentence of subsection (a);

(iii) by striking out "or employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "employee stock ownership credit carryback, or enterprise zone employment credit carryback from;" and

(iv) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or in the case of an enterprise zone employment credit carryback, to an investment credit carryback, a new employee credit carryback, or an employee stock ownership credit carryback)."

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44H and 44I".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44I. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 422. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 221, is amended by inserting immediately before section 45 the following new section:

"SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the qualifed wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 44I(f)(1), and

"(B) who is not an employee of the Federal Government, of any State or local government, or any political subdivision of a State or local government.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government, any State or local government, or any political subdivision of a State or local government.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for the taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7891 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).".

(b) REPORTING REQUIREMENTS.—Subpart C of part III of subchapter A of chapter 61 (relating to information regarding wages paid employees) is amended by adding at the end thereof the following new section:

"SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE CREDITS.

"Every employer shall furnish to each employee who is a qualified employee of the employer (within the meaning of section 44J(b)(1)) a written statement showing the amount of qualified wages (within the meaning of section 44J(b)(2)) paid by the employer to such employee. The statement required to be furnished pursuant to this section shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6652(a)(1) (relating to failure to file information returns) is amended—

(A) by striking out "or" at the end of clause (v), and

(B) by inserting after clause (vi) the following new clause:

"(vii) section 6054 (relating to reporting of enterprise zone employee credits),".

(2) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking "or 6053(b)" each place it appears and inserting in lieu thereof ", 6053(b) or 6054".

(3) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6054. Reporting of enterprise zone employee credits.".

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately before the item relating to section 45 of the following new item:

"SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES."

(5) Subsection (b) of section 6096, as amended by section 201, is amended by striking out "and 44I" and inserting in lieu thereof "44I, and 44J".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years after December 31, 1984.

PART II—CREDITS FOR INVESTMENT IN TANGIBLE PROPERTY IN ENTERPRISE ZONES

SEC. 431. INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and

inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) in the case of enterprise zone property, the enterprise zone percentage.".

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(G) ENTERPRISE ZONE PERCENTAGE.—

"(i) IN GENERAL.—

"For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise zone percentage is:
Zone personal property (within the meaning of section 48(s)(3))	5
New zone construction property (within the meaning of section 48(s)(4))	10

"(ii) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Clause (i) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(I) For the taxable year described in section 44I(i)(1)(A), 3.75 and 7.5.

"(II) For the next succeeding taxable year, 2.5 and 5.

"(III) For the second next succeeding taxable year, 1.25 and 2.5.

"(IV) For any subsequent taxable year, zero.

"(iii) REGULAR PERCENTAGE NOT TO APPLY TO CERTAIN PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any enterprise zone property which, but for section 48(s)(1), would not be section 38 property.".

(3) ORDERING RULES.—That portion of paragraph (7) of section 46(a) (relating to special rules in the case of energy property) which precedes subparagraph (B) is amended to read as follows:

"(7) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY OR ENTERPRISE ZONE PROPERTY.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage or the enterprise zone percentage,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property, and

"(iii) third with respect to so much of the credit allowed by section 38 as is attributable to the application of the enterprise zone percentage to enterprise zone property.".

(4) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraphs:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules), as amended by this Act, is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) ENTERPRISE ZONE PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—In the case of enterprise zone property—

"(A) such property shall be treated as meeting the requirements of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property.

"(2) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7891.

"(3) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(4) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property or 20-year real property which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7891, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection during such period.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental purposes shall be treated as the active conduct of a trade or business in an enterprise zone.

"(6) DEFINITIONS.—For purposes of this subsection, the terms '3-year property,' '5-year property,' '10-year property,' '15-year real property,', '20-year real property' and '15-year public utility property', have the meanings given such terms by section 168(c)(2).".

(d) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(iii) is removed from the enterprise zone, converted, or otherwise ceases to be enterprise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(2)(A)(v) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k).".

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—

(1) IN GENERAL.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a)(2) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(s)(4)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'."

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 196 (relating to deductions for certain unused investment credits) is amended by striking out "rehabilitated buildings" and inserting in lieu thereof "rehabilitation and enterprise zone expenditures."

(f) INVESTMENT CREDIT CARRYOVER PERIOD EXTENDED.—Paragraph (1) of section 46(b) (relating to carryover and carryback of unused credits) is amended by adding at the end thereof the following new sentence: "If the number of taxable years during the period beginning with the taxable years following the unused credit year and ending with the taxable year in which the designation of the enterprise zone to which the unused credit relates expires under section 7891 exceeds 15, then the preceding sentence shall be applied by substituting such number for '15,' such number plus 3 for '18,' and such number plus 2 for '17'."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1984, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

PART III—REDUCTION IN CAPITAL GAIN TAX RATES

SEC. 441. CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 1201 (relating to alternative tax for corporations), as amended by this Act, is amended by inserting "and the qualified enterprise zone net capital gain" after "qualified corporate gain" in paragraph (3)(B).

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone net capital gain' means the amount of net capital gain for any taxable year determined by taking into account only gains and losses from the sale or exchange of capital assets which are gain which is—

"(A) attributable to the sale or exchange of qualified enterprise zone property, and

"(B) properly allocable only to periods during which such property is qualified enterprise zone property.

"(2) SPECIAL RULES RELATING TO INTERESTS IN BUSINESSES.—

"(A) CERTAIN GAINS AND LOSSES NOT TAKEN INTO ACCOUNT.—In determining the amount of qualified enterprise zone net capital gain for any taxable year under paragraph (1), there shall not be taken into account any gains or losses attributable to the sale or exchange of an interest in a qualified enterprise zone business to the extent such gain or losses are attributable to—

"(i) any property contributed to such qualified enterprise zone business during the 12-month period before such sale or exchange,

"(ii) any interest in any business which is not a qualified enterprise zone business, or

"(iii) any intangible property to the extent not properly attributable to the active conduct of a trade or business within an enterprise zone.

"(B) PERIODS FOR WHICH GAINS AND LOSSES ALLOCABLE.—For purposes of determining under paragraph (1)(B) gains or losses properly allocable to an interest in a qualified enterprise zone business, there shall only be taken into account the taxable years of such business during which it meets the requirements of paragraph (3)(B).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'qualified enterprise zone property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the two most recent taxable years of such entity—

"(I) ending before the date of disposition of such interest, and

"(II) beginning after the date of the designation as an enterprise zone of the area in which such entity is engaged in the active conduct of a trade or business,

such entity was a qualified enterprise zone business.

"(B) QUALIFIED ENTERPRISE ZONE BUSINESS.—The term 'qualified enterprise zone business' means, with respect to any taxable year, any person—

"(i) actively engaged in the conduct of a trade or business within an enterprise zone during such taxable year,

"(ii) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of the tangible assets of which are located within an enterprise zone during such taxable year.

"(C) REAL ESTATE RENTAL.—For purposes of this subsection, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. 442. TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone net capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A)."

SEC. 443. MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone net capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. 444. EFFECTIVE DATE.

The amendments made by this part shall apply to sales or exchanges after December 31, 1984.

PART IV—RULES RELATING TO INDUSTRIAL DEVELOPMENT BONDS

SEC. 451. INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(v) as enterprise zone property (within the meaning of section 48(s)).".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1984, in taxable years ending after such date.

PART V—SENSE OF THE CONGRESS WITH RESPECT TO TAX SIMPLIFICATION

SEC. 461. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

Subtitle C—Regulatory Flexibility

SEC. 471. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following: "(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 44I(f) of such Code).".

SEC. 472. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, com-

munity development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating "Sec. 611." and "Sec. 612." and "Sec. 613.", respectively, and inserting the following new item immediately after "Sec. 610.":

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means".

(d) Section 613 of such title, redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 473. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 481. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprize zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE V—FOREIGN SALES CORPORATIONS

SECTION 501. SHORT TITLE.

This title may be cited as the "Foreign Sales Corporation Act of 1984".

SEC. 502. FOREIGN SALES CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources outside the United States) is amended by inserting after subpart B the following new subpart:

"Subpart C—Taxation of Foreign Sales Corporations

"Sec. 921. Exempt foreign trade income excluded from gross income.
"Sec. 922. FSC defined.
"Sec. 923. Exempt foreign trade income.
"Sec. 924. Foreign trading gross receipts.
"Sec. 925. Transfer pricing rules.
"Sec. 926. Distributions to shareholders.
"Sec. 927. Other definitions and special rules.

"SEC. 921. EXEMPT FOREIGN TRADE INCOME EXCLUDED FROM GROSS INCOME.

"(a) EXCLUSION.—Exempt foreign trade income of a FSC shall be treated as foreign source income which is not effectively connected with the conduct of a trade or business within the United States.

"(b) PROPORTIONATE ALLOCATION OF DEDUCTIONS TO EXEMPT FOREIGN TRADE INCOME.—Any deductions of the FSC properly apportioned and allocated to the foreign trade income derived by a FSC from any transaction shall be allocated between—

"(1) the exempt foreign trade income derived from such transaction, and

"(2) the foreign trade income (other than exempt foreign trade income) derived from such transaction,

on a proportionate basis.

"(c) DENIAL OF CREDITS.—Notwithstanding any other provision of this chapter, no credit (other than a credit allowable under section 27(a), 33, or 34) shall be allowed under this chapter to any FSC.

"(d) FOREIGN TRADE INCOME, INVESTMENT INCOME, AND CARRYING CHARGES TREATED AS EFFECTIVELY CONNECTED WITH UNITED STATES BUSINESS.—For purposes of this chapter—

"(1) all foreign trade income of a FSC other than—

"(A) exempt foreign trade income, and

"(B) section 923(a)(2) non-exempt income,

"(2) all interest, dividends, royalties, and other investment income received by a FSC, and

"(3) all carrying charges received by a FSC,

shall be treated as income effectively connected with the conduct of a trade or business conducted through a permanent establishment of such corporation within the United States. Income described in paragraph (1) shall be treated as derived from sources within the United States.

"SEC. 922. FSC DEFINED.

"(a) FSC DEFINED.—For purposes of this title, the term 'FSC' means any corporation—

"(1) which—

"(A) was created or organized—

"(i) under the laws of any foreign country which meets the requirements of section 927(e)(3), or

"(ii) under the laws applicable to any possession of the United States,

"(B) has no more than 25 shareholders at any time during the taxable year,

"(C) does not have any preferred stock outstanding at any time during the taxable year,

"(D) during the taxable year—

"(i) maintains an office located outside the United States,

"(ii) maintains a set of the permanent books of account of such corporation at such office, and

"(iii) maintains at a location within the United States the records which such corporation is required to keep under section 6001,

"(E) at all times during the taxable year, has a board of directors which includes at least one individual who is not a resident of the United States, and

"(F) is not a member, at any time during the taxable year, of any controlled group of corporations of which a DISC is a member, and

"(2) which has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a FSC.

"(b) SMALL FSC DEFINED.—For purposes of this title, a FSC is a small FSC with respect to any taxable year if—

"(1) such corporation has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a small FSC, and

"(2) such corporation is not a member, at any time during the taxable year, of a controlled group of corporations which includes a FSC unless such other FSC has also made an election under paragraph (1) which is in effect for such year.

"SEC. 923. EXEMPT FOREIGN TRADE INCOME.

"(a) EXEMPT FOREIGN TRADE INCOME.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'exempt foreign trade income' means the aggregate amount of all foreign trade income of a FSC for the taxable year which is described in paragraph (2) or (3).

"(2) INCOME DETERMINED WITHOUT REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction to which paragraph (3) does not apply, 34 percent of the foreign trade income derived from such transaction shall be treated as described in this paragraph. For purposes of the preceding sentence, foreign trade income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 927(a)(2) (relating to intangibles).

"(3) INCOME DETERMINED WITH REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction with respect to which paragraph (1) or (2) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) applies, 17/23 of the foreign trade income derived from such transaction shall be treated as described in this paragraph.

"(4) SPECIAL RULE FOR FOREIGN TRADE INCOME ALLOCABLE TO A COOPERATIVE.—

"(A) IN GENERAL.—In any case in which a qualified cooperative is a shareholder of a FSC, paragraph (3) shall be applied with respect to that portion of the foreign trade income of such FSC for any taxable year which is properly allocable to such cooperative by substituting '100 percent' for '17/23'.

"(B) PARAGRAPH ONLY TO APPLY TO AMOUNTS FSC DISTRIBUTES.—Subparagraph (A) shall not apply for any taxable year unless the FSC distributes to the qualified cooperative the amount which (but for such subparagraph) would not be treated as exempt foreign trade income. Any distribution under this subparagraph for any taxable year—

"(i) shall be made before the due date for filing the return of tax for such taxable year, but

"(ii) shall be treated as made on the last day of such taxable year.

"(b) FOREIGN TRADE INCOME DEFINED.—For purposes of this subpart, the term 'foreign trade income' means the gross income of a FSC attributable to foreign trading gross receipts.

"SEC. 924. FOREIGN TRADING GROSS RECEIPTS.

"(a) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term 'foreign trading gross receipts' means the gross receipts of any FSC which are—

"(1) from the sale, exchange, or other disposition of export property,

"(2) from the lease or rental of export property for use by the lessee outside the United States,

"(3) for services which are related and subsidiary to—

"(A) any sale, exchange, or other disposition of export property by such corporation, or

"(B) any lease or rental of export property described in paragraph (2) by such corporation,

"(4) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

"(5) for the performance of managerial services for an unrelated FSC or DISC in furtherance of the production of foreign trading gross receipts described in paragraph (1), (2), or (3) (whether or not the FSC performing such services has any gross receipts from any activity described in any such paragraph).

"(b) FOREIGN MANAGEMENT AND FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a FSC shall be treated as having foreign trading gross receipts for the taxable year only if the management of such corporation during such taxable year takes place outside the United States as required by subsection (c), and

"(B) a FSC has foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by subsection (d).

"(2) EXCEPTION FOR SMALL FSC.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any small FSC.

"(B) LIMITATION ON AMOUNT OF FOREIGN TRADING GROSS RECEIPTS OF SMALL FSC TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—Any foreign trading gross receipts of a small FSC for the taxable year which exceed $5,000,000 shall not be taken into account in determining the exempt foreign trade income of such corporation and shall not be taken into account under any other provision of this subpart.

"(ii) ALLOCATION OF LIMITATION.—If the foreign trading gross receipts of a small FSC exceed the limitation of clause (i), the corporation may allocate such limitation among such gross receipts in such manner as it may select (at such time and in such manner as may be prescribed in regulations).

"(iii) RECEIPTS OF CONTROLLED GROUP AGGREGATED.—For purposes of applying clauses (i) and (ii), all small FSC's which are members of the same controlled group of corporations shall be treated as a single corporation.

"(iv) ALLOCATION OF LIMITATION AMONG MEMBERS OF CONTROLLED GROUP.—The limitation under clause (i) shall be allocated among the foreign trading gross receipts of small FSC's which are members of the same controlled group of corporations in a manner provided in regulations prescribed by the Secretary.

"(c) REQUIREMENT THAT FSC BE MANAGED OUTSIDE THE UNITED STATES.—The management of a FSC meets the requirements of this subsection for the taxable year if—

"(1) all meetings of the board of directors of the corporation, and all meetings of the shareholders of the corporation, are outside the United States,

"(2) the principal bank account of the corporation is maintained outside the United States at all times during the taxable year, and

"(3) all dividends, legal and accounting fees, and salaries of officers and members of the board of directors of the corporation disbursed during the taxable year are disbursed out of bank accounts of the corporation maintained outside the United States.

"(d) REQUIREMENT THAT ECONOMIC PROCESSES TAKE PLACE OUTSIDE THE UNITED STATES.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to the gross receipts of a FSC derived from any transaction if—

"(A) such corporation (or any person acting under a contract with such corporation) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

"(B) the foreign direct costs incurred by the FSC attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

"(2) ALTERNATIVE 85-PERCENT TEST.—A corporation shall be treated as satisfying the requirements of paragraph (1)(B) with respect to any transaction if, with respect to each of at least 2 paragraphs of subsection (e), the foreign direct costs incurred by such corporation attributable to activities described in such paragraph equal or exceed 85 percent of the total direct costs attributable to activities described in such paragraph.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TOTAL DIRECT COSTS.—The term 'total direct costs' means, with respect to any transaction, the total direct costs incurred by the FSC attributable to activities described in subsection (e) performed at any location by the FSC or any person acting under a contract with such FSC.

"(B) FOREIGN DIRECT COSTS.—The term 'foreign direct costs' means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

"(4) RULES FOR COMMISSIONS, ETC.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (e) in the case of commissions, rentals, and furnishing of services.

"(e) ACTIVITIES RELATING TO DISPOSITION OF EXPORT PROPERTY.—The activities referred to in subsection (d) are—

"(1) advertising and sales promotion,

"(2) the processing of customer orders and the arranging for delivery of the export property,

"(3) transportation from the time of acquisition by the FSC (or, in the case of a commission relationship, from the beginning of such relationship for such transaction) to the delivery to the customer,

"(4) the determination and transmittal of a final invoice or statement of account and the receipt of payment, and

"(5) the assumption of credit risk.

"(f) BURDEN OF PROOF REGARDING FOREIGN MANAGEMENT AND ECONOMIC PROCESS REQUIREMENTS.—

"(1) IN GENERAL.—In any judicial or administrative proceeding involving the issue of whether—

"(A) a FSC meets the requirements of subsection (c) for a taxable year, or

"(B) a transaction meets the requirements of subsection (d),

the burden of proof with respect to such issue shall be upon the Secretary if a written statement addressing such issue has been filed by an officer of such corporation under paragraph (2).

"(2) AFFIDAVIT.—An authorized officer of a FSC who is a citizen and resident of the United States may file with the Secretary (at such time and in such manner as the Secretary shall by regulations prescribe) a verified written statement made by such officer under penalties of perjury which—

"(A) declares that such corporation meets the requirements of subsection (c) for the taxable year and specifies how such requirements have been met, or

"(B) declares that specified transactions of such corporation for the taxable year meet the requirements of subsection (d) and specifies how such requirements have been met.

"(g) CERTAIN RECEIPTS NOT INCLUDED IN FOREIGN TRADING GROSS RECEIPTS.—

"(1) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS AND RECEIPTS FROM RELATED PARTIES EXCLUDED.—The term 'foreign trading gross receipts' shall not include receipts of a FSC from a transaction if—

"(A) the export property or services—

"(i) are for ultimate use in the United States, or

"(ii) are for use by the United States or any instrumentality thereof and such use of export property or services is required by law or regulation,

"(B) such transaction is accomplished by a subsidy granted by the United States or any instrumentality thereof, or

"(C) such receipts are from another FSC which is a member of the same controlled group of corporations of which such corporation is a member.

"(2) ONE-HALF OF RECEIPTS FROM MILITARY PROPERTY EXCLUDED.—The term 'foreign trading gross receipts' shall not include 50 percent of the gross receipts for the taxable year attributable to the disposition of, or services relating to, military property (within the meaning of section 995(b)(3)(B)).

"(3) INVESTMENT INCOME; CARRYING CHARGES.—The term 'foreign trading gross receipts' shall not include any investment income or carrying charges.

"SEC. 925. TRANSFER PRICING RULES.

"(a) IN GENERAL.—In the case of a sale of export property to a FSC by a person described in section 482, the taxable income of such FSC and such person shall be based upon a transfer price which would allow such FSC to derive taxable income attributable to such sale (regardless of the sales price actually charged) in an amount which does not exceed the greatest of—

"(1) 1.83 percent of the foreign trading gross receipts derived from the sale of such property by such FSC,

"(2) 23 percent of the combined taxable income of such FSC and such person which is attributable to the foreign trading gross receipts derived from the sale of such property by such FSC, or

"(3) taxable income based upon the sale price actually charged (but subject to the rules provided in section 482).

Paragraphs (1) and (2) shall apply only if the FSC meets the requirements of subsection (c) with respect to the sale.

"(b) RULES FOR COMMISSIONS, RENTALS, AND MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth—

"(1) rules which are consistent with the rules set forth in subsection (a) for the application of this section in the case of commissions, rentals, and other income, and

"(2) rules for the allocation of expenditures in computing combined taxable income under subsection (a)(2) in those cases where a FSC is seeking to establish or maintain a market for export property.

"(c) REQUIREMENTS FOR USE OF ADMINISTRATIVE PRICING RULES.—A sale by a FSC meets the requirements of this subsection if—

"(1) all of the activities described in section 924(e) attributable to such sale, and

"(2) all of the activities relating to the solicitation (other than advertising), negotiation, and making of the contract for such sale,

have been performed by such FSC (or by another person acting under a contract with such FSC).

"(d) LIMITATION ON GROSS RECEIPTS PRICING RULE.—The amount determined under subsection (a)(1) with respect to any transaction shall not exceed 2 times the amount which would be determined under subsection (a)(2) with respect to such transaction.

"(e) TAXABLE INCOME.—For purposes of this section, the taxable income of a FSC shall be determined without regard to section 921.

"(f) SPECIAL RULE FOR COOPERATIVES.—In any case in which a qualified cooperative sells export property to a FSC, in computing the combined taxable income of such FSC and such organization for purposes of subsection (a)(2), there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

"SEC. 926. DISTRIBUTIONS TO SHAREHOLDERS.

"(a) DISTRIBUTIONS MADE FIRST OUT OF FOREIGN TRADE INCOME.—For purposes of this title, any distribution to a shareholder of a FSC by such FSC which is made out of earnings and profits shall be treated as made—

"(1) first, out of earnings and profits attributable to foreign trade income, to the extent thereof, and

"(2) then, out of any other earnings and profits.

"(b) DISTRIBUTIONS BY FSC TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS TREATED AS UNITED STATES CONNECTED.—For purposes of this title, any distribution by a FSC which is made out of earnings and profits attributable to foreign trade income to any shareholder of such corporation which is a foreign corporation or a nonresident alien individual shall be treated as a distribution—

"(1) which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and

"(2) of income which is derived from sources within the United States.

"(c) FSC INCLUDES FORMER FSC.—For purposes of this section, the term 'FSC' includes a former FSC.

"SEC. 927. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) EXPORT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'export property' means property—

"(A) manufactured, produced, grown, or extracted in the United States by a person other than a FSC,

"(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business, by, or to, a FSC, for direct use, consumption, or disposition outside the United States, and

"(C) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation.

"(2) EXCLUDED PROPERTY.—The term 'export property' shall not include—

"(A) property leased or rented by a FSC for use by any member of a controlled group of corporations of which such FSC is a member,

"(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commercial or home use), good will, trademarks, trade brands, franchises, or other like property,

"(C) oil or gas (or any primary product thereof), or

"(D) products the export of which is prohibited or curtailed under section 7(a) of the Export Administration Act of 1979 to effectuate the policy set forth in paragraph (2)(C) of section 3 of such Act (relating to the protection of the domestic economy).

"(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall not be treated as export property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

"(4) QUALIFIED COOPERATIVE.—The term 'qualified cooperative' means any organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

"(b) GROSS RECEIPTS.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'gross receipts' means—

"(A) the total receipts from the sale, lease, or rental of property held primarily for sale, lease, or rental in the ordinary course of trade or business, and

"(B) gross income from all other sources.

"(2) GROSS RECEIPTS TAKEN INTO ACCOUNT IN CASE OF COMMISSIONS.—In the case of commissions on the sale, lease, or rental of property, the amount taken into account for purposes of this subpart as gross receipts shall be the gross receipts on the sale, lease, or rental of the property on which such commissions arose.

"(c) INVESTMENT INCOME.—For purposes of this subpart, the term 'investment income' means—

"(1) dividends,

"(2) interest,

"(3) royalties,

"(4) annuities,

"(5) rents (other than rents from the lease or rental of export property for use by the lessee outside of the United States),

"(6) gains from the sale or exchange of stock or securities,

"(7) gains from futures transactions in any commodity on, or subject to the rules of, a board of trade or commodity exchange

(other than gains which arise out of a bona fide hedging transaction reasonably necessary to conduct the business of the FSC in the manner in which such business is customarily conducted by others),

"(8) amounts includible in computing the taxable income of the corporation under part I of subchapter J, and

"(9) gains from the sale or other disposition of any interest in an estate or trust.

"(d) OTHER DEFINITIONS.—For purposes of this subpart—

"(1) CARRYING CHARGES.—The term 'carrying charges' means—

"(A) carrying charges, and

"(B) under regulations prescribed by the Secretary, any amount in excess of the price for an immediate cash sale and any other unstated interest.

"(2) TRANSACTION.—

"(A) IN GENERAL.—The term 'transaction' means—

"(i) any sale, exchange, or other disposition,

"(ii) any lease or rental, and

"(iii) any furnishing of services.

"(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

"(3) UNITED STATES DEFINED.—The term 'United States' includes the Commonwealth of Puerto Rico.

"(4) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(B) section 1563(b) shall not apply.

"(5) POSSESSIONS.—The term 'possession of the United States' means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(6) SECTION 923(a)(2) NON-EXEMPT INCOME.—The term 'section 923(a)(2) non-exempt income' means any foreign trade income from a transaction with respect to which paragraph (1) or (2) of section 925(a) does not apply and which is not exempt foreign trade income.

"(e) SPECIAL RULES.—

"(1) SOURCE RULES FOR RELATED PERSONS.—Under regulations, the income of a person described in section 482 from a transaction giving rise to foreign trading gross receipts of a FSC which is treated as from sources outside the United States shall not exceed the amount which would be treated as foreign source income earned by such person if the pricing rule under section 994 which corresponds to the rule used under section 925 with respect to such transaction applied to such transaction.

"(2) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the exempt foreign trade income of a FSC for any taxable year shall be limited under rules similar to the rules of clauses (i) and (ii) of section 995(b)(1)(F).

"(3) EXCHANGE OF INFORMATION REQUIREMENTS.—For purposes of this title, the term 'FSC' shall not include any corporation which was created or organized under the laws of any foreign country unless, at the time such corporation was created or organized, there was in effect between such country and the United States—

"(A) a bilateral or multilateral agreement described in section 274(h)(6)(C), or

"(B) an income tax treaty with respect to which the Secretary certifies that the exchange of information program with such country under such treaty carries out the purposes of this paragraph.

"(4) DISALLOWANCE OF TREATY BENEFITS.—Any corporation electing to be treated as a FSC under subsection (f)(1) may not claim any benefits under any income tax treaty between the United States and any foreign country.

"(5) EXEMPTION FROM CERTAIN OTHER TAXES.—No tax shall be imposed on any foreign trade income by any jurisdiction described in subsection (d)(5).

"(f) ELECTION OF STATUS AS FSC (AND AS SMALL FSC).—

"(1) ELECTION.—

"(A) TIME FOR MAKING.—An election by a corporation under section 922(a)(2) to be treated as a FSC, and an election under section 922(b)(1) to be a small FSC, shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

"(B) MANNER OF ELECTION.—An election under subparagraph (A) shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

"(2) EFFECT OF ELECTION.—If a corporation makes an election under paragraph (1), then the provisions of this subpart shall apply to such corporation for the taxable year of the corporation for which made and for all succeeding taxable years.

"(3) TERMINATION OF ELECTION.—

"(A) REVOCATION.—An election under this subsection made by any corporation may be terminated by revocation of such election for any taxable year of the corporation after the first taxable year of the corporation for which the election is effective. A termination under this paragraph shall be effective with respect to such election—

"(i) for the taxable year in which made, if made at any time during the first 90 days of such taxable year, or

"(ii) for the taxable year following the taxable year in which made, if made after the close of such 90 days, and

for all succeeding taxable years of the corporation. Such termination shall be made in such manner as the Secretary shall prescribe by regulations.

"(B) CONTINUED FAILURE TO BE FSC.—If a corporation is not a FSC for each of any 5 consecutive taxable years of the corporation for which an election under this subsection is effective, the election to be a FSC shall be terminated and not be in effect for any taxable year of the corporation after such 5th year.".

(b) DIVIDEND RECEIVED DEDUCTION FOR DOMESTIC CORPORATIONS.—

(1) IN GENERAL.—Section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a), be treated as exempt foreign trade income.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'foreign trade income' and 'exempt foreign trade income' have the meaning given such terms by section 923.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "245" each place it appears and inserting in lieu thereof "subsection (a) or (b) of section 245".

(B) Subsection (d) of section 245 (relating to property distributions), as redesignated by paragraph (1), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "this section".

(c) CLARIFICATION OF INFORMATION EXCHANGE AGREEMENTS.—Subparagraph (D) of section 274(h)(6) (relating to coordination with section 6103) is amended—

(1) by adding at the end thereof the following new sentence: "The Secretary may exercise his authority under subchapter A of chapter 78 to carry out any obligation of the United States under an agreement referred to in subparagraph (C).", and

(2) by striking out the heading thereof and inserting in lieu thereof "COORDINATION WITH OTHER PROVISIONS.—".

(d) CONFORMING AMENDMENTS.—

(1) Section 901 (relating to foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

"(h) TAXES PAID WITH RESPECT TO FOREIGN TRADE INCOME.—No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC, other than section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6).".

(2) Paragraph (1) of section 904(d) (relating to application of section in case of certain interest income and dividends from a DISC) as amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) taxable income attributable to foreign trade income (within the meaning of section 923(b)),

"(D) distributions from a FSC (or former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)), and

"(E) income other than income described in subparagraph (A), (B), (C), or (D).", and

(C) by striking out the heading and inserting in lieu thereof:

"(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN INTEREST INCOME AND

INCOME FROM DISC, FORMER DISC, FSC, OR FORMER FSC.—".

(3) Subsection (b) of section 906 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(5) No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC.".

(4) Section 951 (relating to amounts included in gross income of shareholders) is amended by adding at the end thereof the following new subsection:

"(e) FOREIGN TRADE INCOME NOT TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—The foreign trade income of a FSC and any deductions which are apportioned or allocated to such income shall not be taken into account under this subpart. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

"(2) FOREIGN TRADE INCOME.—For purposes of this subsection, the term 'foreign trade income' has the meaning given such term by section 923(b), but does not include section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).".

(5) Paragraph (4) of section 275(a) (relating to disallowance of deduction for certain taxes) is amended to read as follows:

"(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if—

"(A) the taxpayer chooses to take to any extent the benefits of section 901, or

"(B) such taxes are paid or accrued with respect to foreign trade income (within the meaning of section 923(b)) of a FSC.".

(6) Subsection (d) of section 1248 (relating to exclusions from earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income (within the meaning of section 923(b)) of a FSC.".

(7) Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended by adding at the end thereof the following new subsection:

"(f) FSC.—Subsection (a) shall not apply in the case of a Virgin Islands corporation which is a FSC.".

(8) Paragraph (2) of section 956(b) (defining United States property) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and", and by adding at the end thereof the following new subparagraph:

"(I) to the extent provided in regulations prescribed by the Secretary, property which is otherwise United States property which is held by a FSC and which is related to the export activities of such FSC.".

(9) Subparagraph (B) of section 7651(5) is amended by inserting "(other than subpart C of part III of subchapter N of chapter 1)" after "For purposes of this title".

(10) Section 996(g) (relating to effectively connected income) is amended by inserting "and which are derived from sources within the United States" after "United States".

SEC. 503. INTEREST CHARGE DISC.

(a) INTEREST CHARGE ON DEFERRED TAX.—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) by striking out subsections (e) and (f),

(2) by redesignating subsection (g) as subsection (e), and

(3) by adding at the end thereof the following new subsection:

"(f) INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—

"(1) IN GENERAL.—A shareholder of a DISC shall pay for each taxable year interest in an amount equal to the product of—

"(A) the shareholder's DISC-related deferred tax liability for such year, and

"(B) the base period T-bill rate.

"(2) SHAREHOLDER'S DISC-RELATED DEFERRED TAX LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'shareholder's DISC-related deferred tax liability' means, with respect to any taxable year of a shareholder of a DISC, the excess of—

"(i) the amount which would be the tax liability of the shareholder for the taxable year if the deferred DISC income of such shareholder for such taxable year were included in gross income as ordinary income, over

"(ii) the actual amount of the tax liability of such shareholder for such taxable year.

Determinations under the preceding sentence shall be made without regard to carrybacks to such taxable year.

"(B) ADJUSTMENTS FOR LOSSES, CREDITS, AND OTHER ITEMS.—The Secretary shall prescribe regulations which provide such adjustments—

"(i) to the accounts of the DISC, and

"(ii) to the amount of any carryover or carryback of the shareholder,

as may be necessary or appropriate in the case of net operating losses, credits, and carryovers and carrybacks of losses and credits.

"(C) TAX LIABILITY.—The term 'tax liability' means the amount of the tax imposed by this chapter for the taxable year reduced by credits allowable against such tax (other than credits allowable under sections 31, 32, and 34).

"(3) DEFERRED DISC INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'deferred DISC income' means, with respect to any taxable year of a shareholder, the excess of—

"(i) the shareholder's pro rata share of accumulated DISC income (for periods after 1984) of the DISC as of the close of the computation year, over

"(ii) the amount of the distributions-in-excess-of-income for the taxable year of the DISC following the computation year.

"(B) COMPUTATION YEAR.—For purposes of applying subparagraph (A) with respect to any taxable year of a shareholder, the computation year is the taxable year of the DISC which ends with (or within) the taxable year of the shareholder which precedes the taxable year of the shareholder for which the amount of deferred DISC income is being determined.

"(C) DISTRIBUTIONS-IN-EXCESS-OF-INCOME.—For purposes of subparagraph (A), the term 'distributions-in-excess-of-income' means, with respect to any taxable year of a DISC, the excess (if any) of—

"(i) the amount of actual distributions to the shareholder out of accumulated DISC income, over

"(ii) the shareholder's pro rata share of the DISC income for such taxable year.

"(3) BASE PERIOD T-BILL RATE.—For purposes of this subsection, the term 'base period T-bill rate' means the annual rate of interest determined by the Secretary to be equivalent to the average investment yield of United States Treasury bills with maturities of 52 weeks which were auctioned during the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder.

"(4) SHORT YEARS.—The Secretary shall prescribe such regulations as may be necessary for the application of this subsection to short years of the DISC, the shareholder, or both.

"(5) PAYMENT AND ASSESSMENT AND COLLECTION OF INTEREST.—The interest accrued during any taxable year which a shareholder is required to pay under paragraph (1) shall be treated, for purposes of this title, as interest payable under section 6601 and shall be paid by the shareholder at the time the tax imposed by this chapter for such taxable year is required to be paid.".

(b) TAXABLE INCOME IN EXCESS OF $10,000,000 DEEMED DISTRIBUTED.—

(1) IN GENERAL.—Subparagraph (E) of section 995(b)(1) (relating to based period export gross receipts) is amended to read as follows:

"(E) the taxable income of the DISC attributable to qualified export receipts of the DISC for the taxable year which exceed $10,000,000,".

(2) AGGREGATION OF RECEIPTS.—Subsection (b) of section 995 (relating to deemed distributions) is amended by adding at the end thereof the following new paragraph:

"(4) AGGREGATION OF QUALIFIED EXPORT RECEIPTS.—

"(A) IN GENERAL.—For purposes of applying paragraph (1)(E), all DISC's which are members of the same controlled group shall be treated as a single corporation.

"(B) ALLOCATION.—The dollar amount under paragraph (1)(E) shall be allocated among the DISC's which are members of the same controlled group in a manner provided in regulations prescribed by the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a)(1) of section 992 (relating to definition of DISC) is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) such corporation is not a member of any controlled group of which a FSC is a member.".

(2) Paragraph (3) of section 993(a) (relating to controlled groups) is amended by striking out "such term by" and inserting in lieu thereof "the term 'controlled group of corporations' by".

(3) Subsection (c) of section 999 (relating to international boycott factor) is amended by striking out "995(b)(1)(F)(ii)" each place it appears and inserting in lieu thereof "995(b)(1)(F)(i)".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by inserting after the item relating to subpart B the following new item:

"Subpart C. Taxation of foreign sales corporations.".

SEC. 504. TAXABLE YEAR OF DISC AND FSC REQUIRED TO CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.

(a) IN GENERAL.—Subsection (b) of section 441 (relating to period for computation of taxable income) is amended—

(1) by striking out "or" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(4) in the case of a FSC or DISC filing a return for a period of at least 12 months, the period determined under subsection (h).".

(b) DETERMINATION OF TAXABLE YEAR.—Section 441 is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF FSC'S AND DISC'S.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any FSC or DISC shall be the taxable year of that shareholder (or group of shareholders with the same 12-month taxable year) who has the highest percentage of voting power.

"(2) SPECIAL RULE WHERE MORE THAN ONE SHAREHOLDER (OR GROUP) HAS HIGHEST PERCENTAGE.—If 2 or more shareholders (or groups) have the highest percentage of voting power under paragraph (1), the taxable year of the FSC or DISC shall be the same 12-month period as that of any such shareholder (or group).

"(3) SUBSEQUENT CHANGES OF OWNERSHIP.—The Secretary shall prescribe regulations under which paragraphs (1) and (2) shall apply to a change of ownership of a corporation after the taxable year of the corporation has been determined under paragraph (1) or (2) only if such change is a substantial change of ownership.

"(4) VOTING POWER DETERMINED.—For purposes of this subsection, voting power shall be determined on the basis of total combined voting power of all classes of stock of the corporation entitled to vote.".

SEC. 505. EFFECTIVE DATE; TRANSITION RULES.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply to transactions after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary, subsections (c) and (d) of section 924 of the Internal Revenue Code of 1954 (as added by this Act) shall not apply to—

(A) any contract with respect to which the taxpayer uses the completed contract method of accounting and which—

(i) was entered into before March 16, 1984, or

(ii) was entered into after March 15, 1984, and before January 1, 1985, pursuant to a written plan to enter into such contract which was in effect on March 15, 1984,

(B) any contract which was entered into before March 16, 1984, except that this subparagraph shall only apply to the first 2 taxable years of the FSC ending after January 1, 1985, or

(C) any contract which was entered into after March 15, 1984, and before January 1, 1985, except that this subparagraph shall only apply to the first taxable year of the FSC ending after January 1, 1985.

(b) TRANSITION RULES FOR DISC'S.—

(1) CLOSE OF 1984 TAXABLE YEARS OF DISC'S.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954, the taxable year of each DISC which begins before January 1, 1985, and which (but for this paragraph) would include January 1, 1985, shall close on December 31, 1984. For purposes of such Code, the requirements of section 992(a)(1)(B) of such Code (relating to percentage of qualified export assets on last day of the taxable year) shall not apply to any taxable year ending on December 31, 1984.

(B) UNDERPAYMENTS OF ESTIMATED TAX.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, no addition to tax shall be made under section 6654 or 6655 of such Code with respect to any underpayment of any installment required to be paid before April 13, 1985, to the extent the underpayment was created or increased by reason of subparagraph (A).

(2) EXEMPTION OF ACCUMULATED DISC INCOME FROM TAX.—For purposes of applying the Internal Revenue Code of 1954 with respect to actual distributions made after December 31, 1984, by a DISC or former DISC which was a DISC on December 31, 1984, any accumulated DISC income of a DISC or former DISC (within the meaning of section 996(f)(1) of such Code) which is derived before January 1, 1985, shall be treated as previously taxed income (within the meaning of section 996(f)(2) of such Code).

(3) TIME CERTAIN DISTRIBUTIONS ARE DEEMED RECEIVED BY SHAREHOLDERS.—Notwithstanding section 995(b) of such Code, if a shareholder of a DISC elects the application of this paragraph (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations) any distribution which such shareholder is deemed to have received by reason of section 995(b) of such Code with respect to income derived by the DISC in the taxable year of the DISC which begins in 1984 after the date in 1984 on which the taxable year of such shareholder begins shall be treated, for purposes of such Code, as received by such shareholder in 4 equal installments on the last day of each of the 4 taxable years of such shareholder which begins after the taxable year of such shareholder which begins in 1984. The preceding sentence shall apply without regard to whether the DISC exists after December 31, 1984.

(4) TREATMENT OF TRANSFERS FROM DISC TO FSC.—Except to the extent provided in regulations, section 367 of such Code shall not apply to transfers made before January 1, 1986 (or, if later, the date 1 year after the date on which the corporation ceases to be a DISC) to a FSC of qualified export assets (as defined in section 993(b) of such Code) held on August 4, 1983, by a DISC in a transaction described in section 351 or 368(a)(1) of such Code.

(5) DEFINITIONS.—For purposes of this subsection, the terms "DISC" and "former DISC" have the respective meanings given to such terms by section 992 of such Code.

(c) SPECIAL RULE FOR EXPORT TRADE CORPORATIONS.—

(1) IN GENERAL.—If, before January 1, 1985, any export trade corporation—

(A) makes an election under section 927(f)(1) of the Internal Revenue Code of 1954 to be treated as a FSC, or

(B) elects not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of pargraphs (2) and (4) of subsection (b) shall apply to such export trade corporation.

(2) EXPORT TRADE CORPORATION.—For purposes of this subsection, the term 'export trade corporation' has the meaning given such term by section 971 of the Internal Revenue Code of 1954.

TITLE VI—HIGHWAY REVENUE PROVISIONS

Subtitle A—Use Taxes

SEC. 601. REDUCTION OF HEAVY VEHICLE USE TAX.

(a) GENERAL RULE.—Subsection (a) of section 4481 (as amended by section 513(a) of the Highway Revenue Act of 1982) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

"Taxable gross weight:	Rate of tax:
"At least 55,000 pounds, but not over 80,000 pounds.	$75 per year plus $21 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
"Over 80,000 pounds.....	$600.".

(b) SPECIAL RULES IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(1) SPECIAL RULE FOR TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of a small owner-operator, the amount of the tax imposed by section 4481 of the Internal Revenue Code of 1954 on the use of any highway motor vehicle subject to tax under section 4481(a) of such Code (as amended by subsection (a)) for the taxable period which begins on July 1, 1984, shall be the lesser of—

(A) $3 for each 1,000 pounds of taxable gross weight (or fraction thereof), or

(B) the amount of the tax which would be imposed under such section 4481(a) without regard to this paragraph.

(2) EXEMPTION FOR VEHICLES USED FOR LESS THAN 5,000 MILES (AND CERTAIN OTHER AMENDMENTS) TO TAKE EFFECT ON JULY 1, 1984.—In the case of a small owner-operator, notwithstanding subsection (f)(2) of section 513 of the Highway Revenue Act of 1982, the amendments made by subsections (b), (c), and (d) of such section shall take effect on July 1, 1984.

(3) SMALL OWNER-OPERATOR DEFINED.—For purposes of this subsection, the term "small owner-operator" has the meaning given such term by section 513(f)(2) of the Highway Revenue Act of 1982.

(4) TAXABLE GROSS WEIGHT.—For purposes of this subsection, the term 'taxable gross weight' has the same meaning as when used in section 4481 of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) (and the provisions of subsection (b)) shall take effect on July 1, 1984.

SEC. 602. SPECIAL RULE FOR TRUCKS USED IN LOGGING.

(a) IN GENERAL.—Section 4483 (relating to exemptions from highway use tax) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e) REDUCTION IN TAX FOR TRUCKS USED IN LOGGING.—The tax imposed by section 4481 shall be reduced by 50 percent with respect to any highway motor vehicle if—

"(1) the exclusive use of such vehicle during any taxable period is the transportation, beginning at a point located on a forested site, of products harvested from such forested site, and

"(2) such vehicle is registered under the laws of the State in which such vehicle is, or is required to be, registered as a highway motor vehicle used in the transportation of harvested forest products.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1984.

SEC. 603. STUDY.

(a) GENERAL RULE.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study to determine the significance of the

highway use tax imposed under section 4481 of the Internal Revenue Code of 1954 on trans-border trucking operations.

(b) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with such recommendations as the Secretary may deem advisable.

SEC. 604. SPECIAL RULE FOR CERTAIN AGRICULTURAL VEHICLES.

(a) IN GENERAL.—Subsection (d) of section 4483 (relating to exemptions from highway use tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) 7,500-MILES EXEMPTION FOR AGRICULTURAL VEHICLES.—

"(A) IN GENERAL.—In the case of an agricultural vehicle, paragraphs (1) and (2) shall be applied by substituting '7,500' for '5,000' each place it appears.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) AGRICULTURAL VEHICLE.—The term 'agricultural vehicle' means any highway motor vehicle—

"(I) used primarily for farming purposes, and

"(II) registered under the laws of the State in which such vehicle is, or is required to be, registered as a highway motor vehicle used for farming purposes.

"(ii) FARMING PURPOSES.—The term 'farming purposes' means the transporting of any farm commodity to or from a farm or used directly in agriculture production.

"(iii) FARM COMMODITY.—The term 'farm commodity' means any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, fur-bearing animals, or wildlife.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 513 of the Highway Revenue Act of 1982.

Subtitle B—Fuel Taxes

SEC. 611. INCREASE IN DIESEL FUEL TAX.

(a) GENERAL RULE.—Paragraph (1) of section 4041(a) (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "15 cents".

(b) INCOME TAX CREDIT FOR PURCHASE OF DIESEL-POWERED AUTOMOBILE OR LIGHT TRUCK.—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (f) the following new subsection:

"(g) INCOME TAX CREDIT OR EXCISE TAX REFUND OF INCREASED DIESEL FUEL TAX TO OPERATORS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (j), the Secretary shall pay (without interest) to the owner, lessee, or other operator of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 8,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means the amount determined by multiplying—

"(A) 6 cents, by

"(B) the amount of gallons of diesel fuel used by such owner, lessee, or other operator in any qualified diesel-powered highway vehicle for which tax imposed under section 4041(a)(1) was paid.".

(c) SPECIAL RULE FOR CERTAIN BUSES.—Subsection (b) of section 6427 (relating to fuels not used for taxable purposes) is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)", and

(2) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN BUSES.—In the case of any automobile bus operated by or for any person other than a unit of State or local government, paragraph (1) shall apply only with respect to the rate at which the tax was imposed by subsection (a) of section 4041 prior to July 1, 1984.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO HIGHWAY TRUST FUND.—Paragraph (2) of section 9503(e) (relating to transfers to Mass Transit Account) is amended to read as follows:

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term 'mass transit portion' means an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081."

(2) CONFORMING AMENDMENTS TO INCOME TAX CREDIT.—

(A) Section 34 (as redesignated by section 851 of this Act) is amended—

(i) by inserting a comma and "in qualified diesel-powered highway vehicles," after "nontaxable purposes" in subsection (a)(3), and

(ii) by striking out "6427(i)" in subsections (a)(3) and (b) and inserting in lieu thereof "6427(j)".

(B) Subsections (a), (b)(1), (c), (d), (e)(1), and (f)(1) of section 6427 are each amended by striking out "(i)" and inserting in lieu thereof "(j)".

(C) Subsection (h)(1) of section 6427 (as redesignated by subsection (b)) is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(D) Subsection (h)(2)(A) of section 6427 (as so redesignated) is amended by striking out "and (e)" in clause (i) and inserting in lieu thereof "(e), and (g)".

(E) Subsection (j)(2) of section 6427 (as so redesignated) is amended by striking out "(g)(2)" and inserting in lieu thereof "(h)(2)".

(F) Subsection (l) of section 6427 (as so redesignated) is amended by striking out "and (d)" each place it appears and inserting in lieu thereof "(d), and (g)".

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(h)(2)" each place it appears and inserting in lieu thereof "6427(i)(2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

SEC. 612. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS; STUDY.

(a) IN GENERAL.—Paragraph (3) of section 6427(e) (relating to termination of use in certain taxicabs) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

(b) STUDY.—The Secretary of the Treasury or the delegate of the Secretary shall conduct a study of the reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1985, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as the Secretary may deem advisable.

SEC. 613. MODIFICATION OF TAX IMPOSED ON METHANOL AND ETHANOL.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(m) CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

"(A) subsection (a)(2) shall be applied by substituting "4½ cents" for "9 cents", and

"(B) no tax shall be imposed by subsection (c).

"(2) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—The term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 40 (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) (as redesignated by section 851 of this Act) is amended by striking out "(b)(2) or (k)" and inserting in lieu thereof "(b)(2), (k), or (m)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

SEC. 614. DECREASE IN TAX IMPOSED ON GASOHOL.

(a) AMENDMENT OF SECTION 4041.—Paragraph (1) of section 4041(k) (relating to fuels containing alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a)(1) shall be applied by substituting '8.25 cents' for '15 cents', and

"(B) subsection (a)(2) shall be applied by substituting '2.25 cents' for '9 cents', and

"(C) no tax shall be imposed by subsection (c).".

(b) AMENDMENTS OF SECTION 4081.—Subsection (c) of section 4081 (relating to imposition of tax on petroleum products) is amended—

(A) by striking out "4 cents" each place it appears and inserting in lieu thereof "2.25 cents", and

(B) by striking out "5 cents" in paragraph (2) and inserting in lieu thereof "6.75 cents".

(c) CREDIT FOR ALCOHOL USED AS A FUEL.—Section 40 (relating to alcohol used as a fuel) (as redesignated by section 851 of this Act) is amended—

(1) by striking out "50 cents" each place it appears and inserting in lieu thereof "67.5 cents", and

(2) by striking out "37.5 cents" each place it appears and inserting in lieu thereof "50.6 cents".

(d) AMENDMENT OF SECTION 6427.—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "5 cents" and inserting in lieu thereof "6.75 cents".

(e) TARIFF IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "50 cents per gal." each place it appears and inserting in lieu thereof "67.5 cents per gal.".

(f) DEFINITION OF ALCOHOL.—Sections 40(d)(1)(A)(i) (as redesignated by section 851 of this Act) and 4081(c)(3) (defining alcohol) are each amended by striking out "coal" and inserting in lieu thereof "coal (including peat)".

(g) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before July 1, 1984, any increased-exemption article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the excess tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before December 1, 1984, based on a request submitted to the manufacturer, producer, or importer before September 1, 1984, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before December 1, 1984, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the excess tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) ELIMINATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(4) SPECIAL RULES.—For purposes of this subsection—

(A) The term "dealer" includes a wholesaler, jobber, distributor or retailer.

(B) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(C) The term "increased-exemption article" means any gallon of article on which a tax of 4 cents was imposed by section 4081 as in effect on June 30, 1984, and on which a tax of 1.75 cents was imposed by section 4081 as in effect on July 1, 1984.

(D) Except as otherwise expressly provided herein, any reference in this subsection to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

(h) TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.—The Secretary of the Treasury shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks made under this section.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

Subtitle C—Miscellaneous

SEC. 621. EXEMPTION FROM TAX FOR PIGGYBACK TRAILERS.

(a) IN GENERAL.—Paragraph (8) of section 4063(a) (relating to exemptions for specified articles) is amended to read as follows:

"(8) RAIL TRAILERS, RAIL VANS, AND PIGGYBACK TRAILERS.—

"(A) IN GENERAL.—The tax imposed by section 4061 shall not apply in the case of—

"(i) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car,

"(ii) any chassis or body of a piggyback trailer or semitrailer, and

"(iii) any parts or accessories designed primarily for use in connection with an article described in clause (i) or (ii).

"(B) PIGGYBACK TRAILER OR SEMITRAILER DEFINED.—For purposes of this paragraph, the term 'piggyback trailer or semitrailer' means any trailer or semitrailer—

"(i) which is designed for use principally in connection with trailer-on-flatcar service by rail, and

"(ii) with respect to which the seller certifies, in such manner and form and at such time as the Secretary prescribes by regulations, that such trailer or semitrailer—

"(I) will be used, or resold for use, principally in connection with such service, or

"(II) will be incorporated into an article which will be so used or resold.

"(C) NONQUALIFIED USE.—If any person uses or resells for use any piggyback trailer or semitrailer for a purpose other than a use described in subparagraph (B), such use or resale shall be treated as the first retail sale of such trailer or semitrailer and such person shall be liable for the tax imposed under section 4051(a).".

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after December 2, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection,

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before December 1, 1984, based on information submitted to the manufacturer, producer, or importer before September 1, 1984, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before December 1, 1984, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(a)(3) of the Highway Revenue Act of 1982.

SEC. 622. OTHER TECHNICAL AMENDMENTS.

(a) FLOOR STOCKS REFUNDS FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—

(1) IN GENERAL.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by inserting "(or will be subject to a lower rate of tax under such section)" after "and which will not be subject to tax under such section".

(2) AMOUNT OF REFUND LIMITED TO REDUCTION IN TAX.—Paragraph (2) of section 523(b) of such Act is amended by adding at the end thereof the following: "In the case of any tire which is a tax-repealed article solely by reason of the parenthetical matter in paragraph (1), the amount of the credit or refund under subsection (a) shall not exceed the excess of the tax imposed with respect to such tire by section 4071(a) as in effect on December 31, 1983, over the tax which would have been imposed with respect to such tire by section 4071(a) on January 1, 1984.".

(b) FLOOR STOCKS REFUNDS FOR TREAD RUBBER.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by adding at the end thereof the following new sentence: "Any tread rubber which was subject to tax under section 4071(a)(4) as in effect on December 31, 1983, and which on January 1, 1984, is part of a retread tire which is held by a dealer and has not been used and is intended for sale shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.".

(c) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provisions of the Highway Revenue Act of 1982 to which such amendment relates.

TITLE VII—TAX-EXEMPT BOND PROVISIONS

Subtitle A—Mortgage Subsidy Bonds

SEC. 701. EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) IN GENERAL.—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out "December 31, 1983" in the text and in the heading and inserting in lieu thereof "December 31, 1987".

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraphs:

"(3) INFORMATION REPORTING REQUIREMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the issuer submits to the Secretary—

"(i) not later than 30 days after the date of the issue (or at such other time as the Secretary may prescribe by regulation), a written

statement providing notice of the face amount of the issue, and

"(ii) not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued, a statement concerning the issue which contains—

"(I) the name and address of the issuer,

"(II) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(III) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section, and the extent to which the proceeds of such issue have been made available to low-income individuals, and

"(IV) such other information as the Secretary may require.

"(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statements under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion.".

(c) POLICY STATEMENTS.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraph:

"(4) POLICY STATEMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the applicable elected representative of the governmental unit—

"(i) which is the issuer, or

"(ii) on whose behalf such issue was issued,

has published (after a public hearing following reasonable public notice) a report described in subparagraph (B) by December 31 of the calendar year preceding the calendar year in which such issue is issued and a copy of such report has been submitted to the Secretary prior to such date.

"(B) REPORT.—The report referred to in subparagraph (A) which is published by the applicable elected representative of the governmental unit shall include—

"(i) a statement of the housing, development, and income distribution policies which such governmental unit is to follow in issuing mortgage subsidy bonds and mortgage credit certificates, and

"(ii) an assessment of the compliance of such governmental unit during the preceding 1-year period with—

"(I) the statement of policy on mortgage subsidy bonds and mortgage credit certificates that was set forth in the previous report, if any, of an applicable elected representative of such governmental unit, and

"(II) the intent of Congress that State and local governments are expected to use their authority to issue qualified mortgage bonds and mortgage credit certificates to the greatest extent feasible (taking into account prevailing interest rates and conditions in the housing market) to assist lower income families to afford home ownership before assisting higher income families.".

(d) DEFINITIONS.—

(1) IN GENERAL.—Subsection (l) of section 103A (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(11) MORTGAGE CREDIT CERTIFICATES.—The term 'mortgage credit certificate' has the meaning given to such term by section 44K.

"(12) APPLICABLE ELECTED REPRESENTATIVE.—The term 'applicable elected representative' has the meaning given to such term by section 103(k)(2)(E).".

(2) STATISTICAL AREA.—

(A) IN GENERAL.—Paragraph (4) of section 103A(l) (relating to statistical areas) is amended to read as follows:

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.".

(B) SPECIAL RULES FOR DETERMINATION OF STATISTICAL AREA.—For purposes of applying section 103A of the Internal Revenue Code of 1954 and any other provision of Federal law—

(i) RESCISSION.—The Director of the Office of Management and Budget shall rescind the designation of the Kansas City, Missouri primary metropolitan statistical area (KCMO PMSA) and the designation of the Kansas City, Kansas primary metropolitan statistical area (Kansas City, KS PMSA), and shall not take any action to designate such two primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(ii) DESIGNATION.—The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

(I) Kansas City, Kansas.

(II) Kansas City, Missouri.

(III) The counties of Johnson, Wyandotte, Leavenworth, and Miami in Kansas.

(IV) The counties of Cass, Clay, Jackson, Platte, Ray, and Lafayette in Missouri.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "Kansas City Missouri-Kansas Metropolitan Statistical Area".

(e) EFFECTIVE DATES; ANNUAL REPORT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to obligations issued after the date of enactment of this Act.

(2) POLICY STATEMENTS.—The amendment made by subsection (c) shall apply with respect to issues that are issued after December 31, 1984.

(3) TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.—

(A) IN GENERAL.—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) TERMINATION.—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(4) TRANSITIONAL RULE WHERE STATE LEGISLATION NOT ENACTED.—For purposes of section 103A(g) of the Internal Revenue Code of 1954, in the case of the Commonwealth of Kentucky, subclause (I) of section 103A(g)(6)(B)(ii) of such Code shall be applied as if it read "December 31, 1986".

(5) ANNUAL REPORT TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the performance of issuers of qualified mortgage bonds and mortgage credit certificates relative to the intent of Congress described in section 103A(j) of the Internal Revenue Code of 1954.

SEC. 702. CREDIT FOR INTEREST ON MORTGAGES WHERE STATE OR LOCAL AUTHORITIES ELECT NOT TO ISSUE QUALIFIED MORTGAGE BONDS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44J the following new section:

"SEC. 44K. CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of any taxpayer who is issued a mortgage credit certificate with respect to his principal residence, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the interest paid or accrued during the portion of such taxable year for which such certificate is in effect on the certified mortgage indebtedness specified on such certificate.

"(2) DETERMINATION OF APPLICABLE PERCENTAGE.—For purposes of this section—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), each issuing authority shall specify the applicable percentage with respect to each mortgage credit certificate. Such percentage shall not be less than 10 percent nor greater than 50 percent.

"(B) AGGREGATE LIMIT ON APPLICABLE PERCENTAGES.—In the case of any mortgage credit certificate program, the sum of the products determined by multiplying—

"(i) the amount of certified mortgage indebtedness specified on each mortgage credit certificate issued under such program with respect to any calendar year, by

"(ii) the applicable percentage with respect to such certificate,

shall not exceed 20 percent of the nonissued bond amount of such program for such calendar year.

"(b) LIMITATIONS.—

"(1) INCOME LIMITATION.—The amount of the credit allowable under subsection (a) for any taxable year shall not exceed 1/4 of the excess of—

"(A) the maximum income limit of the taxpayer for the taxable year, over

"(B) the adjusted gross income of the taxpayer for the taxable year.

"(2) MAXIMUM INCOME LIMIT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'maximum income limit' means 100 percent of the greater of—

"(i) the median income for a family of 4 for the area in which the taxpayer resides (as determined on the basis of the data most recently published by the Secretary of Housing and Urban Development as of the date of issuance of the mortgage credit certificate), or

"(ii) $20,000.

"(B) UNMARRIED TAXPAYERS WITH NO DEPENDENTS.—In the case of a taxpayer who—

"(i) is not married, and

"(ii) has no dependents for the taxable year,

subparagraph (A) shall be applied by substituting '80 percent' for '100 percent'.

"(C) TAXPAYER WITH MORE THAN 3 PERSONAL EXEMPTIONS.—If the aggregate number of exemptions allowed the taxpayer and the spouse of the taxpayer under section 151 for the taxable year exceeds 3, subparagraph (A) shall be applied by substituting '120 percent' for '100 percent'.

"(D) ADJUSTABLE RATE MORTGAGES.—The Secretary may prescribe regulations which provide that, in the case of a mortgage credit certificate issued with respect to indebtedness on which an adjustable rate of interest that may vary by more than 30 percent is payable, subparagraph (A) shall be applied—

"(i) without regard to subparagraph (B) or (C),

"(ii) by substituting '120 percent' for '100 percent' if the taxpayer is not described in subparagraph (B) or (C), and

"(iii) by substituting '140 percent' for '100 percent' if the taxpayer is described in subparagraph (C).

"(3) MARRIED INDIVIDUAL REQUIRED TO FILE JOINT RETURN.—No credit shall be allowed under subsection (a) to any taxpayer who is married and does not make a joint return with the spouse of such taxpayer for the taxable year.

"(4) RELATED PARTIES.—No credit shall be allowed under subsection (a) for any interest paid or accrued to any person who is related to the taxpayer.

"(5) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) MORTGAGE CREDIT CERTIFICATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued by a State (or any agency or instrumentality thereof) or a political subdivision of a State (or any agency or instrumentality thereof) under a mortgage credit certificate program,

"(B) is issued to a taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) is issued to only 1 individual or is issued jointly to 2 individuals who are married,

"(D) is issued to a taxpayer—

"(i) only after the requirements of paragraph (4) have been met,

"(ii) in the case of a certificate issued in connection with the acquisition of a residence, only after the requirements of paragraphs (1), (2), and (3) of subsection (d) have been met with respect to such residence,

"(iii) in the case of a certificate issued in connection with the qualified rehabilitation of a residence, only after the requirements of paragraphs (1), (3), and (4) of subsection (d) have been met with respect to such residence, and

"(iv) in the case of a certificate issued in connection with the qualified home improvement of a residence, only after the requirements of paragraphs (1) and (4) of subsection (d) have been met with respect to such residence,

"(E) specifies—

"(i) the applicable percentage determined under subsection (a)(2), and

"(ii) the certified mortgage indebtedness, and

"(F) is in such form as the Secretary may prescribe.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—A certificate shall not be treated as a mortgage credit certificate if—

"(i) any portion of the financing of the acquisition, qualified rehabilitation, or qualified home improvement for which such certificate is issued is provided from the proceeds of any qualified mortgage bond or qualified veterans' mortgage bond,

"(ii) such certificate and any mortgage credit certificate issued prior to the issuance of such certificate would be in effect with respect to the same residence at the same time, or

"(iii) except as otherwise provided in regulations, the mortgage credit certificate program under which the certificate is issued requires the taxpayer to obtain financing of such acquisition, qualified rehabilitation, or qualified home improvement from any particular lender.

"(3) PERIOD FOR WHICH CERTIFICATE IS IN EFFECT.—A mortgage credit certificate shall be treated as in effect during the period—

"(A) beginning on the date such certificate is issued, and

"(B) ending on the date on which the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate was issued.

"(4) PUBLIC NOTICE REQUIREMENT.—The requirements of this paragraph are met if, at least 90 days before any mortgage credit certificate is to be issued under a mortgage credit certificate program, the administrator of the program provides reasonable public notice of—

"(A) the eligibility requirements for such certificate,

"(B) the methods by which such certificates are to be issued, and

"(C) such other information as the Secretary may require.

"(d) CERTIFICATION REQUIREMENTS.—

"(1) SINGLE FAMILY RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a residence if each lender who provides financing of the acquisition, qualified rehabilitation, or qualified home improvement of such residence submits to the administrator of the mortgage credit certificate program a verified written statement—

"(i) in which such lender certifies that—

"(I) such residence is a single-family residence, and

"(II) on the basis of information available to the lender at the time such statement is submitted to such administrator, the lender expects such residence to be the principal residence of the taxpayer within a reasonable period of time, and

"(ii) to which the lender attaches the information that the taxpayer and the spouse of the taxpayer are required to submit to the lender under subparagraph (B).

"(B) INFORMATION PROVIDED BY TAXPAYER.—The information which the taxpayer and the spouse of the taxpayer are required under this subparagraph to submit to any lender who finances the acquisition, qualified rehabilitation, or qualified home improvement of a residence of the taxpayer consists of a verified written statement in which the taxpayer and the spouse of the taxpayer certify that such taxpayer and the spouse of such taxpayer expect such residence to be (or continue to be) the principal residence of the taxpayer within (or for) a reasonable period of time.

"(2) NO HOME OWNERSHIP DURING 3 PRECEDING TAXABLE YEARS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any residence if each lender who finances the taxpayer's acquisition of such residence submits to the administrator of the mortgage credit certificate program a verified written statement—

"(i) in which the lender certifies that, on the basis of information available to the lender at the time such statement is submitted—

"(I) neither the taxpayer nor the spouse of the taxpayer has a present ownership interest in any other residence,

"(II) neither the taxpayer nor the spouse of the taxpayer has claimed (or intends to claim) a deduction for qualified housing interest (within the meaning of section 55(e)(4)) for any of the 3 taxable years preceding the taxable year in which such statement is submitted, and

"(III) the financing provided by the lender is not to be used by the taxpayer to acquire or replace an existing mortgage on such residence, and

"(ii) to which the lender attaches the information that is required to be submitted by the taxpayer and the spouse of the taxpayer under subparagraph (B).

"(B) INFORMATION PROVIDED BY TAXPAYER.—The information which the taxpayer and the spouse of the taxpayer are required under this subparagraph to submit to any lender who finances the taxpayer's acquisition of a residence consists of—

"(i) a verified written statement in which the taxpayer and the spouse of the taxpayer certify that—

"(I) neither has an interest in any other residence, and

"(II) neither has claimed (or intends to claim) a deduction for qualified housing interest (within the meaning of section 55(e)(4)) for any of the 3 taxable years preceding the taxable year in which such statement is submitted to the lender, and

"(ii) copies of those returns of the taxes imposed by this chapter for such 3 taxable years that have been filed with the Secretary prior to the date such statement is submitted to the lender.

"(3) PURCHASE PRICE REQUIREMENT.—The requirements of this paragraph are met with respect to any residence, if each lender who finances the acquisition cost of such residence submits to the administrator of the mortgage credit certificate program a verified written statement in which such lender certifies that the acquisition price of such residence does not exceed 90 percent of the average area purchase price applicable to such residence.

"(4) QUALIFIED HOME IMPROVEMENT; QUALIFIED REHABILITATION.—The requirements of

this paragraph are met with respect to any residence if any lender submits to the administrator of the mortgage credit certificate program a verified written statement in which such lender certifies that the financing provided by such lender to the taxpayer—

"(A) in the case of a qualified home improvement—

"(i) is to be used for the qualified home improvement of such residence, and

"(ii) is not to be used to acquire or replace an existing mortgage on such residence, or

"(B) in the case of a qualified rehabilitation, is to be used for the qualified rehabilitation of such residence.

"(5) CERTAIN REFINANCING EXCEPTIONS.—The statement required under paragraph (2)(A) or (4) need not include the certification described in paragraph (2)(A)(ⁱ)(III) or (4)(A)(ii) if—

"(A) the lender is providing financing for the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, or

"(iii) in the case of a qualified rehabilitation, an existing mortgage, or

"(B) such statement is submitted for purposes of reissuing a mortgage credit certificate which is reissued in accordance with the regulations prescribed under subparagraph (C).

"(C) REISSUANCE OF MORTGAGE CREDIT CERTIFICATES.—The Secretary may prescribe regulations which allow the administrator of a mortgage credit certificate program to reissue a mortgage credit certificate specifying a certified mortgage indebtedness that replaces the outstanding balance of the certified mortgage indebtedness specified on the original certificate to any taxpayer to whom the original certificate was issued under such terms and conditions as the Secretary determines are necessary to ensure that the amount of the credit allowable under subsection (a) with respect to such reissued certificate is less than the amount of credit which would be allowable under subsection (a) with respect to the original certificate for any taxable year ending after such reissuance.

"(6) PERJURY PENALTIES.—Any verified written statement required under this subsection shall be made under penalties of perjury and shall contain a declaration that the statement is so made.

"(e) NONISSUED BOND AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'nonissued bond amount' means, with respect to any mortgage credit certificate program for any calendar year, the face amount of qualified mortgage bonds which the issuing authority that established or authorized such program elects under this paragraph to not issue during such calendar year for the benefit of such program.

"(2) LIMITATION.—The nonissued bond amount of a mortgage credit certificate program for any calendar year shall not exceed an amount equal to the excess of—

"(A) the applicable limit for such calendar year of the issuing authority that established or authorized such program, over

"(B) the sum of—

"(i) the aggregate face amount of qualified mortgage bonds that such issuing authority elects under paragraph (1) to not issue for the benefit of any other mortgage credit certificate program of such issuing authority for such calendar year, plus

"(ii) the face amount of qualified mortgage bonds that such issuing authority elects under paragraph (3) not to issue for such calendar year.

"(3) RELINQUISHMENT OF A PERCENTAGE OF THE SURPLUS STATE CEILING.—

"(A) IN GENERAL.—The nonissued bond amount of each mortgage credit certificate program in any State described in subparagraph (B) shall be zero for the calendar year unless one or more issuing authorities in such State elect under this paragraph to not issue during such calendar year bonds that would otherwise be qualified mortgage bonds in an aggregate face amount which equals or exceeds the product of—

"(i) the State ceiling for such calendar year, multiplied by

"(ii) the amount determined under paragraph (4) for such calendar year.

"(B) STATES TO WHICH THIS PARAGRAPH APPLIES.—A State is described in this subparagraph if the aggregate face amount of qualified mortgage bonds issued by issuing authorities in such State during calendar year 1983 was less than the State ceiling for calendar year 1983.

"(4) AMOUNT USED IN DETERMINING ELECTION UNDER PARAGRAPH (3).—The amount determined under this paragraph is—

"(A) for calendar year 1984, 75 percent of the amount determined by dividing—

"(i) the excess of—

"(I) the State ceiling for calendar year 1983, over

"(II) the aggregate face amount of qualified mortgage bonds issued by authorities in the State during 1983, by

"(ii) the State ceiling for 1983, and

"(B) for any calendar year beginning after 1984, 75 percent of the amount determined under this paragraph for the preceding calendar year.

"(5) ELECTIONS.—Any election made under paragraph (1) or (3) shall be made in such form and in such manner as the Secretary may prescribe by regulations.

"(f) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED MORTGAGE INDEBTEDNESS.—The term 'certified mortgage indebtedness' means, with respect to any mortgage credit certificate issued to the taxpayer, the aggregate amount of indebtedness incurred in connection with—

"(A) the acquisition,

"(B) the qualified rehabilitation, or

"(C) the qualified home improvement,

for which such certificate is issued.

"(2) MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'mortgage credit certificate program' means any program which is established or authorized to issue mortgage credit certificates by a State (or any agency or instrumentality thereof) or a political subdivision of a State (or any agency or instrumentality thereof) for any calendar year for which it is authorized to issue qualified mortgage bonds.

"(B) AUTHORITY MAY HAVE MORE THAN 1 PROGRAM.—Each issuing authority may establish more than 1 qualified mortgage credit certificate program for any calendar year.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given such term by section 1034.

"(4) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(l)(7)(B).

"(5) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(l)(6).

"(6) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' has the meaning given to such term by section 103A(l)(5).

"(B) REHABILITATION LOAN.—In the case of a qualified rehabilitation loan described in section 103A(l)(7)(A)(i), the term 'acquisition cost' includes the cost of the rehabilitation.

"(7) AVERAGE AREA PURCHASE PRICE.—The term 'average area purchase price' has the meaning given to such term by section 103A(f).

"(8) STATE CEILING.—The term 'State ceiling' has the meaning given to such term by section 103A(g)(4).

"(9) APPLICABLE LIMIT.—The term 'applicable limit' has the meaning given to such term by section 103A(g), except that section 103A(g)(8) shall not apply.

"(10) RELATED PARTY.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, any individual described in paragraphs (1) through (8) of section 152(a) shall be included as members of the family of the taxpayer.

"(11) MARITAL STATUS.—Section 143 shall apply in determining whether an individual is married.

"(12) SINGLE-FAMILY RESIDENCE.—The term 'single family residence' has the meaning given to such term by section 103A(l)(9), except that to the extent provided in regulations, such term includes manufactured homes (within the meaning of section 168(g)(7)).

"(g) REGULATIONS; CONTRACTS.—

"(1) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations which may require recipients of mortgage credit certificates to pay a reasonable processing fee to defray the expenses incurred in administering the program.

"(2) CONTRACTS.—The Secretary is authorized to enter into contracts with any person to provide services in connection with the administration of this section.".

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraphs:

"(8) REDUCTIONS FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced—

"(A) by the amount of qualified mortgage bonds which such authority elects not to issue under section 44K(e)(1), and

"(B) by the amount of qualified mortgage bonds which such authority elects not to issue under section 44K(e)(3).".

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST IF CREDIT TAKEN.—Section 163 of the Internal Revenue Code of 1954 (relating to deduction for interest) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF DEDUCTION WHERE SECTION 44K CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 44K shall be reduced by the amount of the credit allowed with respect to such interest under section 44K.".

(d) CIVIL PENALTY FOR MISSTATEMENT.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. MISSTATEMENTS MADE WITH RESPECT TO MORTGAGE CREDIT CERTIFICATES.

"(a) NEGLIGENCE.—If—

"(1) any person makes a misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

"(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of $1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

"(b) FRAUD.—If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

"(c) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' has the meaning given to such term by section 44K(c).".

(e) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44J the following new item:

"Sec. 44K. Credit for interest on certain home mortgages.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Misstatements made with respect to mortgage credit certificates.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) ISSUANCE OF CERTIFICATES.—Mortgage credit certificates with respect to nonissued bond amounts for 1984 may not be issued before January 1, 1985.

SEC. 703. ADVANCED REFUNDING OF CERTAIN MORTGAGE BONDS PERMITTED.

(a) IN GENERAL.—Notwithstanding section 103A(n) of the Internal Revenue Code of 1954, an issuer of applicable mortgage bonds may issue advance refunding bonds with respect to such applicable mortgage bonds.

(b) LIMITATION ON AMOUNT OF ADVANCED REFUNDING.—

(1) IN GENERAL.—The amount of advanced refunding bonds which may be issued under subsection (a) shall not exceed the lesser of—

(A) $300,000,000, or

(B) excess of—

(i) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

(ii) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds.

(2) ASSUMPTIONS USED IN MAKING PROJECTION.—The computation under paragraph (1)(B) shall be made by using the following percentages of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the advance refunding bonds is located:

Fiscal Year:	Percentage
1984	15
1985	20
1986	25
1987 and thereafter	30.

(c) DEFINITIONS.—For purposes of this section—

(1) APPLICABLE MORTGAGE BONDS.—The term "applicable mortgage bonds" means any qualified veterans mortgage bonds issued as part of an issue—

(A) which was outstanding on December 5, 1980,

(B) with respect to which the excess determined under subsection (b)(1) exceeds 12 percent of aggregate principal amount of such bonds outstanding on July 1, 1983,

(C) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

(D) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

(2) QUALIFIED VETERANS MORTGAGE BONDS.—The term "qualified veterans mortgage bonds" has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

SEC. 704. ELIMINATION OF CERTAIN EXCEPTIONS TO THE APPLICATION OF THE MORTGAGE SUBSIDY BOND TAX ACT OF 1980.

Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end thereof the following new subsections:

"(p) MOST EXCEPTIONS NOT TO APPLY TO BONDS ISSUED AFTER DECEMBER 31, 1984.—In addition to any obligations to which the amendments made by section 1102 apply by reason of the provisions of this section, the amendments made by section 1102 shall apply, notwithstanding any other provision of this section (other than subsection (n)), to obligations issued after December 31, 1984, all or a major portion of the proceeds of which are used to finance new mortgages on single-family residences that are owner occupied.

"(q) REDUCTION OF STATE CEILING BY AMOUNT OF SPECIAL MORTGAGE BONDS ISSUED BEFORE 1985.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than subsections (n) and (r)), any obligation—

"(A) which is part of an issue all or a major portion of the proceeds of which are used to finance new mortgages in single-family residences that are owner occupied.

"(B) which were issued by issuing authorities in such State after June 15, 1984, and before January 1, 1985, and

"(C) to which the amendments made by section 1102 do not apply by reason of any provision of this section other than subsection (b),

shall, for purposes of applying the Internal Revenue Code of 1954, be treated as an obligation which is not described in section 103(a) of such Code if the aggregate face amount of such issue exeeds the portion of the State ceiling that is allocated by the State to such issue prior to the date of issuance of such issue.

"(2) APPLICATION OF SECTION 103A(g).—For purposes of applying section 103a(g) of such Code, the State ceiling for calendar year 1984 shall be reduced by the aggregate amount allocated by the State to any issues described in paragraph (1).

"(3) STATE CEILING.—For purposes of this subsection, the term 'State ceiling' has the meaning given to such term by section 103A(g)(4) of the Internal Revenue Code of 1954.

"(r) EXCEPTIONS TO SUBSECTION (q).—Subsection (q) shall not apply with respect to—

"(1) any obligation—

"(A) the proceeds of which are used to finance the River Place Project located in Minneapolis, Minnesota, and

"(B) the aggregate face amount of which does not exceed $55,000,000, or

"(2) any obligation—

"(A) the proceeds of which are used to finance the Waseca, Minnesota project, and

"(B) the aggregate face amount of which does not exceed $7,800,000.".

Subtitle B—Private Activity Bonds

SEC. 711. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

"(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the sum of—

"(i) the aggregate authorized face amount of such issue allocated to any beneficiary under subparagraph (C), and

"(ii) the outstanding tax-exempt industrial development bonds of such beneficiary,

exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT INDUSTRIAL DEVELOPMENT BONDS.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt industrial development bonds of any person who is a beneficiary of such issue is the aggregate face amount of all industrial development bonds (including any obligation that is part of an issue described in subparagraph (E))—

"(i) which is not to be redeemed from the proceeds of such issue,

"(ii) the interest on which is exempt from tax under subsection (a),

"(iii) which are allocated to such beneficiary under subparagraph (C), and

"(iv) which are outstanding at the time of such later issue.

"(C) ALLOCATION OF FACE AMOUNT OF AN ISSUE.—

"(i) IN GENERAL.—The portion of the face amount of an issue allocated to any beneficiary of a facility financed by the proceeds of such issue (other than the lessor of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

"(ii) LESSORS.—The portion of the face amount of an issue allocated to any person who is a lessor of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility with respect to which such person is the lessor bears to the entire facility.

"(iii) BENEFICIARIES USING LESS THAN 5 PERCENT.—No portion of the face amount of an issue shall be allocated to a beneficiary who uses less than 5 percent of the facilities financed by the proceeds of such issue.

"(D) BENEFICIARY.—For purposes of this paragraph, the term 'beneficiary' means any person who is a user of the facilities being financed by the issue.

"(E) EXCEPTION FOR UDAG PROJECTS AND MANUFACTURING FACILITIES.—

"(1) IN GENERAL.—Subparagraph (A) shall not apply to—

"(I) any issue substantially all of the proceeds of which are to be used to provide any manufacturing facility, or

"(II) any issue described in paragraph (6)(I),

"(2) MANUFACTURING FACILITY.—For purposes of this subparagraph, the term 'manufacturing facility' means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

"(3) CERTAIN STORAGE FACILITIES TREATED AS MANUFACTURING FACILITY.—For purposes of this subparagraph, the term 'manufacturing facility' includes any facility used for the storage and distribution of property manufactured, processed, or produced by any person if—

"(I) such facility is owned and operated by such peron,

"(II) substantially all of the property stored at, and distributed from, such facility is manufactured, processed, or produced by such person, and

"(III) no portion of such facility is used for the sale or distribution of such stored property directly to the ultimate consumer.

"(F) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person.".

SEC. 712. USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, AND CERTAIN STORES.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(16) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, OR CERTAIN STORES.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off the premises.".

SEC. 713. TAX EXEMPTION DENIED IF PROCEEDS OF ISSUE ARE USED IN CONNECTION WITH DEPOSITS OR DEBENTURES GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations that must not be guaranteed or subsidized under an energy program) is amended to read as follows:

"(h) ISSUES GUARANTEED UNDER CERTAIN ENERGY PROGRAMS OR USED IN CONNECTION WITH FEDERALLY GUARANTEED DEPOSITS OR DEBENTURES.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if—

"(A) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

"(i) used to finance a facility with respect to which a guarantee has been made by the Administrator of the Small Business Administration under section 404 of the Small Business Investment Act of 1958, or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts,

"(B) any debenture guaranteed by the Administrator of the Small Business Administration under section 503 of the Small Business Investment Act of 1958, or any loan made with the proceeds of a debenture so guaranteed, is subordinated to such obligation, or

"(C) such obligation is described in paragraph (2).

"(2) OBLIGATIONS GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—An obligation is described in this paragraph if—

"(A) subsection (b)(1) does not apply to such obligation by reason of subsection (b)(4)(H) or (g), and

"(B) the payment of principal or interest with respect to such obligation—

"(i) is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(ii) is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(3) EXCEPTIONS.—

"(A) DEBT SERVICE, TEMPORARY FINANCING, AND CERTAIN RESERVES.—Any proceeds of an issue which—

"(i) are invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) are used in making investments in a bona fide debt service fund, or

"(iii) are used in making investments of a reserve which meet the requirements of subsection (c)(4)(B),

shall not be taken into account under paragraph (1)(A)(ii).

"(B) REASONABLE GUARANTEE FEE.—Paragraph (1) shall not apply to any obligation described in subparagraph (A)(i) or (B) of paragraph (1) if—

"(i) the Administrator of the Small Business Administration charges a fee for making the guarantee described in such subparagraph, and

"(ii) the amount of such fee equals or exceeds—

"(I) 1 percent of the amount guaranteed, or

"(II) such other amount as the Secretary may prescribe by regulations.

"(4) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—For purposes of this section, the term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.".

SEC. 714. PRINCIPAL USERS OF CERTAIN SOLID WASTE DISPOSAL FACILITIES.

For purposes of applying subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954 with respect to capital expenditures paid or incurred after July 1, 1983, any person who—

(1) purchases steam from a solid waste disposal facility which—

(A) is a qualified steam-generating facility (within the meaning of section 103(g)(2) of such Code),

(B) is financed by the proceeds of obligations which—

(i) are described in section 103(b)(4)(E) of such Code,

(ii) are part of an issue specifically authorized—

(I) by an election held on April 26, 1983, or

(II) by State law enacted on May 19, 1983, and

(iii) are issued prior to the date that is 1 year after the date of enactment of this Act,

(C) on the date such obligations are issued, is located in an area that is not a standard metropolitan statistical area (within the meaning of section 103A(l)(4)(B) of such Code), and

(D) is owned and operated by the issuer of such obligations, and

(2) who is the only feasible user of such steam on the date on which such obligations are issued,

shall not be treated as a principal user of such facility.

SEC. 715. RESTRICTIONS ON COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

Subparagraph (B) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	4 years
5-year property	7 years
10-year property	13 years
15-year public utility property	20 years.

"(ii) 20-YEAR REAL PROPERTY.—In the case of 20-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of—

"(I) 20 years in the case of 20-year real property which is residential rental property (within the meaning of section 167(j)(2)(B)), and

"(II) 22 years in the case of any other 20-year real property.".

SEC. 716. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) IN GENERAL.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "An obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), and (l) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State.".

(2) VIRGIN ISLANDS AND AMERICAN SAMOA.—Notwithstanding any other provision of law (including section 8(b)(1) of the Revised Organic Act of 1954 but not including this title), the Virgin Islands and American Samoa shall have the authority to issue industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

(b) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses, using substantial common facilities shall be treated as 1 issue (and any person who is a prin-

cipal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).".

(c) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph—

"(A) a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons, and

"(B) an S corporation and each of its shareholders (and their spouses and minor children) shall be treated as related persons.".

(d) SMALL ISSUE LIMIT IN CASE OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.—In the case of any obligation issued on December 11, 1981, section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall be applied by substituting "$15,000,000" for "$10,000,000" if—

(1) such obligation is part of an issue,

(2) substantially all of the proceeds of such issue are used to provide facilities with respect to which an urban development action grant under section 119 of the House and Community Development Act of 1974 was preliminarily approved by the Secretary of Housing and Urban Development on January 10, 1980, and

(3) the Secretary of Housing and Urban Development determines, at the time such grant is approved, that the amount of such grant will equal or exceed 5 percent of the total capital expenditures incurred with respect to such facilities.

(e) CLARIFICATION OF RESTRICTION ON FOOD AND BEVERAGE SERVICES.—Subparagraph (O) of section 103(b)(6) (relating to restrictions on certain facilities) is amended by adding at the end thereof the following new flush sentence: "For purpose of clause (i), a facility the primary purpose of which is to provide catering services and meeting accommodations for groups of 2,500 or more individuals shall not be treated as a facility the primary purpose of which is to provide retail food and beverage services.".

(f) TERMINATION DATE FOR SMALL ISSUES NOT TO APPLY TO MANUFACTURING FACILITIES.—Subparagraph (N) of section 103(b)(6) (relating to termination date) is amended to read as follows:

"(N) TERMINATION OF PARAGRAPH.—This paragraph shall not apply to any obligation issued after December 31, 1990 (including any obligation issued to refund an obligation issued on or before such date).".

SEC. 717. ARBITRAGE ON NONPURPOSE OBLIGATIONS.

(a) IN GENERAL.—Subsection (c) of section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following new paragraph:

"(6) INVESTMENTS IN NONPURPOSE OBLIGATIONS.—

"(A) IN GENERAL.—For purposes of this title, any obligation which is part of an issue of industrial development bonds that does not meet the requirements of subparagraphs (C) and (D) shall be treated as an obligation which is not described in subsection (a).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any obligation described in subsection (b)(4)(A), or

"(ii) any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide a sewage or solid waste disposal facility described in section 168(f)(12)(C)(ii).

"(C) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

"(i) IN GENERAL.—An issue meets the requirements of this subparagraph only if—

"(I) at no time during any bond year, the amount invested in nonpurpose obligations with a yield higher than the yield on the issue exceeds 150 percent of the debt service on the issue for the bond year, and

"(II) the aggregate amount invested as provided in subclause (I) is promptly and appropriately reduced as the amount of outstanding obligations of the issue is reduced.

"(ii) EXCEPTION FOR TEMPORARY PERIODS.—Clause (i) shall not apply to—

"(I) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

"(II) temporary investment periods related to debt service.

"(iii) DEBT SERVICE DEFINED.—For purposes of this subparagraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(iv) NO DISPOSITION IN CASE OF LOSS.—This subparagraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid to the United States (but for such sale or disposition) at the time of such sale or disposition.

"(D) REBATE TO UNITED STATES.—An issue shall be treated as meeting the requirements of this subparagraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the aggregate amount earned on all nonpurpose obligations (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the gross proceeds of the issue were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

is paid to the United States by the issuer in accordance with the requirements of subparagraph (E).

"(E) DUE DATE OF PAYMENTS UNDER SUBPARAGRAPH (D).—The amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which insures that 90 percent of the amount described in subparagraph (D) with respect to the issue at the time such installment is made will have been paid to the United States. The last installment shall be made no later than 30 days after the day on which the last obligation of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in subparagraph (D) with respect to such issue.

"(F) SPECIAL RULES FOR APPLYING SUBPARAGRAPH (D).—

"(i) IN GENERAL.—In determining the aggregate amount earned on nonpurpose obligations for purposes of subparagraph (D)—

"(I) any gain or loss on the disposition of a nonpurpose obligation shall be taken into account, and

"(II) any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than $100,000.

"(ii) TEMPORARY INVESTMENTS.—Notwithstanding subparagraph (D), an issue shall, for purposes of this paragraph, be treated as meeting the requirements of subparagraph (D) if the gross proceeds of such issue are expended for the governmental purpose for which the bond was issued by no later than the day which is 6 months after the date of issuance of such issue.

"(G) EXEMPTION FROM GROSS INCOME OF SUM REBATED.—Gross income does not include the sum described in subparagraph (D). Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under subparagraph (D).

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) NONPURPOSE OBLIGATIONS.—The term 'nonpurpose obligation' means any security (within the meaning of subparagraph (A) or (B) of section 165(g)(2)) or any obligation not described in subsection (a) which—

"(I) is acquired with the gross proceeds of an issue, and

"(II) is not acquired in order to carry out the governmental purpose of the issue.

"(ii) GROSS PROCEEDS.—The gross proceeds of an issue include—

"(I) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

"(II) amounts used to pay debt service on the issue.

"(I) YIELD.—The yield on the issue shall be determined on the basis of the issue price (within the meaning of section 1232(b)(2)).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 103A(i) (relating to arbitrage) is amended by striking out "section 103(c)" and inserting in lieu thereof "section 103(c) (other than section 103(c)(6))".

(2) Subsection (c) of section 103 is amended by striking out "Bonds" in the heading.

(3) Paragraph (1) of section 103(c) is amended by inserting "to arbitrage bonds" in the heading.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to bonds issued after December 31, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to obligations issued by the Essex County Port Authority of New York and New Jersey as part of an issue approved by Essex County, New Jersey, on July 7, 1981, and approved by the State of New Jersey on December 31, 1981. The aggregate face amount of bonds to which this paragraph applies shall not exceed $350,000,000.

SEC. 718. DENIAL OF TAX EXEMPTION TO CONSUMER LOAN BONDS.

(a) IN GENERAL.—Section 103 (relating to interest on certain governmental obligations) is amended by adding at the end thereof the following new subsection:

"(o) CONSUMER LOAN BONDS.—

"(1) DENIAL OF TAX EXEMPTION.—For purposes of this title, any consumer loan bond shall be treated as an obligation which is not described in subsection (a).

"(2) CONSUMER LOAN BONDS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'consumer loan bond' means any obligation which is issued as part of an issue all or a significant por-

tion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance loans (other than loans described in subparagraph (C)) to persons who are not exempt persons (within the meaning of subsection (b)(3)).

"(B) EXCLUDED OBLIGATIONS.—The term 'consumer loan bond' shall not include any—

"(i) qualified student loan bond,

"(ii) industrial development bond, or

"(iii) qualified mortgage bond or qualified veterans' mortgage bond.

"(C) EXCLUDED LOANS.—A loan is described in this subparagraph if the loan—

"(i) enables the borrower to finance any governmental tax or assessment of general application for an essential governmental function, or

"(ii) is used to acquire or carry nonpurpose obligations (within the meaning of subsection (c)(6)(G)(i)).

"(3) QUALIFIED STUDENT LOANS.—For purposes of this subsection, the term 'qualified student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans under a program, of general application to which the Higher Education Act of 1965 applies if—

"(A) limitations are imposed under the program on—

"(i) the maximum amount of loans outstanding to any student, and

"(ii) the maximum rate of interest payable on any loan,

"(B) the loans are directly or indirectly guaranteed by the Federal Government,

"(C) the financing of loans under the program is not limited to the proceeds of obligations the interest on which is exempt from taxation under this title, and

"(D) special allowance payments under section 438 of the Higher Education Act of 1965—

"(i) are authorized to be paid with respect to loans made under the program, or

"(ii) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of obligations the interest on which is exempt from taxation under this title.".

(b) ELIMINATION OF CERTAIN REQUIREMENTS IN 1986.—Paragraph (3) of section 103(o) (relating to qualified student loans) is amended to read as follows:

"(3) QUALIFIED STUDENT LOANS.—For purposes of this subsection, the term 'qualified student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection the amendment made by subsection (a) shall apply to obligations issued after the date of enactment of this Act.

(2) ELIMINATION OF CERTAIN REQUIREMENTS.—Except as otherwise provided in this subsection the amendment made by subsection (b) shall apply to obligations issued after September 30, 1986.

(3) EXCEPTIONS FOR CERTAIN STUDENT LOAN PROGRAMS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to obligations issued by a program described in the following table to the extent the aggregate face amount of such obligations does not exceed the amount of allowable obligations specified in the following table with respect to such program:

Program	Amount of allowable obligations
Colorado Student Obligation Bond Authority	$60 million
Connecticut Higher Education Supplementary Loan Authority	$15.5 million
District of Columbia	$50 million
Illinois Higher Education Authority	$11 million
State of Iowa	$16 million
Louisiana Public Facilities Authority	$75 million
Maine Health and Higher Education Facilities Authority	$5 million
Maryland Higher Education Supplemental Loan Program	$24 million
Massachusetts College Student Loan Authority	$90 million
Minnesota Higher Education Coordinating Board	$60 million
New Hampshire Higher Education and Health Facilities Authority	$39 million
New York Dormitory Authority	$120 million
Pennsylvania Higher Education Assistance Agency	$300 million
Georgia Private Colleges and University Authority	$31 million
Wisconsin State Building Commission	$60 million
South Dakota Health and Educational Facilities Authority	$6 million

(B) PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY.—Subparagraph (A) shall apply to obligations issued by the Pennsylvania Higher Education Assistance Agency only if such obligations are issued solely for the purpose of refunding student loan bonds outstanding on March 15, 1984.

(4) CERTAIN TAX-EXEMPT MORTGAGE SUBSIDY BONDS.—For purposes of applying section 103(o) of the Internal Revenue Code of 1954, the term "consumer loan bond" shall not include any mortgage subsidy bond (within the meaning of section 103A(b) of such Code) to which the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply.

(5) REFUNDING EXCEPTION.—The amendments made by this section shall not apply to any obligation or series of obligations the proceeds of which are used exclusively to refund obligations issued before March 15, 1984, except that—

(A) the amount of the refunding obligations may not exceed 101 percent of the aggregate face amount of the refunded obligations, and

(B) the maturity date of any refunding obligation may not be later than the date which is 17 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued).

(6) EXCEPTION FOR CERTAIN ESTABLISHED PROGRAMS.—The amendments made by this section shall not apply to any obligation substantially all of the proceeds of which are used to carry out a program established under State law which has been in effect in substantially the same form during the 30-year period ending on the date of enactment of this Act, but only if such proceeds are used to make loans or to fund similar obligations—

(A) in the same manner in which,

(B) in the same (or lesser) amount per participant, and

(C) for the same purposes for which,

such program was operated on March 15, 1984. This subparagraph shall not apply to obligations issued on or after March 15, 1987.

SEC. 719. STUDENT LOAN BOND ARBITRAGE.

(a) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations which specify the circumstances under which a student loan bond shall be treated as an arbitrage bond for purposes of section 103 of the Internal Revenue Code of 1954. Such regulations may provide that—

(A) paragraphs (4) and (5) of section 103(c) of such Code shall not apply, and

(B) rules similar to section 103(c)(6) shall apply,

to student loan bonds.

(2) DEFINITIONS.—For purposes of this subsection—

(A) STUDENT LOAN BONDS.—The term "student loan bond" means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to make or finance loans to individuals for educational expenses.

(B) ARBITRAGE BOND.—The term "arbitrage bond" has the meaning given to such term by section 103(c)(2).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any regulations prescribed by the Secretary under paragraph (1) shall apply to obligations issued after the qualified date.

(B) QUALIFIED DATE.—

(i) IN GENERAL.—For purposes of this paragraph, the term "qualified date" means the earlier of—

(I) the date on which the Higher Education Act of 1965 expires, or

(II) the date, after the date of enactment of this Act, on which the Higher Education Act of 1965 is reauthorized.

(ii) PUBLICATION OF REGULATIONS.—Notwithstanding clause (i), the qualified date shall not be a date which is prior to the date that is 6 months after the date on which the regulations prescribed under paragraph (1) are published in the Federal Register.

(C) REFUNDING OBLIGATIONS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligation issued exclusively to refund any student loan bond which was issued before the qualified date, except that the requirements of subparagraphs (A) and (B) of section 718(c)(5) of this Act must be met with respect to such refunding.

(D) FULFILLMENT OF COMMITMENTS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligations which are needed to fulfill written commitments to acquire or finance student loans which are originated after June 30, 1984, and before the qualified date, but only if—

(i) such commitments are binding on the qualified date, and

(ii) the amount of such commitments is consistent with practices of the issuer which were in effect on March 15, 1984, with respect to establishing secondary markets for student loans.

(b) ISSUANCE OF STUDENT LOAN BONDS WHICH ARE NOT TAX-EXEMPT.—Any issuer who may issue obligations described in section 103(a) of the Internal Revenue Code of

1954 may elect to issue student loan bonds which are not described in such section 103(a) of such Code without prejudice to—

(1) the status of any other obligations issued, or to be issued, by such issuer as obligations described in section 103(a) of such Code, or

(2) the status of the issuer as an organization exempt from taxation under such Code.

(c) FEDERAL EXECUTIVE BRANCH JURISDICTION OVER TAX-EXEMPT STATUS.—For purposes of Federal law, any determination by the executive branch of the Federal Government of whether interest on any obligation is exempt from taxation under the Internal Revenue Code of 1954 shall be exclusively within the jurisdiction of the Department of the Treasury.

(d) STUDY ON TAX EXEMPT STUDENT LOAN BONDS.—

(1) IN GENERAL.—The Comptroller General of the United States, in conjunction with the Director of the Congressional Budget Office, shall conduct a study of—

(A) the appropriate role of tax-exempt bonds which are issued in connection with the guaranteed student loan program and the PLUS program established under the Higher Education Act of 1965, and

(B) the appropriate tax treatment of arbitrage on the proceeds of such bonds.

(2) REPORT.—The Comptroller General of the United States, in conjunction with the Director of the Congressional Budget Office shall submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives a report on the study conducted under paragraph (1) by no later than 9 months after the date of enactment of this Act.

SEC. 720. CERTAIN PUBLIC UTILITIES TREATED AS EXEMPTED PERSONS UNDER SECTION 103(b); SPECIAL RULES FOR CERTAIN RAILROADS.

(a) CERTAIN PUBLIC UTILITIES.—For purposes of applying section 103(b)(3) of the Internal Revenue Code with respect to—

(1) any obligations issued after the date of enactment of this Act, and

(2) any obligations issued after December 31, 1969, which were treated as obligations described in section 103(a) of such Code on the day on which such obligations were issued,

the term "exempt person" shall include a regulated public utility having any customer service area within a State served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by State law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such State, and provided that by agreement between such power authority and any such utility there shall be no markup in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

(b) CERTAIN RAILROADS.—Section 103(b)(1) of the Internal Revenue Code of 1954 shall not apply to any obligation which is described in section 103(b)(6)(A) of such Code if—

(1) substantially all of the proceeds of such obligation are used to acquire railroad track and right-of-way from a railroad involved in a title 11 or similar proceeding (within the meaning of section 368(a)(3)(A) of such Code), and

(2) the Federal Railroad Administration provides joint financing for such acquisitions.

SEC. 721. RESTRICTION ON ISSUANCE OF INDUSTRIAL REVENUE BONDS FOR OFFICE, PROFESSIONAL, AND FINANCIAL FACILITIES.

(a) IN GENERAL.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) NO EXCEPTIONS FOR OBLIGATIONS ISSUED FOR OFFICES OR CERTAIN FACILITIES.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any issue (other than an issue described in paragraph (b)(6)(I)) if more than 20 percent of the proceeds are to be used for any one of the following types of facilities—

"(i) office equipment,

"(ii) medical or health facilities (other than hospitals),

"(iii) facilities used by doctors, lawyers, accountants, or similar professions, or

"(iv) parking facilities.

"(B) HEALTH CLUB FACILITIES.—No proceeds of any obligation described in section 103(b)(4), (5), (6), or (7) may be used for any health club facility.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after April 13, 1984.

(2) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this section shall not apply to obligations issued with respect to facilities—

(A) the original use of which commences with the taxpayer and the construction of which began before April 14, 1984, or

(B) with respect to which a binding contract to incur significant expenditures (within the meaning of section 722(g) of this Act) was entered into before April 14, 1984.

SEC. 722. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(b) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than by section 713 or 715) shall not apply to obligations with respect to facilities—

(1) the original use of which commences with the taxpayer and the construction of which began before October 19, 1983, or

(2) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(c) PROVISIONS RELATING TO FEDERAL GUARANTEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), amendments made by section 713 shall apply to—

(A) any obligation described in section 103(h)(1)(A)(ii) of such Code which is issued after April 15, 1983, and

(B) any obligation described in section 103(h)(1)(A)(i) or 103(h)(1)(B) which is issued after the date of enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by section 713 shall not apply to any obligation described in section 103(h)(1)(A)(ii) which is issued pursuant to a written contract that was binding on the issuer on March 4, 1983, and at all times thereafter.

(d) RESTRICTIONS ON COST RECOVERY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (e), the amendments made by section 715 shall apply to property placed in service after June 30, 1984, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after March 15, 1984.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 715 shall not apply with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction of which began before March 15, 1984, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before March 15, 1984.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after June 30, 1984, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before March 15, 1984, the amendments made by section 715 shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(e) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—

(1) PROJECTS EXEMPTED FROM GOVERNMENT LEASING.—

(A) IN GENERAL.—The amendments made by this subtitle (other than by section 713) shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is placed in service in connection with projects described in section 22(g)(8)(A) of this Act.

(B) LIMITATION.—Subparagraph (A) shall apply to property included in a project described in section 22(g)(8)(A) of this Act only to the extent—

(i) such property was substantially included in such project at the time of the qualifying action, and

(ii) the issuer had evidenced an intent as of December 31, 1983, to issue obligations exempt from taxation under the Internal Revenue Code of 1954 in connection with such project.

(2) OTHER PROJECTS.—

(A) IN GENERAL.—The amendments made by this subtitle (other than section 713) shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is placed in service in connection with any of the following projects:

Project	Location	Qualifying action	Date of Qualifying Action	Amount of Allowable Obligations
Charleston Convention Center	Charleston, South Carolina	Preliminary UDAG approval	April 4, 1983	$50 million
Kalispell Center	Kalispell, Montana	UDAG application submitted	August 30, 1983	$10 million
Florida Crushed Stone Project	Hernando County, Florida	Inducement Resolution passed	August 24, 1982	$100 million
Willamette Plywood Plant	Natchitoches, Louisiana	UDAG application approved	February 3, 1984	$10 million
Godchaux/Maison Blanche Downtown Store and Distribution Center.	Baton Rouge, Louisiana	City Council approved	December 14, 1983	$9 million
Atchinson North-West Pipe and Casing Company Project.	Atchison, Kansas	Resolution adopted	July 5, 1983	$7.5 million
Downtown Redevelopment Project	Manhattan, Kansas	Preliminary UDAG approval	November 3, 1983	$34 million
China Trade Center	Boston, Massachusetts	UDAG application approved	July 2, 1981	$4.8 million
World Forum Project	Philadelphia, Pennsylvania	UDAG application approved	July 6, 1981	$30 million
Downtown UDAG	Muskogee, Oklahoma	UDAG application approved	May 5, 1981	$22.2 million
Park Central New Town In Town Project-365 Ltd. Project, Park Central West, Ltd. Project, Park Central Storage Limited Project, Energy City, Ltd. Project.	Port Authur, Texas	Bond purchase agreements executed.	March 4, 1983	$24 million
Park Central New Town In Town Project.	Port Authur, Texas	City ordinance adopted	August 18, 1980 April 26, 1982	$80 million for period 1984-1992
ConAgra Projects: Bedford, Virginia.	Inducement Resolution passed	November 30, 1983	$1.5 million	
	Kansas City, Missouri	Inducement Resolution passed	November 28, 1983	$6.7 million
	Garland, Texas	Inducement Resolution passed	October 26, 1983	$7.5 million
	Portland, Oregon	Inducement Resolution passed	December 13, 1983	$3.5 million
	San Antonio, Texas	Inducement Resolution passed	November 14, 1983	$2.5 million
	Mason City, Iowa	Inducement Resolution passed	October 17, 1983	$1.0 million
	Nampa, Idaho	Inducement Resolution passed	November 18, 1983	$1.6 million
	Eau Claire, Wisconsin	Inducement Resolution passed	November 23, 1983	$2.2 million
	Dixon, California	Inducement Resolution passed	November 8, 1983	$1.3 million
	Springfield, Kentucky	Inducement Resolution passed	October 28, 1983	$1.5 million
	Arlington, Texas	Inducement Resolution passed	November 22, 1983	$1.4 million
	Charlotte, North Carolina	Inducement Resolution passed	October 30, 1983	$1.2 million
	Turlock, California	Inducement Resolution passed	December 13, 1983	$3.1 million
	Omaha, Nebraska	Underwriting agreement	October 5, 1983	$35 million
Firebaugh Electric Generating Station.	California	Council resolution	May, 1983	$0 million
Paramount, Town Center	Paramount, California	Contract and land acquisition	1983	$10 million
Pacifica, Shoreline Protection Seawall.	Pacific, California	Project near completion	April 1, 1984	$1.211 million
Miles Laboratory	Eckart, Indiana	Inducement Resolution passed	September 19, 1983	$15 million
Keystone Race Track	Bensalem, Bucks County, Pennsylvania.	Contract to purchase	February 16, 1984	$30 million
Allegheny Ludlum Steel Co. Purchase of Guterl Steel.	Lockport, New York	Inducement resolutions passed	October 13, 1983 January 5, 1984 March 8, 1984.	$10 million
Crouse Group Inc. Solid Waste Processing Plant.	Pidgeon Pt., Delaware	IDB application approved	July 21, 1983	$40 million
Waterloo Greyhound Racing Track.	Waterloo, Iowa	Approved by City Council	April 9, 1984	$8 million
Rockdale, Texas, Air, Water and Solid Waste Control Project.	Rockdale, Texas	Inducement Resolution passed	July 12, 1982 July 29, 1983 August 8, 1983.	$11 million
Point Comfort, Texas, Solid Waste and Water Pollution Control Project.	Point Comfort, Texas	Inducement Resolution passed	November 9, 1983	$7.7 million
Marina Market Place	Buffalo, New York	UDAG grant approved	April 6, 1984	$18 million
Phoenix Square, One Project	Phoenix, Arizona	Inducement Resolution passed	July 10, 1982	$5.5 million
Roosevelt Race Track	Hempstead, New York	Inducement Resolution passed before.	April 1, 1984	$57 million

(B) LIMITATIONS.—

(i) PROPERTY.—Subparagraph (A) shall apply to property included in a project described in the table contained in subparagraph (A) only to the extent such property was substantially included in such project at the time of the qualifying action.

(ii) OBLIGATIONS.—Subparagraph (A) shall apply to an obligation issued to finance property in connection with a project described in subparagraph (A) only if the sum of—

(I) the face amount of such obligation, plus

(II) the aggregate face amount of all obligations previously issued to finance such property,

does not exceed the amount of allowable obligations that is specified in the table in subparagraph (A) with respect to such project.

(f) GAMBLING FACILITIES.—The amendment made by section 712 shall not apply to any obligations issued as part of an issue the proceeds of which are expected to be used to finance a facility which is primarily for horse racing if an inducement resolution (or other comparable preliminary approval) was adopted by the issuing authority on November 15, 1983.

(g) DETERMINATION OF SIGNIFICANT EXPENDITURE.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(1) $15,000,000, or

(2) 20 percent of the estimated cost of the facilities.

(h) NO APPLICATION TO CERTAIN SECTIONS.—This section shall not apply to the amendments made by sections 717, 718, 719, 720, and 721.

SEC. 723. LOCAL FURNISHING OF ELECTRICITY OR GAS.

For the purposes of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace (i) if at least 97 percent (measured both by total number of metered customers and by their annual consumption on a kilowatt hour basis) of the retail customers of such system are located in two contiguous counties, and (ii) if the remainder of such customers are located in a portion of a third contiguous county which portion is located on a peninsula not directly connected by land to the rest of the county of which it is a part.

SEC. 724. SENSE OF THE SENATE REGARDING PER CAPITA LIMITATION.

It is the sense of the Senate that no per capita limitation be imposed on the face amount of industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954) which are treated as described in section 103(a) of such Code.

SEC. 725. SENSE OF THE SENATE REGARDING QUALIFIED VETERANS' MORTGAGE BONDS.

It is the sense of the Senate that—

(1) no termination date be imposed on the issuance of qualified veterans' mortgage bonds (within the meaning of section 103A(c)(3) of the Internal Revenue Code of 1954), and

(2) no qualified veterans' mortgage bonds be taken into account in applying section 103A(g) of such Code.

SEC. 726. TREASURY DEPARTMENT DECISIONS AFFECTING TAX-EXEMPT BONDS.

(a) The Secretary of Education and the Secretary of the Treasury shall within 30 days of the date of enactment of this provision, establish procedures under which persons, agencies, or issuers, affected by any decision of the Secretary of Education or his delegate under section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 may request and obtain a hearing and a review of such decision by the Secretary of the Treasury or his delegate followed by a written report to the Secretary of Education and to such person with respect to such review to be filed no later than 60 days of the request for review (unless the person requesting such review consents to an extension of time).

(b) Nothing in this section shall affect the exemption from income taxation of interest on any student loan bond or any issuer of such bonds.

SEC. 727. EVALUATION OF WEIGHT-DISTANCE TAXES.

(a) The Congress acknowledges that the United States Department of Transporta-

tion has determined in its study in response to the mandate of section 513(g) of the Surface Transportation Assistance Act of 1982, that a preferable long-term solution to the major equity concerns with the current tax structure for motor carriers would be a comprehensive change, specifically a weight-distance tax. Congress further acknowledges that the United States Department of Transportation 513(g) study has determined that a weight-distance tax "is the only tax instrument that addresses precisely the trucking industry's major criticism of the heavy vehicle use tax—that is, its insensitivity to mileage variation.".

(b) The Secretary of Transportation shall enter into appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to evaluate the feasibility and the ability of weight-distance truck taxes to provide the greatest degree of equity among highway users, to ease the cost of compliance for such taxes and to improve the efficiency by which these taxes might be administered. Such a study shall also include an evaluation of evasion potential for weight-distance taxes and an assessment of the benefits to interstate commerce of replacing all Federal truck taxes except the fuel tax with a weight-distance tax.

(c) The Secretary of Transportation shall request the National Academy of Sciences to submit a report, including the identification of a mechanism to implement such a tax, to the Secretary and the Congress not later than 18 months after the date of enactment of this section. The Secretary shall furnish to the Academy, at its request, any information which the Academy deems necessary for the purpose of conducting such study.

SEC. 728. LOCAL FURNISHING OF ELECTRICITY OR GAS.

For the purpose of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace—

(i) if the facility was initially authorized by the Federal Government in 1962;

(ii) if the facility receives financing of at least 25 percent by an exempt person;

(iii) if the electric energy generated by the facility is purchased by an electric cooperative qualified as a rural electric borrower under 7 U.S.C. section 901 et seq. and if;

(iv) the facility is located in a noncontiguous State.

Subtitle C—Tax Exempt Interest Exclusion

SEC. 730. TAX-EXEMPT INTEREST EXCLUDED IN DETERMINING AMOUNT OF SOCIAL SECURITY BENEFITS TO BE TAXED.

(a) IN GENERAL.—Paragraph (2) of section 86(b) (defining modified adjusted gross income) is amended to read as follows:

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined without regard to this section and sections 221, 911, 931, and 933.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendment made by section 121(a) of the Social Security Amendments of 1983.

TITLE VIII—MISCELLANEOUS REVENUE PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

SEC. 801. INSTALLMENT PAYMENT OF ESTATE TAXES FOR CERTAIN INDIRECTLY HELD STOCK OF A CLOSELY HELD OPERATING COMPANY.

(a) IN GENERAL.—Subsection (b) of section 6166 (providing definitions and special rules for extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by adding after paragraph (7) the following new paragraph:

"(8) INDIRECTLY OWNED INTEREST IN CLOSELY HELD BUSINESS.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph and if one corporation holds non-readily-tradable stock (as defined in paragraph (7)(B)) in a second corporation carrying on a trade or business, then—

"(i) for purposes of this section (other than paragraph (1)(C)(i)), a proportionate part of the stock of the first corporation shall be treated as stock of the second corporation,

"(ii) paragraph (1)(C)(i) shall apply to voting stock directly or indirectly included in determining the gross estate of the decedent,

"(iii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

"(iv) section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) EXTENT OF ELECTION.—

"(i) IN GENERAL.—Subparagraph (A) shall be applied only to the stock of such corporations as the executor elects, and shall be successively applied to such corporations in a chain, beginning with the corporation included in the election which is at the bottom of such chain.

"(ii) 20-PERCENT VALUE REQUIREMENT.—Except as provided in clause (iii), for purposes of clause (i), the election shall be limited to any corporation in which the interest included in the gross estate equals or exceeds 20 percent of the value of such corporation.

"(iii) SPECIAL RULE.—The requirements of clause (ii) shall not apply to any election under clause (i) if such election is made with respect to only one corporation, 80 percent or more of the value of the assets of which consist of non-readily-tradable stock (as defined in paragraph (7)(B)) of a second corporation carrying on a trade or business.

"(C) DETERMINATION OF PROPORTIONATE PART.—The proportionate part referred to in subparagraph (A)(i) shall be determined according to the ratio which the value of the stock of the second corporation which is held by the first corporation bears to the value of all assets of the first corporation.

"(D) 20-PERCENT REQUIREMENT.—For purposes of subparagraph (A)(ii), stock shall be treated as indirectly included in determining the gross estate only by attribution through voting stock.

"(E) VALUATION.—The treatment of stock as stock of a second corporation by reason of subparagraph (A)(i) shall not affect the value of such stock.".

(b) NONBUSINESS ASSETS EXCLUDED.—Paragraph (2) of section 6166(b) (relating to interest in closely held business) is amended by adding at the end thereof the following new subparagraph:

"(E) NONBUSINESS ASSETS EXCLUDED.—

"(i) IN GENERAL.—An interest in a closely held business shall not include the portion of an interest in a partnership or stock in a corporation carrying on a trade or business that is attributable to property held (directly or indirectly) by or for such partnership or corporation unless such property is directly related to the reasonable needs of such trade or business, or property which has been contributed to such partnership or corporation and which is not used directly in the conduct of such trade or business.

"(ii) SUCCESSIVE EXCLUSIONS.—Where a partnership or a corporation carrying on a trade or business holds an interest in another entity, the portion of such interest which is attributable to property which would be described in clause (i) if this subparagraph were applied to such entity shall be treated as property described in clause (i).".

(c) ACCELERATION OF PAYMENT.—Paragraph (1) of section 6166(g) (relating to disposition of interest; withdrawal of funds from business) is amended by adding at the end thereof the following new subparagraphs:

"(E) If any portion of stock in a corporation (described as the first corporation in subparagraph (A) of subsection (b)(8)) is treated as stock in one or more corporations by reason of such subparagraph, then—

"(i) any disposition of any interest in such stock in such first corporation, which was included in determining the gross estate of the decedent, or

"(ii) any withdrawal of any money or other property from such first corporation attributable to any interest included in determining the gross estate of the decedent,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1).

"(F) If any portion of stock in a corporation (described as the first corporation in subparagraph (A) of subsection (b)(8)) is treated as stock in one or more corporations by reason of such subparagraph, then—

"(i) any disposition of any interest in such stock of such other corporation or corporations directly or indirectly owned by such first corporation, or

"(ii) any withdrawal of any money or other property from such other corporation or corporations attributable to such stock directly or indirectly owned by such first corporation,

shall, to the extent attributable to any interest included in determining the gross estate of the decedent, be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1).".

(d) PAYMENT OF DIVIDENDS.—Paragraph (2) of section 6166(g) (relating to undistributed income of estate) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, dividends paid with respect to non-readily-tradable stock in a corporation carrying on a trade or business (as described in subsection (b)(8)(A)) shall be treated as paid to the estate of the decedent to the extent attributable to stock treated as stock of such corporation by subsection (b)(8)(A)(i).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 802. REPEAL OF GENERATION-SKIPPING TRANSFER TAX.

(a) IN GENERAL.—Subtitle B is amended by striking out chapter 13 (relating to tax on certain generation-skipping transfers).

(b) CONFORMING AMENDMENTS.—

(1) Section 303 (relating to distributions in redemption of stock to pay death taxes) is amended by striking out subsection (d).

(2) Paragraph (6) of section 667(b) (relating to treatment of amounts deemed distributed by trust in preceding years) is amended—

(A) by striking out "or 13, as the case may be" each place it appears in subparagraph (A),

(B) by striking out "or the date of the generation-skipping transfer" in subparagraph (C), and

(C) by striking out "AND GENERATION-SKIPPING TRANSFER" in the heading of such paragraph.

(3) Subsection (c) of section 691 (relating to deduction for estate tax) is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(4) Section 2013 (relating to credit for tax on prior transfers) is amended by striking out subsection (g).

(5) The first sentence of subsection (a) of section 7517 (relating to furnishing on request of statement explaining estate or gift valuation) is amended to read as follows: "If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11 or 12, he shall furnish, on the written request of the executor or donor (as the case may be), to such executor or donor a written statement containing the material required by subsection (b).".

(6) The analysis of chapters for subtitle B is amended by striking out the item relating to chapter 13.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to generation-skipping transfers occurring after June 11, 1976.

SEC. 803. TREATMENT OF CERTAIN DISCLAIMERS.

(a) IN GENERAL.—Subsection (c) of section 2518 (relating to disclaimers) is amended by adding at the end thereof the following new paragraph:

"(4) PRIOR TRANSFERS.—Any disclaimer of an interest created by a transfer of property which was made before November 15, 1958, shall be treated as a qualified disclaimer for purposes of this section if—

"(A) such disclaimer satisfies the requirements of subsection (b) without regard to paragraph (2) of such subsection, and

"(B) such disclaimer was received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates at any time prior to the date which is 90 days after the date of the enactment of the Deficit Reduction Tax Act of 1984, and

"(C) such person disclaiming has not accepted the interest or any of its benefits.".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 2009(e) of the Tax Reform Act of 1976 (26 U.S.C. 2518 note) is amended by striking out "after December 31, 1976" and inserting in lieu thereof "before November 15, 1958, or after December 31, 1976".

SEC. 804. MARITAL DEDUCTION FOR A USUFRUCT.

(a) IN GENERAL.—Subclause (I) of section 2056(b)(7)(B)(ii) (relating to qualifying income interest for life) is amended by inserting ", or has a usufruct interest for life in the property" after "intervals".

(b) LIMITATION ON DEDUCTIONS FROM GROSS ESTATE.—Paragraph (1) of section 2053(c) (relating to limitations on deductions for expenses, indebtedness, and taxes) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN CLAIMS BY REMAINDERMEN.—No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 403 of the Economic Recovery Tax Act of 1981.

SEC. 805. CREDIT AGAINST ESTATE TAX FOR TRANSFERS TO TOIYABE NATIONAL FOREST.

(a) CREDIT ALLOWED.—Subject to the provisions of this section, and notwithstanding any period of limitation or lapse of time, the Secretary of the Treasury or his delegate shall allow credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to the imposition of estate tax)—

(1) upon the estate of Nell J. Redfield for the conveyance by the estate to the United States of real property included in the gross estate and located within and adjacent to the boundaries of the Toiyabe National Forest; and

(2) upon the estate of Elizabeth Schultz Rabe for the conveyance by the estate to the United States of real property included in the gross estate and known as Parcel No. 4 containing 97.60 acres, more or less, located in the County of Douglas, State of Nevada, and described as follows:

The NE 1/4 of the SW 1/4, the NW 1/4 of the SE 1/4, and a portion of the SE 1/4 of the NW 1/4 of Section 23, Township 13 North, Range 18 East, M.D.B.&M., more particularly described as follows:

All that portion of the SE 1/4 of the NW 1/4 excepting therefrom the following:

Beginning at a United States Forest Service Brass Cap, being the C-N 1/16 corner of Section 23; thence South 0°45'24" West 500.00 feet to an iron pipe; thence South 44°50'02" West 945.42 feet to an iron pipe; thence North 89°46'12" West 301.78 feet to a point; thence tangent North 20°28'20" East on the arc of a circular curve to the left with a radius of 800 feet through a central angle of 40°44'50" an arc distance of 568.94 feet to a point; thence North 20°02'42" West 683.17 feet to a point; thence South 88°35'38" East 1206.29 feet to the Point of Beginning, containing 22.40 acres, more or less.

(b) AMOUNT OF CREDIT.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

(1) fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

(2) the Federal estate tax liability (and interest thereon) of each estate.

(c) LIMITATIONS.—

(1) The provisions of this section shall apply only if the executor of each estate executes a deed (in accordance with the laws of the State in which such real property is situated) transferring title to the United States before the date which is 90 days after the date of the enactment of this Act, but only if such title is satisfactory to the Attorney General or his delegate.

(2) The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(3) Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reasons of the provisions of this section.

SEC. 805A. ALTERNATE VALUATION DATE ELECTION.

(a) IN GENERAL.—Section 2032(a) (relating to election of alternate valuation) is amended by adding the following:

"An election shall not be permitted pursuant to this section unless the tax shown on the first estate tax return filed is in excess of the amount of the estate tax credit provided by section 2010. Moreover, no election shall be permitted under this section unless the executor—

"(1) determines in good faith that the value of the gross estate as of the alternate valuation date (not including the value of any assets included in the gross estate for which a charitable deduction is allowed under section 2055 or 2106(a)(2), or a marital deduction is allowed under section 2056) was less than the value of the gross estate (not including the value of any assets incuded in the gross estate for which a charitable deduction is allowed under section 2055 or 2106(a)(2), or a marital deduction is allowed under section 2056) as of the date of death, and

"(2) files a statement with the election which affirmatively states that the executor has so determined.".

(b) Section 2032(c) of the Internal Revenue Code of 1954 (relating to time of election of alternate valuation) is amended to read as follows:

TIME OF ELECTION.—The election provided by this section shall be exercised by the executor on his return not later than the time such return is filed, except that no election shall be made under this section if the return is filed after the time prescribed by law (including extensions) for filing of the return, and

"(1) such return is filed more than 1 year after the time prescribed for filing (including extensions) of the return, or

"(2) one of the principal purposes of the late filing was in order to make the election.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsections (a) and (b) of this Act shall apply to estates of decedents dying after the date of enactment of this Act.

(2) TRANSITIONAL RULE.—

(A) IN GENERAL.—In the case of an estate—

(i) of a decedent dying before the date of the enactment of this Act, and

(ii) with respect to which a return of the tax imposed by section 2001 was filed after the due date for filing (including extensions), the executor of such estate may make the election under section 2032 of the Internal Revenue Code of 1954 (and such election shall be treated as timely filed) if, had the decedent died after the date of enactment of this Act an election could have been made pursuant to the provisions of sections 2032 (a) and (c) of the Internal Revenue Code of 1954, and the executor files an irrevocable election (in such manner as the Secretary of the Treasury or his delegate prescribes) within 1 year after such date of enactment.

(B) CLAIMS FOR CREDIT OR REFUND.—If credit or refund of the amount of any overpayment of estate tax or overpayment of income tax for any taxable year attributable to an election under this paragraph—

(i) is not prevented on the date of the enactment of this Act by the operation of any law or rule of law, but

(ii) is so prevented (other than by operation of chapter 74 of the Internal Revenue

Code of 1954, relating to close agreements and compromises) at any time before the expiration of the 2-year period beginning on such date,

credit or refund of such overpayment may be allowed or made if claim therefor is filed before the expiration of such 2-year period.

(C) PERIOD FOR ASSESSING DEFICIENCIES.—The statutory period for the assessment of any deficiency in estate tax or in income tax against any person for any taxable year which is attributable to an election under this paragraph shall not expire before the last day of the 2-year period beginning on the date of the enactment of this Act.

Subtitle B—Charitable Provisions

SEC. 806. TRANSITIONAL RULE RELATING TO THE DEFINITION OF QUALIFIED CONSERVATION CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (B) of section 170(h)(5) (defining exclusively for conservation purposes) is amended to read as follows:

"(B) NO SURFACE MINING PERMITTED.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SEC. 807. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND

"Sec. 6097. Amounts for United States Olympic Trust Fund.

"SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST FUND.

"(a) IN GENERAL.—With respect to each individual's return for the taxable year of the tax imposed by chapter 1, such individual may designate that—

"(1) $1 of any overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, a $1 contribution which the individual includes with such return,

be paid over to the United States Olympic Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated on any taxpayer's return pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the individual as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9504. UNITED STATES OLYMPIC TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses of the Secretary which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to and from such Fund.".

(c) CROSS REFERENCE.—Subsection (l) of section 170 (relating to disallowance of charitable deductions in certain cases) (as designated by section 154 of this Act) is further amended—

(1) by striking out "For disallowance" and inserting in lieu thereof "(1) For disallowance"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For disallowance of deductions for contributions to Olympics, see section 6097(c).".

(d) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.".

(2) The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9504. United States Olympic Trust Fund.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns filed for taxable years beginning after December 31, 1983, and ending before January 1, 1989.

SEC. 808. INCREASE IN CHARITABLE VOLUNTEER MILEAGE.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) (as amended by section 154 of this Act) is further amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile the standard mileage rate shall be 12 cents per mile.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 809. PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTERESTS.

(a) GENERAL RULE.—Paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended to read as follows:

"(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) QUALIFIED REFORMATION.—For purposes of this paragraph, the term 'qualified reformation' means a change of a governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

"(i) any difference between—

"(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

"(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

"(ii) in the case of—

"(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

"(II) any other interest, the reformable interest and the qualified interest are for the same period, and

"(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

"(C) REFORMABLE INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'reformable interest' means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

"(ii) BENEFICIARY'S INTEREST MUST BE FIXED.—The term 'reformable interest' does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

"(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

"(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

"(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

"(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under a trust created before such date, clause (ii) shall not apply.

"(D) QUALIFIED INTEREST.—For purposes of this paragraph, the term 'qualified interest' means an interest for which a deduction is allowable under subsection (a).

"(E) LIMITATION.—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

"(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.—If (by reason of the death of any individual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term 'wholly charitable trust' means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

"(G) STATUTE OF LIMITATIONS.—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation has occurred.

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

"(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

"(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

"(ii) to meet the requirements of section 642(c)(5).".

(b) INCOME TAX DEDUCTION.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(c) GIFT TAX DEDUCTION.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(d) TREATMENT OF CERTAIN CONTINGENCIES UNDER SECTION 664.—Section 664 (relating to charitable remainder trusts) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN CONTINGENCIES PERMITTED.—

"(1) GENERAL RULE.—If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

"(2) VALUE DETERMINED WITHOUT REGARD TO QUALIFIED CONTINGENCY.—For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

"(3) QUALIFIED CONTINGENCY.—For purposes of this subsection, the term 'qualified contingency' means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust.".

(e) EFFECTIVE DATE.—

(1) SUBSECTIONS (A), (B), AND (C).—The amendments made by subsections (a), (b), and (c) shall apply to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

(2) SUBSECTION (D).—The amendment made by subsection (d) shall apply to transfers after December 31, 1978.

(3) STATUTE OF LIMITATIONS.—

(A) IN GENERAL.—If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act, no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.

SEC. 810. CERTAIN CONTRIBUTIONS OF PROPERTY USED IN QUALIFIED VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF PROPERTY USED IN QUALIFIED VOCATIONAL EDUCATION PROGRAMS.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified vocational education contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) QUALIFIED VOCATIONAL EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified vocational education contribution' means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) such contribution is to—

"(I) a public community college or public technical institute (within the meaning of section 742(b) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1)) and is made through the governing body of the donee, or

"(II) an area vocational education school (within the meaning of section 195(2) (C) and (D) of the Vocational Education Act of 1963 (20 U.S.C. section 2461(2) (C) and (D)), which is not a secondary school under State law, and such contribution is made through the governing body of the donee for use in programs enrolling principally nonsecondary students in courses in engineering, mathematics, or the physical or biological sciences, and the programs are designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

"(ii) the property is scientific or technical equipment or apparatus,

"(iii) substantially all of the use of such property by the donee is for training students enrolled in a postsecondary nonsecondary vocational education program offered by the donee,

"(iv) the property is not computer software, a microcomputer, or any other computer designed generally for use in the home or other personal use,

"(v) the fair market value of the property exceeds $250,

"(vi) the property is manufactured, produced, or assembled by the taxpayer, and the contribution is made not later than six months after the date on which the manufacture, production, or assembly of the property is substantially completed,

"(vii) the original use of the property is by the donee,

"(viii) the property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the property contributed,

"(ix) such property is not transferred by the donee in exchange for money, other property, or services within 5 years of the date of original transfer to the donee,

"(x) such property is functional and usable in the condition in which it is transferred for the purposes described in clause (iii), without the necessity of any repair, reconditioning, or other similar investment by the donee, and

"(xi) the taxpayer receives from the governing body of the donee a written statement, executed under penalties of perjury, representing that the property and its use and disposition by the donee will be in accordance with the provisions of clauses (iii), (ix), and (x).".

"(C) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (within the meaning of section 542), or

"(iii) a service organization (within the meaning of section 414(m)(3)).

"(D) NONSECONDARY STUDENT.—For purposes of this provision, a nonsecondary student means an individual who is not enrolled in—

"(i) a high school or secondary school,

"(ii) a course of study leading to a high school diploma or its equivalent, or

"(iii) a course of study in lieu of a high school or secondary education.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1984.

SEC. 811. POSTSECONDARY VOCATIONAL EDUCATION INSTRUCTION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by inserting after section 44K the following new section:

"SEC. 44L. VOCATIONAL EDUCATION INSTRUCTION CREDIT.

"(a) IN GENERAL.—In the case of a corporation, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the product of—

"(A) $100, multiplied by

"(B) the number of postsecondary vocational education courses taught by qualified teaching employees of the taxpayer during the taxable year, plus

"(2) the product of—

"(A) $100, multiplied by

"(B) the number of qualified vocational education instructors who were employed by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a credit under subsection (a) to any taxpayer for any taxable year shall not exceed $20,000.

"(2) LIMITATION ON THE NUMBER OF COURSES TAUGHT PER EMPLOYEE.—No more than 5 postsecondary vocational education courses taught by the same qualified teaching employee may be taken into account under subsection (a)(1)(B).

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POSTSECONDARY VOCATIONAL EDUCATION COURSES.—The term 'postsecondary vocational education course' means any course of instruction which—

"(A) is offered by an institution of higher education as part of an organized education program,

"(B) is in the physical, biological, computer, or engineering technologies, or electronic and automated industrial, medical, and agricultural equipment and instrumentation operation,

"(C) consists of a period of instruction which is at least equivalent to a course of instruction that provides 3 hours of instruction per week during an academic semester, and

"(D) has been completed before the close of the taxable year.

"(2) QUALIFIED VOCATIONAL EDUCATION INSTRUCTOR.—The term 'qualified vocational education instructor' means an individual who—

"(A) was employed by the taxpayer on a full-time basis for at least 3 months but not more than 12 months during the 2-year period ending at the close of the taxable year,

"(B) prior to such employment, taught postsecondary vocational education courses on a full-time basis at an institution of higher education,

"(C) is teaching such courses on a full-time basis at an institution of higher education at the close of such taxable year, and

"(D) is not employed by the taxpayer at the close of the taxable year.

"(3) QUALIFIED TEACHING EMPLOYEE.—The term 'qualified teaching employee' means an individual who—

"(A) taught at least one postsecondary vocational education course on a part-time basis at an institution of higher education during the taxable year,

"(B) is a full-time employee of the taxpayer for the entire taxable year,

"(C) does not receive any compensation from such institution of higher education, and

"(D) was not a qualified vocational education instructor at any time during the taxable year.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965.

"(5) ALLOCATION IN CASE OF CONTROLLED GROUP OF CORPORATIONS.—

"(A) IN GENERAL.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to the member's share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor.

"(B) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(i) 'more that 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(6) CORPORATION.—The term 'corporation' shall not include—

"(A) an S corporation,

"(B) a personal holding company (within the meaning of section 542), or

"(C) a service organization (within the meaning of section 414(m)(3)).

"(7) DOUBLE BENEFIT.—Any credit allowable under this section for the taxable year with respect to any employee of the taxpayer shall be in addition to any deduction under this chapter which is allowable to the taxpayer for such taxable year with respect to compensation paid to such employee.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44K the following new item:

"Sec. 44L. Vocational education instruction credit.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44I" and inserting in lieu thereof "44I, and 44J".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 812. INCREASE IN CERTAIN DEDUCTION LIMITS FOR CHARITABLE CONTRIBUTION DEDUCTION.

(a) INCREASE IN PERCENTAGE OF CONTRIBUTION BASE LIMITATION FOR INDIVIDUALS.—Subsections (b)(1) and (d)(1) of section 170 (relating to charitable, etc., contributions and gifts) are amended by striking out "50 percent" each place it appears and inserting in lieu thereof "60 percent".

(b) CARRYOVER OF EXCESS CONTRIBUTIONS BY INDIVIDUALS EXTENDED TO 15 YEARS.—

(1) IN GENERAL.—Subparagraph (A) of section 170(d)(1) (relating to carryovers of excess contributions by individuals) is amended—

(A) by striking out "5 years" and inserting in lieu thereof "15 years", and

(B) by striking out "the second, third, fourth, or fifth succeeding taxable year" in clause (ii) and inserting in lieu thereof "each of the fourteen succeeding taxable years".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 170(b)(1)(C) (relating to special limitation with respect to contributions of certain capital gain property) is amended by striking out "5" and inserting in lieu thereof "14".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to gifts made after December 31, 1984.

Subtitle C—Excise Tax Provisions

PART I—BOATING SAFETY AND SPORT FISH RESTORATION

Subpart A—Boating Safety Amendments

SEC. 813. POLICY.

It is declared to be the policy of Congress and the purpose of this part to improve recreational boating safety and to foster greater development, use, and enjoyment of all waters of the United States by encouraging and assisting participation by the States, the boating industry, and the boating public in activities related to increasing boating safety; by authorizing the establishment of national construction and performance standards for boats and associated equipment; by creating more flexible authority governing the use of boats and equipment; and by facilitating the provision of services by the United States Coast Guard on behalf of boating safety. It is further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations among the States and the Federal Government, to encourage and assist the States in exercising their authorities in boating safety, to foster greater cooperation and assistance between the Federal Government and the States in administering and enforcing Federal and State laws and regulations pertaining to boating safety, and to equitably utilize taxes paid on fuel use in motor boats in a manner which enhances boating safety.

SEC. 814. GENERAL AMENDMENTS TO TITLE 46.

(a) Section 2102 of title 46, United States Code is amended—

(1) by striking out "and facilities improvement" in paragraph (1);

(2) by striking out paragraphs (3) and (4); and

(3) by redesignating paragraph (5) as paragraph (3).

(b)(1) Section 13101 of such title is amended—

(A) by striking out "and facility improvement" in subsection (a); and

(B) by striking out "and facilities improvement" each place it appears.

(2) Subsection (a) of section 13101 of such title is amended by striking out "may" in the second sentence and inserting in lieu thereof "shall".

(c)(1) Section 13102 of such title is amended by striking out "and facilities improvement" each place it appears.

(2) Subsection (a) of section 13102 of such title is amended by striking out "may" and inserting in lieu thereof "shall".

(3) Paragraph (2) of section 13102(a) of such title is amended by striking out ", (d), or (f)".

(4) Subsections (d) and (f) of section 13102 of such title are repealed, and subsection (e) of such section (and any reference thereto) is redesignated as subsection (d).

(d)(1) Subsections (b) and (f) of section 13103 of such title are repealed, and subsections (c), (d), and (e) of such section (and all references thereto) are redesignated as subsections (b), (c), and (d), respectively.

(2) Subsections (b) and (c) of section 13103 of such title (as redesignated by paragraph (1) of this subsection) are amended by striking out "and facilities improvement" each place it appears.

(e) Section 13105 of such title is amended by striking out "and facilities improvement".

(f) Subsection (c) of section 13108 of such title is amended by striking out "and facilities improvement" each place it appears.

(g) Section 13109 of such title is amended by striking out "and facilities improvement" each place it appears.

SEC. 815. AUTHORIZATION OF FUNDS FOR BOATING SAFETY.

Section 13106 of title 46, United States Code, is amended to read as follows:

"(a) The Secretary may expend in each of the fiscal years 1985, 1986, 1987, and 1988, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to two-thirds of the amount transferred for such fiscal year to the Boating Safety Account under section 9503 (c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)). The amount shall be allocated as provided under section 13103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

"(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes may include—

"(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

"(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

"(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

"(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

"(5) conducting boating safety inspections and marine casualty investigations;

"(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

"(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

"(8) providing State recreational vessel numbering or titling programs.

"(c) An amount equal to one-third of the amount transferred for each fiscal year to the Boating Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended.".

SEC. 816. EFFECTIVE DATE.

The amendments made by this subpart shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart B—Sport Fish Restoration Program

SEC. 817. AMENDMENTS TO THE SPORT FISH RESTORATION PROGRAM.

(a) The Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777 et seq.), is amended as follows:

(1) The first section is amended—

(A) by inserting "(a)" after "That"; and

(B) by adding at the end thereof the following new subsection:

"(b) Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

"(1) The additional sums apportioned to such State under this Act as a result of the taxes imposed by the amendments made by the Sport Fish Restoration Revenue Act of 1983 on items not taxed under section 4161(a) of the Internal Revenue Code of 1954 before October 1, 1984.

"(2) The sums apportioned to such State under this Act that are not attributable to any tax imposed by section 4499(a) of such Code.

As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.".

(2) The first sentence of section 3 is amended to read as follows: "To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9505(a) of the Internal Revenue Code of 1954 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section.".

(3) The first sentence of section 4 is amended to read as follows: "So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.".

(4) Section 5 is amended by striking all after the first sentence.

(5) Section 6 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for appropriations currently available for the purposes of this Act; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this Act.".

(6) Section 8 is amended by inserting "(a)" before the first sentence, and by adding at the end thereof the following new subsections:

"(b)(1) Each State shall allocate 10 per centum of the funds apportioned to it for each fiscal year under section 4 of this Act for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes.

"(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding fiscal year, but any portion of such funds that remain unexpended or unobligated at the close of such succeeding fiscal year are authorized to be made available for expenditure by the Secretary of the Interior in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

"(c) Each State may use not to exceed 10 per centum of the funds apportioned to it under section 4 of this Act to pay up to 75 per centum of the costs of an aquatic resource education program for the purpose of

increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart C—Expansion of Sport Fishing Excise Tax

SEC. 818. SHORT TITLE.

This subpart may be cited as the "Sport Fish Restoration Revenue Act of 1984".

SEC. 819. TAX ON SALE OF SPORT FISHING EQUIPMENT.

(a) GENERAL RULE.—Chapter 36 of subtitle D (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Sport Fishing Equipment

"Sec. 4499. Tax on sport fishing equipment.

"SEC. 4499. TAX ON SPORT FISHING EQUIPMENT.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the tax trigger sale of any article of sport fishing equipment a tax equal to 10 percent of the price for which the article is sold.

"(2) AMOUNT OF TAX ON ELECTRIC OUTBOARD BOAT MOTORS, TACKLE BOXES, AND SONAR DEVICES SUITABLE FOR FINDING FISH.—

"(A) IN GENERAL.—In the case of any electric outboard boat motor, tackle box, or sonar device suitable for finding fish, paragraph (1) shall be applied by substituting '3 percent' for '10 percent'.

"(B) $30 LIMITATION OF TAX ON SONAR DEVICES SUITABLE FOR FINDING FISH.—The tax imposed by paragraph (1) on any sonar device suitable for finding fish shall not exceed $30.

"(3) PARTS OR ACCESSORIES SOLD IN CONNECTION WITH TAX TRIGGER SALE.—In the case of any tax trigger sale of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof.

"(b) LIABILITY FOR TAX.—In the case of a tax trigger sale, the tax imposed by subsection (a) on any sport fishing equipment shall be paid by the person selling such article.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) SPORT FISHING EQUIPMENT.—The term 'sport fishing equipment' means—

"(A) fishing rods and poles (and component parts therefor),

"(B) fishing reels,

"(C) fly fishing lines, and other fishing lines not over 130 pounds test,

"(D) fishing spears, spear guns, and spear tips,

"(E) items of terminal tackle, including—

"(i) leaders,

"(ii) artificial lures,

"(iii) artificial baits,

"(iv) artificial flies,

"(v) fishing hooks smaller than size 6/0,

"(vi) bobbers,

"(vii) sinkers,

"(viii) snaps,

"(ix) drayles, and

"(x) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in subparagraph (C), and

"(F) the following items of fishing supplies and accessories—

"(i) fish stringers,

"(ii) creels,

"(iii) tackle boxes,

"(iv) bags, baskets, and other containers designed to hold fish,

"(v) portable bait containers,

"(vi) fishing vests,

"(vii) landing nets,

"(viii) gaff hooks,

"(ix) fishing hook disgorgers, and

"(x) dressing for fishing lines and artificial flies,

"(G) fishing tip-ups and tilts,

"(H) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers,

"(I) electric outboard boat motors, and

"(J) sonar devices suitable for finding fish.

"(2) TAX TRIGGER SALE.—

"(A) IN GENERAL.—The term 'tax trigger sale' means the last sale before any retail sale.

"(B) SALE OUTSIDE UNITED STATES.—If the last sale before any retail sale occurs outside the United States, the amount of tax imposed by subsection (a) shall be paid by the importer at the time of importation.

"(3) RETAIL SALE.—

"(A) IN GENERAL.—The term 'retail sale' means any sale to any person for purposes other than resale.

"(B) LEASE OR USE TREATED AS SALE.—The leasing of or use by any person of any sport fishing equipment before any retail sale of such equipment shall be treated as a retail sale of such equipment by such person.

"(4) PRICE.—

"(A) IN GENERAL.—The term 'price' shall include—

"(i) any charge for coverings and containers of whatever nature, and

"(ii) any charge incident to placing the sport fishing equipment in condition ready for any tax trigger sale,

but shall not include the amount of tax imposed by subsection (a), whether or not stated as a separate charge.

"(B) TRANSPORTATION, ETC. CHARGES.—The term 'price' shall not include any transportation, delivery, insurance, installation, or other charge which is not required to be included under subparagraph (A) but only to the extent of the amount thereof established to the satisfaction of the Secretary in accordance with the regulations prescribed under section 4216(a).

"(5) SONAR DEVICE SUITABLE FOR FINDING FISH.—The term 'sonar device suitable for finding fish' shall not include any sonar device which is—

"(A) a graph recorder,

"(B) a digital type,

"(C) a meter readout, or

"(D) any combination graph recorder or meter readout.

"(6) TACKLE BOXES AND SONAR DEVICES SUITABLE FOR FINDING FISH.—Under regulations prescribed by the Secretary, articles similar to tackle boxes and sonar devices suitable for finding fish which are not primarily designed or intended to be used for sport fishing shall be delineated to ensure, to the maximum extent practicable, that the tax imposed by subsection (a) shall not apply to such articles.

"(7) CERTAIN EXEMPTIONS MADE APPLICABLE.—Exemptions shall apply to the tax imposed by subsection (a) under rules similar to the rules of sections 4221(a) and 4225.

"(8) SALES BETWEEN RELATED PARTIES.—In the case of any tax trigger sale of sport fishing equipment between related parties, rules similar to the rules of section 4216 shall apply.

"(9) CROSS REFERENCE.—For penalties and administrative provisions applicable to this subchapter, see subtitle F.".

(b) TIME FOR PAYMENT OF TAX.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TIME FOR PAYMENT OF EXCISE TAX ON SPORT FISHING EQUIPMENT FOR SMALL MANUFACTURERS.—

"(1) IN GENERAL.—If any small manufacturer is liable for the tax imposed by section 4499(a) (relating to excise tax on sport fishing equipment), the deposit requirements otherwise applicable under this section shall not be required and such tax may be due and payable on the date for filing a return for such tax under section 6071.

"(2) SMALL MANUFACTURER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'small manufacturer', means any manufacturer whose gross receipts for the preceding calendar year do not exceed $100,000.

"(B) DETERMINATION OF SMALL MANUFACTURER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

"(i) all trades or businesses (whether or not incorporated) which are under common control with the small manufacturer (within the meaning of section 52(b)), and

"(ii) all members of any controlled group of corporations of which the small manufacturer is a member,

for the preceding calendar year described in subparagraph (A) shall be included in the gross receipts of the small manufacturer. Under regulations prescribed by the Secretary attribution rules shall take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in manufacturing through partnerships, joint ventures, and corporations.

"(C) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 is amended by adding at the end thereof the following new item:

"Subchapter G. Sport Fishing Equipment.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 1984.

(2) APPLICATION OF TAX.—The amendments made by subsection (a) shall not apply with respect to any article with respect to which any tax was imposed under section 4161 before October 1, 1984.

(3) TACKLE BOXES AND SONAR DEVICES SUITABLE FOR FINDING FISH.—The amendments made by subsection (a) with respect to tackle boxes and sonar devices suitable for finding fish shall take effect on October 1, 1985.

SEC. 820. ESTABLISHMENT OF AQUATIC RESOURCES TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is

amended by adding at the end thereof the following new section:

"SEC. 9505. AQUATIC RESOURCES TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Aquatic Resources Trust Fund'.

"(2) ACCOUNTS IN TRUST FUND.—The Aquatic Resources Trust Fund shall consist of—

"(A) a Sport Fish Restoration Account, and

"(B) a Boating Safety Account.

Each such Account shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), or section 9602(b).

"(b) SPORT FISH RESTORATION ACCOUNT.—

"(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Sport Fish Restoration Account amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

"(A) the taxes imposed by section 4499(a) (relating to sport fishing equipment), and

"(B) the import duties imposed on fishing tackle under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under subpart D of part 6 of schedule 6 of such Schedules.

"(2) EXPENDITURES FROM ACCOUNT.—Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, to carry out the purposes of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (16 U.S.C. 777 et seq.).

"(c) EXPENDITURES FROM BOATING SAFETY ACCOUNT.—Amounts in the Boating Safety Account shall be available, as provided by appropriation Acts, for making expenditures before April 1, 1989, to carry out the purposes of section 13106 of title 46, United States Code.

"(d) CROSS REFERENCE.—

"For provision transferring motorboat fuels taxes to Boating Safety Account and Sport Fish Restoration Account, see section 9503(c)(4).".

(b) TRANSFERS FROM HIGHWAY TRUST FUND.—

(1) Subparagraph (A) of section 9503(c)(4) is amended—

(A) by striking out "the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code, in clause (i) and inserting in lieu thereof "the Boating Safety Account in the Aquatic Resources Trust Fund",

(B) by striking out "the amount in the National Recreational Boating Safety and Facilities Improvement Fund" in clause (ii) and inserting in lieu thereof "the amount in the Boating Safety Account", and

(C) by striking out "NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND" in the subparagraph heading and inserting in lieu thereof "BOATING SAFETY ACCOUNT".

(2) Paragraph (4) of section 9503(c) is amended by redesignating subparagraph (C) as subparagraph (D) and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) $1,000,000 PER YEAR OF EXCESS TRANSFERRED TO LAND AND WATER CONSERVATION FUNDS.—

"(i) IN GENERAL.—Any amount received in the Highway Trust Fund—

"(I) which is attributable to motorboat fuel taxes, and

"(II) which is not transferred from the Highway Trust Fund under subparagraph (A),

shall be transferred (subject to the limitation of clause (ii)) by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.

"(C) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraph (A) or (B),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund.".

(c) CONFORMING AMENDMENT.—Section 13107 of title 46, United States Code, is hereby repealed.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Aquatic Resources Trust Fund.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1984.

(2) BOATING SAFETY ACCOUNT TREATED AS CONTINUATION OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—The Boating Safety Account in the Aquatic Resources Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code. Any reference in any law to the National Recreational Boating Safety and Facilities Improvement Fund established by such section shall be deemed to include (wherever appropriate) a reference to such Boating Safety Account.

SEC. 821. TAX ON CERTAIN BOWS AND ARROWS.

(a) GENERAL RULE.—Part 1 of subchapter D of chapter 32 (relating to imposition of excise tax on sporting goods) is amended to read as follows:

"PART I—BOWS AND ARROWS

"Sec. 4161. Imposition of tax.

"SEC. 4161. IMPOSITION OF TAX.

"(a) BOWS AND ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(1) of any bow which has a draw weight of 10 pounds or more, and

"(2) of any arrow which—

"(A) measures 18 inches overall or more in length, or

"(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1),

a tax equal to 11 percent of the price for which so sold.

"(b) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(1) of any part or accessory suitable for inclusion in or attachment to a bow or arrow described in subsection (a), and

"(2) of any quiver suitable for use with arrows described in subsection (a), a tax equivalent to 11 percent of the price for which so sold.

"(c) COORDINATION WITH SECTION 4499.—No tax shall be imposed under this section with respect to any article on which a tax is imposed under section 4499.".

(b) CLERICAL AMENDMENT.—The table of parts of subchapter D of chapter 32 is amended by striking out the item relating to sporting goods and inserting in lieu thereof the following new item:

"PART 1. BOWS AND ARROWS.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

PART II—OTHER EXCISE TAXES

SEC. 822. INCREASE IN TAX ON DISTILLED SPIRITS.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking out "$10.50" and inserting in lieu thereof "$12.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking out "$10.50" and inserting in lieu thereof "$12.50".

(b) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.—

(1) IMPOSITION OF TAX.—On distilled spirits produced in or imported into the United States which are removed before January 1, 1985, and held on such date for sale by any person, there shall be imposed a tax at the rate of $2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon. Such tax imposed by this paragraph shall be treated as a tax imposed by section 5001.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding distilled spirits on January 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1)—

(i) shall be paid in such manner as the Secretary shall by regulations prescribe, and

(ii) shall be paid at such date (not later than 6 months after the date of the enactment of this Act) as the Secretary shall by regulations prescribe.

(3) EXCEPTION FOR ON-PREMISES RETAIL ESTABLISHMENTS.—To the extent provided in regulations prescribed by the Secretary, the tax imposed by paragraph (1) shall not apply to distilled spirits held on January 1, 1985, on the premises of a retail establishment where alcoholic beverages are sold for consumption on the premises only.

(4) DEFINITIONS.—For purposes of this subsection—

(A) DISTILLED SPIRITS.—The term "distilled spirits" has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1954.

(B) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis.

(C) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1985.

SEC. 823. EXEMPTION FROM AVIATION EXCISE TAX FOR CERTAIN HELICOPTER OPERATIONS.

(a) EXEMPTION FROM FUEL TAX.—Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(b) EXEMPTION FROM TAX ON TRANSPORTATION BY AIR.—Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of fuel occurring and transportation provided after March 31, 1984.

SEC. 824. TECHNICAL AMENDMENTS TO THE HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980.

(a) CLARIFICATION OF EXCEPTED SUBSTANCES.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to tax on certain chemicals) is amended by adding at the end thereof the following new paragraphs:

"(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—

"(A) IN GENERAL.—The term 'taxable chemical' shall not include any qualified petrochemical which is used or sold for use in the manufacture or production of any qualified fuel, including the use of such petrochemical—

"(i) as a qualified fuel,

"(ii) reacted to make products used to make a qualified fuel, or

"(iii) blended with fuel products for use as a qualified fuel.

"(B) QUALIFIED PETROCHEMICALS.—The term 'qualified petrochemical' means acetylene, benzene, butane, butylene, butadiene, ethylene, methane, naphthalene, propylene, toluene, or xylene.

"(C) QUALIFIED FUELS.—The term 'qualified fuel' means any motor fuel, diesel fuel, aviation fuel, or jet fuel.

"(D) USE BY PURCHASER.—Under regulations prescribed by the Secretary, if any person purchases any qualified petrochemical for any use or sale described in subparagraph (A) and then uses or sells such petrochemical for a purpose other than such use or sale, such person shall be treated as the manufacturer thereof and liable for tax under section 4661(a).

"(6) SUBSTANCES USED IN METAL REFINING PROCESS.—

"(A) IN GENERAL.—No tax shall be imposed under this subchapter on cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, zinc sulfate, or on any solution or mixture containing any of such chemicals, which have a transitory presence during any process of smelting, refining, or otherwise extracting copper, lead, zinc, or other metal from ores, concentrates, or other metal-bearing substances which are not subject to tax under section 4661(a).

"(B) REMOVAL OF SUBSTANCES.—The removal by any person for use, sale, disposal, or storage of cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, zinc sulfate, or any solution or mixture containing any of such chemicals, from any such process of smelting, refining, or otherwise extracting metal from ores shall be treated as the use of such chemicals by such person, and shall be subject to tax under section 4661(a).

"(7) OTHER SUBSTANCE WITH TRANSITORY EXISTENCE.—

"(A) IN GENERAL.—No tax shall be imposed under this subchapter on barium sulfide or on any solution or mixture containing any of such chemical, which has a transitory presence during any process of refining or extracting any barium substance or compound from barite ore which is not subject to tax under section 4661(a).

"(B) REMOVAL OF SUBSTANCE.—The removal by any person for use, sale, disposal, or storage of barium sulfide from any process of refining or extracting a substance which is not subject to section 4661(a) shall be treated as the use of such chemical by such person, and shall be subject to tax under section 4661(a).".

(b) CLARIFICATION OF USE FOR FERTILIZER PRODUCTION.—Paragraph (2) of section 4662(b) (relating to exceptions and other special rules) is amended to read as follows:

"(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4661(a) on the use or resale for use of any of the following chemicals:

"(i) methane used to produce ammonia,

"(ii) nitric acid,

"(iii) sulfuric acid, or

"(iv) ammonia,

as a qualified substance (and, for purposes of section 4661(a), any person who uses or resells any such chemical for use otherwise than as a qualified substance shall be treated as the manufacturer thereof).

"(B) QUALIFIED SUBSTANCE.—The term 'qualified substance' means any substance—

"(i) used in a qualified use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified use, or

"(iii) sold for resale by any purchaser for use or resale for ultimate use in a qualified use.

"(C) QUALIFIED USE.—The term 'qualified use' means any use in the manufacture or production of a fertilizer or for direct application as a fertilizer.".

(c) CONFORMING AMENDMENT.—Subsection (c) of section 4662 (relating to use by manufacturers, etc., considered sale) is amended by inserting "(except as provided in subsection (b))" after "then".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 211(a) of the Hazardous Substance Response Revenue Act of 1980.

(2) WAIVER OF LIMITATIONS.—Under regulations prescribed by the Secretary, notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of tax by reason of the amendments made by this section, may be filed by any person within the 1-year period beginning on the date of the enactment of this Act. Section 6511(b) and section 6514 of the Internal Revenue Code of 1954 shall not apply to any claim for credit or refund filed under this paragraph within such 1-year period.

Subtitle D—Employee Benefits

SEC. 825. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978.".

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim thereon is filed before the close of such 1-year period.

SEC. 826. EMPLOYEE STOCK OPTIONS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ELECTION WITH RESPECT TO STOCK TRANSFERRED PURSUANT TO EMPLOYEE STOCK OPTION.—

"(1) IN GENERAL.—If the application of this subsection is elected by a corporation with respect to any transfer of stock of such corporation to an individual pursuant to an employee stock option granted by such corporation—

"(A) subsection (a) shall not apply with respect to such transfer, and

"(B) the amount which would have been included in the gross income of such individual for any taxable year by reason of the application of subsection (a) to such transfer shall be included in the gross income of such individual for the taxable year in which such individual disposes of such stock.

"(2) EMPLOYMENT REQUIREMENT.—

"(A) IN GENERAL.—This subsection shall not apply with respect to any employee stock option granted by a corporation to an individual if such individual was not an employee of such corporation, or of a parent or subsidiary corporation of such corporation, at any time during the period that begins on the date on which such option is granted and ends on the date which is 3 months before the date such option is exercised.

"(B) RETIREMENT.—Any cessation of employment of an individual which is caused by the retirement of such individual after such individual has attained 55 years of age shall not be taken into account under subparagraph (A).

"(3) ELECTION.—An election to apply this subsection with respect to a transfer of stock of a corporation to an individual shall be made by such corporation in such form and in such manner as the Secretary may prescribe by regulations.

"(4) EMPLOYEE STOCK OPTION DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employee stock option' means any option to purchase stock which is granted to an individual who at the time of the grant was an employee of the corporation granting such option or a parent or subsidiary corporation of such corporation, but only if—

"(i) the option is not for the purchase of statutory option stock (within the meaning of section 425(c)(3)(B));

"(ii) such option by its terms—

"(I) requires that stock certificates issued upon exercise of such option be retained by the corporation or its agent for the benefit of the employee, or

"(II) requires the use of restrictive legends or stop-transfer instructions with respect to such stock certificates;

"(iii) the option price is not less than the fair market value of the stock at the time such option is granted;

"(iv) the terms of such option provide that the option is not exercisable while there is outstanding any other option described in this subparagraph or an incentive stock option (within the meaning of section 422A(b)) to purchase stock in—

"(I) the employer corporation,

"(II) a corporation that (at the time of the granting of such option) is a parent or subsidiary corporation of the employer corporation, or

"(III) a predecessor corporation of any of such corporations,

which was granted before the granting of such option;

"(v) such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution and is exercisable, during the lifetime of such individual, only by such individual, and

"(vi) the sum of—

"(I) the fair market value of stock that may be acquired pursuant to such option (determined at the time such option is granted), plus

"(II) the aggregate fair market value of all stock that may be acquired pursuant to options described in this subparagraph to purchase stock in any corporation described in subclause (I), (II), or (III) of clause (iv) which were granted to such individual prior to such option during the calendar year in which such option was granted (determined at the time such options were granted), plus

"(III) the aggregate fair market value of all stock that may be acquired pursuant to incentive stock options (within the meaning of section 422A(b)) to purchase stock in any corporation described in subclause (I), (II), or (III) of clause (iv) which were granted by such corporation to such individual during the calendar year in which such option was granted (determined at the time such incentive stock options were granted),

does not exceed $100,000.

"(B) SPECIAL RULES.—

"(i) NOTICE OF DISPOSITION TO CORPORATION.—An option meets the requirements of subparagraph (A)(ii) if the terms of the option require that any stock certificate of a corporation issued upon exercise of such option indicate on the face of such certificate that transfer of the stock is subject to the provision of notice to the corporation of such transfer.

"(ii) OPTION OUTSTANDING.—For purposes of subparagraph (A)(iv), an option shall be treated as being outstanding if such option—

"(I) has not been exercised in full, or

"(II) has not expired by reason of lapse of time.

"(iii) FAIR MARKET VALUE.—For purposes of subparagraph (A), the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(5) MODIFICATION, EXTENSION, OR RENEWAL OF OPTION.—For purposes of this subsection—

"(A) IN GENERAL.—If the terms of any option to purchase stock are modified, extended, or renewed, such modification, extension, or renewal shall be considered as the granting of a new option.

"(B) MODIFICATION DEFINED.—The term 'modification' means any change in the terms of the option which gives the employee additional benefits under the option, but such term shall not include a change in the terms of the option—

"(i) attributable to the issuance or assumption of an option described in section 425(a), or

"(ii) in the case of an option not immediately exercisable in full, to accelerate the time at which the option may be exercised.

"(6) NOTIFICATION OF SALE OF OPTION STOCK.—No deduction shall be allowable under this chapter to an employer corporation with respect to any employee stock option until the employer corporation provides notice to the Secretary (in such form and in such manner as the Secretary may prescribe by regulations) of the sale of stock pursuant to such employee stock option.

"(7) NONDISCRIMINATING PROVISION.—

"(A) IN GENERAL.—A corporation may elect the application of this subsection only if the corporation does not discriminate in favor of—

"(i) shareholders of the corporation who own 5 percent or more of—

"(I) the total combined voting power of all classes of stock of the corporation entitled to vote, or

"(II) the total value of share of all classes of stock of the corporation, or

"(ii) officers of the corporation who annually earn more than twice the amount specified in section 415(c)(1)(A)

in the granting of employee stock options or in the making of elections under this section.

"(B) DISCRIMINATION PRESUMED.—For purposes of this paragraph, a corporation shall be treated as discriminating in favor of shareholders or officers described in subparagraph (A) in the granting of employee stock options if—

"(i) more than 60 percent of the aggregate fair market value of the employee stock options granted by such corporation in any calendar year beginning after 1983, or

"(ii) more than 60 percent of the aggregate fair market value of employee stock options granted by such corporation at any time before January 1, 1984,

is granted to shareholders or officers described in subparagraph (A).

"(C) EMPLOYEES UNDER COMMON CONTROL.—For purposes of this paragraph—

"(i) CONTROLLED GROUP OF CORPORATIONS.—All employees of all corporations which are members of a controlled group of corporations (within the meaning of sections 1563(a), determined without regard to section 1563 (a)(4) and (e)(3)(C)) shall be treated as employed by a single employer.

"(ii) PARTNERSHIPS, PROPRIETORSHIPS, ETC.—Under regulations prescribed by the Secretary, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. The regulations prescribed under this subsection shall be based on principles similar to the principles which apply under clause (i).

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) DISPOSITION.—For purposes of this subsection, the term 'disposition' has the meaning given such term in section 425(c)(1) (determined without regard to subparagraph (A) thereof).

"(B) PARENT CORPORATION.—The term 'parent corporation' has the meaning given to such term by section 425(e).

"(C) SUBSIDIARY CORPORATION.—The term 'subsidiary corporation' has the meaning given to such term by section 425(f).".

(b) DEDUCTION FOR EMPLOYER.—Subsection (h) of section 83 (relating to deduction by employer) is amended by striking out "or (d)(2)" and inserting in lieu thereof "(d)(2), or (i)".

(c) DEFERRED INCOME TREATED AS ITEM OF TAX PREFERENCE FOR MINIMUM TAX PURPOSES.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(13) CERTAIN STOCK TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.—In the case of stock with respect to which an election is made under section 83(i), the amount which would be included in gross income for the taxable year with respect to such stock by reason of section 83(a) if section 83(i) were not elected.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the transfer of stock pursuant to the exercise of stock options after the date of the enactment of this Act.

SEC. 827. TECHNICAL AMENDMENTS TO THE INCENTIVE STOCK OPTION PROVISIONS.

(a) DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—Subsection (c) of section 422A (relating to special rules) is amended by adding at the end thereof of the following new paragraph:

"(10) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.".

(2) INCENTIVE STOCK OPTION AS AN ITEM OF TAX PREFERENCE.—Paragraph (10) of section 57(a) (relating to items of tax preference) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction which, by its terms, will never lapse.".

(b) MODIFICATION OF INCENTIVE STOCK OPTIONS.—Subparagraph (B) of section 425(h)(3) (relating to modifications) is amended by striking out "422A(b)(5),".

(c) EFFECTIVE DATES.—

(1) FAIR MARKET VALUE.—The amendment made by subsection (a) shall apply to options granted after March 20, 1984, except that such subsection shall not apply to any incentive stock option granted before September 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before March 20, 1984.

(2) ITEMS OF TAX PREFERENCE.—The amendment made by subsection (b) shall apply to options exercised after March 20, 1984. In the case of an option issued after March 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before March 20,

1984, the preceding sentence shall be applied by substituting "December 31, 1984" for "March 20, 1984".

(3) MODIFICATIONS.—The amendment made by subsection (c) shall apply with respect to modifications of options after March 20, 1984.

SEC. 828. EMPLOYEE ACHIEVEMENT AWARDS.

(a) EXCLUSION FROM GROSS INCOME.—Section 74 (relating to prizes and awards) is amended—

(1) by striking out "Except as provided in subsection (b) and" in subsection (a) and inserting in lieu thereof "Except as otherwise provided in this section or", and

(2) by adding at the end thereof the following new subsection:

"(c) QUALIFIED EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, gross income shall include that portion of the value of a qualified employee achievement award received by the taxpayer that does not exceed an amount equal to the excess of—

"(A) the lesser of—

"(i) the cost to the employer of the qualified employee achievement award, or

"(ii) the value to the employee of the qualified employee achievement award, over

"(B) the amount allowable to the employer (or which would be allowable if the employer were not exempt from taxation under this title) as a deduction for the cost of the qualified employee achievement award.

The remaining portion of the value of the qualified employee achievement award shall not be included in the gross income of the recipient.

"(2) QUALIFIED EMPLOYEE ACHIEVEMENT AWARD.—For purposes of this subsection, the term 'qualified employee achievement award' means any employee achievement award (within the meaning of section 274(k)(3)(A)) which—

"(A) is awarded as part of a meaningful presentation,

"(B) is awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation, and

"(C) constitutes—

"(i) a watch, clock, or other timepiece,

"(ii) an item of emblematic jewelry or a ring that has been custom designed and manufactured to identify or symbolize the awarding employer or the achievement being recognized,

"(iii) to the extent provided in regulations prescribed by the Secretary, an item which is of a type traditionally used to make a retirement award,

"(iv) to the extent provided in regulations prescribed by the Secretary, an item which is of a type traditionally used to make a nonretirement employee achievement award, or

"(v) any accessory for personal wear, use, or display which is permanently and prominently affixed to an item described in clause (i) or (ii) provided that such accessory does not constitute a significant element of cost.".

(b) GIFTS.—Section 274(b) (relating to gifts) is amended—

(1) by inserting ", or" after "generally by the taxpayer" in subparagraph (1)(A),

(2) by striking out "or" after "of the recipient" in subparagraph (1)(B), and inserting a period,

(3) by striking out subparagraph (1)(C), and

(4) by striking out paragraph (3).

(c) EMPLOYEE BENEFIT PLANS.—Section 414 (relating to employee benefits plans) is amended—

(1) by inserting "274(j)," before "401" in subsection (b),

(2) by inserting "274(j)," before "401" in subsection (c), and

(3) by striking out "and (D) section 125." after "(C) section 105(h)," and inserting in lieu thereof "(D) section 125, and (E) section 274(j)." in subsection (m).

(d) DEDUCTION FOR COST OF EMPLOYEE ACHIEVEMENT AWARDS.—Section 274 (relating to certain entertainment, etc., expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) GENERAL RULE.—A deduction allowed under section 162 or section 212 for the cost of an employee achievement award shall be allowed only to the extent that such cost does not exceed the deduction limitations of paragraph (2).

"(2) DEDUCTION LIMITATIONS.—The deduction for the cost of one or more qualified plan awards awarded by an employer to an employee during the same year for the same qualifying achievement shall not exceed $1,600, and the deduction for the cost of such items awarded by an employer to an employee during the same year for the same qualifying achievement which are not qualified plan awards shall not exceed $400.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE ACHIEVEMENT AWARD.—

"(i) IN GENERAL.—The term 'employee achievement award' means an item of tangible personal property transferred by an employer to an employee for a qualifying achievement, which the employer does not elect to treat in its entirety as compensation to the employee.

"(ii) EXCEPTION.—An item shall not constitute an employee achievement award if—

"(I) such item is provided to a key employee, and

"(II) more than 10 percent of the cost paid or incurred by the taxpayer during the same year is for items which would, but for this clause, constitute employee achievement awards awarded to key employees.

"(B) QUALIFYING ACHIEVEMENT.—The three qualifying achievements for an employee achievement award are length of service (including retirement), productivity, and safety achievement.

"(C) EMPLOYER.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer.

"(D) QUALIFIED PLAN AWARD.—The term 'qualified plan award' means an employee achievement award provided under a qualified plan which the employer elects to treat as a qualified plan award, and which meets the requirement of subparagraph (E).

"(E) QUALIFIED PLAN.—The term 'qualified plan' means an established written plan or program of the employer to provide employee achievement awards.

"(F) KEY EMPLOYEE DEFINED.—The term 'key employee' has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (4)(C)(ii) who are not eligible to receive qualified plan awards under the plan.

"(4) SPECIAL RULES FOR QUALIFIED PLAN AWARDS.—

"(A) AVERAGE COST OF AWARDS.—An employee achievement award shall not be treated as a qualified plan award if the average cost per recipient of all employee achievement awards which were provided by the employer during the year for the same qualifying achievement, and which would be qualified plan awards but for this subparagraph, exceeds $400. For purposes of this subparagraph, a 'recipient' shall be any employee who received a qualified plan award for that qualifying achievement during the year, and average cost shall be calculated by including the entire cost of qualified plan awards provided for that qualifying achievement. Average cost shall be calculated without taking into account employee achievement awards of nominal value.

"(B) NONDISCRIMINATION REQUIREMENT.—

"(i) IN GENERAL.—An employee achievement award provided to a key employee under a discriminatory qualified plan shall not be treated as a qualified plan award.

"(ii) DISCRIMINATORY QUALIFIED PLAN.—For purposes of this paragraph, the term 'discriminatory qualified plan' means any qualified plan of an employer unless—

"(I) the plan does not discriminate in favor of key employees as to eligibility to receive qualified plan awards, and

"(II) the type and cost of qualified plan awards available under the plan does not discriminate in favor of participants who are key employees.

"(C) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

"(i) IN GENERAL.—A qualified plan does not meet requirements of paragraph (4)(B)(ii)(I) unless—

"(I) 70 percent or more of all employees of the employer are eligible for qualified plan awards under such plan,

"(II) at least 85 percent of all employees who are eligible for qualified plan awards under such plan are not key employees, or

"(III) the employees who are eligible for qualified plan awards under such plan are determined under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees.

"(ii) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this subparagraph, there may be excluded from consideration—

"(I) employees who have not completed 3 years of service;

"(II) part-time or seasonal employees;

"(III) employees not included in the qualified plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if methods or standards for recognizing employee achievements were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(IV) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(D) NONDISCRIMINATORY BENEFITS.—A qualified plan does not meet the requirements of paragraph (4)(B)(ii)(II) unless all qualified plan awards available under the plan to key employees are available under the plan to all other employees who are eligible to receive qualified plan awards under the plan.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) PARTNERSHIPS.—In the case of an employee achievement award provided by a partnership, the deduction limitations contained in paragraph (2) shall apply to the

partnership as well as to each member thereof.

"(B) LENGTH OF SERVICE AWARDS.—

"(i) IN GENERAL.—An item, other than an exempted item, provided by an employer to an employee, shall not be treated as having been provided for length of service achievement if an employee achievement award other than an exempted item was provided by the employer to the employee for length of service achievement during that year or any of the prior three years.

"(ii) EXEMPTED ITEM.—For purposes of this subparagraph, the term 'exempted item' means an employee achievement award which is of nominal value, is provided as part of the replacement of one length of service plan by another, is a retirement award, or is an initial years award.

"(iii) INITIAL YEARS AWARD.—For purposes of this subparagraph, the term 'initial years award' means an employee achievement award provided to an employee for length of service achievement during the first five years of employment with the employer, but only to the extent that the cost of the award, when combined with the cost of all other such awards provided to that employee for those years, does not exceed $200.

"(C) DOLLAR LIMITATIONS.—Except for employee achievement awards of nominal value, the aggregate amount that an employer may deduct for the cost of one or more employee achievement awards provided to an employee for productivity or safety achievement for any consecutive four-year period shall not exceed $1,600 for each category of award.

"(D) LIMITATION ON NUMBER OF RECIPIENTS.—An item provided by an employer to an employee shall not be treated as having been provided for productivity or safety achievement if, during the same year, employee achievement awards (other than awards of nominal value) for productivity or safety achievement, have previously been awarded by the employer to, or earned by, more than 10 percent of the employer's employees.

"(E) NO MULTIPLE ACHIEVEMENT AWARDS.—No item shall be treated as an employee achievement award for more than one qualifying achievement.

"(F) INFORMATION AND RETURNS.—The Secretary shall have authority to require any person, by notice served upon such person or by regulations, to make such returns, render such statements, and keep such records as may be appropriate to show whether or not such person has complied with the provisions of this section, including information with respect to numbers, types, costs, and recipients of employee achievement awards, and the numbers and types of qualified plans maintained, the numbers and costs of items awarded under such plans, and the employees eligible to receive awards under such plans.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to awards received after the date of enactment of this Act.

SEC. 829. MORATORIUM ON ISSUANCE OF FRINGE BENEFIT REGULATIONS.

(a) IN GENERAL.—Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (26 U.S.C. 61 note) (relating to fringe benefit regulations), is amended by striking out "December 31, 1983" each place it appears and inserting in lieu thereof "December 31, 1985".

(b) FACULTY HOUSING.—

(1) IN GENERAL.—For purposes of section 1(a) of such Act, any regulation providing for the inclusion in gross income under section 61 of the Internal Revenue Code of 1954 of the excess (if any) of the fair market value of qualified campus lodging over the greater of—

(A) the operating costs paid or incurred in furnishing such lodging, or

(B) the rent received for such lodging,

shall be considered to be a fringe benefit regulation.

(2) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term "qualified campus lodging" means lodging which is—

(A) located on (or in close proximity to) a campus of an educational institution (described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954), and

(B) provided by such institution to an employee of such institution, or to a spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(3) SECTION NOT TO APPLY TO AMOUNTS TREATED AS WAGES (OR INCOME).—An amount—

(A) shall not be excluded from treatment as wages by reason of this subsection if the employer treated such amount as wages when paid, and

(B) shall not be excluded from gross income by reason of this subsection if such amount was included in gross income by the taxpayer for the taxable year during which such amount was received or accrued.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) of this section shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (b).—Subsection (b) of this section shall apply to lodging furnished after December 31, 1983, and before January 1, 1986.

SEC. 830. PICKUPS UNDER SALARY REDUCTION ARRANGEMENTS.

(a) SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended by striking out "section 414(h)(2) of such Code" in the matter added by section 324(c)(1) of the Social Security Amendments of 1983 and inserting in lieu thereof "section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise)".

(b) INTERNAL REVENUE CODE OF 1954.—

(1) FICA.—Subparagraph (B) of section 3121(v)(1) is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise).".

(2) FUTA.—Subparagraph (B) of section 3306(r)(1) is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise).".

SECTION 831. CERTAIN LOCAL ORGANIZATIONS OF POLICE AND FIREFIGHTERS MADE EXEMPT FROM TAXATION.

(a) Subsection (c) of section 501 (listing organizations exempt from tax on corporations, certain trusts, etc.) is amended by adding at the end thereof the following new paragraph:

"(26) A police and firefighters organization—

"(A) of a purely local character;

"(B) no part of the net earnings of which inures (other than through payment of life, sick, accident, retirement, or other benefits) to the benefit of any private shareholder or individual;

"(C) the income of which consists solely of amounts received from State and local governments, amounts received from assessments on the police and firefighter salaries of members, amounts received from members dues and contributions, amounts received from fundraising activities, and income in respect of investments and any other income which inures solely to the benefit of the membership or the association;

"(D) in which (i) the funding, financing, and eligibility requirements are governed by an act of the State legislature, and (ii) the benefits or services provided to members are benefits or services that in other communities are provided by municipal or State governments and supported by tax funds; and

"(E) which satisfies the requirements of section 401(a) as though it were a governmental plan defined in section 414(d).".

(b) The amendment made by subsection (a) of this Act shall apply to taxable years beginning August 23, 1981.

Subtitle E—Miscellaneous Treasury Administrative Provisions

SEC. 831. SIMPLIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) DISC REPORT.—

(1) Section 506 of the Revenue Act of 1971 (relating to submission of annual reports to Congress) is amended to read as follows:

"SEC. 506. SUBMISSION OF REPORTS TO CONGRESS.

"The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 27½ months following the close of such calendar year setting forth an analysis of the operation and effect of the provisions of this title.".

(2) The amendment made by paragraph (1) shall apply to reports for calendar years after 1980.

(b) REPORT ON POSSESSIONS CORPORATIONS.—The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 24 months following the close of such calendar year setting forth an analysis of the operation and effect of sections 936 and 934(b) of the Internal Revenue Code of 1954.

(c) HIGH INCOME TAXPAYER REPORT.—

(1) Section 2123 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 2123. HIGH INCOME TAXPAYER REPORT.

"The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.".

(2) The amendment made by paragraph (1) shall apply to information published after the date of the enactment of this Act.

(d) INTERNATIONAL BOYCOTT REPORTS.—

(1) Section 1067 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 1067. REPORTS BY THE SECRETARY.

"(a) GENERAL RULE.—As soon after the close of each 4-year period as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth for such 4-year period—

"(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within each calendar year in such 4-year period,

"(2) the number of such reports with respect to each such calendar year on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

"(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such 4-year period.

"(b) 4-YEAR PERIOD.—For purposes of subsection (a), the term '4-year period' means the period consisting of 4 calendar years beginning with calendar year 1982 and each subsequent fourth calendar year.".

(2) The amendment made by paragraph (1) shall apply to reports for periods after December 31, 1981.

SEC. 832. REMOVAL OF $1,000,000 LIMITATION ON WORKING CAPITAL FUND.

The last sentence of section 322(a) of title 31, United States Code (placing a $1,000,000 limitation on the working capital fund for the Department of the Treasury), is hereby repealed.

SEC. 833. INCREASE IN LIMITATION ON REVOLVING FUND FOR REDEMPTION OF REAL PROPERTY.

Subsection (a) of section 7810 (relating to revolving fund for redemption of real property) is amended by striking out "$1,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 834. REMOVAL OF $1,000,000 LIMITATION ON SPECIAL AUTHORITY TO DISPOSE OF OBLIGATIONS.

Subsection (b) of section 324 of title 31, United States Code (relating to disposing and extending the maturity of obligations), is amended by striking out the last sentence.

SEC. 835. SECRETARY OF THE TREASURY AUTHORIZED TO ACCEPT GIFTS AND BEQUESTS.

Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treperty received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

"(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

"(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.".

SEC. 836. EXTENSION OF PERIOD FOR COURT REVIEW OF JEOPARDY ASSESSMENT WHERE PROMPT SERVICE NOT MADE ON THE UNITED STATES.

(a) GENERAL RULE.—Paragraph (2) of section 7429(b) (relating to judicial review) is amended by adding at the end thereof the following new sentence:

"If the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions commenced after the date of the enactment of this Act.

SEC. 837. EXTENSION OF PERIOD DURING WHICH ADDITIONAL TAX SHOWN ON AMENDED RETURN MAY BE ASSESSED.

(a) GENERAL RULE.—Subsection (c) of section 6501 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN AMENDED RETURNS.—Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act.

SEC. 838. FINANCIAL REPORTING OF INVESTMENT TAX CREDITS.

(a) IN GENERAL.—Paragraph (1) of section 101(c) of the Revenue Act of 1971 (85 Stat. 499) (relating to accounting for investment credit in certain financial reports and reports to Federal agencies) is amended—

(1) by inserting "and" at the end of subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(3) by striking out subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Revenue Act of 1971.

SEC. 839. REPORT ON REGULATED FUTURES CONTRACTS LITIGATION.

The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives before October 1, 1984, with respect to progress made by the Secretary of the Treasury or his delegate in reducing the backlog of cases involving the tax treatment of certain regulated futures contracts to which the provisions of Federal tax law in effect before 1981 apply.

SEC. 840. TREATMENT OF CERTAIN GUARANTEED DRAFTS ISSUED BY FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (2) of section 6311(b) (relating to liability of banks and others) is amended—

(1) by striking out "or cashier's check" and inserting in lieu thereof "or cashier's check (or other guaranteed draft)",

(2) by striking out "the amount of such check" and inserting in lieu thereof "the amount of such check (or draft)",

(3) by striking out "the bank or trust company" and inserting in lieu thereof "the financial institution", and

(4) by striking out "such bank" each place it appears and inserting in lieu thereof "such financial institution".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 841. DISCLOSURE OF WINDFALL PROFIT TAX INFORMATION TO STATE TAX OFFICIALS.

(a) GENERAL RULE.—Paragraph (1) of section 6103(d) (relating to disclosure to State tax officials) is amended by striking out "44, 51" and inserting in lieu thereof "44, 45, 51".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 842. EXTENSION OF STATUTORY LIMITATIONS TO THE EXTENDED TIME GIVEN TO DESIGNATE RECEIPTS AS CAPITAL CONTRIBUTIONS.

(a) IN GENERAL.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(r) SPECIAL RULES FOR CONTRIBUTIONS TO CAPITAL OF CORPORATION.—In the case of a deficiency attributable to the failure to meet the requirements of the expenditure rule of section 118(b)(2), such deficiency may be assessed at any time within 3 years after such failure.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to failures occurring after December 31, 1984.

Subtitle F—Provisions Relating to Distilled Spirits

SEC. 843. REPEAL OF OCCUPATIONAL TAX ON MANUFACTURERS OF STILLS AND CONDENSERS; NOTICES OF MANUFACTURE AND SET UP OF STILLS.

(a) IN GENERAL.—Subpart C of part II of subchapter A of chapter 51 (relating to manufacturers of stills) is amended to read as follows:

"Subpart C—Manufacturers of Stills

"Sec. 5101. Notice of manufacture of still; notice of set up of still.

"Sec. 5102. Definition of manufacturer of stills.

"SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF SET UP OF STILL.

"(a) NOTICE REQUIREMENTS.—

"(1) NOTICE OF MANUFACTURE OF STILL.—The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

"(2) NOTICE OF SET UP OF STILL.—The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

"(b) PENALTIES, ETC.—

"(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

"(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

"SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS.

"Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 5179(b) (relating to registration of stills) is amended to read as follows:

"(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).".

(2) Paragraph (2) of section 5615 (relating to property subject to forfeiture) is amended to read as follows:

"(2) DISTILLING APPARATUS REMOVED WITHOUT NOTICE OR SET UP WITHOUT NOTICE.—Any still, boiler, or other vessel to be used for the purpose of distilling—

"(A) which is removed without notice having been given when required by section 5101(a)(1), or

"(B) which is set up without notice having been given when required by section 5101(a)(2); and".

(3) Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes relating to liquors) is amended by striking out "limited retail dealer, or manufacturer of stills" and inserting in lieu thereof "or limited retail dealer".

SEC. 844. ALLOWANCE OF DRAWBACK CLAIMS EVEN WHERE CERTAIN REQUIREMENTS NOT MET.

Section 5134 (relating to drawback) is amended by adding at the end thereof the following new subsection:

"(c) ALLOWANCE OF DRAWBACK EVEN WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

"(2) PENALTY.—

"(A) IN GENERAL.—In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

"(B) PENALTY MAY NOT EXCEED AMOUNT OF CLAIM.—The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

"(3) PENALTY TREATED AS TAX.—The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6662(a).".

SEC. 845. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.—Notwithstanding any other provision of this section, the Secretary may disclose—

"(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

"(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) (relating to records of inspection and disclosure) is amended by striking out "(5), or (7)" and inserting in lieu thereof "(5), (7), (8), or (9)".

(2) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

(3) Clause (i) of section 6103(p)(4)(F) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), (8), or (9)".

(4) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "or (8)" and inserting in lieu thereof "(8), or (9)".

(5) Section 127(a)(1) of Public Law 96-249 is amended by striking out "Subsection (i)" and inserting in lieu thereof "Subsection (l)".

(6) The paragraph (7) of section 6103(l) added by Public Law 96-265 is hereby redesignated as paragraph (8).

SEC. 846. REPEAL OF STAMP REQUIREMENT FOR DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5205 (relating to stamps) is hereby repealed.

(b) BOTTLES MUST HAVE OTHER ANTITAMPERING CLOSURE.—Section 5301 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CLOSURES.—The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The second sentence of section 5062(b) (relating to drawback in case of exportation) is amended by striking out "stamped or restamped, and".

(2) Paragraph (2) of section 5066(a) (relating to bottled distilled spirits eligible for export with benefit of drawback) is amended by striking out "stamped or restamped, and marked," and inserting in lieu thereof "marked".

(3) Subsection (b) of section 5116 (relating to cross references) is amended to read as follows:

"(b) CROSS REFERENCE.—

"For provisions relating to containers of distilled spirits, see section 5206.".

(4) Subsection (c) of section 5204 (relating to gauging) is amended—

(A) by striking out "STAMPING," in the heading, and

(B) by striking out "stamping," in the text.

(5)(A) Section 5206 (relating to containers) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) EFFACEMENT OF MARKS AND BRANDS ON EMPTIED CONTAINERS.—Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.".

(B) Subsection (f) of section 5206, as redesignated by subparagraph (A), is amended by adding at the end thereof the following new paragraphs:

"(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

"(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.".

(6) Paragraph (4) of section 5207(a) (relating to records and reports) is amended by striking out subparagraph (D), by adding "and" at the end of subparagraph (B), and by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period.

(7) Subsection (c) of section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended—

(A) by striking out "RESTAMPING" in the heading and inserting in lieu thereof "RECLOSING", and

(B) by striking out "restamping" in the text and inserting in lieu thereof "reclosing".

(8) Section 5235 (relating to bottling of alcohol for industrial purposes) is amended by striking out "stamped," in the first sentence and by striking out the second sentence.

(9) Subsection (c) of section 5301 (relating to regulation of traffic in containers of distilled spirits) is amended—

(A) by striking out "stamping" in paragraphs (1) and (3) and inserting in lieu thereof "tax determination", and

(B) by striking out ", if the liquor bottles are to be again stamped under the provisions of this chapter".

(10) Subsection (a) of section 5555 (relating to records, statements, and returns) is amended by striking out "or for the affixing of any stamp required to be affixed by this chapter,".

(11)(A) Section 5604 (relating to penalties relating to stamps, marks, brands, and containers) is amended to read as follows:

"SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND CONTAINERS.

"(a) IN GENERAL.—Any person who shall—

"(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d);

"(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

"(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

"(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other

device under the provisions of this chapter, without removing and destroying such closure or other device,

"(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

"(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

"(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than $10,000 or imprisoned not more than 5 years, or both, for each such offense.

"(b) CROSS REFERENCES.—

"For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.".

(B) The table of sections for part I of subchapter J of chapter 51 is amended by striking out the item relating to section 5604 and inserting in lieu thereof the following:

"Sec. 5604. Penalties relating to marks, brands, and containers.".

(12)(A) Subsection (b) of section 5613 (relating to forfeiture of distilled spirits not stamped, marked, or branded as required by law) is amended to read as follows:

"(b) CONTAINERS WITHOUT CLOSURES.—All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.".

(B) The section heading of section 5613 is amended by striking out "STAMPED" and inserting in lieu thereof "CLOSED".

(C) The item relating to section 5613 in the table of sections for part I of subchapter J of chapter 51 is amended by striking out "stamped" and inserting in lieu thereof "closed".

(13) Subsection (b) of section 6801 (relating to authority for establishment, alteration, and distribution) is amended by striking out "several stamp taxes;" and all that follows and inserting in lieu thereof "several stamp taxes.".

(14) The table of sections for part I of subchapter C of chapter 51 is amended by striking out the item relating to section 5205.

SEC. 847. MODIFICATION OF PAYMENT DATE AND REQUIREMENT OF ELECTRONIC FUNDS TRANSFER FOR ALCOHOL AND TOBACCO EXCISE TAXES.

(a) ALCOHOL PRODUCTS.—Section 5061 (relating to method of collecting tax on distilled spirits, etc.) is amended—

(1) by striking out subsection (d), and

(2) by adding at the end thereof the following new subsections:

"(d) TIME FOR PAYMENT OF TAXES ON DISTILLED SPIRITS, WINES, AND BEER.—

"(1) IN GENERAL.—In the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax or from bonded premises (including customs custody), the last day for such payment of such tax shall be the 14th day after the last day of the semimonthly period during which the withdrawal occurred.

"(2) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under paragraph (1) would fall on a Saturday, Sunday, or a Federal holiday, such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(e) PAYMENT BY ELECTRONIC FUND TRANSFER.—

"(1) IN GENERAL.—Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

"(2) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.".

(b) TOBACCO PRODUCTS.—Subsection (b) of section 5703 (relating to method of payment of tax on tobacco) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) TIME FOR PAYMENT OF TAXES.—

"(A) IN GENERAL.—In the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period, the last day for the payment of such taxes shall be the 14th day after the last day of such semimonthly period.

"(B) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under paragraph (1) would fall on a Saturday, Sunday, or a Federal holiday, such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay during the succeeding calendar year such taxes by electronic fund transfer (as defined in section 5061(b)(2)) to the Federal Reserve Bank.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid after June 30, 1984 for semimonthly periods ending on or after such date.

(2) SPECIAL RULE FOR SEMIMONTHLY PERIOD ENDING JUNE 15, 1984.—With respect to remittances for taxes imposed on distilled spirits under section 5001 of the Internal Revenue Code of 1954 and tobacco products and cigarette papers and tubes under section 5701 of such Code for the semimonthly period ending on June 15, 1984, the last day for such remittances shall be July 16, 1984.

SEC. 848. COOKING WINE MAY BE FORTIFIED USING DISTILLED SPIRITS.

(a) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).".

(b) LIABILITY FOR TAX.—

(1) Paragraph (1) of section 5005(e) (relating to withdrawals without payment of tax) is amended by striking out "or (10)" and inserting in lieu thereof "(10), or (13)".

(2) Paragraph (2) of section 5005(e) is amended by inserting "used in the production of nonbeverage wine or wine products," after "used in the production of wine,".

(c) TECHNICAL AMENDMENT.—Section 5354 (relating to bonds for bonded wine cellars) is amended by striking out "wine spirits" each place it appears and inserting in lieu thereof "distilled spirits".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 849. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this subtitle or in subsection (b) of this section, the amendments made by this subtitle shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 858 shall take effect on July 1, 1985.

Subtitle G—Simplification and Extension of Income Tax Credits

SEC. 850. SHORT TITLE.

This subtitle may be cited as the "Tax Credit Simplification Act of 1984".

SEC. 851. CREDITS GROUPED TOGETHER IN MORE LOGICAL ORDER.

(a) CREDITS DIVIDED INTO 4 CATEGORIES.—The table of subparts for part IV of subchapter A of chapter 1 (relating to credits against tax) is amended to read as follows:

"Subpart A. Nonrefundable personal credits.

"Subpart B. Foreign tax credit, etc.

"Subpart C. Refundable credits.

"Subpart D. Business-related credits.".

(b) EXISTING CREDITS ASSIGNED TO APPROPRIATE CATEGORY.—Part IV of subchapter A of chapter 1 is amended by striking out the heading and table of sections for subpart A and inserting in lieu thereof the following:

"Subpart A—Nonrefundable Personal Credits

"Sec. 21. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 22. Credit for the elderly and the permanently and totally disabled.

"Sec. 23. Residential energy credit.

"Sec. 24. Contributions to candidates for public office.

"Sec. 25. Limitation based on tax liability; definition of tax liability.

"Subpart B—Foreign Tax Credit, Etc.

"Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.

"Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.

"Sec. 29. Credit for producing fuel from a nonconventional source.

"Sec. 30. Credit for increasing research activities.

"Subpart C—Refundable Credits

"Sec. 31. Tax withheld on wages.

"Sec. 32. Earned income.

"Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.

"Sec. 34. Certain uses of gasoline and special fuels.

"Sec. 35. Overpayments of tax.

"Subpart D—Business Related Credits

"Sec. 38. General business credit.

"Sec. 39. Carryback and carry forward of unused credits.

"Sec. 40. Alcohol used as fuel.

"Sec. 41. Employee stock ownership credit.".

(c) SECTIONS MOVED TO APPROPRIATE PLACE IN PART IV.—

(1) DESIGNATION.—The following sections of such part IV are henceforth to be designated in accordance with the following table:

Old section number:	New section number:	New subpart designation:
44A	21	A
37	22	A
44C	23	A
41	24	A
33	27	B
44H	28	B
44D	29	B
44F	30	B
31	31	C
43	32	C
32	33	C
39	34	C
45	35	C
44E	40	D
44G	41	D

(2) PLACED IN APPROPRIATE SUBPARTS.—Each section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in the appropriate subpart of such part IV.

SEC. 852. UNIFORM LIMITATION ON PERSONAL NONREFUNDABLE CREDITS.

Subpart A of part IV of subchapter A of chapter 1 is amended by adding after section 24 the following new section:

"SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's tax liability for such taxable year.

"(b) TAX LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax liability' means the tax imposed by this chapter for the taxable year.

"(2) EXCEPTION FOR CERTAIN TAXES.—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

"(A) section 56 (relating to corporate minimum tax),

"(B) subsection (m)(5)(B), (o)(2), or (q) of section 72 (relating to additional tax on certain distributions),

"(C) section 408(f) (relating to additional tax on income from certain retirement accounts),

"(D) section 531 (relating to accumulated earnings tax),

"(E) section 541 (relating to personal holding company tax),

"(F) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),

"(G) section 1374 (relating to tax on certain capital gains of S corporations), and

"(H) section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts).

"(c) SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c).".

SEC. 853. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-RELATED CREDITS.

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting before section 40 the following new sections:

"SEC. 38. GENERAL BUSINESS CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the business credit carryforwards carried to such taxable year,

"(2) the amount of the current year business credit, plus

"(3) the business credit carrybacks carried to such taxable year.

"(b) CURRENT YEAR BUSINESS CREDIT.—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

"(1) the investment credit determined under section 46(a),

"(2) the targeted jobs credit determined under section 51(a),

"(3) the alcohol fuels credit determined under section 40(a), plus

"(4) the employee stock ownership credit determined under section 41(a).

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

"(A) so much of the taxpayer's net tax liability for the taxable year as does not exceed $25,000, plus

"(B) 85 percent of so much of the taxpayer's net tax liability for the taxable year as exceeds $25,000.

"(2) NET TAX LIABILITY.—For purposes of paragraph (1), the term 'net tax liability' means the tax liability (as defined in section 25(b)), reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (1) shall be $12,500 in lieu of $25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by section 1563(a).

"(C) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of a person described in subparagraph (A) or (B) of section 46(e)(1), the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall equal such person's ratable share (as determined under section 46(e)(2)) of such amount.

"(D) ESTATES AND TRUSTS.—In the case of an estate or trust, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to $25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

"(d) SPECIAL RULES FOR CERTAIN REGULATED COMPANIES.—In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), 196(a), and 404(i) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).

"SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

"(a) IN GENERAL.—

"(1) 3 YEAR CARRYBACK AND 15 YEAR CARRYFORWARD.—If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the 'unused credit year'), such excess (to the extent attributable to the amount of the current year business credit) shall be—

"(A) a business credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a business credit carryforward to each of the 15 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

"(b) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

"(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

"(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(c) LIMITATION ON CARRYFORWARDS.—The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

"(d) TRANSITIONAL RULES.—

"(1) CARRYFORWARDS.—

"(A) IN GENERAL.—Any carryforward from an unused credit year under section 46, 50A, 53, 44E, or 44G which has not expired before the beginning of the first taxable year beginning after December 31, 1983, shall be aggre-

gated with other such carryforwards from such unused credit year and shall be a business credit carryforward to each taxable year beginning after December 31, 1983, which is 1 of the first 15 taxable years after such unused credit year.

"(B) AMOUNT CARRIED FORWARD.—The amount carried forward under subparagraph (A) to any taxable year shall be properly reduced for any amount allowable as a credit with respect to such carryforward for any taxable year before the year to which it is being carried.

"(2) CARRYBACKS.—In determining the amount allowable as a credit for any taxable year beginning before January 1, 1984, as the result of the carryback of a general business tax credit from a taxable year beginning after December 31, 1983, paragraph (1) of subsection (b) shall be applied as if it read as follows:

"'(1) the sum of the credits allowable for such taxable year under sections 38, 40, 44B, 44E, and 44G, plus'.".

SEC. 854. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO OLD AND NEW PROVISIONS.—Whenever in this section reference is made to an old or new section or other provision, the reference is to the provision before (in the case of "old") or after (in the case of "new") the changes made by section 851 of this Act.

(b) OLD SECTION 21.—

(1) REDESIGNATION.—Old section 21 (relating to effect of changes) is redesignated as section 15.

(2) CONFORMING AMENDMENTS.—Sections 441(f)(2)(A) and 6013(c) are each amended by striking out "21" and inserting in lieu thereof "15".

(3) TABLE OF SECTIONS.—The table of sections for part III of subchapter A of chapter 1 is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

"Sec. 15. Effect of changes.".

(c) NEW SECTION 21.—New section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out subsection (b) and by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively,

(2) by striking out "subsection (c)(1)" in subsection (a) and inserting in lieu thereof "subsection (b)(1)",

(3) by striking out "subsection (c)(2)" in subsection (a) and inserting in lieu thereof "subsection (b)(2)",

(4) by striking out "subsection (c)(1)(C)" in paragraph (2) of subsection (d) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)(C)",

(5) by striking out "subsection (d)(1)" in subparagraph (A) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof, "subsection (c)(1)",

(6) by striking out "subsection (d)(2)" in subparagraph (B) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (c)(2)", and

(7) by striking out "subsection (c)(1)" in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)".

(d) NEW SECTION 22.—New section 22 (relating to the credit for the elderly and the permanently and totally disabled) is amended—

(1) by striking out "section 37 amount" each place it appears in the text and inserting in lieu thereof "section 22 amount",

(2) by striking out the heading of subsection (c) and inserting in lieu thereof "(c) SECTION 22 AMOUNT.—", and

(3) by amending subsection (d) to read as follows:

"(d) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(1) $7,500 in the case of a single individual,

"(2) $10,000 in the case of a joint return, or

"(3) $5,000 in the case of a married individual filing a separate return,

the section 22 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.".

(e) NEW SECTION 23.—Subsection (b) of new section 23 (relating to residential energy credit) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 25(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYFORWARD TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.".

(f) NEW SECTION 24.—Subsection (b) of new section 24 (relating to contributions to candidates for political office) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(g) NEW SECTION 28.—

(1) New section 28 is amended—

(A) by striking out "section 44F" each place it appears and inserting in lieu thereof "section 30", and

(B) by striking out "section 44F(b)" in subsection (c)(2) and inserting in lieu thereof "section 30(b)," and

(C) by striking out "section 44F(f)" in subsection (d)(4) and inserting in lieu thereof "section 30(f)".

(2) Paragraph (2) of new section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and section 28.".

(h) NEW SECTION 29.—Paragraph (5) of new section 29(b) (relating to credit for producing fuel from a nonconventional source) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27 and 28.".

(i) NEW SECTION 30.—

(1) New section 30 (relating to credit for increasing research activities) is amended—

(A) by striking out "in computing the credit under section 40 or 44B" in subsection (b)(2)(D)(iii) and inserting in lieu thereof "in determining the targeted jobs credit under section 51(a)", and

(B) by amending subparagraph (A) of subsection (g)(1) to read as follows:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29.".

(2) NEW SECTION 30 TREATED AS CONTINUATION OF OLD SECTION 44F.—For purposes of determining—

(A) whether any excess credit under old section 44F for a taxable year beginning before January 1, 1984, is allowable as a carryover under new section 30, and

(B) the period during which new section 30 is in effect,

new section 30 shall be treated as a continuation of old section 44F (and shall apply only to the extent old section 44F would have applied).

(j) NEW SECTION 33.—New section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended to read as follows:

"SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and on foreign corporations).".

(k) NEW SECTION 40.—New section 40 (relating to alcohol used as fuel) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.",

(2) by striking out "the credit allowable under this section" in subsection (c) and inserting in lieu thereof "the credit determined under this section",

(3) by striking out "credit was allowable" each place it appears in paragraph (3) of subsection (d) and inserting in lieu thereof "credit was determined",

(4) by striking out subsection (e) and redesignating subsection (f) as subsection (e),

(5) by amending paragraph (2) of subsection (e) (as redesignated by paragraph (4)) to read as follows:

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after December 31, 1994.", and

(6) by adding at the end thereof the following new subsection:

"(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(l) NEW SECTION 41.—New section 41 (relating to employee stock ownership plan) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AMOUNT OF CREDIT.—In the case of a corporation which elects to have this section apply for the taxable year and which meets the requirements of subsection (c)(1), for purposes of section 38, the amount of the employee stock ownership credit determined under this section for the taxable year is an amount equal to the amount of the credit determined under paragraph (2) for such taxable year.",

(2) by amending subsection (b) to read as follows:

"(b) CERTAIN REGULATED COMPANIES.—No credit attributable to compensation taken into account for the ratemaking purposes involved shall be determined under this section with respect to a taxpayer if—

"(1) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to a tax credit employee stock ownership plan which meets the requirements of section 409;

"(2) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan; or

"(3) any portion of the amount of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders.

Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.", and

(3) by striking out "the credit allowed under this section" in subsection (c)(3) and inserting in lieu thereof "the credit determined under this section".

(m) REPEAL OF CERTAIN OLD PROVISIONS.—

(1) Old sections 38, 40, 44, and 44B are hereby repealed.

(2) Old subpart C of part IV of subchapter A of chapter 1 is hereby repealed.

(n) REDESIGNATION OF OLD SUBPARTS.—

(1) Old subparts B and D of part IV of subchapter A of chapter 1 are redesignated as subparts E and F, respectively.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 (as so redesignated) is amended to read as follows:

"Subpart F—Rules for Computing Targeted Jobs Credit".

(3) The table of subparts for such part IV (as amended by subsection (a) of section 851) is amended by adding at the end thereof the following:

"Subpart E. Rules for computing credit for investment in certain depreciable property.

"Subpart F. Rules for computing targeted jobs credit.".

(o) INVESTMENT TAX CREDIT.—

(1) Section 46 (relating to amount of investment tax credit) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AMOUNT OF INVESTMENT CREDIT.—For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(1) the regular percentage,

"(2) in the case of energy property, the energy percentage, and

"(3) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.

"(b) DETERMINATION OF PERCENTAGES.—For purposes of subsection (a)—

"(1) REGULAR PERCENTAGE.—The regular percentage is 10 percent.

"(2) ENERGY PERCENTAGE.—

"(A) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
		For the period:	
In the case of:	The energy percentage is:	Beginning on:	And ending on:
(i) GENERAL RULE.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
(ii) SOLAR, WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent	Oct. 1, 1978	Dec. 31, 1979.
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985.
(iii) OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
(iv) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii).	11 percent	Jan. 1, 1980	Dec. 31, 1985.
(v) QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
(vi) BIOMASS PROPERTY.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.
(vii) CHLOR-ALKALI ELECTROLYTIC CELLS.—Property described in section 48(l)(5)(M)	10 percent	Jan. 1, 1980	Dec. 31, 1982.

"(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under subparagraph (A) (as modified by subparagraphs (C) and (D)).

"(C) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in clause (i) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(i) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(D) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in clause (iv) of subparagraph (A) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'.

"(3) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—The regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(C) DEFINITIONS.—For purpose of this paragraph—

"(i) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(ii) 40-YEAR BUILDING.—The term '40-year building' means a qualified rehabilitated building (other than a certified historic structure) which would meet the requirements of section 48(g)(B) if '40' were substi-

tuted for '30' each place it appears in subparagraph (B) thereof.

"(iii) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a qualified rehabilitated building which meets the requirements of section 48(g)(3).".

(2) Subclause (II) of section 46(c)(8)(F)(ii) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "subsection (b)(2)".

(3)(A) Paragraph (1) of section 46(e) is amended—

(i) by striking out "and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and

(ii) by striking out "such items" and inserting in lieu thereof "such qualified investment".

(B) Paragraph (2) of section 46(e) is amended by striking out "the items described therein" and inserting in lieu thereof "qualified investment".

(4)(A) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "no credit shall be allowed by section 38" and inserting in lieu thereof "no credit determined under subsection (a) shall be allowed by section 38".

(B) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "the credit allowable by section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable by section 38".

(C) Subparagraph (B) of section 46(f)(4) is amended by striking out "the credit allowed by section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowed by section 38".

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

(6) Paragraph (2) of section 46(g) is amended by striking out "the limitation of subsection (a)(3)" and inserting in lieu thereof "the limitation of section 38(c)".

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable to the organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by striking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

(8) Paragraphs (5) and (6) of section 47(a) are each amended by striking out "under section 46(b)" and inserting in lieu thereof "under section 39".

(9) Subsection (c) of section 47 is amended by striking out "subpart A" and inserting in lieu thereof "subpart A, B, or D".

(10) Subparagraph (B) of section 48(c)(3) is amended by striking out "section 46(b)" and inserting in lieu thereof "section 39".

(11) Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(6)" and inserting in lieu thereof "section 38(c)(3)(B)".

(12) Subsection (f) of section 48 is amended—

(A) by adding "and" at the end of paragraph (1),

(B) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(13) Paragraph (1) of section 48(l) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "section 46(b)(2)".

(14) Subsection (m) of section 48 is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (b)".

(15) Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1954 (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.

(16) Subsection (o) of section 48 (defining certain credits) is amended by striking out paragraphs (3), (4), (5), (6), and (7) and by redesignating paragraph (8) as paragraph (3).

(17) Subsection (q) of section 48 is amended—

(A) by striking out "section 46(a)(2)" each place it appears and inserting in lieu thereof "section 46(a)", and

(B) by striking out "section 46(a)(2)(B)" each place it appears and inserting in lieu thereof "section 46(b)(1)".

(18) Subsection (r) of section 48 is amended by striking out "section 381(c)(23)" and inserting in lieu thereof "section 381(c)(26)".

(p) TARGETED JOBS CREDIT.—

(1) Subsection (a) of section 51 (relating to amount of targeted jobs credit) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.".

(2) Subsection (g) of section 51 is amended by striking out "the credit provided by section 44B" and inserting in lieu thereof "the targeted jobs credit determined under this subpart".

(3) Section 51 is amended by adding at the end thereof the following new subsection:

"(j) ELECTION TO HAVE TARGETED JOBS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(4) Subsection (a) of section 52 is amended by striking out "the credit (if any) allowable by section 44B to each such member" and inserting in lieu thereof "the credit (if any) determined under section 51(a) with respect to each such member".

(5) Subsection (b) of section 52 is amended by striking out "the credit (if any) allowable by section 44B" and inserting in lieu thereof "the credit (if any) determined under section 51(a)".

(6) Subsection (c) of section 52 is amended by striking out "credit shall be allowed under section 44B" and inserting in lieu thereof "credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart".

(7) Paragraph (2) of section 52(d) is amended by striking out ", subject to section 53, a credit under section 44B" and inserting in lieu thereof ", subject to section 38(c), a credit under section 38(a)".

(8) Section 53 (relating to limitation based on amount of tax) is hereby repealed.

(9) The table of sections for old subpart D of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 53.

(q) SECTION 55.—

(1) Paragraph (1) of section 55(c) (relating to credits) is amended—

(A) by striking out "subpart A of part IV" and inserting in lieu thereof "subpart A, B, or D of part IV", and

(B) by striking out "section 33(a)" each place it appears and inserting in lieu thereof "section 27(a)".

(2) Clause (i) of section 55(c)(2)(B) is amended by striking out "section 33(a)" and inserting in lieu thereof "section 27(a)".

(3) Paragraph (3) of section 55(c) is amended to read as follows:

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In the case of any taxable year for which a tax is imposed by this section, for purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under section 23, 30 or 38, the amount of the limitation under section 25, 30(g), or 38(c) (as the case may be) shall be deemed to be—

"(A) the amount of such limitation for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(B) the amount of the tax imposed by this section for the taxable year, reduced by—

"(i) the amount of the credit allowable under section 27(a),

"(ii) in the case of the limitation under section 30(g), the amount of such tax taken into account under this subparagraph with respect to the limitation under section 25, and

"(iii) in the case of the limitation under section 38(c), the amount of such tax taken into account under this subparagraph with respect to limitations under sections 25 and 30(g).".

(4) Paragraph (2) of section 55(f) is amended by striking out "allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43)" and inserting in lieu thereof "allowable under subparts A, B, and D of part IV of this subchapter".

(r) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER PROVISIONS.—

(1) SECTION 56.—

(A) Subsection (c) of section 56 (defining regular tax deduction) is amended—

(i) by striking out "subpart A of part IV other than sections 39 and 44G" and inserting in lieu thereof "subparts A, B, and D of part IV", and

(ii) by amending the last sentence to read as follows: "For purposes of the preceding sentence, the amount of the credit determined under section 38 for any taxable year shall be determined without regard to the employee stock ownership credit determined under section 41.".

(B) Subparagraph (A) of section 56(e)(1) is amended by striking out clauses (i), (ii),

(iii), and (iv) and inserting in lieu thereof the following:

"(i) section 27 (relating to foreign tax credit), and

"(ii) section 38 (relating to general business credit), exceed".

(2) SECTION 86.—Paragraph (1) of section 86(f) (relating to treatment as pension or annuity for certain purposes) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(3) SECTION 87.—Section 87 (relating to alcohol fuel credit included in income) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes the amount of the alcohol fuel credit determined with respect to the taxpayer for the taxable year under section 40(a).".

(4) SECTION 103.—Clause (iv) of section 103(b)(6)(F) (relating to certain capital expenditures not taken into account) is amended by striking out "section 44F(b)(2)(A)" and inserting in lieu thereof "section 30(b)(2)(A)".

(5) SECTION 108.—Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended to read as follows:

"(B) RESEARCH CREDIT AND GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes of determining the amount allowable as a credit under—

"(i) section 30 (relating to credit for increasing research activities), or

"(ii) section 38 (relating to general business credit).

For purposes of this subparagraph, there shall not be taken into account any portion of a carryover which is attributable to the employee stock ownership credit determined under section 41.".

(6) SECTION 129.—

(A) Paragraph (2) of section 129(b) (relating to earned income limitation) is amended by striking out "section 44A(e)(2)" and inserting in lieu thereof "section 21(d)(2)".

(B) Paragraph (1) of section 129(e) (defining dependent care assistance) is amended by striking out "section 44A(c)(2)" and inserting in lieu thereof "section 21(b)(2)".

(C) Paragraph (2) of section 129(e) (defining earned income) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(7) SECTION 168.—

(A) Clause (i) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(B) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(C) Subparagraph (A) of section 168(i)(4), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV of subchapter A of this chapter" and inserting in lieu thereof "section 38".

(D) Clause (i) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(E) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(8) SECTION 196.—

(A) Section 196 (relating to deduction for certain unused investment credits) is amended to read as follows:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.

"(a) ALLOWANCE OF DEDUCTION.—If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

"(b) TAXPAYER'S DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year for which the qualified business credits could, under section 39, have been allowed as a credit, the amount described in subsection (a) (or the proper portion thereof) shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) QUALIFIED BUSINESS CREDITS.—For purposes of this section, the term 'qualified business credits' means—

"(1) the investment credit determined under section 46(a) (but only to the extent attributable to property the basis of which is reduced by section 48(q)),

"(2) the targeted jobs credit determined under section 51(a), and

"(3) the alcohol fuels credit determined under section 40(a).

"(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT.—In the case of the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), subsection (a) shall be applied by substituting 'an amount equal to 50 percent of' for 'an amount equal to'.".

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 196 and inserting in lieu thereof:

"Sec. 196. Deduction for certain unused business credits.".

(9) SECTION 213.—Subsection (e) of section 213 (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "section 44A" and inserting in lieu thereof "section 21".

(10) SECTION 280C.—

(A) Section 280C (relating to certain expenses for which credits are allowable) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(B) Subsection (a) of section 280C (as so redesignated) is amended—

(i) by striking out the first sentence and inserting in lieu thereof the following: "No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined for the taxable year under section 51(a).", and

(ii) by striking out "SECTION 44B CREDIT" in the subsection heading and inserting in lieu thereof "TARGETED JOBS CREDIT".

(C) Subsection (b) of section 280C (as so redesignated) is amended by striking out "44H" each place it appears and inserting in lieu thereof "29".

(D) Paragraph (3) of section 280C(b) (as so redesignated) is amended—

(i) by striking out "section 44F(f)(5)" and inserting in lieu thereof "section 30(f)(5)",

(ii) by striking out "section 44F(f)(1)(B)" and inserting in lieu thereof "section 30(f)(1)(B)",

(iii) by striking out "section 44F(f)(1)" and inserting in lieu thereof "section 30(f)(1)".

(11) SECTION 381.—Subsection (c) of section 381 is amended—

(A) by striking out paragraphs (23), (24), (26), (27), and (30),

(B) by redesignating paragraphs (25), (28), and (29) as paragraphs (23), (24), and (25), respectively,

(C) by striking out "44F" each place it appears in paragraph (25) (as so redesignated) and inserting in lieu thereof "30", and

(D) by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 38.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation.".

(12) SECTION 383.—

(A) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation which can otherwise be carried forward under section 39, to any unused credit of the corporation which could otherwise be carried forward under section 30(g)(2), to any excess foreign taxes of the corporation which could otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(B) Section 383 (as amended by the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation under section 39, to any unused credit of the corporation under section 30(g)(2), to any excess foreign taxes of the corporation under section 904(c), and to any net capital loss of the corporation under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(C) The table of sections for part V of subchapter C of chapter 1 is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

"Sec. 383. Special limitations on unused business credits, research credits, foreign taxes, and capital losses.".

(13) Paragraph (21) of section 401(a) is amended by striking out "allowable—" and all that follows and inserting in lieu thereof "allowable under section 41 if the employer

made the transfer described in section 41(c)(1)(B)."

(14) SECTION 404.—Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is amended to read as follows:

"(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EMPLOYEE STOCK OWNERSHIP CREDIT.—

"(1) UNUSED CREDIT CARRYOVERS.—If any portion of the employee stock ownership credit determined under section 41 for any taxable year has not, after the application of section 38(c), been allowed under section 38 for any taxable year, such portion shall be allowed as a deduction (without regard to any limitations provided under this section) for the last taxable year to which such portion could have been allowed as a credit under section 39.

"(2) REDUCTIONS IN CREDIT.—There shall be allowed as a deduction (subject to the limitations provided under this section) an amount equal to any reduction of the credit allowed under section 41 resulting from a final determination of such credit to the extent such reduction is not taken into account under section 41(c)(3).".

(15) SECTION 409A.—

(A) Section 409A (relating to qualifications for tax credit employee stock ownership plans), is amended by striking out "44G" each place it appears in subsections (b), (g), (i), (m), and (n) and inserting in lieu thereof "41".

(B) Paragraph (1) of section 409A(b) is amended by striking out "48(n)(1)(A) or".

(C) Subsection (g) of section 409A is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the references to section 48(n)(1) and the employee plan credit shall refer to such section and credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(D) Subparagraph (A) of section 409A(i)(1) is amended by striking out "48(n)(1) or".

(E) Subsection (k) of section 409A is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the reference to the matching employee plan credit shall refer to such credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(16) SECTION 527(g)(1).—Paragraph (1) of section 527(g) (relating to treatment of newsletter funds) is amended by striking out "section 41(c)(2)" and inserting in lieu thereof "section 24(c)(2)".

(17) SECTION 642(a)(2).—Paragraph (2) of section 642(a) (relating to credit for political contributions) is amended by striking out "section 41" and inserting in lieu thereof "section 24".

(18) SECTION 691(b).—Subsection (b) of section 691 (relating to allowance of deductions and credit) is amended by striking out "section 33" each place it appears and inserting in lieu thereof "section 27".

(19) SECTIONS 874(a) AND 882(c)(2).—Sections 874(a) and 882(c)(2) are each amended—

(A) by striking out "32" and inserting in lieu thereof "33", and

(B) by striking out "section 39" and inserting in lieu thereof "section 34".

(20) SECTION 901(a).—Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by striking out the last sentence and inserting in lieu thereof the following: "The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 25(b)."

(21) SECTION 904(g).—Subsection (g) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"(g) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.".

(22) SECTION 936.—

(A) Clause (i)(I)(a) of section 936(h)(5)(C) is amended by striking out "section 44F(b)" and inserting in lieu thereof "section 30(b)".

(B) Clause (i)(IV)(c) of section 936(h)(5)(C) is amended—

(i) by striking out "section 44F" and inserting in lieu thereof "section 30", and

(ii) by striking out "section 44F(f)" and inserting in lieu thereof "section 30(f)".

(23) SECTION 1016(a)(21).—Paragraph (21) of section 1016(a) (relating to adjustments to basis) is amended—

(A) by striking out "section 44C(e)" and inserting in lieu thereof "section 23(e)", and

(B) by striking out "section 44C" and inserting in lieu thereof "section 23".

(24) SECTION 1033(g)(3)(A).—Subparagraph (A) of section 1033(g)(3) (relating to election to treat outdoor advertising displays as real property) is amended by striking out "the credit allowed by section 38 (relating to investment in certain depreciable property)" and inserting in lieu thereof "the investment credit determined under section 46(a)".

(25) SECTION 1351(i).—Subsection (i) of section 1351 (relating to adjustments for succeeding years) is amended—

(A) by striking out "section 33" and inserting in lieu thereof "section 27", and

(B) by striking out "section 38 (relating to investment credit)" and inserting in lieu thereof "section 38 (relating to general business credit)".

(26) SECTION 1366(f).—Paragraph (1) of section 1366(f) (relating to special rules) is amended by striking out "section 39" each place it appears and inserting in lieu thereof "section 34".

(27) SECTION 1374(b).—Subsection (b) of section 1374 (relating to amount of tax imposed on certain capital gains) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(28) SECTION 1375(c).—Paragraph (1) of section 1375(c) (relating to disallowance of credit) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(29) SECTION 1451.—

(A) Chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) is amended by striking out subchapter B and by redesignating subchapter C as subchapter B.

(B) The table of subchapters for chapter 3 is amended by striking out the items relating to subchapters B and C and inserting in lieu thereof the following:

"Subchapter B. Application of withholding provisions.".

(C) The heading of chapter 3 is amended by striking out "AND TAX-FREE COVENANT BONDS".

(D) The table of chapters for subtitle A is amended by striking out "and tax-free covenant bonds" in the item relating to chapter 3.

(E) Section 12 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(F) Subsection (f) of section 164 (as in effect before its redesignation by the Social Security Amendments of 1983) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(G) Subsection (a) of section 1441 is amended by striking out "except in the cases provided for in section 1451 and".

(H) Paragraph (3) of section 1441(c) is amended by striking out "section 1451" and inserting in lieu thereof "section 1451 (as in effect before its repeal by the Tax Credit Simplification Act of 1984)".

(I) Subsection (a) of section 1442 is amended—

(i) by striking out "or section 1451", and

(ii) by striking out "; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein".

(J) Paragraph (2) of section 6049(b) (relating to amounts not treated as interest) is amended—

(i) by adding "and" at the end of subparagraph (C),

(ii) by striking out ", and" at the end of subparagraph (D) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (E).

(K) Paragraph (16) of section 7701(a) is amended by striking out "1451,".

(30) SECTION 6096(b).—Subsection (b) of section 6096 (defining income tax liability) is amended by striking out "allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H" and inserting in lieu thereof "allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)".

(31) SECTION 6201(a)(4).—Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34",

(B) by striking out "section 43" and inserting in lieu thereof "section 32", and

(C) by striking out "SECTION 39 OR 43" in the paragraph heading and inserting in lieu thereof "SECTION 32 OR 34".

(32) SECTION 6211(b).—

(A) Paragraph (1) of section 6211(b) is amended by striking out "without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451" and inserting in lieu thereof "without regard to the credit under section 33".

(B) Paragraph (4) of section 6211(b) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(33) SECTION 6213(h)(3).—Paragraph (3) of section 6213(h) is amended by striking out "section 39" and inserting in lieu thereof "section 32 or 34".

(34) SECTION 6362(c)(1).—Paragraph (1) of section 6362(c) (relating to qualified resident tax which is a percentage of the Federal tax) is amended by striking out "sections 31 and 39" and inserting in lieu thereof "sections 31 and 34".

(35) SECTION 6401(b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amended to read as follows:

"(b) EXCESSIVE CREDITS.—

"(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, and D of such part IV),

the amount of such excess shall be considered an overpayment.

"(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year.".

(36) SECTION 6411.—

(A) So much of subsection (a) of section 6411 as precedes paragraph (2) thereof (relating to tentative carryback and refund adjustments) is amended to read as follows:

"(a) APPLICATION FOR ADJUSTMENT.—A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, by a research credit carryback provided in section 30(g)(2) or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a research credit carryback or a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year (or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

"(1) The amount of the net operating loss, net capital loss, unused research credit, or unused business credit;".

(B) Subsections (b) and (c) of section 6411 are each amended by striking out "unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused research credit, or unused business credit".

(37) SECTIONS 6420(g)(2), ETC.—Sections 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended by striking out "section 39" and inserting in lieu thereof "section 34".

(38) SECTION 6501(p).—Section 6501 is amended by striking out subsection (p) and by redesignating subsection (q) as subsection (p).

(39) SECTION 6511(d)(4)(C).—Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended to read as follows:

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any business carryback under section 39 and any research credit carryback under section 30(g)(2).".

(40) SECTION 7871.—Subparagraph (A) of section 7871(a)(6) is amended by striking out "section 41(c)(4)" and inserting in lieu thereof "section 24(c)(4)".

(41) SECTION 9502(d).—Paragraph (3) of section 9502(d) (relating to transfers from the Airport and Airway Trust Fund on account of certain section 39 credits) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34", and

(B) by striking out "SECTION 39 CREDITS" in the heading and inserting in lieu thereof "SECTION 34 CREDITS".

(42) SECTION 9503(c).—Clause (ii) of section 9503(c)(2)(A) (relating to transfers from the Highway Trust Fund for certain repayments and credits) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

SEC. 855. ENERGY CREDITS.

(a) BUSINESS ENERGY TAX CREDITS.—

(1) EXTENSION OF RENEWABLE ENERGY, OCEAN THERMAL, AND BIOMASS CREDITS THROUGH 1988.—Clauses (ii) (relating to solar, wind, or geothermal property), (iii) (relating to ocean thermal property), and (vi) (relating to biomass property) of section 46(b)(2)(A) (relating to amount of investment tax credit) (as amended by section 851 of this Act) are each further amended by striking out "Dec. 31, 1985." and inserting in lieu thereof "Dec. 31, 1988.".

(2) GEOTHERMAL PROPERTY.—

(A) WATER TEMPERATURE THRESHOLD REDUCED.—Paragraph (3) of section 613(e) (defining geothermal deposit) is amended by inserting immediately before the period at the end of the first sentence, a comma and the following: "having a temperature which equals or exceeds 40 degrees Celsius (104 degrees Fahrenheit) as measured at the wellhead or, in the case of a natural hot spring (where no well is drilled), at the intake to the distribution system".

(B) ALLOCATION RULES.—Paragraph (3) of section 48(l) (relating to energy property) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR GEOTHERMAL EQUIPMENT.—For purposes of subparagraph (A)(viii), with respect to any equipment in which the percentage of the geothermal energy to be used by such equipment—

"(i) is at least 50 percent, such equipment shall be treated as section 38 property only to the extent of the portion of the qualified investment equal to such percentage,

"(ii) is at least 50 percent, and the remainder of the engery to be used by such equipment is supplied from the combustion of an alternate substance, such equipment shall be treated as section 38 property, and

"(iii) is less than 50 percent, such equipment shall not be treated as section 38 property.".

(3) BIOMASS PROPERTY USE OF QUALIFIED FUEL.—

(A) ADDITIONAL QUALIFIED FUEL.—Subparagraph (C) of section 48(l)(15) (defining biomass property) is amended—

(i) by striking out "and" at the end of clause (i),

(ii) by redesignating clause (ii) as clause (iii), and

(iii) by inserting after clause (i) the following new clause:

"(ii) methane-containing gas for fuel or electricity, produced by anaerobic digestion from nonfossil waste materials at farms or other agricultural facilities, and at facilities for the first processing of agricultural products, and".

(B) EXCLUSION OF CERTAIN PROPERTY.—Section 48(l)(15) (defining biomass property) is amended by adding a new subparagraph (D) to read as follows:

"(D) EXCLUSION OF CERTAIN PROPERTY.—After December 31, 1985, the term 'biomass property' does not include the property of a taxpayer in a trade or business which is included in SIC24 (the forest products industry) or SIC26 (the paper products industry) as published and defined pursuant to section 3504(d)(3) of the Paperwork Reduction Act of 1980 (as in effect on the date of the enactment of the Deficit Reduction Tax Act of 1984).".

(4) AFFIRMATIVE COMMITMENTS FOR SYNTHETIC FUELS PROJECTS EXTENDED.—Subparagraph (C) of section 46(b)(2) (relating to energy percentage) (as so amended) is further amended—

(A) by striking out " 'December 31, 1990' " and inserting in lieu thereof " 'December 31, 1992' ",

(B) by striking out "January 1, 1983" in clause (i) and inserting in lieu thereof "January 1, 1987", and

(C) by striking out "January 1, 1986" in clause (ii) and inserting in lieu thereof "January 1, 1990".

(5) NEW AFFIRMATIVE COMMITMENTS FOR SOLAR, WIND, GEOTHERMAL, AND OCEAN THERMAL PROJECTS.—Paragraph (2) of section 46(b) (relating to energy percentage) is further amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) LONGER PERIOD FOR SOLAR, WIND, GEOTHERMAL, AND OCEAN THERMAL PROJECTS.—For the purpose of applying the energy percentage contained in clauses (ii) and (iii) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1989' shall be substituted for 'December 31, 1988' if—

"(i) before January 1, 1989, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before July 1, 1989, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.".

(6) DEFINITION OF SHALE OIL PROPERTY WHICH IS TREATED AS ENERGY PROPERTY.—Subsection (b) of section 104 of the Miscellaneous Revenue Act of 1982 (relating to treatment of certain shale oil property as energy property) is amended by striking out "and before January 1, 1983,".

(7) TAR SANDS PROPERTY.—

(A) IN GENERAL.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(i) by striking out "or" at the end of clause (viii),

(ii) by adding "or" at the end of clause (ix), and

(iii) by adding at the end thereof the following new clause:

"(x) tar sands equipment,"

(B) TAR SANDS EQUIPMENT.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(18) TAR SANDS EQUIPMENT.—The term 'tar sands equipment' means that equipment which is necessary and integral to the mining, quarrying, or extraction of tar sands or the production or extraction of oil from tar sands including equipment used for

cracking, coking, hydrogenation, or for similar processes but not including equipment used for refining.".

(b) RESIDENTIAL ENERGY TAX CREDITS.—

(1) REPEAL OF ENERGY CONSERVATION CREDIT AND EXTENSION OF RENEWABLE ENERGY CREDIT.—Subsection (f) of section 23 (relating to residential energy credit) (as redesignated by section 851 of this Act) is amended to read as follows:

"(f) TERMINATION.—

"(1) ENERGY CONSERVATION.—This section shall not apply to qualified energy conservation expenditures made after December 13, 1985.

"(2) RENEWABLE ENERGY SOURCE.—This section shall not apply to qualified renewable energy source expenditures made after December 31, 1987.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 23(b)(6) (relating to carryover of unused credit) is amended to read as follows:

"(B) LIMITATION ON FUTURE CARRYOVERS.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987 (December 31, 1989 in the case of qualified renewable energy source expenditures).".

(c) EFFECTIVE DATE.—Under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954, the amendments made by this section shall apply to periods beginning after the date of the enactment of this Act.

SEC. 855A. CREDIT FOR PHOTOVOLTAIC PROPERTY.

(a) IN GENERAL.—The table contained in clause (i) of section 46(a)(2)(C) (relating to energy percentage in general) is amended by adding after subclause vii, the following new subclause:

"(viii). PHOTOVOLTAIC PROPERTY.—Property described in section 48(l)(18)..	A. 25 percent.	Jan. 1, 1985.	Dec. 31, 1986.
	B. 20 percent.	Jan. 1, 1987.	Dec. 31, 1988.".

(b) QUALIFICATION OF PHOTOVOLTAIC PROPERTY AS SECTION 38 PROPERTY.—Section 48(l) (relating to definitions and special rules for computing the investment credit) is amended by inserting after paragraph (18) the following new paragraph:

"(19) PHOTOVOLTAIC PROPERTY.—

"(A) IN GENERAL.—The term 'photovoltaic property' means—

"(i) equipment which is an integral part of a solar energy system which converts sunlight directly into electricity, and

(ii) structures for housing or supporting such equipment necessitated solely by reason of the installation of equipment described in clause (i).".

"(B) EXCLUSION FROM QUALIFICATION AS SOLAR PROPERTY.—Photovoltaic property shall not qualify as solar or wind energy property pursuant to section 48(l)(4).".

(c) PHOTOVOLTAIC PROPERTY AT RISK LIMITATION.—Section 46(c) is amended by inserting after subparagraph (F) of paragraph (8) the following new subparagraph:

"(G) SPECIAL RULE FOR PHOTOVOLTAIC PROPERTY.—

"(i) IN GENERAL.—In the case of photovoltaic property which—

"(I) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(II) is used in connection with an activity with respect to which any loss is subject to limitation under section 465,

the basis of such property for purposes of paragraph (1) of this section shall not exceed the amount for which the taxpayer is at risk with respect to such property as of the close of such taxable year.

"(ii) AMOUNT AT RISK.—The term 'at risk' has the same meaning given such term by section 465(b) (without regard to paragraph (5) thereof).

"(iii) PROPERTY TO WHICH THIS SUBPARAGRAPH APPLIES.—The term 'photovoltaic property' means property described in section 48(l)(18).".

(d) TECHNICAL AMENDMENT.—Clause (iii) of section 48(l)(2)(A) (relating to property to which the special rule for energy property applies) is amended by adding at the end thereof the following new clause:

"(xi) photovoltaic property,".

(e) EXCLUSION OF PUBLIC UTILITY PROPERTY.—Paragraph 48(l)(17) is amended by striking the words "and 'cogeneration property' " and inserting in lieu thereof " 'cogeneration property' and 'photovoltaic property' ".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to photovoltaic property placed in service by the taxpayer on or after January 1, 1985.

SEC. 856. THREE-YEAR EXTENSION OF TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (3) of section 51(c) (defining wages qualifying for targeted jobs credit) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1987".

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983 and 1984" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, 1986, and 1987".

(c) SPECIAL RULE FOR CERTIFICATION.—Subparagraph (A) of section 51(d)(16) (relating to special rules for certifications) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, if on or before the day on which such individual begins work for the employer, such individual has received from a designated local agency (or other agency or organization designated pursuant to a written agreement with such designated local agency) a written preliminary determination that such individual is a member of a targeted group, than 'the fifth day' shall be substituted for 'the day' in such sentence.".

SEC. 857. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(b) TAX-FREE COVENANT BONDS.—The amendments made by subsections (i) and (r)(29) of section 869 shall not apply with respect to obligations issued before January 1, 1984.

(c) SPECIAL RULE FOR EMPLOYEE PLAN CREDITS.—In the case of any employee plan credit (within the meaning of section 48(o)(3) of the Internal Revenue Code of 1954, without regard to the amendments made by this Act) allowable under section 38 of such Code, such amendments shall not apply to any credit for a taxable year beginning after December 31, 1982, arising out of a carryover of such credit which is attributable to a period before January 1, 1983.

Subtitle H—Capital Gains and Losses

SEC. 858. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(14) Paragraphs (11) and (12) of section 1223 (relating to holding period of property).

(15) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment com-

panies electing to distribute income currently).

(22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—Section 1232(a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to property acquired after February 29, 1984.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b) shall take effect on March 1, 1984.

SEC. 859. DECREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET.

(a) GENERAL RULE.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out "the applicable amount" and inserting in lieu thereof "$1,000, ($500 in the case of a married individual filing a separate return)".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 1211 is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(c) REPEAL OF SPECIAL RULE FOR PRE-1970 LOSSES.—Paragraph (3) of section 1212(b) (relating to transitional rule for taxpayers other than corporations) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle I—Miscellaneous

SEC. 860. ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.

(a) IN GENERAL.—Paragraph (1) of section 48(g) (relating to qualified rehabilitated buildings) is amended by adding at the end thereof the following new subparagraph:

"(E) ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.—The requirement in clause (iii) of subparagraph (A) shall be deemed to be satisfied if in the rehabilitation process—

"(i) 50 percent or more of the existing external walls of the building are retained in place as external walls,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(iii) 75 percent or more of the existing internal structural framework of such building is retained in place.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property that is attributable to expenditures incurred after December 31, 1983, in taxable years ending after such date.

SEC. 861. TAX TREATMENT OF REGULATED INVESTMENT COMPANIES.

(a) PERSONAL HOLDING COMPANIES PERMITTED TO BE REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subsection (a) of section 851 (defining regulated investment company) is amended by striking out "(other than a personal holding company as defined in section 542)".

(2) SPECIAL RULE FOR RATE OF TAX.—Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by adding at the end thereof the following new sentence: "In the case of a regulated investment company which is a personal holding company (as defined in section 542), the tax shall be computed at the highest rate of tax specified in section 11(b).".

(3) REQUIREMENT THAT INVESTMENT COMPANY HAVE NO EARNINGS AND PROFITS ACCUMULATED IN YEAR FOR WHICH IT WAS NOT A REGULATED INVESTMENT COMPANY.—Subsection (a) of section 852 (relating to requirements applicable to regulated investment companies) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) either—

"(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

"(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it.".

(4) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—Section 852 is amended by adding at the end thereof the following new subsection:

"(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—

"(1) IN GENERAL.—If—

"(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the 'non-RIC year'), and

"(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(3) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination, the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

"(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

"(ii) any interest payable under paragraph (3).

"(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term 'qualified designated distribution' means any distribution made by the investment company if—

"(i) section 301 applies to such distribution, and

"(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

"(C) EFFECT ON DIVIDENDS PAID DEDUCTION.—Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

"(3) INTEREST CHARGE.—

"(A) IN GENERAL.—If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the annual rate established under section 6621—

"(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

"(ii) for the period—

"(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

"(II) which ends on the date the determination is made.

"(B) COORDINATION WITH SUBTITLE F.—Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax imposed for the taxable year in which the determination is made may be assessed and collected.

"(4) PROVISION NOT TO APPLY IN THE CASE OF FRAUD.—The provisions of this subsection shall not apply if the determination contains a finding that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

"(5) DETERMINATION.—For purposes of this subsection, the term 'determination' has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year.".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1954 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account.

(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

(b) SHORT-TERM OBLIGATIONS ISSUED ON A DISCOUNT BASIS.—

(1) IN GENERAL.—Paragraph (2) of section 852(b) (defining investment company taxable income) is amended by adding at the end thereof the following new subparagraph:

"(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

SEC. 862. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

Section 216 is amended—

(1) by striking out "an individual" in subsection (b)(2) and inserting in lieu thereof "a person",

(2) by striking out "such individual" in subsection (b)(2) and inserting in lieu thereof "such person",

(3) by amending paragraph (5) of subsection (b) to read as follows:

"(5) ENTITLEMENT OF OCCUPANCY.—If a person acquires stock of a cooperative housing corporation by operation of law, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person or his nominee may not occupy the house or apartment without the prior approval of such corporation. If a person other than an individual acquires stock of a cooperative housing corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person's nominee may not occupy the house or apartment without the prior approval of such corporation.",

(4) by amending paragraph (6) of subsection (b) to read as follows:

"(6) ORIGINAL SELLER.—If the original seller acquires any stock of the cooperative housing corporation from the corporation not later than one year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the corporation the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation. For purposes of this paragraph, the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).",

(5) by amending subsection (c) to read as follows:

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

"(1) IN GENERAL.—So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.

"(2) SUSPENSION OF DEPRECIATION DEDUCTIONS.—A tenant-stockholder shall be allowed a depreciation deduction in a taxable year for the portion of his stock allocable to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) only to the extent of the portion of the adjusted basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year in which such deduction was incurred. A tenant-stockholder's depreciation deduction in excess of the basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year will not be allowed for that year. However, any depreciation deduction so disallowed shall be allowed as a depreciation deduction at the end of the first succeeding taxable year of the tenant-stockholder, and subsequent taxable years of the tenant-stockholder, to the extent that the tenant-stockholder's adjusted basis for his stock allocable to such depreciable property at the end of any such year exceeds zero (before reduction for such depreciation deduction for such year).", and

(6) by adding at the end thereof a new subsection (d) to read as follows:

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE CORPORATION.—No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation within the taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2)) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation that are chargeable to the corporation's capital account. The stockholder's adjusted basis for his stock in the corporation shall be increased by the amount of such disallowance.".

SEC. 863. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 (26 U.S.C. 3306 note) is amended by striking out "and before January 1, 1983" and inserting in lieu thereof "and before January 1, 1985".

SEC. 864. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) EXTENSION.—

(1) IN GENERAL.—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

"(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

"(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1).".

(2) DEFINITION OF CROP YEAR.—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

"(2) CROP YEAR.—The term '1983 crop year' means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term '1984 crop year' means the crop year for wheat the planting and harvesting period for which occurs during 1984.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)).

SEC. 865. ACQUISITION INDEBTEDNESS OF CERTAIN EDUCATIONAL INSTITUTIONS AND CERTAIN CORPORATIONS MANAGING PROPERTY FOR TAX-EXEMPT ORGANIZATIONS; TAX-EXEMPTION FOR SUCH CORPORATIONS.

(a) ACQUISITION INDEBTEDNESS.—Paragraph (9) of section 514(c) (relating to unrelated debt-financed income) is amended to read as follows:

"(9) REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the acquisition price is not a fixed amount determined as of the date of acquisition;

"(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified organization to the person selling such property to such organization or to any person who bears a relationship described in section 267(b) to such person;

"(iv) the real property is acquired by a qualified trust from, or is at any time after the acquisition leased by such trust to, any person who—

"(I) bears a relationship which is described in subparagraph (C), (E), or (G) of section 4975(e)(2) to any plan with respect to which such trust was formed, or

"(II) bears a relationship which is described in subparagraph (F) or (H) of section 4975(e)(2) to any person described in subclause (I);

"(v) the real property is acquired by a title holding company from, or is at any time after the acquisition leased by such title holding company to, any person described in section 4946(a) with respect to a private foundation which is a shareholder or beneficiary of the title holding company;

"(vi) any person described in clause (iii), (iv), or (v) provides the qualified organization with financing in connection with the acquisition; or

"(vii) the real property acquired by the qualified organization is, at any time after the acquisition, property owned by a partnership and at least one of the partners of such partnership is not a qualified organization.

"(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means—

"(i) an organization described in section 170(b)(1)(A)(ii) and its affiliated support organizations described in section 509(a);

"(ii) an organization described in section 501(c)(24); or

"(iii) any trust which constitutes a qualified trust under section 401.".

(b) TAX-EXEMPT STATUS OF CORPORATIONS ACQUIRING AND MANAGING PROPERTY FOR OTHER TAX-EXEMPT ORGANIZATIONS.—Section 501(c) (relating to the list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(24)(A) Any corporation or trust—

"(i) which is organized for the exclusive purposes of—

"(I) acquiring and holding title to property,

"(II) collecting income from such property, and

"(III) remitting the entire amount of income from such property (less expenses) to one or more organizations described in subparagraph (C), and

"(ii) none of the officers, directors, or trustees of which—

"(I) provides investment advice or similar services to such corporation or trust, or

"(II) is a partner, director, officer, or trustee of (or person holding any similar position in) any organization (including a brokerage house) that provides such services to such corporation or trust.

"(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by one or more organizations described in subparagraph (C).

"(C) An organization is described in this subparagraph if—

"(i) such organization is—

"(I) a qualified pension, profit sharing, or stock bonus plan which meets the requirements of section 401(a),

"(II) a governmental plan (within the meaning of section 414(d)),

"(III) the United States, any State or political subdivision thereof, or any agency or instrumentality of any such governmental unit, or

"(IV) any organization described in paragraph (3).".

(c) EFFECTIVE DATES.—

(1) ACQUISITION INDEBTEDNESS.—The amendment made by subsection (a) shall apply with respect to indebtedness incurred after the date of enactment of this Act.

(2) TAX-EXEMPTION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

SEC. 866. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INDEMNITY ASSOCIATIONS.

(a) IN GENERAL.—Section 821 (relating to mutual insurance companies) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INDEMNITY ASSOCIATIONS.—

"(1) TREATMENT OF ASSOCIATIONS.—

"(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and indemnity association any initial payment made during any taxable year to such association by a member joining such association which—

"(i) does not release such member from obligations to pay current or future dues, assessments, or premiums; and

"(ii) is a condition precedent to receiving benefits of membership.

Such initial payment shall be included in gross income for such taxable year with respect to any member of such association who elects to deduct such payment pursuant to paragraph (2).

"(B) RETURN OF CONTRIBUTIONS.—

"(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as a policyholder dividend, and is not deductible by the association.

"(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

"(2) DEDUCTION ELECTION FOR MEMBERS OF ELIGIBLE ASSOCIATIONS.—

"(A) ELECTION TO TREAT PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible association may elect, with notice to and with the consent of such association with respect to such election, to treat any initial payment made during a taxable year to such association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the preceding sentence shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

"(B) TIME OF ELECTION.—The election under subparagraph (A) shall be made upon joining the association, in a manner prescribed by the Secretary.

"(C) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

"(3) ELIGIBLE ASSOCIATIONS.—The terms 'eligible physicians' and surgeons' mutual protection and indemnity association' and 'eligible association' mean any mutual protection and indemnity association that provides only medical malpractice liability protection for its members and which was operative and was providing such protection under the laws of any State prior to January 1, 1984.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and indemnity associations, and refunds of payments by such associations, after the date of the enactment of this Act, in taxable years ending after such date.

(2) RETROACTIVE EFFECT OF THIS SECTION.—A member of any association who in any taxable year ending before the date of the enactment of this Act made payments to such association for which deductions were not initially allowed may, to the extent and in the manner provided by the Internal Revenue Code of 1954, amend applicable earlier tax returns to reflect the deductions authorized by this section, if the association to which such payment was made consents to such treatment and is able to and does so amend its return for the appropriate earlier year to include such amount in its gross income.

SEC. 867. SALE-LEASEBACKS OF PRINCIPAL RESIDENCES.

(a) DEPRECIATION IN SALE-LEASEBACK TRANSACTIONS.—Section 167 (relating to depreciation) is amended by inserting after subsection (h) the following new subsection:

"(i) SALE-LEASEBACK TRANSACTIONS.—

"(1) IN GENERAL.—In the case of property involved in a sale-leaseback transaction, the purchaser-lessor shall be recognized as the absolute owner of the property, and the deduction shall be allowed to the purchaser-lessor and computed under the straight-line method using a useful life of 40 years.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SALE-LEASEBACK.—The term 'sale-leaseback' shall include a transaction in which—

"(i) the seller-lessee—

"(I) has attained the age of 55 before the date of such transaction,

"(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

"(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessor—

"(I) is a person,

"(II) is not a related party (as defined in section 267(b)) or a tax shelter,

"(III) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

"(IV) pays a purchase price for the property that is the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

"(B) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly-held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly-held occupancy rights).

"(C) FAIR RENTAL.—The term 'fair rental' shall include a rental for any subsequent year which equals or exceeds the fair market rental for the first year of a sale-leaseback transaction, but which does not exceed a fair rental for such subsequent year.

"(D) TAX SHELTER.—The term 'tax shelter' means—

"(i) a partnership or other enterprise (other than a corporation which is not an S corporation) in which interests have been offered for sale, at any time, in any offering required to be registered with a Federal or State agency; or

"(ii) any partnership, entity, plan, or arrangement which is a tax shelter within the meaning of section 6661(b).".

(b) CAPITAL GAINS EXCLUSION IN SALE-LEASEBACK TRANSACTIONS.—Subsection (d) of section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end thereof the following new paragraph:

"(9) SALE OR EXCHANGE DEFINED.—For purposes of this section, the term 'sale or exchange' shall include a sale-leaseback transaction (as defined in section 167(i)).".

(c) INCOME IN SALE-LEASEBACK TRANSACTION.—

(1) GROSS INCOME.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. INCOME IN SALE-LEASEBACK TRANSACTIONS.

"Gross income to the seller-lessee or the purchaser-lessor in a sale-leaseback transaction (as defined in section 167(i)) does not include any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback.".

(2) GAIN OR LOSS.—Subsection (b) of section 1001 is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of a sale-leaseback transaction (as defined in section 167(i))—

"(A) there shall not be taken into account any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback, and

"(B) there shall be taken into account the cost of any annuity purchased for a seller-lessee by a purchaser-lessor.".

(3) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. Income in sale-leaseback transactions.".

(d) INSTALLMENT SALES IN SALE-LEASEBACK TRANSACTIONS.—Section 453 (relating to installment method) is amended—

(1) by redesignating subsection (j) as subsection (k), and

(2) by inserting after subsection (i) the following new subsection:

"(j) APPLICATION WITH SECTION 167(i).—

"(1) IN GENERAL.—In the case of an installment sale in a sale-leaseback transaction (as defined in section 167(i)), subsection (a) shall apply.

"(2) SPECIAL RULE FOR ANNUITIES.—In the case of an annuity purchased for the seller-lessee by the purchaser-lessor in a sale-leaseback transaction, the purchase cost of such annuity shall constitute the amount of consideration received by such seller-lessee attributable to such annuity and shall be deemed received in the year of disposition of the property.".

(e) BASIS OF ANNUITY RECEIVED IN SALE-LEASEBACK TRANSACTION.—Subparagraph (A) of section 72(c)(1) (relating to annuities) is amended by inserting before the comma "(including such amount paid by a purchaser-lessor in a sale-leaseback transaction as defined in section 167(i))".

(f) SALE-LEASEBACK TRANSACTION ENGAGED IN FOR PROFIT.—Section 183 (relating to activities not engaged in for profit) is amended—

(1) by striking out "If" in subsection (d) and inserting in lieu thereof "(1) IN GENERAL.—If",

(2) by inserting after paragraph (1) of subsection (d) (as designated by paragraph (1)) the following new paragraph:

"(2) SALE-LEASEBACK TRANSACTION.—Any sale-leaseback transaction (as defined in section 167(i)), unless the Secretary establishes to the contrary, shall be presumed for purposes of this chapter to be an activity engaged in for profit.", and

(3) by inserting "(1)" after "subsection (d)" each place it appears in subsection (e).

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act and before December 31, 1988.

SEC. 868. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32 (relating to earned income credit) (as redesignated by section 851 of this Act) is amended—

(1) by striking out "10 percent" in subsection (a) and inserting in lieu thereof "10.5 percent",

(2) by striking out "$500" in subsection (b)(1) and inserting in lieu thereof "$525",

(3) by striking out "12.5 percent" in subsection (b)(2) and inserting in lieu thereof "10.5 percent", and

(4) by striking out "$10,000" in subsection (f)(2)(B) and inserting in lieu thereof "$11,000".

(b) ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Paragraph (2) of section 3507(c) (defining earned income advance amount) is amended—

(1) by striking out "10 percent" in subparagraphs (B)(i) and (C)(i) and inserting in lieu thereof "10.5 percent",

(2) by striking out "$10,000" in subparagraph (B)(ii) and inserting in lieu thereof "$11,000", and

(3) by striking out "$5,000" in subparagraph (C)(ii) and inserting in lieu thereof "$5,500".

(c) CONFORMING AMENDMENT.—Section 3507 (relating to advance payment of earned income credit) is amended by striking out "section 43" each place it appears and inserting in lieu thereof "section 32".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 869. INCLUSION OF CAPITAL CONSTRUCTION FUNDS FOR SHORE-BASED FISHERY PROCESSING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"(a) AGREEMENT RULES.—

"(1) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(10)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or facilities. Any agreement entered into under this section—

"(A) shall be for the purpose of providing—

"(i) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade,

"(ii) replacement fishing vessels, additional fishing vessels, or reconstructed fishing vessels, built in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States and documented under the laws of the United States for operation in the fisheries of the United States, or

"(iii) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilities, located in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States, or

"(B) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

"(2) In applying paragraph (1)(A) (ii) or (iii)—

"(A) withdrawals may be made from a capital construction fund for the purchase of a used fishery vessel or a used fishery facility for any reconstruction purpose, if such reconstruction will contribute to the development of the United States fishing industry;

"(B) nothing in this section shall be construed as prohibiting the establishment and use of a capital construction fund—

"(i) with respect to fishing vessels for purposes of acquiring replacement, additional, or reconstructed fishery facilities,

"(ii) with respect to fishery facilities for purposes of acquiring replacement, additional, or reconstructed fishing vessels, or

"(iii) for fishing vessels and fishery facilities; and

"(C) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States.

"(3) The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulation prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of the sum of (A) that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels, or (B) that portion of such person's taxable income for such year which is attributable to the operation of the agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).

"(4) Notwithstanding any other provision of law, any agreement for any of the purposes set forth in paragraph (1)(A) (ii) or (iii) may be amended in order to—

"(A) allow for the withdrawal of moneys from the fund established by that agreement and the subsequent deposit of those moneys in a fund established, whether by the same or different persons, including partnerships under another existing agreement, or a new agreement, entered into for any such purpose or purposes; or

"(B) provide that one or more other persons may be permitted to become parties thereto and deposit moneys into the fund established by such agreement; whether or not any of the moneys for deposit are withdrawn pursuant to an agreement amended under subparagraph (A).

"(5) The Secretary may not require, in the case of any agreement entered into for the purpose of reconstructing a fishing vessel or fishery facility, that a minimum withdrawal be made from the fund. For purposes of this section, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.".

(b) DEFINITIONS.—Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'eligible fishery facility' means any fishery facility which is located in the United States.

"(11) The term 'qualified fishery facility' means any fishery facility—

"(A) which is located in the United States, and

"(B) which the person maintaining the fund agrees with the Secretary of Commerce will be used for one or more of the functions described in paragraph (13).

For purposes of this paragraph, paragraphs (1), (2), and (3), insofar as they relate to a fishing vessel, and paragraph (10) the term 'United States' includes American Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, Guam, and any other commonwealth, territory, or possession of the United States; and, when applied with respect to a fishery facility described in paragraph (13)(B), includes the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

"(12) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this section.

"(13) The term 'fishery facility' means—

"(A) for operations on land—

"(i) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

"(ii) the land necessary for any such structure or appurtenance described in clause (i), and

"(iii) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in clause (i); or

"(B) for operations other than on land, any vessel built in the United States and used for, equipped to be used for, or of a type which is normally used for, the processing of fish;

but only if such structure, appurtenance, land, and equipment or vessel is owned by an individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, or District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States; and

"(ii) nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting any applicable ownership requirement.

"(14) The terms 'fishing' and 'fishing vessel' have the meanings given such terms by paragraphs (10) and (11) of section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(15) The term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plantlife other than marine mammals and birds.

"(16) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, if such entity is owned (in the sense such term is used in section 2 of the Shipping Act, 1916) by individuals referred to in subparagraph (A) or citizens or nationals of the United States.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Subparagraph (A) of section 607(b)(1) of such Act is amended by inserting "(i)" after "(A)", and by inserting "or, (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities," after "the fisheries of the United States".

(B) Subparagraph (B) of section 607(b)(1) of such Act is amended by inserting "or the agreement fishery facilities" after "the agreement vessels".

(C) Subparagraph (C) of section 607(b)(1) of such Act is amended by inserting "or agreement fishery facility" after "any agreement vessel" each place it appears.

(D) Paragraph (2) of section 607(b) of such Act is amended by inserting "or an agreement fishery facility" after "an agreement vessel" and by inserting "or such facility (as the case may be)" after "such vessel".

(2)(A) Subparagraph (A) of section 607(f)(1) of such Act is amended by inserting "or a qualified fishery facility" after "a qualified vessel".

(B) Subparagraph (C) of section 607(f)(1) of such Act is amended to read as follows:

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of—

"(i) a qualified vessel,

"(ii) a qualified fishery facility, or

"(iii) a barge or container which is part of the complement of the qualified vessel.".

(3)(A) Paragraphs (2) and (3) of section 607(g) of such Act is amended by inserting "fishery facility," after "vessel," each place it appears.

(B) Paragraph (4) of section 607(g) of such Act is amended by inserting "fishery facilities," after "vessels".

(4) The terms "fishery facility" and "citizen of the Northern Marianas" as used in this section shall have the meanings given in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280).

(d) INVESTMENT TAX CREDIT.—Subsection (g) of section 46 (relating to amount of investment tax credit) is amended—

(1) by inserting "or a qualified fishery facility" after "qualified vessel" in paragraph (1)(A), and

(2) by inserting "AND FISHERY FACILITIES" after "VESSELS" in the heading of such subsection.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective upon the date of the enactment of this Act.

SEC. 870. ALLOCATION OF EXPENSES TO PARSONAGE AND HOUSING ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel or any member of a uniformed service (within the meaning given to such term by section 101(3) of title 37, United States Code), the application of section 265(1) of the Internal Revenue Code of 1954 to such costs or to a subsistence allowance or a quarters or housing allowance shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to, the result set forth in such Revenue Ruling).

SEC. 871. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

(a) If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid not later than one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and penalties in respect of liability for such Federal income tax.

(b) For purposes of subsection (a), the prize described in this subsection is a residence which—

(1) was won by the taxpayer in a local radio contest,

(2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,

(3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and

(4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

SEC. 872. RESTRICTIONS ON INVESTIGATIONS AND EXAMINATIONS OF CHURCHES.

(a) IN GENERAL.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 505. SPECIAL PROVISIONS RELATING TO CHURCHES.

"(a) RESTRICTIONS ON INVESTIGATIONS OF CHURCHES.—

"(1) IN GENERAL.—The Secretary may commence an investigation or a proceeding to determine whether a church—

"(A) is carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities that may be subject to taxation under this title, or

"(B) is exempted under section 501(a) from taxation by reason of its status as a church,

only if the Secretary provides notice of such investigation or proceeding to the church under paragraph (3) and the requirements of paragraph (2) are met with respect to such investigation or proceeding.

"(2) REASONABLE BELIEF.—The requirements of this paragraph are met with respect to an investigation or proceeding described in paragraph (1) if the Secretary of the Treasury or an appropriate high-level delegate of the Secretary reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

"(A) may not be exempted under section 501(a) from taxation by reason of its status as a church, or

"(B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

"(3) NOTICE OF INVESTIGATION.—Before commencing an investigation or proceeding described in paragraph (1), the Secretary shall provide written notice to the church of the

commencement of such investigation or proceeding. Such notice shall include—

"(A) citation of the sections of the Internal Revenue Code of 1954 which authorize such investigation or proceeding,

"(B) a general explanation of the applicable administrative and constitutional rights of the church with respect to such investigation or proceeding (including the right to a conference before any examination of church records and the right to make a request under the Freedom of Information Act), and

"(C) an explanation of—

"(i) the concerns which give rise to such investigation or proceeding, and

"(ii) the general subject matter of such investigation or proceeding.

"(b) RESTRICTIONS ON EXAMINATION OF CHURCHES.—

"(1) IN GENERAL.—No examination of the religious activities of any organization claiming to be a church shall be made except to the extent necessary to determine whether such organization is a church, and no examination of any church records of such an organization shall be made except to the extent necessary to determine the amount of tax imposed by this title.

"(2) REQUIREMENTS FOR PERMISSIBLE EXAMINATIONS.—Any examination of religious activities or church records which the Secretary is authorized to conduct under paragraph (1) shall not commence—

"(A) before the day which is 15 days after the date the notice described in paragraph (3) is received by the church, or if later, by the regional counsel for the Internal Revenue Service,

"(B) before any conference requested by the church during such 15-day period has been held,

"(C) before the Secretary has responded to each request under the Freedom of Information Act which—

"(i) is a request for documents relevant to the investigation of the church being conducted by the Secretary, and

"(ii) is properly filed by the church before the close of such 15-day period, or

"(D) before any administrative appeal of the Secretary's response to a request described in subparagraph (C) has been completed.

"(3) NOTICE OF EXAMINATION.—

"(A) IN GENERAL.—At least 15 days before any examination of church records or religious activities of a church, the Secretary shall provide written notice to the church of the church records and religious activities that the Secretary seeks to examine. Such notice shall include—

"(i) an offer to have a conference between the church and a delegate of the Secretary of the Treasury in order to discuss, and attempt to resolve, concerns relating to such examination,

"(ii) an explanation of the right of the church to file a request with the Secretary under the Freedom of Information Act for documents held by the Secretary that are relevant to the investigation of the church being conducted by the Secretary, and

"(iii) a copy of the notice previously provided to the church under subsection (a)(3).

"(B) COPY OF NOTICE PROVIDED TO REGIONAL COUNSEL.—At the same time notice is provided to the church under subparagraph (A), a copy of such notice shall be submitted by the Secretary for review to the regional counsel for the appropriate Internal Revenue Service region.

"(C) EARLIEST DAY NOTICE MAY BE SENT.—The notice described in subparagraph (A) shall not be provided to the church before the day that is 15 days after the day on which notice of the investigation is provided to the church under subsection (a)(3).

"(4) EXAMINATION OF RECORDS AND ACTIVITIES NOT SPECIFIED IN NOTICE.—Within the course of an examination which (at the time of commencement of the examination) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the notice provided to the church under paragraph (3) if the examination of such church records or religious activities meets the requirements of paragraph (1).

"(c) LIMITATION ON PERIOD OF INVESTIGATION OR PENDING PROCEEDINGS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) complete any investigation or examination described in subsection (a)(1) or (b)(1), and

"(B) make a final determination in any proceeding described in subsection (a)(1),

by no later than the date which is 2 years after the date on which notice of the commencement of such investigation or proceeding was provided to the church under subsection (a)(3).

"(2) SUSPENSION OF 2-YEAR PERIOD.—The running of the 2-year period described in paragraph (1) shall be suspended—

"(A) for any period of time during which—

"(i) a judicial proceeding brought by the church against the Secretary with respect to the investigation or administrative proceeding is pending or being appealed,

"(ii) a judicial proceeding brought by the Secretary against the church or any official of the church to compel compliance with any reasonable request of the Secretary for examination of church records or religious activities is pending or being appealed,

"(iii) the Secretary is unable to take action with respect to the investigation, examination, or proceeding by reason of an order issued in any judicial proceeding brought under section 7609, or

"(iv) a judicial appeal of the refusal of the Secretary, in whole or in part, to comply with a request under the Freedom of Information Act that—

"(I) relates to such investigation, examination, or proceeding, and

"(II) was properly filed with the Secretary by the church at any time before the close of the 15-day period described in subsection (b)(3)(A),

is pending,

"(B) for the period of time necessary for timely processing by the Secretary of a request under the Freedom of Information Act that is described in subclauses (I) and (II) of subparagraph (A)(iv), or

"(C) for any period of time mutually agreed upon by the Secretary and the church.

"(d) LIMITATION ON ASSESSMENT OF TAX AND REVOCATION OF TAX-EXEMPT STATUS.—

"(1) The Secretary may—

"(A) revoke the classification of an organization as a church that—

"(i) is exempt from taxation by reason of section 501(a), or

"(ii) is described in section 170(c), or

"(B) assess any tax imposed by this title against a church,

only if the requirements of subsections (a) and (b) which are applicable with respect to such revocation or assessment have been met and the regional counsel for the applicable Internal Revenue Service region has approved of such revocation or assessment in writing.

"(2) LIMITATION ON PERIOD FOR ASSESSMENT OF TAX.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, if—

"(i) a tax is imposed by this title with respect to a church, and

"(ii) no return is filed with respect to such tax,

no assessment of such tax shall be made by the Secretary after the close of the 3-year period which begins on the date such return was required to be filed by the church and no proceeding in court without assessment for the collection of such tax shall be begun after the close of such 3-year period.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) in the case of a willful attempt to defeat or evade any tax imposed by this title, or

"(ii) in the case of a knowing failure to file the return of the tax by this title.

"(C) SUSPENSION OF PERIOD OF LIMITATIONS.—The running of the 3-year period described in subparagraph (A) shall be suspended for any period of time described in subsection (c)(2).

"(e) VIOLATION OF THESE PROVISIONS TREATED AS A DEFENSE IN SUBSEQUENT ACTION.—If—

"(1) any judicial action is brought by the United States against a church as a result of any investigation, examination, or proceeding described in subsection (a) or (b), and

"(2) the requirements of this section with respect to such investigation, examination, or proceeding have not been met,

the failure to meet such requirements shall constitute a defense to such action, but shall not be an absolute defense.

"(f) SPECIAL APPROVAL REQUIRED FOR ADDITIONAL INVESTIGATIONS IN CERTAIN CASES.—If any investigation, examination, or proceeding described in subsection (a)(1) or (b)(1) with respect to a church has been completed and did not result in—

"(1) a revocation or assessment described in subsection (d)(1), or

"(2) a request by the Secretary for any significant change in the operational practices of the church (including the method of accounting),

no other investigation, examination, or proceeding described in subsection (a)(1) or (b)(1) shall be commenced against such church by any delegate of the Secretary without the written approval of the appropriate Assistant Commissioner of the Internal Revenue Service.

"(g) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—For purposes of sections 7428 and 7430, a church shall be treated as having exhausted the administrative remedies available to it when the church receives a final report of the investigating internal revenue agent.

"(h) DEFINITIONS.—For purposes of this section—

"(1) CHURCH.—The term 'church' includes any convention or association of churches.

"(2) HIGH-LEVEL DELEGATE.—The term 'high-level delegate' means any delegate of the Secretary of the Treasury who is no lower in rank than a principal internal revenue officer for an internal revenue region.

"(3) CHURCH RECORDS.—The term 'church records' means all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors. Such term shall not include any materials held by any person other than the church.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 7605 (relating to time and place of examination) is amended to read as follows:

"(c) CROSS REFERENCE.—

"For provisions which restrict the examination of churches and church records, see section 505.".

(2) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Special provisions relating to churches.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to investigations, examinations, and proceedings commenced after the date of enactment of this Act.

SEC. 873. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—For purposes of subsection (b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, all amounts allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of subsection (c) of section 174 shall apply.

(c) TERMINATION.—This section shall not apply to taxable years beginning after August 13, 1985.

SEC. 874. EXCLUSION FROM GROSS INCOME OF CANCELLATIONS OF CERTAIN STUDENT LOANS.

(a) APPLICABLE LOANS.—Section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended to read as follows:

"(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

"(b) STUDENT LOAN.—For purposes of this section, the term 'student loan' means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) of such Code made by—

"(1) the United States, or an instrumentality or agency thereof,

"(2) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(3) a public benefit corporation—

"(A) which is exempt from taxation under section 501(c)(3) of such Code,

"(B) which has assumed control over a State, county, or municipal hospital, and

"(C) whose employees have been deemed to be public employees under State law, or

"(4) any such educational organization pursuant to an agreement with any entity described in any of the preceding paragraphs under which the funds from which the loan was made were provided to such educational organization.".

(b) EFFECTIVE DATE.—The provisions of this section shall apply to discharge of indebtedness made on or after January 1, 1983.

SEC. 875. SPECIAL LEASING RULES FOR CERTAIN COAL GASIFICATION FACILITIES.

(a) IN GENERAL.—Paragraph (3) of section 208(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

"(G) COAL GASIFICATION FACILITIES.—

"(i) IN GENERAL.—Property is described in this subparagraph if such property—

"(I) is used directly in connection with the manufacture or production of low sulfur gaseous fuel from coal, and

"(II) would be described in subparagraph (A) if 'July 1, 1984' were substituted for 'January 1, 1983'.

"(ii) SPECIAL RULE.—For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

"(iii) LIMITATION ON AMOUNT.—Clause (i) shall only apply to the lease of an undivided interest in the property in an amount which does not exceed the lesser of—

"(I) 50 percent of the cost basis of such property, or

"(II) $67,500,000.

"(iv) PLACED IN SERVICE.—In the case of property to which this subparagraph applies—

"(I) such property shall be treated as placed in service when the taxpayer receives an operating permit with respect to such property from a State environmental protection agency, and

"(II) the term of the lease with respect to such property shall be treated as being 5 years.".

(b) SPECIAL RULE FOR SUBSECTION (a).—The amount of any recapture under section 47 of the Internal Revenue Code of 1954 with respect to the credit allowed under section 38 of such Code with respect to progress expenditures (within the meaning of section 46(d) of such Code) shall apply only to the percentage of the cost basis of the coal gasification facility to which the amendment made by subsection (a) applies.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

Sec. 876. Technical Modification to tip reporting requirements.

(a) LOWER ALLOCATION OF GROSS RECEIPTS.—Subparagraph (C) of section 6053(c)(3) (relating to employee allocation of 8 percent of gross receipts) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "Upon the petition of the employer or the majority of employees of such employer, the Secretary", and

(2) by striking out "5 percent" and inserting in lieu thereof "2 percent".

(b) RECORDKEEPING BY TIPPED EMPLOYEES.—The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act the applicable recordkeeping requirements for tipped employees.

SEC. 877. PROVISIONS OF INDIAN TRIBAL GOVERNMENTAL TAX STATUS ACT OF 1982 MADE PERMANENT.

Section 204 of the Indian Tribal Governmental Tax Status Act of 1982 is amended—

(1) by striking out "and before January 1, 1985" each place it appears, and

(2) by striking out "1983, and shall cease to apply at the close of December 31, 1984" in paragraph (5) and inserting in lieu thereof "1983".

SEC. 878. AMORTIZATION OF REHABILITATION EXPENDITURES.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1984" each place it appears and inserting in lieu thereof "January 1, 1987".

SEC. 879. PERMANENT DISALLOWANCE OF DEDUCTION FOR EXPENSES OF DEMOLITION OF CERTAIN STRUCTURES.

(a) EXTENSION TO ALL STRUCTURES.—Section 280B (relating to demolition of certain historic structures) is amended—

(1) by striking out "certified historic structure (as defined in section 48(g)(3)(A))" and inserting in lieu thereof "structure", and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

(b) DISALLOWANCE MADE PERMANENT.—Section 280B(b), as redesignated by subsection (a), is amended by striking out ", and before January 1, 1984".

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 280B is amended by striking out "HISTORIC".

(2) The item relating to section 280B in the table of sections for part IX of subchapter B of chapter 1 is amended by striking out "historic".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 880. EXTENSION OF INCREASED DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.

(a) EXTENSION.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (26 U.S.C. 190 note) (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers for the handicapped) is amended by striking out "beginning after December 31, 1976, and before January 1, 1983." and inserting in lieu thereof the following: "beginning—

"(1) after December 31, 1976 and before January 1, 1983, and

"(2) after December 31, 1983 and before January 1, 1986.".

(b) INCREASE IN DEDUCTION.—Subsection (c) of section 190 (relating to limitation of deduction) is amended by striking out "$25,000" and inserting in lieu thereof "$35,000".

SEC. 881. EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of care of children away from their homes if—

"(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public.".

(b) CROSS REFERENCES.—

(1) Subsection (n) of section 170 (as redesignated by section 808 of this Act) is amended by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(2) Subsection (f) of section 2055 is amended by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For treatment of certain organizations providing child care, see section 501(k).".

(3) Subsection (d) of section 2522 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 882. CREDIT FOR RESEARCH ACTIVITIES.

(a) EXTENSION OF THE RESEARCH CREDIT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(1) by striking out ", and before January 1, 1986", and

(2) by striking out the last sentence in paragraph (2)(A).

(b) MODIFICATION OF THE DEFINITION OF QUALIFIED RESEARCH FOR CREDIT PURPOSES.—Subsection (d) of section 44F is amended to read as follows:

"(d) QUALIFIED RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means—

"(A) planned search or systematic investigation (including basic research) undertaken for the purpose of discovering information which may be useful in the development of a technologically new or improved business component of the taxpayer, or

"(B) applying the results obtained from an activity described in subparagraph (A) or other knowledge to develop a technologically new or improved business component of the taxpayer, including the conceptual formulation, design, and testing of possible business component alternatives and the design, construction, and testing of prototypes, models, and pilot plants.

"(2) EXCLUSIONS.—The term 'qualified research' does not include—

"(A) any activity with respect to a technologically new or improved business component after the beginning of commercial production (as defined in paragraph (6));

"(B) any development of plant processes, machinery, or techniques for commercial production of a technologically new or improved business component, except where such process, machinery, or technique itself constitutes a technologically new or improved business component (within the meaning of paragraphs (3) and (4) of this subsection);

"(C) any adaptation of an existing business component to a particular requirement or customer's need as part of a continuing commercial activity;

"(D) any efficiency surveys, management studies, management techniques, market research, market testing and development (such as advertising or promotions), routine data collections, or routine or ordinary testing or inspection of materials or business components for quality control;

"(E) any development or improvement of a business component where the predominant portion of any related activity which would constitute qualified research but for this subparagraph constitutes duplication;

"(F) except to the extent provided for by regulations to be prescribed by the Secretary, any activity with respect to computer software that is separately developed by or for the benefit of the taxpayer specifically for the internal use of taxpayer other than for use in—

"(i) qualified research, or

"(ii) a production process that involves a business component with respect to which a credit is allowable under this section;

"(G) any activity conducted outside of the United States;

"(H) any activity in the social sciences, arts, or humanities;

"(I) any activity to the extent funded by any grant, contract, or otherwise by any person (or any governmental entity); and

"(J) any activity undertaken for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

"(3) TECHNOLOGICALLY NEW OR IMPROVED.—A business component of the taxpayer shall be treated as 'technologically new or improved' if—

"(A) the new or improved characteristics of such component are technological (as defined in paragraph (7)) in nature, and

"(B) substantially all of the activities undertaken in developing or improving such component constitute elements of a process of experimentation (within the meaning of paragraph (4)) relating to such factors as new or improved function, performance, reliability, or quality, or reduced cost, rather than to—

"(i) style, taste, cosmetic, or seasonal design factors, or

"(ii) activitiegraph (B), any activities relating to the duplication (as defined in paragraph (6)) by the taxpayer of a business component of the taxpayer or of another taxpayer shall not be treated as an activity undertaken in developing or improving a business component of the taxpayer.

"(4) EXPERIMENTATION.—For purposes of this section, the term 'process of experimentation' shall mean a process in a field of science or technology of design and testing involving the steps of—

"(A) formulating detailed technological objectives and specifications for a technologically new or improved business component and designing alternatives to achieve these objectives because of uncertainty as to whether a particular alternative will achieve the desired result,

"(B) testing and analyzing (including modeling and simulation) these alternatives to determine their respective abilities to fulfill the desired objectives, and

"(C) refining and choosing among the alternatives based upon the knowledge derived from the tests and analyses and documenting such technological knowledge as to function and specifications.

"(5) BUSINESS COMPONENT.—

"(A) IN GENERAL.—The term 'business component' means a product, process, computer software, technique, formula, or invention to be offered for sale, lease, or license, or used by the taxpayer in a trade or business.

"(B) ELEMENTS OF A PRODUCT.—If the requirements of paragraph (3) are not met with respect to a product, process, or software butning of commercial production.—The term 'beginning of commercial production' means any activity after the business component has been developed to the point where it constitutes a finished business component which meets the functional and economic requirements of the taxpayer for such component or is ready for commercial sale or use.

"(7) TECHNOLOGICAL.—The term 'technological' means pertaining to or predicated upon principles of the physical sciences, biological sciences, engineering, or computer science.

"(8) DUPLICATION.—The term 'duplication' means any activity related to the reproduction of an existing business component from a physical examination of the component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such component.".

(c) AVAILABILITY OF THE CREDIT TO CERTAIN CORPORATIONS AND PARTNERSHIPS.—

(1) IN GENERAL.—Subsection (b) of section 44F is amended by adding at the end thereof the following new paragraphs:

"(4) AVAILABILITY TO CORPORATIONS.—All in-house research expenses and contract research expenses paid or incurred by a regular corporation shall constitute qualified research expenses if, at the time such research expenses are paid or incurred, the principal purpose of such corporation is to use the results of the research in the active conduct of a present or future trade or business and not to license or otherwise transfer such research results to any person other than a member of the same controlled group of corporations (within the meaning of section 1563(a)).

"(5) TRADE OR BUSINESS REQUIREMENT AND ALLOCATION IN THE CASE OF PARTNERSHIPS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an in-house research expense or contract research expense paid or incurred by a partnership is a qualified research expense of the partnership if the expense is paid or incurred by the partnership in carrying on a trade or business of the partnership as determined at the partnership level without regard to the trade or business of any partner. In the case of a partnership to which this paragraph applies, the credit under this section shall be apportioned among the partners in accordance with section 704. In any case to which subparagraph (B) applies the credit under this section shall be allowable only to any partner who is described in clause (ii) of subparagraph (B) or who meets the requirements of paragraph (4), and such credit shall be allowable only the extent that such credit is properly allocable to such partner under regulations prescribed by the Secretary.

"(B) EXCEPTION FOR CERTAIN JOINT VENTURES.—In the case of an in-house research expense or a contract research expense that is paid or incurred by a partnership other than in carrying on a trade or business of the partnership, if—

"(i) each partner is a regular corporation, or

"(ii) each partner had conducted directly the research conducted by or on behalf of the partnership and all such research expenses paid or incurred by the partnership would have been paid or incurred by that partnership in carrying on a trade or business of that partner,

such expenses shall be treated as paid or incurred by a partnership in carrying on the trade or business of the partnership, except that no partner shall be entitled to any

credit under this section in an amount greater than the amount which would have been allowable to such partner if such credit had been computed at the partner level.".

(2) PASS-THRU.—Paragraph (2) of section 44F(f) is amended to read as follows:

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.".

(3) REGULAR CORPORATION.—Subsection (f) of section 44F is amended by adding at the end thereof the following:

"(7) REGULAR CORPORATION.—For purposes of this section, the term 'regular corporation' means any corporation other than—

"(A) an S corporation,

"(B) a service organization (as defined in section 414(m)(3)), and

"(C) except to the extent provided in regulations, a personal holding company (as defined in section 542).".

(d) EXPANSION OF THE CREDIT TO INCLUDE UNIVERSITY BASIC RESEARCH.—

(1) CREDIT FOR UNIVERSITY BASIC RESEARCH PAYMENTS IN EXCESS OF CERTAIN AMOUNT.—Subsection (a) of section 44F is amended to read as follows:

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the sum of—

"(1) the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) the incremental university basic research amount.".

(2) DEFINITIONS AND SPECIAL RULES RELATING TO PAYMENTS FOR UNIVERSITY BASIC RESEARCH.—Subsection (e) of section 44F is amended to read as follows:

"(e) CREDIT AVAILABLE WITH RESPECT TO PAYMENTS TO COLLEGES, UNIVERSITIES, AND CERTAIN QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—

"(1) IN GENERAL.—Sixty-five percent of any amount of money paid or incurred in any taxable year by a corporation to any qualified organization for basic research which (except in the case of an organization which is described in subparagraph (C) or (D) of subsection (e)(3)) is to be performed by such organization shall be treated as contract research expenses paid or incurred in carrying on a trade or business of the taxpayer in that taxable year (without regard to the provisions of subsection (b)(3)(B)). The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written agreement between the corporation and the qualified organization.

"(2) INCREMENTAL UNIVERSITY BASIC RESEARCH AMOUNT.—

"(A) IN GENERAL.—For purposes of this section, the term 'incremental university basic research amount' means that portion of the amount treated as contract research expenses for the taxable year under paragraph (1) which exceeds the sum of—

"(i) the minimum university basic research amount, and

"(ii) the maintenance-of-effort amount.

"(B) MINIMUM UNIVERSITY BASIC RESEARCH AMOUNT.—For purposes of this section, the term 'minimum university basic research amount' means an amount equal to the greater of—

"(i) the average of all amounts treated as contract research expenses under subsection (e)(1) for each of the three taxable years immediately preceding the taxable year beginning after December 31, 1983; or

"(ii) 1 percent of the average of the sum of—

"(I) all in-house research expenses,

"(II) contract research expenses, and

"(III) amounts treated as contract research expenses under subsection (e)(1),

for each of the three taxable years immediately preceding the taxable year beginning after December 31, 1983.

"(C) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this section, the term 'maintenance-of-effort amount' shall mean the excess of—

"(i) the average of the undesignated donations paid or incurred by the taxpayer during the base period, over

"(ii) the amount of undesignated donations paid or incurred by the taxpayer in the taxable year.

"(D) UNDESIGNATED DONATIONS.—For purposes of this section, the term 'undesignated donations' means the amount paid or incurred by the taxpayer to all institutions of higher education (within the meaning of section 170(m)(6)(C)) described in section 170(b)(1)(A)(ii)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which were not designated by the taxpayer for use for the purposes described in paragraph (1).

"(E) ADJUSTMENT OF UNDESIGNATED DONATIONS FOR BASIC RESEARCH.—If—

"(i) the amount of undesignated donations of the taxpayer for any taxable year within the base period is less than the amount of undesignated donations of the taxpayer for the taxable year preceding such taxable year, and

"(ii) the amount that is treated by reason of paragraph (1) as contract research expenses paid by the taxpayer in such taxable year is greater than the amount of such contract research expenses for the taxable year preceding such taxable year,

the amount of undesignated donations of the taxpayer for such taxable year shall, for purposes of determining the average under subparagraph (C)(i), be increased by the amount determined under subparagraph (F) with respect to such taxable year.

"(F) AMOUNT OF ADJUSTMENT UNDER SUBPARAGRAPH (E).—The amount determined under this subparagraph with respect to any taxable year is an amount equal to the lesser of—

"(i) the excess of—

"(I) the amount that is treated by reason of paragraph (1) as contract research expenses paid or incurred by the taxpayer in such taxable year, over

"(II) the amount that is treated by reason of paragraph (1) as contract research expenses paid or incurred by the taxpayer in the taxable year preceding such taxable year, or

"(ii) the excess of—

"(I) the amount of undesignated donations of the taxpayer for the taxable year preceding such taxable year, over

"(II) the amount of undesignated donations of the taxpayer for such taxable year.

"(G) IN GENERAL.—For purposes of determining the amount of credit allowable under subsection (a)(1) of this section for any taxable year, the incremental university basic research amount shall not be treated as a qualified research expense under subsection (a)(1)(A) and shall not be included in the computation of base period research expenses under subsection (a)(1)(B).

"(3) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (within the meaning of section 170(m)(6)(C)),

"(B) any other organization which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation, or

"(C) any organization which—

"(i) either is described in section 501(c)(3) and is not a private foundation or is described in section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations (within the meaning of subsection (e)(3)(A)) pursuant to written research agreements, and

"(iv) expends on a current basis substantially all of its funds through grants or contracts for basic research by an organization (described in subsection (e)(3)(A)).

"(D) any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(4) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(A) basic research conducted outside of the United States, and

"(B) basic research in the social sciences or humanities.

"(5) CERTAIN CORPORATIONS NOT ELIGIBLE.—For purposes of this subsection, the term 'corporation' (as defined in section 7701(a)(3)) shall not include—

"(A) an S corporation (as defined in section 1361(a)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m)(3)).".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) CERTAIN BASE YEARS.—The amendments made by subsection (a) shall not apply with respect to the determination of base period research expenses for taxable years beginning before January 1, 1985.

SEC. 883. DEDUCTION FOR CERTAIN CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT.

(a) IN GENERAL.—Section 170 is amended—

(1) by striking out paragraph (4) of subsection (e),

(2) by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and

(3) by inserting after subsection (l) the following new subsection:

"(m) CONTRIBUTIONS OF SCIENTIFIC AND TECHNOLOGICAL PROPERTY FOR CERTAIN PURPOSES.—

"(1) AMOUNT OF DEDUCTION.—In the case of a qualified research contribution, the amount of the deduction shall not be reduced under subsection (e) but shall be determined under paragraph (4).

"(2) QUALIFIED RESEARCH CONTRIBUTION.—For purposes of this subsection, the term 'qualified research contribution' means a charitable contribution by a corporation of qualified scientific property to—

"(A) an educational organization which—

"(i) is described in section 170(b)(1)(A)(ii), and

"(ii) is an institution of higher education,

"(B) an association—

"(i) substantially all of the members of which are educational organizations described in section 170(b)(1)(A)(ii) that are institutions of higher education,

"(ii) which is described in section 501(c)(3) and exempt from tax under 501(a), and

"(iii) which is not a private foundation, or

"(C) a wholly owned instrumentality of a State substantially all of whose activities are directly for the benefit of educational organizations described in section 170(b)(1)(A)(ii) that are institutions of higher education; in which substantially all use of the donated equipment is by students of such institutions; and the donated equipment is not used, other than in an insubstantial part, for the performance of contract research for or for the benefit of persons other than those (i) described in section 501(a)(1) or 501(c)(3), and (ii) which are exempt from tax under section 501(a).

"(3) QUALIFIED SCIENTIFIC PROPERTY.—For purposes of this subsection, the term 'qualified scientific property' means a charitable contribution by a corporation of property to an organization described in paragraph (2), but only if—

"(A) such property is—

"(i) tangible personal property described in section 1221(1),

"(ii) computer software, or

"(iii) tangible personal property used in carrying on the trade or business of the taxpayer (within the meaning of section 1231(b)),

"(B) such contribution is made through the governing body of the donee,

"(C) such property is scientific or technological equipment or apparatus, replacement parts therefor, or computer software, substantially all of the use of which by the donee is in the United States directly for—

"(i) research and experimentation (within the meaning of section 174),

"(ii) research training,

"(iii) educational use in a scientific or engineering laboratory, or

"(iv) educational use if the activity involving such property is a direct substitute for a scientific or engineering laboratory activity,

but only if used in mathematics, the physical or biological sciences, or engineering,

"(D) such contribution is made—

"(i) in the case of personal property described in section 1221(1) or computer software, not later than 6 months after the date upon which the manufacture, construction, or assembly of the property is substantially completed, or

"(ii) in the case of tangible personal property used in a taxpayer's trade or business (as defined in section 1231(b)), not more than 3 years after the property is first placed in service,

"(E) in case of a contribution of tangible personal property that is described in section 1221(1), such property is manufactured, produced, or assembled by the taxpayer and the taxpayer is regularly engaged in the business of manufacturing, producing, or assembling of such property and selling or leasing of such property,

"(F) in the case of a contribution of tangible personal property that is described in paragraph (1) of section 1221 or of computer software, the original use of such property is by the donee,

"(G) the property is not transferred by the donee in exchange for money, other property, or services within 5 years of the date of the original transfer to donee,

"(H) the taxpayer receives from the governing body of the donee a written statement, executed under penalties of perjury, representing that—

"(i) the property meets the requirements of subparagraph (K), and

"(ii) the use and disposition of the property by the donee will be in accordance with the provisions of subparagraphs (C) and (G),

"(I) except in the case of property that is computer software or replacement parts, the fair market value of the property transferred exceeds $250,

"(J) such property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the equipment or apparatus transferred, and

"(K) such property is functional and usable in the condition in which it is transferred for the purposes described in subsection (c)(1)(C), without the necessity of any repair, reconditioning, or other similar investment by the donee.

"(4) AMOUNT OF ALLOWABLE DEDUCTION.—The amount of the deduction allowable under paragraph (1) shall be—

"(A) in the case of tangible personal property that is described in paragraph (1) of section 1221 or of computer software, the fair market value of the property, limited to the lesser of (A) the sum of the taxpayer's basis in the property and one-half of the amount of gain which would not have been long-term capital gain if the property had been sold by the taxpayer at its fair market value (determined at the time of such transfer), or (B) twice the taxpayer's basis in the property; and

"(B) in the case of tangible personal property that is used in the taxpayer's trade or business (as defined in section 1231(b)), the lesser of—

"(i) the fair market value of the property, or

"(ii) 150 percent of the taxpayer's basis in the property (without regard to adjustments under section 1016) less any adjustments under section 1016(a).

"(5) PROPORTION OF PRODUCTS SOLD LIMITATION.—The deduction otherwise allowable under subsection (a) of section 170 shall not be allowed in the case of a contribution of otherwise qualified scientific property (excluding property used in the taxpayer's trade or business), where the taxpayer's total qualified research contributions of such property under this section in the taxable year, as determined on a product-by-product basis, exceed 20 percent of the number of units of each such product sold by the taxpayer in the ordinary course of its business in that taxable year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) SUBSTANTIALLY ALL.—The term 'substantially all' shall mean at least 80 percent.

"(B) CORPORATION.—The term 'corporation' shall not include—

"(i) an S corporation (as defined in section 1361(a)),

"(ii) a personal holding company (as defined in section 542), or

"(iii) a service organization (as defined in section 414(m)(3)).

"(C) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation, and

"(iv) is a public or other nonprofit institution.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 884. EXCLUSION FROM GROSS INCOME OF CERTAIN SCHOLARSHIPS, GRANTS, AND STUDENT LOAN FORGIVENESS.

(a) IN GENERAL.—Part III of subchapter B of chapter I is amended by inserting after section 117 the following new section:

"SEC. 117A. SCHOLARSHIPS, FELLOWSHIP GRANTS, AND STUDENT LOAN FORGIVENESS RECEIVED BY CERTAIN GRADUATE SCIENCE STUDENTS.

"(a) GENERAL RULE.—In the case of a qualified individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship,

"(B) as a fellowship grant, or

"(C) as qualified student loan forgiveness,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incidental to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) QUALIFIED INDIVIDUAL.—For the purposes of this section, the term 'qualified individual' shall mean a student who is attending a qualified educational organization, who possesses a bachelor's degree or its equivalent, and who is engaged in postgraduate study as a degree candidate in mathematics, engineering, computer science, or the physical or biological sciences.

"(c) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of this section, the term 'qualified educational organization' shall mean an educational institution which—

"(1) is described in section 170(b)(1)(A)(ii),

"(2) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(3) is legally authorized within such State to provide a program of education beyond high school,

"(4) provides an educational program for which it awards a bachelor's or higher degree.

"(d) QUALIFIED STUDENT LOAN FORGIVENESS.—For purposes of this section, the term 'qualified student loan forgiveness' shall mean the forgiveness of a loan received by a qualified individual (as defined in subsection (b)) for the purpose of financing his postgraduate course of study in mathematics, engineering, computer science, or the physical or biological sciences, but only to the extent that—

"(1) the amount represented by the loan was expended for qualified tuition and related expenses (as defined in subsection (f)(2)),

"(2) such student is required in a written loan agreement, as a condition of receiving such forgiveness of the loan, to perform teaching services for any of a broad class of qualified educational organizations (as defined in subsection (c)) upon completion of his postgraduate course of study.

"(e) LIMITATION.—In the case of a qualified individual, subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required during his postgraduate course of study as a condition of receiving the scholarship, the fellowship grant, or qualified student loan. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships, fellowship grants, or qualified student loans) for a particular degree at a qualified educational organization as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(f) SCHOLARSHIPS AND FELLOWSHIP GRANTS NOT INCLUDABLE MERELY BECAUSE THERE IS A REQUIREMENT OF FUTURE SERVICE IN TEACHING.—

"(1) IN GENERAL.—If—

"(A) an amount received by a qualified individual would be excludable under subsections (a) and (e) as a scholarship or fellowship grant, but for the fact that such individual is required to perform teaching services for any of a broad class of qualified educational organizations upon completion of his postgraduate course of study, and

"(B) the individual establishes that, in accordance with the terms of the scholarship or grant, such amount was used for qualified tuition and related expenses, gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection, the term 'qualified tuition and related expenses' shall mean—

"(A) tuition and fees required for the enrollment or attendance of a qualified individual as a student at a qualified educational organization, and

"(B) fees, books, supplies, and equipment required for courses of instruction at a qualified educational organization.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 117 the following new item:

"Sec. 117A. Scholarships, fellowship grants, and student loan forgiveness received by certain graduate science students.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 885. TECHNICAL CORRECTION RELATING TO PERCENTAGE DEPLETION FOR SECONDARY AND TERTIARY PRODUCTION.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to exemption for independent producers and royalty owners) is amended—

(1) by striking out the last sentence of paragraph (2),

(2) by inserting at the end of subparagraph (A) of paragraph (3) the following new sentence:

"Clause (ii) shall not apply after December 31, 1983.",

(3) by inserting at the end of subparagraph (E) of paragraph (7) the following new sentence: "This subparagraph shall not apply after December 31, 1983.", and

(4) by striking out "paragraph (1)" in subparagraph (A) of paragraph (9) and inserting in lieu thereof "this subsection".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

SEC. 886. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study covering the advisability of—

(1) replacing only the Federal individual income tax, or

(2) replacing both the Federal individual income tax and the Federal corporate income tax,

with an alternative tax system.

(b) CONTENTS OF STUDY.—Such study shall take into account the administrative complexity of the existing Federal income tax system and address the ramifications of replacing that system with an alternative tax system. Such study shall focus on (but not be limited to) the following factors:

(1) protecting the economically disadvantaged,

(2) increasing economic efficiency in both the private and public sectors of the economy,

(3) reducing paperwork and auditing requirements, reducing taxpayer fraud and evasion, and expediting resolution of tax disputes between taxpayers and the Federal Government,

(4) increasing economic incentives for capital formation and productivity,

(5) removing economic disincentives to employment,

(6) excluding certain items, such as social security benefits, from gross income,

(7) equalizing the tax burden on taxpayers with equal ability to pay taxes, and

(8) achieving the appropriate burden of taxes for each income class of taxpayers.

Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) ALTERNATIVE TAX SYSTEM.—For purposes of this section, the term "alternative tax system" means a system based on—

(1) a simplified income tax based on gross income;

(2) a consumption tax;

(3) a consumption-based tax; or

(4) the broadening of the base and lowering of the rates of the current income tax.

(d) REPORTING DATE.—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than six months after the date of the enactment of this Act.

SEC. 887. MIGRATORY BIRD HUNTING STAMPS.

(a) IN GENERAL.—Section 5 of the Act of March 16, 1934 (48 Stat. 451, Chapter 71; 16 U.S.C. 718e) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsection (b), or the prohibition in section 474 of title 18, United States Code, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury, the color or black and white reproduction of migratory bird hunting stamps authorized by sections 1 through 4 and 6 through 9 of this Act, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1)(D) of title 18, United States Code. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be expended as provided for in section 72 of this Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 888. EXCLUSION FROM GROSS INCOME OF PAYMENTS FROM THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. PAYMENTS BY THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include the excludable portion of payments received from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, pursuant to section 19(a) of 'An Act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes', approved October 21, 1978 (Public Law 95-495; 92 Stat. 1649).

"(b) EXCLUDABLE PORTION.—For purposes of this section the term 'excludable portion' means that portion (or all) of a payment made to any taxpayer during the period after December 31, 1979, and before the later of the date which is 2 years after—

"(1) the date of the enactment of the Deficit Reduction Tax Act of 1984, or

"(2) the date of such payment,

which payment is reinvested within such period in depreciable property used in a trade or business of such taxpayer as authorized by such Act. In determining whether reinvestment has occurred, no direct tracing is required.

"(c) ELECTION.—An election under subsection (a) shall identify such property for which such payment has been allocated. An election may be made at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this chapter for the taxable year in which the reinvestment occurred, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(d) BASIS OF PROPERTY.—

"(1) IN GENERAL.—The basis of any property, with respect to which an allocation of any payment has been elected, shall be reduced by the amount of such payment.

"(2) INCREASE DUE TO REPAYMENT.—The basis of any property described in paragraph (1) shall be increased by the amount

of any repayments made to the United States Forest Service upon the sale of such property.

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).".

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 132 and by inserting in lieu thereof the following items:

"Sec. 132. Payments by the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area.

"Sec. 133. Cross references to other Acts.".

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1979.

(2) ELECTIONS FOR PRIOR YEARS.—Notwithstanding section 132 of the Internal Revenue Code of 1954 (as designated by this section), section 6511(a) of such Code, or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed under chapter 1 of such Code with respect to payments described in section 132 of such Code which were made after December 31, 1979, may be filed by any person with the election required by section 132(c) of such Code within the 1-year period beginning on the date of enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this paragraph within such 1-year period.

SEC. 889. STUDY OF TAXATION BY FOREIGN COUNTRIES ON SERVICES PERFORMED IN THE UNITED STATES.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the practices of foreign countries of taxing income on services performed within the United States, including, but not limited to—

(1) the status of treaty negotiations with such foreign countries with respect to such practices, and

(2) any options to alleviate the taxation of such income by more than 1 country without appropriate credit for taxes paid.

(b) REPORT.—The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a) no later than August 31, 1984.

SEC. 890. EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION OF EXCLUSION FROM GROSS INCOME FOR 2 YEARS.—Section 127(d) (relating to termination) is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1985".

(b) CERTAIN DEFERRED EDUCATIONAL BENEFITS TREATED AS DEFERRED COMPENSATION.—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended to read as follows:

"(b) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN; DEFERRED EDUCATIONAL BENEFITS.—

"(1) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation (including a plan described in paragraph (2)), subsection (a) shall apply as if there were such a plan.

"(2) PLANS PROVIDING DEFERRED EDUCATIONAL BENEFITS.—For purposes of this section, any plan providing for deferred educational benefits for employees, their spouses, or their dependents shall be treated as a plan deferring the receipt of compensation. In the case of such a plan, for purposes of this section, the determination of when an amount is includable in gross income shall be made without regard to section 117 or 127.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 891. PROPERTY TAXES OF COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Paragraph (3) of section 216(b) (relating to tenant-stockholder's proportionate share) is amended to read as follows:

"(3) TENANT-STOCKHOLDER'S PROPORTIONATE SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'tenant-stockholder's proportionate share' means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder bears to the total outstanding stock of the corporation (including any stock held by the corporation).

"(B) CERTAIN TAXES.—The term 'tenant-stockholder's proportionate share' means, with respect to any tax which is required by the State (or any political subdivision thereof) that imposes such tax to be allocated upon the basis of separate appraisals for some or all of the units in a house or apartment building, the amount of such tax allocated pursuant to the law of such State (or political subdivision) to that unit of the house or apartment building which the stockholder is entitled to occupy as a dwelling.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 892. INVESTMENT TAX CREDIT FOR CERTAIN SOIL OR WATER CONSERVATION EXPENDITURES.

(a) AMOUNT OF CREDIT.—

(1) LIMITATION.—Paragraph (3) of section 46(a) of such Code (relating to limitation based on amount of tax) is amended to read as follows:

"(3) LIMITATIONS.—

"(A) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(i) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(ii) 85 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

"(B) LIMITATION ON AMOUNT OF CREDIT ATTRIBUTABLE TO SOIL OR WATER CONSERVATION PROPERTY AND DISTRICT CONSERVATION PROPERTY.—The amount of the credit allowable under section 38 that is attributable to the application of the regular percentage to—

"(i) soil or water conservation property of the taxpayer, and

"(ii) district conservation property which the taxpayer is treated by section 48(i)(1) as having acquired, for any taxable year shall not exceed 25 percent of the amount of gross income of the taxpayer for the taxable year which is derived from farming (within the meaning of section 175).".

(2) SPECIAL RULES FOR APPLYING SECTION 46.—

(A) ORDER OF APPLICATION.—Subparagraph (A) of section 46(a)(7) (relating to special rules for energy property) is amended to read as follows:

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is attributable to the application of the rehabilitation percentage (as defined in paragraph (2)(F)) or to the application of the regular percentage (as defined in paragraph (2)(B) of this subsection) to property other than—

"(I) soil or water conservation property of the taxpayer, or

"(II) district conservation property which the taxpayer is treated by section 48(i)(1) as having acquired,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage (as defined in paragraph (2)(C) of this subsection) to energy property, and

"(iii) then with respect to so much of the credit allowable by section 38 as is attributable to the application of the regular percentage to—

"(I) soil or water conservation property of the taxpayer, or

"(II) district conservation property which the taxpayer is treated by section 48(i)(1) as having acquired.

"(B) LIABILITY FOR TAX; CARRYBACKS AND CARRYOVERS.—Paragraph (7) of section 46(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES IN THE CASE OF SOIL OR WATER CONSERVATION PROPERTY.—In applying this subsection and subsection (b) with respect to so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

"(i) the liability for tax shall be the amount determined under paragraph (4) reduced by so much of the credit allowed by section 38 as is described in clause (i) or (ii) of subparagraph (A), and

"(ii) for purposes of subsection (b), the amount of the limitation imposed by paragraph (3) of this subsection is the lesser of—

"(I) the amount of the limitation imposed by paragraph (3)(A) of this subsection, or

"(II) the amount of the limitation imposed by paragraph (3)(B) of this subsection.".

(b) SECTION 38 PROPERTY.—Paragraph (1) of section 48(a) of such Code (defining section 38 property) is amended—

(1) by striking out the period at the end of subparagraph (G) and inserting ", or"; and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) soil or water conservation property.",

(3) by inserting "or (H)" after "subparagraph (F) in the last sentence", and

(4) by striking out "such property" in the last sentence and inserting in lieu thereof "property described in subparagraph (F)".

(c) DEFINITION OF SOIL OR WATER CONSERVATION PROPERTY AND DISTRICT CONSERVATION PROPERTY.—Section 48 (relating to definitions and special rules) is amended by inserting after subsection (g) the following new subsections:

"(h) SOIL OR WATER CONSERVATION PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'soil or water conservation property' means that portion of the basis of qualified land which is attributable to conservation improvements made by the taxpayer.

"(2) BASIS FINANCED BY GOVERNMENT GRANTS EXCLUDED.—The term 'soil or water conservation property' does not include that portion of the basis of property which was financed

by any grant of the Federal Government or any State of local government to the extent such grant was not included in the gross income of the taxpayer.

"(3) QUALIFIED LAND.—The term 'qualified land' means land which—

"(A) is located within the United States,

"(B) is owned entirely by a United States citizen,

"(C) is used by the taxpayer in carrying on the business of farming, and

"(D) is not highly erodible land.

"(4) CONSERVATION IMPROVEMENTS.—

"(A) IN GENERAL.—The term 'conservation improvement' means any improvement described in subparagraph (B) to qualified land which the Soil Conservation Service certifies to the Secretary as being—

"(i) consistent with state-of-the-art conservation practices, and

"(ii) a major contribution to the conservaton of soil or water on such qualified land.

"(B) ELIGIBLE IMPROVEMENTS.—The improvements to land described in this subparagraph are—

"(i) conservation tillage systems,

"(ii) contour farming,

"(iii) critical area, pasture, and hayland planting,

"(iv) diversion, floodwater retarding, and multiple-purpose dams,

"(v) fencing for the protection or establishment of conservation cover,

"(vi) field windbreaks,

"(vii) filter strips,

"(viii) grade stabilization structures,

"(ix) grassed waterways or outlets,

"(x) pipelines for livestock water to maintain or improve conservation cover,

"(xi) livestock, wildlife, or sediment control ponds,

"(xii) range seeding sediment basins,

"(xiii) spring development,

"(xiv) stripcropping,

"(xv) terracing,

"(xvi) tree planting for ersoion control or conservation cover,

"(xvii) waste management systems to prevent agricultural pollution, or

"(xviii) any other improvements to land specified under regulations prescribed by the Secretary (after consultation with the Soil Conservation Service).

"(5) HIGHLY ERODIBLE LAND.—The term 'highly erodible land' means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the land capability classification systems in effect on the date of enactment of the Deficit Reduction Tax Act of 1984. The land capability class for a field shall be the class that the Secretary of Agriculture determines to be the predominant class under regulations issued by the Secretary of Agriculture.

"(6) USEFUL LIFE OF CONSERVATION IMPROVEMENTS.—Soil or water conservation property described in paragraph (1)(B) shall be treated as having a useful life of 7 years.

"(i) DISTRICT ASSESSMENTS PAID BY TAXPAYER WITH RESPECT TO SOIL OR WATER CONSERVATION PROPERTY OR ANY DEPRECIABLE PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—Any taxpayer carrying on the business of farming who pays or incurs an assessment which was made by a soil or water conservation or drainage district in order to defray expenses incurred by such district with respect to district conservation property shall be treated as having acquired a portion of such property for the amount of such assessment.

"(2) DISTRICT CONSERVATION PROPERTY.—

"(A) IN GENERAL.—The term 'district conservation property' means—

"(i) any property—

"(I) for which depreciation (or amortization in lieu of depreciation) is allowable, and

"(II) which is used by a soil or water conservation or drainage district in carrying on its business of conserving soil or water or providing drainage, or

"(ii) any conservation improvement (within the meaning of subsection (h)(4)).

"(B) IRRIGATION PROPERTY EXCLUDED.—The term 'district conservation property' shall not include any property—

"(i) which is used in connection with the irrigation of land, and

"(ii) for which depreciation (or amortization in lieu of depreciation) is allowable.

"(3) RECAPTURE.—Any portion of district conservation property which a taxapayer is treated by paragraph (1) as having acquired shall cease to be section 38 property if—

"(A) such district conservation property is disposed of by the soil or water conservation or drainage district, or

"(B) ceases to be used by such district in carrying on its business of conserving soil or water or providing drainage.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'farming' and 'soil or water conservation or drainage district' have the respective meaning given to such terms under section 175.

"(j) COORDINATION OF CREDIT WITH SECTIONS 175, 180, AND 182.—

"(1) DENIAL OF DEDUCTIONS.—No deduction shall be allowed under section 175, 180, or 182 with respect to any expense or assessment which is taken into account under section 46(a)(2) in determining the amount of any credit allowed under section 38.

"(2) ADJUSTMENT OF LIMITATIONS.—The amount of the limitations provided under sections 175(b) and 182(b) for the taxable year shall each be reduced by the aggregate amount of expenses and assessments which would have been allowable as a deduction under such section for such taxable year if such expenses and assessments had not been taken into account under section 46(a)(2) for such taxable year in determining the amount of the credit allowed under section 38.".

(d) RECAPTURE IN CASE OF CESSATION OF FARMING BUSINESS.—Subsection (a) of section 47 of such Code (relating to certain dispositions of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SOIL OR WATER CONSERVATION PROPERTY AND DISTRICT CONSERVATION PROPERTY.—

"(A) IN GENERAL.—Any soil or water conservation property of the taxpayer, or any portion of district conservation property which a taxpayer is treated by section 48(i)(1) as having acquired, shall cease to be section 38 property with respect to such taxpayer if the taxpayer, prior to the date that is 5 years after the date on which such property was placed in service, ceases to carry on the business of farming on the affected land of the taxpayer.

"(B) AFFECTED LAND.—For purposes of this paragraph, the term 'affected land' means—

"(i) in the case of a conservation improvement, the land on which such improvement was made, or

"(ii) in the case of district conservation property, the land against which the assessment described in section 48(h)(1) was made.".

(e) ELECTION OF SPECIAL EXPENSING PROVISIONS.—

(1) DEDUCTION FOR SOIL AND WATER CONSERVATION EXPENSES.—Section 175 of such Code (relating to soil and water conservation expenditures) is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

(2) DEDUCTION FOR FERTILIZERS AND CONDITIONING OF LAND.—Subsection (c) of section 180 of such Code (relating to election) is amended by striking out the last sentence thereof.

(3) DEDUCTION FOR CLEARING LAND.—Subsection (e) of section 182 of such Code (relating to election) is amended by striking out the last sentence thereof.

(f) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 46 of such Code (relating to amount of credit) is amended—

(A) by striking out "subparagraphs (A) and (B) of paragraph (3)" in paragraph (5) and inserting in lieu thereof "clauses (i) and (ii) of paragraph (3)(A)",

(B) by striking out "paragraph (3)" in paragraph (6) and inserting in lieu thereof "clauses (i) and (ii) of paragraph (3)(A)", and

(C) by striking out "paragraph (3)(B)" in paragraph (7)(B)(i) and inserting in lieu thereof "paragraph (3)(A)(ii)".

(2) Paragraph (1) of section 46(e) of such Code (relating to limitations with respect to certain persons) is amended by striking out "subparagraphs (A) and (B) of subsection (a)(3)" and inserting in lieu thereof "clauses (i) and (ii) of subsection (a)(3)(A)".

(3) Paragraph (1) of section 46(h) of such Code (relating to special rules for cooperatives) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 1984, under rules similar to the rules provided under section 48(m) of the Internal Revenue Code of 1954.

SEC. 893. EXTENSION OF PERIOD OF DEPRECIATION FOR CERTAIN AGRICULTURAL STRUCTURES.

(a) IN GENERAL.—Subparagraph (A) of section 168 (b)(2) (relating to 15-year real property), as amended by section 171(b) of this Act, is further amended by striking out "200 percent declining balance method" and inserting in lieu thereof "150 percent declining balance method (200 percent declining balance method in the case of low-income housing (within the meaning of subsection (c)(2)(D)).)".

(b) 15-YEAR REAL PROPERTY.—Subparagraph (D) of section 168(c)(2) (relating to 15-year real property), as amended by section 171(c) of this Act, is amended to read as follows:

"(D) 15-YEAR REAL PROPERTY.—The term '15-year real property' means—

"(i) any single purpose agricultural or horticultural structure (within the meaning of section 48(p)), or

"(ii) section 1250 class property which—

"(I) does not have a present class life of 12.5 years or less, and

"(II) is low-income housing.

For purposes of the preceding sentence, the term 'low-income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).".

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(c)(2) (relating to 5-year property) is amended by inserting "15-year real property," after "10-year real property,".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service by the taxpayer after the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer if—

(A) the taxpayer entered into a binding contract to purchase or construct such property before the date of enactment of this Act, or

(B) construction of such property was commenced by or for the taxpayer before the date of enactment of this Act.

SEC. 894. TRANSFERS OF PROPERTY FOR VALUE.

For purposes of section 83 (relating to the taxation of property transferred in connection with the performance of services) the followng rule shall apply:

"(4) TRANSFERS OF PROPERTY FOR VALUE.—with respect to a transfer of property for value after June 30, 1976, and before date of enactment, the election permitted by subsection (b) may be made, notwithstanding paragraph (2) of subsection (b), with the income tax return for the first tax year ending after the date of enactment, if—

"(A) the amount paid for such property was not less than its fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), and

"(B) the election is consented to by the person transferring such property.

The election shall contain that information required by the Secretary for elections permitted by subsection (b). The period for assessing any tax attributable to a transfer of property which is the subject of an election made pursuant to this paragraph shall not expire before the date which is 3 years after the date such election was made.".

SEC. 895. ARMED FORCES OVERSEAS QUARTERS.

(a) Section 1034(h) of the Internal Revenue Code of 1954 (26 U.S.C. 1034(h) is amended to read as follows:

"(h) MEMBERS OF ARMED FORCES.—

"(1) IN GENERAL.—The running of any period of time specified in subsection (a) or (c) (other than the 2 years referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) MEMBERS STATIONED OUTSIDE THE UNITED STATES OR REQUIRED TO RESIDE IN GOVERNMENT QUARTERS.—In the case of any taxpayer who, during any period of time the running of which is suspended by paragraph (1)—

"(A) is stationed outside of the United States, or

"(B) after returning from a tour of duty outside of the United States and pursuant to a determination by the Secretary of the Department of Defense that adequate off-base housing is not available at a remote base site, is required to reside in on-base Government quarters

any such period of time as so suspended shall not expire before the later of the date provided for in paragraph (1) or the date 1 year after the date on which the taxpayer is no longer stationed outside of the United States or is no longer required to reside in such on-base quarters, described in subparagraph (B), as the case may be (in either case, which period of time as so suspended shall not exceed 8 years).

"(3) EXTENDED ACTIVE DUTY DEFINED.—For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period of 90 days or for an indefinite period.".

(b) The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) after the date of enactment.

SEC. 896. INCREASED PAYMENTS FOR PRESIDENTIAL NOMINATING CONVENTIONS.

(a) IN GENERAL.—Paragraph (1) of section 9008(b) (relating to major parties) is amended by striking out "$3,000,000" and inserting in lieu thereof "$4,000,000".

(b) TECHNICAL AMENDMENTS.—Paragraph (5) of section 9008(b) (relating to adjustment of entitlements) is amended—

(1) by striking out "section 320(b) and section 320(d)" and inserting in lieu thereof "section 315(b) and section 315(d)"; and

(2) by striking out "section 320(c)" and inserting in lieu thereof "section 315(c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

SEC. 897. BUSINESS TAXABLE INCOME OF PRIVATE CORPORATIONS.

(a) Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) EXCHANGES AND RENTALS OF NAMES FROM DONOR LISTS OR MEMBERSHIP LISTS.—

"(1) GENERAL RULE.—In the case of an organization that is a private corporation established under Federal law, the term 'trade or business' does not include any trade or business of such organization which consists of exchanging with or renting to an organization described in section 501 contributions to which are deductable under section 170, the names and addresses of donors to, or members of, either organization.

"(2) DEFINITION.—For purposes of this subsection, the term 'private corporation established under Federal law' means on organization which is subject to sections 2 and 3 of the Act of August 30, 1964 (36 U.S.C. 1102, 1103).".

(b) The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SPECIAL PROVISIONS FOR DISLOCATED WORKERS WITH RESPECT TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 898. (a) Notwithstanding any other provision of the Internal Revenue Code of 1954, a dislocated worker having documentation issued by the Secretary under this section, may withdraw contributions to, and interest on, an individual retirement account established in accordance with the provisions of section 408 of the Internal Revenue Code of 1954, without incurring the tax penalty under section 408(f) of the Internal Revenue Code of 1954.

(b) For purposes of subsection (a), an individual is a dislocated worker if such individual—

(1) has at least twenty quarters of coverage under title II of the Social Security Act; and

(2) has exhausted all rights to regular compensation under State law in his most recent benefit year.

(c) The Secretary shall provide for the issuance of documentation to individuals identified as dislocated workers.

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SUBTITLE A—MEDICARE, MEDICAID, AND OTHER HEALTH PROVISIONS

PART I—MEDICARE BUDGET PROVISIONS

PART B PREMIUM

SEC. 901. (a) Section 1839(a) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The monthly premium for each individual enrolled under this part for each month after December 1984 shall, except as provided in subsections (b) and (e), be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under paragraph (1) and applicable to such month.

"(3) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and older as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.".

(b) Section 1839(e) of such Act is amended to read as follows:

"(e)(1) If no cost-of-living increase becomes effective under section 215(i) in December of any year, the monthly premium of each individual enrolled under this part for the succeeding year shall (except as otherwise provided in subsection (b)) be the same as the monthly premium (disregarding subsection (b)) of the individual for such December.

"(2) If paragraph (1) does not apply to the monthly premiums for a year, if an individual is entitled to monthly benefits under section 202 or 223 for November and for December in that preceding year, and if the monthly premium for that December and for the following January is deducted from those benefits under section 1840(a)(1), the monthly premium for that individual for that January and for each of the succeeding 11 months for which he is entitled to benefits under section 202 or 223 shall (except as otherwise provided in subsection (b)) be the greater of—

"(1) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) necessary to make the monthly benefits under section 202 or 223 for that January after the deduction of the monthly premium (disregarding subsection (b)) for that January at least equal to the monthly benefits under section 202 or 223 for the preceding November after the deduction of the premium (disregarding subsection (b)) for that individual for that November, or

"(2) the monthly premium (disregarding subsection (b)) for that individual for that December.

For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223.".

(c)(1) Section 1839(b) of such Act is amended by striking out "or (e)".

(2) Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) of such Act are each amended by striking out "1839(c)(3) or 1839(e), as the case may be" and inserting in lieu thereof in each instance "1839(c)(2)".

(d) The amendments made by this section shall apply to premiums for months beginning with January 1985.

ONE-MONTH DELAY IN MEDICARE ENTITLEMENT

SEC. 902. (a) Section 226 of the Social Security Act is amended by redesignating subsection (h) as subsection (i), and by inserting after subsection (g) the following:

"(h)(1) Except as provided in paragraph (2), for purposes of subsection (a)(1) and any other provision of this section, any provision of title XVIII of this Act, or any other provision of law, which establishes entitlement to or eligibility for benefits under such title XVIII or establishes any period of time in relation to such entitlement or eligibility, on the basis of the attainment of age 65, an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age; except that, if such individual was entitled to hospital insurance benefits for the month preceding the month in which he actually attains age 65, he shall be deemed to have attained age 65 on the first day of

the month in which he actually attains such age.

"(2) For purposes of subsection (b)(1), an individual shall be deemed to have attained age 65 on the first day of the month in which he actually attains such age.".

(b) Section 1836 of such Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(2), an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age.".

(c) The amendments made by this section shall apply to individuals actually attaining age 65 after 1984.

MODIFICATION OF WORKING AGED PROVISION

SEC. 903. (a) Section 1862(b)(3)(A)(i) of the Social Security Act is amended by striking out "is over 64 but" each place it appears.

(b) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 is amended—

(1) by inserting ", and any employee's spouse aged 65 through 69," after "aged 65 through 69"; and

(2) by inserting ", and the spouse of such employee," after "same conditions as any employee".

(c)(1) The amendment made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1985.

(2) The amendment made by subsection (b) shall become effective on January 1, 1985.

LIMITATION ON PHYSICIAN FEE PREVAILING AND CUSTOMARY CHARGE LEVELS; PARTICIPATING PHYSICIAN INCENTIVES

SEC. 904. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A)(i) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for the 12-month period beginning July 1, 1984, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services performed by a physician who is not a participating physician (as defined in paragraph (12)) for the 12-month period beginning July 1, 1985, the Secretary shall not set any level for such period that is higher than the level set under clause (i).

"(B) In determining the reasonable charge under paragraph (3) for physicians' services for the 12-month period beginning July 1, 1984, the customary charges shall be deemed to be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.

"(C) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for periods beginning after June 30, 1985 (in the case of a physician to whom subparagraph (A)(ii) does not apply) and for periods beginning after June 30, 1986 (in the case of a physician to whom subparagraph (A)(ii) applies) the Secretary shall treat the level as set under clause (i) of subparagraph (A) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)."; and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Each year, the Secretary shall prepare and cause to be published a list containing the name, address, specialty, volume of services, and percent of bills submitted with respect to each physician and supplier during the preceding year that were paid on the basis of an assignment described in paragraph (3)(B)(ii). The Secretary may limit such list to those physicians and suppliers who accepted such an assignment in a certain percentage of such physician's or supplier's billings, as the Secretary may determine to be appropriate. Such list shall be organized by region or by such other geographical unit as the Secretary determines, after consultation with carriers with which there is an agreement under subsection (a), would facilitate the use of such list by individuals enrolled under this part.

"(B) Each year, the Secretary shall prepare a directory containing the name, address, and specialty of all participating physicians and suppliers (as defined in paragraph (12)) for the most current fee screen year. The directory shall be organized to make the most useful presentation of the information (as determined by the Secretary) for individuals enrolled under this part.

"(C) Each year, the Secretary shall promptly notify individuals enrolled under this part of the publication of such directory and shall make such directory available in each district and branch office of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.

"(D) The Secretary shall provide that the directory shall be available for purchase by the public.

"(9) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, specialty, and telephone numbers of participating physicians and suppliers.

"(10) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the electronic transmission to such carrier of bills for services, such carrier shall establish direct lines for the electronic receipt of claims from participating physicians and suppliers.

"(11)(A) Each carrier having an agreement with the Secretary under subsection (a) shall, to the extent possible, enter into an agreement with any entity offering a medicare supplemental policy to an individual enrolled under this part under which a participating physician or supplier who provides services to an individual insured by such a policy may—

"(i) submit a bill for such services to the carrier, which will pay such participating physician or supplier the amount payable with respect to such services under this part and notify such entity of the amount so paid and the unpaid balance of such bill; or

"(ii) submit a bill for such services to such entity, which will pay such participating physician or supplier an amount equal to the amount payable under such policy and the amount payable under this part with respect to such services, and bill the carrier for the amount payable under this part with respect to such services.

The carrier shall limit the applicability of the agreement to only participating physicians and suppliers.

"(B) In the case of an individual who is insured under a medicare supplemental policy described in paragraph (6)(C) (relating to indirect payment of part B benefits), payment to a participating physician or supplier shall be made in accordance with the terms of that paragraph.

"(12) For purposes of this subsection—

"(A) the term 'participating physician or supplier' means a physician or supplier who, on or before March 31, 1985, and each year thereafter (or at such other time as the Secretary determines will give physicians and suppliers adequate time to sign a participation agreement), enters into an agreement with the Secretary which provides that, for the 12-month period beginning July 1 of each year, such physician or supplier will accept payment under this part on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedures described in section 1870(f)(1) for services furnished during such 12-month period to individuals enrolled under this part; and

"(B) the term 'medicare supplemental policy' means a health insurance policy or other health benefit plan—

"(i) certified by a State or by the Secretary in accordance with section 1882; or

"(ii) which is provided by one or more employers or labor organizations, or the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations, and which is offered to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title.".

LIMITATION ON INCREASE IN HOSPITAL COSTS PER CASE

SEC. 905. (a) Section 1886(b)(3)(B) of the Social Security Act is amended—

(1) by inserting "(i)" after "(B)";

(2) by striking out "1 percentage point plus", and by inserting before the period at the end thereof the following: ", increased or decreased in accordance with clause (ii) or (iii)"; and

(3) by adding at the end thereof the following:

"(ii) In the case of a hospital which is not a subsection (d) hospital—

"(I) for any cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1985, the applicable percentage increase shall be the percentage determined under clause (i);

"(II) for any cost reporting period or fiscal year beginning on or after October 1, 1985, and before October 1, 1986, the applicable percentage increase shall be the percentage determined under clause (i), plus one-quarter of one percentage point.

"(iii) In the case of a subsection (d) hospital, for any cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1986, the applicable percentage increase—

"(I) except for purposes of subsection (d)(3)(A), shall be the percentage determined under clause (i), minus one-half of one percentage point; and

"(II) for purposes of subsection (d)(3)(A), shall be the percentage determined under

clause (i), plus one-half of one percentage point.".

(b)(1) Section 1886(d)(3)(A) of such Act is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal years 1985 and 1986".

(2) Paragraphs (2), (3), (4), and (5) of section 1886(e) of such Act are each amended by striking out "fiscal year 1986" and inserting in lieu thereof "fiscal year 1987".

(c) Subparagraphs (A)(ii) and (B)(ii) of section 1886(e)(1) of the Social Security Act are amended by inserting after "Amendments of 1983" the following: "but as amended (in subsection (b)(3)(B)) by section 905(a) of the Omnibus Reconciliation Act of 1983".

(d) The amendments made by this section shall apply to cost reporting periods beginning in, and discharges occurring in, fiscal year 1985 and thereafter.

(e) Section 1886(e)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The Commission shall also make a preliminary report of its recommendation for fiscal year 1987 to the Secretary prior to April 1, 1985.".

FEE SCHEDULE FOR CLINICAL LABORATORY SERVICES

SEC. 906. (a) Section 1833(a)(1)(D) of the Social Security Act is amended to read as follows: "(D) with respect to diagnostic laboratory tests for which payment is made under this part, the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii)) of the lesser of the amount determined under subsection (h) or the amount of the charges billed for the tests;".

(b) Section 1833(a)(2) of such Act is amended—

(1) in subparagraph (B), by inserting "or (D)" after "subparagraph (C)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by adding "and" at the end of subparagraph (C); and

(4) by adding at the end thereof the following new subparagraph:

"(D) with respect to diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider, the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or a provider agreement under section 1866) of the lesser of the amount determined under subsection (h) or the amount of the charges billed for the tests;".

(c) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2) and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to diagnostic tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or a provider agreement under section 1866 and to which subsection (h) of this section applies".

(d) Section 1833(h) of such Act is amended to read as follows:

"(h)(1) The Secretary shall establish fee schedules for diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider. Such schedules shall be established on areawide bases as established by the Secretary.

"(2) The Secretary shall set the fee schedule at 60 percent (or, in the case of a test performed in a hospital laboratory, 62 percent) of the prevailing charges paid under this part for the area for similar diagnostic laboratory tests during the fee screen year beginning July 1, 1983, adjusted annually by a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (United States city average). The Secretary may make adjustments or exceptions to the fee schedule to assure adequate reimbursement of: (A) emergency laboratory tests needed for the provision of bona fide emergency services in a hospital emergency room; and (B) certain low-volume high-cost tests where highly sophisticated equipment or extremely skilled personnel are necessary to assure quality.

"(3) In the case of a bill or request for payment for a diagnostic laboratory test for which payment may otherwise be made under this part, payment may be made only to the person or entity which performed or supervised the performance of such test. In the case of such a bill or request for payment which is not based upon an assignment described in section 1842(b)(3)(B) or a provider agreement under section 1866, payment may be made to the beneficiary only on the basis of the itemized bill of the person or entity which performed or supervised the performance of the test.".

(e) Section 1842 of such Act is amended by striking out subsection (h) thereof.

(f)(1) Except as provided in paragraph (3), the amendments made by this section shall apply only with respect to diagnostic laboratory tests furnished on or after May 1, 1984, and before October 1, 1987.

(2) With respect to diagnostic laboratory tests furnished on or after October 1, 1987, payment under part B of title XVIII of the Social Security Act shall be made in accordance with the provisions of such part as they would be in effect if the amendments made by this section had not been enacted.

(3) The provisions of section 1833(h)(3) as added by this section shall remain in effect on and after October 1, 1987.

(g) The Secretary of Health and Human Services shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for diagnostic laboratory tests so as to reduce unnecessary paperwork while assuring that sufficient information is supplied to prevent fraud and abuse.

(h) The Secretary of Health and Human Services shall report to the Congress prior to June 30, 1985, with respect to—

(1) recommendations with respect to direct payment of all fees for diagnostic laboratory tests to the physician under title XVIII of the Social Security Act;

(2) any possible basis for the formulation of a nationwide fee schedule for diagnostic laboratory tests under such title; and

(3) any appropriate indexing mechanism for adjusting such a fee schedule.

(i) The amendments made by this section shall not apply to diagnostic laboratory tests furnished to inpatients of a provider operating under a waiver granted pursuant to section 602(k) of the Social Security Amendments of 1983. Payment for such services shall be made under part B of title XVIII of the Social Security Act at 80 percent (or 100 percent in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii)) of the reasonable charge for such service. The deductible under section 1833(b) of such Act shall not apply to such tests if payment is made on the basis of such an assignment.

REVALUATION OF ASSETS ACQUIRED BY HOSPITALS

SEC. 907. (a) Section 1886(g) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall provide that in any case in which a hospital (including subsection (d) hospitals and other hospitals) acquires any asset which had been depreciated in whole or in part by the prior owner for purposes of payment under this title, the payments to the purchasing hospital under this title (with respect to inpatient and outpatient services) for capital-related costs of that asset (depreciation, equity capital, and interest) shall be based upon book value (that is the acquisition cost of the asset as carried on the books of the prior owner less any depreciation taken on the asset by such prior owner) and shall be determined using the same useful life and method of depreciation as used by such prior owner for purposes of payment under this title.".

(b) Section 1886(g)(2) of such Act is amended by inserting "except as otherwise provided in paragraph (3), and" after "March 1, 1983,".

(c) The amendments made by this section shall apply to capital-related costs of capital expenditures obligated on or after October 1, 1984.

REPEAL OF PREADMISSION DIAGNOSTIC TESTING PROVISION

SEC. 908. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out "(F) with respect to" and all that follows through "(G)" and inserting in lieu thereof "and (F)".

(b) Section 1833(a) of such Act is amended—

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) by striking out paragraph (5).

(c) Section 1833(a)(2) of such Act is amended by striking out "and in paragraph (5) of this subsection".

(d) Section 1833(b) and section 1833(i)(3) of such Act are each amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(F)".

(e) The amendments made by this section shall apply to services performed after the date of the enactment of this Act.

(f) The amendments made by this section shall not be construed as prohibiting payment, subject to the applicable copayments, under part B of title XVIII of the Social Security Act for preadmission diagnostic testing performed in a physician's office to the extent such testing is otherwise reimbursable under regulations of the Secretary.

SKILLED NURSING FACILITY REIMBURSEMENT

SEC. 909. (a)(1) Section 1861(v)(1)(E) of the Social Security Act is amended by striking out clause (i) thereof, and by striking out "(ii)".

(2) Section 1861(v)(7) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) For further limitations on reasonable cost and determination of payment amounts for routine service costs of skilled nursing facilities, see section 1888.".

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS

"SEC. 1888. (a) The Secretary, in determining the amount of the payments which may be made under this title with respect to routine service costs of extended care services shall not recognize as reasonable (in the efficient delivery of health services) per diem costs of such services to the extent that such per diem costs exceed the following per diem limits, except as otherwise provided in this section:

"(1) With respect to freestanding skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in urban areas.

"(2) With respect to freestanding skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in rural areas.

"(3) With respect to hospital-based skilled nursing facilities located in urban areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in urban areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in urban areas exceeds the limit for freestanding skilled nursing facilities located in urban areas.

"(4) With respect to hospital-based skilled nursing facilities located in rural areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in rural areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in rural areas exceeds the limit for free standing skilled nursing facilities located in rural areas.

In applying this subsection the Secretary shall make appropriate adjustments to the labor related portion of the costs based upon an appropriate wage index.

"(b) With respect to a hospital-based skilled nursing facility, the Secretary shall recognize as reasonable the portion of the cost differences between hospital-based and freestanding skilled nursing facilities attributable to excess overhead allocations (as determined by the Secretary) resulting from the reimbursement principles under this title, notwithstanding the limits set forth in paragraph (3) or (4) of subsection (a).

"(c) The Secretary may make adjustments in the limits set forth in subsection (a) with respect to any skilled nursing facility to the extent the Secretary deems appropriate, based upon case mix or circumstances beyond the control of the facility.".

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after July 1, 1984.

(d) Notwithstanding limits on the cost of skilled nursing facilities which may have been issued under section 1861(v) of the Social Security Act prior to the date of the enactment of this Act, in the case of cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984, the cost limits for routine services for urban and rural hospital-based skilled nursing facilities shall be 112 percent of the mean of the respective routine costs for urban and rural hospital-based skilled nursing facilities.

(e) The Secretary of Health and Human Services shall submit to the Congress, prior to April 15, 1984, the report required under section 605(b) of the Social Security Amendments of 1983.

(f) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, a proposal for the implementation of a prospective payment plan for extended care services under title XVIII of the Social Security Act. The plan shall take into account case mix differences among skilled nursing facilities. The plan shall be designed so as to permit inclusion of payments to hospital-based facilities within the DRG payment system under section 1886(d) of such Act. The plan shall be designed for implementation effective October 1, 1985.

ROUNDING OF PART B PAYMENTS

SEC. 910. (a) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) Whenever payment under this part is made on the basis of the reasonable charge for the service, the amount of the payment, as determined after application of the provisions of section 1842 relating to the calculation of the reasonable charge and after the application of any deductibles and copayments, shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount. Where a payment is for more than one related service provided to the same patient, this subsection shall be applied to the total payment, rather than to each service separately. Any person or provider receiving such payment on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under a provider agreement under section 1866, may not charge to the beneficiary the amount by which the payment is reduced under this subsection.".

(b) The amendment made by this section shall apply to payments for services performed on or after July 1, 1984.

AGREEMENTS FOR MEDICARE CLAIMS PROCESSING

SEC. 911. (a)(1) Section 1816(a) of the Social Security Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary may enter into an agreement with any organization or agency under which such organization or agency shall make determinations of the amounts of the payments to be made under this part to the providers it serves, and shall make such payments to such providers. Determinations of the amounts of payment shall be subject to section 1878 and to such review by the Secretary as may be provided for in the agreement.".

(2) Section 1816(d) of such Act is repealed.

(3) Paragraphs (1) and (2) of section 1816(e) of such Act are each amended by striking out "Notwithstanding subsections (a) and (d), the Secretary" and inserting in lieu thereof "The Secretary".

(4) Section 1816(e)(4) of such Act is amended by striking out "subsections (a) and (d) and".

(b)(1) Section 1816(c) of such Act is amended by striking out "of so much of the cost of administration of the agency or organization as is determined by the Secretary to be necessary and proper for carrying out the functions covered by the agreement" and inserting in lieu thereof "to the organization for carrying out the functions covered by the agreement in accordance with such terms as the Secretary and the organization or agency shall agree upon".

(2) Section 1816(f) of such Act is amended—

(A) by inserting "(1)" after "(f)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(C) by striking out ", by regulation,"; and

(D) by adding at the end thereof the following new paragraph:

"(2) Subject to the standards, criteria, and procedures developed pursuant to paragraph (1), the Secretary may utilize competitive and noncompetitive procedures for determining with whom he shall enter into an agreement under this section, and may experiment with innovative techniques for carrying out agreements under this section.".

(c)(1) Section 1842(c) of such Act is amended by striking out "of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract" and inserting in lieu thereof "to the carrier for carrying out the functions covered by the contract in accordance with such terms as the Secretary and the carrier shall agree upon".

(2) Section 1842 of such Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary may utilize competitive and noncompetitive procedures for determining with whom he shall enter into a contract under this section, and may experiment with innovative techniques for carrying out such contracts.".

(d) The amendments made by this section shall become effective on October 1, 1984.

LESSER OF COST OR CHARGES

SEC. 912. The Secretary of Health and Human Services shall issue regulations which require, for purposes of title XVIII of the Social Security Act, that hospitals calculate and report the lesser-of-cost-or-charges determinations separately on the basis of inpatient and outpatient services, and that payment under such title be based upon such separate determinations. Such regulations shall apply to cost accounting periods beginning on or after October 1, 1984.

HEPATITIS B VACCINE

SEC. 913. (a) The first sentence of section 1881(b)(1) of the Social Security Act is amended by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) payments to or on behalf of such individuals for hepatitis B vaccine and its administration".

(b) Section 1881(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) Hepatitis B vaccine and its administration shall be included as dialysis services with respect to individuals who are receiving dialysis services at or through a renal dialysis facility, and payment for such vaccine and its administration shall be made in such manner and amount as the Secretary determines to be appropriate, which may include the inclusion within the prospective payment amount established under paragraph (7). Such vaccine and its administration, when furnished to an individual who is receiving dialysis services, but not at or through a renal dialysis facility, shall be included as physicians' services, and payment shall be made in accordance with paragraph (3).".

(c)(1) Section 1862(a)(1)(B) of such Act is amended by inserting "or section 1881(b)(1)(C)" after "1861(s)(10)".

(2) Section 1862(a)(7) of such Act is amended by inserting ", section 1881(b)(1)(C)," after "1861(s)(10)".

(d) The amendments made by this section shall apply with respect to hepatitis vaccine administered on or after July 1, 1984.

(e) The Secretary of Health and Human Services shall adjust, effective with respect to services provided on or after the date of the enactment of this Act, the comprehensive fee or other basis of payment established under section 1881(b)(3)(B) of such Act, to reflect the amendments made by this section.

LIMITATION ON CERTAIN FOOT-CARE SERVICES

SEC. 914. (a) The Secretary of Health and Human Services shall provide, by regulation and pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every sixty days, unless the medical necessity for more frequent treatment is documented by the billing physician.

(b) The provision of subsection (a) shall apply to services performed on or after the date of the enactment of this Act.

COVERAGE OF HEMOPHILIA CLOTTING FACTOR

SEC. 915. (a) Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (G), by adding "and" at the end of subparagraph (H), and by adding at the end thereof the following new subparagraph:

"(I) blood clotting factors, for hemophilia patients competent to use such factors to control bleeding without medical or other supervision, and items related to the administration of such factors, subject to utilization controls deemed necessary by the Secretary or necessary for the efficient use of such factors;".

(b) The amendments made by subsection (a) shall be effective with respect to items and services purchased on or after the date of the enactment of this Act.

INDEXING OF PART B DEDUCTIBLE

SEC. 916. (a) Section 1833(b) of the Social Security Act is amended—

(1) by striking out "of $75" and inserting in lieu thereof "determined under paragraph (2)";

(2) by redesignating clauses (1) through (3) as clauses (A) through (C);

(3) by inserting "(1)" after "(b)"; and

(4) by adding at the end thereof the following new paragraph:

"(2)(A) The part B deductible—

"(i) shall be $75 for the calendar year 1984;

"(ii) for each of the calendar years 1985, 1986, and 1987 shall be an amount equal to $75 increased or decreased by the percentage increase or decrease in the economic index utilized under section 1842(b)(3) from the 12-month period which began on July 1, 1983, to the 12-month period that began on July 1 of the year preceding such calendar year (rounded to the nearest multiple of $1, or if midway between multiples of $1, rounded to the next higher multiple of $1), determined without regard to section 1842(b)(4); and

"(iii) for the calendar year 1988 and each succeeding calendar year, shall be equal to the deductible for calendar year 1987.

"(B) The Secretary shall, between July 1 and October 1 of 1984, and of each year thereafter, determine and promulgate the part B deductible which shall be applicable for the following calendar year.".

(b) The amendments made by subsection (a) shall be effective for calendar years after 1983.

(c) The Secretary of Health and Human Services shall determine and promulgate the part B deductible for calendar year 1985 as soon as possible after the date of the enactment of this Act.

COST SHARING FOR DURABLE MEDICAL EQUIPMENT FURNISHED AS A HOME HEALTH BENEFIT

SEC. 917. (a)(1) The matter in section 1814(b) of the Social Security Act preceding paragraph (1) is amended by inserting "and other than a home health agency with respect to durable medical equipment" after "hospice care".

(2) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"Payments to Home Health Agencies for Durable Medical Equipment

"(k) The amount paid to any home health agency with respect to durable medical equipment for which payment may be made under this part shall be—

"(1) the lesser of—

"(A) the reasonable cost of such equipment, as determined under section 1861(v), or

"(B) the customary charges with respect to such equipment,

less the amount the home health agency may charge as described in section 1866(a)(2)(A)(ii), but in no case may the payment for such equipment exceed 80 percent of such reasonable cost, or

"(2) if such equipment is furnished by a public home health agency free of charge or at nominal charge to the public, the amount which the Secretary finds will provide fair compensation to the home health agency.".

(b)(1) The matter in section 1833(a)(2)(A) of such Act preceding clause (i) is amended by inserting "(other than durable medical equipment)" after "home health services".

(2) The matter in section 1833(a)(2)(B) of such Act preceding clause (i) is amended by inserting "items and" after "other".

(c) Section 1866(a)(2)(A)(ii) of such Act is amended by inserting "or which are durable medical equipment furnished as home health services" after "part B".

(d)(1) The first sentence of section 1833(f)(1) of such Act is amended by striking out "as described in section 1861(s)(6)".

(2) Section 1833(f)(2) of such Act is amended—

(A) by striking out "the 20 percent" and inserting in lieu thereof "any", and

(B) by striking out "under subsection (a)".

(3) Section 1833(f)(3) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(4)(A) Subsection (f) of section 1833 of such Act is redesignated as section 1889, is assigned the heading "Purchase of Durable Medical Equipment", and is moved to the end of part C.

(B) Paragraphs (1) through (4) of section 1889 are redesignated as subsections (a) through (d).

(e)(1) Section 1861(m)(5) of such Act is amended by striking out ", and the use of medical appliances" and inserting in lieu thereof "and durable medical equipment".

(2) Section 1861(s)(6) of such Act is amended by striking out everything after "durable medical equipment" up to the semicolon.

(3) Section 1861 of such Act is amended by inserting after subsection (m) the following:

"Durable Medical Equipment

"(n) The term 'durable medical equipment' includes iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased.".

(4) Section 1861(cc)(1)(G) of such Act is amended by striking out ", appliances, and equipment, including the purchase or rental of equipment" and inserting in lieu thereof "and durable medical equipment".

(f) Section 1814(j)(2) of such Act is amended—

(1) by redesignating subparagraphs (B) and (C) as (C) and (D), respectively, and

(2) by inserting the following after subparagraph (A):

"(B) Subsection (k)(1)(B).".

(g) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

TRANSFERS TO FEDERAL HOSPITAL INSURANCE TRUST FUND

SEC. 918. Section 1817 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) There shall be transferred for each of the fiscal years 1984, 1985, 1986, and 1987, from the general fund in the Treasury into the Federal Hospital Insurance Trust Fund amounts equal to the additional amounts which would have been included in the Government contribution for such fiscal year to the Federal Supplementary Medical Insurance Trust Fund under section 1844 for months beginning with July 1984 if the amendments made by part I of subtitle A of title IX of the Omnibus Reconciliation Act of 1983 had not been enacted (as estimated by the Secretary of Health and Human Services).".

CLASSIFICATION OF CERTAIN RURAL HOSPITALS

SEC. 919. (a) Section 1886(d)(5)(C)(i) of the Social Security Act is amended by adding at the end thereof the following: "A hospital which is classified as a rural hospital may appeal to the Secretary to be classified as a rural referral center under this clause on the basis of criteria (established by the Secretary) which shall allow the hospital to demonstrate that it should be so reclassified by reason of certain of its operating characteristics being similar to those of an urban hospital located in the same region. Such characteristics may include wages, scope of services, service area, and the mix of medical specialities. The Secretary shall publish the criteria by notice of proposed rulemaking prior to June 1, 1984, for implementation by October 1, 1984. An appeal allowed under this clause must be submitted to the Secretary (in such form and manner as the Secretary may prescribe) within the first quarter of the hospital's cost reporting period, and the Secretary must make a final determination with respect to such appeal within 60 days after the appeal has been submitted. Any payment adjustments necessitated by a reclassification based upon the appeal shall be retroactive to the beginning of such cost reporting period.".

(b) Section 1886(d)(2)(D) of such Act is amended by adding at the end thereof the following: "A hospital located in a Metropolitan Statistical Area shall be deemed to be located in the region in which the majority of the hospitals in the same Metropolitan Statistical Area are located, or, at the option of the Secretary, the region in which the majority of the inpatient discharges (with respect to which payments are made under

this title) from hospitals in the same Metropolitan Statistical Area are made.".

(c) Section 1886(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any hospital which is located in an area which is, at any time after April 20, 1983, reclassified from an urban to a rural area, payments to such hospital for the first two cost reporting periods for which such reclassification is effective shall be made as follows:

"(A) For the first such cost reporting period, payment shall be equal to the amount payable to such hospital for such accounting period on the basis of the rural classification, plus an amount equal to ⅔ of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such accounting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such accounting period on the basis of the rural classification.

"(B) For the second such cost reporting period, payment shall be equal to the amount payable to such hospital for such accounting period on the basis of the rural classification, plus an amount equal to ⅓ of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such accounting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such accounting period on the basis of the rural classification.".

(d) The amendments made by this section shall be effective with respect to cost reporting periods beginning on or after October 1, 1983.

(e) The Secretary shall conduct a study of the advisability of making adjustments in the nonlabor component of those DRG's (utilized for purposes of section 1886(d) of the Social Security Act) which have high fixed nonlabor costs. The Secretary shall report the results of the study, including any recommendations for legislative changes, to the Congress within 6 months after the date of the enactment of this Act.

(f) The Secretary of Health and Human Services shall conduct a study of further refinements which may be appropriate in the inpatient hospital prospective payment provisions of title XVIII of the Social Security Act, in order to address the problems of differences in payment amounts to specific hospitals. The study shall include (but shall not be limited to) the degree of variation in inpatient hospital costs per discharge within each diagnosis-related group. The Secretary shall also present alternative methods of computing the amount of such payments. The study shall include a discussion of the relative merits of a method of payment under which a percentage of the payment amount (for discharges classified within a diagnosis-related group could be determined on a regional basis. The Secretary shall report the result of the study, and any recommended changes in the prospective payment system, to the Congress prior to September 1, 1984.

PART II—MEDICAID AND MCH BUDGET PROVISIONS

EXTENSION OF MEDICAID PAYMENT REDUCTIONS AND OFFSETS

SEC. 921. (a) Section 1903(s)(1)(A) of the Social Security Act is amended by striking out "and" at the end of clause (ii), by adding "and" at the end of clause (iii), and by inserting after clause (iii) the following:

"(iv) each of the fiscal years 1985, 1986, and 1987, shall be reduced by 3 percent,".

(b) Section 1903(t)(1) of such Act is amended—

(1) by striking out "and 1984" and inserting in lieu thereof "1984, 1985, 1986, and 1987";

(2) by inserting "and" at the end of subparagraph (A); and

(3) by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) 1983, 1984, 1985, 1986, or 1987, is equal to the target amount determined under subparagraph (A) for the State, increased or decreased by a percentage equal to the percentage increase or decrease (as the case may be) in the index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics for the period beginning on October 1, 1982, and ending on the last day of the fiscal year for which the target is being computed.".

(c) Section 1903(t)(2) of such Act is amended by striking out "1985" and inserting in lieu thereof "1988".

(d) Section 1903(t)(3) of such Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) Only for purposes of computing under this subsection the Federal share of expenditures for a State for fiscal years 1985, 1986, and 1987 (in the case of the payments which may be made for the first quarter of fiscal years 1986, 1987, and 1988, respectively), the Federal medical assistance percentage for fiscal years 1985, 1986, and 1987 shall be the lower of the Federal medical assistance percentage for the State in effect for fiscal year 1981, or the Federal medical assistance percentage for the State in effect for the fiscal year for which such expenditures are being computed.".

(e)(1) Section 1903(t) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), this subsection and paragraph (2) of subsection (s) shall not apply with respect to any payments based upon a claim (or adjustment to a claim) for a State expenditure which is submitted to the Secretary for payment after the end of the 24-month period beginning after the calendar quarter in which such expenditure was made.

"(B) Subparagraph (A) shall not apply to a State for a fiscal year if the total net amount of the claims (and adjustments) submitted by such State during that fiscal year which would otherwise be excluded under subparagraph (A) exceeds $5,000,000.".

(2) The amendment made by paragraph (1) shall apply to claims submitted on or after October 1, 1984.

(f) Section 2161 of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out subsection (c).

MANDATORY ASSIGNMENT OF RIGHTS OF PAYMENT BY MEDICAID RECIPIENTS

SEC. 922. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912.".

(b) Section 1912(a) of such Act is amended by striking out "State plan for medical assistance may" and inserting in lieu thereof "State plan for medical assistance shall".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

INCREASE IN MEDICAID CEILING AMOUNT FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

SEC. 923. (a) Section 1108(c) of the Social Security Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed $63,400,000;

"(2) the Virgin Islands shall not exceed $2,100,000;

"(3) Guam shall not exceed $2,000,000;

"(4) the Northern Mariana Islands shall not exceed $550,000; and

"(5) American Samoa shall not exceed $1,150,000.".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH BLOCK GRANT

SEC. 924. (a) Section 501(a) of the Social Security Act is amended by striking out "$373,000,000 for fiscal year 1982 and for each fiscal year thereafter" and inserting in lieu thereof "$478,000,000 for fiscal year 1984 and each fiscal year thereafter".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

MEDICAID COVERAGE FOR PREGNANT WOMEN

SEC. 925. (a)(1) Section 406(g)(2) of the Social Security Act is amended by striking out "may provide" and inserting in lieu thereof "shall provide".

(2) Section 1902(a)(10)(A)(i) of such Act is amended by striking out "as authorized in section 406(g)" and inserting in lieu thereof "as required in section 406(g)(2)".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on July 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the

State legislature that begins after the date of the enactment of this Act.

RECERTIFICATION OF SNF AND ICF PATIENTS

SEC. 926. (a)(1) Section 1903(g)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by—

(A) striking out ", skilled nursing facility or intermediate care facility on 60 days" and inserting in lieu thereof "or intermediate care facility for 60 days, or in a skilled nursing facility for 30 days";

(B) striking out ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days)" and inserting in lieu thereof "or intermediate care facility services furnished beyond 60 days, skilled nursing facility services furnished beyond 30 days, or inpatient mental hospital services furnished beyond 90 days"; and

(C) striking out "which for purposes of this section means the four calendar quarters ending with June 30,".

(2) Section 1903(g)(1)(A) of such Act is amended by striking out "at least every 60 days" and inserting in lieu thereof "at least as often as required under paragraph (7)".

(3) Section 1903(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Recertifications under paragraph (1)(A) shall be required at least every 60 days in the case of inpatient hospital services.

"(B) Such recertifications in the case of skilled nursing facility services shall be required at least—

"(i) 30 days after the initial certification,

"(ii) 60 days after the initial certification,

"(iii) 90 days after the initial certification, and

"(iv) every 60 days thereafter.

"(C) Such recertifications in the case of intermediate care facility services shall be required at least—

"(i) 60 days after the initial certification,

"(ii) 120 days after the initial certification,

"(iii) 12 months after the initial certification,

"(iv) 18 months after the initial certification,

"(v) 24 months after the initial certification, and

"(vi) every 12 months thereafter.

"(D) For purposes of determining compliance with the schedule established by this paragraph, the Secretary shall not consider any violation of such schedule in any case where there is a delay of 10 days or less, and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.".

(b) Section 1903(g)(4) of such Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirements of subparagraphs (A) and (B) of such paragraph as applicable to a type of facility or institutional services, if the total number of patients receiving such type of services in that quarter whose records were included in sample onsite surveys conducted with respect to that quarter under paragraph (2) and were found not to comply with the requirements of subparagraphs (A) and (B) of paragraph (1) is less than 3 percent of the total number of patients whose records were included in such surveys with respect to that quarter.".

(c) Section 1903(g)(5) of such Act is amended by striking out "33⅓ per centum" and inserting in lieu thereof "5 percent".

(d) The amendments made by this section shall apply to quarters beginning on or after the date of the enactment of this Act.

PART III—OTHER MEDICARE AND MEDICAID PROVISIONS

STUDY OF PHYSICIAN REIMBURSEMENT FOR COGNITIVE SERVICES

SEC. 931. The Director of the Office of Technology Assessment shall conduct a study of physician reimbursement under the medicare program with respect to any inequities that may exist between reimbursement levels for medical procedures and cognitive services, and shall make any recommendations for changes in such reimbursement system which may be appropriate. The study shall include specific findings and recommendations with respect to creating a method for adjusting payments to physicians as the costs and risks to physicians of providing services decrease over time due to new technologies and procedures. In carrying out the study, the Director shall consult with national physician organizations and with the Secretary of Health and Human Services. The Director shall report the results of such study to the Congress prior to December 31, 1985.

ELIMINATION OF PART B DEDUCTIBLE FOR CERTAIN DIAGNOSTIC LABORATORY TESTS

SEC. 932. (a) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2), and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to diagnostic tests performed in a laboratory for which the Secretary has established a payment rate under subsection (h)".

(b) Section 1833(h) of such Act, as such section shall be in effect on and after October 1, 1987, is amended by inserting before the period at the end thereof the following: "(including any deductibles which would have been made under subsection (b))".

(c) The amendments made by this section shall apply with respect to diagnostic tests performed on or after October 1, 1987.

PAYMENT FOR SERVICES FOLLOWING TERMINATION OF PARTICIPATION AGREEMENTS WITH HOME HEALTH AGENCIES OR HOSPICE PROGRAMS

SEC. 933. (a) Section 1866(b)(4)(B) of the Social Security Act is amended by striking out "after the calendar year in which such termination is effective" and inserting in lieu thereof "more than 30 days after such effective date".

(b) The amendment made by this section shall apply to terminations issued on or after the date of the enactment of this Act.

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS UNDER MEDICARE AND MEDICAID

SEC. 934. (a) Section 1814(a) of the Social Security Act is amended—

(1) by repealing subparagraph (B) of paragraph (2);

(2) in paragraph (3), by striking out "and inpatient tuberculosis hospital services";

(3) by repealing paragraph (5); and

(4) in the matter following paragraph (8), by striking out "(B),".

(b)(1) Subsections (d) and (g) of section 1861 of such Act are repealed.

(2) Section 1861(e) of such Act is amended in the matter following paragraph (9) by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or".

(3) Section 1861(j) of such Act is amended in the matter following paragraph (15) by striking out "or tuberculosis".

(c) Section 1863 of such Act is amended by striking out "(g)(4),".

(d) Section 1866 of such Act is amended—

(1) in subsection (b)(3), by striking out "tuberculosis hospital services and"; and

(2) in subsection (d), by striking out "inpatient tuberculosis hospital services and".

(e) Section 1902(a)(28) of such Act is amended by striking out "and tuberculosis".

(f) Section 1903(g)(1) of such Act is amended by striking out "(including an institution for tuberculosis)", and by striking out "(including tuberculosis hospitals)".

(g) Section 1905(a) of such Act is amended by striking out "tuberculosis or" each place it appears in paragraphs (1), (4)(A), (14), (15), and (18)(B).

(h) The amendments made by this section shall become effective on the date of the enactment of this Act.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 935. (a) Section 1862(b)(1) of the Social Security Act is amended—

(1) in the first sentence, by inserting "promptly" after "to be made";

(2) in the second sentence, by inserting "or could be" after "has been"; and

(3) by inserting after the second sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such item or service (or any portion thereof) under such a law, policy, plan, or insurance, or against any individual or entity that has been paid with respect to such item or service under such law, policy, plan, or insurance, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a law, policy, plan, or insurance.".

(b) Section 1862(b)(2)(B) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any individual or entity that has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a plan.".

(c) Section 1862(b)(3)(A)(ii) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such

item or service (or any portion thereof) under such a plan, or against any individual or entity that has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a plan.".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 936. (a) The first sentence of section 1842(b)(6), as so redesignated by section 904 of this Act, is amended by inserting before the period at the end thereof the following: ", or (C) to an entity (i) which provides coverage of the service under a health benefits plan (to the extent that payment is not made under this part), (ii) which has paid the person who provided the service an amount which includes the amount payable under this part and which that person has accepted as payment in full for such service, and (iii) to which the individual has agreed in writing that payment may be made under this part".

(b) The second sentence of section 1842(b)(6) is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 937. (a) Section 1867 of the Social Security Act is repealed.

(b)(1) The first sentence of section 1863 of such Act is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies," and inserting in lieu thereof "appropriate State agencies".

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 is amended by striking out "1867,".

(3) Section 361 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by striking out subsection (i).

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

CONFIDENTIALITY OF ACCREDITATION SURVEYS

SEC. 938. (a) Section 1865(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out "(on a confidential basis)", and

(2) by adding at the end thereof the following new sentence: "The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END STAGE RENAL DISEASE FACILITIES

SEC. 939. (a) Section 1881(c)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the Secretary determines that the facility's or provider's failure to cooperate with network plans and goals does not jeopardize patient health or safety or justify termination of certification, he may instead, after reasonable notice to the provider or facility and to the public, impose such other sanctions as he determines to be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of the notice, and graduated reduction in reimbursement for all patients.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

USE OF ADDITIONAL ACCREDITING ORGANIZATIONS UNDER MEDICARE

SEC. 940. (a) The third sentence of section 1865(a) of the Social Security Act is amended—

(1) by striking out "section 1861 (e), (j), (o), or (dd)" and inserting in lieu thereof "section 1832(a)(2)(F)(i), 1861(e), 1861(j), 1861(o), 1861(p)(4) (A) or (B), paragraphs (11) and (12) of section 1861(s), section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)"; and

(2) by striking out "institution or agency" each place it appears and inserting in lieu thereof in each instance "entity".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF EXCLUSION OF FOR-PROFIT ORGANIZATIONS FROM RESEARCH AND DEMONSTRATION GRANTS

SEC. 941. (a) Section 1110(a)(1) of the Social Security Act is amended by striking out "nonprofit".

(b) The first sentence of section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended by striking out "nonprofit".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REQUIREMENTS FOR MEDICAL REVIEW AND INDEPENDENT PROFESSIONAL REVIEW UNDER MEDICAID

SEC. 942. (a) Section 1902(a)(31) of such Act is amended to read as follows:

"(31) with respect to skilled nursing facilities (and with respect to intermediate care facility services, where the State plan includes medical assistance for such services) provide—

"(A) with respect to each patient receiving such assistance, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such care;

"(B) with respect to each facility within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

(b) Section 1902(a)(26) of the Social Security Act is amended to read as follows:

"(26) if the State plan includes medical assistance for inpatient mental hospital services provide—

"(A) with respect to each patient receiving such assistance, for a regular program of medical review (including medical evaluation) of his need for such care, and for a written plan of care;

"(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving such assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

(c) Section 1902(a) of such Act is amended, in the matter following paragraph (45)—

(1) by striking out ", (26)" after "(9)(A)"; and

(2) by striking out "the term 'skilled nursing facility' and 'nursing home'" and inserting in lieu thereof "the terms 'skilled nursing facility', 'intermediate care facility', and 'nursing home'".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBILITY IN SETTING PAYMENT RATES FOR HOSPITALS FURNISHING LONG-TERM CARE SERVICES UNDER MEDICAID

SEC. 943. (a) Section 1913(b) of the Social Security Act is amended to read as follows:

"(b) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), shall be at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A). Such rate may, but need not, be the same as any rate established by the State for such services furnished by a skilled nursing or intermediate care facility.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

AUTHORITY OF THE SECRETARY TO ISSUE AND ENFORCE SUBPENAS UNDER MEDICAID

SEC. 944. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPENAS

"SEC. 1918. The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF AUTHORITY FOR PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 945. (a)(1) Section 1884 of the Social Security Act is repealed.

(2) Section 1903(e) of such Act is repealed.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act, but shall not apply to any transitional allowance established by the Secretary of Health and Human Services under section 1884 of the Social Security Act before the date of the enactment of this Act.

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 946. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

"SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration.".

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act.

EXCLUSION OF CERTAIN ENTITIES OWNED OR CONTROLLED BY INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 947. (a) Section 1128 of the Social Security Act is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary determines, with respect to an entity, that a person who has a direct or indirect ownership or control interest of 5 percent or more in the entity, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such entity, is a person described in section 1126(a), the Secretary—

"(1) may bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such entity otherwise eligible to participate in such program;

"(2) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of the determination, and may require each such agency to bar the entity from participation in the program for such period as he may specify, which in the case of an entity specified in paragraph (1), may not exceed the period established pursuant to paragraph (1); and

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such entity of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1128(e) of such Act (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or entity" after "Any person", and

(2) by striking out "(a) or (b)" and inserting in lieu thereof "(a), (b), or (c)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

JUDICIAL REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

SEC. 948. (a) Section 602(h)(2) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding section 604, the amendments made by this paragraph shall be effective with respect to any appeal or action brought on or after April 20, 1983.".

(b) The amendment made by this section shall be effective as if it had been originally included in section 602(h)(2) of the Social Security Amendments of 1983.

ACCESS TO HOME HEALTH SERVICES

SEC. 949. (a) Section 1814(a) of the Social Security Act is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency. Such regulations shall not prohibit a physician who has a significant interest in, or a significant relationship with, an agency that is the only home health agency in a county from performing such certification and establishing or reviewing such plan with respect to individuals who are furnished, or to be furnished, services by such agency.".

(b) Section 1835(a) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency. Such regulations shall not prohibit a physician who has a significant interest in, or a significant relationship with, an agency that is the only home health agency in a county from performing such certification and establishing or reviewing such plan with respect to individuals who are furnished, or to be furnished, services by such agency.".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

PROVIDER REPRESENTATION IN PEER REVIEW ORGANIZATIONS

SEC. 950. (a) Section 1153(b)(3) of the Social Security Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of common control if the common control consists of—

"(i) only one officer, governing body member, or managing employee who is common to the entity and the health care facility or association, in the case of an entity having 15 or fewer governing body members; or

"(ii) two or less such common officers, governing body members, or managing employees, in the case of an entity having more than 15 governing body members.".

(b) Section 1153(b)(2)(A) of such Act is amended by striking out "an entity which directly" and inserting in lieu thereof "an entity (other than a self-insured employer) which directly".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SEC. 951. (a) Section 1886(e)(2) of the Social Security Act is amended by inserting "(without regard to the provisions of title 5, United States Code, governing appointments in the competitive service)" after "appointed by the Director".

(b)(1) Section 1886(e)(6)(C)(i) of such Act is amended to read as follows:

"(i) employ and fix the compensation of an Executive Director (subject to the approval of the Director of the Office) and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);".

(2) Section 1886(e)(6)(C)(iii) of such Act is amended by inserting "(without regard to section 3709 of the Revised Statutes (41 U.S.C 5))" after "Commission".

(3) Section 1886(e)(6)(C)(vi) of such Act is amended by inserting "(without regard to the provisions of the Federal Advisory Committee Act)" after "Commission".

(4) Section 1886(e)(6)(D) of such Act is amended by adding at the end thereof the following sentence: "Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.".

(c) Section 1886(e)(6) of such Act is further amended—

(1) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J), respectively; and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) In order to supplement the activities of the Commission in assessing the safety, efficacy, and cost-effectiveness of new and existing medical procedures, the Secretary may carry out, or award grants or contracts for, original research and experimentation of the type described in clause (ii) of subparagraph (E) with respect to such a procedure if the Secretary finds that—

"(i) such procedure is not of sufficient commercial value to justify research and experimentation by a commercial organization;

"(ii) research and experimentation with respect to such procedure is not of a type that may appropriately be carried out by an institute, division, or bureau of the National Institutes of Health; and

"(iii) such procedure has the potential to be more cost-effective in the treatment of a condition than procedures currently in use with respect to such condition.".

(d) Section 1886(e)(6) of such Act is further amended—

(1) by redesignating subparagraphs (I) and (J) (as redesignated by subsection (c)(1)) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (H) (as so redesignated) the following new subparagraphs:

"(I)(i) The Secretary shall provide the Commission with such services, equipment, and facilities (including office space, office furnishings, and financial and administrative services) as are necessary for the operation of the Commission.

"(ii) As agreed upon by the Secretary and the Commission, the Secretary shall be reimbursed, for such services, equipment, and facilities by the Commission from appropriations made with respect to the Commission.

"(J) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.".

(e) The amendments made by this section shall become effective on the date of the enactment of this Act.

MEDICAID CLINIC ADMINISTRATION

SEC. 952. (a) Section 1905(a)(9) of the Social Security Act is amended to read as follows:

"(9) clinic services furnished by or under the direction of a physician (but for purposes of this paragraph the clinic itself need not be administered by a physician);".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING AGED PROVISION

SEC. 953. (a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: ", but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment".

(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

"(i)(1) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

"(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period,

there shall be a special enrollment period described in paragraph (3).

"(2) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

"(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in paragraph (3).

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

"(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

"(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period results in earlier coverage.".

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

"(1) subparagraph (A) of section 1837(i)(3)—

"(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

"(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

"(2) subparagraph (B) of section 1837(i)(3)—

"(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

"(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which he so enrolls.".

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first effective month (as defined in paragraph (3)).

(2) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with the first effective month, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before such first effective month, such period shall be deemed to begin with the first day of such first effective month.

(3) For purposes of this subsection, the term "first effective month" means the first month which begins more than ninety days after the date of the enactment of this Act.

EMERGENCY ROOM SERVICES

SEC. 954. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting "(i)" after "(K)" and by adding at the end thereof the following:

"(ii) For purposes of clause (i), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy;

"(II) serious impairment to bodily functions; or

"(III) serious dysfunction of any bodily organ or part.".

(b) Section 1861(v)(1)(K)(i) as so designated is amended by striking out "provided in an emergency room" and inserting in lieu thereof "as defined in clause (ii)".

(c) The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

PAYMENT FOR SERVICES OF A NURSE ANESTHETIST

SEC. 955. (a) Section 1886(d)(5) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The Secretary shall provide for an additional payment amount for any subsection (d) hospital equal to the reasonable costs incurred by such hospital for anesthesia services provided by a certified registered nurse anesthetist, subject to the limitation in clause (ii). Payment under this subparagraph shall be the only payment made to such hospital with respect to such services.

"(ii) The Secretary shall not recognize as reasonable any costs incurred by a subsection (d) hospital for anesthesia services provided by certified registered nurse anesthetists employed by such hospital in excess of the number of certified registered nurse anesthetists employed by such hospital for the calendar year 1982, as determined on an average basis of services per nurse anesthetist, except to the extent that the Secretary determines that the employment of additional certified registered nurse anesthetists by such hospital is warranted by reason of changes in patient volume, patient mix, or a loss of physician services.".

(b) Section 1886(a)(4) of such Act is amended by inserting ", services provided by a certified registered nurse anesthetist" after "approved education activities".

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after October 1, 1984.

(d) The Secretary of Health and Human Services shall conduct a study of possible methods of reimbursement under title XVIII of the Social Security Act which would not discourage the use of certified registered nurse anesthetists by hospitals. The Secretary shall report the results of such study to the Congress as soon as is practicable.

PROSPECTIVE PAYMENT WAGE INDEX

SEC. 956. (a) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall conduct a study to develop an appropriate index for purposes of adjusting payment amounts under section 1886(d) of the Social Security Act to reflect area differences in average hospital wage levels, as required under paragraphs (2)(H) and (3)(E) of such section, taking into account wage differences of full time and part time workers. The Secretary of Health and Human Services shall report the results of such study to the Congress prior to May 1, 1984, including any changes which the Secretary determines to be necessary to provide for an appropriate index.

(b) The Secretary shall adjust the payment amounts for hospitals for cost reporting periods beginning on or after October 1, 1983, to reflect any changes made in the wage index pursuant to subsection (a). Any adjustment in such payments to take account of overpayments or underpayments for the first cost reporting period of a hospital to which section 1886(d) of the Social Security Act applies, shall be made by decreasing or increasing payments in the succeeding cost reporting period.

HOSPICE CONTRACTING FOR CORE SERVICES

SEC. 957. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social Security Act is amended by inserting "except as otherwise provided in paragraph (5)," before "and" at the end thereof.

(b) Section 1861(dd) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary may waive the requirements of paragraph (2)(A)(ii)(I) for an agency or organization with respect to all or part of the nursing care described in para-

graph (1)(A) if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census);

"(ii) was in operation on or before January 1, 1983; and

"(iii) has demonstrated a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide such nursing care directly.

"(B) Any waiver requested by an agency or organization under subparagraph (A) shall be deemed to be granted unless such request is denied by the Secretary within 60 days after such request is received by the Secretary. The granting of a waiver under subparagraph (A) shall not preclude the granting of any subsequent waiver request should such a waiver again become necessary.".

(c) The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

(d) The Secretary of Health and Human Services shall conduct a study of the necessity and appropriateness of the requirements that certain "core" services be furnished directly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I) of the Social Security Act. The Secretary shall report the results of such study to the Congress within 18 months after the date of the enactment of this Act.

EXEMPTION OF PUBLIC PSYCHIATRIC HOSPITALS FROM PROVISION LIMITING REIMBURSEMENT TO SNF RATES

SEC. 958. The provisions of section 1902(a)(13) of the Social Security Act, insofar as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the twelve-month period ending June 30, 1986, and during the twelve-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

CERTIFICATION OF PSYCHIATRIC HOSPITALS

SEC. 959. (a) Section 1861(f) of the Social Security Act is amended—

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period;

(3) by striking out paragraph (5); and

(4) in the second sentence thereof, by striking out "if the institution is accredited" and all that follows, and inserting in lieu thereof a period.

(b) Section 1865(a) of such Act is amended by inserting "(f)," after "1861(e)," in the matter following paragraph (4).

(c) Section 1905(h)(1)(A) of such Act is amended to read as follows:

"(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f);".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

PAYMENTS TO TEACHING PHYSICIANS

SEC. 960. (a) Section 1842(b)(6)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) to the extent that the amount of the payment exceeds the greater of (I) the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B)), or (II) 75 percent of the prevailing charge for the services in the locality.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 961. (a) Not later than April 1, 1984, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

(b) Not later than April 1, 1984, the Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the current rate of reimbursement under part A of title XVIII of the Social Security Act for inpatient hospital services associated with implantation or replacement of pacemaker devices and pacemaker leads, and under part B of such title for physicians' services associated with such implantations and replacements. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the rates for such procedures were first established under such title.

(c)(1) The Secretary shall provide for the establishment and maintenance by the Administrator of the Food and Drug Administration of a registry of all cardiac pacemaker devices and pacemaker leads produced by any manufacturer for which payment was made under this title. Such registry shall include, with respect to each such device or lead, the model, serial number, and the name of the recipient of such device or lead, the date and location of the implantation or removal of such device or lead, the name of the physician involved in implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express on implied warranties associated with such device or lead, and such other information as the Secretary deems to be appropriate. Submission of the information required for the registry by a manufacturer shall be a condition for any payment under title XVIII of the Social Security Act with respect to any devices or leads produced by such manufacturer. The registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, tracing the performance of cardiac pacemaker devices and leads, determining when inspection by the Food and Drug Administration may be necessary under paragraph (3), and carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient).

(2) As a condition for payment being made for the implant or replacement of a cardiac pacemaker device or lead, the Secretary may, by regulation, require that a provider shall furnish to a manufacturer of cardiac pacemaker devices and pacemaker leads information with respect to all patients bearing a device or lead produced by such manufacturer for which payment was made or requested by such provider under title XVIII of the Social Security Act. The Secretary may also require that any device or lead removed from any such patient be returned to the manufacturer of such device or lead. An organization serving as a fiscal intermediary for a provider may, under regulations prescribed by the Secretary, deny payment for the replacement of a device or lead if such provider fails to return such device or lead in accordance with the preceding sentence, and such provider may not charge the beneficiary for such replacement. Charging a patient in violation of the preceding sentence shall constitute a violation of the provider's agreement under section 1866 of the Social Security Act.

(3) The Secretary may, by regulation, as a condition for payment under title XVIII of the Social Security Act with respect to any devices or leads produced by a manufacturer, require the manufacturer to test or analyze each returned cardiac pacemaker device or lead for which payment is made or requested under such title and provide the results of such test or analysis to the provider who returned it to the manufacturer, together with information and documentation with respect to any warranties covering such device or lead. In any case where the Secretary has reason to believe, based upon information in a pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under such title is related to the malfunction of such device or lead, the Secretary may require that personnel of the Food and Drug Administration test such device, or be present at the testing of such device by such manufacturer, to determine whether such device or lead was functioning properly.

(4) A manufacturer of cardiac pacemaker devices and pacemaker leads shall post a bond or provide such other assurances as the Secretary deems appropriate to ensure that such manufacturer will comply with the requirements of this subsection.

(5) The Secretary may by regulation require any manufacturer of cardiac pacemaker devices and pacemaker leads to provide to the Food and Drug Administration—

(A) a written report with respect to any adverse reaction to a device or lead and any device or lead defect, of which such manufacturer is notified (within ten days of the date on which such manufacturer is so notified); and

(B) an annual written report summarizing clinical experiences with devices and leads, including information on all removals, deaths, adverse reactions, device or lead defects, and the results of tests performed on all returned devices and leads.

(6) For purposes of this subsection, the term "manufacturer" shall have the meaning given to such term in regulations promulgated by the Food and Drug Administration.

OPEN ENROLLMENT PERIOD FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 962. (a) Section 1876(c)(3)(A) of the Social Security Act is amended—

(1) by inserting "(i)" after "(3)(A)".

(2) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(3) by adding at the end the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased during the 12-month enrollment period for which the individual is enrolling. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) The Secretary of Health and Human Services may phase in, over a period of not longer than 3 years, the application of the amendments made by subsection (a) to all applicable areas in the United States if the Secretary determines that it is not administratively feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATION

SEC. 963. (a) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of the enactment of this Act in the case of an application or protocol submitted before the date of the enactment of this Act.

(b) A project referred to in subsection (a) is a project—

(1) to demonstrate the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9.7604/1 of the University Health Policy Consortium of Brandeis University;

(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

(3) under which all medicare services will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost;

(4) under which medicaid services will be provided at a rate approved by the Secretary;

(5) under which all payors will share risk for no more than 2 years, with the organization being at full risk in the third year;

(6) which is being provided funds under a grant provided by the Secretary of Health and Human Services; and

(7) with respect to which substantial private funds are being provided other than under the grant referred to in paragraph (5).

(c) The waivers referred to in subsection (a) are appropriate waivers of—

(1) certain requirements of title XVIII of the Social Security Act, pursuant to section 402(a) of the Social Security Amendments of 1967 (as amended by section 222 of the Social Security Amendments of 1972); and

(2) certain requirements of title XIX of the Social Security Act, pursuant to section 1115 of such Act.

FUNDING FOR PSRO REVIEW

SEC. 964. (a) Section 1866(a)(1)(F) of the Social Security Act is amended by inserting "with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or" after "maintain an agreement".

(b) Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983, the requirement that a hospital maintain an agreement with a utilization and quality control peer review organization, as contained in section 1866(a)(1)(F) of the Social Security Act, shall become effective on January 1, 1985.

(c)(1) Section 1153(b)(2)(A) of the Social Security Act is amended by striking out "During the first twelve months in which the Secretary is entering into contracts under this section" and inserting in lieu thereof "Prior to January 1, 1985".

(2) Section 1153(b)(2)(B) of such Act is amended by striking out "after the expiration of the twelve-month period referred to in subparagraph (A)" and inserting in lieu thereof "after December 31, 1984".

(3) Section 1153(b)(2) of such Act is amended by striking out subparagraph (C).

(d) The provisions of, and amendments made by, this section shall become effective on May 1, 1984.

MEDICARE TECHNICAL AMENDMENTS RELATING TO THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 965. (a)(1) Section 1818(c) of the Social Security Act is amended by striking out "subsection (a) of section 1839" and inserting in lieu thereof "subsection (b) of section 1839".

(2) Section 1866(a)(1)(F) of such Act is amended by striking out "(c) or (d)" and inserting in lieu thereof "(b), (c), or (d)".

(3) Section 1886(c)(4)(A) of such Act is amended by striking out "and (D)" and inserting in lieu thereof "(D) and (E)".

(4) Section 1886(e)(5) of such Act is amended—

(A) by striking out "for public comment" in the matter preceding subparagraph (A); and

(B) by inserting "for public comment" in subparagraph (A) after "that fiscal year,".

(b) Section 604(c)(3) of the Social Security Amendments of 1983 is amended by striking out "to implement subsection (d) of section 1886 of the Social Security Act (as so amended)" and inserting in lieu thereof "to implement the amendments made by this title".

(c) The amendments made by the preceding provisions of this section shall be effective as though they had been originally included in the Social Security Amendments of 1983.

(d) Section 1878(f)(1) of such Act is amended by striking out "such determination is rendered" and inserting in lieu thereof "notification of such determination is received".

PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE UNITS

SEC. 966. (a)(1) In the case of a project or system described in subsection (b), the Secretary of Health and Human Services shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project or system (on and after the date of the enactment of this section and before the date on which the Secretary terminates the waiver granted with respect to such project or system) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project or system (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project or system were not in effect.

(2) Paragraph (1) shall not apply if the State in which the project or system is located notifies the Secretary, within 30 days after the date of the enactment of this section, that the State does not want paragraph (1) to apply to that project or system.

(b) The project or system referred to in subsection (a) is the statewide demonstration project established in the State of New Jersey under section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of the Social Security Amendments of 1972 (Public Law 92-603), which project or system provides for payments to hospitals in the State on a prospective basis and related to a classification of patients by diagnosis-related groups.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

SERVICES OF A CLINICAL PSYCHOLOGIST PROVIDED TO MEMBERS OF AN HMO

SEC. 967. (a) Section 1861(s)(2)(H) of the Social Security Act is amended by inserting "(i)" after "(H)" and by adding at the end thereof the following new clause:

"(ii) services furnished pursuant to a risk-sharing contract under section 1876(g) to a member of an eligible organization by a clinical psychologist (as defined in subsection (ee)), and such services and supplies furnished as an incident to his services to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Clinical Psychologist

"(ee) The term 'clinical psychologist' means an individual who (1) is licensed or certified at the independent practice level of psychology by the State in which he so practices, (2) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual who was licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology which the Secretary deems appropriate, and (3) possesses 2 years of supervised experience in health service, at least 1 year of which is postdegree.".

(c) The amendments made by subsections (a) and (b) shall be effective with respect to services furnished on or after the date of the enactment of this Act.

HOME HEALTH SERVICES PROVIDED ON A DAILY BASIS

SEC. 968. (a) Section 1861(m) of the Social Security Act is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4), nursing care and home health aide services may be provided under such paragraphs on a daily basis (with one or more visits per day) to an individual after his discharge from a hospital, for a period of up to 45 days immediate-

ly following such discharge with monthly physician certification of the need for services on such a basis, and after such 45-day period based on a physician certification of exceptional circumstances requiring such services on a daily basis.".

(b) The amendment made by subsection (a) shall apply with respect to services furnished on or after the date of the enactment of this Act.

(c) The amendment made by subsection (a) shall not be construed as restricting any provision of title XVIII of the Social Security Act as in effect prior to the date of the enactment of this Act with respect to the payment under such title for home health services provided on a daily basis to individuals who have not been discharged from a hospital within the preceding 45 days.

(d) The Secretary of Health and Human Services shall conduct a study, and report to Congress not later than January 1, 1985, on the effectiveness of home health care in preventing hospital and skilled nursing facility admissions or readmissions, and shall make recommendations to Congress concerning—

(1) changes in title XVIII of the Social Security Act which may be necessary to allow appropriate use of the home health benefit; and

(2) changes in such title which may be necessary to prevent fraud and abuse of the home health benefit.

SUBTITLE B—INCOME MAINTENANCE PROVISIONS

PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC FAMILY

SEC. 971. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(37) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

"(A) any parent of such child, and

"(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a),

if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and

"(38) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).".

(b) The amendments made by this section shall become effective on April 1, 1984.

HOUSEHOLDS HEADED BY MINOR PARENTS

SEC. 972. (a) Section 402(a) of the Social Security Act (as amended by section 971 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(39) provide—

"(A) that any individual who is under the age limit selected by the State pursuant to section 406(a)(2) and is not and has never been married, and who is responsible for the care of a dependent child (or is pregnant and on that basis eligible for aid under the State plan) shall be eligible for aid under the plan (and such dependent child shall be eligible for such aid) only if such individual resides in a place of residence maintained by such individual's parent or legal guardian as such parent's or guardian's own home; except that this paragraph shall not apply to such individual if the State agency determines that—

"(i) such individual has no parent or legal guardian who is living and whose whereabouts are known;

"(ii) the health and safety of such individual or such dependent child would be seriously jeopardized if such individual lived in the same residence with such individual's parent or legal guardian; or

"(iii) such individual has lived apart from his parent or legal guardian for a period of at least 1 year prior to (I) the birth of the dependent child for whose care the individual is responsible, or (II) the making of a claim for aid under this part, whichever is later; and

"(B) that whenever an individual to whom this paragraph applies is eligible for aid under the plan, the State may make payments of the type described in section 406(b)(2) for one or more months until such individual exceeds the age limit selected by the State pursuant to section 406(a)(2).".

(b) The amendments made by this section shall become effective on April 1, 1984.

CLARIFICATION OF EARNED INCOME PROVISION

SEC. 973. (a) Section 402(a)(8) of the Social Security Act is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) provide that in implementing this paragraph the term 'earned income' shall mean gross earned income, prior to any deductions for taxes or other purposes;".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

CWEP WORK FOR FEDERAL AGENCIES PERMITTED

SEC. 974. (a) Section 409(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Participants in community work experience programs under this section may, subject to subparagraph (B), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(B) The State agency shall provide appropriate workers' compensation and tort claims protection to each participant performing work for a Federal office or agency pursuant to subparagraph (A).".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

EARNED INCOME OF FULL-TIME STUDENTS

SEC. 975. (a) Section 402(a)(18) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: "except that, in determining the total income of the family, the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed 6 months) as the State may determine".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

SEC. 976. (a) Section 1127 of the Social Security Act is amended to read as follows:

"ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

"SEC. 1127. (a) Notwithstanding any other provision of this Act, in any case where an individual—

"(1) is entitled to benefits under title II that were not paid in the months in which they were regularly due; and

"(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due,

then any benefits under title II that were regularly due in such month or months, or supplemental security income benefits for such month or months which are due but have not been paid to such individual or eligible spouse, shall be reduced by an amount equal to so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under title II in the month or months in which they were regularly due.

"(b) For purposes of this section, the term 'supplemental security income benefits' means benefits paid or payable by the Secretary under title XVI, including State supplementary payments under an agreement pursuant to section 1616(a) or an administration agreement under section 212(b) of Public Law 93-66.

"(c) From the amount of the reduction made under subsection (a), the Secretary shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under title II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) The amendment made by this section shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secre-

tary of Health and Human Services determines that it is administratively feasible.

REGULATORY INITIATIVE ON MEDICAL SUPPORT

SEC. 977. The Secretary of Health and Human Services shall issue regulations to require that State agencies administering the child support enforcement program under part D of title IV of the Social Security Act petition courts to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Such regulations shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX of such Act with respect to the availability of health insurance coverage.

EXCLUSION FROM INCOME OF ALASKA BONUS PAYMENT

SEC. 978. (a) Section 1612(b)(2)(B) of the Social Security Act, is amended—

(1) by inserting "(or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards)" after "1973"; and

(2) by striking out "attainment of age 65 and duration of residence" and inserting in lieu thereof "attainment of age 65 or any other age set by the State, and residency".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

SUBTITLE C—OASDI PROVISIONS

SPECIAL SOCIAL SECURITY TREATMENT FOR CHURCH EMPLOYEES

SEC. 981. (a)(1) Section 210(a)(8) of the Social Security Act is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);".

(2) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));".

(b) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(w) EXEMPTION OF CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—

"(1) GENERAL RULE.—Any church or qualified church-controlled organization (as defined in paragraph (3)) may make an election within the time period described in paragraph (2), in accordance with such procedures as the Secretary determines to be appropriate, that services performed in the employ of such church or organization shall be excluded from employment for purposes of title II of the Social Security Act and chapter 21 of this Code. An election may be made under this subsection only if the church or qualified church-controlled organization states that such church or organization is opposed for religious reasons to the payment of the tax under section 3111.

"(2) TIMING AND DURATION OF ELECTION.—An election under this subsection must be made prior to the first date, more than 90 days after the date of the enactment of this subsection, on which a quarterly employment tax return for the tax imposed under section 3111 is due, or would be due but for the election, from such church or organization. An election under this subsection shall apply to current and future employees, and shall apply to service performed after December 31, 1983. The election may not be revoked by the church or organization, but shall be permanently revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the period covered by the election. Such revocation shall apply retroactively to the beginning of the 2-year period for which the information was not furnished.

"(3) DEFINITIONS.—

"(A) For purposes of this subsection, the term 'church' means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"(B) For purposes of this subsection, the term 'qualified church-controlled organization' means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

"(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

"(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.".

(c)(1) Section 211(c)(2) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 210(a)(8)(B);".

(2) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 3121(b)(8)(B);".

(d)(1) Section 211(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply;

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

(2) Section 1402(a) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of paragraph (12);

(B) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

(e) The amendments made by this section shall apply to service performed after December 31, 1983.

(f) In any case where a church or qualified church-controlled organization makes an election under section 3121(w) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall refund (without interest) to such church or organization any taxes paid under sections 3101 and 3111 of such Code with respect to service performed after December 31, 1983, which is covered under such election. The refund shall be conditional upon the church or organization agreeing to pay to each employee (or former employee) the portion of the refund attributable to the tax imposed on such employee (or former employee) under section 3101, and such employee (or former employee) may not receive any other refund payment of such taxes.

SOCIAL SECURITY COVERAGE FOR LEGISLATIVE BRANCH EMPLOYEES NOT COVERED BY THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 982. (a)(1) Clause (v) of section 210(a)(5) of the Social Security Act is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service (I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983, or (II) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or (III) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of

chapter 83 of title 5, United States Code, or does not have an application pending for coverage under such subchapter, for any period of time after December 31, 1983, while performing service in the legislative branch of the Federal Government (determined without regard to the provisions of subparagraph (B) relating to continuity of employment for individuals who return to service within 365 days); and for purposes of this clause, an individual shall be 'subject to subchapter III of chapter 83 of title 5, United States Code', only if such individual's pay is subject to deductions and contributions (concurrent with the performance of the service) under section 8334(a) of such title 5, or such individual is receiving an annuity from the Civil Service Retirement and Disability Fund (for service as an employee);".

(2) Clause (v) of section 3121(b)(5) of the Internal Revenue Code of 1954 is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service (I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983, or (II) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or (III) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, or does not have an application pending for coverage under such subchapter, for any period of time after December 31, 1983, while performing service in the legislative branch of the Federal Government (determined without regard to the provisions of subparagraph (B) relating to continuity of employment for individuals who return to service within 365 days); and for purposes of this clause, an individual shall be 'subject to subchapter III of chapter 83 of title 5, United States Code', only if such individual's pay is subject to deductions and contributions (concurrent with the performance of the service) under section 8334(a) of such title 5, or such individual is receiving an annuity from the Civil Service Retirement and Disability Fund (for service as an employee);".

(b) Except as otherwise provided in subsection (d), the amendments made by subsection (a) shall be effective with respect to service performed after December 31, 1983.

(c) For purposes of section 210(a)(5)(v) of the Social Security Act and section 3121(b)(5)(v) of the Internal Revenue Code of 1954, an individual shall not be considered to be subject to subchapter III of chapter 83 of title 5, United States Code, if he is contributing a reduced amount by reason of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

(d)(1) Any individual who—

(A) was performing service in the employ of the United States (or an instrumentality thereof) and was subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983 (as determined for purposes of section 210(a)(5)(v) of the Social Security Act), and

(B)(i) received a lump-sum payment under section 8342(a) of such title 5 after December 31, 1983, and prior to the date of the enactment of this Act, or

(ii) has otherwise ceased to be subject to subchapter III of chapter 83 of such title (or did not have an application pending for coverage under such subchapter) after December 31, 1983, and prior to the date of the enactment of this Act, for any service performed in the legislative branch,

shall, if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or applies for coverage under such subchapter) within 30 days after the date of the enactment of this Act, requalify for the exemption from social security coverage and taxes under section 210(a)(5) of the Social Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 for service in the legislative branch of the Federal Government performed after again becoming subject to such subchapter, as if such cessation of coverage under title 5 had not occurred.

(2) An individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) who is not in the employ of the United States or an instrumentality thereof on the date of the enactment of this Act may requalify for such exemptions in the same manner as under paragraph (1) if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or applies for coverage under such subchapter) within 30 days after the date on which he first returns to service in the legislative branch after such date of enactment, if such date (on which he returns to service) is within 365 days after he was last in the employ of the United States or an instrumentality thereof.

(3) If an individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) does not again become subject to subchapter III of chapter 83 of title 5 (or apply for coverage under such subchapter) within the relevant 30-day period as provided in paragraph (1) or (2), social security coverage and taxes by reason of section 210(a)(5)(v) of the Social Security Act and section 3121(b)(5)(v) of the Internal Revenue Code of 1954 shall, with respect to such individual's service in the legislative branch of the Federal Government, become effective with the first month beginning after such 30-day period.

(4) The provisions of paragraphs (1) and (2) shall apply only for purposes of reestablishing an exemption from social security coverage and taxes, and do not affect the amount of service to be credited to an individual for purposes of title 5, United States Code.

EMPLOYEES OF NONPROFIT ORGANIZATIONS WHO ARE REQUIRED TO PARTICIPATE IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 983. (a) For purposes of section 210(a)(5) of the Social Security Act (as in effect in January 1983 and as in effect on and after January 1, 1984) and section 3121(b)(5) of the Internal Revenue Code of 1954 (as so in effect), service performed in the employ of a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954 by an employee who is required by law to be subject to subchapter III of chapter 83 of title 5, United States Code, with respect to such service, shall be considered to be service performed in the employ of an instrumentality of the United States.

(b) For purposes of section 203 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, service described in subsection (a) which is also "employment" for purposes of title II of the Social Security Act, shall be considered to be "covered service".

(c) The provisions of this section shall apply to service performed on and after January 1, 1984.

OTHER TECHNICAL CORRECTIONS TO TITLE II OF THE SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE NECESSITATED BY THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 984. (a) Section 201(l)(3)(B)(i) of the Social Security Act is amended by inserting "Insurance" after "Survivors".

(b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section)—

(A) by striking out all that follows "has attained" and precedes ", the first month" in clause (i) and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(B) by striking out all that follows "has not attained" and precedes ", or" in clause (ii)(I) and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(C) by striking out "to which" in the matter following clause (ii) and inserting in lieu thereof "in which".

(2) Section 202(c)(5)(A) of such Act is amended by striking out "classes (i) and (ii)" and inserting in lieu thereof "clauses (i) and (ii)".

(c)(1) Section 202(e)(2)(A) of such Act is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (7)".

(2) Section 202(e)(2)(C) of such Act is amended—

(A) by striking out the period immediately after "deceased individual"; and

(B) by inserting a closing parenthesis after "paragraph (3) of such subsection (w)".

(3) Section 202(e)(7) of such Act is amended by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (2)(D)".

(d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by striking out all that follows "attained" and precedes ", and" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

(2) Section 202(f)(2)(A) of such Act is amended by striking out "paragraph (3)(B)" and inserting in lieu thereof "paragraph (3)(D)".

(3) Section 202(f)(3)(C) of such Act is amended by striking out the period immediately after "deceased individual".

(e) Section 202(q)(9)(B)(i) of such Act is amended by striking out "section 216(a)" and inserting in lieu thereof "section 216(l)".

(f) Section 202(x) of such Act is amended by adding at the beginning thereof the following heading:

"Limitation on Payments to Prisoners".

(g)(1) Section 203(d) of such Act is amended—

(A) by striking out "on seven or more different calendar days of which he engaged" in paragraph (1)(A) and inserting in lieu thereof "for more than forty-five hours of which such individual engaged"; and

(B) by striking out "on seven or more different calendar days" in paragraph (2) and inserting in lieu thereof "for more than forty-five hours".

(2) The amendments made by paragraph (1) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted.

(3) Paragraphs (3) and (8)(D) of section 203(f) of such Act are each amended by striking out "who has attained retirement age" and inserting in lieu thereof in each instance "who has attained the retirement age applicable for old-age insurance benefits".

(h) Section 205(r) of such Act is amended—

(1) by striking out "(r)(3)(A) and (r)(3)(B)" in paragraph (4) and inserting in

lieu thereof "subparagraphs (A) and (B) of paragraph (3)";

(2) by striking out "the Act" in paragraph (7) and inserting in lieu thereof "this Act"; and

(3) by striking out the heading and inserting in lieu thereof the following:

"Use of Death Certificates to Correct Program Information".

(i) Section 209(e) of such Act is amended by striking out the semicolon after "Act of 1974".

(j)(1) Section 215(a)(7)(B)(ii)(I) of the Social Security Act is amended by striking out "who initially become eligible for old-age or disability insurance benefits" and inserting in lieu thereof "who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)".

(2) Section 215(a)(7)(C)(ii) of such Act is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

(3) Section 215(f)(9)(B)(i) of such Act is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

(4) Section 215(i)(5)(A) of such Act is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.".

(5) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent),.";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

(k)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month in which he becomes divorced.".

(2) Section 216(h)(3)(A)(i) of such Act is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

(3) Section 216(i)(2) of such Act is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

(l) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

(m) Section 229(b) of such Act is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred.".

TECHNICAL CORRECTIONS TO THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 985. (a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "remuneration paid" and inserting in lieu thereof "service performed".

(b) Section 112(f) of such Amendments is amended by inserting "of such Act" after "section 201(a)".

(c) Section 201(c) of such Amendments is amended—

(1) by inserting "the" immediately before "age of 65" in paragraph (1); and

(2) by inserting "the" immediately before "age of sixty-five" in paragraph (3).

(d) Section 301(a)(5) of such Amendments is amended by striking out "Section 202(c)" and inserting in lieu thereof "Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)".

(e) Section 305(d)(2) of such Amendments is amended by inserting "each place it appears" immediately before "in subsection (c)(4)(C)".

(f) Section 339(b) of such Amendments is amended to read as follows:

"(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

" '(h) For provisions relating to limitation on payments to prisoners, see section 202(x).'.".

(g) Section 111(e) of such Amendments is amended by inserting "Budget" before "Reconciliation".

SUBTITLE D—IMPLEMENTATION OF GRACE COMMISSION RECOMMENDATIONS

INCOME AND ELIGIBILITY VERIFICATION PROCEDURES

SEC. 991. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCOME AND ELIGIBILITY VERIFICATION SYSTEM

"SEC. 1136. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

"(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

"(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(l)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

"(3) employers in such State are required to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

"(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

"(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

"(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(l) of the Internal Revenue Code of 1954; and

"(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

"(5) adequate safeguards are in effect so as to assure that—

"(A) the information exchanged by the State agencies is made availabe only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(l) of the Internal Revenue Code is only exchanged with agencies authorized to receive such information under such section 6103(l); and

"(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(l) of the Internal Revenue Code of 1954, the Secretary of the Treasury;

"(6) no benefits under any such program shall be terminated or decreased on the basis of information obtained pursuant to section 6103(l)(7)(B) of the Internal Revenue Code until—

"(A) the information has been independently verified by the agency administering the program,

"(B) the individual affected has been given notice of such termination or decrease, and

"(C) the individual has been given an opportunity to refute such information;

"(7) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

"(8) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

"(b) The programs which must participate in the income verification system are—

"(1) the aid to families with dependent children program under part A of title IV of this Act;

"(2) the medicaid program under title XIX of this Act;

"(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

"(4) the food stamp program under the Food Stamp Act of 1977; and

"(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.".

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows:

"(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act;".

(2) Section 402(a)(29) of such Act is repealed.

(3) Section 411 of such Act is repealed.

(c) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(e) Section 2(a) of the Social Security Act is amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(f) Section 1002(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (12); and

(2) by inserting before the period at the end thereof the following: "; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act".

(g) Section 1402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by inserting before the period at the end thereof the following: "; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act".

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(i) Section 11(e)(19) of the Food Stamp Act of 1977 is amended to read as follows:

"(19) that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 303(d) of the Social Security Act;".

(j) Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: "For this purpose, the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1136 of this Act, and shall comply with the requirements applicable to States under paragraphs (6) and (7) of section 1136(a).".

(k)(1) Section 6103(l)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

"(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT OR THE FOOD STAMP ACT OF 1977.—

"(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

"(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

"(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

"(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

"(iii) supplemental security income benefits provided under title XVI of the Social Security Act;

"(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

"(v) unemployment compensation provided under a State law described in section 3304 of this Code; and

"(vi) assistance provided under the Food Stamp Act of 1977.".

(2) Section 6103(a)(2) of such Code is amended by striking out "or of any local child support enforcement agency" and inserting in lieu thereof ", any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D)".

(l)(1) The amendments made by subsections (j) and (k) shall become effective on the date of the enactment of this Act.

(2) The amendments made by subsections (a) through (h) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program or the wage reporting requirements, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a delay in the effective date of such subsections, but such waiver may not delay the effective date beyond September 30, 1986.

COLLECTION AND DEPOSIT OF PAYMENTS TO EXECUTIVE AGENCIES

SEC. 992. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3720. Collection of payments

"(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted

to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

"(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

"(c) There is established in the Treasury of the United States a revolving fund to be known as the 'Cash Management Improvements Fund'. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3720. Collection of payments.".

(3) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.

(b)(1) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out ", but not later than the 30th day after the custodian receives the money,";

(C) by inserting after the first sentence the following new sentence: "Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money."; and

(D) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).".

(2) The amendments made by this subsection shall become effective January 1, 1985.

COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES

SEC. 993. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3721. Reduction of tax refund by amount of debt

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any OASDI overpayment and past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.

"(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

"(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

"(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

"(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable; and

"(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts to obtain payment of such debt.

"(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

"(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

"(f) For purposes of this section—

"(1) the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

"(2) the term 'past-due support' means any delinquency subject to section 464 of the Social Security Act; and

"(3) the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3721. Reduction of tax refund by amount of debt.".

(b)(1) Section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsections:

"(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

"(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than any OASDI overpayment and past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

"(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(3) DEFINITIONS.—For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.

"(e) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid.

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

"(g) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.".

(2) Subsection (a) of section 6402 of such Code is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (d)".

(3)(A) Subsection (l) of section 6103 of such Code (relating to confidentiality and disclosure of returns and information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(C) OR 6402(d).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

"(ii) the amount of such reduction; and

"(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).".

(B)(i) Section 6103(p)(3)(A) of such Code (relating to procedure and recordkeeping) is amended by striking out "(l) (1), (4)(B), (5), (7), or (8)" and inserting in lieu thereof "(l) (1), (4)(B), (5), (7), (8), or (9)".

(ii) Section 6103(p)(4) of such Code is amended by striking out "(l) (1), (2), or (5)" and inserting in lieu thereof "(l) (1), (2), (5), or (9)".

(iii) Section 6103(p)(4)(F)(ii) of such Code is amended by striking out "(l) (1), (2), (3), or (5)" and inserting in lieu thereof "(l) (1), (2), (3), (5), or (9)".

(4) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(l) (6), (7), or (8)" and inserting in lieu thereof "(l) (6), (7), (8), or (9)".

(c) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1988.

SUBTITLE E—CERTAIN PROVISIONS RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS

CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS

SEC. 996. (a) Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(d) ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.".

(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after February 28, 1984.

(2)(A) Subject to the limitations of subparagraphs (B) and (C), the amendment made by subsection (a) shall not apply with respect to articles brought into the United States from Puerto Rico after February 28, 1984, and before July 1, 1984.

(B) In the case of articles containing distilled spirits brought into the United States from Puerto Rico after February 28, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) $130,000,000, over,

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to articles containing distilled spirits (other than rum) which were brought into the United States after June 30, 1983, and before February 29, 1984, and which would not meet the requirements of section 7652(d)(1) of such Code.

(C)(i) Subparagraph (A) shall not apply with respect to any article if the Secretary determines that an amount in excess of transportation costs was provided by Puerto Rico directly or indirectly to a distiller located in the United States with respect to such article.

(ii) For purposes of this subparagraph, the term "transportation costs" means reimbursement for direct costs of transportation to and from Puerto Rico with respect to any article containing distilled spirits.

(c)(1) Paragraph (3) of section 7652(c) of such Code (relating to shipments of rum to the United States) is amended by inserting before the period ", and which would be eligible for cover over if produced in Puerto Rico or the Virgin Islands under subsection (d)".

(2) The amendment made by paragraph (1) shall apply with respect to articles brought into the United States on or after February 28, 1984.

LIMITATION ON TRANSFERS OF EXCISE TAX REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 997. (a) Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON COVER OVER OF TAX ON DISTILLED SPIRITS.—For purposes of this section, with respect to taxes collected under section 5001 or this section on all distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

"(1) $10.50, or

"(2) the tax imposed under section 5001(a)(1) or this section,

on each proof gallon.".

(b) The amendment made by this section shall apply to articles containing distilled spirits brought into the United States after December 31, 1984.

SUBTITLE F—PAYMENT TO STATES OF BACK CLAIMS

PAYMENT SCHEDULE FOR REIMBURSEMENT OF BACK CLAIMS DUE THE STATES

SEC. 998. (a) The payment schedule contemplated by section 136 of Public Law 97-276 for reimbursement of expenditures described in that section is hereby established as follows:

(1) For expenditures identified in the decree entered by the United States District Court for the District of Columbia on July 21, 1983, in the case of State of Connecticut v. Heckler, No. 81-2237, and allowed by the Secretary of Health and Human Services prior to the date of the enactment of this Act, payment shall be made by supplemental grant award or otherwise, within 30 days after the date of the enactment of this Act.

(2) For any other expenditure described in such section 136 which was identified in such decree or in any other decree entered by a Federal court in a suit filed prior to September 30, 1982, payment shall be made, by supplemental grant award or otherwise, as soon as the expenditure or portion thereof involved is finally determined by the Secretary of Health and Human Services to be an allowable claim under the substantive provisions of the applicable title of the Social Security Act.

(b) With respect to section 306 of Public Law 96-272, no State or local expenditure incurred prior to October 1, 1978, under a State plan approved under title I, IV, V, X, XIV, XVI, XIX, or XX of the Social Security Act, shall be reimbursed, now or hereafter, unless—

(1) it is identified in paragraph (1) or (2) of subsection (a); or

(2) the claim for such reimbursement (whether asserted as an adjustment to prior year costs, or otherwise) was filed with the Secretary of Health and Human Services not later than May 15, 1981.

TITLE X—MISCELLANEOUS PROVISIONS

MINING OF NICARAGUAN PORTS

SEC. 1001. It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purpose of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua.

MAX PLANCK INSTITUTE FOR RADIOASTRONOMY

SEC. 1002. (a) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona: Provided, That such article satisfies each of the following conditions:

(1) Such article qualifies as "instruments and apparatus" under Headnote 6(a) of Schedule 8, Part 4, TSUS, 19 U.S.C. section 1202 (1970); 80 Stat. 897.

(2) No instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States. For purposes of this condition, scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona and/or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1) is satisfied and the International Trade Administration to determine whether subsection (a)(2) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona and the Max Planck Institute shall deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations within ninety days of the date that they have received a sufficient submission with respect to an article or articles.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project within five years after being entered, duty on the article shall

be assessed in accordance with the procedures established in Headnote 1 of Schedule 8, Part 4, TSUS, 19 U.S.C. section 1202 (1970); 80 Stat. 897.

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

TITLE XI. MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS PROVISIONS

SEC. 1101. EQUAL AND EQUITABLE CLASSIFICATION AND DUTY RATES FOR VARIOUS CORDAGE PRODUCTS OF VIRTUALLY IDENTICAL CHARACTERISTICS.

(a) IN GENERAL.—Part 2 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting "plastics or man-made materials," immediately after "assemblages of textile fiber or yarns," in headnote 1(a); and

(2) by inserting ", plastics or other man-made materials" immediately after "Of man-made fibers" in the superior heading to items 316.55 and 316.58.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the enactment of this Act.

SEC. 1102. LIKE AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Paragraph (10) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new sentence: "An agricultural product shall also be considered a like product if—

"(A) it is at an earlier state of processing than the imported article; and

"(B) the imported article is at an intermediate state of processing prior to its final consumption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the fifteenth day on or after the date of the enactment of this Act.

SEC. 1103. FISH NETTING AND NETS.

(a) IN GENERAL.—The headnotes for subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new headnote:

"(3) For purposes of item 905.30—

"(a) The term 'restricted amount' means, with respect to the 12-month period beginning on April 1 of any calendar year, the greater of—

"(A) 1,750,000 pounds, or

"(B) 28.5 percent of the aggregate apparent United States consumption of such netting and nets during the calendar year preceding such calendar year.

"(b) On or before April 1 of each calendar year (beginning with 1984), the International Trade Commission shall determine the aggregate apparent United States consumption of fish netting and fish nets, in pounds, during the preceding calendar year, shall report such determination to the Secretary of the Treasury and the Secretary of Commerce, and shall publish such determination in the Federal Register.".

(b) RATE OF DUTY.—Subpart B of part 1 of such Appendix is amended by inserting in numerical sequence the following new item:

"905.30	Fish netting and fishing nets (including sections thereof), of textile materials (provided for in item 355.45 of part 4C, schedule 3) not over the restricted amount entered during the 12-month period beginning April 1 of any calendar year	17% ad val.	No change	On or before 1/1/89".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption on or after the fifteenth day after the date of the enactment of this Act.

TITLE XII—CIVIL SERVICE PROGRAMS

COST-OF-LIVING ADJUSTMENTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 1201. (a) Subsections (a) and (b) of section 8340 of title 5, United States Code, are amended to read as follows:

"(a) For the purpose of this section—

"(1) the term 'base quarter', as used with respect to a year, means the calendar quarter ending on September 30 of such year; and

"(2) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

"(b) Except as provided in subsection (c) of this section, effective December 1 of each year, each annuity payable from the Fund having a commencing date not later than such December 1 shall be increased by the percent change in the price index for the base quarter of such year over the price index for the base quarter of the latest preceding year in which an increase under this subsection was made, adjusted to the nearest $\frac{1}{10}$ of 1 percent.".

(b)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that no adjustment under section 8340(b) of title 5, United States Code (as amended by such subsection), shall be made during the period beginning on the date of the enactment of this Act and ending November 30, 1984.

(2) For purposes of the first increase under subsection (b) of section 8340 of title 5, United States Code (as amended by subsection (a)) after the date of enactment of this Act, an increase under such subsection (as so amended) shall be deemed to have been made effective December 1, 1983.

(c) Notwithstanding any other provision of law, beginning with the monthly rate payable for December 1984, any annuity or retired or retirement pay payable under any retirement system for Government officers or employees which the President adjusts pursuant to section 8340(b) of title 5, United States Code (as amended by subsection (a)), shall hereafter be paid no earlier than the first business day of the succeeding month.

(d) Subsection (b) of section 301 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 790; 5 U.S.C. 8340 note) is repealed.

PAY COMPARABILITY ADJUSTMENT FOR FEDERAL EMPLOYEES

SEC. 1202. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1984, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems shall be an increase of 3.5 percent.

(2) The adjustment pursuant to paragraph (1) shall take effect on the first day of the first applicable pay period commencing on or after January 1, 1984.

(b) Section 5305 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by inserting "the first January 1 after" before "October 1";

(2) in the first sentence of subsection (c)(2) by inserting "the first January 1 after" before "October 1"; and

(3) in subsection (m), by striking out "October 1" and inserting in lieu thereof "the first January 1 after October 1 of the applicable year".

(c)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title—

(A) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 107(a) of Public Law 97-377 (96 Stat. 1909) shall not take effect, and

(B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which (without regard to paragraph (4) of this subsection) is scheduled to become effective during fiscal year 1984 shall not exceed the schedule or rate payable on September 30, 1983 (determined with regard to the limitation contained in section 107(a) of Public Law 97-377) by more than 3.5 percent.

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1983.

(3) The provisions of paragraph (1) shall not apply with respect to wage adjustments for prevailing rate supervisors under the supervisory pay plan published in the Federal Register on May 21, 1982 (47 Fed. Reg. 22100).

(4) Notwithstanding any other provision of law, any adjustment in a wage schedule or rate that—

(A) applies to a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or that applies to any employee who is covered by section 5348 of such title, or who is subject to paragraph (2) of this subsection;

(B) results from a wage survey; and

(C) would take effect, were it not for this paragraph, on or after October 1, 1983,

shall not take effect until the first day of the first applicable pay period beginning not less than 90 days after the day on which such adjustment would, were it not for this

paragraph, otherwise have taken effect. The Office of Personnel Management shall take such actions as may be necessary to carry out the provisions of this paragraph.

DEDUCTION FROM CIVILIAN PAY FOR COST-OF-LIVING ADJUSTMENT OF RETIRED OR RETAINER PAY

SEC. 1203. Subsection (d) of section 301 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 791; 5 U.S.C. 5332 note) is repealed.

LEAVE FOR CERTAIN OVERSEAS EMPLOYEES

SEC. 1204. Subsection (a) of section 6 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 214; 20 U.S.C. 904(a)) is amended by striking out "except that—" and all that follows through the end of such subsection and inserting in lieu thereof "except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten days of cumulative leave with pay.".

CIVIL SERVICE RETIREMENT DEPOSITS COVERING MILITARY SERVICE

SEC. 1205. The first sentence of section 306(g) of the Omnibus Budget Reconciliation Act of 1982 (5 U.S.C. 8331 note) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

PAY INCREASES FOR CERTAIN EMPLOYEES IN PANAMA

SEC. 1206. (a) Section 1225(b)(2) of the Panama Canal Act of 1979 (Public Law 96-70; 93 Stat. 468) is amended to read as follows:

"(2) Each time the rates of basic pay under the General Schedule are increased under section 5305 of title 5, United States Code, the rate of basic pay for each individual referred to in paragraph (1) shall be increased by the amount which is equal to the overall average percentage by which the rates of pay under the General Schedule are increased under such section at such time.".

(b) The amendment made by subsection (a) shall take effect with respect to basic pay for service performed on or after the date of enactment of this Act.

ELECTION OF RETIREMENT PLAN

SEC. 1207. (a) For the purposes of this section, the term "covered retirement system" shall have the same meaning as provided in section 203(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168; 97 Stat. 1107).

(b)(1) Any individual who performed service of a type referred to in clause (i), (ii), (iii), or (iv), or section 210(a)(5) of the Social Security Act beginning on or before December 31, 1983, and who did not make an election under section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111) before the date of enactment of this Act, may make an election under such section 208(a) not later than 30 days after the date of enactment of this Act.

(2) Any such individual who, before the date of enactment of this Act, made an election under section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 may, not later than 30 days after the date of enactment of this Act, make any other election which such individual was entitled to make under such section 208(a) before January 1, 1984.

(3)(A) Not later than 30 days after the date of enactment of this Act, any such individual who, before the date of enactment of this Act, made an election under paragraph (1)(B) or (2)(B) of section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 may elect that sections 201 through 207 of such Act apply with respect to the participation of such individual in a covered retirement system.

(B) Sections 201 through 207 of such Act shall apply in accordance with an election made under subparagraph (A).

(4) An election under this subsection shall be made by a written application submitted to the official by whom the electing individual is paid.

(5) An election made as provided in this subsection shall take effect with respect to service performed on or after the first day of the first applicable pay period commencing after the date which is 30 days after the date of enactment of this Act.

(c)(1) Section 8342(a)(4) of title 5, United States Code, does not apply for the purpose of determining an entitlement to a refund under section 208(c) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111).

(2) Paragraph (1) shall take effect with respect to any election made under section 208(a) of such Act or this Act before, on, or after January 1, 1984.

(d) Nothing in this section or the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 affects any entitlement to benefits accrued under a covered retirement system before January 1, 1984, except to the extent that any amount refunded under section 208(c) of such Act is not redeposited in the applicable retirement fund.

TITLE XIII—FEDERAL CREDIT UNION ACT AMENDMENTS

SEC. 1301. Section 201(b)(8) of the Federal Credit Union Act (12 U.S.C. 1781(b)(8)) is amended to read as follows:

"(8) to pay and maintain its deposit and to pay the premium charges for insurance imposed by this title; and".

SEC. 1302. Section 202(b) of the Federal Credit Union Act (12 U.S.C. 1782(b)) is amended to read as follows:

"(b) For each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the preceding insurance year and both the amount of its deposit or adjustment thereof and the amount of the premium charge for insurance due to the fund for that year, both as computed under subsection (c) of this section. The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require. Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief that statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.".

SEC. 1303. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by striking out "Except as provided in paragraph (2) of this subsection, each" in paragraph (2), as redesignated, and inserting in lieu thereof "Each";

(4) by striking out "on or before January 31 of each insurance year" in paragraph (2), as redesignated, and inserting in lieu thereof "at such time as the Board prescribes";

(5) by striking out "member accounts" in paragraph (2), as redesignated, and inserting in lieu thereof "insured shares"; and

(6) by inserting before paragraph (2) the following:

"(1) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union's insured shares. The Board may, in its discretion, authorize insured credit unions to initially fund such deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions. The amount of each insured credit union's deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares. The deposit shall be returned to an insured credit union in the event that its insurance coverage is terminated, it converts to insurance coverage from another source, or in the event the operations of the fund are transferred from the National Credit Union Administration Board. The deposit shall be returned in accordance with procedures and valuation methods determined by the Board, but in no event shall the deposit be returned any later than one year after the final date on which no shares of the credit union are insured by the Board. The deposit shall not be returned in the event of liquidation on account of bankruptcy or insolvency. The deposit funds may be used by the fund if necessary to meets its expenses, in which case the amount so used shall be expensed and shall be replenished by insured credit unions in accordance with procedures established by the Board.".

SEC. 1304. Section 202(c)(3) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)) is amended to read as follows:

"(3) When, at the end of a given insurance year, any loans to the fund from the Federal Government and the interest thereon have been repaid and the equity of the fund exceeds the normal operating level, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the fund to its normal operating level.".

SEC. 1305. Section 202(c)(4) of the Federal Credit Union Act (12 U.S.C. 1782(c)(4)) is repealed.

SEC. 1306. Subsections (d) through (f) of section 202 of the Federal Credit Union Act (12 U.S.C. 1782(d) through (f)) are amended—

(1) by inserting "its deposit or" before the words "the premium charge" and "any premium charge" each time they appear; and

(2) by striking out "member accounts" and inserting in lieu thereof "insured shares".

SEC. 1307. Section 202(g) of the Federal Credit Union Act (12 U.S.C. 1782(g)) is amended—

(1) by striking out "statements, and premium charges" and inserting in lieu thereof "statements, and deposit and premium charges";

(2) by striking out "payment of any premium charge" and inserting in lieu thereof "payment of any deposit or adjustment thereof or any premium charge"; and

(3) by striking out "any premium charge for insurance" and inserting in lieu thereof

"any deposit of adjustment thereof or any premium charge for insurance".

SEC. 1308. Section 202(h)(1) of the Federal Credit Union Act (12 U.S.C. 1782(h)(1)) is amended by inserting before the semicolon at the end thereof the following: ", unless otherwise prescribed by the Board".

SEC. 1309. Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended to read as follows:

"(2) the term 'normal operating level', when applied to the fund, means an amount equal to 1.3 per centum of the aggregate amount of the insured shares in all insured credit unions, or such lower level as the Board may determine; and".

SEC. 1310. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

"(3) the term 'insured shares' when applied to this section includes share, share draft, share certificate and other similar accounts as determined by the Board, but does not include amounts in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 1311. Section 203(b) of the Federal Credit Union Act (12 U.S.C. 1783(b)) is amended—

(1) by inserting "deposits and" before "premium charges"; and

(2) by adding at the end thereof the following: "The Board shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the operating level of the fund. Such report shall also include the results of an independent audit of the fund.".

SEC. 1312. Section 206(d)(1) of the Federal Credit Union Act (12 U.S.C. 1786(d)(1)) is amended—

(1) by inserting "(1)" after "subsection (a)";

(2) by inserting "maintain its deposit with and" before "pay premiums to the Board"; and

(3) by adding at the end thereof the following sentence: "Notwithstanding the above, when an insured credit union's insured status is terminated and the credit union subsequently obtains comparable insurance coverage from another source, insurance of its accounts by the fund may cease immediately upon the effective date of such comparable coverage by mutual consent of the credit union and the Board.".

SEC. 1313. (a) Title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.) is amended—

(1) in section 303 by inserting ", an instrumentality of the United States," after "Central Liquidity Facility" in the second sentence; and

(2) by adding at the end thereof the following:

"STATE AND LOCAL TAX EXEMPTION

"SEC. 312. (a) The Central Liquidity Facility, and its franchise, activities, capital reserves, surplus, and income, shall be exempt from all State and local taxation now or hereafter imposed, other than taxes on real property held by the Facility (to the same extent, according to its value, as other similar property held by other persons is taxed).

"(b)(1) Except as provided in paragraph (2), the notes, bonds, debentures, and other obligations issued on behalf of the Central Liquidity Facility and the income therefrom shall be exempt from all State and local taxation now or hereafter imposed.

"(2) Any obligation described in paragraph (1) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(c) For purposes of this section—

"(1) the term 'State' includes the District of Columbia; and

"(2) taxes imposed by counties or municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.".

(b)(1) Section 501 of the Internal Revenue Code of 1954 (relating to organizations exempt from tax) is amended by redesignating subsection (k) as subsection (l) and by adding after subsection (j) the following new subsection:

"(k) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—The organization described in this subsection is the Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).".

(2) Paragraph (1) of section 501(c) of such Code (listing exempt organizations) is amended to read as follows:

"(1) any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

"(A) is exempt from Federal income taxes under such Act, as amended and supplemented, or

"(B) is described in subsection (k).".

(c) The amendments made by this section shall take effect on October 1, 1979.

ELIMINATION OF PAYROLL DEDUCTION FEES ON FINANCIAL ORGANIZATIONS; ADMINISTRATION OF DISBURSING FUNCTIONS

SEC. 1314. (a) Section 3332(b) of title 31, United States Code, is amended by inserting "without charge" after "shall be sent".

(b) Section 3332 of title 31, United States Code, is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

FEDERAL BUDGET DEFICITS

SEC. 1315. The Congress finds that—

(1) large Federal deficits pose a serious threat to the economies of the United States and the world;

(2) cumulative Federal deficits have added over $700,000,000,000 to the Federal debt since 1969, an amount equal to the accumulation of the previous 180 years;

(3) high Federal budget deficits pose a serious threat to the Nation's economy and to the economic recovery which began in late 1982;

(4) the entire budget has grown by 450 percent over the last 16 years and yet no single item or group of items can be held solely responsible for that rapid increase;

(5) while the annual growth of the Federal budget has slowed in recent years, Congress has been unable through the existing process to decrease the growth rate sufficiently to allow revenues to catch up;

(6) the time to act is now, during a period of recovery and low inflation;

(7) any approach to reducing the deficit should be effective and equitable, and should treat all Americans fairly.

FAIR PLAY FORMULA APPROACH TO BUDGET PROCESS

SEC. 1316. The Director of the Congressional Budget Office and the Director of the Office of Management and Budget shall each conduct a study of the feasibility and potential impact in terms of effectiveness and equitability of applying a "Fair Play" formula approach to the entire budget process, under which all functions or functions within major categories of the Federal budget are allowed to grow at the same rate (or variations of such an approach) and shall each report the findings of such study to the Congress no later than December 31, 1984.

TITLE XIV—APPROPRIATIONS

SEC. 1401. (a) It shall not be in order to consider any measure making appropriations in the Senate or House of Representatives, if the enactment of such bill or resolution, as recommended by the respective committee on appropriations, would cause the aggregate total budget authority for function 050, National Defense, to exceed $299,000,000,000 in fiscal year 1985, $333,700,000,000 in fiscal year 1986, or $372,000,000,000 in fiscal year 1987.

(b) It shall not be in order to consider any measure making appropriations in the Senate or House of Representatives, if the enactment of such bill or resolution, as recommended by the respective committee on appropriations, would cause the aggregate total budget authority for nondefense discretionary activities to exceed $139,800,000,000 in fiscal year 1985, $144,300,000,000 in fiscal year 1986, or $151,510,000,000 in fiscal year 1987. It is the sense of Congress that fiscal year 1985 appropriations be increased for several nondefense discretionary programs. Priority should be given to education programs, environmental protection and health research activities.

(c) For the purposes of this section, budget authority shall be determined on the basis applicable for fiscal year 1984.

(d) The provisions of subsection (a) or (b) of this section may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by unanimous consent of the Senate.

(e) It is the sense of Congress that the unprecedented magnitude and persistence of current and projected Federal budget deficits must be addressed in a comprehensive strategy to moderate increases in defense spending while continuing the effective constraints on nondefense discretionary programs. To assure the success of such an initiative, the foregoing procedural restraints, in addition to the total aggregate spending limitations pursuant to the Congressional Budget Act of 1974, as amended, are necessary on budget authority both for defense and for nondefense discretionary programs for fiscal years 1985, 1986, and 1987.

(f) Of the amounts provided in Public Law 96-126, the Department of the Interior and Related Agencies Appropriation Act, 1980, for the "Energy Security Reserve", $2,000,000,000 are rescinded.

(g) Notwithstanding any other provision of this Act (or any amendments made by this Act), the amount specified in subsection (b) of this section for fiscal year 1985 shall be increased by $35,810,000, in order to permit additional appropriations for the Job Corps under part B of title IV of the Job Training Partnership Act.

TITLE XV—COMPETITION IN CONTRACTING

SHORT TITLE

SEC. 1501. This title may be cited as the "Competition in Contracting Act of 1984".

SUBTITLE A—AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 1511. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by striking out section 303 (41 U.S.C. 253) and the heading of such section and inserting in lieu thereof the following:

"COMPETITION REQUIREMENTS

"SEC. 303. (a) Except as provided in subsection (e) or otherwise authorized by law, executive agencies shall use competitive procedures in making contracts for property or services. Executive agencies shall use advance procurement planning and market research and shall prepare specifications in such a manner as is necessary to obtain effective competition with due regard to the nature of the property or services to be acquired. Executive agencies shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify its needs and solicit bids or proposals in a manner designed to achieve effective competition for the contract.

"(b) An executive agency may provide for the procurement of property or services in order to establish or maintain any alternative source or sources of supply under this title using competitive procedures but excluding a particular source for that property or services if the executive agency determines that to do so would (1) increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services, (2) be in the interest of industrial mobilization in case of a national emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to facilitate making small purchases efficiently and economically.

"(d) For other than small purchases, an executive agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submission, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other price-related factors;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is a reasonable expectation of receiving more than one sealed bid;

"(2) shall request competitive proposals when sealed bids are not required under clause (1) of this subsection.

"(e) An executive agency may use noncompetitive procedures only when—

"(1) the property or services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the executive agency;

"(2) the executive agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay associated with using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government or international organization, or the directions of any foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute authorizes or requires that the procurement be made through another executive agency or from a specified source or the agency's need is for a brand-name commercial item for authorized resale; or

"(6) the disclosure of the executive agency's needs to more than one source would compromise the national security.

"(f) For the purposes of applying subsection (e)(1)—

"(1) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule; and

"(2) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

"(g) An executive agency may not award a contract using noncompetitive procedures unless—

"(1) the use of such procedures has been justified in writing; and

"(2) a notice has been published with respect to such contract pursuant to section 313 and all bids or proposals received in response to such notice have been considered by such executive agency.

"(h) For the purposes of the following laws, purchases or contracts made under this title using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35–45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).".

(2) by adding at the end of section 309 (41 U.S.C. 259) the following new subsections:

"(b) The term 'executive agency' has the same meaning as provided in section 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)), except that such term does not include the departments or establishments specified in section 2303(a) of title 10, United States Code.

"(c) The term 'competitive procedures' means procedures under which an executive agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the executive agency.

"(d) The term 'noncompetitive procedures' means procedures other than competitive procedures.

"(e) The term 'small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using the small purchase procedures."; and

(3) by adding at the end thereof the following new sections:

"SOLICITATION REQUIREMENTS

"SEC. 311. (a)(1) Each solicitation under this title shall include specifications which—

"(A) consistent with the needs of the executive agency, permit effective competition; and

"(B) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(2) For the purposes of paragraph (1), the type of specification included in any solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(A) function so that a variety of products or services may qualify;

"(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(C) design requirements.

"(b) Each solicitation for sealed bids or competitive proposals other than for small purchases shall at a minimum include, in addition to the specifications described in subsection (a)—

"(1) a statement of—

"(A) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(B) the relative importance assigned to each of those factors;

"(2) in the case of sealed bids—

"(A) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(B) the time and place for the opening of the sealed bids; and

"(3) in the case of competitive proposals—

"(A) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(B) the time and place for submission of proposals.

"EVALUATION AND AWARD

"SEC. 312. (a) An executive agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the executive agency determines that such action is in the public interest.

"(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and shall, except as provided in subsection (b), award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, solely considering the price and the other factors included in the solicitation under section 311(b)(1). The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(B) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) The executive agency shall, except as otherwise provided in subsection (b), award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, considering price and the other factors included in the solicitation under section 311(b)(1). The executive agency shall award the contract by transmitting written notice of the award to such offeror and shall promptly notify all other offerors of the rejection of their proposals.

"(e) If the head of an executive agency considers that any bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

"PROCUREMENT NOTICE

"SEC. 313. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids or proposals for a contract for property or services at a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name and address of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) a statement that any person may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(4) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security; or

"(B) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originally of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

"(2) The requirements of subsection (a)(1)(A) do not apply—

"(A) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 303(e); and

"(B) in the case of any procurement for which the head of the executive agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"RECORD REQUIREMENTS

"SEC. 314. (a) Each executive agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of the procurement;

"(4) the reason under section 303(e) for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the executive agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the General Services Administration and shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)).".

(b) The table of contents of such Act is amended—

(1) by striking out the item relating to section 303 and inserting in lieu thereof the following:

"Sec. 303. Competition requirements."

and

(2) by inserting after the item relating to section 310 the following new items:

"Sec. 311. Solicitation requirements.
"Sec. 312. Evaluation of bids; awards.
"Sec. 313. Procurement notice.
"Sec. 314. Record requirements.".

COST AND PRICING DATA

SEC. 1512. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current—

"(A) prior to the award of any prime contract under this title using other than sealed bid procedures where the contract price is expected to exceed $100,000;

"(B) prior to the pricing of any contract change or modification for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency;

"(C) prior to the award of a subcontract at any tier, where the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed $100,000; or

"(D) prior to the pricing of any contract change or modification to a subcontract covered by clause (C), for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the executive agency that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), was inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the head of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal under this chapter, pricing, or performance of the contract or subcontract.

"(4) The requirements of this subsection need not be applied to contracts or subcontracts where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation or, in exceptional cases where the head of the executive agency determines that the requirements of this subsection may be waived and states in writing his reasons for such determination.".

CONFORMING AMENDMENTS

SEC. 1513. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 302 (41 U.S.C. 252)—

(A) by striking out the second sentence in subsection (b);

(B) by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using other than sealed bid procedures under section 303(d)(1), if the conditions set forth in section 303(d)(1) apply or the contract is to be performed outside the United States.

"(2) Section 303(d)(1) does not require the use of sealed bid procedures in cases in which section 204(e) of title 23, United States Code, applies."; and

(C) by redesignating subsection (f) as subsection (d);

(2) by striking out the heading of section 304 and inserting in lieu thereof the following:

"CONTRACT REQUIREMENTS";

(3) in section 304 (41 U.S.C. 254)—

(A) by striking out "negotiated pursuant to section 302(c)" in the first sentence of subsection (a) and inserting in lieu thereof "awarded using other than sealed bid procedures";

(B) by striking out "negotiated pursuant to section 302(c)" in the second sentence of subsection (a) and inserting in lieu thereof "awarded after using other than sealed bid procedures"; and

(C) by striking out "negotiated without advertising pursuant to authority contained in this Act" in the first sentence of subsection (c) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(4) in section 307 (41 U.S.C. 257)—

(A) by striking out "Except as provided in subsection (b), and except" in the second sentence of subsection (a) and inserting in lieu thereof "Except";

(B) by striking out subsection (b);

(C) by striking out "by paragraph, (11)-(13), or (14) of section 302(c)," in subsection (c);

(D) by redesignating subsection (c) as subsection (b); and

(E) by striking out subsection (d);

(5) by striking out "entered into pursuant to section 302(c) without advertising," in section 308 and inserting in lieu thereof "made or awarded after using other than sealed bid procedures"; and

(6) by striking out "section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303." In section 310 and inserting in lieu thereof "the provisions of this title relating to other than sealed bid procedures.".

(b) The table of contents of such Act is amended by striking out the item relating to section 304 and inserting in lieu thereof the following:

"SEC. 304. Contract requirements.".

SUBTITLE B—AMENDMENTS TO TITLE 10, UNITED STATES CODE

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 1521. (a) Chapter 137 of title 10, United States Code, is amended—

(1) in section 2302—

(A) by inserting "the Secretary, any Deputy Secretary, any Under Secretary, or any Assistant Secretary of Defense," after "means" in clause (1);

(B) by striking out clauses (2) and (3) of section 2302 and inserting in lieu thereof the following:

"(2) 'Agency' means any department or establishment specified in section 2303(a) of this title.

"(3) 'Competitive procedures' means procedures under which the head of an agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the agency.

"(4) 'Noncompetitive procedures' means procedures other than competitive procedures.

"(5) 'Small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using small purchase procedures.";

(2) in section 2303(a)—

(A) by redesignating clauses (1), (2), (3), (4), and (5) as clauses (2), (3), (4), (5), and (6), respectively; and

(B) by inserting before clause (2) (as redesignated by subclause (A)) the following:

"(1) The Department of Defense.";

(3) by striking out sections 2304 and 2305 and inserting in lieu thereof the following:

"§ 2304. Competition requirements

"(a) Except as provided in subsection (e) of this section or otherwise authorized by law, the head of an agency shall use competitive procedures in making contracts for property or services. The head of an agency shall use advance procurement planning and market research and shall prepare specifications in such a manner as is necessary to obtain effective competition with due regard to the nature of the property or services to be acquired. The head of an agency shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify the needs of the agency and solicit bids or proposals in a manner designed to achieve effective competition for the contract.

"(b) The head of an agency may provide for the procurement of property or services in order to establish or maintain any alternative source or sources of supply under this title using competitive procedures but excluding a particular source for that property or services if such head of an agency determines that to do so would (1) increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services, (2) be in the interest of industrial mobilization in case of a national emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to facilitate making small purchases efficiently and economically.

"(d) For other than small purchases, the head of an agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submission, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other price-related factors;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is reasonable expectation of receiving more than one sealed bid; and

"(2) shall request competitive proposals from responding sources when sealed bids are not required under clause (1) of this subsection.

"(e) The head of an agency may use noncompetitive procedures only when—

"(1) the property or services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the agency;

"(2) the agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay associated with using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government or international organization, or the directions of any foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute authorizes or requires that the procurement be made through another agency or from a specified source; or the agency's need is for a brand-name commercial item for authorized resale; or

"(6) the disclosure of the agency's needs to more than one source would compromise the national security.

"(f) For the purposes of applying subsection (e)(1) of this section hereof—

"(1) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule; and

"(2) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

"(g) The head of an agency may not award a contract using noncompetitive procedures unless—

"(1) the use of such procedures has been justified in writing; and

"(2) a notice has been published with respect to such contract pursuant to section 2305(c) of this title and all bids or proposals received in response to such notice have been considered by such head of an agency.

"(h) For the purposes of the following laws, purchases or contracts made under this chapter using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved

June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).

"§ 2305. Solicitation, evaluation, and award procedures; notice requirements

"(a)(1)(A) Each solicitation under this title shall include specifications which—

"(i) consistent with the needs of the agency, permit effective competition; and

"(ii) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(B) For the purposes of subparagraph (A) of this paragraph, the type of specification included in any solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(i) function so that a variety of products or services may qualify;

"(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(iii) design requirements.

"(2) Each solicitation for sealed bids or competitive proposals other than for small purchases shall at a minimum include, in addition to the specifications described in paragraph (1) of this subsection—

"(A) a statement of—

"(i) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(ii) the relative importance assigned to each of those factors;

"(B) in the case of sealed bids—

"(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(ii) the time and place for the opening of the sealed bids; and

"(C) in the case of competitive proposals—

"(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(ii) the time and place for submission of proposals.

"(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of an agency determines that such action is in the public interest.

"(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of an agency shall evaluate the bids without discussions with the bidders and shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, solely considering the price and the other factors included in the solicitation under subsection (a)(2)(A) of this section. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

"(i) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(ii) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

"(B) In the case of award of a contract under subparagraph (A)(i) of this paragraph, the head of an agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(C) In the case of award of a contract under subparagraph (A)(ii) of this paragraph, the head of an agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(D) The head of an agency shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, solely considering price and other factors included in the solicitation under subsection (a)(2)(A) of this section. The head of the agency shall award the contract by transmitting written notice of the award to such offeror and shall promptly notify all other offerors of the rejection of their proposals.

"(5) If the head of an agency considers that any bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

"(c)(1)(A) Except as provided in paragraph (3) of this subsection—

"(i) the head of an agency intending to solicit bids or, proposals for a contract for property or services at a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in paragraph (2) of this subsection; and

"(ii) the head of an agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(B) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by subparagraph (A) of this paragraph.

"(C) Whenever a head of an agency is required by subparagraph (A)(i) of this paragraph to furnish a notice of a solicitation to the Secretary of Commerce, such head of an agency may not—

"(i) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(ii) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(2) Each notice required by paragraph (1)(A)(i) of this subsection shall include—

"(A) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(B) the name and address of the officer or employee of the agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(C) a statement that any person may submit a bid or proposal which shall be considered by the agency; and

"(D) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(3)(A) A notice is not required under paragraph (1)(A) of this subsection if—

"(i) the notice would disclose the agency's needs and the disclosure of such needs would compromise the national security; or

"(ii) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

"(B) The requirements of paragraph (1)(A)(i) of this subsection do not apply—

"(i) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 2304 (e) of this title; and

"(ii) in the case of any procurement for which the head of the agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation."; and

(4) by adding at the end thereof the following new section:

"§ 2316. Record requirements

"(a) Each head of an agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) of this section shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of the procurement;

"(4) the reason under section 2304(e) of this title for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the General Services Administration and shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)).".

(b) The table of sections at the beginning of such chapter is amended—

(1) by striking out the items relating to sections 2304 and 2305 and inserting in lieu thereof the following:

"2304. Competition requirements.
"2305. Solicitation, evaluation, and award procedures; notice requirements.";

and

(2) by adding at the end thereof the following new item:

"2316. Record requirements.".

CONFORMING AMENDMENTS

SEC. 1522. Chapter 137 of title 10, United States Code, is amended—

(1) in section 2306—

(A) by striking out "may, in negotiating contracts under section 2304," in the second sentence of subsection (a) and inserting in lieu thereof "may in awarding contracts after using other than sealed bid procedures";

(B) by striking out "negotiated under section 2304" in the first sentence of subsection (b) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(C) by striking out "section 2304 of this title," in subsection (c) and inserting in lieu thereof "this chapter";

(D) in subsection (f)(1)—

(i) by striking out clause (A) and inserting in lieu thereof the following:

"(1) prior to the award of any prime contract under this title after using other than sealed bid procedures where the contract price is expected to exceed $100,000;";

(ii) by striking out "negotiated" each place it appears in the second paragraph;

(iii) by striking out "negotiation," in the third paragraph and inserting in lieu thereof "proposal for the contract, the discussions conducted on the proposal under this title,"; and

(iv) by striking out "$500,000" each place it appears in clauses (B), (C), and (D) and inserting in lieu thereof "$100,000"; and

(E) by adding at the end thereof the following new subsection:

"(i) Except in a case in which the Secretary of Defense determines that military requirements necessitate the specification of container sizes, no contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width.";

(2) by striking out subsection (b) of section 2310 and inserting in lieu thereof the following:

"(b) Each determination or decision under section 2306(c), section 2306(g)(1), section 2307(c), or section 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that (1) clearly indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract, (2) support the findings required by section 2306(g)(1), (3) clearly indicate why advance payments under section 2307(c) would be in the public interest, or (4) clearly indicate why the application of section 2313(b) to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.";

(3) by striking out section 2311 and inserting in lieu thereof the following: "The head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter."; and

(4) by striking out "negotiated" in the second sentence of section 2313(b) and inserting in lieu thereof "awarded after using other than sealed bid procedures".

SUBTITLE C—ADVOCATE FOR COMPETITION; ANNUAL REPORT ON COMPETITION

DEFINITION

SEC. 1531. For the purposes of this subtitle, the term "executive agency" has the same meaning as provided in section 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)).

ADVOCATE FOR COMPETITION

SEC. 1532. (a)(1) There is established in each executive agency an advocate for competition.

(2) Each head of an executive agency shall—

(A) designate for each executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of this Act to serve as the advocate for competition;

(B) relieve such officer or employee of all duties and responsibilities that are inconsistent with the duties and responsibilities of the advocate for competition; and

(C) provide such officer or employee with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition.

(b)(1) The advocate for competition shall promote competition in the procurement of property and services.

(2) The advocate for competition in an executive agency shall—

(A) review the purchasing and contracting activities of the executive agency;

(B) identify and report to the head of the executive agency—

(i) opportunities to achieve competition on the basis of price and other significant factors in the purchases and contracts of the executive agency;

(ii) solicitations and proposed solicitations which include unnecessarily detailed specifications or unnecessarily restrictive statements of need which may reduce competition in the procurement activities of the executive agency; and

(iii) any other condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

(C) prepare and transmit to the head of the executive agency an annual report describing his activities under this section.

ANNUAL REPORT

SEC. 1533. (a) Not later than September 30 of each of 1984, 1985, 1986, and 1987 each head of an executive agency shall transmit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives an annual report including the information specified in subsection (b).

(b) Each report transmitted under subsection (a) shall include—

(1) a specific description of all actions that the head of the executive agency intends to take during the next fiscal year to—

(A) increase competition for contracts with the executive agency on the basis of price and other significant factors; and

(B) reduce the number and dollar value of contracts entered into by the executive agency after soliciting bids or proposals from, or evaluating bids or proposals with discussions with, only one source; and

(2) a summary of the activities and accomplishments of the advocates for competition of the executive agency during the fiscal year in which the report is transmitted.

SUBTITLE D—APPLICABILITY

SEC. 1541. The amendments made by this title shall apply with respect to any solicitations for bids or proposals issued on or after the date two hundred and seventy days after the date of the enactment of this Act.

TITLE XVI—GENERAL PROVISIONS

NATIONAL COMMISSION ON DEFICIT REDUCTION

SEC. 1601. (a) It is the sense of the Congress that a bipartisan National Commission on Deficit Reduction be established by the leadership of the Congress and the President. This Commission shall conduct a comprehensive study of the elements of fiscal and monetary policies, with particular emphasis on the sources of cyclical and structural budget deficits and their effect on employment, real interest rates, capital formation and investment, and the vigor and viability of economic growth. This study shall include recommendations to reduce these deficits in the manner and to the extent required to promote reductions in unemployment and real interest rates, to encourage capital formations and investment, and to sustain vigorous economic growth. These recommendations shall ensure that the burden of deficit reduction is equitably distributed and not borne disproportionately by any one economic or social group.

(b) The comprehensive study undertaken by the Commission shall specifically address—

(1) the current and prospective economic factors and development, in both the United States and abroad, that should be taken into account in making fiscal and monetary policies;

(2) all potential options which would result in deficit reductions, including a statement of the impact of each on the Nation's economy;

(3) the impact of deficit reductions options, separately and in combination, on different income and social groups; and

(4) the institutional arrangements required to achieve the appropriate degree of coordination in the making and implementation of fiscal and monetary policies, to achieve reductions in the budget deficit.

(c) Such a Commission would be authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Government such information, suggestions, estimates, and statistics as the Commission may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality would be authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission.

(d) Upon request of such a Commission, the head of any Federal agency would be authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties, unless the head of such agency determines that urgent, overriding reasons will not permit the agency to make such facilities, services, or

personnel available to the Commission and so notifies the Chairman in writing.

(e) The study conducted by the Commission should be completed by January 20, 1985.

NATIONAL COMMISSION ON FEDERAL SPENDING REFORM

SEC. 1602. It is the sense of the Senate that:

One, Federal spending currently exceeds three-fourths of a trillion dollars and, according to the Congressional Budget Office, will surpass the trillion dollar a year level before the end of this decade; and

Two, an ever-growing share of the Federal budget is uncontrollable; and

Three, since 1970, as a percentage of gross national product, Federal receipts and Federal outlays have averaged 19.2 percent and 21.9 percent of gross national product respectively; and

Four, detailed examination of historical trends point to expenditure growth as the real culprit of our ever-diminishing ability to balance the Federal Government's books; and

Five, the obvious result of this economic imbalance is persistent deficits; and

Six, deficits do matter, for they signal something is fundamentally wrong with the trend in government spending; and

Seven, the continued increase in Federal spending results in large budget deficits; and

Eight, large budget deficits cause a rise in interest rates and inflation and can choke off the current economic recovery; and

Nine, a National Commission on Federal Spending Reform, similar to the National Commission on Social Security Reform, should be established to study the growth in Federal spending and report to the Congress after January 1, 1985, on those steps Congress might consider for the purpose of reforming Federal spending programs and curbing their growth in an effort to regain control of the Federal budget and reduce the Federal deficit; and

Ten, such a commission should—

(a) be composed of distinguished leaders from the executive and legislative branches of government, business, labor, and education, and

(b) consult with other private and public sector experts for recommendations about reforms that would best address existing problems.

COST SAVINGS BY ADMINISTRATIVE ACTION

SEC. 1603. (a) For the fiscal year ending September 30, 1985, the total amount which may be obligated for travel and transportation of persons and transportation of things for officers and employees of all departments, agencies, and instrumentalities of the executive branch of the Government shall be reduced by $750,000,000 below the total amount appropriated for such travel and transportation for the fiscal year ending September 30, 1984. The Director of the Office of Management and Budget shall allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch of the Government. In making such allocation, the Director shall not reduce any amounts to be obligated for debt collection, administration of loans, necessary and essential law enforcement activities, or emergency national defense activities of the Federal Government.

(b) For the fiscal year ending September 30, 1985, the total amount which may be obligated for consultant services by departments, agencies, and instrumentalities of the executive branch of the Government shall be reduced by $1,000,000,000 below the total amount appropriated for such services for the fiscal year ending September 30, 1984. The Director of the Office of Management and Budget shall allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch.

(c) For the fiscal year ending September 30, 1985, the total amount which may be obligated for public affairs activities, public relations activities, public information activities, and advertising by departments, agencies, and instrumentalities of the executive branch of the Government shall be reduced by $100,000,000 below the total amount appropriated for such activities for the fiscal year ending September 30, 1984. The Director of the Office of Management and Budget shall allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch of the Government.

(d) For the fiscal year ending September 30, 1985, the total amount which may be obligated for publishing, printing, reproduction, and audiovisual activities by departments, agencies, and instrumentalities of the executive branch of the Government shall be reduced by $250,000,000 below the total amount appropriated for such activities for the fiscal year ending September 30, 1984. The Director of the Office of Management and Budget shall allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch of the Government.

(e) For the fiscal year ending September 30, 1985, the Director of the Office of Management and Budget shall effect savings of $2,100,000,000 through enhanced identification, recovery, and collection of Federal overpayments, delinquencies, and indebtedness which departments, agencies, and instrumentalities of the executive branch of the Government have most recently considered to be uncollectible. The Director of the Office of Management and Budget shall implement the preceding sentence in cooperation with the Comptroller General of the United States.

(f)(1) For the fiscal year ending September 30, 1985, the Director of the Office of Management and Budget, in cooperation with the Administrator of General Services, shall reduce the total amount which may be obligated for operation, maintenance, management, leasing, acquisition, and disposal of nontactical, non-law enforcement motor vehicles by departments, agencies, and instrumentalities of the executive branch of the Government by $160,000,000 below the total amount appropriated for such activities for the fiscal year ending September 30, 1984. The Director of the Office of Management and Budget, in cooperation with the Administrator of General Services, shall promulgate standards governing the identification, collection, and analysis of data which is necessary to implement the preceding sentence.

(2) The Director of the Office of Management and Budget, in cooperation with the Administrator of General Services, shall conduct a comprehensive and detailed study of the feasibility of entering into contracts with qualified motor vehicle fleet management firms or other private firms and organizations to meet the requirements of the executive branch of the Government for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles. Such study shall include an analysis of the costs that would be incurred, and the benefits that would be provided, as a result of such contracts. Within one year after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit a report containing the findings and conclusions of the study required by this paragraph to the appropriate committees of the Senate and the House of Representatives, including the Senate and House Committees on Appropriations.

(g) Within six months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit to the Committees on Appropriations and the Budget of the Senate and House of Representatives a report describing the allocations and savings made in carrying out such subsections (a) through (f).

(h) In carrying out subsections (a) through (f), the Director of the Office of Management and Budget shall adopt, whenever possible, the recommendations, management improvements, and cost control opportunities specified in the report of the President's Private Sector Survey on Cost Control.

SALARY ADJUSTMENTS FOR JUDGES

SEC. 1604. Effective on the first day of the first applicable pay period commencing on or after January 1, 1984, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1984.

DISPOSAL OF CERTAIN LANDS AT MONTAUK AIR FORCE BASE

SEC. 1605. (a) The Administrator of General Services shall assign to the Secretary of the Interior for use as a public park or recreation area, portions of the Montauk Air Force Station in East Hampton Township, Suffolk County, New York, totaling two hundred and seventy-eight acres that were declared surplus to the needs of the United States Government on December 21, 1981.

(b) The Administrator of General Services shall assign the land identified in the first section of this Act to the Secretary of the Interior within thirty days of enactment of this Act. Within thirty days of said assignment, the Secretary of the Interior shall, in exchange for the transfer of the fee title to one hundred and twenty-five acres of the real property owned by the State of New York at Fire Island, New York, to the Secretary of the Interior, convey the property to the State of New York for public park or recreation uses in accordance with section 203(k)(2) of the Federal Property and Administrative Act of 1949 (40 U.S.C. 484(k)(2).

TRANSPORTATION OF BAGGAGE AND HOUSEHOLD GOODS

SEC. 1606. (a) Section 715 of Public Law 98-212 (97 Stat. 1440) is amended by inserting before the period at the end thereof the following: "(except in the case of a civilian officer or employee to whom section 5724(a) or 5726 of title 5, United States Code, applies)".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of Public 98-212.

RETIREMENTS BENEFITS TO NATIVES OF THE PRIBILOF ISLANDS

SEC. 1607. (a) The amendment to section 8332(b) of title 5, United States Code, made by section 209(b) of the Act of November 2, 1966 (Public Law 98-702; 16 U.S.C. 1151-1187), as added by section 2 of Public Law 98-129, is amended by striking out the period at the end of paragraph (13) and inserting in lieu thereof the following: ", regardless of whether the Native who performs the service retires before, on, or after the date of enactment of this paragraph.".

(b) Title II of Public Law 89-702, as amended by section 2 of Public Law 98-129, is amended by adding at the end thereof the following new section:

"SEC. 212. (a)(1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in subsection (b)(13) or (l)(1)(C) of section 8332 of title 5, United States Code, as added by subsections (b) and (e), respectively, of section 209 of this Act, shall, upon application to the Office of Personnel Management, be recomputed in accordance with subsections (b)(13) and (l), respectively, of section 8332, regardless of whether the employee or Member retires before, on, or after the date of enactment of this paragraph.

"(2) Any recomputation of annuity under paragraph (1) of this subsection shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Office.".

(c) The amendments made by this section shall take effect on October 14, 1983.

COST SAVINGS BY COMMITTEE

SEC. 1608. (a) Congress hereby determines that not later than September 30, 1984, all authorizing committees of the Senate and House of Representatives shall review and make recommendations to the Budget committees for budget savings to be achieved through the recommendations of the President's Private Sector Survey on Cost Control.

(b) The review and subsequent recommendations should consider changes in laws within the jurisdiction of that committee (1) to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays, or (2) which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, to require reductions in budget authority and outlays, or (3) any combination thereof, as follows: $4,000,000,000 in budget authority in fiscal year 1985, $6,000,000,000 in budget authority in fiscal year 1986, and $10,000,000,000 in budget authority in fiscal year 1987.

COST SAVINGS BY ADMINISTRATIVE ACTION

SEC. 1609. (a) By September 30, 1984, the Administration shall review the recommendations of the President's Private Sector Survey on Cost Control which require administrative or Presidential action, and commit to adopting a sufficient quantity to achieve cost savings of: $4,000,000,000 in fiscal year 1985, $6,000,000,000 in fiscal year 1986, and $10,000,000,000 in fiscal year 1987.

(b) The Administration shall act to expedite and administer provisions of the recommendations and subsequent changes in laws to implement cost savings pursuant to this legislation.

ANALYSES OF BUDGET ASSUMPTIONS

SEC. 1610. (a) The Director of the Congressional Budget Office shall, in consultation with the Chairman and Ranking Member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, determine a schedule of phased analyses of executive departments, agencies, and establishments beginning with a trial analysis for one or two of such departments, agencies, and establishments to be determined in such consultation, which would lead to the submission to such committees of such analyses as may be necessary to provide the Congress with the information necessary to evaluate—

(1) the nature and reliability of the assumptions upon which the revenue estimates set forth in the budget submitted by the President under section 1105 of title 31, United States Code, for each fiscal year are based;

(2) the nature and reliability of the assumptions upon which the requests for budget authority for each department, agency, and establishment of the United States Government for such fiscal year contained in such budget are based;

(3) the nature and reliability of the assumptions upon which the estimates of the budget authority necessary for each such department, agency, and establishment for the two fiscal years succeeding such fiscal year set forth in such budget are based;

(4) the adequacy of the amounts of budget authority requested and estimated in such budget for each such department, agency, and establishment for each such fiscal year to carry out the programs, projects, and activities proposed in such budget to be carried out by such department, agency, or establishment for such fiscal year;

(5) the estimated amount of budget authority that the historical pattern of funding would provide for each such department, agency, and establishment for each such fiscal year (based upon a time-series analysis); and

(6) the effect that the provision of budget authority in the amounts specified under paragraph (5) for each such department, agency, or establishment for each such fiscal year will have upon the programs, projects, and activities proposed in such budget to be carried out by such department, agency, or establishment for such fiscal year.

(b) In carrying out the analyses determined by consultations required in subsection (a), the Director may utilize any of the resources made available to the Office under sections 201 and 202 of the Congressional Budget Act of 1974 (2 U.S.C. 601 and 602) and, notwithstanding any other provision of law, shall have access to any information, forecasting models, data, estimates, and statistics, prepared by or for a department, agency, or establishment, that the Director determines to be necessary in carrying out such analyses.

(c)(1) At the request of any committee of the House of Representatives or the Senate, or any joint committee, the Director shall testify before the committee with respect to any matter contained in an analysis submitted under subsection (a) that is within the jurisdiction of the committee.

(2) At the request of any Member of the House or the Senate, the Director shall provide to such Member any information compiled in carrying out subsection (a), and, to the extent available, such additional information related to the foregoing as may be requested.

PHYSICIAN FEES

SEC. 1611. (a) Section 1842(b) of the Social Security Act (as amended by section 904 of this Act) is further amended by adding at the end thereof the following:

"(13)(A) During the 24-month period beginning July 1, 1984, the Secretary shall monitor physicians in order to determine—

"(i) the proportion of physicians, by specialty and geographic area of practice, whose claims under this part are not pursuant to an assignment under paragraph (3)(ii), grouped as follows: fewer than 25 percent, 25 percent to 49 percent, 50 percent to 74 percent, 75 percent to 89 percent, 90 percent to 99 percent, and 100 percent, of the claims submitted by such physicians, or for such classifications of physicians as the Secretary may deem to be more informative;

"(ii) the average difference between the actual charges and the reasonable charges recognized for purposes of this part, for each classification of physicians referred to in clause (i); and

"(iii) any changes in the per capita volume and mix of services provided to beneficiaries under this part by each classification of physician referred to in clause (i).

"(B) Information on changes in the elements monitored pursuant to subparagraph (A) shall be provided to Congress every sixth month beginning with January 1985 and ending with January 1987.

"(C)(i) The report which the Secretary of Health and Human Services shall submit to Congress on January 1, 1987, shall include recommendations in sufficient detail to serve as the basis for legislative action which Congress can take to assure that any burden of effectively constraining the growth of costs in the medicare part B program, which Congress intends to be borne by providers and physicians, is not transferred (in whole or in part) so as to become an additional burden on part B beneficiaries in the form of increased out-of-pocket costs, reduced services, or reduced access to needed physician care.

"(ii) Such report shall also include analyses of other methods of payment which might be utilized under part B to constrain the costs of the part B program, including prospective payment systems such as fee schedules (both global and per service), capitation payments, case management, and the use of preferred provider organizations.".

(c) In addition to any funds otherwise provided for fiscal years 1985, 1986, and 1987 for payments to carriers under agreements entered into under section 1842 of the Social Security Act, there are transferred from the Federal Supplementary Medical Insurance Fund such additional amounts for payments to such carriers under such agreements as may be necessary to conduct monitoring of physicians under section 1842(b)(13) of the Social Security Act.

Amend the title so as to read: "An Act entitled 'The Omnibus Deficit Reduction Act of 1984'.".

The Clerk read the House amendment to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Deficit Reduction Act of 1984".

(b) ACT DIVIDED INTO 2 DIVISIONS.—This Act consists of 2 divisions as follows:

(1) DIVISION A.—Tax Reform Act of 1984.
(2) DIVISION B.—Spending Reduction Act of 1984.

DIVISION A—TAX REFORM ACT OF 1984

SEC. 5. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Tax Reform Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF TITLES.—

Title I. Tax Freeze; Tax Reforms Generally.
Title II. Life Insurance Provisions.
Title III. Revision of Private Foundation Provisions.
Title IV. Tax Simplification.
Title V. Tax Treatment of Fringe Benefits.
Title VI. Technical Corrections.
Title VII. Tax-Exempt Bond Provisions.
Title VIII. Miscellaneous Revenue Matters.
Title IX. Highway Revenue Provisions.

TITLE I—TAX FREEZE; TAX REFORMS GENERALLY

SEC. 10. TABLE OF CONTENTS.

Sec. 1. Short title; etc.

TITLE I—TAX FREEZE; TAX REFORMS GENERALLY

Sec. 10. Table of Contents.

Subtitle A—Deferral of Certain Tax Reductions

Sec. 11. Short title.

PART I—INCOME TAX PROVISIONS

Sec. 12. Amount of used property eligible for investment tax credit.
Sec. 13. Finance lease provisions.
Sec. 14. Election to expense certain depreciable business assets.
Sec. 15. Employee stock ownership credit.
Sec. 16. Cost-of-living adjustments in pension plan limitations.
Sec. 17. Repeal of partial interest exclusion.
Sec. 18. Foreign earned income of individuals.

PART II—ESTATE AND GIFT TAX RATES

Sec. 21. Maximum rate.

PART III—EXCISE TAXES

Sec. 25. Tax rate on newly discovered oil.
Sec. 26. Excise tax on communications services.
Sec. 27. Excise tax on cigarettes and distilled spirits.

Subtitle B—Tax-Exempt Entity Leasing

Sec. 31. Short title.
Sec. 32. Denial of tax incentives for property used by governments and other tax-exempt entities.
Sec. 33. Study of present class life of certain high technology property.

Subtitle C—Treatment of Bonds and Other Debt Instruments

Sec. 41. Treatment of bonds and other debt instruments.
Sec. 42. Technical and conforming amendments related to original issue discount changes.
Sec. 43. Technical and conforming amendments related to treatment of market discount and acquisition discount.
Sec. 44. Effective dates.

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

Sec. 51. Dividends received deduction reduced where portfolio stock is debt financed.
Sec. 52. Treatment of dividends from regulated investment companies.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

Sec. 53. Corporate shareholder's basis in stock reduced by non-taxed portion of extraordinary dividends.
Sec. 54. Distribution of appreciated property by corporations.
Sec. 55. Extension of holding period for losses attributable to capital gain dividends of regulated investment companies or real estate investment trusts.

PART III—MISCELLANEOUS PROVISIONS

Sec. 56. Denial of deductions for certain expenses incurred in connection with short sales.
Sec. 57. Nonrecognition of gain or loss by corporation on options with respect to its stock.
Sec. 58. Amendments to accumulated earnings tax.
Sec. 59. Repeal of stock for debt exception for purposes of determining income from discharge of indebtedness.
Sec. 60. Distributions of obligations having original issue discount.
Sec. 61. Eligibility to file consolidated returns.

Subtitle E—Partnership Provisions

Sec. 71. Partnership allocations with respect to contributed property.
Sec. 72. Determination of distributive shares when partner's interest changes.
Sec. 73. Payments to partners for property or certain services.
Sec. 74. Contributions to a partnership of unrealized receivables, inventory items, or capital loss property.
Sec. 75. Transfers of partnership and trust interests by corporations.
Sec. 76. Application of section 751 in the case of tiered partnerships.
Sec. 77. Section 1031 not applicable to partnership interests; limitation on the period during which like kind exchanges may be made.
Sec. 78. Elimination of basis strips under section 734(b).
Sec. 79. Overruling of Raphan case.

Subtitle F—Trust Provisions

Sec. 81. Treatment of property distributed in kind.
Sec. 82. Treatment of multiple trusts.

Subtitle G—Accounting Changes

Sec. 91. Certain amounts not treated as incurred before economic performance.

Subtitle H—Provisions Relating to Tax Straddles

Sec. 101. Repeal of exception from straddle rules for stock options and certain stock.
Sec. 102. Section 1256 extended to certain options.
Sec. 103. Regulations under section 1092(b).
Sec. 104. Limitation on losses from hedging transactions.
Sec. 105. Clarification that section 1234 applies to cash settlement options.

Subtitle I—Employee Benefit Provisions

PART I—WELFARE BENEFIT PLANS

Sec. 111. Treatment of funded welfare benefit plans.
Sec. 112. Treatment of unfunded deferred benefits.
Sec. 113. Additional requirements for tax-exempt status of certain organizations.
Sec. 114. Amendments to tax on unrelated business income.
Sec. 115. Employer and employee benefit association treated as related persons under section 1239.

PART II—OTHER PROVISIONS

Sec. 116. Treatment of certain medical, etc., benefits under section 415.
Sec. 117. Limitation on accrual of vacation pay.
Sec. 118. Determination of whether there is a collective bargaining agreement.
Sec. 119. Disqualification of plan where substantially all contributions are employee contributions.
Sec. 120. Participation and discrimination standards applicable to cash or deferred arrangements.

Subtitle J—Foreign Provisions

Sec. 131. Treatment of related person factoring income.
Sec. 132. Taxation of certain transfers of property outside the United States.
Sec. 133. Section 1248 to apply to certain indirect transfers of stock in a foreign corporation.
Sec. 134. Treatment of United States source original issue discount in case of foreign persons.
Sec. 135. Clarification of definition of articles produced in Puerto Rico or the Virgin Islands.
Sec. 136. Treatment of certain transportation income.
Sec. 137. Treatment of payments to Guam and Virgin Islands corporations.
Sec. 138. Application of collapsible corporation rules to foreign corporations.
Sec. 139. Definition of foreign investment company.
Sec. 140. Treatment of certain distributions received by United States-owned foreign corporations.
Sec. 141. Interest and dividends paid by certain United States-owned foreign corporations treated as derived from United States sources.
Sec. 142. Certain dividends treated as interest for purposes of the limitation on the foreign tax credit.

Subtitle K—Reporting, Penalty, and Other Provisions

Sec. 151. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.
Sec. 152. Returns relating to mortgage interest received in trade or business.
Sec. 153. Returns relating to foreclosures and abandonments of security.
Sec. 154. Increase in penalty for promoting abusive tax shelters.
Sec. 155. Reporting of State and local refunds not required with respect to non-itemizers.
Sec. 156. Authorization to disregard appraisals of persons penalized for aiding in understatements of tax liability.
Sec. 157. Provisions relating to individual retirement accounts.

Sec. 158. Returns relating to exchanges of partnership interests where unrealized receivables, etc., involved.
Sec. 159. Statements required in case of certain substitute dividend payments.
Subtitle L—Miscellaneous Provisions
Sec. 161. Inclusion of tax benefit items in income.
Sec. 162. Loans with below-market interest rates.
Sec. 163. LIFO conformity rules applied on controlled group basis.
Sec. 164. Treatment of collapsible corporations.
Sec. 165. Eligibility for income averaging.
Sec. 166. Limitation on amount of depreciation and investment tax credit allowable for luxury automobiles.
Sec. 167. Amendments to section 1239.
Sec. 168. Amendments to section 267.

Subtitle A—Deferral of Certain Tax Reductions

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Tax Freeze Act of 1984".

PART I—INCOME TAX PROVISIONS

SEC. 12. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended—

(1) by striking out "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$125,000 ($150,000 for taxable years beginning after 1987)", and

(2) by striking out "$150,000 (or $125,000" each place it appears and inserting in lieu thereof "$125,000 (or $150,000".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 48(c)(2) is amended by striking out "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof $62,500 ($75,000 for taxable years beginning after 1987)".

SEC. 13. FINANCE LEASE PROVISIONS.

(a) FOUR-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1987".

(2) FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1988".

(3) TECHNICAL AMENDMENTS.—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee's property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "1986" and inserting in lieu thereof "1990".

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out "1985" each place it appears and inserting in lieu thereof "1989".

(b) TERMINATION OF SAFE HARBOR LEASING RULES.—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (5) of section 208(d) of such Act.

(c) PROHIBITION OF LEASING REGULATIONS.—The Secretary of the Treasury or his delegate shall not issue any regulations relating to the determination of whether any transaction is a lease during the period beginning on the date of the enactment of this Act and ending on December 31, 1987. The preceding sentence shall not apply to regulations issued to carry out the purposes of subtitle B of title I of this Act or section 210 of the Tax Equity and Fiscal Responsibility Act of 1982.

(d) TRANSITIONAL RULES.—The amendments made by subsection (a) shall not apply with respect to any property if—

(1) a binding contract to acquire or to construct such property was entered into by the lessee before March 2, 1984, or

(2) such property was acquired by the lessee, or the construction of such property was begun by or for the lessee, before March 2, 1984.

SEC. 14. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, 1986, or 1987	$5,000
1988 or 1989	7,500
1990 or thereafter	10,000."

SEC. 15. EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by title IV of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:	The applicable percentage is:
1983, 1984, 1985, 1986, or 1987	0.5
1988 or thereafter	0."

SEC. 16. COST-OF-LIVING ADJUSTMENTS IN PENSION PLAN LIMITATIONS.

(a) GENERAL RULE.—Paragraph (3) of section 415(d) (relating to freeze on adjustment to defined contribution and benefit plan limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1988".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

SEC. 17. REPEAL OF PARTIAL INTEREST EXCLUSION.

(a) GENERAL RULE.—Subsections (a) and (c) of section 302 of the Economic Recovery Tax Act of 1981 are hereby repealed, and the Internal Revenue Code of 1954 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 57(a) is amended to read as follows:

"(1) EXCLUSION OF DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116."

SEC. 18. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following:

In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000."

SEC. 19. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years ending after December 31, 1983.

PART II—ESTATE AND GIFT TAX RATES

SEC. 21. MAXIMUM RATE.

(a) GENERAL RULE.—Paragraph (2) of section 2001(c) (relating to phase-in of 50 percent maximum rate) is amended—

(1) by striking out "1985" in subparagraph (A) and inserting in lieu thereof "1989",

(2) by striking out "1983" each place it appears in subparagraph (C) and inserting in lieu thereof "1983, 1984, 1985, 1986, or 1987", and

(3) by striking out "1984" each place it appears in subparagraph (D) and inserting in lieu thereof "1988".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to the estates of decedents dying after, and gifts made after, December 31, 1983.

PART III—EXCISE TAXES

SEC. 25. TAX RATE ON NEWLY DISCOVERED OIL.

(a) GENERAL RULE.—Subparagraph (B) of section 4987(b)(3) (relating to rate of tax on newly discovered oil) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For taxable periods beginning in:	The applicable percentage is:
1984, 1985, 1986, or 1987	25
1988	22½
1989	20
1990 and thereafter	15."

(b) CONTINUATION OF PERCENTAGE DEPLETION FOR OIL AND GAS FROM SECONDARY OR TERTIARY PROCESSES.—

(1) Paragraph (2) of section 613A(c) (relating to exemption for independent producers and royalty owners) is amended by striking out the last sentence.

(2) Subparagraph (A) of section 613A(c)(3) (defining depletable oil quantity) is amended by adding at the end thereof the following new sentence:
"Clause (ii) shall not apply after December 31, 1983."

(3) Subparagraph (E) of section 613A(c)(7) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply after December 31, 1983."

(4) Subparagraph (A) of section 613A(c)(9) (relating to transfer of oil or gas property) is amended by striking out "paragraph (1)" and inserting in lieu thereof "this subsection".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable periods beginning after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on January 1, 1984.

SEC. 26. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"With respect to amounts paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1985, 1986, or 1987	3
During 1988 or thereafter	0."

SEC. 27. EXCISE TAX ON CIGARETTES AND DISTILLED SPIRITS.

(a) CIGARETTES.—Subsection (b) of section 5701 (relating to tax on cigarettes) is amended to read as follows:

"(b) CIGARETTES.—

"(1) IN GENERAL.—On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

"(A) SMALL CIGARETTES.—On small cigarettes, a tax at the rate per thousand determined in accordance with the following table:

"In the case of cigarettes removed:	The rate is:
Before October 1, 1985	$8
On or after October 1, 1985, and before January 1, 1988	6
On or after January 1, 1988	4

"(B) LARGE CIGARETTES.—On large cigarettes, a tax at the rate per thousand determined in accordance with the following table:

"In the case of cigarettes removed:	The rate is:
Before October 1, 1985	$16.80
On or after October 1, 1985, and before January 1, 1988	12.60
On or after January 1, 1988	8.40

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SMALL CIGARETTES.—The term 'small cigarettes' means cigarettes weighing not more than 3 pounds per thousand.

"(B) LARGE CIGARETTES.—The term 'large cigarettes' means cigarettes weighing more than 3 pounds per thousand; except that, if more than 6½ inches in length, they shall be taxable as if they were small cigarettes, counting each 2¾ inches (or fraction thereof) of the length of each as 1 cigarette.".

(b) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking out "$10.50" and inserting in lieu thereof "$10.50 ($14.25 during the period beginning on October 1, 1985, and ending on December 31, 1987)".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking out "$10.50" and inserting in lieu thereof "the rate at which such distilled spirits were subject to tax under section 5001 (or section 7652)".

(c) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.—

(1) IMPOSITION OF TAX.—On distilled spirits produced in or imported into the United States which are removed before October 1, 1985, and held on such date for sale by any person, there shall be imposed a tax at the rate of $3.75 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding distilled spirits on October 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1)—

(i) shall be paid in such manner as the Secretary shall by regulations prescribe, and

(ii) shall be paid at such date (not later than March 31, 1986) as the Secretary shall by regulations prescribe.

(3) EXCEPTION FOR ON-PREMISES RETAIL ESTABLISHMENTS.—To the extent provided in regulations prescribed by the Secretary, the tax imposed by paragraph (1) shall not apply to distilled spirits held on October 1, 1985, on the premises of a retail establishment where alcoholic beverages are sold only for consumption on the premises.

(4) DEFINITIONS.—For purposes of this subsection—

(A) DISTILLED SPIRITS.—The term "distilled spirits" has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1954.

(B) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on October 1, 1985, on the premises of a retail establishment.

(d) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before a tax reduction date, any tax-reduced article has been sold by the manufacturer, producer, or importer and on such day is held for sale by any person (hereinafter in this subsection referred to as the "dealer"), there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the excess of the tax paid by such manufacturer, producer, or importer on such article over the tax which would have been paid if such article were taxed at the rate in effect on the tax reduction date if—

(A) claim for such credit or refund is filed with the Secretary before the day 9 months after the tax reduction date based on a request submitted to the manufacturer, producer, or importer before the day 6 months after the tax reduction date by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before the day 9 months after the tax reduction date, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to such excess or written consent has been obtained from the dealer to the allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the refund or credit is claimed as may be required by regulations prescribed by the Secretary.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties applicable with respect to the taxes imposed by section 5001 or 5701 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX REDUCTION DATE.—The term "tax reduction date" means—

(i) in the case of articles subject to tax under section 5001 of the Internal Revenue Code of 1954, January 1, 1988, and

(ii) in the case of articles subject to tax under section 5701(b) of such Code, October 1, 1985, and January 1, 1988.

(B) TAX-REDUCED ARTICLE.—The term "tax-reduced article" means any article subject to tax under section 5001 or 5701(b) of such Code.

(C) TREATMENT OF FLOOR STOCKS TAX.—Any tax imposed by subsection (c) with respect to any article shall be treated as tax paid by the manufacturer, producer, or importer of such article.

(e) DEFINITIONS FOR PURPOSES OF SUBSECTIONS (c) AND (d).—For purposes of subsections (c) and (d)—

(1) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

Subtitle B—Tax-Exempt Entity Leasing

SEC. 31. SHORT TITLE.

This subtitle may be cited as the "Tax-Exempt Entity Leasing Tax Act of 1984".

SEC. 32. DENIAL OF TAX INCENTIVES FOR PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.

(a) GENERAL RULE.—Section 168 of the Internal Revenue Code of 1954 (relating to accelerated cost recovery system) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the deduction allowed under subsection (a) (and any other deduction allowable for depreciation or amortization) for any taxable year with respect to tax-exempt use property shall be determined—

"(A) by using the straight-line method (without regard to salvage value), and

"(B) by using a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(I) Property not described in subclause (II) or subclause (III).	The present class life
(II) Personal property with no present class life.	12 years
(III) 15-year real property.	40 years

"(2) OPERATING RULES.—

"(A) RECOVERY PERIOD MUST AT LEAST EQUAL LEASE TERM.—In the case of any tax-exempt use property used by the tax-exempt entity pursuant to a lease, the recovery period used for purposes of paragraph (1) shall not be less than—

"(i) except as provided in clause (ii), the lease term, or

"(ii) in the case of 15-year real property, 125 percent of the lease term.

"(B) CONVENTIONS.—

"(i) PROPERTY OTHER THAN 15-YEAR REAL PROPERTY.—In the case of property other than 15-year real property, the half-year

convention shall apply for purposes of paragraph (1).

"(ii) 15-YEAR REAL PROPERTY.—In the case of 15-year real property, the amount determined under paragraph (1) shall be determined on the basis of the number of months in the year in which the property is in service.

"(C) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLIES.—Paragraph (1) shall not apply to any recovery property if the recovery period which applies to such property (without regard to this subsection) exceeds the recovery period for such property determined under this subsection.

"(D) DETERMINATION OF CLASS FOR PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any property which is not recovery property, for purposes of this subsection, the determination of whether such property is 15-year real property shall be made as if such property were recovery property.

"(E) COORDINATION WITH SUBSECTION (f)(12).—Paragraph (12) of subsection (f) shall not apply to any tax-exempt use property to which this subsection applies.

"(3) TAX-EXEMPT USE PROPERTY.—For purposes of this subsection—

"(A) PROPERTY OTHER THAN 15-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means any tangible property used by a tax-exempt entity.

"(B) 15-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 15-year real property, the term 'tax-exempt use property' means that portion of the property used by a tax-exempt entity in a disqualified use.

"(ii) DISQUALIFIED USE.—For purposes of this subparagraph, the term 'disqualified use' means any use of the property by a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) such use is pursuant to a lease under which there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such use is pursuant to a lease which has a lease term in excess of 80 percent of the property's useful life, or

"(IV) such use occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity).

"(iii) 20-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property used by tax-exempt entities in disqualified uses is more than 20 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as used by a tax-exempt entity merely by reason of use pursuant to a short-term lease.

"(ii) PROPERTY OTHER THAN 15-YEAR PROPERTY.—For purposes of this subparagraph, except as provided in clause (iii), the term 'short-term lease' means any lease which has a lease term less than the greater of—

"(I) 1 year, or

"(II) 30 percent of the property's present class life (to the extent such present class life does not exceed 10 years).

"(iii) 15-YEAR REAL PROPERTY.—For purposes of this subparagraph, in the case of 15-year real property, the term 'short-term lease' means any lease which has a lease term of less than 3 years.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property predominantly used by the tax-exempt entity in an unrelated trade or business the income of which is subject to tax under section 511.

"(4) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is subject to tax under this chapter. For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)).

"(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection and paragraph (5) of section 48(a), a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—For purposes of this subsection and paragraph (4) of section 48(a), an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property of which such organization is the lessee if such organization (or a predecessor organization which was engaged in substantially similar activities) was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such organization first used such property.

"(5) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

"(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS AND EXEMPTION FOR FOREIGN USE PROPERTY.—For purposes of this subsection, the term 'tax-exempt use property' shall not include any qualified technological equipment if—

"(i) the use by the tax-exempt entity is pursuant to a lease which has a lease term of 5 years or less, or

"(ii) subsection (f)(2) applies to such property.

"(B) RECOVERY PERIOD WHERE LEASE TERM IS GREATER THAN 5 YEARS.—In the case of any qualified technological equipment not described in subparagraph (A), the recovery period used for purposes of paragraph (1) shall be 5 years.

"(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified technological equipment' means—

"(I) any computer or peripheral equipment,

"(II) any high technology telephone station equipment installed on the customer's premises, and

"(III) any high technology medical equipment.

"(ii) EXCEPTION FOR CERTAIN PROPERTY.—The term 'qualified technological equipment' shall not include any property used by a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such use occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(D) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) COMPUTER.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) RELATED PERIPHERAL EQUIPMENT.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) EXCEPTIONS.—The term 'computer or related peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(E) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment

used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(6) OTHER SPECIAL RULES.—

"(A) LEASE TERM.—In determining a lease term for purposes of this subsection—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES, ETC.—

"(i) IN GENERAL.—For purposes of this subsection and paragraphs (4) and (5) of section 48(a), a contract which purports to be a service contract shall not be treated as a service contract if such contract is more properly treated as a lease of property, taking into account all relevant factors including whether or not—

"(I) the tax-exempt entity is in physical possession of the property,

"(II) such entity controls the property,

"(III) such entity has a significant economic or possessory interest in the property,

"(IV) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

"(V) the service provider does not use the property concurrently to provide significant services to entities unrelated to the tax-exempt entity, and

"(VI) the total contract price does not substantially exceed the rental value of the property for the contract period.

"(ii) OTHER ARRANGEMENTS.—For purposes of this subsection and paragraphs (4) and (5) of section 48(a), an arrangement (including a partnership or other pass-thru entity) which is not a service contract and purports not to be a lease shall be treated as a lease if such arrangement is more properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in clause (i).

"(C) EXCEPTION FOR CERTAIN SOLID WASTE DISPOSAL FACILITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'tax-exempt use property' shall not include any qualified solid waste disposal facility.

"(ii) QUALIFIED SOLID WASTE DISPOSAL FACILITY.—For purposes of clause (i), the term 'qualified solid waste disposal facility' means any facility if—

"(I) such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public,

"(II) such facility produces marketable quantities of steam, hot water, or electricity,

"(III) the tax-exempt entity does not control the facility and is not in physical possession of the facility, and

"(IV) the service provider bears any risk of substantially diminished receipts or increased expenditures if there is nonperformance under the contract.

"(D) SPECIAL RULES FOR CERTAIN INTERNATIONAL ORGANIZATIONS.—If any domestic corporation which is not a tax-exempt entity is a member of the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, or any successor organization of such Consortium or Organization, the term 'tax-exempt use property' shall not include such domestic corporation's proportionate share (determined after the application of paragraph (8) to tax-exempt entities) of property held by such Consortium, Organization, or successor organization. The preceding sentence shall not apply to any property (or portion thereof) held by such Consortium or Organization (or any successor) to the extent such property (or portion thereof) is tax-exempt use property by reason of use by a tax-exempt entity other than such Consortium or Organization (or any successor).

"(7) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection, paragraph (4) or (5) of section 48(a), or clause (vi) of section 48(g)(2)(B).

"(8) TREATMENT OF PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—If—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is held by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) the allocation to the tax-exempt entity of partnership items is not a qualified allocation,

such tax-exempt entity's proportionate share of such property shall be treated as tax-exempt use property.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation under the partnership agreement to a tax-exempt entity which—

"(i) results in such entity's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of clause (i), items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property held by a partnership shall be determined on the basis of such entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if, under the partnership agreement, a tax-exempt entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive under such agreement.

"(D) OTHER PASS-THRU ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), and (C) shall also apply in the case of any trust or other pass-thru entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.".

(b) DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOREIGN PERSONS.—

(1) Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended by striking out the first two sentences and inserting in lieu thereof the following: "Property used—

"(A) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(B) by any foreign person or entity (as defined in section 168(j)(4)(C)), but only with respect to property to which section 168(j)(4)(A)(iii) applies (determined after the application of section 168(j)(4)(B)),

shall not be treated as section 38 property. The preceding sentence shall not apply to any property to the extent such property is treated as not being tax-exempt use property under section 168(j)(6)(D) (relating to special rule for certain international organizations).".

(2) The heading of paragraph (5) of section 48(a) is amended by striking out "GOVERNMENTAL UNITS" and inserting in lieu thereof "GOVERNMENTAL UNITS AND CERTAIN FOREIGN PERSONS".

(c) REHABILITATION CREDIT NOT TO APPLY WHERE PROPERTY FINANCED BY TAX-EXEMPT BONDS AND USED BY TAX-EXEMPT ENTITY.—

(1) IN GENERAL.—Subparagraph (B) of section 48(g)(2) (relating to certain expenditures not treated as qualified rehabilitation expenditures) is amended by adding at the end thereof the following new clause:

"(vi) TAX-EXEMPT FINANCING OF PROPERTY USED BY TAX-EXEMPT ENTITIES.—Any expenditure in connection with the rehabilitation of the portion of a building which is tax-exempt use property if any portion of—

"(I) the cost of acquiring such building or any interest therein, or

"(II) the expenditures in connection with such rehabilitation,

is financed (directly or indirectly) by an obligation the interest on which is exempt from taxation under section 103. For purposes of the preceding sentence, the term 'tax-exempt use property' has the meaning given to such term by section 168(j)(3), except that '1 year' shall be substituted for '3 years' in section 168(j)(3)(C)(iii). This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.".

(2) TECHNICAL AMENDMENT.—Clause (i) of section 48(g)(2)(B) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any expenditure to the extent subsection

(f)(12) or (j) of section 168 applies to such expenditure.".

(d) AUTHORITY TO PRESCRIBE PRESENT CLASS LIFE FOR CERTAIN PROPERTY.—Paragraph (2) of section 168(g) (defining present class life) is amended by adding at the end thereof the following new sentence: "If any property (other than section 1250 class property) does not have a present class life within the meaning of the preceding sentence, the Secretary may prescribe a present class life for such property which reasonably reflects the anticipated useful life of such property to the industry or other group.".

(e) INVESTMENT TAX CREDIT ALLOWABLE WITH RESPECT TO CERTAIN SOLID WASTE DISPOSAL FACILITIES.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any qualified solid waste disposal facility (within the meaning of section 168(j)(6)(C)).".

(f) CROSS REFERENCE.—Paragraph (5) of section 48(a) is amended by adding at the end thereof the following new sentence: "For provisions providing special rules for application of this paragraph and paragraph (4), see section 168(j).".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply—

(A) to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date, and

(B) to property placed in service by the taxpayer on or before May 23, 1983, if the use by the tax-exempt entity is pursuant to a lease entered into after May 23, 1983.

(2) LEASES ENTERED INTO ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to—

(A) a lease entered into on or before May 23, 1983 (or a sublease under such a lease), or

(B) any renewal or extension of a lease entered into on or before May 23, 1983, if such renewal or extension is pursuant to an option exercisable by the tax-exempt entity which was held by the tax-exempt entity on May 23, 1983.

(3) BINDING CONTRACTS, ETC.—

(A) The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to 1 or more written binding contracts which, on May 23, 1983, and at all times thereafter, required—

(i) the taxpayer (or his predecessor in interest under the contract) to acquire, construct, reconstruct, or rehabilitate such property, and

(ii) the tax-exempt entity (or a tax-exempt predecessor thereof) to use such property.

(B) The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity—

(i) if—

(I) on or before May 23, 1983, the taxpayer (or his predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, reconstruct, or rehabilitate such property and such property had not previously been used by the tax-exempt entity, or

(II) the taxpayer or the tax-exempt entity acquired the property or completed the construction, reconstruction, or rehabilitation of the property after December 31, 1982, and on or before May 23, 1983, and

(ii) if—

(I) such use is pursuant to a written binding contract entered into before January 1, 1984, which requires the tax-exempt entity to use such property, or

(II) the tax-exempt entity had, in writing, indicated on or before May 23, 1983, a firm plan to enter into a written contract for the use of such property.

(4) OFFICIAL GOVERNMENTAL ACTION ON OR BEFORE MAY 23, 1983.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity (other than the United States, any agency or instrumentality thereof, or any foreign person or entity) if—

(i) on or before May 23, 1983—

(I) there was significant official governmental action approving the project or its design, and

(II) the aggregate amount paid or incurred with respect to the project exceeded the lesser of $100,000 or one-half of 1 percent of the estimated cost of the project, and

(ii) the use by the tax-exempt entity is pursuant to a written binding contract entered into before January 1, 1984, which requires the tax-exempt entity to use the property.

(B) SIGNIFICANT OFFICIAL GOVERNMENTAL ACTION.—For purposes of subparagraph (A), the term "significant official governmental action" does not include granting of permits, zoning changes, environmental impact statements, or similar governmental actions.

(5) MASS COMMUTING VEHICLES.—The amendments made by this section shall not apply to any qualified mass commuting vehicle (as defined in section 103(b)(9) of the Internal Revenue Code of 1954) which is financed in whole or in part by obligations the interest on which is excludable from gross income under section 103(a) of such Code if—

(A) such vehicle is placed in service before January 1, 1988, or

(B) such vehicle is placed in service on or after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) CERTAIN TURBINES AND BOILERS.—The amendments made by this section shall not apply to any property described in section 208(d)(3)(E) of the Tax Equity and Fiscal Responsibility Act of 1982.

(7) CERTAIN FACILITIES FOR WHICH RULING REQUESTS FILED ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any facilities described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (relating to certain sewage or solid waste disposal facilities), as in effect on the day before the date of the enactment of this Act, if a ruling request with respect to the use of such facility by the tax-exempt entity was filed with the Internal Revenue Service on or before May 23, 1983.

(8) RECOVERY PERIOD FOR CERTAIN QUALIFIED SEWAGE FACILITIES.—

(A) IN GENERAL.—In the case of any property (other than 15-year real property) which is part of a qualified sewage facility, the recovery period used for purposes of paragraph (1) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall be 12 years.

(B) QUALIFIED SEWAGE FACILITIES.—For purposes of subparagraph (A), the term "qualified sewage facilities" means any facilities which are part of the sewer system of a city, if—

(i) on June 15, 1983, the City Council approved a resolution under which the city authorized the procurement of equity investments for such facilities, and

(ii) on July 12, 1983, the Industrial Development Board of the city approved a resolution to issue a $100,000,000 industrial development bond issue to provide funds to purchase such facilities.

(9) SPECIAL RULE FOR CERTAIN PARTNERSHIPS ORGANIZED BEFORE OCTOBER 21, 1983.—Paragraph (8) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to property held by any partnership if—

(A) such property was acquired by such partnership before January 1, 1985,

(B) before October 21, 1983, such partnership was organized and publicly announced the maximum amount of interests which would be sold in the partnership, and

(C) the marketing of partnership interests in such partnership was completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interests in such partnership sold does not exceed the maximum amount described in subparagraph (B).

(10) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (c)(2).—The amendment made by subsection (c)(2) to the extent it relates to subsection (f)(12) of section 168 of the Internal Revenue Code of 1954 shall take effect as if it had been included in the amendments made by section 216(a) of the Tax Equity and Fiscal Responsibility Act of 1982.

(11) DEFINITIONS.—For purposes of this subsection—

(A) TAX-EXEMPT ENTITY.—The term "tax-exempt entity" has the same meaning as when used in section 168(j) of the Internal Revenue Code of 1954 (as added by this section), except that such term shall include any related entity (within the meaning of such section).

(B) FOREIGN PERSON OR ENTITY.—The term "foreign person or entity" has the meaning given to such term by section 168(j)(4)(C) of such Code (as added by this section).

SEC. 33. STUDY OF PRESENT CLASS LIFE OF CERTAIN HIGH TECHNOLOGY PROPERTY.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the present class lives of property which is qualified technological property (as defined in section 168(j)(5)(C) of the Internal Revenue Code of 1954 without regard to clause (ii) thereof).

(b) REPORT TO THE CONGRESS.—Not later than July 1, 1984, the Secretary of the Treasury or his delegate shall submit a report to the Congress on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

Subtitle C—Treatment of Bonds and Other Debt Instruments

SEC. 41. TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) GENERAL RULE.—Subchapter P of chapter 1 (relating to special rules for capital gains and losses) is amended by adding at the end thereof the following new part:

"PART V—SPECIAL RULES FOR BONDS AND OTHER DEBT INSTRUMENTS

"Subpart A. Original issue discount.

"Subpart B. Market discount.

"Subpart C. Discount on short-term obligations.

"Subpart D. Miscellaneous provisions.

"Subpart A—Original Issue Discount

"Sec. 1271. Treatment of amounts received on retirement or sale or exchange of debt instruments.

"Sec. 1272. Current inclusion in income of original issue discount.

"Sec. 1273. Determination of amount of original issue discount.

"Sec. 1274. Determination of issue price in the case of certain debt instruments issued for property.

"Sec. 1275. Other definitions and special rules.

"SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.

"(a) GENERAL RULE.—For purposes of this subtitle—

"(1) RETIREMENT.—Amounts received by the holder on retirement of any debt instrument shall be considered as amounts received in exchange therefor.

"(2) ORDINARY INCOME ON SALE OR EXCHANGE WHERE INTENTION TO CALL BEFORE MATURITY.—

"(A) IN GENERAL.—If at the time of original issue there was an intention to call a debt instrument before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to—

"(i) the original issue discount, reduced by

"(ii) the portion of original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)),

shall be treated as ordinary income.

"(B) EXCEPTIONS.—This paragraph (and paragraph (2) of subsection (c)) shall not apply to—

"(i) any tax-exempt obligation, or

"(ii) any holder who has purchased the debt instrument at a premium.

"(3) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is—

"(i) issued on a discount basis, and

"(ii) payable without interest at a fixed maturity date not more than 1 year from the date of issue.

Such term does not include any tax-exempt obligation.

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

"(b) EXCEPTIONS.—This section shall not apply to—

"(1) NATURAL PERSONS.—Any obligation issued by a natural person.

"(2) OBLIGATIONS ISSUED BEFORE JULY 2, 1982, BY CERTAIN ISSUERS.—Any obligation issued before July 2, 1982, by an issuer which—

"(A) is not a corporation, and

"(B) is not a government or political subdivision thereof.

"(c) TRANSITION RULES.—

"(1) SPECIAL RULE FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1955.—Paragraph (1) of subsection (a) shall apply to a debt instrument issued before January 1, 1955, only if such instrument was issued with interest coupons or in registered form, or was in such form on March 1, 1954.

"(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(A) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(i) an amount equal to the original issue discount, or

"(ii) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(B) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(C) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.

"(d) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section and sections 1272 and 1286 shall not require the inclusion of any amount previously includible in gross income.

"SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT.

"(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRUMENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—For purposes of this subtitle, there shall be included in the gross income of the holder of any debt instrument having original issue discount issued after July 1, 1982, an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation.

"(B) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(C) SHORT-TERM OBLIGATIONS.—Any debt instrument which has a fixed maturity date not more than 1 year from the date of issue.

"(D) OBLIGATIONS ISSUED BY NATURAL PERSONS BEFORE MARCH 2, 1984.—Any obligation issued by a natural person before March 2, 1984.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any debt instrument shall be determined by allocating to each day in any accrual period its ratable portion of the increase during such accrual period in the adjusted issue price of the debt instrument. For purposes of the preceding sentence, the increase in the adjusted issue price for any accrual period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the debt instrument at the beginning of such accrual period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), over

"(B) the sum of the amounts payable as interest on such debt instrument during such accrual period.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any debt instrument at the beginning of any accrual period is the sum of—

"(A) the issue price of such debt instrument, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such accrual period.

"(5) ACCRUAL PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'accrual period' means a 6-month period (or shorter period from the date of original issue of the debt instrument) which ends on a day in the calendar year corresponding to the maturity date of the debt instrument or the date 6 months before such maturity date.

"(6) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, in the case of any purchase after its original issue of a debt instrument to which this subsection applies, the daily portion for any day shall be reduced by an amount equal to the amount which would be the daily portion for such day (without regard to this paragraph) multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is a fraction—

"(i) the numerator of which is the excess (if any) of—

"(I) the cost of such debt instrument incurred by the purchaser, over

"(II) the issue price of such debt instrument increased by the sum of the daily portions for such debt instrument for all days on or before the date of purchase (computed without regard to this paragraph), and

"(ii) the denominator of which is the sum of the daily portions for such debt instrument for all days after the date of such purchase and ending on the stated maturity date (computed without regard to this paragraph).

"(b) RATABLE INCLUSION RETAINED FOR CORPORATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any debt instrument issued by a corporation after May 27, 1969, and before July 2, 1982—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder

held such debt instrument during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the debt instrument.

"(3) MONTH DEFINED.—For purposes of this subsection—

"(A) COMPLETE MONTH.—A complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

"(B) TRANSFERS DURING MONTH.—In any case where a debt instrument is acquired on any day other than a day determined under subparagraph (A), the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the debt instrument.

"(4) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include its share of the acquisition premium.

"(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any month's share of the acquisition premium is an amount (determined at the time of the purchase) equal to—

"(i) the excess of—

"(I) the cost of such debt instrument incurred by the holder, over

"(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph),

"(ii) divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such debt instrument.

"(c) EXCEPTIONS.—This section shall not apply to any holder—

"(1) who has purchased the debt instrument at a premium, or

"(2) which is a life insurance company to which section 811(b) applies.

"(d) DEFINITION AND SPECIAL RULE.—

"(1) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means—

"(A) any acquisition of a debt instrument, where

"(B) the basis of the debt instrument is not determined in whole or in part by reference to the adjusted basis of such debt instrument in the hands of the person from whom acquired.

"(2) BASIS ADJUSTMENT.—The basis of any debt instrument in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.

"SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE DISCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'original issue discount' means the excess (if any) of—

"(A) the stated redemption price at maturity, over

"(B) the issue price.

"(2) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate, and payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the debt instrument).

"(3) ¼ OF 1 PERCENT DE MINIMIS RULE.—If the original issue discount determined under paragraph (1) is less than—

"(A) ¼ of 1 percent of the stated redemption price at maturity, multiplied by

"(B) the number of complete years to maturity,

then the original issue discount shall be treated as zero.

"(b) ISSUE PRICE.—For purposes of this subpart—

"(1) PUBLICLY OFFERED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any issue of debt instruments—

"(A) publicly offered, and

"(B) not issued for property,

the issue price is the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such debt instruments were sold.

"(2) PRIVATELY PLACED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any privately placed issue of debt instruments not issued for property, the issue price of each such instrument is the price paid by the first buyer of such debt instrument.

"(3) DEBT INSTRUMENTS ISSUED FOR PROPERTY WHERE THERE IS PUBLIC TRADING.—In the case of a debt instrument which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such debt instrument shall be the fair market value of such property.

"(4) OTHER CASES.—Except in any case—

"(A) to which paragraph (1), (2), or (3) of this subsection applies, or

"(B) to which section 1274 applies,

the issue price of a debt instrument which is issued for property shall be the stated redemption price at maturity.

"(5) PROPERTY.—In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.

"(c) SPECIAL RULES FOR APPLYING SUBSECTION (b).—For purposes of subsection (b)—

"(1) INITIAL OFFERING PRICE; PRICE PAID BY THE FIRST BUYER.—The terms 'initial offering price' and 'price paid by the first buyer' include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

"(2) TREATMENT OF INVESTMENT UNITS.—In the case of any debt instrument and an option, security, or other property issued together as an investment unit—

"(A) the issue price for such unit shall be determined in accordance with the rules of this subsection and subsection (b) as if it were a debt instrument,

"(B) the issue price determined for such unit shall be allocated to each element of such unit on the basis of the relationship of the fair market value of such element to the fair market value of all elements in such unit, and

"(C) the issue price of any debt instrument included in such unit shall be the portion of the issue price of the unit allocated to the debt instrument under subparagraph (B).

"SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF CERTAIN DEBT INSTRUMENTS ISSUED FOR PROPERTY.

"(a) IN GENERAL.—In the case of any debt instrument to which this section applies, for purposes of this subpart, the issue price shall be the lesser of—

"(1) the stated principal amount, or

"(2) the imputed principal amount.

"(b) IMPUTED PRINCIPAL AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), the imputed principal amount of any debt instrument shall be equal to the sum of the present values of all payments due under such debt instrument.

"(2) DETERMINATION OF PRESENT VALUE.—For purposes of paragraph (1), the present value of a payment shall be determined in the manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the sale or exchange, and

"(B) by using a discount rate equal to 120 percent of the applicable Federal rate, compounded semiannually.

"(3) FAIR MARKET VALUE RULE IN POTENTIALLY ABUSIVE SITUATIONS.—

"(A) IN GENERAL.—In the case of any potentially abusive situation, the imputed principal amount of any debt instrument received in exchange for property shall not exceed the fair market value of such property.

"(B) POTENTIALLY ABUSIVE SITUATION DEFINED.—For purposes of subparagraph (A), the term 'potentially abusive situation' means—

"(i) a tax shelter (as defined in section 6661(b)(2)(C)(ii)), and

"(ii) any other situation which, by reason of—

"(I) recent sales transactions,

"(II) nonrecourse financing,

"(III) financing with a term in excess of the economic life of the property, or

"(IV) other circumstances,

is of a type which the Secretary specifies by regulations as having potential for tax avoidance.

"(c) DEBT INSTRUMENTS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any debt instrument given in consideration for the sale or exchange of property if—

"(A) the stated redemption price at maturity for such instrument exceeds the imputed principal amount of such debt instrument which would be determined under subsection (b) if a discount rate equal to 110 percent of the applicable Federal rate were used, or

"(B) the stated redemption price at maturity for such instrument exceeds the stated principal amount.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) SALES FOR LESS THAN $1,000,000 OF FARMS BY INDIVIDUALS OR SMALL BUSINESSES.—

"(i) IN GENERAL.—Any debt instrument received—

"(I) by an individual, estate, or testamentary trust,

"(II) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

"(III) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3),

as consideration for the sale or exchange of a farm (within the meaning of section 6420(c)(2)) by such individual or entity.

"(ii) $1,000,000 LIMITATION.—Clause (i) shall apply only if it can be determined at the time of the sale or exchange that the sales price cannot exceed $1,000,000. For purposes of the preceding sentence, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(B) SALES OF PRINCIPAL RESIDENCES.—Any debt instrument received by an individual as consideration for the sale or exchange of his principal residence (within the meaning of section 1034).

"(C) SALES INVOLVING TOTAL PAYMENTS OF $250,000 OR LESS.—

"(i) IN GENERAL.—Any debt instrument received as consideration for the sale or exchange of property if the sum of the following amounts does not exceed $250,000:

"(I) the aggregate amount of the payments due under such debt instrument and all other debt instruments received as consideration for the sale or exchange, and

"(II) the aggregate amount of any other consideration to be received for the sale or exchange.

"(ii) CONSIDERATION OTHER THAN DEBT INSTRUMENT TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—For purposes of clause (i), any consideration (other than a debt instrument) shall be taken into account at its fair market value.

"(iii) AGGREGATION OF TRANSACTIONS.—For purposes of this subparagraph, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(D) DEBT INSTRUMENTS WHICH ARE PUBLICLY TRADED OR ISSUED FOR PUBLICLY TRADED PROPERTY.—Any debt instrument to which section 1273(b)(3) applies.

"(E) ANNUITIES.—Any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(F) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), any amount contingent on the productivity, use, or disposition of the property transferred.

"(G) SALES OR EXCHANGES TO WHICH SECTION 483(g) APPLIES.—Any debt instrument to the extent section 483(g) (relating to certain land transfers between related persons) applies to such instrument.

"(d) DETERMINATION OF APPLICABLE FEDERAL RATE.—For purposes of this section—

"(1) APPLICABLE FEDERAL RATE.—

"(A) IN GENERAL.—

"In the case of a debt instrument with a term of:	The applicable Federal rate is:
Not over 3 years	The Federal short-term rate.
Over 3 years but not over 9 years.	The Federal mid-term rate.
Over 9 years	The Federal long-term rate.

"(B) DETERMINATION OF RATES.—Within 15 days after the close of—

"(i) the 6-month period ending on September 30 of any calendar year, or

"(ii) the 6-month period ending on March 31 of any calendar year,

the Secretary shall determine the Federal short-term rate, mid-term rate, and long-term rate for such 6-month period.

"(C) EFFECTIVE DATE OF DETERMINATION.—Any Federal rate determined under subparagraph (A) shall—

"(i) apply during the 6-month period beginning on January 1 of the succeeding calendar year in the case of a determination made under subparagraph (B)(i), and

"(ii) apply during the 6-month period beginning on July 1 of the calendar year in the case of a determination made under subparagraph (B)(ii).

"(D) FEDERAL RATE FOR ANY 6-MONTH PERIOD.—For purposes of this paragraph—

"(i) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any 6-month period shall be the rate determined by the Secretary to be equal to the average market yield (during such 6-month period) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or less.

"(ii) FEDERAL MID-TERM AND LONG-TERM RATES.—The Federal mid-term rate and long-term rate shall be determined in accordance with the principles of clause (i).

"(2) RATE APPLICABLE TO ANY SALE OR EXCHANGE.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

"(3) TERM OF DEBT INSTRUMENT.—In determining the term of a debt instrument for purposes of this subsection, under regulations prescribed by the Secretary, there shall be taken into account options to renew or extend.

"SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. Except for purposes of section 1271, such term also includes any other obligation.

"(2) ISSUE DATE.—

"(A) PUBLICLY OFFERED DEBT INSTRUMENTS.—In the case of any debt instrument which is publicly offered, the term 'date of original issue' means the date on which the issue was first issued to the public.

"(B) PRIVATELY PLACED ISSUES.—In the case of any debt instrument to which section 1273(b)(2) applies, the term 'date of original issue' means the date on which the debt instrument was sold by the issuer.

"(C) OTHER DEBT INSTRUMENTS.—In the case of any debt instrument not described in subparagraph (A) or (B), the term 'date of original issue' means the date on which the debt instrument was issued in an exchange.

"(3) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation if—

"(A) the interest on such obligation is not includible in gross income under section 103, or

"(B) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(4) SPECIAL RULE FOR DETERMINATION OF ISSUE PRICE IN CASE OF EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted issue price of the old debt instrument,

then the issue price of the debt instrument so issued shall be treated as equal to the adjusted issue price of the old debt instrument.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction.

"(b) TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR SERVICES OR USE OF PROPERTY.—

"(1) TREATMENT OF PAYEE.—If any portion of a deferred payment to which this subsection applies is allocable to any taxable year of the payee, the taxable income of such payee for such taxable year (and subsequent taxable years) shall be determined as if—

"(A) as of the close of the taxable year, the payee received a debt instrument in exchange for the services performed (or the use of the property) during the taxable year, and

"(B) such debt instrument had original issue discount equal to the excess of—

"(i) the portion of the payment allocable to the taxable year, over

"(ii) the present value (as of the close of the taxable year) of such portion determined in accordance with the rules of section 1274(b).

"(2) TREATMENT OF PAYOR.—If any portion of a deferred payment to which this subsection applies is allocable to any taxable year of the payor, the taxable income of such payor for such taxable year (and subsequent taxable years) shall be determined as if—

"(A) as of the close of the taxable year, the payor issued a debt instrument in exchange for the services performed (or the use of the property) during the taxable year, and

"(B) such debt instrument had original issue discount equal to the excess of—

"(i) the portion of the payment allocable to the taxable year, over

"(ii) the present value (as of the close of the taxable year) of such portion determined in accordance with the rules of section 1274(b).

"(3) DEFERRED PAYMENTS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection applies to any amount to be paid for services (or the use of property) if such amount is to be paid after the close of the calendar year following the calendar year in which the services are performed (or the property is used).

"(B) SUBSECTION NOT TO APPLY TO DEFERRED PAYMENTS OF $250,000 OR LESS.—This subsection shall not apply to any amount to be paid for services (or the use of property) if the sum of the following amounts does not exceed $250,000—

"(i) the aggregate amount of payments due under debt instruments received as con-

sideration for such services (or use of property), and

"(ii) the aggregate amount of any other consideration to be received for such services (or use of property).

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 1274(c)(2)(C) shall apply.

"(C) COORDINATION WITH SECTION 1273(b)(3).—This subsection shall not apply to any debt instrument to which section 1273(b)(3) applies.

"(D) PAYMENTS TO WHICH OTHER SECTIONS APPLY.—Sections 83, 267, 404, 404A, and 706(a) shall be applied before the application of this subsection, and this subsection shall not apply to any payment to which any such section applies.

"(4) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ALLOCATION OF DEFERRED PAYMENT.—The portion of a deferred payment allocable to any taxable year shall be determined under the accrual method of accounting.

"(B) PAYEE.—The term 'payee' means the person to whom the deferred payment is to be made.

"(C) PAYOR.—The term 'payor' means the person required to make the deferred payment.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.—

"(A) IN GENERAL.—In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

"(i) the amount of the original issue discount, and

"(ii) the issue date,

be set forth on such instrument.

"(B) SPECIAL RULE FOR PRIVATELY PLACED INSTRUMENTS.—In the case of any privately placed issue of debt instruments, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

"(2) INFORMATION REQUIRED TO BE SUBMITTED TO SECRETARY.—In the case of any issue of publicly offered debt instruments having original issue discount, the issuer shall (at such time and in such manner as the Secretary shall by regulation prescribe) furnish the Secretary the following information:

"(A) The amount of the original issue discount.

"(B) The issue date.

"(C) Such other information with respect to the issue as the Secretary may by regulations require.

For purposes of the preceding sentence, any person who makes a public offering of stripped bonds (or stripped coupons) shall be treated as the issuer of a publicly offered debt instrument having original issue discount.

"(3) EXCEPTIONS.—This subsection shall not apply to any obligation referred to in section 1272(a)(2) (relating to exceptions from current inclusion or original issue discount).

"(4) CROSS REFERENCE.—

"For civil penalty for failure to meet requirements of this subsection, see section 6706.

"(d) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, or other circumstances, the tax treatment under this subpart (or section 163(e)) does not carry out the purposes of this subpart (or section 163(e)), such treatment shall be modified to the extent necessary to carry out the purposes of this subpart (or section 163(e)).

"Subpart B—Market Discount on Bonds

"Sec. 1276. Disposition gain representing accrued market discount treated as ordinary income.

"Sec. 1277. Deferral of interest deduction allocable to accrued market discount.

"Sec. 1278. Definitions and special rules.

"SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME.

"(a) ORDINARY INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this section, gain on the disposition of any market discount bond shall be treated as ordinary income to the extent it does not exceed the accrued market discount on such bond. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITIONS OTHER THAN SALES, ETC.—For purposes of paragraph (1), a person disposing of any market discount bond in any transaction other than a sale, exchange, or involuntary conversion shall be treated as realizing an amount equal to the fair market value of the bond.

"(3) GAIN TREATED AS INTEREST FOR CERTAIN PURPOSES.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount treated as ordinary income under paragraph (1) shall be treated as interest for purposes of this title.

"(b) ACCRUED MARKET DISCOUNT.—For purposes of this section—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection or subsection (c), the accrued market discount on any bond shall be an amount which bears the same ratio to the market discount on such bond as—

"(A) the number of days which the taxpayer held the bond, bears to

"(B) the number of days after the date the taxpayer acquired the bond and up to (and including) the date of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any bond, the accrued market discount on such bond shall be the aggregate amount which would have been includible in the gross income of the taxpayer under section 1272(a) with respect to such bond for all periods during which the bond was held by the taxpayer if such bond had been—

"(i) originally issued on the date on which such bond was acquired by the taxpayer,

"(ii) for an issue price equal to the adjusted basis of the taxpayer in such bond immediately after its acquisition.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of applying subparagraph (A)—

"(i) the stated redemption price at maturity of such bond shall be treated as equal to its revised issue price, and

"(ii) the determination of the portion of the original issue discount which would have been includible in the gross income of the taxpayer under section 1272(a) shall be made under regulations prescribed by the Secretary.

"(C) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any bond, shall be irrevocable.

"(c) TREATMENT OF NONRECOGNITION TRANSACTIONS.—Under regulations prescribed by the Secretary—

"(1) TRANSFERRED BASIS PROPERTY.—If a market discount bond is transferred in a nonrecognition transaction and such bond is transferred basis property in the hands of the transferee, for purposes of determining the amount of the accrued market discount with respect to the transferee—

"(A) the transferee shall be treated as having acquired the bond on the date on which it was acquired by the transferor for an amount equal to the basis of the transferor, and

"(B) proper adjustments shall be made for gain recognized by the transferor on such transfer (and for any original issue discount or market discount included in the gross income of the transferor).

"(2) EXCHANGED BASIS PROPERTY.—If any market discount bond is disposed of by the taxpayer in a nonrecognition transaction and paragraph (1) does not apply to such transaction, any accrued market discount determined with respect to the property disposed of to the extent not theretofore treated as ordinary income under subsection (a)—

"(A) shall be treated as accrued market discount with respect to the exchanged basis property received by the taxpayer in such transaction if such property is a market discount bond, and

"(B) shall be treated as ordinary income on the disposition of the exchanged basis property received by the taxpayer in such exchange if such property is not a market discount bond.

"(3) PARAGRAPH (1) TO APPLY TO CERTAIN DISTRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—For purposes of paragraph (1), if the basis of any market discount bond in the hands of a transferee is determined under section 334(c), 732(a), or 732(b), such property shall be treated as transferred basis property in the hands of such transferee.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (b) of section 1245 shall apply for purposes of this section; except that—

"(A) paragraph (1) of such subsection shall not apply, and

"(B) an exchange qualifying under section 354(a), 355(a), or 356(a) (determined without regard to subsection (a) of this section) shall be treated as an exchange described in paragraph (3) of such subsection, and

"(2) appropriate adjustments shall be made to the basis of any property to reflect gain recognized under subsection (a).

"(e) SECTION NOT TO APPLY TO MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—This section shall not apply to any market discount bond issued on or before the date of the enactment of this section.

"SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any market discount bond shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the portion of the market discount allocable to the days during the taxable year on which such bond was held by the taxpayer (as determined under the rules of section 1276(b)).

"(b) DISALLOWED DEDUCTION ALLOWED FOR YEAR OF DISPOSITION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the disallowed interest expense with respect to any market discount bond shall be treated as interest paid or accrued by the taxpayer in the taxable year in which such bond is disposed of.

"(2) NONRECOGNITION TRANSACTIONS.—If any market discount bond is disposed of in a nonrecognition transaction (as defined in section 7701(a)(45))—

"(A) the disallowed interest expense with respect to such bond shall be treated as interest paid or accrued in the year of disposition only to the extent of the amount of gain recognized on such disposition, and

"(B) the disallowed interest expense with respect to such property (to the extent not so treated) shall be treated as disallowed interest expense—

"(i) in the case of a transaction described in section 1276(c)(1), of the transferee with respect to the transferred basis property, or

"(ii) in the case of a transaction described in section 1276(c)(2), with respect to the exchanged basis property.

"(3) DISALLOWED INTEREST EXPENSE.—For purposes of this subsection, the term 'disallowed interest expense' means the aggregate amount disallowed under subsection (a) with respect to the market discount bond.

"(c) NET DIRECT INTEREST EXPENSE.—For purposes of this section, the term 'net direct interest expense' means, with respect to any market discount bond, the excess (if any) of—

"(1) the amount of interest paid or accrued during the taxable year on indebtedness which is incurred or continued to purchase or carry such bond, over

"(2) the aggregate amount of interest (including original issue discount) includible in gross income for the taxable year with respect to such bond.

"SEC. 1278. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this part—

"(1) MARKET DISCOUNT BOND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'market discount bond' means any bond having market discount.

"(B) EXCEPTIONS.—The term 'market discount bond' shall not include—

"(i) SHORT-TERM OBLIGATIONS.—Any obligation with a fixed maturity date not exceeding 1 year from the date of issue.

"(ii) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation (as defined in section 1275(a)(3)).

"(iii) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(iv) INSTALLMENT OBLIGATIONS.—Any installment obligation to which section 453B applies.

"(2) MARKET DISCOUNT.—

"(A) IN GENERAL.—The term 'market discount' means the excess (if any) of—

"(i) the stated redemption price of the bond at maturity, over

"(ii) the basis of such bond immediately after its acquisition by the taxpayer.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of subparagraph (A), the stated redemption price of such bond at maturity shall be treated as equal to its revised issue price.

"(C) DE MINIMIS RULE.—If the market discount is less than ¼ of 1 percent of the stated redemption price of the bond at maturity multiplied by the number of complete years to maturity (after the taxpayer acquired the bond), then the market discount shall be considered to be zero.

"(3) BOND.—The term 'bond' means any bond, debenture, note, certificate, or other evidence of indebtedness.

"(4) REVISED ISSUE PRICE.—The term 'revised issue price' means of the sum of—

"(A) the issue price of the bond, and

"(B) the aggregate amount of the original issue discount includible in the gross income of all holders for periods before the acquisition of the bond by the taxpayer (determined without regard to section 1272(a)(6)).

"(5) ORIGINAL ISSUE DISCOUNT, ETC.—The terms 'original issue discount', 'stated redemption price at maturity', and 'issue price' have the respective meanings given such terms by subpart A of this part.

"(b) ELECTION TO INCLUDE MARKET DISCOUNT CURRENTLY.—

"(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

"(A) sections 1276 and 1277 shall not apply, and

"(B) market discount on any market discount bond shall be included in the gross income of the taxpayer for the taxable years to which it is attributable (as determined under the rules of subsection (b) of section 1276).

"(2) SCOPE OF ELECTION.—An election under this subsection shall apply to all market discount bonds acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"Subpart C—Discount on Short-Term Obligations

"Sec. 1281. Current inclusion in income of discount on certain short-term obligations.

"Sec. 1282. Deferral of interest deduction allocable to accrued discount.

"Sec. 1283. Definitions and special rules.

"SEC. 1281. CURRENT INCLUSION IN INCOME OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.

"(a) IN GENERAL.—In the case of any short-term obligation to which this section applies, for purposes of this title, there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such bond.

"(b) SHORT-TERM OBLIGATIONS TO WHICH SECTION APPLIES.—This section shall apply to any short-term obligations which—

"(1) is held by a taxpayer using an accrual method of accounting,

"(2) is held by a bank (as defined in section 581),

"(3) is held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or

"(4) is identified by the taxpayer under section 1256(e)(2) as being part of a hedging transaction.

"(c) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

"(b) SECTION NOT TO APPLY TO OBLIGATIONS TO WHICH SECTION 1281 APPLIES.—

"(1) IN GENERAL.—This section shall not apply to any short-term obligation to which section 1281 applies.

"(2) ELECTION TO HAVE SECTION 1281 APPLY TO ALL OBLIGATIONS.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have section 1281 apply to all short-term obligations acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b) and (c) of section 1277 shall apply for purposes of this section.

"(d) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1283. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) SHORT-TERM OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'short-term obligation' means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity date not more than 1 year from the date of issue.

"(B) EXCEPTIONS FOR TAX-EXEMPT OBLIGATIONS.—The term 'short-term obligation' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).

"(2) ACQUISITION DISCOUNT.—The term 'acquisition discount' means the excess of—

"(A) the stated redemption price at maturity (as defined in section 1273), over

"(B) the taxpayer's basis for the obligation.

"(b) DAILY PORTION.—For purposes of this subpart—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection, the daily portion of the acquisition discount is an amount equal to—

"(A) the amount of such discount, divided by

"(B) the number of days after the day on which the taxpayer acquired the obligation and up to (and including) the day of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any obligation, the daily portion of the acquisition discount for any day is the portion of the acquisition discount accruing on such day determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any obligation, shall be irrevocable.

"(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any short-term obligations which is not a short-term Government obligation (as defined in section 1271(a)(3)(B))—

"(A) sections 1281 and 1282 shall be applied by taking into account original issue discount in lieu of acquisition discount, and

"(B) appropriate adjustments shall be made in the application of subsection (b) of this section.

"(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have paragraph (1) not apply to all obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(d) OTHER SPECIAL RULES.—

"(1) BASIS ADJUSTMENTS.—The basis of any short-term obligation in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to section 1281.

"(2) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—Section 1281 shall not require the inclusion of any amount previously includible in gross income.

"(3) COORDINATION WITH OTHER PROVISIONS.—Section 454(b) and section 1271(a)(3) shall not apply to any short-term obligation to which section 1281 applies.

"Subpart D—Miscellaneous Provisions

"Sec. 1286. Tax treatment of stripped bonds.

"Sec. 1287. Denial of capital gain treatment for gains on certain obligations not in registered form.

"Sec. 1288. Treatment of original issue discount on tax-exempt obligations.

"SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1272(a) as a bond originally issued on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond while held by such person and before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1271(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1271(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by section 1273(a)(2).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(6) PURCHASE.—The term 'purchase' has the meaning given such term by section 1272(d)(1).

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.

"SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.

"(a) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"SEC. 1288. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.

"(a) GENERAL RULE.—Original issue discount on any tax-exempt obligation shall be treated as accruing—

"(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (6) thereof), and

"(2) for purposes of determining the adjusted basis of the holder, in the manner provided by section 1272(a) (determined with regard to paragraph (6) thereof).

"(b) DEFINITIONS.—For purposes of this section—

"(1) ORIGINAL ISSUE DISCOUNT.—The term 'original issue discount' has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 1273(b)(1) for purposes of the preceding sentence, an issue shall be treated as registered with the Securities and Exchange Commission if it is a publicly offered tax-exempt obligation.

"(2) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' has the meaning given to such term by section 1275(a)(3)."

(b) AMENDMENT OF SECTION 483.—Section 483 (relating to interest on certain deferred payments) is amended to read as follows:

"SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.

"(a) AMOUNT CONSTITUTING INTEREST.—For purposes of this title, in the case of any payment—

"(1) under any contract for the sale or exchange of any property, and

"(2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

"(b) TOTAL UNSTATED INTEREST.—For purposes of this section, the term 'total unstated interest' means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

"(1) the sum of the payments to which this section applies which are due under the contract, over

"(2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2) using a discount rate equal to 120 percent of the applicable Federal rate determined under section 1274(d).

"(c) PAYMENTS TO WHICH SUBSECTION (a) APPLIES.—

"(1) IN GENERAL.—Except as provided in subsection (f), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

"(A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

"(B) under which, using a discount rate equal to 110 percent of the applicable Federal rate determined under section 1274(d), there is total unstated interest.

"(2) TREATMENT OF OTHER DEBT INSTRUMENTS.—For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.

"(3) DEBT INSTRUMENT DEFINED.—For purposes of this subsection, the term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(d) PAYMENTS INDEFINITE AS TO TIME, LIABILITY, OR AMOUNT.—In the case of a contract for the sale or exchange of property under which the liability for, or the amount or due date of, any portion of a payment cannot be determined at the time of the sale or exchange, this section shall be separately applied to such portion as if it (and any amount of interest attributable to such portion) were the only payments due under the contract; and such determinations of liability, amount, and due date shall be made at the time payment of such portion is made.

"(e) CHANGE IN TERMS OF CONTRACT.—If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed, the 'total unstated interest' under the contract shall be recomputed and allocated (with adjustment for prior interest (including unstated interest) payments) under regulations prescribed by the Secretary.

"(f) EXCEPTIONS AND LIMITATIONS.—

"(1) COORDINATION WITH ORIGINAL ISSUE DISCOUNT RULES.—This section shall not apply to any debt instrument to which section 1272 applies.

"(2) SALES PRICES OF $3,000 OR LESS.—This section shall not apply to any payment on account of the sale or exchange of property if it can be detemined at the time of such sale or exchange that the sales price cannot exceed $3,000.

"(3) CARRYING CHARGES.—In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

"(4) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), this section shall not apply to any amount contingent on the productivity, use, or disposition of the property transferred.

"(5) ANNUITIES.—This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(g) MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS OF LAND BETWEEN RELATED PARTIES.—

"(1) IN GENERAL.—In the case of any qualified sale, the discount rate used in determining the total unstated interest rate under subsection (b) shall not exceed 7 percent, compounded semiannually.

"(2) QUALIFIED SALE.—For purposes of this subsection, the term 'qualified sale' means any sale or exchange of land by an individual to a member of such individual's family (within the meaning of section 267(c)(4)).

"(3) $500,000 LIMITATION.—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds $500,000.

"(4) NONRESIDENT ALIEN INDIVIDUALS.—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.".

(c) PENALTY FOR FAILURE TO MEET INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. ORIGINAL ISSUE DISCOUNT INFORMATION REQUIREMENTS.

"(a) FAILURE TO SHOW INFORMATION ON DEBT INSTRUMENT.—In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of $50 for each instrument with respect to which such a failure exists.

"(b) FAILURE TO FURNISH INFORMATION TO SECRETARY.—Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed $50,000 for such issue.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Original issue discount information requirements.".

SEC. 42. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO ORIGINAL ISSUE DISCOUNT CHANGES.

(a) IN GENERAL.—

(1) Sections 1232, 1232A, and 1232B are hereby repealed.

(2) Clause (i) of section 103A(i)(2)(C) (defining yield on the issue) is amended by striking out "section 1232(b)(2)" and inserting in lieu thereof "sections 1273(b) and 1274".

(3) Subsection (e) of section 163 (relating to original issue discount) is amended to read as follows:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any debt instrument issued after July 1, 1982, the portion of the original issue discount with respect to such debt instrument which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) DEBT INSTRUMENT.—The term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1272(a) (without regard to paragraph (6) thereof and without regard to section 1273(a)(3)).

"(3) CROSS REFERENCE.—

"For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.".

(4) Paragraph (3) of section 165(j) (relating to denial of deductions for losses on certain obligations not in registered form) is amended by striking out "subsection (d) of section 1232" and inserting in lieu thereof "section 1287".

(5) Paragraph (1) of section 249(b) (relating to limitation on deduction of bond premium on repurchase) is amended by striking out "section 1232(b)" and inserting in lieu thereof "sections 1273(b) and 1274".

(6) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out "section 1232(a)(3)(A)" and inserting in lieu thereof "section 1271(a)(3)(A)".

(7) Paragraph (1) of section 405(d) (relating to taxability of beneficiary of qualified bond purchase plan) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(8) Paragraph (1) of section 409(b) (relating to income tax treatment of bonds) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(9) Paragraph (3) of section 811(b) (relating to amortization of premium and accrual of discount), as amended by this Act, is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(10) Subparagraph (A) of section 871(a)(1) (relating to income other than capital gains) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(11) Paragraph (1) of section 881(a) (relating to imposition of tax) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(12) Subsection (b) of section 1037 (relating to application of section 1232) is amended—

(A) by striking out "section 1232(a)(2)(B)" in paragraph (1) and inserting in lieu thereof "section 1271(c)(2)",

(B) by striking out "section 1232" in paragraphs (1) and (2) and inserting in lieu thereof "subpart A of part V of subchapter P", and

(C) by striking out "SECTION 1232" in the subsection heading and inserting in lieu thereof "ORIGINAL ISSUE DISCOUNT RULES".

(13) Subsection (h) of section 1351 (relating to special rule for evidences of indebtedness) is amended by striking out "section 1232(a)(2)" and inserting in lieu thereof "section 1273(a)".

(14) Subsection (b) of section 1441 (relating to withholding of tax on nonresident alien) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(15) Paragraph (6) of section 6049(d) (relating to treatment of original issue discount) is amended—

(A) by striking out "section 1232A" each place it appears in subparagraph (A) and inserting in lieu thereof "section 1272", and

(B) by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"PART V. Special rules for bonds and other debt instruments.".

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the items relating to sections 1232, 1232A, and 1232B.

SEC. 43. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO TREATMENT OF MARKET DISCOUNT AND ACQUISITION DISCOUNT.

(a) DEFINITION OF SUBSTITUTED BASIS PROPERTY; ETC.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(42) SUBSTITUTED BASIS PROPERTY.—The term 'substituted basis property' means property which is—

"(A) transferred basis property, or

"(B) exchanged basis property.

"(43) TRANSFERRED BASIS PROPERTY.—The term 'transferred basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

"(44) EXCHANGED BASIS PROPERTY.—The term 'exchanged basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

"(45) NONRECOGNITION TRANSACTION.—The term 'nonrecognition transaction' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.".

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 1016 is amended by striking out the last sentence.

(b) ELECTIONS MADE IN MANNER PRESCRIBED BY SECRETARY.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Paragraph (12) of section 341(e) (related to nonapplication of section 1254(a)) is amended by striking out "and 1254(a)" and inserting in lieu thereof "1254(a), and 1276(a)".

(2) Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

(3) Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out "and an oil, gas, or geothermal property (described in section 1254) and inserting in lieu thereof "an oil, gas, or geothermal property (described in section 1254), and a market discount bond (as defined in section 1278)", and

(B) by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

SEC. 44. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years ending after the date of the enactment of this Act.

(b) TREATMENT OF DEBT INSTRUMENTS RECEIVED IN EXCHANGE FOR PROPERTY.—

(1) IN GENERAL.—

(A) Except as otherwise provided in this subsection, sections 1274 and 1275(b) of the Internal Revenue Code of 1954 (as added by section 41) and the amendment made by section 41(b) (relating to amendment of section 483) shall apply to sales or exchanges after December 31, 1984.

(B) Sections 1274 and 1275(b) of such Code and the amendment made by section 41(b) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(2) REVISION OF SECTION 482 REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall modify the safe harbor interest rates applicable under the regulations prescribed under section 482 of the Internal Revenue Code of 1954 so that such rates are consistent with the rates applicable under section 483 of such Code by reason of the amendments made by section 41.

(3) CLARIFICATION OF INTEREST ACCRUAL; FAIR MARKET VALUE RULE IN CASE OF POTENTIALLY ABUSIVE SITUATIONS.—

(A) IN GENERAL.—In the case of any sale or exchange after March 1, 1984, and before January 1, 1985—

(i) nothing in section 483 of the Internal Revenue Code of 1954 shall permit any interest to be deductible before the period to which such interest is properly allocable, and

(ii) such section 483 shall be treated as including provisions similar to the provisions of section 1274(b)(3) of such Code (as added by section 41).

(B) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (A) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(C) INTEREST ACCRUAL RULE NOT TO APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL PAYMENTS.—Clause (i) of subparagraph (A) shall not apply to any debt instrument with substantially equal annual payments.

(c) MARKET DISCOUNT RULES.—

(1) ORDINARY INCOME TREATMENT.—Section 1276 of the Internal Revenue Code of 1954 (as added by section 41) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(2) INTEREST DEFERRAL RULES.—Section 1277 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act in taxable years ending after such date.

(d) RULES RELATING TO DISCOUNT ON SHORT-TERM OBLIGATIONS.—Subpart C of part V of subchapter P of chapter 1 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act.

(e) 10-YEAR SPREAD OF ADJUSTMENTS REQUIRED BY REASON OF ACCRUAL OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.—

(1) ELECTION TO WHICH SECTION 1281 APPLIES TO ALL OBLIGATIONS HELD DURING TAXABLE YEAR.—A taxpayer may elect to have section 1281 of the Internal Revenue Code of 1954 apply to all short-term obligations described in subsection (b) of such section which were held by the taxpayer at any time during the first taxable year ending after the date of the enactment of this Act.

(2) 10-YEAR SPREAD.—In the case of any taxpayer who makes an election under paragraph (1)—

(A) the provisions of section 1281 of the Internal Revenue Code of 1954 (as added by section 41) shall be treated as a change in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years beginning with the taxable year for which such election is made.

(f) TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.—Section 1288 of such Code (as added by section 41) shall apply to obligations issued after September 3, 1982, and acquired after March 1, 1984.

(g) REPEAL OF CAPITAL ASSET REQUIREMENT.—Section 1272 of such Code (as added by section 41) shall not apply to any obligation issued before December 31, 1984, which is not a capital asset in the hands of the taxpayer.

(h) REPORTING REQUIREMENTS.—Section 1275(c) of such Code (as added by section 41) and the amendments made by section 41(c) shall take effect on the day 30 days after the date of the enactment of this Act.

(i) OTHER MISCELLANEOUS CHANGES.—

(1) ACCRUAL PERIOD.—In the case of any obligation issued after July 1, 1982, and before January 1, 1985, the accrual period, for purposes of section 1272(a) of the Internal Revenue Code of 1954 (as amended by section 41(a)), shall be a 1-year period (or shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the obligation.

(2) CHANGE IN REDUCTION FOR PURCHASE AFTER ORIGINAL ISSUE.—Section 1272(a)(6) of such Code (as so amended) shall not apply to any purchase on or before the date of the enactment of this Act, and the rules of section 1232A(a)(6) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such purchase.

(j) CLARIFICATION THAT PRIOR TRANSITIONAL RULES NOT AFFECTED.—Nothing in the amendment made by section 41(a) shall affect the application of any transitional rule for any provison which was a predecessor to any provision contained in part V of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (as added by section 41).

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

SEC. 51. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

(a) GENERAL RULE.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by inserting after section 246 the following new section:

"SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

"(a) GENERAL RULE.—In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245 a percentage equal to the product of—

"(1) 85 percent, and

"(2) 100 percent minus the average indebtedness percentage.

"(b) SECTION NOT TO APPLY TO DIVIDENDS FOR WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION ALLOWABLE.—Subsection (a) shall not apply to—

"(1) qualifying dividends (as defined in section 243(b) without regard to section 243(c)(4)), and

"(2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

"(c) DEBT FINANCED PORTFOLIO STOCK.—For purposes of this section, the term 'debt financed portfolio stock' means any stock of a corporation if—

"(1) as of the beginning of the ex-dividend date, the taxpayer does not own stock of such corporation possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote and does not own at least 50 percent of the total number of shares of all other classes of stock of the corporation, and

"(2) at some time during the base period there is portfolio indebtedness with respect to such stock.

"(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'average indebtedness percentage' means the percentage obtained by dividing—

"(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

"(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

"(2) SPECIAL RULE WHERE STOCK NOT HELD THROUGHOUT BASE PERIOD.—In the case of any stock which was not held by the taxpayer throughout the base period, paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer.

"(3) PORTFOLIO INDEBTEDNESS.—

"(A) IN GENERAL.—The term 'portfolio indebtedness' means any indebtedness directly attributable to investment in the stock.

"(B) CERTAIN AMOUNTS RECEIVED FROM SHORT SALE TREATED AS INDEBTEDNESS.—For purposes of subparagraph (A), any amount received from a short sale shall be treated as indebtedness for the period beginning on the day on which such amount is received and ending on the day the short sale is closed.

"(4) BASE PERIOD.—The term 'base period' means, with respect to any dividend, the shorter of—

"(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day before the ex-dividend date for the dividend involved, or

"(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

"(e) REDUCTION IN DIVIDENDS RECEIVED DEDUCTION NOT TO EXCEED ALLOCABLE INTEREST.—Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction (including any deductible short sale expense) allocable to such dividend.".

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by inserting after the item relating to section 246 the following new item:

"Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act in taxable years ending after such date.

SEC. 52. TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subsection (b) of section 854 (relating to limitations applicable to dividends received from regulated investment company) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR COMPUTING DEDUCTION UNDER SECTION 243.—For purposes of computing the deduction under section 243—

"(A) paragraph (1) shall be applied by substituting '100 percent' for '75 percent', and

"(B) an amount shall be treated as a dividend for purposes of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company determined—

"(i) as if section 243 applied to dividends received by a regulated investment company,

"(ii) after the application of section 246 (but without regard to subsection (b) thereof), and

"(iii) after the application of section 246A.".

(b) EFFECTIVE DATE.—The amendment made by this subsection (a) shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

SEC. 53. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1059 as section 1060 and by inserting after section 1058 the following new section:

"SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

"(a) GENERAL RULE.—If any corporation—

"(1) receives an extraordinary dividend with respect to any share of stock, and

"(2) sells or otherwise disposes of such stock before such stock has been held for more than 1 year,

the basis of such corporation in such stock shall be reduced by the nontaxed portion of such dividend.

"(b) NONTAXED PORTION.—For purposes of this section—

"(1) IN GENERAL.—The nontaxed portion of any dividend is the excess (if any) of—

"(A) the amount of such dividend, over

"(B) the taxable portion of such dividend.

"(2) TAXABLE PORTION.—The taxable portion of any dividend is—

"(A) the portion of such dividend includible in gross income, reduced by

"(B) the amount of any deduction allowable with respect to such dividend under section 243, 244, or 245.

"(c) EXTRAORDINARY DIVIDEND DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'extraordinary dividend' means any dividend with respect to a share of stock if the amount of such dividend equals or exceeds the threshold percentage of the taxpayer's adjusted basis in such share of stock (determined without regard to this section).

"(2) THRESHOLD PERCENTAGE.—The term 'threshold percentage' means—

"(A) 5 percent in the case of stock which is preferred as to dividends, and

"(B) 10 percent in the case of any other stock.

"(3) AGGREGATION OF DIVIDENDS.—

"(A) AGGREGATION WITHIN 90-DAY PERIOD.—All dividends—

"(i) which are received by the taxpayer (or person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates within the same period of 85 consecutive days,

shall be treated as 1 dividend.

"(B) AGGREGATION WITHIN 1 YEAR WHERE DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED BASIS.—All dividends—

"(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates during the same period of 365 consecutive days,

shall be treated as extraordinary dividends if the aggregate of such dividends exceeds 20 percent of the taxpayer's adjusted basis in such stock (determined without regard to this section).

"(C) SUBSTITUTED BASIS TRANSACTIONS.—In the case of any stock, a person is described in this subparagraph if—

"(i) the basis of such stock in the hands of such person is determined in whole or in part by reference to the basis of such stock in the hands of the taxpayer, or

"(ii) the basis of such stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of such stock in the hands of such person.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a) by reason of any distribution which is an extraordinary dividend shall occur at the beginning of the ex-dividend date for such distribution.

"(2) DISTRIBUTIONS IN KIND.—To the extent any dividend consists of property other than cash, the amount of such dividend shall be treated as the fair market value of such property (as of the date of the distribution) reduced as provided in section 301(b)(2).

"(3) DETERMINATION OF HOLDING PERIOD.—For purposes of determining the holding period of stock under subsection (a)(2), rules similar to the rules of paragraphs (3) and (4) of section 246(c) shall apply; except that '1 year' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(4) EX-DIVIDEND DATE.—The term 'ex-dividend' means the date on which the share of stock becomes ex-dividend.

"(5) EXTENSION TO CERTAIN PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash) to which section 301 applies—

"(A) such distribution shall be treated as a dividend without regard to whether the corporation has earnings and profits, and

"(B) the amount so treated shall be reduced by the amount of any reduction in basis under section 301(c)(2) by reason of such distribution.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section including regulations providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions.".

(b) RULES FOR COMPUTING HOLDING PERIODS.—

(1) Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by adding at the end thereof the following new paragraph:

"(4) HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—The holding periods determined under paragraph (3) shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

"(A) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

"(B) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

"(C) there is otherwise a substantial diminution of the taxpayer's risk of loss from holding the stock by reason of holding 1 or more other positions.

The preceding sentence shall not apply in the case of any qualified covered call (as defined in section 1092(d)(7) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss).".

(2) Paragraph (3) of section 246(c) is amended by striking out the last sentence.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1059 and inserting in lieu thereof the following new items:

"Sec. 1059. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.

"Sec. 1060. Cross references.".

(2) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "and without regard" and inserting in lieu thereof "without regard to any adjustment under section 1059, and without regard".

(3) Section 1016(a) (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions after March 1, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

SEC. 54. DISTRIBUTION OF APPRECIATED PROPERTY BY CORPORATIONS.

(a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRECIATED PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 311(d) (relating to appreciated property used to redeem stock) is amended to read as follows:

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This subsection shall be applied after the application of subsections (b) and (c).".

(2) EXCEPTIONS.—

(A) Paragraph (2) of section 311(d) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) a distribution to an 80-percent corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution which is made with respect to qualified stock if—

"(i) section 302(b)(4) applies to such distribution, or

"(ii) such distribution is a qualified dividend;".

(B) Subsection (e) of section 311 is amended by adding at the end thereof the following new paragraphs:

"(3) 80-PERCENT CORPORATE SHAREHOLDER.—The term '80-percent corporate shareholder' means, with respect to any distribution, any corporation which owns—

"(A) stock in the corporation making the distribution possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends).

"(4) QUALIFIED DIVIDEND.—The term 'qualified dividend' means any distribution of property to a shareholder other than a corporation if—

"(A) such distribution is a dividend,

"(B) such property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)(B)), and

"(C) such property is not property described in paragraph (1) or (4) of section 1221.".

(3) CLERICAL AMENDMENT.—The subsection heading of subsection (d) of section 311 is amended to read as follows:

"(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—".

(b) HOLDING PERIOD OF CORPORATE DISTRIBUTEE OF APPRECIATED PROPERTY.—Section 301 (relating to distributions of property) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR HOLDING PERIOD OF APPRECIATED PROPERTY DISTRIBUTED TO CORPORATION.—For purposes of this subtitle, if—

"(1) property is distributed to a corporation, and

"(2) the basis of such property in the hands of such corporation is determined under subsection (d)(2)(B),

then such corporation shall not be treated as holding the distributed property during any period before the date on which such corporation's holding period in the stock began.".

(c) CROSS REFERENCE.—Paragraph (13) of section 1223 (relating to holding period of property) is amended to read as follows:

"(13) CROSS REFERENCES.—

"(A) For special holding period provision relating to certain partnership distributions, see section 735(b).

"(B) For special holding period provision relating to distributions of appreciated property to corporations, see section 301(e).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions declared after the date of the enactment of this Act in taxable years ending after such date.

(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—The amendments made by this section (other than subsection (b)) shall not apply to distributions before February 1, 1986, of interests in a royalty trust if—

(A) a group of one or more shareholders held at least 10 percent of the outstanding stock of the corporation making such distribution on February 1, 1984,

(B) such group (acting in concert) acquired at least 10 percent of the outstanding stock of a corporation controlled (within the meaning of section 368(c) of the Internal Revenue Code of 1954) by such corporation

during the 1-year period ending on February 1, 1984,

(C) such group submitted a proposal for distributions of interests in a royalty trust from such corporation or such controlled corporation, and

(D) such corporation acquired control of such controlled corporation during the 1-year period ending on February 1, 1984.

SEC. 55. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES OR REAL ESTATE INVESTMENT TRUSTS.

(a) REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subparagraph (A) of section 852(b)(4) (relating to loss attributable to capital gain dividend) is amended to read as follows:

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as a long-term capital gain, and

"(ii) such share is held by the taxpayer for 6 months or less,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.".

(2) DETERMINATION OF HOLDING PERIODS.—Subparagraph (C) of section 852(b)(4) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

"(i) '6 months' for purposes of subparagraph (A), and

"(ii) '30 days' for purposes of subparagraph (B).".

(3) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(D) LOSSES INCURRED UNDER A PERIODIC LIQUIDATION PLAN.—To the extent provided in regulations, subparagraph (A) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares.".

(b) REAL ESTATE INVESTMENT TRUST.—Paragraph (7) of section 857(b) (relating to loss on sale or exchange of stock in real estate investment trust) is amended to read as follows:

"(7) LOSS ON SALE OR EXCHANGE OF STOCK HELD 6 MONTHS OR LESS.—

"(A) IN GENERAL.—If—

"(i) subparagraph (B) of paragraph (3) provides that any amount with respect to any share or beneficial interest is to be treated as a long-term capital gain, and

"(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) DETERMINATION OF HOLDING PERIOD.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock or beneficial interest; except that '6 months' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(C) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—To the extent provided in regulations, subparagraph (A) shall not apply to any loss incurred on the sale or exchange of shares of stock of, or beneficial interest in, a real estate investment trust pursuant to a plan which provides for the periodic liquidation of such shares or interests.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act.

PART III—MISCELLANEOUS PROVISIONS

SEC. 56. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.

(a) SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVIDENDS.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(h) PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES.—

"(1) IN GENERAL.—If—

"(A) a taxpayer makes any payment with respect to any stock used by such taxpayer in a short sale and such payment is in lieu of a dividend payment on such stock, and

"(B) the closing of such short sale occurs on or before the 15th day after the date of such short sale,

then no deduction shall be allowed for such payment. The basis of the stock used to close the short sale shall be increased by the amount not allowed as a deduction by reason of the preceding sentence.

"(2) LONGER PERIOD IN CASE OF EXTRAORDINARY DIVIDENDS.—If the payment described in paragraph (1)(A) is in respect of an extraordinary dividend, paragraph (1)(B) shall be applied by substituting 'the day 1 year after the date of such short sale' for 'the 15th day after the date of such short sale'.

"(3) EXTRAORDINARY DIVIDEND.—For purposes of this subsection, the term 'extraordinary dividend' has the meaning given to such term by section 1059(c); except that such section shall be applied by treating the amount realized by the taxpayer in the short sale as his adjusted basis in the stock.

"(4) SPECIAL RULE WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—The running of any period of time applicable under paragraph (1)(B) (as modified by paragraph (2)) shall be suspended during any period in which—

"(A) the taxpayer holds, has an option to buy, or is under a contractual obligation to buy, substantially identical stock or securities, or

"(B) there is otherwise a substantial diminution of the taxpayer's risk of loss from the short sale by reason of holding 1 or more other positions.".

(b) INVESTMENT INTEREST TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Subparagraph (D) of section 163(d)(3) (defining investment interest) is amended to read as follows:

"(D) INVESTMENT INTEREST.—

"(i) IN GENERAL.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(ii) CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.—For purposes of clause (i), the term 'interest' includes any amount allowable as a deduction in connection with the personal property used in a short sale.".

(c) INTEREST FOR PURPOSES OF SECTION 265(2) TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Section 265(2) (relating to denial of deduction for interest relating to tax-exempt income) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'interest' includes any amount paid or incurred in connection with the personal property used in a short sale."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to short sales after the date of the enactment of this Act in taxable years ending after such date.

SEC. 57. NONRECOGNITION OF GAIN OR LOSS BY CORPORATION ON OPTIONS WITH RESPECT TO ITS STOCK.

(a) GENERAL RULE.—Subsection (a) of section 1032 (relating to exchange of stock for property) is amended by adding at the end thereof the following new sentence: "No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options acquired or lapsed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 58. AMENDMENTS TO ACCUMULATED EARNINGS TAX.

(a) CLARIFICATION THAT TAX APPLIES TO CORPORATIONS WHICH ARE NOT CLOSELY HELD.—Section 532 (relating to corporations subject to accumulated earnings tax) is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION DETERMINED WITHOUT REGARD TO NUMBER OF SHAREHOLDERS.—The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation.".

(b) TREATMENT OF CAPITAL GAINS AND LOSSES.—Subsection (b) of section 535 (defining accumulated taxable income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

"(5) CAPITAL LOSSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be allowed as a deduction an amount equal to the net capital loss for the taxable year.

"(B) RECAPTURE OF PREVIOUS DEDUCTIONS FOR CAPITAL GAINS.—The aggregate amount allowable as a deduction under subparagraph (A) for any taxable year shall be reduced by the lesser of—

"(i) the nonrecaptured capital gains deductions, or

"(ii) the amount of the accumulated earnings and profits of the corporation as of the close of the preceding taxable year.

"(C) NONRECAPTURED CAPITAL GAINS DEDUCTIONS.—For purposes of subparagraph (B), the term 'nonrecaptured capital gains deductions' means the excess of—

"(i) the aggregate amount allowable as a deduction under paragraph (6) for preceding taxable years beginning after the date of the enactment of the Tax Reform Act of 1984, over

"(ii) the aggregate of the reductions under subparagraph (B) for preceding taxable years.

"(6) NET CAPITAL GAINS.—

"(A) IN GENERAL.—There shall be allowed as a deduction—

"(i) the net capital gain for the taxable year (determined with the application of paragraph (7)), reduced by

"(ii) the taxes attributable to such net capital gain.

"(B) ATTRIBUTABLE TAXES.—For purposes of subparagraph (A), the taxes attributable to the net capital gain shall be an amount equal to the difference between—

"(i) the taxes imposed by this subtitle (except the tax imposed by this part) for the taxable year, and

"(ii) such taxes computed for such year without including in taxable income the net capital gain for the taxable year (determined without the application of paragraph (7)).

"(7) CAPITAL LOSS CARRYOVERS.—

"(A) UNLIMITED CARRYFORWARD.—The net capital loss for any taxable year shall be treated as a short-term capital loss in the next taxable year.

"(B) SECTION 1212 INAPPLICABLE.—No allowance shall be made for the capital loss carryback or carryforward provided in section 1212.

"(8) SPECIAL RULES FOR MERE HOLDING OR INVESTMENT COMPANIES.—In the case of a mere holding or investment company—

"(A) CAPITAL LOSS DEDUCTION, ETC., NOT ALLOWED.—Paragraphs (5) and (7)(A) shall not apply.

"(B) EARNINGS AND PROFITS.—For purposes of subchapter C, the accumulated earnings and profits at any time shall not be less than they would be if this subsection had applied to the computation of earnings and profits for all taxable years beginning after the date of the enactment of the Tax Reform Act of 1984.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 59. REPEAL OF STOCK FOR DEBT EXCEPTION FOR PURPOSES OF DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.

(a) GENERAL RULE.—Subsection (e) of section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(10) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—

"(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock.

"(B) EXCEPTION FOR TITLE 11 CASES AND INSOLVENT DEBTORS.—Subparagraph (A) shall not apply in the case of a debtor in a title 11 case or when the debtor is insolvent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

SEC. 60. DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGINAL ISSUE DISCOUNT.

(a) EFFECT ON EARNINGS AND PROFITS.—

(1) Paragraph (2) of section 312(a) (relating to effect on earnings and profits) is amended to read as follows:

"(2) the principal amount of the obligations of such corporation (or, in the case of obligations having original issue discount, the aggregate issue price of such obligations), and".

(2) Section 312 is amended by adding at the end thereof the following new subsection:

"(n) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For purposes of subsection (a)(2), the terms 'original issue discount' and 'issue price' have the same respective meanings as when used in subpart A of part V of subchapter P of this chapter."

(b) TREATMENT UNDER ORIGINAL ISSUE DISCOUNT RULES.—Subsection (a) of section 1275 (relating to other definitions and special rules), as added by section 41 of this Act, is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF OBLIGATIONS DISTRIBUTED BY CORPORATIONS.—Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to obligations distributed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 61. ELIGIBILITY TO FILE CONSOLIDATED RETURNS.

(a) IN GENERAL.—Section 1504 (defining affiliated group) is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF AFFILIATED GROUP FOR TAXABLE YEARS BEGINNING AFTER 1984.—For taxable years beginning after December 31, 1984—

"(1) IN GENERAL.—Except as provided in paragraph (6), for purposes of this chapter only, the term 'affiliated group' means 1 or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

"(A) stock possessing—

"(i) at least 80 percent of the voting power of all classes of stock, and

"(ii) at least 80 percent of the total value of shares of all classes of stock of each of the includible corporations (except the common parent corporation),

is owned directly by 1 or more of the other includible corporations, and

"(B) the common parent corporation owns directly stock possessing—

"(i) at least 80 percent of the voting power of all classes of stock, and

"(ii) at least 80 percent of the total value of shares of all classes of stock,

of at least 1 of the other includible corporations.

"(2) SPECIAL RULE FOR INITIAL DETERMINATION.—An includible corporation shall not be treated as a member of an affiliated group unless, on the first day of the first taxable year of such corporation otherwise to be included in a consolidated return of such group, the requirements of paragraph (1) are met.

"(3) SPECIAL RULE FOR TERMINATION OF AFFILIATED GROUP.—The determination of whether an affiliated group continues to be an affiliated group (or whether any includible corporation continues to be a member of such group) shall be made by substituting 'more than 50 percent' for 'at least 80 percent' in clause (ii) of paragraph (1)(A) and clause (ii) of paragraph (1)(B).

"(4) 5 YEARS MUST ELAPSE BEFORE REAFFILIATION.—

"(A) IN GENERAL.—For purposes of determining whether any corporation is a member of an affiliated group, a corporation which has ceased to be a member of such group (and any successor of such corporation) may not be treated as a member of such group (or of any other affiliated group which includes the common parent of such group (and any successor of such common parent)) before the 5th taxable year of such corporation after its first taxable year for which it ceases to be a member of such affiliated group.

"(B) SECRETARY MAY WAIVE APPLICATION OF SUBPARAGRAPH (A).—The Secretary may waive the application of subparagraph (A) to any corporation for any period subject to such conditions as the Secretary may by regulations prescribe.

"(5) STOCK.—For purposes of this subsection, the term 'stock' does not include—

"(A) nonvoting stock which is limited and preferred as to dividends and in liquidation and which is not convertible into stock of any other class,

"(B) employer securities (within the meaning of section 409A(l)) while such securities are held under a tax credit employee stock ownership plan, and

"(C) qualifying employer securities (within the meaning of section 4975(e)(8)) while such securities are held under an employee stock ownership plan which meets the requirements of section 4975(e)(7).

"(6) CORPORATIONS AFFILIATED ON MARCH 1, 1984.—Subsection (a) (and not paragraphs (1) and (3) of this subsection) shall apply for purposes of determining whether a corporation continues to be a member of an affiliated group of which it was a member on March 1, 1984.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

"(A) which treat warrants, obligations convertible into stock, and other similar interests as stock, and stock as not stock, for purposes of this chapter,

"(B) which treat options to acquire stock as having been exercised,

"(C) which disregard decreases in voting power disproportionate to decreases in the total value of shares of all classes of stock, and

"(D) which do not permit an includible corporation to be a member of an affiliated group where there is a plan pursuant to which it is to cease meeting the qualification requirements for treatment as such a member.".

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 1504 (relating to includible insurance companies) is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a) or (f), as the case may be,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle E—Partnership Provisions

SEC. 71. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—With respect to property contributed to the partnership by a partner, depreciation, depletion, and gain or loss shall, under regulations prescribed by the Secretary, be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution.".

(b) CONFORMING AMENDMENTS.—The fourth sentence of section 613A(c)(7)(D) and the third sentence of section 743(b) are each amended by striking out "an agree-

ment described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account" and inserting in lieu thereof "property contributed to the partnership by a partner, section 704(c) (relating to contributed property) shall apply in determining such share".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date.

SEC. 72. DETERMINATION OF DISTRIBUTIVE SHARES WHEN PARTNER'S INTEREST CHANGES.

(a) GENERAL RULE.—Section 706 (relating to taxable years of partner and partnership) is amended by adding at the end thereof the following new subsection:

"(d) DETERMINATION OF DISTRIBUTIVE SHARE WHEN PARTNER'S INTEREST CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if during any taxable year of the partnership there is a change in any partner's interest in the partnership, each partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for such taxable year shall be determined by the use of any method prescribed by the Secretary by regulations which takes into account the varying interests of the partners in the partnership during such taxable year.

"(2) CERTAIN CASH BASIS ITEMS PRORATED OVER PERIOD TO WHICH ATTRIBUTABLE.—

"(A) IN GENERAL.—If during any taxable year of the partnership there is a change in any partner's interest in the partnership, then (except to the extent provided in regulations) each partner's distributive share of any allocable cash basis item shall be determined—

"(i) by assigning the appropriate portion of each such item to each day in the period (during the taxable year) to which it is attributable, and

"(ii) by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(B) ALLOCABLE CASH BASIS ITEM.—For purposes of this paragraph, the term 'allocable cash basis item' means any of the following items which are described in paragraph (1) and with respect to which the partnership uses the cash receipts and disbursements method of accounting:

"(i) Interest.

"(ii) Taxes.

"(iii) Payments for services or for the use of property.

"(iv) Any other item of a kind specified in regulations prescribed by the Secretary as being an item with respect to which the application of this paragraph is appropriate to avoid significant misstatements of the income of the partners.

"(C) ITEMS ATTRIBUTABLE TO PERIODS NOT WITHIN TAXABLE YEAR.—To the extent that any allocable cash basis item is attributable to—

"(i) periods before the beginning of the taxable year, such item shall be assigned under subparagraph (A)(i) to the first day of such taxable year, or

"(ii) periods after the close of the taxable year, such item shall be assigned under subparagraph (A)(i) to the last day of the taxable year.

"(3) ITEMS ATTRIBUTABLE TO INTEREST IN OTHER PARTNERSHIP PRORATED OVER ENTIRE TAXABLE YEAR.—If—

"(A) during any taxable year of the partnership there is a change in any partner's interest in the partnership, and

"(B) such partnership is a partner in another partnership,

then (except to the extent provided in regulations) each partner's distributive share of any item attributable to the other partnership shall be determined by assigning an equal portion of each such item to each day during the taxable year of the partnership (during which such partnership is a partner in the other partnership) and by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(4) TAXABLE YEAR DETERMINED WITHOUT REGARD TO SUBSECTION (C)(2)(A).—For purposes of this subsection, the taxable year of a partnership shall be determined without regard to subsection (c)(2)(A).".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 706(c) is amended—

(1) by striking out the last sentence of subparagraph (A), and

(2) by striking out ", but such partner's distributive share of items described in section 702(a) shall be determined by taking into account his varying interests in the partnership during the taxable year" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of items described in section 706(d)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)), to amounts attributable to periods after March 31, 1984, and

(2) in the case of items described in section 706(d)(3) of such Code (as added by subsection (a)), to amounts paid or accrued by the other partnership after March 31, 1984.

SEC. 73. PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.

(a) GENERAL RULE.—Section 707 (relating to transactions between partner and partnership) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.—

"(1) PROPERTY TRANSFERS.—If—

"(A) there is a transfer of money (or other property) by a partner to a partnership, and

"(B) there is a related direct or indirect transfer of money (or other property) to such partner or another partner from the partnership,

the transaction shall be considered as a sale of property.

"(2) SERVICES AND PROPERTY PROPERLY CHARGEABLE TO CAPITAL ACCOUNT.—If—

"(A) a partner performs services for a partnership or transfers property to a partnership,

"(B) the direct payment by the partnership for such services or property would constitute an amount chargeable to capital account, and

"(C) there is a related direct or indirect allocation of income or gain (or item thereof) to such partner,

such transaction (including any related distribution) shall be treated as described in subsection (a) or (c) (whichever is appropriate); and the allocation referred to in subparagraph (C) shall be disregarded for purposes of this subtitle.

"(3) TREATMENT OF PERSONS BECOMING PARTNER.—For purposes of this subsection, a person shall be treated as a partner with respect to any transfer of property or performance of services if such person becomes a partner in the partnership after such transfer or performance of such service.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed or property transferred after March 1, 1984.

SEC. 74. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS, OR CAPITAL LOSS PROPERTY.

(a) GENERAL RULE.—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

"SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED UNREALIZED RECEIVABLES, INVENTORY ITEMS, AND CAPITAL LOSS PROPERTY.

"(a) CONTRIBUTIONS OF UNREALIZED RECEIVABLES.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

"(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

"(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—In the case of any property which—

"(1) was contributed by a partner to the partnership, and

"(2) was a capital asset in the hands of such partner immediately before such contribution,

any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

"(d) DEFINITIONS.—For purposes of this section—

"(1) UNREALIZED RECEIVABLE.—The term 'unrealized receivable' has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

"(2) INVENTORY ITEM.—The term 'inventory item' has the meaning given such term by section 751(d)(2) (determined by treating any reference to the partnership as referring to the partner and by applying section 1231 without regard to any holding period therein provided).

"(3) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a), (b), or (c) is disposed of in a nonrecognition transaction, the tax treatment which applies to such

property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351.".

(b) AMENDMENT OF SECTION 735.—Section 735 (relating to character of gain or loss on disposition of distributed property) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—

"(1) WAIVER OF HOLDING PERIODS CONTAINED IN SECTION 1231.—For purposes of this section, section 751(d)(2) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

"(2) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property.".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property contributed to a partnership after March 31, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property distributed after March 31, 1984, in taxable years ending after such date.

SEC. 75. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to transfer of interests in a partnership) is amended by adding at the end thereof the following new section:

"SEC. 744. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

"(a) CORPORATE DISTRIBUTIONS.—For purposes of determining the amount of gain recognized by a corporation on any distribution, any distribution of an interest in a partnership shall be treated as a distribution of the corporation's proportionate share of the recognition property of such partnership.

"(b) SALES OR EXCHANGE TO WHICH SECTION 337 APPLIES.—For purposes of determining the amount of gain recognized on a sale or exchange described in section 337, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation's proportionate share of the recognition property of such partnership.

"(c) RECOGNITION PROPERTY.—For purposes of this section, the term 'recognition property' means any property with respect to which gain would be recognized to the corporation if such property—

"(1) were distributed by the corporation in a distribution described in section 311 or 336, or

"(2) were sold in a sale described in section 337,

whichever is appropriate. In determining whether property of a partnership is recognition property, such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

"(d) EXTENSION TO TRUSTS.—Under regulations, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust.".

(b) ADJUSTMENT OF TRANSFEREE'S BASIS IN PARTNERSHIP PROPERTY.—Subsections (a) and (b) of section 743 (relating to optional adjustment to basis of partnership property) are each amended by inserting", by distribution," after "sale or exchange".

(c) TECHNICAL AMENDMENT TO SECTION 751(c).—The last sentence of section 751(c) (defining unrealized receivables) is amended by striking out "at its fair market value".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 744. Transfers of partnership and trust interests by corporations.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions, sales, and exchanges made after March 1, 1984, in taxable years ending after such date.

SEC. 76. APPLICATION OF SECTION 751 IN THE CASE OF TIERED PARTNERSHIPS.

(a) GENERAL RULE.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS, ETC.—In determining whether property of a partnership is—

"(1) an unrealized receivable, or

"(2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

SEC. 77. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP INTERESTS; LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE.

(a) IN GENERAL.—Subsection (a) of section 1031 (relating to nonrecognition of gain or loss from exchanges solely in kind) is amended to read as follows:

"(a) NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND.—

"(1) IN GENERAL.—No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

"(2) EXCEPTION.—This subsection shall not apply to any exchange of—

"(A) stock in trade or other property held primarily for sale,

"(B) stocks, bonds, notes,

"(C) other securities or evidences of indebtedness or interest,

"(D) interests in a partnership,

"(E) certificates of trust or beneficial interests, or

"(F) choses in action.

"(3) REQUIREMENT THAT EXCHANGE BE COMPLETED NOT MORE THAN 180 DAYS AFTER TRANSFER OF EXCHANGED PROPERTY.—For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if such property is received after the earlier of—

"(A) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

"(B) the due date (determined with regard to extensions) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers made after March 31, 1984, in taxable years ending after such date.

(2) BINDING CONTRACT EXCEPTION FOR TRANSFER OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply in the case of any exchange pursuant to a binding contract in effect on March 1, 1984, and at all times thereafter before the exchange.

(3) REQUIREMENT THAT EXCHANGE BE COMPLETED WITHIN 180 DAYS.—Paragraph (3) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall apply—

(A) to transfers after the date of the enactment of this Act, and

(B) to transfers on or before such date of enactment if the property to be received in the exchange is not received before January 1, 1987.

In the case of any transfer on or before the date of the enactment of this Act which the taxpayer treated as part of a like-kind exchange, the period for assessing any deficiency of tax attributable to the amendment made by subsection (a) shall not expire before January 1, 1988.

SEC. 78. ELIMINATION OF BASIS STRIPS UNDER SECTION 734(b).

(a) GENERAL RULE.—Subsection (b) of section 734 is amended by adding at the end thereof the following new sentence: "Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date.

SEC. 79. OVERRULING OF RAPHAN CASE.

Section 752 (relating to treatment of certain liabilities) is amended by adding at the end thereof of the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

Subtitle F—Trust Provisions

SEC. 81. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subchapters A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF PROPERTY DISTRIBUTED IN KIND.—

"(1) BASIS OF BENEFICIARY.—The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

"(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

"(B) any gain or loss recognized to the estate or trust on the distribution.

"(2) TREATMENT OF PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash)—

"(A) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

"(3) ELECTION TO HAVE PARAGRAPH (2) NOT APPLY.—In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

"(A) paragraph (2) shall not apply, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of—

"(i) the basis of such property in the hands of the beneficiary (as determined under paragraph (1)), or

"(ii) the fair market value of such property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date.

SEC. 82. TREATMENT OF MULTIPLE TRUSTS.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(e) TREATMENT OF MULTIPLE TRUSTS.—For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

"(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

"(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 1, 1984.

Subtitle G—Accounting Changes

SEC. 91. CERTAIN AMOUNTS NOT TREATED AS INCURRED BEFORE ECONOMIC PERFORMANCE.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN LIABILITIES NOT INCURRED BEFORE ECONOMIC PERFORMANCE.—

"(1) IN GENERAL.—For purposes of this title, in determining whether an amount has been incurred with respect to any item during any taxable year, all of the events which establish liability for such amount shall not be treated as having occurred any earlier than when economic performance with respect to such item occurs.

"(2) TIME WHEN ECONOMIC PERFORMANCE OCCURS.—Except as provided in regulations prescribed by the Secretary, the time when economic performance occurs shall be determined under the following principles:

"(A) PROPERTY AND SERVICES.—If the liability of the taxpayer requires a payment to another person for—

"(i) the providing of property or services to the taxpayer by another person, economic performance occurs when such person provides such property or services, or

"(ii) the use of property by the taxpayer, economic performance occurs as the taxpayer uses such property.

"(B) PROVIDING OF SERVICES OR PROPERTY BY THE TAXPAYER.—If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides such property or services.

"(C) WORKERS COMPENSATION, TORT, AND EMPLOYEE BENEFIT LIABILITIES OF THE TAXPAYER.—If the liability of the taxpayer requires a payment to another person and—

"(i) arises under any workers compensation act,

"(ii) arises out of any tort, or

"(iii) arises under any liability of the taxpayer to provide benefits to employees of the taxpayer (other than through a plan subject to the requirements of section 404 or 404A or through a fund to which section 419 applies),

economic performance occurs as the payments to such person are made. Subparagraphs (A) and (B) shall not apply to any liability described in the preceding sentence.

"(D) OTHER ITEMS.—In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Secretary.

"(3) SUBSECTION NOT TO APPLY TO ITEMS TO WHICH OTHER PROVISIONS OF THIS TITLE APPLY.—This subsection shall not apply to any item to which any of the following provisions apply:

"(A) Subsection (c) or (f) of section 166 (relating to reserves for bad debts).

"(B) Section 463 (relating to vacation pay).

"(C) Section 466 (relating to discount coupons).

"(D) Any other provisions of this title which specifically provides for a deduction for a reserve for estimated expenses.

"(i) TAX SHELTERS MAY NOT DEDUCT ITEMS EARLIER THAN WHEN ECONOMIC PERFORMANCE OCCURS.—

"(1) IN GENERAL.—In the case of a tax shelter computing taxable income under the cash receipts and disbursements method of accounting, such tax shelter shall not be allowed a deduction under this chapter with respect to any item before the time when such item would be treated as incurred under subsection (h).

"(2) TAX SHELTER DEFINED.—For purposes of this section, the term 'tax shelter' means—

"(A) any enterprise (other than a C corporation) if at any time interests in such enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having the authority to regulate the offering of securities for sale,

"(B) any syndicate (within the meaning of section 1256(e)(3)(B)), and

"(C) any tax shelter (within the meaning of section 6661(b)(2)(C)(ii)).

"(3) SPECIAL RULE FOR FARMING.—In the case of the trade or business of farming (as defined in section 464(e)), this section shall apply only to a farming syndicate (as defined in section 464(c)). The preceding sentence shall not apply to a tax shelter described in paragraph (2)(C).".

(b) 10-YEAR NET OPERATING LOSS CARRYBACK PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY DEDUCTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(K) SPECIAL RULE FOR DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—In the case of a taxpayer which has a deferred statutory or tort liability loss (as defined in subsection (k)) for any taxable year beginning after December 31, 1983, the deferred statutory or tort liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.".

(2) DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DEFINITIONS AND SPECIAL RULES RELATING TO DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For purposes of this section—

"(1) DEFERRED STATUTORY OR TORT LIABILITY LOSS.—The term 'deferred statutory or tort liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such taxable year, reduced by any portion thereof attributable to—

"(i) a foreign expropriation loss, or

"(ii) a product liability loss, or

"(B) the sum of the amounts allowable as a deduction under this chapter (other than any deduction described in subsection (j)(1)(B)) which—

"(i) is taken into account in computing the net operating loss for such taxable year, and

"(ii) is for an amount incurred with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer and—

"(I) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of such taxable year, or

"(II) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of such taxable year.

A liability shall not be taken into account under the preceding sentence unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

"(2) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a deferred statutory or tort liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(K), be carried back to each of the taxable years during the period—

"(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

"(B) ending with the taxable year preceding the loss year.

"(3) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), a deferred statutory or tort liability loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(4) NO CARRYBACK TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—No deferred statutory or tort liability loss may be

carried back to a taxable year beginning before January 1, 1984, unless such loss may be carried back to such year without regard to subsection (b)(1)(K).".

(3) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 172(b)(1)(A) is amended by striking out "and (J)" and inserting in lieu thereof "(J), and (K)".

(B) Subsections (h) and (j) of section 172 are each amended by striking out "subsection (b)" in the matter preceding paragraph (1) and inserting in lieu thereof "this section".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts with respect to which a deduction would be allowable under chapter 1 of the Internal Revenue Code of 1954 (determined without regard to such amendments) after—

(A) in the case of amounts to which section 461(h) of such Code (as added by such amendments) applies, the date of the enactment of this Act, and

(B) in the case of amounts to which section 461(i) of such Code (as so added) applies, after March 31, 1984.

(2) SECTION 461(h) TO APPLY IN CERTAIN CASES.—Notwithstanding paragraph (1), section 461(h) of the Internal Revenue Code of 1954 (as added by this section) shall be treated as being in effect to the extent necessary to carry out any amendments made by this section which take effect before section 461(h).

Subtitle H—Provisions Relating to Tax Straddles

SEC. 101. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR STOCK OPTIONS AND CERTAIN STOCK.

(a) REPEAL OF EXCEPTION FOR STOCK OPTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 1092(d)(2) (relating to special rule for stock options) is amended to read as follows:

"(B) EXCEPTION FOR QUALIFIED COVERED CALL OPTIONS.—The term 'position' shall not include any qualified covered call option."

(2) QUALIFIED COVERED CALL OPTION DEFINED.—Subsection (d) of section 1092 is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED COVERED CALL OPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified covered call option' means any option granted by the taxpayer to purchase stock held by the taxpayer (or stock acquired by the taxpayer in connection with the granting of the option) but only if—

"(i) such option is traded on a national securities exchange which is registered with the Securities and Exchange Commission or on a similar exchange which the Secretary determines has rules adequate to carry out the purposes of this paragraph,

"(ii) gain or loss with respect to such option is not ordinary income or loss,

"(iii) such option is granted more than 30 days before the day on which the option expires, and

"(iv) such option is not a deep-in-the-money option.

"(B) DEEP-IN-THE-MONEY OPTION.—The term 'deep-in-the-money option' means an option having a strike price lower than the lowest qualified bench mark.

"(C) LOWEST QUALIFIED BENCH MARK.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'lowest qualified bench mark' means the highest available strike price which is less than the applicable stock price.

"(ii) SPECIAL RULE WHERE OPTION IS FOR PERIOD MORE THAN 90 DAYS AND STRIKE PRICE EXCEEDS $50.—In the case of an option—

"(I) which is granted more than 90 days before the date on which such option expires, and

"(II) with respect to which the strike price is more than $50,

the lowest qualified bench mark is the second highest available strike price which is less than the applicable stock price.

"(iii) LOWEST QUALIFIED BENCH MARK MAY NOT BE LESS THAN 85 PERCENT OF STOCK PRICE.—If (but for this clause) the lowest qualified bench mark would be less than 85 percent of the applicable stock price, the lowest qualified bench mark shall be treated as equal to 85 percent of the applicable stock price.

"(D) STRIKE PRICE.—The term 'strike price' means the price at which the option is exercisable.

"(E) APPLICABLE STOCK PRICE.—The term 'applicable stock price' means, with respect to any stock for which an option has been granted—

"(i) the closing price of such stock on the most recent day on which such stock was traded before the date on which such option was granted, or

"(ii) the opening price of such stock on the day on which such option was granted, but only if such price is greater than 110 percent of the price determined under clause (i).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations may include modifications to the provisions of this paragraph which are appropriate to take account of changes in the practices of option exchanges or to prevent the use of options for tax avoidance purposes.".

(b) REPEAL OF EXCEPTION FOR STOCK.—

(1) IN GENERAL.—Paragraph (1) of section 1092(d) (defining personal property) is amended to read as follows:

"(1) PERSONAL PROPERTY.—The term 'personal property' means any personal property of a type which is actively traded. Such term also includes any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder."

(2) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—Subsection (d) of section 1092 is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7) respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—

"(A) IN GENERAL.—The term 'straddle' shall not include any offsetting positions which (but for this subparagraph) would be a straddle if—

"(i) each of such positions consists of—

"(I) the holding of stock, or

"(II) the short sale of stock, and

"(ii) such positions are not part of a larger straddle which includes a position not described in clause (i).

"(B) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—Subparagraph (A) shall not apply in the case of stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.".

(c) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—If—

"(1) the taxpayer holds any stock, and

"(2) at any time while the taxpayer holds such stock, there is outstanding an option granted by the taxpayer to purchase such stock and such option has a strike price less than the applicable stock price,

any amount which (but for this subsection) would be treated as long-term capital gain with respect to such stock (or any substituted basis property with respect to such stock) shall be treated as short-term capital gain to the extent of any short-term capital loss recognized on the option.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(2) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—In the case of any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder, the amendments made by this section shall apply to positions established on or after May 23, 1983, in taxable years ending on or after such date.

(3) SUBSECTION (c).—The amendment made by subsection (c) shall apply to positions established after March 1, 1984, in taxable years ending after such date.

SEC. 102. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.

(a) GENERAL RULE.—

(1) Section 1256 (relating to regulated futures contracts marked to market) is amended—

(A) by striking out "regulated futures contract" each place it appears and inserting in lieu thereof "section 1256 contract", and

(B) by striking out "regulated futures contracts" each place it appears and inserting in lieu thereof "section 1256 contracts".

(2) Subsection (b) of section 1256 is amended to read as follows:

"(b) SECTION 1256 CONTRACT DEFINED.—For purposes of this section, the term 'section 1256 contract' means—

"(1) any regulated futures contract,

"(2) any foreign currency contract,

"(3) any nonequity option, and

"(4) any dealer equity option.".

(3) Subsection (g) of section 1256 is amended to read as follows:

"(g) DEFINITIONS.—For purposes of this section—

"(1) REGULATED FUTURES CONTRACTS DEFINED.—The term 'regulated futures contract' means a contract—

"(A) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market, and

"(B) which is traded on or subject to the rules of a qualified board or exchange.

"(2) FOREIGN CURRENCY CONTRACT DEFINED.—

"(A) FOREIGN CURRENCY CONTRACT.—The term 'foreign currency contract' means a contract—

"(i) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts (or the settlement of which depends on the value of such a currency),

"(ii) which is traded in the interbank market, and

"(iii) which is entered into at arm's length at a price determined by reference to the price in the interbank market.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subparagraph (A), including regulations excluding from the application of subparagraph (A) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.

"(3) NONEQUITY OPTION.—The term 'nonequity option' means any listed option which is not an equity option.

"(4) DEALER EQUITY OPTION.—The term 'dealer equity option' means, with respect to an options dealer, any listed option which—

"(A) is an equity option,

"(B) is purchased or granted by such options dealer in the normal course of his trade or business, and

"(C) is listed on the national securities exchange on which such options dealer is registered.

"(5) LISTED OPTION.—The term 'listed option' means any option (other than a right to acquire stock from the issuer) which is traded on (or subject to the rules of) a qualified board or exchange.

"(6) EQUITY OPTION.—The term 'equity option' means any option to buy or sell stock. Such term also includes any other option with respect to an index or a group of stocks unless—

"(A) there is in effect a designation by the Commodity Futures Trading Commission of a contract market for a contract based on such index or group of stocks, or

"(B) the Secretary determines that such option meets the requirements of the Commodity Futures Trading Commission in effect for such a designation.

"(7) QUALIFIED BOARD OR EXCHANGE.—The term 'qualified board or exchange' means—

"(A) a national securities exchange which is registered with the Securities and Exchange Commission,

"(B) a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or

"(C) any other exchange or board of trade which the Secretary determines has rules adequate to carry out the purposes of this section.

"(8) OPTIONS DEALER.—The term 'options dealer' means any person registered with the Securities and Exchange Commission and an appropriate national securities exchange as a market maker or specialist in listed options.".

(b) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—Subsection (f) of section 1256 (relating to special rules) is amended by adding at the end thereof the following new paragraphs:

"(3) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—

"(A) IN GENERAL.—For purposes of this title, gain or loss from trading of section 1256 contracts (whether or not such trading is in the ordinary course of the taxpayer's trade or business of trading section 1256 contracts) shall be treated as gain or loss from the sale or exchange of a capital asset.

"(B) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—Subparagraph (A) shall not apply to any section 1256 contract to the extent such contract is held for purposes of hedging property if any gain or loss with respect to such property in the hands of the taxpayer would be ordinary income or loss.

"(C) TREATMENT OF UNDERLYING PROPERTY.—For purposes of determining whether gain or loss with respect to any property is ordinary income or loss, the fact that the taxpayer is in the trade or business of trading section 1256 contracts related to such property shall not be taken into account.

"(4) SUBSECTION (a)(3) NOT TO APPLY TO CERTAIN LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—Paragraph (3) of subsection (a) shall not apply to any gain or loss with respect to dealer equity options which are allocable to limited partners or limited entrepreneurs (within the meaning of subsection (e)(3)).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1256 (relating to terminations, etc.) is amended—

(A) by striking out "by taking or making delivery," in paragraph (1) and inserting in lieu thereof "by taking or making delivery, by exercise or being exercised, by assignment or being assigned, by lapse,",

(B) by striking out "takes delivery under" in paragraph (2) and inserting in lieu thereof "takes delivery under or exercises", and

(C) by striking out "TAKES DELIVERY ON" in the heading of paragraph (2) and inserting in lieu thereof "TAKES DELIVERY ON OR EXERCISES".

(2) Subsection (d) of section 1092 (as in effect before the amendments made by section 101) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) SPECIAL RULE FOR SECTION 1256 CONTRACTS.—In the case of a straddle at least 1 (but not all) of the positions of which are section 1256 contracts, the provisions of this section shall apply to any section 1256 contract and any other position making up such straddle.

"(5) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given such term by section 1256(b).".

(3) Subsection (c) of section 1212 (relating to carryback of losses from regulated futures contracts to offset prior gains from such contracts) is amended—

(A) by striking out "net commodity futures loss" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contracts loss",

(B) by striking out "regulated futures contracts" each place it appears (including in any headings) and inserting in lieu thereof "section 1256 contracts",

(C) by striking out "regulated futures contract" each place it appears in paragraph (7)(A) (including the heading) and inserting in lieu thereof "section 1256 contract", and

(D) by striking out "net commodity futures gain" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contract gain".

(4) Paragraph (1) of section 1234A (relating to gains or losses from certain terminations) is amended by striking out "a regulated futures contract" and inserting in lieu thereof "a section 1256 contract".

(5) The section heading for section 1256 is amended by striking out "regulated futures contracts" and inserting in lieu thereof "section 1256 contracts".

(6) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "Regulated futures contracts" in the item relating to section 1256 and inserting in lieu thereof "Section 1256 contracts".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (e), the amendments made by this section shall apply to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(2) SPECIAL RULE FOR OPTIONS ON REGULATED FUTURES CONTRACTS.—In the case of any option with respect to a regulated futures contract (within the meaning of section 1256 of the Internal Revenue Code of 1954), the amendments made by this section shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(e) ELECTIONS WITH RESPECT TO PROPERTY HELD ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.—At the election of the taxpayer—

(1) the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer on the date of the enactment of this Act, effective for periods after such date in taxable years ending after such date, or

(2) in lieu of an election under paragraph (1), the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer at any time during the taxable year of the taxpayer which includes the date of the enactment of this Act.

(f) ELECTION FOR INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO STOCK OPTIONS.—

(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

(A) the taxpayer may pay part or all the tax for the taxable year referred to in subsection (e)(2) in 2 or more (but not exceeding 5) equal installments, and

(B) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(i) the tax for such taxable year determined by taking into account subsection (e)(2), over

(ii) the tax for such taxable year determined by taking into account subsection (e)(2) and by treating all section 1256 contracts which are stock options and which were held by the taxpayer on the first day of such taxable year as having been acquired for a purchase price equal to their fair market value on the last business day of the preceding taxable year.

An election under this subsection may be made only if the taxpayer makes an election under subsection (e)(2).

(2) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under this subsection, the first installment under paragraph (1) shall be paid on or before the due date for filing the return for the taxable year described in paragraph (1), and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under this subsection shall be determined without regard to this subsection.

(4) FORM OF ELECTION.—An election under this subsection shall be made not later than the time for filing the return for the taxable year described in paragraph (1) and shall be made in the manner and form required by regulations prescribed by the Secretary of the Treasury or his delegate. The election shall set forth—

(A) the amount determined under paragraph (1)(B) and the number of installments elected by the taxpayer,

(B) each section 1256 contract which is a stock option held by the taxpayer on the first day of the taxable year described in paragraph (1), and the date such contract was acquired,

(C) the fair market value on the last business day of the preceding taxable year of every contract described in subparagraph (B), and

(D) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(g) DEFINITIONS.—For purposes of subsections (e) and (f)—

(1) SECTION 1256 CONTRACT.—The term "section 1256 contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as amended by this section).

(2) STOCK OPTION.—The term "stock option" means any option to buy or sell stock.

SEC. 103. REGULATIONS UNDER SECTION 1092(b).

(a) GENERAL RULE.—Subsection (b) of section 1092 (relating to character of gain or loss; wash sales) is amended to read as follows:

"(b) REGULATIONS.—The Secretary shall prescribe such regulations with respect to gain or loss on positions which are part of a straddle as may be necessary to carry out the purposes of this section. To the extent consistent with such purposes, such regulations shall include rules applying the principles of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233.".

(b) REQUIREMENT THAT REGULATIONS BE ISSUED WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.—The Secretary of the Treasury or his delegate shall prescribe regulations under section 1092(b) of the Internal Revenue Code of 1954 (including regulations relating to mixed straddles) not later than the date 6 months after the date of the enactment of this Act.

SEC. 104. LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.

(a) GENERAL RULE.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.—

"(A) IN GENERAL.—

"(i) LIMITATION.—Any hedging loss for a taxable year shall be allowed only to the extent of the taxable income of the taxpayer for such taxable year attributable to the trade or business in which the hedging transactions were entered into. For purposes of the preceding sentence, taxable income shall be determined by not taking into account items attributable to hedging transactions.

"(ii) CARRYOVER OF DISALLOWED LOSS.—Any hedging loss disallowed under clause (i) shall be treated as a deduction attributable to a hedging transaction allowable in the first succeeding taxable year.

"(B) EXCEPTION WHERE ECONOMIC LOSS.—Subparagraph (A)(i) shall not apply to any hedging loss to the extent that such loss exceeds the aggregate unrecognized gains from hedging transactions as of the close of the taxable year.

"(C) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—In the case of any hedging transaction relating to property other than stock or securities, this section shall only apply in the case of a taxpayer described in section 465(a)(1).

"(D) HEDGING LOSS.—The term 'hedging loss' means the excess of—

"(i) the deductions allowable under this chapter for the taxable year attributable to hedging transactions (determined without regard to subparagraph (A)(i)), over

"(ii) income received or accrued by the taxpayer during such taxable year from such transactions.

"(E) UNRECOGNIZED GAIN.—The term 'unrecognized gain' has the meaning given to such term by section 1092(a)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 105. CLARIFICATION THAT SECTION 1231 APPLIES TO CASH SETTLEMENT OPTIONS.

(a) GENERAL RULE.—Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF CASH SETTLEMENT OPTIONS.—

"(1) IN GENERAL.—For purposes of subsections (a) and (b), a cash settlement option shall be treated as an option to buy or sell property.

"(2) CASH SETTLEMENT OPTION.—For purposes of paragraph (1), the term 'cash settlement option' means any option which on exercise settles in (or could be settled in) cash or property other than the underlying property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options purchased or granted after October 31, 1983, in taxable years ending after such date.

Subtitle I—Employee Benefit Provisions

PART I—WELFARE BENEFIT PLANS

SEC. 111. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new subpart:

"Subpart D—Treatment of Welfare Benefit Funds

"Sec. 419. Treatment of funded welfare benefit plans.

"SEC. 419. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

"(a) GENERAL RULE.—Contributions paid or accrued by an employer to a welfare benefit fund—

"(1) shall not be deductible under section 162 or 212, but

"(2) if they satisfy the requirements of either of such sections, shall (subject to the limitation of subsection (b)) be deductible under this section for the taxable year in which paid.

"(b) LIMITATION.—The amount of the deduction allowable under subsection (a)(2) for any taxable year shall not exceed the welfare benefit fund's qualified cost for the taxable year.

"(c) QUALIFIED COST.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified cost' means, with respect to any taxable year, the sum of—

"(A) the qualified direct cost for such taxable year, and

"(B) subject to the limitation of paragraph (4)(B), any addition to a qualified asset account for the taxable year.

"(2) INCOME ADJUSTMENTS.—In the case of any welfare benefit fund, the qualified cost for any taxable year shall be reduced by such fund's after-tax income for such taxable year.

"(3) QUALIFIED DIRECT COST.—

"(A) IN GENERAL.—The term 'qualified direct cost' means, with respect to any taxable year, the aggregate amount which would have been allowable as a deduction to the employer with respect to the benefits provided during the taxable year, if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

"(B) TIME WHEN BENEFITS PROVIDED.—For purposes of subparagraph (A), a benefit shall be treated as provided when such benefit would be includible in the gross income of the employee if provided directly by the employer (or would be so includible but for any provision of this chapter excluding such benefit from gross income).

"(C) ADJUSTMENT TO QUALIFIED DIRECT COST FOR EXCESS CHANGEOVER RESERVE.—

"(i) IN GENERAL.—In the case of a welfare benefit fund with an excess changeover reserve, the qualified direct cost for any taxable year—

"(I) shall be applied against the amount of such reserve (to the extent thereof), and

"(II) to the extent so applied shall not be taken into account under paragraph (1)(A).

"(ii) EXCESS RESERVE REDUCED NOT MORE RAPIDLY THAN RATABLY OVER 5 TAXABLE YEARS.—Clause (i) shall not apply for any taxable year to the extent that the application of clause (i) to such taxable year and preceding taxable years result in the excess changeover reserve being reduced more rapidly than ratably over the first 5 taxable years ending after March 31, 1984.

"(iii) EXCESS CHANGEOVER RESERVE.—For purposes of this subparagraph, the term 'excess changeover reserve' means the excess of—

"(I) the amount of assets set aside for purposes described in paragraph (4)(A) as of March 31, 1984, over

"(II) the amount which would have been permitted to be set aside under paragraph (4)(B) as of such date.

"(4) QUALIFIED ASSET ACCOUNT.—

"(A) IN GENERAL.—The term 'qualified asset account' means any assets set aside to provide for the payment of welfare benefits, other than facilities used in the provision of such benefits.

"(B) LIMITATION.—The limitation provided by this subparagraph for any taxable year is the amount (if any) which would have to be added to the qualified asset account so that the amount in such account as of the close of the taxable year equals 75 percent of the average annual qualified direct costs (other than insurance premiums) for taxable years in the base period for benefits for which reserves are permitted.

"(C) VALUATION.—For purposes of subparagraph (B), the amount of the qualified asset account shall be the value of the assets in such account (as determined under regulations).

"(D) BASE PERIOD.—The term 'base period' means the period consisting of the taxable year and the preceding taxable year.

"(E) BENEFITS FOR WHICH RESERVES ARE PERMITTED.—The term 'benefits for which reserves are permitted' means any life insurance, accident, sickness, severance pay, supplemental unemployment, or group legal benefits.

"(F) HIGHER LIMITATION IN CERTAIN CASES.—In the case of benefits for which reserves are permitted, the Secretary shall by regulations provide that the amount of the qualified asset account may exceed the limitation of subparagraph (B)—

"(i) if the limitation of subparagraph (B) is less than the amount of claims incurred but unpaid and expected to be paid before the close of the next taxable year, or

"(ii) if the liability for which the account was established is under a collective bargaining agreement and a higher reserve is necessary.

"(5) AFTER-TAX INCOME.—

"(A) IN GENERAL.—The term 'after-tax income' means, with respect to any taxable year, the gross income of the welfare benefit fund reduced by the sum of—

"(i) the deductions allowed by this chapter which are directly connected with the production of such gross income, and

"(ii) the tax imposed by this chapter on the fund for the taxable year.

"(B) TREATMENT OF CERTAIN AMOUNTS.—In determining the gross income of any welfare benefit fund—

"(i) contributions and other amounts received from employees shall be taken into account, but

"(ii) contributions from the employer shall not be taken into account.

"(6) ITEM ONLY TAKEN INTO ACCOUNT ONCE.—No item may be taken into account more than once in determining the qualified cost of any welfare benefit fund.

"(d) CARRYOVER OF EXCESS CONTRIBUTIONS.—If—

"(1) the amount of the contributions paid (or deemed paid under this subsection) by the employer during any taxable year to a welfare benefit fund, exceeds

"(2) the limitation of subsection (b),

such excess shall be treated as an amount paid by the employer to such fund during the succeeding taxable year.

"(e) WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'welfare benefit fund' means any fund—

"(A) which is part of a plan of an employer, and

"(B) through which the employer provides welfare benefits to employees or their beneficiaries.

"(2) WELFARE BENEFIT.—The term 'welfare benefit' means any benefit other than a benefit with respect to which—

"(A) section 83(h) applies,

"(B) section 404 applies (determined without regard to section 404(b)(2)),

"(C) section 404A applies, or

"(D) an election under section 463 applies.

"(3) FUND.—The term 'fund' means—

"(A) any organization described in paragraph (7), (9), (17), or (20) of section 501(c), and

"(B) any trust, corporation, or other organization not exempt from the tax imposed by this chapter.

"(f) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If—

"(1) there is no plan, but

"(2) there is a method or arrangement of employer contributions or benefits which has the effect of a plan,

this section shall apply as if there were a plan.

"(g) EXTENSION TO PLANS FOR INDEPENDENT CONTRACTORS.—If any fund would be a welfare benefit fund (as modified by subsection (f)) but for the fact that there is no employee-employer relationship—

"(1) this section shall apply as if there were such a plan, and

"(2) any references in this section to the employer shall be treated as a reference to the person for whom services are provided, and any reference in this section to an employee shall be treated as a reference to the person providing the services.

"(h) AGGREGATION RULES.—For purposes of this section—

"(1) AGGREGATION OF FUNDS OF EMPLOYER.—All welfare benefit funds of an employer shall be treated as 1 fund.

"(2) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(m)(6)(B) shall be applied by substituting 'section 318' for 'section 267(c)'.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section. Such regulations may provide that the plan administrator of any welfare benefit fund which is part of a multiemployer plan shall submit such information to the employers contributing to the fund as may be necessary to enable the employers to comply with the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart D. Treatment of welfare benefit funds.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contributions paid or accrued after March 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements—

(A) between employee representatives and 1 or more employers, and

(B) in effect on March 1, 1984 (or ratified on or before such date),

the amendments made by this section and section 114 shall not apply to years beginning before the later of (i) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after March 1, 1984), or (ii) January 1, 1986.

(3) SPECIAL RULE FOR PARAGRAPH (2).—For purposes of paragraph (2), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section or section 114 shall not be treated as a termination of such collective bargaining agreement.

SEC. 112. TREATMENT OF UNFUNDED DEFERRED BENEFITS.

(a) GENERAL RULE.—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended to read as follows:

"(b) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN; UNFUNDED DEFERRED BENEFITS.—

"(1) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If—

"(A) there is no plan, but

"(B) there is a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation (including a plan described in paragraph (2)),

subsection (a) shall apply as if there were such a plan.

"(2) PLANS PROVIDING UNFUNDED DEFERRED BENEFITS.—

"(A) IN GENERAL.—For purposes of this section, any plan providing for deferred benefits (other than compensation) for employees, their spouses, or their dependents shall be treated as a plan deferring the receipt of compensation. In the case of such a plan, for purposes of this section, the determination of when an amount is includible in gross income shall be made without regard to any provisons of this chapter excluding such benefits from gross income.

"(B) EXCEPTION FOR FUNDED BENEFITS.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e)).".

(b) CROSS REFERENCE.—Subsection (j) of section 162 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For special rules relating to—

"(A) funded welfare benefit plans, see section 419, and

"(B) deferred compensation and other deferred benefits, see section 404.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after March 31, 1984, in taxable years ending after such date.

SEC. 113. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).

"(a) CERTAIN REQUIREMENTS MUST BE MET IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).—

"(1) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS, ETC.—An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of paragraphs (1) and (2) of subsection (b) of this section.

"(2) SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFIT TRUSTS.—A trust described in paragraph (17) of subsection (c) of section 501 shall not be exempt from tax under section 501(a) unless the plan of which such trust is a part meets the requirements of paragraph (1) of subsection (b) of this section.

"(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Paragraphs (1) and (2) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.

"(b) REQUIREMENTS.—

"(1) UTILIZATION.—A plan meets the requirements of this paragraph with respect to any class of benefits for any year only if the benefits of such class provided under the plan during such year to highly compensated individuals do not exceed 25 percent of the benefits of such class provided under such plan during such year.

"(2) NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a plan meets the requirements of this paragraph only if—

"(i) each class of benefits under the plan is provided under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

"(ii) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated employees.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of clause (ii) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

"(B) APPLICATION OF PARAGRAPH WHERE OTHER NONDISCRIMINATION RULES PROVIDED.—In the case of any benefit for which nondiscrimination rules are applicable under a provision of this chapter other than this subsection, the requirements of this paragraph are met only if such rules are satisfied with respect to such benefit.

"(C) AGGREGATION RULES.—Rules similar to the rules of section 419(h) shall apply for purposes of this subsection.

"(3) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the term 'highly compensated individual' has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting '10 percent' for '25 percent'.

"(c) REQUIREMENT THAT ORGANIZATION NOTIFY SECRETARY THAT IT IS APPLYING FOR TAX-EXEMPT STATUS.—

"(1) IN GENERAL.—An organization shall not be treated as an organization described in paragraph (9), (17), or (20) of section 501(c)—

"(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

"(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

"(2) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization in existence on March 31, 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 114. AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.

(a) EXTENSION OF SECTION 512(a)(3) TO SUPPLEMENTAL UNEMPLOYMENT BENEFIT AND GROUP LEGAL TRUSTS.—

(1) Paragraph (3) of section 512(a) (relating to special rules applicable to organizations described in section 501(c) (7) or (9)) is amended by striking out "section 501(c) (7) or (9)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "paragraph (7), (9), (17), or (20) of section 501(c)".

(2) Clause (ii) of section 512(a)(3)(B) is amended by striking out "section 501(c)(9)" and inserting in lieu thereof "paragraph (9), (17), or (20) of section 501(c)".

(b) LIMITATION ON DEDUCTION FOR SET-ASIDE.—Paragraph (3) of section 512(a) is amended by adding at the end thereof the following new subparagraph:

"(E) LIMITATION ON AMOUNT OF SET-ASIDE IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(C).—

"(i) IN GENERAL.—In the case of any organization described in paragraph (9), (17), or (20) of section 501(c), a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that such set-aside does not result in an amount of assets set aside for such purpose in excess of the limitation of section 419(c)(4)(B).

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) in the case of any organization which is a member of a group of organizations treated as 1 organization under section 419(h), the limitation of section 419(c)(4)(B) shall be such organization's proportionate share of such limitation determined for such group, and

"(II) assets used in the provision of benefits described in clause (ii) of subparagraph (B) shall not be taken into account.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 115. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION TREATED AS RELATED PERSONS UNDER SECTION 1239.

(a) GENERAL RULE.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYER AND RELATED EMPLOYEE ASSOCIATION.—For purposes of subsection (a), the term 'related persons' also includes—

"(1) an employer and any person related to the employer (within the meaning of subsection (b)), and

"(2) an organization described in paragraph (7), (9), (17), or (20) of section 501(c) and which is controlled directly or indirectly by persons referred to in paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges after December 31, 1984, in taxable years ending after such date.

PART II—OTHER PROVISIONS

SEC. 116. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS UNDER SECTION 415.

(a) GENERAL RULE.—Section 415 (relating to limitations on benefits and contributions under qualified plan) is amended by adding at the end thereof the following new subsection:

"(l) TREATMENT OF CERTAIN MEDICAL BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, contributions allocated to any individual medical account which is part of a defined benefit plan shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c).

"(2) INDIVIDUAL MEDICAL BENEFIT ACCOUNT.—For purposes of paragraph (1), the term 'individual medical benefit account' means any separate account—

"(A) which is established for a participant under a defined benefit plan, and

"(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents."

(b) REQUIREMENT THAT SEPARATE ACCOUNT BE MAINTAINED FOR 5-PERCENT OWNER.—Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) in the case of an employee who is a 5-percent owner, a separate account is established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a 5-percent owner) are only payable to such employee (and his spouse and dependents) from such separate account.

For purposes of paragraph (6), the term '5-percent owner' means any employee who, at any time during any of the 5 preceding plan years, is a 5-percent owner (as defined in section 416(i)(1)(B)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after March 31, 1984.

SEC. 117. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and payable during" and inserting in lieu thereof "and expected to be paid during".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 31, 1984.

SEC. 118. DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(46) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term 'employee representatives' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on April 1, 1984.

SEC. 119. DISQUALIFICATION OF PLAN WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (24) the following new paragraph:

"(25) A trust shall not constitute a qualified trust under this section if substantially all of the accrued benefits under the plan of which such trust is a part are derived from nondeductible employee contributions.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 404(a) (relating to certain employees' annuities) is amended by striking out "and (22)" and inserting in lieu thereof "(22), and (25)".

(2) Paragraph (3) of section 818(a) (defining pension plan contracts), as amended by title II of this Act, is amended by striking

out "and (22)" and inserting "(22), and (25)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after March 31, 1984.

SEC. 120. PARTICIPATION AND DISCRIMINATION STANDARDS APPLICABLE TO CASH OR DEFERRED ARRANGEMENTS.

(a) GENERAL RULE.—Subparagraph (A) of section 401(k)(3) is amended to read as follows:

"(A) A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement unless—

"(i) those employees eligible to benefit under the arrangement satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1), and

"(ii) the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

"(I) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(II) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

If 2 or more plans which include cash or deferred arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), the cash or deferred arrangements included in such plans shall be treated as 1 arrangement for purposes of this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1984.

Subtitle J—Foreign Provisions

SEC. 131. TREATMENT OF RELATED PERSON FACTORING INCOME.

(a) TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(1) IN GENERAL.—Subsection (a) of section 553 (defining foreign personal holding company income) is amended by adding at the end thereof the following new paragraph:

"(8) INCOME FROM TRADE OR SERVICE RECEIVABLES OF RELATED PERSONS.—

"(A) IN GENERAL.—Income from a trade or service receivable acquired (directly or indirectly) from a related person.

"(B) TRADE OR SERVICE RECEIVABLE.—For purposes of subparagraph (A), the term 'trade or service receivable' means any account receivable or evidence of indebtedness arising out of the disposition of property described in section 1221(1), or the performance of services, by a related person.

"(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given to such term by section 954(d)(3).".

(2) EXCEPTION FOR TRADE OR SERVICE RECEIVABLES OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (A) of section 954(c)(4) (relating to certain income received from related persons) is amended by inserting before the semicolon at the end thereof the following: "or income from a trade or service receivable (as defined in section 553(a)(8)(B)) acquired directly from such a related person".

(b) TREATMENT OF UNITED STATES PROPERTY.—Subsection (b) of section 956 (defining United States property) is amended by adding at the end thereof the following new paragraph:

"(3) TRADE OR SERVICE RECEIVABLES OF RELATED UNITED STATES PERSONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'United States property' includes any trade or service receivable acquired (directly or indirectly) from a related United States person.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) TRADE OR SERVICE RECEIVABLE.—The term 'trade or service receivable' has the meaning given to such term by section 553(a)(8)(B).

"(ii) RELATED UNITED STATES PERSON.—The term 'related United States person' means any related person (within the meaning of section 954(d)(3)) who is a United States person.".

(c) SOURCE RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) INCOME FROM TRADE OR SERVICE RECEIVABLES OF RELATED UNITED STATES PERSONS.—

"(1) IN GENERAL.—For purposes of subsection (a) and section 862(a)—

"(A) income from a trade or service receivable acquired (directly or indirectly) from a related United States person shall be treated as income from sources within the United States, and

"(B) any distribution from a foreign corporation (and any amount included in gross income under section 951) to the extent attributable to income described in subparagraph (A) shall be treated as income from sources within the United States.

"(2) DEFINITIONS.— For purposes of this subsection—

"(A) TRADE OR SERVICE RECEIVABLE.—The term 'trade or service receivable' has the meaning given to such term by section 553(a)(8)(B).

"(B) RELATED UNITED STATES PERSON.—The term 'related United States person' means any related person (within the meaning of section 954(d)(3)) who is a United States person."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to accounts receivable and evidences of indebtedness transferred after March 1, 1984, in taxable years ending after such date.

SEC. 132. TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (a) of section 367 (relating to transfers of property from the United States) is amended to read as follows:

"(a) TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

"(1) GENERAL RULE.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.

"(2) EXCEPTION FOR CERTAIN STOCK OR SECURITIES.—Except to the extent provided in regulations, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

"(3) EXCEPTION FOR TRANSFERS OF CERTAIN PROPERTY USED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by such foreign corporation in the active conduct of a trade or business outside of the United States.

"(B) PARAGRAPH NOT TO APPLY TO CERTAIN PROPERTY.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to any—

"(i) property described in paragraph (1) or (3) of section 1221 (relating to inventory and copyrights, etc.),

"(ii) installment obligation, accounts receivable, or similar property,

"(iii) foreign currency or other property denominated in foreign currency,

"(iv) intangible property (within the meaning of section 936(h)(3)(B)), or

"(v) property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

"(C) TRANSFER OF FOREIGN BRANCH WITH PREVIOUSLY DEDUCTED LOSSES.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that—

"(i) the sum of losses—

"(I) which were incurred by the foreign branch before the transfer, and

"(II) with respect to which a deduction was allowed to the taxpayer, exceeds

"(ii) the amount of such losses recaptured under section 904(f).

Any gain recognized by reason of the preceding sentence shall be treated for purposes of this chapter as ordinary income from sources outside the United States.

"(4) SPECIAL RULE FOR TRANSFER OF PARTNERSHIP INTERESTS.—Except as provided in regulations prescribed by the Secretary, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subsection, be treated as a transfer to such corporation of such person's pro rata share of the assets of the partnership.

"(5) SECRETARY MAY EXEMPT CERTAIN TRANSACTIONS FROM APPLICATION OF THIS SUBSECTION.—Paragraph (1) shall not apply to the transfer of any property which the Secretary, in order to carry out the purposes of this subsection, designates by regulation.".

(b) SPECIAL RULES FOR TRANSFERS OF INTANGIBLES.—Subsection (d) of section 367 (relating to special rule for transfer of intangibles by possession corporations) is amended to read as follows:

"(d) SPECIAL RULES RELATING TO TRANSFERS OF INTANGIBLES.—

"(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United States person transfers any intangible property (within the meaning of section 936(h)(3)(B)) to a foreign corporation in an exchange described in section 351 or 361—

"(A) subsection (a) shall not apply to the transfer of such property, and

"(B) the provisions of this subsection shall apply to such transfer.

"(2) TRANSFER OF INTANGIBLES TREATED AS TRANSFER UNDER A SALE FOR CONTINGENT PAYMENTS.—

"(A) IN GENERAL.—If paragraph (1) applies to any transfer, the United States person transferring such property shall be treated

as receiving over the useful life of such property amounts which reasonably reflect the amounts which would have been received annually under a sale for contingent payments.

"(B) EFFECT ON EARNINGS AND PROFITS.—For purposes of this chapter, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount of income required to be included in income under subparagraph (A).

"(C) AMOUNTS RECEIVED TREATED AS UNITED STATES SOURCE ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income from sources within the United States.".

(c) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—Section 367 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—In the case of any distribution described in section 336 by a domestic corporation which is made to a person who is not a United States person, to the extent provided in regulations, gain shall be recognized under principles similar to the principles of this section.".

(d) SECRETARY MUST BE NOTIFIED OF TRANSACTIONS DESCRIBED IN SECTION 367(a).—

(1) NOTIFICATION REQUIREMENT.—Subpart A of part III of subchapter A of chapter 61 is amended by adding after section 6038A the following new section:

"SEC. 6038B. NOTICE OF TRANSFERS DESCRIBED IN SECTION 367(a).

"(a) IN GENERAL.—Each United States person who transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361 shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange as the Secretary may require in such regulations.

"(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 25 percent of the amount of the gain realized on the exchange.

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect.".

(2) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION WHERE SECRETARY NOT NOTIFIED.—Subsection (c) of section 6501 (relating to exceptions to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) FAILURE TO NOTIFY SECRETARY UNDER SECTION 6038B.—In the case of any tax imposed on any exchange by reason of section 367(a), the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange under section 6038B(a).".

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding after the item relating to section 6038A the following new item:

"Sec. 6038B. Notice of transfers described in section 367(a).".

(e) REPEAL OF DECLARATORY JUDGMENT PROVISIONS INVOLVING TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

(1) IN GENERAL.—Section 7477 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out subparagraph (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(B) The table of sections for part IV of subchapter C of chapter 76 is amended by striking out the item relating to section 7477.

(f) TRANSFERS TO AVOID INCOME TAX.—

(1) IN GENERAL.—Section 1492 (relating to nontaxable transfers) is amended—

(A) by striking out paragraphs (2) and (3) and by inserting in lieu thereof—

"(2) To a transfer—

"(A) described in section 367, or

"(B) not described in section 367 but with respect to which the taxpayer establishes to the satisfaction of the Secretary that no gain should be recognized under principles similar to the principles of section 367, or", and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Section 1494(b) (relating to abatement or refund) is amended by striking out all that follows "that" and inserting in lieu thereof "no gain should be recognized on such transfer under principles similar to the principles of section 367.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or exchanges after December 31, 1984, in taxable years ending after such date.

SEC. 133. SECTION 1248 TO APPLY TO CERTAIN INDIRECT TRANSFERS OF STOCK IN A FOREIGN CORPORATION.

(a) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in foreign corporations) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN INDIRECT TRANSFERS.—

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, for purposes of this section, the stock of the foreign corporation received in such exchange shall be treated as if it had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption of his stock.

"(2) 10-PERCENT CORPORATE SHAREHOLDER DEFINED.—For purposes of this subsection, the term '10-percent corporate shareholder' means any domestic corporation which, as of the day before the exchange referred to in paragraph (1), satisfies the stock ownership requirements of subsection (a)(2) with respect to the foreign corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to exchanges after the date of the enactment of this Act in taxable years ending after such date.

SEC. 134. TREATMENT OF UNITED STATES SOURCE ORIGINAL ISSUE DISCOUNT IN CASE OF FOREIGN PERSONS.

(a) NONRESIDENT ALIEN INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this clause only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by subparagraph (A) thereon), and".

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—For purposes of this section and section 881—

"(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original issue discount obligation' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

"(B) EXCEPTIONS.—The term 'original issue discount obligation' shall not include—

"(i) CERTAIN SHORT-TERM OBLIGATIONS.—Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

"(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

"(2) DETERMINATION OF PORTION OF ORIGINAL ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—The determination of the amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law).

"(3) SOURCE OF ORIGINAL ISSUE DISCOUNT.—Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment (or sale or exchange) as if such payment (or sale or exchange) involved the payment of interest.

"(4) STRIPPED BONDS.—The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section.".

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and".

(2) CROSS REFERENCE.—Subsection (c) of section 881 (relating to doubling of tax) is amended to read as follows:

"(c) CROSS REFERENCES.—

"For doubling of tax on corporations of certain foreign countries, see section 891.

"For special rules for original issue discount, see section 871(g).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the payments made on or after the 60th day after the date of the enactment of this Act with respect to obligations issued after March 31, 1972.

SEC. 135. CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.

(a) GENERAL RULE.—Section 7652 (relating to shipments to the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of subsections (a)(3) and (b)(3)—

"(1) DISTILLED SPIRITS BROUGHT INTO THE UNITED STATES.—Any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 90 percent of the distilled spirits in such article are attributable to distilled spirits originally distilled in Puerto Rico or the Virgin Islands (as the case may be).

"(2) VALUE ADDED REQUIREMENT FOR PUERTO RICO.—Any article (including distilled spirits) shall in no event be treated as produced in Puerto Rico unless—

"(A) the sum of (i) the cost or value of the materials produced in Puerto Rico, plus (ii) the direct costs of processing operations performed in Puerto Rico, equals or exceeds

"(B) 50 percent of the value of such article as of the time it is brought into the United States.

"(3) PROHIBITION OF FEDERAL EXCISE TAX SUBSIDIES.—

"(A) IN GENERAL.—No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

"(B) FEDERAL EXCISE TAX SUBSIDY.—For purposes of this paragraph, the term 'Federal excise tax subsidy' means any subsidy—

"(i) of a kind different from, or

"(ii) in an amount per value or volume of production greater than,

the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

"(4) DIRECT COSTS OF PROCESSING OPERATIONS.—For purposes of this subsection, the term 'direct costs of processing operations' has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—This subsection shall not apply—

"(i) to rum (as defined in subsection (d)(3)), and

"(ii) to any article consumed in Puerto Rico or the Virgin Islands (as the case may be).

"(B) CANE NEUTRAL SPIRITS.—Paragraphs (2) and (3) shall not apply to any distilled spirits with a proof of 190 or more which are derived from cane. The preceding sentence shall not apply if the Secretary determines that an arrangement having an effect similar to the redistillation incentive applies to distilled spirits described in the preceding sentence.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after March 1, 1984.

(2) EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JULY 1, 1985.—

(A) IN GENERAL.—Subject to the limitations of subparagraphs (B) and (C), the amendment made by subsection (a) shall not apply with respect to articles brought into the United States from Puerto Rico after February 29, 1984, and before July 1, 1985.

(B) $130,000,000 LIMITATION FOR FISCAL YEAR 1984.—In the case of articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) $130,000,000, over,

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to articles (other than rum or cane neutral spirits) which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c)(1) of such Code.

(C) $75,000,000 LIMITATION FOR FISCAL YEAR 1985.—In the case of articles brought into the United States after June 30, 1984, and before July 1, 1985, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed $75,000,000.

SEC. 136. TREATMENT OF CERTAIN TRANSPORTATION INCOME.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

"(c) SOURCE RULE FOR CERTAIN TRANSPORTATION INCOME.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, all transportation income attributable to transportation which begins and ends in the United States (or in any possession of the United States) shall be treated as derived from sources within the United States.

"(2) TRANSPORTATION INCOME.—For purposes of this subsection, the term 'transportation income' means any income derived from, or in connection with—

"(A) the use (or hiring or leasing for use) of a vessel or aircraft, or

"(B) the performance of services directly related to the use of a vessel or aircraft.

For purposes of the preceding sentence, the term 'vessel or aircraft' includes any container used in connection with a vessel or aircraft.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 137. TREATMENT OF PAYMENTS TO GUAM AND VIRGIN ISLANDS CORPORATIONS.

(a) GENERAL RULE.—Subsection (b) of section 881 (relating to exception for Guam corporations) is amended to read as follows:

"(b) EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this section, a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is owned (directly or indirectly) by foreign persons, and

"(B) at least 20 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to have been derived from sources within Guam or the Virgin Islands (as the case may be) for the 3-year period ending with the close of the preceding taxable year of such corporation (or for such part of such period as the corporation has been in existence).

"(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam pursuant—

"(A) paragraph (1) shall not apply, and

"(B) for purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or under the law of Guam.

"(3) DEFINITIONS.—

"(A) FOREIGN PERSON.—For purposes of paragraph (1), the term 'foreign person' means any person other than—

"(i) a United States person, or

"(ii) a person who would be a United States person if references to the United States in section 7701 included references to a possession of the United States.

"(B) INDIRECT OWNERSHIP RULES.—For purposes of paragraph (1), the rules of section 318(a)(2) shall apply except that '5 percent' shall be substituted for '50 percent' in subparagraph (C) thereof.

"(4) CROSS REFERENCE.—

"For tax imposed in the Virgin Islands, see sections 934 and 934A.".

(b) WITHHOLDING OF TAX.—Subsection (c) of section 1442 (relating to exception for Guam corporations) is amended to read as follows:

"(c) EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands if the requirements of subparagraphs (A) and (B) of section 881(b)(1) are met with respect to such corporation.

"(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam—

"(A) paragraph (1) shall not apply, and

"(B) for purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or under the law of Guam.

"(3) CROSS REFERENCE.—

"For tax imposed in the Virgin Islands, see sections 934 and 934A.".

(c) TECHNICAL AMENDMENT.—Subparagraph (B) of section 7651(5) is amended by inserting "(other than section 881(b)(1))" after "For purposes of this title".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after March 1, 1984, in taxable years ending after such date.

SEC. 138. APPLICATION OF COLLAPSIBLE CORPORATION RULES TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subsection (f) of section 341 (relating to collapsible corporations) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR FOREIGN CORPORATIONS.—To the extent provided in regulations prescribed by the Secretary—

"(A) paragraph (1) shall not apply to a foreign corporation, and

"(B) paragraph (3) shall not apply if the transferee is a foreign corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 139. DEFINITION OF FOREIGN INVESTMENT COMPANY.

(a) GENERAL RULE.—Paragraph (2) of section 1246(b) (defining foreign investment company) is amended to read as follows:

"(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in—

"(A) securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) commodities, or

"(C) any interest (including a futures or forward contract or option) in property described in subparagraph (A) or (B),

at a time when 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or the total value of all classes of stock, was held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to sales and exchanges (and distributions) on or after September 29, 1983, in taxable years ending on or after such date.

(2) STOCK HELD ON SEPTEMBER 29, 1983.—In the case of a sale or exchange (or distribution) not later than the date which is 1 year after the date of the enactment of this Act, the amendment made by subsection (a) shall not apply with respect to stock held by the taxpayer continuously from September 29, 1983, to the date of such sale or exchange (or distribution).

SEC. 140. TREATMENT OF CERTAIN DISTRIBUTIONS RECEIVED BY UNITED STATES-OWNED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 535 (defining accumulated taxable income) is amended by adding at the end thereof the following new subsection:

"(d) INCOME DISTRIBUTED TO UNITED STATES-OWNED FOREIGN CORPORATION RETAINS UNITED STATES CONNECTION.—

"(1) IN GENERAL.—For purposes of this part, if more than 10 percent of the earnings and profits of any foreign corporation for any taxable year—

"(A) is derived from sources within the United States, or

"(B) is effectively connected with the conduct of a trade or business within the United States,

any distribution out of such earnings and profits (and any interest payment) received (directly or through 1 or more other entities) by a United States-owned foreign corporation shall be treated as derived by such corporation from sources within the United States.

"(2) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' means any foreign corporation if 50 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to distributions and interest payments received by a United States-owned foreign corporation (within the meaning of section 535(d) of the Internal Revenue Code of 1954) on or after May 23, 1983, in taxable years ending on or after such date.

(2) CORPORATIONS IN EXISTENCE ON MAY 23, 1983.—In the case of a United States-owned foreign corporation (as so defined) in existence on May 23, 1983, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 141. INTEREST AND DIVIDENDS PAID BY CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES.

(a) IN GENERAL.—Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) INTEREST AND DIVIDENDS FROM CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES.—

"(1) IN GENERAL.—For purposes of this section, if 10 percent or more of the gross income of any United States-owned foreign corporation for the 3 taxable years preceding the taxable year in which any distribution or interest payment is made by such corporation (or for such part of such period as the corporation is in existence)—

"(A) is derived from sources within the United States, or

"(B) is effectively connected with the conduct of a trade or business within the United States,

then such distribution (or interest payment) to the extent attributable to gross income described in subparagraph (A) or (B) shall be treated as derived from sources within the United States.

"(2) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' has the meaning given such term by paragraph (2) of section 535(d).

"(3) DISTRIBUTION.—For purposes of this subsection, the term 'distribution' includes any amount required to be included in income under section 951.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any distribution or interest payment made by a United States-owned foreign corporation after the date of the enactment of this Act to the extent attributable to income received or accrued by such corporation after such date.

(2) INTEREST ON OBLIGATIONS HELD ON MARCH 1, 1984, NOT TAKEN INTO ACCOUNT.—The amendment made by subsection (a) shall not apply to interest on any term obligation held by a United States-owned foreign corporation if such corporation held such obligation on March 1, 1984.

SEC. 142. CERTAIN DIVIDENDS TREATED AS INTEREST FOR PURPOSES OF THE LIMITATION ON THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsection (d) of section 904 (relating to limitation on foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN DISTRIBUTIONS OF UNITED STATES-OWNED CORPORATIONS TREATED AS INTEREST.—

"(A) IN GENERAL.—If 10 percent or more of the earnings and profits of a corporation to which this paragraph applies for the 3 taxable years preceding the taxable year during which a distribution is made by such corporation (or for such part of such period as the corporation is in existence) is attributable to interest described in paragraph (2), such distribution (to the extent attributable to such interest), whether made directly or through 1 or more entities, shall be treated as interest described in such paragraph.

"(B) CORPORATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any United States-owned foreign corporation (within the meaning of section 535(d)(2)), and

"(ii) any United States-owned regulated investment company,

For purposes of this paragraph, the determination of whether a regulated investment company is United States-owned shall be determined under the principles of section 535(d)(2).

"(C) DISTRIBUTION.—For purposes of this paragraph, the term 'distribution' includes any amount required to be included in income under section 951.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions made after the date of the enactment of this Act.

(2) INTEREST ON OBLIGATIONS HELD ON MARCH 1, 1984, NOT TAKEN INTO ACCOUNT.—The amendment made by subsection (a) shall not apply to interest on any term obligation held by a United States-owned corporation if such corporation held such obligation on March 1, 1984.

Subtitle K—Reporting, Penalty, and Other Provisions

SEC. 151. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6111 as section 6112 and by inserting after section 6110 the following new section:

"SEC. 6111. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

"(a) IN GENERAL.—Any person who—

"(1) organizes any potentially abusive tax shelter, or

"(2) sells any interest in such a shelter,

shall maintain (in such manner as the Secretary may by regulations prescribe) a list identifying each person who was sold an interest in such shelter and containing such other information as the Secretary may by regulations require.

"(b) POTENTIALLY ABUSIVE TAX SHELTER.—For purposes of this section, the term 'potentially abusive tax shelter' means any entity, investment plan or arrangement, or other plan or arrangement which is of a type which the Secretary determines by regulations as having a potential for tax avoidance or evasion.

"(c) SPECIAL RULES.—

"(1) AVAILABILITY FOR INSPECTION; RETENTION OF INFORMATION ON LIST.—Any person who is required to maintain a list under subsection (a)—

"(A) shall make such list available to the Secretary for inspection upon request by the Secretary, and

"(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

"(2) LISTS WHICH WOULD BE REQUIRED TO BE MAINTAINED BY 2 OR MORE PERSONS.—The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion).".

(b) PENALTY FOR FAILURE TO MAINTAIN LIST.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6707. FAILURE TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6111 shall pay a penalty of $50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6111 and inserting in lieu thereof the following new items:

"Sec. 6111. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.

"Sec. 6112. Cross reference.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6707. Failure to maintain lists of investors in potentially abusive tax shelters.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 152. RETURNS RELATING TO MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050H. RETURNS RELATING TO RECEIPT OF MORTGAGE INTEREST IN TRADE OR BUSINESS.

"(a) MORTGAGE INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any other person interest—

"(A) on 1 or more obligations which are secured by the same real property, and

"(B) aggregating $600 or more for any calendar year,

shall make the return described in subsection (b) with respect to each person from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name and address of the person from whom the interest was received,

"(B) the amount of interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of interest received by the person making such return from the person to whom the statement is furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (iii),

(B) by inserting "or" at the end of clause (iv), and

(C) by inserting after clause (iv) the following new clause:

"(v) section 6050H(a) (relating to mortgage interest received in trade or business),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by inserting "or section 6050H" after "section 6041A(b)".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6052(b)" and inserting in lieu thereof "6052(b), or 6050H(d)", and

(B) by striking out "or 6052(a)" and inserting in lieu thereof "6052(a), or 6050H(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050H. Returns relating to mortgage interest received in trade or business.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1984.

(2) SPECIAL RULE FOR OBLIGATIONS IN EXISTENCE ON DECEMBER 31, 1984.—In the case of any obligation in existence on December 31, 1984, no penalty shall be imposed under section 6652 of the Internal Revenue Code of 1954 by reason of the amendments made by this section on any failure to supply a taxpayer identification number with respect to amounts received before January 1, 1986.

SEC. 153. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050I. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

"(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness, or

"(2) has reason to know that the property in which such person has a security interest has been abandoned,

shall make a return described in subsection (c) with respect to each of such acquisitions or abandonments, at such time as the Secretary may by regulations prescribe.

"(b) EXCEPTIONS.—

"(1) INDEBTEDNESS LESS THAN $15,000.—Subsection (a) shall not apply if the indebtedness is less than $15,000. For purposes of the preceding sentence, all indebtedness arising out of any transaction (or series of related transactions) shall be aggregated.

"(2) CONSUMER LOANS.—Subsection (a) shall not apply to any loan to an individual secured by an interest in tangible personal property which is not held for investment and which is not used in a trade or business.

"(c) FORM AND MANNER OF RETURN.—The return required under subsection (a) with respect to any acquisition or abandonment of property—

"(1) shall be in such form as the Secretary may prescribe,

"(2) shall contain—

"(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured,

"(B) a general description of the nature of such property and such indebtedness,

"(C) in the case of a return required under subsection (a)(1)—

"(i) the amount of such indebtedness at the time of such acquisition, and

"(ii) the amount of indebtedness satisfied in such acquisition,

"(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment, and

"(E) such other information as the Secretary may prescribe.

"(d) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name and address of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) TREATMENT OF OTHER DISPOSITIONS.—To the extent provided by regulations prescribed by the Secretary, any transfer of the property which secures the indebtedness to a person other than the lender shall be treated as an abandonment of such property.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (iv),

(B) by adding "or" at the end of clause (v), and

(C) by inserting after clause (v) the following new clause:

"(vi) section 6050I (relating to foreclosures and abandonments of security),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out "or section 6050H" and inserting in lieu thereof ", section 6050H, or section 6050I".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050H(d)" and inserting in lieu thereof "6050H(d), or 6050I(e)", and

(B) by striking out "or 6050H(a)" and inserting in lieu thereof "6050H(a), or 6050I(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050I. Returns relating to foreclosures and abandonments of security.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acquisitions of property and abandonments of property after December 31, 1984.

SEC. 154. INCREASE IN PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Subsection (a) of section 6700 (relating to promotion of abusive tax shelters) is amended by striking out "10 percent" and inserting in lieu thereof "20 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 155. REPORTING OF STATE AND LOCAL REFUNDS NOT REQUIRED WITH RESPECT TO NON-ITEMIZERS.

(a) IN GENERAL.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended by adding at the end thereof the following: "No return shall be required under the preceding sentence with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 156. AUTHORIZATION TO DISREGARD APPRAISALS OF PERSONS PENALIZED FOR AIDING IN UNDERSTATEMENTS OF TAX LIABILITY.

(a) IN GENERAL.—Section 330 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may—

"(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

"(2) bar such appraiser from presenting evidence or testimony in any such proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 157. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) CLARIFICATION THAT REGULATIONS MAY REQUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRIBUTIONS RELATE.—Subsection (i) of section 408 (relating to individual retirement accounts) is amended by inserting "(and the years to which they relate)" after "contributions".

(b) INCREASE IN PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts and annuities) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after April 15, 1984, for taxable years beginning after December 31, 1983.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to failures occurring after the date of the enactment of this Act.

SEC. 158. RETURNS RELATING TO EXCHANGES OF PARTNERSHIP INTERESTS WHERE UNREALIZED RECEIVABLES, ETC., INVOLVED.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section:

"SEC. 6050J. RETURNS RELATING TO EXCHANGES OF CERTAIN PARTNERSHIP INTERESTS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if there is an exchange described in section 751(a) of any interest in a partnership during any calendar year, such partnership shall make a return for such calendar year stating—

"(1) the name and address of the transferee and transferor in such exchange, and

"(2) such other information as the Secretary may by regulations prescribe.

Such return shall be made at such time and in such manner as the Secretary may require by regulations.

"(b) STATEMENT TO BE FURNISHED TO TRANSFEROR AND TRANSFEREE.—Every partnership making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the partnership making the return, and

"(2) the information shown on the return with respect to such person.

The statement required under the preceding sentence shall be furnished to the person on or before January 31 following the calendar year for which the return under subsection (a) was made.

"(c) REQUIREMENT THAT TRANSFEROR NOTIFY PARTNERSHIP.—

"(1) IN GENERAL.—In the case of any exchange described in subsection (a), the transferor of the partnership interest shall promptly notify the partnership of such exchange.

"(2) PARTNERSHIP NOT REQUIRED TO MAKE RETURN UNTIL NOTICE.—A partnership shall not be required to make a return under this subsection with respect to any exchange until the partnership is notified of such exchange.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended by striking out "or" at the end of clause (v), by adding "or" at the end of clause (vi), and by inserting after clause (vi) the following new clause:

"(vii) section 6050J (relating to exchanges of certain partnership interests),".

(2) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050I(e)" and inserting in lieu thereof "6050I(e), or 6050J(b)", and

(B) by striking out "or 6050I(a)" and inserting in lieu thereof "6050I(a), or 6050J(a)".

(3) Section 6678 (relating to failure to furnish certain statements) is amened by adding at the end thereof the following new subsection:

"(c) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050J(c)(1) on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, such person shall pay a penalty of $50 for each such failure."

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050J. Returns relating to exchanges of certain partnership interests.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to exchanges after December 31, 1984.

SEC. 159. STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE DIVIDEND PAYMENTS.

(a) GENERAL RULE.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(d) STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE DIVIDEND PAYMENTS.—If any broker in stocks or securities—

"(1) lends stock of a corporate customer for use in a short sale, and

"(2) receives (on behalf of the customer) a payment in lieu of a dividend on such stock during the period such short sale is open,

such broker shall furnish such customer a written statement (at the time and in the manner prescribed by regulations) identifying such payment as being in lieu of a dividend payment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments received after December 31, 1984.

Subtitle L—Miscellaneous Provisions

SEC. 161. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.

(a) IN GENERAL.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended to read as follows:

"SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.

"(a) DEDUCTIONS.—Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce income subject to tax.

"(b) CREDITS.—

"(1) IN GENERAL.—If—

"(A) a credit was allowable with respect to any amount for any prior taxable year, and

"(B) such amount is recovered during the taxable year,

the tax imposed by this chapter for the taxable year shall be increased by the amount of the credit attributable to the recovered amount.

"(2) EXCEPTION WHERE CREDIT DID NOT REDUCE TAX.—Paragraph (1) shall not apply to the extent that the credit allowable for the recovered amount did not reduce the amount of tax imposed by this chapter.

"(3) EXCEPTION FOR INVESTMENT TAX CREDIT AND FOREIGN TAX CREDIT.—This subsection shall not apply with respect to the investment tax credit and the foreign tax credit.

"(c) TREATMENT OF CARRYOVERS.—For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery takes place shall be treated as reducing income subject to tax or reducing tax imposed by this chapter, as the case may be.

"(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

"(1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

"(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out the item relating to section 111 and inserting in lieu thereof:

"Sec. 111. Recovery of tax benefit items.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.

SEC. 162. LOANS WITH BELOW-MARKET INTEREST RATES.

(a) GENERAL RULE.—Subchapter C of chapter 80 (relating to provisions affecting more than 1 subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES.

"(a) TREATMENT OF FAMILY LOANS AND DEMAND LOANS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any below-market loan which is a family loan or a demand loan, the foregone interest shall be treated as—

"(A) transferred from the lender to the borrower, and

"(B) retransferred by the borrower to the lender as interest.

"(2) TIME WHEN TRANSFERS MADE.—Except as otherwise provided in regulations prescribed by the Secretary, any foregone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

"(b) TREATMENT OF OTHER BELOW-MARKET LOANS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any below-market loan to which subsection (a)(1) does not apply, the excess of—

"(A) the amount loaned, over

"(B) the present value of all payments due under such loan,

shall be treated as property transferred by the lender to the borrower on the date the loan was made.

"(2) TREATMENT OF EXCESS.—For purposes of this title, any excess described in paragraph (1) shall be—

"(A) deductible to the borrower as interest, and

"(B) included in the gross income of the lender as interest,

under principles similar to the principles of section 1272(a).

"(c) BELOW-MARKET LOAN.—For purposes of this section, the term 'below-market loan' means any loan if—

"(1) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

"(2) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

"(d) FOREGONE INTEREST.—For purposes of this section, the term 'foregone interest' means, with respect to any period during which the loan is outstanding, the excess of—

"(1) the amount of interest which would have accrued on the loan during the period if interest accrued on the loan at the applicable Federal rate, over

"(2) any interest payable on the loan properly allocable to such period.

"(e) SPECIAL RULES FOR FAMILY LOANS.—In the case of a family loan—

"(1) the amount treated as retransferred by the borrower to the lender shall not exceed any income realized by the borrower which is attributable to the loan; and

"(2) if the loan is a term loan, subsection (b) shall apply for purposes of chapter 12.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PRESENT VALUE.—The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the loan, and

"(B) by using a discount rate equal to the applicable Federal rate.

"(2) APPLICABLE FEDERAL RATE.—In the case of any loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

"(3) FAMILY LOAN.—The term 'family loan' means any below-market loan where the foregone interest is a gift (within the meaning of section 2501).

"(4) AMOUNT LOANED.—The term 'amount loaned' means the amount received by the borrower.

"(g) EXCEPTIONS.—

"(1) WHERE TAX AVOIDANCE NOT A PRINCIPAL PURPOSE.—Under regulations prescribed by the Secretary, this section shall not apply if it is established to the satisfaction of the Secretary that the loan did not have as 1 of its principal purposes the avoidance of any Federal tax.

"(2) LOANS TO WHICH SECTION 483 OR 1274 APPLIES.—This section shall not apply to any loan to which section 483 or 1274 applies.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end thereof the following new item:

"Sec. 7872. Treatment of loans with below-market interest rates.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) term loans made after March 1, 1984, and

(B) demand loans outstanding after March 1, 1984.

(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON MARCH 1, 1984, AND REPAID WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

(A) was outstanding on March 1, 1984, and

(B) was repaid before the date 60 days after the date of the enactment of this Act.

(3) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after March 1, 1984, shall be treated as a loan made after such date.

SEC. 163. LIFO CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.

(a) GENERAL RULE.—Section 472 (relating to last-in, first-out inventories) is amended

by adding at the end thereof the following new subsection:

"(g) CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.—

"(1) IN GENERAL.—Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

"(2) GROUP OF FINANCIALLY RELATED CORPORATIONS.—For purposes of paragraph (1), the term 'group of financially related corporations' means—

"(A) any affiliated group as defined in section 1504 determined by substituting '50 percent' for '80 percent' each place it appears in section 1504(a) and without regard to section 1504(b), and

"(B) any other group of corporations which consolidate for purposes of financial statements.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 164. TREATMENT OF COLLAPSIBLE CORPORATIONS.

(a) AMOUNT OF GAIN REQUIRED TO BE RECOGNIZED.—Subparagraph (A) of section 341(b)(1) (defining collapsible corporation) is amended by striking out "a substantial part" and inserting in lieu thereof "⅔".

(b) AGGREGATION FOR PURPOSES OF SECTION 341(d)(2).—Subsection (d) of section 341 (relating to limitations on application of section) is amended by adding at the end thereof the following sentence: "In determining whether property is described in subsection (b)(1) for purposes of applying paragraph (2), all property described in section 1221(1) shall, to the extent provided in regulations prescribed by the Secretary, be treated as one item of property.".

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 341(d) is amended by striking out "so manufactured, constructed, produced, or purchased" and inserting in lieu thereof "described in subsection (b)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales, exchanges, and distributions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 165. ELIGIBILITY FOR INCOME AVERAGING.

(a) BASE PERIOD SHORTENED TO 3 YEARS.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related definitions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof "⅓".

(4) Paragraph (3) of section 1302(c) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 166. LIMITATION ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT ALLOWABLE FOR LUXURY AUTOMOBILES.

(a) GENERAL RULE.—Subsection (d) of section 168 (relating to unadjusted basis; adjustments) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION IN CASE OF LUXURY AUTOMOBILES.—

"(A) IN GENERAL.—In the case of a passenger automobile, the aggregate basis of such automobile taken into account by all persons holding interests in the automobile—

"(i) for purposes of determining the amount of the deduction allowable under this section (and any other deduction allowable for depreciation or amortization),

"(ii) for purposes of determining the amount of the credit allowable under section 38, and

"(iii) for purposes of section 179,

shall not exceed $21,000 increased by the automobile price inflation adjustment (if any) for the calendar year in which the automobile is placed in service.

"(B) PASSENGER AUTOMOBILE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'passenger automobile' means any 4-wheeled vehicle—

"(I) which is manufactured primarily for use on public streets, roads, and highways, and

"(II) which is rated at 6,000 pounds gross vehicle weight or less.

"(ii) EXCEPTION FOR CERTAIN VEHICLES.—The term 'passenger automobile' shall not include—

"(I) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

"(II) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

"(III) under regulations, any truck or van.

"(C) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI automobile component for November of the preceding calendar year, exceeds

"(II) the CPI automobile component for November of 1983.

In the case of calendar year 1984, the automobile price inflation adjustment shall be zero.

"(ii) CPI AUTOMOBILE COMPONENT.—The term 'CPI automobile component' means the automobile component of the Consumer Price Index for All Urban Consumers published by the Department of Labor.

"(D) COORDINATION WITH SECTION 1031.—In the case of an exchange described in section 1031 where the property received in the exchange is a passenger automobile, the excess of the fair market value of such property over the limitation of subparagraph (A) shall be treated as an amount received in cash for purposes of section 1031.

"(E) TREATMENT OF LEASES.—

"(i) EXCEPTION FOR LESSORS.—This paragraph shall not apply to any passenger automobile leased or held for leasing by any person regularly engaged in the business of leasing passenger automobiles.

"(ii) TREATMENT OF LESSEES.—For purposes of determining the amount allowable as a deduction under this chapter for rentals or other payments under a lease for a period of 30 days or more of a passenger automobile, only the allowable portion of such payments shall be taken into account.

"(iii) ALLOWABLE PORTION.—The term 'allowable portion' means, with respect to any lease of an automobile, the fraction—

"(I) the numerator of which is the limitation of subparagraph (A) in effect for the calendar year in which the automobile is placed in service under the lease, and

"(II) the denominator of which is the fair market value of such automobile when so placed in service.".

(b) PRESUMPTION THAT AT LEAST 50 PERCENT OF USE OF AUTOMOBILE IS FOR PERSONAL PURPOSES.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) PRESUMPTION THAT AT LEAST 50 PERCENT OF USE OF AUTOMOBILE IS FOR PERSONAL PURPOSES.—

"(1) IN GENERAL.—For purposes of this title, at least 50 percent of the use of any passenger automobile during any taxable year shall be treated as personal use unless the taxpayer establishes otherwise by adequate records or by sufficient evidence corroborating his own statement.

"(2) DEFINITIONS.—For purposes of this section—

"(A) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning given such term by section 168(d)(3)(B).

"(B) PERSONAL USE.—The term 'personal use' means any use which is not in a trade or business and is not in any activity described in section 212.".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property placed in service after March 1, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

SEC. 167. AMENDMENTS TO SECTION 1239.

(a) PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(e) PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.—For purposes of this section, a patent application shall be treated as property which, in the hands of the transferee, is of a character which is subject to the allowance for depreciation provided in section 167.".

(b) TAXPAYER AND CERTAIN TRUSTS TREATED AS RELATED PERSONS.—Subsection (b) of section 1239 is amended to read as follows:

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related person' means—

"(1) a husband and wife,

"(2) a person and all entities which are 80-percent owned entities with respect to such person,

"(3) a taxpayer and any trust in which such taxpayer (or his spouse) is a beneficiary, unless such beneficiary's interest in the trust is a remote contingent interest (within the meaning of section 318(a)(3)(B)(i)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after March 1, 1984, in taxable years ending after such date.

SEC. 168. AMENDMENTS TO SECTION 267.

(a) ALLOWANCE OF DEDUCTION WHERE EXPENSES AND INTEREST ARE PAID TO RELATED CASH-BASIS TAXPAYERS AFTER 2½-MONTH PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended to read as follows:

"(a) IN GENERAL.—

"(1) DEDUCTION FOR LOSSES DISALLOWED.—No deduction shall be allowed in respect of any loss from the sale or exchange of property (other than a loss in case of a distribution in corporate liquidation), directly or indirectly, between persons specified in any of the paragraphs of subsection (b).

"(2) MATCHING OF DEDUCTION AND PAYEE INCOME ITEM IN THE CASE OF EXPENSES AND INTEREST.—If—

"(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

"(B) at the close of the taxable year of the taxpayer for which (but for this paragraph) the amount would be deductible under this chapter, both the taxpayer and the person to whom the payment is to be made are persons specified in any of the paragraphs of subsection (b),

then any deduction allowable under this chapter in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph).".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 267 (relating to rule where last day of 2½-month period falls on Sunday, etc.) is hereby repealed.

(b) EXTENSION OF SECTION 267 TO CERTAIN RELATED ENTRIES.—

(1) PASS-THRU ENTITIES.—Section 267 is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(1) IN GENERAL.—In the case of any amount paid or incurred by, to, or on behalf of, a pass-thru entity, for purposes of applying subsection (a)(2)—

"(A) such entity,

"(B) in the case of—

"(i) a partnership, any person who owns (directly or indirectly) any capital interest or profits interest of such partnership, or

"(ii) an S corporation, any person who owns (directly or indirectly) any of the stock of such corporation,

"(C) any person who owns (directly or indirectly) any capital interest or profits interest of a partnership in which such entity owns (directly or indirectly) any capital interest or profits interest, and

"(D) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to a person described in subparagraph (B) or (C),

shall be treated as persons specified in a paragraph of subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations of the partnership described in such subparagraph or to an interest in such partnership.

"(2) PASS-THRU ENTITY.—For purposes of this section, the term 'pass-thru entity' means—

"(A) a partnership, and

"(B) an S corporation.

"(3) CONSTRUCTIVE OWNERSHIP IN THE CASE OF PARTNERSHIPS.—For purposes of determining ownership of a capital interest or profits interest of a partnership, the principles of subsection (c) (other than paragraph (3)) shall apply.

"(4) SUBSECTION (a)(2) NOT TO APPLY TO CERTAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—In the case of any amount paid or incurred by a partnership, subsection (a)(2) shall not apply to the extent that section 707(c) applies to such amount.".

(2) CERTAIN CONTROLLED GROUPS.—

(A) Paragraph (3) of section 267(b) is amended to read as follows:

"(3) Two corporations which are members of the same controlled group (as defined in subsection (f));".

(B) Section 267 is amended by adding at the end thereof the following new subsection:

"(f) CONTROLLED GROUP DEFINED.

"(1) IN GENERAL.—For purposes of subsection (b)(3), the term 'controlled group' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3(C) of section 1563.

"(2) LOSS DISALLOWANCE RULE NOT TO APPLY TO A TRANSFER TO A DISC.—For purposes of applying subsection (a)(1), the term 'controlled group' shall not include a DISC.".

(3) CORPORATION AND PARTNERSHIP OWNED BY SAME PERSONS.—Paragraph (10) of section 267(b) is amended—

(A) by striking out "An S corporation" and inserting in lieu thereof "A corporation", and

(B) by striking out "the S corporation" and inserting in lieu thereof "the corporation".

(4) S CORPORATION AND C CORPORATION OWNED BY SAME PERSONS.—Paragraph (12) of section 267(b) is amended by striking out "the same individual" and inserting in lieu thereof "the same persons".

(5) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 170(a) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(B) Clause (iii) of section 514(c)(9)(B) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(C) Subsection (d) of section 1235 is amended—

(i) by striking out "section 267(b)" in the matter preceding paragraph (1) and inserting in lieu thereof "section 267(b) or persons described in section 707(b)",

(ii) by striking out "section 267 (b) and (c)" and inserting in lieu thereof "section 267 (b) and (c) and section 707(b)", and

(iii) by striking out "section 267(b)" in paragraph (1) and inserting in lieu thereof "section 267(b) or 707(b)".

(D) Subparagraph (F) of section 368(a)(2) is amended by striking out clause (viii).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or postponement of deductions under section 267 of such Code.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) shall apply to transactions after September 29, 1983, in taxable years ending after such date.

(B) EXCEPTION FOR TRANSFERS TO FOREIGN CORPORATIONS ON OR BEFORE MARCH 1, 1984.—The amendments made by subsection (b)(2) shall not apply to property transferred to a foreign corporation on or before March 1, 1984.

(C) SPECIAL RULE FOR S CORPORATIONS.—Subsection (e) of section 267 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall remain in effect until the amendments made by subsection (a) take effect.

(3) EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any amount paid or incurred—

(i) on indebtedness incurred on or before September 29, 1983, or

(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

(B) TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.

TITLE II—LIFE INSURANCE PROVISIONS

SEC. 201. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Life Insurance Tax Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE II—LIFE INSURANCE PROVISIONS

Sec. 201. Short title; etc.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

Sec. 211. Amendment of subchapter L.

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

SUBPART A—EFFECTIVE DATE

Sec. 215. Effective date.

SUBPART B—TRANSITIONAL RULES

Sec. 216. Reserves computed on new basis; fresh start.

Sec. 217. Other special rules.

Subtitle B—Taxation of Life Insurance Products

Sec. 221. Definition of life insurance contract.

Sec. 222. Treatment of certain annuity contracts.

Sec. 223. Limitation on interest deduction in case of life insurance loans.

Sec. 224. Group-term life insurance purchased for employees.

Subtitle C—Nondeductible Contributions to Individual Retirement Plans

Sec. 231. Nondeductible contributions permitted to individual retirement plans.

Subtitle D—Studies

Sec. 241. Studies.

(c) TABLE OF SECTIONS FOR PART I OF SUBCHAPTER L.—Under the amendment to part I of subchapter L made by section 211(a), the subparts and sections of such part I will be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.
Sec. 805. General deductions.
Sec. 806. Special deductions.
Sec. 807. Rules for certain reserves.
Sec. 808. Policyholder dividends deduction.
Sec. 809. Reduction in certain deductions of mutual life insurance companies.
Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.
Sec. 812. Definition of company's share and policyholders' share.
Sec. 813. Foreign life insurance companies.
Sec. 814. Contiguous country branches of domestic life insurance companies.
Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.
Sec. 817. Treatment of variable contracts.
Sec. 818. Other definitions and special rules.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

SEC. 211. AMENDMENT OF SUBCHAPTER L.

(a) GENERAL RULE.—Part I of subchapter L of chapter 1 is amended to read as follows:

"PART I—LIFE INSURANCE COMPANIES

"Subpart A. Tax imposed.
"Subpart B. Life insurance gross income.
"Subpart C. Life insurance deductions.
"Subpart D. Accounting, allocation, and foreign provisions.
"Subpart E. Definitions and special rules.

"Subpart A—Tax Imposed

"Sec. 801. Tax imposed.

"SEC. 801. TAX IMPOSED.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the life insurance company taxable income of every life insurance company. Such tax shall consist of a tax computed as provided in section 11 as though the life insurance company taxable income were the taxable income referred to in section 11.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—

"(A) IN GENERAL.—If a life insurance company has a net capital gain for the taxable year, then (in lieu of the tax imposed by paragraph (1)), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)).

"(B) AMOUNT OF TAX.—The amount of the tax imposed by this paragraph shall be the sum of—

"(i) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income reduced by the amount of the net capital gain, and

"(ii) an amount determined as provided in section 1201(a) on such net capital gain.

"(C) NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT IN DETERMINING SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of subparagraph (B)(i), the amounts allowable as deductions under paragraphs (2) and (3) of section 804 shall be determined by reducing the tentative LICTI by the amount of the net capital gain (determined without regard to items attributable to noninsurance businesses).

"(b) LIFE INSURANCE COMPANY TAXABLE INCOME.—For purposes of this part, the term 'life insurance company taxable income' means—

"(1) life insurance gross income, reduced by

"(2) life insurance deductions.

"(c) LIFE INSURANCE COMPANY TAXABLE INCOME INCREASED BY DISTRIBUTIONS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

"For provision increasing life insurance company taxable income for distributions to shareholders from pre-1984 policyholders surplus account, see section 815.

"Subpart B—Life Insurance Gross Income

"Sec. 803. Life insurance gross income.

"SEC. 803. LIFE INSURANCE GROSS INCOME.

"(a) IN GENERAL.—For purposes of this part, the term 'life insurance gross income' means the sum of the following amounts:

"(1) PREMIUMS.—

"(A) The gross amount of premiums and other consideration on insurance and annuity contracts, less

"(B) return premiums, and premiums and other consideration arising out of indemnity reinsurance.

"(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 807(a) to be taken into account under this paragraph.

"(3) OTHER AMOUNTS.—All amounts not includible under paragraph (1) or (2) which under this subtitle are includible in gross income.

"(b) SPECIAL RULES FOR PREMIUMS.—

"(1) CERTAIN ITEMS INCLUDED.—For purposes of subsection (a)(1)(A), the term 'gross amount of premiums and other consideration' includes—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts.

"(2) POLICYHOLDER DIVIDENDS EXCLUDED FROM RETURN PREMIUMS.—For purposes of subsection (a)(1)(B)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'return premiums' does not include any policyholder dividends.

"(B) EXCEPTION FOR INDEMNITY REINSURANCE.—Subparagraph (A) shall not apply to amounts of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

"Subpart C—Life Insurance Deductions

"Sec. 804. Life insurance deductions.
"Sec. 805. General deductions.
"Sec. 806. Special deductions.
"Sec. 807. Rules for certain reserves.
"Sec. 808. Policyholder dividends deduction.
"Sec. 809. Reduction in certain deductions of mutual life insurance companies.
"Sec. 810. Operations loss deduction.

"SEC. 804. LIFE INSURANCE DEDUCTIONS.

"For purposes of this part, the term 'life insurance deductions' means—

"(1) the general deductions provided in section 805,

"(2) the special life insurance company deduction determined under section 806(a), and

"(3) the small life insurance company deduction (if any) determined under section 806(b).

"SEC. 805. GENERAL DEDUCTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed the following deductions:

"(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

"(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

"(3) POLICYHOLDER DIVIDENDS.—The deduction for policyholder dividends (determined under section 808(c)).

"(4) DIVIDENDS RECEIVED BY COMPANY.—

"(A) IN GENERAL.—The deductions provided by sections 243, 244, and 245 (as modified by subparagraph (B))—

"(i) for 100 percent dividends received, and

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

"(B) APPLICATION OF SECTION 246(b).—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the life insurance company taxable income, computed without regard to—

"(i) the special life insurance company deduction and the small life insurance company deduction,

"(ii) the operations loss deduction provided by section 810,

"(iii) the deductions allowed by sections 243(a)(1), 244(a), and 245, and

"(iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).

"(D) CERTAIN DIVIDENDS RECEIVED IN THE CASE OF FOREIGN CORPORATIONS.—Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5).

"(5) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 810).

"(6) ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.—The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

"(7) REIMBURSABLE DIVIDENDS.—The amount of policyholder dividends which—

"(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

"(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

"(8) OTHER DEDUCTIONS.—Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

"(b) MODIFICATIONS.—The modifications referred to in subsection (a)(8) are as follows:

"(1) INTEREST.—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

"(2) BAD DEBTS.—Section 166(c) (relating to reserve for bad debts) shall not apply.

"(3) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—In applying section 170—

"(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

"(i) the deduction provided by section 170,

"(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

"(iii) the special life insurance company deduction and the small life insurance company deduction,

"(iv) any operations loss carryback to the taxable year under section 810, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

"(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

"(4) AMORTIZABLE BOND PREMIUM.—

"(A) IN GENERAL.—Section 171 shall not apply.

"(B) CROSS REFERENCE.—

"For rules relating to amortizable bond premium, see section 811(b).

"(5) NET OPERATING LOSS DEDUCTION.—Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

"(6) DIVIDENDS RECEIVED DEDUCTION.—Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.

"SEC. 806. SPECIAL DEDUCTIONS.

"(a) SPECIAL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of section 804, the special life insurance company deduction for any taxable year is 25 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).

"(b) SMALL LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds $3,000,000.

"(3) SMALL LIFE INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(c) TENTATIVE LICTI.—For purposes of this part—

"(1) IN GENERAL.—The term 'tentative LICTI' means life insurance company taxable income determined without regard to—

"(A) the special life insurance company deduction, and

"(B) the small life insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESS.—

"(A) IN GENERAL.—The term 'noninsurance business' means any trade or business which is not an insurance business.

"(B) CERTAIN BUSINESSES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any business which is not an insurance business but is of a type traditionally carried on by life insurance companies for investment purposes shall be treated as an insurance business.

"(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (a) and (b)—

"(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

"(B) any special life insurance company deduction and any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

"(2) NONLIFE INSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (b)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(4) NO DOUBLE COUNTING OF LOSS.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection so that a loss from operations of any member of a controlled group will reduce the tentative LICTI of such group only once.

"SEC. 807. RULES FOR CERTAIN RESERVES.

"(a) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

"(1) the opening balance for the items described in subsection (c), exceeds

"(2)(A) the closing balance for such items, reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year,

such excess shall be included in gross income under section 803(a)(2).

"(b) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

"(1)(A) the closing balance for the items described in subsection (c), reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year, exceeds

"(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

"(c) ITEMS TAKEN INTO ACCOUNT.—The items referred to in subsections (a) and (b) are as follows:

"(1) The life insurance reserves (as defined in section 816(b)).

"(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

"(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

"(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

"(5) Premiums received in advance, and liabilities for premium deposit funds.

"(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.

"(d) METHOD OF COMPUTING RESERVES FOR PURPOSES OF DETERMINING INCOME.—

"(1) IN GENERAL.—For purposes of this part (other than section 816), the amount of the

life insurance reserves for any contract shall be the greater of—

"(A) the net surrender value of such contract, or

"(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in section 809(b)(4)(B)).

"(2) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

"(A) the tax reserve method applicable to such contract,

"(B) the prevailing State assumed interest rate, and

"(C) the prevailing commissioners' standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

"(3) TAX RESERVE METHOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax reserve method' means—

"(i) LIFE INSURANCE CONTRACTS.—The CRVM in the case of a contract covered by the CRVM.

"(ii) ANNUITY CONTRACTS.—The CARVM in the case of a contract covered by the CARVM.

"(iii) NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—In the case of any noncancellable accident and health insurance contract, a 2-year full preliminary term method.

"(iv) OTHER CONTRACTS.—In the case of any contract not described in clause (i), (ii), or (iii)—

"(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

"(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

"(B) DEFINITION OF CRVM AND CARVM.—For purposes of this paragraph—

"(i) CRVM.—The term 'CRVM' means the Commissioners' Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(ii) CARVM.—The term 'CARVM' means the Commissioners' Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(4) PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of the nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

"(B) WHEN RATE DETERMINED.—Except as provided in subparagraph (C), the prevailing State assumed rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

"(C) ELECTION FOR NONANNUITY CONTRACTS.—In the case of a contract other than an annuity contract, the issuer may elect (at such time and in such manner as the Secretary shall by regulations prescribe) to determine the prevailing State assumed rate as of the beginning of the calendar year preceding the calendar year in which the contract was issued.

"(5) PREVAILING COMMISSIONERS' STANDARD TABLES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing commissioners' standard tables' means, with respect to any contract, the most recent commissioners' standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

"(B) INSURER MAY USE OLD TABLES FOR 3 YEARS WHEN TABLES CHANGE.—If the prevailing commissioners' standard tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the 'year of change') is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

"(C) SPECIAL RULE FOR CONTRACTS FOR WHICH THERE ARE NO COMMISSIONERS' STANDARD TABLES.—If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary.

"(D) SPECIAL RULE FOR CONTRACTS ISSUED BEFORE 1948.—If—

"(i) a contract was issued before 1948, and

"(ii) there were no commissioners' standard tables applicable to such contract when it was issued,

the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

"(E) SPECIAL RULE WHERE MORE THAN 1 TABLE OR OPTION APPLICABLE.—If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

"(e) SPECIAL RULES FOR COMPUTING RESERVES.—

"(1) NET SURRENDER VALUE.—For purposes of this section—

"(A) IN GENERAL.—The net surrender value of any contract shall be determined—

"(i) with regard to any penalty or charge which would be imposed on surrender, but

"(ii) without regard to any market value adjustment on surrender.

"(B) SPECIAL RULE FOR PENSION PLAN CONTRACTS.—In the case of a pension plan contract, the balance in the policyholder's fund (determined without regard to any market value adjustment) shall be treated as the net surrender value of such contract.

"(2) ISSUANCE DATE IN CASE OF GROUP CONTRACTS.—For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) QUALIFIED SUPPLEMENTAL BENEFITS TREATED SEPARATELY.—For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

"(i) shall be computed separately as though such benefit were under a separate contract, and

"(ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(B) SUPPLEMENTAL BENEFITS WHICH ARE NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(C) QUALIFIED SUPPLEMENTAL BENEFIT.—For purposes of this paragraph, the term 'qualified supplemental benefit' means any supplemental benefit described in subparagraph (D) if—

"(i) there is a separately identified premium or charge for such benefit, and

"(ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

"(D) SUPPLEMENTAL BENEFITS.—For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) convertibility,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

"(4) CERTAIN CONTRACTS ISSUED BY FOREIGN BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

"(B) QUALIFIED FOREIGN CONTRACT.—For purposes of subparagraph (A), the term 'qualified foreign contract' means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

"(i) such contract is issued on the life or health of a resident of such country,

"(ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such coun-

try) to operate in such country through a branch, and

"(iii) such foreign country is not contiguous to the United States.

"(5) TREATMENT OF SUBSTANDARD RISKS.—

"(A) SEPARATE COMPUTATION.—Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) QUALIFIED SUBSTANDARD RISK—For purposes of subparagraph (A), the term 'qualified substandard risk' means any substandard risk if—

"(i) the insurance company maintains a separate reserve for such risk,

"(ii) there is a separately identified premium or charge for such risk,

"(iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and

"(iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

"(C) LIMITATION ON AMOUNT OF LIFE INSURANCE RESERVE.—The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

"(D) LIMITATION ON AMOUNT OF CONTRACTS TO WHICH PARAGRAPH APPLIES.—The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

"(f) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES.—

"(1) 10-YEAR SPREAD.—

"(A) IN GENERAL.—For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

"(i) the amount of the item at the close of the taxable year, computed on the new basis, and

"(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

"(B) METHOD.—The method provided in this subparagraph is as follows:

"(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii), 1/10 of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

"(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i), 1/10 of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

"(2) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

"SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.

"(a) POLICYHOLDER DIVIDEND DEFINED.—For purposes of this part, the term 'policyholder dividend' means any dividend or similar distribution to policyholders in their capacity as such.

"(b) CERTAIN AMOUNTS INCLUDED.—For purposes of this part, the term 'policyholder dividend' includes—

"(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

"(2) excess interest,

"(3) premium adjustments, and

"(4) experience-rated refunds.

"(c) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

"(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EXCESS INTEREST.—The term 'excess interest' means any amount in the nature of interest—

"(A) paid or credited to a policyholder in his capacity as such, and

"(B) determined at a rate in excess of the prevailing State assumed interest rate for such contract.

"(2) PREMIUM ADJUSTMENT.—The term 'premium adjustment' means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

"(3) EXPERIENCE-RATED REFUND.—The term 'experience-rated refund' means any refund or credit based on the experience of the contract or group involved.

"(e) TREATMENT OF POLICYHOLDER DIVIDENDS.—For purposes of this part, any policyholder dividend which—

"(1) increases the cash surrender value of the contract or other benefits payable under the contract, or

"(2) reduces the premium otherwise required to be paid,

shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium.

"SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL LIFE INSURANCE COMPANIES.

"(a) GENERAL RULE.—

"(1) POLICYHOLDER DIVIDENDS.—In the case of any mutual life insurance company, the amount of the deduction allowed under section 808 shall be reduced (but not below zero) by the differential earnings amount.

"(2) REDUCTION IN RESERVE DEDUCTION IN CERTAIN CASES.—In the case of any mutual life insurance company, if the differential earnings amount exceeds the amount allowable as a deduction under section 808 for the taxable year (determined without regard to this section), such excess shall be taken into account under subsections (a) and (b) of section 807.

"(3) DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this section, the term 'differential earnings amount' means, with respect to any taxable year, an amount equal to the product of—

"(A) the life insurance company's average equity base for the taxable year, multiplied by

"(B) the differential earnings rate for such taxable year.

"(b) AVERAGE EQUITY BASE.—For purposes of this section—

"(1) IN GENERAL.—The term 'average equity base' means, with respect to any taxable year, the average of—

"(A) the equity base determined as of the close of the taxable year, and

"(B) the equity base determined as of the close of the preceding taxable year.

"(2) EQUITY BASE.—The term 'equity base' means an amount equal to—

"(A) the surplus and capital,

"(B) adjusted as provided in paragraphs (3), (4), (5), and (6) of this subsection.

"(3) INCREASE FOR NONADMITTED FINANCIAL ASSETS.—

"(A) IN GENERAL.—The amount of the surplus and capital shall be increased by the amount of the nonadmitted financial assets.

"(B) NONADMITTED FINANCIAL ASSETS.—For purposes of subparagraph (A), the term 'nonadmitted financial asset' means any nonadmitted asset of the company which is—

"(i) a bond,

"(ii) stock,

"(iii) real estate,

"(iv) a mortgage loan on real estate, or

"(v) any other invested asset.

"(4) INCREASE WHERE STATUTORY RESERVES EXCEED TAX RESERVES.—

"(A) IN GENERAL.—If—

"(i) the aggregate amount of statutory reserves, exceeds

"(ii) the aggregate amount of tax reserves,

the amount of the surplus and capital shall be increased by the amount of such excess.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

"(ii) TAX RESERVES.—The term 'tax reserves' means the aggregate of the items described in section 807(c) as determined for purposes of section 807.

"(5) INCREASE BY AMOUNT OF CERTAIN OTHER RESERVES.—The amount of the surplus and capital shall be increased by the sum of—

"(A) the amount of any mandatory securities valuation reserve,

"(B) the amount of any deficiency reserve, and

"(C) the amount of any voluntary reserve not described in subparagraph (A) or (B).

"(6) ADJUSTMENT FOR NEXT YEAR'S POLICYHOLDER DIVIDENDS.—The amount of the surplus and capital shall be increased by 50 percent of the amount of any provision for policyholder dividends (or other similar liability) payable in the following taxable year.

"(c) DIFFERENTIAL EARNINGS RATE.—For purposes of this section, the differential earnings rate for any taxable year is the excess of—

"(1) the imputed earnings rate for the taxable year, over

"(2) the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

"(d) IMPUTED EARNINGS RATE.—

"(1) IN GENERAL.—For purposes of this section, the imputed earnings rate for any taxable year is—

"(A) 16.5 percent in the case of taxable years beginning in 1984, and

"(B) in the case of taxable years beginning after 1984, an amount which bears the same ratio to 16.5 percent as the current stock earnings rate for the taxable year bears to the base period stock earnings rate.

"(2) CURRENT STOCK EARNINGS RATE.—For purposes of this subsection, the term 'current stock earnings rate' means, with respect to any taxable year, the average of the stock earnings rates determined under paragraph (4) for the 3 calendar years preceding the calendar year in which the taxable year begins.

"(3) BASE PERIOD STOCK EARNINGS RATE.—For purposes of this subsection, the base period stock earnings rate is the average of the stock earnings rates determined under paragraph (4) for calendar years 1981, 1982, and 1983.

"(4) STOCK EARNINGS RATE.—

"(A) IN GENERAL.—For purposes of this subsection, the stock earnings rate for any calendar year is the numerical average of the earnings rates of the 50 largest stock companies.

"(B) EARNINGS RATE.—For purposes of subparagraph (A), the earnings rate of any stock company is the percentage (determined by the Secretary) which—

"(i) the statement gain or loss from operations for the calendar year of such company, is of

"(ii) such company's average equity base for such year.

"(C) 50 LARGEST STOCK COMPANIES.—For purposes of this paragraph, the term '50 largest stock companies' means a group (as determined by the Secretary) of stock life insurance companies which consists of the 50 largest stock life insurance companies which are subject to tax under this chapter.

"(D) TREATMENT OF AFFILIATED GROUPS.—For purposes of this paragraph, all stock life insurance companies which are members of the same affiliated group shall be treated as one stock life insurance company.

"(e) AVERAGE MUTUAL EARNINGS RATE.—For purposes of this section, the average mutual earnings rate for any calendar year is the percentage (determined by the Secretary) which—

"(1) the aggregate statement gain or loss from operations for such year of mutual life insurance companies, is of

"(2) their aggregate average equity bases for such year.

"(f) RECOMPUTATION IN SUBSEQUENT YEAR.—

"(1) INCLUSION IN INCOME WHERE RECOMPUTED AMOUNT GREATER.—In the case of any mutual life insurance company, if—

"(A) the recomputed differential earnings amount for any taxable year, exceeds

"(B) the differential earnings amount determined under this section for such taxable year,

such excess shall be included in life insurance gross income for the succeeding taxable year.

"(2) DEDUCTION WHERE RECOMPUTED AMOUNT SMALLER.—In the case of any mutual life insurance company, if—

"(A) the differential earnings amount determined under this section for any taxable year, exceeds

"(B) the recomputed differential earnings amount for such taxable year,

such excess shall be allowed as a life insurance deduction for the succeeding taxable year.

"(3) RECOMPUTED DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this subsection, the term 'recomputed differential earnings amount' means, with respect to any taxable year, the amount which would be the differential earnings amount for such taxable year if the average mutual earnings rate taken into account under subsection (c)(2) were the average mutual earnings rate for the calendar year in which the taxable year begins.

"(4) SPECIAL RULE WHERE COMPANY CEASES TO BE MUTUAL LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if—

"(A) a life insurance company is a mutual life insurance company for any taxable year, but

"(B) such life insurance company is not a mutual life insurance company for the succeeding taxable year,

any adjustment under paragraph (1) or (2) by reason of the recomputed differential earnings amount for the first of such taxable years shall be taken into account for the first of such taxable years.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement—

"(A) determined with regard to policyholder dividends (as defined in section 808) but without regard to Federal income taxes,

"(B) determined on the basis of the tax reserves rather than statutory reserves, and

"(C) properly adjusted for realized capital gains and losses and other relevant items.

"(2) OTHER TERMS.—Except as otherwise provided in this section, the terms used in this section shall have the same respective meanings as when used in the annual statement.

"(3) DETERMINATIONS BASED ON AMOUNT SET FORTH IN ANNUAL STATEMENT.—Except as otherwise provided in this section or in regulations, all determinations under this section shall be made on the basis of the amounts required to be set forth on the annual statement.

"(4) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement for life insurance companies approved by the National Association of Insurance Commissioners.

"(5) REDUCTION IN EQUITY BASE FOR PORTION OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSINESS IN NONCONTIGUOUS WESTERN HEMISPHERE COUNTRIES.—The equity base of any mutual life insurance company shall be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction—

"(A) the numerator of which is the portion of the tax reserves which is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere which are not contiguous to the United States, and

"(B) the denominator of which is the amount of the tax reserves allocable to life insurance contracts.

The preceding sentence shall not apply unless the fraction determined under the preceding sentence exceeds 1/20.

"(h) TREATMENT OF STOCK COMPANIES OWNED BY MUTUAL LIFE INSURANCE COMPANIES.—

"(1) TREATMENT AS MUTUAL LIFE INSURANCE COMPANIES FOR PURPOSES OF DETERMINING STOCK EARNINGS RATES AND MUTUAL EARNINGS RATES.—Solely for purposes of subsections (d) and (e), a stock life insurance company shall be treated as a mutual life insurance company if stock possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock of such stock life insurance company entitled to vote, or

"(B) at least 80 percent of the total value of shares of all classes of stock of such stock life insurance company,

is owned at any time during the calendar year directly (or through the application of section 318) by 1 or more mutual life insurance companies.

"(2) TREATMENT OF AFFILIATED GROUP WHICH INCLUDES MUTUAL PARENT AND STOCK SUBSIDIARY.—In the case of an affiliated group of corporations which includes a common parent which is a mutual life insurance company and one or more stock life insurance companies, for purposes of determining the average equity base of such common parent (and the statement gain or loss from operations)—

"(A) stock in such stock life insurance companies held by such common parent (and dividends on such stock) shall not be taken into account, and

"(B) such common parent and such stock life insurance companies shall be treated as though they were one mutual life insurance company.

"(3) ADJUSTMENT WHERE STOCK COMPANY NOT MEMBER OF AFFILIATED GROUP.—In the case of any stock life insurance company which is described in paragraph (1) but is not a member of an affiliated group described in paragraph (2), under regulations, proper adjustments shall be made in the average equity bases (and statement gains or losses from operations) of mutual life insurance companies owning stock in such company as may be necessary or appropriate to carry out the purposes of this section.

"(i) TRANSITIONAL RULE FOR CERTAIN HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the average equity base of a high surplus mutual life insurance company for any taxable year shall not include the applicable percentage of the excess equity base of such company for such taxable year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) EXCESS EQUITY BASE.—The term 'excess equity base' means the lesser of—

"(i) the excess of—

"(I) the average equity base of the company for the taxable year, over

"(II) the amount which would be its average equity base if its equity percentage equaled 130 percent of the numerical average of the equity percentages for the 50 largest mutual life insurance companies for such taxable year, or

"(ii) $50,000,000.

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined in accordance with the following table:

"For taxable years beginning in:	The applicable percentage is:
1984	100
1985	80
1986	60
1987	40
1988	20
1989 or thereafter	0.

"(C) HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANY.—The term 'high surplus mutual life insurance company' means any mutual life insurance company if, for the taxable year beginning in 1984, its equity percentage exceeded 130 percent of the numerical average of the equity percentages for the 50

largest mutual life insurance companies for such taxable year.

"(D) EQUITY PERCENTAGE.—The term 'equity percentage' means, with respect to any mutual life insurance company, the percentage which—

"(i) the average equity base of such company (determined under this section without regard to this subsection) for a taxable year bears to

"(ii) the average of—

"(I) the assets of such company as of the close of the preceding taxable year, and

"(II) the assets of such company as of the close of the taxable year.

For purposes of the preceding sentence, the assets of a company shall include all assets included under this section in its equity base.

"(E) 50 LARGEST MUTUAL LIFE INSURANCE COMPANIES.—The term '50 largest mutual life insurance companies' means a group (as determined by the Secretary) of mutual life insurance companies which consists of the 50 largest mutual life insurance companies which are subject to tax under this chapter.

"(3) DETERMINATION OF AVERAGE OF EQUITY PERCENTAGES.—The average of the equity percentages for the 50 largest mutual life insurance companies for any taxable year shall be such average as determined by the Secretary using the most recent data available as of the close of such taxable year.

"SEC. 810. OPERATIONS LOSS DEDUCTION.

"(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

"(1) the operations loss carryovers to such year, plus

"(2) the operations loss carrybacks to such year.

For purposes of this part, the term 'operations loss deduction' means the deduction allowed by this subsection.

"(b) OPERATIONS LOSS CARRYBACKS AND CARRYOVERS.—

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 15 taxable years following the loss year, and

"(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

"(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

"(c) COMPUTATION OF LOSS FROM OPERATIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'loss from operations' means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

"(2) MODIFICATIONS.—For purposes of paragraph (1)—

"(A) the operations loss deduction shall not be allowed, and

"(B) the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) as modified by section 805(a)(4).

"(d) OFFSET DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the term 'offset' means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804) for such year to zero.

"(2) OPERATIONS LOSS DEDUCTION.—For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

"(e) NEW COMPANY DEFINED.—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

"(f) APPLICATION OF SUBTITLES A AND F IN RESPECT OF OPERATION LOSSES.—Except as provided in section 805(b)(5), subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

"(g) TRANSITIONAL RULE.—For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

"Subpart D—Accounting, Allocation, and Foreign Provisions

"Sec. 811. Accounting provisions.
"Sec. 812. Definition of company's share and policyholders' share.
"Sec. 813. Foreign life insurance companies.
"Sec. 814. Contiguous country branches of domestic life insurance companies.
"Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

"SEC. 811. ACCOUNTING PROVISIONS.

"(a) METHOD OF ACCOUNTING.—All computations entering into the determination of the taxes imposed by this part shall be made—

"(1) under an accrual method of accounting, or

"(2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(b) AMORTIZATION OF PREMIUM AND ACCRUAL OF DISCOUNT.—

"(1) IN GENERAL.—The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

"(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(B) in all other cases, in accordance with regulations prescribed by the Secretary.

"(2) SPECIAL RULES.—

"(A) AMORTIZATION OF BOND PREMIUM.—In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

"(B) CONVERTIBLE EVIDENCE OF INDEBTEDNESS.—In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

"(3) EXCEPTION.—No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

"(A) interest to which section 103 applies, or

"(B) original issue discount (as defined in section 1232(b)).

"(c) NO DOUBLE COUNTING.—Nothing in this part shall permit—

"(1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,

"(2) the same item to be counted more than once for reserve purposes, or

"(3) any item to be deducted (either directly or as an increase in reserves) more than once.

"(d) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of, or conduit for, another party to such agreement), the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

"(e) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 816),

amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which—

"(1) exceeds the prevailing State assumed interest rate for the contract for such period, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

"(f) SHORT TAXABLE YEARS.—If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as 'short period'), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

"SEC. 812. DEFINITION OF COMPANY'S SHARE AND POLICYHOLDERS' SHARE.

"(a) GENERAL RULE.—

"(1) COMPANY'S SHARE.—For purposes of section 805(a)(4), the term 'company's share' means, with respect to any taxable year, the percentage obtained by dividing—

"(A) the company's share of the net investment income for the taxable year, by

"(B) the net investment income for the taxable year.

"(2) POLICYHOLDERS' SHARE.—For purposes of section 807, the term 'policyholders' share' means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

"(b) COMPANY'S SHARE OF NET INVESTMENT INCOME.—For purposes of this section, the company's share of net investment income is the excess (if any) of—

"(1) the net investment income for the taxable year, over

"(2) the sum of—

"(A) the deduction for policyholders' dividends determined under sections 808 and 809 for the taxable year, and

"(B) all amounts in the nature of interest paid or credited to customers pursuant to insurance or annuity contracts.

For purposes of paragraph (2)(B), the term 'insurance or annuity contract' shall include any pension plan contract.

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means the excess of—

"(1) gross investment income, over

"(2) investment expenses.

"(d) GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' means the sum of the following:

"(1) INTEREST, ETC.—The gross amount of income from—

"(A) interest (including tax-exempt interest), dividends, rents, and royalties,

"(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

"(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

"(2) SHORT-TERM CAPITAL GAIN.—The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

"(3) TRADE OR BUSINESS INCOME.—The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

"(e) INVESTMENT EXPENSES.—For purposes of this section, the term 'investment expenses' means the sum of—

"(1) the deductions allowable which are directly connected with the production of investment income (other than the deductions under sections 243, 244, and 245), and

"(2) an amount equal to the general expenses of the life insurance company for the taxable year multiplied by a fraction—

"(A) the numerator of which is the gross investment income for the taxable year, and

"(B) the denominator of which is the gross receipts of the life insurance company for the taxable year.

"(f) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).

"(g) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

"SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

"(a) ADJUSTMENT WHERE SURPLUS HELD IN THE UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

"(1) IN GENERAL.—In the case of any foreign company taxable under this part, if—

"(A) the required surplus determined under paragraph (2), exceeds

"(B) the surplus held in the United States, then its income effectively connected with the conduct of an insurance business within the United States shall be increased by an amount determined by multiplying such excess by such company's current investment yield.

"(2) REQUIRED SURPLUS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'required surplus' means the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year determined and proclaimed by the Secretary under subparagraph (B).

"(B) DETERMINATION OF PERCENTAGE.—The percentage determined and proclaimed by the Secretary under this subparagraph shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities.

"(3) CURRENT INVESTMENT YIELD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current investment yield' means the percent obtained by dividing—

"(i) the net investment income on assets held in the United States, by

"(ii) the mean of the assets held in the United States during the taxable year.

"(B) DETERMINATIONS BASED ON AMOUNT SET FORTH IN THE ANNUAL STATEMENT.—Except as otherwise provided in regulations, determinations under subparagraph (A) shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SURPLUS HELD IN THE UNITED STATES.—The surplus held in the United States is the excess of the assets (determined under section 806(b)(3)(C)) held in the United States over the total insurance liabilities on United States business.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this subsection, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(5) REDUCTION OF SECTION 881 TAXES.—In the case of any foreign company taxable under this part, there shall be determined—

"(A) the amount which would be subject to taxes under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894, and

"(B) the amount of the increase provided by paragraph (1).

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A); but such reduction in taxes shall not exceed the increase in taxes under this part by reason of the increase provided by paragraph (1).

"(b) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the amount of any excess determined under paragraph (1) of subsection (a) with respect to such taxable year.

"(c) CROSS REFERENCE.—

"For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

"SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term contiguous country life insurance branch means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) SEPARATE ACCOUNTING REQUIRED.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.—

"(1) REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) REPATRIATION OF INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

"(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the tentative LICTI of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to tentative LICTI pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(C) TRANSITIONAL RULE.—For purposes of this paragraph, in the case of a prior taxable year beginning before January 1, 1984, the term 'tentative LICTI' means life insurance company taxable income determined under this part (as in effect for such year) without regard to this paragraph.

"(f) OTHER RULES.—

"(1) TREATMENT OF FOREIGN TAXES.—

"(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

"SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.

"(a) GENERAL RULE.—The life insurance company taxable income (within the meaning of section 801(b)) for any taxable year of any stock life insurance company which has an existing policyholders surplus account shall be increased by any direct or indirect distribution to shareholders from such account. For purposes of the preceding sentence, the life insurance company taxable income (within the meaning of section 801(b)) shall be treated as not less than zero.

"(b) ORDERING RULE.—For purposes of this section, any distribution to shareholders shall be treated as made—

"(1) first out of the shareholders surplus account, to the extent thereof,

"(2) then out of the policyholders surplus account, to the extent thereof, and

"(3) finally, out of other accounts.

"(c) SHAREHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue its shareholders surplus account for purposes of this part.

"(2) ADDITIONS TO ACCOUNT.—The amount added to the shareholders surplus account for any taxable year beginning after December 31, 1983, shall be the excess of—

"(A) the sum of—

"(i) the life insurance company's taxable income (determined without regard to this section),

"(ii) the special deductions provided by section 806, and

"(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by section 805(a)(4)) and the amount of interest excluded from gross income under section 103, over

"(B) the taxes imposed for the taxable year by section 801 (determined without regard to this section).

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the shareholders surplus account for any taxable year the amount which is treated under this section as distributed out of such account.

"(d) POLICYHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policholders surplus account shall continue such account.

"(2) NO ADDITIONS TO ACCOUNT.—No amount shall be added to the policyholders

surplus account for any taxable year beginning after December 31, 1983.

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

"(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

"(B) the amount by which the tax imposed for the taxable year by section 801 is increased by reason of this section.

"(e) EXISTING POLICYHOLDERS SURPLUS ACCOUNT.—For purposes of this section, the term 'existing policyholders surplus account' means any policyholders surplus account which has a balance as of the close of December 31, 1983.

"(f) OTHER RULES APPLICABLE TO POLICYHOLDERS SURPLUS ACCOUNT CONTINUED.—Except to the extent inconsistent with the provisions of this part, the provisions of subsections (d), (e), (f), and (g) of section 815 (and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as in effect before the enactment of the Life Insurance Tax Act of 1984 are hereby made applicable in respect of any policyholders surplus account for which there was a balance as of December 31, 1983.

"Subpart E—Definitions and Special Rules

"Sec. 816. Life insurance company defined.
"Sec. 817. Treatment of variable contracts.
"Sec. 818. Other definitions and special rules.

"SEC. 816. LIFE INSURANCE COMPANY DEFINED.

"(a) LIFE INSURANCE COMPANY DEFINED.—For purposes of this subtitle, the term 'life insurance company' means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

"(1) its life insurance reserves (as defined in subsection (b)), plus

"(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term 'insurance company' means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

"(b) LIFE INSURANCE RESERVES DEFINED.—

"(1) IN GENERAL.—For purposes of this part, the term 'life insurance reserves' means amounts—

"(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

"(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

"(2) RESERVES MUST BE REQUIRED BY LAW.—Except—

"(A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

"(B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

"(3) ASSESSMENT COMPANIES.—In the case of an assessment life insurance company or association, the term 'life insurance reserves' includes—

"(A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and

"(B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

"(4) DEFICIENCY RESERVES EXCLUDED.—

"(A) IN GENERAL.—The term 'life insurance reserves' does not include deficiency reserves.

"(B) DEFICIENCY RESERVE DEFINED.—For purposes of this subsection and subsection (c), the deficiency reserve for any contract is that portion of the reserve for such contract equal to the amount (if any) by which—

"(i) the present value of the future net premiums required for such contract, exceeds

"(ii) the present value of the future actual premiums and consideration charged for such contract.

"(5) AMOUNT OF RESERVES.—For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

"(c) TOTAL RESERVES DEFINED.—For purposes of subsection (a), the term 'total reserves' means—

"(1) life insurance reserves,

"(2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and

"(3) all other insurance reserves required by law.

The term 'total reserves' does not include deficiency reserves (within the meaning of subsection (b)(4)).

"(d) ADJUSTMENTS IN RESERVES FOR POLICY LOANS.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

"(e) GUARANTEED RENEWABLE CONTRACTS.—For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as noncancellable life, accident, and health insurance.

"(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR HEALTH CONTINGENCIES.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in life insurance reserves or in total reserves.

"(g) BURIAL AND FUNERAL BENEFIT INSURANCE COMPANIES.—A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 821 or section 831.

"SEC. 817. TREATMENT OF VARIABLE CONTRACTS.

"(a) INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 807, the sum of the items described in section 807(c) taken into account as of the close of the taxable year with respect to any variable contract shall, under regulations prescribed by the Secretary, be adjusted—

"(1) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with subsection (b) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and

"(2) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

The deduction allowable for items described in paragraphs (1) and (6) of section 805(a) with respect to variable contracts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

"(b) SEPARATE ACCOUNTING.—For purposes of this part (other than section 809), a life insurance company which issues variable contracts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such variable contracts. For such items as are not accounted for directly, separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(c) VARIABLE CONTRACT DEFINED.—For purposes of this part, the term 'variable contract' means a contract—

"(1) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

"(2) which—

"(A) provides for the payment of annuities, or

"(B) is a life insurance contract, and

"(3) under which—

"(A) in the case of an annuity contract, the amounts paid in, or the amount paid out, reflect the investment return and the market value of the segregated asset account, or

"(B) in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting

the requirements of paragraph (3) after such cessation.

"(d) SPECIAL RULES FOR PENSION PLAN CONTRACTS.—

"(1) TREATMENT AS PAYING ANNUITY.—A pension plan contract which is not a life, accident, or health, property, casualty, or liability insurance contract shall be treated as a contract which provides for the payment of annuities for purposes of subsection (c).

"(2) BASIS OF ASSETS HELD FOR PENSION PLAN CONTRACT.—In the case of pension plan contracts which are variable contracts, the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

"(A) increased by the amount of any appreciation in value, and

"(B) decreased by the amount of any depreciation in value,

to the extent that such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items referred to in subsection (a) with respect to such contracts.

"(e) OTHER SPECIAL RULES.—

"(1) LIFE INSURANCE RESERVES.—For purposes of subsection (b)(1)(A) of section 816, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

"(2) ADDITIONAL SEPARATE COMPUTATIONS.—Under regulations prescribed by the Secretary, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with subsection (b), as may be necessary to carry out the purposes of this section and this part.

"(f) VARIABLE ANNUITY CONTRACTS TREATED AS ANNUITY CONTRACTS.—For purposes of this part, the term 'annuity contract' includes a contract which provides for the payment of a variable annuity computed on the basis of—

"(1) recognized mortality tables, and

"(2)(A) the investment experience of a segregated asset account, or

"(B) the company-wide investment experience of the company.

Paragraph (2)(B) shall not apply to any company which issues contracts which are not variable contracts.

"SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) PENSION PLAN CONTRACTS.—For purposes of this part, the term 'pension plan contract' means any contract—

"(1) entered into with trusts which (as of the time the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a), (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);

"(2) entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and (22) of section 401(a);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) (or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws), or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing;

"(5) entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b); or

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A).

"(b) TREATMENT OF CAPITAL GAINS AND LOSSES, ETC.—In the case of a life insurance company—

"(1) in applying section 1231(a), the term 'property used in the trade or business' shall be treated as including only—

"(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 1 year, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1)(A), (B), or (C), and

"(B) property described in section 1231(b)(2), and

"(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

"(c) GAIN ON PROPERTY HELD ON DECEMBER 31, 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED AFTER 1958.—

"(1) PROPERTY HELD ON DECEMBER 31, 1958.—In the case of property held by the taxpayer on December 31, 1958, if—

"(A) the fair market value of such property on such date exceeds the adjusted basis for determining gain as of such date, and

"(B) the taxpayer has been a life insurance company at all times on and after December 31, 1958,

the gain on the sale or other disposition of such property shall be treated as an amount (not less than zero) equal to the amount by which the gain (determined without regard to this subsection) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis for determining gain as of such date.

"(2) CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 1958.—In the case of property acquired after December 31, 1958, and having a substituted basis (within the meaning of section 1016(b))—

"(A) for purposes of paragraph (1), such property shall be deemed held continuously by the taxpayer since the beginning of the holding period thereof, determined with reference to section 1223,

"(B) the fair market value and adjusted basis referred to in paragraph (1) shall be that of that property for which the holding period taken into account includes December 31, 1958,

"(C) paragraph (1) shall apply only if the property or properties the holding periods of which are taken into account were held only by life insurance companies after December 31, 1958, during the holding periods so taken into account,

"(D) the difference between the fair market value and adjusted basis referred to in paragraph (1) shall be reduced (to not less than zero) by the excess of (i) the gain that would have been recognized but for this subsection on all prior sales or dispositions after December 31, 1958, of properties referred to in subparagraph (C), over (ii) the gain which was recognized on such sales or other dispositions, and

"(E) the basis of such property shall be determined as if the gain which would have been recognized but for this subsection were recognized gain.

"(3) PROPERTY DEFINED.—For purposes of paragraphs (1) and (2), the term 'property' does not include insurance and annuity contracts and property described in paragraph (1) of section 1221.

"(d) INSURANCE OR ANNUITY CONTRACT INCLUDES CONTRACTS SUPPLEMENTARY THERETO.—For purposes of this part, the term 'insurance or annuity contract' includes any contract supplementary thereto.

"(e) SPECIAL RULE FOR CONSOLIDATED RETURNS.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(f) ALLOCATION OF CERTAIN ITEMS FOR PURPOSES OF FOREIGN TAX CREDIT, ETC.—

"(1) IN GENERAL.—Under regulations, in applying sections 861, 862, and 863 to a life insurance company, the deduction for policyholder dividends (determined under section 808(c)), reserve adjustments under subsections (a) and (b) of section 807, and death benefits and other amounts described in section 805(a)(1) shall be treated as items which cannot definitely be allocated to an item or class of gross income.

"(2) ELECTION OF ALTERNATIVE ALLOCATION.—

"(A) IN GENERAL.—On or before September 15, 1984, any life insurance company may elect to treat items described in paragraph (1) as properly apportioned or allocated among items of gross income to the extent (and in the manner) prescribed in regulations.

"(B) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subclause (IV) of section 72(e)(5)(D)(i) is amended by striking out "section 805(d)(3)" and inserting in lieu thereof "section 818(a)(3)".

(2) Subsection (a) of section 80 (relating to restoration of value of certain securities) is amended by striking out "802" and inserting in lieu thereof "801".

(3)(A) Subparagraph (C) of section 243(b)(3) (relating to effect of election) is amended by striking out clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(B) Paragraph (6) of section 243(b) (relating to special rules for insurance companies) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(4) Subsection (d) of section 381 (relating to carryover in certain corporate acquisitions) is amended by striking out "section 812(f)" and inserting in lieu thereof "section 810".

(5) Paragraph (24) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "section 805(d)(6)" and inserting in lieu thereof "section 818(a)(6)".

(6)(A) Paragraph (1) of section 453B(e) (relating to life insurance companies) is amended by striking out "section 801(a)" and inserting in lieu thereof "section 816(a)".

(B) Paragraph (2) of section 453B(e) is amended to read as follows:

"(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS NOT RELATED TO INSURANCE BUSINESS.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

"(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

"(B) as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3)).".

(7) Paragraph (5) of section 542(b) (relating to certain dividend income received from a nonincludible life insurance company) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(8) Subsection (b) of section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(9) Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out "section 801(b)" and inserting in lieu thereof "section 816(b) but determined as provided in section 807" and by striking out "section 801" and inserting in lieu thereof "section 816".

(10) Section 841 (relating to credit for foreign taxes) is amended—

(A) by striking out "section 802," each place it appears and inserting in lieu thereof "section 801,", and

(B) by striking out "section 802(b)" and inserting in lieu thereof "section 801(b)".

(11)(A) Subsection (a) of section 844 (relating to special loss carryover rules) is amended—

(i) by striking out "section 812," and inserting in lieu thereof "section 810 (or the corresponding provisions of prior law),", and

(ii) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)".

(B) Subsection (b) of section 844 is amended—

(i) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)", and

(ii) by striking out "section 812(b)(1)(C)" in paragraph (2) and inserting in lieu thereof "section 810(b)(1)(C)".

(12) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out "802" and inserting in lieu thereof "801".

(13)(A) Subsection (b) of section 953 (relating to income from insurance of United States risks) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Paragraph (2) of section 953(b), as redesignated by subparagraph (A), is amended to read as follows:

"(2) The following provisions of subchapter L shall not apply:

"(A) The special life insurance company deduction and the small life insurance company deduction.

"(B) Section 805(a)(5) (relating to operations loss deduction).

"(C) Section 832(c)(5) (relating to certain capital losses).".

(C) Paragraph (3) of section 953(b), as redesignated by subparagraph (A), is amended by—

(i) striking out "section 809(c)(1)" and inserting in lieu thereof "section 803(a)(1)", and

(ii) by striking out "section 809(c)(2)" and inserting in lieu thereof "section 803(a)(2)", and

(iii) by striking out "section 809(d)(2)" and inserting in lieu thereof "section 805(a)(2)".

(D) Paragraph (2) of section 953(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

(E) Paragraph (4) of section 953(b), as redesignated by subparagraph (A), is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(14) Paragraph (17) of section 1016(a) is amended by striking out "section 818(b)" each place it appears and inserting in lieu thereof "section 811(b)".

(15) Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(16) Paragraph (1) of section 1201(b) (relating to cross references) is amended by striking out "section 802(a)(2)" and inserting in lieu thereof "section 801(a)(2)".

(17) Subparagraph (B) of section 1232A(c)(4) (relating to original issue discount) is amended by striking out "section 818(b)" and inserting in lieu thereof "section 811(b)".

(18)(A) Paragraph (1) of section 1351(a) (relating to treatment of recoveries of foreign expropriation losses) is amended by striking out "802" each place it appears and inserting in lieu thereof "801".

(B) Paragraph (2) of section 1351(c) (relating to amount of recovery) is amended by striking out "section 810(c)" and inserting in lieu thereof "section 807(c)".

(C) Paragraph (3) of section 1351(i) (relating to adjustments for succeeding years) is amended by striking out "section 812" and inserting in lieu thereof "section 810".

(19)(A) Subsection (c) of section 1503 (relating to special rules for application of certain losses against income of insurance companies taxed under section 802) is amended by striking out "section 802" each place it appears and inserting in lieu thereof "section 801".

(B) Paragraph (1) of section 1503(c) is amended by striking out the third sentence.

(C) The subsection heading of section 1503(c) is amended by striking out "SECTION 802" and inserting in lieu thereof "SECTION 801".

(20) Subsections (b)(2), (c)(1), and (c)(2)(A) of section 1504 (defining affiliated group) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(21)(A) Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraphs (3) and (4), by adding "and" at the end of paragraph (1), and by striking out the comma at the end of paragraph (2) and inserting in lieu thereof a period, and

(ii) by striking out "paragraphs (2), (3), and (4)" in the last sentence and inserting in lieu thereof "paragraph (2)".

(B) Subsection (b) of section 1561 is amended—

(i) by striking out paragraphs (3) and (4) and by adding "and" at the end of paragraph (1), and

(ii) by striking out ", (2), (3), or (4)" and inserting in lieu thereof "or (2)".

(22) Subsections (a)(4) and (b)(2)(D) of section 1563 (defining controlled group of corporations) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(23) Paragraph (2) of section 4371 (relating to imposition of tax on policies issued by foreign insurers) is amended by striking out "section 819" and inserting in lieu thereof "section 813".

(24)(A) Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(B) Subsection (k) of section 6501 (relating to reductions of policyholders surplus account of life insurance companies) is hereby repealed.

(25) Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(26) Subsection (d) of section 6601 (relating to interest on underpayments, etc.) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(27) Subsection (f) of section 6611 (relating to interest on overpayments) is amended by striking out paragraph (4).

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

Subpart A—Effective Date

SEC. 215. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983.

Subpart B—Transitional Rules

SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH START.

(a) IN GENERAL.—As of the beginning of the first taxable year beginning after December 31, 1983, for purposes of part I of subchapter L of the Internal Revenue Code of 1954 (other than section 816 thereof), the reserve for any contract shall be recomputed as if the amendments made by this subtitle had applied to such contract when it was issued.

(b) FRESH START.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of any life insurance company, any change in the method of accounting (and any change in the method of computing reserves) between such company's first taxable year beginning after December 31, 1983, and the preceding taxable year which is required solely by the amendments made by this subtitle shall be treated as not being a change in the method of accounting (or change in the method of computing reserves) for purposes of the Internal Revenue Code of 1954.

(2) TREATMENT OF ADJUSTMENTS FROM YEARS BEFORE 1984.—

(A) ADJUSTMENTS ATTRIBUTABLE TO DECREASES IN RESERVES.—No adjustment under

section 810(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) attributable to any decrease in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in any taxable year beginning after 1983.

(B) ADJUSTMENTS ATTRIBUTABLE TO INCREASES IN RESERVES.—

(i) IN GENERAL.—Any adjustment under section 810(d) of the Internal Revenue Code of 1954 (as so in effect) attributable to an increase in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in taxable years beginning after 1983 to the extent that—

(I) the amount of the adjustments which would be taken into account under such section in taxable years beginning after 1983 without regard to this subparagraph, exceeds

(II) the amount of any fresh start adjustment attributable to contracts for which there was such an increase in reserves as a result of such change.

(ii) FRESH START ADJUSTMENT.—For purposes of clause (i), the fresh start adjustment with respect to any contract is the excess (if any) of—

(I) the reserve attributable to such contract as of the close of the taxpayer's last taxable year beginning before January 1, 1984, over

(II) the reserve for such contract as of the beginning of the taxpayer's first taxable year beginning after 1983 as recomputed under subsection (a) of this section.

(C) RELATED INCOME INCLUSIONS NOT TAKEN INTO ACCOUNT TO THE EXTENT DEDUCTION DISALLOWED UNDER SUBPARAGRAPH (B).—No premium shall be included in income to the extent such premium is directly related to an increase in a reserve for which a deduction is disallowed by subparagraph (B).

(3) REINSURANCE TRANSACTIONS, AND RESERVE STRENGTHENING, AFTER SEPTEMBER 27, 1983.—Paragraph (1) shall not apply (and section 807(f) of the Internal Revenue Code of 1954 as amended by this subtitle shall apply) to any reserve transferred (or expenses transferred) pursuant to a reinsurance agreement entered into, modified, or terminated after September 27, 1983, and before January 1, 1984 (or to any reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before January 1, 1984). Any amount included in income under section 807(f) of such Code by reason of the preceding sentence (and any income attributable to transferred expenses described in the preceding sentence) shall not be taken into account for purposes of determining the amount of the special life insurance company deduction and the small life insurance company deduction.

SEC. 217. OTHER SPECIAL RULES.

(a) NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A.—For purposes of section 814 of the Internal Revenue Code of 1954 (relating to contiguous country branches of domestic life insurance companies)—

(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as an election under such section 814, and

(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.

(b) TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2).—If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in section 806(c)(3) of the Internal Revenue Code of 1954).

(c) STATES WHICH DETERMINE ANNUITY RESERVES WITHOUT REDUCTION FOR SURRENDER CHARGES.—If in determining minimum reserves for annuity contracts a State does not reduce such reserves for surrender charges and such State has continuously pursued this practice since September 27, 1983, then any life insurance company domiciled in such State may adjust the amount determined under section 807(d)(2) of the Internal Revenue Code of 1954 as a tax reserve for such contract by taking into account the reasonable surrender charges on such contract.

(d) DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983.—If—

(1) a corporation acquired the assets of 1 or more insurance companies after 1979 and before April 1, 1983, and

(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1954 (or such corporation made an election under section 338 of such Code with respect to such assets),

then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, and before January 1, 1986, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).

(e) SPECIAL RULE FOR ALLOCATION IN CASE OF REINSURANCE AGREEMENTS.—Subsection (d) of section 811 of the Internal Revenue Code of 1954 (as amended by this title) shall not apply with respect to any contract issued before September 27, 1983, which is reinsured before such date under a reinsurance agreement entered into before such date.

(f) TREATMENT OF CERTAIN COMPANIES OPERATING BOTH AS STOCK AND MUTUAL COMPANY.—If during the 10-year period ending on December 31, 1983, a company has, as authorized by the law of the State in which the company is domiciled, been operating as a mutual life insurance company with shareholders—

(1) except as provided in paragraph (2), such company shall be treated as a stock life insurance company, and

(2) with respect to the mutual portion of its equity base, such company shall be treated as a mutual life insurance company for purposes of sections 808(c)(2) and 809 of the Internal Revenue Code of 1954.

For purposes of the preceding sentence, the mutual portion for any calendar year of items of gain from operations, equity base, dividends to policyholders, assets, and reserves, and of other items shall be determined in the same manner as prescribed for reports filed by such company with State insurance regulatory authorities.

(g) TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE COMPANIES.—

(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1954 (as amended by this subtitle) if such tables were—

(A) in use since 1965, and

(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

(A) has been in existence since 1965, and

(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

(3) STATUTORY RESERVES.—For purposes of this subsection, the term "statutory reserves" has the meaning given to such term by section 809(b)(4)(B) of such Code.

(h) TREATMENT OF REINSURANCE AGREEMENTS REQUIRED BY NAIC.—Effective for taxable years beginning after December 31, 1981, and before January 1, 1984, subsections (c)(1)(F) and (d)(12) of section 809 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not apply to dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of accident and health policies reinsured under a reinsurance agreement entered into before June 30, 1955, pursuant to the direction of the National Association of Insurance Commissioners and approved by the State insurance commissioner of the taxpayer's State of domicile. For purposes of subchapter L of chapter 1 of such Code (as in effect on the day before the date of the enactment of this Act) any such dividends shall be treated as dividends of the reinsurer and not the taxpayer.

(i) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—A company shall be treated as meeting the requirement of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any noncancellable accident and health insurance contract for any taxable year if such company—

(1) uses the net level reserve method to compute its tax reserves under section 807 of such Code on such contracts for such taxable year,

(2) was using the net level reserve method to compute its statutory reserves on such contracts as of December 31, 1982, and

(3) has continuously used such method for computing such reserves on such contracts after December 31, 1982, and through such taxable year.

Subtitle B—Taxation of Life Insurance Products

SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7702. LIFE INSURANCE CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the term 'life insurance contract' means any contract which is a life insurance contract under the applicable law, but only if such contract—

"(1) meets the cash value accumulation test of subsection (b), or

"(2)(A) meets the guideline premium requirements of subsection (c), and

"(B) falls within the cash value corridor of subsection (d).

"(b) CASH VALUE ACCUMULATION TEST FOR SUBSECTION (a)(1).—

"(1) IN GENERAL.—A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

"(2) RULES FOR APPLYING PARAGRAPH (1).—Determinations under paragraph (1) shall be made—

"(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract, and

"(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3).

"(c) GUIDELINE PREMIUM REQUIREMENTS.—For purposes of this section—

"(1) IN GENERAL.—A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

"(2) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(A) the guideline single premium, or

"(B) the sum of the guideline level premiums to such date.

"(3) GUIDELINE SINGLE PREMIUM.—

"(A) IN GENERAL.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract.

"(B) BASIS ON WHICH DETERMINATION IS MADE.—The determination under subparagraph (A) shall be based on—

"(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

"(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and

"(iii) interest at the greater of an annual effective rate of 6 percent or the minumum rate or rates guaranteed on issuance of the contract.

"(C) WHEN DETERMINATION MADE.—Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

"(4) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting '4 percent' for '6 percent'.

"(d) CASH VALUE CORRIDOR FOR PURPOSES OF SUBSECTION (a)(2)(B).—For purposes of this section—

"(1) IN GENERAL.—A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

"(2) APPLICABLE PERCENTAGE.—

"In the case of an insured with an attained age as of the beginning of the contract year of:.		The applicable percentage shall decrease by a ratable portion for each full year:	
More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	215
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

"(e) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

"(B) the maturity date shall be no earlier than the day on which the insured attains age 95, and

"(C) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

"(2) LIMITED INCREASES IN DEATH BENEFIT PERMITTED.—Notwithstanding paragraph (1)(A)—

"(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract, and

"(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the cash surrender value of the contract may not at any time exceed the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PREMIUMS PAID.—

"(A) IN GENERAL.—The term 'premiums paid' means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED TO POLICYHOLDER.—If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CASH VALUES.—

"(A) CASH SURRENDER VALUE.—The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

"(B) NET SURRENDER VALUE.—The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

"(3) DEATH BENEFIT.—The term 'death benefit' means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

"(4) FUTURE BENEFITS.—The term 'future benefits' means death benefits and endowment benefits.

"(5) QUALIFIED ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) family term coverage,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed under regulations.

"(B) TREATMENT OF QUALIFIED ADDITIONAL BENEFITS.—For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

"(C) TREATMENT OF OTHER ADDITIONAL BENEFITS.—In the case of any additional benefit which is not a qualified additional benefit—

"(i) such benefit shall not be treated as a future benefit, and

"(ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

"(6) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary there shall be proper adjustments in future determinations made under this section.

"(B) CERTAIN CHANGES TREATED AS EXCHANGE.—In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.

"(8) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

"(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

"(9) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS.—In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

"(g) TREATMENT OF CONTRACTS WHICH DO NOT MEET SUBSECTION (a) TEST.—

"(1) INCOME INCLUSION.—

"(A) IN GENERAL.—If at any time any contract which is a life insurance contract under the applicable law does not meet the

definition of life insurance contract under subsection (a), the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year.

"(B) INCOME ON THE CONTRACT.—For purposes of this paragraph, the term 'income on the contract' means, with respect to any taxable year of the policyholder, the excess of—

"(i) the sum of—

"(I) the increase in the net surrender value of the contract during the taxable year, and

"(II) the cost of life insurance protection provided under the contract during the taxable year, over

"(ii) the amount of premiums paid under the contract during the taxable year reduced by any policyholder dividends received during such taxable year.

"(C) CONTRACTS WHICH CEASE TO MEET DEFINITION.—If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs.

"(D) COST OF LIFE INSURANCE PROTECTION.—For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

"(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

"(ii) the mortality charge (if any) stated in the contract.

"(2) TREATMENT OF AMOUNT PAID ON DEATH OF INSURED.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

"(3) CONTRACT CONTINUES TO BE TREATED AS INSURANCE CONTRACT.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), such contract shall, notwithstanding such failure, be treated as an insurance contract for purposes of this title.

"(h) ENDOWMENT CONTRACTS RECEIVE SAME TREATMENT.—

"(1) IN GENERAL.—References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

"(2) DEFINITION OF ENDOWMENT CONTRACT.—For purposes of this title (other than paragraph (1)), the term 'endowment contract' means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

"(i) TRANSITIONAL RULES FOR CERTAIN CONTRACTS.—

"(1) CONTRACTS ISSUED DURING 1984.—In the case of any contract which is issued during 1984, such contract shall be treated as meeting the requirements of subsection (a) if—

"(A) such contract (whether or not a flexible premium contract) would meet the requirements of section 101(f),

"(B) such contract is not a flexible premium life insurance contract (within the meaning of section 101(f) and would meet the requirements of subsection (a) determined by—

"(i) substituting '3 percent' for '4 percent' in subsection (b)(2) of this section, and

"(ii) treating subparagraph (B) of subsection (e)(1) of this section as if it read as follows: 'the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95', or

"(C) under such contract—

"(i) the premiums (including any policy fees) will be adjusted from time-to-time to reflect the level amount necessary (but not less than zero) at the time of such adjustment to provide a level death benefit assuming interest crediting and an annual effective interest rate of not less than 3 percent, or

"(ii) at the option of the insured, in lieu of an adjustment under clause (i) there will be a comparable adjustment in the amount of the death benefit.

"(2) CERTAIN CONTRACTS ISSUED PURSUANT TO EXISTING PLANS OF INSURANCE.—

"(A) IN GENERAL.—In the case of a qualified 20-pay contract, this section shall be applied by substituting '3 percent' for '4 percent' in subsection (b)(2).

"(B) QUALIFIED 20-PAY CONTRACT.—For purposes of subparagraph (A), the term 'qualified 20-pay contract' means any contract which—

"(i) requires at least 20 nondecreasing annual premium payments, and

"(ii) is issued pursuant to an existing plan of insurance.

"(C) EXISTING PLAN OF INSURANCE.—For purposes of this paragraph, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 101(f) is amended by striking out "flexible premium life insurance contract" and inserting in lieu thereof "flexible premium life insurance contract issued before January 1, 1984".

(2) The subsection heading of subsection (f) of section 101 is amended by striking out "FLEXIBLE PREMIUM CONTRACTS" and inserting in lieu thereof "FLEXIBLE PREMIUM CONTRACTS ISSUED BEFORE JANUARY 1, 1984".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7702. Life insurance contract defined."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after December 31, 1983, in taxable years ending after such date. For purposes of the preceding sentence, in the case of a master contract, the date taken into account with respect to any insured shall be the first date on which such insured is covered under such contract.

SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.

(a) PENALTY ON PREMATURE DISTRIBUTIONS.—Paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(1) IMPOSITION OF PENALTY.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount which is includible in gross income.".

(b) AMOUNT OF ANNUITY CONTRACT TREATED AS DISTRIBUTED WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) AMOUNT OF ANNUITY CONTRACT TREATED AS DISTRIBUTED WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—

"(1) IN GENERAL.—If the holder of any annuity contract dies before the annuity starting date, an amount equal to the cash surrender value of such contract (determined without regard to any surrender charge) shall be treated as paid to such holder immediately before his death.

"(2) EXCEPTION FOR CONTRACTS UNDER QUALIFIED PLANS.—This subsection shall not apply to any annuity contract described in subsection (e)(5)(D).

"(3) BASIS ADJUSTMENT.—For purposes of this section, in the case of any contract to which paragraph (1) applied, the amount includible in gross income by reason of paragraph (1) shall be treated as a premium paid for such contract.

"(4) PENALTY NOT TO APPLY.—Subsection (q) shall not apply to any amount includible in gross income by reason of this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after the day which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

SEC. 223. LIMITATION ON INTEREST DEDUCTION IN CASE OF LIFE INSURANCE LOANS.

(a) GENERAL RULE.—Section 264 (relating to certain amounts paid in connection with insurance contracts) is amended by adding at the end thereof the following new subsection:

"(d) LIMITATION ON INTEREST DEDUCTION IN THE CASE OF LIFE INSURANCE LOANS.—

"(1) IN GENERAL.—The amount otherwise allowable as a deduction under this chapter for life insurance interest shall not exceed the applicable limit for the taxable year.

"(2) APPLICABLE LIMIT.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any taxable year is an amount equal to the product of—

"(i) the applicable dollar amount for the taxable year, multiplied by

"(ii) the annual rate prescribed under section 6621 which is in effect as of the first day of the taxable year.

"(B) INDEFINITE CARRYOVER OF UNUSED LIMIT.—If the applicable limit for any taxable year exceeds the amount of the life insurance interest paid or accrued during such taxable year, the amount of the applicable limit for the succeeding taxable year shall be increased by the amount of such excess.

"(3) APPLICABLE DOLLAR AMOUNT.—

"(A) INDIVIDUALS.—In the case of an individual, the applicable dollar amount for any

taxable year shall be $250,000 ($500,000 in the case of a joint return).

"(B) CORPORATIONS, ETC.—

"(i) IN GENERAL.—In the case of any corporation, partnership, proprietorship, or other entity engaged in a trade or business, the applicable dollar amount shall be $500,000 times the number of qualified lives.

"(ii) QUALIFIED LIVES.—For purposes of clause (i), the term 'qualified life' means any individual if—

"(I) at some time during the taxable year, the corporation, partnership, proprietorship, or other entity had a policy of life insurance (other than term) on the life of such individual and had outstanding a life insurance loan (as defined in paragraph (4) without regard to subparagraph (C) thereof) with respect to such policy, and

"(II) the face amount of such insurance policy was not less than 10 percent of the highest face amount of any policy of life insurance (other than term) which is carried by such corporation or other entity on the life of any individual and with respect to which there is outstanding a life insurance loan (as defined in paragraph (4) without regard to subparagraph (C) thereof).

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LIFE INSURANCE INTEREST.—The term 'life insurance interest' means any interest paid or accrued on a life insurance loan which (without regard to this subsection) is allowable as a deduction under this chapter for the taxable year.

"(B) LIFE INSURANCE LOAN.—Except as provided in subparagraph (C), the term 'life insurance loan' means any indebtedness—

"(i) incurred under a life insurance, endowment, or annuity contract,

"(ii) secured by a life insurance, endowment, or annuity contract, or

"(iii) incurred or continued to purchase or carry a life insurance, endowment, or annuity contract.

Such term shall not include any indebtedness the interest on which is not allowable as a deduction under this chapter for the taxable year (determined without regard to this subsection).

"(C) EXCEPTION FOR LOANS ON POLICIES ISSUED BEFORE SEPTEMBER 28, 1983.—The term 'life insurance loan' shall not include any indebtedness which (but for this subparagraph) would be a life insurance loan if the life insurance, endowment, or annuity contract referred to in subparagraph (B)—

"(i) was issued before September 28, 1983, or

"(ii) was issued on or after such date pursuant to a binding contract entered into before such date.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after September 27, 1983.

SEC. 224. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) SECTION 79 EXTENDED TO FORMER EMPLOYEES.—

(1) Section 79 (relating to group-term insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(e) EMPLOYEE INCLUDES FORMER EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee.".

(2) Paragraph (1) of section 79(b) is amended to read as follows:

"(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),".

(b) AMOUNT OF INCLUSION IN CASE OF DISCRIMINATORY PLANS.—Paragraph (1) of section 79(d) (relating to nondiscrimination requirements) is amended to read as follows:

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan—

"(A) subsection (a)(1) shall not apply with respect to any key employee, and

"(B) the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) EXISTING GROUP-TERM LIFE INSURANCE PLANS.—The amendments made by this section shall not apply—

(A) to any group-term life insurance plan of the employer in existence on September 27, 1983, or

(B) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in subparagraph (A),

but only with respect to an individual covered by the plan on such date, and in an amount not in excess of the insurance coverage of such individual on such date.

Subtitle C—Nondeductible Contributions to Individual Retirement Plans

SEC. 231. NONDEDUCTIBLE CONTRIBUTIONS PERMITTED TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—

(1) NONDEDUCTIBLE LIMIT TAKEN INTO ACCOUNT IN DETERMINING EXCESS CONTRIBUTIONS.—Subparagraph (B) of section 4973(b)(1) (defining excess contributions) is amended to read as follows:

"(B) the sum of the amount allowable as a deduction under section 219 for such contributions plus the nondeductible limit for the taxable year, and".

(2) DEFINITION OF NONDEDUCTIBLE LIMIT.—Section 4973 is amended by adding at the end thereof the following new subsection:

"(d) NONDEDUCTIBLE LIMIT.—

"(1) IN GENERAL.—For purposes of subsection (b), the term 'nondeductible limit' means whichever of the following is the least:

"(A) $1,750,

"(B) the excess of—

"(i) the compensation (as defined in section 219(e)(1)) includible in the individual's gross income for the taxable year, over

"(ii) the maximum amount allowable as a deduction under section 219 for such taxable year to the individual, or

"(C) the amount of the designated nondeductible contributions for the taxable year.

"(2) DESIGNATED NONDEDUCTIBLE CONTRIBUTION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'designated nondeductible contribution' means any contribution to an individual retirement plan for the taxable year which is designated as a nondeductible contribution.

"(B) DESIGNATION.—Any designation under subparagraph (A) may be made (or revoked) at any time before the last day prescribed by law for filing the return of tax imposed by subtitle A for the taxable year (including extensions thereof).

"(3) SPECIAL RULE FOR SPOUSAL IRA.—In the case of an individual to whom a deduction is allowable under section 219(c) for any taxable year, the nondeductible limit for such year shall be determined by reference to such individual's compensation and shall be allocated between the spouses in such manner as they may designate."

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 4973(b)(2) is amended to read as follows:

"(C) the excess (if any) of—

"(i) the sum of the maximum amount allowable as a deduction under section 219 for the taxable year plus the nondeductible limit for the taxable year, over

"(ii) the amount contributed (determined without regard to section 219(f)(6)) to the accounts or for the annuities for the taxable year."

(b) TREATMENT OF DISTRIBUTIONS.—Paragraphs (1) and (2) of section 408(d) (relating to tax treatment of distributions) are amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall—

"(A) first be treated as paid or distributed out of income and gains attributable to designated nondeductible contributions (to the extent thereof),

"(B) second be treated as paid or distributed out of designated nondeductible contributions (to the extent thereof), and

"(C) then be treated as paid or distributed out of other amounts.

"(2) TREATMENT OF DISTRIBUTIONS.—

"(A) ORDINARY INCOME AMOUNTS.—Any amount to which subparagraph (A) or (C) of paragraph (1) applies shall be included in gross income by the payee or distributee (as the case may be) for the taxable year in which the payment or distribution is received.

"(B) BASIS RECOVERY.—Any amount to which subparagraph (B) of paragraph (1) applies shall be excluded from gross income.

"(C) DISTRIBUTIONS OF ANNUITY CONTRACTS.—Paragraph (1) shall not apply to the distribution from an individual retirement account of an annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subsection (b); except that paragraph (1) shall apply to any distributions under such contract.

"(D) Loss.—If—

"(i) the aggregate amount of designated nondeductible contributions to any individual retirement account or annuity, exceeds

"(ii) the aggregate amount paid or distributed out of such account or under such annuity,

an amount equal to such excess shall be allowed as a deduction to the individual for the last taxable year in which such account or annuity is in existence.".

(c) INFORMATION REQUIREMENTS.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Subsection (a) of section 408 (defining individual retirement accounts) is amended by adding at the end thereof the following new paragraph:

"(8) The trustee maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions.".

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Subsection (b) of section 408 is amended by inserting after paragraph (5) the following new paragraph:

"(6) The issuer of such contract maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions.".

(d) TECHNICAL AMENDMENTS.—

(1) DISALLOWANCE OF DEDUCTION FOR DESIGNATED NONDEDUCTIBLE CONTRIBUTION.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) DENIAL OF DEDUCTION FOR DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—No deduction shall be allowed under this section with respect to any designated nondeductible contribution (as defined in section 4973(d)(2)).".

(2) INCREASE IN LIMITATIONS ON AMOUNT INDIVIDUAL RETIREMENT PLAN CAN ACCEPT.—

(A) The following provisions are each amended by striking out "$2,000" each place it appears and inserting in lieu thereof "$3,750":

(i) Section 408(a)(1).

(ii) Section 408(b).

(iii) Section 408(j).

(B) Subparagraph (A) of section 408(d)(5) is amended by striking out "$2,250" and inserting in lieu thereof "$4,000".

(3) SEPARATE RECORDS REQUIRED IN CASE OF ROLLOVER CONTRIBUTIONS.—Paragraph (3) of section 408(d) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(E) SEPARATE REPORTING FOR AMOUNTS ATTRIBUTABLE TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this paragraph, the Secretary shall prescribe regulations providing for such allocations of amounts attributable to designated nondeductible contributions (as defined in section 4973(d)(2)) as may be necessary to ensure that the separate treatment of such contributions and the income and gain attributable to such contributions is maintained.".

(4) CLERICAL AMENDMENT.—Subparagraph (A) of section 4973(b)(2) is amended by striking out "section 408(d)(1)" and inserting in lieu thereof "section 408(d)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made during taxable years beginning after December 31, 1983.

Subtitle D—Studies

SEC. 241. STUDIES.

(a) REVENUE REPORTS.—Not later than July 1, 1984, and July 1 of each calendar year thereafter, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the aggregate amount of revenue received under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 for the most recent taxable years for which data are available,

(2) a comparison between the amount of such revenue and the amount anticipated by reason of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 or the Life Insurance Tax Act of 1984, and

(3) the reasons for any difference between such aggregate revenues and anticipated revenues.

(b) REPORT WITH RESPECT TO SEGMENT BALANCE, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury (in consultation with the Joint Committee on Taxation, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate) shall conduct a full and complete study of the operation of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 during 1984, 1985, and 1986. Such study shall also include an analysis of life insurance products and the taxation thereof. Such study shall also include an analysis of whether part I of such subchapter L operates as a disincentive to growing companies.

(2) ITEMS TO BE INCLUDED.—The study conducted under paragraph (1) shall include—

(A) an analysis of the portion of the taxes paid by mutual life insurance companies and stock life insurance companies, and

(B) any other data considered relevant by either stock life insurance companies or mutual life insurance companies in determining appropriate segment balance, such as the respective amounts of the following items held by each segment of the industry—

(i) equity,

(ii) life insurance reserves,

(iii) other types of reserves,

(iv) dividends paid to policyholders and shareholders,

(v) pension business,

(vi) total assets, and

(vii) gross receipts.

Such report shall also include an analysis of the extent to which taxes paid by stockholders of life insurance companies shall be included in analyzing segment balance.

(3) REPORTS.—

(A) INTERIM REPORTS.—The Secretary of the Treasury shall submit interim reports on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986, 1987, and 1988.

(B) FINAL REPORT.—Not later than January 1, 1989, the Secretary of the Treasury shall submit a final report on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) AUTHORITY TO REQUIRE DATA.—The Secretary of the Treasury shall have authority to require reporting of such data with respect to life insurance companies and their products as may be necessary to carry out the purposes of this section.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Private Foundation Tax Treatment Revision Act of 1984".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title; table of contents.
Sec. 302. Limitations on deduction for contributions to private foundations.
Sec. 303. Exemption for certain operating foundations from excise tax on investment income.
Sec. 304. Reduction in excise tax on investment income where private foundation meets certain distribution requirements.
Sec. 305. Amendment to taxes on failure to distribute income.
Sec. 306. Abatement of first tier taxes in certain cases.
Sec. 307. Miscellaneous amendments.
Sec. 308. 5-year extension of requirements to dispose of certain excess holdings attributable to large gifts and bequests.
Sec. 309. Decreases attributable to stock issuances not to reduce permitted percentage of holdings where decrease is 2 percent or less.
Sec. 310. Aggregation of stock holdings of private foundation and disqualified persons in applying 95 percent ownership test.
Sec. 311. 5-year period to dispose of excess holdings resulting from certain acquisitions by disqualified persons.
Sec. 312. The conducting of certain games of chance not treated as unrelated trade or business.
Sec. 313. Tax on self-dealing not to apply to certain stock purchases.
Sec. 314. Person ceases to be substantial contributor after 10 years with no connection to foundation.
Sec. 315. Technical amendments.

SEC. 302. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.—

(1) IN GENERAL.—Clause (i) of section 170(b)(1)(B) (relating to percentage limitations for individuals) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent".

(2) CARRYOVER OF EXCESS CONTRIBUTIONS.—Subparagraph (B) of section 170(b)(1) is amended by adding at the end thereof the following new sentence:

"If the aggregate of such contributions exceeds the limitation of the preceding sentence, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution (to which subparagraph (A) does not apply) in each of the 5 succeeding taxable years in order of time.".

(b) DEDUCTION ALLOWED FOR FULL FAIR MARKET VALUE OF CERTAIN STOCK CONTRIBUTED TO PRIVATE FOUNDATIONS.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF STOCK FOR WHICH MARKET QUOTATIONS ARE READILY AVAILABLE.—

"(A) IN GENERAL.—Subparagraph (B)(ii) of paragraph (1) shall not apply to any contribution of qualified appreciated stock.

"(B) QUALIFIED APPRECIATED STOCK.—Except as provided in subparagraph (C), for purposes of this paragraph, the term 'qualified appreciated stock' means any stock of a corporation—

"(i) for which (as of the date of the contribution) market quotations are readily available on an established securities market, and

"(ii) which is capital gain property (as defined in subsection (b)(1)(C)(iv)).

"(C) DONOR MAY NOT CONTRIBUTE MORE THAN 10 PERCENT OF STOCK OF CORPORATION.—

"(i) IN GENERAL.—In the case of any donor, the term 'qualified appreciated stock' shall not include any stock of a corporation contributed by the donor in a contribution to which paragraph (1)(B)(ii) applies (determined without regard to this paragraph) to the extent that the amount of the stock so contributed (when increased by the aggregate amount of all prior such contributions by the donor of stock in such corporation) exceeds 10 percent (in value) of all of the outstanding stock of such corporation.

"(ii) SPECIAL RULE.—For purposes of clause (i), an individual shall be treated as making all contributions made by any member of his family (as defined in section 267(c)(4)).

"(D) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 1994.".

(c) 20-PERCENT LIMITATION RETAINED FOR CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 170(b) (relating to percentage limitations for individuals) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS OF CAPITAL GAIN PROPERTY TO ORGANIZATIONS NOT DESCRIBED IN SUBPARAGRAPH (A).—

"(i) IN GENERAL.—In the case of charitable contributions (other than charitable contributions to which subparagraph (A) applies) of capital gain property, the total amount of such contributions of such property taken into account under subsection (a) for any taxable year shall not exceed the lesser of—

"(I) 20 percent of the taxpayer's contribution base for the taxable year, or

"(II) the excess of 30 percent of the taxpayer's contribution base for the taxable year over the amount of the contributions of capital gain property to which subparagraph (C) applies.

For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions.

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.".

(2) TECHNICAL AMENDMENTS.—

(A) Clause (vii) of section 170(b)(1)(A) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (E)".

(B) The subparagraph heading and clause (i) of subparagraph (C) of section 170(b)(1) are amended to read as follows:

"(C) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS DESCRIBED IN SUBPARAGRAPH (A) OF CERTAIN CAPITAL GAIN PROPERTY.—

"(i) In the case of charitable contributions described in subparagraph (A) of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions (other than charitable contributions to which subparagraph (D) applies).".

(C) Subparagraph (B) of section 170(e)(1) is amended by striking out "subsection (b)(1)(D)" and inserting in lieu thereof "subsection (b)(1)(E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 1984.

SEC. 303. EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

"(2) EXEMPT OPERATING FOUNDATION.—For purposes of this subsection, the term 'exempt operating foundation' means, with respect to any taxable year, any private foundation if—

"(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

"(B) such foundation has been publicly supported for at least 10 taxable years,

"(C) at all times during the taxable year, the governing body of such foundation—

"(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

"(ii) is broadly representative of the general public, and

"(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PUBLICLY SUPPORTED.—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

"(B) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to any private foundation, an individual who is—

"(i) a substantial contributor to the foundation,

"(ii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

"(iii) a member of the family of any individual described in clause (i) or (ii).

"(C) SUBSTANTIAL CONTRIBUTOR.—The term 'substantial contributor' means a person who is described in section 507(d)(2).

"(D) FAMILY.—The term 'family' has the meaning given to such term by section 4946(d).

"(E) CONSTRUCTIVE OWNERSHIP.—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii).".

(b) REQUIREMENT OF EXPENDITURE RESPONSIBILITY NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.—Paragraph (4) of section 4945(d) (defining taxable expenditure) is amended to read as follows:

"(4) as a grant to an organization unless—

"(A) such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2)), or

"(B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or".

(c) EFFECTIVE DATE.—

(1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) FOR SUBSECTION (b).—The amendment made by subsection (b) shall apply to grants made after December 31, 1984, in taxable years ending after such date.

(3) CERTAIN EXISTING FOUNDATIONS.—A foundation which was an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1954) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of such Code (as added by subsection (a)).

SEC. 304. REDUCTION IN EXCISE TAX ON INVESTMENT INCOME WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any private foundation which meets the requirements of paragraph (2) for any taxable year, subsection (a) shall be applied with respect to such taxable year by substituting '1 percent' for '2 percent'.

"(2) REQUIREMENTS.—A private foundation meets the requirements of this paragraph for any taxable year if—

"(A) the amount of the qualifying distributions made by the private foundation during such taxable year equals or exceeds the sum of—

"(i) an amount equal to the assets of such foundation for such taxable year multiplied by the average percentage payout for the base period, plus

"(ii) 1 percent of the net investment income of such foundation for such taxable year, and

"(B) the average percentage payout for the base period equals or exceeds 5 percent.

In the case of an operating foundation (as defined in section 4942(j)(3)), subparagraph (B) shall be applied by substituting '3½ percent' for '5 percent'.

"(3) AVERAGE PERCENTAGE PAYOUT FOR BASE PERIOD.—For purposes of this subsection—

"(A) IN GENERAL.—The average percentage payout for the base period is the average of the percentage payouts for taxable years in the base period.

"(B) PERCENTAGE PAYOUT.—The term 'percentage payout' means, with respect to any taxable year, the percentage determined by dividing—

"(i) the amount of the qualifying distributions made by the private foundation during the taxable year, by

"(ii) the assets of the private foundation for the taxable year.

"(C) SPECIAL RULE WHERE TAX REDUCED UNDER THIS SUBSECTION.—For purposes of this paragraph, if the amount of the tax imposed by this section for any taxable year in the base period is reduced by reason of this subsection, the amount of the qualifying distributions made by the private foundation during such year shall be reduced by the amount of such reduction in tax.

"(4) BASE PERIOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period' means, with respect to any taxable year, the 5 taxable years preceding such taxable year.

"(B) NEW PRIVATE FOUNDATIONS, ETC.—If an organization has not been a private foundation throughout the base period referred to in subparagraph (A), the base period shall consist of the taxable years during which such foundation has been in existence.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFYING DISTRIBUTION.—The term 'qualifying distribution' has the meaning given such term by section 4942(g).

"(B) ASSETS.—The assets of a private foundation for any taxable year shall be treated

as equal to the excess determined under section 4942(e)(1).

"(6) TREATMENT OF SUCCESSOR ORGANIZATIONS, ETC.—In the case of—

"(A) a private foundation which is a successor to another private foundation, this subsection shall be applied with respect to such successor by taking into account the experience of such other foundation, and

"(B) a merger, reorganization, or division of a private foundation, this subsection shall be applied under regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 305. AMENDMENT TO TAXES ON FAILURE TO DISTRIBUTE INCOME.

(a) LIMIT ON AMOUNT OF CERTAIN ADMINISTRATIVE EXPENSES TAKEN INTO ACCOUNT AS QUALIFYING DISTRIBUTIONS.—Subsection (g) of section 4942 (defining qualified distributions) is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATION ON ADMINISTRATIVE EXPENSES ALLOCABLE TO MAKING OF CONTRIBUTIONS, GIFTS, AND GRANTS.—

"(A) IN GENERAL.—The amount of the grant administrative expenses paid during any taxable year which may be taken into account as qualifying distributions shall not exceed the excess (if any) of—

"(i) 15 percent of the aggregate amount of qualified grants made by the private foundation during such taxable year and the immediately preceding 4 taxable years, over

"(ii) the aggregate amount of grant administrative expenses paid during the 4 preceding taxable years which were taken into account as qualified distributions.

"(B) GRANT ADMINISTRATIVE EXPENSES.—For purposes of this paragraph, the term 'grant administrative expenses' means any administrative expenses which are allocable to the making of qualified grants.

"(C) QUALIFIED GRANTS.—For purposes of this paragraph, the term 'qualified grant' means any contribution, gift, or grant which is a qualifying distribution.

"(D) TRANSITIONAL RULE.—In the case of any preceding taxable year which began before January 1, 1985, the amount of the grant administrative expenses taken into account under subparagraph (A)(ii) shall not exceed 15 percent of the qualified grants made by the foundation during such taxable year.".

(b) REQUIRED DISTRIBUTION INCREASED BY AMOUNT OF CERTAIN REPAYMENTS, ETC.—Paragraph (1) of section 4942(d) (defining distributable amount) is amended to read as follows:

"(1) the sum of the minimum investment return plus the amounts described in subsection (f)(2)(C), reduced by".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 306. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Subchapter C of chapter 42 (relating to abatement of second tier taxes) is amended by redesignating section 4962 as section 4963 and by inserting after section 4961 the following new section:

"SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST TIER TAXES IN CERTAIN CASES.

"(a) GENERAL RULE.—If it is established to the satisfaction of the Secretary that—

"(1) a taxable event was due to reasonable cause and not to willful neglect, and

"(2) such event was corrected within the correction period for such event,

then any private foundation first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

"(b) PRIVATE FOUNDATION FIRST TIER TAX.—For purposes of this section, the term 'private foundation first tier tax' means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subchapter C of chapter 42 is amended to read as follows:

"Subchapter C—Abatement of First and Second Tier Taxes in Certain Cases".

(2) The table of sections for subchapter C of chapter 42 is amended by striking out the item relating to section 4962 and inserting in lieu thereof the following:

"Sec. 4962. Abatement of private foundation first tier taxes in certain cases.
"Sec. 4963. Definitions.".

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Abatement of first and second tier taxes in certain cases.".

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events occurring after December 31, 1984.

SEC. 307. MISCELLANEOUS AMENDMENTS.

(a) REPEAL OF REQUIREMENT THAT VOTER REGISTRATION ACTIVITIES BE CARRIED ON IN 5 OR MORE STATES.—Paragraph (2) of section 4945(f) (relating to nonpartisan activities carried on by certain organizations) is amended to read as follows:

"(2) the activities of which are nonpartisan and are not confined to 1 specific election period,".

(b) DEFINITION OF FAMILY MEMBER.—Subsection (d) of section 4946 (defining members of family) is amended to read as follows:

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren.".

(c) REQUIREMENT THAT ANNUAL NOTICE INCLUDE TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.—Subsection (d) of section 6104 (relating to public inspection of private foundations' annual returns) is amended by striking out "shall state the address of the private foundation's principal office" and inserting in lieu thereof "shall state the address and the telephone number of the private foundation's principal office".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on January 1, 1984.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall take effect on January 1, 1985.

SEC. 308. 5-YEAR EXTENSION OF REQUIREMENT TO DISPOSE OF CERTAIN EXCESS HOLDINGS ATTRIBUTABLE TO LARGE GIFTS AND BEQUESTS.

(a) GENERAL RULE.—Subsection (c) of section 4943 (relating to taxes on excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(7) 5-YEAR EXTENSION OF PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.—The Secretary may extend for an additional 5-year period the period under paragraph (6) for disposing of excess business holdings in the case of an unusually large gift or bequest of diverse business holdings or holdings with complex corporate structures if the foundation—

"(A) establishes that—

"(i) diligent efforts to dispose of such holdings have been made within the initial 5-year period, and

"(ii) disposition within the initial 5-year period has not been possible (except at a price substantially below fair market value) by reason of such size and complexity or diversity of such holdings, and

"(B)(i) before the close of the initial 5-year period, has submitted a plan to the Secretary for disposing of all of the excess business holdings involved in the extension, and

"(ii) the Secretary determines that such plan can reasonably be expected to be carried out before the close of the extension period.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1954 ends on or after November 1, 1983.

(2) TRANSITIONAL RULE.—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1954 (as added by subsection (a)).

SEC. 309. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES NOT TO REDUCE PERMITTED PERCENTAGE OF HOLDINGS WHERE DECREASE IS 2 PERCENT OR LESS.

(a) GENERAL RULE.—The second sentence of clause (ii) of section 4943(c)(4)(A) (relating to present holdings) is amended to read as follows:

"For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as—

"(I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and

"(II) the number of shares held by the foundation is not affected by any such issuance or redemption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to increases and decreases after the date of the enactment of this Act.

SEC. 310. AGGREGATION OF STOCK HOLDINGS OF PRIVATE FOUNDATION AND DISQUALIFIED PERSONS IN APPLYING 95 PERCENT OWNERSHIP TEST.

(a) GENERAL RULE.—Clause (i) of section 4943(c)(4)(B) (relating to present holdings) is amended by striking out "the private foundation has" and inserting in lieu thereof "the private foundation and all disqualified persons have".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 311. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS RESULTING FROM CERTAIN ACQUISITIONS BY DISQUALIFIED PERSONS.

(a) GENERAL RULE.—Paragraph (6) of section 4943(c) (relating to 5-year period to dispose of gifts, bequests, etc.) is amended by adding at the end thereof the following new sentence:

"In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain the phrase 'or by a disqualified person' in the material preceding subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 312. THE CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

(a) GENERAL RULE.—For purposes of section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business), the term "unrelated trade or business" does not include any trade or business which consists of conducting any game of chance if—

(1) such game of chance is conducted by a nonprofit organization,

(2) the conducting of such game by such organization does not violate any State or local law, and

(3) as of October 5, 1983—

(A) there was a State law in effect which permitted the conducting of such game of chance by such nonprofit organization, but

(B) the conducting of such game of chance by organizations which were not nonprofit organizations would have violated such law.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to games of chance conducted after June 30, 1981, in taxable years ending after such date.

SEC. 313. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN STOCK PURCHASES.

(a) GENERAL RULE.—Section 4941 of the Internal Revenue Code of 1954 (relating to taxes on self-dealing) shall not apply to the purchase during 1978 of stock from a private foundation (and to any note issued in connection with such purchase) if—

(1) consideration for such purchase equaled or exceeded the fair market value of such stock,

(2) the purchaser of such stock did not make any contribution to such foundation at any time during the 5-year period ending on the date of such purchase,

(3) the aggregate contributions to such foundation by the purchaser before such date were less than $10,000 and less than 2 percent of the total contributions received by the foundation as of such date, and

(4) such purchase was pursuant to the settlement of litigation involving the purchaser.

(b) STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 314. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR AFTER 10 YEARS WITH NO CONNECTION TO FOUNDATION.

(a) GENERAL RULE.—Paragraph (2) of section 507(d) (defining substantial contributor) is amended by adding at the end thereof the following new subparagraph:

"(C) PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR IN CERTAIN CASES.—

"(i) IN GENERAL.—A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

"(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

"(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

"(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

"(ii) RELATED PERSON.—For purposes of clause (i), the term 'related person' means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 315. TECHNICAL AMENDMENTS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(1) Subparagraph (B) of section 4942(a)(2) (relating to taxes on failure to distribute income) is amended by striking out "subsection (j)(4)" and inserting in lieu thereof "subsection (j)(2)".

(2) Paragraph (1) of section 4942(f) (defining adjusted net income) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (j)".

(3) Paragraph (3) of section 6501(n) (relating to special rule for chapter 42 and similar taxes) is amended by striking out "section 4942(g)(2)(B)(i)(II)" and inserting in lieu thereof "section 4942(g)(2)(B)(ii)".

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) AMENDMENT OF 1969 TAX REFORM ACT.—

(1) Subparagraph (A) of section 101(l)(4) of the Tax Reform Act of 1969 is amended by striking out "by substituting '51 percent' for '50 percent' " and inserting in lieu thereof "as if it did not contain the phrase ', but in no event shall the percentage so substituted be more than 50 percent' ".

(2) The amendment made by paragraph (1) shall apply as if included in section 101(l)(4) of the Tax Reform Act of 1969.

TITLE IV—TAX SIMPLIFICATION

SEC. 401. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Tax Law Simplification and Improvement Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE IV—TAX SIMPLIFICATION

Sec. 401. Short title; etc.

Subtitle A—Revision and Simplification of Estimated Income Tax for Individuals

Sec. 411. Revision of penalty for failure to pay estimated income tax.
Sec. 412. Repeal of requirement of declarations, etc.
Sec. 413. Crediting of income tax overpayment against estimated tax liability.
Sec. 414. Effective date.

Subtitle B—Domestic Relations

Sec. 421. Short title.
Sec. 422. Treatment of transfers of property between spouses or incident to divorce.
Sec. 423. Tax treatment of alimony and separate maintenance payments.
Sec. 424. Dependency exemption in the case of child of divorced parents, etc.
Sec. 425. Innocent spouse relieved of liability in certain cases.
Sec. 426. Treatment of certain property settlements for purposes of estate and gift taxes.
Sec. 427. Income from sheltered workshops not taken into account in determining dependency exemption.

Subtitle C—Revision of At-Risk Rules

Sec. 431. Revision of investment credit at-risk rules.
Sec. 432. Exclusion of active businesses of qualified C corporations from at-risk rules, etc.

Subtitle D—Estate Tax Provisions

Sec. 441. Permanent rules for reforming governing instruments creating charitable remainder trusts and other charitable interests.
Sec. 442. Alternate valuation election available only where it results in reduction of gross estate and estate tax.
Sec. 443. Alternate valuation election available on late return.

Subtitle E—Foreign Tax Provisions

Sec. 451. Definition of resident alien and nonresident alien.
Sec. 452. Treatment of community income.
Sec. 453. Amendments related to foreign personal holding companies.
Sec. 454. Amendments related to section 1248.
Sec. 455. Coordination of subpart F with foreign personal holding company provisions.
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Subtitle F—Miscellaneous Treasury Administrative Provisions

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Sec. 461. Simplification of certain reporting requirements.
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Sec. 477. Proceedings which may be assigned to commissioners.
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Sec. 482. Credits grouped together in more logical order.
Sec. 483. Uniform limitation on personal nonrefundable credits.
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Sec. 497. Termination of rules relating to qualified bond purchase plans and retirement bonds with respect to bonds issued after December 31, 1983.
Sec. 498. Repeal of rules relating to gains from disposition of property used in farming where farm losses offset nonfarm income.

Subtitle A—Revision and Simplification of Estimated Income Tax for Individuals

SEC. 411. REVISION OF PENALTY FOR FAILURE TO PAY ESTIMATED INCOME TAX.

Section 6654 (relating to addition to the tax for failure by individual to pay estimated income tax) is amended to read as follows:

"SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO THE TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

"(1) the applicable annual rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 4th month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	January 15 of the following taxable year.

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 80 percent of the tax shown on the return for the taxable year (or, if no return is filed, 80 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

"(2) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER PARAGRAPH (1).—

"(A) IN GENERAL.—In the case of any required installment, if the individual establishes that the annualized income installment is less than the amount determined under paragraph (1)—

"(i) the amount of such required installment shall be the annualized income installment, and

"(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

"(B) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	The applicable percentage is:
1st	20
2nd	40
3rd	60
4th	80

"(iii) ADJUSTED SELF-EMPLOYMENT INCOME.—The term 'adjusted self-employment income' means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

"(e) EXCEPTIONS.—

"(1) WHERE TAX IS SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than $500.

"(2) WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(A) the preceding taxable year was a taxable year of 12 months,

"(B) the individual did not have any liability for tax for the preceding taxable year, and

"(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

"(3) WAIVER IN CERTAIN CASES.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of this section, the term 'tax' means—

"(1) the tax imposed by chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by sec-

tion 31 (relating to tax withheld on wages), plus

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

"(g) APPLICATION OF SECTION IN CASE OF TAX WITHHELD ON WAGES.—

"(1) IN GENERAL.—For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

"(2) SEPARATE APPLICATION.—The taxpayer may apply paragraph (1) separately with respect to—

"(A) wage withholding, and

"(B) all other amounts withheld for which credit is allowed under section 31.

"(h) SPECIAL RULE WHERE RETURN FILED ON OR BEFORE JANUARY 31.—If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

"(i) SPECIAL RULES FOR FARMERS AND FISHERMEN.—For purposes of this section—

"(1) IN GENERAL.—If an individual is a farmer or fisherman for any taxable year—

"(A) there shall be only 1 required installment for the taxable year,

"(B) the due date for such installment shall be January 15 of the following taxable year,

"(C) the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting '66⅔ percent' for '80 percent', and

"(D) subsection (h) shall be applied—

"(i) by substituting 'March 1' for 'January 31', and

"(ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

"(2) FARMER OR FISHERMAN DEFINED.—An individual is a farmer or fisherman for any taxable year if—

"(A) the individual's gross income from farming or fishing (including oyster farming) for the taxable year is at least 66⅔ percent of the total gross income from all sources for the taxable year, or

"(B) such individual's gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66⅔ percent of the total gross income from all sources shown on such return.

"(j) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

"(2) SHORT TAXABLE YEAR.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(k) ESTATES AND TRUSTS.—This section shall not apply to any estate or trust.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

SEC. 412. REPEAL OF REQUIREMENT OF DECLARATIONS, ETC.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Section 6015 (relating to declaration of estimated income tax by individuals).

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals).

(3) Section 6153 (relating to installment payments of estimated income tax by individuals).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 871 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) Subsection (b) of section 1403 is amended by striking out paragraph (3).

(3) Paragraph (2) of section 6012(b) is amended by striking out "or section 6015(a)".

(4) Paragraph (1) of section 6020(b) is amended by striking out "(other than a declaration of estimated tax required under section 6015)".

(5) Paragraph (1) of section 6201(b) is amended to read as follows:

"(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated income tax required to be paid under section 6154 or 6654 shall be assessed.".

(6) Paragraph (5) of section 6362(e) is amended by striking out "and section 6015 and other provisions relating to declarations of estimated income" and inserting in lieu thereof "and provisions relating to estimated income tax".

(7) Subsection (h) of section 6601 is amended to read as follows:

"(h) EXCEPTION AS TO ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654.".

(8) Subsection (d) of section 6651 is amended to read as follows:

"(d) EXCEPTION FOR ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654.".

(9) Section 7203 is amended by striking out "(other than a return required under the authority of section 6015)".

(10) Subsection (a) of section 7216 is amended—

(A) by striking out "or declarations or amended declarations of estimated tax under section 6015,", and

(B) by striking out "return or declaration" each place it appears and inserting in lieu thereof "return".

(11) Paragraph (34) of section 7701(a) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking out the item relating to section 6015.

(2) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6073.

(3) The table of sections for subchapter A of chapter 62 is amended by striking out the item relating to section 6153.

SEC. 413. CREDITING OF INCOME TAX OVERPAYMENT AGAINST ESTIMATED TAX LIABILITY.

The application of the Internal Revenue Code of 1954 with respect to the crediting of a prior year overpayment of income tax against the estimated tax shall be determined—

(1) without regard to Revenue Ruling 83-111 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules (including Revenue Ruling 77-475) before Revenue Ruling 83-111.

SEC. 414. EFFECTIVE DATES.

(a) SECTIONS 411 AND 412.—The amendments made by sections 411 and 412 shall apply with respect to taxable years beginning after December 31, 1984.

(b) SECTION 413.—The provisions of section 413 shall take effect on January 1, 1984.

Subtitle B—Domestic Relations

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Domestic Relations Tax Reform Act of 1984".

SEC. 422. TREATMENT OF TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

"(a) GENERAL RULE.—No gain or loss shall be recognized on a transfer of property from an individual to (or in trust for the benefit of)—

"(1) a spouse, or

"(2) a former spouse, but only if the transfer is incident to the divorce.

"(b) TRANSFER TREATED AS GIFT; TRANSFEREE HAS TRANSFEROR'S BASIS.—In the case of any transfer of property described in subsection (a)—

"(1) for purposes of this subtitle, the property shall be treated as acquired by the transferee by gift, and

"(2) the basis of the transferee in the property shall be the adjusted basis of the transferor.

"(c) INCIDENT TO DIVORCE.—For purposes of subsection (a)(2), a transfer of property is incident to the divorce if such transfer—

"(1) occurs within 1 year after the date on which the marriage ceases, or

"(2) is related to the cessation of the marriage.

"(d) SPECIAL RULE WHERE SPOUSE IS NONRESIDENT ALIEN.—Paragraph (1) of subsection (a) shall not apply if the spouse of the individual making the transfer is a nonresident alien.".

(b) TECHNICAL AMENDMENTS.—

(1) REPEAL OF SECTION 72(k).—Subsection (k) of section 72 (relating to payments in discharge of alimony) is hereby repealed.

(2) REPEAL OF SECTION 101(e).—Subsection (e) of section 101 (relating to alimony, etc., payments) is hereby repealed.

(3) COORDINATION WITH SECTION 453B.—Section 453B (relating to gain or loss on disposition of installment obligations) is amended by adding at the end thereof the following new subsection:

"(g) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(1) subsection (a) of this section shall not apply, and

"(2) the same tax treatment with respect to the transferred installment obligation shall apply to the transferee as would have applied to the transferor.".

(4) TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interest) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1041".

(5) COORDINATION WITH SECTION 1015.—Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

"(e) GIFTS BETWEEN SPOUSES.—In the case of any property acquired by gift in a transfer described in section 1041(a), the basis of such property in the hands of the transferee shall be determined under section 1041(b)(2) and not this section.".

(6) COORDINATION WITH SECTION 1239.—

(A) Subsection (b) of section 1239, as amended by this Act, is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Subparagraph (C) of section 453(h)(1) (relating to special rule where obligor and shareholder are related persons) is amended by striking out "the obligor of any installment obligation and the shareholder are related persons" and inserting in lieu thereof "the obligor of any installment obligation and the shareholder are married to each other or are related persons".

(C) The subsection heading for section 453(g) is amended by striking out "SPOUSE OR".

(7) COORDINATION WITH SECTION 47.—Section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(1) subsection (a) of this section shall not apply, and

"(2) the same tax treatment under this section with respect to the transferred property shall apply to the transferee as would have applied to the transferor.".

(c) CLERICAL AMENDMENT.—The table of sections for such part III is amended by adding at the end thereof the following:

"Sec. 1041. Transfers of property between spouses or incident to divorce.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO TRANSFERS AFTER 1983.—If both spouses or former spouses make an election under this paragraph, the amendments made by this section shall apply to all transfers made by such spouses (or former spouses) after December 31, 1983.

(3) EXCEPTION FOR TRANSFERS PURSUANT TO EXISTING DECREES.—Except in the case of an election under paragraph (2), the amendments made by this section shall not apply to transfers under any instrument in effect on or before the date of the enactment of this Act unless both spouses (or former spouses) elect to have such amendments apply to transfers under such instrument.

(4) ELECTION.—Any election under paragraph (2) or (3) shall be made in such manner, at such time, and subject to such conditions, as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 423. TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

(a) GENERAL RULE.—Section 71 (relating to alimony and separate maintenance payments) is amended to read as follows:

"SEC. 71. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

"(a) GENERAL RULE.—Gross income includes amounts received as alimony or separate maintenance payments.

"(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'alimony or separate maintenance payment' means any payment in cash if—

"(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

"(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,

"(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

"(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.

"(2) DIVORCE OR SEPARATION INSTRUMENT.—The term 'divorce or separation instrument' means—

"(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

"(B) a written separation agreement, or

"(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

"(c) PAYMENTS TO SUPPORT MINOR CHILDREN.—Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of minor children of the spouses. For purposes of the preceding sentence, if any payment is less than the amount specified in the instrument, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.

"(d) SPOUSE.—For purposes of this section, the term 'spouse' includes a former spouse.

"(e) EXCEPTION FOR JOINT RETURNS.—This section and section 215 shall not apply if the spouses make a joint return with each other.

"(f) RECOMPUTATION WHERE EXCESS FRONT-LOADING OF ALIMONY PAYMENTS.—

"(1) IN GENERAL.—If there are excess alimony payments—

"(A) the payor spouse shall include the amount of such excess payments in gross income for the payor spouse's taxable year beginning in the 3rd post-separation year, and

"(B) the payee spouse shall be allowed a deduction in computing adjusted gross income for the amount of such excess payments for the payee's taxable year beginning in the 3rd postseparation year.

"(2) EXCESS ALIMONY PAYMENTS.—For purposes of this subsection, the term 'excess alimony payments' means the sum of—

"(A) the excess payments for the 1st post-separation year, and

"(B) the excess payments for the 2nd post-separation year.

"(3) EXCESS PAYMENTS FOR 1ST POST-SEPARATION YEAR.—For purposes of this subsection, the amount of the excess payments for the 1st post-separation year is the excess (if any) of—

"(A) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 1st post-separation year, over

"(B) the sum of—

"(i) the average of—

"(I) the alimony or separate maintenance payments paid by the payor spouse during the 2nd post-separation year, reduced by the excess payments for the 2nd post-separation year, and

"(II) the alimony or separate maintenance payments paid by the payor spouse during the 3rd post-separation year, plus

"(ii) $15,000.

"(4) EXCESS PAYMENTS FOR 2ND POST-SEPARATION YEAR.—For purposes of this subsection, the amount of the excess payments for the 2nd post-separation year is the excess (if any) of—

"(A) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 2nd post-separation year, over

"(B) the sum of—

"(i) the amount of the alimony or separate maintenance payments paid by the payor spouse during the 3rd post-separation year, plus

"(ii) $15,000.

"(5) EXCEPTIONS.—

"(A) WHERE PAYMENT CEASES BY REASON OF DEATH OR REMARRIAGE.—Paragraph (1) shall not apply if—

"(i) either spouse dies before the close of the 3rd post-separation year, or the payee spouse remarries before the close of the 3rd post-separation year, and

"(ii) the alimony or separate maintenance payments cease by reason of such death or remarriage.

"(B) SUPPORT PAYMENTS.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment received under a decree described in subsection (b)(2)(C).

"(C) FLUCTUATING PAYMENTS NOT WITHIN CONTROL OF PAYOR SPOUSE.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment to the extent it is made pursuant to a continuing liability (over a period of not less than 3 years) to pay a fixed portion of the income from a business or property or from compensation for employment or self-employment.

"(6) POST-SEPARATION YEARS.—For purposes of this subsection, the term '1st post-separation year' means the 1st calendar year in which the payor spouse paid to the payee spouse alimony or separate maintenance payments to which this section applies. The 2nd and 3rd post-separation years shall be the 1st and 2nd succeeding calendar years, respectively.".

(b) AMENDMENT OF SECTION 215.—Section 215 (relating to deduction for alimony, etc., payments) is amended to read as follows:

"SEC. 215. ALIMONY, ETC., PAYMENTS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the alimony or separate maintenance payments paid during such individual's taxable year.

"(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this

section, the term 'alimony or separate maintenance payment' means any alimony or separate maintenance payment (as defined in section 71(b)) which is includible in the gross income of the recipient under section 71.

"(c) REQUIREMENT OF IDENTIFICATION NUMBER.—The Secretary may prescribe regulations under which—

"(1) any individual receiving alimony or separate maintenance payments is required to furnish such individual's taxpayer identification number to the individual making such payments, and

"(2) the individual making such payments is required to include such taxpayer identification number on such individual's return for the taxable year in which such payments are made.

"(d) COORDINATION WITH SECTION 682.—No deduction shall be allowed under this section with respect to any payment if, by reason of section 682 (relating to income of alimony trusts), the amount thereof is not includible in such individual's gross income.".

(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER.—Section 6676 (relating to failure to supply identifying number) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER UNDER SECTION 215.—If any person who is required by regulations prescribed under section 215—

"(1) to furnish his taxpayer identification number to another person, or

"(2) to include on his return the taxpayer identification number of another person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $50 for each such failure.".

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 219(b)(4) (relating to certain divorced individuals) is amended by striking out all that follows "gross income" and inserting in lieu thereof "under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written instrument incident to such a decree.".

(2) Subsection (b) of section 682 (relating to income of an estate or trust in case of divorce, etc.) is amended—

(A) by striking out "or section 71", and

(B) by striking out the last sentence.

(3) Paragraph (17) of section 7701(a) (defining husband and wife) is amended by striking out "71, 152(b)(4), 215, and 682" and inserting in lieu thereof "152(b)(4) and 682".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to divorce or separation instruments (as defined in section 71(b)(2) of the Internal Revenue Code of 1954, as amended by this section) executed after December 31, 1984.

(2) MODIFICATIONS OF INSTRUMENTS EXECUTED BEFORE JANUARY 1, 1985.—The amendments made by this section shall also apply to any divorce or separation instrument (as so defined) executed before January 1, 1985, but modified on or after such date if the modification expressly provides that the amendments made by this section shall apply to such modification.

(3) REQUIREMENT OF IDENTIFICATION NUMBER.—Section 215(c) of the Internal Revenue Code of 1954 (as amended by subsection (b)) and the amendments made by subsection (c) shall apply to payments made after December 31, 1984.

SEC. 424. DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.

(a) GENERAL RULE.—Subsection (e) of section 152 (relating to support test in case of child of divorced parents, etc.) is amended to read as follows:

"(e) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

"(1) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this subsection, if—

"(A) a child (as defined in section 151(e)(3)) receives over half of his support during the calendar year from his parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

such child shall be treated, for purposes of subsection (a), as receiving over half of his support during the calendar year from the parent having custody for a greater portion of the calendar year (hereinafter in this subsection referred to as the 'custodial parent').

"(2) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in paragraph (1) shall be treated as having received over half of his support during a calendar year from the noncustodial parent if—

"(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

"(B) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this subsection, the term 'noncustodial parent' means the parent who is not the custodial parent.

"(3) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This subsection shall not apply in any case where over half of the support of the child is treated as having been received from a taxpayer under the provisions of subsection (c).

"(4) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

"(A) IN GENERAL.—A child of parents described in paragraph (1) shall be treated as having received over half his support during a calendar year from the noncustodial parent if—

"(i) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and

"(ii) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this subparagraph, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(B) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this paragraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

"(i) which is executed before January 1, 1985,

"(ii) which on such date contains the provision described in subparagraph (A)(i), and

"(iii) which is not modified on or after such date in a modification which expressly provides that this paragraph shall not apply to such decree or agreement.

"(5) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this subsection, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(6) CROSS REFERENCE.—

"For provision treating child as dependent of both parents for purposes of medical expense deduction, see section 213(d)(4).".

(b) TREATMENT AS DEPENDENT OF BOTH PARENTS FOR MEDICAL EXPENSE DEDUCTION.—

(1) Subsection (d) of section 213 (relating to definitions) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this section.".

(2) Subsection (b) of section 105 is amended by adding at the end thereof the following new sentence: "Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this subsection.".

(3) Paragraph (6) of section 213(d) (as redesignated by paragraph (1)) is amended by striking out "the limitations of paragraph (4)" and inserting in lieu thereof "the limitations of paragraph (5)".

(c) TREATMENT OF CERTAIN MARRIED INDIVIDUALS LIVING APART.—

(1) Subsection (b) of section 143 (relating to certain married individuals living apart) is amended to read as follows:

"(b) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of those provisions of this title which refer to this subsection, if—

"(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(e)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

"(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

"(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married.".

(2) Subparagraph (A) of section 2(b)(1) (defining head of household) is amended—

(A) by striking out "which constitutes for such taxable year" and inserting in lieu thereof "which constitutes for more than one-half of such taxable year", and

(B) by striking out "under section 151" in clause (i) and inserting in lieu thereof "under section 151 (or would be so entitled

but for paragraph (2) or (4) of section 152(e))".

(3) Paragraph (1) of section 43(c) (defining eligible individual) is amended—

(A) by inserting after "section 151(e)(3))" in subparagraph (A)(i) the following: "or would be so entitled but for paragraph (2) or (4) of section 152(e)", and

(B) by striking out "the child has the same principal place of abode as the individual" in subparagraph (B) and inserting in lieu thereof "the child has the same principal place of abode as the individual for more than one-half of the taxable year".

(4) Paragraph (5) of section 44A(f) (relating to special dependency test in case of divorced parents, etc.) is amended to read as follows:

"(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

"(A) paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, and

"(B) such child is under the age of 15 or is physically or mentally incapable of caring for himself,

in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1) (whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying individual with respect to the noncustodial parent.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 425. INNOCENT SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.

(a) GENERAL RULE.—Subsection (e) of section 6013 (relating to spouse relieved of liability in certain cases) is amended to read as follows:

"(e) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) a joint return has been made under this section for a taxable year,

"(B) on such return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse,

"(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement, and

"(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such substantial understatement,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such substantial understatement.

"(2) GROSSLY ERRONEOUS ITEMS.—For purposes of this subsection, the term 'grossly erroneous items' means, with respect to any spouse—

"(A) any item of gross income attributable to such spouse which is omitted from gross income, and

"(B) any claim of a deduction, credit, or basis by such spouse in an amount for which there is no basis in fact or law.

"(3) SUBSTANTIAL UNDERSTATEMENT.—For purposes of this subsection, the term 'substantial understatement' means any understatement (as defined in section 6661(b)(2)(A)) which exceeds $500.

"(4) SPECIAL RULE.—For purposes of paragraph (2)(A), the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws.".

(b) TREATMENT OF COMMUNITY INCOME.—Section 66 (relating to treatment of community income where spouses live apart) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) SPOUSE RELIEVED OF LIABILITY IN CERTAIN OTHER CASES.—Under regulations prescribed by the Secretary, if—

"(1) an individual does not file a joint return for any taxable year,

"(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which, in accordance with the rules contained in section 879(a), would be treated as the income of the other spouse,

"(3) the individual establishes that he or she did not know of, and had no reason to know of, such item of community income, and

"(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual's gross income,

then, for purposes of this title, such item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies.

SEC. 426. TREATMENT OF CERTAIN PROPERTY SETTLEMENTS FOR PURPOSES OF ESTATE AND GIFT TAXES.

(a) DEDUCTION ALLOWED AGAINST ESTATE TAX FOR TRANSFERS SATISFYING SECTION 2516.—

(1) IN GENERAL.—Subsection (b) of section 2043 (relating to transfers for insufficient consideration) is amended to read as follows:

"(b) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.—

"(1) IN GENERAL.—For purposes of this chapter, a relinquishment or promised relinquishment of dower or curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'.

"(2) EXCEPTION.—For purposes of section 2053 (relating to expenses, indebtedness, and taxes), a transfer of property which satisfies the requirements of paragraph (1) of section 2516 (relating to certain property settlements) shall be considered to be made for an adequate and full consideration in money or money's worth.".

(2) CROSS REFERENCE.—Subsection (e) of section 2053 (relating to deduction for expenses, indebtedness, and taxes) is amended to read as follows:

"(e) MARITAL RIGHTS.—

"For provisions treating certain relinquishments of marital rights as consideration in money or money's worth, see section 2043(b)(2).".

(b) SECTION 2516 EXTENDED TO AGREEMENTS ENTERED INTO WITHIN 1 YEAR AFTER DIVORCE.—Section 2516 (relating to certain property settlements) is amended by striking out so much of such section as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"Where a husband and wife enter into a written agreement relative to their marital and property rights and divorce occurs within the 3-year period beginning on the date 1 year before such agreement is entered into (whether or not such agreement is approved by the divorce decree), any transfers of property or interests in property made pursuant to such agreement—".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

SEC. 427. INCOME FROM SHELTERED WORKSHOPS NOT TAKEN INTO ACCOUNT IN DETERMINING DEPENDENCY EXEMPTION.

(a) IN GENERAL.—Subsection (e) of section 151 (relating to additional personal exemption for dependents) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN INCOME OF HANDICAPPED DEPENDENTS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the gross income of an individual who is permanently and totally disabled shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for his presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by—

"(I) an organization described in section 501(c)(3) and exempt from tax under section 501(a), or

"(II) a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(C) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual shall be treated as permanently and totally disabled for purposes of this paragraph if such individual would be so treated under paragraph (3) of section 37(e).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

Subtitle C—Revision of At-Risk Rules

SEC. 431. REVISION OF INVESTMENT CREDIT AT-RISK RULES.

(a) IN GENERAL.—So much of paragraph (8) of section 46(c) (relating to limitation to amount at risk) as precedes subparagraph (F) thereof is amended to read as follows:

"(8) CERTAIN NONRECOURSE FINANCING EXCLUDED FROM CREDIT BASE.—

"(A) LIMITATION.—The credit base of any property to which this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such property (as of the close of the taxable year in which placed in service).

"(B) PROPERTY TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any property which—

"(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.

"(C) CREDIT BASE DEFINED.—For purposes of this paragraph, the term 'credit base' means—

"(i) in the case of new section 38 property, the basis of the property, or

"(ii) in the case of used section 38 property, the cost of such property.

"(D) NONQUALIFIED NONRECOURSE FINANCING.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (9), the term 'nonqualified nonrecourse financing' means any nonrecourse financing which is not qualified commercial financing.

"(ii) QUALIFIED COMMERCIAL FINANCING.—For purposes of this paragraph, the term 'qualified commercial financing' means any financing with respect to any property if—

"(I) such property is acquired by the taxpayer from a person who is not a related person,

"(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and

"(III) such financing is borrowed from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.

Such term shall not include any convertible debt.

"(iii) NONRECOURSE FINANCING.—For purposes of this subparagraph, the term 'nonrecourse financing' includes—

"(I) any amount with respect to which the taxpayer is protected against loss through guarantees, stop-loss agreements, or other similar arrangements, and

"(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or from a related person to a person (other than the taxpayer) having such an interest.

In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a shareholder.

"(iv) QUALIFIED PERSON.—For purposes of this paragraph, the term 'qualified person' means any person which is actively and regularly engaged in the business of lending money and which is not—

"(I) a related person with respect to the taxpayer,

"(II) a person from which the taxpayer acquired the property (or a related person to such person), or

"(III) a person who receives a fee with respect to the taxpayer's investment in the property (or a related person to such person).

"(v) RELATED PERSON.—For purposes of clause (i), the term 'related person' has the meaning given such term by section 168(e)(4). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.

"(E) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of this paragraph and paragraph (9)—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, in the case of any partnership or S corporation, the determination of whether a partner's or shareholder's allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.

"(ii) SPECIAL RULE FOR CERTAIN RECOURSE FINANCING OF S CORPORATION.—A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if—

"(I) such financing is recourse financing (determined at the corporate level), and

"(II) such financing is provided with respect to qualified business property of such corporation.

"(iii) QUALIFIED BUSINESS PROPERTY.—For purposes of clause (ii), the term 'qualified business property' means any property if—

"(I) such property is used by the corporation in the active conduct of a trade or business,

"(II) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time employees who were not owner-employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of whom were services directly related to such trade or business, and

"(III) during the entire 12-month period ending on the last day of such taxable year, such corporation had at least 1 full-time employee substantially all of the services of whom were in the active management of the trade or business.

Such term shall not include any master sound recording or other tangible or intangible asset associated with literary, artistic, or musical properties.

"(iv) DETERMINATION OF ALLOCABLE SHARE.—The determination of any partner's or shareholder's allocable share of any financing shall be made in the same manner as the credit allowable by section 38 with respect to such property.".

(b) TREATMENT OF SUBSEQUENT INCREASES AND DECREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

(1) SUBSEQUENT DECREASES.—Paragraph (9) of section 46(c) (relating to subsequent increases in the taxpayer's amount at risk with respect to the property) is amended to read as follows:

"(9) SUBSEQUENT DECREASES IN NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO THE PROPERTY.—

"(A) IN GENERAL.—If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as additional qualified investment in such property in accordance with subparagraph (C).

"(B) CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

"(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—

"(i) CREDIT DETERMINED BY REFERENCE TO TAXABLE YEAR PROPERTY PLACED IN SERVICE.—For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 47, any increase in a taxpayer's qualified investment in property by reason of this paragraph shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed in service.

"(ii) CREDIT ALLOWED FOR YEAR OF DECREASE IN NONQUALIFIED NONRECOURSE FINANCING.—Any credit allowable under this subpart for any increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing.".

(2) SUBSEQUENT INCREASES.—So much of subsection (d) of section 47 (relating to property ceasing to be at risk) as precedes paragraph (3) thereof is amended to read as follows:

"(d) INCREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

"(1) IN GENERAL.—If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8)) with respect to any property to which section 46(c)(8) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the qualified investment taken into account with respect to such property by the amount of such net increase.

"(2) TRANSFERS OF DEBT MORE THAN 1 YEAR AFTER INITIAL BORROWING NOT TREATED AS INCREASING NONQUALIFIED NONRECOURSE FINANCING.—For purposes of paragraph (1), the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8)(D)) with respect to the taxpayer shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of an indebtedness if such transfer occurs (or such agreement is entered into) more than 1 year after the date such indebtedness was incurred.".

(c) CLARIFICATION OF COORDINATION OF SECTION 48(d) WITH AT-RISK RULES.—Subsection (d) of section 48 (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH AT-RISK RULES.—

"(A) REQUIREMENT THAT LESSOR BE AT RISK.—In the case of any property which, in the hands of the lessor, is property to which section 46(c)(8) applies, the amount of the credit allowable to the lessee under section 38 with respect to such property by reason of an election under this subsection shall at no time exceed the credit which would have been allowable to the lessor with respect to such property (determined without regard to section 46(e)(3)) if—

"(i) the lessor's basis in such property were equal to the lessee acquisition amount, and

"(ii) no election had been made under this subsection.

"(B) LESSEE SUBJECT TO AT-RISK LIMITATIONS.—

"(i) IN GENERAL.—In the case of any lease where—

"(I) the lessee is a taxpayer described in section 465(a)(1),

"(II) the property is used by the lessee in connection with an activity with respect to which any loss is subject to limitation under section 465, and

"(III) the at-risk percentage is less than 30 percent (18 percent in the case of 3-year property),

any credit allowable under section 38 to the lessee by reason of an election under this subsection (hereinafter in this paragraph referred to as the 'total credit') shall be allowable only as provided in subparagraph (C).

"(ii) AT-RISK PERCENTAGE.—For purposes of this paragraph, the term 'at-risk percentage' means the percentage obtained by dividing—

"(I) the present value (as of the time the lease is entered into) of the aggregate lease at-risk payments, by

"(II) the lessee acquisition amount.

For purposes of subclause (I), the present value shall be determined by using a discount rate equal to the rate in effect under section 6621 as of the time the lease is entered into.

"(iii) LESSEE ACQUISITION AMOUNT.—For purposes of this paragraph, the term 'lessee acquisition amount' means the amount for which the lessee is treated as having acquired the property by reason of an election under this subsection.

"(iv) LEASE AT-RISK PAYMENT.—For purposes of this paragraph, the term 'lease at-risk payment' means any rental payment—

"(I) which the lessee is required to make under the lease in all events, and

"(II) with respect to which the lessee is not protected against loss through nonrecourse financing, guarantees, stop-loss agreements, or other similar arrangements.

"(C) YEAR FOR WHICH CREDIT ALLOWABLE.—

"(i) IN GENERAL.—Except as provided in clause (ii), in any case to which subparagraph (B)(i) applies, the portion of the total credit allowable for any taxable year shall be an amount which bears the same ratio to such total credit as—

"(I) the aggregate rental payments made by the lessee under the lease during such taxable year, bears to

"(II) the lessee acquisition amount.

"(ii) REMAINING AMOUNT ALLOWABLE FOR YEAR IN WHICH AGGREGATE RENTAL PAYMENTS EXCEED 30 PERCENT OF ACQUISITION AMOUNT.—The total credit (to the extent not allowable for a preceding taxable year) shall be allowable for the first taxable year as of the close of which the aggregate rental payments made by the lessee under the lease equal or exceed 30 percent (18 percent in the case of 3-year property) of the lessee acquisition amount.

"(D) SPECIAL RULES FOR SUBPARAGRAPHS (B) AND (C).—

"(i) SUBPARAGRAPHS (B) AND (C) APPLY IN LIEU OF OTHER AT-RISK RULES.—In the case of any election under this subsection, paragraphs (8) and (9) of section 46(c) and subsection (d) of section 47 shall only apply with respect to the lessor.

"(ii) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of subparagraphs (B) and (C), rules similar to the rules of subparagraph (E) of section 46(c)(8) shall apply.

"(iii) SUBSEQUENT REDUCTIONS IN AT-RISK AMOUNT.—Under regulations prescribed by the Secretary, the principles of subsection (d) of section 47 shall apply for purposes of subparagraphs (B) and (C).

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations—

"(i) providing for such adjustments as may be appropriate where expenses connected with the lease are borne by the lessor, and

"(ii) providing the extent to which contingencies in the lease will be disregarded.".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 46(c)(8)(F) (relating to special rule for certain energy property) is amended to read as follows:

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to qualified energy property.".

(2) Subclause (III) of section 46(c)(8)(F)(ii) (defining qualified energy property) is amended to read as follows:

"(III) as of the close of the taxable year in which the property is placed in service, not more than 75 percent of the basis of such property is attributable to nonqualified nonrecourse financing, and".

(3) Subclause (IV) of section 46(c)(8)(F)(ii) is amended by striking out "nonrecourse financing (other than financing described in section 46(c)(8)(B)(ii))" and inserting in lieu thereof "nonqualified nonrecourse financing".

(4) Subparagraph (A) of section 47(d)(3) is amended by striking out "ceasing to be at risk" and inserting in lieu thereof "increasing the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8))".

(5) Clause (i) of section 47(d)(3)(B) is amended by striking out "other than a loan described in section 46(c)(8)(B)(ii)".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply to any property to which the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981 do not apply.

(2) AMENDMENTS MAY BE ELECTED RETROACTIVELY.—At the election of the taxpayer, the amendments made by this section shall apply as if included in the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981. Any election made under the preceding sentence shall apply to all property of the taxpayer to which the amendments made by such section 211(f) apply and shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 432. EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES, ETC.

(a) EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES.—Subsection (c) of section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new paragraph:

"(7) EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a qualified C corporation—

"(i) each qualifying business carried on by such taxpayer (or carried on by a partnership of which such taxpayer is a partner) shall be treated as a separate activity, and

"(ii) subsection (a) shall not apply to losses from such business.

"(B) QUALIFIED C CORPORATION.—For purposes of subparagraph (A), the term 'qualified C corporation' means any corporation described in subparagraph (B) of subsection (a)(1) which is not—

"(i) a personal holding company (as defined in section 542(a)),

"(ii) a foreign personal holding company (as defined in section 552(a)), or

"(iii) a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).

"(C) QUALIFYING BUSINESS.—For purposes of this paragraph, the term 'qualifying business' means any business if—

"(i) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 1 full-time employee substantially all the services of whom were in the active management of such business,

"(ii) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time, nonowner employees substantially all of the services of whom were services directly related to such business,

"(iii) the amount of the deductions attributable to such business which are allowable to the taxpayer solely by reason of sections 162 and 404 for the taxable year exceeds 15 percent of the gross income from such business for such year, and

"(iv) such business is not an excluded business.

"(D) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (C).—

"(i) PARTNERSHIPS IN WHICH TAXPAYER IS GENERAL PARTNER.—In the case of a business of a partnership, if—

"(I) the taxpayer is a general partner in the partnership, and

"(II) during the entire 12-month period ending on the last day of the partnership's taxable year, the number of full-time nonowner employees of the partnership (or of corporate partners of the partnership) substantially all the services of whom were directly related to such business equals or exceeds 3,

then the taxpayer's proportionate share (determined on the basis of its profits interest) of the activities of the partnership in such business shall be treated as activities of the taxpayer.

"(ii) DEDUCTION FOR OWNER EMPLOYEE COMPENSATION NOT TAKEN INTO ACCOUNT.—For purposes of clause (iii) of subparagraph (C), there shall not be taken into account any deduction in respect of compensation for personal services rendered by any employee (other than a non-owner employee) of the taxpayer or any member of such employee's family (within the meaning of section 318(a)(1)).

"(iii) SPECIAL RULE FOR BANKS.—For purposes of clause (iii) of subparagraph (C), in the case of a bank (as defined in section 581) or a financial institution to which section 591 applies—

"(I) gross income shall be determined without regard to the exclusion of interest from gross income under section 103, and

"(II) in addition to the deductions described in such clause, there shall also be taken into account the amount of the deductions which are allowable for amounts paid or credited to the accounts of depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts under section 163 or 591.

"(iv) SPECIAL RULE FOR LIFE INSURANCE COMPANIES.—

"(I) IN GENERAL.—Clause (iii) of subparagraph (C) shall not apply to any insurance business of a qualified life insurance company.

"(II) INSURANCE BUSINESS.—For purposes of subclause (I), the term 'insurance business' means any business which is not a noninsurance business (within the meaning of section 806(c)(3)).

"(III) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of subclause (I), the term 'qualified life insurance company' means

any company which would be a life insurance company as defined in section 816 if unearned premiums were not taken into account under subsections (a)(2) and (c) of section 816.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) NON-OWNER EMPLOYEE.—The term 'non-owner employee' means any employee who does not own, at any time during the taxable year, more than 5 percent in value of the outstanding stock of the taxpayer. For purposes of the preceding sentence, section 318 shall apply, except that '5 percent' shall be substituted for '50 percent' in section 318(a)(2)(C).

"(ii) EXCLUDED BUSINESS.—The term 'excluded business' means—

"(I) equipment leasing (as defined in paragraph (6)), and

"(II) any business involving the use, exploitation, sale, lease, or other disposition of master sound recordings, motion picture films, video tapes, or tangible or intangible assets associated with literary, artistic, musical, or similar properties.

"(iii) SPECIAL RULES RELATING TO COMMUNICATIONS INDUSTRY, ETC.—

"(I) BUSINESS NOT EXCLUDED WHERE TAXPAYER NOT COMPLETELY AT RISK.—A business involving the use, exploitation, sale, lease, or other disposition of property described in subclause (II) of clause (ii) shall not constitute an excluded business by reason of such subclause if the taxpayer is at risk with respect to all amounts paid or incurred (or chargeable to capital account) in such business.

"(II) CERTAIN LICENSED BUSINESSES NOT EXCLUDED.—For purposes of subclause (II) of clause (ii), the provision of radio, television, cable television, or similar services pursuant to a license or franchise granted by the Federal Communications Commission or any other Federal, State, or local authority shall not constitute an excluded business by reason of such subclause.

"(F) AFFILIATED GROUP TREATED AS 1 TAXPAYER.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (iii), the component members of an affiliated group of corporations shall be treated as a single taxpayer.

"(ii) AFFILIATED GROUP OF CORPORATIONS.—The term 'affiliated group of corporations' means an affiliated group (as defined in section 1504(a)) which files or is required to file consolidated income tax returns.

"(iii) COMPONENT MEMBER.—The term 'component member' means an includible corporation (as defined in section 1504) which is a member of the affiliated group.

"(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL HOLDING COMPANY OR PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal holding company (as defined in section 542(a)) or a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).".

(b) ACTIVITIES TREATED AS SEPARATE ACTIVITIES BY STATUTE MAY BE AGGREGATED WHERE TAXPAYER ACTIVELY PARTICIPATES IN THE MANAGEMENT OF EACH ACTIVITY.—Paragraph (2) of section 465(c) (relating to activities to which risk applies) is amended to read as follows:

"(2) SEPARATE ACTIVITIES.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a taxpayer's activity with respect to each—

"(i) film or video tape,

"(ii) section 1245 property which is leased or held for leasing,

"(iii) farm,

"(iv) oil and gas property (as defined under section 614), or

"(v) geothermal property (as defined under section 614),

shall be treated as a separate activity.

"(B) AGGREGATION OF ACTIVITIES WHERE TAXPAYER ACTIVELY PARTICIPATES IN MANAGEMENT OF EACH ACTIVITY.—

"(i) IN GENERAL.—All activities which are described in both subparagraph (A) and clause (ii) of this subparagraph and which constitute part or all of a trade or business shall be treated as 1 activity.

"(ii) ACTIVITIES.—An activity is described in this clause if—

"(I) the taxpayer actively participates in the management of such activity, or

"(II) such activity is carried on by a partnership or an S corporation and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of such activity.".

(c) CORPORATIONS CONSIDERED AT RISK WITH RESPECT TO AMOUNTS BORROWED FROM SHAREHOLDERS, ETC.—Paragraph (3) of section 465(b) (relating to certain borrowed amounts excluded) is amended to read as follows:

"(3) CERTAIN BORROWED AMOUNTS EXCLUDED.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who has an interest in such activity or (except to the extent provided in regulations) from a related person to a person (other than the taxpayer) having such an interest.

"(B) EXCEPTIONS.—

"(i) INTEREST AS CREDITOR.—Subparagraph (A) shall not apply to an interest as a creditor in the activity.

"(ii) INTEREST AS SHAREHOLDER WITH RESPECT TO AMOUNTS BORROWED BY CORPORATION.—In the case of amounts borrowed by a corporation from a shareholder, subparagraph (A) shall not apply to an interest as a shareholder.

"(C) RELATED PERSON DEFINED.—For purposes of subparagraph (A), the term 'related person' has the meaning given such term by section 168(e)(4).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983; except that any loss from an activity described in section 465(c)(7)(A) of the Internal Revenue Code of 1954 (as amended by this section) which (but for the amendments made by this section) would have been treated as a deduction for the taxpayer's first taxable year beginning after December 31, 1983, under section 465(a)(2) of such Code shall be allowed as a deduction for such first taxable year notwithstanding such amendments.

Subtitle D—Estate Tax Provisions

SEC. 441. PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTERESTS.

(a) GENERAL RULE.—Paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended to read as follows:

"(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) QUALIFIED REFORMATION.—For purposes of this paragraph, the term 'qualified reformation' means a change of a governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

"(i) any difference between—

"(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

"(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

"(ii) in the case of—

"(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

"(II) any other interest, the reformable interest and the qualified interest are for the same period, and

"(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

"(C) REFORMABLE INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'reformable interest' means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

"(ii) BENEFICIARY'S INTEREST MUST BE FIXED.—The term 'reformable interest' does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

"(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

"(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

"(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

"(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under a trust created before such date, clause (ii) shall not apply.

"(D) QUALIFIED INTEREST.—For purposes of this paragraph, the term 'qualified interest' means an interest for which a deduction is allowable under subsection (a).

"(E) LIMITATION.—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have

been allowable for the reformable interest but for paragraph (2).

"(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.—If (by reason of the death of any individual) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term 'wholly charitable trust' means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

"(G) STATUTE OF LIMITATIONS.—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation has occurred.

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

"(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

"(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

"(ii) to meet the requirements of section 642(c)(5).".

(b) INCOME TAX DEDUCTION.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(c) GIFT TAX DEDUCTION.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(d) TREATMENT OF CERTAIN CONTINGENCIES UNDER SECTION 664.—Section 664 (relating to charitable remainder trusts) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN CONTINGENCIES PERMITTED.—

"(1) GENERAL RULE.—If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

"(2) VALUE DETERMINED WITHOUT REGARD TO QUALIFIED CONTINGENCY.—For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

"(3) QUALIFIED CONTINGENCY.—For purposes of this subsection, the term 'qualified contingency' means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust.".

(e) EFFECTIVE DATE.—

(1) SUBSECTIONS (a), (b), AND (c).—The amendments made by subsections (a), (b), and (c) shall apply to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transfers after December 31, 1978.

(3) STATUTE OF LIMITATIONS.—

(A) IN GENERAL.—If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act, no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.

SEC. 442. ALTERNATE VALUATION ELECTION AVAILABLE ONLY WHERE IT RESULTS IN REDUCTION OF GROSS ESTATE AND ESTATE TAX.

(a) GENERAL RULE.—Section 2032 (relating to alternate valuation) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.—No election may be made under this section with respect to an estate unless such election will decrease—

"(1) the value of the gross estate, and

"(2) the amount of the tax imposed by this chapter (reduced by credits allowable against such tax).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 443. ALTERNATE VALUATION ELECTION AVAILABLE ON LATE RETURN.

(a) GENERAL RULE.—Subsection (d) of section 2032 (relating to time of election), as amended by section 442, is amended to read as follows:

"(d) ELECTION.—

"(1) IN GENERAL.—The election provided for in this section shall be made by the executor on the return of the tax imposed by this chapter. Such an election, once made, shall be irrevocable.

"(2) STATUTE OF LIMITATIONS WHERE PROPERTY SOLD BEFORE ELECTION.—If—

"(A) an election provided for in this section is made after a disposition of any property, and

"(B) the basis of such property is reduced by reason of such election,

the period for assessing any deficiency of tax attributable to such basis reduction shall not expire before the date 1 year after the date on which such election is made.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

Subtitle E—Foreign Tax Provisions

SEC. 451. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.

(a) GENERAL RULE.—Section 7701 (relating to definitions) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.—

"(1) IN GENERAL.—For purposes of this title (other than subtitle B)—

"(A) RESIDENT ALIEN.—An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i) or (ii):

"(i) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—Such individual is a lawful permanent resident of the United States at any time during such calendar year.

"(ii) SUBSTANTIAL PRESENCE TEST.—Such individual meets the substantial presence test of paragraph (3).

"(B) NONRESIDENT ALIEN.—An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

"(2) SPECIAL RULES FOR FIRST AND LAST YEAR OF RESIDENCY.—

"(A) FIRST YEAR OF RESIDENCY.—

"(i) IN GENERAL.—If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of such calendar year which begins on the residency starting date.

"(ii) RESIDENCY STARTING DATE FOR INDIVIDUALS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—In the case of an individual who is a lawful permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

"(iii) RESIDENCY STARTING DATE FOR INDIVIDUALS MEETING SUBSTANTIAL PRESENCE TEST.—In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

"(B) LAST YEAR OF RESIDENCY.—An alien individual shall not be treated as a resident of

the United States during a portion of any calendar year if—

"(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

"(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

"(iii) the individual is not a resident of the United States at any time during the next calendar year.

"(C) CERTAIN NOMINAL PRESENCE DISREGARDED.—

"(i) IN GENERAL.—For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

"(ii) NOT MORE THAN 10 DAYS DISREGARDED.—Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

"(3) SUBSTANTIAL PRESENCE TEST.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the 'current year') if—

"(i) such individual was present in the United States on at least 31 days during the calendar year, and

"(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

"In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	⅓
2nd preceding year	⅙

"(B) EXCEPTION WHERE INDIVIDUAL IS PRESENT IN THE UNITED STATES DURING LESS THAN ONE-HALF OF CURRENT YEAR AND CLOSER CONNECTION TO FOREIGN COUNTRY IS ESTABLISHED.—An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if—

"(i) such individual is present in the United States on fewer than 183 days during the current year, and

"(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

"(C) SUBPARAGRAPH (B) NOT TO APPLY IN CERTAIN CASES.—Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year—

"(i) such individual had an application for adjustment of status pending, or

"(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

"(D) MEDICAL CONDITION EXCEPTION FOR SUBPARAGRAPH (B)(i).—Clause (i) of subparagraph (B) shall not apply to any individual who was unable to leave the United States because of a medical condition which arose while such individual was present in the United States.

"(E) EXCEPTION FOR EXEMPT INDIVIDUALS.—An individual shall not be treated as being present in the United States on any day if such individual is an exempt individual for such day.

"(4) EXEMPT INDIVIDUAL DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—An individual is an exempt individual for any day if, for such day, such individual is—

"(i) a foreign government-related individual,

"(ii) a teacher or trainee, or

"(iii) a student.

"(B) FOREIGN GOVERNMENT-RELATED INDIVIDUAL.—The term 'foreign government-related individual' means any individual temporarily present in the United States by reason of—

"(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

"(ii) being a full-time employee of an international organization, or

"(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

"(C) TEACHER OR TRAINEE.—The term 'teacher or trainee' means any individual—

"(i) who is temporarily present in the United States under subparagraph (J) of section 101(15) of the Immigration and Nationality Act (other than as a student), and

"(ii) who substantially complies with the requirements for being so present.

"(D) STUDENT.—The term 'student' means any individual—

"(i) who is temporarily present in the United States—

"(I) under subparagraph (F) of section 101(15) of the Immigration and Nationality Act, or

"(II) as a student under subparagraph (J) of such section 101(15), and

"(ii) who substantially complies with the requirements for being so present.

"(E) SPECIAL RULES FOR TEACHERS, TRAINEES, AND STUDENTS.—

"(i) LIMITATION ON TEACHERS AND TRAINEES.—An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A).

"(ii) LIMITATION ON STUDENTS.—For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

"(5) LAWFUL PERMANENT RESIDENT.—For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if—

"(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

"(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

"(6) PRESENCE IN THE UNITED STATES.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

"(B) COMMUTERS FROM CANADA OR MEXICO.—If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

"(7) ANNUAL STATEMENTS.—The Secretary may prescribe regulations under which an individual who (but for subparagraph (B), (D), or (E) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B), (D), or (E) of paragraph (3), as the case may be.

"(8) TAXABLE YEAR.—

"(A) IN GENERAL.—For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

"(B) FISCAL YEAR TAXPAYER.—If—

"(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

"(ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) TRANSITIONAL RULE FOR APPLYING SUBSTANTIAL PRESENCE TEST.—

(A) If an alien individual was not a resident of the United States as of the close of calendar year 1984, the determination of whether such individual meets the substantial presence test of section 7701(b)(3) of the Internal Revenue Code of 1954 (as added by this section) shall be made by only taking into account presence after 1984.

(B) If an alien individual was a resident of the United States as of the close of calendar year 1984, but was not a resident of the United States as of the close of calendar year 1983, the determination of whether such individual meets such substantial presence test shall be made by only taking into account presence in the United States after 1983.

(3) TRANSITIONAL RULE FOR APPLYING LAWFUL RESIDENCE TEST.—In the case of any individual who was a lawful permanent resident of the United States (within the meaning of section 7701(b)(5) of the Internal Revenue Code of 1954, as added by this section) throughout calendar year 1984, for purposes of section 7701(b)(2)(A) of such Code (as so added), such individual shall be treated as a resident of the United States during 1984.

SEC. 452. TREATMENT OF COMMUNITY INCOME.

(a) GENERAL RULE.—Subsection (a) of section 879 (relating to tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual) is amended by striking out so much of such subsection as precedes paragraph (1) there-

of and inserting in lieu thereof the following:

"(a) GENERAL RULE.—In the case of a married couple 1 or both of whom are nonresident alien individuals and who have community income for the taxable year, such community income shall be treated as follows:".

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 879 is amended to read as follows:

"SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF NONRESIDENT ALIEN INDIVIDUALS.".

(2) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 879 and inserting in lieu thereof the following:

"Sec. 879. Tax treatment of certain community income in the case of nonresident alien individuals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 453. AMENDMENTS RELATED TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) ATTRIBUTION FROM FAMILY MEMBERS.—Subsection (a) of section 554 (relating to constructive ownership) is amended by adding at the end thereof the following new sentence:

"For purposes of the stock ownership requirement provided in section 552(a)(2), stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered by reason of so much of paragraph (2) as relates to attribution through family membership as owned by a citizen or by a resident alien individual who is not the spouse of the nonresident individual.".

(b) INCLUSION IN INCOME OF UNITED STATES PERSONS HOLDING INTEREST THROUGH FOREIGN ENTITY.—Section 551 (relating to foreign personal holding company income taxed to United States shareholders) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) STOCK HELD THROUGH FOREIGN ENTITY.—For purposes of this section, stock of a foreign personal holding company owned (directly or through the application of this subsection) by—

"(1) a partnership, estate, or trust which is not a United States shareholder, or

"(2) a foreign corporation which is not a foreign personal holding company,

shall be considered as being owned proportionately by its partners, beneficiaries, or shareholders. In any case to which the preceding sentence applies, the Secretary may by regulations provide for such adjustments in the application of this part as may be necessary to carry out the purposes of the preceding sentence.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1983.

(2) 1-YEAR EXTENSION FOR CERTAIN TRUSTS CREATED BEFORE JUNE 30, 1953.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years of a foreign corporation beginning after December 31, 1984, with respect to stock of such corporation which is held (directly or indirectly, within the meaning of section 554 of the Internal Revenue Code of 1954) by a trust created before June 30, 1953, if—

(i) none of the beneficiaries of such trust was a citizen or resident of the United States at the time of its creation or within 5 years thereafter, and

(ii) such trust does not, after July 1, 1983, acquire (directly or indirectly) stock of any foreign personal holding company other than a company described in subparagraph (B).

(B) DESCRIPTION OF COMPANY.—A company is described in this subparagraph if—

(i) substantially all of the assets of such company are stock or assets previously held by such trust, or

(ii) such company ceases to be a foreign personal holding company before January 1, 1985.

SEC. 454. AMENDMENTS RELATED TO SECTION 1248.

(a) ELIMINATION OF DOUBLE TAXATION OF EARNINGS AND PROFITS OF CERTAIN FOREIGN CORPORATIONS.—

(1) Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION WITH AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—For purposes of this section and section 960(b), any amount included in the gross income of any person as a dividend by reason of subsection (a) or (f) of section 1248 shall be treated as an amount included in the gross income of such person under section 951(a)(1)(A).".

(2) Section 1248 is amended by adding at the end thereof the following new subsection:

"(i) CROSS REFERENCE.—

"For provision excluding amounts previously taxed under this section from gross income when subsequently distributed, see section 959(e).".

(b) CLARIFICATION OF SECTION 1248(c)(2)(D).—Subparagraph (D) of section 1248(c)(2) (relating to earnings and profits of subsidiaries of foreign corporations) is amended by striking out "section 958(a)(2)" and inserting in lieu thereof "section 958(a)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of the Internal Revenue Code of 1954 applies occurring after the date of the enactment of this Act.

(2) ELECTION OF EARLIER DATE FOR CERTAIN TRANSACTIONS.—

(A) IN GENERAL.—If the appropriate election is made under subparagraph (B), the amendments made by subsection (a) shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of such Code applies occurring after October 9, 1975.

(B) ELECTION.—

(i) Subparagraph (A) shall apply with respect to transactions to which subsection (a) of section 1248 of such Code applies if the foreign corporation described in such subsection (or its successor in interest) so elects.

(ii) Subparagraph (A) shall apply with respect to transactions to which subsection (f) of section 1248 of such Code applies if the domestic corporation described in section 1248(f)(1) of such Code (or its successor) so elects.

(iii) Any election under clause (i) or (ii) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

SEC. 455. COORDINATION OF SUBPART F WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 951 (relating to coordination with foreign personal holding company provisions) is amended to read as follows:

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholder), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act.

SEC. 456. STAPLED STOCK; STAPLED ENTITIES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 is amended by inserting after section 269A the following new section:

"SEC. 269B. STAPLED ENTITIES.

"(a) GENERAL RULE.—Except as otherwise provided by regulations, for purposes of this title—

"(1) if a domestic corporation and a foreign corporation are stapled entities, the foreign corporation shall be treated as a domestic corporation.

"(2) in applying section 1563, stock in a second corporation which constitutes a stapled interest with respect to stock of a first corporation shall be treated as owned by such first corporation, and

"(3) in applying subchapter M for purposes of determining whether any stapled entity is a regulated investment company or a real estate investment trust, all entities which are stapled entities with respect to each other shall be treated as 1 entity.

"(b) SECRETARY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent avoidance or evasion of Federal income tax through the use of stapled entities. Such regulations may include (but shall not be limited to) regulations providing the extent to which 1 of such entities shall be treated as owning the other entity (to the extent of the stapled interest).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENTITY.—The term 'entity' means any corporation, partnership, trust, association, estate, or other form of carrying on a business or activity.

"(2) STAPLED ENTITIES.—The term 'stapled entities' means any group of 2 or more entities if more than 50 percent in value of the beneficial ownership in each of such entities consists of stapled interests.

"(3) STAPLED INTERESTS.—Two or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of 1 of such interests the other such interests are also transferred or required to be transferred.

"(d) SPECIAL RULE FOR TREATIES.—Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after the item relating to section 269A the following new item:

"Sec. 269B. Stapled entities.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INTERESTS STAPLED AS OF JUNE 30, 1983.—Except as otherwise provided in this subsection, in the case of any interests which on June 30, 1983, were stapled interests (as defined in section 269B(c)(3) of the Internal Revenue Code of 1954 (as added by this section), the amendments made by this section shall take effect on January 1, 1985 (January 1, 1987 in the case of a foreign corporation).

(3) CERTAIN STAPLED ENTITIES WHICH INCLUDE REAL ESTATE INVESTMENT TRUST.—Paragraph (3) of section 269B(a) of such Code shall not apply in determining the application of the provisions of part II of subchapter M of chapter 1 of such Code to any real estate investment trust which is part of a group of stapled entities if—

(A) all members of such group were stapled entities as of June 30, 1983, and

(B) as of June 30, 1983, such group included one or more real estate investment trusts.

(4) CERTAIN STAPLED ENTITIES WHICH INCLUDE PUERTO RICAN CORPORATIONS.—

(A) Paragraph (1) of section 269B(a) of such Code shall not apply to a domestic corporation and a qualified Puerto Rican corporation which, on June 30, 1983, were stapled entities.

(B) For purposes of subparagraph (A), the term "qualified Puerto Rican corporation" means any corporation organized in Puerto Rico—

(i) which is described in section 957(c) of such Code or would be so described if any dividends it received from any other corporation described in such section 957(c) were treated as gross income of the type described in such section 957(c), and

(ii) does not, at any time during the taxable year, own (within the meaning of section 958 of such Code but before applying paragraph (2) of section 269B(a) of such Code) any stock of any corporation which is not described in such section 957(c).

(5) TREATY RULE NOT TO APPLY TO STAPLED ENTITIES ENTITLED TO TREATY BENEFITS AS OF JUNE 30, 1983.—In the case of any entity which was a stapled entity as of June 30, 1983, subsection (d) of section 269B of such Code shall not apply to any treaty benefit to which such entity was entitled as of June 30, 1983.

(6) ELECTION TO TREAT STAPLED FOREIGN ENTITIES AS SUBSIDIARIES.—

(A) IN GENERAL.—In the case of any foreign corporation and domestic corporation which as of June 30, 1983, were stapled entities, such domestic corporation may elect (in lieu of applying paragraph (1) of section 269B(a) of such Code) to be treated as owning all interests in the foreign corporation which constitute stapled interests with respect to stock of the domestic corporation.

(B) ELECTION.—Any election under subparagraph (A) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

Subtitle F—Miscellaneous Treasury Administrative Provisions

PART I—PROVISIONS NOT RELATING TO DISTILLED SPIRITS TAX

SEC. 461. SIMPLIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) DISC REPORT.—

(1) Section 506 of the Revenue Act of 1971 (relating to submission of annual reports to Congress) is amended to read as follows:

"SEC. 506. SUBMISSION OF REPORTS TO CONGRESS.

"The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 27½ months following the close of such calendar year setting forth an analysis of the operation and effect of the provisions of this title.".

(2) The amendment made by paragraph (1) shall apply to reports for calendar years after 1980.

(b) REPORT ON POSSESSIONS CORPORATIONS.—The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 24 months following the close of such calendar year setting forth an analysis of the operation and effect of sections 936 and 934(b) of the Internal Revenue Code of 1954.

(c) HIGH INCOME TAXPAYER REPORT.—

(1) Section 2123 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 2123. HIGH INCOME TAXPAYER REPORT.

"The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.".

(2) The amendment made by paragraph (1) shall apply to information published after the date of the enactment of this Act.

(d) INTERNATIONAL BOYCOTT REPORTS.—

(1) Section 1067 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 1067. REPORTS BY THE SECRETARY.

"(a) GENERAL RULE.—As soon after the close of each 4-year period as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth for such 4-year period—

"(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within each calendar year in such 4-year period,

"(2) the number of such reports with respect to each such calendar year on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

"(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such 4-year period.

"(b) 4-YEAR PERIOD.—For purposes of subsection (a), the term '4-year period' means the period consisting of 4 calendar years beginning with calendar year 1982 and each subsequent fourth calendar year.".

(2) The amendment made by paragraph (1) shall apply to reports for periods after December 31, 1981.

SEC. 462. REMOVAL OF $1,000,000 LIMITATION ON WORKING CAPITAL FUND.

The last sentence of section 322(a) of title 31, United States Code (placing a $1,000,000 limitation on the working capital fund for the Department of the Treasury), is hereby repealed.

SEC. 463. INCREASE IN LIMITATION ON REVOLVING FUND FOR REDEMPTION OF REAL PROPERTY.

Subsection (a) of section 7810 (relating to revolving fund for redemption of real property) is amended by striking out "$1,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 464. REMOVAL OF $1,000,000 LIMITATION ON SPECIAL AUTHORITY TO DISPOSE OF OBLIGATIONS.

Subsection (b) of section 324 of title 31, United States Code (relating to disposing and extending the maturity of obligations), is amended by striking out the last sentence.

SEC. 465. SECRETARY OF THE TREASURY AUTHORIZED TO ACCEPT GIFTS AND BEQUESTS.

Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

"(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

"(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.".

SEC. 466. EXTENSION OF PERIOD FOR COURT REVIEW OF JEOPARDY ASSESSMENT WHERE PROMPT SERVICE NOT MADE ON THE UNITED STATES.

(a) GENERAL RULE.—Paragraph (2) of section 7429(b) (relating to judicial review) is amended by adding at the end thereof the following new sentence:

"If the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions commenced after the date of the enactment of this Act.

SEC. 467. EXTENSION OF PERIOD DURING WHICH ADDITIONAL TAX SHOWN ON AMENDED RETURN MAY BE ASSESSED.

(a) GENERAL RULE.—Subsection (c) of section 6501 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN AMENDED RETURNS.—Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act.

SEC. 468. TREATMENT OF CERTAIN GUARANTEED DRAFTS ISSUED BY FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (2) of section 6311(b) (relating to liability of banks and others) is amended—

(1) by striking out "or cashier's check" and inserting in lieu thereof "or cashier's check (or other guaranteed draft)",

(2) by striking out "the amount of such check" and inserting in lieu thereof "the amount of such check (or draft)",

(3) by striking out "the bank or trust company" and inserting in lieu thereof "the financial institution", and

(4) by striking out "such bank" each place it appears and inserting in lieu thereof "such financial institution".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 469. DISCLOSURE OF WINDFALL PROFIT TAX INFORMATION TO STATE TAX OFFICIALS.

(a) GENERAL RULE.—Paragraph (1) of section 6103(d) (relating to disclosure to State tax officials) is amended by striking out "44, 51" and inserting in lieu thereof "44, 45, 51".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART II—PROVISIONS RELATING TO DISTILLED SPIRITS

SEC. 470. REPEAL OF OCCUPATIONAL TAX ON MANUFACTURERS OF STILLS AND CONDENSERS; NOTICES OF MANUFACTURE AND SET UP OF STILLS.

(a) IN GENERAL.—Subpart C of part II of subchapter A of chapter 51 (relating to manufacturers of stills) is amended to read as follows:

"Subpart C—Manufacturers of Stills

"Sec. 5101. Notice of manufacture of still; notice of set up of still.
"Sec. 5102. Definition of manufacturer of stills.

"SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF SET UP OF STILL.

"(a) NOTICE REQUIREMENTS.—

"(1) NOTICE OF MANUFACTURE OF STILL.—The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

"(2) NOTICE OF SET UP OF STILL.—The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

"(b) PENALTIES, ETC.—

"(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

"(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

"SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS.

"Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 5179(b) (relating to registration of stills) is amended to read as follows:

"(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).".

(2) Paragraph (2) of section 5615 (relating to property subject to forfeiture) is amended to read as follows:

"(2) DISTILLING APPARATUS REMOVED WITHOUT NOTICE OR SET UP WITHOUT NOTICE.—Any still, boiler, or other vessel to be used for the purpose of distilling—

"(A) which is removed without notice having been given when required by section 5101(a)(1), or

"(B) which is set up without notice having been given when required by section 5101(a)(2); and".

(3) Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes relating to liquors) is amended by striking out "limited retail dealer, or manufacturer of stills" and inserting in lieu thereof "or limited retail dealer".

SEC. 471. ALLOWANCE OF DRAWBACK CLAIMS EVEN WHERE CERTAIN REQUIREMENTS NOT MET.

Section 5134 (relating to drawback) is amended by adding at the end thereof the following new subsection:

"(c) ALLOWANCE OF DRAWBACK EVEN WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

"(2) PENALTY.—

"(A) IN GENERAL.—In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

"(B) PENALTY MAY NOT EXCEED AMOUNT OF CLAIM.—The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

"(3) PENALTY TREATED AS TAX.—The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6662(a).".

SEC. 472. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.—Notwithstanding any other provision of this section, the Secretary may disclose—

"(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

"(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) (relating to records of inspection and disclosure) is amended by striking out "(5), or (7)" and inserting in lieu thereof "(5), (7), (8), or (9)".

(2) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

(3) Clause (i) of section 6103(p)(4)(F) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), (8), or (9)".

(4) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "or (8)" and inserting in lieu thereof "(8), or (9)".

(5) Section 127(a)(1) of Public Law 96-249 is amended by striking out "Subsection (i)" and inserting in lieu thereof "Subsection (l)".

(6) The paragraph (7) of section 6103(l) added by Public Law 96-265 is hereby redesignated as paragraph (8).

SEC. 473. REPEAL OF STAMP REQUIREMENT FOR DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5205 (relating to stamps) is hereby repealed.

(b) BOTTLES MUST HAVE OTHER ANTITAMPERING CLOSURE.—Section 5301 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CLOSURES.—The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The second sentence of section 5062(b) (relating to drawback in case of exportation) is amended by striking out "stamped or restamped, and".

(2) Paragraph (2) of section 5066(a) (relating to bottled distilled spirits eligible for export with benefit of drawback) is amended by striking out "stamped or restamped, and marked," and inserting in lieu thereof "marked".

(3) Subsection (b) of section 5116 (relating to cross references) is amended to read as follows:

"(b) CROSS REFERENCE.—

"For provisions relating to containers of distilled spirits, see section 5206.".

(4) Subsection (c) of section 5204 (relating to gauging) is amended—

(A) by striking out "STAMPING," in the heading, and

(B) by striking out "stamping," in the text.

(5)(A) Section 5206 (relating to containers) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) EFFACEMENT OF MARKS AND BRANDS ON EMPTIED CONTAINERS.—Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.".

(B) Subsection (f) of section 5206, as redesignated by subparagraph (A), is amended by adding at the end thereof the following new paragraphs:

"(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

"(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.".

(6) Paragraph (4) of section 5207(a) (relating to records and reports) is amended by striking out subparagraph (D), by adding "and" at the end of subparagraph (B), and by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period.

(7) Subsection (c) of section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended—

(A) by striking out "RESTAMPING" in the heading and inserting in lieu thereof "RECLOSING", and

(B) by striking out "restamping" in the text and inserting in lieu thereof "reclosing".

(8) Section 5235 (relating to bottling of alcohol for industrial purposes) is amended by striking out "stamped," in the first sentence and by striking out the second sentence.

(9) Subsection (c) of section 5301 (relating to regulation of traffic in containers of distilled spirits) is amended—

(A) by striking out "stamping" in paragraphs (1) and (3) and inserting in lieu thereof "tax determination", and

(B) by striking out ", if the liquor bottles are to be again stamped under the provisions of this chapter".

(10) Subsection (a) of section 5555 (relating to records, statements, and returns) is amended by striking out "or for the affixing of any stamp required to be affixed by this chapter,".

(11)(A) Section 5604 (relating to penalties relating to stamps, marks, brands, and containers) is amended to read as follows:

"SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND CONTAINERS.

"(a) IN GENERAL.—Any person who shall—

"(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d);

"(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

"(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

"(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

"(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

"(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

"(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than $10,000 or imprisoned not more than 5 years, or both, for each such offense.

"(b) CROSS REFERENCES.—

"For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.".

(B) The table of sections for part I of subchapter J of chapter 51 is amended by striking out the item relating to section 5604 and inserting in lieu thereof the following:

"Sec. 5604. Penalties relating to marks, brands, and containers.".

(12)(A) Subsection (b) of section 5613 (relating to forfeiture of distilled spirits not stamped, marked, or branded as required by law) is amended to read as follows:

"(b) CONTAINERS WITHOUT CLOSURES.—All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.".

(B) The section heading of section 5613 is amended by striking out "stamped" and inserting in lieu thereof "closed".

(C) The item relating to section 5613 in the table of sections for part I of subchapter J of chapter 51 is amended by striking out "stamped" and inserting in lieu thereof "closed".

(13) Subsection (b) of section 6801 (relating to authority for establishment, alteration, and distribution) is amended by striking out "several stamp taxes;" and all that follows and inserting in lieu thereof "several stamp taxes.".

(14) The table of sections for part I of subchapter C of chapter 51 is amended by striking out the item relating to section 5205.

SEC. 474. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 473 shall take effect on July 1, 1985.

Subtitle G—Tax Court Provisions

SEC. 475. CERTIFIED PUBLIC ACCOUNTANTS AND ENROLLED AGENTS AUTHORIZED TO REPRESENT TAXPAYERS IN SMALL TAX CASES; INCREASE IN JURISDICTIONAL LIMIT FOR SMALL CASES.

(a) GENERAL RULE.—Section 7463 (relating to disputes involving $5,000 or less) is amended by adding at the end thereof the following new subsection:

"(g) REPRESENTATION OF TAXPAYER.—In any case in which the proceedings are conducted under this section, any person who is—

"(1) a certified public accountant, or

"(2) an enrolled agent authorized to practice before the Internal Revenue Service,

shall be allowed to represent the taxpayer. Nothing in this subsection shall prevent the Tax Court from extending its rules of practice relating to suspension or disqualification to persons referred to in paragraph (1) or (2).".

(b) INCREASE IN JURISDICTIONAL LIMIT FOR SMALL TAX CASES.—

(1) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $5,000 or less) is amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$10,000".

(2) CLERICAL AMENDMENTS.—

(A) The section heading for section 7463 is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "$5,000" in the item relating to section 7463 and inserting in lieu thereof "$10,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 476. ANNUITIES TO SURVIVORS OF TAX COURT JUDGES.

(a) ENTITLEMENT TO ANNUITY.—Subsection (h) of section 7448 (relating to entitlement to annuity) is amended—

(1) by striking out "$900 per year divided by the number of such children or $360 per year," in paragraph (2) and inserting in lieu thereof "$4,644 per year divided by the number of such children or $1,548 per year,"; and

(2) by striking out "$480 per year" in paragraph (3) and inserting in lieu thereof "$5,580 per year divided by the number of such children or $1,860 per year, whichever is lesser".

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to annuities payable with respect to months beginning after the date of the enactment of this Act.

SEC. 477. PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.

(a) IN GENERAL.—Subsection (d) of section 7456 (relating to proceedings which may be

assigned to commissioners) is amended to read as follows:

"(d) PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.—The chief judge may assign—

"(1) any declaratory judgment proceeding,

"(2) any proceeding under section 7463,

"(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $10,000; and

"(4) any other proceeding which the chief judge may designate,

to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any proceeding described in paragraph (1), (2), or (3), subject to such conditions and review as the court may provide.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted as part of the Miscellaneous Revenue Act of 1982.

SEC. 478. SPECIAL TRIAL JUDGES.

(a) IN GENERAL.—Subsection (a) of section 7456 (relating to administration of oaths and procurement of testimony) is amended by striking out "commissioner" each place it appears and inserting in lieu thereof "special trial judge".

(b) APPOINTMENT AND COMPENSATION.—Subsection (c) of section 7456 (relating to commissioners) is amended—

(1) by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES";

(2) by striking out "commissioners" and inserting in lieu thereof "special trial judges"; and

(3) by striking out "commissioner" and inserting in lieu thereof "special trial judge".

(c) PROCEEDINGS WHICH MAY BE ASSIGNED TO SPECIAL TRIAL JUDGES.—Subsection (d) of section 7456 (relating to proceedings which may be assigned to commissioners), as amended by section 477, is amended—

(1) by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES";

(2) by striking out "commissioners" and inserting in lieu thereof "special trial judges"; and

(3) by striking out "commissioner" and inserting in lieu thereof "special trial judge".

(d) CONFORMING AMENDMENT.—Subsection (c) of section 7471 (cross reference relating to compensation and travel and subsistence allowances of commissioners) is amended by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES", and by striking out "commissioners" and inserting in lieu thereof "special trial judges".

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Any reference in any law to a commissioner of the Tax Court shall be treated as a reference to a special trial judge of the Tax Court.

SEC. 479. PUBLICITY OF TAX COURT PROCEEDINGS.

(a) IN GENERAL.—Section 7461 (relating to publicity of proceedings) is amended to read as follows:

"SEC. 7461. PUBLICITY OF PROCEEDINGS.

"(a) GENERAL RULE.—Except as provided in subsection (b), all reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

"(b) EXCEPTIONS.—

"(1) TRADE SECRETS OR OTHER CONFIDENTIAL INFORMATION.—The Tax Court may make any provision which is necessary to prevent the disclosure of trade secrets or other confidential information, including a provision that any document or information be placed under seal to be opened only as directed by the court.

"(2) EVIDENCE, ETC.—After the decision of the Tax Court in any proceeding has become final, the Tax Court may, upon motion of the taxpayer or the Secretary, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any division; or the Tax Court may, on its own motion, make such other disposition thereof as it deems advisable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 480. ELIMINATION OF MANDATORY RETIREMENT AGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Paragraph (1) of section 7447(b) (relating to retirement of Tax Court judges) is amended to read as follows:

"(1) Any judge may retire at any time after attaining age 70.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle H—Simplification of Income Tax Credits

SEC. 481. SHORT TITLE.

This subtitle may be cited as the "Tax Credit Simplification Act of 1984".

SEC. 482. CREDITS GROUPED TOGETHER IN MORE LOGICAL ORDER.

(a) CREDITS DIVIDED INTO 4 CATEGORIES.—The table of subparts for part IV of subchapter A of chapter 1 (relating to credits against tax) is amended to read as follows:

"Subpart A. Nonrefundable personal credits.
"Subpart B. Foreign tax credit, etc.
"Subpart C. Refundable credits.
"Subpart D. Business-related credits.".

(b) EXISTING CREDITS ASSIGNED TO APPROPRIATE CATEGORY.—Part IV of subchapter A of chapter 1 is amended by striking out the heading and table of sections for subpart A and inserting in lieu thereof the following:

"Subpart A—Nonrefundable Personal Credits

"Sec. 21. Expenses for household and dependent care services necessary for gainful employment.
"Sec. 22. Credit for the elderly and the permanently and totally disabled.
"Sec. 23. Residential energy credit.
"Sec. 24. Contributions to candidates for public office.
"Sec. 25. Limitation based on tax liability; definition of tax liability.

"Subpart B—Foreign Tax Credit, Etc.

"Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.
"Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.
"Sec. 29. Credit for producing fuel from a nonconventional source.
"Sec. 30. Credit for increasing research activities.

"Subpart C—Refundable Credits

"Sec. 31. Tax withheld on wages.
"Sec. 32. Earned income.
"Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.
"Sec. 34. Certain uses of gasoline and special fuels.
"Sec. 35. Overpayments of tax.

"Subpart D—Business Related Credits

"Sec. 38. General business credit.
"Sec. 39. Carryback and carry forward of unused credits.
"Sec. 40. Alcohol used as fuel.
"Sec. 41. Employee stock ownership credit.".

(c) SECTIONS MOVED TO APPROPRIATE PLACE IN PART IV.—

(1) DESIGNATION.—The following sections of such part IV are henceforth to be designated in accordance with the following table:

Old section number:	New section number:	New subpart designation:
44A	21	A
37	22	A
44C	23	A
41	24	A
33	27	B
44H	28	B
44D	29	B
44F	30	B
31	31	C
43	32	C
32	33	C
39	34	C
45	35	C
44E	40	D
44G	41	D

(2) PLACED IN APPROPRIATE SUBPARTS.—Each section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in the appropriate subpart of such part IV.

SEC. 483. UNIFORM LIMITATION ON PERSONAL NONREFUNDABLE CREDITS.

Subpart A of part IV of subchapter A of chapter 1 is amended by adding after section 24 the following new section:

"SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's tax liability for such taxable year.

"(b) TAX LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax liability' means the tax imposed by this chapter for the taxable year.

"(2) EXCEPTION FOR CERTAIN TAXES.—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

"(A) section 56 (relating to corporate minimum tax),

"(B) subsection (m)(5)(B), (o)(2), or (q) of section 72 (relating to additional tax on certain distributions),

"(C) section 408(f) (relating to additional tax on income from certain retirement accounts),

"(D) section 531 (relating to accumulated earnings tax),

"(E) section 541 (relating to personal holding company tax),

"(F) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),

"(G) section 1374 (relating to tax on certain capital gains of S corporations), and

"(H) section 1375 (relating to tax imposed when passive investment income of corpora-

tion having subchapter C earnings and profits exceeds 25 percent of gross receipts).

"(c) SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c).".

SEC. 484. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-RELATED CREDITS.

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting before section 40 the following new sections:

"SEC. 38. GENERAL BUSINESS CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the business credit carryforwards carried to such taxable year,

"(2) the amount of the current year business credit, plus

"(3) the business credit carrybacks carried to such taxable year.

"(b) CURRENT YEAR BUSINESS CREDIT.—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

"(1) the investment credit determined under section 46(a),

"(2) the targeted jobs credit determined under section 51(a),

"(3) the alcohol fuels credit determined under section 40(a), plus

"(4) the employee stock ownership credit determined under section 41(a).

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

"(A) so much of the taxpayer's net tax liability for the taxable year as does not exceed $25,000, plus

"(B) 85 percent of so much of the taxpayer's net tax liability for the taxable year as exceeds $25,000.

"(2) NET TAX LIABILITY.—For purposes of paragraph (1), the term 'net tax liability' means the tax liability (as defined in section 25(b)), reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (1) shall be $12,500 in lieu of $25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by section 1563(a).

"(C) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of a person described in subparagraph (A) or (B) of section 46(e)(1), the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall equal such person's ratable share (as determined under section 46(e)(2)) of such amount.

"(D) ESTATES AND TRUSTS.—In the case of an estate or trust, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to $25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

"(d) SPECIAL RULES FOR CERTAIN REGULATED COMPANIES.—In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), 196(a), and 404(i) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).

"SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

"(a) IN GENERAL.—

"(1) 3 YEAR CARRYBACK AND 15 YEAR CARRYFORWARD.—If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the 'unused credit year'), such excess (to the extent attributable to the amount of the current year business credit) shall be--

"(A) a business credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a business credit carryforward to each of the 15 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

"(b) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

"(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

"(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(c) LIMITATION ON CARRYFORWARDS.—The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

"(d) TRANSITIONAL RULES.—

"(1) CARRYFORWARDS.—

"(A) IN GENERAL.—Any carryforward from an unused credit year under section 46, 50A, 53, 44E, or 44G which has not expired before the beginning of the first taxable year beginning after December 31, 1983, shall be aggregated with other such carryforwards from such unused credit year and shall be a business credit carryforward to each taxable year beginning after December 31, 1983, which is 1 of the first 15 taxable years after such unused credit year.

"(B) AMOUNT CARRIED FORWARD.—The amount carried forward under subparagraph (A) to any taxable year shall be properly reduced for any amount allowable as a credit with respect to such carryforward for any taxable year before the year to which it is being carried.

"(2) CARRYBACKS.—In determining the amount allowable as a credit for any taxable year beginning before January 1, 1984, as the result of the carryback of a general business tax credit from a taxable year beginning after December 31, 1983, paragraph (1) of subsection (b) shall be applied as if it read as follows:

"'(1) the sum of the credits allowable for such taxable year under sections 38, 40, 44B, 44E, and 44G, plus'."

SEC. 485. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO OLD AND NEW PROVISIONS.—Whenever in this section reference is made to an old or new section or other provision, the reference is to the provision before (in the case of "old") or after (in the case of "new") the changes made by section 482 of this Act.

(b) OLD SECTION 21.—

(1) REDESIGNATION.—Old section 21 (relating to effect of changes) is redesignated as section 15.

(2) CONFORMING AMENDMENTS.—Sections 441(f)(2)(A) and 6013(c) are each amended by striking out "21" and inserting in lieu thereof "15".

(3) TABLE OF SECTIONS.—The table of sections for part III of subchapter A of chapter 1 is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

"Sec. 15. Effect of changes.".

(c) NEW SECTION 21.—New section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out subsection (b) and by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively,

(2) by striking out "subsection (c)(1)" in subsection (a) and inserting in lieu thereof "subsection (b)(1)",

(3) by striking out "subsection (c)(2)" in subsection (a) and inserting in lieu thereof "subsection (b)(2)",

(4) by striking out "subsection (c)(1)(C)" in paragraph (2) of subsection (d) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)(C)",

(5) by striking out "subsection (d)(1)" in subparagraph (A) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof, "subsection (c)(1)",

(6) by striking out "subsection (d)(2)" in subparagraph (B) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (c)(2)", and

(7) by striking out "subsection (c)(1)" in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)".

(d) NEW SECTION 22.—New section 22 (relating to the credit for the elderly and the permanently and totally disabled) is amended—

(1) by striking out "section 37 amount" each place it appears in the text and inserting in lieu thereof "section 22 amount",

(2) by striking out the heading of subsection (c) and inserting in lieu thereof "(c) SECTION 22 AMOUNT.—", and

(3) by amending subsection (d) to read as follows:

"(d) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(1) $7,500 in the case of a single individual,

"(2) $10,000 in the case of a joint return, or

"(3) $5,000 in the case of a married individual filing a separate return,

the section 22 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.".

(e) NEW SECTION 23.—Subsection (b) of new section 23 (relating to residential energy credit) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 25(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYFORWARD TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.".

(f) NEW SECTION 24.—Subsection (b) of new section 24 (relating to contributions to candidates for political office) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(g) NEW SECTION 28.—

(1) New section 28 is amended—

(A) by striking out "section 44F" each place it appears and inserting in lieu thereof "section 30", and

(B) by striking out "section 44F(b)" in subsection (c)(2) and inserting in lieu thereof "section 30(b)," and

(C) by striking out "section 44F(f)" in subsection (d)(4) and inserting in lieu thereof "section 30(f)".

(2) Paragraph (2) of new section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and section 27.".

(h) NEW SECTION 29.—Paragraph (5) of new section 29(b) (relating to credit for producing fuel from a nonconventional source) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27 and 28.".

(i) NEW SECTION 30.—

(1) New section 30 (relating to credit for increasing research activities) is amended—

(A) by striking out "in computing the credit under section 40 or 44B" in subsection (b)(2)(D)(iii) and inserting in lieu thereof "in determining the targeted jobs credit under section 51(a)", and

(B) by amending subparagraph (A) of subsection (g)(1) to read as follows:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29.".

(2) NEW SECTION 30 TREATED AS CONTINUATION OF OLD SECTION 44F.—For purposes of determining—

(A) whether any excess credit under old section 44F for a taxable year beginning before January 1, 1984, is allowable as a carryover under new section 30, and

(B) the period during which new section 30 is in effect,

new section 30 shall be treated as a continuation of old section 44F (and shall apply only to the extent old section 44F would have applied).

(j) NEW SECTION 33.—New section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended to read as follows:

"SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and on foreign corporations).".

(k) NEW SECTION 40.—New section 40 (relating to alcohol used as fuel) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.",

(2) by striking out "the credit allowable under this section" in subsection (c) and inserting in lieu thereof "the credit determined under this section",

(3) by striking out "credit was allowable" each place it appears in paragraph (3) of subsection (d) and inserting in lieu thereof "credit was determined",

(4) by striking out subsection (e) and redesignating subsection (f) as subsection (e),

(5) by amending paragraph (2) of subsection (e) (as redesignated by paragraph (4)) to read as follows:

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after December 31, 1994.", and

(6) by adding at the end thereof the following new subsection:

"(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(l) NEW SECTION 41.—New section 41 (relating to employee stock ownership plan) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AMOUNT OF CREDIT.—In the case of a corporation which elects to have this section apply for the taxable year and which meets the requirements of subsection (c)(1), for purposes of section 38, the amount of the employee stock ownership credit determined under this section for the taxable year is an amount equal to the amount of the credit determined under paragraph (2) for such taxable year.",

(2) by amending subsection (b) to read as follows:

"(b) CERTAIN REGULATED COMPANIES.—No credit attributable to compensation taken into account for the ratemaking purposes involved shall be determined under this section with respect to a taxpayer if—

"(1) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to a tax credit employee stock ownership plan which meets the requirements of section 409;

"(2) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan; or

"(3) any portion of the amount of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders.

Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.", and

(3) by striking out "the credit allowed under this section" in subsection (c)(3) and inserting in lieu thereof "the credit determined under this section".

(m) REPEAL OF CERTAIN OLD PROVISIONS.—

(1) Old sections 38, 40, 44, and 44B are hereby repealed.

(2) Old subpart C of part IV of subchapter A of chapter 1 is hereby repealed.

(n) REDESIGNATION OF OLD SUBPARTS.—

(1) Old subparts B and D of part IV of subchapter A of chapter 1 are redesignated as subparts E and F, respectively.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 (as so redesignated) is amended to read as follows:

"Subpart F—Rules for Computing Targeted Jobs Credit".

(3) The table of subparts for such part IV (as amended by subsection (a) of section 482) is amended by adding at the end thereof the following:

"Subpart E. Rules for computing credit for investment in certain depreciable property.

"Subpart F. Rules for computing targeted jobs credit.".

(o) INVESTMENT TAX CREDIT.—

(1) Section 46 (relating to amount of investment tax credit) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AMOUNT OF INVESTMENT CREDIT.—For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(1) the regular percentage,

"(2) in the case of energy property, the energy percentage, and

"(3) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.

"(b) DETERMINATION OF PERCENTAGES.—For purposes of subsection (a)—

"(1) REGULAR PERCENTAGE.—The regular percentage is 10 percent.

"(2) ENERGY PERCENTAGE.—

"(A) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

Column A—Description	Column B—Percentage	Column C—Period	
		For the period:	
In the case of:	The energy percentage is:	Beginning on:	And ending on:
(i) GENERAL RULE.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
(ii) SOLAR WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent B. 15 percent	Oct. 1, 1978 Jan. 1, 1980	Dec. 31, 1979. Dec. 31, 1985.
(iii) OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
(iv) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii).	11 percent	Jan. 1, 1980	Dec. 31, 1985.
(v) QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
(vi) BIOMASS PROPERTY.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.
(vii) CHLOR-ALKALI ELECTROLYTIC CELLS.—Property described in section 48(l)(5)(M)	10 percent	Jan. 1, 1980	Dec. 31, 1982.

"(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under subparagraph (A) (as modified by subparagraphs (C) and (D)).

"(C) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in clause (i) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(i) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(D) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in clause (iv) of subparagraph (A) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'.

"(3) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—The regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(C) DEFINITIONS.—For purpose of this paragraph—

"(i) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(ii) 40-YEAR BUILDING.—The term '40-year building' means a qualified rehabilitated building (other than a certified historic structure) which would meet the requirements of section 48(g)(B) if '40' were substituted for '30' each place it appears in subparagraph (B) thereof.

"(iii) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a qualified rehabilitated building which meets the requirements of section 48(g)(3).".

(2) Subclause (II) of section 46(c)(8)(F)(ii) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "subsection (b)(2)".

(3)(A) Paragraph (1) of section 46(e) is amended—

(i) by striking out "and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and

(ii) by striking out "such items" and inserting in lieu thereof "such qualified investment".

(B) Paragraph (2) of section 46(e) is amended by striking out "the items described therein" and inserting in lieu thereof "qualified investment".

(4)(A) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "no credit shall be allowed by section 38" and inserting in lieu thereof "no credit determined under subsection (a) shall be allowed by section 38".

(B) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "the credit allowable by section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable by section 38".

(C) Subparagraph (B) of section 46(f)(4) is amended by striking out "the credit allowed by section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowed by section 38".

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

(6) Paragraph (2) of section 46(g) is amended by striking out "the limitation of subsection (a)(3)" and inserting in lieu thereof "the limitation of section 38(c)".

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable to the organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by striking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

(8) Paragraphs (5) and (6) of section 47(a) are each amended by striking out "under

section 46(b)" and inserting in lieu thereof "under section 39".

(9) Subsection (c) of section 47 is amended by striking out "subpart A" and inserting in lieu thereof "subpart A, B, or D".

(10) Subparagraph (B) of section 48(c)(3) is amended by striking out "section 46(b)" and inserting in lieu thereof "section 39".

(11) Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(6)" and inserting in lieu thereof "section 38(c)(3)(B)".

(12) Subsection (f) of section 48 is amended—

(A) by adding "and" at the end of paragraph (1),

(B) striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(13) Paragraph (1) of section 48(l) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "section 46(b)(2)".

(14) Subsection (m) of section 48 is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (b)".

(15) Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1954 (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.

(16) Subsection (o) of section 48 (defining certain credits) is amended by striking out paragraphs (3), (4), (5), (6), and (7) and by redesignating paragraph (8) as paragraph (3).

(17) Subsection (q) of section 48 is amended—

(A) by striking out "section 46(a)(2)" each place it appears and inserting in lieu thereof "section 46(a)", and

(B) by striking out "section 46(a)(2)(B)" each place it appears and inserting in lieu therof "section 46(b)(1)".

(18) Subsection (r) of section 48 is amended by striking out "section 381(c)(23)" and inserting in lieu thereof "section 381(c)(26)".

(p) TARGETED JOBS CREDIT.—

(1) Subsection (a) of section 51 (relating to amount of targeted jobs credit) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.".

(2) Subsection (g) of section 51 is amended by striking out "the credit provided by section 44B" and inserting in lieu thereof "the targeted jobs credit determined under this subpart".

(3) Section 51 is amended by adding at the end thereof the following new subsection:

"(j) ELECTION TO HAVE TARGETED JOBS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(4) Subsection (a) of section 52 is amended by striking out "the credit (if any) allowable by section 44B to each such member" and inserting in lieu thereof "the credit (if any) determined under section 51(a) with respect to each such member".

(5) Subsection (b) of section 52 is amended by striking out "the credit (if any) allowable by section 44B" and inserting in lieu thereof "the credit (if any) determined under section 51(a)".

(6) Subsection (c) of section 52 is amended by striking out "credit shall be allowed under section 44B" and inserting in lieu thereof "credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart".

(7) Paragraph (2) of section 52(d) is amended by striking out ", subject to section 53, a credit under section 44B" and inserting in lieu thereof ", subject to section 38(c), a credit under section 38(a)".

(8) Section 53 (relating to limitation based on amount of tax) is hereby repealed.

(9) The table of sections for old subpart D of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 53.

(q) SECTION 55.—

(1) Paragraph (1) of section 55(c) (relating to credits) is amended—

(A) by striking out "subpart A of part IV" and inserting in lieu thereof "subpart A, B, or D of part IV", and

(B) by striking out "section 33(a)" each place it appears and inserting in lieu thereof "section 27(a)".

(2) Clause (i) of section 55(c)(2)(B) is amended by striking out "section 33(a)" and inserting in lieu thereof "section 27(a)".

(3) Paragraph (3) of section 55(c) is amended to read as follows:

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In the case of any taxable year for which a tax is imposed by this section, for purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under section 23, 30 or 38, the amount of the limitation under section 25, 30(g), or 38(c) (as the case may be) shall be deemed to be—

"(A) the amount of such limitation for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(B) the amount of the tax imposed by this section for the taxable year, reduced by—

"(i) the amount of the credit allowable under section 27(a),

"(ii) in the case of the limitation under section 30(g), the amount of such tax taken into account under this subparagraph with respect to the limitation under section 25, and

"(iii) in the case of the limitation under section 38(c), the amount of such tax taken into account under this subparagraph with respect to limitations under sections 25 and 30(g).".

(4) Paragraph (2) of section 55(f) is amended by striking out "allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43)" and inserting in lieu thereof "allowable under subparts A, B, and D of part IV of this subchapter".

(r) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER PROVISIONS.—

(1) SECTION 56.—

(A) Subsection (c) of section 56 (defining regular tax deduction) is amended—

(i) by striking out "subpart A of part IV other than sections 39 and 44G" and inserting in lieu thereof "subparts A, B, and D of part IV", and

(ii) by amending the last sentence to read as follows: "For purposes of the preceding sentence, the amount of the credit determined under section 38 for any taxable year shall be determined without regard to the employee stock ownership credit determined under section 41.".

(B) Subparagraph (A) of section 56(e)(1) is amended by striking out clauses (i), (ii), (iii), and (iv) and inserting in lieu thereof the following:

"(i) section 27 (relating to foreign tax credit), and

"(ii) section 38 (relating to general business credit), exceed".

(2) SECTION 86.—Paragraph (1) of section 86(f) (relating to treatment as pension or annuity for certain purposes) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(3) SECTION 87.—Section 87 (relating to alcohol fuel credit included in income) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes the amount of the alcohol fuel credit determined with respect to the taxpayer for the taxable year under section 40(a).".

(4) SECTION 103.—Clause (iv) of section 103(b)(6)(F) (relating to certain capital expenditures not taken into account) is amended by striking out "section 44F(b)(2)(A)" and inserting in lieu thereof "section 30(b)(2)(A)".

(5) SECTION 108.—Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended to read as follows:

"(B) RESEARCH CREDIT AND GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes of determining the amount allowable as a credit under—

"(i) section 30 (relating to credit for increasing research activities), or

"(ii) section 38 (relating to general business credit).

For purposes of this subparagraph, there shall not be taken into account any portion of a carryover which is attributable to the employee stock ownership credit determined under section 41.".

(6) SECTION 129.—

(A) Paragraph (2) of section 129(b) (relating to earned income limitation) is amended by striking out "section 44A(e)(2)" and inserting in lieu thereof "section 21(d)(2)".

(B) Paragraph (1) of section 129(e) (defining dependent care assistance) is amended by striking out "section 44A(c)(2)" and inserting in lieu thereof "section 21(b)(2)".

(C) Paragraph (2) of section 129(e) (defining earned income) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(7) SECTION 168.—

(A) Clause (i) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(B) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity

and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(C) Subparagraph (A) of section 168(i)(4), as added section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV of subchapter A of this chapter" and inserting in lieu thereof "section 38".

(D) Clause (i) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(E) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(8) SECTION 196.—

(A) Section 196 (relating to deduction for certain unused investment credits) is amended to read as follows:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.

"(a) ALLOWANCE OF DEDUCTION.—If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

"(b) TAXPAYER'S DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year for which the qualified business credits could, under section 39, have been allowed as a credit, the amount described in subsection (a) (or the proper portion thereof) shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) QUALIFIED BUSINESS CREDITS.—For purposes of this section, the term 'qualified business credits' means—

"(1) the investment credit determined under section 46(a) (but only to the extent attributable to property the basis of which is reduced by section 48(q)),

"(2) the targeted jobs credit determined under section 51(a), and

"(3) the alcohol fuels credit determined under section 40(a).

"(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT.—In the case of the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), subsection (a) shall be applied by substituting 'an amount equal to 50 percent of' for 'an amount equal to'.".

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 196 and inserting in lieu thereof:

"Sec. 196. Deduction for certain unused business credits.".

(9) SECTION 213.—Subsection (e) of section 213 (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "section 44A" and inserting in lieu thereof "section 21".

(10) SECTION 280C.—

(A) Section 280C (relating to certain expenses for which credits are allowable) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(B) Subsection (a) of section 280C (as so redesignated) is amended—

(i) by striking out the first sentence and inserting in lieu thereof the following: "No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined for the taxable year under section 51(a).", and

(ii) by striking out "SECTION 44B CREDIT" in the subsection heading and inserting in lieu thereof "TARGETED JOBS CREDIT".

(C) Subsection (b) of section 280C (as so redesignated) is amended by striking out "44H" each place it appears and inserting in lieu thereof "29".

(D) Paragraph (3) of section 280C(b) (as so redesignated) is amended—

(i) by striking out "section 44F(f)(5)" and inserting in lieu thereof "section 30(f)(5)",

(ii) by striking out "section 44F(f)(1)(B)" and inserting in lieu thereof "section 30(f)(1)(B)",

(iii) by striking out "section 44F(f)(1)" and inserting in lieu thereof "section 30(f)(1)".

(11) SECTION 381.—Subsection (c) of section 381 is amended—

(A) by striking out paragraphs (23), (24), (26), (27), and (30),

(B) by redesignating paragraphs (25), (28), and (29) as paragraphs (23), (24), and (25), respectively,

(C) by striking out "44F" each place it appears in paragraph (25) (as so redesignated) and inserting in lieu thereof "30", and

(D) by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 38.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation.".

(12) SECTION 383.—

(A) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation which can otherwise be carried forward under section 39, to any unused credit of the corporation which could otherwise be carried forward under section 30(g)(2), to any excess foreign taxes of the corporation which could otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(B) Section 383 (as amended by the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation under section 39, to any unused credit of the corporation under section 30(g)(2), to any excess foreign taxes of the corporation under section 904(c), and to any net capital loss of the corporation under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(C) The table of sections for part V of subchapter C of chapter 1 is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

"Sec. 383. Special limitations on unused business credits, research credits, foreign taxes, and capital losses.".

(13) Paragraph (21) of section 401(a) is amended by striking out "allowable—" and all that follows and inserting in lieu thereof "allowable under section 41 if the employer made the transfer described in section 41(c)(1)(B).".

(14) SECTION 404.—Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is amended to read as follows:

"(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EMPLOYEE STOCK OWNERSHIP CREDIT.—

"(1) UNUSED CREDIT CARRYOVERS.—If any portion of the employee stock ownership credit determined under section 41 for any taxable year has not, after the application of section 38(c), been allowed under section 38 for any taxable year, such portion shall be allowed as a deduction (without regard to any limitations provided under this section) for the last taxable year to which such portion could have been allowed as a credit under section 39.

"(2) REDUCTIONS IN CREDIT.—There shall be allowed as a deduction (subject to the limitations provided under this section) an amount equal to any reduction of the credit allowed under section 41 resulting from a final determination of such credit to the extent such reduction is not taken into account under section 41(c)(3)."

(15) SECTION 409.—

(A) Section 409 (relating to qualifications for tax credit employee stock ownership plans), as redesignated by section 497 of this Act, is amended by striking out "44G" each place it appears in subsections (b), (g), (i), (m), and (n) and inserting in lieu thereof "41".

(B) Paragraph (1) of section 409(b), as so redesignated, is amended by striking out "48(n)(1)(A) or".

(C) Subsection (g) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the references to section 48(n)(1) and the employee plan credit shall refer to such section and credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(D) Subparagraph (A) of section 409(i)(1), as so redesignated, is amended by striking out "48(n)(1) or".

(E) Subsection (k) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the reference to the matching employee plan credit shall refer to such credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(16) SECTION 527(g)(1).—Paragraph (1) of section 527(g) (relating to treatment of newsletter funds) is amended by striking out "section 41(c)(2)" and inserting in lieu thereof "section 24(c)(2)".

(17) SECTION 642(a)(2).—Paragraph (2) of section 642(a) (relating to credit for political

contributions) is amended by striking out "section 41" and inserting in lieu thereof "section 24".

(18) SECTION 691(b).—Subsection (b) of section 691 (relating to allowance of deductions and credit) is amended by striking out "section 33" each place it appears and inserting in lieu thereof "section 27".

(19) SECTIONS 874(a) AND 882(c)(2).—Sections 874(a) and 882(c)(2) are each amended—

(A) by striking out "32" and inserting in lieu thereof "33", and

(B) by striking out "section 39" and inserting in lieu thereof "section 34".

(20) SECTION 901(a).—Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by striking out the last sentence and inserting in lieu thereof the following: "The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 25(b)."

(21) SECTION 904(g).—Subsection (g) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"(g) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.".

(22) SECTION 936.—

(A) Clause (i)(I)(a) of section 936(h)(5)(C) is amended by striking out "section 44F(b)" and inserting in lieu thereof "section 30(b)".

(B) Clause (i)(IV)(c) of section 936(h)(5)(C) is amended—

(i) by striking out "section 44F" and inserting in lieu thereof "section 30", and

(ii) by striking out "section 44F(f)" and inserting in lieu thereof "section 30(f)".

(23) SECTION 1016(a)(21).—Paragraph (21) of section 1016(a) (relating to adjustments to basis) is amended—

(A) by striking out "section 44C(e)" and inserting in lieu thereof "section 23(e)", and

(B) by striking out "section 44C" and inserting in lieu thereof "section 23".

(24) SECTION 1033(g)(3)(A).—Subparagraph (A) of section 1033(g)(3) (relating to election to treat outdoor advertising displays as real property) is amended by striking out "the credit allowed by section 38 (relating to investment in certain depreciable property)" and inserting in lieu thereof "the investment credit determined under section 46(a)".

(25) SECTION 1351(i).—Subsection (i) of section 1351 (relating to adjustments for succeeding years) is amended—

(A) by striking out "section 33" and inserting in lieu thereof "section 27", and

(B) by striking out "section 38 (relating to investment credit)" and inserting in lieu thereof "section 38 (relating to general business credit)".

(26) SECTION 1366(f).—Paragraph (1) of section 1366(f) (relating to special rules) is amended by striking out "section 39" each place it appears and inserting in lieu thereof "section 34".

(27) SECTION 1374(b).—Subsection (b) of section 1374 (relating to amount of tax imposed on certain capital gains) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(28) SECTION 1375(c).—Paragraph (1) of section 1375(c) (relating to disallowance of credit) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(29) SECTION 1451.—

(A) Chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) is amended by striking out subchapter B and by redesignating subchapter C as subchapter B.

(B) The table of subchapters for chapter 3 is amended by striking out the items relating to subchapters B and C and inserting in lieu thereof the following:

"SUBCHAPTER B. Application of withholding provisions.".

(C) The heading of chapter 3 is amended by striking out "AND TAX-FREE COVENANT BONDS".

(D) The table of chapters for subtitle A is amended by striking out "and tax-free covenant bonds" in the item relating to chapter 3.

(E) Section 12 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(F) Subsection (f) of section 164 (as in effect before its redesignation by the Social Security Amendments of 1983) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(G) Subsection (a) of section 1441 is amended by striking out "except in the cases provided for in section 1451 and".

(H) Paragraph (3) of section 1441(c) is amended by striking out "section 1451" and inserting in lieu thereof "section 1451 (as in effect before its repeal by the Tax Credit Simplification Act of 1984)".

(I) Subsection (a) of section 1442 is amended—

(i) by striking out "or section 1451", and

(ii) by striking out "; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein".

(J) Paragraph (2) of section 6049(b) (relating to amounts not treated as interest) is amended—

(i) by adding "and" at the end of subparagraph (C),

(ii) by striking out ", and" at the end of subparagraph (D) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (E).

(K) Paragraph (16) of section 7701(a) is amended by striking out "1451,".

(30) SECTION 6096(b).—Subsection (b) of section 6096 (defining income tax liability) is amended by striking out "allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H" and inserting in lieu thereof "allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)".

(31) SECTION 6201(a)(4).—Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34",

(B) by striking out "section 43" and inserting in lieu thereof "section 32", and

(C) by striking out "SECTION 39 OR 43" in the paragraph heading and inserting in lieu thereof "SECTION 32 OR 34".

(32) SECTION 6211(b).—

(A) Paragraph (1) of section 6211(b) is amended by striking out "without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451" and inserting in lieu thereof "without regard to the credit under section 33".

(B) Paragraph (4) of section 6211(b) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(33) SECTION 6213(h)(3).—Paragraph (3) of section 6213(h) is amended by striking out "section 39" and inserting in lieu thereof "section 32 or 34".

(34) SECTION 6362(c)(1).—Paragraph (1) of section 6362(c) (relating to qualified resident tax which is a percentage of the Federal tax) is amended by striking out "sections 31 and 39" and inserting in lieu thereof "sections 31 and 34".

(35) SECTION 6401(b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amended to read as follows:

"(b) EXCESSIVE CREDITS—

"(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, and D of such part IV), the amount of such excess shall be considered an overpayment.

"(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year.".

(36) SECTION 6411.—

(A) So much of subsection (a) of section 6411 as precedes paragraph (2) thereof (relating to tentative carryback and refund adjustments) is amended to read as follows:

"(a) APPLICATION FOR ADJUSTMENT.—A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, by a research credit carryback provided in section 30(g)(2) or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a research credit carryback or a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year (or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

"(1) The amount of the net operating loss, net capital loss, unused research credit, or unused business credit;".

(B) Subsections (b) and (c) of section 6411 are each amended by striking out "unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused

employee stock ownership credit" each place it appears and inserting in lieu thereof "unused research credit, or unused business credit".

(37) SECTIONS 6420(g)(2), ETC.—Sections 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended by striking out "section 39" and inserting in lieu thereof "section 34".

(38) SECTION 6501(p).—Section 6501 is amended by striking out subsection (p) and by redesignating subsection (q) as subsection (p).

(39) SECTION 6511(d)(4)(C).—Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended to read as follows:

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any business carryback under section 39 and any research credit carryback under section 30(g)(2).".

(40) SECTION 7871.—Subparagraph (A) of section 7871(a)(6) is amended by striking out "section 41(c)(4)" and inserting in lieu thereof "section 24(c)(4)".

(41) SECTION 9502(d).—Paragraph (3) of section 9502(d) (relating to transfers from the Airport and Airway Trust Fund on account of certain section 39 credits) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34", and

(B) by striking out "SECTION 39 CREDITS" in the heading and inserting in lieu thereof "SECTION 34 CREDITS".

(42) SECTION 9503(c).—Clause (ii) of section 9503(c)(2)(A) (relating to transfers from the Highway Trust Fund for certain repayments and credits) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

SEC. 486. EFFECTIVE DATES.

(a) GENERAL RULE.—The amendments made by this title shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(b) TAX-FREE COVENANT BONDS.—The amendments made by subsections (i) and (r)(29) of section 485 shall not apply with respect to obligations issued before January 1, 1984.

(c) CLARIFICATION OF EFFECT OF AMENDMENTS ON INVESTMENT TAX CREDIT.—Nothing in the amendments made by section 485(o) shall be construed as reducing the amount of any credit allowable for qualified investment in taxable years beginning before January 1, 1984.

Subtitle I—Miscellaneous Simplification Provisions

SEC. 491. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) QUALIFIED TRUSTS.—Clause (i) of section 402(a)(5)(A) (relating to rollover amounts) is amended to read as follows—

"(i) any portion of the balance to the credit of an employee in a qualified trust is paid to him,".

(2) QUALIFIED ANNUITIES.—Clause (i) of section 403(a)(4)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him,".

(3) SECTION 403(b) ANNUITIES.—Clause (i) of section 403(b)(8)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an annuity contract described in paragraph (1) is paid to him,".

(b) SPECIAL RULES FOR ROLLOVERS OF PARTIAL DISTRIBUTIONS.—Paragraph (5) of section 402(a) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) REQUIREMENTS.—Subparagraph (A) shall apply to a partial distribution only if—

"(I) such distribution is of an amount equal to at least 50 percent of the balance to the credit of the em- ployee in a qualified trust (determined immediately before such distribution and with regard to subsection (e)(4)(C)),

"(II) such distribution is not one of a series of periodic payments, and

"(III) the employee elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have subparagraph (A) apply to such partial distribution.

"(ii) PARTIAL DISTRIBUTIONS MAY BE TRANSFERRED ONLY TO INDIVIDUAL RETIREMENT PLANS.—In the case of a partial distribution, a plan described in subclause (IV) or (V) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan.

"(iii) DENIAL OF 10-YEAR AVERAGING AND CAPITAL GAINS TREATMENT FOR SUBSEQUENT DISTRIBUTIONS.—If an election under clause (i) is made with respect to any partial distribution paid to any employee—

"(I) paragraph (2) of this subsection,

"(II) paragraphs (1) and (3) of subsection (e), and

"(III) paragraph (2) of section 403(a),

shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan).

"(iv) SPECIAL RULE FOR UNREALIZED APPRECIATION.—If an election under clause (i) is made with respect to any partial distribution, the second and third sentences of paragraph (1) shall not apply to such distribution.".

(c) PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EMPLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLLOVER.—

(1) IN GENERAL.—Paragraph (7) of section 402(a) (relating to rollover where spouse receives lump-sum distribution at death of employee) is amended to read as follows:

"(7) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTIONS AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, paragraph (5) shall apply to such distribution in the same manner as if the spouse were the employee.".

(2) ESTATE TAX TREATMENT.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 402(a)(5)" and inserting in lieu thereof "section 402(a)(5) (without regard to section 402(a)(7))".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "qualifying rollover distribution" each place it appears and inserting in lieu thereof "qualified total distribution"—

(A) section 402(a)(5)(B),

(B) section 402(a)(5)(E)(i) (as redesignated by subsection (b)), and

(C) section 402(a)(6)(E).

(2) Subparagraph (B) of section 402(a)(5) is amended by adding at the end thereof the following new sentence: "In the case of any partial distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to subparagraph (A)).".

(3) Clause (ii) of section 402(a)(5)(E) (as redesignated by subsection (b)) is amended by striking out "gross income" and inserting in lieu thereof "gross income (determined without regard to this paragraph)".

(4) Clause (v) of subparagraph (E) of section 402(a)(5) (as redesignated by subsection (b)) is amended to read as follows:

"(v) PARTIAL DISTRIBUTION.—The term 'partial distribution' means any distribution to an employee of any portion of the balance to the credit of such employee in a qualified trust; except that such term shall not include any distribution which is a qualified total distribution.".

(5) Subparagraph (F) of section 402(a)(5) (as redesignated by subsection (b)) is amended by striking out "subparagraph (D)(iv)" each place it appears and inserting in lieu thereof "subparagraph (E)(iv)".

(6) Paragraph (6) of section 402(a) is amended by striking out "paragraph (5)(D)(i)" each place it appears and inserting in lieu thereof "paragraph (5)(E)(i)".

(7) Clauses (iii) and (iv) of section 402(a)(6)(D) are each amended by striking out "employee contributions" and inserting in lieu thereof "employee contributions (or, in the case of a partial distribution, the amount not includible in gross income)".

(8) Clause (i) of section 402(a)(6)(E) is amended by striking out "paragraph (5)(D)(i)(II)" and inserting in lieu thereof "paragraph (5)(D) or (5)(E)(i)(II)".

(9) Subparagraph (B) of section 403(a)(4) is amended by striking out "(B) through (E)" and inserting in lieu thereof "(B) through (F)".

(10) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) IN GENERAL.—In the case of any distribution other than a total distribution, rules similar to the rules of clauses (i) and (ii) of section 402(a)(5)(D) shall apply.

"(ii) TOTAL DISTRIBUTION.—For purposes of subparagraph (A), the term 'total distribution' means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a), or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 7205).

"(iii) AGGREGATION OF ANNUITY CONTRACTS.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.".

(11) Subparagraph (C) of section 403(b)(8) is amended by striking out "(D)(v), and (E)(i)" and inserting in lieu thereof "and (F)(i)".

(12) Clause (ii) of section 408(d)(3)(A) is amended by striking out "rollover contribution from an employee's trust" and inserting in lieu thereof "rollover contribution of a qualified total distribution (as defined in

section 402(a)(5)(E)(i)) from an employee's trust".

(13) Subparagraph (C) of section 409(b)(3) is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: "This subparagraph does not apply in the case of a transfer to such an employee's trust or such an annuity unless no part of the value of such proceeds is attributable to any source other than a qualified rollover contribution. For purposes of the preceding sentence, the term 'qualified rollover contribution' means any rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) which is from such an employee's trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under such plan), and which did not qualify as a rollover contribution by reason of section 402(a)(7).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 492. PREFERRED STOCK ELIGIBLE UNDER SECTION 1244.

(a) GENERAL RULE.—Subsections (c)(1) and (d)(2) of section 1244 (relating to losses on small business stock) are each amended by striking out "common stock" and inserting in lieu thereof "stock".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act in taxable years ending after such date.

SEC. 493. MEDICAL CARE DEDUCTION ALLOWED FOR LODGING AWAY FROM HOME IN CERTAIN CASES.

(a) IN GENERAL.—Subsection (d) of section 213 (relating to definitions for purposes of the deduction for medical, dental, etc., expenses), as amended by section 424(b), is amended by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

"(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

"(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.".

(b) TECHNICAL AMENDMENT.—

(1) Paragraph (7) of section 213(d), as redesignated by subsection (a), is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(2) Paragraph (6) of section 152(e), as amended by section 424 of this Act, is amended by striking out "section 213(d)(4)" and inserting in lieu thereof "section 213(d)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 494. STUDY OF SIMPLIFIED TAX ON GROSS INCOME.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study of the advisability of replacing the current Federal income tax system with a simplified tax based on gross income. Such study shall examine the advisability of replacing only the individual income tax and both the individual income tax and corporate income tax with a simplified tax based on gross income.

(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In conducting the study under subsection (a), the Secretary of the Treasury shall take into account (among other factors) the following:

(1) protecting the economically disadvantaged;

(2) reducing administrative complexity;

(3) reducing paperwork, auditing requirements, tax evasion, and expediting the resolution of taxpayer-government disputes;

(4) increasing economic incentives for capital formation and productivity;

(5) removing economic disincentives to employment; and

(6) excluding certain items (such as social security benefits) from gross income.

(c) REPORT.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this section.

Subtitle J—Repeal of Certain Obsolete Provisions

SEC. 497. TERMINATION OF RULES RELATING TO QUALIFIED BOND PURCHASE PLANS AND RETIREMENT BONDS WITH RESPECT TO BONDS ISSUED AFTER DECEMBER 31, 1983.

(a) QUALIFIED BOND PURCHASE PLANS.—Section 405 (relating to qualified bond purchase plans) is hereby repealed.

(b) RETIREMENT BONDS.—Section 409 (relating to retirement bonds) is hereby repealed.

(c) EXISTING BONDS MAY BE ROLLED OVER INTO QUALIFIED EMPLOYER PLANS.—

(1) Subparagraph (A) of section 405(d)(3) (as in effect before its repeal by subsection (a)) is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) any qualified bond is redeemed,

"(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, or to a qualified trust (as defined in section 402(a)(5)(D)(iii)) for the benefit of such individual, and

"(iii) such transfer is made on or before the 60th day after the individual received the proceeds of such redemption,

then gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).".

(2) Subsection (e) of section 402 (relating to tax on lump-sum distributions) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE WHERE PORTION OF LUMP-SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump-sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Law Simplification and Improvement Act of 1984), paragraphs (1) and (3) of this subsection and paragraph (2) of subsection (a) shall not apply to such portion.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 55(f) (defining regular tax) is amended by striking "409(c),".

(2) Paragraph (7) of section 62 (defining adjusted gross income) is amended—

(A) by striking out "the deductions allowed by section 404 and section 405(c)" and inserting in lieu thereof "the deduction allowed by section 404", and

(B) by striking out "ANNUITY, AND BOND PURCHASE" in the heading and inserting in lieu thereof "AND ANNUITY".

(3) Paragraph (1) of section 72(o) is amended by striking out "402, 403, and 405" and inserting in lieu thereof "402 and 403".

(4) Paragraph (4) of section 72(o) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(5) Subparagraph (D) of section 172(d)(4) is amended by striking out "or section 405(c)".

(6) Paragraph (2) of section 219(d) is amended by striking out "405(d)(3), 408(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)".

(7) Paragraph (1) of section 219(e) is amended by striking out the last sentence.

(8) Paragraph (3) of section 219(e) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B) and by redesignating subparagraph (D) as subparagraph (C).

(9) Clause (iv) of section 402(a)(5)(D) is amended by striking out subclause (III) and by redesignating subclauses (IV) and (V) as subclauses (III) and (IV), respectively.

(10) Clause (i) of section 402(a)(5)(F), as amended by this Act, is amended by striking out ", (II), or (III)" and inserting in lieu thereof "or (II)".

(11) Clause (ii) of section 402(a)(5)(F), as amended by this Act, is amended by striking out "(IV) or (V)" and inserting in lieu thereof "(III) or (IV)".

(12) The last sentence of section 403(b)(1) is amended by striking out "or 409(b)(3)(C)".

(13) Subsection (a) of section 406 is amended by striking out ", an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)" and inserting in lieu thereof "or an annuity plan described in section 403(a)".

(14) Paragraph (3) of section 406(a) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(15) Subsection (d) of section 406 is amended—

(A) by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404",

(B) by striking out "annuity, or bond purchase" and inserting in lieu thereof "or annuity", and

(C) by striking out "(or section 405(c))" in paragraph (2) thereof.

(16) Paragraph (1) of section 407(a) is amended by striking out ", an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)" and inserting in lieu thereof "or an annuity plan described in section 403(a)".

(17) Subparagraph (B) of section 407(a)(1) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(18) Subsection (d) of section 407 is amended—

(A) by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404",

(B) by striking out "annuity, or bond purchase" and inserting in lieu thereof "or annuity", and

(C) by striking out "(or section 405(c))" in paragraph (2) thereof.

(19) Paragraph (1) of section 408(a) is amended by striking out "403(b)(8), 405(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 403(b)(8)".

(20) Clause (i) of section 408(d)(3)(A) is amended by striking out "or retirement bond".

(21) Subparagraph (B) of section 408(d)(3) is amended by striking out ", individual retirement annuity, or a retirement bond" and inserting in lieu thereof "or an individual retirement annuity".

(22) Clause (ii) of section 408(d)(3)(D) (relating to partial rollovers) is amended by striking out "bond,".

(23) Paragraph (6) of section 408(d) is amended—

(A) by striking out ", individual retirement annuity, or retirement bond" and inserting in lieu thereof "or an individual retirement annuity", and

(B) by striking out ", annuity, or bond" and inserting in lieu thereof "or annuity".

(24) Subparagraph (E) of section 408(k)(3) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(25) Paragraph (2) of section 412(a) is amended by striking out "or 405(a)".

(26) Subsection (h) of section 414 is amended by striking out "or 405(a)".

(27) Subsection (l) of section 414 is amended by striking out "or 405".

(28) Paragraph (2) of section 415(a) is amended by striking out subparagraph (D), by striking out "or" at the end of subparagraph (C), by adding "or" at the end of subparagraph (B), and by striking out "405(a),".

(29) Subparagraph (A) of section 415(b)(2) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(30) Subparagraph (B) of section 415(b)(2) is amended by striking out "408(d)(3) and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(31) Paragraph (2) of section 415(c) is amended by striking out "405(d)(3), 408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(32) Paragraph (1) of section 415(k) is amended by striking out subparagraphs (C) and (H), by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively, by striking out ", or" at the end of subparagraph (F) (as so redesignated) and inserting in lieu thereof a period, and by adding "or" at the end of subparagraph (E) (as so redesignated).

(33) Paragraph (2) of section 457(e) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(34) Subsection (e) of section 2039 is amended—

(A) by striking out paragraph (3),

(B) by striking out ", or" at the end of paragraph (2) and inserting in lieu thereof a period,

(C) by adding "or" at the end of paragraph (1),

(D) by striking out "405(d)(3), 408(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)", and

(E) by striking out ", annuity, or bond" each place it appears and inserting in lieu thereof "or annuity".

(35) Paragraph (5) of section 2517(a) is amended by striking out ", an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)" and inserting in lieu thereof "or an individual retirement annuity described in section 408(b)".

(36) Paragraph (5) of section 3121(a) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively.

(37) Paragraph (5) of section 3306(b) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively.

(38) Paragraph (12) of section 3401(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(39) Subsection (e) of section 209 of the Social Security Act is amended by inserting "(as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984)" after "Internal Revenue Code of 1954" in paragraph (4) thereof.

(40) Subsection (a) of section 4972 is amended by striking out the last sentence and inserting in lieu thereof "This section applies only to plans which include a trust described in section 401(a) or which are described in section 403(a).".

(41) Subsection (a) of section 4973 is amended—

(A) by striking out paragraph (3),

(B) by striking out "or" at the end of paragraph (2),

(C) by adding "or" at the end of paragraph (1),

(D) by striking out ", annuities, or bonds" and inserting in lieu thereof "or annuities", and

(E) by striking out ", annuity, or bond" and inserting in lieu thereof "or annuity".

(42) Subparagraph (A) of section 4973(b)(1) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(43) The last sentence of section 4973(b) is amended by striking out ", individual retirement annuity, or bond" and inserting in lieu thereof "or the individual retirement annuity".

(44) Paragraph (1) of section 4973(c) is amended by striking out ", 408(d)(3)(A)(iii), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)(A)(iii)".

(45) The last sentence of section 4975(d) is amended by striking out ", individual retirement annuity, or an individual retirement bond (as defined in section 408 or 409)" and inserting in lieu thereof "or an individual retirement annuity (as defined in section 408)".

(46) Paragraph (1) of section 4975(e) is amended—

(A) by striking out "or 405(a)",

(B) by striking out "or a retirement bond described in section 409",

(C) by striking out "annuity, or bond" and inserting in lieu thereof "or annuity", and

(D) by striking out "account, or bond" and inserting in lieu thereof "or account".

(47) Section 6047 is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(48) Subsection (e) of section 6058 is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(49) Clause (i) of section 6104(a)(1)(B) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(50) Subsection (f) of section 6652 is amended by striking out "and bond purchase".

(51) Section 7207 is amended by striking out "or (c)".

(52) Subsection (c) of section 7476 is amended by striking out paragraph (3), by striking out ", or" at the end of paragraph (2) and inserting in lieu thereof a period, and by adding ", or" at the end of paragraph (1).

(53) Paragraph (37) of section 7701(a) is amended by striking out subparagraph (C), by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and by adding "and" at the end of subparagraph (A).

(54) The table of sections of subpart A of part I of subchapter D of chapter 1 is amended by striking out the items relating to sections 405 and 409.

(55) The section heading for section 4973 is amended by striking out "certain individual retirement annuities, and certain retirement bonds" and inserting in lieu thereof "and certain individual retirement annuities".

(56) The table of sections for chapter 43 is amended by striking out "certain individual retirement annuities, and certain retirement bonds" in the item relating to section 4973 and inserting in lieu thereof "and certain individual retirement annuities".

(57) The section heading for section 6047 is amended by striking out "and bond purchase".

(58) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out "and bond purchase" in the item relating to section 6047.

(59) The first sentence of section 3107 of title 31, United States Code, is amended by inserting before the period ", as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1983".

(e) SECTION 409A REDESIGNATED AS SECTION 409.—

(1) The section heading for section 409A is amended by striking out "sec. 409a." and inserting in lieu thereof "sec. 409.".

(2) Subsection (c)(1)(A)(i) of old section 44G is amended by striking out "section 409A" and inserting in lieu thereof "section 409".

(3) Paragraph (6) of old section 44G(c) is amended by striking out "section 409A(l)" and inserting in lieu thereof "section 409(l)".

(4) Paragraph (22) of section 401(a) is amended by striking out "section 409A" and inserting in lieu thereof "section 409".

(5) Paragraph (23) of section 401(a) is amended by striking out "section 409A(h)" each place it appears and inserting in lieu thereof "section 409(h)".

(6) Clause (ii) of section 415(c)(6)(B) is amended by striking out "section 409A" and inserting in lieu thereof "section 409".

(7)(A) The last sentence of section 1504(a) is amended by striking out "for section 409A(l)" and inserting in lieu thereof "of section 409(l)".

(B) Subparagraph (B) of section 1504(f)(5), as added by section 61 of this Act, is amended by striking out "section 409A(l)" and inserting in lieu thereof "section 409(l)".

(8) Paragraph (7) of section 4975(e) is amended—

(A) by striking out "section 409A(h)" and inserting in lieu thereof "section 409(h)",

(B) by striking out "section 409A(e)(4)" and inserting in lieu thereof "section 409(e)(4)", and

(C) by striking out "section 409A(e)" and inserting in lieu thereof "section 409(e)".

(9) Paragraph (8) of section 4975(e) is amended by striking out "section 409A(l)" and inserting in lieu thereof "section 409(l)".

(10) Paragraphs (1) and (3) of section 6699(a) are each amended by striking out "section 409A" and inserting in lieu thereof "section 409".

(11) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by striking out "Sec. 409A" and inserting in lieu thereof "Sec. 409".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments and repeals made by subsections (a), (b), and (d) shall apply to obligations issued after December 31, 1983.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to redemptions after the date of the enactment of this Act in taxable years ending after such date.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall take effect on January 1, 1984.

(4) BONDS UNDER QUALIFIED BOND PURCHASE PLANS MAY BE REDEEMED AT ANY TIME.—Notwithstanding—

(A) subparagraph (D) of section 405(b)(1) of the Internal Revenue Code of 1954 (as in effect before its repeal by this section), and

(B) the terms of any bond described in subsection (b) of such section 405,

such a bond may be redeemed at any time after the date of the enactment of this Act in the same manner as if the individual redeeming the bond had attained age 59½.

(5) TREATMENT OF TAX IMPOSED UNDER SECTION 409(c).—For purposes of section 26(b) of the Internal Revenue Code of 1954 (as amended by this Act), any tax imposed by section 409(c) of such Code (as in effect before its repeal by this section) shall be treated as a tax imposed by section 408(f) of such Code.

SEC. 498. REPEAL OF RULES RELATING TO GAINS FROM DISPOSITION OF PROPERTY USED IN FARMING WHERE FARM LOSSES OFFSET NONFARM INCOME.

(a) IN GENERAL.—Section 1251 (relating to gain from disposition of property used in farming where farm losses offset nonfarm income) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 170.—

(A) The second sentence of section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "1251(c),".

(B) Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking out "1251,".

(2) SECTION 341.—Paragraph (12) of section 341(e) (relating to nonapplication of section 1245(a)) is amended by striking out "1251(c),".

(3) SECTION 453B.—The second sentence of section 453B(d)(2) (relating to liquidations to which section 337 applies) is amended by striking out "1251(c),".

(4) SECTION 751.—The second sentence of subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out "farm recapture property (as defined in section 1251(e)(1)),", and

(B) by striking out "1251(c),".

(5) SECTION 1252.—The second sentence of section 1252(a)(1) (relating to gains from disposition of farm land) is amended by striking out ", except that this section shall not apply to the extent section 1251 applies to such gain".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1251.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

TITLE V—TAX TREATMENT OF FRINGE BENEFITS

SEC. 501. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Permanent Tax Treatment of Fringe Benefits Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE V—TAX TREATMENT OF FRINGE BENEFITS

Sec. 501. Short title; table of contents.
Sec. 502. Exclusion of certain fringe benefits from gross income.
Sec. 503. Exclusion of certain reductions in tuition from gross income.

SEC. 502. EXCLUSION OF CERTAIN FRINGE BENEFITS FROM GROSS INCOME.

(a) EXCLUSION OF CERTAIN FRINGE BENEFITS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. CERTAIN FRINGE BENEFITS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income shall not include any fringe benefit which qualifies as a—

"(1) no-additional-cost service,

"(2) qualified employee discount,

"(3) working condition fringe, or

"(4) de minimis fringe.

"(b) NO-ADDITIONAL-COST SERVICE DEFINED.—For purposes of this section, the term 'no-additional-cost service' means any service provided by an employer to an employee for use by such employee if—

"(1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and

"(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).

"(c) QUALIFIED EMPLOYEE DISCOUNT DEFINED.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE DISCOUNT.—The term 'qualified employee discount' means any employee discount with respect to qualified property or services to the extent such discount does not exceed—

"(A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or

"(B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

"(2) GROSS PROFIT PERCENTAGE.—

"(A) IN GENERAL.—The term 'gross profit percentage' means the percent which—

"(i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of

"(ii) the aggregate sales price of such property.

"(B) DETERMINATION OF GROSS PROFIT PERCENTAGE.—Gross profit percentage shall be determined on the basis of—

"(i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and

"(ii) the employer's experience during a representative period.

"(3) EMPLOYEE DISCOUNT DEFINED.—The term 'employee discount' means the amount by which—

"(A) the price at which the property or services are provided to the employee by the employer, is less than

"(B) the price at which such property or services are being offered by the employer to customers.

"(4) QUALIFIED PROPERTY OR SERVICES.—The term 'qualified property or services' means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.

"(d) WORKING CONDITION FRINGE DEFINED.—For purposes of this section, the term 'working condition fringe' means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.

"(e) DE MINIMIS FRINGE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'de minimis fringe' means any property or service the value of which is so small as to make accounting for it unreasonable or administratively impracticable.

"(2) AGGREGATION RULE.—For purposes of applying paragraph (1), all small-value property or services provided with respect to an individual during any calendar year which (but for subsection (a)(4)) would be includible in gross income shall be aggregated.

"(3) TREATMENT OF CERTAIN EATING FACILITIES.—The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe (and shall not be aggregated under paragraph (2)) if—

"(A) such facility is located on or near the business premises of the employer, and

"(B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any officer, owner, or highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

"(f) CERTAIN INDIVIDUALS TREATED AS EMPLOYEES FOR PURPOSES OF SUBSECTIONS (a)(1) AND (2).—For purposes of paragraphs (1) and (2) of subsection (a)—

"(1) RETIRED AND DISABLED EMPLOYEES AND SURVIVING SPOUSE OF EMPLOYEE TREATED AS EMPLOYEE.—With respect to a line of business of an employer, the term 'employee' includes—

"(A) any individual who was formerly employed by such employer in such line of

business and who separated from service with such employer in such line of business by reason of retirement or disability, and

"(B) any widow or widower of any individual who died while employed by such employer in such line of business or while an employee within the meaning of subparagraph (A).

"(2) SPOUSE AND DEPENDENT CHILDREN.—

"(A) IN GENERAL.—Any use by the spouse or a dependent child of the employee shall be treated as use by the employee.

"(B) DEPENDENT CHILD.—For purposes of subparagraph (A), the term 'dependent child' means any child (as defined in section 151(e)(3)) of the employee—

"(i) who is a dependent of the employee, or

"(ii) both of whose parents are deceased.

For purposes of the preceding sentence, any child to whom section 152(e) applies shall be treated as the dependent of both parents.

"(g) SPECIAL RULES RELATING TO EMPLOYER.—For purposes of this section—

"(1) CONTROLLED GROUPS, ETC.—All employees treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.

"(2) RECIPROCAL AGREEMENTS.—For purposes of paragraph (1) of subsection (a), any service provided by an employer to an employee of another employer shall be treated as provided by the employer of such employee if—

"(A) such service is provided pursuant to a written agreement between such employers, and

"(B) neither of such employers incurs any substantial additional cost (including forgone revenue) in providing such service or pursuant to such agreement.

"(h) SPECIAL RULES.—

"(1) EXCLUSIONS UNDER SUBSECTION (a) (1) AND (2) APPLY TO OFFICERS, ETC., ONLY IF NO DISCRIMINATION.—Paragraphs (1) and (2) of subsection (a) shall apply with respect to any fringe benefit described therein provided with respect to any officer, owner, or highly compensated employee only if such fringe benefit is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

"(2) SPECIAL RULE FOR LEASED SECTIONS OF DEPARTMENT STORES.—

"(A) IN GENERAL.—For purposes of paragraph (2) of subsection (a), in the case of a leased section of a department store—

"(i) such section shall be treated as part of the line of business of the person operating the department store, and

"(ii) employees in the leased section shall be treated as employees of the person operating the department store.

"(B) LEASED SECTION OF DEPARTMENT STORE.—For purposes of subparagraph (A), a leased section of a department store is any part of a department store where over-the-counter sales of property are made under a lease or similar arrangement where it appears to the general public that individuals making such sales are employed by the person operating the department store.

"(3) AUTO SALESMEN.—

"(A) IN GENERAL.—For purposes of subsection (a)(3), qualified automobile demonstration use shall be treated as a working condition fringe.

"(B) QUALIFIED AUTOMOBILE DEMONSTRATION USE.—For purposes of subparagraph (A), the term 'qualified automobile demonstration use' means any use of an automobile by an automobile salesman in the sales area in which the automobile dealer's sales office is located if—

"(i) such use is provided primarily to facilitate the salesman's performance of services for the employer, and

"(ii) there are substantial restrictions on the personal use of such automobile by such salesman.

"(4) PARKING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'working condition fringe' includes providing parking to an employee on or near the business premises of the employer.

"(B) SPECIAL RULE FOR OFFICERS, ETC.—The term 'working condition fringe' shall not include providing parking on or near the business premises of the employer to an officer, owner, or highly compensated employee unless such parking is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

"(5) ON-PREMISES GYMS AND OTHER ATHLETIC FACILITIES.—

"(A) IN GENERAL.—Gross income shall not include the value of any on-premises athletic facility provided by an employer to his employees.

"(B) ON-PREMISES ATHLETIC FACILITY.—For purposes of this paragraph, the term 'on-premises athletic facility' means any gym or other athletic facility—

"(i) which is located on the premises of the employer,

"(ii) which is operated by the employer, and

"(iii) substantially all the use of which is by employees of the employer, their spouses, and their dependent children (within the meaning of subsection (f)).

"(i) CUSTOMERS NOT TO INCLUDE EMPLOYEES.—For purposes of this section (other than subsection (c)(2)(B)), the term 'customers' shall only include customers who are not employees.

"(j) SECTION NOT TO APPLY TO FRINGE BENEFITS EXPRESSLY PROVIDED FOR ELSEWHERE.—This section (other than subsection (e)) shall not apply to any fringe benefits of a type the tax treatment of which is expressly provided for in any other section of this chapter.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking out the item relating to section 132 and inserting in lieu thereof the following:

"Sec. 132. Certain fringe benefits.

"Sec. 133. Cross references to other Acts.".

(b) DEFINITION OF CAFETERIA PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 125(d) (defining cafeteria plan) is amended to read as follows:

"(1) IN GENERAL.—The term 'cafeteria plan' means a written plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among 2 or more benefits consisting of cash and statutory nontaxable benefits.".

(2) DEFINITION OF STATUTORY NONTAXABLE BENEFIT.—Subsection (f) of section 125 is amended to read as follows:

"(f) STATUTORY NONTAXABLE BENEFITS DEFINED.—For purposes of this section, the term 'statutory nontaxable benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79.".

(3) TECHNICAL AMENDMENT.—Subsection (c) of section 125 is amended by striking out "nontaxable benefits" each place it appears and inserting in lieu thereof "statutory nontaxable benefits".

(c) CONFORMING AMENDMENTS TO EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Subsection (a) of section 3121 (defining wages) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.".

(B) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (q), by striking out the period at the end of subsection (r) and inserting in lieu thereof "; or", and by inserting after subsection (r) the following new subsection:

"(s) Any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132 of the Internal Revenue Code of 1954.".

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(5) The term 'compensation' shall not include any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.".

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 (defining wages) is amended by striking out "or" at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and by inserting after paragraph (14) the following new paragraph:

"(15) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.".

(4) WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.".

(d) DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING RETAIL DEPARTMENT STORE.—If—

(1) as of October 5, 1983, the employees of one member of an affiliated group were entitled to employee discounts at the retail de-

partment stores operated by another member of such affiliated group, and

(2) the primary business of the affiliated group is the operation of retail department stores,

then, for purposes of applying section 132(a)(2) of the Internal Revenue Code of 1954, with respect to discounts provided for such employees at the retail department stores operated by such other member, the employer shall be treated as engaged in the same line of business as such other member.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

SEC. 503. EXCLUSION OF CERTAIN REDUCTIONS IN TUITION FROM GROSS INCOME.

(a) IN GENERAL.—Section 117 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection:

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

Such term also includes the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education at the graduate level at such organization of such employee if such employee is a teaching or research associate or assistant at such organization.

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees. For purposes of the preceding sentence, a classification which includes all employees of the organization who are members of its faculty shall be treated as a reasonable classification.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to qualified tuition reductions (as defined in section 117(d)(2) of the Internal Revenue Code of 1954) for education furnished after June 30, 1984, in taxable years ending after such date.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 601. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Technical Corrections Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE VI—TECHNICAL CORRECTIONS

Sec. 601. Short title; etc.
Subtitle A—Amendments Related to the Tax Equity and Fiscal Responsibility Act of 1982
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Sec. 612. Technical corrections of provisions primarily related to businesses.
Sec. 613. Technical corrections of pension provisions.
Sec. 614. Miscellaneous provisions.
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Subtitle B—Amendments Related to Subchapter S Revision Act of 1982; Etc.
Sec. 621. Technical corrections of Subchapter S Revision Act of 1982.
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Subtitle C—Amendments Relating to Highway Revenue Act of 1982
Sec. 631. Value of used components furnished by first user not taken into account in determining price.
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PART I—CHANGES IN OASDI, PUBLIC ASSISTANCE, AND RELATED PROVISIONS OF THE SOCIAL SECURITY ACT
Sec. 641. Changes in title II of the Social Security Act necessitated by the 1983 Amendments.
Sec. 642. Changes in text of the 1983 Amendments.
Sec. 643. Other technical corrections in the Social Security Act and related provisions.
Sec. 644. Effective dates.
PART II—CHANGES IN MEDICARE-RELATED PROVISIONS OF THE SOCIAL SECURITY ACT
Sec. 646. Changes in medicare provisions relating to the 1983 Amendments.
Sec. 647. Enrollment and premium penalty with respect to working aged provision.
Sec. 648. Other technical corrections in medicare-related provisions of the Social Security Act and related Acts.

(c) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Amendments Related to the Tax Equity and Fiscal Responsibility Act of 1982

SEC. 611. TECHNICAL CORRECTIONS OF PROVISIONS RELATING TO INDIVIDUALS.

(a) AMENDMENTS RELATED TO SECTION 201.—

(1) DEFINITION OF REGULAR TAX.—Paragraph (2) of section 55(f) (defining regular tax) is amended by striking out "sections 72(m)(5)(B)" and inserting in lieu thereof "sections 47(a), 72(m)(5)(B)".

(2) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS LIMITED TO WELLS LOCATED IN THE UNITED STATES.—Subparagraph (A) of section 58(i)(4) (relating to special election for intangible drilling and development cost not allocable to interest as limited partner) is amended by inserting "(with respect to wells located in the United States)" after "intangible drilling costs".

(3) 3-YEAR AMORTIZATION FOR CIRCULATION EXPENSES.—

(A) Subparagraph (B) of section 57(a)(6) (relating to circulation and research and experimental expenditures) is amended to read as follows:

"(B) the amount which would have been allowable for the taxable year with respect to expenditures paid or incurred during such taxable year if—

"(i) the circulation expenditures described in section 173 had been capitalized and amortized ratably over the 3-year period beginning with the taxable year in which such expenditures were made, or

"(ii) the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.".

(B) Paragraph (1) of section 58(i) (relating to optional 10-year writeoff of certain tax preferences) is amended by striking out "10-year period" and inserting in lieu thereof "10-year period (3-year period in the case of circulation expenditures described in section 173)".

(C) Subsection (b) of section 173 is amended by striking out "10-year" and inserting in lieu thereof "3-year".

(4) LOSSES TREATED AS INVESTMENT LOSSES.—Subparagraph (B) of section 55(e)(8) is amended to read as follows:

"(B) INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any income or loss derived from a limited business interest shall be taken into account in computing qualified net investment income.".

(b) AMENDMENT RELATED TO SECTION 202.—Paragraph (5) of section 213(d) (relating to definitions) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (4)".

(c) AMENDMENTS RELATED TO SECTION 203.—

(1) CLARIFICATION OF ADJUSTED GROSS INCOME IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 165(h) (relating to casualty and theft losses) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of paragraph (1), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.".

(2) COORDINATION OF SECTION 165(h) WITH SECTION 1231.—Paragraph (2) of section 165(h) (relating to casualty and theft losses) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH SECTION 1231.—

"(i) For purposes of paragraph (1)(B), adjusted gross income shall be determined without regard to the application of section 1231 to any gain or loss from an involuntary conversion of property described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty or from theft.

"(ii) Section 1231 shall be applied after the application of paragraph (1).".

(3) CLERICAL AMENDMENT.—Subsection (d) of section 6405 (relating to refunds attributable to certain disaster losses) is amended by striking out "section 165(h)" and inserting in lieu thereof "section 165(i)".

SEC. 612. TECHNICAL CORRECTIONS OF PROVISIONS PRIMARILY RELATING TO BUSINESSES.

(a) AMENDMENTS RELATED TO SECTION 204.—

(1) CLARIFICATION OF ADDITIONAL AMOUNT TREATED AS ORDINARY INCOME UNDER SECTION 1250.—

(A) Paragraph (1) of section 291(a) (relating to section 1250 capital gain treatment) is amended—

(i) by striking out "under section 1250" in subparagraph (B) and inserting in lieu thereof "under section 1250 (determined without regard to this paragraph)", and

(ii) by striking out "which is ordinary income" and inserting in lieu thereof "which is ordinary income under section 1250".

(B) Subsection (a) of section 1250 is amended by adding at the end thereof the following new paragraph:

"(4) CROSS REFERENCE.—

"For reduction in the case of corporations on capital gain treatment under this section, see section 291(a)(1).".

(2) INVESTMENT TAX CREDIT ALLOWED ONLY FOR MINERAL EXPLORATION AND DEVELOPMENT COSTS FOR DEPOSITS LOCATED IN THE UNITED STATES.—Clause (ii) of section 291(b)(2)(B) is amended by inserting "in the case of a deposit located in the United States," after "(ii)".

(3) CLARIFICATION OF COORDINATION WITH COST DEPLETION.—Paragraph (6) of section 291(b) (relating to coordination with cost depletion) is amended to read as follows:

"(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to amounts to which paragraph (1) applied shall not be taken into account for purposes of determining depletion under section 611.".

(4) CLARIFICATION OF DEFINITION OF INTEREST.—Subparagraph (B) of section 291(e)(1) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by adding at the end thereof the following new clause:

"(iii) INTEREST.—For purposes of this subparagraph, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.".

(b) AMENDMENT RELATED TO SECTION 205.—Subsection (q) of section 48 (relating to basis adjustment to section 38 property) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN BASIS OF INTEREST IN PARTNERSHIP OR S CORPORATION.—The adjusted basis of—

"(A) a partner's interest in a partnership, and

"(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be).".

(c) AMENDMENT RELATED TO SECTION 207.—Paragraph (4) of section 189(e) (defining residential real property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(C) real property held by a cooperative housing corporation (as defined in section 216(b)) and used for dwelling purposes.".

(d) AMENDMENTS RELATED TO SECTION 210.—

(1) SPECIAL RULE WHERE DEALER-LESSEE REQUIRED TO PURCHASE VEHICLE.—Paragraph (2) of section 210(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining terminal rental adjustment clause) is amended by adding at the end thereof the following new sentence: "Such term also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in the preceding sentence.".

(2) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN THAT HE WAS OWNER.—Section 210 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN.—Subsection (a) shall not apply to deny a deduction for interest paid or accrued claimed by a lessee with respect to a qualified motor vehicle agreement on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954 which was filed before the date of the enactment of this Act or to deny a credit for investment in depreciable property claimed by the lessee on such a return pursuant to an agreement with the lessor that the lessor would not claim the credit.".

(e) AMENDMENT RELATED TO SECTION 211.—Subparagraph (A) of section 211(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss) is amended by striking out "the 8-year period" and inserting in lieu thereof "the 8-year period (or such shorter period as the taxpayer may select)".

(f) AMENDMENT RELATED TO SECTION 212.—Paragraph (1) of section 954(h) (defining foreign base company oil-related income) is amended by striking out "section 907(c)(2)" and inserting in lieu thereof "paragraphs (2) and (3) of section 907(c)".

(g) AMENDMENT RELATED TO SECTION 213.—The table contained in subparagraph (C) of section 936(a)(2) is amended by striking out "The percentage tax is:" and inserting in lieu thereof "The percentage is:".

(h) AMENDMENT RELATED TO SECTION 217.—Subsection (e) of section 217 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 168(f)(8)(D)(v) of the Internal Revenue Code of 1954, the amendments made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.".

(i) AMENDMENTS RELATED TO SECTION 222.—(1) Sections 301(e)(2) and 302(f)(3) are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

(2) The paragraph heading of paragraph (1) of section 306(b) (relating to exceptions) is amended by striking out "INTEREST." and inserting in lieu thereof "INTEREST, ETC.".

(3) Paragraph (1) of section 543(a) (defining personal holding company income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(j) AMENDMENT RELATED TO SECTION 223.—Paragraph (1) of section 311(e) (defining qualified stock) is amended by adding at the end thereof the following new subparagraph:

"(C) RULES FOR PASSTHRU ENTITIES.—In the case of an S corporation, partnership, trust, or estate—

"(i) the determination of whether subparagraph (A) is satisfied shall be made at the shareholder, partner, or beneficiary level (rather than at the entity level), and

"(ii) the distribution shall be treated as made directly to the shareholders, partners, or beneficiaries in proportion to their respective interests in the entity.".

(k) AMENDMENTS RELATED TO SECTION 224.—

(1) DEFINITION OF PURCHASE.—

(A) Subparagraph (B) of section 338(h)(3) (defining purchase) is amended to read as follows:

"(B) DEEMED PURCHASE UNDER SUBSECTION (a).—The term 'purchase' includes any deemed purchase under subsection (a)(2).".

(B) Paragraph (3) of section 338(h) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN STOCK ACQUISITIONS FROM RELATED CORPORATIONS.—

"(i) IN GENERAL.—Clause (iii) of subparagraph (A) shall not apply to an acquisition of stock from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired by purchase (within the meaning of subparagraphs (A) and (B)).

"(ii) CERTAIN DISTRIBUTIONS.—Clause (i) of subparagraph (A) shall not apply to an acquisition of stock described in clause (i) of this subparagraph if the corporation acquiring such stock—

"(I) made a qualified stock purchase of stock of the related corporation, and

"(II) made an election under this section (or is treated under subsection (e) as having made such an election) with respect to such qualified stock purchase.

"(iii) RELATED CORPORATION DEFINED.—For purposes of this subparagraph, a corporation is a related corporation if stock owned by such corporation is treated (under section 318(a) other than paragraph (4) thereof) as owned by the corporation acquiring the stock.".

(C) Paragraph (1) of section 338(h) (defining 12-month acquisition period) is amended by inserting before the period at the end thereof the following: "(or, if any of such stock was acquired in an acquisition which is a purchase by reason of subparagraph (C) of paragraph (3), the date on which the acquiring corporation is first considered under section 318(a) (other than paragraph (4) thereof) as owning stock owned by the corporation from which such acquisition was made)".

(D) Paragraph (4) of section 318(b) (relating to cross references) is amended to read as follows:

"(4) section 338(h)(3) (defining purchase);".

(2) SPECIAL RULES FOR APPLYING SECTION 338.—

(A) Subsection (h) of section 338 (relating to definitions and special rules) is amended by striking out paragraph (7), by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and by inserting after paragraph (6) the following new paragraphs:

"(7) ADDITIONAL PERCENTAGE MUST BE ATTRIBUTABLE TO PURCHASE, ETC.—For purposes of subsection (c)(1), any increase in the maximum percentage of stock taken into account over the percentage of stock (by value) of the target corporation held by the

purchasing corporation on the acquisition date shall be taken into account only to the extent such increase is attributable to—

"(A) purchase, or

"(B) a redemption of stock of the target corporation—

"(i) to which section 302(a) applies, or

"(ii) in the case of a shareholder who is not a corporation, to which section 301 applies.

"(8) ACQUISITION BY AFFILIATED CORPORATIONS TAKEN INTO ACCOUNT FOR CONSISTENCY PURPOSES.—For purposes of subsections (e) and (f), except as otherwise provided in regulations, an affiliated group shall be treated as 1 corporation.".

(B) Paragraph (9) of section 338(h), as redesignated by subparagraph (A), is amended by striking out "paragraph (9)" and inserting in lieu thereof "paragraph (10)".

(C) Subsection (h) of section 338 is amended by adding at the end thereof the following new paragraphs:

"(11) SECTION 337 TO APPLY WHERE TARGET HAD ADOPTED PLAN FOR COMPLETE LIQUIDATION.—If—

"(A) during the 12-month period ending on the acquisition date the target corporation adopted a plan of complete liquidation,

"(B) such plan was not rescinded before the close of the acquisition date, and

"(C) the purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election) with respect to the target corporation,

then, subject to rules similar to the rules of subsection (c)(1), for purposes of section 337 (and other provisions which relate to section 337), the target corporation shall be treated as having distributed all of its assets as of the close of the acquisition date.

"(12) TAX ON DEEMED SALE NOT TAKEN INTO ACCOUNT FOR ESTIMATED TAX PURPOSES.—For purposes of section 6655, tax attributable to the sale described in subsection (a)(1) shall not be taken into account.

"(13) COORDINATION WITH SECTION 341.—For purposes of determining whether section 341 applies to a disposition within 1 year after the acquisition date of stock by a shareholder (other than the acquiring corporation) who held stock in the target corporation on the acquisition date, section 341 shall be applied without regard to this section.".

(3) COORDINATION WITH SECTION 333.—The last sentence of paragraph (1) of section 338(c) (relating to coordination with section 337 where purchasing corporation holds less than 100 percent of stock) is amended by striking out "such 1-year period" and inserting in lieu thereof "such 1-year period and section 333 does not apply to such liquidation".

(4) TREATMENT OF CERTAIN LIQUIDATIONS.—

(A) IN GENERAL.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) CERTAIN LIQUIDATIONS AFTER QUALIFIED STOCK PURCHASES.—

"(1) IN GENERAL.—If—

"(A) there is a qualified stock purchase by a corporation of another corporation,

"(B) an election is not made under section 338 with respect to such purchase,

"(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than 2 years after the acquisition date, and

"(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.

"(2) MEANING OF TERMS.—For purposes of paragraph (1), the terms 'qualified stock purchase' and 'acquisition date' have the same respective meanings as when used in section 338.".

(B) CONFORMING AMENDMENT.—Subsection (c) of section 269 (as redesignated by subparagraph (A)) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (b)".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to liquidations after October 20, 1983, in taxable years ending after such date.

(5) ASSETS TREATED AS SOLD AT FAIR MARKET VALUE.—

(A) Paragraph (1) of section 338(a) (relating to general rule) is amended by inserting "at fair market value" after "the acquisition date".

(B) Subsection (b) of section 338 (relating to price at which deemed sale made) is amended to read as follows:

"(b) BASIS OF ASSETS AFTER DEEMED PURCHASE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as purchased at an amount equal to their adjusted fair market value.

"(2) ADJUSTED FAIR MARKET VALUE.—For purposes of paragraph (1), the term 'adjusted fair market value' means the excess (if any) of—

"(A) the aggregate fair market value of the stock of the target corporation as of the close of the acquisition date, over

"(B) the amount of the net unrealized appreciation determined under paragraph (3).

"(3) AMOUNT OF NET UNREALIZED APPRECIATION.—For purposes of paragraph (2), the amount of the net unrealized appreciation determined under this paragraph is the excess (if any) of—

"(A) the fair market value of stock of the target corporation which is held by the purchasing corporation on the acquisition date, over

"(B) the aggregate bases of stock described in subparagraph (A).

"(4) ALLOCATION AMONG ASSETS.—The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

"(5) ADJUSTMENTS FOR CONTINGENT PAYMENTS, ETC.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection and subsection (a) for contingent payments and other relevant items.".

(6) TIME FOR MAKING ELECTION.—Paragraph (1) of section 338(g) (relating to election) is amended to read as follows:

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than the 15th day of the 9th month beginning after the month in which the acquisition date occurs.".

(7) REGULATORY AUTHORITY.—Subsection (i) of section 338 (relating to regulations) is amended to read as follows:

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section including—

"(1) regulations to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations), and

"(2) regulations providing for the coordination of the provisions of this section with the provisions of this title relating to foreign corporations and their shareholders.".

(8) AMENDMENTS NOT TO APPLY TO ACQUISITIONS BEFORE SEPTEMBER 1, 1982.—

(A) IN GENERAL.—The amendments made by this subsection shall not apply to any qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954) where the acquisition date (as defined in section 338(h)(2) of such Code) is before September 1, 1982.

(B) EXTENSION OF TIME FOR MAKING ELECTION.—In the case of qualified stock purchases involving the acquisition of 2 banks during February 1981, the time for making an election under section 338 of such Code shall not expire before the close of the 60th day after the date of the enactment of this Act.

(9) SPECIAL RULES FOR DEEMED PURCHASES UNDER PRIOR LAW.—If, before October 20, 1983, a corporation was treated as making a qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954), but would not be so treated under the amendments made by paragraphs (1) and (2) of this subsection, the amendments made by such paragraphs shall not apply to such purchase unless such corporation elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to have the amendments made by such paragraphs apply.

(l) AMENDMENTS RELATED TO SECTION 226.—

(1) AMOUNT CONSTITUTING DIVIDEND.—Subparagraph (A) of section 304(b)(2) (relating to amount constituting dividend) is amended to read as follows:

"(A) WHERE SUBSECTION (a)(1) APPLIES.—In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subsection (a) applies, the determination of the amount which is a dividend shall be made as if the property were distributed—

"(i) by the acquiring corporation to the extent of its earnings and profits, and

"(ii) then by the issuing corporation.".

(2) COORDINATION WITH SECTION 351.—Subparagraph (A) of section 304(b)(3) (relating to coordination with section 351) is amended by striking out "(and not part III)" and inserting in lieu thereof "(and not section 351 and not so much of sections 357 and 358 as relates to section 351)".

(3) CERTAIN ASSUMPTIONS OF LIABILITY.—

(A) The first sentence of clause (i) of section 304(b)(3)(B) (relating to certain assumptions of liability, etc.) is amended by striking out "Subsection (a)" and inserting in lieu thereof "In the case of an acquisition described in section 351, subsection (a)".

(B) Subparagraph (B) of section 304(b)(3) (relating to coordination with section 351) is amended by adding at the end thereof the following new clause:

"(iii) CLAUSE (i) DOES NOT APPLY TO STOCK ACQUIRED FROM RELATED PERSON EXCEPT WHERE COMPLETE TERMINATION.—Clause (i) shall apply only to stock acquired by the transferor from a person—

"(I) none of whose stock is attributable to the transferor under section 318(a) (other than paragraph (4) thereof), or

"(II) who satisfies rules similar to the rules of section 302(c)(2) with respect to both the acquiring and the issuing corporations (determined as if such person were a distributee of each such corporation).".

(4) DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.—Subparagraph (C) of section 304(b)(3) (relating to distributions incident to formation of bank holding companies) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, any assumption of (or acquisition of stock subject to) a liability under subparagraph (B) shall not be treated as a distribution of property.".

(5) CONSTRUCTIVE OWNERSHIP.—

(A) Paragraph (3) of section 304(c) (relating to constructive ownership) is amended to read as follows:

"(3) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of determining control under this section.

"(B) MODIFICATION OF 50-PERCENT LIMITATIONS IN SECTION 318.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such corporation bears to the value of all stock in such corporation.".

(B) Paragraph (4) of section 306(c) is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of applying the preceding sentence to paragraph (3), the rules of section 304(c)(3)(B) shall apply.".

(6) CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.—Paragraph (3) of section 306(c) (relating to certain stock acquired in section 351 exchange) is amended by striking out the last sentence and inserting in lieu thereof the following: "Rules similar to the rules of section 304(b)(2) shall apply—

"(A) for purposes of the preceding sentence, and

"(B) for purposes of determining the application of this section to any subsequent disposition of stock which is section 306 stock by reason of an exchange described in the preceding sentence.".

(7) EFFECTIVE DATE FOR AMENDMENTS MADE BY PARAGRAPHS (1) AND (3).—The amendments made by paragraphs (1) and (3) shall apply to stock acquired after October 20, 1983, in taxable years ending after such date.

(m) AMENDMENT RELATED TO SECTION 229.—Subsection (c) of section 229 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to modification of regulations on the completed contract method of accounting) is amended by adding at the end thereof the following new paragraph:

"(4) UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.—To the extent provided in regulations, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1982, by reason of a long-term contract, but only with respect to installments required to be paid before April 13, 1983.".

(n) AMENDMENT RELATED TO SECTION 233.—Paragraph (11) of section 51(d) (defining members of economically disadvantaged families) is amended by adding at the end thereof the following new sentence: "Any such determination with respect to an individual who is a qualified summer youth employee or youth participating in a qualified cooperative education program with respect to any employer shall also apply for purposes of determining whether such individual is a member of another targeted group with respect to such employer.".

SEC. 613. TECHNICAL CORRECTIONS OF PENSION PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 235.—

(1) ACTUARIAL ADJUSTMENTS MADE TO BENEFIT LIMIT RATHER THAN TO BENEFIT.—

(A) Subparagraph (C) of section 415(b)(2) (relating to adjustment to $90,000 limit where benefit begins before age 62) is amended by striking out the first sentence and inserting in lieu thereof the following: "If the retirement income benefit under the plan begins before age 62, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by reducing the limitation of paragraph (1)(A) so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 62.".

(B) Subparagraph (D) of section 415(b)(2) (relating to adjustment to $90,000 limitation where benefit begins after age 65) is amended to read as follows:

"(D) ADJUSTMENT TO $90,000 LIMIT WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by increasing the limitation of paragraph (1)(A) so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 65.".

(C)(i) Clauses (i) and (iii) of section 415(b)(2)(E) are each amended by striking out "any benefit" and inserting in lieu thereof "any benefit or limitation".

(ii) Clause (ii) of section 415(b)(2)(E) is amended by striking out "any benefit" and inserting in lieu thereof "any limitation".

(2) DEFINITION OF CURRENT ACCRUED BENEFIT IN THE CASE OF COLLECTIVELY BARGAINED PLANS.—Clause (i) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: "In the case of any plan described in the first sentence of paragraph (5), the preceding sentence shall be applied by substituting for 'January 1, 1983' the applicable date determined under paragraph (5).".

(3) TRANSITION FRACTION ONLY APPLIES TO PLANS IN EXISTENCE BEFORE JULY 1, 1982.—Paragraph (6) of section 415(e) (relating to special transition rule for defined contribution fraction for years ending after December 31, 1982) is amended by adding at the end thereof the following new subparagraph:

"(C) PLAN MUST HAVE BEEN IN EXISTENCE ON OR BEFORE JULY 1, 1982.—This paragraph shall apply only to plans which were in existence on or before July 1, 1982.".

(4) TREATMENT OF CERTAIN COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO BEFORE JULY 1, 1982.—Clause (ii) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: "For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement entered into before July 1, 1982, and ratified before September 3, 1982, shall be treated as a change made before July 1, 1982.".

(b) AMENDMENTS RELATED TO SECTION 236.—

(1) EXCEPTION FOR CERTAIN LOANS NOT TO APPLY TO LOANS FROM DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—

(A) Subparagraph (A) of section 72(o)(3) (relating to amounts constructively received) is amended by striking out "subsection (p)" and inserting in lieu thereof "subsection (p) (other than the exception contained in paragraph (2) thereof)".

(B) Subparagraph (A) of section 72(p)(2) (relating to exception for certain loans) is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), the present value of the nonforfeitable accrued benefit shall be determined without regard to any accumulated deductible employee contributions (as defined in subsection (o)(5)(B)).".

(2) DEFINITION OF REQUIRED PRINCIPAL PAYMENT.—Subparagraph (C) of section 236(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting before the period at the end thereof the following: "or if such loan was payable on demand".

(3) REPEAL OF PROVISION TREATING CERTAIN LOAN REPAYMENTS AS CONTRIBUTIONS.—Subsection (f) of section 404 (relating to certain loan repayments considered as contributions) is hereby repealed.

(4) CLARIFICATION OF EXCEPTION FOR SMALL LOANS.—Clause (ii) of section 72(p)(2)(A) (relating to exception for certain loans) is amended to read as follows:

"(ii) the greater of (I) one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan, or (II) $10,000.".

(c) AMENDMENTS RELATED TO SECTION 237.—

(1) AMENDMENTS CONFORMING TO LIMITING TO KEY EMPLOYEES THE PENALTY FOR PREMATURE DISTRIBUTIONS.—

(A) Clause (i) of section 72(m)(5)(A) is amended by striking out "as an owner-employee" and inserting in lieu thereof "as a key employee".

(B) The paragraph heading of section 72(m)(5) is amended by striking out "OWNER-EMPLOYEES" and inserting in lieu thereof "KEY EMPLOYEES".

(C) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out "tax on premature distributions to owner-employees" and inserting in lieu thereof "tax on premature distributions to key employees".

(2) CORRECTION OF CROSS REFERENCE TO DEFINITION OF BANK.—

(A) Subsection (f) of section 401 is amended by striking out "(as defined in subsection (d)(1))" and inserting in lieu thereof "(as defined in section 408(n))".

(B) Subsection (h) of section 408 is amended by striking out "(as defined in section 401(d)(1))" and inserting in lieu thereof "(as defined in subsection (n))".

(3) LIMITATION ON ROLLOVERS TO APPLY ONLY TO KEY EMPLOYEES.—Clause (ii) of section 402(a)(5)(E) (relating to self-employed individuals and owner-employees) is amended to read as follows:

"(ii) KEY EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to contributions made on behalf of the employee while he was a key employee in a top-heavy plan. For purposes of the preceding sentence, the terms 'key employee' and 'top-heavy plan' have the same respective meanings as when used in section 416.".

(d) AMENDMENTS RELATED TO SECTION 238.—

(1) REPEAL OF SECTION 72(m)(9).—Paragraph (9) of section 72(m) (relating to return of excess contributions before due date of return) is hereby repealed.

(2) INCREASE IN AMOUNT OF DEDUCTION FOR SIMPLIFIED EMPLOYEE PENSIONS.—Clause (ii) of section 219(b)(2)(A) (relating to special rules for employer contributions under simplified employee pensions) is amended by striking out "but not in excess of $15,000" and inserting in lieu thereof "but not in excess of the limitation in effect under section 415(c)(1)(A)".

(3) REPEAL OF SECTION 401(e).—Subsection (e) of section 401 (relating to contributions for premiums on annuity, etc., contracts) is hereby repealed.

(4) REPEAL OF SECTION 404(a)(9).—

(A) Subsection (a) of section 404 is amended by striking out paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(B) Subparagraph (C) of section 415(c)(6) is amended—

(i) by striking out "paragraph (10) of section 404(a)" and inserting in lieu thereof "paragraph (9) of section 404(a)",

(ii) by striking out "section 404(a)(10)(A)" and inserting in lieu thereof "section 404(a)(9)(A)", and

(iii) by striking out "section 404(a)(10)(B)" and inserting in lieu thereof "section 404(a)(9)(B)".

(5) REPEAL OF SECTION 404(h)(4).—Paragraph (4) of section 404(h) (relating to effect on self-employed individuals or shareholder employees) is hereby repealed.

(6) DETERMINATION OF EARNED INCOME OF SELF-EMPLOYED FOR PURPOSES OF SECTION 404(a)(8)(D).—Subparagraph (D) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section and section 405(c))".

(7) REPEAL OF SECTION 415(c)(7).—

(A) Subsection (c) of section 415 is amended by striking out paragraph (7) and by redesignating paragraph (8) as paragraph (7).

(B) Subclause (II) of section 415(e)(3)(B)(ii) is amended by striking out "subsection (c)(7) or (8)" and inserting in lieu thereof "subsection (c)(7)".

(8) COORDINATION OF REPEALS OF CERTAIN SECTIONS.—Sections 404(e) and 1379(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) shall not apply to any plan to which section 401(j) of such Code applies (or would apply but for its repeal).

(9) AMENDMENT OF SECTION 404(e).—Subsection (e) of section 404 is amended by striking out "under this section" and inserting in lieu thereof "under paragraph (1), (2), or (3) of subsection (a)".

(e) AMENDMENT RELATED TO SECTION 239.—Subparagraph (B) of section 101(b)(3) (relating to treatment of self-employed individuals for exclusion of employees' death benefits) is amended to read as follows:

"(B) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—In the case of any amount paid or distributed—

"(i) by a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(ii) under a plan described in section 403(a),

the term 'employee' includes a self-employed individual described in section 401(c)(1).".

(f) AMENDMENTS RELATED TO SECTION 240.—

(1) DEFINITION OF KEY EMPLOYEE.—

(A) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by striking out "any participant in an employer plan" and inserting in lieu thereof "an employee".

(B) Clause (ii) of section 416(i)(1)(A) is amended to read as follows:

"(ii) 1 of the 10 employees having annual compensation from the employer of more than the limitation in effect under section 415(c)(1)(A) and owning (or considered as owning within the meaning of section 318) the largest interests in the employer,".

(C) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if 2 employees have the same interest in the employer, the employee having greater annual compensation from the employer shall be treated as having a larger interest.".

(D) Subparagraph (C) of section 416(i)(1) is amended by striking out "DETERMINING 5-PERCENT OR 1-PERCENT OWNERS" in the subparagraph heading and inserting in lieu thereof "DETERMINING OWNERSHIP IN THE EMPLOYER".

(2) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—Paragraph (1) of section 408(k) (defining simplified employee pension) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity—

"(A) with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met, and

"(B) if such account or annuity is part of a top-heavy plan (as defined in section 416), with respect to which the requirements of section 416(c)(2) are met.".

(3) CLARIFICATION OF TRANSITIONAL RULE.—Paragraph (3) of section 235(g) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new sentence: "A similar rule shall apply with respect to the last plan year beginning before January 1, 1984, for purposes of applying section 416(h) of the Internal Revenue Code of 1954.".

(4) TREATMENT OF DISTRIBUTIONS FROM TERMINATED PLANS.—Paragraph (3) of section 416(g) (relating to distributions during last 5 years taken into account) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group.".

(5) CLARIFICATION OF COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Paragraph (2) of section 416(d) (relating to cost-of-living adjustments) is amended by striking out "in the same manner" and inserting in lieu thereof "at the same time and in the same manner".

(B) SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (C) of section 408(k)(3) (relating to contributions must bear uniform relationship to total compensation) is amended by adding at the end thereof the following new sentence: "The Secretary shall annually adjust the $200,000 amount contained in the preceding sentence at the same time and in the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A).".

(6) CLERICAL AMENDMENTS.—

(A) Subsection (f) of section 416 is amended by striking out "require" and inserting in lieu thereof "required".

(B) Clause (iii) of section 416(i)(1)(B) is amended by striking out "subparagraph (A)(ii)(II)" and inserting in lieu thereof "subparagraph (A)(ii)".

(g) AMENDMENTS RELATED TO SECTION 242.—

(1) DEFINITION OF KEY EMPLOYEE AND TOP-HEAVY PLAN.—

(A) Clause (i) of section 401(a)(9)(A) (relating to required distributions before death) is amended to read as follows:

"(i) either will be distributed to him not later than the later of—

"(I) his taxable year in which he attains age 70½, or

"(II) his taxable year in which he retires, or".

(B) Subparagraph (A) of section 401(a)(9) is amended by adding at the end thereof the following new sentence: "Subclause (II) of clause (i) shall not apply with respect to any employee who was a key employee (as defined in section 416) in a top-heavy plan (as defined in section 416) for the plan year ending in the taxable year in which he attains age 70½.".

(2) EXCEPTION FOR CERTAIN DEPENDENTS OR FORMER SPOUSE.—Paragraph (9) of section 401(a) is amended by adding at the end thereof the following new subparagraphs:

"(C) EXCEPTION WHERE DISTRIBUTIONS MADE TO CERTAIN DEPENDENTS OR FORMER SPOUSE.—Subparagraph (B) shall not apply if the entire interest of the employee (or the remaining part of such interest if distribution thereof has commenced) will be distributed (beginning not later than 1 year after the employee's death or the death of his surviving spouse)—

"(i) to a qualified beneficiary, and

"(ii) in accordance with regulations prescribed by the Secretary, over a qualified period.

"(D) QUALIFIED BENEFICIARY DEFINED.—For purposes of subparagraph (C), the term 'qualified beneficiary' means—

"(i) any qualified dependent, and

"(ii) a former spouse of the employee.

"(E) QUALIFIED DEPENDENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified dependent' means any individual who was a dependent (as defined in section 152) of the employee (or his surviving spouse) for any 2 of the last 5 taxable years of the employee (or his surviving spouse).

"(ii) SPECIAL RULE FOR CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies for any taxable year shall be treated as the dependent of both parents.

"(iii) SOCIAL SECURITY BENEFITS DISREGARDED.—Benefits under title II of the Social Security Act received by (or on behalf of) an individual shall not be taken into account for purposes of determining whether such

individual is the dependent of another taxpayer.

"(F) QUALIFIED PERIOD.—For purposes of this paragraph—

"(i) IN GENERAL.—The qualified period with respect to any qualified beneficiary shall end at the later of—

"(I) the life expectancy of an individual with an age equal to the age of the employee at his death (or the age of the surviving spouse), or

"(II) 5 years after the date of the employee's death (or the death of the surviving spouse).

"(ii) SPECIAL RULE FOR PERMANENTLY AND TOTALLY DISABLED INDIVIDUALS.—In accordance with regulations, the qualified period for any individual who was permanently and totally disabled at the death of the employee (or who thereafter becomes permanently and totally disabled) shall be the life of such individual or a term certain not extending beyond the life expectancy of such individual.

"(G) SPECIAL RULES FOR MINORS.—For purposes of this paragraph, in the case of an individual who has not attained age 22 at the time of the employee's death—

"(i) the distributions are not required to begin before the individual attains age 22, and

"(ii) the qualified period shall in no case end before such individual attains age 27.".

(3) CLARIFICATION OF TRANSITIONAL RULE.—

(A) Subparagraph (B) of section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "paragraph (9) of".

(B) Paragraph (2) of section 242(b) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "the first day of the first plan year beginning on or after January 1, 1984".

(C) Subsection (b) of section 242 of such Act is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEFAULT OPTIONS.—For purposes of paragraph (2), if—

"(A) a plan permits an employee to designate a method of distribution but provides that in the absence of such a designation a specified method of distribution will apply, and

"(B) as of the first day of the first plan year beginning on or after January 1, 1984, such specified method of distribution applied to an individual by reason of his failure to make a designation which was available to him before such first day,

such specified method of distribution shall be treated as pursuant to a designation made by the employee before the first day of such plan year.".

(4) SPECIAL RULE FOR COLLECTIVE-BARGAINING AGREEMENTS.—Paragraph (5) of section 235(g) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(A) by striking out "section 253" each place it appears and inserting in lieu thereof "section 242", and

(B) by adding at the end thereof the following new sentence: "In the case of any plan described in the first sentence of this paragraph, paragraphs (2) and (3) of section 242(b) shall be applied by substituting for 'January 1, 1984' the applicable date determined under this paragraph.".

(5) CLARIFICATION THAT REQUIRED DISTRIBUTIONS MAY BE MADE TO OTHER BENEFICIARIES.—Clause (ii) of section 401(a)(9)(A) is amended by inserting "to the employee or any of his beneficiaries" after "will be distributed".

(6) DELAY IN EFFECTIVE DATE FOR GOVERNMENT PLANS.—Subsection (b) of section 242 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR GOVERNMENT PLANS.—In the case of a government plan (as defined in section 414(d) of the Internal Revenue Code of 1954)—

"(A) paragraph (1) shall be applied by substituting 'December 31, 1985' for 'December 31, 1983', and

"(B) paragraphs (2) and (3) shall be applied by substituting 'January 1, 1986' for 'January 1, 1984'.".

(h) AMENDMENTS RELATED TO SECTION 243.—

(1) EFFECTIVE DATE FOR PROVISIONS RELATED TO INHERITED INDIVIDUAL RETIREMENT PLANS.—Subsection (c) of section 243 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals dying after December 31, 1983.".

(2) CLERICAL AMENDMENT.—The subparagraph (C) of section 408(d)(3) which was added by section 335(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is redesignated as subparagraph (D).

(i) AMENDMENT RELATED TO SECTION 247.—Subsection (a) of section 247 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to existing personal service corporations may liquidate under section 333 during 1983 and 1984) is amended by inserting "which is in existence on September 3, 1982," after "section 535(c)(2)(B) of the Internal Revenue Code of 1954)".

(j) AMENDMENT RELATED TO SECTION 248.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

(k) AMENDMENT RELATED TO SECTION 249.—Subparagraph (D) of section 408(k)(3) (relating to treatment of certain contributions and taxes) is amended by striking out the second and third sentences and inserting in lieu thereof the following: "If the employer does not maintain an integrated plan at any time during the taxable year, OASDI contributions (as defined in section 401(l)(2)) may, for purposes of this paragraph, be taken into account as contributions by the employer to the employee's simplified employee pension, but only if such contributions are so taken into account with respect to each employee maintaining a simplified employee pension.".

(l) AMENDMENTS RELATED TO SECTION 253.—

(1) LIMITATION OF PROFIT-SHARING AND STOCK BONUS PLANS.—Subparagraph (C) of section 415(c)(3) is amended by striking out "In the case of a participant" and inserting in lieu thereof "In the case of a participant in a profit-sharing or stock bonus plan".

(2) CLARIFICATION OF RULE THAT CONTRIBUTIONS BE NONFORFEITABLE.—Subparagraph (C) of section 415(c)(3) (relating to special rules for permanent and total disability) is amended by striking out the last sentence and inserting in lieu thereof the following: "This subparagraph shall apply only if contributions made with respect to amounts treated as compensation under this subparagraph are nonforfeitable when made.".

SEC. 614. MISCELLANEOUS PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 255.—Subsection (c) of section 811 (relating to special rule for dividends to policyholders under reinsurance contracts) is amended by striking out "conventional coinsurance contract" and inserting in lieu thereof "reinsurance contract".

(b) AMENDMENT RELATED TO SECTION 281A.—Paragraph (2) of section 281A(b) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

(c) AMENDMENT RELATED TO SECTION 292.—Paragraph (2) of section 7430(a) (relating to awarding of court costs and certain fees) is amended by striking out "including the Tax Court" and inserting in lieu thereof "including the Tax Court and the United States Claims Court".

(d) AMENDMENT RELATED TO SECTION 314.—Subparagraph (E) of section 6678(3) is amended by striking out "section 6053(c)" and inserting in lieu thereof "section 6053".

(e) AMENDMENTS RELATED TO SECTION 323.—

(1) Subsection (b) of section 5684 is amended—

(A) by striking out "SECTION 6660" in the heading and inserting in lieu thereof "SECTION 6662", and

(B) by striking out "section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)".

(2) Subsection (c) of section 5761 is amended—

(A) by striking out "SECTION 6660" in the heading and inserting in lieu thereof "SECTION 6662", and

(B) by striking out "section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)".

(f) AMENDMENTS RELATED TO SECTION 334.—

(1) CLARIFICATION THAT DEATH BENEFIT EXCLUSION APPLIES TO DISTRIBUTIONS UNDER SECTION 403(b).—Subparagraph (C) of section 3405(b)(2) (relating to special rule for distributions by reason of death) is amended to read as follows:

"(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASON OF DEATH.—In the case of any nonperiodic distribution from or under any plan or contract described in section 401(a), 403(a), or 403(b)—

"(i) which is made by reason of a participant's death, and

"(ii) with respect to which the requirements of clauses (ii) and (iv) of subsection (d)(4)(A) are met,

subparagraph (A) or (B) (as the case may be) shall be applied by taking into account the exclusion from gross income provided by section 101(b) (whether or not allowable).".

(2) CLARIFICATION OF CREDIT FOR WITHHELD AMOUNTS.—Paragraph (1) of section 31(a) is amended by striking out "under section 3402 as tax on the wages of any individual" and inserting in lieu thereof "as tax under chapter 24".

(3) PENALTY FOR FAILURE TO GIVE NOTICE.—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN PENSION, ETC., DISTRIBUTIONS.—In the case of each failure to provide notice as required by section 3405(d)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $10 for each such failure, but the total amount im-

posed on such person for all such failures during any calendar year shall not exceed $5,000.".

(4) EXCEPTION FOR AMOUNTS PAID TO NONRESIDENT ALIENS.—Subparagraph (B) of section 3405(d)(1) (relating to exceptions) is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty.".

(5) CLARIFICATION OF AMOUNT WITHHELD WHERE EMPLOYER SECURITY DISTRIBUTED.—Paragraph (8) of section 3405(d) (relating to maximum amount withheld) is amended by adding at the end thereof the following new sentence: "No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of employer securities of the employer corporation (within the meaning of section 402(a)(3)) and cash (not in excess of $200) in lieu of fractional shares.".

(g) AMENDMENT RELATED TO SECTION 337.—Subsection (d) of section 982 (relating to admissibility of documentation maintained in foreign countries) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(h) AMENDMENT RELATED TO SECTION 339.—Paragraph (1) of section 6038A(c) (defining control) is amended by striking out "section 6038(d)(1)" and inserting in lieu thereof "section 6038(e)(1)".

(i) AMENDMENT RELATED TO SECTION 345.—Subsection (b) of section 345 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by striking out "taking effect on" and inserting in lieu thereof "taking effect on or after".

(j) AMENDMENT RELATED TO SECTION 346.—Subparagraph (B) of section 346(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out 'the last day of' each place it appears and inserting in lieu thereof 'the filing date for'.".

(k) AMENDMENTS RELATED TO TITLE IV.—

(1) EXTENSION OF PARTNERSHIP AUDIT PROVISIONS TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.—Subchapter C of chapter 63 (relating to tax treatment of partnership items) is amended by adding at the end thereof the following new section:

"SEC. 6233. EXTENSION TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.

"(a) GENERAL RULE.—If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

"(b) SIMILAR RULES IN CERTAIN CASES.—If for any taxable year—

"(1) an entity files a return as an S corporation but it is determined that the entity was not an S corporation for such year, or

"(2) a partnership return or S corporation return is filed but it is determined that there is no entity for such taxable year,

then, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.".

(2) TECHNICAL AND CLERICAL AMENDMENTS.—

(A) Subparagraph (B) of section 6230(c)(1) is amended by striking out "(or erroneously computed the amount of any such credit or refund)".

(B) Paragraph (9) of section 6231(a) is amended by striking out "electing small business corporation" and inserting in lieu thereof "S corporation".

(C) Subsection (f) of section 6231 is amended by striking out "such deduction or credit" and inserting in lieu thereof "such loss or credit".

(D) The table of sections for subpart C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6233. Extension to entities filing partnership returns, etc.".

(E) Paragraph (3) of section 6501(q) is amended to read as follows:

"(3) CROSS REFERENCE.—

"For extension of period for windfall profit tax items of partnerships, see section 6229 as made applicable by section 6232.".

(F) Paragraph (3) of section 6511(h) is amended to read as follows:

"(3) CROSS REFERENCE.—

"For period of limitation for windfall profit tax items of partnerships, see section 6227(a) and subsections (c) and (d) of section 6230 as made applicable by section 6232.".

(G) Subsection (h) of section 7422 is amended by striking out "section 6131(a)(3)" and inserting in lieu thereof "section 6231(a)(3)".

(H) Subparagraph (B) of section 6231(b)(2) (relating to items cease to be partnership items in certain cases) is amended by striking out "section 6227(b)" and inserting in lieu thereof "section 6227(c)".

SEC. 615. EFFECTIVE DATE.

Any amendment made by this subtitle shall take effect as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendment relates.

Subtitle B—Amendments Related to Subchapter S Revision Act of 1982; Etc.

SEC. 621. TECHNICAL CORRECTIONS OF SUBCHAPTER S REVISION ACT OF 1982.

(a) LIMITATION ON RECOGNITION OF GAIN IN THE CASE OF CERTAIN DISTRIBUTIONS.—

(1) Section 1363 (relating to effect of election on corporation) is amended by adding at the end thereof the following new subsection:

"(e) SUBSECTION (d) NOT TO APPLY TO COMPLETE LIQUIDATIONS AND REORGANIZATIONS.—Subsection (d) shall not apply to any distribution—

"(1) of property in complete liquidation of the corporation, or

"(2) to the extent it consists of property permitted by section 354, 355, or 356 to be received without the recognition of gain.".

(2) Subsection (d) of section 1363 is amended by striking out "If" and inserting in lieu thereof "Except as provided in subsection (e), if".

(b) COORDINATION WITH RULES RELATING TO INCOME FROM DISCHARGE OF INDEBTEDNESS.—

(1) Paragraph (2) of section 1363(c) (relating to elections of the S corporation) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Subsection (d) of section 108 (relating to income from discharge of indebtedness) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, by striking out paragraph (6), and by inserting after paragraph (5) the following new paragraphs:

"(6) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL.—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level.

"(7) SPECIAL RULES FOR S CORPORATION.—

"(A) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT CORPORATE LEVEL.—In the case of an S corporation, subsections (a), (b), and (c) shall be applied at the corporate level.

"(B) REDUCTION IN CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—In the case of an S corporation, for purposes of subparagraph (A) of subsection (b)(2), any loss or deduction which is disallowed for the taxable year of the discharge under section 1366(d)(1) shall be treated as a net operating loss for such taxable year. The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(C) applies to such discharge.

"(C) COORDINATION WITH BASIS ADJUSTMENTS UNDER SECTION 1367(b)(2).—For purposes of subsection (e)(6), a shareholder's adjusted basis in indebtedness of an S corporation shall be determined without regard to any adjustments made under section 1367(b)(2).".

(c) TREATMENT OF INACTIVE SUBSIDIARIES.—Paragraph (6) of section 1361(c) (relating to ownership of stock in certain inactive corporations) is amended to read as follows:

"(6) OWNERSHIP OF STOCK IN CERTAIN INACTIVE CORPORATIONS.—For purposes of subsection (b)(2)(A), a corporation shall not be treated as a member of an affiliated group during any period within a taxable year by reason of the ownership of stock in another corporation if such other corporation—

"(A) has not begun business at any time on or before the close of such period, and

"(B) does not have gross income for such period.".

(d) TREATMENT OF WORTHLESS DEBT.—Paragraph (3) of section 1367(b) (relating to coordination with section 165(g)) is amended to read as follows:

"(3) COORDINATION WITH SECTIONS 165(g) AND 166(d).—This section and section 1366 shall be applied before the application of sections 165(g) and 166(d) to any taxable year of the shareholder or the corporation in which the security or debt becomes worthless.".

(e) ADJUSTMENT TO EARNINGS AND PROFITS FOR RECAPTURE UNDER SECTION 47.—

(1) Subsection (d) of section 1371 (relating to coordination with investment credit recapture) is amended by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENT TO EARNINGS AND PROFITS FOR AMOUNT OF RECAPTURE.—Paragraph (1) of subsection (c) shall not apply to any increase in tax under section 47 for which the S corporation is liable.".

(2) Paragraph (1) of section 1371(c) is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2) and (3) and subsection (d)(3)".

(f) QUALIFIED SUBCHAPTER S TRUSTS.—

(1) GRACE PERIOD.—Subparagraph (D) of section 1361(d)(2) (relating to grace period) is amended by striking out "60 days" and inserting in lieu thereof "75 days".

(2) DEFINITION OF QUALIFIED SUBCHAPTER S TRUST.—Subsection (d) of section 1361 (relating to special rule for qualified subchapter S trust) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) QUALIFIED SUBCHAPTER S TRUST.—For purposes of this subsection, the term 'qualified subchapter S trust' means a trust—

"(A) the terms of which require that—

"(i) during the life of the current income beneficiary, there shall be only 1 income beneficiary of the trust,

"(ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary,

"(iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary's death or the termination of the trust, and

"(iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary, and

"(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States.

"(4) TRUST CEASING TO BE QUALIFIED.—

"(A) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH (3)(A).—If a qualified subchapter S trust ceases to meet any requirement of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the date it ceases to meet such requirement.

"(B) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH (3)(B).—If any qualified subchapter S trust ceases to meet any requirement of paragraph (3)(B) but continues to meet the requirerments of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the first day of the first taxable year beginning after the first taxable year for which it failed to meet the requirements of paragraph (3)(B).".

(3) TECHNICAL AMENDMENT.—Clause (i) of section 1361(d)(2)(B) (relating to separate election with respect to each S corporation) is amended by striking out "S corporation" each place it appears and inserting in lieu thereof "corporation".

(g) COORDINATION WITH SECTION 338.—

(1) Paragraph (6) of section 1362(e) (relating to treatment of S termination year) is amended by adding at the end thereof the following new subparagraph:

"(C) PARAGRAPH (2) NOT TO APPLY TO ITEMS RESULTING FROM SECTION 338.—Paragraph (2) shall not apply with respect to any item resulting from the application of section 338.".

(2) Paragraph (2) of section 1362(e) is amended by striking out "as provided in paragraph (3)" and inserting in lieu thereof "as provided in paragraphs (3) and (6)(C)".

(h) ELECTION TO HAVE ITEMS ASSIGNED TO SHORT TAXABLE YEAR UNDER NORMAL ACCOUNTING RULES.—Subparagraph (B) of section 1362(e)(3) (relating to election to have items assigned to each short taxable year under normal accounting rules) is amended to read as follows:

"(B) SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this subsection shall be valid only if all persons who are shareholders in the corporation at any time during the S short year and all persons who are shareholders in the corporation on the first day of the C short year consent to such election.".

(i) ELECTION TO HAVE NEW PASSIVE INCOME RULES NOT APPLY DURING 1982.—Paragraph (3) of section 6(b) of the Subchapter S Revision Act of 1982 (relating to new passive income rules apply to taxable years beginning during 1982) is amended by adding at the end thereof the following new sentences: "The preceding sentence shall not apply in the case of any corporation which elects (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) to have such sentence not apply. Subsection (e) shall not apply to any termination resulting from an election under the preceding sentence.".

(j) S CORPORATION TREATED AS PARTNERSHIP FOR PURPOSES OF SECTION 318.—Paragraph (5) of section 318(a) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraphs:

"(E) S CORPORATION TREATED AS PARTNERSHIP.—For purposes of this subsection—

"(i) an S corporation shall be treated as a partnership, and

"(ii) any shareholder of the S corporation shall be treated as a partner of such partnership.

The preceding sentence shall not apply for purposes of determining whether stock in the S corporation is constructively owned by any person.".

(k) CLARIFICATION OF TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—Subsection (e) of section 6 of the Subchapter S Revision Act of 1982 (relating to treatment of certain elections under prior law) is amended by striking out "any termination" and inserting in lieu thereof "any termination or revocation".

(l) ELECTIONS FOR CERTAIN SHORT TAXABLE YEARS.—Subsection (b) of section 1362 (relating to when subchapter S election made) is amended by adding at the end thereof the following new paragraph:

"(4) TAXABLE YEARS OF 2½ MONTHS OR LESS.—For purposes of this subsection, an election for a taxable year made not later than 2 months and 15 days after the first day of the taxable year shall be treated as timely made during such year.".

(m) TAXABLE YEAR OF EXISTING S CORPORATIONS.—Paragraph (1) of section 1378(c) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "which includes December 31, 1982" and inserting in lieu thereof "which includes December 31, 1982 (or which is an S corporation for a taxable year beginning during 1983 by reason of an election made on or before October 19, 1982)".

(n) REFERENCES TO PRIOR LAW.—Subsection (b) of section 1379 (relating to references to prior law included) is amended to read as follows:

"(b) REFERENCES TO PRIOR LAW INCLUDED.—Any references in this title to a provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a reference to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982.".

(o) ELECTION TO TREAT DISTRIBUTIONS AS DIVIDENDS DURING CERTAIN POST-TERMINATION TRANSITION PERIODS.—Subsection (e) of section 1371 (relating to coordination with subchapter C) is amended to read as follows:

"(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD.—

"(1) IN GENERAL.—Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account.

"(2) ELECTION TO DISTRIBUTE EARNINGS FIRST.—An S corporation may elect to have paragraph (1) not apply to all distributions made during a post-termination transition period described in section 1377(b)(1)(A). Such election shall not be effective unless all shareholders of the S corporation to whom distributions are made by the S corporation during such post-termination transition period consent to such election.".

(p) CORPORATE PREFERENCE RULES APPLIED TO S CORPORATIONS WHICH WERE RECENT C CORPORATIONS.—Subsection (b) of section 1363 (relating to computation of corporation's taxable income) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) section 291 shall apply if the S corporation (or any predecessor) was a C corporation for any of the 3 immediately preceding taxable years.".

(q) TREATMENT OF STOCK HELD BY ESTATE OF QUALIFIED TRANSFEROR.—Clause (i) of section 1378(c)(3)(B) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "who held" and inserting in lieu thereof "who (or whose estate) held".

(r) AMENDMENTS RELATED TO ACCUMULATED ADJUSTMENTS ACCOUNT.—

(1) Subparagraph (A) of section 1368(e)(1) (defining accumulated adjustments account) is amended by striking out "(except that" and all that follows through the end thereof and inserting in lieu thereof the following: "(except that no adjustment shall be made for income (and related expenses) which is exempt from tax under this title and the phrase '(but not below zero)' shall be disregarded in section 1367(b)(2)(A))".

(2) Subsection (c) of section 1368 (relating to S corporation having earning and profits) is amended by adding at the end thereof the following new sentence: "If the distributions during the taxable year exceed the amount in the accumulated adjustments account at the close of the taxable year, for purposes of this subsection, the balance of such account shall be allocated among such distributions in proportion to their respective sizes.".

(s) SPECIAL RULES FOR CERTAIN EXPENSES OF S CORPORATIONS.—Paragraph (1) of section 267(f) (as in effect on the day before the date of the enactment of this Act) is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following: "then any deduction allowable under such sections in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph).".

(t) PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.—Paragraph (6) of section 1362(e) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.—Paragraph (2) shall not apply to an S termination year if there is a sale or exchange of 50 percent or more of the stock in such corporation during such year.".

(u) TREATMENT OF PREDECESSOR CORPORATION UNDER SECTION 1374.—Paragraph (2) of section 1374(c) (relating to exception for new corporations) is amended—

(1) by striking out "(and any predecessor corporation)" in subparagraph (A), and

(2) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, an S corporation and any predecessor corporation shall be treated as 1 corporation for purposes of this paragraph and paragraph (1).".

(v) CLERICAL AMENDMENTS.—

(1) Subparagraph (B) of section 465(a)(1) (relating to limitation to amount at risk) is amended by striking out "a corporation" and inserting in lieu thereof "a C corporation".

(2) Subsection (e) of section 1371 (relating to cash distributions during post-termination transition period) is amended by inserting before the period at the end thereof the following: "(within the meaning of section 1368(e))".

(3) Paragraph (2) of section 6659(f) is amended by striking out "section 465(a)(1)(C)" and inserting in lieu thereof "section 465(a)(1)(B)".

(4) Subparagraph (C) of section 6362(d)(2) is amended by striking out "electing small business corporation (within the meaning of section 1371(a))" and inserting in lieu thereof "an S corporation".

(w) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any amendment made by this section shall take effect as if included in the Subchapter S Revision Act of 1982.

(2) AMENDMENT MADE BY SUBSECTION (b)(2).—Subparagraph (C) of section 108(d)(7) of the Internal Revenue Code of 1954 (as amended by subsection (b)(2)) shall apply to contributions to capital after December 31, 1980, in taxable years ending after such date.

(3) AMENDMENT MADE BY SUBSECTION (g)(1).—If—

(A) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after October 19, 1982, and before the date of the enactment of this Act, and

(B) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, paragraph (2) of section 1362(e) of such Code would apply,

then the amendment made by paragraph (1) of subsection (g) shall not apply to such qualified stock purchase.

(4) AMENDMENT MADE BY SUBSECTION (t).—If—

(A) on or before the date of the enactment of this Act 50 percent or more of the stock of an S corporation has been sold or exchanged in 1 or more transactions, and

(B) the person (or persons) acquiring such stock establish by clear and convincing evidence that such acquisitions were negotiated on the contemplation that paragraph (2) of section 1362(e) of the Internal Revenue Code of 1954 would apply to the S termination year in which such sales or exchanges occur,

then the amendment made by subsection (t) shall not apply to such S termination year.

SEC. 622. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO TECHNICAL CORRECTIONS ACT OF 1982.—

(1) Paragraph (12) of section 57(a) (relating to accelerated cost recovery deduction) is amended—

(A) by striking out "(or, in the case of property described in section 167(k), under section 167)" in subparagraph (A), and

(B) by inserting "(or, in the case of property described in section 167(k), under section 167)" after "section 168(a)" in subparagraph (B).

(2) Subparagraph (A) of section 1256(g)(1) (defining foreign currency contract) is amended by inserting after "regulated futures contracts" the following: "(or the settlement of which depends on the value of such a currency)".

(3) Subclause (I) of section 306(a)(8)(A)(ii) of the Technical Corrections Act of 1982 is amended by striking out "the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982" and inserting in lieu thereof "September 1, 1982".

(4)(A) Subparagraph (D) of section 105(c)(5) of the Technical Corrections Act of 1982 is amended by adding at the end thereof the following new clause:

"(iv) ELECTION BY TAXPAYER WITH RESPECT TO CONTRACTS ENTERED INTO AFTER JANUARY 12, 1983.—In lieu of the elections under clauses (ii) and (iii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) apply only with respect to contracts entered into after January 12, 1983."

(B) Clause (i) of section 105(c)(5)(D) of such Act is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clauses (ii), (iii), and (iv)".

(5)(A) Subparagraph (A) of section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out "and (6)" and inserting in lieu thereof "and (5)".

(B) Subsection (d) of section 172 (relating to modifications) is amended by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(6) Subsection (b) of section 5684 is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

(7) Any amendment made by this subsection shall take effect as if included in the provisions of the Technical Corrections Act of 1982 to which such amendment relates.

(b) COORDINATION OF CERTAIN AMENDMENTS MADE BY HIGHWAY REVENUE ACT OF 1982 AND PUBLIC LAW 97-473.—For purposes of applying the amendments made by section 547 of the Highway Revenue Act of 1982 and the amendment made by section 202(b)(2) of Public Law 97-473, Public Law 97-473 shall be deemed to have been enacted immediately before the Highway Revenue Act of 1982.

(c) NO DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE REQUIRED WHERE ONLY ONE POLITICAL COMMITTEE.—Effective for taxable years beginning after December 31, 1981, subparagraph (B) of section 527(h)(2) (relating to special rule for principal campaign committees) is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.".

Subtitle C—Amendments Relating to Highway Revenue Act of 1982

SEC. 631. VALUE OF USED COMPONENTS FURNISHED BY FIRST USER NOT TAKEN INTO ACCOUNT IN DETERMINING PRICE.

Subparagraph (B) of section 4052(b)(1) (relating to determination of price) is amended by striking out "and" at the end of clause (ii) and by inserting after clause (iii) the following new clause:

"(iv) the value of any component of such article if—

"(I) such component is furnished by the first user of such article, and

"(II) such component has been used before such furnishing, and".

SEC. 632. CLARIFICATION OF APPLICATION OF GASOLINE EXCISE TAX TO GASOHOL, ETC.

(a) GASOLINE EXCISE TAX TO APPLY TO GALLON OF GASOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied—

"(A) by substituting '4 cents' for '9 cents' in the case of the sale of any gasohol (the gasoline in which was not taxed under subparagraph (B)), and

"(B) by substituting '4⅝ cents' for '9 cents' in the case of the sale of any gasoline for use in producing gasohol.

For purposes of this paragraph, the term 'gasohol' means any mixture of gasoline if at least 10 percent of such mixture is alcohol.".

(2) LATER SEPARATION OF GASOLINE.—Paragraph (2) of section 4081(c) is amended—

(A) by striking out "at the rate of 4 cents a gallon" and inserting in lieu thereof "at a rate equivalent to 4 cents a gallon", and

(B) by striking out "5 cents a gallon" and inserting in lieu thereof "4⅝ cents a gallon".

(3) CREDIT OR REFUND.—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "5 cents" and inserting in lieu thereof "4⅝ cents".

(b) LOWER FLOOR STOCKS TAX ON GASOHOL.—Subsection (a) of section 521 of the Highway Revenue Act of 1982 is amended by inserting "(4 cents a gallon in the case of a gallon of gasohol, as defined in section 4081(c))" after "5 cents a gallon".

SEC. 633. CERTAIN CHAIN OPERATORS OF RETAIL GASOLINE STATIONS TREATED AS PRODUCERS.

(a) IN GENERAL.—Subsection (d) of section 4082 (defining wholesale distributor) is amended to read as follows:

"(d) WHOLESALE DISTRIBUTOR.—As used in subsection (a), the term 'wholesale distributor' includes—

"(1) any person who—

"(A) sells gasoline to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks, or

"(B) purchases gasoline from a producer and distributes such gasoline to 10 or more retail gasoline stations under common management with such person,

"(2) but only if such person elects to register with respect to the tax imposed by section 4081.

Such term does not include any person who (excluding the term 'wholesale distributor' from subsection (a)) is a producer or importer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 634. OTHER TECHNICAL AMENDMENTS.

(a) FLOOR STOCKS REFUNDS FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—

(1) IN GENERAL.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by inserting "(or will be subject to a lower rate of tax under such section)" after "and which will not be subject to tax under such section".

(2) AMOUNT OF REFUND LIMITED TO REDUCTION IN TAX.—Paragraph (2) of section

523(b) of such Act is amended by adding at the end thereof the following: "In the case of any tire which is a tax-repealed article solely by reason of the parenthetical matter in paragraph (1), the amount of the credit or refund under subsection (a) shall not exceed the excess of the tax imposed with respect to such tire by section 4071(a) as in effect on December 31, 1983, over the tax which would have been imposed with respect to such tire by section 4071(a) on January 1, 1984.".

(b) OVERPAYMENTS OF TAX ON TRUCKS, ETC., AND TIRES.—

(1) TRUCKS, ETC.—

(A) IN GENERAL.—Subsection (b) of section 6416 (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (5) the following new paragraph:

"(6) TRUCK CHASSIS, BODIES, AND SEMITRAILERS USED FOR FURTHER MANUFACTURE.—If—

"(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

"(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.".

(B) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6416(a)(2) is amended by striking out "or (5)" and inserting in lieu thereof "(5), or (6)".

(2) TIRES.—

(A) IN GENERAL.—Paragraph (4) of section 6416(b) (relating to tires) is amended to read as follows:

"(4) TIRES.—If—

"(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

"(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft.".

(B) TECHNICAL AMENDMENTS.—

(i) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (E).

(ii) Paragraph (3) of section 6416(b) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out subparagraph (C).

(iii) Subparagraph (C) of section 6416(a)(1) is amended by striking out ", (b)(3) (C) or (D), or (b)(4)".

(iv) Subparagraph (B) of section 6416(a)(2), as amended by paragraph (1)(B), is amended by inserting "(4)," before "(5)".

(v) Subparagraph (3) of section 6416(a) is amended to read as follows:

"(3) SPECIAL RULE.—For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term 'ultimate purchaser' (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.".

(c) ALLOWANCE OF TAX-FREE SALES OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION.—

(1) IN GENERAL.—Section 4082 (relating to definitions with respect to the tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN SELLERS OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION TREATED AS PRODUCERS.—For purposes of this subpart, the term 'producer' includes any person who regularly sells gasoline to owners, lessees, or operators of aircraft for use as fuel in such aircraft in noncommercial aviation (as defined in section 4041(c)(4)).".

(2) REFUNDS.—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES WITH RESPECT TO NONCOMMERCIAL AVIATION.—For purposes of subsection (a), in the case of gasoline—

"(1) on which tax was imposed under section 4041(c)(2),

"(2) on which tax was not imposed under section 4081, and

"(3) which was not used as an off-highway business use (within the meaning of section 6421(d)(2)),

the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

(d) FLOOR STOCKS REFUNDS FOR TREAD RUBBER.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by adding at the end thereof the following new sentence: "Any tread rubber which was subject to tax under section 4071(a)(4) as in effect on December 31, 1983, and which on January 1, 1984, is part of a retread tire which is held by a dealer and has not been used and is intended for sale shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.".

(e) PENALTIES, ETC. TO APPLY TO FLOOR STOCKS TAXES.—Subsection (c) of section 521 of the Highway Revenue Act of 1982 is amended by adding at the end thereof the following: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 or 4071(a) (whichever is appropriate) shall apply to the floor stocks taxes imposed by this section.".

(f) NO 1984 SHORT TAXABLE PERIOD FOR OWNER-OPERATORS.—Subsection (a) of section 4481 (relating to tax on use of certain vehicles), as in effect before the amendments made by the Highway Revenue Act of 1982, is amended by striking out the last sentence.

(g) CLARIFICATION OF SECONDARY LIABILITY OF INSTALLERS OF PARTS AND ACCESSORIES PURCHASED SEPARATELY.—The text of section 4051(b)(3) is amended to read as follows: "The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by paragraph (1).".

(h) NO INFERENCE FOR PAST PERIODS TO BE DRAWN FROM AMENDMENT RELATING TO CUSTOMARY USE OF TRAILERS.—The subsection heading of subsection (c) of section 513 of the Highway Revenue Act of 1982 is amended by striking out "Clarification of".

SEC. 635. REPEAL OF CERTAIN PROVISIONS MADE OBSOLETE BY HIGHWAY REVENUE ACT OF 1982.

(a) DELETION OF TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES.—

(1) Part I of subchapter A of chapter 32 is amended by striking out sections 4061, 4062, and 4063.

(2) The part heading and the table of sections for such part I are amended to read as follows:

"PART I—GAS GUZZLERS

"Sec. 4064. Gas guzzlers tax.".

(3) The table of parts for subchapter A of chapter 32 is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Gas guzzlers.".

(b) CROSS-REFERENCES TO TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES STATED AS PART OF RETAIL TAX.—

(1) EXEMPTIONS.—Section 4053 (relating to exemptions from retail tax on heavy trucks, etc.) is amended to read as follows:

"SEC. 4053. EXEMPTIONS.

"No tax shall be imposed by section 4051 on any of the following articles:

"(1) CAMPER COACHES BODIES FOR SELF-PROPELLED MOBILE HOMES.—Any article designed—

"(A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and

"(B) to be used primarily as living quarters or camping accommodations.

"(2) FEED, SEED, AND FERTILIZER EQUIPMENT.—Any body primarily designed—

"(A) to process or prepare seed, feed, or fertilizer for use on farms,

"(B) to haul feed, seed, or fertilizer to and on farms,

"(C) to spread feed, seed, or fertilizer on farms,

"(D) to load or unload feed, seed, or fertilizer on farms, or

"(E) for any combination of the foregoing.

"(3) HOUSE TRAILERS.—Any house trailer.

"(4) AMBULANCES, HEARSES, ETC.—Any ambulance, hearse, or combination ambulance-hearse.

"(5) CONCRETE MIXERS.—Any article designed—

"(A) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis, and

"(B) to be used to process or prepare concrete.

"(6) TRASH CONTAINERS, ETC.—Any box, container, receptacle, bin or other similar article—

"(A) which is designed to be used as a trash container and is not designed for the transportation of freight other than trash, and

"(B) which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body.

"(7) RAIL TRAILERS AND RAIL VANS.—Any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car. For purposes of the preceding sentence, piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car.".

(2) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—Subsection (c) of section 4052 (relating to definitions and special rules) is amended to read as follows:

"(c) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—

"(1) IN GENERAL.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article by reason of merely combining such article with any item listed in paragraph (2).

"(2) ITEMS.—The items listed in this paragraph are any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.".

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Clause (i) of section 48(l)(16)(B) (defining qualified intercity bus) is amended to read as follows:

"(i) the chassis of which is an automobile bus chassis and the body of which is an automobile bus body,".

(2)(A) The first sentence of section 4071(b) is amended by striking out "or inner tube" and by striking out "or tube" each place it appears.

(B) The first sentence of section 4071(c) is amended by striking out "on total weight," and all that follows and inserting in lieu thereof "on total weight exclusive of metal rims or rim bases.".

(C) Subsection (e) of section 4071 is amended—

(i) by striking out "or inner tubes (other than bicycle tires and inner tubes)",

(ii) by striking out "and inner tubes" in paragraphs (1) and (2), and

(iii) by striking out the last sentence and inserting in lieu thereof the following: "This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body.".

(D) Subsection (f) of section 4071 (relating to imported recapped or retreaded United States tires) is hereby repealed.

(3) Section 4072 (relating to definitions) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(4) Section 4073 (relating to exemptions) is amended to read as follows:

"SEC. 4073. EXEMPTION FOR TIRES WITH INTERNAL WIRE FASTENING.

"The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent.".

(5)(A) The heading for part II of subchapter A of chapter 32 is amended by striking out "and tubes".

(B) The table of parts for subchapter A of chapter 32 is amended by striking out "and tubes" in the item relating to part II.

(C) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

"Sec. 4073. Exemption for tires with internal wire fastening.".

(6)(A) Paragraph (1) of section 4216(b) (defining constructive sale price) is amended—

(i) by striking out "(other than an article the sale of which is taxable under section 4061(a))" in the second sentence, and

(ii) by striking out the third sentence.

(B) Paragraph (2) of section 4216(b) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(C) Subsection (b) of section 4216 is amended by striking out paragraph (5).

(D) Paragraph (3) of section 4216(b) is amended by striking out "paragraphs (4) and (5)" and inserting in lieu thereof "paragraph (4)".

(E) Paragraph (6) of section 4216(b) is redesignated as paragraph (5) and is amended by striking out "(1), (3), and (5)" and inserting in lieu thereof "(1) and (3)".

(F) Subsection (f) of section 4216 (relating to certain trucks incorporating used components) is hereby repealed.

(7)(A) Subsection (b) of section 4218 (relating to use by manufacturer or importer considered as sale) is amended—

(i) by striking out "or inner tube", and

(ii) by striking out "Except as provided in subsection (d), if" and inserting in lieu thereof "If".

(B) The heading for subsection (b) of section 4218 is amended by striking out "and Tubes".

(C) Section 4218 is amended by striking out subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(D) Subsection (a) of section 4218 is amended by striking out "(other than an article specified in subsection (b), (c), or (d))" and inserting in lieu thereof "(other than a tire taxable under section 4071)".

(8)(A) Subsection (a) of section 4221 (relating to tax-free sales) is amended by inserting "(or under section 4051 on the first retail sale)" after "manufacturer".

(B) Subsection (c) of section 4221 is amended by striking out "section 4063(a) (6) or (7), 4063(b), 4063(e)," and inserting in lieu thereof "section 4053(a)(6)".

(C) Paragraph (1) of section 4221(d) (defining manufacturer) is amended by inserting before the period ", and, in the case of the tax imposed by section 4051, includes the retailer with respect to the first retail sale".

(D) Paragraph (6) of section 4221(d) (relating to use in further manufacture) is amended—

(i) by striking out subparagraph (B) and the last sentence,

(ii) by striking out "(other than an article referred to in subparagraph (B))" in subparagraph (A),

(iii) by redesignating subparagraph (C) as subparagraph (B), and

(iv) by adding "or" at the end of subparagraph (A).

(E) Paragraph (2) of section 4221(e) is amended—

(i) by striking out "or inner tube" each place it appears; and

(ii) by striking out "or tube" each place it appears.

(F) The heading for paragraph (2) of section 4221(e) is amended by striking out "AND TUBES".

(G) Subsection (e) of section 4221 is amended by striking out paragraphs (4), (5), and (6) and inserting in lieu thereof the following:

"(3) TIRES USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus.".

(9) Subsection (d) of section 4222 is amended by striking out "4063(a)(7), 4063(b), 4063(e)," and inserting in lieu thereof "4053(a)(6),".

(10) Paragraph (1) of section 4223(b) is amended by striking out "section 4218(e)" and inserting in lieu thereof "4218(c)".

(11) Paragraph (2) of section 4227 is amended by striking out "and tubes".

(12)(A) So much of paragraph (1) of section 6412(a) (relating to floor stock refunds) as precedes "there shall be credited or refunded" is amended to read as follows:

"(1) TIRES AND GASOLINE.—Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,".

(B) Paragraph (1) of section 6412(a) is amended by striking out the last sentence.

(C) Subparagraph (A) of section 6412(a)(2) is amended to read as follows:

"(A) The term 'dealer' includes a wholesaler, jobber, distributor, or retailer.".

(D) Subsection (c) of section 6412 is amended by striking out "4061, 4071," and inserting in lieu thereof "4071".

(13)(A) Subparagraph (C) of section 6416(b)(1) (relating to adjustment of tire price) is amended by striking out "section 4071(a) (1) or (2) or section 4071(b)" and inserting in lieu thereof "subsection (a) or (b) of section 4071".

(B) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (F) and all that follows to the end thereof and inserting in lieu thereof the following:

"(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

"(F) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064.".

(C) Paragraph (3) of section 6416(b) is amended by striking out all subparagraphs and the last sentence thereof and inserting in lieu thereof the following:

"(A) in the case of any article other than gasoline taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

"(i) another article taxable under chapter 32, or

"(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

"(B) in the case of gasoline taxable under section 4081, such gasoline is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.".

(D) Subparagraph (B) of section 6416(a)(2) is amended by striking out "or (B)".

(E) Section 6416 is amended by striking out subsections (c) and (g) and by redesignating subsections (e), (f), (h), and (i) as subsections (c), (d), (e), and (f), respectively.

(F) Subparagraph (A) of section 6416(b)(2) is amended by striking out

"(except in any case to which subsection (g) applies)".

(14) Section 6511 is amended by striking out subsection (i) and by redesignating subsection (j) as subsection (i).

(15) Paragraph (3) of section 9502(b) is amended by striking out "under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of types used on aircraft" and inserting in lieu thereof "under section 4071 with respect to tires of the types used on aircraft".

(16) Sections 1366(f)(1) and 6401(b) are each amended by striking out ", special fuels, and lubricating oil" and inserting in lieu thereof "and special fuels".

SEC. 636. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provisions of the Highway Revenue Act of 1982 to which such amendment relates.

Subtitle D—Amendments to Other Laws

PART I—CHANGES IN OASDI, PUBLIC ASSISTANCE, AND RELATED PROVISIONS OF THE SOCIAL SECURITY ACT

SEC. 641. CHANGES IN TITLE II OF THE SOCIAL SECURITY ACT NECESSITATED BY THE 1983 AMENDMENTS.

(a) Section 201(l)(3)(B)(i) of the Social Security Act (as added by section 142(a)(3)(B) of the Social Security Amendments of 1983 (in this part referred to as the "1983 Amendments")) is amended by inserting "Insurance" after "Survivors".

(b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section, as amended by section 301(a)(2)(C) of the 1983 Amendments)—

(A) by striking out all that follows "has attained" and precedes ", the first month" in clause (i) and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(B) by striking out all that follows "has not attained" and precedes ", or" in clause (ii)(I) and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(C) by striking out "to which" in the matter following clause (ii) and inserting in lieu thereof "in which".

(2) Section 202(c)(5)(A) of such Act (as added by section 301(a)(5) of the 1983 Amendments) is amended by striking out "classes (i) and (ii)" and inserting in lieu thereof "clauses (i) and (ii)".

(c)(1) Section 202(e)(2)(A) of such Act (as amended by section 133(a)(1)(B) of the 1983 Amendments) is amended by striking out all that follows "subsection (q)," and precedes "subparagraph (D) of this paragraph" and inserting in lieu thereof "paragraph (7) of this subsection, and".

(2) Section 202(e)(2)(C) of such Act (as designated and amended by section 133(a)(1)(B) of the 1983 Amendments) is amended—

(A) by striking out the period immediately after "deceased individual"; and

(B) by inserting a closing parenthesis after "paragraph (3) of such subsection (w)".

(3) Paragraph (7) of section 202(e) of such Act (as redesignated by section 131(a)(3)(A) of the 1983 Amendments) is amended by striking out "paragraph (2)(B)," and inserting in lieu thereof "paragraph (2)(D),".

(d)(1) Section 202(f)(1)(C)(ii) of such Act (as added by section 306(g) of the 1983 Amendments) is amended by striking out all that follows "attained" and precedes ", and" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

(2) Section 202(f)(2)(A) of such Act is amended by striking out "paragraph (3)(B)," and inserting in lieu thereof "paragraph (3)(D),".

(3) Section 202(f)(3)(C) of such Act (as designated and amended by section 133(b)(1)(B) of the 1983 Amendments) is amended by striking out the period immediately after "deceased individual".

(e) Section 202(q)(9)(B)(i) of such Act (as amended by section 201(b)(1) of the 1983 Amendments) is amended by striking out "section 216(a)" and inserting in lieu thereof "section 216(l)".

(f) Section 202(x) of such Act (as added by section 339(a) of the 1983 Amendments) is amended by adding at the beginning thereof the following heading:

"Limitation on Payments to Prisoners".

(g)(1) Section 203(d) of such Act (as amended by sections 132(b)(2) and 309(h) of the 1983 Amendments) is amended—

(A) by striking out "on seven or more different calendar days of which he engaged" in paragraph (1)(A) and inserting in lieu thereof "for more than forty-five hours of which such individual engaged"; and

(B) by striking out "on seven or more different calendar days" in paragraph (2) and inserting in lieu thereof "for more than forty-five hours".

(2) The amendments made by paragraph (1) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted.

(h) Section 205(r) of such Act (as added by section 336 of the 1983 Amendments) is amended—

(1) by striking out "(r)(3)(A) and (r)(3)(B)" in paragraph (4) and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (3)";

(2) by striking out "the Act" in paragraph (7) and inserting in lieu thereof "this Act"; and

(3) by striking out the heading and inserting in lieu thereof the following:

"Use of Death Certificates to Correct Program Information".

(i)(1) Section 209(e) of such Act (as amended by section 324(c)(2) of the 1983 Amendments) is amended by striking out the semicolon after "Act of 1974".

(2) Section 209 of such Act is further amended by striking out "section 414(h)(2) of such Code" in the material added by section 324(c)(1) of the 1983 Amendments and inserting in lieu thereof "section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)".

(j)(1) Section 210(a) of such Act (as amended by sections 321(b) and 322(a)(1)(B) of the 1983 Amendments), in the matter preceding paragraph (1), is amended by striking out the matter which follows "such affiliate" and precedes "or (C)" and the matter which follows "section 233" and precedes "except", and by inserting in lieu thereof a comma and a semicolon, respectively.

(2) Section 210(a)(5)(B) of such Act (as amended by section 101(a)(1) of the 1983 Amendments) is amended to read as follows:

"(B) is performed by an individual who—

"(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

"(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

"(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

"(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute of Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

"(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

"(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

(3) Section 210(a)(5)(v) of such Act (as so amended) is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service—

"(I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

"(II) is performed by an individual who was subject to subchapter III of chapter 83 of such title 5, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, but who—

"(a) commenced the performance of such service in the legislative branch after that date, or

"(b) was separated from service in the legislative branch after that date and has returned to the performance of such service,

unless such individual becomes subject to such subchapter III within 45 days after the effective date of such commencement or return (or, if later, within 45 days after the date of the enactment of this subclause), or remains subject to such other retirement system, and unless (in the case of a separation and return described in subdivision (b)) the period of the separation was less than 366 consecutive days;

and for purposes of this clause (v) an individual is subject to such subchapter III or to any such other retirement system at any time only if (1) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (2) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

(4) The amendments made by paragraphs (2) and (3) shall be effective with respect to service performed after December 31, 1983.

(k)(1) Section 215(a)(7)(B)(ii)(I) of such Act (as added by section 113(a) of the 1983 Amendments) is amended by striking out "who initially become eligible for old-age or disability insurance benefits" and inserting in lieu thereof "who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)".

(2) Section 215(a)(7)(C)(ii) of such Act (as so added) is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

(3) Section 215(f)(9)(B)(i) of such Act (as added by section 113(c) of the 1983 Amendments) is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

(4) Section 215(i)(5)(A) of such Act (as added by section 112(c) of the 1983 Amendments) is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.".

(5) Section 215(i)(5)(B) of such Act (as so added) is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent),";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

(l)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month in which he becomes divorced.".

(2) Section 216(h)(3)(A)(i) of such Act (as amended by section 201(c)(1)(D) of the 1983 Amendments (after the application of section 642(b)(1) of this Act)) is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

(3) Section 216(i)(2) of such Act (as amended by section 201(c)(1)(D) of the 1983 Amendments (after the application of section 642(b)(1) of this Act)) is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

(m) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) (as added by section 332(b)(2) of the 1983 Amendments) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

(n) Section 229(b) of such Act (as amended by section 151(b)(1) of the 1983 Amendments) is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred.".

SEC. 642. CHANGES IN TEXT OF THE 1983 AMENDMENTS.

(a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "remuneration paid" and inserting in lieu thereof "service performed".

(b) Section 112(f) of such Amendments is amended by inserting "of such Act" after "section 201(a)".

(c) Section 201(c) of such Amendments is amended—

(1) by inserting "the" immediately before "age of 65" in paragraph (1); and

(2) by inserting "the" immediately before "age of sixty-five" in paragraph (3).

(d) Section 301(a)(5) of such Amendments is amended by striking out "Section 202(c)" and inserting in lieu thereof "Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)".

(e) Section 305(d)(2) of such Amendments is amended by inserting "each place it appears" immediately before "in subsection (c)(4)(C)".

(f)(1) Section 422A(c)(9) of the Internal Revenue Code of 1954 (relating to special rule when disabled) is amended by striking out "section 105(d)(4)" and inserting in lieu thereof "section 37(e)(3)".

(2)(A) Section 324(d)(1) of the Social Security Amendments of 1983 is amended by adding at the end thereof the following new sentence: "For purposes of applying such amendments to remuneration paid after December 31, 1983, which would have been taken into account before January 1, 1984, if such amendments had applied to periods before January 1, 1984, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).".

(B) Section 324(d)(2) of such Amendments is amended by adding at the end thereof the following new sentence: "For purposes of applying such amendments to remuneration paid after December 31, 1984, which would have been taken into account before January 1, 1985, if such amendments had applied to periods before January 1, 1985, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).".

(C) Section 324(d)(4) of such Amendments is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, any plan or agreement to make payments described in paragraph (2), (3), or (13)(A)(iii) of section 3121(a) of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as a nonqualified deferred compensation plan.".

(g) Section 327(d) of such Amendments (relating to codification of Rowan decision with respect to meals and lodging) is amended to read as follows:

"(d)(1) The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1983.

"(2) The amendments made by subsection (b) and subsection (c)(4) shall apply to remuneration (other than amounts excluded under section 119 of the Internal Revenue Code of 1954) paid after March 4, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid.

"(3) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to remuneration paid after December 31, 1984.".

(h)(1) The second sentence of section 338(b)(3) of such amendments is amended to read as follows: "Each member of the Panel shall be allowed travel and related expenses which shall be subject to the same regulations and limitations (insofar as they are applicable) as those which the Senate Committee on Rules and Administration prescribes for application to travel and related expenses for which payment is authorized to be made from the contingent fund of the Senate.".

(2) Section 338(b) of such amendments is further amended by adding at the end thereof the following new paragraph:

"(6) The provisions of section 8344 of title 5, United States Code, shall not apply to service by an individual as a member of the Panel.".

(3) The amendments made by this subsection shall take effect on January 1, 1984.

(i) Section 339(b) of such amendments is amended to read as follows:

"(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

" '(h) For provisions relating to limitation on payments to prisoners, see section 202(x).'.".

(j) Section 111(e) of such Amendments is amended by inserting "Budget" before "Reconciliation".

SEC. 643. OTHER TECHNICAL CORRECTIONS IN THE SOCIAL SECURITY ACT AND RELATED PROVISIONS.

(a)(1)(A) The fourth sentence of section 201(d) of the Social Security Act is amended—

(i) by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code,"; and

(ii) by striking out "public-debt obligation" and inserting in lieu thereof "public-debt obligations".

(B) Section 201(g)(1)(B) of such Act is amended by striking out "clauses" in the first sentence and inserting in lieu thereof "clause".

(2)(A)(i) Section 202(d)(1) of such Act, in clause (ii) in the matter which follows subparagraph (C) and precedes subparagraph (D), is amended by striking out "paragraphs" and "paragraph" and inserting in lieu thereof "subparagraphs" and "subparagraph", respectively.

(ii) Section 202(d)(1)(G) of such Act is amended—

(I) by striking out the comma after "age of 18";

(II) by striking out "the age of 22," and inserting in lieu thereof "the age of 22—";

(III) by striking out ", or, subject to section 223(e), the termination month (and for purposes" and inserting in lieu thereof the following:

"(i) the termination month, subject to section 223(e) (and for purposes";

(IV) by striking out "after the 15 months" and all that follows down through "such earlier month." and inserting in lieu thereof the following:

"after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity),

or (if later) the earlier of—

"(ii) the first month during no part of which he is a full-time elementary or secondary school student, or

"(iii) the month in which he attains the age of 19,

but only if he was not under a disability (as so defined) in such earlier month."; and

(V) by indenting all of clause (i) (as designated and amended by the preceding provisions of this subparagraph) four ems, so as to align its left margin with the margins of clauses (ii) and (iii) (as so designated).

(iii) The second sentence of section 202(d)(7)(A) of such Act is amended by striking out "the date of the enactment of this paragraph" and inserting in lieu thereof "the effective date of this sentence".

(B) Section 202(e)(1) of such Act is amended—

(i) by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii); and

(ii) by striking out "he engages" in the last sentence and inserting in lieu thereof "she engages".

(C) Section 202(f)(1) of such Act is amended by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii).

(D) Section 202(f)(3)(D)(i) of such Act is amended by striking out the semicolon after "applicable,".

(E) Section 2202(a)(1)(B) of Public Law 97-35 is amended by striking out "as".

(F)(i) Section 202(q)(3)(G) of the Social Security Act is amended by striking out "as if the period" and inserting in lieu thereof "if the period".

(ii) Section 202(q)(7)(E) of such Act is amended by striking out "he attained retirement age" and inserting in lieu thereof "she or he attained retirement age".

(G) Section 202(t)(4)(E) of such Act is amended—

(i) by inserting "of 1937 or 1974" after "Railroad Retirement Act" where it first appears; and

(ii) by inserting before the semicolon at the end thereof the following: "of 1937 or section 18(2) of the Railroad Retirement Act of 1974".

(H) Section 202(u)(1)(B) of such Act is amended by striking out ", 112, or 113".

(3)(A) Section 203(a)(8) of such Act is amended by adding a period at the end thereof.

(B) Section 203(d)(2) of such Act is amended by striking out "an individual who is entitled" and inserting in lieu thereof "an individual under the age of seventy who is entitled".

(C) Section 203(f)(5)(B)(ii) of such Act is amended by striking out "702(a)(9)" and inserting in lieu thereof "702(a)(8)".

(D) Section 203(f)(8) of such Act is amended by indenting subparagraphs (B) and (C) two additional ems (for a total indentation of four ems) so as to align their left margins with the margins of subparagraphs (A) and (D).

(4)(A) Section 205(c)(5)(D) of such Act is amended by inserting "of 1937 or 1974" after "Railroad Retirement Act" each place it appears.

(B) Section 205(c)(5)(I) of such Act is amended by inserting before the semicolon at the end thereof the following: "or section 7(b)(7) of the Railroad Retirement Act of 1974".

(C) Section 205(e) of such Act is amended by striking out "on order" and inserting in lieu thereof "an order".

(D) Section 205(h) of such Act is amended by striking out "section 24 of the Judicial Code of the United States" and inserting in lieu thereof "section 1331 or 1346 of title 28, United States Code,".

(E) Section 205(i) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury,".

(F) Section 205(p)(1) of such Act is amended by striking out "section 1420(e) of the Internal Revenue Code" and inserting in lieu thereof "section 3122 of the Internal Revenue Code of 1954".

(5) Section 208 of such Act is amended by indenting paragraphs (f) through (h) two ems so as to align their left margins with the margins of paragraphs (a) through (e) (and by appropriately further indenting subdivisions (1), (2), and (3) of paragraph (g)).

(6)(A) Section 209 of such Act is amended—

(i) by indenting paragraphs (5) through (9) of subsection (a) two ems so as to align their left margins with the margins of the preceding paragraphs of such subsection;

(ii) by striking out "(p) Remuneration" and inserting in lieu thereof "(p)(1) Remuneration";

(iii) by striking out the period at the end of paragraph (p)(1) as redesignated by clause (ii) of this subparagraph and inserting in lieu thereof a semicolon;

(iv) by striking out "(p) Any contribution" and inserting in lieu thereof "(2) Any contribution"; and

(v) by indenting subsections (e), (f), and (k) through (r) two ems so as to align their left margins with the margins of subsections (a) through (d) and subsections (g), (h), and (j) (appropriately further indenting paragraphs (1) and (2) of subsection (f) and paragraphs (1) and (2) of subsection (m)).

(B) The seventh paragraph from the end of section 209 of such Act (relating to remuneration for service performed as a member of a uniformed service) is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

(7)(A) Section 210(a)(1) of such Act is amended by striking out "(A)" and all that follows down through "or (B)".

(B) Section 210(a)(7) of such Act is amended by indenting subparagraph (D) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of subparagraphs (A) through (C).

(C) Section 210(a)(9) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(D) Section 210(a)(19) of such Act is amended by striking out the comma after "; or".

(E) Section 210(l)(2) of such Act is amended—

(i) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(ii) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(F) Section 210(l)(3) of such Act is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(G) Section 210(m) of such Act is amended—

(i) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(ii) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;

(iii) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(iv) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

(8)(A) Section 211(a) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "such chapter", and "section 183 of such code" in the matter preceding paragraph (1) and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "such subtitle", and "section 702(a)(8) of such Code", respectively.

(B) Section 211(a)(3) of such Act is amended—

(i) by striking out "chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954"; and

(ii) by inserting "or" before "(C)".

(C) Section 211(a)(4) of such Act is amended by striking out "section 23(s) of such code" and inserting in lieu thereof "section 172 of the Internal Revenue Code of 1954".

(D) Section 211(a) of such Act is further amended by striking out "702(a)(9)" in clauses (iii) and (iv) (in the matter following paragraph (12)) and inserting in lieu thereof in each instance "702(a)(8)".

(E) Section 211(b)(1) of such Act is amended by indenting subparagraphs (D), (G), (H), and (I) an additional two ems (for a total indentation of four ems) so as to

align their left margins with the margins of the other subparagraphs of such section.

(F) Section 211(c) of such Act is amended by striking out "section 23 of the Internal Revenue Code" and inserting in lieu thereof "section 162 of the Internal Revenue Code of 1954".

(G) Section 211(c)(3) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(H) Section 211(d) of such Act is amended by striking out "supplement F of chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subchapter K of chapter 1 of the Internal Revenue Code of 1954".

(I) Section 211(e) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "chapter 1 of such code", and "such chapter 1" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "subtitle A of such Code", and "such subtitle A", respectively.

(9)(A) Section 213(a)(1) of such Act is amended by striking out "means" and inserting in lieu thereof "mean".

(B) Section 213(a)(2)(B)(ii) of such Act is amended by striking out "equal to $3,000" and inserting in lieu thereof "equal $3,000".

(10)(A) Section 215(a)(1) of such Act is amended—

(i) by striking out "of such benefits" in subparagraph (B)(i) and inserting in lieu thereof "for such benefits";

(ii) by striking out "amounts" in subparagraph (B)(iii) and inserting in lieu thereof "amount"; and

(iii) by striking out "scetion 217" in subparagraph (C)(ii) and inserting in lieu thereof "section 217".

(B) Section 215(a)(4) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A) (and by appropriately further indenting clauses (i) and (ii) of such subparagraph (B)).

(C) Section 215(f)(2)(A) of such Act is amended by striking out "primary insurance account" and inserting in lieu thereof "primary insurance amount".

(D) Section 215(h) of such Act is amended—

(i) by adding at the beginning thereof the following heading:

"Service of Certain Public Health Service Officers";

and

(ii) by striking out "Civil Service Commission" in paragraph (1) and inserting in lieu thereof "Director of the Office of Personnel Management".

(E) Section 215 of such Act is further amended—

(i) by striking out "he" each place it appears in subsections (a)(2)(B)(i), (a)(3)(B)(i), (a)(4)(A), (b)(2)(A) (second sentence), (b)(3)(A)(ii)(I), (b)(4), and (f)(2)(D)(ii), and the first place it appears in subsection (f)(2)(A), and inserting in lieu thereof "he or she";

(ii) by striking out "his" each place it appears in subsections (a)(3)(B)(ii), (b)(1)(A), and (b)(2)(B)(ii)(II) and inserting in lieu thereof "his or her";

(iii) by striking out "him" in subsections (d)(1)(C) and (e)(1) and inserting in lieu thereof "such individual"; and

(iv) by striking out "he" the second place it appears in subsection (f)(2)(A) and inserting in lieu thereof "the Secretary".

(11)(A) Section 2203(d)(4) of Public Law 97-35 is amended by inserting after "at the end of paragraph (3)" the following: "(after and below subparagraph (C)(ii))".

(B) Section 216(i)(2)(F)(ii) of the Social Security Act is amended by striking out "enacted," in the matter immediately preceding subdivision (I) and inserting in lieu thereof "enacted—".

(12)(A) Section 217(d) of such Act is amended by indenting paragraphs (1) and (2) two ems.

(B) Section 217(e)(1) of such Act is amended by inserting ", National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the last sentence.

(C) Section 217(f)(1) of such Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management".

(13) Section 218(i) of such Act is amended by striking out "subchapter A or E of chapter 9 of the Internal Revenue Code" and inserting in lieu thereof "chapter 21 and subtitle F of the Internal Revenue Code of 1954".

(14) Section 221(e) of such Act is amended by striking out "Federal Disability Trust Fund is charged" and inserting in lieu thereof "Federal Disability Insurance Trust Fund is charged".

(15)(A) Subsections (a) and (b)(1) of section 222 of such Act are amended by striking out "the Vocational Rehabilitation Act" each place it appears and inserting in lieu thereof "title I of the Rehabilitation Act of 1973".

(B) Section 222(b)(3) of such Act is amended by striking out "equal" and inserting in lieu thereof "equals".

(C) Section 222(b)(4) of such Act is amended by striking out "full-time student" and inserting in lieu thereof "full-time elementary or secondary school student".

(16)(A) Section 223(d)(2)(A) of such Act is amended by striking out "an individual" and inserting in lieu thereof "An individual".

(B)(i) Section 223 of such Act is further amended by striking out "he" each place the term appears (except in subsection (c)(1)(B)(iii)) and inserting in lieu thereof—

(I) "such individual" in subsections (a)(1) (the first, second, fourth, sixth, and seventh places it appears in the first sentence, and in the second, third, and fourth sentences), (a)(2) (the first, third, and fourth places it appears in the first sentence, and in the second sentence), (c)(1)(A) (the first place it appears), (c)(1)(B)(i), (c)(1)(B)(ii) (the first place it appears), (c)(2)(B) (the first place it appears), (d)(1)(B), (d)(2)(A) (the second and third places it appears), (e), and (g)(2)(A); and

(II) "he or she" in subsections (a)(1) (the third and fifth places it appears), (a)(2) (the second and fifth places it appears), (b), (c)(1)(A) (the second place it appears), (c)(1)(B)(ii) (the second place it appears), (c)(2)(B) (the second place it appears), (d)(2)(A) (the first and fourth places it appears), and (d)(5).

(ii) Section 223 of such Act is further amended by striking out "his" each place the term appears (except in subsection (d)(2)(B)) and inserting in lieu thereof—

(I) "such individual's" in subsections (d)(2)(A) (the first place it appears) and (d)(4) (the second place it appears); and

(II) "his or her" in subsections (a)(1), (a)(2), (d)(2)(A) (the second place it appears), (d)(4) (the first and third places it appears), (e), and (g)(2).

(iii) Section 223 of such Act is further amended by striking out "him" each place the term appears and inserting in lieu thereof—

(I) "such individual" in subsections (d)(2)(A) and (d)(4) (the second place it appears); and

(II) "him or her" in subsection (d)(4) (the first place it appears).

(17) Section 226(b) of such Act is amended (in the matter following paragraph (2)(C)) by striking out "part (A)" and inserting in lieu thereof "part A".

(18) The last sentence of section 230(c) of such Act is amended by striking out "(3)(f)(3)" and inserting in lieu thereof "3(f)(3)".

(b)(1) Section 302(b) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury".

(2) Section 303(a)(4) of such Act is amended by striking out "1606(b)" and inserting in lieu thereof "3305(b)".

(3) Section 303(a)(5) of such Act (as amended by the 1983 Amendments) is amended—

(A) by striking out "1606(b)" and inserting in lieu thereof "3305(b)"; and

(B) by striking out the punctuation mark immediately before the last proviso and inserting in lieu thereof a colon.

(4) Section 303(c) of such Act is amended by striking out "That" in paragraphs (1) and (2) and inserting in lieu thereof "that".

(5) Section 303(e)(2)(A)(i) of such Act is amended by striking out "child support obligatons" and inserting in lieu thereof "child support obligations".

(c)(1)(A) Section 402(a)(9) of such Act is amended by striking out "use of disclosure" and inserting in lieu thereof "use or disclosure".

(B) Section 402(a)(14) of such Act is amended by striking out "(A) provide that" and inserting in lieu thereof "provide (A) that".

(C) Section 402(a)(19)(F)(i) of such Act is amended by striking out "or section 408" and inserting in lieu thereof "or section 472".

(D) Section 402(a)(19)(G) of such Act is amended by striking out the comma before "that" in clause (iv).

(E) Section 402(a) of such Act is further amended—

(i) by striking out "must" immediately before the first of its 36 numbered subdivisions and inserting in lieu thereof "must—";

(ii) by indenting and aligning such numbered subdivisions (without altering any of the numbering, language, or punctuation) to the extent necessary to make each of such subdivisions a numbered paragraph with its left margin indented two ems (and with any designated internal subdivisions within such paragraphs (including the numbered subdivisions in subparagraphs (A) and (B) of paragraph (8) and in subparagraph (A) of paragraph (14) but not including such subparagraphs themselves, and not including any of the subdivisions in paragraphs (9), (10), (15), (19)(G), (25), (30), (31), (33), and (36)) being appropriately further indented and aligned as subparagraphs or clauses);

(iii) by striking out "and" after the semicolon at the end of paragraph (5);

(iv) by striking out "clause" each place it appears in paragraphs (15)(A), (15)(B), and (19)(F) and inserting in lieu thereof "paragraph"; and

(v) by striking out "section 402(a)(7)" in paragraph (19)(D) and inserting in lieu thereof "paragraph (7)".

(F) Section 402(c) of such Act is amended by striking out "clause" each place it ap-

pears and inserting in lieu thereof "paragraph".

(2)(A) Section 403(b)(3) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury".

(B) Clause (ii) in the last sentence of section 403(j) of such Act is amended by striking out the comma after "excess payments".

(3)(A) Section 406(b)(2) of such Act is amended by adding "and" after the semicolon at the end of clause (C), by striking out clause (D), and by redesignating clause (E) as clause (D).

(B)(i) The last sentence of section 406(b) of such Act, and section 402(a)(19)(F)(i) of such Act, are each amended by striking out "clauses (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

(ii) Section 402(a)(26)(B) of such Act is amended by striking out "subparagraphs (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

(4)(A) Section 407(b)(1)(C) of such Act is amended by striking out "such father", and "he" each place it appears, and by inserting in lieu thereof in each instance "such parent".

(B) Section 407(b)(2)(A) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "30 days".

(5) Section 409(a) of such Act is amended—

(A) by striking out "vacanies" in paragraph (1)(B) and inserting in lieu thereof "vacancies"; and

(B) by striking out "part (C)" in paragraph (3) and inserting in lieu thereof "part C".

(6) Section 410 of such Act is amended by striking out "Food Stamp Act of 1964" in subsections (a) and (c) and inserting in lieu thereof "Food Stamp Act of 1977".

(7)(A) Section 414(b)(5) of such Act is amended by striking out "receipients" and inserting in lieu thereof "recipients".

(B) Section 415(b)(1)(B)(ii) of such Act is amended by striking out "determinig" and inserting in lieu thereof "determining".

(8) Section 420(b) of such Act is amended by striking out the comma immediately after "preceding sentence".

(9) Section 441 of such Act is amended by striking out "(a)".

(10) Section 444(d) of such Act is amended by striking out "rereferred" and inserting in lieu thereof "referred".

(11) Section 445(b)(1)(E) of such Act is amended by striking out "Comprehensive Employment and Training Act of 1973" and inserting in lieu thereof "Job Training Partnership Act".

(12) The second sentence of section 452(c)(2) of such Act is amended by striking out "preceding section" and inserting in lieu thereof "preceding sentence".

(13) Section 453(b)(2) of such Act is amended by striking out ", or the United States" and inserting in lieu thereof "of the United States".

(14) Section 454 of such Act is amended—

(A) by striking out "of such parent" in paragraph (9)(C);

(B) by striking out "collection and distribution," in clause (A)(ii) of paragraph (16) and inserting in lieu thereof "collection, and distribution"; and

(C) by indenting paragraph (17) two ems so as to align its left margin with the margins of the preceding paragraphs, and amending such paragraph (as so indented)—

(i) by striking out "to accept" and inserting in lieu thereof "provide that the State will accept",

(ii) by striking out " and to impose" and inserting in lieu thereof "will impose",

(iii) by striking out "to transmit" and inserting in lieu thereof "will transmit", and

(iv) by striking out ", otherwise to comply" and inserting in lieu thereof "will otherwise comply".

(15) Section 456 of such Act is amended—

(A) by inserting "(1)" after "SEC. 456. (a)";

(B) by striking out "(1) The amount" and inserting in lieu thereof "(2) The amount";

(C) by striking out "(2) Any" and inserting in lieu thereof "(3) Any"; and

(D) by striking out "paragraphs (1)(A) and (B)" and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (2)".

(16) The heading of section 458 of such Act is amended by striking out "STATES" and inserting in lieu thereof "states".

(17) Section 462(f)(2) of such Act is amended by striking out "dependents" and inserting in lieu thereof "dependents' ".

(18)(A) Section 474(b)(4)(A) of such Act is amended by striking out "subparagraph (c)" and inserting in lieu thereof "subparagraph (C)".

(B) Section 474(c)(2) of such Act is amended by striking out "relvant" and inserting in lieu thereof "relevant".

(C) Section 474(d)(1) of such Act is amended—

(i) by striking out "and (c)" the second place it appears and inserting in lieu thereof "and (C)"; and

(ii) by striking out "secretary" and inserting in lieu thereof "Secretary".

(d)(1) Section 901(c) of such Act is amended by aligning paragraphs (1) through (4) (including the subparagraphs in paragraph (3)) flush with the left margin (but with appropriate indentation in the case of the subparagraphs and clauses in paragraph (1)).

(2) Section 901(f) of such Act is amended by moving paragraph (3) two ems to the left, so that its left margin is in flush alignment with the margins of the other paragraphs in such section.

(3) Section 904(b) of such Act is amended by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code,".

(4) Section 908(d) of such Act is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

(e)(1)(A) Subparagraphs (C) and (D) of section 1101(a)(8) of such Act are amended by indenting them 4 ems so as to align their left margin with the left margin of subparagraphs (A) and (B) of such section.

(B) Paragraph (9) of section 1101(a) of such Act is amended by indenting it (including subparagraphs (A) through (D) and clauses (i) and (ii) of subparagraph (C)) 4 additional ems so as to align the left margin at the beginning of such paragraph with the left margin of paragraph (8)(A) of such section.

(2)(A) Section 1107(a) of such Act is amended by striking out ", subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code,".

(B) The amendment made by subparagraph (A) shall not apply to returns filed or representations made on or before the date of the enactment of this Act.

(3) Section 1107(b) of such Act is amended—

(A) by striking out "he" each place it appears and inserting in lieu thereof "he or she"; and

(B) by striking out "former wife divorced," each place it appears and inserting in lieu thereof "divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father,".

(4)(A) Section 1114(g) of such Act is amended by striking out the period after "Code" and inserting in lieu thereof a comma.

(B) Section 1114(h)(1) of such Act is amended by striking out "sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and insert in lieu thereof "sections 203, 205, and 209 of title 18, United States Code".

(5) Section 1115(a) of such Act is amended by striking out "VI,", "602,", and "603,".

(6) Section 1116 of such Act is amended—

(A) by striking out "VI," in subsections (a)(1), (b), and (d);

(B) by striking out "604," in subsection (a)(3); and

(C) by striking out "XVI," and all that follows through "part A" in subsection (d) and inserting in lieu thereof "XVI, or XIX, or part A".

(7) Section 1131(a) of such Act is amended—

(A) by striking out the period after "section 204(d) of this Act" in paragraph (2)(B) and inserting in lieu thereof a comma; and

(B) by moving the matter following paragraph (2)(B) two ems to the left so that it is flush with the left margin.

(f) Title XIII of such Act is repealed.

(g)(1) Section 1611(c) of such Act is amended by adding at the beginning thereof the following heading:

"Period for Determination of Benefits".

(2) Section 1611(g) of such Act is amended by striking out "or individuals" and inserting in lieu thereof "or such individual".

(3) Section 1612(b)(2) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A).

(4) Section 1612(b)(9) of such Act is amended by inserting a comma after "child".

(5) The heading of section 1613(c) of such Act is amended to read as follows:

"Disposal of Resources For Less Than Fair Market Value".

(6) Section 1614(a)(3) of such Act is amended by moving subparagraph (E) two ems to the left, so that its left margin is in flush alignment with the margins of the other subparagraphs in such section.

(7) Section 1614(d)(1) of such Act is amended by striking out "man and women" and inserting in lieu thereof "man and woman".

(8) Section 1615 of such Act is amended by striking out "the Vocational Rehabilitation Act" in subsections (a), (c), and (d) and inserting in lieu thereof "title I of the Rehabilitation Act of 1973".

(9) Section 1618 of such Act is amended—

(A) by moving subsection (d) two ems to the left, so that its left margin is in flush alignment with the margins of the other subsections in such section;

(B) by striking out the comma after "levels of its" in such subsection (d); and

(C) by inserting a comma after "1980", and after "1976" each place it appears, in such subsection.

(10) Section 1621(e) of such Act is amended by striking out "severably" and inserting in lieu thereof "severally".

(11) Section 1631(b)(1) of such Act is amended by striking out "equity or" and inserting in lieu thereof "equity and".

(12) Section 1631(d)(1) of such Act is amended by striking out "(e), and (f)" and inserting in lieu thereof "and (e)".

(h)(1) Section 2002(b) of such Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503 of title 31, United States Code,".

(2) Section 2006(c) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503 of title 31, United States Code".

(i)(1) Subsection (f) of section 86 of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) section 37(c)(3)(A) (relating to reduction for amounts received as pension or annuity),".

(2) Subsection (a) of section 132 of such Code is amended by striking out paragraphs (6) and (7) and by redesignating paragraph (8) as paragraph (6).

(3) Section 3121(b)(1) of such Code is amended by striking out "(A)" and all that follows down through "or (B)".

(4)(A) Section 3121(b)(5)(B) of such Code (as amended by section 101(b)(1) of the 1983 Amendments) is amended to read as follows:

"(B) is performed by an individual who—

"(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

"(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

"(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

"(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute in Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

"(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

"(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed service);".

(B) Section 3121(b)(5)(v) of such Code (as so amended) is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service—

"(I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

"(II) is performed by an individual who was subject to subchapter III of chapter 83 of such title 5, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, but who—

"(a) commenced the performance of such service in the legislative branch after that date, or

"(b) was separated from service in the legislative branch after that date and has returned to the performance of such service,

unless such individual becomes subject to such subchapter III within 45 days after the effective date of such commencement or return (or, if later, within 45 days after the date of the enactment of this subclause), or remains subject to such other retirement system, and unless (in the case of a separation and return described in subdivision (b)) the period of the separation was less than 366 consecutive days;

and for purposes of this clause (v) an individual is subject to such subchapter III or to any such other retirement system at any time only if (1) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (2) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

(C) The amendments made by subparagraphs (A) and (B) shall be effective with respect to service performed after December 31, 1983.

(5) Section 3121(i)(2) of such Code is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

(6) Section 3121(m)(2) of such Code is amended—

(A) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(B) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(7) Section 3121(m)(3) of such Code is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(8) Section 3121(n) of such Code is amended—

(A) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(B) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;

(C) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(D) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

(9) Effective January 1, 1984, subparagraph (B) of section 3121(v)(1) of such Code is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).".

(10) Effective January 1, 1985, subparagraph (B) of section 3306(r)(1) of such Code is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).".

(11) Section 6334(c) of such Code is amended by inserting "(including section 207 of the Social Security Act)" immediately after "any other law of the United States".

(j)(1) Section 1101(a)(6) of the Social Security Act is amended by striking out "means" and all that follows and inserting in lieu thereof "means the Secretary of Health and Human Services.".

(2) The following provisions of such Act are amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Human Services":

(A) In title II—

(i) subsections (a)(3), (a)(4), (b)(1), (b)(2), (g)(1), (g)(2), (g)(4), and (i)(1) of section 201;

(ii) subsections (q)(4)(B), (q)(6)(B), and (r)(1) of section 218; and

(iii) subsections (b)(3) and (b)(4) of section 231;

(B) in title IV—

(i) subsections (b)(2) and (b)(3) of section 403;

(ii) subsection (a) of section 431;

(iii) subsection (b) of section 436;

(iv) section 439;

(v) section 441;

(vi) section 443;

(vii) subsection (a) of section 444;

(viii) subsection (a) of section 452;

(ix) subsection (b)(1) of section 453;

(x) paragraph (8)(B) of section 454; and

(xi) section 460;

(C) in title VII—

(i) section 702; and

(ii) subsection (c)(1) of section 706;

(D) in title XI—

(i) section 1102;

(ii) subsection (b) of section 1106;

(iii) subsection (b) of section 1107;
(iv) subsection (c) of section 1114;
(v) section 1120; and
(vi) subsection (a) of section 1126;
(E) in title XVI, section 1602; and
(F) in title XVIII—
(i) subsections (a), (f)(1), (g), and (h) of section 1817;
(ii) subsections (a)(2) and (d)(1) of section 1840;
(iii) subsections (f), (g), (h), and (i) of section 1841; and
(iv) subsection (b)(3) of section 1842.

(3) The following provisions of such Act are amended by striking out "of Health, Education, and Welfare" wherever it appears:

(A) In title II—
(i) subsections (a)(10)(B) and (l)(4)(A) of section 210;
(ii) subsections (a)(2), (a)(3), (b)(2), (e)(2), (e)(3), and (f)(1) of section 217;
(iii) subsections (a)(1), (c)(4), (d)(3), (d)(7), (h)(2), (h)(3), (i), (j), (k)(1), (l), and (p)(2) of section 218;
(iv) subsection (g) of section 228; and
(v) subsection (d) of section 233;
(B) in title IV—
(i) subsection (a)(3) of section 403; and
(ii) subsection (e) of section 407; and
(C) in title XIX, section 1901.

(4) Section 205(l) of such Act is amended by striking out "employee" and all that follows down through "designated" and inserting in lieu thereof "employee of the Department of Health and Human Services designated".

(5) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services":

(A) Subsection (d)(6)(B)(ii) of section 51;
(B) subsections (c)(1), (c)(2)(E), (g)(1), (g)(3)(A), and (g)(3)(B) of section 1402;
(C) subsection (b)(10)(B) of section 3121;
(D) subsections (d) and (f) of section 6057;
(E) subsection (l)(5) of section 6103; and
(F) paragraph (5) of section 6511(d).

(k) Sections 432(d), 432(f)(1), 433(g), and 434(b) of the Social Security Act are each amended by striking out "of Labor" wherever it appears.

(l) Any reference to the Federal Security Administrator which may remain in the provisions of title II, IV, VII, or XI of the Social Security Act (other than section 1101(a)(6) of such Act) is amended—

(1) by substituting "Secretary" or "Secretary's" for the term "Administrator" or "Administrator's", where the reference is to that term alone;

(2) by substituting "Secretary of Health, Education, and Welfare" for the term "Federal Security Administrator", where the reference is to that term, if the provision containing such reference is amended by paragraph (2) or (3) of subsection (j) (in which case the amendment of such provision under this paragraph shall be deemed to have taken effect immediately prior to the amendment of such provision under such paragraph (2) or (3)); and

(3) by substituting "Secretary of Health and Human Services" for the term "Federal Security Administrator" in any other case where the reference is to that term;

but nothing in this subsection shall affect the exercise under section 402(a)(5) of such Act of the functions, powers, and duties relating to the prescription of personnel standards on a merit basis which were transferred from the Secretary of Health, Education, and Welfare by section 208(a)(3)(D) of Public Law 91-648.

SEC. 644. EFFECTIVE DATES.

(a) Except as otherwise specifically provided, the amendments made by sections 641 and 642 shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

(b) Except to the extent otherwise specifically provided in this subtitle, the amendments made by section 643 shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.

PART II—CHANGES IN MEDICARE-RELATED PROVISIONS OF THE SOCIAL SECURITY ACT

SEC. 646. CHANGES IN MEDICARE PROVISIONS RELATING TO THE 1983 AMENDMENTS.

(a)(1) Section 1866(a)(1)(F) of the Social Security Act is amended by inserting "a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located as of July 1, 1983) or" before "a utilization and quality control".

(2) The amendment made by paragraph (1) shall take effect on the sixtieth day following the date of the enactment of this Act.

(b)(1) Section 1886(d)(1) of such Act is amended—

(A) by striking out ", or discharges occurring" in subparagraph (C), and

(B) by striking out "cost reporting periods beginning, or" in subparagraph (D).

(2) Section 1886(c)(4)(A) of such Act is amended by striking out "and (D)" and inserting in lieu thereof "(D) and (E)".

(3) Section 1886(e)(5) of such Act is amended—

(A) by striking out "for public comment" in the matter before subparagraph (A), and

(B) by inserting "for public comment" in subparagraph (A) after "that fiscal year,".

(4) Section 1866(a)(1)(F) of such Act (as added by section 602(f)(1)(C) of the Social Security Amendments of 1983 (in this part referred to as the "1983 Amendments") is amended by striking out "(c) or (d)" and inserting in lieu thereof "(b), (c), or (d)".

(5)(A) The last sentence of section 1878(f)(1) of such Act is amended by inserting "or which have obtained a hearing under subsection (b)" after "common ownership or control".

(B) The amendment made by subparagraph (A) shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

(6) Section 1818(c) of such Act is amended by striking out "subsection (a) of section 1839" and inserting in lieu thereof "subsection (b) of section 1839".

(c)(1) Section 1817(a) of the Social Security Act (as amended by section 141(b) of the 1983 Amendments) is amended—

(A) by striking out "monthly on the first day of each calendar month" in the next to last sentence and inserting in lieu thereof "from time to time",

(B) by striking out "to be paid to or deposited into the Treasury during such month" in such sentence and inserting in lieu thereof "paid to or deposited into the Treasury", and

(C) by striking out the last sentence.

(2) The amendments made by paragraph (1) shall become effective on the first day of the month following the month in which this Act is enacted.

(d)(1) Section 602(h)(2) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding section 604(a)(1), the amendments made by this paragraph shall be effective with respect to any appeal or action brought on or after the date of the enactment of the Tax Reform Act of 1984.".

(2) Section 604(c) of such Amendments is amended by adding at the end the following new paragraph:

"(4) The Secretary shall cause to be published in the Federal Register proposed regulations to carry out subsection (c) of section 1886 of the Social Security Act (as amended by this title) no later than May 1, 1984, and allow for a period of 45 days for public comment thereon. After consideration of the comments received, the Secretary shall cause to be published in the Federal Register final regulations to carry out such subsection not later than August 1, 1984.".

(e) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

SEC. 647. ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING AGED PROVISION.

(a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: ", but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment".

(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

"(i)(1) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

"(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period,

there shall be a special enrollment period described in paragraph (3).

"(2) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

"(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in paragraph (3).

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

"(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

"(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period begins earlier.".

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

"(1) subparagraph (A) of section 1837(i)(3)—

"(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

"(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

"(2) subparagraph (B) of section 1837(i)(3)—

"(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

"(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which he so enrolls.".

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with July 1984.

(2) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with July 1984, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before July 1, 1984, such period shall be deemed to begin on July 1, 1984.

SEC. 648. OTHER TECHNICAL CORRECTIONS IN MEDICARE-RELATED PROVISIONS OF THE SOCIAL SECURITY ACT AND RELATED ACTS.

(a)(1) Section 1122(b) of the Social Security Act is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a comma, and

(B) by striking out "(or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963)".

(2) Section 1122(i)(3) of such Act is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

(3) Section 1128A(g) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

(4) Section 1129(a) of such Act is amended by striking out "Sate" and inserting in lieu thereof "State".

(5) The heading of title XI of such Act is amended by striking out "PROFESSIONAL STANDARDS REVIEW" and inserting in lieu thereof "PEER REVIEW".

(b)(1) The last sentence of sections 1814(a) of such Act and the last sentence of section 1835(a) of such Act are each amended by striking out "contractural" and inserting in lieu thereof "contractual".

(2) Sections 1817(c) and 1841(c) of such Act are each amended by striking out "under the Second Liberty Bond Act, as amended" and inserting in lieu thereof "under chapter 31 of title 31, United States Code".

(3) Section 1818(c)(1) of such Act is amended by striking out "Act" and inserting in lieu thereof "section".

(4) Section 1818(d)(2) of such Act is amended by striking out "if midway between multiples of $1" and inserting in lieu thereof ", if a multiple of 50 cents but not a multiple of $1,".

(5) Section 1833(a)(2) of such Act is amended by indenting subparagraphs (A) and (B) two additional ems so as to align their left margins with the left margin of subparagraph (C) and by appropriately further indenting the clauses and subclauses of such subparagraphs.

(6) Section 1832(a)(2)(F)(ii)(II) of such Act is amended by striking out "Organization" and inserting in lieu thereof "organization".

(7) Section 1833(a)(1) of such Act is amended by striking out "and" at the end thereof.

(8) Section 1835(a)(2) of such Act is amended—

(A) by striking out "and" at the end of subparagraphs (B) and (C), and

(B) by indenting subparagraph (D) two additional ems so as to align its left margin with the left margin of subparagraph (C).

(9) Section 1835(e) of such Act is amended—

(A) by inserting "(i)" in paragraph (2) after "written assurances that",

(B) by striking out "(B)" in paragraph (2) and inserting in lieu thereof "(ii)",

(C) by striking out "return for" in paragraph (2) and inserting in lieu thereof "return of", and

(D) by striking out "(1) such hospital" and "(2) the Secretary" and inserting in lieu thereof "(A) such hospital" and "(B) the Secretary", respectively.

(10) Section 1837(g)(1) of such Act is amended by striking out "section 226(a)(2)(B)" and "section 1839(e)" and inserting in lieu thereof "section 226(b)" and "section 1839(d)", respectively.

(11) Sections 1840(d)(1), 1840(d)(2), and 1841(h) of such Act are each amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management" each place it appears.

(12) Section 1841(h) of such Act is amended by striking out "it" and inserting in lieu thereof "the Director".

(13) Section 1842(b)(3)(B)(ii)(II) of such Act is amended by striking out the period following "title".

(14) The seventh sentence of section 1842(b) of such Act is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

(15) Section 1842(h)(3) of such Act is amended by striking out "lowest charged" and insert in lieu thereof "lowest charge".

(16) Section 1843(d)(3)(B) of such Act is amended by striking out "1937" and inserting in lieu thereof "1974".

(17) Section 1844(a)(1)(B)(ii) of such Act is amended by striking out the period and inserting in lieu thereof "; plus".

(18) Sections 1864(c) and 1875(b) of such Act are each amended by striking out "the" after "Joint Commission on".

(19) Section 1861(j)(2) of such Act is amended by striking out "provision of" and inserting in lieu thereof "provision for".

(20) Section 1861(j)(13) of such Act is amended by striking out "a nursing home" and inserting in lieu thereof "an institution".

(21) Section 1861(u) of such Act is amended by striking out "or" before "home health agency".

(22) Section 1861(v)(1) of such Act is amended—

(A) by redesignating the clause (B) in subparagraph (A) as subparagraph (B) with the first line of such subparagraph indented 2 ems;

(B) by aligning subparagraphs (C) and (D) flush with the left margin (but with appropriate indentation in the case of the clauses and subclauses of subparagraph (C)); and

(C) by inserting a comma after "section 1832(a)(2)(B)(i)" in subparagraph (D).

(23) Section 1861(v)(1)(C)(i) of such Act is amended by inserting a dash after "but only if".

(24) Section 1861(v)(1)(E)(ii) of such Act is amended by striking out "uses" and inserting in lieu thereof "use".

(25) Section 1861(v)(1)(I) of such Act is amended by striking out "to the Secretary, or upon request to the Comptroller General" in clauses (i) and (ii) and inserting in lieu thereof "by the Secretary, or upon request by the Comptroller General".

(26) Section 1861(v)(3) of such Act is amended by striking out "semiprivate" and inserting in lieu thereof "semi-private".

(27) Section 1861(z)(2) of such Act is amended by striking out "subparagraph (1)" and inserting in lieu thereof "paragraph (1)".

(28) Section 1861(aa)(2)(I) of such Act is amended by striking out "ultilization" and inserting in lieu thereof "utilization".

(29) Section 1861(cc)(1)(F) of such Act is amended by striking out "self administered" and inserting in lieu thereof "self-administered".

(30) Section 1861(cc)(2)(F) of such Act is amended by striking out "standard establishment" and inserting in lieu thereof "standards established".

(31) Section 1862(a)(12) of such Act is amended by striking out the second comma after "dental procedure".

(32) Section 1862(b)(3)(A)(iii) of such Act is amended by inserting "before the month" after "ending with the month".

(33) Section 1863 of such Act is amended by striking out "(j)(11)" and inserting in lieu thereof "(j)(15)".

(34) Section 1866(a)(1)(E) of such Act is amended by adding at the end a comma.

(35) Section 1866(b) of such Act is amended by moving the alignment of paragraph (3) two ems to the left so as to align its left margin with the left margin of paragraph (4).

(36) Section 1869(b)(1)(B) of such Act is amended by striking out ", or section 1818, or section 1819" and inserting in lieu thereof "or section 1818".

(37) Section 1872 of such Act is amended—

(A) by striking out the comma after "206", and

(B) by striking out "(f),".

(38) Section 1876(b)(2)(D) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)".

(39) Section 1876(c)(4)(A)(i) of such Act is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".

(40) Section 1878(c) of such Act is amended by striking out "inadmissable" and inserting in lieu thereof "inadmissible".

(41) Section 1878(e) of such Act is amended by striking out ", (e), and (f)" and inserting in lieu thereof "and (e)".

(42) Section 1881 of such Act is amended by striking out "end-stage" and inserting in lieu thereof "end stage" each place it appears.

(43) Section 1886(a)(2)(B) of such Act is amended by striking out "disportionate" and inserting in lieu thereof "disproportionate".

(44) Section 1886(b)(3)(A)(ii) of such Act is amended by inserting "of" after "in the case".

(45) Section 1886(d)(3)(D)(i)(I) of such Act is amended by striking out "(C)," and inserting in lieu thereof "(C))".

(c)(1)(A) Section 903(a)(4) of Public Law 96-499 is amended by striking out "new paragraph".

(B) Section 937(c) of Public Law 96-499 is amended by striking out "on on" and inserting in lieu thereof "on or".

(2) Section 2353(h)(1) of Public Law 97-35 is amended by striking out the comma after "XIX".

(3)(A) Section 114(c)(2)(C)(ii) of Public Law 97-248 is amended by inserting "and enrolled under part B" after "part A".

(B) Section 114(c)(3)(E) of Public Law 97-248 is amended—

(i) by striking out "section 1833(a)(1) of the Social Security Act or", and

(ii) by adding before the period at the end the following: ", or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act".

(C) Section 149 of Public Law 97-248 is amended by striking out "part" and inserting in lieu thereof "subtitle".

(d) Section 162(i)(2) of the Internal Revenue Code of 1954 is amended by striking out "213(e)" and inserting in lieu thereof "213(d)".

(e)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.

(2) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall be effective as if they had been originally included in Public Laws 96-499, 97-35, and 97-248, respectively.

TITLE VII—TAX-EXEMPT BOND PROVISIONS

SEC. 701. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Tax-Exempt Bond Limitation Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE VII—TAX-EXEMPT BOND PROVISIONS

Sec. 701. Short title; table of contents.

Subtitle A—Mortgage Subsidy Bonds

Sec. 711. Extension of mortgage subsidy bond authority.

Sec. 712. Mortgage credit certificates.

Subtitle B—Private Activity Bonds

Sec. 721. Limitation on aggregate amount of private activity bonds.

Sec. 722. Tax exemption denied for obligation directly or indirectly guaranteed by Federal Government.

Sec. 723. Aggregate limit per taxpayer for small issue exception.

Sec. 724. Limitations on acquisitions of land, existing facilities, etc.

Sec. 725. Miscellaneous industrial development bond provisions.

Sec. 726. Effective dates.

Subtitle C—Obligations of Certain Educational Organizations

Sec. 731. Tax-exempt status of obligations of certain educational organizations.

Subtitle A—Mortgage Subsidy Bonds

SEC. 711. EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) GENERAL RULE.—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out "December 31, 1983" each place it appears and inserting in lieu thereof "December 31, 1988".

(b) REPORTING REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.—

(1) IN GENERAL.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraph:

"(3) INFORMATION REPORTING REQUIREMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued, a statement concerning the issue which contains—

"(i) the name and address of the issuer,

"(ii) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(iii) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section, and

"(iv) such other information as the Secretary may require.

"(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion.".

(2) REQUIREMENT TO APPLY TO VETERANS' BONDS.—Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(1)" and inserting in lieu thereof "paragraphs (1) and (3) of subsection (j)".

(c) TREATMENT OF QUALIFIED VETERANS' BONDS.—

(1) TERMINATION OF TREATMENT.—Paragraph (3) of section 103A(c) (defining qualified veterans' mortgage bond) is amended by adding at the end thereof the following new sentence: "No obligation issued after December 31, 1988, may be treated as a qualified veterans' mortgage bond.".

(2) STATE CEILING REDUCED BY AMOUNT OF VETERANS' BONDS.—Paragraph (4) of section 103A(g) (defining State ceiling) is amended to read as follows:

"(4) STATE CEILING.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State ceiling applicable to any State for any calendar year shall be the greater of—

"(i) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located within the jurisdiction of such State, or

"(ii) $200,000,000.

"(B) REDUCTION FOR AMOUNT OF QUALIFIED VETERANS' MORTGAGE BONDS ISSUED DURING PRECEDING CALENDAR YEAR.—The State ceiling applicable to any State for any calendar year shall be reduced by the aggregate amount of qualified veterans' mortgage bonds issued in the State during the preceding calendar year.".

(d) TREATMENT OF LIMITED EQUITY COOPERATIVES.—

(1) IN GENERAL.—Section 103A(l) (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(11) TREATMENT OF LIMITED EQUITY COOPERATIVE HOUSING CORPORATIONS.—

"(A) TREATMENT AS RESIDENTIAL RENTAL PROPERTY.—Except as provided in subparagraph (B), for purposes of this section and section 103(b), any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing.

"(B) SUBJECT TO MORTGAGE SUBSIDY BOND CEILING.—

"(i) IN GENERAL.—In the case of any issue a significant portion of the proceeds of which are to be used to finance limited equity cooperative housing—

"(I) subsection (a) of section 103 shall not apply to any obligation issued as a part of such issue unless such issue meets the requirements of subsection (g) of this section, and

"(II) for purposes of subsection (g) of this section, any obligation issued as a part of such issue shall be treated as a qualified mortgage bond.

"(ii) EXCEPTION WHERE FINANCING SUBJECT TO SECTION 103 CAP.—Clause (i) shall not apply to any obligation which was taken into account under section 103(n).

"(C) LIMITED EQUITY COOPERATIVE HOUSING.—For purposes of this paragraph, the term 'limited equity cooperative housing' means any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

"(D) QUALIFIED COOPERATIVE HOUSING CORPORATION.—For purposes of this paragraph, the term 'qualified cooperative housing corporation' means any cooperative housing corporation (as defined by section 216(b)(1)) if—

"(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

"(I) the consideration paid for such stock by the first such stockholder, as adjusted by a cost-of-living adjustment determined by the Secretary,

"(II) payments made by any stockholder for improvements to such house or apartment,

"(III) payments attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements, thereto, and

"(IV) contributions attributable to any stockholder to a corporate reserve account to the extent that such account is restricted to the development or acquisition of real property, including improvements, thereto;

"(ii) the value of the corporation's assets, to the extent such value exceeds the combined transfer values of the outstanding corporate stock (reduced by any corporate liabilities), shall be used only for public benefit or charitable purposes, or directly to

benefit the corporation itself, and shall not be used directly to benefit any stockholder; and

"(iii) such corporation makes an election under this paragraph at such time and in such manner as the Secretary may by regulations prescribe.

"(E) EFFECT OF ELECTION.—If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof).

"(F) CORPORATION MUST CONTINUE TO BE LIMITED EQUITY COOPERATIVE.—Subsection (b)(4)(A) of section 103 shall not apply to any obligation issued as part of an issue a significant portion of the proceeds of which are to be used to finance limited equity cooperative housing unless the cooperative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (within the meaning of section 103(b)(12)(B)).

"(G) ELECTION IRREVOCABLE.—Any election under this paragraph, once made, shall be irrevocable.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to obligations issued after December 31, 1983.

(2) TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.—

(A) IN GENERAL.—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) TERMINATION.—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(3) QUALIFIED VETERANS' MORTGAGE BONDS AUTHORIZED BEFORE OCTOBER 18, 1983, NOT TAKEN INTO ACCOUNT.—For purposes of section 103A(g)(4)(B) of the Internal Revenue Code of 1954 (as amended by this section), any qualified veterans' mortgage bond shall not be taken into account if—

(A) the issuance of such bond was authorized by a State referendum before October 18, 1983, or

(B) the issuance of such bond is authorized pursuant to a State referendum before December 1, 1983, where such referendum was authorized by action of the State legislature before October 18, 1983.

SEC. 712. MORTGAGE CREDIT CERTIFICATES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 25 as section 26 and by inserting after section 24 the following new section:

"SEC. 25. INTEREST ON CERTAIN HOME MORTGAGES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the certificate credit rate, and

"(2) the interest paid or incurred by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

"(b) CERTIFICATE CREDIT RATE; CERTIFIED INDEBTEDNESS AMOUNT.—For purposes of this section—

"(1) CERTIFICATE CREDIT RATE.—The term 'certificate credit rate' means the rate of the credit allowable by this section which is specified in the mortgage credit certificate.

"(2) CERTIFIED INDEBTEDNESS AMOUNT.—The term 'certified indebtedness amount' means the amount of indebtedness which is—

"(A) incurred by the taxpayer—

"(i) to acquire the principal residence of the taxpayer,

"(ii) as a qualified home improvement loan (as defined in section 103A(l)(6)) with respect to such residence, or

"(iii) as a qualified rehabilitation loan (as defined in section 103A(l)(7)) with respect to such residence, and

"(B) specified in the mortgage credit certificate.

"(c) MORTGAGE CREDIT CERTIFICATE; QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—For purposes of this section—

"(1) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued under a qualified mortgage credit certificate program by the State or political subdivision having the authority to issue a qualified mortgage bond to provide financing on the principal residence of the taxpayer,

"(B) is issued to the taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) specifies—

"(i) the certificate credit rate, and

"(ii) the certified indebtedness amount, and

"(D) is in such form as the Secretary may prescribe.

"(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'qualified mortgage credit certificate program' means any program—

"(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue qualified mortgage bonds,

"(ii) under which the issuing authority elects (in such manner and form as the Secretary may prescribe) not to issue an amount of qualified mortgage bonds which it may otherwise issue during such calendar year under section 103A,

"(iii) under which the indebtedness certified by mortgage credit certificates meets the requirements of the following subsections of section 103A (as modified by subparagraph (B) of this paragraph):

"(I) subsection (d) (relating to residence requirements),

"(II) subsection (e) (relating to 3-year requirement),

"(III) subsection (f) (relating to purchase price requirement),

"(IV) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

"(V) paragraphs (1) and (2) of subsection (j) (relating to other requirements),

"(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond,

"(v) which is not limited to indebtedness incurred from particular lenders, and

"(vi) if the issuing authority allocates a block of mortgage credit certificates for use in connection with a particular development, which requires the developer to furnish to the issuing authority and the homebuyer a certificate that the price for the residence is no higher than it would be without the use of a mortgage credit certificate.

"(B) MODIFICATIONS OF SECTION 103A.—Under regulations prescribed by the Secretary, in applying section 103A for purposes of subclauses (II) and (IV) of subparagraph (A)(iii)—

"(i) each qualified mortgage certificate credit program shall be treated as a separate issue,

"(ii) the product determined by multiplying—

"(I) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(II) the certificate credit rate specified in such certificate,

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue, and

"(iii) paragraph (1) of section 103A(e) shall be applied by substituting '100 percent' for '90 percent or more'.

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 90-percent requirement of section 103A(e)(1) and the Secretary is satisfied that such requirement will be met under such plan.

"(d) DETERMINATION OF CERTIFICATE CREDIT RATE.—For purposes of this section—

"(1) IN GENERAL.—The certificate credit rate specified in any mortgage credit certificate shall not be less than 10 percent or more than 50 percent.

"(2) AGGREGATE LIMIT ON CERTIFICATE CREDIT RATES.—

"(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying—

"(i) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(ii) the certificate credit rate with respect to such certificate,

shall not exceed 15 percent of the nonissued bond amount.

"(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term 'nonissued bond amount' means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds which the issuing authority is otherwise authorized to issue and elects not to issue under subsection (c)(2)(A)(ii).

"(C) AGGREGATE OF NONISSUED BOND AMOUNTS CANNOT EXCEED 9 PERCENT OF MORTGAGES EXECUTED.—The aggregate nonissued bond amount for any calendar year of all issuing authorities in any State shall not exceed the limit determined under section 103A(g)(4)(A)(i) for such State for such calendar year.

"(e) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) CARRYFORWARD OF UNUSED CREDIT.—In the case of any taxpayer, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such year reduced by the sum of the credits allowable under this subpart (other than this section) such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(2) INDEBTEDNESS NOT TREATED AS CERTIFIED WHERE CERTAIN REQUIREMENTS NOT IN FACT MET.—Subsection (a) shall not apply to any indebtedness if all the requirements of subsection (d)(1), (e), (f), and (j) of section 103A were not in fact met with respect to such indebtedness.

"(3) PERIOD FOR WHICH CERTIFICATE IN EFFECT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a mortgage credit certificate shall be treated as in effect with respect to interest attributable to the period—

"(i) beginning on the date such certificate is issued, and

"(ii) ending on the earlier of the date on which—

"(I) the certificate is revoked by the issuing authority, or

"(II) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate relates.

"(B) CERTIFICATE INVALID UNLESS INDEBTEDNESS INCURRED WITHIN CERTAIN PERIOD.—A certificate shall not apply to any indebtedness which is incurred after the close of the calendar year following the calendar year for which the issuing authority made the applicable election under subsection (c)(2)(A)(ii).

"(C) NOTICE TO SECRETARY WHEN CERTIFICATE REVOKED.—Any issuing authority which revokes any mortgage credit certificate shall notify the Secretary of such revocation at such time and in such manner as the Secretary shall prescribe by regulations.

"(4) SPECIAL RULES WHERE MORTGAGE IS ASSUMED.—In the case of a mortgage with respect to which a mortgage credit certificate was issued and which is assumed by a taxpayer—

"(A) the credit certificate rate under such certificate shall not be taken into account under this section to the extent it exceeds 25 percent, and

"(B) such certificate shall be treated as issued to such taxpayer.

"(5) CERTAIN REFINANCING PERMITTED.—In applying subsection (c)(2)(A)(iii), the requirements of section 103A(j)(1) shall be treated as met if a mortgage credit certificate is issued with respect to a mortgage which is used to replace an existing mortgage for which such a certificate has already been issued if, under regulations prescribed by the Secretary, such replacement mortgage does not extend the term, alter the amortization schedule, or increase the principal amount, of the original mortgage.

"(6) PUBLIC NOTICE THAT CERTIFICATES WILL BE ISSUED.—At least 90 days before any mortgage credit certificate is to be issued after a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

"(A) the eligibility requirements for such certificate,

"(B) the methods by which such certificates are to be issued, and

"(C) such other information as the Secretary may require.

"(7) INTEREST PAID OR ACCRUED TO RELATED PERSONS.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a person who is a related person to the taxpayer (within the meaning of section 103(b)(6)(C)(i)).

"(8) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(9) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

"(A) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(l)(7)(B).

"(B) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(l)(6).

"(10) QUALIFIED MORTGAGE BOND.—The term 'qualified mortgage bond' has the meaning given such term by section 103A(c)(1).

"(f) REDUCTION IN AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS WHICH MAY BE ISSUED WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—If for any calendar year any mortgage credit certificate program fails to meet the requirements of—

"(A) clause (iii), (iv), (v), or (vi) of subsection (c)(2)(A), or

"(B) paragraph (2) of subsection (d),

the applicable State ceiling under paragraph (4) of section 103A(g) for the State in which such program operates shall be reduced by twice the correction amount with respect to such failure. Such reduction shall be applied to such State ceiling for the calendar year following the calendar year in which the Secretary determines the correction amount with respect to such failure.

"(2) CORRECTION AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'correction amount' means, in the case of a failure to meet a requirement referred to in—

"(i) paragraph (1)(A), the amount of indebtedness involved, or

"(ii) paragraph (1)(B), the amount equal to the excess credit amount divided by 0.15.

"(B) EXCESS CREDIT AMOUNT.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term 'excess credit amount' means the excess of—

"(I) the credit amount for any mortgage credit certificate program, over

"(II) the amount which would have been the credit amount for such program had such program met the requirements of paragraph (2) of subsection (d).

"(ii) CREDIT AMOUNT.—For purposes of clause (i), the term 'credit amount' means the sum of the products determined under clauses (i) and (ii) of subsection (d)(2)(A).

"(3) SPECIAL RULE FOR STATES HAVING CONSTITUTIONAL HOME RULE CITIES.—In the case of a State having one or more constitutional home rule cities (within the meaning of section 103A(g)(5)(C)), the reduction in the State ceiling by reason of paragraph (1) shall be allocated to the constitutional home rule city, or to the portion of the State not within such city, whichever caused the reduction.

"(g) REPORTING REQUIREMENTS.—Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing—

"(1) the name, address, and social security account number of the individual to which the certificate was issued,

"(2) the certificate's issuer, date of issue, certified indebtedness amount, and certificate credit rate, and

"(3) such other information as the Secretary may require by regulations.

Such report shall be filed at such time and in such manner as the Secretary may require by regulations.

"(h) TERMINATION.—No election may be made under subsection (c)(2)(A)(ii) for any calendar year after 1988.".

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(8) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced by the sum of—

"(A) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

"(B) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year.".

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST WHERE CREDIT TAKEN.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) REDUCTION OF DEDUCTION WHERE SECTION 25 CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 25 shall be reduced by the amount of the credit allowable with respect to such interest under section 25 (determined without regard to section 26).".

(d) PENALTY FOR FAILURE TO FILE REPORTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"SEC. 6708. FAILURE TO FILE REPORTS ON LOANS COVERED BY MORTGAGE CREDIT CERTIFICATES.

"(a) IN GENERAL.—Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of $200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of any penalty imposed by subsection (a).".

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6708. Failure to file reports on loans covered by mortgage credit certificates.".

(e) ALLOCATION TO ISSUERS OTHER THAN STATE HOUSING FINANCING AGENCIES DETERMINED ON BASIS OF POPULATION WHERE NO OVERRIDING STATE STATUTE.—Subparagraph (A) of section 103A(g)(3) is amended by striking out all that follows "for such year as—" and inserting in lieu thereof:

"(i) the population of the jurisdiction of such issuing authority, bears to

"(ii) the population for the entire State.

For purposes of the preceding sentence, the determination of population shall be made in accordance with section 103(n)(9).".

(f) TECHNICAL AMENDMENTS.—

(1) Sections 28(d)(2), 29(b)(5), 30(g)(1)(A), 38(c)(2), and 901(a), as amended by this Act, are each amended by striking out "section 25(b)" and inserting in lieu thereof "section 26(b)".

(2) Section 23(b)(5), as amended by this Act, is amended by striking out "section 25(a)" and inserting in lieu thereof "section

26(a)" and by striking out "(other than this section)" and inserting in lieu thereof "(other than this section and section 25)".

(3) Paragraph (3) of section 55(c) is amended—

(A) by striking out "25" each place it appears and inserting in lieu thereof "26", and

(B) by striking out "section 23, 30, or 38" and inserting in lieu thereof "section 23, 25, 30, or 38".

(4) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(5) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(g) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 25 and inserting in lieu thereof the following:

"Sec. 25. Interest on certain home mortgages.

"Sec. 26. Limitation based on tax liability; definition of tax liability.".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest paid or accrued after December 31, 1983, on indebtedness incurred after December 31, 1983.

(2) ELECTIONS.—The amendments made by this section shall apply to elections under section 25(c)(2)(A)(ii) of the Internal Revenue Code of 1954 (as added by this section) for calendar years after 1983.

(3) SUBSECTION (e).—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1984.

(4) TRANSITIONAL RULE RELATING TO AMOUNT OF CERTIFICATES WHICH MAY BE ISSUED.—

(A) IN GENERAL.—If the aggregate amount of mortgage subsidy bonds issued by any authority during 1983 was less than the applicable limit of such authority under section 103A(g) of the Internal Revenue Code of 1954 for such calendar year, then, for purposes of section 25(d)(2) of such Code, the nonissued bond amount with respect to any qualified mortgage credit certificate program (determined without regard to this paragraph) for calendar year 1984, 1985, 1986, 1987, or 1988 shall be reduced by the excess of the applicable limit of such authority for such calendar year over the amount determined under subparagraph (B) or (C).

(B) 1984.—For calendar year 1984, the sum of—

(i) the aggregate amount of mortgage subsidy bonds issued by the issuing authority during 1983, plus

(ii) 25 percent of the excess of the applicable limit of such authority for 1984 over the amount determined under clause (i).

(C) 1985, 1986, 1987, 1988.—For calendar year 1985, 1986, 1987, or 1988, the sum of—

(i) the amount determined for the preceding calendar year under this subparagraph or subparagraph (B), plus

(ii) 25 percent of the excess of the applicable limit of such authority for the calendar year over the amount determined under clause (i).

Subtitle B—Private Activity Bonds

SEC. 721. LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS.

Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—A private activity bond issued as part of an issue shall be treated as an obligation not described in subsection (a) if the aggregate amount of private activity bonds issued pursuant to such issue, when added to the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year, exceeds such authority's private activity bond limit for such calendar year.

"(2) PRIVATE ACTIVITY BOND LIMIT FOR STATE AGENCIES.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

"(B) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue private activity bonds, all such agencies shall be treated as a single agency.

"(3) PRIVATE ACTIVITY BOND LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

"(i) the population of the jurisdiction of such issuing authority, bears to

"(ii) the population for the entire State.

"(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), the rules of section 103A(g)(3)(B) shall apply.

"(4) STATE CEILING.—For purposes of this subsection—

"(A) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be an amount equal to $150 multiplied by the State's population.

"(B) PHASEIN OF LIMITATION WHERE AMOUNT OF 1983 PRIVATE ACTIVITY BONDS EXCEEDS THE CEILING.—

"(i) IN GENERAL.—In the case of any State which had an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under subparagraph (A) plus 50 percent of the excess bond amount for 1983.

"(ii) EXCESS BOND AMOUNT FOR 1983.—For purposes of clause (i), the excess bond amount for 1983 in any State is the excess (if any) of—

"(I) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by ⅘, over

"(II) the State ceiling determined under subparagraph (A) for calendar year 1984.

"(C) ADJUSTMENT OF CEILING TO REFLECT TERMINATION OF SMALL ISSUE EXEMPTION.—In the case of calendar years after 1986, subparagraph (A) shall be applied by substituting '$100' for '$150'.

"(5) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—In the case of any State with 1 or more constitutional home rule cities (as defined in section 103A(g)(5)(C)), the rules of paragraph (5) of section 103A(g) shall apply for purposes of this subsection.

"(6) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—

"(A) IN GENERAL.—A State may, by law enacted after the date of the enactment of this subsection, provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(B) INTERIM AUTHORITY FOR GOVERNOR.—

"(i) IN GENERAL.—The Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(ii) TERMINATION OF AUTHORITY.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the legislature has met in regular session for more than 60 days after the date of the enactment of this paragraph, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of the enactment of this subsection.

"(C) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—The rules of paragraph (6)(C) of section 103A(g) shall apply for purposes of this paragraph.

"(7) PRIVATE ACTIVITY BOND.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'private activity bond' means any obligation the interest on which is exempt from tax under subsection (a) and which is—

"(i) an industrial development bond, or

"(ii) a student loan bond.

"(B) EXCEPTION FOR MULTIFAMILY HOUSING.—The term 'private activity bond' shall not include any obligation described in subsection (b)(4)(A) nor any public housing program obligation under section 11(b) of the United States Housing Act of 1937.

"(C) EXCEPTION FOR CERTAIN FACILITIES DESCRIBED IN SECTION 103(b)(4) (C) OR (D).—

"(i) IN GENERAL.—The term 'private activity bond' shall not include any obligation described in subparagraph (C) or (D) of section 103(b)(4), but only if the property described in such subparagraph is owned by a governmental unit.

"(ii) EXCEPTION NOT TO APPLY TO CERTAIN PARKING FACILITIES.—This subparagraph shall not apply to any obligation described in subparagraph (D) of section 103(b)(4) solely by reason of the reference to parking facilities contained therein.

"(iii) DETERMINATION OF WHETHER PROPERTY OWNED BY GOVERNMENTAL UNIT.—For purposes of clause (i), property shall not be treated as not owned by a governmental unit solely by reason of the length of the lease to which it is subject if the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such property.

"(D) REFUNDING ISSUES.—The term 'private activity bond' shall not include any obligation which is issued to refund another obligation to the extent that the amount of such obligation does not exceed the amount of the refunded obligation. In the case of any student loan bond, the preceding sentence shall apply only if the maturity date of the refunding obligation is not later than the later of—

"(i) the maturity date of the obligation to be refunded, or

"(ii) the date 15 years after the date on which the refunded obligation was issued (or in the case of a series of refundings, the date on which the original obligation was issued).

"(8) STUDENT LOAN BONDS.—For purposes of this subsection, the term 'student loan bond' means an obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses.

"(9) POPULATION.—For purposes of this subsection, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) published by the Bureau of the Census before the beginning of such calendar year.

"(10) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PROJECT.—

"(A) IN GENERAL.—If—

"(i) an issuing authority's private activity bond limit for any calendar year after 1983, exceeds

"(ii) the aggregate amount of private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward projects.

"(B) ELECTION MUST SPECIFY PROJECT.—In any election under subparagraph (A), the issuing authority shall—

"(i) specify the project (or projects) for which the carryforward is elected, and

"(ii) specify the portion of the excess described in subparagraph (A) which is to be a carryforward for each such project.

"(C) USE OF CARRYFORWARD.—

"(i) IN GENERAL.—If any issuing authority elects a carryforward under subparagraph (A) with respect to any carryforward project, any private activity bonds issued by such authority with respect to such project during the 3 calendar years (or, in the case of a project described in subsection (b)(4)(F), 6 calendar years) following the calendar year in which the carryforward arose shall not be taken into account under paragraph (1) to the extent the amount of such bonds do not exceed the amount of the carryforward elected for such project.

"(ii) ORDER IN WHICH CARRYFORWARD USED.—Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose.

"(D) ELECTION.—Any election made under this paragraph shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Any such election (and any specification contained therein), once made, shall be irrevocable.

"(E) CARRYFORWARD PROJECT.—For purposes of this paragraph, the term 'carryforward project' means—

"(i) any project described in paragraph (4) or (5) of subsection (b), and

"(ii) the purpose of issuing student loan bonds.

"(11) TREATMENT OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond (as defined in subsection (e)), such bond shall be treated for purposes of this subsection as issued by a State or local issuing authority (whichever is appropriate).".

SEC. 722. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations must not be guaranteed or subsidized under a energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

"(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

"(C) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

"(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans, or

"(iii) any guarantee by the Small Business Administration of obligations for pollution control facilities (within the meaning of section 404(a)(1) of the Small Business Investment Act of 1958, as in effect on the date of the enactment of the Tax Reform Act of 1984) if—

"(I) the Administrator of the Small Business Administration charges a fee for making such guarantee, and

"(II) the amount of such fee equals or exceeds 1 percent of the amount guaranteed.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments of a bona fide debt service fund,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B),

"(iv) investments in obligations issued by the United States Treasury, or

"(v) other investments permitted under regulations.

"(C) EXCEPTION FOR HOUSING PROGRAMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to—

"(I) an obligation described in subsection (b)(4)(A) or a public housing program obligation under section 11(b) of the United States Housing Act of 1937,

"(II) a qualified mortgage bond (as defined in section 103A(c)(1)), or

"(III) a qualified veterans' mortgage bond (as defined in section 103A(c)(3)).

"(ii) EXCEPTION NOT TO APPLY WHERE OBLIGATION INVESTED IN FEDERALLY INSURED DEPOSITS OR ACCOUNTS.—Clause (i) shall not apply to any obligation which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

"(D) LOANS TO, OR GUARANTEES BY, FINANCIAL INSTITUTIONS.—Except as provided in paragraph (2)(B)(ii), an obligation which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of a private activity bond (as defined in subsection (n)(7)), nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

"(B) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—The term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities).".

SEC. 723. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

"(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any beneficiary (when increased by the outstanding tax-exempt IDB's of such beneficiary) exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT IDB'S OF ANY PERSON.—For purposes of applying subparagraph (A) with respect to any issue, the

outstanding tax-exempt IDB's of any person who is a beneficiary with respect to such issue is the aggregate face amount of all industrial development bonds the interest on which is exempt from tax under subsection (a)—

"(i) which are allocated to such beneficiary, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds for the later issue).

"(C) ALLOCATION OF AMOUNT OF ISSUE.—

"(i) AMOUNT ALLOCATED TO DEVELOPER, ETC.—The amount of any issue shall be allocated to any person who is a beneficiary by reason of owning the facilities being financed by the issue and renting such facilities to other persons to the extent (and only to the extent) the amount of such issue is not allocated under clause (ii).

"(ii) ALLOCATION TO OTHER BENEFICIARIES.—The amount of any issue shall be allocated among beneficiaries who are not described in clause (i) as follows:

"(I) If one of such beneficiaries uses more than 50 percent of the facilities, the entire amount of the issue shall be allocated to such beneficiary.

"(II) In any case to which subclause (I) does not apply, the amount of such issue shall be allocated equally among beneficiaries who use at least 25 percent but not more than 50 percent of the facilities; except that no one such person shall be allocated more than 50 percent.

"(D) BENEFICIARY.—For purposes of this paragraph, the term 'beneficiary' means any person who is a user of the facilities being financed by the issue.

"(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person.".

SEC. 724. LIMITATIONS ON ACQUISITIONS OF LAND, EXISTING FACILITIES, ETC.

(a) LIMITATION ON USE FOR LAND ACQUISITION.—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

"(16) LIMITATION ON USE FOR LAND ACQUISITION.—

"(A) IN GENERAL.—Paragraphs (4), (5), and (6) shall not apply with respect to any obligation issued as part of an issue if—

"(i) any portion of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes, or

"(ii) 25 percent or more of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land not described in clause (i) (or an interest therein).

"(B) EXCEPTION FOR FIRST-TIME FARMERS.—

"(i) IN GENERAL.—If the requirements of clause (ii) are met with respect to any land, subparagraph (A) shall not apply to such land, and paragraph (17) shall not apply to property located thereon, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $250,000.

"(ii) ACQUISITION BY FIRST-TIME FARMERS.—The requirements of this clause are met with respect to any land if—

"(I) such land is to be used for farming purposes, and

"(II) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(iii) FIRST-TIME FARMER.—For purposes of this subparagraph, the term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in land which is part of a farm in the operation of which such individual materially participated. For purposes of this subparagraph, any ownership or material participation by an individual's spouse or minor child shall be treated as ownership and material participation by the individual.

"(iv) FARM.—For purposes of this subparagraph, the term 'farm' has the meaning given such term by section 6420(c)(2).".

(b) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(17) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition.

"(B) EXCEPTION FOR CERTAIN REHABILITATIONS.—Subparagraphs (A) shall not apply with respect to any building (and the equipment therefor) if—

"(i) the rehabilitation expenditures with respect to such building equals or exceeds

"(ii) 15 percent of the cost of acquiring such building (and such equipment).

"(C) REHABILITATION EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in this subparagraph, the term 'rehabilitation expenditures' means any amount properly chargeable to capital account which is incurred by the person acquiring the building (or any successor) for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with substantially similar equipment.

"(ii) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'rehabilitation expenditures' does not include any expenditure described in section 48(g)(2)(B) (other than clause (i) thereof).

"(iii) PERIOD DURING WHICH EXPENDITURES MUST BE INCURRED.—The term 'rehabilitation expenditures' shall not include any amount which is incurred after the date 2 years after the later of—

"(I) the date on which the building was acquired, or

"(II) the date on which the obligation was issued.".

(c) USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(18) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), and (6) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.".

SEC. 725. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "In the case of an obligation issued after December 31, 1983, such obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), (l), and (n) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State.".

(b) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A).".

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or residences using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).".

(d) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons.".

(e) MORTGAGE SUBSIDY BOND ARBITRAGE RULES EXTENDED TO INDUSTRIAL DEVELOPMENT BONDS AND STUDENT LOAN BONDS.—Subsection (c) of section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) EXTENSION OF MORTGAGE SUBSIDY BOND ARBITRAGE RULES TO PRIVATE ACTIVITY BONDS.—

"(A) IN GENERAL.—Under regulations, any obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) (1) or (2) unless the issue of which such obligation is a part meets requirements similar to those of section 103A(i).

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall apply to any obligation which—

"(I) is an industrial development bond, or

"(II) is a student loan bond (as defined in subsection (n)(8)) issued after December 31, 1985.

"(ii) EXCEPTION FOR MULTIFAMILY HOUSING.—This paragraph shall not apply to any obligation described in subsection (b)(4)(A) nor to any public housing program obligation under section 11(b) of the United States Housing Act of 1937.

"(iii) EXCEPTION FOR REFUNDING OF STUDENT LOAN BONDS ISSUED BEFORE JANUARY 1, 1986.—This paragraph shall not apply to any obligation which is issued to refund a student loan bond issued before January 1, 1986, but only to the extent the requirements of subsection (n)(7)(C) are met with respect to the refunding.

"(C) STUDENT LOAN INCENTIVE PAYMENTS NOT TAKEN INTO ACCOUNT.—For purposes of applying section 103A(i) as made applicable to student loan bonds by subparagraph (A), payments described in paragraph (5) shall not be taken into account."

(f) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

(g) INCREASE IN AMOUNT OF CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—Subparagraph (I) of section 103(b)(6) (relating to aggregate amount of capital expenditures where there is urban development action grant) is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000", and

(2) by adding at the end thereof the following new sentence: "This subparagraph shall not apply unless the amount of the urban development action grant equals or exceeds 5 percent of a reasonable estimate (made at the time that the Department of Housing and Urban Development gives preliminary approval of the grant) of the total capital expenditures on the facilities with respect to which the action grant has been made."

(h) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

(i) REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—Paragraph (7) of section 103(b) (relating to advance refunding of qualified public facilities) is hereby repealed.

SEC. 726. EFFECTIVE DATES.

(a) PRIVATE ACTIVITY BOND CAP.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by section 721 shall apply to obligations issued after December 31, 1983.

(2) CERTAIN PROJECTS PRELIMINARILY APPROVED BEFORE OCTOBER 19, 1983 GIVEN APPROVAL.—If—

(A) there was an inducement resolution (or other comparable preliminary approval) for a project before October 19, 1983, by any issuing authority, and

(B) a substantial user of such project notifies the issuing authority within 30 days after the date of the enactment of this Act that it intends to claim its rights under this paragraph,

such issuing authority shall allocate its share of the limitation under section 103(n) of such Code for the calendar year during which the obligations were to be issued pursuant to such resolution (or other approval) first to such project. If the amount of obligations required by all projects which meet the requirements of the preceding sentence exceeds the issuing authority's share of the limitation under section 103(n) of such Code, priority under the preceding sentence shall be provided first to those projects for which substantial expenditures were incurred before October 19, 1983. If any issuing authority fails to meet the requirements of this paragraph, the limitation under section 103(n) of such Code for the issuing authority for the calendar year following such failure shall be reduced by the amount of obligations with respect to which such failure occurred.

(3) EXCEPTION FOR CERTAIN BONDS FOR A CONVENTION CENTER AND RESOURCE RECOVERY PROJECT.—In the case of any city, if—

(A) the city council of such city authorized a feasibility study for a convention center on June 10, 1982, and

(B) on November 4, 1983, a municipal authority acting for such city accepted a proposal for the construction of a facility that is capable of generating steam and electricity through the combustion of municipal waste,

the amendment made by section 721 shall not apply to any issue, issued during 1984 or 1985 and substantially all of the proceeds of which are to be used to finance the convention center (or access ramps and parking facilities therefor) described in subparagraph (A) or the facility described in subparagraph (B).

(b) PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by section 725(b) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 725(b) shall not apply with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 725(b) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 725(b) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(c) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Clause (ii) of section 103(h)(2)(B) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than section 721) shall not apply to obligations with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (b)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(4) REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—The amendment made by section 725(i) shall apply to refunding obligations issued after the date of the enactment of this Act.

(d) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 32(g) of this Act.

(2) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State public authority created pursuant to State legislation which took effect on June 18, 1973, took formal action before October 19, 1983, to commit development funds for such facility,

(B) such authority issues obligations for any such facility before January 1, 1987, and

(C) expenditures have been made for the development of any such facility before October 19, 1983.

(e) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures"

means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on May 5, 1981, or April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

Subtitle C—Obligations of Certain Educational Organizations

SEC. 731. TAX-EXEMPT STATUS OF OBLIGATIONS OF CERTAIN EDUCATIONAL ORGANIZATIONS.

(a) IN GENERAL.—For purposes of section 103 of the Internal Revenue Code of 1954, a qualified educational organization shall be treated as a State governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(b) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subsection (a), the term "qualified educational organization" means a college or university created on February 22, 1855, by specific act of the legislature of the State within which such college or university is located.

(c) EFFECTIVE DATE.—This section shall apply to obligations issued after December 31, 1953.

TITLE VIII—MISCELLANEOUS REVENUE MATTERS

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SEC. 801. CAPITAL GAIN TREATMENT FOR PORTION OF GAIN ON SALE OF CONDOMINIUM UNITS CONVERTED FROM EXISTING STRUCTURES.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. CAPITAL GAIN TREATMENT FOR PORTION OF GAIN ON SALE OF CONDOMINIUM UNITS CONVERTED FROM EXISTING STRUCTURES.

"(a) GENERAL RULE.—For purposes of this title, any gain recognized by the taxpayer on the sale or exchange of any qualified condominium unit shall be treated as gain from the sale of property used in the trade or business (as defined in section 1231(b)) to the extent that the gain so recognized does not exceed such unit's allocable capital gain amount.

"(b) QUALIFIED CONDOMINIUM UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified condominium unit' means any condominium unit resulting from the conversion of qualified real property into condominium units.

"(2) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means any real property—

"(A) which consists of one or more structures (and the land necessary for the use of the structures) used in a trade or business of the taxpayer at all times during the 5-year period ending on the determination date, and

"(B) with respect to which the taxpayer makes an election under this section.

"(3) SPECIAL RULE WHERE PROPERTY ACQUIRED BY INHERITANCE OR DEVISE, ETC.—For purposes of this subsection, the taxpayer shall be treated as holding any property and as using such property in his trade or business during any period during which such property was held and so used—

"(A) in the case of property acquired by inheritance or devise, by the decedent, or

"(B) by any other person if the basis of such property in the hands of the taxpayer is determined (in whole or in part) by reference to the basis of such property in the hands of such other person.

"(c) ALLOCABLE CAPITAL GAIN AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'allocable capital gain amount' means, with respect to any qualified condominium unit, the portion of the imputed capital gain determined under paragraph (2) with respect to the qualified real property which is allocated to such unit under paragraph (3).

"(2) IMPUTED CAPITAL GAIN.—The term 'imputed capital gain' means, with respect to any qualified real property, the amount of the gain (if any) which—

"(A) would have resulted had such property been sold on the determination date for an amount equal to its fair market value on such date, and

"(B) would have not been treated as ordinary income under section 1245 or 1250.

"(3) ALLOCATION AMONG UNITS.—The amount of the imputed capital gain shall be allocated among condominium units in proportion to their respective fair market values on the determination date.

"(4) FAIR MARKET VALUE DETERMINATIONS.—For purposes of paragraphs (2) and (3), the fair market value (and adjusted basis) of any qualified real property (and of any condominium unit) shall be determined without regard to any improvement made in anticipation of the conversion into condominium units.

"(5) DETERMINATION DATE.—The term 'determination date' means, with respect to any qualified real property, the earliest of—

"(A) the day on which the taxpayer adopted a plan to convert such property into condominium units,

"(B) the day on which substantial improvements were first made to such property in anticipation of a conversion into condominium units, or

"(C) the day on which the form of ownership of such property is changed into condominium units.

If more than 2 years elapses between the sale of the first unit and the second unit, the day taken into account under subparagraphs (A) and (C) shall be the date the second sale is made.

"(d) SPECIAL RULES.—

"(1) ELECTION.—An election under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

"(2) SPECIAL RULE FOR CARRYOVER BASIS TRANSACTIONS.—If any taxpayer makes an election under this section with respect to any qualified real property, the same tax treatment which would apply to the taxpayer shall also apply to any other person whose basis in such property is determined (in whole or in part) by reference to the basis of such property in the hands of the taxpayer.

"(3) SPECIAL RULE WHERE SUBSTANTIAL VALUATION OVERSTATEMENT.—

"(A) IN GENERAL.—If the percentage determined by dividing—

"(i) the amount claimed for purposes of subsection (c) as the value of any qualified real property on the determination date, by

"(ii) the amount determined to be the correct value of such property on such date for purposes of subsection (c),

exceeds 115 percent, for purposes of this section, the amount of the imputed capital gain shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount of the reduction determined under this subparagraph is an amount equal to—

"(i) 20 percent of the amount which (but for this paragraph) would be the imputed capital gain,

"(ii) for each full percentage point by which the percentage determined under subparagraph (A) exceeds 115 percent.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Capital gain treatment for portion of gain on sale of condominium units converted from existing structures.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property the form of ownership of which is changed into condominium units after the date of the enactment of this Act in taxable years ending after such date.

SEC. 802. NO GAIN RECOGNIZED FROM NET GIFTS MADE BEFORE MARCH 4, 1981.

(a) IN GENERAL.—In the case of any transfer of property subject to gift tax made before March 4, 1981, for purposes of subtitle A of the Internal Revenue Code of 1954, gross income of the donor shall not include any amount attributable to the donee's payment of (or agreement to pay) any gift tax imposed with respect to such gift.

(b) GIFT TAX DEFINED.—For purposes of subsection (a), the term "gift tax" means—

(1) the tax imposed by chapter 12 of such Code, and

(2) any tax imposed by a State (or the District of Columbia) on transfers by gifts.

(c) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from subsection (a) is prevented on the date of the enactment of this Act (or at any time within 1 year after such date) by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to subsection (a)) may nevertheless be made or allowed if claim therefor is filed within 1 year after the date of the enactment of this Act.

SEC. 803. DISASTER LOSS DEDUCTION WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.

(a) GENERAL RULE.—Section 165 (relating to losses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) TREATMENT AS DISASTER LOSS WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.—In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, if—

"(1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

"(2) the residence has been rendered unsafe for use as a residence by reason of the disaster,

any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974.

SEC. 804. APPLICATION OF CASH OR DEFERRED ARRANGEMENT RULES TO PRE-ERISA MONEY PURCHASE PLAN.

(a) GENERAL RULE.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by inserting "(or a pre-ERISA money purchase plan)" after "stock bonus plan".

(b) DEFINITION OF PRE-ERISA MONEY PURCHASE PLAN.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(5) PRE-ERISA MONEY PURCHASE PLAN.—For purposes of this subsection, the term 'pre-ERISA money purchase plan' means a pension plan—

"(A) which is a defined contribution plan (as defined in section 414(i)),

"(B) which was in existence on June 27, 1974, and which, on such date, included a salary reduction arrangement, and

"(C) under which neither the employee contributions nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on such date.".

(c) TECHNICAL AMENDMENT.—Subparagraph (B) of section 401(k)(2) as amended by striking out ", hardship or the attainment of age 59½," and inserting in lieu thereof "(or in the case of a profit sharing or stock bonus plan, hardship or the attainment of age 59½)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—Rules similar to the rules under section 135(c)(2) of the Revenue Act of 1978 shall apply with respect to any pre-ERISA money purchase plan (as defined in section 401(k)(5) of the Internal Revenue Code of 1954) for plan years beginning after December 31, 1979, and on or before the date of the enactment of this Act.

SEC. 805. DELAY OF AMENDMENTS TO SECTION 382.

Subsection (g) of section 806 of the Tax Reform Act of 1976 is amended—

(1) by striking out "January 1, 1984" in paragraphs (2) and (3) and inserting in lieu thereof "November 1, 1984", and

(2) by striking out "June 30, 1984" in paragraph (2) and inserting in lieu thereof "October 31, 1984".

SEC. 806. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) EXTENSION.—

(1) IN GENERAL.—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

"(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

"(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1).".

(2) DEFINITION OF CROP YEAR.—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

"(2) CROP YEAR.—The term '1983 crop year' means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term '1984 crop year' means the crop year for wheat the planting and harvesting period for which occurs during 1984.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)).

(2) INCOME TAX TREATMENT NOT TO APPLY FOR 1984 CROP YEAR TO THE EXTENT PAYMENTS DETERMINED TO BE ILLEGAL.—

(A) IN GENERAL.—If it is determined in a judicial proceeding brought under subparagraph (B) that the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs, section 2(a) of the Payment-in-Kind Tax Treatment Act of 1983 shall apply to commodities received for the 1984 crop year only to the extent that the receipt of such commodities is legal under such determination.

(B) COMPTROLLER GENERAL TO BRING ACTION FOR DECLARATORY JUDGMENT.—

(i) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall (and notwithstanding any other provision of law is hereby authorized to) bring an action in the name of the United States against the Secretary of Agriculture in the United States District Court for the District of Columbia for a declaration with respect to the issue of whether the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs.

(ii) PRIORITY.—To the maximum extent possible, the United States District Court for the District of Columbia shall give priority to the action brought under this subparagraph.

(C) DECLARATION ONLY TO APPLY FOR INCOME TAX TREATMENT FOR 1984 CROP YEAR.—Nothing in any declaration in a proceeding brought under subparagraph (B) shall affect—

(i) the tax treatment under the Payment-in-Kind Tax Treatment Act of 1983 for the 1983 crop year,

(ii) the tax treatment under such Act for the 1984 crop year other than the tax treatment under section 2(a) of such Act, or

(iii) the tax treatment of a cooperative with respect to commodities received on behalf of another person.

SEC. 807. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978.".

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim thereof is filed before the close of such 1-year period.

SEC. 808. TREATMENT OF TRANSPORTATION EXPENSES INCURRED WITH RESPECT TO EMPLOYMENT AT THE ANTIBALLISTIC MISSILE SITE NEAR NEKOMA, NORTH DAKOTA.

(a) GENERAL RULE.—Employment at the antiballistic missile project near Nekoma, North Dakota, shall be treated for purposes of sections 62 and 162 of the Internal Revenue Code of 1954 as temporary employment

with respect to transportation and traveling expenses—

(1) otherwise allowable as a deduction under section 162(a) of such Code,

(2) paid or incurred after 1969 and before 1975, and

(3) claimed on a return filed for any taxable year which includes any portion of the period described in paragraph (2).

(b) WAIVER OF STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of Federal income tax resulting from the application of subsection (a) is prevented at any time before the date one year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the date one year after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending after December 31, 1969.

SEC. 809. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

(a) If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid not later than one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and penalties in respect of liability for such Federal income tax.

(b) For purposes of subsection (a), the prize described in this subsection is a residence which—

(1) was won by the taxpayer in a local radio contest,

(2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,

(3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and

(4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

SEC. 810. TAX TREATMENT OF REGULATED INVESTMENT COMPANIES.

(a) PERSONAL HOLDING COMPANIES PERMITTED TO BE REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subsection (a) of section 851 (defining regulated investment company) is amended by striking out "(other than a personal holding company as defined in section 542)".

(2) SPECIAL RULE FOR RATE OF TAX.—Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by adding at the end thereof the following new sentence: "In the case of a regulated investment company which is a personal holding company (as defined in section 542), that tax shall be computed at the highest rate of tax specified in section 11(b).".

(3) REQUIREMENT THAT INVESTMENT COMPANY HAVE NO EARNINGS AND PROFITS ACCUMULATED IN YEAR FOR WHICH IT WAS NOT A REGULATED INVESTMENT COMPANY.—Subsection (a) of section 852 (relating to requirements applicable to regulated investment companies) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) either—

"(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

"(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it.".

(4) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—Section 852 is amended by adding at the end thereof the following new subsection:

"(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—

"(1) IN GENERAL.—If—

"(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the 'non-RIC year'), and

"(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(3) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination (or within such longer period as the Secretary may permit), the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

"(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

"(ii) any interest payable under paragraph (3).

"(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term 'qualified designated distribution' means any distribution made by the investment company if—

"(i) section 301 applies to such distribution, and

"(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

"(C) EFFECT ON DIVIDENDS PAID DEDUCTION.—Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

"(3) INTEREST CHARGE.—

"(A) IN GENERAL.—If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the annual rate established under section 6621—

"(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

"(ii) for the period—

"(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

"(II) which ends on the date the determination is made.

"(B) COORDINATION WITH SUBTITLE F.—Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax imposed for the taxable year in which the determination is made may be assessed and collected.

"(4) PROVISION NOT TO APPLY IN THE CASE OF FRAUD.—The provisions of this subsection shall not apply if the determination contains a finding that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

"(5) DETERMINATION.—For purposes of this subsection, the term 'determination' has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year.".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1954 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account.

(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

(b) SHORT-TERM OBLIGATIONS ISSUED ON A DISCOUNT BASIS.—

(1) IN GENERAL.—Paragraph (2) of section 852(b) (defining investment company taxable income) is amended by adding at the end thereof the following new subparagraph—

"(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

SEC. 811. TIPS TREATED AS WAGES FOR PURPOSES OF FEDERAL UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Section 3306 (relating to definitions for purposes of Federal unemployment tax) is amended by adding at the end thereof the following new subsection:

"(s) TIPS TREATED AS WAGES.—For purposes of this chapter, the term 'wages' includes tips which are—

"(1) received while performing services which constitute employment, and

"(2) included in a written statement furnished to the employer pursuant to section 6053(a).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on January 1, 1985.

(2) EXCEPTION FOR CERTAIN STATES.—In the case of any State the legislature of which—

(A) did not meet in a regular session which begins during 1984 and after the date of the enactment of this Act, and

(B) did not meet in a session which began before the date of the enactment of this Act and remained in session for at least 25 calendar days after such date of enactment,

the amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 812. DEFERRAL OF ESTATE TAXES FOR AN INTEREST IN A HOLDING COMPANY THAT IN TURN OWNS STOCK IN A CLOSELY HELD OPERATING COMPANY.

(a) IN GENERAL.—Subsection (b) of section 6166 (providing definitions and special rules for extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by adding after paragraph (7) the following new paragraph:

"(8) INTEREST IN CLOSELY HELD BUSINESS OWNED THROUGH HOLDING COMPANY—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulation prescribe) and if 80 percent or more in value of the assets of one corporation consists of nonreadily tradable stock (as defined in paragraph (7)(B)) in a second corporation carrying on a trade or business, then—

"(i) for purposes of this section (other than paragraph (1)(C)(i)), a proportionate part of the stock of the first corporation which is included in determining the gross estate of the decedent shall be treated as stock of the second corporation,

"(ii) for purposes of paragraph (1)(C)(i), a portion of the voting stock of the second corporation which is held by the first corporation shall be treated as included in determining the gross estate of the decedent,

"(iii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

"(iv) section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) 20-PERCENT REQUIREMENT.—The portion referred to in subparagraph (A)(ii) shall be determined according to the proportion of the value of the voting stock of the first corporation which is included in determining the gross estate of the decedent.

"(C) OTHER ASSETS EXCLUDED.—The proportionate part referred to in subparagraph (A)(i) shall be determined according to the ratio which the value of the stock of the second corporation which is held by the first corporation bears to the value of all assets of the first corporation.".

(b) ACCELERATION OF PAYMENT.—Paragraph (1) of section 6166(g) (relating to disposition of interest; withdrawal of funds from business) is amended by adding at the end thereof the following new subparagraph:

"(E) If any portion of stock in a corporation (described as the first corporation in subsection (b)(8)(A)) is treated as stock in a second corporation by reason of subsection (b)(8)(A)—

"(i)(I) any disposition of any interest in such stock in such first corporation, which was included in determining the gross estate of the decedent, or

"(II) any withdrawal of any money or other property from such first corporation attributable to any interest included in determining the gross estate of the decedent,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1), and

"(ii)(I) any disposition of any interest in such stock in such second corporation by such first corporation, or

"(II) any withdrawal of any money or other property from such second corporation attributable to such stock by such first corporation owning such stock,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1)."

(c) Paragraph (2) of section 6166(g) (relating to undistributed income of estate) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, dividends paid to a corporation owning nonreadily tradable stock in a corporation carrying on a trade or business (as described in subsection (b)(8)(A)) by such corporation shall be treated as paid to the estate of the decedent to the extent attributable to stock treated as stock of the first corporation by subsection (b)(8)(A)(i).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 813. ACTUARIAL ADJUSTMENTS UNDER SECTION 415 FOR COMMERCIAL AIRLINE PILOTS MADE ON BASIS OF AGE 60.

(a) GENERAL RULE.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR COMMERCIAL AIRLINE PILOTS.—The case of any participant who is a commercial airline pilot, if—

"(A) the benefit begins at or after age 60, and

"(B) as of the time the benefit begins, regulations prescribed by the Federal Aviation Administration do not permit an individual to serve as a commercial airline pilot after attaining age 60,

paragraph (2)(C) shall be applied by substituting 'age 60' for 'age 62' each place it appears.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if it had been included in section 235 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 814. COOKING WINE MAY BE FORTIFIED USING DISTILLED SPIRITS.

(a) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).".

(b) LIABILITY FOR TAX.—

(1) Paragraph (1) of section 5005(e) (relating to withdrawals without payment of tax) is amended by striking out "or (10)" and inserting in lieu thereof "(10), or (13)".

(2) Paragraph (2) of section 5005(e) is amended by inserting "used in the production of nonbeverage wine or wine products," after "used in the production of wine,".

(c) TECHNICAL AMENDMENT.—Section 5354 (relating to bonds for bonded wine cellars) is amended by striking out "wine spirits" each place it appears and inserting in lieu thereof "distilled spirits".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 815. TRANSITIONAL RULE FOR TREATMENT OF CERTAIN INCOME FROM S CORPORATIONS AS INVESTMENT INCOME.

(a) IN GENERAL.—If—

(1) a corporation was an S corporation for the taxable years of such corporation beginning in 1982, 1983, and 1984, and

(2) a shareholder of such corporation makes an election to have this section apply,

then any qualified income which such shareholder takes into account by reason of holding stock in such corporation for any taxable year of such corporation beginning in 1983 or 1984 shall be treated as net investment income for purposes of section 163(d) of the Internal Revenue Code of 1954.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) QUALIFIED INCOME.—The term "qualified income" means any income other than income which is attributable to personal services performed by the shareholder for the S corporation.

(2) S CORPORATION.—The term "S corporation" has the meaning given such term by section 1361(a) of the Internal Revenue Code of 1954.

(c) ELECTION.—The election under subsection (a) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 816. CERTAIN ORGANIZATIONS PROVIDING CHILD CARE INCLUDED WITHIN THE DEFINITION OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of care of children away from their homes if—

"(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public.".

(b) CROSS REFERENCES.—

(1) Subsection (k) of section 170 is amended by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(2) Subsection (f) of section 2055 is amended by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For treatment of certain organizations providing child care, see section 501(k).".

(3) Subsection (d) of section 2522 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IX—HIGHWAY REVENUE PROVISIONS

SEC. 900. TABLE OF CONTENTS.

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Sec. 902. Increase in diesel fuel tax.
Sec. 903. Study.

SEC. 901. REDUCTION OF HEAVY VEHICLE USE TAX.

(a) GENERAL RULE.—Subsection (a) of section 4481 (as amended by section 513(a) of the Highway Revenue Act of 1982) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

"Taxable gross weight:	Rate of tax:
"At least 55,000 pounds, but not over 72,000 pounds.	$150 per year plus $20 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 72,000 pounds	$500.".

(b) SPECIAL RULES IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(1) SPECIAL RULE FOR TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of a small owner-operator, the amount of the tax imposed by section 4481 of the Internal Revenue Code of 1954 on the use of any highway motor vehicle subject to tax under section 4481(a) of such Code (as amended by subsection (a)) for the taxable period which begins on July 1, 1984, shall be the lesser of—

(A) $3 for each 1,000 pounds of taxable gross weight (or fraction thereof), or

(B) the amount of the tax which would be imposed under such section 4481(a) without regard to this paragraph.

(2) EXEMPTION FOR VEHICLES USED FOR LESS THAN 5,000 MILES (AND CERTAIN OTHER AMENDMENTS) TO TAKE EFFECT ON JULY 1, 1984.—In the case of a small owner-operator, notwithstanding subsection (f)(2) of section 513 of the Highway Revenue Act of 1982, the amendments made by subsections (b), (c), and (d) of such section shall take effect on July 1, 1984.

(3) SMALL OWNER-OPERATOR DEFINED.—For purposes of this subsection, the term "small owner-operator" has the meaning given such term by section 513(f)(2) of the Highway Revenue Act of 1982.

(4) TAXABLE GROSS WEIGHT.—For purposes of this subsection, the term 'taxable gross weight' has the same meaning as when used in section 4481 of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) (and the provisions of subsection (b)) shall take effect on July 1, 1984.

SEC. 902. INCREASE IN DIESEL FUEL TAX.

(a) GENERAL RULE.—Paragraph (1) of section 4041(a) (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "14½ cents".

(b) TREATMENT OF GASOHOL.—Paragraph (1) of section 4041(k) (relating to fuels containing alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a)(1) shall be applied by substituting '9½ cents' for '14½ cents', and

"(B) subsection (a)(2) shall be applied by substituting '4 cents' for '9 cents', and

"(C) no tax shall be imposed by subsection (c).".

(c) INCOME TAX CREDIT FOR PURCHASE OF DIESEL POWERED AUTOMOBILE OR LIGHT TRUCK.—Section 6427 (relating to fuels not used for taxable purposes), as amended by this Act, is amended by redesignating subsections (g), (h), (i), (j), (k), (l), and (m) and as subsections (h), (i), (j), (k), (l), (m), and (n), respectively, and by inserting after subsection (f) the following new subsection:

"(g) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (j), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $96, or

"(B) in the case of a truck or van, $180.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—Except as provided in paragraph (6), this subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1988.

"(6) SPECIAL RULE FOR CERTAIN VEHICLES HELD ON JANUARY 1, 1985.—

"(A) IN GENERAL.—In the case of any person holding a qualified diesel-powered highway vehicle on January 1, 1985—

"(i) such person shall be treated as if he originally purchased such vehicle on December 31, 1984, but

"(ii) the amount payable under paragraph (1) to such person for such vehicle shall be the applicable fraction of the diesel fuel differential amount.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is the fraction determined in accordance with the following table:

"If the model year of the vehicle is:	The applicable fraction is:
1984 or 1985	1
1983	⅚
1982	⅔
1981	½
1980	⅓
1979	⅙

In the case of a 1978 or earlier model year vehicle, the applicable fraction shall be zero.

"(7) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(B) COORDINATION WITH LIMITATION ON LUXURY AUTOMOBILES.—The limitation of section 168(d)(3)(A) with respect to any vehicle shall be reduced by the amount payable under paragraph (1) with respect to such vehicle.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO HIGHWAY TRUST FUND.—

(A) TRANSFERS TO MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) (relating to transfers to Mass Transit Account) is amended to read as follows:

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term 'mass transit portion' means an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.".

(B) INCOME TAX CREDITS PAYABLE OUT OF HIGHWAY TRUST FUND.—Clause (ii) of section 9503(c)(2)(A) is amended by striking out "used before October 1, 1988" and inserting in lieu thereof "used before October 1, 1988 (or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1988)".

(2) CONFORMING AMENDMENTS TO INCOME TAX CREDIT.—

(A) Subsections (a)(4) and (b) of section 39 (as in effect before the enactment made by title IV of this Act) are each amended by striking out "6427(i)" and inserting in lieu thereof "6427(j)".

(B) Subsections (a), (b)(1), (c), (d), (e)(1), and (f)(1) of section 6427 are each amended by striking out "(i)" and inserting in lieu thereof "(j)".

(C) Subsection (h)(1) of section 6427 (as redesignated by subsection (c)) is amended—

(i) by striking out "or (f)" and inserting in lieu thereof "(f), or (g)", and

(ii) by striking out "fuel used" each place it appears and inserting in lieu thereof "fuel used (or a qualified diesel powered highway vehicle purchased)".

(D) Subsection (h)(2)(A) of section 6427 (as so redesignated) is amended—

(i) by striking out "and (e)" in clause (i) and inserting in lieu thereof "(e), and (g)", and

(ii) by striking out "fuel used" each place it appears and inserting in lieu thereof "fuel used (or a qualified diesel powered highway vehicle purchased)".

(E) Subsection (k)(2) of section 6427 (as so redesignated) is amended by striking out "(g)(2)" and inserting in lieu thereof "(h)(2)".

(F) Subsection (m) of section 6427 (as so redesignated) is amended by striking out "and (d)" each place it appears and inserting in lieu thereof "(d), and (g)".

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(h)(2)" each place it appears and inserting in lieu thereof "6427(i)(2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

SEC. 903. STUDY.

(a) GENERAL RULE.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of whether highway motor vehicles with taxable gross weights of 80,000 pounds or more bear their fair share of the costs of the highway system.

(b) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with such recommendations as he may deem advisable.

DIVISION B—SPENDING REDUCTION ACT OF 1984

SEC. 2001. This Division may be cited as the "Spending Reduction Act of 1984".

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TITLE I—AGRICULTURAL PROGRAMS

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Sec. 2101. For provisions of law which reduce spending for fiscal years 1985 through 1987 in agricultural programs, see conference report on H.R. 4072, the Wheat Improvement Act of 1983 (H. Report 98-646).

TITLE II—CIVIL SERVICE AND MILITARY RETIREMENT PROGRAMS

COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1986 AND 1987

Sec. 2201. (a) The cost-of-living increase under a Government retirement system in annuity or retired or retainer pay of any early retiree taking effect in each of fiscal years 1986 and 1987 shall be equal to one-half of the cost-of-living increase which would otherwise be effective under such system for that year.

(b) For purposes of this section, an individual shall be considered to be an early retiree if—

(1) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved;

(2) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(3) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(c) The amount of any survivor annuity which is based on the service of any early retiree subject to this section shall be computed as if this section had not been enacted.

(d) For purposes of this section, the term 'cost-of-living increase under a Government retirement system' means any increase under—

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) the provisions of any other retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

TITLE III—HEALTH PROGRAMS

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PART A—MEDICARE RECONCILIATION AMENDMENTS
Subpart I—Payment- and Coverage-Related Changes

PAYMENT FOR OUTPATIENT DIAGNOSTIC LABORATORY TESTS

SEC. 2301. (a) Subsection (a) of section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) by amending clause (D) of subsection (a)(1) to read as follows: "(D) with respect to diagnostic laboratory tests for which payment is made under this part, the amounts paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1)) of the lesser of (i) the amount determined under subsection (h), or (ii) the amount of the charges billed for the tests,";

(2) by inserting "or (D)" in paragraph (2)(B) after "subparagraph (C)";

(3) by striking out "and" at the end of paragraph (2)(B);

(4) by inserting "and" at the end of paragraph (2)(C); and

(5) by adding at the end of paragraph (2) the following new subparagraph:

"(D) with respect to diagnostic laboratory tests for which payment is made under this part, 100 percent of the lesser of (i) the amount determined under subsection (h), or (ii) the amount of the charges billed for the tests;".

(b) Subsection (b) of such section is amended—

(1) by striking out "and" at the end of clause (2) of subsection (b); and

(2) by inserting before the period at the end of the first sentence of subsection (b) the following: ", and (4) such deductible shall not apply with respect to diagnostic laboratory tests for which payment is made under this part on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866".

(c) Subsection (h) of such section is amended to read as follows:

"(h)(1) The Secretary shall establish in accordance with this subsection a national fee schedule for diagnostic laboratory tests for which payment is made under this part.

"(2) Except as provided in paragraph (4), the Secretary shall set the fee schedule at 60 percent of the prevailing charge level determined pursuant to the third and fourth sentences of section 1842(b)(3) for similar diagnostic laboratory tests for the twelve-month period beginning July 1, 1984, adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers (U.S. city average) and subject to such other adjustments as the Secretary determines are justified by technological changes.

"(3) In addition to the amounts provided under the fee schedule, the Secretary shall provide for and establish a nominal fee to cover the costs in collecting the sample on a diagnostic laboratory test that was performed and for which payment is made under this part, except that not more than one such fee may be provided under this paragraph with respect to samples collected in the same encounter.

"(4)(A) During the 3-year period beginning July 1, 1984, the Secretary may provide for the fee schedule under this subsection to be established on a regional or statewide basis if the Secretary determines that a national fee schedule is inappropriate at such time because of limitations in the data available to establish such a schedule.

"(B) In establishing a fee schedule under this subsection, the Secretary may provide for an adjustment to take into account, with respect to the portion of the expenses of diagnostic laboratory tests attributable to wages, the relative difference between a region's or local area's wage rates and the wage rate presumed in the data on which the schedule is based.

"(5) In the case of a bill or request for payment for a diagnostic laboratory test for which payment may otherwise be made under this part—

"(A) no payment may be made under this part to a physician with respect to such test unless the physician (or another physician with whom the physician shares his practice) personally performed or supervised the performance of the test, and

"(B) payment for such a test performed by a laboratory which is independent of a physician's office or a rural health clinic may only be made on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866.".

(d) Section 1842(h) of such Act (42 U.S.C. 1395u(h)) is repealed.

(e) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting "and with respect to diagnostic laboratory tests" after "section 1861(s)(10)".

(f)(1) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by inserting "and" at the end of paragraph (42);

(B) by striking out paragraph (43); and

(C) by redesignating paragraph (44) as paragraph (43).

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and

(B) by adding after paragraph (6) the following new paragraph:

"(7) with respect to any amount expended for diagnostic laboratory tests performed by a physician, independent laboratory, or hospital (other than for an inpatient of the hospital), to the extent such amount exceeds the amount payable under section 1833(h) for such tests.".

(g) The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for diagnostic laboratory tests under part B of title XVIII of such Act.

(h)(1) Except as provided in paragraph (2), the amendments and repeal made by this section shall apply to diagnostic laboratory tests furnished on or after July 1, 1984.

(2) The amendments made by subsection (f)(2) shall apply to payments for calendar quarters beginning on or after October 1, 1984.

COVERAGE OF ADMINISTRATION OF HEPATITIS B VACCINE

SEC. 2302. (a) Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) by inserting "(A)" after "(10)",

(2) by striking out the period at the end and inserting in lieu thereof "; and", and

(3) by adding at the end the following new subparagraph:

"(B) hepatitis B vaccine and its administration, furnished in a hospital or a renal dialysis facility.".

(b) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(k) With respect to services described in section 1861(s)(10)(B), the Secretary may provide, instead of the amount of payment otherwise provided under this part, for payment of such an amount or amounts as reasonably reflects the general cost of efficiently providing such services.".

(c) The amendments made by this section apply to services furnished on or after July 1, 1984.

PART B PAYMENT FOR SERVICES OF TEACHING PHYSICIANS

SEC. 2303. (a) Section 1842(b)(6)(B) of the Social Security Act (42 U.S.C. 1395u(b)(6)(B)) is amended—

(1) by striking out "physician who has a substantial practice outside the teaching setting" in clause (i) and inserting in lieu thereof "physician who is not a teaching physician (as defined by the Secretary)";

(2) by striking out "outside practice" in clause (i) and inserting in lieu thereof "practice outside the teaching setting";

(3) by striking out "In the case of a physician who does not have a practice described in clause (i)" in clause (ii) and inserting in lieu thereof "Except as provided under clause (iii), in the case of a teaching physician";

(4) by striking out "greater" in clause (ii) and inserting in lieu thereof "greatest";

(5) by striking out "or" at the end of subclause (I) of clause (ii);

(6) by striking out the period at the end of subclause (II) of clause (ii) and inserting in lieu thereof ", or";

(7) by adding at the end of clause (ii) the following new subclause:

"(III) 75 percent of the prevailing charges paid for similar services in the same locality."; and

(8) by adding at the end thereof the following new clause:

"(iii) If all the teaching physicians in the hospital agree to have payment made for all physicians' services under this part furnished patients in the hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), the carrier shall take into account the amounts otherwise payable under this part with respect to similar services in the same locality.".

(b) The amendments made by subsection (a) shall apply to services furnished on or after July 1, 1984.

INFORMATION ON PHYSICIAN ASSIGNMENT PRACTICES

SEC. 2304. Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsections:

"(i)(1) The Secretary shall compile annually a list of physicians serving individuals enrolled under this part indicating the share (by percentile intervals not to exceed quartiles) of claims which each physician has accepted on an assignment basis (described in subsection (b)(3)(B)(ii)) or has had payment made under the procedure described in section 1870(f)(1) in the preceding year.

"(2) The Secretary shall make available in each office of the Social Security Administration the information compiled under

paragraph (1) for the local geographic area served by the office no more than six months after the end of each year and, upon request, by mail from each carrier. The Secretary shall, when such information becomes available, annually notify each individual enrolled under this part of the availability of such information.

"(j)(1) The Secretary shall publish annually a list of all physicians who have agreed in accordance with this subsection to accept payment under this part on the basis of an assignment (described in subsection (b)(3)(B)(ii)) or under the procedure described in section 1870(f)(1) for all services furnished under this part during the following twelve-month period to individuals enrolled under this part.

"(2) To permit the publishing of the list provided under paragraph (1), the Secretary shall annually, before the beginning of the twelve-month period, offer physicians a reasonable opportunity to sign an agreement that they will accept payment under this part on the basis of an assignment (described in subsection (b)(3)(B)(ii)) or under the procedure described in section 1870(f)(1) for all services furnished under this part during the following twelve-month period to individuals enrolled under this part.

"(3) The Secretary shall annually provide to each individual enrolled under this part and residing in a local geographic area notice of the availability of the list of all physicians in that area who have signed such an agreement for the following twelve-month period.".

STUDY OF MEDICARE PART B PAYMENTS

SEC. 2305. (a)(1) The Secretary of Health and Human Services shall study and report to Congress, no later than June 30, 1985, on methods by which payment amounts and other program policies under part B of title XVIII of the Social Security Act may be modified—

(A) to eliminate inequities in the relative amounts paid to physicians by type of service, locality, and specialty, with particular attention to any inequities between cognitive services and medical procedures;

(B) to increase incentives for physicians and other suppliers under such part to accept assignment for medicare services; and

(C) to provide incentives for physicians and other providers not to provide increased or otherwise excessive amounts of hospital, physician, and other health care services.

(2) In carrying out the study under paragraph (1)(A), the Secretary shall take into account the relative time, complexity, investment in professional training, and overhead expenses necessary to the provision of various medical services and procedures.

(3) The report of the Secretary shall include a description of one or more national or regional fee schedules for payments under part B of title XVIII of the Social Security Act which are consistent with the findings of the study under this subsection.

(b) In order to carry out the study and facilitate Congressional review, the Secretary shall compile a centralized medicare part B charge data base, utilizing information gathered by the medicare carriers and used by them in making the 1984 reasonable charge updates. Such data shall include information, by procedure, on—

(1) utilization,

(2) assignment rates of physicians and suppliers,

(3) actual, customary, and prevailing charges, and

(4) the differences in charges by physician specialty and locality.

(c) The report of the Secretary shall include recommendations for legislative amendments necessary to implement the findings and recommendations of the study under this section.

(d) In preparing the report and recommendations, the Secretary shall consult, as appropriate, with national organizations of physicians and other interested associations and individuals.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 2306. (a)(1) The Secretary shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

(2)(A) Except as provided in subparagraph (B), if the guidelines required by paragraph (1) have not been issued and put into effect by October 1, 1984, payment may not be made under part B of title XVIII of the Social Security Act for transtelephonic monitoring procedures (with respect to a single-chamber cardiac pacemaker powered by lithium batteries) conducted more frequently than—

(i) weekly during the first month after implantation,

(ii) once every two months during the period representing 80 percent of the estimated life of the implanted device, and

(iii) monthly thereafter.

(B) Subparagraph (A) shall only apply to the monitoring of single-chamber cardiac pacemaker devices powered by lithium batteries, and shall not apply in cases where the Secretary (or the Secretary's agent) determines that special medical factors (including possible evidence of pacemaker malfunction) justify more frequent transtelephonic monitoring procedures.

(b)(1) The Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the current rate of reimbursement under part B of title XVIII of the Social Security Act for physicians' services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the rates for such procedures were first established under such part. In making such review and report, the Secretary shall take into consideration the reduction of such recognized rates by 20 percent.

(2) The Secretary shall complete the review described in this subsection not later than October 1, 1984.

(c) Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary shall, through the Commissioner of the Food and Drug Administration, provide for a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under this title. Such registry shall include the manufacturer, model, serial number, and manufacturer's price of each such device or lead, the name of the recipient of such device or lead, the date and location of the implantation or removal of the device or lead, the name of the physician involved in implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express or implied warranties associated with such device or lead under contract or State law, and such other information as the Secretary deems to be appropriate. Such registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, determining when inspection by the Food and Drug Administration may be necessary under paragraph (2), and carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient). Any person or organization may provide information to the registry with respect to cardiac pacemaker devices and leads other than those for which payment is made under this title.

"(2) In any case where the Secretary has reason to believe, based upon information in the pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under this title is related to the malfunction of a device or lead, the Secretary may require that personnel of the Food and Drug Administration test such device, or be present at the testing of such device by the manufacturer, to determine whether such device was functioning properly.".

PAYMENT FOR DEBRIDEMENT OF MYCOTIC TOENAILS

SEC. 2307. The Secretary shall provide, pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE UNITS

SEC. 2308. (a)(1) In the case of a project or system described in subsection (b), the Secretary shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project or system (on and after January 1, 1983) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project or system (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project or system were not in effect.

(2) Paragraph (1) shall not apply if the State in which the project or system is located notifies the Secretary—

(A) within 30 days of the date of the enactment of this section, in the case of a demonstration project described in subsection (b)(1), or

(B) within a reasonable period (established by the Secretary), in the case of a system described in subsection (b)(2),

that the State does not want paragraph (1) to apply to that project or system.

(b) A project or system referred to in subsection (a) is—

(1) a state-wide demonstration project under section 222(a) of the Social Security Amendments of 1972 (Public Law 92-603), or

(2) a state-wide hospital reimbursement control system approved under section 1886(c) of the Social Security Act,

which project or system provides for payments to hospitals in a State determined on a prospective basis and related to a classification of patients by diagnosis-related groups.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

Subpart II—Miscellaneous Administrative Changes

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 2321. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

"SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration.".

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act.

PERMITTING LIMITED PROVIDER REPRESENTATION ON PEER REVIEW ORGANIZATIONS

SEC. 2322. Section 1153(b)(3) of the Social Security Act (42 U.S.C. 1320c-2(b)(3)) is amended—

(1) by striking out "(3) The Secretary" and inserting in lieu thereof "(3)(A) Except as provided in subparagraph (B), the Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) In the case of a utilization and quality control peer review organization with a governing board composed of—

"(i) not more than 15 members, the Secretary may enter into a contract under this part with the organization if not more than one of the members of its governing board is a member of a governing board, officer, or managing employee of a health care facility, or

"(ii) more than 15 members, the Secretary may enter into a contract under this part with the organization if not more than two of the members of its governing board are members of a governing board, officer, or managing employee of a health care facility.".

ACCESS TO HOME HEALTH SERVICES

SEC. 2323. (a) Sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a), 1395n(a)) are each amended by adding at the end the following new sentence: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency.".

(b) The third sentence of section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) and the fourth sentence of section 1835(a) of such Act (42 U.S.C. 1395n(a)) are each amended by inserting before the period at the end the following: ", except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)".

(c)(1) The amendments made by subsection (a) shall apply to certifications and plans of care made or established on or after the date of the enactment of this Act.

(2) The Secretary shall provide, not later than 90 days after the date of the enactment of this Act, for such revision of regulations as may be required to reflect the amendments made by subsection (b).

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS AND REQUIREMENT OF ACCREDITATION FOR PSYCHIATRIC HOSPITALS

SEC. 2324. (a) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) by striking out subparagraph (B) of paragraph (2),

(2) by striking out "and inpatient tuberculosis hospital services" in paragraph (3),

(3) by striking out paragraph (5), and

(4) by striking out "(B)," in the sentence that follows paragraph (8).

(b) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by striking out subsections (d) and (g),

(2)(A) by inserting "and" at the end of paragraph (3) of subsection (f),

(B) by striking out "; and" at the end of subsection (f)(4) and inserting in lieu thereof a period,

(C) by striking out paragraph (5) of subsection (f), and

(D) by striking out "if the institution is accredited" and all that follows through "Secretary" in the second sentence of subsection (f);

(3) by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or" in the fifth sentence of subsection (e), and

(4) by striking out "or tuberculosis" in the first sentence of subsection (j) following paragraph (15).

(c) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking out "(g)(4),".

(d) Section 1866 of such Act (42 U.S.C. 1395cc) is amended—

(1) by striking out "tuberculosis hospital services and" in subsection (b)(3), and

(2) by striking out "inpatient tuberculosis hospital services and" in subsection (d).

(e) Section 1902(a)(28) of such Act (42 U.S.C. 1396a(a)(28)) is amended by striking out "and tuberculosis".

(f) Section 1903(g)(1) of such Act (42 U.S.C. 1396b(g)(1)) is amended by striking out "(including an institution for tuberculosis)" and "(including tuberculosis hospitals)".

(g) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking out "tuberculosis or" each place it appears.

(h) Section 1905(h)(1) of such Act (42 U.S.C. 1396d(h)(1)) is amended—

(1) by striking out subparagraph (A), and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 2325. (a) The first sentence of section 1842(b)(5) of the Social Security Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(i)" after "(A)",

(2) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(3) by inserting before the period the following: ", or (B) to an entity (i) which provides coverage of the services under a health benefits plan, but only to the extent that payment is not made under this part, (ii) which has paid the person who provided the service an amount (including the amount payable under this part) which that person has accepted as payment in full for the service, and (iii) to which the individual has agreed in writing that payment may be made under this part".

(b) The second sentence of such section is amended by striking out "or (B)".

INCLUDING PODIATRISTS IN DEFINITION OF 'PHYSICIAN' FOR OUTPATIENT PHYSICAL THERAPY SERVICES AND INCLUDING PODIATRISTS AND DENTISTS IN DEFINITION OF 'PHYSICIAN' FOR OUTPATIENT AMBULATORY SURGERY

SEC. 2326. (a) Section 1861(p)(1) of the Social Security Act (42 U.S.C. 1395x(p)(1)) is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 1861(r)".

(b) Section 1832(a)(2)(F)(ii) of such Act (42 U.S.C. 1395k(a)(2)(F)(ii)) is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1861(r)".

(c) Section 1861(r)(3) of such Act (42 U.S.C. 1395x(r)(3)) is amended—

(1) by striking out "and (m)" the first place it appears and inserting in lieu thereof ", (m), and (p)(1)", and

(2) by inserting ", 1832(a)(2)(F)(ii)," after "1814(a)" the first place it appears.

(d) The amendments made by this section apply to services furnished on or after the date of the enactment of this Act.

ESTABLISHMENT BY PHYSICAL THERAPISTS OF PLANS FOR PHYSICAL THERAPY

SEC. 2327. (a) Section 1861(p)(2) of the Social Security Act (42 U.S.C. 1395x(p)(2)) is amended by striking out ", and is periodically reviewed, by a physician (as so defined)" and inserting in lieu thereof "by a physician (as so defined) or by a qualified physical therapist and is periodically reviewed by a physician (as so defined)".

(b) Section 1835(a)(2)(C)(ii) of such Act (42 U.S.C. 1395n(a)(2)(C)(ii)) is amended by striking out ", and is periodically reviewed, by a physician" and inserting in lieu thereof "by a physician or by the qualified physical therapist provided such services and is periodically reviewed by a physician".

(c) The amendments made by this section apply to plans of care established on or after the date of the enactment of this Act.

ACCESS TO RECORDS OF SUBCONTRACTORS

SEC. 2328. (a) Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(I)) is amended by striking out "$10,000" and inserting in lieu thereof "$50,000".

(b) The amendment made by subsection (a) applies to contracts with subcontractors entered into on or after the date of the enactment of this Act.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 2329. (a) Section 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(b)(1)) is amended—

(1) in the first sentence, by inserting "promptly" after "to be made",

(2) in the second sentence, by inserting "or may be" after "has been", and

(3) by inserting after the second sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a law, policy, plan, or insurance (if the entity would be required to make payment if an appropriate claim were pursued, but only to the extent that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a law, policy, plan, or insurance.".

(b) Section 1862(b)(2)(B) of such Act (42 U.S.C. 1395y(b)(2)(B)) is amended—

(1) in the first sentence, by inserting "or may be" after "has been", and

(2) by inserting after the first sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a plan (if the entity would be required to make payment if an appropriate claim were pursued, but only to the extent that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a plan.".

(c) Section 1862(b)(3)(A)(ii) of such Act (42 U.S.C. 1395y(b)(3)(A)(ii)) is amended—

(1) in the first sentence, by inserting "or may be" after "has been", and

(2) by inserting after the first sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a plan (if the entity would be required to make payment if an appropriate claim were pursued, but only to the extent that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a plan.".

USE OF ACCREDITING ORGANIZATIONS FOR CERTAIN ENTITIES FURNISHING SERVICES

SEC. 2330. The third sentence of section 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a)) is amended—

(1) by striking out "section 1861(e), (j), (o), or (dd)" and inserting in lieu thereof "section 1832(a)(2)(F)(i), 1861(e), 1861(f), 1861(j), 1861(o), or 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), or section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)", and

(2) by striking out "institution or agency" each place it appears and inserting in lieu thereof "entity".

CONFIDENTIALITY OF ACCREDITATION SURVEYS

SEC. 2331. Section 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a)) is amended—

(1) by striking out "(on a confidential basis)" in paragraph (2), and

(2) by adding at the end the following new sentence:

"The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.".

THIRTY-DAY COVERAGE FOR SERVICES FURNISHED BY A HOME HEALTH AGENCY WHOSE AGREEMENT HAS BEEN TERMINATED

SEC. 2332. (a) Section 1866(b)(4)(B) of the Social Security Act (42 U.S.C. 1395cc(b)(4)(B)) is amended by striking out "the calendar year in which" and inserting in lieu thereof "30 days after".

(b) The amendment made by subsection (a) applies with respect to terminations whose effective date falls after 60 days after the date of the enactment of this Act.

TERMINATION OF AGREEMENTS WITH INSTITUTIONS AND ENTITIES WHERE OWNERS OR CERTAIN OTHER INDIVIDUALS HAVE BEEN CONVICTED OF CERTAIN OFFENSES

SEC. 2333. Section 1866(b)(2)(G) of the Social Security Act (42 U.S.C. 1395cc(b)(2)(G)) is amended by inserting before the period the following: ", or that any person who has a direct or indirect ownership or control interest of 5 percent of more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a)(2)".

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 2334. (a) Section 1867 of the Social Security Act (42 U.S.C. 1395dd) is repealed.

(b)(1) The first sentence of section 1863 of such Act (42 U.S.C. 1395z) is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies" and inserting in lieu thereof "appropriate State agencies".

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(4)) is amended by striking out "1867,".

(3) Section 361 of the Social Security Amendments of 1977 (42 U.S.C. 907a) is amended by striking out subsection (i).

HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 2335. (a) Subsection (c)(3)(A) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended—

(1) by inserting "(i)" after "(3)(A)",

(2) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(3) by adding at the end the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased during the 12-month enrollment period for which the individual is enrolling. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section.".

(b) The first sentence of subsection (g)(2) of such section is amended by inserting before the period the following: "and except that an organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary for subsequent annual contract periods to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3)".

(c)(1) Subsection (g)(4)(A) of such section is amended—

(A) by inserting "and other providers of services" after "hospitals",

(B) by inserting "or other appropriate basis for payment established under this title" after "section 1861(v))", and

(C) by striking out "inpatient hospital".

(2) Subsection (h)(2) of such section is amended—

(A) by striking out "skilled nursing facilities" in subparagraph (A) and inserting in lieu thereof "other providers of services",

(B) by striking out "or" after "1861(v))" in subparagraph (A) and in the second sentence and inserting in lieu thereof a comma in each instance,

(C) by inserting "or other appropriate basis for payment established under this title" after "section 1886" in subparagraph (A) and in the second sentence each place it appears, and

(D) by striking out "skilled nursing facility" in the second sentence and inserting in lieu thereof "or other provider of services".

(d) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by subsection (a) to all applicable areas in the United States if the Secretary determines that it is not adminstratively feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

DEADLINE FOR REPORT ON INCLUDING PAYMENT FOR PHYSICIANS' SERVICES TO HOSPITAL INPATIENTS IN DRG PAYMENT AMOUNTS

SEC. 2336. The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "include, in a report to Congress in 1985," and inserting in lieu thereof "submit to Congress, not later than July 1, 1985, a report to Congress which includes".

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END-STAGE RENAL DISEASE FACILITIES

SEC. 2337. Section 1881(c)(3) of the Social Security Act (42 U.S.C. 1395rr(c)(3)) is amended by adding at the end the following new sentence: "Where the Secretary also determines that the facility's or provider's failure to cooperate with the Secretary's

plans and goals does not jeopardize patient health or safety or justify termination of certification, the Secretary may, instead of terminating or withholding certification and after reasonable notice to the provider or facility and to the public, impose such other sanctions as may be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of the notice and graduated reduction in reimbursement for all patients.".

REPEAL OF REQUIREMENT FOR END-STAGE RENAL DISEASE NETWORKS

SEC. 2338. (a)(1) Paragraph (1) of section 1881(c) of the Social Security Act (42 U.S.C. 1395rr(c)) is amended to read as follows:

"(c)(1) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary may establish a national end-stage renal disease medical information system.".

(2) Paragraphs (2), (4), and (5) of such section are repealed.

(3) Paragraph (3) of such section is amended—

(A) by striking out "the data contained in the network's annual report and such other" and inserting in lieu thereof "such",

(B) by striking out "network plans" and inserting in lieu thereof "the Secretary's plans", and

(C) by striking out "network's plans" and inserting in lieu thereof "those plans".

(4) Paragraph (6) of such section is amended—

(A) by striking out "and network" in the second sentence,

(B) by striking out "(6)" and inserting in lieu thereof "(2)", and

(C) by transferring and inserting it after paragraph (1) of such section.

(b) Section 1881(g) of such Act (42 U.S.C. 1395rr(g)) is amended—

(1) by striking out ", nationally and by renal disease network," in paragraph (1),

(2) by adding "and" at the end of paragraph (13),

(3) by striking out paragraph (14), and

(4) by redesignating paragraph (15) as paragraph (14).

(c) The amendments made by this section shall take effect on a date, established and published by the Secretary and not earlier than July 1, 1984, as of which date the Secretary has in operation an alternative means of performing the essential data collection activities performed on the date of the enactment of this Act by renal disease networks.

REMOVING COSTS OF NURSE ANESTHETISTS FROM DRG-BASED PAYMENTS

SEC. 2339. (a) The second sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting "and costs related to employment or contracts for the professional services of certified registered nurse anesthetists" after "capital-related costs".

(b) The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by inserting "and for services of certified registered nurse anesthetists" after "physicians' services".

(c) The amendment made by subsection (a) shall apply to payments for cost reporting periods beginning on or after October 1, 1984, and before October 1, 1986.

DETERMINATION OF HOSPITAL AREA WAGE INDEX

SEC. 2340. (a) Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following new sentence: "The Secretary shall establish criteria under which, in the case of a hospital that demonstrates to the Secretary in a current fiscal year that the adjustment being made under the previous sentence (or under paragraph (2)(H)) for that hospital's discharges in that fiscal year does not accurately reflect the wage levels in the labor market serving the hospital, the Secretary, to the extent he deems appropriate, shall modify such adjustment for that hospital for discharges in the subsequent fiscal year to take into account a difference in payment amounts in that current fiscal year to the hospital that resulted from such inaccuracy.".

(b) The Secretary of Health and Human Services shall develop, in consultation with the Secretary of Labor and the Commissioner of the Bureau of Labor Statistics, methods of refining and improving the adequacy and equity of the area wages indices used under paragraphs (2)(H) and (3)(E) of section 1886(d) of the Social Security Act. The Secretary shall report to Congress on such developments not later than June 1, 1984.

DEFINITION OF BONA FIDE EMERGENCY SERVICES FOR PURPOSES OF LIMITATIONS ON PAYMENT FOR HOSPITAL OUTPATIENT SERVICES

SEC. 2341. In the administration of section 1861(v)(1)(K) of the Social Security Act (42 U.S.C. 1395x(v)(1)(K)), the Secretary of Health and Human Services shall provide that 'bona fide emergency services' shall include services provided in a hospital emergency room after the onset of a medical condition manifesting itself by symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected, by a prudent layperson possessing an average knowledge of health and medicine, to result in—

(1) placing the patient's health in jeopardy,

(2) serious impairment to bodily functions,

(3) serious dysfunction of any bodily organ or part, or

(4) development or continuance of severe pain.

DELAY OF EFFECTIVE DATE FOR SINGLE REIMBURSEMENT LIMIT FOR HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 2342. Effective September 30, 1983, section 102(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), as amended by section 605 of the Social Security Amendments of 1983 (Public Law 98-21), is amended by striking out "October 1, 1983" and inserting in lieu thereof "April 1, 1984".

PART B—MEDICAID RECONCILIATION AMENDMENTS

Subpart I—Maternal and Child Health Amendments

INCREASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR SERVICES PROVIDED TO CERTAIN PREGNANT WOMEN AND YOUNG CHILDREN

SEC. 2351. (a)(1) Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services furnished with respect to a qualified pregnant woman or child (as defined in subsection (n)).".

(2)(A) Section 1903(s)(1)(A) of such Act (42 U.S.C. 1396b(s)(1)(A)) is amended by inserting "or furnished with respect to a qualified pregnant woman or child (as defined in section 1905(n))" after "Indian Health Service".

(B) Section 1903(s)(2) of such Act (42 U.S.C. 1396b(s)(2)) is amended—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(iii) by adding at the end the following new subparagraph:

"(D) by one-half percentage point if the State provides (and provided as of June 30, 1983) for coverage under the plan, under clauses (i) and (ii)(I) of section 1902(a)(10)(A), of—

"(i) all children described in section 1905(a)(i) and in section 1902(a)(10)(A)(ii)(I);

"(ii) all pregnant women whom the State has the option of deeming to be recipients of aid to families with dependent children for purposes of this title by reason of section 406(g)(2); and

"(iii)(I) individuals receiving aid under a State plan under part A of title IV pursuant to section 407 by virtue of being deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section), or

"(II) all pregnant women who are members of a family which would be eligible to receive aid under a State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid with respect to dependent children deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section).".

(3) Section 1903(t)(1)(A) of such Act (42 U.S.C. 1396b(t)(1)(A)) is amended by inserting "or furnished with respect to a qualified pregnant woman or child (as defined in section 1905(n))" after "Indian Health Service".

(b) Section 1905 of such Act (42 U.S.C. 1396d) is further amended by adding at the end the following new subsection:

"(n) The term 'qualified pregnant woman or child' means—

"(1) a child born on or after October 1, 1983, who is under 5 years of age and who is described in section 1902(a)(10)(A)(ii)(I) and covered under the State plan as an individual described in section 1902(a)(10)(A), or

"(2) a pregnant woman—

"(A) whom the State has the option of deeming to be a recipient of aid to families with dependent children for purposes of this title by reason of section 406(g)(2), or

"(B) who is a member of a family which would be eligible for aid under a State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid with respect to dependent children deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section); and

who is not eligible for coverage under the plan, as the plan was in effect on June 30, 1983, as an individual described in section 1902(a)(10)(A).".

(c)(1) Except as provided in paragraph (2), the amendments made by the preceding subsections of this section shall take effect on October 1, 1984, and apply to payments made to providers under State plans on and after that date.

(2) The amendment made by subsection (a)(2)(B) shall apply to payments to States

for quarters beginning on or after October 1, 1983.

(3) Notwithstanding any provision of title XIX of the Social Security Act, a State plan approved under such title which did not make all children described in section 1902(a)(10)(A)(ii)(I) of such Act eligible for coverage under the plan as of June 30, 1983, may limit the eligibility of coverage of such children to those who are qualified children described in section 1905(n)(1) of such title.

(d) Effective for payments made to providers under State plans on or after October 1, 1987, paragraph (2) of section 1905(n) of the Social Security Act (added by subsection (b) of this section) is amended to read as follows:

"(2) a pregnant woman who is described in section 1902(a)(10)(A)(ii)(I) and covered under the State plan as an individual described in section 1902(a)(10)(A); and".

PERMITTING ELIMINATION OF "DEEMING" OF INCOME AND RESOURCES WITH RESPECT TO CERTAIN MINOR PREGNANT WOMEN

SEC. 2352. (a) Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended by striking out "and" at the end of clause (C) and by inserting at the end of clause (D) the following: ", and (E) at the option of the State, do not take into account the financial responsibility of any individual for an applicant or recipient who is a pregnant woman under age 21 and who does not have legal custody over other children, unless the applicant or recipient is the individual's spouse, except that a State may limit the application of this clause (E) to applicants and recipients who live in such an individual's household, in a custodial institution for pregnant women, or in either such a household or such an institution".

(b) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1984.

CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 2353. (a) Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains eligible for such assistance.".

(b) The amendment made by subsection (a) shall apply to children born on or after October 1, 1984.

Subpart II—Miscellaneous Medicaid Changes

MEDICALLY NEEDY INCOME LEVELS

SEC. 2361. (a) Section 1903(f)(3) of the Social Security Act (42 U.S.C. 1396b(f)(3)) is amended—

(1) by inserting "(A)" after "(3)", and

(2) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(B), in the case of a family consisting only of two individuals both of whom are adults and at least one of whom is aged, blind, or disabled, the 'highest amount which would ordinarily be paid to a family of the same size' under the State's plan approved under part A of title IV of this Act shall, at the State's option, be the amount determined by the State agency to be the amount of the aid which would ordinarily be payable under such plan to a family which consists of one adult and two children and which is without any income or resources. In the case of a State which has an applicable income limitation under this subsection which is equal to the maximum applicable income limitation permitted consistent with paragraph (1)(B) for families other than those described in the previous sentence, section 1902(a)(10)(C)(i)(III) shall not prevent the State from establishing under the previous sentence an applicable income limitation for families described in that sentence which is greater than the income limitation applicable to other families.".

(b) The amendment made by subsection (a)(2) shall apply to payments to States under section 1903 of the Social Security Act for calendar quarters beginning on or after October 1, 1984.

RECERTIFICATION OF NEED FOR STAYS IN SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 2362. (a) Section 1903(g) of the Social Security Act (42 U.S.C. 1396b(g)) is amended—

(1) by striking out ", skilled nursing facility or intermediate care facility on 60 days" in the matter in paragraph (1) before subparagraph (A) and by inserting in lieu thereof "or intermediate care facility on 60 days, in a skilled nursing facility on 30 days";

(2) by striking out ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days" in the matter in paragraph (1) before subparagraph (A) and inserting in lieu thereof "or intermediate care facility furnished beyond 60 days or skilled nursing facility services furnished beyond 30 days";

(3) by inserting "or, in the case of services that are skilled nursing facility or intermediate care facility services other than in an institution for the mentally retarded, at least as frequently as provided under paragraph (7)," in paragraph (1)(A) after "every 60 days (";

(4) by adding at the end of paragraph (4) the following new subparagraph:

"(C) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirements of subparagraphs (A) and (B) of such paragraph as applicable to a type of facility or institutional services, if the fraction referred to in paragraph (5)(B) with respect to that quarter for that type of services is equal to or less than 3 one-hundredths.";

(5) by striking out "(5) In" in paragraph (5) and inserting in lieu thereof "(5)(A)(i) Except as provided in subparagraph (B), in";

(6) by adding at the end of paragraph (5) the following:

"(ii) As used in clause (i), the term 'showing' does not include a State's showing made with respect to the requirements of subparagraphs (A) and (B) of paragraph (1).

"(B) In the case of a State's unsatisfactory and invalid showing made with respect to the requirements of subparagraphs (A) and (B) of paragraph (1) with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1), in addition to the amount of any per centum reduction under subparagraph (A), is equal to 5 per centum multiplied by a fraction—

"(i) the denominator of which is equal to the total number of patients, receiving that type of services in that quarter under the State plan, whose records were included in sample onsite surveys conducted with respect to such requirements for that quarter under paragraph (2), and

"(ii) the numerator of which is equal to the number of such patients receiving such type of services in that quarter whose records were found under such surveys not to comply with such requirements."; and

(7) by adding at the end the following new paragraph:

"(7)(A) With respect to inpatients of—

"(i) skilled nursing facilities, the frequency of recertifications referred to in paragraph (1)(A) is—

"(I) on or before 30, 60, and 90 days after the date of admittance to the facility, and

"(II) each 60 days thereafter; and

"(ii) intermediate care facilities, the frequency of recertifications referred to in paragraph (1)(A) is—

"(I) on or before 60 and 180 days after the date of admittance to the facility,

"(II) on or before 12, 18, and 24 months after the date of admittance to the facility, and

"(III) annually thereafter.

"(B) For purposes of this subsection, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State can demonstrate that there was good cause for the physician's failure to meet the recertification deadline.".

(b) Such section is further amended by adding at the end the following new paragraph:

"(8) It is the duty and responsibility of the Secretary to assure that standards which govern the provision of care in skilled nursing facilities and intermediate care facilities under plans approved under this title, and the enforcement of such standards, are adequate to protect the health and safety of residents and to promote the effective and efficient use of public moneys.".

(c) The amendments made by subsection (a) shall apply to calendar quarters beginning on or after July 1, 1984, except that the amendments made by paragraphs (1), (2), and (3) of subsection (a) and section 1903(g)(7)(A) of the Social Security Act (added by the amendment made by paragraph (7) of subsection (a)) shall not apply to individuals admitted to skilled nursing facilities before July 1, 1984.

WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2363. Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended by adding at the end the following new subparagraph:

"(E) In the case of a health maintenance organization that—

"(i) is a nonprofit organization with at least 25,000 members,

"(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years,

"(iii) provides basic health services through members of the staff of the organization,

"(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

"(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115,

the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.".

PROHIBITING MEDICAID COPAYMENTS FOR PRESCRIBED DRUGS

SEC. 2364. (a) Sections 1916(a)(2)(D) and 1916(b)(2)(D) of the Social Security Act (42 U.S.C. 1396o(a)(2)(D), 1396o(b)(2)(D)) are each amended by striking out "or" before "services" and by inserting after "is enrolled" the following: ", or prescribed drugs".

(b)(1) The amendments made by subsection (a) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before April 1, 1985.

MAXIMUM AMOUNT OF MEDICAID PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

SEC. 2365. Effective beginning with fiscal year 1984, paragraphs (1) through (5) of section 1108(c) of the Social Security Act (42 U.S.C. 1308(c)) are amended to read as follows:

"(1) Puerto Rico shall not exceed $77,100,000,

"(2) the Virgin Islands shall not exceed $2,600,000,

"(3) Guam shall not exceed $2,400,000,

"(4) the Northern Mariana Islands shall not exceed $600,000, and

"(5) American Samoa shall not exceed $1,300,000.".

PAYMENT FOR PSYCHIATRIC HOSPITAL SERVICES

SEC. 2366. The provisions of section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), insofar as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the 12-month period ending June 30, 1986, and during the 12-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 2367. (a)(1) Section 503(a) of the Social Security Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503(a) of title 31, United States Code".

(2) Section 506(d)(3) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503(b) of title 31, United States Code".

(b)(1) Section 1902(a)(9) of such Act is amended by indenting subparagraph (C) two additional ems so as to align its left margin with the left margin of subparagraph (B).

(2) Section 1902(a)(10) of such Act is amended by indenting subparagraph (A) (and each of its clauses and subclauses) two additional ems so as to align its left margin (before clause (i)) with the left margin of subparagraph (B).

(3) Section 1902(a)(13)(A) of such Act is amended by striking out "(A)" and all that follows through "hospital" the first place it appears and inserting in lieu thereof "(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital".

(4) Section 1902(a)(20)(B) of such Act is amended by striking out "periodical" and inserting in lieu thereof "periodic".

(5) Section 1902(a)(20)(C) of such Act is amended by striking out ", section 603(a)(1)(A) (i) and (ii),".

(6) Section 1902(a)(26)(B)(ii) of such Act is amended by striking out "homes" and inserting in lieu thereof "facilities".

(7) Section 1902(a)(33)(A) of such Act is amended by striking out "penultimate sentence" and inserting in lieu thereof "second sentence".

(8) Section 1902(a)(42)(B) of such Act is amended by striking out "part" and inserting in lieu thereof "title".

(9) Section 1902(a) of such Act is amended by striking out "For purposes of paragraphs (9)(A)" and all that follows through "do not include" in the last sentence of the third to last paragraph and inserting in lieu thereof "The provisions of paragraphs (9)(A), (26), (31), and (33) and of section 1903(i)(4) shall not apply to".

(10) Section 1902(f) of such Act is amended by striking out "clause (10)(A)" and "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(A)" and "paragraph (10)(C)", respectively, each place each appears.

(11) Section 1903(g)(4)(B) of such Act is amended—

(A) by striking out "paragraph (26)" and inserting in lieu thereof "paragraphs (26)", and

(B) by striking out "deligence" and inserting in lieu thereof "diligence".

(12) Section 1903(m)(2)(B)(i) of such Act is amended—

(A) by striking out "(II)" before "for the period",

(B) by striking out "of such section" in subclause (II) and inserting in lieu thereof "of section 1905(a)", and

(C) by striking out "peroid" and inserting in lieu thereof "period".

(13) Section 1903(m)(2) of such Act is amended by aligning subparagraph (C) flush with the left margin.

(14) Section 1905(a)(17) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse-midwife" each place it appears.

(15) The last sentence of section 1905(a) of such Act is amended by striking out "clauses (vi)" and inserting in lieu thereof "clause (vi)".

(16) The second sentence of section 1905(b) of such Act is amended by striking out everything that follows "the provisions of" and inserting in lieu thereof "section 1101(a)(8)(B).".

(17) Section 1905(d)(1) of such Act is amended by striking out "which meet" and inserting in lieu thereof "the institution meets".

(18) Section 1905(m) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse".

(19) Section 1915(c)(1) of such Act is amended by striking out "under this part" and inserting in lieu thereof "under this title".

PART C—RECOVERY OF HILL-BURTON FUNDS

RECOVERY OF HILL-BURTON FUNDS

SEC. 2371. (a) Section 609 of the Public Health Service Act (42 U.S.C. 291i) is amended to read as follows:

"RECOVERY

"SEC. 609. (a) If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 605, or (B) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) July 1, 1984, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed

before the date of the enactment of this subsection, July 1, 1984,

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall constitute a lien on any facility with respect to which funds have been paid under section 606.".

(b) Section 1622 of such Act (42 U.S.C. 300s-1a) is amended to read as follows:

"RECOVERY

"SEC. 1622. (a) If any facility with respect to which funds have been paid under this title shall, at any time within twenty years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor, or

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) July 1, 1984, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, July 1, 1984,

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall constitute a lien on any facility with respect to which funds have been paid under this title.".

(c) Not later than the expiration of the one-hundred and eighty-day period beginning on the date of the enactment of this section, the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section.

TITLE IV—SMALL BUSINESS PROGRAMS

SBA DISASTER LOANS

SEC. 2401. Section 18(a) of the Small Business Act is amended by striking out "October 1, 1986" and by inserting in lieu thereof "October 1, 1987".

TITLE V—VETERANS' PROGRAMS

EFFECTIVE DATE FOR AWARD OF PENSION FOR NON-SERVICE-CONNECTED DISABILITY

SEC. 2501. (a)(1) Subsection (b) of section 3010 of title 38, United States Code, is amended by striking out paragraph (3).

(2) Subsection (d) of such section is amended to read as follows:

"(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

"(2) The effective date of an award of death pension for which application is received within 60 days from the date of death shall be the first day of the month in which the death occurred.".

(b) The amendments made by subsection (a) shall take effect with respect to applications for benefits under chapter 15 of title 38, United States Code, that are first received after September 30, 1984.

INCREASE IN FEE FOR HOME LOANS GUARANTEED BY THE VETERANS' ADMINISTRATION

SEC. 2502. (a) Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and from each person obtaining a loan from the Veterans' Administration known as a 'vendee loan' to finance the sale of real property owned by the Veterans' Administration," after "under this chapter,";

(B) by striking out "one-half of"; and

(C) by striking out "to the veteran" after "in the loan";

(2) by striking out subsection (c); and

(3) by redesignating subsection (d) as subsection (c) and striking out "September 30, 1985" in such subsection and inserting in lieu thereof "September 30, 1987".

(b) Section 1824(c) of such title is amended by striking out "and (2)" and inserting in lieu thereof "(2) amounts received by the Administrator as fees collected under section 1829 of this title, and (3)".

(c)(1) The amendments made by subsection (a)(1) shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsections (a)(2) and (b) shall apply with respect to loans closed on or after the date of the enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on the date of the enactment of this Act.

ACTIONS TO REDUCE COSTS UNDER HOME-LOAN PROGRAM

SEC. 2503. (a) Section 1816 of title 38, United States Code, is amended—

(1) by striking out "shall" the second place it appears in the first sentence of subsection (a) and inserting in lieu thereof "may, subject to subsection (c) of this section,"; and

(2) by adding at the end the following:

"(c)(1) In accordance with regulations prescribed by the Administrator, the Administrator shall be notified by the holder of any loan guaranteed under this chapter made for any of the purposes described in section 1810 of this title which is in default (hereinafter in this section referred to as a 'defaulted loan') of a proposed judicial, statutory, or other public sale under power of sale contained in a loan instrument or of any other proposed disposition of the real property to liquidate any security for the loan (hereinafter in this section referred to as a 'liquidation sale').

"(2) After the Administrator receives a notice described in paragraph (1) of this subsection, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan.

"(3) The Administrator shall prescribe regulations for the making of determinations and for other purposes under this subsection. Such regulations shall require that the net value of property be determined as the difference between—

"(A) the fair market value of the property; and

"(B) the total of the amounts which the Administrator estimates the Administrator would pay (if the property were conveyed to the Administrator) during the time that the Administrator holds the property for property taxes, assessments, other liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

"(d)(1) If the Administrator determines that the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan less the amount guaranteed under this chapter, the liability of the United States under the

guaranty shall be limited to the difference between the amount of the total indebtedness under the loan and the net value of the property. In such a case, if the holder of the defaulted loan is the successful bidder for the property securing the loan at the liquidation sale of the property in an amount no greater than the net value of the property or the total indebtedness under the loan, whichever is less, the holder shall have the option to convey the property to the United States in return for payment by the Administrator to the holder of the amount equal to the lesser of such net value or total indebtedness.

"(2) If the holder of the defaulted loan is not the successful bidder at the liquidation sale, or is the successful bidder but in an amount greater than the lesser of the total indebtedness under the loan or the net value of the property, the Administrator may not accept conveyance of the property but shall pay any loan guaranty payable under this chapter. The liability of the United States under the loan guaranty in such a case is the difference (if any) between (A) the amount of the total indebtedness under the loan, and (B) the amount realized at the sale or the net value of the property, whichever is greater.

"(e) If the Administrator determines that the net value of the property securing a defaulted loan is less than or equal to the amount of the total indebtedness under the loan less the amount guaranteed under this chapter, the Administrator may not accept conveyance of the property from the holder of the loan. The liability of the United States under the loan guaranty in such a case is the difference between (A) the amount of the total indebtedness under the loan, and (B) the amount realized by the holder incident to the termination of the loan. However, such liability may not exceed the amount originally guaranteed under the loan.

"(f) The Administrator shall reduce to the maximum extent practicable the number of loans (known as 'vendee loans') made by the Veterans' Administration to purchasers of real property acquired by the Veterans' Administration as the result of the default of a guaranteed loan. No more than 75 percent of the number of sales of such real property made during any fiscal year may be made with financing provided by the Veterans' Administration through such vendee loans, except that the Administrator may in any fiscal year increase such limitation to 80 percent if the Administrator determines that such action is necessary in order to protect the interests of the United States.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1984.

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Subtitle A—Accelerated Collection and Deposit of Payments to Executive Agencies

COLLECTION OF PAYMENTS

SEC. 2601. (a) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3720. Collection of payments

"(a) Each head of an executive agency shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

"(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

"(c) There is established in the Treasury of the United States a revolving fund to be known as the 'Cash Management Improvements Fund'. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.".

(b) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3720. Collection of payments.".

(c) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this section.

DEPOSITS

SEC. 2602. (a) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out ", but not later than the 30th day after the custodian receives the money,";

(3) by inserting after the first sentence the following new sentence: "Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money."; and

(4) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).".

(b) The amendments made by this section shall become effective January 1, 1985.

Subtitle B—Improvements in Administration of Social Security Earnings Test

PROCEDURES TO PREVENT OVERPAYMENTS DUE TO FAILURE TO REPORT EARNINGS

SEC. 2611. (a) Section 203(h) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall develop and implement procedures in accordance with this subsection to avoid paying more than the correct amount of benefits to any individual under this title as a result of such individual's failure to file a correct report or estimate of earnings or wages. Such procedures may include identifying categories of individuals who are likely to be paid more than the correct amount of benefits and requesting that they estimate their earnings or wages more frequently than other persons subject to deductions under this section on account of earnings or wages.".

(b) The amendment made by subsection (a) shall be effective upon the date of the enactment of this Act.

Subtitle C—Improvements in SSI, AFDC, and Related Programs

PART 1—DISCLOSURE OF CERTAIN TAX RETURN INFORMATION TO FEDERAL, STATE, OR LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT; VERIFICATION AND USE OF INFORMATION

DISCLOSURE OF INFORMATION

SEC. 2621. (a) GENERAL RULE.—Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF RETURN INFORMATION WITH RESPECT TO UNEARNED INCOME TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS.—

"(A) IN GENERAL.—The Secretary may, upon written request, disclose return information with respect to unearned income (including the nature and source thereof) from computerized files of the Internal Revenue Service to any officer or employee of any Federal, State, or local agency administering a program described in subparagraph (C). For purposes of the preceding sentence, the term 'unearned income' means any income other than income of a kind described in paragraph (7)(A).

"(B) RESTRICTION ON DISCLOSURE.—Information may be disclosed under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual's eligibility for benefits, or the correct amount of an individual's benefits, under a program described in subparagraph (C).

"(C) PROGRAMS TO WHICH PARAGRAPH APPLIES.—The programs described in this subparagraph are programs which provide any of the following benefits:

"(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

"(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

"(iii) supplemental security income benefits provided under title XVI of the Social Security Act;

"(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands); and

"(v) assistance provided under the Food Stamp Act of 1977.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 6103(a)(2) of such Code is amended by striking out "or of any local child support enforcement agency" and inserting in lieu thereof ", any local child support enforcement agency, or any local agency administering a program described in subsection (l)(9)(C)".

(2) Subsection (l) of section 6103 of such Code is amended by redesignating the paragraph (7) relating to disclosure of certain return information by Social Security Administration to State and local child support enforcement agencies as paragraph (8).

(3) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(5), or (7)" and inserting in lieu thereof "(5), (7), (8), or (9)".

(4) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) of such Code is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

(5) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6) or (7)" and inserting in lieu thereof "(l)(6), (7), (8), or (9)".

(6) Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of information) is amended by striking out "or (8)" and inserting in lieu thereof "(8), or (9)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1984.

VERIFICATION AND USE OF INFORMATION

SEC. 2622. Part A of title XI of the Social Security Act is amended by inserting immediately after section 1129 the following new section:

"VERIFICATION AND USE OF TAX INFORMATION RELATING TO CERTAIN UNEARNED INCOME

"SEC. 1130. (a) In order to protect applicants for and recipients of aid under part A of title IV or benefits under title XVI (or under the State plan programs in titles I, X, XIV, and XVI) from the improper usage of information obtained from the Secretary of the Treasury under section 6103(l)(9) of the Internal Revenue Code of 1954 (relating to disclosure of return information to Federal, State and local agencies administering certain programs), no State, Federal, or local agency receiving such information shall take any action based thereon to reduce, suspend, terminate, or deny aid or benefits to the individual involved until such agency has taken steps to independently verify the information. The verification of any information under the preceding sentence must include (1) verification of the exact amount of the asset or income involved, (2) an evaluation of whether such individual actually has access to such asset or income for his or her own use, and (3) a determination regarding the period or periods when the individual actually had such asset or income.

"(b) Each State agency charged with the administration of a State plan approved under part A of title IV, each State agency charged with the administration of a State plan approved under title I, X, XIV, or XVI, and the Secretary with respect to the supplemental security income program under title XVI of this Act, shall request and use any information obtained from the Secretary of the Treasury under section 6103(l)(9) of the Internal Revenue Code of 1954 for purposes of income and eligibility verification in accordance with subsection (a); and the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments.".

PART 2—IMPROVEMENTS IN SSI PROGRAM

INCREASE IN DOLLAR LIMITATIONS UNDER ASSETS TEST

SEC. 2631. (a) Section 1611(a)(1)(B) of the Social Security Act is amended—

(1) by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(A)"; and

(2) by striking out "$1,500" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(B)".

(b) Section 1611(a)(2)(B) of such Act is amended by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(A)".

(c) Section 1611(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be $2,250 prior to January 1, 1985, and shall be increased to $2,400 on January 1, 1985, to $2,550 on January 1, 1986, to $2,700 on January 1, 1987, to $2,850 on January 1, 1988, and to $3,000 on January 1, 1989.

"(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be $1,500 prior to January 1, 1985, and shall be increased to $1,600 on January 1, 1985, to $1,700 on January 1, 1986, to $1,800 on January 1, 1987, to $1,900 on January 1, 1988, and to $2,000 on January 1, 1989.".

(d) Section 1621(b)(2)(B) of such Act is amended—

(1) by striking out "$1,500" and inserting in lieu thereof "the applicable amount determined under section 1611(a)(3)(B)"; and

(2) by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under section 1611(a)(3)(A)".

LIMITATION OF RECOUPMENT RATE IN CASE OF OVERPAYMENTS

SEC. 2632. Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "The Secretary" in the second sentence; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ", and (B) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), if the individual involved is receiving benefit payments under this title, only through adjustments in future benefit payments, or recovery from the individual or his eligible spouse or both, in amounts which in the aggregate do

not exceed (for any month) the lesser of (i) the amount of his or their benefit under this title for that month or (ii) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding any other income excluded pursuant to section 1612(b)), unless fraud was involved on the part of the individual or spouse in connection with the overpayment. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (B) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (A) of such sentence.".

DETERMINATION OF OVERPAYMENT AMOUNTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS

SEC. 2633. Section 1631(b) of the Social Security Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) To the extent that an overpayment with respect to an individual (or an individual and his or her spouse) for any period of one or more consecutive months is attributable solely to the ownership or possession by such individual (and spouse if any) of resources having a value in excess of the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1611(a), the aggregate amount of such overpayment for all months in such period (notwithstanding any other provision of this subsection) shall be the lesser of (A) the total amount of the benefits under this title which were received by such individual (and spouse if any) for all months in such period, or (B) the greatest amount by which the total value of the resources of such individual exceeded such applicable dollar figure at any time during such period. The application of this paragraph to an overpayment with respect to an individual (or an individual and his or her spouse) for any period shall not affect the application of paragraph (1)(B) or (2)(B) of section 1611(a) to such individual (and spouse if any) for any subsequent period unless this paragraph also applies to an overpayment with respect to such individual (and spouse if any) for such subsequent period.".

EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

SEC. 2634. Section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) any amount received from the United States (in the form of a retroactive check) which is attributable to underpayments of benefits due for one or more prior months, under this title or title II, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to a period of 12 months from the date on which such amount is received, and the retroactive check shall be accompanied by a written notice of this limitation.".

PART 3—IMPROVEMENT IN AFDC PROGRAM

GROSS INCOME LIMITATION

SEC. 2641. Section 402(a)(18) of the Social Security Act is amended by striking out "150 percent of the State's standard of need" and inserting in lieu thereof "130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act)".

WORK EXPENSE DEDUCTION

SEC. 2642. Section 402(a)(8)(A)(ii) of the Social Security Act is amended by striking out all that follows "the first $75 of the total of such earned income for such month" and inserting in lieu thereof a semicolon.

CONTINUATION OF $30 DISREGARD FROM EARNED INCOME

SEC. 2643. (a) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by inserting "(I)" after "equal to", and by inserting "(II)" after "plus".

(b) Section 402(a)(8)(B)(ii)(II) of such Act is amended—

(1) by striking out "shall not apply the provisions of subparagraph (A)(iv)" and inserting in lieu thereof "shall apply the provisions of subparagraph (A)(iv) as though they did not include clause (II)"; and

(2) by striking out "and shall not apply such provisions" and inserting in lieu thereof "and shall apply such provisions (as though they did not include such clause (II))".

WORK TRANSITION ALLOWANCES FOR CERTAIN FAMILIES WHO LOSE AFDC BENEFITS BECAUSE OF EARNED INCOME

SEC. 2644. (a) Section 403(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (36) the following new paragraph:

"(37) provide that, in any case where a family has ceased to receive aid under the plan because (by reason of paragraph (8)(B)(ii)(II)) the provisions of paragraph (8)(A)(iv) no longer apply, such family will be paid a monthly work transition allowance, in the amount of $10 per month, for a period of 9 months after the last month for which the family recieved such aid; and the State may at its option continue the payment of such allowances (in such amount) for an additional period of up to 6 months in the case of a family that would be eligible during such additional period to receive aid under the plan (without regards to this paragraph) if such paragraph (8)(A)(iv) applied.".

(b) Section 406 of such Act is amended by adding at the end thereof the following new subsection:

"(h) Except to the extent otherwise specifically provided, work transition allowances paid by a State under section 402(a)(37) shall be considered payments of aid to families with dependent children under the State plan for all of the purposes of this Act.".

(c)(1) The amendments made by this section shall apply with respect to payments for months beginning on or after October 1, 1984.

(2) Such amendments shall apply with respect to families which ceased to receive aid under the applicable State plan (for the reason stated in section 402(a)(37) of the Social Security Act as added by subsection (a) of this section) before October 1, 1984, as well as with respect to families which cease to receive such aid (for that reason) on or after that date; but any family which ceased to receive such aid before that date (in order to be eligible to receive the monthly work transition allowances provided for in such section 402(a)(37)) must be a family that would be eligible for aid under the State plan (without regard to the amendments made by this section) if section 402(a)(8)(A)(iv) of such Act applied and must make its application for such work transition allowances no later than October 1, 1985 (and in the case of any such family the term "last month for which the family received such aid" as used in such section 402(a)(37) means the month before the month in which the family makes such application).

GROSS AMOUNT OF EARNED INCOME

SEC. 2645. (a) Section 402(a)(8)(A) of the Social Security Act is amended by striking out "the State agency" (in the matter preceding clause (i)) and inserting in lieu thereof "the State agency shall, for purposes of this section, consider an individual's earned income to be the gross amount of his earnings, prior to the taking of payroll or other deductions of any sort, and".

(b) The amendment made by subsection (a) shall become effective upon its enactment.

ADDITIONAL EXCLUSIONS FROM LIMITATION ON FAMILY RESOURCES

SEC. 2646. Section 402(a)(7)(B) of the Social Security Act is amended by inserting "(i)" after "for purposes of this subparagraph", and by inserting before the semicolon at the end thereof the following: ", or (ii) under regulations prescribed by the Secretary, burial plots (one for each such child, relative, and other individual), funeral agreements, and real property which the family is making a good-faith effort to sell at a reasonable price and which has not been sold".

DIRECT REIMBURSEMENT OF AFDC RECIPIENTS FOR TRANSPORTATION AND DAY CARE COSTS ATTRIBUTABLE TO PARTICIPATION IN COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. 2647. Section 409(a)(1)(F) of the Social Security Act is amended—

(1) by inserting "(i) except as provided in clause (ii)" after "that"; and

(2) by inserting before the period at the end thereof the following: ", and (ii) to the extent that the State is unable to provide for the costs involved through the furnishing of services directly to the individuals participating in the program, participants who are recipients of aid under the State's plan approved under section 402 will instead be reimbursed for transportation costs directly related to their participation in the program (in amounts equal to the cost of transportation by the most appropriate means as determined by the State agency), and for day care expenses directly attributable to such participation (in amounts no greater than the comparable maximum day care deduction allowed under section 402(a)(8)(A)(iii) for recipients of aid under the plan generally); and amounts paid as reimbursement to participants under clause (i) or (ii) shall be considered, for purposes of section 403(a), to be expenditures made for the proper and efficient administration of the State's plan approved under section 402".

MONTHLY REPORTING AND RETROSPECTIVE BUDGETING MADE OPTIONAL WITH EACH STATE; FEDERAL MATCHING OF STATE SUPPLEMENTARY PAYMENTS

SEC. 2648. (a) Section 402(a)(13) of the Social Security Act is amended—

(1) by inserting "at the option of the State," before "provide that";

(2) by striking out ", at the option of the State but only where the Secretary determines it to be appropriate," in subparagraph (A); and

(3) by striking out "at the option of the State but only where the Secretary determines it to be appropriate," in subparagraph (B).

(b) Section 402(a)(14) of such Act is amended—

(1) by striking out "(A) provide that" and inserting in lieu thereof "at the option of the State, provide (A) that";

(2) by striking out "with the prior approval of the Secretary"; and

(3) by striking out "upon the State's showing to the satisfaction of the Secretary that" and inserting in lieu thereof "upon a determination that".

(c) The last sentence of section 403(a) of such Act is amended—

(1) by striking out "No payment" and all that follows down through "if such amount" and inserting in lieu thereof "Amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) shall be considered amounts expended as aid to families with dependent children under the State plan for purposes of payments under this subsection, even though the amount involved"; and

(2) by striking out ", but any such amount" and inserting in lieu thereof "; and any such amount".

(d) Section 402(a) of such Act is amended by adding at the end thereof (after and below paragraph (37), as added by section 644(a) of this Act) the following new sentence: "The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements imposed by the Food Stamp Act of 1977.".

(e) Notwithstanding any other provision of law, the Secretary of Health and Human Services may not require a State, on or after the date of the enactment of this Act, to make any payments which would otherwise be due as a result of such State's failure to comply with paragraph (13) or (14) of section 402(a) of the Social Security Act during periods prior to such date.

EXCLUSION OF EARNED INCOME TAX CREDIT FROM COUNTABLE INCOME

SEC. 2649. Section 402(d) of the Social Security Act is amended to read as follows:

"(d) No amount received by an individual as an earned income tax credit under section 43 of the Internal Revenue Code of 1954, or as an earned income advance amount under section 3507(a) of such Code, shall be included in such individual's income for purposes of this part.".

FEDERALLY ASSISTED PILOT PROJECTS TO DEMONSTRATE ONE-STOP SERVICE DELIVERY SYSTEMS

SEC. 2650. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"PILOT PROJECTS TO DEMONSTRATE THE USE OF INTEGRATED SERVICE DELIVERY SYSTEMS FOR HUMAN SERVICES PROGRAMS

"SEC. 1136. (a) In order to develop and demonstrate ways of improving the delivery of services to individuals and families who need them under the various human services programs, by eliminating programmatic fragmentation and thereby assuring that an applicant for services under any one such program will be informed of and have access to all of the services which may be available to him or his family under the other human services programs being carried out in the community involved, any State having an approved plan under part A of title IV may, subject to the provisions of this section, establish and conduct one or more pilot projects to demonstrate the use of integrated service delivery systems for human services programs in that State or in one or more political subdivisions thereof.

"(b) The integration of service delivery systems for human services programs in any State or locality under a pilot project established under this section shall involve or include—

"(1) the development of a common set of terms for use in all of the human services programs involved;

"(2) the development for each applicant of a single comprehensive family profile which is suitable for use under all of the human services programs involved;

"(3) the establishment and maintenance of a single resources directory by which the citizens of the community involved may be informed of and gain access to the services which are available under all such programs;

"(4) the development of a unified budget and budgeting process, and a unified accounting system, with standardized audit procedures;

"(5) the implementation of unified planning, needs assessment, and evaluation;

"(6) the consolidation of agency locations and related transportation services;

"(7) the standardization of procedures for purchasing services from nongovernmental sources;

"(8) the creation of communications linkages among agencies to permit the serving of individual and family needs across program and agency lines;

"(9) the development, to the maximum extent possible, of uniform application and eligibility determination procedures; and

"(10) any other methods, arrangements, and procedures which the Secretary determines are necessary or desirable for, and consistent with, the establishment and operation of an integrated service delivery system.

"(c)(1) Any State which desires to establish and conduct a pilot project under this section, after having published a description of the proposed project and invited comments thereon from interested persons in the community or communities which would be affected, shall submit an application to the Secretary (in such form and containing such information as the Secretary may require) within 6 months after the date of the enactment of this section. The proposed project may be statewide in operation or may be limited to one or more political subdivisions of the State; and the application shall in any event include or be accompanied by satisfactory assurances that the project as proposed would be permitted under applicable State and local law.

"(2) The Secretary shall consider all applications and accompanying comments and materials which are submitted under paragraph (1), and, no later than 9 months after the date of the enactment of this section, shall approve no fewer than 3 nor more than 5 of the proposed projects (including one such project to be operated on a statewide basis). In considering and approving such applications the Secretary shall take into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the projects, the number and nature of the human services programs which are in active operation in the various communities involved, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective demonstration of the value of an integrated service delivery system. Each project approved under this paragraph shall be deemed for purposes of this section to begin on the first day of the month following the month in which the application with respect to such project is approved.

"(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower or restrict the levels of aid, assistance, benefits, or services, or the income or resource standards, deductions, or exclusions, under any of the human services programs involved, and will not delay the provision of aid, assistance, benefits, or services under any of such programs.

"(d)(1) Any State whose application is approved under subsection (c) may submit to the Secretary a request for the waiver of any requirement which would otherwise apply with respect to the proposed project under any of the laws governing the human services programs to be included in the project; and—

"(A) if the law involved is within the jurisdiction of the Secretary and authority to grant the waiver involved is otherwise available to the Secretary under this title, title IV, or any other provision of law, the Secretary shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system; and

"(B) if the law involved is within the jurisdiction of a Federal agency other than the Department of Health and Human Services and authority to grant the waiver involved is available to the head of such other agency under that law or any other provision of law, the Secretary shall transmit such request (on behalf of the requesting State) to the head of such other agency, who shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system and who shall certify such approval to the Secretary.

"(2) If under the law governing any of the human services programs included within a project there are provisions establishing safeguards which limit or restrict the use or disclosure of information (concerning applicants for or recipients of benefits or services) which has been obtained or developed by the agency involved in the conduct of that program, and a waiver of such provisions is granted under paragraph (1) in order to make such information available for purposes of the project—

"(A) the State shall provide each applicant for and recipient of aid, assistance, benefits, or services under the proposed inte-

grated service delivery system with a clear and readily comprehensible notice that such information may be disclosed to and used by project personnel, or exchanged with the other agencies having responsibility for human services programs included within the project;

"(B) the State shall take such steps as may be necessary to ensure that the information disclosed will be used only for purposes of, and by persons directly connected with, such project; and

"(C) the State's application with respect to the project under subsection (c) shall contain or be accompanied by satisfactory assurances that the preceding requirements of this paragraph will be fully complied with.

"(e) The Secretary shall from time to time pay to each State which has an approved pilot project under this section, in such manner and according to such schedule as may be agreed upon by the Secretary and such State, amounts equal in the aggregate to—

"(1) 90 percent of the costs incurred by such State and its political subdivisions in carrying out such project during the first 18 months after the date on which the project begins,

"(2) 80 percent of any such costs incurred during the 12-month period beginning with the nineteenth month after such date, and

"(3) 70 percent of any such costs incurred during the 12-month period beginning with the thirty-first month after such date.

"(f)(1) For purposes of this section, the term 'human services program' includes the program of aid to families with dependent children under part A of title IV, the supplemental security income benefits program under title XVI, the Federal food stamp program, and any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) which provides aid, assistance, or benefits based wholly or partly on need or on income-related qualifications to specified classes or types of individuals or families or which is designed to help in crisis or emergency situations by meeting the basic human needs of individuals or families whose own resources are insufficient for that purpose.

"(2) In carrying out this section the Secretary shall regularly consult with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the head of any other Federal agency having jurisdiction over or responsibility for one or more human services programs, in order to ensure that the administrative efforts of the various agencies involved are coordinated with respect to all of the pilot projects being carried out under this section.

"(g) The Secretary shall require each State which is carrying out a pilot project under this section to submit periodic reports on the progress of such project, giving particular attention to the cost-effectiveness of the integrated service delivery system involved and the extent to which such system is improving the delivery of services. No pilot project under this section shall be conducted for a period of longer than 42 months. The first such report shall be submitted no later than 3 months after the date on which the project begins.

"(h) The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g), and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

"(i) As soon as possible after the completion of the pilot projects carried out under this section, the Comptroller General, through the personnel and facilities of the General Accounting Office, shall conduct a full and complete study to determine the extent to which such projects, and the program under this section in general, have contributed to the achievement of the purpose of this section. In conducting such study, the Comptroller General shall give particular attention to the relative cost-effectiveness of the various integrated service delivery systems included among the projects and the extent to which the projects have demonstrated the possibility, through the use of such systems, of improving the delivery of services, increasing management efficiency, and decreasing the number of employees needed to carry out the various human services programs involved. The Comptroller General shall submit to the Congress a full and complete report on the results of such study, together with the Comptroller General's findings and recommendations with respect thereto.

"(j) There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to exceed $8,000,000 in the aggregate, as may be necessary to carry out this section.".

DEMONSTRATION PROJECTS TO TEST THE USE, UNDER THE AFDC PROGRAM, OF THE RULES, PROCEDURES, AND SPECIFICATIONS IN USE UNDER THE MEDICAID AND FOOD STAMP PROGRAMS

SEC. 2651. (a)(1) The Congress finds that the AFDC, medicaid, and food stamp programs are most often administered at the State and local level by a single agency and frequently serve the same body of needy recipients; but there are significant differences in the program requirements and specifications which are in effect under the three programs and these differences cause unnecessary complications for both the State or local workers and the recipients, too often resulting in excessive administrative costs and high error rates.

(2) It is therefore the purpose of this section to develop ways of improving the delivery of services to needy individuals and families under the three programs involved by eliminating at least some of these differences through a limited demonstration program designed to demonstrate the use in the AFDC program of rules, procedures, and specifications which are the same as those in effect under either or both of the other two programs, with the specific objective of testing (A) whether such programs can thereby be more efficiently administered, (B) whether such programs can be made easier for the recipients and the general public to understand, and (C) whether agency and client errors can be reduced in such programs as a result of greater program compatibility.

(b)(1) Under regulations which shall be prescribed and published by the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") within 120 days after the date of the enactment of this Act, any State which is currently participating in the AFDC program under part A of title IV of the Social Security Act, the medicaid program under title XIX of such Act, and the food stamp program under the Food Stamp Act of 1977, and which desires to establish and conduct a demonstration project under this section, may submit an application therefor to the Secretary. Any such application shall be submitted in accordance with the procedures established by such regulations, and within 45 days after such regulations become effective.

(2) The Secretary shall consider all applications submitted under paragraph (1) and, within 90 days after the regulations described in such paragraph become effective, shall approve not more than 5 of them, taking into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the approved projects, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective test of the value of utilizing (under the program of aid to families with dependent children) the rules, procedures, and specifications under either or both of the other two programs involved.

(3) The Secretary shall approve any application for a demonstration project under this section only after determining that the conduct of such project will not lower or restrict the level of aid, assistance, benefits, or services, or the applicable income or resource standards, deductions, or exclusions, under the AFDC program or either of the other two programs, and will not delay the provision of aid, assistance, benefits, or services under any of the three programs.

(4) The actual implementation and conduct of any demonstration project under this section shall commence no later than 9 months after the date of its approval. No such project shall be conducted for a period of longer than three years; except that any State conducting such a project may, with the approval of the Secretary, extend the project for an additional period of not more than two years in order to give the Congress an opportunity to determine whether changes in Federal law should be made to reflect the results of the project or to allow for an orderly transition from the operation of the project to the operation of the programs involved under the provisions of law that will be applicable after the termination of the project.

(c) Each State conducting a demonstration project under this section may adopt, for purposes of the AFDC program, any of the existing rules, procedures, and specifications currently in effect under either or both of the other two programs, with the objective of developing for the three programs—

(1) a common set of terms and definitions;

(2) uniform application and eligibility determination procedures;

(3) a unified budegting process;

(4) a single-family case file; and

(5) a common administrative structure that allows for unified planning and evaluation.

(d) Any State whose application is approved under subsection (b) may submit to the Secretary a request for the waiver of any requirement imposed by or pursuant to part A of title IV of the Social Security Act which would otherwise apply with respect to the project; and, if authority to grant the waiver involved is available to the Secretary under title IV or XI of the Social Security Act or under any other provision of law, the Secretary shall approve such request upon a determination that (under the regulations prescribed pursuant to subsection (b)(1))

such waiver is necessary in order for the project to achieve its purpose under this section.

(e) Expenses incurred by a State agency in carrying out a demonstration project under this section shall be considered, for purposes of section 403(a) of the Social Security Act, to be expenditures made (as appropriate) either as aid to families with dependent children under the State's plan approved under section 402 of such Act or for the proper and efficient administration of such plan.

(f) Each State carrying out a demonstration project under this section shall submit periodic reports thereon to the Secretary, and a final report at the conclusion of the project. Such reports shall contain such information, data, and projections as the Secretary may require; and upon receipt of the final report from each of the States carrying out such a project the Secretary shall submit to the Congress a comprehensive report on the results of the projects conducted under this section together with the Secretary's findings and recommendations with respect thereto.

EXEMPTION OF CERTAIN PREGNANT WOMEN FROM REGISTRATION FOR WORK OR TRAINING

SEC. 2652. Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out "or" at the end of clause (vii);

(2) by adding "or" after the semicolon at the end of clause (viii); and

(3) by inserting immediately after clause (viii) the following new clause:

"(ix) a woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the 3-month period immediately following such month;".

COMPUTATION OF MAXIMUM REQUIRED HOURS OF WORK UNDER COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. 2653. Section 409(a)(1)(E) of the Social Security Act is amended—

(1) by inserting "(i)" after "equals";

(2) by inserting "reduced by the amount of any monthly support payments collected on behalf of the family during that month, or (if adequate information with respect to child support collections on behalf of the family during the month is not available) during the most recent month in the preceding two-month period for which such information is available," after "this part,"; and

(3) by inserting "(ii)" after "divided by".

TREATMENT OF NONRECURRING LUMP SUM INCOME

SEC. 2654. Section 402(a)(17) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (B)) the following:

"except that the State may at its option recalculate the period of ineligibility otherwise determined under subparagraph (A) in any case where (i) changes in family composition, income, resources, or other circumstances (before the end of such period as so determined) have increased the financial need of the family, and (ii) such recalculation would promote the purposes and objectives of this part;".

WAIVER OF OVERPAYMENT RECOUPMENT WHEN COST OF COLLECTION WOULD EXCEED AMOUNT DUE

SEC. 2655. (a) Section 402(a)(22) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following:

"except that no recovery need be attempted or carried out under subparagraph (B) in any case where (as determined by the State agency in accordance with criteria for determining cost-effectiveness which shall be prescribed by the Secretary in regulations) the cost of recovery would equal or exceed the amount of the overpayment involved;".

(b) Section 402(a)(22)(A) of such Act is amended by inserting after "current recipient of such aid" the following: "(including a current recipient whose overpayment occurred during a prior period of eligibility)".

DETERMINATION OF OVERPAYMENT AMOUNTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS

SEC. 2656. Section 406 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 644(b) of this Act) the following new subsection:

"(i) To the extent that an overpayment with respect to a family for any period of one or more consecutive months is attributable solely to the ownership or possession by such family or any member thereof during such period of resources having a value in excess of the applicable dollar figure specified in section 402(a)(7)(B), the aggregate amount of such overpayment for all months in such period (notwithstanding any other provision of this subsection) shall be the lesser of (1) the total amount of the benefits under this title which were received by such family for all months in such period or (2) the greatest amount by which the total value of the resources of such family exceeded such applicable dollar figure at any time during such period. The application of this paragraph to an overpayment with respect to a family for any period shall not affect the application of section 402(a)(7)(A) to such family for any subsequent period unless this paragraph also applies to an overpayment with respect to such family for such subsequent period.".

STATE DISCRETION TO MAKE PROTECTIVE PAYMENTS

SEC. 2657. (a) Section 402(a)(19)(F)(i) of the Social Security Act is amended by striking out "will be made" and inserting in lieu thereof "may be made".

(b) Section 402(a)(26)(B) of such Act is amended by striking out "will be provided" and inserting in lieu thereof "may be provided".

SUSPENSION OF SANCTIONS BASED ON ERROR RATES

SEC. 2658. Notwithstanding any other provision of law, in any case where a State—

(1) is subject to financial penalties under section 403(i) of the Social Security Act by reason of its erroneous excess payments (as defined in that section) or under section 403(j) of such Act by reason of its dollar error rate of aid (as defined in that section), or

(2) is subject to financial penalties under any other provision of law by reason of errors in its payments of aid under part A of such title IV, no action shall be taken to enforce or collect such penalties (by reducing, adjusting, or withholding amounts otherwise due the State under part A of such title IV, by requiring payment from the State as reimbursement for overpayments theretofore made to the State under part A of such title IV, or otherwise) during the period beginning October 1, 1983 and ending September 30, 1985 (and if any such penalty has already been enforced or collected, on or after October 1, 1983, and before the date of the enactment of this Act, the Secretary of Health and Human Services shall pay or refund the amount of such penalty to the State immediately upon the enactment of this Act); but nothing in this section shall prevent, limit, or otherwise affect the enforcement or collection of the penalties involved, under the applicable provisions of law, after the close of such period.

ELIGIBILITY REQUIREMENTS FOR ALIENS

SEC. 2659. Section 415(c)(1) of the Social Security Act is amended by striking out "Any individual" and all that follows down through "be required to provide" where it first appears and inserting in lieu thereof the following: "Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for aid under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for aid under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide".

PROVISION BY STATE AGENCIES OF INFORMATION REGARDING FUGITIVE FELONS

SEC. 2660. Section 402(a)(9) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: "; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the name and current address of any recipient if the officer furnishes the agency with such recipient's social security account number and satisfactorily demonstrates that such recipient is a fugitive felon, that the location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties".

PAYMENT SCHEDULE FOR REIMBURSEMENT OF CERTAIN BACK CLAIMS DUE THE STATES

SEC. 2661. The payment schedule contemplated by section 136 of Public Law 97-276 for reimbursement of expenditures described in that section is hereby established as follows:

(1) For expenditures identified in the decree entered by the United States District Court for the District of Columbia on July 21, 1983, in the case of State of Connecticut v. Heckler, No. 81-2237, and allowed by the Secretary of Health and Human Services prior to the date of the enactment of this Act, payment shall be made, by supplemental grant award or otherwise, within 30 days after the date of the enactment of this Act; and

(2) for any other expenditure described in such section 136 which was identified in such decree or in any other decree entered by a Federal court in a suit (with respect to such an expenditure) filed prior to September 30, 1982, payment shall be made, by sup-

plemental grant award or otherwise, as soon as the expenditure or portion thereof involved is finally determined by the Secretary to be an allowable claim under the substantive provisions of the applicable title of the Social Security Act.

AFDC GRANT DIVERSION PROGRAM

SEC. 2662. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"GRANT DIVERSION PROGRAM

"SEC. 416. (a) It is the purpose of this section to allow any State which has a plan approved under this part to institute a grant diversion program under which the State, to the extent the State determines it to be appropriate, may make employment (including on-the-job training) available as an alternative to aid otherwise provided under the State plan.

"(b)(1) Notwithstanding any other provision of this title, Federal funds may be paid to a State under section 403, subject to the provisions of this section, with respect to expenditures incurred in operating a grant diversion program under this section.

"(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a grant diversion program in accordance with this section; and participation by an individual in such a program shall be deemed to satisfy all of the requirements of section 402(a)(19) and part C which are otherwise applicable to such individual.

"(3) Notwithstanding section 402(a)(1), a State operating a grant diversion program under this section may operate such program in any or all political subdivisions of the State.

"(4) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a grant diversion program under this section may apply subparagraph (A)(iv) of such section with respect to any individual participating in such program (whether or not subparagraph (B)(ii)(II) of such section would otherwise prevent the application of such subparagraph (A)(iv) during the period of such individual's participation in the program).

"(c)(1) In operating a grant diversion program under this section a State shall—

"(A) enter into contracts with public or private employers in the State under which such employers will provide employment (in the form of on-the-job training or otherwise) for eligible individuals over a period (in the case of any one such individual) of up to 9 months; and

"(B) pay to each such employer with respect to each individual so employed an amount equal to the lesser of (i) the maximum amount that could have been paid directly to such individual or the family of which he or she is a member as aid to families with dependent children under the State plan, at the time of his or her initial placement in a job under the program, if such individual or family had no income, or (ii) 50 percent of the wages paid to such individual for his or her employment under the program.

The determination of the particular employers and job positions to be included in the program shall be entirely within the discretion of the State.

"(2) For purposes of this section, an individual is an 'eligible individual' if he or she is eligible to receive aid under the State plan (without regard to this section) at the time of his or her initial placement in a job under the program.

"(d) Payments by a State to employers under the program shall be considered amounts expended as aid to families with dependent children under the State plan for purposes of section 403(a).

"(e)(1) Any employer participating in the program under this section shall afford employee status to all eligible individuals to whom such employer provides job positions under such program; but nothing in this section shall be construed as requiring the State or local agency administering the grant diversion program to provide employee status to any participant unless such State or local agency is the employer of such participant.

"(2) Wages paid under a grant diversion program under this section shall be considered to be earned income for purposes of any provision of law.

"(f) Any State which chooses to operate a grant diversion program under this section shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part, shall be considered to be receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State's plan approved under title XIX.".

PERMANENT EXTENSION OF PROVISIONS FOR DISREGARDING IN-KIND ASSISTANCE

SEC. 2663. (a) Section 545 of the Surface Transportation Assistance Act of 1982 is amended—

(1) by striking out "and prior to July 1, 1985" in subsection (c); and

(2) by striking out ", including" and all that follows in subsection (d) and inserting in lieu thereof a period.

(b) Section 404(c) of the Social Security Amendments of 1983 is amended by striking out "and end before October 1, 1984".

GENERAL EFFECTIVE DATE

SEC. 2664. Except as otherwise specifically provided in this subtitle, the provisions of this subtitle and the amendments made thereby shall take effect on October 1, 1984.

Subtitle D—Trade Adjustment Assistance

LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

SEC. 2671. The first sentence of section 233(a)(3) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows: "Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

"(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

"(B) begins with the first week of such training, if such training is approved after the last week described in subparagraph (A).".

JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 2672. (a) Section 237(a)(1) of the Trade Act of 1974 (19 U.S.C. 2297(a)(1)) is amended by striking out "$600" and inserting in lieu thereof "$800".

(b) Section 238(d)(2) of the Trade Act of 1974 (19 U.S.C. 2298(d)(2)) is amended by striking out "$600" and inserting in lieu thereof "$800".

ASSISTANCE TO INDUSTRY

SEC. 2673. Section 265 of the Trade Act of 1974 (19 U.S.C. 2355) is amended—

(1) by amending subsection (a)—

(A) by inserting "or workers" immediately after "substantial number of firms", and

(B) by inserting "223 or" immediately before "251"; and

(2) by striking out "$2,000,000" in subsection (b) and inserting in lieu thereof "$10,000,000".

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. VANDER JAGT moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill, H.R. 4170, be instructed to not agree in conference to the provisions contained only in the other body's version of H.R. 4170 which extend the accelerated cost recovery period for real estate and reduce the amount of the rehabilitation tax credit.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. VANDER JAGT) is recognized for 1 hour.

Mr. VANDER JAGT. Mr. Speaker, I think that if our procedural and parliamentary traditions did not get us enmeshed in the way that they do sometimes, it is possible that the most distinguished chairman of the Ways and Means Committee, because of his good judgment, because of his devotion to the jurisdiction of the Ways and Means Committee, because of his strong leadership and commonsense, would be prompted to join me in making this motion.

I suspect that the chairman will probably argue against the motion, but I happen to believe that down in his heart of hearts in some secret place he wishes this motion well, because all that this motion does is ask our tax conferees to reject the sweeping changes that the other body has made in the real estate depreciation tax schedule.

Technically, this motion is called a motion to instruct the conferees. It is no such thing. Because the motion is nonbinding, the motion merely informs the chairman and his conferees that the Members of this body will

stand behind him when he stands for the position of the House, that we will be with him 100 percent if he sticks to his guns. As a matter of fact, the conferees will be sticking to our guns, because when these tax provisions were enacted in 1981, they were enacted with the overwhelming support of this body. They were enacted after many hearings and careful deliberation by the Ways and Means Committee and by this body.

We were right when we enacted these provisions in 1981; and the gentleman from Illinois, the chairman, will be right after we pass this motion to stand for these provisions in the conference now.

When in 1981 we reduced the real estate depreciation period to 15 years and provided tax credits for the rehabilitation of older buildings, we provided a much needed tax stimulus for a sagging element of our economy, and that stimulus has worked and it has worked very well.

All we are doing when we pass this motion is telling the gentleman from Illinois, the chairman, that we are behind the gentleman when he refuses to let the other body take away the tax vitamins that were prescribed for a sick patient which are now beginning to return that patient to health and well-being.

Many reliable studies have indicated that if the provisions of the other body were to be enacted, it would decrease investment in real estate development by $8 billion a year, reduce the gross national product by $16 billion a year, and 400,000 jobs would be eliminated in the construction industry.

□ 1540

And the sad part is that we would be making this sweeping change, $10 billion revenue raiser, without one moment of hearing before the Ways and Means Committee, without any consideration by this body as to the economic or the tax consequences. And this would be in flagrant violation of article I, section 7, of the U.S. Constitution which says that all bills for raising revenue shall originate in the House of Representatives. And no one, by any stretch of the imagination, can argue that these provisions originated in this body.

To make matters much worse, these provisions I think are an illustration of why our Founding Fathers put the mandate into the Constitution in the first place. When the Senate Finance Committee's bill came to the floor of the Senate, it put the period at 20 years. The economic consequences were so disastrously obvious, the one I have just outlined to the Members of the other body, that they resisted and a great controversy ensued.

Then in the middle of the night a Rube Goldberg compromise was fashioned and the Senate provision puts it at 20 years this year and 18 years in 1986. I ask you if you were a builder who had been thinking of moving ahead this year or next, but were told by this Congress you get a much better tax incentive if you wait a year and a half, would you not delay just as long as you possibly could?

For heaven's sake, we are supposed to be helping economic expansion, not slowing it down. And the Senate provisions bring it to a screeching halt for 1½ years.

To make matters even worse than that, in order to make this provision revenue neutral and to not tilt the Code one way or another, they had to change the tax credit for the rehabilitation of older structures. And in the process they virtually wiped out this tax stimulation that has been flowing into the urban centers, particularly in the Northeastern sections of the United States.

It just does not make any sense. And so, Mr. Chairman, I know that because of your devotion to the Constitution and how you treasure the jurisdiction of the Ways and Means Committee and value the economic revitalization that has taken place in real estate development and in the construction and building industry, that you will not argue too passionately in opposition to this motion, because, after all, this is merely a motion that informs you that the Members of this House will support you as you venture forth to that conference to defend the position of the House, to uphold the Constitution of the United States, to protect the jurisdiction of the Ways and Means Committee, and to refuse to let the other body take away the tax vitamins that you prescribe that have done so much to revitalize the construction industry, providing hundreds of thousands of new and additional jobs all across this country every year.

When my colleagues join me in supporting this motion overwhelmingly we will just say go forward, Mr. Chairman, with your conferees, and we are with you as you defend the Ways and Means Committee and the Constitution of the United States.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CONABLE) for purposes of debate only.

Mr. CONABLE. Mr. Speaker, I think it is important to understand some of the history back of the current rate for accelerated depreciation for real estate for which this instruction is being sought by the gentleman from Michigan. I am going to be a conferee, in all probability, and I have some opposition to instructions to conferees. But I do not object to being instructed to support the House position when there is a long history behind it, and in this case there is.

As Members may recall, Chairman JONES of the Budget Committee and I originally sponsored a bill known as 10-5-3 providing for accelerated depreciation for the capital goods of this country in order to reduce the capital cost component involved in what America sells in the world and in our own markets. Competitiveness was the issue.

For revenue reasons, after that proposal had been incorporated in ERTA, the Tax Act of 1981, we reluctantly backed off on the depreciable life of real estate from 10 years to 15 years. We left the equipment 5 and the 3 component pretty much as it had been, and I believe we can take some credit for the front-end capital formation wallop that that Tax Act has created, encouraging investment in productive assets and in increasing the productivity of American business.

It would be a serious mistake to back off further, to move from 15 to 20 years, and particularly with the complications that the gentleman from Michigan has mentioned about the preservation tax credit and the declining real estate life over the next 3 years, thus giving an incentive to postpone capital investment in depreciable real estate as the Senate proposal does.

It is my hope that the Members will not see fit to dilute this instruction by adding other provisions to it. I happen to believe that it is one of the central issues in the conference. I think my friends here in this House should understand that if we are to accept a lot of the pleasant things in the Senate bill, and they did reduce some taxes and extend some credits, that we will be forced to move to extending the depreciable life of real estate. So I believe it is important that this House signal its intention to stand with the House version of the bill in this respect.

I urge my colleagues then to support the motion to instruct and the previous question.

Mr. VANDER JAGT. Mr. Speaker, I yield, for purposes of debate only, such time as he may consume to the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON. I thank my colleague from Michigan, a member of the Ways and Means Committee, for yielding to me for the purpose of debate. I rise in favor of the motion to instruct the House conferees on H.R. 4170 to hold absolutely to the House-adopted position to return the 15-year depreciation schedules on real property for tax purposes. Three hundred and eighteen Members of this House voted in favor of H.R. 4070 on April 11. I would like to encourage all 318 and many more to support this motion to instruct offered by the gentleman from Michigan (Mr. VANDER JAGT), the need to retain the 15-year depreciation schedule on residential structures

during conference on the 1984 Tax Act.

Mr. Chairman, I rise today to ask that all Members of this body, but especially the 318 Members who voted in favor of H.R. 4170 on April 11, vote today to insure that one of the bill's primary components be retained in the upcoming conference. I specifically ask your support for the motion just introduced by the gentleman from Michigan (Mr. VANDER JAGT), who is a member of the Ways and Means Committee, instructing the House conferees to stand firm in opposition to increasing the 15-year cost recovery period for real property to 20 years as included in the Senate-passed version of the tax bill.

I call to your attention the fact that the Congress adopted the accelerated cost recovery system (ACRS), which permits 15-year depreciation of real property, in 1981 as part of the Economic Recovery and Tax Act. I firmly believe it would be extremely unwise for us to change gears after less than 3 years and abandon an important vehicle for insuring continued economic recovery. The accelerated depreciation provisions are especially critical in insuring that the strong upsurge that has occurred in the Housing industry will continue.

The housing industry, to a greater extent than any other industry in this Nation, has a direct and forceful impact on the overall fortunes of our Nation's economy. Altering the depreciation rules to the extent mandated by the Senate bill would not only undercut single and multifamily housing development but would also disrupt the stable investment environment necessary for real estate development.

The impact of the Senate-passed changes in ACRS, if they were to become law, would not just impact the housing industry but would affect all forms of commercial and residential development. The cost recovery period for all structures, not just residential structures, would be increased to 20 years under the Senate provisions. It has been estimated that during the first years after enactment, a 20-year recovery period for structures would annually reduce commercial and residential investment by $8 billion, reduce gross national product by $16 billion, and cause a loss of approximately 400,000 jobs, primarily in the construction industry. The rationale for our passage in 1981 of the Economic Recovery and Tax Act was to provide additional incentives for investment and, thereby, spur additional investment and development. We have begun to see the tax reforms we made in 1981 bear fruit in the form of additional capital investment in our industrial and commercial base as well as expansion in residential development.

I ask each of you to allow this expansion in investment, which leads directly to expansion in employment opportunities, to continue. This is no time to stop the growth environment that has been so carefully crafted and is still so fragile.

A 1981 study by the Federal Reserve Board determined that investment in structures had decreased substantially as a percent of gross national product and as a percent of total business fixed investment since the mid-1960's. The study concluded that the shift in investment away from structures probably was related in part "to changes in the tax code which generally have favored equipment more than structures," and in part to the effects of inflation.

We recognized this inadequacy in 1981 when we enacted the tax cut bill with its 15-year depreciation period. It has served its designed purpose and must be allowed to continue.

Again, I thank my colleague from Michigan for yielding this time to me.

Mr. VANDER JAGT. For purposes of debate only, Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I have no particular position at this point on this instruction. What I am asking is that the membership give itself a chance to vote on the question of industrial development bonds.

Many of us believe it is appropriate to restrict those legislatively and to deal with abuses, but not by an across-the-board volume cap which fails to discriminate between the good and bad uses, which would restrict student bonds and employment at industrial projects without regard to whether they were good or bad but simply according to the volume.

The only way that can happen is if the membership votes against the previous question. We ask that not in opposition to the gentleman's instruction, but simply because that is the only parliamentary way they can then bring before the House a supplement to his instruction; not a substitute, an additional instruction that would deal with industrial development bonds.

Mr. Speaker, I guess our slogan for the day is "No taxation without Representatives." We are making the somewhat radical proposal for this body, that Members of this House be allowed to vote on some specifics of the tax bill.

Now, I checked the Constitution, and I understand it is not mandatory that Members of the House be allowed to vote on provisions of the tax bill, but we understand on good authority that it is permissible.

We are simply asking today that by voting against the previous question the membership not take a position of the gentleman from Michigan's instruction, because they can do that later on, but simply preserve the right of myself or someone else to offer an additional instruction which would say to the committee, "Restrict revenue bonds to legitimate purposes, ban abuses, contain them in proper ways but please do not put on them an across-the-board cap that does not discriminate between the good and the bad."

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I thank the gentleman from Massachusetts for yielding, and I would like to associate myself with the remarks of the gentleman from Massachusetts.

Mr. Speaker, I join my colleagues in respectfully instructing the House-Senate conferees on tax bills, H.R. 4170 and H.R. 2163, to adopt the language developed by the Senate in H.R. 2163, eliminating the State volume cap on industrial development bonds.

The $150 per capita volume cap, as passed by the House, poses serious administrative and allocation problems for Missouri. Under the cap, bonds for such varied purposes as pollution control, student loans, and loans for small- and medium-sized farms and businesses would be competing against each other. It is estimated that my State would have exceeded the cap in both 1982 and 1983.

The continued issuance of IDB's is critical to Missouri's efforts to provide funds for economic and agriculture development, pollution control, and student loans. The Missouri division of community and economic development estimates that over the last 2 years small issue IDB's alone have financed new capital formation that has directly created or retained 31,600 jobs in Missouri. These jobs have increased the payroll in Missouri by $970 million.

The administrative and allocation problems posed by the $150 cap are even more troubling than the likelihood that Missouri would exceed the volume limit. Missouri has 114 counties and 933 incorporated municipalities. They all have the potential legal authority to issue small issue IDB's. Allocating the cap among these competing jurisdictions would lead to a divisive battle in our general assembly, with poor counties pitted against wealthier counties and rural areas pitted against urban areas.

Allocation of environmental bonds poses special problems since the size and location of pollution control projects varies greatly from year to year. Federal laws and regulations have led to an increased need for revenue bond financing. I am concerned that the pollution control bonds will crowd out bonds for other worthy purposes, since they are issued in order to

insure compliance with Federal environmental mandates.

I urge the conferees to adopt the language contained in the Senate tax bill eliminating the volume cap on the industrial development bond provisions.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Maryland.

Mr. MITCHELL. Mr. Speaker, I rise in support of the motion to instruct the tax conferees of H.R. 4170 not to agree to the tax-exempt bond State volume cap. The tax-exempt State volume cap would have a negative impact on the economic interests of minorities. Under the bill provisions IDB's would be limited to $150 per person per State per year as estimated by the U.S. Bureau of Census beginning in 1984. This provision would have a negative impact on most large industrialized States because of their heavy use of this type of financing for ports, pollution control, and "small issue" industrial projects of less than $10 million.

The Reagan administration budget cuts have hit domestic programs particularly hard. In light of these cuts, the need for IDB's is even greater. Now is not the time to limit a program that may offset, to some extent, the drastic effect of these cuts.

As many of you are probably aware, the Census Bureau has admitted that it undercounts blacks and Hispanic Americans. Consequently, the use of census data in the State-by-State volume caps would be biased against those States that have higher percentages of minority members. Moreover, small issue IDB's have been used by minority developers and companies because traditional institutional lenders will not meet their financing needs. If it were not for the growing political influence of minority groups among the various State and local governmental entities authorized to issue such bonds, minority companies and developers would not have available adequate capital to finance projects.

Since the dollar amounts of IDB's that could be issued by each State would be strictly limited, it is unknown what priorities a particular State would place on different types of IDB's. Undoubtedly, the lack of such prioritization would result in increased confusion, delays, and possible cancellation of worthwhile IDB issues. The volume cap placed on IDB's is an arbitrary restriction that would result in the distribution of IDB's according to political clout instead of economic considerations. With a fixed limit on the amount of IDB's that can be issued within a State, the State government would be pitted against localities, and local governments would compete for the authority to issue such bonds.

A State cap will hit economically distressed areas particularly hard. For these areas, IDB's are frequently the only way to encourage economic development. But these are areas that are likely to have the least political influence in any fight with other more affluent areas of a city or State. In any competition over a fixed amount of bond authority, it is the low-income urban and rural areas that will lose out. Clearly, these events would cause additional economic hardships for blacks and Hispanics.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. I thank the gentleman for yielding. I rise in support of the motion to instruct the House conferees to reject the Senate's depreciation proposals. The Senate provisions are antihousing, anti-investment, and they risk damaging long-term economic recovery.

The House-passed tax bill raises nearly $50 billion in revenue, the same as the Senate bill. But it does so without the unwise, awkward depreciation proposals adopted by the Senate. Those proposals would have serious negative social and economic consequences.

In the 1981 tax bill we established the present 15-year depreciation for real estate for a very good reason; to stimulate jobs, savings and investment. Now, the Senate has moved to discourage job creation and productive investment by extending this schedule that we worked so hard to shorten.

The stimulus to investment provided by the House's 15-year recovery period is just now becoming apparent. Now is not the time to reverse this positive trend by changing the rules of the game. We cannot expect builders and real estate investors to make critically needed investments if we keep changing the rules of the game.

Industry sources project that the Senate depreciation changes would reduce employment across the country between 200,000 and 400,000 jobs; that they would reduce investment by nearly $8 billion in the next few years and result in a loss of about 100,000 new rental housing units per year.

In my own State of Oregon we have not recovered fully from the last recession. We know it is true that $200 billion spending deficits must be slashed if we are going to reduce interest rates and rebuild this economy.

But tax changes that hurt productive investment which actually return revenue to the Treasury—changes which the Senate proposes—are shortsighted and counterproductive and the costs far outweigh the benefits.

Mr. Speaker, increased rents, reduced employment, and a crippled real estate industry should not be the consequences of our tax policy decisions.

The Nation has recovered somewhat from the last recession but interest rates are on the rise again and a change in investment incentives such as lengthened depreciation periods would be potentially disastrous.

I urge my colleagues not to accept any change in the recovery period for structures and I strongly support this motion to instruct our conferees.

I hope that our conferees would take this instruction seriously, as seriously as I believe the membership will vote to do so; and, though we cannot bind them, I hope the conferees understand that the Members of the House feel strongly about this matter.

I appreciate the gentleman yielding to me.

Mr. VANDER JAGT. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman has 41 minutes remaining.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Mrs. VUCANOVICH).

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise to urge Members to defeat the previous question so that a motion can be added to instruct the conferees to delete the $150 cap on industrial revenue bonds.

I support the motion to instruct the conferees not to agree on the Senate's changes in real estate depreciation schedules; however, adding further instructions to this original motion is the only opportunity for the $150 cap on IDB's to be deleted. As everyone in this body knows, Members were denied the opportunity to debate this issue during consideration of H.R. 4170. The Senate did not put the cap language in their tax bill, and I do not believe it should remain during conference.

In the State of Nevada, as in many other States, the availability of industrial development revenue bonds has been an important element in promoting economic development. Many of us oppose this cap because it will have a significant adverse impact on our States, particularly the less populated, developing States such as Nevada. If this cap is not deleted, Nevada will lose over half its assistance in industrial development revenue bonds, and it is highly unlikely that new industries and businesses will want to come to Nevada. Industrial development revenue bonds have been a vital tool in revitalizing and diversifying Nevada's economy, and we cannot afford to lose that tool.

I, therefore, urge my colleagues to support this motion so that the $150 million cap can be deleted in conference.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to

the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Speaker, I also rise to urge defeat of the previous question so that we can instruct conferees to remove the cap on the industrial development bonds.

I would like to thank the gentleman from Michigan (Mr. VANDER JAGT) for allowing me the opportunity to speak on the motion to adopt the Senate provision on industrial development bonds. I believe that it is imperative that the Senate provision be adopted and the House provision which caps IDB's be eliminated. The Senate bill places the necessary restrictions on the bonds that have been needed for many years. But to cap the IDB's as the House version does would turn the IDB program into a political football pitting State against State and cities and towns within each State against each other.

In the Fourth District of Indiana, we have faced some difficult times in the past few years. Some of our largest plants suffered because of the then depressed state of the auto industry, and other adverse effects of the recession. We had some large scale layoffs and even plant closings, and we were not able o attract enough new industry quickly enough to fill the gaps.

Now, communities around the district and our major city, Fort Wayne, have pulled together to attract new industries and expand existing businesses. We have used IDB's as a tool to assist these industries. The proposed House will limit this new growth, and discriminate against the areas I represent. Currently there are 43 companies awaiting action by the House and Senate to see what provision will ultimately prevail. These 43 companies will hire approximately 1,000 people. As an area getting its feet back on the ground, 1,000 jobs mean a lot more employment and capital coming into the Fourth District of Indiana. We are trying to do everything possible to make it worthwhile to locate or stay in Indiana. We have recognized the need to create a proper business environment if we are to continue economic development.

The industrial development bonds have been a facilitator in our efforts and could continue to be in the future. It is my hope that my colleagues from other areas in the country faced with the same or similar circumstances will support us in our effort to instruct the conferees to adopt the Senate IDB provision, which does not place the restrictive cap on the lands as the House provision does.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, there is only one problem with this motion to instruct the conferees—a motion which I support. This motion contains no provisions dealing with the statewide cap on industrial development bonds, and I support attempts to defeat the previous question on this motion so that it can be amended.

The chairman of the Ways and Means Committee would have us believe that a tax bill is like a beautiful house. Each board in the house, he would say, is so important—so essential—to the whole that if you took just one board away, the whole house would come tumbling down.

The address of the house before us today is H.R. 4170. One board of the house is tax-exempt leasing. One board is fringe benefits. One board is life insurance company taxation. One board is tax simplification. And one board is tax-exempt bonds. Some say that if that board is taken out, the whole house is going to come tumbling down.

I look at this another way. I look at the IDB board as being rotten to begin with—rotten to the core. That rotten board might give away, and cause the whole house to come tumbling down. When H.R. 4170 was being built, the carpenters on the Ways and Means Committee built it in such haste that they used one rotten board. They did not take the time to test the board, and now the house is shaking in the breeze.

Do you know why the board is rotten?

The board is rotten because of the cap on IDB's. It is rotten because H.R. 4170 makes so many restrictive changes to the tax-exempt bond provisions of the Internal Revenue Code without hearings that the board is weak. Less than 2 years ago, the House made several changes with respect to IDB's. The 1982 tax bill made needed reforms to certain abuses with respect to IDB's. We have not had time to study the impact of those changes, yet the Ways and Means Committee wants to rush ahead with restrictions that are going to cripple the use of private purpose IDB's, which have produced thousands of jobs na'ionwide and have filled the coffers c State and local treasuries with increased revenues.

I am telling you, that one rotten board is going to destroy this whole house—maybe not now, maybe a few years down the road, when H.R. 4170 is looked at as the bill that crippled an important economic development tool.

And that is why, Mr. Speaker, that I feel we should accept a motion to instruct the conferees on the tax bill to reject a cap on State issues of IDB's. We can raise just as much revenue by accepting the provisions in the bill that came out of the other body.

We are not trying to ruin a beautiful house, Mr. Speaker. We are trying to strengthen it.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I rise in opposition to the previous question.

Mr. Speaker, I rise to urge a "no" vote on the previous question on the motion of the gentleman from Michigan.

As my colleague from Massachusetts and I have tried to explain during the past week, a "no" vote on the previous question is not a vote against instructing House conferees on real estate depreciation.

A "no" vote is, rather, a vote to give the House the one and only opportunity it will have to vote on another, equally important issue: the $150 per capita State volume cap on the issuance of industrial development bonds.

Should you vote "no" on the previous question and it is defeated, my colleague BARNEY FRANK will then offer an amendment adding IDB instructions to the depreciation instructions. The IDB instructions simply state that House conferees on the tax bill should abandon the $150 per capita State volume limit.

As you know, the House has never had the opportunity to express its will on the IDB volume cap. Given the chance later on, I will be prepared to list all the reasons why an IDB cap is bad public policy. For now, however, suffice it to say that a volume cap is extremely difficult for State and local officials to administer; it discriminates against rural and rapidly growing States; and it pits communities against one another in the competition for bond authority, with the high visibility, politically positioned inevitably winning out over all others.

Under the House rules, only one motion to instruct is in order and it is the prerogative of the minority. Mr. VANDER JAGT has exercised his prerogative by offering an instruction motion which I personally support and which I will be voting for at the appropriate time. But I also want the chance to express my will against an IDB volume cap, and the only way to do both—to vote for depreciation instructions and for IDB instructions—is to vote down the previous question. I urge my colleagues to follow BARNEY FRANK and I in this very important effort by voting no on the previous question.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. I thank the gentleman and I do not plan to take all 5 minutes. First, I want to associate myself with the gentleman's remarks, the gentleman from Michigan.

I think it is pretty clear that what we are talking about here is not just some kind of academic debate about whether or not the housing industry

ought to be able to retain one sort of depreciation schedule or another.

In my view, what we are talking about here is whether or not we believe in the value of savings and investment, whether we believe in jobs, and in particular, whether or not we think that one industry, housing and real estate, ought to accept a disproportionately large share of the burden of cutting the deficit.

Now it is my view that housing is the great economic multiplier in this country and that there is no sector that produces as many jobs and as many positive economic results as the housing industry. And I think for that reason the motion of the gentleman from Michigan is very correct.

The evidence shows that housing is slumping right now, that the housing industry is moving into a downward trend in terms of starts, in terms of the impact on the rental housing shortage, and I think the gentleman's amendment is exactly what we need to do in this country to insure that we take the steps in the Congress to arrest this distressing trend toward a housing shortage and toward a lack of adequate investment incentives for housing.

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So I thank the gentleman from Michigan very much for yielding, and urge support for his motion.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WYDEN. I am happy to yield to my friend, the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Speaker, I also rise in support of the Vander Jagt motion. I think it is particularly important that we keep in mind that when we did agree to a 15-year depreciation period, we did away with the process of depreciation calculation called component depreciation, which was very confusing. It meant that the individual or entity taking the deduction would have to compute a whole wide variety of elements of the structure; for example, the wiring, the plumbing, the elevators, the building shell itself all separately. It was a terrible mishmash—an accounting horror.

In trying to clarify and to standardize this tangle there was a compromise reached and included was the decision to conform this 15-year period. I think we ought to be very cautious about doing anything to upset that tradeoff. We have had a very, very short timeframe to understand the impact that this is going to have on the incentives to develop commercial, industrial, and rental real estate. I think it would be particularly destructive to this industry which, as the gentleman from Oregon, has indicated, has gone through three very terrible years of depression, not recession.

For us to take this action now would not only be going back on our word to an industry that I think has acted in good faith, but, at the same time, I think would complicate greatly the efforts that have really only just begun to extricate ourselves from a diminishing ability to provide available housing for the American people.

I certainly believe that it is incumbent upon this body to stick with this 15-year standard, to test it further and not to disrupt more investment planning at this very inopportune time.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Speaker, I rise in support of this motion to instruct and I strongly urge that my colleagues do so also. The motion before us does not request the conferees to do anything more than insist on the current House position on real estate depreciation. Clearly, the House tax bill, H.R. 4170, is a reasonable approval to tax legislation. It does not contain any provisions dealing with the real estate depreciation rules, particularly the 15-year recovery period, and there are many solid reasons why it does not. The 15-year recovery period was enacted in 1981 and I clearly remember the debate in Congress at that time. We were, and in my mind we continue to be, very concerned with the capital formation in this country which is necessary for private, industry-led job creation. Nothing since 1981 has changed. The United States still requires savings and investment in order for economic expansion and lasting American job opportunities. This continues to be the case. We should send a strong signal to the Senate that we in the House want to preserve jobs, not destroy them—preserve the rental housing stock, not reduce it—and encourage investment, not discourage it. We have heard the numbers, analysis showing the impact on jobs and rental housing resulting from the Senate effort to alter the depreciation rules. These analyses show a loss in jobs of between 200,000 and 400,000, and an annual decline in rental housing of between 50,000 and 100,000 housing units. Mr. Speaker, an employment decline and a rental housing decline will hit hardest on those American families least able to protect themselves. Further, because an increased depreciation period will reduce an investor's return, rents will increase. Let me restate that—enactment of the Senate proposed change on depreciation will increase rents as well as reduce employment.

Mr. Speaker, nothing further needs to be said. I will strongly support the motion to instruct. The House was correct, the Ways and Means Committee was correct, we do not need to alter an investment incentive such as real property depreciation at this time and we need to demonstrate our support for the current rules by approving this motion. I ask my colleagues to join me in my support for this motion.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I rise to support the motion to instruct the House conferees on H.R. 4170 in the terms offered by the gentleman from Michigan (Mr. VANDER JAGT) as it would urge retention of the current 15-year cost recovery depreciation schedule of structures instead of the 20-year figure in the Senate bill.

Let us go back to what was the law before 1981. Prior to 1981, the average depreciation period for real property was 32 years. It could be more or less, that was just the average. Many buildings in the same town, of the same type, had different depreciation schedules. But the average was 32 years.

But it was so complicated that you could actually take a part of that building and depreciate it on a different schedule. Plumbing and electrical circuitry were such subunits of a structural depreciation. And generally their useful life was something about a third that of a structure itself.

This process of tracking different cost inputs involved enormous and burdensome tax accounting and at each turn another complication in the application of useful life guidelines seemed to arise. It was time for consistency in tax policy to reform the haphazard useful life applications.

We did this in 1981 in the 1981 Economic Recovery Tax Act. Under ERTA, a 15-year cost recovery period was established for all structural property beginning January 1, 1981. Components were subject to depreciation in the same manner as the structure itself. Such uniformity and simplicity under all ACRS guidelines have, according to a March 12, 1984, Department of Commerce report, produced a 12-percent increase in business plant, equipment, and investment.

At the same time, however, the recession denied a large segment of potential ACRS users the chance to utilize investment plans as the cost of external capital soared out of reach and the economy slid into defensive positions.

A 15-year depreciation schedule has simply and honestly not had time yet to show what it can do and there are those people who are just now coming out of the recession who have not yet had the opportunity to use it.

The Senate now seeks to impose three new schedules for 1984 and 2 subsequent years. These are an improvement over the Senate original

proposition of a uniform 20-year structural depreciation schedule only on the basis of more closely approaching current depreciation terms and the economic incentives it holds.

However, the Senate now imposes three new timetables that find the depreciation of structures having changed—if that is adopted—five times in 7 years. The prior 1981 law, the current 1981 law that is in effect, and the three new changes the Senate wishes to propose.

This is terrible tax policy. Any time you change the tax law on something five times in 7 years you are causing nothing but confusion in the boardrooms of our corporations and among developers, builders, and owners of real property in America. They do not know what the law is going to be. You are causing them to sit back and do nothing while this fickle Congress makes up its mind yet another time on what the law is going to be.

Our intention to construct uniform and steadfast tax policy in 1981 so decisions to build could be contemplated, made, financed, completed, and placed in service under the multiyear timeframe such actions take will be made meaningless if we move in any direction but permanent retention of the 15-year depreciation period for structures.

A 20-year depreciation period is expected to produce a loss of 400,000 jobs—as a colleague of mine mentioned a moment ago in debate—in the construction industry, but in addition to that, cut the Nation's gross national product by $16 billion and reduce investment in commercial and residential real estate by $8 billion. And all of this is annually, my colleagues, annually we take that kind of loss, when compared to a 15-year depreciation schedule.

The residential and commercial building construction industry has been first to take it on the nose in the last recession. They still have not come out of it yet. Many builders tell me there has been no relief in their industry since 1979 or even earlier.

We only exacerbate the severity of their economic problems by sending this industry a message to start laying off 400,000 people and stop building if the Senate 20-year schedule becomes law.

If you really want to help the economy, if you really want to help the building industry and the construction trades, vote for the motion to instruct of the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in support of the motion to instruct the conferees not to accept the Senate depreciation provisions.

It is indeed important that we begin to tackle our Federal deficit problems. There are provisions in both the Senate and House tax bills that can do just that. It is my belief, however, that our attempts to decrease our deficit should not fall disproportionately on any one industry. An increase in the accelerated cost recovery system for structures, as proposed by the Senate Finance Committee, would have such an effect on the housing industry. This would, as we might guess, have a general adverse effect on the economy as well.

There are several reasons why an extension of the 15-year cost recovery period for structures might have an adverse effect on the economy. For one, the longer depreciation period would reduce the incentive to invest in structures, as well as reduce both the construction of new buildings and the rehabilitation of existing ones. With such a decrease, we might expect the loss of thousands of construction-related jobs. In Iowa alone, it is estimated that an increase in the depreciation period would result in the loss of approximately 4,000 jobs within 3 years of enactment.

The accelerated cost recovery system was designed to stimulate investment and to offset the effects of inflation on the taxation of businesses. An extension in the recovery period for structures at this time would only serve to reverse any gains that have been made since its enactment less than 3 years ago. To change the length of the recovery period now would be both untimely and unfair.

It is for these reasons, Mr. Speaker, that I rise in support of the motion to instruct the conferees to hold firm to the 15-year depreciation period. If it is indeed economic recovery we have in mind as we shape our tax policy, then it is evident to me that we must maintain incentives for investment. A lengthening of the depreciation period seems only to be moving away from our stated goal.

Mr. VANDER JAGT. I thank the gentleman for his support.

Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I, too, stand in support of the motion to instruct conferees on the tax bill, but before we go any further, we should be very clear as to what we are about to do.

First, there will be a motion on the previous question and, of course, we want to see that pass. Then a motion will be offered to instruct conferees. I think this is an appropriate motion. Let me say I believe this is the first time I have taken the well to say we should instruct our conferees. I think they fully understand what we intend with this motion and I have a great deal of faith in what they will do.

This is a very vital issue and this motion is meant as a supportive action to the very fine work that the committee has done. I might say that I have supported real deficit reductions in an approach to trying to get this budget in balance. This committee and this House, in what may be one of the finest hours in the 6 years I have been here, can say confidently that we have a good package. We ought to stand by that package.

The issue we have before us from the Senate is anti-real estate, anti-investment, and could destroy property values, and as Members have heard, some estimates say 400,000 jobs. I might caution my colleagues that 400,000 jobs is just for next year. Other estimates say up to a million jobs in the future.

So it is important as we go in to conference to go in as strong as possible and give our conferees total support on this particular issue. It is important to note that the figure of 25 percent has been mentioned several times as the figure that we are extracting solely from the real estate industry.

□ 1610

And let me remind you that the real estate industry has been a leader before this Chamber, in this Congress, and in this Nation, in trying to focus attention on the real problems of the deficit, taxes, and budget reduction. The House has done an excellent job. We have heard of spinoff in the space program and the great benefits. We all talk, particularly those from the North and Northeast, about spinoff in the auto industry and the great benefits and what it means. But there is no greater spinoff in this Nation than the housing industry. If we can help the real estate industry and housing in this Nation, we will be doing one of the best things, the most direct actions, we can take to fight the overall effects of the budget deficits of this Nation.

I ask my colleagues to support this motion.

Mr. VANDER JAGT. I thank the gentleman for his very excellent statement.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Speaker, I rise to support the effort to defeat the previous question. I do so with high regard for the gentleman from Michigan (Mr. VANDER JAGT).

I do not disagree with his motion to instruct conferees regarding the real estate depreciation schedules. In fact, I strongly support my good friend's motion.

However, I am also very supportive of the efforts of the gentleman from Massachusetts to allow the House to vote on a motion to instruct conferees

on the tax bill regarding both the real estate depreciation schedules and the very important issue of the industrial development bonds "cap."

Mr. Speaker, I am strongly opposed to the cap provisions for IDB's. These tax-exempt issues create jobs and lower Federal outlays for unemployment and welfare programs.

It is not as if this was the only tax-exempt, tax sheltering device available in the marketplace for the high-income investor. By capping the tax-exempt quality of the IDB, we are capping the amount of investment available in that industry.

I submit that for those investors that use tax-exempt IDB's in their financial planning, the proposed cap will cause a significant percentage to move their investment funds elsewhere, thus limiting capital improvements which create new jobs.

Between August 1967 and December 1983, the Industrial and Commercial Development Authority authorized 34 separate projects in northeastern Pennsylvania, bonding $113,577,095; creating 3,160 new jobs and preserving 27,150 jobs. These are people working, contributing tax dollars to the Government and not draining the resources of the truly needy.

That cost of $113.5 million created or preserved 30,310 jobs in northeastern Pennsylvania alone. This cost $3,700 a job—less than the amount of the taxes paid by these workers and certainly less than the welfare benefits would have cost the Government.

Mr. Speaker, currently there are eight projects in Lackawanna County alone that are providing 870 new jobs, preserving another 2,574 at a bonding level of $26.875 million. These projects include:

Emory Air Freight, Keystone Industrial Park—$5 million; 324 jobs preserved, 100 to be added (conservative estimate).

Montage, Inc. (non-profit development group)—$7.5 million (part of $13 million project); 250 new jobs.

Hendrick Manufacturing Company, Carbondale—$5.5 million; 200 jobs preserved.

Sandvik, Inc. (formerly Sandvik Steel)—$3.8 million; 400 new jobs.

Family Garment—$250 thousand; 100 jobs preserved, 50 new jobs.

Aronsohn Tie Fabrics—$325 thousand; 70 new jobs.

Gentex Corporation, Carbondale—$2.5 million; 800 jobs preserved.

Haddon Craftsmen, Inc.—$2 million; 1,150 jobs preserved.

Since 1967, Pennsylvania has issued 984 revenue bond projects, bonding $8,313,539,808, creating 85,114 jobs, and preserving 564,218 existing jobs.

Yes, it can be said tax-exempt bonds benefit the upper classes in our society by giving them a tax break. But we must look at what the tax break does: It provides jobs; it keeps people off of welfare, food stamps, and unemployment, and the tax dollars we lose to the bonds are returned to the Treasury through the taxes paid by the workers.

Mr. Speaker, I do not mean to suggest that the IDB program is operating at no cost to the Government, nor can I speak to the effectiveness of IDB's outside of my own State of Pennsylvania.

However, as long as tax-exempt instruments continue to exist in the marketplace, they will be used. I believe that industrial development bonds are one of the most productive uses for those dollars that will be invested in some tax-exempt issue.

I urge the defeat of the previous question and adoption of the instructions to eliminate the capping of IDB's.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in support of the motion to defeat the previous question. As a strong opponent of a cap on industrial development bonds, I join in this effort to amend the motion to instruct conferees to recede to the Senate position on the cap.

Since H.R. 4170 was first before the House Rules Committee last fall, I have joined in several efforts to obtain a separate vote on IDB's during consideration of the Tax Reform Act. No satisfactory amendment was permitted to be debated on the floor. In fact, the defeat of the rule for consideration of H.R. 4170 in November can be traced primarly to the issue of IDB's. When we debated H.R. 4170 in April, no amendment at all was allowed on this subject.

Mr. Speaker, this vote presents Members with an opportunity to demonstrate their support for a vital economic revitalization tool throughout the United States. In my State of New York, and within my congressional district, thousands of jobs and many critical projects depend on IDB financing. I have no problem with restricting the use of IDB's to only public purposes. However, H.R. 4170, with its cap, would essentially eliminate use of IDB's altogether. This result is unfair and unnecessary.

I remind by colleagues that a vote on this motion on the previous question does not affect the rest of the motion to instruct conferees. I am fully supportive of the current motion on real estate depreciation. I just want to add an instruction of equal importance to economic recovery.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I urge my colleagues to vote for the previous question and to support the House position on the depreciation of property. That is the issue. There is no other extraneous issue at this time, and we should support the gentleman's motion to stay with the House position.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from South Carolina (Mr. TALLON).

Mr. TALLON. Mr. Speaker, I rise in strong support of the motion offered by the gentleman from Michigan and wish to associate myself with all of my colleagues who have previously discussed the importance of preserving in conference the House position of a 15-year depreciation for real estate.

Mr. Speaker, our economy seems fragile enough at this point in time without further eroding capital formation as would result from extending the cost recovery period on structures.

The House Ways and Means Committee and the Chair should be congratulated for resisting any attempts to tamper with this important provision. It means jobs for our States and badly needed investment for housing.

Let me say, that if you read today's Wall Street Journal, you will understand that already the recent rise in interest rates is prompting a slow down in housing sales. This slowdown is partly because the public is resistant to pay 14 percent for mortgages, but it also reflects the fact that particularly first-time home buyers cannot afford the monthly payments associated with 14 percent mortgages.

These are the same prospective home buyers, who now as renters, will see their rent payments increase $25 to $30 a month if the Senate is allowed to prevail in tampering with depreciation schedules.

Mr. Speaker, again I commend the Chair and members of the House Ways and Means Committee for already recognizing these problems and I urge my colleagues to show a unified front on this important issue.

Mr. VANDER JAGT. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BRITT).

Mr. BRITT. I thank the gentleman for yielding. Mr. Speaker, I rise this afternoon to express my strong support for the motion to instruct the conferees on the tax bill to reject the Senate's attempt to lengthen the building depreciation period.

The Senate proposal for extending the current 15-year depreciation period for structures would discourage much-needed investment in building construction and rehabilitation. In H.R. 4170, the House wisely chose to leave in place the 15-year depreciation period in order to encourage the creation of jobs in the housing, construction, and real estate industries. The House approach has the advantages of simplicity and certainty, while the more complicated Senate approach requires phased in changes in the depre-

ciation period in each of the next 3 years.

The housing and real estate industries have suffered through a long depression, and have only recently shown signs of recovery. To lengthen the depreciation period and thereby discourage the creation of jobs and investment in these industries at this stage of the recovery would be unfair and unsound tax policy. We must reduce the Federal deficit in a fair and balanced way. The tax revenues to be gained by adopting the Senate proposal are far outweighed by the necessity of insuring a complete recovery in the housing and real estate industries. Particularly in the face of rising interest rates, this important investment incentive should not be abandoned.

I urge my colleagues to vote for the motion to instruct the conferees. We should hold fast and refuse to permit extension of the building depreciation period.

Mr. VANDER JAGT. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I rise in support of the motion offered by the gentleman from Michigan to instruct the conferees. But, more important, I rise to ask my colleagues to vote for the previous question.

This is a very serious issue. The current provision in ACRS is working. It has just been implemented since 1981.

The Senate provisions today could cause a reduction in employment of hundreds of thousands of jobs. It could reduce investment by $7 or $8 billion. It could cause a decline in the construction of rental housing in America. And, quite frankly, the Senate provision holds out false hopes when it talks of raising revenue for the Federal Government. In the long term, it will cost revenue because economic recovery and expansion of the economy, particularly in housing and construction, will cause more revenue to come in than will the Senate provision which would in fact inhibit the recovery.

Mr. Speaker, finally, I believe that it is a breach of faith with the housing industry to ask them to bear such a burden in trying to deal with deficits today. We should vote yes for the previous question and yes on the motion of the gentleman from Michigan.

Mr. VANDER JAGT. I thank the gentleman for his excellent contribution.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York (Mr. MRAZEK).

Mr. MRAZEK. Mr. Speaker, I rise in support of continuing the 15-year depreciation schedule for residential and commercial buildings in conformance to the motion offered by the gentleman from Michigan. I think it is fair to say that a lot of people in this House and across in the other body have worked hard to come up with a program for deficit reduction. Because we have not been altogether successful, because the large deficit reduction plan that a lot of us would like to see made requires a consensus approach by both the President of the United States and by enough Members of the House and the Senate to put it across, we have had to settle for a lot less. And we have seen the fruits of that lack of success in rising interest rates, and they are ominously climbing back to a point where in another few months chances are that people who are looking to borrow money to buy a home are going to pay 15 percent for a residential mortgage.

Mr. Speaker, it is the housing industry and the building industry in this country that are the nucleus of our economic health, and it is very clear that one of the primary incentives for keeping this industry strong at a time when interest rates are climbing back up is seeing to it that we maintain the 15-year depreciation period.

If the American dream is going to continue for a lot of Americans and if in fact this nucleus of our economy is going to continue a period of stability that it has enjoyed for far too short a time, then I think it is critical for us to recognize the strength inherent in the motion of the gentleman from Michigan, and I would ask all of my colleagues in the New Members Caucus to support it.

● Mr. ALEXANDER. Mr. Speaker, I rise in support of the motion to instruct conferees offered by Representatives FRANK and FROST.

I oppose the $150 per capita volume cap on the amount of industrial development bonds that may be issued.

I agree that there has been abuse of industrial development bonds. I have supported reforms, to eliminate the abuse.

However, IDB's serve an important public purpose.

Small, rural, and poor communities are facing a major economic crisis.

In Arkansas, we are trying to build our economic future within realistic budget limits.

We are trying to create jobs.

We are trying to educate our children.

We are trying to modernize our industry.

We are trying to protect the environment.

We are trying to provide essential services to our citizens.

We are trying to do these things without a strong economic base, and without the investment capital that is necessary for the work ahead.

In Arkansas, we often rely on industrial development bonds to meet our basic capital needs.

If IDB's are severely restricted, through the volume cap and other means, our State, and small and rural States around the Nation, will pay a heavy economic price.

We will not have the investment capital that is necessary today, and will be increasingly necessary tomorrow.

Legitimate users of IDB's will find themselves pitted against each other.

Students, small businesses, pollution control agencies, various branches of local government, and the private sector will find themselves fighting over a limited availability of IDB's, instead of working together for our future.

The result would be fewer jobs, and greater political conflict.

For these reasons, a broad coalition of IDB users has opposed the volume cap provision, among others.

State and local government, economic development agencies, small businesses, and others are urging us, correctly I believe, to support this motion to instruct.

Mr. Speaker, many of our communities have been hard hit by interest rates, foreign competition, factory closings, and aging plants and equipment.

These communities want to build their economic future. To a large degree, they rely on industrial development bonds.

Therefore, I urge a vote in favor of the motion to instruct.●

● Mr. McGRATH. Mr. Speaker, I want to commend the gentleman from Michigan for his motion to instruct the House conferees on H.R. 4170 to insist on the House position and not accept the other body's amendment which increases the depreciation period for buildings. I strongly support this position.

However, when the motion is made to order the previous question, I will vote to defeat it. I want to take this opportunity to explain why.

Unless the previous question is defeated, no instruction that the conferees not agree to a State volume cap on industrial development bonds will be in order.

While fully recognizing the problem of the deficit, I believe the $150 per capita limit on IDB's will place unfair limits on what has been a vital tool for local governments. The imposition of a cap will pit State governments against local governments, local governments against each other, and project against project. The cap merely guarantees that projects and localities with the greatest political muscle will be eligible for IDB financing. Others, which may be equally or more meritorious, will not. Pollution control, sewer and water, and public energy authorities will be forced to compete against each other for the authority to issue bonds. There are other ways to eliminate perceived abuses of the IDB program. I

would urge that we target our concerns, rather than adopt an approach which will hurt people indiscriminately.

At this point, I want to reiterate my strong support for Mr. VANDER JAGT'S basic position on depreciation. The 15-year depreciation period for buildings was established in 1981 to encourage savings and investment, to simplify the Tax Code, and provide a degree of certainty in investment decisionmaking.

Now, a scant 3 years later, the other body has proposed to change the rules. At the beginning of a recovery in the housing industry after a 3-year recession, and after only a short experience with the 15-year depreciation period, the other body proposes to alter the depreciation rules for one sector of the economy alone. The result, if the House agrees to the Senate amendment, will be a loss of hundreds of thousands of jobs, a multibillion-dollar decline in investment in residential and commercial building, and a significant decline in the gross national product.

I will, in all events, support the Vander Jagt motion to instruct the conferees. However, I hope we will have the opportunity to amend the motion.●

● Mr. SHAW. Mr. Speaker, I urge the House to vote in favor of instructing the House conferees to accept the Senate language.

While in general in the program there have been abuses and instances where the private sector has received a "free ride," I think there are also very legitimate uses of these bonds.

The most legitimate use that I can think of is the issuance of a bond for those projects that fulfill a traditional municipal or "public" purpose.

The Ways and Means Committee in H.R. 4170 already exempted from the cap, and presumably because they fulfill a traditional municipal purpose, multifamily housing, airports, and mass transit.

I think that other "municipal purpose" projects such as "sewers, solid waste disposal facilities, and resource recovery facilities" rightly belong in that group.

Let me give you an idea of how the cap which is contained in H.R. 4170 would affect a particular area—Broward County where my district is located.

In Broward County we have a resources recovery project which we have been looking at since 1979 and on which we have already spent $2 million and which is estimated to cost between $300 to $350 million.

The population in the area is approximately 1.1 million. With a $150 per capita cap, this would not even give us enough to finance half the project.

On top of that, there are many other pressing needs in Broward County competing for these IDB's.

And if, in these lean times, the voters did not agree to finance the project through general obligation bonds, Florida's alternative might well be to bury raw garbage. I do not have to tell you what effect that might have on our precious water supply.

And if our water supply is contaminated, the public suffers. I cannot believe that this a only in Florida problem. Many other communities must be facing similar potentially disastrous situations.

Therefore, I firmly believe that because the public is truly served by these municipal purpose projects, they should be exempted from the cap and I hope that the House would agree.●

● Mr. YATRON. Mr. Speaker, I rise today, to express my support for the second motion to instruct the conferees on the tax reform measure not to agree to the tax-exempt bond State volume cap. Industrial development bonds have been enormously important in my congressional district to the financing of local development projects and to the creation of jobs. Unemployment in one of the counties in my district is at the lowest point it has been in 4 years and much of the credit for its reduction is due to the availability of industrial development bonds.

While I agree that the House-passed IDB proposal offers some needed reforms of the program, my overriding concern is that its State volume cap provision will create serious problems at a crucial time in the revitalization of our Nation's economy.

I, therefore, respectfully suggest to my colleagues that we support the second motion to instruct the conferees to adopt a less restrictive IDB provision in addition to the previous motion's instruction encouraging the maintenance of the 15-year real estate depreciation period.●

● Mr. YOUNG of Missouri. Mr. Speaker, I rise to oppose the provision in the House tax bill that places a cap on the issuance of industrial development bonds.

Like many Members, I did not agree with all the provisions in this major piece of tax legislation when the House voted upon it in April. But I felt that this was one part of the deficit reduction package that the House approved this spring by passing the first budget resolution.

However, my major problem with H.R. 4170 remains the cap it would place on the volume of industrial development bonds (IDB's) a State may issue. There have been many instances where IDB's have been misused in a manner not in the public interest. Yet, on the whole, IDB's are essential to a State's economic development and job creation program.

In my State alone, the Missouri Division of Community and Economic Development estimates that over the past 2 years, small issue IDB's alone have financed new capital formation that has directly created or retained 31,600 jobs. These jobs have increased the payroll in the State by $970 million.

Locally, I have been informed by the St. Louis County Industrial Development Authority that between the period of May 1979 through September 1983, around 14,000 permanent jobs were created in the St. Louis metropolitan area due to the issuance of industrial development bonds.

So as you can see, IDB's have been a useful economic development tool in my State.

In addition, Mr. Speaker, the per capita volume cap would require many States to forgo financing many worthy projects. During debate of this measure in April, several Members spoke out against the cap because of the impact it would have on slowing down any economic recovery.

More important, I must underscore the availability of industrial development bonds for pollution control financing. The allocation of environmental bonds poses special problems since the size and location of pollution control projects vary greatly from year to year. Also, in the years ahead, States and local governments will be facing growing pollution control financing needs.

Moreover, Federal and State environmental agencies must certify such projects as complying with environmental mandates prior to construction. Other IDB users are not required to undergo this rigorous certification process. Accordingly, a volume cap will place pollution control projects in jeopardy because other projects can receive speedy approval and deplete the State's yearly allocation.

Finally, by placing a comprehensive volume cap of $150 per capita, this bill pits legitimate public projects against one another, as well as region versus region. It potentially denies thousands of cities and municipalities across the country the means to carry out badly needed economic revitalization and development.

Mr. Speaker, I urge that when the House conferees meet on the tax bill, that they not agree to the tax-exempt bond State volume cap.●

Mr. VANDER JAGT. Mr. Speaker, to conclude the debate on this side of the aisle, I yield such time as he may consume to the gentleman from Illinois (Mr. MICHEL), the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, first may I take this opportunity to compliment the gentleman from Michigan for making this motion to instruct the conferees to abide by the House posi-

tion on ACRS. The accelerated cost recovery system is an investment-stimulating, job-creating provision that ranks as one of the most important components of the 1981 tax law.

There is considerable concern today over rising interest rates and their possible impact on the construction industry. Let me tell you, if we add to higher interest rates a reduction in the investment incentive, we will be hitting the construction industry with a one-two punch from which it may be very difficult to recover

Economic studies show that the ACRS changes proposed by the Senate would reduce investment in commercial, industrial, and rental housing between $3.6 and $8 billion annually. As has been indicated here, the loss of jobs would range from 180,000 to 400,000, including upward of 15,000 in my own State of Illinois.

Between 41,000 and 90,000 fewer rental housing units would be constructed. We can ill afford a further reduction in such housing at a time when we already have rental shortages in many parts of the country. The reduction in the number of units constructed and the amount of depreciation per unit will lead to rent increases of from $15 to $25 a month. The impact of this increase would be the greatest on low-income individuals who comprise the bulk of our rental population.

The Ways and Means Committee, in its wisdom, chose not to tamper with the ACRS provision. This motion to instruct puts us on record in support of the committee's decision and calls on the conferees to stick with their initial position.

In my judgment, it is a projobs, proexpansion piece of work here, and I strongly urge support of the motion.

I would like to underscore again the points made by the gentleman from Florida (Mr. MICA) that initially Members will vote on the previous question, and I would urge Members to vote for the previous question to preserve the motion of the gentleman from Michigan (Mr. VANDER JAGT) to instruct the conferees. Obviously, an overwhelming vote in support of the gentleman's motion might guide the conferees in their deliberations with the other body when they go to conference.

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Mr. VANDER JAGT. Mr. Chairman, I thank the distinguished Republican leader for his excellent statement and generous words. To conclude the debate, I yield such time as he may consume to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I am grateful to the gentleman for yielding me this time.

As a Member of the House I have always disliked instructing conferees in any area. I think that it is always the commitment of the House conferees to protect the House position. In this conference, the commitment will not be any different than in others that I will serve as a conferee on.

I recognize, too, that there are some strong feelings among the conferees that will be appointed on both sides of the 15-year ACRS issue. I realize, too, that an instruction is not binding. However, certainly it is a reflection of the membership of the body.

If it is the will of the House to instruct the Members of this conference in this area. I certainly will understand the intensity of the interest.

In closing, I want to say that today we are beginning to finish a long experience with respect to this tax reform bill. They have not been easy times, but I am hoping that when the conference is concluded that we will have a parchment that we can send to the President of the United States that indicates the strength of our commitment to this downpayment.

Mr. Speaker and my colleagues, next year, the Ways and Means Committee, with the support of this great House, is going to have some difficult issues to deal with. I hope that we can expect strong support from the membership to do what is right—to do what is in the best interests of the economic well-being of the country.

I thank the gentleman for yielding.

Mr. VANDER JAGT. Mr. Speaker, I commend the distinguished chairman of the Ways and Means Committee for his comments. I also commend him for the tax provisions as they apply to real estate depreciation that we enacted in 1981, and that is why I urge my colleagues to vote for the previous question and to adopt the motion to instruct and inform our conferees that they will have the support of the Members of the House as they hold fast to the House position.

Mr. BLILEY. Mr. Speaker, I rise to support the motion to instruct the conferees to insist on the House provisions dealing with real estate depreciation. However, I also rise to encourage Members to vote against the previous question.

My reasons are simple. By defeating the previous question, we can have two excellent instructions: First, to oppose the Senate language pertaining to real estate depreciation; and second, to follow the Senate's wisdom on not imposing a State per capita issuance cap on industrial development bonds (IDB's).

With the initial motion, we are forced to choose between real estate and industrial development. Members should not have to choose between these two interests because they are not competing interests. Members should have the right to vote their consciences on each matter individually, not play one off against the other.

So, Mr. Speaker, while I wholeheartedly support the instructions in the motion offered by the gentleman from Michigan (Mr. VANDER JAGT), I encourage Members to support those instructions and to support removing the IDB cap by voting against the previous question, so we can vote for both real estate depreciation reforms we made in 1981 and for keeping IDB's uncapped.

Mr. VANDER JAGT. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the motion.

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CONTE. Mr. Speaker, if the previous question is defeated, then is the gentleman's motion amendable?

The SPEAKER pro tempore. That is correct.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 128, not voting 9, as follows:

[Roll No. 169]

YEAS—296

Addabbo	Burton (CA)	Downey
Anderson	Burton (IN)	Dreier
Andrews (NC)	Byron	Duncan
Andrews (TX)	Campbell	Durbin
Annunzio	Carr	Dwyer
Applegate	Chandler	Dymally
Archer	Chappell	Dyson
Aspin	Chappie	Early
AuCoin	Cheney	Eckart
Badham	Clarke	Edwards (CA)
Barnes	Coelho	Edwards (OK)
Bartlett	Coleman (MO)	English
Bates	Collins	Erlenborn
Bedell	Conable	Fascell
Beilenson	Corcoran	Fazio
Bennett	Courter	Feighan
Bereuter	Coyne	Ferraro
Berman	Craig	Fiedler
Bilirakis	Crane, Daniel	Fields
Boggs	Crane, Philip	Flippo
Boland	Daniel	Foglietta
Boner	Dannemeyer	Foley
Bonior	Darden	Ford (MI)
Bonker	Daub	Ford (TN)
Borski	Davis	Fowler
Bosco	de la Garza	Franklin
Boxer	Dellums	Frenzel
Breaux	DeWine	Gaydos
Britt	Dicks	Gephardt
Broomfield	Dingell	Gibbons
Brown (CA)	Dixon	Gilman
Brown (CO)	Donnelly	Gingrich
Broyhill	Dorgan	Glickman
Bryant	Dowdy	Gonzalez

Goodling
Gradison
Gray
Green
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hightower
Hillis
Holt
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kleczka
Kogovsek
Kolter
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lungren
Mack
MacKay
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McEwen
McHugh
McKernan
McKinney
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Minish
Moakley
Molinari
Mollohan
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Neal
Nelson
Nowak
Oakar
Obey
Owens
Oxley
Packard
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Pickle
Price
Pritchard
Pursell
Quillen
Rangel
Ratchford
Ray
Regula
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schulze
Schumer
Seiberling
Shannon
Shumway
Shuster
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solarz
Solomon
Spence
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Valentine
Vander Jagt
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Wilson
Wise
Wright
Wyden
Wylie
Yates
Zschau

NAYS—128

Ackerman
Akaka
Albosta
Alexander
Anthony
Bateman
Bethune
Bevill
Biaggi
Bliley
Boehlert
Boucher
Brooks
Carney
Carper
Clinger
Coats
Coleman (TX)
Conte
Conyers
Cooper
Coughlin
Crockett
D'Amours
Daschle
Derrick
Dickinson
Edgar
Edwards (AL)
Emerson
Erdreich
Evans (IA)
Evans (IL)
Fish
Florio
Frank
Frost
Fuqua
Garcia
Gejdenson
Gekas
Gore
Gramm
Gregg
Hall (IN)
Hall (OH)
Hammerschmidt
Harrison
Hertel
Hiler
Hopkins
Horton
Hyde
Jeffords
Johnson
Kazen
Kildee
Kindness
Kostmayer
Leland
Lent
Livingston
Lloyd
Lujan
Madigan
Markey
Marlenee
Marriott
Mavroules
McCain
McDade
McGrath
McNulty
Mikulski
Mitchell
Montgomery
Myers
Natcher
Nichols
Nielson
O'Brien
Oberstar
Olin
Ortiz
Ottinger
Parris
Patman
Penny
Rahall
Reid
Richardson
Ridge
Ritter
Roberts
Robinson
Rogers
Rudd
Schneider
Schroeder
Shaw
Shelby
Sikorski
Smith (FL)
Smith (NE)
Snowe
Spratt
Stangeland
Studds
Stump
Taylor
Udall
Vandergriff
Vucanovich
Weber
Whitehurst
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wortley
Yatron
Young (AK)
Young (FL)
Young (MO)

NOT VOTING—9

Barnard
Clay
Hance
Hansen (ID)
Lundine
Martin (NC)
Porter
Sensenbrenner
Sharp

□ 1640

Messrs. EVANS of Iowa, WHITEHURST, GEJDENSON, ANTHONY, MARLENEE, WHITTAKER, NIELSON of Utah, ALBOSTA, HOPKINS, CARNEY, ROBERTS, WILLIAMS of Ohio, LUJAN, SHAW, and BOEHLERT changed their votes from "yea" to "nay."

Messrs. LOWERY of California, LEVITAS, VOLKMER, JONES of Tennessee, TAUZIN, and STOKES, Mrs. BOGGS, and Messrs. RODINO, ROE, RINALDO, and LONG of Louisiana changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. VANDER JAGT).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 24, answered "present" 1, not voting 11, as follows:

[Roll No. 170]

YEAS—397

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Cooper
Corcoran
Coughlin
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McKernan
McKinney
McNulty
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer

Vucanovich	Whitten	Wright
Walgren	Williams (MT)	Wyden
Walker	Williams (OH)	Wylie
Watkins	Wilson	Yatron
Waxman	Winn	Young (AK)
Weber	Wirth	Young (FL)
Wheat	Wise	Young (MO)
Whitehurst	Wolf	Zschau
Whitley	Wolpe	
Whittaker	Wortley	

NAYS—24

Ackerman	Guarini	Rangel
Beilenson	LaFalce	Rostenkowski
Conyers	Levin	Sabo
Donnelly	McHugh	Shannon
Early	Mitchell	Stark
Frank	Moody	Weaver
Gephardt	Obey	Weiss
Gibbons	Pease	Yates

ANSWERED "PRESENT"—1

Scheuer

NOT VOTING—11

Barnard	Hance	Mikulski
Breaux	Hansen (ID)	Sensenbrenner
Clay	Lundine	Sharp
Courter	Martin (NC)	

□ 1700

Mr. YATES changed his vote from "yea" to "nay."

Mr. CROCKETT changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objections, the Chair appoints the following conferees:

From the Committee on Ways and Means, solely for consideration of titles I through VIII, section 1002, and title XI of the Senate amendment, and division A of the House amendment to the Senate amendment: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, CONABLE, DUNCAN, and ARCHER.

From the Committee on Ways and Means, solely for consideration of title IX (except for sections 921 through 926, 943, 944, 952, and 958) and section 1611 of the Senate amendment, and part A of title III and title VI of division B of the House amendment to the Senate amendment: Messrs. ROSTENKOWSKI, JACOBS, RANGEL, RUSSO, FORD of Tennessee, STARK, PEASE, CONABLE, DUNCAN, MOORE, and CAMPBELL.

From the Committee on the Budget, solely for consideration of title IX, section 1001, and titles XII throught XVI of the Senate amendment, and division B of the House amendment to the Senate amendment: Messrs. JONES of Oklahoma, PANETTA, GEPHARDT, NELSON of Florida, DONNELLY, DERRICK, WILLIAMS of Montana, LATTA, SHUSTER, FRENZEL, and LOEFFLER.

From the Committee on Appropriations, solely for consideration of title XIV and section 1606 of the Senate amendment: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, CONTE, and MCDADE.

From the Committee on Armed Services, solely for consideration of such portions of section 1201 of the Senate amendment, and such portions of section 201 of division B of the House amendment to the Senate amendment, as relate to cost-of-living adjustments for military retirees, and title XV of the Senate amendment: Messrs. PRICE, NICHOLS, ASPIN, DICKINSON, and HILLIS.

From the Committee on Banking, Finance and Urban Affairs, solely for consideration of sections 1301 through 1314 of the Senate amendment: Messrs. ST GERMAIN, ANNUNZIO, HUBBARD, and BARNARD, Ms. OAKAR, Mr. WYLIE, and Mr. MCKINNEY.

From the Committee on Energy and Commerce, solely for consideration of title IX (except for sections 905, 909, 917, 919, 951, 955, 956, 957, subsections (a), (b), and (c) of sections 965, 966, 971 through 976, 981 through 985, and 992 through 997) and section 1611 of the Senate amendment, and title III (except for sections 308, 339, 340, and 342) and sections 650 and 661 of division B of the House amendment to the Senate amendment: Messrs. DINGELL, WAXMAN, SCHEUER, LUKEN, and WALGREN, Ms. MIKULSKI, Messrs. BROYHILL, MADIGAN, and DANNEMEYER.

From the Committee on Government Operations, solely for consideration of title XV and sections 1603, 1605, 1609, and 1610(b) of the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Messrs. ENGLISH, LEVITAS, HORTON, ERLENBORN, and CLINGER.

From the Committee on the Judiciary, solely for consideration of section 1604 of the Senate amendment: Messrs. RODINO, BROOKS, and FISH.

From the Committee on Post Office and Civil Service, solely for consideration of title XII and sections 1604 and 1607 of the Senate amendment, and title II of division B of the House amendment to the Senate amendment: Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Messrs. GARCIA, LELAND, and ALBOSTA, Ms. OAKAR, Messrs. TAYLOR, GILMAN, CORCORAN, and COURTER.

From the Committee on Rules, solely for consideration of title XIV (except for subsection 1401(f)) of the Senate amendment: Messrs. PEPPER, LONG of Louisiana, BEILENSON, FROST, QUILLEN, and LOTT.

From the Committee on Small Business, solely for consideration of title IV of division B of the House amendment to the Senate amendment: Messrs. MITCHELL, SMITH of Iowa, ADDABBO, MCDADE, and CONTE.

From the Committee on Veterans' Affairs, solely for consideration of title V of division B of the House amendment to the Senate amendment: Messrs. MONTGOMERY, EDWARDS of California, EDGAR, APPLEGATE, LEATH of Texas, SHELBY, HAMMERSCHMIDT, WYLIE, and HILLIS.

There was no objection.

GENERAL LEAVE

Mr. VANDER JAGT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion to instruct the conferees just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON H.R. 5713, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION BILL, 1985

Mr. BOLAND, from the Committee on Appropriations, submitted a privileged report (Rept. No. 98-803) on the bill (H.R. 5713) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. GREEN reserved all points of order on the bill.

STATUS OF CONFERENCE ON THE BUDGET

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. JONES of Oklahoma. A number of Members have asked about the status of the conference on the budget resolution itself, which is the remaining item on which conference has to be held.

We are prepared on the House side to appoint conferees today but my colleague in the other body, the chairman of the Senate Budget Committee, Mr. DOMENICI, talked to me yesterday and asked that we hold off naming conferees in order not to run into some procedural problems in the other body, specifically the 7-day rule.

So we are prepared to go to conference as soon as the chairman of the Budget Committee in the other body indicates he is prepared, and those conferees will be named at that time.

□ 1710

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

The SPEAKER pro tempore (Mr. MINISH). Pursuant to House Resolution 494 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5167.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, title II was open for amendment at any point. Pending was an amendment offered by the gentleman from California (Mr. BROWN) on which debate had been limited to 2 hours.

The gentleman from Illinois (Mr. PRICE) has 26 minutes remaining; the gentleman from Alabama (Mr. DICKINSON) has 30 minutes remaining; the gentleman from California (Mr. BROWN) has 21 minutes remaining; and the gentleman from Pennsylvania (Mr. COUGHLIN) has 19 minutes remaining.

The Chair recognizes the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I rise in opposition to this amendment. Congressional defense critics have targeted the Air Force's antisatellite program as their first step toward the goal of achieving a unilateral U.S. ban on weapons in space.

These critics of the President have only one objective and that is unilateral action on the part of the United States to terminate new weapons systems.

They say we should unilaterally stop the planned modernization of the U.S. ICBM force. They say we should unilaterally stop the U.S. strategic defense initiative. They say we should unilaterally stop the U.S. ASAT program.

If they are successful in approving this amendment to kill the ASAT program, the strategic defense initiative will automatically be banned because a strategic defense system inevitably has ASAT capabilities. In other words, if they kill the ASAT program the strategic defense initiative will also be terminated. They will have successfully unilaterally killed two vital national security programs.

The Soviets are moving into some very dangerous areas of strategic innovation in space. These include space-based radars that can track U.S. ships and data link such targeting information to a wide variety of conventional and nuclear armed Soviet antinaval weapons.

The U.S. ASAT program provides protection to our naval forces against being targeted from space that is available through no other means.

The ASAT program is a long overdue response to the Soviet domination of space. Yet, if amendments banning these programs are approved, the United States will be required to passively allow the Soviets to deploy against us, a space oriented, integrated, warfighting posture that they have spent years developing.

This amendment would guarantee that we could take no action to protect our vital forces. The Brown amendment should be defeated.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman from New York for his statement. I certainly endorse that statement.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. BROWN and Mr. COUGHLIN.

The development and deployment of antisatellite (ASAT) weaponry is a very complex and important issue and I hope that my colleagues will examine and evaluate—with objectivity—the significant arms control, foreign policy, and national security issues associated with this issue.

Although some believe that the development and testing of an American antisatellite weapon sets a dangerous course, others point out that our program is in response to a Soviet military space threat evolving over the last several decades. Before my colleagues vote on this matter, they should be fully aware that:

One, a Soviet ASAT system has already been developed, extensively tested including tests in space, and is operational.

Two, the Soviet ASAT system has been successful on attempted intercepts in space.

Three, the Soviet ASAT system already presents the United States with some difficult verification problems.

Four, an arms race in space was instigated years ago as a result of Soviet strategic space operations, including the testing of ASAT's in space in the 1970's and early 1980's, the deployment of nearly four times the number of spacecraft as the United States, most of which have military applications, the recent testing of a space plane, the deployment of seven space stations in orbit since 1971, most of which have military reconnaissance capabilities, the development of a new superbooster rocket designed to launch larger payloads including space stations and spaceborne lasers, and the continuing development of laser and particle beam armaments.

Five, arms control negotiations on limiting ASAT's have already been held, under the Carter administration in 1978-79, and broke down for several reasons among them being problems with definitions and verification of ASAT systems, Soviet insistence upon the inclusion of the U.S. space shuttle as an ASAT, and the Soviet invasion of Afghanistan.

I believe that my colleagues should accept the Armed Services Committee recommendation to continue support for the U.S. ASAT, including research and development, and even procurement subject to revision depending upon the success of verifiable arms control negotiations for the following reasons:

First. The U.S. ASAT is a stabilizing system, not a destabilizing one, since the Soviets already possess a system and we do not,

Second. The U.S. system can be used during a crisis or war to keep the escalation threshold at lower levels since we would be able to respond in kind to any Soviet ASAT actions without resorting to other more threatening military options,

Third. The U.S. ASAT could be used during a crisis or war to deny the Soviets important intelligence in regard to allied troop and naval maneuvers,

Fourth. The U.S. ASAT provides a hedge against further Soviet research and development of ASAT weapons, and

Fifth. The U.S. ASAT, as a bargaining chip, may help to encourage good faith ASAT negotiations.

Members should be fully cognizant of the fact that the amendment before us does not require the Soviet Union to dismantle its ASAT and provides no protection against Soviet technological breakouts in the ASAT area.

In short, the amendment freezes U.S. programs while allowing the Soviets a unilateral advantage in this area. Most importantly, I believe that ASAT negotiations are desirable but that they should be entered into an environment free from arbitrary legislation. For these reasons, I urge my colleagues to vote against the Brown-Coughlin amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I take just some modest umbrage at the gentleman's statement that people who support this amendment are unilateralists in terms of modernizing the ICBM. I am one of the Members who supports this amendment and worked very hard to see us modernize the ICBM leg of the triad.

31-059 O-87-30 (Pt. 10)

So I think the gentleman would be well served to be a little less sweeping in his remarks.

Mr. BROWN of California. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), one of the key cosponsors of this amendment.

Before the gentleman begins, I would like to indicate and apologize for the omission of the other cosponsors. Included are not only Mr. MOAKLEY, but Mr. ASPIN, Mr. GORE, Mr. PURSELL, Mr. FRENZEL, Mr. LEACH of Iowa, Mr. DICKS, Mr. PORTER, Mr. PRITCHARD, Mr. SEIBERLING, Mr. MCHUGH, Mr. ZSCHAU, Mr. LEVINE of California, and Mr. MRAZEK.

Mr. MOAKLEY. Mr. Chairman, I rise today in strong support of the Brown-Coughlin, et al. amendment which would prohibit the use of research and development funds for the further flight testing of antisatellite weapons, as long as the Soviets maintain their current unilateral moratorium on similar tests. This amendment is an important step in preventing a dangerous and uncontrollable arms race in space.

Mr. Chairman, it does not serve the security interests of the United States—or for that matter the Soviet Union—to deploy ASAT's. The United States, more so than the Soviet Union, is highly dependent on its space based military assets for vital communication, navigation, intelligence, and treaty verification purposes.

Satellites provide essential and irreplaceable command and control services, to our conventional and nuclear forces here on Earth. For example, in a time of extreme crisis, satellites would provide early warning of an impending missile strike. This kind of warning is necessary to insure our ability to respond to a Soviet attack; our deterrent capability depends on this leadtime from satellites. Without it we must truly fear being caught off guard. Under these conditions a first strike becomes more tempting for neither side will want to risk a surprise attack by the other. Without secure satellite early warning, we will place Armageddon on a hair trigger.

If the United States and U.S.S.R. were to freeze ASAT testing now as the Brown-Coughlin amendment calls for we would not be at any disadvantage.

The Russian antisatellite weapon is ungainly and unreliable. It is launched atop a huge SS-9 rocket booster and has achieved a 50 percent success rate to date. Most importantly the Soviet system does not have the range to threaten crucial U.S. military satellites. In fact, we are presently in the process of transferring our vital navigation satellites to orbits that are far higher than the Soviet system can reach. It only makes sense that we should try to prevent the Soviets from refining and perfecting new ASAT technologies that might eventually threaten our important security satellites.

The U.S. ASAT will be clearly superior to its Soviet counterpart. It is small enough to be carried aloft by a high flying F-15 fighter aircraft. Once the missile is fired from an F-15, it is propelled by a two-stage rocket. The intended target is actually destroyed by a 12 by 13-inch cannister, called a miniature homing vehicle, which simply rams the satellite at high speed.

Because of its small size, the new U.S. ASAT would be a verification nightmare. Thus, precluding the chance for a future agreement banning ASAT's. Once the U.S. weapon is fully tested, every F-15 will be a potential ASAT platform in Soviet eyes. In contrast to the current Soviet system, the American system could threaten crucial Soviet communications and early warning satellites. Thus, if we are truly concerned about arms control, it is imperative that we immediately halt any further ASAT testing.

Mr. Chairman, there is also the issue of "costs." The recent selected acquisitions review report, put out by the Department of Defense, showed a $300 million increase in the cost of the ASAT program—from $3.6 to $3.9 billion. And there is a General Accounting Office report that estimates the total cost of the U.S. ASAT program to be in the "tens of billions of dollars." And that is just the tip of the iceberg. More grandiose space weaponry could cost in the trillions of dollars.

Mr. Chairman, history has shown us that it is much easier and practical to ban weapons which are still in the "testing" stage than to negotiate away weapons which are already operational. It would be sad to repeat the same mistakes made in MIRV'ing warheads. Years ago proposals to ban MIRV's before their deployment were rejected. We were, at that time, confident that the Soviets could not easily match our MIRV capability. Much to our chagrin, the Soviets MIRV'd their warheads a few short years after the United States. Today these destabilizing systems threaten all of humankind. Failure to limit their deployment is widely regretted by many of its original advocates. Let us hope we will not have to learn this lesson all over again.

Let us approve the Brown-Coughlin amendment, and let us say "No" to a space weapons race that will add nothing to our security and only serve to bankrupt our National Treasury.

□ 1720

Mrs. HOLT. Mr. Chairman, I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma (Mr. MCCURDY).

AMENDMENT OFFERED BY MR. M'CURDY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. McCURDY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCURDY as a substitute for the amendment offered by Mr. BROWN of California: At the end of title II (page 18, after line 13) add the following new section:

LIMITATION ON FUNDS FOR ANTI-SATELLITE WEAPONS

SEC. 206. (a) During the period beginning on October 1, 1984, and ending on March 31, 1985, funds appropriated pursuant to authorizations of appropriations in this title may not be used for testing of the Space Defense system (anti-satellite weapon) against an object in space unless the President certifies to Congress, before any such test, that the Soviet Union has conducted, after the date of the enactment of this Act, a test of a dedicated anti-satellite weapon.

(b) After March 31, 1985, the limitation in subsection (a) shall continue to apply until the President (1) submits to Congress, after that date, a program for limitations by the United States and the Soviet Union on antisatellite weapons, and (2) certifies to Congress that the United States is actively attempting to get the Soviet Union to join the United States in the control, limitation, and reduction of anti-satellite weapons.

Mr. McCURDY. Mr. Chairman, I rise in support of this amendment and offer this amendment, and at the outset I would like to commend the gentleman from California (Mr. BROWN) for his concern and the efforts that he has made over the past couple of years in advancing his amendment, in trying to control the testing in space of antisatellite weapons.

The gentleman from California and I have discussed this amendment, my amendment, a number of times, and reluctantly I have had to oppose the amendment in the past. I do not oppose the intent of the amendment. I do have problems with the specific language, and I hope that my amendment clarifies these positions and offers a compromise between the different positions in this area.

Mr. Chairman, my amendment prevents fiscal year 1985 ASAT funding—nearly $83 million, from being used for testing in space until at least March 31, 1985, in order to serve notice that Congress is serious about the United States and the Soviet Union negotiating on ASAT arms control.

Second, Mr. Chairman, after March 31, 1985, such prohibition can be lifted if the President has developed an ASAT arms control program and has officially and formally invited the Soviets to begin ASAT talks. Should the President fail to take these actions,

ASAT funds cannot be used to test in space.

Mr. Chairman, the rationale for this amendment is relatively simple and clear. A United States-Soviet arms race is not in America's best interest. We need to prevent such a race by starting ASAT arms control negotiations. This amendment is designed to furnish the necessary incentives to both sides to start such negotiations. To embargo ASAT funds for the entire fiscal year, as the Brown-Coughlin amendment would do, will virtually guarantee that ASAT arms control talks will not begin during the life of this bill. The Soviets would have what they want. They would have a complete halt in the U.S. ASAT program, and the President would therefore have little incentive for capability to pursue meaningful—and I underscore "meaningful"—ASAT arms control.

This amendment, the McCurdy amendment, will serve as an incentive to the President to seek ASAT arms control or see ASAT funds remain embargoed. It will serve as an incentive to the Soviets to seriously pursue meaningful ASAT arms control because it will be the only way they will be able to block the testing and development of our ASAT program.

Mr. DICKS. Mr. Chairman, will the gentleman yield at that point for a question about his amendment?

Mr. McCURDY. Yes, I yield to the gentleman from Washington.

Mr. DICKS. What the gentleman is saying is that if we make an official and formal invitation to the Soviets to begin ASAT talks, then the prohibition is lifted?

Mr. McCURDY. First of all, if the President presents——

Mr. DICKS. What if the Soviets do not accept?

Mr. McCURDY. If the Soviets do not accept and do not come to the table, then tests may resume. But that, I would submit, is the incentive to bring the Soviets to the table in the first place.

If the Brown amendment is accepted and there is a moratorium for a year, there is no incentive for the Soviets to come forward because they have accomplished exactly what they want, a halt in the testing and development of the ASAT program.

My position is clear. I believe that we need the incentives on both sides. I believe the President and the administration should formulate and submit an arms control program to present. I think it is in our best interest. I think it is doable. As a member of the Intelligence Committee and the Armed Services Committee and the Committee on Science and Technology, I have been following this for some time, and I believe that the evidence will support that this is a monitorable and verifiable area that can be achieved if the right program is submitted.

Mr. DICKS. If the gentleman will yield further, if the President does this, it would seem to me that if he does it and goes forward with an arms control policy, whatever it is, then he gets the money. I mean then he can start testing against an object in space. Is that not going to make it more difficult to get an agreement?

Mr. McCURDY. No, I do not believe it will make it more difficult. If the gentleman will consider the timeframe we are discussing—we are talking about April 1985, we are currently in May 1984—we are talking about 11 months from now. First of all, it is beyond the Presidential election. The President, whoever that person might be, has at his fingertips the capability, the threat of testing, to pressure the Soviets into meaningful arms control talks.

Now, it is true that the Soviets have proposed and submitted a draft treaty which they submitted to the United Nations. But having read that treaty, there are many vague statements, many that are not supportable, from our position, that are not in our national interest.

It is my position that if the Soviets are indeed serious about arms control negotiations on ASAT, that they would willingly, gladly, accept an invitation from this administration or any administration to discuss and negotiate on arms control.

Mr. DICKS. If the gentleman will yield, if they stay away from negotiations, the President does not get to test against an object in space; if they go to the negotiations, the President gets to test against an object in space.

Mr. McCURDY. That is not true. If they stay away from the negotiations, if the President has submitted a program, if the President has issued the formal invitation, he has complied with the amendment. He has met his conditions. And the Soviets can do whatever they want. The problem that I had—and we have all discussed this—is that in the other amendments, the Soviets have the ability to control how the amendment will go or how the negotiations will go, and they have no incentive. My position should be clear again, that by allowing testing after the embargo, if the President does submit his program, the threat of those tests will force or incentivize the Soviets to come to the table. Now, if they do not want to come to the table, then there is the threat of testing.

If you also look at the schedule of the testing, there is a scheduled test in November. That test will be postponed until April, provided these conditions are met. If not, then it will be postponed indefinitely. If that condition is met, with the schedule of the tests before us, we are back into the budget and authorization cycle, and I think we have clearly expressed the intent that Congress is serious about monitoring the President's proposals.

□ 1730

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman.

Mr. DICKS. The Soviets have already said that they are prepared to negotiate on this issue. They have already proposed a treaty. I do not see why this is going to give the Soviets an incentive if by coming to the talks under your amendment we wind up testing against an object in space. That is what we are trying to avoid.

Mr. McCURDY. We do not know if the Soviets in proposing their draft treaty in the United Nations was a public relations act; we do not know if this is a serious draft proposal. We are not sure. They have not submitted that to the United States. They have not submitted that directly to the administration, and it is my position that if the Soviets are serious with their draft, then they table that particular draft in a forum established specifically for arms control with a return proposal by our administration.

Finally, you have two proposals on the table, the same table, at the same time, rather than statements coming from one end of Pennsylvania Avenue or at the United Nations where we do not know what the situation is.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Tennessee.

Mr. GORE. My colleagues knows how much respect I have for his ability in this area. I want to compliment the gentleman on the tremendous work he has done on the Intelligence Committee on the issue of arms control and particularly on verification, and if the Members of this body had known how many hours you have put in on this, they would feel as I do, as many of them already do.

Let me say that in spite of that, I have some problems with the gentleman's amendment. My colleague from Washington pinpoints it. But let me try to put it in very simple words. With the MX and the START talks, President Reagan was willing and is willing to negotiate and go to the table. The Soviet Union walked out and is unwilling to negotiate.

Where space-based weapons and ASAT's are concerned, the situation is reversed. The Soviet Union is willing to negotiate and willing to go to the table, and President Reagan is not willing to go to the table. His science adviser, in an extremely unfortunate statement, Mr. Keyworth, said: "We do not want any negotiations for a couple of years or more in order to get our programs going full blast."

So it seems to me that this situation with ASAT is clearly distinguished from the situation with the START talks and our objective is not really to give the Soviets incentive to talk on ASAT because they have expressed their willingness to do exactly that. Our problem is to prevent this race from getting underway full blast while President Reagan and his administration are unwilling to even talk to the Soviets about ASAT.

I understand what the gentleman is trying to do and I respect your sincerity and objectives, but I really think that we ought to vote for the Brown amendment and against this amendment.

Mr. McCURDY. I believe that the two are distinguishable.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma (Mr. McCURDY) has expired.

Mr. BROWN of California. Mr. Chairman, I yield the gentleman an additional 5 minutes.

Mr. McCURDY. I thank the gentleman for the additional time.

I am not trying to make an MX amendment for an ASAT. But I believe the Brown amendment fails in one important respect: It does nothing to incentivize the President. It does not make a formal requirement for the President to submit an arms control agreement or a program or a proposal.

Second, if the Soviets, under the Brown amendment, were to come to the table, then they have no incentive to have a meaningful proposal. They can submit anything they want and they can stall. That is because they in effect have achieved a moratorium. A moratorium for a year could very likely kill the ASAT program, because what we have is a very real possibility. We spent nearly $3.5 billion already on this program, and we are talking about a team that has been brought together. We are almost to the stages where we are testing, and I believe if we go beyond 6 months, without some action needed by the administration or the Soviets, that we can destroy this team, which would be ineffective, and I think we are losing the capability to develop if that need so arose.

I yield to the gentleman from Tennessee.

Mr. GORE. It seems to me that it would not be so bad to arrive at a moratorium where neither side is going forward with ASAT. That is essentially what we have right now; the Soviets are not going forward, they have a very primitive capacity that does not threaten our important satellites. If we go forward with a program that does threaten their important strategic satellites, then the genie is out of the bottle. The race is on, and right now is the time to try to stop this development from occurring.

Mr. McCURDY. I might say to the gentleman in response that first of all, the Soviet system is not as primitive as some people might indicate. The system does work. We heard statements today that it has failed in all 20 tests. That is absolutely false. That is not true. That is not an accurate statement of fact.

The Soviet system may not be the 1990's version, but it still does pose a threat. Nor, if the gentleman would consider this that the American program for ASAT is again a low Earth orbial system. It does not attack; it does not threaten the Soviet's highest, any geosynchronous satellites and because of that we are not having a threat of deep space arms race.

So what we can achieve, to my colleagues on the other side if we recall that there are many times that we cannot devise perfect arms control language or we can not devise perfect amendments or perfect language to satisfy everybody in this business. It is not even in the realm of this body to set out what we believe the arms control proposal should be.

All we can do is encourage the administration in good faith to come up with a proposal and to monitor that as closely as we can to provide incentives where we might, which many times has to be a hammer. I believe that this amendment provides a balanced approach.

We are requiring the administration to come forward with a program. It should be a reasonable program, and they are going to be held accountable to that. At the same time, we are not letting the Soviets off the hook. We are not telling the Soviets you do not have to do anything. You can come forward and hold this thing up for as long as you want. Because we are killing our own program.

Sometimes, and as many times as I disagree with the administration, sometimes, we have to rely on their ability in the face that maybe they will pursue these agreements. I would also submit to the gentleman because he was very attentive in the hearings that we held in the Intelligence Committee on monitoring capabilities, I was surprised, as I think many were, that the administration in my opinion, did not have its act together in this area. That they had not really considered all of the proposals or all of the ramifications of these areas; of monitoring, of verification and what the requirements were in their very proposals.

I urge support of this amendment.

The CHAIRMAN pro tempore. The Chair would announce that at this point the gentleman from Illinois (Mr. PRICE) has 16 minutes remaining; the gentlewoman from Maryland (Mrs. HOLT) has 27 minutes remaining; the gentleman from California (Mr. BROWN) has 12 minutes remaining; and the gentleman from Pennsylvania (Mr. COUGHLIN) has 19 minutes remaining.

Mrs. HOLT. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, whether begun accidentally or intentionally, the consequences of global nuclear war would be horrible. Yet we have not fully examined how we could prevent an accidental nuclear strike or the act of a madman from growing to global scale.

President Reagan has taken one of the most important steps toward the future peace of the world in the last 20 years by presenting his strategic defense initiative to the Congress. Congress should embrace this initiative. We should fully investigate how we may be able to keep wars from starting rather than limiting our discussions to only how to wage them.

To fully assess how important this initiative is, we should look at what could happen and how we would respond to it.

The only method now available to us to prevent the escalation of an accident or terrorist attack is ballistic missile defense. The horror of nuclear war and the lack of effective response can best be illustrated by a hypothetical, yet very possible situation.

Suppose that you are the President of the United States. One day your red telephone rings. Your chief military adviser on the other end tells you that five ballistic missiles have just been detected rising from the Pacific Ocean on a course for the United States.

When you ask whose missiles they are and why there are only five of them, your adviser says he has no idea. He tells you that the Soviet Union has some missile boats in the general area. He tells you that a British nuclear submarine passed through the area the week before. You know that the French have a nuclear missile equipped sub in the Pacific, and that both the Chinese and the United States also have nuclear missile submarines in the vicinity. You know that some extremist regimes likely possess nuclear weapons capability.

The bottom line is that you have no idea who your attacker is or whether the launch was accidental or intentional. Yet you have 5 minutes—5 minutes—to respond before New York or Chicago or Los Angeles are reduced to rubble and dust.

What do you do?

The answer to that question could decide the fate of the Earth. If you respond in kind, and, say, order a retaliatory launch at the Soviet Union, believing the Soviets to be the aggressors, you have most assuredly started World War III. If you do nothing, major cities and all the millions of people living in them are doomed. With either choice, you could be dead

wrong. And, with either choice, you could seal the fate of mankind. Yet, with our current defenses, those are your only choices.

This is not an unrealistic proposition. Let us hope and pray that it never occurs. But the important point is that it could happen. It could happen tomorrow. And if it did, you would still only have those two choices.

The strategic defense initiative presents a third choice—a choice that does not automatically doom millions to certain death.

If the United States had an active defense against ballistic missiles then this situation would not present the same level of problem or dilemma that I just described. A strategic defense would allow you, as President, to order that the missiles be shot down and then take reasonable action to investigate and respond. I want to repeat that statement—you could order that the missiles—not other people—be shot down and then take reasonable, sane action in response. We are talking about time. We are talking about time to live instead of time to surrender or die.

Many Members would have us believe that a strategic defense is too dangerous. But, I ask you, where is that danger? How can a purely defensive system endanger any but an attacking enemy?

We are also told that combining a strategic defense with the Peacekeeper and D-5 Trident missiles would give us the ability to start and win a nuclear war. But that argument ignores the very essence of this debate: What we need is an adequate defense.

We seek to protect freedoms and liberty throughout the world from outside aggression. We do not seek to become the aggressors.

Many Members would have us believe that the price of strategic defense is too great, that it is too expensive. But what price tag can you place on New York City—or Chicago—or Richmond, Va.? If the daily needs of the people living in this country are worth ministering to, then surely their lives are worth protecting.

There have now been a number of polls on the subject of strategic defense. When the question is put directly: Do you favor building a missile defense system to protect the United States from attack? People say "Yes" by majorities of up to 80 percent.

Our people believe in defense; they want an alternative to the MAD doctrine and the madness it engenders. A strategic defense is the only protection a free people have against an accidental attack or a singular act of madness by a Khomeini or a Qaddhafi. We cannot allow either act to result in Armageddon.

The bottom line is not whether we can afford a defensive system: It is whether Americans can ever afford not to be free and at peace.

□ 1630

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I would be happy to yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I am a little mixed up. Is the gentleman suggesting that the antisatellite system has a defensive capability against strategic missiles?

Mr. BLILEY. I think that the research and development that goes into it will provide the information that helps us develop a system that will provide the strategic defense.

Mr. DICKS. The gentleman sees this as an integral part of the strategic defense initiative, then?

Mr. BLILEY. I would see the defeat of this amendment as an integral part. I would see this as hampering that.

Mr. DICKS. Is the gentleman suggesting that one of the reasons why the administration may want to do all this R&D on antisatellite systems is because it gives them a chance to develop systems that would be necessary for a strategic defense initiative?

Mr. BLILEY. It may not develop the specific system, but it certainly gives them the basic research that will be necessary.

Mr. DICKS. And, therefore, if one were interested in abrogating the ABM agreement that this might be a way to cover that activity.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. If I may reclaim my time, I would be happy to yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, I compliment the gentleman for his broad vision in his approach and his statement on the floor. I think what the gentleman is portraying for Members of the body who are here listening, and for those who are watching on their television sets, is a world that potentially could be freed from the specter of nuclear war through possibilities that we have not yet explored.

I do not believe that the gentleman is specifically addressing the amendments at hand, which really only deal with flight testing of the ASAT, but he is talking about the potential that space ultimately has for us, for moving away from policies built on offensive nuclear massive retaliation to those built on nonnuclear defense to free the world once and for all from the specter of nuclear war.

I think the gentleman is talking about the failure of past arms control, well intentioned, perhaps, but even in the face of arms control agreements that we have signed with the Soviet Union, we have seen a race in strategic nuclear arms offensive weapons of mass destruction that are capable of devastating cities and populations.

I compliment the gentleman for his foresight.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentlewoman from Maryland (Mrs. BYRON).

AMENDMENT OFFERED BY MRS. BYRON TO THE AMENDMENT OFFERED BY MR. M'CURDY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mrs. BYRON. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRON to the amendment offered by Mr. MCCURDY as a substitute for the amendment offered by Mr. BROWN of California: In the section proposed to be inserted by the amendment, strike out "(a) During the period" and all that follows and insert in lieu thereof the following:

(a) Except as provided in subsection (b), no funds appropriated pursuant to authorizations of appropriations in this title may be used for testing of the Space Defense System (anti-satellite weapon) against an object in space if such test would cause the number of such tests to exceed the number of operational and developmental tests conducted before the date of the enactment of this Act by the Soviet Union (as certified to Congress by the President) of an anti-satellite interceptor weapon against an object in space.

(b) Subsection (a) shall not apply if (and after the date on which) the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a further test of an anti-satellite interceptor weapon.

(c) For purposes of this section, the term "anti-satellite interceptor weapon" means a mechanical device that damages or destroys an object in space by impacting the object or exploding in close proximity to it.

Mr. DICKS. Mr. Chairman, I reserve a point of order on the amendment.

Mrs. BYRON. Mr. Chairman, this amendment to the McCurdy substitute will restrict the number of U.S. ASAT tests conducted in the future to no more than the number of tests that have already been conducted by the Soviet Union on their ASAT system, which has been in operation for about a 10-year period. Although the exact number of tests by the Soviets is classified, it is estimated that the Soviets have conducted between 12 and 18 tests on their system.

The United States would be limited to the same number of tests under the conditions of this amendment as long as the Soviet Union refrains from conducting further tests. Thus, as long as the Soviet Union continues to refrain from testing their ASAT weapons, the U.S. ASAT test program will be capped at an equal number of tests. If the Soviet Union resumes their ASAT testing, the restrictions placed on the

U.S. test program by this amendment would be lifted.

In short, this amendment is designed to place a cap on the ASAT testing by the United States and the Soviet Union at an equal number. It is designed to cap this activity at a parity level and allow neither side an advantage. This should pave the way for beneficial arms control in this area.

I am extremely concerned about the potential for our space area. I am extremely concerned about the ASAT situation as we find it now. But I am also extremely concerned about where we are as far as compared to the Soviets.

I am convinced that we need to take all the possible steps to insure that space is used for peaceful purposes. This includes, in addition to the civilian space program, protection of our vital military activities such as reconnaissance, communications, early warning of strategic attacks, intelligence and monitoring compliance with our arms control agreements that are now in effect.

Therefore, I agree with the thrust of my colleague's amendment that would seek to limit the capabilities to attack satellites or use space for offensive purposes. However, we cannot ignore the fact that the Soviet Union has the world's only ASAT system, with the capability to attack our low-altitude satellites right now and has tested this system many times over in the last decade.

Moreover, it is my understanding that the Soviets have capability with certain of their satellites to target U.S. and allied naval forces; that is, satellites designed to accurately locate our ships and pass this information on to submarines and aircraft to permit them to attack at large standoff distances, hundreds of miles, with cruise missiles.

While I deplore the need to develop and field this type of capability, I also believe that we put ourselves at a serious disadvantage and, in fact, encourage the Soviet use of space for hostile purposes if we do not carry through with our program to achieve at least the same level of confidence in our ASAT system that the Soviets have in theirs.

□ 1750

For this reason, I am offering the following amendment to the McCurdy substitute that would provide for restraint by the United States in ASAT testing. The United States would be allowed to conduct the same number of tests as the Soviet Union has already conducted with their coorbital antisatellite interceptor weapons system. While it is true that the U.S. MV system is based on more modern technology, the missions of the two systems are about the same. In fact, each has, I am told, some advantage over the other.

The report by the Office of Technology Assessment points out that in any case neither system poses a severe military threat to the other side or, therefore, to the possibilities for future space arms control. By permitting the United States to reach an equal footing with the Soviets, but without presenting a major threat, we can seek to cap the situation and to limit ASAT development while we sort out what further space arms control measures would serve the United States and allied security and stability.

My amendment to allow the United States an equal number of tests of our ASAT should also serve to strengthen our bargaining position in any future ASAT negotiations with the Soviet Union.

I believe that it is a fair solution and one that will encourage both the administration and the Soviets to address seriously the possibilities for practical space arms control measures.

Mr. Chairman, I further believe very strongly that at the soonest possible time we need to get to the table to address this very serious issue before it becomes a more serious issue. I believe very strongly, before we have a problem, that it is much better to get it addressed and get the negotiations started.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I have a great deal of respect for the gentlewoman's views on these issues. She has done a great deal of work on the Armed Services Committee for arms control, for which every Member of Congress should be appreciative.

The one point I would like to make about the presentation is this: I was, too, concerned when I was told about the ocean reconnaissance satellites and the possible implications of their use in terms of naval combat or in conventional warfare between our two sides. I asked the Navy, Vice Admiral Nagler, Director of Command and Control in the Office of Naval Operations, whether the Navy had ways of countering these short of having us have an ASAT capability. And he said that they were not overly concerned about this because they had a number of ways of spoofing the RORSAT and the EROSAT satellite that they have. There are a number of ways with electronic countermeasures that they could create false radar signals or make corner reflectors to simulate the radar cross section of a carrier battle group and take other means by which they can handle these low-altitude satellites short of us having an ASAT capability.

Mrs. BYRON. Mr. Chairman, let me just say to the gentleman from Washington that we can talk about having potential other means, but if we do not have the capability for ASAT, if we do not continue the testing phase of the R&D of this program, we will then not have a program and we will be compelled to sit and watch it in the event that the Russian system is utilized.

Mr. DICKS. We already have it in a sense.

Mrs. BYRON. We have had two systems.

Mr. DICKS. We tested many years ago a system and developed it and then deactivated because it did not provide that much capability. It is very similar to the Soviet system, I might add. We have the F-15 system. The only thing we have not done at this point is test it against an object in space.

I think the purpose of our amendment is to try and stop that development at this point as a pause to see if there is a chance to get negotiations underway.

Mrs. BYRON. Mr. Chairman, I could not agree with the gentleman more, that we need to go to the negotiating table before we come to a critical point, but I also believe very strongly that we have to address the fact that we need to do the further testing in a program, that we must go along with R&D, because we cannot continue an R&D program without having the capability to test the system that we are developing.

Mr. LAGOMARSINO. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to express my support for the gentlewoman's amendment. I think what she just said says it all and explains the need for this amendment very clearly, and that is that we do not have the confidence in our system until and unless we do test it.

The Soviets have tested theirs, and all the gentlewoman's amendment says is that we should be allowed to test as many times as they have.

Mr. Chairman, I compliment the gentlewoman, and I hope her amendment is successful.

Mr. Chairman, I rise in opposition to the Brown amendment, and in support of the Byron amendment. While well intentioned, the Brown amendment would have the effect of blocking tests of the U.S. ASAT system, therefore prohibiting the attainment of an effective U.S. ASAT capability, while allowing the U.S.S.R. to maintain the world's only operational ASAT interceptor system. Such an occurrence, I believe is not in the national security interests of the United States or of constructive negotiations.

The need for developing and deploying a U.S. ASAT interceptor system

was previously stated by among others, Paul Warnke, Director of the Arms Control and Disarmament Agency (ACDA) under President Carter. Mr. Warnke believed that an operational U.S. ASAT interceptor "could enhance stability because the incentive for an attack on U.S. satellites would be reduced if the United States possessed an operational ASAT." In addition, the 1978 ACDA report to Congress noted that the U.S. ASAT program was entirely consistent with all existing arms control treaties.

Mr. Chairman, the Brown amendment, which proposes to ban all U.S. ASAT systems tests, if passed, would not require the Soviets to eliminate their operational, effective ASAT interceptor—the world's only operational ASAT. The amendment would effectively prohibit the attainment of a workable, reliable U.S. ASAT system. The Soviet interceptor is fairly small—hence, easily concealed—and more importantly is launched by a type of booster used for other space missions in the past. Obviously, the Soviets seek to prevent the deployment of an effective U.S. ASAT system while at the same time espousing the right to maintain supply of both overt and covert ASAT interceptors which could be quickly readied for launch with minimal detection. By voting for the Brown amendment, which does not have a provision insuring the destruction of all Soviet ASAT interceptors—by nature requiring on-site inspection—U.S. security will remain inextricably tied to oft-repeated yet rarely practiced, Soviet "good will."

Mr. Chairman, we have a major responsibility to insure the U.S. national security interests are protected from the increasingly powerful military forces of the Soviet Union. The Brown amendment is unilateralism. I ask my colleagues, How are U.S. interests served by preventing the testing and development of a U.S. ASAT system, while allowing the Soviets to maintain their supply of operational, effective ASAT systems?

On the other hand the Byron amendment does provide a balance approach.

We do have to take responsible steps to guarantee that space is only used for peaceful purposes. It is extremely important that, in addition to our vital civilian space program, we protect essential military activities like communications, reconnaissance, early warning of strategic attack, intelligence, and monitoring of our arms control agreements.

I agree we should seek to limit the capability to attack satellites or to use space for offensive purposes. But, my colleagues, we ignore at our peril the fact that the U.S.S.R. has an ASAT system now.

I am informed the Soviets have a capability to target U.S. and allied naval forces.

It makes sense that we be allowed to test to the extent that the Soviets have tested, that is all.

The Byron amendment would, I believe, be an incentive to realistic negotiations.

I urge approval of the Byron amendment.

Mr. BADHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentlewoman for yielding, and I rise in support of her amendment. I think it is absolutely vital.

What is asked here is simply that we be allowed to test to the extent that the Soviets have already tested. Now, I do not think that is too much to ask at all, considering the fact that it is really too bad that we have to discuss on this floor the fact that the Soviet Union is naming our weapons policy. It is the Soviet Union that allows us to test, the Soviet Union that allows us to develop weapons systems, because if we were going on our own, we would have developed this system. If we were going on our own, we would have developed and deployed the MX; if we were going on our own, we would have developed and deployed the Pershing system. Yet all of a sudden the Soviets tell us what we can test and what we cannot.

Mr. Chairman, I think the bare minimum we can do is to accept the gentlewoman's amendment and I commend her for offering it.

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I believe the gentleman has his own time.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, it seems to me that this amendment misses two points. The first is that the Soviet system and the U.S. system are two entirely different ones. We could duplicate the Soviet system anytime we want to put a killer system on top of a rocket.

Mrs. BYRON. Is not the purpose the same?

Mr. SEIBERLING. The purpose is the same, but the means are very important.

The second point is that the U.S. system is a highly sophisticated system, and once we have passed the point of flight testing against an object in space, verification after that point is impossible and we are off to the races on a new arms race to develop killer antisatellites.

Mrs. BYRON. Do they not have a system that is activated where ours is not?

Mr. SEIBERLING. It is only a low-altitude system. The ASAT we are developing could reach up and get the kind of satellites that we are really concerned about.

The CHAIRMAN pro tempore. The time of the gentlewoman from Maryland (Mrs. BYRON) has expired.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEVINE).

Mr. LEVINE of California. Mr. Chairman, I rise in support of the Brown-Coughlin amendment. This timely amendment prohibits the use of funds for testing of antisatellite weapons against an object in space as long as the Soviet Union continues to abide by its moratorium on ASAT testing. Because this administration is opposed to negotiating with the U.S.S.R. regarding the testing and deployment of ASAT's, we in Congress must remind it that such negotiations are urgently needed.

The deployment of ASAT weapons will in no way serve our national security interests. Targeting Soviet satellites would do nothing to protect our own satellites. Furthermore, because the United States is more dependent on the use of its military satellites than the Soviet Union, entering an ASAT competiton would only make us more vulnerable to Soviet attack.

Deployment of ASAT weapons will encourage the development of an irreversible, more destabilizing arms race in space. In its zeal to move ahead with deployment of ASAT's and a space-based ballistic missile system, this administration has ignored our Nation's longstanding policy commitment to preserve space as a peaceful sanctuary. For example, the 1972 ABM Treaty prohibits development and deployment of a space based BMD system.

However, because the technologies associated with development of ASAT's and a BMD defense shield are closely linked, this administration could claim that its space shield weapon is part of an ASAT program, which is not restricted by any treaty, thus bypassing the ABM Treaty. Therefore, under the guise of pursuing a limited ASAT program, this administration could begin to pursue a course of weaponizing space that would ultimately prompt a more fierce phase in the arms race on Earth and in space.

The administration has complained that it is not prepared to negotiate with the Soviets regarding a ban on ASAT's because verification of such a treaty would be difficult. We must remind the administration that the

issue of verification largely depends on negotiations and their outcome. Therefore, we should at least be willing to explore the feasibility of concluding an ASAT agreement which would be verifiable, and insist that an agreement be reached.

Moreover, the record shows that verification of ASAT testing is possible. Just as the United States has closely monitored Soviet ASAT tests in space—and has learned that many of these tests have been unsuccessful—it will continue to monitor such tests in the future.

The Office of Technology Assessment has recently confirmed the point that the American ASAT now being tested is "technically superior to the present generation of Soviet ground-launched ASAT's." Therefore, we must immediately take advantage of our leading edge in ASAT technology, and rather than encourage the Soviets to improve their ASAT capabilities, we should sit down with them and negotiate a mutually beneficial, verifiable agreement.

I urge my colleagues to support this amendment which represents an important first step in reaching a vital agreement to limit the destabilizing competition to weaponize space.

Mr. BROWN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I rise in strong support for the Brown-Coughlin-Moakley-Aspin-Seiberling, et al. amendment. Our amendment will impose a moratorium on further testing of the U.S. F-15 antisatellite (ASAT) system as long as the Soviets continue with their own declared moratorium.

The purpose of our amendment is to provide a window of opportunity to explore the possibility of obtaining a mutual and verifiable ban on ASAT's. Our amendment provides the opportunity to resume negotiations on ASAT's before it is too late to avert an expensive and dangerously destabilizing arms race in space. That is all this amendment would do. It does not cut one penny in funds for ASAT R&D. It does not impose a unilateral testing moratorium. All it does is to say that we will not test our ASAT so long as the Soviets do not test theirs. The net effect is to put a little pressure on the administration to stop stalling on ASAT negotiations, and to at least attempt to find a common ground with the Soviets before it is too late to do so.

The fact that this amendment has bipartisan and widespread support in the House this year is a clear indication that concern about the lack of progress on arms control for space weapons, and that concern about the impending arms race in space, is growing in this body.

Over the last 3 years we have watched as relations with the Soviets have deteriorated dramatically. Unable to control the nuclear arms race here on Earth, the administration is simply adding to the danger by proceeding with its plans which, if implemented, will probably start an arms race in space.

Once our flight test program is completed for the F-15 ASAT system, prospects for reaching any agreement limiting or banning further deployment of these weapons will be very remote. There is no question but that the Soviets have flight tested an ASAT. However, the Soviet ASAT is crude and easily monitored in comparison to our system. Once we deploy ours, what possible incentive would the Soviets have not to develop a comparable system? Undoubtedly they will redouble their efforts to develop and deploy an ASAT system on a par with our system. Then we, of course, will use the more sophisticated Soviet ASAT as justification for deployment of still another ASAT, and so forth until space is fully militarized.

We should keep in mind that the only purpose of an ASAT weapon is to attack satellites. Our ASAT cannot protect our observation satellites from Soviet ASAT attack. Their ASAT cannot protect their satellites from our attack. Deployment of ASAT weapons, therefore, poses a direct threat to the means used by both our countries to monitor arms control agreements and to detect launches of ICBM's by the other side.

Administration officials and those who oppose this amendment will argue that we should not proceed with ASAT negotiations until we can be certain that an eventual agreement can be verified. The fact is that verification is feasible now, until flight tests are completed, but once flight tests are completed, verification will no longer be possible. So, the verification argument is being used as a smokescreen to obscure the fact that the administration has little or no intention of entering into serious ASAT negotiations. Adequate verification is a product of negotiations, not a precondition for negotiations. Those who argue that we should not enter into negotiations with the Soviets until we are certain an agreement can be verified are knowingly recommending the very course that will eliminate the one opportunity we have for verification.

I say to my colleagues: This is a critical moment. We have an opportunity right now to stop the arms race in space before it gets started, and before it is impossible to stop. A flight test moratorium removes the incentive the Soviets have to proceed with development of a sophisticated antisatellite system which will truly threaten our satellite systems in space. It buys us time to work out an agreement to ban the weaponization of space. And it gives us pause to reflect on whether we truly want to move ahead with the implementation of technologies which will almost certainly move our countries to a hair trigger launch on warning posture that will greatly increase the risk of accidental nuclear war. Once flight tests are completed, we will have passed the point of no return, a curb on ASAT's will be no longer possible, and we will be launched on an uncontrollable, extremely costly, and highly dangerous arms race in space. We must act now to prevent this tragedy.

The CHAIRMAN pro tempore. The Chair will inquire, does the gentleman from Washington (Mr. DICKS) insist on his point of order?

Mr. DICKS. No, I will not insist on my point of order, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, based on my review of the issue, I am convinced that the time is ripe to seek arms control solutions to the problems posed by ASAT's. If we delay, it may well prove too late.

I would just point this out to the gentleman from California: In many ways the situation today is similar to that of providing multiple independently targeted reentry vehicles (MIRV's) on strategic ballistic missiles. While we debated the merits of limiting MIRV's, development and deployment continued and they became a fait accompli.

The greatest fear of the Reagan administration about the nuclear balance is caused because of the failure to seize an arms control opportunity. The timing is especially appropriate for ASAT arms control. Each side has some advantages that could be traded off.

We have talked about the Soviet system. It is very primitive, and it is one that experts like former Air Force Chief of Staff, Gen. Lew Allen says does not provide that much of a threat to our satellites because they only threaten our low-altitude satellites.

The gentleman from California (Mr. BROWN) mentioned the fact that we in the 1960's had a similar capability, but what we are talking about here with the F-15 program is beyond that. I might say the F-15's that could carry out this system are based in my district, and a major contractor in my State builds the ASAT system, so on this particular issue I can feel confident that Members who hear this will realize what we are talking about is something that I have taken a real close look at.

I am convinced that this is an opportune time to see us try to get to an arms control agreement before we test

against an object in space, and that is why I am supporting the Brown-Coughlin amendment.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. No, I will not yield. I only have a brief period of time.

The U.S. system, while more capable and flexible, is also limited to low-altitude satellites, although the potential for rapid and covert growth is greater than that of the Soviet system.

I point out to my good friend, the gentlewoman from Maryland, that this is the problem. Once we develop and prove out the F-15 capability, then we lose the possibility of verification, and we develop the capability to go to threaten satellites in higher geosynchronous orbit. This is what Dr. DeLauer, the head of R&D in the Pentagon, has already said, that he wants to go to higher orbit. Then if we do that, we go right after the Soviet satellites that would be used to determine whether the United States had launched a first strike against the Soviet Union.

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General Gabriel said in testimony before the Defense Subcommittee that he opposes the notion of going into higher altitude on either side, because we have a great stake in preserving our eyes in the time of a crisis. That is why we want to try to limit this to the lowest possible denominator.

The CHAIRMAN pro tempore (Mr. HARRISON). The time of the gentleman from Washington has expired.

Mr. BROWN of California. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. In this particular case, we have an opportunity now to seize the high ground, and the Soviet Union has already said they are prepared to negotiate on this issue.

I am prepared to believe the worst. I am prepared to believe that the reason they are willing to negotiate is that they do not do this very well. They are very worried about our space capability.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. DICKS. Yes, I will yield briefly.

Mr. HUTTO. The gentleman has made that point that the Soviets have called for negotiations. Does the gentleman not think they have called for negotiations because we have been testing the ASAT and if we stop testing the ASAT, does the gentleman still think they would want negotiations?

Mr. DICKS. Yes, I do think they would want negotiations, because I think they feel we have the capability of developing a far superior system. If we do go ahead, then we are going to hit the traditional Soviet response. It will not be negotiations. It will be, "We've got to have a bigger and better and more sophisticated ASAT system."

Mr. HUTTO. But the gentlewoman's amendment does not call for deployment. It just says that we will do the same number of tests that the Soviets are doing.

The CHAIRMAN pro tempore. The time of the gentleman from Washington has again expired.

Mr. COUGHLIN. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. The point of it is that it is the testing against an object in space that gets us into the arms race. Once we have done that, then we have lost the ability to verify.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my friend, the gentleman from New York.

Mr. DOWNEY of New York. Is it not true that the Air Force is prepared to delcare the MPA's system operational after five successful tests which would certainly fit under the gentlewoman's amendment. You would clearly have an operational system if we were allowed the same number of tests that the Soviets have had, while they would not have an operational system.

Mr. DICKS. That is exactly correct, and it is with this effort right now, that we have a chance to avoid a major escalation in the arms race. I think the evidence is clearly there that this is in our interest.

Gerard Smith, the best arms negotiator we have ever had, has written a letter strongly urging this Congress to adopt the Brown-Coughlin amendment, because he understands that we have more at stake. We have a chance to preserve our satellites. That is what we should be worried about and that is why we should accept the Brown-Coughlin amendment.

Mr. Chairman, I am pleased to cosponsor the Brown-Coughlin amendment.

This amendment is designed to facilitate an atmosphere that will be conducive to arms control negotiations on antisatellite weapons. The Soviets have demonstrated an interest in negotiations on this issue through the tabling of a draft in the United Nations and by declaring a self imposed moratorium on testing of the system the administration claims demands a U.S. response. A mutual moratorium, which is what this amendment calls for, will provide a hiatus in development of Asat systems that can foster negotiations.

As I mentioned, the Soviets have a very limited system today. The administration has termed it operational but former Air Force Chief of Staff Lew Allen noted during the SALT II hearings that—

It is difficult to assign a very high degree of credibility because it (the Soviet ASAT system) has not been a uniformly successful program and they have changed parameters with many of the different launches they have made * * * we give it a very questionable operational capability for a few launches.

Since that testimony, the Soviets have tested a more advanced interceptor designed to home in on heat emitted from its target. It has failed in all six of its tests, and the Soviets have conducted no further tests since June 1982. They have in fact declared a unilateral testing moratorium as part of their arms control initiatives.

Even if we assume the Soviet system is operational, its capability is limited to attacking about 20 percent of our overall satellites, and none of our critical early warning or attack assessment assets. It is also subject to relatively easy countermeasures. Perhaps most important, its launch limitations and time to intercept preclude any surprise attack against a wide range of targets. A campaign against all 18 U.S. satellites in low orbit would take several weeks to complete.

The U.S. system, while more capable and flexible, is also limited to low altitude satellites, although the potential for rapid and covert growth is greater than that of the Soviet system.

The administration is correct in its statements that there are other threats to low altitude satellites, although countermeasures and limitations on these other threats are considerable. The administration unwittingly acknowledges the unique capabilities of dedicated ASAT systems when it argues that we must have the F-15 miniature homing vehicle system in order to threaten Soviet satellites in low orbit.

The real danger from ASAT's is from second generation systems that could reach into geosynchronous orbits and threaten early warning satellites. Such an ability to put out the other side's eyes could by itself cause a nuclear strike to be launched. It could also lead one side to interpret a satellite malfunction as a blinding ASAT strike.

Defense Department officials have stated they are already researching much advanced ASAT systems. Adding another stage to the present U.S. system is one possible way to attain such a capability quickly. Clearly, if we do not strive to stop introduction of ASAT's now, the time of critical danger may be upon us before we know it.

In light of this situation, the Congress took steps to slow the ASAT program and examine arms control issues. We adopted the Tsongas amendment to the fiscal year 1984 defense authorization bill which prohibits testing of ASAT systems against targets in space until the President certifies he is seriously pursuing an arms control. I joined Congressmen MCHUGH and COUGHLIN in offering an amendment

deleting ASAT procurement funds and requiring a report from the administration on its ASAT arms control policy. In conference, the procurement funds were fenced until 45 days after receipt of that report.

The March 31 report to the Congress on U.S. Policy on ASAT Arms Control is the product of that amendment. I must say that I am disappointed, but not surprised by its contents. I am well aware of the strong opposition from many in this administration to even considering arms control options related to ASAT. While there are some hopeful statements included in the report, the overall administration attitude can be seen in the fact that the report devotes only half a page to "Potential Benefits of Space Arms Control," followed by five pages on "Problems facing ASAT Arms Control" and another five pages on whether national security interests even warrant an arms control agreement if it were achievable. It concludes with a questioning of Soviet motives in its arms control offerings and a discussion of its problem areas without any mention of any positive aspects.

No one claims that achieving an ASAT arms control agreement will be without problems or could be achieved overnight. There are verification and definitional issues that will have to be discussed. I will not take the committee's time to try to deal with the specifics of these issues in great detail. I would commend to your attention the November 1983 public interest report done by the Federation of American Scientists on this issue which does go into these questions in some detail.

Overall, it is important to judge verification and definitional issues in the context of overall arms control criteria. No arms control agreement can be 100 percent guaranteed verifiable. But we can conclude agreements under which we can detect any military significant violations. And we have established forums for discussion of compliance issues. Certainly the verification difficulties of a treaty banning testing and deployment of Asat systems are no greater than those for a comprehensive ban on chemical weapons which the President has only recently proposed.

On the definitional question, curtailing advanced ASAT technologies will require addressing space-based lasers and similar systems, although banning dedicated systems would be a positive step regardless. It is here that we begin to see the commonality between Asat's and strategic defense initiatives. Perhaps this is an unstated reluctance of the administration to deal with a comprehensive ASAT arms control effort. If they did so, they would necessarily impact their plans for SDI.

I would also like to address the question of whether ASAT arms control is in the national interest even if attainable. While the administration claims that it wants to pursue the United States ASAT program to deter Soviet use of their system, they double this with a stated desire to destroy Soviet low orbit targeting satellites. When pressed, this latter half of the contradictory justification for Asat's prevails.

How serious is the threat from these satellites, and can it be met with alternative means? Vice Adm. Gordon Nagler, director of command and control in the office of the Chief of Naval Operations, stated that the Navy has ways of countering the threat posed by Soviet ocean reconaissance satellites in testimony before the Defense Appropriations Subcommittee last year. Possible defensive countermeasures to these satellites include electronic devices to send false radar signals, corner reflectors to simulate the radar cross section of a carrier battle group and emitters that could be placed in unmanned ships to simulate the radar pattern of an aircraft carrier.

The Soviets apparently do not place too great a reliance on these systems since they often do not maintain enough in orbit to provide assured coverage and maintain a wide range of other ways to locate naval forces including submarines and surface shadow ships.

The administration completely ignores what benefits we would receive if our reconnaisance statellites were less threatened by constraints on Soviet Asat capabilities.

In my judgment, a verifiable ASAT arms control agreement is clearly in our national security interests. This amendment provides some incentives to the administration to end its study, and actively take the Soviets up on their offer to negotiate. It is the only way we can resolve the issues involved. Our present refusal to negotiate on ASAT's undercuts the argument we make that the Soviets should return to the table on INF and START.

This amendment does not terminate the ASAT program, but it does stop it short of proceeding with a critical step that could further complicate arms control opportunities, and for that reason deserves the support of this House.

THE CONSULTANTS INTERNATIONAL GROUP, INC.,
Washington, D.C., May 15, 1984.

Hon. LAWRENCE COUGHLIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN COUGHLIN: I understand that you and Congressman Brown are proposing an amendment to the Defense Authorization Bill calling for the Administration to hold off testing of an Asat system against an object in space as long as the Soviets hold to their present moratorium on Asat testing. I send along my views on such an amendment.

I have long been concerned about the threat that anti-satellite weapons pose to military satellites and, therefore, to strategic stability. I also believe that most experts are convinced that the United States is substantially more dependent on the continued integrity of its military satellites than is the U.S.S.R. Therefore, I believe that a mutual moratorium on testing satellite killers clearly would be in the security interests of the United States.

Having worked on arms control for all past Presidents since Harry Truman, I am convinced that this is a subject for which bipartisanship is indispensible. I hope that your amendment receives widespread bipartisan support.

Warm regards,

GERARD C. SMITH.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. Quickly, yes, I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I rise in support of the Brown amendment and commend my colleagues to join with us its passage. Mr. Chairman, we have had before us many important amendments to this bill but perhaps none is less understood and yet at the same time, more important to long-term U.S. national security interests than is the Brown amendment. The United States is treaty bound to the peaceful uses of outer space and yet today, we stand at the threshold of a dangerous, costly, and yes indeed, crazy arms race in space. Why should we implement the continued development of a weapons system that we know will pose greater risk and peril to our long-term national security interests than it can contribute to those same interests?

The experts at the Pentagon inform us that we now have before us an antisatellite (ASAT) weapons gap and that before we negotiate with the Soviet Union, we must demonstrate our national will and resolve to close this gap through the testing of an extremely more capable ASAT than that which the Soviet Union retains in its weapons inventory. Well, I know it is 1984 and that the way we seem to enhance our national security these days is by placing it at risk and that the way we seem to get arms control and reduction is through the deployment of newer and more lethal weapons systems, but this time the experts at the Pentagon are just plain wrong.

I am well aware that the Soviet Union has tested a large, cumbersome, and observable Asat weapon. At the same time, the Soviets have observed a 2-year moratorium on such testing in the hopes of securing an ASAT treaty agreement. Two years ago, when they retained this capability and we did not was not the time to negotiate such a deal. Today, however, is just that time. In the last 2 years, the United States has invested quite vigorously into ASAT research and development and

in this time we have accomplished quite a lot. In addition to both catching and passing the Soviets in this technology—a fact confirmed by the Office of Technology Assessment—we have developed an antisatellite weapon that is perhaps wholly nonverifiable. So, it is easy to see that the United States is not lagging behind the Soviet Union in such weaponry but, in fact, pulling the Soviets along into yet another dimension and onto yet another frontier of the arms race.

Make no mistake about this, approving the funding for ASAT testing closes the door on any possible arms control agreement that could be reached on ASAT's. Once we test, they will test and another genie is out of the bottle. In 1979, the U.S. arms control impact statement on ASAT's declared that in the absence of an arms control agreement:

> The deployment by both sides of highly capable antisatellite (ASAT) systems could have an adverse effect on the stability of the strategic nuclear and regional balance.

I ask you, who is more dependent upon satellite reconnaissance than the United States? The Soviets have the advantages of reading Scientific American and Aviation Week to complement their monitoring of our arms developments, as well as their verification of our compliance with arms control agreements. We have no such advantage. We rely upon our satellite capability to accomplish this task and to garner much of our intelligence information on Soviet activities in other areas as well. Why then do we want to place these important assets at risk?

As near as I can tell, there are only two reasons. First, that this administration has no intention of negotiating any arms control agreement with the Soviet Union. Second, that the Pentagon is in the midst of a relentless and unprecedented spending binge and, therefore, unwilling to accept any reasonable proposal such as the Brown amendment that enhances our national security. What is the Brown amendment?

Simply stated, the Brown amendment allows for the continuation of research and development into ASAT's—something we all know is important in order to insure that we shall not be surprised by a Soviet outbreak of new technology that would give them a decisive edge in Asat technology. What the Brown amendment does do, however, is to prohibit the expenditure of funds for the purposes of an active test of our Asat against an object in space "unless and until the President certifies to Congress that the Soviet Union has conducted" a similar test. Clearly, this is a rational approach. The Brown amendment allows us the opportunity to gage Soviet intentions, while at the same time allowing for some improvement in the climate of United States-Soviet relations. The Brown amendment enhances long-term U.S. national security interests through its providing an impetus to the superpowers to negotiate a verifiable moratorium on the deployment of antisatellite weapons, and I urge my colleagues to join with us in opposing any substitute to this amendment and in support of its final passage.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, this debate over ASAT weapons brings to mind the debate that occurred in these Chambers 15 years ago over the issue of whether the United States should proceed with the development of MIRV'd missiles. I would like to give a brief review of that debate, because I strongly believe that we can, and we should, learn valuable lessons from what happened back then.

In the late 1960's, the United States was pushing ahead with the development of MIRV'd missiles. From the vantage of the Pentagon, MIRV's offered the promise of radically transforming the targeting power of the U.S. nuclear arsenal. By placing MIRV's on our land- and sea-based missiles, we would greatly multiply the numbers of deliverable nuclear warheads without having to build so many additional missiles. The Pentagon realized this was something the Soviets could not yet do.

But what if the Soviets also developed MIRV's? Given the large size of their ICBM's, the Soviets could put many more warheads atop each missile than could the United States. By doing so, the Soviets could greatly increase the vulnerability of the U.S. ICBM force.

Many experts warned Congress that if the Soviets developed MIRV's, our ICBM's would become increasingly vulnerable. Let me quote for you a prophetic statement made in 1970 during congressional testimony by Marshall D. Shulman, then-director of the Columbia University Russian Institute. He said:

> If we fail to hold the line on MIRV, Minuteman seems destined for obsolescence in the foreseeable future. . . . We will both be obliged, certainly by the time the second generation of MIRV's makes its appearance, to enter upon a huge restructuring of our strategic forces to protect ourselves from the vulnerabilities to which MIRV will subject us.

Well, we all know what happened. MIRV's were not stopped during the SALT talks, although there is reason to think they could have been. What happened is that both nations pushed ahead with MIRV's.

Now, 15 years later, we have come to the painful realization that our national security would have been enhanced had we prevented the introduction of MIRV's into the arms race. The Scowcroft Commission came to this conclusion, and decided, just as had been predicted by Shulman and others, that we would need to restructure our forces to get rid of the vulnerability problem created by Soviet MIRV'ing.

If we had prevented the Soviets from developing MIRV's by not pushing ahead with them ourselves, then maybe we wouldn't have had to engage in the lengthy and difficult MX debate over the past few years. And maybe we would not now be faced with the difficult problem of trying to figure out how to get from our present world of MIRV'd ICBM's to a world of small, single warhead ICBM's such as the Midgetman.

Nobody knows whether or not we could have stopped MIRV's back then. Partly because we hardly attempted to do so. But that is no reason for not trying to stop ASAT's today.

If the United States pushes ahead with its ASAT weapon, the Soviets will push ahead with the development of advanced ASAT's far more capable than their existing system.

And you know what will happen? Ten to fifteen years from now there will be a Scowcroft II Commission that will conclude that we should have controlled ASAT's in the first place, because now our vital military satellites had become vulnerable to attack. But unlike the case with vulnerable ICBM's which are part of a triad, we have no triad of early warning or communications systems. Satellites provide an irreplaceable service to our military.

To avoid the headache and the dangers that will confront us down the road if we don't control ASAT development, I urge my fellow colleagues to learn from the lessons of history; endorse the Brown-Coughlin amendment.

The Soviets have not tested their ASAT in nearly 2 years, and they have announced their interest in negotiating on this issue. Let us take them up on their proposal and press to see how serious they are about preventing an extension of the arms race into space.

In closing, let me leave you with the words of the philosopher George Santayana, who said: "Those who cannot remember the past are condemned to repeat it."

Let us not repeat the MIRV mistake. Vote in favor of the Brown-Coughlin amendment.

Mr. PRITCHARD. Mr. Chairman, I would just like to reiterate a couple points here.

One, satellites are not weapons. Most satellites are inherently defensive. Their purpose is to observe the other side. A chief use is to verify arms control agreements.

Threatening the other side's satellites is destabilizing. If you cannot observe and verify what your adversary

is doing, you are more likely to shoot first and ask questions later.

An ASAT moratorium is in our own best interest. We need satellites as much or more than the Soviets, since so much of our intelligence relies on national technical means.

What happens if we have a moratorium on testing? Well, things stay pretty much as they are, the same. Each side has a system that they have developed, but neither has been thoroughly tested. We will continue to do our research as a contingency.

ASAT's are not responsive weapons, they are only useful if we plan to blind the enemy to a first strike.

If we keep the Soviets from upgrading their ASAT system, then we have gained, not lost. We have accomplished exactly what we set out to do. We have kept the Soviets from employing and developing a sophisticated system.

I hope we will all support the Brown amendment.

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I think it all boils down to who do you believe?

I think the gentlewoman from Maryland has a good amendment and I think we all should support it.

Writing on the ASAT declaration made by Soviet leader Andropov, James Orburg, an authority of Soviet space systems, said, "Both the United States and Soviet Governments have tested antisatellite systems in the past, but the U.S.S.R. is the only country to have put test weapons into orbit and is the only country that today possesses an operation capability to destroy other countries' reconnaissance satellites."

Now, that is pretty strong stuff. The Soviet Union has it and we do not.

Why in the world would we not want to test to get a system as successful as what the Soviets have?

Now, the argument was made that satellites are purely a defensive system and we should not take steps to blind them. I think that is a laudable objective, but the fact of the matter is that the Soviet Union can do it and we cannot. I think that is wrong. Why should we be put in a position where our satellites can be blinded or shot down and theirs cannot.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Yes, I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I appreciate the gentleman yielding.

This is one of the key questions. I disagree with the gentleman and I appreciate the gentleman giving me a chance to answer.

The answer is that their system is very primitive in its capabilities and can only reach very low altitude satellites of a kind that are not particularly critical.

Now, ours by contrast has the inherent ability to be quickly upgraded in a nonverifiable way and to be extended into high altitude, threatening all critical satellites and setting up a hair-trigger situation.

Mr. BURTON of Indiana. Mr. Chairman, if I may reclaim my time, I have heard that statement all evening about these being very primitive systems that they have.

The fact of the matter is that is a matter of conjecture. Some people believe it is not the case. Some people believe that the Soviet Union has tested in the last 2 years. Others say it has not. I do not know, but if we are going to err, let us err on the side of safety. Let us err on the side of safety for the United States of America.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Yes, I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I very much appreciate what the gentleman is saying, because the gentleman is making a very, very good point, that really needs to be heard, and that is that all this talk about the Soviet system being so primitive, that it is bow and arrow, a model T system, is just so much balderdash.

The facts truly speak for themselves. They have made 14 tests. We know they have had nine successful kills. We know that even on the five tests that were not verified as kills, we are not sure that they were trying to get kills. In fact, they might have just been product development tests. They might have been testing sensors and so forth.

Their present capability is such that it totally threatens our reconnaissance capability. That is not a primitive system. That is not a model T system. That is not a bow and arrow system. That is a system that they incorporated in a first strike exercise against this country a year and one-half ago which started with an ASAT test.

Now, we are kidding ourselves if we believe that the Soviets have no capability and therefore we do not have to have one. They have got one, we do not, and that is what we are voting on here today.

While I deeply believe in arms control, let us not in name only, threaten our national security.

I do not believe that unilateral disarmament, going to the Soviet Union in supplication, asking them to talk with us, is a good national strategy, one that serves this country well, and yet amendment after amendment that comes upon the floor this year takes that posture. I know they are well intentioned. I know they are in good faith. All of us want a safer world, but the way to get a safer world is not unilaterally disarming.

We have got to have equal capability and only the Byron-Kramer amendment will get us equal capability.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Colorado and I agree wholeheartedly with everything he said.

Mr. Chairman, I just would like to end by making three or four vital points.

First of all, today, only the U.S. space ASAT's are at risk. The Soviets are not at risk. Ours are.

ASAT is nonspace based. No possibility exists for inadvertent conflict.

Third, the Soviet Union's ASAT has been thoroughly tested and operational since 1977 and we need a comparable system.

□ 1810

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I want to take umbrage at earlier remarks made by the gentleman from New York (Mr. SOLOMON), at least slight umbrage, that Members who are for Brown-Coughlin are against building all weapons and in favor of unilateral disarmament.

I have supported the MX, the B-1-B, the Trident, the Pershing II, and a number of other weapons systems. I think what we really require today is some thoughtful approaches to our military requirements. We obviously cannot afford everything on the military shelf. We have to decide what is important and what is not. We have to choose priorities.

Antisatellite weaponry is an area, it seems to me, that could be so costly to both sides that we should find a way, if we can, reasonably, to avoid building new systems on each side.

Now Brown-Coughlin, has a very ingenious approach, and I commend the gentleman for offering it because what it does is allow a de facto agreement, without negotiations, to not go forward in this area of new antisatellite weaponry. It puts the ball in the Soviet court and says if you go forward, then we will go forward. If you do not go forward, then we similarly will refrain from doing so.

What McCurdy does, on the other hand, is to put an emphasis not on both sides stopping testing, but rather on seeking a negotiated agreement not to build new systems. But, Mr. Speaker, there is no purpose to that. We have achieved the entire purpose if both sides do in fact stop testing. No negotiated agreement with the Soviets is necessary at that point to prevent development of operational antisatellite weapons systems by each side. If the Soviets do not stop testing, then we can go forward as we must go for-

ward in response to that provocation to provide for testing of our own system.

So I would urge the Members to reject both Byron and McCurdy and to support Brown-Coughlin.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Tennessee.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, the Soviets have an interesting strategy and it really works for them. They develop a weapon, they test it, they deploy it, and then they seek a ban, a treaty, that will ban the United States or any adversary or potential adversary from achieving parity.

Now they have tested their antisatellite weapon in space against an object. We have not. They have made this test 15 to 20 times. So the score is 15 or 20 to zero when it comes to testing against an object in space. They have tested with a full orbit against an object in space, with less than a full orbit. We have yet to do that.

Now the Byron amendment is as simple as anything can be in terms of equity, reciprocity, parity. It does not say "let us be off to the races and let us try to outdistance them." It says, we will test up until the point where they have tested and no more unless they continue testing.

It seems to me that parity is not a furthering of the arms race, but it simply permits us to achieve a position of stability with them. It is defensive in the sense that the Soviet ASAT's can target ships and naval vessels.

You talk about cost, lose a carrier and its crew and you will better understand what the cost is.

But there is a thread that runs through all of this defense authorization bill. Every liberal is for a better system somewhere in the future. It is like when you debate a pay raise for Congressmen. "Not this one, but there is another way to do it. After the election, before the election." The preferred choice is always something other than what is before the Chamber. It was true on the B-1. "We need Stealth." You want to talk about MX; no, we want the Midgetman.

Now when we want to get some rough parity with the Soviets on antisatellite weapons, some do not want that. There is much more sophisticated technology coming along in the nineties, "so let us wait."

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

There is a problem here that has bothered me about the gentlewoman's amendment and that is, as the gentleman knows, we had an operational system based on the THOR missile actually in place and operating for 10 years. We made 22 tests prior to deploying that.

My question is: Do we count the 22 tests for our operational system that we had deployed for 10 years?

Mr. HYDE. We did not test against an object in space, that was a nuclear system.

Mr. BROWN of California. Yes, we did.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Chairman, I rise in support of the Brown-Coughlin amendment, and I commend my colleagues for helping bring to the attention of this body what I believe is emerging to be one of the most pressing arms control issues of our times.

The administration's position on ASAT's has been tremendously dissappointing. In this area where it is clear that our national security would be strongly served by preventing a competition in ASAT's, the President has said: "Sorry folks, but an ASAT treaty cannot be verified, so let us just forget about the idea of negotiations and plunge ahead on another endless expensive weapons competition."

I believe the administration is using the verification issue as a smokescreen. Verification is possible.

I would like to read for you some quotes that appeared in last week's issue of Science magazine. It contains statements from a wide variety of aerospace experts who argue that an ASAT treaty could be verified, and would be the best thing for U.S. national security.

On the question of verification, let me quote from Leslie Dirks, formerly the vice president of the Raytheon Corp., and the former Deputy Director for Research and Technology at the CIA. Dirks says this:

I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the United States has a very robust detection capability in this area. It would be pretty difficult to guarantee absolutely that no testing was going on. But I hope one would take a liberal view of the verification problems, and be prepared to take a few risks, because there are clearly strong U.S. national interests in [signing] a treaty that would deter continued testing of the existing Soviet ASAT or prevent the development of a better Soviet system.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Dirks went on to say about the current Soviet system: The latest word is it does not work. "It is so weak and cumbersome that I think we literally have to let them get us in order for it to work."

There are many other experts who have come to the same conclusion.

Mr. FAZIO. Mr. Chairman, I have another quote here from Dirks, this one on the possibility of the Soviets surreptitiously developing space mines, which are ASAT weapons designed to trail behind target satellites waiting for the signal to attack. Dirks says this:

Any substantial space mine system would be discovered by U.S. ground-based capability. I spent about 20 years engaging the Soviets on this issue, and I know that the Soviet military would be very unwilling to depend on a system that had not been fully tested.

I have another quote here regarding the possibility of the Soviets developing space mines. James Reynolds, the manager of aerospace activities for the Northrop Corp., formerly a manager of satellite programs for the Space Division of the U.S. Air Force, says this:

The people who postulate this threat (space mines) don't know a spacecraft from a frying pan. It is highly improbable.

He goes on to detail the reasons why there is no reason to fear such a threat from the Soviets if an ASAT agreement were signed.

On the question of verifying whether the Soviets had developed an ASAT that uses laser beams to attack our satellites, let me quote for you the Associate Director of Lawrence Livermore Laboratory, Michael May. He says:

The installation of a high-powered laser system would be detectable.

In terms of a low-power laser being developed for use as an ASAT, May says that American satellite designers would have to be "remarkably careless" not to deploy various straightforward laser countermeasures that would defeat such an ASAT.

On the question of why we are even building the F-15 launched Asat, let me offer this quote by Sayre Stevens, formerly an analyst for the CIA, currently a member of the Defense Science Board and vice president for strategic intelligence at the Systems Planning Corp.:

I don't know exactly why it is that we're so anxious to build an Asat system. I can't see that we're all that helpless. I also don't think we need it as much as we need some other things, such as a better space surveillance system so we really know what's going on.

And finally, I would like to quote Albert Wheelon, who was an analyst for the CIA before becoming the senior vice president for the Hughes Aircraft Corp. Wheelon says:

I think it's a good idea and to everyone's net advantage to keep mines and torpedoes and lasers and other weapons out of space.

So there you have it. These are the words of experts who design and build satellites, and who know how important it is to prevent the Soviets from developing threats to U.S. military spacecraft.

We need to prevent a competition in ASAT weapons. The Brown-Coughlin amendment will help us achieve that goal. I encourage your support for their effort. It is based on valid expert opinions on verification.

□ 1820

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Chairman, if I might, let me try to summarize where we are in terms of what the present Soviet capabilities really are and what they have been stated to be out here on the floor, or what we may hope they were or what we may wish they were. The real world is that the Soviets do indeed have operational capability on ASAT's. In fact, they have been testing their systems since 1968. Since then, they have had three series of tests over periods ranging from 2 to 5 years followed by standdowns for product improvement and development. They have both an optical sensor and a radar sensor type system. They have a fully operational system integrated into their strategic forces today. It has similar capabilities as to what our F-15 launch system would have if it is built, which it has not been up to this point in terms of testing or being operational. The Soviet system does successfully put at risk all of our reconnaissance assets, all of our eyes and ears. They have the capability to blind us and deafen us.

That is the fact of the world that we live in, not the world we wish it to be. And what these amendments do other than the last amendment offered is simply not allow us to get to a comparable capability because they impose a further moratorium on our ability to have an operational system.

Let us not be naive in believing that the Soviets do not think of space as the ultimate area to gain of strategic supremacy, because they do. Make no doubt of it.

"Military Thought," a Soviet military publication, clearly states that "the mastering of space is a prerequisite for achieving victory in war," and that is precisely how they look at their ASAT and every other system that they are building. And, believe me, there are other systems that they are building, and, in fact, have already built. They have a Golosh ABM system with nuclear warhead, which could be used in ASAT mode. Present U.S. capability, zero. They are today spending three to five times in directed energy research and development what we are in this country. In fact, today, as we meet in this Chamber, they now have at Sary Shagan two ground-based lasers that give them the current technical capability to blind our own satellite optical systems well beyond low orbit.

Today, Soviet military systems and military purposes account for 70 percent of all Soviet space launches, and another 20 percent of their space launches have a combined military-civil role and application. Their total number of launches exceed ours by a ratio of up to 5 to 1.

What do the Soviets have in R&D in space systems today? A Space Shuttle similar to ours. How many of you know that? But beyond that, a small space plane. U.S. capability, zero. They have on the drawing boards an orbit-to-orbit spaceship, manned. U.S. capability, zero. They have on the verge of deployment a heavy-lift vehicle which could take 330,000 pounds to low Earth orbit and also a medium-lift vehicle. U.S. capabilities to match these Soviet capabilities, zero.

And what, ladies and gentlemen, are they going to do with those systems that they are deploying? They are going to build and deploy by the early to mid-1990's—we are talking about a timeframe as little as 6 years from now—a modular space station that could house as many as 100 cosmonauts. Now, what in the world do you think they are doing that for? I submit they are doing it for what "Military Thought" shared with us they were doing it for, and that is the mastering of space as a prerequisite for achieving victory in war. And that is what we are unilaterally abrogating to the Soviets. We are telling them, "If you will only come and talk to us, we will not even build a comparable Asat capabilty."

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

Mr. DICKINSON. Mr. Chairman, I yield 5 additional minutes to the gentleman from Colorado.

Mr. KRAMER. I will yield to the gentleman from Indiana (Mr. BURTON), and then I will come back and yield to the gentleman from Tennessee (Mr. GORE).

Mr. BURTON of Indiana. I think the knowledge of the gentleman from Colorado on this subject is extraordinary, and I compliment him on his research and on his remarks. I would just like to add a little bit to what he said.

Since 1971, the Soviets have had the capability to attack satellites in near-Earth orbit with a ground-based orbital interceptor.

And my colleague from Tennessee a while ago indicated it would not reach very high. The fact of the matter is, it will reach 5,000 kilometers or 3,000 miles.

The Soviets have the capability of launching several interceptors each day from each launch pad. In addition to the orbital interceptor, the Soviets have two ground-based test lasers that could be used against satellites. The Soviets also have the technological capability to conduct electronic warfare against space systems.

Finally, since the early 1970's, the Soviets have had a research program to explore the technical feasibility of a particle beam weapon in space. A prototype space-based particle beam weapon intended only to disrupt satellite electronic equipment could be tested as early as the early 1990's. One designed to destroy the satellites could be tested in space—and the gentleman alluded to the fact that there is going to be a space station out there—in the mid-1990's.

I want to thank the gentleman from Colorado for bringing all of this to our attention and for exposing all of these issues to the people of this body.

Once again, I would like to end up by just saying this: A lot of us have been talking about the Soviet military power in the last couple of days. I wonder how many have read this book. I hope everybody in this Chamber gets an opportunity to look at it before this debate is over.

Mr. KRAMER. I thank the gentleman for his remarks.

Mr. Chairman, I yield to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. I thank my colleague for yielding.

I wanted to make a couple of points.

First, the Brown-Coughlin amendment does not eliminate research and development money from the bill. All it addresses itself to is the test against a point in space.

Second, the catalog of the programs that my colleague outlines it seems to me serves, particularly when combined with programs on our own drawing boards, as another very strong argument in favor of trying to stop the arms race in space before it really gets started.

The only way we are going to deal with this problem is through an arms control agreement. If we continually try to leapfrog the Soviet Union and they continually try to leapfrog us, we are going to move away from stability and spiral toward a hair-trigger situation. Our only hope is to take them up on their offer to work with us to get an arms control agreement banning weapons from outer space.

Now, what is wrong with that?

Mr. KRAMER. I appreciate the gentleman's remarks. And, quite frankly, there is nothing wrong with that. I would be more than happy to sit down with the Soviets and talk to them about the full panoply of strategic and factual issues, including weapons in outer space.

Mr. GORE. But the administration is not willing to.

Mr. KRAMER. That is not the issue here in front of us today.

Mr. GORE. But the adminstration has said it will not even talk to them about this subject.

Mr. KRAMER. The issue here on this floor today is twofold, in response to what the gentleman is saying: No. 1 Brown allows research and development, but it does prevent us from getting to an operational capability comparable to the Soviets. And it also approaches arms control aspirations and hopes in terms of further unilateral restraint by this country.

The history of arms control since SALT I has been: We restrain; they build. They build regardless of what we do, whether we build, whether we do something in between, or whether we totally, stop. And what I am suggesting here today is that while we should indeed sit down with the Soviet Union and find a way out of the nuclear box and nuclear dilemma that we have found ourselves in—and I believe that there is a way to do that by moving away from a strategy that is based on relying on massive offensive population and target attack to one based on nonnuclear defense—I believe we ought to move in that direction to get us out of the nuclear dilemma. We cannot solve that problem today. The only issue that we can only solve here on the floor today is whether or not unilateral restraint will get us the operational capability that we need for Soviet-United States comparability in ASAT, and it will not.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has again expired.

Mr. DICKINSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Colorado (Mr. KRAMER).

Mrs. BRYON. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentlewoman from Maryland.

□ 1830

Mrs. BYRON. I thank the gentleman for yielding to me.

Let me bring up one point that Mr. BROWN had brought out, and that is that he talked about the Thor system and he said that we had an active system. Well, that system and the tests. I believe you said 21 tests on that system were in 1964. I think that is over 20 years ago. It seems to me that I believe—I strongly believe that our technology in the last 20 years has certainly moved forward since that time.

At that time that the system was so inaccurate that we had to have a multimegaton warhead on it to make it applicable. Also with this in mind, I believe the administration stated on July 4, 1982, that the United States will continue to study the space arms control options; the United States will consider verifiable and equitable arms control measures. It would ban or otherwise limit testing and deployment of specific weapon systems should those measures be compatible with U.S. national security. That is what we are talking about.

PARLIAMENTARY INQUIRY

Mr. BOEHLERT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. BOEHLERT. Mr. Chairman, I would like to see where we are and where we are going. As I see it, we have an amendment, the Brown-Coughlin amendment, which calls for a 1-year moratorium on the testing of ASAT. Then we have a substitute by Mr. MCCURDY calling for a 6-month testing moratorium to April 1, 1985, and then it would be OK to proceed with testing if there are not meaningful negotiations. Then we have a perfecting amendment to the McCurdy substitute by Mrs. BYRON, which would permit testing no more than that conducted by the Soviets. Is that where we are right now, on that perfecting amendment to the substitute? And what will be the procedure for voting?

The CHAIRMAN pro tempore. Pending are the three amendments to which the gentleman refers. The order in which they will come to a vote is that the perfecting amendment offered by the gentlewoman from Maryland will be put to the question first, followed by a vote on the substitute of the gentleman from Oklahoma. Lastly, the vote will occur on the amendment proposed by the gentleman from California.

Mr. BOEHLERT. I thank the Chairman.

PARLIAMENTARY INQUIRY

Mr. COUGHLIN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. COUGHLIN. Mr. Chairman, what is the time situation at the present time?

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. PRICE) has 6 minutes remaining, the gentleman from Alabama (Mr. DICKINSON) has 3 minutes, the gentleman from California (Mr. BROWN) has 8 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) has 8 minutes.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. MRAZEK).

Mr. MRAZEK. With all due respect. Mr. Chairman, I would submit that anyone who equates the Brown-Coughlin amendment with unilateral disarmament is guilty of rather blind and narrowminded stupidity.

It seems to me that after I have voted for $270 billion worth of defense authorization and defense appropriations bills, and we are moving forward with an MX missile, a Pershing missile, the ground-launched, sea-launched air-launched cruise missiles, the Midgetman missile, the Star Wars program, a rapid deployment force, a larger standing Army, going from 4 divisions to 5 in Western Europe, a 600-ship Navy and a whole host of other things including 4 more World War II vintage battleships, no one could suggest that the U.S. Government is thinking about unilateral disarmament.

I am not aware of any Member in this body who advocates unilateral disarmament. Each time we talk about a new nuclear weapons system, invariably it is posed as a bargaining chip, and we have seen a lot of these bargaining chips, and we have seen every one of them approved by this Congress. The case in each question invariably involves someone standing up on this floor and saying, "We are standing toe to toe with the Soviet Union and it is a question of who is going to blink first."

I would submit to you that on the question of ASAT's they are blinking away over there like Liberace. They are blinking plenty. They are seeking a moratorium on testing, and I think that we ought to think about the concept of negotiating constructively on this issue with the Soviet Union to a point where hopefully neither side is going to engage in missile tests against satellites in space.

We will know if they test antisatellite weapons in space, and we are in a position to determine a new course if they do.

It seems to me that there are really two or three different ways that we can negotiate with the Soviet Union. Unfortunately, one of the concerns that we all ought to have is that we are not now talking about the type of approach that really has a chance to work.

A pacifist cannot negotiate with the Soviet Union; we cannot just ask them nicely not to test and deploy these weapons. By the same token, you cannot have a rightwing fundamentalist sitting across the table from the Soviets. You cannot have someone there who believes that the Soviet system is inherently evil, and expect that this person is going to engage in constructive negotiations.

Constructive negotiations take commonsense, an open mind, and a positive approach in which we who recognize that we are a strong Nation, consider a verifiable treaty with someone else who can be perceived as strong. We have the chance with the Brown-Coughlin amendment to ban the actual deployment of weapons designed to attack satellites in outer space.

I think we ought to give that amendment a chance to work and a chance to move forward constructively in at least one area of the nuclear arms race.

Mr. BROWN of California. Mr. Chairman, I yield 3 minutes to the

gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York. Coleridge said that "If men could learn from history, what lessons it might teach us."

It might teach some of our friends on the Republican side that had we followed the advice of arms controllers in 1969, we would not have tested the MIRV's that we had at the time and sought an agreement with the Soviet Union to ban them. They were behind us then and they may have agreed, had we pressed them. Without MIRV's we would not be facing the destabilizing aspect of SS-18's and 19's today.

We might also learn from the ABM lesson. In the late sixties and early seventies the Soviets were basically ahead of us in the deployment of their ABM system. Their system was technologically inferior to the one that we had on the drawing boards. They understood back in 1972 that if they went ahead with an ABM system that ultimately we would get a better ABM system and we would be in a measures-countermeasures game to overcome each other. We face essentially the same issue with ASAT, today. The Soviets have tested a system that is technologically inferior to the one that we have; there is very little disagreement except for the most ardent hawk that the system that we will deploy will be better.

If we assume that Mrs. BYRON's amendment becomes policy we will have ample opportunity to test and eventually deploy a system that is superior to it. What that will mean, ultimately, is the opportunity for a negotiated settlement with the Soviet Union will have been thrown by the boards. They will ultimately catch up to us and both our satellite systems will be vulnerable, and we will be in a measures-countermeasures race with the Soviet Union to protect satellites in outer space.

Please, I ask my colleagues, learn and profit from the mistake of the MIRV dilemma of 1969 and learn from the lessons of the ABM treaty that you cannot achieve nuclear superiority. No matter how far ahead we are initially the Soviets eventually will catch up; we will both wind up spending a lot of money and being less secure as a result.

There is one other point that it seems to me needs to be made over and over and over again about this process. This is separate and distinct from what is happening in the rest of the arms control talks. Here the Soviets have handed President Reagan the golden opportunity to play peacemaker. He can take them up on their offer of bilateral negotiations on ASAT. He has no other opportunity before the election to do that. It would seem that he should be dripping with anticipation at the idea that here is a possibility to engage the Soviets. Here is a chance to stop the next level of destabilizing weapons in space, increase the national security of both countries and save billions of dollars.

□ 1840

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma (Mr. MCCURDY).

Mr. McCURDY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I believe that the issue we face today is that we do need an arms control forum, that we need the framework established so that the Soviets and the United States can come together to discuss the wide range, the full depth of issues facing the space race.

The Soviets are not standing still. The statement has been made that the Soviets have not tested for 2 years and are standing still.

Mr. Chairman, that is not the case. The Soviets have been conducting tests. They have been testing in other areas, and if we are serious about arms control, then I believe the Members on both sides will support the McCurdy amendment.

The proponents of the Brown amendment submitted statements, and I believe the proponents of Brown should consider the fact that we do need an ASAT forum to capture and explore all possible areas of technology and development in antisatellite warfare.

To the opponents of Brown, my amendment provides incentives to both sides to come to the table. To my colleagues who are concerned about an arms race in space, let me say this: I can assure them as a Member who supports a strong national defense, as a member of the Armed Services Committee, as a member of the Science and Technology Committee, and again as a member of the Committee on Intelligence, that I feel we should be concerned about an arms race in space. But at the same time, to my colleagues who do not trust the Soviets and do not take at face value their statements that they are willing to negotiate an effective agreement, I would urge them to consider the McCurdy amendment.

My amendment is simple. It is clear. It states that there is a moratorium for 6 months, the President upon submittal of a program for negotiations invites the Soviets, and may resume testing if in his decision he needs that to encourage or force the Soviets to negotiate. That is a simple, clear program. I believe that Brown, although the intent is laudable, does not accomplish that.

No amendment is perfect, but I believe that this amendment provides the best approach to solving this difficult problem.

As to the amendment offered by my colleague and good friend, the gentlewoman from Maryland, I would urge the Members to vote against the Byron amendment. I strongly oppose the Byron amendment. I believe it guts the McCurdy amendment. I believe it allows for testing which is beyond what is reasonable, and I urge its defeat.

● Mr. WIRTH. Mr. Chairman, I rise in support of the Brown-Coughlin amendment. Over the last 20 years, the United States has launched a large number of highly sophisticated satellites. Although much about them is classified, we can say with assurance that those satellites provide instant communication throughout our entire defense structure, link us with our allies, provide vital information about Soviet activities, and are crucial for verifying arms control agreements. We depend heavily upon those satellites—far more, in fact, than the Soviets depend upon theirs.

Presently, the Soviets have a primitive antisatellite system. It can reach some of our low-orbit satellites, but not the higher orbits of most communications and early warning satellites. We are now testing a much more sophisticated and versatile ASAT. If we deploy it, the Soviets will almost certainly respond with improved systems that could ultimately jeopardize our high orbit satellites as well.

A few years ago, we and the Soviets sought to negotiate limits on ASAT's. However, the present administration has argued that an ASAT treaty cannot be verified, and that even if it could, such a treaty would not be in our interests.

I strongly disagree. You cannot build ASAT's if you cannot test them. A ban on ASAT tests against an object in space is verifiable, especially testing carried out against target satellites. The fact that we depend on satellites more than the Soviets makes a verifiable treaty much more in our interest. The Brown-Coughlin amendment is a reasonable and necessary first step in negotiating a permanent, verifiable ban on ASAT testing.

Mr. Chairman, I would like to draw your attention to a parallel opportunity this Nation had to halt the acceleration of the arms race. In 1969, the United States had a significant lead in the development of MIRV'd weapons. At that time some people urged that the United States not deploy those MIRV'd weapons, but rather try to get a treaty with the Soviets agreeing that neither side would use MIRV's.

However, the conventional wisdom that prevailed said, "Now we're so far ahead of the Soviets that they will

never catch up—we've got an advantage we should not give up." Within 3 years, we picked up evidence that the Soviets were testing their own MIRV'd weapons. Within 5 years they deployed their own.

Suddenly we were confronted with talk of a window of vulnerability—questions regarding the survivability of our land-based systems and a significant increase in the strategic instability of our world. We are in a far more dangerous world because of MIRV'ing. Had we forgone the advantage and worked toward a treaty we would be further ahead from the standpoint of national security, as well as arms control.

Now we find ourselves at another critical turning point in the arms race. Let us consider carefully and thoroughly the implications of ASAT testing against objects in space. Let us look back on this debate fondly in the years to come and say "That was when we began to ban weapons in space. That is when we said 'no' to an arms race in space." I urge my colleagues to adopt the Brown-Coughlin amendment.●

● Mr. FEIGHAN. Mr. Chairman, I rise in support of the amendment offerred by the gentleman from California (Mr. BROWN).

We are fast approaching a new—and far more dangerous—era of change in nuclear technology—an astronomical threshold. The next arms race is heading for the reaches of outer space. Talks on antisatellite weapons have not been held since 1979, and this year's military space program will have a higher budgetary priority than the peaceful program for the first time ever. Right now, neither the United States nor the Soviet Union have an operational, space-based antisatellite weapon. But in 3 or 4 years that will all change. We must stop this militarization of space before it goes too far and costs too much.

As many Members have pointed out, we rely heavily on our satellites for communication and verification.

They are also needed for early warning against attacks, and for command and control functions if war breaks out. A full 70 percent of U.S. overseas military communications are routed through satellites. If they are placed in jeopardy, uncertainty and strategic instability will skyrocket.

President Eisenhower recognized this danger over 25 years ago. He cancelled early versions of the Asat because he knew they would undermine U.S. military policy.

Finally, we should support this amendment for what it says about President Reagan's starry-eyed proposal to take the high ground by building military outposts in space. If we fail to stop antisatellite development now—while we have the chance—we will find ourselves 20 years down the road deploying even more sophisticated and dangerous weapons costing hundreds of billions of dollars.

And the Soviet reaction is guaranteed to be a strong and steady buildup of their own. In football, they say the best offense is a good defense. The Kremlin will view our attempts to create a total space defense in just that vein—a clear attempt to gain strategic superiority and a first-strike capability. The problem is that any of a number of Soviet responses—such as cheap decoy ICBM's or low/flying cruise missiles—can effectively counter a sophisticated space system. As a result, the development of large-scale space defenses is likely to yield high-risk political costs and questionable strategic benefits.

The great American poet, Walt Whitman, wrote that "every cubic inch of space is a miracle." I urge all of my colleagues to vote for this amendment and support negotiations to ban weapons from outer space. Only then can we prevent the miracle of space from becoming a military nightmare.●

● Mr. DURBIN. Mr. Chairman, I would like to make two points in expressing support for the amendment of the gentleman from California.

First, I would like to stress one point that I think has become blurred in the debate on this amendment. The amendment prohibits the use of research and development funds for the further flight testing of antisatellite weapons—but it does so only as long as the Soviets maintain their current unilateral moratorium on similar tests. We have heard a great deal of talk during these past few days about the need to curb the escalating arms race. It makes no sense to me to go ahead with the testing of antisatellite weapons—which only heightens the arms race—when the Soviets have in place a moratorium on this type of testing themselves. This amendment will not make us appear to give in to the Soviets because if they abandon their moratorium on the testing of antisatellite weapons at any time, then we will have the funding in place to resume testing ourselves.

My second point concerns the strategic value of antisatellite weapons. Antisatellite weapons are designed to destroy vital military satellites, including command, control and communications satellites, as well as those used for verification of arms control agreements. These satellites have contributed significantly to the stability between the two superpowers by denying the element of surprise in a first strike.

Gerard Brown, who was President Nixon's chief arms negotiator and principal architect of the SALT I accord, has expressed his concern about the threat of antisatellite weapons to strategic stability. He has also pointed out that the United States is considerably more dependent on the continued integrity of our military satellites than is the Soviet Union. For that reason, a mutual moratorium on the testing of antisatellite weapons is in the best security interests of the United States.

I urge my colleagues to support this amendment keeping in mind that this policy does not lock us into any rigid position because it does not cut any funds for antisatellite weapons, and that military satellites have actually contributed to strategic stability between ourselves and the Soviet Union.●

● Mr. KASTENMEIER. Mr. Chairman, I rise in support of the Brown-Coughlin amendment to prohibit the testing of antisatellite weapons against objects in space unless the President certifies that the Soviets have resumed ASAT testing.

The two superpowers are on the threshold of propelling the arms race into space. The United States and the Soviet Union are now developing weapons to shoot down the satellites on which both sides increasingly depend for communication and intelligence. The Soviet Union has already tested its ASAT system meant to kill low-orbiting American satellites, a number of times over the years. The U.S. system is still undergoing preliminary testing. The Soviet weapons program, however, is a cumbersome and inflexible ground launched one in comparison to the mobile, F-15 based U.S. system. It is beyond doubt that the U.S. air-launched satellite killer weapon is clearly superior to the Soviet version.

Mr. Chairman, the ASAT weapons program is serious business. Successful ASAT's could paralyze the strategic defense of either country, depriving it of the means to control its own strategic forces and detect those of its foe.

The Reagan administration is now moving to complete development and deployment of the F-15 launched, direct ascent ASAT interceptor. It is the policy of the administration not to engage in the ASAT negotiations which the Soviets have sought. Many believe, however, that the relative status and potential capabilities of the current United States and Soviet ASAT systems make it advantageous for the United States to agree to an immediate joint moratorium on further ASAT space tests, to be followed by negotiations banning ASAT's. This is the only sensible way to stop both sides from taking the dangerous plunge into the first phase of "Star Wars."

Although the Reagan administration maintains that an ASAT treaty is infeasible, there are many satellite designers and intelligence analysts who take issue with this position. Adminis-

tration officials maintain that Soviet compliance with a total ASAT ban could not be adequately verified. But, former CIA Director William Colby, in the May issue of Science, claims that the risk of undetected Soviet cheating pales in relation to the overall benefits of an Asat treaty. "We are better off," Colby said, "if an activity is essentially stopped, even with a possibility for marginal cheating, than we are if the technology is left unconstrained." Leslie Dirks, former CIA deputy director for research and technology states, in the same article, "I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the United States has a very robust detection capability in this area."

Administration officials also argue that the Soviets could secretly test the technology needed for so-called space mines, or satellites capable of maneuvering near their targets and exploding on command. This position also has come under challenge. James Reynolds, a manager of aerospace activities for the Northrop Corp., who formerly managed the Navstar and Satellite Communication System programs for the space division of the U.S. Air Force, is quoted in the May issue of Science as saying, "The people who postulate this threat don't know a spacecraft from a frying pan. It is highly improbable." Reynolds further explains:

You are talking about a complicated space system, with multiple rockets, sensors, payloads, and ground control. The mines must be situated next to everything of importance we have in space. And they must be on-line 24 hours a day, ready to detect evasive maneuvers and come after us, even though it takes twice as much fuel to follow as it does to evade. How much do you think the Soviets are willing to spend on this? How many mines will it take to guarantee 98 or 99 percent success? Virtually an infinite number! Now are they dumb enough to spend all their resources on that, or are they more likely to build more missiles or put more tanks in Eastern Europe? There's a smarter way to fight a war.

Mr. Chairman, if President Reagan is as serious about arms control as he keeps telling us he is, then he should offer an ASAT test moratorium and agree to immediate talks on banning ASAT's.

But, the Reagan administration is now in its fourth year and in this branch of weaponry, as it others, it has yet to find an effective confidence-inspiring arms control policy. Thus, it becomes the responsibility of the Congress to state our support for ASAT negotiations and the most effective way we can do this is by voting for the Brown-Coughlin amendment.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of the amendment offered by our colleague from California, GEORGE BROWN, to H.R. 5167, the Department of Defense Authorization Act for fiscal year 1985. This amendment would impose a moratorium on the flight testing of the U.S antisatellite (ASAT) weapons against objects in space, unless the President certifies that the Soviets have resumed ASAT testing. Testing of our ASAT system would be the first step in a long and expensive arms race in space.

The moratorium contained in the Brown amendment is an ideal arms control proposal in that it is both mutual and verifiable. The U.S. ban on testing would continue only as long as the Soviets adhered to their self-imposed moratorium. The delivery vehicle for the Soviet ASAT is a massive rocket that is 10 feet in diameter and 150 feet long—larger than their SS-18. Thus, verification of Soviet compliance with the test-flight ban would be relatively easy and could be accomplished with early-warning satellites, ground- and space-based sensors and ground-based radar. On the other hand, the U.S. ASAT is a much smaller weapon that is scheduled to be deployed on F-15's. Thus, once the United States completed test flights of its ASAT, Soviet verification of American ASAT deployment would be nearly impossible.

This ban on flight tests would provide the opportunity for the United States and the Soviet Union to negotiate an agreement on anti-satellite warfare. It appears that the Soviet Union is serious about preventing an arms race in space. Last year, the Soviets submitted a comprehensive ASAT draft treaty to the U.N. General Assembly. Although this Soviet proposal needs some work, the United States should not abandon prospects for an agreement by flight-testing our ASAT system. From President Reagan's report to Congress dated March 31, 1984, on ASAT negotiations, it is clear that his administration has ruled out an agreement to ban ASAT's. It is left to the Congress to insure that this possibility for significant arms control is not lost.

It is also in the strategic and military interests of the United States to slow the Soviet development of its ASAT. The current Soviet ASAT system has been plagued with problems and is far from actual deployment. At the same time, the U.S. system is much more advanced. In addition, the United States is more heavily dependent on its satellites for intelligence information than the Soviet Union is on their satellites. Thus, deployment and use of ASAT's would have a more devastating effect on our military intelligence and communications. The loss of the U.S. eyes and ears would be a serious blow to our Nation's military capabilities. In addition, our satellites are a vital source of information used for verification of arms control agreements. Without the assured use of such satellites, the prospects for achieving any arms control agreements with the Soviets would be even dimmer than at the current time.

The flight testing of ASAT's would also open the door for a full-scaled arms race in space and the development of President's Reagan's so-called strategic defense initiative, better known as the Star Wars defense. In response to development of a Star Wars system, the Soviet Union would deploy even more ICBM's in an attempt to penetrate a defense shield. This further escalation of the arms race with the Soviet Union must be prevented. I urge my colleagues to support the Brown amendment to prevent a costly arms race in space and an additional buildup of nuclear weapons on the ground.●

● Mr. MARKEY. Mr. Chairman, I strongly support the Brown-Coughlin amendment to prohibit the use of research and development funds for the further flight testing of antisatellite (ASAT) weapons as long as the Soviet Union maintains its current unilateral moratorium on similar tests.

I commend my two colleagues from both sides of the aisle, Mr. BROWN and Mr. COUGHLIN, for their leadership in calling for an end to the arms race in space before it is too late. I strongly support the work they have done to build a strong, bipartisan consensus on a difficult issue such as the one before the House today.

I would like to remind those of my colleagues who have cosponsored with me the Arms Race Moratorium Act of 1984 that the language of the provisions regarding ASAT's in that bill is nearly identical to the Brown-Coughlin amendment, and urge their support for this amendment. I reiterate that this amendment would be binding on the part of the United States only so long as it was a bilateral moratorium on the flight testing of ASAT's.

In view of the deteriorating state of United States-Soviet relations, I cannot overstate how crucial this step that we take here is for the survivability of mankind. While the Soviets are not presently at the negotiating table with us, they have issued a strong statement to the world of their willingness to not proliferate space with weapons. The world is watching us and we must take affirmative action to match this Soviet arms control initiative now, or test them on it. The successful passage and implementation of such an agreement would be a milestone for world peace.●

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I only have one speaker remaining. Would it be proper for the proponents of the amendment to conclude debate or for the committee?

The CHAIRMAN pro tempore. The Chair will state that the gentleman from Illinois (Mr. PRICE) has 6 minutes remaining, the gentleman from Alabama (Mr. DICKINSON) has 3 minutes remaining, the gentleman from California (Mr. BROWN) has 5 minutes remaining, and the gentleman from Pennsylvania (Mr. COUGHLIN) has 4 minutes remaining.

The Chair recognizes the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. NELSON).

Mr. NELSON of Florida. Mr. Chairman, I appreciate the opportunity to engage in this debate, which I think has been on a high level.

I would raise the question here as I speak in favor of the Byron amendment—that why is it the Soviets never seem willing to negotiate on items in which they are behind? In other words, if they are ahead, they will negotiate. That is a consistent characteristic of the Soviets and appears to be the case here, regarding ASAT, since the Soviets have an ASAT that is operational and the United States does not.

The question is, Do the Soviets have an operational system? Well, I think the facts will show that they do. The fact is they have, and it is a classified figure of how many times they have tested their system.

If you believe that they have an operational system, that it has been operational for years, and that our adversary that has the capability to knock out the command, control, and communication provided by satellites in low Earth orbit, then it seems clear that you would conclude that the Soviets have an advantage. Under those circumstances we should at least give the United States the opportunity to test our system.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Florida. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, the gentleman commented on the fact that the Soviets have tested but the number of tests was classified. I assume by that that the United States has classified it.

Who are we trying to keep the secret from?

Mr. NELSON of Florida. Mr. Chairman, I think the gentleman makes a very good point.

We have heard debate here about the fact that we need the research and development, but all the research and development in the world is not going to give us a deterrance until we can test ASAT to know that it works.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. COUGHLIN) is recognized for 4 minutes.

Mr. COUGHLIN. Mr. Chairman, a great deal has been said here today about tests by the Soviet Union of their antisatellite weapon. Let us be very clear that their antisatellite weapon has been tested successfully with a radar homing system, but our own satellites can be protected against that radar configuration. It has been tested with an infrared homing system which does not provide warning, but there has never been a single successful Soviet test of an infrared homing device antisatellite weapon, never.

So the testing the Soviets have done is really not critical to this issue because they have never successfully tested a sophisticated infrared antisatellite weapon. They have never tested the kind of system we are developing.

A lot has been said about testing by the United States. There is nothing in the Brown-Coughlin amendment that prohibits testing of an ASAT by the United States. It can be tested in the atmosphere; you can test it against a point in space. The only thing the Brown-Coughlin amendment prohibits is testing against another object in space. So we can test and their tests have not been conclusive.

It has been said here that they have a system, and ours is at risk and we must have a system to put theirs at risk. Nothing in the Brown-Coughlin amendment prohibits our having a system to put theirs at risk.

Nothing in the Brown-Coughlin amendment denies any funds for the ASAT. Nothing prohibits the development of the ASAT, a better ASAT than the Soviets have by a long shot, to put their system at risk.

So we are not saying that they have a system and ours is at risk, and we must have a system to put theirs at risk. Nothing in our amendment prohibits that.

It has been said that we restrain and they build, and it is a unilateral movement. Well, the real beauty of the Brown-Coughlin amendment is that it simply says that if they do not test, we will not test. It is something that is verifiable, something that is not unilateral, but something that says if they do not do it, we will not do it. It is something you can see. It is right there. It is right in front of you. It is something to help stop the space arms race.

So what would we end up with if the Brown-Coughlin amendment is adopted between the Soviet Union and the United States?

□ 1850

They would have a primitive system that has never been successfully tested in a current configuration with an infrared homing device and we would have an advanced system that had been tested, but never tested against an object in space.

Does that not make sense? Does it not make some sense to have those two things done in a verifiable way?

This is one area in the arms race where we can do something and do something in a very real way. I urge a no vote on the Byron and McCurdy amendments and a yes vote on the Brown-Coughlin amendment.

Mr. BROWN of California. Mr. Chairman, first let me compliment the gentleman from Pennsylvania for his exceptionally good statement and for the fine leadership he has taken on this amendment.

Mr. Chairman, I yield the balance of our time, 5 minutes, to the gentleman from Tennessee (Mr. GORE).

PERFECTING AMENDMENT OFFERED BY MR. GORE TO THE AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. GORE. Mr. Chairman, I offer a perfecting amendment to the amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. GORE to the amendment offered by Mr. BROWN of California: Strike all after "Sec. 206" and insert in lieu thereof the following: "No funds appropriated pursuant to authorizations of appropriations in this title may be used for testing of the Space Defense system (anti-satellite weapon) against an object in space unless and until the President certifies to Congress that neither the Soviet Union nor any other foreign power has conducted, after the date of enactment of this Act, a test of a dedicated anti-satellite weapon."

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I rise in support of the basic amendment.

Mr. Chairman, I am speaking in favor of the Brown-Coughlin amendment which calls for a mutual moratorium on the testing of antisatellite (ASAT) weapons. I support the amendment because it is imperative that the United States halt the testing of antisatellite weapons before we get outselves locked into an arms race in space with the Soviet Union.

Last year the Subcommittee on International security and Scientific Affairs, which I chair, conducted a series of hearings on arms control in outer space. The subcommittee looked at the arms control, national security and foreign policy implications of the administration's space policy. Based on these hearings to date, the subcommittee issued an "Interim Report on the Administration's Space Arms Control and Defense Policy."

The report gave considerable attention to the administration's antisatellite weapons policy. I have concluded from this report that testing antisatellite weapons will have very grave implications for arms control for the simple reason that antisatellite weapons are designed to destroy satellites. We depend on satellites for arms control vertification, early warning, nuclear attack assessment, intelligence, and so forth. It is not in national security interest to jeopardize these satellites by entering into an antisatellite weapons competition with the Soviet Union. As a matter of fact, we have more to lose than the Soviets from such a competition.

This amendment will halt United States testing of antisatellite weapons so long as the Soviets refrain from testing their antisatellite weapons. This amendment is straightforward—it calls for a mutual moratorium. If the element of mutuality is not maintained, we are not bound by the amendment.

Followed by neogitations to ban antisatellite weapons and other space weapons, such a mutual moratorium could be the first step in avoiding the militarization of space.

By adopting this amendment, the Congress would be serving the interests of arms control and U.S. natioal security, and most importantly we would enhance the prospects for preserving the use of space for peaceful purposes.

Mr. GORE. Mr. Chairman, first of all let me explain why I am offering this amendment. This is essentially the Brown-Coughlin amendment. It has minor changes in the wording and its principal purpose is to insure that the first vote which occurs will be on the essence of the Brown-Coughlin amendment.

Now, let me speak to the merits of this issue. I urge my colleagues to listen, those who are in their offices watching on television. I think this is one of the most important arms control votes in this Congress or in any other Congress.

I implore you as a Member who has worked long and hard on arms control issues and as one who has worked with the administration when I felt the administration was right.

I believe the administration is wrong on this antisatellite question. We have here in essence a fail-safe point. If we cross this threshold, then the sky is the limit. It is "Katie, bar the door."

Why? Because the strategic satellites are perhaps the most stabilizing element in the nuclear arms race today. They give both sides the ability to see and hear what is going on in the other country. We can monitor testing programs. We can see their ICBM sites. We can see when they launch missiles and when they test missiles. And, I might add, we in the United States have a much more elaborate and sophisticated and valuable capability in space than does the Soviet Union.

It is to our advantage to have a ban on systems that threaten satellites.

Now, much has been made of the fact that the Soviet Union has tested a system. The United States tested a system. We have conducted more tests than the Soviet Union has, a cumbersome system that would explode Soviet satellites. We dismantled it. We dismantled it several years ago.

Their system is very primitive and very cumbersome. It relies on explosive devices. It can only get at low-altitude systems.

The F-15 system which we are prepared to test against an object in space has the ability to be upgraded without the Soviet Union finding out about the upgrading. It is nonverifiable. It has the ability to be upgraded to threaten not only the low-altitude satellites, but also the very high-altitude satellites upon which stability depends.

Do not vote for the McCurdy amendment. My colleague is an excellent Member who is well intentioned, but his amendment is based on the wrong premise. He would allow the administration to go forward with what it wants to do when the chief problem is, at least on this case, that the administration has said that it does not want to even talk to the Soviets about weapons in space or about the ability to get a treaty there.

Do not vote for the Byron amendment, again a well-intentioned effort, but again it is based on the wrong premise.

We have a qualitative leap frog problem here, not a simple numerical effort to have the exact number of tests. It is a different system with different capabilities.

Vote for the Brown-Coughlin amendment. The first vote will occur on the Brown-Coughlin amendment, in essence.

Now, in microcosm, this issue really represents the fundamental challenge of our times. Are we going to be up to the task of arms control or are we going to surrender to the inexorable march of technology and when one side gets some new technological development, do we automatically have to get one better than them, no matter whether or not it pushes us beyond any capability to have verifiable arms control?

If we are going to stop the nuclear arms race, we have got to be willing to assert arms control prerogatives and say that technology does not always come first. Stability comes first and when we have a technological development that we know threatens all future arms control efforts, we have a responsibility in this Congress to speak out and say no, let us stop it. We have an opportunity to have a moratorium. Let us vote for the Brown-Coughlin amendment.

Mr. DICKINSON. Mr. Chairman, I will accept the gentleman's amendment.

Mr. DICKS. Mr. Chairman, what is the pending business? Is the pending business the Gore amendment to the Brown-Coughlin amendment? That has not been accepted, has it?

The CHAIRMAN pro tempore. The pending business before the House is the perfecting amendment to the amendment proposed by the gentleman from Tennessee (Mr. GORE).

Mr. DICKINSON. Mr. Chairman, I would just like to say that I will accept the amendment of the gentleman from Tennessee, and I yield my 3 minutes to the gentleman from New York (Mr. STRATTON).

Mr. GORE. Mr. Chairman, reserving the right to object——

The CHAIRMAN pro tempore. The situation is that the gentleman from New York has 6 minutes remaining.

Mr. GORE. As long as it is not going to be done by unanimous consent. We want the test vote to be first on the Brown-Coughlin amendment.

The CHAIRMAN pro tempore. There has been no unanimous consent request made.

The gentleman from New York (Mr. STRATTON) is recognized.

Mr. STRATTON. Mr. Chairman, I do not pretend to be an expert in research and development matters, but I have been advised by the committee staff that there have been a number of items of misinformation that have been used in debate on this particular amendment.

I think it is important that these technical staff personnel should have the opportunity to bring to the attention of leaders of the committee statements that are based on technically incorrect information.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. STRATTON. I regret that I cannot yield.

We have been told that the United States had developed 15 years ago an ASAT system which the Soviets are testing today. This is not true, I am advised. The old U.S. system was Project 457. It was a booster that was aimed at a particular point in space and was totally different from the current Soviet system, which can actually transfer orbits.

Those who are supporting the Brown amendment claim that the Soviet ASAT system is a model T. This model T, however, has succeeded 9 out of 15 times and this is a clearly sophisticated system.

There has also been some discussion about whether the Soviets have any boosters ready to launch their ASAT's. Well, the fact is that the Soviets have all kinds of boosters, as we know from

the throw weight of their ICBM's. In fact, exactly what is a booster is a matter of some question. For example, you can use a low-power laser to blind detectors and, therefore, it becomes an actual ASAT and a booster ready to do the job of an ASAT.

□ 1900

We are told that the Soviets have offered us a treaty. But the fact is that that treaty they have offered would terminate our current shuttle program. What kind of an adequate or fair treaty is that?

The gentleman from Tennessee (Mr. GORE) says that the Brown amendment will not ban R&D. But what good is R&D if there is no testing?

Research and development is not worth much unless we find out that what you are developing works.

Finally, Mr. Chairman, it seems to me that those who have been arguing so strongly in favor of the Brown-Coughlin amendment are a little bit out of touch about what has been happening in arms control with the Soviet Union over the last few years. For one thing there is no capability for verifying whether they are testing or whether they are not. And if we are talking about the feasibility of entering into another arms control agreement with the Soviets, consider the arms control agreement we have already entered into?

The Soviets have walked out of the arms control discussions in Geneva on the INF. The Soviets have walked out of the START discussions on arms control. Why is there likely to be any difference with another such treaty that will not even be considered?

The outcome of these latest negotiations has been the most consistent program of vituperation and threats from the Soviets we have ever seen.

The CHAIRMAN pro tempore. All time has expired.

The question is on the perfecting amendment offered by the gentleman from Tennessee (Mr. GORE) to the amendment offered by the gentleman from California (Mr. BROWN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GORE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 181, not voting 14, as follows:

[Roll No. 171]

AYES—238

Ackerman	Bedell	Bonior
Addabbo	Beilenson	Bonker
Albosta	Bereuter	Borski
Alexander	Berman	Bosco
Anderson	Biaggi	Boucher
Aspin	Boehlert	Boxer
AuCoin	Boggs	Britt
Barnes	Boland	Broomfield
Bates	Boner	Brown (CA)
Brown (CO)	Heftel	Penny
Bryant	Hertel	Pepper
Burton (CA)	Hopkins	Pickle
Carper	Horton	Porter
Carr	Howard	Pritchard
Chandler	Hoyer	Pursell
Clarke	Huckaby	Rahall
Clay	Hughes	Rangel
Clinger	Jacobs	Ratchford
Coelho	Jeffords	Regula
Collins	Jenkins	Reid
Conte	Johnson	Richardson
Conyers	Jones (NC)	Ridge
Cooper	Jones (TN)	Rinaldo
Coughlin	Kaptur	Ritter
Coyne	Kastenmeier	Rodino
Crockett	Kennelly	Roe
D'Amours	Kildee	Roemer
Daschle	Kleczka	Rose
Dellums	Kogovsek	Rostenkowski
Derrick	Kolter	Roukema
Dicks	Kostmayer	Rowland
Dingell	Kramer	Roybal
Dixon	LaFalce	Russo
Donnelly	Lantos	Sabo
Dorgan	Leach	Savage
Downey	Lehman (CA)	Scheuer
Durbin	Lehman (FL)	Schroeder
Dwyer	Leland	Schumer
Dymally	Levin	Seiberling
Early	Levine	Shannon
Eckart	Levitas	Sikorski
Edgar	Lipinski	Simon
Edwards (CA)	Long (LA)	Slattery
Evans (IA)	Long (MD)	Smith (FL)
Evans (IL)	Lowry (WA)	Smith (IA)
Fascell	Luken	Smith (NJ)
Fazio	MacKay	Snowe
Feighan	Martinez	Solarz
Ferraro	Matsui	Spratt
Fish	Mavroules	St Germain
Florio	Mazzoli	Staggers
Foglietta	McCloskey	Stark
Foley	McHugh	Stokes
Ford (MI)	McKernan	Studds
Ford (TN)	McKinney	Swift
Fowler	McNulty	Synar
Frank	Mica	Tallon
Frenzel	Miller (CA)	Tauke
Garcia	Mineta	Torres
Gaydos	Minish	Towns
Gejdenson	Mitchell	Traxler
Gephardt	Moakley	Udall
Gibbons	Mollohan	Vento
Gilman	Moody	Volkmer
Glickman	Moore	Walgren
Goodling	Morrison (CT)	Waxman
Gore	Mrazek	Weaver
Gradison	Murphy	Weiss
Gray	Murtha	Wheat
Green	Neal	Williams (MT)
Guarini	Nowak	Williams (OH)
Gunderson	Oakar	Wirth
Hall (IN)	Oberstar	Wise
Hall (OH)	Obey	Wolpe
Hamilton	Olin	Wyden
Harkin	Ottinger	Yates
Harrison	Owens	Yatron
Hawkins	Oxley	Zschau
Hayes	Panetta	
Hefner	Pease	

NOES—181

Akaka	Cheney	Edwards (OK)
Andrews (TX)	Coats	Emerson
Annunzio	Coleman (MO)	English
Anthony	Coleman (TX)	Erdreich
Applegate	Conable	Erlenborn
Archer	Corcoran	Fiedler
Badham	Craig	Fields
Bartlett	Crane, Daniel	Flippo
Bateman	Crane, Philip	Franklin
Bennett	Daniel	Frost
Bethune	Dannemeyer	Fuqua
Bevill	Darden	Gekas
Bilirakis	Daub	Gingrich
Bliley	Davis	Gonzalez
Breaux	de la Garza	Gregg
Broyhill	DeWine	Hall, Ralph
Burton (IN)	Dickinson	Hall, Sam
Byron	Dowdy	Hammerschmidt
Campbell	Dreier	Hansen (UT)
Carney	Duncan	Hartnett
Chappell	Dyson	Hatcher
Chappie	Edwards (AL)	Hightower
Hiler	Michel	Skelton
Hillis	Miller (OH)	Smith (NE)
Holt	Molinari	Smith, Denny
Hubbard	Montgomery	Smith, Robert
Hunter	Moorhead	Snyder
Hutto	Morrison (WA)	Solomon
Hyde	Myers	Spence
Ireland	Natcher	Stangeland
Jones (OK)	Nelson	Stenholm
Kasich	Nichols	Stratton
Kazen	Nielson	Stump
Kemp	O'Brien	Sundquist
Kindness	Ortiz	Tauzin
Lagomarsino	Packard	Taylor
Latta	Parris	Thomas (CA)
Leath	Pashayan	Thomas (GA)
Lent	Patman	Torricelli
Lewis (CA)	Paul	Valentine
Lewis (FL)	Perkins	Vander Jagt
Livingston	Petri	Vandergriff
Lloyd	Price	Vucanovich
Loeffler	Quillen	Walker
Lott	Ray	Watkins
Lowery (CA)	Roberts	Weber
Lujan	Robinson	Whitehurst
Lungren	Rogers	Whitley
Mack	Roth	Whittaker
Madigan	Rudd	Whitten
Marlenee	Sawyer	Wilson
Marriott	Schaefer	Winn
Martin (IL)	Schneider	Wolf
Martin (NY)	Schulze	Wortley
McCain	Shaw	Wright
McCandless	Shelby	Wylie
McCollum	Shumway	Young (AK)
McCurdy	Shuster	Young (FL)
McDade	Siljander	Young (MO)
McEwen	Sisisky	
McGrath	Skeen	

NOT VOTING—14

Andrews (NC)	Hance	Mikulski
Barnard	Hansen (ID)	Patterson
Brooks	Lundine	Sensenbrenner
Courter	Markey	Sharp
Gramm	Martin (NC)	

□ 1920

Messrs. ROBERT F. SMITH, BILIRAKIS, ANNUNZIO, APPLEGATE, and CARNEY changed their votes from "aye" to "no."

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STRATTON TO THE AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA, AS AMENDED

Mr. STRATTON. Mr. Chairman, I offer an amendment to the amendment as amended.

The Clerk read as follows:

Amendment offered by Mr. STRATTON to the amendment offered by Mr. BROWN of California: In the section proposed to be inserted by the amendment strike out "(a) During the period" and all that follows and insert in lieu thereof the following: Notwithstanding any previous amendment (a) Except as provided in subsection (b), no funds appropriated pursuant to authorizations of appropriations in this title may be used for testing of the Space Defense System (anti-satellite weapon) if such test would cause the number of such tests to exceed the number of operational and developmental tests conducted before the date of the enactment of this Act by the Soviet Union (as certified to Congress by the President) of an anti-satellite interceptor weapon against an object in space.

(b) Subsection (a) shall not apply if (and after the date on which) the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment

of this Act, a further test of an anti-satellite interceptor weapon.

(c) For purposes of this section, the term "anti-satellite interceptor weapon" means a mechanical device that damages or destroys an object in space by impacting the object or exploding in close proximity to it.

Mr. DICKINSON (during the reading). Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DICKINSON. Mr. Chairman, we do not have a copy of the amendment, and we cannot hear.

The CHAIRMAN pro tempore. The Clerk will continue to report the amendment.

The Clerk concluded the reading of the amendment.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from Alabama will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Chairman, it was my understanding that there was a limitation on debate, and that that time has now arrived and that no debate in permitted even on the new amendment as offered; is that correct?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. DICKINSON. Well, my question is: How will we know what is in it if we cannot hear the reading by the Clerk and we do not have copies and it cannot be discussed?

The CHAIRMAN pro tempore. The Chair must advise the gentleman that he has not stated a parliamentary inquiry, that the Clerk has reported the amendment and the question now comes upon the amendment.

The question is on the amendment offered by the gentleman from New York (Mr. STRATTON) to the amendment offered by the gentleman from California (Mr. BROWN), as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from New York will state his parliamentary inquiry.

Mr. STRATTON. Mr. Chairman, is it proper to state that this is essentially the Byron amendment?

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. The gentleman asks for a recorded vote. As many as are in favor of taking this vote by a recorded vote will stand and remain standing until counted.

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman from Washington will state his point of order.

Mr. DICKS. Mr. Chairman, I thought the Chair had announced the vote, and that the gentleman asked unanimous consent to do something else. He had his opportunity.

The CHAIRMAN pro tempore. The Chair announced the result of the vote by voice.

The gentleman from New York (Mr. STRATTON) has now asked for a recorded vote.

□ 1930

Mr. COUGHLIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state the parliamentary inquiry.

Mr. COUGHLIN. If you favored the Brown-Coughlin amendment and voted yes last time, you would then vote no this time?

The CHAIRMAN pro tempore. The Chair will state that that is not a parliamentary inquiry.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 236, not voting 19, as follows:

[Roll No. 172]

AYES—178

Akaka	Fields	McEwen
Anderson	Flippo	McGrath
Andrews (TX)	Franklin	Michel
Annunzio	Frost	Miller (OH)
Anthony	Fuqua	Molinari
Applegate	Gekas	Montgomery
Archer	Gingrich	Moorhead
Badham	Gregg	Morrison (WA)
Bartlett	Hall, Ralph	Myers
Bateman	Hall, Sam	Natcher
Bennett	Hammerschmidt	Nelson
Bethune	Hansen (UT)	Nichols
Bevill	Hartnett	Nielson
Bilirakis	Hatcher	O'Brien
Bliley	Heftel	Ortiz
Breaux	Hightower	Oxley
Broomfield	Hiler	Packard
Brown (CO)	Hillis	Parris
Broyhill	Holt	Pashayan
Burton (IN)	Hubbard	Patman
Byron	Hunter	Paul
Campbell	Hutto	Petri
Carney	Hyde	Price
Chappell	Ireland	Quillen
Chappie	Kasich	Ray
Cheney	Kazen	Roberts
Coats	Kemp	Robinson
Coleman (MO)	Kindness	Rogers
Coleman (TX)	Kramer	Roth
Conable	Lagomarsino	Rudd
Corcoran	Latta	Sawyer
Craig	Leath	Schaefer
Crane, Daniel	Lent	Schulze
Crane, Philip	Lewis (CA)	Shaw
Daniel	Lewis (FL)	Shelby
Dannemeyer	Livingston	Shumway
Darden	Lloyd	Shuster
Daub	Loeffler	Siljander
Davis	Lott	Sisisky
de la Garza	Lowery (CA)	Skeen
DeWine	Lujan	Skelton
Dickinson	Lungren	Smith (NE)
Dreier	Mack	Smith, Denny
Duncan	Madigan	Smith, Robert
Dyson	Marlenee	Snyder
Edwards (AL)	Marriott	Solomon
Edwards (OK)	Martin (IL)	Spence
Emerson	Martin (NY)	Stangeland
Erdreich	McCain	Stenholm
Erlenborn	McCandless	Stratton
Fiedler	McCollum	Stump
Sundquist	Vucanovich	Winn
Tauzin	Walker	Wolf
Taylor	Weber	Wortley
Thomas (CA)	Whitehurst	Wright
Thomas (GA)	Whitley	Wylie
Torricelli	Whittaker	Young (AK)
Valentine	Whitten	Young (MO)
Vander Jagt	Williams (OH)	
Vandergriff	Wilson	

NOES—236

Ackerman	Goodling	Obey
Addabbo	Gore	Olin
Albosta	Gradison	Ottinger
Alexander	Gray	Owens
Aspin	Green	Panetta
AuCoin	Guarini	Patterson
Barnes	Gunderson	Pease
Bates	Hall (IN)	Penny
Bedell	Hall (OH)	Pepper
Beilenson	Hamilton	Perkins
Bereuter	Harkin	Pickle
Berman	Harrison	Porter
Biaggi	Hayes	Pritchard
Boehlert	Hefner	Pursell
Boggs	Hertel	Rahall
Boland	Hopkins	Rangel
Boner	Horton	Ratchford
Bonior	Howard	Regula
Bonker	Hoyer	Reid
Borski	Huckaby	Richardson
Bosco	Hughes	Ridge
Boucher	Jacobs	Rinaldo
Boxer	Jeffords	Ritter
Britt	Jenkins	Rodino
Brown (CA)	Johnson	Roe
Bryant	Jones (NC)	Roemer
Burton (CA)	Jones (OK)	Rose
Carper	Jones (TN)	Rostenkowski
Carr	Kaptur	Roukema
Chandler	Kastenmeier	Rowland
Clarke	Kennelly	Roybal
Clay	Kildee	Russo
Clinger	Kleczka	Sabo
Coelho	Kogovsek	Savage
Collins	Kolter	Scheuer
Conte	Kostmayer	Schneider
Conyers	LaFalce	Schroeder
Cooper	Lantos	Schumer
Coughlin	Leach	Seiberling
Coyne	Lehman (CA)	Shannon
D'Amours	Lehman (FL)	Sikorski
Dellums	Leland	Simon
Derrick	Levin	Slattery
Dicks	Levine	Smith (FL)
Dingell	Levitas	Smith (IA)
Dixon	Lipinski	Smith (NJ)
Donnelly	Long (LA)	Snowe
Dorgan	Long (MD)	Solarz
Downey	Lowry (WA)	Spratt
Durbin	Luken	St Germain
Dwyer	MacKay	Staggers
Dymally	Martinez	Stark
Early	Matsui	Stokes
Eckart	Mavroules	Studds
Edgar	Mazzoli	Swift
Edwards (CA)	McCloskey	Synar
English	McCurdy	Tallon
Evans (IA)	McDade	Tauke
Evans (IL)	McHugh	Torres
Fascell	McKernan	Towns
Fazio	McKinney	Traxler
Feighan	McNulty	Udall
Ferraro	Mica	Vento
Fish	Miller (CA)	Volkmer
Florio	Mineta	Walgren
Foglietta	Minish	Waxman
Foley	Mitchell	Weaver
Ford (MI)	Moakley	Weiss
Ford (TN)	Mollohan	Wheat
Fowler	Moody	Williams (MT)
Frank	Moore	Wirth
Frenzel	Morrison (CT)	Wise
Garcia	Mrazek	Wolpe
Gaydos	Murphy	Wyden
Gejdenson	Murtha	Yates
Gephardt	Neal	Yatron
Gibbons	Nowak	Young (FL)
Gilman	Oakar	Zschau
Gonzalez	Oberstar	

NOT VOTING—19

Andrews (NC)	Courter	Dowdy
Barnard	Crockett	Glickman
Brooks	Daschle	Gramm

Hance	Markey	Sharp
Hansen (ID)	Martin (NC)	Watkins
Hawkins	Mikulski	
Lundine	Sensenbrenner	

□ 1940

Mr. MOORE and Mr. MICA changed their votes from "aye" to "no."

So the amendment to the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASPIN TO THE AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS AMENDED

Mr. ASPIN. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. ASPIN to the amendment offered by Mr. BROWN of California as amended: At the end of the amendment add the following: "Notwithstanding any other provision of this section, no funds appropriated pursuant to authorizations of appropriations in this title may be used for testing of the Space Defense system (anti-satellite weapon) against an object in space unless and until the President certifies to Congress that the Soviet Union has conducted, after the date of enactment of this Act, a test of a dedicated anti-satellite weapon.".

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DICKS. Mr. Chairman, is a vote for this a yea vote on the Coughlin-Brown original amendment?

The CHAIRMAN pro tempore. The gentleman is not propounding a parliamentary inquiry.

□ 1950

The question is on the amendment offered by the gentleman from Wisconsin (Mr. ASPIN) to the amendment offered by the gentleman from California (Mr. BROWN), as amended.

The question was taken; and on a division (demanded by Mr. KRAMER) there were—ayes 96, noes 78.

So the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. BYRON) to the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY) as a substitute for the amendment offered by the gentleman from California (Mr. BROWN), as amended.

PARLIAMENTARY INQUIRY

Mr. KRAMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. KRAMER. Mr. Chairman, is the matter now before the House the Byron-Kramer amendment, which amendment allows the United States to test only to the level of Soviet capability?

The CHAIRMAN pro tempore. The Chair will state that the gentleman is not stating a parliamentary inquiry.

The question is on the amendment offered by the gentlewoman from Maryland (Mrs. BYRON) to the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY) as a substitute for the amendment offered by the gentleman from California (Mr. BROWN), as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken my electronic device, and there were—ayes 181, noes 229, not voting 23, as follows:

[Roll No. 173]

AYES—181

Anderson	Hall, Sam	Pashayan
Andrews (TX)	Hammerschmidt	Patman
Annunzio	Hansen (UT)	Paul
Anthony	Hartnett	Perkins
Applegate	Hatcher	Petri
Archer	Hightower	Quillen
Badham	Hiler	Ray
Bartlett	Hillis	Ritter
Bateman	Holt	Roberts
Bennett	Hopkins	Robinson
Bethune	Hubbard	Rogers
Bevill	Hunter	Roth
Bilirakis	Hutto	Rudd
Bliley	Hyde	Sawyer
Breaux	Ireland	Schaefer
Broomfield	Jones (NC)	Schulze
Brown (CO)	Kasich	Shaw
Broyhill	Kazen	Shelby
Burton (IN)	Kemp	Shumway
Byron	Kramer	Shuster
Campbell	Lagomarsino	Siljander
Carney	Latta	Sisisky
Chappell	Leath	Skeen
Chappie	Lent	Skelton
Cheney	Levitas	Smith (NE)
Clinger	Lewis (CA)	Smith, Denny
Coats	Lewis (FL)	Smith, Robert
Coleman (MO)	Livingston	Snyder
Coleman (TX)	Lloyd	Solomon
Conable	Loeffler	Spence
Corcoran	Lott	Stangeland
Craig	Lowery (CA)	Stenholm
Crane, Daniel	Lujan	Stratton
Crane, Philip	Lungren	Stump
Daniel	Mack	Sundquist
Dannemeyer	Madigan	Tauzin
Darden	Marlenee	Taylor
Daub	Marriott	Thomas (CA)
Davis	Martin (IL)	Thomas (GA)
de la Garza	Martin (NY)	Torricelli
DeWine	McCain	Valentine
Dickinson	McCandless	Vander Jagt
Dreier	McCollum	Vandergriff
Duncan	McEwen	Vucanovich
Dyson	McGrath	Walker
Edwards (AL)	Michel	Weber
Edwards (OK)	Miller (OH)	Whitehurst
Emerson	Molinari	Whitley
Erdreich	Montgomery	Whittaker
Erlenborn	Moorhead	Whitten
Fiedler	Morrison (WA)	Williams (OH)
Fields	Myers	Wilson
Flippo	Natcher	Winn
Franklin	Nelson	Wolf
Frost	Nichols	Wortley
Fuqua	Nielson	Wright
Gekas	O'Brien	Wylie
Gingrich	Ortiz	Young (AK)
Goodling	Oxley	Young (MO)
Gregg	Packard	
Hall, Ralph	Parris	

NOES—229

Ackerman	Akaka	Aspin
Addabbo	Albosta	AuCoin
Barnes	Gunderson	Panetta
Bates	Hall (IN)	Patterson
Bedell	Hall (OH)	Pease
Beilenson	Hamilton	Penny
Bereuter	Harkin	Pepper
Berman	Harrison	Pickle
Biaggi	Hayes	Porter
Boehlert	Hefner	Price
Boland	Heftel	Pritchard
Boner	Hertel	Pursell
Bonior	Horton	Rahall
Bonker	Howard	Rangel
Borski	Hoyer	Ratchford
Bosco	Huckaby	Regula
Boucher	Hughes	Reid
Boxer	Jacobs	Richardson
Britt	Jeffords	Ridge
Brown (CA)	Jenkins	Rinaldo
Bryant	Johnson	Rodino
Burton (CA)	Jones (OK)	Roe
Carper	Jones (TN)	Roemer
Carr	Kaptur	Rose
Chandler	Kastenmeier	Rostenkowski
Clarke	Kennelly	Roukema
Clay	Kildee	Rowland
Coelho	Kleczka	Roybal
Collins	Kogovsek	Russo
Conte	Kolter	Sabo
Conyers	Kostmayer	Savage
Cooper	LaFalce	Scheuer
Coughlin	Lantos	Schneider
Coyne	Leach	Schroeder
D'Amours	Lehman (CA)	Schumer
Dellums	Lehman (FL)	Seiberling
Derrick	Leland	Shannon
Dicks	Levin	Sikorski
Dingell	Levine	Simon
Dixon	Lipinski	Slattery
Donnelly	Long (LA)	Smith (FL)
Dorgan	Long (MD)	Smith (IA)
Downey	Lowry (WA)	Smith (NJ)
Durbin	Luken	Snowe
Dwyer	MacKay	Solarz
Dymally	Martinez	Spratt
Early	Matsui	St Germain
Eckart	Mavroules	Staggers
Edgar	Mazzoli	Stark
Edwards (CA)	McCloskey	Stokes
English	McCurdy	Studds
Evans (IA)	McDade	Swift
Evans (IL)	McHugh	Synar
Fascell	McKernan	Tallon
Fazio	McKinney	Tauke
Feighan	McNulty	Torres
Ferraro	Mica	Towns
Fish	Miller (CA)	Traxler
Florio	Mineta	Udall
Foglietta	Minish	Vento
Ford (MI)	Mitchell	Volkmer
Ford (TN)	Moakley	Walgren
Fowler	Mollohan	Waxman
Frank	Moody	Weaver
Frenzel	Moore	Weiss
Garcia	Morrison (CT)	Wheat
Gaydos	Mrazek	Williams (MT)
Gejdenson	Murphy	Wirth
Gephardt	Murtha	Wise
Gibbons	Neal	Wolpe
Gilman	Nowak	Wyden
Gonzalez	Oakar	Yates
Gore	Oberstar	Yatron
Gradison	Obey	Young (FL)
Gray	Olin	Zschau
Green	Ottinger	
Guarini	Owens	

NOT VOTING—23

Alexander	Dowdy	Lundine
Andrews (NC)	Foley	Markey
Barnard	Glickman	Martin (NC)
Boggs	Gramm	Mikulski
Brooks	Hance	Sensenbrenner
Courter	Hansen (ID)	Sharp
Crockett	Hawkins	Watkins
Daschle	Kindness	

□ 2000

So the amendment to the amendment offered as a substitute for the amendment, as amended, was rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oklahoma

(Mr. McCURDY) as a substitute for the amendment offered by the gentleman from California (Mr. BROWN) as amended.

The question was taken, and on a division (demanded by Mr. McCURDY) there were—ayes 114, noes 102.

RECORDED VOTE

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 228, not voting 19, as follows:

[Roll No. 174]

AYES—186

Akaka	Hall, Ralph	Pashayan
Andrews (NC)	Hall, Sam	Patman
Andrews (TX)	Hammerschmidt	Paul
Annunzio	Hansen (UT)	Perkins
Anthony	Hartnett	Petri
Applegate	Hatcher	Price
Archer	Hightower	Quillen
Badham	Hiler	Ray
Bartlett	Hillis	Ritter
Bateman	Holt	Roberts
Bennett	Hubbard	Robinson
Bethune	Hunter	Rogers
Bevill	Hutto	Roth
Bilirakis	Hyde	Rudd
Bliley	Ireland	Sawyer
Breaux	Jones (OK)	Schaefer
Broomfield	Kasich	Schulze
Brown (CO)	Kazen	Shaw
Broyhill	Kemp	Shelby
Burton (IN)	Kramer	Shumway
Byron	Lagomarsino	Shuster
Campbell	Latta	Siljander
Carney	Leath	Sisisky
Chappell	Lent	Skeen
Chappie	Lewis (CA)	Skelton
Cheney	Lewis (FL)	Slattery
Coats	Livingston	Smith (NE)
Coleman (MO)	Lloyd	Smith, Denny
Coleman (TX)	Loeffler	Smith, Robert
Conable	Lott	Snyder
Corcoran	Lowery (CA)	Solomon
Craig	Lujan	Spence
Crane, Daniel	Lungren	Stangeland
Crane, Philip	Mack	Stenholm
Daniel	Madigan	Stratton
Dannemeyer	Marlenee	Stump
Darden	Marriott	Sundquist
Daub	Martin (IL)	Tauzin
Davis	Martin (NY)	Taylor
de la Garza	McCain	Thomas (CA)
DeWine	McCandless	Thomas (GA)
Dickinson	McCollum	Torricelli
Dreier	McCurdy	Valentine
Duncan	McDade	Vander Jagt
Dyson	McEwen	Vandergriff
Edwards (AL)	McGrath	Volkmer
Edwards (OK)	Michel	Vucanovich
Emerson	Miller (OH)	Walker
English	Molinari	Weber
Erdreich	Montgomery	Whitehurst
Erlenborn	Moorhead	Whitley
Fiedler	Morrison (WA)	Whittaker
Fields	Myers	Whitten
Flippo	Natcher	Williams (OH)
Franklin	Nelson	Wilson
Frost	Nichols	Winn
Fuqua	Nielson	Wolf
Gekas	O'Brien	Wortley
Gilman	Ortiz	Wright
Gingrich	Oxley	Wylie
Gregg	Packard	Young (AK)
Gunderson	Parris	Young (MO)

NOES—228

Ackerman	Bereuter	Boucher
Addabbo	Berman	Boxer
Albosta	Biaggi	Britt
Anderson	Boehlert	Brown (CA)
Aspin	Boggs	Bryant
AuCoin	Boland	Burton (CA)
Barnes	Boner	Carper
Bates	Bonior	Carr
Bedell	Borski	Chandler
Beilenson	Bosco	Clarke
Clay	Hoyer	Pepper
Clinger	Huckaby	Pickle
Coelho	Hughes	Porter
Collins	Jacobs	Pritchard
Conte	Jeffords	Pursell
Conyers	Jenkins	Rahall
Cooper	Johnson	Rangel
Coughlin	Jones (NC)	Ratchford
Coyne	Jones (TN)	Regula
D'Amours	Kaptur	Reid
Daschle	Kastenmeier	Richardson
Dellums	Kennelly	Ridge
Derrick	Kildee	Rinaldo
Dicks	Kleczka	Rodino
Dingell	Kogovsek	Roe
Dixon	Kolter	Roemer
Donnelly	Kostmayer	Rose
Dorgan	LaFalce	Rostenkowski
Downey	Lantos	Roukema
Durbin	Leach	Rowland
Dwyer	Lehman (CA)	Roybal
Dymally	Lehman (FL)	Russo
Early	Leland	Sabo
Eckart	Levin	Savage
Edgar	Levine	Scheuer
Edwards (CA)	Levitas	Schneider
Evans (IA)	Lipinski	Schroeder
Evans (IL)	Long (LA)	Schumer
Fascell	Long (MD)	Seiberling
Fazio	Lowry (WA)	Shannon
Feighan	Luken	Sikorski
Ferraro	MacKay	Simon
Fish	Martinez	Smith (FL)
Florio	Matsui	Smith (IA)
Foglietta	Mavroules	Smith (NJ)
Foley	Mazzoli	Snowe
Ford (MI)	McCloskey	Solarz
Ford (TN)	McHugh	Spratt
Fowler	McKernan	St Germain
Frank	McKinney	Staggers
Frenzel	McNulty	Stark
Garcia	Mica	Stokes
Gaydos	Miller (CA)	Studds
Gejdenson	Mineta	Swift
Gephardt	Minish	Synar
Gibbons	Mitchell	Tallon
Gonzalez	Moakley	Tauke
Goodling	Mollohan	Torres
Gore	Moody	Towns
Gradison	Moore	Traxler
Gray	Morrison (CT)	Udall
Green	Mrazek	Vento
Guarini	Murphy	Walgren
Hall (IN)	Murtha	Waxman
Hall (OH)	Neal	Weaver
Hamilton	Nowak	Weiss
Harkin	Oakar	Wheat
Harrison	Oberstar	Williams (MT)
Hawkins	Obey	Wirth
Hayes	Olin	Wise
Hefner	Ottinger	Wolpe
Heftel	Owens	Wyden
Hertel	Panetta	Yates
Hopkins	Patterson	Yatron
Horton	Pease	Young (FL)
Howard	Penny	Zschau

NOT VOTING—19

Alexander	Glickman	Martin (NC)
Barnard	Gramm	Mikulski
Bonker	Hance	Sensenbrenner
Brooks	Hansen (ID)	Sharp
Courter	Kindness	Watkins
Crockett	Lundine	
Dowdy	Markey	

□ 2020

Mr. BEVILL changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment, as amended, offered by the gentleman from California (Mr. BROWN).

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Page 15, after line 15, strike out "$8,929,757,000" and insert in lieu thereof "$6,878,644,000".

Page 16, after line 2, insert the following new subsection:

(c) None of the funds appropriated pursuant to the authorizations of appropriations in this section may be obligated or expended for the Trident II missile program.

□ 2030

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. WEISS) for 5 minutes.

Mr. WEISS. Mr. Chairman, I know that the hour is late, and I do not think this debate will take very long. Indeed, the debate would not have been necessary except for the fact that my request to couple this with an amendment that I offered to the procurement funds in title I was objected to. So, here we are, but only for a brief period of time.

Because the hour is late, I know that there is a possibility of confusing this issue. This is an amendment to delete $2,050,000,000 for research and development purposes in title II for the Trident II missile. Now, I stress Trident II missile because otherwise some might think what we are trying to do is to remove funding for a new highly explosive, sugarless chewing gum; not so.

Others may think that what we are trying to do is to delete funding for the Trident submarine; not true. We are simply removing research and development funds for the Trident II missile.

Last week, when we had a discussion of the procurement funds of $152 million, I focused on the importance of deleting this particular weapon system because of its destabilizing effect. It is likely to bring us closer to nuclear war because it is so accurate; because it is so powerful; because the arrival time from launch time is only 15 minutes.

Today, I do not want to focus on those issues; I assume that Members will remember them. I want to focus on budgetary questions at this point. There is a lot of talk about the defense budget, and this year the request is for $305 billion. There is talk that you cannot really save money by eliminating weapons systems. They will always give you some kind of argument that ultimately even if you cut the weapons system, all you are saving for the year is about 18 cents.

Here is an opportunity to save for this coming fiscal year alone, $2,050,000,000 in research funds for a duplicative, superfluous, dangerous, unnecessary weapon system. Not only would it save $2,050,000,000 this year,

but in the course of the coming fiscal years through fiscal year 1989, there would be a total of $7.84 billion that would be saved. On top of that, an additional $10.4 billion would be saved in production of the Trident II missile.

What we are talking about here is the savings to the taxpayer of almost $20 billion by eliminating this particular weapon system. And by eliminating the system, we do not do any damage at all to the defense capacity of the United States of America. That is because there exists already completed some 595 Trident I missiles which have come off the production line. Some of them have already been placed on the Poseidon submarine; they are scheduled to be placed in the eight of the Trident submarines. The Trident I does just as much damage, although it is not as accurate and not as powerful as the Trident II, and therefore not as destabilizing. It makes much more sense, it seems to me, to save that money right now, to demonstrate to the American people that this Congress will not blindly spend billions upon billions no matter how redundant, no matter how duplicative these weapons systems may be.

Otherwise we shortchange the very defense structure that we claim that we want to strengthen. Through 1981 we have purchased eight Trident submarines. Since 1982, we have been able to purchase only one. Why? Because having gone down the line buying every weapon system anyone has thought of we could not afford to buy any more submarines.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WEISS) has expired.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that I be allowed to continue for 3 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Mr. Chairman, reserving the the right to object, I did not hear the gentleman's request.

The CHAIRMAN pro tempore. The gentleman's request was to continue for 3 additional minutes.

Mr. DICKINSON. Mr. Chairman, I withdraw my reservation of objection.

Mr. WEISS. I thank the gentleman for his courtesy.

My colleagues, we have to start making choices. We cannot afford everything. We cannot say, well, gee, if it is new, if it is more powerful, then we have got to have it. In this instance there is a weapons system in the form of the Trident I in place, manufactured, ready to arm all 20 of the Trident submarines that have been scheduled to be built.

It seems to me what we can do is to both help the defense of this country and also to save the taxpayers large amounts of money. This is an opportunity for a demonstration by this House, that we do recognize that the taxpayers' dollars are not ours to squander, and that we have an obligation to spend that money as wisely as we possibly can.

Our failure to do so will ultimately bankrupt our Nation and bring us ever so much closer to nuclear war.

Mr. PRICE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know the gentleman from New York is sincere in his opposition to this program. However, the House has voted on this issue before, and I hope the House will again reject this amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I will try to be brief, but just to remind the Members, yesterday we had a vote on a similar issue to take out the money for production money; procurement of the D-5 missile. The House voted that down. If you were to do something effective and really want to kill the missile, then you take out the money for procurement. We have already put in the money, we approved that yesterday for procurement.

This is strictly research and development money. So, it is sort of ludicrous to approve the Trident submarine, which we have. We have three more building. We already have launched the sixth one, and not approved the research and development money for the missile which is provided in this section here.

So I would hope that the House would be consistent and if they understand it, I think they will be consistent and vote against the amendment.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman, very briefly.

Mr. WEISS. Would the gentleman agree with me that the Trident submarines that are now on line in fact are fitting with the Trident I missile?

Mr. DICKINSON. Some at sea are, but as I said, we have just launched one that has not been fitted. We have three more on the way, being built. In addition to which the British are buying the same missile, the D-5, that we have agreed to. We have an agreement with them that we do not want to breach. It affects all of NATO, and I think we have pretty well exhausted the subject, and, Mr. Chairman, I would ask for a vote.

□ 2040

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The amendment was rejected.

Mr. HUTTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage the chairman in a colloquy.

I am concerned that cuts in fiscal year 1985 research and development authorization requests, particularly in the area of countermeasures technology under Program Element 62734 (Navy) will cause a serious delay in our Navy and Marine Corps capabilities to counter the threat of mines and torpedos. You will recall that DOD requested nearly $31 million for this program element. The subcommittee cut this by $20 million during our markup. Can the chairman assure me that the $10 million being authorized in Program Element 62734 will be used for mine and torpedos countermeasures research programs?

Mr. PRICE. Mr. Chairman, if the gentleman will yield, the gentleman is entirely correct in his judgment that the Committee on Armed Services in its recommended reduction in the Navy countermeasures research and development program did not intend to adversely impact on the mine and torpedo countermeasures projects.

The reductions were to be applied to other projects including operational and infrared countermeasures but not into those areas associated with mine and torpedo technology.

Mr. HUTTO. I thank the committee chairman.

Mr. ZSCHAU. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to engage the distinguished chairman of the Committee on Armed Services in a short colloquy, and in particular to ask him a question concerning the role of university research in the DARPA strategic computing technology program. My question is prompted by what, at least at first glance, appears to be the termination of any university research involvement in that program.

In the past, this country's university research community has made a significant contribution to the scientific base for the strategic computing technology program. Recognizing that, I believe that these unique research resources should continue to play a role both in basic research and the application of research results into strategic computing. However, as I examine the bill before us, the Armed Services Committee bill appears to eliminate the entire funding for university research in these important areas of "intelligent systems."

I would like to inquire whether it is the committee's intent for DARPA to discontinue entirely any reliance on university research activities university research be continued consistent with the objectives of the strategic computing technology program and the funds that are available for such research.

Mr. PRICE. Mr. Chairman, if the gentleman will yield, it is the committee's intent to consolidate the funding

for both the university research and the applications research under the strategic computers program. If additional funds are needed by DARPA in fiscal year 1985, I would expect them to reprogram whatever additional money is needed.

Mr. ZSCHAU. So the distinguished chairman would just clarify that it was not the intent of the committee to eliminate entirely university research activities in strategic computers.

Mr. PRICE. The gentleman is correct.

Mr. ZSCHAU. I thank the distinguished chairman for that clarification.

The CHAIRMAN pro tempore. Are there further amendments to title II? If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Army.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $18,625,618,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, $6,531,303,000.

(2) For intelligence and communications, $1,132,268,000.

(3) For central supply and maintenance, $5,474,545,000.

(4) For training, medical, and other general personnel activities, $4,082,222,000.

(5) For administration, $1,204,431,000.

(6) For support of other nations, $200,849,000.

(b) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $25,437,826,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

(1) For strategic forces, $2,199,197,000.

(2) For general purpose forces, $11,974,964,000.

(3) For intelligence and communications, $1,117,427,000.

(4) For airlift and sealift, $552,826,000.

(5) For central supply and maintenance, $6,604,000,000.

(6) For training, medical, and other general personnel activities, $2,308,352,000.

(7) For administration, $678,548,000.

(8) For support of other nations, $2,512,000.

(c) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $1,638,969,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

(1) For general purpose forces, $890,381,000.

(2) For central supply and maintenance, $399,295,000.

(3) For training, medical, and other general personnel activities, $241,465,000.

(4) For administration, $107,828,000.

(d) AIR FORCE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $19,523,700,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

(1) For strategic forces, $3,176,840,000.

(2) For general purposes forces, $4,033,779,000.

(3) For intelligence and communications, $2,086,300,000.

(4) For airlift and sealift, $1,257,807,000.

(5) For central supply and maintenance, $6,382,950,000.

(6) For training, medical, and other general personnel activities, $2,024,659,000.

(7) For administration, $554,023,000.

(8) For support of other nations, $7,342,000.

(e) DEFENSE AGENCIES.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $7,095,370,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

(1) For general purpose forces, $315,358,000.

(2) For intelligence and communications, $2,509,741,000.

(3) For central supply and maintenance, $1,641,013,000.

(4) For training, medical, and other general personnel activities, $2,171,467,000.

(5) For administration, $457,791,000.

(f) ARMY RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $734,450,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army Reserve as follows:

(1) For mission forces, $421,069,000.

(2) For depot maintenance, $8,656,000.

(3) For other support, $304,725,000.

(g) NAVAL RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $837,431,000 for expenses, not otherwise provided for, for the operation and maintenance of the Naval Reserve as follows:

(1) For mission forces, $485,151,000.

(2) For depot maintenance, $153,176,000.

(3) For other support, $199,104,000.

(h) MARINE CORPS RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $58,642,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps Reserve as follows:

(1) For mission forces, $29,106,000.

(2) For depot maintenance, $1,665,000.

(3) For other support, $27,871,000.

(i) AIR FORCE RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $878,461,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force Reserve as follows:

(1) For mission forces, $574,030,000.

(2) For depot maintenance, $155,212,000.

(3) For other support, $149,219,000.

(j) ARMY NATIONAL GUARD.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $1,455,143,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army National Guard as follows:

(1) For training operations, $228,535,000.

(2) For logistic support, $1,096,270,000.

(3) For headquarters and command support, $117,429,000.

(4) For medical support, $12,909,000.

(k) AIR NATIONAL GUARD.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of $1,849,348,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air National Guard as follows:

(1) For mission forces, $1,381,937,000.

(2) For depot maintenance, $345,593,000.

(3) For other support, $121,818,000.

(l) NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY.—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of $914,000 for expenses of the Secretary of the Army, upon the recommendation of the National Board for the Promotion of Rifle Practice, under section 4308 of title 10, United States Code, and the expenses of the Secretary of the Army under sections 4309 and 4313 of such title.

(m) CLAIMS, DEFENSE.—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of $177,900,000 for payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions).

(n) COURT OF MILITARY APPEALS, DEFENSE.—There is hereby authorized to be appropriated for fiscal year 1985 the amount of $3,470,000 for salaries and expenses for the United States Court of Military Appeals.

GENERAL AUTHORIZATION OF APPROPRIATIONS FOR PAY RAISES, FUEL COSTS, AND INFLATION ADJUSTMENTS

SEC. 302. There are authorized to be appropriated for fiscal year 1985, in addition to the amounts authorized to be appropriated in section 301, such sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in section 301;

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by section 301.

AUTHORIZATION OF APPROPRIATIONS FOR WORKING-CAPITAL FUNDS

SEC. 303. Funds are hereby authorized to be appropriated for fiscal year 1985 to provide capital for working-capital funds of the Department of Defense in amounts as follows:

For the Army Stock Fund, $356,448,000.

For the Navy Stock Fund, $518,907,000.

For the Marine Corps Stock Fund, $34,908,000.

For the Air Force Stock Fund, $626,093,000.

For the Defense Stock Fund, $130,700,000.

ASSET CAPITALIZATION PROGRAM

SEC. 304. Section 2208 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The Secretary of Defense shall provide that of the total amount of payments received in a fiscal year by funds established under this section for industrial-type activities, not less than three percent during fiscal year 1985, not less than four percent during fiscal year 1986, and not less than five percent during fiscal year 1987 and each fiscal year thereafter shall be used for the acquisition of capital equipment for such activities.".

ADMINISTRATIVE TRANSITION PROVISION FOR NAVY STOCK FUND MANAGEMENT CHANGE

SEC. 305. (a) In the management of the Navy Stock Fund established under section 2208 of title 10, United States Code, the Secretary of the Navy may provide for a withdrawal credit to be made by the stock fund

to the current applicable appropriation accounts of an activity of the Navy in connection with the acquisition by that activity from the stock fund of supplies described in subsection (b). The amount of any such credit shall be the amount of the charge of the stock fund to the activity for the supplies.

(b) Subsection (a) applies in the case of the acquisition by an activity of the Navy from the Navy Stock Fund of supplies—

(1) that are aircraft components (or that are used in connection with aviation activities) that are repairable only at a repair depot; and

(2) that are capitalized into the Navy Stock Fund as a result of the management change effective on April 1, 1985, relating to depot-level repairable assets and that are changed to an activity of the Navy that is a customer of the Navy Stock Fund.

(c) A withdrawal credit may be made under this section without regard to the last sentence of section 2208(g) of title 10, United States Code.

SALE OF CERTAIN ARTICLES FINANCED BY WORKING-CAPITAL FUNDS

SEC. 306. Section 2208(h) of title 10, United States Code, is amended by inserting after the third sentence the following new sentence: "Such supplies (including manufactured articles and related services performed only in the United States) that are not readily available from a commercial source in the United States may also be sold, on a basis that does not interfere with the performance of a contract of the United States, to a United States manufacturer, assembler, or developer of items) to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign country.".

OPERATION AND MAINTENANCE OF CERTAIN T-43 AIRCRAFT

SEC. 307. The two existing T-43 type aircraft assigned as of the date of the enactment of this Act to Air National Guard Detachment 1 shall be operated on permanent assignment and shall be maintained to a configuration and standard commensurate with current airline industry practice. Such aircraft shall be available for contingent transportation of all senior officials of the Government, irrespective of branch. Each such aircraft shall be outfitted so as to be capable of direct communication to the National Military Command Center in the event of national emergency.

PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN INTERNATIONAL SPORTS ACTIVITIES

SEC. 308. (a) Section 717 of title 10, United States Code, relating to participation by members of the armed forces in international sports, is amended—

(1) by striking out the semicolon at the end of subsection (a)(1) and inserting in lieu thereof "and qualifying events and preparatory competition for those games;";

(2) by striking out "that competition" in subsection (a)(2) and inserting in lieu thereof "that competition, and qualifying events and preparatory competition for that competition";

(3) by striking out "(c), (d), and (e)" in subsection (b) and inserting in lieu therof "(c) and (d)";

(4) by striking out "Not more than $800,000" in subsection (c) and inserting in lieu thereof "(1) Not more than $3,000,000";

(5) by striking out "(d)" before "Not more than $100,000" and inserting in lieu thereof "(2)";

(6) by striking out "March 14, 1955" both places it appears and inserting in lieu thereof "October 1, 1980"; and

(7) by redesignating subsection (e) as subsection (d).

(b) The amendments made by subsection (a) do not constitute authority for the enactment of new budget authority for any fiscal year beginning before October 1, 1984.

LIMITATION ON USE OF AIRCRAFT FOR CERTAIN CIVILIAN LAW ENFORCEMENT PURPOSES

SEC. 309. (a) During fiscal year 1985 the Secretary of Defense may not use funds appropriated for operation and maintenance of the Armed Forces to provide shared-mission support for civilian law enforcement activities under chapter 18 of title 10, United States Code, through the use of radar detection aircraft in any month in excess of the level of such support, on an average monthly basis, provided under interagency agreements in effect on April 1, 1984, including specifically no more than 6 E-3A (AWACS) aircraft missions and no more than 50 E-2C aircraft flying hours during any month.

(b) During any period that not less than six refurbished Department of Defense radar detection aircraft are on loan to the Secretary of the Treasury for use for law enforcement purposes, no Department of Defense flying hours may be substantially dedicated to civilian law enforcement purposes.

AMENDMENT OFFERED BY MR. DANIEL

Mr. DANIEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIEL: On page 20, line 9, strike out "19,523,700,000" and insert in lieu thereof "19,523,800,000".

On page 20, line 17, strike out "6,382,950,000" and insert in lieu thereof "6,383,050,000".

Mr. DANIEL. Mr. Chairman, mindful of the beatitude, blessed are the brief for they shall be reinvited, I shall not take very long.

This amendment is to provide funding for a study which this committee mandated and we failed to provide the money to pay for it. It is a technical amendment and I ask for its approval.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, I agree with the explanation. We did order the study but we did not provide the wherewithal by which it was to be done. It was an oversight. We certainly accept the amendment over here.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. DANIEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Strike out section 306 (page 26, line 17 through line 5 on page 27) and insert in lieu thereof the following:

SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS

SEC. 306. Section 2208 of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i)(1) Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Department of the Army arsenal that manufactures large caliber cannons, gun mounts, or recoil mechanisms to be sold to a person outside the Department of Defense if—

"(A) the article is sold to a United States manufacturer, assembler, or developer (i) for use in developing new products, or (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign government;

"(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

"(C) the article is not readily available from a commercial source in the United States; and

"(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

"(2) Services related to an article sold under this subsection may also be sold to the purchaser if the services are to be performed in the United States for the purchaser.

"(3) Nothing in this subsection shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act to items which incorporate or are produced through the use of an article sold under this subsection.".

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. STRATTON. Mr. Chairman, section 306 of H.R. 5167 would permit the sale of articles produced in Government arsenals to U.S. manufacturers for use in developing new products to be sold to agencies of the United States or friendly foreign countries.

This section, as drafted, was intended to be compatible with export controls in section 38 of the Arms Export Control Act.

The Foreign Affairs Committee has requested that the committee consider restricting the authority for commercial purchases from Government arsenals only to those manufacturing large caliber cannons, gun mounts, or recoil mechanisms. They have also requested that section 306 clarify that such sales are subject to export controls specified in section 38 of the Arms Export Control Act.

This amendment to section 306 has been drafted in coordination with the Foreign Affairs Committee and fully satisfies the concerns of that committee and Chairman FASCELL has so stated in a letter to the Committee on Armed Services.

I urge the adoption of this amendment.

The letter follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., May 15, 1984.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, Washington, D.C.

DEAR MR. CHAIRMAN: With further reference to my letter of May 4, I am pleased to support an agreed upon amendment to be offered by Mr. Stratton, chairman of the Subcommittee on Procurement and Military Nuclear Systems, concerning the sale of articles manufactured by certain Department of the Army arsenals.

Under the proposed amendment to section 306 of H.R. 5167, Army arsenals at Watervliet and Rock Island may sell articles to qualified U.S. manufacturers, assemblers, and developers for sale to friendly foreign governments. The amendment makes clear that sales for purposes of export are subject to the procedures for control of arms exports under section 38 of the Arms Export Control Act. It is further my understanding that the requirements for cash terms similar to those for sales under section 30 of the Arms Export Control Act and the third-country transfer provisions of that Act will also be considered applicable.

I appreciate the efforts of our two Committees to resolve this issue. I would request and anticipate that this letter be placed in the Record at the point at which the amendment is offered on the House floor.

With best wishes, I am,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS
Washington, D.C., May 15, 1984.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, Washington, D.C.

DEAR MR. CHAIRMAN: With further reference to my letter of May 4, I am pleased to support an agreed upon amendment to be offered by Mr. Stratton, chairman of the Subcommittee on Procurement and Military Nuclear Systems, concerning the Special Defense Acquisition Fund (SDAF) and the use of receipts from foreign military sales from Defense Department stocks.

Under the proposed amendment to section 107 of H.R. 5167, sales from stock may be used to procure weapons, tracked combat vehicles and aircraft for the Army and the Air Force. Such an approach is consistent with the authorization in section 37(a) of the Arms Export Control Act for the use of receipts from sales from stock. However, none of these receipts will be deposited in the Special Defense Acquisition Fund. This preserves the objectives of the Committee on Foreign Affairs that the SDAF not be used to procure and sell highly sophisticated defense articles, but be used instead to procure basic high demand items such as artillery ammunition, anti-tank missiles, etc. In addition, authorization for the SDAF is already adequate and thus the earmarks in the amendment will not affect the functioning of the SDAF.

I appreciate the efforts of our two Committees to resolve this issue. I would request and anticipate that this letter be placed in the RECORD at the point at which the amendment is offered on the House floor.

With best wishes, I am,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I would be glad to yield to the gentleman from Virginia.

Mr. DANIEL. I thank the gentleman for yielding.

Mr. Chairman, the committee is pleased to accept the amendment offered by the gentleman from New York.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NICHOLS: At the end of title III (page 29, after line 14) add the following new section:

LIMITATION OF CONTRACTING-OUT CORE LOGISTICS FUNCTIONS

SEC. . (a)(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

(2) The Secretary of each military department and the Director of each defense agency shall identify those logistics functions that are necessary to maintain the logistics capability described in paragraph (1).

(b)(1) Except as provided in paragraph (2), performance of a logistics function identified by the Secretary or Director concerned under subsection (a)(2) may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as "OMB Circular A-76").

(2) The Secretary of the military department concerned or the Director of the defense agency concerned may waive paragraph (1) in the case of any logistics function and provide that performance of such function shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary of Defense and shall be based on a determination by the Secretary or Director concerned that Government performance of the function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of a logistics function identified under subsection (a)(2) is no longer required for national defense reasons.

(3) A waiver under paragraph (2) may not take effect until—

(A) the Secretary or Director concerned has submitted a report on the waiver to the Committees on Armed Services of the Senate and House of Representatives; and

(B) a period of 30 days of continuous session of Congress has passed after the receipt of the report by those committees.

(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(c)(1) Identification of logistics functions that are necessary to maintain the logistics capability described in subsection (a)(1) shall be completed, and a report describing those functions (including a detailed specification or listing) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, not later than April 1, 1985.

(2) During the period beginning on the date of the enactment of this Act and ending on March 31, 1985, no logistics function of the Department of Defense may be converted to performance by contractor personnel in accordance with the procedures and requirements of OMB Circular A-76.

Mr. NICHOLS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

□ 2050

Mr. NICHOLS. Mr. Chairman, although I had this amendment printed in the RECORD to be offered in title 10, I have decided that it would be more appropriate to offer it in title III.

Briefly, this amendment addresses an area of serious concern to the committee for some time. For several years we have requested that the Department of Defense provide the committee with a specific listing of those functions that would be excluded from the contracting out review process due to their critical impact on readiness and mobilization base requirements.

This amendment requires that each service Secretary and the Director of each defense agency identify core logistics functions. Once identified, these functions will be exempted from cost comparisons under the provisions of OMB Circular A-76. Nevertheless, this amendment recognizes the need for some flexibility in the determination of core logistics functions and provides for a careful waiver process. However, this waiver can only be exercised by a service Secretary or Director of the agency concerned. In short, the official who is responsible for determining whether a function meets core logistics criteria is the same authority to subsequently waive the A-76 exemption. Finally, this waiver may not take effect until the Secretary or Director concerned has submitted a report on the waiver to the House and Senate Armed Services Committee and 30 days of continuous session of Congress have elapsed. Thus, the committees involved providing the oversight of the contracting out program and responsible for military readiness will have an adequate opportunity to review all waiver actions.

This amendment also requires that a report be submitted to the House and Senate Armed Services Committee, by April 1, 1985, identifying core logistics functions by specific function. Until that report is received, this amendment prohibits the contracting out of any Department of Defense Logistics function. In effect, no logistics function can be contracted out until Congress is provided a specific listing of those logistics functions that would be exempted from A-76 reviews.

Mr. Chairman, as I mentioned earlier, this amendment is consistent with the committee's previous efforts to specifically define the scope of the A-76 contracting-out program. Core logistics functions represent those functions which should remain in-house to reserve readiness and mobilization capabilities. These functions are generally the mission functions at supply depots, shipyards, air rework, and depot maintenance facilities. They do not include installation and base support—or housekeeping—functions which have been generally conceded to be legitimate subjects of contract review.

This amendment is also consistent with on-going efforts within the Department of Defense to define core logistics functions, and to exempt them from A-76 review. Consequently, this amendment just speeds that process along and keeps Congress in the loop.

In conclusion, I believe that this amendment represents a reasonable and responsible effort to address a serious congressional concern that the contracting out process not impair readiness and mobilization base requirements.

I ask your, support for the amendment.

Mr. DANIEL. Mr. Chairman, the committee has examined this amendment. We favor the amendment, and we accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. NICHOLS).

The amendment was agreed to.

Mr. FAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with Mr. DANIEL, chairman of the Subcommittee on Readiness.

I would like to ask the distinguished chairman of the Readiness Subcommittee about the proposed reduction in the F/FB-111 avionics modernization program—AMP. Is that not a readiness program to improve the reliability and maintainability of the more than 400 F-111's in the Air Force inventory?

Mr. DANIEL. if the gentleman will yield, yes, the gentleman if correct. Unfortunately, this is a readiness issue but the moneys requested for it were not included in the accounts my subcommittee normally deals with. This reduction was called to my attention too late to correct.

Mr. FAZIO. Does the gentleman share my opinion about the necessity for this program, considering the unique all-weather and long-range capability of this proven combat aircraft?

Mr. DANIEL. Yes. I have been, and so has this committee been, a longtime supporter of the F-111 aircraft and time has proven us correct. The F-111 has usable airframe life remaining until the year 2015 and should be upgraded with this capability to increase its reliability and maintainability.

Mr. FAZIO. Would not this program increase the sortie availability, in effect, adding training and combat capability without having to buy any new aircraft?

Mr. DANIEL. Yes, the gentleman is correct.

Mr. FAZIO. I have here copies of messages from three field commanders, General Davis at SAC, General Creech at TAC, and General Minter in Europe, requesting full support of this important readiness program. Also, I have a copy of a message from the Air Force Command primarily concerned with readiness, the Air Force Logistics Command, and I quote "* * * failure to sustain funding * * * will place in jeopardy the supportability and operational readiness of the entire F/FB-111 fleet worldwide * * *," and this reduction would, and I quote again, "result in more than a year's delay and * * * $74 million cost increase * * *".

Mr. Chairman, I will submit for the RECORD relevant passages from these field commanders requesting support for this readiness program.

Mr. Chairman, Congress has, like a broken record, demanded that the Defense Department pay more attention to readiness. It is indeed ironic then to see a reduction in readiness such as this proposed by this body.

I would hope the Air Force's request for this program will be fully supported in the Senate and that the members of the distinguished House Armed Services Committee would consider restoring this important program when the committees meet in conference.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I would be happy to yield.

Mr. DANIEL. I wish to assure the gentleman from California that I will meet with the chairman of our committee and investigate the intent of the AMP's program and how it will increase the readiness of the F-111 prior to conference.

Mr. FAZIO. I appreciate the gentleman's response and appreciate the chair's indulgence in this colloquy.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 29, after line 14, add the following:

RESOLUTION OF CLAIM

SEC. 310. The Secretary of Defense, in consultation with the Secretary of State, shall take appropriate actions to resolve, in accordance with this section, the claim of the United States citizen who asserts that his property in Honduras was in effect expropriated as the result of the establishment and activities of the Regional Military Training Center operated in cooperation with the United States Armed Forces. In carrying out this section, the Secretary of Defense, in cooperation with the Secretary of State, may make payments to that United States citizen with respect to such claim. To facilitate resolution of such claim, the Foreign Claims Settlement Commission shall determine the validity of the claim, shall (to the extent it determines the claim is valid) determine the uncompensated amount of the losses, and shall certify the amount so determined to the Secretary of Defense and the Secretary of State for payment. The Secretary of Defense shall report to the Congress on the actions he has taken pursuant to this section by November 1, 1984.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, I will not take very much time with this.

The purpose of the amendment is to spur the executive branch to deal with the claim of an American citizen who has been treated very shabbily.

I will not go into any great detail here. Many Members of the House are familiar with the case of Temistocles Ramirez in Honduras and I will insert at the end of my statement a detailed explanation of his claim. However, I will hit the highlights briefly.

The U.S. Government proposed to the Honduran Government that the United States establish in Honduras a regional military training center. The region of the country which was selected by the Honduran Government includes a large ranch owned by Mr. Ramirez, who was informed by neither government that the operations of the center would occur on a portion of his land. He found out only by accident and after the fact. The result of the operations of the training center has been to totally disrupt his ranching operations—prime grazing land and fences have been bulldozed; cattle have been shot and workers frightened off; water pipes for the packing plant blown up. Mr. Ramirez has been incurring operating losses, but neither government has moved to compensate him for this defacto expropriation.

The U.S. Government says the responsibility lies with the Honduran Government; The Honduran Government has not accepted full responsibility and has been dragging its feet on negotiations and has been talking of less than fair value payment and only for the land.

The amendment I am offering would direct the Secretary of Defense, in cooperation with the Secretary of State and upon adjudication by the Foreign Claims Settlement Commission, to take action to make whatever recompense is appropriate. I hope to attach a companion amendment to the foreign assistance bill in order to get action from the Secretary of State and the Government of Honduras.

I do not care which government corrects this injustice—or which U.S. Government department—I think they all share in the responsibility—but I do want this injustice corrected.

I appreciate the cooperation of the gentleman from Virginia and urge the support of the Members for this amendment.

STATEMENT ON BEHALF OF TEMISTOCLES RAMIREZ DE ARELLANO

Temistocles Ramirez de Arellano, a United States citizen, is seeking compensation for the destruction of his multimillion dollar cattle ranch and related packing, shrimping and fishing operations in Honduras, caused by the establishment and operation of a military training base on his property by the United States and Honduras. The United States planned, financed and constructed the Regional Military Training Center ("RMTC") and continues to train Honduran and Salvadoran soldiers on the base and elsewhere on Ramirez's property. Ramirez initially sought assistance to protect his business from ruin, but United States government officials refused to help him and instead insisted that he seek redress from the Honduran government. Ramirez has sought redress in Honduras, but that course has proved futile. Ramirez contends that the United States government has the responsibility to compensate him for his losses.

A. U.S.-INITIATED ACTIONS CAUSE THE DESTRUCTION OF RAMIREZ'S BUSINESS

In March 1983, the United States Defense Department decided to establish a RMTC to train Salvadoran and other Central American soldiers, and selected Honduras for the site. After surveying Ramirez's ranch in March and April, without his knowledge, Defense Department personnel selected his property in May and drew the plans. United States contractors built the RMTC with United States money and have managed the base, providing all food and other essential services except security. Since June 1983, when the base began operating, United States Green Berets have trained several thousand Honduran and Salvadoran soldiers.

The United States Embassy first informed Ramirez that his land had been selected for the RMTC in May 1983. Both the United States and the Honduran governments assured him that only a small designated area of less than 2,000 acres, in the middle of his 14,000-acre ranch, would be used for the RMTC and that he would be promptly and fairly compensated for the use of that land. But those assurances were not honored. By the end of July, the United States training activities had spread well beyond the designated area, covering as much as 90 percent of Ramirez's year-round grazing land. The permanent facilities on Ramirez's property include lodgings for 1,000 men, an ammunition storage area, and firing and mortar ranges.

The military training activities have made it impossible for Ramirez to continue to operate his business. First, prime grazing land and fences were bulldozed. Then, cattle were shot by stray bullets from the training exercises. Cattle in the occupied areas became undernourished because Ramirez's ranch employees, fearing for their lives, refused to work in areas where training was taking place. United States construction crews blew up water pipes to Ramirez's packing plant, causing costly interruptions of plant activities. For several months, Ramirez continued operating at reduced levels, suffering more than $100,000 in monthly losses. In November 1983, the United States conducted part of the massive joint United States-Honduras military maneuvers (Operation Big Pine II) on Ramirez's property without his consent. In early February 1984, Ramirez was informed that a naval facility would be constructed on his packing plant property. Finally, Ramirez concluded that he could not continue, and by February 15, he shut down the plant and reduced his employees at the ranch to the minimum number required to maintain security and other essential services.

B. HONDURAS WILL NOT PROVIDE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION

Ramirez's property has not been legally expropriated under Honduran law. Under the Honduran Constitution and the Law of Forced Expropriation (the Honduran eminent domain law) private property may be taken for a public purpose only after compensation is paid in accordance with specified procedures. Those procedures were not followed in this case. Although Ramirez has attempted to challenge the taking in Honduras, that has been to no avail.

In December 1983, the Assistant United States Trade Representative for the Americas discussed the Ramirez case with Honduran officials when that country was being considered for special trade benefits under the Caribbean Basin Recovery Act ("CBI"). That legislation, like other aid and trade programs, provides that no country is eligible for benefits if it expropriates an American's property without prompt, adequate and effective compensation. On the basis of meetings with Honduran officials, the United States Trade Representative and the Department of State informed Ramirez, as well as several Senators and Congressmen who had expressed interest in the case, that Honduras had agreed to negotiate with Ramirez to provide compensation at fair market value for the taking of ranch land (but none of the other property) until February 6, 1984, and if negotiations failed, to submit the dispute over the ranch land to binding arbitration. Each party would pick an arbitrator, and a third, neutral arbitrator would be selected by mutual consent from an internationally-recognized arbitral body. The arbitration was to be concluded and compensation paid, within three months, in accordance with Honduran law and Honduras's treaty obligations to the United States.

Based on this understanding, President Reagan designated Honduras as a beneficiary under CBI on December 29, 1983. However, when Honduras finally published its petition to the United States for CBI benefits, in Honduran Decree No. 17, that petition did not include a commitment to arbitration with a neutral arbitrator, but rather to a valuation proceeding which would be limited to consideration of only the ranch land.

On February 7, 1984, the United States Embassy in Honduras, believing the Hondurans had committed themselves to arbitration regarding the ranch, sent a diplomatic note to Honduras asking how that government intended to carry out its commitment to arbitrate and how it would compensate Ramirez for his properties other than the ranch, that is, the packing plant, and the shrimping and fishing operations. Honduran officials insisted that the Honduran Government had never agreed to arbitration, that the United States mischaracterized their commitment, and that the United States should compensate Ramirez because the United States initiated, planned, constructed and is sharing in the operation of the RMTC. Following further discussions with Honduras, the United States Embassy withdrew its February 7 note and issued a revised note on February 14, deleting all references to arbitration.

Negotiations between Honduran officials and Ramirez, which had begun in December 1983, continued until February 29, 1984, by mutual agreement of the parties. On that date, the Honduran government declared the termination of the negotiations.

The valuation proceeding offered by the Honduran Government cannot provide Ramirez prompt, adequate and effective compensation for the following reasons:

1. The scope of the proceeding is limited to consideration of the ranch land, which accounts for only approximately one-half of Ramirez's losses.

2. Since the Hondurans have repudiated any commitment to arbitration, the Honduran Law of Forced Expropriation will govern, under which a third evaluator will be picked—if the parties cannot agree—by a local Honduran judge. Experience suggests that his allegiance will be owed to the Honduran Government.

3. The proceeding will drag on indefinitely, since there is no way to ensure a decision if the evaluators do not agree on an amount.

4. Worst of all, the proceeding will not be binding and final, with compensation paid immediately thereafter. Notwithstanding commitments in Honduran Decree No. 17, the Honduran Law of Forced Expropriation authorizes the Honduran court to review the evaluators' report and issue a decision, subject to appeal. To the extent the decree is inconsistent with the law, the law would govern.

5. There is no source of funding for any award.

C. THE VALUE OF RAMIREZ'S BUSINESS

Over the past 22 years, Ramirez developed an integrated agro-industrial complex that has made a substantial contribution to the economy of Honduras. Out of raw jungle, he developed a model cattle ranch, using sophisticated ranch management and breeding methods. He started the packing plant at the nearby port area of Puerto Castilla, for easy shipment of his produce, and subsequently added fishing and shrimping operations to maximize utilization of the packing plant. He has been the largest employer in the area. A total of 1,500 Hondurans (employees and their families) have been totally dependent on him for their livelihood. His property taxes have accounted for approxi-

mately one-third of the City of Trujillo's revenues.

Ramirez estimates that, before the RMTC, his agro-industrial business was worth in excess of $13 million. As a result of the RMTC, Ramirez has not only lost his investment, but incurred substantial losses in cattle value due to premature slaughter caused by the seizure of his land, and additional expenses, including severance pay, loss of inventory, loss in accounts receivable, expenses of closing, and defense expenses. These additional expenses have run as much as $100,000 a month. A detailed accounting of Ramirez's losses is attached.

During the negotiation period, Ramirez and the Honduran government could not agree on the value of the ranch, and the Hondurans insisted that they did not have authority to consider any property but the ranch land. For that, they used an average value of approximately $57 per acre, which bears no relationship to fair market value, since four years ago a large tract of adjacent land, undeveloped by roads or electricity, sold for about $500 per acre. At that $500 per acre rate, Ramirez ranch land would be worth about $7 million, which is consistent with Ramirez's own estimates.

D. RAMIREZ'S ONLY REMEDY IS IN THE UNITED STATES

When Ramirez first learned about the United States had selected his land for the RMTC, he sought help from the United States Embassy in Honduras and the Department of Defense in Washington. Receiving no satisfaction, he sued United States officials seeking an order declaring that the military activity was unauthorized and requiring that the military vacate his property. The district court dismissed the complaint, which was affirmed on appeal. However, the full appellate court has agreed to rehear the case. While Ramirez may eventually prevail in the courts, he contends that the United States should end this outrageous injustice immediately by promptly compensating him for his loss.

Ramirez is caught between two governments, neither one accepting responsibility to compensate him fairly for his loss. Since his land was initially seized, many months ago, he has waited for the United States to assist him. At his government's urging, he negotiated with the Hondurans for more than three months, until Honduran officials declared the negotiations terminated. It is now apparent that the Honduran government will not provide prompt, adequate and effective compensation. The United States has the responsibility to compensate Ramirez for his loss because of its extensive involvement in the establishment and operation of the RMTC on a United States citizen's land.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I will be delighted to yield to the gentleman from Virginia.

Mr. DANIEL. Mr. Chairman, the committee has had an opportunity to examine this amendment. We are in thorough agreement with it and we are glad to accept it on this side.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from Virginia.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I would be delighted to yield.

Mr. DICKINSON. Mr. Chairman, we, too, have had an opportunity to observe it. I think what the gentleman is doing is correcting an injustice that there seems to be no other remedy for, certainly not in any court of international law. It costs the United States nothing, but I think it is a good amendment. We certainly would be happy to accept it.

Mr. FASCELL. Mr. Chairman, I thank the gentleman very much.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

Mr. WHITEHURST. Mr. Chairman, I move to strike the last word. I do this to have a colloquy with my colleague, the gentleman from Virginia (Mr. DANIEL), who is chairman of the Readiness Subcommittee.

Mr. DANIEL. Certainly.

Mr. WHITEHURST. Mr. Chairman, the Vice President's office, which has responsibility for the coordination of our national drug interdiction effort, has raised serious reservations about section 309 in this title. Will the operation of the language in section 309 preclude additional DOD assistance to civilian law enforcement agencies if it were available?

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. Of course.

Mr. DANIEL. Under chapter 18 of title 10 of the United States Code, the question is not one of availabliity of resources, but of availability of resources without adversely impacting readiness. OSD and Air Force witnesses have testified in the case of AWACS, that no additional missions can be primarily dedicated to law enforcement without degrading readiness. The chief of naval operations has made clear that above 50 hours per month of E-2C time, when the aircraft have to fly drug missions away from their home stations, readiness inevitably suffers. But nothing in section 309 precludes, or intends to curtail, DOD providing information gathered from bona fide flight operations other than the dedicated missions allowed in section 309. That sharing of information reflects the original intent of chapter 18—not dedicated mission support.

Mr. WHITEHURST. Does the second paragraph of the section signal a lessening of committee support for the war against drugs—are we somehow softening our position?

Mr. DANIEL. Absolutely not. When the last of the six P-3 Orions are delivered, we hope that they will provide an airborne radar picket across the possible routes into the entire southern border of the United States. By that time, the current eight interceptor aircraft will have been augmented by eight more appropriated this year, and six authorized in this bill. There will be sufficient radar planes, interceptors, and "apprehension" helicopters for all of Customs' Air Support Branches. That will allow DOD to scale back the dedicated support, and concentrate on providing information routinely gathered in its normal operations to interested law enforcement agencies.

Mr. WHITEHURST. The Vice President's office has suggested dropping specific numbers of hours or missions section 309 in favor of a general mandate to respect readiness considerations. Would that be acceptable?

Mr. DANIEL. That general readiness mandate is already in law in chapter 18. Section 309 is conceived as a means of reinforcing that mandate. Should the Vice President's office decide to exercise its coordination powers to insure that the air interdiction program proceeds on schedule—modifying and fielding the Orions, and maintaining an adequate air O&M line in the Customs budget through the Treasury Department, then the need for restrictions on DOD will go away. If a man is buying his own lunch—he does not need to steal someone else's sandwich, and I think the gentleman knows what I have in mind.

Mr. WHITEHURST. The origin of committee concern, then, is that other agencies are avoiding expenditures at the expense of DOD readiness? What can the Vice President do to relieve this problem?

Mr. DANIEL. The gentleman's first point is correct. And the Vice President's office, through the Joint Surveillance Committee and other mechanisms, can turn that situation around almost instantaneously.

Mr. WHITEHURST. Then the Vice President's decision will govern future committee action?

Mr. DANIEL. If he establishes a credible air interdiction program in the near future, similar restrictions will be unnecessary in subsequent authorization bills. If he does not, military readiness cannot be allowed to be a billpayer for civilian law enforcement—no matter how vital the enforcement activity.

Mr. WHITEHURST. Mr. Chairman, I thank my colleague.

Mr. DANIEL. Let me assure the gentleman that this committee is vitally interested in this. We believe there is no greater domestic problem today than the drug problem and the gentleman may be assured that we will cooperate every way we possibly can.

Mr. WHITEHURST. Mr. Chairman, I share the chairman's concern.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY: At the end of title III (page 29, after line 14) add the following new section:

LIMITATION ON INTRODUCTION OF ARMED FORCES INTO EL SALVADOR AND NICARAGUA FOR COMBAT

SEC. 310. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the purpose of introducing United States Armed Forces into or over El Salvador or Nicaragua for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to an introduction of United States Armed Forces into or over El Salvador or Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

□ 2010

Mr. FOLEY. Mr. Chairman, this amendment seeks to address the wide spread public concern that this Nation might commit its Armed Forces into El Salvador and Nicaragua and thereby becomes involved in a bitter regional armed conflict with potentially significant U.S. casualties without the due and careful consideration of the Congress under its constitutional obligations.

I should point out that the President has repeatedly said that he has no intention of introducing U.S. Armed Forces into those countries for combat purposes and this amendment therefore would only codify what has been stated over and over as the official position of the administration.

I am sure that all of us have read the press accounts of statements by Napoleon Duarte, the President-elect of El Salvador, who said during his official visit to Washington earlier this week that he will "never" ask the intervention by U.S. Armed Forces in his country during its current difficulties. My amendment would simply codify that stated desire of the President-elect of El Salvador.

The amendment is very simple and direct. It only seeks to bar the use of any funds authorized by H.R. 5167 to send U.S. Armed Forces into or over El Salvador or Nicaragua for combat purposes.

I further try to be equally uncomplicated and direct in defining "combat" by saying that combat means the introduction of U.S. Armed Forces for the purpose of delivering weapons fire upon an enemy.

Now let me be equally direct in stating what my amendment does not do:

It does not impact in any way on the current military advisers assigned to El Salvador or their role in assisting in the training and development of the El Salvador Armed Forces;

It does not limit the current reconnaissance flights by American military aircraft in the region;

It does not limit the ability of the President to meet a clear and present danger of a hostile attack on the United States, its territories, or possessions;

It does not limit the ability of the President to meet a clear and present danger to and provide necessary protection for the U.S. Embassy in either country and its personnel;

It does not limit the President and his ability to provide protection for and to evacuate U.S. Government personnel or U.S. citizens from either country;

It does not inhibit or limit the ability of U.S. Naval or Air Forces on or over the high seas to monitor Soviet or other naval activities deemed inimical to our national interests.

Let me emphasize that my amendment is in no way intended to prevent the President from carrying out his constitutional responsibilities to protect the United States from aggression. It is further not the purpose of my amendment to inhibit any duly authorized military operations or defense planning currently underway elsewhere in the Caribbean. I specifically mean any planning or operations involved with any threat of or actual hostile action by the Soviets and Cuban governments against our Nation.

Finally, my amendment in no way limits our treaty obligations in the region or the Hemisphere. As adherents to the Rio Treaty of 1948 we are committed to provide for "effective reciprocal assistance to meet armed attacks against any American State and in order to deal with threats of aggression against them."

The use of U.S. Armed Forces for combat purposes under the treaty would in any event have to be approved by Congress and therefore it is clear my amendment would not hinder our obligations under this historic agreement.

My amendment addresses only the threat of potential armed conflict involving U.S. Armed Forces in two countries, El Salvador and Nicaragua, a threat I believe that most of us feel is widely believed to be real by the American public.

It might be useful to briefly lay out some of the reasons why so many Americans are concerned about the possibility of armed conflict involving our military forces in those countries.

For more than 2 years we have been witnessing the construction of a large scale potential infrastructure for war at various locations, strategically close to the Nicaraguan borders, in Honduras. This infrastructure includes air fields, radar installations, medical facilities, troop housing, and munition storage facilities.

Over that same period of time we have seen repeated large scale multinational and bilateral military exercises in Honduras where the number of U.S. servicemen participants dwarf the number of participants from Honduras and other Central American countries.

Honduras now is also the location of a sizable number of U.S. forces who are in that country on an extended temporary basis to help construct the military infrastructure, handle logistical support for the infrastructure and the ongoing training exercises, and provide assistance to the Honduras military.

All this activity and all this presence of U.S. troops could easily lead to the involvement of U.S. Armed Forces in Nicaragua and El Salvador.

A similar scenario involving a rapid growth of U.S. Armed Forces, a heavy and equally rapid growth of a U.S. constructed and supplied military infrastructure, and the nearby presence of U.S. servicemen training an army at war with a domestic enemy that often seeks refuge beyond the borders of a neighboring country occurred in the early 1960's—in an area known then as Indochina.

My amendment simply seeks to make certain that we not slip into armed conflict in El Salvador and Nicaragua without following the procedure required by the Constitution. It clearly supports the statements made by the administration and I believe it deserves the support of all of us, on both sides of the aisle here today.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished chairman of the subcommittee.

Mr. DANIEL. I thank the gentleman for yielding.

Mr. Chairman, the committee desires to express appreciation to the gentleman from Washington (Mr. FOLEY) for offering this amendment. I do hope, as he suggested, that it will satisfy the concerns of those who might think that we are poised on the brink of war in Central America, and we are very happy to accept his amendment. Again we appreciate his offering it.

Mr. FOLEY. I thank the distinguished gentleman from Virginia.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I, too, would like to join in expressing my appreciation to the gentleman in the well for offering this amendment.

Speaking for myself, personally, I get sort of weary of the United States being the world's policeman. Everyone is looking to us to see what we are going to do, are we going to pull everyone's chestnuts out of the fire, and in the process we are getting closer and closer to the fire ourselves.

I think it is a good statement of policy. I think it reiterates and puts into language what the President has said himself. We are not intending to engage in combat with American troops there.

This sets out in law what I think the administration has already expressed, and I certainly support it and we accept it on this side.

Mr. FOLEY. I thank the gentleman from Alabama very much, and I yield back the balance of my time.

Mr. LEVINE of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to commend the gentleman from Washington (Mr. FOLEY) for introducing this amendment and to commend the committee, both the majority and the minority, for accepting this amendment.

This is an extremely important amendment. We should recognize it as perhaps the most significant statement the Congress might be in a position to make with regard to the current and the prospective situation in Central America in some time.

I believe the gentleman from Washington was absolutely correct in understanding that, by passing this amendment, this House is simply taking the President at his word and taking the administration at its word in regard to their repeated statements not to involve U.S. combat forces in either El Salvador or Nicaragua.

As a member of the House Foreign Affairs Committee, I have had several colloquys with members of the administration, most recently with the Assistant Secretary of State, Mr. Motley, asking him in a hearing of the Western Hemisphere Subcommittee if the U.S. administration had any current intention of involving us in combat in either El Salvador or Nicaragua. And the Assistant Secretary of State assured the subcommittee in that hearing that he, in fact, had no intention whatsoever and the administration had no intention whatsoever of involving the United States in combat in Central America.

In light of this repeated position of the administration from the President on down, I think that it is appropriate that the U.S. House of Representatives make this statement that, if in fact that position changes at any time, if in fact this administration alters its stated intent, that they have to come to the U.S. Congress asking for appropriate authority.

I must say in all candor that while I think a broad bipartisan consensus of this House and both Houses respect the administration's position with regard to the stated intention of not involving troops in combat, some of us who have been involved in this issue, and some of us who do serve on the Foreign Affairs Committee, have looked with serious misgivings at the increased escalation in a variety of areas that this administration has pursued with regard to its policies in Central America.

In one country after another in Central America the conduct of this administration certainly causes those of us who have been looking carefully at these issues to have very deep concerns, in fact, some real fears, that this administration might in fact, particularly in 1985, reconsider its stated position. For that reason in particular I think it is extremely important, if not urgent, that this amendment be adopted by a broad bipartisan consensus of this House.

For that reason I think that it is extremely noteworthy that the minority on the committee and the majority on the committee have agreed to accept the amendment of the gentleman from Washington, saying very, very clearly that we will be drawing a clear line, and that clear line prohibits the introduction of U.S. Armed Forces into either El Salvador or Nicaragua for combat.

A number of us have had deep misgivings about the policy that the Reagan administration has been pursuing in Central America. But, regardless of where any Member of this House has been on the issue of U.S. policy in Central America, this amendment draws a very clear line.

I am pleased to mention that this amendment is substantially similar to a bill that my colleague from New York (Mr. WEISS) and I introduced about 2 weeks ago. I am very grateful to the gentleman from Washington for taking this legislation, introducing it in the form of this amendment, obtaining the agreement of both the majority and the minority on what perhaps might be the most important statement that this House can make with regard to U.S. activity in Central America.

□ 2110

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I am happy to yield to the gentleman from Virginia.

Mr. DANIEL. I thank the gentleman for yielding. On a related matter this Member was in Honduras recently and found that we are not taking full advantage of our opportunities there.

I found some anomalies in the U.S. law which prevent our troops from obtaining the maximum advantage to the United States by their participation in such exercises. An example—a ludicrous example—is that while our troops may fire $200 artillery shells or fly $500-an hour helicopters to practice combat, they may not be able to spend 35 cents per dental patient or $1.55 per medical patient to practice combat medicine on medical civic action patrols during the same exercise.

They are legally allowed to spend months constructing practice facilities and fortifications which will be torn down at the end of the exercise, but they may not be allowed to erect a rural school or dispensary out of donated materials—projects which provide as much or more training value and enormous side benefits of incalculable goodwill for the United States. We allow our troops to shoot bullets—we do not allow them to "shoot" medicine. This kind of anomaly can and will be corrected.

Ms. OAKAR. Mr. Chairman, I rise in strong support of the amendment introduced by the gentleman from Washington. It is truly unfortunate that we have reached the point where an amendment of this nature has to be introduced, but given the current thrust of administration policy, it is necessary to draw some line on the dangerous and unwise course our country has taken in Central America.

For decades, the people of El Salvador, Nicaragua, and elsewhere in the region have endured unusually repressive social and political conditions that were bound to lead to a violent reaction. President Kennedy, who has been quoted so often in the last months, spoke of the social inequities in the region and warned Americans to prepare for inevitable social turmoil in response to the repression. Today's Christian Science Monitor describes the experience of one town in El Salvador where farmworkers tried to organize a union in 1964. The leaders of the movement were imprisoned, tortured, even killed. The repression became institutionalized with the infamous "death squads." Even our own citizens have become victims of that brand of lawlessness. After 3½ years, a trial of five El Salvador National Guardsmen accused of stalking, raping, and killing the four American churchwomen will begin today.

These hair-raising stories involving citizens of El Salvador and our own country are not any great revelations. They are common knowledge to all of us in this Chamber and to the administration which put a security classification on Judge Tyler's report on the murder of the churchwomen. Regardless of the undeniable repression meted out by those in authority in El Salvador, the administration insists on defining the conflict in East-West terms, while disregarding the social and political circumstances that has

led to internal opposition in El Salvador and revolution in Nicaragua.

As former President Nixon recently put it, the Communists are busy talking about the problems, while the administration is busy talking about the Communists. And so for the last 4 years, we have been shipping massive amounts of military equipment to the region. The CIA has organized an effort to topple the Government of Nicaragua. The effect of this approach has been to stiffen the resolve of the Nicaraguan people to defend themselves against aggression and it has put American weapons into the hands of the opposition in El Salvador. Even our closet European allies and our neighbors in Latin America have expressed their unequivocal opposition to this military escalation.

As long as we pursue a military solution in Central America, shoehorning an East-West context to the conflict, while the facts of the matter do not justify such an approach, we face continuing opposition and a widening conflict. Ultimately, we may face the moment when American combat troops are the only way to rescue a bankrupt policy.

We must not repeat the fiasco in Lebanon where the administration defined the civil war there in East-West terms, insisted our vital national interests were at stake and then tried to impose an American solution through the use of military force.

As long as the administration is blind to the reality of the situation in Central America and refuses to consider any other than a military approach, we face the danger of active American combat involvement in Central America. We are already dangerously close to that course. This amendment is, therefore, a very important one, one that draws the line in a situation where things have already gone too far.

● Mr. MARKEY. Mr. Chairman, I would like to commend my colleague from Washington, the distinguished majority whip, Mr. FOLEY, for offering this amendment. I would also like to commend the majority and minority leadership of the committee for accepting this amendment.

What we are about to vote on is perhaps the most pressing issue in U.S. foreign policy today.

Our present policy in Central America is leading us to war in Central America.

But the people of the United States do not support this policy, and they would not support such a war.

If this Nation is to go to war in Central America, it must not be the decision of just one man, even the President.

Congress and the American people must be involved before such a fateful decision.

That is why I offered an amendment which would have required congressional authorization before the introduction of U.S. military units into Central America during consideration of the Department of Defense Authorization Act last year. That is why Senators KENNEDY, HART and I subsequently introduced a bill requiring congressional authorization before the introduction of U.S. combat forces into Central America.

Last year, we heard arguments that this sort of amendment was unnecessary, that it was too restrictive of the President. I hope that the events that have occurred between last year and this have changed the minds of some Members.

I strongly support the amendment offered by Mr. FOLEY, and urge my colleagues to vote in favor of it.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 341, noes 64, not voting 28, as follows:

[Roll No. 175]

AYES—341

Ackerman	Chappell	Erdreich
Addabbo	Chappie	Erlenborn
Akaka	Clarke	Evans (IA)
Albosta	Clay	Evans (IL)
Anderson	Clinger	Fascell
Andrews (NC)	Coelho	Fazio
Andrews (TX)	Coleman (MO)	Ferraro
Annunzio	Coleman (TX)	Fiedler
Anthony	Collins	Fields
Applegate	Conable	Fish
Aspin	Conte	Flippo
AuCoin	Conyers	Foglietta
Badham	Cooper	Foley
Barnes	Corcoran	Ford (TN)
Bartlett	Coughlin	Fowler
Bates	Coyne	Frank
Bedell	Craig	Frenzel
Beilenson	D'Amours	Frost
Bennett	Daniel	Garcia
Bereuter	Darden	Gaydos
Berman	Daschle	Gejdenson
Bethune	Daub	Gekas
Bevill	Davis	Gephardt
Biaggi	de la Garza	Gibbons
Bliley	Dellums	Gilman
Boehlert	Derrick	Gonzalez
Boggs	Dickinson	Goodling
Boland	Dicks	Gore
Boner	Dingell	Gradison
Bonior	Dixon	Gray
Bonker	Donnelly	Green
Borski	Dorgan	Guarini
Bosco	Downey	Gunderson
Boucher	Duncan	Hall (IN)
Boxer	Durbin	Hall (OH)
Britt	Dwyer	Hall, Ralph
Brown (CA)	Dymally	Hall, Sam
Brown (CO)	Dyson	Hamilton
Broyhill	Early	Hammerschmidt
Bryant	Eckart	Harrison
Burton (CA)	Edgar	Hawkins
Byron	Edwards (AL)	Hayes
Carney	Edwards (CA)	Hefner
Carper	Edwards (OK)	Heftel
Carr	Emerson	Hertel
Chandler	English	Hightower
Hiler	Minish	Schumer
Hillis	Mitchell	Seiberling
Holt	Moakley	Shannon
Hopkins	Molinari	Shelby
Horton	Mollohan	Shuster
Howard	Montgomery	Sikorski
Hoyer	Moody	Simon
Hubbard	Moore	Sisisky
Huckaby	Morrison (CT)	Skelton
Hughes	Morrison (WA)	Slattery
Hutto	Mrazek	Smith (FL)
Ireland	Murphy	Smith (IA)
Jeffords	Murtha	Smith (NE)
Jenkins	Myers	Smith (NJ)
Johnson	Natcher	Smith, Robert
Jones (NC)	Neal	Snowe
Jones (OK)	Nelson	Snyder
Jones (TN)	Nichols	Solarz
Kaptur	Nowak	Solomon
Kasich	Oakar	Spratt
Kastenmeier	Oberstar	St Germain
Kazen	Obey	Staggers
Kennelly	Olin	Stark
Kildee	Ortiz	Stenholm
Kleczka	Ottinger	Stokes
Kogovsek	Owens	Stratton
Kolter	Panetta	Studds
Kostmayer	Parris	Swift
LaFalce	Pashayan	Synar
Lagomarsino	Patman	Tallon
Lantos	Patterson	Tauke
Latta	Pease	Tauzin
Leach	Penny	Taylor
Lehman (CA)	Pepper	Thomas (GA)
Lehman (FL)	Perkins	Torres
Leland	Petri	Torricelli
Lent	Pickle	Towns
Levin	Porter	Traxler
Levine	Price	Udall
Levitas	Pritchard	Valentine
Lewis (CA)	Pursell	Vander Jagt
Lewis (FL)	Quillen	Vandergriff
Lipinski	Rahall	Vento
Lloyd	Rangel	Volkmer
Long (LA)	Ratchford	Walgren
Long (MD)	Ray	Waxman
Lowry (WA)	Regula	Weiss
Luken	Reid	Wheat
MacKay	Richardson	Whitehurst
Madigan	Ridge	Whitley
Martin (IL)	Rinaldo	Whittaker
Martinez	Roberts	Whitten
Matsui	Rodino	Williams (MT)
Mavroules	Roe	Williams (OH)
Mazzoli	Roemer	Winn
McCandless	Rose	Wirth
McCloskey	Rostenkowski	Wise
McCurdy	Roukema	Wolf
McDade	Rowland	Wolpe
McGrath	Roybal	Wright
McHugh	Russo	Wyden
McKernan	Sabo	Wylie
McKinney	Savage	Yates
McNulty	Sawyer	Yatron
Mica	Scheuer	Young (AK)
Miller (CA)	Schneider	Young (FL)
Miller (OH)	Schroeder	Young (MO)
Mineta	Schulze	

NOES—64

Archer	Kramer	Robinson
Bateman	Leath	Rogers
Bilirakis	Livingston	Roth
Broomfield	Loeffler	Rudd
Burton (IN)	Lott	Schaefer
Campbell	Lowery (CA)	Shaw
Cheney	Lujan	Shumway
Coats	Lungren	Siljander
Crane, Daniel	Mack	Skeen
Crane, Philip	Marlenee	Smith, Denny
Dannemeyer	Marriott	Spence
DeWine	Martin (NY)	Stump
Dreier	McCain	Sundquist
Franklin	McCollum	Thomas (CA)
Gingrich	McEwen	Vucanovich
Gregg	Michel	Walker
Hansen (UT)	Moorhead	Weber
Hartnett	Nielson	Wilson
Hunter	O'Brien	Wortley
Hyde	Oxley	Zschau
Kemp	Packard	
Kindness	Ritter	

NOT VOTING—28

Alexander	Barnard	Breaux

Brooks	Gramm	Mikulski
Courter	Hance	Paul
Crockett	Hansen (ID)	Sensenbrenner
Dowdy	Harkin	Sharp
Feighan	Hatcher	Stangeland
Florio	Jacobs	Watkins
Ford (MI)	Lundine	Weaver
Fuqua	Markey	
Glickman	Martin (NC)	

□ 2120

Messrs. SKEEN, ROGERS, LUJAN, DENNY SMITH, WEBER, MOORHEAD, NIELSON of Utah, BROOMFIELD, THOMAS of California, SILJANDER, MARLENEE, ROTH, and ZSCHAU changed their votes from "aye" to "no."

Mr. EDWARDS of California and Mr. ROYBAL changed their votes from "no" to "aye."

□ 2130

So the amendment was agreed to.

The results of the vote was announced as above recorded.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I could not let the last vote pass without commenting that I think what we have done is rework the War Powers Act. It was not strong enough or good enough, so we have abrogated that, at least insofar as one ally in the world is concerned. That is the bleeding country of El Salvador. We have repealed the constitutional provision, or attempted to, that provides the Chief Executive as Commander in Chief, and we have told our adversaries, much as Dean Acheson was supposed to have done vis-a-vis Korea, that El Salvador is not within our perimeters, it is not within the boundaries of places we will defend.

So there is one ally in the world where we will not go to their defense if they are attacked, no matter what. We will not let the Commander in Chief be Commander in Chief, and we have revised the War Powers Act, and that is with regard to El Salvador.

I am sorry that our members of the Armed Services Committee accepted this blatantly cowardly and political amendment, and I reject it, and I am proud to vote no.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I am sorry the gentleman did not come and make the speech before the vote because it would have been perhaps an opportunity to debate the issue if Members wanted to debate it. I am perfectly happy to debate it after the vote, because if the gentleman suggests to this House that it is too much to ask the elected Representatives of this country to spend an hour or two considering a resolution to use combat forces if a country, an ally, is attacked and its President asked for our assistance, if he is suggesting that that power must reside unilaterally in the President of the United States and that the House of Representatives should not have an opportunity even to consider it, then he has another judgment of the Constitution of the United States than I have, which places in this House and in its collorary body in the Senate the responsibility of determining when the United States enters combat.

We have a situation today where many people are fearful that exactly the kind of attitude displayed by my distinguished friend is in the offing, that there is some kind of willingness to have the President exercise Commander in Chief authority and undertake a unilateral war in Central or Latin America. And indeed the gentleman's comments, I think, go a long way to reinforcing the fears of many Americans.

This amendment was offered with exceptions. The exceptions are, if the gentleman will read the amendment, one, the protection of the United States, its territories or possessions. There is nothing in this amendment that in any way cribs or limits the powers of the President of the United States as Commander in Chief to defend the United States, its territories or possessions.

Second, if I may proceed for a moment, there is an amendment to allow the President of the United States to defend the U.S. Embassy or its personnel.

Third, there is a provision to allow the President to use combat forces to protect American citizens in any evacuation.

Now, the President of the United States, our President, your President and my President, said last night to the American people that he did not seek and did not want the United States to be involved in military conflict in Central or Latin America. Indeed he suggested, I think wisely, that to do so would create more harm than good, would cause more loss of friendship than it would support.

And the case involving El Salvador is the gentleman's concern when the President-elect of El Salvador, the very impressive gentleman, Napoleon Duarte, has said that he will never ask—never ask—for the introduction of foreign troops or U.S. troops into that region.

Mr. HYDE. Will the gentleman yield?

Mr. FOLEY. I will in just one moment.

All that this amendment requires if circumstances seem to change our view is that the merest opportunity of a vote on the floor of the House of Representatives to lift this restriction, and if that is too much to ask the American people to have their elected Representatives consider and undertake, then indeed we have passed a far distance from our Founding Fathers who placed in this body the responsibility to direct U.S. military activities.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Virginia.

Mr. DANIEL. Mr. Chairman, I rise to a point of personal privilege.

Mr. HYDE. Would the gentleman let me respond before he makes his point of personal privilege?

Mr. FOLEY. I yield first to the gentleman from Virginia.

Mr. DANIEL. Mr. Chairman, if it is not too late, I demand that the words of the gentleman from Illinois be taken down.

The CHAIRMAN pro tempore (Mr. HARRISON). The Chair will advise the Member that a point of personal privilege is not in order in the Committee of the Whole, and the request that words be taken down comes too late.

Mr. HYDE. Mr. Chairman, will the gentleman yield to me for a moment?

Mr. DANIEL. Mr. Chairman, the gentleman referred to members of the Armed Services Committee as cowards.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. FOLEY) has the floor.

Mr. HYDE. Mr. Chairman, will the gentleman yield to me?

Mr. FOLEY. I yield to the gentleman for the purpose of responding.

Mr. HYDE. To my dear friend from Virginia, I did not refer to the members of the Armed Services Committee. My friend, MEL PRICE, for many years—there are no cowards on there. I said the amendment was cowardly, but I withdraw that. It is just dumb.

Mr. DANIEL. I thank the gentleman.

Mr. HYDE. It is just dumb.

Will my friend yield to me?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. HYDE. I would just suggest to you that if you read this document, the only times that we are permitted, the Commander in Chief is permitted to act as Commander in Chief, is when our Embassy or our people are under attack. If an ally is under attack and Congress is not in session, tough. Tough. The Constitution does not apply, the War Powers Act does not apply. And that is not to any country in the world but El Salvador.

Now, nobody wants to go to war down there. I have been in war, Mr. FOLEY. I am sure you have, I guess. But I have been in combat. I have four kids and I have two grandchildren. I do not want to go to war.

□ 2140

But I do not want to tell our adversaries this is one ally we will not defend no matter what unless we decide if we are assembled here and if we can get a majority to defend an ally who is in trouble.

Mr. FOLEY. I will answer the gentleman, if I may, that the real treaty

and the other obligations that we have undertaken toward the mutual defense of the Americas indeed require us to take action before committing U.S. troops.

Mr. HYDE. Does this supersede that?

Mr. FOLEY. It does not supersede the treaty obligation, obviously, it is a statute; the gentleman knows his constitutional law better than that. The problem here is that the gentleman is concerned that the President of the United States is not able to act unilaterally with respect to the introduction of combat troops into these two countries.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. HYDE. Under the War Powers Act.

Mr. FOLEY. The War Powers Act does not prevent nor does this amendment prohibit the President from introducing troops equipped for combat. This resolution deals only with the introduction of U.S. forces for the purpose, as spelled out in the amendment, of delivering weapons fire at an enemy.

Now, if the gentleman wants the President of the United States, without review of Congress, to be able at any time to direct U.S. forces into these two countries for the purpose of delivering weapons fire at some enemy without the consultation of Congress, then he rightly voted no against the amendment. That is for a period of 1 year.

The President of the United States, last night disavowed any intention or need or propriety in his judgment in doing exactly what the gentleman wants him to be able to do.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. BURTON of Indiana. I would just like to ask two quick questions.

One, does the gentleman think we should have applied this same principle to Grenada prior to the invasion? No. 2, what about other countries in the world like Israel; do you want to apply the same principle to them as well?

Mr. FOLEY. As far as I know, there is no concern in the United States at the moment that the United States intends to possibly use military forces in any other than the two countries mentioned.

I will answer the gentleman, if the purpose as stated was to rescue American citizens in Grenada, and effect their safe evacuation, this amendment permits the use of forces for that purpose. It would not have prevented the Grenadian intervention under these terms.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield on that point?

Mr. FOLEY. I yield to the gentleman.

Mr. LUNGREN. The question I have with respect to Grenada is this: The gentleman knows there is controversy on this floor; there was criticism of the President of the United States on this floor on the question of Grenada.

There were those who said on this floor that there are no American citizens who are in danger or jeopardy there. What would happen under this bill, is people could, as we have seen before, say the President was engaging in illegal action as we fight over the question whether or not those individuals were truly in danger.

Mr. FOLEY. The gentleman misspeaks to the amendment. The amendment places in the judgment of the President whether American citizens are in clear and present danger and in need of combat forces to effect their evacuation. Not the Congress; we do not have to pass a resolution for that purpose.

I would suggest that if the gentleman and those of his colleagues who are worried about it, take the time to read the document. There are people speaking against it without reading it.

I happen to be one of those people who went to Grenada along with the distinguished colleague standing next to the gentleman. When I went on an official mission, the gentleman went unofficially.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(On request of Mr. LUNGREN and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. I suppose the gentleman is not going to quarrel with the finding that I personally and most of my colleagues made that the action would justify.

I yield to the gentleman.

Mr. LUNGREN. The question I have is whether or not that adds anything to it. That some people who disagree with the President's judgment that in fact American citizens' lives are in danger can then utilize the fact that we have this law and criticize the President for doing something illegal. We hear that comment oftentimes here.

What does it really add to the situation? Particularly when, as is pointed out by the other gentleman, we are not applying it anywhere else in the world. There are other trouble spots in the world, and why do we pick up one individual ally and tell them that they are not as important to be treated the same as Israel, or Germany, or France or any other place in the world.

Mr. FOLEY. Let us talk about the specific. The specific the gentleman is worried about is El Salvador. The President-elect of El Salvador this week said publicly that he would never request the introduction of foreign troops.

Now, if he should change his mind, and if the issue should be presented that the United States perhaps should send troops into El Salvador, is there anything wrong with giving the same attention to that question that we have given to this amendment tonight? Is there anything wrong with allowing that to be debated and discussed?

Mr. LUNGREN. Would the gentleman tell me what happens if we are not in session during that period of time? We have had a few periods of time in which we were not in session this year, and I anticipate some more.

Mr. FOLEY. Every time that this Congress goes out of session it goes out with the understanding that under the Constitution the President can summon it back, and very often under the conditions where both leaders of the two parties can summon it back.

That has never been a serious question in the national security of the United States in our history and is not likely to be one in the future.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. BATEMAN. I am intrigued at the rhetoric that I hear from the well on the question as to whether or not we have read the resolution or the amendment. I have not read it until very recently. I would love to have seen it earlier. I would have certainly been on the floor seeking recognition.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

(On request of Mr. BATEMAN and by unanimous consent, Mr. FOLEY was allowed to proceed for 5 additional minutes.)

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. BATEMAN. The question I would like to pose, with all of this rhetoric that addresses itself so far in this discussion to El Salvador, is: Does it not strike the gentleman as strange that El Salvador, a friendly, democratic nation is dealt with in precisely the same terms in this amendment as is Nicaragua, which is not a friendly, democratic nation?

Mr. FOLEY. Well, the gentleman raised the question why are we dealing with these two countries.

Mr. BATEMAN. That is not the question I asked. The question I asked is why do you deal with a friendly, democratic state in exactly the same

terms in this unusual amendment as you deal with one that is neither democratic or friendly?

Mr. FOLEY. The question here is whether the United States might introduce troops into either country against the will of the Government or whether it might introduce troops in El Salvador at the request of the Government. It is not likely, and I do not think anybody believes here that the United States would introduce troops into Nicaragua at that Government's request.

Now, we have had a public statement from the President-elect in El Salvador that he does not intend to ask for any foreign troops at any time. He cannot conceive of those circumstances. That should not be a problem that concerns the gentleman.

If there is a question about whether conditions might go so far in the other direction that he might, that is the President of El Salvador would request U.S. troops, that the President of the United States might change his mind so often expressed against the use of American troops, we can consider that. There is no reason why we cannot lift this resolution any time the Congress wants to lift it.

I yield to the gentleman from Virginia.

Mr. BATEMAN. I suspect that the time I requested is about to expire. I cannot tell you how much I regret that the proper rules of this House do not permit me the lengthy time to express the intensity of my concern at the hasty and what I regard as tragic action we have just taken almost on an unthinking basis.

Mr. FOLEY. The gentleman may feel that his colleagues did not think about the amendment, but the gentleman is again making determinations about their judgment which I do not share.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. PHILIP M. CRANE. I think probably the most significant language in the amendment is the prohibition on the use of American force except to meet a clear and present danger of hostile attack upon the United States, its territories, and possessions.

For the benefit of all of us here in the Chamber, and in terms of potential legislative history, as to what the intent of this body is, what all would that include?

For example, let me give you a hypothetical. If the Soviets were to make a major introduction of force in El Salvador to overthrow that Government, or to take some very forward kind of action like that, would we define under this provision of the amendment, would we define that as no potential threat against the United States, its territories, or possessions?

□ 2150

Mr. FOLEY. I am sure that if the Soviet Union were to invade El Salvador, or any country in this hemisphere, it would be considered a threat to the security of the United States.

Mr. PHILIP M. CRANE. Why, then, if that is the case, the question comes up about its surrogates. What if the Cubans were to launch a major force attacking the Government of El Salvador to overthrow it? Would we view that as a threat to the United States, its territories, or possessions?

Mr. FOLEY. I am not going to go through the whole litany of countries that the gentleman might suggest. The President of the United States, under this amendment, makes that judgment. The purpose of including this is to allow the President to determine when he thinks the security of the United States is threatened.

Mr. PHILIP M. CRANE. Where is that language in the amendment?

Mr. FOLEY. The amendment says, "This section does not apply with respect to the introduction of United States Armed Forces into or over El Salvador or Nicaragua for combat if the Congress has declared war or enacted specific authorization for such introduction; or such introduction is necessary to meet a clear and present danger of hostile attack upon the United States, its territories," and so on.

Mr. PHILIP M. CRANE. If the gentleman will yield further, what the gentleman is saying, notwithstanding this language about Congress declaring war or enacting specific authorization for such introduction or such introduction is necessary, that that last phrase, "or such introduction as necessary," gives the President the latitude to make this decision, not Congress.

Mr. FOLEY. Yes.

Mr. PHILIP M. CRANE. That phrase refers to Presidential action.

Mr. FOLEY. The Congress does not have the authority to direct the day-to-day operations of the Armed Forces of the United States, as the gentleman knows. He is the Commander in Chief.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

Mr. PHILIP M. CRANE. Mr. Chairman, I ask unanimous consent that the gentleman have 5 additional minutes.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. FRANK. Mr. Chairman, is it not the usual parliamentary procedure to debate the amendment before we vote on it?

The CHAIRMAN pro tempore. The gentleman has not stated a parliamentary inquiry.

Is there objection to the request of the gentleman from Illinois (Mr. PHILIP M. CRANE) that the gentleman be allowed to proceed for 5 additional minutes?

The gentleman from Washington (Mr. FOLEY) is recognized for 5 additional minutes.

Mr. PHILIP M. CRANE. If the gentleman will yield further, I see no reference in this except with respect to congressional action to restrain the commitment of military force in this area, and that is why I wanted to get a clarification, because there is no reference to the executive branch.

Mr. FOLEY. I will give the gentleman the clarification I think he seeks. There are exceptions that are listed in the amendment. The first exception is a declaration of war or a resolution by the Congress. That takes care of the congressional action.

The other actions are actions deemed necessary for certain purposes, and the person who makes that decision is the President. Those are:

First, to meet a clear and present danger of hostile attack on the United States, its territories, or possessions;

Second, to meet a clear and present danger to and to provide necessary protection for the U.S. Embassy; or

Third, to meet a clear and present danger to and to provide necessary protection for and to evacuate U.S. Government personnel or U.S. citizens.

Mr. PHILIP M. CRANE. If the gentleman will yield further, I appreciate that clarification, because in reading that initial paragraph, subsection (1) there, there was no reference to the Commander in Chief's powers and responsibilities and the gentleman has clarified the point to my satisfaction and I thank him for that.

Mr. FOLEY. I also tell the gentleman that the first portion of that, dealing with the protection of the United States, and its territories, and possessions, is drawn from the War Powers Act, which cites that as a constitutional power of the President as part of his constitutional powers as Commander in Chief.

That is why I suggested to some Members, and I did not mean to do it rudely, that if they would read the document they would see that those exceptions are exceptions not to be determined by Congress, but Congress, in fact, recognizes certain exigencies which the President might make a finding of necessity on.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I just want to say that the wonderful thing about this country, unlike the Soviet Union, is that we have a checks and balance system and we want to make sure that Congress has the say-so if this President leads us into war.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Wyoming.

Mr. CHENEY. I thank the gentleman for yielding.

Mr. Chairman, as one of those who voted against the gentleman's amendment, and I know him to be one of the most able and talented Members of this organization, the House, I still think it is important to try to clarify exactly what we have done here.

It seems to me—and see if the gentleman agrees—that in effect what we have said is that with respect to El Salvador and Nicaragua, the President cannot commit combat forces, as he can under the War Powers Act, to any other place in the world at present, is that correct, except under these conditions?

Mr. FOLEY. For the purposes of the authorization act, which lasts for 1 year, the President is prohibited, without prior action of Congress, or without a finding that it is in the defense of the United States, its territories or possessions, necessary for the protection of the embassy, or necessary for the protection of U.S. citizens and their evacuation, he cannot without prior consent introduce troops, determined to be combat troops; that is, designed to deliver weapons fire at an enemy.

It does not prevent the President, as the gentleman knows, from introducing troops equipped for combat under the War Powers Act. It does restrict his power to, without prior consent, submit combat troops.

Mr. CHENEY. Would the gentleman not agree that in virtually any other area of the globe, the President is capable of committing combat troops under the War Powers Act for up to 90 days, and Congress has the opportunity, then, to either approve or disapprove that action?

Mr. FOLEY. I think the President would not be restricted in the introduction, under the War Powers Act, if he submits a report to Congress. Of course, we have had trouble getting those reports, as the gentleman knows, and most Presidents, including Democrats and Republicans, have rejected the War Powers Act, and indeed, President Nixon vetoed the bill and it had to be enacted over his veto.

I do not believe that the President of the United States, as Commander in Chief, was meant to have the right to declare war unilaterally anywhere in the world. There is a restriction with respect to these two countries on the introduction of combat troops as defined here, except for the exceptions spelled out in the amendment.

Mr. CHENEY. If the gentleman will continue to yield, and that restriction goes beyond the restrictions apply in any other part of the globe; is that not correct?

Mr. FOLEY. Yes.

Mr. CHENEY. If we had this provision applying, for example, to Germany?

Mr. FOLEY. I will say to the gentleman that I believe the President has some constitutional powers to protect the United States, regardless of statute, and if the President of the United States were, for example, convinced that it was necessary to protect the United States, its territories and possessions or its armed services, he has the power to utilize combat forces anywhere in the world at any time without the War Powers Act, or with it.

Mr. CHENEY. Our concern, of course, is that we have created a situation now, especially if this House follows through and terminates aid to the Contras in Nicaragua, where we have defined Nicaragua as an absolute, total sancturary for forces that obviously do not wish us well, and that a Nicaraguan invasion of Costa Rica could not be responded to by the United States, nor could a Nicaraguan invasion of El Salvador.

Mr. FOLEY. I do not agree with that.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

Mr. CHENEY. Mr. Chairman, I ask unanimous consent that the gentleman from Washington be allowed to proceed for 1 additional minute.

Mr. DONNELLY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

AMENDMENT OFFERED BY MR. HARTNETT

Mr. HARTNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARTNETT: At the end of title III (page 29, after line 14) add the following new section:

LIMITATION ON INTRODUCTION OF ARMED FORCES INTO ANY NATION IN THE MIDDLE EAST, KOREA, WESTERN EUROPE FOR COMBAT

SEC. 310. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expanded for the purpose of introducing United States Armed Forces into or over any nation in the Middle East, Korea, Western Europe for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to an introduction of United States Armed Forces into or over any nation in the Middle East, Korea, Western Europe for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

Mr. HARTNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. WEISS. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

Mr. HARTNETT. Mr. Chairman, I ask unanimous consent that the Clerk start over, reading the whole amendment, because the justifiable applause which was due to my colleague from Washington made it difficult for us to hear the entire amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will read the entire amendment.

The Clerk read the entire amendment.

□ 2200

The CHAIRMAN pro tempore. The gentleman from South Carolina (Mr. HARTNETT) is recognized for 5 minutes in support of his amendment.

Mr. HARTNETT. Mr. Chairman, my distinguished colleague, the gentleman from Washington, for whom I have a great deal of respect—and I do not use that phrase lightly; I really do not—has made all the major arguments for this amendment far more eloquently than I could ever make them. I think that was also echoed by my colleague, the gentlewoman from Ohio, who said that we need these types of protections to keep the President of the United States from dragging us into war.

And I say to my friends, if we are sincere, if we are sincere in thinking that this Congress, as my distinguished colleague, the gentleman from Washington, has said, should at least allow 2 hours of debate in this House, the same consideration ought to be given this amendment as should be given to committing combat troops. And I think no argument stronger could be put forward.

I think we could consider our troops that are now stationed in Korea and in Western Europe not as combat troops but as a safety patrol, as a group of soldiers who are there to protect our interests but who could not fire hostile

fire upon any enemy, even though they are there now, unless the Congress of the United States OK'd it.

Mr. Chairman, I disagree with this amendment that was just adopted, and I disagree with my own amendment. I have heard, since this campaign was begun, about fairness. Boy, I have heard a lot about fairness on behalf of the Presidential candidates.

Lest any of us accuse our President of not being fair, would we be any less fair than ourselves, those of us who point the accusing finger of unfairness at President Reagan, would we be any less fair to our allies anywhere else in the world than we have to our poor little fledgling allies in Central America? Is there a man or a woman or a gentleman or a gentlewoman in this Chamber who would not vote to do the same thing for Israel, for Saudi Arabia, for Korea, for Western Europe?

Would we treat them any differently, those friends and allies and good buddies of ours, than we would poor little Jose Napoleon Duarte down in El Salvador?

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to my colleague, the gentleman from Indiana.

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding.

The point the gentleman is making with this amendment, I think, is something that this body should decide. If we are saying, as we have with the Foley amendment, that Congress is going to usurp the power of the Commander in Chief on a selective basis, if we as a body are going to say, as we did when we passed this last amendment, that we are going to decide which nations the President can commit troops to, then let us decide. Let us talk about whether or not we should commit troops to Israel. Should these restrictions apply to Germany? Should these restrictions apply to Korea? If we are going to assume that power, then let us go ahead and make that assumption.

I voted against that last amendment also. The point of this amendment, I think, is clear, that if we are going to assume these powers for ourselves, if we are going to make these decisions, if the President cannot act without the approval of this body, even if it is for a 10-minute period, if this body has to be convened if we go into recess, in order for the President to use combat troops on any basis in Central America, Nicaragua and El Salvador, if we are going to assume that power, let us go ahead and decide. Where are we going to commit troops?

Are we going to do it in Israel? Are we going to do it in West Germany? Or are we going to restrict that? If we are going to take on that power, let us go ahead and do it. That is why the gentleman has offered the amendment.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I voted for the previous amendment because the gentleman from Washington, for whom I have the greatest of respect—and I am a member of the committee—said that it is perfectly all right to introduce troops in or over who are dressed for combat, who have combat equipment, as long as they did not do anything that is combative.

Did the gentleman understand that?

Mr. HARTNETT. Well, I think I understood it.

Mr. BADHAM. Well, he said it is OK to have the folks there dressed for combat as long as they did not engage in combat.

Mr. HARTNETT. Mr. Chairman, if I may reclaim my time, I commend the gentleman from Washington. I think he firmly believes this. And the only purpose for my having introduced this additional amendment is to say to our allies around the world that the Congress feels this way, obviously with the last overwhelming vote, but they do not just feel this way about El Salvador; they feel that way about all our allies, Israel, West Germany, and all the rest of them.

The CHAIRMAN pro tempore. The time of the gentleman from South Carolina (Mr. HARTNETT) has expired.

(On request of Mr. BADHAM, and by unanimous consent, Mr. HARTNETT was allowed to proceed for 5 additional minutes.)

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

Having established that the President can send troops anywhere that he wants to send troops, is it not conceivable that under the gentleman's amendment that we previously adopted, and according to your amendment, we could have 300,000 troops in Germany, we could have 32,000 troops in Korea, and they could stay there as long as they were not shooting at anybody?

Would it not also be possible that under the gentleman's amendment as he suggests we could introduce 10,000 troops to El Salvador prepared for combat as long as they were not doing anything combative?

Mr. HARTNETT. I would not want to attempt to interpret the gentleman's amendment any more than he has explained it. Maybe the courts would have to do that. I am sure that they would drag the President into court on that.

Mr. BADHAM. I think that is entirely possible.

Mr. HARTNETT. As I interpret the amendment, that would be correct, as long as they were not there to shoot anybody or invoke hostile fire at an enemy. I think those are the words.

Mr. BADHAM. And if somebody shot one shot at them, it would be perfectly all right for the President of the United States to declare that they could shoot back?

Mr. HARTNETT. I suppose under the amendment that would be correct.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from Indiana.

Mr. COATS. Mr. Chairman, I want to try to clarify this point. The gentleman and I and several Members from both sides have traveled to West Germany to view our installations there, and we have briefed by our commanders in West Germany about the Soviet threat and the threat from the East.

We know it is a situation, with the countries so close together, with the troops so close face to face, that some immediate decisions will need to be made in terms of the involvement of United States troops should East German troops, Eastern bloc troops, or Soviet troops decide to invade the West, West Germany or other parts of the NATO nations.

Now, do I understand this amendment correctly to mean that the President first would have to convene Congress?

Mr. HARTNETT. Right.

Mr. COATS. Let us say this happened on Christmas Day. We would have to send the call out for 435 Members, convene the House of Representatives and the Senate, debate the matter as we are doing now, and send approval up to the President before the United States could act.

Mr. HARTNETT. Mr. Chairman, I would say to my colleague that is the way I would interpret the amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I will yield to the distinguished gentleman from Washington.

I commend you on your introduction of this amendment. I think it was your purpose to allay the fears of the American people that the President meant what he said to the American people last night. But I would say to you, sir, that I am sure it is the wish of the mother of every young marine and airman and soldier tonight that she is no more desirous of her son being killed in Israel than she is of him being killed in El Salvador or Nicaragua. And on the issue of fairness, which has been raised time and time again by Members on this side of the aisle in respect to President Reagan in his handling of the economy and his

handling of the American people, certainly we would want to say to the mother of that young marine or sailor or airman that "surely we are as concerned about your son dying in Israel as we are in El Salvador, and I promise you we will debate it at least for 2 hours on the floor of this House of Representatives before we allow him to put hostile fire or to receive hostile fire from any enemy in any of the countries we have mentioned."

Mr. Chairman, I am very interested in yielding to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I thank the gentleman for yielding.

I think, first of all, we ought to distinguish between those cases where Congress has acted already to place American troops in the position of defending certain areas.

Western Europe is a classic example. We have over 222,000 troops in Western Europe for the specific purpose of defending Western Europe, and because they constitute an American commitment to defend Western Europe under the NATO treaty, it has been supported since its origin 30 years ago.

□ 2210

We have also placed troops in Korea for precisely the purpose of defending South Korea. Now, it is not my judgment that those troops are there for the purpose of invading Eastern Europe or for invading North Korea. They are there to preserve and protect South Korea and Western Europe.

Israel has never asked for United States troops in the defense of Israel. What Israel has asked for and received is the support of the United States so that she can defend herself, as she has, since her recognition by the United States.

These are issues I suggest that the gentleman is raising that do not constitute serious problems.

Mr. HARTNETT. Well, Mr. Chairman, if I might reclaim my time, I would say to the gentleman from Washington that what he says is true, but under this amendment that we have had passed here this evening, we could not send 10,000 or 500 troops to El Salvador, which is 900 miles—900 miles, not 9,000 miles from our borders, with the hopes of maybe preventing war.

Mr. FOLEY. We could indeed authorize the sending of those troops at this time. That is the purpose of the amendment.

Mr. HARTNETT. Mr. Chairman, I urge adoption of the amendment under the guise of fairness.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Carolina (Mr. HARTNETT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HARTNETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 27, noes 379, not voting 27, as follows:

[Roll No. 176]

AYES—27

Applegate	Goodling	Roemer
Bedell	Gradison	Savage
Brown (CO)	Kastenmeier	Shuster
Carney	Leland	Snyder
Clay	Levitas	Stark
Conyers	Mitchell	Weaver
Dellums	Oakar	Weiss
Edwards (CA)	Pease	Williams (MT)
Garcia	Rangel	Young (FL)

NOES—379

Ackerman	Darden	Harrison
Addabbo	Daschle	Hartnett
Akaka	Daub	Hawkins
Albosta	Davis	Hayes
Anderson	de la Garza	Hefner
Andrews (TX)	Derrick	Heftel
Annunzio	DeWine	Hertel
Archer	Dickinson	Hightower
Aspin	Dicks	Hiler
AuCoin	Dingell	Hillis
Badham	Dixon	Holt
Barnes	Donnelly	Hopkins
Bartlett	Dorgan	Horton
Bateman	Dowdy	Howard
Bates	Downey	Hoyer
Bennett	Dreier	Hubbard
Bereuter	Duncan	Huckaby
Berman	Durbin	Hughes
Bethune	Dwyer	Hunter
Bevill	Dymally	Hutto
Biaggi	Dyson	Hyde
Bilirakis	Early	Ireland
Bliley	Eckart	Jacobs
Boehlert	Edgar	Jeffords
Boggs	Edwards (AL)	Jenkins
Boland	Edwards (OK)	Johnson
Boner	Emerson	Jones (OK)
Bonior	English	Jones (TN)
Bonker	Erdreich	Kaptur
Borski	Erlenborn	Kasich
Bosco	Evans (IA)	Kazen
Boucher	Evans (IL)	Kemp
Boxer	Fascell	Kennelly
Britt	Fazio	Kildee
Brooks	Ferraro	Kindness
Broomfield	Fiedler	Kleczka
Brown (CA)	Fields	Kogovsek
Broyhill	Flippo	Kolter
Bryant	Florio	Kostmayer
Burton (CA)	Foglietta	Kramer
Burton (IN)	Foley	LaFalce
Byron	Fowler	Lagomarsino
Campbell	Frank	Lantos
Carper	Franklin	Latta
Carr	Frenzel	Leach
Chandler	Fuqua	Leath
Chappell	Gaydos	Lehman (CA)
Chappie	Gejdenson	Lehman (FL)
Cheney	Gekas	Lent
Clarke	Gephardt	Levin
Clinger	Gibbons	Levine
Coats	Gilman	Lewis (CA)
Coelho	Gingrich	Lewis (FL)
Coleman (MO)	Glickman	Lipinski
Coleman (TX)	Gonzalez	Livingston
Collins	Gore	Lloyd
Conable	Gray	Loeffler
Conte	Green	Long (LA)
Cooper	Gregg	Long (MD)
Corcoran	Guarini	Lott
Coughlin	Gunderson	Lowery (CA)
Coyne	Hall (IN)	Lowry (WA)
Craig	Hall (OH)	Lujan
Crane, Daniel	Hall, Ralph	Luken
Crane, Philip	Hall, Sam	Lungren
D'Amours	Hamilton	Mack
Daniel	Hammerschmidt	MacKay
Dannemeyer	Hansen (UT)	Madigan
Marlenee	Penny	Solarz
Marriott	Pepper	Solomon
Martin (IL)	Perkins	Spence
Martin (NY)	Petri	Spratt
Martinez	Pickle	St Germain
Matsui	Porter	Staggers
Mavroules	Price	Stangeland
Mazzoli	Pritchard	Stenholm
McCain	Pursell	Stokes
McCandless	Quillen	Stratton
McCloskey	Rahall	Studds
McCollum	Ratchford	Stump
McCurdy	Ray	Sundquist
McDade	Regula	Swift
McEwen	Reid	Synar
McGrath	Richardson	Tallon
McHugh	Ridge	Tauke
McKernan	Rinaldo	Tauzin
McKinney	Ritter	Taylor
McNulty	Roberts	Thomas (CA)
Mica	Robinson	Thomas (GA)
Michel	Rodino	Torres
Miller (CA)	Roe	Torricelli
Miller (OH)	Rogers	Towns
Mineta	Rose	Traxler
Minish	Rostenkowski	Udall
Moakley	Roth	Valentine
Molinari	Roukema	Vander Jagt
Mollohan	Rowland	Vandergriff
Montgomery	Roybal	Vento
Moody	Rudd	Volkmer
Moore	Russo	Vucanovich
Moorhead	Sabo	Walgren
Morrison (CT)	Sawyer	Walker
Morrison (WA)	Schaefer	Waxman
Mrazek	Scheuer	Weber
Murphy	Schneider	Wheat
Murtha	Schroeder	Whitehurst
Myers	Schulze	Whitley
Natcher	Schumer	Whittaker
Neal	Seiberling	Whitten
Nelson	Shannon	Williams (OH)
Nichols	Shaw	Wilson
Nielson	Shelby	Winn
Nowak	Shumway	Wirth
O'Brien	Sikorski	Wise
Oberstar	Siljander	Wolf
Obey	Simon	Wolpe
Olin	Sisisky	Wortley
Ortiz	Skeen	Wright
Ottinger	Skelton	Wyden
Owens	Slattery	Wylie
Oxley	Smith (FL)	Yates
Packard	Smith (IA)	Yatron
Panetta	Smith (NE)	Young (AK)
Parris	Smith (NJ)	Young (MO)
Pashayan	Smith, Denny	Zschau
Patman	Smith, Robert	
Patterson	Snowe	

NOT VOTING—27

Alexander	Fish	Jones (NC)
Andrews (NC)	Ford (MI)	Lundine
Anthony	Ford (TN)	Markey
Barnard	Frost	Martin (NC)
Beilenson	Gramm	Mikulski
Breaux	Hance	Paul
Courter	Hansen (ID)	Sensenbrenner
Crockett	Harkin	Sharp
Feighan	Hatcher	Watkins

□ 2220

Mr. DICKINSON and Mr. DUNCAN changed their votes from "aye" to "no."

Mr. CONYERS changed his vote from "no" to "aye."

Mr. STRATTON and Mr. SOLOMON changed their votes from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2230

PERSONAL EXPLANATION

Mr. GLICKMAN. Mr. Chairman, I was unavoidably detained and did not

vote on rollcall No. 175, the vote on the Foley amendment.

Mr. Chairman, had I been here I would have voted in favor of the Foley amendment.

AMENDMENT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL: At the end of title III add the following new section:

LIMITATION ON INTRODUCTION OF ARMED FORCES INTO EL SALVADOR, NICARAGUA, HONDURAS, MEXICO, COSTA RICA, GUATEMALA, PANAMA, AND BELIZE FOR COMBAT

SEC. 310. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the purpose of introducing United States Armed Forces into or over Honduras, Mexico, Costa Rica, Guatemala, Panama, or Belize for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to an introduction of United States Armed Forces into or over Honduras, Mexico, Costa Rica, Guatemala, Panama, or Belize for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

(D) nothing in this title shall be construed as limiting the power of the President to exercise his authority as Commander in Chief.

The CHAIRMAN pro tempore. For what purpose does the gentleman from Illinois (Mr. PRICE) chairman of the committee, rise?

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose and the Speaker having resumed the chair, Mr. HARRRISON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM THE HONORABLE BRUCE A. MORRISON, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable BRUCE A. MORRISON:

DEAR MR. SPEAKER: This is to inform you, pursuant to Rule L(50) of the Rules of the House, that, in consultation with the General Counsel to the Clerk of the House, I have determined that compliance with the subpoena served upon Mr. Bennett Pudlin, the Director of my District Office, would be consistent with the privileges and precedents of the House of Representatives.

Sincerely,

BRUCE A. MORRISON,
Member of Congress.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chairman will accept 1-minutes at this time.

IMPORTS OF NONRUBBER FOOTWEAR

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. DANIEL. Mr. Speaker, as a Congressman whose district includes six footwear factories and one supplier factory, I am very concerned about the continuing impact of import penetration on the domestic nonrubber footwear industry. Two plants have closed in my district since 1979, and I have witnessed the personal hardship this has brought upon my constituents. The hardship has not been confined to my district alone. Since 1968, 402 plants have closed nationwide. Over 100,000 employees have lost their jobs in direct manufacturing alone. At the same time imports have increased 232 percent. In 1983, imports accounted for 64 percent of the U.S. market.

Mr. Speaker, I am very concerned about this increase in imports. In 1976 and 1977, the International Trade Commission found the industry suffering serious injury from import penetration. At that time, the import share of domestic consumption stood at 47 percent. In the first 2 months of 1984, import penetration stands at 70 percent. The domestic industry is reeling from the continuing surge in imports.

I believe that import penetration is an obvious cause of the U.S. industry's past and present serious injury. It is equally clear that import penetration threatens future serious injury to the domestic nonrubber footwear industry. The domestic nonrubber footwear industry is determined to survive. If they are going to be able to survive, however, a respite from the relentless rise in import penetration is necessary.

The International Trade Commission presently is considering a petition filed for relief from imports from nonrubber footwear filed under section 201 of the Trade Act of 1974. I hope that the Commission will carefully review the evidence submitted on behalf of the domestic footwear industry and that they will recommend to the President that a comprehensive program of import relief be established. With this program in place I am confident that the domestic footwear industry will become fully competitive with imports.

I yield to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. I thank the gentleman for yielding.

Mr. Speaker, in my district, the Eighth Congressional District of Missouri, the economic damage caused by the pentration of imported nonrubber footware in recent years is one of the most severe single blows we have felt. Since 1978, seven factories have closed and approximately 2,000 workers have lost their jobs. The most recent closing, which occured in Salem, Mo., resulted in the loss of approximately 250 jobs in a community that has a labor force of fewer than 2,000 people. I do not think I have to tell you how devastating such a loss can be to a small rural community.

I am perhaps one of Congress staunchest supporters of a general policy of free trade. Representing one of the Nation's most productive agricultural areas, I am well aware of the need to maintain and promote our own access to foreign markets—and equally aware of the risks to that access that can result from import restrictions. Nevertheless, I have watched too many small communities suffer too much at the hands of imported footware, and have become increasingly convinced that this is an industry that needs—and deserves—temporary protection.

From my observations of the industry nationwide, as well as personal knowledge of the nonrubber footwear manufacturers in the eighth district, I am confident that the industry has not brought this problem on itself. It has made every effort to compete with foreign imports, and done so despite serious obstacles presented by the overall economic conditions of recent years. In Missouri, as well as across the Nation, footwear employees earn wages far below average in comparison to other industries, and considerable resources have been devoted to modernization of facilities and research. Yet, the industry still finds itself unable to cope with the flood of imports—a flood that has reached 70 percent of the U.S. market.

The damage that has been done is so extensive that the industry cannot "get back on its feet," even with the admirable effort it is making to become fully competitive with foreign producers. Thus, I believe that the

nonrubber footwear industry's request to the International Trade Commission is a reasonable one. Given 5 years of protection, the industry will have the opportunity it needs to regain a fair share of the market, and will be able to become fully competitive.

Based on this belief, I have urged the ITC to act favorably on the nonrubber footwear industry 201 petition, and today I urge my colleagues in the House to add their voices of support to this effort. This industry, its employees, and small communities across rural America deserve a chance to regain the ground they have lost to a relentless flood of imports.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana (Mr. LIVINGSTON) be permitted to precede my special order.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2240

RELIGIOUS PERSECUTION IN NICARAGUA

The SPEAKER pro tempore (Mr. LEVIN of Michigan). Under a previous order of the House, the gentleman from Louisiana (Mr. LIVINGSTON) is recognized for 60 minutes.

Mr. LIVINGSTON. Mr. Speaker, it is quite possible that tomorrow we may have a vote on the subject of covert assistance to the freedom fighters in Nicaragua. In that context, I would like to take this opportunity to refer to portions of a transcript of a hearing that was undertaken by a department within the White House under Faith Wittelsey at which certain representatives of the Nicaragua Government, former representatives of the Nicaraguan Government, came to the White House to testify at what was called a White House Outreach Working Group. It was the 53d meeting of the White House Outreach Working Group testifying on Central America. The subject was religious persecution in that country.

I think that it is necessary to outline the context of that hearing so that we will be enlightened on that subject when we discuss whether or not it is necessary to lend covert assistance to people who are attempting to contain the human rights abuses in Nicaragua.

Specifically, the hearing covers some 36 pages, which I have and will make available to Members upon their request.

I would like to just take an opportunity to discuss portions of that beginning with comments by the moderator which start: "For the Marxist-Leninist leaders of Nicaragua, the destination has been clear since their training days in Cuba. They desire a totalitarian state in which no organization will challenge their supreme authority. Standing in the way of this goal are the deep-seated religious convictions of the Nicaraguan people. Since they cannot simply outlaw the churches without sacrificing what international support still exists for their revolution, the Sandinista leadership is following a two-track policy of persecution and subversion. A Sandinista document, called the '72-hour document' outlined the strategy to be used as the regime consolidated its power.

"That document was published by the regime in October of 1979, and it stated that the Catholic Church was to be treated cordially and I quote, 'Following a cautious policy designed to neutralize conservative elements, develop close ties to sympathetic elements, and stimulate the revolutionary sectors.'

"Protestants, they said, and I quote, 'have to be watched closely, restricted, and expelled if detected in any untoward acts.'

"In the intervening 4½ years, the Sandinistas have been true to their word. Believers have been harassed, arrested, and even tortured. This violates not only international standards of decency and behavior, but the Sandinistas' own law. Article 19 of the Statute on the Rights and Guarantees of Nicaraguans provides that * * * 'even in cases of emergency' * * * freedom of thought and religion cannot be suspended. But this is unfortunately equivalent to the guarantees of religious freedom in the Soviet constitution, which through its Marxist prism translates into persecution and suppression."

Well, Mr. Speaker, with that context, four eyewitnesses to religious persecution were called to testify before this White House group about persecution in Nicaragua.

The moderator went on to point out that there had been a recent demonstration of Good Friday, this Good Friday, 1984, just before Easter, in Managua in which 100,000 people in that city turned out chanting, "We are Christians not Marxists" and "Free Nicaragua."

Following his notation of that and he again pointed out that in Nicaragua on Easter Sunday the Roman Catholic Bishops issued a pastoral letter decrying what they characterized as materialistic ideology. And they pointed out that Thomas Borge, the Sandinista's Interior Minister, responded by calling that pastoral letter a criminal act.

With that commentary the moderator first called a Mrs. Geraldine O'Leary Macias. She was apparently a member of the Maryknoll Order which she joined in 1964 as a Maryknoll nun. She went to work in Central America in 1969, served in Panama for 3 years before going to Nicaragua in 1972. Then after leaving the Maryknoll Order, she remained in Nicaragua and went to work for the Protestant social services. In 1974 she married Edgad Macias, who later became Vice Minister of Labor for the Sandinista regime.

When she and her husband became the subject of an intensive defamation campaign by the Sandinistas and when they received death threats, they fled Nicaragua for the United States.

Mrs. Macias testified before this White House group. She indicated that she was a refugee, one of thousands who have left Nicaragua over the last 4 years. Her husband, she pointed out, was a Nicaraguan. And she said that they left Nicaragua because of threats basically to eliminate her husband. In fact, the very person who threatened them later fled himself from Nicaragua and told them that he was instructed by the Sandinistas—his name was Miguel Bolanos—the Sandinista regime to carry out that elimination campaign. In fact, he conducted the operation in which the security police watched their house and put lies in the media about her husband.

I would like to quote just a few of her remarks. She said she left primarily because of the intimidation against her husband, but she said that there was a second reason. She said that was, "Because my husband has been arrested under Somoza and had received death threats under Somoza also—so many people have said to us: 'Why under Somoza would he stay in the country and under the Sandinistas would he leave?' And he said, 'That belongs to the churches and human rights groups in the world to answer. Because under Somoza I felt that if I went to jail there would be an international clamor. If I died, I would die a martyr. At least something would be left to my children. But in 1982, when I received death threats and there was an arrest order for me—under the Sandinista regime—I felt sure that if I was put in prison international groups would not clamor for my release, international groups would not protest against the Sandinistas. These groups that had been so supportive against Somoza now are silent or covering up for the Sandinista government. Therefore, I felt, why die and have my children be told that I was a counterrevolutionary? It would be better to be alive and struggling from outside'."

Today, Mrs. Macias points out there are many people leaving Nicaragua. She says they are leaving because they have been members of the Sandinista army and they do not want to continue or they do not want to continue be-

cause indoctrination is only Marxist-Leninist and is very antichurch.

And of course the Nicaraguan people are very pro-Catholic, very devoted to their church.

She goes on to say: "Others have told me that the FSLN doesn't kill people. Well, it's very hard to bring the bodies up here to show them."

She goes on: "I weekly had people coming to me, wanting to leave their government * * * because they were being forced to belong to the militias and the militias were being sent to the frontiers to do the fighting while the Sandinista army was being kept in the quartels. These people told me that the militia training was very inadequate and they were not given sufficient arms when they went to the borders and they were not convinced about what they were fighting for."

She goes on to say: "People going into the militias and armies are not defending Nicaragua, they are defending a Marxist-Leninist party. Not only that, many of them find out that the persons in charge of their units are foreigners, many times Cubans. And the Cubans have taken over, not only in many of the forces fighting but also the security police and even the community organizations."

□ 2250

After Mrs. Macias testified before the White House group, another gentleman who I personally, Mr. Speaker, have had the privilege of meeting, a fellow by the name of Prudencio Baltodano, a Pentacostal preacher and a farmer in the El Tendido Province near the Atlantic coast of Nicaragua, was a witness to the repression in his homeland and has suffered himself from Sandinista torture. Mr. Baltodano said that he was at home with his wife and children in February 1984, in the place where he lived, which he said was El Tendido in Punta Gorda, in the province of southern Zelaya in Nicaragua. "One morning"—these are his words—"at the beginning of February I was surprised by witnessing a combat in this area between Sandinista troops and a group who turned out to be from the ARDE."

That is one of the freedom fighter groups in Nicaragua.

"There was harsh combat, and we had the impression that the mountains were falling in on us. So we decided we would have to leave home.

"The next day in the mountains we were surprised by the gunfire from the Sandinista forces. We were immediately tied—bound by the Sandinistas.

"I was accompanied by one other man, Christanto Jaime. When we fled, we were joined by some neighbors."

He goes on to say that he was captured by the Sandinista troops, and he said, "They took us to a little opening and told us to take off our clothes. They took off our clothes and replaced our own clothes with military clothes. At that point they began to knock us to the ground and began hitting us on different parts of our bodies until we were practically unconscious.

"Then the soldiers asked us, 'Have you ever seen the famous Sombreristas, the Little Hats?' We said we have never heard of the Little Hats and this group of soldiers said, 'Well, for your information, we are those famous Little Hats.'

"They began asking us questions—'what is your name?' My friend said, 'Christanto Jaime,' and they said, 'what is your name?' And I said, 'Prudencio Baltodano.' And the soldiers said, 'Oh, you're the one.' And he told me I was on their list. 'You are an evangelical pastor, preacher. You are one of the ones that go around convincing the peasants to join the Contras.' This was an accusation which was not based on fact, which was not true."

Mr. Baltodano goes on to say:

"This soldier said to me, 'Pastors and preachers are our enemies. We do not believe in God. In case you are interested, and for your information, we are Communist.' Then he introduced me to one of his colleagues and said, 'This is god!'

"Then he said to me, 'Start to pray and see if your God will save you.' Then he ordered another soldier to take me up to a hill. They took me into a wooded area about 10 meters away. One soldier said to another, 'Tie him up.' So they tied my hands behind my back to a tree. When they finished tying my hands to the tree, he hit me with the butt of his weapon. Still I have the scar over there. Then he took a bayonet out of his belt and he hit me in the jaw with it. The soldier tried to put the bayonet on the end of his rifle, but he was not able to get it in, so he threw the rifle down and took the bayonet, took me by the hair and cut one ear off and then the other, as you can see."

And now, Mr. Speaker, I have to interrupt this quotation by Mr. Baltodano and say that I have met the gentleman. He has no ears whatsoever. He wears a bandana around his head to hide that fact, but he takes the bandana off. This happened some 4 months ago. The holes have healed. He has holes where his ears used to be but otherwise no protrusion on either side of his head, and a few additional scars around the rest of his head.

"The one who had been doing this said to his colleagues, 'Shall I go ahead and shoot him?' The other one said, 'No, it's not worth wasting a bullet on a so-and-so like that. Let him die suffering. Anyway, it won't take long to bleed to death, that's because I cut his jugular vein.'

"It was at that point that I fainted and I didn't hear any more voices or anything else."

Mr. Baltodano goes on to say:

"When I recovered consciousness—he describes what happened, how he got home and how he came to be available to testify about this atrocity on his person.

"This is one of the many," Mr. Baltodano says, "incidents which have occurred in Nicaragua and even in the same area of mine, El Tendido. I know of one case of a man named Miguel Flores, who was a pastor of the Central American Evangelical Mission. I worked with him as the first deacon of his church. He was taken, tied up, his nose cut off, his eyes put out, his face was cut and ears cut off, and he was left tied and shackled. This was not the only case," he said. "More people have died. Mostly men, although there were some women. A total of 59 in all."

He said, "In El Tendido all of the houses were burned, they were all reduced to ashes by the Sandinistas."

At this hearing the moderator interrupted, at the White House, and he goes on, and I would like to just take a portion of his comments. He points out that, "The east coast region of Nicaragua has long been physically, historically, and culturally isolated from the country's mainstream. The population is primarily Indian, mostly Miskito and black. These groups are traditionally religious, Moravian, Roman Catholic and Church of God, conservative in manner and keenly proud of their ethnic uniqueness. They were allowed relative autonomy, even under the former Nicaraguan dictator, Anastasio Somoza. Despite Miskito support for the Sandinistas against Somoza, the Nicaraguan Government in 1979 embarked on a program, as they call it, to rescue the Atlantic coast. Cuban and Nicaraguan personnel began to flood into the area. The net effect of this program, according to the human rights group Freedom House, is to 'deprive them of their social and cultural identity, an identity based on a communal lifestyle, a democratically based selection of leadership, and a passable way of life centered on their churches.'

"Almost immediately the Indians' long cherished autonomy began to fade away. Their traditional and freely elected leaders were replaced with Sandinista appointed authorities. Many were Cuban, most were strangers. The lives of the Indians were redrawn along Marxist lines.

"From the outset, the triumphant Sandinistas experienced difficulties bringing the Indians under their domination. Demonstrations, some turning violent, broke out along the east coast as Indians and blacks protested the presence of Cuban security force advisors and teachers in 1980. Beginning in 1981, thousands of Indians were evacuated from communities in an attempt to move the entire Indian population

to areas under close governmental control. The reason given for this was the danger of attacks by anti-Sandinista forces. However, the evacuations began before Contra activity along the border with Honduras began in earnest.

"Briefly stated, the Sandinistas have implemented a policy of Indian ethnocide. One-fourth of the coast's 165,000 Indians are either in relocation camps or refugee camps. One-half of Miskito and Sumo villages have been destroyed. One-thousand Indian civilians are in prison, missing or dead. Indian rights to self-government, land and resources have been abolished. Subsistence cultivation, fishing and hunting, are strictly controlled to the point of nonexistence in many areas, and access to staple foods are so limited that hunger is an everyday problem and starvation a real possibility. Many villages have had no medicine or doctors for over 2 years. Freedom of movement is denied or severely restricted, and in many areas canoes, the people's major means of transport, have been confiscated or their use prohibited. More than 35 communities have suffered massive Sandinista military invasions during which innocent civilians are subjected to arbitrary arrest, killings, interrogations, tortures and rapes, theft and destruction of property."

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Is the gentleman saying that these people are threatened with their very survival by the Sandinistas?

Mr. LIVINGSTON. This is an ongoing mode of conduct by the existing self-proclaimed government of Nicaragua against the natives of Nicaragua. Yes, that is exactly what they are doing.

Mr. RITTER. In other words, their struggle, as they oppose the Sandinistas, is a struggle for survival of their very race?

Mr. LIVINGSTON. If the gentleman will permit me to go ahead and read, that is exactly what I am saying. The gentleman is correct. This is a struggle for survival of Nicaraguan citizens.

Mr. RITTER. I would ike to interject a point. Are the Miskito Indians encompassed by the so-called Contra movement?

Mr. LIVINGSTON. The Miskito Indians are making up a portion of the Contra movement, as I understand it. Actually, the Contra movement or the freedom fighter movement of Nicaragua is actually made up of three or four different groups.

Mr. RITTER. Yes.

Mr. LIVINGSTON. Some are people who were imprisoned under the Somoza regime. Others are Indians who were living under the Somoza regime and decided the current conditions in Nicaragua were intolerable, and they are fighting against it. But these are people who were not fighting, or at the times they were beaten and tortured and had their homes destroyed were not fighting the Sandinista regime.

Mr. RITTER. Yes, indeed. They were simply fighting the imposition of Sandinista ideology and changing their own demographics and resisting that.

I would add, if the gentleman would yield further, that the Miskito Indians today, some 2,000 to 3,000, are actively engaged as freedom fighters infighting for their survival.

Mr. LIVINGSTON. If the gentleman will forgive me, I have a good bit of material here that was actual testimony in the White House.

Mr. RITTER. If I could just make one last comment. Stedman Fagoth, a leader in the resistance against the genocide against the Miskito Indians, told me that Tomas Borge, who is the Interior Minister of the Sandinista government, mentioned to him that to bring Sandinismo to the east coast of Nicaragua to extend that central government influence, he would, if he had to, kill the last Indian.

□ 2300

I might add that tomorrow is a critical vote for the survival of the Miskito Indians because they are part and parcel of the freedom fighters, of the Contras. They as well as others will be cut off if this House votes to pull the rug out from under them, and I think what the gentleman is doing here in the well tonight, although the hour is late, is important because it sets the basis for making an intelligent decision on whether or not this country should be coming to the aid of those fighting for freedom less than 1,000 miles from many points along the borders along the United States of America.

Mr. LIVINGSTON. I appreciate the gentleman's point, and he is highlighting the very point I seek to make with this report. In fact, I would just like to read again the sentence and the narration that more than 35 communities have suffered massive Sandinista military invasions during which innocent civilians are subjected to arbitrary arrests, killings, interrogations, tortures, rapes, thefts, and destruction of property.

The Sandinistas try to force the people to divulge the location of Indian secret base camps and to terrorize the villagers so that they would not support or join the military resistance. The Miskitos have not accepted this situation, as the gentleman has pointed out.

To testify to that fact, the White House, just in the last few weeks had one of the leaders of the Indian group, Wycliffe Diego, who was a cofounder of Alpromiso, an Indian organization formed in 1973 to protect Indian autonomy and tribal land from the Somoza regime. After the Sandinistas came to power, he coordinated Misurasata, a creation of the Sandinista government to foster cooperation between the Indians and that regime.

Mr. Diego, now the coordinator of a political commission on Misura, an organization comprising the Miskito, Suma, and Rama Indian tribes in opposition to the Sandinista regime, testified before this commission at the White House. He pointed out that in the beginning of 1964, the Indians gave their support to the revolution. Because the Indians have been suffering for several years, he said, under the oppression of the government of Nicaragua, the Indian had been awaiting a vision to attain progress in the future.

Then after the 1979 revolution, for the first couple of months the representatives of the Sandinista government worked with them hand-in-hand, that is worked with the Indians. But in 1981, the Sandinistas burned 5,000 dwellings in Ria Coco and 69 communities. They burned 57 churches, and they are at the present time using several of those churches as local political headquarters.

In the Bilwaskarma, which is such a large institute, that is, it was a church and it is now a barracks, that was one of the examples that he used. The same thing happened in the rest of the churches. He said they killed three Moravian pastors, he names them: Olfilario Yutan, Mario Peralta, and Pudi Simons. They arrested eight pastors: Maurice Vidaurr, Efrain Omier, Santos Cleban, and several others.

In December 1983 they announced their famous amnesty but this did not help these famous pastors at all. They tortured them in several ways, they also killed two Roman Catholic pastors, and he says that a total of 26 Moravian pastors have fled to the Honduras refugee camps, and he names them.

A great deal of pressure was placed on the Moravian church pastors in Nicaragua. They are not really free to preach their sermons as they would like because of the military control and pressure not only on the Moravian churches, but on the other evangelic denominations as well as the Catholic churches. Starting 6 months ago, they say the pastors had to present their sermons to the commandantes before they could even deliver the sermon. He says that things have gotten a little bit better in the last 6 months but that practice was ongoing.

He said that the military exerts great control over all the people particularly in the area of Zelaya, and the Indians are not allowed to work their

fields in the mountains to sow their crops. They are not allowed to fish, they are not allowed to hunt, and so on a daily basis we see young people, children and old people dying of hunger. Then he goes on to what is happening throughout the rest of Central America.

He points out that in 1979 when the Sandinistas came to power they promised the countries throughout the world they were going to defend and protect human rights. This is terribly significant; it goes to the point the gentleman made. But since that time they have been in power, and they have been in constant violation of human rights of the Indians. Throughout the world now he says we find people do not want to hear the voice of Nicaragua to find out what is going on in our country.

That statement was followed up by a Humberto Belli, who is a former Marxist and a collaborator with the Sandinistas who became a convert to Christianity in 1977. He also happened to have been an editorial page editor of La Prensa, Nicaragua's only independent newspaper. It is questionable how independent it is today since on almost a daily basis the Sandinistas exert censorship over the paper.

He left Nicaragua in April 1982 after the imposition of total prior censorship of the Sandinista Regime, he just wanted to reemphasize those last remarks by Mr. Diego. He pointed that Mr. Diego was referring to the fact that many people in the world do not seem to care what is going on in Nicaragua or what is affecting the Nicaraguan Christians.

Mr. RITTER. If the gentleman will yield on that point, I think it is a very critical point. There are many people in the world who are taking daily El Salvador over the coals for not exhibiting perfect democracy behavior. How is it that the voices are deafeningly silent. Those same voices that tried to daily criticize the attempts at developing a fledging democracy in El Salvador. Those voices are so silent.

Mr. LIVINGSTON. The gentleman's point is well taken. It is emphasized by Mr. Belli, who was the editor of La Prensa, that is exactly the point he makes.

"One of the most frustrating experiences for me personally," he said, "was that when I came to the United States I thought that I would find that especially among Christian groups sympathies were toward the Sandinistas, especially in some sectors of the clergy." He said, "If we review a good deal of the Christian literature, nowadays written in this country, the United States, we find again that those who are being embraced by the tormentors of many Nicaraguan Christians. The Nicaraguan Christians who were victimized by these policies are not being given a hearing, they are being portrayed as conservatives, reactionaries, or perhaps agents of the CIA. Just echoing the same accusations of the Sandinistas. This concern was recently voiced by the Bishops of Nicaragua in their speech of the Holy Week. They said one, albeit a small sector of our church has abandoned ecclesiastical unity and has surrendered to the tenets of materialistic ideology. These sectors sow confusion inside and outside Nicaragua through a campaign extolling its own idea and defaming the legitimate pastors the faithful who follow them.

"Censorship of the media make it impossible to clarify the positions and offer other points of view. So there is an alliance," this gentleman would say, "between the Sandinistas and the so-called revolutionary Christians in Nicaragua who are those Christians who have embraced Marxist liberation theology as their new gospel and some groups outside Nicaragua.

"These revolutionary Christians in Nicaragua constantly organize tours, they invite American visitors, they give them very well prepared tours around the country, they interview all the members of this so-called People's Church of Revolutionary Christians, and they come back to the United States saying as I heard a priest in Lansing, Mich., that the kingdom of God had arrived in Nicaragua. I think that one of the best weapons of the Sandinistas to legitimize their repression on the Nicaraguan Christians has been the complicity of these Christians around the world. I say, that in the name of God, this has to stop. It is a sign against truth and it is helping to oppress Christians who like these fellow members have suffered either on their own flesh the brutality of the Sandinista regime. But it is brutality about which no media, very seldom newspapers or newsmen, want to talk about it. It is embarrassing to talk about the violation of human rights committed by left-wing regimes.

"It is very nice and it is encouraging, sophisticated, and elegant to talk about the violations of human rights committed by the right, the Salvadorans and by the Guatemalans. But when it comes to Nicaragua, there is silence or complicity."

I think the gentleman made the point and again, that point was reiterated by Mr. Belli, the former editor of La Prensa, he goes on to point out how atrocities happen.

□ 2310

I would simply complete this summary of this hearing before the White House Commission by completing Mr. Belli's statement. He says, getting back to the document of the bishops, a document published on November 9 by Msgr. Pedro Vilchez, the Bishop of Jinotega in northern Nicaragua.

"He sent a letter," says Mr. Belli, "to a Sandinista leader pointing out the following events: People in the countryside escape just by knowing the Sandinistas or the Compas are coming, for they are afraid of the tortures, the violations, and the death for the 'great crime' of attempting against the security of the estate."

He said, "Usually they are sent to jail, members of our pastoral teams—a member of Catholic action. They also report the burning down of several chapels and churches in the peasant areas," and he goes on to say how the letter from the Bishop mentioned how the Sandinistas had been developing a net of spy networks in order to keep track of all Christian leaders of all denominations.

Now he points out another letter, also published by Msgr. Pavla Antonio Vega, who is the president of the Nicaraguan Bishop Conference, and he says of that gentleman, "After the triumph of the revolution, when they kept denouncing the violations of human rights, because they feel they used double standards, they were blamed as reactionaries and enemies of the people. Yet, I feel that nobody can question the credibility of Monsignor Vega. And he says, when he refers to the murder of three Christian leaders by the end of 1983 in Nicaragua, the first is the case of Alphonso Galliano from the peasant region of Las Pauas. He had been threatened with death on several occasions, and then one day a group of burglars appeared in his house. They did not steal anything, but killed him. A few times later, we saw this so-called burglar as a member of the Popular militia going around. Another case—the case of Daniel Sierra Ocon. He was captured, accused of anti-revolutionary activities, something that was never proved. After saying that he was going to be freed, his wife was told that he had committed suicide. Another case: Yamilet Sequelra de Lorio. She was pressured into becoming a member of the State security by the Sandinistas. She and her husband refused. Some days later their bodies were found on the mountains nearby with clear signals of torture and violent mutilations."

These are endless stories, says the former editor of La Prensa. "A very sad aspect of this," he says, "is the fact that these stories are not known or the fact that so many people don't want to listen to them."

So I think that illustrates the point the gentleman from Pennsylvania has made. There are atrocities going on in Nicaragua, and the people of the United States and people in the U.S. Congress are not listening to their pleas and to their claims. But I have to tell the Speaker, and point out to this body, that while many of our colleagues do criticize the human rights

performances of pro-American governments in Central America, they often do neglect to criticize the human rights records of the Communist Sandinista regime in Nicaragua.

So, in effect, we are left with a double standard on human rights. To that end, just to cap up what this hearing before the White House committee pointed out, the lead editorial in today's Wall Street Journal attempts to correct that double standard. It points out that the latest report of Americas Watch group on Nicaragua, which is only mildly critical of the Sandinistas, is refuted by the report of an independent group indigenous to Nicaragua, the Permanent Committee for the Defense of Human Rights.

This group opposed the Somoza regime in Nicaragua, and now they oppose the Sandinistas. The committee's director, Marta Baltodano, says of the Sandinistas, "We thought that the abuses of the first years of the regime came from lack of experience or uncontrolled behavior of subordinates. But now, after 5 years, we see the human rights abuses come from the development of a special ideological scheme among the Sandinistas, and it is important to have the media know this."

Mr. Speaker, I think that the media is beginning to take note that there are human rights abuses in Nicaragua, and evidence of that fact, I would introduce today's editorial in the Wall Street Journal entitled "Whose Watch?" which illustrates those human rights abuses.

The editorial follows:

WHOSE WATCH?

When the Helsinki accords between East and West were signed in the mid-1970s. Helsinki Watch organizations were established in several countries to see whether the signatory nations really observed the pact's human-rights promises. Not surprisingly. Soviet bloc regimes turned out to need the most watching. But in 1981 the human-rights community, evermindful of its need to be impartial, setup Americas Watch in the U.S. to monitor human rights in the Western Hemisphere. Now, Americas Watch has put out its most recent report on Nicaragua, but an even more authoritative human-rights body says the report is not impartial after all.

"The human-rights situation" under Nicaragua's Sandinist rulers, the Americas Watch report sums up, "has improved in some respects but remains a matter of serious concern in other respects." Relations with the Miskito Indians have gotten better. On the other hand, "beatings and harsh interrigation practices" are frequently reported in "detention centers not under the jurisdiction of the penitentiary system."

The report emphasizes that we must consider the situation in its political context. On the one hand, "We do not believe that the Nicaraguan government is entitled to escape blame . . . because of the U.S. sponsored effort to overthrow it." On the ever-present other hand, "the United States deserves some of the blame." Moreover, "it is disingenuous for the United States to cite abuses of human rights as justification for what it is doing to Nicaragua," in light "efforts by the Reagan administration to shore up the government of El Salvador, which has a horrendous record on human rights."

But it turns out that Americas Watch is not the only guardian monitoring the rights of the Nicaraguan people and certainly not the one closest to the scene. In 1977, during the latter days of the Somoza regime, a group of intellectuals formed the Permanent Committee for the Defense of Human Rights. The committee attacked the dictator Somoza, who called the members communists and jailed their lawyers. Committee members had high hopes for the Sandinist regime when it took power.

But this week the committee's director, Marta Baltodano, was in Washington to try to win broader recognition—from the Organization of American States, among others—of the true human rights situation in Nicaragua and to criticize the report that Americas Watch produced. "Americas Watch justifies the violations. It attributes to the government the intention of improving when in fact the improvement has been almost nil."

"We thought," said Ms. Baltodano in a Journal interview, "that the abuses of the first years of the regime came from lack of experience or uncontrolled behavior by subordinates. But now, after five years we see that the human-rights abuses come from the development of a special ideological scheme among the Sandinistas, and it is important to have the media know this.

"Our officials have been thrown out of their offices. Several times I have been prevented from leaving the country. We have no access to the press. Through its Sandinist Defense Committees, the government has warned citizens that whoever brings a claim to us will be considered counterrevolutionary.

"But the gravest error made by Americas Watch is to take the Somoza regime as its point of comparison with the Sandinistas. The two are totally different in their forms of violence. Somoza was a dictator who frontally attacked those who threatened him; he used an institutionalized system of torture and disappearances. But a worker could exist very comfortably if he led a private life. Today in Nicaragua, you will no longer find corpses in trash cans. And the physical torture is not so refined; it uses only fists and belts. But the system of psychological torture is very sophisticated and reaches even common citizens, who are no longer allowed to be apolitical."

Ms. Baltodano's tone became even more urgent: Luis Mora Sanchez, a union leader and radio correspondent, had recently been jailed for broadcasting a complaint that a group of mothers had made to the human-rights committee. This very morning he had "confessed" to begin a member of a counter-revolutionary cell. Could The Wall Street Journal do something for him by mentioning his name?

Not much, unfortunately. But at least we can note her assessment of the totalitarianism growing in her country, and of the supposedly above-the-battle groups so widely quoted on human rights. The Americas Watch report tries to make it look as if Nicaragua's violations are a result of U.S. policy, she notes. "U.S. policies do have an influence, but essentially this is the product of a Marxist scheme in which there is only one party and others must obey it."

Mr. LIVINGSTON. Again, rather than introducing this very lengthy document, which is the transcript of the testimony taken before the White House in the last few weeks on human rights abuses in Nicaragua, I have it available in my office, and I will be pleased to make a copy of it available to anyone in this body who might request it.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I would be pleased to yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman from Louisiana for yielding.

Mr. Speaker, I would like to commend the gentleman for his perseverence in, with difficulty, ferreting out information on the details of the human rights abuses in Nicaragua. It is hard to find that information in our press. Certainly the Nicaraguan Government is not interested in exposing its weaknesses.

But I must say it is ironic that where we see a society which has such a total commitment to totalitarianism and the abuse of human rights that we see such a silence here in the House of Representatives. While almost daily you can hear the problems of El Salvador, you do not learn about the problems of Nicaragua and the imposition of totalitarianism by the Sandinistas.

I have heard our colleagues on the other side of the aisle say that they cannot do anything about the Sandinistas; that they are so strong and they are so entrenched that anything we do can only make them angry and more hostile. That sounds so much like the 1930's when well meaning people like the well meaning people today indicated that we better not antagonize the Nazis and Hitler by opposing the remilitarization of the Rhineland and that will only make them angrier and more hostile; that we better not antagonize the Nazis and Hitler over the annexation of Sudetenland, that would only make them angrier and more hostile; that we better not antagonize them over Anschluss in Austria.

It is so beautiful a parallel. Well meaning, patriotic Americans, yes; but many of our colleagues, and they happen to be focused and concentrated on the Democratic side of the aisle, are making excuses for the Sandinistas, are saying, in effect, that while billions or more in military assistance and the militarization of Nicaragua has gone into that country from the Soviets and from the Cubans, they are pulling the rug that is consisting of $21 million in life-support systems for about 15,000 freedom fighters, and those 15,000 freedom fighters are a large number considering that Nicaragua only has 2½ million people. That is equivalent to something like 1,300,000 Americans bearing arms against our Central Government.

□ 2320

The gentleman has made an excellent statement and I think again it sets the stage for the very important vote tomorrow when this House has a chance to support those who would fight for human rights in Nicaragua, those whose only aims are to bring back the original promises of the Sandinistas to bring those promises to reality, the promises made to the OAS, the promises made to the Nicaraguan people, the promises made to a wide variety of the original Sandinista democratic front. That is all the Contras are fighting for and those who would say that we cannot support them because it will only make the Nicaraguan totalitarian Soviet-Cuban backed regime so guilty of these kinds of human rights violations that the gentleman has described angrier is to say that we give them a free ride.

I do not think the American people, seeing the proximity of this Soviet-Cuban base to our southern borders and our frontiers and closer to American cities than some American cities are from other American cities are willing to give the Soviets, the Cubans, and the Nicaraguan proxies a free ride.

I think the gentleman has done a yeoman service, not only tonight but on many other occasions, standing up for truth and standing up for human rights when silence on Nicaragua on the part of so many of our colleagues is deafening.

Mr. LIVINGSTON. Mr. Speaker, I sincerely appreciate the gentleman's eloquent statement and I appreciate his kind comments. I simply would like to commend him on his attempt to enlighten the American public on the true situation in Nicaragua as well. He has taken the stand on numerous occasions and he has tried to open our eyes. Unfortunately, we do have a tendency in this country to close our eyes to unpleasant situations, ugly situations that exist around the world.

The fact is the American people are good-hearted people. They are well-intentioned. They want to believe that the rest of the world looks at the globe in the same attitude and the same vein and the same view that they do. Unfortunately, that does not seem to be the case as we see the Soviets marching through Afghanistan over the last 4 years, as we see them through their surrogates in Southeast Asia and their surrogates in Africa and now their surrogates in Central America, as well as through the Middle East and the Far East.

I think it is quite apparent that the Soviet Union, Cuba, and now Nicaragua, does not intend any good will for the people of the United States nor the people of Central America; not only that, they do not intend any good will for the people they control, as evidenced by the human rights violations documented by these witnesses and this testimony.

Mr. RITTER. Mr. Speaker, if the gentleman would yield further for just one moment, Jack Anderson, the columnist, was in the Lehigh Valley of Pennsylvania about a year ago and he flatly stated that the Soviets were not interested in Nicaragua or Salvador or any other Central American country. They were interested in the destabilization of the United States.

Mr. LIVINGSTON. Well, we really do not have to look at Jack Anderson as being the ultimate authority on that. We only have to look to the comments of the Russians, the Cubans, and now the Nicaraguans themselves, for exactly that same point. They say it repeatedly.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I will only take a moment.

It just struck me strange as the gentleman was reading this entire compendium of human rights violations in Nicaragua that it took a White House hearing to get that information out.

We are so concerned in this body about human rights violations when they involve friends of the United States and very often we have hearings here about the nations that are friendly to us. The fact is that we do have some of our friends that have abominable records on human rights and we ought to take a look at that.

But is it not interesting that we did not have a congressional hearing which turned up all these absolutely abusive cases of human rights in Nicaragua, but rather had to rely on a White House hearing process to bring this material forward. It is just kind of passing strange to this gentleman.

Mr. LIVINGSTON. I think the gentleman's point is very well taken. There is not any doubt that this Nation should abhor human rights violations wherever they exist, whether they be on behalf of the right or the left or any totalitarian dictatorship.

In essence, human rights abuses occur under totalitarian dictatorships; but you have totalitarian dictatorships of all shapes and sizes, some are friendly to the United States, some are not.

Invariably if they are friendly to the United States, you can be assured, as the gentleman has point out, we are going to have hearings on them. Unfortunately, we do not have hearings on human rights abuses in Nicaragua. We do not have congressional hearings on human rights abuses that the have existed in South Vietnam since the collapse and the cave-in to Hanoi.

Mr. RITTER. If the gentleman will excuse me, if the gentleman will yield, we certainly have had a lot of hearings and a lot of attention paid to the abuses of the Government in South Vietnam that was friendly to the United States as soon as it turned Communist.

Mr. LIVINGSTON. We do not have congressional hearings today since Vietnam has fallen. We do not have congressional hearings on the human rights abuses that have led to the eradication of millions of people in Red China. We do not have congressional hearing on the genocide that is going on today on a daily basis in Afghanistan.

It is ironic that for some reason many Members of the House just refuse to see the facts.

Mr. RITTER. I might add that we have had some hearings. I have been active on the hearings on Afghanistan.

Mr. LIVINGSTON. But the same people that have been crying out so terribly loud about human rights abuses that have been going on in other parts of Central America seem to turn a blind eye to what is going on in Nicaragua and those people are the last people who ought to utter a peep about what is going on in Afghanistan and some of these other parts of the world.

Mr. RITTER. Mr. Speaker, will the gentleman yield for a question?

Mr. LIVINGSTON. I would be happy to yield to the gentleman.

Mr. RITTER. I am curious to find out the gentleman's response as to what would be the outcome of the approach of the Democratic leadership to pulling the rug out from under the Freedom Fighters in Nicaragua. What would that do?

Mr. LIVINGSTON. The gentleman's question and point is well taken. We have argued that earlier tonight with the vote that came forth on the defense bill that frankly I think few Members were fully aware of the context of that bill, and we will get into that again.

Let me simply say that it has been my position and I know it is the position of the gentleman from Pennsylvania that we should not be pulling the rug out from our friends who are fighting for freedom in Nicaragua. In fact, we should be assisting them in any way possible. Unfortunately, that does not seem to be the consensus of a majority of this body.

Mr. Speaker, at this time because there are other Members seeking to be recognized at this late hour, I would relinquish the balance of my time.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the gentleman from Georgia be able to precede my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WHO IS IN NICARAGUA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I will not talk very long. I simply want to make the point that we are going to be taking up the question of helping the Freedom Fighters in Nicaragua tomorrow again. I wish to bring two facts to the attention of the House.

The first fact is that there are a considerable number of Soviet bloc advisers and Palestine Liberation Organization and Libyan advisers in Nicaragua. The most recent figures I have been able to get say that there are over 100 Soviet military advisers, over 100 civilian advisers from the Soviet Union, 35 East German Secret Police advisers building a Secret Police terror network, over 100 East German economic advisers.

From Bulgaria, Czechoslovakia, and Poland, there are over 100 advisers.

There are 20 Libyan pilots and mechanics.

There are over 50 Palestinian Liberation Organization pilots and mechanics and the Palestinian Liberation Organization has provided over 50 tons of military equipment to the Salvadoran guerrillas.

I simply mention these facts to remind all my colleagues who are going to vote tomorrow that Nicaragua is increasingly a Soviet colony, that every supporter in this body of Israel should recognize that with each passing day the Libyans and Palestian Organization terrorists who are committed to the destruction of Israel are building a base in a country, Nicaragua, which was one of the key countries in the founding of Israel, a country which played a key role in the Security Council in the United Nations when Israel was created.

What we see now is the slow, steady, methodical increase of Libyan and Palestian Liberation Organization activities in Nicaragua and a Bulgarian-Czech-Polish-East German and East Soviet activities in Nicaragua, as Nicaragua begins to be a colony of the Soviet Union.

□ 2330

Second, I would wish to make the point to my colleagues that a little over 2 months ago 10 Members of this House wrote Commandante Ortega. A little over 2 months ago 10 Members of this House, led by the majority leader, sent a letter that outlines a series of very significant questions involving the fate of the freedom fighters who are currently trying to reestablish democracy in Nicaragua.

I have raised very serious constitutional and legal questions about that letter to Commandante Ortega. But the question which the House should confront tomorrow is simple. Did Commandante Ortega answer the letter or not?

If he did not answer the letter, with 2 months having passed, then what justification is there for any of the gentlemen who wrote him to vote against aid to the freedom fighters? If he has so little esteem for them that he did not even answer them after 60 days, why should they in any way protect him or encourage his survival as an increasingly Communist dictatorships, increasingly a colony of the Soviet Union?

On the other hand, if Commandante Ortega did answer them, I think they owe it to this House to release the letter tomorrow and to read that letter into the RECORD before the House votes. If he did answer them, if Commandante Ortega, the Communist dictator, did answer the 10 gentleman who wrote him, what did he answer? Did he say yes, he would be glad to have free, open elections with a free press? Yes, he would be glad to have the freedom fighters come back home and campaign? Yes, he is glad to guarantee their security? Yes, he would accept international observers making sure there are honest and fair elections such as the one in El Salvador? Or did he say no, he would not yield to their request; he would not help the freedom fighters; he would not permit a free election; he would not permit observers?

If in fact these 10 gentlemen who wrote this letter to a Communist dictator can get up tomorrow and say he has agreed with everything we want, we are going to have a free, democratic election in Nicaragua, then all of us could look in a different light on the question of helping the freedom fighters. If they have succeeded, then all of us can say well, it looks like Nicaragua is going to become pro-Western and open, a democratic society, and we should all rethink the question of helping the freedom fighters. After all, if they are going to be given their freedom, they hardly need fight for it.

On the other hand, if in fact 60 days after they wrote him these 10 Members of the Democratic foreign policy establishment either have not received any answer at all or have received a negative answer, an answer that in effect promises the continued strangulation of freedom by an increasingly Soviet style police state built on Communist lines, then what justification will these 10 gentlemen have for voting against the freedom fighters? Will they truly stand here and tell us, having been rejected, having had their appeal denied, that while they offer a letter for their friends they offer no help?

In either case, I think they owe it to this House, having gone so far as to write a Communist dictatorship with whom we are in opposition, having gone so far as to collectively send a strong signal to that Communist dictatorship, having proferred the opportunity for that Communist dictatorship to change its ways, they should report tomorrow on whehter or not they have received an answer, and if they have received an answer they should make that answer available to all of us to read.

So tomorrow I shall ask all 10 to report to the House. Have they received an answer? If they have, what is it?

I believe they owe that to us, to their fellow citizens, and to the freedom fighters to whom they say they have written the letter. Before we vote tomorrow we should know what exactly did Commandante Ortega say.

YOUTH EMPLOYMENT OPPORTUNITY WAGE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PACKARD) is recognized for 10 minutes.

● Mr. PACKARD. Mr. Speaker, the Youth Employment Opportunity Wage Act, which I am introducing in the House today, attacks one of the Nation's most serious problems—lack of employment opportunities for our young people.

Despite a history of Federal programs targeted to youth over the past two decades, youth unemployment has continued to increase. Even with the sustained economic recovery of the past 17 months, youth unemployment remains extremely high, particularly for minority youth.

Many youth are unemployed because they lack the skills to earn the minimum wage. Government simply cannot afford to fund all of the youth training and employment experiences that young people require, but the private sector can. It is estimated that this proposal would add 400,000 additional private sector summer jobs each year. These new jobs will occur in a wide variety of industries. Only one-third of the jobs would be in eating and drinking establishments. The remaining two-thirds will be in other industries, such as grocery stores, gasoline service stations, hotels and motels, educational services, entertainment, and recreation services. For instance, Printing Industries of America, Inc. recently surveyed over 7,500 member companies and found that a large ma-

jority would hire addition youth as a result of such legislation.

Creating new jobs will provide youth the opportunity for that first job, experience, and training. Studies show this experience is invaluable to future employment and will lead to higher future wages in their adult years.

Displacement of adult workers is a concern of many. This legislation addresses that concern by establishing stiff penalties for employers who discharge adult workers to hire eligible youth, including a $10,000 fine and prison term.

Time is of the essence if we are to get this concept into place this summer. It was in this spirit that the National Conference of Black Mayors endorsed the concept of an experimental youth employment opportunity wage program on April 20, 1984, with hopes that such a program could be in effect as soon as possible.

A bipartisan group of 36 Members of Congress has joined me today in introducing the Youth Employment Opportunity Wage Act of 1984. A copy of the bill follows these remarks. We urge our colleagues to join us in this effort to give young people a fighting chance to have their first job.

H.R. 5721

A bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938 which shall terminate on September 30, 1987, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Employment Opportunity Wage Act of 1984."

SEC. 2. (a) The Congress finds that one of the Nation's most serious and long-standing problems is providing adequate employment opportunities for our young people and the Congress finds, as well, that many youth are unemployed because they lack the job skills to earn the minimum wage which has the effect of pricing unskilled youth out of the job market. The Congress finds that a youth employment opportunity wage could make it possible for employers to expand job opportunities for young people during a period of special need—when young people are looking for summer jobs. The Congress also finds that such a program has never been adequately tested and that there should be a demonstration period for a youth employment opportunity wage in order to allay any doubts as to the ameliorative impact of the youth wage.

(b) The purpose of this Act is to provide a period during which a youth employment opportunity wage can be paid by employers and evaluated for its effectiveness in creating employment opportunities and helping young people develop job skills.

SEC. 3. Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following new subsection:

"(g) Notwithstanding any provision of this Act (except for the first sentence of section 18(a)), during the period from May 1 through September 30 of each year, an employer may employ any person who is under 20 years of age at a wage not less than $2.50 per hour or 75 per centum of the otherwise applicable wage rates established pursuant to this section, section 8, or subsection (e) of section 5, whichever is less. No special certificate shall be required under section 14 for an employee who is employed in accordance with this subsection. All references in any other law to the Federal minimum wage under subsection (a)(1) shall be interpreted as referring to the wage established by this subsection with respect to the employment herein covered. This subsection shall not affect requirements for compliance with applicable child labor laws or recordkeeping requirements. This subsection shall only be applicable to hours worked by eligible employees in compliance with applicable child labor laws. This subsection shall not, with respect to any year, be applicable to any youth who has been employed by the employer at any time during the 90-day period prior to May 1 of such year. No employer shall discharge, transfer, or demote any employee of such employer who is ineligible for the wage established by this subsection, on account of such ineligibility, for the purpose of employing a person eligible for such wage, and any such discharge, transfer, or demotion shall be deemed a violation of section 15(a)(3).".

SEC. 4. Subsection (a) of section 142 of the Job Training Partnership Act (29 U.S.C. 1552) is amended by adding after paragraph (3) the following new paragraph:

"(4) Notwithstanding paragraphs (2) and (3) of this subsection, individuals who would be paid wages during the period from May 1 through September 30 of any calendar year who have not attained 20 years of age before May 1 of the year shall be paid at not less than the higher of (A) the minimum wage provided unders section 6(g) of the Fair Labor Standards Act of 1938, or (B) the minimum wage under the applicable State or local minimum wage law.".

SEC. 5. The amendments made by this Act shall not apply with respect to hours worked after September 30, 1987.

SEC. 6. The Secretary of Labor shall monitor the implementation of this Act and shall prepare and submit to the Congress a report concerning the employment effects of the youth employment opportunity wage and such other information and recommendations as the Secretary of Labor determines to be appropriate.●

THE DEFICIT SUCCEEDS WHERE GOLDFINGER FAILED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, believe it or not, the deficit has grown so large and unwieldy that if all of the U.S. gold, including Fort Knox, were sold, the Nation's deficit obligation would still total over $90 billion. That is right—all the gold in the possession of the U.S. Government is not enough to eliminate half of this year's Federal deficit. This is a raid on the Treasury that pales anything ever attempted by Goldfinger, the supervillain thwarted by James Bond. Goldfinger's plan would have wiped out America's wealth. Huge deficits will accomplish that instead.

The United States possesses 263 million ounces of gold. At the current market price of about $375 an ounce, that gold is worth almost $99 billion. But with a deficit of $182 billion projected for fiscal year 1985, the amount of gold owned by the Government would barely cover 54 percent of the ever-increasing deficit. Put another way, we are overspending our income next year by almost twice the amount of gold that we have taken 200 years to amass in Fort Knox. Goldfinger would be proud.

Not only would the amount of gold owned by the United States not retire the national debt, but the $99 billion received from a sale of the gold would not even pay the interest on the debt for just 1 year. The interest payment on the national debt for fiscal year 1985 alone is projected at $116 billion, out of a total budget of $965 billion. Interest payments on the national debt amount to a huge 12 percent of the U.S. fiscal 1985 budget. When all of our gold would not even amount to the interest payment for 1 year's budget, we have a problem that not even James Bond could solve.

The deficit has clearly reached uncontrollable proportions, and must be brought in check as soon as possible. Last month, the House passed a package which would provide $182 billion in deficit reductions over the next 3 years. On May 17, the Senate passed a comparable provision which would reduce the deficit by $142 billion in the coming 3 years. Both proposals offer a substantial improvement over the administration's Rose Garden plan to reduce the Federal deficit by $100 million.

We all can appreciate the tremendous difficulty in making necessary budget cuts. But we must understand the necessity of the spending curbs. We must reduce Federal spending if the Government is to remain strong and effective. As Adam Smith stated in "The Wealth of Nations," "The practice of deficit spending has enfeebled every state which has adopted it." If we take constructive action to reduce the Federal deficit now, we will not be burdened with an outrageous unpayable debt in the future. But if we do not, we will succeed where Auric Goldfinger failed.●

THE COLORADO MUSIC FESTIVAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, we are all well aware of the invaluable contributions that America's community performing arts programs make to our sense of national identity and pride. Equally important, these programs are

a source of great enjoyment. This enrichment and enjoyment has been brought to us by a broad network of private citizens across the country who band together to contribute substantial amounts of their time, talent, and money to the creation of cultural and artistic events.

One part of this network, located in Boulder, Colo., provides us with an excellent example of the rich contribution that community groups make to America's cultural life. Under the outstanding leadership of Dr. Giora Bernstein, the citizens of Boulder and surrounding communities organize the Colorado Music Festival. The festival is a 6-week summer event, centered around a full symphony orchestra recruited from leading symphony orchestras in the United States and Europe. Concerts are primarily held in the historic Chautauqua Auditorium in Boulder, and additional concerts are given in outlying Colorado communities.

In eight short seasons, the festival has achieved extensive local and national recognition. Last season, the total audience exceeded 25,000 people.

Although it would be easy to credit the excellent musicians which the festival attracts every year with the event's success, it would hardly do justice to the many Coloradans who devote their time and energies to making the festival such a well-known event. After witnessing the development of the festival into an event of international caliber, it is clear that it would not have reached that stage in only 8 years without the dedication and generosity of Colorado's businesses and communities.

Mr. Speaker, I hope that, by sharing my pride in the Colorado Music Festival with you and our colleagues, I can draw attention to the national network of artistic festivals that we benefit from. The Colorado Music Festival, and other events like it, are not just local or regional assets, but major contributors to the cultural life of the Nation. By supporting these artistic programs, we not only strengthen the arts in America, we pay homage to the many people who insure that art remains a vital part of, and contributor to, our national experience.●

POPE JOHN PAUL II'S ENCYCLICAL: "LABOREM EXERCENS"—"ON HUMAN LABOR": A CALL FOR INDUSTRIAL POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, I rise today to discuss one of the most critical issues of our time: the situation of workers in the United States, and moral perspective that Pope John Paul II's encyclical, "On Human Labor," provides for today's contemporary society.

Pope John Paul II provides an excellent summary of today's economic situation. He writes:

> We are on the eve of new developments in technological, economic and political conditions which, according to many experts, will influence the world of work and production no less than the industrial revolution of the last century. There are many factors of a general nature: the widespread introduction of automation into many spheres of production, the increase in the cost of energy and raw mterials, the growing realization that the heritage of nature is limited and that it is being intolerably polluted, and the emergence on the political scene of peoples who, after centuries of subjection, are demanding their rightful place among the nations and in international decision making. These new contitions and demands will require a reordering and adjustment of the structures of the modern economy and of the distribution of work. Unfortunately, for millions of skilled workers these changes may perhaps mean unemployment, at least for a time, or the need for retraining. They will very probably involve a reduction or a less rapid increase in material well-being for the more developed countries. But they can also bring relief and hope to the millions who today live in conditions of shameful and unworthy poverty.

The prospect of a wealthier and more productive world makes us glad that underdeveloped countries are finally coming of age; but we must also face the fact that their maturity presents us with new challenges. We cannot hide from these challenges behind walls of protectionism, for that would be economically and morally unacceptable. At the same time, though, we must respond to the economic and moral challenges posed by the economic transformation being experienced by American workers.

Pope John Paul II's encyclical, "On Human Labor," is one of the seminal contributions to this discussion. It examines work from a theological perspective to find its proper role in man's life, and in the life of society. The document continues a tradition of papal writing on the subject that has evolved over the last century, as the world passed through three distinct periods of crisis in the sphere of work.

Pope Leo XIII's "The Condition of Labor"—"Rerum Novarum"—was published in 1891, during the first crisis of work, the Industrial Revolution, and raised for the first time the "social question" of what was the just relation between industrial employer and employee. Coming near the end of the Industrial Revolution, when capitalists most scandalously exploited labor, "Rerum Novarum" affirmed the dignity of the individual worker, and supported humanitarian improvements in the working conditions and benefits of workers.

Commemorating the 40th anniversary of Rerum Novarum, Pope Pius XI, in 1931, issued an encyclical, "On Reconstructing the Social Order"—"Quadragesimo Anno"—which adapted Leo's doctrines to the era of the Great Depression, the second crisis of work. It recognized that the right to private property is limited by the requirements of the common good, and stated that "the right ordering of economic life cannot be left to a free competition of forces." Despite these reservations about laissez-faire capitalism, though, Pius was as vehemently opposed to socialism as Leo had been: "no one can be at the same time a good Catholic and a true socialist." While rejecting class struggle and communal property, Pius reiterated the Church's teaching on the rights of workers, and called for a more equitable distribution of property in society. Pius XI opposed, then, an unfettered capitalism, or an unfettered socialistic state. Balance had to be sought, and achieved.

The next major statement of the Church on the social question was John Paul II's "On Human Labor"—"Laborem Exercens." Written 50 years after "Quadragesimo Anno" and 90 years after "Rerum Novarum," it addressed in 1981 the third crisis of work, which we still face today. It differs from its predecessors in two important respects: it advocates an equitable distribution of wealth among the nations of the world, not just within individual nations; and its concern for workers extends beyond the employer/employee relation to include the responsibility of the government to the worker as the worker's "indirect employer."

John Paul's method of reasoning is interesting and insightful. He examines the activity of work itself, and its "subjective" value for the worker rather than the "objective" value of the worker's product on the market. He begins from the command in Genesis that man subdue the Earth, interpreting that as giving man a permanent duty to work. No matter what his work is, man does it because it fulfills his humanity. It supplies the material necessities of life for the worker and his dependents, but it also involves the worker in the life of his community, lifting his activities above merely private concerns.

John Paul contrasts the "subjective" view of work with the "objective" view taken by both liberals and Marxists. In the "objective" view, man is merely a factor of production and an agent of consumption. The goal for both liberals and Marxists, therefore, is merely to arrange work so that material production is maximized, and the limitless desire for consumption is satisfied to the greatest possible extent.

The "subjective" view of man sees him as more than a producer and consumer of goods. It sees him, rather, as a participant in the continuing enterprise of subduing the Earth, an enter-

prise that is essential to human nature. Moreover, it is a collective enterprise, in which each worker makes use of the contributions of other members of the community, and creates the tools for workers who will follow in the community. The community of man, then, is essentially a community of labor.

Having recently celebrated the centennial of the American labor movement, launched on Novermber 15, 1881, by the founding of the Federation of Organized Trades and Labor Unions—late to become the American Federation of Labor, or AFL—it is fitting to recall and reflect upon the words of Samual Gompers, a delegate at that first labor convention and late President of the AFL. He asked, and then answered, a rather profound question: "What does labor want?" he asked. And he answered, "It wants the Earth and the fullness thereof."

Now, some would call that greed. Not I. Not properly understood. I would call it: Christian! Note how close this statement is to a verse from the very first chapter of the very first Book of the Bible—a verse which was used by Pope John Paul II to set the theme for his encyclical on work. Beginning in Genesis 1:26, after God created the Earth and the heavens, the land and the seas, with all of their natural resources—minerals, plants, and animals—He said:

> Let us make man to our image and likeness: and let him have dominion over the fishes of the sea, and the fowls of the air, and the beasts, and the whole earth, and every creeping creature that moveth upon the earth • • • And God created man in his own image: to the image of God He created him: male and female He created them • • • And God blessed them, saying: Increase and multiply, and fill the earth and subdue it, and rule over the fishes of the sea, and the fowls of the air, and all living creatures that move upon the earth.

Based on this quotation, John Paul tells us that "the Church is convinced that work is a fundamental dimension of man's existence on Earth . . ." But the Book of Genesis establishes more than just an opportunity for some men and women to subdue or take advantage of the resources of the Earth. The Book of Genesis extends to all of mankind the right and the obligation to work the land and the sea for food, to toil in the forests for shelter, to explore beneath the surface for fuel, ores, and other resources. Samuel Gompers, on behalf of the American labor movement, accepted this obligation and sought this right to "the Earth and its fullness" for all laborers.

Gompers went on to say;

> There is noting too precious, there is nothing too beautiful, too lofty, too ennobling unless it is within the scope and comprehension of labor's aspirations and wants. • • • We want more schoolhouses and less jails; more books and less arsenals; more learning and less vice; more constant work and less crime; more leisure and less greed; more justice and less revenge; in fact more of the opportunities to cultivate our better natures • • •

I say: To want "more of the opportunities to cultivate our better natures," as Gompers called for, is like saying, workers should have the right to "be more." Pope John Paul II said virtually the same thing as Gompers. He wrote:

> It is always to be hoped that, thanks to the work of their unions, workers will not only have more, but above all be more: in other words that they will realize their humanity more fully in every respect.

Gompers' words, which almost prophetically set the tone for decades to come, clearly demonstrate that the commitment to the struggle for basic rights and human dignity, the right to "be more," is found deep within the roots of the American labor movement. Samuel Gompers was a leader before his time, a visionary whose thoughts and actions closely match the recurring themes outlined in Pope John Paul II's encyclical letter, "On Human Labor," published a full century later.

What are some of those themes?

Workers, union and nonunion—white collar, blue collar, and gray collar— auto mechanics, doctors, and mothers—fundamentally derive dignity from work, and his dignit is secured by the tenets of social morality. As Pope John Paul writes:

> Man's life is built up every day from work, from work it derives its specific dignity • • • Work is a good thing for man—a good thing for his humanity—because through work man not only transforms nature, adapting it to his own needs, but he also achieves fulfillment as a human being and indeed in a sense becomes more a human being.

Along with many responsibilities comes a set of workers' rights, a component of a broader set of basic, inalienable human rights which the Pope calls "fundamental conditions for peace in the free world." He notes that the rights of workers includes fair wages, a decent work environment, rest and leisure, adequate health care, a pension in old age, and unemployment benefits when work cannot be found.

"All these rights," he teaches, "together with the need for the workers themselves to secure them, give rise to yet another right: the right of association, that is, to form associations for the purpose of defending the vital interests of those employed in the various professions. These associations are called labor or trade unions." Unions have a critical role to play in society. John Paul points out that "Catholic social teaching does not hold that unions are no more than a reflection of the 'class' structure of society and that they are a mouthpiece for a class struggle which inevitably governs social life. They are indeed a mouthpiece," he admits, but a mouthpiece "for the struggle for social justice."

With the rapidly increasing speed of transportation and communication, we are truly accelerating toward a global society, with global problems that will require global solutions. The new challenges facing the American labor movement and all American workers will have to be addressed within the context of a global economy. As the Pope writes:

> In the present system of economic relations in the world there are numerous links between individual states, links that find expression, for instance, in the import and export process, that is to say, in the mutual exchange of economic goods, whether raw materials, semimanufactured goods or finished industrial products. • • • The fact of mutual dependence of societies and states and the need to collaborate in various areas mean that, while preserving the sovereign rights of each society and state in the field of planning and organizing labor in its own society, action in this important area must also be taken in the dimension of international collaboration by means of the necessary treaties and agreements.

Above all, our common national and international goal must be to provide suitable employment to all who are willing and able to work: anything less represents a tragic waste of human potential and a serious blow to the progress of the human race. Pope John Paul II's opinion on this subject is unequivocal. He writes:

> We must first direct our attention to a fundamental issue: the question of finding work or, in other words, the issue of suitable employment for all who are capable of it. The opposite of a just and right situation in the field is unemployment, that is to say, the lack of work for those who are capable of it. It can be a question of general unemployment or of unemployment in certain sectors of work. The role of the agents included under the title of indirect employer is to act against unemployment, which in all cases is an evil and which, when it reaches a certain level, can become a real social disaster • • • As we view the whole human family throughout the world, we cannot fail to be struck by a disconcerting fact of immense proportions: the fact that while conspicuous natural resources remain unused there are huge numbers of people who are unemployed or underemployed and countless multitudes of people suffering from hunger. This is a fact that without any doubt demonstrates that both within the individual political communities and in their relationship on the continental and world levels there is something wrong with the organization of work and employment, precisely at the most critical and socially most important points.

While earlier Popes had reminded employers of their duties toward the workers they hire, John Paul II is the first to acknowledge fully that the status of workers depends on much besides the policies of their direct employers. He accordingly places a heavy burden of responsibility for workers' welfare on their "indirect employer," which he says is primarily "the state."

He says, forcefully: "it is the state that must conduct a just labor policy."

This responsibility of the government to conduct a just labor policy, in my opinion, should be undeniable.

Yet, I have been engaged in a debate over this responsibility that is at times at heated as it is important. The just labor policy over which we are debating has come to be called by a different name: it is called industrial policy.

I know of no more eloquent proponent of industrial policy than Pope John Paul II. I find his reasoning absolutely compelling; yet I am well aware of the opposition in some quarters to any national labor or industrial policy. Those who oppose industrial policy seem sincere enough in their concern for the public good, but their arguments are unconvincing.

One of those arguments is that industrial policy tries to fix an economy that is not broken. This is a ludicrous argument to anyone who looks at the trends of economic decline in the United States over the past 20 years. You can easily see the serious problems with our economy if you look at the unemployment rate that has reduced an unprecedented number of American workers to the level of poverty; or if you look at the general disappearance of the middle class that traditionally constituted the bulk of the American population; or look at the deteriorating market share claimed by American products, both in foreign countries and even here at home; or at the tendency toward expensive claim that nothing is wrong with our economy can only be made by a person whose head is firmly planted in deep sand.

Even some who acknowledge that our economy has serious problems, however, oppose industrial policy on the grounds that free markets should be left to themselves to solve our economic problems. Unfortunately, the magic of the marketplace is a myth that should have been forgotten long ago. It is a myth that was never true, and one whose lessons are contradicted by everything we know about how economies really function. Perfect markets are very useful to consider in economic theory, much as ideal substances are useful to consider in theoretical physics, and ideal shapes in geometry. But frictionless markets are as impossible to find in reality as frictionless solids are, and it is irresponsible to rely on the magic of a perfect marketplace for our prosperity.

Besides being poor economics, the myth of the magic marketplace is poor theology. Each of the papal encyclicals corresponding to the three crises of labor I discussed earlier criticizes both pure socialism and pure capitalism. The myth of the magic marketplace ignores the fundamental unity of mankind's purpose in working to subdue the Earth, and the fact that the Earth was given to man in common, not to individuals separately. While the protection of private property is recognized by the church as a basic right to protect the dignity of the individual, the competitive free-for-all of the so-called perfect market is antithetical to the spiritual value of the community's economic enterprise. In the words of John Paul II, "It is characteristic of work that it first and foremost unites people. In this consists its social power: the power to build a community."

The myth of the magic marketplace, then, is both poor economics and poor social ethics. It is doomed to fail against the economic challenges of our time, as surely as hiding our collective head in the sand must fail. There can be no doubt that the state, as the indirect employer of every worker in our political community, must have some policy toward our industrial vitality. What the components of that industrial strategy shall be can be legitimately debated, and I will continue to encourage such debate. But surely we must have some industrial strategy to meet the grave challenges we face.

Let us look to John Paul II again. He writes:

> In order to meet the danger of unemployment, and to ensure employment for all, the agents defined here as "indirect employer" must make provision for overall planning with regard to the different kinds of work by which not only the economic life, but also the cultural life of a given society is shaped; they must also give attention to organizing that work in a correct and rational way. In the final analysis this overall concern weighs on the shoulders of the state, but it cannot mean one-sided centralization by the public authorities. Instead, what is in question is a just and rational coordination, within the framework of which the initiative of individuals, free groups, and local work centers and complexes must be safeguarded, keeping in mind what has been said above with regard to the subject character of human labor. * * * Rational planning and the proper organization of human labor in keeping with individual societies and states should also facilitate the discovery of the right proportions between the different kinds of employment: work on the land, in industry, in the various services, white-collar work and scientific or artistic work, in accordance with the capacities of individuals and for the common good of each society and of the whole of mankind. The organization of human life in accordance with the many possibilities of labor should be matched by a suitable system of instruction and education aimed first of all at developing mature human beings, but also aimed at preparing people specifically for assuming to good advantage an appropriate place in the vast and socially differentiated world of work.
>
> In closing, today's world is experiencing a revolution in the workplace, one that is bound to be as disruptive as the Industrial Revolution in the previous century. We can survive the transition, but we need policies to deal with the adjustments that individuals and businesses will have to make. Basic industries will require modernization to survive. Some plants will close and move to other areas. Some will never reopen. Workers will have to be provided with assistance and retraining. Whole communities will be jolted by the changes underway and the changes to come. We in western New York are all too familiar with the tremors that have rocked our industrial base. Most importantly, every sector must cooperate for the common good. Those sectors must include labor, to protect the interests of the workers; management, to protect the interests of those who have invested in business enterprises; and government, which is ultimately responsible for the good of the community as a whole.

The debate in the United States today over industrial policy, in my judgment, is largely a debate that places us squarely for or against the teachings of John Paul II on this issue. I firmly believe that those who believe government should not conduct a just industrial policy are clearly in opposition to these teachings, and I would fervently hope they would take the time to read and study the encyclical, and then reconsider their position.●

LEGISLATION TO IMPROVE TRAFFIC SAFETY ON HIGHWAY 152

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation along with Representative NORM MINETA to improve the traffic condition and safety along Highway 152. This legislation would provide funding to the State of California for the acquisition of right-of-way along Highway 152 near Gilroy, Calif. A number of studies have been compiled and alternatives reviewed to improve traffic conditions in this area. Final plans are currently being developed. In the meantime, though, it is necessary to secure the right-of-way in this area at this time.

Highway 152 currently is experiencing major traffic problems. It is estimated that 12,000 vehicles per day utilize the portion of this route near Gilroy during the week and 17,000 vehicles per day on the weekend. In addition, 40 percent of the traffic is attributed to trucks. A study by the California Transportation Commission concluded that the portion of Highway 152 between Watsonville Road and Route 101 will be heavily congested if nothing is done.

The current condition of the highway in this area has been the cause of a large number of traffic accidents. During the past 3 years, the fatality rate on Highway 152 has been twice the statewide average. Since 1970, 129 fatalities have occurred. In 1983, 19 persons lost their lives driving in this area. This situation demands improve-

ments to increase the traffic safety along this route.

The section of Highway 152 between Routes 101 and 156 is an important truck route and a major traffic artery connecting the Central Valley of California with the western region of the State. The existing two-lane road is operating at or near full capacity. At the same time, the number of trucks using this route continues to increase. Without any changes, however, the likelihood of more accidents rises. Local officials in this area have been working with the State transportation department (CALTRANS) to develop a project to improve the traffic flow and safety in this area. There is strong local support for these efforts. However, to support construction efforts in the future along Highway 152, it is essential that the right-of-way be obtained. Recognizing the traffic pressures which currently exist in this area and the need for improvements, I urge support for the legislation I am introducing today.

Following is the text of this legislation:

H.R. 5722

A bill to direct the Secretary of Transportation to make a grant to the State of California to purchase any right-of-way necessary to increase from two lanes to four lanes a segment of California State Route 152, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation shall make a grant to the State of California for the purchase of any right-of-way necessary to increase from two lanes to four lanes California State Route 152 on the Federal-aid primary system between the intersections of such route and California State Routes 156 and 101 in the vicinity of Gilroy, California.

SEC. 2. These is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this Act not to exceed $10,000,000 for the fiscal year ending September 30, 1985.

SEC. 3. Funds authorized by this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal grant under this Act shall be for 100 percent of the cost of acquisition of right-of-way under this Act, and such funds shall remain available until expended and shall not be subject to any obligation limitation.●

A RESOLUTION TO DECLARE COASTWEEK 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. STUDDS) is recognized for 5 minutes.

● Mr. STUDDS. Mr. Speaker, I am today introducing a resolution to declare the week of October 7 to 14, 1984, National Coastweek.

Last year, the second annual Coastweek celebration was marked by a series of educational and recreational activities designed to provide instruction and further appreciation of our Nation's coastal areas. Events included a workshop at the Massachusetts Institute of Technology on oil spill drift modeling, a conference on ocean policy sponsored by the League of Women Voters, a sea-floor litter pickup organized by the University of Puerto Rico, and dozens of other activities sponsored by local chapters of organizations such as the Audubon Society and the Sierra Club.

Coastweek 1984 is in the planning stages, and is scheduled for the second week of October. It has been endorsed by the Coast Alliance, the Coastal Society, and the Coastal States Organization. Much of the credit for the success of Coastweek must be given to the Massachusetts League of Women Voters, and especially Ms. Barbara Fegan, the specialist on coastal affairs for the league.

The purpose of my resolution is to heighten congressional and public awareness of the Coastweek activities, and to encourage the fullest possible participation and support for this highly constructive and important enterprise.●

NATIONAL INVENTORS' DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, I am today introducing legislation that celebrates innovation and heightens public awareness to the vital contributions inventors make to our country's progress. This bill designates February 11, 1985, as "National Inventors' Day"—a date significant as the birthday of Thomas Edison, one of America's most prominent creators.

As chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, which seeks to refine the patent process in the public interest and render more adequate protection to inventors, I feel this resolution is an important tool for recognizing creative individuals and will educate us all on the impact their discoveries have on our daily lives.

More than 4.4 million patents have been issued since the Patent Office was founded in 1790. Over 61,000 were awarded in 1983 alone, and many of these will quickly become practical, useful devices. Every day we depend on inventions to perform the most simple tasks as well as meet the larger demands of a highly competitive, technological world. The innovator has consistently met this challenge.

A basic premise of a democratic society is the protection it affords to individual creation. Prior to the protections established by the patent system, inventors had no intrinsic right of profit from the ownership and marketing of their works. Patents were granted by special acts of legislation and left solely to the discretion of the various Colonies and States. By law, no right existed. George Washington urged Representatives of the First Congress to give "effectual encouragement * * * to the exertion of skill and genius at home." Indeed, the Constitution gives Congress the power to "promote the progress of science and useful arts" by granting limited monopolies in the form of patents on inventions. Consequently, the financial returns and appreciation afforded to holders of patents have been the inventor's incentive for improving upon existing products and creating new ones.

I urge my colleagues to support "National Inventors' Day" and celebrate the genius from which we all benefit—the mind of the inventor.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MIKULSKI (at the request of Mr. WRIGHT), after 4 p.m., today on account of official business.

Mr. SENSENBRENNER (at the request of Mr. MICHEL), for today and balance of the week, on account of hospitalization.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HILER) to revise and extend their remarks and include extraneous material:)

Mr. LIVINGSTON, for 60 minutes, today.

Mr. PACKARD, for 10 minutes, today.

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. LAFALCE, for 30 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Ms. OAKAR, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. MOLLOHAN, for 60 minutes, May 24.

Mr. WYDEN, for 30 minutes, May 24.

Ms. OAKAR, for 60 minutes, May 30.

Mr. HEFTEL of Hawaii, for 60 minutes, June 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BLILEY, prior to the vote on the previous question today.

Ms. OAKAR, prior to the vote on the Foley amendment to H.R. 5167 in the Committee of the Whole today.

Mr. HILLIS, regarding the T56 derivative engine, following the remarks of Mr. MCCLOSKEY during debate on H.R. 5167 in the Committee of the Whole today.

Mr. STRATTON, and to include extraneous matter, immediately following his remarks on section 306 of H.R. 5167 in the Committee of the Whole today.

(The following Members (at the request of Mr. HILER) and to include extraneous matter:)

Mr. PAUL.
Mr. SOLOMON.
Mr. VANDER JAGT.
Mr. BADHAM in three instances.
Mr. CAMPBELL.
Mr. MADIGAN.
Mr. BETHUNE in two instances.
Mr. LEWIS of California.
Mr. LAGOMARSINO in seven instances.
Mr. MCCANDLESS in two instances.
Mr. WOLF.
Mrs. VUCANOVICH in three instances.
Mr. HARTNETT.
Mr. WORTLEY.
Mrs. ROUKEMA in two instances.
Mr. JEFFORDS.
Mr. PACKARD.
Mr. MCKERNAN in two instances.
Mr. BEREUTER.

(The following Members (at the request of Mr. DURBIN) and to include extraneous matter:)

Mr. TAUZIN.
Mr. WON PAT in two instances.
Mr. LANTOS.
Mr. STARK in two instances.
Mr. YATRON.
Mr. PEPPER.
Mr. COELHO.
Mr. MINISH.
Mr. MONTGOMERY.
Mr. BONKER in two instances.
Mr. PEASE.
Mr. TALLON in two instances.
Mr. ACKERMAN.
Mr. GAYDOS in two instances.
Mr. DOWNEY of New York.
Mr. SIMON.
Mr. HAMILTON.
Mr. EDWARDS of California in two instances.
Mr. WISE.
Mr. LUKEN.
Mr. VENTO.
Mr. LEVINE of California.
Mr. RODINO.
Mr. BENNETT.
Mr. ROE.
Mrs. BURTON of California.
Mr. CONYERS.
Mr. HEFTEL of Hawaii.
Mr. FEIGHAN.
Mrs. SCHROEDER.
Mr. STUDDS.
Mr. AUCOIN.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 451. Joint resolution designating the month of November 1984 as "National Alzheimer's Disease Month"; and

H.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 94. Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month."

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on May 23, 1984, present to the President, for his approval, bills of the House of the following titles:

H.R. 2751. An act to amend the National Foundation on the Arts and Humanities Act of 1965 and for other purposes;

H.R. 4107. An act to designate the Federal building in Salisbury, Md., as the "Maude R. Toulson Federal Building"; and

H.R. 5515. An act to authorize the President to award the Medal of Honor to the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania (Mr. WALKER) have a motion?

Mr. WALKER. Mr. Speaker, I have always wanted to do this.

The SPEAKER pro tempore. The Chair is going to recognize the gentleman from Pennyslvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 37 minutes p.m.) the House adjourned until tomorrow, Thursday, May 24, 1984, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3394. A letter from the General Counsel, Department of Energy, transmitting notification of a meeting related to the international energy program; to the Committee on Energy and Commerce.

3395. A letter from the President, Overseas Private Investment Corporation, transmitting the Corporation's Development Report for Fiscal Year 1983, pursuant to FAA, section 240A (92 Stat. 216; 95 Stat. 1024); to the Committee on Foreign Affairs.

3396. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a report on the Department's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 522(d); to the Committee on Government Operations.

3397. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report on FLRA's accounting systems for the period ending April 30, 1984, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3398. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to the act of August 7, 1953, chapter 345, section 10(b); to the Committee on Interior and Insular Affairs.

3399. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to the act of August 7, 1953, chapter 345, section 10(b); to the Committee on Interior and Insular Affairs.

3400. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to the act of August 7, 1953, chapter 345, section 10(b); to the Committee on Interior and Insular Affairs.

3401. A letter from the Attorney General, Department of Justice, transmitting the Department's seventh report to Congress on implementation of the Parental Kidnaping Prevention Act of 1980, pursuant to Public Law 96-611, section 10(b); to the Committee on the Judiciary.

3402. A letter from the Executive Secretary, Department of Defense, transmitting a report on DOD's Procurement from Small and Other Business Firms for October through December 1983, pursuant to SBA, section 10(b); to the Committee on Small Business.

3403. A letter from the Secretary of State, transmitting a report on the professional development programs of agencies authorized to use the personnel system of the Foreign Service, pursuant to Public Law 96-465, section 703(f); jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee on Armed Services. H.R. 5399. A bill to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the U.S Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. No. 98-743, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Shortcomings in the Environmental Protection Agency's financial disclosure and conflict of interest prevention program (Rept. No. 98-801). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 5712. A bill making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes. (Rept. No. 98-802). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 5713. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes. (Rept. No. 98-803). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5600. A bill to revise and extend the programs of assistance under titles X and XX of the Public Health Service Act, with amendments (Rept. No. 98-804). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3979. A bill to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes; with an amendment (Rept. No. 98-805). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHELBY:

H.R. 5711. A bill to amend the Internal Revenue Code of 1954 to implement a flat rate tax system; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 5712. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

By Mr. BOLAND:

H.R. 5713. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes.

By Mr. BONKER:

H.R. 5714. A bill entitled the "Shoalwater Bay Indian Tribe—Dexter by the Sea Claim Settlement Act"; to the Committee on Interior and Insular Affairs.

By Mr. GREGG:

H.R. 5715. A bill to provide for the expansion of the boundary of the White Mountain National Forest in New Hampshire, and for other purposes; to the Committee on Agriculture.

By Mr. LATTA:

H.R. 5716. A bill providing for the conveyance of public lands, Seneca County, Ohio; to the Committee on Interior and Insular Affairs.

By Mr. TAUZIN:

H.R. 5717. A bill declaring a portion of Bayou Lafourche, La., a nonnavigable waterway of the United States; to the Committee on Energy and Commerce.

By Mr. WHITTEN:

H.R. 5718. A bill to amend title XVIII of the Social Security Act to apply the so-called swing-bed provision to hospitals with up to 150 beds; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ALBOSTA (for himself, Mr. DYMALLY, and Mr. YATRON):

H.R. 5719. A bill to amend the Ethics in Government Act of 1978 to provide for programs designed to inform Federal employees of applicable standards of conduct and to improve the administration of ethics programs in the Federal Government, and to amend title 18, United States Code, to impose a criminal penalty for theft of confidential campaign information in Federal elections; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mrs. HALL of Indiana (for herself, Mr. GREEN, Mr. STOKES, Mr. CORRADA, Mr. MARTINEZ, Mr. OWENS, Mr. MITCHELL, Ms. OAKAR, Mrs. SCHROEDER, Mr. RANGEL, Mr. TORRES, Mr. SAVAGE, Mr. GEKAS, Mr. LELAND, Mr. FRANK, Mr. ACKERMAN, Mr. DE LUGO, Mr. CLAY, Mr. GRAY, Mr. DYMALLY, and Mr. RODINO):

H.R. 5720. A bill to amend title 13, United States Code, to provide for grants to State and local governments to assist in eliminating census undercounts, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PACKARD (for himself, Mr. LAGOMARSINO, Mr. BARTLETT, Mr. NICHOLS, Mr. MICHEL, Mr. LOTT, Mr. LUNGREN, Mr. NIELSON of Utah, Mr. LOWERY of California, Mr. CAMPBELL, Mr. SHUMWAY, Mr. LIVINGSTON, Mr. BADHAM, Mr. FRANKLIN, Mr. ROWLAND, Mr. MOORHEAD, Mr. BLILEY, Mr. THOMAS of California, Mr. STANGELAND, Mr. DANNEMEYER, Mr. BROYHILL, Mr. MARTIN of North Carolina, Mr. LEWIS of California, Mr. HYDE, Mr. HANSEN of Utah, Mr. DREIER of California, Mr. STENHOLM, Mr. FRENZEL, Mr. MCCANDLESS, Mr. DENNY SMITH, Mr. GINGRICH, Mr. MACK, Mr. HUNTER, Mr. SILJANDER, Mr. BILIRAKIS, Mr. RUDD, and Mr. CHAPPIE):

H.R. 5721. A bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938 which shall terminate on September 30, 1987, and for other purposes; to the Committee on Education and Labor.

By Mr. PANETTA (for himself and Mr. MINETA):

H.R. 5722. A bill to direct the Secretary of Transportation to make a grant to the State of California to purchase any right-of-way necessary to increase from two lanes to four lanes a segment of California State Route 152, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FRENZEL (for himself and Ms. OAKAR):

H.J. Res. 574. Joint resolution to designate the week beginning on September 9, 1984, as "National Community Leadership Week"; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER:

H.J. Res. 575. Joint resolution designating February 11, 1985, "National Inventors' Day"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H.J. Res. 576. Joint resolution to designate the 7th through the 14th of October, 1984, as "National Coast Week"; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H. Con. Res. 312. Concurrent resolution expressing the sense of Congress in support of the President's leadership with respect to American prisoners of war and missing in action; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

411. Mr. RUDD presented a memorial of the Legislature of the State of Arizona, relative to the use of copper canisters for the disposal of nuclear wastes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 752: Mr. LAFALCE.
H.R. 1892: Mr. SENSENBRENNER.
H.R. 1918: Mr. CARR.
H.R. 2852: Mr. LIPINSKI.
H.R. 4333: Mr. WILLIAMS of Ohio.
H.R. 4360: Mr. BRYANT and Mr. EVANS of Illinois.
H.R. 4459: Mr. PANETTA, Mr. SCHUMER, and Mr. MRAZEK.
H.R. 4594: Ms. KAPTUR.
H.R. 4642: Mr. ROWLAND, Mr. PENNY, and Ms. MIKULSKI.
H.R. 4760: Ms. KAPTUR and Mr. SABO.
H.R. 4773: Mr. MORRISON of Washington, Mr. WOLPE, and Mr. VANDER JAGT.
H.R. 4800: Mrs. BOXER, Mr. KILDEE, Mr. EDGAR, Ms. MIKULSKI, and Mr. BRYANT.
H.R. 4966: Mr. RUDD.
H.R. 4985: Mr. HEFTEL of Hawaii and Mr. STUDDS.
H.R. 5006: Mr. WHITTAKER.
H.R. 5128: Mr. MCCLOSKEY and Mr. MARTINEZ.
H.R. 5141: Mr. SEIBERLING, Mr. EMERSON, Mr. HUGHES, Mr. MARTINEZ, Mr. WEAVER, Mr. ANDREWS of Texas, Mr. WON PAT, Mr. EDGAR, and Mr. ACKERMAN.

H.R. 5159: Mr. CHAPPIE, Mr. DOWNEY of New York, Mr. JEFFORDS, and Mr. FIELDS.

H.R. 5173: Mr. MCCLOSKEY and Mr. MITCHELL.

H.R. 5327: Mr. BEDELL and Mr. BOUCHER.

H.R. 5377: Mr. SHANNON, Mr. MRAZEK, Mr. HANCE, Mr. KOSTMAYER, Mr. GRAY, Mr. SUNDQUIST, Mr. GRAMM, and Mr. HUTTO.

H.R. 5438: Mr. SWIFT.

H.R. 5529: Ms. KAPTUR, Mr. LUKEN, Mr. JEFFORDS, Mr. TALLON, Mr. STANGELAND, and Mr. GUNDERSON.

H.R. 5534: Mr. ACKERMAN, Mr. BERMAN, Mrs. COLLINS, Mr. CORRADA, Mr. CROCKETT, Mr. DELLUMS, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. GOODLING, Mrs. HALL of Indiana, Ms. KAPTUR, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. MARTINEZ, Mr. MRAZEK, and Mr. VENTO.

H.R. 5577: Ms. MIKULSKI.

H.R. 5621: Mr. DELLUMS, Mr. RANGEL, Mr. TOWNS, Mr. OWENS, Mr. WHEAT, Mr. MATSUI, Mr. MITCHELL, Mr. KASTENMEIER, Mr. PEASE, Mr. WYDEN, Mr. WEAVER, Mr. BERMAN, Mr. LEVIN of Michigan, Mr. WALGREN, Ms. KAPTUR, Mr. FRANK, and Mr. BEDELL.

H.R. 5643: Mr. D'AMOURS.

H.R. 5682: Mr. JONES of Tennessee.

H.J. Res. 174: Mr. PATMAN and Mr. FOWLER.

H.J. Res. 319: Mr. GOODLING, Mr. CHENEY, Mr. FRENZEL, Mr. EDWARDS of Oklahoma, Mrs. BOXER, Mr. TAUKE, Mr. SILJANDER, Mr. BLILEY, Mr. MITCHELL, Mr. CAMPBELL, Mr. CONYERS, and Mrs. HOLT.

H.J. Res. 508: Mr. RUDD and Mr. SIMON.

H.J. Res. 512: Mr. LEVINE of California, Mr. BIAGGI, Mr. YATES, Mr. STOKES, Mr. ACKERMAN, and Mr. MARTINEZ.

H.J. Res. 529: Mr. MATSUI, Mr. FEIGHAN, and Mr. GOODLING.

H.J. Res. 531: Mr. DASCHLE, Mrs. BOXER, Mr. STUDDS, Mr. BONIOR of Michigan, Ms. KAPTUR, Mr. MILLER of California, Mr. MINETA, Mr. DONNELLY, Mrs. HALL of Indiana, Mr. LEHMAN of Florida, Mr. WOLPE, Mr. TRAXLER, Mr. LEHMAN of California, Mr. SOLARZ, Ms. FERRARO, Mr. YATES, Mr. SCHEUER, Mr. CHANDLER, Mr. HAWKINS, Mr. MARTINEZ, Mr. PANETTA, and Mr. WILLIAMS of Montana.

H.J. Res. 543: Mr. HARRISON, Mr. FROST, Mr. PRICE, Mr. KOLTER, Mr. GREGG, Mr. HANSEN of Idaho, Mr. VALENTINE, Mr. JONES of North Carolina, Mr. HIGHTOWER, Mr. WIRTH, Mr. RICHARDSON, Mr. FUQUA, Mr. BEDELL, Mr. SHUMWAY, Mr. HAYES, Mr. NICHOLS, Mr. LATTA, Mr. WON PAT, Mr. SISISKY, Mr. SOLOMON, Mr. CROCKETT, Mr. COELHO, Mr. MORRISON of Washington, Mr. MOODY, Ms. MIKULSKI, Mr. HATCHER, Mr. THOMAS of Georgia, Mr. MATSUI, Mr. ARCHER, Mr. ANDERSON, Mr. FOGLIETTA, Mr. MCNULTY, Mr. SIMON, Mr. WILLIAMS of Ohio, Mr. PEPPER, Mr. BATEMAN, Mr. ROWLAND, and Mr. CARR.

H.J. Res. 572: Mr. FUQUA, Mr. HAMILTON, Mr. BERMAN, Mr. FROST, Mr. BEREUTER, Mr. ALEXANDER, Mr. SISISKY, Ms. MIKULSKI, Mr. MATSUI, Mr. WEISS, and Mr. HANCE.

H. Con. Res. 270: Mr. BARNES, Mr. SILJANDER, Mr. BATEMAN, Mr. BURTON of Indiana, Mr. FRANKLIN, and Mr. BONER of Tennessee.

H. Con. Res. 301: Mr. BATEMAN and Mr. HUGHES.

H. Con. Res. 308: Mr. BARNES, Mr. FRANK, Mr. FORD of Tennessee, Mr. DORGAN, Mr. SAWYER, Mr. BATEMAN, Mr. DEWINE, Mr. BEDELL, Mr. FRENZEL, and Mr. HUGHES.

H. Res. 442: Mr. SOLARZ.

H. Res. 458: Mr. TORRICELLI and Mr. CARPER.

H. Res. 477: Mr. BILIRAKIS and Mr. SOLOMON.

H. Res. 496: Mr. COLEMAN of Missouri and Mr. TALLON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5593: Mr. MURTHA.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

372. By the SPEAKER: Petition of the Council of the Township of Saddle Brook, N.J., relative to cable legislation; to the Committee on Energy and Commerce.

373. Also, petition of the Council of the Borough of River Edge, N.J., relative to cable legislation; to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5167

By Mr. ASPIN:

—At the end of the bill add the following new section:

STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

SEC. . (a)(1) The Secretary of Defense, in consultation with the Secretary of Commerce, shall carry out a study to assess the adequacy of the industrial base of the United States in the event of a war or national emergency. The study shall evaluate how much industrial base is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term "foreign-component defense article" means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall—

(1) identify the types and quantities of defense articles purchased by the Department of Defense that are foreign-component defense articles and the types and quantities of defense articles manufactured in the United States for foreign sale;

(2) identify the types and quantities of defense articles that would be required during a war or national emergency and the domestic industrial base necessary to produce such articles in those quantities;

(3) assess the effects during times of peace of procurement of foreign-component defense articles, and of sales of United States-produced defense articles to foreign governments or manufacturers, on the maintenance of a domestic production base for defense articles that would be required to be produced by the United States during a time of war or a national emergency;

(4) assess the effects on the maintenance of a domestic technology base adequate for the national defense of procurement of foreign-component defense articles and of sales of defense articles to foreign governments or manufacturers; and

(5) assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetry cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organization forces.

(c) Restrictions to be considered for the purposes of subsection (b)(5) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Represenatatives not later than March 15, 1985.

—At the end of the bill add the following new section:

REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

SEC. . Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the theater nuclear arsenal to types and numbers of weapons whose characteristics make for a more stable and credible force. The report (in addition to any other matter covered) should specifically address the following issues:

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all

potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

—At the end of the bill add the following new section:

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM EUROPE

SEC. . The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

—At the end of the bill add the following new section:

REAFFIRMATION OF LAW GOVERNING TESTING OF ANTISATELLITE WEAPONS

SEC. . Congress reaffirms its commitment to the requirements of law stated in section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695), relating to criteria governing the test against objects in space of antisatellite warheads.

By Mr. BEDELL:

—At the end of the bill add the following new section:

SEC. . Section 2855 of title 10, United States Code, is amended to read as follows:

"SEC. 2855. LAW APPLICABLE TO CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.

"(a) Contracts for architectural and engineering services and construction design in connection with a military construction project or a military housing project shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.). In determining the most highly qualified firms under such Act, consideration shall be given to the schedule of fees which shall be submitted by each offeror as part of its original proposal to the government: *Provided*, That primary consideration in source selection shall be based upon an evaluation of relative design proposals and qualifications among all offering firms.

"(b) For any contract to be let by any agency subject to the provisions of this Chapter, a small business set-aside pursuant to section 15 of the Small Business Act, as amended (15 U.S.C. sec. 644), or an award pursuant to section 8(a) of such Act (15 U.S.C. sec. 637), shall not be precluded solely because of the anticipated or actual dollar value of the contract to be let.".

—At the end of the bill add the following new section:

SEC. . (a) Chapter 137 of title 10, United States Code, is amended by adding at the end thereof the following new sections:

"SEC. 2317. COMPETITION FOR SPARE PARTS.

"SEC. 2317. (a) No domestic business concern shall be denied the opportunity to submit and have considered its offer for any contract to be let by any agency subject to the provisions of this Chapter, solely because such concern—

"(1) is not on a 'qualified bidders list'; or

"(2) does not have its product or products on a 'qualified products list'.

"(b) No agency subject to the provisions of this Chapter shall solicit an offer from only one source or negotiate with only one source for the purchase of spare or replacement parts unless the head of the buying activity certifies, for each such procurement that—

"(1) the parts are available from only one source and no other business concern is capable of producing the same or like parts which are consistent with the legitimate needs of the agency;

"(2) the agency's need for the parts is of such urgency that the mission of the agency would be seriously injured if it did not solicit or negotiate with only one source;

"(3) the disclosure of the agency's needs to more than one source would compromise the national security;

"(4) a party has a legitimate proprietary interest in the parts or their manufacture and the agency would be legally liable to such party if it purchased the same or like parts from another party; or

"(5) a statute requires or authorizes that the parts be procured through another agency or a specific source.

"For purposes of the preceding sentence, the term 'head of the buying activity' means the highest ranking person within the employ of the activity who is stationed at or near the site where the purchase is to be made.

"(c)(1) Within one-hundred and eighty days after the effective date of this subsection, the Secretary of Defense shall promulgate rules and regulations defining 'legitimate proprietary interest' for purpose of this Act. Such rules and regulations shall be promulgated as a part of the Federal Acquisition Regulations and shall give due consideration to the following—

"(A) statements of policy, objectives, and purposes contained in Public Law 96-517, Public Law 97-219, and section 8(d) of the Small Business Act (15 U.S.C. sec. 637);

"(B) the governmental interest to increase competition and lower-costs by developing and locating alternative sources of supply and manufacture;

"(C) directing appropriate purchasing agencies to establish reverse engineering programs which provide domestic business concerns an opportunity to purchase or borrow spare or replacement parts from the Government for the purpose of design replication or modification to be used by such concerns in the submission of subsequent offers to sell the same or like parts to the Government: *Provided*, That nothing contained in this clause shall limit the authority of an agency head to impose restrictions on such a program related to national security considerations, Government inventory needs, the improbability of future procurements for the same or like parts, or any additional restrictions otherwise imposed by law;

"(D) the rights to technical or other data which is developed in whole or in part with Federal funds;

"(E) placing a time limit on rights to technical or other data developed substantially with Federal funds if such data is needed to ensure the use of competitive procurement methods for the future acquisition of parts to which such data pertains;

(F) a requirement that the procuring agency, with respect to each major system acquisition, negotiate with the contractor and include a clause in the initial development contract and each subsequent production contract pertaining to technical or other data developed in whole or in part with Federal funds. Such clause shall contain provisions specifying, as appropriate, the Government's right to own, license, use or otherwise access such data and the extent, if any, of proprietary interest maintained by the contractor; and

"(G) the imposition of appropriate remedial measures against business concerns which improperly designate technical or other data as proprietary.

"(2) The Secretary of Defense shall—

"(A) consult with representatives of associations representing small business concerns prior to issuing any rules or regulations pursuant to paragraph (1); and

"(B) after the promulgation of such rules and regulations, submit to the House of Representatives and the Senate a report detailing how such rules and regulations give due considerations to the factors described in (c)(1) (A) through (G).

"(d) Except as otherwise provided by law, manufacturing, technical or other data which is the property of the Government shall be catalogued, stored and inventoried in a manner allowing for its ready and timely access by any domestic business concern upon its request.

"SEC. 2318. ENCOURAGEMENT OF COMPETITION AND COST SAVINGS.

"(a) Except as provided in subsection (b), no contract awarded pursuant to the negotiated method of procurement for the purchase of spare or replacement parts having commercial application shall result in a cost to the awarding agency which exceeds the lowest price at which such parts are made available to commercial buyers.

"(b) The requirements of subsection (a) shall not be applied to any purchase for which the head of the buying activity certifies that the use of such price would be unjust because of—

"(1) national security consideration, or

"(2) differences in quantities, quality, delivery or other terms and conditions of the contract to be let.

"(c) Any offeror which submits an offer to the Government for the supply of such parts having commercial application shall certify to the awarding agency either its compliance with subsection (a) or submit its written justification specifying the amount of the excess above the lowest commercial price and its request for an adjustment for any reason described in (b)(2).

"SEC. 2319. FAIR DISTRIBUTION OF OVERHEAD CHARGES FOR SPARE PARTS.

"(a) Except as provided in subsection (b), no contract for the purchase of spare or re-

placement parts shall result in a cost to the awarding agency which exceeds (1) the direct costs incurred by the contractor for such parts; (2) a share of such contractor's overhead that is directly attributable to the direct costs of such parts; and (3) a reasonable profit.

"(b) Notwithstanding the provisions of subsection (a), no amount of any overhead shall be paid by the Government unless such contractor—

"(1) manufactured such parts;

"(2) changed or modified the configuration of such parts;

"(3) tested and evaluated the performance of such parts;

"(4) is a regular dealer in such parts as defined by the Walsh-Healey Public Contracts Act (41 U.S.C. sec. 35 et seq.); or

"(5) otherwise added value to such parts.

"(c) Except as otherwise required by law, nothing contained in this section shall require the submission of cost or pricing data.".

"(b) The table of sections at the beginning of such Chapter is amended by adding at the end thereof the following new items:

"2317. Competition for Spare Parts.
"2318. Encouragement of Competition and cost savings.
"2319. Fair Distribution of Overhead Changes for Spare Parts.".

By Mr. GORE:

—At the end of the bill add the following new section:

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

SEC. . (a) Not later than January 19, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability of the United States consistent with existing United States policy as expressed by the President in his letter of May 11, 1983, to Representative Albert Gore, Junior, (printed in the Congressional Record of May 12, 1983, at page E 2229) in which the President—

(1) explained his understanding of the report of the President's Commission on Strategic Forces ("the Scowcroft Commission") dated April 11, 1983; and

(2) agreed with the recommendation in that report that the United States not develop a first-strike capability against the Soviet Union.

(b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental ballistic missiles having an accuracy of the order of the MX missile and shall discuss the number of each such missile (including specifically the MX missile, the D5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationalize for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called "first-strike capability" against the Soviet Union.

By Mrs. LLOYD:

—On page 157, after line 18, add the following new section:

COMPETITIVE PROCUREMENT OF REACTOR COMPONENTS FOR THE NEW ATTACK SUBMARINE DESIGN

SEC. 1010. The Secretary of Defense shall enter into a competitive procurement or procurements for design, analyses, and fabrication of reactor components for the new SSNX prototype and lead submarine, and shall seek bids in such competitive procurement or procurements from at least three vendors.

By Mr. McCLOSKEY:

—At the end of the bill add the following new section:

REPORT ON IMPLEMENTATION OF CERTAIN RECOMMENDATIONS OF THE GRACE COMMISSION

SEC. . Not later than January 31, 1985, the Secretary of Defense shall submit a report to Congress on the implementation by the Department of Defense of the recommendations of the President's Private Sector Survey on Cost Control (commonly referred to as the "Grace Commission") concerning—

(1) the system of making progress payments to defense contractors to offset high interest rates and inflation; and

(2) modernization of automated data processing systems in order to achieve more effective control of Department of Defense supply inventories.

By Mr. MARKEY:

—At the end of title III (page 29, after line 14) insert the following new section:

LIMITATION ON UNITED STATES ARMED FORCES IN HONDURAS

SEC. 310. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be used to maintain or support any members of the Armed Forces of the United States in Honduras (excluding members of the Armed Forces who perform security functions at the United States embassy) in excess of 300.

(b) This section shall not apply if—

(1) the Congress has declared war or enacted a law specifically authorizing a greater number of members of the Armed Forces to be in Honduras; or

(2) a greater number of members of the Armed Forces in Honduras is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States or its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

By Mr. SKELTON:

—At the end of the bill insert the following new section:

LIMITATION ON SIZE OF DEPARTMENT OF THE NAVY SECRETARIAT

The number of military and civilian personnel; assigned to or employed by the Office of the Secretary of the Navy (including the Under Secretary, the Assistant Secretaries, and the other principal civilian officials of the Department of Navy, and their offices) may not exceed four hundred and fifty.

EXTENSIONS OF REMARKS

A SALUTE TO EARLE C. WILLIAMS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. WOLF. Mr. Speaker, Congressman STAN PARRIS and I are privileged today to bring to the attention of our colleagues in the Congress an unusual individual who has been selected for a special honor by his fellow citizens of northern Virginia. On June 9, 1984, at a dinner in his honor, Mr. Earle C. Williams, president and chief executive officer of BDM International, Inc., will be presented with the Northern Virginia Coummunity Foundation's Founders Award by Virginia Gov. Charles S. Robb.

Six years ago a group of public spirited citizens of northern Virginia formed the Northern Virginia Community Foundation because they wished to return to the northern Virginia community some of the benefits they had received from it. The foundation receives donations from people from all walks of life, including local businesses, national corporations, and other foundations. The funds it receives are then used exclusively for the benefit of northern Virginia. The areas that have been identified to be helped by the foundation are: the arts, education, health, youth, and civic improvement.

As a part of its continuing program, the foundation each year seeks to recognize the efforts of the many community-minded citizens in northern Virginia by selecting one of their number to receive the foundation's Founders Award and by honoring the individual with a festive dinner dance. This year the Northern Virginia Community Foundation has chosen Earle C. Williams, a prominent businessman and community leader in Fairfax County, for this honor. He is truly deserving of this award for he has given unstintingly and unselfishly of his time and energy to further the economic development of northern Virginia and to make it a better place to live and raise a family.

We are personally delighted to be able to salute our good and valued friend and neighbor, Earle C. Williams, for his many contributions to northern Virginia. Under his leadership, BDM International has become one of the fastest growing professional services companies in the country. Since moving its corporate headquarters to northern Virginia in 1973, BDM has grown from a staff of 576 and revenues of $11.2 million to an organization with about 3,000 employees and revenues of $151.1 million. Overseeing the activities of a firm that is on a fast-growth track in a highly competitive field does not leave Earle Williams much spare time. Nevertheless, his concerns about making northern Virginia a better place to work and live have motivated him to find the time to devote to community affairs.

From 1976-80, Earle Williams was a member of the Fairfax County Economic Development Authority and, for the last 2 years of his term served as the chairman of the authority. He has also been a vice president and director of the Fairfax County Chamber of Commerce. In these capacities, Earle has devoted his energies toward improving the business environment of Fairfax County so that it would be attractive to new business enterprises. The success of these efforts can readily be seen as one drives around Fairfax County. The county has become one of the leading areas where high technology firms are locating themselves.

As a businesss executive deeply involved in the expanding areas of high technology, research and development, and professional and technical services, Earle Williams has been keenly aware of the importance of education to the business community in which he is a prominent member. Long before the general public became worried about the quality of education in our Nation, Earle was actively involved with the Fairfax County Public School System and the local colleges and universities. As chairman of the industrial policy board of the George Mason (University) Institute, he has worked closely with the university authorities and with Commonwealth political leaders to improve and strengthen the university's educational capabilities in engineering, information sciences, and computer technology. Earle Williams has not limited his attention to helping George Mason but he has sought to strengthen the community college system throughout the Commonwealth of Virginia. He is a member of the Virginia State Board for Community Colleges as well as being on the board of directors of the northern Virginia Community College Educational Foundation. We could continue for many more minutes to name programs and activities in the field of education where he was generously given his time to participate in and support those programs and activities. He has truly been a leader in forging new and strengthening old partnerships between the business community and the educational world in the Commonwealth of Virginia.

One cannot long be associated with those organizations and activities dedicated to improving the quality of life in northern Virginia without soon hearing the name Earle Williams mentioned. Not only is he an active leader and participant in such activities, he is a firm and strong supporter. He is a familiar figure when there are things to be done for Wolf Trap, the Fairfax Symphony Orchestra, the Fairfax County Council for the Arts, and other cultural activities. The northern Virginia chapters of the Cancer Society and the Heart Association frequently look to Earle to help marshal the resources of the business community in support of their programs. Educational and public television know they have a friend and valued adviser in Earle Williams as they seek to chart a course which will contribute to the community life and well-being of northern Virginia.

The Founders Award that Earle Williams will receive on June 9 is just recognition of a man who has earned the respect and admiration of countless northern Virginians. As we reflect on the many accomplishments of this remarkable individual as he sought to serve his community, Congressman PARRIS and I on behalf of all his friends and neighbors, salute and publicly thank Earle C. Williams for his dedicated and diligent service to northern Virginia.●

STATE REIMBURSEMENT FOR COSTS OF INCARCERATION OF UNDOCUMENTED ALIENS SUBJECT OF ARTICLE BY SENATOR D'AMATO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BIAGGI. Mr. Speaker, as the House prepares for its consideration of H.R. 1510, the Immigration Reform and Control Act, I wish to insert into the RECORD a recent article written by the distinguished Senator from New York, Mr. D'AMATO. The subject of his article relates to an amendment he successfully sponsored to S. 529 and which will be offered as an amend-

ment jointly by the gentleman from New York, Mr. SCHUMER and myself.

The issue is the need for Federal reimbursement to those States who have incurred considerable expense in the incarceration of undocumented aliens. As I testified before the House Rules Committee when I sought to have this amendment made in order under the rule I stated:

As of May 1983, there were 4,000 such individuals in State prisons comprised of undocumented aliens and those who are here on temporary visas. Of these more than 40 percent or 1,811 are located in New York and Florida. The following other states also have undocumented aliens in their prisons and would be eligible for federal reimbursement—New Jersey, Pennsylvania, New Mexico, Arizona, Michigan, Louisiana and Ohio.

At this point in the RECORD I wish to place Senator D'AMATO's fine article—entitled "Aliens in Prison—The Federal Response to a New Criminal Justice Emergency" as printed in the Detroit College of Law Review.

The article follows:

ALIENS IN PRISON—THE FEDERAL RESPONSE TO A NEW CRIMINAL JUSTICE EMERGENCY

(By Alfonse M. D'Amato *)

On May 18, 1983, I introduced an amendment to S. 529, the Immigration Reform and Control Act. This amendment requires the federal government to reimburse states for the cost of incarcerating certain classes of aliens convicted of felonies.

In this article I shall trace the early history of the amendment, proceed with an examination of the serious problem it seeks to correct, and conclude with an explanation of the proposed solution.

I. HISTORY

The New York State Department of Correctional Services contacted me in February, 1983 requesting my assistance with a matter of extreme urgency. The Department had recently experienced a dramatic increase in the number of aliens admitted to its prison system. There were more than 800 aliens in New York State prisons at that time.

My first response was to examine the possibilities of placing the aliens in federal custody. Many aliens were doubtless deportable. Others could be held in a federal prison such as the one in Atlanta which presently holds 1,050 alien inmates.

An alien is defined as any person not a citizen or national of the United States.[1] Under 8 U.S.C. section 1251(a)(1) and (2),[2] illegal aliens are deportable. Those sections provide that: Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry; (or)

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or in violation of any other law of the United States.[3]

Under 8 U.S.C. section 1251(a)(4),[4] an alien, whether legal or illegal, is also subject to deportation if he: is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial.[5]

A fourth section provides for the deportation of aliens convicted of drug-related offenses. 8 U.S.C. section 1251(a)(11)[6] provides: Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipecaine or any addiction-forming or addiction-sustaining opiate.[7]

Despite these provisions of law, however, neither federal custody nor deportation was in fact the solution to the problem facing the Department of Correctional Services. Under 8 U.S.C. section 1252(h),[8] an alien sentenced to imprisonment is not to be deported until he has been released from prison because he has either served his sentence or been paroled. This subsection reads as follows:

(h) an alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, probation, or possibility or rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.[9]

To save money, the state could, theoretically, parole the alien felon and turn that individual over to the Immigration and Naturalization Service (INS). Unfortunately, the facilities of the INS for detaining deportable aliens are so overcrowded and inadequate that the parole option is not in fact a viable one. The INS has a well-established policy of releasing, on bail, most of the alien felons the states turn over to it. Understandably, the states are unwilling to risk an alien's almost certain jumping of INS bail and becoming once more, a serious threat to public safety.

The INS wrote the New York Department of Correctional Services early in 1983 and stated that the deportability of aliens in New York prisons would have to be handled on a case-by-case basis. The State verified that while these cases were pending, most alien felons were likely to be free on bail. The Service also recommended contacting the Federal Bureau of Prisons to determine if the Bureau would be able to contract to hold some of the aliens in federal custody. New York followed that suggestion.

The Bureau of Prisons responded that it had no special contractual arrangement for the housing of aliens. The Bureau further advised the State that a dramatic increase in the federal prisoner population precluded its acceptance of large numbers of aliens convicted of state offenses.

II. THE PROBLEM

At the same time that it became apparent that transfer of aliens to the INS or the Bureau of Prisons was not practicable, I chaired an important hearing on the crime problem in New York City. The hearing examined, in detail, the national prison overcrowding crisis and the role of alien felons in exacerbating this crisis in several states.

The New York Commissioner of Correctional Services was one of the witnesses at the hearing, held on April 5, 1983 at the United States Court of International Trade. He testified that not only were there more than 800 aliens then in New York State prisons, but that the number had increased dramatically in recent years. In 1978, there had been 154 new commitments of aliens. In the first nine months of 1982 alone, 318 aliens were newly committed. The annual cost to the state, he testified, was $12 million.

The most serious consideration, however, was that the aliens, who entered as a result of federal decision-making or the failure of federal immigration policies, were taking up 800 spaces in a system that already held 3,000 inmates more than its capacity could safely permit. It also became clear, at the hearing, that what had at first appeared to be a problem for one state was, in fact, a national problem, and one that could be expected to worsen in the near future.

A trained agent of the Cuban government, Mario Estebes Gonzalez, testified that he had been hired by the Cuban Ministry of the Interior to promote the smuggling of narcotics into the United States. Mr. Gonzalez testified that among the 125,000 people who left Cuba for the United States in 1980, were 30,000 criminals. Ten thousand of these had been in Cuban prisons on serious felony charges.

The Department of Justice later estimated that the total number of criminals, who entered from Cuba in 1980, was closer to 10,000. Even if we accept this lower estimate, we are still faced with a very sizable criminal class, which can be expected to swell the prison population for many years to come.

After the hearing, my office, in cooperation with the New York Department of Correctional Services, attempted to establish precisely how many states other than New York had an alien felon population in their prison systems. States reporting significant numbers of aliens in prison include the following:

New York	832
Florida	750
Texas	627
New Jersey	259
Pennsylvania	200

* Elected to the United States Senate on November 4, 1980 from the State of New York. Senator D'Amato serves as a member of four influential committees: Appropriations; Banking, Housing and Urban Affairs; the Select Committee on Small Business; and the House-Senate Joint Economic Committee.

[1] 8 U.S.C.A. § 1101(a)(3) (West Supp. 1970).

[2] 8 U.S.C.A. § 125(a)(1-2) (West Supp. 1970).

[3] *Id.*

[4] 8 U.S.C.A. § 1251(a)(4) (West Supp. 1970).

[5] *Id.*

[6] 8 U.S.C.A. § 1251(a)(11) (West Supp. 1970).

[7] *Id.*

[8] 8 U.S.C.A. § 1252(h) (West Supp. 1970).

[9] *Id.*

New Mexico	144
Arizona	111
Michigan	38
Louisiana	29
Ohio	28

The New York State Department of Correctional Services then conducted a broad survey of state systems. Their sample was 252,315 prisoners, out of a universe of 380,000 in all state prisons. Of this sample, 2,665, or 1.05%, were aliens. This survey suggested that there were in fact 4,000 or more aliens in state prisons in 1983. Multiplying this figure by $14,000, the average annual cost of incarcerating an individual, demonstrates that the annual cost to the states of incarcerating convicted alien felons is in excess of $50 million.

III. THE SOLUTION

On April 28, 1983, the Senate began consideration of S. 529, The Immigration Reform and Control Act. Admitting that "current U.S. immigration policy is no longer adequate to deal with modern conditions," the Senate Judiciary Committee declared that reform was imperative. The timing of the Act's appearance on the Senate floor could not have been more fortuitous.

By amending the Immigration Reform and Control Act, the Congress could require the federal government to recognize its responsibility for admitting thousands of criminal aliens who have added, and will continue to add, to the prison overcrowding crisis. I had two weeks to persuade my colleagues in the Senate of such an amendment's merits.

I argued that, as a matter of fairness, the federal government should pay the cost of its immigration policy and enforcement failures. I also urged that our states sorely need the assistance the amendment offered. It is assistance they will use to cope with a prison overcrowding crisis of mammoth dimensions. The financial help provided will free the states from more than fiscal pressure. It will free them from some of the pressure they now feel to release criminals on parole because there is no adequate space to house them. Finally, for those understandably concerned about the federal budget deficit, I argued that the federal government, under tremendous fiscal constraints of its own, will undoubtedly find ways to speed the deportation of alien felons rather than pay the cost of housing them.

On May 18, 1983, a majority of the Senate accepted these arguments and passed my amendment by a vote of 55 to 40. The amendment reads in full as follows:

(a) The Attorney General shall reimburse a state for the costs incurred by such state for the imprisonment of any alien who is convicted of a felony by such state.

(b) An alien referred to in subsection (a) is any alien, as defined in section 101(a)(3) of the Immigration and Nationality Act, other than—

(1) an alien who was issued an immigrant visa or who otherwise acquired the status of an alien lawfully admitted for permanent residence, and who was subject to the numerical limitations contained in section 201 (a) of the Immigration and Nationality Act (other than an alien accorded the status of a temporary or permanent resident under section 245A of such Act);

(2) an alien who is an immediate relative within the meaning of section 201(b) of such Act; and

(3) an alien who is a nonimmigrant within the meaning of subparagraphs (A) or (G) of section 101(a)(15).

(c) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

(d) This amendment shall be effective on October 1, 1983.[10]

This legislation will require the federal government to reimburse states for the cost of imprisoning illegal aliens; aliens admitted in excess of normal quotas (particularly those entering on the Cuban and Haitian boatlifts), and aliens here on temporary visas. It is important to understand why, under this legislation, certain categories of aliens will trigger federal reimbursement, while others will not.

There will be federal reimbursement in those cases in which there is no adequate safeguard protecting the states from large influxes of potential criminals. When illegal aliens, refugees, migrant workers, and others admitted on temporary visas are permitted to enter the country, they are admitted according to no set numerical quota. Their admission is essentially a matter of Department of State discretion. The decision-making process is one in which foreign policy considerations dominate.

Federal reimbursement will not be required in cases of aliens admitted under numerical quotas because, in such cases, Immigration and Naturalization Service screening and quotas do offer the states a substantial measure of protection. An adequate screening process and the very fact of family ties also can protect states when relatives of American citizens are admitted. For this reason, this class of immigrants is also excluded. Finally, this legislation excludes diplomats because diplomatic immunity prevents their incarceration in the United States.

The House of Representatives will consider this amendment when it begins debate on the Immigration Reform and Control Act. I am confident that the amendment will receive the same bipartisan support in the House that it had in the Senate. Once the entire Immigration Reform and Control Act passes both houses of Congress and is signed into law, the United States will have committed itself to regaining control of its borders and accepted a fair measure of responsibility for its failure to do so in the recent past.●

[10] S. 59, 98th Cong., 1st Sess. § 408 (1983).

IN MEMORY OF WALTER FLOWERS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. CHAPPELL. Mr. Speaker, I belatedly join my colleagues in honoring our fallen friend and colleague, Walter Flowers.

Walter Flowers was an outstanding Member of this House for 10 years, serving the people of Alabama with dedication, excellence, and distinction. His unusual ability to solve constituent problems and his personable and persuasive manner endeared him to all.

Walter Flowers' service as a member of the House Judiciary Committee during the Watergate impeachment proceedings of President Nixon will long be remembered as an outstanding example of personal and moral strength and stamina for standing for what is right when an easier political way might have been available.

History has well recorded the integrity and fairness of Walter Flowers. We will all remember him for his effective leadership and his unusual ability to help others.

We all share the grief of his untimely passing. Our prayers we offer to the comfort of his fine family.●

ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH SUPPORTS MOVE OF U.S. EMBASSY TO JERUSALEM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LANTOS. Mr. Speaker, at joint hearings last week before two of the subcommittees of the House Foreign Affairs Committee considering legislation to move the U.S. Embassy in Israel from Tel Aviv to Jerusalem, the Anti-Defamation League of B'nai B'rith presented a strong testimony in favor of the legislation.

Mr. Robert B. Goldman, cochairman of the Middle Eastern Affairs Committee, presented the testimony on behalf of Kenneth J. Bialkin, national chairman of the Anti-Defamation League.

The basic argument of that excellent testimony is as follows: "Every sovereign nation has the right to designate its own capital; Israel has designated Jerusalem as its capital since the state's independence in 1948; by maintaining its Embassy not in Jerusalem but in Tel Aviv, the United States is therefore denying to Israel the sovereign choice in this matter that it respects in every other nation on Earth."

As I have thought about the Holocaust on the occasion of the recent Days of Remembrance, I have asked how the Holocaust could have occurred. It is my conclusion that the conditions that permitted it to occur did not happen all at once, but developed gradually. Jews individually were treated with a discriminatory double standard, with one set of laws for Jews and another for everyone else. Once this was established and accepted by Jews and non-Jews, conditions that led to the Holocaust were set in motion. This has a perfect parallel on the international scene. One standard exists for the entire world, but there is another standard for Israel. The dehumanization of the individual Jew is

paralleled by the delegitimization of Israel.

Mr. Speaker, the testimony presented by Mr. Goldman on behalf of the Anti-Defamation League is an excellent and eloquent confirmation of this.

The material follows:

(Testimony of Robert B. Goldmann, Co-chairman, Middle Eastern Affairs Committee, Anti-Defamation League of B'nai B'rith on H.R. 4877 Requiring the U.S. Embassy in Israel To Be Located in Jerusalem

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I am Kenneth J. Bialkin, National Chairman of the Anti-Defamation League of B'nai B'rith. ADL, long involved in the struggle to combat racial and religious prejudice in the United States, also seeks to help promote a just and secure peace in the Middle East that will permit Israel to prosper and have normal relations with neighbors no longer hostile. ADL sees the relationship between the United States and Israel, based on mutual moral commitments and mutual strategic interests, as critical to the achievement of a peaceful Middle East.

It is astonishing that thirty six years after the rebirth of the state of Israel we are meeting here today to discuss whether or not our government should move its embassy in Israel from Tel Aviv to Jerusalem.

A decision to move the embassy should have been made long ago and must now be made immediately. In this regard, others I am sure have presented or will present testimony demonstrating the eternal bonds of the Jewish people to Jerusalem. The Anti-Defamation League applauds and itself engages in efforts to educate the public about the uniqueness of Jerusalem to the Jewish people.

While it is this unbroken three thousand year link of the Jewish people to Jerusalem that is the root of the matter, the specific issue at hand does not demand any profound understanding of history. The American embassy should be in Jerusalem because of one simple line of reasoning which goes as follows:

Every sovereign nation has the right to designate its own capital; Israel has designated Jerusalem as its capital since the state's independence in 1948; by maintaining its embassy not in Jerusalem but in Tel Aviv, the United States is therefore denying to Israel the sovereign choice in this matter that it respects in every other nation on earth. Indeed, Israel is the only country where the U.S. embassy is not located in the capital. Even the U.S. Embassy in East Germany is located in East Berlin. Therefore, the embassy should be moved immediately. That Israel, a close ally of the United States, should be discriminated against in this fashion—in effect to receive "least favored nation" treatment—is unjust, unacceptable, and an embarrassment to the United States. It is, moreover, a continuous, painful insult to a faithful friend.

What I would like to do here today is focus on the reason that the United States has failed to do that which is obviously fair and logical with regard to its embassy in Israel. Very simply, the embassy has remained in Tel Aviv for one reason: fear of the reaction to such a move by the Arab world. There is nothing else—no argument, no reality, that stands in the way. Alleviating this fear or putting it in perspective may be the most important thing one can do to make it easy for our leaders to do the right thing. It is time to end several generations of U.S. surrender to intimidation and threats from our so-called friends in Arab lands.

Fortunately, as we speak, this mode of thinking, too long in vogue in Washington, has begun to melt with the recent open discussions between the U.S. and Israel on strategic cooperation. The United States decided that its vital interests demanded more political and military coordination with Israel, that it should be done openly and not be deterred by negative reaction in the Arab world. When Secretary of State Shultz spoke out in Morocco at the Arab League Summit several weeks ago declaring that the Arabs must understand that the United States was a friend of Israel and would continue to support and work with her, another step was taken to free America from the paralyzing fear of "Arab reaction."

This is not to suggest by any means that the United States does not have interests in the Arab world or that we don't have to take into account how the Arab states will react to our policies. There is a huge gap, however, between due consideration and the kind of paralysis manifested in the refusal to move the embassy, a matter which on its own terms is beyond questioning.

It is one of the great illusions of U.S. Middle East policy that sees the Arabs moving closer to America when we distance ourselves from Israel and moving further from America when we are friendlier to Israel. In so many ways this is a distorted way of looking at the Middle East and the Arab world and it needs to be corrected.

To begin with, as Henry Kissinger has pointed out, there is an inherent anti-American radicalism pervasive in sectors of the region upon which the Soviet Union feeds. It has nothing or almost nothing to do with Israel and would exist were Israel not around. Basic hostility to the West, social and economic dissatisfaction, opposition to Arab moderates characterize this mentality. Syria, Libya and Iran today are reflections of these attitudes. To suggest that any particular decision we make with regard to Israel will affect this radicalism is to misunderstand its roots. Moving the embassy to Jerusalem will have no bearing on these radical attitudes.

Second, those states in the region which we label moderates (though their moderation toward Israel is questionable) move closer to or further from the United States not on the basis of the current state of U.S.-Israeli relations but on whether they see the U.S. as a strong party able to contain Soviet and radical threats. Examples abound: Anwar Sadat decided in 1973 that the U.S. was a more worthy friend to have than the Soviets—on economic, military, and political grounds—this even though it was the same United States that resupplied Israel in the Yom Kippur War against Egypt. Again, after Sadat made peace with Israel, Jordan and Saudi Arabia did not lessen their relationship with the U.S. one bit despite U.S. sponsorship of the peace. Indeed, it wasn't the U.S. role at Camp David that came to disturb these parties, but rather perceived U.S. weakness vis-a-vis the Soviets in Afghanistan and Khomeini in Iran. These events led to talk of reevaluation of attitudes toward the U.S. because of the doubts about U.S. will and capability to offer protection.

Indeed, the entire history of the region since the creation of Israel runs counter to the notion that U.S. influence is hurt by its ties to Israel. Warning signals are raised by some that we will lose influence with Jordan or lose contracts with Saudi Arabia if we are close to Israel. But we have been close to Israel all these years—some say too close, some say not close enough, but close nevertheless—and yet Jordan has continued to look to the U.S. for support and Saudi Arabia has continued to view America as the financial rock upon which its economic fortunes should rest.

Or again, on strategic cooperation: There has been the expected chorus of boos from the Arab world, but this in no way has changed the basic attitude of Arab conservatives toward the U.S. They need America, a strong America, and won't let their unhappiness on strategic cooperation stand in the way despite the public outcry.

In this regard a U.S. decision to move the embassy to Jerusalem would not only be long overdue and fair, but it would be an important and logical followup to the strategic cooperation move. It would convey the message that in those matters that are unquestionably in the American interest such as strategic cooperation—or inherently fair and right for example, that Israel should have the U.S. embassy in the capital it designates—the U.S. will proceed ahead despite the unexpected outcry in the Arab world. A little necessary reality might set in in the Arab world that just because they shout does not mean they will have their way.

The impact of moving our embassy must therefore be seen in the context of several realities in the Arab world:

As noted, attitudes toward the U.S. both by radicals and moderates have far more to do with matters other than Israel; therefore the inherent merit of the embassy move takes on greater weight and need not be overly burdened by concern about reaction.

On the other side, the continuing failure to take this obvious step, allowing Israel to remain the only state in the world so treated by the United States, helps to sustain illusions in the Arab world. If the U.S. is seen as treating Israel differently from other nations in this significant matter, even to the point of not allowing an embassy in West Jerusalem, then the Arabs can continue to believe that Israel is not truly accepted even by its friend America and therefore they surely need not reconsider their rejectionism.

It also gives the Arab world reason to think that their shouting and threatening can force the U.S. to make decisions against its better judgment. This too is unhealthy because it delays the necessary steps in the Arab world away from hoping to use the U.S. to pressure Israel, and toward real negotiations with the Jewish state.

In sum, the long overdue decision to move the embassy to Jerusalem will pose no risks to American Middle East policy and by the evident rightness of the decision in the face of Arab posturing might contribute a little realism to a Middle East situation that surely can use it.

When the United States makes obviously bad decisions on the basis of empty threats from the Arab world everyone but the radicals and the Soviets lose. For the sake of America, Israel, and a little sanity in the region, the time has come to move the American embassy to Jerusalem.●

NEA'S PROTECTIONISM RESULTS IN LOW TEST SCORES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, on December 14, 1983, the editors of the Detroit News issued a commentary exposing the "Educational Protectionism" that is thwarting nearly all efforts to improve the quality of our public education system. Although the declining performance of our students on international achievement tests has been widely publicized, it is not as well known that the National Education Association (NEA) is responsible for the tremendous resistance to measures intended to upgrade the teaching methods in this country.

The article makes an important point by comparing the effect of the NEA's protectionism on the quality of U.S. public education and the effect of industrial protectionism on the sales of U.S. products abroad and at home. The quality of both our education and our products is lowered due to the protection from competition.

I urge my colleagues to take note of the message presented in the following article, "Educational Protectionism":

[From the Detroit News, Dec. 14, 1983]

EDUCATIONAL PROTECTIONISM

The recent revelation that American students fared poorly in an academic achievement test given to sixth-graders from eight countries is disappointing, but it's hardly surprising. After all, the president's education commission said that U.S. schools were substandard last spring. What the Dallas Times Herald did was merely remind us once more that the nation is indeed at risk unless something is done to reverse the rising tide of mediocrity that has inundated America's schools.

The Texas newspaper asked four eminent educators to devise a test in math, science, and geography. Last month, that exam was administered to average students from Australia, Britain, Canada, France, Japan, Sweden, Switzerland, and the United States. It seems that the U.S. students finished dead last in math, were sixth in science, and came in fourth in geography.

This sorry showing is particularly disturbing when you realize that the United States spends more per student than does any other major industrial nation in the world.

It's painfully obvious that we are receiving precious little for our investment. Yet the National Education Association (NEA) continues to insist that more federal funding is needed to prevent American schools from falling even further behind. And the 1.7 million-member teachers' union is determined to elect candidates who subscribe to this specious reasoning.

Moreover, the NEA has resisted virtually every proposed reform that promises to solve some of the problems plaguing the public schools. For example, the union has spent millions of dollars to defeat merit pay and master teacher initiatives. The NEA opposes minimum competency testing for staff and students alike. The union has consistently fought attempts by the states to streamline and standardize their teacher certification and licensing codes. And its rigid contract stance places seniority above competence concerning teacher layoffs. In fact, the teaching profession resembles a guild wherein the unions determine who shall enter, and remain in, the classroom.

The situation is so serious that a National Science Teachers Association study has said more than half of this nation's math and science instructors are not qualified to teach their subjects. A recent Western Michigan University survey has shown that 33 percent of Michigan's middle school math teachers have neither majored nor minored in their subject.

Little wonder, then, that American students are unable to compete with children from around the world. On the other hand, American teachers make more money and have better benefits, not to mention greater contract protection, than their foreign counterparts. This form of union protectionism is having the same effect as industrial protectionism on the international level: it's making America less competitive. The symptoms are harder to read, but maybe the Times-Herald effort to instill a competitive note into the educational testing scene will clarify the situation and have a beneficial impact.●

UNLIKE REAGAN, CARTER SOUGHT AN ASAT ARMS CONTROL AGREEMENT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. SEIBERLING. Mr. Speaker, the Congress will soon debate an amendment to the Defense Department authorization bill to prohibit the use of research and development funds for flight tests of the U.S. antisatellite (ASAT) weapon as long as the Soviets maintain their current unilateral moratorium on flight tests of their own ASAT system.

In its report on the fiscal year 1985 defense authorization, the Armed Services Committee contends that the Reagan administration's position on ASAT development is unchanged from the policies of the Carter administration.

I recently received a copy of a letter written to House Armed Services Committee chairman, MELVIN PRICE from Paul Warnke, former Director of the Arms Control and Disarmament Agency under President Carter. In the letter, Mr. Warnke states that "the committee's report misrepresents the substance of the Carter administration's views toward ASAT's."

As Mr. Warnke notes, "the policy objective of the Carter administration . . . was to conclude an ASAT arms control agreement to prevent a destabilizing competition in ASAT capabilities. . . . In contrast, the Reagan administration has stated its objections to resuming ASAT negotiations. It is, therefore, disingenuous to contend, as the committee report does, that U.S. policy has long been to pursue development and procurement of ASAT's pending an arms control agreement. This administration, unlike its predecessor, has made no effort to reach an ASAT agreement."

Warnke concludes that, given the Reagan administration's "refusal to enter into active bilateral negotiations banning ASAT flight tests and deployment, I believe Congress should deny funding for such purposes. The shortsighted pursuit of ASAT capabilities will be the most costly and destabilizing mistake this Nation has made since the decision to flight test and deploy MIRV's at the outset of the SALT negotiations."

Mr. Speaker, far from endorsing the Reagan administration's ASAT policies, Paul Warnke makes it clear why the Congress should adopt the Brown-Cloughlin amendment to the DOD authorization. The record should be set straight. The complete text of Mr. Warnke's letter to Chairman PRICE follows these remarks:

CLIFFORD & WARNKE,
ATTORNEYS AND COUNSELLORS AT LAW,
Washington, D.C., May 14, 1984.

Hon. JOHN F. SEIBERLING,
House of Representatives,
Washington, D.C.

DEAR JOHN: In view of your strong opposition to the Administration's drive to develop ASAT capability and its disinterest in an arms control solution, I wanted to be sure that my views on the subject are not misinterpreted. I am, therefore, enclosing a copy of my letter to Chairman Melvin Price.

With best regards,

Very truly yours,

PAUL C. WARNKE.

Enclosure.

CLIFFORD & WARNKE,
ATTORNEYS AND COUNSELLORS AT LAW,
Washington, D.C., May 10, 1984.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The House Armed Service Committee's report on the Fiscal Year 1985 Defense Authorization Bill ascribes to me views supportive of the Reagan Administration's anti-satellite (ASAT) program. This is incorrect and derives from a distortion of the purpose and content of documents prepared when I was Director of the U.S. Arms Control and Disarmament Agency. Accordingly, I would appreciate the taking of appropriate steps to correct the serious errors in the report.

The Committee's report misrepresents the substance of the Carter Administration's views toward ASATs. The policy objective of the Carter Administration, as stated on page 104 of the Fiscal Year 1979 Arms Control Impact Statements, was to conclude an ASAT arms control agreement to prevent a destabilizing competition in ASAT capabilities. Toward this end, the Carter Administration proposed to the Soviets in March 1977, a joint working group to discuss ASAT arms control. Formal negotiations began in 1978. In contrast, the Reagan Administration has stated its objections to resuming ASAT negotiations. It is therefore disingenuous to contend, as the Committee Report

does, that U.S. policy has long been to pursue development and procurement of ASATs pending an arms control agreement. This Administration, unlike its predecessor, has made no effort to reach an ASAT agreement.

The Committee Report also misrepresents the Carter Administration's judgments on the advisability of deploying ASAT systems. The destabilizing consequences of such a decisions are treated in detail in the Fiscal Year 1979 and 1980 Impact Statements. The Fiscal Year 1979 report concludes, "In the absense of such an agreement, the deployment by both sides of highly capable ASAT systems could have an adverse effect on the stability of the strategic nuclear and regional balances (page 105)." The same conclusion can be found on page 69 of the FY 1980 Impact Statements.

The key to the Anti-Satellite policy of the Carter Administration was not to build and then to pursue arms control negotiations, but rather to pursue actively a mutually verifiable ban on such deployments and thus avoid the necessity of building such systems. This is fully reflected in both the unclassified and classified Arms Control Impact Statements.

In addition, the statement in the ACIS, quoted in the Committee Report, that the ASAT program was consistent with existing arms control agreements meant only that it did not violate any arms control agreements to which the United States was partly at that time. It clearly was not intended to state a desirable policy objective.

Finally, the Committee's report refers to the analysis of the U.S. ASAT program found in the Fiscal Year 1979 Arms Control Impact Statement. Section 36 of the Arms Control and Disarmament Act, as amended, requires the Executive Branch to submit impact statements to the Congress to assist in Congressional decision-making and to promote more informed public discussion of national security policy decisions. The Director of the Arms Control and Disarmament Agency has traditionally transmitted these analyses to the Congress at the request of the President. The analyses are carefully coordinated within the Executive Branch, and reflect the views of the Department of State, Department of Defense, Department of Energy, as well as ACDA. The process of interagency coordination has been the responsibility of the National Security Council. Thus, the other errors of the Armed Services Committee's Report are compounded by inaccurately ascribing to me personally the coordinated views of the Carter Administration.

If the Committee is interested in my views on the folly of proceeding with ASAT flight tests and procurement, I am happy to supply them. Given the Reagan Administration's refusal to enter into active, bilateral negotiations banning ASAT flight tests and deployment, I believe the Congress should deny funding for such purposes. The shortsighted pursuit of ASAT capabilities will be the most costly and destablizing mistake this nation has made since the decision to fligh test and deploy MIRVs at the outset of the SALT negotiations. The major lesson to be learned from that experience in the 1970's is to avoid repeating that folly in the 1980's.

Very truly yours,

PAUL C. WARNKE.●

TICKETS TO A SALVADORAN HELL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. EDGAR. Mr. Speaker, as we prepare to consider comprehensive immigration legislation in the coming weeks, I wish to again bring attention to the tragic situation facing thousands of Salvadorans who have to come to the United States to escape the civil war in their native land. Refugees from El Salvador enter this country to find safety from the death squads, guerrilla fighters, and random violence that troubles their nation. Our laws permit the Federal Government to give them refuge without making them permanent residents, through a process known as extended voluntary departure, or EVD.

Extended voluntary departure allows temporary political asylum to those who flee repression in their homeland; currently it is granted to people of such diverse nationalities as Polish and Ethiopian. However, the administration refuses to permit EVD for Salvadorans. Included after my remarks is a recent editorial from the Philadelphia Inquirer pointing out why the administration's rationale is wrong. I can add little to this eloquent statement, but I wish to point out that it was as a refuge, a safe haven, that this country was founded. We base our sense of justice and fairness on freedoms which cannot presently be achieved in El Salvador. To send these Salvadorans back to the tenuous situation from which they come means death for some, hardship and oppression for all. Therefore, I support the Inquirer's call for EVD, for temporary political refuge for Salvadorans in the United States. It is the least we can do in accordance with the principles of our great Nation. The editorial follows:

TICKETS TO A SALVADORAN HELL

It is a disgrace and a compounding outrage, the back-turning treatment that refugees fleeing El Salvadore's civil strife are getting from the United States. By the thousands they cross the border each month, sucking lemons to quench their thirst in the back of dark trucks, their brothers hacked to death, their families afraid to keep them any longer if their politics have somehow offended the leftist rebels or the rightist death squads.

And though maybe 500,000 have illegally made it to the United States, busing tables and harvesting crops to stay alive, unlucky ones are being deported at the rate of 1,000 a month.

Some, yes, come primarily for jobs. but most have been propelled by the unrelenting conflict that since 1980 has left 30,000 civilians dead, victims of the crossfire raking their country.

U.S. immigration law has a section tailormade for refugees such as these Salvadorans. It is called "extended voluntary departure." It does not grant citizenship or permanent political asylum. It simply allows aliens facing dangerous conditions in their homelands to remain temporarily on U.S. soil and to work legally until things cool off.

It is a status that is currently extended to Ethiopians and to Poles and to Lebanese and Ugandans and Afghans. But not to Salvadorans. It would only encourage a mass exodus, the Reagan administration insists. Besides—and incredibly—the State Department says it's not all that dangerous in El Salvador and, even if it was, refugees are welcome in nearby countries such as impoverished Honduras.

Year after year church leaders and civil liberties groups and members of Congress have presented evidence to the contrary. There is, of course, danger, they have shown. And Honduras, Guatemala and Mexico are not truly "safe havens." Yet the administration has stuck to its guns, stuck to its transparent double standard.

Now Rep. Joe Moakley (Mass.) is calling the administration's bluff. He has introduced a bill that requires the President to prove it safe to send refugees back to El Salvador. While that proof—a study on the adequacy of food, medical care and civil protection—is being collected, it would temporarily suspend the deportations.

It is a humble hand to those whose only crime has been to live in a land at war. That it should be approved there is no question. That it had to be introduced in the first place is a national scandal and a crying shame.●

H.R. 5345, THE EQUAL ACCESS ACT

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. GRADISON. Mr. Speaker, recently, this House defeated legislation dealing with an issue that I consider to be quite important. Specifically, the House rejected H.R. 5345, the Equal Access Act, which was introduced by our colleague, Representative BONKER.

All of us concerned with the moral, intellectual, and spiritual development of the children in our public schools have a responsibility to do all we can to provide an environment that insures such development.

All of us who believe that intervention by the Federal Government in this Nation's public schools is a contributing factor in the well documented decline in the quality of education in recent years, have a responsibility to try to restrain Washington's heavy hand.

All of us who believe that local school boards and administrators are in a better position to make decisions regarding the education of children within their schools than are legislators in Washington, have a responsibility to stand firm in this belief.

All of us who believe that our Founding Fathers were correct in providing for the separation of church

and state, and did not intend for religious activities in public schools—and religious activities alone—to be protected by the Constitution, have the responsibility to see that this principle endures.

It is for precisely these reasons that I voted against H.R. 5345, the Equal Access Act.

H.R. 5345 provides that no Federal education funds may be obligated or expended to any State or local education agency, such as a local school district, which discriminates against students in public secondary schools who wish to meet voluntarily for religious purposes. This bill also provides that students could meet during "noninstructional" periods and that nonstudents could be invited to participate in such meetings.

Upon closer examination, we learn that this legislation would authorize religious services, prayer meetings, and the like, in high school classrooms, before, after, and during the school day. Preachers, priests, rabbis, cultists, and other religious leaders could conduct services if invited by the students. And, minority religions, with fewer members than a number arbitrarily chosen by school administrators, could be prevented from meeting on school property.

Despite its title, the Equal Access Act would only provide protection—Federal-fund cutoff—to matters involving religion. Therefore, it is not equal. If a student-sponsored group such as the chess club, a student political club, or the key club were denied permission to meet on school property, the only recourse for such students with school administrators would be their individual powers of persuasion.

Despite the inequality in dealing with student-sponsored groups, there is fundamental inequity in the method provided by H.R. 5345 for dealing with cases of discrimination. If a school principal refused to permit a student group to meet for religious purposes, the consequences could be the cutoff of all Federal funds, not just to the culprit school, but to the entire school district. Thus, a good-faith mistake by one individual could have wide-ranging impact on many innocent students and teachers.

Fortunately, enough of my colleagues agree that Washington has no business imposing its will on the schoolchildren of this country, nor should Washington alter the foundation which our Founding Fathers laid out.

There was an alternative to H.R. 5345. However, the House was never given the opportunity to consider it.

H.R. 5439, the Secondary School Equality Act of 1984, introduced by Representative EDWARDS, who is Chairman of the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, appropriately provides for a judicial remedy to cases of discrimination. H.R. 5439 does not elevate religious speech above all other forms of expression; it prohibits outside religious leaders from participating in student religious activities; it provides protection for minority, as well as majority religions; and it would permit local school administrators to continue to exercise their discretion to exclude groups—religious and otherwise—that are disruptive or interfere with school discipline.

I regret that this bill, indeed, this approach, was not considered by the House. H.R. 5439 keeps the Federal Government's hand out of local decisionmaking regarding the education, and upholds the integrity of the Constitution.

There is no doubt in my mind that the proponents of H.R. 5345, the Equal Access Act, were well intentioned and sincere. I do not question the intention; I only question the means.

This bill was drafted to bypass the House Judiciary Committee. It was brought to the floor of the House under very restrictive rules that prevented any amendments and limited debate.

I was convinced that, had H.R. 5345 been passed, its effects would have had a negative impact on public school-children for years to come.

Students should have the opportunity to expand their horizons. Surely one way this can be accomplished is through religious expression. Public school students should have the opportunity to discuss, examine, and even question religious issues. I have no problems with such expression taking place on school property, as long as it is done voluntarily and without school sponsorship, that it is limited to secondary students, and that it is done within the confines of existing law and constitutional protections.●

MEDICARE REIMBURSEMENT FOR HOSPICE CARE MUST BE INCREASED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BIAGGI. Mr. Speaker, today I would like to express my support for H.R. 5386, which would amend the Social Security Act to increase reimbursement rates for hospice home care. Representatives PANETTA and GRADISON, in introducing this bill, recognize the important role that hospices play in American health care.

H.R. 5386 would require the Secretary of Health and Human Services to establish a rate for hospice home care of at least $53.17 per day. The current reimbursement rate is $46.25 per day. While this higher rate would not cover 100 percent of the costs of hospice care, it would give hospices a greater incentive to become medicare certified, and allow a wider segment of the population to use hospice services.

As an orignal member of the Aging Committee, I have long been an advocate of hospice care. I cosponsored the legislation, introduced by Representative PANETTA, which provided for the original reimbursement for hospice care. That legislation was precedent setting in its recognition of palliative care options for the terminally ill. This new legislation is essential if the intent of Congress—that hospice care be widely available to people of all income levels—is to be carried out.

Currently, there are approximately 1,200 hospices in the United States, caring for over 40,000 patients. Hospices allow terminally ill patients to spend the last part of their lives in a setting where emphasis is placed on caring for the dying, as opposed to healing the living. The hospice provides a supportive atmosphere for the patient and his or her family, and an opportunity to meet spiritual, psychological, and social needs in a collective setting.

Home care is an integral part of the hospice program. According to the New York State Hospice Association, 80 percent of hospice patients die at home. Many hospice programs work to give the patient as much time at home as possible, based on the belief that being surrounded by familiar places and people helps him or her feel more comfortable and secure.

Unfortunately, current rates of medicare reimbursement may force patients who could be cared for at home to enter hospitals or certified hospices. Low reimbursement rates discourage many hospices from becoming medicare certified. Prescription drugs are only covered for medicare patients at certified facilities. A patient with limited resources may not be able to afford out-of-pocket expenses of $30 or $50 weekly for these necessary drugs, and may be forced to become an inpatient. This deprives the patient of the home setting which is appropriate to his or her condition, and needlessly burdens taxpayers with the cost of hospitalization for people who do not really need it.

In New York State, the problem of low reimbursement is compounded by the lack of an administrative mechanism for hospices to receive State certification. A new law, enacted last year requires that hospices applying to medicare for certification within New York State be certified first by the State health department. The department has not yet established procedures for this certification. I am sure that this problem will be rectified soon, and that this obstacle to hospice

participation in New York State will be removed.

I urge all of my colleagues to join me in support of this important legislation which will go a long way to removing the remaining barriers to hospice participation in medicare.●

A TRIBUTE TO SCHOOL DISTRICT 23 IN NEW YORK CITY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. OWENS. Mr. Speaker, we have heard much in this House about the decline in performance in our schools. Less has been said about the astounding progress of many school districts—progress which has been made in spite of conditions which many view as educational hurdles. Today I want to take a moment to commend School District 23 in New York City.

School District 23 is located in the East New York-Brownsville section of Brooklyn. It serves a community in which the per capita income is $2,500 and 50 percent of the families live below the poverty line. Thirty percent of the adults have completed high school. The children of the district live in the midst of some of the worst housing conditions in the Nation. Despite the urban blight around them, the children are learning.

The reading scores in District 23 reflect the incredible progress which has been made. In 1981, the citywide reading scores stood at 50.8 percent as compared to the Nation and the district's scores were 36.2 percent. In 1984, the citywide scores rose to 52.9 percent and the district's scores rose to 45.7 precent. This increase of 9.5 percent in just 3 years is a remarkable achievement.

The increase in the district's scores reflects incredible effort on the part of teachers, administrators, parents and students. I particularly salute the leadership of District 23 Superintendent Carlos Edwards. This is precisely the kind of effort which will continue to raise the performance of our students. It is the kind of effort which cannot be dictated by any commission. It is the kind of effort which comes with local concern directed at the problem which requires patience and creativity to resolve.

Mr. Speaker, I want to congratulate all of the people of School District 23 who have worked to improve the performance of the students. I know that they will not rest on their laurels and that they will be letting me know next year that they have moved up again. The attached factsheet tells this success story in a greater detail.

FACTSHEET

Thirty-one of the thirty-two school districts in New York City showed declines in the 1984 citywide reading scores when compared with the 1983 scores.

In 1984 District 23's score was above that of thirteen other school districts; in 1983, District 23's reading score was only above that of eight other school districts;

Of the twelve Brooklyn school districts, District 23 ranked 7th in reading for 1984.

The decline in the citywide reading scores was 2.6 percent while the decline for District 23 was only 0.3:

Citywide 1983, 55.5; District 23 1983, 46.0.

Citywide 1984, 52.9; District 23 1984, 45.7.

Compared with all thirty-two school districts, District 23 showed the greatest growth in reading achievement over the last three years:

1981 Reading Score for District 23, 36.2.

1984 Reading Score for District 23, 45.7.

Reading Growth, 9.5.

The gap between Citywide and District 23 reading scores was narrowed from 14.6 points in 1981 to 7.2 points in 1984:

1981 Citywide, 50.8; 1981 District 23, 36.2; gap 14.6.

1984 Citywide, 52.9; 1984 District 23, 45.7; gap 7.2.

In 1981, only one elementary school in District 23 achieved a reading score at or above 50 percent. In 1984, six elementary schools and one junior high school achieved reading scores at or above 50 percent. The following is a listing of schools with scores at or above 50 percent in reading for the last four years:

1981: PS 327.

1982: PS 327.

1983: PS 41, 137, 150, and 327.

1984: PS 41, 137, 150, 165, 178, 332, and JHS 263.

District 23 advanced its relative ranking in reading achievement from 26th place among 32 School Districts in 1981 to 18th place in 1984. The following is the relative ranking for the last four years:

1981: District 23 28th; 1982: District 23 25th; 1983: District 23 23rd; and 1984: District 23 18th.

In 1984, Form C of the California Achievement Test (CAT) in Reading was administered, while for the previous year (1983), Form D of the Test was administered. A comparison of Form C and Form D below reveals, for example, that a fourth grade student needed to complete more correct answers on the Form C Test for 1984 in order to achieve the same score in 1983:

Form C (1984): Raw Score, 45 and 29; Grade Equivalent, 4.7 and 3.7.

Form D (1983): Raw Score, 39 and 25; Grade Equivalent, 4.7 and 3.7.

A review of results obtained on successive administrations of these two forms demonstrate an average growth of 8.0 percentage points in reading in District 23 schools.

Form C: 1982, 38.5; 1984 45.7; Growth is 6.2 percent.

Form D: 1981, 36.2; 1983 46.0; Growth is 9.8 percent. The average growth is 8.0.

The following five district schools actually showed growth (as opposed to declines) in reading scores for 1984: PS 73, 165, 178, 332, and JHS 263.

Fact: District 23 actually showed greater growth in reading this year (1984) than in previous years! And this was in spite of the relative Citywide decline in scores.●

A TRIBUTE TO PAUL NIX

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. NICHOLS. Mr. Speaker, Paul Nix, the distinguished Auburn University baseball coach, has recently announced his retirement after serving 22 years as head of the Tiger baseball club.

Coach Nix will retire as the winningest coach in the SEC, and Auburn baseball enjoyed its greatest years under Coach Nix. Four of Auburn's six SEC baseball championships were won during his time as head coach. He will long be remembered by his players as an inspirational leader, an individual of great talent, and a person of the highest personal integrity. It has been my privilege to know Coach Nix, and I can personally attest to the fact that Coach Nix is held in the highest esteem by the many players who trained under him; we will sorely miss him at Auburn.

Jon Johnson's article in the Auburn Plainsman best describes the sort of man Coach Nix is and highlights the leadership and the unselfish dedication he has given to so many young Auburn players. Mr. Speaker, I insert at this point Mr. Johnson's article in full in the RECORD:

NIX STEPS DOWN AFTER 22 YEARS AT THE HELM

(By Jon Johnson)

Saturday night, Paul Nix managed his last game in an Auburn uniform after serving 22 years as the head mentor of the Tiger baseball club.

Nix, who a has won 524 games at Auburn, announced to his team last Wednesday night that he would be retiring after the final regular season game against Huntingdon.

But his decision had been made quite a few weeks before his announcement.

"It was about the mid-way point of the season, prior to going to Ole Miss for a series, that I decided it was time to get out," Nix said.

"There weren't one or two particular things that I could put my finger on that caused my decision. It was just an accumulation of things all rolled up that made me decide the best thing for me was to just move on to something else.

"When you make a decision like that, you're never quite sure whether you're making the right one or not. But I hope it will prove out in the long run that I made the correct decision."

Nix admits that finishing in the bottom half of the Western Division for the last four years was a main factor for his retiring.

"There isn't anything I dislike about baseball, except losing. I like to win, and coaching is the kind of job where there's no middle ground. You're either up or down according to whether you win or lose.

"When you've been used to winning and suddenly you're not doing so well, coaching becomes a much more difficult situation.

"I was getting upset about losing, and I think my family could read that in me. I think they were concerned that I was putting a tremendous amount of personal pressure on myself. It was just time to give it up."

After last year's 16-34 records, Nix's only losing season on the Plains, there were speculations that he would be fired if the Tigers didn't do well this year.

But Nix insists there was never any pressure put on him to win by Athletic Director Pat Dye.

"No, he didn't put any pressure on me. There was nothing he said to me on how well I must do to keep my job. It was strictly my decision.

"I think a lot of people are making too much over this. I'm just a little guy in a little sport. I'm a little bit amazed at all the attention this has caused."

Dye said Nix was never under any pressure to retire, and wished him well.

"Auburn will never be able to adequately thank Coach Nix for all he has done for Auburn baseball," Dye said.

"His record speaks for itself. He is one of the giants in his profession. It is always sad when a coach of his magnitude decides to retire, but we support Coach Nix in whatever he wants to do.

"We wish him and his family all the best. They will continue to be a part of our athletic family."

While Nix retires as the winningest coach in the SEC, he does not look at it as a great accomplishment.

"What I've done over the years doesn't seem very big to me," Nix said.

"If you coach a long time, you're gonna win a lot of ballgames and lose a lot. Maybe that's one reason I don't attach a lot of significance to it.

"The credit all these years really belongs to the players. It always has in every sport.

"You try to teach them the best you can, but when the whistle blows, they're the ones who've got to perform."

Nix says there isn't one thing that stands out as the biggest highlight in his career, but perhaps the most memorable highlight occurred a couple of weeks ago off the field.

"We has a 20-year reunion with the ballplayers of my first two teams here. I don't know when I've had a day when I felt so good.

"I remember I worked them like dogs those first two years. When I got up in front of them at the reunion, I laughed and said I kind of hesitated to come out here because I thought you people might want to jump on me for how hard I worked you.

"A second later, one of them came up and gave me a big hug. That was just about more than you could describe. After you've coached for a while, you get kind of sentimental about your team and players.

"They have been the biggest highlight of my career."

Nix believes the future ahead for Auburn baseball is very bright, and he is certain Dye will find a top notch coach to lead the Tiger baseball fortunes.

"Coach Dye is committed to every sport at this university. Whoever he's gonna get to take over the coaching duties will be good.

"And there are a lot of young players on this team that I believe will turn into very fine players over the next couple of years. The future here is very good."

Nix hasn't decided what he plans to do in the future, but does plan to remain in Auburn.

"I feel like this is my home and this is my school. My family will continue to live here."

"Right now, I just want to take some time off and relax. I'm looking forward to a few days for myself and my family."●

THE DEATH OF ACID RAIN LEGISLATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. OTTINGER. Mr. Speaker, a great sadness has descended over our Nation. Ours was a nation once beautiful, with clear skies and streams full of fish. We are a Nation which now is the depository of filth from those once beautiful skies. We are a Nation which must live with, breathe, and drink 24 million tons of sulfur dioxide every year—with more to come in the future.

And what have we done about this? Nothing. Congress is charged by the Constitution and by the American people with acting in their interest. With protecting them from harm. Yet we appear to be immobile on this one issue. Our immobility comes from the same source as the pollution which fouls our skies and kills our fish. And we must do something about it.

The following article appeared recently in The New York Times. I wish to commend it to my colleagues' attention. Maybe there is still hope for legislation in this Congress. I certainly hope so.

WHO'LL STOP THE RAIN?

(By Tom Wicker)

In the midst of Job's terrible trails, God spoke to him, demanding to know among other things: "Hath the rain a father? Or who hath begotten the drops of dew?

Now those drops have turned demonstrably acid, almost certainly causing the slow deaths of great American and Canadian forests—not to mention the pollution of lakes, crops and the air people breathe. But no one admits to fathering such a rain of desolation.

In fact, however, the origins and effects of acid rain are widely conceded, though not scientifically indisputable. When William Ruckelshaus, the Administrator of the Environmental Protection Agency, proposed an acid-rain control program to President Reagan, his target was clear: power plants and factories emitting huge quantities of sulfur dioxide and oxides of nitrogen into the atmosphere above several industrial states—notably Ohio, Pennsylvania, West Virginia and New York.

Similary, legislation pending in both houses of Congress is focused on reducing much the same emissions—by as much as 12 million tons of sulfur dioxide every year, beginning in the 1990's. The widely accepted theory of acid rain's origin is that these pollutants combine with water vapor in the clouds and return to earth as rain tainted with sulfuric and nitric acids.

But Mr. Reagan rejected the Ruckelshaus proposals out of hand, the Congressional legislation is hardly moving, and the reasons are not hard to find. For one thing, prevailing westerly winds carry much of the pollutants far from the tall stacks that emit them, so that the originating areas are not the primary victims and can deny or debate responsibility. Most of the victim areas, on the other hand, can't do much to deal with the problem except to point accusing fingers.

Perhaps more important, the fathers of acid rain—once specified by Congress or the executive branch or both—might well be charged with the costs of cleaning up the atmosphere. That could be expensive, Mr. Ruckelshaus, for example, proposed reductions in pollutants that would have cost from $1.5 to $2 billion to achieve. In sharp contrast, the Reagan Administration has proposed only $55.5 million in the fiscal 1985 budget—all of it to study rather than attack the problem.

The principal differences in the several Congressional bills concern these two problems. First, what states should be covered by antipollution legislation? Second, who's going to pay for the cleanup—the utilities and industries involved and their ratepayers and customers, the designated states, the Federal Government, or all under some agreed-upon formula?

After Mr. Ruckelshaus defended Mr. Reagan's reluctance to move against the problem, Senator Robert T. Stafford, a Vermont Republican, observed that the necessary pollution controls would come only "at the pace of the economic plans of the polluting industries rather than at the pace of environmental and health needs of Americans."

The delay in acting, however explained, can hardly be excused. Devices called "scrubbers" could remove 90 percent of sulfur dioxides from stack gases. A process called "coal washing" could achieve about 25 percent of the needed reductions. Low-sulfur coal, other technologies and conservation to decrease demand for electricity could do the rest.

The cure for acid rain, therefore, is probably at hand even though the job can't be done cheaply or quickly. The overriding need, however, is to get started on it. For even if the necessary legislative or executive action were taken today, five years or more would pass before the foul load of pollutants in the atmosphere would begin to decline.

That's why Canada—though more sinned against than sinning—already has launched an emissions control program and why the continuing U.S. debate over who's responsible and who's to pay may prove to be disastrous. Nobody can say what another decade or more of acid rain would do to the Eastern forests and waters of the U.S. and Canada; in any case, those years of pollution can't be redeemed.

The National Governors' Conference has approved, 24 to 10, a resolution demanding Congressional action; but that doesn't solve the questions of responsibility and costs. Midwestern governors, fearing added economic burdens, want to spread cleanup costs nationwide; Far Western states, which are little affected, consequently express little concern.

Six Northeastern states, including New York (which is both an acid rainmaker and a victim), have filed suit in Federal court to force the E.P.A. to order offending states to reduce emissions of pollutants. The suit is understood to be aimed at Ohio, Indiana, Illinois, Kentucky, West Virginia, Tennessee and Michigan; but even if a court order were granted, Mr. Ruckelshaus and the Administration would actually have the political task of designating the states to be affected.

Meanwhile, the fathers of the rain continue to beget their acid dewdrops, while the forests and the waters die a little every day.●

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1985

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. WEISS. Mr. Speaker, I voted for the House Budget Committee's first concurrent resolution on the budget for fiscal year 1985, but only with grave reservations.

The resolution will permit raising the level of funding for crucial low-income programs, and it will reduce the deficit by somewhat more than the President has proposed. However, the means for achieving these modest goals are misleading and objectionable.

The pay-as-you-go plan devised by the Budget Committee masquerades as an equitable compromise that will raise both low-income programs and defense spending by a 3.5 percent real growth rate. But the military budget is already so incredibly bloated that increased outlays for defense under the pay-as-you-go plan will outpace increases for domestic spending by a rate of 9 to 1. In real dollars, the resolution provides for a $44.8 billion increase in defense spending over 3 years, compared with a mere $5 billion increase for domestic needs. This is far from equitable.

Moreover, this budget does not go far enough in addressing the calamity which is known as Reaganomics. The Reagan administration has already cut $192 billion from domestic spending through 1985, but increased military spending by $79 billion through 1985, and instituted tax cuts that will total more than $1 trillion by 1989. These actions have drastically reordered our Nation's priorities, contributing to increased poverty and an increased threat of war. They have also produced a national debt of astounding proportions.

The budget resolution adopted by the House serves only to slow these frightening trends, not to reverse them. It restores some of the money which has already been cut from low-income programs, while continuing to cut real spending for other domestic needs. It sanctions a continued upward spiral in military expenditures that inches us closer and closer to an unthinkable confrontation with the Soviet Union every day. And it does not adequately reduce the astronomical deficits which threaten the future of our economy and the ability of the Federal Government to meet the needs of our people.

If we are to meet the challenge of the future, we must raise the value of fairness above greed and heartlessness on our national agenda. We must once again target domestic needs as our top priorities, providing funds for jobs, education, health care, urban renewal, mass transit, and other essential programs. We must reject the wasteful excess in military expenditures by eliminating funding for destabilizing weapons systems. And we must encourage progress toward a simplified and equitable tax policy that does not favor the rich at the expense of disadvantaged and working Americans.

While the current budget resolution stems the tide of Reaganomics, we must turn the tide back. We must call for an end to Ronald Reagan's costly and inhumane policies and put our Nation back on the path toward a secure and prosperous future.●

A TRIBUTE TO COL. EDWARD S. E. NEWBURY, FORMER DIRECTOR, ALASKA DIVISION OF EMERGENCY SERVICES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. YOUNG of Alaska. Mr. Speaker, the late Col. Edward S. E. Newbury, former director of the State of Alaska, Division of Emergency Services, will be given a posthumous award by the National Energy Management Association during their national conference in Washington this week. The award is in recognition of his 8 years of outstanding leadership and dedication while serving as director of the Alaska Division of Emergency Services.

Colonel Newbury served as State director from June 1975 through February 1983. During that period, he reorganized and revitalized the Alaska Division of Emergency Services so that by the end of his tenure it was one of the most efficient and effective emergency services organizations in the country.

Colonel Newbury was instrumental in initiating and guiding State disaster legislation through the Alaska Legislature. As a result of his efforts, Alaska has instituted a program which provides assistance to impacted individuals and local governments in State declared emergencies through public assistance, an individual and family grant program, low-interest loans, and temporary housing assistance programs.

Under his leadership, the State division of emergency services completed an earthquake study for the greater Anchorage area. In addition, Colonel Newbury was able to accomplish what many thought impossible given Alaska's large land mass and isolated communities; a coordinated statewide emergency response system. During his tenure, the Alaska Division of Emergency Services assisted scores of communities across the State in establishing local emergency operations resulting in a lessening of loss of lives and property.

Colonel Newbury's many accomplishments are all the more remarkable because during the latter part of his tenure, he suffered from terminal cancer. With a similar affliction, most of us would have taken medical retirement—but not Colonel Newbury. He continued to work effectively, and his courage and constant good humor in spite of his illness was a great source of inspiration to his staff and all of those privileged to work with him.

Mr. Speaker, Col. Edward Newbury was respected and admired by all who came in contact with him. The fine emergency services which now exist in Alaska are a tribute to this man and the efforts he made for the people of Alaska.●

POPE JOHN PAUL II ON INDUSTRIAL POLICY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LaFALCE. Mr. Speaker, we have been bombarded recently by innumerable phrases encapsulating portions of today's national and international economic realities. These phrases include: Smoke-stack industries, silicon valleys, technological revolution, merger mania, industrial policy, et cetera. The list goes on and on. What are we to make of all this? What is in store for workers, industries, and communities in western New York, around the Nation, around the world? In a recent encyclical letter—"Laborum Exercens" or, as translated, "On Human Work"—Pope John Paul II offers an excellent summary of today's economic situation.

"We are," the Pope writes, "on the eve of new developments in technological, economic, and political conditions which, according to many experts, will influence the world of work and production no less than the industrial revolution of the last century * * * These new conditions and demands will require a reordering and adjustment of the structures of the modern economy and the world of work."

Everything in a person's life involves work, whether it be in the field or the factory, the office or the home. "Work," in the words of John Paul, "is the fundamental dimension of man's existence on Earth." But, he says, we not only have a moral obligation to work ourselves, we also have a moral

obligation to secure and respect the basic, inalienable rights of all other workers. These include the right to a just wage for just work; the right to a safe and healthy working environment; the right to rest; the right to financial security during retirement and disability; and, most important, the right to a job itself.

Because work is so basic and so vital to man, our most important responsibility is to make sure that there is suitable employment for all who are capable of it. This is a responsibility shared by every sector—business, labor, academia, and government.

Thus far, we have not adequately met this challenge. Skyrocketing unemployment in America and especially in western New York has resulted in an ecomomic and social crisis unparalleled since the time of the Great Depression. And, unemployment statistics do not even measure the hundreds of thousands of unemployed who have given up searching for jobs, or the millions of workers who are underemployed—with little choice but to accept minimal hours in low-paying jobs. We must have an adequate industrial policy and provide adequate employment for these people and the government must play a role in developing such a policy.

Pope John Paul makes this quite clear. He refers to governments as "indirect employers * * * that are responsible for the whole orientation of labor policy." He says, that in order to meet the evil of unemployment and to insure jobs for all, the " 'indirect employer' (government) must make provision for overall planning with regard to the different kinds of work by which not only the economic life, but also the cultural life of a given society is shaped; they must also give attention to organizing that work in a correct and rational way. In the final analysis this overall concern weighs on the shoulders of the state." He cautions that "it cannot mean one-sided centralization by the public authorities," but calls instead for "a just and rational coordination, within the framework of which the initiative of individuals, free groups and local work centers and complexes must be safeguarded."

A debate has been taking place in Congress to develop rational and just policies, which have come to be called an industrial competitiveness strategy for America. In this, we cannot rely on either the "magic of the marketplace" or the government alone to solve all of the problems created by the economic transformation that faces us. In face, the Pope's encyclical condemns pure capitalism and pure socialism alike. But there should be no doubt that the Federal Government has a legitimate role, as the indirect employer, to have some industrial policy. It is right and appropriate to debate what that policy should be; but it is plain wrong to deny that the government should have a policy, as Pope John Paul II makes abundantly clear. In fact, the Pope specifically states that "it is the state that must conduct a just labor policy." If you read the encyclical, what he calls a just labor policy is what we are talking about as a just industrial policy.

The industrial policy discussion in Congress is not about central planning versus the market, sunrise versus sunset industries, or smoke-stack industries versus silicon valley. It is about providing decent jobs in a changing economy, achieving full employment, securing and protecting the rights and dignity of workers and their families, and strengthening the international competitiveness of our industries so that our workers will have job security.

John Paul II's encyclical, "On Human Work," is timely and timeless; it's profoundly insightful. Those who oppose the development of an appropriate industrial policy for American should read it, and, I hope, heed it.●

RECOGNITION OF TERRI BAILEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LEWIS of California. Mr. Speaker, it is with great pride that I join family, friends, and colleagues in honoring a truly remarkable woman. Terri Bailey will be honored at the annual installation dinner of the Victorville Chamber of Commerce on June 23, 1984.

On this occasion, she will be recognized for her outstanding performance as president of that chamber. After the installation, she will begin an additional year of service as past president of the board of directors. During her tenure as president, she has been the chairman of the Victorville Pageant, Easter Egg Hunt, and the Christmas parade. Ms. Bailey was also very active in the Trade Club and the High Desert Outlook '83 Project. Those who have been privileged to work with her recognize and admire her dedication and service to the Victorville community. Since she has blazed the trail as the first woman president of that chamber, she has earned additional respect by providing an inspiration to many young women.

During the 7 years that Ms. Bailey has lived in Victorville, she has been very active in other activities. She is a member of the Desert Community United Way Board of Directors and the Soroptomist Club. In addition, she is the membership director of the Business and Professional Women's Club.

In addition to Ms. Bailey's community service, she is the office manager of the Nu Way Laundry and the secretary for the Chewning Corp. She is the parent of one daughter, Tracey, a student in the local school system.

Ms. Bailey is a fine example of the caring and sincere young men and women who make a personal commitment to enhance the quality of life in their community. I join her neighbors in saluting her achievements.

Mr. Speaker, I take pride in commending to my colleagues Terri Bailey, a remarkable citizen who has, through her selfless years of hard work and careful planning, made a real contribution to the city of Victorville. Fellow Members, please join me in recognizing Terri Bailey, a woman who has contributed to her town in a most beneficial manner.●

POLITE BUT POINTED

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. PEASE. Mr. Speaker, when he addresssed a joint session of the U.S. Congress last week, Mexican President Miguel de la Madrid delivered a polite, but definitely pointed, message. His comments ranged from the basic relationship between the United States and its Latin American neighbors to this country's economic policies and their effects around the world.

The address amounted to a gentle, friendly, firm reminder that Mexico sees world events a little differently than the U.S. Government does. This is the topic that I addressed in my most recent weekly newspaper column. It follows:

WASHINGTON REPORT

(By Don J. Pease)

"Polite but pointed" is how I would describe the message which Mexican President Miguel de la Madrid delivered to the U.S. Congress last week.

Speaking to a joint session of Congress, the Mexican president was ever so diplomatic and matter of fact, but there was no doubt that his words were specifically directed to U.S. policy-makers.

On the basic relationship between the U.S. and its Latin American neighbors, President de la Madrid said, "The countries of Latin America seek, in conditions of equality and mutual respect, a new kind of relationship with the United States. They want to do away with any shadow of subordination, while preserving sovereignties and national identity. The principles of self-determination and non-intervention confirm our ability to govern ourselves autonomously."

On the premise of current U.S. policy that Marxism is the cause of insurrection in El Salvador: "We are convinced that the Central American conflict is a result of the economic deficiencies, political backwardness and social injustice that have afflicted the

countries of the area. We therefore cannot accept its becoming part of the East-West confrontation. * * *"

He spoke disapprovingly of "requirements of security" which are supposed to "justify spheres of influence and unacceptable limitations on national sovereignty."

Regarding the growing militarization of Central America, the Mexican leader singled out for praise the U.S. House of Representatives for having passed a resolution of support for four Latin American nations, including Mexico, which are seeking a negotiated settlement of conflicts among El Salvador, Honduras and Nicaragua.

He spoke of the need "to prohibit the installation of foreign bases, to reduce and eventually eliminate the presence of foreign military advisers, to establish mechanisms against trafficking in arms, to prevent the activities of groups that undermine stability, and to discourage the arms race in the region."

"We therefore reject," he said, "all military plans that would seriously endanger the security and development of the region."

"Democracy, by definition, cannot use the arms of tyranny," he said.

In what seemed to me a direct reference to the recent incident of U.S. mining of Nicaraguan harbors, President de la Madrid spoke at the beginning of his speech of the need for "absolute and immutable respect for the legal order." Near the end, he added praise for the "legal validity and the obligatory force" of international law and added, "As nations, it is our duty to strengthen the institutions of the international community."

Nor did economic policy escape attention. The president said, "Countries expect to be treated fairly. How, then, can we explain that developing countries are being told to reduce their public expenditures while other countries make use of a growing deficit as an essential lever for their recovery? How can we accept that a unilateral increase in interest rates nullifies the great efforts made for economic readjustment * * *? Within interdependence, how can we justify the few enjoying prosperity while the majority are afflicted with limitations and sacrifices?"

As I say, the entire speech was polite, diplomatic and straightforward. The U.S. was seldom mentioned by name. There were no histrionics. Congress was not being lectured sternly. Rather, we were given a gentle, friendly, firm reminder that Mexico sees world events a little differently than the U.S. government does.●

REFORM THE FDIC

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. OTTINGER. Mr. Speaker, the mounting debts which many Third World nations owe, has brought to the forefront questions regarding the prudent lending practices of many banks in the United States. As the ability of these nations to pay their debts decreases, the alarm within the banking communities increases. I would like to bring to my colleagues' attention a New York Times article by Alfred Gailord Hart, professor emeritus of economics at Columbia University, "Best World-Debt Policy: Reform the F.D.I.C."

[From the New York Times, May 11, 1984]

BEST WORLD-DEBT POLICY: REFORM THE F.D.I.C.

(By Alfred Gailord Hart)

Only a few weeks ago, there was a general sigh of relief over the third world debt situation. Too soon! Our banks, with the cooperation of the International Monetary Fund, are making a mess of third world economies by asking them to restrict essential imports—thereby freeing up funds to repay the banks and protect them against having to declare losses. For their part, the debtor countries may soon be forced into withholding repayment, thus threatening the solvency of the banks and making a mess of our economy.

Precautionary measures are thus in order. The most urgent is an overhaul of the Federal Deposit Insurance Corporation, so that a challenge to the solvency of one or more major banks could be handled without serious financial disruption. But such reform could also help ordinary citizens in third world countries by imposing discipline on the lending practices of the banks, who are partly responsible for the mess we're in.

An inadequate bill to reshape the F.D.I.C. has been before Congress for some months. Changes are essential.

The F.D.I.C. must be authorized and directed to intervene as conservator (rather than receiver or architect of a merger) when any major bank is challenged. This arrangement will permit uninterrupted check handling and loan operations, and will give time to determine if a challenged bank can be put back on its feet.

Second, the position of large depositors should be clarified. Now, all deposits up to $100,000 in any one bank are insured. We should insure the greater part of the excess over $100,000, but leave uninsured a large enough share, say 25 percent, to persuade large depositors to avoid imprudently managed banks.

Until we have such safeguards in place, our internal finance will remain vulnerable to disruption if overseas loans go into default or are recognized as nonperforming.

Banking is supposed to be a key sector of the capital market, placing capital where it will earn enough to carry interest and amortization and still leave the borrower with a net gain. The debt crisis reflects a waste overseas of tens of billions of dollars in potentially productive capital. Funds have been squandered on unproductive installations, overpriced real estate and construction, food imports to offset farm-policy failures, high-tech weapons and fiscal deficits resulting from failure to tax the rich. In not a few cases, funds were borrowed in order to be stolen. Understandably, citizens of debtor countries are reluctant to "pay for a dead horse"—particularly when the horse was bought by leaders who had usurped power and lacked any legitimate claim to represent them.

Skilled bankers, of course, should have foreseen all this. But the bankers turned off their skills, never weeded out the junk, and instead relied on the belief that a sovereign country would always repay its debt.

It is important to remember that a bad loan reflects imprudence on both sides. Third world debtors should not be entirely excused from carrying losses that reflect wastage of capital. But neither are creditor banks entitled to the full return that the capital they invested could have earned, had they placed it wisely.

Once the F.D.I.C. is reformed, enabling the economy to function smoothly even if some banks fail, the chief obstacle to reshaping third world debts will be removed. It will become feasible for banks to lower the value of their assets in the process of converting third world debt into long-term bonds, and while making compromises with third world countries over the rescheduling of interest and capital payments.

However, unless we reform the F.D.I.C., we will continue to encourage irresponsible banking. If we cannot handle the failure of large banks, then we will be susceptible to a threat of suicide, since the banks calculate that we would not let them fail. For the future health of the economy, we must apply discipline to our decentralized and largely deregulated financial system. When placing funds, banks must face the consequences of persistent malfunctioning: losses and disfavor with the large depositors whose vigilance is supposed to be the enforcer of discipline. Large depositors must face appreciable risks of loss for putting funds in malfunctioning banks.

Thus, reform of Federal deposit insurance is crucial to focusing financial responsibility. To continue along the recent track of debt policy will make needless enemies by imposing on third world countries hardships they can see are unnecessary. We ourselves suffer too, since third world imports are exports for the industrial countries. All this is done merely to prolong and complicate the debt crisis without offering a cure. Surely it is better to reform the F.D.I.C. and restore American banking to a course of candor and prudence.●

TRIBUTE TO BERTIE TRENT

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. MARTINEZ. Mr. Speaker, I rise today to pay tribute to a very special constituent and community volunteer who turns 90 today. Her name is Ms. Bertie Trent and she is a volunteer at the older adult program in Rosemead, Calif.

Bertie has given of herself for 8 years now, often working over 30 hours a week or over 1,000 hours per year. She has assisted in teaching daily exercises to seniors, has served as president of the Older Adult Program site council, has served food at the nutrition hour, and has been a willing and tireless volunteer wherever and whenever needed.

Mr. Speaker, the awards and acclamations earned by Bertie are numerous and impressive. She was named "Senior Citizen of the Year" in Rosemead. She has received the Older Americans Recognition Award from the County of Los Angeles Department of Senior Citizen Affairs. Bertie has also been recognized by both the California State Senate and Assembly. Although she appreciates all of these

recognitions, Bertie's real award comes in the satisfaction of helping others.

The exercise classes Bertie leads average 40 to 50 students a day. The ages of her students range from 30 to 92, however most of her students are into their sixties. To quote Bertie, "We exercise every part of the body. We do the toes, legs, arms—everything. Exercise makes you more fit." She claims that exercise cleared up her arthritis but feels that helping others with their exercises is just as important.

In addition to her work at the Rosemead Center, Bertie takes classes in psychology and nutrition and participates in weekly discussion groups. She also makes hand-sculpted plaques to give as gifts, as well as painting human and animal portraits and participates in numerous activities with her friends.

Ms. Trent's life has been full and varied. After a brief career in films, Bertie spent some time traveling around the country as a vaudeville dancer. The vaudeville life was not easy, however she says, "I danced all over the country in vaudeville with one act or another. The only States I never danced in were California and Florida." Bertie started work in musicals in 1913 in "The Wizard of Oz" and has since given hundreds of performances in a variety of musical and dance productions. She opened a business in 1947 with one of her daughters producing handmade ballerina plaques, and moved to California in 1954. Her full life has included raising four children and today points with pride to her 16 grandchildren and 6 great-grandchildren.

Although she works so many hours at the community center, recent cuts in the hours and funding of the facility are not a welcome rest. The center will have to be closed this summer for lack of funds and the paid staff will be cut back. "You would think they could find some other area in which to make cuts, rather than take away something this important to seniors," she says. Without dedicated volunteers, like Bertie, I am sure the center would not be able to exist.

Bertie states, "I could not live without exercise. Exercise is what keeps my vitality up." We could not live without Bertie's volunteer and community spirit for it is this spirit that keeps the vitality of elderly community programs up in Rosemead and throughout the country. Bertie's volunteer and community spirit, as well as her spunk, vivacity, and excitement about life should stand as an inspiration to us all.

As she starts her ninth decade today, I am very proud to join her many friends and family in wishing Bertie special congratulations of the day and in hoping that she will continue to brighten and enrich the lives of those around her for many years to come.●

MY ROLE IN UPHOLDING OUR CONSTITUTION

HON. JUDD GREGG

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. GREGG. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a writing competition entitled "The Voice of Democracy Scholarship Program." This year, the contest theme was "My Role in Upholding Our Constitution." More than 300,000 secondary school students participated in the contest competing for the five national scholarships which were awarded as top prizes.

The winning speech from New Hampshire was submitted by Elizabeth Dressler of Hollis. Elizabeth hopes to use her scholarship award toward an education at Harvard University in Cambridge, Mass. It is an honor to submit the text of Elizabeth's outstanding essay. We extend our warm congratulations to Elizabeth, and wish her the best of luck in her future endeavors.

MY ROLE IN UPHOLDING OUR CONSTITUTION

The first Amendment of the Bill of Rights in the U.S. Constitution forms the basis of the freedoms we enjoy as United States citizens. It states that "the Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridge that freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." The main concept in a democratic republic such as ours is that of personal freedom. In Amendments one through ten of the Bill of Rights, we, as American citizens, are guaranteed certain inalienable rights. Aside from the freedoms of religion, speech, and the press, we are also guaranteed the right to a speedy trial, to reasonable fines and bails, and to know the reasons for our arrest. We are also guaranteed certain powers in making decisions concerning the laws we live by. Most importantly, our constitutional rights are never to be denied us; our freedom is protected.

To define my role in upholding the Constitution, is to state what actions I must take in order to protect it should its integrity be threatened. Knowing that the Constitution forms the basis of our democratic form of government, I must defend it against all who would violate its laws, try to destroy its tenets, or amend it improperly. And if, at any time, my right to think or judge issues as an individual is threatened, I must take a stand and fight to preserve this most fundamental freedom, to think for myself.

One of the basic tools at my disposal which I share with all U.S. citizens, and enables me to uphold the Constitution, is my right to vote. Using this tool properly suggests to me the right to assemble with enlightened citizens to discuss important issues to be voted upon. It is up to me to read all I can, listen to all sides, and be well informed on the issues of government so that I may vote intelligently and in the best interests of America. By exercising my right to vote, I am insuring the continuance of our democratic society, thereby achieving the goal of our forefathers, which was, "that the government of the people, by the people, and for the people, shall not perish from this earth."

The principles of freedom, equality, justice, and humanity are defined in the Constitution. The idea of guaranteed freedom is a unique characteristic of this country. Americans must not take their freedom for granted; they must strive to keep an awareness of this freedom alive in America in order to ward off continual threats from within and without. It should be enjoyed, but, at the same time, every citizen should be taught how precious this privilege is. The joy of being able to vote, sing, eat, sleep, and choose as we see fit, is the reward for upholding our Constitution.●

JULIAN R. ALLSBROOK

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. VALENTINE. Mr. Speaker, I rise today with regret to note the passing May 15 of State Senator Julian R. Allsbrook of Roanoke Rapids, Halifax County, N.C.

Senator Allsbrook was not only one of North Carolina's leading citizens, he was also a Tar Heel institution. His passing is being mourned by a host of friends across the land.

Julian Allsbrook served my State and our Nation with dedication and with great distinction. He never hesitated to involve himself deeply in the cause of progress. He never hesitated to raise his voice in defense of truth and justice.

On many occasions I had the privilege of seeing Senator Allsbrook in action in many forums, including the General Assembly of North Carolina. I know personally of the extremely effective leadership he gave.

He will be greatly missed.

Mr. Speaker, a recent article in the Raleigh News and Observer reflects on Senator Allsbrook's lifetime of accomplishments, and I ask that it be inserted in the RECORD.

[From the Raleigh News and Observer, May 16, 1984]

JULIAN R. ALLSBROOK, DEAN OF SENATE, DIES

ROANOKE RAPIDS.—Sen. Julian R. Allsbrook, dean of the state Senate and one of its leading conservative spokesmen, died Tuesday. He was 81.

Allsbrook, a Democrat, had served 14 terms in the Legislature but announced Feb. 3 that because of continuing treatment for a fractured hip, he suffered in a fall, he would not seek re-election.

At the time, Allsbrook said that although friends had encouraged him to run again, the likelihood that he could no longer con-

tinue to provide effective Senate service caused him to decide to retire.

A Roanoke Rapids attorney, Allsbrook was first elected to the Senate in 1934 but did not seek re-election. He won a state House seat in 1940 and was nominated for a state Senate seat two years later but went on active duty with the Navy.

He was returned to the Senate in 1946, 1948 and 1950 and, after a 14-year hiatus, was elected to a Senate term in 1964, where he served continuously until his death.

During his Senate career, Allsbrook was an advocate of using budgetary surplus funds for income tax cuts, a constitutional convention to curb the power of the U.S. Supreme Court and was a leading proponent in 1977 for reinstatement of the death penalty.

Allsbrook, whose legislative office walls were dotted with portraits of Confederate heroes, was a courtly, old-school lawmaker.

He was an expert on Senate rules and procedures and as the veteran chairman of the Judiciary Committee, freely exercised the power of the chair.

On occasion, when a bill he particularly opposed was sent to his committee, Allsbrook would carry the measure around in his briefcase until the sponsor abandoned the bill or agreed to amendments to make it acceptable to the chairman.

Allsbrook was a graduate of the University of North Carolina of Chapel Hill and the UNC School of Law. He served as president of the UNC student body in 1923-24.

Prior to his first legislative service, Allsbrook served as a Roanoke Rapids school board member and city commissioner.

The Democratic Party's executive committee for Allsbrook's 6th Senatorial District can appoint a successor for the unexpired term.

A funeral service will be at 3 p.m. Thursday at First Baptist Church. Burial will be in Cedarwood Cemetery.

Survivors include two daughters, Mrs. Blake A. Auchmoody of Richmond, Va. and Mrs. Marion L. Fisher Jr. of Roanoke Rapids; a son, Richard B. Allsbrook of Roanoke Rapids; a sister, Mrs. Bennie A. Cuzner of Audubon, Pa.; a brother, W. R. "Bill" Allsbrook of Lansdale, Pa.; and six grandchildren. The family will be at Branch Funeral Home in Roanoke Rapids from 7 to 9 p.m. today.●

ANNIVERSARY OF THE GREENWICH VILLAGE LANDMARKING

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. WEISS. Mr. Speaker, I would like to take this opportunity to invite my colleagues to join me in celebrating the 15th anniversary of the landmarking of Greenwich Village, New York City, as a historic district. On May 22, 1969, the New York City Board of Estimates approved the designation, following similar action by the New York City Landmarks and Preservation Commission on April 29, 1969.

The Greenwich Village Historic District contains some of the finest examples of Georgian and Federal architecture in the country. For decades, local residents and visitors, foreign scholars and tourists have been drawn to the village by its charm and history as well as by the human scale of its 19th century buildings in comparison to the skyscrapers of other parts of Manhattan. To this day, it is the largest geographical area protected by the New York City law.

Moreover, this district provides an outstanding example of how society benefits when citizen activism backed by Government support is directed toward historic preservation. The integrity of this vibrant neighborhood has been preserved by the commitment of village residents and the local community planning board, Manhattan Community Board 2.

The designation of Greenwich Village as an historic district culminated years of community activity and commitment. Those who were involved in this effort are too numerous to mention here, though special credit should be given to Ruth Wittenberg and Verna Small for organizing the Historic District Council, which mobilized and focused citizen support. In addition, the Association of Village Homeowners played a significant role in demonstrating that property owners could be concerned with legal protection to preserve the quality of their buildings without undergoing financial hardship. Citizens and property owners cooperated to create a mechanism that protects the structures as well as the owners.

Preservation efforts continue today. Community Board 2 and village residents struggle to reconcile modern development needs and the goals of historic preservation. Dedicated citizens attend endless meetings and public hearings to achieve this balance. Their success attests to their flexibility, knowledge, and commitment, as well as to their pride in preserving the character of their community. I am honored to represent a district with so many historic treasures and so many citizens who are dedicated to protecting them.

Despite the fact that the efforts of Greenwich Village residents are duplicated in communities throughout the Nation, the Reagan administration has consistently ignored public interest and involvement in preservation activities. For the past 4 years, this administration has attempted to eliminate preservation funding from the Federal budget.

Each year, however, Congress has reinstated funding for preservation programs. The fiscal year 1984 appropriations included $21.5 million to the States to continue basic preservation services and citizen access to preservation expertise and $5 million for the National Trust for Historic Preservation. Congress has also played an innovative role in encouraging renovation and preservation by developing Federal tax incentives for owners and developers of historic properties. Congress can take pride in its role in maintaining historic preservation as a national priority, despite the administration's callous efforts to dismantle the programs that carry out this commitment.

Beyond its vital cultural and historic contribution to the Nation, historic preservation makes economic sense. Renovation of historic property has helped to create decent housing. The impact of the $25 million for preservation development grants in the Emergency Jobs Act last year clearly has demonstrated that historic preservation creates jobs, revitalizes urban areas, and stimulates the private sector, resulting in a stronger local tax base.

I invite my colleagues to join in the commemoration of the Greenwich Village Historic District, because it is representative of efforts in congressional districts across the Nation. I commend all citizens who are active in preserving our national heritage and today I especially applaud the Greenwich Village residents who were active in 1969 and those who continue the work today.

The 15th anniversary of Greenwich Village as a landmarked historic district provides us with an opportunity to renew our commitment to preservation of historic structures that have living significance for present day America.●

HUD AND THE HOMELESS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. ST GERMAIN. Mr. Speaker, the extent of homelessness in the United States is a source of national embarrassment every time the estimates are posted. Whether we are talking about the 3 million Americans community organizations claim are in need of emergency shelter, or the recently published report of the Department of Housing and Urban Development that there are no more than 250,000 to 350,000 homeless people, the fact of their very existence as being "homeless" testifies to a serious national problem.

In a poignant essay, carried in the Washington Post, May 20, 1984, Mayor Wilson Goode of Philadelphia notes for us, and correctly in my judgment, that the last thing we, the administration, the mayors, and the community groups should be doing right now is arguing about the size of the problem. He urges that we use HUD's assessment of homelessness in America as a "springboard to action."

Mr. Speaker, on May 24, the HUD report will be the subject of joint hearings conducted by the Banking Committee's Subcommittee on Housing and Community Development and the Subcommittee on Manpower and Housing of the Committee on Government Operations. In view of the timeliness of Mayor Goode's remarks, I ask that they be made part of the RECORD at this time.

The article follows:

[From the Washington Post, May 20, 1984]

HUD AND THE HOMELESS

(By W. Wilson Goode)

Let's not play the numbers game with homeless people.

Recently, the Department of Housing and Urban Development released a report on the extent of homelessness in the United States. It was the kind of report that was bound to be controversial—at least among those of us who grapple day to day with the problem of homeless people in our cities—because it placed the number of homeless well below some previously reported levels.

Over the past year or so, community organizations have estimated that for a lot of different reasons, as many as 3 million Americans are in need of emergency shelter. HUD's study, based on observations in 60 metropolitan areas and reviews of other reports on the problem, estimates 250,000 to 350,000 homeless people across the country; using the highest figures available, HUD says, the count would be 586,000.

As expected, the HUD report drew criticism from many members of Congress and from community anti-poverty and service groups and I understand their reaction. Since becoming mayor of Philadelphia I have been reminded of—and confronted by—the problem of homelessness nearly every day. I see the people sleeping on the sidewalk vents, in the parks, in doorways and boxes. I see them gathered on the sidewalk in front of our emergency shelters, waiting to see if beds are available for that night.

I see them and other mayors see them, and when we estimate the numbers needing shelter in our individual cities around the country, the size of the problem appears to be very large indeed—larger, in some cases, than the HUD report would suggest.

But the last thing that Congress, the administration, mayors and the community groups should be doing right now is arguing about the size of the homeless population in this country. The HUD count may be conservative in the eyes of many observers, but the fact remains that the HUD figures add up to a very serious national problem.

The report acknowledges that after accommodating battered women and runaway children, emergency shelters across the country can make available about 91,000 beds. This means that for every homeless person that can be taken into a shelter, there are two or three more (using HUD's 250,000 to 350,000 estimate) waiting outside.

And those left waiting are not just the "vent men" and the "bag ladies" that we are all accustomed to seeing on the streets. HUD verifies what we have known in the cities for some time: Today's homeless are a diverse group of men and women of all ages, some recently unemployed and some chronically unemployed, some alone and some with their families, and many with alcohol, drug and mental health problems.

Some are the victims of the worst that our society has to offer—and some are simply the victims of a long economic recession that has left them with nothing.

The day after the HUD report was released I testified on the homeless problem before a House subcommittee. On behalf of the U.S. Conference of Mayors, I spelled out some immediate steps for Congress to take.

First, $60 million that has already been authorized by Congress for shelter rehabilitation and maintenance should be appropriated. If this is done quickly enough, these funds could help to increase the number of emergency shelter beds available next winter. Second, an emergency food and shelter program administered last year by the federal government and a group of national charitable organizations should be resurrected. This program, which provided nearly 78 million meals and 11 million nights of shelter during its first year of operation, expired on April 1. We must not allow such emergency aid to expire until the problems of the homeless have expired.

Over the past few years, with unemployment high and poverty on the rise, federal help for cities and the people in them has been cut dramatically. Without this help cities cannot begin to meet the need for permanent low-income housing for families or individuals. Nor can they provide enough housing with supportive care of the mentally disabled or the elderly. Cuts in these and a dozen other social service programs and employment programs have forced more and more people onto the street in search of shelter.

Congress should use HUD's assessment of the homeless problem as a springboard for action, first to secure the emergency help the cities must have today, and then to restore the basic housing and supportive services that will eventually eliminate the need for emergency, stop-gap aid.●

A NATIONAL ID CARD: THE COMPUTER TATTOO

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. ROYBAL. Mr. Speaker, I would like to bring to the attention of my colleagues this New York Times article on the likelihood of a national identification system being developed under the provisions of the Simpson-Mazzoli bill, H.R. 1510. It makes the same point I have been arguing—that taking the step of adopting the identification provisions of this bill to determine employment eligibility in this country is a very dangerous one. I completely agree that the American public and Members of Congress have not yet thought through the "Big Brother" implications of a federally mandated identification system tied to the workplace. Certainly the loss of individual freedoms that would inevitably result is not appreciated by those supporting the Simpson-Mazzoli bill and the concept of employer sanctions.

I would like to submit that article for the record.

The article follows:

[From the New York Times, Sept. 10, 1982]

A NATIONAL ID CARD: THE COMPUTER TATTOO

(By William Safire)

In a well-meaning effort to curb the employment of illegal aliens, and with the hearty good wishes of editorialists who ordinarily pride themselves on guarding against the intrusion of government into the private lives of individual Americans, Congress is about to take this generation's longest step toward totalitarianism.

"There is no 'slippery slope' toward loss of liberties," insists Sen. Alan Simpson of Wyoming, author of the latest immigration bill, "only a long stair-case where each step downward must be first tolerated by the American people and their leaders."

The first step downward on the Simpson staircase to Big-Brotherdom is the requirement that within three years the federal government come up with a "secure system to determine employment eligibility in the United States."

Despite denials, that means a national identity card. Nobody who is pushing this bill admits that—on the contrary, all sorts of "safeguards" and rhetorical warnings about not having to carry an identity card on one's person at all times are festooned on the bill.

Much is made of the use of passports, Social Security cards and driver's licenses as "preferred" forms of identification, but anyone who takes the trouble to read this legislation can see that the disclaimers are intended to help the medicine go down.

Most American citizens are being led to believe that only aliens will be required to show "papers." But how can a prospective employer tell who is an alien? If the applicant could say, "I'm an American, I don't have any card," the new control system would immediately break down.

The very basis of the proposed law is the notion that individuals must carry verifiable papers—more likely, a card keyed to "a new government data bank"—to prove eligibility for work.

No big deal, say those who consider illegal immigration more fearsome than the coming of an internal passport; if you're legitimate, you shouldn't object. And shucks, law enforcement officials won't use it for anything else, nominee—at least not until the nation is ready for another legislated step down the staircase.

Most Americans see no danger at all in a national identity card. Most people even like the idea of a piece of plastic that tells the world, and themselves, who they are.

"I'm me," says the little card. "I'm entitled to all the benefits that go with being provably and demonstrably me." Good citizens—the ones who vote regularly, and who don't get into auto accidents—might get a gold card.

Once the down staircase is set in place, the temptation to take each next step will be irresistable. Certainly every business would want to ask customers to insert their identity cards into the whizbang credit checker.

Banks, phone companies, schools, hotels would all take advantage of the obvious utility of the document that could not be counterfeited. Law enforcement and tax collection would surely be easier, because the federal government would know at all times exactly where everybody was and what they were spending.

And then you might as well live in the Soviet Union. One of the great differences between free and enslaved societies is the

right of the individual to live and work without the government knowing his every move. There can sometimes be privacy without freedom, as those in solitary confinement know, but there can be no freedom without privacy.

If our values mean anything at all, they mean that it is better to tolerate the illegal movement of aliens and even criminals than to tolerate the constant surveillance of the free.

The attorney general, who evidently has no grasp of libertarian conservative principles, will not fight this legislation.

We are entering the computer age. Combined with a national identity card—an abuse of power that Peter Rodino professes to oppose in the House, as he makes it inevitable—government computers and data banks pose a threat to personal liberty.●

DUTY-FREE UMBRELLA FRAMES

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Ms. KAPTUR. Mr. Speaker, the degree of protection which we should provide for our domestic industries has been a matter of considerable debate in the 98th Congress. Many bills have been introduced seeking relief for domestic industries adversely or unfairly impacted by foreign industries. The three basic categories of American trade remedies have been import relief, countervailing duties, and relief linked to international agreements such as the General Agreements on Tariffs and Trade (GATT).

Today I am introducing a bill, the passage of which is critical to the future of an industry in my district. The type of relief this legislation seeks is extremely unusual. It is not the kind of relief which has prompted the great free trade/fair trade debates. Rather than imposing a duty, the objective of my bill is to remove a duty. More specifically, the bill extends duty-free treatment to metal umbrella frames from all nations outside the Communist world. Because there are no longer any umbrella frame manufacturers in the United States, the removal of the duty would not harm any domestic industry.

Haas-Jordan Co., in Toledo, Ohio, is one of the very few remaining domestic umbrella manufacturers in the United States. Currently, over 95 percent of the umbrellas sold in this country are manufactured overseas, and if the duty on umbrella frames is not lifted, 100 percent of the umbrellas sold in this country may soon be manufactured overseas. All of the domestic umbrella manufacturers will be forced to raise their prices if the duty is not removed. Higher prices will likely force them out of business.

Why are we imposing a duty on an item which is no longer produced in the United States, and which is an essential component of a product made by a dying domestic industry? It is a plain and simple fact that there is no rational explanation for the duty. If there were umbrella frame manufacturers in this country, we would have a rationale for duty. But the duty is not helping any domestic industry, and can only serve as further ammunition for other nations which have been claiming that we are closing our markets to them.

I urge my colleagues to join with me in working to insure that the duty on umbrella frames from non-Communist nations is lifted. By such action, we will not only save a domestic industry, but we will also improve our posture in the international community.●

SATELLITES SEE SOVIETS VIOLATING ARMS ACCORD

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. COURTER. Mr. Speaker, yesterday's Washington Times carried a story about the new Soviet missile, the SS-X-26, which is apparently capable of carrying 10 to 14 warheads, and has a throw weight approximately one-third greater than that of the MX missile.

The article is based on leaked satellite intelligence which has observed certain tests and components of this new missile which, when deployed, would constitute another violation of the mutual Soviet-American commitment to observe the terms of the SALT II treaty.

As Congress continues its debate over the future of the MX missile, the steady stream of evidence of Soviet violations of arms-control agreements must be kept in mind.

[From the Washington Times, May 21, 1984]

SATELLITES SEE SOVIETS VIOLATING ARMS ACCORD

(By Walter Andrews)

Satellite photos have provided U.S. intelligence with evidence that the Soviets are developing a new, larger, nuclear missile in violation of the spirit if not the letter of arms control agreements, government sources said.

Although the new solid-propellant missile has not been flight-tested, the sources said ground tests of the rocket motors and of a different launch mechanism indicate that the new SSX-26, as the weapon is being called, will have a 20 percent greater throw weight than the SSX-24 being flight tested.

Throw weight is the measure of a missile's ability to hurl nuclear warheads from one continent to another. Along with accuracy, it is considered a main indicator of an ICBM's effectiveness.

House Speaker Thomas "Tip" O'Neill and other opponents of the MX missile will attempt later this week to reverse last Wednesday's 229-to-199 vote that approved 15 more MXs if the Soviets stay away from nuclear arms negotiations.

The Soviets have claimed the SSX-24, which is expected to become operational this year, as the new ICBM allowed each side under the 1979 SALT II accord. Both nations say they are honoring the accord although it was never ratified by the U.S. Senate.

Recent reports on the new Soviet solid-propellant missile left open the possibility that the SSX-26, because it has not yet been flight-tested, was only a modification of the SSX-24. Flight testing is considered a critical indicator.

But officials, who spoke on the condition that they not be identified, said recent satellite photos of the rocket motors being ground-tested at the Pavlograd solid-propellant center provide strong evidence that the SSX-26 will be longer and have a wider diameter than the SSX-24.

In addition, the sources said launch assist device (LAD) testing at the facility in the central U.S.S.R. has shown the missile will be cold-launched—it will pop up from its underground silo before rocket ignition.

The significance of cold launching is that a much larger missile can be placed in a silo because room does not have to be allowed for the venting of the rocket's exhaust, the sources said.

Another difference provided by satellite photos, the sources said, is the existence of a new vehicle, called the transporter erector-launcher, for loading the missile into its silo. The new vehicle is larger than the one used for the SSX-24.

Also, the sources said photos have shown launch silos slightly larger than those used by the SSX-24 at the Plesetsk flight test range, and which are different than the silos used by Soviet liquid-fueled missiles.

In sum, the satellite intelligence provides strong evidence that the Soviets are developing a new missile and are violating at least the spirit of the Salt II agreement, the sources said.

Estimates are that the SSX-26 will not be flight-tested until late 1986, although it is possible they could be made sometime in 1985, the officials said.

The Salt II agreement expires in December 1985, and the SSX-26 technically would not be in violation unless flight-tested before then, the sources said. But the development of the missile, as evidenced by the satellite photos, shows at least a violation of the spirit of the arms agreement.

The sources estimated that the new missile would have a throw weight of about 12,500 pounds, approximately a third larger than the 9,600 pounds attributed to the U.S. MX and the Soviet SSX-24 missiles.

It is still smaller than the 15,000-pound throw weight of the Soviet's giant SS-18 liquid-fueled missile, according to the sources. A solid-propellant missile has a military advantage in that it can be launched quicker and easier than a liquid-fueled weapon.

The MX and the SSX-24 each has demonstrated the ability in tests to carry 10 nuclear warheads. The warheads would be independently targeted by a so-called "bus," which launches each at the precise moment needed to hit its target.

The SS-18 has demonstrated a capability to carry into orbit and target as many as 14 warheads. Because of its size, it is believed that SSX-26 will be able to carry somewhere between 10 and 14 warheads, the sources said.●

A FINE YOUNG MAN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Ms. OAKAR. Mr. Speaker, it is with great pleasure and personal pride that I bring to your attention the graduation today, May 23, 1984, of Philip C. DeMio from Case Western Reserve University School of Medicine, Cleveland, Ohio.

He is one of six children, the oldest of 4 boys of Helen and Philip DeMio. I have known him all his life and can personally speak about his concern for people and his desire to relieving the sufferings of his fellow human beings. His caring attitude, positive approach to medicine, and his love of people, will bring a touch of humanity to his patients.

He was graduated cum laude from Creighton University's College of Arts and Science with a BS in chemistry, and was accepted at five medical schools across the country. He chose Case Western Reserve School of Medicine, because he felt that he would gain an outstanding education and an opportunity to work in a wider variety of hospitals under more diverse situations, allowing him a wider range of personal experience.

He has worked in many of the outstanding Medical institutions in the Greater Cleveland area including: Lutheran Medical Center, County Nursing Home, Rainbow Babies' and Children's Hospital, Lakeside Hospital, St. Vincent Charity Hospital, Cleveland Metropolitan-Highlandveiw Hospital, Fairview General Hospital, and the Veterans Administration Medical Center—Wade Park—Brecksville units to mention a few. His love of people is such that he took time from his studies to volunteer at the West Side Community Mental Health Center, Franklin Plaza, and the West Side People's Free Clinic.

He has been appointed to a 4-year position as an assistant resident physician at the Institute of Pathology of Case Western Reserve University, the Department of Pathology of University Hospital, VA Medical Center, and the Cuyahoga County Coroner's Office.

My personal best wishes and sincere contratulations go to Philip C. DeMio as he steps forward today into a bright and hopeful future. He will now begin to practice his art of healing given to so few and needed by so many. I also want to congratulate his fine parents and his brothers and sisters. They have every right to be proud.●

STATEMENT IN SUPPORT OF AMENDMENT TO H.R. 5167

HON. FOFO I. F. SUNIA

OF SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. SUNIA. Mr. Speaker, I rise today to bring to the attention of my colleagues the worthy amendment of the gentleman from New York, the Honorable MARIO BIAGGI, to the Defense Department authorization bill for fiscal year 1985. Congressman BIAGGI's amendment will waive section 27 of the Merchant Marine Act of 1920 and will allow two passenger vessels to be documented under the U.S. flag and to engage in American coastal trade.

Urging my fellow Members to support this amendment, I ask them to consider the importance of passenger vessels in troop and supply transport during national emergency. There is a critical shortage of such vessels now under the U.S. flag. The Congress has long recognized our commercial fleet as a critical resource for the Nation. Our Armed Forces have increasingly emphasized the role of sealift in strategic mobility. However, the United States has fewer and fewer ships that can perform this vital role.

Passage of Congressman BIAGGI's amendment will not only benefit the cruise industry and the American economy but also begin to rebuild the American fleet of passenger ships at a time when there are not many opportunities to rejuvenate that sector of the industry.

This amendment will also create quite of a few new jobs in American maritime industries, including shipbuilding. For example, according to Peter J. Luciano, executive director of the Transportation Institute, the two vessels to be documented under this bill will undergo repair work worth millions of dollars in order to meet U.S. Government standards. Aside from providing hundreds of jobs, Congressman BIAGGI's amendment will benefit the U.S. Treasury with increased taxes on personal and domestic corporate income.

I believe that Congressman BIAGGI's amendment will help to redevelop the American-flag cruise industry successfully. I recommend your supporting this amendment.●

BIPARTISAN SUPPORT FOR INDUSTRIAL POLICY

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LUNDINE. Mr. Speaker, the United States just recorded a record merchandise trade deficit of over $25 billion for the first quarter of 1984. It is expected that our annual merchandise trade deficit for this year will exceed $110 billion.

It is clear from this disturbing statistic that the United States is not competing internationally very successfully at the present time. There are several important reasons for this decline in U.S. international competitiveness. These reasons include factors involving government fiscal, monetary, and other economic policy, private sector actions by our firms, and the impact of coordinated industrial strategies on the part of foreign governments working with their industries.

The fact that foreign countries in many cases are practicing successful industrial strategies is inescapable. And the fact that the United States is not, is also very evident.

Since coming to Congress, I have been a strong advocate for greater cooperation between government, business, and labor to improve productivity and competitiveness. I saw the very beneficial effects this type of cooperative relationship can have when I was mayor of Jamestown, N.Y., and the local government, business, and labor worked together to instill new life and hope in a suffering local economic base.

Today, I am an advocate for the creation of a national industrial strategy based on the same type of cooperative working relationship which succeeded in Jamestown. Many have criticized the call for an industrial strategy as more big government, doing more of the same.

This charge is inaccurate and misses the essential point. The Government today already has extensive involvement in our economy through implementation of trade, antitrust, research and development, and tax policy. The Government currently has extended over $500 billion in Government credit which is still outstanding to the private sector, primarily in the areas of housing and agriculture. Make no mistake about it—Government makes decisions every day which affect the future competitiveness of U.S. industry.

The call for an industrial policy is a call to make these decisions in a more coordinated, rational way—in a manner which will enable us to compete more effectively for international markets. In the past, such coordination was not so critical, primarily because in the post-World War II era, the United States was the preeminent industrial leader of the world. We did not have to compete with the Japans and Koreas and the European nations had to recover from their war damage.

The call for an industrial policy is a call for a departure from the old adversarial relationships which have gov-

erned our economy in the past, and which in today's intensely competitive economy are no longer effective.

I do not believe industrial policy is a partisan issue. We cannot let our political differences interfere with the very essential need to re-energize our economy to generate new growth, new possibilities, and new jobs for our people.

It is for this reason that I believe that the work which is being done by the Institute for Contemporary Studies is critically important to this subject. Their forthcoming report entitled "The Industrial Policy Debate" is certainly worthy of our examination and reflection. I urge my colleagues to take the time to read this important work.

At this time, I would like to bring to your attention a recent article which appeared in the May 14 issue of the Washington Post, entitled "Industrial Policy Urged for GOP."

INDUSTRIAL POLICY URGED FOR GOP

SAN FRANCISCO.—A conservative study group founded by supporters of President Reagan is about to issue a report that advocates Republicans shed some of their deep-rooted antipathy to a planned economy.

An industrial policy accepted by both political parties and by business and labor is essential to revitalize America's dwindling clout in the world economy, according to the study's editor, Professor Chalmers Johnson of the University of California.

"The Industrial Policy Debate" is to be issued today by the Institute for Contemporary Studies, a think-tank founded by presidential counselor Edwin Meese, Secretary of Defense Caspar Weinberger and other Reagan supporters.

"What we are really trying to pose is a serious debate that has become stupidly politicized by both parties," Johnson said. "We are trying to get the question of an industrial policy for the United States to be taken seriously by people who don't really believe in it—above all Republicans.

"America must come to grips with economic policy or go the way of England. We have probably got a decade before it becomes irreversible."

In the United States, he said, "The whole topic we are trying to address is so caught up with politics and the particular positions of industries that it is very hard to disentangle what we mean by economic policy."

While the Democrats are "planning to throw money at the northern Midwest 'rust belt'" to get votes, Johnson said many Republicans "are painting themselves into a corner by attacking the very concept of industrial policy—arguing that it violates the sacred principles of private enterprise and free trade."

He cited as a valid and successful national economic policy "the kind of government-business relationship" that has made Japan a leading economic force in the world. "A government-business relationship is needed in a competitive capitalist economy," he said.

Reaganomics, without an accompanying industrial policy to guide it, has been costly," Johnson said. He cited an estimate that $7 billion of the $20 billion trade imbalance with Japan results from the administration's fiscal and monetary policies.

"When we talk to the Japanese about their industrial policy, they tell us they learned it from Alexander Hamilton," he added. "The Japanese tell us we ran the world's greatest war—World War II—without nationalizing a single industry and we beat the hell out of them. They learned a lesson."●

OUR DOMESTIC FOOTWEAR INDUSTRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. GILMAN. Mr. Speaker, I thank my colleague from Arkansas (Mr. ALEXANDER), for suggesting that we discuss the problems facing the domestic footwear industry, and I extend my appreciation to all my colleagues who have taken time to address this important issue.

The shoe industry has been a visible presence in the economy of our Nation almost since our forefathers first settled New England. However, the domestic manufacturing shoe industry has deteriorated as it has been forced into an ongoing battle to compete with import penetration. The industry is very much on the defensive and is certainly not healthy by any standards. Production capacity is disappearing right before our very eyes. In 1975, production capacity was 598.2 million pairs of shoes. In 1982, production capacity fell to 466 million pairs of shoes. More than a quarter of that capacity was idle. In 1983, the domestic footwear industry produced only 341 million pairs of shoes, the lowest level recorded since the Great Depression.

Approximately 132,700 workers in 41 States are employed by the footwear industry. The industry is inherently quite labor intensive, and footwear firms often constitute a major source of employment for many communities across the Nation.

The footwear industry has made every effort to attempt to successfully compete with imports despite the strangling effect the imports have had on capital investment. Clearly, the industry is not asking for any handout, but a fair chance to survive. The domestic industry has made an extensive commitment to research, development, and modernization. In fact, during the period between 1977 and 1980, research and development expenditures rose steadily from $5.4 to $7 million.

While most of the U.S. manufacturing industries are experiencing a rousing recovery, the domestic footwear industry is standing on the sidelines seeking its fair share of the market. Besides the modernization of domestic facilities, the industry has enhanced its market research and adopted new technologies all in an effort to improve and regain its standing in the market place. We must give these improvements a chance to work! The shoe industry in this country simply needs some legislated breathing room to become more competitive and to insure survival.

In early 1984, import penetration captured 70 percent of the domestic market. As a result, 16 factories have closed their doors and 2,000 citizens have lost their jobs. I urge all my colleagues to support this vital facet of our Nation's economy and to give the domestic footwear industry their much needed support.●

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

HON. HARRY M. REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. REID. Mr. Speaker, I join with my colleagues in an effort to draw public attention to the tactics of a national organization that has frightened and confused millions of senior citizens across our Nation through the use of half-truths, distortion of facts, false claim of official documents, and misleading endorsements.

The tactics used by the so-called National Committee to Preserve Social Security and Medicare under the chairmanship of former Congressman James Roosevelt, have time and again been questioned by respected organizations and leaders of our Nation's elderly including the Honorable CLAUDE PEPPER, Congressman and chairman of the House Subcommittee on Social Security.

A year and a half ago, this national committee began a direct mail campaign that has raised over $1.7 million through mail solicitation to over 93 million Americans.

The first letter sent out by this group was deliberately designed to look like an official Government document and marked, "Urgent. Important social security and medicare information enclosed." The letter also contained an official looking seal and number. The letter offered to send a copy of one's social security records if one would send $10. The errors, half-truths, and distortions of facts contained in the letter led many seniors to believe that social security and medicare were on the verge of collapse unless they contributed money. This group neglected to mention that social security records are available free of charge and the system is not in danger of financial collapse.

Other examples of false statements designed to create fear among the elderly are easily found in each mailing sent by this group. One letter stated that medicare was in such desperate financial shape that it borrowed $12.4 billion from the social security fund.

This is false and a deliberate attempt to frighten our seniors.

In an effort to show the group was actually promoting seniors' interests, the national committee claimed it had obtained a written document from the Social Security Administration stating that, "no person born later than during the notch years would ever receive less than a similarly situated person born later." This is actually a statement of current law and not a benefit that was gained through any action by the national committee.

The American Association of Retired Persons and several Members of Congress have charged this group with using their names for public endorsements without permission, and for quoting material out of context.

Despite written request from Members of Congress, this national group cannot satisfactorily explain where the $1.7 million fund to protect social security and medicare has gone.

I join with the Honorable CLAUDE PEPPER and other Members of Congress who are truly interested in the protection and welfare of our Nation's seniors. I want every one to be aware that no legitimate seniors' organization uses distortions of facts, misleading statements, and official looking documents to imply that social security or medicare is in danger of collapse, to promote fund raising except this so-called national committee.

Realizing one of our most important democratic principles is the freedom to join together in common purpose to direct public policy, I urge all seniors to carefully examine the claims of all those who purport to promote your interests.●

BLACK HERITAGE DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. RODINO. Mr. Speaker, next Sunday afternoon, May 27, I will have the honor of participating in the sixth annual black heritage day parade in Newark, N.J. More than 100,000 persons from the Newark area will line the streets to witness this celebration of and tribute to the rich contributions of Afro-Americans to our Nation's culture and heritage.

The sponsor of this grant event is the Black Heritage Day Parade Committee, a nonprofit organization. It was founded on September 26, 1978, by a group of young men and women whose primary mission was to educate black residents of Newark about the richness of their heritage and to build a community organization to nurture unity and cooperation among diverse groups to work to achieve commonly beneficial goals. Indeed, unity is the theme of this year's parade.

In addition to the parade, the committee also helps provide seminars in black history for Newark residents, especially the young people, and in other ways build a sense of community pride and awareness in the achievements of black Americans.

For the record, I want to express my thanks to the many, many people who have worked so hard to insure the success of this celebration, especially the parade officers: Kurt A. Culbreath, chairman; Michael Cook, first vice chairman; Michael G. Terrell, second vice chairman, and Deborah L. Bryant, secretary.

Mr. Speaker, it is also most fitting that I pay tribute to the grand marshal of the parade, Detective James E. DuBose, a native of Newark and a 28-year veteran of our city's police department now assigned to the intelligence squad. He is cofounder of Bronze Shields, Inc., an organization of black police officers. Detective DuBose is not only a fine law-enforcement officer. He has also given unselfishly of his time to help the fellow citizens of his community. For his dedicated service, both as a policeman and humanitarian, Jim DuBose has received a long list of distinguished awards, citations, and commendations.

I had the benefit of Detective DuBose's invaluable assistance in our recent successful effort to have the Croix de Guerre—France's highest military honor—reissued to a gallant black American soldier of World War I, William Ogden Layton of Newark.

Mr. Layton served with the 369th Infantry Regiment, the most highly decorated unit to serve in the first World War, when it was attached to the French Army. He received his medal for valor at that time, but, when he returned to the United States, it was stolen. Working with Detective DuBose, I was fortunate to be able to play a role in persuading the French Government to reissue the medal to Mr. Layton.

For this work, the 369th Veterans Association presented Jim DuBose its Distinguished Service Award. On Sunday, I will have the honor of being cited by Robert Scott, president of the New Jersey chapter of the 369th Veterans Association for my membership in the association and support for legislation proposing a Federal charter for the association.

Kenneth A. Gibson, mayor of Newark, has proclaimed next Sunday "Black Heritage Day," and I look forward to joining in this celebration. I am including in the RECORD at this point an article on this gala event from the May 20, 1984, edition of the Newark Star-Ledger.

[From the Newark (N.J.) Star-Ledger, May 20, 1984]

AFRICAN AMERICANS TO CELEBRATE THEIR HERITAGE

(By Stanley E. Terrell)

Broad Street in downtown Newark will once again serve as the stage for the celebration of the history and contributions of African Americans when the Sixth Annual Black Heritage Day Parade is held next Sunday.

Thousands of spectators are expected to be on hand when the parade kicks off at 1:45 p.m., with an estimated 3,500 persons expected in the line of march, including all city high school bands and units from Plainfield and East Orange.

The theme of this year's parade is "Unity," and is designed to "reiterate that black solidarity—the tie that binds—is still the most effective means of bringing about positive social change for black Americans," according to Kurt Culbreath, chairman of the Black Hertiage Day Parade Committee.

Culbreath said that while blacks seek to live and work with all nationalities,"the central core of our progress has always been, and still is, unity among ourselves. We are family, and as family we should have unity."

BHDPC organization is currently negotiating in an effort to have an appearance made by Rev. Jesse L. Jackson, who is scheduled to be in the state next weekend as part of his campaign for the Democratic presidential nomination.

"Right now, it looks pretty good," said committee vice chairman Michael G. Terrell. "We've been talking with Jesse's campaign people, and they have expressed a desire to have him make an appearance at the parade if his schedule permits. We're hoping he can fit the parade into his busy itinerary."

In a proclamation issued last week designating next Sunday as "Black Heritage Day," Mayor Kenneth A. Gibson noted that African Americans "have made meaningful gifts to the general welfare" of society, but "by design or neglect these benefits have been limited to the most cursory mentions possible in the history books."

Contending that "the times demand and conscience dictates that all Americans join in mutual respect of each others' heritage," Gibson said "the celebration of black heritage is one important step toward the development of one history, weighted properly with all of its integral parts."

The grand marshal for the parade will be Det. James E. DuBose, a 28-year veteran of the Newark Police Department and cofounder of the Bronze Shields, a black police organization. DuBose is currently assigned to the Intelligence Squad and serves as an aide to Police Director Hubert Williams.

The deputy grand marshals for the parade will be Sheila Oliver, executive director of The Leaguers Inc., Maria Vizcarrondo-DeSoto, executive director of ASPIRA Inc., Benjamin Amos 3d, executive director of Vindicate Society, and Matthew Rivers, manager of Tru-Home Sales.

The keynote speaker for the parade will be Lenworth Gunther, professor of African-American History at Essex County College in Newark.

Pre-parade ceremonies will be held in the City Hall rotunda at noon and remarks will be offered by Gibson and Culbreath. In addition, the Gospel Mellonaires will perform a gospel selection and the students of the

Chad School drama class will perform a segment of the musical. "The Wiz."

The Black Heritage Day Parade was inaugurated in May 1979 to fill the void left by the discontinuation of the former Attucks-King Parade.

That parade was last held in 1975.

The Attucks-King Parade was initiated in 1966 as the Crispus Attucks Day Parade to honor the first black man to die in the American Revolution. It was changed to the Attucks-King Parade in 1969 as a tribute to the late Dr. Martin Luther King Jr., the Nobel Prize-winning civil rights leader assassinated in 1968.●

LEGISLATIVE RELIEF FOR THE JUKEBOX INDUSTRY

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BREAUX. Mr. Speaker, legislation which I have introduced, H.R. 3858, proposes to provide legislative relief to the jukebox industry. Cosponsoring the bill are 26 other Members of Congress. Our legislation would modify the existing royalty payment system, required of the jukebox industry under the copyright statutes. The current royalty obligation has escalated 525 percent since 1981. Clearly, relief is needed because the escalation will continue. Our bill, H.R. 3858, would retain the copyright royalty obligation, but would modify it to establish a more reasonable system for the jukebox industry, one which continued to provide compensation due to copyright holders.

I am submitting for inclusion in the CONGRESSIONAL RECORD an article by Mr. Dock Ringo, president of the Amusement and Music Operators Association, which appeared recently in Billboard magazine. I recommend it to my colleagues, as it is an articulate and excellent discussion of the issue, and urge support for the legislation.

The article follows:

[From Billboard magazine, May 5, 1984]

A FAIR LICENSE TO OPERATE

(By Dock Ringo)

In a recent Billboard commentary (March 24), with the amazing title "Meeting The Jukebox Threat," Hal David, president of ASCAP, stated, "The jukebox problem is as serious and far-reaching in its implications as any we have encountered before."

As a jukebox operator, perhaps I should have been flattered by being elevated to such importance, but quite honestly, I was flabbergasted. Let me tell you why.

In the first place, the jukebox industry is not threatening anyone. The only threat at hand is that posed by higher royalty fees, which, combined with the other price increases the jukebox operators must bear, is forcing many operators out of existence.

Contrary to the impression left by Mr. David, jukebox operators agree with the basic principle of copyright: continuing payment for continuing performance. We are not stalking horses for an attack on this basic principle. We recognize our responsibilities to provide fair compensation to the owners of musical copyrights.

We also recognize, however, that the copyright owners are not threatened by the specter of more reasonable fees for jukebox royalties. The jukebox industry is one of the smallest sources of revenue for the performing rights societies. ASCAP has told us that "substantially less than 1%" of its revenues are derived from jukebox royalties. Even with the increased royalties which they support, the percentage of income would not be much higher than 1%.

Quite obviously, from ASCAP's point of view, the livelihood of copyright owners is not at stake. Rather, a matter of principle is at stake.

Jukebox operators have only one concern—to have a copyright royalty system that allows them to stay in business. All the philosophical, economic, and intellectual arguments in the world can't change one basic fact: Since the annual royalty fees increased from $8 in 1981 to $50 per machine in 1984, operators have pulled thousands of machines off the market. That, as they say, is the bottom line.

No one benefits when machines are priced out of the market—songs don't get played, records don't get purchased, copyright fees aren't collected, and jukebox operators have to find other lines of business.

To reiterate, the jukebox industry agrees that it should pay for the use of copyrighted materials. All we ask is a reasonable fee that we can live with.

We are not willing to let our industry die for an abstract principle. Indeed, if we have been effective in getting the attention of members of Congress, it is because we are facing a life and death struggle for economic existence, while the performing rights societies are preoccupied with an abstract principle.

The bills supported by jukebox operators, S. 1734 and H.R. 3858, have attracted substantial Congressional support. The proposed legislation would establish a one-time royalty fee per jukebox paid by the manufacturer upon the sale of the machine. Mr. David argues that such a fee collection mechanism would violate the basic principle of continued payment mechanism would violate the basic principle of continued payment for continuing use. While we would argue that such a payment should be considered advance payment for continued use, we nevertheless understand ASCAP's criticism.

What we do not understand is ASCAP's complete unwillingness to propose or consider any serious alternatives, other than the status quo which is driving operators out of business. We have asked Mr. David and representatives of the other performing rights societies for proposed alternatives that meet their philosophical concerns about copyright, but also address our economic problems as well. To date, none have been forthcoming.

Of course, Mr. David failed to mention a fact that has been reported in the trade press: that throughout the winter both sides of this issue have been meeting face to face at the request of Rep. Robert Kastenmeier, chairman of the House subcommittee with jurisdiction over copyright issues. We have approached these meetings in good faith, seeking common ground with the performing rights societies. At every point, we have indicated out willingness to consider alternatives that anyone wanted to propose. But we haven't seen any yet.

I will readily admit that we recognize ASCAP's frustrations in getting involved in the legislative process. As Mr. David points out, the increased fees were set by the Copyright Royalty Tribunal and met judicial challenges. In retrospect, however, given the large number of jukeboxes that have been pulled off the street since the CRT's decision, it is obvious that the Tribunal did not have Solomon's wisdom in establishing the higher fees.

We must also point out that administrative and judicial processes do not always bring about a fair result. I would guess that Mr. David is probably not enamored of the Supreme Court's decision in the Betamax case. Since the copyright owners have united to seek legislative relief to overturn that judicial opinion, they can hardly argue as ASCAP has elsewhere that our legislative efforts are inappropriate.

The fact is that we are not engaged in an effort to enact legislation for fun or as part of a great scheme to undermine the copyright laws. And we certainly haven't launched our efforts because ASCAP "appears vulnerable." Indeed, ASCAP and the other performing rights societies are far from vulnerable. Any organization with annual income over $200 million could hardly be seen as vulnerable.

Our association, the Amusement & Music Operators Assn., has the united support of the jukebox location owners, their employees, and customers who enjoy jukebox music. But our ability to lobby is absolutely dwarfed by the performing rights societies. They are tough, well-organized, and very well-financed.

Rather, we are engaged in this effort because we have no choice. If we don't, or if we are unsuccessful, our industry will be just a shell of its former self with only a handful of prime locations in each community able to support machines.

Our business depends upon a sufficient volume of machines to support us. When that volume is diminished, we cannot stay in business. So for us, it is solely a mattter of survival.

To those readers of Billboard who are members of the performing rights societies, I tell you without hesitation, we want to work out a system that meets your needs as well as our own. We are not wedded to a particular concept; we are open to any suggestions that will allow us to continue in our businesses.

We welcome the opportunity to work with you not only to strengthen the jukebox industry and keep it as a major medium to promote copyrighted works, but also to strengthen the nation's copyright system.●

THE 20TH ANNIVERSARY OF THE SMALL BUSINESS ADMINISTRATION SERVICE CORPS

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. McDADE. Mr. Speaker, 1984 marks the 20th anniversary of the Small Business Administration's Service Corps of Retired Executives (SCORE). This year, 12,000 SCORE volunteers celebrate their history as volunteer small business counselors. In these 20 years, over 1,200,000 clients

have received free management counseling.

Beginning in Boston, SCORE now has 402 chapters across the Nation. In 1969, as a complement to SCORE's counseling services, the Active Corps of Executives (ACE) was founded. Today, ACE members account for about one-fourth of SCORE's roster.

Together, the retired and employed membership offer to the small businesses of America an accumulation of experience measured in hundreds of thousands of years. The range of expertise covers literally every aspect of business from planning to profit.

SCORE members are dedicated to their program of offering free counseling to small business people. It is not unusual for SCORE members to donate 20 or more hours of their time per week. There are some members in their 80's who, for 10 or more years, have been serving 40 hours a week at their local SCORE chapter office.

SCORE has its greatest effect on clients in one-on-one counseling, which is ordinarily the most costly form of management assistance. For many others, attending prebusiness workshops helps them to start off on the right foot.

The Small Business Administration, which sponsors SCORE, affirms the country's debt to these men and women who selflessly offer their wisdom, talents, and time.

It is most appropriate as the volunteers of the SCORE program mark their 20th anniversary that we commend them for their remarkable dedication and service to the Nation's small businesses.●

LET'S EMBARK ON A NEW ENTERPRISE: FEDERAL ENTERPRISE ZONES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BROWN of California. Mr. Speaker, as a cosponsor of the Federal Enterprise Zones Act, H.R. 1955, I am pleased that the other body has included this concept in its deficit reduction package. While some initial revenues will be lost, I believe that in the long run we will find the program beneficial, and I urge the House to accept the proposal.

As you may know, Mr. Speaker, California passed its enterprise zones legislation last March. California joined 21 States with similar provisions; six other States are considering enterprise zone legislation. These States are far ahead of Congress in launching enterprise zone programs to revive areas where the private sector is dormant.

Despite efforts by the Senate, the House continues to drag its feet. Two arguments against enterprise zones appear to dominate. First, enterprise zones are a substitute for existing economic development programs. I acknowledge that while the administration has proposed these zones, it has also attempted to reduce or eliminate nearly every other program aimed at economic development. But I contend that one can support both enterprise zones and existing programs without entering into partisan politics. In fact, I believe that such programs as the community development block grant, the urban development action grant and revenue sharing, and services from the Commerce Department and Small Business Administration should be used to complement enterprise zone incentives.

The second argument is a concern that existing businesses will relocate in the enterprise zones. According to this argument, rather than creating new jobs, enterprise zones will merely shift jobs and development from one location to another. But, while some relocation may occur, enterprise zones are designed to attract new businesses or expand existing ones. For large plants outside the zone, the cost of shutting down, dismantling the plant, transporting equipment, and building or renovating at another location would amount to more than the money saved in tax benefits. Other businesses, such as retail stores, depend on established customers and are unlikely to relocate if they are successful. On the other hand, small businesses outside the zone which are considering expansion and relocation may choose to relocate in the zone because of the Government benefits.

A November 1983 study by the Sabre Foundation indicates that businesses in enterprise zones had at the time created, saved, or pledged over 20,000 jobs. In addition, over $450 million in new investments had been committed. Evidence suggests that these results are only the beginning. Considering that most of the zones were less than 10 months old, the performance of State zones was even more impressive. The passing of Federal enterprise zone legislation will not only assist the States in their efforts, but will offer a new set of tools in our efforts to rebuild economically distressed neighborhoods.

With the March 20 enactment of enterprise zone legislation, California may now move full speed ahead. In my own district, I expect the cities of San Bernardino and Ontario to move rapidly, after the State publishes regulations for the new program.

Some of my colleagues who are familar with my southern Californian district might be surprised by my endorsement of this legislation. My district is expected to be among the fastest growing areas in the Nation in the 1980's. By the year 2000, its population will more than double, but employment will barely keep pace. Despite rapid growth, the economy in our area is changing; unemployment has been consistently higher than both national and State averages. The city of Ontario, for example, has suffered a great deal of unemployment and job loss because of plant shutdowns. The General Electric plant and Kaiser Steel mill have eliminated roughly 10,000 jobs. Nearby San Bernardino, which would qualify as a designee under current legislation, has adopted geographical boundaries for potential designation for an enterprise zone. San Bernardino is also one of three cities in California under study as designation models for an enterprise zone.

The "Inland Empire," as my district is commonly referred to, is striving to meet the needs of its residents with the limited resources available to it. An enterprise zone within the region will primarily help those long-term residents who have traditionally been bypassed by economic growth. It will enable these residents to develop needed skills, and begin contributing to their community.

As with any one piece of legislation, enterprise zones should not be considered a panacea. But this legislation, which begins slowly with only 25 designated zones per year for 3 years, can complement existing programs in education, job training, and research and development, to name a few. At the same time, other programs to help disadvantaged people or new businesses must be improved for greater efficiency.

We all realize that a sustained economic recovery requires coordinated, cooperative efforts by private industry and government at all levels. I believe that the enterprise zone concept, which requires a "Course of Action," facilitates this cooperation between local, State, and Federal Government with the private sector. I urge my colleagues to join me in requesting that the House conferees accept the other body's language with regard to enterprise zones.●

THE QUATIMILLENNIAL OF THE TOWN SOMERS

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mrs. JOHNSON. Mr. Speaker, on the last weekend in May of this year the town of Somers, Conn., will observe its 250th anniversary. This celebration is a very special event for the people of this town, which is located in the far northern section of our State.

The history of Somers predates its official incorporation date for as early as 1706, when it was a heavily wooded

wilderness, the settlers from nearly towns, valuing its summertime hunting, fishing, and farming, traveled to this section of our State.

Not until 1713 did this change. In that year, several families came to Somers on a permanent basis and by 1727 the group had grown to 180 settlers. Since, by law, Somers' residents were required to attend Sunday church services, they would travel to the main settlement in Enfield. Proving to be a difficult journey to make, especially in the winter, a church was later founded in Somers.

In the year 1734, anxious to be an entity and no longer a part of Enfield, the residents authored "the petition of ye East Precinct to be a distinct Town was allowed, * * * if the general Court se cause to made them * * * a District & separate Township." The town was later incorporated under the name of Somers at the suggestion of Governor Belcher of Massachusetts. Lord Somers was an important figure in the revolution of 1688 in England and was instrumental in preserving the rights, liberties, and privileges of Englishmen.

Until the year 1749 Somers, along with the other border towns, was a part of Massachusetts Colony. In that year the Connecticut Assembly unilaterally declared these towns to belong to the State of Connecticut.

Throughout its history Somers has been known for both industry and agriculture. Ladies' straw bonnets were the leading product of the town in the middle 1800's. The textile mills of the Somersville section were highly regarded for their fine woolens and other fabrics. During World War I doughboys wore Somersville uniforms and slept under Somersville blankets.

Much more can be said about Somers. This year, the residents have made a special effort to share their history with us. Newspaper articles, photographic exhibits, and a series of events have alerted the people of Connecticut to the significance of this year and the interesting and colorful history of Somers. The weekend of May 26-28 is the high point of this celebration. With events ranging from a Civil War battle reenactment, a fife and drum concert, a country dance, a dramatic presentation and a polo game, the people of Somers are celebrating.

I commend the outstanding volunteer leadership and hard work that this celebration and all events recognizing Somers 250th anniversary represent. Clearly, this reflects the enthusiasm and pride of Somers residents for their community, and I am proud to represent this community which so values it history and its future.●

NATIONAL DUCK STAMP WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. CONTE. Mr. Speaker, no one part of our beautiful American landscape provides so many benefits at so little cost to the people as our precious wetlands—swamps, marshes, bottomland forests, and other water-dominated areas. Wetlands provide food, shelter, breeding and nesting grounds for fish, waterfowl, furbearing animals, and countless species of wildlife.

In conjunction with the celebration of the 50th anniversary of the Federal duck stamp program, a nationwide campaign to encourage hunters and nonhunters to support wildlife conservation by purchasing duck stamps is underway. Revenues from the sale of the $7.50 stamp are used to acquire and preserve wetlands for the National Wildlife Refuge System and other waterfowl production areas.

One hundred and seventy-three of my colleagues have joined me in cosponsoring House Joint Resolution 418, a joint resolution to provide for the designation of this year as the "Golden Anniversary Year of the Duck Stamp," and the designation of the week of July 1 through July 8, 1984 as "National Duck Stamp Week." I urge my colleagues who have not yet cosponsored House Joint Resolution 418 to join us in this important effort to expand public awareness of, and participation in, this successful Federal program.

I commend the following editorials from the Arizona Republic and the Grand Forks Herald, and the following article from the Tennessean to my colleagues and to the many people across the United States who seek to preserve vitally important wildlife habitat.

[From the Tennessean, Apr. 10, 1984]

DUCK STAMPS FOR NONHUNTERS

(By Nick Sullivan)

A major campaign to encourage more nonhunters to support wildlife conservation by purchasing federal duck stamps has been launched in conjunction with the 50th anniversary of the duck stamp program.

The campaign, begun by the U.S. Department of the Interior, is supported by a broad cross section of corporations and conservation groups. Revenues from the sale of the $7.50 stamps are used to buy wetlands for the National Wildlife Refuge System.

"Waterfowl hunters are not the only ones who benefit from healthy wetlands," said William Clark, Secretary of the Interior. "Everyone who enjoys wildlife—bird watchers, anglers, nature photographers, campers and others—also benefit. The purchase of a duck stamp is one of the most direct ways Americans can help ensure the preservation of these important wildlife habitals."

The duck stamps are required to be purchased each year by anyone age 16 or older who hunts waterfowl. Nearly 89 million duck stamps have been sold to date, providing $285 million for the conservation of 3.5 million acres. Most of the stamps purchased to date have been bought by duck hunters and stamp collectors.

"I am pleased with the support this campaign has so far received," Secretary Clark said. "More than 50 corporations and conservation organizations are actively assisting the U.S. Fish and Wildlife Service by encouraging sales of duck stamps to their customers and members."

Secretary Clark said concern over the rapid disappearance of wetlands and the escalation of land prices led to the Interior Department's decision to try to broaden public participation in the duck stamp program.

"The United States is losing half a million acres of marshes and other wetlands every year," Clark said. "These areas are vital not just to ducks, but to many other kinds of fish and wildlife including endangered species and commercially valuable fish and shellfish.

"At the same time, increasing land prices have slowed efforts to acquire and protect important wetlands," he said. "Duck stamp dollars don't stretch as far as they used to."

Clark said the waterfowl hunters have been paying to preserve wetlands that all citizens benefit from.

"I recognize that many people who do not hunt have probably never heard of duck stamps," the Interior Secretary said. "I believe more nonhunters would buy duck stamps if they realized it would help save wildlife habitat."

The idea of a duck stamp was conceived in 1934 by nationally known cartoonist and conservationist, J.N. "Ding" Darling. At that time America's ducks, geese and other migratory waterfowl were severely threatened by drought and by loss of their wetland nesting areas to agriculture.

Congress agreed with Darling's notion of raising the money by requiring waterfowl hunters to buy an annual stamp and passed the Migratory Bird Hunting Stamp Act. Darling himself sketched two mallards for the design of the first stamp, which went on sale in 1934 for $1.

Duck stamps portray a species of North American ducks, geese or swans. The design for each year's stamps is chosen through an annual art contest that is entered by many of the nation's best wildlife artists. The colorful stamps have become collector's items and a complete set of unused stamps now sells for as much as $6,000.

Duck stamps may be purchased at any U.S. Post Office or at many national wildlife refuges.

[From the Grand Forks Herald]

SO FAR SO GOOD FOR CLARK IN WETLANDS BATTLE

We like what we're hearing from William Clark, the successor to James Watt as Secretary of the Interior.

Specifically, we like the positive signals that Clark is sending on protection of wetlands.

He has supported increasing Duck Stamp fees to buy lands that would help offset the 500,000-acre yearly loss of national wetlands. Roughly one-tenth of that draining, filling and burning is taking place in North Dakota and Minnesota.

He has signed a major deal with a highly successful private wildlife organization, Ducks Unlimited, to enhance the manage-

ment of public wetlands in the United States.

Ducks Unlimited has so far concentrated its efforts in Canadian waterfowl breeding areas. Its new interest in U.S. lands is welcome. It will help make up for difficulties the Interior Department's U.S. Fish and Wildlife Service has had in adequately staffing and maintaining its waterfowl resources.

Secretary Clark also is trying hard to sell Duck Stamps to people besides hunters. The federal government should have been doing a better job of promoting this stamp all along, for it probably is the easiest, most direct way of raising wetlands protection money from millions of conservation-minded non-hunters. Better advertising of the $7.50 migratory waterfowl stamp, a collector's item featuring some of the nation's finest wildlife art each year, is needed at post offices and refuges.

Typically hunters buy 90 percent of the Duck Stamps. But there is no reason, given the broad values that wetlands have for many kinds of birds, animals and plant-life; for pollution and runoff control; and for natural beauty, that non-hunting Americans could not buy just as many as hunters. These stamps could be considered a wildlife version of Easter Seals or UNICEF Christmas cards.

So Interior Secretary Clark seems off to a good start on behalf of people who value wetlands. One hopes a little of this positive spirit will rub off on the many North Dakotans who still think federal wetlands buyers and biologists don't belong in farming country.

[From the Arizona Republic, Apr. 27, 1984]

FOR WILDLIFE AND WETLANDS

The Duck Stamp program, which has helped finance the addition of 3.5 million acres to the National Wildlife System, now celebrates it 50th anniversary with a new commemorative postage stamp.

About $285 million has been raised since 1934 through stamp sales annually to waterfowl hunters. This has been used to buy nearly half of the 400 national wildlife refuges and many smaller waterfowl protection areas.

This country has the world's greatest system on waterfowl refuges, but it is losing nearly half a million acres of valuable wetlands each year because of development.

The cost of marshes is rising and, in order to bid for them, the Department of the Interior is trying to broaden public participation in the Duck Stamp program.

More Americans than hunters benefit from wetlands—anglers, bird-watchers, campers, hikers, nature photographers and others.

They can and should help the program by buying a $7.50 commemorative stamp.●

PROJECT RENEWAL

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. HALL of Ohio. Mr. Speaker, like the United States, Israel is a country committed to democratic ideals and the principles of social justice. Like the United States, Israel seeks equal opportunity and freedom of want for all its citizens. And, like the United States, Israel is a nation of immigrants.

From all corners of the globe, they came to Israel. Some left the confines of rural societies to enter the modern world that Israel offered. Others immigrated to rebuild their lives after the Holocaust. Still more came to answer the ancient call of their heritage.

But hopes and dreams are often not enough to overcome the social problems which stem from such an influx. To avoid the inevitable cycle of poverty, the Government of Israel along with Jewish people throughout the world have initiated Project Renewal.

Project Renewal is a $1.2 billion international effort to assist the citizens of Israel through strengthening neighborhood programs. Half of the money will be provided by the Israeli Government, with the remaining half raised throughout the world. The United Jewish Campaign of the United States has pledged $400 million.

Through Project Renewal, distressed neighborhoods in Israel are linked with communities in the United States to assist Israeli residents to become a part of mainstream society.

In my district, the Jewish community of Greater Dayton, Ohio, is linked with Jesse Cohen, a neighborhood in Holon, Israel. It is named after the woman who gave the funds to build the first permanent housing there. The neighborhood is home to 9,000 Jews from North Africa, Asia, and Europe.

In 1979, the Dayton Jewish community pledged $1 million for the Jesse Cohen neighborhood through Project Renewal. Since that time, homes have been renovated. Residents have developed a new pride in the condition of their neighborhood. Homes have been maintained, gardens planted, and parks created.

A goal yet to accomplish of the Dayton Jewish community is the expansion of the Beit Lazarus Community Center. This center will be the focal point of many educational and cultural programs which now take place around the neighborhood.

The continuing involvement has also led to closer ties between the people of Dayton and Jesse Cohen. This summer, students from Dayton and Jesse Cohen will visit each others' communities.

For centuries, the land of Israel has been known as the Promised Land. Now, through Project Renewal, Israel holds out more promise than ever to those who have immigrated.●

A TRIBUTE TO ROBERT "BLACKIE" TATRO

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Ms. KAPTUR. Mr. Speaker, nearly 40 years ago, a young man recently out of the Navy with a reputation as a topnotch boxer came to my hometown of Toledo, Ohio. To the benefit of so many over the years, Robert "Blackie" Tatro decided to make Toledo his home.

Blackie Tatro has helped shape the trade union movement in greater Toledo for over 20 years. He has been a delegate to the Toledo Port Council for more than 20 years and a delegate to the Toledo area AFL-CIO for 16 years. In addition to his position as business manager of Iron Workers Local 55, Blackie is also treasurer of the Ohio-Michigan District Council of the International Association, Bridge, Structural and Ornamental Iron Workers Union. He is a long-time delegate from Local No. 55 to the Michigan Building Trades Council and is the vice-president of the Northwestern Ohio Building and Construction Trades Council.

In July of this year, Blackie Tatro will be retiring. On May 25, he will be honored in a labor-management tribute in Toledo. Appropriately, the testimonial committee is composed of the officers and executive board of Iron Workers Local No. 55—those who have worked most closely with Blackie.

But to those of us who know him, Blackie Tatro is more than just an outstanding labor leader. He is a warm, compassionate, courageous human being. There is one incident in particular that exemplifies Blackie Tatro's character which I would like to recount for the Members of the House of Representatives. Several years back, Blackie and his lovely wife Joan were dining at a restaurant in Kentucky waiting for a show at a nearby club. While dining, they saw the club go up in flames. Blackie rushed over to the site and along with other volunteers, worked many hours removing bodies from the ruins. The next morning, he worked alongside members of the Iron Workers Local in Cincinnati who had volunteered their services. This usefulness and concern for his fellow man has epitomized Blackie's leadership in our community.

I commend all those who arranged this tribute to Blackie Tatro. I look forward to participating in what surely will be a wonderful evening. I am proud to call Robert "Blackie" Tatro my friend. His work will not soon be forgotten and I know he will always stay involved, fighting in retirement as he did in active service for

those things which are right and just. I know my colleagues in the House of Representatives join me in commending Blackie Tatro for a life of service to people and to his community.●

A TRIBUTE TO JOSEPH J. BELL, SR.

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. COURTER. Mr. Speaker, I would like to pay tribute to Joseph J. Bell, Sr., of Randolph, N.J. Mr. Bell was a community leader dedicated to the public good. He served as mayor of Randolph and also Commissioner of the Police Department. Randolph remained a safe, harmonious community under Mr. Bell's leadership.

In World War II, Mr. Bell served as captain in the U.S. Air Force. Stationed in Europe, he represented his country with honor and pride.

The father of eight children, Mr. Bell was loved by his family and friends and respected by his colleagues. Talking to his children, it is easy to see the admiration each had for their father.

I came to know Mr. Bell through his son Joe, Jr., and I can honestly say it was a privilege to call Mr. Bell my friend. He was indeed a model American citizen. Mr. Bell's integrity and altruism will continue to serve as an inspiration to us all.●

VALLEJO NAACP'S 66TH ANNIVERSARY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mrs. BOXER. Mr. Speaker, I would like to call to the attention of Congress a most significant date in the history of the Vallejo, Calif., chapter of the NAACP: Its 66th birthday which will be marked by a giant celebration that is attracting statewide attention and which will feature as the principal speaker Georgia State Senator Julian Bond, nationally known columnist, political activist, host of a nationally televised talk show, and lecturer.

The Vallejo NAACP will observe its 66th anniversary on Saturday, June 2, at an awards and recognition banquet to which California Members of Congress and California State legislators have been invited. The event promises to be the largest of its kind ever held in Vallejo, home of Mare Island Naval Shipyard and a vital seaport city of my Sixth District.

The Vallejo branch of NAACP was chartered in 1918 when the city had a total population of about 20,000, it now has almost 90,000, and its black citizens numbered less than 3,000. There now are approximately 17,000 black residents.

The NAACP has contributed much to the history and culture of Vallejo. Its members have been leaders in government, education, business, and industry. It is one of the most respected organizations in the city and has done much in the areas of civic improvement and community betterment.

The Vallejo chapter established its own credit union which it operated for 20 years to assist members. Its membership now exceeds 800 and its role in community life increases daily.

I take this opportunity to ask my colleagues in the House of Representatives to salute the Vallejo chapter, NAACP, for its great and growing community service.●

MILWAUKEE RAILROAD ACQUISITION

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mrs. SMITH of Nebraska. Mr. Speaker, it has come to my attention that the Interstate Commerce Commission (ICC) is currently considering the competing bids of three railroads, the Chicago and North Western, the Grand Trunk and the Soo Line, to become owners of the bankrupt Milwaukee Road.

Each offer is subject to the approval of the ICC, and subsequent to that approval will be sent back to the bankruptcy court where additional bidding may occur and where a final decision is made.

There are some who argue that the ICC should approve only one of these offers for final consideration by the bankruptcy judge, based on the public interest criteria established in the law.

Two of the three pending offers are from Canadian railroads—the Grand Trunk being a subsidiary of the government-owned Canadian National, and the Soo Line being controlled by the Canadian Pacific.

While I do not believe either of these railroads should be prohibited from bidding based on their Canadian ownership or control, it would be inconceivable to me that a U.S. agency would deny the only U.S. railroad involved the opportunity to compete in the final bidding process based on public interest.

As someone who is deeply concerned about the public interest, I know what questions I would raise in discharging that responsibility.

Who would be more concerned about protecting American railroad jobs—a Canadian railroad or an American railroad?

Who would be more concerned about moving American products to markets abroad?

Who would be more likely to buy from American rail suppliers?

Who would be more likely to direct traffic to American ports?

In my opinion, these are issues of public interest, and when viewed from this perspective, should be considered by the ICC in making their decision.

I trust the ICC will not ignore this perspective as it considers this case, and would, at the very least, allow the only American company involved the opportunity to compete for the acquisition of this American railroad.●

SOVIET BOYCOTT UNDERSCORES CONVICTIONS OF UNITED STATES

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. McCOLLUM. Mr. Speaker, it has become increasingly clear that the Soviet Union's boycott of the Los Angeles summer Olympics is part of a carefully orchestrated effort on the part of the Soviets to make the American public believe that Ronald Reagan has caused United States-Soviet relations to dramatically deteriorate over the past 4 years and to embarrass him less than 6 months before the Presidential election.

At the same time, the Cubans have joined in the effort by telling Angola—according to White House officials—that they would not support a phased withdrawal of their troops from Angola because a settlement in southern Africa might help President Reagan win the election.

The Soviets would like Americans to think that our administration's foreign policy is volatile and misguided—and that any chance of mutual arms control is virtually an impossibility because of our own political shortcomings and diplomatic failures. They are telling America that Ronald Reagan has been a bad President and are trying to show us this with their boycott and their stepped-up anti-U.S. rhetoric.

What they are really saying, however, is that this administration is a threat to them—and that they will do anything they can to get the American people to abandon Ronald Reagan in November, including disrupting the Olympic games for no good reason. It is truly sad to think that events as important as the summer Olympics and a settlement in southern Africa could be compromised by the desire of one or more nations to influence the internal politics of another. It would, of course, be impossible to completely insulate the Olympic games from the problems

of the world, and even the United States was forced to use this international event to stand up for its principles following the invasion of Afghanistan. Nevertheless, "embarrassing" a public official is a far cry from protesting an act of war and aggression which took away the lives and freedom of innocent men, women, and children. As for Angola, there is no justification whatsoever for delaying or stalemating a peaceful settlement to such a volatile situation as this one.

The bottom line is that this administration is a threat to the Soviet Union because it has recognized that peace comes through strength and that the military strength of the United States has been severely weakened over the past years while Soviet strength has been growing. Furthermore, this administration has refused to overlook or even sugarcoat blatant Communist aggression—whether it is the malicious destruction of a civilian jetliner or the channeling of arms to rebels in wartorn nations such as El Salvador which are fighting to save their democracies. The Soviet Union cannot accept the fact that our willingness to negotiate arms control or any other agreement is not a willingness to trade off our own national security in any way, shape or form. They are uneasy about the "hard line" they are getting from the United States because they have always counted on exploiting any conciliatory gesture on the part of our Nation or any other nation.

If this is the case, then we should feel confident that our foreign policy is indeed moving in the right direction. When the United States is seen as a nation of conviction—and as a nation strong enough to uphold those convictions—then we should feel assured that we can hold our own against those powers who thrive on the weakness of others.●

RIGHT TO BEAR ARMS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, today I am introducing a resolution, House Concurrent Resolution 311 to reaffirm that the sense of Congress supports the second amendment right to the Constitution of the United States.

The second amendment states: "A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

There are few issues in this country that are more emotional or less understood than an individual's right to keep and bear arms, and it is disheartening to see any erosion of these rights when the framers of our Constitution clearly intended to guarantee an individual's freedom to protect himself. Certainly we have better things to do with our money, particularly in these times, than to spend it depriving people of their right to protect themselves, denying them the right to use a gun for hunting or target shooting and invading their privacy.

We simply must reject any attempts to restrict American citizens from defending themselves and their property as this is a severe threat to one of our basic freedoms as citizens of the United States. Currently police protection is guaranteed only in broad terms. There is nothing in the law that guarantees personal protection to any particular person. Since the U.S. criminal justice system has not demonstrated the ability to provide adequate public safety, we simply cannot in all good conscience prevent individuals from protecting themselves.

Gun control advocates believe that taking away everybody's guns will reduce crime. I will agree that if everybody's guns were confiscated crime might go down, just as it would if all knives were confiscated. But, getting everybody to turn in his gun is the problem. If criminals are willing to break the law by using a gun on someone else, they certainly are not going to turn it in—especially if they want to use it again. If we deny anyone his second amendment rights, we will only be creating a bigger black market. Furthermore, if people cannot protect themselves, there will be an increase rather than a decrease in crime. Take away from the law-abiding citizen his right to that protection and the criminals will have a heyday. Moreover, our law-enforcement agencies would be so busy checking up on guns they would have little time to do much about it.

To reiterate my position, my bill, House Concurrent Resolution 311, is to affirm our Nation's belief in our second amendment right to keep and bear arms. I welcome my colleagues to join me in my support of this constitutional right by cosponsoring my legislation.●

FLORIDA GETS "E" FOR EXCELLENCE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LEWIS of Florida. Mr. Speaker, this week, during the 51st international observance of World Trade Week, I would like to recognize the many people in my State of Florida who have dedicated themselves to promoting and improving our Nation's export trade.

International trade is an extremely important and integral part of our economy. Total international trade of goods and services now stands at 21 percent of U.S. GNP. It is estimated that every $1 billion of export trade produces 25,000 jobs. In 1982, exports accounted for 5 million jobs within the United States and one of every eight manufacturing jobs.

Last year, Florida's Lt. Gov. Wayne Mixson, who has been instrumental in bringing the State of Florida to the forefront in the world marketplace, accepted the E Star Award from President Reagan for outstanding exporting. The E Star Award is the Nation's highest export award, and only five were presented in 1983.

This year the Sporting Goods Manufacturers Association, which is located in my district, in Palm Beach County, wa one of 60 Florida organizations to receive a Presidential "E" award for excellence in exporting.

The Sporting Goods Manufacturers Association plays a significant role in increasing exports for its industry. The association has helped increase exports 400 percent over the last 5 years. This has been accomplished by forming an international organization to solve the industry's problems, especially trade disputes with foreign countries; insuring better coverage by the international news media; creating and supporting international marketing consultants by member firms; arranging participation in international sports shows; locating foreign distributors; supporting trade missions; encouraging foreign buyers; providing training programs; and instituting an international marketing newsletter.

The commitment to exporting by the Sporting Goods Manufacturing Association and many business and commerce leaders in the State of Florida sets an example for the rest of the Nation to follow in meeting the trade challenges of the future. These organizations and individuals take great pride in their work. We should commend them for serving their country well and setting an example for others throughout the Nation.●

GULF STATES' CONTRIBUTION TO ALABAMA

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. FLIPPO. Mr. Speaker, it is my pleasure to pay tribute to Gulf States Paper Corp. as it begins its second century of service to Alabama and the Nation.

Gulf States is a highly diversified, privately held company with its national headquarters in Tuscaloosa, Ala. This outstanding company has

proven to be one of the giants in Alabama industry, with more than 1,300 employees and a capital investment of multimillions in Alabama.

Gulf States is now in its fourth generation of family ownership, and now has land holdings in 21 Alabama counties; forest products such as lumber, timber, poles and Christmas trees; a pulp and paperboard mill in Demopolis, a folding-carton plant in Maplesville and a host of smaller companies, including Westervelt Land Co., named for the founder of the company, Herbert E. Westervelt.

In 1957, Jack Warner, grandson of the founder, became president and embarked upon a program of diversification and expansion that has made Gulf States into one of the most dynamic companies in Alabama.

The contributions of this corporate giant are many and varied, not only in Alabama, but in many other Southern States. I thank Mr. Warner and his family for all they have meant to Alabama and join with my colleagues in paying high tribute to the corporation and the family as they begin their second century of highly successful operations.●

TRIBUTE TO POSTMASTER LAWRENCE H. FRIEDMAN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. TORRICELLI. Mr. Speaker, the Teaneck City Club will honor Postmaster Lawrence H. Friedman of Teaneck at a luncheon today, May 22, upon his retirement from the U.S. Postal Service. Larry has served Teaneck longer than any postmaster, being appointed by President John F. Kennedy in 1962.

The postmaster has been active in the township; he served on the township's Committee on Commerce and Industry, Teaneck Blood Bank. He also was chairman of the Cancer Crusade and president of the local Toastmaster Club.

Statewide, Mr. Friedman served as Bergen County chairman for Hiring the Handicapped, and as a member of New Jersey's Tercentenary Committee, being appointed by former Gov. Richard Hughes.

Larry Friedman served as State president of the National Association of Postmasters, and as chairman of the New Jersey Federal Safety Council and the North Atlantic Safety Council.

Locally, in the township he is a member of the American Legion, Veterans of Foreign Wars, B'nai B'rith, the Jewish War Veterans, Teaneck Masonic Lodge, and is currently serving as vice president of the Bergen County Square Club.

Teaneck will surely miss its hardworking postmaster.●

IN HONOR OF EDWARD E. McKINLEY IV

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. FISH. Mr. Speaker, I would like to call attention to a special act of heroism. On March 27, 1984, Pvt. Edward E. McKinley IV of Peekskill, N.Y. risked his life to protect his fellow man.

Edward McKinley saw a very dangerous situation during routine exercises at his base in Fort Sill, Okla. A truck loaded with ammunition caught on fire, and Private McKinley risked his life to battle the fire, preventing the detonation of any of the firearms, and saving the lives of countless people in the immediate vicinity.

This incredible act of bravery was cited by the Secretary of the Army, and Pvt. Edward McKinley IV was presented with the Army Commendation Medal. I would like to take this time to congratulate Private McKinley and his parents, for exhibiting the type of strong character and fortitude of which we can all be proud. I am honored to represent Edward and his parents and commend the Town Board of Cortlandt, N.Y., for recognizing the special actions of Private McKinley in an award ceremony on June 4, 1984. I would like to honor him further by submitting for the RECORD the Secretary of the Army's statement on Private McKinley.

The Army Commendation Medal to Private Edward E. McKinley IV for meritorious heroism on 27 March 1984 while participating in a field training exercise with B Battery, 2nd battalion, 2nd Field Artillery, 214th Field Artillery Brigade, Fort Sill, Oklahoma. Without regard for his own safety, Private McKinley extinguished a fire that involved explosives. Upon noticing a large fire at the rear of a truck loaded with ammunition, and disregarding any dangers to himself, he effectively battled the fire. As a result of his actions and quick thinking, Private McKinley prevented any further damage or detonation of ammunition resulting in no loss of life, no major equipment damage and effectively reducing seriousness of those injured. Private McKinley's actions reflect great credit upon himself, the 214th Field Artillery Brigade and the United States Army.●

DR. DONALD L. CUSTIS

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. MONTGOMERY. Mr. Speaker, on May 13, the head of the Nation's largest health care delivery system retired, thus ending an outstanding career that had spanned more than 40 years.

Dr. Donald L. Custis, Chief Medical Director of the Veterans Administration's Department of Medicine and Surgery, has proven himself to be a pioneer in medicine, in medical administration, and in his relationship with the Committee on Veterans' Affairs and the Congress. There have been few opinions as informative and as highly regarded as those presented by Dr. Custis in testimony and in correspondence with Members of this body.

Prior to joining the Department of Medicine and Surgery in 1976 and assuming the helm in 1980, he served as Surgeon General of the U.S. Navy. He is the only person ever to have headed two major health agencies of the U.S. Government.

Quality medical research and development, an excellent medical staff and advances in health care, such as those that abound in our Nation's largest hospital network, can only be prolific when an essential element is present: Strong, inspirational, caring leadership. Through Dr. Custis, this element has not only been present, it has flourished.

His insight and his planning have been driving forces in the immediate past successes of VA health care and in laying the foundation of a prosperous future. Among his contributions are: The implementation of a system of strategic management in the VA medical system; improvement in communication between the department of Medicine and Surgery and veterans' service organizations; a program to place computers in all VA hospitals; and strengthening of the role VA field managers have in running the system. By the end of this month, we expect to see the results of one of his last projects: A plan for handling the increased demands for health care from a rapidly increasing veteran population over the age of 65.

Dr. Custis' foresight and determination helped bring VA health care to a level of standards by which the worldwide medical community measures itself. As overseer of 172 medical centers, 227 outpatient clinics, 103 nursing homes, 16 domiciliaries, and almost 200,000 employees, Dr. Custis garnered the respect and admiration of his staff, veterans' organizations, the administration and the Congress.

Mr. Speaker, for what he has given this Nation through his contributions to medicine, a prestigious military career honored with numerous decorations, and a history of meritorious service to the veteran population, Dr. Custis has more than earned what can best be said in a modest manner of praise, "Thank you."●

H.R. 3979

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. GOODLING. Mr. Speaker, as a consponsor of H.R. 3979, the Comprehensive Smoking Education Act, I am pleased that this bill has been brought to the floor of the House of Representatives for consideration.

I personally feel that it is very important to get the message to the public that cigarette smoking is dangerous to smokers and, according to recent information, to those who are around them when they smoke.

I am especially concerned that this message is received by the youth in our country, who are under increasing peer pressure to take up cigarette smoking. We have to make clear to these young people the dangers of smoking. Many of them feel that diseases related to smoking appear later in life and that they are safe.

Many teenagers and younger children feel that they can stop smoking if it starts to harm them physically. The more information that is available to them, be it from health classes in their schools or strong warning labels on cigarette packages, the greater the possibility that they will not take that first puff—or that they will not start smoking on a regular basis.

After the first warning labels appeared, the incidence of cigarette smoking in our country declined. Hopefully these new, stronger labels will convince an even larger group of people to stop smoking and keep our Nation's youth from starting a habit that may take years off of their lives. Large numbers of human lives are lost each year to cigarette-related disease, lives that could have been saved if they only would have heeded the warning: Cigarette smoking can be harmful to your health.

I urge my colleagues to pass this legislation. The sooner it becomes law, the sooner we begin to save lives.●

FATHER LOPEZ HIGH SCHOOL

HON. BILL CHAPPELL JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. CHAPPELL. Mr. Speaker, I take this moment to share with my colleagues the outstanding accomplishments made by students at Father Lopez High School, Daytona Beach, Fla., involved in the United Nations program. The model U.N. program allows students to participate in a decisionmaking process similar to that of the United Nations. Students must possess an ability to ardently debate issues through the perspective of the country they represent, and are judged on the basis of their skillful persuasion and professionalism.

During the 1983-84 school year, Father Lopez High School claimed numerous awards through competition on the city, State, and national level of the U.N. program.

In addition to their titles of Southern State Champions, Intercollegiate Champions, and Champions of the Canadian-American competition, Father Lopez High School was declared the "Best Delegation" on the national level of the U.N. program.

National distinction was awarded to Father Lopez High School in December 1983 when they traveled to Washington, D.C., to participate in the OAS [Organization of American States] competition. This title is the most prestigious award attainable in the U.N. program, and I commend the outstanding performance displayed by this articulate group of students. In addition, I take this opportunity to congratulate Father Hurley and Father Blood for the coaching and encouragement of these talented individuals and future leaders of America.●

A TRIBUTE TO JOSEPH BORMEL

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. LONG of Maryland. Mr. Speaker, today I wish to honor and congratulate Mr. Joseph Bormel, who will be receiving the Baltimore City Comptroller's Award for his exemplary service as chairman of the Comptroller's Harbor Committee.

This award acknowledges Joe's years of service on behalf of the city and the people of Baltimore. In addition to owning a successful real estate business and performing appraisal work for the city, Joe has distinguished himself as an outstanding leader in the community.

In the years that I have known Joe Bormel, he has shown himself to be the consummate public servant—the type of individual who knows no limit when serving his fellow man. He lead the fight to get local industries to implement pollution controls, long before it was a popular cause. In his fight against pollution he has helped the city obtain expert testimony on water pollution problems and how to solve them. Joe has gone to great lengths to insure that the Chesapeake Bay, which he loves so much, be kept clean and safe. With his experience, knowledge, and interest, Joe was the logical and best choice for chairman of the Comptroller's Harbor Committee. In this capacity, he worked to improve safety around the Inner Harbor by placing safety rings and other safety equipment in the area, and continued the fight against pollution by directing the committee's testing of harbor waters for pollutants. He has also taught courses in boating, insuring the pleasure and safety of boaters using our beautiful harbor.

It is a great honor to bring the accomplishments of Joe Bormel to the attention of my colleagues, and I look forward to his continued involvement in our community.●

TRIBUTE TO THE LATE CARROLL BUTLER COOK, JR.

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. MATSUI. Mr. Speaker, on February 20 a prominent businessman of great esteem in my home district passed away. Carroll Butler Cook, Jr. was a community leader of great initiative and success, providing an outstanding example of resource and accomplishment for all who knew him.

Carroll was president of Artz and Cook, Sacramento's oldest active real estate firm, which his father before him had founded. With his father, Carroll was one of the founders of Sacramento Savings & Loan, and along with his brothers founded Pacific Savings & Loan in Hawaii. Carroll himself was founder and resident of the California Real Estate Credit Union, and was a board member of El Dorado Savings & Loan. He was a member of the Theta Chi Fraternity, the 20/30 Club and the Sutter Club, as well as a member of several prestigious golf clubs.

Carroll attended Sacramento High School and Sacramento City College, earning a bachelor of arts degree in economics at the University of California, Berkeley. He employed this education in the promotion and nurture of his community's financial growth and overall well-being.

For those who knew him, Carroll has forever earned a place in our hearts and our memories. Our prayers and thoughts go out to his wife Frances, his sons Robert A. and Carroll III, his mother Mrs. Carroll A., his brothers William, George, and Robert, his sister Margaret Leary, his grandchildren, and one great grandchild. I am proud to pay tribute to this exceptional man, Carroll Butler Cook, Jr.●

TRIBUTE TO ALLAN ESTES

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mrs. BOXER. Mr. Speaker, on May 6, 1984, the arts community and the people of San Francisco lost a true friend and inspired creative force at the death of Allan Estes. This young man, only 29, was the founder and artistic director of the Theatre Rhinoceros, the largest and most successful gay theater company in the country. His death at such a young age marks another tragic loss resulting from the outbreak of AIDS.

Allan was a special person with great talents and a gift for showing through the theater the complexities, frustrations, and joys of contemporary life. Allan came to San Francisco in 1977 with a dream of bringing together in theater an authentic expression of the lives of the gay community in modern America. From this dream the Theatre Rhinoceros was born. Allan Estes took this small group of players from a very modest but successful first season of 24 performances before 700 people to last year's major successes of 300 performances before combined audiences of 30,000.

Under his direction the Theatre Rhinoceros reached out to new playwrights and fledgling actors and provided an exciting creative space for their growth. His special talents and dogged persistence in support of the theater resulted in the Theatre Rhinoceros having the second largest subscription audience of any theater in San Francisco. Allan's hard work and sunny smile often made what seemed improbable if not impossible within reach for many newcomers to the stage.

Allan Estes in his life demonstrated that hard work and dreams still work in our country and he will be missed.●

THE RETIREMENT OF PORTER P. PARRIS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. RALPH M. HALL. Mr. Speaker, on Wednesday, May 1984, representatives of our hotel/motel industry, Members of Congress, Government officials, and a number of other friends will gather at the Capitol Hilton to honor a gentleman who has spent 50 years in service to the public.

Porter P. Parris is retiring from the Hilton Hotels Corp., following a career which began in Lubbock, Tex., as a night elevator operator. In 50 years with Hilton, Mr. Parris traveled coast to coast from El Paso to Long Beach to New York and Boston with several stops in Chicago. He served as general manager of Hilton's most prestigious properties. He has been vice president of Hilton divisions from the Northeast to the Southwest.

Since 1980, Porter Parris has been in Washington, D.C., as senior vice president of Hilton Hotels and assistant to the chairman of the board.

As Barron Hilton's personal representative in Washington, Porter is familiar to many of us on Capitol Hill, epitomizing, with his warm and jovial manner, the hospitality industry which he represents.

I am sorry to see him leave Washington but personally delighted that Porter's departure will be a gain to our native Texas where he and his lovely wife, Mary Ross, have chosen to retire.

Mr. Speaker, I am sure that all who have had the pleasure of knowing Porter, through his work or community service, join me in wishing him the best as he pursues his leisure interests.●

WESTCHESTER COUNTY'S SALUTE TO SENIORS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BIAGGI. Mr. Speaker, because May is Older Americans Month, I would like to call to the attention of my colleagues a fantastic event which will be taking place in my congressional district today.

For the last 10 years, Westchester County's Salute to Seniors has been an exciting and impressive event. Sponsored jointly by the Westchester County Office for the Aging and the Westchester County Department of Parks, Recreation and Conservation, the Salute to Seniors normally attracts about 5,000 people, both senior citizens and young people alike. Salute to Seniors affords all those in the immediate area the opportunity to learn more about the services and benefits that are available to them. Included in this year's event will be an extensive health fair, offering a variety of different health tests and providing information from the major health organizations around the city and the country. Also on display will be an exhibition which will consist of over 30 booths set up by different organizations and groups, such as social security, emergency medical care, the fire department, many senior citizen groups and centers and also including a booth set up by the board of elections which will be available for voter registration.

Salute to Seniors is an occasion that has become an institution in Westchester County. It has always attracted great interest and many professional people, who use the event to observe the newest changes and learn about the most modern technology in dealing with the very special problems of the elderly.

In addition to the more serious side of Salute to Seniors, continuous professional and amateur entertainment will provide enjoyment and relaxation to the participants, and some of the groups and acts will be made up of senior citizens from the surrounding area.

I would like to formally congratulate Mr. Lou Greenwood, director of communications for the Westchester County Office for the Aging, who together with Joe Conway, director of special services of the parks department have worked to make this annual event a huge success. As the ranking New York Member of the House Select Committee on Aging, I am delighted to know that special activities such as this honoring our Nation's 30 million elderly citizens are taking place during Older Americans Month as well as through the year.●

NATIONAL MARITIME DAY

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mrs. BOGGS. Mr. Speaker, 51 years ago the Congress mandated that May 22, the anniversary date of the first transatlantic voyage by a steamship, the SS *Savannah*, in 1819, be set aside as National Maritime Day. A merchant marine memorial service is held annually in conjunction with the official observance. It is the only national memorial honoring those American seafarers who have lost their lives in the service of their country.

This service holds extraordinary meaning for those of us who represent the port cities of this Nation and also represent those leaders from maritime labor, management, and Government who participate in this special tribute.

It has a deeply personal meaning to this Member who represents the port city of New Orleans, the desire for free passage through which led President Jefferson to the purchase of the vast Louisiana Territory, and the defense of which in the War of 1812, the war that established our maritime position, engaged the leadership of Gen. Andrew Jackson. The port today provides the economic lifeblood for the entire geographic area.

In addition, Mr. Speaker, my husband, Hale Boggs, was transfered from his Navy duty during World War II to serve as legal officer to Adm. Telfair Knight at the Maritime Administration. It was there that he learned first

hand the value of the training and the valor of the service of American officers and seamen, 5,638 of whom were lost in the 733 American ships that were destroyed as a result of enemy action.

The finest tribute that we could pay to these valiant dead would be the adoption of a strong, viable maritime policy that will expand our industrial base to strengthen our national defense, and insure the uninterrupted flow of trade and commerce in times of peace, in times of international tension, and the good Lord forbid, in times of war.

All U.S. industries, including those engaged in agricultural and energy resources, must recognize that the United States is required to regularly import some 70 strategic materials, and to supply our own armed services and our allies during time of international tension and of war.

Today, with greatly increased international responsibilities, we have half the number of ships flying the American flag that were lost during World War II.

Present at the memorial services today were the inheritors of the bravery and dedication of those seafarers whose memory was being honored, members of the Merchant Marine Academy, the Calhoon Engineering School, the Seaman's International Union Training Center. They are willing and well prepared to serve our Nation and its citizens. We must provide them with a maritime policy that produces the ships and the industrial and trade policies that allow them this privilege.●

SOVIET TREATMENT OF SAKHAROVS IS APPALLING

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. OBEY. Mr. Speaker, I am appalled by the refusal of the Soviet authorities to respond in a decent and humane way to the request of Andrei Sakharov that his wife be allowed to leave the Soviet Union in order to obtain medical treatment.

Governments are put on Earth to serve people, not the other way around. Any individual in the world should have a right to travel freely.

The action taken against the Sakharovs is not only appalling, it is stupid as well. Their cruel treatment of the Sakharovs and the Soviet refusal to allow thousands of Soviet Jews to leave the country does more damage to the Soviet's image in the world than would a massive flight of political refugees. The world's attention once again is not only focused on the inadequacies of the Soviet system, but also upon their lack of respect for individual human beings.

This heavy handedness is another good example of why the Soviets will always have trouble convincing other people that theirs is a system worth following.●

POJOAQUE—NATIONAL CHESS CHAMPIONS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. RICHARDSON. Mr. Speaker, I would like to call the attention of my colleagues to a special group of young students from Pojoaque Elementary School, located in New Mexico's Third Congressional District.

This exceptional group of very gifted students, led by their captain Andy Fisher and their coach, Mr. Robert Fisher, recently won the National Elementary School chess championship held in Syracuse, N.Y. While the Pojoaque Elementary School has won every individual and team chess trophy in New Mexico over the last 3 years, this was their first national championship. Against extremely tough odds, these students from a small public school in northern New Mexico beat out nearly 400 participants to earn this prestigious honor in the most intellectual of sports.

I salute the members of this fine chess team—William Roybal, Ernie Gabaldon, Mike Borduin, Jamie Arnold, Greg O'Brien, and Andy Fisher, and of course, their coach, Mr. Robert Fisher. Their talent, competitive spirit and accomplishment are sources of pride for all New Mexicans.●

NATIONAL TOURISM WEEK

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. BONER of Tennessee. Mr. Speaker, next week marks the beginning of National Tourism Week. Each year millions of travelers from the United States and from other countries visit our Nation's cities, our historic sites, our national parks and other major vacation attractions. This travel, in turn, creates a variety of jobs at every skill level for millions of Americans. In 1982, 4.5 million people were employed in tourism jobs and 2.2 million people were employed in jobs that indirectly supported tourism. The industry is the second largest employer in our country with minority workers holding 13 percent of all jobs in tourism and women holding over half of all travel industry jobs.

This year, our country is hosting two major international events, the Summer Olympics in Los Angeles and the World's Fair in New Orleans. I would like to inform my colleagues that the mascots for those two events are taking their tour of the Capitol today, and are participating in the ceremonies designed to call attention to this special week.

These two events will draw worldwide attention to our country and will also prove that this industry is not only important to our economy but also provides an important link to cultural exchange with other countries.

Employees of the tourism industry provide support services to vacationers and in many cases they represent a personal side of our country to international and domestic travelers. This week is dedicated to those people who labor to make our vacations enjoyable and memorable experiences. Please help us celebrate this special week and to recognize those deserving men and women.●

ACCOLADE FOR COL. PAUL TAYLOR

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. HUNTER. Mr. Speaker, during the past several years I have had the pleasure of working with Col. Paul Taylor, head of the Los Angeles District Army Corps of Engineers. Colonel Taylor will be leaving this post in June and I wanted to take this opportunity to commend him for the excellent job he has done as district commander.

As you know, the Los Angeles District, is one of the largest and most diverse Army Corps districts, encompassing over 240,000 square miles in California, Arizona, Nevada, New Mexico, and Utah. Due to this diversity, there are a wide variety of projects in the Los Angeles District ranging from dams and reservoirs to constructing and repairing facilities at 11 Air Force and Army bases. Colonel Taylor has done a superb job in seeing that the needs of these diverse areas were met.

In my district, Colonel Taylor was instrumental in starting design and construction of two very important projects: Imperial Beach breakwater and the Sweetwater River Flood Control project. Both projects were necessary to provide for the health, safety and economic well-being of residents in the area. In addition, during the flooding of the Colorado River in the summer of 1983, Colonel Taylor acted quickly and decisively to provide emergency streambank protection. This quick action saved many lives. After the flooding, the Los Angeles District

Corps of Engineers was there to help the residents along the river begin the long and laborious cleanup process. This tremendous effort by the Los Angeles District clearly showed Colonel Taylor's ability to work effectively and efficiently in an emergency situation.

Colonel Taylor is not only a highly competent administrator but is also an exemplary Army officer. The U.S. Army Corps of Engineers is indeed lucky to have his expertise and dedication. Again, I commend Colonel Taylor's work as district commander of the Los Angeles District Army Corps of Engineers and I wish him well in his new position as chief of staff of the Army Corps of Engineers.●

ADULT EDUCATION

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 22, 1984

● Mr. WILLIAMS of Montana. Mr. Speaker, we have witnessed much concern during this Congress for the state of education in the Nation. Much of this concern was sparked by evidence that our competitive economic edge was becoming blunted. Declines in productivity and our international economic superiority were attributed, in part, to the detrimental effects of poorly educated workers. As a consequence of this concern over educational quality, the committees of the Congress have been diligently working to develop suitable legislative solutions.

Many of the solutions being proposed are long-range, aimed at correcting problems that exist in elementary and secondary schools. But it is not just our youngsters who are experiencing educational difficulties. Conservative estimates now place the number of adult illiterates at about 23 million, with an additional 2.3 million adults joining that number annually. These newcomers to the illiterate adult pool come from the ranks of high school dropouts and legal and illegal immigrants.

These millions of adults are functionally illiterate; they do not possess the skills and the essential knowledge they need to enable them to carry out the social, economic, and civic roles required of them as citizens. These millions of adults are either unable to escape from low-skilled and low-paying jobs or they are unable to get a job because functional literacy is essential to obtaining and retaining productive employment and to job advancement as well. It is hard to arrive at precise estimates of what this high degree of illiteracy costs us but some recent data indicates that the benefits of literacy outweigh the costs by a factor of five. That is, what we spend on efforts to obliterate illiteracy will yield a return on this investment in human capital potential of five times the costs.

As these figures indicate, adult education is an important component of our national effort to assist this Nation's educational systems. Adult education is important because literate functioning is a prerequisite to personal and social success and adult education is important because the Nation's rapidly changing industrial marketplace requires workers who are sufficiently literate to respond efficiently and effectively to the demands of their jobs.

Because I think that quality adult education is essential to our welfare, I have introduced H.R. 5390, an act to amend the Adult Education Act. This program is currently being reauthorized. My bill, which I hope will serve as the basis for the reauthorization of the Adult Education Act, makes several improvements in the existing legislation.

H.R. 5390 requires coordination of adult education efforts with other programs that offer similar services, such as vocational or higher education, so that the Federal dollar is better utilized and duplicative services are reduced or eliminated. H.R. 5390 allows States to use a portion of their allotment for private sector on-site adult education activities, especially in small firms and in private concerns that employ a significant number of individuals who could be served by adult education. H.R. 5390 also provides more specific guidelines for State plans and for evaluations of these efforts, and it requires that a State use an existing board as an advisory board rather than create a new one, where this is feasible. The bill establishes a sliding scale of Federal payments to States, keeping the current 90:10 ratio for the first year but eventually reaching a 60:40 ratio by the third year of reauthorization. State maintenance of effort provisions in current law are retained in H.R. 5390 and the combination of retaining this provision and adopting a sliding scale of payments that will result in higher State contributions could result in a significant enhancement of adult education programs at a time when we will begin to rely on such efforts to improve the quality of this Nation's workforce. H.R. 5390 also organizes the various research and demonstration programs into a national program section and it calls for a periodic assessment, using appropriate sampling techniques, of the state of literacy in the Nation.

I regard adult education as central to a sound economy. I urge you to join with me in sponsoring this important piece of legislation.●

CENTRAL BAPTIST HIGH SCHOOL CLASS OF 1984 GRADUATION

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LUKEN. Mr. Speaker, as Representative of the First Congressional District of Ohio, I ask my colleagues to join with me in congratulating the Central Baptist High School Class of 1984 on their graduation to be held on May 25, 1984.

Central Baptist High School is affiliated with and supported by the Central Baptist Church in Cincinnati, Ohio. It is fully accredited and was established first as an elementary school in 1968. The high school was begun in 1975.

I wish to commend the pastor, Charles Hays, the administrator, Murray Grace, and the faculty of the school for a job well done. I also commend the parents and friends for their support and encouragement. I know they must be very proud of these young people.

This is the beginning of a new era in the lives of these graduates—an era in which each one of them will make a valuable contribution to our community. I congratulate them and wish them every success in their future endeavors. My best to the class of 1984: Stephanie Rose Atkins; Hollie Mitchell Bowling; Brad Alan Hays; Kimberly Sue Jones; Ron Alan Kump; Sarah Lee Schoettinger, valedictorian; Richard Joseph Skelton; Melissa Ann Taylor; Sheri Ann Wells; and Aimee Lynette Woodward, salutatorian.●

MARK PANGILINAN SPEAKS OUT FOR GUAM TO PRESIDENT REAGAN

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. WON PAT. Mr. Speaker, on April 24, 1984, President Ronald Reagan visited the U.S. territory of Guam on his way to mainland China. His visit to Guam comes at a time when the people of that island are pursuing the first major change in our relationship with the United States since 1950. They are seeking a change which we hope will result in Guam being America's next commonwealth.

One man who has strong, and in my mind, excellent views on what is needed to make this change a joint effort that will lay the groundwork for decades of effective and workable relations with Washington is Guam businessman Mark V. Pangilinan.

I have been privileged to know Mr. Pangilinan since he came to Guam in 1948 to open what would become a successful string of businesses. Starting off with only a $5,000 loan from the old Bank of Guam, Mark Pangilinan has created a most impressive business empire which numbers 14 business enterprises including the Guam Tribune newspaper and Ben Franklin Department Store. He succeeded in large part because of a tremendous personal drive for successes and one of the best business minds in the territory.

Although Mark Pangilinan originally came from the Philippines, he acquired American citizenship many years ago and today is widely recongized for his indepth knowledge of both business and government affairs. He has also made it his business to carefully study the unique political needs of Guam over the years. It was this keen understanding of what Guam must do in the future to assure its political, economic, and social success which lead him to write a personal letter to President Reagan and publish it on the front page of the Guam Tribune on the day the President arrived on the island. In that memorable letter, Mr. Pangilinan reiterated what I have said here many times: "We (on Guam) are proud to be Americans." He proceeded to outline the problems Guam has had in developing because of the adverse impact of Federal laws and a lack of sound document spelling out how the island should be treated by the Federal Government under certain circumstances.

While I do not know if President Reagan had the occasion to read this letter, I hope he and his staff will read it at some time in the near future. Mark Pangilinan spells out in clear language that Guam and its people are doing their best to serve America. All they ask is that America work with them to create the framework for a better future that will be in the best interest for all concerned parties. I want to share Mr. Pangilinan's letter with my colleagues here today because I believe it echoes the sentiments of my people. I agree with Mr. Pangilinan when he writes that it is time for the United States to set forth a "clear-cut policy for Guam." This is long overdue and certainly reflects my own comments on many occasions.

Mark Pangilinan is a man who knows from personal experience the difficulties in living in Guam and trying to be an American businessman when the laws of his own nation often are designed to thwart that initiative. He urges President Reagan to take personal interest in the upcoming status commission with Guam, and I concur.

It is often ironic that the best champions of democracy are men such as Mark Pangilinan who are not native Americans. But as surely as he has adopted this country as his own, so had he adopted our love for freedom, democracy and justice. Through his words and his actions, he teaches all a lesson that should never be forgotten: We cannot take our system of government for granted. He knows the value of involvement in government affairs as a private citizen and in this area he has labored long and hard. His list of civic participation is impressive by any standards and includes service as the chairman of the board of the University of Guam, chairman of the board of directors, Guam Power Authority, campaign chairman, American National Red Cross, former member of the Civil Advisory Council, Strategic Air Command, USAF, former president, Filipino Community of Guam, board member, chamber of commerce. He has additionally served the government of Guam on several commissions, and is twice recipient of the highest government award. In 1974, Mr. Pangilinan was awarded the Most Outstanding Filipino Overseas Award by the Philippine Government. And he was the recipient of the Pro-Ecclesia Pontificae award from Pope Paul for his service to the Roman Catholic Church.

At this time I ask that Mr. Pangilinan's letter to President Reagan be inserted in the CONGRESSIONAL RECORD. I am also placing in the RECORD a short article about this fascinating man so my colleagues can better understand the genesis of his desire to be of service to his fellow Americans and be part of a program that will help the Federal Government and we here in Congress establish a new relationship for Guam that will enable the island to prosper and grow in the future. Thank you.

OPEN LETTER TO PRESIDENT REAGAN

DEAR MR. PRESIDENT: Welcome to Guam!

Although your brief stopover here is but an incident in your great and historical mission to China to establish closer relations between that nation and the United States, your decision to use Guam as the springboard of the trip dramatizes the strategic role and location of this tiny territory in the vast Pacific basin.

We will not dwell at length on this point, nor on the background and history of Guam. Undoubtedly you have all these in your briefing papers.

However, Mr. President, as a newspaper dedicated to championing the cause of the ethnic groups on this island—the native Chamorros, the Filipinos and other groups that have intermingled racially and culturally to form the local population—we feel we should give you also a candid report on the feelings of our people.

We are proud to be Americans. We are proud to be a territory of the United States. And as you know, our people have voted to become a Commonwealth under the United States. But there is a growing feeling of frustration and near despair because of the failure of Washington to declare and spell out a clear-cut policy for Guam.

It is ironic that Guam is considered one of the largest beneficiary of Federal aid on a per capita basis—and yet we are the least developed economically and politically.

This failure to develop has made Guam dependent principally on Federal financial support. And when the Government of Guam fails to make both ends meet, our government leaders are told by the Department of the Interior to cut costs, to employ less people in government and to operate more efficiently.

Washington completely overlooks that most of our economic troubles arise from the fact that under the Organic Act and with all the contraints of certain Federal laws—intended for States fully integrated with the Union, but impractical for a non-incorporated territory—it has never been possible for Guam to develop economically and politically.

We are now engaged in a campaign to attain some kind of Commonwealth in the hope of relieving Federal constraints on our development and writing into law a definition of our political status that would enable Guam to operate more independently within the jurisdiction of the United States.

We feel that little or no progress can be achieved in this campaign unless Washington declares and spells out in unequivocal terms its intentions and objectives for Guam.

If Guam is to be kept in perpetuity by the United States principally as a military base, then Washington should make such a declaration and Congress must write into law such a policy.

If that is the policy, then the people here would understand, although there may not be total conformity. They would understand that as a military base, for national security purposes the military must keep most of the lands it now holds. But the people, who originally owned the lands, must be adequately compensated. Those lands must either be purchased at fair value, or leased on a long-term basis at fair value.

This is one of the most sensitive problems caused by the absence of a clear-cut policy. The people can not be left dangling forever with promises of some kind of settlement and with little hope of ever recovering their lands. An attempt to solve the land claims problem through negotiation and/or court action is proving unsatisfactory.

As we see it, Mr. President, of all Presidents since Guam was acquired by the U.S. under the Treaty of Paris, you are in the best position to establish a permanent and unequivocal policy for Guam.

You are the President in this era of the Pacific Basin when the entire world is turning to the East. Guam is part of the Pacific Basin and Guam is the United States' farthest outpost in the region—a logical springboard for regional influence and security. If poll predictions are correct and we have no reason to doubt them, you, Mr. President, will be re-elected for a term of another four years.

What role do you want Guam to play in the Pacific golden era under the United States?

If Guam is to play a useful and strategic role in America's policy of Pacific involvement, then it's high time Guam's status must be defined. The people here should not be kept in guessing frustration. The people here want to be counted as Americans and treated as Americans with full rights under the Constitution. All they demand now is full and fair attention.

Long has Guam been ignored, neglected and taken for granted. And your visit here, Mr. President, no matter how brief, can be the starting point of an enlightened and clear-cut policy for Guam.

If Guam is to be kept principally as a military establishment, everything else would logically follow. Guam must then be given adequate Federal aid to fulfill her position as a military base. Political status would then necessarily be limited within the framework of national security needs. But as part of political status, the people of Guam must be given full rights as American citizens and other special considerations. Permanent military occupancy entitles the people to such fair treatment.

If Guam is to remain a military establishment for a limited period of say, 20, 50, or 90 years—then such a policy should be clearly stated. Lands occupied by the military must be leased at fair price. Political status then would be worked out accordingly within the framework of such a policy.

The current exercise to seek political status will be a charade unless a clear-cut policy is declared for Guam. It will at best turn out to be a movement to gain more Federal concessions under the guise of becoming a Commonwealth. And as long as Washington remains uncommitted on whether Guam is to be kept a military establishment forever or temporarily for a stated definite period, political status will remain a chimera—"a foolish fancy."

We wish you all success in your China mission, Mr. President. And when you return to Washington, please do not forget that Guam is a vital part of the Pacific Basin and Guam, after all, is U.S.A.—"where America's day begins."

Respectfully,

MARK V. PANGILINAN,
Publisher.

MAKING HIS MARK IN BLACK INK

(By Barbara Jacala)

The picture window of Mark Pangilinan's plush fifth floor office of his Ben Franklin department store in Tamuning, Guam, is his eye on the surrounding stores of his retailing and publishing empire.

"I'm a one man corporation," says Mark Vega Pangilinan, President and chairman of the board of M.V. Pangilinan Enterprises.

"When it comes to business I answer only to myself," Pangilinan is fond of saying. In starting a new business, it is he who lays all the ground-work—establishing guidelines, sales projections, even supplying the inventory—after which he goes out and hires a manager.

Pangilinan takes direct control of 14 business enterprises in the empire, which is among the top five on Guam in terms of sales and probably the most diversified group of companies on the island.

He meets with division heads daily on a scheduled route to check the pulse of his businesses. Pangilinan says he likes a direct daily rapport with his managers.

The remarkable energy of the man with the boyish good looks and a $5,000 loan from the Bank of Guam in 1948 have been transformed into a corporation whose assets are estimated today at $35 million.

His pride in what he's accomplished from his "humble" youth in Pampanga, Philippines, is evident. It's reflected in the names of most of his businesses. The storefronts are his testimony: Mark's Motors, Mark's Sporting Goods, Mark's LP Gas; even his corporate newsletter is called "Re-Marks."

Pangilinan first came to Guam in 1945 aboard a merchant marine vessel that traded between the Philippines and Okinawa with stops on Guam. The radioman enjoyed the fiestas and hospitality here. He made friends and began taking orders for them for items from the Philippines.

This kind of informal trade was the beginning of what eventually turned into a multimillion dollar merchandising business empire. It was the beginning of a series of business ventures which have made Pangilinan a business tycoon and civic leader of distinction.

At 56, Pangilinan is still the very heart of M.V. Pangilinan Enterprises, with no immediate thought of retirement. However, to help manage the growing empire, Pangilinan has recruited his family. All but one of his five children are now active in the business. The eldest, David, is the manager of Guam Furniture Mart, Mark's LP Gas and Mark's Laundromat. Mark Jr. is the general manager of Ben Franklin. Cerila is the assistant buyer at Mark's Shopping Center. Genadine is the operations manager at Mark's Sporting Goods. John, the youngest, is in school at the University of Southern California, taking a business/finance curriculum. Bert Pangilinan, Mark's youngest brother, is manager at Mark's Sporting Goods. "It is much easier for a person from within the family to grow in MVP than anyone else," says Mark Jr.

"My dad and I are very close. I would like to think that I am the closest to him, also. I would certainly be a fool if I were not to listen to a guy as successful and intelligent as my father."

Mark Jr. added that his goal is to see his father's dream continue. "And I want the same thing for my kids," said the son who many feel will eventually succeed his father as head of the family conglomerate.

The dream began coming true in 1948 when Pangilinan settled on Guam and opened up a tailoring shop and the Bataan Restaurant, then married Guam's Guadalupe Torres. That same year he used a $5,000 bank loan as the seed for the empire that followed. His first big success was the Guam Furniture Mart, opened in 1962. The dream sweetened as others followed.

Allied Construction Co., 1963;

Mark's Shopping Center, 1964;

Ben Franklin franchise, 1966;

Ace Hardware, 1968;

Mark's Insurance Underwriters and Mark's Motors (Honda dealership), 1969;

Mark's LP Gas, 1970;

Guam Amusement Park, 1974;

The Guam Tribune and the Yigo Shopping Center, 1979;

Mark's Sporting Goods, 1980;

Mark's Music Center, and Mark's Laundromat, 1983.

The construction of new buildings to house the string of merchandising outlets within the group has provided Guam with some of its finest and most attractive buildings, including the Ben Franklin store and its nearby sister, Mark's Sporting Goods. Ben Franklin was the first building in Micronesia to have escalators.

Pangilinan, says Mark Jr., has the instincts of a fighter and the patience of a farmer. "His philosophy is that there is a time for everything. A lot of it is intuition."

The growth of Pangilinan's businesses may be attributed to sound real estate and financial investments. In the early years, most of his earnings were immediately invested in real estate and today he is one of Guam's biggest real estate owners. He describes himself as cautious and conservative and he has never ventured into speculative undertakings.

The fastest growth at present is at Mark's Motors, which has brisk sales of about 2,000 automobiles in 1982, up more than 35 percent from volume the year before. 1983 is expected to be another record year for Honda sales. His other profit centers are Mark's Department Store, Ace Hardware, Mark's Sporting Goods, the Yigo Shopping Center and the gas and insurance companies.

Marginal companies are the furniture and music stores and the laundromat. The amusement park in Yigo is regarded as a public relations project.

The Guam Tribune, which Mark says was started as a public service project, was launched in 1979, closed six months later, but began publishing again in October 1982. The Tribune serves as the principal sales medium of the M.V. Pangilinan Enterprises and is reported to be nearing a break-even point.

Among Pangilinan's sound investments is the Bank of Guam. He was one of the initial stockholders when the bank was chartered in 1972 (under the same name of the pre-war Navy bank) and today Pangilinan remains one of the largest stockholders with 8.6 percent of the shares.

With his large interest in the bank, Pangilinan wanted this year to seat Mark Jr. on the board of directors, "to represent minority stockholders." His attempt, however, resulted in a legal battle with bank President Jesus S. Leon Guerrero, who as a young loan officer for the pre-war Bank of Guam had arranged Pangilinan's first $5,000 loan.

Generally private and media-shy, Pangilinan used his newspaper to publish an open letter to the bank officers questioning the board of directors selection process, which he claimed excluded minority representation. The ensuing court case thrust him for a moment into the public eye.

In doing so, Pangilinan unknowingly violated federal banking regulations relating to proxy solicitation. In a settlement before the U.S. District Court of Guam in April, Pangilinan made another newspaper statement retracting his earlier charges prejudicial to the bank.

Pangilinan said he never intended to injure the bank, and he issued an apology as a major stockholder to preserve the bank's integrity. He told his lawyers: "We must not do anything that may kill the only native bank on Guam."

Pangilinan once invested heavily in his homeland as his wealth grew from his Guam investments. One of his business investments in the Philippines was Rattan Arts, one of the first and once biggest rattan furniture manufacturer in the world. Pangilinan, in 1974 the Most Outstanding Filipino Overseas, an award made by the Marcos government, with a ceremony at the Malacanang Palace, was in partnership with the Ayala investment group, developers of the huge Makati, Metro-Manila, business and financial center and until recently one of the biggest stockholders of San Miguel Corp.

Over the last 10 years, however, Pangilinan slowly severed investments in the Philippines due to deteriorating business conditions caused by martial law. Rattan Arts was closed about 18 months ago.

On Guam, the stores and newspaper constitute a "healthy, thriving, profitable company," according to Mark Jr.

Mark Jr., claims that part of the success of the group of companies comprising M.V. Pangilinan Enterprises is the diversification. "What we try to do is recognize the winners early and make sure we get our share during that time. We are such a well-diversified company that if one business isn't doing well, you can rest assured that at least two or three are doing well."

Pangilinan is exercising patience with some of the marginal companies, which he anticipates might turn into winners in the near future. He has held onto Guam Furniture Mart, anticipating that today's housing shortage will result in new construction and a need for furnishings. He wants to be prepared.

His territory is well-defined, both geographically and on the very storefronts. When Dairy Farm Flight Services in 1981 decided to put up for sale 15,359 square meters of property in Tamuning along Marine Drive, Guam's main commercial artery, it went straight to see Pangilinan. It was a logical sale. He is one of the most active developers in the local business community, and besides, the Dairy Farm property was just below Pangilinan's office atop Ben Franklin. And he's a man who likes to keep a lose eye on his affairs.●

AGRICULTURE SURPLUS FOOD STOCKPILES: WHY SO MUCH WHEN SO MANY ARE HUNGRY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. STARK. Mr. Speaker, recently, I asked the Department of Agriculture for details on its surplus food stockpiles and the amount distributed in the last several years.

Despite the record unemployment of recent years, and the continuing high unemployment of this year, the Reagan administration has failed to significantly reduce the Nation's costly stockpiles of various foods. If there were ever a time to find ways to dispose of more cheese, dried milk, butter and other products, the last 2 years were it. After all, it is cheaper to give the food away than it is to store it.

The following table shows the food owned by the Government's CCC Corporation and the quantity and value of various items distributed in fiscal year 1983 (October 1, 1982–September 30, 1983) and the current fiscal year's projections (October 1, 1983–September 30, 1984).

Charles Dickens would just say the Department is being Uncle Scrooge instead of Uncle Sam.

The data follows:

CCC-OWNED SELECTED COMMODITIES

Commodity/units	Oct. 1, 1982		Feb. 1, 1984	
	Committed inventory	Uncommitted inventory	Committed inventory	Uncommitted inventory
Butter (million pounds)	20.6	402.7	56.3	383.5
Cheese (million pounds)	70.2	825.1	142.2	821.9
Nonfat dry milk (million pounds)	69.6	1,177.1	93.4	1,389.5
Corn (million bushels)	[1] 44.4	226.1	[1] 44.3	102.5
Wheat (million pounds)	[2] 147.0	36.3	[2] 147.0	19.3
Rice (million hundredweight)	0	16.0	0	1.0
Honey (million pounds)	[3] 9.0	0	[3] 38.6	0

[1] Disaster reserve.
[2] Food security wheat reserve.
[3] Domestic feeding programs.

DISTRIBUTION BY USDA FROM CCC-OWNED STOCKS

	Quantity (million pounds)	Estimated value (million dollars)
Estimated distribution level from CCC-owned stocks for fiscal year 1984:		
Cheese	420	570.0
Butter	144	220.0
NDM	78	75.0
Honey	60	45.0
Cornmeal	36	5.5
Wheat Flour	40	5.0
Distribution level from CCC-owned stocks for fiscal year 1983:		
Cheese	436	646.0
Butter	163	254.0
NDM	25	27.0
Honey	11	7.5
Cornmeal	15	2.2
Wheat Flour	15	1.9
Milled Rice	13	2.8

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THE U.S.S. "HYMAN G. RICKOVER"

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PRICE. Mr. Speaker, I have just received a report on the sea trials of one of our newest nuclear attack submarines, the U.S.S. *Hyman G. Rickover*, SSN 709. This report was prepared by Adm. Kinnaird R. McKee, who succeeded Admiral Rickover as head of the naval nuclear submarine program.

I want to invite all of my colleagues' attention to the statements in the report concerning the principles followed and the efforts applied by Admiral Rickover which resulted in the unprecedented success of the nuclear submarine program. For this purpose, I am including Admiral McKee's report at the close of my remarks.

You will note that Admiral McKee singles out the importance of the assumption of personal responsibility and commitment in carrying out a mission. This Admiral Rickover followed in all of his action. He demanded and got extraordinary performance from all of his people and associates in this way, and, as Admiral McKee reports as a consequence, we now have nuclear submarines which have revolutionized naval warfare.

I am sure the lessons and results related by Admiral McKee can be applied to other projects and missions for which many of us have various legislative responsibilities.

The report follows:

NAVAL REACTORS,
May 18, 1984.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN, I just returned from the successful sea trials of the attack submarine Hyman G. Rickover (SSN 709). The ship performed well—a fitting tribute to the Admiral.

Admiral Rickover's foresight is evident in every aspect of the propulsion plant design. The equipment is rugged, built to withstand hard use and battle damage. The plant is also designed for ease of construction, opertion and maintenance. Safety is built into every facet of the design. Every reactor component and weld is carefully made and inspected. The reactor core has enough fuel now to operate until the end of this century.

The crew's performance during the trial clearly reflected the time and attention devoted by Admiral Rickover to the careful selection, training, and supervision of operators. We still adhere to the same standards, and the payoff is evident.

Nuclear powered submarines have revolutionized naval warfare, and it all started with the vision of one man who saw clearly the importance of submarines that would never need to surface for air and surface ships that could circumnavigate the globe without refueling. Starting only with that vision and the nucleus of a staff, Admiral Rickover built an organization and industrial base able to handle what was at that time an entirely new technology.

Nautilus went to sea only five years after he received the go-ahead, a remarkable accomplishment, particularly when compared to major weapons development today.

Admiral Rickover has been called the premier engineer of this generation, but he was also adept at selecting good people who would share his commitment to technical competence. It has been said that there are only two creatures of value on the face of the earth, those who have made a commitment, and those who demand the commitment of others. Hyman G. Rickover did both.

He demanded extraordinary performance from his people, but never more than he demanded of himself. He also gave them freedom to "do their stuff" and backed them. Most important, he instilled a sense of personal responsibility best characterized by his admonition: Responsibility is a unique concept: it can only reside and inhere in a single individual. You may share it with others, but your portion is not diminished. You may delegate it, but it is still with you. You may disclaim it, but you cannot divest yourself of it. Even if you do not recognize it or admit its presence, you cannot escape it. If responsibility is rightfully yours, no evasion, or ignorance or passing the blame can shift the burden to someone else.

The Rickover tradition of personal responsibility and commitment is alive and well today in all who build, maintain, and operate our nuclear fleet. The performance

of ships like Hyman G. Rickover bears this out.

Sincerely,

KINNAIRD R. MCKEE,
Admiral, U.S. Navy.●

STARING DOWN THE KREMLIN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, just over 35 years ago, the Soviet Union gave up their attempt to starve the German city of Berlin due to the effective airlift of various foodstuffs and supplies by a determined alliance of Western nations.

President Reagan recently sent a high-level delegation, including former National Security Adviser—now Secretary of the Interior—William Clark, to Berlin in order to reaffirm U.S. support for, and commitment to, maintaining the freedom and dignity of West Berlin.

U.S. News & World Report Editor Marvin Stone recently wrote an articulate piece, entitled "Staring Down the Kremlin," in which he traces the events of the blockade, and asserts several lessons to be learned from that incident. The piece appeared in the May 21, 1984, edition of the U.S. News & World Report, and I recommend it to my colleagues.

The article follows:

[From the U.S. News & World Report, May 21, 1984]

STARING DOWN THE KREMLIN

(By Marvin Stone)

WEST BERLIN.—It was here, just 35 years ago, that the U.S. and its Western allies dealt the Soviet Union one of its most humiliating setbacks.

On May 12, 1949, the Soviets lifted their 11-month-long Berlin blockade. By that action, the Kremlin abandoned a cruel and cynical attempt to starve the 2 million German residents of West Berlin into submission to Communism and force the Western allies out of this strategically important city.

The Berlin victory was a demonstration of how Western determination, perseverance, patience and unity can succeed in blocking Soviet expansion without risking war. The weapon that beat the Russians was a massive and skillful operation that was known as the Berlin airlift.

The story of that airlift is one that needs retelling as a reminder and a lesson. It is a story of how American and British airmen, flying from West Germany, supplied West Berlin with all its food and fuel for nearly a year.

This was made necessary because in June of 1948 the Soviets had cut off all access from West Germany to West Berlin by rail, road and water. The only way left to reach West Berlin was by air—or by armed force.

There were some who favored force. Gen. Lucius D. Clay, the U.S. military governor in occupied Germany, proposed sending an armored, troop-laden train across East Germany under orders to fire on any resistance. Clay thought that Moscow was bluffing and would not fight.

President Truman, however, decided that was not the time or place to risk war with the Soviet Union. He decided, instead, on the airlift.

At first, many thought he was losing his marbles. Rapid U.S. demobilization after Germany's 1945 surrender had left a few small transport planes in West Germany—and they could carry only about 2½ tons each. Officials estimated that West Berlin would require a rock-bottom minimum of 3,439 tons of supplies each day. But the U.S. rushed into Germany hundreds of larger planes—four-engined Skymaster C-54s that could carry 10 tons each.

Within a few months, the airlift was flying in almost 5,000 tons a day, with planes landing in West Berlin every 3 minutes. On April 16, 1949, deliveries hit a record total of 21,941 tons, with planes landing in Berlin every 63 seconds. By the time it ended, the airlift had flown into West Berlin the amazing total of 2.3 million tons of supplies on 272,264 flights.

During the blockade, Berliners endured cold and hunger. But they survived. And they also demonstrated that they preferred hardships to life under Communism.

Finally, the Kremlin realized that the blockade was costing more than it was worth. The West had stared down Moscow—and it was Moscow that blinked.

The effect of the blockade was not only to solidify German opposition to Communism but also to demonstrate to Western nations their need for united resistance. Out of it grew the North Atlantic Treaty Organization (NATO).

What happened in Berlin provided a valuable lesson to the West: In dealing with the Kremlin, leave nothing to trust. Nail down in writing the exact terms of every deal. It was the failure to do this in 1945 that had left West Berlin vulnerable to Soviet pressure in the first place—a Western enclave stranded 110 miles inside Communist East Germany.

Here at Tempelhof Airport in West Berlin stands an Airlift Memorial. To signify America's determination to keep West Berlin free, President Reagan sent Secretary of the Interior William Clark and a delegation as his personal representatives. A fresh wreath was laid at the memorial. There were speeches. But it was more than just another commemoration. Clark's presence was meant to convey to the Kremlin that we still care about this outpost and the 7,000 Americans stationed here. The message was the same as it was 35 years ago: "Hands off what isn't yours."●

OFFICER TENORIO NAMED GUAM POLICEMAN OF THE YEAR

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. WON PAT. Mr. Speaker, law enforcement officers never receive the public recognition they so justly deserve for serving us under the most trying of conditions. This is why I want to bring attention to Guam Officer Francisco S.N. Tenorio who has just been selected as the "Police Officer of the Year."

Officer Tenorio exemplifies all that is good about those who are on the front line of the never-ending fight against crime. He is a man of great devotion to duty and a never ending capacity for hard work. As an expert in firearms, Officer Tenorio helped the Guam Department of Public Safety gain crucial evidence against criminals who murdered five people during their homicidal spree last year. In the words of Officer Tenorio's superior, Lt. Joaquin Castro, head of the Crime Laboratory, "He was very instrumental during the rash of homicides in 1983."

It beholds all of us to give our strongest backing and moral support to men and women in police uniforms. And I salute Officer Tenorio for being just the kind of outstanding leader who makes others want to be police officers. He is a credit to his profession and to the people of Guam. We are indeed fortunate to have him leading the fight against crime. And I know that Officer Tenorio would say that those who serve with him at the Crime Laboratory deserve our accolades and honors for doing an outstanding job.

Thanks for being there when we need you Officer Tenorio.

At this time, I ask that a newspaper article which featured the work done by Officer Tenorio be placed in the RECORD for the edification of my colleagues.

Article follows:

[From the Pacific Daily News, May 10, 1984]

TENORIO NAMED OFFICER OF THE YEAR

(By Youngsoo Chang)

Last fall's murder spree that claimed lives of seven people tested the skill of a Department of Public Safety firearms expert.

But the man was able to connect five homicide incidents through matching bullets, fragments and casings recovered at the scenes with guns entered into evidence.

With that achievement and his 13-year devotion to the Department of Public Safety, Francisco SN Tenorio was selected as the Police Officer of the Year.

Tenorio said it took him two weeks to finish examining the evidence gathered from the homicides. "I just kept going back. Finally I connected all the five homicide cases."

He said he felt relieved and happy after having reached the conclusion a .25 caliber and 9mm handguns and a .45 caliber Thompson submachine gun were used in the weeklong shooting spree.

"He was very instrumental during the rash of homicides in 1983," said Tenorio's boss, Lt. Joaquin Castro of the DPS crime lab.

Yet Tenorio didn't forget to credit his colleagues at the DPS crime lab who were willing to work long and odd hours with him as a team finding physical evidence from the murder scenes.

Tenorio has extensive training in the fingerprinting and firearms examination.

Along with his hard work at the lab, Castro commended Tenorio for his role as the crime lab operations officer who motivates lab members to accomplish a task expeditiously.

"He has a special quality of leadership," Castro said.

Gathering firearm related evidence and comparing fragments and bullets with weapons used in crimes, Tenorio alone handles all the cases of firearm possession, shooting and homicide on Guam and Saipan. He examined 68 cases last year. He said handguns are used in 83 percent of the crimes.

Before becoming a firearm examiner, Tenorio used to specialize in fingerprints. He said fingerprint probing is easier than firearms because fingerprints patterns remain the same while bullet patterns distort on impact.

His interest in firearms and functions of new weapons keeps his task challenging, Tenorio said. He said he will keep doing the same job until he finds something more interesting that pays him better.●

BIAGGI SAYS END AGE BASED DISCRIMINATION IN EMPLOYMENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BIAGGI. Mr. Speaker, one of the more important unfinished items on the agenda of the 98th Congress must be the passage of legislation to remove all remaining vestiges of age-based discrimination in employment. It is my firm view, especially as an original member of the House Select Committee on Aging, that this action must be completed by the end of this year unless we want to see those older workers we rescued from mandatory retirement at 65 some 5 years ago face it again at age 70.

Last week an important hearing was conducted by the Subcommittee on Employment Opportunities of the House Education and Labor Committee on the particular issue of raising the age 70 cap on mandatory retirement. As a member of the full committee, I did participate in the hearing and made an opening statement which I wish to place in the RECORD.

On this occasion I also urge passage of my bill H.R. 5346 which addresses itself to another form of unacceptable age based discrimination. The issue here relates to the freezing of pension benefits for those workers who by virtue of the ADEA amendments of 1978 have been allowed to work past age 65. Yet almost half of the employers of this nation, helped in part by regulations from the Equal Employment Opportunity Commission have denied employees over the age of 65 the ability for pension accruals.

It is high time to fight back against age based discrimination. As the number of elderly grow so too does their importance to our economy as workers. Older workers are more productive, have more experience and are very dependable. Ability and not age should be the criteria applied when considering a person for work and that is all that an older worker wishes to be judged on. Enactment of amendments to the Age Discrimination in Employment Act will certainly help accomplish this.

[Testimony of Hon. Mario Biaggi, Subcommittee on Employment Opportunities, May 17, 1984]

BIAGGI SAYS END MANDATORY RETIREMENT

Mr. Chairman, I am delighted to participate in this morning's hearing. I wish to convey a message. I call upon the distinguished subcommittee to provide the catalyst for the rest of the Congress by adopting legislation to abolish all remaining vestiges of the veil of mandatory retirement—or more accurately—discrimination based upon age.

We have a compelling need to act swiftly on this proposition. At the present time—history is playing a cruel hoax on a group of Americans in this nation—those who have arrived at the age of 70 and who want to continue to work. In 1978, when we adopted the landmark law abolishing mandatory retirement at 65—we protected a group of Americans who were facing retirement because of age—and not lack of ability. We gave them new hope—new meaning to their lives.

Yet—those who were protected yesterday—are now the victim of today. Those who were allowed to work past 65 then are now 70. Unless we move to lift the age cap in employment—we will have negated all the good work this committee did just six years ago.

I remember with great pride the Rose Garden ceremony when President Carter signed the Age Discrimination in Employment Act Amendments. With this law—we were finally recognizing that ageism was a violation of the civil rights of millions of Americans. With this law we recognized that competency—not chronology—should be the criteria for allowing people to work. With this law we recognized how the experienced worker was the productive worker—and that reaching the age of 65 was an achievement—not an embarrassment.

Let me say a brief word about two of my colleagues here today. First and foremost is Chairman Hawkins—a man whose subcommittee led the fight against age discrimination in this nation in 1978. His credentials as a leader in this field are unquestioned.

The other tribute I wish to pay is to the ageless wonder of Congress—Senator Claude Pepper. What better indication of value of work past 65 or 70—or for that matter 80—is there than Claude Pepper?

He and I have had the distinguished honor of being original members of the House Select Committee on Aging. We were established in 1975 and one of our first goals by 1976 was the abolition of mandatory retirement. We conducted a series of national hearings entitled "Active Americans Over 65"—they told the story better than we ever could. It is time for that kind of crusade again.

I call upon this Subcommittee to adopt legislation which abolishes all remaining forms of discrimination based on age. I am hard-pressed to support any exceptions in this matter at this time unless a persuasive case can be made.

I also appreciate that Chairman's willingness to invite a witness here at my request to address the issue of tenured college faculty. I look forward to all the testimony and pledge my own energies and unwavering support as a Senior Member of this committee to secure passage of an age discrimination bill as soon as possible.●

WEST COAST AND U.S. FABRICATED STEEL INDUSTRY IN TROUBLE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. STARK. Mr. Speaker, last week, I introduced H.R. 5669, a bill to provide a 20-percent tariff on imports of fabricated steel for use in construction and other steel and iron projects.

The American fabricated steel industry, and particularly the west coast segment, is under a great deal of trade pressure, including unfair trade practices from Korea. Depending on the result of various steel mill product trade cases, the situation of the industry could become even more desperate.

Therefore, I have introduced this legislation to provide some relief through the tariff schedules, and also to help focus attention on the serious problems of this "downstream" steel industry. I hope that hearings on this legislation will bring attention to some of the unfair trade practices the industry has been facing—such as the sale of Japanese steel to Korea way below the cost of production and the shipment of that reworked and fabricated steel to the west coast.

Thousands of jobs and tens of millions of dollars in trade are involved in the fabricated steel industry. I hope my bill will bring the plight of this industry out from under the shadow of the problems of the steel mill industry.●

THE BALLISTIC MISSILE SUBMARINE U.S.S. "ALABAMA"

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PRICE. Mr. Speaker, last Saturday, May 19, 1984, Mr. WILLIAM DICKINSON, my esteemed colleague and ranking minority member of the House Armed Services Committee gave the principal address on the occasion of a very important event. This was the christening of the Trident ballistic missile nuclear submarine U.S.S. *Alabama*, SSBN 731. I had the honor and privilege of attending the event and hearing BILL's impressive address which was followed by the actual christening ceremony executed so beautifully and movingly by his wife, the lovely and gracious Barbara Edwards Dickinson.

The *Alabama* is a member of our latest class of ballistic missile subma-

rines. It is the largest and most powerful submarine in the free world. The *Alabama* represents the ultimate in our efforts in the development of true submarines, which started with the nuclear submarine, *Nautilus*, over 30 years ago. It is a testimony to the few who in the early days had the vision to work toward this goal which now provides us our first line of defense. It is a personal tribute to Admiral Rickover and the few in the Navy and the Congress who supported him and his people in this effort against the nearly unsurmountable obstacles which were encountered.

It is indeed a gratification to me to see such an honor as the dedication of this awesome addition to our Nation's defense and security bestowed on BILL DICKINSON and his State of Alabama since he works so diligently in the interests of freedom and security. I want to congratulate BILL and his charming helpmate, Barbara, on the honor that has so justly been bestowed on them.

I include at the close of my remarks BILL's statement which he delivered on this auspicious occasion for the information of all my colleagues.

In closing, I join with BILL in the prayer that the U.S.S. *Alabama* and all who sail in her will be successful in their patriotic mission. The citizens of a grateful Nation salute you and thank you for your dedication.

STATEMENT BY CONGRESSMAN WILLIAM L. DICKINSON—CHRISTENING OF U.S.S. "ALABAMA" (SSBN 731) MAY 19, 1984

Mr. Lewis, Mr. Tovar, Admiral Fowler, Admiral Baciocco, Captain Taylor, Master Chief Atkins, distinguished guests, men and women of the Electric Boat Division, *Alabama* crew members, and friends of the Navy:

This wonderful event today greatly honors our beloved State of Alabama and continues an important Navy tradition which began in 1819, the year Alabama was admitted to the Union and the year the keel was laid at the Portsmouth Navy Yard for the first U.S. naval ship to bear the name *Alabama*. *Alabama* (SSBN731) is the first submarine and the fifth U.S. naval ship to be named *Alabama*.

I first requested the Navy to name a Trident *Alabama* in 1978. I made the request again in 1981 and was very pleased when Secretary of the Navy John Lehman assigned our State's name to SSBN-731 on September 24, 1981. I feel particularly good about this because of the pride our State has in serving the Nation's defense interests.

It is a great personal honor for me to be here at this momentous event—the christening of this great submarine, *Alabama*. I want to thank the Navy and Electric Boat for inviting us to participate in this wonderful ceremony and for selecting my wife, Barbara, as sponsor of the boat.

The importance of the submarine was highlighted during 1982 in the British-Argentine Falklands War. The Argentine cruiser General Belgrano was sunk on May 2, 1982 by a British submarine. From that point on, because of the British submarine threat, no Argentine ships ventured out of port. That recent, brief conflict underscores the importance of the submarine.

This is indeed an important day for the people of the State of Alabama because the naming of the submarine honors all Alabamians past and present. The people of Alabama want a stong secure America. They recognize that our way of life has to be protected. If I may be so bold as to speak for all Alabamians, it is my judgment that they wholeheartedly support the deterrent potential represented by this great boat.

The first *Alabama* was a 74-gun ship-of-the-line whose keel was laid in 1819 and whose name was changed to New Hampshire in 1863 for obvious reasons.

The second *Alabama* was a side-wheel steamer purchased in New York in 1861 for use as a Union gunboat. She participated in blockade duty along the Confederate east coast and assisted in the capture of Fernandina, Fla. on March 1862. She was decommissioned and sold in 1865.

The most famous *Alabama* was the Confederate screw sloop CSS *Alabama* built in England and delivered in July 1862. Commanded by Captain Raphael Semmes, CSS *Alabama* had a cruise of 21 months which resulted in the destruction and capture of 69 enemy ships. Described as the "Confederate Tiger of the Sea", CSS *Alabama* never entered a Confederate port but wrought terror on enemy shipping from Brazil to Capetown and Singapore to France, until she was sunk by USS *Kearsarge* on June 19, 1864. Captain Semmes, 14 officers and 24 crew members were rescued by an English yacht and escaped to England. Sixty-three crew members were captured.

The third *Alabama* was a battleship, (BB-8) commissioned in October 1900, which had duty in the pacification of Cuba and was a part of President Roosevelt's great white fleet. She was decommissioned in May 1920 and used as a target in Gen. Billy Mitchell's bombing experiment in September 1921.

The fourth *Alabama*, also a battleship, (BB-60), was launched on February 16, 1942, at the Norfolk Navy Yard. She distinguished herself in both the Atlantic and Pacific theaters during World War II winning nine battle stars. She was decommissioned on January 8, 1947, and on July 16, 1964 she was given to the State of Alabama and is presently berthed in Mobile, Ala.

The past Alabama ships have distinguished themselves and have made our State proud that they have borne our name.

The fifth *Alabama* which we are christening today, will greatly add to the credibility of our Nation's strategic nuclear deterrent system. She will be a vital part of that message which I hope potential adversaries will be conscious of each day—that it will never pay to initiate nuclear war against the United States.

May God guide *Alabama* and the men of her crews. May she never have to fire a shot in anger.●

MOVING THE U.S. EMBASSY TO JERUSALEM IS "LONG OVERDUE"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LANTOS. Mr. Speaker, last week at a special joint hearing before the Subcommittees on Europe and the Middle East and International Operations of the House Foreign Affairs Committee, the issue of moving the U.S. Embassy in Israel from Tel Aviv to Jerusalem was considered. One of the outstanding witnesses who appeared on that occasion was Alleck A. Resnick, president of the Zionist Organization of America.

Mr. Resnick emphasized his organization's unhesitating support for transferring the U.S. Embassy to Jerusalem, which ZOA has steadfastly advocated over the last decades. Mr. Speaker, for the benefit of my colleagues in the House, I place in the RECORD the testimony of Mr. Resnick.

STATEMENT OF ALLECK A. RESNICK, PRESIDENT, ZIONIST ORGANIZATION OF AMERICA

Honorable Chairmen: I am grateful for the opportunity to appear before this committee on behalf of House Bill HR 4877 calling for the transfer of the United States Embassy from Tel Aviv to Israel's Capital in Jerusalem. I do so as President of the Zionist Organization of America. The ZOA was founded in 1897 and is identified as the American organization most directly involved in securing the political acceptance and recognition of the State of Israel. Indeed, my predecessors, Rabbi Abba Hillel Silver and Dr. Emanuel Newman fervently argued the case for Israel's independence before the American people and the United Nations respectively during the late 1940's. Since Israel's rebirth in 1948, ZOA has been in the vanguard of working to enhance U.S.-Israeli relations and to effect mutual understanding on vital issues of concern to both democracies. We feel that the position of the U.S. Embassy in Israel is one of those vital issues, and we heartily commend this committee for devoting its time to hearing a full spectrum of views on the matter.

The ZOA speaks without reservation or hesitation in support of transferring the United States Embassy to Jerusalem as we have consistently and steadfastly done over the last decades of debate. In this regard include the submission of over 100,000 American signatures to the White House in 1978 calling for this transfer, and dedicating the theme of our 82nd National Convention in 1980 to a special tribute to Washington, D.C. and Jerusalem as the two outstanding capitals of freedom in the world today.

Mr. Chairman, as American Zionists and Jews, we are deeply troubled by the hesitancy of the United States to recognize Jerusalem as the capital of Israel and to place the Embassy of this great democracy in its proper and legitimate location within the Jewish State. The inconsistency of U.S. policy and the double standard applied to this country's staunchest friend and democratic all in the Middle East, is an immoral and cynical mark against the principles and prestige of the United States of America and, indeed, it is an unjustifiable insult to the people of Israel.

This is not only because it is the sovereign right of every nation to designate the location of its own capital, or because Israel, alone amongst 136 nations with whom we have diplomatic relations, has been singled out by a lack of respect for its sovereignty, but also because the condition reinforces the tactics of Israel's enemies which seek to isolate the Jewish State, divide her supporters and strip her of legitimacy. Further, the maintenance of an estranged consulate in East Jerusalem which reports directly to the State Department flies in the face of

U.S. arguments that locating the American Embassy in Jerusalem would prejudice the outcome of any resolution of conflict over the area. We believe it is a fallacy to state that the decision to locate an embassy in a particular capital would prejudice any other issue. While the U.S. for example, does not recognize East Germany's absorption of East Berlin, the American Embassy is located in East Berlin because it is considered by East Germany to be its capital.

In addition, the reports of reprisals and intimidation emanating from Arab capitals are increasingly leading many freedom loving Americans to believe that the United States is allowing fear of retribution, rather than its convictions, to dictate American foreign policy. And this, we believe, is a terrifying statement to all free peoples who depend upon our moral courage, good will and consistency of purpose.

For 36 years, Israel has called on its Arab neighbors to come to the peace table for face to face negotiations and for 36 years Israel has been denied, subject to economic boycott, war, terrorism and Arab political blackmail. It's response has been perseverence, standing tall, defending its freedom and building a just and democratic society unequaled in the history of that part of the world since the last Jewish commonwealth two millennia ago. The united capital of Jerusalem today is a bustling vibrant and open city where freedom of access is guaranteed to all faiths and peoples. Maintenance and care for the holy places of Moslems and Christians has been provided for by successive Israeli governments which have wisely permitted the religions autonomous control and fund raising over their respective shrines. Over 150,000 Arabs from countries officially at war in Israel visit the country every year.

Contrast this with the barbaric attitude toward the Jewish community and little sensitivity toward the Christians and non-Jordanian Moslems from 1948-1967 when Jordan illegally occupied the Holy city. While the facts have been reported, it seems to be necessary to recall that the Jordanian rulers destroyed all the Jewish Houses of worship, some of them centuries old, desecrated the Mount of Olives cemetery dating from Biblical times and used historic tombstones to build barracks and latrines for their soldiers. The Jordanians expelled every Jewish inhabitant from the old city and subsequently refused to allow Jewish worship at the western wall, which they committed themselves to in the Armistic agreement of 1948.

Mr. Chairman, it is significant that Jerusalem was never the capital of any nation except of Jewish states; the kingdom of the House of David, the second Jewish commonwealth after the return from the Babylonian exile and since 1949, the capital of modern day Israel. The simple fact is that no other people had its historic, cultural and religious roots in Jerusalem as is the case of the Jewish people. It would seem that not only historians, but also statesmen should ponder about the pertinency of this undisputed fact.

At a time when western democracies have increasingly become targets of Khomeini's, Qadhafi, political intimidation and the plague of international terrorism, specifically designed to cause chaos and undermine the very systems and principles our own forefathers died for, our response must be one of strength, principled diplomacy and steadfast solidarity with our friends and allies.

Perhaps it is pertinent to point out that 36 years of the U.S. Embassy situated in Tel Aviv has not brought Israel's Arab neighbors to the peace table any more then it has prevented terrorist assaults against western interests in the Middle East. Is it not, then, a false issue to assume that righting the wrong now would compromise our commitment to facilitating a just peace for all states in the Middle East? Would Sadat not have addressed the Knesset, Israel's Parliament in Jerusalem because the U.S. Embassy was also located there?

Placing the U.S. Embassy in Jerusalem and the incorporation of the separate U.S. Consulate in East Jerusalem into that Embassy will send a clear signal to Israel that the United States stands in respect of her sovereign and democratic rights. We believe it will strongly encourage Arab leaders to abandon their fantasies of destroying the Jewish state and will assist them in facing the reality of the need for serious and realistic negotiation with Israel on matters of borders, security, trade, human rights and peace in the Middle East.

Moving the Embassy of the U.S. to Jerusalem is long overdue. We strongly urge that this honorable committee recommend passage of this bill before the House of Representatives in the name of justice, freedom and democratic principles on which this nation is founded.

Thank you.●

NONRUBBER FOOTWEAR INDUSTRY DESERVES IMPORT RELIEF

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BIAGGI. Mr. Speaker, I want to join my colleagues on the House footwear caucus in expressing support for temporary import restrictions on nonrubber footwear.

Simply put, our Nation's nonrubber footwear industry has been decimated by foreign competition. Under the terms of a section 201 petition pending before the International Trade Commission, quantitative restrictions on foreign-made nonrubber footwear products would be imposed for a 5-year period. This temporary import relief is an essential part of any effective revitalization plan for this distressed American industry.

The need for this relief is best explained by some alarming statistics: During the past 7 years, the import share of domestic nonrubber footwear consumption soared from 47 to 70 percent; the domestic nonrubber footwear industry's annual production capacity was 598.2 million pairs of shoes in 1975, but only 341 million pairs of shoes were produced in 1983, the lowest level recorded since the Great Depression, even though domestic consumption rose significantly; and rising import levels have pushed the domestic footwear industry's unemployment rate to 18.7 percent, as compared to an 11-percent unemployment rate for all U.S. manufacturing.

Those statistics represent the damage that has already crippled our domestic footwear industry. However, without the relief requested by this petition, it is only a matter of time before the fatal blow is delivered and, with some 132,700 workers still employed by the footwear industry, the consequences would be staggering. The domestic footwear industry has gone to great lengths to compete with foreign imports by making substantial research and development, as well as capital expenditures. Further, workers in the industry have been forced to accept hourly wages which are 40 percent lower than the average hourly wage for all U.S. manufacturing. These efforts are not enough, though, to halt the flood of foreign imports. Temporary import relief for a 5-year period is also necessary if the domestic footwear industry is to regain a competitive position in the footwear market.●

MEMORIAL URGES USE OF COPPER

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. RUDD. Mr. Speaker, I have the privilege of introducing today into the CONGRESSIONAL RECORD House Concurrent Memorial 2002 from the Arizona Legislature.

This memorial urges the use of copper canisters for the use in this Nation's nuclear waste program.

Mr. Speaker, this memorial states Arizona's willingness to take part in this Nation's long-overdue and badly needed nuclear waste program. The copper from Arizona can be used for containment canisters for high level radioactive wastes. These canisters, made from copper alloys, can be made to last hundreds of thousands of years. And allow us to bury our wastes in a large degree of safety.

I commend this memorial to any of my colleagues and the American people who have an interest in safe nuclear waste disposal:

HOUSE CONCURRENT MEMORIAL 2002

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, by enactment of the Nuclear Waste Policy Act of 1982 (Public Law 97-425), the Congress charged the United States Department of Energy with the responsibility for development of a disposal program for nuclear waste materials resulting from commercial operations; and

Whereas, the Department of Energy is presently conducting a study to determine whether such nuclear wastes can be safely disposed of by deep burial in certain types of geologic formations; and

Whereas, the department's current study involves the proposed use of metal canisters for such waste burial; and

Whereas, both copper and various types of steel alloys are under consideration as the metal to be used for such canisters; and

Whereas, the longevity of a copper canister is far greater than that of steel or other ferrous metals since copper does not oxidize or corrode as rapidly in various types of rock formations; and

Whereas, the government of Sweden selected copper as the metal to be used in canisters for its nuclear waste burial system and the technology developed by that program includes an estimate that copper will provide more than one million years of containment in a granite rock formation, as opposed to a longevity for steel of only several hundred years; and

Whereas, the use of copper canisters in any type of underground burial system for nuclear wastes would provide a superior containment method and thereby be of greater benefit to the future public health and safety of the nation; and

Whereas, it has been estimated that the use of copper as the material for such canisters would require as much as two million tons of copper.●

MEMORIAL DAY

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. MONTGOMERY. Mr. Speaker, this Nation can boast of a very select group of citizens—28.2 million Americans who have devoted their efforts to the preservation of freedom through service to this country and its allies—our veterans. We owe them, and we owe those who died while serving this noble cause.

On May 28, Memorial Day, I urge all Americans to join with me in honoring those who made the ultimate sacrifice in defense of basic human rights and the democratic ideals of the greatest Nation on Earth. We still carry the light of a precious heritage, and we cannot allow it to dim with apathy or allow it to be taken for granted. Its cost was high: 1,081,000 deaths in service.

They gave their lives to prove that the cause of freedom and security is well worth fighting for. Now, we have an obligation to prove they were right by sustaining the fight for human rights, and we have an obligation to remember the dead by honoring the living. That can best be done by maintaining and improving a responsible program of veterans' benefits and services. In this, the 98th Congress, we have met that responsibility with concern and sensitivity. The following is the status of legislation that has been reported by the Committee on Veterans' Affairs on behalf of our veteran population:

THE EMERGENCY VETERANS' JOB TRAINING ACT OF 1983 (PUBLIC LAW 98-77)

Now well underway, this program marks the first time that employers have been paid directly to train and hire veterans. It pays 50 percent of a veterans' starting wage, up to $10,000, and provides for a maximum of 15 months of training assistance to veterans with service-connected disabilities rated at 30 percent or more; for all other eligible veterans, the maximum period of training is 9 months. A veteran must have been unemployed for 15 of the last 20 weeks preceding the date of application for participation in the program.

The program is designed to get Vietnam-era and Korean conflict veterans working again by providing significant on-the-job training opportunities. It got off to a slow start due to, among other things, late funding and inadequate employer outreach, but is now picking up steam due to increased public information and spring hiring.

This emergency 2-year program is needed to help ease chronic unemployment among veterans, unemployment that remains at levels significantly higher than nonveterans. In April, there were 445,000 unemployed Vietnam-era veterans. For the age group that has been hardest hit, 25-29, the unemployment rate was 14.5 percent. For nonveterans in the same age group, it was 7.7 percent.

Many of the veterans who are now unemployed are victims of the last hired, first fired practice. While these veterans were serving their country, their nonveteran peers were pursuing their education and careers, giving them a 2- to 4-year head start on returning veterans.

Our veterans are a valuable resource with the aptitude and discipline needed to make outstanding employees. This program gives them a chance, through on-the-job training, to rebuild, to reconstruct their lives, to pick up where they left off.

VETERANS' HEALTH CARE AMENDMENTS OF 1983 (PUBLIC LAW 98-160)

This measure extends the termination date for the nationwide network of Vet Centers—veterans' readjustment counseling program—through 1988, an additional 4 years. There are now 136 such centers to provide assistance in helping veterans readjust to civilian life.

Public Law 98-160 requires a major nationwide study—already well underway—of post-traumatic stress disorder and other psychological problems experienced by veterans.

It increases the per diem rate payment for the care of eligible veterans in State extended-care facilities, requires the establishment of an advisory committee on women veterans, and expands the VA day-care program as an alternative to hospital or nursing care.

It expresses the sense of the Congress in regard to the status of the VA and its Administrator stating that, in light of the importance of the Veterans' Administration's mission and the size of the agency, the Administrator of Veterans' Affairs should be designated by the President as a member of the Cabinet.

Mr. Speaker, I have long maintained that the VA Administrator should have more direct access to the White House. Recently, I requested from the President a legislative proposal that would establish a Department of Veterans' Affairs. It is time the VA be given the kind of authority that matches its great responsibilities. It represents more than one-third of the Nation's population; it operates one of the world's largest medical systems, with 12,000 doctors and 30,000 nurses; it operates one of the Federal Government's major home loan guaranty programs; it administers the largest direct insurance program in the Nation; and, it ranks second only to the Department of Defense in number of personnel, with 235,000 employees. In addition, the administration has proposed a $27 billion VA budget for fiscal year 1985. The VA deserves department status.

VETERANS' COMPENSATION AND PROGRAM IMPROVEMENTS AMENDMENTS OF 1984 (PUBLIC LAW 98-223)

This measure provides for a 3.5 percent increase in compensation for service-connected disabled veterans and in dependency and indemnity compensation for surviving spouses and children of veterans who die from service-connected causes. Effective April 1, 1984, this increase was first evident in May 1 checks. Legislation that would make the next compensation rate adjustment effective December 1, 1984, rather than April 1, 1985, as proposed by the administration, has been ordered reported by the committee.

Public Law 98-223 also increases benefits for certain service-connected blinded veterans who also suffer from service-connected deafness.

To help relieve the burden of a heavy appeals caseload, it increases the membership of the Board of Veterans' Appeals from 50 to 65 members.

THE AGENT ORANGE AND ATOMIC VETERANS' RELIEF ACT OF 1983 (H.R. 1961)

This measure, passed by the House on January 30, would provide a disability allowance to veterans who served in Southeast Asia during the Vietnam-era and who now suffer from three specific medical conditions: One, soft-tissue sarcoma, which must have become manifest within 20 years from the date of the veteran's departure from the Vietnam theater; two, porphyria cutanea tarda (PCT), a liver condition, within 1 year; or three, chloracne, a skin condition, also within 1 year.

The Congress has not been insensitive to the concerns of veterans who claim their exposure to herbicides is directly responsible for present medical conditions. Public Law 97-72 authorized the Veterans' Administration to provide priority medical treatment for any illness that may be conceivably associated with agent orange. This includes a free agent orange examination and followup treatment, if indicated.

In addition, we have appropriated, in 1984 alone, $54 million to fund a major epidemiological study by the Centers for Disease Control in Atlanta. Benefits under H.R. 1961 would expire 1 year after the results of this study are presented to the Congress.

During the full committee markup of this legislation, the bill was amended to include the same disability allowance for veterans who participated in the testing of an atomic bomb or device, or who participated in the occupation of Hiroshima or Nagasaki during World War II, and who, within 20 years from the date of the veteran's participation in the test or occupation, suffer from leukemia; polycythemia vera, a chronic bone marrow disease; or carcinoma of the thyroid.

A NEW GI BILL (FORMERLY H.R. 1400)

I am pleased to report that a new education assistance measure for the All Volunteer Force is now before the House. The measure, which I first introduced in the 97th Congress, would help recruit and retain quality military personnel in the numbers we need for a strong national defense.

Reported to the House as an amendment to the Defense authorization bill, this measure would solve the problem of extending the present GI bill deadline by allowing those servicemen now on active duty to participate.

The effective date for the basic entitlement of this new GI bill would be October 1, 1984, and would provide $300 per month, up to 36 months, for high school graduates—or G.E.D.—with 3 years of service after that date.

It also provides: One, as a retention tool, a discretionary supplemental benefit of $300 per month for an additional 5 years of service; two, a kicker—additional funds—to the basic entitlement, for targeted personnel in critical skill areas, of up to $400 per month and a kicker to the supplemental benefit of up to $300 per month; three, a transferability provision that would allow the spouse or children of a member with 10 years or more service to use the education benefits. Service members could count time served prior to the start date for this provision, but still must serve the mandatory 3 years for the basic entitlement before transferring; four, leaves of absence of up to 2 years for use of these education benefits. For every month's leave, 2 months of additional active duty is required; and five, a basic entitlement of $140 per month, up to 36 months, for Guard and Reserve personnel with a 6-year commitment. With the commitment, personnel can start using the benefits after 6 months of service.

The GI bill will celebrate its 40th anniversary in June. For more than 18 million veterans, it has been a proven performer. Not only does it provide incentive to fill our active duty and reserve programs, it has a "taxpayer bonus." According to the Veterans' Administration, participating veterans return to the Federal Treasury several times the amount spent on their education assistance. This is due to additional taxes paid on higher income.

Many active duty personnel are telling the Congress that a generous education program is much more attractive than enlistment or reenlistment bonuses. With the enactment of this new GI bill, funding for bonus programs, service tuition assistance and recruitment advertising can be substantially reduced.

Mr. Speaker, the general consensus is that a new GI bill would help reduce the chance of shortages of key middle-level noncommissioned and commissioned officers, such as those with which we were confronted before the economic downturn of 1980. It just makes good sense to plan ahead.

THE VETERANS' HOUSING BENEFITS AMENDMENTS OF 1983 (H.R. 2948)

Passed overwhelmingly by the House, this measure would provide financial relief to unemployed veteran homeowners with guaranteed GI home loans who are facing foreclosure through no fault of their own. It helps make the homeowner current and can provide up to 6 months of additional relief, not to exceed $8,400. It would greatly reduce the number of foreclosures and save Government money normally used to foreclose.

On May 21, the House passed the following legislation:

H.R. 5618—A bill to revise and improve certain Veterans' Administration health programs, including treatment services for post-traumatic stress disorder. The measure also deals with the acquisition of properties for use as State veterans' homes, the extension of geriatric research activities, and the clarification of which veterans are authorized to be furnished with drugs and medicines.

H.R. 5617—Would increase certain dollar limitations for conventional home loans and manufactured housing under the VA loan guaranty program, as well as specially adapted housing grants. Also provides that grave markers in national cemeteries shall be upright, except in instances where flat grave markers are requested by either the veteran or his survivors.

H.R. 4734—To name the Veterans' Administration Medical Center in Milwaukee, Wis., the "Clement J. Zablocki Veterans' Administration Medical Center."

On May 15, the committee reported the following:

H.R. 4694—Authorizes the Administrator of Veterans' Affairs to waive mandatory reductions in military retirement pay of certain retired military officers recruited for employment by the VA's Department of Medicine and Surgery.

A major medical construction and leasing resolution for fiscal year 1985.

H.R. 5398—Would provide a 15-percent increase in the rates of educational assistance paid under the GI bill and the rates of subsistence allowances paid under the VA rehabilitation program for veterans with service-connected disabilities. The increase would be effective January 1, 1985. It also revises and extends the veterans' readjustment appointments program for the appointment of veterans in the civil service.

Over 200 pieces of legislation dealing with veterans' benefits and services have been introduced in the 98th Congress. As you can see, the Congress has not been idle in providing for our veterans and the 56.4 million dependents and survivors of veterans.

They were the ones who interrupted their jobs, their educations, their lifestyles, to fight political oppression, tyranny, and social injustice. They accepted their responsibilities with a commitment to high ideals and devotion to country. Each fought and served with a true measure of heroism.

They were, and still are, part of mainstream America, working for the security of their families and Nation, sharing the burdens of that Nation, exercising their rights to critique their Government, but always offering support and encouragement as concerned citizens. And then they were called.

They fought fear, homesickness, and other unseen enemies, because their country asked. They saw carnage that we cannot even imagine, and experienced deprivation, insult, and torture as prisoners of war. Clad in wornout fatigues, they lived in a hell of trenches, foxholes, pungi sticks, rice paddies, and firefights.

They stood by in peacetime, as ready to sacrifice as any soldier on any front line and in any theater of operation. And they did. In Lebanon, in Grenada, and all over the world, they have sacrificed.

They came from the boroughs of New York, the fields of the Midwest, the factories of the Northeast and the Great Lakes. They left the rich delta farmlands and piney woods of the South and the golden coast and Rocky Mountains of the West.

They were all races. They were middle America, Boston elite, Birmingham steelworkers, North Pacific lum-

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berjacks. They were Texas wranglers, longshoremen, blue and white collar.

They fought at Khe Sanh, the Argonne Forest, Anzio, Normandy, San Juan Hill, Inchon, Iwo Jima, Corregidor, Pork Chop Hill, and a thousand other places, sites as indelibly etched in the odyssey for freedom as are the names on any war memorial.

It began in 1866, when memorial associations were formed in Columbus, Ga., and Columbus, Miss., for the purpose of caring for the graves of our war dead. On April 29 of that year, the citizens of Carbondale, Ill., conducted an all-day observance, including a parade, a barbecue, speeches, and the decorating of the graves of some 20 Union soldiers. The principal speaker on this occasion was Gen. John A. Logan. Undoubtedly drawing from his experiences in Carbondale, Logan, the first Commander-in-Chief of the Grand Army of the Republic, issued, on May 5, 1868, the general order providing for the nationwide observance of Decoration Day on May 30. This date was chosen in order that, all over the country, there might be flowers in bloom that could be used in decorating the graves.

On Memorial Day, 1984, the remains of a Vietnam war serviceman will be placed alongside servicemen of World War I, World War II, and Korea in the Tomb of the Unknowns at Arlington National Cemetery. This interment will be symbolic of the link between all who fought, who cared, who served, who died. It is my prayer that it will also mark the beginning of an era of lasting peace. There could be no more fitting tribute.

Memorial Day is a time to silently reflect on our moments of adversity—the dark clouds of war that took so many lives. It is a time to acknowledge our achievements in keeping democracy alive and strong and healthy, and in giving emerging democracies worldwide a helping hand in their struggles to experience freedom.

Thomas Jefferson said in 1806, "Whensoever hostile aggressions • • • require a resort to war, we must meet our duty and convince the world that we are just friends and brave enemies." I believe the world knows.

Mr. Speaker, we have proven that we are just friends, strong allies, the leader of the free world, and a Nation that does not take lightly the hostile aggressions of those who would eliminate the God-given right of liberty. Our veterans and their families, along with those who are now serving, are the convincing force. Over 1 million who died are the convincing force.

May 28 and every day, we should remember.●

THE DOMESTIC STEEL INDUSTRY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. GAYDOS. Mr. Speaker, I rise to express appreciation to my colleagues who have joined with the leadership of the Congressional Steel Caucus to cosponsor the Fair Trade in Steel Act, H.R. 5081. This important legislation, which was developed in cooperation with the America Iron and Steel Institute and the United Steelworkers of American, offers a comprehensive approach requiring modernization of the steel industry as well as a 15-percent yearly import quota on steel for 5-years.

Mr. Speaker, in hearings held on April 26, 1984, before the House Ways and Means Committee, Subcommittee on Trade, three colleagues from the Steel Caucus, Mr. JOHN MURTHA from Pennsylvania, Mr. RALPH REGULA from Ohio, Mr. BUD HILLIS from Indiana, and myself testified in behalf of the Fair Trade in Steel Act. On the date of our testimony, there were 136 cosponsors of the bill. However, since our testimony, the number of bipartisan cosponsors has swelled to 161. I believe that these numbers accurately demonstrate the deep bipartisan concern of Congress to move on the hearings and the passage of the bill.

The American steel industry is vital to this Nation's economic well-being and national security. Congress must act now if we are to get the steel mills back in operation and the American steelworker back to work. I am pleased, therefore, to submit for the RECORD the names of all the cosponsors to date and I wish to encourage all of my other colleagues to join in our effort to help the steel industry, the steelworkers and their families, the communities in which they live, and the Nation.

H.R. 5081 cosponsors are:

Joseph Addabbo, Daniel Akaka, Donald Albosta, Frank Annunzio, Douglas Applegate, Tom Bevill, Mario Biaggi, Edward Boland, David Bonior, Robert Borski, Jack Brooks, John Bryant, Dan Burton, Bob Carr, Eugene Chappie, William Clinger.

Tom Coehlo, Cardiss Collins, John Conyers, Tom Corcoran, Lawrence Coughlin, William Coyne, Daniel Crane, George Crockett, Jr., Robert Davis, Michael DeWine, William Dickinson, John Dingell, Julian Dixon, Brian Donnelly, John Duncan, Bernard Dwyer, Roy Dyson.

Dennis Eckart, Robert Edgar, Jack Edwards, Ben Erdreich, Lane Evans, Edward Feighan, Hamilton Fish, Jr., Ronnie Flippo, Thomas Foglietta, Harold Ford, William Ford, Wyche Fowler, Jr., Joseph M. Gaydos, George Gekas, Benjamin Gilman, Henry Gonzalez, William Goodling.

William Gray, Frank Guarini, Katie Hall, Ralph Hall, Sam B. Hall, Jr., Tony Hall, Kent Hance, Frank Harrison, Augustus Hawkins, Charles Hayes, Cecil Heftel, Dennis Hertel, Elwood Hillis, Marjorie Holt, Frank Horton, James Howard.

Steny Hoyer, Duncan Hunter, Andrew Jacobs, Jr., Ed Jones, Marcy Kaptur, John Kasich, Dale Kildee, Thomas Kindness, Ray Kogovsek, Joseph Kolter, Peter Kostmayer, Sander Levin, William Lipinski, Marilyn Lloyd, Clarence Long, Gillis Long, Manuel Lujan.

Thomas Luken, Edward Madigan, Edward Markey, Dan Marriott, James Martin, Lynn Martin, Matthew Martinez, Robert Matsui, Nicholas Mavroules, Frank McCloskey, Joseph McDade, Bob McEwen, Stewart B. McKinney, Jim McNulty, Barbara Mikulski, Clarence Miller, Parren Mitchell.

Alan Mollohan, Robert Mrazek, Austin Murphy, John P. Murtha, William Natcher, Bill Nichols, Howard Nielson, Henry Nowak, Mary Rose Oakar, James Oberstar, George O'Brien, Major Owens, Donald Pease, Carl Perkins, John Porter, Melvin Price.

James Quillen, Nick Joe Rahall, Ralph Regula, Bill Richardson, Thomas Ridge, Matthew Rinaldo, Don Ritter, Robert Roe, Hal Rogers, Marty Russo, Fernand St Germain, Gus Savage, Harold Sawyer, Richard Schulze, James Shannon, Philip Sharp.

Richard Shelby, Bud Shuster, Gerry Sikorski, Paul Simon, Chris Smith, Gene Snyder, Harley Staggers, Jr., Louis Stokes, Robin Tallon, Gene Taylor, Esteban Torres, Edolphus Towns, Bob Traxler, Tom Vandergriff, Guy Vander Jagt, Bruce Vento.

Harold Volkmer, Doug Walgren, James Weaver, Alan Wheat, Jamie Whitten, Lyle Williams, Pat Williams, Charles Wilson, Robert Wise, Howard Wolpe, Jim Wright, Gus Yatron, Robert Young.●

ANNIVERSARY OF MOUNT ST. HELENS ERUPTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BONKER. Mr. Speaker, 4 years ago, we were shocked by an awesome display of nature's destructive power as Mount St. Helens awoke from a 125-year slumber. Though occasional smoke clouds had warned of the impending eruption, few of us were prepared for the incredible fury and destructive power unleashed by the eruption.

The blast disintegrated the top of a mountain and flattened trees up to 15 miles away like matchsticks. Clouds of ash blanketed much of eastern Washington, turning day into night. Fifty-nine people lost their lives; 1.5 million birds and wild animals were killed; 2 billion board feet of timber were destroyed or damaged; 11 million salmon were lost, not to mention the heavy damage and destruction to rivers, homes, bridges, roads, and railways.

In the days immediately following the blast, I can remember touring the area of devastation by helicopter with then-President Carter, who declared the State a major disaster area. He pledged full Government support for the recovery. Congress acted quickly to authorize one of the most dramatic disaster responses in our Nation's history by passing a special supplemental appropriations package in record time, with the bulk of the money targeted for Mount St. Helens relief.

We have come a long way since the devastating eruption of Mount St. Helens 4 years ago. The recovery has been a challenge to residents of the affected communities and an ongoing battle for the congressional delegation against the White House. Our progress has been the result of careful planning and research, determination, and, most of all, cooperation.

It has also made possible fresh opportunity. Mount St. Helens is no longer just one mountain among many in the Cascade Range. It is now a national treasure recognized worldwide, that offers unique scientific opportunities and unlimited tourist fascination.

ONGOING RECOVERY EFFORT

In the weeks following the May 18, 1980 eruption, the immediate problems were obvious and our task was clear—providing immediate relief and protection to the threatened communities.

Today, our communities are faced with a unique, ongoing disaster, and we must respond to the threat posed by the subtle, silent flow of sediment into the Toutle, Cowlitz, and Columbia Rivers. The threat to property and our Northwest economy continues as approximately 20 to 25 million cubic yards of the debris avalanche wash downstream into the Cowlitz River every year, filling in the river channels. The Toutle was recently rated as one of the world's dirtiest rivers in terms of amount of suspended sediment, because of the huge load of volcanic ash it carries downstream each year.

There is good news, however. We have come a long way since the early days of the Reagan administration when we had to fight tooth and nail for the funds and authority to do the work that everyone knew was absolutely essential. The administration's budget cutters sought a false economy, pushing their quick budgetary fix ahead of the social, economic, and personal well-being of citizens in the Northwest. Their efforts to defer the necessary, but expensive, measures were a far cry from the cooperative spirit that characterized the immediate cleanup efforts undertaken by area residents and the Army Corps of Engineers.

But we seem to have turned the corner on the Mount St. Helens recovery operation. Last fall the Corps of Engineers released their long-delayed comprehensive plan which has served a blueprint for the recovery effort. Although the administration originally selected poor alternatives for both the Spirit Lake problem and the sediment solution, unified action by State, local, and congressional representatives resulted in a reassessment of the administration's earlier decisions and a tentative agreement on the best remedies.

In February of this year, it was announced that the Corps of Engineers had chosen a bedrock tunnel as the permanent outlet to Spirit Lake. This tunnel, which would empty into South Coldwater Creek to the west of Mount St. Helens, solves a longstanding threat to the communities downstream along the Toutle and Cowlitz Rivers. When Mount St. Helens erupted in 1980, the massive debris avalanche blocked off the natural outlet to the lake. As the lake waters rose, scientists estimated that a sudden release of the lake could result in flooding and mudflows far more devastating than the original eruption. For the past several years, the Army Corps of Engineers has been forced to hold the lake waters at a safe level through a massive and costly pumping effort. Along with many other regional officials, I questioned the administration's original preferred solution of a conduit through the unstable debris dam, which is highly erodable and stands in the path of future eruptions. The tunnel outlet, scheduled for completion in the spring of 1985, is preferable to the administration's original selection of a buried conduit plan and was strongly supported by the entire Northwest congressional delegation.

We are also close to a final decision on the biggest part of the recovery process; construction of a single retention structure (SRS) as a means of controlling the sediment from Mount St. Helens.

The question is no longer whether the SRS will be built, but when. Clearly the sooner it is in place, the better. The interim expense of trapping sediment and dredging the river channels is approximately $40 to $50 million per year—and we are running out of disposal sites along the Columbia and Lower Cowlitz Rivers. At the present rate of sedimentation, economical disposal sites on the Columbia will be filled in 2 to 3 years. After that, the only option will be hopper dredging and ocean dumping, a process that is more than five times as costly as current practices. All the while, communities are exposed to the threat of flooding and important biological habitats, wetlands, and estuaries are silted in by Mount St. Helens sediment.

Although the administration has not made a final commitment to this solution, they have tentatively indicated their agreement that this is the best way to deal with the sediment problem. The comprehensive plan points unambiguously to this as the best, most cost-effective solution. Almost all elected officials from the region have expressed support for the SRS.

We must act decisively. The corps' SRS construction timetable can be shortened by 6 months to 1 year if Congress and the corps anticipate the necessary actions. While waiting for the SRS feasibility study and environmental impact statement to be completed, Congress can and should provide authority and funds for advance land acquisition at the planned SRS site. Land acquisition is the most time-consuming element of the entire construction effort; advance acquisition authority could take 6 months to 1 year off the corps' schedule.

I recently worked with other members of the Northwest delegation in an effort to give the corps this important tool. I have been advised that the Appropriations Committee has included this request in a major funding bill. If this action is successful, and I am confident that it will be, preliminary construction could begin with the completion of the necessary reports in the fall. This would mean that SRS construction could begin in fiscal year 1985 and be completed as early as fiscal year 1986, far earlier than otherwise possible.

NATIONAL VOLCANIC MONUMENT WILL BOOST ECONOMY

Lastly, we are continuing with the development of the Mount St. Helens National Monument which was established 2 years ago under legislation which I authored together with former Senator Jackson, Senator GORTON and Representative MORRISON.

The 110,000-acre National Volcanic Area, managed by the U.S. Forest Service will serve as a continuing reminder of the awesome power of nature.

The monument legislation represented a hard-won compromise fashioned by a number of competing interests. Small mills in southwest Washington and Oregon had advocated a 40,000-acre volcanic area, while scientists and environmentalists had backed a 216,000-acre national monument.

The compromise solution has allowed many of the traditional activities in the area to continue. Hunting

and fishing are unrestricted unless there is a danger to human life. The nonsalaried Scientific Advisory Commission created under the legislation includes two members appointed by the Governor from the State Departments of Game and Fisheries to represent these recreational interests. The bill also set aside winter range areas in an effort to maintain a stable elk population, and has allowed restocking of lakes and streams.

Timber sales already awarded by the Forest Service before the bill was enacted have been allowed to proceed as have salvage operations to prevent fire and insect infestation. Mining claims within the area are also protected, although mining procedures must follow existing law, in order to protect local fishery resources.

Now that the monument has been established by law, we must begin construction and operation of a major visitors' center and other key projects essential for the success of the volcanic area. Unfortunately, the Reagan administration has failed to provide any funding for these critical projects in its budget recommendations of the past 2 years. Development of monument facilities will be of tremendous economic benefit to the Northwest as well as provide an exciting educational experience for tourists and residents of the State.

Earlier this year, I testified before the House Interior Appropriations Subcommittee to request that $15.9 million be included in the Park Service budget for the Mount St. Helens National Monument. Among other things, this money will be used for: Construction of a visitors' center at Silver Lake in Seaquest State Park which will include interpretive displays telling the story of Mount St. Helens and a theater for orientation films; reconstruction of roads and bridges necessary for public travel; planning and development of hiking trails; general operation of the center and construction of additional recreation areas.

LOOKING AHEAD

Now, 4 years after the eruption, we can see that Mount St. Helens has brought not only devastation and economic hardship but opportunities as well. For southwest Washington and the Pacific Northwest as a whole there are few issues more important than completing the eruption recovery effort and developing the enormous economic potential offered by the volcano.●

GOVERNMENT AND THE ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, May 23, 1984 into the CONGRESSIONAL RECORD.

The report follows:

GOVERNMENT AND THE ECONOMY

Controversy over the role of government in the nation's economy is deeply rooted in American history. It was a lively issue in the early days of the republic when Alexander Hamilton argued for a strong government role in the encouragement of industry. This difficult and important question will continue to be a central topic of the 1984 presidential election debate.

The traditional free market view is that government already intervenes too much, becoming part of the problem, not part of the solution. This view emphasizes reliance on market forces and would limit the government role to conventional fiscal and monetary policies—aggregate spending and taxing activities and regulation of the money supply. The opposing interventionist approach maintains that, if our economic problems are to be solved, government must play a greater role. Otherwise, economic growth will not be sustained and the problems of high unemployment, idle productive capacity, and inflation will get worse.

As a practical matter, government already plays a major economic role. Since World War II the federal government has had the responsibility by law for ensuring high levels of employment. The fiscal and monetary policies of the federal government are major elements of our economic framework. There are also specific spending programs, such as research and development on new energy technologies, and credit programs, such as those administered by the Small Business Administration. Many tax provisions encourage specific economic activities, such as investment and housing construction. U.S. Government purchases of goods and services also play a critical role in the economy. Pentagon procurement alone will approach $140 billion in 1984. Aid to individuals, such as for health care and housing, exceeds $100 billion annually.

Thus, the real question is not, and never has been, whether there is a role for the federal government in the economy. Rather we should focus on determining which policies work and should be retained, and which policies have outlived their usefulness.

These questions have become sharper in recent years. Our economy has not performed as well as we had expected, with periods of high unemployment, runaway inflation, and soaring interest rates. Global recession has prompted the U.S. and other countries to adopt protectionist measures. We've been concerned about the erosion of our international economic pre-eminence and competitiveness. Thus, it is not surprising that we seek a more effective national economic policy.

Proponents of an interventionist approach would have government assist U.S. industries in competition with other nations, and provide direct help to American workers, firms, or communities hard hit by market forces. They call for new national economic institutions to foster consensus on these problems among government, labor, and industry. Some interventionists favor a new national industrial development bank.

Supporters of the traditional view believe these steps would be a new and unwarranted government intrusion into the nation's economic life. They argue for greater reliance on markets to allocate the nation's resources. This view would reduce government efforts to protect firms and citizens from competitive forces, and eliminate laws and regulations that add to business costs.

I believe that the lines of this debate are sometimes too sharply drawn. Government intervention in the economy to smooth fluctuations of the business cycle, to curb inflation, and to seek higher levels of employment and output, is favored by most Americans, even if specific policies to achieve these goals are disputed. Likewise, most Americans support government regulation of economic activity in certain sectors, like public utilities, as well as effective enforcement of anti-trust laws. We expect government intervention in the economy to be even-handed and fair and to promote the public interest over that of narrow special interests.

Proponents of both views will have to give a little if a consensus on the role of government in the economy is to be developed. The interventionists must recognize that the great engine of American prosperity is personal initiative and private markets, not public programs. Moreover, they must acknowledge that many well-intentioned government economic programs simply have not succeeded.

Similarly, traditionalists would do well not to foster the illusion of a total eclipse of the government role in the economy. Tasks that are beyond the reach of individuals and localities, such as securing our national defense and rebuilding the nation's infrastructure, require that government act for the common good. Government can also fund essential basic research that would not be profitable to the private sector. Only the national government can negotiate with other nations toward a fairer and more competitive international economic system.

In my view, the government's first responsibility is to create and maintain an overall environment that encourages private sector initiative. No government program can replace the judgment of American entrepreneurs or the commitment and skills of our workers and farmers. I do not think it is generally government's role to prevent the failure of enterprises; economic competition and risk-taking are the backbone of our economic system.

At the same time, we must be prepared to expand or contract government's economic role as the circumstances warrant, not according to the dictates of an inflexible ideology. Each generation of Americans must, through the political process, decide how government can best contribute to the well-being of our commonwealth. This requires that we maintain a sense of pragmatism, a willingness to experiment, and a characteristic American enthusiasm for the challenges ahead.●

THE ADMINISTRATION'S NICARAGUA POLICY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. DOWNEY of New York. Mr. Speaker, we shall shortly be discussing once again the future of the administration's program of covert operations against the Government of Nicaragua. Unfortunately, we have had the tendency in the past to make decisions on covert operations without a great deal of the information which would help us make the right decision. Perhaps this is the nature of votes on covert operations: We only find out after we have voted what it is we voted for.

I wish to introduce into the RECORD a staff report of the Council on Hemispheric Affairs, prepared by Cecilio J. Morales, Jr., and James M. Anderson of the Council. I hope that this report, entitled "Are the Press and Congress Effectively Monitoring the Administration's Policy Towards Nicaragua?", will place the past efforts of the administration in perspective and be of some use to my colleagues in their deliberations on covert action against Nicaragua.

ARE THE PRESS AND CONGRESS EFFECTIVELY MONITORING THE ADMINISTRATION'S POLICY TOWARDS NICARAGUA?

(A Report by the Council on Hemispheric Affairs)

Evidence has existed under the very nose of Congress since mid-1983 that the Reagan administration was failing to inform the Hill's intelligence committees regarding the CIA's mining activities in Nicaragua.

According to a newspaper account written by John Wallach—foreign affairs editor at the Hearst newspaper chain's Washington bureau and a highly regarded specialist on Latin American affairs—that appeared in the July 17, 1983, Baltimore News-American and the San Francisco Examiner, among other Hearst newspapers, the CIA was prepared to underwrite and directly administer military actions against Nicaragua as early as March 1983. The Examiner version of the story had a 4½ by 6½-inch map accompanying it that detailed the ports that would be mined, including Corinto, where the actual mining was done. The CIA made an "urgent" request early that month for detailed maps of depths and channels of several key Nicaraguan ports for sabotage operations slated to begin in May 1983.

In an April 15 1984, article, Wallach revealed that these plans had to express consent of Judge William Clark, then-National Security Adviser in the White House.

On July 21, 1983, Rep. Sala Burton (D-Calif.) placed the story in the Congressional Record, where it was available for any interested member of the House or Senate Intelligence Committees to scrutinize.

INTELLIGENCE COMMITTEES DOING THEIR JOBS?

The fact that the story seemingly was totally overlooked by the personnel of the intelligence committees may be an indication of how equipped the two bodies are to be effective watchdogs over the covert activities of the CIA, rather than a passive audience for briefings. More ominously, it raises serious questions whether the intelligence panels have done an independent analysis of information regarding the illicit flow of arms from Nicaragua to the Salvadoran guerrillas, which is the bedrock justification supporting covert actions against Nicaragua and the reason for supplying military aid to the Salvadoran armed forces to fight against "exported" revolution in that country.

The administration has indicated on a number of occasions that it has shared classified information on Nicaraguan arms shipments to the rebels with members of both intelligence committees. Committee members, however, have not released any of that information to the public.

Ostensibly, covert actions fall under the scrutiny of the intelligence committees. But even before the recent revelations that the two bodies had been informed—inadequately and cloudily, perhaps, but at least in the case of the House, informed—about the mining of the Nicaraguan port of Corinto, serious doubts had been raised on and off the Hill about whether the two oversight bodies have been effectively exercising their mandate. Burdened by other committee assignments, as well as their normal legislative responsibilities, and often remote to briefings by members of their staffs, members of the intelligence committees rarely vigorously query CIA and other administration officials assigned to play a liaison role with the Congress on matters of covert activity.

For its part, in briefings to the intelligence committees, the administration has become a master in engaging in delicate subterfuge and the manipulation of language and events, which have the net effect of producing distorted information and/or the under-reporting of controversial information that is of great importance, but goes unchallenged by the committees.

CLAIM "SENSITIVE" SOURCES

Since the presentation of the February 1981 White Paper and the May 1983 "Background Paper on Central America," which largely reiterated the claims of 1981, the Reagan administration has not put forward any other information whatsoever to publicly substantiate its Nicaraguan-arms shipment claims. Repeated requests for public evidence that would buttress the White House's case have been refused, nearly always with the argument that to do so would "jeopardize" the administration's "sensitive" intelligence sources in Central America.

At recent State Department press briefings, a reporter asked administration spokesmen to provide concrete information on arms flows to El Salvador from Nicaragua. But the administration, just as it has done in the past, retreated behind its policy of not commenting on intelligence matters. The State Department resorted to the same tactic following the Wall Street Journal's savaging of the White Paper in a June 1981 article that revealed the document's charges to be factually inaccurate and, in the words of the paper's author, Jon D. Glassman, "misleading" and "overembellished." Analysts contributing to the paper had made "mistakes" and resorted to "guessing" in estimating quantities of arms allegedly transported to the Salvadoran rebels, according to Glassman.

While the outrage expressed on Capitol Hill over the disclosure of the CIA mining operation is subsiding—ironically, the administration's legerdemain being the key political issue, rather than the ethics or legality of the mining itself—evidence on the public record for nine months confirms that the administration's deception of Congress has been far more extensive than initially reported.

Whatever the quality and quantity of information provided by the administration to members of Congress responsible for intelligence oversight, or for that matter its ability to effectively assess such information, even conservative stalwarts such as Sen. Barry Goldwater (R-Ariz.), who in a recent letter to CIA Director William Casey declared he was "pissed off" by the surreptitious mining of Nicaraguan ports without his committee being consulted, may have good cause to be alamed by the degree of independence with which the executive branch could be moving the United States toward a war posture with Nicaragua and a deeper involvement in the Salvadoran civil strife. Greater shock surely will follow inevitable new, almost daily, revelations that the White House has been more involved in such actions than the Congress, let alone the nation, are aware.

CLARK'S MINING PLAN

Readers of the Wallach July 17, 1983, News American article would have been apprised that the CIA mining operation was set to be implemented at least a year ago, in March 1983, with the later-revealed express consent of then-National Security Adviser Clark. Actual mining activities by anti-Sandinista contra guerrillas were scheduled to take place in May 1983, despite a legal ban on U.S. covert operations aimed at overthrowing the Managua government.

According to the Clark-approved plan, Miskito frogmen trained by Argentine guerrilla warfare experts were to lay Italian-made mines in Corinto and Puerto Sandino on Nicaragua's west coast, and in Bluefields and Puerto Cabezas on the Caribbean shore. Reportedly, and anonymous tip from a Pentagon staffer to a member of Congress, later identified as Rep. Clarence D. Long (D-Md.), forced CIA Director Casey to scrub the operation temporarily.

Reactivated this year, over 30 CIA operatives played a direct role in the eventual laying of the mines, despite claims by the anti-Sandinista Nicaraguan Democratic Force (FDN) that its forces, operating from Honduras, were solely responsible. According to one source quoted in the April 15 article by Wallach for the Hearst chain, even CIA auditors were present to make sure all foreign nationals involved were promptly paid. The article also stated that Chilean and Salvadoran experts assisted the Argentines in training the Miskito frogmen.

The actual mine-laying was run from a Panamanian-registered vessel at a secret base near San Lorenzo, Honduras, which was guarded by 100 U.S. soldiers. Under cover of darkness, the CIA vessel would move to a point 14 miles off Corinto, where small speedboats, hoisted by CIA personnel off the mother ship and manned by the contra frogmen, would carry out the mine-laying missions.

LAUNCH OF A SECRET WAR

Components of the operation, withheld from Congress even as it was voting on crucial appropriations affecting U.S. foreign policy in Central America, reveal to seasoned analysts that the Reagan administration has been allowed—despite explicit bans by Congress—to put in place the basic infrastructure for a hitherto secret U.S. war in

Central America, beyond the realization of most members of Congress.

As COHA revealed last November, the administration has been working on several combined contingency plans to launch such a war in the region. Additionally, U.S. troop deployments to Honduras, under the guise of military exercises, repeatedly have been found to be directly linked to U.S. covert operations against Nicaragua.

Plan "Pegasus," devised in the Pentagon and deactivated following its "premature" disclosure by COHA, according to a statement by a State Department source to a Washington journalist, envisaged provoking Nicaragua into attacking Honduras, which would, in turn, call upon the members of the Central American Defense Council (CONDECA) to come to its assistance. With its actions legitimated by CONDECA, the U.S. would then commit air and naval firepower to reduce the Sandinista regime.

Several months ago, COHA also revealed that, after spirited debate among White House advisers, a decision had been made to postpone a direct U.S. military involvement—due to negative public opinion arising from Washington's Lebanon involvement—until after an anticipated second victorious Reagan presidential election campaign. Elements of this story now have been widely reported in the U.S. press.

But aside from an article in Newsweek, "Pegasus" was not widely reported in the United States, although news of the existence of the plan was extensively carried throughout Latin America.

Even after the possibly temporary deactivation of "Pegasus," several incidents, including the recent mining, have involved the air bases, port facilities and military vehicles put in place by Washington under the pretext of unending maneuvers. Indeed, this month, as the working groups of the Contadora nations flesh out a peace plan, involving withdrawal of all external troops and military supplies—a plan to which the White House has paid constant public lip service, but privately holds in contempt—the combined deployment of Granadero I in Honduras and Ocean Venture '84 in the Caribbean, land and naval maneuvers respectively, involve upwards of 30,000 U.S. military personnel.

OMINOUS PRECEDENT FOR OCEAN VENTURE ASSAULT

Although U.S. officials refer to the current Ocean Venture '84 operation as a routine annual naval maneuver staged in the Caribbean, the start-up of amphibious assault exercises on the island of Vieques, off the Puerto Rican coast, hark back ominously to a similar Vieques practice run during Ocean Venture '81—held in August 1981—that helped prepare U.S. forces for the invasion of Grenada last October. The Grenadian government of then-Prime Minister Maurice Bishop charged that the Ocean Venture '81 practice assault on Vieques constituted a prelude to an actual invasion of Grenada. "The country subject to invasion in the maneuver is code-named 'Amber and the Amberdines,' which clearly refers to Grenada and its sister islands in the Grenadines, namely Carriacou and Petit Martinique," the Bishop government claimed. It also noted that there is an area on the southern tip of Grenada named Amber. Ocean Venture '84 features a "D-Day" amphibious landing on Vieques, begun March 30, with 2,000 Marines from Camp Lejeune, North Carolina and members of the 82nd Airborne taking part.

CONFLICTING ESTIMATES OF GUERRILLA TROOP STRENGTH

On April 23, Reagan administration officials again resorted to manipulating so-called "intelligence information" in a New York Times story declaring that Cuban President Fidel-Castro intends to ready the Salvadoran rebel movement for a fall offensive by doubling the total troop strength of the insurgents, from 7,000 to 14,000. The Times story includes a reference to an administration official who casts doubt on the integrity of the information. By referring to these so-called intelligence sources—always unidentified and not subject to public scrutiny—the administration conveniently can argue for increases in military assistance to the Salvadoran army and its other allies in the region, and augment current U.S. militarized diplomacy, without laying open evidence before the Congress and the nation for adequate public debate.

Indeed, the latest revelation of a planned increase in Salvadoran rebel forces directly contradicts earlier figures of guerrilla strength given by the Reagan administration. Hedrick Smith of the Times reported on April 21 that, "A year ago, American intelligence estimated that leftist guerrilla forces in El Salvador included about 5,000 to 6,000 combat troops. That number has now doubled to between 10,000 and 12,000, according to recent intelligence estimates." Other newspaper accounts quote administration officials as referring to the current size of the guerrilla forces as 12,500. Now, suddenly, it's back to 7,000 by Reagan administration intelligence estimates.

The importance of this manipulation of statistics arises out of the fact that an increase from 12,000 to 14,000 hardly represents a Castro-masterminded doubling of the insurgents' military strength, and in any event would be normally expected, according to military experts within and without the administration, as added stockpiles of weapons and related materiel become available to the guerrilla forces by capture and purchases from Salvadoran officers and the black market. Fred C. Ikle, assistant secretary of defense for policy, in testimony before the House Appropriations Subcommittee on Foreign Operations on March 27, admitted that the Salvadoran guerrillas currently are receiving 50 percent of their weapons from Salvadoran army sources.

PAPER-THIN RATIONALE

The Reagan administration has defended its Central American efforts in Washington via the most cavalier attitude toward Congress and the American public since the Nixon era. Repeatedly, the public has been told—despite the offer of four peace treaties by Nicaragua, its relaxation of press censorship and restrictions on oppositon parties, the absence of political killings and the announcement of upcoming November elections in that country—that the Nicaraguan government, and not the United States with its Honduran and contra allies in Central America, plus a swelling Salvadoran military force, is the main threat to the region.

To Congress, the White House has repeatedly insisted that the CIA operations were merely directed at stemming the flow of arms from Nicaragua to Honduras, and with a later explanation that pressure was being applied against Managua to encourage democracy in that country. Neither Congress nor the press is asking the administration, "Where's the beef?" when it comes to presenting public evidence of Nicaraguan supplies in fact going to the Salvadoran guerrillas.

WAVERING WHILE PROTESTING

In Washington, the question remains, as Congress still faces appropriations requests of $21 million for clandestine activity against Nicaragua, $61.7 million in military assistance to El Salvador, and several other budgetary items for underwriting Granadero I, whether that body will remain as wavering as it has been until the present, and whether the full extent of U.S. military adventures in the region will continue to go uninvestigated by the media.

As has been the case for the past year-and-a-half, the administration and the Congress currently engage in a peculiar pas-de-deux with each appropriations request for the Salvadoran military or the Nicaraguan contras. With El Salvador, the White House knows enough to ask for double the amount it anticipates is necessary for its objectives, while Congress will cut that request in half in a fit of moral outrage over the still-uninvestigated murders of U.S. nationals in El Salvador and death-squad activity. In the end, a compromise is worked out that is suitable for all sides. When the executive branch needs more money, it simply goes to the Congress for a supplementary appropriation, and the process resumes anew.

WHO EXPORTS TERRORISM?

Nor has Congress brought the administration to task for its incessant charges that the Sandinista government is engaged in the export of terrorism. In not a single instance has the Reagan White House provided clear evidence that Nicaragua has fostered terrorist activity on other nations. Rather, by its own definition, the Reagan administration—again, relatively unencumbered by Capitol Hill—appears to be a prime exporter of terrorism in Central America. An official at the State Department's Office for Combatting Terrorism, created under the tenure of former Secretary Alexander Haig, defined as "terrorist" states those that "use violence and the threat of violence for political purposes." It is hard to see how the CIA's activities against Nicaragua elude that definition. Yet the Senate recently overwhelmingly voted an additional $21 million for covert assistance funds to Nicaraguan exiles in Honduras and Costa Rica, in the near absence of a serious debate over why it should take such action and what the Sandinista government is doing to merit such treatment.

U.S. allies, irrespective of their governments' tendencies, have been far more vocal and substantive in their responses. France has led the opposition to U.S. policy by joining Mexico in recognizing the Salvadoran guerrillas as co-belligerents in 1981, which helped to transform the legal status of the rebels by providing them with a much-needed lever to seek negotiations that Washington militantly opposes. More recently, Britain, Norway and Sweden protested to Washington over the mining of the Nicaraguan ports; France even offered to help defuse the mines.

ADDITIONAL INTERNATIONAL CONDEMNATION

The broadening implications of Washington's rule in attempting to bring down the Managua government, including a potential future negative influence on its NATO allies, are illustrated in a recent statement of the Socialist International, signed by the heads of almost every European Social Democratic, Socialist and Labor party, including several heads of government. Approving the decision to stage elections this year by the Nicaraguan government, the So-

cialist International stated on March 28, 1984:

"On February 21, Nicaragua's political leadership declared its firm resolve to carry out general and free elections this year.

"We welcome this decision, considering it an important step in the implementation of one of the basic principles of the Nicaraguan revolution: political pluralism.

"We are aware of the difficult conditions that Nicaragua is facing.

"We call on all forces inside and outside the country to refrain from carrying out any action that could constitute an abstacle to the electoral process or the elections themselves.

"On the contrary, we consider it to be the obligation of all democrats to unconditionally promote and support this process, thereby giving Nicaragua an opportunity for a democratic future."

Nevertheless, a higher reality seems to be at work. "Nicaragua is in fact a nation at war, although no declaration has been made," noted Pierre Schori, Swedish undersecretary of state for foreign affairs, in an April 5, 1984 statement. In this period of crisis, one would expect that the Congress and the media would do more than roll over before the Reagan administration's blitz, one comprised of tainted information and manipulated realities that may serve the president's reelection campaign, but hardly the national interest.●

PAPERBOY TO PRIEST—FATHER RENATO F. GIANNI

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. GAYDOS. Mr. Speaker, early next month Father Renato F. Gianni, pastor of St. Anne's Church in Rostraver, Pa., will be the guest of honor at a dinner marking the 40th anniversary of his ordination.

On Sunday, June 10, between 600 and 800 people are expected to join in tribute to this man who has traveled the route from paperboy to priest throughout western Pennsylvania. The crowd is indicative of how many look upon Father Gianni as a shepherd, a counselor, a friend.

He was born in Pittsburgh, on the site where the silver-domed Civic Arena now stands. A monument, he quips, in his honor. He was the 13th child of Francesco and Emma Simi Gianni. Although his parents and most of the family have passed away, there are still a sister (Elizabeth Paterni) and four brothers (Fred, Gaston, Mal and Walter) alive today.

As a youngster, Father Gianni attended both public and parochial schools, holding down part-time jobs in the process. He was, at one time or another, a paperboy, a huckster on a produce truck, a soda and grocery clerk, a delivery boy and a candy dipper.

This work ethic demonstration carried over into college. While enrolled at Duquesne University, Father Gianni worked as a maintenance man, a ticket office clerk and library aide, as a waiter, short order cook, a bartender, a steelworker and a clerk in the office of the Allegheny County Treasurer.

After his graduation from Duquense in 1939, Father Gianni did some practice teaching before entering St. Vincent's Seminary in Latrobe, Pa., to prepare for the priesthood. He was ordained on June 11, 1944, at St. Vincent's by the late Bishop Hugh C. Boyle and a week later offered his first Solemn High Mass at St. Bernard's Church in Mt. Lebanon, his home parish.

Over the next 40 years, Father Gianni served churches in Fayette and Westmoreland Counties. He spent 9 years as assistant pastor at St. Rita's in Connellsville; 10 as pastor of St. Bernadine's in Mt. Pleasant; 13 at St. Agnes' in North Huntingdon Township and the last 8 at St. Anne's in Rostraver.

Along the way, he became active in other areas. He has been spiritual director for Deaneries IV and VII of the Holy Name Society; chaplain of the Mt. Pleasant Junior CDA, the Court Bishop Connare CDA and the Order of Alhambra; an executive board member of Greensburg Central Catholic High School and the Diocesan School Board; spiritual director for Westmoreland County's St. Vincent de Paul Society; Diocesan senator and consultor to the bishop; dean of Deanery IV and diocesan director of evangelization.

Mr. Speaker, I ask my colleagues in the Congress of the United States to join me today in extending congratulations to Father Renato Gianni on the 40th anniversary of his entry into the priesthood.●

VALIANT AFGHANS DESERVE SUPPORT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, the war in Afghanistan now drags on into its fifth year. The only thing that seems to have changed since the invasion by over 100,000 Soviet Red Army troops in December 1979, is the Soviets willingness to use carpet bombing against the civilian population in the strategic valleys outside Kabul. But this should come as no surprise to those who have followed the Soviets' actions since the invasion: the use of chemical weapons against a helpless civilian population, mine-laden toys designed not to kill but merely to maim and mutilate Afghan children, and so forth.

Mr. Speaker, the Oxnard Press Courier recently ran an editorial entitled "Valiant Afghans Deserve Support"—Saturday, May 5, 1984—wherein they call for not only increased international attention on the struggle going on in Afghanistan, but also for higher levels of covert Western aid to the freedom fighters that could give the Soviets new incentives to end the war. I wholeheartedly agree with the editorial and bring it to the attention of my colleages.

VALIANT AFGHANS DESERVE SUPPORT

News of the latest Soviet offensive in Afghanistan will cause most of the world to tut-tut, and then turn the page. Better to concentrate on something closer to home or easier to fix, or so the rationalizations go.

Partly because the world seems to care so little, the Soviets' brutal war of conquest in Afghanistan rolls on its fifth year, with no end in sight to the tragic suffering of the Afghan people. If the current Soviet offensive is any indication, that suffering will only increase.

News accounts and intelligence reports have it that the Soviets are using high-level, saturation bombing for the first time in Afghanistan. The more descriptive term for this tactic is "carpet bombing" and it marks a new low in Soviet regard for civilian casualties. But no one should be surprised. The Soviets have also illegally used chemical weapons in Afghanistan, plus such devices as palm-sized mines camouflaged as toys and dropped along trail frequented by refugees.

The Soviets are also employing several hundred tanks and armored personnel carriers and scores of the dreaded Mi-24 Hind helicopter gunships. This massive firepower, used in support of at least 14,000 Soviet troops, plus more thousands of their reluctant Afghan government allies, typifies the Soviets' slegehammer approach to counter-insurgency warfare. While such ponderous attacks are usually ineffective against the agile bands of Afghan freedom fighters, the toll on civilans is often tragically heavy.

But the bombing and shelling of civilians makes sense if the Soviets' real objective is less to kill guerrillas than to dry up the "sea" in which they swim (as Mao so aptly put it). And that may be precisely what the Soviets are trying to do in the strategic Panshir Valley, focal point of the current offensive.

Despite repeated Soviet and Afghan government sweeps through the Panshir, the guerrillas there have only grown stronger. Last year, they even won a six-month ceasefire after inflicting grievous losses on a Soviet column. The Panshir, however, sits adjacent to the main highway linking the Soviet border and the Afghan capital of Kabul. The Soviets can never consolidate their hold on Afghanistan until this primary supply lines is secured permanently.

It says something about now poorly the Soviets are doing in Afghanistan that this vital supply line remains vulnerable in the fifth year of the Afghan war.

Which brings us back to the indifference with which most of the world regards the continuing tragedy in Afghanistan. The Soviets know that they have failed militarily and politically. The resistance movement is stronger than ever and the Kremlin's puppet regime in Kabul is hated by the overwhelming majority of Afghans.

The longer the stalemate in Afghanistan continues, the more receptive the Soviets might be to a negotiated settlement result-

ing in the withdrawal of Soviet troops and establishment of a neutral, non-communist Afghan government. What is lacking is the global pressure and the higher levels of covert Western aid to the freedom fighters that could give the Soviets new incentives to end the war.

Can Western Europe, the Islamic countries, China and the United States truly say they are doing enough for a courageous people single-handedly resisting the might of the Soviet empire? Not yet. Until they are, and until more people stop turning the page on Afghanistan, the killing there will continue and so will Soviet aggression.●

LEGISLATION RESOLVING THE SHOALWATER BAY INDIAN TRIBE'S LAND CLAIM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BONKER. Mr. Speaker, today I am introducing legislation which is designed to settle a longstanding land dispute involving the Shoalwater Bay Indian Tribe and residents of the Dexter-by-the-Sea Subdivision near Tokeland in southwest Washington. The bill will provide a monetary settlement to the tribe for land wrongfully transferred to non-Indians.

In 1866, President Andrew Johnson established a reservation for the Shoalwater Bay Indian Tribe by Executive order. This controversy has its roots in an action 6 years later, in 1872, when the United States, because of a technical error, permitted part of the reservation to be patented away. The area in question, part of what is presently known as the Dexter-by-the-Sea Subdivision, was sold to individual non-Indian purchasers who had every reason to believe that they were getting clear legal title to the land.

The present Dexter-by-the-Sea landowners, many of whom are retired and depend on their homes as "nest eggs," recently found that title to the land in question was clouded when the Shoalwater Bay Indian Tribe brought suit to recover this portion of their reservation. These landowners are faced with a lawsuit for trespass and ejectment and cannot sell their property until this matter is cleared up. This represents a severe hardship for these individuals, who reasonably believed they had good title to the land, brought about by a Government error in granting the original 1872 patent to the land.

Mr. Speaker, where the United States is responsible for this unfortunate state of affairs, it should also be responsible for its resolution. This legislation is the product of careful negotiation between all of the concerned parties. It represents a delicate balancing of the tribe's interest in the land in question, the need to clear the title of the Dexter-by-the-Sea property owners, and local, State, and Federal interests. With the enactment of this bill, the tribe will withdraw its suit against the Dexter residents and its claim to the property will be extinguished.

Senator GORTON has introduced the companion bill (S. 1735) to this legislation and it has been reported from the Senate Select Committee on Indian Affairs. I trust that this measure will receive the expeditious and favorable consideration by the House of Representatives which it deserves.

The text of the legislation is reprinted below.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shoalwater Bay Indian Tribe-Dexter-by-the-Sea Claim Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in its patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in such civil action;

(6) the pendency of such civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States of under Sec. 4 of this Act:

(a) All rights, title, and interests of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, Township 14N, Range 11W, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate number 3763, shall be ratified.

SEC. 4. (a)(1). If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior, *Provided,* That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary

of the Interior shall have no trust responsibility for the investment, supervision, administration or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.●

PUTTING SALVADOR BACK TOGETHER AGAIN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, El Salvador has recently elected a new President, Jose Napoleon Duarte. Duarte has pledged to fight to increase the economic productivity of the country, probe the terrorist organizations of both the right and the left, and bring peace to that troubled nation. The House has recently signaled its intention of providing Mr. Duarte the assistance necessary for moving ahead at a rapid pace with this planned reforms and projects.

There are still many hurdles to be overcome in El Salvador, however. David Asman, writing in the Wall Street Journal on May 17, 1984, I believe points up these hurdles and the attitudes of the various participants in the Salvadoran political landscape. I highly recommend this editorial to my colleagues.

PUTTING SALVADOR BACK TOGETHER AGAIN

(By David Asman)

SAN SALVADOR—President candidates Roberto d'Aubuisson says he is prepared to accept the official results of the May 6 election here and to spend the next year fighting within the system for a freer economy in this war-torn nation. El Salvador's Central Elections Council on Tuesday night rejected his petition for a recount.

From Mr. d'Aubuisson's Arena party headquarters, aide-de-camp J.J. Domenech reported this week; "Arena and is leader d'Aubuisson have exhausted all their legal resources to show the illegality of the election returns. . . . D'Aubuisson will have to return to his seat as deputy in the Legislative Assembly and continue to work strongly by the side of his party in the opposition, and start preparing the campaign for the elections to be held next year" for mayors in 261 municipalities and for 60 deputies in the assembly. And at an Arena meeting yesterday, party hotheads were cooled down by Mr. d'Aubuisson's call to get on with the legislative battles.

These sentiments are encouraging if El Salvador is to get beyond the personality cults and hatreds that marked the recent campaign and its aftermath. However, forgetting the bitter rivalries won't be easy. President-elect Jose Napoleon Duarte's son, Jose Alejandro, who is mayor of San Salvador, last week accused Mr. d'Aubuisson of "high treason" because of his complaints about vote counting and U.S. involvement on behalf of Mr. Duarte.

A CONTEST OF IDEAS

But focusing on the personalities in Salvadoran politics blurs the fact that the election just held was also a contest of ideas. The question is whether the presonalities will allow the battle of ideas to continue within a democratic framework and lead to sound policy choices.

In an interview on the Friday preceding the final vote, Mr. d'Aubuisson discussed his party's ideas: "Even if we don't win, we are going to make sure that the country gets the medicine it needs. For one thing, taxes have to be lowered. Whenever taxes and tariffs have been lowered in Central America, countries have prospered. The reason for this is that the same competition that generates productivity increases tax revenues. Now the tax rates are so high that productivity has dropped and few taxes are collected at all."

Mr. d'Aubuisson's supply-side views are shared by many of his supporters, who say they are aware that a genuine free market would differ from the protected oligarchies of the not-so-distant past. "We don't want to turn back the clock," Mr. d'Aubuisson says. "I fully support the 1983 Salvadoran constitution, which specifically includes land-reform measures. I signed that constitution, and I will defend it."

But are the differences between Arena and the Christian Democrats too great to allow for any compromises within the political system? Jose "Johnny" Maldonado, executive director of the private-sector organization known as ANEP (Asociacion Nacional de la Empress Privada), reports that the individuals within the two parties already have been talking with one other outside the Legislative Assembly. Says Mr. Maldonado: "Duarte realizes he cannot go anywhere without the support of the private sector. If he wants to unite the country, he has the perfect opportunity to do so now. His attitude will be very important. For instance, if he tries to punish those businesses that support Arena, we will never get the country moving. He must be rational about his economic decisions."

One rumor circulating before the election had Mr. Duarte planning "urban reform" that prohibits individual Salvadorans from owning more than one home. This was flatly denied by Mr. Duarte. El Salvador's ambassador in Washington, Rivas Gallont, though not an official spokesman for the Christian Democrats, has spoken frequently with Mr. Duarte about his economic policies and believes he will not further nationalize the country's economy. In fact, Mr. Gallont believes there may be a rollback in some instances. For example, nationalization of the banks, unlike land reform, was not written into the constitution. And while it is unlikely that the national bank would be eliminated anytime soon, Mr. Duarte has discussed allowing private banks to start up again. This may be just one area in which Mr. Duarte will be forced to compromise with his opposition.

The section of the constitution dealing with land reform was, in fact, an example of a successful compromise between the Christian Democrats and the conservatives, led by Mr. d'Aubuisson. Phase I of the program called for expropriation and redistribution of farms of more than 500 hectares (one hectare equals 2.4 acres). The second phase originally called for the expropriation of holdings of more than 100 hectares. However, after debate, it was limited to those of more than 245 hectares. This was written into the 1983 constitution and signed by Mr. Duarte and Mr. d'Aubuisson.

Many Christian Democrats would like to see the original 100 hectare rule following. On the other side, Mr. d'Aubuisson complains that many landowners with holding of less than 245 hectares lost their land due to bureaucratic manipulations and foul-ups. And Mr. Maldonado even questions the long-range value of land reform in Latin America's most crowded country. Says Mr. Maldonado: "No politician would admit it, but Salvador is simply too small and has too many people to parcel out a farm for every *campesino*. If we are to have individual growth and more equal distribution of wealth here, it's not going to come about solely through land reform; we have to develop the industrial sector."

But industrial development in El Salvador is hampered by some of the legacies of land reform. First, capital available for investment has diminished because some of the country's most productive farms have been faring very poorly under the new distribution system. A January 1984 report by the inspector general of the U.S. Agency for International Development estimated the total debt of 317 cooperative farms created by the land-reform program at $400 million. The inspector general's study concludes that if this trend continues, the cooperatives will owe $2 billion by the year 2000.

Realizing that many banks would be reluctant to lend to emerging cooperative farms, for reasons that seem to have been borne out in the AID inspector general's report, El Salvador's private banks were nationalized as part of the original land-reform package. Now the government bails out the bankrupt cooperatives through its own depository. However, the absence of private banks and the nationalization of export and import businesses—which forced coffee and sugar growers to sell their produce to the government—make it extremely difficult to attract outside investment and also has led to much capital flight. Ironically, the nationalization of the coffee and sugar export businesses, enacted during the 1979 junta, was meant to prevent exporters from leaving their earnings in foreign banks and markets—i.e., capital flight.

Of course, what hampers economic growth in El Salvador more than any other factor is the violence. The war with guerrillas comes first, and for this even Mr. d'Aubuisson concedes that U.S. military aid is critical. Though Mr. Duarte's victory—and last week's subsequent house vote on an aid package—has boosted morale concerning the future of that aid, Arena supporters worry about Mr. Duarte's comments concerning "dialogue" with the guerrillas and with Nicaragua's Sandinista junta. However, Mr. Gallont emphasizes that "president-elect Duarte has few illusions about what 'power sharing' means." For one thing, the example of what happened in Nicaragua is too close to believe that power sharing with Marxists means anything but relinquishing all power to the Marxists. As an American businessman who has lived in El Salvador for several years says: "Here, 'dialogue' means talking to the guerrillas about participating in the elections. Even some Arena people have said that would be okay. But 'negotiation' is the word that scares everyone. That means power sharing and eventual control by the communists."

Besides the war, however, El Salvador has suffered from a significant level of internal violence since the late 1970s. Though many of the kidnappings and killings then were politically motivated, nonpolitical crimes now have become systematic and have made

a shambles of El Salvador's legal system. Guilty verdicts are rarely handed down to criminals because both judges and juries fear revenge. As Mr. Gallont has said: "Our criminal laws were written to convict chicken thieves, not murderers and kidnappers."

VIGILANTE JUSTICE

And there is the matter of the death squads. With a legal system that rarely hands down verdicts of guilty—no matter what the political proclivities of the accused—it should come as little surprise that there is a form of vigilante "justice" being exercised by those who feel they will get no justice through the courts. Explained one Salvadoran, several of whose family members had been killed by communist kidnappers in 1979: "If your mother and brother had been killed, and you knew who was responsible, would you allow those people to walk the streets after they had forced a jury to let them go free?" A hard question. But the harder question concerns those who have been killed with neither proof nor good reason to suspect them of violent acts that provoked revenge.

The great tragedy of El Salvador is that were it not for the violence, the "Japanese of Central America," as they are called, probaby could manage to pull themselves out of their economic slump, so long as the limited socialist policies now in place are not enlarged by Mr. Duarte. Before the guerrilla violence escalated in the late '70s, El Salvador was experiencing remarkable agricultural and industrial growth (averaging a real annual rate of about 5.5% during the '60s and '70s). And this without the tremendous borrowing of their Latin neighbors. As one young Salvadoran farmer sighed: "We hadn't even reached our agricultural peak when the plug was pulled." The politicians now face the task of stopping the drain.●

THE CATHOLIC CHURCH AND ITS STRUGGLE IN ZIMBABWE

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. SOLOMON. Mr. Speaker, the situation in Zimbabwe is a matter of continuing interest to many Members of Congress. However chic the cause of "popular revolution" in the Third World may appear to some Western observers, the fact remains that revolutions do not of themselves build nations. Nowhere is this fact more spectacularly evident than in the continent of Africa.

The high hopes that were entertained at the time of Zimbabwe's independence in 1980 are today in serious jeopardy. After a period of relative quiet, Zimbabwe has experienced a level of violence and domestic upheaval that threatens the very existence of democratic values and processes in that country.

A recent article in the Washington Post discusses the struggle by prominent Catholics in Zimbabwe to hold the country's Government to account for the violence and brutality that has stalked the Matabeleland area of western Zimbabwe.

I ask that the article appear at this point in the RECORD.

BRUTALITY ISSUE STRAINS ZIMBABWE'S CHURCH

(By Glenn Frankel)

HARARE, ZIMBABWE, May 17.—By any public measure, the confrontation between the government and the Roman Catholic Church over the issue of Army brutality in Matabeleland is their most intense since Zimbabwe gained independence four years ago.

But the issue also has stirred conflict within the church itself. It is between senior church leaders, who say quiet diplomacy has produced concrete results in persuading the government to improve conditions in the region, and individual priests, who say the church may be rightfully blamed for condoning atrocities if it does not speak out more forcefully.

While largely concealed behind cathedral walls, the conflict is particularly important in a nation where the church has emerged as the most influential of the handful of frail institutions that have survived a seven-year war of independence and now a bloody southern insurgency.

"The survival of the people of Matabeleland may depend on what the church says," said the Rev. Hebron Wilson, a priest in the southern city of Bulawayo who has been one of the most outspoken critics of the government. "Either the church goes forward with integrity of it stands to lose credibility for good among the people we serve."

Wilson is one of several clergymen in the region, not all of them Catholic, who have accused Army soldiers of killing, torturing and raping civilians in the area, which has been the scene of a military counterinsurgency campaign since February. A Catholic priest in Harare, the Rev. John Gough, in a sermon last month charged the government with pursuing "genocide" against the Ndebele-speaking minority in Matabeleland.

Government officials, including Prime Minister Robert Mugabe, have reacted angrily to the charges, pointing to new road, school and health projects in Matabeleland as proof that the government is not seeking to exterminate the people of the region.

The officials accuse the clergymen of siding with Mugabe's main political rival, opposition leader Joshua Nkomo, whose political stronghold is in Matabeleland.

Minister of Health Sydney Sekeramayi, in a recent speech opening a health clinic in Matabeleland, accused Wilson's bishop, Henry Karlen of Bulawayo, of "spreading filthy lies." Sekeramayi called Karlen "a queer bishop in league with Satan, Joshua Nkomo, bandits and other evil forces hellbent on trying to destroy our nationhood and the unity of all our people."

Despite the vilification, church leaders insist their relations with the government have not soured, although they quickly concede that the situation is highly uncertain.

"At the moment we can still go to government and they are prepared to see us at any time, even on the most sensitive issues," said Bishop Patrick Mutume, secretary general of the seven-member Zimbabwe Catholic Bishops' Conference. "But we don't know what the future holds."

Mutume said the bishops presented Mugabe's office with a report April 6 outlining allegations of Army brutalities and widespread hunger. Three days later, the government, which was also under pressure from western diplomats to lift restrictions on food shipments into the drought-stricken area, announced it was easing the strict military curfew.

"It was supposed to induce the government to act quickly, and it did," said Mutume of the report, which has not been made public.

The Catholic Church, which counts about 10 percent of Zimbabwe's 8 million people as members, has always considered itself nonpartisan but has been embroiled in politics since the days when the white-minority government of Ian Smith fought black guerrillas in the breakaway British colony then known as Rhodesia.

In 1972, the church established its Justice and Peace Commission, which publicized alleged government atrocities. Smith branded it a communist tool.

While many white priests supported Smith, others sided with the guerrillas, and some even sheltered guerrilla leaders who now are members of the Cabinet. Bishop Donal Lamont of Mutare, the most prominent critic of Smith, was deported after being sentenced to 10 years' imprisonment for supporting the rebels.

Many church officials welcomed Mugabe's election victory in 1980, and the church has worked cooperatively with government agencies in rural development projects since then. "It is a good government that is doing tremendous work in education, health, development and other areas," said Michael Auret, chairman of the Peace and Justice Commission. "They have a huge problem in Matabeleland, but that is only one part of the country."

Nonetheless, while Auret insists the state has an obligation to put down the armed insurgency in Matabeleland, he says the Army has far overstepped its proper role. "They have destroyed their own credibility," he said of the soldiers, adding that his commission had verified "many reports" of Army brutality in February and March.

Last year, following a similar military crackdown in northern Matabeleland, the bishops issued a public statement condemning what they called a government "reign of terror" against civilians.

One response was public vituperation from Mugabe, himself a Catholic, against "sanctimonious prelates." But Auret said government officials also took steps to lower the level of violence and established a commission of inquiry.

The commission has yet to issue any findings, to the dismay of critics, who contend a full public report on last year's incidents might have prevented repetition. But Auret praised the commission, saying it had "taken evidence sincerely and well, and I feel fairly confident that the government is aware of the testimony."

Officials like Mutume and Auret dismiss the government's anticlerical rhetoric as largely for popular consumption. "Any government is ultrasensitive to criticism," said Auret, adding that the real test of Mugabe's sincerity is the fact that after each complaint by the bishops, "on every occasion we have had a dramatic and immediate improvement in the situation, and that is what we're looking for."

But priests who say they see victims of the Army's campaign on a daily basis charge that the results of quiet diplomacy have been inadequate. "People are still being killed," Wilson said in an interview last week.

Wilson said he was "disgusted" by the three-sentence statement, issued by the bishops last month before the easing of the curfew, in which they expressed "very grave

concern * * * on current events in Matabeleland" but added only that they were discussing the matter with government officials. He said he would continue to speak out, despite some opposition within the church.

Wilson was called in twice for questioning last year by state security police, but he said that this year he has been left alone, as have the many witnesses to brutalities whom he has presented to reporters. "If I die tomorrow, if they shoot me," he said, "it won't stop the truth."

Others say that such sentiments, while admirably courageous, can only exacerbate the problem. "The bishops are more interested in results than anything else," said Bishop Mutume. "We could induce a public confrontation, but I don't think the people of Matabeleland would win in that scramble."●

THE NUCLEAR ARMS RACE: A NEW WAY OF THINKING

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. NEAL. Mr. Speaker—

The release of atom power has changed everything except our way of thinking, and thus we are being driven unarmed towards a catastrophe.—Albert Einstein, 1946

The House of Representatives missed by only six votes a golden opportunity last week when considering the MX missile program to do something new, dramatic, and positive about deescalating the nuclear arms race. And it could have done it without endangering our national security, or unilaterally canceling the MX missile program. It could have postponed the MX program for 1 year with the expectation that the Soviets would respond appropriately. By this action, Congress could communicate clearly to the Soviet Union that the American people want de-escalation of the nuclear arms race and that our country is willing to take the first step.

What the House did, instead, was to settle for 15 MX missiles for fiscal 1985 instead of the 30 authorized by the committee bill. The compromise, engineered by Representative LES ASPIN, also would hold up funding of the 15 missiles until April 15, 1985, unless the Soviets return to the bargaining table and the President certifies they are bargaining in good faith.

In other words, the initial decision for the United States to halt production of the MX is left up to the Soviet Union whether or not they do anything to de-escalate the arms race. Looked at another way, the President could continue the arms race, even if the Soviets go along with winding it down, by failing to certify that the Soviets are bargaining in good faith. It would take a vote of both Houses of Congress to overturn the President's certification, or lack thereof, and Congress would be at a decided disadvantage since the President can so easily control the national debate through his very effective use of the news media.

While adding 15 MX's to the 21 already in production and making their production contingent on the Soviets returning to the bargaining table may be better than building 30—the committee position—more in 1985—or unilaterally canceling the MX program as the original Bennett-Mavroules amendment would have done—these were not the only options open to the House. A fourth, the Neal substitute, introduced by Representative NICHOLAS MAVROULES, would have declared a 1-year moratorium on additional MX production. A continuation of the moratorium would depend on an appropriate Soviet response—in deed, rather than in words. If no such response were evidenced before budget time next year, the Congress could restore MX funds in the fiscal 1986 budget, or even for late 1985. It was this amendment on which the critical vote was taken last Wednesday. It was defeated by six votes, 212-218.

It failed for the most part, I believe, because I got the idea late and had neither time nor opportunity to adequately inform my colleagues. Most of the debate on the floor was between those who wanted to kill the MX outright and those who wanted to keep it alive with the Aspin amendment. The situation was not helped, either, by a parliamentary complexity in which identical amendments were offered at different places under different names. Had I been more effective in informing Members and there had been a "clean" vote, I believe my amendment would have been passed.

Reducing the number of MX missiles for 1985 from 30 to 0 (from 300 warheads to 0) would be an enormously important and significant signal to the Soviets that the people of our country want to de-escalate the arms race. It would be an unequivocal gesture, impossible to misunderstand on the part of the Soviets. Instead of another ominous threat, it could be an "olive branch" overture that could become the first step toward reversing the trend in the arms race. At the same time, it would tell the Soviets that while the American people want to reverse course in the insane arms race, they are not ready to do so unless the Soviets will make concessions equal to our own. Remember, the production line for the 21 MX missiles authorized for 1984 will be open, research and development, and flight testing will continue, and if the Soviets do not respond appropriately, we could speed up that production line very rapidly at any time.

The preeminent issue of our time—moral, economic, defensive, political, environmental—is how to avoid nuclear war. While it might be argued that arms agreements of the past have restrained both sides from taking a fatal step, those agreements have been little more than a checkrein on a "galloping horse of the apocalypse." Over the years, each side has multiplied its nuclear arsenals with bigger and more accurate weapons. Both sides now have capability to strike the other with its land-based missiles within 30 minutes, and from submarines within 10 minutes. Each warhead on these missiles is capable of destroying an entire large city. Moreover, nuclear confrontation could come through a conscious act, miscalculation, or mistake. The short warning time leaves little room for a thoroughly calculated response. It is unlikely that even a limited nuclear attack—by either design or mistake—could be contained. The first warning of incoming missiles, even if in error, could trigger a full-scale counterattack.

This hair-trigger situation has intensified, rather than diminished, over the last 3½ years. Progress in arms control has been nonexistent during the Reagan administration. After waiting 18 months to go to the negotiating table, the administration made its first serious proposal only 1 year ago. When the Soviets demanded that we withdraw Pershing and cruise missiles from Europe, the talks broke down and the Soviets walked out. The two sides are not even talking and the arms race continues.

Clearly a new way of thinking about this problem is needed. One possibility is for us to do something tangible (instead of talking about doing something) and then expect the Soviets to do something tangible and appropriate in response. MX, since it is and has been so much in the news, can be a vehicle for this change in course.

This week, the House may have another chance. I hope I can do a better job of informing my colleagues of this new approach, and that we will adopt it. All else has failed, and it is worth a try. If this approach should not succeed, then the next President—whoever he may be—and the next Congress will have available the same options as are available now. We have almost nothing to lose and this approach could result in the beginning of the end to the nuclear arms race that threatens the catastrophe of which Einstein warned.●

THE EPILEPSY DEFENSE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. COELHO. Mr. Speaker, I would like to take this opportunity to draw attention to an article by Mr. Richard Pollak, titled "The Epilepsy Defense," which was printed in the May 1984

issue of Atlantic Monthly. As one who has epilepsy, I have been deeply concerned about the public misconceptions that may have been caused by the use of epilepsy as a defense in some criminal cases.

The medical experts on the Epilepsy Foundation of America's Professional Advisory Board have reviewed many reports in which an alleged violent offense is claimed to have taken place during an epileptic seizure. These experts have been struck by the apparent lack of evidence that the defendant had epilepsy, much less than a specific violent act was a result of an epileptic seizure. The Epilepsy Foundation of America (EFA) notes that the legal system has properly responded to these efforts by rejecting the alleged "defense" in almost every instance; nevertheless, the public may have been misled about the characteristics of epilepsy by these unmerited attempts.

EFA does not contest the right of any person to raise any defense in a criminal proceeding, but it must make every effort to dispel public misimpressions generated by what may have been unmerited efforts to use epilepsy as an excuse in cases where the proof has established intentional, premeditated activities. These efforts are a clear disservice to the 2 million Americans with epilepsy and their families.

Mr. Pollak's article provides insight into the use of epilepsy as a defense and I am pleased to have the opportunity to share it with my colleagues.

THE EPILEPSY DEFENSE

On Thanksgiving night, 1976, Patrolman Robert H. Torsney emerged from a Brooklyn housing project after helping five fellow officers peacefully settle a domestic dispute. On the sidewalk leading to his patrol car he encountered a group of teenage boys. One of them, fifteen-year-old Randolph Evans, asked, "Did you just come from apartment 7-D?" Torsney had not, but he said: "You're damn right I did." He then pulled his gun and shot Evans pointblank in the head. Torsney was white, his victim black, and the killing set off angry protests against what many in the predominantly black neighborhood regarded as the latest example of racist police brutality in the city. The rage subsided somewhat after a grand jury, on the day of the boy's funeral, indicted Torsney for second-degree murder. However, it rekindled a year later, when Torsney came to trial and pleaded that he could not be held legally responsible because he had been suffering a psychomotor epileptic seizure at the time of the shooting.

Like many epileptics who read news accounts of the case, I was disturbed by this defense. Psychomotor seizures, I knew, cause confused behavior. They are characterized by personality alteration and a trancelike state that can last a minute or two or, in rare instances, up to several days. During such periods, the person usually performs, in a kind of dreamy slow motion, simple, automatic actions like smacking of lips, picking at clothing, or merely walking aimlessly.

Generally, the epileptic has little or no memory of such seizure, or ictal, events. Aggressive behavior can manifest itself during a psychomotor seizure, but the notion that Torsney managed so calculated a sequence as upholstering, aiming, and firing his weapon while in such a state seemed preposterous to me. Nevertheless, a jury found him not guilty by reason of mental disease or defect, though he had no history of epilepsy and his electroencephalograph (EEG) readings proved normal.

As required by law, the trial court ordered Torsney into the custody of the New York State Department of Mental Hygiene. On January 6, 1978, five weeks after the verdict, an examining physician observed that "neither before or after the offense [had Tornsey] shown any signs of epilepsy." By mid-1978, a special-release committee of doctors unanimously reported that Torsney did not suffer from a psychosis, a psychopathic disorder, or organic brain damage, and recommended that he be freed, though not to walk a beat again. The Brooklyn district attorney's office fought the department's decision, but after a year-long legal battle Torsney was ordered released by a sharply divided New York State Court of Appeals.

Though dismayed by this chronicle, I regarded it at the time as an isolated instance of a last-ditch defense by a cop in a very tight spot. But in recent months, in the course of researching a novel, I've found that the Torsney verdict has encouraged a nationwide increase in cases employing the "epilepsy defense." These cases, too, have generated considerable publicity, giving fresh currency to the myth that epilepsy is linked to insanity and violence. This belief dates back at least to the fifth century and to a killing much like the one committed by Torsney. Herodotus wrote that Cambyses II, King of Persia, deliberately shot an innocent youth in the heart with an arrow while in the throes of "the sacred disease."

The early Greeks and Romans did consider convulsions sacred, positive proof of direct connection with the gods. But throughout most of the centuries that followed, epilepsy served primarily to make its victims outcasts. In the Dark Ages, they were regarded as possessed by demons, and well into the nineteenth century many were still being locked up for life in insane asylums. Though the general public is more enlightened about epilspsy today, the myths die hard. Until 1965, several states prohibited people with epilepsy from marrying, and five still have laws authorizing or mandating involuntary sterilization. Only after 1975 did "Black's Law Dictionary" update its definition of epilepsy, which had read, in part:

"The course of the principal disease is generally one of deterioration, the brain being gradually more and more deranged in its functions in the intervals of attack, and the memory and intellectual powers in general becoming enfeebled, leading to a greatly impaired state of mental efficiency, or to dementia, or a condition bordering on imbecility."

The conviction that epilepsy could cause specific criminal behavior gained its widest support in the nineteenth century. Many doctors and lawyers were attracted to the theories of J. Esquirol, a French pioneer in scientific psychiatry, and C. Lombroso, the Italian criminologist who began the scientific study of criminals. Esquirol argued the existence of "masked epilepsy," mental automatisms during which, he believed, a person could commit violent crime. Lombroso said that such people suffered from the "epileptoid criminal condition" and maintained that epileptics were predisposed to brutal behavior. These theories, and others like them, have long been discredited by modern neurological science. For most of the twentieth century, the idea that epilepsy somehow causes criminal behavior has been, if not dormant, certainly quiescent. Before the Torsney case, it received widespread attention only rarely, as in the defense of Jack Ruby for killing Lee Harvey Oswald, John F. Kennedy's assassin, in 1963.

Since 1977, however, at least twenty homicide or murder cases have come to trial in which lawyers have mounted some version of the epilepsy defense to demonstrate their clients' "insanity" or "diminished legal responsibility." The defense has also been raised on behalf of at least six people charged with crimes of lesser violence. These cases have been tracked by the Epilepsy Foundaton of America (EFA) and its local affiliates, which depend primarily on word of mouth and newspaper accounts of the trials. Most likely the total number of cases is higher, since clipping services are not foolproof and no printed transcripts exist of most state criminal trials unless they are appealed. The recent trials, of course, represent only a tiny fraction of all felony cases involving violence, and as such do not constitute a major legal issue. But for the nation's 2 million epileptics and their relatives, the trials and attendant publicity can be harrowing. Many people pleading the epilepsy defense are charged with dramatic killings. They include Wilfredo Rivera, who killed a policeman in a shootout at his Newburg, New York, home after officers besieged it in response to a call for help; Victoria Bonavita, who stabbed to death her former benefactor and employer in Cliffside, New Jersey, just hours after formally accusing him of stealing her Atlantic City gambling winnings: Thomas Ramseur, who killed a woman in front of her Newark, New Jersey, home by repeatedly stabbing her before five witnesses; John E. Pierce, who tortured and sexually assaulted a University of Mississippi student and then stabbed her fifty-three times and threw her body into the Sunflower river; and Anthony Lee Chaney, who shot a sheriff's deputy three times in Flagstaff, Arizona.

Even crimes that did not result in death often make "good copy" if the epilepsy defense is employed. Fred Young came before a Pinellas County court in Florida accused of holding his girlfriend against her will, breaking dishes over her head, beating her with a broom, and running a hot iron over her body. Clifford Graveline came before a Quebec provincial court accused of clubbing a neighborhood dog with a hammer.

Such cases produce headlines like "Man Cleared Because of His Epilepsy," "Accused Murderer Had Seizure, Mom Says," and "Seizure Gets Him Off Hook." Sometimes the reporting beneath this neon is unemotional and evenhanded. Still the lurid details of the crimes—rehashed day after day before and during the trials—inevitably overwhelm the legal and medical issues. In the end, the verdict may be less important than the coverage. Bonavita, Ramseur, Pierce, and Chaney were all convicted despite their epilepsy defense; Rivera was found not guilty by reason of insanity and, like Torsney, freed after a brief stay in mental hospitals. Young also was found not guilty by reason of insanity, though the judge specifically rejected any link to epi-

lepsy. Graveline, too, was acquitted, and his plea of "non-insane automatism" said to be the first of its kind in Quebec. All seven crimes, however, occasioned reporting that suggested that epileptics are inherently violent. As Dr. Antonio V. Delgado-Escueta puts it, people with epilepsy "have taken an awful beating socially and psychologically because of the recent press."

Dr. Delgado-Escueta is the director of the Comprehensive Epilepsy Program at the University of California School of Medicine. In 1980, concerned about the increased use of the epilepsy defense, he organized a workshop of eighteen leading epileptologists from the United States, Canada, West Germany, and Japan. They gathered in Bethesda, Maryland, under the auspices of the EFA and the National Institute of Neurological and Communicative Disorders and Stroke. As reported in the September 17, 1981, issue of the New England Journal of Medicine, the workshop "reviewed the manifestations of 33 epileptic attacks in 19 patients; the attacks had been documented by closed-circuit television and electroencephalography, and the patients had been selected for suspected aggressive behavior from [approximately 5,400] patients with seizure disorders recorded in clinics around the world."

Only seven of the nineteen, chosen from such a large population, demonstrated aggressive behavior during seizures. This ranged from shouting and spitting to destructive acts toward chairs, wastebaskets, and beds. Of the seven, three were mentally retarded, three manifested learning problems or organic brain disorders or both, and five had histories of psychiatric problems, including aggressive behavior not associated with seizures. In discussing the seven patients further, the panel concluded:

"All aggressive acts appeared suddenly, without evidence of planning, and lasted an average of 29 seconds during [psychomotor] seizures. All patients could be easily restrained. All automatic acts (e.g., kicking and boxing or attempts at grabbing an intended target and scratching his or her face) were short-lived, fragmentary and unsustained.

"Our analysis is in agreement with [other research that emphasizes] the extreme rarity of directed aggression during seizures and the near impossibility of committing murder or manslaughter during random and unsustained psychomotor automatisms."

To argue otherwise, says Dr. Delgado-Escueta, is to employ "the fiction writer's imagination."

Michael Crichton did so in "The Terminal Man," his 1972 thriller about a murderously violent psychomotor epilepic named Harold Benson. Because several neurologists complained about the characterization, Crichton, himself a doctor, was moved to include a postscript in the paper back edition of the novel. "In the face of considerable controversy among clinical neuroscientists," he wrote, "I am persuaded that the understanding of the relationship between organic brain damage and violent behavior is not so clear as I thought at the time I wrote the book. . . . I am concerned that I may have inadvertently hampered the attempts of well-controlled epileptics to function in a society that still retains a lingering prejudice against epilepsy."

The Bethesda panel, beyond seeking to debunk the epilepsy defense, hoped to neutralize a small but vocal group of scientific investigators that continued to insist that criminal violence may, indeed, sometimes be a function of epilepsy. Chief among them is Jonathan H. Pincus, a neurologist at the Yale University School of Medicine, who threw down the gauntlet even before the panel convened. In the March, 1980, issue of Neurology, he wrote: "Neurologists, acting as advocates for their patients and not wishing 'to give epileptics a bad name,' have a tendency to discount acts of personal violence as being within the normal range, or to discount the possibility that complex or violent crimes can be ictal events." Pincus argued that most of the studies in this area had not been rigorous.

The layman can be pardoned for finding this debate confusing. Most medical discussions of epilepsy tend to be arcane, dealing as they do with the complexities of the brain. Despite modern scientific advances, neurologists themselves still do not know what causes the malady, only that it is triggered by abnormal electrical discharges in the brain cells which can be charted on an EEG machine. Most epileptics lead normal lives, because they take anticonvulsant drugs to control seizures. But researchers don't understand the way in which many of these drugs work—only that they do. Most neurologists regard epilepsy not even as a disease but rather as a spectrum of symptoms that range from the momentary staring of petit mal through psychomotor episodes to the scary grand-mal convulsions that were associated in ancient times with what was called "the falling sickness." Under the circumstances, it is not surprising that there is no comprehensive legal definition for epilepsy.

An Illinois appeals court grappled in 1977 with this problem in *People* v. *Grant*, a case in which the defendant claimed he was having a psychomotor seizure when he assaulted a police officer outside a tavern. The court observed:

"A number of cases from other jurisdictions have addressed the relationship between epilepsy and insanity without clearly distinguishing psychomotor epilepsy manifested by involuntary or automatic behavior from the forms of epilepsy manifested by petit or grand mal convulsive seizures. . . . Indeed, our research has disclosed only a handful of American cases that are clearly similar to the instant case."

According to the EFA, from 1889 to 1980 only fifteen cases in which epilepsy was used as a defense against charges of murder, homicide, manslaugher, or disorderly conduct were appealed in the United States.

In *People* v. *Grant*, the majority on the court ruled categorically that "automatism is not insanity." The opinion stressed that automatism can stem from a wide variety of physical conditions other than epilepsy, including drug abuse and hypoglycemia. The dissenting judge, however, wrote that "an epileptic striking another person while in a state of automatism not only lacks the volition to perform a voluntary act but is also insane" within the meaning of the Illinois criminal code. The statues of most other states allow, even invite, similar disagreement. Jurors are likely to be befogged as well, especially when whipsawed by "expert" witnesses hired by the prosecution and the defense. The courts oversee a sometime haphazard, occasionally canted adversarial system, not a medical-research system subject to the stringent rules of scientific inquiry.

In the Torsney case, for example, no neurologist testified for the defense. The argument that Torsney suffered from psychomotor epilepsy was made mainly by Dr. Daniel W. Schwartz, a forensic psychiatrist, who had taken the witness stand for one side or the other in more than 300 cases over the previous fifteen years. Dr. Schwartz's testimony was strenuously rebutted by Dr. Herbert Spiegel, a psychiatrist at Columbia-Presbyterian Medical Center, in New York City, and a member of the Bethesda panel.

He maintained that Torsney "had the capacity to understand . . . the nature and consequences of his act" and at worst suffered from a "neurotic personality disorder . . . and a proneness to hysterical dissociation." Though Torsney's lawyer, Edward M. Rappaport, had built his case primarily around the epilepsy defense, he was almost cavalier about it in his summation. He told the jury: "Whether you accept the [Spiegel] finding of hysterical dissociation or you accept the concept of psychomotor seizure *is really unimportant*. The fact is there was not normalcy" at the time of the shooting (emphasis added).

Lawrence A. Dubin, who represented Wilfredo Rivera, the defendant acquitted by reason of insanity in the Newburgh shootout, says the Torsney case "educated me completely on the subject of psychomotor epilepsy." He, too, did not summon a neurologist to help make his case; instead, he depended largely on the testimony of Dr. Stanley L. Portnow, like Dr. Schwartz a forensic psychiatrist with long experience on witness stands. "Portnow talked in court for a full day," recalls Dubin. "He brought with him two models of the brain." (Dr. Portnow was also one of the court-appointed psychiatrists who examined Robert Torsney after his incarceration; he labeled Torsney's condition a "personality disorder" and recommended gradual release.) In the Rivera case, Portnow's task was made all the easier because the prosecution did not call a neurologist to testify, either.

Recently, I asked Martin R. Goldberg, who tried the case for the state, why, "Rivera's actions were premeditated and deliberate," he said. "During the shootout he moved from window to window firing his gun. I simply did not think the jury would buy the psychomotor-epilepsy defense. At the time, I did not think calling a neurologist to testify was necessary."

To encourage thinking more in keeping with the medical evidence, the Bethesda report sets forth five criteria for determining whether a violent crime could be associated with an epileptic seizure:

"First of all, the diagnosis of epilepsy in such a person should be established by at least one neurologist with special competence in epilepsy. Secondly, the presence of epileptic automatisms should be documented by the history and by closed-circuit television and electroencephalographic biotelemetry. Thirdly, the presence of aggression during epileptic automatisms should be verified in a video-tape-recorded seizure in which ictal epileptiform patterns are also recorded on the electroencephalogram. Fourthly, the aggressive or violent act should be characteristic of the patient's habitual seizures, as elicited in the history. Finally, a clinical judgment should be made by the neurologist, attesting to the possibility that the act (the alleged crime) was part of a seizure."

These recommendations, and the Bethesda report in general, are now promulgated by the EFA and other epilepsy organizations around the country.

The results cannot be measured precisely, but the guidelines seem to be having an impact. Last year, for example, an Arizona

neurologist noticed that Anthony Lee Chaney was using the epilepsy defense against the charges that he shot the sheriff's deputy in Flagstaff. He got in touch with John Verkamp, the county attorney, and told him about the Bethesda report. Subsequently, Verkamp arranged through the Epilepsy Institute, in New York, to have Dr. Eli S. Goldensohn come to Flagstaff. Dr. Goldensohn, the chairman of the EFA and a Bethesda panelist, testified that Chaney's EEG readings were normal and explained that, according to the panel's findings, if Chaney had been in a psychomotor seizure he could not have performed the several deliberate and premeditated acts that immediately preceded the killing: slamming on the brakes of his car, pulling out a rifle, getting out of the vehicle, advancing on the deputy's car, and firing a total of thirty shots, including the three that killed the deputy. It is altogether possible, of course, that Lee Chaney would have been convicted without the testimony from Dr. Goldensohn, but in Verkamp's view it helped the prosecution immensely.

Few neurologists rule out the possibility that in extremely rare instances epilepsy might play some role in violent criminal behavior. As yet, however, no scientific proof supports the contention that epileptics can commit goal-directed, aggressive crimes during seizures. On the contrary, almost all of the recent cases suggest, as the Torsney trial did, that it is the defense lawyers who are goal-directed and aggressive—scrambling for a dramatic plea to save a defendant in what is a near-hopeless situation.—*Richard Pollak.*

MR. WILLIAM A. SCHMIDT RETIRES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LEWIS of California. Mr. Speaker, at the close of the 1983-84 school year, Mr. William A. Schmidt of Redlands, Calif., will retire after 35 years of dedicated service to the Redlands Unified School District. As a teacher and a counselor, Mr. Schmidt has touched the lives of so very many young students in a positive, constructive manner. I take this opportunity to ask the Congress to join me, along with his many friends and admirers, in expressing our deep appreciation and gratitude to this outstanding human being for his service to his community, State and the Nation.

Bill was an active participant in both school and church affairs in his boyhood home of Glendale, Calif. In addition to his academic activities, he joined his school's ROTC program and remained active until he graduated in June of 1942, at which time this highly patriotic young man enlisted in the Army. Called to active duty on March 12, 1943, Bill volunteered for the 101st Airborne Division, an all-volunteer division, and eventually trained on CG4a gliders, C-47's and parachutes at Fort Bragg, N.C. The division was off to England by early September of that year and spent the following 10 months there, readying themselves for that fateful invasion of the beaches at Normandy. Being one of the first glider units to land at St. Mere Eglise, Bill's unit received a Presidential Citation for its dedication and bravery. His other honors includes the Purple Heart, the European-African-Middle Eastern Campaign Medal, and the World War II Victory Medal.

Bill began teaching seventh grade students in Banning, Calif., in 1950 and the next year started working for the Redlands Unified School District. He taught at Yucaipa Junior High School, which was to move into a new building in the spring of 1952. In addition to successfully coping with all that was involved with such a move, Bill assisted in the orientation of the sixth and seventh grade students that were to enter the new facility, and has been counseling junior high school students ever since.

In 1955, Bill was asked to be one of the first faculty members of the new E. M. Cope Junior High School in Redlands. Bill accepted, and took an enthusiastic and vital role in the planning and organization of the facility. While on the staff at Cope, Bill completed his MA in education, with an emphasis in counseling. Mr. Schmidt's devotion to his profession is clearly evident. Opening the school building each morning, manning the telephones and overseeing the preparation of Federal, ethnic and other surveys conducted by the district office are but a few examples of Bill's heartfelt commitment. Bill takes particular pride in Cope's foreign student program, to which he has made outstanding contributions over the years. His experience in placement and working with students from more than 15 different countries has made Bill a resource for other school districts operating similar programs. For his exceptional accomplishments in education, Bill was the first recipient of Cope Junior High's Eagle Award as well as the PTA Honorary Service Award. In response to his remarkable efforts to return to the classroom following a near-fatal camping accident, the students at Cope showed their admiration and love for Bill by dedicating the 1965 edition of their yearbook, "The Aerie," to him.

Bill and Lois Schmidt's three children, Kristen, Philipp, and Mark, all attended Cope Junior High and went on to graduate from their father's alma mater, the University of Redlands. Not only was Bill a source of inspiration to those he taught, but he also had a profound effect on his children. All three have gone on to become fine teachers, following their father's excellent example.

The Schmidts are also very active in the community's Lutheran Church, being among the founders and charter members of Faith Lutheran Church. Lois is director of music at Faith and Bill has held nearly every lay position there, including president of the congregation.

Mr. Speaker, I take great pride in commending to my colleagues, Mr. William A. Schmidt, a truly remarkable man who, through his selfless years of dedicated hard work has made a most beneficial contribution to all those around him.●

THE 5,000TH CALL OF THE FOREST HILLS VOLUNTEER AMBULANCE CORPS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ACKERMAN. Mr. Speaker, it is with great pleasure that I rise today to inform my colleagues of a special organization in my district, the Forest Hills Volunteer Ambulance Corps, which has recently responded to its 5,000th call for service.

Since 1971, the corps has been part of the New York City Emergency Medical Service Paramedics network, which provides a backup system with other local ambulances to respond to emergencies.

Approximately 45 men and women donate their time and service for at least two shifts every week to serve the emergency medical needs of the Forest Hills, Queens, community. The volunteers include parents, homemakers, students, senior citizens and professionals. Many have received the vital training necessary to be a practicing paramedic, including first aid and cardiopulmonary resuscitation (CPR), and are New York State certified emergency medical technicians.

Mr. Speaker, the fine record of the Forest Hills Volunteer Ambulance Corps deserves commendation. Since its formation 13 years ago, the corps has handled life-or-death crises as well as the routine situations assertively and calmly. The volunteers answer many calls in as little as 2 minutes. The corps also responds to residents' requests for transportation to a hospital of their choice, or to an airport for further medical treatment in another city.

The medical technicians of the Forest Hills Corps serve yet another important purpose. Their ambulances, fully equipped with the Life Pac 5 cardiac monitoring device, stand by at public gatherings which require backup emergency assistance.

It is interesting to note that the ambulance corps is supported solely by private contributions. Unlike the New York public ambulances, the FHVAC never charges its patients for any serv-

ice, including oxygen, bandages, or other equipment use.

The corps has recently instituted a speaker's bureau in which its members will go out into the community to discuss their services and activities with local civic organizations and volunteer groups.

Mr. Speaker, I ask that all my colleagues in the Congress of the United States join me in extending a warm congratulations to the president of the Forest Hills Volunteer Ambulance Corps, Jon Scharf, and to a husband-and-wife team, Marc and Shira Safran, who serve as vice president and secretary, respectively, of the corps, and to all the other dedicated volunteers whose selflessness and generosity have helped saved lives and given comfort in medical emergencies in the Forest Hills community.●

MONEE VOLUNTEER FIRE DEPARTMENT WEEK

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. MADIGAN. Mr. Speaker, I rise today in honor of the dedicated and hardworking members of the Monee Volunteer Fire Department. These exemplary individuals were recently honored by a resolution passed by the president and board of trustees of the Village of Monee, designating the week of July 16 through July 22, 1984, as Monee Volunteer Fire Department Week.

The members of this fire department provide a community service of the highest order. They have freely given countless hours of their own time to insure the safety of the residents and property within the Village of Monee and the surrounding territory.

Although volunteers, the members of the Monee Fire Department are never free of the obligation they have chosen. Whether on the job, relaxing at home, or asleep in bed, they must be constantly on the alert for an alarm that will call them to the firehouse, and often to a situation in which their lives will be in danger.

Mr. Speaker, I ask that my colleagues join me in commending the many years of outstanding fire protection services provided by the Monee Volunteer Fire Department.●

HONOR THE VIETNAM UNKNOWN SERVICEMAN BUT REMEMBER THE MIA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. MINISH. Mr. Speaker, this year's Memorial Day ceremonies at Arlington National Cemetery will bear tender significance to the Nation, for 11 years after the 93d Congress so directed the Secretary of Defense, the remains of an unknown American serviceman from the Vietnam era will be interred there at the Tomb of the Unknowns.

The Department of Defense laboratory in Hawaii has been working continuously, trying to identify remains of Americans killed in Southeast Asia so they can be returned to their families. Now, after all these years, the Department has the remains of a serviceman who, without a shadow of a doubt, cannot be identified.

These remains, after solemn honors are accorded here in the Capitol rotunda, will be placed in a crypt near the unknowns of past wars in which Americans have died.

With last year's dedication of the Vietnam Veterans Memorial on Constitution Avenue and now with the interment of the Vietnam Unknown Serviceman, we can take some consolation in the fact that the sacrifices of Vietnam veterans have at long last received the honor, recognition and symbolic gratitude of this Nation.

But this action does not close the book on the remaining Missing in Action servicemen—2,489 at the most recent count—whose families still suffer the pain of loss, even though clouded in uncertainty and, in some cases, buoyed by an ever so faint ray of hope that their loved one may still be alive somewhere in Southeast Asia.

The Department of the Army reiterates that its primary obligation is to resolve the fate of these men and thus lessen the burden of grief on their families. To this end, our Government has worked tirelessly, trying to identify their remains. From time to time, more remains are returned to our own authorities and Army forensic technicians continue to pursue their painstaking, intricate, and detailed investigation.

So, I would ask my colleagues in their Memorial Day observances to reserve a few minutes of private prayer or contemplation for the families of the MIA's. In fact, I would hope if you have occasion to speak at such observances, you will ask that the prayers and thoughts of your constituency go out to the families of the 2,489 Vietnam MIA's who may never be accorded the honor that we bestow on the Vietnam Unknown Serviceman this Memorial Day.●

RELIGION AND ETHNIC OPPRESSION IN THE U.S.S.R.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. YATRON. Mr. Speaker, I want to take this opportunity to discuss an important event which has relevance to every one of us in this Chamber. On May 16, the Research Center for Religion and Human Rights in Closed Societies held a 3-day conference at Marymount College, "Religion and Ethnic Oppression in the U.S.S.R." The conference was particularly timely, especially in light of the House's increasing concern over human rights abuses in the Soviet Union as reflected in the passage of House Concurrent Resolution 304, regarding the plight of Andrei Sakharov and his wife, Elena Bonner.

The conference was most educational, featuring scholars as well as former victims of persecution who focused on the policies of the Communist Party in the Soviet Union. Through some very gripping and emotional presentations, the speakers detailed and documented example after example of how the Soviet Union is endeavoring to eradicate religion and stifle aspirations for self-determination of ethnic minorities in that country.

Families are separated, individuals are jailed for long periods at hard labor, others are deported, expelled, or exiled, and some lose their jobs or their paychecks simply for their belief in God. Similar tactics are employed by Soviet authorities to totally suppress an individual's ethnic identity. These policies have resulted in unimaginable suffering and substantial loss of life for countless individuals.

Certainly, none of this may be much of a surprise to any of us here, as the ruthlessness of the Soviet Union is no mystery. However, hearing first-hand accounts of persecution by victims enhances our appreciation for the magnitude of suffering, as well as increases our repugnance to repression. Indeed, such moving portrayals can strengthen our resolve to work for justice and dignity in those societies which perpetrate human rights atrocities.

The conference which was chaired by Ambassador Richard T. Davies, featured such notables as Russian dissident Alexander Ginsburg, expelled Russian Baptist leader Lidiya Vins, former political prisoner Vladimir Bukovsky, religious dissident Father Michael Meerson-Aksenov and many others. Assistant Secretary of State for Human Rights and Humanitarian

Affairs, the Honorable Elliott Abrams also addressed the conference.

The conference was significant for its special emphasis on discussing the most effective ways to help victims of persecution and on interreligious and interethnic cooperation in such efforts. The speakers represented all major religious denominations including Jews, Moslems, and Christians and many ethnic minorities in the Soviet Union. While all recognized the usefulness of quiet diplomacy in certain circumstances, they deeply believed that constant pressure and the exposure of human rights violations produced the optimum results. Public actions by the Congress, the administration, religious and ethnic organizations, and other concerned groups are most helpful in bringing succor to victims of persecution.

May this conference serve to remind us how precious our freedoms and liberties in America are. May it also serve to intensify our commitment to bring hope and relief to all who suffer under the heavy hand of oppression.●

NATIONAL TOURISM WEEK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BADHAM. Mr. Speaker, next Monday, all across the country Americans will celebrate Memorial Day—a day which honors all those who have fought and sacrificed to protect our freedoms.

Traditionally, on Memorial Day we visit with familiy and friends, have picnics, go to the beach or the mountains—in short, we relax and enjoy the blessings of our way of life.

This year in conjunction with the Memorial Day festivities we also celebrate the week of May 27 to June 2 as "National Tourism Week." It is, I think, fitting that in keeping with the spirit of the day honoring those who have battled for our liberty, the theme for the first-ever National Tourism Week is "Travel—the Perfect Freedom."

It is hard for us to imagine not being able to travel where we want, to experience and appreciate culture as we prefer, or to visit with whomever we like. Yet, for many peoples of the world, such is the case.

Both Memorial Day and the theme of National Tourism Week remind us of just how precious are our rights.

In many ways, the tourism industry exemplifies the achievements that are possible given the right of each of us to pursue our livelihood where and how we deem appropriate.

The travel industry is diverse, ranging from transportation to lodging to entertainment enterprises, and small busiesses comprise 99 percent of the industry. Last year, tourism provided employment for 4.6 million Americans at every skill level. As the third largest retail industry in the United States, tourism generated $4.6 billion in wages and salaries.

The designation of a National Tourism Week appropriately recognizes the significant contribution of this industry to the U.S. economy.

More importantly, this first celebration of National Tourism Week together with Memorial Day should serve to remind us all that our freedom is invaluable and worth defending.●

INFLUX OF IMPORTS DEVASTATING OUR DOMESTIC SHOE INDUSTRY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PEPPER. Mr. Speaker, I represent one of the largest shoe counties in the United States, Dade County. Almost 6,000 of my constituents in the county are employed in footwear manufacturing of some sort. Florida itself is the seventh most important footwear producing State in the United States. Even in this growing industry in our State, however, we have felt the impact of import penetration. While domestic consumption increased during 1981 and 1982, production fell from 22.5 million pairs of shoes in 1981 to 19.5 pairs of shoes in 1982, a net decline of 13.3 percent. The number of employees decreased by 12.5 percent.

During the years I have been in Congress, I have seen the domestic nonrubber industry continuously battle imports for a share of the domestic market. The influx of imports from low-wage countries has been devastating to our domestic industry. Despite the fact that the average footwear employee earns an hourly wage which is 40 percent lower than the average hourly wage for all U.S. manufacturing, the industry remains significantly undercut by imports. As a direct result of escalating imports, the unemployment rate in the industry stands at 18.7 percent as opposed to 11 percent for all U.S. manufacturing. More than 31,000 workers have lost their jobs since 1976.

Yet the industry remains vital to the economic health of many of the smaller communities in the United States. Approximately 132,700 workers in 41 States are employed by the footwear industry, including 2,100 of my constituents in Dade County. A footwear industry often constitutes a major source of employment for the low-skilled and undereducated workers.

I have also seen the industry's efforts to compete with imports despite the strangling effect that imports have had on the capital available for investment. The footwear industry's trade association and individual companies have established programs to improve productivity and quality. New technology is available to make the footwear industry more competitive, although it needs more time for development and dissemination to individual plants. Finally, the owners and workers in the footwear industry are committed to remain competitive. They will need time, however. With a meaningful import relief program in place, the footwear industry will have time to develop the new technology, to modernize, and to develop capital.

I have closely followed the petition for relief filed by the footwear industry under section 201 of the Trade Act of 1974. It is clear that the U.S. footwear industry has been seriously injured by imports. This industry is important to the economy of 41 States. Over 133,000 workers are dependent upon the footwear industry for their livelihoods. I urge the International Trade Commission and the administration to carefully consider the inevitable devastating results of continued neglect of the footwear industry's desperate fight. I hope that a comprehensive import relief program will be established to assist the industry.●

FEDERAL BUDGET CRISIS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PEASE. Mr. Speaker, I would like to take this opportunity to place in the record a speech given by chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, over the past weekend. Speaking before the alumni of DePaul University's College of Business and Commerce in Chicago, the chairman addressed the Federal budget crisis we are facing and the need for cooperation among industry, labor, and government representatives to reduce the deficit.

A prime example of the challenges we are facing in coming months is the automobile industry. Given the protection afforded by voluntary restraints on the importation of automobiles from Japan, our domestic industry has had the opportunity to adjust to more stringent world competition. Crucial to success in competing with foreign products is the development of a superior product. I, for one, would like to see a comparison of the research and development expenditures by General Motors, Ford Motor Co., and Chrysler Corp., in 1983 to the total bonuses and stock benefits paid to the chairmen of these companies and to eligible executives.

As Chairman ROSTENKOWSKI suggests, "Perhaps it is time to rethink Washington's support role in providing incentives and protection." Certainly, benefits flowing from the Federal Government—both in terms of outright spending and in terms of tax concessions—should be linked to demonstrated results. Our Federal deficit, our trade deficit, our recent economic crises, and staggering unemployment rates demand effective Federal policies. I applaud the chairman's interest in linking Federal Government benefits to demonstrated results in the name of the hardworking taxpayer who has paid the bill for the special tax breaks, exceptions to environmental standards, easing of regulations, and higher quotas.

The article follows:

REMARKS OF CONGRESSMAN ROSTENKOWSKI

Politics in Washington—particularly in an election year—has the pounding effect of surf. As one crisis recedes, another is already rolling toward the beach. Just when we're out of Lebanon, Central America heats up. Just when recession is fading, interest rates move ahead. Just as we accept low inflation, threats mount of a major auto strike.

But the one crisis that endures and worsens each month is the deficit. It has become the invisible crisis in America. Given the general flow of good economic news, warnings that the deficit holds great destructive potential are sadly met with a public yawn. About the only cassandras are editorial writers, Wall Street and Democrats. But crying "wolf" only scares people if the wolf strikes. So far the wolf remains hidden.

But in Washington deficits are finally compelling us to make what the President calls a "down payment" this year—somewhere around 150 billion dollars over the next three years. That's pretty modest when compared to the 600 billion dollar deficit forecast over the same period by the White House. But it's a start.

Piecing together a tax increase that not only protects those hardest hit by recession, but also accommodates competing economic demands, puts the committee under constant pressure. Each proposal, each vote, exacts its toll. Our only hope is bipartisanship.

This bill is not a Democratic tax bill. It's not a Republican tax bill. It was passed unanimously by both sides of the committee—and then gathered majorities of both parties on the floor of the House—a rare event in this period of political posturing and mistrust.

Our reward has been a month of waiting for the Senate to finish their work. It's like spending a month circling in an LST waiting to hit the beach. It looks now as if we'll begin final tax negotiations next week.

We all know it's a lot easier to raise taxes than it is to cut spending. Those affected by some complicated changes in corporate accounting rules are far fewer than those hit by a cutback in veterans' benefits or a small hike in medicare payments. The fact is that Congress has definitely checked the growth of social spending. And the cutting continues—even in an election year.

To measure the economy in numbers—whether inflation, GNP growth, unemployment or interest rates—reflects only the nation's immediate condition. Too rarely do we look for the answers in the faces and attitudes behind the numbers—in political caucuses, in corporate board rooms, in union halls, in living rooms. That's where new dimensions and new directions first unfold.

Recent reports of enormous salaries and bonuses awarded to top auto executives by themselves are of no great consequence. What disturbs me about such excess is not its arrogance so much as its portent. Once again we seem to be guided more by hope than experience—that we're already losing our grip with recovery barely begun.

As tacticians, I would flunk the car companies for lousy taste and lousy timing. They don't know that we still live in a country where the average family gets along on $23,000 a year. They seem not to grasp the public resentment and cynicism. But that's not going to alter one of the tenets of our free enterprise system—big payments for big jobs. They once asked Babe Ruth how he felt about making more money than the President of the United States. "I had a better year," he replied. The year was 1931. The President was Herbert Hoover.

The celebration in Detroit, however, suggests that memory of recent history has failed. How quickly America's booms eclipse memory of our busts. Crippling interest rates, record unemployment, wage restraints, mounting protectionism. These are the grim headstones of the past that the auto leaders, and many other chief executives, would rather forget—and apparently have.

Beyond public indignation at such princely salaries, the backlash at contract negotiations later this year is sure to be bitter and costly. Bonuses to GM executives alone topped 180 million dollars—or roughly $31,000 each. Add to that cost a large slice of the pie for labor. And pass them all on to the consumer.

Did the auto companies think that the logic that brought huge rewards at the top wouldn't provoke much broader demands at the bottom? Didn't they worry that sharing the bonanza of their first good year in six would bring leapfrogging wage and price hikes? Didn't they stop to measure their competitive loss to foreign imports? Didn't they wonder about the ultimate effect on other contract negotiations? Didn't they consider the long-range pressure on inflation?

Apparently forgotten are the pleas to Washington for special tax breaks, exceptions to environmental standards, easing of regulations and higher quotas and other trade barriers. Forgotten are the fundamentals of moderate, long-term growth.

I believe in the free enterprise system. I want it to survive. I want it to flourish. It's often brilliant. It's often stubborn—sometimes arrogant—and occasionally dead wrong. But it's the gyroscope by which we live in America.

As a politician I appreciate the mutual dependency between government and business. I balk at government intervention when private industry can do it better. I am responsive when I think government incentives are the only way to break the way for business. At times we have an obligation to prime the pump—but not to dig the well.

All I ask is that business be honest in its appeal for help. I also ask that when the venture is underway, and Federal help is withdrawn and aimed elsewhere, that business has the steel to stand on its own—and remain true to its original promise. Those are my standards.

As far as I'm concerned, when the early profits of recovery flow back into the pockets of the managers, business is breaking a covenant with not only their employees and investors, but also their Federal partners. They are walking away from a very real understanding that Washington expects the private sector to invest and expand—to retool and retrain—to gird for the intensifying fight for world markets. In short, we reckoned on a return for investing taxpayer money.

I thought the stewardship of American industry shared Washington's view that our future lay in our efforts to produce more efficiently and to compete more effectively. That was the rhetoric that bound industry and government together in hard times. But now, it seems, one partner is taking a walk—deciding to pocket much of its gains, rather than invest them—willing to let the devil take the hindmost.

Why, then, should the Federal government continue to protect industries with tax breaks if the capital needed to become more efficient is siphoned off for personal reward? Why should the Federal government continue to broaden trade restrictions that allow larger profits at home if those profits don't hasten our competitive drive abroad?

Perhaps it's time to rethink Washington's support role in providing incentives and protection. Perhaps consumers and voters should demand a better accounting of their tax dollars. Perhaps this nation should put big business on notice that we won't be compromised in our collective struggle for prosperity and security in the years to come.

So far, Lee Iacocca of Chrysler is the only man from the auto industry to acknowledge the necessary play-off between government, management and labor. At the moment we have one another by the tail. Labor wants a larger piece of the pie and job protection. Management wants wage restraints and fair trade guarantees. And the government wants to avoid spiraling wages and prices. Mr. Iacocca has made the first gesture toward a broad agreement. It's a start. But the ultimate force for compromise must be public opinion.

That means we've got to become a nation of jawboners. We've all got to demand restraint. Not just from corporate executives. Not just from union leaders. Not just from politicians. But from everyone. Too few in this country appreciate the trials ahead. Too many still suffer from the delusion of manifest destiny. They underestimate our world competitors. They believe we can survive the next decade on the status quo.

I am a pragmatist. As I see it, if the economic leaders of this country don't show some steel and vision soon, we're all in for another bust.

We will soon have made a small down payment on the deficit. We continue the struggle for fairer trade. The Fed is holding to a steady course. But the lightning rod for change—the one voice that carries—remains the President.

Only the President can call the nation to attention. Only the President can convince a doubting people that recession is the price of complacency. Only the President can ask for broad sacrifice at a time of political tension.

No longer can the country afford a sunshine President. No longer can we afford to be lulled day after day by rosy predictions and platitudes. No longer can we tolerate a President who won't take the heat.

Whether it's Reagan or Mondale, the next President faces troubles that stretch the imagination. A two trillion dollar national

debt. A terrible trade imbalance. High interest rates. Decaying industry. Acid rain. An unpredictable Soviet leadership. Central America. The Middle East.

The next President—just like the last president—faces the widening gap between what the country wants—and what the country will pay for. He will have to confront working families with higher taxes. He will have to confront the elderly with lower benefits. He will have to think twice before bailing out noncompetitive industries.

The next President will have to pull the nation further back from war. He will have to secure a nuclear arms control agreement. He will have to accommodate the changing politics in Central America. He will have to lower the limits of defense spending at home.

The next President will have to do a much better job balancing the needs of the poor with the resources of the wealthy. He will have to make the country understand that there is no difference between a Federal dollar spent to feed the poor and a Federal dollar spent to subsidize a business lunch. He will have to ease the growing tension between our two Americas.

Yet for all the confusion and fear at home and abroad—for all the partisan bickering on the campaign—our system somehow endures—and, in rare moments, carries us all a few yards forward.●

SMALL BUSINESS: BACKBONE OF THE AMERICAN ECONOMY

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. CAMPBELL. Mr. Speaker, I would like to bring to the attention of my colleagues a recently released quarterly survey conducted by the National Federation of Independent Business (NFIB). This survey found small companies' inventory building, hiring, and investment plans all at record or near-record levels.

Small firms—those with less than 100 employees—employ about half of the nonfarm work force and produce about 40 percent of the Nation's GNP. The survey reveals that these 14 million small firms' hiring plans rose sharply in the second quarter and reached the fourth highest level in 10 years. In fact, 1 out of 4 firms plans to expand its work force again this quarter. Moreover, small firms' plans to add to their inventories are at their second highest level in 10 years. Approximately 34 percent of the firms surveyed are also planning capital outlays in the next 6 months, which reveals that investment plans are at a record high level.

The NFIB has informed me that while these statistics reveal a strong economic revival for both small businesses and the economy in general, the outlook in the Southeastern portion of the Nation is even brighter. Although the final analysis has not been completed, I understand that the Southeast is doing even better than the Nation as a whole.

Mr. Speaker, I believe the statistics from this survey show that the policies of the Reagan administration are working. Granted, we must continue our work to reduce the onerous deficits, but we also must be cognizant of what has turned our economy around.●

A HELPFUL SUPREME COURT DECISION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. SIMON. Mr. Speaker, yesterday's unanimous Supreme Court decsion that law firms must comply with Federal employment discrimination when deciding who becomes a partner comes at a crucial time for women in the legal profession. Both the increase of female attorneys during the past decade and the growth in the percentage of women in law school mean that more women are now eligible for partnership positions.

The decision affects not only women in the legal profession, but also minorities, and it has an impact on other professions, including engineering and accounting. I applaud the decision as another step in guaranteeing equal employment opportunity for all.●

WHY GO TO WAR OVER PERSIAN GULF OIL

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PAUL. Mr. Speaker, both Republican and Democrat administrations have indicated that the United States would go to war over Persian Gulf oil. It has been said "we must protect our oil supplies." When did it become "our" oil? Although the stated position for years has been clear that if the flow of oil through the Strait of Hormuz were interrupted we would intervene, we are now coming dangerously close to needlessly involving ourselves in a military conflict. Our dependency on Mideast oil is now greatly reduced and our needs could be easily handled by our own energy supplies and reduced usage—that is if market forces are permitted to operate unhampered by Government regulations dealing with prices and allocation.

Japan and Europe have the most to lose and have no serious plans to protect "their" oil. Why is it that American taxpayers and young American military men must assume the risk and burden of policing the world? It is unnecessary, it is foolish, and any attempt at securing continued flow of oil out of the Persian Gulf in times of a military crisis is a pipedream. It can only serve to draw us into a no-win no-purpose international conflict and one where American security is not threatened. America can exist without Persian Gulf oil and without a war over it. Those who have the most at stake—the Arabs, Israel, Japan, and Europe ought to assume the burden, and pay the price for stability in the Persian Gulf—not the U.S. taxpayer nor the young men of America.●

TRADE, DEBT, AND UNITED STATES-BRAZILIAN ECONOMIC RELATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, on the morning of May 16, 1984, the Congressional Study Group on Latin America of the Georgetown University Center for Strategic and International Studies held another in its excellent series of substantive breakfast meetings for the Congress.

The guests on this occasion were members of the Brazilian section of the prestigious Brazil-United States Business Council—headed by its President, Dr. Laerte Setubal. Dr. Setubal and two other representatives from this group of distinguished leaders of the Brazilian private sector, Pedro da Cunha and Roberto Vidigal, made superb presentations on the policy imperatives of the present state of United States-Brazilian economic relations and ably responded to the comments and questions of the Members of Congress who were in attendance.

A number of points impressed me during the course of the discussion. First, it rapidly became clear that Congress does not have enough opportunities of this nature for direct contact with nonofficial representatives of Brazilian society. Consequently the legislature does not fully appreciate the crucial importance of Brazil to the United States or the extremely difficult socio-economic circumstances under which Brazil is now operating. Trade is now the single most significant economic issue between Brazil and the United States—since only through the stimulus of trade can Brazil hope to discharge its debt obligations. The growth of barriers to Brazilian exports to the United States is thus a matter that should be seen with grave concern by the Congess. And the Brazilian proposals, made during this meeting, for some trade facilitation mechanism—aimed at stimulating free trade, heading off potential disputes and promoting a hard new look at the special problems of the advanced de-

veloping nations—deserves our serious consideration. I believe my colleagues in both Houses of the Congress would benefit from examining the views of these distinguished visitors in their own words.

The statements follow:

REMARKS BY WILLIAM PERRY

Good morning. My name is William Perry. As a Fellow in Latin American Studies of the Georgetown University Center for Strategic and International Studies, many of you have seen me wearing a wide variety of hats on other occasions—as the Center is involved in the whole gamut of pressing issues that now characterize relations between the United States and Latin America. This morning I am wearing two of my favorites. And as Director of the CSIS Brazil Program and Executive Secretary of its Congressional Study Group on Latin America, I am pleased to welcome you here and thank you for your attendance.

I have only a few brief introductory remarks, as the representatives of the Brazilian Section of the Brazil-U.S. Business Council are quite capable of speaking for themselves. These individuals visiting the Congress today, together with their counterparts in the American Section of the Council, represent the most important private sector firms involved in the truly substantial economic relations between Brazil and the United States. They are here to exchange views on the current difficulties affecting this very important and critical relationship.

Americans have a tendency to view Latin America as a rather homogenous collection of states—when nothing could be further from the truth. And certainly Brazil is one-of-a-kind. A Portuguese speaking giant, Brazil is larger than the continental United States—covering one-half of South America and accounting for the same percentage of that continent's rapidly expanding population. Preoccupied with Central America and the Caribbean, North Americans often forget that South America is the heart of Latin America and that Brazil is the dominant geopolitical and economic force on the southern continent.

Brazil is a country of contrasts. It is in many respects an underdeveloped country that also happens to have the eighth largest economy in the world. Heavy and growing concentrations of population contrast with large open spaces. Prosperous modern cities can be found—but also areas of chronic, grinding poverty. Brazil is a country with an impressive developmental trajectory and incredible potential—but is currently experiencing a wrenching economic and social crisis. And it has had an authoritarian political regime for twenty years that is in the final stages of democratizing itself.

In spite of the fact that the U.S. is obviously the key world actor from the standpoint of Brazil—and that Brazil has always been very important to Washington's Hemispheric diplomacy—the countries do not know each other well on a non-official level. American ignorance of Brazil is legendary. And, although most Brazilians feel they "know about" the United States, the Brazilian presence in the U.S. is weak and real understanding of how our political and social system works is scarce. Brazilians like to complain about how the United States ignores Brazil. But to tell the truth, Brazilians, ignoring the basic fact that the U.S. is above all a participatory system, have neglected to present themselves and their views effectively in the United States.

As a great believer in the future of Brazil and the bedrock importance of continued cooperation between the U.S. and Brazil for the stability and progress of the Hemisphere, I have always lamented this fact. It is particularly noticeable in the Congress—where lack of appreciation for Brazil prevails and Brazilians are rarely seen. It is for this reason that I was particularly pleased to organize this event—in the hope that it will be only the first step in an ongoing dialogue that must be sustained if U.S.-Brazilian relations are to prosper. Thank you.

It now gives me great pleasure to introduce Laerte Setubal, President of the Brazilian Section of the Brazil-U.S. Business Council. Engineer and businessman, Dr. Setubal enjoys enormous prestige in the Brazilian business community, in which he has forged a very positive leadership role. Dr. Setubal has also played an important role in U.S.-Brazilian relations, co-chairing with Charles Pilliod of Goodyear, the Bilateral Economic Relations Task Force set up between Brazil and the United States in the wake of the exchange of visits between Presidents Reagan and Figueiredo in 1982.

STATEMENT OF LAERTE SETUBAL FILHO

Thank you, Bill. First of all, I would like to express my deep appreciation to Bill Perry of the Georgetown Center for Strategic and International Studies and to Congressman Lagomarsino for sponsoring and organizing this breakfast meeting. I also greatly appreciate the presence of the other members of Congress here, at a time that I know is a very hectic one.

Our purpose in coming here today is really two-fold. First, we have long recognized the importance of the Congress in addressing policy questions of mutual interest, and are now actively seeking to express that recognition by what I hope will be frequent and pleasant contact. Our friends in the Executive Branch are constantly telling us that the solution to many of the issues surrounding Brazil-U.S. economic relations lies with the Congress. Our second purpose is to convey to you an impression of Brazil. We feel that our country is not well-known in the United States, and that recent events perhaps have spawned misimpressions. We also seek your sympathy and support for policies which, I believe, are in our mutual best interests.

In 1976 the Brazil-U.S. Business Council was created because our bilateral relations were being heavily influenced by essentially non-business issues. The two business communities felt it necessary to maintain a close contact and to advance to the governments of both countries the common issues faced by private business. We have addressed questions related to U.S. direct investment in Brazil, technological development, energy, and similar issues. By far the most complex questions have arisen out of our trading relationship. In the last eight years we have met annually, either in Brazil or in Washington, to hear from government authorities and to discuss these questions.

Recently, Chuck Pilliod, formerly the Chairman of Goodyear, and I chaired our respective private sector task forces on our Bilateral Economic Relations. These working groups arose out of the summit meeting between President Reagan and President Figueiredo in December of 1982. Some of the recommendations of these working groups have become the focus of our deliberations yesterday in a special meeting of the Business Council at the U.S. Chamber of Commerce, hosted by the Chairman of the U.S. Section, ex-Treasury Secretary Michael Blumenthal. We discussed possible initiatives on a consultative mechanism to facilitate trade and avoid trade disputes, and we discussed U.S. investment in Brazil.

Why are these two topics the central ones? They are essential to Brazil's ability to earn foreign exchange and to stimulate economic development so that it can meet its international commitments while still providing for the basic necessities of its own population.

It is this challenge that has generated the dilemma that brought us here today. Our national commitment and our desires as businessmen are complicated because the United States and Brazil are—whether you have perceived it or not—intimately interconnected. We are directly affected by protectionism, to be sure. We are also affected by the debate on the Federal Budget, by tax legislation, by almost any important economic measure. The recent rise of 2 points in the prime rate in the space of a few weeks cost Brazil over a billion dollars—nearly 20 percent of our trade surplus of last year, a surplus that was achieved by grueling effort and much sacrifice.

The United States also is affected by what takes place in Brazil, though to a lesser extent. Our democratic institutions and political stability are essential, I am persuaded, to the security of the Hemisphere. Our ability to manage economic growth not only affects hundreds of American banks that have lent money to Brazil, but it also affects the fortunes of the many American firms that have invested billions of dollars in our economy. Indeed, it is no exaggeration to say that the international financial order of the non-communist world depends upon continued cooperation between our two countries.

In light of this mutuality of interests, I personally feel that it our obligation to get to understand each other better. This is why I am so pleased to be here this morning.

According to a U.S. government source, Brazil was the second largest economy in the hemisphere in 1980. Much of this success was brought about by collaboration with the United States. You hold about a third of our debt, a third of our foreign investment. About 20 percent of our exports and imports come from trade with the United States. Evidence of Brazil's presence here is amply demonstrated by our breakfast. More than half of the coffee in this cup came from Brazil. Probably 40 percent of the orange juice in this glass came from Brazil, to say nothing of the large percentage of Brazilian sugar that is found around this table. Yet, the sugar is subject to quotas and surcharges, and the orange juice is subject to countervailing duties. Only the coffee has escaped.

Please do not take away the impression that I am complaining to you about legal trade barriers—to the degree that these are legal problems, we are making legal defenses. The reality that we face together—mutually—and here I am referring to the United States Congress and Brazilian private enterprise, is that we have a complex political problem, or perhaps better said, a policy problem. It is complex because it contains many internal tensions and condradictions. The United States has, at the same time, placed upon us an export imperative and a number of export impediments. I will now ask my friend, Pedro Leitao da Cunha,

President of the Bank of Montreal S.A., to elaborate on the Brazilian point of view regarding this problem I have just described.

STATEMENT OF PEDRO LEITAO DA CUNHA

Thank you very much Laerte.

I would like to frame my remarks within the following proposition—the Brazilian export imperative is a consequence of its industrial growth and of its significance to the international community. Our country is about the size of the United States in size and population, with a per capita income which is only one-sixth of that of the United States. Unlike North America we must have an annual growth rate of about two and a half to three percent per year just to accommodate the new entrants into the work force.

We have always been willing recipients of United States' products and know-how. For many, many, years, or let us say traditionally, our country has imported much more from the States than they have exported there, and have supplied it with commodities and foodstuffs. Now we are beginning to export the fruits of our industrial development and it is that aspect that has created the impediments that we face now in the U.S. market. Half of all the manufacturers exported from Brazil to the United States are subject to countervailing duties or threats of antidumping duties. We are able to export what might be called middle-level technology products: basic food products, wearing apparel, shoes, some machinery, and equipment. These sectors, unfortunately, are the ones that most actively seek trade protection in the United States. I think it is important to understand why this is. These markets have already been penetrated by other exporters, mostly Japan, Europe, and other developed countries. In most cases the Brazilians do not compete directly with American firms, rather Brazil has sought to gain a position in the market share already taken by other countries. Yet it seems that the trade policy of the United States was framed with these developed trading partners in mind, and does not specifically address the question of new market entrants, which is almost always the case for Brazil. There are rules for young, developing countries and for countries that have already grown up. I am suggesting that there is a need for special consideration to adolescents, like Brazil, that are just now emerging into membership among the more developed trading nations.

Let me cite a couple of examples: The system for allocating poultry in the United States takes "historical market shares" as a point of departure. Often Brazil has no such historical performance, or is in that rapid stage of growth from zero to one or two percent in a very short period. Another example is the countervailing duty law, which does not much affect a country with a small foreign debt or high inflation. Without the debt or inflation a country can afford to have a currency that reflects the needs of trade. Brazil's currency is affected by anti-inflation measures and the debt burden so that other adjustments are necessary to let exports reflect their rightful competitiveness. Such internal corrections or financial policies are penalized as subsidies just as if Brazil were on the same kind of economy as Japan or Germany. The currency problem also creates risks of anti-dumping duties, even when the producer is not practicig the kind of unfair price discrimination that the law was designed to remedy.

The fact is that Brazil is very productive and enjoys comparative advantages for many reasons. The richness of the land, the abundance of raw materials, the availability of hydroelectric energy for industry, the abundance and ability of its work force, all combine to make Brazil a strong role competitor in many products. Yet, we must struggle with distortions in the economy that arise from the political needs to plan an orderly development—and in the face of inflation, and international shocks, like the price of oil and the rates of interest, over which Brazil has absolutely no control. I believe that many of the reactions to our exports in the United States are not in response to our basic competitiveness, but rather to the distortions and corrections of distortions that are simply a fact of life for a large developing economy such as ours.

Brazilian exporters do not deserve the image of price cutters or predators sometimes created for them in this country. We simply are constrained to sell our products within the institutional framework that the domestic economy and the rest of the world presents to us. We are hoping to conform our institutions and laws to the model of the free world, developed economy. I sincerely hope that American lawmakers can also recognize that our problems are transitional and provide the understanding that we need. We have made these points with the Executive Branch and now seek to have the Congress understand them as well.

Finally, I wish to make an important observation about analyzing our trade relationships in the larger context of economic development. We are told by some of the Executive Branch that the large trade surplus which Brazil achieved last year in the United States somehow weakens our position concerning the need to export in the United States. Most of the resources generated really stayed in this country. While we may have received between two and three billion in surplus—which is certainly not traditional, I might add—the net current account flows for that period were decidedly in the opposite direction. Last year Brazil sent the United States more than three dollars for every one dollar it received. I believe this to be a compelling reason to encourage the introduction of Brazilian exports into this market, displacing, to a certain degree, the imports from other foreign countries whose economic welfare depends less directly upon the economic performance of the United States and the prosperity of its people. I will now ask my friend, Dr. Roberto Vidigal, Executive Vice President of Confab Industrial, S.A. to highlight some of the proposed solutions that we have been discussing in our previous meetings. Thank you very much.

STATEMENT OF ROBERTO VIDIGAL

Good morning. My job is to open the dialog on specific ways in which we hope to cooperate with the Congress in addressing these issues. I will start by illustrating what Pedro has explained to you by citing the experience of my own company. Confab is a company that is small by U.S. standards and large by Brazilian standards. We are equipped with American machinery and recently we decided to export to the United States, challenging our competitors on the basis of quality and delivery terms. These competitors are not, in the main, American firms. They are mostly Japanese and German exporters. We managed to win one contract last year, and for our efforts were sued under the antidumping laws by the U.S. subsidiary of one of our German competitors. Since this is a pending case, I cannot comment further on it, but it illustrates the frustrations that we and our American customers encounter.

In recognition of the relative inability of the trade laws to take the special circumstances of Brazil into account, the private sector, in working groups both in Brazil and the United States, recommended the creation of a trade facilitation committee to act as a shock absorber or buffer between Americans and Brazilians that are faced with potential conflicts. The purpose would be to try to resolve such frictions before they become full-blown litigations that disrupt markets, frustrate conciliation, and waste everyone's efforts, time, and money. We discussed this measure yesterday at the Chamber of Commerce with a panel that focused mostly on efforts in a prior era toward trade facilitation between Japan and the United States. Representative Jim Jones participated in that discussion and encouraged us to go forward with our trade facilitation committee initiative. We have not yet decided on a structure for it, but we know we must have the full cooperation of the legislative branch.

We see two basic roles for this facility. One would be that of conciliation and intermediation in specific matters, in the hopes of resolving problems before they become hardened into formal disputes with relatively inflexible procedures. The second role would be of advancing the proposition that the advanced developing countries present new problems for trade policy and require new efforts, new answers, new approaches. In this effort we eagerly seek your advice, support, and guidance.

I should also mention that there are several pending legislative measures that will provide a context for putting some of these ideas into action. We perceive a hardening of attitudes about the General System of Preferences. This legislation is important both economically and symbolically.

The current law has safeguards built in to keep the cost of GSP—in human terms—low. For example, steel, textiles, and other import-sensitive items are not included. The cost of losing the preference in human terms is high. Furthermore, the prospect that some countries should be graduated is particularly threatening. Giving GSP to many countries but not to Brazil under equal terms would be to discriminate against Brazil, something not in the best interest of either of our nations.

The Trade Remedies Act also merits close examination. I hope, that in its zeal to tighten up the trade laws, Congress does not automatically make it an unfair trade practice to export from the developing countries where indicative planning and the stimulation of growth in selected sectors is a fact of life.

Finally, I understand that there are a number of bills that would allocate trade on a quantitative basis—the steel quota bills and some proposals from the textile industry. As my colleague, Pedro, has said, Brazil is potentially and actually very competitive in spite of economic distortions imposed by undeniable economic realities. We are committed to the free market and struggle for this in Brazil. Quantitative trade restrictions would ignore our competitiveness and penalize us for our relatively recent entrance into the U.S. market.

We are not pressing on you a specific position on these matters. We are not lobbying, we are seeking your understanding and sup-

port. I hope you will keep in mind through your deliberations what Laerte Setubal said at the outset—whatever you do will have an impact on Brazil, on its American customers and final consumers. We all benefit from free trade, and I hope you will weigh this in the balance. We are particularly interested in your ideas on the trade facility initiatives. Thank you.●

AVERY ISLAND'S TABASCO SAUCE

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. TAUZIN. Mr. Speaker, the following article about Avery Island, La., appeared in the May issue of Smithsonian magazine. Because this is the story of a unique area in the Third Congressional District of Louisiana, I want to share it with my colleagues.

ON AVERY ISLAND, TABASCO SAUCE IS THE SPICE OF LIFE

(By James Conaway)

Rising unexpectedly out of the coastal marshlands in southern Louisiana's fabled Cajun country is a startling geologic and cultural phenomenon known as Avery Island. Not an island at all, really, but an upthrust salt dome about six miles in circumference. Avery is covered with woods, meadows and fields. On October evenings those fields burn with the reddish-gold of ripening peppers, and snowy egrets roost by the hundreds in the exotic gardens nearby. Birds and peppers are curiously related here.

The peppers go to make Tabasco sauce, a fiery condiment that has probably piqued half the taste buds in America. Although Avery Island is the place where Tabasco got started more than a century ago, the sauce has long since made its presence felt all over the world. Tabasco was with Kitchener in Khartoum (". . . a correspondent cannot live on soda water and Tabasco Sauce alone," complained George Warrington Steevens, who wrote about Kitchener's African campaign). A bottle of Tabasco was photographed on a mess table during a halt in the excavation of Egypt's tomb of Tutankhamun. In the 1930's, Tabasco caused something of a rebellion in the English Parliament when the government's "Buy British" campaign put a temporary end to the stocking of the condiment by the House of Commons restaurant. Tabasco was taken along on some of the earliest Himalayan mountain expeditions. Eventually it went into outer space aboard Skylab, America's scientific space station, and today it can be found on food-store shelves in at least 100 countries.

Tabasco is not Avery Island's only product—or even, for that matter, its most profitable one. The nation's first salt mine is located here and it produces 1,500,000 tons a year. There are also numerous oil wells on Avery which, together with several dozen others in the surrounding marshes, extract more than a million barrels of crude annually. Despite these potentially damaging activities, Avery Island's fragile beauty has, if anything, been enhanced over the years, thanks to the strong conservationist instincts of its owners—and that's where the birds come in. More than 20,000 egrets and herons make the island their home, and so, for that matter, do alligators, snakes, muskrats and deer. Avery Island is a spectacular wildlife refuge that owes its existence to salt and pepper.

Every morning at precisely 11 o'clock, Walter McIlhenny, grandson of the man who invented Tabasco, leaves his office on the island and drives a quarter-mile down the hill to the factory to inspect the pepper mash. His full mustache and military bearing suit a retired Marine brigadier general, yet there is a courtliness about him that belongs to a gentler era. He never goes tieless into the fields or the factories, where he has inspected pepper mash six days a week for almost 40 years.

The sight of his foreman, Julius Derouen, whose father, Dutille Derouen, worked for the McIlhennys as a blacksmith, is almost as familiar to him as the aroma of fermented Capsicum peppers permeating the enormous room. One dozen open barrels made of Kentucky oak, each containing 400 pounds of mash, have been lined up on the concrete floor. They represent a "potting." Derouen hands his boss a spotlight on a long cord, and drives his scoop into the three-year-old mash. It glows red in the incandescent beam as McIlhenny inspects it for true color, smells it for traces of spoilage and then moves on to the next barrel.

Within minutes the mash will be mixed with vinegar, forming a slurry. A gas mask hangs nearby, offering protection from the overwhelming fumes to employees who clean the vats. Wooden paddles blend the slurry for a month before it is filtered and fed into the bottling plant next door. There, it will be injected into the familiar Tabasco bottle, emblazoned with the Tabasco label and a bit of green foil, and packed for shipping—187,000 bottles a day, 50 million a year.

Leaving the factory, McIlhenny makes a ritualistic drive around the island, an autonomous domain with its own roads, village and two general stores. Only the post office, the school, the railroad tracks and, seasonally, the parked cars of the itinerant pepper pickers are evidence of the outside world. In October, the terraced fields are full of pickers, tin cans tied around their waists, a colorful medley of hats, blouses and jackets, and of languages—English, Laotian and the French patois spoken by the Cajuns, the descendants of early settlers from Nova Scotia. Huge live oaks draped with Spanish moss (p. 83) grow right in the pepper fields. Beyond windbreaks of pine, the marshland stretches toward the sea.

McIlhenny's family has been living here since 1818. His father, John Avery McIlhenny, brought his wife-to-be to the island in the early part of this century: she was duly impressed with its bounty, if a bit overwhelmed by McIlhenny ways. "They always wore black tie in the evening," says her son, "unless someone important was visiting. Then they wore white tie." In the middle of his wife's first dinner on Avery Island, John Avery McIlhenny left the table and went out into the fields with a rifle. "He came back and told my mother, a bit pompously, 'My dear, I have just shot you a bear.'"

John Avery was a Rough Rider, a friend of Theodore Roosevelt and, later, Ambassador to Haiti. The McIlhennys entertained President Roosevelt's daughter, Alice, when she visited Avery Island with the daughter of Roosevelt's Secretary of State, Elihu Root. A party was thrown in the salt mine by the McIlhenny family for the two debutantes. A tombstone cutter imported from New Orleans sculpted a statute of Lot's wife deep in the mine; tables and chairs were also carved out of salt. On the night of the party, candelabra filled the mine with glittering light, while servants stood in the shadows, singing.

It was salt that created Avery in the first place, salt deposited by the sea that covered the entire area 200 million years ago. Some cataclysmic event in the Earth's crust later drove columns of pure salt to the surface. There are five such "islands" in southern Louisiana, supporting flora unlike that found in the surrounding marshland. Avery Island is the loftiest of the five domes and the most prominent elevation on the Gulf Coast, Its 152-foot elevation constitutes the visible peak of a saline mountain that reaches 50,000 feet down into geological time.

A man from New Jersey, John Craig Marsh, bought part of the island in 1818, planted sugarcane there and extracted salt from the brine springs. The island never bore his name, but the raised Caribbean cottage that he built on high ground, overlooking serpentine Bayou Petite Anse and the endless stretches of watery land, still does. Marsh's daughter, Sarah, married a Baton Rouge circuit-court judge named Daniel Dudley Avery in 1837. Their eldest daughter, Mary Eliza Avery, a product of boarding schools and the finer haunts of the antebellum Gulf Coast, married a self-made New Orleans banker named Edmund McIlhenny of Scotch-Irish descent.

The McIlhennys fled New Orleans in 1862 when Union forces, under the command of Gen. B. F. (Spoons) Butler, entered the mouth of the Mississippi. They found refuge on Avery Island. It might have remained what it was then, a marginal and obscure sugarcane plantation, but Judge Avery's son, John Marsh Avery, tried to enlarge the salt spring and discovered pure, mineable rock salt less than 20 feet below the loamy surface. That changed his family's, and the island's history drastically. Salt was needed to preserve meat for feeding troops, but salt shipments to the Confederacy brought an invasion of Avery Island by Union forces in 1863. The Averys and McIlhennys then fled to Texas. Two years later, they returned to the depressed South to find a ruined plantation, a plundered house and little else.

At about that time, peppers made a fateful appearance on the island. Exactly how they got there, however, is not clear. According to one story, Edmund McIlhenny brought a variety of peppers called Capsicum frutescens back from the Texas wilderness, a red-hot manna upon which the family would rebuild. The official family version takes a different tack. It traces the peppers to a traveler who was passing through Louisiana before the Civil War. The traveler gave Edmund McIlhenny a handful of Capsicum peppers from Mexico. The seeds of those gifts went into Judge Avery's kitchen garden and the hardy plants survived the Yankee occupation.

Whatever the origin of his peppers, McIlhenny knew what he wanted to do with them. He chopped them up, mixed them with vinegar and Avery Island salt, put the mixture in wooden barrels to age and funneled the resulting sauce into second-hand cologne bottles. He then tried out the concoction on some of his friends and they liked it. As for what to call it, McIlhenny considered many possibilities but, according to his diaries, he was stuck by the name of a river in southern Mexico: Tabasco.

The sauce was a quick and phenomenal success. In 1868, 350 bottles went to selected wholesalers. A year later, McIlhenny sold several thousand bottles for one dollar apiece, and three years after that he opened an office in London to handle the increasing demand from European countries.

But it was salt, not Tabasco sauce, that opened Avery Island to the outside world. In 1880, the American Salt Company contracted to operate a mine there. A tramway and embankment were built connecting the mine with Bayou Petite Anse, and a canal was dug to give salt-loaded lighters access to Vermilion Bay. From there, great salt schooners sailed across difficult shallows to the Gulf of Mexico and beyond. In 1886 a branch line of the Southern Pacific Railway linked Avery Island with the town of New Iberia, providing an easier way to ship salt—and Tabasco.

When Edmund McIlhenny died in 1890, his Harvard-educated son John—Walter McIlhenny's father—took over the family business. He traveled around the United States talking to merchants his father had known and promoting the sauce in a thoroughly contemporary manner. "I had bill posters prepared," John McIlhenny later wrote, "and had large wooden signs on the outside, in the fields, near the cities. I had an opera troupe playing a light opera. . . . I gave away many thousands of circulars and folders, and miniature bottles of Tabasco pepper sauce."

John joined the expeditionary forces for the Spanish-American War and he returned from the Battle of San Juan Hill too restless to reassume his commercial duties. Instead, he traveled extensively. All of the McIlhennys seemed to be fond of foreign ports; often they arrived in some exotic setting to find that their father's product had preceded them. Family legend has it that John's mother received letters on the same day from three perambulatory sons—in Peking, St. Petersburg and Pretoria—all of whom had been served Tabasco with their morning egg.

John was succeeded by his brother, Edward Avery McIlhenny, known as "Mister Ned." An energetic naturalist, Ned participated in scientific expeditions to the Arctic and elsewhere, and imported to Avery Island many rare species of plants, which were duly placed in what came to be known as the Jungle Gardens. He banded thousands of migratory birds, and established sanctuaries where they would be protected. At the beginning of this century, the popularity of ladies' plumed hats threatened the existence of snowy egrets. Ned McIlhenny and his workers searched the surrounding marshes, collected eight young egrets, raised them on Avery Island and then let them go. The birds returned to the island the following spring to form the nucleus of an egret population that today numbers in the thousands.

Ned wrote many books and magazine articles about conservation and wildlife. But while his work did much to increase Avery Island's national visibility, the production and sale of Tabasco sauce remained strictly a 19th-century operation. It was Walter McIlhenny who brought the company into the 20th century after he took over in the 1940's.

Walter keeps a cardboard-mounted color photograph of a life-size U.S. Marine in full-dress uniform standing outside his office door. He led a platoon of the 1st Battalion of the 5th Marine Regiment on Guadalcanal in World War II, and was decorated four times. Before the war, Walter worked out East as an engineer for an oil company, never thinking he would become patriarch of the family concern on Avery Island. Then, he says, "the older family members started falling like canes in a strong wind." He was called home.

"Walter's greatest contribution is that he has been able to hold the group together," according to his cousin, Edmund McIlhenny Jr., an attorney and Tabasco vice president. "He has been scrupulously fair." He introduced modern management and marketing techniques hired an advertising firm and began to bring food critics and other influential people to Avery Island, gradually creating a mystique about Tabasco, the pepper sauce that was made from an old family recipe and aged in oaken vats.

"I have resisted pressure to change the method of making the sauce. "Walter says. He has experimented with accelerated aging which would increase profits but the resulting quality of the sauce was unsatisfactory. Large industrial corporations that often offer to buy the McIlhenny Company might not be so concerned about marginal differences in taste, smell, heat concentration and that special pervasive quality Tabasco has when let loose in soups, stews and other dishes. "We could sell out." Walter says, "and give everybody involved a nice nest egg." He pauses. "But we came to Avery Island in 1818. We've been here ever since, and we want to stay here."

He lunches every day at noon in a house built by his aunt, Marigold McIlhenny Bradford, in the 1890's. The parlor and the drawing room reflect the tastes of a bachelor who hunted in Africa with the same guide used by Ernest Hemingway, and whose heritage is closer to untrammeled land than to the crowded pavements of industrialized America. Tiger, lion and zebra skins take up most of the available wall space, and the mounted heads of waterbucks look down with cool and timeless gazes.

A black houseman in a white jacket announces that the meal is ready. Behind Walter's chair hangs a portrait of his grandfather, facing a portrait of his grandmother between floor-depth windows overlooking the mowed meadows. On his left hangs a portrait of Gen. Zachary Taylor, his great-great-grandfather and the 12th President of the United States. The food is good country fare for men accustomed to hard work—braised pork, sweet potatoes, homemade rolls—accompanied by tumblers of iced tea. A bottle of Tabasco sauce rests in a silver coaster, which the host sends traveling the length of the polished table after generously seasoning his chop.

By 12:30 Walter McIlhenny and his cousins are all back at the new Georgian office complex next to the old Tabasco factory. In the foyer are displayed early bottles of Tabasco and comic strips from years past featuring Tabasco sauce. Upstairs the scene reflects both the tradition and the modernity of the Tabasco enterprise. Five Japanese executives from a Tokyo advertising agency have gathered in the conference room to discuss the latest campaign in Japan, the biggest foreign user of Tabasco.

Out in the pepper fields, the picking is done by 3 o'clock. The pickers gather on the "headland"—the ridge of high ground between fields, shaded by pine and oak, lined with boxes of the luminous red peppers. Those from the best plants are routinely collected for seeds for the following year's planting. Edward McIlhenny Simmons makes that choice. A trained naturalist, Simmons, 55, is another of Walter's cousins and will eventually take over the leadership of the company. He goes through the fields, methodically leaving swags of Spanish moss on the chosen bushes, just as his grandfather did before him.

The peppers are weighed and cash is paid on the spot in a kind of mechanized ritual. The weighing is always done by a McIlhenny family member, either Edmund or, more likely his cousin Paul, also a vice president. Both men grew up in New Orleans, 125 miles away, but they chose to leave the city to join the firm. Edmund points out majestic live oaks growing right in the fields. "There are two things sacred on Avery Island," he says. "Oaks and alligators."

Paul, a former Marine Corps corporal, leaves his jacket in the car and walks the headland in shirt sleeves and tie, recording each workers' name in the bonus book for extra money to be paid at the end of the season. Then he climbs into the trailer where the scale is. A pickup pulls him slowly along the headland, where he receives each box of peppers and calls out the weight. The number of pounds is punched out of a ticket stub by a woman riding inside the truck, then the stub is given to the picker, who presents it to another McIlhenny employee with a metal cashbox on his lap. The air is thick with dust, the litany of called numbers, banter in three languages, and, always, the redolence of Capsicum.

A diminutive black woman in a straw visor tells Paul, after the weighing."You missed me yesterday, for the bonus." She wants him to record her name anyway. "Give it to me for lagniappe," she says goodnaturedly, and he does.

Most of the workers live in the nearby town of New Iberia. A good picker earns around $30 for seven hours of labor. In years past it has sometimes been difficult to muster up enough people to get the peppers in. Recently, however, hard times have helped bring the laborers back to the fields.

"If Uncle Ned hadn't planted these peppers," says Elizabeth Dupre Delcambre, 70, who has been picking on Avery Island for longer than she can remember, "we wouldn't have the work." She wears a green bandana around her head and a straw hat over it. "It's a good feeling, being out with all the people you know. While you're making your money, you're passing the time." At night, she soaks her hands in warm water to take away the heat; in bed, she says, visions of peppers dance before her eyes.

Actually, only about five percent of the peppers used in the total production of Tabasco sauce these days are grown on Avery Island. The bulk are grown in Honduras, Colombia and Mexico, where the mash is put into barrels shipped from the United States and then returned to Avery Island for aging and, eventually, bottling and distribution.

Now, the truck loaded with boxes of peppers rumbles over the dirt road to the crusher, located in the old Tabasco factory next to the office building. A man stands on a platform, tossing salt into the peppers—eight pounds of Avery Island salt for every hundred pounds of Avery Island peppers. A lift carries the mixture into the crushers; twin spouts feed the newly rendered mash into barrels. A mist rises from the peppers, so powerful that a big floor fan is switched on to dispel it. A secretary emerging from the office building races across the blast of peppery air toward her parked car.

A man wielding a mallet secures the wooden tops to the barrels—the tops have tiny holes which allows gases to escape during fermentation—and pounds on the last stainless-steel hoop. (Iron barrel hoops will disintegrate in the presence of salt-and-pepper mash.) A hoist grips the barrel, lifts it from the concrete floor and carries it along a corridor to the enormous aging shed where hundreds of barrels are stored.

Across the road from the shed, boys play football on the communal lawn. They are the sons of workers in the McIlhenny factories and maintenance facilities. In an hour, darkness will descend. The last barrel of the day's mash has been stored; now the shadows of the shed fill with the sound of bubbles rising slowly through the ripening mash.●

FAIR AND SIMPLE TAX PLAN

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of the FAST, fair and simple tax plan, of which I am a sponsor. I speak not to the economic or legislative merits of this proposal, but instead to the real benefits this plan will provide for the American family.

Our current Tax Code contributes to the weakening of our families by imposing taxes upon families whose income falls below the poverty level. In addition, couples today are discouraged from having families because of the inadequate personal exemption and steep progressivity that characterize current law. These high taxes and low personal exemption levels combine to make families difficult to afford for all but high income couples.

The answer is not more tampering with the Tax Code, or more loopholes for special interest groups. It is fairness, the kind of fairness that can only come from a tax proposal like FAST. FAST is a modified flat tax proposal that will spread the burden of taxation more equally and fairly over all those who are able to pay. It will provide tax relief for families, wage earners, and low-income groups, improve taxpayer compliance due to greatly simplified tax forms and filing, and will be revenue neutral once implemented.

It has become apparent that the U.S. Tax Code must change. Years of special interest tinkering have rendered the current system unfair, counterproductive, anti-investment, antifamily, and nearly incomprehensible to the American taxpayer. I urge my colleagues to support the FAST plan as the simplest, most fair, most economically, and socially sound program that will be offered for consideration.●

A TOUGH JOB WELL DONE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, today I would like to bring to the attention of my colleagues an editorial which appeared in the Lompoc Record on May 13, 1984. The occasion was National Correctional Officers' Week commemorating the dedication and courage of our Nation's correctional officers. The men and women who serve as correctional officers at the U.S. penitentiary at Lompoc, Calif., represent this professionalism.

As you will note in this editorial, correctional officers at Lompoc performed yeoman duty during their off hours last October when six inmates attempted a dramatic escape. Their efforts were foiled by members of the correctional staff who raced from their homes to assist in the capture. Their commitment to their job and responsibilities obviously goes beyond their scheduled duty hours.

These actions are typical of professionals who take their work seriously. These men and women deserve our utmost respect and admiration for the quality performance of a very difficult, dangerous, and demanding task. Our Nation's correctional officers, exemplified by those at the Lompoc facility, perform their duties with courage, responsibility, and commitment.

[From the Lompoc (Calif.) Record, May 13, 1984]

A Tough Job

Within the confines of this nation's prisons, out of sight and little mentioned, there work a group of men and women dedicated to making our lives a little safer.

These well-trained professionals are the nation's correctional officers and this is their week for recognition.

In his proclamation designating National Correctional Officers' Week, President Reagan praised their work as "essential to the day-to-day operations of these institutions; without them it would be impossible to achieve the foremost institutional goals of security and control."

Theirs is a difficult and dangerous assignment, a task historically isolated and misunderstood, said the president.

"In recent years, the duties of these officers have become increasingly complex and demanding. They are called upon to fill, simultaneously, custodial supervisor and counseling roles," said the president.

"The professionalism, dedication and courage exhibited by these officers throughout the performance of these demanding and often conflicting roles deserve our utmost respect."

We need look no further than the U.S. Penitentiary at Lompoc for examples of this courage.

Last October six inmates comandeered a garbage truck in a dramatic escape attempt foiled in part by off-duty correctional officers who raced from their homes to assist in the capture.

It was a Saturday afternoon and these men were mowing their yards, working around the house and enjoying their leisure hours when a siren alerted them to trouble.

Several drove, others ran and one officer hopped on his motorcycle in pursuit. All six inmates, each considered extremely dangerous, were captured within a half mile of the facility. One was killed, another shot and a third seriously injured.

This action quality and dedication is typical of the 150 correctional staff at Lompoc Penitentiary.

These actions are indicative of those who take this important work seriously. If the nation's prison system is to succeed in rehabilitating and reinstilling in criminals a respect for the society in which they live, it will be through the efforts of individuals like those correctional officers at the Lompoc facility.●

HUMAN RIGHTS AND U.S. POLICY IN HONDURAS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. JEFFORDS. Mr. Speaker, as we debate the defense authorization bill, we struggle with defining our proper role in world events. This role is nowhere more important than in Central America. Last fall, a private delegation visited Honduras to look at the situation in that country some 2 years after the elections. I submit some of its findings for my colleagues' review:

TORTURE

During our visit, we received several reports of physical mistreatment of prisoners. These appear to take place in the context of an unacknowledged detention or "disappearance," or at least during the period in which a person is in clandestine detention, before being made to "reappear." In Honduras, as in other countries where disappearances have been common, it seems that the disappearance itself is designed to allow security forces to conduct torture sessions free of public scrutiny or judicial intervention. Torture generally takes place during the period in which a person is in clandestine detention, before being made to "reappear."

The focus of these sessions suggests a direct correlation between the Honduran government's emphasis on national security and the use of torture. To date, torture has been applied selectively to obtain information about alleged subversive activities.

During our visit, we interviewed one torture victim who is still in detention: Ms. Ines Consuelo Murillo, a 24-year-old law school graduate now detained at the women's prison in Tamara, outside of Tegucigalpa. Although we were forced to meet with her in the presence of several government officials, Ms. Murillo spoke frankly. According to Ms. Murillo, she and Mr. Jose Gonzal Flores, a Salvadoran citizen, were arrested without warrant on March 13, 1983 on Choloma, Cortes and held for 79 days incommunicado. She told us that she was held in three separate clandestine detention centers in different parts of the country, before her detention was publicly announced on May 31 in Tegucigalpa.

In those centers she was repeatedly tortured during interrogation. While handcuffed and blindfolded, and she subjected to electric shock torture applied to sensitive areas of her body, beatings and sexual abuse. These sessions were conducted by specialized personnel, whom she presumed to be army intelligence officers. The torture stopped during the last days of this part of her detention and on May 30, a few hours before her arrest was publicly confirmed, she was transferred to DNI headquarters.

We were able to see transcripts of court records showing that, in early June, both Ms. Murillo and Mr. Flores made statements to the judge regarding their clandestine arrest and torture. We understand that, under Honduran law, the judge is obliged to open an investigation as soon as the court is made aware of the commission of a crime. After five months, however, there is no indication that any such inquiry has been initiated.

In another case, Mr. Jose Luis Rivera was arrested in El Progreso, Yoro, in May on charges of extortion and of belonging to the Salvadoran guerrillas. He was admitted to a clinic in serious condition a few days after his arrest. While at the clinic, he told the press that he had been tortured. He died within days. The police denied they had tortured him physically, but admitted he had been subjected to "psychological" torture (Tiempo, June 1, 1983).

Others of those who have "reappeared" since May have made similar complaints of torture, both judicially and in public statements to the press. Although we requested it, the GOH did not show us any evidence that any investigation of these matters was under way.

EXTRA-JUDICIAL EXECUTIONS

A substantial number of civilian murders possibly attributable to security forces have occurred since the return to civilian rule in Honduras. At least 13 of the cases appeared to be politically motivated.

In April 1983, for example a well-known economist, Salvador Diaz Valle, disappeared and his body was discovered several days later showing signs of torture. On March 29, 1983, the President and three other members of an agricultural union were killed near Progreso, Department of Yoro. Survivors attributed the killings to the military; the military attributes the killings to company security guards. On January 1, 1983, a communist leader was assassinated. The family accuses FUSEP, a police agency.

Previously, in October, 1982, nine heavily armed men abducted and killed a leftist political activist. In June, 1982, eight persons were killed in similar fashion in Santa Barbara. Three student leaders and officers of the union of university employees were abducted in August 1982 and their bodies were found a few days later.

To our knowledge, in only two cases of political murder by security forces has there been any attempt to prosecute those responsible. One involves the murder of Dr. Oscar Giron, a Guatemalan doctor who worked among refugees in the North, who had been captured by security agents while travelling with Cynthia Morin, a U.S. volunteer. Ms. Morin was released and later returned to Honduras to testify. We understand that the defendants in this case were later acquitted. Initial indictments were also issued against policemen involved in the murder of a trade union leader in San Pedro Sula in early 1983.

HUMAN RIGHTS MONITORS

The executive branch of the Honduran Government has created no official mechanism for addressing allegations of human rights violations. As noted below, it has failed even to cooperate with private efforts to investigate such reports.

A recent effort to establish a human rights body within the Honduran Congress has proven wholly ineffectual. Responding to pressure from several members of Congress to establish a legislative body that would investigate reports of human rights violations, an abortive attempt recently to establish a legislative body to inquire into such matters. As a result of their pressure, Liberal Party members formulated a proposal for a five-member "Commission on Constitutional Guarantees and National Security." Given the nature of this commission, the sponsors of the original proposal found little reason to believe that the Liberal Party leadership in the Congress intended it to be anything more than a paper entity. Though granted an indefinite life and an open-ended mandate, the commission has no specific mandate to address human rights complaints and it was given no staff or other resources necessary to investigate reported violations.

The composition of the commission virtually ensured that, even apart from these problems, it would not operate effectively. The three Liberal members appointed to the commission were drawn from the conservative faction of that party and the one National Party member named was regarded as the opposition party Congressman least likely to challenge any position taken by the Liberal members. Under these circumstances, the presence of the one member of the small PINU party on the commission was seen as unlikely to have much impact. The single Christian Democrat Member of Congress, who had pushed the initial, more meaningful commission proposal for more than a year, was conspicuously left out.

Subsequent events have shown these concerns to have been entirely justified. Though the commission was set up on June 23, by the end of October it had never met. Despite its power to conduct hearings and to subpoena witnesses, the commission had rejected numerous requests to schedule such sessions. And the commission's only official response to documentation brought to its attention of human rights abuses was to send a letter on September 6 to the director of DNI inquiring into the detention of Mariano Gonzalez, Mauricio Loucel and Jose Frech Gutienez. The commission had not received any response to this inquiry by late October but appeared to have no plans to pursue the matter further. In November, the commission announced that it was seeking a meeting with General Alvarez, in view of the fact that Col. Bali Castillo, Chief of FUSEP, and Major Salazar, Chief of DNI had not answered the commission's letters requesting information on cases brought to their attention.

As mentioned earlier, in late 1982, relatives of disappeared persons organized themselves in a Commission of Relatives of Detained-Dissappeared persons of Honduras (COFADEH). Presided by Ms. Zenaida Velaquez, its activities are conducted by a small but tenacious group of Honduran women of all ages. They have issued several public statements and recently have initiated periodic silent marches before the parliament in an effort to highlight their demand for information on the whereabouts of their relatives.

The Committee for the Defense of Human Rights in Honduras (CODEH), headed by Dr. Ramon Custodio Lopez, is the most active human rights monitoring organization in the country. Despite its limited resources and a small staff, the Committee has been able to collect and verify reports of disappearances, killings and torture, to bring such information to the attention of the Honduran government, the United States Embassy and the public generally. It had also been able to initiate legal procedures designed to locate and obtain the release of persons detained in violation of Honduran law.

These efforts have been thwarted at every turn, however, by the refusal of Honduran officials to provide information on arrests and detentions and by the reluctance of the courts to conduct, pursuant to habeas corpus petitions, meaningful inquiries into the whereabouts and conditions of disappeared persons. The Committee must function, moreover, in a climate where those who publicize human rights violations are viewed increasingly as unpatriotic and as threats to national security. For example, Major Salazar, then Chief of DNI, accused CODEH of conspiring against democracy and of conducting a disinformation campaign at the international level with unpatriotic purposes (La Prensa, June 21, 1983).

The Honduran Bar Association has also recently addressed the question of human rights. An outgrowth of these discussions was the establishment of a six-member, bipartisan Human Rights Committee. The Committee has a three-fold mandate. First, it is supposed to encourage the introduction of human rights law into the curriculum of the University of Honduras. Second, it has been charged with initiating efforts to have Honduran law revised to conform with the country's human rights treaty obligations. Its third and final responsibility is to promote respect for human rights within Honduras, a task that might entail identifying and demanding corrective action for official abuse. A lawyer closely associated with this endeavor candidly admitted that, while activities in the first two areas were getting underway, it was unlikely that the Committee would address the third for some time to come.

We were very much impressed with the level of concern and dedication shown by the Bar Association's Human Rights Committee. However, it remains to be seen how active or effective they will become at this stage. There is little indication that the congressional committee offers any realistic possibility of increasing public awareness of and demand for corrective action with respect to human rights abuses in Honduras. CODEH and COFADEH remains the only entities in the country prepared to discharge that function, and they operate in an increasingly hostile climate.

U.S. POLICY

U.S. policy has contributed to and reinforced the domestic trends described in this report. To date, the bulk of American aid to Honduras has been economic. President Roberto Suazo Cordova and many other Hondurans have stated that without U.S. aid, the already-precarious Honduran economy could collapse. However, the overall thrust of U.S. aid is increasingly oriented toward the military. In addition, concern was expressed to us by several U.S. citizens in Honduras that the economic assistance was not

being used effectively, in part due to alleged corruption among some leaders in the country. In a country of 4.2 million people, they say, $97 million should have a more visible impact. While these allegations were not a primary focus of our investigations, they were mentioned on several occasions.

Increased U.S. assistance has resulted from a renewed focus on Central America, and more specifically, concerns about recent developments in El Salvador and Nicaragua. The rationale from Washington has been that Honduras must be strengthened in order to fight Salvadoran guerrillas using Honduras as a safe haven and to prevent Nicaragua from effectively destabilizing the Honduran government. The Reagan Administration has sought to enlist Honduran support in battling the alleged flow of arms from Nicaragua to the Salvadoran left. Sizable aid is being given to anti-Sandinista guerrillas based on Honduran soil. A military training center in Honduras is being used to train Salvadoran forces.

The most visible signs of U.S. interest are the presence of U.S. forces in Honduras and the substantial increase in U.S. aid to the Honduran military. U.S. military aid to Tegucigalpa has grown from about $4 million in 1980 to about $37 million in fiscal year 1983. In addition, U.S. personnel have been engaged in a series of joint maneuvers and exercises with Honduran forces over the last year.

The joint exercises have three purposes: (1) to enhance the strength and capabilities of the Honduran military; (2) to familiarize U.S. forces with Central America while providing a practicing ground for mobilization; and (3) to show U.S. military strength, aimed primarily at Nicaragua. These activities include the work of military engineers, who are lengthening several runways, in various parts of the country to handle C-130 transport planes. The use of such planes is critical to the ability of any nation's military forces to mobilize quickly during war. Anti-tank strategies are being taught and practiced near the Nicaraguan border, naval personnel are assisting the small Honduran navy at Ampala, and artillery exercises have been taking place at Puerto Castilla. In addition, at least one major radar station has been built, some work is being done on the treatment of tropical diseases, and an amphibious landing exercise took place in November 1983.

At their peak, these exercises will involve over 5,000 U.S. personnel who will work with about half of the estimated 12,000-member Honduran military. The current exercises are scheduled to end around Christmas, but other joint exercises are likely to take place at least through the spring of 1984.

One of the most controversial aspects of the U.S. military presence in Honduras has been the establishment of a Regional Military Training Center (RMTC). This project involves about 120 American special forces located at a base in Puerto Castilla mostly to train Salvadoran soldiers. Some Hondurans are being trained as well. According to Honduran government officials and staff at the U.S. embassy, Honduras "invited friendly governments" to the training center. There have been suggestions that the Honduran Government has invited the forces of other countries to avoid provisions of U.S. law that prohibit military assistance or training of Guatemalans. (Military officers in Guatemala told an American Watch delegation to that country, in November 1982, that they had been invited to receive training at the RMTC, but had declined.)

During our visit, we examined the impact of such U.S. policies on domestic politics in Honduras. We were disturbed to find that these actions, arranged and implemented with little participation by the Honduran Congress, have enhanced the influence of the Honduran military, reinforced the government's growing preoccupation with the "doctrine of national security," and contributed to the polarization of Honduran society.

A major controversy surrounding the decision to allow the RMTC is that it was reached with no public debate. High Honduran government officials were caught first denying that any such plans for the RMTC were underway, and within days admitting their existence. Many Hondurans believe that under the Honduran Constitution a treaty ratified by the National Congress is needed before U.S. and Salvadoran troops can legally enter Honduran soil. This subject is/was particularly sensitive because of the Salvadoran army's invasion of Honduras in 1969 during the so-called "soccer war." Eventually, the National Congress technically approved the RMTC decision, allowing Salvadoran troops to enter Honduras. As for the presence of U.S. troops, Honduran officials claim that the RMTC and the exercises are included in a bilateral treaty of reciprocal military assistance signed in 1954. Critics respond that these measures involve a complete change in the character and nature of that agreement.

U.S. military exercises, participation in the RMTC, and the CIA's backing of anti-Sandinista guerillas based in Honduras have increased the perception in some sectors of the Honduran public that the Reagan Administration exerts an overbearing influence over many important decisions made by the Honduran government. Many respected leaders publicly say that Honduras is "occupied" by a foreign army. Their perception that U.S. policy dominates Honduran institutions is reinforced by statements of U.S. officials. We were told, for example, that within days of the inauguration of the Suazo administration, in January of 1982, the members of the new Supreme Court were visited by U.S. Ambassador John Dimitri Negroponte, who told them that their most important task was to deal with terrorism.

CONCLUSION

The trends and events outlined in this report are an indication that Honduras is at a critical stage in its political development. While the election of two years ago was heralded by U.S. and Honduran officials as a return to democracy, there has been a lack of attention to the fact that democracy is a process, not merely something that is established by an election. As a delegation, we came away with a sense of alarm that neither Honduran nor U.S. policymakers are pursuing policies designed to build the internal structure of a democracy in Honduras.

Instead, we see significant trends that are moving the country away from the goal of an open, democratic society. The perception of major external threats to the government has been used to justify events and policies that are clearly not compatible with the building of democratic institutions. The increasingly polarized political debate in the country, the violations of human rights through illegal imprisonment and torture, and a lack of power and commitment by the various branches of government all beg the question of who is really in control in Honduras. Increasingly, it appears that the Honduran military, working closely with the executive branch of the government and with the blessing of the United States, retains the most control.

On the part of the Honduran and U.S. governments, an increased commitment to the democratization of Honduras is required. The executive branch and the military must share power with the other institutions as prescribed by the constitution. The Congress and the judicial branch must be more vigilant in exerting their authority. In Washington, Honduras must be considered as an individual nation with serious domestic economic, social and political problems rather than as a staging area for furthering U.S. interests in Central America. While it is impossible to ignore the regional context of Honduras, it is important to try to isolate this country from the turmoil of its neighbors rather than drawing it into conflicts in which its people want no part.●

LEGISLATION TO AMEND THE ETHICS ACT AND CRIMINAL LAW BASED ON THE INVESTIGATION BY THE SUBCOMMITTEE ON HUMAN RESOURCES

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ALBOSTA. Mr. Speaker, I am introducing legislation today to strengthen the Ethics in Government Act and to extend Federal criminal law to prevent theft of confidential campaign documents and information.

The Subcommittee on Human Resources, which I chair, has just issued its report on the unauthorized transfer of documents and information from the Carter administration during the 1980 Presidential election campaign. The subcommittee recommends in that report that the ethics law and programs be improved and that Congress make it a crime to steal campaign documents or information not available for public release. This extension of the criminal law was also recommended by the Senate Watergate Committee in 1973.

In June 1983, it became known that the Reagan-Bush campaign had received a copy of President Carter's briefing book. Shortly after that, Richard Allen, Mr. Reagan's former National Security Adviser, told the press that during the campaign, he had received copies of private, confidential reports intended for President Carter's National Security Adviser, Dr. Zbigniew Brzezinski. It seemed fairly clear even then that if any Federal employee handed over these documents, that employee would probably have been acting in violation of the standards of conduct, and possibly in violation of the Federal criminal law as well.

During the subcommittee's investigation, we reviewed the process used by agencies to teach individuals about the standards of conduct when they go

to work for the Federal Government. Most of the scores of persons asked were not familiar with the specific regulations that forbid the misuse of Government property or information. The subcommittee urged better ethics education in the subcommittee report of May 16, 1983, on the bill to reauthorize the Office of Government Ethics. In its review of agency ethics programs, the subcommittee was unable to detect a uniform improvement in ethics education. Therefore, this bill would require mandatory briefings for all Federal employees and officials on the requirements of the Ethics Act and the regulations establishing standards of conduct.

Other improvements in the Ethics Act also appear necessary. In the subcommittee's May 1983 report, the subcommittee suggested a better system of publishing advisory opinions issued by the Office of Government Ethics so that individuals could have a better idea of how the law are applied. There has apparently been no improvement in that system. In its review of the ethics programs, the subcommittee found that there exists no uniform or centralized system of determining how the ethics regulations have in fact been applied in different agencies. Therefore, this bill would require that summaries of actual case histories be compiled and published to provide a reliable guide as to how the standards are applied.

The subcommittee has noted that the current Director of the Office of Government Ethics is somewhat reluctant to suggest changes in the law in spite of the fact that the role of the office as required by law is not always clear. The current act directs him to recommend changes in certain areas of the law when needed. In order to gain the full benefit of the expertise of the OGE, this bill requires a full review of the ethics programs every 4 years. The Director's reports to the Congress will be timed to permit changes in the program before the Presidential transition period.

As noted in the subcommittee report, an act which violates the standards of conduct may also violate the criminal law. Furthermore, the standards only apply to Federal employees. The subcommittee's review of current law—primarily 18 U.S.C. section 641—indicates that theft or knowing conversion or knowing receipt and use of Government documents and confidential Government information is already punishable under Federal law when the parties involved are acting for their own gain. However, Federal law does not cover those who steal or attempt to take confidential documents or confidential information from a candidate for Federal office. Other law that may apply to such thefts varies from State to State. The subcommittee felt it was appropriate for Federal law to cover such Federal campaign abuses in a more uniform and dependable way. Therefore, this bill would establish a penalty of up to $50,000 and 5 years in jail for the theft or attempted theft from a campaign or knowing receipt and use by a campaign of another campaign's confidential information.

This bill embodies the recommendations of the Subcommittee on Human Resources. We have bipartisan agreement that the ethics laws should be strengthened. The subcommittee intends to take up this legislation soon.●

RENEWABLE ENERGY TAX INCENTIVES SHOULD BE EXTENDED

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. HEFTEL of Hawaii. Mr. Speaker, the situation in the Persian Gulf grows more precarious with every passing day. I am certain that our colleagues would agree that our energy supplies and those of our allies are jeopardized by the sudden dangerous turn in the war between Iran and Iraq. I am deeply concerned that our national energy policy over the past 3 years has not kept pace with the uncertainty in the Middle East that now threatens our third major energy crisis in a decade.

Mr. Speaker, although the Reagan administration continues to rely on market forces as a solution to our Nation's energy problem, programs put in place in prior administrations have begun to contribute toward our Nation's energy self-sufficiency. As an example, renewable energy tax incentives have significant potential to move domestic, renewable, environmentally benign sources forward to commercialization during this decade. These incentives are due to expire next year and I am afraid that unless these credits are extended, continued development of renewable energy will be jeopardized and the potential offered will not be realized.

I urge our colleagues to support the Senate provisions in the tax reform legislation which a House-Senate conference committee will soon debate, that would extend, at current levels, the business tax incentives through 1988 and the residential incentives through 1987. These credits are a small price to pay for the energy potential offered by renewable sources.

Mr. Speaker, I offer for the attention of our colleagues a letter signed by over 20 national energy and environmental organizations that has been sent to members of the House Ways and Means and Finance Committees. It presents a strong argument in favor of extension of the renewable incentives and I hope that it will help our colleagues arrive at a decision on this question.

The text of the letter follows:

SOLAR LOBBY,
Washington, D.C., May 21, 1984.

Hon. CECIL HEFTEL,
Committee on Ways and Means, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN HEFTEL: We, the undersigned organizations, urge you to support the extension of the solar/renewable energy business and residential tax credits that were recently approved by the Senate through bipartisan legislative action.

The Senate approved the extension of the current 40 percent residential tax credits through December 31, 1987, for solar, wind and geothermal applications. In addition, the business credits for solar, wind, geothermal and ocean thermal (15 percent), biomass (10 percent) and photovoltaics (25 percent initially and then dropping to 20 percent in 1987) were extended for three years through December 31, 1988, plus an affirmative commitment rule for an additional year. The existing 15 percent conservation tax credit was continued through 1985. An increase in the alcohol fuel tax exemption was also approved.

Conservation and solar/renewable energy provide our nation's most environmentally sound domestic energy alternatives. The renewable energy industry is labor-intensive, already providing thousands of new jobs annually. At a time when conditions in the Middle East are becoming increasingly uncertain, the United States must have energy from domestic resources readily available. Moreover, conservation and the renewable industries provide increased taxes, new jobs, and economic growth that counteract losses in revenues from the tax credits.

Historically, the United States has heavily subsidized conventional energy (nuclear, oil, natural gas, coal and synfuels) in a variety of ways, including through tax incentives. The conservation and renewable energy industries must compete in this market. In order for the United States to develop a balanced energy program, we must make tax policy more equitable. We must continue current Federal support for conservation, which is critical to both industry and consumers. The renewable energy tax credits must be extended until all energy tax credits can be scaled back in a manner that does not disadvantage the emerging renewable energy industries—the newest entrants into a highly competitive market. Without an extension, many fledgling companies that could build a bright economic future with the assistance of these credits will fail and others will never open their doors.

If invited, we would be pleased to work with the Congress to achieve an equitable and orderly phaseout of all energy subsidies such as tax credits. In the meantime, maintaining support for the new energy industries is essential if the United States is to recover its significant R & D investment in conservation and renewable energy technologies and to maintain our international leadership advantage.

We are all aware of the fiscal problems facing the United States at this time. But failure to support a new and growing industry that has proven its capability to expand efficiently to meet future energy needs is bad economic, energy and environmental policy.

Tina C. Hobson, Executive Director, Solar Lobby; Denis Hayes, Chairman, Solar Lobby; Jan Beyea, National Audubon Society; Deborah Bleviss, Federation of American Scientists; Robert Brandon, Citizen/Labor Energy Coalition; Ruth Caplan, Environmental Action; Albert Eisenberg, American Institute of Architects; Tom Gray, American Wind Energy Association; Mary Ellen Griffith, Sun-Rep; Dave Hallberg, Renewable Fuels Association; Robert Hayden, Renewable Energy Institute; Elizabeth Homer, Americans for Indian Opportunity; Haviland Houston, United Methodist Church Board of Church and Society; Destry Jarvis, National Parks and Conservation Association; Bob Kennel, National Wood Energy Association; Glenn Kiecker, National Alternative Energy Association; Thomas Linder, The Fund for Secure Energy, Inc.; Janet Lowenthal, Nuclear Information and Resource Service; Jonathan Lash, Natural Resources Defense Council; James MacKenzie, Union of Concerned Scientists; David Morris/Neil Seldman, Institute for Local Self Reliance; Lawrence Parachini, Rural Coalition; Bob Percival, Environmental Defense Fund; David Senter, American Agriculture Movement; Michael Totten, Critical Mass Energy Project; Sara Vickerman, Defenders of Wildlife; Peggy Wheeler, National Center for Appropriate Tech.; Brooks Yeager, Sierra Club.●

COLOMBIA'S ACHIEVEMENTS IN TRYING TO ERADICATE DRUG TRAFFICKING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, the Government of Colombia has carried out a vigorous and effective campaign against drug trafficking in its country. The continuing fight against illegal narcotics cultivation and trafficking is a matter we in this Congress have sought for years. It is a topic of discussion between our country and others at every diplomatic and political level. Because the Government of Colombia has made such strides in recent years, I call to the attention of my colleagues a memorandum given to me by Colombia Ambassador Alvaro Gomez. This memorandum describes Colombia's achievements in trying to eradicate drug trafficking.

Text of the memorandum follows:

[Memorandum]

EMBAJADA DE COLOMBIA,
Washington, D.C., May 1984.

As a result of Colombia's intensive and sustained struggle against illegal narcotic cultivation and traffic. The Colombian Embassy in Washington would like to put forth to public opinion the following facts and figures which illustrate the substantial achievements we have reached so far.

As stated by a recent report submitted by the Department of State to the Committee of Foreign Relations, Colombian decision makers are increasingly aware that the drug tariffic is seriously detrimental to the nation's interests. Colombia's reputation as a center of drug production and drug trafficking is one which its leaders would like to change. At the same time, the Colombian Government is aware of the damage that narcotics cause in American youth and has been thus positively cooperating with the United States in a combined effort to eradicate drug traffic.

The fight against drug cultivation and traffic is in Colomiba a highly dangerous and risky one. In 1983, 65 members of the anti-narcotics team have been killed in action. And in April 1984, the Minister of Justice Rodrigo Lara-Bonilla, one of the most courageous fighters against the drug mafia, was assassinated in Bogota. Minister Lara had coordinated legal efforts to curb the influence of drug money in society and to stop its incorporation into normal economic activities after it has been laundered. He had also recently announced a government sponsored project for the reform of the Penal Procedures Code which at the present hinders proper prosecution of drug traffickers in our country.

Our efforts in the near past have included the drafting of an Extradition Treaty with the United States that was swiftly ratified by the Colombian Senate in 1982. With the purpose of implementing this Treaty, the Colombian Government has recently proposed to the United States the integration of a Bilateral Commission of legal experts to study the better ways to make it effective. Colombia Government has already granted extradition of one major trafficker, Carlos Lehder.

Colombia's Law clearly determines as illegal activities the production, processing, transporting, consumption and sales of drugs, punishable with jail sentences, monetary fines and confiscation of property.

In 1983 the Colombian Government acted to curb the processing of cocaine by imposing harsh controls on the imports of ether and acetone which are essential ingredients in the refining of the drug.

The belief, popular in Colombia a few years back, that drug traffic affected only the United States due to the existence of its large domestic demand, is rapidly changing as the domestic use of drugs increases dramatically, mainly affecting teenagers. This situation has lead to a growth of public opinion support for antidrug campaigns.

The Armed Forces have become increasingly concerned with the operational link between drug traffickers and communist guerrillas in what appears to be a joint venture which received a major blow with the discovery and subsequent destruction of the largest cocaine laboratory ever confiscated in the world. The Government is hopeful that other successful busts such as the Yari laboratory will continue to happen to sustain our fight against drug trafficking.

Due to this link between the guerrillas and the traffickers, the eradications of crops have become increasingly dangerous in areas where the guerrillas offer armed protection to the growers. The Special Anti-Narcotic Unit created by the National Police has had 65 people killed and dozens injured by the guerrilla ambushes during 1983. This Unit—SANU—disrupts drug trafficking by interdiction, by manually uprooting coca and marihuana plants, and by destroying clandestine laboratories and storage facilities, of which 42 were captured and destroyed in 1983.

The Colombian Ministry of Justice has grounded over 100 aircraft and confiscated dozens of aircraft from other nacionalities which are used in narcotics traffic. Also it has opened investigations on 25 major drug traffickers.

The Colombian Government is fully committed to eradicating drug crop production and to seeking improved means to massively destroy crops. Recently the National Council on Dangerous Drugs approved a plan for spraying paraquat on marihuana on a test basis.

At present, both in Colombia and in the United States, scientific groups are studying the impact of the use of aerial spraying of paraquat on human population as well as the ecological damage it might cause.

The following are some figures showing the results of the Colombian fight against drug traffic, that illustrate our unhesitating resolve to curb cultivation, processing, transportation and consumption of narcotics.

The figures for 1983 are as follows:	
Number of ships captured abroad according to the National Police	41
Kilos of marihuana seized	3,550,000
Number of plants destroyed	12,000,000
Kilos of cocaine seized	1,900
Number of cocaine plants destroyed	3,500,000
Number of cocaine laboratories destroyed	91
Number of aircraft seized	16
Number of various vehicles seized	141
Number of people detained	837
The figures for the first quarter of 1984 (1st January to 30th March) are as follows:	
Kilos of marihuana seized	458
Number of marihuana plants destroyed	3,500,000
Kilos of cocaine seized	12,500
Number of cocaine plants destroyed	5,700,000
Cocaine base seized	1,560
Number of cocaine laboratories destroyed	65
Number of ships seized	4
Number of aircraft confiscated.	35
Number of various vehicles seized	78
Number of people detained	630●

A TRIBUTE TO 2D LT. JERRETTE LEE

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. TALLON. Mr. Speaker, all too often we find time to complain about today's youth and fail to praise them for their achievements. I rise proudly today to pay tribute to a young man from my district who has made some very significant accomplishments. 2d Lt. Jerrette Lee is the Hughes Trophy winner as the outstanding senior Army ROTC graduate of 1983 in the country. Second Lieutenant Lee embodies those qualities that we hold in high esteem in our great Nation, dedication and commitment to country, scholastic ability, the desire to

achieve, and a willingness to serve humanity.

Mr. Speaker, 2d Lt. Jerrette Lee is a graduate of South Carolina State College, which over the years has produced many outstanding soldiers and continues to have one of the finest college ROTC programs in the country. Lieutenant Lee graduated with a cumulative 3.6 grade-point average and a 4.0 average during his last three semesters. In addition to being awarded a 2-year Army ROTC scholarship, Lieutenant Lee was the recipient of a second scholarship from the South Carolina State College band. He is indeed a well-rounded individual. A business administration major, Lieutenant Lee was selected to the Alpha Kappa Mu national honor society and he is listed in this year's edition of Who's Who Among Students in American Colleges and Universities.

The list of Lieutenant Lee's achievements is lengthy, but well worth calling to your attention. He was chosen as the cadet brigade commander for the South Carolina State College corps of cadets for the 1982 to 1983 school year. He has been designated as a distinguished military student and distinguished military graduate. Lieutenant Lee is the recipient of the Gen. Roscoe C. Cartwright Award as the most outstanding senior Army ROTC cadet from a black college and he received the 1983 George C. Marshall ROTC Award for excellence in leadership and scholarship.

Lieutenant Lee has not been selfish with his talent. In addition to his personal accomplishments, he found time to serve as an academic tutor for some of his fellow students, he is a member of the NAACP and as commander of one of the largest and most active ROTC AUSA chapters, he served in many community projects to include local visits to nursing and boys home, Thanksgiving and Christmas food drives for needy families, annual blood drives, and the Special Olympics.

Lieutenant Lee is a native of Murrells Inlet, he is the son of Mr. and Mrs. Gilbert Lee. He is currently stationed with the 1st Calvary Division at Fort Hood, Tex.

When he received the first ROTC region commander's leadership award during advanced camp, Lieutenant Lee said: "Everybody starts out on a zero to zero basis. No man is a winner. Desire makes him one. I came here to be a winner and the desire to be one, to the best of my ability."

I am very pleased to have this opportunity to salute Lieutenant Lee for bringing great distinction to the 6th District of South Carolina, his alma mater and all the fine men and women who make up the Armed Forces. I hope his very fine example will inspire others in my district and all across the Nation.●

THE JOBS AND INCOME ACT OF 1984 (H.R. 5707)

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. CONYERS. Mr. Speaker, "the evil that we see," says Rev. James Von Dreele, "is that well over 100,000 families here—Pennsylvania's Monongahela River Valley—have not worked in well over 2 years. There's no prospect for work. They have lost all benefits."

Reverend Von Dreele is pastor of St. Matthew's Episcopal Church in Homestead, Pa., at one time "the steel center of the world." According to an article that appeared in the Washington Post last Sunday, Von Dreele, other clergymen, local labor leaders and community residents have attempted to win support from industrial and banking establishments for a revitalization plan, that most experts say has little chance of realization. The "death of the Mon Valley," according to the article, is the result of many years of disinvestment in the steel industry as well as waning demand and import competition. The towns of the region have jobless rates exceeding 20 percent. In the last 5 years alone two-thirds of the region's steel jobs—20,000 in number—have disappeared. The situation in and around Pittsburgh is not idiosyncratic. Similar wrenching changes have and are taking place elsewhere in the country, not only in the so-called industrial heartland of the East and Middle West. Unemployment is highest in cities such as St. Louis (11.5 percent), Pittsburgh (12 percent), Buffalo (15 percent) and Detroit (18 percent). Yet the malady of industrial unemployment is spreading throughout the country. As Pat Choate, the well-known employment analyst, contends, possibly as many as 15 million manufacturing workers, and perhaps the same number of service workers, will see their jobs disappear by the end of the century. Situations like the one in the Pittsburgh area call into question the claims of a so-called strong economic recovery—presumably one that has been gathering steam for more than 18 months now and still has left major industrial and employment centers untouched.

In order to respond to the unemployment crisis that these and other communities are experiencing, to tackle the plight of displaced industrial workers as well as the disadvantaged, for whom employment has been a rare companion, and to address the glaring inadequacy of Federal job training programs, along with my esteemed colleague, Congressman CHARLES A. HAYES—First District, Illinois—I have introduced yesterday H.R. 5707, the Jobs and Income Act of 1984.

The legislation proposes to expand existing Federal efforts at employment and job training by means of three new programs, a National Job Training Office at the Department of Labor to coordinate an intensified effort, a national job bank fund, sufficient to finance the programs through an annual transfer of Department of Defense appropriations, and a new Federal economic planning capability that can take a long-range view and apply a forecasting of economic changes, including labor market shifts, to the tasks of restoring local economies and jobs in hundreds of communities across the Nation that have had chronic, high unemployment.

A word is in order regarding one feature of the legislation, The national job bank fund. The bill calls for a transfer of 2 percent of the amount appropriated to the Department of Defense annually to be deposited in the fund for the purposes of job creation, training, and economic conversion and revitalization. At current levels this fund would amount to somewhat less than $6 billion. This is approximately the amount of funding that the leaders of the National Committee on Displaced Workers concluded would be minimally necessary to make a dent in reducing the ranks of the unemployment and unskilled.

There are good reasons for financing a new and determined effort at job creation and training by a transfer of military spending. While a consensus virtually exists in Congress that stepped up job training efforts are needed, the existing Federal deficit is most often cited as the chief obstacle that stands in the way of supporting any new job programs. That leaves as the only major Federal expansionary sector—the Department of Defense—as the appropriate source for the reallocation of funds from one area of government to another for the purpose of job creation.

A number of studies in the past several years have pointed to the net loss of jobs resulting from stepped up defense spending. Military spending creates jobs, but far fewer than a number of alternative uses of the same funds—for example, in the areas of housing construction, education and health care, mass transit and other public works, or in the energy conservation area. A recent Chase Econometrics study, as an example, compared the effects of a given amount of expenditure on the B-1 bomber program with a tax cut and a public housing program of equal dollar amounts as sources of new job creation. The Chase study found that both a housing program and a tax cut yielded more jobs per dollar of expenditure than the B-1 program. Defense spending simply involves indus-

try that is too capital—intensive, workers who are too highly skilled, and areas of the country that have too high a concentration of defense-related industry to make any dent in the unemployment problem. Under the circumstances, a transfer of such funds is highly appropriate for the job creation purposes intended in the bill.

A summary of the Jobs and Income Act follows:

SUMMARY OF JOBS AND INCOME ACT OF 1984

Provides Job Project Grants to localities in areas of high unemployment to be determined by local boards;

Establishes a National Employment Corps for young persons out of work, ages 16 to 25, administered by Secretary of Interior for urban and rural projects that provides for wages as well as room and board at residential centers;

Establishes a National Job Training Office in DOL to administer two programs, (1) for young persons 15 to 20, who have dropped out of school or else finished school and have been jobless, who are to be trained at designated educational institutions and (2) training for adults displaced from work and for disadvantaged persons who are to be trained by local governments or private firms selected by the Secretary of Labor;

Directs the Secretary of Labor to develop reliable data on labor markets, estimates of number of trained persons who will be needed in future years to meet projected demand, and to integrate this data for the development of the job training programs;

Establishes a National Job Bank Fund with 2 percent of the amounts appropriated to the Department of Defense, annually (approx. $6 billion in fiscal year 1985) which will be distributed one-third to the Job Project Grants and one-third to each of the job training programs;

Establishes a Conversion Planning Office in the Executive Office of the White House to administer above funds and to undertake and report on long-range proposals to achieve a full-employment economy.●

NATIONAL TOURISM WEEK

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. VUCANOVICH. Mr. Speaker, next week, May 27 through June 2 has been designated as National Travel and Tourism Week. People all over the country will be celebrating with activities that represent the contributions tourism has made throughout the United States. Memorial Day weekend is certainly an appropriate time to focus national attention on tourism since this holiday marks the beginning of summer and vacation travel.

In Nevada, tourism is our major industry. The gaming industry alone provides nearly 48 percent of all State revenue. Nevada ranks No. 1 in terms of importance tourism is to our State economy, and tourism is Nevada's No. 1 employer. Tourism also brings thousands of visitors to Nevada to share its unusual beauty from the shores of Lake Tahoe to the casinos in Las Vegas and Reno. Recognition of the contributions tourism has made to our country certainly deserves national attention.

I am sure each State has many activities planned for next week to promote tourism in their area since every State relies on tourism, to some extent, as a source of State revenue. I hope all Members will join me in recognizing an industry which contributes vitally to our national, State, and local economies, tourism.●

REAGAN'S TRADE PLAN TAKES HOLD IN CARIBBEAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LAGOMARSINO. Mr. Speaker, the Caribbean Basin Initiative is off to a fast and successful start according to the latest issue of U.S. News and World Report. The encouraging developments offer the promise of more jobs and economic development of the Caribbean democracies while boosting trade and investment in the region. It means growth prospects for U.S. companies but does not mean the export of U.S. jobs. I urge my colleagues to read this interesting and informative article.

The article follows:

REAGAN'S TRADE PLAN TAKES HOLD IN CARIBBEAN

(By Richard Alm)

In effect less than five months, the Reagan administration's Caribbean Basin Initiative is beginning to show signs of boosting private investment and trade in that perennially poor region.

At least a dozen U.S. companies are moving into the Caribbean, and hundreds of others are mulling over potential projects. At the same time, local entrepreneurs are expanding to take a crack at the U.S. market, helping some countries double their exports to the U.S. in the past year.

The CBI's first hints of success come in a variety of industries. MacGregor Sporting Goods of East Rutherford, N.J., will employ 200 workers to make basketballs in Haiti. Other projects may add 800 more jobs in the next year.

Minneapolis's Control Data Corporation is setting up a subsidiary to export technology and educational services.

On Grenada, where last year U.S. troops ousted a leftist regime, California accountant Ben Vernazza hopes to employ 200 workers packaging nutmeg in a "Spice Island" cooking kit for U.S. customers. The White House is keeping track of 14 other firms with plans to invest 22.8 million dollars in various projects on Grenada. Total jobs expected: 1,620.

The new activity is not limited to American companies. Carrimed, Ltd., a new British company in Barbados, is getting ready to make medical supplies for export to U.S. hospitals.

SPECIAL TREATMENT

The CBI, approved by Congress in July, went into effect on January 1 and now offers trade concessions, aid and tax breaks for 20 nations. Its centerpiece is a one-way free-trade zone that gives a wide range of Caribbean goods duty-free entry into the U.S. for 12 years. American goods still pay tariffs when sold in the Caribbean region.

President Reagan and other supporters hope the CBI will yield long-term gains in jobs and economic growth for the Caribbean. Already, it is helping deliver a quick benefit. An end to the slide in Caribbean trade with the U.S.

The Commerce Department reports that the CBI, a strong dollar and a healthy U.S. economy boosted the region's January and February sales to the U.S. to nearly 1.8 billion dollars this year, up 35 percent from the first two months of 1983. More important, some countries expected to benefit a lot from the CBI—Barbados, the Dominican Republic and Jamaica—are showing export gains of 100 percent or more.

One reason for the CBI's auspicious start is a hard sell by Washington. A series of Commerce Department workshops has visited 10 Caribbean and U.S. cities in the past six months. It will touch down in at least eight more cities by the end of June. Federally funded programs at the chambers of commerce in Chicago and New Orleans are trying to drum up trade and investment for the region. One success: La Preferida Products, a Chicago company, is now importing fresh fruit and vegetables from Costa Rica and the Dominican Republic.

All of this shows a renewed U.S. commitment to the region's economic development. More than anything else, that's catching the eye of U.S. firms.

"The message that's getting across is that the Caribbean is going to be a reasonable place to do business," says MacGregor Chairman Frederic Brooks.

It also has created a stir in the Caribbean. Two-day U.S.-government CBI seminars earlier this year drew 780 companies in San José, Costa Rica, and 300 in San Pedro Sula, Honduras. Many of the dollar-dependent countries are setting up agencies to push projects for exports to the United States. A big part of initial U.S. investment aims at paving the way for future development. InterNorth, Inc., an Omaha, Nebr., gas producer, has established an Applied Technology Center in Jamaica to gauge the potential for clients' ideas for Caribbean projects.

Control Data Caribbean Basin, launched in March, will put together joint ventures with local entrepreneurs to market American know-how on small business, education and training, and small-scale agriculture.

Less formally, MacGregor is teaching the ropes to companies looking into Caribbean output of products such as luggage, purses and slippers.

SHAVING COSTS

Whether the plans can be translated into new plants will ultimately depend on lower costs. The tariff break is already helping. Harowe Servo Controls, a West Chester, Pa., maker of precision electric motors, is saving up to $3,000 a month on imports of parts from St. Christopher and Nevis. MacGregor will save up to $150,000 this year on its baseballs and softballs from Haiti.

In all likelihood, the biggest saving will come on labor. The Commerce Department says that hand labor can be hired for $3 to $4 a day in most Caribbean countries, well

below the $40 a day that unskilled labor commands in the U.S.

The low wages create incentives for labor-intensive production. U.S. unions, which had opposed the CBI, fear the program will mean American workers will lose jobs.

In response, CBI supporters argue the Caribbean nations will get U.S. jobs that would have moved offshore anyway, probably to Asia. MacGregor is moving its basketball production from Taiwan to Haiti with no loss of U.S. jobs.

Caribbean production, moreover, can save U.S. jobs. West Point Pepperell, Inc., of West Point, Ga., lost a key customer to a Far East rival, but the company is keeping its New Braunfels, Tex., plant open by using its output to make shirts in Costa Rica.

The CBI's success will depend on getting more investment projects. Its ultimate payoff, however, is likely to be strategic: Helping alleviate the poverty that can serve as a breeding ground for revolution in America's back yard.●

IN APPRECIATION OF MILITARY SPOUSES

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. RAY. Mr. Speaker, last week, our Nation celebrated Armed Forces Day in honor of those men and women who serve our country in the military. Although the accomplishments of our military are many, and our pride in them is certainly justified, there is a silent, selfless group that serves as the backbone of our military that we honor today—the spouses of our servicemen and women.

Little has been written or said about the life of a military spouse, for their role is neither glamorous nor public. But, let me assure you that it is the support and determination of a spouse that can make or break a military career.

Today we pay tribute to all military spouses, both male and female, and all deserve recognition for their service. However, the vast majority of military spouses are female and these women, no less than their husbands on active duty, dedicate their lives to the service of the United States.

Many people in our country have no idea of life in the military, other than what they see in movies or read in books. The public view of military life centers on the role of the soldier and very little is ever seen of the behind-the-scenes part played by the soldier's wife.

It has been said that a military wife lives primarily on hope and I know this is often true. But, it is determination and sheer will power that make her so special.

She is determined to provide a stable home—even though she must pack and move her family and belongings all over the world every year or so.

She is determined that their children will be raised properly—even though she may spend years alone with the children when she can not accompany her husband.

She is determined that when "duty" calls, her husband will go, confident that their home and family are secure in her hands.

In spite of fears, inexperience, and loneliness, she builds a home and a life in the military.

Few people outside the Armed Forces ever realize the sacrifices these women make, and few public honors are ever accorded for their accomplishments. But, truly, they have given their lives in service to our country, and our tribute and responsibility to them should be no less than to their husbands.

So today, Mr. Speaker, it is with admiration and respect that I join with others to commemorate Military Spouses Appreciation Day. As ceremonies are held at military bases around our Nation to honor them, let us join in the tribute to this deserving group of people.●

LATCHKEY CHILDREN

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. BURTON of California. Mr. Speaker, earlier this month, the House passed the School Facilities Child Care Act, which will encourage the creation of before and after school child/care facilities in public schools and community centers. A similar proposal is awaiting approval by the full Senate.

I would like to share with my colleagues an article from the New York Times that outlines New York City's efforts to solve the problems of "latchkey children" using the concepts in the legislation passed by the House.

[From the New York Times, May 22, 1984]

CITY ASKED TO KEEP ITS KINDERGARTENS OPEN UNTIL 6 P.M.—PLAN AFFECTS 60 SCHOOLS

(By David W. Dunlap)

YOUTH BUREAU HEAD PROPOSES OPTION FOR PARENTS IN PLEA TO COUNCIL FOR MONEY

The head of the New York City Youth Bureau yesterday proposed an afterschool program that would extend all-day kindergarten to 6 o'clock at night. His plan won immediate approval from the chairman of the City Council's Finance Committee.

Under the $2.7 million experiment proposed by David R. Jones, executive director of the bureau, 60 schools in the city would be kept open three extra hours every afternoon to help parents who have problems caring for their children during the day.

Participation in the program would be optional, and it would begin in September. School would continue to start at 8:40 A.M.

Yesterday morning, almost as soon as he heard the proposal during a budget hearing at City Hall, Councilman Edward L. Sadowsky, head of the Finance Committee, called a news conference to announce his support.

NOT IN MAYOR'S BUDGET

Mr. Jones said: "We know that single-parent families have a hard time with child care. The very intent of all-day kindergarten was to relieve some of the burden on working and single parents. The trouble was it was only going to 3 o'clock."

Mr. Jones said he had hoped earlier this year that the plan would be contained in Mayor Koch's $18.3 billion executive budget of April, which included all kinds of city service improvements. Because of other priorities, he said, it was left for a decision by the Council.

Mr. Sadowsky, a Queens Democrat, said: "We're going to propose an after-school program run by the Youth Bureau for kids with working parents. A full day doesn't end at 3 o'clock. We have got to expand this program until the parents come home from work."

Speaking of Mr. Sadowsky's announcement, Mr. Jones said with a chuckle: "I'm going to tell Ed he can take credit for it all. I don't mind. I'm very excited."

Along with the rest of the budget, the kindergarten proposal would have to be approved by the Council and the Board of Estimate. Under the City Charter, the two bodies have until June 3 to adopt a budget for the fiscal year that begins July 1.

There are more than 550,000 children in New York in single-parent households, most of which are headed by women, according to Mr. Jones. About 56,000 children, he said, are enrolled in all-day kindergarten—that is, kindergarten that runs to the end of the school day.

As described by Mr. Jones, the experimental plan would cover some 3,000 youngsters in 60 of the 604 schools that now offer all-day kindergarten. The schools have not yet been selected.

"We will try to make sure they are geographically, ethnically and economically balanced," Mr. Jones said. "It's a service that should go to all areas of the city, no matter how middle class or poor."

At an annual cost of $45,000 for each school—to pay teachers, aides, security guards and janitors—50 children would get three extra hours of story readings, music and play.

The plan would mean a 9 hour 20 minute school day for the children. There was no mention in the proposal of funds for an after-school meal or snack.

"It's not a full academic program," Mr. Jones said. "Perhaps there would be trips to museums, trips to the Fire Department, things that little kids go for but are more important than keeping the kids in a room with the television on."

"This isn't a baby-sitting program," Mr. Sadowsky said. "It will have an educational component."

If the plan is approved, the Youth Bureau will work with the Board of Education to choose the schools and to devise a standard program citywide. This program would be run by private, nonprofit community groups under contract with the city.●

AGENT ORANGE SETTLEMENT—A HOLLOW VICTORY?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BIAGGI. Mr. Speaker, as our Nation prepares for its annual observance of Memorial Day—when we pay tribute to those brave men and women who gave up their lives in service to their Nation in the Armed Forces—a battle continues to rage about how best to deal with a problem which is affecting a group of American veterans who are still living.

The issue is the so-called agent orange problem. Briefly stated, since 1977 a number of veterans have attributed a number of illnesses including skin cancer, fatigue, nervousness, numbness in the extremities, vision and hearing impairments, birth defects in children and other ailments due to exposure of agent orange. From 1962 to 1971, the U.S. Air Force sprayed various herbicides in South Vietnam, for the purpose of defoliating jungle growth and to destroy enemy crops. The most extensively used of these herbicide mixtures was known as agent orange, which is an equal mix of two common herbicides under the abbreviated names of 2,4,5 T and 2,4 D.

Since the time that these ailments and their relationship to agent orange became apparent, veterans groups have urged the Veterans' Administration to provide for medical treatment of these disorders and have filed for disability compensation.

Under the terms of Public Law 97-72, which I supported, the VA was directed to furnish medical care to Vietnam veterans, irrespective of age and financial status, for any condition which might possibly have resulted from exposure to agent orange. However, many veterans have been denied access to compensation by the VA because their ailments did not occur until after their military service ended, thus not meeting the VA's definition of a service connected disability. In fact, the Congressional Research Service indicates that as of January 3, 1984, a total of 919,336 claims had been filed by veterans who believe their disorders are attributable to exposure to agent orange. The vast majority of these claims have been denied by the VA because they are not considered to be service connected.

New legislation passed this year by the House with my support, H.R. 1961, may facilitate the process further. However, much of the battle over agent orange exposure and compensation seems to be fought inside courtrooms.

Last week, with considerable fanfare, it was announced that an out-of-court agreement had been reached between seven corporations responsible for the manufacture of agent orange and a group of veterans victimized by exposure. Under the agreement, the seven companies agreed to place into a special fund, some $180 million that will be used to help compensate victims and their families. A Time magazine article discussing the settlement noted, "The fund is expected to last 25 years. With interest currently accruing at $61,000 a day, the initial deposit could result in payments amounting to $750 million."

This settlement has met with mixed reviews. On the one hand, it has given long overdue recognition to Vietnam veterans and their service, and has also added a great deal of credibility and authenticity to the contentions about agent orange as a threat to their health. However, this settlement does not in any way go to the very heart of the issue, which is, what was the Federal Government's capability in this matter? The corporate defendants in the suit did, in fact, manufacture the chemical, but at the direct request of the Federal Government.

I am concerned about the distinct degree of insensitivity being shown by the Federal Government against these Vietnam veterans. We continue to hear horror story after horror story about agent orange and its effects on health, not only of those veterans exposed, but also their offspring. It seems to me that whether the ailments or illnesses occurred immediately upon exposure to agent orange or years later, they should be viewed as a service connected problem, thus qualifying the victim for compensation. To quarrel over a technical definition seems an insult to the veteran.

I wish to insert into the CONGRESSIONAL RECORD, an article discussing what is likely to be the next episode in this rather disturbing saga. It involves a class action suit which was filed last week against the Veterans' Administration seeking complete medical care for 18,000 Vietnam veterans and their families allegedly affected by the chemical defoliant agent orange.

As we approach Memorial Day—a time to honor those veterans who made the supreme sacrifice for our Nation—let us do so with the fervent hope that their memories can invoke final and equitable settlement for their comrades who suffer from agent orange exposure. The Vietnam era veterans have too often felt the indifferent hand of the Government since their return from their years of service. Nowhere is this insensitivity more evident than the agent orange issue. Congress must complete action on necessary legislation to facilitate access to agent orange disability compensation and the courts must act expeditiously to establish veterans rights to this compensation.

[From the Gannett Westchester Newspapers, May 18, 1984]

SUIT FILED AGAINST VA IN AGENT ORANGE CASE

NEW YORK.—A class-action suit has been filed against the Veterans' Administration seeking "complete medical care" for 18,000 Vietnam veterans and their families allegedly affected by the chemical defoliant Agent Orange.

The U.S. District Court suit, filed in Brooklyn 10 days after the settlement of a suit against seven chemical companies which produced Agent Orange, also seeks psychological and genetic counseling for the veterans.

It alleges that the VA and other federal agencies "failed to provide adequate medical care and treatment, including genetic counseling" for veterans and their families.

The federal government was not involved in the May 7 settlement between the veterans and the chemical companies, which provides for a $180 million fund to pay veterans and their families for medical costs, pain and suffering. The companies did not acknowledge the defoliant caused any medical problems in the settlement.

The suit filed Thursday also alleged the VA "conspired to disseminate false and misleading information" to veterans regarding the risk of exposure to Agent Orange. It also seeks monetary damages from the VA for its alleged failure to treat ailments resulting from exposure to the chemical properly.

The VA has held that scientific evidence linking Agent Orange with a variety of medical problems is inconclusive.

The federal Food and Drug Adminstration and the Public Health Service are named as co-defendants in the suit.●

CONGRESSIONAL SALUTE TO RABBI DR. LEON KATZ OF ADAS ISRAEL, PASSAIC, N.J., IN COMMEMORATION OF OUTSTANDING SERVICE AND INVESTITURE AS RABBI EMERITUS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ROE. Mr. Speaker, it is indeed appropriate that we reflect on the deeds and accomplishments of our people who have contributed to the quality of life and way of life here in America and today I rise in admiration and with the deepest of respect in calling your attention to the lifetime of achievement and purpose of the most distinguished Rabbi Dr. Leon Katz of Adas Israel, Passaic, N.J., whose standards of excellence as a spiritual leader and adviser of national and international renown have truly enriched our community, State, and Nation.

On Sunday, June 3, the congregation of Adas Israel will join together in the city of Passaic, my congressional district, State of New Jersey in honoring Dr. Leon Katz on his retirement after 46 years of dedicated and outstanding

service and on his investiture as rabbi emeritus.

Mr. Speaker, there is so much that can be said about Rabbi Katz and his leadership endeavors in promulgating, enhancing, and preserving the richness of his Jewish religious and cultural heritage. The officers and trustees of the congregation of Adas Israel have provided in their commemorative statement in testimony to Rabbi Katz a profile on his 46 years of service which has redounded to the spiritual and moral integrity of those of his religious belief as well as materially contributing to the ecumenical spirit of brotherhood, truth of knowledge, and cultural enrichment of all of our people. This testimonial reads, as follows:

FORTY SIX YEARS OF SERVICE

Forty six years ago a young Rabbi assumed the pulpit of Congregation Adas Israel. His eloquence and scholarship were quickly evident, but above all what endeared him to the hearts of all was his warm and friendly spirit.

Through forty six years of service, Dr. Leon Katz has been our spiritual guide. His devotion to Torah and his love for Israel have inspired us to greater efforts for Jewish education and the rebuilding of Zion.

A scholar with a background of extensive and intensive training in the religious and secular fields, he is at the same time a man of action. He has displayed a rare combination of deep faith and profound idealism.

Rabbi Katz's most abiding achievement is his building of the Adas Israel Synagogue Center into an outstanding congregation. From the day of his arrival forty six years ago, he dedicated his best efforts and most unusual talents toward the shaping and structuring of a strong, unified, and prestigious congregation—serving as a model for so many others.

In all his undertakings, Rabbi Katz enjoys the encouragement of a loving and devoted family. His wife, our beloved and talented Rebbitzen, Rhea; his son, Shimon and Shimon's wife, Nancy; his son, Avram and Avram's wife, Nadine.

A grateful community joins us in prayer that our Heavenly Father may bestow upon him and his family the abundance of His blessings for many fruitful years.

Mr. Speaker, with your permission may I also insert at this point in our historic journal of Congress a biographic profile and testimonial salute prepared in 1978 by members of the congregation of Adas Israel in tribute to Dr. Katz's four decades of service and dedication as their esteemed Rabbi which reads, as follows:

FORTY YEARS OF SERVICE

Forty years ago a young Rabbi assumed the pulpit of Congregation Adas Israel. His eloquence and scholarship were quickly evident, but above all, what endeared him to the hearts of all was his warm and friendly spirit.

Through four decades of service, Dr. Leon Katz has been our spiritual guide. His devotion to Torah and his love for Israel has inspired us to greater efforts for Jewish education and the rebuilding of Zion.

A scholar with a background of extensive and intensive training in the religious and secular fields, he is at the same time a man of action. He has displayed rare combination of deep faith and profound idealism.

In recognition of his fortieth anniversary as our spiritual leader and in acknowledgement of his love and service—a grateful community joins in prayer that our Heavenly Father may bestow upon him of the abundance of His blessings and that He may grant him health and strength so that he may continue to enrich our community with his exceptional gifts of heart and spirit for many years to come.

BIOGRAPHICAL PROFILE

In the 40 years that the Rabbi has been with the Congregation, he guided its growth and its development as a vibrant house of worship which includes daily, Sabbath and Holiday services and a house of learning for both young and old. The Adult Education Institute which he founded and administers, offers classes in the Talmud, Shulchan Aruch (Book of Jewish Laws), Bible, Jewish History and lectures on Judaic thought and theology. The Institute was singled out by many prominent national educators for providing exposure to Jewish knowledge and culture and as a model for successful education for adults.

Dr. Katz spearheaded the building of the present Adas Israel edifice and has been the driving force behind the moving from Tulip Street where the Congregation was formerly located.

The Rabbi has been active in the Jewish community at large as well. He has been honored for his services by the UJA, Israel Bond, Jewish National Fund, Mizrachi Organization of America, Rabbinical Council of America and Yeshiva University from where he received his ordination in 1938 and his doctorate in 1948. Rabbi Katz is past president of the Rabbinic Alumni of Yeshiva University, past president of Rabbinical Council of New Jersey. He is now national vice president of Religious Zionists of America and vice president of Bernard Revel Graduate School of Yeshiva University.

Rabbi Katz has lectured extensively at New York University, Yeshiva University, Stern College for Women, Kean College and many other prominent insitutions of learning and higher education.

In February of this year, he was elected as a delegate to the World Zionist Congress which he attended in Jerusalem. He is listed in the following: Who's Who In World Jewry, 1978; Who's Who In Religion; Who's Who In American Education; Directory of American Scholars; Men of Achievement; Dictionary of International Biography; and The Israeli Honorarium.

Rabbi Katz is the author of "Life, Times, Work of Rabbi Moshe Sofer", published in Jerusalem. He is now completing his work on "The Sanhedrin And The United States Supreme Court Compared", which will be published next year. Also, he contributed to Jewish Encyclopedia; the Quarterly "Mada VeEmum"; Kol-Torah; or Mamizrach; Jewish Life; Shaarin; Proceeding of 17th and 18th Annual Convention—Yeshiva University; JMC Quarterly.

Rabbi Katz is the son of the late Chief Rabbi, Rueben Katz and Rachel Katz of Petach Tikva, Israel. In 1946 he married the former Rhea S. Herzog, the prominent Rebbitzen in Passaic and they have three children: Varda, who is married to Mr. Seev Nistar, lives in Jerusalem and is blessed with a daughter, Michal; Shimon, vice president of Philip Brothers of New York and Avram, who is entering law school this year.

ABOUT RABBI KATZ

Rabbi of Congregation Adas Israel, Passaic, since 1938.

Ordained by Rabbi Isaac Elchanan Theological Seminary of America.

Received his B.A. from Yeshiva College.

Received his M.A. from Columbia University.

Received his Doctorate from Yeshiva University.

Author of "Life, Times, Work of Rabbi Moshe Sofer", published by Mosad Harav Kook in Jerusalem.

He is now completing his work on "The Sanhedrin and the United States Supreme Court Compared."

Contributed to Jewish Encyclopedia; the quarterly "Mada Ve Emuna"; Kol-Torah; Or Hamizrach; Jewish Life; Shearim; Proceedings of 17th and 18th Annual Convention—Yeshiva University; JHC Quarterly.

Instructor in Jewish Tradition and Philosophy at New York University.

Instructor in History at Yeshiva University.

Instructor in Jewish Philosophy at Stern College for Women of Yeshiva University.

Member of Society of Professors of Hebrew Culture.

Member of World Academy of Jerusalem.

Member of Historical Society of America.

Member of Executive Rabbinical Council of America.

Past President of Rabbinic Alumni of Yeshiva University.

Past President of Rabbincal Council of N.J.

President of Mizrachi N.J. State Region since 1955.

Vice President of the Alumni of the Barnard Revel Graduate School of Yeshiva University.

He is now a member of the Doctorate Committee at New York University in charge of approving dissertations leading towards the degree of PHD.

Married in 1946 and has three children.

His name appears in "Who is Who In World Jewry" and "Who Is Who Among American Scholars" and in "The Israel Honorarium".

Son of the late Chief Rabbi, Rueben Katz and Rachel Katz of Petach Tikva, Israel.

"Who's Who in Religion", "Who's Who in American Education", "Men of Achievement", "Dictionary of International Biography".

Mr. Speaker, for his personal commitment, richness of wisdom, warmth of friendship, and untiring efforts which he has imparted to all of us and for his immeasurable contribution to the quality of life and way of life for all of our people, we do indeed salute a good friend, outstanding community leader, distinguished rabbi, and great American—Rabbi Dr. Leon Katz of Adas Israel.●

NEEDED: "RIGHT TO KNOW" PROTECTION FOR WORKERS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. VENTO. Mr. Speaker, millions of American workers are becoming

more aware of the need to know about hazardous chemicals and other substances which they routinely handle on the job. During the past several years, some 14 States and numerous local governments from New York to California have passed "right to know" laws which guarantee workers the right to obtain information about hazardous substances in their workplaces. In addition to these States, "right to know" legislation has also been introduced in numerous other States across the country as well.

This grassroots movement has brought together a diverse coalition of labor, environmentalists, and health care professionals who have recognized that it is much more sensible and cost-effective to identify potential health hazards and to give workers information about these hazards than to proceed blindly and to gamble with the health and well-being of American workers.

Mr. Speaker, New York is one of 14 States which currently has a "right to know" law on the books. Recently, the New York Attorney General's office filed lawsuits against two companies which fired workers for exercising their right to know under State law. New York's law also includes provisions for protecting workers so that they do not have to choose between their jobs and their health. A worker may refuse to work with a hazardous substance if the employer does not provide information within 3 days of the request. Workers are also protected from employer discrimination for using any rights provided under the law.

These two lawsuits, against the Vulcan Fuel Corp. of Long Island, and Resin Optics, Inc., near Buffalo, ask the court to order these companies to reinstate these workers with back pay and to comply with the provisions of New York's law, including responding to worker requests for information, posting notices about the availability of information on hazardous substances and providing training programs for workers about toxic and hazardous substances. The lawsuit also asks for large fines—$10,000 for each violation of the law—which in the case of Vulcan Fuel involves 10 counts.

A pregnant laboratory worker at Resin Optics asked her company for information about vinyl coating, acetone cleaner, and other materials which she handled in her workplace. She had stated that she wanted the information to protect the health of her unborn child as well as her own health. After the company failed to provide the information, she asked for a transfer to office work. The company denied her request. She refused to continue working in the lab and was subsequently fired.

Vulcan Fuel Oil Corp., a home heating oil company, fired two employees who requested information about an oil shipment. One employee had been previously demoted for requesting information on other substances, as well. Rulings in these cases are expected sometime in the near future.

These cases clearly show that even with a "right to know" law, that some workers are still not getting the information they need to take precautions to protect their own health and that litigation in the courts may result. Without strong "right to know" protection, workers would not have a leg to stand on. We must act to insure that the rug will not be pulled out from under workers seeking information about hazardous substances in their workplaces.

Hopefully, the intransigence of these two particular companies is only an isolated example. Employers have an important interest in protecting the health and safety of their workers on the job. Lower health insurance and workers' compensation costs and fewer lost workdays due to illness insure higher productivity, and this benefits employers and employees alike. Strong "right to know" laws are a step in the right direction for both management and labor.●

A PUBLIC/PRIVATE PARTNERSHIP PROJECT TO ASSIST THE PEOPLE OF EL SALVADOR

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. WOLF. Mr. Speaker, last year I witnessed firsthand the devastating effect that the fighting in El Salvador has had on the people of that war-torn country, and especially the 36,000 people—mostly women and children—living in displaced person camps. In an effort to reach out and help these innocent victims caught in the struggle for democracy, I have coordinated a bipartisan humanitarian relief effort among my colleagues, Mr. COATS of Indiana, Mr. HALL and Mr. MCEWEN of Ohio, and Mr. SMITH of New Jersey, to raise donations from the private sector in the spirit of the administration's private sector initiatives program.

We have worked over the past few months with Project Hope, an international health agency with headquarters in Millwood, Va., to solicit contributions as part of an effort involving 23 House Members and over 30 U.S. businesses. With guidance from Project Hope, we sought contributions of shoes, clothing, personal hygiene items, agricultural tools and supplies, and educational materials, items that were needed in the camps but would not adversely impact the economy there. We are extremely pleased that 35 tons of materials have been collected and shipped and will arrive in El Salvador over the Memorial Day weekend. Many other items have also been received in recent weeks and will be sent in future shipments.

We cannot say enough in praise of the responsiveness of the American companies which answered our requests for assistance. The willingness of the American private sector to help demonstrates a true compassion for the welfare of the innocent victims of the conflict in El Salvador and is in the finest tradition of the American spirit of cooperation and volunteer assistance. We would like to salute the following corporations for their donations to the humanitarian relief project for displaced persons in El Salvador:

Accutec, Incorporated, Wallington, New Jersey.

ACME United Corporation, Fairfield, Connecticut.

American Hardware Manufacturers Association, Washington, D.C.

Ames Manufacturing, Parkersburg, West Virginia.

Armour-Dial Company, Phoenix, Arizona.

Avon Products, Incorporated, New York, New York.

Bata Shoe Company, Incorporated, Belcamp, Maryland.

Mead Corporation, Dayton, Ohio.

Binney and Smith, Incorporated, Easton, Pennsylvania.

BLip Productions, Minneapolis, Minnesota.

Coleco Industries, Incorporated, West Hartford, Connecticut.

Columbia Manicure Manufacturing, Greenwich, Connecticut.

Cosmetic, Toiletry and Fragrance Association, Washington, D.C.

Dental Hygiene Company, Santa Clara, California.

Desco Shoe Company, New York, New York.

Fisher-Price Toys, East Aurora, New York.

Gerber Products Company, Fremont, Michigan.

Hasbro Industries, Incorporated, Pawtucket, Rhode Island.

Johnson & Johnson Baby Products, Skillman, New Jersey.

Juvenile Shoe Corporation, Aurora, Minnesota.

Koh-I-Noor Rapidograph, Inc., Bloomsbury, New Jersey.

Lauri Incorporated, Phillips-Avon, Maine

Arden Division of Eli Lilly and Co., New York, New York.

Mallard Pencil Company, Georgetown, Pennsylvania.

Uchida of America, Corporation, Woodside, New York.

Messina, Incorporated, Bedford Falls, New York.

National Pen and Pencil Company, Shelbyville, Tennessee.

The Parker Pen Company, Janesville, Wisconsin.

Playskool, Incorporated, Chicago, Illinois.

Richardson-Vicks, Incorporated, Wilton, Connecticut.

Tek Hughes, division of International Playtex, Inc., Stamford, Connecticut.

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Volume Footwear Retailers Association, Washington, D.C.

Writing Instrument Manufacturers Association, Incorporated, Washington, D.C.

Wyeth Laboratories, division of American Home Products, Corp., Radnor Pennsylvania.

In addition to my colleagues Representatives COATS, TONY HALL, MCEWEN, and CHRIS SMITH, the following Members of Congress also assisted me in the solicitation effort for the humanitarian relief project by signing a letter to companies requesting help: Representative RICK BOUCHER, Ninth District, Virginia; Representative WILLIAM CARNEY, First District, New York; Representative BILL CLINGER, 23rd District, Pennsylvania; Representative JOHN DUNCAN, Second District, Tennessee; Representative HAMILTON FISH, 21st District, New York; Representative SAM GEJDENSON, Second District, Connecticut; Representative STENY HOYER, Fifth District, Maryland; Representative EARL HUTTO, First District, Florida; Representative HENRY HYDE, Sixth District, Illinois; Representative BOB LAGOMARSINO, 19th District, California; Representative JOHN MCCAIN, First District, Arizona; Representative RAY MCGRATH, Fifth District, New York; Representative ALAN MOLLOHAN, First District, West Virginia; Representative STAN PARRIS, Eighth District, Virginia; Representative HAL SAWYER, Fifth District, Michigan; Representative STEPHEN SOLARZ, 13th District, New York; Representative ROBERT WALKER, 16th District, Pennsylvania; and Representative GEORGE C. WORTLEY, 27th District, New York.

I would also like to salute the work of Project Hope, and the Knights of Malta, an international fraternal order of the Catholic Church which helps operate many of the camps and will distribute the goods to the people. These are two of the same organizations which assisted my colleague Representative BILL MCCOLLUM of Florida, in his outstanding pioneer efforts to assist displaced persons in El Salvador with earlier donations of medicines and drugs. His administrative assistant, Vaughn Forrest, has been particularly helpful to me and my staff in preparing this shipment and we appreciate that guidance.

I must also recognize Rafael Franchi, a leader in the hispanic community in northern Virginia, who lives in my congressional district and has generously supported our efforts.

The individuals, corporations and organizations that have assisted in this work have forged a true partnership to help the innocent victims of the fighting in El Salvador and I thank everyone for their help.●

A TRIBUTE TO DR. NORMAN H. BELL

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. HARTNETT. Mr. Speaker, Dr. Norman H. Bell, who resides in my congressional district, was recently named corecipient of the 1983 William S. Middleton Award, the most distinguished award presented by the Veterans' Administration for excellence in biomedical research; more specifically, "for contributions to the basic science of hormone secretion and mineral metabolism and for delineating the metabolism of vitamin D in normal and disease states."

Dr. Bell, who holds the special designation as medical investigator at the Charleston, S.C., VA Medical Center, has joint appointments as professor of medicine and pharmacology and as program director of the General Clinical Research Center at the Medical University of South Carolina.

Dr. Bell and Middleton Award cowinner, Dr. Sidney Finegold of the Wadsworth VA Medical Center in Los Angeles, attended presentation ceremonies at the Veterans' Administration central office May 4 in Washington, D.C. They received a plaque and shared equally in the prize of $5,000.

Dr. Bell is recognized both nationally and internationally for his work on vitamin D and mineral metabolism. In Charleston, he developed a strong research program and subsequently came to direct a new division of bone and mineral metabolism at the medical university.

Through his research, Dr. Bell has linked disordered vitamin D metabolism as an underlying factor for abnormal regulation of calcium in a number of disease conditions including sarcoidosis, hypoparathyroidism, pseudohypoparathyroidism, and vitamin D-dependent rickets type II. He has also characterized vitamin D metabolism in normal adults and children, in children with the Williams or "pixie" children syndrome and in anephric patients who are on chronic dialysis.

Dr. Bell, a native of Gainesville, Ga., received his A.B. from Emory University and M.D. from Duke University where he also took his postgraduate training in internal medicine. He obtained research training at the National Institutes of Health in Bethesda, Md. He holds membership in Alpha Omega Alpha honor medical society and is a member of a number of medical research societies including the American Society for Clinical Investigation, Association of American Physicians, Endocrine Society, American Society of Nephrology and American Society for Pharmacology and Experimental Therapeutics. He is secretary-treasurer of the American Society for Bone and Mineral Research which he helped to found in 1977. He previously was a recipient of a career development award from the National Institutes of Health.

Prior to coming to Charleston in 1979, Dr. Bell served as associate chief of staff for research and development and as a medical investigator at the VA Medical Center in Indianapolis where he was also program director of the Clinical Research Center of the Indiana University Medical Center. He previously had served on the facilities of Georgetown University and Northwestern University schools of medicine.

Dr. Bell currently holds an advisory position with the National Institutes of Health, is an adviser to the Veterans' Administration and was an adviser to the National Aeronautics and Space Administration. He holds editorial appointments to a number of professional journals.

The annual VA research award was established in 1960 to honor Dr. William S. Middleton who served as Chief Medical Director for the VA from 1955 to 1963. It recognizes VA investigators whose achievements exemplify the spirit of Dr. Middleton's words, "As clinicians, we turn to research for the advancement of our practice."●

QUALITY EDUCATION IS MOST IMPORTANT

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BETHUNE. Mr. Speaker, the school consolidation issue in my district raises some interesting questions that must be addressed.

First, I oppose court-ordered busing to achieve racial balance. When Federal judges go beyond their authority to interpret the law and get into the business of forcing people to do certain things, it invariably costs money. The point is: No Federal judge has the authority to appropriate funds or levy taxes on the people, and they should not do indirectly that which they cannot do directly.

In the case in my State of Arkansas, a Federal judge has ruled that the three school districts in Pulaski County be consolidated. In the long run, Arkansas taxpayers will have to pay for this consolidation, whether the increase is funded with local money or Federal money which some people erroneously believe to be free.

While many bills have been introduced to respond to concerns that Federal district judges have gone beyond their authority in many types of cases, it must be noted that for some 200

years, Congress has declined to pass legislation limiting judicial authority.

A more fundamental approach would be to select and approve Federal district judges who would not exceed their authority. Simply put: The people do not select and approve Federal district judges; Senators select and approve Federal district judges, who then serve for life. When selecting and approving Federal judges, I believe we should keep the following standards in mind.

First, a judge should be fair, but tough, on criminals—particularly drug offenders;

Second, a judge must be committed to the belief that Federal district judges should interpret the law, and that they have no business making the law; and

Third, selection should be on the basis of ability and qualifications rather than friendship or political party affiliation.

Mr. Speaker, I believe it is important that we remember that quality education is the primary function of the public schools. We should also remember that quality education will be the prime function of our public schools only when the people who care the most—parents, teachers, and students—get deeply involved and can make decisions free of the heavy hand of Federal bureaucrats, national teacher unions, and Federal judges.●

ROUKEMA SUPPORTS SUPERFUND

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. ROUKEMA. Mr. Speaker, I am pleased to join with several of my colleagues as an original cosponsor of the Superfund Expansion and Protection Act of 1984, a bill which would extend and expand the Superfund program.

It has been less than a decade since the Federal Government recognized the full scope of the problems associated with the disposal of hazardous substances and their proper management. In 1980, Congress created Superfund to address the compelling need to clean up these sites as soon as possible.

The problem of the thousands of hazardous waste sites which mar the landscape of America is well known. The dimensions of the problems where hazardous wastes may have long been mismanaged or where toxic substances only recently were spilled, are staggering. The Environmental Protection Agency maintains a list of over 17,000 abandoned and potentially dangerous hazardous waste sites.

My own State of New Jersey is first in the country on the hazardous waste priority list with 85 identified hazardous waste sites. This important legislation will mean so much to the State of New Jersey. The New Jersey Department of Environmental Protection and the Environmental Protection Agency have worked together, harder than any other State, to identify sites within our State. The bill will provide the funding needed to proceed with the cleanup of the worst sites.

The Superfund Expansion and Protection Act of 1984 reauthorizes and expands the programs administered by the Environmental Protection Agency. It also provides a first step in expanding protection for the victims of hazardous waste spills by establishing a basis for suing under Federal law without having to prove negligence—cause of action.

At present, victims must rely upon whatever State law is applicable. Unfortunately, only four States have adopted statutes creating private rights of action for personal damages caused specifically by hazardous wastes. For property damages, these four States plus two others have created rights of action. In the remainder of the States, victims must either convince the courts to imply a right of action from violation of State hazardous waste control statutes or the victim must bring his case under traditional tort principles of negligence, trespass, or nuisance.

Once the victim has overcome this formidable hurdle of finding a basis for a cause of action, he is confronted with numerous, seemingly insurmountable procedural problems that are unique to the hazardous waste problem. For instance, many States apply the statute of limitations from the moment the injury occurs, which, in the case of many hazardous wastes, may be several years before the injury becomes apparent to the victim. In addition, proving the cause of the injury by the hazardous substance can be most difficult under traditional tort rules that are geard toward more obvious events, such as automobile accidents and explosions. Identifying which party is responsible for the harm, especially when several changes of ownership of the waste site have occurred, can create factual issues that are impossible to sort out.

Because of these uncertainties, many injuries have gone without remedy. Even those resolved under a settlement have frequently been criticized as being premature or inadequate. Though it did not involve hazardous waste disposal per se, the recent settlement of the agent orange class action suit, which involves similar issues, is an example. While settlements certainly serve an important function in our judicial system, they also fail to resolve the relevant points of law, thus often perpetuating the confusion.

This bill takes an important first step in addressing the legal needs of those victims exposed to hazardous waste disposal sites. In the first place, it establishes a specific cause of action based upon hazardous waste disposal that will apply to victims in all 50 States. While many legal questions will need to be resolved in the courts, this bill will at least begin the process of gaining some uniformity and predictability in the law.

In addition, the bill imposes a strict liability standard, thus eliminating the difficult obstacle of proving actual negligence on the part of the defendant. Strict liability is nothing new to American law and is normally applied where an activity is inherently and unavoidably dangerous, which is certainly the case with hazardous wastes. Strict liability is a legal method of insuring that, regardless of the absence of fault, some or all of the costs of the injury should be borne by those who have economically benefited from the activity and were in the best position to reduce, if not eliminate, the damages.

I have indicated that this bill is a positive first step. However, it is unrealistic for us to presume that, by simply creating a Federal cause of action, the problems will vanish. We have no concept at this point of the costs this cause of action will impose upon the affected companies and individuals and whether they will be able to bear those costs. We must recognize that we may be opening the door to a situation where the Federal Government will ultimately be required to step in either to spread the costs more evenly throughout industry or assume a portion of the costs itself or both.

This, of course, is not a new concept. The gentleman from New Jersey, Mr. FLORIO, who is the sponsor of this bill, had originally proposed setting aside a portion of the Superfund Trust Fund itself for victim compensation. A similar concept is under consideration in the Committee on Education and Labor, on which I serve, with regard to injuries in the workplace caused by exposure to asbestos.

At some point, we may find that we need to take this additional step, but I believe we are wise in delaying it at least for the time being. Proponents of the trust fund approach to victims compensation argue that it is of limited or no cost to the Federal Government since the funds would be provided primarily by a special tax imposed upon the industry involved.

The futility of taking comfort in such assurances is illustrated by a recent OMB estimate regarding the costs that would be imposed upon industry by the asbestos bill under consideration in the Education and Labor Committee. That bill would require an immediate $1,000 per ton tax on asbes-

tos, rising to $3,200 per ton by 1990. Asbestos is presently priced at about $350 per ton.

The obvious inference from these facts is that, unless we are prepared to destroy those industries upon whom we are imposing the tax, the creation of a fund to compensate any and all victims will inevitably result in substantial costs to the Federal Government. Moreover, as we have learned with the Black Lung Disability Trust Fund, these costs can easily become uncontrollable entitlements.

I emphasize that I am not completely shunning the notion of the trust fund approach. However, I believe that, with our deficit at its current alarming level, and with the many unanswered questions in this area, we are wise in at least delaying this irreversible step, and instead taking the modest but essential step of creating a Federal cause of action for victims.

In conclusion, there is no doubt that the proper management of hazardous wastes, and the cleanup of those sites where public health and the environment are threatened by improper management, together represent the leading environmental issues of the 1980's. The scope of the hazardous waste management problem is enormous. I am pleased to join my colleagues in strengthening and expanding this landmark legislation.●

THE OMNIBUS CRIME CONTROL BILL

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. VUCANOVICH. Mr. Speaker, I rise to urge my Democratic colleagues in the Judiciary Committee to report the omnibus crime control bill so that it may be opened to debate on the floor.

The fact that the current drive against crime originated with a Republican President should have no bearing on the present status of the crime bill. Crime is no respecter of party affiliation and it should be treated in like fashion. Apparently, this does not seem to be the prevailing view in the Judiciary Committee.

I would like to stress that the controversial nature of this legislation should not prevent its consideration. If anything, controversy over such important issues as bail, sentencing, habeas corpus, and capital punishment laws should clearly illustrate the importance of a full debate of these issues on the House floor.

Our friends in the other body virtually unanimously passed an omnibus crime bill. A bill with such overwhelming support certainly deserves a thorough debate in the House.

Mr. Speaker, we need to address this bill in a very constructive way for the sake of past and potential victims. As representatives of the people of this great Nation it is our duty and responsibility to make sure our laws protect the people.

In the last 60 seconds 30 citizens have become victims of crime. This rate of crime cannot be tolerated. It is time that we took a look at the current status of our criminal system and change some major deficiencies.●

BUREAU OF ANIMAL INDUSTRY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. DE LA GARZA. Mr. Speaker, 100 years ago next week, Congress passed a piece of legislation which has brought lasting and continuing benefits to all of the people of our country. That legislation, which was adopted on May 28, 1884, created the Bureau of Animal Industry within the U.S. Department of Agriculture.

That action a century ago was the birth of our formal, organized effort on a national basis to control and eliminate pests and diseases which affect animal health. Our predecessors in the Congress began that effort because they realized its importance to the Nation's farmers and ranchers, and to the consumers of the Nation.

Congress was concerned about animal health a century ago, and it remains concerned today, for two reasons.

First, effective control of livestock pests and diseases means that farmers and ranchers can produce ample supplies and can avoid the heavy costs which diseases and pests can sometimes produce. That means the producer gets a better chance to earn a fair living, and it means the consumer gets adequate supplies at reasonable prices.

Second, effective protection of animal health means more effective protection of human health—both for people who raise and handle livestock, and for the hundreds of millions who consume livestock products.

Since the beginning of this great national effort, the old Bureau of Animal Industry has evolved into a number of successor agencies in the USDA. Some of the work done by the old Bureau is now handled in the Agricultural Research Service * * * some in the Animal and Plant Health Inspection Service * * * some in the Food Safety and Inspection Service * * * and some in the Packers and Stockyards Administration. All of those agencies will have parts in special commemorative ceremonies which will be held at the Department of Agriculture on May 29. These are the agencies which have helped wipe out many costly and dangerous diseases, such as hoof and mouth disease, and which have helped eradicate or control many serious insect pests.

Mr. Speaker, I regret that I will not be able to attend those ceremonies in person. But, speaking as chairman of the House Committee on Agriculture, I want to express our pride in the record the USDA has compiled over the last century in carrying out our congressional mandates to protect animal health. I believe that as we move into the second century of this effort, Congress will continue to give great emphasis to this work and the Department of Agriculture will continue to respond with the effectiveness the American people have come to expect.●

PRIME MINISTER THATCHER SPEAKS OUT FOR EUROPEAN AND AMERICAN COOPERATION

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BENNETT. Mr. Speaker, the British Prime Minister Margaret Thatcher last week made comments in a speech to the Conservative Party in Perth which every loyal American must welcome and deeply appreciate. She spoke eloquently of British-American friendship and urged that all of the free world work to improve the cause of freedom and to assist in attacking the causes of tensions and conflicts wherever possible. Here is, in part, what she said:

Once we settle Europe's internal problems, Europe can look more to its global responsibilities. We are part of the free world. We must act with the free world. And that means first and foremost, that we should work with our great ally across the Atlantic, the United States. Where would Europe have been in the most difficult and dangerous period after the last war without America? Where would we have been since without America's massive contribution to freedom and security of Europe?

We cannot go on drawing endlessly on American goodwill and generosity without ourselves trying to understand their concerns and the burdens which fall to them. For they are the champions of all the beliefs and ideals which we cherish most deeply.

I believe profoundly that the alliance between Europe and the United States is vital to the defense of the free world. Conservatives will work for a Europe which is a strong partner of the United States and which uses its experience and an increasing part of its resources, to reduce the areas of tension and conflict, to improve the prospects for the poorer countries and to defend and spread beliefs and ideals which are shared by the Western democracies. That is our vision for Europe.●

THE CENSUS AWARENESS AND ACCOUNTABILITY ACT

HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. HALL of Indiana. Mr. Speaker, today I am introducing, with 19 cosponsors, legislation entitled "The Census Awareness and Accountability Act of 1984."

This legislation will authorize a 5-year program of grants to State and local governments to promote activities to minimize the extent of census undercounts which may occur in the 1990 decennial census.

Additionally, this legislation requires the Secretary of Commerce to submit to Congress a report detailing his determinations concerning the procedures, if any, he will utilize in estimating and adjusting for any over or under count in the total population counts for each State in the 1990 census.

Mr. Speaker and Members, promoting greater awareness and cooperation for the 1990 census is important to all of us. Over $100 billion in Federal aid goes to our States and districts based upon the census population count. Likewise, the boundaries of our districts and the apportionment of all legislative districts are determined by these counts.

I urge my colleagues to join with me in helping to improve the accuracy of the 1990 census.●

NATIONAL MILITARY SPOUSE DAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. SCHROEDER. Mr. Speaker, today is National Military Spouse Day, honoring the contributions of military spouses to our Armed Forces. It is indeed time to celebrate the work of the spouses and the influence they have on the quality of the services.

This day is for the spouses who keep the military families going, who make ends meet, often by taking low-paying jobs with few benefits because many employers will not hire military spouses whom they are afraid will move away soon. It is for the spouses who raise the families, in essence single-parent families for long stretches of time. It is for the spouses who contribute countless hours, smiles, and tired feet for the volunteer work around the world.

I think it is great that we are recognizing their service to our country. Let us keep that service in mind when legislation comes before us that improves the economic and social rights of these spouses.●

ROUKEMA LAUDS YWCA

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mrs. ROUKEMA. Mr. Speaker, I rise today to pay tribute to the Young Women's Christian Association for its 125 years of service to the Nation and its 64 years of dedication to the Greater Bergen County area.

The YWCA on Oak Street in Ridgewood has become a pillar in the community, last year serving over 32,000 residents of over 100 cities, towns, and villages. Programs at the Y are many and varied, ranging from aquatics to child care to summer day camp.

The leaders and volunteers of the Y have displayed a truly innovative spirit over the past 64 years. When therapeutic services for the handicapped were lacking, the YWCA pioneered an aquatic program that has become a model for the Nation. In addition, the organization established a pilot "tribute to women in industry" program that has become established across the country.

Programs such as these show the YWCA remains flexible in adapting to the changing needs of the community, while remaining a dependable asset to the region.

Mr. Speaker, the YWCA typifies the spirit of voluntarism in America. I hope my colleagues will join with me in recognizing this organization's important contributions to Greater Bergen County and to the Nation.●

PERSONAL EXPLANATION

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. WISE. Mr. Speaker, due to an important commitment in my district, I was unable to be present and voting during the following rollcalls. Had I been present, I would have voted on each as indicated.

Rollcall No. 156: "yea," rollcall No. 157: "yea," rollcall No. 158: "yea," rollcall No. 159: "yea," rollcall No. 160: "nay," rollcall No. 161: "yea."●

DR. ELAYNE BRODIE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. RODINO. Mr. Speaker, on May 25, I will have the pleasure of joining members of the Newark Chapter One Parents Council during their annual conference. As we begin the long and difficult struggle to revitalize our educational system, it is the parents and teachers at our elementary and secondary school levels who are in the forefront of the effort.

We in New Jersey are most fortunate to have as our leader, Dr. Elayne Brodie, chairperson of the Newark Chapter One Parents Council and director of the statewide parents advisory council. The statewide parents advisory council was established following enactment of the Elementary and Secondary Education Act of 1965 and given the mandate to provide educational and related services to educationally deprived children in low-income areas. Under Dr. Brodie's direction, SPAC has provided services to approximately 17,000 educationally deprived and emotionally disturbed children each year, with a special emphasis on reading and mathematics. She has administered in the city of Newark one of the best operated chapter I programs in the Nation, with an annual budget of about $17 million.

As a direct result of her outstanding efforts, parent advisory councils have been established in each of the 10 regions throughout the country, with the subsequent formation of a National Coalition of Statewide Parents Advisory Councils headquartered in Washington, D.C. Dr. Brodie serves on the national board of the statewide parents advisory council and is president of the districtwide parents advisory council in Newark. In addition, she serves on the board of directors of Operation PUSH and is State education director for the New Jersey chapter of the NAACP State education conferences.

Mr. Speaker, I am proud to call Elayne Brodie my friend, and I am confident that Dr. Brodie will be one of the leaders in our Nation's effort to achieve the goal of quality education for our young people.●

PHIL FINK AND MEDIA JUDAICA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. FEIGHAN. Mr. Speaker, I rise in the House to call my colleagues' attention to the enormous contribution to community life made by Media Judaica and its executive director, Phil Fink, in the 19th Congressional District of Ohio.

This year marks the 18th anniversary of Phil Fink's tenure as host of an ever-popular, fast-paced, and very witty morning program, "Breakfast With Phil Fink." In the Jewish tradition, the number 18 is a meaningful

number, a "Chaim." As we all know, when a toast or good wish is offered, it is "L'Chaim" or "to life" that is joyishly shouted by the celebrants.

Phil's morning program highlights his wit and humor. It has helped to start the day for thousands of all ages each day. The show is broadcast from WUJC-FM in Cleveland, and is heard from 8 to 9 a.m. In the best ecumenical tradition, WUJC-FM is the voice of John Carroll University, an institution of higher learning operated by the Jesuit Order of the Catholic Church.

Phil Fink has worked in all phases of broadcasting, from newsman to manager of a radio station for the blind and handicapped. Along with his duties as host of "Breakfast With Phil Fink," Phil also hosts the syndicated program, "Shalom America." Fluent in three languages—Hebrew, Yiddish, and English—Phil's programs are heard throughout the United States and Canada.

Even with his busy schedule as an entertainer, Phil still finds time for service to his community. He serves on numerous boards, including the boards of Yeshiva Adath B'nai Yisroel, Workmen's Circle School, and Yiddish Cultural Committee, and Cuyahoga Community College's Alumni Association.

Phil is a native of Cleveland. He and his wife Gale have a son and a daughter. The Finks live in Beachwood, Ohio.

I know my colleagues will join me in extending congratulations to Phil Fink and Media Judaica on the 18th anniversary of "Breakfast With Phil Fink."●

RELIEF FOR FOOTWEAR INDUSTRY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. STUDDS. Mr. Speaker, imports threaten the very future of the American footwear industry. Imported shoes now account for a staggering 70 percent of the U.S. market. Few, if any, other American industries face this kind of competition; and few, if any, deserve and need temporary relief from this onslaught as much as does the domestic footwear industry. It is for this reason that I join today with other members of the House Footwear Caucus in helping to focus attention on the plight of these American firms and workers.

By almost any measure, the domestic industry is in deep trouble. Roughly 27,000 shoe and allied workers have lost their jobs; unemployment last year in the industry was an outrageous 18.7 percent. The available data confirms that imports are taking a huge—and increasing—share of our own market. Imports have grown from 375 million pairs in 1981 to 582 million pairs in 1983; in percentage terms, imports made up 51 percent of the market in 1981, and now take up 70 percent of the market.

Figures such as these make a compelling case for temporary relief from imports, as sought by the Footwear Industries of America and the two primary shoeworker unions. Given this modest respite, the domestic industry would have an opportunity to increase research and development and capital expenditures, and to regain its ability to compete. Without this assistance, this industry and its many thousands of workers face an uncertain future at best.●

TRIBUTE TO JOHN WESTERFIELD

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. McCANDLESS. Mr. Speaker, one of the most outstanding citizens of the Coachella Valley in my district in California passed away on Tuesday, May 8. He was John Westerfield, 90, of Indio.

His father, Harry Westerfield, founded the First National Bank of Coachella, of which John became president in 1952. The bank is a remarkable institution, and if a financial concern can have heart and character, the First National Bank has both. During World War II, the bank kept many farms of Japanese-Americans financially secure while their owners were interned. After the internship was over, the farms were turned back to their owners. I understand that John and his brother, Arthur, even farmed some of the properties for their customers, while managing the bank at the same time.

It is hard to imagine the Coachella Valley without John Westerfield, and my sincere condolences go to his wife, Alice. She worked side by side with John for many years, and the First National Bank contains her unmistakable imprint, as well. With her, the bank will continue to grow and prosper while helping the community it so ably serves.●

RETIREMENT OF DANIEL B. ALDRICH, JR.

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BADHAM. Mr. Speaker, I would like to call to the attention of my colleagues the retirement of Daniel B. Aldrich, Jr., as the first and, thus far, only chancellor of the University of California at Irvine (UCI).

I recently received a copy of Dan's biographical sketch in the mail. I was pleased that it merely was a sketch in that the document rivaled one of Mitchener's works.

Dan began his career at UCI in 1962. I have worked with Dan during the past 22 years, first when I was a State assemblyman and now as the Congressman representing UCI. Upon his appointment in 1962, Dan was directed to develop an institution from some 1,500 acres of bare ground to a fully operational facility. Today, the campus of UCI is not only operational, it is respected nationwide as a leading institution of higher learning.

The school has shown steady growth under Dan's stewardship. The school today has an enrollment in excess of 11,000 students and 782 members of the faculty. Since its inception, UCI has awarded 20,049 bachelor's degrees, 2,832 master's degrees, 1,053 doctorates and 1,206 doctors of medicine degrees. The university has amassed research grants and contracts totaling some $267,000,000 since 1964 and has a library facility housing more than 1,400,000 volumes.

Dan, indeed, has accomplished a great deal during his tenure at the helm of the University of California at Irvine and he can look back with a great deal of pride for a job well done. While Yankee Stadium is looked upon as the house Ruth built, UCI can rightfully be designated as the university that Dan Aldrich built.●

ROBERT PARKIN, LONG BEACH HUMANITARIAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, the Long Beach Chapter of the National Conference of Christians and Jews is hosting its 21st Annual Humanitarian Awards Dinner on the evening of May 31 at the Golden Sails Inn. Robert W. Parkin has been selected as a recipient of the humanitarian award.

Bob, our city attorney, gives equally to his profession and to the community. He is a member of both the California and Long Beach Bar Associations; member of the Long Beach Bar Association Board of Governors; and a member of the State Bar Court Review Department. In order to earn his juris doctorate, Bob attended evening classes at the Pacific Coast University's School of Law while a member of the Long Beach Police Department.

On devoting time to helping others, Cicero said that it "is our special duty, that if anyone specially needs our

help, we should give him such help to the utmost of our power." Toward the fulfillment of this principle, the recognition Bob has received for his many civic contributions has led to his appointment to the Board of Directors of the Long Beach Metropolitan YMCA, and membership in the St. Mary's Hospital Foundation and the St. Anthony's High School Foundation.

My wife, Lee, and I wish to extend our warmest congratulations to Bob. He is a true humanitarian and this honor is well deserved. We also would like to commend his wife, Donna, and their fine children, Greg, David, Kathleen, and Amy. We wish each of them the very best in all of their future endeavors.●

INLAND EMPIRE SCOUTING HONOREES

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. McCANDLESS. Mr. Speaker, the California Inland Empire Council of the Boy Scouts of America will soon be honoring two outstanding citizens of the Riverside-San Bernardino Counties area. Verne F. Potter, the president of Pacific Federal Savings and Loan, hails from San Bernardino County, and State Senator Robert Presley hails from Riverside County. They have both generously contributed their time to the goals of scouting. Verne has been a member of the executive board for 5 years, is a lifetime member of the advisory board, is the past chairman of the council dinner, is a member of the long-range planning committee, and serves as the large gifts chairman. Bob was a Boy Scout in his younger years, and he chaired the sheriff's law enforcement exploring post for 6 years, and is the Mount Rubidoux District Citizen of the Year.

The French essayist Montaigne probably had people like Verne and Bob in mind when he wrote:

> A spirited mind never stops within itself; it is always aspiring and going beyond itself; it has impulses beyond its power of achievement. If it does not advance and press forward and stand at bay and clash, it is only half alive. Its pursuits are boundless; its food is wonder, the chase, and ambiguity.

My congratulations to Verne and Bob upon receiving this honor from the California Inland Empire Council.●

A TRIBUTE TO DR. ERNST H. KATZ AND THE JR. PHILHARMONIC ORCHESTRA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Dr. Ernst H. Katz, the founder and conductor of the California Jr. Philharmonic Orchestra, who will be honored on May 30, 1984 at the 47th Anniversary Concert Gala in Los Angeles.

Dr. Katz has dedicated his life to the youth and music of America. He founded the Jr. Philharmonic in 1937, and has served as the orchestra's conductor for 47 years. Dr. Katz' motto has always been—"Give Youth a Chance to be Heard." Each year young musicians from all areas in southern California audition for the opportunity to be one of its 110 members.

The Jr. Philharmonic is the only orchestra in the world which is completely noncommercial, not subsidized by the Government, does not solicit contributions, does not charge audition or membership fees, and has volunteered hundreds of performances raising more than $9 million for charities. The orchestra is supported entirely by its leader, Dr. Katz, who does not receive financial remuneration for his efforts.

Many world famous composers and musicians have appeared with the Jr. Philharmonic and are honorary members of the orchestra. They include Jerome Kern, Oscar Straus, Sigmund Romberg, David Rose, Meredith Wilson, Ernest Gold, Ferde Grofe, Frederick Loewe, Richard and Robert Sherman, Alan and Marilyn Bergman, Dimitri Tiomkin, Rudolf Friml, Jose Iturbi, and Isaac Stern.

A number of alumni of the Jr. Philharmonic Orchestra have become professional musicians and are now members of symphony orchestras throughout the world. Others have chosen different fields of endeavor and have built careers in law, medicine, business, and education. All, however, have shared a unique experience and have had the privilege to study under the direction of Dr. Katz.

Dr. Katz is an exceptionally talented and giving individual whose direction and leadership have enriched the lives of so many people.

It is an honor to commend Dr. Katz for his many years of service and dedication to the California Jr. Philharmonic Orchestra; and I ask my colleagues to join me in wishing him many more years of continued success.●

FOOTWEAR INDUSTRY IS IMPORTANT TO THE AMERICAN ECONOMY

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. WORTLEY. Mr. Speaker, as a Congressman with a footwear factory in my district, I am very aware of the dramatic impact that import penetration has had on the domestic footwear industry over the past 12 years. In 1968, the U.S. imports of nonrubber footwear stood at 175 million pairs and accounted for 21.5 percent of the U.S. market. By 1975, the year the industry filed its first escape clause petition under section 201 of the Trade Act of 1974, imports had grown to 288 million pairs and import penetration had almost doubled. With the expiration of import relief in 1981, imports jumped to 480 million pairs in 1982 and to 582 million pairs in 1983. In January and February of this year, import penetration was an incredible 70 percent.

The domestic footwear industry is important to the American economy. Seven hundred plants are located throughout the United States. Plants are located primarily in small rural locations where other jobs are not available. They provide entry-level jobs and hire uneducated and unskilled people who have little alternative for employment. In direct manufacturing alone, the payroll totals $1.3 billion. At retail, the industry is worth $9 billion.

The domestic nonrubber footwear industry is ready and willing to accept the responsibility to adjust to import competition during a temporary period of import relief. Advanced and emerging technologies are now available for manufacturers to improve their ability to compete with foreign suppliers. Import relief is necessary, however, to allow sufficient time for the investments in new machinery to yield expected productivity and financial improvements.

Virtually every economic indicator points to an industry which is suffering injury more serious than the import penetration levels found by the International Trade Commission in 1977. Effective import relief is the key to preservation of this important industry. I hope that the International Trade Commission will closely review the evidence submitted on behalf of the footwear industry in the 201 petition for relief from imports of nonrubber footwear. The industry is committed to survive and to compete on a fair and equitable basis for a share of the domestic market. I believe that they should be given the chance to carry out their commitment.●

FAREWELL TO DONALD R. GERTH AS PRESIDENT OF CALIFORNIA STATE UNIVERSITY DOMINGUEZ HILLS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, on June 1, the California State University Dominguez Hills will hold a dinner at the Los Angeles Airport Hilton to say farewell to Donald R. Gerth, president of the university, and to pay tribute to his 8 years of service to the university community. Don is leaving to become president of California State University Sacramento in July, 1984. I would like to take this opportunity to recognize the many contributions of Don and to wish him success in his new assignment.

Don Gerth has devoted his entire career to the advancement of education in the California State University system. In 1958, he joined the San Franciso State University faculty as a member of the government department and as an associate dean. From 1963 to 1964, he served as associate dean on the chancellor's staff of California State University, working directly with the then 16 State campuses and with the State leadership in Sacramento. In 1964, Don moved to California State University Chico as a professor of political science and as dean of students. In 1970, he was appointed vice president for academic affairs, and in 1976, was named president of California State University Dominguez Hills where he has served admirably.

Don Gerth, now 54, was born in Chicago. He left high school early to enroll at the University of Chicago where he earned his bachelor's degree at the age of 18. He went on to earn his master's degree and doctorate of philosophy in political science from Chicago. He has also completed advanced studies at Georgetown University in the Graduate School's Institute of Languages and Linguistics. After leaving Chicago, Don served as field representative in Southeast Asia for World University Service, and then as an officer in the U.S. Air Force in Southeast Asia.

California State University Dominguez Hills is the newest of the California State University campuses in the Los Angeles Basin. Students were first admitted to the institution in 1965. The university currently has 8,500 resident students and more than 12,000 students in programs of extended education in the community, evidence of its involvement in the economic and cultural development of the Los Angeles area. The campus is best known for its strong commitment to interdisciplinary studies and an innovative and diverse curriculum.

Dr. Gerth will be leaving this legacy behind to take on the task of serving as president of California State University Sacramento in July. My wife, Lee, joins me in extending our thanks and commendations to Don for his extraordinary contributions to higher education. We wish him, his wife Bev, and their daughters Annette and Deborah all the best in their future endeavors.●

COMMENCEMENT ADDRESS TO NEBRASKA STUDENTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. BEREUTER. Mr. Speaker, this year's commencement speaker at the University of Nebraska-Lincoln was Peter Hermes, the Ambassador of the Federal Republic of Germany.

Ambassador Hermes provided a thoughtful message to the graduating students at UN-L. He stressed America's leadership in an interdependent world, and challenged Nebraska's young graduates to carry on that leadership.

The Ambassador's remarks speak for themselves, and I wish to have the text of his speech printed in the RECORD for the benefit of my colleagues.

COMMENCEMENT SPEECH BY PETER HERMES, AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY, UNIVERSITY OF NEBRASKA-LINCOLN, MAY 12, 1984, LINCOLN, NEBR.

Mr. Chancellor, Mr. President, Ladies and Gentleman, on fall Saturdays, they say, the third-largest Nebraska City is Memorial Stadium when the Big Red mobilize crowds through athletic excellence. Your school is rightly proud of them. Today, a spring Saturday, the University of Nebraska, families, friends, faculty and fellow-students—another city in its own right—assembled to honour yet another team. It is a team whose mastery is in the field of academia. All pay tribute to you, my dear young friends, for you will stay on the scoreboard of academic achievement to last. It is my great pleasure to be one of the well-wishers and I am thankful for the privilege of saying a few words to you.

Many among you will reassemble here a generation from now, seeing your children depart into a professional career of their own. Will their world, which you will have shaped too, be different from ours? Today we enjoy the blessings of peace. But my generation, be it German, American or any other, has seen and lived through wars and many a crisis. How can we and you assure that peace as a most treasured gift be handed over to the next generation?

But let us not delude ourselves. Perfect peace is not attainable on this earth. And let us remember: It is not the weapons however dreadful and frightening they are but the madness and wickedness of man that poses the gravest threat to peace. It was not the club with which Cain killed his brother Abel that was immoral. Immoral was the hatred in his heart that made him use the club.

It is not because there are soldiers and terrible weapons that tension, discord and conflict exist; they exist because States distrust each other; because unsolved problems as, for instance, the denial of self-determination, give rise to political confrontation; because there still exist forces that in their aggressive attempts to accomplish expansionist or other unjust objectives consider use or threat of force to be a legitimate political instrument.

It will be upon you as young Americans to ask in the words of President Kennedy uttered a generation ago, what you can do for your country and to recognize that America is "by destiny rather than choice—the watchman on the walls of world freedom." America as the leading nation of the free world will remain in the forefront of any struggle in which Western ideals of freedom, democracy and justice should be challenged. But you will not be alone.

My country, the Federal Republic of Germany, thirteen other European nations and Canada are united with you in the task of holding up the shield of freedom, democracy and dignity of man. This shield is the North Atlantic Treaty Organization whose thirty-fifth birthday we celebrate this month.

Our Alliance rests on two foundations: firstly, the consciousness of our community of values and of our common security. It means that Americans, Canadians and Europeans belong together and share the same ideals and values based on the dignity of man and his inalienable rights. Secondly, Americans, Canadians and Europeans can only defend those ideals by working together, their fates inextricably bound.

Forever gone are the times when your first President George Washington cautioned his countrymen "to steer clear of permanent alliances with any portion of the foreign world".

Today, America's allies, the Western European countries, are stable democracies. Their constitutions are consonant with or largely inspired by the American constitution. Their guiding principles feed the spiritual flame of our transatlantic friendship and unite us for a noble cause.

The dividing line in Europe runs through Germany. It cuts the German people into two parts, thereby denying the East Germans the fundamental rights we are enjoying in the West and, of course, also denying them the exercise of the right to self-determination. It is also the borderline between the free West and the communist East. We all are called upon to hold that line and never to forget that on the other side oppressed peoples continue to long for the same liberties and the same opportunities which we enjoy in our Western countries.

Free people carry, as Abraham Lincoln said, a noble burden and a responsibility.

"To struggle for maintaining in the world that form and substance of Government whose leading object is to elevate the condition of men; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life."

You have been given that fair chance and I am sure that you are aware of it.

The sacrifices of your parents, the commitment of your teachers and your own efforts, of course, all bore fruit within the propitious framework of a democratic society.

From here on you will have to put to good use what you acquired. Youth is the beautiful time of life, not yet caught up in the System of limited ends and needs and having, above all, the courage to pursue truth. I am convinced that no one in the pursuit of truth will ever be disappointed. Let the inquisition of truth be your happiness.

You have the tools and the resources to make this world not a perfect but a better place to live where justice brings about a less endangered peace. Try to alleviate the burden each generation passes on to the next! If you succeed, then it will be known what you have done for your country.

Good luck and God bless you.●

JAMES GRAY, LONG BEACH HUMANITARIAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, the Long Beach chapter of the National Conference of Christians and Jews is hosting its 21st Annual Humanitarian Awards Dinner during the evening of May 31 at the Golden Sails Inn. Among the honorees who will be feted that evening is James H. Gray.

Horace Mann once admonished a graduating class of Antioch College, "Be ashamed to die until you have won some victory for humanity." I can think of no one who better exemplifies the response to the call for action that Mann hoped for on that day in 1859 than Jim.

I have worked alongside Jim for many years. He is a native of Long Beach and has played a recognizable role in the efforts to improve the quality of life there. Presently, he is the chairman of the board for region III of the United Way; on the advisory council of the Boy Scouts of America, Long Beach Council; and an executive committee member of Forward Long Beach. Three times Jim has been named Citizen of the Year: In 1983 by the Boy's Club of Long Beach; in 1980 by the Long Beach Elks Club; and in 1979 by the Long Beach Exchange Club.

Some who do not know Jim as well as I might impudently say that a man of his statute has no excuses for not being a humanitarian. After all, he is a successful businessman who should have no trouble helping others. But any one of us is capable of devoting a considerable amount of our time to helping others, and yet so few of us do. Jim spends the time that he does helping others because he is keenly sensitive and committed to the people of Long Beach.

Mr. Speaker, my wife, Lee, and I would like to join Dr. Malcolm Todd, Eugene Lentzner, and the other members of the Long Beach chapter of the National Conference of Christians and Jews in honoring this exceptional humanitarian. We also would like to express our congratulations to his wife, Gail, and his daughters, Debbie and Diane.●

ELECTION PROJECTION PRACTICES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. EDWARDS of California. Mr. Speaker, on May 11, all 28 California Democrats wrote to the ABC, NBC, and CBS network news presidents to request that they amend their projection practices and allow all Californians their basic right to an unencumbered vote in the upcoming June 5 primary.

On May 15, NBC sent their response. (The NBC telegram will follow.) I would like to discuss two salient points in this telegram.

First, the NBC telegram states, "It is also NBC News' practice not to 'project' winners of primary elections until after the polls have closed." NBC has asserted that this is their formal policy in this telegram and in front of the Telecommunications, Consumer Protection and Finance Subcommittee hearings in February. The other two networks have stated similar policies. All three networks, without exception, have not adhered to this formal policy.

I do not have to go back very far to document this policy as an empty promise. For example, on March 13, Super Tuesday, NBC along with the other two networks made projections in the presidential primaries in Florida, Alabama, and Massachusetts an hour before the polls closed. And in Rhode Island, projections were announced 2 hours before the polls closed. On April 3, in the New York presidential primary where the polls closed at 9 p.m., NBC and the other two networks made projections starting at 6:30 p.m. on April 10, in the Pennsylvania Presidential primary where the polls close at 8 p.m., all three networks made projections at 7 p.m. Finally, least we forget, during the February 20 Iowa caucus NBC and CBS called a caucus winner well before the voting had even started.

Second, NBC states that they will continue their stated practice "state-by-state in the general election in November." Now, let us examine just what that means. Well, it really means that we can expect NBC to make projections prior to the polls closing in any given State. It also means that NBC will probably characterize the Presidential race based on these projections midday on the west coast where voting is still going on. Even if NBC were to keep their promise, it would still mean that they would feel free to tell voters that, based on exit interviews with voters in the East, Presidential candidate X is "winning" or is the "apparent winner."

We are then back to where we were in 1980 when many local California races were negatively affected by a 3-percent voter dropoff attributed to network projections of the Presidential race. We do not want a repeat of 1980.

It is clear from the networks' own admissions that they will continue these harmful practices. The time is now for us to pass a resolution calling on the networks to refrain voluntarily from making projections or characterizing a race prior to the polls closing for that race. They should make this commitment to us and to the voters of the United States out of respect for our voting rights and out of respect for our electoral process.

The NBC telegram follows:

[Telegram, New York, N.Y., May 15, 1984]

Deliver, do not phone.

PMS DON EDWARDS,

Congress of the United States, House of Representatives, Capitol Hill, D.C.

This is in response to your letter of May 3 regarding the concerns of your delegation about NBC News' plans for reporting the California Presidential primary.

We share your interest in encouraging voting. Like you, we take that concern very seriously. We believe that news coverage of candidates' campaigns, and elections are an important source of information which can encourage citizen involvement in the electoral process. That is equally true in reporting significant information about what is happening on election day. At NBC News, our practice is to report information about election day events only when such reports are journalistically and editorially justified. It is also our practice to report our principal sources of information and clearly identify reports which are NBC News' analysis of available information. Up-to-the-minute voter trends and preferences are part of that information. Our election coverage of the California primary makes every effort to describe clearly and properly the progress of the election. In this election it is also NBC News' practice not to 'project' winners of primary elections until after polls have closed. That practice will continue to be followed in California as it will State-by-State in the general election in November.

Thank you for your comments and your expression of concern. Please be assured that we shall continue to do everything possible during our election coverage to provide our viewers with accurate, responsible, timely reporting.

LAWRENCE K. GROSSMAN,

President, NBC News.●

TRIBUTE TO DOMINIC DeCRISTOFARO, M.D.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, at this time I would like to enter into the RECORD a few remarks about a very distinguished physician and outgoing president of the Long Beach Medical Association, Dr. Dominic DeCristofaro.

During the evening of June 2, the Long Beach Medical Association will hold its annual Installation Dinner-Dance. My wife, Lee, and I feel that Dominic is especially deserving of the recognition he will receive then for the exceptional leadership he has provided as president of the association and as a leading cardiologist. Dominic and his family have been active residents of the Long Beach community for more than two decades. A 1962 graduate of the Chicago Medical School, he came to our area in that year to intern at Los Angeles Hospital. He served his residency at Harbor General Hospital and in 1966 was awarded a fellowship in cardiology jointly by the American Heart Association and the National Institutes of Health. That fellowship also was served at Harbor General.

Among the noteworthy offices Dominic has held are president of the California Heart Association; president of the Long Beach Heart Association; chairman of the department of medicine and chief of staff at the St. Mary Medical Center in Long Beach; and president of the Harbor General Medical Group.

Presently, Dominic is an associate clinical professor of medicine at the School of Medicine, UCLA; a member of the board of directors of both the Long Beach Heart Association and the California Heart Association; director of the clinical computer division at the St. Mary Medical Center; director of the UCLA Medical Center's board of directors; and director of the board of the directors for the Los Angeles County Medical Association's Foundation for Medical Care.

Mr. Speaker, Dominic's peers have rewarded his medical expertise by looking to him for leadership, particularly in the field of cardiology. But Lee and I also want him and his wife, Margaret, and their children, Susan and Andrew, to know that the community of Long Beach is forever grateful that he chose to make Long Beach his residential and professional home. The quality of medical care that is available in and around Long Beach would never be what it is today were it not for devoted men and women like him.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 24, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 25

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Justice.
S-146, Capitol

Finance
International Trade Subcommittee
To hold hearings to examine future prospects for the U.S. footwear industry and its role in the foreign market.
SD-215

MAY 30

9:30 a.m.
Judiciary Constitution Subcommittee
To hold oversight hearings on the Grove City Supreme Court ruling relating to sex discrimination in educational institutions.
SD-226

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

MAY 31

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

JUNE 1

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for May.
SD-106

JUNE 5

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of John P. McTaque, of California, and Bernadine H. Bulkley, of Maryland, each to be an Associate Director of the Office of Science and Technology Policy, and Clyde A. Bragdon, Jr., of California, to be Administrator, U.S. Fire Administration, Federal Emergency Management Administration.
SR-253

Labor and Human Resources
Labor Subcommittee
To resume oversight hearings to examine the scope and impact of certain occupational diseases.
SD-430

10:00 a.m.
Joint Economic
To resume hearings on monetary reform and economic stability.
SD-562

JUNE 6

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on drug and alcohol use on railroads.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the transfer of information by the Internal Revenue Service and the Social Security Administration to other Federal and State government agencies and the examination of the collection of data by the Internal Revenue Service from private sector sources to identify cases of nonfiling or underreporting of income.
SD-342

Small Business
To hold oversight hearings on the impact of government competition on small business.
SR-428A

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting to resume markup of S. 2527, to authorize funds for the federal aid highway program of the Department of Transportation
SD-406

Labor and Human Resources
Business meeting to consider pending calendar business
SD-430

Veterans' Affairs
To hold oversight hearings on the activities of the Inspector General and Medical Inspector of the Veterans' Administration.
SR-418

JUNE 7

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of James H. Quello, of Virginia, to be a member of the Federal Communications Commission.
SR-253

Labor and Human Resources
To hold hearings on S. 2504, to establish a private nonprofit Institute for Health Care Technology Assessment.
SD-562

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Charles G. Stalon, of Illinois, to be a member of the Federal Energy Regulatory Commission, and Robert N. Broadbent, of Nevada, to be an Assistant Secretary of the Interior.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To resume hearings on S. 978, to provide financial assistance to States for wetlands conservation, focusing on committee amendment No. 2807, proposed Wildlife and Parks Act.
SD-406

Labor and Human Resources
Handicapped Subcommittee
To hold hearings to review recommendations to improve services for the mentally retarded.
SR-428A

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on Senate Joint Resolution 138, to establish a National Commission on Teacher Education.
SD-430

JUNE 8

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings to examine the current state and future prospects of the U.S. steel industry.
SD-215

10:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2650, to revise certain procedures of the Consumer Product Safety Commission to allow for a more expeditious recall of toys and other articles intended for use by children that present a substantial risk of injury.
SR-253

JUNE 12

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the District of Columbia court system.
SD-138

Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold hearings on S. 2127, proposed Federal Advisory Committee Act Amendments of 1983.
SD-342

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 2205, to eliminate the provision of the Federal criminal code allowing for one-party-consent to certain interceptions of wire and oral communications by requiring consent by all the parties.
SD-106

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to explore the scope of drug abuse among women.
SR-325

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Veterans' Affairs
To hold oversight hearings to review the sharing agreement between the Veterans' Administration and the Department of Defense, and to discuss the Veterans' Administraton's supply and procurement policy.
SR-418

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on proposals to broaden the Federal tax base and reduce tax rates.
Room to be announced

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review government and community programs to combat drunk driving.
SR-253

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 2370, to provide for the distribution of certain funds collected by the Department of Energy in settlements of overcharges resulting from alleged pricing and allocation violations under the Emergency Petroleum Allocation Act of 1973, to establish the petroleum overcharge restitution fund for those funds in excess of direct restitution, and to authorize funds for fiscal years 1985-89 for certain energy conservation and assistance programs; to be followed by oversight hearings on the implementation of the weatherization program of the Department of Energy.
SD-366

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To continue hearings on proposals to broaden the Federal tax base and reduce tax rates.
Room to be announced

JUNE 19

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the civil rights of victims in labor disputes, focusing on existing agency ability to protect rank and file employees and the general public during labor disputes.
SD-430

10:00 a.m.
Finance
To hold hearings on S. 1915, to repeal the capital gains tax on disposition of investments in U.S. real property by foreign citizens.
SD-215

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on congressional access to reliable agency information.
SD-226

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the proposed sale of Conrail by the Department of Transportation.
SR-253

Labor and Human Resources
To continue oversight hearings on the civil rights of victims in labor disputes, focusing on existing agency ability to protect rank and file employees and the general public during labor disputes.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Veterans' Affairs
Business meeting, to mark up proposed legislation relating to veterans' compensation.
SR-418

JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business matters.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 2501, the substance of S. 2502, and S. 2503, bills to provide for greater use of competitive medical plans and preferred provider arrangements.
SD-430

JUNE 26

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings on Outer Continental Shelf leasing activities.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Lacey Act Amendments (Public Law 97-79), to control international trade in wildlife.
SD-406

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the status of college athletic programs.
SD-430

JUNE 27

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on congressional access to reliable agency information.
SD-562

JULY 10

9:30 a.m.
Labor and Human Resources
To hold hearings on the practice of defensive medicine by the medical profession in an effort to avoid malpractice suits and its effects on the quality of medical care.
SD-430

SEPTEMBER 18

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SR-325

SENATE—*Thursday, May 24, 1984*

(Legislative day of Monday, May 21, 1984)

The Senate met at 10 a.m., on the expiration of the recess, in executive session, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious Father in Heaven, may Thy presence grace the Senate today. We face that familiar situation where the clock seems almost an adversary—much to be done and recess bearing down upon us. As the frustrating combination of too much to do and too little time presses in upon Senator BAKER and Senator BYRD, as well as every Member of the Senate, we ask for Thy special intervention. Thou art not a God far off and indifferent to Thy servants, but One who knoweth all things and doest all things well. If a sparrow does not fall without Thy knowledge, certainly there is no detail of our lives, personally or corporately, about which Thou art uncaring. We pray that Thou wilt intervene in our midst today as God alone is able and help bring these closing hours to satisfactory resolution. For the sake of the personal and family needs of Senators and Senate staffs and for Thy good pleasure. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I hope this is the last day before our recess for Memorial Day begins. It is probably an ill-kept secret. Most Members have already assumed that the leadership would like to get us out tonight instead of tomorrow night. But let me tell Senators in all earnestness that I am not at all sure we can do that. We have yet to do the Wilkinson nomination, we have debt limit, we have the bankruptcy bill, and perhaps we will have the supplemental conference report, if the House acts on it today or tomorrow.

Rather than shrinking, our agenda is growing. I cannot honestly say to the Members that we will get out tonight. There is still that possibility. But it is by no means certain.

Mr. President, today, after the recognition of the two leaders, there will be a special order for Senator PROXMIRE to be followed by a period for the transaction of routine morning business until 11 a.m. At 11 a.m. the Senator from Massachusetts (Mr. KENNEDY) will be recognized for the purpose of making a motion to recommit the Wilkinson nomination to the Judiciary Committee, or, in the alternative, a Senator as designated by the minority leader to make such a motion.

There will be an hour of debate on that motion, Mr. President, and at no later than 12 o'clock the Senate will vote either on the motion to recommit or on the tabling motion against the motion to recommit. If the nomination is recommitted, it is anticipated that the Senate will resume consideration of the bankruptcy bill. If the nomination is not recommitted, then the debate on the nomination presumably will continue; "presumable" meaning I suppose that there is a glimmer of hope that we might vote on the nomination itself without much debate. That would be my preference. But I must assume that there would be some debate, if the motion to recommit fails. But in any event, I hope, I expect, and I will urgently try to complete action on that nomination today.

Mr. President, Senators know that the leadership on this side has from time to time indicated that we would go to a Senate debt limit bill this week. At first, the leadership on this side had thought we would go to a Senate bill on Monday. Our friends in the House of Representatives always get nervous when we start originating revenue measures. So we approach that gingerly. And to make a long story short, as a result of several contacts with the House, the Speaker, the chairman of the Ways and Means Committee, our own chairman of the Finance Committee, and of course the usual consultation between the two leaders—I do not mean to imply that the minority leader has agreed to this, but I advise him of this—the leadership on this side decided to wait until the House sends us a debt limit bill. To have done otherwise I think would have been at least idle, perhaps futile, and possibly destructive. So we are going to wait until the House acts. I hope that will be early today.

Once again, Mr. President, as the situation clarifies during the day, I will attempt to have other announcements to make for the guidance of Senators.

Mr. President, I believe that completes my announcements.

I thank the Chair. I thank the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SYMMS). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

SENATE RECONFIRMATION ACT OF 1984 (S. 2604)

Mr. BYRD. Mr. President, a subcommittee of the House of Representatives which has been investigating the so-called briefing book case, yesterday issued its report. That report raises questions about statements which were made to the subcommittee by CIA Director William Casey concerning his alleged involvement in the case.

The subcommittee's findings, insofar as they relate to Mr. Casey, raise issues which far surpass the facts of the briefing book controversy. They go to the very heart of the congressional oversight process with respect to the operations of the CIA. The House and Senate Intelligence Committees were established and the intelligence oversight law was enacted, to insure that the Congress would be fully and currently informed about significant intelligence activities.

In order for the mechanisms to be effective, the Congress must depend upon information which is provided by the Director of Central Intelligence. Today, that Director is Mr. Casey. If that information is not full and accurate, the relationship of trust which must exist between the Congress and the Central Intelligence Agency is substantially affected. If President Reagan were to be reelected for a second term, and Mr. Casey were to continue to serve in his present capacity, we could be faced with an awkward situation, especially if the kinds of questions raised by the House subcommittee's report continue to go unresolved.

I have noted in the newspaper that the President apparently has not made a personal effort to get to the bottom of this matter. If it were I, and there were these conflicting statements appearing in newspapers and reports, and so on, I would call the two persons in and ask, "What are the facts?" The two persons I am talking

about are Mr. Jim Baker at the White House and Mr. Casey.

It has been indicated in the press that Mr. Baker has indicated that the material in question went to Mr. Casey, or somehow Mr. Casey was in possession of it. Mr. Casey has indicated that he does not recall seeing it, and that he does not recall having passed it on to others.

It would seem to me that a President ought to realize that what we are dealing with here is the integrity of an agency, of an agency's director, in particular, and that that integrity is being called into question.

I am in no position to say whether or not the House subcommittee report is correct. It certainly seems to me that it is about time the President called these two persons in and asked, "What is the truth here? What do you know?"

Conflicting statements need to be reconciled, but that apparently is not going to happen. In any event, a district court, I believe, has ordered the Attorney General to proceed with the appointment of independent counsel. The Attorney General is apparently resisting that order and has appealed.

So it is a matter which the circuit court will deal with, hopefully soon, and it will make an appropriate decision.

Legislation which I recently introduced would greatly assist the Senate in dealing with this kind of problem. Under the provisions of S. 2604, the "Senate Re-Confirmation Act of 1984", legislation which I introduced, the top 20 officials of any administration would have to be reconfirmed by the Senate, if they were to remain in office during a President's second term. One of the officials who would be covered by my legislation would be the Director of Central Intelligence.

At a second confirmation hearing, any outstanding issues about Mr. Casey, for example, could be fully explored. And, based upon the record of such hearings, the Senate would be in an informed position to decide whether or not the CIA Director in this administration, or any other administration, should again be confirmed. That would be a meaningful exercise by the Senate of our responsibility to advise and consent to nominations under article II of the U.S. Constitution.

This legislation which I introduced applies not only to the CIA Director, but also to 19 other top officials of Government as well, including all members of the President's Cabinet. And of course, my bill would apply not only to this administration, but also to any other administration when any President is reelected to a second term. This is a matter which involves this administration and future administrations.

My legislation on this subject was referred to the Committee on Governmental Affairs. I have twice written to the chairman of that committee to schedule hearings on the bill in hopes that it may be processed during this session of the Congress.

Yesterday's report by the House subcommittee is an example of why it is essential that this legislation be enacted.

Also I think, Mr. President, I have to say that I am concerned about the attitude of some of the witnesses who come before subcommittees during the hearings process. I am talking at this moment with respect to my own observations as witnesses have come before the appropriations subcommittees in the Senate, subcommittees of which I am a member. I get the very clear impression in dealing with some of these witnesses that they are dancing on the head of a pin. They are flippant. They beat around the bush. They are evasive. It leads me to believe that they either do not know the subject matter which they have come to testify about, or that their intention is to avoid answering questions, especially, by minority members of the subcommittees. I am struck by either what appears to be a gross lack of knowledge, gross ineptitude on the part of some of the witnesses—not all, by any means—or by a deliberate effort to avoid answering the questions. That is not what the people of this country expect. The people who send us here expect Congress to legislate and to legislate wisely and to fulfill our constitutional responsibilities of oversight and do it well. Yet, we cannot do that unless the witnesses representing the administration come before the subcommittees and, in good faith, respond to the questions that are asked.

I would say I have never seen such apparent ineptitude—either ineptitude or callous disregard of the responsibilities of Congress and the right of the people to have their elected representatives told the truth and the whole truth.

On the other hand, I must say that I am favorably impressed by the chairmen of these subcommittees, the chairmen being members of the Republican majority in the Senate. I am impressed by their refusal to be led down the rosy path by some of these witnesses.

I am very impressed by members—MARK ANDREWS, and I could cite others—who bore in, who do not accept this flippancy and who express concern about the answers, the half answers, or the non-answers, whatever the case may be. They are not happy with the responses. I have spent a half hour questioning the witness without getting an answer to my question. They must be damn fools to think that some of us have not been here long enough to know when we have gotten an answer to our question and when we have not.

They cannot be made to answer the questions and they are not put under oath, but they certainly are not fooling anybody with this kind of response.

We are confronted by a lack of information or we are led to feel that we cannot trust those witnesses, and we can have no faith in what they are saying. We are disappointed at their apparent lack of knowledge or their unwillingness to focus on a question and answer the question. Yesterday, it was refreshing to have one of the witnesses at least candidly say, "I don't know the answer."

Again I say I hope the Committee on Governmental Affairs will have a hearing on the legislation that I have introduced. I think it is a good bill. It has been offered for a serious purpose, and I hope the committee will give me the hearing I have asked for.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

DETERRENCE IS NOT ENOUGH—WE NEED THE NUCLEAR FREEZE

Mr. PROXMIRE. Mr. President, in a recent article, Charles Krauthammer, senior editor of the New Republic, takes on and rejects the nuclear freeze. Krauthammer argues:

> Nonunilateralist freeze proponents are caught in the position of accepting the fundamental morality of deterrence but rejecting the addition of any new weapons for preserving it.

Krauthammer has embraced deterrence as the basis for nuclear peace today.

Mr. President, I would agree that today, nuclear deterrence is the basis for nuclear peace. But Krauthammer has envisioned it not just for today but forever as a safe and reliable harbor for the future. And it is not.

Krauthammer and other champions of "deterrence forever" point out that deterrence has kept the nuclear peace during the past 30 years—a period when both superpowers had the nuclear arms capacity to blast the other off the face of the Earth. He contends that the nuclear technology arms race has spectacularly improved the survivability of nuclear weapons: The quieter Trident submarine offers a less vulnerable and therefore more credible deterrent than the earlier Poseidon submarine, similarly, the new Stealth bomber with its capacity to evade enemy radar constitutes a more certain retaliatory weapon than the B-52 or even the B-1B.

Constantly changing technology in the nuclear arms race usually but not always emphasizes two qualities: One, invulnerability; and two, greater asurance that the new weapon will reach and destroy its target. For that reason, Krauthammer argues, the nuclear freeze would stop the arms race from making the kind of constructive contribution it can make to continued peace. Is Krauthammer right? Should we love the bomb? Has the arms race brought us what the Prince of Peace, Jesus Christ, and his modern followers, the Catholic bishops, could not—the key to survival in this age of nuclear arms?

The answer, Mr. President, is "No." A loud and emphatic "No." The fact is that the nuclear arms race may or may not lead us to weapons that are less vulnerable and more stable.

After all, it was the arms race that gave us the multi-independent reentry vehicles or MIRV's that have immensely increased the instability of both superpower's nuclear arsenals. After all, the newest proposed addition to the U.S. nuclear arsenal is President Reagan's MX, which carries the marvelously Orwellian moniker "Peacekeeper." It is a 10-warhead monster, the hair-trigger, use-it-or-lose-it, land-based fixed—forever missile. Our military intelligence has told us that within 5 years, the Russians will be able to knock out 99 percent of our land-based missiles with their first strike.

So, is the newest addition to our nuclear arsenal less vulnerable? No way. Is it more stable? Whom are we trying to kid? Any President of the United States would have to press the button to fire the MX within a very few minutes of the first warning, however fallible our warning system might be, or he would surely lose it.

But the "modernizing" arms race on which Krauthammer would rely instead of the nuclear freeze poses a far greater threat to nuclear peace. Let us face it, Mr. President, where in lies the greatest threat of nuclear war? From a preemptive attack by one of the superpowers? No, sir. And no way. An act of insane madness can happen anytime human beings have a deadly weapon at hand.

But the chances against such a catastrophe are great and, indeed, deterrence is a principal reason. What threat, then, does the nuclear arms race pose to life on Earth? How could a nuclear war develop if not from a final Armageddon between the superpowers? The answer is that it will be much more likely to come from one of the more than 30 nations which our military experts have forecast will have nuclear arsenals 16 short years from now in the year 2000, unless we promptly halt nuclear proliferation.

Will deterrence not stop these other nations from initiating a nuclear war? Are you kidding? Of course not. A nuclear armed Libya, for example, could attack and possibly totally destroy Israel or any other nation it considered hostile.

With 31 nations possessing nuclear weapons, the attacked nation could not be sure whence came the attack and, by the time such information became clear, the aggrieved nation could have disappeared from the face of the Earth.

Once such a nuclear war started among the newly nuclear armed, how could it end? The world's most eminent scientists have predicted that even a small nuclear war might so drastically alter the world's environment by bringing on a nuclear winter that even countries untouched by nuclear attack could suffer devastating losses through cold, darkness, and the famine that could surely follow.

And how does the nuclear arms race which the nuclear freeze would stop contribute to all this? Mr. President, there is one overwhelming direction the nuclear arms race has already taken and will take with far more force if we permit it to continue in the future. That is the miniaturization of nuclear weapons. Nothing could be more dangerous. Research and testing will push hard-to-produce nuclear weapons small enough to permit their cheap delivery—not by reliance on a $100 million bomber or a billion dollar submarine but fired from the muzzle of a small cannon on the person of or carried by a single terrorist. As these small weapons are perfected, we can expect more and more small nations to acquire what will become a cheap and devastating instrument of power.

Furthermore, any one of the more than 30 nuclear armed nations could, with a single well-placed nuclear device, literally decapitate either or both superpowers. When I say 30 nuclear armed nations. I am talking about the situation that will confront the world in the year 2000.

For instance, a nuclear device exploded right here in the Capitol in the middle of a state of the Union address could finish the President, the Vice President, the cabinet, the Joint Chiefs of Staff, the Supreme Court and both Houses of Congress. Obviously, the threat of retaliation or deterrence would have little force. How could any successor government determine which of the nuclear armed nations or what terrorist groups armed by such a nation was responsible? The answer is that it could not.

Mr. President, no matter how Mr. Krauthammer and other foes of the nuclear freeze rely on deterrence as the answer, the fact is that there is no substitute for stopping the arms race—as completely and promptly as possible. The nuclear freeze is the first and far and away the most important step.

Mr. President, I ask unanimous consent that the section of Mr. Krauthammer's essay entitled, "The Nuclear Freeze" from his essay "On Nuclear Morality" from the book "Nuclear Arms" edited by R. James Woolsey be printed in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

THE NUCLEAR FREEZE

The moral attack on the weapons themselves takes two curiously contradictory approaches. The first, a mainstay of freeze proponents, is that beyond existing levels new weapons are simply redundant, that we are wasting billions of dollars on useless weapons that will do no more than make the rubble bounce, to borrow another memorable Churchian formulation. The moral crime, it is alleged, is that these monies are being taken away from human needs, like housing and health care and aid to poorer countries. This theme runs through much of the moral literature on armaments. It is featured, for example, in the Brandt North-South Report, which calculates that for every bomber one could instead build a given number of pharmacies in the Third World. The bishops also protest "the economic distortion of priorities—billions readily spent for destructive instruments while pitched battles are waged daily in our legislatures over much smaller amounts for the homeless, the hungry, and the helpless here and abroad."

It is extraordinary that an argument so weak can enjoy such widespread currency. Compared to other types of weapons, strategic nuclear weapons are remarkably cheap. In the U.S. they account for less than 10 percent of the military budget, and for about 5 percent of the gross national product. The reasons are clear. Strategic nuclear weapons are not labor intensive. Once in place, they need a minimal amount of maintenance and fulfill their function simply by existing. Indeed, the argument turns against the antinuclearists. A shift away from strategic to conventional weapons would be extremely expensive. That is precisely why the West decided in the 1950s and 1960s to rely so heavily on nuclear weapons and to permit the current conventional imbalance in Europe. Rather than match the Soviet bloc tank for tank, plane for plane, the West decided to go nuclear because nuclear weapons offered, in John Foster Dulles's immortal phrase, "more bang for the buck." The decision to buy cheap nuclear defense permitted the West vastly to expand social spending. A decision to move away from nuclear to conventional defense would require a willingness to divert enormous resources from social to defense spending. Thus, if social priorities are to enter the moral calculus, as the nuclear critics demand, it is the antinuclear case that is undercut.

On the other hand, freeze advocates often argue that these weapons are not useless but dangerous, destabilizing, and likely to precipitate a nuclear war. The more weapons we build, the closer we come to nuclear war. The assumption is that high weapons levels in themselves increase the likelihood of war. That reverses cause and effect. Weapons are a result of tensions between nations and not their primary cause. It is true that distrust can be a dangerous by-product of an uncontrolled arms race. And yet arms control agreements like SALT can reduce the risk of war by building mutual

confidence and trust, while at the same time permitting higher weapons levels. Historically, nuclear tension simply does not correlate well with weapons levels. The worst nuclear crisis took place in October 1962, when the level of nuclear arms was much lower than it is today. And nuclear tensions were probably at their lowest during the heyday of Détente in the mid-1970s; at that time U.S.-Soviet relations were at their peak, while each side had by then vastly increased its capacity for multiple overkill.

There is an understandable built-in prejudice against new weapons. Even those willing grudgingly to grant the need for minimal deterrence recoil from building and deploying new weapons of mass destruction. "Enough is enough," they say. What is ignored in this critique of the weapons themselves is that deterrence has requirements, and one is survivability (the ability of one's weapons to sustain a first strike and still deliver a second strike). And survivability, in an era of technological innovation, requires modernization, often to counteract nonnuclear advances like those in antisubmarine or antiaircraft warfare (advances that a freeze would do nothing to curb). Thus, the new American bomber, whether it be the B-1 or the Stealth, will be better able to elude destruction on the ground and Soviet defenses in the air. It will not be any more destructive—or immoral—than the B-52. Similarly for the Trident submarines, which are quieter and (because they have longer-range missiles) can hide in larger areas of the ocean than Poseidons. In short, mainstream nonunilateralist freeze proponents are caught in the position of accepting the fundamental morality of deterrence but rejecting the addition of any new weapon for preserving it.

HUNGARIAN MEMORIAL TO WALLENBERG: A HERO WHO FOUGHT AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, a recent New York Times article states that the Hungarian authorities have agreed to establish a memorial to a courageous and noble man: Raoul Wallenberg, who was a remarkable Swedish citizen and a Protestant. I have praised the actions of Mr. Wallenberg on many previous occasions. At great risk to his personal safety he was able to save over 100,000 Jews from Nazi death camps in occupied Hungary during World War II. Now this extraordinary man will be recognized by a permanent memorial to be placed on the Budapest street already named in his honor. The Hungarian Deputy Prime Minister is quoted as saying "What I can promise you is a memorial place where a wreath or a bouquet can be laid, or a candle can be lit."

Earlier attempts by the Hungarian Government to honor Wallenberg have been blocked by the Soviet authorities. This should come as no surprise since the Soviet Union imprisoned Wallenberg in 1945. In 1947 Soviet authorities asserted that Wallenberg had died of a heart attack, but witnesses from the Soviet Union continued for decades afterward to report that Wallenberg was alive in the Gorky prison region. The Soviet Government prevented the Hungarians from placing in Budapest a statue of Wallenberg which had been commissioned following World War II. The Soviet Union also has tried to quash the present memorial proposal, but Hungarian authorities have given their word that a permanent memorial will indeed be established.

Mr. President, it is highly commendable that the Hungarian authorities are standing fast in face of Soviet opposition and are going forward with their project to commemorate Wallenberg's heroic actions amidst the persecution and dangers of Nazi-occupied Hungary. I am delighted that Mr. Wallenberg will receive this deserved recognition within the country where he served humanities highest ideals.

Mr. President, the individual actions of Mr. Wallenberg are well documented and will always serve as an inspiration to us. However important and laudable the Hungarian commemoration of Mr. Wallenberg's actions may be, it is even more critical for us to create a living memorial to this great man. I am, of course, speaking of the ratification of the Genocide Convention by this Senate. We need an international treaty binding all governments to protect humanity from genocide. Eighty-seven nations have already ratified the Genocide Convention.

Every major nation in the world has ratified the Genocide Convention. Every administration, Republican and Democrat, since President Truman, including President Eisenhower and President Nixon and President Ford, has urged the U.S. Senate to ratify the convention. We have failed to do it.

In ratifying the treaty not only will we pay tribute to Mr. Wallenberg, but we will also show our opposition to genocide, the horrible crime that Mr. Wallenberg fought against so bravely and effectively.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed beyond 11 a.m.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OREGON WILDERNESS ACT OF 1984

Mr. HATFIELD. Mr. President, under the authority and instructions from the majority leader, I ask unanimous consent that the Senate, as in legislative session, proceed to the consideration of H.R. 1149.

Mr. BYRD. Mr. President, this matter has been cleared, and there is no objection at all to proceeding with it.

Mr. HATFIELD. I thank the Senator from West Virginia, and the majority leader. There has been cooperation on all sides with respect to this bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1149) to designate certain national forest system and other lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert:

This Act may be referred to as the "Oregon Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system land in the State of Oregon Possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Oregon and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Oregon and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands and certain public lands in the State of Oregon as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recrea-

tion, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Oregon be available for nonwilderness multiple use.

SEC. 3. In furtherance of the purpose of the Wilderness Act the following lands in the State of Oregon comprising approximately eight hundred forty-nine thousand three hundred acres and as generally depicted on maps appropriately referenced, dated May 1984; are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately thirty-nine thousand acres, are generally depicted on a map entitled "Columbia Wilderness—Proposed", and which shall be known as the Columbia Wilderness;

(2) certain lands in the Mount Hood National Forest, which comprise approximately forty-four thousand six hundred acres, are generally depicted on a map entitled "Salmon-Huckleberry Wilderness—Proposed", and which shall be known as the Salmon-Huckleberry Wilderness;

(3) certain lands in the Mount Hood National Forest, which comprise approximately twenty-three thousand five hundred acres, are generally depicted in a map entitled "Badger Creek Wilderness—Proposed", and which shall be known as the Badger Creek Wilderness;

(4) certain lands in the Mount Hood National Forest and the Willamette National Forest, which comprise approximately thirty-four thousand nine hundred acres, are generally depicted on the map entitled "Bull of the Woods Wilderness—Proposed", and which shall be known as the Bull of the Woods Wilderness;

(5) certain lands in the Siuslaw National Forest, which comprise approximately five thousand eight hundred acres, are generally depicted on a map entitled "Drift Creek Wilderness—Proposed", and which shall be known as the Drift Creek Wilderness;

(6) certain lands in the Siuslaw National Forest, which comprise approximately seven thousand four hundred acres, are geenrally depicted on a map entitled "Rock Creek Wilderness—Proposed", and which shall be known as the Rock Creek Wilderness;

(7) certain lands in the Siuslaw National Forest, which comprise approximately nine thousand three hundred acres, are generally depicted on a map entitled "Cummins Creek Wilderness—Proposed", and which shall be known as the Cummins Creek Wilderness;

(8) certain lands in the Umpqua National Forest, which comprise approximately nineteen thousand one hundred acres, are generally depicted on a map entitled "Boulder Creek Wilderness—Proposed", and which shall be known as the Boulder Creek Wilderness;

(9) certain lands in the Umpqua and Rogue River National Forests, which comprise approximately thirty-three thousand two hundred acres, are generally depicted on a map entitled "Roque-Umpqua Divide Wilderness—Proposed", and which shall be known as the Rogue-Umpqua Divide Wilderness;

(10) certain lands in the Willamette National Forest, which comprise approximately thirty-nine thousand two hundred acres, are generally depicted on a map entitled "Waldo Lake Wilderness—Proposed", and which shall be known as the Waldo Lake Wilderness;

(11) certain lands in the Willamette National Forest, which comprise approximately four thousand eight hundred acres, are generally depicted on a map entitled "Menagerie Wilderness—Proposed", and which shall be known as the Menagerie Wilderness;

(12) certain lands in the Willamette National Forest, which comprise approximately seven thousand five hundred acres, are generally depicted on a map entitled "Middle Santiam Wilderness—Proposed", and which shall be known as the Middle Santiam Wilderness;

(13) certain lands in and adjacent to the Siskiyou National Forest which comprise approximately seven thousand seven hundred acres, and generally depicted on a map entitled "Grassy Knob Wilderness—Proposed", and which shall be known as the Grassy Knob Wilderness;

(14) certain lands in the Siskiyou National Forest, which comprise approximately three thousand eight hundred acres, and are generally depicted on a map entitled "Red Buttes Wilderness—Proposed", and which shall be known as the Red Buttes Wilderness;

(15) certain lands in the Rogue River and Winema National Forests, which comprise approximately one hundred sixteen thousand three hundred acres, are generally depicted on a map entitled "Sky Lake Wilderness—Proposed", and which shall be known as the Sky Lakes Wilderness;

(16) certain lands in the Ochoco National Forest, which comprise approximately five thousand four hundred acres, are generally depicted on a map entitled "Bridge Creek Wilderness—Proposed", and which shall be known as the Bridge Creek Wilderness;

(17) certain lands in the Ochoco National Forest, which comprises approximately seventeen thousand four hundred acres, are generally depicted on a map entitled "Mill Creek Wilderness—Proposed", and which shall be known as the Mill Creek Wilderness;

(18) certain lands in the Ochoco National Forest, which comprise approximately thirteen thousand four hundred acres, are generally depicted on a map entitled "Black Canyon Wilderness—Proposed", and which shall be known as the Black Canyon Wilderness;

(19) certain lands in the Wallowa-Whitman, Malheur, and Umatilla National Forests, which comprise approximately one hundred twenty-one thousand acres, are generally depicted on a map entitled "North Fork John Day Wilderness—Proposed", and which shall be known as the John Day Wilderness;

(20) certain lands in the Umatilla National Forest, which comprise approximately twenty thousand two hundred acres, are generally depicted on a map entitled "North Fork Umatilla Wilderness—Proposed", and which shall be known as the North Fork Umatilla Wilderness;

(21) certain lands in the Malheur National Forest, which comprise approximately eighteen thousand three hundred acres, are generally depicted on a map entitled "Glacier Wilderness—Proposed", and which shall be known as the Glacier Wilderness;

(22) certain lands located in the Salem District of the Bureau of Land Management, Oregon, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "Table Rock Wilderness—Proposed", and which shall be known as the Table Rock Wilderness;

(23) certain lands in the Willamette and Mount Hood National Forests, which comprise approximately six thousand eight hundred acres, are generally depicted on a map entitled "Mount Jefferson Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Mount Jefferson Wilderness as designated by Public Law 88-577;

(24) certain lands in the Willamette and Deschutes National Forests, which comprise approximately six thousand four hundred acres, are generally depicted on a map entitled "Mount Washington Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Mount Washington Wilderness as designated by Public Law 88-577;

(25) certain lands in the Willamette and Deschutes National Forests which comprise approximately thirty-eight thousand one hundred acres, are generally depicted on a map entitled "Three Sisters Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Laws 88-577 and 95-237;

(26) certain lands in the Fremont National Forest which comprise approximately four thousand one hundred acres, are generally depicted on a map entitled "Gearhart Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Gearhart Mountain Wilderness as designated by Public Law 88-577;

(27) certain lands in the Malheur National Forest which comprise approximately thirty-five thousand three hundred acres, are generally depicted on a map entitled "Strawberry Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed a part of, the Strawberry Mountain Wilderness as designated by Public Law 88-577;

(28) certain lands in the Wallowa-Whitman National Forest which comprise approximately sixty-seven thousand five hundred acres, are generally depicted on a map entitled "Eagle Cap Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Eagle Cap Wilderness as designated by Public Laws 88-577 and 92-521;

(29) certain lands in the Wallow-Whitman National Forest, which comprise approximately twenty-two thousand seven hundred acres, are generally depicted on a map entitled "Hells Canyon Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Hells Canyon Wilderness as designated in Public Law 94-199;

SEC. 4. (a) In order to conserve, protect, and manage, in a substantially undeveloped condition, certain national forest system lands in the State of Oregon having unique geographic, topographic, biological, ecological features and possessing significant scenic, wildlife, dispersed recreation, and watershed values, there is hereby established, within the Umpqua, Willamette, Winema and Deschutes National Forests, the Oregon Cascades Recreation Area (hereinafter referred to in the Act as the "recreation area").

(b) The recreation area shall comprise approximately one hundred fifty seven thousand acres as generally depicted on a map entitled "Oregon Cascades Recreation Area" dated March 1984. Except as otherwise provided in this section, the Secretary of Agriculture (hereinafter referred to as

the "Secretary") shall administer and manage the recreation area in accordance with the laws and regulations applicable to the National Forest System so as to enhance scenic and watershed values, wildlife habitat, and dispersed recreation.

(c) The recreation area shall be managed in accordance with plans prepared in subsection (g) to:

(1) provide a range of recreation opportunities from primitive to full service developed campgrounds;

(2) provide access for use by the public;

(3) to the extent practicable, maintain the natural and scenic character of the area; and

(4) provide for the use of motorized recreation vehicles.

(d)(1) Subject to valid existing rights, all mining claims located within the recreation area shall be subject to such reasonable regulations as the Secretary may prescribe to insure that mining activities will, to the maximum extent practicable, be consistent with the purposes for which the recreation area is established. Any patent issued after the date of enactment of this act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary shall prescribe.

(2) Effective January 1, 1989, and subject to valid existing rights, the lands located within the recreation area are herby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to the mineral leasing and geothermal leasing and all amendments thereto.

(e) Within the recreation area, the Secretary may permit, under appropriate regulations those limited activities and facilities which he determines necessary for resource protection and management and for visitor safety and comfort, including—

(1) those necessary to prevent and control wildfire, insects, diseases, soil erosion, and other damaging agents including timber harvesting activities necessary to prevent catastrophic mortality from insects, diseases or fire;

(2) those necessary to maintain or improve wildlife habitat, water yield and quality, forage production, and dispersed outdoor recreation opportunities;

(3) livestock grazing, to the extent that such use will not significantly adversely affect the resources of the recreation area;

(4) salvage of major timber mortality caused by fire, insects, disease, blowdown, or other causes when the scenic characteristics of the recreation area are significantly affected, or the health and safety of the public is threatened, or the overall protection of the forested area inside or outside the recreation area might be adversely affected by failure to remove the dead or damaged timber;

(5) those developments or facilities necessary for the public enjoyment and use of the recreation area, when such development or facilities do not detract from the purposes of the recreation area; and

(6) public service land occupancies, including power transmission lines, provided there is no feasible alternative location, and, the Secretary finds that it is in the public interest to locate such facilities within the recreation area.

(f) The following lands within the recreation area are hereby designated as wilderness and therefore as components on the National Wilderness Preservation System, and shall, notwithstanding any other provisions of this section, be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Certain lands in the Umpqua and Winema National Forests which comprise approximately fifty-five thousands one hundred acres, are generally depicted on a map dated March 1984, entitled "Mount Thielsen Wilderness—Proposed", and which shall be known as the Mount Thielsen Wilderness; and certain lands in the Umpqua, Willamette, Winema and Deschutes National Forests, which comprise approximately fifteen thousand seven hundred acres, are generally depicted on a map dated March 1984, entitled "Diamond Peak Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Diamond Peak Wilderness as designated in Public Law 88-577.

(g) Management direction for the recreation area shall be developed in either the forest plans developed for the Umpqua, Winema, Deschutes and Willamette Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, or in an integrated management plan that shall be prepared within three years from the date of enactment of this Act and revised in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Any plan developed by the Secretary for the recreation area shall identify and designate specific and appropriate areas and routes for the use of motorized recreation vehicles within the recration area.

SEC. 5. (a) As soon as practicable after this Act takes effect, the appropriate Secretary shall file the maps referred to in sections 3 and 4 of this Act and legal descriptions of each wilderness area designated by sections 3 and 4 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture; and the Director, Bureau of Land Management, Department of the Interior.

(b) Subject to valid existing rights, each wilderness area designated by sections 3 and 4 of this Act shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any areas designated in sections 3 and 4 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Oregon lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from the areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 7. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Oregon and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon;

(2) with respect to the national forest system lands in the State of Oregon which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), and those lands referred to in subsection (d), except those lands remaining in further planning or special management pursuant to section 4 of this Act upon enactment of this Act, that review and evaluation or reference shall be deemed for the purpose of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness options when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oregon reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 4 of this Act or remaining in further planning upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans;

(4) in the event that revised land management plans in the State of Oregon are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation, need not be managed for the purpose of protecting their suitability for wildeness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall

not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Oregon for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless lands which were evaluated in the Mount Hood, Siskiyou, Umatilla, Umpqua, Wallowa-Whitman, Willamette, and Winema National Forests in the State of Oregon which were evaluated in the Eagle Creek; Roaring River; Mount Butler-Dry Creek; Oregon Butte; Cougar Bluff-Williams Creek; Grand Ronde; Wallowa Valley; Willamette; or Chemult unit plans; and

(2) national forest system roadless lands in the State of Oregon which are less than five thousand acres in size.

AMENDMENTS 3126 TO 3136

Mr. HATFIELD. Mr. President, following the adoption of this bill by the Committee on Energy and Natural Resources, it became necessary to make some slight adjustments with new maps on the boundaries of various portions of this bill, and that resulted in 10 amendments. The amendments are merely technical in nature, as a matter of adjusting the specific boundaries of 10 of these, and there are slight changes in 2 of them which have been approved by members on both sides in the committee and in the subcommittee.

I send the amendments to the desk and ask for their consideration.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. BYRD. Mr. President, I note no objection on this side of the aisle to proceeding with the amendments en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes amendments numbered 3126 through 3136, en bloc.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 3126

On page 19, line 9, strike "seven thousand seven hundred" and insert in lieu thereof "seventeen thousand two hundred".

AMENDMENT No. 3127

On page 21, line 3, after "Malheur" add "and Wallowa-Whitman".

On page 21, lines 4 and 5, strike "eighteen thousand three hundred" and insert in lieu thereof "nineteen thousand eight hundred".

On page 21, line 6, strike "Glacier Wilderness—Proposed" and insert in lieu thereof "Monument Rock Wilderness—Proposed".

AMENDMENT No. 3128

On page 16, line 25, and page 17, line 1, strike "twenty-three thousand five hundred" and insert in lieu thereof "twenty-four thousand".

AMENDMENT No. 3129

On page 33, after line 3, add the following new section:

SEC. 8. Subject to valid existing rights, the Federal lands within the Mill Creek watershed roadless area identified in the Oregon Butte Unit Plan, which is located in Wallowa and Umatilla Counties in Oregon, are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

AMENDMENT No. 3130

On page 20, line 15, strike ", Malheur,".

On page 20, lines 16 and 17, strike "one hundred twenty-one thousand three hundred" and insert in lieu thereof "one hundred twenty-one thousand four hundred".

AMENDMENT No. 3131

On page 27, line 2, strike "Umpqua and Winema" and insert in lieu thereof "Umpqua, Willamette, and Winema".

On page 27, line 7, strike "Umpqua, Willamette, Winema, and Deschutes" and insert in lieu thereof "Willamette and Deschutes".

AMENDMENT No. 3132

On page 23, line 6, strike "seven" and insert in lieu thereof "six".

AMENDMENT No. 3133

On page 19, line 15, strike "eight" and insert in lieu thereof "four".

AMENDMENT No. 3134

On page 24, line 5, strike "seven thousand" and insert in lieu thereof "six thousand nine hundred".

AMENDMENT No. 3135

On page 16, lines 8 and 9, strike "forty-nine thousand three hundred" and insert in lieu thereof "fifty-nine thousand six hundred".

AMENDMENT No. 3136

On page 27, line 2, strike "Umpqua and Winema" and insert in lieu thereof "Umpqua, Willamette, and Winema".

On page 27, line 7, strike "Umpqua, Willamette, Winema, and Deschutes" and insert in lieu thereof "Willamette and Deschutes".

AMENDMENT NO. 3126

Mr. HATFIELD. Mr. President, the purpose of amendment 3126 is to expand the Grassy Knob Wilderness from the 7,700-acre area included in the committee amendment to an area approximately 17,200 acres. In doing so, additional protection will be provided to important fish habitat.

As modified by this amendment, the Grassy Knob Wilderness is located 5 miles east of the community of Port Orford and the Pacific Ocean. It is entirely within the Siskiyou National Forest. The terrain is extremely rugged with elevations ranging from near sea level to 2,600 feet. Vegetation is representative of the wet and mild coastal environment. Old growth forests of Douglas-fir, Port Orford Cedar, and associated species cover the slopes with only rock bluff openings.

The total area drains into Elk River and Dry Creek, both streams being exceptionally scenic coastal streams characterized by clear water and incised steep-sided gorges. Small perennial streams supply cool water to the main stem of Elk River and nearly all of Dry Creek. This water supply is not only important to the productivity of Elk River itself but also provides refuge, rearing, and spawning habitat for the valuable Elk River anadromous fishery. This same water supply is also used by a State fish hatchery.

In proposing this amendment, Mr. President, I recognize that the existing China Hat Timber Sale requires temporary logging guylines and tailholds within the wilderness area. The Forest Service should not be deterred from allowing that use.

Mr. President, the House bill included 21,500 acres. My amendment represents a compromise aimed at protecting both fishery and wilderness values and at reducing the impact on the programed timber harvest of Siskiyou National Forest. I urge its adoption.

AMENDMENT NO. 3127

Mr. President, the purpose of amendment 3127 is to delete the Glacier area from this bill and to include instead the Monument Rock area. The House of Representatives included both areas as the Glacier Monument Area, and the committee amendment includes only the Glacier portion. My amendment would include only the Monument Rock area.

The Monument Rock Wilderness is located some 30 miles east of John Day, Oreg., in the Malheur and Wallowa-Whitman National Forests. The area includes approximately 19,600 acres and encompasses the headwaters of the Little Malheur River and the upper drainages of the South Fork of Burnt River. It has three prominent rock points with the accompanying stream drainages. An active lookout is located on Table Rock, just outside the wilderness boundary. The forest types range from examples of ponderosa pine forests in the lower elevations to the subalpine types along the peaks. Other species include quaking aspen, Douglas-fir, white fir, and lodgepole pine. A trail system of 12 to 15 miles provides access within the area. Diverse wildlife habitat provides homes for bear, deer, elk, grouse, hawks, badgers, and the rare wolverine.

The boundaries for this area have been drawn in such a way as to exclude any outstanding timber sales and, in the northeast corner of the area, to exclude mining claims. Those mining claims which are held by the

Manville Corp. were the primary consideration in drawing that portion of the boundary and, but for those claims, it is likely that I would have included an additional portion in the Bullrun area which was included in the legislation as it passed the House. Depending upon the mining activity which actually occurs in this area, it may remain relatively undisturbed. I understand that several timber sales have been contemplated in this area which I excluded and I would hope that the Forest Service would give some special attention to it, particularly if the area is not disturbed by mining. It is my intention to insure that any mining activity located next to the boundary of the area move forward and that the establishment of the wilderness area should not deter such activity.

Mr. President, I believe this amendment improves the legislation by substituting the Monument Rock area for the Glacier area, and I urge its adoption.

AMENDMENT NO. 3128

Mr. President, the purpose of amendment 3128 is to make some adjustment in the boundary of the Badger Creek Wilderness. As included in the committee amendment, this area contained approximately 23,500 acres. By including an additional 500 acres, as proposed by my amendment, more manageable boundaries will be included, with negligible impact upon timber resources.

Mr. President, I urge adoption of the amendment.

AMENDMENT NO. 3129

Mr. President, amendment 3129 adds a new section to the bill which withdraws the Mill Creek watershed roadless area identified in the Oregon Butte unit plan, located in the Umatilla National Forest from mineral entry. It is my understanding that the Washington delegation will propose a similar amendment for the Mill Creek watershed that falls within that State.

This watershed is an important water supply source for the city of Walla Walla, Wash., and this amendment will insure that future activities in the area are conducted in a manner that protects and preserves the resource for human consumption.

I urge the adoption of this amendment.

AMENDMENT NO. 3130

Mr. President, the purpose of amendment 3130 is to make some adjustment to the boundaries of the North Fork John Day Wilderness as proposed in the committee amendment. A total of four adjustments will be made by the amendment. A mining claim in the Baldy unit will be excluded from the wilderness, as will some privately owned lands in the Greenhorn unit. In addition, the boundary of the North Fork John Day unit will be modified to delete some lands which were included in the committee amendment containing an active timber sale and some cutover lands. Finally, a Forest Service road which provides access into the area but which was included in the committee amendment will be excluded by this amendment.

The new acreage for the North Fork John Day roadless area will be 121,000. I urge adoption of the amendment.

AMENDMENTS NOS. 3131 THROUGH 3136

Mr. President, amendments 3131 through 3136 are all technical in nature, and are the result of final examination of each wilderness area designation as well as the computation for total affected wilderness acreage. These amendments make corrections in affected national forests as well as affected acreage totals for three areas in the bill. I urge their adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 3126 through 3136) were agreed to.

Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wish to congratulate the distinguished chairman of the Committee on Energy and Natural Resources for his diligence in seeking a fair and reasonable solution to the controversy over the difficult and sensitive issue of the so-called release language.

A key element of this legislation is section 7. This section, identical to release clauses in other bills approved by the committee, was the result of extensive negotiations on the part of our chairman and the chairman of the Subcommittee on Public Lands and Reserved Water with their counterparts in the House. The significance of this section should not go unnoticed, because it deals directly with the management of roadless areas not designated as wilderness by this legislation or remaining in "further planning."

In order to insure proper understanding of the intent of this section, I wish to discuss it with the chairman and would appreciate his comments.

Section 7(3) states that areas not designated as wilderness or wilderness study or remaining as further planning "shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act; *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans."

Mr. President, new forest plans are currently being developed in Oregon and other States; we are currently in the first generation of forest planning. In the meantime, most forests are operating under plans that predate the enactment of the National Forest Management Act.

It is my understanding that the areas not designated as wilderness need not be studied for wilderness and shall be managed in accordance with existing multiple use plans, regardless of whether the land management plans required by the National Forest Management Act are yet in place. Does the chairman share this view?

Mr. McCLURE. The Senator is correct. I would point out to him that the committee report states clearly that "the bill provides that during development of, and prior to or during revision of initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation." The provisions of 7(3) would become operative immediately upon final enactment of the Oregon wilderness bill. Clearly the words "prior to or during revision" of the initial plans include the time before the initial plans established pursuant to NFMA are in place.

I would also add that section 6(c) of NFMA states that until NFMA plans are in place "the management of such unit may continue under existing land and resource management plans." So the Senator's concern about the release from wilderness by this legislation or remaining in further planning is clearly addressed.

Mr. HATFIELD. Mr. President, it has been 20 years since the Wilderness Act was enacted by a farsighted Congress. That act created the National Wilderness System, confirming in law the principle that just as our Nation needs the commodities which our forests can produce through the management techniques of our foresters, we also need the opportunities for appreciation of nature relatively untouched by that management.

While the 1964 act provided an excellent starting point for our Wilderness System, it was not meant to be comprehensive. Instead, it established the rules and preserved a number of outstanding areas as a beginning. Ever since the 1964 act was enacted, Congress has been dealing with the issue of how large the system should be.

In Oregon, as in many other States, that issue has been addressed by our congressional delegation. During my first year in the Senate in 1967, I sponsored legislation to designate the Mount Jefferson Wilderness in my State. There has not been a year since then that an Oregon wilderness bill has not been in some stage of consideration. Important gains have been made; Oregon's share of the National

Wilderness Preservation System has nearly doubled. We have added some superb areas after Mount Jefferson, including the Wenaha-Tucannon and Hells Canyon. We have expanded many of the areas which were a part of the 1964 act, such as the Three Sisters Wilderness, the Minam River additions to the Eagle Cap Wilderness, and additions to the Mount Hood and Kalmiopsis areas.

But the piecemeal method of dealing with wilderness has been unsatisfactory for both proponents and opponents of wilderness. Only a comprehensive, statewide approach can insure proper consideration of areas which might be neglected in single-area wilderness bills. And it is only through this comprehensive approach that we can adequately assess overall economic impacts of wilderness legislation.

In 1971, I urged that Oregon depart from the single-area approach and look at wilderness from a statewide perspective. At that time, the Forest Service was reviewing roadless areas under its RARE program. That study was incomplete, and the agency undertook a RARE II study in 1972, which was completed in January 1979.

During this entire period of study, Oregon's major employer, the forest products industry, which is heavily dependent upon Federal forests for its supply, has faced an unstable, uncertain supply. Over 3 million acres of Oregon's national forests have been the subject of intense controversy.

In some instances, the Forest Service has concentrated more timber sales than is desirable in relatively small areas to avoid reductions in timber sales, since the roadless areas have been off limits.

Because of the economic uncertainty and the need to round out Oregon's wilderness system, I took action soon after RARE II was completed to develop a comprehensive Oregon wilderness bill, including two field hearings in Oregon; one Washington, D.C., hearing; and introduction and passage of a bill in the Senate, all during 1979.

I felt the Carter administration's proposal of 416,000 acres was inadequate and instead recommended over 500,000 acres as wilderness and a national conservation area of nearly 80,000 acres. Unfortunately, the House of Representatives did not act that year on any bill. No bill passed the House until March 1983, more than 4 years after the completion of the RARE II study.

While Congress did not act, others did. The State of California successfully challenged the sufficiency of the RARE II environmental impact statement in Federal court. That litigation has added to the uncertainty, which I believe can only be resolved when Congress acts to resolve it.

Last year, the House took its action for Oregon in the form of H.R. 1149. That bill, as passed by the House, would have designated 1.1 million acres of additional wilderness in Oregon, and would have required study of another 100,000 acres. Based upon my 1979 hearings and studies, I felt the House bill went too far. Many Oregon communities are dependent upon Federal lands—which comprise more than half of our State—for their economic livelihood, as well as for their recreation. I conducted further field hearings and analysis and concluded that while the House bill should be reduced, my 1979 proposal should be increased.

The bill before the Senate today is the culmination of that effort. In addition to the numerous meetings, hearings, and field examinations by my staff, this proposal is the result of extensive discussion and negotiation with other members of the Oregon congressional delegation. Not all members of the Oregon delegation support this legislation, but all have contributed to it. And while none of us can say that this is precisely the amount and configuration of wilderness we would designate if we possessed that power and responsibility as individuals, this bill has the support of a solid majority of the Oregon congressional delegation, including my distinguished colleague here in the Senate, Senator PACKWOOD of Oregon.

It is, I believe, a reasonable and fair bill which will improve our wilderness system and stabilize our economy. The legislation we are now considering will designate 23 new wilderness areas and expand 7 existing wilderness areas. The areas in this bill are distributed throughout Oregon's national forests in every congressional district. Some of the areas, most notably, the North Fork John Day, provide important habitat for anadromous fish. Others, including additions to the Eagle Cap and Three Sisters Wilderness areas, and the new Waldo Wilderness, provide significant and important additions to some of this country's most spectacular natural wonders. The Badger Creek, Salmon-Huckleberry, Columbia, and Bull-of-the-Woods areas provide excellent recreational opportunities for Oregon's largest urban area. And by including a recreation area in the Oregon Cascades, the legislation provides recreational opportunities which cannot be found in the traditional wilderness area.

Mr. President, I ask unanimous consent to have printed in the RECORD the description of each of the areas in this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AREA DESCRIPTIONS

1. Columbia Wilderness.—The 39,000-acre proposed Columbia Wilderness is located on the Mt. Hood National Forest in the Columbia River Gorge about 45 miles east of Portland. There is an extensive trail system throughout the area, including the Pacific Crest National Trail and the Eagle Creek Trail. The area provides critical wildlife habitat for a number of game and nongame animals. High quality water resources support two fish hatcheries located outside the proposed wilderness. Although this proposed wilderness contains dense forests, the timber is not presently included in the current programed harvest.

2. Salmon-Huckleberry Wilderness.—The 44,600-acre Salmon-Huckleberry Wilderness, just south of Mt. Hood, is one of the largest tracts of wild land remaining on the Mount Hood National Forest. Located just 35 miles east of the homes of one-third of the State's population, it contains nearly 20 miles of the Salmon River, as well as the upper Eagle Creek drainage. In addition to outstanding opportunities for primitive recreation, the area has important watershed, fisheries, wildlife, scientific and educational values which require protection as wilderness.

The Salmon River is the most important anadromous fish stream in the Sandy River Basin, with healthy populations of Chinook and coho salmon, and steelhead trout. All streams in the proposal support resident trout as well. Eagle Creek provides vital high quality water to a national fish hatchery. A portion of the area was included in the Senate-passed "Oregon Wildernesses Act of 1979."

3. Badger Creek Wilderness.—The proposed 24,000-acre Badger Creek Wilderness is located on the east slope of the Cascades in the Mt. Hood National Forest. The area provides a rare eastern Oregon wilderness experience easily accessible to those residing in the heavily-populated Portland area.

The Badger Creek area is characterized by steep slopes, basalt outcroppings, and shallow soils. Timber in isolated canyons ranges from high elevation fir to a unique ponderosa pine-Oregon oak community at the lower end. (Badger Creek offers the only opportunity to include this community type in the National Wilderness Preservation System.) The area is also critical winter and summer range for deer and elk, and its solitude and native forest provide habitat for diminishing species such as cougar, marten, fisher, bald eagle, spotted owl, and wolverine. Three major streams provide excellent habitat for native fish runs. Several trails provide hiking access to two lakes and views of six major Cascade peaks. This is a popular recreation area for spring and fall hiking.

4. Bull-of-the-Woods Wilderness.—The proposed Bull-of-the-Woods Wilderness of 34,900 acres is located on Mt. Hood and Willamette National Forests. It contains the headwaters of the Collawash, Breitenbush, and Little North Fork Santiam Rivers. The entire area is close to the popular Willamette Valley.

Elevations range from 2,000 to 5,500 feet and is characterized by steep mountainous country dissected by numerous streams. Rocky Slopes and outcrops are common on the upper slopes and are often associated with shallow soil.

This high western ridge of the Cascades contains both lakes and streams which support resident fish populations.

The lower slopes are covered with dense stands of old-growth Douglas-fir and western hemlock. The upper slope supports stands of Douglas-fir, true firs, and hemlock. These stands provide habitat for a wide range of animal and bird species dependent upon old-growth stands.

5. Drift Creek Wilderness.—The 5,800-acre Drift Creek area is located in the Oregon Coast Range.

Elevation ranges from 150 feet above sea level near lower Drift Creek to 1,500 feet at the ridgelines. Terrain is broken and uneven, characterized by long steep slopes with moderately unstable soils. The wilderness includes a portion of the Drift Creek drainage, which is a tributary of the Alsea River. Drift Creek supports runs of Chinook and coho salmon and steelhead trout. The area is dominated by stands of old-growth Douglas-fir which provide habitat for several pairs of northern spotted owls. Present use by hikers centers on the Horse Creek Trail and the Harris Ranch Trail. The area contains numerous blacktail deer and Roosevelt elk.

6. Rock Creek Wilderness.—The area contains 7,400 acres of which 550 acres are privately owned and are included in a pending land exchange. Located in Oregon's Coast Range, the area includes elevations ranging from 100 feet along Rock Creek to 2,200 feet near Fairview Mountain. The steep and broken topography is covered by a dense coniferous forest of the Coastal ecosystem which is not presently well represented in the wilderness system. Cross-country travel is difficult and challenging.

Both Rock Creek and Big Creek flow directly into the Pacific Ocean and support runs of anadromous fish. Rock Creek is managed as a wild fishery by the State of Oregon.

7. Cummins Creek Wilderness.—The 9,300-acre Cummins Creek area is representative of the coastal Sitka spruce/western hemlock forest type. It provides an opportunity to include old-growth Sitka spruce in Oregon's wilderness system.

The two principal streams in the area, Cummins Creek and Bob Creek, both drain directly to the Pacific Ocean, and both support good runs of anadromous fish.

The area is presently used by both deer and elk hunters.

8. Boulder Creek Wilderness.—Boulder Creek is located about 50 miles east of Roseburg on the Umpqua National Forest. These essentially old growth forested lands, consisting of 19,100 acres, represent the last large and virtually untouched watershed in the North Umpqua River basin. The area contains numerous mountain streams and meadows, rock monoliths and outcroppings. It includes at least one sulphur-bearing spring. Boulder Creek itself is a series of quiet pools connected with lively waterfalls and rapids.

The area is a major source of cold, pure water which contributes to the world-famous steelhead runs of the North Umpqua River. It is also a critical Roosevelt elk sanctuary, home of over 250 such animals that reside in the drainage. It contains a unique stand of ponderosa pine (Pine Bench) thought to be the largest such stand this far north and west of the summit of the Cascades.

Numerous archaeological and historical sites are found in the drainage. Its low elevation and extensive trail system offer year-round recreational access and many opportunities for different kinds of unrestricted activities. It has experienced a 20 percent increase in recreational use since 1978 including growing demands for hunting, hiking, and backpacking.

9. Rogue-Umpqua Divide Wilderness.—The proposed 33,200-acre Rogue-Umpqua Divide Wilderness, as the name implies, is located on the divide between the Rogue and Umpqua drainages on two National Forests by the same names. It is 10 miles from Crater Lake National Park, and 70 and 90 miles from Medford and Roseburg respectively.

The Rogue-Umpqua Divide Wilderness proposal contains many unique geologic formations of Old Cascade volvanics (Grasshopper Mountain, Elephant Head, sandstone bluffs, etc.), as well as the highest peak in the Western Cascades, Fish Mountain (6,783 feet). Also included are three glacial valleys, including Castle Rock Fork, which provides 33 percent of the summer stream flows of the South Umpqua River and is, therefore, most important in terms of anadromous fish habitat.

The proposal includes over a hundred miles of interconnected trails, providing access for hunters, fishers, and backpackers. It contains habitat for over 200 elk, plus marten, bear, fox, cougar, and a variety of bird species. There is a great diversity of landscapes and ecotypes, including many lakes and extensive forested valleys.

10. Waldo Lake Wilderness.—The 39,200-acre Waldo Lake Wilderness is located on the Willamette National Forest. The high cascades are characterized by a variety of slopes from steep to moderate, and includes many basin-type areas with lakes, meadows, and rock outcrops. The western cascades portion is typified by mostly steep, dissected slopes. Elevations range from 2,800 to 7,144 feet. Two peaks in the area exceed 7,000 feet in elevation.

The high cascades supports stands of mountain hemlock, lodgepole pine, and true fir. Lands in the western cascades are mostly Douglas-fir, western hemlock, and some true fir association. Some natural openings of shrub, forb-grass types are present in this part of the area. Waldo Lake, one of the most pure lakes in the world, is the predominant feature in the area. Many small streams originate here and flow to larger tributaries of the North Fork of the Middle Fork of the Willamette River. An impressive array of lakes is present, and a wide variety of birds, animals, and amphibians are inhabitants of the area. Deer and elk summer in the meadows and adjacent timbered areas.

The Waldo Lake Wilderness area hosts a number of significant physiographic and biologic features which merit protection. Two of western Oregon's most outstanding forested canyons and important tributaries to the Willamette River are included: The North Fork of the Middle Fork Willamette River and Fisher Creek Canyon. A number of well-known features such as Waldo Mountain, Moolack Mountain, Rigdon Butte, Fuji Mountain, and Fuji Meadows are contained within this area.

11. Menagerie Wilderness.—This 4,800-acre area on the Willamette National Forest is characterized by steep dissected slopes. Smaller areas of more gentle, undulating, smooth slopes are also present. This area contains many rock pinnacles that stand out as much as 400 feet above the surrounding landscape. These rock pinnacles make the area extremely valuable as a recreational rock climbing area as most other rock climbing areas are not located in such a remote vegetated area.

The lower slopes support dense stands of Douglas fir and hemlock typical of the lower slopes of the Cascade Range.

12. Middle Santiam Wilderness.—This 7,500-acre area is located in the Willamette National Forest. It includes a wide variety of topography ranging from steep slopes, high peaks, and benchy lands. Elevations range from 1,600 to 5,022 feet. The low elevation and proximity to population centers results in a long season of use by people seeking outdoor recreation. Among the area's features are a number of small streams, a portion of the Middle Santiam River and Donaca Lake.

Vegetation varies from true fir associations at the upper elevations to outstanding stands of old-growth Douglas fir and western hemlock associations at the lower elevations. The Committee recognized the need to provide wilderness protection of old-growth Douglas fir for both recreational opportunities and dependent wildlife and associated ecological values.

13. Grassy Knob Wilderness.—The Grassy Knob Wilderness is located five miles east of the community of Port Orford and the Pacific Ocean. It is entirely within the Siskiyou National Forest. The terrain is extremely rugged with elevations ranging from near sea level to 2,600 feet. Vegetation is representative of the wet and mild coastal environment. Old growth forests of Douglas fir, Port Orford Cedar, and associated species cover the slopes with only rock bluff openings.

The total area drains into Elk River and Dry Creek, both streams being exceptionally scenic coastal streams characterized by clear water and incised steep-sided gorges. Small perennial streams supply cool water to the main stem of Elk River and nearly all of Dry Creek. This water supply is not only important to the productivity of Elk River itself but also provides refuge, rearing and spawning habitat for the valuable Elk River anadromous fishery. This same water supply is also used by a state fish hatchery.

14. Red Buttes Wilderness.—The 3,400-acre Red Buttes Wilderness is located on the Oregon-California border 40 miles inland from the Pacific Ocean. It is entirely within the Siskiyou National Forest. The area drains into Sucker Creek, thence the Illinois River.

Tannen Mountain and lakes, Sucker Creek, and sharp ridges are the more prominent physical features. Glaciation has created interesting geologic features. Elevations vary from about 3,600 feet to 6,300 feet. Most of the area is upper slope forest, with only one ridge tops and rocky sites being open. The lower slopes are heavily forested by white fir, Shasta red fir, and Douglas fir.

Plant life is both diverse and fascinating. Relative uncommon species such as the weeping Brewer spruce (a pre-Ice Age relic) contributes to the unique varieties of plant forms.

The area is quite scenic. Recreation access is good to and through the proposed wilderness. Several maintained trails and walk-in camping sites exist. The ridge-top trail is part of the National Recreation Trail system.

The area yields extremely high-quality water to downstream recreation, irrigation, domestic, and fishery uses. Resident trout exist within the streams. The lower reaches of Sucker Creek contain anadromous fish (salmon and steelhead).

The Oregon Buttes wilderness area is a small portion of the total wilderness area as most of the area is located in California and will be a part of the California wilderness bill. It will be my intention to adjust the boundaries of the Oregon portion to match the California designation when that bill is passed.

15. Sky Lakes Wilderness.—The Sky Lakes Wilderness extends southward from Crater Lake National Park to Oregon Highway 140 and includes lands on two National Forests, the Rouge River and Winema. The area is dominated on the south by Mount McLoughlin (9,495 feet), and as one proceeds northward to the National Park the terrain levels out into a broad plateau-like ridge that is dotted with many glacier-carved lakes. The highly scenic Pacific Crest Trail traverses the entire length of the proposed Wilderness. The 116,300-acre area is extremely popular with hunters, hikers, and campers. Because of its accessibility to day users from a large area in southern Oregon and its scenic characteristics, the Forest Service has attempted to manage the majority of this area in a roadless backcountry status. As a result, the entire area has been out of the timber base for many years.

Sky Lakes serve as important elk (and other wildlife) habitat, and is used by the famous Union Peak herd, which summer in the higher elevations of Crater Lake National Park.

16. Bridge Creek Wilderness.—The proposed 5,400-acre Bridge Creek Wilderness is located on the Ochoco National Forest several miles south of Mitchell. Bridge Creek provides for a multitude of backcountry experiences. It offers an excellent opportunity as a day use wilderness area, particularly in view of its relativel access as a result of an extensive loop trail.

Included among the scenic attractions is an 800-foot cliff at North Point, which provides a view of the Cascade Range.

A variety of forest types are found, including ponderosa pine, Douglas-fir, western larch (tamarack) and white fir. The proposal contains the headwaters of several creeks. The area is used by bear, elk, mule deer, and many nongame mammals and birds including golden eagles. It also provides important escape cover for elk and deer during hunting season.

17. Mill Creek Wilderness.—The proposed Mill Creek Wilderness is located on the Ochoco National Forest 25 miles northeast of Prineville. It is 17,400 acres in size.

Mill Creek is an intact watershed with many unique geologic features. It is primarily a ponderosa pine forest, and includes some of the finest specimens left in Oregon. Several recreation trails cross the area, which is heavily used by local hunters, fishers, and wilderness survival classes. Its streams support a sizable population of resident trout. The watershed is prime habitat for several game species, most notably mule deer, Rocky Mountain elk and black bear. Terrain is varied from steep slopes in Desolation Canyon to nearly flat meadows, prairies and lodge pole thickets.

18. Black Canyon Wilderness.—The proposed 13,400-acre Black Canyon Wilderness is located on the Ochoco National Forest approximately 6 miles southwest of Dayville in Wheeler County. It is representative of the steep and rugged canyon country of central Oregon. The slopes are intermittently open and forested with ponderosa pine, Douglas-fir and white fir. There are pockets of quaking aspen, wet slumps, talus slopes, numerous openings and relatively level benches. The area has high fish and wildlife values. Bear and cougar are common, and the area is a popular one for hunting Rocky Mountain elk.

Three quarters of the area is rated as moderate or high potential for sedimentation and reduction of water quality. Black Canyon and other creeks are important anadromous fish providers, which contribute to preserving and enhancing Columbia River fish runs.

19. North Fork John Day Wilderness.—

a. North Fork John Day unit

The 8,500-acre North Fork John Day unit is located on the Umatilla National Forest with a small portion on the Wallowa-Whitman National Forest.

The proposed area is bisected by approximately 25 miles by the North Fork John Day River Canyon. Outside the river canyon proper, about 60 percent of the land is composed of gentle benchlands and tablelands. The remainder is composed of steep ridge sideslopes.

The south side of the river is covered by an almost continuous vegetative canopy. The north side is covered by a variety of vegetative patterns of open growing ponderosa pine to dense lodgepole pine stands. Other tree species include Douglas-fir, white fir, and western larch.

The North Fork John Day River and tributaries contain the highest quality water found in the entire John Day drainage. Combined with excellent spawning grounds, the canyon is responsible for 34 percent of all chinook salmon produced in the North Fork John Day system. The main stem river and tributary streams within this area account for over 40 miles of steelhead and trout habitat.

Aside from a long history of commercial and recreational mining the greatest recreation use is for hunting, fishing, hiking, and horse use.

b. Tower unit

The Tower unit is completely within the Umatilla National Forest. It is comprised of about 8,100 acres, laying just north of Forest Highway 52, encompassing the headwaters of Winom Creek and Big Creek, tributaries to the North Fork John Day River. Topography is generally moderate to steep sideslopes with some gently sloping tablelands, predominantly covered by relatively dense virgin stands of associated conifer species such as Douglas-fir, white fir, western larch, and lodgepole pine, with alpine species at the higher elevations. Elevation ranges from about 5,100 to 6,850 feet at Tower Mountain Lookout.

The dominant wildlife species are elk and deer, with some bear. Small game and nongame species occur in varying degrees.

Predominant recreation forms are big game hunting and fishing, with some trail hiking.

c. Greenhorn unit

The Greenhorn unit is located in the very southeast corner of the Umatilla National Forest and adjacent to the Malheur National Forest and adjacent to the Malheur and Wallowa-Whitman National Forests. The 14,000 acre area is entirely within Grant County. It includes about 6,000 acres of eastern portions of the Vinegar Hill-Indian Rock Scenic Area. It contains some of the higher elevations in the area.

It is a popular deer and elk hunting area. Many old mines in the area draw people for recreational and historical pursuits, especially among the local residents.

The area includes the headwaters of Lake and Lost Creek, and Clear Creek, all tributary through Granite Creek, to the North Fork John Day River. Clear Creek is especially important to the Chinook salmon production in the John Day River system.

Conifer species common to the area are western larch, Douglas-fir, Englemann spruce, lodgepole pine, alpine fir and white bark pine.

d. Baldy Creek unit

Approximately 13,800 acres of scenic alpine lake basins and headwater areas of the North Fork John Day River are included. This area provides protection to sensitive fisheries habitat. The boundary generally follows the hydrologic divide around Bull Creek, Baldy Creek, and the upper reaches of North Fork John Day River except as necessary to avoid inclusion of adjacent private land and the proposed expansion of the Anthony Lakes Ski Area. The boundary provides a corridor of approximately ¼ mile wide to access Peavy Cabin and from there west it follows the southern edge of the North Fork John Day River.

20. North Fork Umatilla Wilderness.—The proposed North Fork Umatilla Wilderness is located on the Umatilla National Forest just 30 miles from Pendleton in northeast Oregon. It is 20,200 acres in size.

The area is characterized by gentle native bunchgrass covered plateaus, which are divided by extremely steep timbered canyons. Typically, the north facing slopes are forested, while south facing slopes have native grasses. Quality and quantity water production is a major resource of the area. The river supports sizable runs of anadromous fish, as well as Dolly Varden trout. Present high late-season flows also contribute to downstream irrigated agriculture. Recreation use is heavy by hunters, hikers, equestrians, fishing groups, and native tribes. The area has excellent big game habitat (deer and elk) and has superb summer range where calving, rearing, and breeding occur. It is also critical deer winter range. Blue and ruffed grouse are common.

The Committee has modified the boundaries included in the House bill to reflect manageable boundaries and to exclude an existing timber sale.

21. Monument Rock Wilderness.—The Monument Rock Wilderness is located some 30 miles east of John Day, Oregon, in the Malheur and Wallowa-Whitman National Forests. The area includes approximately 19,600 acres and encompasses the headquarters of the Little Malheur River and the upper drainages of the South Fork of Burnt River. It has three prominent rock points with the accompanying stream drainages. An active lookout is located on Table Rock, just outside the Wilderness boundary. The forest types range from examples of ponderosa pine forests in the lower elevations to the subalpine types along the peaks. Other species include quaking aspen, Douglas-fir, white fir and lodgepole pine. A trail system of 12 to 15 miles provides access within the area. Diverse wildlife habitat provides homes for bear, deer, elk, grouse, hawks, badgers, and the rare wolverine.

22. Table Rock Wilderness.—Table Rock Wilderness is proposed in the Salem District of the Bureau of Land Management.

The proposed 5,500 acre wilderness is close to both Portland (40 miles) and Salem (35 miles) and as a result is heavily used by both hikers and equestrians. Its relatively small size is testimony to the fact that surrounding lands have been almost completely developed. As such, Table Rock represents a remaining ecologically intact island in an ocean of development. The area has an extensive trail system, and because of its lower elevation is available for year-round primitive recreation.

The forest is typical of the western Cascades: Douglas-fir and hemlock with noble

fir at higher elevations. Other species include chinquapin, white pine, incense cedar, western redcedar, big leaf and vine maples, madrone, oak and red alder. Understory species include Oregon grape, huckleberry, sour clover, bracken and dur firns, blackberry, rhododendron and various grasses.

The area has several rare and endangered plants, including the giant adder's tongue, snow bramble, calypso fair orchid, pinesap, and Clackamas iris. While not containing anadromous fish habitat, the areas streams provide cold, clean water for downstream fish. Other wildlife species include pleated woodpecker, coyote, bear, and redtailed hawk.

23. Mt. Jefferson Wilderness Additions.—The five areas totaling 6,800 acres to be added are all within the High Cascades physiographic province. All parcels of this area are characterized by some steep talus slopes, high elevation location, with rock outcrops and meadow openings. Spectacular views of Mt. Jefferson and the surrounding forest area are available from these locations. Vegetative species common to the area include Douglas-fir, mountain hemlock, vine maple, ocean spray, chinquopin, and huckleberry.

24. Mt. Washington Wilderness Addition.—The proposed Wilderness addition of approximately 6,400 acres is located in both the Deschutes and the Williamette National Forests. The added lands are contiguous to the existing Wilderness on its north and east boundaries. The area contains large lava flows from Mount Washington as well as the foothills of the mountain itself. Over 100 different species of wildlife are supported by this area.

25. Three Sisters Wilderness Additions.—The proposed additions to the Three Sisters Wilderness total 38,100 acres, and include some of Oregon's most outstanding wild country. Most of the proposal is perceived by the public to be a part of the existing Three Sisters Wilderness area, and, in fact, much is now managed by the Forest Service as roadless backcountry.

These additions on the east, west, and south sides will add ecological diversity to the Wilderness by securing some forests downslope from the currently protected alpine and subalpine lands. Approximately 130 wildlife species inhabit the area. There are numerous streams, meadows, and waterfalls, including the series of spectacular falls on Squaw Creek. Rainbow Falls is included in the area.

The additions also include many primitive recreational lakes with significant biological values.

26. Gearhart Mountain Wilderness Addition.—This 4,100-acre addition to the Gearhart Mountain Wilderness is located in the Fremont National Forest of southern Oregon. Several miles of the North Fork of the Sprague River, Wagon Wheel Creek, and Dairy Creek would be included in the wilderness addition. One outstanding feature is the North Fork of the Sprague River canyon and the forested area to the east of the canyon. On the south side of the wilderness is a small addition referred to as Palisade Rocks, an area of unique geologic interest.

27. Strawberry Mountain Wilderness Additions.—The proposed additions to the Strawberry Mountain Wilderness total 35,300 acres, and include the headwaters of Pine, Indian, Strawberry, Canyon, Bear, and Lake Creeks.

This proposal is extremely diverse ecologically. Five of the seven major life zones in North America can be found here. It also supports a native population of Rocky Mountain elk. The addition includes the Canyon Creek Research Natural Area, and will improve both the quantity and quality of the wilderness experience. Currently, wilderness visitors will often enter and leave the designated area several times. Indeed at two points the existing wilderness is just 1.5 miles wide.

28. Eagle Cap Wilderness Additions.—The proposed additions to the Eagle Cap Wilderness contains about 66,500 acres within the Wallowa-Whitman National Forest. The lands are located in the glaciated, rugged Wallowa Mountains about 20 miles northeast of La Grande.

29. Oregon Cascades Recreation Area.—The recreation area stretches along the spine of the Cascade Range from north of Crater Lake National Park to just south of the Diamond Peak Wilderness. It is an outstanding area exhibiting rich diversity in landform and wildlife. The area also provides for a variety of recreational experiences.

In the southern portion of the recreation area, the Mt. Thielsen Wilderness is established and includes a 55,100-acre surrounding Mr. Thielsen. The existing Diamond Peak Wilderness forms the northern boundary of the recreation area. The area in total contains a variety of landforms, ranging from essentially mountain desert to lush canyon meadows and high peaks. The area shelters four watersheds—the North Umpqua. Klamath, Deschutes and Willamette—protection of which is key to maintaining downstream water quality. Many lakes, ponds, rivers, and streams offer a rich recreational experience to day users as well as those who spend more time in this diverse area.

Approximately one-half of the wilderness additions are located within the Bear Creek-lower Minam River area. The Minam River and Bear Creek have their headwaters in the existing wilderness and run northwest through the entire length of the proposed wilderness addition. The western boundary of the proposed addition lies generally along the ridge above the Minam gorge so as to exclude some non-conforming uses. The Committee understands that existing uses of private land within the Wilderness will be allowed to continue unimpaired. This includes two airstrips and two private lodges. The lodges maintain aircraft landing strips on their lands. One of these strips has a runway approach on National Forest land where trees are cut and a clearing is maintained. The other lodge uses a portion of an adjacent meadow on public land for a part of a landing strip. These existing uses should be allowed to continue.

The Minam River, Bear Creek, and Catherine Creek are all tributaries of the Grande Ronde River and are important fish and water producers. The additions will also help diversify the recreation experience found in the existing Eagle Cap Wilderness by adding lower elevation lands to the present alpine-type terrain. Critical elk calving areas and habitat will also be protected.

30. Hells Canyon Addition.—The Hells Canyon addition of 22,700 acres include topography typical of the Snake River Canyon. The slopes are steep and of basalt origin. Vegetation consists of bunchgrass with scattered stringers of ponderosa pine and Douglas-fir in the upper reaches.

The area includes important winter range for both deer and elk. Bighorn Sheep have been reintroduced into this portion of their former habitat.

The southern boundary of the area follows the hydrologic divide along the south side of McGraw Creek. This includes approximately 1,900 acres administered by the Bureau of Land Management.

Mr. HATFIELD. Mr. President, I believe we can forego timber harvesting and development of these areas without creating economic hardship. This bill will reduce the annual programed harvests on national forests in Oregon by less than 150 million board feet, of which more than 40 million board feet already are deferred for purposes of timber harvest.

In effect, all of this addition to the wilderness will have a very, very slight impact. We have an annual sales program of about 3.5 billion board feet in the State of Oregon. And so, when you consider out of a total harvest of 3.5 billion board feet, all of this additional wilderness will only impact by a little over 100 million board feet. I think one can then see it is indeed minimal.

This is out of an annual sales program on Oregon's national forests of about 3.5 billion board feet. The House bill would have withdrawn about 250 million board feet from production each year and, more importantly, would have intensified its impacts on some specific areas. For example, the House bill would reduce the annual programed harvest by nearly 40 million board feet in Linn County alone, an area which is extremely dependent upon timber for its economic livelihood. The impact of this new proposal is just over 11 million board feet. Another example is the North Fork John Day area, which is 218,000 acres in the House bill, affecting an annual programed timber harvest of over 38 million board feet. The proposal now before the Senate contains 121,000 acres, protecting critical native anadromous fishery habitat, but with an annual programed harvest reduction of just over 21 million board feet. The boundaries for the North Fork John Day also have been drawn in a manner which recognizes important mineral development potential.

In other words, I think this bill stabilizes the timber supply and the land-based economy of my State.

In addition to the manner in which the areas have been selected and the boundaries drawn, this legislation includes provisions which are essential to the stabilization of Oregon's timber base. It resolves the issue raised in the California lawsuit and a similar suit which has been filed in Oregon pertaining to the adequacy of the RARE II study. This bill declares that the environmental impact statement is sufficient. Without such action, some 700 million board feet of timber which already has been sold is in jeopardy, and another 1.7 billion board feet of timber contained in planned timber sales will not be sold and harvested, assuming the likely success of the liti-

gation. Resolution of the issue itself is a major step forward for Oregon's uncertain lumber economy.

Finally, Mr. President, this legislation releases from further wilderness review those lands which have been studied for wilderness and recommended for nonwilderness status by the Forest Service. It does so through the first generation forest planning, taking us through the late 1990's.

With its three major thrusts of careful wilderness designation, RARE II sufficiency language, and release language, this bill resolves the wilderness issue on Oregon's national forests, bringing to a close that 20-year chapter of wilderness controversy in Oregon. That it does so in a manner which has earned the support of the sponsors of the House-passed bill is a source of great satisfaction.

Mr. President, as we near Senate action on this legislation, I would like to express my appreciation to the many individuals who took the time to testify at the Oregon field hearings in 1979 and 1984 on this issue, and to those who have written, called, or discussed this issue personally with me or with my staff. Their contribution to the democratic process which has produced this bill has been invaluable. I also would like to thank the Forest Service for its great assistance in evaluating various proposals and its help in drafting boundary lines and determining impacts. In particular, Mr. Bruce Cooper of the Forest Service's Region 6 office in Portland has been an outstanding professional and incredibly patient in responding to countless inquiries and requests during the past 5 years. As I mentioned earlier, this legislation is the result of the hard work and effort of all members of the Oregon congressional delegation, and I wish, once again, to express my gratitude to each of them.

I also wish to compliment two members of my staff, Tom Jameson and Tom Winn for all their hard work. Through their efforts the passage of this bill was made possible today.

I urge my colleagues to join with me in support of the Oregon Wilderness Act of 1984.

Mr. METZENBAUM. Mr. President, will the Senator from Oregon yield for a question, because I know the time is rapidly approaching 11 o'clock. It is a very simple question.

Mr. HATFIELD. Yes; I am happy to yield.

The PRESIDING OFFICER. The hour of 11 o'clock having arrived, it would take unanimous consent.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the matter be delayed just for 2 minutes in order that I may inquire of the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the Senator from Ohio has no concern at all about and supports the Oregon wilderness bill but would like to be assured that neither by amendment here nor in conference will there be any effort made to attach an amendment having to do with the issue of timber sales.

Mr. HATFIELD. Mr. President, the Senator has my complete assurance on that. That is a separate piece of legislation I am going to introduce with Senator CRANSTON and other sponsors. Second, this bill will not go to conference. The House Members have agreed this bill will be returned to the House and to the floor for action.

Mr. METZENBAUM. I thank the Senator from Oregon for his assurances. I would like at this time to ask the Senator from Washington: May I have the same assurance with respect to the Washington wilderness bill, that it will not be used as a vehicle at any point for the attachment of the timber bill?

Mr. GORTON. The Senator has the assurance.

Mr. HATFIELD. Mr. President, I move the adoption of the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 1149) as amended, was read the third time, and passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wish to thank my colleague, the Senator from Idaho, the chairman of the committee, for his support.

Mr. President, I ask unanimous consent that H.R. 1149, as amended, be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

H.R. 1149

Strike out all after the enacting clause and insert:

That this Act may be referred to as the "Oregon Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system land in the State of Oregon possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Oregon and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Oregon and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple used under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands and certain public lands in the State of Oregon as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Oregon be available for nonwilderness multiple use.

SEC. 3. In furtherance of the purpose of the Wilderness Act the following lands in the State of Oregon comprising approximately eight hundred fifty-nine thousand six hundred acres and as generally depicted on maps appropriately referenced, dated May 1984; are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately thirty-nine thousanded acres, are generally depicted on a map entitled "Columbia Wilderness—Proposed", and which shall be known as the Columbia Wilderness;

(2) certain lands in the Mount Hood National Forest, which comprise approximately forty-four thousand six hundred acres, are generally depicted on a map entitled "Salmon-Huckleberry Wilderness—Proposed", and which shall be known as the Salmon-Huckleberry Wilderness;

(3) certain lands in the Mount Hood National Forest, which comprise approximately twenty-four thousand acres, are generally depicted in a map entitled "Badger Creek Wilderness—Proposed", and which shall be known as the Badger Creek Wilderness;

(4) certain lands in the Mount Hood National Forest and the Willamette National Forest, which comprise approximately thirty-four thousand nine hundred acres, are generally depicted on a map entitled "Bull of the Woods Wilderness—Proposed", and which shall be known as the Bull of the Woods Wilderness;

(5) certain lands in the Siuslaw National Forest, which comprise approximately five thousand eight hundred acres, are generally

depicted on a map entitled "Drift Creek Wilderness—Proposed", and which shall be know as the Drift Creek Wilderness;

(6) certain lands in the Siuslaw National Forest, which comprise approximately seven thousand four hundred acres, are generally depicted on a map entitled "Rock Creek Wilderness—Proposed", and which shall be known as the Rock Creek Wilderness;

(7) certain lands in the Siuslaw National Forest, which comprise approximately nine thousand three hundred acres, are generally depicted on a map entitled "Cummins Creek Wilderness—Proposed", and which shall be known as the Cummins Creek Wilderness;

(8) certain lands in the Umpqua National Forest, which comprise approximately nineteen thousand one hundred acres, are generally depicted on a map entitled "Boulder Creek Wilderness—Proposed", and which shall be known as the Boulder Creek Wilderness;

(9) certain lands in the Umpqua and Rogue River National Forests, which comprise approximately thirty-three thousand two hundred acres, are generally depicted on a map entitled "Rogue-Umpqua Divide Wilderness—Proposed", and which shall be known as the Rogue-Umpqua Divide Wilderness;

(10) certain lands in the Willamette National Forest, which comprise approximately thirty-nine thousand two hundred acres, are generally depicted on a map entitled "Waldo Lake Wilderness—Proposed", and which shall be known as the Waldo Lake Wilderness;

(11) certain lands in the Willamette National Forest, which comprise approximately four thousand eight hundred acres, are generally depicted on a map entitled "Menagerie Wilderness—Proposed", and which shall be known as the Menagerie Wilderness;

(12) certain lands in the Willamette National Forest, which comprise approximately seven thousand five hundred acres, are generally depicted on a map entitled "Middle Santiam Wilderness—Proposed", and which shall be known as the Middle Santiam Wilderness;

(13) certain lands in and adjacent to the Siskiyou National Forest which comprise approximately seventeen thousand two hundred acres, are generally depicted on a map entitled "Grassy Knob Wilderness—Proposed", and which shall be known as the Grassy Knob Wilderness;

(14) certain lands in the Siskiyou National Forest, which comprise approximately three thousand four hundred acres, are generally depicted on a map entitled "Red Buttes Wilderness—Proposed", and which shall be known as the Red Buttes Wilderness;

(15) certain lands in the Rogue River and Winema National Forests, which comprise approximately one hundred sixteen thousand three hundred acres, are generally depicted on a map entitled "Sky Lake Wilderness—Proposed", and which shall be known as the Sky Lakes Wilderness;

(16) certain lands in the Ochoco National Forest, which comprise approximately five thousand four hundred acres, are generally depicted on a map entitled "Bridge Creek Wilderness—Proposed", and which shall be known as the Bridge Creek Wilderness;

(17) certain lands in the Ochoco National Forest, which comprise approximately seventeen thousand four hundred acres, are generally depicted on a map entitled "Mill Creek Wilderness—Proposed", and which shall be known as the Mill Creek Wilderness;

(18) certain lands in the Ochoco National Forest which comprise approximately thirteen thousand four hundred acres, are generally depicted on a map entitled "Black Canyon Wilderness—Proposed", and which shall be known as the Black Canyon Wilderness;

(19) certain lands in the Wallowa-Whitman and Umatilla National Forests, which comprise approximately one hundred twenty-one thousand four hundred acres, are generally depicted on a map entitled "North Fork John Day Wilderness—Proposed", and which shall be known as the North Fork John Day Wilderness;

(20) certain lands in the Umatilla National Forest, which comprise approximately twenty thousand two hundred acres, are generally depicted on a map entitled "North Fork Umatilla Wilderness—Proposed", and which shall be known as the North Fork Umatilla Wilderness;

(21) certain lands in the Malheur and Wallowa-Whitman National Forest, which comprise approximately nineteen thousand eight hundred acres, are generally depicted on a map entitled "Monument Rock Wilderness—Proposed", and which shall be known as the Glacier Wilderness;

(22) certain lands located in the Salem District of the Bureau of Land Management, Oregon, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "Table Rock Wilderness—Proposed", and which shall be known as the Table Rock Wilderness;

(23) certain lands in the Willamette and Mount Hood National Forests, which comprise approximately six thousand eight hundred acres, are generally depicted on a map entitled "Mount Jefferson Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Mount Jefferson Wilderness as designated by Public Law 88-577;

(24) certain lands in the Willamette and Deschutes National Forests, which comprise approximately six thousand four hundred acres, are generally depicted on a map entitled "Mount Washington Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Mount Washington Wilderness as designated by Public Law 88-577;

(25) certain lands in the Willamette and Deschutes National Forests which comprise approximately thirty-eight thousand one hundred acres, are generally depicted on a map entitled "Three Sisters Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Laws 88-577 and 95-237;

(26) certain lands in the Fremont National Forest which comprise approximately four thousand one hundred acres, are generally depicted on a map entitled "Gearhart Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Gearhart Mountain Wilderness as designated by Public Law 88-577;

(27) certain lands in the Malheur National Forest which comprise approximately thirty-five thousand three hundred acres, are generally depicted on a map entitled "Strawberry Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed a part of, the Strawberry Mountain Wilderness as designated by Public Law 88-577;

(28) certain lands in the Wallowa-Whitman National Forest which comprise approximately sixty-six thousand five hundred acres, are generally depicted on a map entitled "Eagle Cap Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Eagle Cap Wilderness as designated by Public Laws 88-577 and 92-521;

(29) certain lands in the Wallow-Whitman National Forest, which comprise approximately twenty-two thousand seven hundred acres, are generally depicted on a map entitled "Hells Canyon Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Hells Canyon Wilderness as designated in Public Law 94-199;

SEC. 4. (a) In order to conserve, protect, and manage, in a substantially undeveloped condition, certain national forest system lands in the State of Oregon having unique geographic, topographic, biological, ecological features and possessing significant scenic, wildlife, dispersed recreation, and watershed values, there is hereby established, within the Umpqua, Willamette, Winema and Deschutes National Forests, the Oregon Cascades Recreation Area (hereinafter referred to in the Act as the "recreation area").

(b) The recreation area shall comprise approximately one hundred fifty six thousand nine hundred acres as generally depicted on a map entitled "Oregon Cascades Recreation Area" dated March 1984. Except as otherwise provided in this section, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall administer and manage the recreation area in accordance with the laws and regulations applicable to the National Forest System so as to enhance scenic and watershed values, wildlife habitat, and dispersed recreation.

(c) The recreation area shall be managed in accordance with plans prepared in subsection (g) to:

(1) provide a range of recreation opportunities from primitive to full service developed campgrounds;

(2) provide access for use by the public;

(3) to the extent practicable, maintain the natural and scenic character of the area; and

(4) provide for the use of motorized recreation vehicles.

(d)(1) Subject to valid existing rights, all mining claims located within the recreation area shall be subject to such reasonable regulations as the Secretary may prescribe to insure that mining activities will, to the maximum extent practicable, be consistent with the purposes for which the recreation area is established. Any patent issued after the date of enactment of this act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary shall prescribe.

(2) Effective January 1, 1989, and subject to valid existing rights, the lands located within the recreation area are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to the mineral leasing and geothermal leasing and all amendments thereto.

(e) Within the recreation area, the Secretary may permit, under appropriate regulations those limited activities and facilities which he determines necessary for resource protection and management and for visitor safety and comfort, including—

(1) those necessary to prevent and control wildfire, insects, diseases, soil erosion, and

other damaging agents including timber harvesting activities necessary to prevent catastrophic mortality from insects, diseases or fire;

(2) those necessary to maintain or improve wildlife habitat, water yield and quality, forage production, and dispersed outdoor recreation opportunities;

(3) livestock grazing, to the extent that such use will not significantly adversely affect the resources of the recreation area;

(4) salvage of major timber mortality caused by fire, insects, disease, blowdown, or other causes when the scenic characteristics of the recreation area are significantly affected, or the health and safety of the public is threatened, or the overall protection of the forested area inside or outside the recreation area might be adversely affected by failure to remove the dead or damaged timber;

(5) those developments or facilities necessary for the public enjoyment and use of the recreation area, when such development or facilities do not detract from the purposes of the recreation area; and

(6) public service land occupancies, including power transmission lines, provided there is no feasible alternative location, and, the Secretary finds that it is in the public interest to locate such facilities within the recreation area.

(f) The following lands within the recreation area are hereby designated as wilderness and therefore as components on the National Wilderness Preservation System, and shall, notwithstanding any other provisions of this section, be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Certain lands in the Umpqua, Willamette, and Winema National Forests which comprise approximately fifty-five thousands one hundred acres, are generally depicted on a map dated March 1984, entitled "Mount Thielsen Wilderness—Proposed", and which shall be known as the Mount Thielsen Wilderness; and certain lands in the Willamette and Deschutes National Forests, which comprise approximately fifteen thousand seven hundred acres, are generally depicted on a map dated March, 1984, entitled "Diamond Peak Wilderness additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Diamond Peak Wilderness as designated in Public Law 88-577.

(g) Management direction for the recreation area shall be developed in either the forest plans developed for the Umpqua, Winema, Deschutes and Willamette Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, or in an integrated management plan that shall be prepared within three years from the date of enactment of this Act and revised in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Any plan developed by the Secretary for the recreation area shall identify and designate specific and appropriate areas and routes for the use of motorized recreation vehicles within the recreation area.

SEC. 5. (a) As soon as practicable after this Act takes effect, the appropriate Secretary shall file the maps referred to in sections 3 and 4 of this Act and legal descriptions of each wilderness area designated by sections 3 and 4 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture; and the Director, Bureau of Land Management, Department of the Interior.

(b) Subject to valid existing rights, each wilderness area designated by sections 3 and 4 of this Act shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any areas designated in sections 3 and 4 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Oregon lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from the areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 7. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Oregon and the environmental impacts associated with alternative allocations of such area.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon;

(2) with respect to the national forest system lands in the State of Oregon which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), and those lands referred to in subsection (d), except those lands remaining in further planning or special management pursuant to section 4 of this Act upon enactment of this Act, that review and evaluation or reference shall be deemed for the purpose of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness options when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oregon reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 4 of this Act or remaining in further planning upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans;

(4) in the event that revised land management plans in the State of Oregon are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation, need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Oregon for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless lands which were evaluated in the Mount Hood, Siskiyou, Umatilla, Umpqua, Wallowa-Whitman, Willamette, and Winema National Forests in the State of Oregon which were evaluated in the Eagle Creek; Roaring River; Mount Butler-Dry Creek; Oregon Butte; Cougar Bluff-Williams Creek; Grand Ronde; Wallowa Valley; Willamette; or Chemult unit plans; and

(2) national forest system roadless lands in the State of Oregon which are less than five thousand acres in size.

SEC. 8. Subject to valid existing rights, the Federal lands within the Mill Creek watershed roadless area identified in the Oregon Butte Unit Plan, which is located in Wallowa and Umatilla Counties in Oregon, are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

RESPONSIBILITY IN GOVERNMENT: HOUSE SAYS NO TO INCREASING THE DEBT LIMIT

Mr. HELMS. Mr. President, a remarkable thing happened Tuesday in the U.S. House of Representatives. After decades of routinely increasing

the amount of the national debt the Members of the House resoundingly rejected the proposal to add yet another $30 billion to the Federal indebtedness. The vote was 263-150.

To fully appreciate the significance of this action, one need only look at the actual amount of current debt authority. The Treasury of the United States, by virtue of congressional enactment, is authorized to borrow a staggering $1.49 trillion, and, we are told, such amount will be reached later this week.

Mr. President, that averages out to be nearly $6,000 for every man, woman, and child in the United States. This is a measurement of the irresponsibility by Congress during the last 25 years. And it is irrefutable evidence that Congress has willingly mortgaged the future of this country.

This, Mr. President, is what makes it so surprising that the House apparently "got religion" on Tuesday and balked at any further increase of the national debt. But hope springs eternal, Mr. President, and as we all know, converts are the staunchest believers. Let us hope that what happened in the House was a true conversion to fiscal responsibility and that we will not see serious backsliding before week's end.

In any event, Mr. President, I intend to propose an amendment at some point—perhaps later this summer if only the short extension is passed by the House this week—to the major debt limit increase legislation.

The amendment would do two things.

First, it would delete the proposed increase in the national debt. Surely a debt of approximately $1.5 trillion is enough for any government.

Second, in order that the Government may continue to function smoothly without additional debt, my amendment would authorize the President to impound appropriated funds so that the U.S. Government can, for the first time in years, live within its means. Under My amendment, the President would be authorized to cut nonessential spending—that is, appropriations outside of defense, social security, and already obligated interest payments—to assure that the Treasury does not exceed the existing debt limit.

Mr. President, I hope my colleagues will carefully consider this proposal and join with me in going "cold turkey" on the deficit addiction that Congress has had for so many years. Let us say "Enough is enough," and start our country down the road to thrift and prudence in the way we use the national purse.

Mr. President, it is relevant to recall the words of the sage of Monticello about public debt. Thomas Jefferson said:

> I place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared. (Letter to Governor Plumer, 1816).
>
> To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude. (Letter to Samuel Kerchival, 1816).
>
> If we can prevent the governent from wasting the labors of the people, under the pretence of taking care of them, they must become happy. (Letter to Thomas Cooper, 1802).

NOMINATION OF JAMES HARVIE WILKINSON III TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of James Harvie Wilkinson III, of Virginia, to be U.S. circuit judge for the fourth circuit.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts, Mr. KENNEDY, or the designee of the minority leader is recognized to make a motion to recommit the nomination.

Mr. EVANS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that, notwithstanding the order previously entered, I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after conferring with the distinguished Senator from Massachusetts and the chairman of the Judiciary Committee, I now ask unanimous consent that the order previously entered may be amended—I have not talked to the minority leader about this, but I am sure he will find it satisfactory—that the order be amended so that the Senator from Massachusetts or the minority leader's designee will be recognized at 11:30 a.m., instead of 11 o'clock, for the purpose of making the motion to recommit and without changing the time for the vote.

I make that request, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. The nomination is pending. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Under the arrangement now, debate will be in order on the nomination. But at the hour of 11:30, the Senator from Massachusetts will be recognized to make a motion to recommit. Then there will be 30 minutes of time equally divided for the debate on the motion. Otherwise, the original motion will be in effect in all respects; that is, as to control of time, as to the disposition of the motion, or a motion to table the motion, as the case may be. None of that was affected by the requested alteration that was made.

Mr. SPECTER. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. SPECTER. Is debate in order at this time in abeyance of the 11:30 time, or on the issue of the motion to recommit?

Mr. BAKER. There is no restriction on what the debate can be about. But the debate on the motion to recommit will be limited now to not more than 30 minutes; the vote will occur at 12 noon. The time between now and 11:30 will be available for general debate either on the motion or on the nomination.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I take the floor at this moment to speak in support of the motion which will be made to recommit the nomination of Professor Wilkinson for further consideration by the Judiciary Committee. I do so at this time because I have other obligations. The city of Philadelphia is making a presentation to the National Football League at 11:45 this morning, and I have a commitment to be there. So I will speak briefly on this issue at this time.

I spoke at some length yesterday on my views on why the Senate should not vote on the nomination of Professor Wilkinson before there was a hearing on the role of the ABA in approving Professor Wilkinson, and on the issue of Professor Wilkinson's qualifications as they related to the possibility of undue pressure on the American Bar Association committee. It had been my hope that it would not be necessary to file a motion to recommit to the Judiciary Committee, and that there would be sufficient interest shown by the Senate on the floor that the distinguished chairman of the Judiciary Committee would have reconsidered his judgment not to have further hearings on the ABA role.

It became apparent yesterday afternoon that the issue has not engendered the kind of concern which I hoped for, and then in due course it was decided that the motion to recommit would be filed. Given the very complex matters which are pending before this body and the very busy schedules of all of the Senators, it is

not surprising that there has not been a sharp focus of attention on the issues underlying the nomination of Professor Wilkinson. It is my hope in the 45 minutes between now and the time for a vote that the Senators will have an opportunity to focus on this matter, because in my judgment it is an issue of great importance.

For reasons set forth at some length yesterday in my statement on the floor, I believe the caliber and quality of the Federal judiciary to be a matter of enormous importance for the welfare of this country, and for the future of the administration of justice in the United States of America.

As I said at some length, the ABA has a very critical role in the evaluation of judges by the Judiciary Committee from what I have seen, because it is simply not possible for the committee to give the kind of analysis and thought to each of the judges whose nominations come before it.

I had been prepared to vote on the nomination of Professor Wilkinson at any time prior to the disclosure in the media about the contacts which had been made by Supreme Court Justice Powell, and by certain officials of the Department of Justice—to wit: Deputy Attorney General Schmults and Assistant Attorney General Jonathan Rose. Those contracts—against a background of the first evaluator of the ABA committee from Virginia having found Professor Wilkinson unqualified, a second evaluation from the District of Columbia then having found Professor Wilkinson qualified, then the disclosure by the chairman of the ABA committee that there was disagreement within the committee, and a suggestion of a change of position by the committee although that has not been established with competent evidence—all of those factors lead this Senator to conclude that the vastly preferable process was to have a hearing on precisely what happened in the American Bar Association committee which led to their ultimate recommendation of Professor Wilkinson.

I pressed to have that hearing on May 17, and although a preliminary date was set, it was evident that this Senator intended to pursue inquiry regarding contacts by Justice Powell, by Deputy Attorney General Schmults, and by Assistant Attorney General Jonathan Rose. The judgment was then made by the distinguished chairman of the Judiciary Committee not to have the hearings in advance of floor consideration on the Wilkinson nomination.

It continues to be my view that such a hearing ought to be held before we pass on Professor Wilkinson's qualifications. It may be that none of those contacts constituted undue influence on the ABA committee. It may be that the ABA committee judgment finding Professor Wilkinson qualified was an objective determination. But those are major questions which overlie this issue, and which I think ought to be resolved.

For these reasons, I intend to support the motion to recommit this nomination to the Committee on the Judiciary.

(Later the following occurred:)

Mr. SPECTER. Will the Senator from Ohio yield for one additional comment?

Mr. METZENBAUM. I certainly do.

Mr. SPECTER. I point out, Mr. President, in a supplement to my comments, that the debate on the floor yesterday, and the inclusion of statements, showed very significant support from this side of the aisle. There was a floor statement by Senator MATHIAS, and a floor statement by Senator RUDMAN. Senator STEVENS appeared briefly on the floor, but since he was engaged in a conference committee action, he submitted a statement which appears in today's RECORD showing his opposition to the nomination as well. So I think it is important to focus on the bipartisan concern about the nomination, as established in the RECORD. I thank the distinguished Senator from Ohio.

(Conclusion of later remarks.)

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I urge my colleagues to join some of us today in supporting the motion to recommit Harvie Wilkinson's nomination to the U.S. Court of Appeals for the Fourth Circuit.

Disturbing matters, issues, and comments have been made publicly by Mr. Wilkinson that must, and should, be investigated before we can consent, or should consent, to his nomination.

First, we need to get to the bottom of why and how lobbying efforts initiated by Mr. Wilkinson changed his initial ABA rating of unqualified to a qualified rating. After our hearings on Mr. Wilkinson, we learned that the Justice Department had obtained, and leaked to Mr. Wilkinson, information about the ABA's investigation and concerns about this qualifications.

Mr. Wilkinson then used this information to launch an intensive lobbying campaign that even involved a Supreme Court Justice. That effort was made to pressure the ABA review committee to approve his nomination.

As a matter of fact, allegations have been made that ABA committee members intentions as to how they would cast their votes were changed as a result of this campaign, and even then the ABA gave him the lowest possible approval rating. The impropriety of this lobbying effort was later acknowledged by the ABA committee when it reprimanded Justice Department officials for their conduct. But the approval rating was not reexamined. Frankly, several of us on the Judiciary Committee were extremely troubled by Mr. Wilkinson's backdoor lobbying effort. We asked for hearings. They were not held.

There are very serious and troubling questions that have been raised about the nominee to one of the highest courts in our Nation, and this body owes it to itself and owes it to the country to see that all the issues are fully explored.

We have a constitutional responsibility to examine those allegations before consenting to this nomination. One day of hearings is all that we have asked for, one day to find out whether any improprieties have been committed that should disqualify the nominee from holding one of the highest offices in our judicial system.

Let us not close our eyes and cover our ears so that we may see no wrong and hear no evil. This nomination is too important to look the other way.

Even apart from these irregularities, I have serious doubts about Mr. Wilkinson's qualifications for this position. I do not doubt that Mr. Wilkinson is a bright and talented person. But, he does not have enough experience to sit on the court of appeals. The ABA guidelines on judicial appointments say that "Substantial trial experience, as a lawyer or trial judge, is important for prospective nominees to both the appellate courts and the trial courts." They do add the caveat that in "exceptional cases * * * an individual with limited trial experience may be found qualified."

Mr. Wilkinson does not have "substantial trial experience." He does not even have "limited trial experience." No—he has absolutely zero trial experience. If confirmed, he would be the first judge on the court of appeals with no trial experience in our Nation's entire history.

The ABA guidelines also call for "at least" 12 years of membership in the bar. Mr. Wilkinson has been a member of the bar barely 12 years, and he spent 3 of those writing editorials for a newspaper. That newspaper, by the way, has urged us not to approve his nomination because "on experience, * * * Mr. Wilkinson, comes up short."

I must admit my surprise to learn that this administration believes in affirmative action—although, to my chagrin, only for well-connected, white males from wealthy families with sterling conservative credentials. But this program, unlike other affirmative action programs, promotes the "truly unqualified." Women and minorities with more trial experience than Mr. Wilkinson were disqualified, during the Carter years, from judicial appointments because of their lack of trial experience.

Today, we have plenty of talented women and minorities with more experience than Mr. Wilkinson who should

be appointed in his stead. Yet, this administration refuses to give those talented individuals a chance. Its record on appointing women and minorities to judicial positions is abysmal. Congressional Quarterly, in December of 1983, provided a telling comparison of the Reagan and Carter record. Of the Carter appointees to the U.S. court of appeals, 19.6 percent were women and 16.1 percent were black. In sharp contrast, President Reagan had appointed no women to this court and only 4.3 percent of his appointees were black.

Our President fared no better on U.S. district court appointees. Mr. Reagan has appointed no blacks to this court. In contrast, 14.1 percent of President Carter's appointees were black. Only 11.3 percent of President Reagan's appointees were women, whereas 14.1 percent of President Carter's appointees were women.

Are we to condone this practice of excluding women and minorities from these positions, while opening the doors to wealthy, well-connected, but unqualified white males? I say absolutely no. Let us save affirmative action for groups that traditionally have been the victims, not the beneficiaries, of discrimination.

Finally, I am concerned about Mr. Wilkinson's commitment to upholding and enforcing our civil rights laws. A recent article—May 13, 1984—in the Washington Post raises serious questions about whether Mr. Wilkinson could be trusted to protect civil rights established by law. This article, entitled "The Civil Rights Division: Criticism From the Inside," was written by Timothy Cook, who worked with Mr. Wilkinson in the Justice Department.

Mr. Cook holds Mr. Wilkinson responsible for undermining a range of civil rights laws. To prove a violation of the Fair Housing Act, Mr. Wilkinson thought it was not enough to show that certain practices discriminated against minorities. He took the position that minorities also had to prove that the discrimination was intended, a difficult if not impossible burden of proof. Mr. Wilkinson also argued to the Supreme Court that schools which discriminated on the basis of race should be allowed to retain their tax exempt status. Fortunately, the Supreme Court in a 9 to 0 decision rejected that argument. According to Mr. Cook, Mr. Wilkinson "rejected going to court to eliminate the results of past discrimination against women." Adding insult to injury, he also rejected proposals for legislative reform, recommended by the Task Force on Sex Discriminatin, to do away with inequities in such areas as pension systems, public benefits, pay, military service, social security, and working conditions. I would like to submit Mr. Cook's article for the RECORD.

I have made it clear in the past that I would not oppose an appointee only because of his or her political beliefs. But, in the case of Mr. Wilkinson, our differences are more than just a matter of political beliefs. I am concerned that he would not uphold the civil rights laws.

I urge my colleagues to resubmit this to the committee. Too many questions have been raised about Mr. Wilkinson's approval by the ABA, about his qualifications and about his interest in enforcing important civil rights laws. We should vote against this nomination until we learn the truth by holding hearings on these concerns.

Mr. TRIBLE. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. TRIBLE. I want to engage in a brief colloquy about two points he raised in his statement.

First of all, the Senator has suggested that votes were changed. I would like to know what is the factual evidence for that assertion. There is nothing in the record whatsoever that supports that contention.

Mr. METZENBAUM. These are allegations that have been made and made publicly. That is specifically the reason that I appreciate the Senator raising the question, the specific reason why the hearing should be held, to find out whether or not they are indeed factual.

Mr. TRIBLE. Will the Senator yield further?

Mr. METZENBAUM. Certainly.

Mr. TRIBLE. I would like the Senator to tell us for the record the source of that allegation because I do not know that source. The only statement about that which appears in the RECORD is a statement of the chairman of the ABA committee which investigated this matter. His statements are very forthcoming and very direct. Let me quote them. He said in his letter to the chairman of the committee on behalf of the ABA:

You have also expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case there was only one vote taken.

He goes on and says further:

I'm convinced that such calls made on behalf of the candidate did not—

I repeat, "did not."

Influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply this to the investigating committee members. The members of the committee are experienced in the handling of this kind of information and indeed welcome it.

So the only evidence I would say to the Senator from Ohio is that there was no such influence. The one statement on the record from the chairman of the investigating committee is that these kinds of calls are welcomed, they are routinely done, that there was just one vote, and that no one was unduly influenced by the calls in support of Mr. Wilkinson.

Mr. METZENBAUM. I would like to respond further. I am now reading from the Washington Post of Thursday, March 15.

Mr. TRIBLE. Ah, the Washington Post. A definitive statement, I might add.

Mr. METZENBAUM. If the Senator from Virginia has a problem with the Washington Post, that is his problem. I am only addressing myself to the issue of the confirmation of Mr. Wilkinson.

Mr. TRIBLE. Please.

Mr. METZENBAUM. It reads:

ABA PANEL COMPLAINED JUSTICE AIDES LOBBIED FOR WILKINSON

An American Bar Association screening committee complained to the Justice Department last fall after two senior, Justice officials pressured committee members to a rate a former colleague "qualified" for a federal appeals court judgeship.

That was on March 15, 1984.

The ABA said this week the complaint came after the two officials—former deputy attorney general Edward C. Schmults and former assistant attorney general Jonathan C. Rose—divulged details of a confidential ABA investigation of J. Harvie Wilkinson III during their contacts with committee members.

Some committee members found the timing of the officials' lobbying—on the eve of balloting on Wilkinson—objectionable, the ABA said. The committee subsequently rated Wilkinson qualified.

Let me then go on to point out that again in the favorite newspaper of the Senator from Virginia, the Washington Post of March 13, with the headline across the top of the page, page 84, it reads:

POWELL SAYS HE LOBBIED MEMBER OF ABA PANEL FOR WILKINSON

Supreme Court Justice Lewis F. Powell Jr. acknowledged yesterday that he telephoned a member of an American Bar Association investigating committee last fall to voice support for the controversial nomination of his former law clerk, J. Harvie Wilkinson III, to a federal appeals court judgeship.

The action is considered unusual for a sitting judge and is likely to become an issue Thursday when the Senate Judiciary Committee is scheduled to vote on the nomination of Wilkinson, a University of Virginia law professor, to the 4th Circuit Court of Appeals.

Separately, a Capitol Hill source said yesterday that Reagan administration lobbying on Wilkinson was so intense that it angered some members of the ABA committee and later drew an apology from a former senior Justice Department official.

And the letter of March 12, 1984, from the ABA to Senator THURMOND in part reads as follows:

The committee does not reveal how its members voted but the term "substantial majority" has been adopted to indicate that the candidate has strong, but not unanimous, endorsement.

Decisions are a matter of individual judgment and it is impossible to know the precise rationale which prompted each one.

I think that the Senator from Virginia is making the very case that

those of us who are urging that the matter be sent back to the committee for further consideration claim. We believe that there are facts that are unknown; that there have been enough issues raised, that it warrants the further investigation.

If Mr. Wilkinson has the qualifications which the Senator from Virginia would argue for and if there are no problems in connection with the conduct of the ABA committee and other issues which should be reopened and looked at, then I am certain that the committee will send the nomination of Mr. Wilkinson back to the floor of the U.S. Senate.

Mr. TRIBLE. Will the Senator yield?

Mr. METZENBAUM. On whose time, Mr. President?

The PRESIDING OFFICER. The time is not yet under control.

Mr. TRIBLE. Time is not under control until 11:30.

If the Senator will yield for just a moment, I shall simply respond by saying to the Senator that the recitation from the Washington Post makes my point. The Senator has asserted on the floor of the Senate that votes will change and he has said nothing that will support that proposition. There is nothing in any of those articles that he cited that supports that proposition.

Those articles simply say, I say to my friend from Ohio, that phone calls were made on behalf of Mr. Wilkinson. Indeed, they were. That is routinely done. People that have employed a person being considered for the bench routinely share their thoughts about those individuals at the ABA.

The only expression on the issue the Senator raised is the unchallenged statement of the chairman of the ABA committee saying, yes, phone calls were received, they were a matter of record to all the members of the committee; they are routinely done.

They did not persuade anyone to vote contrary.

Mr. METZENBAUM. Mr. President, let me just respond.

The PRESIDING OFFICER. If the Senator will withhold, under the previous order, I must make the following announcement: the Senator from Massachusetts (Mr. KENNEDY) as previously ordered, at this time of 11:30 a.m., is now recognized to make a motion to recommit the nomination.

Mr. KENNEDY. Mr. President, on behalf of Senator SPECTER, Senator MATHIAS, Senator RUDMAN, Senator BIDEN, Senator METZENBAUM, and myself, I move to recommit the pending nomination to the Committee on the Judiciary for the purpose of an additional day of hearings.

I understand, Mr. President, that under the consent agreement, that is to occur now and now the time until the vote, which can occur any time up to 12 o'clock, will be equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I should be glad to yield any further time to my colleague from Ohio (Mr. METZENBAUM) that he wishes.

I want to point out that the statement that the Senator from Ohio and I have made about the various reports on Mr. Wilkinson are accurate and nothing that the junior Senator from the State of Virginia has said contradicts that. I refer specifically to the letter from Justice Powell, which has been made a part of the record. In one paragraph he said:

> Mr. Lane, the committee member for D.C., called me later (in November, I believe). As I recall, he stated he was calling me as a Virginian, and because of the negative report from Mr. Howard.

Negative report from Mr. Howard, the fourth circuit member from Virginia. That is referred to in the ABA letter.

What is the basis for the negative report, Mr. President? We, as members of the Committee on the Judiciary, as members of the U.S. Senate who have a responsibility to advise and consent, would like to hear what the basis for that negative report is.

I do not intend in the final few minutes to review all of the other allegations and all the other charges but, quite clearly, because of the likelihood that the negative report by the ABA committee member from Virginia, was going to result in a rating of "unqualified" by the ABA committee, a whole series of questionable events unfolded. First, the Justice Department leaked that information to Mr. Wilkinson contrary to their responsibility. An extensive lobbying campaign went into effect, and, after the lobbying, the ABA committee found Mr. Wilkinson "qualified."

Mr. President, we had believed that when we sought the advice of the ABA, the ABA was going to report to the Judiciary Committee on the issue of the merits of the various candidates. We, at this particular time, do not have to debate whether those particular processes or procedures that are established by the ABA are necessarily going to reveal the most meritorious candidate. But the fact of the matter is that basic to that function is that the ABA is going to make its report to the Judiciary Committee on the basis of merit. The information on lobbying of the ABA committee was not available, I remind the junior Senator from Virginia, at the time when we concluded the second hearing. That is why we want to have an additional day of hearings.

The Senate is entitled to know whether we are getting a recommendation by the ABA that reflects the true merits of the nominee or whether we are getting a recommendation that is the result of extensive lobbying by a Supreme Court Justice, by the nominee himself, and by a range of Justice Department officials. That is a reasonable question and reaches the very integrity of the judicial nominating process and procedures. That is what we are basically voting on today. That is the issue and why we believe that we, as members of the Committee on the Judiciary, should be entitled to have the opportunity to review this nomination on the full record.

This is the first nominee in the history of the Federal judiciary to go on the circuit court that has never had a client and, outside of a 2-minute appearance in court, has never appeared in court—never had a client, never had trial experience, and never appeared in the courts of this country, with the exception of a 2-minute motion. Never in the judicial history of this country has the Senate of the United States voted to approve such a nominee—never in its history. Never in history have we ever approved a judicial nominee who has had no trial experience—no trial experience. So we believe that, under those extraordinary circumstances, with the new revelations that have come to light, we ought to be entitled to query the investigator of the ABA about why he believes the nominee to be unqualified.

Is that so radical? Is that so revolutionary? We have been denied that. That is why we are here in the Senate Chamber on this day, to indicate that we believe that to do justice to this body, to do justice to this process, to do justice to this individual—whom many of us might even support if these questions were resolved satisfactorily—we are put in a place and a position where we have to offer this particular motion.

I, quite frankly, believe that those who would deny us one day of hearings do an injustice to this nominee, a disservice to this nominee in requiring Members to vote up or down on the particular nomination without having these issues and questions resolved.

So, Mr. President, I reserve the remainder of my time at this point.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains for the proponents of the motion?

The PRESIDING OFFICER. Seven and one-half minutes remain.

Mr. KENNEDY. There are additional Senators who would like to speak on the motion. That is why I reserved the time. I have made the case but I hope that those who are the proponents of this nominee would be prepared, the junior Senator from Virginia, for example, to speak and respond to some of those questions about the Justice Department. I yield myself such time as I may use.

Did the Justice Department officials violate their trust of their special position as liaison between the judiciary and the ABA? What calls were made? I have not heard the answers to those questions which have been raised here during the discussion and debate. Why did Mr. Wilkinson do what he did? Whom did he contact? Why are we not entitled to know the extent of the lobbying?

Why is not the Senate of the United States permitted to know whether this nominee was found "qualified" on the basis of a lobbying effort or found "qualified" on the basis of his own merits?

Mr. President, I hope that we will have the responses on these issues and questions by those who support the nominee.

I will reserve the remainder of my time.

Mr. THURMOND. Mr. President, how much time has each side?

The PRESIDING OFFICER. The Senator's side has used no time since the 11:30 announcement, and the other side has 5 minutes and 33 seconds remaining.

Mr. THURMOND. The other side has 5 minutes and 33 seconds; we have 15 minutes?

The PRESIDING OFFICER. That is correct.

If neither side yields time, time will be counted equally against both sides.

Mr. HATCH. Mr. President, as I rise to support the nomination of Mr. J. Harvie Wilkinson III to be a U.S. circuit court judge for the Fourth Circuit Court of Appeals, I would like to remind my colleagues that this nomination has previously been supported by the full Judiciary Committee and that passage of a motion to recommit can serve no useful purpose.

The Judiciary Committee has devoted a great deal of time to study the qualifications of Mr. Wilkinson for this important position: We have heard from the bar, from civil rights organizations, and from the nominee.

When voting on this nominee, we must separate our concerns over the American Bar Association evaluation and recommendation process, and this nominee's qualifications for service on the Federal bench. The process is under review of the committee, and hearings should shortly be held. The nominee has been reviewed by the committee, hearings have been held and the nominee has been approved.

In my view, the nominee is eminently qualified for the position to which he has been nominated. Mr. Wilkinson's academic qualifications are exceptional; his career, while relatively short, is distinguished in its record; and his exposure to the bench, certainly as a clerk to this Nation's Highest Court, has impressed him with the gravity of this nomination and with the experience to serve admirably.

Mr. President, I urge my colleagues to reject this effort to recommit, and to support this fine nominee.

Mr. BIDEN. Mr. President, I have always believed that the constitutional responsibility of the Senate to give its advice and consent on Presidential nominations is one of our most solemn responsibilities. It is especially important in the case of nominations to the Federal judiciary, where the President's nominees, if confirmed by the Senate, are granted life tenure by the Constitution.

I believe that every Member of this body agrees that our duty is to render our advice and consent only after we have made a complete record of a nominee's qualifications and of any matters that might suggest that he or she is not qualified.

Mr. President, I cannot say with certainty at this time whether I believe Mr. J. Harvie Wilkinson III is qualified or unqualified to serve on the U.S. Court of Appeals for the Fourth Circuit. The reason I cannot make that judgment at this time is that the record on Mr. Wilkinson is incomplete. Therefore, I support the motion to recommit the nomination to the Committee on the Judiciary for the purpose of holding another hearing.

After the Judiciary Committee's hearings on Mr. Wilkinson, allegations were received by the committee regarding the process surrounding his nomination which, if established as true, would put into question the American Bar Association's "qualified" rating of Mr. Wilkinson, and could reflect poorly on Mr. Wilkinson's temperament to be a Federal judge.

First, a Washington Post article of March 15, 1984, 3 weeks after the hearings on Mr. Wilkinson were completed, quoted the chairman of the ABA screening committee on the Federal judiciary as complaining to the Department of Justice that several members of the ABA committee had received telephone calls, timed to coincide with that committee's secret ballot on Wilkinson's qualifications, from Justice Department officials urging approval of Wilkinson.

Second, we have received information regarding the Justice Department's alleged divulgence to Mr. Wilkinson of the details of the ABA committee's confidential investigation. The rating of Mr. Wilkinson by the ABA was apparently in some doubt at that time, and Mr. Wilkinson is alleged to have organized a lobbying campaign to pursuade the ABA committee to rate him "qualified."

I believe the Judiciary Committee has not fulfilled its responsibility to inform the Senate regarding this nominee's qualifications until there is a hearing to look into these matters.

Mr. President, there are good arguments to be made that Mr. Wilkinson is qualified—for example—that he is a very competent legal scholar; that he has taught for 8 years at one of the most prestigious law schools in the Nation—the University of Virginia—where he has a distinguished record; that he clerked for the U.S. Supreme Court for 1½ years; and that he spent 1 year as Deputy Assistant Attorney General for Civil Rights with the Department of Justice.

A number of arguments have also been made to the effect that Mr. Wilkinson is not qualified—for example, that he has no experience as a practicing lawyer, and that he has fewer years as a member of the bar than any other judge on the Federal courts of appeals. Some have also argued that his conservative ideology, especially regarding civil rights, disqualifies him for the bench.

Mr. President, I do not believe that it is my duty as a Senator to base my decision regarding the confirmation of a Federal judicial nominee on whether that nominee's ideology is consistent or inconsistent with mine, at least where the nominee's ideology is within the realm of the reasonable. If all Senators voted on the basis of ideology we would confirm very few judicial nominees.

Nor do I believe that lack of experience necessarily disqualifies a judicial nominee, especially where the nominee has demonstrated an unusual proficiency in the law. As a Senator who was first elected to this body at age 29, I am a great believer in the ability of individuals in positions of importance to overcome their lack of experience.

But whatever each of my colleagues feels about the importance of ideology and experience in the judicial confirmation process, I believe they would agree that we fail in our duty to give advice and consent on Presidential nominations when we proceed with a nomination on an incomplete record.

Mr. THURMOND. Mr. President, I yield now to the distinguished junior Senator from Virginia.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. TRIBLE. I thank the Chair.

Mr. President, I gladly rise in support of this nomination and in opposition to the motion to recommit.

I am pleased to have the opportunity, after much silence and delay on the part of the opponents of this nomination yesterday, to speak to the merits of this matter today.

First, two hearings have been held on the qualifications of this individual. I think it is somewhat instructive to note that the opponents of this nomination did not attend those hearings but now come before us and say we should have yet a third hearing. In truth and in fact, the strengths and weaknesses of this individual were

fully aired, and it is time to vote on the merits without further delay and without further righteous indignation.

Now, there are two primary objections raised to this Virginian who will serve with great distinction on the Fourth Circuit Court of Appeals. The first is that in some way the procedures of the ABA have been inappropriate. There has been much talk of the fact that telephone calls were made on behalf of Mr. Wilkinson. So what? telephone calls are made on behalf of every applicant for every job, and it is routinely done in judicial appointments. The fact remains that in spite of all we have heard on the floor of this Chamber, there are no facts whatsoever to support the proposition that votes were changed; that members of the ABA committee were unduly influenced in any way. Indeed, the only fact we have before us is the clear and strong statement of the chairman of the Standing Committee on the Federal Judiciary of the ABA, who says:

> You have expressed concern about reports of lobbying activities on behalf of Mr. Wilkinson. It is important to know that in this case, there was only one vote taken.

He goes on to say that the fact that phone calls were made was fully discussed by the members. And he says:

> I'm convinced that such calls made on behalf of the candidate did not influence any vote in his favor. It is not unusual for individuals with special information about a candidate under investigation to voluntarily supply to the investigating committee members. Members of the committee are experienced in the handling of this kind of information and indeed welcome it.

So clearly the procedures here are not different than any other situation.

Now, beyond that we have the suggestion which goes to the merits of the matter; that because Mr. Wilkinson has not had trial experience he should not be considered for the Fourth Circuit Court of Appeals. The Senator from Massachusetts has made a great deal of this. His statement that this is the first man to be considered for the appellate courts who has not had trial experience is simply in error, in error, in error. Let us get the record straight. In the last 5 years alone a half dozen individuals lacking in trial experience have been appointed to courts of appeals. President Carter appointed Dorothy Nelson to the ninth circuit, Carolyn Randall to the fifth circuit, and Stephen Breyer to the first circuit, although none of them had conducted even one trial. Similarly, President Reagan has appointed three circuit judges completely lacking in trial experience: Ralph Winter of the second circuit, Richard Posner of the seventh circuit, and Pauline Newman of the Federal circuit.

The ABA, I would point out, acted consistently in the case of all six of those circuit judges and Mr. Wilkinson in rating them qualified because they had many other attributes that commended them for service on the courts of appeals.

I am especially intrigued by the example of Mr. Breyer. Breyer, of course, served as a special counsel to the Judiciary Committee. He was enthusiastically endorsed by the Senator from Massachusetts and yet he had no trial experience, no trial experience by his own words.

"Trial experience." He had argued one case before the court of appeals. Big deal. He had had no trial experience whatsoever. And yet in that case the Senator from Massachusetts said that Mr. Breyer was "highly qualified by his background and experience for the position." But because this Virginian perhaps has a different philosophy of Government, the fact that he has not had trial experience is viewed as an impediment, an obstacle to his nomination.

I suggest the facts are clearly before us, that we should resolve this matter one way or the other without further delay. Let us vote quickly on the motion to recommit. I suggest to my colleagues that we should support the committee and recognize that two hearings have been held, that all of the facts are before us, that the facts before us support this nomination, and that we then move very quickly to a resolution on the merits and let this body decide whether or not this man should serve on the fourth circuit.

I thank the distinguished Senator from South Carolina and yield to him.

Mr. THURMOND. Mr. President, how much time do we have left?

The PRESIDING OFFICER. Eight minutes and 11 seconds.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

I put in the RECORD yesterday the contrast between Breyer and Wilkinson. The fact is he did appear in the court, wrote the brief, argued the case, and was successful in the circuit court. He was head of the Appellate Division of the Justice Department. The fact is he was 16 years out of law school when appointed to the first circuit, Mr. Wilkinson 11 years; he represented a number of clients, Mr. Wilkinson zero. He appeared in the circuit court, Mr. Wilkinson virtually did not. The ABA talks about limited experience. It does not talk about zero experience. And finally, Mr. Wilkinson was an associate professor, Mr. Breyer a full professor.

Anyone who reads the facts can see the difference between the two, and it is dramatic.

Mr. President, I yield 3 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I support the motion to recommit.

The confirmation of Federal judges is one of our most important responsibilities. When we confirm an individual to the Federal bench for life, we must do more than merely ratify the selection made by an individual Senator or the President. For we also express a collective judgment about the integrity of our judicial system and the respect in which it should be held.

Our system of law and justice can only be as good as the individuals who carry it out in practice, from the policemen on the beat to the highest court in the land. If the qualifications of those people for their respective roles in our system are inadequate we will end up with an inadequate system of justice.

The nomination before us today deserves further examination in this respect.

Mr. Wilkinson had been admitted to the Virginia Bar for less than 12 years at the time of his appointment. Subsequently, he chose not to devote his career to the law full time.

Therefore, in a dozen years, he has accumulated 8 years of law-related experience, 6 as an associate professor of law, 1 in clerking for Justice Powell on the Supreme Court, and 1 in the Civil Rights Division of the Justice Department. He has never tried a case in court. He has never written a legal brief. He has just once filed a motion in court.

Mr. Wilkinson is not even eligible to practice before the court to which he has been nominated—the appeals court. He is likewise not eligible to practice before any of the district courts whose judgments the appeals court reviews.

As a result, his nomination has been openly opposed by the association of lawyers who practice before the appeals court, the Old Dominion Bar Association.

It is no easy matter for members of the legal profession to openly oppose the confirmation of a judge before whom they may appear.

The Old Dominion Bar Association fears that his total lack of practical experience in the practice of law, combined with the nature of appeals court proceedings, where oral argument is generally limited to 30 minutes, would leave him unable to understand the framework within which cases are developed and tried.

The reliance in appeals court work on written briefs does, as the ABA standards attest, reduce the need for extensive practical experience. But it does not eliminate it.

The opposite is, to some extent true. Appeals court judges, who neither see nor hear the witnesses or defendants firsthand, must rely on transcripts and written argument.

Such an atmosphere is conducive to the reasoned judgments we expect of our appeals courts. But it is also con-

ducive to overly abstract and rigid applications of law.

We have heard in the Senate in recent years a great deal of concern expressed about jurists whose overly nice interpretations of certain points of law have impeded the swift progress of justice.

As a former Federal judge with experience of the kind of court overload that certain decisions make inevitable—such as habeus petitions, for instance—I sympathize with that concern.

The fact is that an exclusively theoretical application of law, regardless of the point of view from which it stems, often has the potential to create impediments to the work of justice, court overload, and even outright injustice.

That is why the ABA standards for both appellate and district judges includes the requirement of at least some practical trial experience. It is one of the ways that we guard against a proliferation of empty abstractions in our system of law. The kind of minimal qualifications for appointees to district and appellate judgeships that are embodied in the ABA standards cannot be lightly disregarded.

Practical courtroom experience does not take the place of legal scholarship. But neither can legal scholarship substitute entirely for practical courtroom experience. In this case, however, we are being asked to conclude that the nominee's legal scholarship and temperament are a full substitute for the total lack of any practical legal experience.

A number of claims have been made that women or members of minority groups with similar shortcomings in experience would never have been nominated, or, alternatively, that other individuals with a lesser degree of courtroom experience have been appointed in the past.

But such comparisons are not the basis on which I believe we should make a judgment about this individual or, indeed, any individual.

For any given nomination that comes before the Senate, there are unquestionably alternative nominees who might have been as well prepared and qualified.

We do not judge nominees against alternative nominees who are not before us. Nor do we judge nominees against impossible ideals of perfection and reject those who fall short; because if we did, all would be rejected.

We must deal with the nominee before us, not any other, and we must deal with him on the basis of our knowledge of his fitness for the post.

In that regard, I believe a further hearing would help broaden our knowledge and clarify some of the outstanding questions that have come up since the last hearings ended.

Mr. Wilkinson's efforts to engage others and to engage himself in active lobbying to assure a favorable recommendation from the American Bar Association have been described as blatant. The report that details of the confidential investigation of his qualifications were divulged to him, and that he took that information as a reason to garner support for himself is extremely troubling.

A prospective judge should know that divulging confidential information is unethical, even where it may not be strictly illegal. This charge raises serious questions which the nominee should be given an opportunity to answer.

Mr. Wilkinson's views, as expressed in his editorial writing career, have been presented as being somewhat intemperate. I am troubled by this, because a habitual exaggeration of language may indicate a turn of mind that deals in extremes, rather than the kind of judicial temperament we expect in our appellate judges.

A judge does not have the luxury of preferring extremes. A judge is constrained by the law and by the facts of the case.

In all too many cases in the real world, extremes of good and evil or right and wrong are not at stake. Indeed, if there is one thing more clear than any other, it is that serious disputes rarely involve but one principle. Justice Frankfurter expressed that fact succinctly after 15 years on the Supreme Court, when he said:

> The core of the difficulty is that there is hardly a question of any real difficulty before the Court that does not entail more than one so-called principle. Anybody can decide a question if only a single principle is in controversy.

The nominee's reported actions in his anxiety to assure a favorable report on his qualifications—if accurate—would tend to substantiate the impression that his judgment may be in danger of being overcome by his desire to achieve his goals. If that is true—and a further hearing could help resolve that question—I would be forced to question the suitability of his temperament to this post.

In addition, I am concerned by the record of Mr. Wilkinson's year of service at the Justice Department. As the deputy to the head of the Civil Rights Division, Mr. Wilkinson very correctly sought to emphasize the administration's preferred antidiscrimination methods.

In remedying job discrimination, this administration eschews suits and emphasizes recruitment. But recruitment efforts cannot be judged without at least some means of measuring them. Mr. Wilkinson, however, disapproved remedies that measure and thus judge recruitment efforts by any of the available methods.

This administration also opposes busing and seeks to limit the use of it rigidly. In a case Mr. Wilkinson supervised, he opposed the intervention in that case of black parents, on the grounds that the Justice Department would adequately represent their case.

Whether or not his reported statements about this case are accurate, the fact remains that it has been and was the intention of the Justice Department to limit the remedy in this, as in other cases, and for him to claim that such an intent represented the interests of the parents in the case appears to be misleading.

In that particular case, a fifth circuit rule limiting the number of lawsuits that may be filed to one, has prevented the parents from exercising their rights in a separate suit. So whether knowingly or not, his action effectively eliminated these people's access to the courts.

I believe that these issues, taken in conjunction with the questions that arose following the close of the hearing on this nominee, warrant a further day of hearings at which Mr. Wilkinson would have the opportunity to answer the allegations and allay the suspicions which have unfortunately arisen.

I will therefore vote to recommit. The duty of appointing lifetime judges, and the effects of those appointments on the life of our Nation's community, are too important to be lightly considered.

Mr. President, when we vote, we express a collective judgment about the integrity of our judicial system and the respect in which it is held. A system of law and justice can only be as good as the people who carry it out in practice, from the policeman on the beat to the highest court in the land. If the qualifications of those persons for their respective roles in our system are inadequate, we will then have an inadequate system of justice.

The nomination before us today deserves further examination in this respect. Mr. Wilkinson has been admitted to the Virginia Bar for less than 12 years. Subsequently, he chose not to devote his career to the law full time during that 12-year period. In a dozen years, he has accumulated 8 years of law-related experience—6 as an associate professor of law, 1 as a clerk to Justice Powell on the Supreme Court, and 1 in the civil rights division of the Justice Department.

He has never tried a case in court. He has never written a legal brief, and he has just once filed a motion in court. He is not even eligible to practice before the court to which he has been nominated, the appeals court. He is not even eligible to practice before any of the district courts whose judgment the appeals court will review. As a result, his nomination has been openly opposed by the association of lawyers who specialize in practice

before the appeals court, the Old Dominion Bar Association.

Mr. President, as someone who has spent most of my adult life as a trial lawyer and part of it as a judge, I say that is not an easy matter for members of the legal profession to openly oppose the nomination of a judge before whom they may be forced to appear.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute and twenty seconds.

Mr. KENNEDY. I yield that time to the Senator from Maine.

Mr. MITCHELL. Mr. President, the Old Dominion Bar Association fears that the nominee's total lack of practical experience in the practice of law, combined with the nature of appeals court proceedings, where argument is limited to 30 minutes or less, will leave him unable to understand the framework within which cases are developed and tried. That should be a matter of serious concern to everyone here.

An appellate court decides on the basis of a cold, written transcript and oral argument. If someone has never been inside a courtroom during a case, he will find it very, very difficult to comprehend what that transcript means and how it affects the rights and the property and the interests of persons who are represented there.

Mr. President, by any standard, this nomination should go back to the committee for a more thorough examination of the questions that have been raised.

This is not a decision to approve or disapprove the nominee. This is a decision as to whether it will be submitted to the careful scrutiny that is required under the circumstances that exist here, and I urge the Members of the Senate to vote for the motion to recommit, to submit that careful scrutiny to occur. This is an important matter. This person would serve for life, as do the other judges.

The PRESIDING OFFICER. All time of the Senator from Massachusetts has expired.

Mr. THURMOND. Mr. President, this nomination deserves to be confirmed.

The point has been raised about trial experience. In the last 5 years, according to the Justice Department, a half dozen individuals lacking experience have been appointed to courts of appeal. The Department says that President Carter appointed Dorothy Nelson to the ninth circuit, Carolyn Randall to the fifth circuit, and Stephen Breyer to the first circuit, although none of them, according to their personal data questionnaire filed with the Department of Justice, had conducted even one trial. Similarly, President Reagan has appointed three circuit court judges completely lacking in trial experience: Ralph Winter of the second circuit, Richard Posner of the seventh circuit, and Pauline Newman of the Federal circuit.

The ABA has acted consistently in the case of all six circuit judges and Mr. Wilkinson, rating each of them qualified. It has been the ABA's position that while trial experience is essential in a candidate for the district court, it is not required for an appellate court. However, without substantial trial experience, a candidate for an appellate court can be rated no higher that qualified. Thus, this rating has been given not only to Mr. Wilkinson, but to all six of the other recent circuit court nominees who had not conducted a trial.

Mr. President, another point has been raised about the lobbying campaign. I know of no one this nominee has lobbied. He has not talked to me a single minute. I do not know of any member of the Judiciary Committee he has lobbied.

I believe that the distinguished Senator from Massachusetts, the distinguished Senator from Delaware, and the distinguished Senator from Ohio wrote Justice Powell a letter about this question, and I want to read Justice Powell's response. He said:

GENTLEMEN: This is in response to your letter of March 9, received by me at about 4:30 p.m.

The press reports I have seen are substantially accurate as to my conversations with three members of the ABA Judiciary Committee. It also is true that Mrs. Powell and I have known the Wilkinson family well for many years.

Mr. James Howard, a Committee member from my state of Virginia, called me last summer and asked my opinion as to the qualifications of J. Harvie Wilkinson, III, who clerked for me here. I responded favorably, noting the difference in the qualifications appropriate for a District Court judge and those for a Circuit Court Judge.

Mr. Lane, the Committee member for D.C., called me later (in November, I believe). As I recall, he stated he was calling me as a Virginian, and because of the negative report from Mr. Howard. I repeated the substance of what I had said to Mr. Howard. Also, responding to Mr. Lane's inquiry, I agreed that my name could be used. I wrote Mr. Howard informing him of Mr. Lane's call.

I was concerned by what Mr. Lane had said about the report from my state. This prompted me to call Gene W. Lafitte, of New Orleans, on my own initiative. Mr. Lafitte is a Committee member and friend with whom I have been associated in the American College of Trial Lawyers. In a brief conversation with him, I told him of Mr. Lane's call, and repeated my view as to the qualifications of Mr. Wilkinson. I did not inquire where he stood; nor do I know how he voted.

I have had no other occasion to speak to members of the Committee. It is, of course, not unusual for federal judges to be asked their opinion as to the qualifications of persons under consideration for appointment to the federal bench.

In view of your inquiry and your proper interest in Mr. Wilkinson's qualifications, I can say with confidence that of the some 45 fine clerks I have had in my 12 years on the Court, J. Harvie Wilkinson, III, ranks among the best. He is an exceptionally gifted legal scholar, and a compassionate and thoughtful human being. In my opinion, he is fully qualified to serve on a Court of Appeals.

Mr. President, some question has been raised about the Justice Department. I called the Attorney General a few minutes ago and asked him if he had contacted members of the ABA committee. He said he had not. He said he had not talked to even one of them. He said that the Deputy Attorney General, a Mr. Rhodes, had responded to some questions from the ABA members and furnished such information as they required.

Mr. President, with respect to meeting the standards, I want to say this:

By any standard, Mr. Wilkinson's credential are impressive. Mr. Wilkinson's books and law review articles have been well-reviewed in many popular and legal periodicals. They have been used as textbooks in universities across this country and have been relied upon by the courts. As the ABA committee indicated:

Mr. Wilkinson's extensive writings were furnished to the Committee and show him to be an unusually able writer and legal scholar with the apparent capacity to become an outstanding appellate judge. A number of law professors were among those whose views were solicited with respect to this nomination, and they were uniformly of the view that his legal scholarship was of a very high order."

Mr. Wilkinson is an outstanding teacher at a prominent, nationally recognized law school. Each of the courses he teaches—Federal Courts, Constitutional Law, and Criminal Procedure—is directly relevant to the questions he will face on the bench. The dean of the Virginia Law School has acknowledged that "students berate us when we move him into a smaller classroom," showing how popular he is with the students. "His leaving would be a major loss for us." In recognition of his teaching abilities, Mr. Wilkinson in 1975 was presented the first Outstanding Young Teacher Award for the entire university, the entire University of Virginia, of all the teachers there.

Justice Powell has called him among the very finest of his 45 clerks. The ABA committee noted that other members of the Supreme Court were "uniformly enthusiastic" about Mr. Wilkinson's abilities.

Even before that, Mr. Wilkinson acquired a breath of experience unusual in a young lawyer. He was the first student ever to serve on the governing board of the University of Virginia. Also, he ran for Congress in 1970 in the Third District of Virginia. Mr. Wilkinson's academic record is impecca-

ble. He graduated Phi Beta Kappa, magna cum laude, and Scholar of the House with Exceptional Distinction from Yale in 1967. At Virginia Law School he was notes editor of the Law Review and graduated Order of the Coif.

Mr. Wilkinson served as Deputy Assistant Attorney General in the Civil Rights Division of the Department of Justice (1982-83). His responsibilities were the general litigation and special litigation sections where he supervised 50 litigating attorneys, directed settlement efforts and reviewed motions, pleadings, briefs, and correspondence on a daily basis.

It appears that, by any standard, Mr. Wilkinson is qualified to sit on the fourth circuit.

The PRESIDING OFFICER (Mr. EVANS). The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Are we under a consent agreement? What is the order?

Mr. THURMOND. Mr. President, if I could make an inquiry here, are we ready to vote on the motion of the distinguished Senator from Massachusetts to recommit the nomination?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. THURMOND. The yeas and nays have been ordered?

The PRESIDING OFFICER. Yes.

Mr. THURMOND. We are ready to vote.

The PRESIDING OFFICER. They have been ordered.

The question is on agreeing to the motion of the Senator from Massachusetts to recommit.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (after having voted in the negative). Mr. President, on this voted, I voted "no." if the distinguished Senator from New York (Mr. MOYNIHAN) were present, he would vote "yea." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Colorado (Mr. HART), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 54, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—36

Bentsen	Heinz	Mitchell
Biden	Hollings	Pell
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Pryor
Byrd	Kennedy	Randolph
Chiles	Lautenberg	Riegle
Cranston	Leahy	Rudman
Dodd	Levin	Sarbanes
Eagleton	Long	Sasser
Ford	Mathias	Specter
Glenn	Melcher	Stennis
Hatfield	Metzenbaum	Tsongas

NAYS—54

Abdnor	Evans	Murkowski
Andrews	Exon	Nickles
Armstrong	Garn	Nunn
Baker	Gorton	Percy
Baucus	Grassley	Pressler
Boren	Hatch	Quayle
Boschwitz	Hecht	Roth
Chafee	Heflin	Simpson
Cochran	Helms	Stafford
Cohen	Humphrey	Stevens
D'Amato	Jepsen	Symms
Danforth	Johnston	Thurmond
Denton	Kassebaum	Tower
Dixon	Kasten	Trible
Dole	Laxalt	Warner
Domenici	Lugar	Weicker
Durenberger	Mattingly	Wilson
East	McClure	Zorinsky

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

DeConcini, against.

NOT VOTING—9

Bingaman	Hart	Moynihan
Bradley	Hawkins	Packwood
Goldwater	Matsunaga	Wallop

So the motion to recommit was rejected.

The PRESIDING OFFICER. The Senate will receive a message from the House of Respresentatives.

MESSAGE FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5287) to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue award under certain multiyear grants.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 518. An Act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

The message further announced that pursuant to the provisions of House Concurrent Resolution 296, 98th Congress, the Speaker appoints the following additional Members to represent the House of Representatives during the period May 25 through May 28, 1984, when the remains of the unknown American soldier who lost his life during the Vietman conflict will lie in state in the rotunda of the Capitol: Mr. BONIOR of Michigan, Mr. GRAY, Mr. STUMP, and Mr. MARTIN of New York.

The message also announced that the House has agreed to the amendments of the Senate to the text of the bill (H.R. 4170) to provide for tax reform, and for other purposes, with an amendment; it insists upon its amendment, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and has appointed the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, solely for consideration of titles I through VIII, section 1002, and title XI of the Senate amendments, and division A of the House amendment to the Senate amendments: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. CONABLE, Mr. DUNCAN, and Mr. ARCHER.

From the Committee on Ways and Means, solely for consideration of title IX—except for sections 921-926, 943, 944, 952, and 958—and section 1611 of the Senate amendments: and part A of title III and title VI of division B of the House amendment to the Senate amendments: Mr. ROSTENKOWSKI, Mr. JACOBS, Mr. RANGEL, Mr. RUSSO, Mr. FORD of Tennessee, Mr. STARK, Mr. PEASE, Mr. CONABLE, Mr. DUNCAN, Mr. MOORE, and Mr. CAMPBELL.

From the Committee on the Budget, solely for consideration of title IX, section 1001, and titles XII-XVI of the Senate amendments, and division B of the House amendment to the Senate amendments: Mr. JONES of Oklahoma, Mr. PANETTA, Mr. GEPHARDT, Mr. NELSON of Florida, Mr. DONNELLY, Mr. DERRICK, Mr. WILLIAMS of Montana, Mr. LATTA, Mr. SHUSTER, Mr. FRENZEL, and Mr. LOEFFLER.

From the Committee on Appropriations, solely for consideration of title XIV and section 1606 of the Senate amendments: Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. CONTE, and Mr. MCDADE.

From the Committee on Armed Services, solely for consideration of such portions of section 1201 of the Senate amendments, and such portions of section 201 of division B of the House amendment to the Senate amendments, as relate to cost-of-living adjustments for military retirees, and title XV of the Senate amendments: Mr. PRICE, Mr. NICHOLS, Mr. ASPIN, Mr. DICKINSON, and Mr. HILLIS.

From the Committee on Banking, Finance and Urban Affairs, solely for consideration of sections 1301-1314 of the Senate amendments: Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. HUBBARD, Mr. BARNARD, Ms. OAKAR, Mr. WYLIE, and Mr. MCKINNEY.

From the Committee on Energy and Commerce, solely for consideration of title IX—except for sections 905, 909, 917, 919, 951, 955-957, subsections (a), (b), and (c) of section 965, 966, 971-976, 981-985, and 992-997—and section 1611 of the Senate amendments, and title III—except for sections 308, 339, 340, and 342—and sections 650 and 661 of division B of the House amendment to the Senate amendments: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. WALGREN, Ms. MIKULSKI, Mr. BROYHILL, Mr. MADIGAN, and Mr. DANNEMEYER.

From the Committee on Government Operations, solely for consideration of title XV and sections 1603, 1605, 1609, and 1610(b) of the Senate amendments: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Mr. ENGLISH, Mr. LEVITAS, Mr. HORTON, Mr. ERLENBORN, and Mr. CLINGER.

From the Committee on the Judiciary, solely for consideration of section 1604 of the Senate amendments: Mr. RODINO, Mr. BROOKS, and Mr. FISH.

From the Committee on Post Office and Civil Service, solely for consideration of title XII and sections 1604 and 1607 of the Senate amendments, and title II of division B of the House amendment to the Senate amendments: Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Mr. GARCIA, Mr. LELAND, Mr. ALBOSTA, Ms. OAKAR, Mr. TAYLOR, Mr. GILMAN, Mr. CORCORAN, and Mr. COURTER.

From the Committee on Rules, solely for consideration of title XIV—except for subsection 1401(f)—of the Senate amendments: Mr. PEPPER, Mr. LONG of Louisiana, Mr. BEILENSON, Mr. FROST, Mr. QUILLEN, and Mr. LOTT.

From the Committee on Small Business, solely for consideration of title IV of division B of the House amendment to the Senate amendments: Mr. MITCHELL, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. MCDADE, and Mr. CONTE.

From the Committee on Veterans' Affairs, solely for consideration of title V of division B of the House amendment to the Senate amendments: Mr. MONTGOMERY, Mr. EDWARDS of California, Mr. EDGAR, Mr. APPLEGATE, Mr. LEATH of Texas, Mr. SHELBY, Mr. HAMMERSCHMIDT, Mr. WYLIE, and Mr. HILLIS; and that the House disagree to the amendment of the Senate to the title of the aforesaid bill, insist upon its disagreement, and commit said amendment to the conference.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5653. An act making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes; and

H.R. 5692. An act to provide for a temporary increase in the public debt limit, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran; and

H. Con. Res. 310. Concurrent resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 94. Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month";

H.J. Res. 451. Joint resolution designating the month of November 1984 as "National Alzheimer's Disease Month"; and

H.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, in a moment I am going to ask the Senate to return to legislative session. It is clear to me that we are not going to be able to finish the debate on the Wilkinson nomination this afternoon, and we have other matters that must be attended to.

I wish to say, however, that the leadership on this side does intend to ask the Senate to return to executive session when we return from the Memorial Day break on or shortly after June 4 because it is the intention of the leadership on this side to pursue the debate and consideration of this nomination to completion if possible, and I believe it is possible. We will make every effort to do that.

Senators should not misunderstand what is happening. The leadership on this side is by no means abandoning or diminishing its enthusiasm for the Wilkinson nomination. Indeed, I feel that the nominee will be confirmed. But in recognition of the limited amount of time we have left and the other matters we must deal with, I will ask that the Senate return to legislative session.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I now ask that the Senate return to legislative session.

Mr. BYRD. Mr. President, reserving the right to object, I have no objection.

Mr. BAKER. Mr. President, I renew the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY AMENDMENTS OF 1984

Mr. BAKER. Mr. President, will the Chair please state the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Thurmond Amendment No. 3083, in the nature of a substitute.

(2) Packwood Amendment No. 3112, relating to collective-bargaining agreements.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, let me outline the program as the leadership on this side sees it at this moment.

The things yet to be done before we adjourn for the Memorial Day period are the debt limit and bankruptcy bills, plus a variety of other items of perhaps lesser importance. Among them, of course, is a group of bills known collectively as the wilderness bills.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending business and turn to the consideration of Calendar Order 893, S. 416, which is the Oregon wilderness bill.

After the disposition of that measure, the Senate will return to the consideration of the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, Mr. President, and I do not have any intention to object, how much time does the distinguished majority leader feel will be required to dispose of the wilderness bills?

Mr. BAKER. Mr. President, I think it is virtually by unanimous consent.

I ask unanimous consent that the time for debate on this measure be limited to 2 minutes to be divided and controlled in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 416) to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owhyhee River in Oregon as components of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the committee on Energy and Natural Resources with amendments as follows:

On page 2, line 16, strike "1983" and insert "1984".

On page 2, strike lines 20 through 23 and insert " Owyhee, Oregon: The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled 'Owyhee, Oregon' dated April 1984; all three segments to be administered as a wild river by the Secretary of

On page 3, line 7, after "such" insert "appropriate".

On page 3, line 11, strike "1983" and insert "1984".

So as to make the bill read:

S. 416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Wild and Scenic Rivers Act (82 Stat. 906 as amended; 16 U.S.C. 1271-1287), is further amended as follows:

In section 3(a) after the last paragraph insert the following new paragraphs:

"( ) Illinois, Oregon: The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicted on a map entitled "Illinois River Study" and is also part of a report entitled "A Proposal: Illinois Wild and Scenic River"; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

Owyhee, Oregon: The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled 'Owyhee, Oregon' dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.".

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. HATFIELD. Mr. President, this legislation adds two very scenic and free running rivers in my State as components of the National Wild and Scenic Rivers System. Both the Illinois River in southwestern Oregon and the Owyhee River in eastern Oregon offer outstanding scenic, and recreational opportunities.

Both of these rivers have been studied by the National Park Service and U.S. Forest Service, respectively, and were recommended for inclusion into the National Wild and Scenic Rivers System. S. 416 adds 50.4 miles of the Illinois River and 110 miles of the Owyhee River to the system.

These two rivers have been protected under Oregon State statute as part of the Oregon scenic waterways System. The additional protection afforded by inclusion in the National Wild and Scenic Rivers System will insure that Federal intervention will not disturb their natural beauty.

Since passage of the Wild and Scenic Rivers Act in 1968, many miles of rivers have been included in the system, including the Rogue River in Oregon. I am proud to sponsor this legislation which protects a beautiful national resource for present and future generations to enjoy.

Mr. President, I urge the adoption of this legislation.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAKER. I yield back my remaining time.

Mr. BYRD. I do the same.

The bill (S. 416), as amended, was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to table the motion to reconsider the vote.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, it may be that other wilderness bills will be cleared shortly for consideration at this time. If they are, it would be the intention of the leadership on this side to ask the Senate to turn to them under a similar arrangement.

Before we proceed to consider further the pending business, the bankruptcy bill, and in order to gain a little time to check matters out, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. BAKER. Mr. President, I am prepared to ask, and I do now ask, that the Senate temporarily lay aside the pending business and turn to the consideration of H.R. 5692, the debt limit bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, is it the understanding—I am sure it is—that upon the disposition of the debt limit bill, the Senate will return to the bankruptcy bill?

Mr. BAKER. Yes, Mr. President; it is.

Let me say as well that I would also like to add to that unanimous-consent request that when the Senate turns to this measure, no amendments be in order except one amendment to be offered by the distinguished chairman of the committee and the ranking Member dealing with the date, and that the time for the debate on this measure be limited to 20 minutes equally divided with control of the time to be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object——

Mr. BAKER. Mr. President, I amend the request so that it is 40 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, there is only one amendment that will be provided for in the majority leader's request?

Mr. BAKER. Yes, Mr. President.

Mr. President, I further ask unanimous consent the distinguished Senator from Massachusetts (Mr. TSONGAS) may offer an amendment which will be withdrawn and that on that amendment there be time for debate of 10 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, will the distinguished majority leader yield Mr. TSONGAS 10 minutes?

Mr. BAKER. All right, 20 minutes equally divided, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

INCREASE OF PERMANENT PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5692) to provide for a temporary increase in the public debt, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3138

Mr. DOLE. Mr. President, I send an amendment to the desk for myself and the distinguished Senator from Louisiana (Mr. LONG) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. LONG, proposes an amendment numbered 3138.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Section 1 and insert in lieu thereof the following:

Section 1. Increase in Public Debt Limit

Effective upon enactment, the applicable public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be permanently increased by $30,000,000,000.

Mr. DOLE. Mr. President, all this amendment does is to make certain that the debt ceiling is going to be permanent. We also remove the date from the House-passed bill.

This is a matter that has long been of particular concern to the distinguished Senator from Louisiana and the Senator from Colorado (Mr. ARMSTRONG). I yield on this amendment to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the House has sent us a debt limit bill increasing the limit by $30 billion until June 22, 1984, about 4 weeks from now. At that time, the debt limit would drop by $30 billion to the limit now in effect.

Mr. President, we used to do business that way. We should have a temporary increase in the debt limit which would expire on a date specified in the law. It was intended that that would be a restraint on spending. Mr. President, it worked out to be just the opposite. It worked out to be a matter of providing leverage to run the Government more deeply in debt. And those of us who wanted to use the debt limit to economize found that a temporary increase in the debt limit did not serve our purpose in any respect—just the opposite. It was as though we were declaring the Government to be bankrupt by an act of Government as of a specific date in the future.

We stopped doing the debt limit that way last year. Since then, we have set only one debt limit, a so-called permanent debt limit. It does not expire at any one particular date. Rather, once the Treasury has borrowed up to the limit permitted, the Federal Government has to do business on a cash basis because it cannot spend more than it takes in, unless the Congress sees fit to further increase the debt limit.

The pending amendment would not change the amount of debt agreed to by the House. But it would not put a termination date on that amount.

Once the new amount of borrowing authority had been used, the Government could continue to spend money, but not more money than it takes in.

Mr. President, this is a matter about which I have given a lot of thought, and I feel strongly about it. The purpose of having a debt limit is to provide a restraint on spending. This amendment is absolutely necessary. I am very happy the chairman of the committee has offered it. I know other Senators on the committee strongly support my position, and I hope the Senate will agree to the amendment.

Mr. DOLE. Mr. President, I thank my distinguished colleague from Louisiana and again make the point that both the Senator from Louisiana and the Senator from Colorado (Mr. ARMSTRONG) feel particularly strongly about this, as do other members of the committee. I do not know of any member of the committee who disagrees with the amendment, and I hope we might act on the amendment and then await the amendment that Senator TSONGAS wishes to call up. As far as I know, there is no objection to the amendment.

The PRESIDING OFFICER (Mr. WARNER). Is there further debate?

The amendment (No. 3138) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I have a statement on the public debt limit. We generally make the same statement and change the dates every time we bring this up. So I have been using the same speech since I have been chairman. I borrowed it from the Senator from Louisiana when he was chairman. We changed the names and the dates.

I hope we might find some procedure to avoid coming to the Senate floor every month or 2 months or 3 months or 6 months and asking our colleagues to extend the public debt limit.

The point is that we are going to pay the Government's bills—the social security checks, payments to farmers, and others. We have to do it.

I know that some do not like to vote to extend the debt limit, but I imagine they would not want to stop payments to social security recipients, veterans, farmers, students, and so forth.

Mr. President, we have an opportunity today to restore some regularity and certainty to the Federal Government's financing operations by passing H.R. 5692 as passed by the House this morning. This bill would raise the limit on the public debt to $1,520 billion, which the Treasury Department estimates is a sufficient increase to cover through the end of June 1984. The bill also would set an expiration date of June 22 for this addition to the debt ceiling, and increase by $50 billion the Government's authority to issue long-term debt at market interest rates, enabling us to achieve a better balance in the maturities of outstanding Government securities.

Raising the debt limit is a perennial and unpleasant task, but there are unusually strong reasons at this time why we should expedite the legislation. In fact, I would much prefer we enact the longer extension reported by the Finance Committee, S. 2651. But time is short, and we will get to that issue next month.

Most importantly, the Government is truly on the brink in terms of its

ability to pay its bills: Secretary of the Treasury Don Regan informed me, in a letter dated May 21, that "Treasury's cash balance will be virtually exhausted by May 24, and the situation will deteriorate sharply thereafter." Normally, even when we are approaching the point when the Government's authority to increase the amount of debt is running out, Treasury has enough cash on hand to postpone the day of reckoning a bit. What Secretary Regan is telling us is that, this time, there is no such cushion: We cannot afford to wait, we have to pass the bill.

HIGH STAKES

Mr. President, we all know about the game of playing politics with the debt limit. On this side of the aisle we used to do a bit of that when we were in the minority, and I understand why the debt limit bill is seen as an attractive, veto-proof vehicle for amendments. We got bogged down last fall for an extended period of time with such amendments on the Senate floor, dealing with a wide range of issues from Grenada to beef imports. Ultimately, though, we had to knuckle down, drop off the amendments, and pass a clean bill.

That is what we should do right now, because there is no time for a repeat of that prolonged agony over the debt ceiling. As Secretary Regan goes on to point out in his letter, "unless a debt limit is passed by the Congress and signed into law by the President on or before May 24, 1984, the United States of America could be in the position of defaulting on its obligations for the first time in history." May 24, the Secretary says. Today is May 24, and note that we not only have to pass a bill, but the President will have to sign it into law before the crisis is averted.

The longer we delay the more we put at risk our ability to meet essential obligations as they fall due. The Government might be forced to delay payment on such items as social security checks, payroll, unemployment, and defense contracts. Clearly none of us wants that to happen. The responsible thing to do is to pass this bill, then work for swift resolution of differences between the House and Senate on the deficit reduction measures we just approved last week. That is the way we can have a real impact on the level of the public debt: And if we do more of the same next year, we may be faced with the pleasant surprise of having the level of the public debt remain under the limit for some time to come.

Mr. LONG. Mr. President, the bill before the Senate proposes a $30 billion increase in the public debt limit. This is a substantial amount of additional debt. Yet it will be enough only to get us past the middle of next month. Although it is less than the $263 billion that the Finance Committee has proposed for the period ending in June 1985, it is a step toward acceptance of that larger increase. In the past 2 years, the Congress has already approved increases of more than $400 billion in the public debt and we are now about to add an additional $30 billion to that total.

These large increases in the debt limit are unfortunately only a symptom of an underlying situation which will lead us to even larger increases. Last Friday, the Senate adopted a budget resolution which is supposed to lay out our economic course for coming fiscal years. Does this budget resolution point the way to more responsibility? It does not. Instead, it calls for deficits which get bigger each year—$182 billion for fiscal 1985, $187 billion for fiscal 1986, and $204 billion for fiscal 1987.

Under the budget plan the Senate approved last Friday, we will increase the debt limit over the next few years by close to a trillion dollars compared to its present level of $1.49 trillion. By the end of fiscal 1987, the policies espoused in that budget resolution will require a debt limit of $2.4 trillion.

This is not the blueprint for a responsible approach to Federal financing. It is for this reason that I voted against the budget resolution.

We must face up to the fact that the Budget Act as now constituted does not control spending or prevent deficits. The debt limit, as now constituted, does not place any effective limit on the debt. The Senate has adopted a budget resolution that condones ever-increasing deficits. We have approved over $400 billion in debt limit increases over the past 2 years. We will be asked to approve an additional $263 billion to carry out existing policies over the coming year. We are using these acts—the Budget Act and the debt limit—not to control deficit spending but to license it.

Faced with the present circumstances, we may have little choice but to adopt the pending measure so that the Government can continue orderly operations during the next 4 weeks. In so doing, however, we are merely postponing briefly the time when we must consider the gigantic debt limit increase needed for the full year. When the Senate considers that larger increase, I expect to offer an amendment which will make the debt limit a more credible tool for controlling future deficits. That amendment will not remedy the basic problem of the proposed increase—that it endorses a continuing policy of huge deficits which will seriously harm the economy. At least, however, the amendment would give us the ability to keep those deficits from becoming even worse than what we now expect.

Mr. DOLE. Mr. President, we are awaiting the arrival of Senator TSONGAS to offer an amendment.

I know that the Senator from Montana has some thoughts on this ritual—I mean this legislation.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I say to the minority leader that while we wait for the Senator from Massachusetts to arrive on the floor with respect to an amendment, will the minority leader be willing to temporarily lay aside this measure and proceed to the consideration of the so-called Washington wilderness bill, which will take no more than 2 minutes?

Mr. BYRD. Yes.

WASHINGTON STATE WILDERNESS ACT OF 1984

Mr. BAKER. Mr. President, I will put a unanimous-consent request for the consideration of the minority leader and other Members. I ask unanimous consent that the Senate temporarily lay aside the pending business and proceed to the consideration of Calendar No. 894, S. 837; that debate on that measure be limited to 5 minutes, to be equally divided, and control of the time to be in the usual form; and that no amendments to the bill, with the exception of the committee-reported substitute, will be in order.

Mr. GORTON. There are technical amendments.

Mr. BAKER. And technical amendments. No amendments to the substitute nor to the technical amendments will be in order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 837) to designate certain national forest system lands in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to

strike all after the enacting clause and insert:

That this Act may be referred to as the "Washington State Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Washington possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Washington and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Washington and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forests system lands in the State of Washington as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Washington be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Boulder River Wilderness—Proposed", dated March 1984, and which shall be known as the Boulder River Wilderness;

(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-five thousand eight hundred and seventeen acres, as generally depicted on a map entitled "Buckhorn Wilderness—Proposed", dated March 1984, and which shall be known as the Buckhorn Wilderness;

(3) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Clearwater Wilderness—Proposed", dated March 1984, and which shall be known as the Clearwater Wilderness;

(4) certain lands in the Olympic National Forest, Washington, which comprise approximately twelve thousand one hundred and twenty acres, as generally depicted on a map entitled "Colonel Bob Wilderness—Proposed", dated March 1984, and which shall be known as Colonel Bob Wilderness;

(5) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately one hundred twelve thousand six hundred and seven acres, as generally depicted on a map entitled "Glacier Peak Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Glacier Peak Wilderness as designated by Public Law 88-577 and Public Law 90-544;

(6) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately three thousand and fifty acres as generally depicted on a map entitled "Glacier View Wilderness—Proposed", dated March 1984, and which shall be known as the Glacier View Wilderness;

(7) the boundary of the existing Goat Rocks Wilderness, as designated by Public Law 88-577, located in the Wenatchee and Gifford Pinchot National Forests, Washington, is hereby revised to include those lands generally depicted on a map entitled "Goat Rocks Wilderness—Revised", dated March 1984;

(8) certain lands in the Wenatchee and Mount Baker-Snoqualmie National Forests, Washington, which comprise approximately one hundred three thousand five hundred and ninety-one acres as generally depicted on a map entitled "Henry M. Jackson Wilderness—Proposed", dated March 1984, and which shall be known as the Henry M. Jackson Wilderness. The Henry M. Jackson Wilderness is designated in remembrance of Senator Jackson's deep, personal feelings for this area, especially that portion known as "Monte Cristo," which he visited often as a boy. Through such designation, the Congress recognizes his unparalleled contributions to the natural resource policies of the Nation in general and Washington State in particular;

(9) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately twenty thousand six hundred and fifty acres, as generally depicted on a map entitled "Indian Heaven Wilderness—Proposed", dated March 1984, and which shall be known as the Indian Heaven Wilderness;

(10) certain lands in the Okanogan and Wenatchee National Forests, Washington, which comprise approximately one hundred fifty thousand eight hundred and thirty-three acres as generally depicted on a map entitled "Lake Chelan-Sawtooth Wilderness—Proposed", dated March 1984, and which shall be known as the Lake Chelan-Sawtooth Wilderness;

(11) certain lands in the Gifford-Pinchot National Forest, Washington, which comprise approximately fourteen thousand four hundred and twenty acres, as generally depicted on a map entitled "Mount Adams Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Mount Adams Wilderness as designated by Public Law 88-577;

(12) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately one hundred thirty-two thousand two hundred acres as generally depicted on a map entitled "Mount Baker Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Baker Wilderness;

(13) certain lands in the Olympic National Forest, Washington, which comprise approximately fifteen thousand six hundred and eighty-six acres, as generally depicted on a map entitled "Mount Skokomish Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Skokomish Wilderness;

(14) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately fifty thousand nine hundred and twenty-three acres as generally depicted on a map entitled "Norse Peak Wilderness—Proposed", dated March 1984, and which shall be known as the Norse Peak Wilderness;

(15) certain lands in the Okanogan National Forest, Washington, which comprise twenty-four thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Pasayten Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be part of the Pasayten Wilderness as designated by Public Law 88-577;

(16) certain lands in the Kaniksu and Colville National Forests, Washington, which comprise approximately forty-one thousand three hundred and thirty-five acres, as generally depicted on a map entitled "Salmo-Priest Wilderness—Proposed", dated March 1984, and which shall be known as the Salmo Priest Wilderness;

(17) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately fifteen thousand seven hundred and twenty acres, as generally depicted on a map entitled "Tatoosh Wilderness—Proposed", dated March 1984, and which shall be known as the Tatoosh Wilderness;

(18) certain lands in the Olympic National Forest, Washington, which comprise approximately seventeen thousand two hundred and thirty-nine acres, as generally depicted on a map entitled "The Brothers Wilderness—Proposed", dated March 1984, and which shall be known as The Brothers Wilderness;

(19) certain lands in the Gifford Pinchot National Forest, which comprise approximately six thousand and fifty acres, as generally depicted on a map entitled "Trapper Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Trapper Creek Wilderness;

(20) certain lands in the Wenatchee and Gifford Pinchot National Forests, Washington, which comprise approximately one hundred and sixty-six thousand six hundred and three acres, as generally depicted on a map entitled "William O. Douglas Wilderness—Proposed", dated March 1984, and which shall be known as the William O. Douglas Wilderness. The William O. Douglas Wilderness is designated in remembrance of Justice Douglas' lifelong efforts to preserve the Cougar Lakes area for the recreational benefits of future generations. Through such designation, the Congress recognizes his persisent concern for the Cougar Lakes area, and his contribution to conservation efforts throughout the Nation; and

(21) certain lands in the Olympic National Forest, Washington, which comprise approximately two thousand three hundred and twenty acres, as generally depicted on a map entitled "Wonder Mountain Wilder-

ness—Proposed", dated March 1984, and which shall be known as the Wonder Mountain Wilderness.

SEC. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act; *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Washington and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest system lands in States other than Washington, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Washington;

(2) with respect to the national forest system lands in the State of Washington which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Washington reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness upon enactment of this Act or identified for special management in section 7 or 8 of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Planning Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Washington are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Washington for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to the plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless lands in the State of Washington in the Gifford Pinchot and Olympic National Forests which were evaluated in the Upper Cispus; Lone Tree; Clear Creek; Upper Lewis; Trapper-Siouxon; Soleduck; Quinault; and Shelton Cooperative Sustained Yield Unit unit plans; and

(2) national forest system roadless lands in the State of Washington which are less than five thousand acres in size.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act of 1964, certain public lands in Franklin County, Washington, which comprise approximately seven thousand one hundred and forty acres, as generally depicted on a map entitled "Juniper Dunes Wilderness—Proposed" and dated March 1984, are hereby designated as the Juniper Dunes Wilderness and, therefore, as a component of the National Wilderness Preservation System.

(b) Subject to valid existing rights, the Juniper Dunes Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this section, and references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, any reference to the Secretary of Agriculture with regard to the administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Juniper Dunes Wilderness designated by this section. For purposes of this section, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

(c) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Juniper Dunes Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act; *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 7. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Mount Baker National Recreation Area located in the Mount Baker-Snoqualmie National Forest, Washington, is hereby established.

(b) The Mount Baker National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately eight thousand six hundred acres as generally depicted on the map entitled "Mount Baker National Recreation Area—Proposed", dated March 1984, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act; *Provided*, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation (including but not limited to snowmobile use); (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources on federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established.

SEC. 8. (a) The Congress finds that certain lands within the Mount Baker-Snoqualmie and Okanogan National Forests along the North Cascades Highway have remarkable scenic values, representing a unique aesthetic travelway through the Cascade Moun-

tains in the northern portion of the State of Washington. The value of preserving this scenic area and assuring that it is managed in such manner that its scenic beauty and recreation qualities are maintained for future generations is recognized by the Congress.

(b) In order to preserve and protect these values, certain National Forest System lands comprising approximately eighty-seven thousand, seven hundred and fifty-seven acres, as generally depicted on a map entitled "North Cascades Scenic Highway—Proposed" and dated March 1984, shall be administered by the Secretary of Agriculture to preserve the scenic value of this highway corridor. Management activities, including resource use and development, within the area may be permitted by the Secretary of Agriculture if the existing scenic values of the area are maintained.

(c) Management direction for the area that recognizes these scenic values shall be included in the Forest plans developed for the Okanogan and Mount Baker-Snoqualmie National Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

SEC. 9. Congress does not intend that designation of wilderness areas in the State of Washington lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 10. (a) Within the boundaries of section 25, township 19 north, range 10 east, Washington meridian, and section 31, township 19 north, range 11 east, Washington meridian, the Secretary is authorized and directed to acquire by exchange any non-Federal lands, interests, or any other property, in conformance with the provisions of this section. In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located in section 25, township 19 north, range 10 east, Washington meridian, and section 31, township 19 north, range 11 east, Washington meridian, and convey to the owner of such property appropriate national forest lands within the State of Washington. The values of the lands exchanged pursuant to this section shall be equal; *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged.

(b) Lands acquired by the Secretary pursuant to this section shall become part of the Mount Baker-Snoqualmie National Forest, and the Secretary shall publish a notice of such classification in the Federal Register. It is the intention of Congress that acquisition of these lands shall be completed no later than ninety days after the date of enactment of this Act. No later than sixty days after the enactment of this Act, the Secretary shall report in writing to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, on the status of negotiations with private owners to affect the exchange authorized by this section.

Mr. BAKER. Mr. President, I yield control of the time to the distinguished senior Senator from Washington (Mr. GORTON), on this side.

Mr. GORTON. Mr. President, I am pleased and proud to speak in support of S. 837, the Washington State Wilderness Act of 1984. This legislation has the full support of the entire Washington State congressional delegation and is the culmination of a year's long effort to resolve the RARE II controversy in Washington State.

The bill designates 18 new national forest wilderness areas in Washington State and includes additions to four existing wilderness areas for a total of just over 1 million acres. The bill also designates 7,140 acres on BLM land as wilderness. In addition, the legislation creates a Mount Baker National Recreation Area totaling approximately 8,600 acres and establishes a North Cascades Scenic Highway comprising approximately 87,757 acres. Significantly, other national forest system lands in the State are released for multiple use.

The following table, which I ask unanimous consent to have printed in the RECORD, reflects the approximate acreage of the specially designated areas in the bill:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Washington State Wilderness Act of 1984

	Acreage
Wilderness—Forest Service:	
Boulder River	49,000
Buckhorn	45,817
Clearwater	14,300
Colonel Bob	12,120
Glacier Peak Additions	112,607
Glacier View	3,050
Goat Rocks	23,143
Henry M. Jackson	103,591
Indian Heaven	20,650
Lake Chelan-Sawtooth	150,833
Mt. Adams Additions	14,420
Mt. Baker	117,900
Mt. Skokomish	15,686
Noisy-Diobsud	14,300
Norse Peak	50,923
Pasayten Additions	24,326
Salmo-Priest	41,335
Tatoosh	15,720
The Brothers	17,239
Trapper Creek	6,050
William O. Douglas	166,603
Wonder Mountain	2,320
Wilderness—BLM: Juniper Dunes	7,140
National Recreation Area: Mt. Baker—NRA	8,600
Scenic Highway: North Cascades Scenic Highway	87,757

Mr. GORTON. Mr. President, the late Senator Henry M. Jackson and I introduced S. 837 on March 17, 1983, in an effort to clarify the status of the 2.5 million acres of national forest roadless lands in Washington State which were studied by the Forest Service during the second roadless area review and evaluation (RARE II). Recent court decisions and other pending lawsuits in the West have created considerable uncertainty regarding the Forest Service's ability to manage the national forest lands in the State. This uncertainty created havoc for Washington State timber companies which are dependent on national forest timber for wood supply.

After S. 837 was introduced, 2 full days of field hearings were held in Spokane and Seattle in June of last year where over 400 witnesses testified. Another hearing was held in Washington, D.C., on September 30, 1983. During the past year, a tremendous amount of information relating to each specific RARE II area in the State was received from the conservationists, the forest products industry, the mining industry, oil and gas intersts, skiers, ORV and snowmobile users, as well as many other concerned citizens. The amount of information we received made it clear to me, and to the rest of the Washington State delegation, that the decisions made with respect to these lands were of vital concern to Washingtonians.

After several meetings and more than 11 hours of deliberations, our entire delegation, reconciled the competing demands of protecting the State's economic need for a strong and competitive timber industry and the jobs it provides with the sometimes less tangible, but equally important, contribution of wilderness areas to the quality of life in Washington State. No member came away from those meetings completely satisfied. In the end, however, each member was certain that all had done his best to reconcile those demands for the good of the entire State.

Throughout this process, I learned that wilderness areas represent many things to many people. For farmers, they help prevent soil erosion and flooding. Thousands of city dwellers draw pure drinking water from the watersheds in these areas. To our State's expanding tourist industry, they are important attractions for both out-of-State and resident vacationers. Botanists and other natural scientists point out the value of these natural habitats for increasing our knowledge of plants and wildlife.

Perhaps most important, for ours and for future generations living in a world so completely shaped by the presence of man, these protected areas provide the unique and priceless contrast of a world still dominated by the forces of nature.

Mr. President, I also want to note that one of the 18 new national forest wilderness areas in this bill is named in honor of the late Senator Henry M. Jackson. The 103,591 acre Henry M. Jackson Wilderness is located in the Wenatchee and Mount Baker-Snoqualmie National Forests. This area, which includes the Monte Cristo and Lake Vahalla area, is included in the bill in tribute to Senator Jackson's unequaled contributions to preserving and protecting our Nation's park and forest lands for the enjoyment of all Americans. As chairman of the Senate

Energy and Natural Resources Committee and the former Committee on Interior and Insular Affairs for 18 years, Senator Jackson left a memorable imprint on important legislation which today protects our Nation's precious heritage.

Last August, Senator Jackson and I each spent a day with the Forest Service touring by helicopter many of the areas that were under consideration for wilderness in S. 837. On Senator Jackson's trip, he requested that the helicopter circle over the Monte Cristo area several times while he reflected on the beauty of the area. He explained that this was the area where he hiked often as a boy while growing up in Everett. It was obvious to those that were with him that the area held a special place in his heart. The Monte Cristo area helped to shape his deep appreciation of, and commitment to, preserving our Nation's beautiful wild lands. The Henry M. Jackson Wilderness will serve as a lasting reminder, in his beloved State of Washington, of the accomplishments of a great man.

Resolving the RARE II controversy in Washington State was an issue Senator Jackson sought to accomplish during this Congress. Although his untimely death slowed the process somewhat, we were still able to reach agreement on the bill with the invaluable help of my friend and colleague Senator EVANS. I think that Senator Jackson would be proud of the delegation's efforts to work together in a bipartisan manner to reach a consensus on legislation which successfully balances the need to preserve our wilderness heritage with the appropriate use of our natural resources for timber production, as well as for recreational uses. It is to him, our late friend and colleague, Senator Henry M. Jackson, and to the future generations of Americans who shall seek solitude in our Nation's great wilderness areas, that this bill is dedicated.

Special thanks are due to Creigh Agnew of my staff, whose diligence and grace in dealing with hundreds of people interested in this bill and with Members of the Senate were vital to our success. Thanks are also due to Joe Mentor of Senator EVANS' staff for his work and to Tony Beiruetto and Tom Williams of the Energy Committee staff for their thoughtful assistance.

I wish, as well, to thank the gracious and distinguished chairman of the Energy Committee, Senator MCCLURE, whose concern for our constituents and his own is an example to us all.

I yield to my colleague from Washington, Senator EVANS.

Mr. EVANS. Mr. President, I rise in support of S. 837, the Washington Wilderness Act of 1984. The bill adds just over 1 million acres of Forest Service land in Washington State to the wilderness preservation system. It includes lands as diverse as Juniper Dunes, an area of shifting sand dunes and scattered groves of juniper trees, and the Boulder River, a primeval valley of Douglas-fir, western red cedar, and other lush vegetation. The bill represents a well-crafted balance between the competing claims of recreation and the timber products industry.

Mr. President, wilderness is a sanctuary in which those in need of solitude can find respite from the pressures of modern civilization. In today's technological, fast paced, and sometimes transitory society, we are overwhelmed by electronic messages that create a jumble of chaotic and unfinished memories. Increasingly, we long for the simple, traditional, and natural experiences that will help steady us in an uncertain world. A generation of wilderness expeditions returns to me again and again through full-color memories as sharp and clear as the original experiences. Each has provided me with an enormous sense of peace and well-being in moments divorced from all impediments of our modern society. Each can be savored as sustenance and continuity when dismay over current events overwhelms me.

As Governor of Washington State, I was often challenged about wilderness. Why set aside so much for so few? How much is enough? Why not a road access so everyone can enjoy it? These are challenging and not always easy questions. This is necessarily so because wilderness is a state of mind. Its manifestation differs according to the life experiences and values of the perceiver. Application of the concept to a specific area is a difficult task indeed. There is the problem of how wild a region must be to qualify as wilderness, or, conversely, how much of the influence of civilization can be admitted. To insist on absolute purity could conceivably result in wilderness being only that land which the foot of man has never trod. But for many persons minimal contact with man and his work does not destroy wilderness characteristics. The question is one of degree.

When there is doubt, I hope we will always preserve wilderness. If ultimately we have too much, uses can be changed, but wilderness destroyed cannot be regained. Edmund Burke once said that a great unwritten compact exists between the dead, the living and the unborn. This compact requires that we leave to the unborn something more than debts and depleted natural resources. It requires that we leave to our 21st century children two important legacies: All of the knowledge we possess on which they will build in ways we cannot yet foresee, and wilderness preserves or windows to the past where they can stand and say, "This is how it was before man touched the earth."

AMENDMENT NO. 3139

Mr. EVANS. Mr. President, I send to the desk six technical amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. EVANS) proposes an amendment numbered 3139.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, after line 7, insert the following new section:

"SEC. 11. Subject to valid existing rights, the federal lands in Walla Walla and Columbia Counties, Washington, located within the Mill Creek Watershed roadless area as identified in the Oregon Butte Unit Plan are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.".

1. On page 15, lines 13 and 14, strike "one hundred thirty-two thousand two hundred acres" and insert "one hundred seventeen thousand nine hundred acres".

2. On page 15, after line 24, insert the following new paragraph and renumber subsequent paragraphs accordingly:

(14) certain lands in the Mount-Baker-Snoqualmie National Forest, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Noisy-Diobsud Wilderness—Proposed", dated May 1984, and which shall be known as the Noisy-Diobsud Wilderness;

1. On page 22, lines 13 and 14, strike the words "Gifford Pinchot and Olympic" and insert in lieu thereof, "Gifford Pinchot, Olympic and Umatilla".

2. On page 22, line 16, before the word "and" insert "Oregon Butte;".

Beginning on page 24, strike section 10 in its entirety and insert in lieu thereof the following:

"SEC. 10. The Secretary of Agriculture shall exchange lands and interests in lands with Weyerhaeuser Company in accordance with the following provisions:

(a) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands the Secretary shall accept such lands and interests therein:

King and Pierce Counties, Washington

Township 19 North, Range 10 East (W.M.):	Acres
Section 25: All fractional	643.43
Township 19 North, Range 11 East (W.M.)	
Section 31: All fractional	647.61

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described National Forest System lands and interests therein:

King County, Washington

Township 21 North, Range 10 East (W.M.):	Acres
Section 20: Lots 2, 4, 6, 7, 10, 11, 12, and 14, South Half Northwest Quarter, Southwest Quarter	355.58
Section 28: North Half Southwest Quarter and Southeast Quarter	240.00
Section 30: All	640.00

(c) The instruments of conveyance respecting the lands and interests exchanged under this section may contain such reservations as may be agreed upon by the Secretary and Weyerhaeuser Company.

(d) It is the sense of Congress that the exchange authorized purusant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety day period.

(e) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein which formed the basis for the exchange provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, the Secretary shall not carry out the exchange for lands or interests so affected and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with other provisions of law.

Mr. EVANS. Mr. President, the technical amendments are to things which have arisen since the bill has been reported from the committee. I do not think that any of them are of enormous substance. One in particular relates to the subsequent completion of a land exchange agency set forth in the bill in general form, and now we are able to put it in specific form.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3139) was agreed to.

Mr. EVANS. Mr. President, I wish to pay my respects, along with my colleague from Washington, to the late Senator Jackson, who had a great deal to do with the passage of this bill and its initiation.

Also, on behalf of myself and my colleagues, I should like to pay particular credit to members of our staffs, Joe Mentor and Creigh Agnew, who have done much to bring this bill to its present condition.

Mr. STEVENS. Mr. President, I asked to be notified when this bill was brought to the floor, but not because I oppose it. I am pleased to see that it names an area in Washington after our late and good friend, the former senior Senator from Washington, Henry Jackson.

I want however, to call to the attention of the Senate again the fact that there are more wilderness areas in Alaska than in all the rest of the United States put together. I intend to examine each wilderness proposal in detail, to make certain that the concepts of wilderness are not being changed by any of these proposals. I serve notice on anyone—I do not care who it is—that if we are going to change the wilderness concept so that it impacts my State and, in effect, brings pressure on Alaska to change the arrangements we made after 7 long years of debate on the Alaska lands bill, that there is going to be a battle. I am happy to say that this bill does not do that, in our judgment.

I say to the chairman of the Energy Committee that I believe there are forces in the other body who want to change the concepts of wilderness and want now to revisit the whole subject of Alaska Federal lands.

I am happy to be here to say that I am pleased with the work of the distinguished Senators from Washington with respect to wilderness areas in their State. I think this bill carries forward an agreement within the State, and that the representatives of the State have been heard. Their wishes have been recognized.

To my knowledge, there are no areas in this bill that would be proposed for wilderness which have not been approved by each Member of the Washington's Senate delegation and by each Member of the other body whose districts would be affected by the wilderness proposal contained in this bill. That is the way it should be, and I applaud the committee for listening to the representatives of the Washington population in terms of what is best for that State with regard to Federal lands in that State.

That, I hope, will be the policy of this body, and I am prepared to support wilderness concepts on that basis, but again, I do serve notice to the Senate that we are not going to be in the process, I hope, of trying to change basic wilderness concepts piecemeal through the bills which are coming before the Senate this year.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BAKER. Mr. President, I have been requested by the distinguished Senator from North Carolina to forgo final passage just for a moment until he can reach his desk. He should be in place in a moment and I believe will seek recognition to speak before final passage.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina may be recognized for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. Mr. President, I thank the majority leader for allowing me 1 minute. It will not take me long.

I did have some concerns on the wilderness matters that I have been able to discuss with certain key parties, and they understand our predicament. I find some mitigation of our problems, and I appreciate that consultation.

I have no objection to proceeding in accordance with what the majority leader wishes to do.

So I withdraw my potential objection to it that I had, and I yield to the majority leader.

Mr. BAKER. I thank the Senator.

Mr. GORTON. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. GORTON. Mr. President, I simply wish to thank the Senator from North Carolina for his gracious understanding of this question.

Mr. BAKER. Mr. President, any time remaining on this side I yield back.

Mr. BYRD. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Washington State Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Washington possess outstanding natural characteristics which give them high A values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Washington and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Washington and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preser-

vation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forests system lands in the State of Washington as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Washington be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Boulder River Wilderness—Proposed", dated March 1984, and which shall be known as the Boulder River Wilderness;

(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-five thousand eight hundred and seventeen acres, as generally depicted on a map entitled "Buckhorn Wilderness—Proposed", dated March 1984, and which shall be known as the Buckhorn Wilderness;

(3) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Clearwater Wilderness—Proposed", dated March 1984, and which shall be known as the Clearwater Wilderness;

(4) certain lands in the Olympic National Forest, Washington, which comprise approximately twelve thousand one hundred and twenty acres, as generally depicted on a map entitled "Colonel Bob Wilderness—Proposed", dated March 1984, and which shall be known as Colonel Bob Wilderness;

(5) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately one hundred twelve thousand six hundred and seven acres, as generally depicted on a map entitled "Glacier Peak Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Glacier Peak Wilderness as designated by Public Law 88-577 and Public Law 90-544;

(6) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately three thousand and fifty acres as generally depicted on a map entitled "Glacier View Wilderness—Proposed", dated March 1984, and which shall be known as the Glacier View Wilderness;

(7) the boundary of the existing Goat Rocks Wilderness, as designated by Public Law 88-577, located in the Wenatchee and Gifford Pinchot National Forests, Washington, is hereby revised to include those lands generally depicted on a map entitled "Goat Rocks Wilderness—Revised", dated March 1984;

(8) certain lands in the Wenatchee and Mount Baker-Snoqualmie National Forests, Washington, which comprise approximately one hundred three thousand five hundred and ninety-one acres as generally depicted on a map entitled "Henry M. Jackson Wilderness—Proposed", dated March 1984, and which shall be known as the Henry M. Jackson Wilderness. The Henry M. Jackson Wilderness is designated in remembrance of Senator Jackson's deep, personal feelings for this area, especially that portion known as "Monte Cristo," which he visited often as a boy. Through such designation, the Congress recognizes his unparalleled contributions to the natural resource policies of the Nation in general and Washington State in particular;

(9) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately twenty thousand six hundred and fifty acres, as generally depicted on a map entitled "Indian Heaven Wilderness—Proposed", dated March 1984, and which shall be known as the Indian Heaven Wilderness;

(10) certain lands in the Okanogan and Wenatchee National Forests, Washington, which comprise approximately one hundred fifty thousand eight hundred and thirty-three acres as generally depicted on a map entitled "Lake Chelan-Sawtooth Wilderness—Proposed", dated March 1984, and which shall be known as the Lake Chelan-Sawtooth Wilderness;

(11) certain lands in the Gifford-Pinchot National Forest, Washington, which compromise approximately fourteen thousand four hundred and twenty acres, as generally depicted on a map entitled "Mount Adams Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Mount Adams Wilderness as designated by Public Law 88-577;

(12) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately one hundred seventeen thousand nine hundred acres as generally depicted on a map entitled "Mount Baker Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Baker Wilderness;

(13) certain lands in the Olympic National Forest, Washington, which comprise approximately fifteen thousand six hundred and eighty-six acres, as generally depicted on a map entitled "Mount Skokomish Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Skokomish Wilderness;

(14) certain lands in the Mount-Baker Snoqualmie National Forest, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Noisy-Diobsud Wilderness—Proposed", dated May 1984, and which shall be known as the Noisy-Diobsud Wilderness;

(15) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately fifty thousand nine hundred and twenty-three acres as generally depicted on a map entitled "Norse Peak Wilderness—Proposed", dated March 1984, and which shall be known as the Norse Peak Wilderness;

(16) certain lands in the Okanogan National Forest, Washington, which comprise twenty-four thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Pasayten Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be part of the Pasayten Wilderness as designated by Public Law 88-577;

(17) certain lands in Kaniksu and Colville National Forests, Washington, which comprise approximately forty-one thousand three hundred and thirty-five acres, as generally depicted on a map entitled "Salmo-Priest Wilderness—Proposed", dated March 1984, and which shall be known as the Salmo Priest Wilderness;

(18) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately fifteen thousand seven hundred and twenty acres, as generally depicted on a map entitled "Tatoosh Wilderness—Proposed", dated March 1984, and which shall be known as the Tatoosh Wilderness;

(19) certain lands in the Olympic National Forest, Washington, which comprise approximately seventeen thousand two hundred and thirty-nine acres, as generally depicted on a map entitled "The Brothers Wilderness—Proposed", dated March 1984, and which shall be known as The Brothers Wilderness;

(20) certain lands in the Gifford Pinchot National Forest, which comprise approximately six thousand and fifty acres, as generally depicted on a map entitled "Trapper Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Trapper Creek Wilderness;

(21) certain lands in the Wenatchee and Gifford Pinchot National Forests, Washington, which comprise approximately one hundred and sixty-six thousand six hundred and three acres, as generally depicted on a map entitled "William O. Douglas Wilderness—Proposed", dated March 1984, and which shall be known as the William O. Douglas Wilderness. The William O. Douglas Wilderness is designated in remembrance of Justice Douglas' lifelong efforts to preserve the Cougar Lakes area for the recreational benefits of future generations. Through such designation, the Congress recognizes his persistent concern for the Cougar Lakes area, and his contribution to conservation efforts throughout the Nation; and

(22) certain lands in the Olympic National Forest, Washington, which comprise approximately two thousand three hundred and twenty acres, as generally depicted on a map entitled "Wonder Mountain Wilderness—Proposed", dated March 1984, and which shall be known as the Wonder Mountain Wilderness.

SEC. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the

provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Washington and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest system lands in States other than Washington, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Washington;

(2) with respect to the national forest system lands in the State of Washington which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Washington reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness upon enactment of this Act or identified for special management in section 7 or 8 of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Planning Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial management plans;

(4) in the event that revised land management plans in the State of Washington are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Washington for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless lands in the State of Washington in the Gifford Pinchot, Olympic and Umatilla National Forests which were evaluated in the Upper Cispus; Lone Tree; Clear Creek; Upper Lewis; Trapper-Siouxon; Soleduck; Quinault; Oregon Butte; and Shelton Cooperative Sustained Yield Unit unit plans; and

(2) national forest system roadless lands in the State of Washington which are less than five thousand acres in size.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act of 1964, certain public lands in Franklin County, Washington, which comprise approximately seven thousand one hundred and forty acres, as generally depicted on a map entitled "Juniper Dunes Wilderness—Proposed" and dated March 1984, are hereby designated as the Juniper Dunes Wilderness and, therefore, as a component of the National Wilderness Preservation System.

(b) Subject to valid existing rights, the Juniper Dunes Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this section, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, any reference to the Secretary of Agriculture with regard to the administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Juniper Dunes Wilderness designated by this section. For purposes of this section, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

(c) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Juniper Dunes Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 7. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Mount Baker National Recreation Area located in the Mount Baker-Snoqualmie National Forest, Washington, is hereby established.

(b) The Mount Baker National Recreation area (hereafter referred to as the ("recreation area") shall comprise approximately eight thousand six hundred acres as generally depicted in the map entitled "Mount Baker National Recreation Area—Proposed", dated March 1984, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act, *Provided*, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation (including but not limited to snowmobile use); (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources on federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established.

SEC. 8. (a) The Congress finds that certain lands within the Mount Baker-Snoqualmie and Okanogan National Forests along the North Cascades Highway have remarkable scenic values, representing a unique aesthetic travelway through the Cascade Mountains in the northern portion of the State of Washington. The value of preserving this scenic area and assuring that it is managed in such manner that its scenic beauty and recreation qualities are maintained for future generations is recognized by the Congress.

(b) In order to preserve and protect these values, certain National Forest System lands comprising approximately eighty-seven thousand, seven hundred and fifty-seven acres, as generally depicted on a map entitled "North Cascades Scenic Highway—Proposed" and dated March 1984, shall be administered by the Secretary of Agriculture to preserve the scenic value of this highway corridor. Management activities, including resource use and development, within the area may be permitted by the Secretary of Agriculture if the existing scenic values of the area are maintained.

(c) Management direction for the area that recognizes these scenic values shall be included in the Forest plans developed for the Okanogan and Mount Baker-Snoqual-

mie National Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

SEC. 9. Congress does not intend that designation of wilderness areas in the State of Washington lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 10. The Secretary of Agriculture shall exchange lands and interests in lands with Weyerhaeuser Company in accordance with the following provisions:

(a) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands the Secretary shall accept such lands and interests therein:

King and Pierce Counties, Washington

Township 19 North, Range 10 East (W.M.):	Acres
Section 25: All fractional	643.43
Township 19 North, Range 11 East (W.M.):	
Section 31: All fractional	647.61

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described National Forest System lands and interests therein:

King County, Washington

Township 21 North, Range 10 East (W.M.):	Acres
Section 20: Lots 2, 4, 6, 7, 10, 11, 12, and 14, South Half Northwest Quarter, Southwest Quarter	355.58
Section 28: North Half Southwest Quarter and Southeast Quarter	240.00
Section 30: All	640.00

(c) The instruments of conveyance respecting the lands and interests exchanged under this section may contain such reservations as may be agreed upon by the Secretary and Weyerhaeuser Company.

(d) It is the sense of Congress that the exchange authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety day period.

(e) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein which formed the basis for the exchange provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, the Secretary shall not carry out the exchange for those lands or interests so affected and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with other provisions of law.

SEC. 11. Subject to valid existing rights, the Federal lands in Walla Walla and Columbia Counties, Washington, located within the Mill Creek Watershed roadless area as identified in the Oregon Butte Unit Plan are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCREASE OF PERMANENT PUBLIC DEBT LIMIT

The Senate continued with the consideration of the bill.

Mr. BAKER. Mr. President, I am advised now by the minority leader that I believe he would not object to a unanimous-consent request that the yeas and nays on the debt limit bill be vitiated.

I do make that unanimous-consent request at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I believe, under the order previously entered, the distinguished Senator from Massachusetts is to be recognized for the purpose of offering and withdrawing an amendment. There is a time limitation on that amendment in his favor.

I yield the floor so he may claim that time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

AMENDMENT NO. 3140

(Purpose: To provide for consideration of a resolution requiring the implementation of a freeze on spending by the Federal Government for fiscal year 1985 if, prior to the beginning of such fiscal year, the average prime interest rate equals or exceeds a specified percentage)

Mr. TSONGAS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an amendment numbered 3140.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . CONSIDERATION OF FEDERAL SPENDING FREEZE.

(a)(1) During the period beginning on the date of the enactment of this Act and ending December 31, 1984, the Director of the Congressional Budget Office (hereafter in this section referred to as the "Director") shall make a weekly determination with respect to the average prime interest rate charged by the ten largest banks in the United States during the most recently completed calendar week.

(2) If the Director determines pursuant to paragraph (1) that the average prime interest rate for a week equals or exceeds 14.0 percent, the Director shall immediately provide the Committtees on the Budget of the Senate and the House of Representatives with written notice of such determination.

(b)(1) Notwithstanding any other provision of law, any concurrent resolution, any resolution, or the Standing Rules of the Senate or the Rules of the House of Representatives, it shall not be in order for a House of the Congress to consider any bill or resolution, or any amendment thereto or conference report thereon, other than a Federal spending freeze resolution during any period beginning with the tenth calendar day after the date on which the Director notifies the Committee on the Budget of such House pursuant to paragraph (2) of subsection (a) that the average prime interest rate for a week equals or exceeds the percentage specified in such paragraph and ending with the earlier of—

(A) the day on which such House votes upon a Federal spending freeze resolution, or

(B) the first day after 30 calendar days of continuous session of the Congress have elapsed after the beginning of such period.

(2) For purposes of this subsection, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 30-day period referred to in subparagraph (B) of paragraph (1).

(3) For purposes of this subsection, the term "Federal spending freeze resolution" means, with respect to a House of the Congress, a resolution reported by the Committee on the Budget of such House that—

(A) provides that—

(i) the aggregate total budget authority for function 050 (relating to National Defense) shall not exceed $264,100,000,000 for fiscal year 1985;

(ii) the aggregate total budget authority for nondefense discretionary activities shall not exceed $137,000,000,000 for fiscal year 1985;

(iii) the "applicable percentage increase" under section 1886(b)(3)(B) of the Social Security Act for any 12-month cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1985, shall be zero percent;

(iv) no increase shall be made in payments or benefit amounts under any provision of law which would otherwise require such increase to become effective during fiscal year 1985 as a result of changes in—

(I) the Consumer Price Index (or any component thereof), or

(II) any other index which measures costs, prices, or wages;

(v) no person shall be entitled to any increase in payments or benefit amounts under any provision of law if payment thereof is denied by reason of clause (iv); and

(vi) any change in—

(I) the Consumer Price Index (or any component thereof); or

(II) any other index which measures costs, prices, or wages,

which would have resulted in any increase in payments or benefits amounts during fiscal year 1985 but for clause (iv) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1986 or any fiscal year thereafter;

(B) contains directions to one or more committees of such House to determine and recommend charges in the laws, bills, and resolutions within the jurisdiction of such committee or committees necessary to carry out the provisions of subparagraph (A) and to submit such changes to the Committee on the Budget of such House in accordance with the procedure described in section 310 (c) of the Congressional Budget Act of 1974 (2 U.S.C. 641(c)); and

(C) provides that any bill or resolution containing provisions to carry out such changes shall be considered in the same manner as a reconciliation bill or reconciliation resolution considered pursuant to section 310 of such Act.

(4) If any point of order raised pursuant to paragraph (1) is sustained by the presiding officer of the House in which it is raised, an affirmative vote of two-thirds of the Members of such House duly chosen and sworn shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. An appeal of a ruling by the presiding officer on such a point of order is not subject to a motion to table.

(5) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(C)(1) Notwithstanding any other provision of law, the head of each agency of the Federal Government shall take such actions as may be necessary to ensure that such agency is prepared to carry out promptly any provisions of law enacted pursuant to this section that require action to be taken by such agency. Actions taken by an agency pursuant to this paragraph shall include the development of contingency plans for carrying out the programs, projects, and activities of such agency in the event that the amounts available for obligation and expenditure by such agency during fiscal year 1985 are reduced pursuant to this section.

(2) For purposes of this subsection, the term "agency" has the meaning given to such term in section 101 of title 31, United States Code.

Mr. TSONGAS. Mr. President, the issue before us has been discussed in great detail and what I am introducing is simply a variation on the theme.

Members will recall that during the budget resolution debate there was proposed the Kassebaum-Grassley-Biden-Baucus amendment that froze Federal spending.

My own view is that had it been successful, that would have been the single most dramatic vote in economic terms in many, many years, and I was very disappointed to see it fail.

What was interesting about it not only was its simplicity but the fact that it attracted 18 Democrats and 15 Republicans and that the support was not only bipartisan, it was bi-ideological. I do not think that that kind of effort should be allowed to simply rise once and then be dispensed with.

The amendment that I offer today is very simple. It says that when the prime interest rate gets to 14 percent, as certified by the Congressional Budget Office, the pending business of the Senate will be the Kassebaum-Grassley-Biden-Baucus budget freeze amendment. I believe that this Senate is on the verge of supporting something like that. Some 69 Members of the Senate voted to support the constitutional amendment to balance the budget. The obvious question is: Is the will here to freeze the budget, which is a much less drastic step, at some point along the way?

We all understand what the effect of 14 percent interest would be, and we want to have introduced a plan whereby were the prime interest rate to rise to that level that the Senate would then be in a position to deal with what I think is the only possible approach that would have bipartisan support. I think what Senators KASSEBAUM, GRASSLEY, BIDEN, and BAUCUS did is historic in its implications. I believe that if interest rates keep on going up that the time will rapidly approach when the Members are prepared to embrace it. That is the purpose of the amendment.

Let me yield at this point to the Senators who are responsible for the original production if they wish to comment on it.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I wish to speak for just a moment to the legislation introduced by the Senator from Massachusetts, Mr. TSONGAS, because I think it is an innovative approach to a problem that obviously is of a concern to each and every one of us here in the Senate.

I know that I, for one, am appreciative of the effort of the leadership on this side of the aisle in order to resolve the deficit problem that we have, the budget issue before us, the debt ceiling limit, and all of the very agonizing issues that we have to face and get through that we will be on, but it keeps putting off the day of reckoning. We always say we will deal with this next year or we are going to deal with this next month. It reminds me a little bit of Scarlett O'Hara in "Gone With the Wind," who said, "I'll think about it tomorrow."

I believe that the approach taken by Senator TSONGAS really puts us on notice for something that we all believe is going to be an approach that will be necessary to take. We do feel that the deficit relates to interest rates. We have had this debate before. It is not necessary to go into it at this time other than to say I think it is a very thoughtful approach. I think it is one that will gather a lot of support. I will certainly be doing all I can to work for the passage of this particular piece of legislation.

Mr. BIDEN. Mr. President, I rise to support the effort being put forward by the Senator from Massachusetts. I believe that the opportunity for redemption is a universal opportunity that every human being has made available to them to take and avail themselves of.

I hope that Senator TSONGAS is correct and Senators KASSEBAUM and GRASSLEY and BIDEN and others who have been told we are somewhat of a Cassandra or Chicken Little saying the sky is falling, interest rates are going up. We hope we are wrong. But the fact of the matter is I do not believe we are wrong. I think the evidence is that, thus far, the predictions made about interest rates going up have, in fact, come to fruition.

Further, I would argue, considering the eloquence of the speakers here on the floor talking in the past several weeks about the impact of the so-called leadership plan, the deficit reduction package, what impact would that have on the markets and on interest rates, it would have been reasonable for one to have concluded that they might be right. But after the fact, when you look at it, it is clear that whoever made those arguments—so many made the argument—that they were wrong.

But this is an opportunity, if we turn out to be right, for the Senate and the Congress to, in a sense, redeem itself. If, in fact, the prime interest rate does hit 14 percent, I doubt whether or not many people in this Congress will think that is beneficial to the continuance of a recovery.

So I hope that even though there may have been some who voted against—not may have been some, there was a majority—who voted against Senator GRASSLEY, KASSEBAUM, BAUCUS, and myself and others when we offered the freeze, that they might say, if interest rates rise, that deficits need to be further reduced. In turn I will be willing to say that if these interest rates do not go up, if in fact the economic recovery continues, if in fact they start to go down, I will say, "Well, maybe I am wrong about the correlation between these phenomenal deficits and high interest rates." But I do not think that will be the case.

I think the approach being offered by the Senator from Massachusetts is a reasonable one. I hope, in fact, that it comes to fruition and that when we do raise this proposal again, I hope my colleagues will agree it makes sense to pass it.

All the arguments against the freeze have been based on the fact that we did not need the freeze because economic recovery would just move right along and interest rates were not affected by the deficit. If, in fact, you believe that, you could still vote for this amendment because it will not be triggered if interest rates do not go up. But if, in fact, you have doubt about it, it may warrant your reconsideration and support.

So I am pleased to join with the Senator from Massachusetts, because there has been a flurry of concern recently here in Washington about interest rates that have been rising sharply of late. Blame for this has been freely assessed. The importance of holding down interest rates has been proclaimed. What has been missing is any serious willingness to take the actions necessary to restrain the rise in interest rates.

Today, the Senator from Massachusetts proposes to remedy that. He is offering an amendment which says that, if interest rates keep rising, then we must look again at our plans for deficit reduction. Surely it is reasonable that, if the prime rate hits the 14-percent level envisioned in this amendment, that we revisit the question of Federal participation in the credit markets. It seems to me that to do otherwise would be a derogation of our responsibilities.

Today, there may well be nothing of greater importance to the economic health of this Nation than the course that interest rates follows. Interest rates directly affect consumers who, to date, have largely been responsible for our remarkable recovery. Higher interest rates will work great hardships on many persons, particularly those who need to finance large purchases such as a home or an automobile. Obviously interest rates are also directly related to business investment, upon which the future growth of the economy depends. While business investment has held up well so far, I hear increasing discussion that it may not do so well if interest rates rise further.

In addition, interest rates are vital in the arena of international trade and finance. The extraordinary levels of American interest rates today is attracting large amounts of foreign capital to this country. While this inflow is currently helping to finance our Federal deficits, it is also raising the value of the American dollar, shutting off American export markets and threatening to turn us into a debtor nation. Another serious international threat is posed by the debts of a number of countries which may not be able to meet their obligations if interest rates rise.

Here in the Senate we have just spent a month debating deficit reduction packages. Unfortunately, what the Senate did was to adopt the least effective deficit reduction package.

The so-called rose garden plan, offered by the Republican leadership and adopted by the Seante, will result in deficits of $182 billion in fiscal year 1985 escalating to $204 billion by fiscal year 1987. Between now and 1987 it will result in cumulative deficit reductions of only $140 billion.

During consideration of the leadership budget package, Senators KASSEBAUM, GRASSLEY, BAUCUS, and I offered a 1-year spending freeze proposal. It would have frozen defense and nondefense discretionary programs at 1984 budget authority levels. Doctor and hospital fees under medicare would have been frozen for a year. There would have been no cost-of-living increases for indexed programs in fiscal year 1985. The freeze would have lasted only 1 year, to reduce dramatically and then freeze deficits, while Congress developed the additional deficit reduction measures we all know will be needed next year and beyond. Yet despite its 1-year limit, its results would have stretched over several years. If adopted, it would have resulted in a deficit of $159 billion in fiscal year 1985 and $145 billion in fiscal year 1987—$59 billion lower than the rose garden plan. It would have accomplished this with cumulative deficit reductions of $274 billion through fiscal year 1987.

It is this same freeze that Senator TSONGAS suggests should again be considered by the Senate, as an alternative to the rose garden plan, if interest rates continue their present climb.

The issue of "blame" for rising interest rates was escalated recently when, in the words of the Wall Street Journal, "The White House sharply attacked the Federal Reserve Board's handling of the nation's money supply."

The charge that the Fed has followed a too restrictive monetary policy is a difficult one to justify. While the M1 money supply measure in April has been close to the bottom of the annual target range of 4 percent to 8 percent, more broadly defined measures have been higher. In any event, the influence on interest rates of monetary policy pales in comparison with the outrageously expansionist fiscal policy represented by $200 billion deficits.

There have been strong business credit demands as the economic recovery has moved ahead. This is about what might be expected at this point in a recovery such as the one we are experiencing.

What is not normal for this stage of a recovery, Mr. President, is Federal borrowing that equals about 5 percent of our gross national product. Deficits are supposed to recede during good economic times, making way for private financing in a recovery. But that clearly has not happened this time. What we see now is ever expanding deficits during this period of expanded business demand for credit.

It may be, Mr. President, that there are still some in this body who would challenge, as Secretary Regan does so often, whether deficits affect interest rates. It is, of course, one of those things that can never be finally proven. But if you ask the Chairman of the Council of Economic Advisers or the Chairman of the Federal Reserve Board, I am sure they will tell you that deficits affect interest rates. If you ask those people who participate in the Nation's financial markets—as I have done in New York and Chicago—they will tell you that deficits affect interest rates. And if you look at what is going on around us, as interest rates push upwards in parallel with the climb in deficits, you will be sure that deficits affect interest rates.

Parenthetically, I sometimes wonder how we get into arguments about whether deficits affect interest rates. Whether deficits do or do not affect interest rates, surely no one wants to argue that we should continue to run $200 billion deficits. So why do we not just reduce them, as we could through the bipartisan freeze and see what happens to interest rates? I would welcome this test of our proposal.

The deficit in fiscal year 1985 is expected to be about 5 percent of GNP. Yet in the two biggest deficit years prior to the Reagan deficits, deficits were 4 percent of GNP under President Ford in fiscal year 1976 and 2 percent of GNP in fiscal year 1981 under President Carter. Nor is there any real expectation under the adopted budget that this will get much better.

Last year Federal deficits, including off-budget items, exceeded all net private savings. Next year, if we are fortunate, deficits may take only about 70 percent of net private savings. At these levels deficits will still absorb more net private savings than they did in 1980. And for 8 years the Federal Government will have been absorbing more than half of all net private savings. By comparison, in the 20 years beginning in 1960, Federal deficits absorbed on the average only about 20 percent of net private savings.

Today Senator TSONGAS is offering us a second chance to do something about deficits. And to do something about interest rates. He says that if the prime rate hits 14 percent, then the Senate must consider once again whether it does not want to lower deficits right now by another $23 billion in fiscal year 1985. That is a challenge for responsible action that the Senate cannot afford to pass up.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair might inquire first as to which side yields time?

Mr. TSONGAS. I yield to the Senator from Iowa.

Mr. GRASSLEY. I thank the Senator from Massachusetts for yielding. I join in support of his proposal, particularly because in the time since the last debate on freezing the budget across the board for 1985 at the 1984 levels, the situation on interest rates, as indicated by the Senator from Delaware, has continued to get worse. We can put off, as we have, the efforts to freeze the Federal budget, and dismiss it as irresponsible or not sophisticated enough to be considered by this body, and have it defeated, as it was. And some would have us believe there is no relationship between deficits and interest rates. If interest rates had not gotten worse, then, there would be reason to be against this proposal by the Senator from Massachusetts. But that is not the situation.

The situation is that interest rates have gone up since the beginning of the month. Anyone who studies the relationship between interest rates and accumulated deficits will tell us that interest rates will continue to go up. Each of us in this body must ask him or herself how long we are going to put off dealing with the tremendous debt problem facing us.

In passing some sort of deficit reduction plan, as we have, even its proponents have said it is too timid an approach. What we need at this point is to do something very dramatic. Even though this amendment would not do that, because it is tied to further increases in the interest rate, it would send the signal that there is a point at which we are saying enough is enough. That is what the Senator from Massachusetts is saying through his amendment—that we are establishing a policy, and that when interest rates get so high, we will call a halt.

We ought to seriously consider this proposal as we go away for a week-long recess. Having dealt with the deficit problem to some extent, we have not sent the signal that we ought to send. We ought to think in terms of what the message is that would be sent by this amendment.

It seems to me it would be a very good message: The same message that Senators GRASSLEY, KASSEBAUM, BIDEN, and BAUCUS wanted to send with our amendment of 2 or 3 weeks ago—that it really is not business as usual here in this body, that we really want to do something dramatic, and that we are going to do something dramatic.

We have to ask ourselves how much longer we can go on without recognizing that high interest rates will turn this economic boom into a fizzle. When are we going to admit that what we have done so far to cut spending has been a mushy sort of "slurpy?"

We ought to adopt this effort as a first step toward reducing interest rates, and start getting more serious about this problem than we have in the past.

Mr. President, I strongly support this amendment.

Mr. ARMSTRONG. Mr. President, would the Senator yield to me?

Mr. President, I simply want to rise to express my admiration for the Senator from Massachusetts, and others who bring this matter to my attention. I am not going to speak at any length whatsoever. I think all has been said. I believe the amendment is a good one, and should be passed. If for any reason the amendment should fail, I think the bill should be killed. There is a certain sense about all of this—that we have to pass the bill, that we have to raise the debt limit. But I hope no one would vote for this increase in the debt limit unless they think it will make the country a better place, unless they think somehow it will enrich the life of the country, strengthen the national economy, put people back to work, or in some way improve America. I do not think it will do any of those things. I think it is one more dose of the same kind of medicine that got us in the terrible jam in the first place.

So failing the adoption of the Tsongas amendment, I will certainly vote against this bill.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think the Senator from Massachusetts has a very unique idea here, one that maybe we ought to be paying a lot of attention to. I do not think we are living in the real world in the Congress unless we are picking up the paper every morning, and seeing what the Dow Jones is saying. The Dow Jones 6 days in a row now has said down, down, down. It has gone down 50 points since we passed the rose garden plan last Thursday night. It has gone down 34 points since Monday. It is down 14 today. Sooner or later we are going to wake up and find out what the real world is about.

I think we are going to find out that the real world is saying we had better be doing something about these deficits. It seems to me the Senator from Massachusetts is saying we had better get ourselves a plan, or a way in which we are going to be at least ready to start responding when these rates go up because I do not think the Dow can continue to do that.

The 2-year Treasury notes are up again today; the bond market is soft again today; the long term and shorter term Treasury bills are up again today. Everything that you are seeing is the Dow is going one way; interest is going the other way, and we are sitting here saying, Oh well, we have passed our deficit-reduction plan, the rose garden plan. We are not going to conference on that plan.

I listened to the testimony of the Secretary of Defense today. There is no change in the whole defense plan. We strung out a few things. We discontinued only $200 million worth of procurement programs—actually cancelled. Everything else is sort of strung out. We hit readiness, and we hit a few things like that. We may be having a 30-day extension but I think we had better be looking to have something on the back burner, as the Senator from Massachusetts is talking about, because we have not done enough in deficit reduction. The real world is trying to tell us that.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me say to the Senator from Massachusetts and others who have spoken, I do not quarrel with anything they have said. There are only a couple of reasons why this is not good strategy. One is Ronald Reagan, and the other is TIP O'NEILL. They are fairly salient citizens in this area and have some power. What happens in the Congress? They expressed the desire not to get into some of the areas this touches. But I do commend those who have taken the leadership. As I looked at the different votes on the different proposals, I think there are enough votes to pass this legislation and, knowing a lot of Members would have supported the amendment had we had the support from the White House and some indication that it would be accepted on the House side, enough votes to do maybe pretty much what the sponsors are suggesting next year.

But we do have a downpayment. It is $140 billion. It probably is not enough. We can all find fault with it. We spent 8 weeks arguing about it on the floor while the interest rates went up.

We were talking about interest rates. So I cannot accept the amendment, but I certainly commend the Senator from Massachusetts and my colleague from Kansas, the Senator from Iowa, the Senator from Delaware, and others who have been the primary sponsors of this effort.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I believe my amendment has the support of a substantial number of Members on both sides of the aisle.

Very simply, my amendment would trigger a 1-year spending freeze as proposed on May 1 by Senator GRASSLEY, KASSEBAUM, BIDEN, and BAUCUS—the so-called KGB plan—if the prime lending rate rose to 14 percent.

The prime is now 12½ percent. It has risen from 11 percent in just 3 months. Most of this increase is attrib-

utable to our inability to make a substantial cut in the budget deficit. With the Federal Government requiring such an unprecedented share of available credit in this country at a time when private demands to finance business needs are also on the rise, interest rates must inevitably rise or we will face a renewed outbreak of inflation. That is the economics of the budget deficit.

My amendment would, in effect, put a cap on escalating interest rates because, if the prime were to rise another 1½ points—to 14 percent—the budget freeze would be triggered, and if favorably acted on, would produce an immediate and substantial savings in Federal spending, alleviating pressures in financial markets.

Mr. President, it is clear that the upward pressure on interest rates will continue this year and next unless we take more drastic action than the rose garden plan. Henry Kauffman of Solomon Bros., has forecast a 15-percent prime rate by the end of the year. Others have expressed similar pessimism.

If these forecasts are correct, it will have a devastating impact both here and abroad. Housing and auto sales as well as capital investment will all be adversely affected. The dollar, which has appreciated significantly in recent weeks as interest rates have risen, will become even more overvalued, depressing exports, increasing the inflow of foreign goods, and costing American jobs.

Higher interest rates will also damage the economies of many countries around the world. The Europeans road to recovery could be blocked, leaving them with a renewed upward spiral in unemployment. Debtor nations in Latin America are already restive, pointing to the fact that this year's increase in the prime rate—from 11 to 12.5 percent—has raised their total debt by $4.5 billion. This jeopardizes the economic security of the region and increases the possibility of default which in turn would place tremendous strain on our own financial system.

Mr. President, the deficit is a clear and present danger. I believe it is in the interest of all to put Congress on the record that we can and will do more about it than our very modest downpayment.

Mr. President, I indicated to the majority leader that I would withdraw my amendment, then ask it be introduced, and discussed. I simply want to make it clear to the Members that in June when we come back with the next installment of the debt ceiling, this will be offered, and we will have to vote on it. I want to give them some time to ponder what this is all about.

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. GRASSLEY. Mr. President, year after year we have decried the size of the Federal deficit ad nauseum. Yet we have failed to consider the long-term consequences of the last 3 years' deficits. Those consequences are the effects of the accumulation of debt on interest rates.

In the last 3 years, we have increased the debt by $600 billion. By next fiscal year, the total debt will reach $2.1 trillion. We have no idea how we are going to pay for this debt. Since the Government does not create resources, the only way it can pay off all this debt is to increase taxes. Mr. President, we are setting ourselves up for one whopping tax increase in the years ahead. There is no other way out.

The pattern is clear. This incredible expansion of debt will eventually have to be paid for. And the longer we put off facing the debt problem, the tougher it will be to deal with it.

What we have had since 1979 is a situation in which the annual increase in the debt is rising faster than the size of the deficit. We are creating debt this year to pay off last year's debt. This is the classic illustration of bankruptcy.

Meanwhile, there is a dynamic which we are virtually ignoring. It is causing a debt explosion—an exponential explosion in the debt relative to our ability to pay for it.

It is a case of runaway debt compounding itself. Even if we were to control the deficit, the debt would be so high and so uncontrollable that we would have to pay for it by eliminating other Government goods and services. Interest payment on the debt is rising so fast that we would have to run a surplus of $40 to $50 billion just to end up with a balanced budget by the end of the year. This is the fallacy of diminishing deficits.

Mr. President, we have here a debt pressure cooker. This year's deficit adds to the pressure. The debt is compounding faster than we are able to pay for it. It locks us into a permanent debt spiral which feeds itself.

This is a management crisis. We have no way out, unless we first recognize the seriousness of the problem we are in. An extension of Federal debt represented in this bill is a clear signal that we have not recognized the seriousness of the situation. For that, I must oppose this bill.

● Mr. NICKLES. Mr. President, once again, we are facing the ever increasing need to raise the debt limit. Congress has managed to maintain its policy of continually enlarging the deficit through overabundant spending, while always proclaiming to be reducing it. We have led the American people to believe that Congress is in a battle against growing deficits, when, in truth, we have become addicts of an exceedingly reckless spending policy. With a public debt of close to $1.5 trillion and a debt limit of nearly the same amount, it seems we have dug a hole of which will be difficult to climb out.

This proposed debt limit increase provides for a $30-billion increase in the permanent debt limit. Such an increase, at our present deficit levels, will only last to about June 15. It all seems quite a waste of time, and certainly a waste of money, when what we should really be doing is cutting Federal spending, not increasing the Federal debt. It is because of this extreme public debt that the Federal Government's interest payments will stretch to $160 billion by fiscal year 1987. Exorbitant public debt is also the predominant reason why interest rates are high.

Mr. President, per capita Federal debt was $326 in 1940. This amount will escalate to an incredible $9,854 for every man, woman, and child in this country by fiscal year 1987. I ask that a table showing historical and projected trends in per capita Federal debt and outlays be printed in the RECORD. The irony of it all is that it has taken us over 200 years to reach a public debt of a trillion dollars, and that at the rate we are going, we will double that amount in less than 10 years.

"I would not support the administration's request to raise the temporary debt limit under almost any circumstances. It goes against the very core of my philosophy." This excerpt was taken from my statement referring to H.R. 1553, a proposal then pending before the Senate to extend the debt limit on February 6, 1981. I still go by this philosophy. My convictions have always been to cut Government expenditures in order to ease the tax burdens and to balance the budget. At the same time I also said that "if this body does not make substantial budget cuts, I intend to oppose future requests for debt ceiling increases." Congress has the responsibility and Congress has not been responsible. We must not continue to automatically hike the debt limit every year. Therefore, I must stand by my previous convictions and not support these proposals to extend the debt limit.

The table follows:

COMPARISON OF PUBLIC DEBT AND FEDERAL OUTLAYS, PER CAPITA AND PER HOUSEHOLD SELECTED FISCAL YEARS, 1940–87 [1] [2]

	Debt per capita	Debt per household	Outlays per capita	Outlays per household
1940	$326	$1,229	$72	$271
1950	1,695	5,909	280	978
1960	1,591	5,423	510	1,747
1970	1,820	5,850	954	3,086
1980	4,024	11,323	2,533	7,139
1981	4,377	12,188	2,860	7,979
1982	4,954	13,723	3,140	8,720

COMPARISON OF PUBLIC DEBT AND FEDERAL OUTLAYS, PER CAPITA AND PER HOUSEHOLD SELECTED FISCAL YEARS, 1940–87 [1] [2]—Continued

	Debt per capita	Debt per household	Outlays per capita	Outlays per household
1983	5,880	16,420	3,396	9,485
1984	6,749	18,933	3,616	10,145
1985	7,724	21,765	3,875	10,919
1986	8,745	24,751	4,139	11,716
1987	9,854	28,017	4,463	12,689

[1] Estimates of population for fiscal years 1984 through 1987 based upon average historical growth rate.
[2] Estimates of debt and budget outlays for fiscal years 1984 through 1987 based upon Senate-passed budget resolution on May 18, 1984.●

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. MOYNIHAN. Mr. President, the U.S. Government is scheduled to run out of funds today.

On May 16, the outstanding Federal debt was just $25 million below the statutory ceiling of $1.49 trillion, and the Treasury's operating cash balance was $9.6 billion. On May 16, the Treasury Department told us that the Government would need $1.6 billion of available cash every working day to meet its obligations. On this basis, the U.S. Government will no longer be able to honor its obligations after today.

For the eighth time in 3½ years in office, President Reagan asks us, once again, to increase the debt limit. There is no choice but to do so—the Federal Government has been operating on a cash basis this past week, and that cash is now depleted. The Senate must and will raise the debt limit. But we have a responsibility to understand this action.

On January 20, 1981, the day President Reagan assumed the Presidency, the national debt of the United States stood at $941 billion. In barely 1,000 days, this debt increased by nearly half, to $1.4 trillion. By the administration's own calculations, by 1985 the gross Federal debt will have doubled from the levels outstanding in early 1981, to $1.8 trillion.

This administration has increased the debt of the National Government at a rate without precedent in our history. And the costs of doing so are enormous. What we are contemplating here, in a phrase, is the largest Government induced transfer of wealth from labor to capital in our political history.

By 1989, the interest payments on the national debt will reach $207 billion a year, according to the Congressional Budget Office's estimate of the President's fiscal year 1985 budget. In that year, nearly half of all personal income taxes collected will be required to pay this interest bill. And who pays the income tax? Four-fifths of personal income tax revenues are withheld from wages—the wages of working men and women. Half the tax on wages will be required to pay interest to those with wealth to lend to the Government. Each year, and for an indefinite period, the size of these transfers will increase. Now the Treasury certainly does not earmark the income tax to pay debt service, but the transfer is real enough.

The consequences are truly grave. President Reagan has put in place a fiscal policy that will lead inevitably to political divisions of a kind we have not seen in a long while, and we would not much like. And these political divisions will not be confined to our own borders.

Sustained high deficits of the order embodied in the "downpayment package" passed by the Senate last week, will lead to a permanent state of inflation and permanent congestion in our credit markets. Both will keep interest rates at ruinously high levels.

The interest rate for long-term Treasury bonds reached 13.56 percent yesterday—2 percentage points higher than just 5 months ago and nearly 3 points higher than a year ago. Little wonder. In the first 8 months of this fiscal year, the Treasury has floated $162.5 billion in new security issues. That is more than the entire Federal budget for any year before 1966. And it will get worse. According to Business Week magazine, the Treasury will have to issue an average of $3 billion in securities every working day for the rest of 1984 to refinance old debt and finance the new deficit. Need I say, this is ruinous.

The rate the Federal Government pays to borrow is the floor for everyone else. When this rate rises, future debtors will go deeper into debt—which is to say, the Third World as well as American homebuyers. There is a global equivalent here to the domestic transfer of wealth from labor to capital. Just recently, the Pesident of Argentina, Raul Alfonsin, pleaded that rising interest rates in the United States were "madness" and could "jeopardize Argentina's social peace." The reason: Argentina's costs to refinance its debt will rise with the U.S. dollar and the U.S. deficit.

And the transfer of wealth continues in other ways as well. Attracted by the high yields we must pay on Treasury securities, international investors have purchased our debt in unprecedented amounts. According to the Morgan Stanley Economics Department, Treasury securities held abroad totaled $14 billion in 1970. By 1989, Morgan Stanley estimates these holdings will grow nineteenfold, to $280 billion. As a result, upward of $30 billion a year in Government interest payments will go abroad. This is more than all Federal outlays for education, training, employment, and social service programs in this fiscal year. It is nothing short of a massive transfer of wealth, American wealth, to foreign holders of the large and growing U.S. national debt.

But there is little evidence of anyone in Washington hearing these pleas, anticipating these developments.

There are at least two reasons for this. The Capitol is dominated by the administration which has doubled the national debt, and which naturally does not want to make much of an issue of it. There is not much to be done about that fact. But there is another reason, one which at least I can identify after some 3 years of involvement in this debate. The word "deficit" means wholly different things to different people. And this is because there are different kinds of deficits.

I count four. First, oldest in time, is the wartime deficit. Next, also in chronology, is the business cycle deficit. Then, the full employment deficit. Finally, the revenue reduction deficit. In the manner that economists now refer to different kinds of money and credit as M_1, M_2, and so on, it might help to designate these different deficits as D1, D2, D3, and D4. It may seem confusing at first, but it is nothing compared to the muddle we have gotten into by using the same word to describe wholly different events.

First, the wartime deficit. Governments at war spend more than they have, and so have to borrow. Wars cause political controversy, but the deficits which accompany them have not played as much of a part in the political debate as have far more serious issues.

Next, D2, the business cycle deficit. Such came and went without much notice in the 19th century, as the Government was not thought to have much to do with the economy. Modern arguments over business cycle deficits date from the 1930's. The 1920's saw an unbroken series of budget surpluses. Some were impressive. In 1927, the Federal Government took in a third again what it spent. There then followed 10 years of unbroken shortfalls, all presided over by a President who during his first campaign had called for "a complete and honest balancing of the Federal budget," as a way out of the depression. He learned better and started to say so. In his budget message for 1940, President Roosevelt described this shift in fiscal policy as part of the New Deal:

> In the early thirties—prior to 1933—fiscal policy was exceedingly simple in theory and extraordinarily disastrous in practice. It consisted in trying to keep expenditures as low as possible in the face of shrinking national income. Persistence in this attempt came near to bankrupting both our people and our Government.
>
> Following 1933, the fiscal policy of the Government was more realistically adapted to the needs of the people. All about were idle men, idle factories, and idle funds, and yet the people were in desperate need of more goods than they had purchasing power to acquire. The Government deliberately set itself to correct these conditions by

borrowing idle funds to put idle men and idle factories to work.

This sort of talk slacked off with the eras of Truman and Eisenhower, although the deficits themselves came and went. President Eisenhower ran deficits for 5 of his 8 years in office, with a particularly mean $13 billion "D2" shortfall in 1959. This, the largest peacetime deficit then known, reflected among other things the costs of social insurance programs triggered during the period of high unemployment.

With the Kennedy administration, we first encountered "D3," the full employment deficit and the triumph of Keynesian doctrine within the economics profession. Briefly, it was argued that during periods of unutilized resources, the Federal Government should stimulate demand by spending more that it taxed. "The Federal budget," President Kennedy told Congress soon after taking office, should "be in balance over the years of the business cycle." Translated, this means deliberate deficits during business downturns.

What with one deficit and another, the national debt mounted steadily over the half century, 1930-80. In the 1950's, 1960's, and 1970's, however, the economy grew faster than did the debt, so it was actually declining as a proportion of the Nation's gross national product. But as a political issue, deficits were growing. It was the single, simplest way of stating the idea that Government was not behaving responsibly.

It was preeminently Ronald Reagan's issue. In his 1980 campaign, he did not propose to cut specific Government programs; it was the deficit he would cut.

How? He would bring about a massive reduction in revenues, so Congress would have no choice but to cut specific programs. Sixteen days after his inauguration he so told the Nation on television:

> There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance.

Enter "D4," the revenue reduction deficit. It does not arise from spending, but chiefly from taxing. The President had in mind that there were enormous amounts of "waste, fraud and abuse" in the budget, which after the largest-ever tax reduction of 1981 would simply be cleaned out. Fiscal balance would be restored. This still seems to be the prevailing view in business circles. It no longer is believed within the Reagan administration itself. The time came when they got to know what was actually in the budget—what the Government they were running actually did—and that, in David Stockman's phrase, they already had reached "the legislative hard core of the budget." In the meantime, there were huge increases to be made for defense and agriculture, and for more and more interest payments on the debt.

All our progress toward reducing the role of Federal debt in the American economy—more than 30 years during which the debt accounted for an ever-declining proportion of GNP—will soon end. By 1987, the debt will be equal to more than 40 percent of our GNP—up from but 28 percent 7 years earlier.

Deficits have become policy once again. In contrast to anything previously known, this policy is a reckless and ruinous way of living off the next generation, and the generation after that.

President Reagan recently addressed the Conservative Political Action Conference and boasted, "Long live our revolution." He is right; the national debt amassed under his administration does represent a revolution. And it could bring about a counterrevolution. Debt cannot forever accumulate for the benefit of the wealthy few. In the process, irreparable harm has been done to social policy, which is now at a standstill. Nowhere is this clearer than in the recent increases in poverty in America. According to the U.S. Bureau of the Census, the share of Americans living below the poverty line increased from 11.7 percent in 1979 to 15 percent in 1982. There are 34.4 million American citizens living in poverty today.

None should be fooled into believing that sustainable economic prosperity is here. The lead story in the Wall Street Journal yesterday quoted the chief economist of the U.S. League of Savings Institutions, Dennis Jacobe, as saying:

> Taken as a whole, events of the early 1980's show a pattern of financial crisis unprecedented since the financial debacles of the 1930's.

The greatest government on Earth can bankrupt itself. We are facing a danger recognized more than two centuries ago by Thomas Jefferson:

> I place (the) . . . public debt as the greatest of dangers. To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our choice between economy and liberty . . . and servitude . . . we can prevent the Government from wasting the labors of the people under the pretense of caring for them.●

Mr. DOLE. Mr. President, I yield back all time on the bill.

Mr. LONG. Mr. President, if there is no further request for time—and I have no request at this moment—I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5692), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. WARNER) appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. LONG, Mr. MATSUNAGA, and Mr. BAKER conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, let me explain what I propose to do.

Mr. President, I now propose that we go to the bankruptcy matter. Let me explain the way the leadership on this side would propose to do it.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2174

Let me just make the request now: Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending business, which is the bankruptcy bill, and proceed to the consideration of Calendar Order No. 137, H.R. 2174, which is the so-called Tylenol bill.

I ask unanimous consent further, Mr. President, that only one amendment will be in order to that bill. That amendment will be an amendment to be offered by the distinguished chairman of the committee (Mr. THURMOND), or his designee, and it will provide for an extension of the Bankruptcy Act until June 20 and June 21, according to the two expiration dates that are described in the amendment.

I further ask unanimous consent that there be a time limitation of 30 minutes on the bill to include any debate on the amendment and the bill itself.

At the end of that period, with the yielding back of remaining time, the Senate will proceed to vote on the bill itself.

Mr. BYRD. Mr. President, reserving the right to object——

Mr. BAKER. Mr. President, let me add one other thing. And that the control of the time be in the usual form.

Mr. President, let me explain the request.

The request I have made provides that the pending business, which is the regular bankruptcy bill, will be temporarily laid aside, and that we go to the Tylenol bill, so-called, which is a House-passed measure.

We are going to strike all after the enacting clause in the Tylenol bill, and we are going to add an amendment which, in effect, will extend the present bankruptcy law until June 20 and June 21, according to the two expiration dates that are provided for in the amendment.

Assuming that the bill, as amended, is passed by the Senate, it will then, of course, go to the House of Representatives, and the regular bankruptcy bill will recur as the pending business.

May I add, by the way, that it is the intention of the leadership on this side to adjourn pursuant to the adjournment resolution, which has not yet been agreed to but will be, and under those circumstances I can assure Senators that when we adjourn we will do so with the bankruptcy bill pending and it would then become the unfinished business.

Mr. BYRD. And would be before the Senate when the Senate reconvenes on June 4?

Mr. BAKER. Yes, Mr. President.

Mr. BYRD. In any event, will the distinguished majority leader make that part of his request?

Mr. BAKER. Mr. President, I ask unanimous consent that notwithstanding that some other measure may be pending at the time of the adjournment of the Senate over, that when the Senate reconvenes on the 4th day of June pursuant to its adjournment, the bankruptcy bill, H.R. 5174, will be the unfinished business and that it be laid down and become the pending business of the Senate.

Mr. BYRD. Mr. President, I remove my reservation.

The PRESIDING OFFICER (Mr. SPECTER). Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, so that we can get on with the business at hand, I will locate the manager on this side. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ANTITAMPERING ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, pursuant to the unanimous-consent order entered into, H.R. 2174.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2174) to amend title 18 of the United States Code to prohibit certain tampering with consumer products, and for other purposes.

The PRESIDING OFFICER. The Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3141

Mr. BAKER. Now, Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from South Carolina (Mr. THURMOND) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. THURMOND, proposes an amendment numbered 3141:

Strike all after the enacting clause and insert the following:

(a) Section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(c) Section 406 of such Act is amended by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984"; and

(2) striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984";

SEC. 2. The term of office of any bankruptcy judge who was serving on May 25, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on June 20, 1984.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out "May 26, 1984" and inserting in lieu thereof "June 21, 1984".

(b) Section 8331(22) of title 5, United States Code, is amended by striking out "May 25, 1984" and inserting in lieu thereof "June 20, 1984".

Mr. BAKER. Mr. President, once again, the purpose is to return to the House of Representatives a measure which has been previously passed by them which will provide for a limited extension of the existing bankruptcy law and provide protection for those bankruptcy judges who are already serving.

The larger bill, which provides for the creation of additional judges and other remedies under the Bankruptcy Act, will be before us as the unfinished business and will recur as the business before the Senate on June 4 pursuant to the order previously entered.

Mr. President, this is a temporary measure. It is simply for the purpose of tiding us over for a brief period while we continue in our efforts to unravel the controversy that exists on this subject.

Mr. President, I reserve the remainder of the time on this side.

Mr. BYRD. Mr. President, on behalf of Mr. HEFLIN, we yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 3141) was agreed to.

The PRESIDING OFFICER (Mr. SPECTER). The question is now on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass as amended?

The bill (H.R. 2174), as amended, passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, if the minority leader will allow me to do so, I shall send to the desk an amendment to the title.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. The clerk will read the title amendment.

The assistant legislative clerk read as follows:

Amend the title so as to read: A bill to extend the transition period under the Bankruptcy Reform Act of 1978.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment to the title was agreed to.

Mr. President, I move to reconsider the vote by which the title amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, what remains to be done is to pass the adjournment resolution primarily, but I am not inclined to do that for the moment.

I remind Senators that the other body is still in session. We have just sent them two bills which they probably did not want. We shall have to await their further pleasure, so it is not the intention of the leadership on this side to proceed to the consider-

ation of the adjournment resolution at the present time.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are no other matters that the leadership on this side is aware of that we can do at this moment. I ask unanimous consent that there now be a period for the transaction of routine morning business until 5 p.m., in which Senators may speak for not more than 5 minutes each.

THE PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES HARVIE WILKINSON III—MOTION TO RECOMMIT

Mr. MITCHELL. Mr. President, this morning, in the debate on the motion to recommit the Wilkinson nomination to the Judiciary Committee for a further hearing, I referred to the fact that the Old Dominion Bar Association testified against the nomination. I have since learned that my statement that this group specializes in appellate practice was inaccurate.

I now want to correct that error. The Old Dominion Bar Association was formed in 1941, and its members practice before the fourth circuit court, but do not specialize in such practice exclusively. I regret the error of fact and trust that it was not a decisive factor in any Senator's vote.

That error of fact does not alter the principal point I was making, which is that attorneys are understandably reluctant to place themselves in a position in any prejudicial to their interests, and particularly so with respect to a nominee before whom they may have to appear. The fact that this bar association did so gives added weight to their concerns about the type of prior experience appropriate to appeals court judges, given the nature of appeals court proceedings.

ESTABLISHMENT OF ENGLISH AS OFFICIAL LANGUAGE

Mr. BURDICK. Mr. President, I have spoken to my colleagues before on the virtues of establishing English as the official language of this country. The English language amendment (S.J. Res. 167) is not scheduled for hearings before the Constitution Subcommittee and it is my hope that this activity will lead to the eventual passage of this legislation.

My main point has always been that before non-English speakers can fully participate and progress in U.S. business, politics, and society, they must speak English.

To support my contention, I would like to direct my colleagues' attention to the first of the Washington Post's recent two-part series on U.S. Hispanics which began on May 13, 1984. While the overall gist of the article was not to espouse the virtues of a common national language, several poignant remarks by Hispanic leaders are very telling.

In discussing why so many Hispanics have missed out on the economic mobility which has been the perpetual promise to immigrants coming to this country, the Post cited linguistic and cultural differences. Arnoldo Torres, executive director of the League of United Latin-American Citizens, noted that this detriment to assimilation is changing and needs to be changed. "We made a mistake in the 1960's and 1970's, trying to create our own little Mexicos in this country. We're beyond that now. We're much more pragmatic."

In addition, Tony Bonilla, chairman of the National Hispanic Leadership Conference, said, "The bottom line is, we know we have to learn English." And San Francisco Hispanic leader Ralph Hurtado added, "If you don't speak English, you're a dishwasher."

These three quotations succinctly grasp the purpose of the English language amendment. Once again, I urge my colleagues to join me in support of this important constitutional amendment.

RETIREMENT OF JOHN PARROTT

Mr. HEFLIN. Mr. President, I rise today to recognize one of Alabama's most respected educational and professional civic leaders, John L. Parrott of Auburn. John will be retiring May 31, 1984, as head of information services for the Alabama Cooperative Extension Service at Auburn University. As he closes out a distinguished 25-year career with the organization, John will be remembered as one who has returned more to his community than he has drawn from it.

John is a veteran of the U.S. Army having served during World War II. He taught vocational agriculture at Collinsville and Marshall County High Schools before joining the extension service in 1959, as an assistant county agent in Marshall County. He later joined the State extension staff in Auburn in 1961 as radio-TV editor and served as news editor from 1963 until 1969 when he became head of information services. Under his direction the extension earned numerous national awards, and is currently one of the top extension services offices in the country.

Mr. President, John Parrott's educational contributions are as numerous as they are admirable. He holds a B.S. and M.S. degree in agricultural education from Auburn University. Other affiliations include Kappa Delta Pi, Alpha Zeta, Gamma Sigma Delta, and the American Association of Agricultural College Editors. He has served as chairman of the Auburn University Publications Committee and as a member of the Land-Grant University Regional Communications Committee.

He will be remembered by his colleagues at Auburn and in the county extension offices for his desire to go beyond the call of duty in helping make their work both easier, and more pleasant. I know that my Senate colleagues will join me in offering our best.

Thank you, Mr. President.

PUBLIC POLICY ON ALCOHOL PROBLEMS

Mr. HATCH. Mr. President, an issue of vital importance to America today is the prevention, treatment, and rehabilitation of individuals suffering from alcohol abuse, alcoholism, or other problems related to the consumption of alcoholic beverages. There is a growing need to address and expand research on the adverse effects of these problems on society.

Recognizing this need, the American Assembly provided a forum in which 65 men and women knowledgeable in the area of alcoholism came together to exchange information and ideas. These individuals, drawn from all sectors of society, spent 3 days discussing issues of research, treatment of alcoholism and alcohol-related diseases, prevention of these diseases, as well as the legal, political, economic, and societal aspects of alcohol problems.

Mr. Thomas Pike, a well-known and respected national leader who has given years of his time to public and private service in the field of alcoholism, provided me a copy of the proceedings of this conference. I would like to share these findings, contained in a report entitled "Public Policy on Alcohol Problems," with my colleagues and the American public. The results of this conference will have an important impact on the future direction of research, treatment and prevention of alcoholism, and alcohol-related problems. I encourage my colleagues to seriously consider this report and I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PUBLIC POLICY ON ALCOHOL PROBLEMS

PREFACE

On April 26, 1984, sixty-five men and women, drawn from government, medicine, business, the universities, law, the clergy, the alcoholic-beverage industry, and from voluntary associations and foundations, gathered at Arden House in Harriman, New York, for the Sixty-sixth American Assembly concerning Public Policy on Alcohol Problems. For three days, the participants discussed issues of research and treatment of alcoholism and alcohol-related diseases,

prevention of those diseases, as well as the legal, political, economic and societal aspects of alcohol problems.

Dr. Louis Jolyon West, Director of the Neuropsychiatric Institute of U.C.L.A., acted as director for this Assembly program and supervised the preparation of papers that were used as background reading by the participants. Authors and titles of the papers, which will be compiled and published as a Prentice-Hall book to be entitled "Alcoholism and Related Problems: Issues for the American Public," are as follows:

Louis Jolyon West, M.D., Alcoholism and Related Problems: An Overview.

Stewart G. Wolf, M.D. Alcohol and Health: The Wages of Excessive Drinking.

Philip J. Cook, The Economics of Alcohol Consumption and Abuse.

John Kaplan, Alcohol, Law Enforcement, and Criminal Justice.

Robert G. Niven, M.D., Alcohol and the Family.

John A. Volpe, Alcohol and Public Safety.

Ernest P. Noble, M.D., Prevention of Alcohol Abuse and Alcoholism.

Shelia B. Blume, M.D., Public Policy Issues: A Summary.

Speakers during the Assembly were a senior official of Alcoholics Anonymous; Dr. Joseph A. Pursch, Corporate Medical Director of Care Unit Hospital of California; and Dr. Roger Egeberg, formerly of H.E.W., who moderated a discussion panel composed of past and present directors of the National Institute on Alcohol Abuse and Alcoholism.

On April 29, 1984, following their discussion, the participants produced this report, which contains both assessments and recommendations. We gratefully acknowledge the contributions of the National Institute on Alcohol Abuse and Alcoholism; the J. M. Foundation; the Richard King Mellon Foundation; the Conrad N. Hilton Foundation; Distilled Spirits Council of the United States, Inc.; Humana Inc.; and Mr. David A. Jones, who helped sponsor this Assembly. They and The American Assembly, a national, nonpartisan, educational institution have taken no stands on the subjects that were presented for public discussion. The participants spoke for themselves rather than for the institutions with which they are affiliated.

WILLIAM H. SULLIVAN,
President,
The American Assembly.

FINAL REPORT OF THE SIXTY-SIXTH AMERICAN ASSEMBLY

Following three days of intensive deliberation and discussion, participants in the Sixty-sixth American Assembly, on *Public Policy on Alcohol Problems,* at Arden House, Harriman, New York, April 26-29, 1984, reviewed as a group the following statement. While the statement represents general agreement, no one was asked to sign it, and not every participant necessarily subscribed to every conclusion or recommendation.

Preamble

Alcoholism and alcohol abuse cause America many serious problems in terms of health, safety, and the quality of life. Alcohol-related problems have their impact everywhere—homes, schools, workplaces, the military services, on highways, and even on the waters and in the air above our land. The cost is enormous, the damage widespread, the suffering severe, the magnitude growing, and the consequences incalculable.

The background of relevant facts studied by the group in its deliberations included observations that alcohol-related problems (1) cost the United States more than $60 billion a year; (2) are responsible for 20 percent of the national expenditure for hospital care; (3) cause the birth of a great many disabled children every year; (4) are involved in more than a third of our suicides, half of the fatal highway accidents, a large number of rapes and sex crimes, the majority of homicides and other violent crimes, two-thirds of the deaths by drowning, 70 percent of deaths by falls, 83 percent of deaths by fire, and a majority of domestic violence episodes; (5) cause many deaths through alcoholic damage to the stomach, liver, heart, brain, and immune system; and (6) in these and various other ways kill up to 200,000 Americans a year.

Meanwhile, alcoholics are still widely stigmatized, there is insufficient public awareness of the facts about alcoholism as a disease, treatment programs lack adequate funds, and research in the field does not receive appropriate support. Alcohol-related problems affect not only those who drink, but also members of their families, particularly children. Clearly, a bold new initiative is needed for the formulation of improved public policy on alcohol problems in America at all levels of government.

National policy

A national alcohol policy to promote health and reduce alcohol-related problems need not threaten the rights of individuals to drink or of businesses to produce and sell beverages containing alcohol, subject to appropriate constraints required by public health and welfare considerations. Such a national policy should be based on the proposition that alcohol, as a drug that is potentially dangerous, should be depicted as such and recognized by the public as such.

Responsibility rests with both public and private sectors for assuring reduction of the problems related to drinking and for providing persons with alcoholism and alcohol-related illnesses and their families access to treatment. All levels of government and the private sector (including foundations, corporations, and citizen groups) should be encourage to contribute financial support to research, prevention, and treatment efforts.

The unique contributions of Alcoholics Anonymous, Al-Anon, and other self-help groups should be recognized as integral components in the alcoholism-care continuum.

Recommendations

1. National policy should promote educated choices about drinking and the rights of nondrinkers, acknowledging that healthy lifestyles require individuals to make healthy lifestyle decisions.

2. National policy should recognize personal and family responsibilities regarding the use of or abstinence from beverage alcohol but should promote abstinence among underage individuals, pregnant women, alcoholics, and other individuals experiencing—or likely to experience—deleterious health effects, with provision of treatment for all those who need it to abstain.

3. National policy should promote a social norm that alcohol use not be glamorized and its abuse not be accepted or condoned.

4. National policy should recognize age, gender, ethnic, and cultural differences in the development of prevention, treatment, and research programs and place special emphasis on providing accessibility to appropriate services to women, and to Black, Hispanic, native American, and other special populations.

5. National policy should emphasize that ethyl alcohol is equally dangerous whether in beer, wine, or distilled spirits and that every individual and every segment of the population is vulnerable—directly or indirectly—to its harmful potentialities.

Prevention

All sectors of the community—families, schools, religious institutions, government agencies, legal systems, voluntary organizations, media, business, labor, health care professionals, and the alcoholic-beverage industries—should be involved in the development and implementation of a strategy for prevention of alcoholism and alcohol-related problems.

In formulating a prevention policy there is room for many different approaches. The present diversity of state laws, regulations, and programs can furnish fertile ground for researchers to discover what approaches might be more effective than others. There is no need to choose between alternative approaches such as education versus regulatory controls. However, evaluation of the effectiveness of such programs should be undertaken henceforth, so that, eventually, relative cost effectiveness can be estimated. All policy measures undertaken in an effort to prevent alcohol problems should be designed with a strategy for evaluation that uses appropriate scientific method.

A comprehensive prevention policy must consider such questions as minimum purchase age, advertising, drinking and driving, uniformity and consistency among the several states of various laws, labeling of alcoholic-beverage containers, media programing, alcoholic beverage control (ABC) laws, along with tax and pricing policies in the development of a comprehensive prevention strategy.

There is an important role for education in any sound alcohol-abuse prevention policy. Information regarding the health, social, and economic consequences of alcohol abuse and alcoholism should be disseminated to specific segments within the community (e.g., physicians, educators, lawyers, labor and business leaders, clergy, policy makers), as well as the public as a whole, as an essential part of a prevention strategy.

Prevention strategies should include specially designed messages directed toward high-risk groups, particularly children of alcoholics. Information about prevention of alcoholism and alcohol-related problems should be clear, accurate, unambiguous, and age appropriate. Messages, particularly those directed toward youth, should be clear about the similarities and differences between alcohol and other drugs.

In consideration of the foregoing, and in the light of our general comprehension of the scope of the alcohol problem and the need for development and implementation of a prevention strategy, the following comments and recommendations have been formulated:

Recommendations

1. Education of the entire society should play an important role in any sound alcohol-abuse prevention policy. Special efforts should be made to reach youth at earlier ages and to promote the establishment of student assistance programs.

2. Prevention programs are no better than the research on which they are based. Therefore, the most cost-effective and beneficial methods of implementing successful prevention programs should be studied. Prevention research investigators should be recruited to develop and carefully evaluate new and more effective prevention initiatives. Longitudinal studies are needed.

Ample and stable funding will ensure the presence of capable investigators.

3. Uniformity and consistency of laws with respect to the minimum purchase age are important. The federal government should provide incentives and otherwise encourage states to adopt a minimum legal purchase age to twenty-one.

4. Prevention strategies should be developed and coordinated among federal, state, and local governments.

5. Those engaged in the production, marketing, distribution, and sale of alcoholic beverages have a responsibility to inform the public about the potentially adverse consequences of alcohol consumption and the circumstances under which these occur. They should do so pursuant to rules, regulations, and guidelines established by appropriate public agencies.

6. Policies should be formulated and adopted to ensure that consumers are fully informed about the contents of alcoholic-beverage containers and the possible consequences of consuming those contents. Alcoholic-beverage containers should bear labels listing ingredients, giving the proportion of alcohol contained therein, and providing a specific health warning about the risk of birth defects.

7. Recognizing the pervasive influence of advertising in our daily lives, we encourage the development of advertising guildelines and policies designed to promote improved public health and safety with respect to alcohol consumption. Advertising for alcoholic beverages should not market or promote directly or indirectly the sale of alcohol to those under the minimum legal purchase age. Legal or regulatory avenues to require the alcoholic-beverage industry—or their advertising media—to contribute counter advertising (warning about alcohol's dangers) should be explored.

8. The film and other entertainment industries should refrain from glamorizing alcohol use of accepting or condoning alcohol abuse. Drunkenness should be shown only if required by the artistic content of the program.

9. The news media, both electronic and print, should be encouraged to report accurately the adverse consequences of alcohol use.

Legal, economic, political

There is a significant relationship between the legal, economic, and political environment and the incidence, consequences, and extent of alcoholism and alcohol abuse. It is in this arena that the scope and adequacy of the public's response to the problem is defined. Program funding levels are determined, health care resources are allocated, sanctions for unacceptable behavior are established, costs are assessed, and rules are forged determining who gets assistance and under what circumstances. Our ability to reduce the incidence of alcohol abuse will, in large measure, depend upon our ability to harness and target the resources of both government and the private sector.

Recommendations

1. In line with the continuing trend toward decriminalization of public inebriacy, health and welfare programs for alcoholics must be strengthened by increasing public resources for the care of inebriates and significantly extending private insurance coverage for appropriate treatment of alcoholism, thus allowing the public sector to concentrate its limited resources on the needs of the indigent.

2. Recognizing that employee assistance programs (EAPs) are quite effective in early intervention with alcohol abusers and in the treatment of alcoholism, the EAP concept should be strengthened by (a) developing EAP consortia to extend coverage to employees in small organizations; (b) ensuring the availability of EAPs to federal, state, and local government workforces, including all levels of employees and elected officials; (c) fostering the cooperation of business, labor, foundation, and government resources in developing research on the contributions EAPs can make to health-care cost containment and health-care promotion efforts; (d) emphasizing and further developing EAP standards and guidelines on confidentiality and job performance; (e) exploring innovative financing mechanisms; and (f) expanding the role of the National Institute on Alcohol Abuse and Alcoholism (NIAAA) in providing information and technical assistance to the private and public sectors in the development and expansion of EAPs.

3. Excise tax rates on alcoholic beverages should be increased, adjusted for inflation, and made equitable according to alcohol content. The resulting increase in revenue should encourage government at all levels to improve resource allocation for research, prevention, and treatment of problems associated with alcohol use.

4. All recommendations of the President's Commission on Drunk Driving should be adopted rapidly by the states.

5. Appropriate health-care service system components should be developed and funded to provide for the growing number of those requiring rehabilitation following alcohol-related offenses.

Research

The greatest hope for significant improvement in the alcohol field lies in more and better research. The NIAAA should be strengthened for this purpose. Its function as a centralized source of data through its National Clearinghouse on Alcohol Information (NCALI) should also be strengthened. Only through basic and applied research can we expect to develop essential breakthroughs on prevention, early diagnosis, identification of risk factors, and improved treatment of alcoholism and its complications at every stage of the disease.

Support for research on alcoholism and alcohol abuse should be increased to reflect the size and importance of the problem. A climate more favorable to effective research on the causes, prevention, treatment, net costs, incidence, and prevalence of alcoholism and alcohol-related problems is essential. Public awareness of the personal, social, economic, and health costs to the nation of alcoholism and alcohol abuse must be expanded.

Recommendations

1. Research should be greatly increased and expanded on all aspects of alcoholism, alcohol abuse, and related problems. This will require broadcasting the base of research support so as to include greater contributions from private industry, foundations, and various governmental sources.

2. The NIAAA research budget should be doubled as soon as possible and steadily increased thereafter.

3. The Veterans Administration; Indian Health Service; Departments of Defense, Education, Transportation, and Justice; and other agencies should be directed to support alcohol-related research relevant to their responsibilites.

4. All of the National Institutes of Health should be directed to give favorable consideration or research proposals of good quality concerning the relationship of alcohol to the diseases with which they are concerned. These proposals should be supported directly by the appropriate institutes and not necessarily shifted to the NIAAA for funding. The leadership role of the NIAAA in the alcohol field should be strengthened and expanded.

Diagnosis and treatment

The earlier alcoholism can be identified and treatment begun, the greater the chances for success and the less difficult and costly the treatment will be. Physicians and other health professionals need more and better instruction about alcoholism (including biological and psychosocial aspects) throughout their professional educational experience. Their training should cover the comprehensive care of patients with alcohol problems, regardless of diagnoses or how patients enter treatment. It is also important that better training about alcoholism be given to those in other systems (e.g., legal, social welfare, educational, industrial) thereby improving and increasing early case finding and appropriate referral of patients for help.

A variety of settings should be available for the care of alcoholic patients. Alternatives to full hospitalization will help to reduce the high cost of care, which presently poses a serious barrier to treatment. Those public and private agencies that pay for alcoholic-treatment services must recognize the validity and economic desirability of these alternative modes of care and provide appropriate coverage. Within this context, special programs should also be devised for certain populations that can benefit by particular approaches.

The improvement of alcoholism-treatment services will favorably influence the quality of health care in general. However, lack of financial support for such services presently poses a significant barrier to progress. Yet, there is good reason to believe that a greater investment in care of alcoholics—especially if it is early and expert—will more than pay for itself by lowering the burden of costs imposed by advanced alcoholism and by forestalling the innumerable medical and surgical complications likely to develop as the disease progresses.

Health care services for alcoholic patients and their families are in very short supply vis-a-vis the need. Quality of services remains very uneven, and quality-assurance procedures are greatly needed. In the public sector, provision of more and better care for alcoholics must await a far greater commitment of funds. The private sector is also a potential source of volunteers who should be encouraged to assist in treatment, supportive services, follow-up studies, and the like. Furthermore, it is more likely that employers or unions will be able and willing to provide payment (either directly or through insurance carriers) than will individuals, who are most likely to deny that they ever could—or already do—need help for drinking problems.

Recommendations

1. The integration of alcohol-abuse and alcoholism treatment into the mainstream of the health care system is essential. The magnitude of the alcohol problem is such that categorical and specialized approaches can address it only in a limited way. All physicians should learn how to make an early diagnosis of alcoholism and to provide or refer such patients and their families to appropriate care.

2. Public and private policy should foster the development of a broad range of specialized treatment services that will provide for a continuum of care encompassing inpatient, residential, day treatment, and various outpatient services. Medicare and Medicaid should cover such services. Such policy should also recognize and provide for the involvement of nonphysicians; it is likely that much of the professional service will continue to be delivered by social workers, clergy, nurses, psychologists, and certified alcohol counselors.

3. Alcoholism should be dealt with like any other disease, and insurance coverage should be statutorally mandated and provided without discrimination.

4. New methods for financing health health care services, such as prospective reimbursement systems, should encourage the development of cost-effective, but professionally sound, care for alcoholics and members of their families.

5. Treatment should be much more extensively provided to alcoholic individuals within the criminal justice system. This will decrease the likelihood of criminal recidivism and thus reduce danger and cost to society.

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[1] Discussion leaders.
[2] Rapporteur.
[3] Participated in panel discussion.
[4] Delivered formal address.

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ABOUT THE AMERICAN ASSEMBLY

The American Assembly was established by Dwight D. Eisenhower at Columbia University in 1950. It holds nonpartisan meetings and publishes authoritative books to illuminate issues of United States policy.

An affiliate of Columbia, with offices in the Sherman Fairchild Center, the Assembly is a national, educational institution incorporated in the State of New York.

The Assembly seeks to provide information, stimulate discussion, and evoke independent conclusions on matters of vital public interest.

American assembly sessions

At least two national programs are initiated each year. Authorities are retained to write background papers presenting essential data and defining the main issues of each subject.

A group of men and women representing a broad range of experience, competence, and American leadership meet for several days to discuss the Assembly topic and consider alternatives for national policy.

All Assemblies follow the same procedure. The background papers are sent to participants in advance of the Assembly. The Assembly meets in small groups for four or five lengthy periods. All groups use the same agenda. At the close of these informal sessions participants adopt in plenary session a final report of findings and recommendations.

Regional, state, and local Assemblies are held following the national session at Arden House. Assemblies have also been held in England, Switzerland, Malaysia, Canada, the Caribbean, South America, Central America, the Philippines, and Japan. Over one hundred forty institutions have cosponsored one or more Assemblies.

Arden House

Home of The American Assembly and scene of the national sessions is Arden House, which was given to Columbia University in 1950 by W. Averell Harriman. E. Roland Harriman joined his brother in contributing toward adaptation of the property for conference purposes. The buildings and surrounding land, known as the Harriman Campus of Columbia University, are fifty miles north of New York City.

Arden House is a distinguished conference center. It is self-supporting and operates throughout the year for use by organizations with educational objectives. The American Assembly is a tenant of this Columbia University facility only during Assembly sessions.

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NEPAL: PROGRAM FOR NATURE CONSERVATION

Mr. PERCY. Last night, I attended the reception hosted by the Royal Nepalese Ambassador in honor of the visiting Prince of Nepal who is chairman of Nepal's newly established King Mahendra Trust for Nature Conservation. His Royal Highness gave a statement seeking cooperation to realize the objectives of the trust. I request unanimous consent that the full text of his remarks be printed in the CONGRESSIONAL RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, Nepal is a small, independent, and sovereign nation that seeks to contribute to the cause of global peace and is making serious efforts to modernize its economy. King Birendra of Nepal is providing dynamic leadership and has carried out significant political reforms to allow for the evolution of a participatory democratic system. The crown plays a leading role in the modernization of Nepal, as well as in the democratization of its political system. I have visited Nepal myself. Only a few months ago, I had the pleasure of hosting the King and Queen to a dinner. On these and other occasions I have become familiar with the progress Nepal has made in recent years, and the developments which have taken place since my last visit.

Nepal is a poor, developing nation. It is small in size and it is home to almost 16 million people. It has remained friendly with the United States as it has historically lived in peace with its neighbors as well as the rest of the world. It pursues a realistic development policy and is pursuing the austere economic policy consistent with its structure. Over the last several years, roads have been built, communications expanded, education and health facilities have been improved, and yet—for a poor country—the challenges ahead remain immense. Nepal is rich in its hydroelectric potential because it has large rivers that originate in the mighty Himalayas.

Nepal is keen to develop its water resources and become an exporter of energy to neighboring countries. During King Birendra's visit, the U.S. Government assured Nepal of cooperation in the development of these water resources. I am personally interested in seeing that joint efforts between our countries, particularly in such important areas as energy development, education, and health care, are fully successful. I expect the U.S. Agency for International Development can play an important and constructive role, and I am hopeful that the hydroelectric development projects contemplated by Nepal will warrant the full support of the World Bank.

Prince Gyanendra has launched a very significant effort to conserve the natural resources of Nepal, many of which are unique in the world and extremely beautiful. He has personally devoted a great deal of thought and energy to the design of conservation programs that are appropriate to Nepal's position and that will complement the modernization and economic development of the country. The Prince has made an appeal for help in this conservation effort, and has outlined his objectives in the speech which follows. I am in full support of these goals. Moreover, I think this represents an excellent opportunity for mutually beneficial cooperation between the United States and Nepal. I encourage my countrymen to recognize and to look with favor on these important programs.

EXHIBIT 1

STATEMENT BY HIS ROYAL HIGHNESS PRINCE GYANENDRA BIR BIKRAM SHAH

Honourable members of the U.S. Congress, ladies and gentlemen: It is indeed a great pleasure for me to be in Washington once again and to meet new friends and renew old acquaintances. I look upon your presence this evening as a gesture of friendship and goodwill towards the people of Nepal, whose greetings I have the pleasure to convey to you and through you to the people of the United States.

Barely five months ago, His Majesty King Birendra Bir Bikram Shah Dev and Her Majesty Queen Aishwarya Rajya Laxmi Devi Shah paid a State Visit to your great country. We in Nepal look upon the State Visit as yet another historic landmark in the pleasant bilateral relations between our two countries. It was, and still is, heartwarming and gratifying to learn of the hospitality extended to Their Majesties and to hear such eloquent and generous expressions about Nepal and the Nepalese people.

Some of you may be aware that this is not my first visit to the premises of the National Zoological Park. I am, as I was then, impressed by its idyllic setting. This institution has recently come to assume special significance for us as amongst your vast collections are representatives of wildlife from Nepal—the rare and endangered gharial crocodile. May I express the hope that they have not only survived but also contributed in your scientific pursuit.

Our association with the Smithsonian Institution has always been mutually benefi-

cial. There are many who work in this institution that have made this possible. I believe, the Secretary of the Smithsonian Institution, Dr. Dillon Ripley, stands out as one who has nurtured this relationship that dates back not only to his present position but who traveled to Nepal as a young explorer. Among the many activities pursued directly with the Smithsonian, perhaps the most important is the study of the elusive tiger in the Royal Chitwan National Park. With the cooperation of scientists from both sides, an interesting feature of these studies is the combination and use of indigenous, traditional, as well as modern methods of fauna observation including the use of radio telemetry monitoring. We look forward to continuing this association in the future as well.

Although it is about the same size as the state of Florida, Nepal, with the world's highest mountain—Sagarmatha—known to you here as Everest, represents a spectrum of varied ecosystems in offering a unique setting for understanding the zoo geography of this earth. Forming a transition zone between the paleoarctic and oriental biotic provinces of the Asian continent, Nepal has been the home for nearly a hundred species of mammals ranging from the gigantic but diminishing Asiatic elephant to the tiny Himalayan mouse-hare. If I am not mistaken, I have heard ornithologists describe Nepal as a paradise for bird watchers. Over 800 species of avian fauna, representing more than half of all the species of birds found in South Asia, have been recorded in Nepal.

If we are abundant in these treasures, many factors have combined in recent years to subject them to severe strains. Man's quest for unplanned and imbalanced progress has resulted in the reckless exploitation of God's gift to him. If the population explosion is one of many factors that have contributed to this sorry state of affairs, lack of knowledge, mismanagement and hence, lack of understanding are surely others.

Perhaps, some of you are aware that we in Nepal have not stood by idly as mere spectators. Our government has initiated several broad and important projects in the fields of nature conservation. Our system of National Parks and Wildlife Reserves numbering almost a dozen and covering more than 6 percent of our surface area are living monuments of these efforts. And yet, the task of bringing about a balance between providing the people with basic needs and at the same time protecting the fragile environment under conditions of poverty in a developing country like Nepal is the core of the problem.

We cannot allow for one to take part at the neglect of the other. The rational use of resources requires a more realistic approach to maintain this intricate balance. We in Nepal are fully prepared to do our utmost to bring about such a balance. It is with this realization that we have welcomed the principles of the IUCN-sponsored World Conservation Strategy. Consequently, we are in the process of formulating a national strategy of our own. I need hardly mention that however much one would wish, governments alone cannot be expected to bear the entire burden of generating resources for this noble but enormous task. It is this realization that has led us to the adoption of a concept that has recently become near to our hearts—a conservation Trust.

Ladies and gentlemen: It gives me great pleasure to inform this distinguished gathering that such an Institution—The King Mahendra Trust for Nature Conservation—has recently been established in Nepal. This Trust is named in memory of my revered father, the late King Mahendra, whose vision and foresight was instrumetal in the creation of a scientific approach to nature conservation in our country. Furthermore, we find a great source of encouragement that His Majesty King Birendra has graciously consented to become the patron of the Trust. This has inspired us in our endeavours. We are now like a sapling that has received nurture and care at this initial and crucial stage.

As Chairman of this Trust, I invite you to join me on a journey to reach its goals which although long and arduous, will be challenging but surely rewarding. This Trust is an autonomous, non-governmental and non-profit organization. It aims to be a people-oriented body by mobilizing their support through conservation education and programs involving local institutions which will in turn motivate them. Perhaps, one of its unique factors is that a special and separate act passed by the elected legislature stipulates that the governing Board of Trustees will include conservationists both from Nepal and abroad. The Trust will initially concentrate on raising funds within and outside Nepal from individuals and institutions. It seeks by endorsing the spirit of the World Conservation Strategy to develop human resources and integrate its activities with the overall national development of Nepal. In this gathering, it would of course, be presumptuous on my part to preach the values of a non-governmental initiative when as far back as 1872, your forefathers visualized and set aside Yellowstone as the world's first national park.

In conclusion, we come here to learn from your long and rich experience. We come to share with you our own successes and failures. For it is in the practical application of this knowledge that the foundation of our future must be built. And, above all, we come to seek your understanding and cooperation so that hand in hand we may realize the goals of the King Mahendra Trust for Nature Conservation.

We feel that today's clarion call must be—development through conservation. We ask you to remain our partners in this effort so that prosterity will judge us not as destroyers but as preservers of our heritage.

Thank you.

1984 NUCLEAR POWER ASSEMBLY

Mr. SYMMS. Mr. President, last week, representatives of the U.S. domestic nuclear industry gathered in Washington for the 1984 Nuclear Power Assembly. This annual event is sponsored by the American Nuclear Energy Council, the American Nuclear Society, the American Public Power Association, the Atomic Industrial Forum, the Edison Electric Institute, the National Rural Electric Cooperative Association and the U.S. Committee for Energy Awareness. It brings to Washington a wide range of individuals, representing all facets of the industry, concerned about the issues necessary to retain the nuclear energy option in order to meet this Nation's energy needs.

The 1984 assembly proved to be the industry's most successful and stands as adequate testimony of its commitment to nuclear energy as a viable and essential ingredient in our energy mix.

The theme of this year's assembly is set out in a document entitled, "Nuclear Power Agenda: 1984," which endorses the following 12 basic policy objectives: recognize electric powers vital role in any expanding economy; reform the NRC licensing and regulatory process; promote excellence in plant design, construction and operation; improve public perception of nuclear power; assure supply of uranium; maintain uranium enrichment capability; remove obstacles to reprocessing spent fuel; maintain sound nuclear materials transportation policy; facilitate disposal of low-level wastes; implement nuclear waste management and disposal program; promote nuclear research, development and demonstration programs; and develop sound international nuclear policy.

The agenda for 1984 calls attention to two specific areas where the industry has taken strong initiatives to assure the continued viability of nuclear power: First, the promotion of excellence in all phases of nuclear plant design, construction and operation; and second, building of public confidence in nuclear power. The agenda also lists as the industry's highest priorities: enactment of legislation to reform the NRC licensing and regulatory process; and implementation of the Nuclear Waste Policy Act of 1982 in accordance with both the spirit and letter of its provisions.

Among the highlights of the assembly's activities was a keynote speech at a plenary session by DOE Secretary Donald Paul Hodel. In that talk, he reiterated the administration's commitment to commercial nuclear power as an energy source. In addition, he outlined several administration initiatives to see to it that safe and economically feasible nuclear plants under construction can be completed.

For the interest of my colleagues, I ask unanimous consent the full text of both the "Nuclear Power Agenda: 1984" and DOE Secretary Hodel's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NUCLEAR POWER AGENDA: 1984

Last year in conjunction with the Nuclear Power Assembly the sponsoring organizations, which include all segments of the nuclear industry and the private, public and cooperatively-owned electric utility industry, adopted a statement entitled, Nuclear Power: Agenda for the '80s. That agenda, which continues to represent the nuclear power policy objectives for this decade, articulated 12 basic goals:

Recognize Electric Power's Vital Role in any Expanding Economy.

Reform the NRC Licensing and Regulatory Process.

Promote Excellence in Plant Design, Construction and Operation.

Improve Public Perception of Nuclear Power.

Assure Supply of Uranium.

Maintain Uranium Enrichment Capability.

Remove Obstacles to Reprocessing Spent Fuel.

Maintain Sound Nuclear Materials Transportation Policy.

Facilitate Disposal of Low-Level Wastes.

Implement Nuclear Waste Management and Disposal Program.

Promote Nuclear Research, Development and Demonstration Programs.

Develop Sound international Nuclear Policy.

The Industry's agenda is based on the conviction that a healthy and growing economy will need an increasing supply of electricity throughout the remainder of this century and beyond. While conservation, cogeneration, proper load growth management, solar, geothermal and hydroelectric sources are expected to make contributions for the foreseeable future only coal and nuclear offer the abundant and domestically secure sources of fuel essential for a reliable electric supply system—and both are necessary, since it would not be desirable public policy to be dependent exclusively on one source of fuel supply. Electric power is of strategic importance to the American economy and national security and that fact must be recognized in national energy policy.

Economic growth in the United States, as well as other industrialized societies, is directly linked to the growth in demand for electricity. Last year's agenda stated that an economic growth rate of in the range of 3% a year would most likely lead to a growth in electric power use by about the same amount—which would mean a doubling of our national demand in only about 25 years. In fact, the nation's inflation—adjusted economic output expanded 3.3 percent in 1983, and electricity consumption rose 3.0 percent. Last year 13 percent of the nation's electricity was generated by nuclear power plants and in some sections of the country the figure as considerably higher. Within the next 10 years, nuclear's share of the market is expected to grow to 20 percent.

Nuclear power plants are already a significant component of our electricity generation mix and the continued and direct link between Gross National Product (GNP) and electricity usage must be recognized in planning for the future. It is necessary for national energy policy to recognize the role which nuclear power, along with coal, can play in assuring an adequate supply of electricity—and we need to remove the impediments to achieving that objective.

There are two important areas where the industry has taken strong initiative to assure the continued viability of nuclear power: (1) the promotion of excellence in all phases of nuclear plant design, construction and operation; and (2) building of public confidence in nuclear power.

EXCELLENCE IN OPERATION

The Institute of Nuclear Power Operations (INPO)—now in its fifth year of existence—continues to promote excellence in all phases of nuclear plant design, construction and operation. The INPO was organized on the premise that each individual utility has primary responsibility for safe and reliable operations, but that the discharge of that responsiblity can be enhanced through INPO's self-improvement, self-regulated approach. Each passing year increases our confidence in the effectiveness of this approach.

The last year produced strong evidence that INPO has matured into the important role that the industry established for it. The year marked the beginning of the third round of operating plant evaluations and first accreditation of a utility training program. The data base for the Nuclear Plant Reliability Data System was established in-house and its use by utilities has increased significantly. Phase II of the Construction Project Evaluation Program was implemented to provide the same bench mark for excellence in construction programs currently provided by operating reactors. International and supplier advisory groups were formed to broaden the base of INPO's in-puts. The year also saw an increase in utilities' implementation of INPO recommendations and more requests for special assistance visits.

* * * * *

The 12 or more year process extends the planning horizon of new capacity requirements beyond the period in which those needs can be predicted with a reasonable degree of accuracy. The process leaves fundamental issues open for reconsideration at the operating license stage, including whether the basic design is acceptable, whether the site is suitable and other important technical and operating parameters. The uncertainty and unpredictability which this creates makes it impossible for a utility to know before it makes a substantial financial commitment whether the plant will ever operate, thus prohibiting the securing of financing on any reasonable basis. Even if we were not to go beyond the plants now operating or under construction, it would be necessary to improve the system to assure the continued sound operation of these plants throughout their 30-40 year lives. The primary objective of these improvements should be to eliminate the inefficiencies in the present process and thereby help assure the continued safety of the public. Pending action on a licensing reform measure, Congress should extend NRC's authority to issue temporary operating licenses.

Beyond licensing reform legislation, there are a number of administrative steps the NRC must take on its own initiative. These include positive actions to develop a rational and workable backfitting rule, to resolve the impasse over emergency preparedness planning, to eliminate delays in issuing operating licenses caused by dilatory allegations and to develop new source terms. In addition, there are serious problems in the NRC's management of the regulatory system. A fundamental problem is that, for whatever reason, the Commission's collegial approach to decision making is not working. This was dramatically evidenced in testimony this Spring before a Senate committee where the NRC chairman recommended that the Commission-type structure be replaced with a single administrator, a recommendation made earlier by the Kemeny Commission. A majority of the commissioners agreed that some change is needed.

One alternative management approach would be to establish a single administrator, as recommended by the NRC chairman and the Kemeny Commission. Another alternative would be to strengthen the role of the chairman as the agency's chief executive officer who would be exclusively responsible for the management of the agency; the other commissioners would retain their current policy and quasi-judicial responsibilities. When the Carter Administration rejected the Kemeny Commission recommendation for a single administrator, it sent to Congress a reorganization plan to strengthen the role of the chairman, but the proposal was about the smallest improvement that could be justified, and, as approved by Congress, it was even weaker. Unlike NRC, most other commission-type agencies do have a "strong-man" chairman.

Another problem is that NRC, unlike other federal agencies, has largely insulated itself both from its staff and from any effective decision making role on substantive matters. A principal reason for this is the historical accident of the Commission's birth as a successor to the AEC. Since the AEC had both "promotional" and regulatory responsibilities, it leaned over backwards to avoid any appearance of a conflict of interest by establishing institutional barriers between itself and its staff and the regulatory decision making process; for example, the "independent" ACRS; the appeal board to insulate it from the public hearing process; and *ex parte* and separation of functions rules (which regulate its communication with the staff and the public) that go far beyond the requirements of the Administrative Procedures Act or the rules of any other agency. These rules have repeatedly been described as "excessive", since they prevent effective communication between the Commission and the staff.

The Commission should take immediate action to provide effective management of the licensing and regulatory process. It should also use its existing authority to identify unnecessary or excessive barriers to its ability to communicate with and manage the staff, including, among other things, revision of the *ex parte* and separation of functions rules. These efforts could be complemented by an independent study of the management problem, as mandated, but never undertaken, by the Fiscal Year-1980 NRC Authorization bill.

The time for action to improve the NRC process is now. Both the Congress and the NRC must act promptly if nuclear power is to be preserved as a viable component of our electric supply system.

NUCLEAR WASTE

The nuclear industry worked closely with the Congress over a period of several years to bring about enactment of the Nuclear Waste Policy Act of 1982 (NWPA). The utilities have now accepted their responsibility under that NWPA by signing contracts with the DOE and for the past several months have been providing funds to the Federal Nuclear Waste Fund at a rate of about $25 million each month.

HODEL ANNOUNCES ACTIONS TO HELP COMPLETE SAFE AND ECONOMICALLY FEASIBLE NUCLEAR PLANTS

Secretary of Energy Don Hodel today announced that the Department of Energy will "take steps to see to it that safe and economically feasible nuclear plants under construction can be completed." He emphasized that nuclear power needs to continue to be part of the Nation's balanced and mixed energy supply to help move America toward energy non-dependence.

Rejecting any kind of federal financial bail-out in a speech to the Nuclear Power Assembly in Washington, D.C., Secretary Hodel listed several actions the Department is taking, including:

Encouraging and providing support to the Nuclear Regulatory Commission (NRC) in conducting "readiness reviews" of plants under construction to identify problems early, when remedies are most effective and economical;

Encouraging the NRC to adopt a policy to handle last-minute allegations of safety, environmental, and quality problems associated with plants nearing completion;

Determining the status of construction permits and the operating licensing process for plants that have been temporarily "mothballed," with a view toward minimal delays should a decision be made to complete construction; and

Working within the Administration to ensure that federal policies and programs that have major impacts on the nuclear industry are consistent with our National Energy Policy goal.

PRESENTATION BY U.S. ENERGY SECRETARY DON HODEL BEFORE THE NUCLEAR POWER ASSEMBLY

I am pleased to be here today to share with you the Reagan Administration's energy policy priorities and agenda—particularly, our commitment to ensuring that nuclear power continues to play an important role in securing America's energy future. I am today announcing that the Department of Energy is taking steps to see to it that safe and economically feasible nuclear plants under construction can be completed as part of our strategy for a balanced and mixed energy supply.

But, first let me set the context: we have a National Energy Policy. Its goal is an adequate supply of energy at reasonable costs.

Although we do not define "adequate" in terms of a specific quantity, it must mean a supply sufficient to meet short- and long-term needs and to move this Nation ever closer to energy non-dependence.

To realize this goal, our strategies are:

(1) to minimize federal control and involvement in the energy market while maintaining public health and safety and environmental quality; and,

(2) to promote a balanced and mixed energy resource system.

As an example of our first strategy: we continue to seek decontrol of natural gas prices.

Recent studies indicate that between 1 and 3 years' supply of the least expensive natural gas is easily available but is not getting to market and will not reach the market because federal law is controlling the price at a level below the costs of development and production. Comprehensive decontrol is the only way to provide producers with the incentive to bring that gas to market.

Short-sighted, anti-consumer recontrol measures—such as the "Sharp bill" recently passed by the House Energy and Commerce Committee—will only make a bad situation worse. If it were passed, domestic production would fall significantly, and in the long run, wellhead, consumer, and imported gas prices would rise, and our oil imports would increase.

We cite the results of President Reagan's decontrol of oil prices in early 1981 to show that a free market can do more to bring down prices than years of frenetic government regulating could ever do. In January 1981, the price of a gallon gas was $1.27, compared to $1.20 per-gallon in January 1984. Remember that some of the same people who oppose natural gas decontrol loudly predicted that the price of gasoline would reach $2.00 a gallon within 10 months of oil decontrol.

As for our second strategy: we seek a balanced and mixed energy resource base ranging from essential conventional sources such as oil, gas, coal and nuclear, to renewables such as hydroelectricity, solar, wind, geothermal, biofuels, etc., and new emphasis on conservation as a resource.

A balanced and mixed resource base is important to achieving energy non-dependence.

Today I want to talk about nuclear. As a clean, safe and reliable domestic energy resource, nuclear provides and must continue to provide a significant share of that balanced and mixed energy supply.

Those of us who believe strongly in the importance of nuclear to our energy future have no reason to "apologize" for those beliefs. Nuclear is our safest energy source and has saved us billions of dollars in imported oil costs. We must improve its opportunities to continue to do so.

This is especially true since as the economy continues to grow, I believe we will find that electric consumption will at least match the growth rate of the gross national product. Consumption of electricity is up by over 23 percent since 1973—compared to a 22 percent increase in the GNP for the same period.

The Energy Information Administration currently forecasts a 4.3 percent growth in electricity generation for 1984, and an annual average increase of 3.3 percent from 1983 to 1995. This rate of growth would yield a nearly 50 percent increase in electricity generation. The North American Electric Reliability Council publishes annually a composite of all the electric utility forecasts. For the next 10 years, they predict a 2.7 percent growth rate. Whichever of these is closer to correct, and even if we happily assume that half of this growth will be satisfied by conservation beyond that in the forecasts, we would still need every powerplant (coal, nuclear, hydro and renewable) currently under construction (105,000 megawatts) and more, to meet this increased demand (154,000 megawatts to meet EIA's generation forecast in 1995) and to replace physically, economically and environmentally obsolete facilities.

As a Nation, we are committed to diversifying our sources of energy supply so that we are not unduly reliant on *any* single resource. Therefore, we ought not rely on a single resource for new electrical generating facilities. And, we cannot afford to increase our dependence on oil since virtually any increase in oil use means increased imports. Nuclear is, therefore, critical.

In addition to helping meet our future domestic power needs, a healthy nuclear industry is essential to our nonproliferation objectives. The U.S. will have sharply limited influence over other nations in the control of nuclear materials if we cease to maintain our professional and technical leadership in nuclear power.

Our Nation, which pioneered the development of nuclear power, has no intention of relinquishing its technological leadership in this vital area. In July 1981, President Reagan declared that to realize our nonproliferation objectives, it "is essential" to reestablish this nation as a "predictable and reliable partner for nuclear cooperation under adequate safeguards."

We also need to maintain our nuclear capability in order to compete in the international nuclear services and equipment market and to be able to negotiate agreements such as the one initialled on April 30 during President Reagan's trip to China.

During the period of negotiation between our two countries, China joined the International Atomic Energy Agency and clarified its nuclear export and nonproliferation policies. These have been welcome steps. They might not have happened had we been unable to be a supplier of peaceful nuclear technology.

Unfortunately, I hardly need to tell you that the U.S. nuclear industry has encountered enormous problems in the past few years. No new plants have been ordered since 1978 and 109 plants have been cancelled since 1972. Cancellations have averaged about 10 per year. (Although in fairness, I must note that there has been only one new coal plant ordered in the last 3 years and coal plant cancellations have exceeded nuclear cancellations for the last 2 years.)

Three basic reasons are consistently cited for these cancellations:

Decrease in projected load growth;

Uncertainty of regulation which has lead to open-endedness in estimated completion costs; and,

Difficulty in obtaining needed financing as a result of inadequate rate relief combined with the effects of inflation and plant-cost escalation.

But, the "nuclear news" is not all bad. The image of a dying industry is off the mark. Plants are continuing to come on-line. Although Seabrook and Shoreham seem to be everywhere in the press and in talk among energy people, we rarely read or hear about San Onofre 2, Summer 1, McGuire 2, LaSalle 1, St. Lucie 2, or Susquehanna 1. These are all plants that have gone into commercial operation in the last 16 months.

In fact, in 1982, four units totalling over 4,000 megawatts became operable, and in 1983, three more operable units totalling over 3,000 megawatts were added. In 1984 and 1985, we expect about 20,000 megawatts of additional capacity to enter the operable category.

At the present time, more than 80 reactors are licensed for operation and more than 40 have construction permits.

We must work together to ensure that opportunities are improved for completing the safe and economically-feasible plants currently under construction.

I know I do not have to tell you that although many of the cancelled plants have been in the early stages of planning or construction, the recent trend has been to cancel plants that are well into the construction phase. The cumulative effect of the problems encountered by the utilities has meant that the financial viability of some utilities may be threatened.

Plant cancellations are commercial decisions that must be made free of federal interference. We recognize, however, that regulatory practices of the federal and State governments have heavily influenced the commercial decisions of both utilities and the financial community.

A number of nuclear power plants currently under construction are in financial distress. Considering the substantial investment to date in partially completed plants—nearly $60 billion—we believe that decisions to curtail construction are, in some cases, being colored by public and investor concerns about construction quality and a lack of faith in the federal regulatory process. In some cases, decision-makers appear to consider only short-term costs and not the long-term economic benefits of a nuclear plant which could provide electricity for 25 years—enough energy to displace 250 million barrels of oil.

Properly judging nuclear power is made more difficult by federal regulation of long-

term electric rates, and by a short-sighted investment horizon. Although nuclear plants are significantly more expensive to build, their fuel costs are far lower than electric generation with oil or gas. Thus, five or ten years from now, electricity generated from nuclear plants constructed today will be significantly cheaper than other sources.

Perhaps the time has come when we should consider removing the disincentives in ratemaking experienced by those who have the foresight to opt for the lower long-term costs of nuclear power.

Because the federal government has been part of the problem for many troubled plants, we must also provide part of the solution. Let me emphasize that we do not support federal financial "bail out" assistance. Federal guarantees or payments are not the solution.

Last year, the Reagan Administration took a significant step by introducing legislation to reform the nuclear licensing process. Unless we can reduce what has frequently become a 12- to 14-year construction lead time, no utility executive or board of directors will be willing to order a new nuclear plant.

Many of us have stood in operating nuclear power plants in other countries which were producing power 6 years from the start of construction. Yet here *we* are today, not knowing whether it takes a dozen or more years, or forever, to build a nuclear plant in the U.S.

For example, the Midland Nuclear Power Station, being built by Consumers Power Company in Michigan, applied for its constuction permit in 1969, was issued a permit in December 1971, and is still not in operation.

Another example is Diablo Canyon which was ordered in 1966, received its construction permit in 1968, and was granted a low power operating license in September 1981. That license was suspended in November 1981 and was just reinstated last month.

I disagree with those who say these delays are purely economics or considerations other than licensing and the permitting process. The plants which are being built in foreign countries are essentially the same as in this country. It is essentially the licensing process that differs.

Our proposed licensing reform bill is a step in the right direction. It is designed to improve safety in nuclear power plants, provide for more effective public participation, and provide a more stable and reliable licensing process. Specifically, the bill would provide for early site approval; the option of a single proceeding to issue a combined construction permit and operating license; and, NRC authority to approve standardized plant designs. The legislation also addresses procedures for hearings and backfitting that would have direct and positive impact on plants currently under construction.

We continue to urge our Congressional committees to commence early mark-up on this important legislation. There have been extensive hearings on our proposal and the time for hearings is over. The time for mark-up is here.

Obviously, licensing reform is one key to ensuring that the NRC can be effective; another is NRC membership. I am pleased to report to you that President Reagan has tentatively selected an outstanding, highly-qualified individual to fill the prospective vacancy on the Commission. And, if the normal investigation and clearance processes go smoothly, that nomination should be made within the next month or so.

Additionally important is the President's recent nomination of Ben Rusche as Director of the Civilian Radioactive Waste Management Office. Ben is a strong, capable manager with whom I am personally well-acquainted. It is our hope that the Senate can quickly confirm Ben and charge him aggressively to pursue implementation of the Nuclear Waste Policy Act of 1982.

Today, we are releasing our draft Nuclear Waste Management Mission Plan as required by the 1982 Act. That plan, developed and modified after extensive public comment, lays out an integrated waste management program to meet the requirements of the Act by providing:

Safe, environmentally-acceptable disposal of radioactive waste in licensed geologic repositories;

Proposed development of Monitored Retrievable Storage as an available option if needed;

Assured federal waste acceptance;

Adequate, safe and economic at-reactor utility spent fuel storage; and

Effective and efficient program management to maintain the disposal fee at 1 mill per kilowatt hour.

We believe the plan balances the demanding technical requirements of the program with the equally important institutional process of working with other federal agencies, the States, affected Indian tribes and the public. We remain committed to the siting, licensing, construction and operation of geologic repositories for the safe disposal of nuclear waste.

We look forward to your careful review and comment on the plan and ask for your support in our efforts to carry it out.

Our effort to revamp the Department of Energy's uranium enrichment program is another important step to ensure more certainty in our domestic nuclear future.

The outlook for our uranium enrichment business, once grim, is now positive. New contracts have been offered which reflect our desire to price our product more competitively and to recapture portions of the lost world market in order to remain in business. A high level of customer acceptance of this new contract is occurring and is very encouraging. It is our intention to remain the largest and most influential supplier and to become the lowest cost supplier of enriched uranium in the world.

A cornerstone of our new strategy is continuing dialogue with our customers to ensure that their input is obtained on key decisions. This process contributed to our new contract which we proposed in January, and we are committed to maintaining an effective working relationship with all of our customers, both foreign and domestic.

These initiatives seek to provide more stability and certainty for your industry, and for investments in plant construction. They are far-reaching and long-range.

I am also announcing today that the Department of Energy will seek to take a series of current actions to help ensure quality construction of safe nuclear plants. We will try to help build consistent federal policies for programs affecting your industry. DOE will be ready to participate in providing federal and state utility regulators with better information on which to base licensing and rate decisions.

The specific actions which we are prepared to take are:

DOE will encourage and provide support to the NRC to use "readiness reviews" for plants under construction to identify potential construction problems early, when remedies are most effective and economical. The National Aeronautics and Space Administration and DOE currently use readiness review procedures successfully for major space and energy projects. For example, a readiness review process used for the TREAT Upgrade Reactor at Argonne National Laboratory found that the quality assurance procedures in place were not commensurate with reliability assumptions. We were able to reform those procedures before any real problems occurred. We feel these reviews are indispensable to the safe and cost-effective operation of DOE nuclear facilities.

The applicability of this technique to the NRC regulatory process is clear—issues resolved through this process should be considered closed in further licensing procedures. It makes no sense for the environmental, safety and quality issues that have been considered and satisfactorily resolved in the course of construction to be raised again and "relitigated" even at the eleventh hour, when a safe plant is ready for operation.

We support NRC Chairman Palladino's suggestion in his March 20 memorandum that the Commission consider adopting a policy to handle last-minute allegations of safety, environmental, and quality problems associated with plants nearing completion. We believe that the NRC should require, as do all other judicial and administrative procedures, new, verified information in order to reopen issues that have been adequately reviewed during the course of construction.

We will take an active role in assisting the NRC in whatever way we can to carry out this policy.

In order to make our own judgment, we are reviewing the status of a construction permit for a plant that has been temporarily "mothballed" to determine the validity of the construction permit if and when the responsible utility decides that it is economically and electrically ready to continue construction.

DOE is reviewing whether and how the operating license procedure can continue for plants temporarily mothballed. We will seek to support rules and procedures which facilitate prompt removal of plants from mothballed status when appropriate.

We will provide advice and assistance in the formulation of federal policies and programs which affect the nuclear industry to try to ensure those policies reflect the National Energy Policy goal. We will seek a focused, coordinated federal effort. For example:

We are working with the Rural Electrification Administration which has almost $10 billion in loans involved in nuclear plants under construction, to encourage REA to continue its current policies affecting funding procedures for nuclear projects and to work with other creditors to be a positive force toward completing projects in which they are involved.

And, we applaud the Federal Emergency Management Agency's efforts to assist in the development of an offsite emergency evacuation plan at Long Island Lighting Company's Shoreham Plant. Their approach envisions a full-field exercise of the utility's plan, assuming necessary corrections in that plan are completed. FEMA has the statutory authority to prepare a plan for comprehensive emergency response by the federal government at Shoreham in conjunction with the LILCO off-site emergency plan. We pledge to commit DOE resources

to the extent allowed by law to assist FEMA in these efforts.

We will continue to support the Federal Energy Regulatory Commission's rule allowing Construction Work in Progress (CWIP) in the rate bases of electric utilities, and we will seek to encourage State regulatory commissions to permit inclusion of CWIP in rate bases of utilities under State jurisdiction. No major industry can be expected to survive without funding its future expansion from current revenues. CWIP is the regulated industry analogy and its approval would have a significant dampening effect on potential "rate shock" to utility customers.

Where appropriate, DOE will appear in federal and State regulatory proceedings to ensure that the National Energy Policy perspective is included in the record and that the national interest as we perceive it is adequately considered by the regulators. Let me emphasize that in such efforts we are not in any way trying to override State or local authorities.

There are, however, national energy policy concerns that States should consider in the public interest, such as nuclear's long-term contributions toward achieving energy non-dependence by reducing our reliance on oil. One-thousand megawatts of nuclear capacity can produce as much electricity in one year as 8 to 9 million barrels of oil.

This is particularly significant when you consider that the Soviet Union is energy independent and in fact is an energy exporter. During these hazardous times, it makes no sense for the United States, with its vast resources, to be more vulnerable than the Soviet Union.

So, just as it is entirely appropriate for States to make recommendations to the federal government on national energy matters and for the federal government to recognize those State concerns, it is incumbent upon the States to recognize the national interest implications of the energy program and policy decisions they make.

Finally, I have asked my staff to establish a mechanism within the Department to ensure that problems with specific nuclear plants are immediately brought to my attention so that we can coordinate the federal interests, and be able to assist the potential State, local and private interests that might come together to find solutions so that these plants can make their important contributions to our Nation's energy well-being.

We are undertaking and announcing these initiatives at this time to provide encouragement to those who are involved in planning for our energy future and I invite advice and comments on these and other actions which we might take to be of help.

Yours is a big industry, and it will continue to be so. In 1983, nuclear power produced 13 percent of our electricity—enough energy to have displaced 1.4 million barrels of oil per day (the equivalent of about a third of our oil imports last year)—and employed 225,000 people.

For the entire year 1984, nuclear will likely be second only to coal as a source of U.S. electricity.

Today, about 10 percent of our total electric generating capacity is nuclear, and the United States still produces 35 percent of the nuclear electric generation in the free world.

Nuclear's share of U.S. electrical generation is expected to be 18 to 19 percent by the early 1990s.

We should have in excess of 120 nuclear power plants in operation by then, provided we take steps now to address this matter of completing plants now under construction.

But, until we overcome the very real concerns of the American public, improve consumer attitudes toward any new generating facility (particularly nuclear), and create an environment which balances risks and rewards for those who invest in our electric energy future, the industry cannot move forward.

It is our job to work together to inform and educate the American public. We need to convince the Congress that action is needed now on nuclear licensing reform. We need to impress upon the public that our recent setbacks do not lessen the need for a viable nuclear power option in the national interest.

A strong effort on our part, and on yours, can have a positive impact on all of these issues, and particularly on the overall investment climate.

Thank you for the opportunity to be here today. I look forward to working closely with you as an advocate of a secure energy future for America.

SATELLITES SEE SOVIETS VIOLATING ARMS ACCORD

Mr. SYMMS. Mr. President, I ask unanimous consent that an article from the May 21, 1984, Washington Times be printed in the RECORD. It details further the comments which I made last week concerning the continued Soviet ICBM build-up. As the article points out, there is much evidence that the Soviets are testing new, solid propellant rockets which would have a throw weight approximately 20 percent greater than their new SSX-24. This evidence, taken in conjunction with other indications which have recently come to light, brings into even sharper focus the fact that the Russians are not complying with the SALT II provisions. I ask that all of my colleagues read and carefully consider the implications of this evidence.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SATELLITES SEE SOVIETS VIOLATING ARMS ACCORD

(By Walter Andrews)

Satellite photos have provided U.S. intelligence with evidence that the Soviets are developing a new, larger, nuclear missile in violation of the spirit if not the letter of arms control agreements, government sources said.

Although the new solid-propellant missile has not been flight-tested, the sources said ground tests of the rocket motors and of a different launch mechanism indicate that the new SSX-26, as the weapon is being called, will have a 20 percent greater throw weight than the SSX-24 being flight tested.

Throw weight is the measure of a missile's ability to hurl nuclear warheads from one continent to another. Along with accuracy, it is considered a main indicator of an ICBM's effectiveness.

House Speaker Thomas "Tip" O'Neill and other opponents of the MX missile will attempt later this week to reverse last Wednesday's 229-to-199 vote that approved 15 more MXs if the Soviets stay away from nuclear arms negotiations.

The Soviets have claimed the SSX-24, which is expected to become operational this year, as the new ICBM allowed each side under the 1979 SALT II accord. Both nations say they are honoring the accord although it was never ratified by the U.S. Senate.

Recent reports on the new Soviet solid-propellant missile left open the possibility that the SSX-26, because it has not yet been flight-tested, was only a modification of the SSX-24. Flight testing is considered a critical indicator.

But officials, who spoke on the condition that they not be identified, said recent satellite photos of the rocket motors being ground-tested at the Pavlograd solid-propellant center provide strong evidence that the SSX-26 will be longer and have a wider diameter than the SSX-24.

In addition, the sources said launch assist device (LAD) testing at the facility in the central U.S.S.R. has shown the missile will be cold-launched—it will pop up from its underground silo before rocket ignition.

The significance of cold launching is that a much larger missile can be placed in a silo because room does not have to be allowed for the venting of the rocket's exhaust, the sources said.

Another difference provided by satellite photos, the sources said, is the existence of a new vehicle, called the transporter erector-launcher, for loading the missile into its silo. The new vehicle is larger than the one used for the SSX-24.

Also, the sources said photos have shown launch silos slightly larger than those used by the SSX-24 at the Plesetsk flight test range, and which are different than the silos used by Soviet liquidfueled missiles.

In sum, the satellite intelligence provides strong evidence that the Soviets are developing a new missile and are violating at least the spirit of the Salt II agreement, the sources said.

Estimates are that the SSX-26 will not be flight-tested until late 1986, although it is possible they could be made sometime in 1985, the officials said.

The Salt II agreement expires in December 1985, and the SSX-26 technically would not be in violation unless flight-tested before then, the sources said. But the development of the missile, as evidenced by the satellite photos, shows at least a violation of the spirit of the arms agreement.

The sources estimated that the new missile would have a throw weight of about 12,500 pounds, approximately a third larger than the 9,600 pounds attributed to the U.S. MX and the Soviet SSX-24 missiles.

It is still smaller than the 15,000-pound throw weight of the Soviet's giant SS-18 liquid-fueled missile, according to the sources. A solid-propellant missile has a military advantage in that it can be launched quicker and easier than a liquid-fueled weapon.

The MX and the SSX-24 each has demonstrated the ability in tests to carry 10 nuclear warheads. The warheads would be independently targeted by a so-called "bus," which launches each at the precise moment needed to hit its target.

The SS-18 has demonstrated a capability to carry into orbit and target as many as 14 warheads. Because of its size, it is believed the SSX-26 will be able to carry somewhere between 10 and 14 warheads, the sources said.

ANGOLA

Mr. SYMMS. Mr. President, millions of Americans would be outraged and deeply disappointed if diplomatic recognition were to be extended to the present Government of Angola. Yet the following news story purported to quote a senior State Department official, who remains unidentified in the article, as saying that Angola, ruled by an unelected, Marxist regime, has satisfied all the requirements for diplomatic recognition. President Reagan has assured the American people that there would be no such recognition until the some 30,000 Cuban soldiers in Angola have departed the country, the Soviet-sponsored SWAPO terrorist bases in the southern part of Angola have been closed, and the suffering people in Angola have been allowed to choose their government in fair and free elections.

In late February of this year, the Angolan legislature adopted a proposal to allow anyone who has served the revolution to gain citizenship. That resolution was published in Angola's official bulletin. Consequently, all the Cubans, East Germans, Bulgarians, and other Warsaw Pact allies keeping the MPLA in power in Angola will become Angolans. The State Department's disengagement process—the pullback of South African troops from Namibia supposedly in conjunction with the phased departure of the Cubans from Angola—is already meeting with intransigence, from the Soviet side. Now that the Angolan Government can legally claim that these mercenaries are actually Angolan citizens, what kind of process can be designed to insure that these foreign troops actually leave the continent?

To date, the MPLA has received many concessions from the United State, in the form of Eximbank loans, humanitarian aid amounting to several million per year, and the business of American firms and royalties amounting to as much as $1 million per day. Yet further concessions from the United States are being considered. Rather than offering more enticements and pursuing disengagement, there should be an effort to initiate a dialog between the MPLA and UNITA, the warring factions in Angola. If we wish to negotiate from a position of strength, it is important to keep UNITA strong. If disengagement serves to seal off the borders of Angola, to reduce UNITA's mobility and supplies, then the MPLA will only be strengthened, and less willing to enter into a dialog and to agree to negotiations.

It was only 9 years ago, in 1975, that our Government withdrew its support for Jonas Savimbi and Holden Roberto, two Angolan leaders who were struggling for the independence of their country. Congress simultaneously adopted the pernicious Clark amendment which forbade any Federal financial aid to any entity fighting against the Soviet puppet government which has seized control of Angola against the wishes of the people. Perhaps those supporters of the Clark amendment believed it would appease Soviet aggression and expansionism. They would have done well to examine historical precedents. You cannot placate the implacable; the Soviets respect strength and determination in an adversary, not weakness and capitulation.

If this Congress is seriously interested in some positive results in Angola, the Congress should repeal the Clark amendment. Its repeal would bolster UNITA, would give an inducement to black nationalist elements of the MPLA who are tired of war and Soviet dominance, but are intimidated by the Soviets and the Cubans, to seek secret accommodation with UNITA. Most important it would remove the psychological protection the MPLA, one of Africa's most repressive regimes, now enjoys because the United States has assured them through the Clark amendment, that we offer no hope of assistance to UNITA's freedom fighters.

I had the opportunity several months ago to investigate first hand the military and political situation in southern Africa. The MPLA government in Angola, controlled by the Soviets, retains power by the force of Cuban troops. Soviet advisors continue to finance, train, and equip the South West African Peoples Organization (SWAPO). Although the Soviets would have the West believe SWAPO seeks true Namibian independence, it actually serves as a surrogate terrorist force, with which the Soviet Union hopes to seize control of Namibia to further their strategy of cutting off U.S. access to the strategic minerals upon which our technological society depends.

In 1973, Soviet leader Brezhnev plainly acknowledged Soviet intentions in Africa:

> Our aim is to gain control of the two great treasure houses on which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of central and southern Africa.

Now, Mr. President, can you imagine the outcry from the media if a President of the United States were to say that U.S. policy would be to seek control of the energy and mineral resources that Communist Russia depends upon? But President Brezhnev's statement went largely unreported among the major media. The Soviets have pursued this stated objective with remarkable persistency. They have installed Marxist regimes in Angola, Mozambique, Ethiopia, and have targeted Namibia as the gateway to ultimate Soviet control of all of the strategic minerals in southern Africa.

The Congressional Budget Office last August issued a report revealing the U.S. import-dependence in whole or in part upon some 64 strategic minerals. We are 100 percent dependent for 6 or 7 of these minerals, which are found in the free world only in southern Africa. In light of this critical resource dependency, I question what purpose diplomatic recognition of Angola serves, other than to advance Soviet geopolitical strategy and the legitimization of an illegitimate government?

This administration has often stated its obligation to defend and protect our country from enemies at home and abroad. This administration is also cognizant of American business interests now operating in Angola. Understandably, these firms are concerned about political tensions in the area, and would like to see the interests of their shareholders and investors protected. But, those investments should not be in conflict with those of our national security or with our commitment to the protection of democratic governments. Recognition of Angola, without concomitant closure of SWAPO's bases and the departure of all Soviet, Cuban, and Eastern bloc soldiers and advisers from Angola, would open the door to inevitable Soviet control of the entire region, and subject the United States to the risk of Soviet resource blackmail.

I ask my colleagues to review the previously mentioned item which I will ask to have printed in the RECORD. In addition, I will submit for the RECORD a copy of an interview with Jonas Savimbi from the May 21, 1984, Washington Times, as well as a copy of an article from Reason magazine by Dr. Jack Wheeler. Dr. Wheeler has briefed congressional staff on the Hill about his trip inside Angola, his impressions of Dr. Savimbi, the great nationalist leader, and the UNITA freedom fighters. I am convinced that a better public understanding of the situation in Angola and the high stakes involved is essential to the formulation of a coherent national policy in Africa.

I ask unanimous consent that the two articles and the interview be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, Feb. 24, 1984]

TALKS MOVING ON U.S. EMBASSY IN ANGOLA

(By Russell Warren Howe)

Discussions on opening a U.S. embassy in Marxist Angola are "in an advanced stage," a senior State Department official said yesterday.

The rapprochement between the United States and the southwestern African nation apparently grows out of Angola's agreement

to phase out its Cuban forces in return for a pledge by South Africa to keep its own forces out of Angola and to stop supporting a dissident Angolan movement.

A source close to Chester Crocker, assistant secretary of state for African affairs, said Angola has fulfilled U.S. requirements for establishing relations.

The United States has specifically insisted on the withdrawal of Cuban troops from Angola and has said it will establish full relations "in the context of an overall settlement of southern African issues."

The source noted that Angola, by quietly agreeing last month to a phased evacuation of the Cubans—to be synchronized with a withdrawal of South African forces from Angola, and subsequently from neighboring Namibia (South-West Africa) when that territory becomes independent—has met U.S. conditions.

"We are not waiting for the last Cuban private to go, and we are not asking that all Cuban doctors leave the country," he said.

The pledged withdrawal of the South Africans from Angola's territory and their promise to cease supplying arms and fuel to UNITA, a dissident Angolan movement lead by Jonas Savimbi, will be monitored by the United States. State Department spokesman John Hughes announced yesterday that a U.S. "administrative support staff" was being set up in Windhoek, Namibia's capital, to "assist in the disengagement of South African and Angolan forces."

Another State Department spokesman said the U.S. staff in Windhoek would number no more than a dozen and would be headed by William Twaddell, former charge d'affairs in Maputo, Mozambique.

The U.S. group would monitor the South African withdrawal from Angola and the takeover of Angola's border with Namibia by Angolan forces. He said this would ensure that the South African forces would no longer supply UNITA.

An UNITA source in Washington said the guerrila force has been receiving South African weapons and ammunition and about 4,000 gallons of diesel oil a day for its more than 300 South African-supplied trucks.

"If we are no longer mobile, we shall have to use different tactics," the source added.

Radio reports yesterday said the government of President Eduardo dos Santos had already begun mopping-up operations against UNITA in the south and against the National Front for the Liberation of Angola (FNLA), which occupies two northern Angolan provinces.

Reports from Luanda yesterday reinforced Washington views that full relations with the United States were expected soon.

Lucio Lara, who is regarded as the chief ideologue on the Central Committee of the Popular Movement for Angolan Liberation (MPLA), the Angolan governing party, was quoted by the British Broadcasting Corp. as saying he looked forward to friendly relations with the United States soon.

Angola hopes relations with the United States will pave the way for U.S. aid, access to International Monetary Fund assistance and Export-Import Bank credits.

The proposed 1985 budget contains funds for establishing U.S. embassies in Luanda, as well as Windhoek, the Namibian capital. State Department sources said the money was requested with the expectation that an embassy would be opened in Luanda soon, and eventually in Windhoek when Namibia becomes independent.

A diplomatic solution on Namibia apparently is also moving rapidly.

Mr. Crocker met at the State Department yesterday with Sam Nujoma, the leader of the guerrillas and of the largest Namibian political party, the South-West Africa Peoples Organization (SWAPO).

No official announcement was made, but sources close to Mr. Crocker said Mr. Nujoma sought assurances about the South African independence proposals and gave assurances in return that his forces would observe the ceasefire and participate in the election, which he is expected to win.

Mr. Crocker, roving ambassador Vernon Walters and other senior U.S. officials have made numerous visits to Luanda to negotiate with the Angolan government.

South Africa's forces in Angola have been attacking the sanctuaries of SWAPO guerrillas, who will now be able to return home and participate in a preindependence election in Namibia, to which South Africa has agreed to give independence in conformity with a U.N. resolution.

Holden Roberto, the leader of the FNLA, which had U.S. support and American volunteers in the battle for power against the Soviet- and Cuban-assisted MPLA in 1974, told The Washington Times yesterday U.S. recognition of Angola's government would be "the most despicable sellout."

Mr. Roberto, who is in Washington to lobby against recognition, added "the battle will continue in the north, in any event."

Angola has used Cuban forces to help handle the UNITA and FNLA dissidents and to deal with South Africa incursions against SWAPO, which will now move its headquarters to Windhoek, Mr. Nujoma told Mr. Crocker yesterday.

According to U.S. sources, there are about 28,000 Cubans in Angola, including a battalion which guards the Gulf Oil Corp.'s facilities in Cabinda, an Angolan enclave inside the neighboring Congo Republic.

[From Reason, Apr. 1984]

ANGOLA'S ANTI-SOVIET GUERRILLAS

(By Jack Wheeler)

At four o'clock in the morning on an October day last year, I boarded an unmarked 4-engine turbo-prop at the airport of a black-African capital. The plane was to take me on a clandestine flight into the heart of rebel-held territory in Angola to meet the legendary guerrilla chieftain Jonas Savimbi and get an in-depth look at his UNITA forces, which have been fighting Angola's rulers—first the Portuguese colonizers, now the Soviet-backed Marxist regime—since 1966. It was the beginning of a new leg of my multicontinent investigation of Third World anti-Soviet insurgents.

I had just come from some weeks with the Mujaheddin in Afghanistan, with whom everything is informal and spontaneous; so I was not ready for it when a UNITA man insisted, before we could take off for Angola, that I fill out an immigration form asking, among many other things, my mother's maiden name—in triplicate. "What have I got on my hands here?" I muttered to myself as I filled out the form. "Gilbert and Sullivan guerrillas?" In the ensuing month I would find myself repeatedly asking that same question. But I was to convinced that the story of Savimbi and UNITA is one of the most extraordinary in the history of guerrilla warfare. What is going on in Angola may have some outward trappings of comic opera in the African bush. But in their fight against Angola's ruling regime—in power since 1975—Savimbi's men are deadly serious. Very serious, and very deadly.

The flight into Angola's rebel-held territory lasted several hours. I was asked by my UNITA hosts not to disclose from where we departed—only that it was a black country, not South Africa or Namibia. As daylight spread, we traveled at normal flight altitude across thousands of square miles of eastern Angola, yet the Portuguese crew was unconcerned about attacks from government missiles or MiG jet fighters. "All this, " the captain informed me, pointing through the cockpit window to the sandy-green landscape below, "is controlled by UNITA. There is simply no government presence down there." Savimbi's Kingdom.

The Portuguese, who began colonizing Africa in the 15th century, called this part of Angola "Terras do Fin do Mundo"—the Land at the End of the World. In 1976, Savimbi and a few remnants of his forces had retreated deep into this bush, defeated and broken by the regime that had been installed when the Portuguese bowed out. Now Savimbi controlled it all—and much more. Several knowledgeable people had told me that he is the most interesting man in all of Africa. I was now about to find out why.

Jonas Malherio Savimbi was born on August 3, 1934, in the town of Munango on the Benguela Railway. A United Church missionary once described Savimbi's parents as being of "exceedingly humble, primitive, pagan background." But both were converted to Christianity, and Lote Savimbi, Jonas's father, proceeded to become the railway station master at Munango and to found Munango's first Protestant church. This upset the local Catholic priests, who got Lote transferred to another station, where he proceeded to found another Protestant church. This pattern was repeated several times along the railway from Munango to Benguela.

Lote Savimbi's life-long independence and resistance to repressive authority, the guerrilla leader would later tell me, was a lesson young Jonas learned well. Lote also gave his son an impassioned nationalism. For Lote, the great symbol of freedom in the world was America. "My father always thought that black Americans would some day come and help free our country from Portuguese colonialism," Savimbi told me during one of our talks. "And I have not lost hope that they may some day play a role in freeing us from that of the Soviets."

In 1958, the United Church sent Savimbi to study medicine in Lisbon, where the Portuguese secret police tried to get him to inform on fellow Angolan students who opposed Portuguese rule in Angola. Savimbi refused and fled to Switzerland. By this time, 1961, two Angolan liberation movements had formed—Agostinho Neto's MPLA (Movimento Popular de Libertoçâo de Angola) and Holden Roberto's UPA, later FNLA (Frete Nacional de Libertaçâo de Angola).

On his own, Savimbi went to a seminar on African liberation movements in Kampala, Uganda, where he met Tom Mboya, Kenya's foreign minister. Mboya introduced Savimbi to Kenyan president Jomo Kenyatta, who advised him to give up medicine: "It is better for you to help free your people and have doctors in a free Angola, than for you to be a doctor in a colonial Angola." But Kenyatta advised him against joining the MPLA. "They are communists," Kenyatta warned him, "and have been supported by the Soviets since 1957."

On a Swiss-government scholarship for political refugees, Savimbi returned to Swit-

zerland and changed from medicine to political science at the University of Lausanne. Flitting back and forth between Africa and Lausanne, to the eternal confusion of his professors, he obtained his doctorate in July 1965. (His dissertation topic was the implications of Yalta and the Third World.)

In the meantime, armed with an introduction from Kenya's Mboya, Savimbi teamed up with Holden Roberto's liberation movement. But Savimbi says he soon became disillusioned. He explains that Roberto was French-educated in what was then the Belgian Congo (now Zaire) and "didn't understand the Portuguese mentality" or how to fight it. He couldn't expand his power base beyond his own Bakongo tribe, nor would he himself go inside Angola to fight, preferring to remain safe in Zaire's capital, Kinshasa. And Savimbi noticed that Roberto didn't trust those around him who had an education, as they might become rivals to his power.

So in 1964, Savimbi left Roberto's FNLA, determined to fight the Portuguese inside Angola with his own movement. Seeking support, he approached Kwame Nkrumah in Ghana, who turned him down. He saw Julius Nyerere in Tanzania, who said no. (That year he also met Che Guevara, whom he personally liked but didn't think was very bright.) Egyptian president Gamal Abdel Nasser said no, as well, but had Savimbi taken to Moscow to petition the Soviets for aid. It was an educational experience. "The Russians were very insulting to me," he recalls. "They demanded I work with the MPLA. Worst of all, they were genuine racists. You could see it in their eyes."

Finally, early in 1965, Savimbi met Hua Hua, China's ambassador to Egypt, who invited him to Peking. There, the Chinese listened to him—and told him that he had good ideas but would fail without proper training. They gave him $15,000 and told him to come back with 12 recruits. He returned with the recruits at the end of 1965 for nine solid months of intense training in political-indoctrination techniques and guerrilla tactics.

With 150 men recruited among Angolans who had fled Zambia to escape a Portuguese crackdown on insurgents, and armed only with knives, Savimbi led his first attack on December 1, 1966. The Portuguese garrison at Cassamba was the target. One of Savimbi's men was killed, and they retreated. Then on December 25, Savimbi scored his first victory, overrunning a garrison at Luau. It was the first the world heard of UNITA—União Nacional Para a Indendência Total de Angola, the National Union for the Total Independence of Angola.

Six months later, Savimbi was back in Peking, where he met Mao himself. Mao gave him $50,000 and promised a large supply of guns and ammo for UNITA, to be shipped through Tanzania and Zambia. "As a guerrilla leader and tactician, Mao was an unrivaled genius," Savimbi now observes. "But his ideas and methods on running a society and its economy should be avoided at all costs."

Savimbi remembers being in high spirits when he arrived in Zambia on July 7, 1967. But the next day, under pressure from both Portugal and the United Kingdom, Zambian president Kenneth Kaunda had Savimbi arrested. Nasser used diplomatic pressure to get him released, after which he spent nine months in exile in Cairo. (Savimbi says that when the boatland of Chinese weapons arrived in Tanzania, Nyerere kept them for himself.)

During that sojourn in Cairo, Nasser kept pressuring him to be pro-Soviet, says Savimbi, but he rejected Nasser's urgings and in May 1968 secretly left Cairo for Switzerland. By July, with the help of Sam Nujoma of SWAPO—the South West Africa People's Organization, a guerrilla group fighting South African rule of Namibia—Savimbi had slipped back into Angola. "It was Sam Nujoma who gave me my first pistol," Savimbi was to tell me. "It's a shame he has gone over to the Soviets. I warned him, and now we must be enemies."

Savimbi never made the mistake of leaving Angola again. Soon he had a bush insurgency rivaling the Marxist MPLA and Holden Roberto's Western-backed FNLA.

Originally, all three of these movements had a tribal basis. The MPLA originated among the Kimbundu in the central-west. Its Marxist ideology made it the favorite among intellectuals in Luanda, Angola's capital; its strategy was to propagandize urban workers and civil servants, gaining power in the cities, above all Luanda. The FNLA arose among the Bakongo in the north; its strategy was to force the support of the local people through straightforward brutal terrorism, while convincing white businessmen in Luanda and Portugal that it was the only alternative to a communist takeover.

Savimbi is Ovimbundu, which is by far the largest of Angola's eight principal Bantu groups, and he began among them. (The eight major Bantu tribes are: Ovimbundu [40–45 percent of the total Angolan population of six or seven million], Bakongo, Kimbundu, Chokwe, Ovambo, Herrero, Lunda, and Ganguela. Some ethnologists distinguish Kwangali from Ganguela. There are also the non-Bantu Khoisa, or Bushmen.) Savimbi applied Mao's advice of first getting to know the peasants, the local villagers, and gain their trust. He spent months talking to villagers and tribal chiefs, acquiring their support and allegiance. "You must be very careful with the peasants," he advises. "Once you make a mistake, they take a long time to forgive you."

He also started reaching out to other tribes, appealing to a pantribal Angolan nationalism. Savimbi's right-hand man, with him since 1961, is Miguel N'zau Puna, a Bakongo from Cabinda province, an Angolan coastal enclave wedged between Zaire and the Republic of the Congo. Two other key lieutenants with him since the mid-'60s are Antonio Vakulukuta, an Ovambo, and Smart Chata, a Chokwe.

By early 1974, UNITA was the only group actively fighting the Portuguese inside Angola. Neto's MPLA had been pushed by the Portuguese army into Zambia; Roberto's FNLA, into Zaire. Then in April, a military coup in Lisbon brought to power a new regime that was willing to end the drawn-out conflict in Angola and withdraw Portugal's colonial claims there. A leftist officer, Rear Admiral Antônio Rosa Coutinho, was appointed head of a military council to govern Angola until independence.

On January 15, 1975, the three liberation groups that had been fighting the Portuguese in Angloa signed an agreement to jointly form a provisonal government, with neutrally supervised general elections to be held before Independence Day, November 11, 1975. But the elections were never held. Behind the scenes, according to Savimbi, Coutinho, himself a socialist, had been engineering a takeover by the Marxist MPLA; Cubans and Soviets had begun arriving to lend it support.

President Gerald Ford, seeking to block the installation of a Marxist Soviet-aligned regime to Angola, proposed stepping up aid to Angola's non-Marxist guerrillas. (Until the Ford administration, U.S. involvement in Angola has been ambivalent; since the Kennedy administration, the United States had been giving limited aid, overt and covert, to both the Portuguese colonialists and black nationalists—the latter, for the most part, Holden Roberto's FNLA. Following the January 1975 agreement among the MPLA, FNLA, and UNITA to set up a transitional government, US aid to Roberto's FNLA and Savimbi's UNITA escalated, with some $32 million going to the nationalists in 1975.)

The Senate rejected Ford's request for an additional $28 million for the anti-MPLA forces. And in January 1976, Congress passed the "Clark amendment," prohibiting any overt or covert US aid to Angolan liberation movements. Thus an unimpeded Kremlin could initiate the brilliant strategy of using Cuban surrogates to expand its colonial power.

By July, with thousands of Cuban troops and massive amounts of Soviet weaponry, the MPLA forced the FNLA back to Zaire; by August UNITA had to retreat to Huambo, in Angola's central highlands, and the Soviet-backed MPLA was in full control of the national government. After 400 years of Portuguese colonial rule, Angola had now become a colony of the Soviet Union.

The ruling MPLA became the country's only legal political party, with Neto installed as president of the Soviet style government. (Neto died in 1979; Jose Eduardo dos Santos succeeded him, still in office as of this writing.) Free elections have yet to be held in the Marxist-Leninist state.

When some 20,000 Cuban troops led by Soviet advisors attacked Savimbi in Huambo in February 1976, he had to retreat into Terras do Fin do Mundo. It was Savimbi's Long March. For four months, Savimbi and his troops were running every day, not sleeping in the same place two nights in a row. Like Mao and his men during their Long March, many of Savimbi's guerrillas has to "eat their belts." Starting with 3,000 followers, Savimbi ended up with 67. More than 800 had died, the rest splintered off or were lost. Now Savimbi began to rebuild.

A major break for Savimbi came with another development in Africa—the Shaba Offensive of March 1977. Remnants of Moise Tshombe's Katangas, in eastern Angola since the '60s, were now working for the Soviets and the MPLA. (Tshombe had led an armed secessionist movement in Zaire's Katanga province in 1962. When it failed, many of his troops—Katangas—fled across the border into the Angolan bush.) When the Katangas attacked Zaire's Shaba province, Zaire's President Mobutu figured he was next on the Kremlin's hit list. Savimbi began to receive tons of weapons from France, Saudi Arabia, Morocco, Zaire, and several other black African states, all alarmed now at Soviet designs on central Africa. From November 1979 through April 1980 China sent UNITA several hundred tons of weapons and military equipment via South Africa. And South Africa turned over to Savimbi's forces large quantities of Soviet arms captured in raids on SWAPO camps in southwestern Angola.

Meanwhile, as Soviet-style totalitarian oppression in the rest of Angola hit full stride, refugees and recruits for FALA (Armed Forces for the Liberation of Angola, the army of UNITA) began pouring into what

UNITA calls "Free Angola," then limited to a stronghold in southern Cuando Cubango province. By 1981, Savimbi was strong enough to assume the offensive against the MPLA.

Today, UNITA claims that it controls over one-third of Angola as a state within a state, exercises substantial control over an additional third—together that's an area much larger than the state of Texas—and is steadily advancing into the remaining third.

No one every forgets a welcome rally for visitors to "Free Angola." A thousand cheering tribesmen and women, all waving paper UNITA flags (the black cockerel, symbol of UNITA, greeting the rising sun) and pictures of Savimbi. Dozens of pounding drums. Trilling tin whistles. In the middle of the African bush, a rock band with three electric guitars, their chords pumped through huge amplifiers powered by portable generators. Savimbi's personal cheerleaders, a group of 30 singers called the "Third of August Chorus" (Savimbi's birthday) singing Tam-pa-du-la-chi-wa, Tam-pa-du-la-chi-wa (many thanks for coming). A battalion of soldiers at attention with G-3 carbines, smartly dressed in clean, pressed uniforms. Scores of Savimbi's bodyguards in dark blue uniforms and maroon berets watchfully patrolling the area, all sporting captured Soviet AK-47 Kalashnikov rifles. And towering above everyone, giant banners depicting MiGs and red-starred tanks bombing and shelling villages, a UNITA Boot stomping Cuban soldiers into the dust, Savimbi with an AK-47 held high, and six-foot-high letters demanding in Portuguese and French: Russians and Cubans Get Out of Angola!

A convoy of trucks emerges from the bush. A flat-bed Mercedes Uni-Mog with a Soviet antiaircraft gun mounted on the bed and attendant crew. Several big Soviet ural trucks piled high with heavily armed guerrillas and loaded down with AKs, rocket launchers, grenade launchers, recoilless rifles, bazookas, machine guns, and even a ground-to-air missile or two.

Everyone in the crowd goes berserk as a green Toyota Land Cruiser pulls into view. Out steps a very powerfully built, bearded man with long, muscled arms, ample paunch, a .357 Ruger on his hip and three gold stars on his green beret: Savimbi. He strides up to me and shakes my hand, but I cannot hear a word, because the Third of August girls have surrounded us and are yelling A-mai-a-wey-a-loy-yah (Mother, I want to go and fight) at peak output. The general is surrounded by officers sharply attired in French-Moroccan camouflage outfits, all saluting him and stomping their feet. Soon I am in the back of a ural with 30 or so guerrillas, bound for Jamba, Savimbi's capital.

The first thing that struck me upon entering Jamba, or any UNITA village, was its cleanliness. In startling contrast to most African villages, there are no piles of garbage, no foul odors; all foot paths and huts are swept clean; hygienic latrines are everywhere. In the dining hut, lunch is served on a table with a clean blue tablecloth, clean white china, and clean glasses. It is delicious: rice and buffalo steak with gravy, Lion beer and Fleur du Cap wine (from South Africa), Angolan coffee. In my hut, I have a foam-mattress bed with clean sheets, electric light, and washroom with a water-tank shower. This VIP visitor's treatment is not roughing it in the African bush.

The Operational Room of the UNITA general staff is set deep in a concrete bunker at Jamba. On the walls are huge maps and a board with head shots of the MPLA leaders, provincial governors, and FAPLA (MPLA's army) officers. Some have an "X" across them, signifying that they have been taken out. Present are Brig. Renato Mateus, chief of the Ops Room staff, Brig. Palanga of UNITA's Politburo, Brig. Demosthenes Chilingutila, chief of the general staff, and other officers. Col. Wamba Casitu, chief of military intelligence, gives the briefing.

According to Casitu, there are now in Angola about 1,500 Soviet advisors; 2,500 East Germans, who operate the vast network of informers and secret police; 3,500 assorted East Blockers—Polish, Czech, and Bulgarian technicians; and 40,000 Cubans (4,000-5,000 guarding oil installations in Cabinda province, with 5,000 civilian workers and 30,000 soldiers in Angola proper).

As with many claims regarding the military strength and control of Angola's warring forces, the number of Soviet, Cuban, and East Bloc personnel in Angola has not been verified by Western observers. For example, while various accounts in the Western press have given figures similar to those that UNITA reports, the U.S. State Department puts the figures somewhat lower. According to department spokesman Robert Bruce, there are between 23,000 and 25,000 Cuban combat troops and about 5,000 civilians in Angola, and East Bloc advisors number about 2,500.

Much of the uncertainly about such information derives from the Luanda government's refusal to allow Western journalists and other visitors to observe its operations. (Moreover, there is no US embassy in Angola—since the US government does not recognize Angola's present government—so US government information about Angolan affairs tends to be somewhat limited and sketchy.) For instance, in regard to Casitu's claim that 4,000-5,000 Cubans guard oil installations in Cabinda province, I had spoken with various visiters to Angola during my sojourn in Africa who told me about Cuban troops in Cabinda, including a Brazilian businessman who had been to the oil fields and was on his way there again. On the other hand, Gulf Oil, which holds the principal concession to the Cabinda oil fields, maintains that no Cubans guard its installations there—"the only 'protection' necessary," Gulf vice-president William Moffett recently wrote in a letter to the Wall Street Journal, "is provided by the Angolan police."

FAPLA, the MPLA army, stands at 80,000, according to Casitu, including regular army, special forces, security, borderguards, police, and local militias. (By contrast, the US State Department puts this figure at 130,000.) Casitu reported 3,000-5,000 SWAPO guerrillas, based in the western town of Calulo, all armed and equipped by the MPLA—even with FAPLA uniforms, so it is hard to tell them apart. There are also three battalions (about 1,000) of African National Congress (ANC) guerrillas—Soviet aided South African urban terrorists based in Mozambique—being trained in northwest Angola. Finally, there are a few contingents of Katanga mercenaries headquartered in eastern Angola on the Benguela Railway.

The MPLA employs the Cubans to secure the big towns, such as Huambo and Luanda, Casitu explained, while FAPLA garrisons towns of lesser importance. The regime's main goal now is to portect the major economic centers. A 7:00 P.M. military curfew is in effect in all towns, including the capital. No main roads are serviceable for any appreciable distance. The Benguela Railway has been shut down completely. While FAPLA is rapidly increasing a forcible conscription, on average, Casitu reports, about 100 civilians per day and six FAPLA soldiers per week are deserting to UNITA-controlled areas.

The colonel describes how UNITA is now on the offensive, the MPLA on the defensive, a claim that coincides with recent reports by various Western journalists. Almost no FAPLA units are mobile but are garrisoned in defensive, static positions. Even the Cubans, Casitu reports, rarely go out on offensive patrols any more. The Soviets have recently been increasing war matériel. But, he continued, there doesn't seem to be any way the Soviets can overcome the problem of collapsing morale among FAPLA troops.

UNITA operates in 22 military regions throughout Angola, Casitu explains, with 15- to 150-man "dispersed" and "compact" guerrilla teams, 500-man semiregular battalions, plus antiaircraft, intelligence, engineering, and urban commando teams. There are now, the colonel says, about 15,000 semiregulars and 20,000 guerrillas and commandos, and recruits from all over Angola are arriving continually at the main training camp at Jamba, which graduates about 1,000 men every three months. After basic training, other camps handle logistics, communications, quartermaster, transport, commando school, intelligence, artillery, and engineering.

In the fall of 1983, UNITA claimed to control the entire region south of the Benguela Railway from the Zaire-Zambia border to the Kuito-Menongue road, an area of some 150,000 square miles. Nearly all the towns, villages and government garrisons within this area have been captured (including, very recently, Cazombo and satellite garrisons in eastern Moxico province). Only the town of Cuito Cuanavale, in Cuando Cubango province, is still in MPLA control. But is it surrounded by UNITA forces and can only be supplied by air.

In addition, Casitu reported, UNITA exercises increasing control north of the railway between the Luzo-Saurimo and Melanje-Kuito roads. South Africa, he noted, exercises effective control of Cunene, Huila, and Mocâmedes provinces in its war against SWAPO. The winter '83-spring '84 offensive would see UNITA expanding west toward Huambo and Luanda and east toward some of the world's most productive diamond mines. Casitu said UNITA had sent an official warning to Great Britain that the British guards there would be in mortal danger if they remained. (The British government told Reason that it has had no contact with UNITA but acknowledged UNITA's public statements that foreign citizens should leave the area.)

While UNITA's claim about the size of the area it controls have often been echoed in press reports, there remain among Western observers conflicting accounts of UNITA-controlled territory. Says US State Department spokesman Bruce: "It's hard to say how much UNITA controls. When UNITA moves around they claim territory but avoid attacking government strongholds." Nonetheless, within the past year journalists witnessing UNITA tactical excursions attest to the guerrillas' increasing territorial control and ease of movement into and around areas formerly thought to have been in the Luanda government's control. And by mid-February this year there were reports that

Savimbi's forces had advanced to the Zaire border in northeast Angola and were in a position to attack the diamond mines in that area.

The MPLA's air force, according to Casitu, has only 60-70 aircraft, including about a dozen MI-24 gunships that arrived last fall from the Soviets, a few MiG 17s and 21s, and AN-26 transport, all flown by Cuban or East German pilots. But UNITA has captured so many antiaircraft weapons from the enemy, reported Casitu, that the MPLA's air power is all but neutralized. Although UNITA has received outside help from several countries, such as Morocco, the Ivory Coast, Saudi Arabia, South Africa, and China, the great majority of its weapons, Casitu said, are Soviet-made, captured from the enemy.

After the briefing, a tour of Jamba is in order. Here is the administrative center of UNITA's health system. Throughout its area of control, UNITA operates five central hospitals—three south of the Benguela Railway, two north—and 211 regional hospitals and local clinics.

At Jamba there are maternity wards (two births a day average); rehab and post-operative-care wards; two wards for combat injuries; a surigical operating room with anesthesia and sterilization equipment (average three operations a day—appendectomies, hernias, war injuries, and so on); and a laboratory equipped for basic analyses.

Even though all of this is housed in a collection of thatch huts with sand floors, everything is as spotless as the hospital staff's white smocks. A team of six French doctors and nurses had been on the plane with me, and they were visibly impressed. Hélène Audrain, a nurse with Medicins Sans Frontiers, a Paris-based private medical-aid society, who has served in Uganda, Chad, Cameroun, and on the Thai-Cambodian border, had never seen anything like it. "For a guerrilla army," she remarked, *"c'est incroyable."*

The French doctors were similarly impressed with the organizational structure of UNITA's health system. The medical staff at Jamba—there is only one M.D.; others on the staff had served in Angolan Portuguese-run hospitals—asked the right questions of the French visitors and knew just what was needed. "We could rid all of Free Angola of TB in six months if we had the supplies," commented one of the doctors, "because the system is already organized so well."

The UNITA-owned clothing factory is next. With five pattern cutters and 20 sewers operating foot-pedal-driven Singers, the plant churns out ladies' and children's dresses, shirts, pants, caps—and 1,000 uniforms a month.

UNITA's truck repair and weapon-restoration shops house a wide variety of precision lathes and large power-driven machine tools for constructing spare parts and repairing damaged equipment and weapons. Engines and motors are overhauled here, and the URAL truck engines, which don't work efficiently in hot weather, are being converted from gasoline to diesel.

Some distance from Jamba is an agricultural center—run by both UNITA and local villagers' cooperatives—with 15 hectares, irrigated courtesy of Bulgarian pipe captured at Mavinga in 1981. The last harvest yielded 55 tons of vegetables including the most enormous cabbages—they must weigh 20-25 pounds.

UNITA is singularly proud, however, of its educational system. UNITA reports that thousands of parents have fled MPLA-controlled areas to avoid child-hunts, which take their kids off to Cuba's "Isle of Youth" (the Isle of Pines) to turn them into obedient Castro-Marxists (similar reports come from Ethiopia, Mozambique, Namibia, Benin, Congo-Brazzaville, and São Tomé). The parents bring their children instead to UNITA schools. There is thus a primary school in every village, agricultural center, and guerrilla base in UNITA-controlled Angola, numbering close to 1,000. I would be visiting several during the next month. The curriculum includes Portuguese, spelling, reading, composition, and grammar; arithmetic and geometry; history and geography of Angola; natural science and local flora and fauna; and basic hygiene.

There are 15 secondary schools, such as the one named after Lote Savimbi some 50 kilometers from Jamba. Classes are held either open-air or in thatch huts, furnished with log benches and tables and decorated with gaily painted animal bones, colored sand, plants, and flowers. I saw classes in trigonometry, algebra, and solid geometry; physics and chemistry (the lecture I attended was on electrolysis); and—so help me—Latin! Most students were high-school age, all dressed well and attentive, but there were several mothers with babies underfoot—and even one teacher instructing at a blackboard with a baby strapped to her back.

Turning the tables on the Marxists, UNITA gives a political context to its instruction. An English lesson on the blackboard: "We want our liberty and to be free of the colonialism of the Russians and Cubans." "L'histoire de l' Angola," a French lesson goes, "sera faite avec l'UNITA, et jamais contra l'UNITA" (The history of Angola will be written with UNITA, never against UNITA). And there's this Latin lesson: "De Rationibus Belli UNITAE" (The reasons for the war of UNITA) . . . "In hoc bello, Savimbi, dux prae clarissimus, suum populum ad victoriam diriget" (In this war, Savimbi, farseeing general, leads his people to victory) . . . "Omnis gentes contra russos, cubanos, atque hostes MPLAE pugnat" (All the people fight against the Russian, Cuban, and MPLA hosts).

I was to spend more than a month inside Angola, traveling with Savimbi some 2,500 kilometers through UNITA-held territory, over roads that are part of UNITA's own road network that crisscrosses many thousands of miles of its territory. We were to journey all the way up to Munango (captured in April 1983) on the Benguela Railway. Savimbi hadn't returned to his birthplace since his Long March; it was a moment of historic triumph for him and UNITA.

At almost every village or guerrilla base we pass, Savimbi stops and speaks. He is fluent in seven languages—Portuguese, English, French, Umbundu, Chokwe, Luchesse, and Ganguela—and he is an orator of Churchillian proportions in every one. At Sakutala, for instance, he holds forth for 45 minutes in a voice that never falters, never misses a beat. In a football field-size area, several hundred guerrillas and several hundred more villagers can clearly hear Savimbi's every word.

"Why have we been fighting for all these years, first against the Portuguese, now against the Russians and the Cubans?" he asks them. "It is to be masters of ourselves—for each of us to be master of his own life, and not for me to be master of your life, not for the party to be master of your life, but for you to be master of your own life. For if each of you is free to grow your own food on your own land, to work for yourself to make a good life for yourself and your family, this is the way you will help your country—this is the way we will work together to build a free and prosperous Angola. Will you help me throw the Russians out of Angola? [A multitude of voices scream, "Yes!"] Will you help me throw the Cubans out of Angola? ["Yes"] Are you willing to fight for your freedom and the freedom of your country? ["Yes!"] Then together, we will succeed."

The crowd erupts in explosive chants as hundreds of Soviet Kalashnikovs are thrust high in the air: "Out with the Cubans! Out with the Russians! Death to Marxism! Vive the independence of Angola! Vive Savimbi!"

This militaristic, revolutionary fervor runs high within UNITA. During a conversation with Savimbi, I once inquired about the possibility of a negotiated settlement rather than a military victory. "We will continue to fight until the MPLA agrees to hold free general elections," Savimbi told me, "that is what we are fighting for, as elections have never been held in the entire history of Angola.

"There is a faction in the MPLA—called the 'Catete Group'—that would like to make peace with us," he continued. "But they are afraid that if they make overtures to us, the Soviets will kill them, a la Afghanistan. So the pro-Soviet hard-liners in the MPLA, such as Lucio Lara and Paulo Jorge, have the upper hand. We also realize that the Soviets always negotiate in bad faith and never in good faith. So we must continue to fight, and continue to win, which is what we are doing."

I think back to a conversation, three weeks earlier, with Paulo Saheque, a captured second lieutenant in the MPLA army's 39th Brigade. In March 1983, the 39th Brigade, Saheque told me, tried to surprise a UNITA encampment near Andulo, IN Bié province. Finding it deserted, the 39th Brigade troops in frustration attacked the closest village they could find, setting fire to every hut and killing every living thing in the village, including chickens and dogs. Forty-eight defenseless men, women and children, Saheque recounted, were shot in cold blood. Forty-five Cubans, led by Lt. Col. Diego Hernandez, accompanied the MPLA soldiers, and Saheque says he personally witnessed them participate in the massacre. According to the prisoner, this is standard MPLA army and Cuban procedure, as they consider virtually the entire civilian population to be helping UNITA and all young men as potential guerrillas.

To be here as an outsider witnessing a protracted guerrilla war in the African bush is to be confronted by a situation that does not easily yield to neat, Western-style evaluation. While Saheque's story translates into vivid, concrete images the brutal nature of the MPLA rulers—a regime that, Amnesty International reports, routinely detains political prisoners (often torturing them) and liberally administers the death penalty to such prisoners after only a semblance of a trial, if any—there have been occasional reports in the Western press that UNITA has committed acts that would seem to violate the rights of innocent parties.

I have spoken with some of UNITA's prisoners, and all seem relatively comfortable—unharmed and unabused. Yet it is true, for instance, that when UNITA overtakes a town, the guerrillas round up the villagers and resettle them in UNITA-controlled areas. It may well be that since such towns often become battle zones UNITA is acting

responsibily by protecting lives that otherwise might perish from MPLA or UNITA bulets. Most resettled villagers that I have seen appear not to protest relocation; but I have on occasion seen some who appear confused and upset by having been moved from their home and put under the authority of a band of guerrillas.

Moreover, I am not sure what to make of various reports such as Amnesty International's claim that "UNITA representatives have on several occasions indicated that prisoners were being executed." I have not witnessed any executions. I know that UNITA does take both prisoners of war and civilian hostages (usually foreigners who have dealings with the Luanda government, though Amnesty International reports that in 1982 UNITA took hostage some unarmed Red Cross employees). The hostage-taking is a practice that Savimbi openly acknowledges and for which he makes no apologies; he claims to have issued public warnings that foreign civilians dealing with the Luanda government and its forces are subject to capture and that they are in Angola at their own risk.

Amnesty International also reports that UNITA agents explode bombs in public places (at markets, for example) in MPLA-controlled towns, including populous Luanda. When I asked Savimbi about such activities he told me that UNITA does very little of this—the MPLA often responds to such incidents with brutal reprisals against suspected UNITA abetters, he explained.

And if one were to take a survey of civil and economic freedoms in UNITA-controlled territory, the findings would be difficult to interpret. For instance, there is really no free market in this area. But one wonders how there could be: for one thing, there is no currency; for another, UNITA feels compelled to direct the allocation of villagers' farm produce to assure that all—villagers and troops alike—have enough food. But in return, in a sort of informal quid pro quo manner, UNITA provides villagers with health care, schooling, and protection. (There may be reason to wonder just how much of this feudal state would change if Savimbi were to come into power; for in a 1981 UNITA statement of its economic agenda for Angola, education and health care were said to be the "right" of all and would be provided "free" by the state. That was 1981; Savimbi's views may have changed since then).

After a month of first-hand observation, the complexities of the situation—for example, the tribal organization of the Angolan populace (to many of whom the concept of a pantribal Angolan nation must be as foreign as this Western journalist in their midst), an illiteracy rate of some 90 percent, the legacy of 400 years of colonial rule—still defy easy analysis. Here in the African bush, nothing is clear-cut.

Back near Jamba, as I prepare to leave "Free Angola," the dust from 4,000 dancing feet is swirling into the sky above the dirt airstrip hacked out of the sandy scrub jungle. Drums are pounding, flags are waving, the crowd is singing—all egged on by the tireless Third of August cheerleaders.

These last five weeks had been a very intense experience, emotionally and physically exhausting. Almost a quarter of my time, day and night, had been spent riding in Soviet-made trucks over the most tortuous bush tracks imaginable, I was constantly frustrated by the unrelieved lack of spontaneity of my UNITA hosts; everything had to be a "program," a formal state visit. I was tired of the comic theatricality—people always saluting and stomping their feet—and of having a 17-man bodyguard carrying rocket launchers and machine guns around me every place I went. Tired, too, of the Maoist rallies and slogans, the politicization of everything.

Yet I had gotten around enough on my own to believe that the cleanliness, enthusiasm, motivation, and dedication, the roads, schools, clinics, and military prowess, are for real—not a Potemkin facade. These people are determined to be taken seriously. Sometimes they overdid it, but I cannot doubt their earnestness, their pride, their sense of mission.

I wave goodbye to everyone and am about to step on board the plane. Savimbi puts his hand on my shoulder. "Remember, Jack, this is a high-stakes game. There is a lot of oil in Angola, plus vast mineral wealth. But above that, while we are fighting for our freedom and not yours, this is the front line in the battle between the East and the West."

Savimbi takes my hand and gives me a strong farewell embrace. I have learned that he is skilled at saying what his listeners want to hear. And I know that it is easy for him to demand and fight for free elections, because he is sure that he would win. But I also know the leftist mentality and Savimbi just doesn't seem to have it.

Savimbi is nobody's puppet. He is not South Africa's, and he will not be America's. Above all, Savimbi is an Angolan nationalist, and he will do whatever it takes to secure the freedom and prosperity of his country. But he repeatedly states his conviction that individual political and economic freedom are important elements in achieving that goal.

Savimbi may very well become the most dynamic and outstanding leader in Africa, if not the entire Third World. For it is possible, perhaps even likely, that he will hand the Soviets a major colonial defeat and that he will eventually be president of Angola. And once he is, the political history of Africa may embark in a different direction.

ANGOLA IS THE KEY TO AFRICA

Over the course of my visit with Angola's UNITA guerrilla forces last fall, I spent many hours speaking with UNITA leader Jonas Savimbi. We discussed a number of issues during those talks, and here are Savimbi's answers to some questions I asked.

Where does your money come from?

"Although aid from our Arab and Chinese friends has stopped, about six or so black-African countries help us with nonmilitary supplies like medicines. We have enough weapons, ammunition, and trucks to last us for some time, and we are continually capturing more. South Africa supplies all the generator and motor fuel we require gratis, as well as allowing us to receive supplies from other African countries through Namibia. Last year, we sold five million dollars' worth of lumber from our timber and sawmill facilities to South Africa, which enabled us to purchase clothing and food. Further, a number of European businessmen are starting to do business with us, on very good terms, as they are realizing we are going to win.

"Incidentally, I should add that there is not one single country in black Africa that is not doing business with South Africa. While many of them try to hide it, we do not; we have nothing to hide or apologize for."

With its defunct economy, where does Angola's government get money to pay the Cubans for their support of the regime? Do the Soviets foot the bill?

"No—you do. The MPLA must pay direct to Fidel Castro 100 U.S. dollars per day per Cuban. That's clean to Castro, for the Cubans' expenses—food, shelter, etc., are extra.

"Eighty percent of the Luanda government's foreign-exchange earnings of over $1 billion a year comes from royalties from Gulf Oil, which has the principal concession in the oil fields in Angola's Cabinda province, in effect, Gulf Oil is paying hundreds of millions of dollars to Fidel Castro for Cuban mercenaries to support a Soviet communist government against anticommunist guerrillas that are fighting to establish a pro-Western, pro-free-enterprise democracy in Angola. Every time you buy gasoline for your car from a Gulf station, some of your money goes to Castro. It is, how do you say, kafkaesque."

[For the record, it is impossible to check out Savimbi's claim that Gulf directly provides the Luanda government with 80 percent of its foreign-exchange earnings—an amount that would total at least $800 million or so; for neither Gulf nor the Luanda government releases this information to the public. Western analysts estimate that 80 to 90 percent of Luanda's foreign-exchange earnings come from Cabinda oil, and Gulf's concession is estimated to be about 80 percent of the total Cabinda production. Under its concession contract, Gulf pays to the Luanda government royalties, taxes, and other fees on its share of Cabinda oil—an amount that does add up to hundreds of millions of dollars. In response to what Savimbi calls a "kafkaesque" situation, however, John Sassi, Gulf's manager of international public policy, states that "Gulf cannot withhold payments from or make payments to anyone but that government" (with whom Gulf has the concession contract)". "Indeed," Sassi states, "it is beyond the Company's power or responsibilities to direct the disposition and use of any funds paid to any host government," and, "our commercial dealings with a country in no way constitute an endorsement of all the actions of that country's government."]

What are your views on socialism and capitalism?

"To begin with, Russian socialism is just the exportation of poverty. The Marxist economic model has failed everywhere it has been applied. It is important for everyone in a society to have a personal incentive, to be free to earn his own living and pay his own way, to feel he is productive and not being given something for nothing.

"The state, on the other hand, should be the referee—or like a policeman directing traffic where everyone is driving his own car. The state has to have a share in the large businesses like oil or diamonds so it will have the money to make loans to smaller private businesses. The state must also set the basic economic priorities. We must, for example, develop the countryside before the cities—not the other way around, which has been such a disaster in the Third World. The MPLA wants an urban proletariat and heavy industries, which are totally uncompetitive on world markets. We should have many dispersed and decentralized smaller industries, encouraging free enterprise to flourish." [Some readers may be pleased to know that I gave Savimbi my copy of Milton and Rose Friedman's Free to Choose.]

How would a UNITA victory change the political situation in southern Africa?

"Very dramatically. Take namibia. We're now drifting towards a Middle East-like situation, with South Africa in the role of Israel and SWAPO analogous to the PLO. But with a UNITA victory, SWAPO would no longer have a sanctuary in Angola, nor anywhere else. They would have to abandon guerrilla war and subject themselves to a democratic process in Namibia. Thus, a solution to Namibia means a solution to Angola first. For once the Cubans and SWAPO are gone from Angola, South Africa will have no more excuses."

[At press time, South Africa had begun to withdraw its troops from southwest Angola, where they have been fighting SWAPO guerrillas who seek to wrest control of Namibia from South Africa and have been allowed by the Angolan government to base their military operations in southwest Angola. The withdrawal of troops is seen both as the South African government's attempt to scale down a costly military effort that is losing popular support at home and as a prelude to further negotiations over Namibia.

Namibia (South-West Africa) is a former German colony that South Africa occupied after World War I under a League of Nations mandate. The United Nations revoked that mandate in 1966, but South Africa has refused to withdraw.

In negotiations to settle the Namibian problem, South Africa has insisted that it will not withdraw and allow free elections unless the Cubans leave Angola. South Africa fears that the Cubans would engineer a takeover of an independent Namibia by the marxist SWAPO, and it does not want a Marxist state along its borders.

Angola's MPLA government, however, insists that it will not send the Cubans home unless South Africa withdraws from Namibia, fearing that without the Cubans' military support, Angola would be at the mercy of South African forces based in Namibia. Some observers say that Angola's real fear is that without Cuban support, its regime would fall to UNITA.

The question for UNITA, on the other hand, is what would happen if South Africa, in setting the Namibian issue, withdraws its support for the guerrilla group. Given UNITA's dependence on South Africa for basic necessities like fuel and weapons, its fate without such support is uncertain. And the U.S. Government has indicated that if Angola expels the Cubans, it will recognize the MPLA government, an offer that carries the promise of foreign aid.]

"We are confident that a UNITA victory in Angola will signify the end of Soviet expansionism in Africa, initiating instead its contraction. We think, for example, that the Soviet-backed regime of Samora Machel in Mozambique would not last long and that Soviet influence in general would be greatly diminished throughout the continent.

"As for South Africa itself—we, of course, abhor apartheid. But we recognize that it is based on fear. Democracy and human rights have had a tragic and shabby history in black Africa. A democratic, pro-free-enterprise Angola will help ease that fear. We intend to extend diplomatic relations to South Africa and offer a Christian solution to its problems, critizing it from a helpful position, not a confrontational one. Apartheid will be overcome, internally, but South Africa's younger generation—and not through a guerrilla war backed by the Russians."

Why do you think the West isn't supporting UNITA fully in its fight against Soveit imperialism?

"Why are there massive riots and demonstrations by people in Western Europe over American missiles aimed at Russia and not Russian missiles aimed at them? It's a disgrace. I think it must be the Third World that has to give the West the courage to oppose the Soviet Union and stand up for its ideals, not the other way around—to provide a cure for what Solzhenitsyn calls the Western Disease.' That is why we say, 'UNITA is the key to Angola, Angola is the key to Africa, Africa is the key to the West.' "

[From the Washington Times, Monday, May 21, 1984]

SAVIMBI CITES GUERRILLAS' GAINS, MARXIST LOSSES IN ANGOLA

Dr. Jonas Savimbi of Angola on the fight against Marxism.

Dr. Jonas Savimbi is the world's most successful anti-Marxist guerrilla fighter and one of Africa's most impressive leaders. For years he has been leading UNITA (National Union for Total Independence of Angola), fighting first the Portuguese and since 1975 his country's Marxist MPLA (Popular Liberation Movement of Angola) regime, which is propped up by 25,000 Cuban troops, 8,000 Cuban civilian advisers and several thousand Soviet, East German and other Eastern European military and civilian personnel.

Western intelligence sources confirm that Dr. Savimbi's main-line guerrilla forces numbering 20,000 have control of about one-third of Angola and are operating in 13 out of 16 provinces. Arnaud de Borchgrave, a member of The Washington Times editorial board, journeyed deep into the Angolan bush to interview Dr. Savimbi, 49.

Q: The past few weeks have seen major geopolitical changes in southern Africa—a non-aggression pact between South Africa and Marxist Angola; joint South African-Angolan military patrols to round up Angola-based SWAPO guerrillas; negotiations between Marxist-led SWAPO and the anti-Marxist political parties of Southwest Africa with a view to a possible transition coalition government for an independent Namibia; Prime Minister Pieter W. Botha's forthcoming grand tour of Europe. How do you read all these signals?

A: UNITA supports all these moves. Mr. Botha repeatedly has offered peace to his neighbors. But they wouldn't listen. Then South Africa backed up its words with deeds—a combination of military power, economic clout and diplomacy. I disagree with those who say that power cannot be used in this day and age. South Africa is a major power in southern Africa, a power to be reckoned with, and its neighbors are now sitting up and paying attention and they are talking to—rather than past—each other. Much credit goes to U.S. diplomacy for improving the atmosphere.

Q: But won't the next step be a non-aggression pact between South Africa and Angola—at your expense?

A: There is a vast difference between Mozambique on the eastern front and Angola in the west. Here we have a big Cuban presence. Our intelligence indicates 35,000 Cubans. The United States now has revised its own estimate to 25,000 Cuban military plus 8,000 to 10,000 civilians. But as the United States discovered in Grenada, all Cuban civilian technicians and advisers are armed and militarily trained and prepared. Another factor is that UNITA existed as a major politico-military force against Portuguese colonialism and that we are one of three Angolan signatories to the independence accords negotiated with the Portuguese. In 1975, the Soviets sent the Cubans in to sabotage the accords and ensure the victory of the MPLA. The United States and South Africa tried to reverse the situation, and the world has forgotten that it was the U.S. Congress that cut off funds for the operation two days short of a total Cuban defeat. The Cubans have now been here almost 10 years. And the MPLA government and army they are propping up are losing ground every day.

Q: The Cubans presumably will not leave Angola before SWAPO has taken over Namibia, and South Africa will not leave Namibia until Cuba has left Angola. So what's the solution?

A: In my talks with P. W. Botha, I have been left with no doubt whatsoever that South Africa is fully prepared to give up Namibia. But South African interests must be taken into account. Namibia cannot be left in the lurch, at the mercy of the Cubans. So the Cubans must get out of Angola. The Soviets and the Cubans made a major strategic blunder when they moved in here nine years ago. They thought it would take a year or two to consolidate the MPLA's hold on the country. They have failed miserably. They've had nine years, with the help of the Soviets, Cubans and East Germans, to prove themselves. All they've proved is that they are far worse colonizers than the Portuguese. So I think it would be a tragic error for the South Africans to simply abandon Namibia to U.N.-supervised elections—and just walk away from it, leaving SWAPO in sole charge. Marxism has proved to be a manifest and tragi-comical failure. Look at Zimbabwe, an economic jewel ruined in a short period of time by a Marxist leader. The whites left in droves. This must be avoided in Namibia. It cannot survive without South Africa. Africa is going downhill. It needs Western knowhow, not more Soviet weapons and the deadhand of Eastern bureaucrats.

Q: If the Cubans leave, how long could the MPLA regime survive?

A: Three months at most. And even if the Cubans stay, the regime will collapse in 12 to 18 months.

Q: How?

A: Look at this large-scale military operations map. Check it out with independent intelligence sources. We have trained our units to report accurately. We have countrywide military radio facilities. We have gone from 8,000 regular guerrillas when you were last here in January 1981 to 20,000 full-time fighters and almost 20,000 armed part-timers, or irregulars. We are phasing in 2,000 fully trained new guerrillas every three months. We are operating in 13 out of 16 provinces. Sixty-five percent of our arms and ammo is captured from MPLA and Cuban forces. In 1980, one quarter of Angola had been liberated. Now it's between one third and one half. We move wherever we want and the population is always with us.

Q: How do you know the local population is not with you one week and then with the government forces when your guerrillas leave the area?

A: A Zambian government spokesman had to concede publicly recently that UNITA, not MPLA, controls the entire length of the border between the two countries. In mid-February we began moving out a large force

we had assembled in the area of Mussende. There were 5,000 porters in the column, humping supplies, heavy machine guns, mortars and ammunition, along with 2,000 of our guerrillas and 2,500 irregulars. We were on the move for two months, seen by thousands of villagers as we covered a distance of 150 kilometers and then got ourselves into position for a surprise attack against Novo Redondo, 180 kilometers south of Luanda, the capital, where two brigades of MPLA troops [about 1,000 troops per brigade] and two companies of Cubans were located. No one had betrayed us during those two difficult months. After three hours of fighting we took over the town. In the fourth hour, however, Cuban civilian advisers who had stayed inside their buildings, began opening fire and put up stiff resistance. But the MPLA troops had fled. We then withdrew in several different directions according to well-rehearsed plans.

Q: What about Cuban air strikes?

A: They are indeed a problem. But we have adjusted our tactics accordingly. We hit three or four places at the same time to disperse the Cubans' air strike capability. They have improved recently with the arrival of MiG-23s, which have a longer range, and the, MI-24 helicopter gunship, the flying tank the Soviets have been using against Afghan resistance fighters. Both these aircraft began arriving last October and became operational in January. We can expect to see them overhead in about 20 minutes, by which time we break contact and slip back into the bush.

Q: What do you reckon Cuban casualties are averaging per month?

A: We reckon about 8,000 in the past nine years—and about twice as many seriously wounded. For a long spell, Cuban casualties were low because they had orders not to move out of their garrisons. They simply trained MPLA troops and told them what to do. Once we intercepted MPLA radio calls for Cuban help and the nearest Cubans said they were on their way. But we had set up an ambush to head off the Cubans and we know that they lied about being on their way because they never left their camp. Now the Cubans move about a little more to avert a total MPLA collapse.

Q: What's the average number of clashes per month?

A: UNITA-caused incidents now run between 120 and 170 a month. In some cases we simply blow a bridge with no casualties. In others, we ambush a convey, killing five to seven Cubans. Between April 19 and May 5, we killed 11 Cubans and about 180 MPLA troops in six different provinces. Your own satellite photography must have seen that the Lumege bridge that was blown in 1975 and rebuilt by the Soviets in '83 has been blown up again. Another bridge which took the Soviets six years to rebuild was destroyed by our forces shortly after it was opened.

Q: How do you get operational information so fast and how do you know that it's accurate?

A: We now have country wide radio contact through a series of relay points. We change our codes daily and our training for accuracy is draconian. A unit commander must report his own losses and the enemy's accurately as possible or else planning becomes impossible. We also have installed since you were last here a UNITA radio station which broadcasts seven hour a day from our liberated zone. We also use it for coded messages, like the BBC did to occupied Europe during World War II.

Q: Some Americans and South African diplomats talk up the possibility or reconciliation between you and the MPLA. I have never seen a coalition of Marxists and anti-Marxists work in the Thrid World. Power-sharing in this context seems to be a Western liberal perception.

A: The MPLA regime is split. Some former Marxists are fed up with the Cubans and have become silent anti-Marxists. They can see most of their revenues from Gulf Oil [more than $1 billion a year] siphoned off to pay the Cubans [who get $40 per soldier or civilian adviser per day] about $1.2 million a day. They are also deeply in debt to the Soviet Union for military equipment. The other day, we received information from one of our agents that Cuban and MPLA troops fought a three-hour battle in Huambo and that the provincial governor had to step in to stop the fighting. We don't know what started it. I have been ready to sit down and talk with the MPLA for years. Many of them are ready for a deal. National reconciliation will not be much of a problem as long as the hard-line Marxists are pushed out of the picture.

Q: What have you heard about Angolan President Jose dos Santos' trip to Cuba to see [Fidel] Castro after South Africa and Angola signed a disengagement agreement?

A: Our intelligence sources in Luanda tell us it wasn't a dialogue. Castro was furious and lectured him on how shameful it was for South Africans and Angolans to be working together in a joint military commission designed to flush out SWAPO guerrillas as the South Africans slowly withdrew from their most recent deep penetration into Angola. Dos Santos, contrary to what some African specialists in your State Department believe, did not go to Cuba to negotiate a timetable for Cuban withdrawal. But in the light of major development in southern Africa, I believe the Cuban regime is preparing itself psychologically and getting ready to leave. The Cubans know they have overstayed their welcome. Officially, they have always maintained they were here to defend Angola against South Africa. Those grounds for staying are increasingly specious. UNITA is clearly the real reason for the Cuban presence, but they cannot concede that to their own people.

Q: Some American and British diplomats have been telling South Africans that a UNITA victory in Angola would be an intolerable loss of prestige for a global superpower like the U.S.S.R. and that Moscow will escalate the conflict into a major confrontation rather than accept a Cuban defeat. The implication is that UNITA should be quietly abandoned.

A: That's clever disinformation, originally planted by the Soviets, and designed to get South Africa to cut it links with UNITA and encourage rapprochment with the MPLA regime in Luanda instead. Some people, for whom appeasement of the Soviets and their proxies have become a way of life, are scheming to trade UNITA off against a Cuban withdrawal. But we are not theirs to be traded.

Q: What leverage do you have?

A: Military, of course, but also political and diplomatic. The world has barely noticed that we have just conducted our first diplomatic negotiations with one of MPLA's communist allies—Czechoslovakia. In our attack against the industrial complex at Alto Catumbela in March 1983, we captured 66 Czechs and 20 Portuguese technicians. We kept 20 Czechs as prisoners and they walked a total of 2,000 kilometers to get to our base area. MPLA and Cuban troops scoured the country looking for them. No one informed the enemy on the progress of our column. If that doesn't show you the level of popular support we enjoy, nothing will. We invited the Czechs to send a senior offical to talk to us to discuss arrangements for their release. They replied that we should send one of our senior officials to Prague. We accepted, and UNITA Information Secretary Wilson dos Santos went. He negotiated with Czech Deputy Foreign Minister Stanislav Svoboda. A joint communique on the release of the Czechs has just been issued in Prague.

Q: What happens to UNITA if SWAPO takes over in Namibia and you are cut off from South Africa?

A: We have no assurances one way or another. We've been told since 1979 that the resolution of the Namibian conflict will effectively seal off the border. For four years we have been stockpiling arms, ammo and supplies in different parts of the country—enough to sustain our war of independence against the Soviets and the Cubans for a very long time. There is no way UNITA can collapse.

Q: How many African countries support UNITA?

A: Twelve are sympathetic and helpful. Four others are talking to us. I have written to these 16 African heads of state. and then those who didn't hear from me began asking what had happened to their own letters from me. They all know we have scored major victories on the ground in '83 and '84.

BUDGET: A SILVER LINING

Mr. DOMENICI. Mr. President, the distinguished Senator from Minnesota, Mr. BOSCHWITZ, has written an extremely important and thought-provoking article which was recently published in the New York Times. It is an outstanding example of the insight and understanding which he brings to the Senate Budget Committee, and indeed to the entire Senate. It is also a fine example of his optimistic outlook, an attitude which is both well known and greatly appreciated in this institution.

My distinguished colleague points to several key indications that things may in fact not be as bad as the economic doomsayers would have us believe. Perhaps most important from my own viewpoint is the fact that after 6 weeks of hard work on the Senate floor, we were able to pass (in an election year, as Mr. BOSCHWITZ points out) a deficit reduction package totaling $140 billion over 3 years. Passage of such a measure would not have been possible without the valuable participation and expertise of Mr. BOSCHWITZ, and I commend the Senator for his efforts.

Mr. President, the Senator from Minnesota also refers in his article to indications that government revenues for this fiscal year are growing faster than projected, and spending is rising at a slower rate than anticipated. Indeed, there is a growing number of economists who are beginning to think

that deficits this year will be $20 billion or more lower than official projections would indicate. That would certainly be good news.

Finally, Mr. President, I would like to point out that despite all the optimistic signs which my colleague refers to in his article, he is not sitting back and waiting for good things to happen; quite the contrary, he is a leader in the charge to make them happen. A good example is his amendment which the Senate agreed to recently, directing OMB and CBO to study various formula approaches to the budget process. I know this is an idea in which he has a great deal of interest, and I commend him for forging ahead.

There is no one here in this body, or in the financial and business communities, who would not profit greatly from reading Mr. BOSCHWITZ' article. I ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 21, 1984]

BUDGET: A SILVER LINING

(By Rudy Boschwitz)

WASHINGTON.—It's easy to be pessimistic about budget deficits. They're $200 billion annually as far as the eye can see, we're told. Interest rates are going up. We're saddling ourselves and our children with a terrible burden. One can paint a bleak picture of future economic growth constricted by huge Federal debt requirements. While the prevailing wisdom contains some substance, a brighter picture can also be painted.

I'm not an economist, just an entrepreneur whose first political run was for the Senate, and all my instincts about business, budgets and deficits suggest that things are looking up.

Many observers, including the economist Milton Friedman in his book "The Tyranny of the Status Quo," believe significant changes in Government policy occur only in the first six to nine months of a Presidential term. But we are in an election year, and have just voted to increase taxes by some $48 billion through fiscal 1987. The Senate has also voted some $92 billion in spending cuts over the same three-year period, for total deficit reductions of $140 billion. The House has completed action on its own large deficit-reduction package. All this is a recognition on Congress's part of the need to get at deficits—even in an election year. What it also means is that in the nine months after the election, we'll make meaningful adjustments in all budget areas—probably if either party wins but particularly if President Reagan is re-elected and the Senate remains under Republican control. It's also very possible that Bob Dole or Pete V. Domenici will become majority leader. Both would have the right background to steer the Senate toward a balanced budget.

Some of my business friends, unimpressed with a three-year $140-billion package, demand more immediate action. I'd like that, too, but we have to deal with the political realities of an election year, and, if we do, the $140 billion in unprecedented and says a great deal about what's going to happen in 1985.

A little noticed trend is great Government revenues are growing somewhat faster than projected and that spending is somewhat slower than anticipated. The deficit is being narrowed from two directions!

In my first year on the Budget Committee, we dealt with the fiscal 1980 budget. Spending grew at 18 percent over that of 1979; in 1981, spending grew at 14 percent over that of 1980; in 1982, it grew at 11 percent over that of 1981. In 1983, the growth in budget spending continued to decline and spending increases over the year before were 9 percent. Unfortunately, Government revenues declined by 3 percent. But in the first six months of fiscal 1984, spending grew at less than 4 percent—the lowest rate of growth in 15 years—while income grew at 10 percent. Income is now growing twice as fast as outgo. Not bad! If this continues, the deficit could look far better than is now projected.

Meanwhile, we often overlook something when we describe the dimensions of the deficit: the $60 billon budget surpluses among the 50 states and their local governments. That sum should be deducted in computing the nation's overall governmental deficit. A significant portion of the revenue for state and local governments is closely tied to taxes on consumer spending, so they tend to reap immediate benefits from economic recovery. But Washington taxes last year's income and this results in a delay between economic recovery and increased Federal revenues. Those state surpluses portend better things for Federal revenues. It's also important to remember that the three-year, $140 billion package doesn't end after three years. The structural changes being put into place will save $70 billion in the fourth year, $75 billion in the fifth and probably more thereafter.

All that sounds good. But what about those deficit projections from the Congressional Budget Office, which go right up to $300 billion in fiscal 1989? Let's look at how well the Office has done with forecasting. Two years before the 1983 deficit of $195 billion, the Office projected an $18 billion surplus. In 1981 the Office projected 1983 inflation at 6.2 percent; it was 3.2 percent. Its 1982 inflation projection for 1983, though a year closer to actuality, was even further off the mark. The projections of real growth in the gross national product over the years must be a source of embarrassment: The Office totally missed the recession of 1982. But in fairness, the projections were no worse that those of other economists that the Budget Committee is supposed to rely upon.

Maybe the optimistic signs I have related are equally as far off the mark. I'm no economist and those purveyors of the dismal science are supposed to know. But all my business bones and instincts say that the deficits are being overstated. And my more recently acquired political insights say that Congress is giving all the signs of tackling the job ahead.

RETIREMENT OF DR. SPURGEON EURE

Mr. KENNEDY. Mr. President, I take this moment to mark the retirement of a very special person in the health care community—Dr. Spurgeon Eure, who will soon be stepping down as president of the Southern College of Optometry in Memphis after a long and successful tenure.

It was my pleasure to have worked with Dr. Eure on the health manpower program whose success is due in large part to the hard work of Dr. Eure and others like him who gave so unselfishly of their time and expertise.

On June 1 the Southern College of Optometry will honor Dr. Eure by dedicating a building in his name. If ever there was a deserving recipient of such a tribute it is Dr. Eure. Modern optometric education, and health profession education in general, owes much to Dr. Eure's successful efforts to expand resources to improve curriculums and upgrade school facilities.

Dr. Eure has been guided in his career by an abiding concern for the visual health and well-being of all Americans. His outstanding accomplishments in this important area of health care have left a proud legacy for his successors. I am pleased to be able to join the many others who have worked with Dr. Eure in recognizing his great work and wishing him success in all his future endeavors.

ANNE BELISLE DALEY: A COMMITTED VOLUNTEER

Mr. CRANSTON. Mr. President, I am pleased to pay a special 77th birthday tribute to a woman who has earned the admiration of countless Californians for her commitment to helping others, whom I just met 30 years ago in Fresno, Calif.

Anne Belisle Daley, mother, grandmother, human rights and political activist, teacher and community volunteer has dedicated much of her life to public service. Currently the director of San Francisco's victim-witness assistance program, Ann was a founding member of San Francisco Tomorrow and Friends of San Francisco Deputies and Inmates. The list of community organizations with which she has been involved for almost a half century is endless and wide-ranging. She has won recognition and many awards, including Volunteer of the Year for 50 northern California counties in 1966.

Anne's activism has also extended into the political arena. She has been a member of the San Francisco Democratic Central Committee and the California State Democratic Central Committee for the past decade. Over the years, her hard work has benefited countless campaigns throughout northern California, as I know well.

Her caring, commitment, loyalty, and leadership have made Anne a central and respected figure on the San Francisco civic and political scene, among both those who share her views and those who do not. W. E. Barnes, political columnist for the San Francisco Examiner, once said of Anne: "There goes about one-third of all the political know-how and power in San Francisco."

At a time when we celebrate volunteerism, it is appropriate that we look to someone like Anne Belisle Daley whose spunk, tenacity, and hard work have contributed to the community as a whole. She embodies the very ideals upon which our country was built.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1984

Mr. PERCY. Mr. President, I would like to express my strong support for the Social Security Disability Amendments of 1984. Through passage of this legislation, we in Congress have taken essential action to insure that our disabled citizens continue to receive the support they both need and deserve.

The social security disability program, funded through payroll tax deductions, is a source of support for over 3.8 million mentally or physically disabled Americans. In Illinois alone, there are over 140,000 recipients of disability benefits. For many of these persons, their disability check is their sole source of income.

In the last few years, though, serious problems developed in the administration of the disability program. Estimates in 1980 indicated that as many as 20 percent of the disability beneficiaries were either ineligible or receiving too large a benefit payment. Over the preceding decade, the cost of the program had risen fivefold, from $3.3 billion to $15.8 billion. Between 1970 and 1977 alone, the number of disabled workers on the rolls almost doubled, from 1.5 million to 2.9 million. Including spouses and children, the number of beneficiaries reached 4.8 million. As a result, the disability insurance program was plagued by underfinancing and continuously rising taxes.

In an effort to address these problems, Congress in 1980 mandated a review of all social security disability recipients not considered permanently disabled at least once every 3 years. Previously, there was no requirement in the law requiring periodic review, and only about 4 percent were reviewed annually in the first half of the 1970's.

Although the requirement was well conceived, its implementation has resulted in some significant problems and confusion in the program's operation. In March 1981, the Social Security Administration began reviewing the eligibility status of all beneficiaries on the disability rolls. Since that time, over 1.1 million disabled workers' cases have been reviewed, and in 45 percent of those cases, benefits were terminated. This extremely high rate of termination, along with the fact that two-thirds of those who appealed to an administrative law judge had their benefits reinstated, led to concern that the continuing disability reviews were being improperly administered.

Other concerns stemmed from the fact that, under present law, individuals who have been on the rolls for many years are reviewed as if they were new applicants. This has resulted in persons being terminated from the rolls although they have not medically improved since the initial award of benefits. In some cases, the termination decision may be proper—such as when an individual is erroneously awarded benefits in the first place. Nevertheless, serious questions about whether an individual can engage in substantial gainful activity were raised.

In February, Senator HEINZ and I held an Aging Committee field hearing in Chicago to examine problems in the social security disability program. Our hearing focused on three main concerns: first, the effect of present review procedures on disability recipients: second, the pressures that have led many States, including Illinois, to implement their own administrative procedures for this program; and third, the inadequacy of SSA initiatives to resolve the situation. It was evident that, despite temporary efforts to provide relief, the real problem continued.

This important legislation will address and correct many of the fundamental inequities that trouble the existing disability review process. The most significant provision will modify the standard used for reviewing the continuing eligibility of disability beneficiaries under both the social security disability insurance and supplemental security income programs. It will allow disabled individuals to continue to receive disability benefits if their condition was the same or worse than when they were first granted benefits and if the SSA fails to provide evidence that the disabled beneficiary has benefited from advances in medical or vocational therapy or technology, that the original decision was made through error or fraud, or that new diagnostic technologies show that the individual's impairment was not as serious as originally believed. This new standard applies to future eligibility reviews, to individuals who now have claims pending in the administrative appeals process, and to certain cases pending in court.

Four of the other provisions of the bill are designed to improve the accuracy of disability determinations, both for new applicants and beneficiaries undergoing review. These will direct the Secretary to: first, consider the combined effect of multiple impairments, if severe, even if none are individually severe; second, consult a treating physician for medical evidence whenever possible prior to obtaining a consultative examination, and develop a complete record of the individual's condition over at least the preceding 12-month period; third, make every reasonable effort to use a psychiatrist or psychologist in making a termination decision for beneficiaries with mental impairments; and fourth, take into consideration subjective allegations of pain only to the extent that they are consistent with medical signs and findings which show the existence of a medical condition which could reasonably be expected to produce the alleged pain, or other subjective symptoms.

To help address the problems of uniformity in decisionmaking between the levels of appeal and also at the State agency level, the bill will require the Secretary to establish uniform standards of eligibility to be binding on all levels of adjudication in determining whether individuals are disabled under the meaning of the Social Security Act.

The bill also includes a provision to insure the solvency of the Disability Insurance Trust Fund. It requires the Secretary to notify Congress by July 1 if the Disability Insurance Fund is projected to decline to less than 20 percent of a year's benefits. If Congress takes no other action, the Secretary will scale back the next cost-of-living increase for disability beneficiaries only to the extent necessary to keep the fund balance at 20 percent.

Finally, the bill will reauthorize, until June 1986, a provision which I have long supported allowing payment of benefits to continue to individuals who have claims pending as a result of the periodic review process.

It was never the intent of Congress to terminate disabled Americans from the disability insurance program. With the enaction of this legislation, we will protect disabled individuals and their families from an unfair review process while insuring that only those who are entitled to these benefits receive them.

NATIONAL TOURISM WEEK

Mr. INOUYE. Mr. President, President Reagan has proclaimed next week as National Tourism Week, and called upon the people of the United States to observe it with appropriate ceremonies and activities. I think it is entirely fitting and appropriate that we do so, because there are few, if any industries or activities which contribute more to our Nation's social and economic prosperity.

As a nation we have been relatively late in coming to this realization. Other developed nations of the world by law and custom have long recognized the therapeutic value of travel and recreation; and many countries of the world outspend the U.S. Government in their efforts to attract visitors. In fact, according to statistics I have seen, 26 countries provided more

funds for their national tourist offices than the United States did in 1981.

Despite our late start, I believe the signs are encouraging that as a government we are beginning to appreciate the national importance of travel and tourism, and beginning to act accordingly. One of the most significant reasons for this change in government attitude is the travel industry itself. So it is the men and women in the industry who should be recognized during National Tourism Week, and it is their effort which should be celebrated.

Mr. President, I would briefly like to explain why I believe the role of the travel industry has been so decisive in getting the Government to pay attention.

Very simply, over a period of 10 years or so, the diverse segments of this industry have been willing to subordinate their individual concerns to the common good; unite; and flex their political muscle in Washington.

Political muscle is the language most clearly and quickly understood in Washington. When the steel industry or the automobile industry, or labor has a problem their leaders go directly to the White House and the Halls of Congress. They are heard, and they are effective.

When the travel industry has done this, Federal programs and agencies have, for the most part, been responsive. For example, over the past 10 years, there have been several attempts by several administrations and some Members of Congress to deny tax deductions for business entertainment. Such a law would decimate an important segment of the industry and cause severe unemployment within it. These proposals have always been defeated due in large measure to the support of a united industry.

Successive administrations also tried to abolish the U.S. Travel Service. Again with united industry support these efforts have come to naught; and in fact the budget of this agency, whose programs have a cost/benefit ratio of $18.6-1, has been increased.

In Congress one now finds a House Tourism Caucus, and a Senate Tourism Caucus. One will also find an industry council to advise the Senate Tourism Subcommittee.

And in the executive branch, there is a Travel Industry Advisory Board to advise the Secretary of Commerce.

On the industry side, there is a highly prestigious industry marketing committee under the aegis of Travel Industry Association of America which is developing a marketing plan to recommend to the U.S. Travel and Tourism Administration.

Mr. President, for purposes of uniting and flexing its political muscle, I believe the most significant development within the industry took place in 1982, however. Two years ago the industry established the Travel and Tourism Government Affairs Council for the purpose of representing a unified industry viewpoint on legislative and regulatory issues.

Recently the council had its second annual unity day in Washington. Its members were invited to the White House; and its annual dinner was attended by all of the key Members of the House and Senate, and the Under Secretary for Tourism. And anyone who knows how official Washington works, knows that is recognition.

And now, by Presidential proclamation we will be celebrating National Tourism Week.

Mr. President, as the first chairman of the first subcommittee ever created in the U.S. Congress with specific responsibility for tourism, I have had the privilege of working with literally thousands of men and women in the industry. They have all worked unceasingly and unselfishly for the common good. I respect and admire them all, and they are my good friends.

Because we have experienced so much together I know they will understand if I single out one from among their ranks whom I believe should be especially recognized during National Tourism Week.

William B. Walton, or "Wild Bill" as I came to know him, is truly the pioneer of the industry's Washington effort. He is a founder and former vice chairman of the board of Holiday Inns; serves as chairman of the Senate Commerce Committee's Travel and Tourism Government Affairs Council; and as a member of the Department of Commerce's Travel and Tourism Advisory Board.

Mr. President, I will now return "Wild Bill" to the ranks of his colleagues, who have also done so much. I believe the Government and our Nation should appreciate and support their efforts; and it is fitting that they should be honored during National Tourism Week.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5287) to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 518. An act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

The message further announced that pursuant to the provisions of House Concurrent Resolution 296, 98th Congress, the Speaker appoints the following additional Members to represent the House of Representatives during the period May 25 through May 28, 1984, when the remains of the unknown American soldier who lost his life during the Vietnam conflict will lie in state in the rotunda of the Capitol: Mr. BONIOR of Michigan, Mr. GRAY, Mr. STUMP, and Mr. MARTIN of New York.

The message also announced that the House has agreed to the amendments of the Senate to the text of the bill (H.R. 4170) to provide for tax reform, and for other purposes, with an amendment; it insists upon its amendment, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and has appointed the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, solely for consideration of titles I through VIII, section 1002, and title XI of the Senate amendments, and Division A of the House amendment to the Senate amendments: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. CONABLE, Mr. DUNCAN, and Mr. ARCHER.

From the Committee on Ways and Means, solely for consideration of title IX (except for sections 921-926, 943, 944, 952, and 958) and section 1611 of the Senate amendments, and part A of title III and title VI of Division B of the House amendment to the Senate amendments: Mr. ROSTENKOWSKI, Mr. JACOBS, Mr. RANGEL, Mr. RUSSO, Mr. FORD of Tennessee, Mr. STARK, Mr. PEASE, Mr. CONABLE, Mr. DUNCAN, Mr. MOORE, and Mr. CAMPBELL.

From the Committee on the Budget, solely for consideration of title IX, section 1001, and titles XII-XVI of the

Senate amendments, and Division B of the House amendment to the Senate amendments: Mr. JONES of Oklahoma, Mr. PANETTA, Mr. GEPHARDT, Mr. NELSON of Florida, Mr. DONNELLY, Mr. DERRICK, Mr. WILLIAMS of Montana, Mr. LATTA, Mr. SHUSTER, Mr. FRENZEL, and Mr. LOEFFLER.

From the Committee on Appropriations, solely for consideration of title XIV and section 1606 of the Senate amendments: Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. CONTE, and Mr. MCDADE.

From the Committee on Armed Services, solely for consideration of such portions of section 1201 of the Senate amendments, and such portions of section 201 of Division B of the House amendment to the Senate amendments, as relate to cost-of-living adjustments for military retirees, and title XV of the Senate amendments: Mr. PRICE, Mr. NICHOLS, Mr. ASPIN, Mr. DICKINSON, and Mr. HILLIS.

From the Committee on Banking, Finance and Urban Affairs, solely for consideration of sections 1301-1314 of the Senate amendments: Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. HUBBARD, Mr. BARNARD, Ms. OAKAR, Mr. WYLIE, and Mr. MCKINNEY.

From the Committee on Energy and Commerce, solely for consideration of title IX (except for sections 905, 909, 917, 919, 951, 955-957, subsections (a), (b), and (c) of section 965, 966, 971-976, 981-985, and 992-997) and section 1611 of the Senate amendments, and title III (except for sections 308, 339, 340, and 342) and sections 650 and 661 of Division B of the House amendment to the Senate amendments: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. WALGREN, Ms. MIKULSKI, Mr. BROYHILL, Mr. MADIGAN, and Mr. DANNEMEYER.

From the Committee on Government Operations, solely for consideration of title XV and sections 1603, 1605, 1609, and 1610(b) of the Senate amendments: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Mr. ENGLISH, Mr. LEVITAS, Mr. HORTON, Mr. ERLENBORN, and Mr. CLINGER.

From the Committee on the Judiciary, solely for consideration of section 1604 of the Senate amendments: Mr. RODINO, Mr. BROOKS, and Mr. FISH.

From the Committee on Post Office and Civil Service, solely for consideration of title XII and sections 1604 and 1607 of the Senate amendments, and title II of Division B of the House amendment to the Senate amendments: Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Mr. GARCIA, Mr. LELAND, Mr. ALBOSTA, Ms. OAKAR, Mr. TAYLOR, Mr. GILMAN, Mr. CORCORAN, and Mr. COURTER.

From the Committee on Rules, solely for consideration of title XIV (except for subsection 1401(f) of the Senate amendments: Mr. PEPPER, Mr. LONG of Louisiana, Mr. BEILENSON, Mr. FROST, Mr. QUILLEN, and Mr. LOTT.

From the Committee on Small Business, solely for consideration of title IV of Division B of the House amendment to the Senate amendments: Mr. MITCHELL, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. MCDADE, and Mr. CONTE.

From the Committee on Veterans' Affairs, solely for consideration of title V of Division B of the House amendment to the Senate amendments: Mr. MONTGOMERY, Mr. EDWARDS of California, Mr. EDGAR, Mr. APPLEGATE, Mr. LEATH of Texas, Mr. SHELBY, Mr. HAMMERSCHMIDT, Mr. WYLIE, and Mr. HILLIS; and that the House disagree to the amendment of the Senate to the title of the aforesaid bill, insist upon its disagreement, and commit said amendment to the conference.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5653. An act making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes; and

H.R. 5692. An act to provide for a temporary increase in the public debt limit, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran; and

H. Con. Res. 310. Concurrent resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 94. Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month";

H.J. Res. 451. Joint resolution designating the month of November 1984 as "National Alzheimer's Disease Month"; and

H.J. Res. 526. Joint resolution designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 6:33 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; it recedes from its disagreement to the amendments of the Senate numbered 1, 7, 11, 12, 13, 15, 19, 21, 22, 25, 29, 30, and 31 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 5, 8, 10, 14, 16, 20, 27, and 34, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5692) to provide for a temporary increase in the public debt limit, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2174) to amend title of the United States Code to prohibit certain tampering with consumer products, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 310. Concurrent resolution providing for an adjournment of the House from May 24 to May 30, 1984, and an adjournment of the Senate from May 24, May 25, and May 26, 1984, to May 31, 1984.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5653. An act making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran; to the Committee on Foreign Relations.

MEASURE PLACED ON THE CALENDAR

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 310. Concurrent resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary reported that on today, May 24, 1984, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 94. Joint resolution to authorize and request the President to designate May

13, 1984, to June 17, 1984, as "Family Reunion Month".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3274. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, soil conservation service plans for the Lower Silver Creek Watershed, California, and Little Whitestick-Cranberry Creek, Watershed, West Virginia; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3275. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Contractor that was indemnified by the Department of Transportation during calendar year 1982; to the Committee on Commerce, Science, and Transportation.

EC-3276. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on refunds of offshore lease revenues where a refund is appropriate; to the Committee on Energy and Natural Resources.

EC-3277. A communication from the Secretary of Energy, transmitting, pursuant to law, an update to the Comprehensive Program Management Plan for Wind Energy Systems; to the Committee on Energy and Natural Resources.

EC-3278. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1983; to the Committee on Energy and Natural Resources.

EC-3279. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, the development report of the Corporation for fiscal year 1983; to the Committee on Foreign Relations.

EC-3280. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, the semiannual report of the Inspector General, Veterans' Administration, for the period October 12, 1983, through March 31, 1984; to the Committee on Governmental Affairs.

EC-3281. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3282. A communication from the Attorney General of the United States, transmitting, pursuant to law, the seventh report on implementation of the Parental Kidnapping Prevention Act of 1980; to the Committee on the Judiciary.

EC-3283. A communication from the General Counsel of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, the annual Freedom of Information Act report of the Office of Administration for calendar year 1983; to the Committee on the Judiciary.

EC-3284. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Recommendation of Certification Requirements for Revenue Anticipation Notes"; to the Committee on Governmental Affairs.

EC-3285. A communication from the Acting Assistant Attorney General, Office of Legal Policy, transmitting, pursuant to law, the annual Freedom of Information Act report of the Department of Justice for calendar year 1983; to the Committee on the Judiciary.

EC-3286. A communication from the Secretary of Education, transmitting, pursuant to law, final priorities for fiscal year 1984—Training Program for Special Programs Staff and Leadership Personnel; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 384: A bill to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute (Rept. No. 98-480).

By Mr. BAKER (for Mr. GOLDWATER), from the Select Committee on Intelligence, without amendment:

S. 2713: An original bill to authorize appropriations for the fiscal year 1985 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 98-481).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 3903: A bill to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin (Rept. No. 98-482).

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. 2635: A bill to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1985 (Rept. No. 98-483).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2565: A bill to extend programs under the Head Start Act, and for other purposes (Rept. No. 98-484).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute.

S. 1718: A bill to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes (Rept. No. 98-485).

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 2490) to amend and extend the Library Services and Construction Act (with additional views) (Rept. 98-486).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 388: An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1735.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee of Foreign Relations:

Treaty Doc. 98-6, 98th Cong., 1st sess. Tax Treaty With the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Estates, Inheritances, Gifts, and Certain Other Transfer (with a reservation) (Exec. Rept. 98-26).

By Mr. DOLE, from the Committee on Finance:

John F. Scruggs, of Virginia, to be an Assistant Secretary of Health and Human Services.

● Mr. DOLE. Mr. President, I am pleased to report the recommendation of the Committee on Finance that the Senate give its advice and consent to the nomination of Mr. John F. Scruggs, whom President Reagan has nominated to be Assistant Secretary of Health and Human Services for Legislation.

John Scruggs is intimately familiar with the legislative process. For the last 2 years has served as special assistant to the President for legislative affairs. Prior to that time he worked as floor assistant to TRENT LOTT, Republican whip in the House of Representatives, and for the House Rules Committee staff. He clearly understands the legislative process and how to work with Senators and Congressmen.

Our efforts to reform and to improve programs within the Health and Human Services Department are among the Congress most sensitive and difficult tasks, involving as they do matters particularly affecting the needy beneficiaries of the Goverment's social welfare programs. Secretary Heckler will be fortunate to have a man of John's capability and experience to assist her. I urge the members to join me in approving this nomination.●

By Mr. HATCH, from the Committee on Labor and Human Resources:

David T. Kingsbury, of California, to be an Assistant Director of the National Science Foundation.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAKER (for Mr. WALLOP) (for himself, Mr. CRANSTON, Mr. HECHT, Mr. GARN, Mr. GOLDWATER, Mr. KASTEN, Mr. HEFLIN, Mr. WILSON, Mr. LAXALT, and Mr. DENTON):

S. 2710. A bill to amend the Federal Power Act to provide for more protection to electric consumers; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2711. A bill to amend the Federal Power Act to establish policy and procedures to guide the Federal Energy Regulatory Commission in the issuance of new licenses to operate existing hydroelectric facilities; to the Committee on Energy and Natural Resources.

S. 2712. To return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years; to the Committee on Finance.

By Mr. BAKER (for Mr. GOLDWATER) from the Select Committee on Intelligence:

S. 2713. An original bill to authorize appropriations for the fiscal year 1985 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Armed Services and the Committee on Foreign Relations, jointly, pursuant to the order of May 23, 1984, for the 30-day time period provided in section 3(b) of Senate Resolution 400, 94th Congress, provided that the Committee on Foreign Relations be restricted to the consideration of title VI, provided that if either of said committees fails to report said bill within the 30-day time limit, such committee shall be automatically discharged from.

By Mr. ROTH:

S. 2714. A bill to amend the Immigration and Nationality Act to require certain foreign students studying in the United States to meet certain academic standards; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 2715. A bill to amend title 38, United States Code, to authorize contributions made by the Veterans' Administration to States for the construction of State home facilities for veterans to be used for acquisition to facilities for such purpose; to the Committee on Veterans' Affairs.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2716. A bill for the relief of Dr. Rajko Medenica; to the Commitee on the Judiciary.

By Mr. SASSER (for himself and Mr. BAKER):

S. 2717. A bill to name the Veterans' Administration Medical Center in Murfeesboro, Tenn., the "Sergeant Alvin C. York Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SYMMS:

S. 2718. A bill to authorize appropriations for the construction of highway projects, to increase taxes to finance such authorizations, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. PELL, Mr. BURDICK, Mr. PROXMIRE, and Mr. HEINZ):

S. 2719. A bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years; to the Committee on Environment and Public Works.

By Mr. BAKER (for Mrs. HAWKINS):

S. 2720. A bill to recognize the organization known as the Women's Army Corps Veterans' Association; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2721. A bill to confirm a conveyance of certain real property by the Southern Pacific Transportation Co. to Ernest Pritchett and his wife, Dianna Pritchett; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself, Mr. ABDNOR, Mr. PERCY, Mr. PELL, Mr. BOSCHWITZ, Mr. KENNEDY, Mr. INOUYE, Mr. RIEGLE, Mr. DOLE, and Mr. BENTSEN):

S.J. Res. 301. Joint resolution to authorize the Kahlil Gibran Centennial Foundation of Washington, D.C., to erect a memorial in the District of Columbia; to the Committee on Rules and Administration.

By Mr. EAST (for himself, Mr. BAKER, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. CHILES, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. INOUYE, Mr. JOHNSTON, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. NUNN, Mr. RIEGLE, Mr. SASSER, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, and Mr. TSONGAS):

S.J. Res. 302. Joint resolution to designate September 1984 as "National Sewing Month"; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. DOLE, Mr. PELL, Mr. PROXMIRE, Mr. SARBANES, Mr. THURMOND, Mrs. HAWKINS, Mr. EXON, Mr. HUDDLESTON, Mr. LUGAR, Mr. BURDICK, Mr. BRADLEY, Mr. HEFLIN, Mr. EAST, Mr. RANDOLPH, Mr. DOMENICI, Mr. GARN, Mr. INOUYE, Mr. WARNER, Mr. QUAYLE, Mr. MATSUNAGA, Mr. PRESSLER, Mr. DECONCINI, Mr. BYRD, Mr. CHILES, Mr. GORTON, Mr. CRANSTON, Mr. HOLLINGS, Mr. MCCLURE, Mr. RUDMAN, Mr. RIEGLE, Mr. COCHRAN, Mr. ARMSTRONG, and Mr. DANFORTH):

S.J. Res. 303. Joint resolution to designate the week of December 9, 1984, through December 15, 1984, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HOLLINGS:

S. Res. 392. Resolution to mark the 90th anniversary of the birth of Benjamin Elijah Mays; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 393. Resolution authorizing testimony of Roxanna Pratt in the case of United States of America v. Chung Yup Yum, a.k.a. Charles S. Yum, Ki Bung Lee, and Sung Kyu Chun, Criminal Action No. 84-47; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER (for Mr. WALLOP, for himself, Mr. CRANSTON, Mr. HECHT, Mr. GARN, Mr. GOLDWATER, Mr. KASTEN, Mr. HEFLIN, Mr. WILSON, Mr. LAXALT, and Mr. DENTON):

S. 2710. A bill to amend the Federal Power Act to provide for more protection to electric consumers; to the Committee on Energy and Natural Resources.

RELICENSING PROCEDURES FOR HYDROELECTIC FACILITIES

● Mr. WALLOP. Mr. President, I am pleased to join with several of my colleagues today in the introduction of a bill which amends sections 7 and 15 of the Federal Power Act. This bill will clarify the procedures under which the Federal Energy Regulatory Commission (FERC) conducts relicensing proceedings for the continued development of hydroelectric power.

In the way of background, the Senate will recall that in 1920 the Congress adopted the Federal Water Power Act, presently the Federal Power Act, which created the Federal Power Commission, now the Federal Energy Regulatory Commission ((FERC). The Commission is authorized to issue licenses for the use of Federal lands and waterways in the development of hydroelectric power. Under the act, licenses can run for a maximum of 50 years.

A purpose of the 1920 law was to promote the development and maximum beneficial use of the electric power potential offered by the Nation's water resources. Under section 7 of the act, States or municipalities were given a preference over privately owned utilities in obtaining initial licenses for new hydro projects, if the State or municipality plan is equally well adapted to "conserve and utilize in the public interest the water resources of the region." Apparently several reasons were behind the congressional decision in 1920 to give preference to States and municipalities in the original licensing of hydro projects. At that time, some lawmakers feared that unregulated utility monopolies or industrial corporations might realize excessive benefits from the use of water resources because there were few State public utility commissions in place to regulate the utilities; the technical facilities of electric power were such that only those customers that lived near the hydro sites benefited from the low cost of hydro and cities were purchasing electricity primarily to light city streets and public buildings.

The passing of some 60 years has seen tremendous changes in the development and regulation of the electric power industry. State utility commissions are now in place regulating the operations and rates of utilities and improved technology means that even urban areas may benefit from remote hydro development. Over the years, private utilities have invested billions of dollars in the development of hydroelectric powerplants resulting in low cost electricity to millions of consumers. Indeed, the Federal Power Act has worked well with some 25 percent of our Nation's water hydropower generation under license to private utilities and the remaining 75 percent de-

veloped by municipalities, cooperatives, and State and Federal agencies.

As many of these licenses have now begun to expire, FERC has the responsibility for conducting relicensing proceedings in connection with those facilities. The question is whether the preference clause under section 7 of the act which applies in original licensing applications also applies in cases of relicensing.

It was initially viewed both by those associated with the electric utility industry and with the Federal Power Commission that the preference did not apply against the existing licensee at relicensing. Indeed, in 1968, the Chairman of the FPC testified before Congress that the preference provision did not apply against the existing licensee at the relicensing stage. However, in June 1980, the FERC issued a declaratory opinion [*City of Bountiful, Utah, et al.*, Opinion No. 88, 11 FERC ¶ 61,337, reh. den., Opinion No. 88-A, 12 FERC ¶ 61,179 (1980)] that the municipal preference applied against the existing licensee at relicensing, as well as the initial licensing.

Recently, on October 6, 1983, FERC reversed [*Pacific Power & Light Co., et al.*, Opinion 191, (October 6, 1983)] that position and ruled that municipalities do not have preference in relicensing.

The bill we are introducing today will eliminate this confusion and uncertainty by making it clear that the preference clause of section 7 of the Federal Power Act does not apply in case of relicensing. This bill supports the recent decision by FERC and should not be viewed as a change in existing law, but as a clarification and affirmation of the original intent of Congress concerning relicensing.

The clarification of this issue by this bill would insure that the customers of these hydroelectric projects would continue to receive the benefits of low-cost electricity, provided the existing licensees are willing and able to meet the licensing standards embraced in section 10(a) of the act. It is important to recognize that under this bill, by referencing section 10(a) of the act, the existing licensee's project would have to be best adapted to a comprehensive plan, or the licensee would have to agree to modifications required by the Commission in order to make it so. Otherwise, the Commission could refuse to issue a new license to the existing licensee. Furthermore, the Commission's present authority, which would continue to impose such terms and conditions in the new license as are authorized by law would further insure that issuance of a new license to the existing licensee would be in the public interest.

Mr. President, I want to make it very clear that the preference concept has a long history and is reflected in numerous Federal laws that provide for the marketing of power from Federal hydroelectric projects. And, as I have indicated, the Federal Power Act is acknowledged by all to include a preference that applies at the time the first license is issued authorizing construction and operation of a new project. Our bill is not directed at and would not affect any of those preferences.

Unlike the effect of the preference at initial licensing, utility customers have a great deal to lose if the utility is forced to transfer its license to a municipality at the time of relicensing. At relicensing the project has been in operation for up to 50 years and integrated efficiently into the licensee's generating system to the benefit of the utility's customers. At the outset the utility and its investors assumed the risk of building the project and subsequently the utility's customers paid for the development, operation, and maintenance of it through their rates. None of this, of course, has occurred at the time preference comes into play at initial licensing.

Mr. President, we truly believe that this issue is a consumer issue because the possible transfer of the benefits from a hydroelectric project from millions of existing consumers to a relatively few consumers of a municipality based upon a preference position is not in the best interest of most Americans. Almost 77 percent of all electric customers are served by private utilities and yet private utilities receive only 25 percent of the hydro generated power. To take away more hydro generation under the relicensing procedures is to further benefit a relative few at the expense of most electric consumers. Such a result cannot be justified as sound and equitable public policy.

The possible inequity to existing customers of electric utilities which I have described is reflected further by the present compensation provision applicable to relicensing. Our bill would rectify this problem also. If a municipality were to take over an existing licensee's project, under the present law, it has been argued that the existing licensee would be entitled only to net investment plus severance damages.

In order to treat equitably the property rights of the existing licensee, and to assure compliance with constitutional safeguards, the bill provides that in the event the project is to be licensed to a different licensee, the existing licensee shall be justly compensated by the new licensee in accordance with due process of law.

Mr. President, as I have stated, this is a problem which affects electric consumers across the country. There are some 180 private utility hydroelectric projects which come up for relicensing before 1994. The Congress needs to clarify existing law to provide the basis for consistent FERC relicensing rulings in the future and allow for sound long-term energy policy decisions.

I would urge my colleagues to join us in support of this legislation and I ask unanimous consent that the full text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric Consumers Protection Act of 1983".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) is amended—

(1) by inserting "original" after "hereunder or"; and

(2) by striking out "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 15(a) of the Federal Power Act (16 U.S.C. 808(a)) is amended—

(1) by striking out "is authorized to" and inserting in lieu thereof "shall";

(2) by striking out "original" each place it appears and inserting in lieu thereof "existing";

(3) by striking out "regulations or" and inserting in lieu thereof "regulations unless the Commission determines, taking into account public benefits provided during the preceding license term, that such licensee's project or projects, as described in its application for a new license, will not meet the licensing standards set forth in section 10(a). If the Commission determines that the project or projects do not meet such standards, it is authorized"; and

(4) by striking out "such amount" and inserting in lieu thereof "just compensation in an amount that the Commission shall determine in accordance with due process of law,"; and by striking the comma after the words "to do".

SECTION-BY-SECTION ANALYSIS

This bill amends the Federal Power Act to provide more protection to electric consumers. Specifically, it amends sections 7(a) and 15(a) of that Act to clarify the process for the issuance of new licenses for hydroelectric projects upon the expiration of an existing license and treats all licensees equally.

Section 1 of this bill provides that the Act may be cited as the "Electric Consumers Protection Act of 1983."

Section 2, clause (1), of the bill amends section 7(a) of the Federal Power Act by inserting "original" after "hereunder or" to make it clear that section 7(a) applies exclusively to the issuance of preliminary permits and original licenses, and not to new licenses issued under section 15 of the Act as amended by section 3 of this bill.

Section 2, clause (2), of the bill also amends section 7(a) of the Act to eliminate any ambiguity which might arise from the existing reference to the issuance of new licenses under section 15 of the Act.

Section 3 of the bill amends section 15(a) of the Federal Power Act. Clause (1) strikes out "is authorized to" and inserts in lieu thereof "shall" to assure that the procedures of section 15 shall be uniform as clarified by this bill. Clause (2) assures that the section will apply in all cases to the existing license and licensee, regardless of whether it

is the original license and licensee, or a successor.

Section 3, clause (3), of the bill amends section 15(a) of the Act to clarify the process of the issuance of new licenses upon the expiration of an existing license. It provides that if the United States does not take over a project pursuant to section 14 of the Act, the Commission, upon application, shall issue a new license to the existing licensee with appropriate terms and conditions, unless the Commission determines that the project or projects to be relicensed as applied for will not meet the standards prescribed in section 10(a) of the Act. The amendment requires the Commission in making such determination to take into account the public benefits provided during the expiring license term. For example, the Commission can and should take into consideration the fact that the project has been devoted to public use and that the rates and charges for power delivered from the project have been subjected to either federal or state regulation. Likewise, the Commission can and should take into account whether the project as applied for comports with flood control, navigation and recreational benefits as well as other public benefits inherent in the project. The amendment in effect recognizes that in the case of projects operated by electric utilities, whether privately owned or publicly owned, the existing licensee and its investors have assumed the risk of development and that the existing licensee and its customers have generally paid for the development, operation and maintenance of the project under terms and conditions consistent with the public interest.

The amendment authorizes the Commission to consider other applications and issue a license to a different licensee if the Commission determines that the project or projects as proposed by the existing licensee do not meet the prescribed standards.

Section 3, clause (4), of the bill addresses the matter of compensation to be paid to the existing licensee if a determination is made that a license for the project should be issued to a different licensee. The amendment thus recognizes that the existing licensee holds title to the project works which have been purchased or constructed subject to the right of Congress to regulate the use of the affected waterway or waterways under the commerce clause. In order to treat equitably the property rights of the existing licensee, the amendment provides that in the event the project is to be licensed to a different licensee the existing licensee shall be justly compensated in accordance with due process of law. Such compensation would protect the interest of the existing licensee, its investors and customers and offset the burden upon the licensee, its investors and customers, which results from the loss of future use of the project.

The amendment leaves unchanged the existing provisions of section 15(a) which authorize the commission to issue from year to year an annual license to the existing licensee until the property is taken over by the United States or until a new license is issued.

The clarification called for by this bill will eliminate the confusion which has arisen from varying interpretations of the relicensing provision by the Commission in recent years and thus provide stability to the process in the public interest particularly in the interest of milions of electric power customers which depend upon the benefits of projects licensed under the Act.●

By Mr. JOHNSTON:

S. 2711. A bill to amend the Federal Power Act to establish policy and procedures to guide the Federal Energy Regulatory Commission in the issuance of new licenses to operate existing hydroelectric facilities; to the Committee on Energy and Natural Resources.

HYDROELECTRIC FACILITY RELICENSING AMENDMENTS OF 1984

● Mr. JOHNSTON. Mr. President, today I am introducing a bill that addresses the issue of hydroelectric project relicensing.

Before I describe my bill, let me provide some background. Private utilities are currently operating 168 hydroelectric projects under Federal licenses that will expire within the next 10 years. Public utilities would like to take over some of these projects when they are relicensed. As a result, private utilities and public utilities are in court to determine if existing law provides a preference for public utilities when hydroelectric projects currently licensed to private utilities are relicensed. At the same time, the private utilities want Congress to amend the law to make it clear that a preference for public utilities does not exist in such instances.

The projects at stake within the next 10 years have a total installed capacity of about 3 million kilowatts, the equivalent of three average nuclear powerplants. Although this is a small amount of capacity from a national perspective, these projects generate extremely low-cost electricity that is very important to certain utility systems, particularly in California.

The relevant law is part I of the Federal Power Act, originally enacted in 1920 as the Federal Water Power Act. That act established the Federal Power Commission, now the Federal Energy Regulatory Commission, and empowered it to issue licenses for the construction and operation of hydroelectric projects on the Nation's navigable rivers. These licenses may be issued for a maximum of 50 years.

The act clearly requires the Commission to give preference to States and municipalities over private utilities in the issuance of original licenses where the applications filed are equally well adapted; 16 U.S.C. 800(a). In other words, the preference provision acts as a tie-breaker.

When an original license expires, the United States has the option of taking over the project and thereafter operating it. If this option is exercised, the United States must pay to the original licensee an amount equal to the original licensee's net investment in the project; 16 U.S.C. 807. If the United States chooses not to take over the project, the Commission may issue a new license to either the original licensee or to another license applicant. If the new license is issued to an applicant other than the original licensee, the new licensee also is required to pay to the original licensee an amount equal to the original licensee's net investment.

Many original licenses have begun to expire; consequently, the Commission is in the process of relicensing these facilities. The crucial legal issue is whether the preference for public bodies that applies in the issuance of original licenses also applies when projects are relicensed.

Because the act is not entirely clear on this issue, the Commission has vascillated in its interpretation of the relevant provisions. In 1968, the Chairman of the Federal Power Commission testified before Congress that the preference provision does not apply in relicensing proceedings where the competition is between a State or municipality and the original licensee.

Then, in June 1980, the Commission issued an opinion that the public preference does apply in such instances. That case, generally referred to as the "Bountiful decision," arose in response to a request by the city of Bountiful, Utah, for a legal interpretation of the act. After hearing argument from virtually all parties interested in this issue, the Commission unanimously declared that the statutory preference for States and municipalities applies to all competitive relicensing proceedings. In other words, a public utility would receive the new license if it submits a plan that is equally well adapted to the plan submited by the private utility that held the original license. This interpretation was affirmed by the 11th circuit court of appeals, and the Supreme Court declined review.

But then, on October 6, 1983, the Commission overruled the Bountiful decision. That decision involved the relicensing of the Merwin Dam in Washington State. The original license for Merwin Dam was held by a private utility. When the original license expired, the private utility applied for a new license and was challenged by a public utility.

The Commission unanimously issued the new license to the private utility on the grounds that the plans of the private utility were better adapted than the plans of the public utility. But three of the five Commissioners went further and overruled the Bountiful decision. The majority held that the public preference does not apply where the existing licensee is an applicant in the relicensing proceedings.

The Merwin decision has been appealed by the public utility to the U.S. Court of Appeals for the District of Columbia Circuit. Oral argument is scheduled for September, and a decision will probably be issued within 2 to 6 months thereafter.

Meanwhile, Congress is beginning to consider legislation on this issue.

Three bills have been introduced in the House of Representatives, H.R. 4402, H.R. 5299, and H.R. 5416, and the House Subcommittee on Energy Conservation and Power held a hearing on those bills on May 17.

In formulating my own views on this matter, I start from the premise that we should seek to avoid unnecessary economic disruptions and dislocations to electric consumers. I believe that a hydroelectric project should change hands only if the interests of electric consumers are thereby better served in some tangible way. I also believe that the utility industry needs to have this uncertain area of law resolved, and that Congress should decide the issue, not the courts.

To this end, my bill makes it clear that a preference for public bodies does not apply on relicensing. Instead, my bill provides a presumption in favor of the existing licensee. It provides that the existing licensee, whether public or private, will receive the new license unless another applicant comes forward with plans that are better adapted to serve the public interest. If the existing licensee does not apply for a new license, the new license would be issued to the applicant who submits the plans which are best adapted to serve the public interest.

My bill also sets out four criteria to be used by the Commission in making the public interest determination. The first criterion basically restates a requirement in exiting law that the Commission consider the plans of each applicant to develop, conserve, and utilize in the public interest the water resources of the region. The second criterion is a new requirement that the Commission consider the relative economic impact upon customers served by each license applicant if such applicant were to fail to receive the license. I believe that this criterion should be in the law in order to insure that the Commission fully considers the economic consequences of issuing a license to one applicant over another. The third criterion places emphasis on the ability of the applicant to operate and maintain the project in a manner most likely to provide efficient, reliable electric service.

Finally, the fourth criterion requires the Commission to consider the need of each applicant for the electricity generated by the project or projects to serve its existing customers. This is intended to preclude those utilities who do not need additional electricity but who would nevertheless seek a license for the purpose of reselling the power at a profit.

I am not wedded to these particular criteria. I am entirely open to suggested improvements. But I do believe that Congress should carefully articulate the criteria that should be considered by the Commission in relicensing hydroelectric facilities. I also believe that those criteria should reflect today's needs, not those that existed when Congress enacted the Federal Water Power Act over 60 years ago.

Before closing, I want to note something that my bill does not do. My bill does not change existing law with respect to the measure of compensation to be paid when an existing licensee does not receive the new license in a relicensing proceeding. Under existing law, the new licensee must only pay an amount equal to the existing licensee's net investment in the project. One of the House bills, H.R. 4402, instead provides that the new licensee must pay just compensation in an amount that the Commission shall determine in accordance with due process of law.

I did not include this provision in my bill for two reasons. First, I am uncertain of its meaning. What does just compensation mean in this context? If it means fair market value, how would the Commission determine fair market value in this context?

Second, I have doubts about whether the provision is sound policy. For example, the provision appears to heavily discourage those utilities who might otherwise propose to do a better job than the existing licensee. If a new licensee must pay fair market value to the existing licensee, there would be little or no incentive to propose a plan that would better serve the public interest. I am also concerned about whether the compensatory award would be passed through to the electric customers of the existing licensee or to its stockholders. I look forward to further examination of this provision.

Mr. President, I look forward to a thoughtful congressional review of the issue of hydroelectric project relicensing.

I ask unanimous consent that a copy of my bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Hydroelectric Facility Relicensing Amendments of 1984".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) is amended—

(a) by inserting "original" after "hereunder or"; and

(b) by striking "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 15 of the Federal Power Act (16 U.S.C. 808) is amended—

(a) by striking subsection (a) through "terms and conditions to a new licensee," and inserting in lieu thereof:

"SEC. 15 (a). If the United States does not, at the expiration of the existing license, exercise its right to take over any project or projects of the licensee, as provided in section 14, the Commission may issue a new license to the existing licensee or to a new licensee. If the existing licensee applies for a new license, the Commission shall issue a new license to such existing licensee unless the Commission determines that the plans of another applicant are better adapted to serve the public interest. If the existing licensee does not apply for a new license, the Commission shall issue a new license to the applicant the plans of which are best adapted to serve the public interest. The Commission shall not issue a license unless it is satisfied that the applicant is able to carry out such plans.

"(b) In making a determination of the public interest under subsection (a), the Commission shall consider:

"(1) the plans of each applicant to develop, conserve, and utilize in the public interest the water resources of the region; and

"(2) the relative economic impact upon customers served by each applicant upon the failure of such applicant to receive the license; and

"(3) the ability of each applicant to operate and maintain the project in a manner most likely to provide efficient, reliable electric service; and

"(4) the need of each applicant for the electricity generated by the project or projects to serve its existing customers.";

(b) by redesignating the remainder of subsection (a) as subsection (c);

(c) by striking "which license" and inserting in lieu thereof "A license issued under this section"; and

(d) by redesignating existing subsection (b) as subsection (d).●

By Mr. JOHNSTON:

S. 2712. A bill to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years; to the Committee on Finance.

DUTIES ON IMPORTS OF NECKTIES

● Mr. JOHNSTON. Mr. President, today I am pleased to introduce legislation to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981 for a period of 5 years.

Unfortunately, imports of men's and boy's neckties have accelerated sharply in the last 2 years. Since 1981, imports have grown by more than 150 percent, rising from 373,000 dozen to 948,000 dozen in 1983.

Imports are growing by record numbers at a time when duties on necktie imports are being phased down as a result of the Tokyo Round tariff cuts. These cuts range from 20 percent in some categories to over half the former duty rate in others. Virtually no category of neckties has escaped the pressures of increased imports. And the industry sees the situation worsening as the Multifiber Trade Negotiation (MTN) phased duty rate reductions continue to be implemented.

If necktie imports continue to accelerate at the current rate—stimulated by declining duty rates—this industry's continued viability will be very much in question as will be jobs of its workers.

This is an industry composed of many small establishments, generally

employing fewer than 20 workers. The work is highly labor intensive and skill levels are not transferable to jobs outside of the cut-and-sew industries where unemployment is already staggering. This industry has provided a source of employment for many minorities; it has provided entry level employment when no other was to be found.

Because the import situation in this industry is so grave, and conditions have worsened so rapidly, legislation for a temporary adjustment to the ad valorem and specific duties on necktie imports is needed. A temporary adjustment is well warranted. Without it, the consequences for the industry and its workers will be severe. It is now time for the Congress to act on this matter. Consequently, I urge my colleagues to expeditiously approve this legislation.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Subpart B of part 6 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(a) by striking out—

	Men's and boys' neckties of textile materials:	
	Ornamented	18% ad val.
373.05		
	Not ornamented:	
	Of vegetable fibers (359)	12.3% ad val.
373.10		
	Of wool (459)	19¢ per lb. + 9.3% ad val.
373.15		
	Of silk:	
	Knit	9% ad val.
373.20		
	Not knit	12% ad val.
373.22		
	Of man-made fibers:	
	Knit (659)	6¢ per lb. + 12% ad val.
373.25		
	Not knit (659)	12¢ per lb. + 13.5% ad val.
373.27		
373.30	Other	9% ad val.

and inserting in lieu thereof

	Men's and boys' neckties of textile materials:	
373.05	Ornamented	21% ad val.
	Not ornamented:	
373.10	Of vegetable fibers (359)	16.5% ad val.
373.15	Of wool (459)	37.5¢ per lb. + 10.5% ad val.
	Of silk:	
373.20	Knit	10% ad val.
373.22	Not knit	16% ad val.
	Of man-made fibers:	
373.25	Knit (659)	12¢ per lb. + 16% ad val.
373.27	Not knit (659)	12¢ per lb. + 13.5% ad val.
373.30	Other	10% ad val.

(b) The rates of duty in column numbered 1 for items 373.05, 373.10, 373.15, 373.20, 373.22, 373.25, and 373.30 of the Tariff Schedules of the United States (19 U.S.C. 1202), as amended by subsection (a), shall be exempt from any staged rate reductions which have been proclaimed by the President before the date of enactment of this Act.

Sec. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after 15 days following the date of the enactment of this Act.●

By Mr. BOSCHWITZ:

S. 2715. A bill to amend title 38, United States Code, to authorize contributions made by the Veterans' Administration to States for the construction of State home facilities for veterans to be used for acquisition of facilities for such purpose; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION STATE HOME AMENDMENTS

● Mr. BOSCHWITZ. Mr. President, in the next 5 years the make up of this Nation's veteran population will continue its steady shift. By 1990 this country's over 65 population will change such that 50 percent of the over 65 males will be veterans. And by the end of the century the current over 65 vet population of 4 million will grow to almost 9 million. Clearly this is both an opportunity and a challenge for the veterans' health care system.

Today I am introducing legislation that takes a simple, straightforward step in improving vets nursing home care. Most people who know the circumstances realize that the VA does not have the resources to build the number of nursing homes it will need to handle the aging World War II veterans. We also realize that, even if the resources were available, a short-term solution of major nursing home construction would only leave us with large number of unused facilities 20 to 30 years down the road. Therefore, we must find a wiser and more prudent way to provide care for these veterans.

My legislation simply takes one VA program—the State home program—and allows the State involved to use the construction grant money to acquire and renovate already existing facilities. This gives States the flexibility to use the option to acquire—at much lower cost—an existing nursing home, rather than go to the expense of building a new one from scratch.

The State homes program now pays per diem rates for the care of the vets in the homes, and provides grants for up to 65 percent of the cost for construction or modernization of extended care facilities. This includes both domiciliary and nursing home care. It is a well-run, cost-effective program and my legislation will only improve it.

The Minnesota Department of Veterans' Affairs has long had an interest in providing cost efficient health care to the State's veterans. I give them a large amount of credit for bringing this matter to my attention, and also to the attention of Congressman TIM PENNY, who has been successfully sheparding this idea through the House.

Currently in Minnesota 20 percent of our elderly are veterans, and already 50 percent of the males over 65 are vets. We are also facing an incredible increase in the number of veterans over age 80—the group most likely to need and use long-term-care facilities—from 5,500 now to over 60,000 by the year 2000.

I believe this legislation will provide the VA and the States with another tool to give these veterans the health care they will need. I hope my colleagues will join me in speedily approving this bill.●

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2716. A bill for the relief of Doctor Rajko Medenica; to the Committee on the Judiciary.

RELIEF OF DOCTOR RAJKO MEDENICA

Mr. HOLLINGS. Mr. President, on behalf of myself and my distinguished senior colleague, Senator THURMOND, I am submitting a private bill on behalf of Dr. Rajko Medenica, a Yugoslavian national now residing in South Carolina. Dr. Medenica, a renowned cancer specialist, is now in the United States pursuant to the parole granted by the U.S. Immigration and Naturalization Service. Since Dr. Medenica's arrival in the States on February 4, he has accomplished what many knowledgeable persons feel are near miraculous results in terms of several cancer patients.

A particular example is the case of Billy Guy Forbeck, the son of Mr. and Mrs. George Forbeck. On February 4, his life expectancy was numbered in days, or weeks at most. He had been diagnosed at Mayo Clinic several months before as having neuroblastoma, class IV. The tumor near his esophagus was deemed inoperable, and by February had grown to a size where the pressure on his esophagus made breathing difficult. The tumor had metastasized into his legs, and he could walk only by being supported on each side. He was taking medication for pain every 2 hours.

Through a series of treatments given at Roswell Park at Buffalo, N.Y., using Dr. Medenica's protocol, the results have been unbelieveable. Billy Guy has been without pain for over 2 months; he has visited Disneyworld, plays golf regularly, and recently visited Charleston, walking all over Fort Sumter and other sites there. The last X-rays at Roswell showed no signs of the tumor.

Dr. Medenica cautions that the young man is still not "out of the woods." He maintains telephone con-

tact with the Forbeck family every 3 hours. When it was apparent that he might have to return to Switzerland for a court hearing, the Forbecks became distraught, and the Immigration and Naturalization Service, for demonstrated humanitarian reasons, reparoled him for another 3 months.

There are several other cases in which Dr. Medenica's skill and expertise are being used. Because he is not licensed to practice and cannot be under our regulations for a period of time, he cannot actually prescribe and supervise the giving of medication. However, several weeks ago, he was appointed a scientific consultant to the Roswell Park Memorial Institute at Buffalo.

Dr. Gerald Murphy, who is the director of Roswell Park and who also is the president of the American Cancer Society, has indicated that he feels Dr. Medenica is a national asset. I believe Dr. Murphy would testify before Congress or any other group that Dr. Medenica should remain indefinitely in the United States. Dr. Medenica has already been put in charge of a research program at Roswell Park, which Dr. Murphy feels shows much promise in the fight against cancer.

In view of Dr. Medenica's great success in treating cancer, we are taking this step to grant him permanent residence in the United States. An identical bill is being introduced in the other body and I urge that consideration of this matter be expedited, not only as a great humanitarian gesture, but so that Dr. Medenica's great talents can be fully enlisted in the war on cancer.

Mr. THURMOND. Mr. President, I am pleased to join with the distinguished junior Senator from South Carolina, Mr. HOLLINGS, today in sponsoring private relief legislation for Dr. Rajko D. Medenica.

As Senator HOLLINGS has indicated, Dr. Medenica is a native and citizen of Yugoslavia who is currently living in Hilton Head, S.C. He is a non-Communist, a Christian, and, in the opinion of the president of the American Cancer Society and others familiar with his work, a virtual genius in the treatment of cancer patients.

Having met with Dr. Medenica and friends of his whose judgment I greatly respect, I am convinced that private relief legislation is merited in this extraordinary case. I will not now take the time of the Senate to explain all of the factual background surrounding this matter, but I concur in the remarks made by Senator HOLLINGS, and I join him in recommending this legislation to the Senate.

By Mr. SASSER (for himself and Mr. BAKER):

S. 2717. A bill to name the Veterans' Administration Medical Center in Murfreesboro, Tenn., the "Sergeant Alvin C. York Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

SERGEANT ALVIN C. YORK VETERANS' ADMINISTRATION MEDICAL CENTER

● Mr. SASSER. Mr. President, I rise today to introduce a bill on behalf of myself and Senator BAKER to honor not only a great Tennessean, but a great American, and a genuine national hero, Sgt. Alvin York. This measure will designate the Veterans' Administration Medical Center in Murfreesboro, Tenn., as the Alvin C. York Medical Center.

It is fitting that this medical center, which serves thousands of veterans from the middle Tennessee area, be named after one of their own. Sgt. Alvin C. York was the most decorated American veteran of World War I. Let me share with the Senate the great achievements of this most distinguished veteran.

Sergeant York was born in the small town of Pall Mall, Tenn., in Fentress County. He grew up shooting ducks, squirrels, and rabbits which sharpened the eagle eye he would use so well in combat. When the United States entered the First World War, Alvin York was drafted into the Army and eventually was sent to the Western Front in France.

On October 8, 1918, as a member of Company G, 328th Infantry, 82d Division, near Chatel-Chehery, France, then-Corporal York performed "the greatest thing accomplished by any soldier of all the armies of Europe." After his platoon had been decimated by deadly enemy fire, Sergeant York charged and knocked out an enemy machinegun nest and then proceeded to capture singlehandedly, 128 men, 4 officers and several guns.

For this act of heroism Sergeant York was awarded the Congressional Medal of Honor, the French Croix De Guerre, and the Tennessee Medal of Valor.

After the war, he returned to his hometown, where he lived on a farm donated by the grateful citizens of Tennessee. But Sergeant York showed that besides being a hero, he was a man of integrity. He worked tirelessly to enhance the educational opportunities of young people. This work resulted in the founding of the Alvin C. York Institute in Jamestown, Tenn.

Tennessee honored Sergeant York further by placing a statue of him on the State capitol grounds in Nashville to commemorate his great service to his State and his Nation. He died in 1964 and is survived by his widow, Gracie York.

At the present time, the veterans medical center is undergoing extensive renovation and expansion so that it may better serve the needs of veterans. Therefore, it is appropriate to name this medical center after a great American hero, Sgt. Alvin C. York.

I ask that a resolution approved by the Tennessee State Legislature, be entered into the RECORD at this time.

I also ask unanimous consent that the full text of S. 2717 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall be known and designated as the "Sergeant Alvin C. York Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the "Sergeant Alvin C. York Veterans' Medical Center".

HOUSE JOINT RESOLUTION NO. 344

A resolution to urge Congress to give special consideration to naming the Veterans Administration Medical Center in Murfreesboro, Tennessee in honor of Sergeant Alvin C. York.

Whereas, it is appropriate for government to memorialize those heroes of Tennessee history who have brought exceptional recognition and fame to this state and nation; and

Whereas, Sergeant Alvin C. York was Tennessee's greatest hero of World War I and one of the most effective combat soldiers in all the wars of American History; and

Whereas, for his military exploits, Sergeant York received the Congressional Medal of Honor, the French Croix de Guerre with palms and the Tennessee Medal for Valor, among other honors; and

Whereas, returning to his native Tennessee, Sergeant York brought much recognition that continues to enhance the history of this state and nation; and

Whereas, the epitome of a war veteran, Sergeant York upheld the highest standard of integrity throughout his entire life and zealously supported the state and nation and their authority and interest; and

Whereas, members of this body find it appropriate to encourage Congress to name the Veterans Administration Medical Center in Murfreesboro, Tennessee, in his honor; now, therefore,

Be it resolved by the House of Representatives of the Ninety-third General Assembly of the State of Tennessee, the Senate concurring, That we hereby urge Congress to give special consideration to naming the Veterans Administration Medical Center in Murfreesboro, Tennessee in honor of the late Sergeant Alvin C. York.

Be it further resolved, That a copy of this Resolution be forwarded to each member of the Tennessee Congressional Delegation, Washington, D.C. and to the Honorable Sonny Montgomery, chairman, Veterans Affairs Committee, Washington, D.C.●

By Mr. LAUTENBERG (for himself, Mr. PELL, Mr. BURDICK, Mr. PROXMIRE, and Mr. HEINZ):

S. 2719. A bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to

be made to any State which does not establish a minimum drinking age of 21 years; to the Committee on Environment and Public Works.

UNIFORM MINIMUM DRINKING AGE ACT OF 1984

● Mr. LAUTENBERG. Mr. President, today I am introducing on behalf of myself, Senators PELL, BURDICK, PROXMIRE, and HEINZ, the Uniform Minimum Drinking Age Act of 1984. This legislation is a revision to S. 2263, which I introduced on February 7.

On Monday, May 21, the New York Times ran an editorial addressing the need to raise the minimum drinking age to 21 in the State of New York. Because it is the intent of this legislation to create a uniform minimum drinking age of 21 nationwide, I believe my colleagues will find this editorial of interest.

I ask unanimous consent that the Times editorial and the text of the Uniform Minimum Drinking Age Act appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2719

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Minimum Drinking Age Act of 1984".

SEC. 2. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof of following new section:

"§ 158. National minimum drinking age.

"(a)(1) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is unlawful.

"(2) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than 21 years is lawful.

"(b) The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) of this section in a fiscal year if in any succeeding fiscal year such State makes unlawful the purchase or public possession of any alcoholic beverage by a person who is less than twenty-one years of age.

"(c) As used in this section, the term 'alcoholic beverage' means—

"(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1954,

"(2) wine of not less than one half of one percent of alcohol by volume, or

"(3) distilled spirits as defined in section 5002(a)(8) of such Code."

(b) The table of sections of chapter 1 of such title is amended by adding at the end thereof the folloiwng new item: "158. National minimum drinking age.".

RAISE THE DRINKING AGE, SAVE LIVES

Do New York State's 19- and 20-year-olds have a right to drink? Plenty of them think they do, and so do the restaurant and bar owners, who fear a loss of business if the Legislature raises the drinking age to 21. But Governor Cuomo believes the change essential if drunk driving is to be reduced.

State legislators, keenly aware that the voting age is 18 and leery of the well-organized bar owners, would like to put off the subject till after election. That would mean the death of some number of people. Saving those, and subsequent lives, ought to transcend political comfort.

The current controversy began three weeks ago when the Assembly's transportation committee issued a report expressing doubt that raising the drinking age beyond 19 would accomplish much. It suggested that the change from 18 to 19 in 1982 may not have reduced alcohol-related highway fatalities because they had been declining anyway, presumably because of tougher enforcement. Much better, the report concluded, to persevere with deterrence.

Wrong reply the New York Automobile Association and the Division of Alcoholism and Alcohol Abuse. They forcefully rebut the report's assertions that higher drinking ages had not reduced fatalities in other states. And in New York, they said, statistics strongly suggest that the change to 19 has saved lives.

In the 12 months following the change, fatal crashes involving 18-year-old drunk drivers declined by 42 percent. That was seven times the decrease among drinking drivers over 19.

And there's reason to think raising the age again would have a similarly good effect. Only 4 percent of the state's licensed drivers are 19 and 20 years old, but they account for 13 percent of all alcohol-related injury crashes and 16 percent of alcohol-related fatal crashes. By age 21, the number of drivers and the number of alcohol-related accidents start coming into balance.

There's also a common-sense argument for restricting access to alcohol. Deterrence depends on a rational calculation that the offense isn't worth the risk. Drunks aren't rational.

It would create a difficulty, and some social hardship, to deny alcohol to all 19- and 20-year-olds in the name of safety. But there are two compelling reasons to do so nonetheless. One is that the change would save lives among young adults, who'll have their whole lives in which to drink. The other is that, since the victims are not only youthful drunk drivers, the change would save lives of all ages.●

By Mr. BAKER (for Mrs. HAWKINS):

S. 2720. A bill to recognize the organization known as the Women's Army Corps Veterans' Association; to the Committee on the Judiciary.

WOMEN'S ARMY CORPS VETERANS' ASSOCIATION

● Mrs. HAWKINS. Mr. President, today I am introducing legislation to grant a Federal charter to the Women's Army Corps Veterans' Association. This is a companion bill to the measure introduced by Representative G. WILLIAM WHITEHURST of Virginia on February 28 of this year, which already has 42 cosponsors in the House.

Women who have served gallantly in our armed services should receive the full recognition they deserve. This organization includes women veterans who served in the Women's Army Corps until it was discontinued in 1978, and also women who are currently serving in the U.S. Army Reserve and the Army National Guard. Although its total membership is currently 3,042, the association expects to grow rapidly as it actively recruits members from the Army Reserve and Army National Guard.

The association's major functions include providing support to patients in VA hospitals, recognizing outstanding women in college ROTC units, and promoting other activities involving women veterans.

I believe we should give national recognition to this organization whose members have served or are serving their country in the armed services. Many have dedicated themselves to a lifetime of volunteer service because of their commitment to their country. It is only through the contributions of many hours of volunteer service that success has come to this fine organization. I, therefore, urge my colleagues to join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Women's Army Corps Veterans' Association, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The Women's Army Corps Veterans' Association (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the States in which it is incorporated, and subject to the laws of such States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include:

(1) promoting the general welfare of all veterans, especially women veterans, who have served or are serving in the United States Army, the Army Reserve, and the Army National Guard;

(2) recognizing outstanding women in college ROTC units throughout the United States; and

(3) providing services and support to patients in Veterans' Administration Hospitals throughout the United States.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and in which it carries on activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the States in which it is incorporated.

OFFICERS

SEC. 7. The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the States in which it is incorporated.

RESTRICTIONS ON CORPORATE POWERS

SEC. 8. (a) No part of the income or assets of the corporation may inure to any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) Neither the corporation nor any officer or director thereof may contribute to, support, or otherwise participate in any political activity or attempt in any manner to influence legislation.

(d) The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(e) The corporation shall not claim the approval or authorization of the Federal Government for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) Women's Army Corps Veterans' Association.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to amend or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.●

By Mr. PACKWOOD:

S. 2721. A bill to confirm a conveyance of certain real property by the Southern Pacific Transportation Co. to Ernest Pritchett and his wife, Dianna Pritchett; to the Committee on Governmental Affairs.

CONVEYANCE OF LAND BY THE SOUTHERN PACIFIC TRANSPORTATION COMPANY

● Mr. PACKWOOD. Mr. President, today I am pleased to introduce legislation to confirm a conveyance of land from Southern Pacific Railroad to Mr. and Mrs. Ernest Pritchett of Rogue River, Oreg.

In 1978, the Pritchetts purchased a mobile home park in Rogue River. The park is located alongside a fence erected long ago by the railroad. It was assumed that the fence marked the boundary of the Southern Pacific's land. In 1981, Mr. and Mrs. Pritchett discovered that part of their park was actually owned by Southern Pacific.

Southern Pacific has now transferred the land to the Pritchetts. However, because the land was part of an old Federal land grant to the railroad, Congress must confirm the conveyance. The bill I am introducing today, will do that.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 3, the conveyance described in section 2(a) of this Act involving certain real property in Jackson County, Oregon, forming a part of the right-of-way granted by the United States to the California and Oregon Railroad Company under the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph from the Central Pacific Railroad, in California, to Portland, in Oregon", approved July 25, 1866 (14 Stat. 239), is confirmed in Ernest Pritchett and his wife, Dianna Pritchett, the grantees in such conveyance, and their successors in interest, with respect to all interests of the United States in the rights to the real property described in section 2(b) of this Act.

SEC. 2. (a) The conveyance confirmed by this Act was made by a deed dated July 23, 1982, by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and recorded on October 20, 1982, in the official records of Jackson County, Document No. 82-15174.

(b) The real property referred to in the first section of this Act is a parcel of land in the Northwest Quarter of Section 26, Township 36 South, Range 4 West, Willamette Meridian, County of Jackson, State of Oregon, more particularly described as follows:

Commencing at the West Quarter corner of such Section 26; thence South 89 degrees 46 feet 45 inches East along the southerly line of such Northwest Quarter of Section 26 a distance of 1082.50 feet to a point in a line parallel with and distant 100 feet northeasterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Siskiyou Branch), and also the True Point of Beginning of the parcel to be described; thence North 65 degrees 2 feet 35 inches West along such parallel line 1191.92 feet to the westerly line of such Section 26; thence South zero degrees 12 feet 52 inches West along such westerly line 55.05 feet to a point in a line parallel with and distant 50 feet northeasterly, measured at right angles, from such center line; thence South 65 degrees 2 feet 35 inches East along last such parallel line, as last such parallel line being also the northeasterly line of that certain parcel of land described in deed dated June 23, 1883, from Frederick G. Birdsey to Oregon and California Railroad Company, recorded July 28, 1883, in Deed Book 10, Page 463, Records of such County, a distance of 1060.35 feet to such southerly line; thence South 89 degrees 46 feet 45 inches East along such southerly line 119.49 feet to the True Point of Beginning, containing an area of 1.293 acres, more or less.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance by the Southern Pacific Transportation Company before the date of enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.●

By Mr. MITCHELL (for himself, Mr. ABDNOR, Mr. PERCY, Mr. PELL, Mr. BOSCHWITZ, Mr. KENNEDY, Mr. INOUYE, Mr. RIEGLE, Mr. DOLE, Mr. BENTSEN, and Mr. SARBANES):

S.J. Res 301. Joint resolution to authorize the Kahlil Gibran Centennial Foundation of Washington D.C., to erect a memorial in the District of Columbia; to the Committee on Rules and Administration.

MEMORIAL IN COMMEMORATION OF KAHLIL GIBRAN

● Mr. MITCHELL. Mr. President, I rise to introduce a joint resolution which would authorize the erection of a memorial, on public grounds in the District of Columbia, in commemoration of Kahlil Gibran, the Lebanese-American poet and artist.

Joining me in offering this joint resolution today are Senators ABDNOR, PERCY, PELL, BOSCHWITZ, KENNEDY, INOUYE, RIEGLE, DOLE, and BENTSEN.

Kahlil Gibran, born 100 years ago in Besharri, Lebanon, moved with his family at the age of 12 to the United States where he lived the rest of his life. By his death at 48, he had produced, as both writer and artist, a prodigious body of work which stands today as an artistic legacy to people of all nations.

The writings of Kahlil Gibran are among the world's most popular, with collections of his work appearing in more than 50 languages. Over 7 million copies have been sold of his most memorable work, "The Prophet," now in its 109th printing.

The Kahlil Gibran Memorial is being offered as a gift to the American people by the Kahlil Gibran Centennial Foundation. The foundation is an American nonprofit organizations whose projects commemorate this important artist and his message of universal brotherhood. Gibran's dreams of human dignity and cooperation can be a source of inspiration to each of us.

I urge my colleagues to join with me and the original cosponsors of this resolution in honoring Kahlil Gibran.

Mr. President, I ask unanimous consent that the full text of my resolution appear in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 301

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Kahlil Gibran Centennial Foundation of Washington, District of Columbia, is authorized to erect a memorial on public grounds in the District of Columbia, subject to authorization by the Secretary of the Interior as provided in section 2, in commemoration of the Lebanese-American poet and artist, Kahlil Gibran. The memorial shall be in the form of a sculptured monument and shall be designated the Kahlil Gibran Memorial.

SEC. 2. (a) The Secretary of the Interior is authorized to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, upon which may be erected the memorial authorized in the first section of this resolution. If the site selected is on public grounds belonging to or under the jurisdiction of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in the first section, neither the United States nor the District of Columbia shall be put to any expense in the erection of the memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless—

(1) the erection of such memorial is commenced within five years from the date of enactment of this resolution; and

(2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior to insure completion of the memorial.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.●

By Mr. EAST (for himself, Mr. BAKER, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. CHILES, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. INOUYE, Mr. JOHNSTON, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. NUNN, Mr. RIEGLE, Mr. SASSER, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, and Mr. TSONGAS):

S.J. Res. 302. Joint resolution to designate the month of September 1984, as "National Sewing Month;" to the Committee on the Judiciary.

NATIONAL SEWING MONTH

● Mr. EAST. Mr. President, for the past 2 years I have been the sponsor of a joint resolution designating September as "National Sewing Month." I am pleased that the Congress passed previous resolutions in 1982 and 1983 which were signed into public law by President Ronald Reagan. A similar resolution has been introduced each year by my colleague in the House, Congressman BILL BONER of Tennessee.

This year, I am proud to reintroduce the "National Sewing Month Resolution" with 27 of my colleagues in the Senate as cosponsors. I thank these gentlemen for their support of this proposal.

Mr. President, I am indebted to Senator THURMOND, chairman of the Senate Committee on the Judiciary, Senator BAKER, Senate majority leader and Senator BYRD, Senate minority leader for bringing last year's resolution to the floor and assisting in its passage. I look forward to their continued help in having the Congress pass the resolution to President Reagan for signature.

The support I have received this year from my colleagues on the "National Sewing Month Resolution" is most encouraging, and I believe their support reflects the importance of the sewing industry to our economy.

As you know, Mr. President, "National Sewing Month" is an industrywide promotion designed to increase home sewing interest, consumer education, and family sewing participation under a single sewing theme. This coming September marks the third industrywide effort to revitalize the sewing spirit in America.

As my friends in the Senate know, I am a strong supporter of the family and family values. I believe that home sewing has many benefits that add to the strength of the family. It is estimated, for instance, that over 50 million Americans sew at home and over 40 million sew at least part of their wardrobe. For many, sewing skills acquired at home and in home economics classes of local junior high and high schools, have led to valuable and creative careers in the fashion design, retail merchandizing, patternmaking, and textiles. Home sewing contributes not only to these careers but to individual enjoyment, pride, and creativity as well.

The home sewing industry contributes greatly to the economic life of the Nation. It employs thousands of people directly in the manufacture, wholesale, retail, and service sectors. In addition, thousands more are associated with the home sewing industry, as teachers, mechanics, truckdrivers, and many other professions. The industry generates over $3.5 billion in sales annually and invests millions of dollars of capital in plans and machinery.

This September, the American Home Sewing Association will conduct an extensive nationwide promotion of National Sewing Month. A wide variety of community groups will be joining that campaign including 4-H Clubs, the Girl Scouts, Future Homemakers of America, home economics teachers, and others.

At this point, Mr. President, I applaud the work of the American Home Sewing Association, which represents over 600 manufacturing companies—of fabrics, fibers, patterns, notions, trims, sewing machines, publications and needlecraft products—along with retailers, wholesalers and manufacturer's representatives. The board of directors of the association works hard to enhance the home sewing industry. Members of this board include, among others: chairman of the board, Leona Rocha; president, Sal Alcina; president-elect, Earle Angstadt; VP finance,

David S. Colin; VP membership, Doris Katz; VP educational affairs, Philip Morris; VP Government relations, Daniel M. Colyer; VP industry expansion, Patrick McGinty; VP member services, Bill Margolis; VP shows and conventions, Daniel Covitt; VP guild, Alan Sorrel.

In addition, I applaud the approximately 19,000 retailers responsible for moving the home sewing sales in the United States to over $3.5 billion per year. AHSA retailer members vary in size from small, individually owned stores to major, full-service chains.

Over 45,000 educators—junior and senior high school teachers, college professors, extension home economists, and retailer-educators—are actively engaged in sewing skill development. This group of educators is important to growth of the home sewing industry. AHSA, through its teacher service division, works with professional educators to support home sewing activity. In addition the AHSA, working through a guild network of nearly 8,000 active members in chapters throughout the country, has programs for the 90 million Americans who sew at home.

In conclusion, I urge my colleagues in the Senate to support the "National Sewing Month Resolution" and to urge their constituents to support the sewing industry in the United States.●

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. KASTEN, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 44, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 269

At the request of Mr. MCCLURE, the names of the Senator from Alaska (Mr. MURKOWSKI), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 269, a bill to provide for the disposal of silver from the national defense stockpile through the issuance of silver coins.

S. 1504

At the request of Mr. BENTSEN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1504, a bill to provide for protection of historic shipwrecks, structures, and artifacts located on a seabed or in the subsoil of the lands beneath waters of the United States.

S. 1841

At the request of Mr. THURMOND, the names of the Senator from Texas (Mr. TOWER), the Senator from California (Mr. CRANSTON), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

S. 1935

At the request of Mr. HEINZ, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1935, a bill to establish an interagency task force on cigarette safety.

S. 2256

At the request of Mr. HUDDLESTON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2256, a bill to exempt restaurant central kitchens from Federal inspection requirements.

S. 2368

At the request of Mr. METZENBAUM, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2368, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label or labeling of a food state the specific common or ususal name of each fat or oil contained in such food and the amount of sodium and potassium contained in such food.

S. 2573

At the request of Mr. WEICKER, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2573, a bill to revise and extend programs for persons with developmental disabilities.

S. 2603

At the request of Mr. GRASSLEY, the names of the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. BENTSEN), the Senator from Indiana (Mr. LUGAR), the Senator from Connecticut (Mr. WEICKER), the Senator from Hawaii (Mr. INOUYE), the Senator from Delaware (Mr. BIDEN), the Senator from Arizona (Mr. DECONCINI), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Nebraska (Mr. EXON), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Oklahoma (Mr. BOREN), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maine (Mr. MITCHELL), the Senator from Maryland (Mr. SARBANES), the Senator from Montana (Mr. BAUCUS), the Senator from Washington (Mr. GORTON), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New Jersey (Mr. BRADLEY), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Oregon (Mr. HATFIELD), the Senator from North Dakota (Mr. ANDREWS), the Senator from South Dakota (Mr. ABDNOR), and the Senator from Arkansas (Mr. BUMPERS), were added as cosponsors of S. 2603, a bill to extend the authorization of appropriations for, and to revise the Older Americans Act of 1965.

S. 2607

At the request of Mr. HUDDLESTON, the name of the Senator from New York (Mr. MOYNIHAN), was added as a cosponsor of S. 2607, a bill to provide for improvements in the school lunch and other child nutrition programs and the food stamp program, and for other purposes.

S. 2609

At the request of Mr. DURENBERGER, the name of the Senator from California (Mr. CRANSTON), was added as a cosponsor of S. 2609, a bill to amend the Clean Air Act with regard to mobile source emissions control.

S. 2638

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey (Mr. LAUTENBERG), was added as a cosponsor of S. 2638, a bill to provide for research relating to the control of gypsy moths, to assist States and local communities in controlling gypsy moth infestations, and for other purposes.

S. 2673

At the request of Mr. D'AMATO, the name of the Senator from Hawaii (Mr. INOUYE), was added as a cosponsor of S. 2673, a bill to make permanent the prohibition of credit card surcharges.

SENATE JOINT RESOLUTION 230

At the request of Mr. SPECTER, the names of the Senator from Arkansas (Mr. BUMPERS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 230, a joint resolution to designate the week of October 7, 1984, through October 13, 1984, as "National Birds of Prey Conservation week."

SENATE JOINT RESOLUTION 284

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Iowa (Mr. JEPSEN), the Senator from Idaho (Mr. SYMMS), and the Senator from Kansas (Mrs. KASSEBAUM), were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 2, 1984, as "National School-Age Child Care Awareness Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. D'AMATO, the names of the Senator from Illinois (Mr. DIXON), and the Senator from Kentucky (Mr. HUDDLESTON), were added as cosponsors of Senate Joint Resolution 296, a joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Tennessee (Mr. SASSER), the Senator

from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. COCHRAN), the Senator from Indiana (Mr. QUAYLE), and the Senator from Georgia (Mr. MATTINGLY), were added as cosponsors of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

SENATE JOINT RESOLUTION 298

At the request of Mr. HUDDLESTON, the name of the Senator from Louisiana (Mr. JOHNSTON), was added as a cosponsor of Senate Joint Resolution 298, a joint resolution to proclaim the month of July 1984 as "National Ice Cream Month" and July 15, 1984, as "National Ice Cream Day."

SENATE JOINT RESOLUTION 300

At the request of Mr. KENNEDY, the names of the Senator from Minnesota (Mr. DURENBERGER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Ohio (Mr. GLENN), the Senator from Maine (Mr. MITCHELL), the Senator from California (Mr. CRANSTON), and the Senator from New Jersey (Mr. BRADLEY), were added as cosponsors of Senate Joint Resolution 300, a joint resolution expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE RESOLUTION 127

At the request of Mr. D'AMATO, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of Senate Resolution 127, a resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate.

SENATE RESOLUTION 283

At the request of Mr. COHEN, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of Senate Resolution 283, a resolution relating to chemical weapons.

SENATE RESOLUTION 329

At the request of Mr. NUNN, the names of the Senator from South Dakota (Mr. ABDNOR), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Washington (Mr. EVANS) were added as cosponsors of Senate Resolution 329, a resolution expressing the support of the Senate for the expansion of confidence building measures between the United States and the U.S.S.R., including the establishment of nuclear risk-reduction centers, in Washington and in Moscow, with modern communications linking the centers.

AMENDMENT NO. 2859

At the request of Mr. ABDNOR, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Amendment No. 2859 intended to be proposed to S. 757, a bill to amend the Solid Waste Disposal Act to authorize funds for fiscal years 1983, 1984, 1985, 1986, and 1987, and for other purposes.

AMENDMENT NO. 3053

At the request of Mr. SASSER, his name was added as a cosponsor of Amendment No. 3053 intended to be proposed to S. 2537, a bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

At the request of Mr. GORTON, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Nevada (Mr. LAXALT), the Senator from Mississippi (Mr. STENNIS), the Senator from Montana (Mr. MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Alabama (Mr. HEFLIN), the Senator from Maryland (Mr. SARBANES), the Senator from Nevada (Mr. HECHT), the Senator from Georgia (Mr. MATTINGLY), the Senator from West Virginia (Mr. BYRD), the Senator from Texas (Mr. BENTSEN), the Senator from Maine (Mr. COHEN), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Amendment No. 3053 intended to be proposed to S. 2537, supra.

AMENDMENT NO. 3125

At the request of Mr. PRESSLER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of Amendment No. 3125 intended to be proposed to Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE RESOLUTION 392—MARKING THE 90TH ANNIVERSARY OF THE BIRTH OF BENJAMIN ELIJAH MAYS

Mr. HOLLINGS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 392

Whereas August 1, 1984 would have marked the 90th birthday of the distinguished American Benjamin Elijah Mays;

Whereas Benjamin Elijah Mays, throughout his distinguished career of more than half a century as an educator, civil rights leader, and theologian, has inspired people of all races throughout the world by his persistent commitment to excellence;

Whereas, as head of the School of Religion of Howard University and later as President of Morehouse College in Atlanta, Georgia, for over twenty-seven years, Benjamin Elijah Mays overcame seemingly insurmountable obstacles to offer quality education to all Americans, especially black Americans;

Whereas, at the commencement of World War II, when most colleges suffered from a lack of available students and the demise of Morehouse College appeared imminent, Benjamin Elijah Mays prevented the college from permanently closing its doors by vigorously recruiting potential students and thereby aiding in the development of future generations of black leaders;

Whereas Benjamin Elijah Mays was instrumental in the elimination of segregated public facilities in Atlanta, Georgia, and promoted the cause of nonviolence through peaceful student protests during a time in this Nation that was often marred by racial violence;

Whereas Benjamin Elijah Mays has been the recipient of numerous accolades throughout his career, including fifty-three honorary degrees—soon to be fifty-four when Columbia University honors him posthumously—and the naming of a school and a street in his honor;

Whereas Benjamin Elijah Mays was not only deeply involved in obtaining the civil rights for all Americans, but was the inspirational mentor to the many outstanding men and women who pursued this noble goal; and,

Whereas Benjamin Elijah Mays continues to serve this role even in death, and his many contributions stemming from his career as an educator, civil rights leader, theologian, and his many contributions to the improvement of American society will long endure as a model for Americans from all walks of life; Now, therefore, be it

Resolved, That the United States Senate calls attention to the date of August 1, 1984 as the birthdate of Benjamin Elijah Mays, his ninetieth if he had lived, and urges the observation of the date with appropriate ceremonies and activities.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Reverend Elmer L. Fowler of Chicago, Illinois.

Mr. HOLLINGS. Mr. President, I rise today to introduce a resolution calling attention to the 90th birthday of a great American, Dr. Benjamin Elijah Mays. His passing earlier this year was a great loss to the Nation, and I think it is fitting to call to the attention of my colleagues and the Nation, Mr. President, the date of August 1, 1984, the 90th birthday, if he had lived, of this outstanding man.

Benjamin Elijah Mays was born in Epworth, S.C., of slave parents and he went on to become one of the great forces and spokesmen for freedom and human dignity in our country. He was a graduate of South Carolina State College and Bates College, with a Ph.D. from the University of Chicago.

His distinguished career as an educator, civil rights leader, and theologian spanned over 50 years. The fact that he received over 50 honorary degrees from institutions of higher education is testimony to the outstanding work of this very distinguished man.

Perhaps the most significant part of his career came when he was president of Morehouse College in Atlanta, Ga. There in a term that spanned 27 years

he saw that fine institution through both good and bad times. While at Morehouse Dr. Mays served as the spiritual and intellectual fountain for Dr. Martin Luther King, Jr., and other major figures in the civil rights movement. In fact, Dr. King oftentimes proclaimed Dr. Mays his "spiritual mentor."

Perhaps the distinguished journalist and author Samuel Dubois Cooke captured the essence of Dr. Mays best when he said:

Benjamin Mays has strength of character, gifts of mind, vision, and ability, a zest for life, a stubborn moral courage, a prophetic imagination, a deep commitment to social justice, a single-minded commitment to the most precious and enduring values of human enterprise, and a life-long romance with the world of higher possibilities.

In my view, Mr. President, he was all that and more. I am proud to have known him and worked with him, and pleased to take this opportunity to call attention to this most distinguished American.

AMENDMENTS SUBMITTED

OREGON WILDERNESS ACT OF 1984

HATFIELD AMENDMENT NOS. 3126 THROUGH 3136

Mr. HATFIELD proposed 11 amendments to the bill (H.R. 1149) to designate certain national forest system and other lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes; as follows:

AMENDMENT No. 3126

On page 19, line 9, strike "seven thousand seven hundred" and insert in lieu thereof "seventeen thousand two hundred".

AMENDMENT No. 3127

On Page 21, line 3, after "Malheur" add "and Wallowa Whitman".

On Page 21, lines 4 and 5, strike "eighteen thousand three hundred" and insert in lieu thereof "nineteen thousand eight hundred".

On page 21, line 6, strike "Glacier Wilderness—Proposed" and insert in lieu thereof "Monument Rock Wilderness—Proposed".

AMENDMENT No. 3128

On page 16, line 25, and page 17, line 1, strike "twenty-three thousand five hundred" and insert in lieu thereof "twenty-four thousand".

AMENDMENT No. 3129

On page 33, after line 3, add the following new section:

SEC. 8. Subject to valid existing rights, the Federal lands within the Mill Creek watershed roadless area identified in the Oregon Butte Unit Plan, which is located in Wallowa and Umatilla Counties in Oregon, are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

AMENDMENT No. 3130

On page 20, line 15, strike ", Malheur,".

On page 20, lines 16 and 17, strike "one hundred twenty-one thousand three hundred" and insert in lieu thereof "one hundred twenty-one thousand four hundred".

AMENDMENT No. 3131

On page 27, line 2, strike "Umpqua and Winema" and insert in lieu thereof "Umpqua, Willamatte, and Winema".

On Page 27, line 7, strike Umpqua, Willamette, Winema, and Deschutes" and insert in lieu thereof "Willamette and Deschutes".

AMENDMENT No. 3132

On page 23, line 6, strike "seven" and insert in lieu thereof "six".

AMENDMENT No. 3133

On page 19, line 15, strike "eight" and insert in lieu thereof "four".

AMENDMENT No. 3134

On page 24, line 5, strike "seven thousand" and insert in lieu thereof "six thousand nine hundred".

AMENDMENT No. 3135

On page 16, lines 8 and 9, strike "forty-nine thousand three hundred" and insert in lieu thereof "fifty-nine thousand six hundred".

AMENDMENT No. 3136

On page 27, line 2, strike "Umpqua and Winema" and insert in lieu thereof "Umpqua, Willamette, and Winema".

On page 27, line 7, strike Umpqua, Willamette, Winema, and Deschutes" and insert in lieu thereof "Willamette and Deschutes".

RIVERS AND HARBORS PROJECTS

ABDNOR (AND OTHERS) AMENDMENT NO. 3137

(Ordered referred to the Committee on Finance.)

Mr. ABDNOR (for himself, Mr. MOYNIHAN, Mr. STAFFORD, and Mr. BENTSEN) submitted an amendment intended to be proposed by him to the bill (S. 1739) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

On page 165, beginning with line 16, delete all through line 11 on page 176, and insert in lieu thereof the following:

"TITLE X—HARBORS

"SEC. 1001. (a) There is authorized to be established a National Commission on Harbor Maintenance (hereinafter in this title referred to as the "Commission"), which shall report to the President and the Congress no later than two years after the date of enactment of this Act on the annual and long-term costs of maintaining the Nation's harbors, and make such recommendations as it finds appropriate on what portion of the costs of such maintenance, if any, should be assumed by non-Federal interests. In the event the Commission makes recommendations for the non-Federal assumption of a portion of harbor maintenance costs, consideration shall be given without prejudice to the recovery of such costs through ad valorem based vessel charges, uniform national tonnage fees, port specific fees, and any other method of collection which the Commission may choose to consider.

"(b) The Commission shall be composed of the Secretary of the Army, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and a chairman to be appointed by the President.

"(c) The Commission shall weigh the interests of the port authorities, navigation districts, and similar organizations, as well as shippers and carriers of the United States and the impact on U.S. trade and the economy in making its recommendations, and shall include in its report an assessment of the impact of its recommendations on each of these interests.

"(d) To assist the Commission in its work, there is authorized to be established a Shipping Advisory Board to be composed of eleven members, selected by the Commission Chairman, to provide representation for the United States port interests from various coasts and the Great Lakes, both large and small United States ports, United States shippers of bulk and general cargoes, and United States carriers of both bulk and general cargoes.

"(e) To carry out the purposes of this section, there is authorized to be appropriated to the Commission for the fiscal year ending September 30, 1985, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

"(f) Until such time as the report of the Commission is submitted to the Congress, and Congress acts by law to adopt, reject, or modify the recommendations, if any, of the Commission, the Secretary shall obligate from sums appropriated no more than $420,000,000 in any single fiscal year for the purpose of operating and maintaining the harbors of the United States.

"(g) Nothing in this section shall be construed to prohibit or otherwise interfere with the authority of the Secretary or other Federal agency to operate or maintain any harbor of the United States for emergency purposes or for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"SEC. 1002. (a) The appropriate non-Federal interests shall be responsible for 50 per centum of the costs incurred by the Secretary for surveying, planning, designing, and engineering necessary prior to the construction of a general cargo harbor.

"(b)(1) A non-Federal interest may undertake a feasibility study for improvements to a general cargo harbor, and submit such study to the Secretary. To assist non-Federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for harbor feasibility studies in order to provide sufficient information for the formulation of a plan of study.

"(2)(A) The Secretary shall review each feasibility study submitted by non-Federal interests for a general cargo harbor submitted under paragraph (b)(1) of this section for the purpose of determining whether or not such study was prosecuted in accordance with the guidelines promulgated under such paragraph and was developed in compliance with Federal laws and regulations

applicable to navigation projects for harbors.

"(B) Not later than one hundred and eighty days after receiving any feasibility study under paragraph (b)(1) of this section, the Secretary shall transmit to the Congress, in writing, the results of such study and any recommendations the Secretary may have concerning the project described in such study.

"(3) The costs of studies made under this subsection shall be borne by the non-Federal interest, except that whenever a study results in the construction of a project, 50 per cent of the cost of such study shall be credited toward the non-Federal interest's cost-sharing requirement under section 1003 of this Title.

"SEC. 1003. (a)(1) The non-Federal share of the cost of construction of general cargo harbors on which construction has not been commenced as of the date of enactment of this Act shall be 30 per centum.

"(2) For purposes of this section, a project shall be deemed to have commenced construction if the non-Federal interest has entered into a written contract as of December 31, 1983, with the Secretary to provide local cooperation required pursuant to the project authorization, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended.

"(b) Prior to Federal initiation of construction of a project approved pursuant to this section, or a general cargo harbor previously authorized by the Congress for which construction has not commenced under the terms of subsection (a)(2) of this section, the Secretary and the non-Federal interest shall enter into a cooperative agreement according to procedures set forth in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501). The non-Federal interest shall agree to:

"(1) provide to the Federal Government lands, easements, and rights-of-way, required for construction, operation, and maintenance of such project;

"(2) hold and save the United States free from damages due to the construction or operation and maintenance of such project except for damages due to the fault or negligence of the United States or its contractors; and

"(3) provide to the Federal Government the non-Federal share of all other contruction of such project: Provided, however, That the value and costs of providing lands, easements, and rights-of-way, shall be credited toward the non-Federal share of the cost of construction. Any cost differential needed to fulfill the non-Federal share shall be provided to the Federal Government on a pro rata basis during the period of construction, beginning not later than one year after construction is initiated.

"(4) In the case of general cargo harbor project planned to be constructed to a depth no greater than 25 feet below mean low water, the Secretary shall permit the cost differential in the non-Federal share to be repaid with interest over a period not to exceed 25 years from the date construction is initiated.

"SEC. 1004. (a) Any non-Federal interest is authorized to undertake navigational improvements in deep-draft harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

"(b) The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to deep-draft harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirements of subsection (c) of this section.

"(c) When requested by an appropriate non-Federal interest, the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section, and assist in obtaining all necessary permits: *Provided*, That the non-Federal interest contracts with the Secretary to reimburse the United States for the cost of such studies and engineering during the period that they are conducted.

"(d) The Secretary is authorized to complete deep-draft harbor construction projects for which construction was initiated by the Secretary prior to the date of enactment of this Act: *Provided*, That for projects in which the appropriate non-Federal interest has not entered into a written contract as of December 31, 1983, with the Secretary to provide the local cooperation required pursuant to the project authorizations, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended, such non-Federal interest shall be required to contract with the Secretary to repay, within fifty years of the date of enactment of this Act, the cost of all such work undertaken after September 30, 1984, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields during the month preceding the fiscal year in which each advance is made on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period of the project.

"(e) Beginning on October 1, 1984, the Secretary shall undertake no construction work on any harbor except under the terms of this section, or sections 1003 or 1005 of this Title.

"(f) Whenever a non-Federal interest constructs improvements to any harbors, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: Provided, That the Secretary certifies that the project is constructed in accordance with appropriate engineering and design standards.

"(g) Pursuant to subsection (a) of this section, the non-Federal interest shall provide 50 per centum of the costs expended on any relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities necessary for the construction of deep-draft harbors).

"SEC. 1005 (a) Nothing in this title shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to operate, maintain, or improve any harbor for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(b) Any project authorized under the provisions of this section may include additional improvements requested by the appropiate non-Federal interest: Provided, That prior to the commencement of such improvements, the appropriate non-Federal interest enters into a contract with the Secretary or other Federal authority to pay, during the period of construction, that portion of the project's cost which the Secretary or other Federal authority determines to be allocable to non-defense-related needs, if such project is a deep-draft harbor, or 30 per centum of the cost during the period of construction, if such project is a general cargo harbor. If such non-Federal interest fails to so participate, the Secretary or other Federal authority shall design such project solely to meet national defense requirements.

"(c) If non-Federal interests undertake a project under the terms of section 1004 of this title which can be expected to provide direct benefits to the national defense requirements of the United States, the Secretary of other Federal authority is authorized prior to the commencement of construction to contract with such non-Federal interests, subject to appropriations Acts, to pay, during the period of construction, that portion of the project costs directly attributable to national defense requirements, as defined in subsection (a) of this section.

"(d) Whenever the Secretary undertakes improvements to a general cargo harbor, the Secretary is authorized to reduce the percentage share of commitment required by the non-Federal interest on a proportional basis related to that portion of the traffic that provides direct benefits to the national defense requirements of the United States.

"SEC. 1006. (a) Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of Sections 1003, 1004, or 1005 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 1004 of this title, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

"(b) Fees collected by a non-Federal interest pursuant to the authority of this Section shall be used only for the purpose of paying for the non-Federal share of the cost of construction and incremental maintenance work on harbors, or any obligations undertaken for that purpose.

"(c) Fees authorized by this section shall not be imposed on:

"(1) vessels owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service;

"(2) vessels used by a State or political subdivision thereof in transportating persons or property in the business of the State or political subdivision and not engaged in commercial service;

"(3) vessels in intraport movements; and

"(4) vessels with design drafts of 14 feet or less.

"SEC. 1007. (a) Upon the application of the appropriate non-Federal interest, the Secretary is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, up to 90 per cent of any obligation issued by a non-Federal in-

terest to finance the non-Federal portion of the cost of a general cargo harbor or deep draft harbor undertaken under the terms of this title.

"(b) An obligation guaranteed under this section shall have a maturity date not to exceed 50 years or the useful life of the project, whichever is less.

"(c) The costs that shall be financed by a guaranteed obligation shall include the associated costs of the project including environmental mitigation, the acquisition and preparation of dredge spoil disposal sites, easements, rights of way, and similarly related costs.

"(d)(1) The non-Federal interest shall convey to the Secretary such security interest in the project as the Secretary may reasonably require to protect the interests of the United States.

"(2) The non-Federal interest shall not be required to convey a security interest in any asset other than those which are a part of the project, nor to provide any additional collateral or guarantees to the Secretary.

"(3) The security interest in the project conveyed to the Secretary shall be subordinate to any lender's security interest covering funds provided to the non-Federal interest for the project, but not covered by the guarantee of the Secretary.

"(e) The full faith and credit of the United States is pledged to the payment of any guarantee made under this section with respect to both principal and interest, including interest as provided for in the guarantee occurring between date of default on a guaranteed obligation and the payment in full of the amount guaranteed.

"(f) Any guarantee or commitment to guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for that guarantee, and the validity of any commitment to guarantee so made shall be incontestable.

"(g) The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any time shall not exceed $2,000,000,000. No additional limitations may be imposed on commitments to guarantee obligations for any fiscal year, except in such amounts as those established in advance in authorization Acts.

"(h) The Secretary shall assess a guarantee fee of not less than one-quarter of one per centum per annum, nor more than one per centum per annum of the average principal amount of a guaranteed obligation outstanding. All monies received by the Secretary shall be deposited in general fund of the Treasury.

"(i)(1) In the event of a default, which has continued for 30 days, in any payment of the non-Federal interest of principal or interest due under an obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of that default, payment by the Secretary of the unpaid principal amount of that obligation and of the unpaid interest thereon to the date of payment. Within such a period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of that demand, the Secretary shall promptly pay the obligee or his agent the unpaid principal amount of that obligation and unpaid interest to the date of payment. The Secretary shall not be required to make that payment if, prior to the expiration of that period, he shall find that there was no default by the obligor in the payment of principal or interest or that the default has been remedied prior to any such demand.

"(2) Any amount required to be paid by the Secretary under this section shall be paid in cash.

"(3) In the event of any default under any guaranteed obligation or any related agreement, the Secretary shall take such action against the non-Federal interest or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. A suit may be brought in the name of the United States or in the name of the obligee, and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary shall have the right, at the Secretary's discretion, to accept a conveyance of title to a possession of property from the non-Federal interest or other parties liable to the Secretary, and may purchase the property for an amount not to exceed the unpaid principal amount of the obligation and interest thereon. In the event the Secretary shall receive, through the sale of property, an amount of cash in excess of any payment made to an obligee under this section and the expenses of collection of those amounts, the Secretary shall pay that excess to the non-Federal interest.

"(4) The Secretary may not issue a guarantee when the interest is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954.

"(5) To make any payments required under any guarantee under this section, there is authorized to be appropriated to the Secretary such sums as may be necessary."

Renumber following sections accordingly.

● Mr. ABDNOR. Mr. President, as part of the continuing effort of the Committee on Environment and Public Works to bring about passage of water resource development legislation this year, I am today submitting an amendment to the harbor development title of S. 1739 on behalf of myself, Senator STAFFORD, Senator BENTSEN, and Senator MOYNIHAN.

This amendment addresses many of the concerns which have been raised over this title by the ports, the banking community, and my colleagues in the Senate. I would hope that the Finance Committee on its review of section 1006 would consider this version in its deliberations, which are to conclude June 8. The changes embodied in this amendment are intended to clarify the intent of certain provisions and improve the ability of non-Federal project sponsors to finance port projects, while protecting those interests who utilize our harbors but woud not benefit from further harbor improvements.

The major changes to title X in this amendment are:

The mission of the National Commission on Harbor Maintenance is clarified to make explicit the fact that the Commission is to address whether any cost recovery for port maintenance is appropriate. If the Commission determines recovery is appropriate, ad valorem and tonnage based recovery methods will be evaluated.

Eligibility for Federal guarantees of loans for the non-Federal share of project costs is extended to general cargo port projects as well as deep draft projects.

The level of the Federal guarantee is increased to 90 percent from 70 percent.

The total obligations guaranteed at any one time is increased to $2 billion.

In those cases where a general cargo harbor would be constructed to a depth of no more than 25 feet the non-Federal share is to be repaid with interest over a period not to exceed 25 years.

The provision mandating that 80 percent of any fees imposed for the recovery of the non-Federal cost-share be imposed on vessels requiring the deeper harbor draft is replaced with a provision that fees shall be established only after a public hearing and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

Fees which may be imposed by ports to recover their share of project costs may not be imposed on vessels engaged in intraport movements or vessels with design drafts of 14 feet or less. This is to clarify that barges are not to be assessed fees for deepening ports.

Mr. President, I hope my colleagues will review this amendment and work with me to secure a time agreement to bring S. 1739 to the floor following the Memorial Day recess. I hope too, that they will see in this amendment my continued desire, and the desire of my cosponsors, to work diligently for the compromises which are necessary to make passage of a workable water resource development bill a reality. The Nation needs this legislation and it can only secure passage if my colleagues in the Senate who support responsible water project development work together to secure floor action on this bill this year.●

● Mr. MOYNIHAN. Mr. President, America's ports are ready to move forward with the improvements that are needed to insure the efficient transport of goods. They are ready to pay for these improvements. But the dredges will remain idle until Congress enacts a water resources bill establishing new policies on port development.

The causes of the impasse are well known. No new deep draft harbor projects have been authorized since 1970 because we have yet to agree on a national water policy. A major component of this policy will be a cost sharing formula under which the users of the Nation's ports contribute to future improvements.

Many proposals have been put forward. Last year I introduced S. 970, which would require cost sharing for

new construction and for port maintenance. It has been especially difficult to obtain a consensus on how to finance maintenance. We have debated the merits of uniform and port-specific schemes, tonnage fees and ad valorem taxes. Each formula affects each port in a different way.

Yet we can all agree on some basic principles. Federal spending on ports, as for other purposes, must be controlled. Those who benefits from port improvements—new, deeper, or wider channels—should share the costs. Projects must be economically justified. Finally, port development must proceed.

Title X of S. 1739, the water resource bill approved last November by the Committee on Environment and Public Works, adheres to these principles. The bill requires a modest non-Federal contribution of 30 percent of costs for channel improvements up to a 45-foot depth. The ports themselves would pay the full costs of construction for projects deeper than 45 feet. This insures a central role for economic criteria in the decisions on where to build superports. If Congress had to authorize and fund these large projects on an individual basis, few if any would be built in the near future. Under the bill, the Federal Government would still provide substantial aid in the form of loan guarantees and harbor maintenance.

While I regard this approach as essentially sound, I am joining my colleagues in proposing an amendment to make the proposed new policy work better. These changes are intended to enhance the feasibility of non-Federal financing of harbor improvements. One must recognize the distinction between economic and financial feasibility. It could be difficult, because of the high risks involved, for port authorities to raise capital even for projects with large projected net benefits.

Although a variety of changes are included in the amendment, two are key. First, Federal loan guarantees will cover 90 percent of non-Federal project costs instead of only 70 percent. Second, the amendment modifies the restrictions on non-Federal user fees, which are allowed but not required. The changes would, quite simply, enable port authorities to raise funds for needed projects.

I encourage all Senators to study this amendment carefully. I view it as another step toward a fair, feasible, and cost-effective ports policy.●

DEBT LIMIT INCREASE

DOLE (AND LONG) AMENDMENT NO. 3138

Mr. DOLE (for himself and Mr. LONG) proposed an amendment to the bill (H.R. 5692) to provide for a temporary increase in the public debt limit, and for other purposes; as follows:

Strike Section 1 and insert in lieu thereof the following:

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT

Effective upon enactment, the applicable public debt limit set forth in subsection (b) of section 3101 of Title 31, United States Code, shall be permanently increased by $30,000,000,000.

WASHINGTON WILDERNESS ACT

EVANS AMENDMENT NO. 3139

Mr. EVANS proposed an amendment to the bill (S. 837) to designate certain national forest system lands in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes; as follows:

On page 28, after line 7, insert the following new section:

"SEC. 11. Subject to valid existing rights, the federal lands in Walla Walla and Columbia Counties, Washington, located within the Mill Creek Watershed roadless area as identified in the Oregon Butte Unit Plan are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.".

1. On page 15, lines 13 and 14, strike "one hundred thirty-two thousand two hundred acres" and insert "one hundred seventeen thousand nine hundred acres".

2. On page 15, after line 24, insert the following new paragraph and renumber subsequent paragraphs accordingly:

(14) certain lands in the Mount-Baker-Snoqualmie National Forest, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Noisy-Diobsud Wilderness—Proposed", dated May 1984, and which shall be known as the Nosiy-Diobsud Wilderness;

1. On page 22, lines 13 and 14, strike the words "Gifford Pinchot and Olympic" and insert in lieu thereof, "Gifford Pinchot, Olympic and Umatilla".

2. On page 22, line 16, before the word "and" insert "Oregon Butte;".

Beginning on page 27, strike section 10 in its entirety and insert in lieu thereof the following:

"SEC. 10. The Secretary of Agriculture shall exchange lands and interests in lands with Weyerhaeuser Company in accordance with the following provisions:

(a) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands the Secretary shall accept such lands and interests therein:

KING AND PIERCE COUNTIES, WASHINGTON

	Acres
Township 19 North, Range 10 East (W.M.):	
Section 25: All fractional	643.43
Township 19 North, Range 11 East (W.M.)	
Section 31: All fractional	647.61

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described National Forest System lands and interests therein:

KING COUNTY, WASHINGTON

	Acres
Township 21 North, Range 10 East (W.M.):	
Section 20: Lots 2, 4, 6, 7, 10, 11, 12, and 14, South Half Northwest Quarter, Southwest Quarter	355.58
Section 28: North Half Southwest Quarter and Southeast Quarter	240.00
Section 30: All	640.00

(c) The instruments of conveyance respecting the lands and interests exchanged under this section may contain such reservations as may be agreed upon by the Secretary and Weyerhaeuser Company.

(d) It is the sense of Congress that the exchange authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety day period.

(e) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein which formed the basis for the exchange provided for in this section. If the Secrtary finds that a reduction in the value of the lands or interest therein has occurred, the Secretary shall not carry out the exchange for those lands or interests so affected and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with other provisions of law.

DEBT LIMIT INCREASE

TSONGAS AMENDMENT NO. 3140

Mr. TSONGAS proposed an amendment to the bill H.R. 5692, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . CONSIDERATION OF FEDERAL SPENDING FREEZE.

(a)(1) During the period beginning on the date of the enactment of this Act and ending December 31, 1984, the Director of the Congressional Budget Office (hereafter in this section referred to as the "Director") shall make a weekly determination with respect to the average prime interest rate charged by the ten largest banks in the United States during the most recently completed calendar week.

(2) If the Director determines pursuant to paragraph (1) that the average prime interest rate for a week equals or exceeds 14.0 percent, the Director shall immediately provide the Committees on the Budget of the Senate and the House of Representatives with written notice of such determination.

(b)(1) Notwithstanding any other provision of law, any concurrent resolution, any resolution, or the Standing Rules of the Senate or the Rules of the House of Representatives, it shall not be in order for a House of the Congress to consider any bill or resolution, or any amendment thereto or conference report thereon, other than a Federal spending freeze resolution during any period beginning with the tenth calendar day after the date on which the Director notifies the Committee on the Budget of

such House pursuant to paragraph (2) of subsection (a) that the average prime interest rate for a week equals or exceeds the percentage specified in such paragraph and ending with the earlier of—

(A) the day on which such House votes upon a Federal spending freeze resolution, or

(B) the first day after 30 calendar days of continuous session of the Congress have elapsed after the beginning of such period.

(2) For purposes of this subsection, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 30-day period referred to in subparagraph (B) of paragraph (1).

(3) For purposes of this subsection, the term "Federal spending freeze resolution" means, with respect to a House of the Congress, a resolution reported by the Committee on the Budget of such House that—

(A) provides that—

(i) the aggregate total budget authority for function 050 (relating to National Defense) shall not exceed $264,100,000,000 for fiscal year 1985;

(ii) the aggregate total budget authority for nondefense discretionary activities shall not exceed $137,000,000,000 for fiscal year 1985;

(iii) the "applicable percentage increase" under section 1886 (b)(3)(B) of the Social Security Act for any 12-month cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1985, shall be zero percent;

(iv) no increase shall be made in payments or benefit amounts under any provision of law which would otherwise require such increase to become effective during fiscal year 1985 as a result of changes in—

(I) the Consumer Price Index (or any component thereof), or

(II) any other index which measures costs, prices, or wages;

(v) no person shall be entitled to any increase in payments or benefit amounts under any provision of law if payment thereof is denied by reason of clause (iv); and

(vi) any change in—

(I) the Consumer Price Index (or any component thereof); or

(II) any other index which measures costs, prices, or wages,

which would have resulted in any increase in payments or benefits amounts during fiscal year 1985 but for clause (iv) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1986 or any fiscal year thereafter;

(B) contains directions to one or more committees of such House to determine and recommend charges in laws, bills, and resolutions within the jurisdiction of such committee or committees necessary to carry out the provisions of subparagraph (A) and to submit such changes to the Committee on the Budget of such House in accordance with the procedure described in section 310(c) of the Congressional Budget Act of 1974 (2 U.S.C. 641(c)); and

(C) provides that any bill or resolution containing provisions to carry out such changes shall be considered in the same manner as a reconciliation bill or reconciliation resolution considered pursuant to section 310 of such Act.

(4) If any point of order raised pursuant to paragraph (1) is sustained by the presiding officer of the House in which it is raised, an affirmative vote of two-thirds of the Members of such House duly chosen and sworn shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. An appeal of a ruling by the presiding officer on such a point of order is not subject to a motion to table.

(5) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(c)(1) Notwithstanding any other provision of law, the head of each agency of the Federal Government shall take such actions as may be necessary to ensure that such agency is prepared to carry out promptly any provisions of law enacted pursuant to this section that require action to be taken by such agency. Actions taken by an agency pursuant to this paragraph shall include the development of contingency plans for carrying out the programs, projects, and activities of such agency in the event that the amounts available for obligation and expenditure by such agency during fiscal year 1985 are reduced pursuant to this section.

(2) For purposes of this subsection, the term "agency" has the meaning given to such term in section 101 of title 31, United States Code.

TAMPERING WITH CONSUMER PRODUCTS

THURMOND AMENDMENT NO. 3141

Mr. BAKER (for Mr. THURMOND) proposed an amendment to the bill (H.R. 2174) to amend title 18 of the United States Code to prohibit certain tampering with consumer products; as follows:

Strike all after the enacting clause and insert the following that—

(a) Section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(c) Section 406 of such Act is amended by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984"; and

(2) striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

SEC. 2. The term of office of any bankruptcy judge who was serving on May 25, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on June 20, 1984.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out "May 26, 1984" and inserting in lieu thereof "June 21, 1984".

(b) Section 8331(22) of title 5, United States Code, is amended by striking out "May 25, 1984" and inserting in lieu thereof "June 20, 1984".

FOREIGN ASSISTANCE AUTHORIZATION

LUGAR AMENDMENT NO. 3142

(Ordered to lie on the table.)

Mr. LUGAR submitted an amendment intended to be proposed by him to the bill (S. 2582) to provide a supplemental authorization of appropriations for the fiscal year 1984 for certain foreign assistance programs; to amend the Foreign Assistance Act of 1961, the Arms Export Control Act and other acts to authorize appropriations for the fiscal year 1985 for international security and development assistance, for the Peace Corps, and the International Development Association, and for other purposes.

HUMAN RIGHTS EDUCATION PROGRAMS FOR EL SALVADOR

SEC. 1015. There are authorized to be appropriated for the fiscal year 1985 $1 million to be used by the Agency for International Development to provide education in human rights to the military, security, and police forces and the public of El Salvador. Assistance may be provided under this section without regard to the limitation in section 660 of the Foreign Assistance Act of 1961. The amount authorized by this section is in addition to any amounts otherwise available for the purpose specified in this section, and is authorized to remain available until expended.

● Mr. LUGAR. Mr. President, I am submitting for printing an amendment to S. 2582, the International Security and Development Cooperation Act of 1984. I intend to offer this amendment to promote a deeper appreciation of human rights in the country of El Salvador, an effort spearheaded by Congressman FRANK WOLF on the floor of the House of Representatives.

This amendment would authorize $1 million to be used by the Agency for International Development to provide education in human rights in the country of El Salvador. This human rights education program would be provided for the military, security and police forces, as well as the general public.

I offer this amendment because, along with Congressman WOLF, I believe that an intensive human rights education program in El Salvador, a program that reaches all of the people, can constitute an important step in bringing about a greater respect for humanitarian law in El Salvador. While there may be disagreement on how certain economic, social, or military reforms should be accomplished in El Salvador, enhanced respect for human rights is a first and basic step which must be taken if progress toward individual freedoms and a democratic way of life is to be realized and sustained there. Indeed, I share with Congressman WOLF the belief that a basic understanding of respect for human rights is the crucial foundation upon which to build a nation.

This amendment could signal to the Central American region that the United States believes so strongly in the importance of human rights that it is willing to provide funds to educate the people in countries where the need is great, such as El Salvador. I urge my colleagues, as Congressman WOLF has done in the House, to join in support of this effort to establish a human rights education program in El Salvador.●

VERMONT WILDERNESS ACT

McCLURE (AND OTHERS) AMENDMENT NO. 3143

Mr. BAKER (for himself, Mr. McCLURE, Mr. HELMS, and Mr. MELCHER) proposed an amendment to the bill (H.R. 4198) to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System, and to designate a national recreation area; as follows:

On page 17, strike out line 10 and all that follows through line 8 on page 19 and insert in lieu thereof the following:

SEC. 105. (a) Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) Congress has made its own review and examination of National Forest System roadless areas in the State of Vermont and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Vermont, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Vermont;

(2) with respect to the National Forest System lands in the State of Vermont which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Vermont reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 204 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Vermont are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest system roadless lands in the State of Vermont which are less than 5,000 acres in size.

NEW HAMPSHIRE WILDERNESS ACT

HUMPHREY (AND RUDMAN) AMENDMENT NO. 3144

Mr. BAKER (for himself, Mr. HUMPHREY, and Mr. RUDMAN) proposed an amendment to the bill (H.R. 3921) to establish the wilderness areas in New Hampshire; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "New Hampshire Wilderness Act of 1984".

TITLE I—NEW WILDERNESS AREAS

DESIGNATION OF WILDERNESS AREAS

SEC. 101. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Presidential Range-Dry River Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in and shall be deemed to be a part of the Presidential Range-Dry River Wilderness as designated by Public Law 93-622.

MAPS AND DESCRIPTIONS

SEC. 102. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 103. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 104. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Hampshire and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than New

Hampshire, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Hampshire;

(2) with respect to the National Forest System lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of New Hampshire reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of New Hampshire are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands in the State of New Hampshire which were evaluated in the Kancamagus, Waterville Valley, and Presidential unit plans; and

(2) National Forest System roadless lands in the State of New Hampshire which are less than 5,000 acres in size.

(e) The Kilkenny Unit Plan Area, as depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983, shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

(f) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

TITLE II—WILD AND SCENIC RIVER STUDY

WILDCAT BROOK WILD AND SCENIC RIVER STUDY

SEC. 201. Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542; 82 Stat. 906, as amended) is further amended by adding at the end thereof the following new paragraph:

"(89) Wildcat Brook, New Hempshire: The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than 6 years from the date of enactment of this paragraph and an interim report shall be prepared and submitted to the Congress no later than 3 years from the date of enactment of this paragraph.".

TITLE III—NATIONAL FOREST BOUNDARY EXPANSION

PURCHASE OF PILOT RANGE TRACTS

SEC. 301. In order to develop and preserve recreational opportunities, maintain long-term public access, and provide the watershed protection and controlled timber harvesting associated with National Forest System ownership, the Secretary of Agriculture is authorized to purchase, under the provisions of the Weeks Act of March 1, 1911 (16 U.S.C. 480 et seq.), certain lands contiguous to the White Mountain National Forest, New Hampshire, comprising approximately 4,000 acres, as generally depicted on the map entitled "Pilot Range Tracts", dated 1984. The maps and legal description of the boundary of such lands shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and appropriate field offices of the Forest Service.

ADDITION TO THE WHITE MOUNTAIN NATIONAL FOREST

SEC. 302. All lands purchased pursuant to section 301 of this title are hereby added to the White Mountain National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable with respect to lands in the National Forest System.

LAND AND WATER CONSERVATION FUND

SEC. 303. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundary of the White Mountain National Forest, as modified by this title, shall be treated as if it were the boundary of that forest as of January 1, 1965.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304 There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

Amend the title so as to read: "To establish wilderness areas in New Hampshire, and for other purposes.".

WISCONSIN WILDERNESS ACT

McCLURE (AND OTHERS) AMENDMENT NO. 3145

Mr. BAKER (for himself, Mr. McCLURE, Mr. HELMS, and Mr. MELCHER) proposed an amendment to the bill (H.R. 3578) to establish the wilderness areas in Wisconsin, as follows:

On page 7, strike out line 2 and all that follows through line 21 on page 8 and insert in lieu thereof the following:

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Wisconsin and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Wisconsin;

(2) with respect to the National Forest System lands in the State of Wisconsin which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Wisconsin reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Wisconsin are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting

their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest system lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Wisconsin which are less than 5,000 acres in size.

NORTH CAROLINA WILDERNESS ACT

HELMS (AND MELCHER) AMENDMENT NO. 3146

Mr. BAKER (for himself, Mr. HELMS, and Mr. MELCHER) proposed an amendment to the bill (H.R. 3960) to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System; as follows:

On page 14, strike out line 6 and all that follows through line 4 on page 16 and insert in lieu thereof the following:

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of North Carolina;

(2) with respect to the National Forest System lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of North Carolina reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of North Carolina are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of North Carolina which are less than 5,000 acres in size.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELATAL AND SKIN DISEASES

HATCH AMENDMENT NO. 3147

Mr. BAKER (for Mr. HATCH) proposed an amendment to the bill (S. 540) to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskelatal and Skin Diseases, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "National Institute of Arthritis and Musculoskeletal and Skin Diseases Act of 1984".

SEC. 2. (a) Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

PART J—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

"ESTABLISHMENT OF INSTITUTE

"SEC. 481. There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal and Skin Diseases (hereafter in this part referred to as the 'Institute'). The Institute shall be headed by a Director.

"PURPOSE OF THE INSTITUTE

"SEC. 482. (a) The purpose of the Institute is the conduct and support of research and training, the dissemination of health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b)(1) Within one hundred and eighty days after the effective date of this part, the Director of the Institute, with the advice of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council established pursuant to section 485 (hereafter referred to in this part as the Advisory Council), shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis and musculoskeletal diseases. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that such institutes have responsibilities respecting arthritis and musculoskeletal diseases, and shall, at least, provide for—

"(A) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis and musculoskeletal diseases;

"(B) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation and prevention of arthritis and musculoskeletal diseases;

"(C) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(D) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(2) The plan transmitted pursuant to paragraph (1) shall include such comments and recommendations as the Director of the Institute determines appropriate.

"(3) The Director of the Institute shall carry out the national arthritis and musculoskeletal diseases program in accordance with the plan prepared under paragraph (1). The Director of the Institute shall periodically review and revise such plan, shall transmit any revisions of such plan to the Director of the National Institutes of Health, and shall carry out the national arthritis and musculoskeletal diseases program in accordance with such revisions.

"(c) Within one hundred and eighty days after the effective date of this part, and an-

nually thereafter, the Director of the Institute shall, with the advice of the Advisory Council, prepare and transmit to the Director of the National Institutes of Health a report which evaluates the skin diseases programs carried out by the National research institutes on the effective date of this part and which contains such comments and recommendations concerning such programs as the Director of the Institute determines appropriate.

"(d) The Director of the Institute shall—

"(1) carry out programs of support for reseach and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis and musculoskeletal and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clincial trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 483. (a) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal and skin diseases, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis and musculoskeletal and skin disease. There are authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"(b) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of arthritis and musculoskeletal and skin diseases by health professionals, patients, and the public. There are authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 484. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, musculoskeletal diseases, and skin diseases, including sports-related disorders; and

"(2) coordinating the aspects of all Federal health programs and activities relating to arthritis, musculoskeletal diseases, and skin diseases in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research regarding the diseases with respect to which the Committee is established, the Chief Medical Director of the Veterans' Administration, (or the Director's designee), a medical officer designated by the Secretary of Defense, and representatives of all other Federal departments and agencies (as determined by the Secretary) whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as the case may be. Each Committee shall be chaired by the Director of the National Institutes of Health (or the Director's designee). Each Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Not later than one hundred and twenty days after the end of each fiscal year, each Committee shall prepare and transmit to the Secretary, the Director of the National Institutes of Health, the Director of the Institute, and the Advisory Council a report detailing the activities of the Committee in such fiscal year in carrying out paragraphs (1) and (2) of subsection (a).

"NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY COUNCIL

"SEC. 485. (a) The Secretary shall establish a National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to advise, consult with, and make recommendations to the Secretary with respect to the activities of the Institute relating to arthritis and musculoskeletal and skin diseases.

"(b) The Advisory Council shall consist of the Secretary, who shall be chairman, the chief medical officer of the Veterans' Administration (or such officer's designee), and a medical officer designated by the Secretary of Defense, each of whom shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil service laws. The twelve members appointed by the Secretary shall be leaders in the fields of basic sciences, medical sciences, education, or nursing, and individuals from the public who are knowledgeable with respect to arthritis and musculoskeletal and skin diseases. Six of the members appointed by the Secretary shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment or arthritis and musculoskeletal and skin diseases.

"(c)(1) Each member of the Advisory Council who is appointed by the Secretary shall be appointed for a term of four years, except that—

"(A) the term of office of the members first appointed shall expire, as determined by the Secretary at the time of appointment, three at the end of one year, three at the end of two years, three at the end of three years, and three at the end of four years; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) None of the members appointed to the Advisory Council by the Secretary shall be eligible for reappointment unless a year has elapsed since the end of the prior term of such member on the Council.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 486. (a) The Secretary may make grants to public and private nonprofit entities to establish and support projects for the development and demonstration of methods for screening, detection, and referral for treatment of arthritis and musculoskeletal diseases, and for the dissemination of information on such methods to the health and allied health professions. Activities under such projects shall be coordinated with Federal, State, local, and regional health agencies, centers assisted under section 487, and the date system established under subsection (c).

"(b) Projects supported under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the programs, methods, and means referred to in paragraphs (1), (2), and (3) of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal disease, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis and musculoskeletal diseases.

"(c) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 487, and other persons engaged in arthritis and musculoskeletal disease programs.

"(d) There are authorized to be appropriated to carry out this section $5,000,000 for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 487. (a) The Director of the Institute shall, after consultation with the Advisory Council established pursuant to section 485, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this

section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from arthritis and musculoskeletal diseases, including research into implantable biomaterials and biomechanical and other orthopedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping; and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director of the Institute shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis and musculoskeletal diseases.

"(e) Support of a center under this section may be for a period of not to exceed five years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate scientific review group established by the Director and such scientific review group has recommended to the Director that support of such center under this section should be extended.

"(f) There are authorized to be appropriated to carry out this section $12,000,000 for the fiscal year ending September 30, 1985, $15,000,000 for the fiscal year ending September 30, 1986, and $18,000,000 for the fiscal year ending September 30, 1987.

"BIENNIAL REPORT

"SEC. 488. (a) The Director of the Institute shall prepare and transmit to the Secretary, for transmission by the Secretary to the President and the Congress, a biennial report containing a description of the Institute's activities under the plan developed pursuant to section 482 (b), a description of the Institute's activities to carry out the recommendations contained in the two immediately preceding annual reports prepared pursuant to section 482 (c), and an evaluation of the activities of the centers supported under section 487.

"(b) The first report under subsection (a) shall be transmitted by the Director to the Secretary not later than the first November 30 which occurs at least eighteen months after the date of the enactment of this section and shall relate to the two-fiscal-year period ending on the preceding September 30.".

(b)(1) Section 431(a) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Section 434 (a) is amended—

(i) by striking out "Arthritis, Rheumatism, and"; and

(ii) by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Section 434 (b) is amended—

(i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes"; and

(ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Section 434 (C) is amended—

(i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases," in the first sentence; and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in the last sentence.

(D) Section 434 (d) is amended—

(i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases," in the matter preceding paragraph (1); and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in paragraph (1).

(E) Section 434(e) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The section heading of section 434 is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Section 436(a) is amended—

(i) by striking out "arthritis, diabetes mellitus," in paragraph (1) and inserting in lieu thereof "diabetes mellitus";

(ii) by striking out "an Arthritis Interagency Coordinating Committee," in the matter following paragraph (2); and

(iii) by striking out the comma before "and a Digestive Diseases" in the matter following paragraph (2).

(B) Section 436(b) is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Section 437(k) is amended by striking out "and" after "1982;" and by inserting before the period a semicolon and "$300,000 for the fiscal year ending September 30, 1985; $300,000 for the fiscal year ending September 30, 1986; and $300,000 for the fiscal year ending September 30, 1987".

(B) Section 437(1) is amended by striking out "1983" and inserting in lieu thereof "1987".

(5) Sections 438 and 439 are repealed.

(6) Section 440 is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(7) The second sentence of section 440A (a) is amended by striking out "Arthritis, Metabolism," and inserting in lieu thereof "Diabetes".

(8) The part heading for part D of title IV is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(c)(1) There are transferred to the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) all functions of the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (as in effect on the day before the effective date of this subsection) relating to arthritis and musculoskeletal and skin diseases.

(2) In order that the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) may carry out programs and activities relating to arthritis and musculoskeletal and skin diseases at levels which are equivalent to the levels of programs and activities carried out with respect to arthritis and musculoskeletal and skin diseases by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection, the Secretary shall transfer to the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available, in connection with the functions transferred by paragraph (1) of this subsection and the programs and activities relating to arthritis and musculoskeletal and skin diseases carried out by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection.

(3) The National Arthritis Advisory Board is terminated.

(d) The provisions of subsections (a), (b), and (c) of this section and the amendments and repeals made by such subsection shall take effect on October 1, 1984.

(e)(1)(A) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with paragraph (2) arrange for the conduct of a study concerning—

(i) the effectiveness of the organization and administrative structures of each of the national research institutes existing on the date of enactment of this Act and of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the public Health Service Act (as added by subsection (a) of this section), including the effectiveness of the advisory councils, advisory boards, and interagency committees which carry out functions relating to each such institute;

(ii) the effectiveness of the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this Act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section); and

(iii) the standards which should be followed in establishing new national research institutes (other than the national research institutes existing on the date of enactment of this Act or the National Insitute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) or in realigning the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this Act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(B) Within eighteen months after the date of enactment of this Act, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the study conducted under this paragraph and the results and conclusions of such study.

(2)(A) The Secretary of Health and Human Services shall request the National Academy of Sciences to conduct the study required by paragraph (1)(A) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by paragraph (1)(B). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(B) If the National Academy of Sciences is unwilling to conduct the study required under paragraph (1)(A) under the type of arrangement described in subparagraph (A) of this paragraph, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(3) Prior to the expiration of a period beginning six months after the submission of the report required under paragraph (1)(B), and notwithstanding section 431(b) of the Public Health Service Act, no national research institute shall be established in addition to the institutes established on the date of the enactment of this Act and the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(f) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any such program could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within sixty days after the date of enactment of this Act.

HATCH (AND OTHERS) AMENDMENT NO. 3148

Mr. BAKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. DENTON, and Mr. RANDOLPH) proposed an amendment to amendment No. 3147 proposed by Mr. BAKER (for Mr. HATCH) to the bill S. 540, supra; as follows:

Insert at the appropriate place:

That section 2(d)(1) of the Technology Assessment Act of 1972 (Public Law 92-484; 2 U.S.C. 471(d)(1)) is amended by inserting after "biological," the following: "ethical,".

SEC. 2. Section 3(c) of such Act (2 U.S.C. 472(c)) is amended by—

(1) redesignating clauses (4) through (8) as clauses (5) through (9), respectively; and

(2) inserting after clause (3) the following:

"(4) identify existing or probable ethical implications of technology or technological programs;".

SEC. 3. Section 11 of such Act (2 U.S.C. 480) is amended to read as follows:

"SEC. 11. (a) The Office shall submit to the Congress an annual report which shall include—

"(1) an evaluation of technology assessment techniques;

"(2) an identification, insofar as may be feasible, of technological areas and programs requiring future analysis;

"(3) an identification of current issues relating to medicine, biomedical research, and behavioral research (including the protection of human subjects of biomedical or behavioral research) which have ethical implications for technology; and

"(4) an identification of technological areas and programs which have significant ethical implications requiring future analysis.

"(b) Such report shall be submitted not later than March 15 of each year.".

SEC. 4. The Act is further amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF BIOMEDICAL ETHICS ADVISORY COMMITTEE

"SEC. 13. (a) The Office shall establish a Biomedical Ethics Advisory Committee (hereinafter referred to as the 'Committee'), to be selected with the advice and consent of the Board. The Committee shall be composed of thirteen members—

"(1) three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research;

"(2) three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care;

"(3) five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs; and

"(4) two of the members shall be appointed from individuals who are representative of citizens with an interest in biomedical ethics but who possess no specific expertise.

"(b) The committee shall—

"(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation of activities, in accordance with section 3(d);

"(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

"(3) undertake such additional related tasks as the Board may direct.

"(c) The Committee by majority vote, shall elect from its members a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Committee may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

"(d) The term of office of each member of the Committee shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Committee more than twice. Terms of the members shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

"(e) The members of the Committee shall receive no pay for their services as members of the Committee, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5), and other necessary expenses incurred by them in the performance of duties vested in the Committee, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, and regulations promulgated thereunder.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider the nominations of Charles G. Stalon, of Illinois, to be a member of the Federal Energy Regulatory Commission; and Robert N. Broadbent, of Nevada, to be an assistant Secretary of the Interior.

The hearing will be held on Thursday, June 7, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. David Doane, regarding the nomination of Mr. Stalon, at 224-7144; or Mr. Gary Ellsworth, regarding the nomination of Mr. Broadbent, at 224-5304.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Committee on Small Business will hold a field hearing in Eugene, Oreg., on May 30, 1984, on women entrepreneurs: their success and problems. The hearing will begin at 9 a.m. in studio one of the Hult Center, 1 Eugene Center, Eugene, Oreg. Senator BOB PACKWOOD will chair. For further information, please contact Mary Meyers Mann of the committee staff, at 224-2180.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. McCLURE. Mr. President, I would like to announce for Mr. WALLOP and for the information of the Senate and the public, the scheduling of a 1-day workshop on the subject of

Indian reserved water rights. The workshop will be held on Tuesday, June 19, beginning at 9 a.m. and concluding at 4 p.m. in room 366 of the Dirksen Senate Office Building.

The workshop will consider the subject of Indian reserved water rights from an Indian, Federal, State, industry, and non-Indian water-user perspective.

For further information regarding the workshop you may wish to contact Ms. Terri Sneider of the subcommittee staff at 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorize to meet during the session of the Senate on Thursday, May 24, at 10 a.m., to hold a hearing to consider Senate Joint Resolution 286, a joint resolution to approve the Compact of Free Association, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 24, in executive session to mark up S. 2414, the DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY, AND ENVIRONMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Soil and Water Conservation, Forestry, and Environment of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, May 24, at 9:30 a.m., to hold a hearing to receive testimony on S. 2598 (H.R. 3788), the Texas Wilderness Act of 1984; S. 2590 (H.R. 4263), the Tennessee Wilderness Act of 1984; S. 2551 (H.R. 5076), the Pennsylvania Wilderness Act of 1984; and S. 1754, Texas land conveyance legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, May 24, to hold a hearing on cost estimating and cost accounting in Department of Defense weapons programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL TOURISM WEEK—SENATE JOINT RESOLUTION 127

● Mr. BUMPERS. Mr. President, last year, I joined a number of my colleagues in cosponsoring Senate Joint Resolution 127, designating the week of May 27, 1984, National Tourism Week. I am pleased that the Senate passed the resolution, and that the President proclaimed the event at a White House ceremony earlier in the year. Tourism is one of the most important segments of our national economy. The industry directly and indirectly employs millions, it enhances our international trade position, and it promotes intercultural and international understanding. For these reasons, I think it is appropriate that the American people give special recognition to the tourism industry during the week of May 27, and reflect on the importance of the industry to the enjoyment and fulfillment of their daily lives.

Tourism is particularly important to the economy of my State of Arkansas. Arkansas is blessed with several distinct geographical regions, each of which offers the visitor unique natural beauty, regional folk culture, cuisine, recreation, and entertainment. Tourism is the No. 2 employer in Arkansas, with 43,200 jobs dependent on the industry. Arkansas ranks 19th in the Nation in percentage of work force employed in tourism, and 12th in the United States in the number of outside tourists who visit the State. Arkansas State revenues generated by tourism exceed $55 million per year, and this is a significant amount of tax revenue. Therefore, Mr. President, I am very happy to have this opportunity to congratulate the people who work in the tourism industry in my State and elsewhere, and to wish them continued success and prosperity in the coming year.●

OBSERVANCE OF NATIONAL TOURISM WEEK

● Mr. WILSON. Mr. President, because the Senate will be in recess next week, I take this opportunity to note the observance of National Tourism Week to begin May 27. I am pleased that the President and Congress have joined together to observe this week in honor of one of America's most dynamic industries.

The State of California has reason to celebrate this event. Tourism is California's second largest employer, providing some 515,000 jobs with a $5.4 million payroll. My home State also receives a significant portion of the $20 billion in Federal, State, and local revenues which are generated by the tourism industry yearly.

I have spoken frequently on the Senate floor about the need to expand exports, and I am pleased to note that tourism is a big part of U.S. export earnings. Quite simply, trade represents the third largest source of export income for this country. International visitors to the United States spend over $11 billion annually, which support some 300,000 American jobs.

Not only does the tourism industry generate jobs, it generates new opportunities for many sectors of our population which have traditionally faced high rates of unemployment. These include minority and female workers, as well as young jobseekers.

The benefits of travel and tourism are indeed manifold. It is important that this country continue to encourage the growth and expansion of this industry. Several weeks ago, it was my privilege to introduce Mrs. Donna Tuttle of California before the Commerce Committee for confirmation to her position as Under Secretary of Commerce for Travel and Tourism. In the capable hands of individuals such as she, I am confident that these many benefits will continue to grow—benefiting California and the Nation with jobs, revenues, and new opportunities for cultural exchange.●

ACID RAIN IN NEW JERSEY

● Mr. LAUTENBERG. Mr. President, in March the Senate Environment and Public Works Committee reported amendments to the Clean Air Act to the full Senate for consideration. Included in these amendments is an acid rain control program to significantly reduce sulfur emissions, which have been associated with the phenomenon of acid rain. It is my earnest hope that the Congress enact legislation as soon as possible to mitigate this problem before we cause further harm to our environment.

Mr. President, much of the debate on the effects of acid rain has focused on New England. However, increasing evidence indicates that the coastal States all along the Atlantic are suffering as well. What the monitors have shown to date is that the rainfall over New Jersey and other nearby States averages ph 4.0 to 4.3 during the year. Precipitation in this area is 30 to 40 times as acidic as unpolluted rain. The major factor responsible for this effect is sulfur, which, as sulfuric acid, percolates its way through our coastal soils and into nearby lakes and streams as they absorb acid rain. On its way, the acids leach precious metals and release toxic metals, such as aluminum.

Studies in the Pine Barrens of New Jersey in the late 1970's showed that the growth of three dominant pines had slowed or halted completely over a 20-year span. The stunted growth was closely correlated with acidic

stream water. Today, there are emerging reports that the striped bass that spawn upriver in New Jersey rivers and in the Chesapeake Bay may be suffering. Spring rains carry heavy doses of acid rain to the rivers' shallow areas where the young fish are spawned. Scientists are turning increasingly to acid rain as a contributing factor to the startling decline of New Jersey striped bass over the last few years.

Mr. President, recently the Newark Star Ledger carried a most informative analysis of the causes and impacts of acid rain in New Jersey entitled "Acid Rains on Jersey: Mountain Lakes, Pine lands Imperiled."

As Gordon Bishop, the author of this article, reports, most of the sulfur and nitrogen dioxide pollutants responsible for acid rain come from States to our West. Mr. President, this article raises a series of alarming questions: Are the forests of our coastal lowlands and the fish in our rivers and bays now in jeopardy? Are toxic metals leached from soils and from drinking water pipes going to add to contamination of our water supply in New Jersey?

It is imperative that Congress act soon to protect not only the high mountain lakes of the Adirondacks, but important resources in the coastal States as well. For the information of my colleagues, I ask that the Star Ledger article be printed in the RECORD at this point.

The article is as follows:

ACID RAINS ON JERSEY—MOUNTAIN LAKES, PINELANDS IMPERILED

(By Gordon Bishop)

Preliminary findings by environmental scientists show that "acid fallout" is destroying North Jersey's mountaintop lakes and streams and South Jersey's rare Pinelands pygmy forest.

Early evidence also reveals that marine life, surface drinking water supplies, urban trees and possibly agricultural crops are being seriously damaged by rainfall saturated with sulfur dioxide and nitrogen oxides from coal-burning power plants and industries, mostly from the Midwest.

The impact on New Jersey's natural resources and infrastructure (bridges and buildings, as well as statuary and car finishes) could run into the billions of dollars if the acidification of the air, water and soil continues to increase, according to the State Department of Environmental Protection (DEP).

"From what we're discovering, it's a frightening, grim picture of the gradual destruction of our natural environment," declared John Elston, chief of the state's air quality management office.

"We're just beginning to understand what's happening when highly acidic precipitation gets into our lakes and tributaries," Elston said.

"It degrades water quality and affects the biological processes of marine life, resulting in declining fish populations."

The state's fishing, recreation and tourism industries generate more than $5 billion a year in revenue and taxes.

Five once-pristine mountaintop lakes in Sussex and Warren counties already have been identified by the DEP as "in serious trouble" from high concentrations of sulfuric/nitric acid mix with atmospheric condensation, falling to earth as acid rain.

The endangered bodies of fresh water along the Kittatinny Mountain range are part of New Jersey's sweeping skylands from the Delaware Water Gap to the Hudson River. They are Crater Lake, Lake Success, Long Pine Pond, Catfish Pond and Sunfish Pond.

Van Campen's Brook, stemming from Long Pine Pond and one of the few natural trout reproduction streams in New Jersey, has become victim to "acid shock," devastating newly hatched fish dependent on small invertebrates in the stream for their survival until they reach maturity.

Excessive acid kills the tiny invertebrates in streams on which the fry feed.

During the recent snow melt in the Kittatinnys, "pulses of acid" were recorded by monitors installed in trout streams by DEP field personnel.

"The snows were laden with acid which wound up in the fresh brooks and streams that are the primary source of our surface drinking water, as well as the nurseries for the fresh water fish," Elston explained.

"The trout are suffering first, particularly the fry. They can't feed. Adult fish can survive longer because their range of food is greater," Elston said.

An "acid washout" can clear an entire stream of invertebrates, which have no tolerance to acid in the 4 to 5 pH range.

Neutral water has a pH of 7, meaning it is neither too acidic ("sour") nor too alkaline ("sweet"). Its chemistry is in balance.

Carbonic acid, a by-product of carbon dioxide naturally present in the atmosphere, causes rainfall to be slightly acidic, with a pH of about 5.6.

Acid rain has a pH of less than 5.6.

In the pH scale, there is a 10-fold increase in each pH unit. That is, a drop in the pH difference from 5.6 to 4.6 indicates a 10-fold increase in acidity. From 5.6 to 3.6, there is a 100-fold increase in acidity.

Federal surveys have found that rainfall in most of the eastern United States, including New Jersey, averages 4 to 4.3 in pH.

Several New Jersey lakes already have acidified to the 4 pH level, a condition in which marine life cannot thrive.

"We're now conducting analyses of fish and lake sediments to determine the metals intake, which occurs at the 4.5 pH level," Elston said.

Acid causes a concentration of such lethal metals as lead, cadmium and mercury. When ingested by fish and other marine life, the deadly metals interfere with an organism's biological processes, leading to diseases and death.

Curiously, not all lakes are vulnerable to acid fallout, Elston pointed out. "There are six lakes in the Kittitany range we're examining, and the one in the middle—Blue Mountain Lake—is a 'neutral lake' with a pH of 5.5."

The Blue Mountain Lake has escaped the acidification process because it sits on a different rock formation, one that provides enough alkaline to offset the acid rain.

The five other lakes do not have an alkaline "buffer" to neutralize the acid following rainfalls.

Hundreds of lakes in the Adirondack Mountains in New York have been decimated by acid rain during the last 30 years. One of the techniques being used to revive them is aerial liming. Limestone is a natural neutralizer, but liming lakes by aircraft is an expensive proposition.

Massachusetts has to lime a major reservoir on a regular basis in order to protect it as a potable water supply.

A New Jersey environmental scientist, William E. Marks of Towaco, accidentally discovered a cure for acidified lakes and ponds while doing routine research at Martha's Vineyard last fall.

Marks, former environmental analyst for Newark Mayor Kenneth E. Gibson, came across a pond on the Vineyard whose waters were neutral, although other bodies of water in the vicinity were alarmingly acidified.

Marks learned that Indians hundreds of years ago had tossed their seashells into the pond to get rid of them. The shells' carbonate composition are richly alkaline, providing a natural buffer for the Indians' watery waste dump.

Marks' Vineyard Institute has recommended to Massachusetts Gov. Michael S. Dukakis and to Gov. Thomas Kean that seashells washed ashore after storms could be trucked to lakes and streams suffering from acid deposition.

"The seashells are a naturally replenishing resource and release their neutralizing ingredients safely into waters, thus maintaining an aquatic ecosystem's balance," Marks said.

Gov. Kean has given the acid rain problem his administration's top environmental priority, along with hazardous waste cleanup. As chairman of the Coalition of Northeastern Governors (CONEG), Kean led the annual regional meeting last December with a resolution to establish a national trust fund to control the sources of acid rain.

The Kean plan would cost about $20 billion and would boost the cost of electricity generated by fossil-fuel power plants by roughly $25 a year for the average household.

In the forefront of the acid rain battle, Kean has been pressing Congress and the White House to adopt a national program this year to prevent smokestacks in the Ohio Valley and midwestern states from emitting millions of tons of harmful sulfates and oxides of nitrogen.

Once in the upper atmosphere, these pollutants can drift hundreds, even thousands, of miles, before they descend to the earth's surface.

New Jersey and its neighboring coastal states are the recipients of acid fallout because of the prevailing westerly winds that eventually fan out over the Atlantic Ocean.

Up to 86 percent of the total sulfur deposited in New Jersey originates outside the New Jersey-New York region, according to a report just released by the National Wildlife Federation, entitled "Acid Rain: Its State-by-State Impacts."

In recent Rutgers University research, storm trajectory analyses show that rainstorms delivering the highest acid and sulfate levels to New Jersey frequently pass through the Ohio valley, a region where smelters and coal-burning power plants operate around-the-clock.

Rainfill with a pH of 3.9 (50 times more acidic than unpolluted rain) has been monitored at Washington Crossing State Park along the Delaware River in Trenton, by the DEP.

"Based on the state's rainfall acidity, geology, soils and water chemistry, New Jersey is extremely vulnerable to acid rain effects," according to the federation report.

Among the federation's acid rain findings in New Jersey are:

Sensitive aquatic biota are being eliminated from streams, rivers and lakes, and some streams in the Pinelands are currently experiencing acidification.

A "drastic stunting" of growth of conifers (pine trees) in the 1.1 million-acre Pinelands since 1950, which parallels the post-war growth of the nation's fossil-fuels burning industries.

Present levels of acid deposition are degrading materials such as stone in buildings and historic monuments.

In a recent study of zinc and steel degradation resulting from acid rain, Newark and Bayonne had high material decay rates. (Motor vehicle emissions are also a significant source of nitrogen oxides, a key ingredient of acid rain.)

Acidification of reservoirs is likely to cause the release of unhealthful heavy metals and organics into drinking water supplies.

Many New Jersey urban and suburban reservoirs have high levels of heavy metals and organics in their sediment, and are located in areas of "low buffering capacity."

The overall picture, as the pieces are beginning to come together, shows a pattern similar to what has taken place in the Adirondacks and Canada, where hundreds of lakes and fish-breeding streams have been rendered useless by acid rain, according to Elston.

"We're starting to see similar problems in New Jersey, whether it's in the mountains of North Jersey or the Pine Barrens flatlands of South Jersey," Elston said. "Our fishing and recreation resources are feeling the effects of acid rain."

As for the state's agricultural resources and developed infrastructure, Elston said "we're just getting into that now."

The state Legislature last year established the Acid Deposition Study Commission, accompanied by a $100,000 grants program to develop accurate information on the extent of acid fallout in the Garden State.

One study involves the effects of acid rain on groundwater in the Pinelands. The largest natural body of fresh water on the East Coast is the 1.7 trillion gallons of potable water trapped in the Cohansey Aquifer sand formations lying just a few feet below the very porous Pinelands surface.

The state DEP wants to know whether heavy metals (lead, aluminum, etc.) are mobilizing in the Cohansey Aquifer. Should that happen, the water would be unfit for human consumption, as well as wildlife.

Dr. Alan McIntosh, an aquatic resources specialist at Rutgers Cook College, is writing the task force report on the acid rain-heavy metals connection. One area his team is looking at is downward from a big smelter in Palmerton, Pa., some 25 miles southwest of the Delaware Water Gap and in the path of the prevailing westerly winds.

"The snowstorm in early March was followed by a dramatic pH decline in Van Campen's Brook," McIntosh reported. "We're concerned about the accumulation of trace metals—mercury, lead, cadmium, zinc, aluminum—which are toxic to fish."

Low pH levels associated with acid deposition interfere with the salt balance that must be maintained in the body tissues and blood plasma of freshwater species.

As the pH level falls to 5.5, bottom-dwelling bacterial decomposers begin to die off. Leaf litter and other organic debris may accumulate on the lake bottom, and plankton, a valuable food source for most aquatic species, often starts to disappear.

Fish populations can decline when calcium levels in the bodies of prospective fish are lowered to a point where they can no longer produce eggs.

When the pH drops to about 4.5, fish, frogs and many insects can no longer survive.

Acid deposition can leach aluminum and other toxic metals from soil and lake bottom sediments. High levels of aluminum clog the delicate gill tissue of fish and cause respiratory failure.

Agricultural crops are also threatened by acid rain. A simulated acid rain pH of 4.1 decreased field-grown seed yields by 10.7 percent in research conducted at Brookhaven National Laboratory in Long Island.

Soybeans are New Jersey's biggest cash crop, grossing more than $23 million last year for the state's farmers.

Dr. Eileen Brennan, professor of plant pathology at Rutgers Cook College in New Brunswick, is just finishing construction of an acid rain simulator machine to test the effects of acid fallout on New Jersey's agricultural crops this summer.

"We want to know how acid affects the yield and quality of New Jersey's most important cultivars—soybeans, alfalfa, corn," Brennan said. "This will be our first effort at establishing a data base for the effects of acid rain on farm crops."

At the New Jersey Institute of Technology, Dr. Reginald Tompkins, a chemistry professor, is working under a one-year DEP contract to determine the acid rain effects on surface materials.

The NJIT acid rain experiments get under way in June. Tompkins is using an "electrochemical technique" to detect acid damage to materials such as statues and windowframes.

"We're looking at mostly metals and alloys," Tompkins said. "We know materials will corrode in any environment. What this study should tell us is the role of acid rain in the corrosion process."

By using electro-chemical measurements, Tompkins will be able to compress years of corrosive activity into a few hours. His electro-chemical device will examine the nature of corrosion: Pits, crevices or uniform deterioration.

The first report on the DEP's acid rain survey will be released at the end of the year. It will encompass all aspects of the acid dilemma, from aquatic and biological to agricultural and surface materials.

Four years ago, a six-part series of articles on "Acid Fallout" were published in The Star-Ledger. The observations and casual findings then indicated a serious buildup of dry and wet acid depositions throughout the state's environment.

Since then, the federal government has continued to study the problem, while states such as New Jersey have been calling for controls on smokestacks to reduce the acid discharges into the atmosphere.

New Jersey enacted the nation's most stringent sulfur dioxide controls in the late 1960s to clean up the state's air. A pioneer in air pollution controls, New Jersey legislation was the forerunner of the 1970 Clean Air Act. Many states, particularly in the Midwest, continue to be in violation of national ambient air quality standards.●

ANNUAL MEETING OF THE AMERICAN CAN CO.

● Mr. WEICKER. Mr. President, earlier this week an event took place in New York City that I call to the attention of our colleagues. That event, the annual meeting of the American Can Co., was significant not merely for the company business which was transacted but rather for the meeting's location—the Martin Luther King High School on the West Side of New York City.

American Can Co. has, for some time, been funding teachers, lectures, and computer literacy courses for Martin Luther King, Jr. High School students both on site in New York and at the company's corporate headquarters in Connecticut. Such efforts are in themselves praiseworthy. But now the company has opened its business affairs to the students and allowed them to participate.

I have no doubt that American Can's commitment has and will continue to benefit Martin Luther King students. But another beneficiary has got to be the company in particular and American business in general, both of which will grow in the healthier environment of community appreciation of their work.

I commend Chairman Woodside and his management team for their progressive stance, and I ask that the New York Times article of May 23, 1984, be included in the RECORD together with these remarks.●

The article is as follows:

[From the New York Times, May 23, 1984]

AMERICAN CAN MEETS IN A SCHOOL AND STUDENTS LIVEN THINGS UP

(By Thomas J. Lueck)

In a gesture that underscores a growing commitment of corporate assistance to public schools, the American Can Company yesterday conducted its annual shareholders' meeting at Martin Luther King Jr. High School on the West Side.

"Most corporate executives tend to buy off their conscience: They donate cash and walk away," said William S. Woodside, American Can's chairman. He told about 200 shareholders and 200 students that his company had made "a real commitment to this school.

Mr. Woodside presided over a two-hour session that included the normally staid agenda of an annual meeting, but was punctuated by a student-produced slide presentation of city scenes, school life and breakdancing.

The meeting also included questions from several of the students. Mr. Woodside was asked by 17-year-old Angelique Sims whether he thought his responsibilities justified the $905,000 he was paid by American Can last year.

"DOOR IS OPEN TO EVERY STUDENT"

"I make no apologies for what I'm paid," the board chairman responded. He said that his compensation was the result of hard work and dedication and that "the door is open to every student here" to attain similar positions of authority at large corporations.

"The idea is to demystify American business," said Joseph A. Califano Jr., the former Secretary of Health, Education and Welfare and a member of American Can's board. "A lot of poor kids think of the corporation as something alien and hostile."

Although companies often conduct annual meetings away from their own offices, no major corporation has ever selected the auditorium of a city high school. American Can and Martin Luther King High have had a two-year relationship in what the company calls a "partnership program."

The concept, which is being adopted in similar forms in several major cities, was introduced to New York in 1982 by American Can, which then selected Martin Luther King High; the Equitable Life Assurance Society, which has been working with William Cullen Bryant High School in Queens, and Manufacturers Hanover Trust, which has been working with John Jay High School in Brooklyn.

Outer "Join-A-School" programs have since been started, or are planned by businesses at 10 other high schools in New York City. And proponents hope the idea will spread because a decade of tight fiscal constraints has required cuts in public school curriculums and extracurricular programs, and because many corporations are reconsidering their charitable activities.

Most major corporations contribute some money to charities each year, in part because tax laws allow them to deduct such contributions.

"Companies often give away their money stupidly," Mr. Woodside said. He maintained that, instead of identifying a social need, some companies selected their charities on the basis of what charitable causes were favored by their largest customers or share-holders.

HELP FOR POOR CHILDREN

School officials, meanwhile, say the Join-A-School program can be particularly beneficial for poor children in minority groups who are interested in business but whose family and neighborhood environments give them little exposure to corporate life.

"Ghetto kids have no access to big business," said Nellie R. Jordan, Martin Luther King High's principal. Since American Can started becoming involved in the school, she added, "the level of aspirations around here has improved to an extent nobody would have thought possible."

The company's activities have included sending several executives to give lectures on business subjects, and offering students tours and seminars at its corporate headquarters in Greenwich, Conn.

The company has paid for an afterschool course to train students to be security guards and for part of the costs of a computer literacy program. It has also supplemented the salaries of several teachers working after hours in extracurricular activities.

At the same time, students at the school, whose enrollment is more than 99 percent black, have been urged to analyze the affairs of American Can, a diversified company that has been undergoing a rapid transformation under Mr. Woodside.

Although the company is widely known as a manufacturer of containers, it has moved aggressively into insurance and other financial services, as well as direct-mail retailing and record stores.

ANNUAL REPORT IS REWRITTEN

In one project, a group of 30 students, after meeting with senior American Can executives, rewrote the company's annual report in simplified form.

"Most people don't get beyond the glossy photos in annual reports," said Saul Krug, the school's assistant principal, who organized the annual report project. "But these students now understand what the numbers mean."

Alluding to Mr. Woodside's salary, Miss Sims said after the meeting, "I don't think a chairman of any corporation is entitled to that much." Nonetheless, Miss Sims, who said she wants to be an accountant, is not bearing a grudge.

"After looking at American Can, I think that would be a good place to work," she said.

INTERNATIONAL ASSOCIATION OF BOMB TECHNICIANS AND INVESTIGATORS

● Mr. DENTON. Mr. President, as chairman of the Subcommittee on Security and Terrorism I would like to take a few moments to recognize the International Association of Bomb Technicians and Investigators (IABTI).

IABTI is a group of 2,500 persons from the United States and 29 other free world nations. They work for police and fire departments, military services, and the private sector. Many of them are the people that we read about in the morning papers, when a bomb has been defused or a bombing is being investigated. They also do extensive work on protecting our leaders, and those of other nations. As a spin-off of their work, they also concern themselves with the ever-increasing terrorist menace.

Throughout the years, the men and women in the field of disposing of explosive devices have been highly skilled, dedicated, and extremely motivated. Because of the nature of their work, they tend to avoid individual recognition, which can make a technician the next target. That is why I believe that we should recognize the accomplishments of all the members of the organization.

On May 31, 1984, the group, dedicated to "meeting the challenge" of the growth of terrorism and bombings in the free world, is meeting in Oklahoma City, Okla., to honor its fallen members and exchange information and experiences.

The International Association of Bomb Technicians and Investigators was formed in March 1973, when an overwhelming response to the National Explosive Ordinance Disposal Conference demonstrated the need for an organization.

The IABTI, is an independent, nonprofit, nongovernmentally funded association formed for the purpose of stemming the tide of terrorism and bombing. It provides a forum for the exchange of training, expertise, and information among law enforcement, military, governmental and fire fighting personnel, and conducts programs of education, information, and research.

Historians credit the Chinese with the invention of the first explosive—gunpowder—in 600 A.D. Today our lives are made easier by the legitimate use of explosives for construction, mining, and land clearing, to mention only a few. Unfortunately and tragically, however, explosives also have been diverted to criminal activities. Today's media are filled with reports about the worldwide use of explosives for such crimes as murder, intimidation, extortion, and government disruption. Bombs are and will continue to be a favorite weapon of the terrorist and the common criminal alike. Few criminal or terrorist acts so dramatically affect a nation's citizens as does a series of bombings.

The IABTI is resolute in its underlying belief that individuals and organizations alike can be more effective in combating terrorism if they join together to work toward the common goal stemming the illict and criminal misuse of explosives.

The IABTI International In-Service Training Conference being held in Oklahoma City, Okla., on May 31, will be an occasion for the organization to reaffirm its purpose and to bring its members together to study problems, techniques, technology, and incidents. In addition to the serious training that is provided at each such conference, the association also presents the Roger Goad Memorial Award to an individual who by his or her action has brought great credit to the profession.

The award is presented in memory of Capt. Roger Goad, an explosives officer with the metropolitan police in London, England, who was tragically killed in London in August 1975 while attempting to disarm an improvised explosive device. Past award recipients are Terence McTigue, New York Police Department; Fred Sprague, U.S. Army; Winter Pattinson, Great Britain; William Schmitt, New York Police Department; and Robert Shaughnessy, Denver, Colo. Police Department.

IABTI's programs are not static. They have grown and changed to meet the needs of its members and the threat that they confront. I hope that the organization will continue to respond to the challenge that we all face.

In closing, let me add that the IABTI, as it approaches its 12th year, has not changed the basic goals that inspired its first gathering at Sacramento, Calif.: To conduct training, exchange information, examine equipment, and defeat the terrorist bomber by "meeting the challenge and making the people and our communities safe."

I ask my colleagues to join me in saluting the members of the International Association of Bomb Technicians and Investigators. Its members truly deserve our appreciation and our support.●

JAMES FORT RETIRES FROM UNITED PARCEL SERVICE

● Mr. SASSER. Mr. President, it gives me great pleasure to salute James Frazier Fort on the occasion of his retirement of July 1, 1984, from a distinguished career as legislative counsel for United Parcel Service. For the past 17 years, Jim has advised the Congress on issues of interest to UPS. He has great respect on the Hill for his integrity and the knowledgeable counsel he provides.

Jim represents United Parcel Service which employs 3,000 people in my State of Tennessee. Of course, UPS serves all the continental States as a private courier business noted for its managerial efficiency and innovation. When Jim Fort joined UPS in 1965, the volume of parcels picked up and delivered was 249,000,000. Now, 17 years later, UPS's business volume is 1,781,000,000—a 720-percent increase. Nationwide employment for UPS has jumped for the time period from 25,000 to 125,000. I am sure that Jim Fort's fine work contributed greatly to this growth. I note that, following his employment by UPS, the State of Tennessee authorized UPS as an interstate courier in 1966 and as an intrastate courier in 1968.

I am especially proud to note the invaluable service that Jim Fort has rendered in informing the Congress of issues of interest to UPS since he is a fellow Tennessean, a native of Chattanooga.

Jim Fort comes from a line of prominent Tennesseans who have served their State in the field of politics and government. His grandfather, James Beriah Frazier, was Democratic Governor of Tennessee from 1903 to 1905 and represented the State in the U.S. Senate from 1905 to 1911. His uncle, J. B. Frazier, Jr., was a Democratic Member of Congress from the district that includes Chattanooga, from 1949 until 1963.

Both of his parents were journalists. His mother, Louise, covered social life for the Chattanooga News. John Fort, Jim's father, was an attorney and the author of four novels. He also wrote for the News. In fact, his father covered the now famous trial of John Scopes for teaching schoolchildren the theory of evolution which was held in 1925 at Dayton, Tenn. One story that Jim often tells in connection with that time is that while the trial's prosecuting attorney, William Jennings Bryan, stayed with his grandparents, the defense attorney, Clarence Darrow, was a house guest of his parents. Visits within the family at that time must have been exciting, to say the least.

Early in his career, Jim Fort worked in the Presidential campaign of Tennessee Senator Estes Kefauver. And he gained experience on Capitol Hill as an aide to his uncle, Congressman J. B. Frazier. Later on, he became associated with United Parcel Service.

Now, Jim is leaving UPS to pursue a career as a teacher and lecturer on the procedures of the Congress. And he plans to become more deeply involved in his work as a wood sculptor. His sculptured pieces are now exhibited at the Torpedo Factory in Alexandria, Va., and by the Northern Virginia Art League. I know, too, that Jim is also likely to remain involved in Fairfax County, Va., community affairs.

I give Jim Fort, whose roots are deep in Tennessee and whose family is so important to the history of our State, my heartiest congratulations on his notable career. I shall miss his advice and counsel on Capitol Hill. However, I wish him, and his wife Cathy, the greatest success in their new ventures.●

"SOVIET DEFENSE POLICY AND U.S. RESTRAINT"

● Mr. GARN. Mr. President, I take a brief moment to call the attention of my colleagues to an announcement from Moscow that the Chief of Soviet Air Defenses, Col. Gen. Semyon Romanov, was killed recently while carrying out his official duties. I raise this matter for two reasons: First, General Romanov is believed to be the individual who gave the order to Soviet fighter aircraft to shoot down an unarmed, civilian aircraft traveling to South Korea last September; and second, it is possible that he was killed while observing Soviet military action against freedom fighters in Afghanistan.

It seems particularly appropriate to me that in the thick of congressional review of the fiscal year 1985 defense authorization bill that we keep in mind the KAL massacre and the continued Soviet military agression against the people of Afghanistan. Certainly, these are not isolated events when viewed in the context of Soviet foreign and defense policies since the end of World War II. We are, nonetheless, quick to forget. Once the story passes from the front pages of our national newspapers, the matter seems essentially erased from our minds—a mere footnote for the historians of future ages. It is, therefore, useful to make a note of such occasions as the death of General Romanov in order that we might remember the nature of our adversary and the brutal means to which that adversary will resort to promote its ends.

In addition, I call attention to the recent speech by the Soviet Minister of Defense, Dmitri Ustinov, in which he boasted that the Soviets had increased their nuclear-armed submarine patrols off our coasts. Marshall Ustinov proceeded to stir this pot of nuclear fear by threatening this specter of a Soviet nuclear threat capable of striking targets in the United States within 5 to 10 minutes. This is not particularly a new state of affairs, but the Soviets are publicizing their threatening posture in an effort to force concessions from us at the arms control bargaining table. In fact, they desire to force concessions from the United States and its allies merely to induce the Soviets to return to the negotiations which they unilaterally abandoned last December.

With the distorted reasoning only a sophist or apologist could find compelling, the Soviets charge that NATO deployments of Pershing II and ground launched cruise missiles have so seriously disrupted the balance of forces in Europe that the Soviets have no choice but to refuse to negotiate on nuclear arms control until all U.S. systems are removed. Soviet rhetoric on this matter is intended to hide the fact that Soviet deployment of the SS-20 missile increased by approximately 230 missiles—690 nuclear warheads—between December 1979, when NATO first adopted its two-track decision of arms negotiation and modernization, and December 1983, when the first Pershing II's and GLCM's were deployed. The Soviet SS-20 force now stands at approximately 370 missiles—1,110 nuclear warheads, and further deployments are in process. The West, in fact, not only took 4 years to deploye a single missile, it withdrew 1,000 short-range nuclear systems and announced plans to withdraw 1,400 more.

The Soviets have used these NATO actions to justify the following response:

Increase SS-20 deployments threatening U.S. allies in Western Europe and Southeast Asia;

Increase nuclear-armed submarines off the coast of the United States;

Upgrade all their short-range nuclear systems and forward deploy more of these systems in Eastern Europe;

Refuse to resume negotiations on strategic nuclear weapons; and,

Abandon the negotiations on intermediate-range nuclear weapons.

Meanwhile, U.S. statements urging a resumption of the arms talks are rejected summarily, and the most recent entreaties by the German Foreign Minister, Hans-Dietrich Genscher, were brusquely dismissed. Yet, the political pundits in the United States continue to counsel restraint. We drastically scale back the MX program, we kill the binary chemical weapons program, we urge more and more arms control in the area of ASAT weapons and strategic defense. There seems no end to our desire for restraint and our patience in awaiting Soviet reciprocity. How is it that we can be so gullible, so inexplicably blind to our genuine security requirements, and the threats to our freedom?

Mr. President, I ask unanimous consent that the Washington Post article concerning the death of General Romanov, as well as several other articles detailing the most recent examples of Soviet sword-rattling style of diplomacy, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MOSCOW ANNOUNCES CHIEF OF AIR DEFENSE KILLED WHILE ON DUTY

Moscow, May 22.—The Soviet Union announced today that the chief of staff of its air defense forces, Col. Gen. Semyon Romanov, was killed while carrying out his official duties.

The air defense forces, which are separate from the Air Force, were responsible for shooting down a South Korean airliner in September, and some western military experts believe Romanov was the man who gave the order.

An announcement carried in the Army newspaper Red Star said the 63-year-old general "died suddenly while performing official duties." It gave no other details. Red Star's obituary for Romanov, one of the country's top military chiefs, was signed by Defense Minister Dmitri Ustinov and all senior armed forces officials. Death announcements normally appear in Soviet newspapers two or three days after the event.

Western diplomats said the formulation used left no doubt Romanov had been killed in some kind of tragic event. They said it could mean he died in a plane or helicopter crash or could indicate that he had been killed while observing Soviet forces in action in Afghanistan.

The Air Defense Forces are largely responsible for intercepting intruders into Soviet air space and for reconnaissance missions. Fighters from an air defense base on Sakhalin Island pursued and then shot down the South Korean jumbo jet on Sept. 1, killing all 269 passengers and crew members on board.

In an article last month, Romanov showed no regret over the incident and declared that Soviet fighters were ready to "annihilate" any other planes that came within their combat range.

Western military experts say Soviet statements on the airliner incident indicate that the decision to shoot down the jumbo jet was made by military commanders. Some believe Romanov was the highest official consulted on what action to take and that he gave the go-ahead to fire rockets at the passenger plane.

[From the Washington Post, Mar. 21, 1984]

SOVIET ANNOUNCES RISE IN SEA-BASED MISSILES OFF U.S.

(By Dusko Doder)

Moscow, May 20—Marshal Dmitri Ustinov, the Soviet defense minister, announced today that the Soviet Union has increased the number of submarines carrying nuclear missiles off the coasts of the United States and that the weapons could strike U.S. targets in eight to 10 minutes.

His comments, confirming that Moscow has carried out the new deployment the late party leader Yuri Andropov warned of in November, appeared to rule out any possibility of the resumption of Geneva arms talks on medium-range and strategic missiles. Moscow broke off those talks last year following the arrival of new American medium-range nuclear missiles in Western Europe.

The additional deployment of an unspecified number of sea-based Soviet missiles around the United States was preceded by Soviet deployments of tactical nuclear rockets in East Germany and Czechoslovakia. The Soviet countermeasures have restored the military balance tilted by the NATO deployment of Pershing II and cruise missiles in Western Europe, Ustinov said.

[Spokesmen for both the Pentagon and State Department in Washington said there was "nothing new" in Ustinov's remarks. The Pentagon spokesman said the 10-minute estimate of the time it would take the submarine-based missiles to reach the United States was probably high. He said the Pentagon estimates that it would take five to seven minutes.]

Ustinov, 75, speaking in an interview with the official news agency Tass, warned that a nuclear attack from Western Europe on the Soviet Union and its allies would produce an "immediate and inevitable" Soviet retaliatory strike not only on the source of the attack but also on the United States.

He made it explicit that additional U.S. deployments of Pershing II and cruise missiles in Western Europe would be followed by similar Soviet deployments, including new deployments of SS20 triple-head, medium-range missiles on Soviet soil.

The remarks appeared to underscore Moscow's unyielding opposition to the deployment of Pershing II missiles in Europe. Well-informed U.S. sources said earlier that the Reagan administration had told the Kremlin that Washington was prepared to retain only a "symbolic" number of these missiles in Europe to induce them to return to the Geneva talks. According to the sources, the Soviets promptly rejected this suggestion, insisting on the removal of all U.S. medium-range missiles.

The sources did not say when the U.S. proposal was made, but it is believed that it came after Andropov's death Feb. 9.

Ustinov's comments coincided with the arrival here today of West German Foreign Minister Hans-Dietrich Genscher, who had intended to urge the Kremlin leaders to return to the Geneva talks.

Even before Ustinov's comments, Genscher's chances of making any headway with the Russians appeared minimal as the Soviet press assailed "neo-Nazism" in West Germany and attacked what it said were Chancellor Helmut Kohl's dreams of recovering former German lands from the Soviet Union and Poland.

Ustinov's threat to resume the deployments of SS20 missiles appeared aimed at West Germany, which is the only European country to receive Pershing II missiles. It was the growing number of SS20s that led the West German government to call for U.S. deployments of new medium-range rockets to balance the Soviet threat.

The Russians say the Pershing II is a strategic weapon capable of reaching targets throughout European Russia and designed to "decapitate" the Soviet Union because it can reach Moscow.

Ustinov said the appearance of new U.S. missiles in Europe "intended for delivering the first strike" has increased "the possibility of a nuclear conflict." They have upset the military balance, he said, and created an additional threat to the Soviet Union and its allies.

"Thanks to the measures we are taking, the military balance is being restored although, of course, on a higher level," he continued.

"The number of warheads trained on each other's targets has grown, the time has been reduced for taking a decision to respond to a nuclear strike or to a nuclear situation that can arise by accident, and the confidence between states has been undermined," he said.

The marshal argued that it was "a dangerous miscalculation" by Reagan administration strategists to believe that the U.S. deployments would give "certain advantages to the United States."

"A nuclear attack on the Soviet Union and its allies will invariably lead to the immediate and inevitable retaliatory strikes both at the territories where the missiles are deployed and at the territories from which orders are issued concerning their use. There should be no doubt about it."

Ustinov asserted that the Reagan administration was trying to hide from the American people the consequences of its policies and the increased threat posed by Moscow's countermeasures.

He said the administration, "in a bid to achieve superiority," counts on striking Warsaw Pact targets within "eight to 10 minutes."

"But this is an illusory advantage. We have increased the number of our submarines with nuclear missiles aboard off the coasts of the United States. In terms of their characteristics—yield, accuracy, the ability to reach targets on the territory of the United States, and the flight time to targets—Soviet sea-based missiles create a counterbalance equal to that which is posed to us and our allies by the American missiles in Europe," he said.

Ustinov said Soviet tactical missiles in East Germany and Czechoslovakia "have been made operational." Western experts here said the weapons are mostly the new SS22 missile, that has a range of up to 600 miles and is capable of reaching targets in Britain, West Germany, France and Italy.

The marshal said the Soviet Union has lifted its unilateral moratorium on the deployment of SS20 missiles, announced by Leonid Brezhnev in March 1982. According to western figures, there are 243 SS20 missile complexes deployed in the European part of the Soviet Union.

"In case of further growth of the American nuclear missile potential in Europe," Ustinov said, "we will accordingly increase the number of SS20 missiles in the European part of the U.S.S.R."

Ustinov reiterated Moscow's position that the Russians would go back to negotiations only if the West halted the deployment of Pershings and cruise missiles and removed those weapons already in place.

Ustinov ridiculed "Washington leaders" and their hopes that "with the help of new missiles or new plans for the creation of a so-called comprehensive antimissile defense system" they would be able to achieve superiority.

The marshal said the Soviet leadership wanted to bring about a reduction in the level of nuclear arms. But, he said, it was up to Washington to change its policies if negotiations were to be resumed.

SOVIETS SPURN W. GERMAN ARMS APPEAL

(By William Drozdiak)

Moscow, May 21.—Soviet Foreign Minister Andrei Gromyko today spurned a West German appeal to resume nuclear arms negotiations with the United States, insisting that all Pershing II and cruise missiles must first be removed from Western Europe.

Gromyko, in his sixth meeting during the past 12 months with his West German counterpart, repeatedly attacked the United States, accusing its leadership of pursuing a course of confrontation while trying to disrupt military parity between East and West.

During three hours of talks in the Kremlin Gromyko told Hans-Dietrich Genscher that Washington must bear the blame for the dangerous state of East-West relations.

The vehemence of Gromyko's criticism took West German officials by surprise. They said Genscher felt compelled to insert a phrase later into his luncheon address rejecting "these unjust and undeserved reproaches to our American friends."

The tough line adopted by Gromyko, coupled with Moscow's announcement yesterday that it had increased the number of submarine-based missiles located close to American shores, heightened concerns among West German officials.

The West Germans are worried that, with Moscow's apparent bid to prevent President Reagan's reelection through a prolonged chill in the East-West climate, the Soviets are prepared to exert military as well as diplomatic pressure in ways that could damage Bonn's ties with the East Bloc, particularly East Germany.

Genscher stressed that his country wished to see an enhanced dialogue with the Soviet Union on a range of issues, but that a top priority remains an early return to the Geneva talks on medium-range and strategic nuclear weapons between the United States and the Soviet Union.

"The West is ready to continue the negotiations at any time, in any place and without any preconditions," Genscher noted in his luncheon toast.

In his own speech, described as unusually harsh by norms of protocol, Gromyko declared that the failure of the Geneva talks "was programmed in advance, because the United States only wanted to put its missiles in Europe."

Gromyko said there could be "no serious or fruitful nogotiations" until the missiles were removed and the United States abandoned its efforts "to break regional and strategic parity."

Genscher asked Moscow to respond positively to western initiatives in Vienna negotiations on mutual and balanced troop reductions in Central Europe as well as on suggested confidence-building measures to lessen the chances for accidental war at the Stockholm conference on European security.

Gromyko responded by saying that the Warsaw Pact nations had produced a "broad spectrum of constructive proposals," such as a nonaggression pact between the two blocs and the renunciation of first-use of nuclear weapons. But western countries, he added, had refused to take any action.

Gromyko also underscored Moscow's proposals to ban all military weapons in space, but lamented what he called the U.S. determination to build "another potential showcase of war through the militarization of the cosmos."

On other issues, Genscher urged the Soviet Union to provide greater cooperation on human rights. But he refrained from a direct appeal for the release of the Nobel Prize-winning scientist Andrei Sakharov and called instead for sympathy toward the plight of "unknown as well as well-known victims of persecutions.

West German officials said Genscher wanted to take a cautious approach because of the sensitivity of Bonn's demands for the release of about 100,000 Soviet citizens of German origin who are reportedly seeking to emigrate to the West.

[From the Washington Post, May 23, 1984]

CHERNENKO TAKES TOUGH STAND IN TALK WITH GENSCHER

(By Dusko Doder)

Moscow, May 22.—Soviet President Konstantin Chernenko said today the Soviet Union is prepared for "the buildup in military confrontation" with the West. He told West German Foreign Minister Hans-Dietrich Genscher that Moscow "will steadily take adequate countermeasures" against future deployment of U.S. nuclear weapons in Western Europe.

The Soviet leader described Genscher's plea for resumption of Soviet-American arms talks as something that "cannot be regarded as serious" as long as U.S. Pershing II and cruise missiles are deployed in Western Europe.

After his talks with Chernenko and Foreign Minister Andrei Gromyko, Genscher was asked by reporters whether he saw any possibility that Moscow could move away from that position during this year.

"I have seen no indication of that," Genscher replied.

A senior West German diplomat said later that Moscow's tough stance indicated a renewed military and political pressure on Western European nations on the question of missiles.

Genscher's two-day official visit here was said to have been the least productive of the six meetings he has had with Gromyko and other Soviet officials during the past 12 months.

At a news conference held shortly before his departure for Bonn this afternoon, Genscher sought to put a positive light on his meetings with the Soviets by saying that he considered it vitally important for western and eastern leaders to meet regularly and probe their respective positions.

He said he had raised the issue of Soviet dissident Andrei Sakharov, who was reported to have begun a hunger strike on May 2 to press demands for permission for his wife to go to the West for medical treatment.

Genscher refused to discuss the Soviet reply to his appeal for "positive treatment" for Sakharov and his wife, Yelena Bonner, saying publicity could cause damage in such situations.

There was no new information about the Sakharovs, who are confined to Gorki, about 250 miles east of here. The Nobel Peace Prize winner was banished there in 1980 for his dissident political activities. His wife was confined to Gorki recently after the authorities started a criminal investigation against her on charges of anti-Soviet slander.

Genscher said he brought up Sakharov's case in the context of other human rights cases and that he urged the Soviet leaders to allow the couple to emigrate to the West.

Soviet accounts of Genscher's visit suggested that he had received cool treatment.

The official news agency Tass said Genscher's call for the resumption of arms negotiations was accompanied by his reiteration of the known positions on the European missiles, "the stand which is known to have resulted in the breakoff of the Geneva talks."

The only new element disclosed by Genscher was that West Germany now favors talks between the North Atlantic Treaty Organization and the Warsaw Pact on non-use of force, a proposal advanced by the Soviet Bloc countries a year ago and opposed by the Reagan administration.

Political observers here interpreted this slight shift in Bonn's position on the proposed nonaggression pact between the two military alliances as an effort to break the current impasse in East-West relations.

Tass made no mention of it, however. Instead, it quoted Chernenko as holding the Reagan administration entirely responsible for the present stalemate in nuclear arms talks.

Chernenko also listed Soviet proposals that he said were "invariably" rejected by the United States. "They in Washington are not interested in reaching agreement, they only speculate in general terms about the usefulness of a dialogue," he was quoted as saying.

The Soviet leader drew Genscher's attention "to the serious increase of the war danger, particularly after new U.S. first strike missiles appeared in Western Europe, including the territory" of West Germany, Tass said.

It said Chernenko pointed out that "the buildup in military confrontation is not our choice," but he said the Soviet Bloc will not allow the West to achieve military superiority.●

DEZINFORMATSIA

(By request of Senator BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. WALLOP. Mr. President, since entering office President Reagan has called attention to the worldwide Soviet propaganda and disinformation offensive directed at splitting the Atlantic alliance. He has stated on a number of occasions that the Kremlin employs extensive secret intelligence tactics and agents to accomplish this central foreign policy objective. Many have rejected the President's assertions as speculative and without a factual basis.

Recently, two academic specialists published a scholarly study containing detailed documentation of how the Soviets go to great lengths to influence the behavior and actions of the Western allies. Extensive evidence of Soviet efforts over the last 20 years to manipulate American and European politics and media is presented in "Dezinformatsia: Active Measures in Soviet Strategy" by Prof. Richard Shultz, Fletcher School of Law and Diplomacy, and Roy Godson, Georgetown University. The authors explain and illustrate how Moscow employs, coordinates, and continues to expand the use of active measures, which in Soviet parlance means orchestrated propaganda, disinformation, and widespread use of forgeries to back up the official line, plus covert political activity on local and international levels. Former KGB officer Stanislav Levchenko, who defected in 1979, describes the study as "the most complete study of Soviet active measures published in the West."

In effect, Professor Shultz and Godson, in their independently con-

ducted research, have come to the same conclusions as the President. I recommend that my colleagues in the Congress take a close look at "Dezinformatsia," if they want to understand this important part of Soviet global strategy and how it will be employed against the West in the future.

The authors are also members of the Consortium for the Study of Intelligence, a project of the National Strategy Information Center, in which Professor Godson serves as coordinator. Over the last 4 years the Consortium has been instrumental in promoting scholarly and public policy research on the intelligence process to determine U.S. intelligence needs in the 1980's. I commend to your attention their five-volume series on Intelligence Requirements for the 1980's: Elements of Intelligence, Analysis and Estimates, Counterintelligence, Covert Action, and Clandestine Collection. The ideas and propositions set forth and debated in the Consortium series constitute the most comprehensive study of intelligence to appear in the open literature. The volumes are used widely in the war colleges, military academies, CIA, and Defense Intelligence College. As I understand, members of the congressional Intelligence Committees have found the series to be very useful in their work.

I would like to commend the authors for their important study of Soviet active measures, and the Consortium for its extensive contributions to the critical study of intelligence in general and U.S. intelligence requirements in particular.●

ENSIGN KRISTINE HOLDERIED, USN

● Mr. SARBANES. Mr. President, in a world that is increasingly uncertain of its values and direction, it is with great pleasure that I rise to salute the achievements of a young woman from Maryland who has distinguished herself at the U.S. Naval Academy. I take particular joy in congratulating Kristine Holderied as she graduates in Annapolis and accepts her commission as an ensign.

As many of my colleagues are already aware, Kristine was recently recognized as the top graduate of her class of 1,055 at the Academy after serving as deputy brigade commander for the past year. Her command position was one of great responsibility and was greatly competitive. Ensign Kristine Holderied also had the distinction of being selected one of this year's Trident Scholars at the Academy, a specialized, individual research program based upon a midshipman's academic excellence.

Women have only recently been admitted to our Nation's service academies, a fact which makes Ensign Kristine Holderied's accomplishments even more noteworthy. Having nominated Kristine to the Academy 4 years ago, I am especially proud of her record at the Naval Academy. Ensign Holderied had also compiled a distinguished academic record at Glenelg High School, where she also graduated at the top of her class. Her prominence at Annapolis, not only in academics, but in her professional subjects and leadership positions convincingly demonstates the ability of women to hold responsible commands in the military.

I am certain that this is only the first time that Kristine Holderied's name will be before this body. As this fine naval officer enters upon her commissioned service I am proud to join in expressing my respect and best wishes to Kristine and her parents, Mr. and Mrs. Robert Holderied of Woodbine, Md. on this happy day.●

S. 2436, THE CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION ACT

● Mr. CHAFEE. Mr. President, I am pleased to join with Senator GOLDWATER as a cosponsor of S. 2436, legislation to authorize appropriations for the Corporation for Public Broadcasting.

America's independent noncommercial broadcasting system is a valuable national institution providing educational and cultural enrichment for a growing audience. The Corporation for Public Broadcasting is delivering essential operating support and program services for the Nation's 300 public television stations. This legislation will help to assure the continuation of that support.

The high quality of programing provided by public television has resulted in a doubling of its audience in the past decade. The distinguished caliber of educational and children's programs offered on public television remains its most important contribution, accounting for 60 percent of all programing. Children in 32 million households now view public television on a regular basis. Since commercial television offers limited enrichment for our Nation's young people, it is important for us to continue to support the outstanding programing offered on public broadcast stations.

Public television continues to play an important role in classroom instruction, helping to supplement formal study in reading, mathematics, and science for 10 million students each week. Public television has also provided worthwhile programing dealing with teenage alcohol and drug abuse.

Federal support accounts for 26 percent of the funding for public television in the United States. Through the advance-authorization process, public broadcasting stations are able to conduct careful planning of their activities and to develop programing in a stable environment. Funds for the Corporation for Public Broadcasting are currently authorized through fiscal year 1986 at the level of $162 million. S. 2436 would authorize appropriations of $238 million beginning in fiscal year 1987.

This legislation will strengthen the commitment of Congress to assuring the availability of quality educational and cultural television programing. I hope my colleagues will join in supporting its passage.●

A NATIONAL COAL POLICY

● Mr. HUDDLESTON. Mr. President, it is hardly news that our Nation is vulnerable to oil supply interruptions. But increasing tensions in the Persian Gulf have underscored the lesson we should have learned over 10 years ago.

In the course of the last 10 years we, as a nation, have committed ourselves to insuring our economy and our national security against foreign oil dependence only to largely abandon that commitment when the gas lines disappeared and oil prices stabilized. Coal and synthetic fuels were to be our insurance against any future attempts to use oil as a political weapon. But, we lost our sense of urgency and with it we lost valuable time that should have been used more aggressively toward the goal of energy self-sufficiency. It is sadly ironic that at virtually the same time that oil tankers were under attack in the Persian Gulf, the Senate was voting to siphon $2 billion away from the synthetic fuels effort.

The events of recent days should be sufficient proof to even the most ardent doubters that the need for a comprehensive and ambitious energy policy is as great now as it ever was. And, as Kentucky Governor Martha Layne Collins pointed out in a recent address, the keystone of that policy must be a national coal policy. Coal is our Nation's most abundant fuel and it is our most versatile fuel. To fail to use it to its full potential does a serious disservice to our national well-being.

I ask that Governor Collins' remarks be printed in the RECORD.

The remarks follow:

NATION'S VITAL INTEREST IN COAL NOT BEING SERVED

(By Martha Layne Collins)

This nation has a vital interest in coal and that interest is not being fully served. To be secure, this nation must fashion a coherent energy policy. And a keystone of that policy must be a national coal policy.

America must commit itself to achieving energy independence. We must commit ourselves to ensuring that other national policies are consistent with this goal.

America must commit itself to using more coal. We must commit ourselves to developing new coal burning technology.

As a nation, we lack these commitments.

Energy policy, or what passes for energy policy, moves in fits and starts. We react to emergencies. Our nation remains vulnerable to crippling disruptions. Our economy is vulnerable. Our very security is vulnerable.

But we refuse to admit our vulnerability. We refuse to learn from costly mistakes of the past. Instead, we choose to repeat them.

Only crisis motivates us; only crisis focuses our attention on the problem.

Yet national policy shows no real sense of urgency in building toward energy self-sufficiency or even in further cutting our dependence.

We are something like the frightened soldier in the foxhole who vows to turn over a new leaf if he is spared, but who later forgets his temporary repentance once he is safe.

Among our glaring failures is our refusal to invest seriously in the development of new coal burning technologies. And a national energy policy would include a commitment to research and development in this area. Coal can be burned in a more environmentally acceptable manner.

Developing these technologies would not only help our environment, but it would also create new markets for coal, both here and abroad. And it would create markets for the technology itself. With a coherent national coal policy, the nation would pursue these technologies far more avidly.

Under a coherent national coal policy, we would also ensure that other national policies were consistent with our aims of achieving energy independence. In other words, we would formulate other related policies with a view to their effects on energy—and therefore, on the economy.

We would make certain, for example, that any acid rain legislation was compatible with other goals. Some advocates of acid rain legislation, however, seem intent on imposing unrealistically strict standards, no matter how doubtful the evidence of significant benefits for the environment, no matter how much they cost, no matter how much they set us back in energy, and no matter how many people they put out of work.

Additionally, these advocates define too narrowly who the polluters are. They want to point the finger at us, without sharing the responsibility that is theirs.

This is unsound public policy that would sap the economy unnecessarily. The costs in human terms would be devasting.

The coal industry should not be unfairly burdened or required to take on any more of the burden of reducing sulfur oxide emissions than other sources.

Acid rain is a legitimate environmental problem, and no reasonable person can deny that putting sulfur oxide into the atmosphere contributes to acid rain. But emissions come from any sources. While coal-burning electric utilities are the most widely publicized, other sources include industry and automobiles, which are significant sources.

A general reduction of sulfur oxide emissions from all sources would decrease the incidence of acid rain. However, there is no way of determining just how much the incidence would be cut. Until we determine these things, we would be spending far too much for too little benefit if we enact far more stringent standards.

This problem will not be solved in one fell swoop. The resources are not available. The economy could not sustain the effort.

We are making admirable progress in reducing emissions. Clean air legislation is working. Ultimately, our success in reducing emissions rests with sound policies that encourage a realistic balancing of this nation's various pressing interests, and this requires a national energy policy.

Putting together a national energy policy will require the leadership and cooperation of elected officials, the coal industry, others in the various energy industries and groups such as the American Mining Congress. As Governor of the nation's top coal-producing state, I will do my part.●

IDAHO FOREST MANAGEMENT ACT

● Mr. McCLURE. Mr. President, in Idaho there has been a great deal of public discussion about the Idaho Forest Management Act, sponsored by the Idaho delegation. The legislation would designate 526,064 acres for wilderness management, and allow the Forest Service to manage the remaining roadless areas under general multiple-use guidelines.

Before drafting the legislation, four field hearings were held throughout Idaho last summer—more than in any other State—in order to gather information and garner public opinion. Another hearing was held in Washington, D.C., on April 3, 1984, to gather additional testimony.

There are now calls for additional hearings in Idaho before the legislation will be addressed in the House of Representatives. In a May 12, article by Robert Rose, that appeared in the Spokane Daily Chronicle, my colleague from Idaho, Senator STEVE SYMMS, points out that many communities in Idaho are suffering because forest management legislation has yet to be passed into law. I also believe that it is important to resolve this issue as soon as possible. Mr. President, I ask that this article be printed in full in the RECORD.

The article follows:

[From the Spokane Daily Chronicle, May 12, 1984]

SYMMS BLASTS EVANS

(By Robert L. Rose)

WASHINGTON.—Sen. Steve Symms, R-Idaho, said Friday that Gov. John Evans "has made a terrible mistake" in urging new hearings be held in the state on wilderness legislation.

"He came here carrying water for the Sierra Club. He should have kept his nose out of it," Symms said, "It's an absolute outrage."

Evans, a Democrat, came to Washington, D.C., last week to ask Rep. John Seiberling, D-Ohio, to review the Idaho congressional delegation's agreement to add "only" 526,064 acres to the state's designated wilderness.

"We've had hearings, hearings, hearings," Symms said. "Evans is setting the stage to get this thing delayed. It could be thrown over into next year.

"That means sawmill workers in Idaho will be out of work by the summer of '85 and '86. This really upsets me."

Symms said Evans had testified at least in one of the five in-state hearings held by Sen. Jim McClure, R-Idaho, chairman of the Energy and Natural Resources Committee, on wilderness legislation.

He's testified. His point of view is not being ignored. We know what it is. Everybody in the state knows," Symms said.

Only last week, McClure was being praised on all sides for striking an agreement on technical wilderness bill language with Seiberling, chairman of the House subcommittee on public lands, after years of head-to-head confrontation.

The agreement appeared to make way for clearing a 20-year backlog of wilderness legislation in a dozen states, including Washington and Idaho.

In McClure's office, a spokesman said the senator would not be distrubed if Seiberling went back to Idaho to take a look, with a few other House members, but would be unhappy if he called local hearings.

McClure has said any delay in this process is going to hurt the people of several Idaho communities, according to his staff.

Symms said more Idaho hearings could delay approval of the bill in the Senate, which msust pass it soon to give the House and conference committees July, August and September to work out any differences.

"Otherwise the bill will be dead this year," he said.

Washington state Republicans have said the only chance to get a bill through the White House is now, before the election, because President Reagan has indicated he opposes adding any more acres to the nation's wilderness areas.

Symms said the Idaho congressional delegation has come under fire from "preservationists" for introducing the "long overdue forest-management legislation."

"They want you to ignore the fact that Idaho already has more wilderness land than any other state except Alaska," he said. "And the Idaho delegation's bill adds 526,064 roadless acres to the National Wilderness Preservation System.

"If being 'anti-wilderness' is thinking that 4.3 million acres, almost 20 percent of the National Forest land in Idaho, is enough, then I must plead guilty," he said.

Symms said he often disagreed with the late Sen. Frank Church, D-Idaho, on many natural resource issues, but "Senator Church knew how much was enough."

Symms quoted Church's testimony before the House Interior Committee on the River of No Return Wilderness bill in 1979:

"I think this proposal represents the last large addition to the wilderness system in Idaho, and in a sense completes what the Wilderness Act first contemplated, namely that the various primitive areas would be the core of a future wilderness system. I do not see any other large tracts that I would favor for wilderness designation."●

BPA'S INFORMED PUBLIC

● Mr. HATFIELD. Mr. President, publications of Federal agencies are often criticized because of their tendency to confuse or persuade rather than to explain issues in an objective manner. "Gobbledygook" has become a common description of Federal prose and terminology.

I am pleased to note that the Bonneville Power Administration has taken seriously the direction contained in the Pacific Northwest Electric Power and Conservation Act to provide information on regional power issues to the

ratepayers of the Northwest. Through issue backgrounders and issue alerts, the public has an excellent opportunity to be informed and involved in decisions which affect the future of the Pacific Northwest. Rather than rationalizing the agency's position on any particular issue, these documents are aimed at providing a sense of the history which has led to the present circumstance and the various options which exist. Perhaps most importantly, they do so in a decidedly unbureaucratic text.

Mr. President, I wish to congratulate BPA Administrator Peter Johnson for this new approach and strongly encourage him to continue it. The cost of the program, which is borne by the region's ratepayers, is well worth the benefit of a better informed public. Moreover, I understand that substantial cost savings have been achieved through a single graphics design. Color is used in selected instances when essential to clarity. I look forward to seeing more of this informative material.●

PERSECUTION OF DR. ANDREI SAKHAROV AND DR. YELENA BONNER

● Mr. LAUTENBERG. Mr. President, I rise to express my deep concern and outrage about the continuing persecution of the noted Soviet physicist Dr. Andrei Sakharov, and his wife, Dr. Yelena Bonner.

Dr. Sakharov is credited with having had the foresight and vision, decades ago, to question the role of nuclear weaponry in the modern world; an issue which now challenges the leaders of most nations. Dr. Sakharov's love for peace and humanity has transcended political barriers. The world recognized his contributions when in 1975 it awarded him the esteemed Nobel Peace Prize.

It is disheartening that recent years have witnessed the political isolation and exile of a man who at one time was so revered by the Soviets that he became the youngest man ever nominated to the U.S.S.R. Academy of Sciences.

The strength of Dr. Sakharov's message is evident in that it persists even now, 4 years after his forced exile to the closed city of Gorky. Unable to adequately snuff out global concern and sympathy for Dr. Sakharov, Soviet authorities have instigated a new campaign, this one aimed against his wife, Dr. Yelena Bonner.

Under the guise of charges of antisocial behavior and defamatory conduct, the Soviets have refused to allow either Dr. Sakharov or his wife to leave the Soviet Union. The most recent consequence of their confinement has resulted in the denial to Dr. Bonner of specialized health care available in the West.

Mr. President, it is incumbent on us as Americans and as legislators to voice opposition to the inhumane treatment accorded the Sakharovs and to call upon the Soviet Union to allow Dr. Bonner access to proper medical attention.

It is especially critical at this time for the Senate to focus attention on Dr. Sakharov and Dr. Bonner. We understand that Dr. Sakharov is nearly 4 weeks into a hunger strike, undertaken in an effort to pressure the Soviets to allow his wife to travel for medical care.

Last week, the Senate unanimously approved a resolution calling upon the Soviet Union to allow Dr. Bonner to leave the country to receive medical treatment.

The continuing plight of Dr. Sakharov and his wife serves as a reminder to the free world of the personal and political repression which remains the core of the Soviet system. Dr. Sakharov, who recently turned 63 years old while hungry and in isolation, and his ailing wife Dr. Bonner, should not stand alone or unrecognized as they struggle for ideals which we, as Americans, proudly cherish.●

THE MX

● Mr. SYMMS. Mr. President, I ask that an editorial entitled "MX and the Aspin Serenade" be printed in the CONGRESSIONAL RECORD. The editorial, which appeared in the May 19, 1984, Washington Post and was written by Congressman JIM COURTER of New Jersey, offers a persuasive discussion of the plight of the MX missile and points out that our continued vacillation on the deployment of this system provides a disincentive for the Soviets to conduct good faith arms control negotiations. Representative COURTER shows that the enemies of the MX are the enemies of effective arms control.

The editorial follows:

MX AND THE ASPIN SERENADE

(By Jim Courter)

This week the House agreed to fund 15 MX missiles in the 1985 defense budget, with funding beginning on April 1 only if the Soviets do not return to the arms talks they abandoned in late 1983. This action was the result of an artful compromise, crafted by Rep. Les Aspin ["How Many MXs?" op-ed, May 16], which salvaged the MX by allowing the House's centrists to support the MX while Aspin serenaded them with a sweet song of arms control.

But the elegant compromise lacked elegant logic. It contradicted its own premise that it would be foolhardy to reward the Soviet Union's refusal to negotiate with unilateral American consessions on the MX. The majority of the House seems to have decided that if we can't have bilateral arms control agreements with the Soviets, we should negotiate among ourselves for unilateral arms control. After President Reagan halved President Carter's request for 200 MX missiles, and after the House Armed Services Committee cut one-fourth of the 40 MXs that Reagan requested for 1985, the House authorized 15 MXs under the new compromise. It is difficult to imagine what incentive the Soviets have to enter serious negotiations if the Congress grants this kind of concession while requiring nothing in return.

Now the Soviets will face a painless dilemma: they can do nothing, and President Reagan may get 15 MXs next year after a six-month delay, or they can return to the table and stop the program dead in its tracks. Rep. Barney Frank was quite accurate when he described this strange arrangement as an unprecedented application of the doctrine of separation of powers.

On the day of the MX vote, The Post pointed out the threat posed by existing and prospective Soviet MX-type missiles. It's bad enough that the House ignored this factor; what's worse is that, in a debate that focused largely on arms control, the House matched this ignorance with a disregard of the recent history of arms control.

The history is an unpleasant one, showing that the arms control "achievements" of the 1970s are considerable failures in practice. On Jan. 23, the administration released a report of seven Soviet violations of all types of arms control agreements. A more thorough study of 25 years of Soviet compliance practices is being kept quite by the administration, reportedly because it convincingly undermines the argument that the Soviets have ever acted in good faith in arms control.

However, even if Soviet violations of the letter of agreements, which received only momentary notice in the House debate, were not clear-cut, it is disturbingly apparent that there has been no Soviet restraint deriving from a spirit of arms control: since SALT II was signed in 1979, the Soviets have increased the number of their ICBM warheads by 75 percent.

By avoiding discussion of these factors, the House can avoid the derivative question of how to engender a new Soviet attitude toward arms control—an attitude of seriousness in negotiation and compliance. The way to do this, of course, is to make it clear that American concessions must be earned and will not be given away by Congress. The House's desire to impose unilateral cuts and delays in the MX program only reinforces the Soviet Union's current perception that its policy of noncompliance with agreements and avoidance of talks will not elicit a significant American response, and will in fact advance Soviet security interests.

Neither business contracts nor arms treaties can survive when they aren't negotiated and observed in good faith. If we don't begin to form our defense policy by seeking to engender good faith on the part of our Soviet negotiation partners, we will neglect the goal of arms control—American security—on which so many hopes are staked.●

AGENT ORANGE BILL HELPS OUR VETERANS

● Mr. SASSER. Mr. President, on Tuesday the Senate passed the Veterans' Dioxin and Radiation Exposure Compensation Standards Act. I was pleased to vote for and cosponsor this measure.

I commend the distinguished chairman of the Senate Veterans' Affairs Committee, Mr. SIMPSON, and the distinguished ranking member, Mr. CRAN-

STON, for their efforts in bringing this legislation to the floor for consideration. I know that they have worked long and hard to fashion a bill that would meet the concerns raised by veterans who suffer from exposure to agent orange and to atomic radiation. Passage of this measure will correct many years of injustice that have resulted from denying servicemen compensation for the injuries they have received from exposure to environmentally hazardous materials.

In the early sixties the Air Force began Operation Ranch Hand for the purpose of defoliating the jungles of South Vietnam in an effort to eliminate cover for the enemy. Over the years that Ranch Hand was carried out, over 6 million acres of land was sprayed with over 107 million pounds of herbicides. Many different types of herbicides were used, but the most widely used was the herbicide agent orange.

Operation Ranch Hand continued until 1970 when the operation was ceased due to a report from the National Cancer Institute which showed that there was a direct correlation between the dioxin in agent orange and cancer in laboratory animals. At about this same time reports of adverse health effects began to show up in the countryside of Vietnam where the spraying had occurred.

These concerns sparked the beginning of numerous studies on the effects of dioxin on human health. Some studies centered around the examination of birth defects and miscarriages such as the New Zealand Applicator Study of 1982 and the Australian Birth Defects Study of 1983. In the area of mortality there has been the Air Force Health Study-Baseline Mortality and several industrial health studies. The Ranch Hand Study released earlier this year studied the relationship of cancer to exposure to agent orange. These studies and other research generally indicates that exposure to dioxin may be related to birth defects such as cleft palate. Additionally, these studies seem to indicate that exposure to dioxin is related to the diseases of chloracne and porphyria cutanea tarda.

The work that has been done so far is very commendable. But further study should continue. That is why the current agent orange study being undertaken by the Center for Disease Control is a welcome step. That study will examine nearly 18,000 veterans and their families. While the study is still several years away from completion, its results may substantially increase the body of scientific knowledge about the effects of exposure to agent orange.

In my State of Tennessee, there are currently 588 veterans who have filed claims relating to their exposure to agent orange. Many of these veterans have reported symptoms that are common to exposure: nervousness, dizziness, blackouts, rashes covering most of the body, joint pain, loss of memory, skin irritations, insomnia, enlarged internal organs, swelling, stiffening of joints, chest pain, blurred vision, depression, and impotency. Of even greater concern is the fact that agent orange exposure is passed along to their children who suffer from a higher rate of abnormal birth defects.

The recent settlement in New York court of the class action suit by Vietnam veterans against several chemical companies will provide some relief to my constituents and to the nearly 20,000 other veterans who have claimed medical problems from exposure. Its settlement is just one more stepping stone leading to the action the Senate took in passing S. 1651 on Tuesday.

As a cosponsor to S. 1651, I supported passsage because it provides compensation to veterans who can show relationship between agent orange exposure and their medical problems. The bill also provides for judicial review of the administrator's decisions, which is a concept that I have long supported.

The second part of S. 1651 provides for the presumption of service-connected compensation for veterans exposed to radiation prior to July 1, 1946.

There are nearly 250,000 veterans who have at one time or another participated in atmospheric testing of atomic weapons from 1945 through 1962. These tests range from the atolls of the South Pacific to the sands of Nevada.

The problems of atomic veterans have been many, but there have been very few studies on the effects of radiation exposure on these veterans. The tables that were to be prepared earlier this year by the National Institute of Health that would establish standards of judgment are not yet ready. Additionally, many of the records that would locate veterans who were involved in atmospheric tests are incomplete and in many cases have been destroyed.

Of the nearly 250,000 atomic veterans only a little over 3,000 have filed claims, a mere 1 percent of the affected population. Then, for those veterans who have filed claims, only 1 percent have received compensation.

Clearly there is a need to act in this area. There is a need to establish standards whereby each veteran filing a claim for radiation exposure can be judged fairly. At the present time, there is no rational standard. This legislation is a step in the right direction in assuring that a rigorous, but fair, standard will be created.

I have a special concern about the problems of radiation exposure since one of the most famous atomic veterans, John Smitherman, was a resident of my home State of Tennessee.

Let me share at this moment with the Senate some special words for John Smitherman. John was a witness to an atmospheric atomic test in the Bikini Atoll in the South Pacific in 1946. Shortly after this test John's ship sailed into the very spot of the test-site. Then after several hours of work, he and his colleagues swam in the water recently contaminated by atomic radiation. At no time did Navy officials give any warnings about the health hazards in the atoll.

Years later he would develop a terrible cancer that caused him to lose two legs and the use of one hand.

Even though there was evidence from expert medical examinations, the Veterans' Administration remained adamant in its refusal to declare John's disease service connected. John made seven appeals and each time he was denied.

His frustration at Government inaction led John to become active in the Atomic Veterans of America of which he later became President. During the last years of his life his efforts were concentrated in seeing that affected veterans received the compensation they deserved.

But John did not live to see this bill considered in the Senate. He died this past September. However, passage of this bill will mean that John's efforts have not been in vain.

Mr. President, veterans like John Smitherman have proudly served their country. Therefore, we should not turn our backs on them when they call upon us for assistance. We should provide these veterans every reasonable opportunity to receive the compensation they deserve by enacting S. 1651.

In conclusion, Mr. President, veterans suffering from the problems of agent orange and atomic radiation have waited long enough for the Government to respond; therefore, I urge expeditious conference action in enacting this agent orange bill.●

BALTIC FREEDOM DAY

● Mr. LAUTENBERG. Mr. President, I rise to express my concern for the courageous people of Lithuania, Latvia, and Estonia and to lend my support for declaring June 14, 1984, Baltic Freedom Day.

The once independent Baltic States were forcibly taken over by the Soviet Union in 1940. Terrorized by the regime of Joseph Stalin, the people of Lithuania, Latvia, and Estonia were denied basic religious and social freedoms. In order to eliminate dissent, the Soviet Union deported over 600,000 people of the Baltic States from their homeland to gulags in Siberia and elsewhere. Due to the harsh and inhuman treatment by the Soviet

Union, many of them perished. Those that survived were forced to carry on an oppressed existence designed to compromise their heritage.

To the Baltic people it became all too clear that they were on their own. They had either to strengthen themselves to resist Soviet domination or to accept the tenets of the oppressive Soviet Government. Fortunately many of the Lithuanian, Latvian, and Estonian people have chosen to exert the strength and determination needed to maintain their birthright. Having been exterminated, deported, exiled, and enslaved, by every Soviet regime since Stalin, the people have paid a high price for the loss of freedom.

While professing otherwise, the Soviet Union has done everything in its power to eliminate the heritage and freedom of these people. Having violated both the United Nations Universal Declaration on Human Rights and the Helsinki Final Act, the Soviet Union in no way intends to allow self-determination on the part of the Baltic people.

Mr. President, I lend my support for proclaiming June 14, 1984, Baltic Freedom Day to express to the Soviet Union our outrage at the continuing oppression imposed by its Government and to provide some support to the people of Lithuania, Latvia, and Estonia and their struggle for self-determination and freedom.●

REMARKS OF SENATOR ERNEST F. HOLLINGS, COLLEGE OF CHARLESTON

● Mr. RIEGLE. Mr. President, on May 13, 1984, Senator HOLLINGS delivered a commencement address at the College of Charleston, in Charleston, S.C. In that address, Senator HOLLINGS spoke with his usual eloquence on a subject of great concern to our generation and to all generations that will follow, that is the need for all of us to be involved in the political process, and the fact that our future is dependent on our success in maintaining and expanding our relations with other countries.

Senator HOLLINGS cogently states our responsibility to assist other nations to develop a strong middle class in the Third World. In this way, we can effectively combat the false attraction that Marxist ideologies may hold, and in this way, democracy may be able to flourish throughout the world.

I commend this address to the Senate, and know that we can all agree with Senator HOLLINGS that our Nation's youth, and especially those now in college, are the leaders of tomorrow, and we must understand that education and students are the best means to enhance democratic ideals in all people. I ask that Senator HOLLINGS' address be placed in the RECORD at this point.

The address follows:

COMMENCEMENT ADDRESS OF SENATOR ERNEST F. HOLLINGS, AT COLLEGE OF CHARLESTON, CHARLESTON, S.C.

My fellow students of the Class of '84. I address you as fellow students for so long as you remain a student—and continue to learn—you will continue to live.

This is a proud moment for me. To receive a degree from the oldest and the most venerable municipal college in America is honor enough. My brother and son Michael graduated here, and later my brother Robert was on the faculty. More importantly, my wife Peatsy, who graduated here, thinks this is not just the oldest municipal college but the only college. Since I got out of The Citadel, she feels that today I am just now receiving a college degree!

Betty Griffith, the outgoing President of the alumni, admonishes me to admonish you to participate. A free democracy and the important elements of our society depend on a full participation. Elihu Root, the Secretary of State for Teddy Roosevelt, said that "Politics is the practical art of self-government and in order to have self-government, someone must attend to it." Talking along, he concluded with the cogent observation "The principal ground for reproach against any American citizen should be that he is not a politician." So our society depends upon your individual participation be it big or small. And our freedom as a nation depends upon America's participation in the community of nations.

Located in this port city, the College has always enjoyed an international flavor. I remember years back when your Professor of Spanish, Jose Gallardo, was called by Puerto Rico to set up the educational system. The College of Charleston has always looked out on the world to understand America and to understand America's role.

The world we view today has changed in the last two decades.

Twenty years ago, the commencement speaker would have highlighted America's friends and allies. We had them in abundance then. But today those who stick with us through thick and thin are fewer than the fingers on one hand.

Twenty years ago, the commencement speaker would have spoken glowingly of America's military might. No nation even came close to us then. But in the seventies we let our military decline while the Soviets built and in some cases surpassed us.

Twenty years ago, the commencement speaker would pay tribute to America's commitment, our willingness as heralded by John F. Kennedy, to pay any price, bear any burden, meet any hardship to assure the survival and the success of liberty. Today that commitment is doubted. Our European allies no longer believe we will go nuclear and commit suicide for their defense. What began in Vietnam continued in Lebanon. This country doesn't see its commitments through, much less make them wisely. And the political heirs of Jack Kennedy tell us there are no hardships to be met, no burdens to be borne.

Twenty years ago, the commencement speaker would boast of the economic power of America. Today we stand as a debtor nation. Two hundred billion dollar budget deficits and one hundred billion dollar trade deficits wreak havoc. Competing nations started a trade war about 20 years ago using their governments as a principal weapon. The battlefield is covered with government subsidies, government full employment policies, government financing, government procurement, government licensing, government inspection practices, government monetary policies. It is no longer free enterprise in international trade but government-to-government enterprise. We are blind. We refuse to participate, sitting up in the grandstand crying "Free Trade, protectionism," fearful that we may start a trade war while down on the field the war is in the fourth quarter. We're exporting our jobs faster than we can create them.

Isolationism rears its ugly head. Today the idea is disinvolvement, the mood is disengagement. Somehow, America is considered the hostile power. It is our failure to negotiate, our not wanting peace which threatens the world. We seem on the one hand oblivious to the competition of communism with capitalism the world around. On the other hand, those who realize the threat unfortunately are the ones so certain that it can only be met militarily.

We must disenthrall ourselves. Disenthrall from the idea we can safely withdraw from contesting Communism's advance. Communism has a promise too—a tortured, twisted vision of what the future can be. And communism's promise will be reality unless America rises to the competition.

We must disenthrall ourselves of the notion that freedom can be bought or that people can be frightened into freedom by gunboat diplomacy. There is a limit to the pocketbook. In the nuclear age—there is a limit to the use of military power.

We must disenthrall ourselves from the notion that the front-line of the battle is on the border of Nicaragua. Rather it is in the stomachs of the hungry and the hearts and minds of those who hope for freedom.

We must disenthrall ourselves of the conceit that other nations will share the burdens of America's role in the world. Wealth and power conferred leadership once. But harsh reality confirms for America what Lord Palmerston said of England: We have no permanent friends. We have only permanent interests.

And we must disenthrall from the expectation of immediately—expecting immediate results and instant gratification from what we do. Instant gratification is the virus of our age. Instant coffee, instant banking, instant 7 o'clock news have spoiled us to expect instant results. No one takes aspirin anymore—everyone wants "instant aspirin." In foreign policy, there is no instant aspirin. There is no aspirin. Rather there must be patience and perseverance.

Our immediate problem and opportunity is Latin America. Its proximity tells us it cannot be ignored. Caracas, Venezuela is 300 miles closer to Charleston than it is to New Orleans; San Salvador is closer to Charleston than Los Angeles. In the Western Hemisphere there are 275 million people living above the Rio Grande—a border of 2,000 miles—and 358 million people below. But the population explosion below the Rio Grande assures 500 million by the year 2000. Five hundred million people, living on an average income of $40 a week. For millions, the only escape from poverty will be escape to the United States, legally or illegally. The pressure on our economy, our jobs, our welfare will be overwhelming.

The pressure on our foreign policy is now. The Soviet with their surrogate Castro are better students of human deprivation. They know how to exploit destitution, denial and despair. They have moved affirmatively in Nicaragua and now are spreading violence and terrorism to El Salvador, Honduras,

Costa Rica and Guatemala. And they are moving through Mexico with subversion and disinformation. President Carter first and President Reagan today have committed the United States to helping El Salvador maintain its freedom. But the problem is not a simple one. A society of two extremes, of "haves" and "have-nots", is no more than a society of oppressors and oppressed. The middle class is a direct threat to oppressors. Any signs of its development are immediately snuffed out through death squads. So we are not only fighting the Marxists who would exploit the oppressed; we are fighting the controlling government that we are trying to help at the same time. Thus, our assistance is conditioned upon the elimination of death squads so that the middle class can develop; conditioned for land reform so that the peasants can have a stake in the land; and conditioned upon a military training itself to render security to the country. Our government's demands for a cessation of death squads, for land reform, and for bringing to justice the murderers of the nuns must be pursued. With proper assistance, and training the message must be clear that the El Salvadorans must maintain their own freedom. This is for the short-term—and one country. What about the long-term: Is our policy just to prevent a burning fuse from reaching Mexico? What about Mexico and the rest of Central and South America?

We know from hard experience in Latin America that a Marshall Plan is not workable. Every President from Eisenhower with Operation Pan America to Kennedy with the Alianza para el Progreso to Reagan with the Caribbean Basin initiative has failed. The billions of dollars in economic aid do not get through to the hungry poor. The aid goes to the military government, it goes to military protection, food assistance is sold on the black market and too much finds its way into numbered Swiss bank accounts. It is like delivering lettuce by way of a rabbit. One study of the Alliance for Progress from 1961 to 1969 revealed that of the $18.4 billion we sent to Latin American governments, a net of only $4.8 billion actually reached the people.

There is a better way. It calls for an understanding of free peoples and free governments. It was Aristotle who said, "The best political community is formed by citizens of the middle class." Thackeray later in England stated, "It is to the middle class we must look for the safety of England." And Matthew Arnold observing the success of these United States wrote 100 years ago, "That which in England we call the middle class is in America virtually the nation." Our American Republic has sustained 200 years because of a strong middle class. If history teaches anything, it teaches us that people must have a stake in their society for there to be stability in their government. We call it a vested interest or a piece of the action. If an impoverished people can see no chance of ever owning land or owning a business or having a job or making a living or feeding their children—if they can receive no assistance from their government, what course is there but to revolt. The Soviets understand this. Castro knows this. Ronald Reagan says the enemy in Latin America is communism. Walter Mondale and Gary Hart say it is poverty. I say the enemy is our own stupidity. There will be no springtime of freedom in Latin America until a middle class begins to grow and thrive. The alternative to a growing middle class is growing chaos. The issue today is not whether we Americanize a war but whether we Americanize the peace in Latin America.

We met this challenge at the end of World War II in the Far East. We furnished not only Marshall aid. More particularly we developed a middle class by providing American markets. We used the tools of American capitalism and entrepreneurship in Japan, Korea, Taiwan and Singapore. We gave them access to our markets so they could develop their economies and develop their own middle class. And as nations they are freedom-loving, capitalistic competitive societies. But we cannot develop a foreign policy for Latin America until we develop a trade policy for the United States. Canada and Australia have understood this early with a globalization of trade quotas by setting limits on imported goods. We cannot further emburden unemployment in the United States at this time with new markets. But a reallocation of markets under globalization will do the trick. We need to establish a Western Hemisphere Common Market, or a trade community in the Western Hemisphere, so that we can give freedom a chance in Central and South America. If we took 10 percent of the textiles presently allocated to the Peoples Republic of China, 20 percent of the shoes from Korea, 30 percent of the electronics from Taiwan, 40 percent of the hand tools from Japan and reallocated that to Latin America, we could begin to build the middle classes. Then we can have free elections. Then can we have democracy.

Last year at this time, there were 26,000 high school graduates in the Republic of Panama—and no place to go, no chance at a job, no chance in business. The student exchange to the United States has been practically closed down. But these students can go to Patrice Lumumba University in Moscow or the Isle of Pines in Cuba. And they are going by the thousands. The best and the brightest from all of Latin America are now in attendance at these communist colleges. Five years from now, we will be crying of Panama—"What is the matter—we gave them the canal, now they don't seem to like us." You see, the front line of the battle is right on the college campus. We need to reinstitute our student exchange program. We need to take our business school graduates into the Peace Corps and send them to Latin America to help set up businesses for the guaranteed markets. This should be coordinated by the best and brightest of our Ambassadors speaking the native language. And economic assistance should be conditioned on the right of business to obtain capital and the right of labor to organize and represent itself.

The commitment must be long-term. No more of this hit and run driving. This will be putting America's best foot forward—a long-term foreign policy which we can all support which we can all be proud. The great embarrassment is that the Soviet and Castro are using student exchanges, teachers and doctors—the tools of freedom—while we in the United States are using gunboat diplomacy. We should have more confidence in the tools of freedom to develop democracy.

The tremendous needs of Latin America are precisely those that our strengths can address—if we can be patient and persevere. America and the road to freedom is not the hundred yard dash—but the endurance contest. The values which sustain our American system of free enterprise and democratic institutions—the values of hard work and thrift and shared sacrifice—are the values to create a new dawn for our southern neighbors. Here we take those economic and educational values for granted. Probably none of this college's Class of '84 will end up in poverty. Hopefully some will strike it rich. But already you are rich in the wealth of knowledge and virtue which have been instilled by family and nourished by a caring faculty here at the College. The values taught here call for commitment and involvment. This is the role of these United States today. This has been the role of the United States since its beginning. Adlai Stevenson noted this when he stated:

"Let us remember that when men had few rights anywhere, the Declaration of Independence proclaimed the earth-shaking doctrine of the Rights of Man everywhere. As its words went winging around the world, those whose eyes were cast down and those whose backs were bent cupped their ears to listen. They raised their eyes and by ever so little straightened their backs bit by bit. And as, two centuries ago, we were the hope of the world's oppressed, we remain their hope today."

Good luck—God speed.●

DR. JOHN A. DILLON, JR., ORGANIZATIONAL POLICY AND DEVELOPMENT

● Mr. HUDDLESTON. Mr. President, over the years there have been many proposals for controlling or eliminating the nuclear arms race between the super powers. Agreements have been reached and ratified, yet the escalation of nuclear weapons continues. At the present, negotiations are suspended. Yet the threat of a nuclear holocaust continues to grow. Of all proposals and ideas on the subject none has provided the ultimate solution. But the quest must go on.

To keep our attention on this important issue—maybe the most important issue of all—I ask my colleagues to peruse the ideas of a fellow Kentuckian, with the hope that they will stimulate further thoughts on this pressing problem.

Dr. John A. Dillon, Jr., is professor of physics and systems science, and director of the Systems Science Institute at the University of Louisville. A fellow of the American Physical Society, he is a member of the board of directors of the Society for General Systems Research, and of Oak Ridge Associate Universities. He is the author of numerous publications in physics and systems science, including Foundations of General Systems Theory. He and his institute colleagues have been very active in research related to organizational effectiveness.

Dr. Dillon presented his remarks at the Second Conference on Organizational Policy and Development at the University of Louisville, April 1984. As Dr. Dillon said, the proposals may be outlandish, but even more so is the status quo.

Mr. President, I ask that the remarks of Dr. Dillon be printed in the RECORD.

The remarks follow:

ESCALATION DYNAMICS AND SCIENTIFIC IMPLICATIONS

(John A. Dillon, Jr.)

ABSTRACT

Recent studies of the effects of all-out nuclear warfare on the atmosphere and on biological species suggest that the present balance of terror somehow has to be realistically dealt with. A review is presented of both the field of escalation dynamics and the scientific implications of an ultimate escalation. Some of the issues in monitoring the situation from a crisis warning point of view are discussed. Finally, some outlandish proposals for extricating mankind from the nightmarish dilemma are laid out. Outlandish they may be, but even more so is the status quo.

INTRODUCTION

The threat of nuclear warfare has been with us now for four decades. By some remarkable combination of great good fortune and plain common sense, the two superpowers have not as yet engaged in all-out warfare. The basic problem is easy to state but extremely complex to detail (Singer, 1984). Basically what one has are two social systems in which each finds much in the other's system to be incompatible with its own.

Each side sees the other as striving to do it in, and each distrusts with a passion the motives and intentions of the other. To protect what each sees as its vital interests, both parties have been engaged in a steady improvement of both conventional and nuclear warfare capabilities to a point at which a worst-case calamity could result in massive deleterious impacts on the future of all living systems.

A delicate balance of terror has resulted in which the most dangerous moments occur when one side perceives, rightly or wrongly, that the other side is about to achieve a strategic superiority. To the maintenance of the wherewithal necessary to avoid falling behind in either numbers or technical capabilities of weapons, each side continues to devote inordinate amounts of its national wealth, energy, and talent.

It seems so clear that everyone should stand up and say, "Stop—we've had enough of this madness!" Unfortunately, the complexity of the situation is so great that simplistic solutions are not only not going to work, they may even exacerbate the problem. What may be needed is a total restructuring of the world-wide social systems framework, with a shift away from individual value systems toward those of a global nature. But those things do not happen overnight. What we need is time and serious, detailed investigation by all concerned as to how we might extricate ourselves safely from the nightmarish dilemma.

In the sections which follow, some elements of the problem are examined and some possible, halting, steps which might be taken are explored.

ESCALATION DYNAMICS

Richard Smoke (1983) has recently presented an overview of the concept of extended deterrence. He defines that concept as:

"In its general meaning, extended deterrence refers to the extension of American protection over friends and allies, who are assumed otherwise to have insufficient capability to deter Soviet attack. Within this general meaning, the term has been used in several different senses, and some of the issues extended deterrence raises can be rapidly illuminated by distinguishing them. The goal is not to establish a single 'right' definition but to clarify the ideas which extended deterrence has embraced, and to note some differing presuppositions and implications of each."

Extended deterrence has evolved during the past four decades on the basis of which side enjoyed, at the moment, a particular technical superiority. In the 1950s, when the Soviet Union enjoyed a conventional force superiority and the United States a nuclear weapons delivery superiority, the United States set forth its Massive Strategic Retaliation policy, whereby a Soviet attack of any sort would be answered by nuclear attacks on cities in the Soviet Union. Eventually both sides have developed the same capability.

While maintaining the first capability, the United States then developed on the basis of superior small weapons know-how, a Theatre Nuclear Strike capability. According to that scenario, a massive conventional attack would be answered with limited-range nuclear weapons directed against the attacking forces and their lines of communications. Next was developed a Flexible Response Capability based primarily on the use of conventional forces employing superior weapons systems, particularly electronic control and communications systems, which would allow a smaller force to successfully counter a much larger attacking force.

Finally, there was developed the Limited Nuclear Strike scenario whereby a few selected cities in the opposing homeland might be attacked in response to an attack by the other side; the underlying philosophy being to demonstrate our determination to pursue matters to an ultimate conclusion.

When confronted with a massive conventional attack on our territory or that of our allies, the first option would be to try to stem the tide through the use of conventional forces which though fewer in number than the aggressors, would be considered to be technologically superior. Should that defensive effort be in serious danger, the activity could be escalated to the next level, namely the use of tactical nuclear weapons.

The escalation path then follows naturally to the Limited Nuclear Option whereby selected sites in the enemy's homeland would be targeted for attack. From there the path leads to the all-out, Massive Strategic Retaliation option.

The problem is that each side has capabilities in the latter option to devastate, several times over, the entire social system of the other. Recent detailed evaluations by scientists of impeccable credentials present a doleful picture of the result of an escalation to the Massive Strategic Retaliation option by both sides (Turco et al., 1983; Ehrlich et al., 1983). The effects of increasing the radiation levels throughout the Northern Hemisphere as a result of the very many nuclear explosions possible has been understood for many years. To that must now be added the "Nuclear Winter" concept in which the dust, smoke, and nuclear debris projected into the atmosphere could very well reduce the incident solar energy and alter the physics and chemistry of the atmosphere so as to create, suddenly, a completely hostile climate. Moreover, recent observations of dust storms on the planet Mars suggest that a crossover into the Southern Hemisphere might be much more rapid than previously thought possible. Thus, the effects might well be truly global in extent.

For the first time, man may have in his power the capability of ending or seriously downgrading all human life on the planet. The policy implications are quite clear; some way of introducing a negative factor into the equations of escalation dynamics is imperative.

THE INFORMATION PROCESS

While work hopefully proceeds at very high levels toward reducing the possibilities of a disastrous nuclear confrontation, it is worthwhile to understand some of the processes by which the nature of events which might serve as trigger mechanisms are observed, analyzed, and reacted to by major governments. With, on both sides, the missiles targeted, the submarines on station, and the aircraft on standby, the information processes constitute a critical element in the whole scheme.

Phillips and Rimkumas (1983) have produced a book, Crisis Warning—The Perception Behavior Interface, in which they present the results of a three year study on the crisis management process as employed in the United States. Undoubtedly, something similar in process exists in the Soviet Union, although it is very probable that an analysis in the open literature does not yet exist.

Several agencies (in the United States these are the State department, the Department of Defense, and the Central Intelligence Agency) are charged with the monitoring of the external environment, assessing the gravity of particular events, and making recommendations to the executive branch for action.

One can assume that a very sophisticated data collection system, using both overt and covert means, is employed by each agency. Each agency must then, in terms of its particular perspective, make interpretations as to:

One, the degree of threat,

Two, the decision time available, and

Three, the degrees of uncertainty involved.

The idea of particular perspective is quite important. Each agency has an image of what constitutes a threat. The State Department views things from legalistic, traditional, and political viewpoints particularly as they might affect regional balances, alliances, and destabilization. The CIA's focus is on a long-term plus and minus balance sheet regarding U.S. interests in terms of those technical, political, or economic trends which might alter the status quo. On the other hand, the Defense Department's interests are largely on potential threats to U.S. personnel, properties, and positions.

These interpretations, based on the extant images, are fed along the line to the executive branch. The various agencies are obviously in contact with each other, and sometimes the evaluation of threat in one agency can move upward that of another. One of the important recommendations of the Phillips-Rimkumas study is related to the need for multiple images in order for the national command authority to have a more accurate interpretation of the implication of the signals from the outer environment. Particularly, economic and political interpretations ought to play more important roles.

Dillon and Ragade (1984) and Ruscoe (1984) have discussed the essential difference between data gathering and wisdom.

There is a hierarchy of values in which data is necessary for information, information for knowledge, and knowledge for wisdom (which is the effective and intelligent application of knowledge). In something as critical as the crisis warning process described, it is absolutely necessary that the quality aspects be emphasized at all stages of the process. Are the images really adequate? Are they truly evaluated independently? What is left out? How are the data assimilated and the information elements associated? These are all questions which must constantly be asked and to which wise answers must be given. As Phillips and Rimkumas have concluded,

"We believe that the research reported on here shows that both the perceptual basis for making decisions about threat in the international environment and the mechanisms for shifting U.S.-foreign policy operations from a day-to-day mode of operating to a crisis mode of operating require far more than the development of multiple computer message handling capacities. It requires a shift in the way that information is interpreted. This shift begins a better understanding of images held by the men and women who make up the foreign policy bureaucracy."

SOME OUTLANDISH PROPOSALS

It is obvious that the political, economic, military, and psychological factors are such that an abrupt change in world-wide societal patterns is not going to take place voluntarily in any short period of time. The frightening thing is that such change could be brought about within a few hours by a nuclear exchange. We are going to be stuck with the nuclear warfare threat for many years to come, all pious hopes to the contrary! What we must do is find ways to decrease the total number of offensive weapons on both sides so that each can still threaten the other with terrible damage but where the total effect of an all-out war would not be sufficient to terminate all of life. In other words, let's take a proximate approach to survival while still searching for the long-term ultimate solutions.

The literature on nuclear disarmament contains a litany of approaches that have been advanced and shot down by one or both sides, usually on the basis of the seeming impossibility of verifying compliance with whatever agreements might be made. J. David Singer's works (1962, 1984) are good places to find a documentary of forlorn hopes.

Since almost anything which the mind of man can conceive will immediately be faced with all sorts of reasons why it can't possibly work, let us advance a series of absolutely outlandish and interrelated proposals. The justification for such action is that the status quo is more outlandish than the human mind should be able to accept.

OUTLANDISH PROJECT A

Let the two sides sit down and designate an equal number of important, populous cities on each side which will be designated as hostage cities. Each will be targeted for destruction by the other side to an extent exceeding the reasonable expectations of any defensive system to forestall. Probably 10:1 is a good ratio; enough of the 10 will always get through. All other offensive weapons will be removed and destroyed under the supervision of teams made up of an equal number of experts from both sides. Let's not get any outsiders into this process—they will always be looked on with suspicion. Perhaps 75% of the offensive weapons on both sides could thus be eliminated. Fifty percent of the dollars and rubles thus saved will be transferred from the national defense budgets to areas of concern in raising the quality of life—medical research and treatment, housing and transportation, education, the arts, the humanities, and cleaning up the environment.

OUTLANDISH PROJECT B

The other half of the saved money would be designated for a joint project, namely devising the best possible defense system including the star wars type of thing. Defensive arrangements have always been looked on as a threat by both of the parties. That is why the Antiballistic Missile Treaty of 1972 was signed. We have a pretty good idea as to who are the people on the other side working in the antinuclear warfare area and vice versa.

Rather than each side going it alone, think of the real possibilities if the experts from both camps worked together. Combining the budgets would more than double the outputs. It might just be possible, between those two great nations, to come up with an extremely effective defense system which would negate the effectiveness of the rest of the offensive weapons. This would be very helpful should some third parties decide to get into the nuclear warfare game and might even be of benefit should large stray meteorites approach the earth as they have on numerous occasions over the eons.

This proposal can be seen as a radical modification of that advanced by Weinberg and Barkenbus (1984). That was the so-called "defense protected-build-down" (DPB) in which, as each side separately increased its defensive abilities, a proportional number of offensive weapons would be eliminated.

Getting back to the present proposal, in the meantime, to protect the interests of both sides, the designated cities would be held hostage. Any adventurous undertaking by one side in violation of the agreed on images of what constituted aggression could be answered with destruction of the hostage cities. Should the reader find the thought revolting, think of the fact that most of life is now held hostage!

CONCLUSIONS

The proposals advanced are obviously ludicrous. So did Edison assume Westinghouse's proposals to be using alternating current and underground electrical conduits (Edison, 1889). One can also recall Admiral Leahy's advice to President Truman in 1945 about the feasibility of an atom bomb (Truman, 1955).

"That is the biggest fool thing we have ever done . . . The bomb will never go off, and I speak as an expert in explosives."

History contains all sorts of forgotten statements as to why things could not be done which were eventually done. In this case, the stakes are very high, in fact higher than they've ever been. Why not give it a try?●

REQUEST FOR VIEWS CONCERNING A CABLE COPYRIGHT ISSUE

● Mr. MATHIAS. Mr. President, not long ago the Copyright Office released a set of interim regulations relating to the payments that cable television operators must make when they retransmit television signals picked up from distant cities. One aspect of those rules has generated considerable controversy: The provisions relating to when cable operators can substitute a new signal for a so-called grandfathered signal.

The Copyright Office issued its interim regulations just a few weeks ago, on April 16, 1984, and only this week the Subcommittee on Patents, Copyrights, and Trademarks was alerted to the concerns of private parties about the provision about grandfathered signals. I would like to invite any Senators who may be interested in this issue, and any private parties as well, to get in touch with the subcommittee to let us know of any concerns they may have about this issue. Once we have heard from all concerned, we can determine whether or not it will be appropriate to hold a hearing on this issue, and whether legislative action would be desirable.●

SCLERODERMA AWARENESS WEEK

● Mr. DURENBERGER. Mr. President, scleroderma is a crippling and incurable disease affecting over 30,000 persons in the United States. Its name is derived form the Greek words "sclero" (hard) and "derma" (skin). It is commonly known as the disease that turns people to stone.

Scleroderma is classified as a connective tissue disease that is thought to result from the narrowing of the blood vessels. There is no known cause or cure. Physicians can only treat the symptoms in order to make the patient more comfortable.

The Twin Cities area chapter of the United Scleroderma Foundation provides many services and educational programs for victims of scleroderma and their families throughout the State of Minnesota. I would like, Mr. President, to announce that June 10 to 17, 1984, will be Scleroderma Awareness Week in my home State of Minnesota. I would like to urge all Americans to acquaint themselves with the symptoms of this disease and support research efforts so that a cure may be found.●

THOMAS NASTASI, JR., SELECTED MAN OF THE YEAR BY THE COOLEY'S ANEMIA FOUNDATION

● Mr. D'AMATO. Mr. President, I would like today to call to the attention of my colleagues that Thomas Nastasi, Jr., has been selected as man of the year by the Cooley's Anemia Foundation for his humanitarianism and outstanding support on behalf of children afflicted with this dreaded disease. For the past several years, Mr. Nastasi has been involved in raising funds for research, patient care, and education for the foundation. In addi-

tion, he has supported the opening of a new treatment center at the Stony Brook University Hospital and has helped promote blood drives, which are the life support systems for the Cooley's anemia patients. Mr. Nastasi has given of his time, talents, and efforts to fight this disease. His hard work and dedication toward finding a cure for this life-stealing disease is a beacon for all Americans to give of themselves to those who are less fortunate.

Born in upstate New York and raised in Queens, Tom is one of five children. Immediately after serving in the Armed Forces in Korea, Tom pursued his education at Farmingdale University and Mechanics Institute of New York. During this time he and his twin brother Frank established the construction firm which Tom is now president. Throughout his career he has held various offices in several contractors' associations, as well as being a management trustee for a number of labor organizations. Today, Tom and his wife, Althea, are soon to celebrate their 30th wedding anniversary. They are the proud parents of seven children, ranging in age from 12 to 26, their youngest being twin girls. It is no wonder that Tom cares so much for the well-being of all children.

Tom's commitment to young people finds partial fulfillment to his volunteer work with the CYO, Little League, and the fathers club of LaSalle Military Academy. In spite of his heavy schedule, Tom does not miss the opportunity to personally write four underprivileged children he sponsors in India, Mexico, and the United States. He truly cares.

No matter where the Cooley's Anemia Foundation has asked Tom to go—whether it was the Blood Bank of New Jersey, the blood drive in Smithtown, or visits with children as they were being transfused at Mercy Hospital—Tom has made the time available. The Cooley's Anemia Foundation, on behalf of the children and their parents, has decided, therefore, to thank Tom for his dedication, service, and devotion to their cause. In so doing they are proud to name Thomas Nastasi, Jr., the 1984 man of the year.

Mr. President, I wish to echo these sentiments. I also wish to bring the work of this fine, caring, and giving individual to the attention of my colleagues. Tom Nastasi is truly a "man of all years."

Thank you, Mr. President.●

NATIONAL TOURISM WEEK

● Mr. WARNER. Mr. President, next week is National Tourism Week, a time designated by Congress and the President for Americans to focus on the contributions the U.S. travel and tourism industry has made and continues to make toward the economic and social betterment of people everywhere.

As the Senate sponsor of the resolution authorizing this proclamation, the Senator from Virginia wishes to take this opportunity to thank all of the Senators who joined in cosponsoring this measure. I am especially grateful to the cochairman of the Senate Tourism Caucus, the Senator from Tennessee (Mr. SASSER), and the 73 other members of the Senate Tourism Caucus for their support of this resolution and America's travel and tourism industry.

When I first became involved with this vital segment of our Nation's economy during my tenure as administrator of America's bicentennial, it was a challenge for me and for others in our Government to identify and define the breadth and scope of the travel and tourism industry.

Later, during my first 2 years in the Senate, Senator SASSER, Senator INOUYE, Senator Cannon, myself, and others worked for what seemed to be an eternity in an effort to reach a usable, reasonable definition of the industry as a means to write and enact a national tourism policy.

Now, after more than a decade of involvement with the industry and its myriad components, I am heartened to witness the first officially proclaimed period of national recognition of the travel and tourism industry.

During National Tourism Week, individual entrepreneurs, trade associations, local travel promotion organizations, and State travel commissions will be hosting special events to highlight the contributions of and draw public attention to the importance of this ever present, highly valued, but often overlooked segment of our economy.

In my own State of Virginia, the city of Richmond kicks off National Tourism Week on Sunday with a major festival entitled, "The Riches of Richmond."

During the week, the Virginia Travel Commission will be highlighting the industry on road signs and billboards, and Governor Robb has signed a proclamation, similar to the one signed by the President, declaring Virginia's Tourism Week.

Throughout the Commonwealth, in Washington County, in Clark County, in Roanoke City, in Wise County, and in the city of Alexandria similar proclamations have been issued and tent-card displays have been printed and distributed for use in hotels, restaurants, tourism centers, and other locations frequented by travelers everywhere in Virginia.

Nationally, the American Society of Travel Agents has created—and experienced overwhelming success with—its special National Tourism Week souvenir buttons, and has published a guide for travelers which appears in today's issue of the Nation's newspaper, USA Today.

The National Tour Association has designed an NTW poster, which the industry is ordering by the thousands, for display on buildings, buses, and at special events.

The American Recreation Coalition will be hosting a conference in Jackson Hole, Wyo., June 2-3, highlighting the relationship between recreation and international marketing.

The American Bus Association will host their Las Vegas bus show, entitled "Bus Bash" on May 27 and, at the same time, will be kicking off their National Tourism Week traveling billboard program.

The American Hotel & Motel Association is developing a 20-page insert on tourism for the May 27 issue of Time magazine. In addition, Time transportation display posters will be set up in major locations throughout the country. AH&MA is putting together a series of radio, public service announcements, and one TV spot saluting tourism for national distribution. They will also provide a runner in the Olympic torch relay, May 27, under the tourism banner.

In addition to publishing a new U.S. travel industry factbook to be distributed to the Nation's media, the Travel Industry of America will devote the central panel of the information booth at its 16th annual Discover America International pow-wow, May 12-16, to National Tourism Week. They will be previewing their new video cassette, "Be There Now."

Southeast Tourism Society has secured more than 250 billboards in four States for use in an awareness campaign to acquaint our citizens with the importance of travel to our economy. Southeast Tourism Society is planning a gala hoedown May 22 on the Mall in Washington, D.C. They will feature bands, singers, and an assortment of regional entertainment and cuisine, and invite Members of Congress to join them

The National Campground Owners' Association, the Recreation Vehicle Industry Association, and the Recreation Vehicle Dealers' Association have joined together to sponsor a special campaign, entitled "Go Camping America." They are making available to their members a special press kit containing information on the benefits of camping, information sources, and a special logo reproduction proof.

Westpark Hotels of Virginia will be hosting a National Tourism Week reception at their Tyson's Corner Hotel for travel agents, tour operators, airline officials, and Government representatives.

Another hotel taking the lead in NTW is the Hotel Washington in the Nation's Capital. They will be displaying a NTW banner and have arranged

for a special NTW message on the closed-circuit television information station that serves guests in downtown Washington, D.C., hotels.

The new J. W. Marriott hotel in Washington, D.C., will aslo be sporting a NTW banner the week of May 27, and will host the visiting journalists during their D.C. stay.

Mr. President, again the Senator from Virginia wishes to express his gratitude to all Senators who helped make the observation of National Tourism Week possible.

I am also grateful to Under Secretary of Commerce Donna Tuttle for the enthusiasm and efficiency she has brought to her post as the head of the U.S. Travel and Tourism Administration, and for all of the successful coordination she and her staff have achieved to make this week a true national observation.

Finally, Mr. President, on behalf of the 4.6 million Americans who are employed in America's travel and tourism industry, I express my gratitude to the current administration for the support and recognition it has brought to the industry, and ask that portions of President Reagan's comments from that February 1, 1984, White House ceremony, at which the National Tourism Week proclamation was signed, be printed in the RECORD for all to consider.

The comments follow:

NATIONAL TOURISM WEEK, 1984: REMARKS ON SIGNING PROCLAMATION 5149 FEBRUARY 1, 1984

Welcome to the White House. We're here for the signing of a proclamation that is designating the week beginning May 27th as National Tourism Week. I know I speak for the entire travel and tourism industry in thanking the Congressional Tourism Caucus for making this event possible.

Travel and tourism is an important industry. It's good business, and it's great for America. And to borrow a line, your industry does it in the old-fashioned way, through the hard work of thousands of small businesses. All Americans benefit from your profession, your calling. As our second largest retail industry, employing 4½ million workers, you help bring about one of the best economic recoveries in decades. And it's going to get even better.

Now, today, a working family earns $25,000 and has $1,500 more in purchasing power than if tax and inflation rates were still at their 1980 levels. Real after-tax income has increased—well, last year, increased by 5 percent. With inflation down from 13.5 to 3.2 percent and the prime rate cut almost in half, more and more Americans can afford to travel and see our beautiful country.

But I think the importance of travel and tourism goes far beyond economics. Experiencing American firsthand provides outstanding educational opportunities and is terrific for personal growth. And where in the world is there a more beautiful place to travel, have fun, and relax than in America? From our mountains, our beaches, our islands and plains, to our great cities and towns, and to God's wonderful creations like the Grant Canyon, the redwoods of California, the Great Smoky Mountains, America is "America the Beautiful."

It's no wonder that travel and tourism is such a growth industry. You're just selling the best product in the world. You make it possible for people all over the world to discover America. Foreign visitors may come for the Olympics or a World's Fair, a business conference, or just to enjoy our Nation's beauty and its heritage. Whatever they do, or whenever they do, they come to know our values and vision, our system of government, and they can feel the spirit of a good, and great country.

There's no better way to promote international understanding and good will, or to explain freedom and democracy, than through travel and tourism. And when you celebrate National Tourism Week, I hope you'll celebrate your achievements and use the opportunity to highlight what you are doing for America.

And now I'm going to sign that proclamation, and when I do, I'm also recognizing that travel and tourism is a partnership—a partnership of industry, labor, the Congress, and the administration. And we'll do everything we can to keep it that way. There's no doubt that the golden days of tourism are yet to come.●

THE POPE AND PRESIDENT MEETING

● Mr. MURKOWSKI. Mr. President, I take this opportunity to thank the many people who made the recent visit to Fairbanks by both President Reagan and Pope John Paul II a great success.

I begin my comments by thanking the majority leader for his words of advice about hosting a President in one's home.

When I first learned the President would be coming to Fairbanks, I offered the White House the use of my new home, recently constructed on the Chena River. I was very honored that they accepted my invitation, and was pleased to offer the use of my old residence, which is adjacent to the new, for White House staff and security personnel. When the White House also asked for the use of my next-door neighbors' home, the neighbors were gracious enough to be delighted at the opportunity to share in the excitement of the visit.

Senator BAKER was quite correct in pointing out that while a Presidential visit is not easy to prepare for, it is a distinct honor. For me, the events of the last week represented an extraordinary opportunity. I was able not only to enjoy our President's visit to my home, but I was also able to witness the historic meeting of President Reagan and Pope John Paul II.

The meeting of these two great world leaders marked a number of firsts. When President Reagan landed in Fairbanks Tuesday morning, he stepped on American soil for the first time since he left for his trip to China. During the festivities later in the day, he gave Fairbanks residents their own special Presidential briefing on his experiences there.

In Alaska, we were particularly pleased to hear about the trade progress with our Asian neighbors. For years, we have understood the potential of Pacific Rim markets and the benefits Americans can enjoy through close cooperation with our Asian friends. President Reagan recognized this by telling us that it was fitting that he return home in Alaska because it is the only State equidistant to Asia and Washington, D.C., and is a westward facing State and further a State which had given him strong support in his election.

Our firsts' continued on Wednesday with the arrival of Pope John Paul II. The meeting between the President and the Pope was historic because it was the first time they greeted one another in the United States and was the first time they met since the United States and the Vatican reestablished diplomatic relations.

Prior to their private discussions, President Reagan and Pope John Paul II addressed a Fairbanks crowd. The President said that the Pontiff shares with the United States a commitment to human rights and dignity and Pope John Paul II declared that Alaska and the remainder of the United States hold a special place in his thoughts and prayers.

The eyes of the world were on Fairbanks for this historic occasion, and Fairbanks fared well. Long hours of hard work went into the making of this successful event.

I thank a few of the hundreds of people who made this event possible. First, I would like to thank the Alaskan volunteers from the city and borough who donated hours and days to insuring a smooth visit which could be shared by as many people as possible. Special thanks should go to the committees in Fairbanks which coordinated both the President's and the Pope's visit.

Volunteers at the University of Alaska-Fairbanks, including both students and staff, spent many hours putting together a highly successful rally honoring President Reagan.

Here in Washington, White House staff members Jim Baker and Michael Deaver should be thanked for their efforts in working with the Alaska delegation and Alaskans to arrange the President's schedule.

Thanks are also in order for the Government officials who honored us with their presence. I would like to give special recognition to Secretary of Interior William Clark and National Security Advisor William MacFarlane, my special guests at a reception Tuesday evening. On Wednesday, Fairbanks welcomed Secretary of State George Shultz and Ambassador William Wilson, our new envoy to the Holy See.

Vatican officials also gave of their time and efforts to insure a successful meeting. Bishop Robert Whelan of Fairbanks was a gracious host to His Holiness. I also thank the Secretary of State for the Vatican, Agostino Cardinal Casaroli.

Most of all, however, I express my deep appreciation, and that of my State's, to President Ronald Reagan and Pope John Paul II for choosing Fairbanks as the site for their momentous meeting.

After this historic visit Fairbanks can handle anything.●

MEDICARE PAYMENT SYSTEM

● Mr. DURENBERGER. Mr. President, the new medicare prospective payment system is now in its eighth month of a 3-year phase-in and the effects are already being felt across the country. The new payment system has changed the economic incentives for health care providers. Hospitals are responding to the new payment system with increased efficiency in service delivery and new competitive management strategies.

I submit for the RECORD, Mr. President, a copy of the following article that was written by Lewis Cope and appeared in the Minneapolis Star and Tribune on May 21, 1984. This article describes a new study on hospital occupancy rates completed by the Metropolitan Health Planning Board.

In the Twin Cities, hospitals have shown a record low occupancy rate for 1983. The low occupancy rates are a result of the new attention to price in the metropolitan area—attention on the part of Federal Government, State government, health maintenance organizations, and PPO's.

It is important to note that the low occupancy rates in this case are not a signal that additional regulation is needed to close down excess hospital capacity, but rather that price competition is achieving its desired results.

The article follows:

[From the Minneapolis Star Tribune, May 21, 1984]

1983 HOSPITAL OCCUPANCY RATE DECLINED TO NEW LOW, METRO AREA STUDY FINDS

(By Lewis Cope)

One of every three hospital beds was empty, on average, in the Twin Cities area last year, a new study by the Metropolitan Health Planning Board shows.

"We have a lot more hospital beds than we need, and we're paying a price for it," said Paul Riddle, associate director of the health board. He noted that the overhead costs of maintaining excess bed capacity must be passed on to patients.

Last year's average occupancy rate was 65.2 percent, a record low and a decline from 69.4 percent the year before. Only one of the 34 area hospitals, United in St. Paul, had an average occupancy rate above 80 percent, which health planners say should be the goal.

Early figures for 1984 indicate the low rate is continuing.

"We've got too many hospitals, that's what the data say," Riddle said. Hospital mergers could result in "fewer but stronger" institutions, he said.

But David Aquilina, vice president of the Council of Community Hospitals, said the occupancy rate can be a "phantom statistic" as a measure of efficiency.

Health insurers, including health maintenance organizations and administrators of the federal Medicare program for the elderly, have been pushing doctors and hospitals to shorten hospital stays as a way to reduce costly hospitalization, Aquilina noted. Empty beds are evidence this is working, he said.

It used to be that the longer a patient's hospital stay and the more lab tests done, the more the hospital was paid by Medicare. Now the hospital gets a flat fee that is based on diagnosis and unaffected by how long the patient is hospitalized.

"When you are being paid on this case by case basis. It's good news (for the hospital's financial managers) that the length of stay is down," Aquilina said. Because senior citizens account for about a third of hospitals' business, the Medicare change is having a big effect, he said.

The health board's report indicates that a drop in average length of hospital stay is responsible for three-fifths of the overall decline in hospital occupancy, while a drop in admissions is responsible for the rest.

HMOs encourage not only shorter hospital stays, but use of outpatient surgery and other types of programs that reduce the need for hospitalization. More than 30 percent of Twin Cities area residents are now in HMOs.

Aquilina said that hospitals are doing a good job adjusting nursing and other staff levels to the reduced number of patients, and thus are controlling costs. (In fact, the complaint by registered nurses in their current labor negotiation with Twin Cities hospitals is that many have been forced into part-time work.)

"Hospitals also are getting in other lines of business" to use their excess space, Aquilina said. "They are diversifying into home health care, outpatient surgery and special programs," such as classes for the public on how to lose weight and stop smoking," Aquilina said.

The health board's Riddle agreed that doctors and hospitals are doing a good job of reducing the need for costly hospitalization, but that the low average occupancy rates indicate that hospitals said their patients aren't reaping the full potential in cost saving.

"If there was a smaller, tighter hospital system, then the hospitals (that survived) could do so at most efficient levels," he said. They could spread their costs for administration, lighting, heating, labs, specialized equipment, operating rooms and other fixed costs among more patients, he said.

Riddle noted that the 65.2 per cent average occupancy rate is based on "operational" beds. The calculations exclude some beds that are not in use, but for which the hospitals have licenses. The occupancy rate of licensed beds was 56.4 percent last year.

No hospital is expected to operate at 100 percent occupancy. There must be some empty beds for emergencies, and there are day to day variables in the number of people who become ill or have babies.

But as a general rule, health planners have said hospitals should average between 80 and 90 percent occupancy—except for children's hospitals, which may average somewhat lower.

By the 80-percent standard, the Twin Cities area now has a surplus of more than 1,600 beds—equivalent to five medium-size hospitals.

One new hospital has opened this year. The Fairview Ridges Hospital in the fast-growing Burnsville area has 150 beds. This is small compared to the total of 9,032 beds operated by other Twin Cities area hospitals. But it is the first new hospital (not counting replacement facilities) in about 20 years, Riddle said.

At the same time, two hospitals—Lutheran Deaconess and Golden Valley Health Center—have decided to become specialized facilities for mental health and chemical dependency treatment.

Total hospital spending figures for last year still are being compiled. Hospitals' average daily "charges" are no longer a good index, since HMOs and Blue Cross have negotiated discounted payment schedules with hospitals and Medicare has its new way of paying.

Even total hospital spending won't tell the full story, unless a way is found to add the costs of the increased doctor's office and other outpatient care that is being used to reduce hospitalization.

Three years ago, the health board mounted a major effort to pressure some hospitals to close. The board pulled back after strong protests from several vulnerable hospitals. Riddle said the board doesn't plan to offer such specific proposals again.

Walter McClure, head of the Center for Policy Studies and a leading HMO advocate in the Twin Cities area, said he fears that the bed surplus will encourage rate regulation, which he called the wrong medicine. The developing competitive marketplace will use the bed surplus to force the closing of hospitals that should shut down, he said.

"I predict that over the next two to five years, we will have fewer hospitals, but stronger ones," he said.●

LOCAL GOVERNMENT ANTITRUST ACT

● Mr. D'AMATO. Mr. President, today I am pleased to join as a cosponsor of S. 1578, the Local Government Antitrust Act. I commend the distinguished chairman of the Judiciary Committee for introducing this legislation to clarify antitrust laws as they apply to local government.

In 1943, the Supreme Court ruled that the Sherman Antitrust Act does not apply to "state action." In 1978, however, the Supreme Court held that local governments are not necessarily protected by State action exception. In the Lafayette case that year, a plurality of the Supreme Court ruled that a city's actions are subject to antitrust liability unless the anti-competitive action at issue was authorized by the state pursuant to a state policy of displacing competition with regulation.

It was the Supreme Court's further 1982 ruling, in Community Communications Co., Inc. against the City of Boulder, that cities and other local government entities are subject to the antitrust laws, however, which gave special urgency to the need for legislation such as the Local Government

Antitrust Act. In the 1982 Boulder case, the Supreme Court held that the grant of home rule powers to a municipality does not constitute a grant of immunity.

In effect, the Supreme Court has stated that whether there is or is not State action and antitrust immunity for our local governments must be determined on a case-by-case basis. The harm resulting from the absence of a clear standard was well stated by the noted attorney Milton Handler when he testified before the Senate Committee on the Judiciary on April 24, 1984:

It is only through the expensive and time consuming process of litigation that one can find out whether a specific state regulatory statute has clearly articulated its purpose to replace competition with regulation or monopoly public service and provides for active supervision by the state. There are at least 38,000 local governments with authority to enact regulations or to engage in a variety of business activities. No one has ever calculated the number of local ordinances that might be exposed to antitrust attack.

S. 1578 protects local governments from antitrust laws only to the extent that State governments are protected. It is important to note that local governments must satisfy two tests under this legislation: The activity must be otherwise valid under State law and it must not involve a sale of goods or services in competition with private persons.

As a former local government official, I am very sensitive to what the present confused state of the law is doing to our municipalities. Local governments simply require a clear statement of the rules of the game so that they can serve the public without fear of antitrust lawsuits and the ominous threat that they may be liable for treble damages.

S. 1578 does not cover all activities of municipal governments. It does not answer every question about the applicability of the antitrust laws to our cities and towns. It is, however, a responsible first step. I urge my colleagues to give it their full support.●

TOURISM IS GOOD IN RHODE ISLAND

● Mr. PELL. Mr. President, next week is National Tourism Week and, to mark the occasion, I would like to encourage tourists to look into visiting or vacationing in Rhode Island—the Ocean State.

Tourism is important to Rhode Island and overnight visitors spend about $300 million annually—more than 3 percent of the gross State product—in Rhode Island.

Rhode Island has many natural advantages for tourism, including miles of beaches, our beautiful Narragansett Bay, numerous historic sites and communities, like my hometown of Newport, that offer excellent dining, good entertainment, and fascinating tours.

Rhode Islanders also know how to welcome tourists, a fact that is evidenced by an increase in visitors and vacationers who come to our State to relax and enjoy our hospitality.

There are more than an estimated 10,000 seasonal dwelling units in Rhode Island and the income from seasonal home occupants may range from about $100 million to more than $190 million.

Rhode Island also has about 144 hotels and motels with a total of nearly 6,000 units. Overnight visitors to these units bring an estimated $138 million to $200 million to our economy each year.

There also are about 950 transient docking slips in Rhode Island and the total "dock-nights" per year are about 124,000—producing an estimated revenue in excess of $40 million annually.

Visiting boaters spend an estimated $14.8 million to $26.2 million annually and, during exceptionally busy years like the 1983 America's Cup season, visiting boaters bring more than an estimated $50 million into our economy.

There also are about 3,500 campsites in Rhode Island and, with an estimated 328,300 "campsight-nights," these facilities generate about $2 million for lodging and a total of about $8.6 million in spending.

Although there appear to be no up-to-date estimates of the total employment generated by Rhode Island's tourist industry, estimates for 1980 are that about 10,400 jobs were generated by the industry in that year.

All of these figures reflect the importance of tourism to Rhode Island. They also reflect the importance of Rhode Island to tourists, an importance that I am happy to say appears to be increasing each year.

Next week, during National Tourism Week, is a good time to plan a first visit or a return visit to enjoy the attractions of Rhode Island.●

DOMESTIC CONTENT LEGISLATION

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD.)

● Mr. HAWKINS. Mr. President, I want to make clear my strong opposition to the so-called domestic content legislation being considered in the Senate Commerce Committee today.

We have seen countless pieces of trade legislation introduced during this session of Congress addressing everything from imported steel to wine imports, but none has attracted more attention than has S. 707, the so-called domestic content legislation. Why the attention—because this is patently bad legislation.

This legislation would not create U.S. manufacturing jobs—it would be a net job loser.

This legislation would not assure the American consumer a wide choice of quality automobiles—it would however, make "sticker shock" a chronic consumer ailment.

This legislation would not even assure the U.S. auto industry the financial health that its proponents promise. It would provide our automakers with some major planning headaches now that they are working with the very foreign manufacturers targeted by this legislation to produce more autos in this country.

This legislation is bad for this country, and especially bad for my home State of Florida. According to U.S. Department of Commerce figures, passage of S. 707 would eventually mean the loss of some 3,500 jobs in Jacksonville, Fla., and another 500 at Tampa, Fla. These figures represent only the tip of the iceberg. They describe only the direct job losses that would occur as a result of reduced auto imports. Foreign government retaliation will result in the loss of many more jobs in other economic sectors.

Florida is a State deeply involved in both import and export trade. It is the natural crossroads for trade in goods and services between the United States and the Caribbean, Latin and South America, and Africa. Trade with the Far East is also remarkably strong.

We have fought hard and have won some battles to obtain the right to sell our citrus and other agricultural goods around the world. We intend to keep on fighting to open up new export markets around the world. Our goals are consistent with the current administration's bullish attitude on export expansion. I am not excited about seeing the protectionist pendulum swing back and cut off opportunities that have come about only through hard-nosed marketing and negotiations.

I urge my colleagues, Mr. President, to look closely at this domestic content legislation and other bills like it before we consider tarnishing this country's free trade reputation by passing a blatantly protectionist piece of legislation.

This past Monday, the Journal of Commerce published an insightful editorial that made some good points against the domestic content legislation. I ask that this editorial be printed in the RECORD.

The editorial follows:

PUT AWAY CONTENT BILL

Like an annoying weed that just keeps popping up, domestic-content legislation is sprouting again, its growth richly fertilized this time by the rhetoric of electioneering.

Indiscriminately vote-hungry politicos in the House of Representatives have passed domestic-content legislation twice in the last year and a half. This time the debate is

taking place in the Senate Commerce Committee.

The panel's chairman, Sen. Bob Packwood, R-Ore., has predicted the bill will be defeated. But the auto lobby is powerful, and some senators are scurrying to cater to it.

Aimed primarily at Japan, whose automakers' fuel-efficient, relatively inexpensive products have badly battered Detroit, the bill would require most foreign-made autos sold in the United States to contain a percentage of U.S.-made parts.

The measure would be phased in, and the specific percentage would depend on the number of autos each foreign producer sells in America. At the top end after four years, the autos of foreign makes who sell 900,000 or more cars per year here would each be 90 percent U.S.-made.

The content bill this is blatantly protectionist and anticonsumer. It seeks artificial intervention in the market by the government to protect an industry that is unwilling or unable to compete effectively with its foreign counterparts—an industry in which the average worker already makes some $22 an hour in wages and benefits, $9 an hour more than the average American industrial worker, and in which top executives just made national news by giving themselves seven-digit bonuses.

On record in support of the bill, understandably if not wisely, is the United Auto Workers union. On record against it are groups that range from the American Association of Exporters and Importers to the American Association of Retired Persons and include the Chamber of Commerce of the United States, the American Association of Port Authorities, the National Corn Growers Association, the National Automobile Dealers Association and the National Retail Merchants Association.

The spectrum is wide because the bill's effects would be broad. Yes, it would protect autoworkers' jobs. But it also would cost the jobs of many more workers in other industris as the flow of imported autos slowed to a trickle and as Japan and other nations retaliated with curbs against U.S. exports.

Bearing the brunt of it all, of course, would be the ever-suffering American consumers, who would face higher prices all around and possibly lose their jobs at the same time.

The content bill isn't worth it. Tell your senators to put it away for good. And don't let them forget that the election-year axe can swing both ways.●

EPA MAY FINALLY BE MAKING SENSE ON OCEAN INCINERATION

● Mr. BIDEN. Mr. President, for some time now, I have been keeping watch over the Environmental Protection Agency's program on incineration of toxic chemicals at sea in ocean going vessels. In large part my interest in this matter has stemmed from EPA's proposal—faulty and misguided in my view—to designate a site off the Delaware coast as a burn site in the North Atlantic. But as a part of that same program, the EPA has had under serious consideration permits for actual burning of toxic chemicals in the Gulf of Mexico.

Both with respect to the site off of Delaware and the site in the Gulf of Mexico, I have taken the position—and communicated my views to EPA Administrator Ruckelshaus and to the Assistant Administrator for Water, Jack Ravan, that any further action on ocean incineration should be put off until EPA does three things: First, provides the public with adequate and unassailable proof of the environmental safety of the incineration process and that there is no chance that a catastrophic spill could occur; second, establishes strict regulations for the process of ocean incineration and puts them out for public comment, technical review and hearing; and third, performs a comprehensive assessment of the need for ocean incineration in relation to other methods of disposal.

Mr. President, as an article that appears in today's Washington Post describes, Assistant Administrator Ravan has decided not to allow any additional permits on ocean incineration, even for test purposes, until the full measure of environmental, technical and legal analysis has been completed. Although this comes as very good news to many people in the Gulf of Mexico area, I think it is also good news for the people in the mid-Atlantic, and especially Delaware. It shows that our message is finally getting through to the people who have been pushing this program at EPA. Very simply, I think the people of my State and the people in Louisiana and Texas have made it very clear that they will not accept an approach to the disposal of toxic chemicals, which can best be described as "out of sight, out of mind," but will require EPA to assure the public's safety.

Mr. President, I will continue to keep a close eye on the progress of this program at EPA and inform the Senate. I ask that the article from the Washington Post appear in the RECORD at this point.

The article follows:

[From the Washington Post, May 24, 1984]

EPA REFUSES TO ISSUE PERMITS FOR GULF SHIPS TO BURN WASTE

(By Cass Peterson)

The Environmental Protection Agency refused yesterday to allow additional burning of hazardous waste off the Gulf of Mexico, rejecting a senior official's advice that the burning be continued under special research permits.

Meanwhile, Steven Schatzow, the water programs official who recommended that the permits be granted, has been transferred from his job amid allegations that the proposed permits were tailored to meet the needs of Chemical Waste Management Inc., which has been seeking licenses for two incinerator ships for more than three years.

Schatzow denied that there was anything but "coincidence" in his transfer to the pesticide division, which was announced in staff meetings Tuesday. He said he had been interested in undertaking a new job at the agency for more than a year "and I'm very excited about it."

But other EPA officials said privately that the transfer was prompted by continuing controversy over the Chemical Waste Management permits, which flared up during congressional investigations of the agency last spring and are under investigation again in Alabama.

"It was just a political thing," said one EPA official. "They were just getting him out of the way for his own good."

In a special report issued last month, Schatzow recommended that the EPA deny formal operating permits to the firm, but that it allow the company to burn 3.3 million gallons of waste laden with polychlorinated biphenyls (PCBs) and DDT under research permits.

According to EPA and Alabama officials, the amount and type of wastes coincided with wastes already stored at Chemical Waste Management's massive landfill near Emele, Ala.

"I'm not saying that was a coincidence," Schatzow said yesterday. "I never said it was."

Yesterday, Assistant EPA Administrator Jack E. Ravan spurned Schatzow's recommendation, saying that the proposed permits "have not been subject to procedures . . . to ensure that all legal, technical and operational issues are addressed."

According to internal agency documents, the DDT appeared to be left over from a shipment that the Defense Department had paid Chemical Waste Management to destroy. The firm had expected to burn the pesticide wastes aboard its ship, the Vulcanus, according to the documents, but was forced to subcontract the job to land-based incinerators when the permits were not approved before the contract deadline expired.

Don Reddicliffe, a company spokesman, said yesterday that the firm had only a "minimal amount" of DDT residue from the Pentagon shipment. But he acknowledged that the research permits "would have been useful in reducing the PCBs in storage at Emelle."

The company has accumulated more than 2.5 million gallons of liquid PCBs at Emelle in anticipation of receiving its ocean-burning licenses, and is now trying to work out an agreement with the EPA on disposing of the stockpile, which became illegal at the end of 1983.

The question of the Vulcanus permits made headlines in early 1983, when it was disclosed that Denver attorney James W. Sanderson, a former aide to then-EPA administrator Anne M. Burford, had met with Burford and other agency officials in an attempt to speed up their approval.

Sanderson, whose law firm represented the waste company, was then under Justice department investigation for potential conflicts of interest posed by his EPA duties and his relationship with the waste firm.

The investigation eventually cleared Sanderson of any wrongdoing, but the issue has remained a sensitive one at the EPA.

The investigation was reopened on another front recently by the state of Alabama, which is probing alleged criminal violations of its hazardous-waste laws by the operators of the Emelle site. The vulcanus permits are a central part of that investigation.

"It is an understatement to say that we are concerned about the relationship between the EPA and this company," said James H. Evans, the Montgomery County district attorney, who has asked that a county grand jury be impaneled to review his evidence.●

HEALTH INSURANCE

● Mr. DURENBERGER. Mr. President, in the past Congress has encouraged employer-provided health insurance programs through the Tax Code. This policy was designed to encourage employers to provide their employees with health insurance protection and it has been remarkably successful. One hundred forty-four million Americans are now covered by employer-based health insurance.

However, our present tax subsidy for employee health insurance coverage has been abused. Many health plans go beyond the function of traditional insurance—to provided protection from unexpected and catastrophic expense—and now pay for minor expenses, routine care, and even modest deductibles and coinsurance. The result is a $23 billion tax subsidy for employer-paid health benefits with few incentives for employers or employees to pay attention to the costs associated with the provision of health care services.

Mr. President, I am quite concerned about this tax expenditure for a subsidy that has the effect of contributing to the rise in our Nations health care costs. Expenditures on health care already take up 10.5 percent of our gross national product. A limit on this subsidy makes good policy sense. We want to encourage individuals to purchase reasonably comprehensive health insurance coverage but why use tax breaks to encourage people to buy more insurance than they need?

I would like to submit for the RECORD, Mr. President, a copy of an article, written by Robert J. Samuelson that appeared in the Washington Post on May 5, 1984. This article presents a good case for the administration's tax cap proposal, S. 640, which I cosponsored last year.

The article follows:

ILLUSIONS IN HEALTH INSURANCE

(By Robert J. Samuelson)

It's one of the durable confusions of American politics that, while everyone deplores rising health costs, any effort to control them collides with cherished beliefs about health care. Consider the administration's proposal for a modest tax on health insurance. It promised to curb both federal deficits and spiraling health costs, two worthy causes. It's going nowhere. Someday we are going to have to confront this stalemate.

The central problem of controlling health costs is imposing economic limits where people think them immoral. Health care is the supreme entitlement: It's due everyone on demand; no expense should be spared. By 1945, sociologist Paul Starr notes, 70 percent of Americans favored public or private medical insurance. Insurers (including Medicare and Medicaid) now pay 69 percent of personal health costs and 88 percent of hospital costs. Americans haven't wanted patients or doctors to be cost-conscious and, unsurprisingly, they aren't.

We have corrupted the insurance concept. Rather than protecting against the unpredictable and catastrophic, insurance now also pays for treatment of the ordinary—allergies, flu, elective surgery. These are expenses that, like leaky roofs, can be expected even if their date of occurrence can't be predicted. For most of us, they are affordable. A prosperous and aging society naturally spends more on health care. So not all the increase in costs (from 4.4 to 10.5 percent of gross national product between 1950 and 1982) reflects our lax medical system.

But much of it does, and the evil of the tax subsidy for insurance is that it hides the burden. Because employer health premiums aren't taxable to individuals—even though they're a form of income—most of us are blissfully unaware of how much health costs and premiums have risen. The extra expenses may make firms less competitive (Chrysler must sell 70,000 cars to pay its health bill), but they're invisible. Taxing premiums as ordinary income would end this insulation. As health costs rise, so would premiums and taxes.

Our overinsured society grew from mistaken assumptions. We felt that demand for health care was independently fixed—occurring when people got sick—and that altruistic hospitals and doctors would not inflate costs. We now know that demand also reflects the availability of doctors and hospitals, technology and the services ordered by doctors. Modern diagnostics and treatment raise costs because they require expensive equipment and hordes of technicians; since 1950, the number of hospital workers per bed has more than tripled.

We also know that the health system responds to economic incentives and is easily commercialized. The more insurance pays for something, the more it will be used. Since 1950, liberal reimbursement of hospital costs has helped increase hospital use from 36 percent to 47 percent of personal-health spending. A vast twilight zone exists between professional ethics and economic self-interest. Batteries of tests may help patients, but they also increase doctors' fees. Less subtly, more medical institutions are profit-making firms feeding on generous cost reimbursement; about 8 percent of hospital beds now belong to private companies.

But recognizing these problems is not dealing with them. The administration's proposal aims to contain rising spending by increasing cost consciousness and competition. How? The assumption is that, if higher insurance premiums raised workers' taxes, firms and workers would be induced to reduce the cost of health policies. One type of less expensive policy would require employees to pay a higher share of their own health bills. Another type of policy would limit workers' out-of-pocket health expenses but would restrict policyholders to designated groups of doctors and hospitals that promise to discount fees.

These changes could transform the medical market. Studies have shown that cost-conscious patients go to doctors and hospitals less often; for most, there has been no significant effect on health. More important, the prospect that many policyholders would select group arrangements means that large groups of doctors and hospitals would compete with one another. The surplus of hospital beds (occupancy is about 70 percent) and the projected 29 percent rise in doctors between 1980 and 1990 could make for some intriguing possibilities.

Can this work? No one knows. One problem is that the administration's proposal is too mild. It would tax only premiums exceeding $2,100 for a family ($840 for an individual). In 1985, this would raise taxes an average of $204 for just 22 percent of workers. The insurance industry, which doesn't want its product taxed, prefers more state regulations. In the end, this is rationing, fees can be held down only so much. Restraining health costs requires reducing how much people use doctors and hospitals.

The worst illusion is thinking that doing nothing will preserve the current system. More likely, cost pressures will change it haphazardly. Last year, Medicare terminated open-ended hospital reimbursement, adopting a complicated system that pays on the basis of diseases. Some big firms are cutting insurance coverage or negotiating directly for lower group rates. Xerox Corp. recently required its workers to pay 20 percent of their hospital and surgery expenses, up to a limit of $4,000 or 4 percent of salary.

These moves may force some efficiencies, but, unless widely imitated, they risk turning one payer's savings into someone else's costs. Doctors and hospitals can recoup by raising fees on other insurers. This cycle, in turn, could deprive more people of all insurance. Perhaps one-tenth to one-seventh of the under-65 population lacks it now; no one knows for sure. But as insurance costs spiral, more small firms will find it prohibitive. Medicaid mainly covers welfare mothers and the disabled.

Economist Jack Meyer sensibly suggests using revenue from taxing health insurance to protect the uninsured. But we are mired in our illusions. No one wants to restrict needed medical care; but neither is all health care a matter of life or death. The existing system is frozen. The insurance companies, unions and big business protect the tax-free status of fringe benefits. Hospitals and doctors resist more regulation. Until most of us see the effects of rising health costs, finding a better mix of ethics and economics will be difficult.●

DRUGS CONTINUE TO FLOW TO THE UNITED STATES

● Mr. BIDEN. Mr. President, as the ranking member of the Judiciary Committee, I have on numerous occasions come to the floor to introduce legislation and ask my colleagues to support legislation that addresses the continuing problem of drug abuse in this country. Today I again want to focus Senators attention on this pernicious problem that is destroying the minds and bodies of so many of our young people.

Latest statistics show that heroin and cocaine availability is up, the number of addicts is increasing, the number of overdose deaths are up and the purity of drugs on the street is higher than it has ever been. Meanwhile cocaine and heroin prices have been dropping and attracting new customers who previously could not afford to get into the market.

In 1980, I spoke on the Senate floor about a report I had written entitled, "The Sicilian Connection." This report documented the distribution process for Southwest Asian heroin from the poppy fields in Pakistan to the processing laboratories in Sicily and then to the streets of America. In my report

I predicted that a wave of purer heroin was about to become available that would be unprecedented in modern time.

We are now suffering the consequence of this heroin supply and coupled with the increased availability of cocaine from South America, our country is becoming besieged with drugs.

The New York Times has devoted a section in their paper for the last 4 days to print a number of stories about the drug problem. The stories cover drug issues like education, enforcement, interdiction, prevention, and rehabilitation. I found them to be an excellent documentation of the current drug problem and the urgency for all levels of government to take immediate action.

At this time I ask that this series of articles be printed in the RECORD.

The articles follow:

DRUG FLOOD ALTERING PATTERNS OF USE

(By Selwyn Raab)

Supplies of illegal heroin and cocaine have grown so plentiful in the New York City area that drug experts see a dissolving of the traditional lines between people who use the two drugs as well as between people who sell them.

Heroin addiction, while still more prevalent among the poor, has recently risen among members of the white middle class, rehabilitation experts say. And cocaine appears to be contributing to the increase. A state study has found that some cocaine abusers have become addicted to heroin after experimenting with that drug to overcome the mental anxieties created by cocaine.

At the same time, cocaine, once the exclusive preserve of wealthy drug users, has become a popular street drug. High-priced cocaine with a purity level as high as 40 percent is still sold for $100 a gram and $1,000 an ounce to affluent users. But for the first time, the drug, with purity levels of 5 to 10 percent, is being widely sold in small units called bags or tins for as little as $10.

Dozens of cocaine and heroin addicts, from all segments of society, from bank executives to admitted shoplifters, described in interviews how with little difficulty they managed to get both drugs. Wealthy cocaine users, whose habits cost more than $50,000 a year, told of using the telephone to arrange direct deliveries to their East Side apartments.

And in the Bronx, a longtime heroin addict who tells of financing his $100-a-day habit by shoplifting and burglaries said that "the dope situation has never been better." He said the recent flood of cocaine at low prices has allowed him to "speedball"—or inject a combination of heroin and cocaine.

Moreover, the difficulties in combating two hard-core drugs have severely strained the police and rehabilitation agencies. And because heroin and cocaine are so much more health-threatening that marijuana, law-enforcement agencies have virtually ceased large-scale investigations into marijuana trafficking, although the drug is openly sold on street corners.

Until several months ago, few dealers handled both heroin and cocaine. But with the surge in illegal use and trafficking in the New York metropolitan area, officials say the two drugs are now being offered together in abundant quantities. New York dealers have coined a name for multiple drug customers—"garbage heads."

GOING INTO DRUG DEALING

"There is so much money to be made that average middle-class people are going into coke and heroin dealing," said Sterling Johnson, Jr., the city's special narcotics prosecutor. "They know the odds are on their side, that most dealers who take care of friends and neighbors don't get caught."

The surge has occurred despite crackdowns by the city's Police Department and Federal authorities against trafficking on the Lower East Side and in Harlem, two of the most notorious areas in the city for narcotics sales. Most officials, including Police Commissioner Benjamin Ward, say that in the wake of the police campaigns many of the dealers have simply moved their operations indoors or to other neighborhoods.

Deaths attributed to narcotics overdoses—mainly heroin—have more than doubled since 1978, to about 500 in the city last year. And the Police Department's last homicide analysis in 1981 estimated that at least 393 slayings in the city, or 24 percent of the total, were drug-related, principally involving heroin or cocaine users and dealers.

"Coke and heroin are probably at an all-time high," said the director of the state's Division of Substance Abuse Services, Julio A. Martinez. "Previously, coke and heroin dealers dealt to different classes of people. Now what you have is a department store—you can get all types of drugs from any one dealer."

Even if they clean up Avenue D, it doesn't matter, the Bronx addict said of the notorious drug-selling on the Lower East Side. "There's always somewhere else—in East Harlem, College Avenue in the Bronx, Bed-Stuy and Williamsburg. They can't stop it. Too many junkies, too much money. Nobody's worried about it."

With the changing patterns of heroin and cocaine use in the New York area have come other significant trends, according to Federal and local law enforcement agents, rehabilitation counselors, drug addicts and former drug addicts, and public and former drug addicts, and public and confidential reports on narcotics problems.

The experts cited these key changes in cocaine abuse:

Use of the drug is rising in the city and the suburbs, according to a study by the state's Substance Abuse Services Division. The study estimated that at least 750,000 of the state's residents have used cocaine, almost double the number in a 1981 survey. About 400,000 people in the state are believed to use cocaine at least once a week.

More patients in drug-treatment programs are citing cocaine as their major problem. Last year, a record number of patients cited cocaine abuse problems when applying for admission to state-financed drug treatment programs. Outside of the city, about 9 percent of the patients who sought help listed cocaine as their major problem, compared with 4 percent in 1981. In the city, the proportion of patients with cocaine rose to 9 percent last year from 6 percent in 1981.

Cocaine is making inroads among low-income populations. For example, a state study found that 26 percent of the residents in the city's single-room occupancy hotels—many of whom are on welfare—are users of cocaine.

As many women as men are using cocaine. Dr. Arnold M. Washton, a psychologist and drug researcher, said a recent survey of cocaine abusers in the metropolitan area had found that about half were women, up from one-third a year ago. The growing rate among women, Dr. Washton said, stemmed partly from the changing roles of women in society and increased stress faced by those who work.

"Women also are being introduced to cocaine through courtships," Dr. Washton added. "Instead of candy or roses, men bring cocaine as a gift."

Because of apparently abundant supplies, the price of cocaine for large scale dealers has fallen in New York. According to officials of the Federal Drug Enforcement Administration, in the last year importers have dropped their price to middle-level distributors from $40,000 a kilogram, or 2.2 pounds, to $30,000.

The lower prices have also made it easier for teenagers in the city and the suburbs to purchase and to try cocaine, drug counselors said.

Many drug experts are concerned that the increasing use of high-purity or more potent cocaine may lead to medical as well as psychological problems among abusers. Because large-scale cocaine use is relatively new, reliable studies on the possible long-term physical side effects have not been made. But Dr. Robert B. Millman, director of drug research at New York Hospital, said there are "ominous signals."

"We are getting a large number of anecdotal reports of young people who use cocaine and who are having seizures, strokes and premature heart attacks," he said.

With heroin, the picture is somewhat different.

The number of heroin addicts in New York State has risen slightly in the last year to about 247,000, Federal and state officials estimate. Most—190,000—live in the city. About 32,000 heroin users live in Long Island and the northern New York suburbs. About 20,000 come from northern New Jersey.

Heroin addicts are still believed to be more heavily involved in violent crime than are cocaine users, who generally are more affluent. Researchers said about 20 percent of frequent cocaine users admitted having committed crimes to support their habits. Most crimes were white-collar offenses, such as embezzlement and theft.

The typical or daily heroin addict in the city, in addition to buying, selling and using drugs, commits 209 nondrug crimes each year, according to a study recently completed by the state's Substance Abuse Services Division.

Based on interviews with 201 addicts, the study found that the average addict, who spends between $50 and $100 a day on heroin, had been involved in 12 robberies, 34 burglaries and 91 other types of thefts each year. The typical crime netted $41, the report said.

MOST CRIMES WERE NONVIOLENT

Dr. Bruce D. Johnston, a sociologist who was in charge of the study, said the vast majority of crimes committed by heroin addicts were nonviolent, such as shoplifting, check forgeries and prostitution.

Another sign of heroin use and its link to crime has been noted by officials through a sharp increase in the number of newly arrested inmates in city jails who require detoxification or medical aid for withdrawal symptoms. From 1980 to 1983, the number of inmates who underwent detoxification rose from 7,679 to 13,046.

The proportion of blacks addicted to heroin in the city and the state appears to

be falling. Since 1980, black patients in state-supported treatment programs dropped from 48 percent to 38 percent. Meanwhile, the number of Hispanic patients rose from 32 percent to 35 percent and the number of whites from 20 percent to 27 percent.

Experts attributed the drop among blacks partly to vigorous anti-heroin educational programs directed at black youths. The rise in use among Hispanics, the experts said, may have resulted from the easy availability of heroin in Hispanic neighborhoods, including the Lower East Side, Williamsburg, East Harlem and the South Bronx.

An increase in heroin use by whites—mainly men and women in their 20's—resulted largely from a relapse problem; rehabilitation experts said. Many former addicts they said stopped using the drug in the mid-1970's when it was hard to get but had been lured back by its greater availability and purity.

In the 1970's, purity was usually below 2 percent. Recent Police Department laboratory tests have shown purity, especially on the Lower East Side, as high as 17 percent.

Cocaine, which pharmacologically is not a narcotic but a stimulant of the central nervous system, has also been blamed for an increase in the use of heroin. Heroin is a narcotic that numbs the senses. A state study of new heroin users found a large number who said they had turned to the drug in an attempt to relieve psychological stresses caused by cocaine.

"They get so wired, so hyper-stimulated by chronic cocaine use that they can't sleep or function," explained Dr. Douglas S. Lipton, research director in the state's Substance Abuse Services Division. "They resort to heroin to avoid the depression which normally happens when cocaine is cut off, only to become addicted to heroin."

In analyzing the recent trends, Dr. Mitchell S. Rosenthal, the president of the Phoenix House Foundation, which runs the largest private drug rehabilitation program in the metropolitan area, said that 20 years ago less than 4 percent of the population had used any illicit drug.

"Today, more than 35 percent of the population has used an illicit drug," Dr. Rosenthal said. "It is no longer a phenomenon of the minority poor, the underclass. Over 20 years, there has been a de facto decriminalization of drug use. Our culture, in effect, has said, you want to get high, then get high."

Dr. Washton, who is director of substance abuse research and treatment at Regent Hospital in Manhattan, said: "What we have is the baby boom generation of post World War II that has shifted from marijuana to cocaine. Many of them got comfortable with the idea of so-called recreational drugs in the 60's and 70's and they are smack dab in the middle of life, dealing with problems they never thought they would have to deal with."

Drug Users, Rich and Poor, Tell of the Costs and the Anguish

Some grew up in wealth and comfort in New York City, the suburbs and upstate. They went to private schools and Ivy League universities before moving almost effortlessly into well-paid executive jobs in finance or the fashion industry.

Their lives in New York City involve business deals in the garment district and Wall Street, fashionable Gramercy Park apartments, expensive restaurants and parties.

Others grew up in middle-class Brooklyn and shabby inner-city neighborhoods. Most of them are schools dropouts who worked briefly as teenagers. Now they support themselves and their families by mugging, shoplifting and selling illicit drugs.

All of them—the wealthy, the blue-collar workers and the criminals—are heroin or cocaine addicts.

Some affluent addicts began using drugs, mainly cocaine, often because it was considered a harmless diversion. They could afford it, even if it cost $50,000 a year.

For poorer addicts, cocaine and heroin are sometimes an escape mechanism, a way, they say, of temporarily forgetting their daily plights. And crime is the only way they know of supporting addictions that can cost more than $100 a day.

They described their experiences with drugs and the consequences in taped interviews on the condition that their names be withheld. Whether rich or poor, they spoke of an easy availability of drugs in the city and often of misplaced confidence that they could occasionally use cocaine or heroin without becoming addicted.

A DIFFERENT WORLD

He is a 29-year-old investment banker, a native of upstate New York who graduated from an Ivy League college and moved to the city six years ago. He recently entered a private rehabilitation program.

Like most people of my generation, I started with pot in high school. I experimented with cocaine in college, but it was too expensive then. When I got to the city, a lot of people in my social and business lives were doing it.

It was part of being accepted, like drinking. It was there, and I did it along with everyone else.

It was a form of release at the end of the day. It didn't trouble me because it was illegal. As long as I wasn't selling it. I didn't feel I was committing a crime.

The first couple of years, I was snorting two or three grams a week, costing me $200 to $300, but I could afford it. I was making $50,000 in my job, and I have a considerable outside income, another $50,000.

The people I know are deep in six- and seven-figure incomes. When you make half a million a year, you can afford a cocaine life style. After a deal, you say, "Let's celebrate, get a couple of suites in a hotel, girls from an escort service, a couple of limos, a case of Dom Perignon, an ounce of cocaine." It's just part of that good life.

In 1982, I had a lot of business pressures. I wanted to leave the company I was with and start my own investment consulting company. I was unhappy at work, and at the same time I became friendly with a group of people in the commodities exchange who do it in massive quantities.

I stopped buying a gram or two from friends and started to meet with real hard-core dealers. I needed larger and larger quantities—$2,000 a week. I could afford it, but it was hitting my savings, not coming out of my paychecks.

Last year, I also got married, and there was the pressure of work, and a fight with my landlord. Coke put me in a different world. I didn't care anymore. I was going downhill at work. All I was looking forward to was the next high.

I thought I was concentrating, but I wasn't. I'd go to Lutèce for a business luncheon and not eat a thing. There were a couple of deals that I definitely blew.

Last October, I confessed to my wife I was doing it in large quantities. I went to a psychiatrist and stopped for two months. Then it started again, worse then ever. I felt wired, but not in a frenzied condition. My hands shake, and you're always blowing your nose; it's like having a chronic cold.

I was spending money faster than I was making it. In the last year and a half, it cost me more than $100,000. Emotionally, it was tearing me apart. I was losing my temper, losing my shrewdness. I was talking too much when I should have been discreet. I tortured my wife—started fights with her just for the fun of it.

Sometimes I was so high I'm lucky I didn't kill myself by stepping in front of a bus.

A JOB ONCE A WEEK

A 35-year-old who grew up in Little Italy and the East Bronx.

I come from a good family. My father was a postman; my brothers and sisters all have good jobs.

When I was 13, a friend had some heroin. He asked if anyone wanted to get high. It was a big thing back then. I said, "I'll try." I mainlined, and I've been screwing up ever since.

My parents were immigrants. They didn't know anything about drugs, and they didn't realize I was screwing around until I got arrested for burglary when I was 16.

All in all, I spent about 10 years in prison, for robberies and burglaries. I used to push drugs, and I made $1,000 a week. But I would spend it all on heroin.

I'm married and have two sons, 12 and 7. My wife doesn't know what I'm doing. I never go into the house high, and she never sees my arms. She thinks I'm straight and that I'm a cabby.

I got out of prison about a year ago, after four years for armed robbery. Heroin is costing me about $60 a day. I'm shooting five or six bags.

To pay for it, I pull a job once a week, usually a stickup. Most of the time I don't even know what I'm doing. I wake up and find I have $3,000 or $4,000 in my pocket. Then the picture would come back to me that I stuck somebody up.

My parole officer never looks at my arms. He asks if I'm working and says keep looking. They don't care, as long as you come in and keep the appointments.

It's a bitch out there, getting a job. Certain jobs you have to be bonded. With my record, I can't even get a super's job. I want to stop, but I don't know how. I've been trying to get into a methadone program, but they say come back in three or four weeks, and they still ain't got no room.

It's a hell out there. I get so depressed that instead of looking for a job, I buy a bag of that poison.

TAKES THE TENSION OFF

A 35-year-old woman with two children who has always lived in Harlem.

I started messing with drugs when I was 15. It was the last day of school in Washington Irving High School, and a friend gave me a snort of heroin. "Take a blow, you're going to love the high," she told me. And she was right.

When I was 17, I dropped out of high school and got a job in the post office. I worked there for about a year, when I found another way of making money—bagging heroin.

You can make about $100 a day in one of the mills. And the bosses always have some cocaine to keep you perky and to stop you from dozing off because of the heroin fumes.

It's hard to get those jobs in the mills, and it cost me $100 to $150 a week to get heroin. I'm on welfare, but that's not enough. I get money in various ways, sell pills, make a heroin run for someone else and get paid by the customer. The one thing I won't do is prostitute myself. I also won't sell drugs to any children.

I've only been arrested once. I was with three other people when the cops caught us shooting up in a hallway. I've tried going cold turkey, but it doesn't work. I have a lot of problems, pressures, finding enough money to raise my kids. If I can't handle something, I have to get high. It takes the tension off of me.

I have this fantasy that someday there will be detoxification centers where you can kick the habit and get * * *.

ALL GONE UP MY NOSE

A 22-year-old fruit and produce wholesaler in Brooklyn. He is married and has two children, and he says he is planning to seek help in a therapeutic program.

My first contact with drugs was while I was a student at Madison High School. Back then it was pot and ludes. After I graduated and started making some money, I had friends in business and in nightclubs who had cocaine connections.

All the rich people, the politicians and the show-biz people were using coke. I was just a working kid, so it was a big thing for me to try something that was a rich man's high.

About a year and half ago, it got to be a habit for me. I had extra money and time to do it. If there was pressure at work, I'd run and get a gram of coke. I never cheated on my wife, but cocaine became my lover.

In the last six months, it's become unbearable. I've become paranoid. I can't go out of my house without looking behind me to see if I'm being followed. I break out in a cold sweat. I think people are watching me in my living room, that someone will jump through the window and take my cocaine.

I smoke an occasional joint, but nothing helps. I can barely sleep, I go to work without sleeping, come home to get more cocaine to wake myself up.

The general situation with coke is very bad. You can get it in Flatbush, Bensonhurst, all over Brooklyn, not just Manhattan. Kids are copping half a gram for $40. It's cheaper than it's ever been. Maybe it started out as a rich man's high, but gradually it will be a welfare high.

I make about $30,000, but over the last year I spent about $50,000 on cocaine. I've gone through most of my savings and borrowed from all the people I know. It's all gone up my nose and through my brain.

INTO TOTAL REVERSE

A 26-year-old secretary who grew up in Tenafly, N.J., attended a junior college and has been living in Manhattan for the last six years.

I was going out with an older man, about 35, and his entire group was into coke. We used to go to bars on the East Side. They'd hand you a vial, you'd go to the ladies room and snort out of the vial. My boyfriend was paying for it, but when we broke up, I got in touch with his dealer.

At first, I was able to handle it recreationally, only on weekends, and I didn't have constant cravings. Then it got worse. I needed a gram a day. I was paying $100 a gram, but I was such a good customer my dealer lowered the price to $90. My net pay was $260 a week, and I was spending $100 a day. I used a credit card to draw $2,500 from a bank and sold jewelry left to me by my grandmother for $7,000.

In the beginning it was social. I'd * * * that I could conquer the world.

Then it went into total reverse. I couldn't go out. I couldn't walk in the street. I felt everyone was looking at me through the window in my apartment, that the neighbors were spying on me. I really became a wackadoo.

I've lived in the Gramercy Park area and the Upper East Side, and coke is all over. I'm living with someone now, and I'm in a therapy program, and I hope I've licked the problem. But most of the tenants in my building, all they talk about is drugs. They say my floor has got the best drugs in the building. Now that I'm off drugs. I've probably got dealers living right next to me.

CENTER OF EVERYTHING

A 32-year-old buyer in the garment center. She attended private schools while growing up in Brooklyn and in Mercer County, N.J., and graduated from the University of Miami. Trying to relieve the anxieties of cocaine use, she suffered an overdose of sedatives and entered a rehabilitation program.

In 1981, everybody started doing coke—in homes, in limousines on the way to theater. The first time I tried it was on July 4, 1981, while watching the fireworks on the West Side. It's strange to say it now, but at first I didn't like it.

Six months later I was in Florida, and all my dates were using it. I tried it again, and what I did like about it was that it gave me the energy to dance until 4 in the morning.

The next time I danced with cocaine was in June 1982, when I met my future husband. We used it once a month, on the anniversaries of our first meeting. My husband had been a cocaine dealer for many years. He started selling coke when he needed money to complete his doctorate, but once he saw how easy it was to make money selling coke, he dropped out of the doctoral program.

When we decided to get married, he got a legitimate job. But as I started using it more and more, I enjoyed the high. I'm a very up person, and it sped me up. It gave me more security—an "I don't give a damn" attitude.

By March 1983, I was using it every day. When we got married in September, I stopped. My husband said: I'm * * * started drinking, but I missed work. I had been used to living alone, total independence, never having to answer to anybody. Now here somebody was invading my space.

Last November, I made connections with people in the garment center. I couldn't resist the high coke gave me. When I did coke, I was the center of everything. I put everything on the back burner. I forgot about everybody and everything. In one month, I did $4,600 worth, two to four grams a week. I'd phone a dealer and the coke was delivered to my door. Because I paid out of my savings, my husband had no idea what I was up to.

But my life was becoming totally uncontrollable. It was an effort to get up in the morning to do a food shop. I always had dinner on the table when my husband came home. But those last few hours before he came home, when I stopped using coke, were the most horrible of my life. That crash was the worst thing I've ever been through.

DEAD TIRED

A 42-year-old who was paroled last October after serving six years in prison for shooting a man during a quarrel in a bar. He is living in the Yorkville section of Manhattan.

When I was 19, I was a doorman on Park Avenue and doing fairly well. A friend bought a $5 bag of heroin, and four of us tried it. We all thought we could handle it. We all thought we were pretty clever. Once I started using it, it got heavier and heavier, and I didn't know I was hooked.

I lost my job and started stealing little things, first $5 from my mother or from someone else in the family. When I was 20, I got arrested for armed robbery and served four years.

Since then, I've also been arrested for breaking into cars and boosting out of supermarkets. I've never-been able to hold a full-time job, because getting enough money for heroin is a full-time occupation. I'd occasionally spend 60 or 90 days in jail, and clean up my habit for a brief time.

When I got out of prison last October, three days after I got home I started using heroin again. I was bored. There was nothing to do and I couldn't resist it. I told my parole officer, and he said go into a methadone program or go back to prison for four years.

I've been on methadone since December, and that takes care of my heroin problem. But I still need something, so I'm using coke. I'm shooting it. Coke allows me to escape momentarily. It's not a habit. It's something to do, instead of sitting around, thinking of my miseries.

Coke costs me $100 sometimes as much as $300. I get $108 every two weeks from welfare.

I pay for it by breaking into cars. I don't want to do anything violent. I walk around town at night, looking for cars with open doors. I'll take a tape cassette, a radio, or whatever is there.

I wouldn't be doing this if I could get a decent job and there was no coke around I know my head is in a garbage can, but I can't stop.

[From the New York Times, May 21, 1984]

THE DRUG PIPELINE: FROM EUROPE TO NEW YORK

(By Selwyn Raab)

Arriving in New York City on flights from Geneva or Paris, Albert Camille Gillet gave all the appearances of a prosperous European businessman. A chauffeured limousine usually waited to drive him to Manhattan, where he always stopped at fine hotels and dined at expensive restaurants.

In contrast, Jose Martinez-Torres lived in a dingy, poorly furnished apartment in the Bronx, only occasionally traveling out of the city on business trips.

The two men are never known to have met. Yet both, according to court records, were recently involved in the same illegal billion-dollar business: trafficking in heroin and cocaine.

Mr. Gillet was a courier for an international organized-crime ring known as the "Sicilian Connection." He also laundered money from narcotics transactions.

Over an 11-month period, he has admitted, he delivered to drug importers in Queens and Long Island 120 pounds of heroin with a retail street value of more than $100 million.

Federal prosecutors believe that the importers supplied by Mr. Gillet were linked to two organized-crime groups in New York City—the Joseph Bonnano and Carlo Gambino families. The Federal Drug Enforcement Administration estimates that these two groups and three other organized-crime factions in the city are responsible for about

half of the 11,000 pounds of illegal heroin smuggled into the country every year.

Mr. Martinez-Torres was a middle-level drug wholesaler, according to Federal prosecutors. He was accused of buying raw heroin and cocaine from organized-crime importers, like those supplied by Mr. Gillet, and using his Bronx apartment as a "mill," a place where drugs were "cut," or packaged for small-time street dealers.

In an average year, Mr. Martinez-Torres made almost $3 million from sales to dealers in the city, Connecticut, Massachusetts, and Pennsylvania, Federal officials asserted in court statements. The Drug Enforcement Administration estimates that the volume of business at Mr. Martinez-Torres's mill was similar to about 100 other drug mills operating in the city.

Federal and local police undercover agents in the New York area have rarely been able to penetrate deeply into the hierarchies of drug rings through informers or undercover agents.

Most narcotics investigations end with what are called "buy and bust" arrests, in which low- or middle-level dealer is seized after selling illicit drugs to an undercover agent. Such arrests usually produce little intelligence about trafficking tactics or profits.

But, through separate criminal cases in living Mr. Gillet and Mr. Martinez-Torres, investigators said they got unusual inside views of the drug pipeline from Europe to New York.

Mr. Gillet, a Belgian, was recruited as a heroin smuggler or courier in 1979. He was then 58 years old and worked for a shipping company in Antwerp. For a decade he had also helped smuggle cigarettes into Italy for a Mafia gang.

At a trial in Federal Court in Brooklyn in 1981 and 1982, Mr. Gillet testified as a prosecution witness against three purported drug traffickers. He said that in 1979 his Italian Mafia contacts switched from cigarette smuggling to the more lucrative business of exporting heroin to the United States.

Federal investigators said Mr. Gillet, who had a criminal record in Belgium for robbery and selling hashish, was trusted by a Mafia gang in Sicily that Italian police say was headed by Francesco Mafara. Moreover, Mr. Gillet's Mafia employers believed that Mr. Gillet, because of his demeanor and nationality, would arouse little suspicion going through Customs Service inspections in the United States with pounds of heroin tucked into his suitcases.

A pudgy man with thinning brown hair, Mr. Gillet wore thick horn rimmed glasses and dressed conservatively.

"He is unimposing, so ordinary looking, he is the very last fellow you would think could commit a crime," said Victor Rocco, a former assistant United States attorney in Brooklyn. "He surely exploited that image."

From July 1979 to May 1980, Mr. Gillet made 24 flights from Europe to New York. During that period be brought in 56 kilgrams—about 120 pounds—of heroin and returned to Italy with partial payments from the American importers totalling $3 million. A kilogram, generally called a kilo, is 2.2 pounds.

PERFUME FOOLED DRUG DOGS

Details about smuggling methods in Europe and the United States were disclosed by Mr. Gillet when he testified at the drug trial in Brooklyn. He said morphine base—raw morphine—was bought in Southwest Asia by the Mafia and refined into heroin at laboratories in Sicily and the Italian mainland.

Mr. Gillet said he collected packages of heroin at the home of a Mafia member in Palermo, Sicily. The heroin was concealed in false compartments in a suitcase. In an attempt to confuse specially trained dogs that are used by the authorities to smell heroin in suitcases at airports, Mr. Gillet said, the packages were sprayed with perfume that had a pepper base.

At the house in Palermo, Mr. Gillet said, the heroin was weighed and sometimes its purity was tested. Small samples were heated in a test tube until they liquefied. If the white heroin retained its color and liquefied only after it reached 230 degrees Fahrenheit, he said, that was considered by the Mafia as proof the drug had a purity content of 90 percent or higher.

The purity affects the price paid by importers.

Mr. Gillet said the heroin—which cost the Mafia $12,500 a kilo when bought as morphine base—was sold to the American importers for an average of $130,000 a kilo.

4 NEW YORK CONNECTIONS

Before his first trip to New York, Mr. Gillet said, he was given the telephone numbers of three separate importers in the New York area and was instructed to identify himself as Merluzzo, the Italian word for codfish. He was also given half of a torn thousand-lira note and told that the American importers would either have the other half of the note or would know the serial number on his part of the note.

Because United States Customs officials were believed to be vigilant about searching passengers for drugs who arrived on flights from Sicily or Italy, Mr. Gillet went to Switzerland or France before flying to Kennedy International Airport. "I knew I would receive V.I.P treatment when I took the Concorde and went through Customs," he testified.

In all of his trips carrying heroin, Mr. Gillet said, his baggage was examined only twice by the Customs Service and the concealed drugs went undetected. Mr. Gillet testified that he turned over the heroin to three importers in New York—Riccardo Cefalu, Michele Mazzola and Emmanuele Logiudice. The largest transactions, he testified, were with Mr. Cefalu.

After arriving in New York, Mr. Gillet said, Mr. Cefalu would arrange to have someone pick him up in a parking lot near the airport and drive him to Mr. Cefalu's home in Greenlawn, L.I. There the heroin would be exchanged for money.

A SUITCASE FULL OF CASH

Mr. Gillet described how Mr. Cefalu and a relative, whom Mr. Gillet identified as "Dominick," paid him on one visit.

"Dominick brought bags with money," he testified. "He arranged the whole of it on top of the sofa as we used to always, with two rows. There was $330,000, $350,000—I don't remember exactly."

"We counted it," he continued. "Then I arranged all of this in the suitcase and as I couldn't put the whole of it in the suitcase, I put the rest of it in my traveler's bag."

The money, in $10 and $20 bills, was stuffed into other suitcases and flight bags and carried by Mr. Gillet.

Mr. Gillet also testified that he turned over heroin to Mr. Mazzola, who owned a pizzeria in Queens, and Mr. Logiudice, who owned a hairdressing salon in Bayside, Queens.

For each trip to New York, Mr. Gillet said, he was paid $10,000 by his Italian employers. He also got a 3 percent commission for laundering money in Switzerland by exchanging the dollars for lire or Swiss francs, using false names.

Mafia bosses, Mr. Gillet testified, wanted lire, not dollars, because converting large sums of dollars in Italy might attract the attention of the Italian police.

As a courier, Mr. Gillet testified, he received about $350,000 in an 11-month period, including his commissions.

Mr. Gillet was arrested during a baggage inspection in Rome while returning with eight kilograms of heroin from New York. The American traffickers had rejected the heroin, he testified because it was not pure enough.

On Mr. Gillet, the Italian police found the home and business telephone numbers of Mr. Cefalu, Mr. Mazzola and Mr. Logiudice. The information was turned over to the Drug Enforcement Administration, which began investigations here.

Mr. Gillet's arrest resulted in the smashing of the ring he worked for in Italy and the convictions here of 11 men—including Mr. Cefalu, Mr. Mazzola and Mr. Logiudice—on various Federal drug charges. In 1982, Mr. Cefalu, who is 57 years old, got the stiffest sentence—11 years with no chance of parole.

At the trial, Mr. Gillet said that at the time of his arrest the three dealers in New York still owed the exporters in Palermo about $2.5 million for heroin deliveries. In exchange for testifying as a prosecution witness, Mr. Gillet was granted immunity from prosecution here. He is, however, serving a prison term in Belgium for drug trafficking and bribery.

WORKED AS A BODYGUARD

Reena Raggi, who is in charge of the narcotics section for the United States Attorney's office in Brooklyn, said traditional organized-crime importers never deal directly with wholesalers. Instead, she said, the leaders employ lower-ranking gang members to arrange deliveries of the raw heroin to dealers like Mr. Martinez-Torres.

It was a paid informer, Cologero L. Vizzini, who brought Mr. Martinez-Torres to the attention of Federal agents. Upon being paroled from prison in 1982, Mr. Vizzini, who had a lengthy police record, including convictions for man-slaughter and robbery, agreed to infiltrate Mr. Martinez-Torres' operation.

While in prison, Mr. Vizzini befriended a convicted Bronx drug dealer, Jaime Vila. Mr. Vila, apparently impressed by Mr. Vizzini's background as a gunman, arranged for him to work as a bodyguard for Mr. Martinez-Torres.

Mr. Vizzini testifed last year that Mr. Vila posed for a photograph with him in the Federal prison in Lewisburg, Pa. Mr. Vizzini was then instructed by Mr. Vila to show the photograph to Mr. Martinez-Torres as a sign that he was sent by Mr. Vila and could be trusted.

From April to July 1982, Mr. Vizzini said, he was a bodyguard for Mr. Martinez-Torres at his drug mill in apartment 5B at 2526 Bronx Park East in the Morris Park section. At a trial in Federal Court in Manhattan, Mr. Vizzini, a prosecution witness, testified that Mr. Martinez-Torres claimed he had a "connection" with an organized-crime group that sold him uncut heroin for about $200,000 a kilo.

Mr. Vizzini said heroin was delivered to the apartment in quantities of one-eighth of a kilo. Heroin and cocaine were cut, or pack-

aged, Mr. Vizzini testified, on a nonporous, marble-topped table in the living room or in the bedroom of the apartment.

Mr. Vizzini said that he sometimes participated with about six other people in cutting heroin or cocaine, and that some workers wore surgical masks because of the thick fumes created.

Lamps with 250-watt bulbs were shone on the heroin and cocaine to remove any moisture and make it easier to package, he noted.

"The stuff is laid on the table," Mr. Vizzini said. "It's cut with lactose. A certain amount of heroin is put in. Usually there's three or four lights on top. The guy who sits at the head of the table has a little instrument, about six inches, usually like a little cup that picks up just enough to go into the bag, the little cellophane bag."

"The guy next to him has a little bag in his hand," he went on. "The guy lays it out, knocks it on its side, cleans it off. The next guy catches the bag and passes it on and they're sealed. They tape it together and place them in bundles of 10."

Thousands of glassine bags were stored in the apartment for packaging, Mr. Vizzini said. The heroin was put in bags marked "La Tumba," Spanish for "the tomb," and the cocaine in packages marked "Nice."

Only July 1, 1982, the apartment was raided by Drug Enforcement Administration agents who found what prosecutors said were records containing code names for Mr. Martinez-Torres's customers in New York City, Connecticut, Pennsylvania and Massachusetts.

Mark Gottridge, as assistant United States attorney in Manhattan, said the records showed that Mr. Martinez-Torres sold out-of-state dealers a bundle—or 10 bags—for $85. Bronx dealers were charged $65 to $70 for each bundle. The price was higher for the out-of-staters apparently because they could sell each bag for as much as $20 while the price in the city was $10, according to prosecutors.

Mr. Gottridge said the records also revealed that in the six months before his arrest, Mr. Martinez-Torres sold 177,750 "dime" bags—$10 bags—of heroin for about $1.7 million.

Last year Mr. Martinez-Torres and nine other purported members of his ring were convicted on Federal drug charges. Mr. Martinez-Torres received the longest sentence, 20 years.

Shortly after the trial, the body of the 44-year-old Mr. Vizzini was found in a car near the Grand Central Parkway in Queens. He had been shot and set on fire.

No suspect has been arrested for the murder. Police Department and Federal officials said they believed Mr. Vizzini may have been slain because of his undercover work.

[From the New York Times, May 22, 1984]

STRATEGIES CLASH ON THE WAR ON DRUGS

(By Selwyn Raab)

From their desks on the 17th floor of a West Side skyscraper, the agents of a Federal drug task force have a majestic view of New York and New Jersey.

Ten miles uptown, in the headquarters of the Police Department's Bronx narcotics unit, the panorama is scarred tenements and an elevated subway line.

The two horizons reflect the different perspectives and strategies of the Federal Government and the Police Department in their separate campaigns against durg traffickers in New York City and the suburbs.

The agents of the Federal Drug Enforcement Administration's New York Task Force concentrate on international and major domestic drug rings. It is not unusual for them to work several years on a single case.

In the Bronx, as elsewhere in the city, police narcotics officers have little time to devote to complex investigations. The priority is quick arrests—"buy and bust"—in an effort to rid the streets of small-time dealers and addicts.

For both forces, the city is a major drug battleground because transactions here influence trafficking throughout the United States.

Bruce E. Jensen, head of the Drug Enforcement Administration's metropolitan New York field office, said that between 50 and 75 percent of the 11,000 pounds of illegal heroin smuggled into the country comes through the city. And the agency estimates that about 40 percent of the cocaine that floods the country is siphoned through the metropolitan area.

The Drug Enforcement Administration has 240 agents in the city, about 12 percent of its total personnel in the country. The Police Department has 460 investigators and supervisors assigned to the Narcotics Division. Critics, however, question the effectiveness of both the Federal and police antinarcotics programs.

Congressional representatives and local police officials, including Police Commissioner Benjamin Ward, contend that the Drug Enforcement Administration has failed to staunch the flood of drugs into the city and suburbs.

Many prosecutors, drug rehabilitation officials and police officers say the Police Department has floundered in various drives to contain trafficking on the streets of New York.

They believe it has changed policies too frequently—sometimes trying to knock out drug suppliers and sometimes, as now, resorting to large-scale roundups of street dealers and addicts on the Lower East Side in Harlem.

ROUNDUPS SWAMP COURTS

Roundups—unless followed up by swift prison sentences for dealers and rehabilitation programs for addicts—have no long-term effect, the critics assert. And, they note, the large-scale sweeps have swamped the courts and rehabilitation centers, while dealers from the Lower East Side have simply moved to other neighborhoods.

Drug Enforcement Administration officials and Commissioner Ward, however, defend their methods as the best way of combating current conditions.

Kenneth G. Robinson has been working on high-level cases with the Drug Enforcement Administration Task Force in New York since 1972. He is one of 90 city detectives on loan to the unit, which also has 34 Federal and 21 state police investigators. Most of the Federal drug agents in the city are working on cases that do not involve the task force.

For the last six years Mr. Robinson has been assigned to cocaine investigations. Federal prosecutors say he is an expert on the Colombian traffickers who are the major suppliers of the drug.

At least 12 Colombian cocaine "crime families" have entrenched themselves in Queens, primarily in Jackson Heights, Elmhurst and Flushing, Mr. Robinson said in an interview at the Drug Enforcement Administration's offices at 555 West 57th Street at 11th Avenue.

BILLION-DOLLAR COCAINE TRADE

Each family, he estimated, is selling $60 million to $70 million a year worth of cocaine to wholesalers or middle-level dealers for a total profit to the Colombian groups of more than $1 billion a year.

"A kilo costs them $2,000 or $3,000 to bring in from Colombia and they sell it to dealers here for $30,000 to $40,000," Mr. Robinson said. The cocaine is adulterated, or cut, by dealers and eventually a kilogram—or kilo, which weights 2.2 pounds—is worth about $1 million in retail sales on the street, he said.

The Drug Enforcement Administration has found the Colombian crime groups virtually impossible to infiltrate, mainly because gang members fear their families will be slain if they cooperate with investigators. "If they suspect someone is cheating, they'll take out his entire family," Mr. Jensen said. "They are far more prone to violence than American organized-crime groups."

Most of the Colombian traffickers, Mr. Jensen said, are illegal immigrants who use false identification documents to return to the United States even after being deported.

The Drug Enforcement Administration has compiled dossiers on the Colombian crime groups through years of trailing suspects, tapping telephones and seizing financial and other records.

The leaders of the groups, Mr. Robinson said, normally remain in Colombia or Florida, although they visit here. In Queens, each group has a "captain" or leader who supervises about 10 "lieutenants" or workers in distributing cocaine to American buyers.

SMUGGLERS ARE CREATIVE

"They only sell in kilo quantities and they must sell it exactly as they received it, more than 90 percent pure and never cut," Mr. Robinson said. "It's their form of quality control."

Thomas J. Deignan, a Drug Enforcement Administration agent who is Detective Robinson's partner, said the Colombians smuggle cocaine into the city on commercial flights from Central and South America and in cars driven from Florida and other Southeastern states.

He added: "They're creative. They'll hide it in freight shipments. Or in one day they'll send 17 mules on different flights. They don't care if four or five get caught as long as 12 or 13 get through." "Mules" is drug jargon for couriers.

Couriers who have been arrested have been found to have swallowed as much as 600 grams—or 20 ounces—of cocaine in condoms, Federal officials said.

NEVER WANT TO GO HOME

"The captains and lieutenants try to be obscure," Mr. Deignan said. "They don't dress flashy or wear expensive jewelry. They don't drive around in big cars. About the only thing they want is expensive apartments with good security and doormen so no one will surprise them in their apartment or rob them."

Detective Robinson said workers or lieutenants who have been arrested here often were farm laborers in Colombia. "Back home they're considered hillbillies," he said. "Here, they aren't given much money, about $100 a week, but they get a free apartment, a car and a TV set. Most of them never want to go home. It's nirvana as long as they remain loyal to their bosses."

For the last five years, Detective Robinson and Agent Deignan have stalked the

leader of one of the Colombian families in Queens, whom they identified as Victor Crespo. In early 1979, Detective Robinson, while trailing a suspected cocaine dealer, saw the suspect meet a man later identified as Mr. Crespo.

"The dealer scraped and bowed to Crespo and you could see how important he considered Crespo," Detective Robinson recalled. Agents identified Mr. Crespo after stopping a car he was riding in on the pretext that it fit the description of a getaway car in a robbery. Mr. Crespo produced his passport as identification.

For two weeks in 1979, Mr. Robinson and other agents followed Mr. Crespo without finding any evidence to implicate him in a crime.

A MAJOR DRUG VIOLATOR

It was only after he eluded the agents that they learned that he was wanted as a major drug violator in Colombia and Peru and was the head of one of the cocaine groups in the city.

"We know his organization does more than $60 million in business here and we have arrested some of his workers and gotten some of their records, so we have a good idea of how much they're making," Mr. Robinson said. "But they have an inexhaustible supply of replacements for anyone arrested."

"It's frustrating," he added, "because he knows we are looking for him. He uses false documents to slip in and out of the country. It's a cat-and-mouse game—but we'll get him."

On a recent afternoon, 20 undercover investigators in the Bronx section of the Police Department's Narcotics Division prepared for a raid.

At their base, in the 50th Precinct station house in the Kingsbridge section, the investigators listened to Sgt. Kevin Duffy explain their two-part mission: They were to round up drug dealers in St. James Park in the North Bronx while simultaneously raiding a "smoke shop," across the street from the park, where marijuana was being sold.

Standing in front of a blackboard with a diagram of the park, which is bounded by Creston and Jerome Avenues and 191st and 193d Streets, Sergeant Duffy spoke above the thunder of elevated subway trains.

Four "uncles," or undercover agents, he explained, would buy drugs in the park and in a bodega that was being used as a smoke shop.

The uncles would be observed by officers in unmarked cars and a panel truck at the entrances to the park. After the buys were made, the uncles would broadcast descriptions of the sellers on two-way hand-held radios and the other investigators would arrest them.

"DEALERS LIKE COCKROACHES"

All of the officers, most of whom wore faded casual clothes and sneakers, laced their bulletproof vests tightly. Some carried shotguns or bats.

"Merchants near the park have been complaining about the pushers," said Lieut. Edward T. Minogue, who was in charge of the raid. "As soon as the weather warms up, the dealers come out like cockroaches."

Last year, the 55 officers assigned to the Bronx unit made 3,349 arrests. "It was a routine year for us," Lieutenant Minogue said, although cocaine arrests are rising. "We haven't got the worst conditions in the city but the Bronx is pretty typical. There are 9 or 10 prime hot spots up here."

Investigators in the Bronx, like most narcotics officers, are frequently offered bribes by dealers. Last February, according to two members of the unit, a dealer who was caught with two kilos of cocaine offered to turn over $10,000 and one of the kilos if the officers would allow him to escape.

Bribe offers of $500 of $1,000 are almost routine, officers said.

All investigators and supervisors in the Narcotics Division are automatically transferred after three years of duty, partly because of fears of corruption. The department began the policy in the early 1970's after widespread graft was uncovered in a special narcotics unit.

Some officers contend that the transfer policy lowers morale and eliminates the best-trained narcotics investigators.

At St. James Park, the police radios crackled: "From uncle, the bodega is doing a brisk business," and, "This is uncle, two right in front of monkey bars—they're doing."

NEIGHBORS WATCH RAID

While officers with handcuffs dangling from their belts guarded the outside of the bodega, and onlookers gathered on the sidewalk, directly across the street in the park the officers continued to radio reports of buys and descriptions of dealers.

"O.K., let's go," Lieutenant Minogue ordered over his radio. About 15 officers raced into the park as the suspects bolted toward exits. Ten men were lined up in front of the park as the "uncles" concealed in cars nearby identified them as dealers.

Several officers guarded the suspects with baseball bats. "When they see bats, they'll run but they don't resist," one officer said.

"We only lost one mutt," Lieutenant Minogue noted, referring to a dealer, as the suspects were taken away to be booked.

Two hours later, using the same tactics, the unit again raided the park. Nine more suspected dealers were arrested. In the second raid, an officer said that when she made a buy the dealer told her, "The saints were good to me—the cops hit this place in the morning and I wasn't here."

The sweeps in the park and the smoke shop resulted in 22 arrests for the sale of cocaine, marijuana and other drugs. Four were felony charges, the rest misdemeanors.

"We know most of them will pay a fine of $50 and be back out there in three or four days," said one investigator, who asked to be identified by his nickname, Dee.

"For us it's cosmetics, cleaning the streets briefly," he added. "For them, it's just the cost of doing business."

[From the New York Times, May 22, 1984]

COLOMBIA SAYS DRUG WAR WON'T BAR REBEL PACT

(By Alan Riding)

BOGOTA, COLOMBIA, MAY 17.—The Colombian Government says it is anxious to prevent its latest antidrug campaign from undermining efforts to work out a truce with leftist rebel groups despite reports of collaboration between the insurgents and narcotics traffickers.

Senior officials here said President Belisario Betancur viewed the 20-year-old guerrila war and the multibillion-dollar narcotics industry as unrelated problems and was determined to tackle them separately.

"The fight against narcotics will not stop," President Betancur said this week, "but there is no analogy between this fight and the response to the armed groups."

But the country's army, which has made no effort to disguise its disapproval of the discussions with the rebels, has repeatedly stressed the rebels' links to drug smugglers, referring to them as "narco-guerrillas."

REBELS DENY ACCORD

The Reagan Administration, although withholding public comment on the peace talks, has also sought to portray the leftists as allies of the traffickers and has speculated that "hot" drug money is being channeled to guerrilla groups in Central America.

Colombia's five rebel organizations have denied any formal accord with the traffickers of cocaine and marijuana to the United States, conceding only that "war taxes" are occasionally extracted from drug operators—as well as farmers and businessmen—in regions where the insurgents are active.

An opposition party politician said, "They are both clandestine groups operating in the same territory against the same enemy and with the same methods, but they are not natural friends."

The issues have nevertheless been linked by the murder of Justice Minister Rodrigo Lara Bonilla on April 30. Attributed to drug gangs, the assassination prompted the Government to declare a state of siege and launch a war against narcotics just weeks before a cease-fire is to enter into effect with the largest rebel group.

PEACE IS LEADER'S AIM

"The Government said the state of siege was aimed at the traffickers and not at the guerrillas," a journalist said, "but the army doesn't see it like that. As a result, we're now seeing the fiercest fighting between army and guerrillas in several years."

More even than the antidrug campaign, however, the restoration of political peace in Colombia has been the Government's overriding objective. Soon after President Betancur took office in August 1982, he signed an unconditional amnesty that brought freedom to some 900 jailed rebels and led a further 1,100 guerrillas to lay down their arms. He also appointed a 40-member Peace Commission to open talks with insurgent groups.

Mr. Betancur's moves won him enormous popularity among a population exhausted by political violence, which took some 300,000 lives during a Liberal-Conservative civil war between 1948 and 1958 and has continued since in the shape of guerrilla warfare.

"The strategy of pacifying the country by exterminating the armed groups had been tried for 35 years and had failed," a member of the Peace Commission said. "The time was right for a political approach."

IDEOLOGY DIVIDES REBELS

The peace talks were nevertheless hampered by longstanding ideological differences between the country's insurgent movements, each of which had taken up arms in the belief that it could eventually seize power and carry out a socialist revolution.

The Peace Commission concentrated its efforts on the oldest and largest group, the Colombia Revolutionary Armed Forces, known as FARC. After eight months of secret talks, an agreement was signed in late March for a one-year cease-fire to begin May 28.

Negotiations with the April 19 Movement, referred to as M-19, fared less well. Its leader, Jaime Bateman, who had originally proposed an armistice with the Government, was killed in a plane crash last year. And although President Betancur met personally with the new leaders, Avan Marino

Ospina and Alvaro Fayed, during a visit to Madrid last October, they have still to accept a cease-fire.

"We're ready for a cease-fire," Mr. Fayed said in a recent interview, "but we don't think it's enough for the guerrillas to cross their arms for a year. A cease-fire should be followed by a national dialogue involving all sectors Peace is not just a matter between guerrillas and army. It involves the entire society.

PEACE TALKS CONTINUE

Talks continued this week not only with M-19, but also with the Maoist Popular Liberation Army and the urban-based Workers' Self-Defense Force. Commission members say they are optimistic that they too will sign peace accords, but not until after May 28 to avoid appearing to accept FARC's leadership. Only the Castroist National Liberation Army has so far refused to join the dialogue.

FARC has been the principal target of charges of cooperation between guerrillas and narcotics traffickers. Both army officers and United States diplomats maintain its members were protecting clandestine laboratories of a jungle site known as Tranquilandia, where some 13 tons of cocaine was found on March 10. Khaki uniforms with FARC patches were found a half-mile from one of the laboratories.

"The guerrillas and traffickers definitely co-existed," said John Phelps, head of the United States Drug Enforcement Administration's office here. "One could not have existed without the knowledge and acceptance of the other."

[From the New York Times, May 22, 1984]

FOR DRUG PROSECUTOR, A SENSE OF FRUSTRATION

Bulging columns of manila folders are piled every day on the desk of Terrence J. Crockford. Each folder represents one of the 200 narcotics cases that Mr. Crockford is responsible for prosecuting.

Mr. Crockford is one of the 50 assistant district attorneys in the office of the city's Special Narcotics Prosecutor, Sterling Johnson Jr., where most of the Police Department's 9,373 felony drug arrests last year were processed.

In 1983, Mr. Crockford handled 220 cases. Most of his cases—like 95 percent of narcotics arrests in the city—ended with an arrangement in which the defendant pleaded guilty in exchange for a reduced charge or a lower sentence. Only four of Mr. Crockford's cases went to trial last year.

The 34-year-old Mr. Crockford is assigned to prosecuting defendants arrested in Operation Pressure Point, the police crackdown against drug dealers on the Lower East Side. "We mainly get $10 sales of heroin or cocaine," Mr. Crockford said. "It's mostly lower-echelon street people."

"IT'S BEEN FRUSTRATING"

Defendants who are first offenders and who are arrested with small amounts of drugs often are placed on probation or given suspended sentences, he said. Those who have a previous felony conviction face up to life imprisonment, although most are sentenced to a maximum of four years.

"It's been frustrating," Mr. Crockford said in an interview in his office at 80 Centre Street in * * * smaller caseloads we might not be so inclined to offer pleas right away. A lot of assistants feel the volume is burying us."

A total of 97 cases in the Special Prosecutor's Office went to trial last year, according to court records. Mr. Crockford said that many of the cases involve defendants who have had previous drug arrests, and that they continue dealing because of the profits. He noted that dealers on the Lower East Side make about $200 a day from illegal sales while "steerers," who direct customers, get about $100

"We must keep putting pressure on the dealers, because there's a million kids out there who are probably willing to make that kind of money by selling bags on the street," Mr. Crockford said.

"Yes, there are disappointing, frustrating aspects for us," he added. "But we have to keep the pressure on because it does have an impact out there when the word gets out that at least some people are going away to prison."

Besides the more than 9,000 felony drug arrests by the police last year, the Federal Drug Enforcement Administration made 1,177 arrests on Federal charges in the New York metropolitan area.

Because the Federal courts are less crowded, most of the Federal cases went to trial and many defendants received prison terms of more than 10 years.

[From the New York Times, May 23, 1984]

DRUG PROGRAMS: HELP FOR ONLY A FEW

(By Selwyn Raab)

Every business day, dozens of executives and employees in the Wall Street area enter an unmarked suite of offices in a building next to the American Stock Exchange. If they meet at the door, none of the men or women extend any sign of recognition.

The unmarked suite is a clinic, and the clients—former heroin addicts—are there to obtain methadone, a synthetic opiate that blocks their desires for herion.

Uptown, in a converted tenement in the Bronx, 120 men and women begin each day chanting in unison a 200-word pledge to "rise from the ashes" and to reform themselves. Also former addicts, they are in a Phoenix House center that relies on therapy to overcome drug habits.

The metadone-maintenance clinic and the Phoenix House are two components in a drug-rehabilitation network in New York State that will cost $200 million to operate this year. All of the programs, public and private, residential and nonresidential, have room for 70,000 patients—5 percent of the estimated 1.4 million drug abusers in the state, according to the State Division of Substance Abuse Services.

For two decades, the state has subsidized a variety of drug-rehabilitation efforts. At best, the results have been mixed.

Methadone maintenance has emerged as the largest treatment method, with 32,000 people in publicly supported and private outpatients clinics. Almost 28,000, are in New York City. About 3,000 patients are in methadone programs on Long Island and in the northern suburbs.

National, 70,000 people are in methadone treatment.

Methadone works by blocking the desire for heroin without producing the same narcotic high. Its proponents cite two major reasons for its widespread use. It has reduced crime that heroin addicts would normally commit to buy the illegal drug, and, at a cost of $2,200 a year for each outpatient, it is less expensive than drug-free residential care, which costs $8,500 a year a patient.

A state study on durg abuse in 1982 found that "the claims for methadone's capacity to reduce the grim proliferation of heroin use have far less validity than was originally hoped." The report, prepared by Joseph A. Califano Jr., who was special counselor to former Gov. Hugh L. Carey, stressed that methadone had permitted thousands of addicts to work and conduct reasonably normal lives.

The report, however, noted "serious drawbacks" with methadone. They included the findings that 40 percent of all patients dropped out before one year of treatment; more than 50 percent continued to use heroin or nonoplate drugs, including cocaine, and methadone black market has been created in which the addictive drug is sold illegally, often by methadone patients.

Dr. Vincent P. Dole, an internist and researcher at the Rockefeller University who helped develop methadone as a therapy in the 60's, said that "nothing as efficent" had been found to cope with heroin addiction.

"It is the only program that has large scale application," Dr. Dole said in an interview. "A black market has been created, because there is an unmet demand and because political propaganda and community opposition have made it impossible to open more clinics."

The clinic in the Wall Street area, at 74 Trinity Place, is run by the New York Infirmary-Beekman Hospital. At the clinic, most of the 215 patients appear two or three times a week, where they drink a prescribed dose of bitter-tasting methadone in an orange-flavored concoction. Patients who are considered reliable get take-home supplies for weekends and days when they do not visit the clinic.

Federal law requires that the patients undergo periodic urinalysis to determine if they have lapsed and are using drugs again. Additionally, clinics must provide some type of counseling.

The regimen at the Trinity Place clinic is similar to programs at 95 others in the city. The major difference is that the Wall Street patients are more affluent than in most other programs, and a patient can be charged as much as $40 a week for treatment.

Many of the patients expressed two principal concerns in interviews. They worried that their careers would be shattered if their employers discovered they were in a methadone program. And, because the treatment is indefinite—perhaps lifelong—they were troubled by the possible physical side effects that might develop.

"IT SAVED MY LIFE"

An assistant vice president at a bank, who asked to be identified only by his first name, Neil, summarized the views of other patients. "If my bosses knew I was on methadone," he said, "it would be the biggest black mark against me. In the straight world, I'm a junkie, someone you may never be able to trust.

"I've met people in business meetings, former junkies who are in this program, and we can't give the slight nod. It's funny and scary.

"Yet, without methadone, I'd be in jail or dead. It saved my life."

Patients said that as former addicts it was easy for them to spot current abusers and that there was widespread use of heroin and cocaine in the financial district.

"Why do they use it?" said Jack, a trader at a brokerage house who is a methadone patient. "They say it's pressure; it's a crutch. There are more junkies on Wall Street than most people realize."

"JUST LIKE MEDICATION"

Mark, an investment counselor, and his wife, Louise, an executive for a public-relations company, arrive together twice a week for their methadone.

"I know I might have to use it for a long period, or the rest of my life, but that's just like medication for a heart disease," Louise said. "That's how I look at it."

"Methadone offers me stability," her husband said. "I have so many pressures and worry that I can't kick it. I'm not afraid of the physical pain, but the emotional pain of being without it."

The concept of using a drug to cure a dependency on another drug is shunned by programs that call themselves therapeutic communities. About 3,300 patients are in state-supported residential therapy programs. The programs generally view drug abuse as stemming from personality disorders and require treatment periods of 18 months.

THERAPY AND ENCOUNTER SESSIONS

The Califano report also found high dropout rates for the residential drug-free approach, 75 percent in the first year and 90 percent before completing a program. For outpatient drug-free therapy, the Califano report described results for heroin addicts as "unimpressive."

Most residential programs emphasize group therapy and lacerating encounter sessions, where patients are encouraged to be brutally self-critical. Many are multidrug abusers, known in the drug culture as "garbage heads."

"They have spend 20 to 30 years getting here, and they have to learn in two years how to mature from the age of 13 to an adult," explained Stephen Jones, a counselor at the Phoenix House center in the Bronx.

The Phoenix House Foundation runs one of the largest drug-free rehabilitation programs in the country, including the Bronx residential center, at 1851 Phelan Place on University Heights.

At the center, 120 men and women include those who have volunteered for treatment as well as some who have been convicted of crimes and have been sent there under alternatives to prison terms. Their ages range from 18 to 49.

Everyone at the center, or "community," has a job or task, from mopping floors to teaching classes in basic English. After 14 months, a patient moves to "re-entry" by being sent outside during the day to resume or begin an occupation or schooling.

At night, they must return to Phelan Place.

"Our residents vary from 'ghetto' kids to rich, rich kids," said Larry Stallings, the 32-year-old director, who is a former heroin addict. "Our program teaches self-reliance, how to deal with basics, getting up at time, making beds, how to be a responsible person."

"PHOENIX HOUSE STAMP"

During the first three months, newcomers are virtually cut off from the outside world, with little communication with parents or relatives.

"We want to put a Phoenix House stamp on them," Mr. Stallings said. "Before they start making progress, they have to learn that they will have to change themselves."

In the basement lounge of the five-story building, a longtime resident, Walter, recently outlined the rules prohibiting such acts as stealing or "impulsive behavior" to a group of 15 newcomers.

"This is our home, we have to respect and share it with others," Walter said. "We have to accept authority and learn to have a job. There is a need for order, otherwise there is chaos."

WHAT ARE YOU SCARED OF?

Later, at a therapy session, members of a "clan" or group discussed the concern some of them had of "wasting" a year or two in the program.

"Remember going into a vacant building at 2 or 3 in the morning with a candle to cop or steal?" a patient who led the discussion asked. "What are you scared of here? Rejection? That no one is going to like you?"

Dr. Mitchell Rosenthal, a psychiatrist who is president of the Phoenix Foundation, explained the major reasons for emphasizing discipline and self-criticism.

"They have lived in a kind of social coma," he said. "They have been so self-absorbed with drug use that they became chronically throughtless about everything else in life.

"Discipline puts them in a stressful situation. We put them in a social crucible, in which we can get them feeling what other people have learned much more gradually in life."

The director of research of the foundation, George De Leon, attributed the high dropout rate in therapeutic communities partly to an "open-door policy" and the "long and difficult regime." He said 75 percent of the residential patients who have completed a program never returned to drugs.

After two decades of seeking methods to halt the illicit use of heroin, barbiturates and amphetamines, rehabilitation experts are faced with a new problem—cocaine. About 9 percent of the patients seeking help at state-supported programs list cocaine as their chief problem.

The director of the Substance Abuse Division, Julio A. Martinez, acknowledged that public programs had failed to attract middle-class or wealthy cocaine abusers. Most of state programs are in run-down or borderline neighborhoods and are mainly used by heroin addicts, according to Mr. Martinez.

There are few private facilities available for cocaine abusers, and private counseling is expensive—$10,000 or more a year.

CENTER FOR COCAINE ABUSERS

"The medical community has not assumed the responsibility to sufficiently train people in drug abuse," Dr. Robert B. Millman, director of drug research at New York Hospital, said. "Most physicians say: 'Why bother with drug abusers? They did it to themselves,' or, 'They're poor and they won't pay their bills, so send them to a public clinic.' "

An outpatient-treatment center for cocaine abusers opened last July in Regent Hospital, a private institution at 425 East 61st Street, near York Avenue. The cost for each year of the program, which consists of individual and group therapy, will be $8,800. More than 50 patients have entered it.

The director of substance-abuse research at the hospital, Dr. Arnold M. Washton, described the public drug-treatment system as "overburdened" and said large-scale public financing for cocaine abusers should be avoided.

"The average cocaine user is making over $30,000 a year and spending $500 a week on the drug," he said. "Why should you and I have to pay for his treatment?"

FEDERAL EFFORT AT COORDINATION

The Reagan Administration, in its drive against trafficking, has emphasized law enforcement. It has set up 12 antidrug groups, including 1 in the New York metropolitan area, to concentrate on organized-crime groups and their involvement in narcotics.

Since last June, the Administration also has moved to coordinate the efforts of such agencies as the Coast Guard, Defense Department and Customs to interdict major drug smugglers.

In the last two years the Federal contribution to rehabilitation in the state has declined, from $34.3 million to $19.4 million, according to the state.

Police Commissioner Benjamin Ward is also counting on tough policies to drive dealers and addicts off the streets. Since last January, his crackdown against low-level dealers in Manhattan has resulted in more than 4,600 arrests.

"The death penalty couldn't deter the drug trade," Commissioner Ward said in an interview. "What I'm doing is cutting robberies and burglaries, even if doesn't deter dealers.

"I'm not in the business of rehabilitating junkies. I'm in the business of taking back the streets for the good people."

The street "sweeps," or mass arrests, Commissioner Ward said, might influence the White House and local political leaders to provide more money to combat traffickers.

"You put enough pressure on the Mayor Kochs and the Governor Cuomos and the President Reagans of this country, they'll open up prisons," he said. "We are embarrassing various levels of government to put more money into law enforcement and rehabilitation."

I WOULD NEED A MARINE DIVISION

Brude E. Jensen, who is in charge of the 240 Federal Drug Enforcement Administration agents in the city, Long Island and the northern suburbs, said his office's personnel had recently been reinforced, but only to the strength it had 10 years ago.

Because of the priorities attached to heroin and cocaine, the D.E.A. has virtually halted marijuana investigations. "To stop all the drugs coming into New York, I'd need a Marine division," Mr. Jensen said.

Most social scientists believe the United States has experienced more drug abuse than any other Western industrialized country. Psychiatrists, psychologists and sociologists cite a combination of factors for their spread, including these:

The widespread acceptance of marijuana, which has encouraged users to experiment with harder drugs such as cocaine and heroin. Studies have found that 30 percent of regular marijuana smokers use another drug.

¶The glamorization of cocaine as a sophisticated, supposedly benign, "recreational" drug that is widely used by such role models as entertainers and athletes.

¶The existence of organized-crime groups, which have reaped vast profits by distributing narcotics.

FRUSTRATIONS ARE CITED

Leaders of rehabilitation programs and law-enforcement officials generally agree antidrug campaigns by the police and D.E.A. will have limited long-term effect unless there are treatment programs for addicts.

"The fight against narcotics is frustrating," the city's Special Narcotics Prosecutor, Sterling Johnson Jr., said. "It's like digging

a hole in the ocean. If you stop for a minute, it will be filled with water again."

"There has to be a greater commitment from Federal and local government, not just on law enforcement, but for greater political pressure on source countries where the drugs come from, for treatment of addicts and educating our kids about the dangers of drugs."

Dr. Rosenthal of the Phoenix Foundation said:

"There always seems to be a lack of integrated planning between criminal-justice and treatment people. What is the point of locking up thousands of addicts—and most street pushers are addicts—unless there is room at the inn for treatment?"

After 12 years of working with drug abusers, Dr. Washton of Regent Hospital, who is a psychologist, said he saw signs society was beginning to take "a much harder line against drug use."

"We have gone through a permissive phenomenon, which brought recreational drug use into the culture," he said. "After a blowout week at work, it was considered all right to have a quick escape and release from the rat race, especially with drugs that were touted as nonaddictive.

"People are now less accepting of occasional drug use, even those who have been doing it since the 1960's. There is a nationwide movement just getting started that is saying this society will no longer tolerate the use of mood-altering chemicals the way it has for the past 20 years."

[From the New York Times, May 23, 1984]

PERSONAL HEALTH

(By Jane E. Brody)

Cocaine, a euphoriant drug that is the most potent natural stimulant yet discovered, is said to make occasional users feel full of energy, self-confidence, control, sexuality, drive and willpower. But it can also turn users into impotent, emaciated, thieving, hostile, paranoid, groveling addicts who live for nothing more than another dose. It has ruined countless marriages, wiped out fortunes, destroyed careers and even claimed lives.

Unfortunately, it is almost impossible to predict who will be able to control his or her use of cocaine and who will fall prey to its powerful addictive qualities. Without question, the number of users of cocaine is escalating with frightening rapidity across the country. According to an analysis of calls last month to a national cocaine hot line, more than two-thirds of the callers came from small and medium-size cities and towns throughout the United States. Last year, in a similar analysis, two-thirds of the calls came from large urban centers in New York, California and Florida.

Since its inception a year ago, the hot line—800-COCAINE (800-262-2463)—has received an average of 1,000 calls a day, most of them seeking help for what is described as an out-of-control drug problem. A random sample of 1,000 callers during April revealed that 96 percent have intense cravings for the drug, 91 percent have suffered medical problems from using it (including chronic headaches, nosebleeds, sinus problems, difficulty swallowing and diminished libido), 73 percent said they preferred cocaine to food, and 52 percent were afraid their work would suffer if they stopped using it.

According to Government statistics, an estimated 25 million Americans have tried cocaine, 5 to 6 million use it at least once a month, and 5 to 20 percent of users have serious cocaine dependencies. Each day, 5,000 more Americans become cocaine users. Once a drug used mainly by well-to-do-men in their 20's and 30's, an increasing proportion of users are blue-collar workers and women.

The fact that so many well-known personalities have suffered well-publicized devastation from cocaine does not seem to be slowing its use or abuse. Victims have included Don Reese, a professional football player who said in a Sports Illustrated article that his career was ruined by cocaine and that the drug was "messing up" dozens of other players; Steve Howe of the Los Angeles Dodgers, the National League's 1980 rookie of the year who was suspended from baseball because of cocaine abuse; John Belushi, the actor who died of a particularly lethal combination of cocaine and heroin; Richard Pryor, the comedian who suffered nearly fatal burns when an ether and cocaine mixture, exploded, and David A. Kennedy, a son of the Robert F. Kennedy and a multidrug abuser who died last month at age 28 of the combined effects of cocaine, Demerol and Mellaril. This month 20 students were expelled from two prep schools in Connecticut in cocaine-related investigations.

According to Dr. Mark S. Gold, medical director of 800-COCAINE and director of research at Fair Oaks Hospital in Summit, N.J., "The popular view today is that cocaine is a chic, safe drug, unlike heroin, that can be used without fear of addiction. But callers to our help line tell us they cannot stop even though they recognize that it is destroying their lives."

Cocaine has had a long and colorful history. In its mildest natural form, it has been used for centuries by South American Indians, who chew coca leaves to ward off hunger and fatigue. In the late 1800's, cocaine became a popular ingredient in a host of patent medicines in this country. Freud had touted it as treatment for a wide range of disorders, from impotence to asthma to morphine addiction. Cocaine was responsible for the initial popularity—and the name—of Coca-Cola, which was introduced in 1886 by an Atlanta pharmacist as a combination of coca-laced syrup and water. The beverage was said in an early advertisement to be a "brain tonic and cure for all nervous infections—sick headache, neuraglia, hysteria and melancholy."

By 1903, the presence of this powerful drug in soft drinks alarmed a Presidential commission, and cocaine was subsequently removed from Coke. Cocaine finally lost respectability and legality after World War I, and for decades thereafter was used almost exclusively by rich and daring entertainers and musicians. The sleazy reputation cocaine acquired in the 1960's through its use by heroin addicts shifted dramatically in the 1970's when the upper and upper-middle classes took it up as the source of a "safe" and very expensive high.

As Nannette Stone, Marlene Fromme and Daniel Kagan point out in their illuminating new book, "Cocaine: Seduction and Solution" (Clarkson N. Potter, $13.95), cocaine won instant admiration from many achievers because, as a stimulant not unlike amphetamines, it temporarily abolished fatigue, increased self-esteem and made them feel powerful, creative, competent, productive and in control. Its high status was enhanced by the fact that, at $2,000 an ounce (five times the price of gold), only the affluent could afford to use it with any regularity. The drug was initially believed to be nonaddicting and nonthreatening to health and life.

Cocaine is now known to cause fatal convulsions, respiratory failure and cardiac collapse, even at moderately high doses and in seasoned users. As with amphetamines, prolonged use can induce psychosis and paranoia, profound psychological dependence and suicidal desperation. The harmful effects of cocaine itself are sometimes augmented by the substances the drug is cut with such as methamphetamine, ephedrine or quinine.

Short-term effects of cocaine include increased heart rate and blood pressure, constriction of outlying blood vessels, increase in body temperature, sleeplessness, diminished appetite, localized anesthesia, sexual stimulation, talkativeness and euphoria. Repeated use can result in extreme restlessness, anxiety, hyperactivity, irritability, paranoia, weight loss, sleep loss, nasal injury (from sniffing the drug), impotence, orgasmic failure, stomach problems and perhaps liver and lung damage.

Snorting—sniffing cocaine into the nose, where it is rapidly absorbed through mucous membranes—is the most common mode of administration. Those seeking a faster or more intense high may smoke purified cocaine (freebase) through a water pipe. A few mainline it intravenously. Addiction and death can result from any method, although the risk is greater if the drug is smoked or injected. Cocaine is especially dangerous for people with high blood pressure, seizure disorders or impaired heart function. It also increases the risk of miscarriage.

A cocaine high is short-lived, lasting only 10 to 30 minutes, and is frequently followed by a crash marked by feelings of depression, irritability, pessimism and impatience. To alleviate the pangs of this comedown, some take alcohol, tranquilizers, barbiturates, heroin or, most frequently, more cocaine. For some, an empty bank account is the only limit on the amount of cocaine they use at any one time. Others resort to selling drugs or white-collar stealing to support a habit that can cost hundreds or even thousands of dollars a week.

Those particularly in danger of developing cocaine dependency, Nannette Stone and her co-authors point out, are people who use it to supply feelings they lack inherently, such as a sense of self-worth and the ability to love and feel loved or to experience happiness and satisfaction. Others at risk of addiction may use cocaine to help them cope with feelings of anxiety, stress, depression and fear of incompetence. But even in the absence of these triggering factors, any regular cocaine user is at risk of becoming an addict, the authors say.

Testimony to this view is the pathetic tale of David R. Britt, the pen name of a former cocaine addict who wrote "The All-American Cocaine Story: A Guide to the Realities of Cocaine" (a $10.95 paperback published by CompCare in Minneapolis).

As Mr. Britt describes himself, prior to his destructive affair with cocaine he had been an all-American success story: handsome, confident, articulate, a loving husband, community do-gooder, owner of a large California beach-front home and founder of a national marketing company, who had turned a $600,000 trust fund into a multimillion-dollar business by the age of 25.

Then two friends gave him a gift of cocaine ("the first drug I ever liked") for his 26th birthday, and by age 28 his life and his family were in ruins. Mr. Britt finally saved himself with the help of a supportive woman and a rehabilitation program.

Both the Britt and the Stone books offer sound advice about how to quit using cocaine. There is also a cassette tape called "Cocaine" produced by Dr. Richard Louis Miller, founder of a rehabilitation program called Cokenders in Emeryville, Calif. (The tape is sold together with the Britt book for $19.95 plus $1 for shipping by JDA Publishing, 32 West Anapamu Street, Suite 256, Santa Barbara, Calif. 93101; 805-438-4101.)

Although many can break loose from cocaine on their own, the serious abuser with a strong psychological dependence often needs professional help, preferably from someone experienced in treating drug problems. Group therapy is often more effective and less expensive than individual counseling, but the latter may be needed to help people come to grips with the emotional problems that led them to use cocaine in the first place. Guidance to effective therapy can often be obtained from a local drug or alcohol rehabilitation center, by calling the help line 800-COCAINE or by consulting the aforementioned books.●

DR. TOMAS RIVERA

● Mr. KENNEDY. Mr. President, I rise to pay tribute to Dr. Tomas Rivera, a scholar and educator respected and admired by the higher education community.

On May 16, Dr. Tomas Rivera, the University of California's first and only minority chancellor, passed away as a result of a heart attack.

A national leader in Hispanic education issues and a member of numerous commissions and foundation boards, Dr. Rivera served as U.C. Riverside's chief executive since July 1979. An educator, poet, and novelist, Tomas Rivera had a distinguished and varied career when he assumed the duties as U.C. Riverside's fourth chancellor in 1979. He became the first minority chancellor in University of California history, and its youngest chief executive in the nine-campus system.

U.C. President David P. Gardner described Dr. Rivera as a "nationally renowned educator, as a consumate scholar, and as a caring human being. He believed strongly that young people are an unparalleled resource that should not be wasted, and he conveyed this message most eloquently, both as an educator and as a poet."

Born December 22, 1935, in Crystal City, Tex., Dr. Rivera grew up as part of the migrant-labor stream that went from Texas to various parts of the Midwest. His earliest education came in Spanish-instruction barrio schools. He graduated in 1954 from Crystal City High School. Dr. Rivera persevered in his academic pursuits, securing undergraduate degrees in English, education, and postgraduate degrees in educational administration, Spanish literature, and romance languages and literature.

His teaching and administrative career included posts in Texas and California. He served on numerous State and national advisory committees. Among them, the Carnegie Foundation for the Advancement of Teaching, the Task Force in the Hispanic Arts of the National Endowment for the Arts, the National Council of Chicanos in Higher Education, the American Association for Higher Education—1981-present—American Council on Education, and Education Testing Service.

Concurrent with Dr. Rivera's experience in education was a successful writing career. A poet, novelist, and literary critic, he had numerous works published in journals and anthologies and wrote two critically acclaimed books—"Y no se lo trago la tierra/And The Earth Did Not Part," an award-winning novel published in 1971, and "Always and Other Poems," released in 1973. He was contributor to a 1979 Carnegie Commission report, "Public Trust."

He received numerous honors, recognitions, and awards. The California Chicano News Media Association cited him for outstanding achievements and contributions to the Chicano community in 1982, and Caminos Magazine of Los Angeles named him 1981 Outstanding Chicano Educator. This spring, the Riverside chapter of the NAACP gave its NAACP'er of the Year Award to Dr. Rivera for his demonstrated leadership on the Riverside campus. Dr. Rivera has been long active in furthering the access of Hispanic students into postsecondary education and has been committed to the development of Chicano leadership. His ceaseless efforts to promote cultural and community awareness within the context of building a better and more just society earned him the respect and admiration of all who knew him well.

Dr. Rivera will be missed but he leaves a legacy that shall serve us well in pursuing his dreams and ideals. We extend our heartfelt condolences to his wife, Conception, and his three children, Ileana, Irasema, and Javier.●

AUTOMOBILE AUTOMATIC CRASH PROTECTION

● Mr. DANFORTH. Mr. President, soon the Memorial Day weekend will be upon us and millions of Americans will take to the highways. Radio and television public service announcements will admonish drivers to drive safely, but despite these reminders, the National Safety Council estimates that 400 to 500 persons will be killed, and 18,000 to 23,000 persons will be seriously injured in motor vehicle accidents before midnight Monday.

Mr. President, the American people deserve more than reminders. They deserve safer cars. Motor vehicle accidents are claiming some 45,000 lives, and causing some 1.7 million disabling injuries, each year. Only cancer is a greater threat to human life, and there is an extensive national effort being waged to combat this disease.

In July, Transportation Secretary Elizabeth Dole will announce a final decision on the longstanding issue of automatic crash protection for automobiles. That decision will be one of the most important she will make as a highly-regarded public servant. In anticipation of that decision, physicians, accident victims, families of accident victims, and safety- conscious citizens across the country are working to focus public attention on the tragic slaughter occurring on our Nation's highways. I want to join with them in this effort by directing the attention of my colleagues to a fact sheet on automatic crash protection prepared by the National Coalition to Prevent Car Crash Injuries, and to a recent editorial from the St. Louis Post-Dispatch.

Mr. President, I ask that these items be printed in the RECORD.

The items follow:

FACT SHEET—THE CASE FOR AUTOMATIC CRASH PROTECTION

Each year 45,000 to 50,000 Americans die as a result of highway crashes. In 1982, 36,000 motor vehicle occupants were killed, 24,000 in passenger cars. And 1.7 million suffered disabling injuries.

Auto crashes are the leading cause of death for young Americans under age 34, the major source of brain damage and head injury, a significant cause of epilepsy and spinal cord injury (i.e., paraplegia and quadriplegia), and a contributor to other serious disabilities such as blindness.

The consequences of automobile crashes are truly a national public health problem, second only to cancer and greater than heart disease.

The economic loss to society from motor vehicle accidents has been estimated to be a staggering $57.2 billion per year, according to DOT's own estimate.

Nearly nine out of ten car occupants in America today do not protect themselves from injury by using manual seat belts.

Air bags and automatic seat belts have been proven reliable, acceptable to the public and cost effective in reducing fatalities and serious injuries.

As standard equipment, automatic crash protection would save many thousands of lives and tens of thousands of serious injuries each year, by conservative estimates.

Installed in all new cars, air bags will increase the sticker price between $200 (estimated by air bag manufacturers) and $320 (estimated by NHTSA) and automatic belts about $80 (NHTSA). This cost would be more than offset by reduced insurance rates and medical, welfare, and other societal savings.

[From the St. Louis Post Dispatch, May 18, 1984]

BUCKLE DOWN ON AUTO SAFETY

The controversy over automatic passenger restraints in automobiles has been filled with more wind than it would take to inflate every one of the air bags installed in cars being driven on the nation's roads and highways today. Few doubt their ability to save lives, but a federal regulation that would have made them standared equipment on all

automobiles has yet to bear fruit. For the rule, introduced late in the Carter administration, was quickly rescinded before its effective date after President Reagan took office.

Last year, though, the Supreme Court overturned the Transportation Department's reversal and ordered its secretary, Elizabeth Dole, to reconsider the matter. An April deadline was pushed to July 11, with Secretary Dole asking for comments on more than a dozen variants of the Carter proposal. Now, four new proposals have been added to the list. None of these new offerings will be exactly welcomed by the auto industry or the administration, both of which have come out strongly against any regulation. Yet none is so strong that it would make any noticeable dent in the number of deaths and injuries that result from traffic accidents.

One of them would require auto makers to install passive restraints on just 5 percent of all new cars. This proposal, first suggested by Ford Motor Co., perpetuates the idea of air bags or automatic seat belts as expensive novelties. Without the economies of scale that would obtain if passive restraints were required on all cars, it is probably true, as GM claims, that close to $500 would be added to the sticker price of cars so equipped. Any savings in personal injury insurance rates would more than be offset by the increased cost of the car and additional insurance needed to cover that.

A second plan would require air bags on the driver's side only of small cars. Heaven only knows what lies behind this cynical proposal. Might it be the (mistaken) assumption that large cars are rolling fortresses whose drivers are already sufficiently protected, thank you? Or might it be the idea that drivers of small cars never carry passengers—or at least, no passengers worth saving in the event of serious accident? Is it too far-fetched to think this plan itself might be a subterfuge to sell more large cars, by making small ones almost as costly?

The third option would make automatic restraints mandatory only in states that did not have mandatory seat-belt use laws, while the fourth option, a variation on this theme, would require passive restraints on all cars unless three-fourths of all states pass laws mandating seat-belt use. Apart from the difficulties of enforcing such laws, these options would place the matter of ensuring auto safety in the hands of state legislatures instead of the Transportation Department, which alone has the ability to set uniform, nationwide standards and which therefore has the real responsibility to act on this question.

In short, the only reasonable regulation—one that reflects a concern for safety as well as economy—is one that would require passive restraints on every new car sold in the United States—the sooner the better. Nothing less.●

THE PREFERREDONE PLAN

● Mr. DURENBERGER. Mr. President, as you know, I am a strong advocate of consumer choice and competition in the health care industry. Minnesota is one such place where a competitive health care environment exists and is thriving.

I would like to submit for the RECORD, Mr. President, an article written by Lewis Cope that appeared in the Minneapolis Star and Tribune on April 9, 1984. This article describes how three Twin City metropolitan hospitals are offering services at a reduced price to participating employee groups. The PreferredOne plan is one model of the preferred provider organization (PPO) approach that is being marketed across the country.

The article follows:

3 HOSPITALS OFFERING PATIENTS PACKAGE DEALS

(By Lewis Cope)

Three Twin Cities-area hospitals are marketing unusual package deals; and uncomplicated child delivery for $1,874, an appendectomy for $3,982, lens implant eye surgery for $2,229.

The deal for these and hundreds of other ailments covers not only all hospital care but doctors' services, including follow-up visits, provided by the 300 participating physicians.

Metropolitan Medical Center in Minneapolis, United Hospitals in St. Paul and St. Paul Children's Hospital are offering the PreferredOne plan as an add-on to the companies regular health insurance plans.

The hope is that employers, seeing a money-saving potential, will offer financial incentives for their employees to use the guaranteed price plan, said Paul Renstrom, a spokesman for PreferredOne.

For example, the employer may reduce or eliminate deductibles for employees who use PreferredOne, but keep the deductibles if the employee used any other hospitals or doctors, Renstrom said.

Marketing of PreferredOne is just beginning, so it's unclear how well it will sell. But it is important for two reasons.

First, it's added evidence of how hospitals are competing for business. A recent study by the Metropolitan Health Planning Board showed that on average last year, one out of three Twin Cities-area hospital beds was empty.

Second, it could offer a new way to make price comparisons in the hospital industry, where variations in individual cases have traditionally made dollar comparisons difficult.

The new approach is different from conventional health plans:

Under regular health insurance, coverage is the same regardless of which doctor or hospital is used.

In an HMO, the patient normally gets no coverage at all unless he or she uses a hospital and doctor affiliated with that HMO.

Under the preferred provider organization (PPO) approach, in which PreferredOne and some other plans fit, the patients can use any hospital or doctor and still have insurance coverage. However, there is some financial incentive to use a list of preferred providers.

Other organizations have begun offering PPO plans designed to financially reward people who use affiliated hospitals or doctors in other ways. For example, Blue Cross-Blue Shield's Aware program offers some incentives for using specific doctors.

Abbott Northwestern, Eitel and Minneapolis Children's hospitals are marketing Select Care, which now covers 5,000 employees. The hospitals and participating physicians agree to use preadmission checks to make sure hospitalization is required, make extensive use of outpatient surgery and take other cost-saving steps, said William Gedge, executive director of Select Care.

Gedge said that specific prices by diagnosis are not used in most such contracts, but some limits on total hospital spending are being negotiated with some employers. The employer is expected to offer some financial incentive to encourage its employees to use Select Care.

The federal Medicare program for senior citizens is phasing in its new Diagnostic Related Groups (DRGs) program. This doesn't provide any incentive for patients to use specific hospitals, but does set limits on how much Medicare will pay for each type of case.

To participate in Medicare, the hospital must accept the DRG-set cost as payment in full. All hospitals participate in Medicare because senior citizens account for a large part of their business.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand that the minority leader is on his way to the floor.

I am advised that on this side, at least, there are four wilderness bills that are cleared for action by unanimous consent. As soon as the minority leader arrives, it will be my intention to ask him if he can similarly clear them. They are H.R. 3960, H.R. 3578, H.R. 3921, and H.R. 4198. We are ready to go ahead with those matters, and in a moment I hope we will be able to proceed.

CONSIDERATION OF WILDERNESS MEASURES

Mr. BAKER. Mr. President, I inquire of the minority leader if he is in a position to clear for action, by unanimous consent, four wilderness bills, as follows: Calendar No. 807, H.R. 3960; Calendar No. 805, H.R. 3578; Calendar No. 806, H.R. 3921, and Calendar No. 808, H.R. 4198.

Mr. BYRD. Mr. President, these measures have been cleared on this side of the aisle. Does the majority leader anticipate that they will take very much time?

Mr. BAKER. No. I would be happy to put a unanimous-consent request that the time for consideration of these measures be limited to 4 minutes each, equally divided.

Mr. BYRD. With no amendments in order, other than the amendment that is specified as an amendment on behalf of Mr. MCCLURE?

Mr. BAKER. And the committee substitute.

Mr. BYRD. And the committee substitute.

Mr. BAKER. As to H.R. 3960. Also, an amendment for Mr. MCCLURE and others and a committee substitute on H.R. 3578; an amendment by Mr. HUMPHREY and Mr. RUDMAN and a committee substitute on H.R. 3921; an amendment by Mr. MCCLURE and others, another amendment by Senator MCCLURE, and the committee substitute on H.R. 4198. Also, title amendments as appropriate.

Those would be the only amendments in order.

Mr. BYRD. And the 4 minutes would cover all?

Mr. BAKER. The 4 minutes would be all-inclusive, for the bill and the amendments.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

NORTH CAROLINA WILDERNESS ACT OF 1984

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 807.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3960) to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "North Carolina Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Uwharrie National Forest, North Carolina, which comprise approximately four thousand seven hundred and ninety acres, as generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

(2) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand six hundred and eighty acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately two thousand nine hundred and eighty acres, as generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Joyce Kilmer Wilderness as designated by Public Law 93-622;

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Linville Gorge Wilderness as designated by the Wilderness Act;

(6) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Middle Prong Wilderness—Proposed", dated July 1983, and which shall be known as the Middle Prong Wilderness;

(7) certain lands in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, as generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated July 1983, and which shall be known as the Pocosin Wilderness;

(8) certain lands in the Croatan National Forest, North Carolina, which comprise approximately one thousand eight hundred and sixty acres, as generally depicted on a map entitled "Pond Pine Wilderness—Proposed", dated July 1983, and which shall be known as the Pond Pine Wilderness;

(9) certain lands in the Croatan National Forest, North Carolina, which comprise approximately nine thousand five hundred and forty acres, as generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand one hundred acres, as generally depicted on a map entitled "Shining Rock Wilderness Addition—Propose", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, that Shining Rock Wilderness as designanted by the Wilderness Act; and

(11) certain lands in the Nantahala National Forest, North Carolina, which compromise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "Southern Nantahala Wilderness—Proposed", dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) Congress has made its own review and examination of National Forest System roadless areas in the State of North Carolina and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of North Carolina.

(2) with respect to the National Forest system lands in the State of North Carolina which were reviewed by the Department of Agriculture in the RARE II, except those lands designated for wilderness study by this Act or by previous Acts of Congress, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of North Carolina reviewed in such final environmental statement and not designated as wilderness or for wilderness study by this Act or by previous Act of Congress, need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

DESIGNATION OF WILDERNESS STUDY AREAS

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended—

(1) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand one hundred and thirty-eight acres, as generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand seven hundred and eight acres, as generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be

known as the Lost Cove Wilderness Study Area;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand two hundred acres, as generally depicted on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately eight thousand four hundred and ninety acres, as generally depicted on a map entitled "Snowbird Wilderness Study Area", dated July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately one thousand two hundred and eighty acres, as generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are hereby incorporated in the Craggy Mountain Wilderness Study Area as designated by Public Law 93-622.

(b) The Secretary shall submit a report and findings to the President regarding the review required under this section, and the President shall submit his recommendations regarding the areas specified in paragraphs (1) through (5) of subsection (a) to Congress no later than three years after the date of enactment of this Act.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. The entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93-622, shall be administered in accordance with this subsection until Congress determines otherwise.

Mr. HELMS. Mr. President, I am pleased today to have the opportunity to recommend to my colleagues the passage of four wilderness bills. Enactment of these bills would complete a rather lengthy wilderness study and designation process in the national forests in Vermont, Wisconsin, New Hampshire, and my own State of North Carolina.

Each bill designates new wilderness areas in the national forests in the respective State, and provides for the continuation of the successful concept of multiple-use forestry management. The bills insure that while certain areas in the national forests will be protected in their natural condition, the remainder of these important lands will continue to be managed responsibly to insure both the protection and wise use of our valuable natural resources.

In order to satisfy requirements of the Budget Act, I must point out that if any of the activities authorized by these bills are conducted in fiscal year 1984, it is understood that any costs resulting from the administration of these acts shall be absorbed within appropriations for fiscal year 1984.

Also, Mr. President, an amendment is proposed for each bill that will resolve the longstanding, or I should say longsuffering, debate over the appropriate "release language" in each bill. Since the time when these bills were reported by the Committee on Agriculture, Nutrition, and Forestry, a compromise has been reached with key Members of the House of Representatives to resolve this issue. The "release language" amendment to be added to each of these bills reflects this new compromise.

From the beginning of the discussion over appropriate release language, I have maintained that a satisfactory resolution to this issue would include statutory language that would provide specific direction as to the timing of further wilderness study. This is accomplished, hopefully, by the compromise release language agreement.

The compromise ties future wilderness study to the revision of land management plans under the National Forest Management Act. This clarifies and reaffirms the intent of the present law, that wilderness study will take place on a normal 10- to 15-year cycle, in conjunction with scheduled revisions of land management plans.

The Committee on Agriculture, Nutrition, and Forestry has made it quite clear in the reports on these bills, that it intends for the land management plans to run their full life expectancy of 10 to 15 years before the lands in a particular national forest are again studied for their wilderness potential. This will insure management stability for the national forest system, and will allow the U.S. Forest Service to manage these lands, according to agreed-upon plans, to their maximum utility.

Before this time, the lack of a compromise on release language has delayed the passage of a number of wilderness bills over the past several years. Now that this issue has been resolved, I anticipate that the Committee on Agriculture, Nutrition, and Forestry will be able to complete its work on remaining wilderness bills in this session of Congress.

As this is an effort in which I have been personally involved for more than a decade, I would like to express my thanks to the distinguished Senator from Idaho (Mr. McCLURE), chairman of the Committee on Energy and Natural Resources, for his herculean efforts to achieve a compromise with Members of the House of Representatives on the release language. And a special thanks to to the Senator from Montana (Mr. MELCHER), with whom I am pleased to serve with on the Committee on Agriculture, Nutrition, and Forestry, for his sound judgment in this matter, and his efforts in securing a compromise.

The chairman of the Subcommittee on Soil and Water Conservation, Forestry and Environment, the distinguished Senator from Iowa (Mr. JEPSEN), has also played an important role in this effort, and will continue to do so. He has chaired hearings on several wilderness bills thus far in this session, and is already planning for the consideration of several more bills before the end of this month.

Mr. President, I would also like to thank the Members and their staffs whose States have bills before us today, for their diligent work and faithful representation of the agreements and sometimes complex negotiations that make up these individual wilderness bills. Their hard work will result in a more sensible and sound national forestry management policy, and will be of incalculable benefit to generations of Americans to come.

And finally, Mr. President, I would be remiss were I not to thank the able majority leader for his prompt attention to the consideration of these bills today. I know that I speak for everyone when I say that his courtesy and agreement to consider these bills in such a timely manner is greatly appreciated, considering the full schedule of the Senate.

Mr. President, I ask unanimous consent that a brief explanation of each of the bills be included in the RECORD immediately following my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

NORTH CAROLINA WILDERNESS ACT OF 1984

The bill, as reported by the Committee, would designate 11 areas (totaling approximately 68,750 acres) in the national forests in the State of North Carolina as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

The 7 new wilderness areas which would be established total 53,590 acres. They are located on all 4 of the national forests of the State and stretch from the coast to the mountains. The areas include several unusual geologic features, rare vegetation species and critical habitat for endangered wildlife species. Approximately 23 miles of the Appalachian National Scenic Trail traverse one of the areas. All the these areas were recommended for wilderness in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II). The 15,160 acres of additions to the 4 existing wilderness areas were also recommended in the RARE II study.

The acreage included in the 11 areas would bring the North Carolina total for wildernesses to approximately 109,000 acres, of which about 100,000 acres would be within the National Forest System. This represents about 9 percent of the total of these Federal lands in the State.

Further, the bill contains language to ensure that National Forest System lands in the State of North Carolina that were stud-

ied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness or for wilderness study by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review and evaluation of National Forest System lands in North Carolina for purposes of considering the wilderness suitability of such lands.

The bill would also designate 5 areas (totaling approximately 25,816 acres) in the national forests in the State of North Carolina as wilderness study areas and require the Secretary to review the suitability of these areas for wilderness preservation during the preparation of the initial land management plans. The Secretary is to report his findings to the President and the President is to submit recommendations to Congress within 3 years after enactment of the bill. Until Congress determines otherwise, the Secretary would have to manage the wilderness study areas to preserve their presently existing wilderness characteristics.

VERMONT WILDERNESS ACT OF 1984

The bill, as reported by the Committee, would designate 5 areas (totaling approximately 41,260 acres) in the Green Mountain National Forest in the State of Vermont as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

The 4 areas to be designated as new wilderness areas total 40,180 acres. These include the Breadloaf Mountain area, the Big Branch area, the Peru Peak area, and the George D. Aiken area. The Long Trail traverses three of the areas and the Appalachian Trail traverses two of the areas. Special use permits for private camps exist on two of the areas and will continue to be honored, including motorized access to the camps.

The 1,080-acre addition to the existing Lye Brook Wilderness established in 1975 would incorporate several miles of hiking trails into the wilderness.

Further, the bill contains language to ensure that National Forest System lands in the State of Vermont that were studied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process.

The bill would also designate approximately 36,400 acres in the Green Mountain National Forest in the State of Vermont, including 2 of the proposed wilderness areas, as the White Rocks National Recreation Area. The bill provides for the Secretary to administer the national recreation area in accordance with the provisions of the bill, to promptly file a map and legal description of the national recreation area with appropriate committees of Congress, and to develop a comprehensive management plan for the recreation area and submit the plan to appropriate congressional committees within 18 months after enactment of the bill. Federally-owned land in the national recreation area would be withdrawn from all forms of appropriation under the mineral leasing laws.

NEW HAMPSHIRE WILDERNESS ACT OF 1984

The bill, as reported by the Committee, would designate 3 areas (totaling approximately 77,000 acres) in the White Mountain National Forest in the State of New Hampshire as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

The 3 areas to be designated as wilderness include the Pemigawasset area of 45,000 acres, the Sandwich Range area of 25,000 acres, and an addition to the existing Presidential Range-Dry River Wilderness area of 7,000 acres. All of the areas were recommended as wilderness in the Department of Agriculture's second Roadless Area Review and Evaluation.

Further, the bill contains language to ensure that National Forest System lands in the State of New Hampshire that were studied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process.

The bill includes language providing that the release language of the bill does not apply to the area in the White Mountain National Forest that is known as the "Kilkenny Unit Plan Area". This area is to be considered for all uses, including wilderness, during preparation of a land management plan for the White Mountain National Forest.

WISCONSIN WILDERNESS ACT OF 1984

The bill, as reported by the Committee, would designate 2 areas (totaling approximately 24,339 acres) in the national forests in the State of Wisconsin as wilderness areas and as components of the National Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

The 2 areas to be designated as wilderness include the Porcupine Lake areas and the Headwaters Wilderness area. The Porcupine Lake area, located in the Chequamegon National Forest, consists of a single unit of 4,235 acres. Several small and attractive lakes and other unique topographic features, as well as portions of a national scenic trail, are found in this area. The Headwaters Wilderness area is located on the Nicolet National Forest and consists of 3 separate units—Kimball Creek, Headwaters of the Pine, and Shelp Lake—totaling 20,104 acres. The areas are separated by public roads and will be managed as separate units. The roads will remain open for public use. These areas contain vegetable and topographic features representative of the highlands of northern Wisconsin as well as the headwaters of a State-designated wild river. All of the areas to be designated were recommended for wilderness in the Department of Agriculture's second Roadless Area Review and Evaluation.

Further, the bill contains language to ensure that National Forest System lands in the State of Wisconsin that were studied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review and evaluation of National Forest System lands in Wisconsin for purposes of considering the wilderness suitability of such lands.

Mr. HUDDLESTON. Mr. President, H.R. 3960 will establish seven new wilderness areas on national forest lands located in North Carolina. This bill is one of four wilderness bills reported by the Senate Agriculture Committee on April 26, 1984. The other bills are H.R. 3578, H.R. 3921, and H.R. 4198, which will establish new wilderness areas in Wisconsin, New Hampshire, and Vermont, respectively.

These bills will, among other things, add approximately 235,000 acres of pristine and beautiful land to the national wilderness preservation system in the eastern part of the United States.

These bills were developed with the cooperation of local groups that have divergent interests in these national forest lands. I would like to commend all of those involved in this effort for their diligent work and willingness to compromise in order to resolve issues that may have otherwise created obstacles to the legislation.

I understand that an amendment will be offered to H.R. 3960, as well as to the three other bills, that will help clarify the manner in which lands, not designated as wilderness or for wilderness study, may be managed by the Forest Service during its cyclical planning process for the national forests.

The amendment will also clarify when the Forest Service is again to review such lands for suitability as wilderness. I understand that the various groups having direct interests in this matter are supportive of the amendment. It is likely that the other wilderness bills now pending before the Senate Agriculture committee will be similarly amended prior to their being reported by the committee.

I urge my colleagues to approve the amendment and to adopt these four bills, as amended.

Mr. McCLURE. Mr. President, I am offering with the cosponsorship of Senator HELMS, an amendment to the wilderness bills for the State of North Carolina, H.R. 3960, Vermont, H.R. 4198, and Wisconsin, H.R. 3578, which clarifies the management of lands within the National Forest Systems

which are or are not designated wilderness by these bills. Comparable language is included in the Humphrey/Rudman amendment to H.R. 3921, the New Hampshire Wilderness bill. The basic language of the amendments was negotiated with Congressmen UDALL and SIEBERLING and is intended to be included in all statewide wilderness bills enacted by Congress.

The exact language of the amendment to each bill varies slightly to conform it to the specific circumstances of the lands in the State covered by the bill. The differences, however, reflect State-by-State decisions to include or exclude wilderness study areas, further planning areas, or special management areas; or the fact that a State only contains one forest within its boundaries, or that certain areas are not subject to the general provisions of the release language.

Except as may be necessary to reflect these statutory realities, language expressing the legislative intent has also been agreed upon. This language which is the formal legislative history has been included in the reports accompanying S. 2457 (Idaho), S. 1149 (Oregon), S. 837 (Washington), S. 2245 (Arizona) and S. 2125 (Arkansas) wilderness bills. As a further clarification of that legislative history and the standard release language, it should be understood that there is no ambiguity that lands released need not be managed to protect their wilderness suitability prior to revision of the initial land management plans under section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended. "Prior to revision of such plans," of course, is intended to include all time before revision. This logically includes the period during which the initial plans are being developed and during which lands are managed according to valid forest land management plans.

The legislative intent, as agreed upon by Congressmen UDALL and SEIBERLING, to accompany the McClure/Helms release amendment follows:

"Release/sufficiency" language has been incorporated by the Congress in several state wilderness bills enacted over the past several years. That language statutorily confirmed the April 1979 administrative "release" of certain RARE II non-wilderness recommended lands and released other lands not designated as wilderness or wilderness study. This was commonly referred to as "Colorado release".

The language continued to trouble a number of affected industry groups, and in an effort to address their concerns, the Committee has made clarifications in the statutory language found in Sec. . The Committee wishes to further clarify the purpose and intent of the provisions of this section and elaborate on certain issues not specifically discussed in previous bills.

The question of "release" i.e., making lands available for non-wilderness management and possible development arises from the interest in the future management of areas reviewed during the RARE II process. The controversy focuses on the point at which those lands not designated as wilderness or wilderness study by this Act but reviewed in the RARE II process can again be considered for possible recommendation to the Congress for designation as wilderness, and on the question of how these lands will be managed.

The "sufficiency" aspect of this question arose subsequently because of a decision in Federal District Court in California. Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Impact Statement insofar as its consideration of wilderness in some 46 areas in the State of California was concerned.

In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California v. Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture. The Ninth Circuit Court of Appeals affirmed in District Court opinion in *California v. Block* 690 F. 2d 653 in 1982.

While the decision applied specifically only to the 46 roadless areas in California for which the plaintiffs sought relief, the overall conclusions in the case are binding in states such as Arizona that are located in the Ninth Circuit. The net effect is that development activities on roadless areas in such states may be held up if appealed in administrative or judicial forums. This has, in fact, already happened in several instances, and has thrown a cloud of uncertainty over the development of some roadless areas, whereas development has occurred in others.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in ——— for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Statement insofar as national forest system lands in ——— are concerned is unnecessary. Therefore, the bill provides that the Final Environmental Statement is not subject to judicial review with respect to national forest system lands in ———.

The Committee does wish to reemphasize that the sufficiency language in this Act only holds the RARE II EIS to be legally sufficient for the roadless areas in the State of ——— and only on the basis of the full review undertaken by the Congress. Similar language will be necessary to resolve the issue in the other states.

MANAGEMENT AND FUTURE WILDERNESS CONSIDERATION OF ROADLESS AREAS NOT DESIGNATED AS WILDERNESS OR WILDERNESS STUDY

The RARE II process during 1977-1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the forest land management plans be reviewed and revised periodically to provide for a variety of uses. During the review and revision process the Forest Service is required to study a broad range of potential uses and options including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is one of the many options which much be considered during the planning process for those lands which may be suited for wilderness. The language of ——— reconfirms this requirement. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, they are targeted for completion by September 30, 1985. For the six national forests in ——— some plans may not actually be completed and implemented until 1986 or later due to administrative problems including delay resulting from the cloud of the California lawsuit and the debate taking place as a result of pending legislation.

One of the goals of RARE II was to consider the wilderness potential of national forest roadless areas. The Committee believes that further consideration of wilderness during development of the initial plans for the certain national forest system roadless areas as defined by Sec. ———, not designated as wilderness or wilderness study upon enactment of ——— would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress. Therefore, the release language of ———, provides that wilderness values of these areas need not be reviewed again during development of the "first generation plans." Moreover, the language provides that during development of, and prior to or during revision of initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are targeted for completion by September 30, 1985. The National Forest Managment Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR §219.10(g)). The language of ——— tracks these regulations.

The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans. By using the word "revision" the Committee intends to make it clear, consistent with NFMA and current Forest Service regulations, that amendments or even amendments which might "result in a significant change" in a plan, would not trigger the need for reconsideration of the wilderness option and Sec.—so provides. The wilderness option does not need to be reconsidered until the Forest Service determines, based on a review of the land covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised.

A revision of a forest plan will be a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. Every effort will be made to address local changes through the amendment process

leaving the revision option only for major, forest wide changes in conditions or demands.

For example, if a new powerline were proposed to be built across a forest, this would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. Likewise, the construction of new range improvements or adjustments in livestock allotments for permittees would not constitute a "revision". It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest concerned, that a "revision" would occur. For example, the recent eruption of Mt. St. Helens, because it affected so much of the land on the entire Gifford Pinchot National Forest, including the forest's overall timber harvest scenario, would likely have forced a "revision" of the plan. Likewise, decisions to dramatically increase timber harvest levels on an entire forest or to change a multiplicity of uses in order to accommodate greatly increased recreation demands might force a "revision". In this regard, the Committee wishes to note, however, that in the vast majority of cases the 10-15 year planning cycle established by NFMA and the existing regulations is short enough to accommodate most changes. Condition are highy unlikely to change so dramatically prior to 10-15 years that more frequent "revisions" would be required.

For example, it would be hard to envision a scenario under which would increase so rapidly over an entire National Forest that the Forest Service would feel obliged to revise a plan prior to the normal 10-15 life span. Recreation demands might increase in a specific area or areas, but such demands could be met by amending the plan, as opposed to revising it.

Forest Service Chief Max Peterson has indicated that, in his view, most plans will be in existence for approximately ten years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with first generation plans to be in effect by late 1985; or slightly later, the time of revision for most plans will begin around 1995. In almost every case, the Committee, therefore, expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1995. The Committee notes that administrative or judicial appeals may mean that many first generation plans are not actually, implemented until the late 1980's, in which case plan revisions would be unlikely to occur until around the year 2000, or beyond. Or, if the full 15 years allowed by NFMA runs before a revision is undertaken, the wilderness option my not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a "revision" would be triggered if the Forest Service is forced by the courts to modify or rework an initial plan, or if the Forest Service withdrew an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wishes to state in the most emphatic terms possible, that any reworking of an initial plan for such reasons would obviously not constitute a "revision" of the plan that would reopen the wilderness question. Rather, any such reworking would constitute proper implementation of the plan. The logic for the Committee's reasoning in this regard is that any such court ordered or administrative reworkings or modifications of a plan would come about to resolve questions related to the preparation and implementation of the plan in accordance with the requirements of NFMA and other applicable law. So such reworking or modification would not be a "revision" (which pursuant to NFMA and the implementing regulations is to be based on changed conditions or demands on the land), because a plan must be properly prepared and implemented before it can be "revised".

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a requirement would completely frustrate the orderly management of non-wilderness lands and the goals of the forest and Rangeland Renewable Resources Planning Act.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness or wilderness study need not be managed for the purpose of protecting their suitability for further wilderness review pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the implementation of the future plans. Between the planning cycles, the uses authorized in the plan in effect can proceed until a new plan is implemented. In short, one plan will remain in effect until the second plan is implemented. For lands recommended for non-wilderness uses in future generations of plans there is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness. Thus it is likely that many areas studied for wilderness in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plan's is prepared. As an example of this, the Committee notes that many areas studied for wilderness in RARE II and recommended for non-wilderness have already been developed since their administrative "release" in April of 1979.

Therefore, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once a second-generation plan is implemented in accordance with applicable law including the National Environmental Policy Act, the Forest Service may, of course, manage a roadless area not recommended for wilderness designation according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at the time. In short, the wilderness option must be considered in each future planning generation if the particular land in question still possess wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

In short, this language means that the Forest Service cannot be forced by any individual or group through a lawsuit, administrative appeal, or otherwise to manage lands not recommended for wilderness designation in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines it appropriate, manage lands in an undeveloped manner, just as it can, if through the Land Management Planning process it determines it appropriate, develop released lands. The emphasis here is that the Forest Service will be able to manage released lands in the manner determined appropriate through the land management planning process.

However, the language also provides that lands recommended for wilderness in future generations of plans shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law upon implementation of such plans.

The final issue addressed by the Committee in Section —— of —— pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in —— for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

Mr. MELCHER. Mr. President, this amendment and the same amendment to be offered to other wilderness bills this afternoon is the release language amendment. It ends the problem the Forest Service was experiencing on the management of released nonwilderness areas, and it is the amendment that has been developed over several months and cooperatively by many Senators including the chairman of the Agriculture, Nutrition, and Forestry Committee and the Committee on Energy and Natural Resources.

I have the unique privilege of serving on both the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources. Consequently, I have had the opportunity to work with both the chairmen to develop this amendment. Not only is this amendment to be part of this bill, but also the same is included in the wilderness bills passed earlier today and those wilderness bills to be

considered in this group of four eastern wilderness bills.

The amendment properly asserts the transition of those areas studied for wilderness as the court required in 1979 for RARE II, into the regular management plans required by the Forest Management Act of 1976. This act mandates that the Forest Service develop plans in 10 to 15 year cycles for each national forest.

Only Congress, by statute, can require preservation of pristine forest areas by designating those areas as additions to the national wilderness preservation system. There are presently 80 million acres of wilderness and an additional 62 million acres were studied under RARE II.

Of those areas not designated as wilderness, Congress must release them for the broader uses of recreation such as camping, ski slopes, pickups, four wheel drives, snowmobiles, and motorcycles, or development for mineral or forest resources. It is essential that Congress in passing wilderness bills include in the bill explicit direction for release of the nonwilderness land. That is necessary to avoid further time-consuming court cases.

Argument between organizations that either favored large amounts of wilderness or less wilderness and more development have long delayed many wilderness bills for various States.

Our agreement on this amendment for wilderness release language breaks up the logjam which has stalled a score of wilderness bills.

For Montana, this means we can proceed to introducing a bill designating many of the roadless areas in our State as either wilderness or released for other uses.

This release amendment tracks the language in the National Forest Management Act. It will allow the Forest Service the opportunity they need to manage lands under their jurisdiction without the cloud of uncertainty, appeals and lawsuits they have been faced with. Forest Chief Max Peterson was very helpful and cooperative as we considered alternative versions of release language.

I strongly support this amendment, and I urge my colleagues to join us in its adoption.

AMENDMENT NO. 3146

(Purpose: To modify the release language)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of Senator MCCLURE for himself and for Senators HELMS and MELCHER and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. MCCLURE, Mr. HELMS, and Mr. MELCHER, proposes an amendment numbered 3146.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, strike out line 6 and all that follows through line 4 on page 16 and insert in lieu thereof the following:

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of North Carolina;

(2) with respect to the National Forest System lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of North Carolina reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of North Carolina are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of North Carolina which are less than 5,000 acres in size.

Mr. EAST. Mr. President, I am pleased to take this opportunity to comment on the North Carolina Wilderness bill. First, I commend Senator HELMS and all others involved for their diligent, serious, and thorough examination of the broad range of interests at stake in this matter. The working development of the North Carolina Wilderness bill balances a broad spectrum of interests concerned with this issue in North Carolina. Senator HELMS played a key role in this effort.

Mr. President, I wholeheartedly support the North Carolina Wilderness bill. This measure resolves appropriately the questions of wilderness—when and where and why and how much—that have been with us for some time. This bill does what is best for the public interest and best for North Carolina. It is a balanced approach. It is fair and reasonable to the environmental side, the development side, and all other North Carolina citizens.

I urge Senators to support the North Carolina Wilderness bill as presented. The bill brings commonsense management to the use and disposition of public forest lands in North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 3146) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a

third time. The bill was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, is there an amendment to the title in this case?

The PRESIDING OFFICER. There is none.

Mr. BAKER. There is none. I thank the Chair.

VERMONT WILDERNESS ACT OF 1984

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 808.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4198) to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Vermont Wilderness Act of 1984".

TITLE I—NEW WILDERNESS AREAS

FINDINGS AND POLICY

SEC. 101. (a) Congress finds that—

(1) in the vicinity of major population centers and in the more populous eastern half of the United States there is an urgent need to identify, designate, and preserve areas of wilderness by including suitable lands within the National Wilderness Preservation System;

(2) in recognition of this urgent need, certain suitable lands in the national forest system in Vermont were designated by Congress as wilderness in 1975;

(3) there exist in the national forest system in the vicinity of major population centers and in Vermont additional areas of undeveloped land which meet the definition of wilderness in section 2(c) of the Wilderness Act;

(4) lands in Vermont which are suitable for designation as wilderness are increasingly threatened by the pressures of a growing and concentrated population, expanding settlement, spreading mechanization, and development and uses inconsistent with the protection, maintenance, and enhancement of their wilderness character; and

(5) the Wilderness Act establishes that an area is qualified and suitable for designation as wilderness which (i) though man's works may have been present in the past, has been or may be so restored by natural influences as to generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable, and (ii) may, upon designation as wilderness, contain certain preexisting, nonconforming uses, improvements, structures, or installations; and Congress has reaffirmed these established policies in the designation of additional areas since enactment of the Wilderness Act, exercising its sole authority to determine the suitability of such areas for designation as wilderness.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as components of the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to perpetuate and protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the Americans to a greater extent than is possible in the absence of wilderness designation.

DESIGNATION OF WILDERNESS AREAS

SEC. 102. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Vermont are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately twenty-one thousand four hundred and eighty acres, as generally depicted on a map entitled "Breadloaf Wilderness—Proposed", dated September 1983, and which shall be known as the Breadloaf Wilderness;

(2) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand seven hundred and twenty acres, as generally depicted on a map entitled "Big Branch Wilderness—Proposed", dated September 1983, and which shall be known as the Big Branch Wilderness;

(3) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand nine hundred and twenty acres, as generally depicted on a map entitled "Peru Peak Wilderness—Proposed", dated September 1983, and which shall be known as the Peru Peak Wilderness;

(4) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately one thousand eighty acres, as generally depicted on a map entitled "Lye Brook Additions—Proposed", dated September 1983, and which are hereby incorporated in, and shall be deemed to be a part of, the Lye Brook Wilderness as designated by Public Law 93-622; and

(5) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately five thousand sixty acres, as generally depicted on a map entitled "George D. Aiken Wilderness—Proposed", dated September 1983, and which shall be known as the George D. Aiken Wilderness.

MAPS AND DESCRIPTIONS

SEC. 103. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 104. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this title.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Vermont with respect to wildlife and fish in the national forest in the State of Vermont.

(c) Notwithstanding any provision of the Wilderness Act or any other provision of law, the Appalachian Trail and related structures, the Long Trail and related structures, and the associated trails of the Appalachian Trail and the Long Trail in Vermont may be maintained.

EFFECT OF RARE II

SEC. 105. (a) Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation (RARE II); and

(2) Congress has made its own review and examination of national forest system roadless areas in the State of Vermont and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Vermont, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Vermont;

(2) with respect to the national forest system lands in the State of Vermont which were reviewed by the Department of Agriculture in the RARE II, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Vermont reviewed in such final environmental statement and not designated as wilderness upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Vermont for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System except in connection with the development or revision of a single land management plan prepared for

all national forest system lands in the State of Vermont.

TITLE II—WHITE ROCKS NATIONAL RECREATION AREA

FINDINGS AND POLICY

SEC. 201. (a) Congress finds that—

(1) Vermont is a beautiful but small and rural State, situated near four large cities with combined metroploitan populations of over fifteen million;

(2) geographic and topographic characteristics of Vermont provide opportunities for large numbers of people to experience the beauty of primitive areas, but also place unusual pressure to provide options to maximize the availaility of such lands for a variety of forms of recreation;

(3) certain lands designated as the Big Branch and Peru Peak Wilderness Areas by title I of this Act are suitable for inclusion as part of the national recreation area; and

(4) certain other lands on the Green Mountain National Forest not designated as wilderness by this Act are of a predominantly roadless nature and possess outstanding wild values that are important for primitive and semiprimitive recreation, watershed protection, wildlife habitat, ecological study, education, and historic and archeological resources, and are deemed suitable for preservation and protection as part of a national recreation area.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as the White Rocks National Recreation Area in order to preserve and protect their existing wilderness and wild values and to promote wild forest and aquatic habitat for wildlife, watershed protection, opportunities for primitive and semiprimitive recreation, and scenic, ecological, and scientific values.

DESIGNATION OF WHITE ROCKS NATIONAL RECREATION AREA

SEC. 202. In furtherance of the findings and purposes of this title, certain lands in the Green Mountain National Forest, Vermont, which comprise approximately thirty-six thousand four hundred acres, as generally depicted on a map entitled "White Rocks National Recreation Area—Proposed", dated September 1983, are hereby designated as the White Rocks National Recreation Area.

MAP AND DESCRIPTION

SEC. 203. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal description of the national recreation area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. Such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF THE NATIONAL RECREATION AREA

SEC. 204. (a) Subject to valid existing rights, the White Rocks National Recreation Area designated by this title shall be administered by the Secretary of Agriculture in accordance with the findings and purpose of this title and the laws, rules, and regulations applicable to the national forests in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) utilization of natural resources shall be permitted only if consistent with the findings and purposes of this title;

(3) preservation and protection of forest and aquatic habitat for fish and wildlife; and

(4) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific, or other values contributing to the public benefit.

(b) Notwithstanding any other provision of law, federally-owned lands within the White Rocks National Recreation Area as designated by this title are hereby withdrawn from all forms of appropriation under the mineral leasing laws, including all laws pertaining to geothermal leasing, and all amendments thereto.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under the secretary's jurisdiction within the boundaries of the national recreation area designated by this title in accordance with applicable laws of the United States and the State of Vermont.

(d) Within eighteen months after the date of enactment of this Act, the Secretary shall develop and submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a comprehensive management plan for the national recreation area designated by this title.

(e) In conducting the reviews and preparing the comprehensive management plan required by subsection (d), the Secretary shall provide for full public participation, shall consider the views of all interested agencies, organizations, and individuals, and shall particularly emphasize the values enumerated in Section 201(a)(4) of this title.

Amend the title so as to read: "An Act to designate certain National Forest System lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area.".

AMENDMENT NO. 3143

(Purpose: to modify the release language)

Mr. BAKER. Mr. President, I send to the desk an amendment by Senator MCCLURE on behalf of myself, Senator HELMS, Senator MELCHER, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. MCCLURE, Mr. HELMS, and Mr. MELCHER proposes Amendment No. 3143.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, strike out line 10 and all that follows through line 8 on page 19 and insert in lieu thereof the following:

SEC. 105. (a) Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) Congress has made its own review and examination of Natioal Forest System roadless areas in the State of Vermont and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Vermont, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Vermont;

(2) with respect to the National Forest System lands in the State of Vermont which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Vermont reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 204 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Vermont are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974,

as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Vermont which are less than 5,000 acres in size.

Mr. STAFFORD. Mr. President, the proposal before you, H.R. 4198, represents an agreement reached among the many varied interests in Vermont on designating additional wilderness in the Green Mountain National Forest.

Thanks to constructive, good-faith negotiations between the various Vermont interest groups, the Vermont wilderness bill addresses the most urgent needs and desires of all sides in the wilderness debate.

The Vermont bill (H.R. 4198) would designate 40,000 acres of Vermont's Green Mountain National Forest as wilderness. In addition to this 40,000 acres of wilderness, another 22,000 acres which had been designated wilderness in our original bill, will become a national recreation area.

This national recreation area designation will permit more varied use of the 22,000 acres than would have been possible under the wilderness designation.

Included in Vermont's bill is a designation of 21,000 acres of U.S. Forest Service land in East Middlebury, which will be called the Breadloaf Wilderness area. There are an additional two wilderness areas, totaling 13,600 acres, near Mount Taber, and including Baker Peak, Styles Peak, Peru Peak, and Pete Parent Peak. These areas will be known as the Big Branch Wilderness and the Peru Peak Wilderness areas.

In addition, 5,000 acres near the town of Woodford that is densely wooded and contains a large number of beaver ponds at high elevation, will be called the George D. Aiken Wilderness Area, in honor of former U.S. Senator George D. Aiken, who is both a former chairman of the Senate Agriculture Committee and the father of the Eastern Wilderness Act.

Besides these four areas, 1,000 acres will be added to the existing Lye Brook Wilderness in the Green Mountain National Forest.

The Vermont wilderness bill represents a Vermont answer to a very difficult question that confronted Vermonters. The bill takes into account the major needs and concerns of all interested parties.

Mr. Chairman, I would like to mention some of the significant points of this compromise legislation as they affect different interests.

REGARDING WILDERNESS

There is 40,000 acres of new wilderness in Vermont; 22,000 acres of primitive and semiprimitive wildlife and recreation area created for Vermonters; 20 percent of the federally owned land in the Green Mountain National Forest is protected by wilderness designation, and 8 percent of the federally owned land in the Green Mountain National Forest is protected as a wildlife and recreational management area.

REGARDING SNOWMOBILE USE

Over 60 miles of snowmobile trails which would have been closed under the original bill remain open under this bill.

Forest Service Road No. 10 will be open to snowmobiles and closed to logging trucks on weekends if an alternative route for snowmobiles from Mount Tabor to the national recreation area cannot be developed.

Snowmobiling is permitted on ponds within the NRA.

If relocation of existing snowmobile trails becomes necessary for environmental reasons or due to natural occurrences, procedures for such relocation are to be developed by the Forest Service and the Vermont snowmobile clubs.

REGARDING WILDLIFE MANAGEMENT

Over 1,000 acres of deeryards have been removed from the originally proposed areas so that they can be fully managed. The Vermont Fish and Game Department will be permitted to manage fish and game, including stocking ponds by snowmobile, in all areas where it currently does such management.

REGARDING TIMBER CUTTING

Continued commercial logging is allowed in a substantial acreage of high-quality timber in the Big Branch and Breadloaf areas.

Limited timber cutting for wildlife management—and in some cases recreational management—is permitted in the NRA. Such timber cutting will be tightly controlled by the Forest Service so it will not require significant disturbance of the land surface.

All wilderness boundaries have been set back 300 feet from all roads to allow cutting to continue for wood used as fuel.

All existing timber sales have been excluded from the wilderness areas and those within the NRA will be allowed to run their course.

REGARDING ROADS

The use of wheeled vehicles is permitted in the NRA on existing Forest Service system roads currently open and seasonally passable by two-wheel-drive vehicles.

Town roads currently open and entering the wilderness areas are "cherry-stemmed," which means they are excluded from the wilderness areas.

The purpose of these two provisions is to insure access for hunters, fishermen, elderly, and disabled persons.

REGARDING INHOLDINGS

All inholdings, including the right to traditional, conventional means of access, have been preserved in accordance with the owners' current agreements with the Forest Service.

Mr. President, the effort to designate wilderness in Vermont brought two congressional hearings to Vermont last year. In addition, members of the delegation received hundreds of comments from Vermonters by mail and in person.

This bill meets the legitimate interests of all concerned Vermonters to preserve the heritage of our Green Mountains and the environment that sets our State apart from all the rest.

On behalf of my fellow Vermonters, past, present, and those yet to come, I ask the support of the Senate to pass the bill. I wholeheartedly support the Vermont Wilderness bill and urge my fellow Senators to do likewise.

Mr. LEAHY. Mr. President, I am very pleased that today the Senate will take action on the Vermont wilderness bill, H.R. 4198.

A long process has preceded this day—one that was going on when I came to the Senate in 1975 and has seen much activity throughout 1983 and this year.

It has not been an easy process, and this difficulty has been underscored by one vital fact—the love of Vermont's forest land is shared by many who disagree on the wilderness question.

Mr. President, the Green Mountain National Forest is a very special place to Vermonters. It accounts for just 4 percent of our State. But these wild woods are crossed with hardwood valleys and fir-clad peaks. Lynx, bobcats, black bears, deer, eagles, perigrine falcons, fishers, and pine martens live in the valleys and on the mountainsides.

In the spring, we take our sons and daughters trout fishing. In the summer, we pick berries, picnic, and hike the long trail—the path to the wilderness. In the fall, we hunt the white tailed deer. In the winter, we ski and snowmobile its trails.

The beauty of these forests and the joy of recreation in them are values shared by every Vermonter.

Mr. President, I am pleased to report to the Senate that this caring for the land has prevailed over the different beliefs on how it is to be best preserved. All disagreement has not been resolved. We do not claim that.

We do claim, however, that we have together arrived at what we Vermonters believe to be a reasonable Vermont solution to the question.

Mr. President, I want to call to the attention of the Senate language in the committee report on H.R. 4198 that relates to the administration of the White Rocks National Recreation Area.

These guidelines comprise an integral part of our Vermont solution to the question of how the Green Mountain National Forest will be protected

and managed. It is the intention of the congressional delegation and the numerous groups who worked so hard to fashion this compromise that these recommendations be honored during the 18 months allotted for the development of the White Rocks National Recreational Area management plan.

Those of us involved did not arrive at our recommendations in haste, nor do we take them lightly. I pledge my support and that of my staff to see that the planning and management of the White Rocks National Recreation Area are carried out in conformance with these guidelines.

Mr. President, I know that I speak for the senior Senator from Vermont, Mr. STAFFORD, when I say that many, many hours of work went into the wilderness bill before us today.

Vermonters from all sides of the wilderness question participated in this process with a dedication and a diligence that reflects their true love of the land.

Mr. President, I want to thank Congressman JEFFORDS for all of his work on H.R. 4198. I also want to offer my thanks to Bob Paquin and Jim Cubie of my staff, Mike Francis of Senator STAFFORD's staff and Dave Wilson and Mark Powden of Congressman JEFFORDS' staff for all of their hard work on this bill.

Mr. President, I highly recommend this legislation to the Senate and urge its adoption.

(The remarks of Senator MCCLURE with regard to the release language in the foregoing bill relating to North Carolina for the purpose of legislative history on this bill.)

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 3143) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEW HAMPSHIRE WILDERNESS ACT OF 1984

Mr. BAKER. Mr. President, I next ask the Chair to lay before the Senate Calendar Order No. 806.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3921) to establish wilderness areas in New Hampshire.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New Hampshire Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wildness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Presidential Range-Dry River Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in and shall be deemed to be a part of the Presidential Range-Dry River Wilderness as designated by Public Law 93-622.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description on each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) Congress has made its own review and examination of national forest system roadless areas in the State of New Hampshire and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than New Hampshire, such statement shall not be subject to judicial review with respect to national forest system lands in the State of New Hampshire;

(2) with respect to the national forest system lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the RARE II, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of New Hampshire reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of New Hampshire for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System except in connection with the development or revision of a single land management plan prepared for all national forest system lands in the State of New Hampshire.

(c) The provisions of this section shall not apply to the area in the White Mountain National Forest, New Hampshire, which is depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983. This area shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

(d) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

Mr. HUMPHREY. Mr President, Senator RUDMAN and I are delighted that the Senate is today passing the New Hampshire Wilderness Act of 1984. This is a historic day for the State of New Hampshire, and I know

that I am joined by all the Members of our congressional delegation in expressing a desire to see this legislation enacted expeditiously.

While I wish it had been accomplished 6 months ago, I want to commend Senators MCCLURE and WALLOP and Representatives UDALL and SEIBERLING for reaching a compromise on release language for State wilderness bills. The new compromise language is most agreeable to us in New Hampshire, and ratifies our desire that future wilderness consideration should occur every 10 to 15 years, as part of the forest management planning process. I also wish to thank Senators JEPSEN and HELMS and their staffs for the support they have given our New Hampshire wilderness bill.

This is truly New Hampshire's wilderness bill, for its substance is fully the result of Granite Staters sitting down and working out together a future plan for the White Mountain National Forest (WMNF) that accommodates all the many multiple uses. The bill designates 77,000 acres of wilderness in the WMNF, and also releases roughly 200,000 acres for multiple-use management under the forest management plan. This compromise is much like any other: All interested parties have yielded on certain issues in exchange for gains on other issues. Some groups wished to see more wilderness areas designated, others less. But the final product will benefit all citizens of New Hampshire.

The bill designates a 45,000 acre wilderness area in the Pemigewasset Valley, the largest roadless area in Federal ownership east of the Mississippi and one long recognized for its wilderness qualities. The bill also creates a 25,000 acre Sandwich Range Wilderness, including Mount Whiteface, Mount Passaconaway, Mount Tripyramid, the Bowl area, and Sandwich Mountain. In addition, two tracts totaling 7,000 acres are being added to the Presidential Range-Dry River Wilderness Area, which was established by the Eastern Wilderness Act in 1975.

Just as importantly, the bill releases roughly 200,000 acreas for multiple-use mangement, including such areas as Wild River, the Pemigewasset Extension, Kinsman Mountain, and Carr Mountain. I am confident that with the benefit of public review and comment during finalization of the forest management plan, the Forest Service will develop appropriate management strategies for these areas. However, serveral specific issues should be raised here.

First, the ad hoc White Mountain National Forest Advisory Committee, which formulated this bill, reached an agreement on a recommended strategy for managing the wild river area. The components of this strategy are outlined in a letter from the ad hoc committee to the Forest Supervisor, the text of which is included in the House and Senate committee reports on the bill. Senator RUDMAN and I hope the Forest Service will follow these recommendations.

Second, the bill includes a specific directive that the Kilkenny unit plan area be evaluated for wilderness and all other uses during preparation of the forest management plan. This part of the Kilkenny is not immediately released for multiple-use management by the bill. We fully expect the Forest Service to evaluate the wilderness potential of this unit plan area, and to either reach a decision to manage the area for multiple uses other than wilderness, or to recommend to Congress that the area, or portions thereof, be designated as wilderness.

Finally, the bill does not release any of the WMNF lands in the State of Maine. Lands in Maine will be considered for all uses including wilderness during the forest management planning process. As with the Kilkenny unit plan area, the Forest Service is expected to either manage the WMNF in Maine for multiple uses or to recommend inclusion of all, or part thereof, in the National Wilderness Preservation System.

I wish to stress, Mr. President, the importance of the forest management planning process that will begin shortly after this legislation is signed by the President. All citizens of New Hampshire, including conservationists, loggers, snowmobilers, hikers, and any others with an interest in the White Mountain National Forest, should avail themselves of the opportunity to review the draft forest management plan and to provide comment on it. There is a strong tradition in New Hampshire of public participation in the management of our national forest, and I hope this interest will remain high, so that protection and wise stewardship of the WMNF will continue to be based on a partnership between the Forest Service and the people of New Hampshire.

Before closing, I wish to express my heartfelt thanks to the citizens of New Hampshire who have been working diligently to reach an agreement on the wilderness issue ever since the roadless area review and evaluation (RARE II) program began in 1977. In particular, the compromises embodied in this bill would never have been possible were it not for the hard work of the members of the ad hoc White Mountain National Forest Advisory Committee, and the skilled leadership of its chairman, Mr. Paul Bofinger, president of the Society for the Protection of New Hampshire Forests.

The group included Abigail Avery of the New England Chapter of the Sierra Club, John Bork of James River Corp., Charles Burnham of the Appalachian Mountain Club, former State Senator Raymond Conley, Jr., of Center Sandwich, Thomas Corcoran of Waterville Valley, Les Corey of the Audubon Society of New Hampshire, Buhrman Garland of Saunders Brothers, C. Russell Hardy of the New Hampshire Snowmobile Association, David Olson of the University of New Hampshire, Ron Poltak of the New Hampshire Division of Parks, David Sanderson of the Specialty Vehicle Institute of America, George Zink of the Wonalancet Outdoor Club, George Hamilton, and in an ex officio capacity, James Jordan, then Forest Supervisor for the White Mountain National Forest. These individuals deserve a spirited round of applause for their fine work and unswerving support for this legislation.

Enactment of the New Hampshire Wilderness Act of 1984 will long be known as an important event in the history of the White Mountain National Forest. Established in 1911 under the Weeks Act, the White Mountain National Forest has grown to encompass 752,000 acres, and is today one of the most intensively used of all the national forests. Over the years, the WMNF has been a leader in many fields, including multiple use management, public participation in the management process, and cooperation with volunteer efforts. Hence, I believe it is fitting and appropriate that one of the first wilderness bills enacted with the new compromise release language should be New Hampshire's bill. This bill will only further improve what is already one of the Nation's finest national forests.

Senator RUDMAN and I have attached as amendments to the New Hampshire Wilderness Act two related pieces of legislation. Title II of this bill designates Wildcat Brook in Jackson, N.H. as a study river under the Wild and Scenic Rivers Act. This designation of one of our State's outstanding rivers is strongly supported by the local community as well as citizens across New Hampshire. Title III of the wilderness bill includes the provisions of S. 2577, a bill Senator RUDMAN and I introduced to authorize an extension of certain forest proclamation boundaries in the Kilkenny area in order to facilitate acquisition of additional tracts in the Pilot Range. Citizens of Lancaster, Stark, and Northumberland, the three affected communities, voted in favor of this extension during their town meetings earlier this year.

DESIGNATING WILDCAT BROOK AS A STUDY RIVER UNDER THE WILD AND SCENIC RIVERS ACT

Mr. President, Senator RUDMAN and I have amended the New Hampshire Wilderness Act to include a provision that designates Wildcat Brook in Jackson, N.H., as a study river under the Wild and Scenic Rivers Act. The amendment requires the study to be completed within 6 years of enact-

ment, and also requires an interim report to be completed within 3 years.

A 6-year study represents a compromise between the 2-year study provided in the version of the bill passed by the Senate Energy and Natural Resources Committee, S. 2095, and the 10-year study provided in the bill passed by the House of Representatives, H.R. 4406. It is our intent that the report accompanying S. 2095, Senate Report 98-420, should serve as the guiding document for the conduct of the study.

Study of the Wildcat will protect the river from any federally licensed or permitted projects for the length of the study and for 3 years thereafter, during which Congress shall review the study's findings and may act on its recommendations.

The study will encompass Wildcat Brook and its principal tributaries from the headwaters to the brook's confluence with the Ellis River, including the main stem from Carter Notch, Wildcat Brook from its source on the side of Wildcat Mountain, and Bog Brook from Perkins Notch.

Wildcat Brook, a widely known, scenic rural river, provides outstanding recreational opportunities. It is the centerpiece of the town of Jackson, and a major tourist attraction in this resort community. From its headwaters in the White Mountain National Forest, the river gains volume and momentum, cascades down through the Carter Notch Area, meanders through open fields, spills across the smooth rock beds of the upper falls, and tumbles over the majestic and powerful Jackson Falls before passing through Jackson Village and finding its confluence with the Ellis River. In the spring the Wildcat roars with the rush of snowmelt, but in other seasons it attracts fishermen and bathers. The tremendous variety, outstanding geology, and beautiful scenery combine to make the Wildcat a river which attracts attention. It is primarily for these reasons that the Wildcat was included by the National Park Service in the Nationwide Rivers Inventory as a river deserving study for potential designation as part of the National Wild and Scenic Rivers System.

Over the past several years, local concern about the river has increased due to a number of factors, including ever-greater popularity among tourists, encroaching development, and the specter of a possible hydroelectric project. In early September 1983, while visiting Jackson to meet with local officials and citizens for the purpose of touring Wildcat Brook and discussing means by which it might be protected from development, I first suggested the possibility of wild and scenic study designation as a tool for helping plot a long-term protection strategy for the Wildcat. Local interest in this possibility grew after a public meeting in Jackson sponsored by the Jackson Conservation Commission and my office.

I urged the townspeople to thoroughly consider the pros and cons of wild and scenic study status for the Wildcat before reaching a final decision to pursue designation. In mid-November, at the request of the selectmen of Jackson, Senator RUDMAN and I introduced a bill to designate Wildcat Brook for study for possible designation as part of the National Wild and Scenic Rivers System. Two days later, similar legislation was introduced in the House of Representatives.

At my suggestion, the Board of Selectmen of Jackson also surveyed all of the approximately 75 riparian owners to determine their attitudes toward the possibility of wild and scenic study designation. Of the 50 percent who returned the surveys, all but one landowner expressed support for developing a long-term river protection plan.

During the Senate Energy and Natural Resources Committee hearing on this legislation, special note was made of the fact that 70 percent of Jackson's land area lies within the White Mountain National Forest. While the national forest blesses the town with unparalleled natural surroundings, it also means that the town's tax base is limited. Because of this already substantial Federal landownership and concerns about the appropriateness of Federal responsibility for management of Wildcat Brook, carefully crafted provisions have been included in the report language to insure that emphasis in the study is given to State and local government and landowner protection alternatives.

Traditionally, wild and scenic river studies have given full consideration to Federal acquisition of property as a major protection alternative. In the case of Wildcat Brook, the committee agreed to specifically direct that given the landownership pattern and the needs of the local community, Federal land acquisition will not be necessary to protect the river, should it be designated wild and scenic. This is an extremely important provision, for it should greatly reduce the potential for the kinds of conflicts which have been associated with some similar studies in the past, and it should also shorten the necessary time and cost of the study.

My office conducted lengthy and far-reaching negotiations with U.S. Forest Service and National Park Service officials to determine which agency should be directed to conduct the study. We ultimately agreed that the Park Service should conduct the study, but should work in close consultation and cooperation with the Forest Service throughout the project, especially on that part of the river which lies within the national forest.

In the past, the Park Service has had only a very limited presence in New Hampshire. However, because of the Park Service's extensive experience in state and local river conservation planning, the Forest Service agreed that it would be most appropriate for the Park Service to lead the study effort. Furthermore, with passage of the New Hampshire Wilderness Act, the Forest Service will undertake finalization of the forest management plan for the White Mountain National Forest, and this project will require most of the planning personnel and resources which the Forest Service could otherwise bring to bear on the Wildcat study. The Park Service, on the other hand, has the necessary personnel available to be able to quickly undertake a study of the Wildcat, should it receive such a directive from the Congress. Thus, it is not by accident that the Park Service should gain a new assignment in an area surrounded by a major national forest.

Although this compromise amendment stipulates completion of the study within 6 years, Park Service officials have indicated to me an ability and desire to undertake the study in the near future and to complete it within 2 years. A longer Federal presence should not be necessary in order to conduct this study and to propose a protection strategy which emphasizes a Federal-State-local government and private landowner partnership. Hence, it is not our intent to require the Park Service to take a full 6 years to complete the study; if the study can be completed in a shorter period of time, this would not run contrary to the law's objective. Furthermore, prompt completion of the study will maintain the momentum of the community's efforts to achieve long-term protection of Wildcat Brook.

Ultimately, the most favorable long-term protection of Wildcat Brook may prove to be either State designation using the provision of section 2(a)(ii) of the Wild and Scenic Rivers Act—which allows Governors, with the consent of their legislatures, to take listing requests directly to the Secretary of the Interior—or some other means of State protection. The report language directs that these options be thoroughly considered in the study.

The desire of the people of Jackson to protect Wildcat Brook from unwanted development surely echoes the sentiments of many other New Hampshire citizens who wish to protect their own local rivers, and I am hopeful the example of the Wildcat will serve to encourage a concerted effort to adopt a State river conservation program in New Hampshire. Such a program would appear to offer great promise for long-term protection for not only the Wildcat, but also for

other outstanding New Hamshire rivers.

I look forward to monitoring the conduct of this study and to working with the people of Jackson, the Park Service, the Forest Service, and the State of New Hampshire, to develop a long-term protection strategy for Wildcat Brook that will best protect this precious natural resource and fit with the needs and concerns of the community.

Having personally visited Jackson to meet with officials and townspeople and tour Wildcat Brook, I am gratified to see this legislation pass today. The town's leaders, including the select men and members of the Conservation Commission and the Planning Board, all deserve praise for their unflagging efforts to preserve Wildcat Brook. The American Rivers Conservation Council, the Appalachian Mountain Club, the National Audubon Society, the Friends of the Earth, and Gov. John Sununu of New Hampshire, also merit gratitude for their efforts on behalf of this legislation and the people of Jackson. I also wish to thank Senators RUDMAN, MCCLURE, WALLOP, and HELMS for their assistance in this effort.

In conclusion, Mr. President, I am confident that a thorough study of Wildcat Brook, under the Wild and Scenic Rivers Act, will lead to a long-term protection plan that will conserve the unique environmental features of this beautiful river. Enactment of this legislation will mark the beginning, not the end, of efforts to protect Wildcat Brook from unwanted development and to preserve for now and the future an outstanding, remarkable, free-flowing river.

EXTENDING THE PROCLAMATION BOUNDARY IN THE PILOT RANGE OF THE WHITE MOUNTAIN NATIONAL FOREST

Mr. President, I am pleased to include as title III of the New Hampshire Wilderness Act of 1983 legislation that will extend the boundary of the White Mountain National Forest (WMNF) in the towns of Stark, Northumberland, and Lancaster, N.H.

This provision, which Senator RUDMAN and I originally introduced as S. 2577, is needed to facilitate the anticipated purchase by the U.S. Forest Service of two tracts in the Pilot Range for addition to the WMNF.

The Pilot Range is the major mountain range in the northern region of the forest. However, major sections of the range, including the entire western flank, lie outside the forest's present boundaries. The Pilot Range purchase would complete protection of this ridgeline, and would justify an otherwise illogical forest boundary.

Importantly, the Pilot Range purchase would afford protection of an important watershed area that feeds both public and private water supplies at the foot of the range. It is feared that excessive timber harvesting on the steep slopes of the range could pollute and deplete these water resources.

Because of its close proximity to the major population centers of the eastern seaboard, the WMNF is one of the most intensively used forests in the system. As these pressures mount on the forest, it is crucial that additional acreage is added to disperse the increased demand, and to provide for expanded recreational opportunities. These 4,000 acres of slopes, cliffs, large areas of mature forest, and views across the Connecticut River Valley to the mountains of Vermont will serve these objectives ideally.

There is tremendous potential for trails along the ridgeline from the northern end of the range to Mount Cabot in the south. At present, there are few such trails in this section of the forest. Further, the purchase would provide greatly increased opportunities for hunting, fishing, cross country skiing, and snowmobiling. Finally, the many cliffs of the range also have extraordinary potential as a nesting site for the endangered Peregrine falcon. The Forest Service is participating in a Peregrine release program and plans to monitor these cliffs for Peregrine activity.

The purchase of the Pilot Range tracts was endorsed at the Stark, Northumberland, and Lancaster town meetings in March of this year. The inclusion of the boundary extension provision in the New Hampshire wilderness bill is an important first step providing for the lasting protection of the watershed and recreational resources in the Pilot Range area.

Mr. RUDMAN. Mr. President, today, the New Hampshire Wilderness Act of 1984, comes before the Senate for consideration. Passage of the bill will designate 77,000 acres of land in the White Mountain National Forest as wilderness. I applaud the efforts of the many New Hampshire citizens, who have worked long and hard to develop this legislation. It represents a good example of cooperation and consensus between a diverse spectrum of interested groups working together to balance commercial, environmental, and recreational needs in New Hampshire. The legislation is proof of the fact that preserving wilderness has been compatible for decades with the goals and aspirations of all New Hampshire's citizens.

That the legislation is now before the Senate is a credit as well to the leadership of Senator JEPSEN, chairman of the Agriculture Subcommittee on Soil and Water Conservation. I would like to thank him for the kind reception he extended to members of the White Mountain National Forest Advisory Committee, who traveled to Washington to testify in support of this bill at the hearing held last November. In addition, the cooperation of Senators HELMS and MCCLURE, instrumental in working with Members of the House in order to reach a compromise on national release language, should be noted. The compromise benefits not only New Hampshire, but other States with pending wilderness legislation as well. This compromise is what has enabled wilderness legislation in the 98th Congress to move forward.

The State of New Hampshire has had 70 successful years of experience working with the Forest Service. We look forward to the expeditious passage of the New Hampshire Wilderness Act, which will release the forest management plan and enable the Forest Service to continue its successful management of New Hampshire's precious natural resource, the White Mountain National Forest. I believe the words of Theodore Roosevelt summarize the importance of this legislation to New Hampshire:

> There is delight in the hardy life of the open. There are no words that can tell the hidden spirit of the wilderness, that can reveal its mystery, its melancholy, and its charm. The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation, increased and not impaired in value.

The final version of this bill to be voted on today includes two pertinent amendments proposed by Senator HUMPHREY. The first designates the Wildcat Brook, located in Jackson, N. H., as a study river under the Wild and Scenic Rivers Act. The Wildcat Brook is one of New Hampshire's most unique natural resources. The study will insure protection of the river pending a determination of whether it is in the national interest that it be included as part of the National Wild and Scenic Rivers System. The origin of the amendment is S. 2095 and its accompanying report, Senate Report No. 98-420. The second amendment includes the provisions of S. 2577. This provision authorizes modification of the White Mountain National Forest's proclamation boundaries to include certain tracts of the Pilot Range. This area is important as a watershed and for recreation use. Once within the boundary of the national forest, the land can later be purchased and made an integral part of the national forest system. Both amendments are broadly supported by New Hampshire's citizens and the entire New Hampshire delegation, and Senator HUMPHREY and I appreciate the Senate's consideration of this legislation in its entirety.

Finally, I would also like to commend my colleague Senator HUMPHREY for his skilled leadership in working with all of the parties involved with this legislation. His efforts and commitment to the people of New Hampshire are responsible for the Senate's consideration of this legislation today.

Mr. McCLURE. The amendment in the nature of a substitute offered by Senator HUMPHREY and Senator RUDMAN contains in title II, provisions similar to S. 2095, as reported from the Committee on Energy and Natural Resources, which designates the Wildcat Brook for study as a wild and scenic river. The provisions of the amendment alter S. 2095 as reported, Senate Report No. 98-420, to extend the study designation from 2 to 6 years, and to require the study to be completed in 3 years rather than 1.

Because I understand that the legislative history and intent as expressed in that report except as altered by the amendment are intended by the authors of the amendment to be incorporated as applicable to title II, I have no objections to its inclusion in the New Hampshire Wilderness bill. I also understand that the provisions of the amendment are acceptable to the other body and I know of no objection here. However, if for some unforeseen reason title II should become subject to further negotiations, I would seek the assurance of the distinguished chairman of the Agriculture Committee, that he would include appropriate members of the Energy and Natural Resources Committee, including myself, in any such negotiations. I would also seek the chairman's assurance that myself and other appropriate members of the Energy and Natural Resources Committee would be included in negotiations, if any, on the release language contained in the amendment offered to the bill. Of course, if any conference is necessary, which I understand it will not be, I would expect that members of the Energy and Natural Resources Committee would be conferees for title II.

Mr. HELMS. The Senator from Idaho has stated the intent of title II of the amendment of the Senators from New Hampshire correctly, as I understand it, and it coincides with my intent. I can assure the Senator from Idaho that I will work with him and other members of the Energy and Natural Resources Committee in formulating national policy on release language, and I appreciate all the efforts of the Senator from Idaho in that regard.

Since designation of wild and scenic rivers is within the jurisdiction of the Energy and Natural Resources Committee, I agree that members of that committee should be conferees on behalf of the Senate for title II of the amendment of the Senators from New Hampshire, if such a conference is necessary. Of course, I would expect that conferees on the other provisions of the eastern wilderness bills would be drawn from the Committee on Agriculture, Nutrition, and Forestry which has jurisdiction over those matters.

(See the remarks of Senator McCLURE with regard to the release langauge in the foregoing bill relating to North Carolina for the purpose of legislative history on this bill.)

AMENDMENT NO. 3144

(Purpose: To modify the release language)

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from New Hampshire, Senator HUMPHREY, and his colleague, Senator RUDMAN, I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. HUMPHREY and Mr. RUDMAN, proposes an amendment numbered 3144.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "New Hampshire Wilderness Act of 1984".

TITLE I—NEW WILDERNESS AREAS

DESIGNATION OF WILDERNESS AREAS

SEC. 101. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Presidential Range-Dry River Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in and shall be deemed to be a part of the Presidential Range-Dry River Wilderness as designated by Public Law 93-622.

MAPS AND DESCRIPTIONS

SEC. 102. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 103. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 104. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Hampshire and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) Without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than New Hampshire, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Hampshire;

(2) with respect to the National Forest System lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of New Hampshire reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of New Hampshire are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of

1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands in the State of New Hampshire which were evaluated in the Kancamagus, Waterville Valley, and Presidential unit plans; and

(2) National Forest System roadless lands in the State of New Hampshire which are less than 5,000 acres in size.

(e) The Kilkenny Unit Plan Area, as depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983, shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

(f) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

TITLE II—WILD AND SCENIC RIVER STUDY

WILDCAT BROOK WILD AND SCENIC RIVER STUDY

SEC. 201. Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542; 82 Stat. 906, as amended) is further amended by adding at the end thereof the following new paragraph:

"(89) Wildcat Brook, New Hampshire: The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than 6 years from the date of enactment of this paragraph and an interim report shall be prepared and submitted to the Congress no later than 3 years from the date of enactment of this paragraph.".

TITLE III—NATIONAL FOREST BOUNDARY EXPANSION

PURCHASE OF PILOT RANGE TRACTS

SEC. 301. In order to develop and preserve recreational opportunities, maintain long-term public access, and provide the watershed protection and controlled timber harvesting associated with National Forest System ownership, the Secretary of Agriculture is authorized to purchase, under the provisions of the Weeks Act of March 1, 1911 (16 U.S.C. 480 et seq.), certain lands contiguous to the White Mountain National Forest, New Hampshire, comprising approximately 4,000 acres, as generally depicted on the map entitled "Pilot Range Tracts", dated 1984. The maps and legal description of the boundary of such lands shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and appropriate field offices of the Forest Service.

ADDITION TO THE WHITE MOUNTAIN NATIONAL FOREST

SEC. 302. All lands purchased pursuant to section 301 of this title are hereby added to the White Mountain National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable with respect to lands in the National Forest System.

LAND AND WATER CONSERVATION FUND

SEC. 303. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundary of the White Mountain National Forest, as modified by this title, shall be treated as if it were the boundary of that forest as of January 1, 1965.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

Amend the title so as to read: "To establish wilderness areas in New Hampshire, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 3144) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WISCONSIN WILDERNESS ACT OF 1984

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 805.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3578) to establish the wilderness areas in Wisconsin.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Wisconsin Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (17 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Chequamegon National Forest, Wisconsin, which comprise approximately four thousand two hundred and thirty-five acres, as generally depicted on a map entitled "Porcupine Lake", dated November 1983; and

(2) certain lands in the Nicolet National Forest, Wisconsin, which are generally known as the "Headwaters Wilderness", as generally depicted on a map dated November 1983, and which are known as—

(A) "Kimbell Creek", comprising approximately seven thousand five hundred and twenty-seven acres;

(B) "Headwaters of the Pine", comprising approximately eight thousand eight hundred and seventy-two acres; and

(C) "Shelp Lake", comprising approximately three thousand seven hundred and five acres.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any references in such provisions to the effective date of the Wilderness Act shall be deemed to a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation (RARE II); and

(2) Congress has made its own review and examination of National Forest System roadless areas in Wisconsin and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wisconsin;

(2) with respect to the national forest system lands in the State of Wisconsin which were reviewed by the Department of

Agriculture in the RARE II, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Wisconsin reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Amend the title so as to read: "An Act to establish wilderness areas in Wisconsin.".

AMENDMENT NO. 3145

(Purpose: To modify the release language)

Mr. BAKER. My President, I send to the desk an amendment by Senator McCLURE for himself and for Senators HELMS and MELCHER and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. McCLURE, Mr. HELMS, and Mr. MELCHER, proposes an amendment numbered 3145.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, strike out line 2 and all that follows through line 21 on page 8 and insert in lieu thereof the following:

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Wisconsin and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final evironmental statement (dated January 1979) with respect to National Forest System lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Wisconsin;

(2) with respect to the National Forest System lands in the State of Wisconsin which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least evey fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Wisconsin reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Wisconsin are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Wisconsin which are less than 5,000 acres in size.

Mr. KASTEN. Mr. President, today we will take final action on the Wisconsin wilderness bill. The action the Senate takes will not only be a milestone in protecting Wisconsin's wild lands, but also significant for protecting wilderness across the Nation. The package we will act upon today will be among the largest in total acreage in the continental United States designated as wilderness. Not only will lands in Wisconsin be designated as wilderness, but lands in several other States will be designated as wilderness today.

Wisconsin has a long history of being a national leader in protecting wild lands. Many of the leaders in the movement to protect wilderness areas were from Wisconsin, including John Muir, Sigurd Olson, and Aldo Leopold. Experiences in Wisconsin's north woods influenced each of these individuals, who have in turn been leaders in establishing national policies to protect wild lands. It is appropriate that Wisconsin is again in the forefront of refining the national policy to protect wild lands.

The lands designated as wilderness by this act will be preserved in their natural condition. They will be managed to preserve their wilderness character for the use and enjoyment of the American people.

Today's action represents a hard-fought compromise, both for the forest users of Wisconsin and across the Nation. In Wisconsin, forest users had several meetings to reach a compromise on which areas to designate as wilderness and the appropriate management of areas not designated as wilderness. Since I introduced this legislation last year, there have been several hearings on the Wisconsin wilderness bill. Much of the work of these hearings focused on two issues; special management for St. Peter's Dome and the old growth stand in the Round Lake study area, and second, on the release language. The report language that accompanies this legislation provides special direction on both of these issues.

It is a final resolution of the release issue that is the subject of the floor amendment on this legislation. I support this amendment, and believe it provides important clarification on this issue. Specifically, the release language prevents any additional review of areas for possible wilderness management before the next Forest Service planning cycle. When the forest plans for the Chequamegon and Nicolet National Forests are revised for the next planning cycle, however, areas can again be reviewed for possible wilderness management.

It is the expectation of the Wisconsin congressional delegation that the plans to be issued for Wisconsin's national forests in 1985 will be in effect for 15 years. This will provide stability for the management of our forest lands. In the next planning cycle, our national forest lands can again be reviewed to see if other areas merit wilderness designation.

Today's action will protect over 24,000 acres of Wisconsin's north woods. It will provide for special management of some of our most unique

natural areas. In addition, it will provide protection for the headwaters of one of the State's most beautiful rivers, the Pine River.

The Porcupine Lake and the headwaters wilderness areas represent some of the last pristine areas of Wisconsin's great north woods. The areas include portions of the north country trail, spectacular bogs, and unspoiled lakes. In addition, this legislation will protect some of the remnant virgin timber stands and most unique geologic formations in Wisconsin.

I am very pleased that the Senate is now completing action on this legislation to protect the wild lands of Wisconsin and several other States.

Mr. PROXMIRE. Mr. President, I thank the chairman for his efforts on behalf of the Wisconsin wilderness bill. I am pleased that the Wisconsin bill is one of the first to be considered under the new compromise release language worked out by the House and Senate committees.

This bill adds 24,339 new wilderness acres to Wisconsin's two national forests and provides special management to two other unique areas not designated as wilderness: St. Peter's Dome and the Old Growth Pine Stand at Round Lake. It is a product of cooperation by diverse groups, not only in the Congress, but also in the State of Wisconsin, including representatives of environmental groups and of the forest products industry.

The bill designates as wilderness the Porcupine Lake area in the Chequamegon National Forest and three contiguous areas in the Nicolet National Forest: Kimball Creek, Headwaters of the Pine, and Shelp Lake.

The Wisconsin bill was a cooperative effort from the beginning. While the environmentalists wanted more acres protected and the industry representatives wanted more protection against future wilderness designations, all sides realized that only this compromise enjoyed the support of all parties in the State and that only this compromise could be enacted. Therefore, all sides resisted any changes.

Senator KASTEN and I and all members of the Wisconsin delegation strongly support the compromise and thank the committee for its speedy consideration.

(See the remarks of Senator MCCLURE with regard to the release language in the foregoing bill relating to North Carolina for the purpose of legislative history on this bill.)

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 3145) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I again make the point I made previously, that on each of these bills that have been brought to the Senate floor, there has been 100 percent agreement between the two Senators of the States involved. In terms of the wilderness and concepts to be applied within the State, they are consistent with national wilderness concepts.

I hope that the Senate will remember this when there are future attempts to add to the wilderness designation on Federal lands in Alaska, because we already have so much. At least two-thirds of the total system is in one State, and we must of necessity watch this. Personally, I am in favor of wilderness, provided it meets the necessities—and I say necessities, not just the desires—of the people who live in the region.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Alaska, and especially for his concern in this field, of which we are all aware.

Mr. President, that completes action on the wilderness bills. I think that it might be the better part of discretion to extend the time for the transaction of routine morning business until 5:30 p.m. under the same terms and conditions. I now make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW IRELAND FORUM

Mr. BAKER. Mr. President, the distinguished Senator from Massachusetts (Mr. KENNEDY) and others, have sponsored a Senate joint resolution on an important subject. I know that he is ready to proceed at this time. I believe the minority leader has cleared that on his side. He has advised me in our informal conversation.

I ask that the Chair now lay before the Senate Calendar Order No. 922.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The bill clerk read as follows:

The joint resolution (S.J. Res. 300), expressing the sense of the Congress that the participants in the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland.

There being no objection, the Senate proceeded to consider the Senate resolution.

Mr. KENNEDY. Mr. President, I want to express my deep appreciation to the majority leader, Senator BAKER, and to our minority leader, Senator BYRD, for their help and assistance in bringing this resolution in a timely fashion to the floor of the U.S. Senate, and to also express my appreciation to members of the Foreign Relations Committee for their early consideration of this resolution, and for their unanimous favorable bipartisan support for it.

I would also like to ask unanimous consent to include as cosponsors of the resolution Senator DURENBERGER, Senator HEINZ, Senator GLENN, Senator MITCHELL, Senator CRANSTON, and Senator BRADLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am gratified that this joint resolution commending the important work of the New Ireland Forum has been cleared for approval by the full Senate.

Earlier this week, an identical resolution submitted by Congressman BRIAN J. DONNELLY, and THOMAS S. FOLEY, was enacted by the House of Representatives by a vote of 417 to 0. I know of no opposition to it in the Senate, and I am grateful to the Senate leadership on both sides of the aisle and to the chairman and ranking Democratic member of the Foreign Relations Committee for expediting our action today.

I also commend the leadership of Senator MOYNIHAN and Senator DODD on this resolution.

The Report of the New Ireland Forum is the most hopeful development in the past decade of violence and conflict in Northern Ireland. It offers a path to peace and an end to the killing and destruction on both sides. The essence of the report is its commitment by the participants in the Forum to work for a new Ireland based on mutual respect for the rights and aspirations of the two strife-torn communities in Northern Ireland.

We cannot predict today the specific outcome of the historic process that

has now been launched in all of Ireland. But we can say, through this resolution, that the Congress of the United States, with our special ties of affection and history to both Ireland and Great Britian, stands ready to help in this auspicious process in whatever way we can.

Next week, President Reagan embarks on an important visit to these two nations. He takes with him, through our action on this resolution, a strong bipartisan congressional declaration of support for the work of the New Ireland Forum and its historic initiative for peace and reconciliation. I urge the Senate to adopt this resolution.

Mr. President, let me add that the full text of the report of the New Ireland Forum is printed in the CONGRESSIONAL RECORD of May 3, 1984, at page 10830.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there are no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The joint resolution (S.J. Res. 300) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 300) and preamble are as follows:

S.J. RES. 300

Whereas the people and the Congress of the United States are deeply troubled by the unending cycle of violence in Northern Ireland which has been a reality of life there for too long;

Whereas the communities of Northern Ireland have suffered great loss of life, political uncertainty, and chronic high unemployment;

Whereas the young people of Northern Ireland are becoming increasingly alienated by the disintegrating society around them;

Whereas the divisions between the two communities in Northern Ireland appear to be widening;

Whereas the problems of Northern Ireland cannot be met by security measures alone, but require an increased emphasis on a political process which seeks the support of both communities;

Whereas the New England Forum represents a significant initiative in Ireland, and is a unique opportunity to achieve real progress toward peace and reconciliation in Northern Ireland;

Whereas the process initiated by the New Ireland Forum is a highly ambitious effort that is based on the doctrine of consent, and not of confrontation;

Whereas all democratic parties that oppose violence, North and South, were invited to participate in the Forum's search for a just and workable framework to solve the problems of Northern Ireland;

Whereas many Americans have been concerned by the lack of progress in bringing about a just and lasting solution to the problems of Northern Ireland, and are interested in supporting initiatives that could achieve progress toward a peaceful political solution to those problems;

Whereas the New Ireland Forum issued a report on May 2, 1984, which condemns violence and those who support it, identifies the major problems in Northern Ireland, and outlines potential frameworks for resolving those problems;

Whereas the New Ireland Forum process and the May 2 report represent an opportunity to strengthen Anglo-Irish cooperation and dialog toward resolving the Northern Ireland problem and furthering reconciliation between the two communities; and

Whereas the Prime Minister of Ireland recently visited the United States where he had important discussions with the President and the Congress; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That is the sense of Congress that—

(1) the participants in the New Ireland Forum are to be commended for their efforts to promote potential frameworks for progress toward reconciliation of the two communities in Northern Ireland; and

(2) all political parties in Northern Ireland, the British Government, and the Irish Government, should review the findings and recommendations of the report of the New Ireland Forum in the spirit in which they were offered, that of dialog and hope.

AUTHORITY DURING ADJOURNMENT

Mr. BAKER. Madam President, I have a number of other matters that appear to be cleared for action by unanimous consent.

Let me first put forth the boiler plate language, a unanimous-consent request in that respect.

Madam President, I ask unanimous consent that when the Senate adjourns today, pursuant to the resolution which may be adopted, it stand in adjournment until Thursday, May 31, 1984, at the hour of 11 a.m., and at that time the reading of the Journal be dispensed with, that no resolutions come over under the rule, that the call of the calendar be dispensed with, and provided further that morning hour shall be deemed to have expired.

Madam President, I further ask unanimous consent that committees may have until 3 p.m. on that day in which to file reports.

Madam President, I ask unanimous consent that during the adjournment of the Senate over until Thursday, May 31, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives, and that they be appropriately referred, and that the Vice President and President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and the minority leader.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, for the information of the Senate, I am advised that the House is now considering, or perhaps by now has passed, the adjournment resolution providing for the adjournment of the Senate from today. When it reaches this body, and after we have finished our necessary wrapup, it will be the intention of the leadership to ask the Senate to stand in adjournment pursuant to that resolution. Therefore, there will be no more RECORD votes today.

THE CALENDAR

Mr. BAKER. Madam President, there are four other items on the calendar of business on this side which are cleared for action by unanimous consent.

I will say to the minority leader that I would like to proceed with all four of them. They are Calendar Order Nos. 862, 872, 878, and 921. Can the minority leader approve them?

Mr. BYRD. Madam President, there is no objection on this side.

Mr. BAKER. Madam President, I thank the minority leader. I wonder if the minority leader would object if I asked unanimous consent, which I now ask, that these items be considered en bloc.

Mr. BYRD. Not at all.

Mr. BAKER. Madam President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS COMPUTER SECURITY AND EDUCATION ACT OF 1984

The Senate proceeded to consider the bill (H.R. 3075) to amend the Small Business Act to establish a small business computer crime and security task force, and for other purposes, which had been reported from the Committee on Small Business with an amendment to strike all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Computer Security and Education Act of 1984".

FINDING AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) there is increased dependency on, and proliferation of, information technology (including computers, data networks, and other communication devices) in the small business community;

(2) such technology has permitted an increase in criminal activity against small business;

(3) small businesses in particular frequently lack the education and awareness of computer security techniques and technologies which would enable them to protect their computer systems from unauthorized access

and the manipulation or destruction of their computer hardware, software, and stored data;

(4) profitmaking organizations have substantial expertise in computer technology, communications, and management assistance that is not otherwise available; and

(5) the use of this expertise in the Small Business Administration's training delivery system would improve substantially the quantity and quality of the agency's management assistance programs.

(b) The purposes of this Act are—

(1) to improve the management by small businesses of their information technology,

(2) to educate and encourage small businesses to protect such technology from intentional or unintentional manipulation or destruction; and

(3) to encourage cooperation with profitmaking and nonprofitmaking organizations in providing management assistance to small business.

COMPUTER SECURITY AND EDUCATION ADVISORY COUNCIL

SEC. 3. Section 4(b) of the Small Business Act (15 U.S.C. 633(b)) is amended by adding at the end thereof the following:

"(3)(A) The Administrator shall, not later than ninety days after the effective date of the Small Business Computer Security and Education Act of 1984, establish an advisory council to be known as the Small Business Computer Security and Education Advisory Council (hereinafter referred to as the 'advisory council').

"(B) The advisory council shall consist of the following members:

"(i) an official of the Small Business Administration, appointed by the Administrator;

"(ii) an official of the Institute for Computer Sciences and Technology of the Department of Commerce, appointed by the Secretary of Commerce;

"(iii) an official of the Department of Justice, appointed by the Attorney General, who is knowledgeable about issues of computer security and its prosecution;

"(iv) an official of the Department of Defense, appointed by the Secretary of Defense, who is knowledgeable about issues of computer security;

"(v) one individual, appointed by the Administrator, who is representatives of the interests of the manufacturers of computer hardware to small business concerns;

"(vi) one individual, appointed by the Administrator, who is representative of the interests of the manufacturers of computer software to small business concerns;

"(vii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer liability insurance to small business concerns;

"(viii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer security equipment and services to small business concerns;

"(ix) one individual, appointed by the Administrator, who is representative of the interests of associations of small business concerns, other than small business concerns engaging in any of the activities described in clauses (v) through (viii); and

"(x) such additional qualified individuals from the private sector, appointed by the Administrator, as the Administrator determines to be appropriate.

"(C) It shall be the function of the advisory council to advise the Administration on—

"(i) the nature and scope of computer crimes committed against small business concerns;

"(ii) the effectiveness of Federal and State law in deterring computer-related criminal activity or prosecuting computer-related crimes;

"(iii) the effectiveness of computer technology and management techniques available to small business for increasing their computer security;

"(iv) the development of information and guidelines to be made available to the Administrator to assist small business concerns in evaluating the security of computer systems; and

"(v) such other appropriate functions of the small business computer security and education program.

"(D) The Administrator shall designate one of the non-Federal members of the advisory council as its chairperson. The advisory council shall meet at least annually and at such other times as requested by the Administrator. A majority of the members of the advisory council shall constitute a quorum. Vacancies on the council shall be filled in the same manner as the original appointment.

"(E) Each member of the advisory council shall serve without additional pay, allowances, or benefits by reason of such service. Each non-Federal member shall be reimbursed for actual expenses, including travel expenses, as authorized by section 5703 of title 5, United States Code.

"(F) Upon request of the chairperson of the advisory council, the Administrator may request directly from any Federal agency information necessary to enable the advisory council to carry out its functions under the Small Business Computer Security and Education Act of 1984. Upon the request of the Administrator, the head of such agency shall furnish to the Administrator such information, subject to the requirements of section 552 of title 5, United States Code.".

COMPUTER SECURITY AND EDUCATION PROGRAM

SEC. 4. Section 4(b) of the Small Business Act (15 U.S.C. 633(b)) is further amended by adding at the end thereof the following:

"(4)(A) The Administrator shall establish a small business computer security and education program to—

"(i) provide small business concerns information regarding—

"(I) utilization and management of computer technology;

"(II) computer crimes committed against small business concerns; and

"(III) security for computers owned or utilized by small business concerns;

"(ii) provide for periodic forums for small business concerns to improve their knowledge of the matters described in clause (i); and

"(iii) provide training opportunities to educate small business users on computer security techniques.

"(B) The Administrator, after consultation with the Director of the Institute of Computer Sciences and Technology within the Department of Commerce, shall develop information and materials to carry out the activities described in subparagraph (A) of this paragraph.".

PRIVATE SECTOR COOPERATION

SEC. 5. Section 8(b)(1)(A) of the Small Business Act is amended—

(1) by inserting "computer security," after "wage incentives,";

(2) by inserting ", with profitmaking concerns," after "associations, and institutions"; and

(3) by adding before the semicolon at the end thereof ": Provided, That the Administration shall take such actions as it determines to be necessary to ensure that the participation by a profitmaking concern does not constitute an endorsement by the Federal Government of the products or services of any such concern, and to avoid the undue promotion of the products or services of any such profitmaking concern, but the mere participation by such concern shall not, in itself, be considered a promotion or endorsement of its products or services".

COMPUTER CRIME DEFINITION

SEC. 6. Section 3 of the Small Business Act is amended by adding at the end thereof the following—

"(j) For purposes of this Act—

"(1) the term 'computer crime' means—

"(A) any crime committed against a small business concern by means of the use of a computer; and

"(B) any crime involving the illegal use of, or tampering with, a computer owned or utilized by a small business concern.".

EFFECTIVE DATES

SEC. 7. (a) This Act shall take effect on October 1, 1983.

(b) The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act are repealed on October 1, 1987. Nothing in this section shall preclude the Administrator from continuing such committee under the authority of section 8(b)(3) of the Small Business Act and the Federal Advisory Committee Act.

Mr. WEICKER. Madam President, I rise in support of H.R. 3075, a bill to amend the Small Business Act to establish a computer security and education program. I want to thank my colleague from the State of Massachusetts, Senator TSONGAS, for his leadership on this bill.

The increased use and reliance on computer technology by the business community has provided expanded opportunities for abuse of computer systems for criminal purposes. According to one expert on computer crime, only 1 of the estimated 200,000 computer crimes committed each year is likely to be prosecuted.

H.R. 3075 is an inexpensive commonsense response to the growing problem of computer crime against small business. The purpose of H.R. 3075 is the prevention of computer crime through education. Many small businesses have yet to learn how to use computers effectively, how to protect their information, and how to safeguard their computers from accidental or deliberate misuse. The establishment of a small business computer security and education program by the SBA will result in the provision of needed education, training, and information on these issues to a rapidly expanding audience of small business computer users. With the assistance of an advisory council, the SBA will be able to make full use of expertise in other Federal agencies and the private sector to provide an expanded manage-

ment assistance program to small businesses.

H.R. 3075 permits the Small Business Administration for the first time to utilize profitmaking organizations to provide counseling, training, and other types of management assistance. This authority was requested by the Administration and was incorporated by amendment to H.R. 3075 from a bill I introduced last May. According to the SBA, this new authority to develop training programs with the private sector will more than triple the agency's training capacity at no increase in Government cost.

H.R. 3075 as amended by the Senate Committee on Small Business reflects the recommendations made by the Administration, computer security experts, and small business representatives. I fully support this bill and urge adoption of this legislation.

Mr. NUNN. Madam President, I join my colleagues in urging the Senate to adopt the Senate Small Business Committee's amendment to H.R. 3075, the Small Business Computer Security and Education Act of 1984, and to pass the bill. This legislation is another important element in a comprehensive legislative approach that must be taken to redress the rapidly escalating problem of computer crime in this Nation, particularly against small business. I want to complement my colleagues on the Small Business Committee for their assistance in refining this proposal, and in particular congratulate the gentleman from Massachusetts (Mr. TSONGAS) for taking the lead on this important bill. The bill has been significantly improved by his work on it. It is a good, strong step forward toward controlling this problem.

Madam President, from our discussions of the issues of computer crime and security, even before we introduced this legislation in the Senate last October, it was obvious that there is a general consensus that the lack of computer security controls pose a serious threat for lack and small businesses alike. In Senator TSONGAS' statement on this bill today, he had included in the RECORD an excellent series on computer crime from the Washington Post. These articles, our committee's extensive review during the past several months, and the outstanding work done by others point to the inadequacy of both the private sector's and the Federal Government's capabilities to respond to the problems of computer security and computer crime.

The bill reported by the Senate Small Business Committee focuses on the critical elements of education and prevention. The Federal Government, in cooperation with the private sector, can provide the small business community with valuable and timely information on the need for computer security, and on effective methods to protect against, and detect, unauthorized computer entry.

As I noted earlier, this bill is but one important element of the congressional response needed to address various components of the exponential growth of computer uses in the United States. For example, there is a recognition that our Federal criminal statutes are inadequate as a law enforcement tool to prosecute even that minor portion of theft by computer that is reported to the authorities. I have cosponsored legislation in the Senate to update our Federal criminal statutes in this high-technology area. The Congress should quickly move to fill the gaps in these laws, the way that over 20 States have enacted their own computer criminal laws.

But more needs to be done. We need to better understand the pervasive impact that computers have on our lives, and on all phases of our Government's operation. It may be necessary to provide for a systematic and comprehensive review of the multitude of issues raised by the rapid introduction of computers and information technology in our society.

Madam President, the legislation before the Senate, H.R. 3075, will provide a cost-effective means for small business to improve their management of information technology, and provide the means to begin protecting that technology from unauthorized entry. I hope the Senate will give its prompt approval to this bill today.

Mr. TSONGAS. Madam President, I rise in support of H.R. 3075, the "Small Business Computer Security and Education Act of 1984," and urge its adoption by the Senate today.

This bill amends the Small Business Act to provide the SBA with a variety of tools to provide a critical source of information and training to assist small business in addressing the growing threat of computer crime.

H.R. 3075, as amended by the Senate Small Business Committee, will address the information and training needs of the small business computer user in several ways. First, SBA will be required to establish a "small business security and education program," develop background materials on preventive measures, and use its existing outreach network to disseminate information on computer security methods to enhance crime prevention and detection. Profitmaking organizations may be called on to improve the quality and scope of the agency's management assistant programs.

The SBA will also be required to establish an "Advisory Council." This council will consist of at least nine experts, including representatives from SBA, the Institute for Computer Security and Technology within the Department of Commerce, and the Departments of Defense and Justice, as well as the providers of computer security products and insurers and small business representatives. The council functions are broad and vital and are defined in section 3(c) of the bill as reported by the Senate Small Business Committee.

Last October 3, Senators NUNN, BOSCHWITZ, and I introduced the "Small Business Computer Crime Prevention Act," S. 1920. This bill was a companion to H.R. 3075, which had been introduced in the House by Representatives WYDEN and WEBER, and which passed the House on October 23, 1983. These Congressmen are to be praised for their early recognition of the computer crime problems faced by small business and for their leadership in pursuing legislation to mitigate those problems.

On March 7, 1984, I chaired a hearing of the Small Business Committee on the proposed bill and received valuable testimony from Members of Congress, the executive branch and expert private sector witnesses. As a result of our deliberations, the committee amendment in the nature of a substitute for the House bill has been reported. This revised version improves on the original bill by focusing more specifically on an expansion of the existing educational and management assistance training programs within the SBA to include computer technology and to help prevent the growth of computer crime in the small business community.

The report to accompany the bill (S. Rept. 98-438) clearly analyzes the need for this legislation, the issues which it is designed to address as computer technology becomes ever more widely adopted, and the best legislative approach enabling the SBA to respond to small business' increasing vulnerability to hi-tech crimes.

The concept of a study by a task force in the original proposal has been replaced by a Computer Security and Education Advisory Council, comprised of government and public sector experts, which can immediately assist the SBA in implementing the mandates of this bill. The SBA, which already has in place a variety of effective management assistance programs for educating our Nation's small businesses, will simply expand its scope to encompass security measures for information technology and management systems.

For the first time under the provisions of the bill the SBA will be permitted to use for-profit companies in their management training programs to complement the technical expertise already available to the agency from nonprofit organizations.

Madam President, as the prime sponsor of this legislation, there are two questions about the legislation reported by the Small Business Committee that have been raised. In my judg-

ment, they are questions of implementation only and do not require a change in the statute. However, they are important matters, and I would like to take a moment to address them.

The first question relates to the language in the bill dealing with the Small Business Administration's cooperation with the private sector in carrying out its management assistance programs. Section 5 of the amendment reported by the Senate Small Business Committee makes it clear that the "participation by a profitmaking concern does not constitute an endorsement by the Federal Government of the products or services of any such concern." I believe it is clear that our intent is to insure that the Federal Government's working partnership with the for-profit sector does not directly or indirectly provide the appearance of a Federal "stamp of approval" for the goods or services of that concern. I believe SBA shares my view that it is not our intention to provide any type of endorsement for the firm's goods and services, and that the SBA will make that very clear. I believe that the Small Business Administration could best implement this provision by providing for an explicit disclaimer in every advertising or announcement of the cosponsored training and in all of the material provided by the profitmaking concern that this participation does not constitute an endorsement by the Federal Government.

The second issue addresses concerns about the possibility that any single profitmaking concern may achieve an undue advantage by being the sole, or one of a selected few, called upon to participate with the SBA in providing cosponsored training, or in preparing information. In certain areas, the best information and technology may be held by only a very few companies. This is particularly true in the computer security area, where the hardware manufacturers, primarily large businesses, are in the best position to assist the administration. But it is my view that where it is determined that profitmaking concerns are to be used, SBA should make a special effort to insure that the greatest number of qualified firms are brought in to participate in the training and in the development of material.

Madam President, it is widely recognized that computer crime has grown as an economic and social threat and remains an unresolved problem for criminal justice.

While greater resources and more expertise are available to Federal agencies and large businesses both to secure their systems and to cope with adverse effects of computer crime, the small business sector is particularly vulnerable and largely unaware of the means available to prevent and control it. Small businesses tend to either use compact computer systems, with limited security features, or, to lease both communication lines and time on large mainframe systems, as well as use standard software packages. Rarely are computer experts and auditors called in advance. These practices make small businesses particularly vulnerable targets for computer crimes. Their scarce capital resources often do not permit security audits or installation of expensive preventive security features. Victims are unable to absorb losses or undertake costly prosecution of computer crimes.

Yet the use of computers for cheaper data management and accounting is growing rapidly in the small business sector: it is expected to grow by 50 percent in the current year—mid 1983 to mid 1984. The majority of computer sales are being made to companies with less than 20 employees. There is, therefore, a clear need to inform these users about the hazards associated with computer technology and provide a responsible method to educate them regarding available safeguards.

It is possible to stem the tide of computer crime and protect businesses and Federal agencies at risk by providing better education regarding security methods, hardware, software and management control, available for specific information systems.

This bill will serve as a cost effective vehicle for a nationwide computer crime prevention program that will enable the small business community to thrive in an increasingly hi-tech and competitive market.

Madam President, I want to thank my colleagues on the Small Business Committee, and particularly its chairman, Senator WEICKER, for their cooperation and counsel in the formulation of this legislation and for their assistance in acting so promptly on this legislation. I also want to acknowledge the assistance of Aviva Brecher of my staff, Alan Chvotkin, the committee's Democratic chief counsel, and Cynthia Ford and Mike Morris of the committee.

I also ask unanimous consent to have printed in the RECORD the informative series of four articles on computer crime which appeared in the Washington Post this week, Sunday, May 20 to Wednesday, May 23, 1984.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sunday, May 20, 1984]

AGE OF ELECTRONIC CONVENIENCE SPAWNING INVENTIVE THIEVES

(By Mary Thornton)

On Jan. 18, 1980, a New York air traffic controller, angered by the Soviet invasion of Afghanistan a month earlier, momentarily took over an incoming Aeroflot jet carrying Soviet Ambassador Anatoliy F. Dobrynin. He transferred control to his computer, deleted a signal identifying the aircraft as a large jet, then returned control to the main console.

Without the signal, the jet looked like a small private aircraft on other controllers' monitors. It landed safely, but only after flying through heavily traveled airspace without proper controls for 20 perilous minutes. The controller was fired but not prosecuted.

Last summer, a group of young Milwaukee computer enthusiasts, nicknamed "the 414s" after their telephone area code, was raided by FBI agents after gaining access to more than 60 computer data banks, including those at New York's Memorial Sloan Kettering Cancer Center, the Los Alamos scientific laboratory in New Mexico and a California bank.

Those incidents, one potentially deadly and the other apparently playful, represent the extremes of a phenomenon that has triggered growing concern among law enforcement officials: computer crime and abuse.

Experts in the federal government and private industry say the variety of such crimes and the potential for damage are staggering. They cited harassment, copyright violations, extortion, multimillion-dollar electronic bank thefts, industrial and military espionage, terrorism, sabotage and even murder.

Computers also present unnerving opportunities for invasion of privacy. If a young computer buff can gain access to computerized credit records, hospital medical records, motor vehicle records and bank records, the experts ask, what potential mischief can a computer professional wreak?

Yet, as the nation becomes more computerized, the experts warn that too little effort is going into legislation governing computer abuse, security measures to prevent it, new kinds of insurance to protect against loss or addressing the ethical and social questions raised by the arcane wonders of electronic information-processing.

Joseph F. Coates, a consultant on long-range technological trends, put the problem this way:

"The computer industry is so complacent, its buyers and users so beguiled by the equipment and regulators so enchanted by the calm sea as computers slowly spread across this nation [that] the industry needs its equivalent of Hiroshima to alert the nation . . . to the enormous risks in the way we organize our computer affairs."

The special and increasing danger of computer crime arises from several factors, including:

Invisibility. The crime can be committed from great distances, perhaps in the privacy of a home or office. Evidence of the intrusion often can be erased.

The microcomputer. Alexander Stein of dataquest, a California consulting firm, said that at the end of 1983 there were 7.9 million home and personal computers and more than 1 million business computers in the United States. The number is increasing by 34 percent a year, or more than doubling every three years, he said.

Without exception, federal law enforcement officials said they expected the proliferation of personal computers to cause a corresponding increase in computer crime.

Computer "literacy. Microcomputers are common even in elementary schools now. Young people go to summer computer camp. Teen-agers can buy a small computer system of less than $1,000. The Massachusetts Institute of Technology, with help

from IBM Corp. and Digital Equipment Corp., is providing 3,000 computer teaching terminals for its 4,500 undergraduate students.

As a far larger portion of the population learns to use computers, the experts said they fear a substantial rise in computer abuse by criminals, malcontents and the mentally unstable.

Networks. Inexpensive devices called "modems" allow home computers to be connected by telephone with computer systems worldwide. Already available are hundreds of consumer services, including news, stock tips, worldwide airline schedules and fares, a full encyclopedia, weather information and even movie reviews dating to 1930.

The next stage involves "interactive," or two-way, services such as computerized grocery shopping, billing, banking and mailing—an innovation that recently got a major boost from the formation of a joint venture by Sears, Roebuck and Co., IBM and CBS.

Improved technology. Computers are becoming faster, cheaper and simpler to use, and memory capacity is growing. Thus, use of computers both for more complex and more mundane tasks becomes ever more practical.

Smarter computers. The race between the United States and Japan to develop "fifth-generation" computers could lead to early forms of "artificial intelligence" with a few years, providing undreamed-of capabilities for good and evil.

Marvin Minsky, an artifical-intelligence expert at MIT, said the computer world is at a stage he once thought would take centuries to reach. As for the future, he said, "You should be reading [science fiction writers Robert] Heinlein or [Isaac] Asimov."

Estimates of annual losses from computer crime range from $100 million to more than $3 billion, but even the experts admit that the figure is drawn from thin air. Anthony Adamski, who oversees computer-crime cases for the FBI, said no one knows the number of computer crimes or what they cost.

Robert P. Campbell, a private computer-security specialist who until five years ago headed computer security that only one in 22,000 criminal acts involving a computer will be prosecuted.

He believes that one crime in 100 is detected; that of these detected, 15 percent or fewer are reported, and that of those reported one in 33 is successfully prosecuted.

Federal officials said one reason is that many companies, often banks, do not want the public or shareholders to know that they have been victimized and that the crime was relatively simple to commit. In addition, the way many white-collar crimes are classified, it is impossible to tell whether a computer was used.

THIEVES ARE FINDING A PLACE ON CUTTING EDGE OF TECHNOLOGY

Even when computer crimes are reported, they often do not go to trial because prosecuting attorneys, judges and jurors do not have the technical expertise to deal with the issues.

Yet computer crimes occasionally make headlines.

Officials in several states have uncovered schemes in which an individual substitutes his deposit slips at the bank counter where blank slips normally would be. When other customers unknowingly use them, the computer reads a slip's magnetic-ink number and deposits the money in the criminal's account.

By the time irate customers come in with their bank statements, the criminal has withdrawn the money and fled.

In 1978, computer consultant Stanley Mark Rifkin called the wire room at Security Pacific National Bank in Los Angeles, identified himself as a senior bank officer, gave the proper codes and arranged for transfer of $10.2 million to a Swiss bank account.

He converted the cash into Soviet diamonds and was caught trying to sell them. He served less than three years of an eight-year sentence and now runs the computer system for a major organization.

Former Federal Reserve Bank Board employe Theode Langevin, who took a job with E. F. Hutton and Co. Inc. in New York, illegally tapped into the Fed computer to obtain secret money-supply information in 1980.

He was caught, pleaded guilty to wire fraud and was sentenced to one year's probation.

In a case uncovered in 1980, San Francisco's Wells Fargo Bank lost $21 million in a year, allegedly to two boxing promoters who, with a bank employee's help, used a computer for illegal transfers.

Richard P. Kusserow, inspector general for the Department of Health and Human Services, recently finished the first survey of crimes involving the federal government's 650,000 microcomputers and 16,000 large "mainframe" comptuers and concluded that there is an "extraordinary vulnerability" to crime.

"The government has become the biggest user of computers in this country," he said. "There is an information explosion going on. . . . It's come so quickly that the bureaucracy hasn't had time to respond."

The study found 172 cases of fraud and abuse in 12 government agencies in slightly more than four years. One employee diverted $24,000 in unauthorized benefits checks to himself over five months and erased the evidence. In another program, three clerks were able to steal $150,000 worth of food stamps because their supervisor left a key in a computer terminal.

Kusserow said those cases are not even the tip of the iceberg since most crimes were discovered by accident and most agencies have virtually no procedures for finding such problems. Three of every four agencies contacted said they did not know if their computer systems had ever been audited for possible crimes.

David Geneson, a Justice Department lawyer who deals with computer crime, said no federal law deals specifically with use of computers in a crime or with trespassing by computer or reading private files.

"There's no statutory definition of computer crime," he said. "It's a more complicated area than you might think. If you break in [to a government computer office] and steal a disc pack, that's theft of government property. But if you break in electronically and copy it, that's not clear. You haven't really stolen anything."

The closest relevant federal laws, he said, deal with wire fraud, theft of government property and interstate transportation of stolen property in cases where the theft tops $5,000.

The FBI's Adamski said that 21 states have enacted laws dealing with computer crime but there is little consistency from state to state and several fail to deal with "hackers" who enter systems for fun rather than profit.

Enacting law does not necessarily give state authorities the manpower or expertise to enforce it. In Florida, where the nation's first computer-crime law was passed in 1978, only two cases have been brought.

Congress is debating several computer crime bills. One introduced by Rep. Bill Nelson (D-Fla.) and Sen. Paul S. Trible Jr. (R-Va.) would provide for a fine as high as $50,000 or a five-year prison sentence for theft from or abuse of federal or private computers used in interstate commerce. A second bill, introduced by Rep. Ron Wyden (D-Ore.), would set up an 18-month task force to investigate the extent of computer crime in small businesses.

A third, introduced by Rep. William J. Hughes (D-N.J.) and approved by a House subcommittee last week, would establish as a federal felony unauthorized computer access that yields a defendant $5,000 or more a year; the use or modification of materials in someone else's computer would be a "computer abuse" misdemeanor.

The proposed legislation does not deal with a person who enters the system simply to look around. Nor does it deal with computer wiretaps. Although it is against the law to wiretap a telephone conversation—even the FBI needs court approval—no law prevents a wiretap on a computer communication on a telephone line.

As a result, much of the congressional debate has focused on making it a federal crime for young "hackers" to intrude without authorization into government or private computers. But most law-enforcement and computer-security experts said the real problem is crime by insiders who already have access to the system.

[From the Washington Post, Sunday, May 20, 1984]

NEW CLASS OF CRIMINAL SENDS FBI INTO COMPUTER CLASSES

As hundreds of thousands of small computers have moved into American homes and offices, federal law-enforcement officers have braced for an inevitable new class of criminals whose weapon is the computer.

On the front lines in the FBI's fight against computer crime is James M. Barko, who runs the Economic and Financial Crimes Training Unit at the FBI Academy in Quantico, Va. Barko and other FBI computer experts conduct a three-week course in which agents—15 to a class—learn the basics of computer operations and programming and how typical computer frauds work.

"It's a different world," said Barko, referring to the subtlety and skill with which some white-collar criminals can manipulate a computer. "You have a kind of priesthood."

The agents' studies revolve around a simulated bank with $50 million in assets and 30,000 accounts. As the course progresses, the agents discover that frauds of increasing complexity have been programmed into the bank's computer. Their task is to find the fraud without shutting down the bank.

Suspicious additions to or withdrawals from accounts of bank employees, their close friends and relatives are looked for. The students learn which personnel have access to which files, thereby eliminating some as suspects.

One of the most important aspects is learning how to write a search warrant for a crime when the evidence is likely to be electronic rather than physical and may be buried in a computer program.

In trying to uncover the crime, agents have to look not only for obvious transfers of funds but also for subtle maneuvers that leave the banks' books in balance and the crime well hidden.

Barko conceded that his graduates are not ready to open computer companies. But they know the basics, as well as where to turn for help, he said. If the agents are working a friendly situation, where management is not suspect, they generally can get help from the company. In hostile situations, they can turn to the computer manufacturer for technical assistance.

Since 1976, the FBI has trained more than 200 agents and nearly 88 state and local investigators, and the course has a two-year waiting list.

[From the Washington Post, May 21, 1984]

"HACKERS" IGNORE CONSEQUENCES OF THEIR HIGH-TECH JOY RIDES

(By Mary Thornton)

For Susan Headley, it started when she was 17, a high school dropout who had run away to California to work as a waitress. She was lonely and fell in with a group of young people who used home computers to harass the telephone company.

For the next four years, they spent almost every night at their consoles—romping through the computers of government agencies, defense contractors, corporations and credit bureaus, occasionally lowering the credit rating of prominent citizens or doing similar exploits.

Their chief target was the phone company. Using a variety of techniques—from job tryouts to searching through trash for computer passwords—they penetrated telephone security and made free calls all over the world, complete with such special features as call forwarding.

Headley left the group in 1981 when she decided that such computer antics could land them in jail. She was right. Her companions had been inserting obscenities into a California company's computer-generated catalogue. The company decided to press charges.

Headley was not prosecuted and now, at 24, has turned to computer security as a career.

Despite public attention to outside "hackers," such as Headley, law enforcement officials say their largest computer problem by far is crime by insiders. But even that pales when compared with the criminal potential in coming decades as millions more people learn to use computers.

As a portion of the population eventually turns to criminal activities, the experts say, computer crime is bound to grow and some young computer wizards are almost certain to become super-criminals.

Moreover, organized crime has had lawyers and accountants for decades. Computer experts would be the next logical step. Donn Parker, of SRI International Inc. and author of "Fighting Computer Crime," said that there are documented instances of organized crime using computers, especially in bookmaking, and that he expects more imaginative schemes to surface soon.

"If I were a Mafia capo, the one place I'd be sending my sons is to the school of engineering at MIT," said Joseph F. Coates, a consultant on technological trends.

Some experts say they are also worried about crime by terrorists, not just with computers but also against them. Parker said that 29 computer centers have been blown up by terrorists in Italy, France and Germany in the last four years.

Robert P. Campbell of Advanced Information Management Inc., a computer security firm in Woodbridge, Va., said, "We've been relatively free of terrorism in the United States, but the days are numbered. . . . We're investing more in our computer systems than any other nation the world."

Such life-and-death dangers notwithstanding, most of the recent uproar over computer crime has focused on the astonishing activities and questionable ethics of young computer enthusiasts—the hackers.

Computer experts and law enforcement officials say there is an explosion in the number of young people turning to computers for thrills. Their journeys into forbidden territory are accelerated through electronic bulletin boards, which can be dialed into by anyone knowing the right phone number and access codes. Whenever a hacker discovers how to break into a system, he's likely to post the information on a bulletin board so that his friends can try it.

In 1980, students at Dalton Middle School in Manhattan used classroom computers to break into 21 systems in Canada, destroying crucial data in one intrusion. They were caught but not prosecuted.

Last summer the FBI raided the homes of several Milwaukee-area youngsters who called themselves the "414s," after their telephone area code. The group had broken through the security of 60 computers, including one at New York's Memorial Sloan Kettering Cancer Institute containing patient files.

In October, the FBI raided the homes of other young computer enthusiasts around the country. They had been detected raiding the message system of the GTE Telenet network that links 200,000 users and 2,000 computers.

Similar exploits were romanticized in the movie "War Games" and the television show "Whiz Kids."

Unlike much of the public, Parker calls computer hacking a "very serious epidemic across the country" and says hackers' activities are not larks but crimes. In the Sloan Kettering case, he said, changing records could have led to a patient's death.

"You have to prove intent and maliciousness, and the kids deny that," he said. "But once you get into this electronic land of Oz, you don't know what you're doing. It's a bull-in-the-china-shop situation. Just turning around can destroy something, cause the system to crash."

Professor John Kender, who teaches computer science at Columbia University, said of the hackers, "The closest analogy is joy riding where kids find a car with the keys in it. There's a thrill of doing something powerful.

"Perhaps there's not much sense that they are violating someone's rights. . . . It's anonymous . . . . In some ways, It's less violent form of juvenile delinquency. There is the same alienation and hanging out in groups of hackers."

Kender said most hackers are young, male and very bright. Some students become virtually "addicted" to computer studies, excelling in them but failing in everything else.

Susan Headley like Kender, said the thrill of cracking computer security is "simply exerting power—joy riding."

She described most hackers as socially awkward loners. In many cases, she said, fellow hackers provide their first close friendships. She said most in her group were "reclusive types . . . with no civic involvement. Their sole entertainment was in their computer terminals."

Many people, including some law enforcement officials, say they believe that most hackers are relatively harmless.

Richard Stallman, 30, a professed hacker who worked at MIT's Artificial Intelligence Lab for seven years, said hacking, committing sophisticated pranks, has been going on for years, especially at places like MIT and Caltech, and that it is not always related to computers.

There is elevator hacking, for instance, which might involve rewiring the control panel in the elevator of a rival dormitory so that pushing the button for the second floor might send it to the 20th floor.

At MIT, there is a tradition of disrupting the annual Harvard-Yale football game. In 1949 Fortney H. (Pete) Stark, now a Democratic member of Congress from California, was suspended briefly for helping to blow up part of the Harvard gridiron during a game so that it spelled "MIT."

In a widely publicized hack during the Illinois-UCLA Rose Bowl game this year, two Caltech students took over the scoreboard by computer and changed the team names to show Caltech leading MIT, 38 to 9.

Perhaps the best-known hack was the MIT "Cookie Monster" in the 1970s. As an unsuspecting user worked at his terminal, the word "cookie" would flash across the screen, obliterating his work. Unless the startled user responded quickly, the machine would begin to flash more rapidly, "Cookie, cookie, give me a cookie."

Finally, just as the user was convinced that the computer had eaten his work, the "monster" would flash, "I didn't want a cookie anyway," and vanish into the system to wait for another user. The assault could be stopped by typing "cookie," prompting a polite "thank you" from the monster.

Yet, there have been cases of real crimes by hackers.

Jerry Schneider, 19, posed as a magazine writer to research the telephone company's equipment-ordering system in Los Angeles, then manipulated the computer to order himself $1 million in telephone equipment. He went to prison.

Two suburban Chicago teen-agers, who called themselves System Cruncher and Vladimere, cracked the three-character password at DePaul University in 1980, causing the system to crash and costing the university about $22,000 to restore it to service. They were prosecuted, but got probation and a movie offer.

Lewis DePayne, Susan Headley's former companion, went to prison for various computer escapades. In one case, he and his friends stole computer manuals from Pacific Telephone to assist them in invading the main computers to shut down area telephone service.

Most hackers seem to see little ethical problem with their activities.

Headley said that, as far as she knows, her group never made personal profit from hacking. As for using others' computer time by intruding into their systems, she said, "We always did it at night when they weren't busy. The machine would have been turned on. It would have been using electricity anyway."

Stallman said hackers traditionally are not malicious and often assist in debugging programs. He contends that it is "immoral" to copyright computer programs and has quit his job at MIT to write programs to be distributed free.

"I consider that the golden rule requires that if I like a program, I must share it with other people who like it," Stallman said.

"This means much more than just saving everyone the price of [a program]. It means that much wasteful duplication of system programming effort will be avoided. This effort can go instead into advancing the state of the art."

Some hackers say they believe that making computer trespass a federal crime would merely provide teen-agers a bigger challenge.

"I never believed in obeying laws just because they're laws," Stallman said. "Rule is never reason for doing something. When someone tries to put in security, my impulse is to get around it."

Phil Bertoni, a former MIT hacker who recently wrote the book "Strangers in Computerland," warned that turning the FBI loose on hackers probably would make hacking more fun. "The whole point of hacking is to challenge authority . . . . The higher the authority, the greater the challenge. What better challenge could you have than proving you can outwit the whole FBI?

"There's a tradition, a long history of tech hacking. It's just a way of young people testing their ingenuity. I can see a [crime] if you steal data or use it for profit or if you damage a system so that all the iron lungs in the hospital shut down . . . . But there is a difference," Bertoni said.

A number of federal law enforcement officials say, at least privately, that they do not see major crime problems with hackers. They say they would not want FBI resources squandered on low-level computer break-ins by young people if there is no profit motive or criminal intent. Even with a change in the law, they say, it would be extremely difficult to prove criminal intent when prosecuting a 14-year-old hacker.

FBI Director William H. Webster, who has not taken a position on proposed computer-crime legislation, said, "Most of these youngsters are not deliberately dishonest . . . . I think a little parental advice and a little personal awareness will reduce the amount of damage potential out there . . . .

"We're obviously not against children, and we're not against smart children. We're just hoping they'll find a more constructive use for that talent."

[From the Washington Post, May 22, 1984]

SECURITY IS OFTEN AN AFTERTHOUGHT

(By Mary Thornton)

Robert Campbell is part of an industry that barely existed 10 years ago.

He earns his living by trying to protect some of the nation's largest corporations from a serious new threat: the computer criminal.

On a given day, Campbell might be found at a major credit card company, such as VISA or American Express, setting up systems to prevent potential criminals—inside and outside—from tampering with the billing system to allow themselves unlimited free purchases.

Or, he might be helping a large bank guard against fraudulent electronic transfers of funds.

Or, Campbell could be working for the Defense Department, checking whether malcontents or foreign agents could gain access to U.S. missile systems and reprogram computerized directional coordinates to aim the missiles at American cities rather than ones in the Soviet Union.

Campbell, who retired five years ago as head of computer security for the Army, runs Advanced Information Management Inc., of Woodbridge, Va. The company is part of two prospering new industries—computer security and computer-crime insurance—that have arisen in response to the growing awareness of computer crime.

An estimated 9 million computers have flooded the nation's offices, schools and homes in recent years. And the number of computers is expected to grow by at least 9 million every three years. But security experts and law enforcement officials say that most companies and many government agencies have virtually no security and are naive about the risks they are running.

Even the most security-conscious agencies, such as the FBI, the CIA and the Pentagon, are not entirely safe from computer crime. Over the years, the military has used groups of computer experts called "Tiger Teams" to look for vulnerabilities in its computers. Some experts were given partial access to the system. Others started with nothing. According to Campbell, they have always managed to break in.

Joseph Coates, a consultant on long-term technological trends, said that companies without adequate security are "courting disaster." But he predicts it will take a $500 million crime to convince corporate management that there is a need for change.

Like other experts in the field, Coates blames computer-security violations on companies themselves rather than on the young people who get inside, such as the celebrated "414s" in Milwaukee.

"The Milwaukee babies are great," said Coates, "the kind of kids anyone would like their own to be . . . . They're heralding the types of problems we have to deal with . . . . There's nothing wrong with those kids. The problem is with the idiots who sold the system and the ignorant people who bought it.

"Nobody should buy a computer without knowing how much security is built in. The industry is bereft of that discussion. You have the timid dealing with the foolish. The scandal is with the industry and its reluctance to face the problem," he said.

Campbell speaks as alarmingly about the future. As computer technology mushrooms, he says, businesses and government agencies are facing a crime epidemic that few, if any, are equipped to handle.

Campbell and other experts say the biggest problem is that most managers, including those in the federal government, are unaware of the potential losses from computer crime.

The large electronic fund transfers between banks—sometimes as much as $1 billion in a day—present "a challenge beyond our capability," he said.

"The technology was not designed with security in mind. Security has been based on the ignorance of the public, but that's being stripped away by the personal computer. The group of potential abusers has expanded tremendously," he added.

Campbell complains that the computer-manufacturing industry as well as its customers in business and government have known of the threat for at least a decade and have failed to respond. Management, he said, is not willing to pay for security and not farsighted enough to see the potential threat. Manufacturers, therefore, have little financial incentive for greater research and development on security matters, he said, and as a result most available security is haphazard, expensive and far from foolproof.

"So many folks say it can't happen here," said John Linden, vice president of Internatinal Security Technology Inc. In New York.

Robert Courtney, who handled security for IBM until he retired to start his company, said most companies are extremely careless.

"Some guy's become a religous fanatic and thinks the company is the agent of the devil. They fire him and give him two weeks notice. Anyone who does that's crazy," he said. "The policy at IBM is to take them to the lobby, find them a comfortable seat. You bring out the contents of their desk along with the final check."

Many companies compound their problems by failing to report the illegal entry into their computer system, Courtney said.

"The managements of those corporations [are] quite aware that shareholders, depositors, policyholders, customers and voters regard reports of major losses as solid evidence of gross mismanagement—and they are usually right," he said.

In the case of the break-in by the 414s into the computer system at New York's Memorial Sloan Kettering Cancer Institute, he said, "Long after they knew the kids had gotten in, they refused to tell the users. They didn't have nerve enough. The problem was greatly aggravated for that reason."

Richard P. Kusserow, the Department of Health and Human Services inspector general who last year did the first government-wide survey of computer crime, found that three-quarters of the federal agencies he contacted did not know if their computer systems had ever been audited.

While agencies like the Defense Department, the CIA and the FBI have very strict security, others do not. Kusserow, for example, calls the Social Security Administration's system an "unmitigated disaster." SSA has had theft problems, he said, because it has 1,300 district offices with terminals that can get access to the central computer system, generate checks and then erase the evidence.

The agency is spending $500 million to upgrade its computer system. But until recently, there were no backup records of individual Social Security histories. "One good fire and you'd have been out of business," Kusserow said.

"I'm not a merchant of doom, but automation is moving much faster than systems to guarantee integrity," he added.

Kusserow said that the main poblem with computer security is insiders. He said that he would like there to be security clearance for data processing employees to weed out people with criminal records. But a low-level clearance check costs $1,500, and Social Security alone has 40,000 employees in data processing.

Louis Lushina, a NASA official, said that his agency takes some of the blame for a "hacker" intrusion into NASA's computerized mail system.

"They didn't get anything. They left little messages, drew pictures of Kilroy . . . It was annoying, but we knew we hadn't done all we should have to go in and shut off the system (from outsiders). We were trying to make it as easy as possible. We were probably amiss in not tightening up the password system," he said.

The National Bureau of Standards bears most of the responsibility for keeping the federal government's information systems secure.

But one government expert, Frederick Weingarten of the Office of Technology Assessment, is not optimistic that the job is manageable.

"We have to keep in mind the rapid growth of these systems," he said. "Just in

my post-graduate lifetime they have gone from scientific toys to being huge tools of large corporations, and I'm not that old.

"They have not only grown in size, they've grown in complexity, incredibly in complexity. I'm not surprised at all that from year to year [system managers] are just trying to hang on and are not doing a terribly good job or effective job at managing the security of systems, of finding out when they work, when they don't.

"There are many federal systems that are just limping along from year to year. And the problem is mainly to get the checks out. Any kind of other fancy tinkering is just an extra problem."

Because of mounting concern over computer crime, several insurance companies have begun offering coverage against computer theft and vandalism by insiders or outsiders.

The types of coverage appear to vary widely. And most companies say they are in the early stages of developing policies. The coverage is so new that no one is sure what the premiums should cost or what losses to expect.

So far, none of the companies requires a client to report a crime to the police when it files a claim. One executive said it should be required, but "it wouldn't work unless they required everyone to do it" because executives "don't want people to know that they were victimized, or that they were vulnerable."

David Kaiser, an underwriter for St. Paul Fire and Marine Co., said that his firm was one of the first to get into the computer-crime insurance market, initially covering just computers but now covering software as well. St. Paul also offers software manufacturers insurance covering defective programs and even malicious errors.

For two years, St. Paul has offered banks protection for up to $25 million in thefts through outsider access to computers, according to another executive. But he said that his company is "not real pleased with the number that have actually purchased it."

The general insurance policy would not cover accidental or malicious damage by outsiders. That would require a different kind of policy. In addition, there seems to be no coverage for simple security violations, such as a customer complaint about privacy violations after an outsider breaks into the system.

Kaiser, who deals with non-financed companies, said that it is not too difficult to set a value for coverage of inventory or data that has been destroyed. They simply determine replacement value.

"It's more difficult to put a price on something in the conceptual stage that when it gets to the market might bring $100 million," he said.

Terry Van Gilder of Chubb & Sons Inc. said that when proprietary information is involved his company works with the customer in advance to agree on a dollar value. But he added, "The industry is in a bit of a turmoil. There's no standard approach . . . no uniform way."

If a computer invader were to steal data electronically from a covered customer, Van Gilder said, Chubb would pay for developing the data again. But what about unauthorized copying of data? That hasn't been worked out.

Van Gilder added that most companies are "not all that aware that the policy exists, not all that aware of the exposures they have to loss. And in some cases, it's difficult to buy. We require a fair amount of work on the part of a potential client before we're willing to write the insurance policy."

For now, Kaiser said, the insurance market is "extremely limited. Insurance companies are trying to determine what are the chances of loss. What do we need to cover it? We really have no idea." But he said that he expects business to improve.

"Currently, with the lack of security, there's a lot of people who feel vulnerable," he said. "When they feel vulnerable, they buy insurance."

[From the Washington Post, May 23, 1984]

ETHICAL QUESTIONS ARISE FROM COMPUTERS BITING INTO PRIVACY

(By Vivian Aplin-Brownlee)

Last fall Joan D. Abrams, superintendent of schools in Red Bank, N.J., distinguished her small town from the rest of the state and most of the nation by introducing "computer responsibility" training in the schools—starting with the first grade.

"For the very little children, we don't talk about the computer, we talk about rules," she said. "In later grades, some of it is in social studies, and some of it is in library, and some is when they are actually in the computer lab." Abrams said she is trying to prepare her pupils for a world of ever-more-powerful computers and millions of sophisticated new users, a world of uncertain moral guidelines and a potential for staggering—even catastrophic—computer crimes.

"We recognize they have computers at home," she said, "and we wanted [to teach] the concept of the computer carrying with it responsibility and not just fun."

The Red Bank program exposes students to a host of ethical questions born of the age in which they live. Increasingly, it is a world in which employers are monitoring workers. Friends and neighbors are prying into one another's private affairs.

Government has the potential to spy on all its citizens. Large corporation swallow multimillion-dollar losses rather than publicly admit being stung in computer thefts. And every day the number of people capable of committing electronic wrongs grows.

Most attention has focused on the young computer generation, such as the Milwaukee teen-agers who drew national attention when they broke into the computer banks at Los Alamos National Laboratory in New Mexico and the Memorial Sloan-Kettering Cancer Institute in New York.

One of them, honor student Neal Patrick, 17, testified on Capitol Hill that he and his colleagues were acting out of curiosity and didn't consider the ethics of what they were doing until "the FBI knocked on the door."

Rep. Ron Wyden (D-Ore.) said he was especially concerned that the youngsters did not seem to realize the damage they might have done.

"What is particularly frustrating is that some of our brightest young people, who would never think of knocking an elderly woman down in the street and stealing her purse, seem to think there is nothing fundamentally wrong about playing with a few keys on a computer terminal, altering a hospital patient's medical file and possible causing irreparable physical harm," Wyden wrote.

Wyden called on schools to add ethics to their computer courses. "No matter how many laws we pass," Wyden said, "we cannot prevent computer crime. I think education is just going to be the heart of this problem."

Some experts, such as Robert Courtney, a New York computer security consultant and former chief of security for IBM, blame computer crimes on the offended rather than the offenders, especially youthful "hackers." Not, only is security often lax, Courtney said, but companies compound their problems by not reporting unauthorized entries.

But beyond the question of hackers and the non-reporting of electronically stolen millions, the computer age has generated a new ethical debate.

Eileen M. Trauth, an instructor at the Boston University School of Mangagement, argues that "tech-knowledgeable" persons must not be allowed to slip through legal loopholes.

"Taking the property of another is wrong behavior whether one uses a gun or a computer terminal," she has written. "This applies to the unauthorized use of another's computer resources, proprietary programs and private files as much as it does to their financial assets.

"The principle remains: using the computer does not absolve anyone from the requirements of behavior that are expected in non-computer mediated situations."

Yet, Frederick Weingarten, a project manager of the congressional Office of Technology Assessment's communications and information technology program, said that he wonders whether technology is controllable by law or policy.

The proliferation of small computers could make federal laws and corporate rules obsolete, he said.

"When the corporation or government agency has a large central system and a central data base, one can somehow think of setting laws (which) say you can keep this kind of data. You can't keep that kind of data. You can do this with it, but you can't do that with it . . . . You can go in and audit them, and see whether or not they're doing it.

"But when every executive in the agency has their own computer sitting in their office and does anything they please with it, then how do you set rules, how do you enforce them, how do you even know what they're doing?

Weingarten and Yale Prof. Scott Boorman say that computers are changing private and professional lives and presenting new ethical quandaries.

Boorman described a hypothetical situation in which a manager is concerned that some of his "bright young engineers" who formerly worked together might be planning to quit and form a rival firm.

"What kind of early warning can one have for that kind of split-off?" Boorman asked. "That can be picked up by phone patterns . . . the phone calls are flying. Electronic mail is flying. Now that's kind of interesting. Why are they getting back together?"

Boorman said that employers can also follow electronic mail trails to separate promising employes from the rest of the lot—a practice adopted by "more sort-of-aggressive middle-size firms than one would think."

One technique, he said, would be to look at electronic "patterns of association between individuals."

"Who tended to send messages to whom? Who didn't reciprocate whose messages? You can identify in-house opinion leaders. There would probably . . . be some who work in patterns of alliance with others, and there would be others who would jealously guard their information and not send anything more than the minimum that they

had to carry out their jobs . . .," Boorman said.

"This kind of technology and screening is perhaps most useful in tight organizations, some newspapers, some corporations, perhaps some government units, possibly some non-profits where essentially there's real concern to know small changes, small fluctuations in the behavior of particular employes," he added.

Employers are using these technology-enhanced techniques, Boorman said, though obviously without fanfare. He said that they are certain to become widespread because "once it's been pushed successfully in one environment, others will pick it up."

Technology might be forcing new values on society, he said.

"I would say that the concept of privacy is profoundly changing," Boorman said. "In the old days, 10 or 15 years ago, an invasion of privacy meant that somehow sombody had gotten at some personal secret of yours and had revealed it to some third party or to the world at large."

But large new data bases of "very mundane information" about individuals—their telephone and shopping habits, medical records, entertainment choices—make it "possible to characterize one's life history on an almost minute-to-minute basis" on and off the job and to use the information for "something much more interesting than ferreting out particular secrets."

"Just the pattern of phone messages defines the person" Boorman said.

He also said union contracts can offer workers some protection from this sort of invasion, but added that non-union, white-collar workers are the likeliest targets and have the least defenses.

"I think that this goes well beyond the immediate, classic problem of government agencies exceeding their statuatory mandate, which we have been aware of for a long time," he said. "In a funny way, the people we are most vulnerable to is our direct employer."

The OTA's Weingarten said that Congress in unlikely to protect the rights individuals against such new threats to privacy unless there is public outcry.

"Several staff members for committees on the Hill tell me that there is virtually zero constituency that they hear concerned over privacy," he said. "There was a wave of it post-Watergate, and Sen. [Sam] Ervin [D-N.C.] was able to somehow coalesce a political constituency behind the Privacy Act of 1974. And since that time people talk about privacy, articles are written, but there's virtually no political constituency behind it.

"And in the meantime, systems have changed, have grown. Data collection practices have changed in the executive branch and in private industry. But there's virtually no move, no support on the part of the public to deal with it."

Privacy, he said, means different things to different people. And that is part of the problem.

"One line of thought is to say, well, it's a question of abuse. In other words, if somebody has my information and they make a decision about my job or . . . throw me in jail, it may be because the information is inaccurate. So, my concern about privacy is about the misuse.

"Another person says, well, it's nobody's damn business . . . . I don't care if they misuse it or just file it away in a file drawer. It's none of their business, and I don't want them to have it.

"So, in some ways, maybe the problem is that privacy has not been a very good term to wrap around this set of problems."

Weingarten also said that computers may present future generations with the quandary of "knowing more than we want to know . . . , more than we're capable of dealing with.

"For instance suppose I could predict with 80 percent accuracy [using a computer] that there would be an earthquake in Washington tomorrow. What do you do with that knowledge? Do you announce it, create a panic, a drop in property values, people trampling one another to get out of town—with a 20 percent chance that it might not happen?

"Do you keep silent and allow the loss of life and property damage? It presents us with enormous dilemmas, and you can see the same problem in medical science.

"And my guess is that the same kinds of problems will come out of [using computers to define and predict functions and behavior]. If one assumes that we can get more and more accurate with it, and we can predict with a 90 percent accuracy that a person is going to be a murderer, [then] what do we do with it within our constitutional limitations? What do we do with that information when they haven't committed a crime—we just are pretty sure that they will?

"What do you do when models tell us that such and such is going to happen, or that it will cost too much to clean up [environmentally hazardous sites]?

"It seems to me possible, at least in the realm of philosophical speculation, that technology is giving us more information than we are capable of dealing with and providing us as a society with decisions that we would be better off flipping a coin over than trying to understand."

Weingarten added, "It seems to me that right now if I were to write a letter to my congressman to tell him what I would want done, I don't really know that I'm prepared to tell him. And I'm supposed to be an expert.

"I want him to be more sensitive when he votes appropriations for new technology. I want him to hold more hearings and sort of investigate agency practices. But I don't know that I want to tell him to control technology because I don't know what that means."

HOW COMPUTER ETHICS BLENDS INTO CURRICULUM

Sample topics in the "Computer Ethics Curriculum" taught in schools in Red Bank, N.J.:

GRADE 1

The impact of the computer on the community.

The role of money in filling needs.

Reasons for rules about computers.

People who make rules.

Outcome of breaking rules.

GRADE 2

The difference between needs and wants—what I need to do with a computer; what I want to do with it.

Environmental and cultural influences on our needs and wants.

Individual values that may cause people to act in certain ways in relation to their computers.

Group rules.

Criteria for evaluating rules.

Major technological advances, especially in computers.

GRADE 3

Rights and responsibilities of citizens when using computers.

The use of computers in communities of tomorrow.

GRADE 4

Magic Circle: tell about hard decisions that made you happy after you reached them. What do they tell about your values?

Technology brings change—how the computer has affected our lives.

GRADES 5 AND 6

Locating and knowing the parts of and developing an appreciation for and ability to judge critically at least one piece of literature and to use such critical judgment in evaluating programs on the computer.

GRADE 7

Consideration of the problem of increased crime related to computer use.

Discussion of juvenile offenses, parental and individual responsibilities.

GRADE 8

Principles of American government based upon the value of each individual, his rights and responsibilities, and how these relate to computer use.

The challenge of science and technology.

How the computer affects the quality of life.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An Act to amend the Small Business Act to establish a small business computer security and education program, and for other purposes.".

DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT AMENDMENTS

The bill (H.R. 3547) to amend the District of Columbia Self-Government and Governmental Reorganization Act to extend the authority of the Mayor to accept certain interim loans from the United States and to extend the authority of the Secretary of the Treasury to make such loans, was considered, ordered to a third reading, read the third time, and passed.

SMALL BUSINESS ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2069) to amend the Small Business Act.

Mr. WEICKER. Madam President, I am pleased that the Senate today is considering S. 2069 a bill that would permit SBA to approve combined 7(a) business loans and 502/503 development company loans in excess of $500,000. I want to thank and commend Senator PRESSLER for his leadership on this issue. He originally introduced the bill on November 8, 1983, and recently has held hearings. The full committee met on May 8, 1984,

and voted unanimously to report this bill to the full Senate.

Madam President, as one of the coauthors of the Small Business Administration's (SBA) section 503 certified development company (CDC) program, I am basically pleased with its development since its inception in 1980. Over 53,000 jobs have been created and over 450 CDC's nationwide have been formed. The program is beginning to realize its full potential in local communities.

The section 503 program is designed to make SBA an active partner in local economic development. Before a local development company can be certified for the 503 program, it must have an active board of directors whose members represent the local government, financial, and business sectors of the community. The creation or retention of a significant number of jobs is a requirement before any 503 loan can be approved by SBA.

Madam President, by law section 503 loans can only be used to help a small business to purchase fixed assets. Without Federal programs such as the 503 program, banks are often reluctant to make long-term financing available to small businesses. Under the 503 program SBA is authorized to guarantee debentures issued by CDC's to finance the purchase of land, plant, and equipment for a qualified small business to expand. If that business also needs working capital then the SBA has combined the 7(a) regular business loan with the 503 loan in order to meet its financial needs.

However, a recent SBA General Counsel's interpretation of the provisions of a 1981 law has limited the ability of SBA to combine these two programs for a particular business. The effect of the Counsel's action has been to cut the maximum amount of available assistance to an expanding business in half.

Under Public Law 97-35, the Reconciliation and Loan Consolidation Act of 1981, several SBA loan programs were consolidated into section 7 of the Small Business Act. Under its interpretation of that law, SBA discontinued its practice of permitting small businesses to receive combined loans of up to $500,000 under the 7(a) regular business loan program and up to $500,000 under the section 502 and 503 development company programs. Instead, SBA ruled that the combined 7(a) and 502/503 financing could not exceed $500,000. This interpretation is an unintended consequence of those statutory changes.

Senator PRESSLER quickly responded to SBA's change in policy by introducing S. 2069. The hearings that he chaired have shown that the previous SBA policy was productive. Several job creating projects which were completed, under the present policy would not have been done. Thus, we need to act to clarify the congressional intent.

Madam President, this bill is supported by small businesses, certified development companies, economic development specialists, and the administration. CDC's in local communities need the flexibility provided by this bill to meet the different needs of small businesses. I strongly urge the Senate to pass this legislation.

● Mr. PRESSLER. Madam President, I am pleased that the Senate today is taking up S. 2069. I want to thank the distinguished chairman of the Small Business Committee, Senator WEICKER, for moving this bill so quickly. I introduced this legislation on November 8, 1983. On May 1, 1984, I chaired hearings of the Senate Small Business Committee at which small businesses, certified development companies, and the administration all supported the bill. This legislation deserves quick action by the full Senate.

Until last December, SBA permitted a small business to receive loans up to the maximum amount of $500,000 under both the section 7(a) regulation business loan program and the 502/503 development company loan program for a total amount of $1 million. In December, SBA issued a notice to the field that it would no longer permit this practice. That notice was based on their interpretation of statutory changes made in the Small Business Act by Public Law 97-35, the Loan Consolidation and Reconciliation Act of 1981. While I do not disagree with the SBA's ruling, I believe it was an unintended consequence of Public Law 97-35. It is now up to Congress to solve that problem, and I believe S. 2069 does just that.

Specifically, S. 2069 amends section 7(a)(3) of the Small Business Act, to provide that loans made under title V of the Small Business Investment Act of 1958, the development company programs, not be included when computing the maximum amount of financing outstanding to a small business concern under section 7(a). The section 7(a) loan program is SBA's regular business loan program. Section 7(a) loans are made to small businesses for any business purpose—frequently working capital loans.

Under sections 502 and 503 of the Small Business Investment Act of 1958, SBA is authorized to guarantee loans to small businesses made by local and certified development companies. There development company loans provide financing for small businesses to purchase fixed assets; that is, land, plant and equipment to expand and to create new jobs. Since its enactment in 1980, the section 503 certified development company [CDC] program has become SBA's flagship economic development program. The approach of combining 7(a) loans and 502/503 loans for more than $500,000 has worked very effectively to create jobs in local communities.

I first learned of this issue last fall when my office was contacted by a business that wished to relocate in Brookings, S. Dak. The business was being assisted by the First District Development Company, A CDC in Watertown, S. Dak. At that time, SBA was reconsidering its policy in light of the statutory changes in Public Law 97-35, and the small business and certified development company were concerned about SBA's impending policy change. Since their application was pending while the SBA ruling was being developed, SBA permitted the project to go forward. Without the combination financing, however, this business would not have relocated in my home State, and over 100 jobs would have been lost. From the committee hearings that I chaired on S. 2069, it is clear that the present policy could adversely affect other significant job-generating projects.

The SBA ruling has, in effect, cut in half the amount of assistance that a small business concern may receive. Unfortunately, $500,000 is not enough any more to start and develop a new business. If we give business too little assistance, we might as well give them none at all.

Often a business which needs capital to expand also needs additional capital for operating expenses. In most of the examples presented at the hearing of projects which used companion loans in excess of $500,000, the section 7(a) loan was usually for working capital. Indeed, providing working capital may be essential to make a given expansion project workable, and ultimately may insure that the small business will be successful.

Madam President, not all projects involving 503 financing will need Federal funding for working capital, but it is important that certified development companies have the flexibility to meet that important need. SBA testified before the committee that less than 6 percent of all 7(a) loans exceed $400,000. Under their old practice, only 98 of 2,200 total 503 projects involved companion loans over $500,000. Therefore, SBA predicts that the number of these projects will be small.

Some have suggested that by simply raising the limit on SBA loans to $1 million, regardless of whether one or two loan programs are used, may be a way of resolving this issue. At this point, I do not believe that is the approach we should take. At the hearings, I asked the administration's view on this alternative approach. They indicated that they probably would have to oppose it because it could have a broad budgetary impact. This would mean that any business could get up to $1 million. Although under the approach of S. 2069, a small business

could receive up to $1 million in assistance, no increase in SBA program levels or any additional appropriations for this purpose are anticipated. As Ed Holloway of SBA testified, S. 2069 would simply result in the reallocation among small business concerns and SBA loan guarantees, without putting additional demands on program funds. This is confirmed by the Congressional Budget Office's cost estimate on the bill.

Madam President, the approach presented by S. 2069 has been very successful in the past to provide jobs. This bill provides the necessary legal clarification that SBA needs in order to permit certified development companies to provide the assistance that our small businesses and local communities need to continue creating jobs for our economy. I urge my colleagues to support S. 2069.●

Mr. KASTEN. Madam President, I am pleased to see the Senate acting on S. 2069, a much-needed bill to clarify Small Business Administration loan limits. The small business community has eagerly awaited this measure, and I am proud to be a cosponsor of it.

We currently limit SBA loan guarantees to $500,000 under the 7(a) loan program, and to an equal amount under the 502 and 503 programs. The problem this legislation addresses arose after Congress passed language a few years ago that garbled our intent to allow both programs to be used in tandem, for an effective loan limit of $1 million per project. Because of the misunderstanding of our intent, the SBA currently limits its participation in financing any given project to only $500,000.

The effect of this reading has been noticeable. The SBA assistance is used in combination with other financing to promote economic development and job creation. But a 50-percent cut in available SBA support has cost jobs and the revenue they create. Planned development has been halted, and businesses have had to face an uncertain future. By simply clarifying Congress intent, we can resolve this problem and put numerous projects back on track.

I urge the immediate adoption of this legislation.

Mr. BUMPERS. Madam President, I rise in support of S. 2069, a bill unanimously reported by the Small Business Committee to clarify the availability of certain types of financings in the Small Business Administration's 503 certified development company program. I support the bill and urge its passage by the Senate.

The 503 certified development company program was enacted in 1980. Even in this short period of time, the 503 program has been a very successful partnership program with the private sector in providing economic development in our States, and in creating or retaining a significant number of productive, private sector jobs. Nationwide, over 470 companies have already been certified by SBA for participation in the program, and more than 45,000 jobs have already been created or retained through the use of this program. In Arkansas, the program has been very successful in bringing needed fixed-asset financings to small businesses in several communities.

Last December, the Small Business Administration issued a notice to the field interpreting a technical provision of the 1981 Reconciliation and Loan Consolidation Act (Public Law 97-35). The notice stated that the past practice of permitting a small business concern to receive fixed-asset financings through the development company program to be combined with working capital under the regular business loan program would be prohibited if the combined amount of the loans would exceed $500,000.

I do not believe that Congress intended to alter the long-standing agency practice permitting combination financings between these two programs. The agency's action has had, and continues to be, an impediment to the full use of these two loan programs, each of which has a separate purpose and a separate program ceiling. According to testimony presented at our committee's May 1 hearing by the Small Business Administration, 98 small business concerns had received companion loans using the two programs that exceeded the $500,000 limitation.

Madam President, the legislation that is pending before the Senate today will clarify the congressional policy regarding the treatment of combination financing. The bill has the support of the Small Business Administration and the National Association of Development Co. The bill also has my full support, and I urge the Senate to approve this legislation.

The bill ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a)(3) of the Small Business Act is amended by inserting before the period at the end thereof the following: ": *Provided further,* That financings provided under this subsection to State and local development companies pursuant to title V of the Small Business Investment Act of 1958 shall not be considered when computing the total amount outstanding and committed to a borrower from the business loan and investment fund established by this Act".

D-DAY NATIONAL REMEMBRANCE DAY

Senate proceeded to consider the joint resolution (H.J. Res. 487) to designate June 6, 1984, as "D-Day National Remembrance Day."

Mr. WARNER. Mr. President, I rise today to ask that the Senate adopt House Joint Resolution 487, which authorizes and requests the President to proclaim the day of June 6, 1984 as "D-Day National Remembrance Day."

As I stated last week to this body, it is heartening at this time in our history to recall those brave soldiers and sailors who, during the early morning hours of June 6, 1944, struggled to establish a foothold at Normandy for subsequent action against the Third Reich.

Last week, when I spoke of D-Day and its upcoming 40th anniversary, I described the conditions which existed at Normandy the morning of June 6, 1944.

The landing that morning on the coast of France was a massive effort involving the coordinated efforts of hundreds of thousands of men, as well as thousands of ships and planes.

The enormous amount of planning which preceded the mission required that the Allied staffs pay absolute attention to detail in structuring the assault.

My previous statement described in some detail the role of the 29th Infantry Division from Virginia in the D-Day mission.

The 29th Division included both the 116th Infantry Regiment and the 111th Field Artillery Battalion.

These two units were the only two National Guard groups to participate in the initial assault landings on D-Day at Normandy.

The efforts of the 116th Regiment in particular at Normandy on June 6, 1944 were especially noteworthy, resulting in the award of the Presidential Unit Citation to the Regiment for its actions that day.

Madam President, as a Senator from Virginia, my remarks concerning D-Day have naturally emphasized the role Virginians played on that historic day.

I feel a great sense of pride in the accomplishments of Virginians, not only at Normandy, but throughout the war.

However, the assault at Normandy on June 6, 1944 involved the valiant efforts of individuals from all parts of this country as well as from countries who were our allies at that time.

It is to honor the individuals who participated in the D-Day effort that I rise today to ask the Senate to adopt House Joint Resolution 487, which would commemorate June 6, 1984, the 40th anniversary of the D-Day invasion, as "D-Day National Remembrance Day."

The joint resolution (H.J. Res. 487) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ACT OF 1983

Mr. BAKER. Madam President, next, may I say to the minority leader, I would like to go to Calendar Order No. 913, S. 540, if the minority leader has cleared that.

Mr. BYRD. Madam President, there is no objection.

Mr. BAKER. I thank the minority leader, Madam President. I ask that the Chair lay before the Senate Calendar Order No. 913.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 540) to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3147

(Purpose: To establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases)

Mr. BAKER. Madam President, I send an amendment in the nature of a substitute to the desk on behalf of the Senator from Utah (Mr. HATCH), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. HATCH, proposes an amendment numbered 3147.

"ESTABLISHMENT OF INSTITUTE

"SEC. 481. There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal and Skin Diseases (hereafter in this part referred to as the 'Institute'). The Institute shall be headed by a Director.

"PURPOSE OF THE INSTITUTE

"SEC. 482. (a) The purpose of the Institute is the conduct and support of research and training, the dissemination of health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b)(1) Within one hundred and eighty days after the effective date of this part, the Director of the Institute, with the advice of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council established pursuant to section 485 (hereafter referred to in this part as the Advisory Council), shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis and musculoskeletal diseases. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that such institutes have responsibility respecting arthritis and musculoskeletal diseases, and shall, at least, provide for—

"(A) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis and musculoskeletal diseases;

"(B) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation and prevention of arthritis and musculoskeletal diseases;

"(C) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(D) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(2) The plan transmitted pursuant to paragraph (1) shall include such comments and recommendations as the Director of the Institute determines appropriate.

"(3) The Director of the Institute shall carry out the national arthritis and musculoskeletal diseases program in accordance with the plan prepared under paragraph (1). The Director of the Institute shall periodically review and revise such plan, shall transmit any revisions of such plan to the Director of the National Institutes of Health, and shall carry out the national arthritis and musculoskeletal diseases program in accordance with such revisions.

"(c) Within one hundred and eighty days after the effective date of this part, and annually thereafter, the Director of the Institute shall, with the advice of the Advisory Council, prepare and transmit to the Director of the National Institutes of Health a report which evaluates the skin diseases programs carried out by the national research institutes on the effective date of this part and which contains such comments and recommendations concerning such programs as the Director of the Institute determines appropriate.

"(d) The Director of the Institute shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis and musculoskeletal and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 483. (a) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal and skin diseases, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis and musculoskeletal and skin diseases. There are authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"(b) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of arthritis and musculoskeletal and skin diseases by health professionals, patients, and the public. There are authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 484. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, musculoskeletal diseases, and skin diseases, including sports-related disorders; and

"(2) coordinating the aspects of all Federal health programs and activities relating to arthritis, musculoskeletal diseases, and skin diseases in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research regarding the diseases with respect to which the Committee is established, the Chief Medical Director of the Veterans' Administration, (or the Director's designee), a medical officer designated by the Secretary of Defense, and representatives of all other Federal departments and agencies (as determined by the Secretary) whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as the case may be. Each Committee shall be chaired by the Director of the National Institutes of Health (or the Director's designee). Each Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Not later than one hundred and twenty days after the end of each fiscal year, each Committee shall prepare and transmit to the Secretary, the Director of the National Institutes of Health, the Director of the Institute, and the Advisory Council a report detailing the activities of the Committee in such fiscal year in carrying out paragraphs (1) and (2) of subsection (a).

"NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY COUNCIL

"SEC. 485. (a) The Secretary shall establish a National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to advise, consult with, and make recommendations to the Secretary with respect to the activities of the Institute relating to arthritis and musculoskeletal and skin diseases.

"(b) The Advisory Council shall consist of the Secretary, who shall be chairman, the chief medical officer of the Veterans' Administration (or such officer's designee), and a medical officer designated by the Sec-

retary of Defense, each of whom shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil service laws. The twelve members appointed by the Secretary shall be leaders in the fields of basic sciences, medical sciences, education, or nursing, and individuals from the public who are knowledgeable with respect to arthritis and musculoskeletal and skin diseases. Six of the members appointed by the Secretary shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of arthritis and musculoskeletal and skin diseases.

"(c)(1) Each member of the Advisory Council who is appointed by the Secretary shall be appointed for a term of four years, except that—

"(A) the term of office of the members first appointed shall expire, as determined by the Secretary at the time of appointment, three at the end of one year, three at the end of two years, three at the end of three years, and three at the end of four years; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) None of the members appointed to the Advisory Council by the Secretary shall be eligible for reappointment unless a year has elapsed since the end of the prior term of such member on the Council.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 486. (a) The Secretary may make grants to public and private nonprofit entities to establish and support projects for the development and demonstration of methods for screening, detection, and referral for treatment of arthritis and musculoskeletal diseases, and for the dissemination of information on such methods to the health and allied health professions. Activities under such projects shall be coordinated with Federal, State, local, and regional health agencies, centers assisted under section 487, and the data system established under subsection (c).

"(b) Projects supported under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the programs, methods, and means referred to in paragrahs (1), (2), and (3) of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis and musculoskeletal diseases.

"(c) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 487, and other persons engaged in arthritis and musculoskeletal disease programs.

"(d) There are authorized to be appropriated to carry out this section $5,000,000 for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 487. (a) The Director of the Institute shall, after consultation with the Advisory Council established pursuant to section 485, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from arthritis and musculoskeletal diseases, including research into implantable biomaterials and biomechanical and other orthopedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping; and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatement.

"(d) The Director of the Institute shall, insofar as practicable, provide for an equitable geographical distribution of centers under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis and musculoskeletal diseases.

(e) Support of a center under this section may be for a period of not to exceed five years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate scientific review group established by the Director and such scientific review group has recommended to the Director that support of such center under this section should be extended.

"(f) There are authorized to be appropriated to carry out this section $12,000,000 for the fiscal year ending September 30, 1985, $15,000,000 for the fiscal year ending September 30, 1986, and $18,000,000 for the fiscal year ending September 30, 1987.

"BIENNIAL REPORT

"SEC. 488. (a) The Director of the Institute shall prepare and transmit to the Secretary, for transmission by the Secretary to the President and the Congress, a biennial report containing a description of the Institute's activities under the plan developed pursuant to section 482(b), a description of the Institute's activities to carry out the recommendations contained in the two immediately preceding annual reports prepared pursuant to section 482(c), and an evaluation of the activities of the centers supported under section 487.

"(b) The first report under subsection (a) shall be transmitted by the Director to the Secretary not later than the first November 30 which occurs at least eighteen months after the date of the enactment of this section and shall relate to the two-fiscal-year period ending on the preceding September 30.".

(b)(1) Section 431(a) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Section 434(a) is amended—

(i) by striking out "Arthritis, Rheumatism, and"; and

(ii) by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Section 434(b) is amended—

(i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes"; and

(ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Section 434(c) is amended—

(i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases," in the first sentence; and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in the last sentence.

(D) Section 434(d) is amended—

(i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases," in the matter preceding paragraph (1); and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in paragraph (1).

(E) Section 434(e) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The section heading of section 434 is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Section 436(a) is amended—

(i) by striking out "arthritis, diabetes mellitus," in paragraph (1) and inserting in lieu thereof "diabetes mellitus";

(ii) by striking out "an Arthritis Interagency Coordinating Committee," in the matter following paragraph (2); and

(iii) by striking out the comma before "and a Digestive Diseases" in the matter following paragraph (2).

(B) Section 436(b) is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Section 437(k) is amended by striking out "and" after "1982;" and by inserting before the period a semicolon and "$300,000 for the fiscal year ending September 30, 1985; $300,000 for the fiscal year ending September 30, 1986; and $300,000 for the fiscal year ending September 30, 1987".

(B) Section 437 (l) is amended by striking out "1983" and inserting in lieu thereof "1987".

(5) Sections 438 and 439 are repealed.

(6) Section 440 is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(7) The second sentence of section 440A (a) is amended by striking out "Arthritis, Metabolism," and inserting in lieu thereof "Diabetes".

(8) The part heading for part D of title IV is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(c)(1) There are transferred to the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) all functions of the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (as in effect on the day before the effective date of this subsection) relating to arthritis and musculoskeletal and skin diseases.

(2) In order that the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) may carry out programs and activities relating to arthritis and musculoskeletal and skin diseases at levels which are equivalent to the levels of programs and activities carried out with respect to arthritis and musculoskeletal and skin diseases by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection, the Secretary shall transfer to the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by section (a) of this section) the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available, in connection with the functions transferred by paragraph (1) of this subsection and the programs and activities relating to arthritis and musculoskeletal and skin diseases carried out by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection.

(3) The National Arthritis Advisory Board is terminated.

(d) The provisions of subsections (a), (b), and (c) of this section and the amendments and repeals made by such subsections shall take effect on October 1, 1984.

(e)(1)(A) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with paragraph (2) arrange for the conduct of a study concerning—

(i) the effectiveness of the organization and administrative structures of each of the national research institutes existing on the date of enactment of this Act and of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section), including the effectiveness of the advisory councils, advisory boards, and interagency committees which carry out functions relating to each such institute;

(ii) the effectiveness of the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this Act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section); and

(iii) the standards which should be followed in establishing new national research institutes (other than the national research institutes existing on the date of enactment of this Act or the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) or in realigning the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this Act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(B) Within eighteen months after the date of enactment of this Act, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the study conducted under this paragraph and the results and conclusions of such study.

(2)(A) The Secretary of Health and Human Services shall request the National Academy of Sciences to conduct the study required by paragraph (1)(A) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by paragraph (1)(B). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(B) If the National Academy of Sciences is unwilling to conduct the study required under paragraph (1)(A) under the type of arrangement described in subparagraph (A) of this paragraph, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(3) Prior to the expiration of a period beginning six months after the submission of the report required under paragraph (1)(B), and notwithstanding section 431(b) of the Public Health Service Act, no national research institute shall be established in addition to the institutes established on the date of the enactment of this Act and the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(f) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any such program could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within sixty days after the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3147) was agreed to.

Mr. BAKER. Madam President, I ask unanimous consent that the Hatch substitute just adopted be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, today I am pleased to bring before the Senate a very important bill which would establish a new institute—the National Institute of Arthritis and Musculoskeletal and Skin Diseases—at the National Institutes of Health (NIH). This new institute will provide a much needed focus on research related to the most common disorders and diseases affecting our citizens. There are well over 100 joint and connective tissue diseases, all are different forms of arthritis. Coupled with multiple skin disorders, these diseases account for the greatest cost to our society attributed to lost earnings from disability. Furthermore, degenerative joint diseases are a leading cause of hospitalization and diminished quality of life among our senior citizens.

A National Institute of Arthritis is not a new concept. In 1976, the report of the National Arthritis Commission, created by the National Arthritis Act of 1974, recommended to Congress that a separate arthritis institute be established at the National Institutes of Health. Authority to create this new institute was included as part of S. 773, the biomedical research, training and medical library assistance amendments—NIH reauthorization bill—which I introduced last year. S. 773 was reported out of the Labor and Human Resources Committee in May

1983 and currently is pending Senate floor action. Legislation to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases had already passed the Senate once before and the House of Representatives twice, either as part of an NIH reauthorization bill or another item of legislation, but none of those bills has become law and the institute has never become a reality.

Arthritis is a disease that brings great costs to our society. In its more than 100 forms, arthritis and related musculoskeletal diseases afflict 35 million Americans, or 15 percent of the population. Not only the elderly are afflicted, but also adults in the prime of life and an estimated 250,000 children. The NIH research effort against arthritis is currently conducted in the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK), an entity with an extremely diverse set of research responsibilities. This amendment divides NIADDK into two institutes, creating a new National Institute of Arthritis and Musculoskeletal and Skin Diseases, and a National Institute of Diabetes, Digestive and Kidney Diseases. I would like to specifically point out that since much of the personnel and expertise necessary for the new institutes already exist in the NIADDK program, neither significant expense nor major alterations in administration will be needed. There is no authorization for funds in fiscal year 1984; however, if there are any additional costs during this fiscal year related to establishment of this new institute, they will be absorbed by existing appropriations. Creation of the new institute will allow us to focus a national effort on research for the prevention, diagnosis, treatment, and eventual cure of arthritis and other related debilitating diseases.

Let me review for my colleagues the key provisions of this amendment.

First, the amendment established a National Institute of Arthritis and Musculoskeletal and Skin Diseases. The purpose of the institute is the conduct and support of research and training, the dissemination of health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports related disorders.

Second, the amendment requires the preparation of a plan for a national arthritis and musculoskeletal diseases program, and requires the preparation of an annual report on the skin diseases programs of NIH.

Third, establishes first, a National Arthritis and Musculoskeletal and Skin Diseases Data System, and authorizes appropriations of $1,000,000 for fiscal year 1985, $1,500,000 for fiscal year 1986, and $1,800,000 for fiscal year 1987, and second, National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse and authorizes appropriations for the clearinghouse of $1,000,000 for fiscal year 1985, $1,500,000 for fiscal year 1986, and $1,800,000 for fiscal year 1987.

Fourth, the Secretary is required to establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee. The Secretary is also required to establish a National Arthritis and Musculoskeletal and Skin Diseases Advisory Council. Appropriations for these projects are authorized at $5,000,000 for each of the fiscal years fiscal year 1985, fiscal year 1986, and fiscal year 1987. The Director of the Institute is required to continue and expand the multipurpose arthritis and musculoskeletal diseases centers. Appropriations for these centers are authorized as follows: $12,000,000 for fiscal year 1985, $15,000,000 for fiscal year 1986, and $18,000,000 for fiscal year 1987.

Fifth, an 18-month study is required to be conducted on the effectiveness of the organization and administrative structures of the NIH Institutes, the effectiveness of the combinations of disease research programs in the institutes, and the standards which should be followed in establishing new institutes or in realining the program areas of existing institutes. The Secretary is directed to request the National Academy of Sciences to conduct the study. No new institutes, other than the National Institute of Arthritis and Musculoskeletal and Skin Diseases established in this bill, are to be established earlier than 6 months after the study report is submitted. The Secretary is also directed to conduct a review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases.

Madam President, I submit that we urgently need a new National Institute of Arthritis and Musculoskeletal and Skin Diseases. The time has come to recognize this concept as a cost-effective way to prevent, diagnose, treat, and eventually cure arthritis, musculoskeletal disorders, and skin diseases. I make the following excerpt from the Labor and Human Resources Committee Report a part of the RECORD.

"JUSTIFICATION FOR S. 773 CHANGES IN EXISTING PHS STATUTE—NATIONAL INSTITUTE FOR ARTHRITIS, MUSCULOSKELETAL AND SKIN DISEASES

"The only major change is establishment of a National Institute of Arthritis, Musculoskeletal and Skin Diseases from the NIADDK. Full committee hearings related to this proposal were held on July 20, 1982, and further testimony related to this was heard when the Committee held hearings on S. 773 on March 17, 1983. The creation of this institute is supported by the committee, given that the multiple diseases encompassed by this proposed research institute are the most common and some of the most painful of human ailments. These disorders afflict every citizen at sometime during their lives and collectively they are among the most costly.

"However, the Committee is aware that two new Institutes are being created out of one existing Institute and that the administrative and related costs of establishing each of the new Institutes is likely to exceed the share of administrative costs each division of the existing Institute currently bears. The Administrative costs of operating the new NIDDKD will exceed the cost of operating the current divisions associated with it, and may approximate the cost of operating the current NIADDKD since most of the general administrative structure of NIADDKD may be necessary to operate the new Institute. Yet a separate administrative structure must be established for the new Arthritis Institute, and similarly its costs will exceed the current share of administrative costs associated with the Arthritis Division.

"Relative to other NIH Institutes, NIADDKD has a lean administrative structure to begin with and at its present funding level does not have the necessary administrative funding to support the creation of two new Institutes. The Committee does not wish to see research funds used to meet additional overhead and administrative costs of either new Institute and recommends that a special appropriation item be requested by NIH at the appropriate time and made available for the additional administrative costs of each new Institute. The Committee expects that NIH will report to it and the House Energy & Commerce Committee shortly after the enactment of this legislation indicating what the administrative costs of establishing each new Institute are, what the timetable is, what administrative funds currently exist to meet those costs, and how, if needed, additional funds will be obtained to establish the new Institutes without using research program funds."

AMENDMENT NO. 3148

(Purpose: To amend the Technology Assessment Act of 1972 to extend the authority of the Office of Technology Assessment to conduct bioethical studies)

Mr. BAKER. Madam President, I send to the desk an amendment on behalf of the Senator from Utah (Mr. HATCH) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. HATCH, proposes an amendment numbered 3148.

That section 2(d)(1) of the Technology Assessment Act of 1972 (Public Law 92-484; 2 U.S.C. 471(d)(1)) is amended by inserting after "biological," the following: "ethical,".

SEC. 2. Section 3(c) of such Act (2 U.S.C. 472(c)) is amended by—

(1) redesignating clauses (4) through (8) as clauses (5) through (9), respectively; and

(2) inserting after clause (3) the following:

"(4) identify existing or probable ethical implications of technology or technological programs;".

SEC. 3. Section 11 of such Act (2 U.S.C. 480) is amended to read as follows:

"SEC. 11. (a) The Office shall submit to the Congress an annual report which shall include—

"(1) an evaluation of technology assessment techniques;

"(2) an identification, insofar as may be feasible, of technological areas and programs requiring future analysis;

"(3) an identification of current issues relating to medicine, biomedical research, and behavioral research (including the protection of human subjects of biomedical or behavioral research) which have ethical implications for technology; and

"(4) an identification of technological areas and programs which have significant ethical implications requiring future analysis.

"(b) Such report shall be submitted not later than March 15 of each year.".

SEC. 4. The Act is further amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF BIOMEDICAL ETHICS ADVISORY COMMITTEE

"SEC. 13. (a) The Office shall establish a Biomedical Ethics Advisory Committee (hereinafter referred to as the 'Committee'), to be selected with the advice and consent of the Board. The Committee shall be composed of thirteen members—

"(1) three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research;

"(2) three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care;

"(3) five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs; and

"(4) two of the members shall be appointed from individuals who are representative of citizens with an interest in biomedical ethics but who possess no specific expertise.

"(b) The Committee shall—

"(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation of activities, in accordance with section 3(d);

"(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

"(3) undertake such additional related tasks as the Board may direct.

"(c) The Committee by majority vote, shall elect from its members a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Committee may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

"(d) The term of office of each member of the Committee shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Committee more than twice. Terms of the members shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

"(e) The members of the Committee shall receive no pay for their services as members of the Committee, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5), and other necessary expenses incurred by them in the performance of duties vested in the Committee, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, and regulations promulgated thereunder.".

Mr. HATCH. Madam President, I would like to propose on behalf of myself, and Senators KENNEDY, DENTON, and RANDOLPH an amendment. S. 1344, which passed out of the Labor and Human Resources Committee last year without recommendation, would have continued the expiring President's Commission on Biomedical Ethics. A number of the members of the committee, myself included, had serious misgivings, however, about perpetuating a body whose work had sometimes attempted to create consensus by force where there was in fact deep division of opinion both on the commission and within the scientific community or even a contrary balance of opinion on the part of the public generally.Therefore, during the intervening year we have continued to seek alternative program designs and locations which would insure fairness and objectivity in the conduct of federally sponsored inquiries into the ethical implications of biomedicine. In this search Senators DENTON and KENNEDY have played key roles and I would like to compliment them on their commitment and flexibility. The result is a proposal—this amendment—which would establish at the Office of Technology Assessment a clear mandate to include in its activities studies of the ethical impact of the rapid developments in medicine. These developments have for example, significantly increased our ability to prolong life and to alter the creation and forms of life. These achievements have spawned ethical issues which often as not have left us perplexed, uncomfortable and indecisive.

It is my hope that the activity of OTA under this amendment will shed some light and wisdom on these issues and will fully illuminate the impact of alternative responses to the technological change on our national commitment to the sanctity of human life.

Madam President, the amendment is a good and reasonable proposal. I ask for its adoption and for favorable consideration of the bill as amended. I also ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a joint statement of myself, Senator KENNEDY, Senator DENTON and others concerning the substitute.

There being no objection, the joint statement was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT

S. 1344 was reported without recommendation by the Labor and Human Resources Committee on May 23, 1983. The proposed amendment in the nature of a substitute for S. 1344, offered as an amendment to S. 540, the Technology Assessment Act of 1972 to extend the authority of the Office of Technology Assessment to conduct bioethical studies.

The amendment would include the word "ethical" in the declaration of purpose of the Office of Technology Assessment; thus, the Congress would be asking OTA to provide information concerning the physical, biological, ethical, economic, social, and political effects of technology.

The amendment also would include in the basic function of the Office of Technology Assessment the requirement that it identify existing or probable ethical implications of technology or technological programs.

The amendment also would require the Annual Report of the Office of Technology Assessment to include:

(1) an identification of current issues involving the ethical implications of technology relating to medicine, biomedical research, and behavioral research (including the protection of human subjects of biomedical and behavioral research); and

(2) an identification of technological areas and programs which have significant ethical implications requiring future analysis.

Finally, a Biomedical Ethics Program Advisory Committee would be established within the Office of Technology Assessment. The Committee would be composed of thirteen members:

Three from biomedical or behavioral research;

Three from the practice of medicine or otherwise distinguished in the provision of health care;

Five from ethics, theology, law, natural sciences (other than biomedical and behavioral sciences), social sciences, humanities, health administration, government or public affairs; and,

Two lay persons.

This Ethics Committee would review and make recommendations to the Office of Technology Assessment's Board on activities of the Office of Technology Assessment and on potential Office of Technology Assessment activity it feels to be desirable. It would also undertake any activities that the Board would direct.

The Office of Technology Assessment staff would serve as the staff for the Ethics Committee. The cost of activities authorized by this amendment would vary with the number of studies undertaken by the Office of Technology Assessment.

BACKGROUND AND NEED FOR LEGISLATION

During the consideration of S. 1344, some members of the Labor and Human Resources Committee had expressed concern about the perpetuation of a highly visible and, perhaps, permanent Presidential Commission able to voice seemingly authoritative opinions on controversial bioethical issues. In contrast, supporters of the Commission concept argued that Congress needs access to carefully considered, neutral analyses of complex bioethical problems.

As a result of efforts to resolve these conflicting views, a number of alternatives were suggested. Initially, some recommended the creation of a bioethics commission within the Institute of Medicine on a contractual basis. Another suggestion was to create a bioethics committee within the Office of Technology Assessment. Both of these bodies would be similar in composition to the previous President's Commission. There was a final agreement by the signators of this joint statement to establish by legislation a Committee within the Office of Technology Assessment.

The proposed change in the Office of Technology Assessment statute, from our perspective, would not alter the Agency's primary function of identifying for the Congress the existing or probable impacts of technology on society. The Office of Technology Assessment, in a letter to a member of the Labor and Human Resources Committee, acknowledged that it has existing authority to create a permanent on-going committee within its organizational structure to function as an ethics committee; this proposal would only codify the matter.

We jointly recognize that the bioethical implications of advances in technology and science should concern the Congress. After weighing the several approaches to obtaining for Congress objective evaluations and assessment of the ethical implications of technology relating to medicine, biomedical research, and behavioral research, the signators of this joint statement determined that the best approach would be to create authority within a Congressional agency to conduct studies and provide objective analysis. We perceive the advantages of this approach to be:

(1) The Technology Assessment Board, which directs the work of the Office of Technology Assessment and the proposed Biomedical Ethics Committee, is a bipartisan and bicameral body;

(2) There is a reasonable expectation, based on the history of OTA and its structure, that the work in the ethics area produced by OTA staff and the Biomedical Ethics Committee will be specifically responsive to Congressional needs; and

(3) The studies and reports produced by OTA could not be released to the public without approval of the Technology Assessment Board.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3148) was agreed to.

Mr. GOLDWATER. Madam President, I am delighted that the Senate is about to act on S. 540, a bill I introduced to create a separate National Institute of Arthritis and Musculoskeletal and Skin Diseases. I compliment the coauthors of the bill, Senator HATCH, chairman of the Labor and Human Resources Committee, and Senator CRANSTON, who authored the Arthritis Act of 1974, for their special assistance and work on behalf of this legislation. I also would like to single out my friend from Idaho, Senator SYMMS, who has done everything he possibly could to promote the bill. In all, I believe 47 Senators have joined as sponsors of S. 540 and I shall submit a complete list of the sponsors at the end of my remarks.

S. 540 would create within the National Institutes of Health a separate institute to attack the many disorders which are clustered together under the name of arthritis. The research community believes, and I agree, that a separate institute will place a higher priority on efforts to combat arthritis-related diseases than any institute can do which has to divide its attention among 10 or 12 different disease areas. This is the defect in the present institute. Even though arthritis appears in its name, the existing National Institute actually devotes far more attention and financial support to other disease groups, such as kidney and diabetes research, than it does to arthritis.

Over 37 million Americans suffer from some form of arthritis and the number grows by a million persons every year. Many forms of these diseases are chronic and disabling. However, there is realistic hope of some help for those of us who have or will have experienced arthritis. Experts in the scientific community believe that concentrated research efforts will lead to major breakthroughs in the prevention, treatment, and potential cure of these diseases.

Much of the growth in medicare hospitalization costs can be traced to arthritis. The same is true of the rising expense of workers' compensation payments. When we consider the tens of billions of dollars of medical expenses and lost earnings that can be traced directly to arthritis and when we take account of the human cost of pain and immobility caused by arthritis, we can see that the creation of a new institute is not only justifiable, it will result in great savings to Government health and disability programs and improved worker performance.

Madam President, I hope that all of my colleagues will join with us in passing the bill favorably and transferring arthritis to a separate institute where something worthwhile can be accomplished.

SPONSORS OF S. 540, ARTHRITIS INSTITUTE

Senators Goldwater, Cranston, Hatch, Symms, DeConcini, Burdick, Biden, Pell, Simpson, Sarbanes, Humphrey, Nunn, Rudman, Inouye, Jackson, Hatfield, Metzenbaum, Melcher, Hollings, Bentsen, Kasten, Randolph, Dixon, Dodd, Glenn, Huddleston, Johnston, Pryor, Grassley, Helms, Hart, Byrd, Hawkins, Lugar, Jepsen, Matsunaga, Heinz, Mattingly, Andrews, Roth, Levin, Percy, D'Amato, Specter, Garn, Dole, and Bumpers.

Mr. SYMMS. Madam President, I wish to add my strong support to those who have labored during the last 3 years to effect the establishment of a separate institute for arthritis and related diseases at the National Institutes of Health.

Arthritis is our Nation's No. 1 disabling disease, affecting nearly 37 million persons in America, or 1 of every 7 people. Those affected may suffer from any of the 100 distinct disease entities, ranging in scope and severity from scleroderma to gout, to ankylosing spondylitis, lupus, and rheumatoid arthritis.

Although arthritis and musculoskeletal diseases affect all ages, 40 percent of the population over 65 has a rheumatic disease. And, as our Nation's population ages, the prevalence of arthritis will increase as the elderly population expands from 10 to 20 percent by the year 2030.

The National Center for Health Statistics predicts that in the year 2000, less than 20 years from now, expenses attributable to arthritis will reach nearly $100 billion annually. Arthritis and other musculoskeletal diseases are responsible for major costs of workers' compensation, social security benefits, medicare payments, and hospital and nursing home stays. And, regretfully, nearly $1 billion is spent annually by arthritis sufferers who purchase or seek out unproven drugs and treatments.

Of equal, if not greater importance, are the indirect personal losses in productivity resulting from lack of wages or inability to earn a likelihood, due to a limiting or disabling disease such as arthritis.

I believe that the magnitude of the human and economic impact of arthritis on the Nation demands the sharp national focus on this family of diseases that only a separate institute can bring.

The National Arthritis Act of 1974 proposed the creation of a separate arthritis institute. The National Commission on Arthritis and Related Musculoskeletal Diseases, established by that act, set forth some 150 specific recommendations to be addressed in order to adequately promote a national attack on arthritis. The essence of the Commission's findings was that the vast impact of arthritis on the Nation has not been matched by a determination to accelerate research and training to improve the treatment of rheumatic diseases, to prevent them, and to find cures for them.

The health sciences are in an extraordinary period of advancement, and competition for research funds is keen. But the promising discoveries made in the arthritis field in recent years support our belief that with adequate funding and focused research priority, some forms of arthritis might be prevented, cures may be found, and therapies developed to improve the condition of arthritis victims.

As many of my colleagues know, I have actively supported the establishment of a separate institute for arthritis, along with Senators GOLDWATER, HATCH, CRANSTON, DOLE, and others. We believe that a separate institute would provide the environment for an accelerated research effort in arthritis, musculoskeletal, and skin diseases. These diseases afflict more than 15 percent of the total U.S. population, but in 1983 just 2 percent of the entire NIH research budget was devoted to arthritis-related research.

During the 97th Congress, both the House of Representatives and the Senate approved legislation to create a separate National Institute of Arthritis and Musculoskeletal and Skin Diseases, but procedural problems prevented final approval before adjourn-

ment. This strong indication of support in both Houses has encouraged me and many colleagues to continue the push for a separate institute for arthritis at the NIH.

Last November, the House passed their version of the Health Research Extension Act, H.R. 2350. That bill includes language to establish a National Institute for Arthritis and Musculoskeletal Diseases. With that indication of support by the House, I believe it is important for the Senate to move ahead with the Goldwater bill, as amended by the Labor and Human Resources Committee, in order to effectuate what is desired by both Houses: A separate National Institute for Arthritis, Musculoskeletal, and Skin Diseases.

I urge the support of my fellow Senators in approving S. 540, to authorize in statute a National Institute of Arthritis and Musculoskeletal and Skin Diseases.

Mr. KENNEDY. Madam President, I rise in support of S. 540, as amended. The provisions in this measure which provide for the creation of an Ethics Advisory Committee within the Office of Technology Assessment (OTA) and for the inclusion of the word "ethical" in the declaration of purpose of the OTA are of critical importance. These changes, and those to the annual report requirement of the OTA, will make it possible for the Congress to have access to carefully considered, neutral analyses of complex bioethical issues.

I have already joined Senators HATCH, DENTON, and RANDOLPH in a bipartisan statement explaining the nature of this OTA component of S. 540; in that statement, it is explained that these provisions are a substitute for S. 1344, a bill which would have reauthorized the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. I want to make it quite clear that I support this substitute provision. However, I want to take this opportunity to elaborate on the President's Commission, whose work was very important.

In the early 1970's, the Subcommittee on Health and Scientific Research held more than 12 days of hearings on the adequacy of Federal policies for the protection of human subjects of biomedical and behavioral research. These hearings uncovered a wide variety of abuses in the field of human experimentation:

Drugs, such as depo-provera, used for unapproved purposes without informed consent and without proper medical followup;

University sponsored research projects that violated established ethical principles;

Psychosurgery performed without benefit of peer review;

Testing drugs on prisoners without appropriate ethical safeguards;

The Tuskegee Syphilis Study where syphilis victims went untreated for 40 years, long after penicillin was demonstrated to be an effective treatment; and the sterilization of retarded teenagers without the consent or knowledge of their parents.

In 1974, the Congress passed the National Research Act establishing the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The 1974 Commission's scope was limited to studying issues related to programs under the jurisdiction of the Department of Health and Human Services. Its members were appointed by the Secretary.

The Commission developed recommendations on fetal research within 4 months of its first meeting. Those recommendations were subsequently incorporated into regulations. Similarly, the Commission's report and recommendations on the use of prisoners as research subjects served as the basis for regulations published in 1978.

Following the establishment of the National Commission, the subcommittee continued its investigation of human subject research abuses. The subcommittee learned that both the CIA and the Defense Department had been involved in the widespread testing of hallucinogenic drugs on unsuspecting citizens, servicemen, and agency employees. The subjects were not informed of the risks and benefits associated with participation nor was medical followup attempted.

The committee was convinced that all human subjects who participate in biomedical and behavioral research programs under the auspices of any Federal agency, not just HHS, deserved protection. In addition, as advances in medical technology made ethical issues in medicine more and more complicated and controversial, the need for an independent entity to examine these issues became even more critical.

The President's Commission was established by statute—title XVIII of the PHS Act—in 1978 to respond to the concerns of and issues identified by the committee. It passed both the House and the Senate unanimously. Its 11 members were to be appointed by the President for 4-year terms, the Chairman of the Commission confirmed by the Senate. The statute required the Commission to undertake five specified studies:

First, the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

Second, the matter of defining death, including the advisability of developing a uniform definition of death;

Third, voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

Fourth, the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

Fifth, current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to insure the confidentiality of individually identifiable patient records, and (iii) to insure appropriate access of patients to information continued in such records.

In addition the Commission was required to study other issues designated by the President and could undertake studies at its own initiative. Typical of legislation at the time, it included a "sunset" provision terminating the Commission's authority on December 31, 1982, unless Congress enacted reauthorization legislation.

Reauthorizing legislation was reported by the Labor and Human Resources Committee last year as a noncontroversial amendment to the NIH reauthorization. Unfortunately, like virtually every other health bill it failed to reach the Senate floor before the end of the 97th Congress. As an interim measure, the Commission's life was extended for 3 months—through March 31, 1983—to permit it to finish its work on the statutorily required studies.

THE COMMISSION'S WORK

The Commission held 28 public meetings, and heard testimony from more than 300 witnesses. It produced 11 substantive reports in all, only 1 of which, dealing with access to health services, carried a dissenting view. The rest were approved unanimously, despite disparate views of the individual Commission members, eight of whom were appointed by President Reagan, three by President Carter.

Despite the fact that the Commission's reports have no legal effect whatsoever, the Commission performed a valuable service in airing controversial issues and publicizing consensus views.

Madam President, the issues that confronted the President's Commission have not gone away. The ethical controversies that face America's technology have not faded. The Congress is being petitioned by many who fear the advances of science and medicine, and by many who fear that a new ethical standard will evolve in the assessment of human dignity that is unacceptable. Since it is clear that the President's Commission will not be available to provide the Congress with the assistance that it requires in deciding how best to respond to those who ask for the protection of new laws to calm their fears and to the protests of those who challenge the fears of

others, I am satisfied that we will at least have a good mechanism to assist us in the deliberations of this legislative process. I urge my colleagues to support S. 540, as amended.

Mr. CRANSTON. Madam President, as the author of the National Arthritis Act of 1974 and as principal sponsor along with my distinguished colleague from Arizona (Mr. GOLDWATER), of S. 540, legislation introduced on February 14, 1983—which is derived from S. 1939, a bill we proposed in the 97th Congress—to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, I am pleased to add my support to S. 540 as discharged from the Committee on Labor and Human Resources.

This bill would establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases within the National Institutes of Health. If enacted, this legislation would help to promote our Nation's research efforts for some of the most prevalent and devastating diseases in our society. I note that Senator GOLDWATER and I, in our efforts to establish this new institute, have been joined by 45 of our Senate colleagues who have cosponsored S. 540 and that the proposed "Health Research Extension Act of 1983," H.R. 2350, as passed by the House includes provisions similar to the provisions of S. 540 to establish such an institute. Thus, I am very pleased that, at long last, it now appears that we are finally reaching the point at which the enactment of legislation to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases appears very likely.

Madam President, on February 22, 1983, the date that S. 540 was introduced, I made a detailed statement explaining the provisions of S. 540 and stating what I consider to be the strong justification for legislation to establish this new institute. That statement appeared at pages 2613 through 2615 of the RECORD for that day and I shall not reiterate the points I made in that statement.

I do, however, wish to express my great appreciation to my esteemed friend from Arizona for his commitment to and hard work for the creation of the new institute, and my thanks to Terry Emerson of his staff and Nancy Barrand of mine for their excellent work on this bill. I also would like to thank the very able chairman of the Labor and Human Resources Committee (Mr. HATCH) and the committee's distinguished ranking minority member (Mr. KENNEDY), and committee staff assisting them, particularly Dr. David Sundwall and Dr. Westly Clark, respectively—as well as the other members of the committee—for their cooperation and fine work in moving forward with this measure.

Madam President, we must move ahead to find ways to improve the quality of life for the millions of unfortunate victims of arthritis. An accelerated research effort in arthritis, which this legislation would help to generate, could bring us much closer to providing these millions of arthritis sufferers with relief from their agony and with the potential for full participation in everyday activities without the constant frustration of restricted movement and crippling pain.

Thus, I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. Is there further amendment to be proposed? If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Institute of Arthritis and Musculoskeletal and Skin Diseases Act of 1984".

SEC. 2. (a) Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART J—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

"ESTABLISHMENT OF INSTITUTE

"SEC. 481. There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal and Skin Diseases (hereafter in this part referred to as the 'Institute'). The Institute shall be headed by a Director.

"PURPOSE OF THE INSTITUTE

"SEC. 482. (a) The purpose of the Institute is the conduct and support of research and training, the dissemination of health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b)(1) Within one hundred and eighty days after the effective date of this part, the Director of the Institute, with the advice of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council established pursuant to section 485 (hereafter referred to in this part as the Advisory Council), shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis and musculoskeletal diseases. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that such institutes have responsibilities respecting arthritis and musculoskeletal diseases, and shall, at least, provide for—

"(A) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis and musculoskeletal diseases;

"(B) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation and prevention of arthritis and musculoskeletal diseases;

"(C) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(D) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(2) The plan transmitted pursuant to paragraph (1) shall include such comments and recommendations as the Director of the Institute determines appropriate.

"(3) The Director of the Institute shall carry out the national arthritis and musculoskeletal diseases program in accordance with the plan prepared under paragraph (1). The Director of the Institute shall periodically review and revise such plan, shall transmit any revisions of such plan to the Director of the National Institutes of Health, and shall carry out the national arthritis and musculoskeletal diseases program in accordance with such revisions.

"(c) Within one hundred and eighty days after the effective date of this part, and annually thereafter, the Director of the Institute shall, with the advice of the Advisory Council, prepare and transmit to the Director of the National Institutes of Health a report which evaluates the skin diseases programs carried out by the national research institutes on the effective date of this part and which contains such comments and recommendations concerning such programs as the Director of the Institute determines appropriate.

"(d) The Director of the Institute shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis and musculoskeletal and skin dieseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 483. (a) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and muscoloskeletal and skin diseases, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis and musculoskeletal and skin diseases. There are authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"(b) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of

arthritis and musculoskeletal and skin diseases by health professionals, patients, and the public. There are reauthorized to be appropriated to carry out this subsection $1,200,000 for the fiscal year ending September 30, 1985, $1,500,000 for the fiscal year ending September 30, 1986, and $1,800,000 for the fiscal year ending September 30, 1987.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 484. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, musculoskeletal diseases, and skin diseases, including sports-related disorders; and

"(2) coordinating the aspects of all Federal health programs and activities relating to arthritis, musculoskeletal diseases, and skin diseases in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research regarding the diseases with respect to which the Committee is established, the Chief Medical Director of the Veterans' Administration, (or the Director's designee), a medical officer designated by the Secretary of Defense, and representatives of all other Federal departments and agencies (as determined by the Secretary) whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as the case may be. Each Committee shall be chaired by the Director of the National Institutes of Health (or the Director's designee). Each Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Not later than one hundred and twenty days after the end of each fiscal year, each Committee shall prepare and transmit to the Secretary, the Director of the National Institutes of Health, the Director of the Institute, and the Advisory Council a report detailing the activities of the Committee in such fiscal year in carrying out paragraphs (1) and (2) of subsection (a).

"NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY COUNCIL

"SEC. 485. (a) The Secretary shall establish a National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to advise, consult with, and make recommendations to the Secretary with respect to the activities of the Institute relating to arthritis and musculoskeletal and skin diseases.

"(b) The Advisory Council shall consist of the Secretary, who shall be chairman, the chief medical officer of the Veterans' Administration (or such officer's designee), and a medical officer designated by the Secretary of Defense, each of whom shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil service laws. The twelve members appointed by the Secretary shall be leaders in the fields of basic sciences, medical sciences, education, or nursing, and individuals from the public who are knowledgeable with respect to arthritis and musculoskeletal and skin diseases. Six of the members appointed by the Secretary shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of arthritis and musculoskeletal and skin diseases.

"(c)(1) Each member of the Advisory Council who is appointed by the Secretary shall be appointed for a term of four years, except that—

"(A) the term of office of the members first appointed shall expire, as determined by the Secretary at the time of appointment, three at the end of one year, three at the end of two years, three at the end of three years, and three at the end of four years; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) None of the members appointed to the Advisory Council by the Secretary shall be eligible for reappointment unless a year has elapsed since the end of the prior term of such member on the Council.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 486. (a) The Secretary may make grants to public and private nonprofit entities to establish and support projects for the development and demonstration of methods for screening, detection, and referral for treatment of arthritis and musculoskeletal diseases, and for the dissemination of information on such methods to the health and allied health professionals. Activities under such projects shall be coordinated with Federal, State, local, and regional health agencies, centers assisted under section 487, and the data system established under subsection (c).

"(b) Projects supported under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the programs, methods, and means referred to in paragraphs (1), (2), and (3) of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis and musculoskeletal diseases.

"(c) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 487, and other persons engaged in arthritis and musculoskeletal disease programs.

"(d) There are authorized to be appropriated to carry out this section $5,000,000 for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 487. (a) The Director of the Institute shall, after consultation with the Advisory Council established pursuant to section 485, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from arthritis and musculoskeletal diseases, including research into implantable biomaterials and biomechanical and other orthopedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping; and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director of the Institute shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis and musculoskeletal diseases.

"(e) Support of a center under this section may be for a period of not to exceed five years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate scientific review group established by the Director and such scientific review group has recommended to the Director that support of such center under this section should be extended.

"(f) There are authorized to be appropriated to carry out this section $12,000,000 for the fiscal year ending September 30, 1985, $15,000,000 for the fiscal year ending September 30, 1986, and $18,000,000 for the fiscal year ending September 30, 1987.

"BIENNIAL REPORT

"SEC. 488. (a) The Director of the Institute shall prepare and transmit to the Secretary, for transmission by the Secretary to the President and the Congress, a biennial report containing a description of the Institute's activities under the plan developed pursuant to section 482(b), a description of the Institute's activities to carry out the recommendations contained in the two immediately preceding annual reports prepared pursuant to section 482(c), and an evaluation of the activities of the centers supported under section 487.

"(b) The first report under subsection (a) shall be transmitted by the Director to the Secretary not later than the first November 30 which occurs at least eighteen months after the date of the enactment of this section and shall relate to the two-fiscal-year period ending on the preceding September 30.".

(b)(1) Section 431(a) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Section 434(a) is amended—

(i) by striking out "Arthritis, Rheumatism, and";

(ii) by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Section 434(b) is amended—

(i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes"; and

(ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Section 434(c) is amended—

(i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases," in the first sentence; and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in the last sentence.

(D) Section 434(d) is amended—

(i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases," in the matter preceding paragraph (1); and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in paragraph (1).

(E) Section 434(e) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The section heading of section 434 is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Section 436(a) is amended—

(i) by striking out "arthritis, diabetes mellitus," in paragraph (1) and inserting in lieu thereof "diabetes mellitus";

(ii) by striking out "an Arthritis Interagency Coordinating Committee," in the matter following paragraph (2); and

(iii) by striking out the comma before "and a Digestive Diseases" in the matter following paragraph (2).

(B) Section 436(b) is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Section 437(k) is amended by striking out "and" after "1982;" and by inserting before the period a semicolon and "$300,000 for the fiscal year ending September 30, 1985; $300,000 for the fiscal year ending September 30, 1986; and $300,000 for the fiscal year ending September 30, 1987".

(B) Section 437(l) is amended by striking out "1983" and inserting in lieu thereof "1987".

(5) Sections 438 and 439 are repealed.

(6) Section 440 is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(7) The second sentence of section 440A(a) is amended by striking out "Arthritis, Metabolism," and inserting in lieu thereof "Diabetes".

(8) The part heading for part D of title IV is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(c)(1) There are transferred to the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) all functions of the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (as in effect on the day before the effective date of this subsection) relating to arthritis and musculoskeletal and skin diseases.

(2) In order that the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) may carry out programs and activities relating to arthritis and musculoskeletal and skin diseases at levels which are equivalent to the levels of programs and activities carried out with respect to arthritis and musculoskeletal and skin diseases by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection, the Secretary shall transfer to the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available, in connection with the functions transferred by paragraph (1) of this subsection and the programs and activities relating to arthritis and musculoskeletal and skin diseases carried out by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on the day before the effective date of this subsection.

(3) The National Arthritis Advisory Board is terminated.

(d) The provisions of subsections (a), (b), and (c) of this section and the amendments and repeals made by such subsections shall take effect on October 1, 1984.

(e)(1)(A) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with paragraph (2) arrange for the conduct of a study concerning—

(i) the effectiveness of the organization and administrative structures of each of the national research institutes existing on the date of enactment of this Act and of the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section), including the effectiveness of the advisory councils, advisory boards, and interagency committees which carry out functions relating to each such institute;

(ii) the effectiveness of the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this Act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section); and

(iii) the standards which should be followed in establishing new national research institutes (other than the national research institutes existing on the date of enactment of this Act or the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section) or in realigning the combinations of disease research programs existing in each of the national research institutes on the date of enactment of this act and in the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(B) Within eighteen months after the date of enactment of this Act, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the study conducted under this paragraph and the results and conclusions of such study.

(2)(A) The Secretary of Health and Human Services shall request the National Academy of Sciences to conduct the study required by paragraph (1)(A) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by paragraph (1)(B). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(B) If the National Academy of Sciences is unwilling to conduct the study required under paragraph (1)(A) under the type of arrangement described in subparagraph (A) of this paragraph, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(3) Prior to the expiration of a period beginning six months after the submission of the report required under paragraph (1)(B), and notwithstanding section 431(b) of the Public Health Service Act, no national research institute shall be established in addi-

tion to the institutes established on the date of the enactment of this Act and the National Institute of Arthritis and Musculoskeletal and Skin Diseases established under section 481 of the Public Health Service Act (as added by subsection (a) of this section).

(f) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any such program could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within sixty days after the date of enactment of this Act.

SEC. 3. Section 2(d)(1) of the Technology Assessment Act of 1972 (Public Law 92-484; 2 U.S.C. 471(d)(1)) is amended by inserting after "biological," the following: "ethical,".

SEC. 4. Section 3(c) of such Act (2 U.S.C. 472(c)) is amended by—

(1) redesignating clauses (4) through (8) as clauses (5) through (9), respectively; and

(2) inserting after clause (3) the following:

"(4) identify existing or probable ethical implications of technology or technological programs;".

SEC. 5. Section 11 of such Act (2 U.S.C. 480) is amended to read as follows:

"SEC. 11. (a) The Office shall submit to the Congress an annual report which shall include—

"(1) an evaluation of technology assessment techniques;

"(2) an identification, insofar as may be feasible, of technological areas and programs requiring future analysis;

"(3) an identification of current issues relating to medicine, biomedical research, and behavioral research (including the protection of human subjects of biomedical or behavioral research) which have ethical implications for technology; and

"(4) an identification of technological areas and programs which have significant ethical implications requiring future analysis.

"(b) Such report shall be submitted not later than March 15 of each year.".

SEC. 6. The Act is further amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF BIOMEDICAL ETHICS ADVISORY COMMITTEE

"SEC. 13. (a) The Office shall establish a Biomedical Ethics Advisory Committee (hereinafter referred to as the 'Committee'), to be selected with the advice and consent of the Board. The Committee shall be composed of thirteen members—

"(1) three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research;

"(2) three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care;

"(3) five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs; and

"(4) two of the members shall be appointed from individuals who are representative of citizens with an interest in biomedical ethics but who possess no specific expertise.

"(b) The Committee shall—

"(1) review and make recommedations to the Board on activities undertaken by the Office or on the initiation of activities, in accordance with section 3(d);

"(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

"(3) undertake such additional related tasks as the Board may direct.

"(c) The Committee by majority vote, shall elect from its members a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Committee may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

"(d) The term of office of each member of the Committee shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Committee more than twice. Terms of the members shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

"(e) The members of the Committee shall receive no pay for their services as members of the Committee, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5), and other necessary expenses incurred by them in the performance of duties vested in the Committee, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, and regulations promulgated thereunder.".

Mr. BAKER. Madam President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OLDER AMERICANS ACT AMENDMENTS OF 1984

Mr. BAKER. Madam President, I propose to ask the Senate to turn to the consideration of Calendar Order No. 900, if the minority leader is prepared to consider that.

Mr. BYRD. Mr. President, we are prepared on this side.

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate Calendar Order No. 900.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2603) to extend the authorization of appropriations for, and to revise the Older Americans Act of 1965.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert:

S. 2603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Oldest Americans Act Amendments of 1984".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965.

DECLARATION OF OBJECTIVES

SEC. 2. Section 101(8) is amended by inserting before the period a comma and "with emphasis on maintaining a continuum of care for the vulnerable elderly".

FUNCTIONS OF COMMISSIONER; FEDERAL AGENCY CONSULTATION

SEC. 3. (a) Section 202(a)(9) is amended—

(1) by striking out the first "and" and inserting in lieu thereof a comma; and

(2) by inserting after the word "aging" a comma and "including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967".

(b) Section 202(b)(1) is amended by inserting before the semicolon "and with utilization and quality control peer review organizations under title XI of the Social Security Act".

(c)(1) Section 203(b)(1) is amended to read as follows:

"(1) the Job Training Partnership Act,".

(2) Section 203(b)(3) is amended by striking out "XVIII, XIX, and XX" and inserting in lieu thereof "XVI, XVIII, XIX, and XX".

(d) Section 203(b) is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following:

"(10) the Public Health Service Act,

"(11) the Low-Income Energy Assistance Act of 1981,

"(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

"(13) the Community Services Block Grant Act,

"(14) veterans programs under title 38, United States Code, and

"(15) demographic statistics and analysis programs conducted by the Census Bureau under title 13, United States Code.".

FEDERAL COUNCIL ON THE AGING

SEC. 4. (a) Section 204(a) is amended to read as follows:

"(a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Members shall serve for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed by each appointing authority so as to be representative of rural and urban older Americans, national organizations with an interest in aging, business, labor, minorities, and the general public. At least two of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

"(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1984 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsec-

tion until members are appointed in accordance with subsection (b)(1).".

(b) Section 204(b)(1) is amended to read as follows:

"(1)(A) The members appointed in 1985 shall be referred to as class 1 members; the members appointed in 1986 shall be referred to as class 2 members; and the members appointed in 1987 shall be referred to as class 3 members.

"(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

"(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives.

"(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives.

"(iv) Of the members of class 3, one shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives.".

(c) Section 204(g) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the purposes of this section $200,000 for fiscal year 1985, $200,000 for fiscal year 1986, and $200,000 for fiscal year 1987.".

EVALUATION

SEC. 5. (a) Section 206(d) is amended—

(1) by inserting after "effectiveness" a comma and the following: "including, as appropriate, health and nutrition education demonstration projects conducted under section 307(f)"; and

(2) by inserting after "Congress" a comma and the following: "be disseminated to Federal, State, and local agencies and private organizations with an interest in aging,".

(b) The first sentence of section 206(g) is amended—

(1) by striking "1 per centum" and inserting in lieu thereof "one-tenth of 1 per centum";

(2) by inserting after "Act" the following: "for each fiscal year"; and

(3) by striking out "$1,000,000 whichever is greater" and inserting in lieu thereof "$300,000 whichever is lower".

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING; GENERAL PROVISIONS

SEC. 6. (a) The matter preceding clause (1) of section 301(a) is amended—

(1) by striking out "local agencies" and inserting in lieu thereof "area agencies" each time it appears;

(2) by inserting after "development" the following: "and implementation";

(3) by adding after "providers" a comma and "including voluntary organizations,"; and

(4) by striking "for the provision of" after the word "planning".

(b) Section 302(2)(B) is amended—

(1) by inserting after "employs" a comma and the following: "where feasible,"; and

(2) by inserting after "staff" the following: "to assess the needs and capacities of older individuals,".

(c) Section 302(4) is amended by striking "legal services" and inserting in lieu thereof "legal assistance".

(d) Section 302 is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'multipurpose senior center' means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health, social, nutritional and educational services and the provision of facilities for recreational activities for older individuals.

"(11) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.".

AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 7. (a) Section 303(a) is amended to read as follows:

"(a) There are authorized to be appropriated $265,000,000 for fiscal year 1985, $281,695,000 for fiscal year 1986, and $298,033,310 for fiscal year 1987, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) Section 303(b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated $338,000,000 for fiscal year 1985, $350,168,000 for fiscal year 1986, and $366,976,060 for fiscal year 1987, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $65,900,000 for fiscal year 1985, $68,272,400 for fiscal year 1986, and $71,549,475 for fiscal year 1987, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) Section 303(c)(2) is amended by striking "legal services" and inserting in lieu thereof "legal assistance".

ALLOTMENT

SEC. 8. Section 304(d)(1) is amended—

(1) by striking out "and" at the end of clause (B);

(2) by redesignating clause (C) as clause (D); and

(3) by inserting after clause (B), the following new clause:

"(C) such amount as the State agency determines to be adequate, but not more than 1 percent thereof, for conducting effective demonstration projects in health and nutrition education under section 307(f) shall be available for conducting such projects; and"

ORGANIZATION

SEC. 9. (a)(1) Section 305(a)(1)(E) is amended by striking out "(b)(5)" and inserting in lieu thereof "(b)(5)(A)".

(2) Section 305(a)(2)(E) is amended by inserting after "individuals" a comma and the following: "especially minorities,".

(3) Section 305(a) is amended by adding at the end thereof the following new flush sentence:

"The publication for review and comment required by clause (2)(C) of this subsection shall include—

"(i) a descriptive statement of the formula's assumptions and goals, and a definition for greatest economic or social need,

"(ii) a numerical statement of the actual funding formula to be used,

"(iii) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

"(iv) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.".

(b) Section 305(b)(5) is amended by inserting "(A)" after the paragraph designation, and by adding at the end thereof the following new subparagraph:

"(B) Whenever the State agency designates an area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right of first refusal to a unit of general purpose local government when the boundaries of such a unit and the boundaries of the area are reasonably contiguous.".

AREA PLANS

SEC. 10. (a) Section 306(a)(1) is amended by inserting after "area", the third time it appears, "and the efforts of voluntary organizations in the community".

(b) Section 306(a)(2)(B) is amended by striking out "and" the last time it appears in the parenthetical phrase and by inserting after "maintenance" a comma and the following: "and supportive services for families of elderly victims of Alzheimers' disease and other neurological diseases and organic brain disorders".

(c)(1) Section 306(a)(2)(C) is amended to read as follows:

"(C) legal assistance;".

(2) Section 306(a)(2) is amended—

(A) by striking out "and" at the end of subclause (B);

(B) by inserting "and" after subclause (C); and

(C) by adding at the end thereof the following new subclause:

"(D) services for the prevention of elder abuse;".

(d) Section 306(a)(3) is amended by striking out "to encourage the maximum collocation and coordination of services for older individuals, and give" and inserting in lieu thereof a comma and the following: "giving".

(e) Section 306(a)(5)(A) is amended by inserting after "individuals" a comma and the following: "especially minorities,".

(f) Section 306 (b) is amended—

(1) by inserting "(1)" after the subsection designation and,

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

"(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1).".

STATE PLANS

SEC. 11. (a) Section 307(a)(3)(A) is amended by striking out "legal services" and inserting in lieu thereof "legal assistance".

(b) Section 307(a)(10) is amended by inserting before the semicolon a comma and "or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging".

(c) Section 307(a)(13)(C) is amended—

(1) by striking out "charge participating individuals" in division (i), and inserting in lieu thereof "solicit voluntary contributions" and

(2) by striking out "charges" in division (ii) and inserting in lieu thereof "voluntary contributions".

(d) Section 307(a)(15)(B) is amended to read as follows:

"(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to all older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;".

(e) Section 307(a)(15) is amended by striking out "legal services" each time it appears and inserting in lieu thereof "legal assistance".

(f) Section 307(a) of the Act is amended—

(1) by redesignating clauses (16), (17), and (18) as clauses (19), (20), and (21), respectively; and

(2) by inserting after clause (15) the following new clauses:

"(16) provide that with respect to services for the prevention of elder abuse—

"(A) the State will identify the public and private non-profit entities involved in the prevention, identification, and treatment of elder abuse, neglect and exploitation;

"(B) the State will, based on such identification, determine the extent to which the need for services for the prevention of elder abuse are unmet;

"(C) the State will establish, in areas where the State determines that the need for services is unmet, a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

"(i) public education to identify and prevent elder abuse;

"(ii) receipt of reports of elder abuse;

"(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

"(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

"(D) the State will not permit involuntary or coerced participation in the program of services described in this clause by alleged victims, abusers, or their households; and

"(E) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency;

"(17) provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act;

"(18) provide assurances that each State will assign personnel to provide State leadership in developing legal assistance programs for the elderly throughout the State;".

(g) Section 307 is amended by adding at the end thereof the following new subsection:

"(f)(1) From amounts made available under section 304(d)(1)(C), each State shall provide for the establishment of at least one demonstration project for health and nutrition education to be conducted by one or more area agencies on aging within the State.

"(2) Each such project shall—

"(A) be administered by the area agency for the purpose of improving the health and nutrition of older Americans served by the agency;

"(B) be established and administered in consultation with the appropriate Long-Term Care Gerontology Center;

"(C) be designed to improve the health and nutrition of older Americans through increasing their physical fitness activities and improving the nutritional value of meals in their own daily living habits;

"(D) if appropriate, be conducted in conjunction with schools of public health, schools of medicine, public health and social service agencies, private voluntary organizations, or other entities concerned with the health and well-being of older Americans; and

"(E) evaluate and submit the evaluation prior to October 1, 1987 and submit such interim reports as the Commissioner may reasonably require.".

ADMINISTRATION

SEC. 12. (a)(1) Section 308(b)(1) is amended to read as follows:

"(b)(1)(A) From sums appropriated pursuant to section 303 and allotted to each State under section 304(a)(1) for each fiscal year, not to exceed 5 percent of the amount appropriated for each such year or $500,000, whichever is greater, shall be available for the cost of administration of the State plan, except that in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the amount shall be 5 percent or $200,000, whichever is greater. For the purpose of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(B) The budget submitted under section 1105 of title 31, United States Code, for each fiscal year and the appropriation Act containing appropriations made pursuant to section 303 for each fiscal year shall separately set forth the amount available to carry out the provisions of this paragraph.".

(2)(A) Paragraphs (2), (3), and (4) of section 308(b) are repealed.

(B) Paragraphs (5) and (6) of section 308(b) are redesignated as paragraphs (2) and (3), respectively.

(3) The amendments made by paragraph (1) (other than the portion of the amendment adding a new subparagraph (B) to paragraph (1) of section 308(b)) and paragraph (2) of this subsection, relating to the increase in the amount available for the administration of State plans, shall be effective only for a fiscal year in which the amount available for the administration of State plans is equal to or exceeds $40,000,000.

(b) Section 308(b)(3) (as redesignated by subsection (a) of this section) is amended by striking "20 per centum" and inserting in lieu thereof "35 per centum".

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 13. (a) Section 311(d)(1) is amended to read as follows:

"(c)(1)(A) There are authorized to be appropriated $119,500,000 for fiscal year 1985, $123,802,000 for fiscal year 1986, and $129,744,500 for fiscal year 1987, to carry out the provisions of this section (other than the provisions of subsection (a)(1)) and such additional sums as may be necessary for fiscal years 1985, 1986, and 1987 to maintain the level of reimbursement for the number of meals served under such provisions in fiscal year 1983.

"(B) Effective on the first day of the first month after the date of enactment of this subparagraph, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.".

AUDIT

SEC. 14. (a) Section 313 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) State agencies and area agencies on aging shall not request information or data of providers which is not pertinent to a payment made pursuant to this Act.".

SUPPORTIVE SERVICES AND SENIOR CENTERS

SEC. 15. (a) Section 321(a)(5) is amended to read as follows:

"(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;".

(b) Section 321(a)(6) is amended by striking out "legal services" and inserting in lieu thereof "legal assistance".

(c) Section 321(a) is amended—

(1) by redesignating clauses (14) and (15) as clauses (16) and (17), respectively, and

(2) by inserting after clause (13) the following new clause:

"(14) services for the prevention of elder abuse in accordance with clause (16) of section 307(a);

"(15) inservice training and State leadership for legal assistance activities;".

(d) Section 321(b)(1) is amended by striking all that follows "centers" and inserting in lieu thereof a period.

TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 16. (a) Title IV is amended by inserting after the title designation the following new sections:

"STATEMENT OF PURPOSE

"SEC. 401. It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and to help meet the needs for trained personnel in the field of aging through—

"(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals;

"(2) research and development of effective practices in the field of aging;

"(3) demonstration and other projects at the discretion of the Commissioner; and

"(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

"ADMINISTRATION

"SEC. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration on Aging.

"(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, and such other agencies and departments of the Federal Government as may be appropriate.".

(b) Section 411 is amended by inserting before the period a comma and the following: "with priority to training in the provision of supportive services to families of elderly victims of Alzheimers' disease and other neurological diseases and organic brain disorders".

(c) Section 421 is amended by adding at the end thereof the following: "Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.".

(d)(1) Section 422(b) is amended—

(1) by redesignating clauses (1), (2), (3), (4), (5), (6), and (7) as clauses (2), (3), (4), (5), (6), (7), and (8), respectively; and

(2) by inserting before clause (2) (as redesignated by this subsection) the following new clause:

"(1) meet the supportive services needs of elderly victims of Alzheimers' disease and other neurological diseases and organic brain disorders and their families, including—

"(A) home health care for such victims;

"(B) adult day health care for such victims; and

"(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;".

(2) Section 422 is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever appropriate grants made and contracts entered into under this section shall be developed in consultation with the appropriate Long Term Care Gerontology Center.

(2) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.".

(e) Section 423(b)(3) is amended by inserting (A) after the paragraph designation and by adding at the end thereof the following: "(B) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of information regarding the development of such services.".

NATIONAL IMPACT ACTIVITIES

SEC. 17. (a) Section 425 is amended—

(1) by designating the first sentence as subsection (b),

(2) by redesignating subsection (b) as subsection (c), and

(3) by inserting after the section designation the following:

"(a) The Commissioner shall, upon request, provide assistance to State agencies on aging, to work in conjunction with State protective service agencies so as not to duplicate activities already undertaken by such State protective service agencies, for the provision of technical assistance and development of training materials for personnel in State and area agencies who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse.".

(b) Section 425(c) (as redesignated by paragraph (1) of this subsection) is amended by inserting after "carrying out" the following: "subsection (b) of this".

AUTHORIZATION OF APPROPRIATIONS FOR TITLE IV

SEC. 18. Section 431(a) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out the provisions of this title $28,500,000 for fiscal year 1985, $30,295,500 for fiscal year 1986, and $32,052,639 for fiscal year 1987.".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 19. (a) Section 502(c) is amended by adding at the end thereof the following new paragraph:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 12 per centum shall be available for paying the costs of administration for such project.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1985.

ADMINISTRATION FOR TITLE V

SEC. 20. Section 503(b) is amended to read as follows:

"(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Job Training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984.".

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 21. Section 506 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State's compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.".

AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT

SEC. 22. Section 508(a)(1) is amended to read as follows:

"(1) $335,000,000 for fiscal year 1985, $351,415,000 for fiscal year 1986, and $368,282,920 for fiscal year 1987; and".

GRANTS FOR INDIAN TRIBES

SEC. 23. Section 608(a) is amended to read as follows:

"(a) There are authorized to be appropriated $7,500,000 for fiscal year 1985, $7,972,500 for fiscal year 1986, and $8,434,905 for fiscal year 1987 to carry out the provisions of this title other than section 606.".

TECHNICAL AMENDMENTS

SEC. 24. (a) The heading of title I is amended by striking out the colon and inserting in lieu thereof a semicolon.

(b) Section 204(d) is amended by striking out clause (2) and by redesignating clauses (3), (4), (5), and (6) as clauses (2), (3), (4), and (5), respectively.

(c) The first sentence of section 206(b) is amended—

(1) by inserting "under" before "title IV", and

(2) by striking out "section or".

(d) The second sentence of section 304(c) is amended—

(1) by striking out "subsection (d)(1)(D)" and inserting in lieu thereof "subsection (d)(1)(C)"; and

(2) by striking out "funds for" and inserting in lieu thereof "funds or".

(e) Section 307(a)(20)(B)(ii) (as redesignated by section 11(f)) is amended by striking out the period at the end of such section and inserting in lieu thereof a semicolon and "and".

(f) Section 309(b)(2) is amended by striking out "section 304(d)(1)(B)" and inserting in lieu thereof "section 304(d)(1)(D)".

AMENDMENTS TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

SEC. 25. (a) Section 11(f) of the Age Discrimination in Employment Act of 1967 (hereinafter in this section referred to as "the Act") is amended by adding at the end thereof the following new sentence: "The term 'employee' includes any individual who is a citizen of the United States employed by an employer in a workplace in a foreign country.".

(b)(1) Section 4(f)(1) of the Act is amended by inserting before the semicolon a comma and the following: "or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located".

(2) Section 4 of the Act is amended by adding at the end thereof the following new subsection:

"(g)(1) If an employer controls a corporation whose place of incorporation is in a foreign country, any practice by such corporation prohibited under this section shall be presumed to be such practice by such employer.

"(2) The prohibitions of this section shall not apply where the employer is a foreign person not controlled by an American employer.

"(3) For the purpose of this subsection the determination of whether an employer controls a corporation shall be based upon the—

"(A) interrelation of operations,

"(B) common management,

"(C) centralized control of labor relations, and

"(D) common ownership or financial control,

of the employer and the corporation.".

(c)(1) Section 12(c)(1) of the Age Discrimination Employment Act of 1967 is amended by striking out "$27,000" and inserting in lieu thereof $44,000".

(2) The amendment made by paragraph (1) of this subsection shall not apply with respect to any individual who retires, or is compelled to retire, before the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HEINZ. Madam President, today, as we move ahead with the amendment of S. 2603, the Senate takes another step in fulfilling the promise of the Older Americans Act of 1965. Passage of the 1984 amendments to reauthorize programs under the act marks the 10th time that this successful piece of legislation has been before the Congress for amendment or extension. The Older Americans Act continues to enjoy wide congressional support because of the many valuable benefits it has provided to our Nation's older citizens.

Since 1965, we have seen sweeping changes and expansion of services provided under the act in response to dramatic shifts in the needs of our elderly and the changes in our national policy on aging. The programs have grown in both size and scope. Today, a complex network of 57 State and territorial units on aging, over 670 locally based area agencies on aging, and thousands of senior centers capably administer and provide programs under the act. While the budget for these programs in 1966 was $5.7 million, more than $1 billion has been committed to support them in the current fiscal year.

Madam President, the Older Americans Act is an extraordinary legislative document. It is a comprehensive declaration of the long-term goals of American society with regard to our elderly citizens. The act commits us as a nation to actively work to enhance the quality of life of older Americans. Perhaps the single most important achievement of this legislation is that it has created realistic alternatives for hundreds of thousands of older Americans in delaying, and in some cases, preventing unnecessary institutionalization.

This coordinated system of service reaches into every community in this Nation, making possible a broad range of programs including nutrition, transportation, counseling, and the more intensive home health and social services provided to the frail elderly. Millions of older Americans have benefitted from such services. In my own home State of Pennsylvania, I am pleased to say that over $90 million will be expended this year in support of programs initiated under the Older Americans Act. These funds have supported a broad array of services provided by 49 area agencies on aging and more than 520 senior centers throughout the Commonwealth. The social, economic and psychological benefits derived by over one-half million older persons who have participated in these programs are immeasurable.

As chairman of the Special Committee on Aging, I can speak from first hand experience about the individual human impact, multiplied by hundreds and thousands, of the programs supported by the act. In case after case, examples abound of hungry individuals being fed, loneliness being met with compassion and caring, and chronic health problems being ameliorated through concerted community efforts.

I am pleased that in spite of the mood of fiscal austerity here in Washington, the bill before us today recognizes the high priority we should accord to our elderly, and it does so by retaining authorization levels that are at or above the levels provided by the fiscal year 1984 appropriations bill. This act has proven itself worthy of our continued support and its programs deserve full funding in the budget.

Let me say for the record that I am particularly grateful for the very productive and fine working relationship I have enjoyed with Senator GRASSLEY, the distinguished chairman of the Subcommittee on Aging of the Labor and Human Resources Committee and an especially valuable member of the Special Committee on Aging. I think he has done an extraordinary job in crafting this reauthorization bill. I am grateful to have had the opportunity to work with him, and thank him for his very open and cooperative efforts. I am pleased to be a cosponsor of the Older Americans Act Amendments of 1984 which he and his committee have brought before us today.

Since its inception, the Older Americans Act has been directed toward giving older persons opportunities for participation in the full benefits of this country. Health, economic security, honor, and dignity for all older Americans are challenging goals, but they have come closer to full realization through the progress made under the Older Americans Act. I believe that the suggestions incorporated in this reauthorization bill will strengthen these goals and continue to enhance the quality of life for all older Americans.

LOCAL PUBLIC LIBRARIES: AN UNTAPPED RESOURCE FOR OLDER AMERICANS

Mr. PRYOR. Madam President, I would like to take this opportunity to congratulate the chairman and the ranking minority member of the Subcommittee on Aging and and their staffs for their fine work in developing reauthorization legislation for the Older Americans Act. This is a most important piece of legislation, and I commend their worthy efforts.

Clearly, the great success of the Older Americans Act in deliverying much-needed services to our older Americans is due in very large part to coordination at the local level by local agencies. It is these agencies which are best able to assess the needs of local residents, and tailor services accordingly. There is one area, however, which I would very much like for my colleague, the distinguished Senator from Iowa, to clarify for me.

Over the last year, I have had the distinct pleasure of several visits with Dr. Bessie Moore, a distinguished Arkansan, who has dedicated the last half century of her life to improvement of our Nation's education, library, and information systems. Dr. Moore has documented for me the great potential that local public libraries have for providing a broad range of services to older Americans—such as information on health, nutrition, drugs, volunteer services, money matters, coping with aging, and the like. I think it is most unfortunate that, for the most part, local public libraries are not utilized to any great degree under the Older Americans Act.

In a recent letter to Dr. Tolliver, the Commissioner on Aging, I requested a clarification regarding local public libraries' access to funds under titles III and IV of the Older Americans Act. Commissioner Tolliver stated that local libraries are able to contract with the area agencies to deliver services under approved area plans under title III. She also stated that title IV funds are made available in the form of grants from the Department to public or private groups which are best qualified to respond to the title IV priorities, and that libraries would certainly be considered for such grants. I ask that this letter be printed at in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. PRYOR. Would the Senator from Iowa confirm for the benefit of this Senator, and other Members, that he shares the interpretation of the Commissioner that local public libraries have access to funds under the Older Americans Act. Specifically, I am interested in making sure that there are opportunities for libraries to become involved in program under titles III and IV of this act, under current law and as it would be amended by the subcommittee bill.

Mr. GRASSLEY. Madam President, my good friend from Arkansas is correct. Under current law the Older Americans Act mandates a number of services wtihin title III as well as grant availability within title IV.

I would also add that title V of the Older Americans Act—community services employment—provides subsidized senior employees to libraries across the country. These older workers free up library salary budgets to expend funds in other areas of library services.

All of these Older Americans Act funds, in the forms the Senator from Arkansas so eloquently defines, are and will continue to be available to the libraries of this country. I also know personally that the efforts of my friend from Arkansas have raised the

awareness of librarians regarding OAA programs around this country and for that I congratulate him.

Mr. PRYOR. Madam President, I thank the Senator from Iowa. It is clear that our Nation's libraries are in a very unique and favorable position to provide a wide range of services to older Americans, both because of their presence in every community and their board range of resources. it is my belief that accessing this virtually untapped resource would greatly improve services to our senior citizens, and to our Nation.

Mr. MELCHER. Madam President, I also wish to commend the chairman and the ranking minority member of the Subcommittee on Aging and their staffs for their excellence work in producing this year's reauthorizing legislation for the Older Americans Act.

I, too, have become very aware of the fine work done by libraries to meet the needs of our older Americans and of the eagerness to be of more service. In my State of Montana, senior citizens help to provide library services as Green Thumb Workers under title V if the Older Americans Act and as RSVP volunteers. Public libraries also provide special services to the Montana State Center for the Aged and the Veterans Home where the average age is about 80 and the emphasis is on talking and large print books.

Madam President, it seems to me that library services could be better integrated into the coordinated services for senior citizens under the Older Americans Act. I would like to ask the distinguished Senator from Iowa if he would clarify how library services might be better utilized under title III services of the act? Would the Senator please tell me if it is true the libraries may apply to local area agencies for funding to provide education, information, and referral services under title III? Would the Senator please provide me some examples of how this might work?

Mr. GRASSLEY. I thank the Senator from Montana for his kind words. I would be glad to detail some of the ways that title III services aid this countries libraries. First and most importantly, title III services as carried out by area agencies allow libraries to serve a much broader constituency of elderly at no extra cost by establishing, manning, and maintaining satellite libraries in senior centers. These satellite units contain tapes—talking books—films, large print books, as well as well-stocked bookshelves.

Through the funding of title III (B) the organizing ability, facilities, and personnel of the Older Americans Act network provides "circuit rider" distribution to nursing homes and county care facilities the books, periodicals and other materials a library offers—at no cost to the library itself. These networks also prepared, update, and maintain information and referral services for older Americans. These are kept in the libraries for the use of library patrons who may seek further informational service from the senior centers themselves.

In summary, title III funds serve older Americans by allowing our community libraries to more extensively and efficiently and at no extra cost, provide those cultural, informative, recreational, and social services that we in America have come to expect of our libraries.

Mr. MELCHER. Madam President, I also wish to ask my good friend from Iowa to confirm if it is true that the Administration on Aging is listing library sciences for specialized training under the priority area of gerontology training under title IV of the Older Americans Act?

Mr. GRASSLEY. My friend from Montana is correct. The Administration on Aging listed library sciences in the Federal Register of Tuesday, October 18, 1983. These grants are funded under title IV of the Older Americans Act.

Mr. MELCHER. Madam President, I would like to ask the Senator from Iowa if he could confirm that library sciences will continue to be listed under gerontology training and that it will continue to be a priority discretionary grant program?

Mr. GRASSLEY. The Senator from Montana will be happy to learn that I have been informed that library sciences will again be listed as a priority title IV service this fall in the new round of title VI grants.

Mr. MELCHER. Madam President, I am aware that a number of title V workers are involved in library services. Mr. President, I would like to ask the distinguished Senator from Iowa if he would further clarify how title V might be more fully utilized by local community libraries.

Mr. GRASSLEY. As my good friend from Montana has pointed out—in his State, Green Thumb, one of the eight community service employment contractors, funded under title V of the Older Americans Act, provides subsidized library employees to community libraries, thus freeing up $3,500 to $4,000 a year per employee. These funds can then be expanded on the libraries other needs—books, utilities, maintenance, and so forth. Hundreds of these library employees are presently supplying needed community service around the country in big cities as well as rural towns. It is one of the most worthwhile of all the community service jobs provided by the title V program. To utilize this service, libraries should contact either their State commissioner on aging or the area agency on aging serving their community—either will be able to help arrange for a title V employee.

Mr. MELCHER. Madam President, I am very impressed with the potential for the further extension of library services to the elderly under the Older Americans Act as it is in current law and as it will be amended this year. I hope that libraries, librarians and their organizations will explore the possibilities and expand their services under the act. I thank the Senators from Iowa and Arkansas for making this clear.

EXHIBIT 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF HUMAN DEVELOPMENT SERVICES ADMINISTRATION ON AGING, OFFICE OF ASSISTANT SECRETARY,

Washington, D.C.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRYOR: This is in response to your letter regarding the ability of libraries to receive funding under Title III and Title IV of the Older Americans Act. Your letter expressed specific concern as to whether libraries have access to funding under the Act in order to develop information and other services for older individuals.

In general, the methods available for libraries to seek possible funding under either Title III or Title IV are similar to the methods which are available to any other public or private agency or organization. Title III funds are awarded at the community level by Area Agencies on Aging. Each area agency is responsible to develop for its designated planning and service area a comprehensive and coordinated system of services. Education, information and referral services are among the types of supportive services for older persons which the Act identifies as components of the comprehensive and coordinated system. Each area agency is required to assess the priority service needs of older persons; and, based upon such an assessment, to develop an area plan which must be submitted to the State agency for approval. Implementation of the area plan, in part, is carried out through the award by the area agency of grants or contracts to public or private agencies and organizations that can demonstrate experience or capacity to carry out services under the approved area plan. Libraries which are interested in providing services to older persons should contact the local area agency to obtain further information as to how they may apply for Title III funds.

Title IV funds are awarded by the Administration on Aging to public or private agencies or organizations that are most qualified to respond to the Title IV priorities that are identified in program announcements which are published in the Federal Register. Publication in the Federal Register is the method used by the Administration on Aging to alert eligible parties of their potential access to Title IV funding. The published program announcements provide all of the necessary information for interested parties, including libraries, to apply for Title IV funds.

I hope the above information will assure you that mechanisms are currently available whereby, in a manner comparable to other public or private agencies and organi-

zations, libraries may seek funding under the Act.

Sincerely,

LENNIE-MARIE P. TOLLIVER, Ph. D.,
Commissioner on Aging.

Mr. PRESSLER. Madam President, I am pleased to see the Senate act so expeditiously on S. 2603, the Older Americans Act Amendments of 1984. The Older Americans Act of 1965 has proved to be one of the most successful pieces of legislation passed by this body. Our senior citizens are assured improved health, housing, employment, and cultural and recreational opportunities because of this legislation.

South Dakotans are most grateful for the programs which have been initiated because of this act. Our senior citizens now enjoy their senior citizen centers which provide fellowship and recreation. More importantly, because of this act, thousands of our elderly citizens have nutritional meals at congregate facilities or participate in the Meals on Wheels program which provides them nutritional meals in their homes.

The community service jobs which are now available to our retired citizens not only help them feel more independent and productive but also provide our communities with services that would not otherwise be available. South Dakotans owe a great debt of gratitude to the senior citizens who provide assistance to their local communities and the State as a whole.

As a member of the Special Committee on Aging, I have witnessed many important improvements in the lives of my constituents which can be traced back to the passage of the Older Americans Act. I salute the Senate for taking this positive action to reauthorize this important legislation.

I am also pleased to see a big step being taken to deal with the tragedy of Alzheimer's disease. With passage of this legislation, State area agencies on aging will be giving priority funding to supportive services for families of Alzheimer's patients. Support will also be given to improve training of personnel needed to care for patients suffering from this form of dementia.

While much work remains in the search for a cure of treatment for this tragic ailment, great strides have been made because this Congress and administration have given the matter priority consideration. I salute the Senate for taking this step forward and hope that it is only one of many we will take in our ongoing battle against Alzheimer's disease.

Again, Madam President, I am honored to be a cosponsor of this important legislation. I salute my colleagues for taking this action. I know many South Dakotans will face their golden years with increased hope of independent, productive, and healthy lives because of our action today.

Mr. RANDOLPH. Madam President, I commend the able chairman and ranking minority member of the Subcommittee on Aging, Senators GRASSLEY and EAGLETON for their diligent efforts on behalf of our Nation's elderly. I am proud to have joined them in original cosponsorship of this vital legislation.

Since its enactment in 1965, the Older Americans Act has provided leadership at the Federal, State, and local levels for the provision of many services for senior citizens throughout the country. With the passage of the 1973 amendments to the establishment of the aging network was the promotion of comprehensive and coordinated services for older persons. To promote local cooperation, the act specifies coordinations as a main function of both the State and the area agencies on aging. As required by the act, the area agencies are responsible for the development of a comprehensive and coordinated system within a State-determined planning and service area (PSA).

In 1978 Congress amended the Older Americans Act to consolidate social services, nutrition services and senior centers under title III to provide better coordination and more effective use of community resources. Further in 1978 we saw the need for not only increased coordination for programs administered with Older Americans Act funding, but the coordination with a variety of other Federal programs, affecting the elderly. Because these services, needed and used by the elderly cut across the entire range of human services, a large number of agencies, public and private, are involved in their planning, administration, and delivery. In 1980, the House Select Committee on Aging documented 45 major Federal programs that directly benefit the elderly, and an estimated 131 others that were of indirect benefit. With such a large number of programs it is sometimes difficult to determine who exactly is responsible for their implementation. As local government officials are often the first point of contact for older residents seeking assistance, they are faced with either providing the requested services or with referring the caller to the appropriate agency. For this reason, effective involvement of the local governments is of utmost importance.

The aging network, consisting of the Administration on Aging, the various State units on aging, and the local area agencies, has done an exceptional job in serving the elderly. In West Virginia, we have a population of 340,000 senior citizens, representing 17 percent of our total population. Through the capable leadership provided by our State Commission on Aging and our nine area agencies, over 100,000 elderly are seeking and receiving services from the West Virginia aging network. However, even with its high success rate, the West Virginia Commission has indicated that, due to the complexities of the various Federal programs, problems of fragmentation do occur that should be further studied as we seek to perfect legislation assisting older Americans.

In the 1981 White House Conference on Aging, the need for more effective cooperation between government, civil, and religious organizations, as they serve the elderly, was addressed. Other organizations such as the U.S. Conference of Mayors have brought to the committee's attention the need for more effective public and private linkages, and even previous GAO studies have documented the complexities of the current administrative system.

Madam President, I am proud to have been involved in the original development of the Older Americans Act in 1965. Over the past years, since its enactment, the Congress has made numerous changes to the act, strengthening the aging network. Many of those changes have addressed the need for effective coordination in the delivery of services and those changes in large part have been successful. However, it has been brought to my attention and to the attention of the Congress that there is still a need for improvement in certain areas of this delivery system insuring the involvement of all levels of Government with the private sector and coordination at the Federal, State and local levels.

It is my hope that Senators GRASSLEY and EAGLETON will join with me in requesting the GAO to conduct a study on these areas of concern, enabling Congress to benefit from their findings. In that study, the GAO should identify any current legislative or administrative barriers to the delivery system that may exist, with specific recommendations on how these may be corrected. Recommendations to the Congress should also be made on ways to improve even further the effectiveness and efficiency of our aging network, paying particular consideration to the coordination of programs. This study should be conducted, with results available to the Congress, prior to the next reauthorization of the Older Americans Act.

I would ask the Senators from Iowa and Missouri, if this is agreeable to you?

Mr. GRASSLEY. I think the Senator from West Virginia has raised an interesting point—one that has attracted considerable attention in the past within the context of the OAA. I believe this attention has resulted in a greater degree of cooperation among those units of Government he mentions.

Hearings on the act reveal an ever increasing amount of matching funds for OAA activities supplied by State and local governments. However, Senator EAGLETON and I are in agreement that the Committee on Labor and Human Resources' Subcommittee on Aging could again ask the GAO—Senator EAGLETON as a prior chairman of the committee has made this request in the past—for a definitive study of how coordination between the aging network and all levels of Government operating services to the elderly is being carried out.

Such information, as the distinguished Senator from West Virginia points out, should be completed prior to the next reauthorization of the Older Americans Act in 1987.

Mr. EAGLETON. I appreciate the remarks of my distinguished colleague from West Virginia and share his concern about the fragmentation of the Federal approach to vital services for senior citizens. As my friend may recall, when we reauthorized the Older Americans Act in 1978, there some 11 different programs in two executive departments and two independent agencies whose purpose was to assist in delivering social servicies to the elderly. There were nine different employment programs in three different Federal agencies. Partly as a result of the concern I had over this fragmentation and potential duplication of service delivery, the 1978 amendments administratively consolidated the social services program within the Older Americans Act. I would certainly welcome efforts to provide a greater degree of coordination among the programs under the Older Americans Act and other programs primarily serving the elderly which are presently administered by other agencies or departments of Government. I would be more than happy to join with my friend in requesting the GAO to look into this matter for us and recommendations about a more coordinated Federal approach to assisting older individuals to live dignified and independent lives.

Mr. GRASSLEY. Madam President, today we consider S. 2603, a bill which will reauthorize the programs, services and research of the Older Americans Act for another 3-year period. This reauthorization comes at a time when the United States finds itself with a populace numbering as many Americans aged 65 and over as those in their teens. Demographic experts further point out that our society can expect 10 to 20 years of life after work in relatively good health and with adequate and secure retirement income. S. 2603 does not authorize any major changes in the Older Americans Act while calling for a funding level of modest increases over the next 3 years. Increases that will fulfill the purposes of the Older Americans Act while holding the line on inflation, which after all, is the worst enemy of America's senior constituency.

I would be remiss, Madam President, if I did not take some time to thank those Members who worked so hard to complete S. 2603 early enough to allow this all-important legislation to be cleared before the summer recesses.

Senator EAGLETON has provided me with invaluable assistance throughout the long hearing and bill drafting stages of S. 2603. His experience and the experience of his staff brought the balance that was needed to create a truly bipartisan ambiance to this legislative effort.

Senators DENTON, HAWKINS, and THURMOND contributed mightily in resolving some problem areas that arose in necessary legislative language.

The assistance and support given me by Senator PELL during many of the hearings allowed issues to be developed in a clearer and more precise way. His hearing held in Providence, R.I., added immeasurably to the background needed to write the language with the all important title III sections referencing nutrition education.

Senator KENNEDY provided the organizational and procedural strength that brings the Senate this bill today.

Certainly the Senate Special Committee on Aging and its chairman, Senator HEINZ, gave me and the subcommittee staff the rich background of its oversight and investigative findings through its timely printing of "Developments in Aging 1983."

Senator HEINZ also cochaired with me an important joint hearing on the Older Americans Act.

I look forward to continue serving this country's older constituency through joint efforts with all of these Senators as well as with the other Members who are numbered among the 61 cosponsors of S. 2603.

Senator METZENBAUM provided the impetus to go with the committee's hearing on Alzheimer's disease which gives this reauthorization that all important new language dealing with that threatening malady which looms in the minds of all other Americans.

Madam President, I look forward to going quickly to conference on this bill when the House completes action on their reauthorization bill. The resultant legislation that going to the President will continue the success story begun by the Congress in 1965 when the Older Americans Act first became law.

The committee held a series of nine hearings on various aspects of Older Americans Act programs. These hearings commenced in July of 1983 with a hearing on building long term care services and concluded in March, 1984 with a joint hearing of the Subcommittee on Aging and Special Committee on Aging on issues raised by the need to reauthorize the act. The committee also held hearings on the older veteran; on targeting scarce resources under the Older Americans Act; on long-term care under the Older Americans Act; and on titles III, IV, and V of the act. Senator CLAIBORNE PELL chaired a field hearing in Rhode Island on key issues in reauthorization. The committee heard from expert witnesses and a wide range of interested parties on issues of concern to them and to the committee.

I think it safe to say, Mr. President, that our committee developed as complete a hearing record on Older Americans Act programs as we have ever had. These hearings were well attended by the members of the committee and I wish to thank the members—Senators EAGLETON, HAWKINS, PELL, DENTON, THURMOND, and METZENBAUM—for their participation and efforts in making these hearings a success. Senator GORDON HUMPHREY, no longer a member of this committee, made earlier contributions to the success of these hearings.

As a consequence of information received in these hearings, and of regular consultations with many interested parties, including other Senators and their staffs, the subcommittee has developed a bill which I think can command the support of all of my fellow Senators. Although we have not made major structural changes in the Older Americans Act, we have made a number of important changes that I would like to describe briefly. Before I do, I should point out that the subcommittee worked hard to develop a committee report to accompany this bill that discusses in some detail the purposes the committee wished to achieve with the changes it has made in the act, and, in some issues, what the committee did not wish to achieve with these changes. I recommend that all who wish to understand fully what the committee wishes to achieve with this bill gave careful attention to our report—Senate report 98-467.

S. 2603 alters the manner in which members of the Federal Council on Aging are chosen. Whereas now all members are appointed by the President, in the future an equal number of the members will be chosen by the Senate, the House, and the President. I think that my fellow Senators will appreciate the opportunity which this bill will create to participate in the selection of this important advisory body. I anticipate that the House of Representatives will also look with favor on this provision of the bill when we go to conference.

Another important change contained in S. 2603 is a requirement that State units on aging publish for review and comment all of the key elements of the formula the States use to allocate Older Americans Act funds. This disclosure provision is another step in

the direction of open government which I think all of my colleagues here in the Senate will approve.

S. 2603 will involve the Commissioner on Aging and the Older Americans Act network in providing some relief and assistance to the families who care for persons suffering from Alzheimer's disease. Under provisions contained in the bill, the Commissioner will give special consideration to demonstration projects, funded under terms of title IV, to meet the supportive service needs of elderly victims of Alzheimer's disease and other neurological disease and organic brain disorders. Area agencies on aging will also now be able to offer supportive services for families of victims of Alzheimer's disease and other neurological diseases and brain disorders. I think it very appropriate that the Older Americans Act programs begin to help the victim of this horrible disease.

The bill also requires the States to carry out demonstration projects for health and nutrition education to be conducted by one or more area agencies within the State. This, too, is a very forward-looking provision which should have considerable eventual effects on the health and well-being of the elderly as well as on the high cost of publicly supported medical care.

S. 2063 also amends the Age Discrimination in Employment Act of 1967 to close a loophole recently created by several court decisions. Basically, this amendment would bring under the provisions of the Age Discrimination in Employment Act Americans working abroad for American companies. These court decisions heed that it was not the intention of Congress when it passed the ADEA to cover such persons. I think that my colleagues will agree that this class of American citizens should not be treated differently that other Americans by this law.

In closing my remarks, I wish to thank all of those organizations and especially the aging network staff who helped to provide information by witnessing at hearings and submitting facts, figures and rationale for the fine tuning needed to keep this law even with the needs of all older Americans.

Mr. KENNEDY. Madam President, I rise in support of S. 2603, the Older Americans Act Amendments of 1984. These provisions will go far in meeting the stated objectives of the Older Americans Act of 1965; they will provide program support aimed at improving the lives of older Americans in many areas of their existences: income, health, housing, employment, cultural and recreational opportunities, community services, and aging research. Furthermore, there is an added requirement for programs for the prevention of elder abuse; this requirement is critically needed to assit those elders whose very lives are in danger from forces outside of their control.

I applaud Senators GRASSLEY and EAGLETON for the enormous amount of work that they did in helping the members of the Committee on Labor and Human Resources forge a bill that responded to the concerns of many diverse parties. The provisions for demonstration activities on health and nutrition education, inservice training of personnel, legal assistance, supportive services to families of older individuals with Alzheimer's disease within the existing in-home priority services to be supported by area agencies, and increase funds available for State administration all indicate the spectrum of issues confronting the Subcommittee on Aging and the Committee on Labor and Human Resources.

Madam President, I urge my colleagues to support S. 2603.

Mr. HEINZ. Madam President, I wish to draw my colleague's attention to an issue of great importance to our Nation's elderly—the inadequacy of housing and services options available to frail older persons. Indeed, I believe all Americans should be deeply concerned about the exorbitant fiscal and human costs of unnecessary institutionalization of the frail elderly. We must begin to respond to the urgent question of how we can insure for all older Americans the same independence and quality of life we want for our parents, our grandparents, and ourselves.

It was my intention today to introduce the Independent Living for Older Americans Act of 1984 as an amendment to the Older Americans Act. This amendment would have begun to address the fact that this Nation must develop policies that help the frail elderly continue to live independently and that minimize the exorbitant costs of premature placement of older persons in nursing homes and other long-term care institutions. I ask that the amendment be printed at the conclusion of my remarks.

Madam President, in the interest of the expeditious reauthorization of the Older Americans Act, I have agreed to withhold my amendment at this time. However, with the consent of the distinguished chairman of the Senate Labor and Human Resources Committee's Subcommittee on Aging, Senator GRASSLEY, I would like to take this opportunity to outline my concern over this issue and my plans for addressing it in the future. Achieving progress in efforts to improve the shelter options of the elderly will depend greatly upon the cooperation and support of my friend from Iowa, who has crafted the reauthorization bill before us today.

Mr. GRASSLEY. I thank my distinguished colleague from Pennsylvania for his kind remarks, and I look forward to working with him as the chairman of the Senate Special Committee on Aging and as a senior member of the Senate's Subcommittee on Housing and Urban Affairs. Few are more qualified than he to address the problems in providing adequate housing and service options for America's aged.

Mr. HEINZ. I am grateful to the Senator for his generous remarks and for his willingness to work with the members of the Committee on Aging and Subcommittee on Housing as he indicated. I know that solving the problem of providing adequate housing and services options for America's aged will require the active participation of the members of all the relevant committees. I believe it will also require the enactment of legislation initiatives similar to the bill I intended to offer today.

Madam President, I am convinced that such legislative initiatives are needed. For example, as part of my responsibilities as chairman of the Senate Special Committee on Aging, it was my privilege to chair a recent hearing in Boston, Mass., on "Sheltering America's Aged: Options for Housing and Services." The message from that hearing was clear: As the aging population grows, increasing numbers of frail elderly persons will be without access to the supportive services they need to enable them to stay in their homes, their apartments or in other noninstitutional living arrangements such as congregate housing. Federal agencies such as the Department of Health and Human Services, HHS, its Administration on Aging, AOA, and the Department of Housing and Urban Development, HUD, must begin to address the need for greater coordination of services and more shelter options for America's aged.

Madam President, the Independent Living for Older Americans Act is composed of three sections which I believe could accomplish a great deal at a very low cost. The first section would require the Federal Commissioner of Aging to initiate a national training program in elderly housing and services in order to build the capacity of Area Agency on Aging, AAA, personnel and local housing officials to coordinate the special shelter and services needs of older Americans. During next year's reauthorization of Federal assisted housing programs, I plan to press for a commitment from the Department of Housing and Urban Development, HUD, to work with Administration on Aging and to mandate similar training and cooperation in federally funded elderly housing projects.

Low-income older Americans are prime beneficiaries of Federal housing assistance programs, even so only 1.2 million of the 3.4 million very low-income elderly households eligible for assistance receive Federal housing aids. Roughly 50 percent of those as-

sisted are in public housing units across the country and many of these elderly residents are "aging in place" in those projects with little or no supervision, security, or access to services. Forty percent of elderly tenants of public housing are over 75. In short, elderly housing projects are in danger of becoming "nursing homes without services."

Local housing officials alone cannot be blamed for this state of affairs. Contributing factors also include scarce public resources, limited information, and poor coordination between Health and Human Services officials and housing management. While the problem may be more concentrated in very low-income urban rental projects, inadequate access to housing and services options also plagues the rural elderly and many "asset rich, cash poor" elderly homeowners. Although anecdotal evidence and "horror stories" about impaired old persons locked away in high-rise housing projects are fairly easy to come by, there is no hard national data about the real extent of the problem. Neither the Department of Housing and Urban Development nor the Administration on Aging has ever addressed this issue in a systematic way. It follows then that that problem also persists at the local level. Informal estimates from people in the field suggest that as little as 1 percent of the 650 Area Agency on Aging's nationwide have the staff capacity to work effectively on finding shelter and service options for the elderly. Most local housing managers have no training to equip them to supervise the service needs of elderly tenants.

This first section of my legislation would, therefore, build, by emphasizing the necessary training, the capacity of Area Agency on Aging and housing managers for: First, coordination between local housing and services agencies; second, outreach, counseling, case management, and referral; and third, the formulation of local elderly housing plans.

The other two provisions of the Independent Living for Older Americans Act would require the Commission on Aging to conduct a comprehensive study of policy options for promoting independent living among the low income, frail elderly and to test the feasibility of unsubsidized, market rate congregate living developments for moderate income senior citizens.

Madam President, all three of these proposals were discussed at last month's committee hearing in Boston. I was pleased that witnesses from the administration and the State agencies on housing and elder affairs, as well as local experts, all endorsed the provisions of my bill. It was particularly gratifying to hear Under Secretary of HUD, Philip Abrams, express his commitment to seeking Cabinet Council support for greater coordination between his agency and HHS and for policy options such as housing/services vouchers and home equity conversion that would promote independent living among the frail elderly. In particular, the Department, for the first time, gave its preliminary endorsement of a congregate housing services program—CHSP—demonstration.

The administration's willingness to look more closely at these options is based in large part on the perception that noninstitutional shelter options for the elderly are far less costly than medicaid and medicare supported nursing home care. For instance, evaluations of the CHSP demonstration are showing that total costs for rent subsidy and services for elderly tenants in publicly assisted housing average $4,400 per person per year, whereas the average cost to Government of institutionalization is $13,980—a dramatic difference of nearly $10,000 per person per year. Approximately 35 percent of the elderly tenants in Philadelphia's CHSP demonstration would be immediately institutionalized if the congregate program ended. That is why I am going to push for a $4 million appropriation to extend CHSP projects in fiscal year 1985, and I hope and trust we will have the administration's support.

As the Senator from Iowa I am sure is aware, there are ample reasons for supporting these proposals. Although I am pleased that the Older Americans Act reauthorization process has led us to this juncture, it is disappointing that there is no parliamentary opportunity under the consent calendar arrangement to amend the bill on the Senate floor. If the Aging Committee had been able to develop its hearing record on "sheltering America's aged" earlier in the year, we would certainly have brought our proposals to the attention of the Human Resources Committee during its deliberations.

At this point, Madam President, let me ask the Senator from Iowa if he would be willing to join with me in seeking from the administration more solid information on the gaps in housing and services for older Americans. And as a possible followup, if necessary, would the Senator be willing to call for oversight hearings and to press for greater coordination between the Federal agencies on these matters?

Mr. GRASSLEY. I thank the Senator from Pennsylvania for his cogent analysis of the housing and services needs of the elderly, and for addressing this issue of tremendous significance to our senior citizens. I also appreciate his willingness to withhold his amendments to the Older Americans Act at this time.

In response to the question asked by my distinguished colleague, I would be more than happy to work with him to press for greater coordination between Health and Human Services, Administration on Aging, Housing and Urban Development and, I would add, the Farmers Home Administration. I note, as Senator HEINZ well knows, that the Older Americans Act contains numerous references to the shelter needs of the elderly and that there are local agencies on aging working effectively with local and regional housing officials in some parts of the country. I, too, want to know where this is not the case and would be willing to hold oversight hearings if necessary to ascertain the real housing and services needs of the elderly.

Mr. HEINZ. I thank the distinguished chairman of the Subcommittee on Aging and may I say that I deeply appreciate his support for these efforts on behalf of our elderly.

Madam President, I think we have made it clear that the issue of providing safe, decent, and supported shelter to older Americans should be one of our highest priorities. I will continue to work for reasonable funding for Housing and Urban Development's section 202 program and for an extension and expansion of the congregate housing and services program. I will also continue to work with Under Secretary Abrams to seek Cabinet Council support for greater coordination between his agency and Health and Human Services and for further consideration of policy options to promote independent living among the elderly.

I submit for the RECORD a copy of my proposed amendment.

S. 2603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Independent Living for Older Americans Act of 1984".

FINDINGS AND PURPOSES

SEC. 2. (a) Since first enacting the Older Americans Act of 1965, the Congress has recognized the importance of a Federal role in ensuring that the Nation's elderly are adequately and appropriately housed. The Act's Declaration of Objectives (section 101(3)) states that it is the responsibility of the public sector to assist older people to find: "suitable housing, independently selected, designed and located with deference to special needs and available at costs which older citizens can afford." In addition, section 101(8) avers that efficient community services for the elderly should include the provision of a "choice in supported living arrangements . . . when needed."

(b) Further, the Act instructs the Commissioner on Aging to conduct research and to develop programs designed to meet the needs of older individuals for services including housing and to evaluate Federal elderly housing programs.

(c) The Commissioner is also required to coordinate his efforts with those of other Federal agencies, including specifically the Department of Housing and Urban Development in connection with sections 231 and 232 of the National Housing Act (FHA mortgage insurance programs for elderly projects and nursing homes); the Housing Act of 1937 (public housing); section 202 of

the Housing Act of 1959 (housing for the elderly); and title I of the Housing and Community Development Act of 1974 (community development block grants).

(d) The Older Americans Act Amendments of 1981 (Public Law 97-115) revised title IV—training, Research and Discretionary Projects and Programs—to strengthen Federal Efforts to promote greater understanding of the supportive service needs of older Americans and to further the development of innovative methods including demonstration projects, of addressing their unmet needs.

(e) The Congress finds that, in accordance with the original enactment of the Older Americans Act of 1965 and in its several reauthorizations, the Commissioner shall pursue methods of enabling the older Americans to continue living independently with dignity and to avoid premature, costly, demoralizing and unnecessary institutionalization.

SPECIAL PROJECTS IN ELDERLY HOUSING AND SERVICES

SEC. 3. Part B of title IV of the Older Americans Act of 1965 is amended by adding at the end thereof the following:

"SEC. 427. (a)(1) The Commissioner shall initiate a national training program in elederly housing and services to improve the capacity of the Administration on Aging and State units and area agencies on aging as well as local elderly housing officials to assist older individuals in meeting their special housing and service needs.

"(2) The Commissioner is authorized to make grants for the development and implementation of a national training program for personnel of the Administration on Aging, State agencies, and especially area agencies on aging and local elderly housing projects managers to enable such officials—

"(A) to formulate local strategies for addressing the housing and services needs of elderly residents;

"(B) to prepare and to disseminate information on local housing and services options available to elderly residents, including: home equity conversion; public housing; section 202 housing; Farmers Home Administration (FmHA) housing; congregate living arrangements; shared housing; home repair; home health care and housekeeping services, ets.;

"(C) to provide housing couseling and referrals to elderly residents; and

"(D) to coordinate effectively with local public housing managers and Farmers Home Administration official to meet the special services needs of low-income frail elderly in publicly-assisted housing projects.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(b)(1) The Commissioner shall enter into a contract for a comprehensive study of policy options for promoting independent living to sponsor research on, and to study and evaluate the effectiveness and the fiscal feasibility of various proposals for providing housing and services assistance packages that enable the low-income frail elderly to continue living independently, such as—

"(A) an independent living voucher for low-income frail elderly persons (with or without daily activity limitations) to purchase housing and services;

"(B) a congregate housing and services entitlement program for low-income frail elderly persons;

"(C) modifications of current Medicare and Medicaid statutes and regulations to enable low-income frail elderly persons to continue living independently rather than being compelled to choose between premature and costly institutionalization, and no care at all;

"(D) an Independent Living Block Grant to local government for serving the low-income frail elderly; and

"(E) an Independent Living Loan Fund based primarily on home equity conversion.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(c)(1) The Commissioner shall conduct demonstration projects and evaluations of privately sponsored congregate living arrangements for moderate income elderly persons to determine the feasibility of models designed to provide services similar to those being provided to upper income elderly in so-called 'Life Care Communities'.

"(2) The Commissioner is authorized to make small seed grants for the development and evaluation of demonstrations of market rate, congregate living arrangements, modified life care (no founders fee) or Retirement Service Centers (as defined by the Secretary of Housing and Urban Development under section 221(d)(4) of the National Housing Act) for moderate income elderly individuals in metropolitan and nonmetropolitan areas of the country.

"(3) The Commissioner is authorized to enter into a contract to survey and evaluate the marketability and effectiveness of market rate congregate living developments for moderate income older persons and to make recommendations to the Administration on Aging, the Secretary of Housing and Urban Development, and the Congress about the degree to which these developments can help meet the long-term housing and service needs of moderate income older Americans.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

Mr. BINGAMAN. I would like to thank the chairman and the ranking minority member of the Subcommittee on Aging. They have worked long and hard to produce this fine piece of legislation, the reauthorization of the Older Americans Act. As an original cosponsor, I know of no other piece of legislation that does so much for so many.

As the distinguished Senator from Iowa knows, I am deeply concerned about our older Americans, particularly the American Indian elderly, the first inhabitants of this country. Congress recognized their special needs when it added title VI to the Older American Act. Eighty-three Indian grantees currently receive funding and in my meetings and conversations with Indian leaders and elders there is a demonstrated need for an individual to be held accountable and to administer the title VI programs.

I have an amendment I would like to offer that would establish a Deputy Commissioner on Indian Programs.

This person would be responsible for the formulation and coordination of programs addressing the needs of these underserved and needy Americans.

As Senator GRASSLEY may know, according to the Bureau of Indian Affairs the average percentage of Indians over 65 is 6 percent of the total BIA Service Population, that is, those Indians living on or near Indian reservations. The total BIA Service Population on reservations for 1981 was estimated to be 734,895 and those over 65 years of age within that total were estimated to be 44,715.

Mr. GRASSLEY. As the distinguished Senator from New Mexico knows, I share his concern for the needs of Native Americans. I have been assured by Commissioner Tolliver that the establishment of an Indian desk can be accomplished by administrative action. On May 8, 1984, I received a letter from Dr. Lennie-Marie P. Tolliver, Commissioner on Aging, which I am including for the record, which states in part:

I am responding to your concern about the need for title VI focal point in the Administration on Aging to address the policy needs of older Indians. In recognition of that need and in response to your concerns, I intend to establish a Special Assistant in the Office of the Commissioner shortly. The Special Assistant's responsibilities will include, as a major role, the development and coordination of older Indian policy with the Administration of the Aging, as well as advocacy and coordination activities on behalf of Older American Indians within the Department.

I ask the Senator from New Mexico, Is this satisfactory and what you would like to see established?

Mr. BINGAMAN. Yes; I believe so and I will not offer my amendment. The needs of older Native Americans are many and diverse. The appointment of a person to occupy a position within the Office of the Commissioner is a significant step and will assist in addressing these needs. I intend to closely monitor the development of this position to insure that this person will be an effective advocate and liaison for the needs of the Indian elderly. I applaud the responsive action of the Commissioner on Aging and I thank the Indian community in New Mexico and Arizona for bringing this matter to my attention. I would like to thank the chairman for his assistance in this matter and express my appreciation to the Commissioner for her commitment. I would also like to thank Pete Conroy, staff director of the Subcommittee on Aging, who was of special assistance to me and my staff.

Mr. GRASSLEY. I, too, applaud the responsive action of the Commissioner on Aging and I thank the Senator from New Mexico for his leadership in bringing this issue to our attention. I believe your determined efforts in this matter will improve the effectiveness of this bill. As stated in the committee report accompanying this legislation, the committee also intends to monitor the development of the Office of Special Assistant and encourages joint

hearings by the Select Committee on Indian Affairs, the Special Committee on Aging, and the Subcommittee on Aging on this issue. I am hopeful such hearings will be held in the near future.

Mr. BINGAMAN. I thank the Senator from Iowa.

Mr. MELCHER. Madam President, I wish to also thank the chairman, ranking minority member, and the staffs of the Subcommittee on Aging not only for their fine work in developing the 1984 reauthorization legislation for the Older Americans Act, but for their attention to title VI which provides direct funding to Indian tribes. As the ranking minority member of the Indian Affairs Committee and as a member of the Special Committee on Aging, I am particularly concerned with the needs of the American Indian elderly.

I also commend my good friend from New Mexico for his pursuing the establishment of a focal point for title VI and services to American Indians within the Administration on Aging. I am pleased with Commissioner Tolliver's response that she will establish a Special Assistant position in her Office which will devote major attention to the development, coordination, and advocacy of Indian programs. I will join the Senator from New Mexico not only in monitoring the development of this position but in watching closely to see that it is working effectively to serve the needs of Indian older Americans.

I have been particularly concerned with the application process for title VI, the direct funding grants to Indian tribes for social and nutrition services. Two tribes in my State have been told by the Administration on Aging that they could not receive grants simply because, due to an administrative mixup in the State, they missed a one-time application deadline in 1980, 4 years ago. To me, this is not only inequitable but clearly contrary to the intent of the law. Madam President, I would like to ask the Senator from Iowa what will be done to assure that title VI grant funding is accessible to all eligible tribes just as title III is open to all of the eligible States?

Mr. GRASSLEY. In responding to my friend from Montana, I shall have printed in the RECORD a letter from the Commissioner on Aging to federally recognized Indian tribes and Alaskan Native groups interested in grants under title VI of the Older Americans Act, dated April 24, 1984.

I think this letter, along with the May 8, 1984 letter from the Commissioner that has been made a part of this colloquy point up the increasing awareness of the Administration on Aging for the need for full and accessible funding of all eligible tribes under title VI, including the two Montana tribes referred to by my friend from Montana.

I again assure the Senator from Montana that I, as chairman of the authorizing committee for the Older Americans Act, will be in consultation with the chairman of the Special Committee on Aging, Senator HEINZ, as well as the members of the Indian Affairs Committee so that this matter will maintain the high profile you and the Senator from New Mexico have given it.

Mr. MELCHER. I thank the Senator from Iowa and commend the Commissioner for her increasing attention to the problems of the American Indian elderly

Mr. GRASSLEY. I ask unanimous consent to have the letter I referred to printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADMINISTRATION ON AGING,
Washington, D.C., May 8, 1984.

Hon. CHARLES E. GRASSLEY,
Chairman, Subcommittee on Aging, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to your concern about the need for a Title VI focal point in the Administration on Aging (AOA) to address the policy needs of older Indians. In recognition of the need and in response to your concerns, I intend to establish a Special Assistant position in the Office of the Commissioner, shortly. The Special Assistant's responsibilities will include, as a major role, the development and coordination of older Indian policy within AOA, as well as advocacy and coordination activities on behalf of older Indians within the Department.

This Special Assistant will represent the Commissioner in the coordination of policy matters concerning the Title VI programs, including AOA representation in the Inter-Departmental Council on Indian Affairs. The specific duties of this position will include advising, consulting and cooperating with other Federal agencies and departments who propose or administer programs for older Indians, with an emphasis on those programs for older Indians administered by the Department of the Interior. In addition, the Special Assistant will be available to meet with Tribes and Tribal organizations, as well as you and the Committee staff, to discuss any matters that concern the health and welfare of older Indians.

We believe that the establishment of this position in my office will provide programs for older Indians with more visibility than they currently enjoy, and will provide Indian organizations with more direct access to AOA's policy making process.

I hope that this information will assist you, and I look forward to continuing to work with you on this important legislation.

Sincerely,
LENNIE-MARIE P. TOLLIVER, Ph.D.,
Commissioner on Aging.

ADMINISTRATION ON AGING,
Washington D.C., April 24, 1984.

To: Federally Recognized Indian Tribes and Alaskan Native Groups Interested in Grants Under Title VI of the Older Americans Act.

Thank you for your inquiry concerning Title VI of the Older Americans Act. The Administration on Aging (AOA) will accept competing applications from federally recognized Indian Tribes for a three-year project period for funding under Title VI of the Older Americans Act, Grants to Indian Tribes for Supportive and Nutritional Services for older Indians.

With the prospect of additional funding for Fiscal Year 1985, applications are being invited from new Tribes as well as from current grantees. Applications from current grantees and from new applicants are both due at the Office of Human Development Services, Department of Health and Human Services, by June 29, 1984. The enclosed Program announcement, which was printed in the Federal Register on April 10, 1984, will explain the details. An application kit and other information are enclosed. An acknowledgment card is enclosed in the kit. You should complete both sides, with your own address on the front. It will be returned to you when the application is received.

Information is also enclosed about a meeting to be held in Denver on May 15 to brief new applicants. We hope you will be able to attend.

For further information, please contact Mr. Michio Suzuki, Associate Commissioner for State and Tribal Programs, Administration on Aging, Room 4282, HHS-North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-0011.

We appreciate your interest in services for older Indians.

Sincerely,
LENNIE-MARIE P. TOLLIVER, PH. D.,
Commissioner on Aging.

Mr. DECONCINI. Madam President, I commend the chairman of the Subcommittee on Aging for moving the reauthorization of the Older Americans Act so expeditiously. As my good friends from New Mexico and Montana have aptly expressed, this act is vital to improving the quality of life for elderly people of this country. Furthermore, it is especially important for the Indian elderly because the nature of the problems they face requires the attention of the Administration on Aging which has the mandated responsibility to put in place a Federal policy that guides the coordination of services needed by the Native American elderly. I appreciate the good work of my colleagues on getting a commitment from the Administration to establish a position of Special Assistant for the purpose of addressing the policy needs of the Indian elderly. I strongly believe that having oversight hearings on issues related to Indian aging needs in the very near future will assure the timely development and implementation of the long-awaited policy. I join my colleagues in calling for such hearings.

Mr. JOHNSTON. Madam President, I am pleased to be a cosponsor of S. 2063, a bill to reauthorize the Older Americans Act for 3 additional years. Furthermore, I think it is appropriate that the Senate is considering this legislation during Older Americans Month.

Today, one out of nine Americans is a senior citizen. This means that there are as many Americans aged 65 and older as there are teenagers. Furthermore, seniors represent the fastest growing segment of our population. It is estimated that by the end of the century our senior population will include one out of every six Americans. The Older Americans Act represents the only Federal social services program solely directed toward improving the lives of our senior citizens and the aging of America's population reaffirms the need to reauthorize this act.

The Older Americans Act first became law in 1965. Since that time the programs funded through the act have grown from a few small social service grants and research projects to a network of over 1,500 individuals and community service projects. In addition to providing basic social and nutritional needs, the act also supports other important services at the local level, including employment, counseling, home health care, transportation, adult day care, information and referral, and legal services. Services are provided to all seniors regardless of income, but the law places a special emphasis on those in greatest social and economic need. The size of the budget for administering the Older Americans Act has increased from $7.5 million in fiscal year 1966 to over $1 billion in fiscal year 1984.

Madam President, I am especially proud of how the Older Americans Act has been implemented in my home State of Louisiana. Prior to enactment of the Older Americans Act, Louisiana had in place the basic framework for implementing the programs authorized by the act. It had already established a Commission on Aging and it had established the mechanism necessary to charter the parish councils on aging.

As the Older Americans Act developed through the year, so did the services provided by the councils on aging. For example, after enactment of the 1973 amendments to the act, Louisiana was divided into planning and service areas and area agencies on aging were designated. The area agencies began to establish a network of social and nutritional services that would eventually assist hundreds of thousands of Louisiana's senior population.

One of the Older Americans Act programs that has been especially beneficial to the elderly of Louisiana is the nutrition services program authorized under title III of the act. In the early years of the act, nutrition services were only available to seniors living in major cities. However, by 1980, nutrition services were available in every parish of the State and in 1983, over 4 million congregate and home-delivered meals were made available to more than 100,000 seniors in Louisiana.

Title V of the Older Americans Act establishes the senior community service employment program. This program helps low-income elderly find part-time public service employment. Last year, the program helped over 1,000 of Louisiana's elderly find employment with various community agencies, including those agencies that directly service the elderly.

The Older Americans Act has also served as the impetus for the establishment of the nursing home ombudsman program. Established in 1982 by the Louisiana Legislature, this program has assisted more than 4,000 residents of Louisiana's nursing homes. Under this program, the ombudsman serves as an advocate for the nursing home resident and tries to make the person's stay in the nursing home more enjoyable.

Title IV of the act provides funds for training, research, and demonstration projects in the field of aging. These funds have been used to establish curricula in gerontology at a number of Louisiana's State colleges and universities. Presently, Grambling University is the recipient of title IV funds.

In summary, it is evident that the programs authorized by the Older Americans Act have helped hundreds of thousands of Louisiana's senior population. I urge my colleagues in the Senate to join with me and support continuation of the important programs authorized by the Older Americans Act.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The bill was ordered to to engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA SELF-GOVERNMENT AND REORGANIZATION ACT AMENDMENT

Mr. BAKER. Madam President, if the minority leader can clear it, I would like to turn to the consideration of H.R. 5308.

Mr. BYRD. Madam President, there is no objection.

Mr. BAKER. Madam President, I ask unanimous consent that the Senate turn to the consideration of H.R. 5308.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5308) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The PRESIDING OFFICER. The bill will be considered as having been read the first and second times.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5308) was ordered to a third reading, read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Madam President, next I propose to ask the Senate to go to Calendar Order No. 863 if the minority leader can clear that up.

Mr. BYRD. Madam President, there is no objection.

Mr. BAKER. Madam President, I thank the minority leader.

BUDGET ACT WAIVER

Mr. BAKER. Madam President, this item also requires a budget waiver, and I observe now that there is a budget waiver here and available. The leadership on this side would like to consider both the budget waiver and the underlying item, if the minority leader can clear both of those items.

Mr. BYRD. Madam President, there is no objection.

Mr. BAKER. I thank the minority leader.

Madam President, I ask then that the Senate turn to the consideration of Senate Resolution 388, which is the budget waiver to accompany S. 1735.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 388) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1735.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 388) was agreed to as follows:

S. RES. 388

Resolved. That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1735, a bill to provide compensation to the Shoalwater Bay Indian Tribe of the

State of Washington in settlement of claims arising out of the issuance by the Secretary of the Interior of a patent of land to a private citizen out of lands that has previously been set aside for the use and benefit of the tribe and made a part of the tribe's reservation. The claim is the subject of Civil Action Numbered C83-167T in the United States District Court for the Western District of Washington at Tacoma in which the United States is a third-party defendant. S. 1735 violates section 303 of the Congressional Budget Act because it will provide new budget authority for fiscal year 1985 prior to the adoption of the first concurrent resolution on the budget for fiscal year 1985. The waiver of section 303 is necessary to allow the Senate to consider S. 1735 in a timely manner.

SHOALWATER BAY INDIAN TRIBE—DEXTER BY THE SEA CLAIM SETTLEMENT ACT

Mr. BAKER. Madam President, I now ask that the Senate turn to the consideration of Calendar Order No. 863, the underlying measure for which the budget waiver was granted.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1735) entitled the "Shoalwater Bay Indian Tribe—Dexter by the Sea Claim Settlement Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shoalwater Bay Indian Tribe-Dexter-by-the-Sea Claim Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in its patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in the civil action;

(6) the pendency of the civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States under section 4 of the Act:

(a) All rights, title, and interests of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, township 14N, range 11W, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate numbered 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided,* That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

Mr. GORTON. Madam President, I introduced this legislation on August 3, 1983. The purpose of this bill is to provide a legislative solution to a conflict that has arisen between the Shoalwater Bay Indian Tribe, owners of private property within the Shoalwater Bay Indian Reservation, and the United States as a party defendant.

On September 22, 1866, President Andrew Johnson established by Executive order the Shoalwater Bay Indian Reservation wherein specific lands in the Washington territory were reserved from sale and set apart for Indian purposes.

On August 1, 1872, the General Land Office of the United States issued a patent for lands in the Washington territory to a George N. Brown and included in that patent lands that are claimed to have been included in the previously established reservation. It is from that patent that the conflict between the Shoalwater Bay Indian Tribe and the successors in title to Mr. Brown arises, a conflict that has resulted in a civil class action suit for ejectment, damages, and to quiet title being filed in the U.S. District Court for the Western District of Washington at Tacoma by the Shoalwater Bay Indian Tribe against those successors in title to Mr. Brown.

This legislation would, upon payment of monetary compensation to the tribe, extinguish its claim and remove the cloud over approximately 60 parcels of private property held by owners whose title derives from a

patent issued by the U.S. Government 113 years ago. The bill also contains a section that authorizes the tribe to invest their own trust resources and absolves the Secretary of the Interior from any liability pertaining to the tribe's investments.

Madam President, I appreciate the prompt consideration of this bill.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENVIRONMENTAL PROGRAM ASSISTANCE ACT OF 1984

Mr. BAKER. Madam President, I now ask the Chair to lay before the Senate a message from the House on S. 518.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 518) entitled "An Act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control", do pass with the following amendment:

Page 1, strike out all after line 5, over to and including line 13 on page 5, and insert:

ENVIRONMENTAL PROGRAMS

SEC. 2. (a) Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and title IV of the Job Training Partnership Act.

(b) Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

(1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or

(3) affect existing contracts for services.

(C) Grants or agreements awarded under this Act shall be subject to prior appropriation Acts.

Mr. BAKER. Madam President, I move that the Senate concur in the House amendments.

The motion was agreed to.

OMNIBUS DEFICIT REDUCTION ACT OF 1984

Mr. BAKER. Next, Madam President, I ask the Chair to lay before the Senate a message from the House on H.R. 4170, the Omnibus Deficit Reduction Act of 1984.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendments of the Senate to the bill (H.R. 4170) entitled "An Act to provide for tax reform, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees:

From the Committee on Ways and Means, solely for consideration of titles I through VIII, section 1002, and title XI of the Senate amendments, and Division A of the House amendment to the Senate amendments: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Conable, Mr. Duncan, and Mr. Archer.

From the Committee on Ways and Means, solely for consideration of title IX (except for sections 921-926, 943, 944, 952, and 958) and section 1611 of the Senate amendments; and part A of title III and title VI of Division B of the House amendment to the Senate amendments: Mr. Rostenkowski, Mr. Jacobs, Mr. Rangel, Mr. Russo, Mr. Ford of Tennessee, Mr. Stark, Mr. Pease, Mr. Conable, Mr. Duncan, Mr. Moore, and Mr. Campbell.

From the Committee on the Budget, solely for consideration of title IX, section 1001, and titles XII-XVI of the Senate amendments, and Division B of the House amendment to the Senate amendments: Mr. Jones of Oklahoma, Mr. Panetta, Mr. Gephardt, Mr. Nelson of Florida, Mr. Donnelly, Mr. Derrick, Mr. Williams of Montana, Mr. Latta, Mr. Shuster, Mr. Fernzel, and Mr. Loeffler.

From the Committee on Appropriations, solely for consideration of title XIV and section 1606 of the Senate amendments: Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Conte, and Mr. McDade.

From the Committee on Armed Services, solely for consideration of such portions of section 1201 of the Senate amendments, and such portions of section 201 of Divison B of the House amendment to the Senate amendments, as relate to cost-of-living adjustments for military retirees, and title XV of the Senate amendments: Mr. Price, Mr. Nichols, Mr. Aspin, Mr. Dickinson, and Mr. Hillis.

From the Committee on Banking, Finance and Urban Affairs, solely for consideration of sections 1301-1314 of the Senate amendments: Mr. St Germain, Mr. Annunzio, Mr. Hubbard, Mr. Barnard, Ms. Oakar, Mr. Wylie, and Mr. McKinney.

From the Committee on Energy and Commerce, solely for consideration of title IX (except for sections 905, 909, 917, 919, 951, 955-957, subsections (a), (b), and (c) of sections 965, 966, 971-976, 981-985, and 992-997) and section 1611 of the Senate amendments, and title III (except for sections 308, 339, 340, and 342) and sections 650 and 661 of Division B of the House amendment to the Senate amendments: Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Luken, Mr. Walgren, Ms. Mikulski, Mr. Broyhill, Mr. Madigan, and Mr. Dannemeyer.

From the Committee on Government Operations, solely for consideration of title XV and sections 1603, 1605, 1609, and 1610(b) of the Senate amendments: Mr. Brooks, Mr. Fuqua, Mrs. Collins, Mr. English, Mr. Levitas, Mr. Horton, Mr. Erlenborn, and Mr. Clinger.

From the Committee on the Judiciary, solely for consideration of section 1604 of the Senate amendments: Mr. Rodino, Mr. Brooks, and Mr. Fish.

From the Committee on Post Office and Civil Service, solely for consideration of title XII and sections 1604 and 1607 of the Senate amendments, and title II of Division B of the House amendment to the Senate amendments: Mr. Ford of Michigan, Mr. Clay, Mrs. Schroeder, Mr. Garcia, Mr. Leland, Mr. Albosta, Ms. Oakar, Mr. Taylor, Mr. Gilman, Mr. Corcoran, and Mr. Courter.

From the Committee on Rules, solely for consideration of title XIV (except for subsection 1401(f)) of the Senate amendments: Mr. Pepper, Mr. Long of Louisiana, Mr. Beilenson, Mr. Frost, Mr. Quillen, and Mr. Lott.

From the Committee on Small Business, solely for consideration of title IV of Division B of the House amendment to the Senate amendments: Mr. Mitchell, Mr. Smith of Iowa, Mr. Addabbo, Mr. McDade, and Mr. Conte.

From the Committee on Veterans' Affairs, solely for consideration of title V of Division B of the House amendment to the Senate amendments: Mr. Montgomery, Mr. Edwards of California, Mr. Edgar, Mr. Applegate, Mr. Leath of Texas, Mr. Shelby, Mr. Hammerschmidt, Mr. Wylie, and Mr. Hillis.

Resolved, That the House disagree to the amendment of the Senate to the title of the aforesaid bill, insist upon its disagreement, and commit said amendment to the conference.

Mr. BAKER. Madam President, I move that the Senate disagree to the House amendment and agree to the conference requested by the House of Representatives on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed:

From the Committee on Appropriations, to consider those matters dealing with appropriations: Senators HATFIELD, STEVENS, WEICKER, STENNIS, and BYRD;

From the Committee on Finance, to consider those matters within that committee's jurisdiction: Senators DOLE, PACKWOOD, ROTH, DANFORTH, CHAFEE, LONG, BENTSEN, MATSUNAGA, and BAUCUS;

From the Committee on the Budget, to be general conferees: Senators DOMENICI, ARMSTRONG, KASSEBAUM, BOSCHWITZ, TOWER, CHILES, HOLLINGS, JOHNSTON, and SASSER;

From the Committee on Banking, Housing, and Urban Affairs, to consider those matters within that Committee's jurisdiction: Senators GARN, TOWER, and PROXMIRE;

From the Committee on Governmental Affairs, to consider those matters within the Committee's jurisdiction and in addition, from the Committee on Armed Services to consider only those sections dealing with competition in contracting: Senators ROTH, STEVENS, MATHIAS, COHEN, QUAYLE, EAGLETON, BINGAMAN, and LEVIN.

Mr. BAKER. Madam President, that may rank among the largest conferences I ever saw, but it is one of high quality.

AUTHORIZING TESTIMONY OF ROXANNA PRATT

Mr. BAKER. Madam President, there is a resolution dealing with the authorization of an employee of the Senate to give testimony. For myself and the distinguished minority leader, I send that resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 393) authorizing testimony of Roxanna Pratt in the case of *United States of America* v. *Chung Yup Yum, a.k.a. Charles S. Yum, Ki Bung Lee, and Sung Kyu Chun*, Criminal Action No. 84-47.

Mr. BAKER. Madam President, my compliments to the assistant legislative clerk for his reading of the title.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Madam President, this resolution would authorize testimony and the production of documents by Roxanna Pratt, a former employee in Senator THURMOND's office, in the case of United States of America against Chung Yup Yum, etc., et al., which is pending in the United States District Court for the District of South Carolina. Senator THURMOND's office responded to a request for casework assistance prior to the commencement of this matter in the courts. This case is presently set for trial on June 4, 1984, and a subpena for the testimony and documents has been issued. This resolution would authorize Ms. Pratt to provide documents and testimony and would authorize the Senate Legal Counsel to represent Ms. Pratt in connection with this matter relating to her Senate responsibilities and to assert any Senate privileges if the need arises.

The resolution was agreed to.

The preamble was agreed to.

The preamble, with its resolution, reads as follows:

Whereas, the case of *United States of America* v. *Chung Yup Yum, etc., et al.*, Criminal Action No. 84-47, is pending in the United States District Court for the District of South Carolina;

Whereas, counsel for the defendant has served a trial subpoena for testimony and documents which is answerable by a former member of Senator Thurmond's staff, Roxanna Pratt, and relates to her duties while an employee of the Senate;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a) (1982), the Senate may direct its counsel to represent the employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control of in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Roxanna Pratt is connection with her testimony and the production of subpoenaed documents in the case of *United States of America* v. *Chung Yup Yum, etc., et al.*, Criminal Action No. 84-47.

SEC. 2. That Roxanna Pratt is authorized to testify and to produce documents in the case of *United States of America* v. *Chung Yup Yum, etc., et al.*, Criminal Action No. 84-47, except concerning matters that she and the Senate Legal Counsel or his representative determine are privileged from disclosure.

Mr. BAKER. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I say to the minority leader that on today's Executive Calendar are a number of nominations that are cleared on this side. I suspect that there is not an exact match on the clearances on our two calendars, so let me identify those that we are cleared on and see which ones the minority leader is cleared on and which ones we may consider by unanimous consent.

On this side we are cleared to consider all those nominations on page 5 which begin with "Executive Office of the President," Calendar No. 611; all those nominations on page 6 under "Air Force"; on page 7, under "Air Force" and "Army"; on page 8, under "Army"; on page 9, "Army," "Navy," and "Marine Corps"; on page 10, "Marine Corps"; on page 11, "Marine Corps"; on page 12, all "Nominations Placed on the Secretary's Desk in the Air Force, Foreign Service, Marine Corps," but not including the single item under "Foreign Service" on page 12.

Mr. BYRD. Madam President, the nominations referred to by the distinguished majority leader are cleared.

Mr. BAKER. I thank the minority leader.

Madam President, I ask unanimous consent that the Senate go into executive session for the purpose of considering just those nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Jacqueline E. Schafer, of New York, to be a member of the Council on Environmental Quality.

[NEW REPORTS]

DEPARTMENT OF ENERGY

Ben C. Rusche, of South Carolina, to be Director of the Office of Civilian Radioactive Waste Management. (New Position—Public Law 97-425 of January 7, 1983).

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Terry Edward Branstad, of Iowa, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1987.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Robert T. Marsh, [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Lawrence A. Skantze, [redacted] U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, U.S. Code, section 601:

To be general

Lt. Gen. Larry D. Welch, [redacted], U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 8218, 8362, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Herman J. Carpenter, [redacted], Air Force Reserve.

Brig. Gen. William L. Harper, [redacted], Air Force Reserve.

Brig. Gen. Alan G. Sharp, [redacted], Air Force Reserve.

To be brigadier general

Col. Ronald C. Allen, Jr., [redacted], Air Force Reserve.

Col. Boyd L. Eddins, [redacted], Air Force Reserve.

Col. George D. Eggert, [redacted], Air Force Reserve.

To be brigadier general

Col. Richard L. Hall, [redacted], Air Force Reserve.

Col. William N. Rowley, [redacted], Air Force Reserve.

Col. Stuart L. Schroeder, [redacted], Air Force Reserve.

Col. David S. Trump, [redacted], Air Force Reserve.

Col. Walter G. Vartan, [redacted], Air Force Reserve.

Col. Richard A. Wood, [redacted], Air Force Reserve.

Col. Duane A. Young, [redacted], Air Force Reserve.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a positin of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Donald M. Babers, [redacted], United States Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William E. Odom, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Lawrence F. Skibbie, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Clarence E. McKnight, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, and 3036, to be assigned as importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Emmett Paige, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, and 3036, to be assigned as Chief of Engineers, United States Army, a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be chief of engineers, U.S. Army and to be lieutenant general

Maj. Gen. Elvin R. Heiberg III, [redacted], United States Army.

NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Edward S. Briggs, [redacted], 1110, United States Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Eugene A. Grinstead, Jr., Supply Corps, [redacted], United States Navy.

MARINE CORPS

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William H. Fitch, [redacted], United States Marine Corps.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Harold A. Hatch, [redacted], U.S. Marine Corps.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John H. Miller, [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, U.S. Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. George B. Crist, [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alfred M. Gray, Jr., [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Keith A. Smith, [redacted], U.S. Marine Corps.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, FOREIGN SERVICE, MARINE CORPS

Air Force nominations beginning David J. Kempl, Jr., and ending Patricia M. Currystradleigh, which nominations were received by the Senate and appeared in the Congressional Record of May 8, 1984.

Air Force nominations beginning Edward L. Bailey, and ending Philip E. Zongker, which nominations were received by the Senate and appeared in the Congressional Record of May 8, 1984.

Air Force nominations beginning Will T. Abernathy, Jr., and ending Arthur W. Spiro, which nominations were received by the Senate and appeared in the Congressional Record of May 8, 1984.

Air Force nominations beginning John E. Loffland, and ending William E. Marr, which nominations were received by the Senate and appeared in the Congressional Record of May 8, 1984.

Marine Corps nominations beginning Donald L. Abblitt, and ending Michael V. Ziehmn, which nominations were received by the Senate and appeared in the Congressional Record of May 8, 1984.

NOMINATION OF BEN C. RUSCHE TO BE DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

Mr. McCLURE. Madam President, I rise in strong support of the nomination of Ben C. Rusche, of South Carolina, to be Director of the Office of Civilian Radioactive Waste Management. On May 23, the Committee on Energy and Natural Resources endorsed Mr. Rusche's nomination by a vote of 17 to 0. The committee's vote followed a nomination hearing on Thursday, May 17.

The position for which Mr. Rusche has been nominated was established by Public Law 97-425, the Nuclear Waste Policy Act of 1982, and was created to insure the effective implementation of the provisions of that act. Earlier this year, Energy Secretary Hodel indicated his intention to assign responsibility for the uranium enrichment program to the Director of the Office of Civilian Radioactive Waste Management. Several Members of Congress expressed concern that such an assignment of other program responsibilities would detract from the Director's capability to focus maximum attention on the nuclear waste program. By letter of May 15, Secretary Hodel has informed the Senate that Mr. Rusche, if confirmed, would not be assigned any other program responsiblities.

Madam President, I ask unanimous consent that Secretary Hodel's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., May 15, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: When I announced a Departmental reorganization on January 19 of this year, I also mentioned that I would propose moving the uranium enrichment function from the Assistant Secretary for Nuclear Energy to the Director of the Office of Civilian Radioactive Waste Management, when the President made a nomination for that position. We felt this would provide the Congress an opportunity to decide whether it thought this proposal to be worthwhile, and that this could be con-

sidered at the time of the confirmation hearing for the Director.

In the time since I announced those organizational changes, I have had occasion to hear from several members of Congress and a number of other people concerned with the issues of nuclear waste and uranium enrichment. In general, the advice has been that the management of those two functions not be merged. The feeling is that the nuclear waste issue is at a critical stage in its development and that the complexity of the uranium enrichment issue would unduly encumber the Director of the Office of Civilian Radioactive Waste Management. Therefore, I have determined not to assign the additional management responsibilities of uranium enrichment to the Director of Civilian Radioactive Waste Management.

It is my hope, Mr. Chairman, that you will inform the Committee that I appreciate the members taking their time to share their thoughts and concerns on these issues with me. I trust this decision not to proceed is evidence of my continuing desire to be responsive.

I was pleased to learn that you had set a hearing so promptly for Ben Rusche and hope he will be speedily confirmed.

With best wishes,

Sincerely,

DONALD PAUL HODEL.

Mr. McCLURE. Madam President, Mr. Rusche is eminently qualified to head the Office of Civilian Radioactive Waste Management. He has distinguished himself as an effective manager and has demonstrated keen knowledge of the civilian nuclear industry in positions he has held both in the public and private sectors. In his prepared statement before the committee, Mr. Rusche stated:

The position to which I have been nominated broadens my involvement in the country's nuclear program. Some would say it may present the most challenging opportunity yet for balancing management, technical, political, and social concerns and priorities. I welcome the opportunity to apply my experience to this task. But success in this venture will require more than experience. It will require commitment to the purpose and spirit of the act. It will require patience and dedication to assure that the legitimate interests of States and affected Indian tribes, the industry, and indeed, all Americans, are given full and fair consideration in carrying out the program.

On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the nomination of Ben C. Rusche to be Director of the Office of Civilian Radioactive Waste Management.

Mr. BAKER. Madam President, I move to reconsider en bloc the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

WREATH-LAYING CEREMONY IN THE CAPITOL ROTUNDA

Mr. BAKER. Madam President, on Friday, May 25, at 2:45 p.m., there will be a ceremony in the rotunda of the Capitol for the purpose of laying wreaths at the bier of an Unknown Soldier killed in Vietnam.

I ask that the Chair designate those Senators on behalf of the leadership who will attend and represent the Senate.

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the minority leader, pursuant to the provisions of House Concurrent Resolution. 296, appoints the following Senators as the escort committee for the wreath-laying ceremony in the Capitol rotunda on Friday, May 25, 1984, at 2:45 p.m., in honor of an Unknown Soldier killed in Vietnam: The Senator from South Carolina (Mr. THURMOND), the Senator from Virginia (Mr. WARNER), the Senator from Wyoming (Mr. SIMPSON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Rhode Island (Mr. PELL), the Senator from Maine (Mr. MITCHELL), and the Senator from Montana (Mr. BAUCUS).

Mr. BAKER. I thank the Chair.

Madam President, that completes the action of my unanimous-consent business.

I see we have a messenger at the door from the House of Representatives who may bring us good tidings.

I yield so that the Chair may admit the messenger.

MESSAGE FROM THE HOUSE

At 6:33 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; it recedes from its disagreement to the amendments of the Senate numbered 1, 7, 11, 12, 13, 15, 19, 21, 22, 25, 29, 30, and 31 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 5, 8, 10, 14, 16, 20, 27, and 34, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5692) to provide for a temporary increase in the public debt limit, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2174) to amend title of the United States Code to prohibit certain tampering with consumer products, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

House Concurrent Resolution 310. A concurrent resolution providing for an adjournment of the House from May 24 to May 30, 1984, and an adjournment of the Senate from May 24, May 25, and May 26, 1984, to May 31, 1984.

HOUSE CONCURRENT RESOLUTION 313—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 313 just received from the House of Representatives.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 313) providing for an adjournment of the two Houses of Congress.

The Senate proceeded to the consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 313) was agreed to, as follows:

H. CON. RES. 313

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 24, 1984, it stand adjourned until 12 o'clock merdian on Wednesday, May 30, 1984, and that when the Senate adjourns on Thursday, May 24, 1984, or on Friday, May 25, 1984, or on Saturday, May 26, 1984, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand adjourned until 11 o'clock ante meridiem on Thursday, May 31, 1984.

Mr. BAKER. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MELCHER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, if other Senators seek to speak, I ask unanimous consent that the time for the transaction of routine morning business be extended under the same terms and conditions until 6:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES-CANADIAN SPECIAL SERVICE FORCE

Mr. MELCHER. Madam President, 40 years ago, on June 4, 1944, a special military unit made up of Canadians and Americans became the first Allied force to enter Rome, making it the first Axis capital liberated in World War II.

In commemoration of this event, United States and Canadian veterans of the 1st Special Service Force will unveil a memorial plaque at St. Paul's Gate in Rome during the weekend of June 2 to 3.

It was significant that the first force to enter the Eternal City would be a force composed of two nations. The war effort against the aggression of the fascist dictatorships was a united effort. The Allied armies of 16 nations fought through the winter's snow and cold and the rains, mud, and floods of spring. It was rugged, bloody, miserable war.

The 1st Special Service Force was born of necessity. It had become apparent to Allied leaders that a versatile assault group, able to undertake any mission, was needed. The first role envisioned was that of special parachute troops who would be dropped over Axis-overridden Europe to sabotage and to aid resistance. The United States and Canada promised to raise such a force and they did. Volunteers stepped forward in response to a request which asked for "single men between ages 21 and 35 who have completed 3 years or more of grammar school and within the occupational range of lumberjacks, forest rangers, hunters, northwoodsmen, game wardens, prospectors, and explorers."

These tough, resourceful troops were trained at Fort Harrison, Montana, near Helena, the State's capital. They became legends during their stay in that mile-high mountain valley. Then, marked by a red spearhead shoulder flash, they went into battle, first in the Aleutians and then in the Mediterranean. British and Canadian forces began the invasion of Italy September 3, 1943. Lt. Gen. Mark Clark's U.S. 5th Army landed at Salerno 6 days later. The 1st Special Service Force fought side by side with Clark's forces up the length of Italy.

In the spring offensive, the combined United States-Canadian special force, known as the Devil's Brigade, and attached armor and artillery units were among those attacking units that seized eight bridges over the Tiber leading into Rome and allowed the Allies to liberate the city and then press on north.

Within a month, the special force departed for another mission and left Clark's command. General Clark wrote on June 30, 1944:

> I was particularly happy to have under my command your Force with its international composition. Successfully solving the various difficulties which are inherent under such circumstances, your Force symbolizes the efforts of the United Nations in this war and gives promise for the more solid and permanent peace to follow.

This joint resolution asks the American people, who have benefited throughout their history from the contributions of many nationalities, colors, and creeds, to recognize and acknowledge with gratitude the achievements of the cooperative effort embodied by the 1st Special Service Force.

In addition, however, we have a responsibility to express our gratitude through our actions. Some Canadian members of the Special Forces returned to the United States, settled here, married, and reared families and became U.S. citizens. Now, in their later years, they are finding they are denied veterans' medical benefits by both countries. They are no longer entitled to Canadian veterans' benefits because of their U.S citizenship. They are held ineligible for U.S. veterans' benefits because they served under the Canadian flag while in the Special Services.

To correct this situation, I am one of the sponsors of S. 1742, a bill which would provide hospital, nursing home, and domiciliary care and medical services to these individuals. To the credit of the United States, we have fulfilled similar obligations in other cases. The United States provides U.S. veterans' health benefits to Polish and Czech World War II freedom fighters who are now U.S. citizens.

The number of Canadian Special Services veterans who are now U.S. citizens is estimated to be around 100. We owe this to our Canadian allies, particularly those who served in the 1st Special Service Force. The bill, S. 1742, will see that justice is done.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

ORDERS FOR MONDAY, JUNE 4, 1984

Mr. BAKER. Madam President, may I make one final unanimous-consent request or series of requests and announcements.

Madam President, I ask unanimous consent that, when the Senate convenes at noon on Monday, June 4, after the recognition of the two leaders under the standing order, Senator PROXMIRE be recognized on a special order of not to exceed 15 minutes, to be followed by a period for the transaction of routine business of not to exceed 30 minutes in length with statements therein limited to not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCEDURE ON THURSDAY, MAY 31, 1984

Mr. BAKER. Madam President, the Senate will stand in adjournment in a few moments pursuant to the provisions of House Concurrent Resolution 313 to convene again at 11 a.m. on Thursday, May 31. On that day, it is not anticipated that business will be transacted, unless there are extraordinary circumstances, in which event the minority leader and I would confer as to the necessity of that. But committees will have until 3 p.m. on that day in which to file reports.

After the Senate has opened and the acting majority leader is recognized, it is anticipated that the Senate will then stand in recess until the hour of 12 noon on the following Monday, which will be June 4. The program is outlined in the order just entered with respect to the standing order and special orders and morning business.

THE BANKRUPTCY BILL

I would remind Senators that on Monday, under the rules of the Senate, pursuant to this adjournment and by unnimous consent as previously entered, the Senate will have before it H.R. 5174, which is the bankruptcy bill, and at that time the Packwood amendment No. 3112 will be the pending question.

Madam President, I would say finally that Senators should assume that the period between June 4 and June 29 will be a very busy period. I urge Senators to take account of that in making their plans. Almost certainly there will be business transacted on Mondays and Fridays during that period. The leadership will not make an announcement now that there will be votes every Monday and Friday, but I would urge Senators to assume that. The time will be very short before the July 4 break. A number of items must be dealt with.

But in addition, Madam President, I would urge Senators to consider that by then we will have the beginning flow of regular appropriation bills, it is assumed. Therefore, I urge Senators

to arrange their schedules so that they may accommodate themselves to a full 5-day week during that period with the anticipation of votes throughout that period.

Madam President, I have nothing further. I would inquire of the minority leader if he has anything else.

Mr. BYRD. Madam President, I do not have.

I thank the majority leader.

Mr. BAKER. I thank the minority leader.

ADJOURNMENT UNTIL 11 A.M., THURSDAY, MAY 31, 1984

Mr. BAKER. Madam President, I move in accordance with the provisions of House Concurrent Resolution 313 that the Senate now stand in adjournment.

The motion was agreed to; and at 6:50 p.m., the Senate adjourned until Thursday, May 31, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 24, 1984:

THE JUDICIARY

Jean Galloway Bissell, of South Carolina, to be U.S. circuit judge for the Federal circuit, vice Robert L. Kunzig, deceased.

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California, vice Howard B. Turrentine, retired.

James M. Ideman, of California, to be U.S. district judge for the central district of California, vice Lawrence T. Lydick, retired.

William J. Rea, of California, to be U.S. district judge for the central district of California, vice Malcolm M. Lucas, retired.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be captain

Michael H. Fleming
John W. Carpenter
Walter S. Simmons
Edward M. Gelb
John P. Vandermeulen
Otto F. Steffin
Theodore Wyzewski
James M. Wintermyre
Fidel T. Smith
William M. Noble
Carl W. Fisher
Glen R. Schaefer

To be lieutenant

Richard R. Behn
Cynthia McFee
Dennis A. Seem
Daniel R. Herlihy
Gary P. Bulmer
David J. Kruth
Eric C. Stirrup
James M. Herkelrath
Stephen L. Carlson
John W. Humphrey, Jr.
David L. Kummerlowe
Neil M. Bogue
David I. Actor
Paul D. Moen
Paul E. Pegnato
Marlene Mozgala

To be lieutenant (junior grade)

Craig N. McLean
Russell L. Richards
Thomas A. Wolf
Brian S. Postle
Paul T. Steele
Philip M. Kenul
G. Dennis Buzzard
Svetlana I. Andreeva
Ilene Byron
Eric G. Hawk
Carolyn J. Reid
Robert W. Anderson
Russell E. Brainard
John A. Miller
Joyce L. Judson
Jeffrey A. Koch
Geoffrey T. Lebon
James E. Waddell, Jr.
M. Gail Inman

To be ensign

Ian A. Fergusson
Kenneth J. Cirillo
Timothy J. Clancy
William V. Flanagan
Eric D. Gardner
David A. Hodges
Gregg Lamontagne
Katrina M. Peter
Donna L. Sorensen
Mark H. Pickett
Cy R. Oggins
David W. Moeller
Kay L. Miller
Evelyn D. Lempriere
Lee M. Cohen
Amelia McAllister
Fred G. Rose
Suzanne D. LaReau
John E. Lowell
Mark W. Hulsbeck
Thomas K. Porta
John W. Lovell
Morgan S. Lynn
David M. Mattens
Brian H. Mulderrig
Steven E. Crocker
Steven H. Kramer
Jon E. Rix
Kenneth Kramer
Frank B. Worsham
Thomas W. Hurst
Stephen M. Brezinski

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Joseph T. Palastra, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William H. Schneider, [redacted], U.S. Army.

The following-named officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. John L. Fugh, [redacted], Judge Advocate General Corps, U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 24, 1984:

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Terry Edward Branstad, of Iowa, to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1987.

DEPARTMENT OF ENERGY

Ben C. Rusche, of South Carolina, to be Director of the Office of Civilian Radioactive Waste Management.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

Jacqueline E. Schafer, of New York, to be a member of the Council on Environmental Quality.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Gen. Robert T. Marsh, [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Lawrence A. Skantze, [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Larry D. Welch, [redacted], U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 8218, 8362, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Herman J. Carpenter, [redacted], Air Force Reserve.
Brig. Gen. William L. Harper, [redacted], Air Force Reserve.
Brig. Gen. Alan G. Sharp, [redacted], Air Force Reserve.

To be brigadier general

Col. Ronald C. Allen, Jr., [redacted], Air Force Reserve.
Col. Boyd L. Eddins, [redacted], Air Force Reserve.
Col. George D. Eggert, [redacted], Air Force Reserve.
Col. Richard L. Hall, [redacted], Air Force Reserve.
Col. William N. Rowley, [redacted], Air Force Reserve.
Col. Stuart L. Schroeder, [redacted], Air Force Reserve.
Col. David S. Trump, [redacted], Air Force Reserve.
Col. Walter G. Vartan, [redacted], Air Force Reserve.
Col. Richard A. Wood, [redacted], Air Force Reserve.
Col. Duane A. Young, [redacted], Air Force Reserve.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Donald M. Babers, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William E. Odom, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Lawrence F. Skibbie, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Clarence E. McKnight, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Emmett Paige, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, sections 601 and 3036, to be assigned as chief of engineers, U.S. Army, a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be chief of engineers, U.S. Army and to be lieutenant general

Maj. Gen. Elvin R. Heiberg III, [redacted], U.S. Army.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Edward S. Briggs, [redacted] U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Eugene A. Grinstead, Jr., Supply Corps, [redacted] U.S. Navy.

IN THE MARINE CORPS

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be lieutenant general

Lt. Gen. William H. Fitch, [redacted], U.S. Marine Corps.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be lieutenant general

Lt. Gen. Harold A. Hatch, [redacted], U.S. Marine Corps.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be lieutenant general

Lt. Gen. John H. Miller, [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. George B. Crist, [redacted], U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alfred M. Gray, Jr., [redacted] U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Keith A. Smith, [redacted], U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning David J. Kempi, Jr., and ending Patricia M. Currystradleigh, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 8, 1984.

Air Force nominations beginning Edward L. Bailey, and ending Philip E. Zongker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 8, 1984.

Air Force nominations beginning Will T. Abernathy, Jr., and ending Arthur W. Spiro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD May 8, 1984.

Air Force nominations beginning John E. Loffland, and ending William E. Marr, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 8, 1984.

IN THE MARINE CORPS

Marine Corps nominations beginning Donald L. Abblitt, and ending Michael V. Ziehmn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 8, 1984.

HOUSE OF REPRESENTATIVES—*Thursday, May 24, 1984*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are conscious of all people, O God, who dedicate their lives, not only to the necessities of life, but who strive to use their abilities to promote values that bring us together in unity and understanding. We are specially aware of people in this assembly who give long hours to their tasks and who seek to be responsible and fair in their duties. May Your good words of peace and grace, of health and joy, of forgiveness and conciliation, be with us all both now and in all the days to come. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the vote, the Chair will announce there are no 1-minutes today. We are going to go right into the business of the day. The debt limit will be the first item up, and following that we could very well have the 1-minutes.

The vote was taken by electronic device, and there were—yeas 324, nays 51, answered "present" 6, not voting 52, as follows:

[Roll No. 177]

YEAS—324

Ackerman	Annunzio	Bates
Addabbo	Anthony	Bedell
Akaka	Archer	Beilenson
Albosta	Aspin	Bennett
Alexander	AuCoin	Bereuter
Anderson	Barnes	Berman
Andrews (NC)	Bartlett	Bevill
Andrews (TX)	Bateman	Biaggi
Boehlert	Gray	Mineta
Boland	Green	Minish
Boner	Guarini	Moakley
Bonior	Gunderson	Molinari
Bonker	Hall (IN)	Mollohan
Borski	Hall, Ralph	Montgomery
Bosco	Hall, Sam	Moody
Boucher	Hamilton	Moore
Boxer	Hammerschmidt	Moorhead
Breaux	Hartnett	Morrison (CT)
Britt	Hatcher	Morrison (WA)
Brooks	Hefner	Mrazek
Brown (CA)	Hertel	Murphy
Broyhill	Hightower	Murtha
Bryant	Hillis	Myers
Burton (CA)	Hopkins	Natcher
Campbell	Horton	Nelson
Carney	Howard	Nichols
Carper	Hoyer	Nielson
Chandler	Hubbard	Nowak
Chappell	Huckaby	O'Brien
Chappie	Hughes	Oakar
Cheney	Hyde	Obey
Clarke	Ireland	Olin
Coats	Jeffords	Ortiz
Coleman (TX)	Johnson	Owens
Collins	Jones (NC)	Panetta
Conable	Jones (TN)	Parris
Conte	Kasich	Pashayan
Cooper	Kastenmeier	Patman
Courter	Kazen	Paul
Coyne	Kemp	Pease
Craig	Kennelly	Pepper
Crane, Daniel	Kildee	Perkins
Crane, Philip	Kindness	Petri
D'Amours	Kleczka	Pickle
Daniel	Kogovsek	Porter
Dannemeyer	Kolter	Price
Darden	Kostmayer	Pursell
Daschle	LaFalce	Quillen
Davis	Lagomarsino	Rahall
DeWine	Lantos	Ratchford
Dicks	Latta	Ray
Dingell	Leach	Regula
Dixon	Lehman (CA)	Reid
Donnelly	Lehman (FL)	Richardson
Dorgan	Leland	Ridge
Dowdy	Levin	Rinaldo
Downey	Levine	Ritter
Dreier	Levitas	Robinson
Duncan	Lewis (FL)	Rodino
Dwyer	Lipinski	Roe
Dyson	Livingston	Rose
Early	Loeffler	Rostenkowski
Eckart	Long (LA)	Roth
Edgar	Long (MD)	Rowland
Edwards (AL)	Lott	Roybal
Edwards (CA)	Lowery (CA)	Rudd
Edwards (OK)	Lowry (WA)	Russo
English	Lujan	Savage
Erdreich	Luken	Sawyer
Erlenborn	Lungren	Scheuer
Evans (IL)	MacKay	Schneider
Fazio	Madigan	Schulze
Feighan	Markey	Schumer
Ferraro	Marlenee	Seiberling
Fish	Martin (IL)	Shannon
Flippo	Martin (NC)	Shaw
Florio	Martinez	Shumway
Foglietta	Matsui	Shuster
Foley	Mavroules	Siljander
Fowler	Mazzoli	Simon
Frank	McCain	Sisisky
Franklin	McCandless	Skelton
Frenzel	McCloskey	Slattery
Frost	McCurdy	Smith (FL)
Fuqua	McDade	Smith (IA)
Garcia	McEwen	Smith (NE)
Gekas	McHugh	Smith (NJ)
Gephardt	McKernan	Smith, Robert
Gingrich	McKinney	Snowe
Glickman	McNulty	Snyder
Gonzalez	Mica	Solarz
Gore	Michel	Spence
Gradison	Miller (CA)	Spratt
Staggers	Thomas (GA)	Whitehurst
Stangeland	Torres	Whitley
Stark	Torricelli	Whitten
Stokes	Towns	Williams (OH)
Stratton	Traxler	Winn
Studds	Udall	Wirth
Stump	Valentine	Wolf
Sundquist	Vandergriff	Wolpe
Swift	Vento	Wortley
Synar	Volkmer	Wright
Tallon	Vucanovich	Wyden
Tauke	Walgren	Wylie
Tauzin	Weaver	Yates
Taylor	Weber	Yatron
Thomas (CA)	Weiss	Young (MO)

NAYS—51

Badham	Hansen (UT)	Packard
Bilirakis	Harkin	Penny
Bliley	Hayes	Roberts
Broomfield	Hiler	Roemer
Brown (CO)	Holt	Rogers
Burton (IN)	Jacobs	Sabo
Clinger	Jenkins	Schaefer
Coughlin	Jones (OK)	Schroeder
Daub	Kramer	Sikorski
Dickinson	Lewis (CA)	Skeen
Durbin	Lloyd	Smith, Denny
Emerson	Mack	Solomon
Fiedler	Martin (NY)	Stenholm
Fields	McGrath	Walker
Gejdenson	Miller (OH)	Whittaker
Goodling	Mitchell	Young (AK)
Gregg	Oxley	Zschau

ANSWERED "PRESENT"—6

Carr	Fascell	Oberstar
Dymally	Lundine	St Germain

NOT VOTING—52

Applegate	Gibbons	Ottinger
Barnard	Gilman	Patterson
Bethune	Gramm	Pritchard
Boggs	Hall (OH)	Rangel
Byron	Hance	Roukema
Clay	Hansen (ID)	Sensenbrenner
Coelho	Harrison	Sharp
Coleman (MO)	Hawkins	Shelby
Conyers	Heftel	Vander Jagt
Corcoran	Hunter	Watkins
Crockett	Hutto	Waxman
de la Garza	Kaptur	Wheat
Dellums	Leath	Williams (MT)
Derrick	Lent	Wilson
Evans (IA)	Marriott	Wise
Ford (MI)	McCollum	Young (FL)
Ford (TN)	Mikulski	
Gaydos	Neal	

□ 1020

Mr. HARKIN changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2556. An act to authorize appropriations for the American Folklife Center for fiscal years 1985 through 1989;

S.J. Res. 254. Joint resolution to designate the month of October 1984 as "National Down's Syndrome Month";

S.J. Res. 288. Joint resolution to designate the week of September 16, 1984, through September 22, 1984, as "Emergency Medicine Week"; and

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Day."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3755) entitled "An act to amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. BENTSEN, and Mr. MOYNIHAN to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1429) entitled "An act to amend the Small Business Act to extend and strengthen the small business development center program, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WEICKER, Mr. HATCH, Mr. BOSCHWITZ, Mr. BUMPERS, and Mr. NUNN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1961) entitled "An act to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to the herbicide known as agent orange and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SIMPSON, Mr. THURMOND, and Mr. CRANSTON to be the conferees on the part of the Senate.

DISAGREEING TO TITLE AMENDMENT TO H.R. 4170, TAX REFORM ACT OF 1983

The SPEAKER. Without objection, the House disagrees to the Senate amendment to the title of H.R. 4170 and insists on its disagreement.

There was no objection.

APPOINTMENT OF ADDITIONAL MEMBERS TO REPRESENT THE HOUSE MAY 25 THROUGH MAY 28, 1984, WHILE REMAINS OF UNKNOWN AMERICAN SOLDIER OF VIETNAM CONFLICT LIES IN STATE IN THE ROTUNDA

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution 296, 98th Congress, the Chair appoints the following additional Members to represent the House of Representatives May 25 through May 28, 1984, when the remains of the Unknown American Soldier who lost his life during the Vietnam conflict will lie in state in the rotunda of the Capitol:

Mr. BONIOR of Michigan;
Mr. GRAY of Pennsylvania;
Mr. STUMP of Arizona; and
Mr. MARTIN of New York.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement, that the House will consider the debt limit extension first. Then the House will return to the Defense Department authorization bill. If and when the Senate completes a bankruptcy bill, the Judiciary Committee will come to the floor and ask unanimous consent to bring it up. If that is denied, of course, they would have to go to the Rules Committee.

The leadership intends during the course of the day to bring up the conference report on House Joint Resolution 492, urgent supplemental appropriations.

To permit consideration of these matters, we will ask the Armed Services Committee to step aside.

Immediately following the debt limit, the Chair will recognize for 1 minute speeches and then go on the Defense authorization.

The Chair recognizes the gentleman from Illinois.

DEBT LIMIT EXTENSION

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the unanimous consent agreement entered into on Tuesday, May 22, 1984, I call up the bill (H.R. 5692) to provide for a temporary increase in the public debt limit, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The Clerk read the bill, as follows:

H.R. 5692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on June 22, 1984, the applicable public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $30,000,000,000.

SEC. 2. INCREASE IN LIMIT ON LONG-TERM BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out "$150,000,000,000" and inserting in lieu thereof "$200,000,000,000".

SEC. 3. AUTHORITY TO OBTAIN CERTAIN SERVICES AND FACILITIES AND INCUR CERTAIN ADMINISTRATIVE EXPENDITURES.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 332. Miscellaneous administrative authority

"The Secretary of the Treasury may to the extent provided in advance by appropriation Acts—

"(1) contract for the temporary or intermittent services of experts or consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the per diem equivalent to the rate for GS-18;

"(2) contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

"(3) provide for official functions, and reception and representation activities;

"(4) maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees:

"(5) provide athletic and related activities for students at the Federal Law Enforcement Training Center, Glynco, Georgia;

"(6) install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by or under jurisdiction and control of the United States Government and, subsequently, to remove the facilities therefrom;

"(7) enter into reciprocal assistance agreements with State and local law enforcement agencies and, in connection with the agreements and otherwise, train employees of those agencies, when necessary, with or without reimbursement;

"(8) provide laboratory assistance to State and local law enforcement agencies, with or without reimbursement;

"(9) obtain insurance for official motor vehicles operated in foreign countries; and

"(10)(A) when necessary for the performance of official business—

"(i) acquire in foreign countries real property by lease for periods not greater than 10 years and personal property for use in foreign countries by purchase, lease, or otherwise, and

"(ii) manage, maintain, repair, improve, and insure by purchase of commercial insurance policies properties referred to in clause (i), and

"(B) when appropriate, dispose of (by sale, rent, transfer, or otherwise) properties referred to in subparagraph (A)(i)."

(b) CLERICAL AMENDMENTS.—The analysis for subchapter II of chaper 3 of such title 31 is amended by adding at the end thereof the following new item:

"332. Miscellaneous administrative authority."

The SPEAKER. The gentleman form Illinois (Mr. ROSTENKOWSKI) is recognized for 1 hour.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the debt bill now under consideration.

The SPEAKER. Is there objection ot the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, for purposes of debate on this legislation, I yield 30 minutes of my time to my good friend, the gentleman from New York (Mr. CONABLE) and pending that I yield myself such time as I may consume.

Mr. Speaker, this is the same bill that the House rejected on Tuesday. It contains the same basic provisions. The substantive content of each of the three sections is not unusual, and each relates to matters that the House has debated and passed on every year or two of the past several decades.

INCREASE IN PUBLIC DEBT LIMIT

The bill contains an increase of $30 billion in the public debt limit, which will increase the present limit from $1,490 to $1,520 billion. This is a temporary $30 billion increase for the period through June 22, 1984. An increase in the debt limit covering a longer period of time will be reported by the Ways and Means Committee when the budget effects of pending tax and spending bills are known more accurately. The increase being made now is a temporary bridge requested by the Treasury Department because the present limit of $1.49 trillion will not be adequate to finance Federal outlays after May 24—the day before the Memorial Day recess begins.

The present situation is tight. At the close of business on May 21, the outstanding public debt was $1,486 trillion—and the operating cash balance was $5.6 billion. The cash balance and the $4.1 billion leeway under the present debt limit provide $9.6 billion as the only source of funds for paying bills until the debt limit is increased—about 3 days of outlays at the rate of spending at this time of the month.

INCREASED EXCEPTION FROM 4¼ PERCENT INTEREST RATE LIMIT

For the past 12 years or so, Congress has allowed the Treasury Department to issue to the public a limited amount of bonds that pay an interest rate above 4¼ percent. (A bond when issued will mature more than 10 years later.) This exception has been provided in recognition that interest rates on bonds will remain above 4¼ percent for the foreseeable future.

Increases in this authority have been provided about every 2 years. These periodic increases of limited authority allow Congress to review the debt management practices of the Treasury Department.

Present law permits up to $150 billion in bonds to be issued above the 4¼ percent ceiling. This authority will be exhausted late this year or early in 1985. Section 2 of the bill increases the limit to $200 billion, which should carry the Treasury Department through 1985 and probably into 1986 and provide it with a reasonably long planning period for management of long-term debt issues.

One of the collateral benefits of the long-term bond authority exceptions has been a gradual lengthening of the average maturity of the public debt. This development has been an important objective of the debt managers in the Treasury Department, and the House and the Ways and Means Committee have shared in this goal. In the past 8 years, the steady growth of the market for Treasury bonds has contributed to lengthening the average maturity of the public debt from 2 years and 5 months in March 1976 to 4 years and 4 months at the end of March 1984.

AUTHORIZATION OF TREASURY DEPARTMENT APPROPRIATIONS

The Treasury Department has received appropriations over a number of years for administrative items and official function and representational activities. These appropriations have been enacted without proper authorization. At the request of the Treasury Department (submitted in Executive Communication 1410), the Ways and Means Committee in section 3 of the bill has approved permanent authorizations for 10 activities. The bill authorizes the Secretary of the Treasury to conduct these activities, only to the extent that funds are provided in advance in appropriations acts.

Generally, these authorizations relate to reciprocal agreements between law enforcement agencies in the Treasury Department and those in State and local governments, and to various kinds of administrative and housekeeping activities in the United States but primarily in foreign countries. A description of the authorizations is in the appendix to this statement.

Mr. Speaker, I urge the House to pass this bill with this temporary debt limit extension.

APPENDIX

Under section 3 of the bill, the Secretary of the Treasury may, to the extent provided in advance in appropriations acts:

First, contract for the temporary services of experts or consultants;

Second, contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

Third, obtain insurance for official motor vehicles operated in foreign countries;

Fourth, install and maintain facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by the U.S. Government;

Fifth, maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

Sixth, enter into reciprocal assistance agreements with State and local law enforcement agencies;

Seventh, provide for official functions, and reception and representation activities;

Eighth, provide athletic and related activities for students at the Federal Law Enforcement Training Center;

Ninth, acquire real property in foreign countries by lease and personal property by purchase or lease, when necessary for the performance of official business; and

Tenth, provide laboratory assistance to State and local law enforcement agencies.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very little needs to be said about H.R. 5692. The Members should know the issue.

With a few modifications, this is the same bill that was before us 2 days ago. It would increase the statutory limit on the public debt by $30 billion through June 22—1 month and 1 day from now.

If the statutory limit is not increased sufficiently, the Treasury will not have enough borrowing authority to manage properly the Nation's financial affairs. This means, among other things, that Government checks might bounce, including those destined for social security beneficiaries at the end of this month—exactly 1 week from today.

If we are to play a game with this issue, we should be aware that the stakes are rather high.

To those who consider a vote for a bill such as this to be a vote for fiscal irresponsibility, let me suggest that the reverse may be closer to the truth. The path to fiscal responsibility goes through authorizations and appropriations, not through default on obligations.

The debt is great because the spending has been great. H.R. 5692 is, in effect, a bill for goods and services already provided. It is time to pay up.

Voting against legislation to increase the public debt limit has been likened to closing the barn door after the horse has gone. It is a worn and homely analogy, but it is valid.

If we want to be truly responsible, Mr. Speaker, it seems to me we ought to pass this bill without further fanfare. And it would not hurt to resolve to keep our fiscal horse under tighter control in the future. If we did that, the Federal debt would stop growing so fast.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, I thank my distinguished leader for yielding. I do not want to take time here, but again what he has just said certainly is an expression of a responsible position by this body. If you spend the money, you have got to raise the debt ceiling to cover it.

Once more I would submit to you the National Taxpayers Union rating. This rating rates us on spending, period. It does not make subjective evaluations as to good versus bad spending. If you want to find that 218 magic number that is a majority, just start at the bottom in terms of the biggest spenders in this body, and all the names are here for one and all to see, and you all should have a copy in your office.

□ 1030

Those 218 Members have the responsibility to cast this responsible vote. They are the ones who made it necessary.

Mr. CONABLE. Mr. Speaker, I now yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, here we are at it again. The people of this country by a poll, take your pick, it does not matter which one, say they want this institution to balance the budget by cutting spending, not raising taxes. The people of this country do not want us to increase the debt.

Certain of our leaders today are saying "Members, you do not dare vote against raising the debt ceiling because it might interfere with your weekend plans." Now, think of it. If this goes down, we may not have the opportunity to go to our home districts and tell our constituents how we are trying to restrain Government spending. Would not that be bad.

I think it would be better for us to stay today, tomorrow, as long as it takes, to let this be the height of the debt that we are foisting on the next generation of this country, to say that at long last a measure of responsibility has come to the Members of this House, Democrats and Republicans alike.

We are saying no more. There will be no more. This is it. We are not going to raise it.

We all know if we really get to it that we can cut spending, if the determination and the guts are here to do it. That is all it takes.

I would ask you, beseech you, act for the benefit of the kids who are unborn who are going to have to pay this debt. Cut it out. Stop it. It is our responsibility. We cannot justify it to anybody, let alone ourselves.

Let us spend the weekend and do what we ought to do responsibly.

Mr. CONABLE. Mr. Speaker, I would like to ask the distinguished chairman if he has any further requests for time.

Mr. ROSTENKOWSKI. I have no further requests for time, Mr. Speaker.

Mr. CONABLE. To sum up the debate on our side I now yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the gentleman for his largesse.

Mr. Speaker, the debate was concluded yesterday. Everybody knows the issue.

It does seem to me that it is our responsibility now to approve the borrowing to pay for the spending we have all voted for.

I do not have any disagreement with the gentleman from California (Mr. DANNEMEYER) at all. Our spending is obscene. I did not vote for our budget, and I did not vote for most of the spending. But this is not the place to stop the spending.

This is the place to act responsibly and to borrow the money which is, unfortunately, and regrettably, needed to pay for the spending which this Congress has voted for.

I yield back the balance of my time.

Mr. CONABLE. Mr. Speaker, I trust the Members understand that if this is not passed this time it would be necessary for us to come back and pass it this weekend. We cannot ignore the necessity that faces us.

The exact time of a later effort remains problematic.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Pursuant to the order of the House of May 22, 1984, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 211, nays 198, answered "present" 5, not voting 19, as follows:

[Roll No. 178]

YEAS—211

Addabbo	Garcia	Olin
Akaka	Gekas	Ortiz
Alexander	Gephardt	Ottinger
Andrews (NC)	Gibbons	Oxley
Andrews (TX)	Gore	Panetta
Annunzio	Gradison	Parris
Anthony	Green	Pease
Aspin	Gregg	Pepper
Badham	Guarini	Perkins
Barnard	Hall (OH)	Pickle
Barnes	Hamilton	Porter
Bartlett	Hammerschmidt	Price
Bateman	Harrison	Pritchard
Bedell	Hatcher	Quillen
Beilenson	Hefner	Rahall
Berman	Hillis	Rangel
Bevill	Holt	Ratchford
Biaggi	Horton	Regula
Bliley	Hoyer	Reid
Boehlert	Hunter	Robinson
Boggs	Hyde	Rodino
Boland	Jeffords	Rogers
Bonior	Jenkins	Rose
Bonker	Johnson	Rostenkowski
Borski	Jones (NC)	Rowland
Brooks	Kemp	Roybal
Broomfield	Kennelly	Sabo
Brown (CA)	Kildee	Scheuer
Broyhill	Kleczka	Schneider
Burton (CA)	Kogovsek	Schulze
Campbell	Kostmayer	Schumer
Carper	Lagomarsino	Shannon
Chandler	Lehman (FL)	Sikorski
Cheney	Leland	Simon
Clarke	Levin	Sisisky
Clinger	Levine	Skelton
Coleman (MO)	Lewis (CA)	Smith (FL)
Coleman (TX)	Lipinski	Snowe
Conable	Livingston	Solarz
Conte	Loeffler	Spratt
Cooper	Long (LA)	Staggers
Corcoran	Lott	Stark
Coyne	Lowery (CA)	Stokes
Davis	Lowry (WA)	Stratton
de la Garza	Lundine	Studds
Dicks	Madigan	Sundquist
Dingell	Markey	Swift
Dixon	Martin (NC)	Synar
Donnelly	Martin (NY)	Tauke
Dorgan	Martinez	Thomas (GA)
Dowdy	Matsui	Torres
Downey	Mavroules	Udall
Duncan	McCain	Vander Jagt
Dwyer	McCloskey	Vento
Edgar	McDade	Volkmer
Edwards (AL)	McHugh	Waxman
Edwards (CA)	McKernan	Wheat
Erlenborn	McKinney	Whitehurst
Evans (IL)	McNulty	Whitley
Fascell	Michel	Whitten
Fazio	Mineta	Williams (MT)
Fish	Minish	Williams (OH)
Flippo	Mitchell	Wirth
Foglietta	Moakley	Wolf
Foley	Mollohan	Wright
Ford (TN)	Morrison (CT)	Wylie
Fowler	Morrison (WA)	Yates
Frank	Murtha	Young (MO)
Frenzel	Nowak	Zschau
Frost	O'Brien	
Fuqua	Oberstar	

NAYS—198

Ackerman	Byron	Dellums
Albosta	Carney	Derrick
Anderson	Carr	DeWine
Applegate	Chappell	Dickinson
Archer	Chappie	Dreier
AuCoin	Coats	Durbin
Bates	Collins	Dymally
Bennett	Coughlin	Dyson
Bereuter	Courter	Early
Bethune	Craig	Eckart
Bilirakis	Crane, Daniel	Edwards (OK)
Boner	Crane, Philip	Emerson
Bosco	Crockett	English
Boucher	D'Amours	Erdreich
Breaux	Daniel	Evans (IA)
Britt	Dannemeyer	Feighan
Brown (CO)	Darden	Ferraro
Bryant	Daschle	Fiedler
Burton (IN)	Daub	Fields

Florio	Luken	Rudd
Franklin	Lungren	Russo
Gaydos	Mack	Savage
Gejdenson	MacKay	Schaefer
Gilman	Marlenee	Schroeder
Gingrich	Martin (IL)	Seiberling
Glickman	Mazzoli	Shaw
Gonzalez	McCandless	Shelby
Goodling	McCurdy	Shumway
Gunderson	McEwen	Shuster
Hall (IN)	McGrath	Siljander
Hall, Ralph	Mica	Skeen
Hall, Sam	Miller (CA)	Slattery
Hansen (UT)	Miller (OH)	Smith (IA)
Harkin	Molinari	Smith (NE)
Hartnett	Montgomery	Smith (NJ)
Hawkins	Moody	Smith, Denny
Hayes	Moore	Smith, Robert
Hertel	Moorhead	Snyder
Hightower	Mrazek	Solomon
Hiler	Murphy	Spence
Hopkins	Myers	Stangeland
Hubbard	Natcher	Stenholm
Huckaby	Neal	Stump
Hughes	Nelson	Tallon
Hutto	Nichols	Tauzin
Ireland	Nielson	Taylor
Jacobs	Oakar	Thomas (CA)
Jones (TN)	Obey	Torricelli
Kaptur	Owens	Towns
Kasich	Packard	Traxler
Kastenmeier	Pashayan	Valentine
Kazen	Patman	Vandergriff
Kindness	Patterson	Vucanovich
Kolter	Paul	Walgren
Kramer	Penny	Walker
LaFalce	Petri	Weaver
Lantos	Pursell	Weber
Latta	Ray	Weiss
Leach	Richardson	Whittaker
Lehman (CA)	Ridge	Winn
Lent	Rinaldo	Wolpe
Levitas	Ritter	Wortley
Lewis (FL)	Roberts	Wyden
Lloyd	Roe	Yatron
Long (MD)	Roemer	Young (AK)
Lujan	Roth	Young (FL)

ANSWERED "PRESENT"—5

Boxer	Howard	St Germain
Gray	Jones (OK)	

NOT VOTING—19

Clay	Heftel	Sensenbrenner
Coelho	Leath	Sharp
Conyers	Marriott	Watkins
Ford (MI)	McCollum	Wilson
Gramm	Mikulski	Wise
Hance	Roukema	
Hansen (ID)	Sawyer	

□ 1050

The Clerk announced the following pair:

On this vote:

Mr. Ford of Michigan for, with Mr. Hance against.

Messrs. KASICH, CROCKETT, and KOLTER changed their votes from "yea" to "nay."

Mr. MARTINEZ and Mr. BROOMFIELD changed their votes form "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE PRESIDENT IS WHAT THE PRESIDENT DOES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to verify and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, yesterday's findings of specific, credible evidence of criminal activity by the 1980 Reagan campaign suggests there is more to this controversy than petty theft.

The issue here is ethics in Government.

Ethics of the political pals Ronald Reagan has brought to power. Ethics of his Attorney General who summarily dismisses evidence of wrongdoing of Mr. Reagan's friends without the slightest hint of a meaningful investigation. Ethics of Mr. Reagan's campaign manager, now CIA Director, who experiences lapses of memory when asked to recall the details of the Reagan campaign. And finally, Mr. Speaker, ethics of the President himself, who promises the American people that he will get to the bottom of the controversy but is working to protect his friends.

Ethics in Government, Mr. President, will be judged by the American people by what Ronald Reagan does and not just by what Ronald Reagan says.

EL SALVADOR TRIAL—A BEGINNING

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, completion of the trial of Salvadoran national guardsmen accused of murdering four American religious workers was good news this morning. I take it as a sign that President-elect Duarte is committed to improvements in El Salvador.

It was also more than many of us ever expected, and it took years of constant pressure from both family members and concerned citizens and officials.

Nevertheless, I hope that these convictions mark the beginning, not end of efforts to obtain justice for the families of the victims. We still need a full investigation of the allegations contained in the Tyler report, allegations that higher Salvadoran officials could have been involved in covering up these brutal killings. I hope that further investigation will begin soon.

UNITED STATES MUST IMPROVE TRADE POSITION

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, this is World Trade Week and the motto is "Exports Mean Jobs."

Over $1 billion in exports results in 25,000 jobs and 80 percent of the new manufacturing jobs are destined for export markets. Trade is becoming increasingly important to our economic well-being.

The fact is that our domestic economy is no longer sufficient to meet our growth needs and we find ourselves in a fiercely competitive world economy with Japan and other countries challenging America's preeminence.

The United States must maintain its competitive position and in order to do that Congress must remove impediments and must find new incentives to improve our trade position.

The House has already acted on the Eximbank authorization to increase its lending authority, export trading company legislation, mixed credits programs in the foreign aid bill, and an Export Administration Act to greatly liberalize our export control policies.

But much work remains. The FCPA bill, the reform of DISC, reciprocity legislation and trade reorganization, not to mention the overvalued dollar and the LDC debt problem.

Our trade deficit makes it clear the United States must do more to increase its exports and to making America competitive once again.

□ 1100

PASSBOOK SAVINGS ACT

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, since March, we have witnessed the prime rate rise from 11 percent to 12½ percent. Unless we take action soon, interest rates will rise even higher.

Many factors have contributed to the recent rise in interest rates, but a critical cause has been the movement of money out of savings and passbook accounts and into high yield certificates of deposits. These high interest bearing deposits increase the cost of money to banks, savings and loans, and credit unions, and thereby, force a rise in the mortgage rates charged by these financial institutions.

The American Passbook Savings Act, by encouraging Americans to save in tax-free passbook accounts, will permit American lenders to again provide low-cost mortgages to our Nation's homeowners, farmers, and small businesses.

This bill provides an inducement for the saver to put his or her money in a lower yield account by making interest earned in savings accounts earning less than 6 percent given tax-free treatment to the first $5,000 on an individual account and $10,000 on a joint account.

By encouraging the flow of money back into low-yield savings and passbook accounts, this bill will encourage the savings needed to finance low-interest mortgages. As well, every American will have the opportunity to earn extra tax-free income.

I would urge my colleagues to join in support of the American Passbook Savings Act.

JUSTICE AND ETHICS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, Members on that side of the aisle constantly call us leftwingers and soft on communism. I want to talk about something that transcends ideology, and that is called ethics.

Today's Washington Post reports a special deployment force of 25 caseworkers exclusively for Republican fat cats to take care of problems in the Federal Treasury. The more you give, the more you get. What kind of favors are the Republican fat cats getting for their contributions? Intelligence estimates? What should we call this scandalous practice? Phone-Gate? Dial a favor? VISA card justice? Who are these hired guns and what are they doing?

I suggest that Mr. Meese and Mr. Casey get this phone number from the Republican National Committee to take care of their problems.

Mr. Speaker, this is a serious matter and requires a full Justice Department investigation.

SHOE INDUSTRY DAMAGED BY FOREIGN IMPORTS

(Mr. OLIN asked and was given permission to address the House for 1 minute.)

Mr. OLIN. Mr. Speaker, I am pleased to join the other members of the Footwear Caucus in calling attention to the damage done to our domestic shoe industry by foreign imports. I urge the U.S. International Trade Commission to support the industry's request for relief when it delivers its decision early next month. The Sixth District of Virginia is home for the Craddock-Terry Shoe Corp. of Lynchburg. In 3 years, the company has had to reduce employment by 300 workers. Two of its nine plants in Virginia work only 1 or 2 days a week. Two other plants operate well below a 40-hour work week and have done so for the past 6 months. Foreign imports are the cause. Other industries have benefited from the recovery. But not shoes. This year, 70 percent of the nonrubber shoes sold in America are foreign made. Last year, the figure was 61 percent.

Mr. Speaker, our shoe industry is in trouble, and I urge the International Trade Commission to give the industry a favorable decision.

NATIONAL MISSING CHILDREN'S DAY, MAY 25, 1984

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, tomorrow, May 25, 1984, has been designated National Missing Children's Day. By it we seek to build an awareness across this land of the extent of the tragedy of missing children.

Annually nearly 2 million children disappear from their homes. Some are runaways. Some are taken by estranged parents. Many are abducted by strangers. The tragedy of missing children has touched my district in a most poignant and heart-rending way.

On June 1, 1983—almost 1 year ago—12-year-old Annya "Ann" Gotlib disappeared from the Bashford Manor Shopping Mall in Louisville, KY. A massive investigation continues until this day in which all Federal, State, and local law enforcement agencies and their personnel have cooperated and coordinated. But, unfortunately, Ann has not been found.

Ann was born May 5, 1971. She has auburn hair and gray eyes. Distinguishing marks include freckles, pierced ears, white eyelashes and eyebrows. Ann is a Russian Jewish emigree who speaks fluent English and Russian.

If anyone has information about Ann Gotlib, please contact the Louisville Office of the Federal Bureau of Investigation, at 502-583-3941, or call the Missing Children's toll free hotline: 1-800-342-0821.

The plight of families of missing children is anguishing. They deserve our prayers tomorrow on Missing Children's Day.

DEBATEGATE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am honored to serve in this House on the Post Office and Civil Service Committee, where we oversee Government ethics. And we have undertaken this in a very serious, bipartisan fashion, believing what President Kennedy said in his inaugural address that this Government has, indeed, been different from others because of the very high quality and ethics of our Government employees.

This week a House subcommittee from Post Office and Civil Service issued its final report on a yearlong investigation into the stealing of briefing books prepared for President Carter. The finger points to CIA Director William Casey. This follows a whole series of other disclosures about Casey's financial dealings, about security law violations, about his income tax problems, some of his dealings with Congress, his conflict of interest, and so on.

I hope every Member does not treat this report in a partisan manner but instead endorses the subcommittee's recommendation that independent counsel be appointed to investigate whether or not CIA Director Casey was really involved in Debategate and whether or not charges should be pressed. This Congress and Government must stand for ethics and fairness, not politics.

LAS VEGAS CONVENTION CENTER

(Mr. REID asked and was given permission to address the House for 1 minute.)

Mr. REID. Mr. Speaker, travelers come by the millions to my southern Nevada district each year to enjoy gaming, entertainment, recreation, and the weather. Many of those visitors are vacationers. Others, however, travel, as convention delegates, to Las Vegas—one of the top five convention destinations in the country.

Conventions are an important industry to Las Vegas. Since 1959 nearly 7,500 conventions, attended by 8.4 million people, have generated a nongaming income of $3.1 billion to the city.

Significantly, nearly 1 million of those 8.4 million came to Las Vegas in 1983 alone producing 21 percent of the total receipts for that same 24-year period.

Building on this history, and the fact that nearly 60 percent of all conventions return, the Las Vegas Convention and Visitors Authority is already booking conventions into the year 2010.

Whether the draw be 90,000 delegates for an electronics convention or several hundred for an educational symposium, the convention industry is one to which Las Vegas will continue to commit its professional best.

AMENDMENTS WILL BE OFFERED TO CORRECT ABUSE OF TAXPAYERS' MONEY

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to verify his remarks.)

Mr. BEDELL. Mr. Speaker, many people have heard of the $400 hammer. I am here to tell you that that is not a unique experience.

This is a pair of vice grip pliers. I paid $3.97 for this pair of vice grip pliers from a local hardware store. The Government paid $243 for a similar set of pliers. The difference is that I went down to see the tool kit, and the pliers they bought were not nearly as large as the pliers that I bought right here.

As a result of our subcommittee investigation, I went out and bought some tools locally for a total of $92 and some cents. I checked. I found

that the Government had spent over $10,000 in taxpayers' money for those same tools that I bought for $92 and some cents.

As we consider the military authorization bill, it is my plan to offer some amendments to correct this abuse of taxpayers' money. I urge my colleagues to stand up and say that we are not going to stand for this continued abuse and to support this amendment.

DEMOCRACY IS STILL POSSIBLE IN EL SALVADOR

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. FEIGHAN. Mr. Speaker, we heard this morning that verdicts have finally been rendered in the trial of the Salvadoran soldiers charged with murdering Maura Clarke, Ita Ford, Dorthy Kazel, and Jean Donovan. After 3½ years of deception and delays, a small ray of justice has broken through the gloom surrounding El Salvador.

But it is indeed only a start. Over the last 5 years, there have been 40,000 unanswered murders in El Salvador, 40,000 cases where justice will not prevail.

Unending pressure from the families of the church women, this Congress, and thousands of concerned Americans forced this trial. Does anyone really believe that this trial would have been completed if Congress had not insisted that military aid to El Salvador would be suspended if the trial did not go on? I do not think so.

The theologian, Reinheld Niebuhr, once wrote that "Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary." This trial shows that even a country strangled by terror and numbed by fear is capable of justice—democracy is still possible in El Salvador. But it will not come if we forget that injustice is still the norm, and that real democracy—where people are safe to speak their mind and change their lives—is still necessary in El Salvador. That goal will be achieved only if we show the same resolve demonstrated with this case. We cannot stop caring now.

MURDER OF FOUR AMERICAN CHURCHWOMEN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in December of 1980, the Nation was outraged when four American churchwomen were raped and brutally murdered in El Salvador. Six months later, with evidence gathered by U.S. officials, five Salvadoran National Guardsmen were charged with the murders; 41 months and 20 days after the women were massacred on a country road in rural El Salvador, a guilty verdict has handed down by a jury just this morning.

Although I am relieved at the outcome—justice has been done—this case is not an accomplishment the Salvadoran judicial system should be proud of. Many of my colleagues have joined me in placing enormous pressure on a reluctant military and judicial system. I was almost a pen pal with the Attorney General in that country.

A resolution of this case was written into U.S. law as a condition for military aid to the government. American criminal investigators and prosecutors were dispatched to that country to provide the necessary expertise. In fact, a special Spanish-speaking legal adviser was at the trial.

Mr. Speaker, I am skeptical, but it is my hope that this verdict will begin a new trend in El Salvador. Thousands of outstanding civilian murders remain to be investigated. This tragedy must not be repeated.

RAILROAD DEREGULATION IMPROVEMENT ACT

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, the Staggers Act deregulated the railroads, but it did not award railroads the right to hold captive shippers as prey, abandon railroad trackage almost at will, and charge savagely high rates.

Along with my colleague PAT ROBERTS of Kansas, I am introducing the Railroad Deregulation Improvement Act of 1983. The aim of this bill is to end the railroad's reign of terror in Montana and other States.

The bill simplifies the process for shippers to protest against a rate increase, makes it more difficult for railroads to abandon lines, provides shipper protection by clarifying and correcting captive shipper abuse, enhances chances for rail competition in places where none currently exists and establishes open contracts, ending quiet and cozy deals between railroads and certain customers.

I urge all my colleagues concerned with fairness in transportation and those concerned with agriculture in this country to cosponsor this legislation.

RAILROAD DEREGULATION IMPROVEMENT ACT OF 1984

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, my friend and colleague, Mr. MARLENEE, and I are today introducing the Railroad Deregulation Improvement Act of 1984 to fine tune and stimulate discussion on the impact that the Staggers Rail Act of 1980 has had on rural America.

The farm-to-market transportation system is crucial to our economic wellbeing in rural America. The Nation's railroad system is a vital link in that system. The farmer depends on railroads for the movement of his grain to world export markets. The small businessman depends on railroads for receiving and shipping a variety of goods. Nearly 4 years have passed since Congress passed the Staggers Act to reduce the Federal regulatory burden on railroads and return them to economic prosperity.

The implementation of the Staggers Act by the Interstate Commerce Commission has become a major concern with railroad shippers, particularly those shippers served by a single railroad. The National Grain and Feed Dealers Association estimates that grain elevators dependent on a single railroad for service receive approximately 57.7 percent of all grain sold by the farmer. At country elevators with rail service, 94.3 percent of them are served by only one carrier. This had led to widespread concern over the ICC's definition of captive shipper. This legislation addresses the issue of captive shippers along with several other issues of concern to shippers.

Let me assure assure my colleagues that this legislative package is not an abandonment of the philosophy that less regulation is better. Its main thrust is to guarantee that shippers will be provided a minimal degree of protections.

At the very least, I hope this legislation will stimulate discussion in Congress on whether the Staggers Act of 1980 is leading to major upheavals in the grain marketing and handling system—and more importantly, a discussion of whether Congress tipped the scales in favor of the railroads at the expense of the shippers.

In short, there is ample justification for clarifying the intent of Congress with regard to the Staggers Act. This legislation does that. I urge my colleagues to join Mr. MARLENEE and me in sponoring this legislation.

GREEK PRIME MINISTER OFFENDS HIS COUNTRY'S HERITAGE IN SUPPORTING SOVIET UNION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, on May 10 Greek Prime Minister Andreas Pa-

pandreou denounced the United States and delivered his strongest praise to date of the Soviet Union, saying, "The Soviet Union's fight for detente is genuine. The U.S.S.R. cannot be called an imperialist power like the United States. It is a force against imperialism and capitalism."

Apparently Greek leadership has now rejected the fundamental ideals upon which its great country was founded and embraced the forces of tyranny, injustice, and oppression. Papandreou's endorsement of Moscow's foreign policy is not only an affront to the proud heritage of Greece, it is an action which offends the sensibilities of the entire free world. It is a sad day indeed when Greece, the cradle of democracy, tolerates a leader who supports those whose best known attribute is constant hostility to self-determination, the rule of law, and basic human rights.

Perhaps Americans of Greek heritage can bring to bear influence on the people of Greece to elect a new leader committed to the foundations upon which the greatness of Greece was erected.

INSURING THE CONTINUATION OF COMMUNISM IN NICARAGUA

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the 1-minutes today are an exact model of the Gregorsky paper analysis. Democrats get up, and despite honest elections in El Salvador, despite justice in trials, somehow it is not good enough; somehow there are new questions.

Meanwhile, the Communist dictator Ortega responds negatively and somehow it is described as understandable. I would hope that the gentleman from Texas and the gentleman from Wisconsin will distribute to every Member of this House today before the vote, the text of the answer they received from the Communist dictator, so we can understand why they have any hope that cutting off aid to the freedom fighters will do anything except insure the continuation of communism in Nicaragua.

TIME TO DEMONSTRATE SUPPORT RATHER THAN CRITICISM OF EL SALVADOR

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, today marks a historic date in the democratic development of El Salvador. The long-awaited trial of the five National Guardsmen accused of murdering four American churchwomen began yesterday and concluded today—with a verdict of guilty. Finally, 41 months and 20 days after that horrendous murder, justice has been done. El Salvador has come a long way since that time.

Skeptics in this country and forces opposed to democracy in El Salvador predicted that this trial would never occur. They have been proven wrong. The moderate democratic forces in El Salvador are becoming stronger. Death squads of the right and of the left are being attacked. The message now is that they can no longer act without thought of consequence. They will have to pay for their crimes.

It is not a coincidence that this trial occurred soon after the election of a President Jose Napoleon Duarte who is clearly committed to democratic reform and to ending all death squad activity. Both the trial and the election signal the emergence of a period of great chance in El Salvador. Clearly, we have been shown that reform and democratic processes can take root there. Critics predicted that the trial would never take place—but it has. It is time that we demonstrated our support rather than our criticism.

WE MUST NOT HAMSTRING THE PRESIDENT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, last night we told the Communists in Central America, "Do what you will; the U.S. will not intervene. All you have to do, Mr. Communist, is to keep murdering and terrorizing and you will be successful." Never mind that these policies in the past have led us into war. Remember Lord Chamberlain? "You can trust Hitler." Remember President Franklin Roosevelt telling the world, including the Nazis, "Our boys will never fight in this war on foreign soil."

These proclamations were perceived by Hitler as weakness, and he attacked; he felt with virtual impunity. Now last night, this House passed an amendment telling the Communists in Central America the same thing. If we hamstring our President we invite tragedy in Central America. I hope the Senate will see fit to remove this provision from the DOD authorization bill.

□ 1120

IMPORTANCE OF TRAVEL AND TOURISM INDUSTRY

(Mr. AKAKA asked and was given permission to address the House for 1 minute.)

Mr. AKAKA. Mr. Speaker, next week—May 27 through June 2—is National Tourism Week. I would like to take this opportunity to stress the importance of the travel and tourism industry to the United States.

According to the Commerce Department and U.S. Travel Data Center, during 1983, the tourism industry was the second largest private employer in the United States, employing over 4.6 million Americans at every possible skill level. This means that approximately 7 percent of the labor force in our country was employed by the tourism industry, either directly or indirectly. In fact, in 39 States tourism was one of the top three employers; the travel industry was also the third largest retail industry in the United States, with only food stores and automobile dealers grabbing a larger share of the retail market.

Not only is the tourism industry vitally important to specific States, but it also contributes heavily to the economic welfare of the United States as a whole. Last year, travel accounted for $211 billion in domestic and foreign visitor spending and this was 6.4 percent of the gross national product. In addition, this industry generated $46 billion in wages and salaries and more than $20 billion in Federal, State, and local tax income for our Nation.

This year, two-thirds or more of the American public is expected to travel to a destination 100 miles or more from home. Last year, Americans took 1 billion such trips, more than twice as many as were reported in the 1972 National Travel Survey.

These statistics reveal that the tourism industry does affect each of us—by creating jobs, by contributing to the economy, and by enhancing our personal well-being. I urge you to take a moment during National Tourism Week to reflect upon the importance of tourism, and what we need to do to keep that industry alive, vital, and well.

OVERLAPPING AREAS BETWEEN ANTISATELLITE SYSTEM AND SPACE DEFENSE INITIATIVE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, yesterday in the debate on the antisatellite amendment, I became somewhat confused because some Members seemed to be debating the President's space defense initiative rather than the antisatellite weapon. There is no connection between the two.

The President's space defense initiative is a 5-year research and development program aimed at answering the question: Can we deploy an effective ballistic missile defense system in space? Such a system would be, probably, three-tiered system, including a

site protection system, an exo-atmospheric midcourse overlay system and a system using particle beams or energy weapons of some sort, which would destroy missiles during their boost phase; that is, 3 to 5 minutes after launch.

There are two possible overlapping areas here. First, that an antisatellite system can benefit from the research on the directed energy systems and we might have a much more effective antisatellite system a point which I made in asking to delay the MHV system, second, there are some who actually want to deploy an antiballistic missile system now, not waiting for the R&D provided by the President's program, and they would use the technology of the miniature homing vehicle to put an overlay system into space immediately, despite the fact that it would violate existing treaties would be of dubious effectiveness and would be intensely destabilizing.

It is difficult to debate an issue which is complex in itself when some are debating an even more complex issue which is not on the agenda.

ANOTHER SYSTEM OF JUSTICE LIKE "BREAKER MORANT"?

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I want to talk for a few moments about the guilty verdict today of the El Salvador National Guardsmen. I welcome the fact that after these many months those who were directly responsible for the dastardly and heinous crime, the rape and murder of the churchwomen, have finally been convicted.

At the same time I am concerned that those who either ordered or covered up this crime for so long have yet to be called to account.

I am also concerned that the trial in El Salvador was not so much the dawn of a new day of justice in El Salvador, but was a result of American pressure. We demanded results, and we got what we demanded. I think it is no coincidence that the trial and verdict occurred after the Duarte election and also the day before we are going to vote on aid to El Salvador.

Given the conditions in El Salvador, one must admire the courage of the judge, prosecutors and jury. However, the circumstances of the trial raise some questions. The nature of the television coverage made it a media event. The drive to a quick result drove the participants through a candle-lit power outage. The brief trial itself and the quick verdict—in time for today's vote have to cause some concern.

A few months ago there was a popular film based on the story of the Boer War about some Australians who were brought to trial and convicted of a crime in order to get the British out of a tight political situation they were in. The film's name was "Breaker Morant." I hope that we are not creating another system of justice like "Breaker Morant."

I believe guilty people were finally convicted. That is good. But, as a lawyer, I believe we must not let our political demands sweep away due process in pursuit of justice.

VERDICT IN TRIAL ON MURDER OF U.S. CHURCHWOMEN

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I was gratified to learn in this morning's news reports that the trial of those Salvadoran guardsmen accused of murdering the four U.S. churchwomen has finally drawn to a close. After some 3 years of painstaking investigation and collection of evidence with technical help from the FBI, a Salvadoran jury has now reportedly convicted the guardsmen on all counts.

Consideration our own experience with the glacial pace of the criminal justice system in the United States, it is interesting to note that with its less modern judicial system, in the midst of an armed insurrection, and with judges, jurers, et cetera, faced with the prospect of threats against their persons from indigenous armed groups, El Salvador has managed to obtain a verdict this soon. Ironically, the case against the radical Weather Underground members charged in the armed robbery of a Brink's truck in New York State, and the murders of a guard and two police officers, has also been inching its way through our criminal justice system for more than 2½ years, and $7.5 million in costs, and it has still not returned a verdict on all of the dependents charged with those heinous crimes. Fortunately, the Congress has been more reasonable and patient about the snail's pace of our judicial system in the Brink's robbery murders, and we have refrained from any inclination to cut aid to New York State or Rockland County, N.Y.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 492, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF AGRICULTURE, 1984

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture.

The Clerk read the title of the joint resolution.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments reported in disagreement on the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture, and that I may be permitted to include extraneous and tabular material.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 17, 1984.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I say to the Members of the House that your Committee on Appropriations in this bill is trying to address some of the problems that we have as a committee and as a Congress. We have the appropriation bills for both the current fiscal year and the coming fiscal year facing us all, and with only 34 or so working days left.

Members will recall that some months ago, I introduced, as chairman of the Committee on Appropriations, two urgent supplemental bills that carried one item each so as to come under speedy consideration and so as to get the needed funds out to the people. These bills went to the other body and we enacted the emergency full assistance bill along with some $90 million for the African food aid. Later the Senate took the material provisions of this resolution that we have today and put in it the other items. Your conferees bring to you an agreement that has those items of an exceedingly urgent nature that were needed.

When we went to conference with the Senate over the 36 amendments which added some $1,458 million, we were committed to do only the necessary.

□ 1130

When we went to the Senate on the bill which they had used otherwise and which had largely become a Senate bill, we asked them to back up on those things which had just been added without reason, in our judgment, that could be brought up later. They yielded on 13 amendments in conference.

With the time passing as rapidly as it was and with us facing the many subjects that we have to deal with before we get through here, we went out of our way to try to include those necessary items that would otherwise appear later in the general supplemental bill that could be used here in order to expedite matters.

So may I say to my colleagues that before us is a bill that we have agreement on. As it is now, it is a joint bill before the House and Senate to meet emergency situations, and much of it is in an effort to get us through here in time to move on to our regular appropriation bills.

May I say that earlier in the year the Speaker asked me as chairman of the committee if we would work hard to be ready ith our appropriation bills in May so we could bring them to the floor in the latter part of May and all of June. All of us are aware that the months of July and August are likely to be taken up with the two national conventions, so if we want to get through, we have got to move full speed ahead. And so I bring to the Members as chairman of the committee a bill where we are in agreement, where the items are necessary, and where if we do not do it here now, we will have to do it later.

I would like to call to the attention of my colleagues in the House the various programs that are recommended to you in this conference agreement. As I stated earlier, we are providing the second appropriation for the food for peace program for the African nations that have suffered severe drought. The initial $90,000,000 was provided in Public Law 98-248 which was signed into law on March 30. The addition of this $60,000,000 brings the supplemental program up to the full $150,000,000 which was originally recommend by the House.

Two urgent needs in the domestic feeding programs are addressed in this resolution. First, our conferees recommend $545,000,000 for the child nutrition program. Second, we are recommending $300,000,000 for the program for women, infants and children, the WIC program. These additional funds will maintain the program through the end of the current fiscal year; $21,000,000 in emergency funding is provided to the Corps of Engineers to remedy flood damage in the Tug Fork project in West Virginia, Kentucky, and Virginia. The devastating nature of the flooding this spring makes these funds essential.

Your conferees have agreed to recommend to the two respective bodies the addition of $100,000,000 for the summer youth program. These funds will bring the program up to last year's level and restores the reductions which were sought. With the summer rapidly coming upon us, it is essential that these funds be distributed to the various cities and States as soon as possible.

Finally, we are providing $25,000,000 to the U.S. Customs Service for the air interdiction program. These funds will support and expend the program to interdict drug trafficking and assist in our Federal law enforcement effort.

This is listed as an appropriation for the Department of Agriculture. That is the title of the bill that was sent over to the Senate on which the various items that I described have been added. As I pointed out, this bill not only takes care of the item for employment of youth in our cities but takes care of the food programs.

In addition we have a housing problem in that in the original act provided that you had to have 40 percent at certain levels before you could use the other 60 percent. It develops that they cannot meet the demand in the 40-percent bracket, so that killed the whole intent of the bill. The bill before us corrects that.

What I am asking the Members to do is to go along with us with a minimum of debate, as long as it is made plain to us and since we are in agreement, and see if we can move ahead and get rid of this in a hurry so we can get to other activities.

I would point out again what we have in this bill. There are two items in controversy that will be discussed, but I think that everybody's mind is made up on those items and I do not see any reason for us to have an extended debate, since it has been discussed here for some weeks.

So, Mr. Speaker, I just hope that we can have the support of the Members in moving ahead on this so we can get on to other business.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of California). The gentleman from Mississippi (Mr. WHITTEN) has consumed 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Joint Resolution 492 passed the House on March 6. It has taken 2½ months to bring a conference report to the House.

As the resolution passed the House, it contained only an appropriation of $150 million for emergency food assistance for Africa through title II of Public Law 480, plus language making available $90 million from CCC inventories for competitive sale or barter to African countries.

The resolution was considered on the Senate floor for 8 days, and was passed on April 5 with 36 individual amendments. The House did not appoint conferees until April 10, and the chairman of our committee would not go to conference until May 16, 5 weeks after conferees had been appointed.

We do finally have a conference report, and we should act on that report without further delay.

Looking at the 36 amendments, the conferees were faced with three distinct sets of issues.

First, several of the Senate amendments, together with the original House bill, included legitimate supplementals:

The conferees agreed to $60 million for emergency food for Africa through title II of Public Law 480. This amount, plus the $90 million in an earlier supplemental, will provide a total of $150 million, which is the same amount as passed the House, and which is the most that can be used effectively at this time.

The conferees agreed to $545 million, the amount of the budget request, for child nutrition programs.

The conferees agreed to $300 million for the feeding program for women, infants, and children, which is $133 million over the budget request. Since the administration's budget request was prepared, participation rates and certain commodity prices have increased. The $300 million recommended by the conferees will permit current participation rates to be maintained through the end of the fiscal year.

The conferees agreed to $2 million for the Civil Aeronautics Board, which will fund the Board for the last 2 months of the fiscal year.

Second, the conferees addressed Senate amendments which added funds for assistance for El Salvador and Nicaragua. These amendments were reported in disagreement, and I will speak to them when they are considered at a later time.

Finally, the Senate added a number of miscellaneous provisions. Some of these provisions have merit, but none of them belong in an urgent supplemental. All of these provisions are in technical disagreement.

I will vote for the conference report, and I can recommend without reservation that my colleagues do likewise.

Of the 15 Senate amendments included in the conference report, the Senate receded on 13, and the House receded on only the 2 Senate amendments which reduced the amount for emergency food assistance for Africa to $60 million. This amount, together with $90 million previously appropriated, provides the $150 million which originally passed the House.

Although the complete conference agreement is over the President's budget by $280 million, all of the items that are over budget are amendments in technical disagreement, and are not included in the conference report.

If the conference report and the amendments in technical disagreement are agreed to, the Committee on Appropriations would still be within its allocation of discretionary budget authority by $1.5 billion.

On eight of the amendments in the conference report, the Senate receded without prejudice, and with the understanding that the items would be considered in the general supplemental, or in another appropriations bill. These eight items were: $175 million for titles I and III of Public Law 480; $50 million for the Federal Crop Insurance Corporation; $3.4 million for the construction and renovation of academic facilities; $70 million for the Corporation for Public Broadcasting; amendments to the work incentives program; language requiring the distribution of funds for school assistance for federally affected areas; language directing that work be started on the Bonneville lock and dam, and the Gallipolis locks and dam; and sense of Congress language that the Seabee team program for Africa be reactivated.

The other five amendments in the conference report were disposed of as follows:

The Senate receded from $5 million for assistance for the Philippines through title II of Public Law 480, with agreement by the conferees that the $5 million should be earmarked for the Philippines from existing title II funds.

The Senate receded from their amendment concerning the pay of U.S. magistrates, because the problem has been taken care of in Public Law 98-271.

The Senate receded from sense of Congress language that surplus commodities be made available to Guatemalan refugees in Mexico. The statement of managers directs that commodities be made available for that purpose.

The Senate receded from sense of the Senate language on oil mergers, which was meaningless to begin with.

And the Senate receded on its language concerning the construction of permanent military facilities in Honduras.

Mr. Speaker, outside of the conference report, there is one amendment that I am sure my colleagues will want to support, and that is amendment No. 7, which appropriates $545 million for child nutrition, and $300 million for the feeding program for women, infants, and children.

I urge a vote for the conference report.

AGRICULTURE

Mr. Speaker, with respect to those parts of this supplemental which address agriculture related programs let me say that our efforts to get emergency funds to the starving people of Africa is now at the full level the House initially approved; $90 million of the original $150 million House approved level was previously enacted into law. This conference report approves the remaining $60 million.

The Senate conferees wanted to add an additional $175 million in sales under titles I and III of Public Law 480 but agreed to delete those funds until we address the matter in a general supplemental. The $90 million that the House originally included for release from the Commodity Credit Corporation stocks to be sold at competitive prices or for barter for critical materials was agreed upon.

There was additional funding for $5 million for the Philippines added by the Senate, however, the conferees agreed to delete those funds and earmark the $5 million from existing funds.

We will offer a motion to recede to the amendments in technical disagreement which provide $545 million for child nutrition programs and $300 million for WIC. These are the amounts needed to continue the fiscal year 1984 levels of support based on current legislation.

With respect to the Farmers Home Administration, the Senate added a provision to address the present low to very low ratio of 60 to 40 which is required by law. Essentially this amendment changes the ratio to 70 to 30 but gives the Secretary of Agriculture authority to raise the very low amount if he deems appropriate.

The action by the Senate to allow the Federal Crop Insurance Corporation to borrow up to $50 million for the discharge of its responsibilities will be deleted and addressed in a general supplemental.

COMMERCE, JUSTICE, STATE

Amendment No. 10 provides $850,000 to the U.S. Information Agency to reimburse Nassau County, N.Y., and other institutions, such as Hofstra University, for housing, security, and other services provided in connection with the 1984 International Games for the Disabled. The games are to be held in June.

Amendment No. 23, which was deleted by the conferees, would have provided for an adjustment in the rate of pay for U.S. magistrates. This issue has been dealt with in Public Law 98-271, the temporary extension of the Bankruptcy Act, and it will presumably be included in further legislation involving that act.

NICARAGUA

Amendment No. 14 comes back to the House in true disagreement.

This amendment, added by the Senate, provided $21 million for CIA activities in Central America, specifically Nicaragua. The House bill contained no reference to this issue, and no money.

House conferees held to the House position. Senate conferees likewise held to their own position and, although a brief suggestion of a compromise was discussed by the other side, it was never offered to the full conference, so we have no details on it and we do not know it it would have been accepted or rejected by the House side.

There is nothing to be gained by once again going into the details of the CIA activities in Nicaragua. We all know what is going on down there with the $24 million approved for fiscal 1984 for this program.

Those funds now are said to be running out. If the House insists on the House position, that it, to provide no additional funds for the CIA Central American activities, those activities will end when the money ends. And we are told that may be only a matter of days.

If the House agrees to recede to the Senate position, an additional $21 million will be made available to continue U.S. support of anti-Sandinista forces in Nicaragua.

HONDURAS

The Senate receded to the House on amendment 24 which prohibited the use of operation and maintenance funds by the Department of Defense for construction, modification, or improvement of permanent military facilities in Honduras. There was very little discussion on this amendment but it is felt sufficient restrictions are currently in place to control the situation.

ENERGY AND WATER

The conference agreement deletes language that had been proposed by the Senate to authorize the construction of improvements at Bonneville lock and dam in Oregon and Gallipolis locks and Dam in West Virginia and Ohio. Legislation to authorize these projects is currently pending before the House and Senate, and it was agreed that the regular authorizing process should be given an opportunity to run its course.

The conference agreement also provides $21 million for certain nonstructural flood control measures along the Levisa and Tug Forks of the Big Sandy and Cumberland Rivers in Virginia, West Virginia, and Kentucky. These funds, which were in neither the House nor Senate bills, should be sufficient for nonstructural work needs in fiscal years 1984-86.

FOREIGN OPERATIONS

Amendment No. 11 provides $500,000 in economic support funds to El Salvador to assist in the protection of jurors and other participants in the trial of

those charged with the murders of four U.S. churchwomen in December 1980. The trial is presently scheduled to begin this week.

Amendment No. 12, which provides $61,750,000 in additional military assistance to El Salvador with certain restrictions, is reported in true disagreement. It is expected that a motion to recede and concur in the Senate amendment will be offered when this amendment is considered in the House. Senate restrictions on this aid include requirements for Presidential determination and reports dealing with land reform, free elections, freedom of association, the rule of law, the judicial system, death squads, medical training and evacuation systems, military training, accounting for U.S.-provided military equipment, improved communications, and the rate of usage of U.S.-provided spare parts.

Of the $61,750,000 provided by this amendment, $29,750,000 would be for new emergency military supplies and training, and $32,000,000 would be used to pay for defense articles and services authorized by the President in April under section 21(d) of the Arms Export Control Act. The $61,750,000 provided in this amendment is part of a total fiscal year 1984 supplemental request of $178,700,000 for military assistance to El Salvador.

Amendment No. 13 provides $7 million for refugee assistance to displaced persons in El Salvador. This is the same amount as the President's budget request.

Amendment No. 22 prohibits military grant aid or training to Panama if that nation's armed forces disrupt or cancel the election which was held on May 6. The military's role in that election is still unclear.

Amendment No. 29 requires a Presidential report within 120 days of the enactment of this bill on the whereabouts of military equipment furnished to El Salvador since 1980 and of Salvadoran military personnel trained with U.S. funds. The United States has provided $300 million in military aid and training since 1980.

Amendment No. 30 prohibits the obligation or expenditure of all funds in the bill for El Salvador if the duly elected President of that country is prevented from taking office or is deposed by military force or decree. President-elect Duarte's inauguration is scheduled for June 1. The history of the Salvadoran military's active involvement in the electoral process in that country indicates the prudence of this amendment.

Amendment No. 31 is a sense of the Senate statement that the policy of the United States should be to immediately provide such additional equipment, arms and ammunition to allow the Armed Forces of El Salvador to protect the Salvadoran people during the recent runoff election and in their daily lives and to revive economic activity there by adequately suppressing guerrilla terrorism. The House conferees do not indicate a position on this sense of the Senate provision.

Amendment No. 35, which the conferees have deleted, would have provided a sense of Congress statement that Navy Civil Engineer Corps (Seabees) infrastructure construction activities be reactivated in Africa. The conferees have deferred this amendment without prejudice with a request that the administration provide further information for future consideration.

INTERIOR

When this joint resolution left the House, it made no provision for the Department of the Interior or its related agencies. The other body, however, added three amendments, two of which pertained to action taken by the Congress in the conference report to accompany the fiscal year 1984 Interior Appropriations Act, Public Law 98-146).

The Senate included bill language which makes $1 million in previously appropriated funds available to the State of Montana for a grant for the reclamation of the Colorado Tailings site. In adopting this amendment, the conferees expect to remove certain statutory impediments perceived by the Interior Department, thereby releasing the funds and carrying out the intention of the Congress as expressed in the fiscal year 1984 conference report.

The conferees also agreed to adopt the Senate amendment which disapproves the deferral of $14 million in previously appropriated construction activity funds for the Cumberland Gap bypass tunnel. These funds were made available last November to finance engineering, roadway, and bridge access and pilot boring.

Finally, the conferees agreed to address the OMB Circular A-76 process as it has affected the National Park Service and the Fish and Wildlife Service. The amendment adopted by the conference committee temporarily halts the solicitation of bids by these services for contracting out. It provides the organizations, as well as the House and Senate authorizing and Appropriations Committees with the time needed to review the process and impact of Circular A-76 compliance on some 156 activities currently scheduled for review.

The conferees require that a study of each contract which might result in the release or transfer of Federal employees or the liquidation of any equipment or materials through direct compliance with Circular A-76 be completed and reviewed by the concerned service. The recommendations of each service as to which activities should be contracted out are then to be transmitted to the House and Senate authorizing and Appropriations Committees within 30 days of the date of the study's completion. All recommendations are to be submitted by October 30, 1984, and each will be reviewed by the committees for 30 days. No bids related to other Circular A-76 reviews are to be solicited by the services before January 30, 1985.

The conference agreement deletes language that had been added by the Senate deferring the consideration of oil merger moratorium legislation until additional hearings and studies had been completed by various Senate committees. The deletion of this language leaves the way clear for merger moratorium legislation to work its way through the legislative process, and I hope that both Houses will soon turn their attention to this urgent matter.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION

House Joint Resolution 492, as passed by the House, contained no items relating to the Departments of Labor, Health and Human Services, and Education. The Senate added five items, including three amendments providing supplemental funding of $173.4 million, and two amendments consisting of basic statutory changes.

The conferees agreed to provide $100 million for the summer youth employment program, as proposed by the Senate. These funds are intended, insofar as possible, to provide a floor of 90 percent of the amount of summer youth funds provided to each prime sponsor in fiscal year 1983. A formula change in the Job Training Partnership Act, now in its first year, for the summer youth program changed the distribution of funds, and this supplemental is intended to prevent any drastic reduction in funds to particular localities due to the implementation of the new formula.

The other four amendments added by the Senate were deleted, without prejudice to their consideration in any future supplemental funding fill. Those amendments on which the Senate receded are:

The sum of $70 million in supplemental funding for the Corporation for Public Broadcasting for fiscal years 1984, 1985, and 1986;

The sum of $3.4 million in academic facilities money to Lincoln and Cheyney Colleges in Philadelphia, as matching funds for the donation of a $40 million facility to those colleges through the Urban Education Foundation;

An amendment that would have required that fiscal year 1984 impact aid awards be distributed on the basis of regulations in effect on October 31, 1983; and

An amendment that would have removed the June 30, 1984, expiration date of the work incentive (WIN) dem-

onstration program, enacted as part of the 1981 Reconciliation Act.

LEGISLATIVE BRANCH

Amendment No. 19 is a Senate housekeeping item which provides $61,000 to print "A History of the Senate." While accepting the amendment in the interest of comity between the two Houses, House conferees announced that future printing requests should be handled in the normal manner of a joint resolution.

TRANSPORTATION

The conference agreement provides $2 million for the operation of the Civil Aeronautics Board for the last 2 months of the fiscal year. In the fiscal year 1984 transportation appropriations bill, funding was provided for just the first 10 months of the year. This supplemental funding will permit continued CAB operations for the rest of fiscal year 1984.

TREASURY

For the Department of the Treasury, U.S. Postal Service, the conferees agreed to two amendments.

First, the conferees accepted language in the Senate-passed bill providing $25 million to the U.S. Customs Service for the purchase of up to eight high-performance aircraft and related equipment for drug-interdiction purposes. With the funds made available until expended, the agreement also requires that such aircraft shall be purchased through open and competitive procurement. These additional aircraft will complement and enhance a vigorous effort on the part of the Customs Service to arrest the alarming flow of illegal drugs into this country.

Second, the conferees directed the Customs Service to operate and maintain the district headquarters at Bridgeport, Conn., for the remainder of fiscal year 1984. This district includes the ports of New Haven, New London, Bridgeport, and Bradley International Airport.

The conferees expect that the Bridgeport district headquarters will continue to provide effective and important services to western Massachusetts and Connecticut.

Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) has consumed 6 minutes.

● Mr. STOKES. Mr. Speaker, I am taking this opportunity to rise in strong support of the conference report for House Joint Resolution 492, providing supplemental appropriations for fiscal year 1984. Three especially critical areas are addressed in this legislation: Youth summer employment; emergency food aid (Food for Peace) to 24 African countries; and food programs for women, infants, and children (WIC).

Mr. Speaker, House Joint Resolution 492 would provide an additional $100 million for urgently needed jobs for disadvantaged youth this summer. With minority youth unemployment hovering at nearly 50 percent, the jobs financed through the summer youth employment program provide the first valuable work experience for many minority young people.

These funds will help to insure that participating communities receive roughly 90 percent of the summer job funding that they received last year. Without the additional $100 million restoring total funding for the summer youth employment program to last year's level of $824 million, major urban cities will suffer a devastating reduction in Federal aid for summer jobs for youth.

According to data provided by the League of Cities, the National Association of Counties, and the National Governor's Association, of a total 60 areas surveyed, 43 reported funding reductions at or above 10 percent. My hometown of Cleveland, Ohio, reported a reduction in summer youth employment funding of 43 percent. The city of Chicago has been hit the hardest, and, according to the survey, was the victim of a 47-percent reduction in funds, in addition to the loss of some 16,000 summer jobs. Other cities reporting funding reductions are: Dallas at 40 percent; Indianapolis at 30 percent; Minneapolis at 38 percent; and New York City at 20 percent.

If the 43 percent reduction in Federal support to Cleveland is permitted to materalize the summer youth employment program will serve approximately 3,300 youth, 5,500 less than the total number served during the summer 1983. Moreover, in addition to normal work experience, such exemplary activities as the aptitude comprehensive test/scholastic aptitude test (ACT-SAT) and study skill workshops would no longer be offered to Cleveland area youngsters.

Another critical area addressed by House Joint Resolution 492, Mr. Speaker, is the problem of famine on the continent of Africa. Thousands upon thousands of Africans in 24 countries are dying and facing starvation in what is being called the "most widespread and devastating drought in the continent's recent history." There is no reason, politicial or technical, why people should be starving in Africa or anywhere in the world in 1984. Approximately 150 million are facing famine and death as a result of the drought that has gripped a large portion of the continent.

Africa is facing the worst food shortage since the early part of the 1970's when at least 200,000 to 300,000 people starved to death. For a majority of the 24 drought-stricken African countries, 1984 marks the second year in a row that there has been insufficient rainfall to grow food, and so forth. U.N. officials estimate that in Ethiopia alone, 50 to 100 children are dying each day as a direct result of malnutrition or starvation. The drought of 1984 represents the first time in recent history that so many African nations have been stricken by drought and widespread famine simultaneously.

Thus, it is clear that Congress must not delay another day in approving the additional $60,000 contained in House Joint Resolution 492 for food relief for Africa. These funds will be made available from the Commodity Credit Corporation inventory for sale on a competitive bid, basis or charter to those African nations requiring emergency food assistance. Funds would also be available to any country for use in assisting in emergency food assistance to Africa, as is authorized by section 101(b) of Public Law 98-107.

And finally, House Joint Resolution 492 would provide for an additional $66,000,000 for the feeding program for women, infants and children (WIC). Despite the fact that this Nation's children are first already among Americans in poverty and budget sacrifice, the Reagan administration has failed to recommend adequate funding for this tremendously successful program. Congress must now take swift action to provide the necessary resources to prevent cutbacks in nutritional assistance for needy mothers and children. According to former Federal food stamp Administrator Robert Greenstein, inadequate appropriations for WIC mean the elimination of 500,000 to 1 million pregnant women, infants, and children from this program this summer alone.

Mr. Speaker, I can think of no other Federal programs for which there is a more urgent and pressing case for the provision of additional Federal resources. House Joint Resolution 492 has been languishing in Congress for over 2 months now. I urge the swift adoption of the conference report for House Joint Resolution 492 so that the lives and well-being of mothers, children, and youth in Africa and here at home may be protected.●

● Mr. PATTERSON. Mr. Speaker, I rise in support of increased military aid to El Salvador, on the condition that standards outlined by Congress are met.

I want to emphasize how far El Salvador has come and, at the same time, remind my colleagues of the need to continue with judicial, electoral, and other reforms now underway. I think El Salvador is on the way back from chaos and corruption. The recent election and the indications that President-elect Jose Napoleon Duarte is going to be allowed to assume office in June, as scheduled, are signs that conditions have improved even since I traveled throughout El Salvador just 2½ months ago.

It seems clear that these improvements have occurred, in part, because the U.S. Congress has made it clear that while we are willing to commit funds to help El Salvador fight communism, we are not willing to throw money down the drain. The Salvadorans have to continue to make reforms that strengthen their Government's legitimacy and undercut the guerrillas' appeal or we are wasting money trying to help them. Recently, they have shown that they are beginning to take us seriously and that they are willing to try and we have shown in turn that we are willing to help promptly and generously.

Now, just as some of the U.S.-inspired reforms are showing results, some of my colleagues have decided it is time to write the Salvadoran military a blank check. They say that to put any conditions at all on our aid is to compromise the sovereignty of the nation of El Salvador. That is one of the strangest things I have heard in a decade in the House of Representatives. If we wanted to tell the Salvadorans what to do with the tax money they collect from their citizens, that would compromise their sovereignty. All we want to do is to set some conditions on how they use the tax money we collect from our citizens. And I must say, it is hard for me to see what is wrong with that.

The conditions that have been put on aid—mainly concerning democratic processes and human rights—are not lofty ideals, but are essential components of a coordinated social, economic, and military assault against communism. We should not abandon those conditions now, when we are contemplating a very substantial increase in military aid.

To give military aid now with no indication that civilian and military reforms are still important to us will hardly strenghten Mr. Duarte's hand against the extremists he must tame within El Salvador's military. I have the highest regard for Mr. Duarte, as do nearly all of my colleagues. But I recognize that he cannot do the job alone and he will need to be able to turn to those in his country who oppose judicial and electoral reform, who oppose increased attention to human rights, and who oppose the land reform program and say, "To stop a Communist victory in our country we need to make reforms and to protect ourselves militarily. The United States will help us, but we can't do one without the other." When Mr. Duarte can say that, he will have a powerful tool for achieving the cooperation of various factions with which he has to work.●

● Mr. ROGERS. Mr. Speaker, I rise today to commend the distinguished chairman of the Appropriations Committee, Mr. WHITTEN, and ranking minority member, Mr. CONTE, for their extensive and diligent efforts on the bill House Joint Resolution 492.

And in particular, I would like to voice my strong support for that provision in the bill which disapproves the deferral of $14 million for the Cumberland Gap Tunnel. Let me give you some of the background on this tunnel so you can see why it merits prompt Federal funding.

First, let me begin by pointing out that this project does not lead to additional taxpayer expenditures. The funds from this project are drawn from the highway trust fund. And this funding has already been mandated by Congress as one of the four parkways and park highways listed as priority items in the Surface Transportation Act passed by the Congress in 1982.

Second, this funding will permit the improvement of a seriously hazardous road. The Cumberland Gap Tunnel will complete a key portion of the Appalachian highway system. The entire 100-mile length of U.S. 25E from Corbin, Ky., to Morristown, Tenn., is either already a four-lane road or is under construction to become four lanes—except for the 2.7 miles of very dangerous mountain road through the Cumberland Gap National Historical Park. In the past decade alone, over 200 accidents and 19 fatalities have occurred on U.S. 25E through the Gap, over twice the national average. As a matter of fact, this mountain has come to be known in some places as Massacre Mountain.

Finally, this funding will have a great economic impact on this Appalachian area. The road improvement will enhance the tourism business for the Cumberland Gap National Historical Park and the surrounding region—business that is badly needed in view of the approximately 20 percent unemployment we have in this region.

This provision is good for my district and I believe is good for our country as a meritorious expenditure of taxpayer funds. And I applaud the conference committee for adopting this provision.●

● Mr. JEFFORDS. Mr. Speaker, for the past 2 weeks the House has been wrestling with the difficult issues of U.S. policy toward Central America and the appropriate levels of aid to the various countries in the region, most notably, El Salvador.

I continue to have a very strong feeling that there must be firm pressure brought to bear on the Salvadoran military in order to bring about stabilization of the domestic situation. For this reason, I voted in favor of the Foreign Affairs Committee's proposal on aid to Central America. I felt that the strong conditions contained in this legislation would aid President-elect Duarte in his efforts to institute reforms. However, the administration-backed proposal prevailed over the committee's language by a slim margin. This amendment authorized $129.3 million in 1984 supplemental military aid for El Salvador.

Since that time, Mr. Duarte has come to Washington to meet with administration officials and Members of Congress. He has clearly articulated the goals of his administration and asked for U.S. support. Mr. Duarte has proven himself to be courageous and dedicated in his efforts to bring democratic reform and social progress to El Salvador.

During a meeting with Mr. Duarte and Members of Congress, I had the opportunity to question him personally. I explained that my vote on the foreign aid bill was not an expression of lack of confidence in Mr. Duarte, but rather was meant to give him backing in his struggle with his opponents. I then asked him what assurances he could give that he would be able to gather sufficient support to implement such policies as vertical discipline in the military system, meaningful corrective changes in the criminal justice system, and substantial progress on land and social reforms. Mr. Duarte answered that he has drawn up a 27-point document in which these and other policies are articulated. In a meeting with leaders of the military, they agreed to these points and are willing to work for their implementation. I have requested and am waiting to receive, as is Chairman LONG of the Appropriations Subcommittee on Foreign Relations, a copy of these 27 conditions from our Ambassador to El Salvador, Mr. Thomas Pickering.

In addition to these verbal assurances from Mr. Duarte, it was announced this morning that the five members of the Salvadoran National Guard who have stood accused for a number of years in the murder of the American churchwomen, were finally convicted. This fulfills one of the conditions placed on U.S. aid to El Salvador by Congress in the 1984 continuing resolution.

In view of my dialog with Mr. Duarte and the passage of the authorization funds from which the meregency supplemental would be drawn, I felt that I could not in good conscience vote against what Mr. Duarte feels is absolutely necessary in order to implement his policies.

On the other hand, I am still convinced that expanding the mission of the "contras" has been and will continue to be counterproductive to our desires to bring peace to Central America. I believe that this is pushing the Nicaraguan Government, with which we have diplomatic relations, to move closer to the Cubans and the Soviets. Nicaragua fully realizes the economic realities that it faces and is very aware that it must make peace in order to have any hope of improving

its domestic economic conditions. Furthermore, I believe that our actions, especially the mining of the harbors, have detrimentally affected our relations with other countries, particularly developing nations. These actions have seriously damaged our image abroad and enhanced the Soviet position with respect to these nations.●

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 36, not voting 21, as follows:

[Roll No. 179]

YEAS—376

Ackerman	Clay	Flippo
Addabbo	Clinger	Florio
Akaka	Coats	Foglietta
Albosta	Coleman (MO)	Foley
Alexander	Coleman (TX)	Ford (TN)
Anderson	Collins	Fowler
Andrews (NC)	Conable	Frank
Andrews (TX)	Conte	Franklin
Annunzio	Conyers	Frenzel
Anthony	Cooper	Frost
Applegate	Corcoran	Fuqua
Aspin	Coughlin	Garcia
AuCoin	Courter	Gaydos
Badham	Coyne	Gejdenson
Barnard	Crockett	Gekas
Barnes	D'Amours	Gephardt
Bartlett	Daniel	Gibbons
Bateman	Darden	Gilman
Bates	Daschle	Gingrich
Bedell	Daub	Glickman
Beilenson	Davis	Gonzalez
Bennett	de la Garza	Goodling
Bereuter	Dellums	Gore
Berman	Derrick	Gradison
Bethune	DeWine	Gray
Bevill	Dickinson	Green
Biaggi	Dicks	Guarini
Bliley	Dingell	Gunderson
Boehlert	Dixon	Hall (IN)
Boggs	Donnelly	Hall (OH)
Boland	Dorgan	Hall, Ralph
Boner	Dowdy	Hamilton
Bonior	Downey	Hammerschmidt
Bonker	Duncan	Harkin
Borski	Durbin	Harrison
Bosco	Dwyer	Hartnett
Boucher	Dymally	Hatcher
Boxer	Dyson	Hawkins
Breaux	Early	Hayes
Britt	Eckart	Hefner
Brooks	Edgar	Hertel
Broomfield	Edwards (AL)	Hightower
Brown (CA)	Edwards (CA)	Hiler
Broyhill	Edwards (OK)	Hillis
Bryant	Emerson	Holt
Burton (CA)	English	Hopkins
Byron	Erdreich	Horton
Campbell	Erlenborn	Howard
Carney	Evans (IL)	Hoyer
Carper	Fascell	Hubbard
Carr	Fazio	Huckaby
Chandler	Feighan	Hughes
Chappell	Ferraro	Hunter
Chappie	Fiedler	Hutto
Clarke	Fish	Hyde
Ireland	Molinari	Shaw
Jeffords	Mollohan	Shelby
Jenkins	Montgomery	Sikorski
Johnson	Moody	Sisisky
Jones (NC)	Moore	Skeen
Jones (OK)	Morrison (CT)	Skelton
Jones (TN)	Morrison (WA)	Slattery
Kaptur	Mrazek	Smith (FL)
Kasich	Murphy	Smith (IA)
Kazen	Murtha	Smith (NE)
Kemp	Myers	Smith (NJ)
Kennelly	Natcher	Smith, Robert
Kildee	Neal	Snowe
Kindness	Nelson	Snyder
Kleczka	Nichols	Solarz
Kogovsek	Nowak	Solomon
Kolter	O'Brien	Spence
Kostmayer	Oakar	Spratt
LaFalce	Oberstar	St Germain
Lagomarsino	Olin	Staggers
Lantos	Ortiz	Stangeland
Latta	Ottinger	Stark
Leach	Owens	Stenholm
Lehman (CA)	Oxley	Stokes
Lehman (FL)	Packard	Stratton
Leland	Panetta	Studds
Lent	Parris	Sundquist
Levin	Patman	Swift
Levine	Patterson	Synar
Levitas	Pease	Tallon
Lewis (CA)	Penny	Tauke
Lewis (FL)	Pepper	Tauzin
Lipinski	Perkins	Taylor
Livingston	Petri	Thomas (CA)
Lloyd	Pickle	Thomas (GA)
Loeffler	Porter	Torres
Long (LA)	Price	Torricelli
Long (MD)	Pursell	Towns
Lott	Quillen	Traxler
Lowery (CA)	Rahall	Udall
Lowry (WA)	Rangel	Valentine
Lujan	Ratchford	Vander Jagt
Luken	Ray	Vandergriff
Lundine	Regula	Vento
MacKay	Reid	Volkmer
Madigan	Richardson	Walgren
Marlenee	Ridge	Waxman
Martin (NC)	Rinaldo	Weber
Martin (NY)	Ritter	Weiss
Martinez	Roberts	Wheat
Matsui	Robinson	Whitehurst
Mavroules	Rodino	Whitley
Mazzoli	Roe	Whittaker
McCain	Roemer	Whitten
McCandless	Rogers	Williams (MT)
McCloskey	Rose	Williams (OH)
McCurdy	Rostenkowski	Winn
McDade	Roth	Wirth
McGrath	Rowland	Wise
McHugh	Roybal	Wolpe
McKernan	Rudd	Wortley
McKinney	Russo	Wright
McNulty	Sabo	Wyden
Mica	Savage	Wylie
Mikulski	Scheuer	Yates
Miller (CA)	Schneider	Yatron
Miller (OH)	Schroeder	Young (AK)
Mineta	Schulze	Young (MO)
Minish	Schumer	Zschau
Mitchell	Seiberling	
Moakley	Shannon	

NAYS—36

Archer	Gregg	Pashayan
Bilirakis	Hall, Sam	Paul
Brown (CO)	Hansen (UT)	Schaefer
Burton (IN)	Jacobs	Shumway
Cheney	Kastenmeier	Shuster
Craig	Kramer	Siljander
Crane, Daniel	Lungren	Smith, Denny
Crane, Philip	Mack	Stump
Dannemeyer	McEwen	Vucanovich
Dreier	Moorhead	Walker
Evans (IA)	Nielson	Weaver
Fields	Obey	Young (FL)

NOT VOTING—21

Coelho	Markey	Sawyer
Ford (MI)	Marriott	Sensenbrenner
Gramm	Martin (IL)	Sharp
Hance	McCollum	Simon
Hansen (ID)	Michel	Watkins
Heftel	Pritchard	Wilson
Leath	Roukema	Wolf

□ 1150

Mr. SAM B. HALL, JR., and Mr. KASTENMEIER changed their votes from "yea" to "nay."

Messrs. LUJAN, HERTEL of Michigan, AuCOIN, and Ms. OAKAR changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 1: Page 1, line 3, strike out "sum is" and insert "sums are".

Mr. WHITTEN. Mr. Speaker, I have a unanimous-consent request. First, I want to tell my colleagues that there will be separate votes and separate consideration of the amendments regarding El Salvador and Nicaragua.

However, we have several amendments on which the conferences are in full agreement and which are not controversial.

□ 1200

And I ask unanimous consent, therefore, that those amendments which are noncontroversial be considered en bloc. I have cleared this with my friend on the Republican side, Mr. CONTE and others. I repeat these amendments are noncontroversial. The conferees are in full agreement on them. This request does not interfere at all with those where there is great interest and where there will be a separate vote.

Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 7, 11, 13, 15, 19, 21, 22, 25, 29, 30, and 31 be considered en bloc, and printed in the RECORD.

I repeat, Mr. Speaker, these amendments are noncontroversial.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disgreement.

The Senate amendments offered en bloc, with the exception of Senate amendment No. 1 which was printed earlier, are as follows:

Senate amendment No. 7: Page 2, after line 17, insert:

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For an additional amount for "Child Nutrition Programs", $545,544,000.

FEEDING PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the "Feeding Program for Women, Infants, and Children (WIC)", $300,000,000.

Senate amendment No. 11: Page 2, after line 17, insert:

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC SUPPORT FUND

Notwithstanding section 660 of the Foreign Assistance Act of 1961, for an additional amount for necessary expenses for assistance to the Government of El Salvador to protect jurors and other key participants in the criminal proceedings against those charged with the murders of four American churchwomen, during and subsequent to such proceedings, $500,000.

Senate amendment No. 13: Page 2, after line 17, insert:

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $7,000,000: *Provided*, That such sum shall be available only for assistance to displace persons in El Salvador.

Senate amendment No. 15: Page 2, after line 17, insert:

DEPARTMENT OF THE INTERIOR

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ABANDONED MINE RECLAMATION FUND

Notwithstanding any other provision of law, within the amounts provided under this head in the Department of the Interior and Related Agencies Appropriation Act, 1984 (Public Law 98-146), $1,000,000 shall be made available to the State of Montana for reclamation grants pursuant to section 402(g)(2) of Public Law 95-87 for reclamation of the Colorado Tailings site in Montana.

Senate amendment No. 19: Page 2, after line 17, insert:

SENATE

CONTINGENT EXPENSES OF THE SENATE

STATIONERY (REVOLVING FUND)

To provide additional capital for the revolving fund established by the last paragraph under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), $61,000.

Senate amendment No. 21: Page 2, after line 17, insert: GENERAL PROVISIONS

Senate amendment No. 22: Page 2, after line 17, insert:

SEC. 101. None of the funds appropriated for the fiscal year 1984 to carry out chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 or made available under the Arms Export Control Act may be available for Panama on or after any date of disruption or cancellation by the Armed Forces of Panama of the general elections scheduled for May 6, 1984.

Senate amendment No. 25: Page 2, after line 17, insert:

SEC. 104. Deferral No. D84-50, submitted to the Congress on February 22, 1984, to defer $14,000,000 in funds provided in Public Law 98-146 for construction of the Cumberland Gap Tunnel and related activities, is hereby disapproved.

Senate amendment No. 29: Page 2, after line 17, insert:

SEC. 108. Within 120 days of the enactment of this legislation, the President shall transmit to Congress a classified and unclassified version of a report on the whereabouts of military equipment transferred since 1980 from the United States to the Government of El Salvador, and the whereabouts of Salvadoran military personnel trained with United States military aid funds.

Senate amendment No. 30: Page 2, after line 17, insert:

SEC. 109. If at any time following the appropriation of funds herein the duly elected President of El Salvador should be prevented from taking office by military force or military decree or after taking office shall be deposed by military force or military decree, all funds appropriated herein for El Salvador and not theretofore obligated or expended shall not thereafter be available for obligation or expenditure unless reappropriated by Congress.

Senate amendment No. 31: Page 2, after line 17, insert:

SEC. 110. On Sunday, March 25, 1984, a remarkable exercise in democracy in the conduct of a free and honest election within the Republic of El Salvador took place, with approximately 70 percent participation by eligible voters despite intense guerrilla efforts to intimidate and to sabotage the election;

Since the success of the Government of El Salvador in the conduct of this election against the guerrilla efforts to disrupt and invalidate it depended both upon the courage, good spirits and determination of the Salvadoran people to freely choose their President and Vice President, and upon the ability of Salvadoran armed forces to safeguard voters and election officials against the guerrillas.

Since within 30 days of certification of the results of the March 25 election a runoff election is required under the Salvadoran Constitution and election law, since no candidate won a majority of the vote at the March 25 election.

Since the armed forces of El Salvador, unless immediately resupplied by the United States with equipment arms and ammunition which are in critically short supply, are threatened with being unable to provide the same needed protection for the runoff election, and with suffering generally a dangerously reduced capacity to safeguard the Salvadoran people against the terrorism of the guerrillas.

Therefore, the Senate finds that the policy of the United States should be to immediately provide such additional equipment, arms, and ammunition as will allow the armed forces of El Salvador to provide needed protection to the Salvadoran people both at the runoff election and in their daily lives; and ultimately to so suppress guerrilla terrorism as to make possible the revival of economic activity with El Salvador.

MOTIONS OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered 1, 7, 11, 13, 15, 19, 21, 22, 25, 29, 30, and 31 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 5: Page 2, line 9, strike out all after "ble" down to and including "requirements." in line 17 and insert ", in addition to amounts otherwise made available, through September 30, 1985.".

MOTION OFFERED BY MR WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "through March 31, 1985; and in addition not to exceed $90,000,000, shall be available through September 30, 1985, from Commodity Credit Corporation inventory for sale on a competitive bid basis or barter to the African countries requiring emergency food assistance, or any country for use in assisting in emergency food assistance to Africa. In the event Commodity Credit Corporation stocks are not available, the Corporation may purchase commodities to meet emergency requirements.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 8: Page 2, after line 17, insert:

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

Notwithstanding section 502(d) of the Housing Act of 1949, from amounts previously made available from the Rural Housing Insurance Fund, in Public Law 98-151, for fiscal year 1984, $1,380,000,000 shall be made available for low-income borrowers and $920,000,000 shall be made available for very low-income borrowers.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

Notwithstanding section 502(d) of the Housing Act of 1949, from amounts previously made available from the Rural Housing Insurance Fund, in Public Law 98-151, for fiscal year 1984, $1,610,000,000 shall be made available for low-income borrowers and $690,000,000 shall be made available for very low-income borrowers: *Provided*, That up to $230,000,000 may be transferred from low income amounts to very low income amounts if the Secretary certifies that qualified applicants are available.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 10: Page 2, after line 17, insert:

UNITED STATES INFORMATION AGENCY

Notwithstanding any other provision of law, for necessary expenses of the United States Information Agency $850,000 for payment to Nassau County of the State of New York as reimbursement for activities carried out by Nassau County during the 1984 International Games for the Disabled.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for "Educational and Cultural Exchange Programs", $850,000 for reimbursement for activities carried out during the 1984 International Games for the Disabled.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, for the period August 1, 1984 through September 30, 1984; *Provided*, That any unobligated amounts already appropriated under Public Law 98-78 shall remain available until September 30, 1984.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

Notwithstanding current administrative procedures, the Secretary of the Army, acting through the Chief of Engineers, is directed to implement immediately non-structural flood control measures such as relocation sites, flood proofing and flood plain acquisition and evacuation as described in the General Plan for Section 202 Program Implementation prepared by the Ohio River Division in April 1982 and as authorized by Section 202 of Public Law 96-367: *Provided*, That there is hereby appropriated $21,000,000 to remain available until expended for the purposes of this paragraph.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I desire to use time at this time, so I yield myself such time as I may consume, and I will yield to the gentleman from Kentucky (Mr. PERKINS) for the purpose of entering into a colloquy with the gentleman from Alabama (Mr. BEVILL).

Mr. Speaker, I yield to both gentlemen for that purpose.

Mr. PERKINS. Mr. Speaker, if I may have the attention of the gentleman from Alabama (Mr. BEVILL), I wish to establish the legislative history and legislative intent of amendment 10 which was just adopted. Is it the understanding of the gentleman from Alabama (Mr. BEVILL), the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, that the funds appropriated under this section for section 202, Public Law 96-367 work shall be in part apportioned by the Corps of Engineers by using $7 million in the Kentucky counties of Pike and Martin and $1 million at Grundy, Va.?

Mr. BEVILL. The gentleman is correct.

Mr. PERKINS. Is it further the understanding of the gentleman from Alabama (Mr. BEVILL) that any relocation and floodproofing accomplished under this section is strictly voluntary by the homeowner except for floodwall relocation and that emphasis should be placed upon the development of housing site out of the flood plain?

Mr. BEVILL. Yes; this is correct.

Mr. PERKINS. I thank the gentleman from Alabama (Mr. BEVILL), the distinguished chairman and the Subcommittee on Energy and Water Development, for defining the intent for the partial expenditure of these section 202, Public Law 96-367 funds.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from West Virginia.

Mr. RAHALL. I thank the distinguished chairman for yielding.

To follow up on the legislative history that my colleague from Kentucky has just established, I would like to ask the subcommittee chairman, the remainder of this $23 million appropriation that is not going to Kentucky and Virginia, a balance of $13 million, is it my understanding that that money will go for the same purposes in West Virginia?

Mr. BEVILL. The gentleman is correct, the three States, you are correct; West Virginia gets the balance.

Mr. RAHALL. I thank the subcommittee.

I might add, we are all in agreement on the three States on this matter.

Mr. WHITTEN. I say for the record this amendment deals with the disastrous flooding that happened in parts of West Virginia and Kentucky. That area has experienced several severe floods, most recently earlier this month. It was believed by all the conferees that to move quickly would greatly assist the people in the area and reduce the possibility of recurring flooding.

For that reason, we accelerated consideration of this issue. It is an acute situation. It is urgent that we proceed immediately.

Mr. RAHALL. I thank the chairman.

The SPEAKER pro tempore. Does the gentleman from Massachusetts desire time on this amendment?

Mr. CONTE. No, Mr. Speaker.

Mr. WHITTEN. I merely described the purpose of this amendment.

Mr. CONTE. This is perfectly all right.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 12: Page 2, after line 17, insert:

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $61,750,000: *Provided*, That this sum shall be available only for assistance for El Salvador, notwithstanding the limitations and restrictions on such assistance contained in section 101(b) of Public Law 98-151: *Provided further*, That none of the funds appropriated under this heading may be available for obligation or expenditure until the President prepares and transmits to the Congress a report—

(1) stating his determination that the Government of El Salvador has demonstrated progress toward land reform, free elections, freedom of association, the establishment of the rule of law and an effective judicial system, and the termination of the activities of the so-called death squads, including vigorous action against members of such squads who are guilty of crimes and prosecution to the extent possible of such members who are past offenders;

(2) describing the progress made in—

(A) The development of an effective medical evacuation and training system for El Salvador;

(B) the training of the Armed Forces of El Salvador;

(C) the quantification of the losses or expenditures in El Salvador of munitions, weaponry, and combat support equipment which has been furnished by the United States; and

(D) the acquisition and support of tactical communications and the upgrading and

modification of the national strategic communications network; and

(3) setting forth the rate of usage by the Armed Forces of El Salvador of spare parts furnished by the United States:

Provided further, That 60 days after the date of enactment of this joint resolution and at intervals of 60 days thereafter the President shall prepare and transmit to the Congress a report on the progress made during the preceding 60 days in achieving the objectives described in the preceding proviso.

Mr. WHITTEN. Mr. Speaker, this is the El Salvador amendment.

The SPEAKER pro tempore. Does the gentleman have a motion?

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that I may make a statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. The issue of additional military assistance in 1984 for El Salvador has been debated extensively. It was debated throughout the last week on the authorization bill. I would hope that we might proceed.

I understand that the gentleman from Maryland, the chairman of the appropriations subcommittee dealing with foreign assistance wishes to make a motion to recede and concur in the Senate amendment.

I yield to the gentleman from Maryland, Mr. LONG.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman from Mississippi.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. CONTE. Mr. Speaker, may I inquire, does the minority have 30 minutes on this?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes and the gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes.

Mr. LONG of Maryland. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I have offered a motion which will have the effect of providing $30 million in new military assistance funding for El Salvador. The motion will also allow $32 million to be used to reimburse the Department of Defense because of the emergency actions which the President took during the Easter recess under section 21(d) of the Arms Export Control Act.

I have been assured in writing from the Department of State that the funds will be used in this manner.

Mr. Speaker, in a letter which I sent to President-elect Duarte today, I explained why I was supporting the additional $30 million. Let me read from parts of that letter:

Mr. PRESIDENT: During our meeting you outlined to me a number of measures which you plan to take once you are inaugurated. These include the following:

1. The establishment of a Presidential Commission to investigate the death squads and to bring to justice persons guilty of these crimes, beginning with the murder of Archbishop Romero.

2. The establishment of a parallel Commission within the Salvadoran armed forces to investigate, and proceed against, death squad activities.

3. The establishment of a Presidential Commission which would investigate both economic and military corruption.

4. The fostering of a national dialogue to broaden, in a secure manner, the political process, which I interpret to include peace talks with the guerrillas.

In addition you stated that you had developed a 27 point plan which you were in the process of discussing with the various groups in El Salvador and that you would share this plan with us.

Obviously one person or program cannot immediately solve the problems of El Salvador, but I do believe the measures you indicated to me are consistent with the concerns that I and others in the Congress have continued to stress.

Barring unforeseen developments, I therefore will support the appropriation of $30 million in emergency military assistance plus the pay-back to the U.S. Department of Defense of the $32 million which was provided through emergency Presidential action, an action which I remain opposed to.

I believe it is important to provide symbolic support for what your presidency offers for the future of El Salvador and its people. This action should also send a message to the Salvadoran military that continued American support depends on their continued support not only of your presidency but of the reforms you will pursue.

Consideration of any future additional military funding for El Salvador will have to wait on a convincing start on your pledges of reform.

Mr. Speaker, if my motion is adopted, it will mean that a total of $126 million in military assistance has been provided in fiscal year 1984. That is approximately a 50-percent increase over fiscal year 1983. In my opinion that amount is sufficient to enable El Salvador military to carry out its functions.

As I stated in my letter to President-elect Duarte, I believe consideration of any future additional military funding for El Salvador should wait until he has made a convincing start on his pledges of reform.

Mr. Speaker, I urge adoption of the motion.

□ 1210

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I rise in strong support of the motion of the gentleman from Maryland, and while he did not mention those of us on the minority side who were prepared to offer this motion, I know that all of us recognize that this is a bipartisan effort to provide a level of security assistance to El Salvador that is of critical and urgent necessity at this moment in the fragile democracy that is emerging in El Salvador.

I suggest, along with the gentleman from Maryland, that this motion be supported with unanimity, in recognition that in so doing the spirit of democracy envisioned by the Salvadoran elections of 1984 will be strengthened, that the progress that has been made in the last 2 years will continue, that those problems that have existed in the past can be resolved as a stronger democracy is built in El Salvador.

I am particularly pleased, Mr. Speaker, that the Broomfield-Murtha amendment that was offered on the floor just 2 short weeks ago is being reenforced today by those Members who recognize in the Salvadoran elections the type of manifest democratic reform so essential to the future, not only of El Salvador, but to the effort of this country to build up the centrist forces in Central America that are so critical to the chances for peace and prosperity in the future.

As a member, Mr. Speaker, of the President's Bipartisan Commission on Central America, the Kissinger Commission, serving with the distinguished gentleman from Michigan (Mr. BROOMFIELD) and the distinguished gentleman from Texas (Mr. WRIGHT), I want to remind my colleagues that there are many in the House who have been urging for a number of weeks that the Congress take steps to provide this security assistance.

I do not want to belabor the discussion, but I do want to remind my colleagues that this security assistance is for things like medical evacuation equipment. Two out of three El Salvadoran Army troops are dying in the field because they do not get the proper attention of medical authorities and do not get the helicopter airlift to get out of the field and back into hospitals for treatment.

This money is for fuel, for ammunition, for an opportunity for the people of El Salvador to provide for their own security and their ability to hold off the guerrillas on the left and, frankly, to build up the forces of democracy so that the violence on the right can be brought to a halt.

There is no doubt in my mind that the violence on the left and the right can be diminished considerably by a commitment by this body not only to give security assistance, but to move

with dispatch toward implementing the recommendations of the Kissinger Commission on economic assistance, on educational assistance, on the reforms for their social and medical and judicial and political needs so critical, of course, to having a strong democracy in El Salvador.

I also urge my colleagues to give full consideration to the effort that is going to be made to provide some assistance to those freedom fighters operating out of Costa Rica and Honduras who are attempting to divert or bring to a halt the arms shipments from Nicaragua into El Salvador.

It seems to me contradictory to stand up here to defend or to vote in favor of security assistance for El Salvador and then close our eyes to the fact that the insurging in El Salvador is being exported and supported from Managua, Nicaragua and of course from Cuba.

So as far as this Member is concerned, recognizing the vast complexities at issue and the many Members who may differ with those of us who do support military assistance to the democratic forces in Honduras and Costa Rica who are fighting against Sandinista oppression in Nicaragua, I urge that we give a lot of consideration today to recognizing that there would not really be a war in El Salvador if it were not being directly supported and exported from Managua, Nicaragua.

I thank my colleagues who supported the Murtha-Broomfield amendment. I thank those who had the perspicacity, consistent perspicacity over the years and the months to give some assistance to the people of El Salvador to hold off the guerrillas. And I thank my colleague from Maryland for offering this motion. I support it and I urge unity today, on behalf of the fight for democracy in Central America.

Let me conclude my remarks by saying, if democracy is to succeed in Central America, if we are to have a chance to build a more prosperous future for those men and women in Central America who do not want either the violence from the right or from the left, it is of critical importance that we approve this motion today, that we take further steps to implement the Kissinger Commission recommendations and that we stand on the side of our ally, on behalf, not just of Central America, but the whole hemisphere. What happens in Central America, my friends, is critical to the future of our own hemisphere, as well as to our own country, and that is worth working for, that is worth supporting, and that is worth standing up for.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I am happy to yield to my colleague from Ohio.

Mr. McEWEN. I thank the gentleman for yielding.

If I could just ask a question for a moment.

As I understand it, this is appropriations to cover the funding that the President made under the emergency action during the recess of the Congress because the funds were needed by the security forces in El Salvador for the election process; is that correct?

Mr. KEMP. This is the full $62 million that was debated prior to the Easter recess.

I would say to my colleague from Ohio, to be totally accurate, it is $30 million less than the President requested at that time. The $62 million that would be provided by this motion not only is important, but represents what all of us, on both sides of the aisle, and in the administration, recognize at this juncture is a necessity.

Mr. McEWEN. If the gentleman will yield further, if I may pursue this. As I understand it, while we speak in very laudatory terms of President-elect Duarte, perhaps the election could have never taken place had the President not taken steps to preserve the stability and support the security forces necessary to accomplish the democratic goals that we are now applauding; is that not correct?

Mr. KEMP. That is my view.

Mr. McEWEN. I thank the gentleman.

Mr. KEMP. I think it is shared by those Members who voted for the Broomfield-Murtha amendment not too long ago.

□ 1220

I want to say to my colleagues who have a lot of questions about this issue, when President-elect Duarte came before the Congress 2 days ago and gave us an opportunity to question, to talk with him—meeting with the Democratic Study Committee, and with the Republican Caucus, which I was pleased to attend—he received bipartisan support. His remarks helped to clarify many of the issues and make it far easier today to join with some degree of unit in supporting this motion of the gentleman from Maryland.

Let me just conclude once again by saying I think the President-elect Jose Napoleon Duarte, educated in the United States, a fighter for democracy, someone who has risked his life for democracy in El Salvador, has made a strong impression not only on this body but on our colleagues in the Senate. I hope today that we vote strong support for this motion and show those who are perpetrating violence on the left as well as the right that this Congress is speaking with one voice today, and standing on the side of those democrats in Central America who are trying to build and fashion a democratic pluralism and democratic prosperity and who really do believe that the future of this hemisphere is on the side of democracy and not on the side of authoritarianism or totalitarianism.

I ask for unity and for strong support for the motion of my colleagues and chairman of my subcommittee, Mr. LONG of Maryland.

Mr. Speaker, I rise in support of the motion that the House do recede and concur in the Senate's amendment No. 12. This motion, which I offer jointly with my Democratic colleague, CLARENCE LONG, would provide $61.75 million in emergency security assistance to the newly elected Government of El Salvador. In fact, this motion is but a halfway measure, pending further action by Congress on a pending $178 million supplemental request.

The Senate approved this level of emergency funding, down from the Senate Appropriations Committee recommendation of $93 million, in a strongly bipartisan vote. It is fully consistent with the Broomfield-Murtha amendment passed by the House earlier this month as part of the foreign aid authorization bill. I had hoped that the conferees would agree to the Senate figure, in recognition of the will of the House as clearly expressed in that vote. Instead, the decision was made to bring the question back before the full House, to back up our policy decision with the money needed to carry it forward.

Today, we are faced with a choice to honor our commitment to democracy in Cental America, which we reaffirmed just last month in a bipartisan voice, or to succumb to partisan divisions, and watch the hopes for democratic Central America die, and the security of our own Nation erode.

The newly elected President of El Salvador, Napoleon Duarte, has come to Washington this week for the express purpose of appealing for this military aid, so that he in turn can fulfill his duties to his people. If the Long-Kemp motion is rejected, we would be scorning President Duarte's heartfelt appeal, turning our backs on the people of El Salvador, and failing a struggling democracy in its hour of need.

The consensus reached by the President's Bipartisan Commission on Central America, on which I was privileged to serve, was truly amazing. And its fundamental message is compelling. The crisis in Central America is serious; our help is vitally needed; and fundamental U.S. interests, both moral and strategic, are at stake.

The Long-Kemp motion follows the policy consensus set forth in the Commission's report, and the spirit of bipartisanship that was its genesis. And in that spirit, we ask for your support.

DIPLOMACY CANNOT WORK WITHOUT SECURITY

Some of our colleagues have argued that President Reagan is pursuing a military solution, without first seeking to achieve a diplomatic settlement of the problems that plague the region. They see the modest level of military assistance in this emergency supplemental as undermining the potential for dialog and negotiations.

I wonder if they are acquainted with the case of Costa Rica. Little Costa Rica, which has no standing army, is facing a hostile and growing threat from Nicaragua across its border. In December of last year, in hopes of avoiding confrontation and in living in peace, Costa Rica issued a declaration of neturality. As the Washington Post reported at the time, "Costa Rica was hoping that it will be defended by its obvious military impotence and its calls to international morality."

And how has Nicaragua responded? With increasing raids across Costa Rica's border. Now Costa Rica is appealing to the United States for military aid, to help defend itself. So much for relying on diplomacy and good faith.

And I wonder if my colleagues who urge a negotiated settlement in El Salvador have considered just who the people of El Salvador are up against. The FMLN—the united guerrilla organization seeking to overthrow the Salvadoran Government—has not been shy in proclaiming it solidarity with sister movements elsewhere in the world. When the Iranian and Syrian supported terrorists killed 241 U.S. Marines in Beirut, the FMLN applauded their crime, heralding them as "anti-imperialist fighters * * * who fight for peace, justice and freedom." Their statement proclaimed:

> From struggling El Salvador we greet all the peoples of the world who are fighting Reagan's warmongering policy and who, with dignity and courage, confront the aggressive monster, certain that the liberation of our countries will be the final result of the anti-imperialist struggle.

Would anyone in this Chamber have urged the United States or the other participants in the multinational force in Lebanon to negotiate with the terrorists?

GROWING DEMOCRACY IN EL SALVADOR

El Salvador has just come through a set of Presidential elections. I was there in March, talking to the people who waited in line in the hot sun for hours, just for the opportunity to vote. They came out in record numbers, even though the guerrillas issued death threats, and confiscated ID cards, and warned that they would cut off the fingers of any who participated in the elections.

The guerrillas attacked power stations, leaving much of the country without electricity, in the hopes of disrupting the elections. And still the elections went forward.

Our Embassy in San Salvador has documented more than 100 instances in which guerrilla forces attempted to disrupt the elections in El Salvador—which may well be just the tip of the iceberg. And still the elections went forward.

And today, El Salvador's new President, Jose Napoleon Duarte, must confront a war being waged against the endurance of that incipient democracy.

The Salvadoran Armed Forces are fighting in despicable conditions. For every three soldiers who are wounded in El Salvador, two can expect to die, not from the wound but from infection due to the lack of adequate medical facilities. This is an abnormally and unacceptably high rate of fatalities, and a serious drain on the morale of the troops. We simply must do more to help. The $61.75 million that would be provided by passage of this motion is a step in the right direction.

Government troops are not the only targets of guerrilla attacks. The guerrillas in El Salvador are waging war against the country itself, blowing up buildings and bridges and factories, trying to bring the economy to its knees. How can you go to your job each day at a plant or on a farm when you fear for your very safety? The guerrillas see the destruction of the economic base as a key to the overthrow of the Government; or at a minimum, they hope to make life so intolerable that they must be given a position of power within the Government—free elections notwithstanding.

Without the military assistance the United States has provided to El Salvador, with the support of Congress, that democratically elected government would have fallen long ago. I am proud of that support. And I believe that having committed our support to El Salvador, we must not falter in our resolve.

REJECT NEOISOLATIONISM

Our support for our natural alliance with the independent nations of Central America should not be colored by partisan politics. Liberals and conservatives alike recognize the need to promote economic growth and the creation of wealth and higher standards of living for our hemispheric neighbors. Liberals and conservatives alike agree on the compelling geostrategic importance of Central America to U.S. security and reject a Soviet military presence in the area. Liberals and conservatives alike favor building institutions of democracy, and oppose the proliferation of Marxist-Leninist states.

The question is not one of liberals versus conservatives. It is a question between those who would have us meet our responsibilities as leader of the free world, and those who would urge us away from that role.

As President Reagan said in his May 8 address to the Nation:

> There are those in this country who would yield to the temptation to do nothing. They are the new isolationists, very much like the isolationists of the late 1930's, who knew what was happening in Europe but chose not to face the terrible challenge history had given them.

We have such a challenge before us today. The American people have never counseled running from challenge. Those who would have us close our eyes to Communist subversion in our own hemisphere will find no support from the American people.

We must approve this motion that I offer jointly with Mr. LONG, if the government of El Salvador is to have the ammunition, medical supplies, and communications equipment it must have to withstand continuing guerrilla attacks. The Duarte government is wholly dependent on our support. And we in turn depend upon the people of El Salvador to defend the integrity of Central America. For as President Duarte has said, "if together we fail to defend and preserve democracy in El Salvador, we will also share the consequences of defeat."

I urge your support for the Kemp-Long motion.

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the impression has been given for a long time that the U.S. Congress has starved El Salvador. The fact is that since the January 1981 so-called final offensive by the El Salvadoran rebels, at which time we had provided almost no military assistance to El Salvador, this Government has provided more than $1 billion in assistance to El Salvador, more than $264 million of which has been military assistance, not counting the draw-down money which the administration provided and the additional funds being provided today.

I oppose the Long motion. I do not oppose it because I do not believe we do not have interests in that part of the world to defend. We obviously do. I do not oppose it because I oppose military assistance to the Government of El Salvador. I do not. I oppose it because I question whether or not the policy which these dollars are going to back up is a smart policy which will effectively defend the interest of the United States.

It is not that I do not have faith in Mr. Duarte. I happen to have a good deal of faith in Mr. Duarte. I think he is a first-class gutsy man who is probably the best you are going to find in El Salvador. The problem, very simply, as I see it, is that I do not believe American policy is sufficiently shrewd or sufficiently broad based in order to give us a good chance of succeeding down the line, and the only way I know of to express my concern about

that fact is to oppose the Long amendment today.

I do not believe that a negotiation strategy alone can succeed. But neither do I believe that a military and economic strategy can succeed unless it is effectively buttressed by an aggressive effort on our part to try to move forward the negotiation process. I really believe that while the administration is giving lipservice to the Contadora approach to negotiation, it is doing precious little else to actually flesh out that process, to actually make it something more than 20 or so vague principles and to give us a real opportunity to see that Contadora process lead to something which could ease the problem in the region.

I believe that if America is to have a policy which is sustainable in Central America and in El Salvador through more than one administration, it has to have broad-based political support for its policy in this country. And I think that the element that is lacking, the element which needs to be present in order to put together that broad-based coalition, is a much more aggressive commitment to the policy of pursuit of negotiation.

I think the statement of the President of Mexico when he spoke in this Chamber just last week makes it quite clear that we do not yet have or at least have not convinced our allies in Central America that we do in fact aggressively pursue the Contadora process. In my judgment, if we do not do that, all of the money that we send down there, both military and economic, in the end will go down a rathole, and it will not lead to the kind of success which I think we desperately need.

So as I say, the only way I know to express my great concern about the inability of the administration to get us together on this issue is by voting no on this motion. I recognize what is going to happen. I recognize the impact that Mr. Duarte has had. But the issue has never been Mr. Duarte. The issue is whether the U.S. policy is going to be effective in defending our interests down there, and I do not believe it will be unless we appear to the world to be much more committed to the negotiation process as defined by Contadora than has been the case up to now.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I support this funding request in the urgent supplemental for El Salvador.

The democratically elected government of Mr. Duarte is critically short of military supplies as the President-elect told us Tuesday. Without continued U.S. support, Mr. Duarte said he has little chance to carry out the reforms and initiatives which will strengthen the democratic institutions of his country.

He asked us not to leave him alone, not to turn our back on him, but to provide him with this urgent assistance now.

President-elect Duarte has made it very clear that he intends to end right-wing death squad violence. As he has said:

> I have the will, I have the guts to do it. I have pledged to my people that I'm going to work hard to stop the death squads, to stop abuses of authority and to stop the cultural violence that is in force in our country.

Also the news today reports an El Salvadoran jury took a giant step in the direction of fulfilling President Duarte's promise by finding those accused of the murder of the American churchwomen guilty on all counts. This is great news!

In our meeting with Duarte on Tuesday, he also made clear that El Salvador has never attacked Nicaragua, and yet, Nicaragua has not respected the sovereignty of El Salvador. He tells us what we all know is true that the control of the Salvadoran guerrillas is in Managua, that all the supplies pass from Russia, Cuba, to Nicaragua to El Salvador.

It is clear that the United States must support El Salvador with continued military assistance so that President-elect Duarte can have a chance to succeed. It is also clear that success or failure in El Salvador is linked with control of the flow of arms from Nicaragua. For that reason, now is not the time to take the pressure off the Sandinista regime in Nicaragua. We must support the new government of President-elect Duarte so that democracy becomes the alternative for hope in Central America.

I urge my colleagues to support this funding request for El Salvador.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding. I have great respect for him. He has risked his life in going to El Salvador many times. Unfortunately, I do not accept the idea that we should accede to the Senate version. We know, as the gentleman from Michigan said, that at long last the five guardsmen have been found guilty this morning. That is the good news. The bad news is that the real power behind the throne, the individual who was involved in the coverup of those murders and possibly even gave the order, is the Defense Minister of El Salvador, whom we want to give this money to. This is wrong.

□ 1230

Now, today at 12 noon the State Department, at long last, released the so-called confidential Tyler report. Since it has been released officially, let me read from the report.

"We believe" on page 8, "as well that it is quite possible that Col. Carlos Eugene Alvidas Cassanova, then head of the National Guard and now the General and Minister of Defense was aware of, and for a time, acquiesced in the coverup." He was involved in lying to two Presidents of our country. Is this the kind of person we want to give taxpayers' money to? The kind of individual who has been responsible for so much abuse in terms of violating the lives of their own people, let alone the contempt and the abuse of our own American missionaries, journalists, and others.

I say to my colleagues, we have to ask those questions of the Defense Minister and of President Durate. Why was there a coverup? And until we do so, we ought to withhold the money and the military assistance. We would be doing the people in El Salvador a big favor.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the motion of the gentleman from Maryland and in support of the proposed $61.75 million in assistance to El Salvador.

Our choice today is straightforward and impossible to evade. Are we going to give democracy a chance in El Salvador or not? Two weeks ago, this body passed authorizing legislation for economic and military assistance to Central America. In that legislation, the conditions on U.S aid were clearly spelled out in order to promote the strengthening of democratic institutions, the protection of human rights, and the economic and social development of El Salvador. Contrary to the way is was reported, there are conditions but they are responsible conditions, conditions that can be met—that will help achieve stability and peace.

The elections May 6, with 80 percent of the electorate voting, gave the message that the people of El Salvador reject violence and reject the guerrillas. They were voting for peace and democracy. I observed that election as well as the March 25 preliminary election. On both occasions the unanimous opinion of the official U.S delegation was that the elections were free and fair.

In just these past 2 weeks, we have seen the confirmation of Jose Napoleon Duarte as President-elect of El Salvador and heard his pledge to engage in a dialog with the opposition, to support private enterprise, and to establish a commission to investigate violence in his country. We have also learned of the conviction of the National Guardsmen for the deaths of the four American churchwomen. With all of these positive developments, it is only right that we give President-elect Duarte the support he

has requested—I repeat: he has requested—to carry out the extraordinarily difficult challenges he faces. As he told us on Tuesday, "You have my word, my honor, my will, and my life. I ask you to understand. I ask you not to leave me alone."

President-elect Duarte has pledged to create a climate of security in his country that will facilitate discussions with the opposition. He has said he will conduct a dialog with all elements in his country willing to participate in the democratic process, that is, the electoral process. President-elect Duarte is also confident that the military establishment will continue to support El Salvador's democratic progress.

President-elect Duarte has asked the United States for continued economic and military assistance. He told us that the Congress has hesitated in the past to help because the country was in the hands of a dictatorship. He says now, "turn the page, close the book" on that chapter, that his democratically elected government represents a new start. He asks that we "give him a hand."

If we are to err, we should err on the side of giving him what he has asked for. If we deny him and his democratically elected government the resources he needs to secure human and economic rights for his people, then this Congress will share the blame for failure. With Duarte's just concluded visit to the United States, it is absolutely the wrong message to send to him and to the armed opposition to deny the urgent supplemental request for appropriations. I urge my colleagues to support the gentleman's motion and support the full amount requested for El Salvador.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I rise in opposition to the motion. Two weeks ago, 208 Members of this House voted against providing unconditional military aid to El Salvador. That was good policy 2 weeks ago; it is good policy now. I hope that each of the 208 Members who supported that policy 2 weeks ago will recognize that the choice we face today is the same one.

The election of Jose Napoleon Duarte was a milestone for El Salvador. Why was he elected? Was it because Congress had given the military a blank check over the past years? No. It was for precisely the opposite reason. Mr. Duarte was elected because the military in El Salvador realized that the U.S. Congress that had raised sticky questions about death squads, killers of U.S. citizens, and plans to settle the civil war, was the same body that would completely shut off military aid if Roberto D'Aubuisson was elected. The military opposed D'Aubuisson's election or seizure of power because Congress demonstrated that it meant business by insisting over the past 3 years that these issues be raised as part of debate over U.S. aid to the Salvadoran Army.

Mr. Speaker, I have the greatest respect for President-elect Duarte. But I find the logic of those Members who are using the election of Mr. Duarte as a justification for their support for the $62 million in unconditional aid very difficult to understand. The issue is not, and never has been, Mr. Duarte. I have met Mr. Duarte and hearing him speak here earlier this week only reinforced my belief that he is truly sincere in his commitment to set things right in his country. I want to do whatever is possible to help him carry out the program of reform, justice, and political settlement that he described so convincingly in his visit to Washington. But I do not think that any of us here feel that the issue is President-elect Duarte's determination to achieve his stated objectives, but rather, his ability to do so.

Those of us who support conditionality on military aid to El Salvador do so precisely because of our firm belief that only by insisting on such conditions can there be any credibility to our country's stated support for reforms and will those within the Salvadoran Government have the necessary leverage to insist on the difficult political and social changes that must be made. We can help Mr. Duarte best by letting the military know that the only way it is going to get U.S. aid is to respect Duarte's rule and his program. If the military and the death squads know in advance that U.S. largesse will continue regardless of progress on reforms, the Salvadoran Government will continue to be unable to stabilize the situation in that country and to secure the popular support necessary to insure a lasting peace in that country. Mr. Speaker, I believe so strongly in conditions on military aid not because I am hostile to Mr. Duarte, but specifically because I want Mr. Duarte to succeed.

One final point needs to be made. There is no emergency in El Salvador that cannot wait for proper consideration of supplemental appropriations by the relevant subcommittee. Just today, $20 million was released to the Salvadoran Army because Congress finally forced a trial and a verdict in the case of the murder of the American churchwomen. Another $32 million has been drawn down by the President under section 21(d) of the Arms Export Control Act. That is $52 million provided in the last month, more than had been provided previously for the whole fiscal year.

I ask my colleagues to oppose the blank-check approach represented by this motion. It is a step backward. It is a step away from the kinds of reforms that President Duarte himself is committed to achieving within his country. I urge my colleagues to vote "no" on the motion.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, how I love it. For the last 3 or more years, our friends on the left have been condemning the President's policies in El Salvador, accusing him of siding with death squads, of backing a military dictatorship, of complicity in atrocities of undescribed horror, of intentional deprivation of the poor and hungry, and of risking U.S. involvement in another Vietnam.

How quickly things change.

For the last few years, those of us who have supported the President's policies in El Savlador have had to fight and kick, bite and scratch for token assistance for that beleaguered nation. We begged and pleaded for enough economic and military support to assist our friends in El Salvador to follow through with their proposals to bring democracy to their troubled nation, and we were met with obstacles at every juncture.

In 1982, the President received $82 million in military aid and $186 million in economic aid. His 1983 and 1984 requests for $136 million and $264 million in military aid were cut to $81 million and $64 million, respectively.

In short, we gave him less in 1983 that we did in 1982, and less again so far in 1984. Now for this year, even counting the $62 million today—not one dime of which many colleagues would make available 3 weeks ago—Congress is still way below the amount that country needs.

Some Members of this body went to El Salvador on frequent occasions, imposed one onerous condition after another upon our assistance—conditions such as we have imposed on no other country in the world; and still they would come back and recommend that we give little or no assistance to Salvador—even in the face of bipartisan recommendations such as the Kissinger Commission which warned against providing insufficent assistance to a country which has been the target of Communist aggression for the past 5 years.

Yet, despite all the resistance, the reluctant and begrudging, and conditional impositions of insufficient support, El Salvador has survived.

They have held three fair, open, and free elections. Overwhelming numbers of their people have gone to the polls under incredibly adverse conditions; they have constructed a constitution providing a democratic way of life for their people, they have elected a constituent assembly; they have elected an articulate defender of human rights as their President; and just yesterday they have brought to trial and

convicted five men accused of committing the murderous atrocity against the American churchwomen.

My goodness, how things fall into line. No longer will El Salvador be used as a bludgeon against U.S. foreign policy.

All of a sudden, all we have worked for has fallen into line. Now, I am very glad to say, we have much broader, bipartisan support for the President's 1984 emergency supplemental request for military aid, and of course, his 1984 supplemental and 1985 requests for economic assistance were approved in the recent authorization bill.

We are all glad that democracy has triumphed in El Salvador.

But the fight is not over. We still have the subject of the Nicaraguan freedom fighters—and their effectiveness as a deterrent to the Marxist efforts to instigate and supply the guerrilla movement in El Salvador.

Our liberal friends say now "OK to aid in Salvador, but none for the Nicaraguan contras!"

Well, I say they are just as wrong on this issue as they have been all along on El Salvador.

What good is it if you provide aid to assist El Salvador's economic and military infrastructure, if you do nothing to keep the Communist insurgents from blowing it all up.

Mr. Speaker, if we are going to be truly effective in El Salvador, we must look at all of Central America as a single, vulnerable unit. The entirety of Central America is vitally important to the security of this Nation, and what we do in Nicaragua affects all of Central America, whether in El Salvador, Costa Rica, which has just requested aid, Honduras, from which the liberals have coaxed our withdrawal, Guatemala, Panama, Belize, and Mexico.

Mr. Speaker, we cannot afford to permit the Communist government in Nicaragua to go unchallenged in their quest for regional revolution, and our covert—or overt—assistance to the Nicaraguan freedom fighters is essential to meet that challenge.

I urge my colleagues to support the President's entire request for Central America and to instruct the conferees accordingly.

□ 1240

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. I thank the gentleman for yielding this time to me.

Mr. Speaker, although I rise in opposition to the motion of the gentleman from Maryland to recede and to concur, I want to commend the gentleman for the very constructive and positive role that he has played throughout these past few years in insisting on the Salvadoran military and Government in trying to bring their house into order.

I think all of us have nothing but the greatest admiration and respect for President Duarte. The issue really is: How do we best help him to ride herd on his military? I think it is perfectly understandable for him to come here and to echo the pleas that are being made by his military. To expect anything else from him is really totally unrealistic.

But we have to know that the best way that we can be of help to him is to insist that there be conditions in the money that we provide. This $60 million has absolutely no conditions that have any substance at all. I think that the military can take great sustenance from it and conclude that President Duarte may be irrelevant. The way to keep him relevant, the way to allow him to be able to enforce what he wants done, is to include strong conditions in whatever military assistance is provided.

The best proof we have is the verdict that was handed down early this morning in the case of the four American churchwomen. That action does not demonstrate good will or good faith on the part of the military; it demonstrates that that is a $19 million verdict, because the military knew that they would lose $19 million in American assistance unless they brought those people to trial.

So it seems to me that on all grounds, the wisdom is to insist on conditions, and the way to do that is to defeat the Long motion.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think the case has been made for continued support for El Salvador, and I believe that a majority of this body will support it. I am happy about that, but I would like to make one point that has not been made by those of us who support the government and have supported it in the past.

That is that there are a tremendous number of victims of leftwing violence in El Salvador. All we hear when the Members on the other side of the aisle come down to the microphone, or many Members come to the microphone, is that the rightwing death squads are doing such a terrible thing in El Salvador and we must withhold aid until that stops.

I have before me hundreds of cases, and probably thousands of cases, of where there have been victims of leftwing violence in El Salvador. So there are problems on both sides, the left and the right, and I think that should be made perfectly clear before this body .

The Communists in Central America have been perpetrating horrible crimes upon the citizens of not only El Salvador, but Nicaragua and other areas. We need to bring that to the attention of the Amercian people as well.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think we saw very early this morning—I was awakened by the press calling me to notify me of it and to ask my reaction to it—a demonstration that conditions on military assistance to El Salvador can, in fact, and do, in fact, have a positive effect.

What we saw very early this morning was the result of an all-night trial that went on in Salvador and the conviction of the individuals apparently responsible for the murders of American churchwomen who had been working in Salvador.

I doubt that there is anybody in this Chamber who would disagree with me in saying that that trial never would have taken place had it not been for the pressures that were brought by the Congress of the United States again and again, pressing the issue of the trial and pressing the issue of prosecution of the people responsible for those horrendous murders.

We would not have seen that verdict this morning without conditions on U.S. military assistance to El Salvador. Similarly, I would argue today that we would not see a President-elect in El Salvador committed to the kinds of goals that Napoleon Duarte is committed to had it not been for the constant pressures that the United States has brought on the military of El Salvador and on other forces in Salvador in the last couple of years to reform and to make the kinds of changes that Napoleon Duarte so eloquently advocated when he met with many of us here this week.

I believe that we can support Napoleon Duarte by continuing to make it clear that the U.S. Congress will demand reforms, demand the very kinds of improvements that he is committed to, that I am convinced that he is committed to, and that he spoke to so effectively this week.

I wish that the language that we are going to vote on this morning contained stronger conditionality than the language we have before us, but the language that we will be voting on does include a continued statement of congressional concern with respect to these issues.

A couple of years ago when some of us got up here on the floor of the House and gave speeches in support of these kinds of reforms, when some of us denounced the death squads in Salvador, there were those in this country

who said we were helping the Communists by pointing out the deficiencies in Salvador. Now we have a President-elect in Salvador who is saying exactly the same kinds of things that many of us here have been saying for years. I think we ought to try to provide support for that President.

The conditionality is not strong, but the language we will be voting on, if we support the motion offered by the gentleman from Maryland, my friend from Maryland, does state that the President must submit a report to us in the Congress and must continue to submit reports every 60 days stating that he is determined that the Government of El Salvador has made demonstrated progress for land reform, free elections, and free association.

□ 1250

Mr. LONG of Maryland. Mr. Speaker, would the Chair tell us how much time remains?

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) has 10 minutes remaining, and the gentleman from Massachusetts (Mr. CONTE) has 5 minutes remaining.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Speaker, I rise in opposition to the motion, and I sincerely hope that one of these days before I leave this august body I will be able to understand the gyrations of my party's leadership.

When this matter was before us the last time, the Democratic Party by and large was agreed that additional funds should not be given to El Salvador without attaching certain conditions guaranteed to protect human rights. Now we make a complete turn about-face, and I can understand why the gentleman from New York, with a feeling of suppressed glee, suggests that this is a bipartisan position.

Mr. Speaker, I am opposed to this motion because we are doing exactly what we condemned at the time we considered it the last time. We protested the fact that the President, without any authorization from Congress, had taken $32 million from one fund and transferred it to El Salvador, and now this motion in effect says, "It's all right, Mr. President, we are going to put that $32 million back."

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MORRISON).

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the subcommittee chairman, the gentleman from Maryland (Mr. LONG), very much for yielding me this time, but I must rise in opposition to this motion.

I think it is important to recognize the fact that within the last month, the Government of El Salvador has received $32 million in U.S. military aid. In addition, as a result of the verdict in the trial of those who murdered the nuns, El Salvador will immediately receive another $19 million in assistance. So we are not dealing here with an emergency situation.

We all wish the new President of El Salvador, Mr. Duarte, well in his pledges to do something about the human rights abuses and the violence in El Salvador, but we do him no favor and we do the American people no favor if we appropriate money with these very lax conditions.

In our own country, when we appropriate money to Governors and mayors and school boards at the local level, we regularly condition the receipt of those funds on performance in the area of civil rights and the like. Why is it too much to ask that when we send money to El Salvador, where abuses in that regard have been so great, that we ask as a precondition that negotiations begin, that human rights be respected, and that economic opportunity be afforded. How else can we expect democracy to succeed in El Salvador?

In order for the new President of El Salvador to make good on his pledges, he needs leverage. Whether he believes that or states it or not, we certainly know from the history of aid to El Salvador that meaningful conditions are required.

Mr. Speaker, it is against our interests and the interests of the people of El Salvador that we are being presented with an appropriation that is not so conditioned, and for that reason I urge a "no" vote on this motion.

Mr. CONTE. Mr. Speaker, may I inquire, how is the time divided?

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) has 8 minutes remaining and the gentleman from Massachusetts (Mr. CONTE) has 5 minutes remaining.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, a very good case can be made, as it has been by the gentleman from Maryland and others, that in light of the recent elections in El Salvador and the visit on the part of President-elect Duarte to our country, we should provide these additional funds to El Salvador as a kind of vote of confidence in Mr. Duarte himself.

It is very clear to me that Jose Napoleon Duarte is a good and decent man. There is absolutely no doubt that he wants to eliminate the death squads and bring the armed services under control and enter into a dialog with the opposition in an effort to resolve this war through political rather than military means. I find myself very sympathetic to the argument that we should be doing everything we can to help him.

But at the same time I think we have to recognize that anybody who knew Jose Napoleon Duarte did not have to hear him a few days ago to know that he was committed to the elimination of the death squads and to the establishment of the rule of law in El Salvador. He was committed to those very same objectives 3 years ago when he was President of El Salvador, and the tragic fact then was that in spite of his best efforts, in spite of his sincerity, in spite of his determination, he was unable to eliminate the death squads or to bring the armed services in El Salvador under control; and it is not yet clear that he is going to be able to do it now.

We just had a verdict in the nuns' case, as a consequence of which El Salvador will be getting an additional $20 million in military assistance. A few weeks ago under the 21(b) authority, the President provided El Salvador with another $32 million in military assistance.

It seems to me that the verdict in the nuns' case does two things. First, it takes the urgency off the need for this supplemental because it means that for the 1984 fiscal year El Salvador will have gotten a total of $97 million. We have already authorized $132 million, beginning on October 1, for the next fiscal year. Surely the amount of money they have already received will carry them up to the end of this fiscal year and the beginning of the next fiscal year.

But second, what tne verdict in the nuns' case demonstrates is that conditions do work and they can make a difference. Can anybody believe there would have been a verdict in that case if we had not passed a law which deprived them of the $20 million unless there was a verdict?

So what I say is this: If Mr. Duarte can fulfill his own objectives, if he can really eliminate the death squads, I am prepared to vote for all the money he needs and then some, because I think this is a man who is fighting the good fight in El Salvador and who stands for what we stand for. But until he can demonstrate that he has the capacity to be more effective this time than he was the last time, until he can demonstrate that he really does have the capacity to bring the death squads under control, I think it would be premature and gratuitious for us to provide these additional funds at this time when they just got a check for $20 million in the mail today and they got a check for $32 million in the mail a few weeks ago.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I support this additional funding for El Salvador.

I have been to that country three times now over a period of 2 years, and in that time I have watched a nation and a people make major changes in political reform, in land reform, in legal reform, and in military reform. They have made those changes in the middle of a war, and in the middle of that war the people of El Salvador have transformed themselves into a democracy.

I would appeal to my friends who have been critical of the Government of El Salvador that we are voting not on whether to give aid to the El Salvador of 2 years ago but whether to give aid to the El Salvador of today, the El Salvador of today that has a freely elected national assembly, that has a constitution, that has a freely elected President, and in which people stood in line for long hours under great threat in order to cast their votes.

Conditionality does work. Conditionality was necessary because of the situation in El Salvador 2 years ago, and our subcommittee, the Subcommittee on Foreign Operations, insisted on conditions which have been met. And because they have been met, because that nation has made such progress, we now owe it to them to help them survive as the newest democracy in the Western Hemisphere.

The gentleman from New York suggests that we ought to wait and see whether Mr. Duarte is able to do what he says he wants to do. But he is in a constant state of attack from the left. We owe it to him to at least allow him to keep his nation intact while he institutes the reforms that we are all urging upon that country.

□ 1300

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Maryland (Mr. LONG). I do so with some reluctance because, like many of my colleagues, I have been a strong critic of the Reagan administration's policy in Central America, and indeed I remain a strong critic of the policy formulation of the administration. It is a policy which is focused almost exclusively on military pressure and upon a military victory in Central America.

We can see it in the President's rhetoric where he continues to define the problem in Central America as essentially a conflict between East and West. We can see it in his increasing requests for military aid, unfettered by conditions related to human rights or negotiations. We can see it in his military buildup in Honduras and his military pressure on Nicaragua.

In my judgment, this kind of military pressure and military policy will not work in Central America. No government in El Salvador, for example, can ultimately prevail unless it deals aggressively with the human rights problems in that nation and is willing to negotiate with at least some elements of the opposition.

Moreover, in our own country the American people will not support indefinitely a policy which is not consonant with human rights and with negotiations as a first step in trying to resolve problems.

Therefore, in my judgment, Mr. Speaker, we are not by this amendment and by our support of it providing a bipartisan endorsement of the policy of the Reagan administration. Why then should we support providing $30 million more to the Government in El Salvador? The obvious answer, which others have previously stated, is that we have a newly elected President in El Salvador who has committed himself to the very reforms, to the very negotiations which we have been calling upon that government to pursue for years.

I believe it is important at this critical moment that we demonstrate by this small, modest installment of aid, this modest investment of $30 million, that we have confidence, that we have faith in the sincerity of Mr. Duarte. He made his pledges to pursue human rights reforms and negotiations, not just in Washington, that would have been easy. He said these things in El Salvador at great risk to his own life and continues to say these things in El Salvador at great personal risk.

What kind of message would we send to El Salvador, to Mr. Duarte and to the military, if at this critical moment we turned down $30 million as a gesture of good faith in Mr. Duarte's pledges—if in effect we refused to afford Mr. Duarte, who has taken these risks, the opportunity to try to achieve these human rights improvements and to open up negotiations?

It seems to me that we would not be taken very seriously by Mr. Duarte, by the military, by our own constituents, if we refuse to take this modest step, if we refuse to make this modest investment in Mr. Duarte and in the pledges he has made.

It is on that basis, Mr. Speaker, that I urge my colleagues, and particularly those who have demonstrated their concern about human rights and about negotiations, to support the amendment offered by the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman from New York.

Let me say that we have had here visiting us a great elected President of El Salvador. I think almost unanimously we regard him as being a very positive and effective force in ruling that country.

There have been some questions raised. Can he do a better job now than he did when he was a provisional President before. Let me say there is a great difference between someone who is there by sufferance and someone who is there now who has the power. He has the power to fire people, to hire people, and to do the things that are important in running that country. He wants to do the right things. He said things with which we all agree. He says them here. He says them down there.

We miss a great opportunity if we send him back emptyhanded without any money; if we say that he is a good man, but we do not want to give him any money. That I think would be a hollow gesture on our part.

So I would urge that we support my amendment to recede and concur with the Senate.

Mr. HARRISON. Mr. Speaker, for me and, I am sure, for many of my colleagues this motion presents a most difficult vote.

I join with all of my colleagues in this House, on both sides of the aisle, in expressing the greatest admiration for President-elect Duarte of El Salvador. His visit to Washington and, indeed, his entire public career have impressed us with his integrity, his courage and his determination to achieve a stable and democratic society in that troubled land. There is a strong temptation, therefore, to vote in favor of this motion as a vote of confidence in President Duarte and as an expression of support for his valiant efforts and his eloquently stated goals.

If by appropriating this money, without strings, we could increase President Duarte's ability to do what he wants to do, I would wholeheartedly support it. But I do not think this appropriation will achieve that end and, indeed, I think it might work in exactly the opposite direction.

We are all critically interested in the future of the Republic of El Salvador. We all abhor the violence of the leftist guerrillas; no responsible person wants to see them take over the country. They do not have popular support and would have been defeated long ago by a government with effective control of its military forces and the confidence of its people. Unfortunately, the Government of El Salvador has had neither.

The recent election is the last, and perhaps, the best hope which the Salvadoran people have. But before Mr. Duarte can accomplish anything, he must first gain control of the military forces of that country. The simple fact is that the Salvadoran military does not consider itself subordinate to the civilian authorities. It views itself as a separate institution. It was for this reason that the interim President, Alvaro Magana, was forced to negotiate with the Army on a whole range of issues, such as the detention of offi-

cers accused of crimes and the release of civilian prisoners, which in the United States would have been resolved by a simple Presidential order.

Civilian control of the military must be the beginning of any serious progress in El Salvador. Without it, there will never be an end to human rights abuses, dissolution of the death squads or agrarian reform, which is essential to economic stability and social justice in that unhappy country. But it will not be achieved unless we make it clear to the colonels who run the Salvadoran Army that the military assistance they desperately need from the United States is dependent on their accepting the principles of human rights, majority rule and civilian control.

And, the best way to do that is to maintain strong certification requirements—to make it perfectly clear to the Salvadoran military that if they do not accept these universally recognized principles, the United States will deny them further military aid. The language before us now does not do that.

Therefore, I oppose the motion to recede and concur because I believe that what we are asked to do today will, in the long run, do no service to President Duarte. What he needs is not only aid against the guerrillas but leverage against the militarists in his own government. A more balanced bill, with more stringent certification requirements, would give him both. This language attempts to provide only the former and that, in the long run, may tragically turn out to provide neither.

Mr. LEVIN of Michigan. Mr. Speaker, I wanted to take this opportunity to give my reasons for voting no on amendment 12.

The issue is not assistance to El Salvador. I am for it, both economic and military.

I felt that way before President-elect Duarte's visit to Washington this week, and it is my position today.

His commitment to the development of a democratic El Salvador has been clear from his career of action and courage, and was reinforced by his visit earlier this week.

I, along with others in this House, identify actively with his goals and aspirations.

The question is whether placing conditionality on further U.S. military and/or economic assistance to El Salvador will help or hurt the chances that President Duarte will succeed in his efforts.

For several reasons, I am persuaded that conditionally—carefully and significantly fashioned—would more likely help than hurt those chances.

When I was in El Salvador last summer, both our Ambassador and the President of El Salvador clearly indicated to me the importance of external pressure from the United States for counteracting those within El Salvador who thwart the recognition of human rights, badly needed land reform and development of economic and social justice in El Salvador.

The convictions earlier today in the trial relating to the murder of the four churchwomen demonstrate, in my judgment, the wisdom of conditionality in our legislation to date. It is noteworthy that on the floor today the utility of that conditionality in the past was acknowledged by proponents of acceptance of the Senate amendment.

The question, then, is whether meaningful conditionality should be continued for the next immediate period, now that Duarte has been elected?

There is room for a reasonable difference of opinion on this specific, significant issue, but my judgment tells me strongly that an affirmative answer to the question will help, not hurt the difficult, essential battle for development of democratic institutions in El Salvador.

President Duarte told us on Tuesday that he opposes unilateral conditionality. He did indicate an interest in the establishment of conditions on a bilateral basis.

It has been said that the United States is treating El Salvador far differently than other countries to whom it provides assistance—but the truth is that we have conditioned our military and economic assistance to numerous countries on numerous occasions—in Asia, the Mideast and Africa, as well as Latin America. During my 4 years as Assistant Administrator of the Agency for International Development, I saw that substantial conditions carefully crafted could be an important instrument for the achievement of common goals held between allied or otherwise friendly nations. We participate actively in the IMF in crafting such conditions.

Unfortunately, we today are given a choice of only one approach to this issue. In view of the past handling of conditionality by the administration, I believe it essential that Congress retain a clear, built-in role during the immediate future. The Senate version before us fails to do so adequately, resembling in that regard the Broomfield amendment proposed at an earlier date. I voted against the latter and now feel compelled to vote against the Senate version.

● Mr. MARKEY. Mr. Speaker, I rise in opposition to the Long motion.

Like everyone in this body, I have great respect for President Jose Napoleon Duarte. I strongly support his stated intentions to fight for reform in El Salvador.

But we are not going to be doing the people of El Salvador or ourselves any favors if we give the Salvadoran military a blank check.

If President Duarte is going to do what he says he is going to do, then why do you oppose placing human rights conditions on military aid?

Surely these conditions will be no obstacle.

But I think that my colleagues realize more than they want to admit that Duarte may be nothing more than a figurehead, powerless to stop the abuses of the military.

Duarte was President of El Salvador before, and he could not stop the death squads.

What makes you think that this Duarte administration will be any different from the last Duarte administration?

If we really want to support reform, we must insist on strong conditions on military aid. The Senate language does not provide them.

It is too late for promises.

This is no time for a trust-me policy in El Salvador.

I urge my colleagues to vote against the Long amendment.●

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MORRISON of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 267, nays 154, not voting 12, as follows:

[Roll No. 180]

YEAS—267

Alexander	Boucher	Craig
Andrews (NC)	Breaux	Crane, Daniel
Andrews (TX)	Britt	Crane, Philip
Annunzio	Broomfield	D'Amours
Anthony	Brown (CO)	Daniel
Archer	Broyhill	Dannemeyer
Aspin	Burton (IN)	Darden
Badham	Byron	Daub
Barnard	Campbell	Davis
Barnes	Carney	de la Garza
Bartlett	Carper	Derrick
Bateman	Chandler	DeWine
Bedell	Chappell	Dicks
Bennett	Chappie	Dowdy
Bereuter	Cheney	Dreier
Bethune	Clarke	Duncan
Bevill	Clinger	Dyson
Biaggi	Coats	Edwards (AL)
Bilirakis	Coleman (MO)	Edwards (OK)
Bliley	Coleman (TX)	Emerson
Boehlert	Conable	English
Boggs	Cooper	Erdreich
Boland	Corcoran	Erlenborn
Boner	Coughlin	Evans (IA)
Bonker	Courter	Fascell

Fiedler	Lloyd	Robinson
Fields	Loeffler	Roemer
Fish	Long (LA)	Rogers
Flippo	Long (MD)	Roth
Florio	Lott	Rowland
Foley	Lowery (CA)	Rudd
Fowler	Lujan	Schaefer
Franklin	Lungren	Schulze
Frenzel	Mack	Sharp
Frost	Madigan	Shaw
Fuqua	Marlenee	Shelby
Gaydos	Martin (IL)	Shumway
Gekas	Martin (NC)	Shuster
Gephardt	Martin (NY)	Siljander
Gibbons	McCain	Simon
Gilman	McCandless	Sisisky
Gingrich	McCollum	Skeen
Glickman	McCurdy	Skelton
Goodling	McDade	Slattery
Gore	McEwen	Smith (FL)
Gradison	McGrath	Smith (IA)
Gregg	McHugh	Smith (NE)
Gunderson	McKernan	Smith (NJ)
Hall, Ralph	McKinney	Smith, Denny
Hall, Sam	Mica	Smith, Robert
Hamilton	Michel	Snowe
Hammerschmidt	Miller (OH)	Snyder
Hansen (UT)	Minish	Solomon
Hartnett	Molinari	Spence
Hatcher	Mollohan	Spratt
Hefner	Montgomery	Stangeland
Heftel	Moore	Stenholm
Hightower	Moorhead	Stratton
Hiler	Morrison (WA)	Stump
Hillis	Murphy	Sundquist
Holt	Murtha	Synar
Hopkins	Myers	Tallon
Horton	Neal	Tauke
Hoyer	Nelson	Tauzin
Hubbard	Nichols	Taylor
Huckaby	Nielson	Thomas (CA)
Hughes	O'Brien	Thomas (GA)
Hunter	Olin	Udall
Hutto	Ortiz	Valentine
Hyde	Oxley	Vander Jagt
Ireland	Packard	Vandergriff
Jeffords	Parris	Vucanovich
Jenkins	Pashayan	Walker
Johnson	Patman	Weber
Jones (OK)	Pepper	Whitehurst
Kasich	Petri	Whitley
Kazen	Pickle	Whittaker
Kemp	Porter	Whitten
Kindness	Price	Wilson
Kramer	Pritchard	Winn
LaFalce	Pursell	Wolf
Lagomarsino	Quillen	Wortley
Latta	Ray	Wright
Leath	Regula	Wylie
Lent	Reid	Yatron
Levitas	Ridge	Young (AK)
Lewis (FL)	Rinaldo	Young (FL)
Lipinski	Ritter	Young (MO)
Livingston	Roberts	Zschau

NAYS—154

Ackerman	Dixon	Hawkins
Addabbo	Donnelly	Hayes
Akaka	Dorgan	Hertel
Albosta	Downey	Howard
Anderson	Durbin	Jacobs
Applegate	Dwyer	Jones (NC)
AuCoin	Dymally	Jones (TN)
Bates	Early	Kaptur
Beilenson	Eckart	Kastenmeier
Berman	Edgar	Kennelly
Bonior	Edwards (CA)	Kildee
Borski	Evans (IL)	Kleczka
Bosco	Fazio	Kogovsek
Boxer	Feighan	Kolter
Brooks	Ferraro	Kostmayer
Brown (CA)	Foglietta	Lantos
Bryant	Ford (MI)	Leach
Burton (CA)	Ford (TN)	Lehman (CA)
Carr	Frank	Lehman (FL)
Clay	Garcia	Leland
Coelho	Gejdenson	Levin
Collins	Gonzalez	Levine
Conte	Gray	Lowry (WA)
Conyers	Green	Luken
Coyne	Guarini	Lundine
Crockett	Hall (IN)	MacKay
Daschle	Hall (OH)	Markey
Dellums	Harkin	Martinez
Dingell	Harrison	Matsui
Mavroules	Penny	Staggers
Mazzoli	Perkins	Stark
McCloskey	Rahall	Stokes
McNulty	Rangel	Studds
Mikulski	Ratchford	Swift
Miller (CA)	Richardson	Torres
Mineta	Rodino	Torricelli
Mitchell	Roe	Towns
Moakley	Rose	Vento
Moody	Rostenkowski	Volkmer
Morrison (CT)	Roybal	Walgren
Mrazek	Russo	Waxman
Natcher	Sabo	Weaver
Nowak	Savage	Weiss
Oakar	Scheuer	Wheat
Oberstar	Schneider	Williams (MT)
Obey	Schroeder	Wirth
Ottinger	Schumer	Wise
Owens	Seiberling	Wolpe
Panetta	Shannon	Wyden
Patterson	Sikorski	Yates
Paul	Solarz	
Pease	St Germain	

NOT VOTING—12

Dickinson	Lewis (CA)	Sensenbrenner
Gramm	Marriott	Traxler
Hance	Roukema	Watkins
Hansen (ID)	Sawyer	Williams (OH)

□ 1320

Messrs. NOWAK, HARRISON, AKAKA, and KOLTER changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, I have a unanimous-consent request.

Remaining before us in addition to the Nicaragua question, are amendments dealing with the summer youth employment program, the Customs Service air interdiction program, CCC export credit guarantees, and the National Park Service. They are noncontroversial, and should only take a few minutes to dispose of.

Mr. Speaker, I ask unanimous consent that those amendments may be considered at this time and that Amendment No. 14, dealing with Nicaragua, be considered last. May I announce to you when we come to the Nicaragua issue, I expect to yield to my colleague from Massachusetts (Mr. BOLAND) so he may offer a motion.

I ask unanimous consent that we consider amendments numbered 16, 20, 27, and 34, before we dispose of Amendment No. 14 regarding covert activities in Nicaragua.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 16: Page 2, after line 17, insert:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND SERVICE EMPLOYMENT SERVICES

For an additional amount for part B of title II of the Job Training Partnership Act, $100,000,000, which—

(1) shall be allotted, by the Secretary of Labor, within 7 days of the date of enactment of this joint resolution, to States which have any service delivery area which received less than 90 percent of the amount of payments for summer youth employment and training programs for fiscal year 1984 than in fiscal year 1983, in accordance with section 251 of the Job Training Partnership Act; and

(2) shall be allocated among service delivery areas within each such State so that the amount of payments for fiscal year 1984 for any service delivery area within the State which received less than 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983 will be increased to an amount equal to 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983: *Provided*, That if the amount appropriated under this heading and allotted to a State is insufficient to make the full payments required by this paragraph the amount of the increase of any payment to which service delivery areas in the State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis: *Provided further*, That if the amount appropriated under this heading and allotted to any State is greater than is needed to make the full payments required by this paragraph, the Secretary shall reallot the excess to all States which cannot make the payments to meet the 90 percent hold harmless provision on the basis of the need for payments described in this paragraph: *Provided further*, That, where the boundaries of service delivery areas differ from prime sponsor areas with respect to the units of general local government covered, determination of payments shall be based on the percentage shares of allocations which were available to the units of general local government within each such area in fiscal year 1983.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and employment services", $100,000,000, for the summer youth employment and training program: *Provided*, That the amount appropriated hereunder shall be allocated to States so that each service delivery area composed (in whole or in part) of a geographic area served by a prime sponsor under the Comprehensive Employment and Training Act receives, as nearly as possible, an amount equal to at least 90 per centum of the amount received for the comparable geographic area for the summer youth program under such Act for the summer of 1983.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 20: Page 2, after line 17, insert:

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for the acquisition (purchase of eight) of high-performance, interceptor/tracker aircraft and other related equipment for drug interdiction purposes, $25,000,000, to remain available until expended: *Provided*, That such aircraft shall be purchased through an open, competitive procurement.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

DEPARTMENT OF TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for the acquisition (purchase of up to eight) of high-performance, interceptor/tracker aircraft and other related equipment for drug interdiction purposes, $25,000,000, to remain available until expended: *Provided*, That such aircraft be purchased through an open, competitive procurement.

SALARIES AND EXPENSES

Notwithstanding any other provision of law, the Customs district headquartered at Bridgeport, Connecticut, shall be maintained as a Customs district until October 1, 1984, covering the same territory as covered by such district on January 1, 1984.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 27: Page 2, after line 17, insert:

COMMODITY CREDIT CORPORATION EXPORT CREDIT GUARANTEES

SEC. 106. (a) For the fiscal year ending September 30, 1985, the Secretary of Agriculture shall make available under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation credit guarantees for not less than $5,000,000,000 in short-term credit extended to finance export sales of United States agricultural commodities.

(b) The Secretary shall ensure that any guarantee authority made available, in the fiscal years ending September 30, 1984, and September 30, 1985, for credit guarantees under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation in excess of—

(1) the $4,000,000,000 of guarantee authority available for the fiscal year ending September 30, 1984, and

(2) the level of guarantee authority contained in the President's budget for the fiscal year ending September 30, 1985,

is used to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products, including natural fiber textiles and yarns, so as to increase the market prices for commodities for which established prices are provided, minimize the deficiency payments under the programs for such commodities, minimize the expenditure of Government funds for paid diversion programs for such commodities, and minimize outlays of Government funds for other price-supported commodities. Priority in the allocation of such guarantee authority shall be given to credit guarantees that facilitate the financing of (i) export sales to countries that have demonstrated the greatest repayment capability under the export credit programs carried out by the Commodity Credit Corporation or (ii) export sales of commodities for which no blended credit (under which a combination of export credit guarantees under the GSM-102 program and direct export credits under the GSM-5 program is provided) will be made available.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

COMMODITY CREDIT CORPORATION EXPORT CREDIT GUARANTEES

SEC. 106. (a) The Secretary of Agriculture shall utilize the authorities provided in the Charter of the Commodity Credit Corporation to expand the export of United States agricultural commodities through competitive sales, including shipping costs and credit terms, and donations as authorized by law. In carrying out the authorities and responsibilities imposed by the Charter, the Secretary shall assist in the financing of export sales of United States agricultural products, either through direct or guaranteed loans. The Secretary shall use the Commodity Credit Corporation, a revolving fund capitalized at $25,000,000,000, to make available under the export credit program carried out by the Corporation short-term credit to finance export sales of United States agricultural commodities, and shall also use such other authorities as necessary to regain the rightful share of world markets for United States agricultural commodities.

(b) For the fiscal year ending September 30, 1985, the Secretary of Agriculture shall make available under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation credit guarantees for not less than $5,000,000,000 in short-term credit extended to finance export sales of United States agricultural commodities.

(c) The Secretary shall ensure that any guarantee authority made available, in the fiscal years ending September 30, 1984, and September 30, 1985, for credit guarantees under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation in excess of—

(1) the $4,000,000,000 of guarantee authority available for fiscal year ending September 30, 1984, and

(2) the level of guarantee authority contained in the President's budget for the fiscal year ending September 30, 1985.

is used to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products, including natural fiber textiles and yarns. Priority in the allocation of such guarantee authority shall be given to credit guarantees that facilitate the financing of (i) export sales to countries that have demonstrated the greatest repayment capability under the export credit programs carried out by the Commodity Credit Corporaion or (ii) export sales of commodities for which no blended credit (under which a combination of export credit guarantees under the GSM-102 program and direct export credits under the GSM-5 program is provided) will be made available.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement in this series.

The amendment reads as follows:

Senate amendment No. 34: Page 2, after line 17, insert:

SEC. 113. (a) Notwithstanding any other provision of law, the National Park Service shall enter into a contract releasing or transferring any Federal employees or liquidating any equipment or materials for the purpose of complying with the Office of Management and Budget Circular A-76 as it relates to the 62 activities tentatively scheduled for review by the National Park Service by March 30, 1984, only after the following conditions have been met:

(1) the study supporting that contract required by the Office of Management and Budget Circular A-76 is completed, including the bidding process and review of bids;

(2) the National Park Service has had 30 days to review the bid results and to transmit recommendations to the House and Senate Committees on Appropriations, the Senate Committee on Energy and Natural

Resources, and the House Committee on Interior and Insular Affairs as to which activities should be contracted; and

(3) 30 days have elapsed since the transmittal required by paragraph (2).

(b) All recommendations to be submitted shall be submitted by September 1, 1984.

(c) The National Park Service shall not solicit bids related to other Circular A-76 reviews before January 1, 1985.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 113. (a) Notwithstanding any other provision of law, organizations reporting to the Assistant Secretary of Interior for Fish and Wildlife and Parks shall enter into contracts which result in releasing or transferring any Federal employees or liquidating any equipment or materials as a result of complying with the Office of Management and Budget Circular A-76 for the 62 activities scheduled for review by the National Park Service by March 30, 1984, and the 94 activities scheduled for review by the United States Fish and Wildlife Service by September 30, 1984, only after the following conditions have been met:

(1) the study supporting each contract required by the Office and Management and Budget Circular A-76 is completed, including the bidding process and review of bids;

(2) the organizations have had 30 days to review the bid results and to transmit recommendations to the appropriate House and Senate Committees as to which activities should be contracted; and

(3) 30 days have elapsed since the transmittal required by paragraph (2).

(b) All recommendations to be submitted shall be submitted by October 30, 1984.

(c) The organizations shall not solicit bids related to other Circular A-76 reviews before January 30, 1985.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate amendment No. 14.

The amendment reads as follows:

Senate amendment No. 14: Page 2, after line 17, insert:

CENTRAL INTELLIGENCE AGENCY

For activities of the Central Intelligence Agency, notwithstanding any other provision of law, in addition to amounts previously appropriated, not to exceed $21,000,000, to remain available for obligation until September 30, 1984: *Provided*, That $14,000,000 shall be allocated to the Reserve for Contingencies administered by the Director of Central Intelligence and shall be subject to applicable statutory procedures prior to obligation.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, on this amendment I yield to the gentleman from Massachusetts (Mr. BOLAND).

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

No funds are appropriated herein for the Central Intelligence Agency in fiscal year 1984 for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

Mr. CONTE. Mr. Speaker, I yield our time to my good friend from Virginia (Mr. ROBINSON).

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes and the gentleman from Virginia (Mr. ROBINSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the issue before the House today should be a familiar one. Twice we have voted to stop funding paramilitary attacks against Nicaragua. When the House finally agreed to appropriate some funds to continue the war, it insisted on a cap on those funds. The administration has spent nearly all of its $24 million. It now wants $21 million more—just till the end of the fiscal year.

In conference on the urgent supplemental, the House conferees refused to add $1 more for the war against Nicaragua. The Senate then proposed that we appropriate a fraction of the $21 million and only for the purpose of "winding down" the covert action. The House conferees were not sure what "winding down" meant, but we were willing to provide funds to stop the war.

So, we drafted language which very carefully restricted the use of additional funds "solely for the safe and expeditious withdrawal" of Contras from Nicaragua.

We also offered money "solely to provide humanitarian support" to those Contras who left Nicaragua and were disarmed.

The Senate conferees could not come to an agreement on this proposal. They chose to insist on the Senate position—the full $21 million to continue the war, not to wind down the war. The administration refuses to budge. It refuses to take seriously the will of the people expressed in two votes of this House. So, we must vote again and demonstrate to the other body our unstinting commitment to end this deadly war.

Let me read the language of the motion I have offered. It repeats as clearly as I can state, the position this House should adopt:

No funds are appropriated herein for the Central Intelligence Agency in fiscal year 1984 for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

We simply must not appropriate one more penny to wage a war that has caused our allies to wonder at our sense of proportion—that has turned Central America into an armed camp—that has failed to achieve any of its stated, sometimes conflicting, aims—that has only strengthened the resolve of the Sandinistas—and that, in the words of the President of Mexico, poses a "risk of generalized war, the scope and duration of which, no one can foresee."

All to what end? To put pressure on the Sandinistas? To turn them inward? To send a message to Cuba? None of those aims have been achieved. More important, none of them are worth the sacrifice of one more life.

There is not going to be a popular revolution in Nicaragua against the Sandinistas. That should be clear from the 2½-year history of this war. We cannot make it happen—no matter how many Contras we arm, how many oil tanks we blow up, or how many ports we mine.

For over a year now the administration has been on notice that the House was going to insist that this war end. Since last November the administration has been on notice that the House was serious about the $24 million cap. Two months ago 12 of the 14 members of the Intelligence Committee sent a letter to Mr. Casey advising him to adopt contingency plans for the safe withdrawal of the Contras. They have had more than enough time to develop a reasonable plan for the safe and swift withdrawal of every Contra that wants out. And make no mistake about it the Contras possess sufficient arms and supplies to protect themselves on the way out and the CIA has sufficient financial resources available to it to provide humanitarian aid to the Contras once they withdraw. So, let us not hear in this House today that we are pulling the rug out, or setting up a bloodbath, or letting people twist in the wind. That is nonsense.

What we need today is a vote to return commonsense and compassion to this country's foreign policy. What we need today, is a vote that reflects the clear resolve of the U.S. House of

Representatives to end this senseless war.

□ 1330

Mr. ROBINSON. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, here we go again, we have the Boland amendment in different language.

I can recall very few instances where a speech or a statement by a Member has changed many votes on this House floor and I am certainly not so naive as to expect the minds of seasoned legislators to be changed after hearing a few comments on the Central American issue from a colleague.

But I would like to have my colleagues attention for a few brief moments to try to frame the issue as it lies before us now.

A vote for this amendment will be a vote against the bipartisan position of the other body. The other body's amendment continues the aid for the Nicaraguan resistance to the extent of $21 million.

There are no further funds currently available to assist the Nicaraguan resistance. A vote for this amendment amounts to a termination of support for Nicaraguan resistance fighters who pursue democracy for their country with their lives at stake.

The amendment before my colleagues is absolute in its effect. It is a vote to reward the Sandinista regime for its solidarity of purpose to subvert every freely elected government in Central America.

A vote for this amendment means that the Contras will no longer have the wherewithal to hamper the supply of arms and other support the Nicaraguans send to the rebels in El Salvador. Its practical effect is to provide a legislatively engineered victory to the Sandinista regime.

The position of this administration, the position of the Senate and the position of this side of the aisle has always been clear. So long as the Sandinista regime continues support for the export of Communist revolution and aggressively supports the overthrow of the Government of El Salvador and the other freely elected governments in Central America, and does not honor its commitments to the OAS, we will continue to support the Contras of the Nicaraguan resistance. That is the policy and the position of the administration and of the Republicans.

There is no ambiguity in that position. It is clear, it is distinct, and, as I say, it supports the policy that has been set forth by this administration.

Failure to continue it will make it next to impossible to achieve the objectives of the U.S. policy in Central America.

The President set forth very clearly our policy in Central America on April 27, 1983, over a year ago, and it has not changed.

We will support democracy, reform, and human freedom. We will support economic development. We will support the security of the region's threatened nations and we will support dialog and negotiations.

The report of the National Bipartisan Commission, the Kissinger Commission, on Central America, issued just 4 months ago, provided a clear consensus for action to accomplish these objectives and provide a clear blueprint for doing so. Legislation to put into motion the Commission's recommendations for a comprehensive, effective program for peace, stability, and social and economic development in Central America awaits congressional action right now.

The House has before it today one crucial element of our policy in Central America—aid to the Nicaraguan Contras.

The Nicaraguan resistance fights on its native soil for the freedom of its own country and aid to such resistance serves not only the security interests of Nicaragua's neighbors, but those of the United States as well.

The National Bipartisan Commission, again quoting from its report, stated that U.S. strategic interests require the United States: "to prevent hostile forces from seizing and expanding control in a a strategically vital area of the Western Hemisphere" and "to ban the Soviet Union from consolidating either directly or through Cuba a hostile foothold on the American continents in order to advance its strategic purposes."

□ 1340

If this House terminates U.S. support for the Nicaraguan resistance, it will be impossible to pursue U.S. interests in the region effectively.

In 1979 the Sandinistas made solemn commitments to the Organization of American States to hold free elections for a truly democratic government that would guarantee peace, freedom, and justice. Instead, they systematically began eliminating freedom in Nicaragua, repressing trade unions, civic groups, and the press, and slaughtering or interning thousands of Miskito Indians. In the face of this Marxist-Leninist effort to establish totalitarian control of the Nicaraguan people, three Nicaraguan resistance groups—the FDN, ARDE, and the Miskitos—have engaged in armed resistance with our assistance. The Nicaraguan resistance preserves some chance that Nicaraguans may know democracy.

Has America lost concern for the liberties of people who are fighting for democracy on our own continent?

Do we truly believe that it does not matter if the Sandinistas enslave the Nicaraguan people?

Ask the nine Catholic bishops of Nicaragua if it matters to them if the Sandinistas continue unabated in their efforts to censor the church.

Do the American people really want to turn their backs on the one remaining flame of hope for freedom in Nicaragua?

Given the chance, they would say no.

This great Nation should continue aid to the Nicaraguan resistance fighting Soviet-Cuban-Nicaraguan tyranny. To those who would deny it, I say that there is no honor in abandoning friends in the heat of battle. There is no honor in leaving free peoples of Central America as fodder for the Sandinista military machine.

Fidel Castro has repeatedly warned the nations of the Americas that they should never aline themselves with the United States because we are unreliable and will not support our friends.

I ask you to vote no on the amendment to recede and concur which is pending, the intended effect of which is to terminate all aid to the Contras in Nicaragua, to abandon our friends who fight for democracy there. Such action would be perceived as another step in the direction of proving that Castro is correct when he calls the United States an unreliable friend.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Kentucky (Mr. MAZZOLI), a member of the Intelligence Committee.

Mr. MAZZOLI. Mr. Speaker, I rise in support of the statement made by our distinguished chairman and the position which is to try to end the secret war.

Mr. BOLAND. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Indiana (Mr. HAMILTON), a member of the Intelligence Committee and also a member of the Foreign Affairs Committee.

Mr. HAMILTON. Mr. Speaker, the Congress has a unique opportunity to stop a war. Stopping the covert action against Nicaragua would represent a significant step toward reducing tensions in Central America.

The Congress has made clear that it is prepared to provide the Government of El Salvador with generous economic and military assistance. However, providing assistance to a duly elected democratic government is different from funding guerrillas whose aim it is to overthrow a government we do not like.

We do not like the Sandinista Government, or its policies internal and external.

But this war should stop for several reasons:

First, the war must stop because it keeps escalating. It is no longer what it was initially intended to be. In December 1981 it was limited solely to

the interdiction of Soviet and Cuban arms traveling through Nicaragua to insurgents in El Salvador.

Now it includes efforts:

To destabilize Nicaragua, to force internal political change;

To mine Nicaragua's ports; and

To interfere with international shipping.

Military forces, in excess of 15,000, are equipped, trained, and operating against Nicaragua. There are reports that the Defense Department has been aiding the CIA covert action with equipment and logistics support. There are reports of efforts to try to involve third countries in the funding and support of the covert action as well.

The covert action has escalated dangerously over the last 3 years. This escalation is at the heart of the argument against the continuation of covert action.

See what is happening in Costa Rica. That democratic nation, which has no army, recently requested emergency U.S. military assistance to strengthen its security forces. These forces have clashed frequently with Nicaraguan forces on their common border. The source of the conflict is the attacks launched against Nicaragua from Costa Rica by Contras supported by the United States.

The result of U.S. policy is:

A more aggressive Nicaragua willing to attack an undefended neighbor;

Calls for U.S. arming of Costa Rica; and

An increased U.S. military burden—all directly caused by U.S. action against Nicaragua.

The U.S. policy has split the government and people of Costa Rica into pro- and antimilitary groups and increased, rather than lessened, tensions between Nicaragua and Costa Rica.

The President of Mexico has stated that U.S. policy in Central America risks "A generalized war, the scope and duration of which no one can foresee."

Second, the war must stop because it has not worked.

It has not:

Brought the Sandinistas to the bargaining table;

Stopped the flow of arms to rebels in El Salvador;

Lessened Nicaragua's support for Salvadoran insurgents;

Forced changes in Nicaraguan policies; and

Turned the Sandinistas inward.

It has:

Strengthened the Sandinista's resolve;

Rallied people to the Nicaraguan Government; and

Given the Sandinistas justification for increasingly repressive policies;

Brought about an increased militarization of life in Nicaragua, and greater Cuban and Soviet involvement in Nicaragua;

Driven the Nicaraguans ever more deeply into the arms of Cuba and the Soviet Union; and

Increased the risk of a full-scale war by Nicaragua against Honduras and Costa Rica.

Two and one-half years of war have not brought us closer to peace in Central America. Two and one-half years of war have not brought us any genuine hope for promising negotiations.

Third, this war must stop because it is against the law.

It is against U.S. laws (the Boland amendment of 1982), and it is against article 18 of the OAS charter, of which the United States is a signatory. The article says:

> No state or group of states has the right to intervene directly or indirectly for any reason whatever in the internal or external affairs of any other state.

Today, the legal issue is even clearer. The World Court has held unanimously that the United States should "cease and refrain" from unlawfully mining Nicaraguan harbors. It has also rejected U.S. claims that U.S. action in Nicaragua is consistent with international law.

The administration tried to deny jurisdiction to the Court. The United States has been found guilty in an international court of law while trying to flee the court's jurisdiction. When we fail to obey our own law or international law, it diminishes respect for the United States both at home and in the rest of the world.

The President of Mexico warned against "interventionist solutions of any kind." Rather, he urged "let us apply the principles and rules of international law."

Fourth, the war must stop because the bargain in the 1983 legislation was that the administration had $24 million—and only $24 million—to run the war for 1984.

The administration had a clear choice: One, it could live within that limit, two, it could end support for the war; or three, it could spend at its discretion and ask for more when the $24 million ran out.

The administration made its choice. It spent the money at an accelerated pace. The $24 million is nearly all spent and 4¼ months are left in the fiscal year. The administration made its choice, and it should live with it.

It intensified the war. Nicaragua's ports were mined by the CIA. Serious attacks on the Nicaraguan economy—on dams, on oil and electrical facilities, or agricultural cooperatives—were stepped up. More Contras were armed and sent into combat.

Fifth, the war must stop because it is not good for the CIA.

The CIA is in the position of publicly running an undeclared war. CIA capabilities, CIA methods, CIA officials have become topics of public debate, that is unhelpful, both for the CIA and the secrecy of its intelligence activities and for the Nation.

CONCLUSION

Ending the covert action against Nicaragua is a first, necessary step toward reducing tensions in Central America, and improving the climate for meaningful negotiations. The fundamental problems of social and economic deprivation in Central America can only be addressed in the context of a regionwide peace.

So let us end this war that just keeps escalating;

Let us end the war that has not worked;

Let us end the war that is against the law;

Let us end the war that hurts the CIA, and hurts the United States; and

Let us end the war that brings no peace.

Mr. ROBINSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, with all due respect to the fine speeches that have been given on this subject by my colleagues on the left, let me say with the same degree of sincerity on this side of the aisle that I do not believe that the resistance in Nicaragua will be terminated by a decision to shut off U.S. assistance to the democratic forces or the Contras, whatever they may be called.

Does anyone really think that you are going to end the efforts of these people to win back some of the rights that they sought when they participated in the original revolution and the promises the Sandinistas made to the OAS to bring pluralism and democracy and some degree of human rights to Nicaragua?

□ 1350

Does anyone think that the Sandinista regime of Nicaragua will stop the war against El Salvador? I say to my distinguished colleagues on the Intelligence Committee, does anyone really think that the Sandinistas will stop their war against little Costa Rica, or Honduras, if we withdraw our support?

Some have suggested that the Contadora countries do not support this; I do not know whether they do or do not because frankly you cannot tell what they support given the differences between their public statements and their private understandings. But I will tell you this. I believe in my heart that our allies in Central America are desperately in need of support for some effort to shut off the supply lines to insurgents across their border and the border of Honduras, and of course into El Salvador.

It also disturbs me, Mr. Speaker, to think that members of the Intelli-

gence Committee should support this motion. I have high regard for the gentleman from Massachusetts and high regard for my friend from Virginia and those Members of this Congress who serve on the Intelligence Committee, but it was not so long ago that they identified the fact that the major cause of war in Central America today is not the United States of America; it is not the CIA; it is not the congressional support for the Contras, it is the support and the export of revolution from Nicaragua and Managua and Havana.

Now to shut off support for the Contras when we helped give them the original encouragement to stop the abuse of human rights in Nicaragua seems to me to be pulling the plug on people who came to depend on this country. Instead, it was the Intelligence Committee originally who gave us the information upon which we made the decision to give some support to the Contras.

I think to shut off assistance at this point would be absolutely immoral; without morality. I know that we are not supposed to use ad hominem attacks, and this is not one. But, ladies and gentlemen, please recognize that we were the ones that helped start the effort by the Contras to bring a halt to the export of revolution into Costa Rica and El Salvador.

Let me ask a question: Would anybody in this body shut off aid to the Afghan guerrillas who are fighting the Soviets in Afghanistan? Would anybody want to shut off aid to Solidarity if they had come to us for help in throwing off the martial law regime of Jaruzelski in Poland? How about Kampuchea?

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. KEMP) has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. KEMP was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman.

Mr. STRATTON. I just wanted to agree with the gentleman. I cannot get time on either side of the aisle. I agree with the gentleman that it would be immoral for us to shut off this aid, and I understood that Mr. Duarte said that that was where his problem lay.

Mr. KEMP. Absolutely. How about Albondo y Bravo, the Bishop of Nicaragua? How about the 100,000 Christians and campesinos who rallied against Marxism and against the Sandinistas in the central square of Managua on Good Friday? What are we going to say to them, if we just all of a sudden shut off the money that is going to those who want to bring some degree of pluralism and freedom and democracy to Nicaragua? I do not think we could live with ourselves if we pass this motion in the expectation that decision will end this so-called war, because it will not end. Those brave people in Nicaragua will go on fighting for democracy and freedom, and I think the United States of America should stand by them in this hour of need.

Mr. Speaker, with the approval of Congress, the administration has supported the activities of people in Nicaragua whose rights have been denied by the Sandinista Government. I support the President's policy in Nicaragua, because I believe it is morally right for the United States to support people who are fighting for democracy.

The spirit of solidarity is growing in Nicaragua, threatening the stranglehold of the Sandinistas over the freedoms of the people. On Good Friday, 100,000 Catholics took to the streets in Managua, in a demonstration of defiance against the Sandinista regime. And their ranks are growing. It is this resurgence of the spirit of freedom that our aid to the freedom fighters helps keep alive.

The Catholic bishops, in a display of courage and leadership, are decrying the abuses of the Sandinista regime, and criticizing the control and guidance it is receiving from Cuba. They are calling for negotiations between the Sandinistas and those opposed to the regime, just as the charter of the FDN—one of the main contra organizations—seeks negotiations to establish free and fair elections. Thus far, the Sandinistas have rejected this appeal, just as they repudiated their promises to the OAS to hold free and fair elections and to respect the rights of the people of Nicaragua.

We have stood by in anguish over our inability to help the cause of solidarity in Poland. Are there any in this Chamber who would have refused to help, if we had the means to do so? Today, in Nicaragua, a country so close to our borders, we do have the power to help. Will this Congress vote to turn our backs on these people struggling for their basic human rights? And if we do turn away, how will we erase our callousness from our conscience?

If you speak with members of the Contra movement, as I have done, they will tell you that they are not seeking a military victory; they only ask that the Sandinista government hold free and fair elections, as it promised when it came to power, and respect the human rights of the citizens of Nicaragua. But until the Sanidinistas honor their word, the opposition which their totalitarian policies have spawned will continue to fight for democratic goals with whatever means it has at its disposal.

U.S. policy has a similar twofold thrust. First, we have strongly supported the Contadora process, to find a peaceful solution to the violence in Central America. But our diplomatic overtures have been rebuffed. So long as the Sandinista regime continues to scorn its promises to the OAS, and continues to work for the violent overthrow of neighboring democratic governments, we must help El Salvador and Honduras and Costa Rica and others in the region defend themselves by continuing to bring pressure to bear on the Sandinistas.

We need to put the debate in perspective. Support for the forces of democracy in Nicaragua is an integral part of our support for stability and independence for all the countries in the region. All our efforts to bring peace and democracy to El Salvador will come to naught if we create a sanctuary next door—guaranteed by congressional legislation—for those who bring war and totalitarianism to El Salvador.

Nicaragua continues to be the source of regional subversion and instability. As the House Permanent Select Committee on Intelligence concluded (May, 1983) "the Sandinista government of Nicaragua is transferring arms and financial support from and through Nicaragua to the insurgents. They are also providing the insurgents bases of operations in Nicaragua. Cuban involvement—especially in providing arms—is also evident."

The facts of Nicaragua's war against its neighbors, of the Sandinistas' persecution of its own people—such as the repeated attacks on thousands of Miskito Indians who have fled for sanctuary across the Honduran border—are well known. Uncertain allegations about U.S. activities, selectively leaked and taken out of context, which cannot be addressed publicly for fear of compromising people who risk their lives to help carry our policy forward, do not negate the fundamental rightness of our support for the Nicaraguan freedom fighters.

We have vital strategic interests in maintaining the security and stability of Central America. And we have a deep and abiding interest in seeing democracy flourish in our own hemisphere. Having visited Nicaragua, having met with many who have fled for their lives, and with others who have remained to fight, I can attest that the people of Nicaragua, like people elsewhere in the region, desperately want the freedoms and quality of life guaranteed only by a democratic form of government.

I support the President's policy in Central America, including support for the freedom fighters in Nicaragua. And I endorse what Secretary Shultz and Secretary Weinberger and Director Casey and Mr. McFarlane said in their joint statement of last month:

The real issues are whether we in the United States want to stand by and let a

Communist government in Nicaragua export violence and terrorism in this hemisphere and whether we will allow the power of the ballot box to be overcome by the power of the gun. There is no doubt that the Soviet Union and Cuba want to see communism spread further in Central America. The question is: Will the United States support those countries that want democracy and are willing to fight for their own freedom?

Mr. Speaker, our support should be beyond question and it should be demonstrated by a strong vote in favor of the Contras.

Mr. BOLAND. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Georgia (Mr. FOWLER) who serves on the Intelligence Committee.

Mr. FOWLER. Mr. Speaker, I would like to take up where the gentleman from Indiana (Mr. HAMILTON) left off.

This motion by the Intelligence Committee ought to be supported, because by any discernable means of military achievement, it has been unsuccessful.

By any measure of military achievement, this operation unilaterally financed by the United States of America, unilaterally organized by the United States of America, has been a failure. The Contras have seized no territory; they have taken no jurisdiction; they have grown; they have escalated; they have cut off no arms. It is a failure by any discernable military criteria.

We have also done something far worse, unfortunately. If there is one thing that we have had bipartisan consensus on the Intelligence Committee, it is that the Central Intelligence Agency should be built as the most crackerjack intelligence-gathering and analytic operation in the world. That the CIA is our first line of defense. Because it gives us warning of enemy activity. Warning of enemy intentions. Unless you have a crackerjack, clandestine collection operation, an anaylsis operation, then, yes, our Nation's national security in days of missiles and threats is in jeopardy.

We on the Intelligence Committee and your votes have spent billions and billions and billions of dollars over the last 7 years improving that capability. But now in Nicaragua, we have politicized the Central Intelligence Agency. We have made them the instrument of policy when they are prohibited by their charter to be a policymaking arm of our Government. As a result, we are doing under the table, I say to my friend from New York and others, we are doing under the table what we are not brave enough to go to the American people and say, "We in concert with our allies if the threat is so great, want to do openly."

As a result, our allies in Central America, our allies in Europe are saying your policy is not only a failure, you are compromising your Central Intelligence Agency and help put it out of business, not only in Central America, but other parts of the world, and losing the support of our own citizens who deserve the best, who deserve the best from our intelligence operations.

Oh, my friends, I am in no support of those people who wring their hands and say, "We shall never send American troops anywhere to defend our national security." The question that is belied by this operation, that question that we failed to address in this Congress, is how is our national security threatened at this time in Central America? And if it is threatened, if it is threatened, then we ought to use our forces for what we have forces for: To defend our Nation, to defend our country; and not to be under the table with hired mercenaries under any circumstances.

Mr. ROBINSON. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I am incensed at this procedure which prevents the offering of a substitute and cleverly blocks any effort at reaching a compromise short of a total cutoff of funds for the freedom fighters in Nicaragua.

This action, together with the hasty and ill-advised language the House adopted last night, reinforces the clear message to our adversaries around the world that we are not serious about keeping our commitments or protecting our interests in Central America.

Our action last night and today, we are saying again that we will give our friends in Central America just enough to help to prolong their agony. But if they slip up, we are ready and waiting to pull the rug out from under them.

What good does it do to approve $62 million to support the cause of freedom and democracy in El Salvador on the one hand, when with the other hand we require that they leave the backdoor open to those in Nicaragua seeking to subvert freedom and democracy?

What good does it do to embrace President Duarte before the TV cameras on Wednesday and then by statute, create a sanctuary for his enemies in Nicaragua the next day?

This congressional action, is hypocritical, contradictory and counterproductive.

The simple truth is that aid to El Salvador and aid to the freedom fighters in Nicaragua are not separate issues. They are both integral parts of what we are trying to accomplish.

The $21 million we are debating here is not enough to permit the overthrow of the Nicaraguan Government, and that certainly has never been our purpose. But it is enough to help frustrate Nicaragua's efforts to export Marxist warfare outside its borders. It is enough to provide our friend, President Napoleon Duarte, with an increased margin of safety in his struggle to save his nation and build democracy in El Salvador.

The steps we are taking this week give comfort to President Duarte's enemies and make this task much more difficult.

The action last night in announcing to the world that Congress will prohibit the President from sending troops to El Salvador or Nicaragua, regardless of the provocation, must be sending Communist-Marxist military strategists back to the drawing boards all over the world today.

The Cubans, the Soviets, the PLO, the North Koreans, the Bulgarians—all of those who we found actively working against our interests in Grenada—have been put on notice that Nicaragua and El Salvador are off-limits to U.S. troops. We have handed them a guarantee that Nicaragua may be used as a sanctuary free from U.S. intervention for whatever mischief they devise—and we have given it in writing.

We seem determined to fight our battles with one hand tied behind our back and both eyes closed to our past disasters. Is Nicaragua to become for Central America the sanctuary for our enemies that Cambodia and Laos were in Vietnam?

The President has indicated, that without some continued support for the Nicaraguan democratic forces, he will veto this legislation, including the funds for El Salvador.

His logic in doing so is clear. We have to make a choice. Either we have the courage to stand by our policy, our President and our friends in Central America, or we stand aside and watch El Salvador, Costa Rica, Honduras and the others go it alone.

Throughout the history of this House there have been moments that not only decide issues but define the very character of this body. This is one of them. We stand before history and the American people—and, yes, the world—and what we decide will say as much about us as it does about the Contras.

We don't let down our friends—that is a basic truth of the American character. Are we going to forget that truth?

If we do, history will never forgive us. And we will never forgive ourselves.

I urge a "no" vote on the Boland amendment.

□ 1400

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the position of the gentleman from Michigan (Mr. BROOMFIELD), and I rise in opposition to the motion offered by the gentleman from Massachusetts, and in support of the continued funding for covert assistance to the freedom fighters in Nicaragua.

During the visit of President-elect Duarte, he made it clear to us that Nicaragua is the center for command and control and for supplying the guerrillas operating in El Salvador. Without the pressure of the counterrevolutionary groups operating in Nicaragua, President Duarte says the Sandinistas would have free reign to devote their entire military effort in support of the Salvadoran guerrillas.

The House Intelligence Committee has told us that supplies, support for El Salvador guerrillas in El Salvador comes from the Sandanistas in Nicaragua.

The question is clear: Why should we provide a sanctuary to the Sandinistas so they are protected while attacking their neighbors?

As Ambassador Kirkpatrick says:

> There can be no question by reasonable persons that Nicaragua is engaged in a continuing, determined, armed attack against its neighbors, and that under the charter of the United Nations, . . . those neighbors have the right of individual or collective self-defense.

It is clear that progress in achieving peace in El Salvador is clearly linked to stopping the Sandinista support for the Salvadoran insurgency. As much as we all wish to see progress on the diplomatic front in Central America, the Contadora Initiative has not yet achieved peace. Even the Los Angeles Times accuses Managua of dragging its feet. The Times editorial states:

> The Nicaraguan Government is not bargaining in earnest with its neighbors about reducing the size of its army, eliminating foreign military advisers from the region and giving more freedom to political dissidents.

With the evidence clearly against the Sandinista regime, it is the wrong time to reduce the pressure on them. I urge my colleagues to reject the motion of the gentleman and to continue funding of covert assistance to the counterrevolutionaries in Nicaragua.

Mr. BOLAND. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. MINETA) a member of the Intelligence Committee.

Mr. MINETA. I thank the gentleman for yielding this time to me.

Mr. Speaker, the time has come to once and for all end our ill-advised, illegal and unproductive adventures in Nicaragua.

I urge my colleagues to uphold this House's position, and to refuse any additional funding for covert activity in Nicaragua.

Some ideas are born of noble goals, are advanced by people of good intentions, but turn out to be mistakes none the less. The covert program in Nicaragua is one of those tragic mistakes. Let us end it, right now here today.

This administation responds to all international events with the same pattern: Threats and provocative actions. Let us—even if it is only just once—make clear that we in the Congress still have the independent judgement to see a path of a calmness, reason, and diplomacy.

Please join with us in our efforts to end this war. Join with us in our effort to support a regional solution to this problem. There is no reason for us to try and impose our will upon these nations. Let us support their efforts to find a regional solution.

And most of all, let us end this war today.

Mr. ROBINSON. Mr. Speaker, I yield 3 minutes to a member of the Intelligence Committee, the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. I thank the gentleman for yielding this time to me.

Mr. Speaker, since just over 4 years ago this Member had the opportunity to present to the House, in a secret session, information that proved beyond a doubt that the Sandinistas were Communists and were associated with Cuba and the Soviet Union, and since that time there has been a lot of debate on the subject, I had not intended to be involved in this debate today because I have been involved in that debate for 4 years now, constantly.

But some of the things that I hear coming from some of my colleagues I think bear response. For example, my friend and colleague on the Intelligence Committee, the gentleman from Indiana (Mr. HAMILTON), said in his debate that our actions in Central America have driven Nicaragua closer to the Cubans and the Soviets. I would say to my colleagues that during the time that the United States was providing $130 million of aid to the Sandinista forces, that was when they made their deal with Cuba, that was when they signed the agreements, that is when they got closer and closer with the Communists. Not now, and not because there was a covert activity under way, but back then while we were giving them $130 million.

My distinguished chairman, a man for whom I have the greatest respect, the gentleman from Massachusetts (Mr. BOLAND), in his comments said how we were being criticized because we wage a war that has turned Central America into an armed camp.

I would say to my friend, Mr. BOLAND, and to my colleagues on the floor, it is not any activity of the American people or the American Government that has turned Central America into an armed camp. We had nothing to do with the creation of a 130,000-man force in Nicaragua, far beyond its needs to defend itself. The Americans had nothing to do with the introduction of Mig-23's into the Caribbean/Central American area. We have had nothing to do with building runways that are capable of handling Soviet intercontinental bombers. We have not created submarine bases.

To the contrary, those things were done by the other side, by the Soviet-Cuban axis, with the help of their friends in Nicaragua, the Sandinistas.

I have no objection to the debate, what comes from this side of the aisle or that side of the aisle. The debate is good, because we have a major issue before us and we have to make a decision. We have to decide what we are going to do about the Communist expansion in Central America, our front yard. In my district in Florida, we are closer to a good portion of Central America, Nicaragua and El Salvador than we are to many parts of the United States.

We are concerned about what happens in Central America, but in all these debates—and I say again, debate is good—I hear so many times the implication that the United States is the bad guy; that we Americans are the aggressor; that we are the threat to world peace.

I would say, Mr. Speaker, that is not true. We have never been the aggressor and we are not and have never been a treat to the peace of the world.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I rise in opposition to the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

Mr. Speaker, we have known this vote was approaching for several days, and yet I have noted that many of our colleagues on both sides of the aisle are uncomfortable with the choice facing them. The Intelligence Committee took us down this road when 3 years ago when no objections were offered to covert operations in Nicaragua. Today it is once again recommending to us a total cutoff of all aid to the Contras, giving us no other choices but to vote "yea" and "nay."

This Member is opposed to funding covert operations in Nicaragua. Certainly it has caused the Sandinista regime to reduce its aggressive external actions including the aid to Salvadoran guerrillas flowing through Nicaragua—a fact stipulated by the House Select Committee on Intelligence. But covert aid is counterproductive in changing Nicaraguan internal policies, particularly in a country invaded by the Armed Forces of the United States twice in the last century. The actions

of the Contras have served to strengthen the hand of a Sandinista regime which has tightened censorship and repression in their country. The Nicaraguan people should not be forced to choose between an American backed armed group which includes some civil guards of the hated Somoza regime and a government which grows everyday heavier handed, but which claims to be authentically Nicaraguan. Mr. Speaker, we are giving the Sandinistas a way out of their own wrongdoings by our policy of supporting the Contras.

But all of us here today must ask ourselves whether a total cutoff of all aid—suddenly—will not leave the situation worse than before. During the last debate on this issue, both the gentleman from Florida Mr. MICA and this Member offered a symmetry approach amendments or substitutes which would assure the Sandinistas of a cutoff in our assistance to the Contras if they, in turn, discontinue their assistance to the Salvadoran guerrillas. This would be monitored by an international organization such as the Organization of American States or the United Nations. Would this not be the more responsible approach? Why are we not given that choice today? Is it wrong to disallow a pragmatic third option?

There have also been press reports about the possibility of a phaseout of our backing of the Contras. That approach too would also have been better than the drastic choices we have before us today, although it has very significant defects.

If today's vote would result in the total cutoff of funds, I can only hope that the "symmetry" approach or a phaseout proposal will reappear in conference with the other body, for there are far better alternatives for moving the United States away from the funding of covert operations in Nicaragua.

Mr. BOLAND. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. I thank my colleague, the gentleman from Massachusetts, for yielding this time to me.

Mr. Speaker, we have heard a lot of discussion today about the interests of the United States in this matter and, of course, that is the central question that needs to be addressed. What are our interests in Central America? What are our interests in Nicaragua?

I must say that I think these interests are being too narrowly defined by some who are speaking from this spot. I visited Nicaragua last summer and met with many people. I am not happy with the Sandinista government. I do not support them. I do not like many of the things that they do.

But I spoke to some Nicaraguan people. I met a man who presented me with this mass card from the funeral of his son, a son who was killed by the Contras. He buried the boy just a week before. He said to me, "Congressman, I would not have this printed just to deceive you. He was killed by the Contras."

Is this what we have come to represent to Nicaragua? Is this what we have come to represent in the Third World? We are the greatest democracy in the history of the world. We have been relegated to this? I hope not.

That is what this question is all about. That is what this issue is all about.

What would you have us do? Should we be willing to invade Nicaragua, send troops, overthrow the Sandinistas? I have not heard anybody urge that, and that is not what we should be doing. And we should not be launching secret wars. We do not have to do that. We do not have to be threatened by Sandinistas. We are not threatened by them.

So what we are saying here today is, not what we think about the Nicaraguans; but rather what we think about the United States and the role that we are going to play in the world. That is what this issue is all about. If we have an interest here, it is in making sure that the country represents the right values around the world, values of peace and justice and freedom and self-determination. This policy that we have launched in Nicaragua flies in the face of those values and that tradition, and that is why the House must stick by its position.

□ 1410

Mr. ROBINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN of Missouri. Mr. Speaker, we just gave $62 million to the country of El Salvador, and I suggest it will not be worth a plugged nickel unless we do something to insure that the illegal continuation of terrorist activities from Nicaragua will cease.

The Sandinistas in Nicaragua have said, no, they are not interested in democracy, and, no, they are not interested in ending their illegal fight against the people of El Salvador.

The people we call the Contras, the freedom fighters, are not the only ones with dissenting opinions. On Easter Sunday the nine Catholic bishops of Nicaragua came out with a pastoral letter in which they criticized the close ties of the Sandinistas with the Communist Government of Cuba. It might be pointed out at the same time that these bishops did not criticize the U.S. involvement with the insurgent forces and in fact, instead, urged the Sandinistas to sit down and negotiate with the Contras to form a government and to end the violence.

This, of course, means that something good is happening from our efforts with Contras. They are a moderating force. The nine Catholic bishops have unanimously said that they are a factor to be reckoned with and the Sandinistas ought to sit down and talk with them.

Now, what was the response from the Sandinistas? Daniel Ortega said that the bishops were a minority that wants to sell out the country. Cartoons have been written in the official press in Nicaragua portraying the Catholic bishops as fashioning a swastika from the scenes of a cross.

What does the veiled threat mean from the Minister of Agrarian Reform Jaime Wheelock, who said that the time has now come to take stronger measures against enemies of the revolution who are trying to turn back the people's conquest?

Those veiled threats against the Catholic bishops, Mr. Speaker, are very important to what we are doing today. A vote against the Boland amendment, I suggest, is a vote that says the United States will not stand idly by and allow these challenges and criticisms against the Catholic Church to continue.

Mr. Speaker, the Contras are fighting for freedom for their people, they are fighting for rights, they are fighting for freedom of the press, they are fighting for freedom of religion, and I suggest that we stand up with the nine bishops who stood up in Nicaragua.

● Mr. COUGHLIN. Mr. Speaker, after personally meeting with President-elect Duarte of El Salvador as well as the Nicaraguan Ambassador in Washington, I am convinced that totally abandoning the Contras in their struggle with the Sandinista government of Nicaragua would adversely affect El Salvador, precipitate a bloodbath, and stamp the United States as unwilling to make and stand by the tough decisions forced upon us in our own hemisphere.

President-elect Duarte, who is putting his life on the line to try to institute real democracy in El Salvador, said that stopping the aid to the Contras would mean an unchecked flow of arms by way of Nicaragua. He said there are many ways to funnel arms into El Salvador, but that the presence of the Contras impeded the direct acquiesence and help of the Sandinista government and interdicted by far the most direct route for smuggled arms.

Nicaraguan Ambassador Antonio Jarquin told me Wednesday in my Washington office that his government had "no control" over the flow of arms to revolutionaries battling the duly-elected Government of El Salvador and declined to offer to attempt such control. For a government which has yet to honor its commitment to free elections, the Nicaraguan Ambassador's statement is a flat-out deception.

While I regret that the United States embarked on a covert operation of this type—unlike the Soviets, Cuba, and their allies, we find these methods repugnant to our sense of fair play—I believe that our abandonment of the Contras at this time would stamp us an unreliable ally. I also believe that to deny the Contras even the means of self protection would be disastrous. This does not mean I condone, nor will I support, such actions as the mining of Nicaraguan harbors.

I am chagrined by human rights violations in both El Salvador and Nicaragua. At least, a president has been elected in El Salvador who has pledged to eliminate death squads and bring justice to that country. In Nicaragua, not only have democratic elections been cast aside, but the government persecutes the religious, harasses and censors the news media, and has slaughtered or driven into exile thousands of Miskito Indians.

Neither country has the market cornered on human rights violations. Our only hope is that El Salvador—with our aid which is 80 percent economic—can make the transition to real democracy and prevent a well-orchestrated subversive drive to turn it into another surrogate of the Soviet Union in our hemisphere.●

● Mr. STUMP. Mr. Speaker, aid to the Nicaraguan resistance now is essential if political pluralism is ever to have a chance in Nicaragua.

Aid to the Nicaraguan resistance now is essential if Nicaragua is to be dissuaded from its extensive efforts, under Soviet and Cuban guidance, to subvert the governments of the region.

If the United States abandons the Nicaraguan resistance, it will seal the fate of the Nicaraguan people in Marxist-Leninist totalitarianism.

We are not simply deciding today whether to provide a small amount of assistance to a few resistance groups who need our help.

No, make no mistake about it, we are really deciding whether the United States cares whether the Nicaraguan people are enslaved by the Marxist-Leninists Sandinistas who seized power in Nicaragua.

I believe that the American people have the political will—the courage—to put their money where their mouth is.

We talk all the time in America about how important personal liberties and rights are. We tell the world that we stand for freedom in the world and believe that all oppressed peoples ought to share the freedoms we enjoy.

But, I guess we do not really mean it after all if we abandon the Nicaraguan resistance—if we abandon the last chance for a future free Nicaragua.

Well, that is not where the American people stand. When Americans say they stand tall with their friends in the world for the cause of human freedom, they mean it.

And that is why the United States must continue its support to the free people of the Nicaraguan resistance.●

Mr. BOLAND. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. BARNES), who chairs the Subcommittee on the Western Hemisphere of the Committee on Foreign Affairs.

Mr. BARNES. Mr. Speaker, I thank the distinguished chairman of the Intelligence Committee for yielding me this time.

My friend and distinguished colleague, the gentleman from Michigan (Mr. BROOMFIELD), said a few minutes ago that history, the American people, and the world will judge the decision that we make on this issue that confronts us now, and I agree totally with that comment of the gentleman from Michigan (Mr. BROOMFIELD). History will judge the decision we make this afternoon as to whether or not the United States wants to continue to engage in a covert war against the Government and the people of Nicaragua.

Certainly the American people will judge the decision we make here this afternoon. I do not think there is any question where their judgment lies on this. We are all familiar with the surveys and the polls which indicate that the American people are very strongly opposed to the policy of the Reagan administration carrying on a covert war through the CIA against another government with which we have diplomatic relations. There is no question how the American people will judge the vote that we take this afternoon, and there is no question how the world will judge the vote that we take this afternoon. The world is very clear on it. There is something called the World Court, which rule about 2 weeks ago unanimously that the United States is violating international law by engaging in precisely the kind of activities we are talking about this afternoon.

There are also lots of other ways to judge international opinion and the view of the world on what we are doing. One of them is to talk with world leaders. Many of us in this chamber have the opportunity to do so regularly. Last week we had the opportunity to talk with the President of Mexico, one of the Contadora countries that is engaged in the effort to try to bring a peaceful resolution to the crisis in Central America.

I had the great privilege of attending a private luncheon over in the other body with the President of Mexico, and I was able to ask him the question: Is what the United States is doing in this covert war, providing assistance to the Contras, helpful to the effort of the Contadora nations to find a peaceful resolution to the crisis in Central America helpful, or is it harmful?

Everybody in the United States believes, and certainly President Reagan says he wants to support the Contadora process. I have heard so many speeches from both Republicans and Democrats here that I do not know of anyone here who does not want to support the Contadora process. We all say we do.

So I asked the President of one of the Contadora nations: Is this project of the United States, supporting the Contras, helpful to the Contadoras, or is that harmful?

His answer was very direct, that this is part of the problem the Contadora has in trying to find a peaceful resolution of the problems in Central America.

Last week the President of Costa Rica, President Monge of Costa Rica, made a very tough statement, particularly coming from that position, denouncing the United States for the way it is increasing the military tensions within Costa Rica. He singled out our Secretary of Defense, Mr. Weinberger, by name for specific criticism. The Costa Ricans are panicked by what is happening around them in Central America.

If we want to help Costa Rica, if we want to help the Contadoras, there are ways to do it that are lawful, there are ways to do it that are overt, and there are ways to do it that are consistent with the values of our Nation. We are a signatory to the Rio Treaty; we are a member of the Organization of American States. They provide mechanisms for the international community to deal with this kind of problem.

It is not the answer for the United States unilaterally to hire a lot of guerrillas and send them off to invade another country. That is not the way to behave in the international community. This is certainly not the way the United States has historically said people should behave. We have said that people should abide by the decisions of the World Court; we have said that people should abide by their treaty obligations.

Mr. Speaker, I ask the Members to vote for the Boland proposal.

The SPEAKER pro tempore. The Chair wishes to announce that the gentleman from Massachusetts (Mr. BOLAND) has 8 minutes remaining and the gentleman from Virginia (Mr. ROBINSON) has 10 minutes remaining.

The Chair recognizes the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, let me say first of all to my friends on the left that this is not a test of patriotism. This is a test of commonsense, of

realism, of learning from the behavior of our opponents and the results of our policies.

Today we face the reality that the Nicaraguan Communists are oppressing the Catholic Church, and the bishops are now fighting back. Today we face the reality that the Nicaraguan Communists have expelled all Jews and turned the synagogue into a Palestine Liberation Organization headquarters.

The Nicaraguan Communists today have 20 Libyan pilots and mechanics and 50 Palestine Liberation Organization pilots and mechanics.

The Nicaraguan Communists today have 100 Soviet military advisers, 100 advisers from Czechoslovakia, Bulgaria, and Poland. The Nicaraguan Communists today have 35 East German secret police advisers establishing a Communist police state.

Our friends on the left responded to this reality with a letter to Commandante Ortega, the Communist Nicaraguan dictator. Now we have his answer to their letter. I have here his answer.

This seven-page letter is a cynical propaganda attack on the United States. It rejects every request of the "Dear Commandante" letter. It specifically rejects the Democrats' appeal to let the freedom fighters' leaders campaign in the election.

Finally, the Communist dictator cynically and contemptuously cites the Speaker of our own House in a letter to Members of our House.

I ask my colleagues on the left, how can you read this cruel, cynical, insulting letter which offers no hope and vote to cut off aid to the freedom fighters?

Will you never learn about the reality of Soviet power, about the reality of the Palestine Liberation Organization-Libyan assault on Israel, about the reality of Communist dictatorship.

Compare today's vote. After an honest and internationally observed El Salvador election, after a trial which brings into court the people who killed the Americans, you can still vote against aid to El Salvador and you can excuse anything the Nicaraguans do and vote against aid to the freedom fighters. And you wonder why we suggest you are blind to the realities of Soviet power.

□ 1420

Mr. BOLAND. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the gentleman from Georgia suggests that an unsatisfactory letter from Mr. Ortega means that we should continue to fund covert military attacks in Nicaragua. I think that makes no more sense than saying that we ought to fund covert military attacks on the Soviet Union because the gentleman from Georgia (Mr. GINGRICH) has not yet received a satisfactory response from the Soviet Government on the letter that he and I both signed. If the gentleman from Georgia (Mr. GINGRICH) objects to sending a letter asking Nicaragua to allow Contra leaders to participate in elections, that says more about the gentleman than it says about us.

The issue is not whether we should defend our interests. The issue is whether we ought to do it smart or whether we ought to do it stupid.

I am tired of self-styled hard-liners who bungle into policies which are ineffective and enable Marxists and Soviets to exploit those policies to put the United States on the defensive even with our own allies in that region, and then who divert attention from their own bungling by innuendo riddled attacks on our dedication to U.S. interests and our understanding of the seriousness of the sickness of Soviet Marxism.

Do what makes sense for America. Vote for the Boland amendment. That is how you stand up for America and what it really stands for.

Mr. ROBINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I heard the distinguished gentleman from Indiana say we have a unique chance to halt a war. May I correct him. It is half a war, just a war in Nicaragua. The war in El Salvador goes on and on even as we speak.

I heard the gentleman from Maryland say, "Hire guerrillas, hire guerrillas and send them into Nicaragua."

Commander Zero is not on our payroll, has never been an employee of the United States, and the Miskito Indians live in Nicaragua. That is their home that the Sandinistas are driving them out of.

Now, why legitimize the Sandinistas? They came into power on a lie, on fraud in the inducement to the Organization of American States and they stay in power through repression.

Turn your political geography book to Afghanistan and then ask yourselves, where is the high ground?

You moral surveyors, is the high ground helping the people of Afghanistan defend themselves against their Soviet oppressors?

I know they are using rocks, sticks and stones, but the high ground consists of helping them.

Now turn your geography books to Nicaragua. Where is the high ground there? Helping those people who live there defend themselves and their freedom.

Mr. Speaker, I yield to my friend, the gentleman from Arizona (Mr. MCCAIN).

Mr. MCCAIN. Mr. Speaker, I thank the gentleman from Illinois.

I think it is important to look at the pure military aspect of this. If we continue to provide arms and equipment to the Contras, we will have an opportunity to slow that flow of arms. Any military expert will tell you that if you provide sanctuary to an enemy so that they can arm, supply, train, and equip guerrillas to go into another country and you give them sanctuary, then your efforts are doomed to failure and all the money that we have just voted for El Salvador will go down the drain if we grant sanctuary to the Nicaraguan Government, which by the judgment of our own Intelligence Committee is supplying, arming, training, and equipping the guerrillas in El Salvador.

I thank the gentleman.

Mr. HYDE. Mr. Speaker, this amendment proves we cannot define our own vital interests, we cannot identify them, and we sure do not know how to protect them.

Mr. BOLAND. Mr. Speaker, I yield 1 minute to the chief deputy whip on this side, the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, while we might disagree on the nature of the threat in Central America, all of us will agree that there is a problem. I suggest we recall the words of our friend and neighbor, President de la Madrid who gave us a clue to the solution. He said, and I quote:

> A democracy cannot use the arms of tyranny. Reason and understanding are superior to the illusion of the effectiveness of force.

We have heard that our military strategy has failed in Nicaragua. President de la Madrid said that the solutions in Centeral America lie in economic and social development along with political dialog—not in weapons and military advisers.

What we have done in this country in supporting Mr. Reagan's war is to be perceived in Central America as supporting the old order of poverty, malnutrition, hunger, and ignorance. These are not the values of this country. They should not be the values of our foreign policy.

Mr. ROBINSON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, let us not make any mistake about what we do here today if we pull out the rug from under the Nicaraguan resistance fighters. We betray them. We betray the people who went into the field, put their lives on the line, because in a bipartisan fashion this Congress, this administration, has supported their efforts because of the findings of our Intelligence Committee.

We betray them, we betray their famiies, we betray the populations that have given them refuge. We betray the Nicaraguan people and when they decide to come to the United States, I would hope that those Members who

vote against aid to the Contras welcome them to their congressional districts when they seek refuge from Communist repression.

Mr. ROBINSON. Mr. Speaker, I yield the remaining time on our side to the Republican leader, the gentleman from Illinois (Mr. MICHEL).

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the leader for yielding.

I would simply quote lines from the inaugural speech of John F. Kennedy regarding our commitment in Central America, when he said:

> Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas. And let every other power know that this hemisphere intends to remain the master of its own house.

The question I would ask my friends on the other side is, are you at this time abandoning the policies that were laid down by John Kennedy with regard to Central America?

I thank the leader.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for his very valuable contribution.

Mr. Speaker, in the House there are always what seem to be two realities. One concerns what we do. The other—equally important—concerns what we are perceived as doing.

That is what worries me about the amendment introduced by my good friend, the gentleman from Massachusetts (Mr. BOLAND).

Its effect would be clear-cut and simple—it would cut off funding for the Contras. But the perception of what we do in cutting off funds is something we should also consider. Its ramifications could be far-reaching and profound.

What we do today effects not just Nicaragua, but the entire world.

If we cut off funds for the Contras, our allies will perceive us as weakening in resolve in the fight against the Moscow-Havana-Managua axis.

Our adversaries will perceive us as lacking both the will and the endurance for the long twilight struggle John F. Kennedy spoke about.

The people of El Salvador will perceive us as giving aid with one hand—and taking away with the other. Jose Napoleon Durate will certainly feel that way.

To provide aid to El Salvador while cutting off aid to the Contras is like plugging one hole in a dam while you open another.

The unintended consequences of legislation often outlive—and outweigh—the best of motivations.

So it is with this amendment.

There are four reasons why it is wrong to cut off funds to the Contras.

It is geopolitically wrong. Our allies can only wonder at our sense of resolve. If we abandon the Contras today, whose turn will it be tomorrow? Korea's? Israel's?

It is geostrategically wrong. The Moscow-Havana-Managua axis wants nothing more than to see the Sandinistas gain a victory by default. This will only whet their appetite for more adventurism.

It is diplomatically wrong. We will lose whatever leverage we have with the Sandinistas if we turn away from the Contras.

Finally—and most important—it is morally wrong to cut off funds. What kind of moral foreign policy is it that suddenly cuts off aid to those we have urged to fight tyranny?

We have a precedent in this case.

In early 1975 there were 50 Cubans in Angola. In June 1976, the Clark amendment forbade any covert aid to anti-Marxist forces in Angola.

A steady climb of Cuban forces then began. By the end of 1977 they numbered 19,000. By 1981 it was 23,000. By the end of 1983 it was 30,000 Cuban troops in Angola.

In July 1979 there were 50 Cuban advisers in Nicaragua. Today we estimate some 9,000.

Do you want more of them? I can guarantee you that is what you will get if we repeat the folly of the Clark amendment.

It happened before in Angola. From 50 troops to 30,000. It can—and will happen again in Nicaragua if we make the same mistake twice.

In conclusion, Mr. Speaker, the New York Times on Tuesday carried a story about the recent pastoral letter, issued by all nine bishops in Nicaragua.

The letter, says the Times, "did not contain any condemnation of the United States or the insurgent forces it is supporting in Nicaragua. Instead it urged peace talks with the rebels. Sandinista officials have repeatedly vowed they will never agree to such talks."

The bishops of Nicaragua and the people they serve know who the enemy is in Nicaragua.

Why is it so difficult for us to see the light, and learn from history?

I would urge my colleagues to vote against the Boland motion.

□ 1430

Mr. BOLAND. Mr. Speaker, I yield the remaining time on our side to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

The SPEAKER pro tempore. The gentleman from Texas (Mr. WRIGHT) is recognized for 5 minutes.

Mr. WRIGHT. Mr. Speaker, what we address in our vote within a very few minutes goes to the very heart of U.S. foreign policy. By this vote we will be determining, in connection with the vote which we earlier had, what kind of country we want to be, what kind of a role we feel that we have a right to play and ought to play in our hemisphere.

Every Member of this House knows where I have stood on aid for El Salvador. I believe that it is a matter of principle. I believe we are committed by international law and as signatories to the Rio Treaty to assist a friendly, constitutionally elected government, at its request, to defend its right to local nonviolent self-determination.

But if we believe in the right of self-determination for El Salvador, then must we not believe in the right or self-determination for other countries, including Nicaragua, with which we disagree?

Are we consistent in our principles?

We state the high principle as a signatory to the Rio Treaty that we will respect and protect the right of every country in the hemisphere to territorial integrity. For that reason I have suggested that we have a right and a duty to assist the Government of El Salvador to respect and protect its territorial integrity from invasion.

My friends, if we really believe that, do we have any right to invade and violate the territorial integrity of the Government of Nicaragua? Do we have a right to invade their borders?

I think this is a test of what our role is in this hemisphere. Throughout the hemisphere friends are looking. Do we regard ourselves as the good neighbor or do we regard ourselves as the hemispheric bully? Do we think it is our right to dictate to others under pain of our financing third parties to shed their blood, to bring down their Government if they do not agree with us?

How do we look upon others in the hemisphere? Do we look upon them as equals or do we look upon them as subordinates, to whom we may issue orders and ultimata?

In July President Reagan wrote a letter to the Presidents of the Contadora nations, Panama, Colombia, Mexico, and Venezuela. In that letter in July President Reagan said as follows:

> There must be respect for the principle of nonintervention, including a ban on support for subversive elements that seek to destabilize other countries.

I have to say, Mr. President, our words ring hollow in the hemisphere when we do not practice what we preach.

If that is a principle to be abided by, by others, is it not a principle to which we also must commit ourselves, and by which we must live?

There is much in the Nicaraguan Government's policies with which I find disagreement. I have said so there as well as here. I have said it directly to the heads of the Nicaraguan Government.

But that does not give to us or to me the right to dictate their form of society. It does not give us a right to start a war. It does not give us the right to mine their harbors in contravention of international law. That is, under international law, an act of war, you know.

It does not give the administration the right to violate the laws that this Congress has passed. In the Boland amendment in 1982 we provided that none of the funds might be used by anyone for the purpose of overthrowing the Government of Nicaragua. That was unequivocal. That was not subject to misunderstanding. It was the law.

Then the CIA disengenuously explained that while overthrowing the Government may have been the publicly avowed purpose of those whom we recruited and trained and supplied and put into the field, it was not really our purpose nor that of the CIA and therefore nobody was violating the law.

My friends, people in Latin America are not deceived. They understand the difference between a forthright position and a surreptitious attempt to evade the law.

So clearly it is a question of whether we practice what we preach, whether we are consistent in the principles we proclaim.

If you wonder why there are people in Nicaragua who are fearful of the United States and susceptible to anti-U.S. propaganda, you just have to look at the history of U.S. intervention there for a century and more. In 1855 a Tennessean named William Walker raised a private army and installed himself as Emperor of Nicaragua. From 1911 until 1933 a contingent of U.S. marines occupied Nicaragua almost continuously. Then for 43 years the three Somozas ruled the country and were widely regarded, rightly or wrongly, as our surrogates.

It is against this backdrop that our mining of their harbors and financing of some 8,000 or more troops to invade their land gives credibility among their citizenry to the most provocative propaganda against our country. It feeds the fires of nationalism and anti-Americanism, not only in Nicaragua but elsewhere in Latin America as well.

Surely that is not the image we seek to reflect, nor the policy we seek to pursue. So I suggest that, true to our own finest principles, we should support the Boland motion today.

Mr. BOLAND. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROBINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 177, not voting 15, as follows:

[Roll No. 181]

YEAS—241

Ackerman	Fowler	Morrison (CT)
Addabbo	Frank	Mrazek
Akaka	Frost	Murphy
Albosta	Garcia	Natcher
Alexander	Gejdenson	Neal
Anderson	Gephardt	Nowak
Andrews (NC)	Gibbons	Oakar
Andrews (TX)	Glickman	Oberstar
Annunzio	Gonzalez	Obey
Anthony	Goodling	Olin
Applegate	Gore	Ortiz
Aspin	Gradison	Ottinger
AuCoin	Gray	Owens
Barnes	Green	Panetta
Bates	Guarini	Patterson
Bedell	Gunderson	Paul
Beilenson	Hall (IN)	Pease
Bennett	Hall (OH)	Penny
Berman	Hamilton	Pepper
Biaggi	Harkin	Perkins
Boehlert	Harrison	Pickle
Boggs	Hawkins	Price
Boland	Hayes	Pritchard
Boner	Hefner	Pursell
Bonior	Heftel	Rahall
Bonker	Hertel	Rangel
Borski	Horton	Ratchford
Bosco	Howard	Regula
Boucher	Hoyer	Reid
Boxer	Hughes	Richardson
Britt	Jacobs	Ridge
Brooks	Jeffords	Rodino
Brown (CA)	Jones (NC)	Roe
Bryant	Jones (OK)	Rose
Burton (CA)	Jones (TN)	Rostenkowski
Carper	Kaptur	Roybal
Carr	Kastenmeier	Russo
Chandler	Kennelly	Sabo
Clarke	Kildee	Savage
Clay	Kleczka	Scheuer
Coelho	Kogovsek	Schneider
Coleman (TX)	Kolter	Schroeder
Collins	Kostmayer	Schumer
Conte	Lantos	Seiberling
Conyers	Leach	Shannon
Cooper	Lehman (CA)	Sharp
Coyne	Lehman (FL)	Sikorski
Crockett	Leland	Simon
D'Amours	Levin	Slattery
Daschle	Levine	Smith (FL)
de la Garza	Lipinski	Smith (IA)
Dellums	Long (LA)	Snowe
Derrick	Long (MD)	Solarz
Dicks	Lowry (WA)	Spratt
Dingell	Luken	St Germain
Dixon	Lundine	Staggers
Donnelly	MacKay	Stark
Dorgan	Markey	Stokes
Downey	Martin (IL)	Studds
Durbin	Martinez	Swift
Dwyer	Matsui	Synar
Dymally	Mavroules	Tauke
Early	Mazzoli	Torres
Eckart	McCloskey	Torricelli
Edgar	McCurdy	Towns
Edwards (CA)	McHugh	Udall
Evans (IA)	McKernan	Valentine
Evans (IL)	McKinney	Vento
Fazio	McNulty	Volkmer
Feighan	Mikulski	Walgren
Ferraro	Miller (CA)	Waxman
Fish	Mineta	Weaver
Florio	Minish	Weiss
Foglietta	Mitchell	Wheat
Foley	Moakley	Whitley
Ford (MI)	Mollohan	Whitten
Ford (TN)	Moody	Williams (MT)
Wilson	Wright	Young (MO)
Wirth	Wyden	Zschau
Wise	Yates	
Wolpe	Yatron	

NAYS—177

Archer	Gregg	Nielson
Badham	Hall, Ralph	O'Brien
Barnard	Hall, Sam	Oxley
Bartlett	Hammerschmidt	Packard
Bateman	Hansen (UT)	Parris
Bereuter	Hartnett	Pashayan
Bethune	Hightower	Patman
Bevill	Hiler	Petri
Bilirakis	Hillis	Porter
Bliley	Holt	Quillen
Breaux	Hopkins	Ray
Broomfield	Hubbard	Rinaldo
Brown (CO)	Huckaby	Ritter
Broyhill	Hunter	Roberts
Burton (IN)	Hutto	Robinson
Byron	Hyde	Roemer
Campbell	Ireland	Roth
Carney	Jenkins	Rowland
Chappell	Johnson	Rudd
Chappie	Kasich	Schaefer
Cheney	Kazen	Schulze
Clinger	Kemp	Shaw
Coats	Kindness	Shelby
Coleman (MO)	Kramer	Shumway
Conable	Lagomarsino	Shuster
Corcoran	Latta	Siljander
Coughlin	Leath	Sisisky
Courter	Lent	Skeen
Craig	Levitas	Skelton
Crane, Daniel	Lewis (FL)	Smith (NE)
Crane, Philip	Livingston	Smith (NJ)
Daniel	Lloyd	Smith, Denny
Dannemeyer	Loeffler	Smith, Robert
Darden	Lott	Snyder
Daub	Lowery (CA)	Solomon
Davis	Lujan	Spence
DeWine	Lungren	Stangeland
Dickinson	Mack	Stenholm
Dowdy	Madigan	Stratton
Dreier	Marlenee	Stump
Duncan	Martin (NY)	Sundquist
Dyson	McCain	Tallon
Edwards (AL)	McCandless	Tauzin
Edwards (OK)	McCollum	Taylor
Emerson	McDade	Thomas (CA)
English	McEwen	Thomas (GA)
Erdreich	McGrath	Vander Jagt
Erlenborn	Mica	Vandergriff
Fascell	Michel	Vucanovich
Fiedler	Miller (OH)	Walker
Fields	Molinari	Weber
Flippo	Montgomery	Whitehurst
Franklin	Moore	Whittaker
Frenzel	Moorhead	Winn
Fuqua	Morrison (WA)	Wolf
Gaydos	Murtha	Wortley
Gekas	Myers	Wylie
Gilman	Nelson	Young (AK)
Gingrich	Nichols	Young (FL)

NOT VOTING—15

Gramm	Lewis (CA)	Sawyer
Hance	Marriott	Sensenbrenner
Hansen (ID)	Martin (NC)	Traxler
Hatcher	Rogers	Watkins
LaFalce	Roukema	Williams (OH)

□ 1450

The Clerk announced the following pair:

On this vote:

Mr. LaFalce for, with Mr. Hance against.

Mr. GOODLING changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

The SPEAKER pro tempore. Pursuant to House Resolution 494 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5167.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, with Mr. MURTHA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, May 23, 1984, title III was open for amendment at any point. Pending was the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. MADIGAN) will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman, I would like to ask the gentleman from Virginia (Mr. DANIEL), the chairman of the subcommittee, about section 308 of title III.

Specifically I would like to know if this is the outgrowth of a separate bill, H.R. 4804, that was referred to the Armed Service Committee on February 12.

The CHAIRMAN pro tempore. The Chair will advise the gentleman that he is not stating a parliamentary inquiry, he is addressing a question to the gentleman from Virginia.

The Chair recognizes the gentleman from South Carolina (Mr. CAMPBELL).

□ 1500

Mr. CAMPBELL. Mr. Chairman, last night we adopted an amendment by the gentleman from Washington dealing with two countries in Central America. And there was a great deal of confusion during that debate. The amendment that we have before you merely adds to that the rest of the countries in Central America from Mexico to Panama. It also clarifies with one statement a statement made in the well by the gentleman from Washington yesterday that nothing in this title shall be construed as limiting the power of the President to exercise his authority as Commander in Chief. And that was the statement of the intent of the gentleman from Washington, and there has been and was during the debate a great deal of concern expressed about Central America and about what was going on. They said that they did not want to take away or abrogate any treaties, there were not any; they did not want to do anything about any of the mutual defense problems, because we did not have them; they did not want to do any of these things. So all we have done is to say let us not single out El Salvador and treat it differently from Guatemala or Honduras or Costa Rica or any of the others, and if you are going to use the same language, let us use it for the region, and therefore Mr. Duarte's enemies cannot say we singled them out at all, but it does apply to everyone, and it is the exact same language used in only the statement of the gentleman from Washington that was said in the well that he was not seeking to take away any of the constitutional powers, the powers of the President as Commander in Chief to respond in any of these areas, and that is all.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Minnesota.

Mr. WEBER. Is it possible for this body other than through constitutional amendment to take away the constitutional powers of the Commander in Chief?

Mr. CAMPBELL. They cannot take away the constitutional powers. They can expand powers by statute.

And what this amendment very simply says is that nothing in this title—and to my knowledge there is nothing in title III that expands the power of the President.

Mr. WEBER. So the purpose of the amendment is not to expand the powers of the President?

Mr. CAMPBELL. It does not expand the powers of the President.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Washington.

Mr. FOLEY. As I understand the gentleman, he is saying that in the final section of the bill nothing in the title shall be construed as limiting the powers of the President to exercise authority as Commander in Chief, he is speaking of the constitutional powers of the Commander in Chief?

Mr. CAMPBELL. I am speaking of the constitutional powers or any powers that he would have that would derive from the Constitution, either expanded or limited by this body, only as they are expressed in title III. And I know of nothing in title III that expands those powers, as I told the gentleman earlier.

Mr. FOLEY. If I could ask the gentleman another question, I am concerned about the inclusion of one country in the list of Central American countries, and that country is Panama. And if the gentleman will yield to me further, the reason I am concerned is that we have no treaties, to my knowledge, with Nicaragua or El Salvador, but we do have a treaty with Panama. And in addition to a treaty with Panama, we have explicit statutes carrying out the provisions of that treaty, including special defense arrangements for the mutual defense of the Canal. And I do not believe the gentleman would want in any way to amend or alter the special defense rights of the United States with respect to Panama or the canal or the Panama Canal Treaty or any statutes affecting it, and for that reason it seems to me that the inclusion of Panama in this list raises very serious questions I would suggest the gentleman consider.

Mr. CAMPBELL. If I could respond to the gentleman's statement, the gentleman is absolutely correct. There is no intention at all in mind, as he stated, to abrogate any treaties or to set aside any defense arrangements that have been made by treaty or were part of an agreement which we did have with Panama when we turned it back. Panama is merely included because it includes the entire region and did not treat one or the other separately. As I understood the gentleman's amendment when he spoke of it last night, that there were no treaties involved here but that it would not abrogate those treaties in any other way, because by statute you would not be abrogating a treaty.

Mr. FOLEY. If the gentleman will yield, the only way that you can abrogate the provisions of a treaty is by an explicit statute which is passed subsequent to the implementation of the treaty.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(On request of Mr. FOLEY and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 5 additional minutes.)

Mr. FOLEY. If the gentleman will yield further, my concern is that where we have no treaties of any kind, to my knowledge, that deal with defense arrangements, at least, with El Salvador or with Nicaragua, we do have a specific and very important treaty with Panama, and that treaty is also backed up by specific statutory authority that gives the United States under the treaty particular defense responsibilities, obligations, and rights in accordance with the treaty with Panama and with the statutes. This is a post-Panama Canal statute, and I would want to be very certain that

this does not in any way change or alter the special cases that apply only to Panama in this region. And I cannot imagine that the gentleman in the well, or, frankly, people on either side of this aisle, would want to raise any question by including the country of Panama in this language, the possibility of confusion, particularly derogation of defense obligations that arise over the canal.

Mr. CAMPBELL. If I can reclaim my time for a minute, I have already said it is not the intention of the gentleman in the well, never has been in discussions earlier with the gentleman from Washington, to include that. Panama was included as a part of the region.

I went back to the debate that was earlier held, and that was that the language of the amendment earlier would not and was not language that would abrogate treaties. If there is any concern whatsoever on the part of the gentleman from Washington or any fear that cannot be allayed by this colloquy, then the gentleman in the well certainly would accept language to that effect to his amendment were it offered. The gentleman certainly has no problem with that because it is not his intention and not his belief that this would in fact cause any problem with the defense treaties.

Mr. McCAIN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Arizona.

Mr. McCAIN. I am also concerned about amending of existing statutes and laws at this point, and I think one of the things that is most crucial here in this discussion is that, by the gentleman from Washington's amendment we amended the War Powers Act, we amended it by the very nature of his amendment. I hope you share my concern over that. I intend to offer an amendment later on which states nothing in the bill would in any way change or amend the War Powers Act.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Michigan.

Mr. SILJANDER. I think the argument of the gentleman from Washington makes it clear why the amendment passed yesterday is unnecessary, confusing, and dilatory, in the sense that we hear a concern about the War Powers Act, his own concern dealing with the Panama Canal Treaty, and now what your amendment is attempting to do is to clarify the problems of last night.

So I think the point ought to be made we did not need the amendment of last night, and I feel we do not need the amendment at all, and the best way to approach this is to repeal the mistake that was passed yesterday.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

If I understood the point of the gentleman from Washington, it was that we have a treaty with Panama, the Panama Canal Treaty and defense rights, and so on. But my understanding is that we do have treaties with all of the countries of that area, the Rio Treaty, and as I understand it—and if someone has information contrary to my understanding, I wish they would bring it forward—the language relating to our obligations and our rights and our duties in that treaty, the Rio Treaty, reads about the same as it does in our NATO Treaty.

So I think perhaps maybe the gentleman from Washington would like to respond to that.

Mr. CAMPBELL. The gentleman from California is correct. The Rio Treaty was discussed last night.

I will be happy to yield to the gentleman from Washington (Mr. FOLEY) to let him respond.

Mr. FOLEY. As I suggested to the gentleman last night in debate, there was no intention to alter the Rio Treaty. But is is my understanding of the Rio Treaty that it calls upon joint action of the various countries in the terms of their constitutional situation and conditions to reply to any common threat to the signatory nations of the Rio Treaty.

What I am concerned about again, I repeat, is that in the case of Panama we have a specific country with which the United States has a bilateral treaty and has bilateral statutory arrangements in the implementation of that treaty, and I would like, since the gentleman has offered the amendment, to suggest language to be added here that would make it clear that none of the language in this particular amendment of the gentleman affects or alters in any way the Panama Canal Treaty or any statutes implementing the Panama Canal Treaty or any defense obligations or rights of the United States under such treaty.

□ 1510

Mr. CAMPBELL. The gentleman in the well has already said that it was his intention and if it needed clarification on Panama, there is concern about the Panama Canal, that the gentleman has prepared a perfecting amendment dealing with that issue.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(On request of Mr. WEBER and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 3 additional minutes.)

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. WEBER. I thank the gentleman for yielding.

I am still trying to understand the impact of the gentleman's amendment. Let me make sure that I have the language clear. The last section of the amendment says nothing in this title shall be construed as limiting the power of the President to exercise his authority as Commander in Chief. Is that the sum total of that last section?

Mr. CAMPBELL. That is it.

Mr. WEBER. I am missing something here. That sounds to me like we are saying that we are not going to take away the President's constitutional powers, and I do not understand how we could do that in the first place.

Mr. CAMPBELL. We cannot take away the constitutional powers, however, we can and have given powers in different stages by statute, an expansion of constitutional powers. To my knowledge there is nothing in section 3 of this bill or title 3 of this bill that does expand those powers, and all we are saying is that we are not taking away nor giving them any additional powers.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. HUNTER. I think we need to put this thing in perspective. We did send a message yesterday to the world. The first message was to the effect that we were going to treat El Salvador and Nicaragua somewhat different than we treat other nations in the world.

The second message that we sent was manifest in Mr. HARTNETT's amendment, which said we are not going to treat the rest of the world in the same manner that we just treated Nicaragua and El Salvador. I would ask the gentleman is this going to change that perspective in any way?

Mr. CAMPBELL. To answer the gentleman from California, the gentleman in the well's intent is to treat and not single out any one country such as El Salvador to be treated separately, but to treat the region generically and all countries the same in that region. This is so that we are not singling out El Salvador and setting them aside and saying we are going to treat your neighbor next door the same. But saying, that in that region that this is our general policy. At the same time saying we are not trying or nothing in this section is limiting the powers of the President of the United States to function as Commander in Chief.

The reason for not limiting this to El Salvador is not to allow the enemies of President Duarte and others to go back and say that you were singled out, separate from Guatemala, Honduras, or any of your other neighbors, because they are not going to stand

with you. That will weaken him, and I do not want that to happen, and I think that if we include the region as a regional policy, then we can deal with it from that perspective.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. WEBER. As I understand it, the only practical effect of the gentleman's amendment is to expand the coverage of the Foley amendment to all of Central America?

Mr. CAMPBELL. And to clarify very specifically a statement made by the gentleman from Washington that is not contained in the Foley amendment and that has to do with construing the limitation of the President's powers.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. MONTGOMERY. I appreciate the gentleman yielding.

I talked to the gentleman last night and also today on this amendment. I rise in support of the amendment, and it certainly does not discriminate against one country and it covers all of the Central American countries.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 5 additional minutes.)

Mr. CAMPBELL. I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. If we could work out with Mr. FOLEY the problem on the treaties as might be involved in the Panama Canal, I understand it, the gentleman would consider accepting an amendment in that area?

Mr. CAMPBELL. The gentleman is correct. There is no intention, I do not believe there was by the gentleman from Washington, certainly not by the gentleman from South Carolina, to in any way impair the treaties or agreements that we have governing the Panama Canal.

It is not this gentleman's belief and it was not the gentleman from Washington's belief on earlier statements that we would abrogate treaties or anything of that nature.

But, if it will allay fears that it might, in any way be interpreted as such, then this gentleman is prepared to accept an amendment to make absolutely sure that no one, no one could interpret it in that manner, and if that amendment is offered, and I understand that there is an amendment being prepared, this gentleman would be prepared to support that particular amendment.

Mr. MONTGOMERY. I rise in support of the gentleman's amendment; I think it has a lot of common good sense to it.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. WEISS. I thank the gentleman for yielding, and just so that I understand his viewpoint and what his thought processes are.

I assume that what the gentleman is saying by offering this amendment is, that the Constitution of the United States shall apply in all instances where American forces are introduced for combat purposes. Whether it is the Congress, or whether it is the Presidential powers, we want the Constitution adhered to. Is that really what the gentleman is saying?

Mr. CAMPBELL. The gentleman would like to stand here and tell this gentleman that, but, unfortunately, we have not been willing if we reached out of the region to deal with other areas of the world. Certainly the Constitution is going to govern the powers of the President. It is, and we cannot take those powers away except by Constitution.

As the gentleman in the well knows, that we may expand those powers, or a limited expansion of those powers that do not directly impact the Constitution. To my knowledge, and the gentleman can correct me if I am wrong, there is nothing in title 3 that limits or expands those powers, and the gentleman from Washington has said that, and it is my intention to make sure that it is absolutely clear.

Mr. WEISS. I understand that, and I must say to the gentleman that I find no fault at all to find with his amendment. I support it. I hope that unlike the amendment that was offered last night by another gentleman from South Carolina, that he will in fact vote for the amendment that he is offering.

Mr. CAMPBELL. The gentleman in the well is prepared to vote for his amendment. He does not engage in offering frivolous amendments. I am here specifically for the purpose of trying to deal with a problem that I think needs to be dealt with forthrightly, and if the gentleman from Washington had an amendment, I would be prepared to yield for that purpose.

AMENDMENT OFFERED BY MR. FOLEY TO THE AMENDMENT OFFERED BY MR. CAMPBELL

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY to the amendment offered by Mr. CAMPBELL: At the end of the amendment add the following:

Nothing herein shall be construed as amending or altering in any manner the rights or obligations of the United States in the Panama Canal Treaty or any statutes implementing that treaty.

Mr. FOLEY. Mr. Chairman, I think the amendment is self-explanatory, designed to make absolutely clear that nothing in this amendment, because it includes the mention of the word "Panama," affects the special obligations and responsibilities of the United States under the Panama Canal Treaty, and under the special statutes implementing that treaty, including those statutes that deal with defense obligations and rights of the United States and Panama under the treaty.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. CAMPBELL. The gentleman from South Carolina has read the amendment and certainly has no problem with it, and I would be happy to accept it.

Mr. DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. DANIEL. Mr. Chairman, the committee has no problems with this amendment; we would be glad to accept it.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. SILJANDER. I appreciate the gentleman's amendment to the amendment, but there is also a concern on this side of the aisle dealing with the War Powers Act and how it might affect that. There is also some concern how it might affect the Rio Treaty. There is some concern of how it might affect the Constitution of the United States.

Are we prepared to accept an amendment dealing with these other concerns, legitimate concerns of the interpretation of this particular amendment?

Mr. FOLEY. I am satisfied with the amendment now as it is drafted.

Mr. SILJANDER. So the gentleman does not feel the amendment, as amended, assuming your amendment passes, would affect the Rio Pact, the War Powers Act, or the Constitution of the United States?

Mr. FOLEY. I was concerned with the gentleman from South Carolina's amendment because it included a specific reference to the country of Panama, a country with which the United States has a very recently enacted, long-negotiated treaty. As the gentleman knows, there are statutes implementing that treaty and I think it is a unanimous decision of the House, on both sides of the aisle, not to act in derogation of that treaty. It is for that reason I offered the amendment.

□ 1520

Mr. COATS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last evening when this amendment was first offered, I was one of the few who voted against it on the floor last night, and then subsequent to that the gentleman from South Carolina offered a facetious amendment to try to point out some of the problems of the original amendment offered by the gentleman from Washington (Mr. FOLEY). A heated debate ensued after the offering of that amendment.

Many of us took the floor to discuss what we saw were the potential dangers in the Foley amendment; that is, that it attempted to strip the Commander in Chief of some of his constitutional powers and set up a situation whereby the United States, under the direction of the President, could not react in a timely fashion to an attempted effort by enemies of the United States in the countries of El Salvador and Nicaragua.

We were concerned that no action could be taken to return fire on a hostile enemy, as defined in the Foley amendment, unless Congress gave its approval or unless it met one of the exceptions that the amendment of the gentleman from Washington (Mr. FOLEY) outlined. We discussed some serious flaws in what we thought were in those exceptions and in the situation whereby the President would have to come down to the Hill to attempt to get the approval of Congress before any retaliatory response could be made to a Communist movement in those two countries.

I believe 64 of us voted against the original Foley amendment. The Hartnett amendment was defeated, and rightly so, and I voted against it because it was an amendment brought forth only to show some of the problems with the Foley amendment.

But now we are faced with the Campbell amendment, which essentially is the Foley amendment but expanded to include all the other countries of Central America. So the mistake that we have made in terms of applying the policy to Nicaragua and El Salvador now applies to every other country in Central America with the addition of the Panama situation.

So I think Members should be well aware of what we are doing here, well aware of what went on last night, and those Members who voted for the Foley amendment under the mistaken impression that it had been cleared on both sides of the aisle and that it was going to be taken care of in conference, or for whatever other reason, ought to be aware that we are now voting on the Foley amendment, introduced by Mr. CAMPBELL, as perfected by Mr. FOLEY, but it is essentially the same policy and we are applying that policy in Foley that many of us disagreed with but some mistakenly voted on to every country in Central America.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman from Indiana for yielding.

Mr. Chairman, I have to say that although this amendment is somewhat ambiguous, my interpretation of it is the same as the gentleman's. As one who voted against the Foley amendment yesterday, I do not see how you can interpret the Campbell amendment as other than a strengthening and expansion of the Foley amendment.

Why Members on our side of the aisle or Members on the other side of the aisle would want to do that is beyond me.

The only part of this amendment that seeks, by some interpretations, to restrict the Foley amendment in its impact is the final phrase that says, "Nothing in this title shall be construed as limiting the power of the President to exercise his authority as Commander in Chief." The authority of the Commander in Chief is listed in the Constitution of the United States. That is the only place that term makes any sense. We do not have the authority on a statutory basis to limit the power of the President as Commander in Chief in the first place, so that final clause means nothing.

Hence, the only part of this amendment that has any effect is the part that expands the coverage of the Foley amendment to cover all of Central America. So the vote on the Campbell amendment is a vote to strengthen and expand the Foley amendment, and I join the gentleman from Indiana in opposing that.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman is absolutely right. We sent a couple of messages to the world last night, and I think that even after hearing the explanation by Mr. CAMPBELL and the following message from Mr. FOLEY, I think most Members are confused as to exactly what this thing does.

I would ask the gentleman from Washington (Mr. FOLEY) to respond, because we are talking about the Foley amendment as amended by Campbell.

What effect does this amendment have on the War Powers Act and the President's rights under the War Powers Act?

Mr. FOLEY. If the gentleman will yield, I do not view the War Powers Act, perhaps, the same as the gentleman views it. I view the War Powers Act as essentially requiring the President to report on the use of combat-equipped troops or combat troops if he places them in a foreign country. He has a responsibility under that act of reporting and he has to withdraw them if the Congress, after a period of time, does not approve. I do not view the War Powers Act as expanding the President's powers.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has expired.

(By unanimous consent, Mr. COATS was allowed to proceed for 5 additional minutes.)

Mr. HUNTER. If the gentleman from Indiana will yield further, I did not hear the last statement of the gentleman from Washington.

Mr. FOLEY. I do not view the War Powers Act as giving the President unilateral power to declare war anywhere in the world.

Mr. HUNTER. All right, then let me ask the gentleman this question. Here is my question:

If the War Powers Act is interpreted as allowing an American presence in a situation in which combat is imminent, and that is the interpretation, it would appear then, within 60 days and with the requisite reporting requirements, that at least for these two countries those rights of the President would not be manifest under the War Powers Act, for those two particular countries. Is that accurate?

Mr. FOLEY. It is accurate to say that the amendment placed additional responsibilities on the President before he could use troops equipped for combat in El Salvador and Nicaragua.

I am sorry. Let me correct that: Before the President could use combat troops, as defined in the amendment, in El Salvador and Nicaragua.

Mr. HUNTER. I thank the gentleman.

Mr. COATS. Mr. Chairman, if I may reclaim my time, I thank the gentleman for his comments.

Mr. Chairman, I want to make this point very, very clear. The discussion that ensued last night as to the problems with the Foley amendment are present now in the Campbell amendment as perfected by the Foley amendment. It is exactly the same amendment.

There is language that has been added by the gentleman from South Carolina, and I know what the intent of that gentleman is and I respect that, but there is confusion in my mind and in other's minds as to whether that does anything. But whether it does or does not, the basis of his amendment is exactly the same as the Foley amendment, word for word, and it now applies restrictions on the President of the United States

not only to Nicaragua and El Salvador, but to Mexico and Costa Rica and Honduras and Guatemala and every other country in Central America.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. COATS. I would be happy to yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I would just like to set this thing a little straight, if I might. The War Powers Act is the War Powers Act, and it has nothing to do with this. It is not mentioned.

What we did last night, I will say to the gentleman, whether well or ill advised, is done. That is at present in the committee bill.

What this does, because we sent a message to the world last night that we are singling out Nicaragua and El Salvador, tonight we are trying to ameliorate that message by saying, by the good efforts of the gentleman from South Carolina, we would like to ameliorate that message by saying that we do not want to single out a friendly nation and a potential enemy nation; we want to apply this as a doctrine to Central America and say that the United States has no desire to enter into combat with combat troops in Central America at this time.

I think that is the best we can do at this point.

Mr. COATS. Mr. Chairman, if I may reclaim my time, I appreciate the point of the gentleman except that what we are doing is taking a bad doctrine that applies to two nations and we are applying it to more nations. So we are creating a worse situation than we had before.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. COATS. I would be happy to yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

Mr. Chairman, I am astounded at the logic presented by our colleague from California and others in support of this. Because we have made it tougher for the President to resist communism in Nicaragua and El Salvador, we are now told how virtuous it is to also make it tougher for him to resist communism in Guatemala and Honduras and the rest of Central America. Why that is a virtuous policy is absolutely beyond me.

Mr. HYDE. Mr. Chairman, will the gentlman yield?

Mr. COATS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, as I understand, by specifically mentioning the Panama Canal Treaty and not specifically mentioning the Rio Treaty, we are depreciating, downgrading, our participation and the efficacy of the Rio Treaty.

Do we or do we not have to respond if a fellow signatory to the Rio Treaty calls upon us if they are invaded? Let us hypothecate El Salvador being invaded by Nicaragua, and under the Rio Treaty they call upon us to assist them in defending themselves. This amendment is silent about that. It mentions Panama, but it does not say a word about the Rio Treaty.

I suggest we are making opaque what is already murky, and I would also suggest to this Chamber that while, as a practical matter, we have become the enforcers of the Brezhnev doctrine, we are going to codify the Brezhnev doctrine by adopting this amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I think a lot of the speakers have talked about the messages that we are sending out to the world.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has again expired.

(On request of Mr. HUNTER and by unanimous consent, Mr. COATS was allowed to proceed for 3 additional minutes.)

□ 1530

Mr. SHAW. Mr. Chairman, I think the message we are sending out across this country is that after 8 o'clock we are capable of passing a lot of very ill-advised legislation, some that has not been thought out, and actually legislation that has not gone through the committee process.

What we are doing here affects our relationships with other countries. It affects a very delicate balance. We have not had the benefit of hearings, we have not had the benefit of hearing from the State Department, the Defense Department, or from other members of the administration, and we have not had the opportunities of members of the proper committees to have heard all the arguments and come to us, the full committee, with their recommendations.

I think that we are compounding that error by passing this particular amendment. I opposed the amendment last night, and I oppose the amendment today. I think we are simply compounding one error on top of the other.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. COATS. Mr. Chairman, I thank the gentleman from Florida (Mr. SHAW) for his comments, and I will yield to the gentleman after I make this one statement.

I just want to again make it clear that those who voted against the Foley amendment last evening are in a sense voting for the very same amendment today, and those who felt that they should have voted against the Foley amendment last evening, after hearing the debate that ensued after that vote, might want to take a very, very close look at this amendment because it is identical with the Foley amendment, with the added proviso that the gentleman from South Carolina has added.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman from Illinois (Mr. HYDE) made an excellent point in that if we are called upon under the Rio Treaty to provide men and equipment and Armed Forces in a hostile action, I would think that we would be limited very much and greatly constrained by this amendment, and I would ask the gentleman from South Carolina (Mr. CAMPBELL) if he could respond to that.

Under the Foley amendment, as amended by his amendment, if under the Rio Treaty we are called upon by our friends to participate in an action that involves American forces, how would this affect that participation?

Mr. CAMPBELL. Mr. Chairman, if the gentleman will yield, No. 1, let me correct what the gentleman has been saying for quite some time. We are not dealing with the Foley amendment, as amended by Campbell; we are dealing with the Campbell amendment, as amended by Foley, on Panama.

So I think we should be specific on that. The amendment offered by the gentleman from Washington (Mr. FOLEY) was passed last night. It did not contain and could not contain the provision under small "(d)", which is the last provision in the Campbell amendment.

The gentleman from Washington (Mr. FOLEY) said last night, as has been said in the debate and as the gentleman from South Carolina said, that we would not abrogate treaties by the amendment that we had on that restriction. He was not satisfied because of some special defense matters with Panama, not generally with the general defense treaty with Panama but some special provisions that had been made, and this gentleman was willing to accept that. But it was my understanding from the gentleman from Washington and others that it was not set forth to abrogate treaties.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has expired.

Mr. LUJAN. Mr. Chairman, I ask unanimous consent that the gentle-

man from Indiana (Mr. COATS) be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. SEIBERLING. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HARTNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I had the pleasure of seeing a newly elected President of a democracy come to Washington, and it must have been very impressive for this humble man from humble beginnings and background to come to this awesome city and visit this tremendous big building that stands for freedom and democracy throughout the world. It must have been a very awesome feeling for that man to come all the way from El Salvador and visit this Congress and appear before committees of Congress of which he has read, I am sure, in his native tongue and in his newspapers, all about the great Congress of the United States and how they have always been true to their allies and been supportive and helpful to struggling democracies all over the world.

One of my colleagues, Mr. Chairman, asked that newly elected President, who is as proud, I am sure, as any man of his country could ever be: "Mr. President, tell us this: If in fact aid to the Nicaraguan freedom fighters is cut off by some of the more liberal element of our Congress, what than will you and your struggling little democracy do?"

The President looked at the ground and then looked rather hesitatingly at the questioner, and he said, "You asked me a very difficult question." He said, "I would have to reply this way: that if Nicaragua then stepped up its flow of arms into my country, I then would probably have to confront the Nicaraguan Armed Forces myself with my small army, a poorly trained and not very skilled fighting people."

He said, "Then I wonder what you and your Congress would do because you would have a direct conflict between two nations in Central America. I wonder what then you would do when you compare the military might of Nicaragua with that of my struggling little country of El Salvador."

Well, Mr. Chairman, under this amendment I tell you what we would do: Absolutely nothing. All of the economic aid which we have sent to President-elect Duarte's country and all of the military aid which we are going to send to that country would be down the drain because under this amendment, unless my good friends over here and my good colleagues over here were to meet conveniently, as it were, if we were not on a junket in August to China or to Taiwan, wherever it might be, if it were convenient for us to assemble here in this building, which I am sure must have been awesomely beautiful to that President of that new democracy, we could not act. If we were conveniently able to come back here from a recess or from a junket or from a trip around the world and vote to stop the slaughter of thousands of Salvadorans, allies of ours, by outside forces, then perhaps we could take action after weeks and weeks and weeks of debate as to whether or not we ought to help an ally with combat troops.

Some of those reasons, Mr. Chairman, are the reasons I am opposed to this amendment. I think the Foley amendment which was adopted last night, in the words of my colleague, the gentleman from Illinois, was absolutely stupid. And if that needs to be taken down, I am sorry. I think his words were dumb. I think it was a dumb amendment, hastily acted on by a Congress which was not thinking clearly last night.

For those reasons, Mr. Chairman, I am opposed to the Campbell amendment, and I urge my colleagues to vote against it.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from New Jersey.

Mr. SILJANDER. From Michigan.

Mr. HARTNETT. Well, you are all north of the Mason-Dixon Line and you all look alike.

Mr. SILJANDER. And in kind, you as well.

Mr. HARTNETT. I thank the gentleman.

Mr. SILJANDER. Mr. Chairman, the gentleman from Washington certainly brought up a good point dealing with the Panama Canal Treaty. He had a legitimate concern whether or not this amendment would affect the Panama Canal Treaty. Therefore, he has amended the amendment, and that is a legitimate concern.

Yes, I have a concern, too, as to how it may affect the OAS Charter, how it might affect the Rio Treaty, how it might affect the War Powers Act, and how this might affect the Constitution. All these documents, including the Panama Canal Treaty, are rather important documents that have incredible implications internationally.

So if we think that there is some question of confusion about the Panama Canal Treaty and how it conflicts with that, there certainly could be some concerns about how it affects these other treaties I have outlined.

Therefore, I certainly would request that this kind of action be at least delayed until a committee from this Congress could further study the implications of the OAS and the U.N. Charter and how it would affect the Rio Treaty and the Constitution and the War Powers Act.

Mr. LEVINE of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with a number of our colleagues on the other side of the aisle that this amendment is unnecessary, but I do believe that we should understand that it is quite different from the Foley amendment that was passed last night. It is quite different because it deals with countries with which this administration has not been pursuing the type of military buildup that would cause the House of Representatives to pass the type of amendment that was in fact enacted last night.

When one of the gentlemen said earlier in the well that last night the House of Representatives sent a significant message to the world, I think he was absolutely correct, and I welcome this debate because I think it is an important debate to underscore the fact that last night, in enacting the Foley amendment, we did send an important message to the world. By a broad bipartisan vote, we said that the U.S. House of Representatives goes on record as drawing the line in Central America in regard to this administration's policy on the use of troops in combat in either El Salvador or in Nicaragua.

The reason that this amendment is necessary is that there is no indication from this administration nor do I think there is likely to be an indication that we are likely to be involved in combat in Mexico, in Costa Rica, in Belize, or in any of the other countries that are mentioned, other than in El Salvador or Nicaragua.

So this is not Foley amendment. It is much broader than the Foley amendment, and it is unnecessary because there is no course of conduct being pursued at this time such as the course of conduct that is being pursued in El Salvador and Nicaragua that would make this broader amendment necessary.

One of the Members indicated that the importance of this amendment was to ameliorate the importance of the Foley amendemt.

□ 1540

I would submit to my colleague that regardless of what happens with this amendment, whether in the wisdom of this House it is passed or it is rejected, the message to the world that went out last night needs to be underscored, and that message to the world which was limited by the constraints of the Foley amendment was purely and simply, no combat troops in El Salvador or in Nicaragua unless and until this Congress authorizes it. That was the Foley amendment. This amend-

ment is broader. This amendment is unnecessary.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield briefly to me?

Mr. LEVINE of California. Yes, I would be delighted to yield.

Mr. DELLUMS. Mr. Chairman, I have listened very carefully to my colleague's argument and I have great respect for him. I just think that the gentleman's logic is flawed in this respect. As I understand this amendment, it includes Honduras, a major military buildup; Guatemala, significant problems, so I am not sure that the application of the gentleman's argument is really fully appropriate in this situation, because these are certainly two examples that the gentleman did not speak to.

Mr. LEVINE of California. Mr. Chairman, I think the gentleman makes a good point with regard to Guatemala and Honduras. I was trying to make the point particularly with regard to Mexico and the Middle East, where thus far it does not appear to be necessary.

Mr. DELLUMS. I see. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY) to the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: At the end of title III (page 29, after line 14) add the following new section:

SEC. 310. (a) Notwithstanding any other provision of this title, none of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the purpose of introducing United States Armed Forces into or over any nation into or over Nicaragua or El Salvador for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to an introduction of United States Armed Forces into or over El Salvador or Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

(d) Notwithstanding any other provision of this section, the President in his capacity as Commander-in-Chief may act if he determines there exists a Soviet, Soviet-bloc, Cuban or other Communist threat to the region or to the people or territory of the United States.

(e) Nothing in this section shall be construed as abrogating the Monroe Doctrine.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. FOLEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

Mr. HUNTER. Mr. Chairman——

Mr. FOLEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Washington reserves a point of order against the amendment.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, the gentleman from California already had begun to speak. Is the point of order not too late?

The CHAIRMAN. The gentleman from Washington was on his feet.

Mr. HUNTER. Mr. Chairman, I think one thing is very clear from the debate that we have had over the last several hours and that is that most Members of this House are confused as to what additional rights we have now given the President, what rights we have taken away from the President with regard to his prerogatives as the Commander in Chief of the Armed Forces.

I think additionally the world is confused. We sent out the first message that was offered by the gentleman from Washington (Mr. FOLEY) that talks about Nicaragua and El Salvador, that apparently says that we are restricting the President's rights with regard to those nations, and then shortly thereafter we send out a very contradictory message, manifested in the amendment of the gentleman from South Carolina (Mr. HARTNETT), which says that we want to treat the rest of the world in a different way than Nicaragua and El Salvador.

I do not think that has been cleared up by the discussion today. I think it has probably been further confused by the last amendment.

I think we have a real problem. You know, really the President's rights and particularly his rights in Central America as enunciated in the Monroe Doctrine and expanded upon by President Eisenhower and President Kennedy are somewhat vague, but there are certain statements that those Presidents made that have been taken to be policy in that area.

I think it is important for us at this point to clear up exactly what we have done, to go back to square 1 and to give back the President all the rights that he had at about 3 o'clock yesterday afternoon.

I do not think there is a Member in this Chamber who can really say exactly what new rights have been acquired, or what rights the President has lost under the provision of the gentleman from Washington (Mr. FOLEY), or what new rights he has gained under the provision of the gentleman from South Carolina (Mr. CAMPBELL).

Now, let me say very simply that this amendment talks about the Monroe Doctrine. People say, well, the Monroe Doctrine is just a statement of policy. What does it mean?

It has been sharpened and shaped by the statements of President Eisenhower and more recently the statements of John F. Kennedy. Let me just read the reaffirmation of the Monroe Doctrine by President Kennedy, which I think is pretty clear:

Should it ever appear that the inter-American Doctrine of non-interfence merely conceals or excuses a policy of inaction, if the nations of this hemisphere should fail to meet their commitments against outside Communist penetration, this nation will not hesitate in meeting its primary obligations which are the security of our nation.

After Nikita Khrushchev said, and I quote:

We consider that the Monroe Doctrine has outlived its time, has died so to say a natural death. Now the remains of this doctrine should best be buried as every dead body is so that it should not poison the air by its decay.

President Eisenhower came right back after that message and declared that the Doctrine has been by no means supplanted.

The Monroe Doctrine really was articulated by President Monroe in response to an alliance of Russians, Prussians, and Austrians, who wanted to interfere in our hemisphere.

I would like to read very briefly from a portion of the Monroe Doctrine:

With the movements in this hemisphere we are of necessity more immediately connected and by causes which must be obvious to all enlightened and impartial observers, the political system of the allied powers—

And here he is referring to Russia, Prussia, and Austria—

is essentially different in this respect from that of America. We owe it, therefore, to

candor and the amicable relations existing between the United States and these powers—

What message have we sent the Soviets in the last 24 hours?

to declare that we should consider any attempt on their part to extend their system, to any parts of this hemisphere as dangerous to our peace and safety.

So, Mr. Chairman, I would offer this amendment with the understanding that it essentially clears up the ambiguities and the confusion that we raised yesterday, not only in this chamber, but to our friends throughout the world.

I wonder what all our friends in El Salvador and Nicaragua are thinking right now with regard to the vote on the Hartnett amendment, that says we will not apply the Foley language to any other part of the globe in which we have allies.

□ 1550

And now we have extended it to all of Central America.

I wonder what all of our other friends in Central America are now thinking with regard to the vote on Hartnett amendment which specifically excluded the Foley language from application to any other friend in the world.

The CHAIRMAN. The time of the gentleman from California (Mr. HUNTER) has expired.

(On request of Mr. PHILIP M. CRANE and by unanimous consent Mr. HUNTER was allowed to proceed for 3 additional minutes.)

Mr. PHILIP M. CRANE. Will the gentleman yield?

Mr. HUNTER. I yield to my friend from Illinois.

Mr. PHILIP M. CRANE. I rise in support of the gentleman's amendment. I commend him for his efforts.

I spent approximately 12 years in college and graduate school studying U.S. and Latin American history, taught it for approximately 7 years after that. I have had the great privilege of traveling to every continent of the globe and, in addition to that, maintaining an ongoing interest in foreign policy and foreign afairs.

For all of that, I must tell you I am absolutely humbled and in awe sitting here with 434 Secretaries of State, sitting here with people who are prepared to rewrite the Constitution with respect to powers of the Commander in Chief and sitting here with people who are determined on an ad hoc, fly-by-the-seat-of-your-pants basis to consume this much time trying to write the foreign policy under a Department of Defense authorization for the United States of America.

And I can only imagine the great glee in the politburo watching this spectacle, and also the fear and trepidation on the part of the heads of state and governments that are friendly to the United States and depending upon this country for leadership.

I thank the gentleman for yielding.

Mr. HUNTER. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my friend from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. I want to congratulate the gentleman for bringing some sense of order to these proceedings.

We talk about sending messages. I think the message that we ought to send to the Soviets, and we do it with this amendment, is that we know what they are up to, of sending arms into Central America and inciting all of these problems for us, that we will not stand for it. We should send them a message that we will not stand for them establishing Russian colonies in the Western Hemisphere.

I think by adopting the gentleman's amendment we will send such a message, and I thank him for offering the amendment.

Mr WALKER. Will the gentleman yield?

Mr. HUNTER. I thank the gentleman and yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to make clear what this amendment says, if I understand it correctly. This is exactly the same as the Foley amendment that was adopted last night except with two provisions added.

One, the provision added which says that the Commander in Chief may act if a Soviet, Soviet bloc, Cuban, or other Communist threat exists in the region, meaning in Central America, or that would threaten the people or territory of the United States. That is one difference, I believe.

The second difference is that nothing in this section shall be construed as abrogating the Monroe Doctrine.

Those are the only two things different from what we did last night; is that correct?

Mr. HUNTER. The gentleman is absolutely correct.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Wisconsin.

Mr. ROTH. I thank the gentleman for yielding. I want to compliment the gentleman from California for introducing this amendment.

I think an illumination of what happened last night is in order if we are to clear the air. Our Constitution gives some plenary powers to the President with a few restrictions of these powers. One of the powers given to the President is to exercise the power of Commander in Chief.

The President has the ability to move troops and defend our vital interests.

If Congress is to divide the world into where the President is President and where he is merely a functionary of Congress, then I fear for the free world.

The CHAIRMAN pro tempore (Mr. COELHO). The time of the gentleman from California (Mr. HUNTER) has again expired.

(On request of Mr. ROTH and by unanimous consent, Mr. HUNTER was allowed to proceed for 4 additional minutes.)

Mr. ROTH. If the gentleman will yield further. The President cannot come to Congress for everything. The amendment adopted last night portends something ominous. The amendment last evening, in my opinion, harbors a longing for a parliamentary form of government where the President would not be President but, rather, be a senior Member of Congress. The President would then be a Prime Minister, again a senior Member.

We already have a Speaker of the House, I thought.

In our country we have the separation of powers. Let us retain that form of government. If the people want to change that, then I think we do not want to do that with a slam-bang amendment but, rather, with a constitutional amendment.

In effect, we are saying that the President is not the President when it comes to two countries, and that we could divide up the world into category countries and Congress could assign a list of powers the President has in each category.

We could post a list as we enter the chamber so that each Member would know what areas are open debate in foreign policy and in what category certain countries would be placed. Then we could shift countries from category to category, depending on whether we agree with the President or if we do not agree with the President.

This list would tell the President what he is authorized to do.

Let us be frank. If we are going to take a look at this in a responsible way, it makes absolutely no sense to tell a potential adversary that there is nothing that they can do to provoke an American response. We are writing a blank check for the Sandinistas to destabilize Latin America.

Moreover, can you imagine the type of reaction this is going to receive? Many of you are excellent poker players. When you play poker do you show the opposition your hand? Of course not.

That is exactly what we are doing here. That is why I think the amendment of the gentleman from Califor-

nia is so important. I think it is important not only for our country, I think it is important for the world.

I compliment the gentleman for introducing the amendment.

Mr. HUNTER. I thank the gentleman very much.

I would just like to conclude by reciting the statements that were made by President Kennedy in his inaugural address. He said, "Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas, and let every other power know that this hemisphere intends to remain the master of its own house," this amendment lets those powers know that this hemisphere intends to remain the master of its own house.

Mr. BROWN of California. Will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BROWN of California. I have a question of the gentleman, and I am not sure whether it is facetious or not. But the gentleman has listed the Communist bloc, the Communist threat. Does he include the good Commies and the bad Commies both, or just the bad Commies?

Mr. HUNTER. Excuse me, I did not hear the gentleman.

Mr. BROWN of California. Specifically, would your language be broad enough to include Communist China with which we are friendly now?

Mr. HUNTER. No; it does not.

Mr. BROWN of California. So Communist China could do those things?

Mr. HUNTER. Are you saying, are you referring to the effect or are you referring to the parties involved?

Mr. BROWN of California. I am referring to the question of whether a nation such as Communist China would be included in the language of the gentleman's amendment.

Mr. HUNTER. I would suggest to the gentleman that if the Communists in China would join the Terrorists Internationale in Managua, along with the North Vietnamese and the North Koreans, the Cubans, and so forth, that yes, the Monroe Doctrine which is the traditional policy of American Presidents would be applying to them as well.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I will be glad to yield to my friend from Michigan.

Mr. SILJANDER. I think the amendment itself responds to your question quite succinctly. It says, and may I quote, "* * * as Commander in Chief may act if he determines there exsits a Soviet, Soviet bloc, Cuban, or other Communist threat to the region or to the people or territory of the United States."

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. HUNTER) has again expired.

(On request of Mr. BROWN of California and by unanimous consent Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. SILJANDER. So if there is a threat by any Soviet, Soviet bloc, or Communist threat to the United States or the region, this would be an exclusion. So I think that would answer directly the gentleman's question.

Mr. BROWN of California. May I pursue the question?

Mr. HUNTER. Absolutely. I yield to the gentleman.

Mr. BROWN of California. As the gentleman well knows, we are today on friendly terms with Japan and Germany, with which we were at war a few years ago.

In the period of the American Revolution we fought the British. The French were our allies. Then we fought the French and the British were our allies. Then we turned back and fought the British again and the French were our allies.

Would the gentleman also include non-Communist nations which are currently friendly, but which next year might decide that they wanted to embark on adventurism?

Mr. HUNTER. Let me just say that I think that the amendment offered by the gentleman from Washington (Mr. FOLEY) did a great disservice to the President's prerogatives as they now exist.

Perhaps I have not expanded them enough. I have only referred to the Soviets, Cuba, and other Communist nations. But I think that it is a considerable improvement over the situation that existed as of last night.

I would certainly say that the Monroe Doctrine initially addressed the holy alliance, that is, Russia, Prussia, and Austria. So I would assert to the gentleman that under this provision any government that would pose a threat to the security of the hemisphere would be confronted by the Monroe Doctrine.

Mr. BURTON of Indiana. Will the gentleman yield?

Mr. HUNTER. I will yield to my friend from Indiana and then I will come back and yield to the gentleman from California.

Mr. BURTON of Indiana. The gentleman from California earlier alluded to President Kennedy when he was in the White House. I just would like to quote what President Kennedy said on October 3, 1962, when this body passed a Cuban resolution.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. HUNTER) has again expired.

(On request of Mr. BURTON of Indiana and by unanimous consent Mr. HUNTER was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. In the fourth section, in part (a) it says:

To prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere.

I might add that today instead of 50 or 75 or 100 advisers, the Cubans have about 9,000 to 10,000 advisers in Nicaragua. So what President Kennedy was concerned about in 1962 has come to pass.

He did not want them to have a toe hold on the North American continent but they now have. And this gives them sanctuary. The Foley amendment in effect gives them sanctuary.

I support the gentleman's amendment because it does change that to a more realistic approach.

Mr. SILJANDER. Will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Michigan.

□ 1600

Mr. SILJANDER. In response to your second question, certainly any threat to the United States is covered in the Constitution, giving certain powers to the President as Commander in Chief. And I am certain it will cover other than Soviet, Soviet Bloc, Cuban, and Communist countries, such as the PLO who are in Central America, the Libyans who are in Central America. I am not sure if the PLO are looking for a homeland or not there, but nevertheless they are there. So if they pose a threat to our borders or to the region I am certain that the Constitution would cover that purview.

Mr. BROWN of California. Would the gentleman yield further to me?

Mr. HUNTER. Yes; I would be happy to yield to the gentleman from California.

Mr. BROWN of California. I am aware of the gentleman's feeling about the significance of the Communist threat and I share it, as a matter of fact. But what I am trying to do is take a slightly broader look. In the perspective of history, we have found that frequently our threats come from unexpected sources and I am really interested in whether the gentleman's amendment is broad enough to cover all of the exigencies which might occur over the next few years.

If it is not, maybe we should amend it by including all of our European allies and some of the other countries.

Mr. HUNTER. If the gentleman would yield, again, the Monroe Doctrine came into effect to deal with Russia, Prussia, and Austria.

The SPEAKER pro tempore. The time of the gentleman has expired.

(On request of Mr. WEBER and by unanimous consent, Mr. HUNTER was allowed to proceed 3 additional minutes.)

Mr. HUNTER. If I could finish, the Monroe Doctrine came into effect because of the threat of the so-called Holy Alliance: Russia, Prussia, and Austria. So I think it is very broad; in fact, it is so broad many people have complained that it is not succinct and precise.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

I would direct a comment to my other colleague and friend from California, Mr. BROWN. The duration of this bill is for 1 year's time. It seems to me that it is reasonable to suggest, at least on our side of the aisle we think it is reasonable to suggest, that within the next 12 months the threat to Central America is slightly greater from the Soviet bloc than it is from France and Britain.

And I just wonder if my colleague, Mr. BROWN of California, would care to comment on that.

Mr. BROWN of California. The gentleman is undoubtedly correct. I just wanted to be prepared for any exigency.

Mr. HUNTER. I thank the gentleman for his contribution. Let me say one last thing. There is some question as to exactly what the War Powers Act does and the gentleman, Mr. FOLEY says, "As far as I am concerned basically it is a reporting requirement."

Other people interpreted it to give the President 60 days without a great deal of congressional guidelines, to deal with any type of exigency. If that interpretation is your interpretation, in fact the War Powers Act is abrogated with regard to El Salvador and to Nicaragua.

So once again in this amendment, we are taking off our Secretary of State hats; we are becoming Congressmen again, we are giving the President back the discretion that every American President in this century has had with regard to protecting our own hemisphere.

I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Washington (Mr. FOLEY) insist on his point of order?

Mr. FOLEY. Mr. Chairman, I withdraw my reservation of a point of order.

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

From the standpoint of an amateur historian and previous lawyer, a lot of things have been said here that ought to be clarified. Taking the last one first, the one about Commander in Chief, if you study how we got the provision in the Constitution about the Commander in Chief, it has to do with militia and the regulars. That is what it has to do with.

It gives absolutely no power to the President to start wars or to go on adventures of his own. It is only there because during the American Revolution there was a problem of having the regulars under Washington being able to control the militia. So when they got together to draft the Constitution, they put that provision in there so they would be sure that man who was head of the regulars would also be in charge of the militia.

That is the purpose of it; it gives absolutely no war powers. These adventures taken in the years followed by many Presidents have no foundation whatsoever in law.

Now the War Powers Act may well give the President some powers that he did not have. It may well do so. That is the reason I opposed it and spoke and voted against it.

Another thing about the Monroe Doctrine; it is not law, it is not a treaty, it is not in the Constitution. It is a statement by a President of the United States which was followed up with courage and decision in subsequent years to the effect that it did have some effect on international affairs, but it is not law at all. So it is a rather strange thing in here, in this provision here, to make reference to to the Monroe Doctrine as if it were law.

But the final thing, this is the most important point I would like to say: I was here in Congress when the Gulf of Tonkin resolution was enacted. I voted for it, I think every Member of the House voted for it.

This provision is just about a word-for-word copy of the Gulf of Tonkin resolution. I am talking about the one my dear friend, Mr. HUNTER, added.

I must say, while I am saying that about him that I do not know of a finer Member of Congress than Mr. HUNTER. He is on my subcommittee; he is a dedicated American, a bright and brilliant man, he makes great contributions to Congress. So it is no way personally at all that I am saying what I am.

But I want to say to you, the language in his amendment is almost word-for-word the Gulf of Tonkin resolution.

So if you want to give that President or any subsequent President of the United States the power to have another Vietnam war, you have given it in this resolution. I therefore vigorously oppose this resolution.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Michigan.

Mr. SILJANDER. I thank the gentleman from Florida for yielding.

Mr. Chairman, where in the amendment does it give the President the power to start wars?

Mr. BENNETT. If the gentleman will remain silent, that is all the Gulf of Tonkin resolution said. All the Gulf of Tonkin resolution said, and I cannot quote it word-for-word, but all it says was that the President as Commander in Chief was entitled to use whatever powers he wanted to use to put down the difficulties happening in Southeast Asia; essentially that is what it was. It really was a declaration of war.

If you want to look at the Constitution, it was a declaration of war. I said so at the time; I said so ever since. That was not a war waged without declaration of war.

I am sure if it went before the Supreme Court of the United States, they would consider that to be a declaration of war.

Mr. SILJANDER. If the gentleman would yield further, I see nothing in this language which remotely implies the President's power to begin wars overseas.

Mr. BENNETT. You may not see it, but let us read it. It is only four or five words.

Mr. SILJANDER. I have read it once already on the floor.

Mr. BENNETT. But you are not referring to it now. It says, "Notwithstanding any other provisions of this section the President in his capacity as Commander in Chief"— which is a capacity over the military forces—"may act if he determines there exists a threat."

Now that amounts to a declaration of war; it gives him the power to act on his own. That power is otherwise only in Congress under the Constitution.

Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FOLEY. Mr. Chairman, I agree with the gentleman from Florida, the distinguished member of the Committee on Armed Services, Mr. BENNETT, that this is indeed a Gulf of Tonkin resolution as it is drafted.

What the section does, besides repeating the language of the amendment which I offered, is to add a section D, which says that the President in his capacity as Commander in Chief, may act in the terms of the amendment to bring U.S. forces into combat if he determines there exists a Soviet, Soviet bloc, Cuban, or other Communist threat to the region.

Now there is no authority that I know of which exists in law or treaty that allows the President of the United States to engage in a direct use of American combat troops when he determines there is a Soviet threat to the region, nothing to do with the United States or the defense of its territories or possessions.

That is a subsequent phrase; and it is already covered in the amendment which I offered.

This language either restricts the President's capacity as Commander in

Chief to protect the United States, its territories and possessions to only when he presumes that there is a Soviet, Soviet bloc, or Communist threat, or it expands that authority to give him the ability to act unilaterally whenever he determines such a threat exists in the region.

The President has already said he believes a threat exists in the region. Countless statements by the President of the United States, Secretary of State, and other members of this administration have indicated they believe there is precisely this kind of threat already existing in the region.

So what the gentleman from California (Mr. HUNTER) apparently wants to do now is to give the President the right to unilaterally exercise U.S. combat activity anywhere in the region that he determines and to do so; not under any treaty, not under any War Powers Act, but solely on the basis and as a result, apparently, of this statutory authority.

You can not add to or detract from the President's capacity as Commander in Chief under the Constitution. It exists without our ability to detract or add to it. What this statutory authority seems to do is to say that the President may go beyond his capacities as Commander in Chief to defend the United States and act to defend against any Soviet, Communist, Cuban, or similar threat he determines in the region.

It is one thing to argue that we have unnecessarily restricted the President as the gentlemen have argued time and time again in recent hours. It is another to say that this House wishes to now give the President of the United States under the statute which he would now amend, the authority to use combat forces anywhere he determines a threat to exist in the region.

□ 1610

I cannot believe that Members of Congress want to undertake to give the President of the United States that kind of unilateral responsibility and authority, irrespective of any other acts that exist in law.

If you do, then you can vote for this amendment. I certainly will not and cannot imagine anybody who respects the constitutional prerogatives of the country doing so.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

The gentleman just himself said that we can neither add to nor detract from the President's powers as Commander in Chief.

Mr. FOLEY. Constitutional powers.

Mr. WEBER. Constitutional powers. That is the only place the powers of the Commander in Chief are delineated anyway.

The amendment of the gentleman from California says specifically, "in his capacity as Commander in Chief," which, according to the gentleman from Washington we can neither add to nor detract from.

Mr. FOLEY. If the gentleman will allow me to regain my time, I will try to answer his question.

What I said is that, under the Constitution, the powers that the President has cannot be added to or detracted from by statute.

Mr. WEBER. That is right.

Mr. FOLEY. However, this amendment seems to say that as Commander in Chief he will have some statutory authority. Obviously we can declare war, we can give the President the right as Commander in Chief to make war as a result of a congressional action——

Mr. WEBER. Will the gentleman yield?

Mr. FOLEY. Let me finish my statement if the gentleman will.

I think what this constitutes is an open-ended congressional authority for the President to act when he determines these kinds of threats exist in the region. That is that I assume the gentleman wanted to do.

Mr. WEBER. If the gentleman will yield, what language is the gentleman referring to in the gentleman's amendment that expands——

Mr. FOLEY. I am referring to the words, "Notwithstanding any other provisions in this section, the President in his capacity as Commander in Chief may act." If it is not beyond the constitutional authority——

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 5 additional minutes.)

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Alabama (Mr. DICKINSON) will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Chairman, it is now 12 minutes after 4 in the afternoon. I wonder if the Chair could inform the House where is the bankruptcy bill?

The CHAIRMAN. The Chair would advise the gentleman that he has no idea where the bankruptcy bill is and is unable to inform the gentleman.

Mr. DICKINSON. I thank the Chair.

Mr. FOLEY. Let me try to state this as succinctly as I can.

If the President already has the constitutional authority to do what this section suggests, it is unnecessary and simply redundant.

If it is in fact a statutory effort to change or affect the powers of the President as Commander in Chief, it is either designed to restrict that power or to expand it. I cannot imagine that you want to restrict the power of the President to defend the United States only against Cuban, Soviet, and Soviet bloc or Communist threats.

If, on the other hand, it is designed to expand the congressionally mandated authority of the President to use combat forces and suggests that he may do so whenever he determines that there is a threat to the region—not to the United States but to the region—Central and Latin America from a Soviet, Soviet bloc, Cuban, or other Communist threat, and this is a statutory effort to expand the authority of the United States and its President to bring combat forces into engagement, then I believe it is a Tonkin Gulf type of resolution, would be so interpreted, and should be so viewed by the membership.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

As I understood the gentleman a few moments ago, the gentleman indicated that there was really no precedent for this other than possibly the Gulf of Tonkin resolution. I would like to just point out that on October 3, 1962, this body passed a Cuban resolution which said, in part, this:

> * * * to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere * * *.

Now they have 9,000 troops in Nicaragua today. Would the gentleman say this applies?

Mr. FOLEY. What I would tell the gentleman is that if the purpose of this amendment is to give advance congressional approval to the President to be used at his sole discretion, outside of his constitutional powers, to make an act of war against any state in the Central or Latin American region that he views as being subject to a threat, then I do not want to take such action in advance of the President's request or in advance of conditions that the President urges us to take, or to give any such blanket authority to use military force for those purposes.

That is clearly what I think Mr. HUNTER's amendment goes to. He seems to say that any time the President determines there is in this region a Communist, Communist bloc, Cuban, or other threat he can act, meaning he can, in terms of this amendment, use combat forces unilaterally.

The President of the United States has not asked for that statutory authority. Nobody in the administration

has requested it. The administration, in fact, has said many times that they neither need nor want it. Yet the gentleman is suggesting we ought to give it to him in advance. I think that is the most serious prestated authority beyond the constitutional powers.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I would like to bring this back sort of to where the gentleman from Florida had it because I think it is very important in light of what the gentleman from Indiana said.

The gentleman read from a statement that in October 1962 a resolution was adopted. The gentleman knows very well that that resolution was adopted at the request of President Kennedy during the missile crisis.

Mr. BENNETT of Florida has indicated that the resolution, the Gulf of Tonkin, was adopted, and that was adopted at the request of the President back in the sixties as a result of the Vietnam situation.

What Mr. FOLEY has made as his consistent point is that the President, when he requests, comes to Congress for a resolution which we can adopt or reject based upon the exigency at the time it is made, based upon the circumstances at the time it is made and based upon a Presidential request or on our own initiative obviously.

This that is being asked, under this amendment, is a blanket resolution in advance of any request, in advance of any circumstances that we feel would warrant intrusion by resolution at this moment. It is basically advance approval for an act that we do not even have a request for in front of us.

I would commend the gentleman from Washington for his stand and urge all my colleagues to very seriously understand you are giving advance Gulf of Tonkin, Cuban resolutions, without understanding that there is no request nor are there circumstances that warrant them at this moment, because the President has not asked for those.

I would urge my colleagues to defeat this amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman, I think, has gone far beyond what I thought his language of last night said. I mean, if the gentleman is worried about all of this extension, it must be in his language, because the only thing that section D here applies to is notwithstanding any other provision of this section. That refers to section 310. That is the gentleman's language from last night.

The only way that all of the things that the gentleman is talking about could apply is if in some way he empowered the President to do all those things last night. I do not think the gentleman did. I do not think he meant to do that.

All this is is one more condition that says that the Commander in Chief does have some options to respond to Communist threats. I cannot imagine why the gentleman is standing down here telling us all these horrible things that are going to happen that his language made in order last night, because this only refers to this section.

Mr. FOLEY. If the gentleman will allow me to respond, the gentleman standing next to me was quoting the Cuban missiles resolution, which was passed by the Congress as a result of President Kennedy's concern about the Cuban missiles.

Mr. WALKER. If the gentleman would yield, I do not know what the gentleman thought in terms of his point. He made a good point.

But all I am saying to the gentleman is look at the language. The language says, "notwithstanding any other provision of this section." That is section 310, which is the gentleman's language.

Mr. FOLEY. The language says that the President may.

The section says that "notwithstanding anything in the section."

Mr. WALKER. Notwithstanding any other provision in this section

Mr. FOLEY. Notwithstanding any other provision in this section.

Mr. WALKER. The section 310.

Mr. FOLEY. All right.

Mr. WALKER. That is all.

□ 1620

Mr. FOLEY. If I may finish, the amendment states that the President may act if he determines. What does this mean—that he may act to come to the Congress an act to request action? No, it means that he may act to bring U.S. Armed Forces into combat if he determines there exists a Soviet, Soviet bloc, Cuban, or other threat to the region.

Now, if you want to say that the President may act to bring U.S. combat forces into action whenever he determines there is a threat to the region, you are passing a Gulf of Tonkin resolution.

Mr. WEBER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to review, just for a minute, where exactly we are and continue the discussion we begin here.

We have now passed, of course, the Foley language, which expands the restrictions placed on the President, or, in the words of the gentleman from Washington, the additional responsibilities placed on the President, in terms of his powers in the entire Central American region. We expanded that Foley amendment through the Campbell amendment to count all countries in the Central American region, not just Nicaragua and El Salvador.

In the Campbell amendment, the final section of the Campbell amendment says nothing in this title shall be construed as limiting the power of the President to exercise his authority as Commander in Chief.

The gentleman from Washington (Mr. FOLEY) accepted that language. We all pretty much accepted there is nothing else we could do anyway, because we do not have the authority to statutorily restrict the President's constitutional powers as Commander in Chief. So we all agreed on that.

What does the Hunter amendment say in that regard? The Hunter amendment says that notwithstanding any other provision of this section, the President in his capacity as Commander in Chief may act if he determines there exists a Soviet, Soviet bloc, Cuban or other Communist threat to the region or to the people or territory in the United States.

Mr. DICKS. Mr. Chairman, will the gentleman yield on that point just for a brief second?

Mr. WEBER. I will yield when I finish my statement.

The gentleman from Washington pointed out correctly we can neither add to nor detract from the President's powers as Commander in Chief statutorily.

What then is the great concern with the Hunter amendment? We have already stated that the President cannot add to——

Mr. FOLEY. Mr. Chairman, will the gentleman yield to me since he has used my name?

Mr. WEBER. I will yield in one moment to the gentleman from Washington.

The gentleman from Washington has stated we cannot add to or detract from the President's powers as Commander in Chief.

The Hunter amendment is framed in terms of the President's capacity as Commander in Chief. I can only conclude the gentleman is concerned about the language about the Soviet threat.

I yield to the gentleman from Washington.

Mr. FOLEY. What I said—and I think the gentleman should try to quote me accurately—I said that we cannot add or detract to the President's constitutional powers as Commander in Chief.

Mr. WEBER. That is correct.

Mr. FOLEY. Constitutional powers.

Obviously the Congress can extend the powers of the President to act as Commander in Chief. Every declaration of war does precisely that. And it is to avoid an implicit power given in this section to make war without further action of the Congress that I am objecting to. And if the gentleman does not read this carefully, because it poses questions about the Soviet and Soviet threat, there is nothing that limits his authority to act with combat troops anywhere in the world, not in the region. He only has to determine the threat in the region; he then can act unilaterally with respect to any country in the world.

Mr. WEBER. Well, if I can reclaim my time, the gentleman is defining here for me, if I understand him correctly, some capacity as Commander in Chief that the President possesses other than his constitutional capacity.

I wonder if the gentleman will define that for me.

Mr. FOLEY. Yes.

Mr. WEBER. I yield to the gentleman from Washington.

Mr. FOLEY. Yes; I will define that.

The President cannot make war without an act of Congress. As Commander in Chief, when Congress declares war the President has the power as Commander in Chief to direct the armed services of the United States to prosecute such a war to conclusion. He is under obligation of the Constitution to do that. This is the body that declares war. This and our corollary body in the Senate. And I take violent objection to the language here because it seems to give the President as Commander in Chief precisely the power to use combat forces anywhere in the world if he determines unilaterally that there is a threat in this region. And it goes beyond any statute or treaty ever undertaken other than a declaration of war itself.

Mr. WEBER. If I can reclaim my time, I think the gentleman's interpretation of this amendment has gone to the extreme. We are now hearing the gentleman from Washington explain this amendment as virtually a blank check declaration of war worldwide.

Mr. FOLEY. That is right.

Mr. WEBER. That seems a little ridiculous when all we are doing is defining the ability of the President in his capacity as Commander in Chief to resist Soviet, Soviet bloc, Cuban, or other Communist threat to the region.

Mr. FOLEY. It does not place any limitations on how he may act. It says he may introduce—act, meaning introduce—combat forces.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from California.

Mr. BADHAM. I hope the gentleman who offered this original amendment on foreign policy to the Department of Defense authorization bill did not just misspeak himself when he said that the President could not make war without the Congress.

I recall the Gulf of Tonkin. I recall two Democrat Presidents making war in Vietnam before there was ever a declaration of war.

So I would hope the gentleman would correct his remarks. We are not talking about making war. The President can only act as Commander in Chief in a declared war with the permission of Congress. But the Commander in Chief can make war up till 90 days, as the gentleman knows.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. WEBER) has expired.

(By unanimous consent, Mr. WEBER was allowed to proceed for 3 additional minutes.)

Mr. WEBER. I yield to the gentleman from Washington to respond to the gentleman from California.

Mr. FOLEY. The question was whether the Congress could or could not expand the powers of the President as Commander in Chief.

I said that the constitutional powers of the President as Commander in Chief cannot be added to or detracted from by statute. But we can expand the authority of the President to direct the Armed Forces as Commander in Chief by declarations of way and by similar resolutions. And we have done so on a number of occasions. It is my concern that this language has the effect of authorizing the President to conduct military operations above and beyond operations he might undertake as Commander in Chief constitutionally and to give him unilateral authority to conduct combat forces at least in the region but perhaps elsewhere if he determines there is a threat in the region, he acting alone and under the authority, I gather, of this amendment. If he does not need the amendment to act, it is redundant; if he does need the amendment to act, it is extraordinarily dangerous.

Mr. WEBER. Reclaiming my time for a minute, it is no more redundant than the language of the Campbell amendment which the gentleman from Washington accepted.

Mr. FOLEY. On the contrary. On the contrary. What Mr. CAMPBELL said was that the use of the words "Commander in Chief" in his amendment meant the use of the words "Commander in Chief" in the Constitution.

This amendment seems to go beyond that and authorizes the President to act beyond his Commander in Chief authority by statute, as he does in an act of war resolution.

Mr. WEBER. Reclaiming my time, the language of amendment is specific in referring to the capacity as Commander in Chief.

I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. I appreciate the gentleman's yielding.

I worry very much that when you look at this it gets us out of the region all of a sudden. If there exists a Soviet threat, then the President may act against the Soviet threat, I mean going to the source, which in this case would be the Soviet Union.

I do not think the gentleman from California, when he drafted this amendment, thought that this would give the President the right for a preemptive strike against the Soviet Union. The language of this is not very artfully drafted. I obviously do not think the President would make such a strike but——

Mr. WEBER. Come on. We are trying to have a reasonable discussion here. Now we have escalated this to not just a worldwide blank-check declaration of war but authorizing a preemptive strike against the Soviet Union. If we cannot have some kind of a reasonable discussion——

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to my colleague, the gentleman from Indiana.

Mr. BURTON of Indiana. I think the objective of this amendment is to give the President some latitude in this Hemisphere if he feels it is necessary to take immediate action because of the security of the United States of America or its allies.

Now, I ask the gentleman from Washington—wherever he has gone to—two quick questions. There he is. One, should this have been applied to Grenada, and would we still be debating this issue if the Congress had had to decide this issue?

And one other thing——

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. WEBER) has expired.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Let me say, first of all, that it has been I think fascinating, and anyone who is watching has to understand better the problems of the Democratic Party. When we raise a serious amendment and the gentleman from Washington rises to suggest we need to protect Central America from Britain or France, and the gentleman from Washington rises to suggest that an amendment aimed at trying to stabilize Central America means all-out nuclear war, I think that there is a nonsense faction of the Democratic Party which is in less and less touch with re-

ality and that the amendment offered earlier by the normally remarkably rational and remarkably prodefense leader of the Democratic Party is a great puzzle to me.

We seem to be in a period when we ourselves are turning Gulliver into Lilliput, when we ourselves are day by day, inch by inch trapping the United States into impotence and into an inability to act.

For example, let us assume that the Foley amendment which, as I understand it, would significantly weaken the President's abilities even more than the War Powers Act, otherwise there would be no reason for it, the Foley amendment, as I understand it, would say that for two countries and only two countries on this planet the President cannot act without prior congressional permission except if there is a direct threat to the United States.

□ 1630

Let us for example say that this summer we decided to adjourn and go to California for the Democratic Convention; or to Dallas for the Republican Convention. Let us say then in the rapidly moving world of jet airplanes, something would happen, something we have not ever seen before, like, Ortega decides to deal with Messrs. WRIGHT et al., and Ortega decides to become moderate and is killed, and the Soviet brigade in Cuba is moved in. Is that something impossible? What about Afghanistan? What about what happened to Maurice Bishop in Grenada?

Is it not precisely possible, given the record of the last 3 years, that while we play games with legislation, the Soviet Union might decide with its Cuban puppets, to impose by force, suddenly, precisely while we are disbanded, having already told the Soviets we could do nothing because we have tied the President's hands, is that not exactly the lesson of the last few years?

Let me carry this a step further. Are we not precisely sending day-by-day a signal to the Soviet Union and its puppets, a signal that says, "Do whatever you will, say whatever you will, this Congress will prevent the United States from being effective."

We have learned none of the lessons about reality; we have not examined openly the Grenada documents which say clearly that the Soviets were moving into Grenada, that the Soviets were moving into El Salvador. It quotes Ogarkov talking to the head of the Grenadian Army saying flatly: "El Salvador is now our battlefield." Does anyone on the American left rise and worry about that? No. Instead, they want to further restrict the American President.

Let me read from a recent interview with Henry Kissinger:

I think we are almost approaching Argentine conditions in foreign policy. By this I mean that if you look at Argentine history over the last 50 years, every new government had about 53-percent support and then lost it by acting like a government. There has been an inherent tendency toward paralysis in Argentina, because the country was so profoundly divided.

I think in the field of foreign policy we are beginning to approach that condition. The Democratic candidates are putting forward a vision of the world that I consider so wrong, that if they offer us confidence, it is even more scary because they will move rapidly in a more dangerous direction.

I cannot detect from them whether they have any definition of an American vital interest, or any definition of how to protect it or how to achieve it.

Let me just say that I think that the kind of legislative foolishness which has become the hallmark of the Democratic Party in this House, in foreign policy, is an underlying, day-by-day weakening of the capacity of the United States for which freedom on this planet will pay untold costs.

I would say to my good friends on the left: Look seriously at Afghanistan; look serious at Grenada. Ask yourself why are we limiting two countries in the world and saying to the President, if the Soviets move, if the Cubans move, you had better wait, call us back into special session. Do nothing, because we are crippling you now even more than the War Powers Act.

I would say also if you read carefully the lesson of 1962 in Cuba, it is in fact completely inaccurate to suggest this House was moving in response to the Cuban missile crisis; this House moved before the Cuban missile crisis. It is a sign of how far we have come that the current chairman of the Foreign Affairs Committee in 1962 called for the invasion of Cuba, if necessary, to eliminate communism from this hemisphere.

Today we cripple ourselves, yet the very people who was right about the dangers of Cuba, who were right about what would happen if Castro stayed in power, instead of facing up to their rightness, now they suggest that the real key is to cripple Ronald Reagan, not to deal with the Soviets.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announced that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 182]

Ackerman	Donnelly	Jacobs
Akaka	Dorgan	Jeffords
Albosta	Dowdy	Jenkins
Alexander	Downey	Johnson
Anderson	Dreier	Jones (NC)
Andrews (NC)	Duncan	Jones (OK)
Andrews (TX)	Durbin	Jones (TN)
Annunzio	Dwyer	Kaptur
Anthony	Dymally	Kasich
Applegate	Dyson	Kastenmeier
Archer	Early	Kazen
Aspin	Eckart	Kemp
AuCoin	Edgar	Kennelly
Badham	Edwards (AL)	Kildee
Barnard	Edwards (CA)	Kindness
Barnes	Edwards (OK)	Kleczka
Bartlett	Emerson	Kogovsek
Bateman	English	Kolter
Bates	Erdreich	Kostmayer
Bedell	Erlenborn	Kramer
Beilenson	Evans (IA)	Lagomarsino
Bennett	Evans (IL)	Lantos
Bereuter	Fascell	Latta
Berman	Fazio	Leath
Bethune	Feighan	Lehman (CA)
Bevill	Ferraro	Leland
Biaggi	Fiedler	Lent
Bilirakis	Fields	Levin
Bliley	Fish	Levine
Boehlert	Flippo	Levitas
Boggs	Florio	Lipinski
Boland	Foglietta	Livingston
Boner	Foley	Lloyd
Bonior	Ford (MI)	Loeffler
Bonker	Ford (TN)	Long (LA)
Borski	Fowler	Long (MD)
Boucher	Frank	Lott
Boxer	Franklin	Lowery (CA)
Breaux	Frenzel	Lowry (WA)
Britt	Frost	Lujan
Broomfield	Fuqua	Luken
Brown (CA)	Garcia	Lundine
Brown (CO)	Gaydos	Lungren
Broyhill	Gejdenson	Mack
Bryant	Gekas	MacKay
Burton (IN)	Gephardt	Madigan
Byron	Gilman	Markey
Campbell	Gingrich	Marlenee
Carney	Glickman	Martin (IL)
Carper	Gonzalez	Martin (NY)
Carr	Goodling	Martinez
Chappell	Gore	Matsui
Chappie	Gradison	Mavroules
Cheney	Gray	Mazzoli
Clarke	Green	McCain
Clinger	Gregg	McCandless
Coats	Guarini	McCloskey
Coelho	Gunderson	McCollum
Coleman (MO)	Hall (IN)	McCurdy
Coleman (TX)	Hall (OH)	McDade
Collins	Hall, Ralph	McEwen
Conable	Hall, Sam	McGrath
Conte	Hamilton	McHugh
Conyers	Hammerschmidt	McKernan
Cooper	Hansen (UT)	McKinney
Corcoran	Harrison	McNulty
Coughlin	Hartnett	Mica
Courter	Hawkins	Michel
Coyne	Hayes	Mikulski
Craig	Hefner	Miller (OH)
Crane, Daniel	Hertel	Mineta
Crane, Philip	Hightower	Mitchell
Crockett	Hillis	Moakley
Daniel	Holt	Molinari
Dannemeyer	Hopkins	Mollohan
Darden	Horton	Montgomery
Daub	Howard	Moody
Davis	Hoyer	Moore
de la Garza	Hubbard	Moorhead
Dellums	Huckaby	Morrison (WA)
Derrick	Hughes	Mrazek
DeWine	Hunter	Murphy
Dickinson	Hutto	Murtha
Dicks	Hyde	Myers
Dixon	Ireland	Natcher

Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rostenkowski
Roth
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Udall
Valentine
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Weaver
Weber
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

□ 1650

The CHAIRMAN. Three hundred eighty-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. HUNTER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This vote will last 5 minutes.

The vote was taken by electronic device, and there were—ayes 99, noes 288, not voting 46, as follows:

[Roll No. 183]

AYES—99

Archer
Badham
Bartlett
Bateman
Bethune
Bilirakis
Bliley
Broomfield
Broyhill
Burton (IN)
Campbell
Chappie
Cheney
Coats
Coleman (MO)
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Dannemeyer
Davis
DeWine
Dickinson
Dreier
Edwards (OK)
Fiedler
Fields
Franklin
Gekas
Gingrich
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (UT)
Hartnett
Hiler
Hillis
Hunter
Hyde
Ireland
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lent
Lewis (FL)
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCain
McCandless
McCollum
McEwen
Michel
Miller (OH)
Montgomery
Moorhead
Morrison (WA)
Myers
Nielson
Packard
Parris
Porter
Rinaldo
Ritter
Robinson
Roth
Rudd
Schaefer
Shaw
Shumway
Siljander
Skeen
Smith (NJ)
Smith, Denny
Solomon
Stangeland
Stenholm
Stump
Sundquist
Vucanovich
Walker
Weber
Whittaker
Wilson
Winn
Wolf
Wortley
Young (AK)
Young (FL)

NOES—288

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Breaux
Britt
Brown (CA)
Brown (CO)
Bryant
Byron
Carney
Carper
Carr
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Coyne
Craig
Crockett
Daniel
Darden
Daub
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Harrison
Hawkins
Hayes
Hefner
Hertel
Hightower
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
Lantos
Leath
Lehman (CA)
Leland
Levin
Levine
Levitas
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Mineta
Mitchell
Moakley
Molinari
Mollohan
Moody
Moore
Mrazek
Murphy
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Panetta
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Price
Pritchard
Pursell
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Rodino
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Shelby
Shuster
Sikorski
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Robert
Snowe
Snyder
Solarz
Spratt
St Germain
Staggers
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Weaver
Weiss
Wheat
Whitley
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zschau

NOT VOTING—46

Addabbo
Bosco
Brooks
Burton (CA)
Chandler
D'Amours
Daschle
Gibbons
Gramm
Hance
Hansen (ID)
Harkin
Hatcher
Heftel
LaFalce
Leach
Lehman (FL)
Lewis (CA)
Marriott
Martin (NC)
Miller (CA)
Minish
Morrison (CT)
Murtha
O'Brien
Quillen
Rahall
Ridge
Roberts
Rogers
Rose
Roukema
Sawyer
Schulze
Sensenbrenner
Shannon
Spence
Stark
Towns
Traxler
Vander Jagt
Watkins
Waxman
Whitehurst
Whitten
Williams (OH)

□ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of California for, with Mr. Addabbo against.

Mr. O'Brien for, with Mr. LaFalce against.

Mr. Roberts for, with Mr. Morrison of Connecticut against.

Mr. Whitehurst for, with Mrs. Roukema against.

Mr. CLARKE and Mr. VALENTINE changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'CAIN

Mr. McCAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCAIN: At the end of title III, add the following new section:

"SEC. . Nothing in this title shall be construed to supercede or amend the War Powers Act."

Mr. McCAIN. Mr. Chairman, my amendment is very brief. I hope it is noncontroversial. I think it is easy to understand.

Nothing in this title shall be construed to supercede or amend the War Powers Act.

We are all aware in this body of the carefully crafted legislation that took thousands of hours of negotiation to finally reach a very important piece of legislation. I do not believe that it is the intent of the author of the original amendment or anyone in this body to amend or change the War Powers Act through any vehicle such as an amendment to the Department of Defense Authorization Act.

I would hope that my colleague from Washington would agree that we do not wish to do so at this time.

Mr. DANIEL. Will the gentleman yield?

Mr. McCAIN. I yield to the gentleman from Virginia.

Mr. DANIEL. We have examined the gentleman's amendment on this side. We have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. McCAIN).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—PERSONNEL

PART A—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1985, as follows:

(1) The Army, 780,800.

(2) The Navy 569,800.

(3) The Marine Corps, 197,600.

(4) The Air Force, 601,200

EXTENSION OF QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

SEC. 402. Effective on October 1, 1984, section 302(a) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 520 note), is amended by striking out "October 1, 1983" and "September 30, 1984" and inserting in lieu thereof "October 1, 1984" and "September 30, 1985", respectively.

PART B—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

SEC. 411. (a) For fiscal year 1985 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 435,117.

(2) The Army Reserve, 284,073.

(3) The Naval Reserve, 124,200.

(4) The Marine Corps Reserve, 44,300.

(5) The Air National Guard of the United States, 106,200.

(6) The Air Force Reserve, 72,900.

(7) The Coast Guard Reserve, 12,500.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual member are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR MEMBERS ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 412. (a) Within the average strengths prescribed in section 411, the reserve components of the Armed Forces and the National Guard are authorized, as of September 30, 1985, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard and the Army National Guard of the United States, 21,600.

(2) The Army Reserve, 10,700.

(3) The Naval Reserve, 15,410.

(4) The Marine Corps Reserve, 1,129.

(5) The Air National Guard and the Air National Guard of the United States, 7,224.

(6) The Air Force Reserve, 623.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 413. (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	156	87	9
E-8	2,295	381	455	74".

(b) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or lieutenant commander	2,261	823	471	100
Lieutenant colonel or commander	1,121	520	293	50
Colonel or Navy captain	345	177	172	25".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1984.

CLARIFICATION OF STATUS OF MEMBERS OF THE NATIONAL GUARD PERFORMING FULL-TIME DUTY

SEC. 414. (a)(1) Section 101 of title 10, United States Code, is amended—

(A) by adding at the end of paragraph (22) the following new sentence: "It does not include full-time National Guard duty.";

(B) by inserting "or full-time National Guard duty" after "active duty" in paragraph (24); and

(C) by adding at the end thereof the following new paragraph:

"(42) 'Full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.".

(2) Section 517(b) of such title is amended—

(A) by inserting "(other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training)" after "on active duty";

(B) by striking out "of the armed forces" and inserting in lieu thereof "or the National Guard"; and

(C) by striking out "prescribed for the grade and the armed force" and inserting in lieu thereof "for that grade and armed force".

(3) Section 523(b)(1) of such title is amended—

(A) by striking out "or section 502 or 503 of title 32" in clause (C);

(B) by striking out "or" at the end of clause (D);

(C) by striking out the period at the end of clause (E) and inserting in lieu thereof "; or"; and

(D) by adding at the end thereof the following:

"(F) on full-time National Guard duty.".

(4)(A) Subsection (a) of section 524 of such title is amended—

(i) by inserting "or full-time National Guard duty" after "active duty" the first place it appears; and

(ii) by inserting "or full-time National Guard duty (other than for training) under section 502(f) of title 32" after "of this title".

(B)(i) The heading of such section is amended to read as follows:

"§ 524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain".

(ii) The item relating to such section in the table of sections at the beginning of chapter 32 of such title to read as follows:

"524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.".

(5) Section 641(1) of such title is amended—

(A) by striking out "or under section 502 or 503 of title 32" in clause (C);

(B) by striking out "or" at the end of clause (E);

(C) by striking out the period at the end of clause (F) and inserting in lieu thereof "; or"; and

(D) by adding at the end thereof the following:

"(G) on full-time National Guard duty.".

(6) Section 976(a)(1) is amended by striking out "or (B)" and inserting in lieu thereof ", (B) a member of the National Guard who is serving on full-time National Guard duty, or (C)".

(7)(A) Section 3686(2) of such title is amended to read as follows:

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Army, except that for purposes of title 38 such duty shall be considered to be active duty for training; and".

(B) Section 8686(2) of such title is amended to read as follows:

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Air Force, except that for purposes of title 38 such duty shall be considered to be active duty for training; and".

(b)(1) Section 101 of title 32, United States Code, is amended—

(A) by adding at the end of paragraph (12) the following new sentence: "It does not include full-time National Guard duty."; and

(B) by adding at the end thereof the following new paragraph:

"(19) 'Full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of this title for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.".

(2)(A) Section 335 of such title is repealed.

(B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 335.

(c) Section 101(18) of title 37, United States Code, is amended by inserting "full-time National Guard duty," after "annual training duty,".

PART C—MILITARY TRAINING

AUTHORIZATION OF MILITARY TRAINING STUDENT LOADS

SEC. 421. (a) For fiscal year 1985, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 76,920.

(2) The Navy, 69,116.

(3) The Marine Corps, 21,186.

(4) The Air Force, 46,592.

(5) The Army National Guard of the United States, 18,338.

(6) The Army Reserve, 15,994.

(7) The Naval Reserve, 3,389.

(8) The Marine Corps Reserve, 3,941.

(9) The Air National Guard of the United States, 2,990.

(10) The Air Force Reserve, 2,099.

(b) The average military training student loads authorized in subsection (a) shall be adjusted consistent with the personnel strengths authorized in parts A and B of this title. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

RESERVE OFFICERS' TRAINING CORPS PROGRAM

SEC. 422. (a) Section 2104 of title 10, United States Code, is amended—

(1) by striking out ", who have two academic years remaining at such educational institution" in subsection (a); and

(2) by striking out subsection (b)(6) and inserting in lieu thereof the following:

"(6) either—

"(A) complete successfully—

"(i) the first two years of a four-year Senior Reserve Officers' Training Corps course; or

"(ii) field training or a practice cruise of not less than six weeks' duration is prescribed by the Secretary concerned as a preliminary requirement for admission to the advanced course; or

"(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary concerned, within two years after admission to the advanced course.".

(b) The amendments made by subsection (a) do not constitute authority for the enactment of new budget authority for a fiscal year beginning before October 1, 1984.

REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 423. Section 2031(b) of title 10, United States Code, is amended—

(1) by striking out clause (1) and inserting in lieu thereof the following:

"(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less;";

(2) by striking out "and" at the end of clause (3);

(3) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new clause:

"(5) the unit meets such other requirements as may be established by the Secretary of the military department concerned.".

Mr. ASPIN. Mr. Chairman, as chairman of the Subcommittee on Military Personnel and Compensation, I am pleased to report on titles IV through VII of H.R. 5167.

In order to comply with the overall spending level the committee expects the Congress to eventually adopt for national defense, the committee proposes savings totaling $2.2 billion in the military personnel and compensation area. We made some cuts we would have preferred not to make but had little choice given fiscal restraints. With one major exception, we tried to deny new programs or to reduce proposed increases, rather than cut existing benefits.

With respect to military personnel and compensation matters, the Committee on Armed Services makes three principal recommendations.

First, it recommends denying more than half of the increase in active-duty end strengths requested by the administration.

Second, it recommends reducing the pay raise proposed by the administration for military personnel from 5.5 to 3.5 percent, making it identical to the proposed pay raise for civilians.

Third, it recommends a new initiative—an educational assistance program, designed to attract and retain more high-quality service personnel.

The administration requested increases in active-duty end strengths totaling 29,900 more than authorized in fiscal year 1984. The committee recommends approval of the small increase of 800 requested for the Army, but reduction of the requests for each of the other services by more than half, leaving a total increase in end strength of 13,500.

Last year, as the Members may recall, the committee proposed holding the line on end strengths and approved none of the requested increases. The committee did that in order to underscore its unhappiness with the limited progress the services were making in increasing their utilization of the Guard and Reserve. The committee is pleased to note that the services have responded positively in the past year. More remains to be done, of course, but we are pleased with the planning and the preparations made. For that reason, the committee recommends the Active Force end strengths that appear in the bill this year. I should emphasize that the committee will continue to monitor the progress made in utilization of the Reserves. We expect that the plans described to us will become realities.

The committee's concern with the utilization of the Reserves stems in large measure from its recognition that the All-Volunteer system may come under pressure in the coming years owing in part to economics, as the economy recovers, and in part to demographics, because the pool of young men of military age will shrink by one-fourth during the decade of the eighties.

Given those pressures, the committee last year devoted considerable effort to the question of reserve utilization. This year it focused on the utilization of women by the services. Women provide an immense pool of potential recruits. The services are recruiting far more women now than they did in the days of the draft. But the committee was not entirely satisfied with the current level of utilization. For example, in the Air Force, about 15 percent of the recruits are now women—but that is a drop from almost 20 percent just a few years ago. The Air Force has a slightly proportion of women than the other services. However, the Air Force also has fewer jobs closed to women by virtue of the combat exclusion and, therefore, ought logically to be utilizing more women. When the committee looked at the proportion of women in noncombat jobs, we were surprised to find that the Air Force actually utilized women the least of the services. In the Marine Corps, women occupy about 30 percent of the jobs not closed by the combat exclusion; in the Army, it is about 24 and, in the Navy, about 23. But in the Air Force, it is only 12 percent.

The committee, therefore, has directed the Air Force to adopt female accession goals in line with the Army's experience. The committee language directs the Secretary of the Air Force to recruit women to provide at least 19 percent of all accessions in fiscal year 1986, 22 percent in fiscal year 1987, and 25 percent in fiscal year 1988.

With regard to end strengths for the Reserves, the committee approved the budget request as submitted with two exceptions. The committee recommends reductions from the President's requested increase in manning for the Active Guard and Reserve—a reduc-

tion of 4,327 for the Army Reserve and 4,983 for the Army National Guard. As approved by the committee, the number of men and women serving on full-time active duty in support of the Guard and Reserve would undergo a steady rate of growth over the next 5 years, but at a slower initial rate than proposed by the administration.

The committee reviewed the Reserve and Guard this year with a view to legislative changes that might aid in increasing their utilization. We found a number of problems and have made a number of recommendations that are included in the bill. For example, there is a continuous debate over the effectiveness of the Reserves. Yet, the committee found that there is no single measure of effectiveness. The measures vary by service and by Active and Reserve Forces. The committee has, therefore, recommended that the Defense Department devise a single readiness measure.

In order to give more focus to the equipment provided the Reserve Forces, the committee directed the Secretary of Defense to submit his request for reserve equipment as a separate line item in the budget beginning next year. The committee was also concerned that equipment might be distributed to units largely on the basis of those that score best on the readiness measure. This seems reasonable at first look. However, since equipment plays a part in readiness, those units with the newest equipment would always have the best opportunity to score highest; other units, no matter how hard they might try, could find themselves left out when equipment is distribute. The committee, therefore, directs that a plan be developed and tested that would give priority for equipment to those units that show the greatest marginal improvement in readiness.

The committee also questioned the length of time devoted to Reserve training, which is now limited to 48 drills and 2 weeks of summer duty. The committee is concerned that this is insufficient time for training and directed the Secretary to review current training programs and conduct a test of a longer training program.

Turning to the pay raise, the administration recommended an across-the-board increase of 5.5 percent for all military personnel effective January 1, 1985, and a 3.5-percent increase for Federal civilian employees. The committee did not alter the effective date, but it lowered the military raise to 3.5 percent and excluded the lowest pay grade, E-1, from the increase. This was, quite simply, the result of the need to cut the total dollars authorized for defense. The committee believes it can provide the lower raise in fiscal year 1985, given the excellent record of recruiting and retention. I would add a word of caution, however. There is a temptation to hold down pay and recruiting resources when the statistics on recruiting look excellent, as they do right now. But I would like the recruiting results to look excellent next year and the year thereafter. That will not happen if we allow military compensation to lag too much further behind private sector wages. I have no problem with the pay raise proposed in the bill this year, but we should not presume that raises of this size or smaller will be able to sustain the quality force we have today indefinitely in the years to come.

The third major provision of the personnel and compensation portion of the bill is the new educational assistance program or GI bill. This is similar, but not identical, to H.R. 1400, which was reported favorably in the last Congress by both the Committee on Armed Services and the Committee on Veterans' Affairs and in this Congress by the Committee on Veterans' Affairs.

The program contains a basic benefit, paid for by the Veterans' Administration, that accrues at the rate of $300 per month to a maximum of 36 months. It will be available only to high school graduates or holders of high school equivalency certificates.

The bill provides a similar benefit for members of the Selected Reserve, again, high school graduates on their equivalents, who agree to serve 6 years after October 1, 1984. This benefit would be paid for by the Defense Department.

These two provisions are entitlements. The remaining provisions that I will outline are discretionary, with the decision in the hands of the Secretary of Defense.

First, there is a kicker of up to $400 per month that could be made available to persons serving in critical skills, principally, the combat arms, and other hard-to-recruit-for occupations.

Second, a supplemental benefit of $300 per month would be payable to persons serving in shortage skills who agreed to reenlist. They would have to agree to serve for 5 additional years on active duty—beyond the 3 years needed for the basic benefit—or for 2 additional years of active duty and 4 additional years in the Selected Reserve.

Third, the bill provides a kicker to the supplemental benefit of up to $300 per month targeted at those skills most difficult to retain.

Fourth, at the discretion of the Secretary of Defense, service members serving in critical skills who have completed 10 years of active duty could transfer their educational entitlement to their dependents.

I should point out that all the benefits paid for by the Department of Defense must be funded on an accrual basis. In other words, as the Government incurs an obligation under this program, sufficient funds to pay the future cost of this obligation must be set aside by the services as a part of their current manpower budgets. As a result, the first-year cost of the program would be slightly over $100 million and would grow in the future.

This new program will also terminate the existing veterans' educational assistance program, commonly called VEAP.

Although this new educational assistance program has received the endorsement of the committee, I would like to note my personal reservations. I do not believe this is the best expenditure of public funds. The current VEAP program received a bad name in its first years and proved unpopular. We revised that program, however, and it has proven most successful in recent years in attracting quality people to the Army combat arms. We are now embarking on a replacement program that will be much more costly. I am unable personally to support a program that will cost much more to do the same thing we are now doing for much less.

The Defense authorization bill includes a number of additional personnel and compensation provisions. Most of them are technical or noncontroversial. I would like to cite two of these provisions.

First, the committee recommends a 5-year extension of the authority to pay enlistment and reenlistment bonuses. We have made no change but merely extended a successful program that has been around for the better part of a decade. I would add that it is the most cost-effective program we have for attracting and retaining individuals to skills experiencing shortages.

Second, the committee recommends changes in the variable housing allowance. VHA was enacted a few years ago to aid those service personnel who live in areas with high housing costs. Under VHA, a survey is made of local housing costs by pay grade. Where average costs are greater than 115 percent of the service member's basic allowance for quarters, the additional sum is paid as VHA. However, in recent years, budget constraints have led to a succession of caps on the variable housing allowance. This year, the committee has redesigned the program. Beginning January 1, 1985, the committee recommends that the basic allowance for quarters be set at 70 percent of the national median housing cost of each military pay grade and that the VHA be paid where the local median housing cost exceeds 85 percent of the national median for that pay grade.

Mr. Chairman, I urge approval of these and other provisions included in titles IV through VII of the bill.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of the chairman of the committee, we had discussed this before, but due to the sequence of events I have not had a chance to mention it just at this moment. Is it still agreeable with the chairman to open the bill titles IV, V, VI, VII, VIII, and IX for amendment at any point?

Mr. PRICE. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. PRICE. Yes; that is correct.

Mr. DICKINSON. Mr. Chairman, I ask unanimous consent that the bill be open to amendment at any point in titles IV, V, VI, VII, VIII, and IX.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The texts of titles V through IX are as follows:

TITLE V—PERSONNEL MANAGEMENT

WAIVER OF CIVILIAN PERSONNEL CEILING FOR FISCAL YEAR 1985

SEC. 501. The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1985 or with respect to the appropriation of funds for that year.

WOMEN IN THE ARMED FORCES

SEC. 502. (a) The Secretary of the Air Force shall provide that of all persons originally enlisting in the Regular Air Force during the period beginning on October 1, 1985, and ending on September 30, 1988—

(1) not less than 19 percent of those enlisting during fiscal year 1986 shall be women;

(2) not less than 22 percent of those enlisting during fiscal year 1987 shall be women; and

(3) not less than 25 percent of those enlisting during fiscal year 1988 shall be women.

(b)(1) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 179. Defense Advisory Committee on Women in the Services

"(a) There is in the Department of Defense an advisory committee known as the Defense Advisory Committee on Women in the Services (hereinafter in this section referred to as the 'committee').

"(b)(1) The committee shall be composed of 30 members appointed by the Secretary of Defense from persons who are not members of the armed forces on active duty or in an active status and who are particularly qualified by training, education, or experience for service on the committee. In selecting members of the committee, the Secretary shall ensure that the membership of the committee is fairly balanced in terms of the points of view represented and the functions to be performed by the committee and that there is broad geographic diversity among the membership of the committee.

"(2) Members shall serve for a term of three years, except that a member appointed to fill a vacancy occurring before the end of a term shall be appointed only for the remainder of that term.

"(3) The chairman of the committee shall be designated by the Secretary of Defense.

"(c) The committee shall provide the Secretary of Defense with advice on matters relating to service of women in the armed forces and shall recommend measures to ensure effective use of the capabilities of women in the armed forces. The committee shall consider all aspects of military service as it relates to women, including recruitment, training, categories of assignment, housing, health, and morale and general welfare.

"(d)(1) The committee shall meet not less often than twice a year at the invitation of the Secretary.

"(2) The Secretary shall supply such staff assistance, facilities, and other administrative support as is necessary for the performance of the committee's functions.

"(3) Members of the committee shall serve without compensation but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(e)(1) The committee shall submit an annual report on its activities to the Secretary. The Secretary shall transmit a copy of each such report, together with any comments of the Secretary on the report, to the Committees on Armed Services of the Senate and House of Representatives.

"(2) The committee shall continue in existence until terminated by law.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end thereof the following:

"179. Defense Advisory Committee on Women in the Services.".

(3) Each individual serving on the Defense Advisory Committee on Women in the Services as constituted on the day before the date of the enactment of this Act shall continue to serve on the committee as constituted under the amendment made by paragraph (1) in accordance with the appointment of such individual.

(c) The Secretary of Defense shall study the propensity of young women to serve in the military and shall submit a report to Congress with the Secretary's review and analysis of that propensity not later than six months after the date of the enactment of this Act.

AMENDMENTS TO PROVISIONS OF LAW ENACTED BY THE DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

SEC. 503. (a)(1) Section 3359 of title 10, United States Code, is amended—

(A) by striking out "subsection (b)" in subsection (a) and inserting "subsections (b) and (c)"; and

(B) by adding at the end thereof the following new subsection:

"(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Army and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated.".

(2) Section 8359 of such title is amended—

(A) by striking out "subsection (b)" in subsection (a) and inserting "subsections (b) and (c)"; and

(B) by adding at the end thereof the following new subsection:

"(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Air Force and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated.".

(3)(A) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer of the Army or Air Force originally appointed after September 14, 1981, who at the time of that appointment was a former commissioned officer and who was appointed in a reserve grade lower than the grade held by that person when discharged may be appointed in the reserve grade equivalent to the officer's former grade.

(B) An original reserve appointment in the Army or the Air Force of a person who (at the time of the appointment) was a former commissioned officer which (i) was made during the period beginning on September 15, 1981, and ending on the day before the date of the enactment of this Act, and (ii) was made in a grade formerly held by that person shall be considered to have been a valid appointment at the time made, and any officer who received such an appointment is entitled to all the rights, privileges, and benefits of the grade to which appointed as of the original date of that appointment.

(b) Section 522 of title 10, United States Code, is amended by striking out "48,000", "69,425", and "13,000" and inserting in lieu thereof "55,000", "80,000", and "17,000", respectively.

(c) Section 601(b) of title 10, United States Code, is amended to read as follows:

"(b) An officer who is appointed to the grade of general, admiral, lieutenant general, or vice admiral for service in a position of importance and responsibility designated to carry that grade shall continue to hold that grade—

"(1) while serving in that position of importance and responsibility;

"(2) while under orders transferring him to another position designating to carry one of those grades, beginning on the day his assignment to the first position is terminated and ending on the day before the day on which he assumes the second position;

"(3) while hospitalized, beginning on the day of the hospitalization and ending on the day he is discharged from the hospital, but not for more than 180 days; and

"(4) while awaiting retirement, beginning on the day he is relieved from the position designated to carry one of those grades and ending on the day before his retirement, but not for more than 90 days.".

(d)(1) Section 618(b)(2) of title 10, United States Code, is amended to read as follows:

"(2) If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title.".

(2)(A) Section 1181 of such title is amended to read as follows:

"§ 1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

"(a) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any

commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

"(b) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.".

(B) The item relating to section 1181 in the table of sections at the beginning of chapter 60 of such title is amended to read as follows:

"1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins more than 60 days after the date of the enactment of this Act, but shall not apply to any case in which, before that date, a board of officers has been ordered to convene under the provisions of section 1181 of title 10, United States Code, as in effect before that date.

(e)(1) Subsection (b) of section 619 of title 10, United States Code, is amended—

(A) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Paragraph (1) does not apply to a regular officer who is ineligible for consideration for promotion under section 631(c) of this title or to a reserve officer who has failed of selection for promotion to the grade of captain or, in the case of an officer of the Navy, lieutenant for the second time.".

(2) Subsection (c)(2) of such section is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(D) may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened.".

(3) Section 631 of such title is amended by adding at the end thereof the following new subsection:

"(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.".

(f) Paragraphs (1) and (2) of section 624(d) of title 10, United States Code, are each amended by striking out the period at the end and inserting in lieu thereof ", unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.".

(g)(1) Subsections (a)(1) and (b)(1) of section 628 of title 10, United States Code, are amended by striking out "(composed in accordance with section 612 of this title)" and inserting in lieu thereof "(composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 558 of this title and regulations prescribed by the Secretary of the military department concerned)".

(2) Section 641 of such title is amended by striking out "(other than section 640)" and inserting in lieu thereof "(other than section 640 and, in the case of warrant officers, section 628)".

(h)(1) Section 1005 of such title is amended—

(A) by striking out "A reserve commissioned officer, other than a commissioned warrant officer," and inserting in lieu thereof "(a) Except as provided in subsection (b), a reserve commissioned officer";

(B) by striking out the comma after "any other provision of law"; and

(C) by adding at the end thereof the following new subsection:

"(b) Subsection (a) does not prevent the discharge or transfer from an active status of—

"(1) a commissioned warrant officer; or

"(2) an officer on the active-duty list who is found not qualified for promotion to the grade of first lieutenant, in the case of an officer of the Army, Air Force, or Marine Corps, or lieutenant (junior grade), in the case of an officer of the Navy.".

(2) Section 3819 of such title is amended—

(A) by inserting "(a)" before "Except as provided";

(B) by inserting "and not on the active-duty list" after "in an active status"; and

(C) by adding at the end thereof the following new subsection:

"(b) Except as provided by section 1006 of this title, each second lieutenant of the Army Reserve who is on the active-duty list of the Army and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.".

(3) Section 6389 of such title is amended by adding at the end thereof the following new subsection:

"(g) An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status.".

(4) Section 8819 of such title is amended by adding at the end thereof the following new subsection:

"(c) Except as provided by section 1006 of this title, each second lieutenant of the Air Force Reserve who is on the active-duty list of the Air Force and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.".

(i)(1) Section 619(d)(2) of title 10, United States Code, is amended by striking out "Navy or" and "lieutenant commander or".

(2) Section 633 of such title is amended by striking "Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies)" and inserting in lieu thereof "Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies".

(3)(A) Subsection (a) of section 6383 of such title is amended by striking out "each regular officer of the Navy or Marine Corps" and inserting in lieu thereof "each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer".

(B) Subsection (d) of such section is amended by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (i), each".

(C) Subsection (i) of such section is amended—

(i) by inserting "or the discharge under subsection (d)" after "the retirement under subsection (a) or (b)"; and

(ii) by striking out the second sentence and inserting in lieu thereof the following: "An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier.".

(j)(1) Section 616 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end thereof the following new subsection:

"(c) An officer of the Navy or Marine Corps who on September 15, 1981, was an officer designated for limited duty under section 5589 of title 10, United States Code, and who on the date of the enactment of this subsection is serving in a temporary grade above the grade of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, may be reappointed under section 5589 of title 10, United States Code (as in effect on or after September 15, 1981), in the same permanent grade and with the same date of rank held by that officer on the active-duty list immediately before such reappointment if he is otherwise eligible for appointment under that section.".

(k) Section 631 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended—

(1) by striking out "the day before the date of the enactment of this Act" each place it appears and inserting in lieu thereof "September 14, 1981"

(2) by striking out "on or" in subsection (a)(2);

(3) by striking out the period at the end of subsection (a) and inserting in lieu thereof ", unless (in the case of a member discharged or released on or after the date of the enactment of the Department of Defense Authorization Act, 1985) the Secretary con-

cerned determines that the conditions under which the member is discharged or separated do not warrant such pay.";

(4) by striking out "to whom subsection (a) applies is" in subsection (b) and inserting in lieu thereof "who is entitled to receive a readjustment payment of severance pay under subsection (a) is also"; and

(5) by striking out "a readjustment" in subsection (b) and inserting in lieu thereof "the readjustment".

(l)(1) Title VI of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end of part C the following new section:

"SAVINGS PROVISION FOR PROMOTION CONSIDERATION OF CERTAIN RETIRED OFFICERS

"SEC. 639. Notwithstanding sections 619, 620, and 641(4) of title 10, United States Code, a retired officer serving on active duty on the date of the enactment of this section who on September 14, 1981, was on active duty as a retired officer recalled to active duty and who—

"(1) was eligible for consideration for promotion on that date; and

"(2) has served continuously on active duty since that date,

may be considered for promotion (under regulations prescribed by the Secretary of the military department concerned) by a selection board that convenes after the date of the enactment of this section as if he had been placed on the active-duty list pursuant to section 621 of this Act.".

(2) The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 638 the following new item:

"Sec. 639. Savings provision for promotion consideration of certain retired officers."

AUTHORITY TO RETAIN IN ACTIVE STATUS UNTIL AGE 60 UP TO 10 ARMY RESERVE BRIGADIER GENERALS

SEC. 504. (a) Section 3851 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d) and by striking out "of this section" in such subsection; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding subsections (a) and (b), the Secretary of the Army may authorize the retention in an active status until age 60 of an officer in the reserve grade of brigadier general who would otherwise be removed from an active status under this section, except that not more than 10 officers may be retained under this subsection at any time.".

REPEAL OF FOUR-YEAR LIMITATION ON PERIOD AN OFFICER MAY BE ASSIGNED TO THE ARMY STAFF OR THE AIR STAFF

SEC. 505. Effective on October 1, 1984, sections 3031(d) and 8031(d) of title 10, United States Code, are repealed.

RESERVE FORCES READINESS

SEC. 506. (a)(1) The Secretary of Defense shall conduct a review of the various systems used to measure the readiness of units of the Armed Forces and shall implement a measurement system for the active and reserve components of the Armed Forces to provide an objective and uniform evaluation of the readiness of all units of the Armed Forces. The measurement system should be the same for the active and reserve components, and the system for evaluation of the readiness of a unit of an active component should incorporate the performance of any unit of a reserve component affiliated with the active component unit, including the effect of the reserve component unit on the mobilization capability of the active component unit.

(2) Not later than September 30, 1984, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the results of the review under paragraph (1) and the measurement system implemented in accordance with that paragraph.

(b)(1) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a test program to evaluate the feasibility of allocating equipment to units of reserve components based on a measure of effectiveness of such units. The test program should allocate equipment by comparing units with similar deployment times and similar capabilities in terms of training and equipment rather than by comparing all reserve component units with each other. The test program should be integrated with the system for measuring unit effectiveness to be implemented in accordance with subsection (a).

(2) The test program under paragraph (1) should begin not later than September 30, 1984. At the time the test program is begun, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the design, scope, and implementation of the test program. Every three months thereafter for the duration of the program, the Secretary shall submit a progress report on the test program to those committees.

(c) It is the sense of Congress that the number of members of the Army Reserve and of the Army National Guard assigned to full-time manning duty should be increased to 14 percent of the total membership of the Army Reserve and of the Army National Guard, respectively, by fiscal year 1989.

(d)(1)(A) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a study of the benefits of a longer training program for certain units of the reserve components and shall conduct a test of such a program. The test program should begin at the earliest realistic date.

(B) In developing training programs for the reserve components, the Secretary shall give increased attention to innovative training technologies, techniques, and schedules that recognize the limitations on time and the geographic dispersion of the reserve components.

(2) Not later than September 30, 1984, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the study under paragraph (1).

(e) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units. The Secretary shall develop a plan by December 31, 1984, to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

(f)(1) In order to encourage members of the Armed Forces whose military service obligation is expiring and who do not choose to reenlist or otherwise extend their service on active duty or in active elements of reserve components to remain in the Armed Forces as members of the Individual Ready Reserve, the Secretary of Defense shall consider making greater use of the authority provided under section 308h of title 37, United States Code, to pay bonuses to persons reenlisting for periods of not less than three years in the Individual Ready Reserve.

(2) Such section is amended by striking out the period at the end of subsection (b) and inserting in lieu thereof "and shall be paid in equal annual increments.".

(g) The budget request for the Department of Defense submitted as part of the President's budget for fiscal year 1986 shall set forth the amounts requested for equipment for each reserve component as separate specific line items.

(h) This section does not apply to the Coast Guard.

TITLE VI—COMPENSATION MATTERS

MILITARY PAY RAISE FOR FISCAL YEAR 1985

SEC. 601. (a) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1985 shall not be made.

(b)(1) Except as provided in paragraph (2), the rates of basic pay for members of the uniformed services and the rates of monthly cadet pay and midshipman pay under section 203(c)(1) of title 37, United States Code, are increased by 3.5 percent effective on January 1, 1985.

(2) The increase in rates of basic pay provided for in paragraph (1) shall not apply to the rate of basic pay for pay grade E-1.

(c) Effective on January 1, 1985, the rates of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, are as follows:

Pay grade	Without dependents		With dependents
	Full rate	Partial rate[1]	
Commissioned officers:			
O-10	$578.70	50.70	$711.60
O-9	578.70	50.70	711.60
O-8	578.70	50.70	711.60
O-7	578.70	50.70	711.60
O-6	531.00	39.60	645.60
O-5	501.00	33.00	594.90
O-4	459.30	26.70	543.60
O-3	372.00	22.20	453.30
O-2	299.40	17.70	388.80
O-1	256.80	13.20	348.60
Warrant officers:			
W-4	421.20	25.20	488.70
W-3	355.80	20.70	437.10
W-2	319.80	15.90	408.60
W-1	270.60	13.80	356.40
Enlisted members:			
E-9	339.60	18.60	462.90
E-8	314.70	15.30	431.40
E-7	268.50	12.00	401.40
E-6	238.50	9.90	363.90
E-5	220.80	8.70	323.40
E-4	191.40	8.10	279.60
E-3	185.70	7.80	256.80
E-2	157.80	7.20	256.80
E-1	143.70	6.90	256.80

[1] Payable to a member without dependents who under section 403 (b) or (c) of title 37, United States Code, is not entitled to receive a basic allowance for quarters.

MODIFICATIONS TO VARIABLE HOUSING ALLOWANCE

SEC. 602. (a)(1) During the period beginning on October 1, 1984, and ending on January 1, 1985, the Secretary of a military department may not pay a variable housing

allowance under section 403(a)(2) of title 37, United States Code, except in accordance with the limitations on such payments applicable during fiscal year 1984 under the provisions of sections 786 and 792 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

(2) Section 906 of the Department of Defense Authorization Act, 1984 (Public Law 98-94), is amended by striking out "fiscal year 1984" and inserting in lieu thereof "the period beginning on October 1, 1983, and ending on January 1, 1985".

(b)(1) Subsection (a) of section 403 of title 37, United States Code, is amended by striking out "(1)" after "(a)" and by striking out paragraph (2).

(2) The heading of such section is amended to read as follows:

"§ 403. Basic allowance for quarters".

(c)(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403 the following new section:

"§ 403a. Variable housing allowance

"(a)(1) Except as provided in subsection (b) of this section, a member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this section whenever assigned to duty in an area of the United States which is a high housing cost area with respect to that member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving that tour of duty for any period during which the member's dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance.

"(2) In the case of a member with dependents—

"(A) who is assigned to duty inside the United States the location or the circumstances of which make it necessary that his dependents reside at another location; and

"(B) whose dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance at a rate other than the rate to which the member is entitled (if at all) in the area of his duty assignment,

the member may be paid a variable housing allowance as if he were assigned to duty in the area in which his dependents reside if the Secretary concerned determines (under regulations prescribed under subsection (e) of this section) that it would be inequitable to base the member's entitlement to, and amount of, variable housing allowance on the area to which the member is assigned.

"(3) In the case of a member with dependents—

"(A) who is assigned to an unaccompanied tour of duty in Alaska or Hawaii; and

"(B) who would, if his duty station were outside the United States, be entitled to a family separation allowance under section 427(a) of this title,

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location. Payment of a variable housing allowance under this paragraph shall be in addition to any allowance or per diem to which the member otherwise may be entitled under this title.

"(b) A member of a uniformed service is not entitled to a variable housing allowance—

"(1) in the case of a member who makes a change in permanent duty station, for the number of days that travel is authorized between permanent duty stations (under regulations prescribed under subsection (e) of this section);

"(2) in the case of a member with dependents, if the member (A) is assigned to unaccompanied personnel housing of the United States (or an unaccompanied personnel housing facility under the jurisdiction of a uniformed service) appropriate to his grade, rank, or rating and adequate for himself, and (B) is authorized the basic allowance for quarters at the rate established for a member with dependents solely by reason of a court order requiring the member to pay support for dependents; or

"(3) in the case of a member of a reserve component, while on active duty under a call or order to active duty specifying a period of less than 140 days.

"(c)(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is the difference between (A) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member, and (B) 85 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

"(2) The rates of variable housing allowance shall be reduced as necessary to comply with subsection (d) of this section.

"(3) The effective date of any adjustment in rates of variable housing allowance because of a redetermination of median monthly costs of housing under this subsection shall be the same as the effective date of the next increase after such redetermination in the elements of compensation for members of the uniformed services specified in section 1009(a) of this title.

"(4) For the purposes of this section, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member exceeds 85 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

"(5) Any reduction required under paragraph (2) of this subsection and any determination of median monthly costs of housing under this subsection shall be made under regulations prescribed under subsection (e) of this section.

"(d)(1) The total amount that may be paid during any fiscal year for the variable housing allowance authorized members of the uniformed services by this section may not exceed the product of—

"(A) the total amount paid for such allowance during the preceding fiscal year (as adjusted under paragraph (3) of this subsection); and

"(B) a fraction—

"(i) the numerator of which is the military housing cost index for October of the preceding fiscal year; and

"(ii) the denominator of which is the military housing cost index for October of the fiscal year before the preceding fiscal year.

"(2) The military housing cost index is the housing component of the Consumer Price Index (as determined by the Bureau of Labor Statistics of the Department of Labor), as adjusted under regulations prescribed under subsection (e) of this section. Such regulations may assign weights to the elements of that housing component other than those assigned by the Secretary of Labor in order more appropriately to reflect the distribution of elements of housing costs of members of the uniformed services.

"(3) In making a determination under paragraph (1) of this subsection for a fiscal year, the amount paid during the preceding fiscal year for the variable housing allowance shall be adjusted to reflect changes during the year for which the determination is made in the number of members of the uniformed services entitled to variable housing allowance from the number of such members during the preceding fiscal year. Adjustments under this paragraph shall be made in accordance with regulations prescribed under subsection (e) of this section.

"(e) The President may prescribe regulations for the administration of this section.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

"403. Basic allowance for quarters.
"403a. Variable housing allowance.".

(3) Section 7572(b)(1)(B) of title 10, United States Code, is amended by striking out "section 403" and inserting in lieu thereof "section 403a".

(d) Section 405 of title 37, United States Code, is amended—

(1) by inserting "(a)" before "Without regard to";

(2) by designating the third sentence as subsection (b) and by inserting "for a member who is on duty outside of the United States" in such sentence after "under this section";

(3) by inserting after such sentence the following new sentence: "A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska."; and

(4) by designating the last sentence as subsection (c).

(e)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1985.

(2) A member who on December 31, 1984, is assigned to a permanent duty station in Alaska or Hawaii and is entitled on that date to a station housing allowance under section 405 of title 37, United States Code, shall, until he departs that station as a result of a permanent change of duty station, be entitled to receive that allowance as if the amendment made by subsection (d) had not been enacted and shall not be entitled to a variable housing allowance under section 403a of this title (as added by subsection (c)).

EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR ACTIVE FORCES

SEC. 603. Sections 308(g), 308a(c), and 308f(c) of title 37, United States Code, are amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1989".

EXTENSION OF PILOT DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE LOAN REPAYMENT PROGRAM

SEC. 604. Section 902(g) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

SEC. 605. (a) Section 7572(b)(3) of title 10, United States Code, is amended—

(1) by striking out "and" after "fiscal year 1983,"; and

(2) by inserting ", and $1,421,000 for fiscal year 1985" after "fiscal year 1984".

(b) Section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

CLARIFICATION OF AUTHORITY TO DENY CERTAIN MEMBERS WITHOUT DEPENDENTS RIGHT TO ELECT TO RECEIVE BASIC ALLOWANCE FOR QUARTERS RATHER THAN OCCUPY MILITARY QUARTERS

SEC. 606. (a) Section 403(j)(2) of title 37, United States Code, is amended by striking out "military discipline" and inserting in lieu thereof "a training mission, military discipline,".

(b) The amendment made by subsection (a) shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.

COMMUTATION OF RATIONS FOR RESERVISTS ON INACTIVE DUTY TRAINING WHO ARE UNABLE TO OBTAIN RATIONS IN KIND

SEC. 607. Effective on October 1, 1984, section 402(b) of title 37, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.".

BENEFITS FOR MEMBERS STATIONED IN ALASKA OR HAWAII

SEC. 608. (a)(1) Subsection (a) of section 430 of title 37, United States Code, is amended—

(A) by inserting "or in Alaska or Hawaii" after "outside the United States" in clause (1);

(B) by striking out "oversea" in clause (2); and

(C) by inserting "(except as provided in subsection (c) of this section)" after "may".

(2) Subsection (b) of such section is amended—

(A) by striking out "in the oversea area" in the first sentence; and

(B) by striking out the third sentence.

(3) Such section is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection (c):

"(c) The allowance authorized by this section may not be paid—

"(1) to a member assigned to duty outside the United States for a child attending a school in the United States for the purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or near the vicinity of the duty station of the member and that is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.); or

"(2) to a member assigned to a permanent duty station in Alaska for a child attending a school in Alaska or a member assigned to a permanent duty station in Hawaii for a child attending a school in Hawaii.".

(4)(A) The heading of such section is amended to read as follows:

"§ 430. Travel and transportation: dependent children of members stationed overseas and in Alaska and Hawaii".

(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"430. Travel and transportation: dependent children of members stationed overseas and in Alaska and Hawaii.".

(5) The amendments made by this subsection shall apply only with respect to travel begun on or after the date of the enactment of this Act, but such amendments shall not constitute authority for the enactment of new budget authority for a fiscal year beginning before October 1, 1984.

(b) Effective on October 1, 1984, section 1040(a) of title 10, United States Code, is amended by inserting "or in Alaska or Hawaii" after "outside the United States".

LIMITATION ON TRANSPORTATION OF MOTOR VEHICLES THROUGH GUAM

SEC. 609. (a) Regulations of the Department of Defense providing for transportation at Government expense of motor vehicles owned by members of the Armed Forces incident to a permanent change of duty station may not authorize the transportation at Government expense from Guam in any month of more than 200 motor vehicles that are owned by members of the Armed Forces who are making a permanent change of duty station from a location ouside the United States (other than in Guam) and who are using Guam as an alternate port of shipment.

(b) Subsection (a) shall apply with respect to the transportation of motor vehicles during the period beginning with the month after the month in which this Act is enacted and ending with September 1985. After that period transportation of motor vehicles from Guam under the circumstances described in subsection (a) may be provided at Government expense only as specifically authorized by law after the date of the enactment of this Act.

(c) Not later than January 15, 1985, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives with respect to the transportation through Guam of motor vehicles owned by members of the Armed Forces. The report shall include—

(1) a description of the nature and extent of the burden imposed on members of the Armed Forces by assignment to Japan because they may not (under Japanese law) take into Japan a motor vehicle not manufactured for use in Japan;

(2) a review of alternative programs that could be provided to alleviate the burden of assignment to Japan described in clause (1), including a review of the existing policy to which the limitation in subsection (a) is applicable under which a member of the Armed Forces making a permanent change of station from Japan may purchase a motor vehicle through Guam; and

(3) an analysis of the impact on Guam (including the economy of Guam) of the termination of such policy.

TRANSPORTATION INCIDENT TO EMERGENCY LEAVE FOR MEMBERS WHOSE RESIDENCES ARE IN POSSESSIONS OF THE UNITED STATES

SEC. 610. (a)(1) Section 411d of title 37, United States Code, is amended to read as follows:

"§ 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents

"(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

"(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member's permanent duty station (and if the member's dependents reside at another overseas location and receive a station allowance, from that location)—

"(A) to the international airport in the continental United States closest to the international airport from which the member and his dependents departed; or

"(B) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

"(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member's permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

"(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) of this subsection and for the dependents as described in paragraph (2) of this subsection.

"(4) Whenever transportation is provided under this section, return transportation may be provided to the international airport from which the member or dependent departed or the international airport nearest the member's duty station.

"(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section.

"(d) In this section, 'continental United States' means the 48 contiguous States and the District of Columbia.".

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.".

(b) The amendment made by subsection (a)(1) shall apply with respect to transportation begun after September 30, 1984.

EXTENSION OF MEDICAL AND DENTAL CARE FOR RESERVES AND NATIONAL GUARD

SEC. 611. (a)(1) Section 1074a of title 10, United States Code, is amended to read as follows:

"§ 1074a. Medical and dental care: members on duty other than active duty; injuries, diseases and illnesses incident to duty

"(a) Under joint regulations prescribed by the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on active duty for a period of 30 days or less, or while traveling to or from that duty.

"(2) Each member of the National Guard who contracts a disease or becomes ill in line of duty while on full-time National Guard duty, or while traveling to or from that duty.

"(3) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on inactive duty training under circumstances in which it is determined that the disease or illness was contracted or aggravated as an incident of that inactive duty training.

"(4) Each member of a uniformed service who incurs or aggravates an injury while traveling directly to or from the place at which he is to perform, or has performed, inactive duty training, unless the injury is incurred or aggravated as a result of the member's own gross negligence or misconduct.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of his injury, disease, or illness until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization.".

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074a. Medical and dental care: members on duty other than active duty; injuries, diseases, and illnesses incident to duty.".

(b) Section 6148 of such title, relating to certain benefits of members of the Naval Reserve and Marine Corps Reserve, is amended by striking out subsection (d).

(c) The amendments made by this section shall apply only with respect to injuries incurred or aggravated and diseases or illnesses contracted or aggravated after September 30, 1984.

AUTHORITY FOR VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM RETIRED AND RETAINER PAY

SEC. 612. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1044. Voluntary withholding of State income tax from retired or retainer pay

"(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member of the armed forces entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar quarter shall be retained by the Secretary concerned and disbursed to the States during the month following that calendar quarter.

"(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

"(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

"(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

"(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

"(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

"(e) In this section:

"(1) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(2) 'Secretary concerned' includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1044. Voluntary withholding of State income tax from retired or retainer pay.".

DELAY OF EFFECTIVE DATE FOR FEE FOR VETERINARY SERVICES

SEC. 613. Section 1033 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 672), is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985".

TITLE VII—EDUCATIONAL ASSISTANCE PROGRAMS

NEW EDUCATIONAL ASSISTANCE PROGRAM

SEC. 701. (a)(1) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"Sec.
"1401. Purposes.
"1402. Definitions.
"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE
"1411. Basic educational assistance entitlement for service on active duty.
"1412. Basic educational assistance entitlement for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance.
"1415. Amount of basic educational assistance.
"1416. Inservice enrollment in a program of education.
"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE
"1421. Supplemental educational assistance for additional service.
"1422. Amount of supplemental educational assistance.
"1423. Payment of supplemental educational assistance under this chapter.
"SUBCHAPTER IV—AUTHORITY TO ALLOW TRANSFER OF ENTITLEMENT TO DEPENDENTS
"1431. Authority to allow members of the Armed Forces with critical specialties to transfer entitlement to dependents.
"1432. Regulations.
"1433. Status of dependents to whom entitlement is transferred.
"1434. Definition.
"SUBCHAPTER V—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS
"1441. Time limitation for use of eligibility and entitlement.
"1442. Limitation on educational assistance for certain individuals.
"1443. Bar to duplication of educational assistance benefits.
"1444. Program administration.
"1445. Allocation of administration and of program costs.
"1446. Reporting requirement.

"Subchapter I—Purposes; Definitions

"§ 1401. Purposes

"The purposes of this chapter are—

"(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

"(2) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces; and

"(3) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces.

"§ 1402. Definitions

"For the purposes of this chapter—

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'supplemental educational assistance' means educational assistance

provided under subchapter III of this chapter.

"(3) The term 'program of education' has the meaning given such term in section 1652(b) of this title.

"(4) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(5) The term 'Secretary concerned' means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(6) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"Subchapter II—Basic Educational Assistance

"§ 1411. Basic educational assistance entitlement for service on active duty

"(a) Except as provided in subsection (b) of this section, each individual who—

"(1) after September 30, 1984—

"(A) serves at least three years of continuous active duty in the Armed Forces; or

"(B) serves in the Armed Forces and (notwithstanding section 3103A of this title) is discharged or released from active duty for a service-connected disability, for hardship, or, in the case of an individual who completed not less than 30 months of active duty, for the convenience of the Government;

"(2) before completion of the service described in clause (1) of this section, has received a secondary school diploma (or an equivalency certificate); and

"(3) after completion of the service described in clause (1) of this section—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

"(a) Except as provided in subsection (c), each individual who—

"(1) after September 30, 1984—

"(A) serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

"(B) subject to subsection (b) of this section and after completion of the service on active duty described in clause (A) of this paragraph, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the service described in clause (1) of this section, has received a secondary school diploma (or an equivalency certificate); and

"(3) after completion of the service described in clause (1) of this section—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) continues on active duty or in the Selected Reserve;

is entitled to basic educational assistance under this chapter.

"(b)(1) The requirement of four years of service under clause (1)(B) of subsection (a) of this section is not applicable to an individual who is discharged or released from service in the Selected Reserve for a service-connected disability, for hardship, or (in the case of an individual discharged or released after three and one-half years of service) for the convenience of the Government.

"(2) Continuity of service of a member in the Selected Reserve for purposes of such clause shall not be considered to be broken—

"(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that he is eligible to join or that has a vacancy; or

"(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve (other than any month in which the individual served on active duty).

"(b) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 36 months (or the equivalent thereof in part-time educational assistance).

"§ 1414. Payment of basic educational assistance

"The Administrator shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"§ 1415. Amount of basic educational assistance

"(a) Subject to section 1442 of this title and except as otherwise provided in subsection (b) of this section, a basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"(b) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary considers appropriate, but any such increase may not exceed $400 per month.

"§ 1416. Inservice enrollment in a program of education

"A member of the Armed Forces who has completed at least two years of service on active duty after September 30, 1984, has continued on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title), and who but for section 1411(a)(1) or 1412(a)(1) of this title would be eligible for basic educational assistance may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1) or 1412(a)(1) of this title.

"Subchapter III—Supplemental Educational Assistance

"§ 1421. Supplemental educational assistance for additional service

"(a) The Secretary concerned may by regulation provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1411 of this title who—

"(1) serves five or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1411(a)(1) of this title without a break in such service; and

"(2) after completion of the service described in clause (1) of this subsection—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty without a break in service; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) The Secretary concerned may by regulation provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1412 of this title who—

"(1) serves two or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1412(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted under such section without a break in service; and

"(2) after completion of the service described in clause (1) of this subsection—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

"(B) continues on active duty or in the Selected Reserve.

"(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that he is eligible to join or that has a vacancy; or

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

"(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned qualifies for basic educational assistance may not be counted for purposes of this section.

"§ 1422. Amount of supplemental educational assistance

"(a) Subject to section 1442 of this title and except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

"(1) at a monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"(b) In the case of a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary considers appropriate, but any such increase may not exceed $300 per month.

"§ 1423. Payment of supplemental educational assistance under this subchapter

"The Administrator shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

"Subchapter IV—Transfer of Entitlement to Dependents

"§ 1431. Authority to authorize members of the Armed Forces with critical specialties to transfer entitlement to dependents

"(a) Under regulations prescribed under section 1432(a) of this title, the Secretary concerned may authorize a member of an Armed Force who—

"(1) has served 10 or more continuous years on active duty;

"(2) has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel; and

"(3) is entitled to basic educational assistance,

to transfer to one or more of such member's dependents all or any part of such member's entitlement to educational assistance under this chapter.

"(b) Subject to regulations prescribed under section 1432(b) of this title, a transfer of entitlement under this section, once authorized, may be made at any time and may be revoked, in whole or in part, or may be modified at any time.

"§ 1432. Regulations

"(a) The Secretary concerned shall prescribe regulations for the establishment of eligibility of members to transfer entitlement under this subchapter, and any transfer of entitlement under this subchapter shall be made in accordance with such regulations. In prescribing such regulations, the Secretary of Defense—

"(1) shall designate the skills or specialties in which there is a critical shortage of personnel which qualify a member for consideration for authorization to transfer entitlement under this section; and

"(2) shall establish such other terms and conditions for authorization to transfer entitlement as the Secretary considers appropriate considering the needs of the service.

"(b) The Administrator shall prescribe regulations for the administration of the transfer of educational assistance entitlement under this subchapter by members authorized under the regulations prescribed pursuant to subsection (a) of this section to be eligible to make such a transfer and for the provision of such assistance to the dependents to whom such entitlement is transferred. In prescribing such regulations, the Administrator may place such limits upon the changing and revoking of transfers of entitlement as the Administrator considers necessary for efficient administration and may provide for any such revocation to be effective at the end of any semester, quarter, or other unit of instruction in which a dependent to whom entitlement had been transferred is engaged in at the time of the revocation.

"§ 1433. Status of dependents to whom entitlement is transferred

"(a)(1) A dependent to whom entitlement is transferred under this subchapter is entitled to educational assistance under this chapter in the same manner and under the same terms and conditions as the individual from whom the entitlement was transferred would be entitled, except that such assistance may only be provided while the individual from whom the entitlement was transferred continues on active duty or upon the death, discharge for hardship or service-connected disability, or completion of 20 years of active duty by the individual.

"(2) The period of eligibility of a child to whom educational assistance is transferred under this subchapter shall be determined in accordance with section 1712(a) of this title.

"(b) If an individual transfers entitlement under this section to two or more dependents, the educational assistance payable under this chapter shall be divided (1) in such manner as the individual specifies, or (2) if the individual is deceased or is otherwise unable to specify the manner in which the assistance shall be divided, as determined under regulations prescribed under section 1432 of this title.

"(c) Assistance may not be paid under this chapter to an individual who at the time the benefits would otherwise be paid is not a child or spouse or surviving spouse of the individual who transferred the benefits, notwithstanding that the individual was a dependent at the time the election was made to transfer the benefits.

"§ 1434. Definition

"For the purposes of this subchapter, the term 'dependent' means—

"(1) a child of an individual; and

"(2) the spouse or surviving spouse of an individual.

"Subchapter V—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

"§ 1441. Time limitation for use of eligibility and entitlement

"(a) Except as provided in subsections (c) through (e) of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on (1) the date of such individual's last discharge or release from active duty, or, (2) the date of the accrual of such entitlement, whichever is later.

"(b) Except as provided in subsection (e) of this section, the period during which a dependent with entitlement transferred under section 1431 of this title may use such entitlement expires at the end of the 10-year period beginning on the earlier of—

"(1) the date on which the dependent begins to use such entitlement; or

"(2) the same date that applies to the individual from whom the entitlement was transferred.

"(c) In the case of any eligible individual who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of such subchapter before (1) the nature of such discharge or release was changed by appropriate authority, or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

"(d) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active

duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Veterans' Administration medical facility.

"(e) In the case of an individual eligible for educational assistance under this chapter (including a dependent to whom entitlement under this chapter has been transferred pursuant to section 1431 of this title)—

"(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

"(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(f)(1) If an individual eligible for educational assistance under this chapter (including an individual to whom entitlement has been transferred) is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

"(2) If an individual eligible for educational assistance under this chapter (including an individual to whom entitlement has been transferred) is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire after a major of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

"§ 1442. Limitation on educational assistance for certain individuals

"(a) In the case of an individual entitled to educational assistance under this chapter (including an individual to whom such entitlement has been transferred) who is pursuing a program of education—

"(1) while on active duty; or

"(2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

"(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the lesser of (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, or (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

"§ 1443. Bar to duplication of educational assistance benefits

"(a) An individual entitled to educational assistance under a program established by this chapter (including an individual to whom such entitlement has been transferred) who is also eligible for educational assistance under a program under chapter 31, 32, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"§ 1444. Program administration

"(a) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran', as used in those provisions, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

"(b) An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

"(1) from such individual a certification as to such individual's actual attendance during such period; and

"(2) from the educational institution a certification, or an endorsement of the individual's certificate, that such individual was enrolled in and pursuing a program of education during such period.

"(c) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

"§ 1445. Allocation of administration and of program costs

"(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Veterans' Administration.

"(b)(1) Except to the extent provided in paragraphs (2) and (3) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from appropriations made to the Veterans' Administration.

"(2) Payments for entitlement earned under subchapter II of this chapter which is used by an individual to whom such entitlement was transferred under subchapter IV of this chapter, or which is used by the individual earning such entitlement after an election under such subchapter to transfer such entitlement which was subsequently revoked, shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

"(3) Payments for entitlement earned under subchapter II of this chapter that is established under section 1415(b) of this title at a rate in excess of the rate prescribed under section 1415(a) of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

"(c) Payments for educational assistance provided under subchapter III of this chapter (whether used by the individual to whom the right to the assistance was provided by the Secretary concerned or by an individual to whom that right was transferred under subchapter IV of this chapter) shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

"(d) Funds for the payment by the Administrator of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans' Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the Treasury. Funds for the payment by the Administrator of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

"§ 1446. Reporting requirement

"(a) The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

"(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Administrator considers appropriate.

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"(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than April 1, 1985.

"(2) The first report by the Administrator under this section shall be submitted not later than April 1, 1987.".

(2) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting above the item relating to chapter 31 the following new item:

"30. All-Volunteer Force Educational Assistance Program..... 1401".

(b) Subchapters III and IV of chapter 30 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1985.

COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 702. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "30 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 30 or chapter 34"; and

(2) in subparagraph (B), by inserting "30 or" before "34".

(b)(1) Section 1602(1)(A) of such title is amended by inserting "and before October 1, 1984," after "January 1, 1977," both places it appears.

(2) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under subchapter II of chapter 30 of this title, the participant may elect to disenroll from the program under this chapter effective on the last day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d)(1) of such title is amended by inserting "30," after "or chapter".

(d)(1) Section 1781 of such title is amended—

(A) by inserting "30," after "chapter" the first place it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31".

(2) Section 1795(a) of such title is amended—

(A) by inserting "30," in clause (4) after "chapters"; and

(B) by striking out "Chapter 107" in clause (5) and inserting in lieu thereof "Chapters 106 and 104".

TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 703. No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code, after December 31, 1984.

REVISION OF EDUCATIONAL ASSISTANCE PROGRAM FOR THE SELECTED RESERVE

SEC. 704. (a)(1) Chapter 106 of title 10, United States Code, is amended to read as follows:

"CHAPTER 106—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"2131. Educational assistance program: establishment; amount.
"2132. Eligibility for educational assistance.
"2133. Time limitation for use of entitlement.
"2134. Termination of assistance.
"2135. Failure to participate satisfactorily; penalties.
"2136. Administration of program.
"2137. Reports to Congress.
"2138. Savings provision.

"§ 2131. Educational assistance program: establishment; amount

"(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under his jurisdiction who agree to remain members of the Selected Reserve for a period of not less than six years.

"(b) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person entitled to educational assistance under this chapter who is pursuing a program of education and educational assistance allowance at the following rates:

"(1) $140 per month for each month of full-time pursuit of a program of education;

"(2) $105 per month for each month of three-quarter-time pursuit of a program of education; and

"(3) $70 per month for each month of half-time pursuit of a program of education.

"(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.

"(2) Subject to section 1795 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36.

"§ 2132. Eligibility for educational assistance

"(a) A person who—

"(1) after September 30, 1984—

"(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

"(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

"(2) before completing initial active duty for training has received a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 2131 of this title.

"(b) Educational assistance may not be provided to a member under this chapter until the member—

"(1) has completed the initial period of active duty for training required of the member; and

"(2) has completed 180 days of service in the Selected Reserve.

"(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this chapter and stating clearly and prominently the substance of sections 2134 and 2135 of this title as such sections may apply to the person.

"§ 2133. Time limitation for use of entitlement

"(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this section may use such person's entitlement expires (1) at the end of the 10-year period beginning on the date on which such person becomes entitled to such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

"(b)(1) The provisions of section 1441(f) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

"(2) The provisions of section 1441(e) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

"§ 2134. Termination of assistance

" Educational assistance may not be provided under this chapter—

"(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

"(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

"§ 2135. Failure to participate satisfactorily; penalties

"(a)(1) A member of the Selected Reserve of the Ready Reserve of an armed force who fails to participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter shall, at the option of the Secretary concerned—

"(A) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 2132 of this title, whichever is less; or

"(B) be required to refund to the United States an amount determined under subsection (b).

"(2) The Secretary concerned may waive the requirements of paragraph (1), or may reduce the amount of any refund under clause (B) of such paragraph, in the case of any individual member when the Secretary determines that the failure to participate satisfactorily was due to reasons beyond the control of the member.

"(3) Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve in the Selected Reserve.

"(b)(1) The amount of a refund under subsection (a) shall be the amount equal to the product of—

"(A) the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and

"(B) the total amount of educational assistance provided to the member under this chapter,

as increased by interest determined under paragraph (2).

"(2) The amount computed under paragraph (1) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the refund is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a refund under this section.

"§ 2136. Administration of program

"(a) Educational assistance under this chapter shall be provided through the Veterans' Administration, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Transportation, with the Administrator of Veterans' Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Veterans' Administration for the making of payments under this chapter.

"(b) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

"§ 2137. Reports to Congress

"The Secretary of Defense shall submit to the Congress a report not later than December 15 of each year concerning the operation of the educational assistance program established by this chapter during the preceding fiscal year. Each such report shall include the number of members of the Selected Reserve of the Ready Reserve of each armed force receiving, and the number entitled to receive, educational assistance under this chapter during the preceding fiscal year.

"§ 2138. Savings provision

"A member who entered into an agreement under this chapter before October 1, 1984, shall continue to be eligible for educational assistance in accordance with the terms of such agreement and of this chapter as in effect before such date.".

(2) The items relating to such chapter in the table of chapters at the beginning of subtitle A of such title, and in the table of chapters at the beginning of part III of such subtitle, are amended to read as follows:

"106. Educational Assistance for Members of the Selected Reserve ..... 2131".

(b) The amendments made by this section shall take effect on October 1, 1984, and shall apply only to members of the Armed Forces who qualify for educational assistance under chapter 106 of title 10, United States Code, as amended by subsection (a), on or after such date.

ACCRUAL FUNDING OF DEPARTMENT OF DEFENSE LIABILITIES

SEC. 705. (a)(1) Chapter 101 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2006. Department of Defense Education Benefits Fund

"(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the 'Fund'), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance Department of Defense education liabilities on an actuarially sound basis.

"(b) In this section:

"(1) 'Department of Defense education liabilities' means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 106 of this title.

"(2) 'Normal cost', with respect to any period of time, means the total of the following:

"(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 1415(b) of title 38 to persons who were not on active duty on October 1, 1984, and who during such period enter on active duty.

"(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on October 1, 1984, and who during such period—

"(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 1411 of such title; or

"(ii) enter a period of service that will establish entitlement to such educational assistance under section 1421(b) of such title, in the case of persons eligible for basic educational assistance under section 1412 of such title.

"(C) The present value of the additional future benefits payable from the Fund by reason of eligibility authorized during such period for members of the Armed Forces who were not on active duty on October 1, 1984, to transfer educational assistance entitlement to dependents under subchapter IV of chapter 30 of such title.

"(D) The present value of the future benefits payable from the Fund for educational assistance under chapter 106 of this title to persons who during such period become entitled to such assistance.

"(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

"(1) Amounts paid into the Fund by the Secretary of Defense under subsection (g).

"(2) Any amount appropriated to the Fund.

"(3) Any return on investment of the assets of the Fund.

"(d) The Secretary of the Treasury shall transfer from the Fund to the Administrator of Veterans' Affairs such amounts as may be necessary to enable the Administrator to make required payments of Department of Defense education liabilities. The Secretary of the Treasury, the Secretary of Defense, and the Administrator shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

"(e)(1)(A) There is established in the Department of Defense a Department of Defense Education Benefits Board of Actuaries (hereinafter in this section referred to as the 'Board'). The Board shall consist of three members, who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve for a term of fifteen years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

"(ii) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and fifteen years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

"(C) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

"(2) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

"(3) The Board shall review valuations of the Fund under subsection (g) and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

"(4) The Secretary shall keep, or cause to be kept, such records as necessary for determining the actuarial status of the Fund.

"(f) Not later than six months after the Board of Actuaries is first appointed, the Board shall determine the amount (hereinafter in this section referred to as the 'original unfunded liability') that is the present value (as of October 1, 1984) of future benefits payable from the Fund to persons who on October 1, 1984, are on active duty (and to dependents of such persons to whom entitlement to such benefits is transferred). The Board shall determine the period of time over which this amount should be liquidated and shall determine the amortization schedule for the liquidation of such amount over such period.

"(g)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

"(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

"(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or negative unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

"(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an increase or decrease in the payments that would otherwise be made to the Fund.

"(5) Based on the determinations under paragraphs (2), (3), and (4) and the determi-

nations made by the Board of actuaries under subsection (f) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense for the next fiscal year for payments to be made to the Fund under subsection (h). The President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

"(6) All determinations under this subsection shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

"(h)(1) The Secretary of Defense shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

"(2) The Secretary of Defense shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

"(A) The amount of the payment for that year for the amortization of the original unfunded liability, as determined by the Board of Actuaries under subsection (f).

"(B) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (g)(3).

"(C) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (g)(4).

"(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department.

"(i) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2006. Department of Defense Education Benefits Fund.".

(b) The first payment into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, as added by subsection (a), shall be made not later than three months after the Board of Actuaries determines the amounts needed to be paid into the Fund for the fiscal year beginning on October 1, 1984. The first payment shall be made in a lump sum equal to the total of the amounts that would have been paid to the Fund each month between October 1, 1984, and the time such first payment is made.

EDUCATIONAL LEAVE OF ABSENCE FOR MEMBERS OF THE ARMED FORCES

SEC. 706. (a)(1) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

"§ 708. Educational leave of absence

"(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting the member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which he would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 1421 of title 38, relating to entitlement to supplemental educational assistance.

"(d)(1) In time of war, or of national emergency declared by the President or the Congress after the date of the enactment of this section, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

(b) Section 708 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1985.

PRESEPARATION COUNSELING

SEC. 707. (a)(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1043. Preseparation counseling requirement

"Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the armed forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(2) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

(b) Section 1043 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1984.

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1985 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 251 et seq.) the sum of $190,000,000.

REPEAL OF LIMITATION ON AMOUNTS THAT MAY BE APPROPRIATED FOR CERTAIN PURPOSES

SEC. 802. Section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out ": *Provided further*" and all that follows through "$47,000,000 per annum".

TITLE IX—NATIONAL DEFENSE STOCKPILE

AUTHORIZATION OF DISPOSALS

SEC. 901. (a) Any authority provided by law before the date of the enactment of this Act to enter into contracts for the disposal of materials in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (hereinafter in this title referred to as "the Act") (50 U.S.C. 98b) shall expire on September 30, 1984.

(b) Effective on October 1, 1984, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile in accordance with the provisions of the Act, such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 3,200 short tons of antimony.

(2) 5,600 short tons of asbestos, chrysotile.

(3) 7,500,000 carats of diamond stones.

(4) 51,210 short dry tons of manganese dioxide battery natural.

(5) 292,000 short dry tons of metallurgical grade manganese.

(6) 130,000 flasks of mercury.

(7) 50,000 pounds of mercuric oxide.

(8) 1,000,000 pounds of mica, muscovite film first and second qualities.

(9) 1,000,000 pounds of mica, muscovite splittings.

(10) 50,000 pounds of mica, phlogopite splittings.

(11) 167 short tons of mica block and lump.
(12) 100,000 pounds of quartz crystals.
(13) 10,000,000 troy ounces of silver.
(14) 125,000 pounds of talc, block and lump.
(15) 50,000 pounds of thorium nitrate.
(16) 25,000 long tons of tin.
(17) 2,400,000 pounds of tungsten contained in ores.
(18) 4,200 long tons of vegetable tannin, chestnut.
(19) 20,000 long tons of vegetable tannin, quebracho.

RESTRICTIONS ON DISPOSALS FROM STOCKPILE

SEC. 902. Section 5(b)(2) of the Act (50 U.S.C. 98d(b)) is amended—
(1) by striking out "a balance" the first place it appears and inserting in lieu thereof "an unobligated balance"; and
(2) by striking out "$1,000,000,000" and all that follows through the end and inserting in lieu thereof "$25,000,000.".

STOCKPILE REPORT

SEC. 903. The President shall submit a report to Congress not later than January 31, 1985, respecting the National Defense Stockpile. The report shall include—
(1) a plan for attaining the goals of the stockpile specified in section 3(b)(2) of the Act over a three-year period;
(2) an analysis as to the appropriateness of placing all aspects of the management and operation of the stockpile under a single authority, such as the Secretary of Defense;
(3) an analysis of the adequacy of existing legal authority to barter surplus and excess material of the Government and excess real property of the Department of Defense for strategic and critical materials for the stockpile;
(4) an analysis of why existing barter authority has not been used more aggressively in procuring strategic and critical materials to meet stockpile goals; and
(5) a draft of such legislation as may be required to carry out any recommendations respecting such plans and analyses.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: At the end of title V (page 61, after line 13) add the following new section:

WEARING OF UNOBTRUSIVE RELIGIOUS HEADGEAR

SEC. 507. (a)(1) Chapter 45 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 775. wearing of unobtrusive religious headgear

"A member of the armed forces may wear at any time unobtrusive religious headgear, such as a skullcap, if the religious observances or practices of that member include the wearing of such headgear, unless such practice would interfere with the performance of particular military duties assigned to that member.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"775. Wearing of unobtrusive religious headgear."

(b) Effective on the day that is one year after the date of the enactment of this Act—
(1) section 775 of title 10, United States code (as added by subsection (a)), is repealed; and
(2) the table of sections at the beginning of chapter 45 of such title is amended by striking out the item relating to such section (as added by subsection (a)).

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman, this is a relatively noncontroversial amendment. I believe it is acceptable to the chairman and the distinguished ranking minority member.

What it does do is to simply permit members of the armed services to wear at any time unobtrusive religious head gear such as a skull cap, if their religious observance or practices include the wearing of such headgear, unless this would interfere with the performance of the particular military duties to which a member of the Armed Forces was assigned.

The reason I am offering the amendment now is that there was, 2 weeks ago, a court of appeals decision which had the effect of upholding an Air Force regulation which prohibited a member of the Air Force from wearing a yarmulke while on duty, even though it obviously did not interfere with the performance of his duties.

This seemed to me to be a violation of his first amendment rights.

This amendment in no way, if adopted, would impair the efficiency of the armed services. It is for a 1-year trial period. At the end of that year the law would lapse, although it would be my expectation that at the end of the year, if no serious problems have developed, we would extend it with new legislation where the armed services themselves would adopt the appropriate regulations.

Let me say lastly, from time to time the Israeli Army has gone into battle with people wearing yarmulkes. It has not seemed to hurt them. I do not think it would hurt us.

We are talking only about a handful of people.

This is very carefully drawn and a limited amendment. But if somebody believes that his religion obligates him, or as a matter of custom requires him to wear an unobtrusive skull cap, I do not think we should deny them that right.

Mr. Chairman, the amendment I am offering seeking to protect the rights of servicemen to wear unobtrusive religious headgear while on duty, as required by their individual religious practices, unless the wearing of such headgear would interfere with the performance of their military duties.

This amendment is necessary because of a recent court of appeals decision which, if I might add, was one of the most capricious and ill advised I have seen.

The court of appeal decision came in the case of an Air Force captain named Simcha Goldman. Captain Goldman, an ordained rabbi, served in the Air Force as a clinical psychologist. He was disciplined for wearing a yarmulke while on duty. The disciplary action against him was overturned by a Federal district court. But the court of appeals upheld the right of the Air Force to prevent servicemen, under the Dress Code, from wearing yarmulkes.

The record in the Goldman case established that Captain Goldman himself, as well as many other members of the armed services, had worn yarmulkes for many years in the military service without any apparent disruption or difficulty. A former chief psychologist of the Air Force testified that the wearing of a yarmulke would not, in his opinion, interfere with morale or discipline. The Air Force was unable to point to any particular member of a sect, that requires the wearing of strange garments who was, or had been, a member of the Air Force. Finally it was demonstrated in the Goldman trial that military services permit departures from the Dress Code for various other reasons.

Servicemen in the Air Force wear over a dozen different hats which vary from standard issue. Mormons are permitted to wear "temple garments" beneath their uniforms. Pilots have been shown to wear "lucky garters"; others wear unique emblems or other similar individualistic garments.

These examples notwithstanding, the Air Force acted against Captain Goldman for wearing his yarmulke. The court of appeals affirmed this decision on no other basis than the right of the Air Force—for reasons of "morale," "discipline," or "esprit"—to establish its own Dress Code. The court simply ignored the other examples, in which the Dress Code is violated, and took no issue with the obvious religious and constitutional questions raised by the Air Force regulations.

My amendment which would overrule the court of appeals decision in the Corcoran case, establishes the right of servicemen to wear unobtrusive religious headgear, if their religions require such practice, unless such observance interferes with the duties assigned to such servicemen. It is limited to headgear and does not extend to other religious practices. The amendment establishes this right for a 1-year trial period. If the Defense Department is unable to demonstrate that any problems have been caused by this provision, I would expect that

next year it would be made permanent.

Lest anyone think that the wearing of yarmulkes by a handful of Orthodox Jews will impair the military might of the United States, they need only to consider the case of the Israelis. The IDF consists of servicemen who wear their yarmulkes into battle. After successes in four separate wars, it is difficult to argue that, so attired, their efficiency and effectiveness was compromised.

This amendment does not sanction the wearing of saffron robes or any bizarre religious garments. This amendment does contain a safeguard; that is, the headgear cannot be worn in the event that wearing it will prevent a serviceman from doing his duty. The amendment also includes a 1-year authorization—so, a period of testing will occur to insure that no problems with this change of policy occur which inhibit the armed services from maintaining discipline.

Rabbi Simcha Goldman served his country for several years with distinction. His overall evaluation and record was outstanding and contained no blemishes. He wanted to serve his country and, at the same time, practice his religion faithfully. I never thought that these two values—service to country and practicing one's religion—were inconsistent. They should not be. I urge my colleagues to support the amendment.

INTENT OF PROPOSAL

First, the purpose of this amendment is to overrule, for at least a trial period of 1 year, the decision of the Court of Appeals for the District of Columbia Circuit in Goldman against Secretary of Defense, decided on May 8, 1984. The court acknowledged that the Air Force's reasons for prohibiting the wearing of a yarmulke were weak, but the court nonetheless acquiesced in the Air Force's decision. Congress should direct the military to accommodate to this very minimal religious requirement unless it can show, by actual experience, that it seriously disrupts the military function.

Second, the law is limited to unobtrusive religious headgear and does not extend to other religious practices. It is not intended, however, to authorize or encourage nonaccommodation to other religious practices. Wherever possible, we expect that the military will continue to permit its members to practice their religious faiths, including the observance of Sabbaths and religious holidays and dietary restrictions.

Third, the bill's limitation to 1 year is not intended to suggest that the law should go off the books after 1 year. All it means is that the 1 year's experience will enable the military services to learn, by direct and specific facts, whether there is actual disruption from the wearing of a yarmulke. If they do not demonstrate such disruption, the expectation is that the law will then become permanent.

Fourth, the record in the Goldman case established that Goldman himself, as well as many other members of the armed services, including one who actually testified in the Goldman proceeding, has worn yarmulkes for many years in the military service without any apparent disruption or difficulty. In addition, a former chief psychologist of the Air Force testified that the wearing of a yarmulke would not, in his opinion, interfere with morale or discipline. It was also demonstrated in the Goldman trial that the military services permit departures from the Dress Code for various other reasons, such as the wearing of "lucky" garters, unique emblems, or other similar individualistic garments.

Fifth, the Air Force was unable to point to any particular member of a sect that requires the wearing of strange garments that was, or had been, a member of the Air Force. The possibility that such a law could be utilized to permit weird forms of clothing is most attenuated.

Mr. WILSON. Will the gentleman yield?

Mr. SOLARZ. Of course I yield to my good friend from Texas.

Mr. WILSON. The gentleman may not be aware of it, but I have a large Indian reservation in my district. I am curious to know if this would apply to war bonnets, unobtrusive, if the warriors felt that they would fight with more ferocity.

Mr. SOLARZ. If a war bonnet would be deemed unobtrusive——

Mr. WILSON. Who does the deeming?

Mr. SOLARZ. In my part of the country they would be fairly obtrusive. But that would be a determination made by the military.

Let me say to the gentleman if they wanted to wear a war bonnet because they thought it would help them fight more effectively, they are not protected by my amendment. They are only affected if this is a religious obligation or requirement or custom or practice, and then only if it is unobtrusive and if it does not interfere with the performance of their duties.

Mr. WILSON. Does the gentleman not see a complication in determining whether or not this is cultural or a religious war bonnet?

For instance, there are Indian tribes that claim the right to use peyote because it has a religious context.

Mr. SOLARZ. Let me ask the gentleman to yield in turn to ask him if the peyote is used as head gear.

Mr. WILSON. No; it is not. But I was using that as an example of an Indian claiming the right to use peyote because of a religious connotation, and the same thing might well be true of a war bonnet.

Mr. SOLARZ. If the gentleman would like to protect the right of Indians to smoke peyote, or whatever else it is you do with peyote, he is free to offer a peyote amendment. This is an unobtrusive head gear amendment. All it refers to is skull caps. It has nothing to do with peyote. And if the gentleman wants to handle peyote, he can handle peyote, but this has nothing to do with peyote.

Mr. WILSON. Will the gentleman accept an amendment to his amendment which would protect my Indians if they do so choose to wear feathers?

Mr. SOLARZ. No; I do not think so. I think that should be considered separately. I would not want to handicap this very carefully drawn amendment which has the approval I think of the committee with this excess baggage.

Does the gentleman know of anybody in an Indian tribe who smokes peyote who is in the armed services?

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Mr. WILSON. No, no; those are west Texas Indians that smoke peyote, east Texas Indians do not smoke peyote, but they do wear feathers.

Mr. SOLARZ. Right, but are they in the armed services?

Mr. WILSON. Yes; very patriotic.

Mr. SOLARZ. Have any of them been denied the right to use peyote in the armed services?

Mr. WILSON. No; but they have been denied the right to wear feathers into battle, not like the Italian Army, I might add.

Mr. SOLARZ. I am not talking about the Italian Army. I am talking about the American Army, and if they want to wear feathers under these caps, they are entitled to do that. The problem comes, let me say to the gentleman, I do not know how closely he studied this very important matter, but the problem comes in the fact that you can wear anything you want underneath your hat and for a religious jew, for example, whose head must be covered at all times, the problem comes not when he goes into battle when he has to wear a helmet, because then his head is covered; the problem comes up when he is inside and you are not permitted to wear a hat.

Mr. WILSON. To be a little more serious about it, how would the amendment affect ceremonial duties; the guards at the Tomb of the Unknown?

Mr. SOLARZ. It will not affect them at all, because those guards presumably, if they wear their uniform hats, such a person would have no need to wear a yarmulke or skull cap because their head is covered. But if they did, it could be under the hat, in which case it could not be seen or observed.

Mr. HARTNETT. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I know the gentleman from New York to be a terrific advocate of religious rights and certainly a big supporter of the first amendment of the Constitution.

Mr. Chairman, there are some of us who believe we have almost disarmed our Armed Forces and now we want to undress them.

You know, one of the great things about service in the military of the United States, and I think in any, is the pride we take in our units, the pride we take in our uniform, the pride we take in being able to be representative of a country where we as a nation have always been a multiplicity of people who have been melted into one pot and all call ourselves Americans.

I really see a dangerous precedent, I would say to the gentleman from New York who as I say, is a great advocate of religious freedom, in putting into legislation the right for our armed services to wear religious headgears of their choosing even if it were not in any way obtrusive to the uniform of our Nation.

I can see young women who may be in our Armed Forces, who may be nuns or something, wearing headgear of a religious order. I can just see this opening a door that we really do not need to open in the uniformed services of our country and I would not want to deny anyone the right to practice openly or covertly their religious beliefs and I certainly will not want to cause them from wearing any type of religious regalia that would indicate outwardly the pride that they have in their religion and their beliefs but I really think, Mr. Chairman, that for this Congress to write into law that our military services, while on duty, can wear religious headgear of their choosing if it is not obtrusive, I would ask rhetorically maybe, would a man who is on deck, on watch, the deck of a ship at night, or during the day would he be permitted to wear religious headgear of his choosing, when obviously a yarmulke would be hidden by a combat helmet, I suppose.

But what about the little overseas cap that the service personnel wear at home and abroad? Would it not be uniform; the fact that everything about the military services tends to be uniform that I really think it is asking an awful lot to permit, to write into law the permission where we could grant permission to our members of the Armed Forces to wear religious headgear.

I do not know whether the gentleman from Texas was tongue-in-cheek asking about a war bonnet. I assume that he was. But I can see it expanding to these types of things in the years ahead.

I really think that when you go into the Armed Forces of the United States or of any country, it is discipline, it is uniformity, and surely it is sacrifice.

But I do not think that any member of any religious order to be true to his faith or true to his God or true to his beliefs has to outwardly wear during duty hours headgear; even though it might be unobtrusive.

For that reason, Mr. Chairman, I am very sorry to have to look as though I am anti-Semitic, anti-Indian or anti-anything, because I do not advocate the wearing, while wearing a military uniform, of a religious headgear.

I really do not think it is in order for the Congress of the United States to write into law permission for members of its armed services to wear religious headgear while on active duty.

For that reason, Mr. Chairman, I am opposed to the amendment and I urge my colleagues to vote against it.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me refer to the amendment of the gentleman from New York (Mr. SOLARZ) because he and I have had some conversations about this issue and he and I have talked extensively about the amendment that he has drafted here.

And I think that it is probably a very good idea to do this at this time; not that I think this is exactly the way we will resolve the issue, but the whole issue of garments to be worn by various people practicing various religious faiths; the whole issue of various foods that people can eat from various religious faiths, the whole issue of different working conditions and working days because of various practicing religions is something that we need to go into, I think, in more detail in the subcommittee and in the Armed Services Committee.

And I think that this amendment brings us to face this issue. I think that the amendment as it is drafted will indeed be of help in prodding us and the Department to seriously look at this issue. I intend to take the issue up because it clearly involves more than just the Jewish faith; it involves more than just yarmulkes and headgear; it is an issue on which we really ought to be, as a Congress, and the Department of Defense ought to be as a Department; looking into this issue in some detail because it has arisen in more than just this instance and my guess is it is going to rise in other instances.

The interesting thing about this is that the military departments have, at this time, no uniform policy about this. It is kind of an ad hoc business and it depends upon the whim of the commander, it depends upon circumstances and really we need some overall policy and we need to look at it, we need to hold some hearings, we need to get involved in the issue a little bit and try and prod the Department to get some policies.

I think the amendment is a good amendment to help us do that.

Let me first yield to the gentleman from New York, and then the gentleman from South Carolina.

Mr. GILMAN. I thank the gentleman for yielding. Mr. Chairman, I rise in support of the amendment proposed by my colleague from New York (Mr. SOLARZ). I commend him for fashioning an appropriate response to this problem, and thank both the chairman of the subcommittee, the gentleman from Wisconsin (Mr. ASPIN), and the ranking minority member of the full committee, the gentleman from Alabama (Mr. DICKINSON), for agreeing to accept this amendment. This particular situation is not unique to orthodox Jewish members of the Armed Forces, and this amendment has underscored the need to address an appropriate way for us to recognize the religious needs of those who loyally serve our Nation. I urge my colleagues to adopt this amendment, which would be effective for a 1-year period. In the interim, the Armed Services Committee will be able to conduct appropriate hearings on this matter so that legislation can be drafted which will address this issue in the comprehensive and detailed manner it deserves. Religious freedom is one of the basic tenets of our Government, and although military requirements need to be enforced, the two can coexist harmoniously. By adopting the Solarz amendment as an interim response, and by looking ahead to hearings and an eventual legislative remedy, we can enable those orthodox Jewish members of the armed services to wear an unobtrusive skullcap when they are otherwise not wearing any headgear.

Accordingly, Mr. Chairman, I support this approach, and urge my colleages to adopt this modest amendment.

Mr. ASPIN. I yield to the gentleman.

Mr. HARTNETT. I thank my chairman for yielding.

Mr. Chairman, I would just ask you a couple of questions and I would yield for you to answer, please, if you might. I think it is an issue and I commend the gentleman from New York again for being considerate about it, I mean that sincerely.

But I will ask you this and then one more question: Would this not be an issue, though, that perhaps the chiefs of staff, the Joint Chiefs together, might not resolve? Then the other question that I would ask you is I see somewhat of a similarity here and I ask the gentleman from Wisconsin if he does not, just the other day this Congress was asked by the American people to grant equal access to our schools.

□ 1720

I see a great similarity here. The fear of this Congress in granting equal access to our schools was not that we wanted to deny anyone the use of the schools for good purposes, but what it might expand into.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(At the request of Mr. HARTNETT and by unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

Mr. HARTNETT. Is there not a similarity between opening this door and that of refusing to grant equal access to our schools? That would be my question.

Mr. ASPIN. I would say I believe the gentleman has a good point on both counts. And not that I think that this is going to be the final answer. I think we are going to have to consult with the Joint Chiefs and with the Departments in forming the regulations here. We obviously are going to have to think through the implications of this for other parts and the whole issue of religion. But I think that this amendment is a good amendment in the sense that it will prod the kind of action that I think the gentleman and I both want to see and the kind of action take place.

Mr. HARTNETT. I thank the gentleman.

Mr. ASPIN. Mr. Chairman, I would like to commend the gentleman from New York (Mr. SOLARZ) for bringing this issue to our attention. It has been an issue that has been around the edges for a long time. We have never really dealt with it. The gentleman's amendment calls our attention to this issue.

I think it is a good amendment. We ought to pass the amendment and proceed from there.

I commend the work of the gentleman from New York on this amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in discussing this amendment previously, I first said that I would not agree to it and then later, in discussing it with the gentleman from New York (Mr. SOLARZ) and with the gentleman from Wisconsin (Mr. ASPIN), said that since he had limited it to the yarmulke, very narrow in scope, since it will be for a trial of 1 year, that I would not fight it.

I think in all fairness, though, that the House needs to know some of the things that are involved, because if this is decided on, if this is enacted into law for the coming year, for the first time, that I am aware of, we will start prescribing by law what will be the uniform of the services.

Now the services normally do this, what is and what is not allowable.

We want to set the precedent here of the Congress saying what may and may not be worn.

Second, then you get into areas of interpretation, what is unobtrusive, what would not interfere with the duties as is set out here. In this one instance I think it is pretty clear. If you want to apply the same standards though to other religious orders—clearly, a saffron robe being worn on active duty would be an interference with a person's ability to perform.

So what I am saying is this has been narrowed in scope to apply only to a skull cap. It gives me trouble. I might say that the military has just gone through the entire appellate procedure where there was an actual case and the appellate court ruled unanimously that there were no religious or constitutional or legal rights violated in the denying of the right to wear the yarmulke. That is what prompted this.

So we are flying in the face of a court decision just made. We are trying to offset it by legislation here. We are setting a precedent in setting uniforms. But it is for a 1-year basis.

I just wanted everybody to understand what it is we are doing and why our chairman has agreed to accept it.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, I appreciate the comments of the gentleman from Alabama.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The question was taken and on a division (demanded by Mr. SOLARZ) there were—ayes 39, noes 24.

So the amendment was agreed to.

● Mr. FRENZEL. Mr. Chairman, I oppose the Defense authorizations bill for fiscal year 1985.

My objection to the bill is its high cost. Although it is impossible to compare the authorizations bill exactly with the appropriations bill, the committee tells us this bill calls for a 9.5-percent increase in defense spending over last year's level. That is a 6-percent increase in afterinflation terms. The budget resolution passed by the House calls for a 3.5-percent real increase.

The sort of increase contemplated by this bill is unacceptable to me. We ought to be serious about deficit reduction. Absent a demonstrated emergency, no agency or function should be given the large increase sought in this bill.

My judgment is that our defense needs can be accommodated with a lower rate of spending. In the last 3 years, defense spending has increased 17.6 percent, 12.3 percent, and 12.9 percent. That equals a 49-percent compounded increase over 3 years. The spending base has been raised so high in the past 3 years that defense is beginning to look like a "Great Society" spending program. Responsible modifications can be made to our defense spending baseline without crippling our Armed Forces or our national security.

I would have preferred that the committee, with its expertise on defense issues, had made the necessary savings. It knows the territory better than I. But it did not. Therefore I had to support several amendments in order to reduce spending to an appropriate level.

I voted for an amendment to prohibit production of the Sergeant York air defense gun pending successful test results. This is a project that has faced substantial technical problems. Although the amendment would not result in a particular dollar savings, I feel we must require that weapons work before we commit ourselves to a major investment in them. If the Sergeant York does not work, we should cancel it.

I voted for an amendment to delete funds for the B-1 strategic bomber. The current cost estimate for the B-1 is over $40 billion. The price tag will almost certainly increase. I do not feel we can afford to modernize all three legs of our nuclear triad simultaneously. Moreover, the development of accurate and long-range cruise missile technology makes a manned bomber questionable.

I voted for an amendment to reduce the procurement portion of the bill to a 3½-percent growth rate. Our huge increases in defense spending in the past 3 years has been driven mostly by new purchases, not new or expanded activities. We are trying to buy too much. The amendment is harsh. I would prefer not to vote for it. But I don't know any other way to enforce discipline.

I voted for two other amendments, both of which will reduce spending somewhat, but which I support for other reasons as well. The first was an amendment by Representatives BETHUNE, PORTER, and FASCELL which deleted all funds for nerve gas. My judgment is that new nerve gas weapons are unnecessary at this time, moreover, striking funds for nerve gas will result in $95 million in savings.

The second amendment, with some variations, was offered by Representatives BROWN and COUGHLIN to prohibit the testing of antisatellite [ASAT] weapons against objects in space, unless the President certifies that the Soviet Union has resumed ASAT testing. I was a cosponsor of the amendment when it was introduced in bill form. ASAT's, in my judgment, are potentially destabilizing weapons. The Scowcroft Commission, the Congres-

sional Office of Technology Assessment, and others have indicated that research and development should continue, but engineering development and testing should be approached with caution. The amendment provides that element of caution, while allowing the President sufficient flexibility when needed.

Several other amendments were offered to the bill. Although they would reduce spending, I felt that they were ill-advised.

Perhaps the most important amendments to the bill were the series of amendments to delete funding for the MX missile. Because of the complex parliamentary situation, we first voted on whether to delete funds altogether for the missile. I voted against that amendment, which failed 212 to 218. We then voted on a Price amendment which reduced the number of missiles from 30 to 15, prohibiting the release of funds until April 1, and then only if the Soviet Union refuses to return to arms talks. I voted for that amendment, which passed 229 to 199.

Mr. Chairman, I am very concerned about our huge deficits, and the need to reduce defense spending as a key portion of a deficit reduction plan. MX is an attractive, and for me tempting, target for defense savings.

However, I am even more concerned about our current impasse at INF and START nuclear arms talks. The Soviets first refused to continue the INF talks, in response to U.S. deployment of Pershing II missiles. In order to further express their displeasure, the Soviets also quit the START talks. Finally, they put the frosting on the cake by quitting the Olympics. Obviously they are not in a negotiating mood.

I do not believe that canceling MX is an appropriate response to the Soviet walk-out. Unilateral termination, now, becomes almost a prize for Russian deportment I consider unacceptable. I feel that the Price amendment was a constructive alternative. It allows us to monitor arms negotiations for a year. Should talks begin again, we will reexamine MX. In the meantime, MX is on hold. That is a responsible, constructive alternative which deserves our support.

I also voted against an amendment to suspend the deployment of Pershing II missiles in Europe. The same amendment was offered to last year's Defense appropriations bill, and failed badly. It failed badly again this year.

I understand the importance of the Pershing II deployments in Europe. Several of my colleagues and I will soon write the President, suggesting that he propose withdrawal of Pershing II in return for a commensurate reduction of SS-20 missiles.

A unilateral withdrawal or moratorium, though, would be a mistake. The United States and NATO made a decision 5 years ago to enter a dual track of negotiations and deployment. The Soviets have made Pershing II a test for U.S.-NATO resolve, and are doing their best to use the missiles to divide the Alliance.

Since the No. 1 priority of the USSR is to divide the Alliance, we should not help them. Deployments should continue on schedule, and the U.S. and NATO should seek new avenues to resume talks.

Mr. Chairman, I am also opposed to title VII of the bill, which creates a new G.I. educational program. In the years following World War II, Korea, and Vietnam, the G.I. bill made sense. Large numbers of servicemen were returning to civilian life. Educational benefits helped avert a flooding of the job market, and helped ease the transition between war and peacetime.

This new entitlement is a mistake. First, a generous educational program is already in existence, in which the Government matches the contributions of a member of the armed service $2 for every $1 contribution. Educational benefits for veterans are not a right. We grant them as additional benefits of military service. My judgment is that they are already quite generous.

Supporters of the provision tell us it is necessary for recruitment and retention. Currently, recruitment is not a problem. Quantity and quality are at high levels. If some service faces recruitment difficulties, we should first look to pay increases.

This provision will not aid retention. I believe that it will hurt it. The benefits under this new program maximize after 3 years. Those interested in pursuing an education have no reason to stay in the services. The benefits actually provide a splendid incentive for military personnel to leave the service.

Mr. Chairman, we made a mistake creating a generous military pension system with early vesting. The result of that program has been to push experienced, capable people out of the services at the peaks of their effectiveness. Our pension system desperately needs reform. We should not compound that mistake by adding a new educational program. Advocates of educational benefits need look no further than the military pension system to learn what the benefit will do for recruitment and retention.

Mr. Chairman, I am dissatisfied with this bill. It is too expensive, and the amendments adopted did not make sufficient reductions. More restraint will be necessary on the appropriations bill. I will vote against this authorization, and will vote against the appropriations as well unless it is brought under a reasonable limit.●

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker, having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5167) to authorize appropriations for fiscal year 1985 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following title:

H.R. 2174. An act to amend title 18 of the United States Code to prohibit certain tampering with consumer products, and for other purposes; and

H.R. 5692. An act to provide for a temporary increase in the public debt limit, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5692) entitled "an act to provide for a temporary increase in the public debt limit, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. LONG, and Mr. MATSUNAGA to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1999. An act to provide for the statutory designation of the position of Assistant Secretary of the Interior for Indian Affairs, eliminate the position of Commissioner of Indian Affairs, make conforming amendments, repeal unnecessary provisions of law referring to the Commissioner of Indian Affairs, and for other purposes;

S. 2000. An act to allow variable interest rates for Indian funds held in trust by the United States;

S. 2300. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize multiyear contracts in certain cases; and

S. 2371. An act to provide for the distribution within the United States of the U.S. Information Agency film entitled "Peace, Friendship and Freedom."

PUBLIC DEBT LIMIT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5692) to provide for a temporary increase in the public debt limit, and for

other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out lines 3 to 8, inclusive, and insert:

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Effective upon enactment, the applicable public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be permanently increased by $30,000,000,000.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. CONABLE. Reserving the right to object, Mr. Speaker, it is my understanding that this has been passed by the Senate, it is sent back to us with the same figure in it that we had before. The effect of what they have done, then, is only to drop out the date. But my understanding is that the figure will control the date to a very significant amount.

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. CONABLE. We picked June 22, only because it is the middle of the period of time when we would pierce the debt ceiling. For that reason, Mr. Speaker, it is my conclusion, anyway, that the change is a technical change only and that the House would do well to accept the change and send it to the President forthwith.

For that reason, Mr. Speaker, I do not intend to object, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5376

Mr. DORGAN. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Pennsylvania (Mr. COYNE) be removed from the list of cosponsors of H.R. 5376.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota?

There was no objection

FEDERAL ANTITAMPERING ACT

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2174) to amend title 18 of the United States Code to prohibit certain tampering with consumer products, and for other purposes, with the Senate amendments thereto, and to consider a motion in the House to concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That (a) section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(c) Section 406 of such Act is amended by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984"; and

(2) striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

SEC. 2. The term of office of any bankruptcy judge who was serving on May 25, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on June 20, 1984.

SEC. 3. (a) Section 8339 (n) of title 5, United States Code, is amended by striking out "May 26, 1984" and inserting in lieu thereof "June 21, 1984".

(b) Section 8331 (22) of title 5, United States Code is amended by striking out "May 25, 1984" and inserting in lieu thereof "June 20, 1984".

Amend the title so as to read: "An Act to extend the transition period under the Bankruptcy Reform Act of 1978.".

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so simply to inquire of the gentleman from New Jersey as to whether or not this motion is for consideration only. Is that my understanding?

Mr. RODINO. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. WALKER. And there would be time, then, for debate in the House and a potential for voting on the measure in the House; is that correct?

Mr. RODINO. That is correct, in the House.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MOTION OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I move to concur in the Senate amendments to the text and title of H.R. 2174.

The SPEAKER. The gentleman from New Jersey (Mr. RODINO) is recognized for 1 hour.

Mr. RODINO. Mr. Speaker, I merely want to state that this is a simple extension to June 20 of the bankruptcy court system that has been before this House twice before. We have had the previous extensions because of the inability of the other body to be able to come to a resolution of the problem of bankruptcy.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I would hope that the gentleman would also further yield to the gentleman from Pennsylvania (Mr. WALKER) under our understanding that there would be an opportunity to debate.

Mr. RODINO. If the gentleman wishes me to yield, I will be glad to yield.

Mr. FISH. I thank the gentleman.

Mr. Speaker, I think one of the things we ought to emphasize is the date of midnight, June 20.

Mr. RODINO. That is correct.

Mr. FISH. We have already been down this road two times, and I think Members should be advised that this extension might be very difficult as well.

Mr. Speaker, I regret very much having to rise in support of this extension at this time, but it is the only responsible thing to do. We have really no other choice, in view of the lack of a resolution of the House bill by the other body.

I urge the support of this extension, otherwise at midnight tomorrow night the entire bankruptcy apparatus of the United States will go out of business.

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Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding, and I appreciate his yielding me a few moments.

I intend to vote no on the resolution. I do so not because it may not be what we have to do, but it seems to me that consistently plunging the Nation from constitutional crisis to constitutional crisis is no way to legislate. Whether the fault rests partially or whether it rests with the other body, we have gotten ourselves into a situation where that is precisely what we are doing.

Month after month we are going from one constitutional crisis to the other. It seems to me that that should be halted. We need to get this matter resolved and get a bill passed so that we are not consistently holding the bankruptcy courts hostage to a very, very poor process.

Mr. RODINO. I agree thoroughly with the gentleman. We have been waiting for the other body to act.

Mr. WALKER. If the gentleman will yield, we waited around a year and a half to get something done in this body, too, so I thank the gentleman.

Mr. LUNGREN. Mr. Speaker, will my chairman yield?

Mr. RODINO. I yield to the gentleman.

Mr. LUNGREN. I would just like to make an inquiry of the chairman as to whether it is his position that this ought to be the last extension that we have so that we send a message both to ourselves, those of us in this body, and the other body that we do not intend to go through this procedure when we come back here 3 weeks hence.

Mr. RODINO. Unfortunately I must say that if the other body fails to act within a reasonable period of time, that I would not want to see the whole Bankrupcty Court system come to an end.

I think we would have to be reasonable. I am sure that the other body, however, at this time, understands that it should act within the period.

Mr. LUNGREN. If the chairman would yield further, I just want to inform the chairman that those of us who have been arguing for a long period of time, both in this body and since it left this body, that we ought to move expeditiously on this. We will take the position next time around to work very vigorously against any further extension.

I just hope everyone is on notice, both in this body and the other, that that may mean all-night sessions or whatever it is that is required because we cannot continue to use the crisis that the Bankruptcy Courts are going to go into some sort of disarray when in fact the Supreme Court ruled that back in 1982. It is an institutional problem that we have not been able to deal with here, and let us just hope we will not do it, but it is the intention of this gentleman and other gentlemen on this side of the aisle next time to fight very vigorously such a request for an extention.

Mr. RODINO. I would just hope, however, that the gentleman would try to impress that upon the Members of the other body, because, very frankly, as the gentleman knows, this Member, along with other members of the Committee on the Judiciary is anxious to act and resolve the problem. I have been waiting for some time. If there had been a disposition in the other body even to go to conference, I would be willing to sit down immediately and do something.

Mr. LUNGREN. If the chairman would yield further, I hope that my persuasive powers will be more successful with the other body than I was with the gentleman as we waited for 13 months after we passed it out of our committee before we ever got it here.

But I will try to use my persuasive powers in that regard.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentlewoman.

Ms. FIEDLER. I wonder if you could tell us what the implications are for the continuation or the resolution of the problems as it resulted with the labor debate, and bankruptcy.

Did the Senate resolve those issues, or are they still being contested?

Mr. RODINO. No, the issue has not yet been resolved.

Ms. FIEDLER. When does the gentleman anticipate that we will be hearing from the Senate?

Mr. RODINO. I suppose that the reason the other body requested the extension is that they are going to be able to resolve that issue within that period of time.

I have been informed, frankly, that they had pretty well reached a resolution. There were some impediments, though, that they had to overcome.

Ms. FIEDLER. If I might just express my concern about the possibility of not having the opportunity for some measure of retroactivity because one of the cases I am particularly interested in is the Continental issue. In the event that we extend this at this time, another few weeks, they are going to end up having gone through litigation, and the impact of this legislation will be moot on that particular case.

Mr. RODINO. I appreciate the gentlewoman's concern in that area, but we will have to wait until the resolution of the problem in the other body.

Ms. FIEDLER. I appreciate the gentleman's response, and I think that I am going to vote no on this piece of legislation, on this particular action, because I think that it will have a negative impact on that particular bankruptcy, and therefore, I would urge my colleagues to do the same.

● Mr. FRENZEL. Mr. Speaker, it is my strong inclination to vote against this extension merely to protest the inept handling of the entire bankruptcy issue by this Congress and especially by the leadership here in the House of Representatives. Because we have no choice but to pass this legislation, I suppose that I will have to suppress my outrage and vote for the bill. Unfortunately, in passing this bill we will only take pressure off the need to come to a final solution on this matter.

The Judiciary Committee, under the leadership of its distinguished chairman, has made us all look bad by its handling of this issue. Through our collective irresponsibility, we have allowed the bankruptcy courts to exist in a state of limbo since the Marathan decision was made almost 3 years ago.

All that was prior to this February, when another Supreme Court decision was announced. Suddenly, as a result of Bildisco, the chairman decided to open up the Court issue to other bankruptcy issues, including, of course, his labor provisions bill reversing the Bildisco decision. As a "compromise" he allowed the Synar bankruptcy reform bill, supported by 231 Members, to be added to the package as well. Even though bill had followed the normal House procedure, and neither had been subject to any committee revision, the Rules Committee tacked both on to the judges bill, and protected it with a closed rule. The rest of us were told we could either accept the two proposals as written, or oppose the entire bill and throw the bankruptcy courts into chaos.

The Senate, it seems, was not as willing to overturn a unanimous High Court decision so quickly. Another snag resulted. Facing a March 31 expiration date in the bankruptcy courts, Congress passed a 30-day extension, buying time to allow a decision on the labor issue. Unable to work out a compromise, we passed another 30-day provision. Still, I am told, there is no solution, and we must extend the interim rule once again.

Most of the time, we are criticized for our actions here in Congress. This time, we are justifiably criticized for our inability to act at all. A decision on the Marathan issue should have been made before an interim rule was needed, and certainly long before the Bildisco ruling was around to further complicate this issue. Hopefully, a final decision is forthcoming and hopefully this will be the last time Congress will sidestep its responsibilities on this matter.

In the meantime, I can only express my frustration and disappointment over the recalcitrance of our once great Judiciary Committee.●

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that the only other legislation that we will go forward with will be the adjournment resolution. As the Members know, we will adjourn until Wednesday next.

On Wednesday, Thursday, and Friday of next week, there will be a full legislative session. There will be the continuation of the Defense Authorization Act; and there will be the HUD appropriations bill and the State Justice appropriations bill.

So the Members can well be informed that there will be rollcalls on Wednesday when we return. The Members have Tuesday for a travel day.

The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO).

The question was taken; and the speaker announced that the ayes appeared to have it.

Mr. FISH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, Nays 27, not voting, 57, as follows:

[ROLL NO. 184]

YEAS—349

Ackerman	Dwyer	Kemp
Akaka	Dymally	Kennelly
Albosta	Dyson	Kildee
Alexander	Early	Kleczka
Andrews (NC)	Eckart	Kogovsek
Andrews (TX)	Edgar	Kolter
Annunzio	Edwards (AL)	Kostmayer
Anthony	Edwards (CA)	Kramer
Applegate	Edwards (OK)	Lantos
Archer	Emerson	Latta
Aspin	English	Leach
AuCoin	Erdreich	Leath
Badham	Erlenborn	Lehman (CA)
Barnard	Evans (IL)	Leland
Barnes	Fascell	Lent
Bartlett	Fazio	Levin
Bateman	Feighan	Levine
Bates	Ferraro	Levitas
Bedell	Fields	Lewis (FL)
Bennett	Fish	Lipinski
Bereuter	Flippo	Lloyd
Berman	Florio	Loeffler
Bethune	Foglietta	Long (LA)
Bevill	Foley	Long (MD)
Biaggi	Ford (MI)	Lott
Bilirakis	Ford (TN)	Lowery (CA)
Bliley	Fowler	Lowry (WA)
Boehlert	Frank	Lujan
Boggs	Franklin	Luken
Bonior	Frenzel	Lundine
Bonker	Frost	MacKay
Borski	Fuqua	Markey
Boxer	Gaydos	Martin (IL)
Breaux	Gejdenson	Martin (NY)
Britt	Gekas	Martinez
Broomfield	Gephardt	Matsui
Brown (CA)	Gilman	Mavroules
Bryant	Glickman	Mazzoli
Burton (IN)	Gonzalez	McCain
Byron	Goodling	McCloskey
Campbell	Gore	McCurdy
Carney	Gray	McDade
Carper	Green	McEwen
Carr	Gregg	McHugh
Chandler	Guarini	McKernan
Chappell	Gunderson	McKinney
Chappie	Hall (IN)	Mica
Cheney	Hall (OH)	Michel
Clarke	Hall, Ralph	Mikulski
Clay	Hall, Sam	Miller (OH)
Clinger	Hamilton	Mineta
Coats	Hammerschmidt	Mitchell
Coelho	Hansen (UT)	Moakley
Coleman (MO)	Harrison	Molinari
Coleman (TX)	Hawkins	Mollohan
Collins	Hayes	Montgomery
Conte	Hefner	Moody
Conyers	Hertel	Moore
Cooper	Hightower	Moorhead
Corcoran	Hiler	Morrison (WA)
Coughlin	Hillis	Mrazek
Courter	Holt	Murphy
Coyne	Hopkins	Murtha
Crane, Philip	Horton	Natcher
Crockett	Howard	Neal
Daniel	Hoyer	Nelson
Darden	Hubbard	Nichols
Daschle	Huckaby	Nielson
Daub	Hughes	Nowak
Davis	Hunter	Oberstar
Dellums	Hutto	Obey
Derrick	Hyde	Olin
DeWine	Ireland	Ortiz
Dickinson	Jacobs	Ottinger
Dicks	Jeffords	Owens
Dingell	Jenkins	Oxley
Dixon	Johnson	Packard
Donnelly	Jones (NC)	Panetta
Dorgan	Jones (OK)	Parris
Dowdy	Jones (TN)	Pashayan
Downey	Kaptur	Patman
Duncan	Kasich	Patterson
Durbin	Kastenmeier	Pease
Penny	Shelby	Torres
Pepper	Shuster	Torricelli
Perkins	Sikorski	Towns
Pickle	Siljander	Udall
Price	Sisisky	Valentine
Pritchard	Skeen	Vandergriff
Pursell	Skelton	Vento
Rangel	Slattery	Volkmer
Ratchford	Smith (FL)	Walgren
Ray	Smith (IA)	Waxman
Regula	Smith (NE)	Weiss
Reid	Smith (NJ)	Wheat
Richardson	Smith, Denny	Whitley
Rinaldo	Smith, Robert	Whittaker
Ritter	Snowe	Whitten
Robinson	Snyder	Williams (MT)
Rodino	Solarz	Wilson
Roe	Spence	Winn
Roemer	Spratt	Wirth
Rostenkowski	St Germain	Wise
Roth	Staggers	Wolf
Rowland	Stangeland	Wolpe
Rudd	Stenholm	Wortley
Russo	Stokes	Wright
Sabo	Stratton	Wyden
Savage	Stump	Wylie
Scheuer	Sundquist	Yates
Schneider	Swift	Yatron
Schroeder	Synar	Young (AK)
Schulze	Tallon	Young (FL)
Schumer	Tauke	Young (MO)
Seiberling	Tauzin	Zschau
Sharp	Taylor	
Shaw	Thomas (GA)	

NAYS—27

Anderson	Gingrich	Paul
Brown (CO)	Gradison	Petri
Conable	Kindness	Ridge
Craig	Lagomarsino	Schaefer
Crane, Daniel	Lungren	Shumway
Dannemeyer	Mack	Solomon
Dreier	Marlenee	Vucanovich
Evans (IA)	McCandless	Walker
Fiedler	McGrath	Weber

NOT VOTING—57

Addabbo	Heftel	Rahall
Beilenson	Kazen	Roberts
Boland	LaFalce	Rogers
Boner	Lehman (FL)	Rose
Bosco	Lewis (CA)	Roukema
Boucher	Livingston	Roybal
Brooks	Madigan	Sawyer
Broyhill	Marriott	Sensenbrenner
Burton (CA)	Martin (NC)	Shannon
D'Amours	McCollum	Simon
de la Garza	McNulty	Stark
Garcia	Miller (CA)	Studds
Gibbons	Minish	Thomas (CA)
Gramm	Morrison (CT)	Traxler
Hance	Myers	Vander Jagt
Hansen (ID)	O'Brien	Watkins
Harkin	Oakar	Weaver
Hartnett	Porter	Whitehurst
Hatcher	Quillen	Williams (OH)

□ 1800

Mr. DANNEMEYER changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 953

Mr. KEMP. Mr. Speaker, I ask unanimous consent, since I am a cosponsor of H.R. 3796, that my name be removed as a cosponsor of H.R. 953.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE SCHEDULE

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have asked for this time for the purpose of receiving the legislative schedule for the balance of the week and for the week following the Memorial Day recess.

For that purpose, I would be glad to yield to the majority leader.

Mr. WRIGHT. I thank the distinguished acting minority leader for yielding.

Except for the enactment of an adjournment resolution, which I shall offer very shortly, that concludes the legislative business for today and for this week.

When we adjourn, we will adjourn to meet on Wednesday at noon.

On Monday and Tuesday, we will not be in session in observance of Memorial Day.

On Wednesday, coming into session at noon, we will return to the Defense Department authorization bill. It will be our purpose to complete that bill on Wednesday.

On Thursday, we will meet at 10 o'clock in the morning and if necessary also on Friday.

The remaining business for next week, Thursday and Friday, if necessary, will be the HUD appropriation bill and the State, Justice, Commerce, and Judiciary appropriations bill. If we can complete both of those bills on Thursday, then we will not be in session on Friday.

Conference reports, of course, may be brought up at any time and any further program will be announced later.

Mr. LOTT. I thank the gentleman.

I would like to ask just a couple questions and emphasize one point. We will come in, as I understand from the gentleman's remarks, at 12 o'clock on Wednesday and then 10 o'clock on Thursday.

Mr. WRIGHT. Ten o'clock on Thursday, and Friday if necessary. If we have to be in session on Friday, we will adjourn by 3 o'clock.

Mr. LOTT. I know that in the Rules Committee today we did report out a rule on that HUD appropriations bill for fiscal year 1985. I presume obviously we would take that rule up immediately prior to the bill.

Mr. WRIGHT. Yes; that would absolutely be our purpose.

Mr. LOTT. On the Department of Defense authorization bill, it says on the tentative schedule here, and I believe the gentleman said, that we would attempt to complete consideration on Wednesday of that week. Is that correct?

Mr. WRIGHT. It surely is. As the gentleman knows, we have consumed quite a considerable amount of time

already on the bill and we hope we can conclude it by the end of business Wednesday.

Mr. LOTT. Certainly I would agree with that. I would hope that we could conclude it that day, but I do know also that we have about five or six titles left in that bill, so we may have our work cut out for us, but an effort will be made to complete it that day.

Mr. WRIGHT. Let us hope so.

Mr. LOTT. Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, last week the gentleman from Pennsylvania inquired on the status of the equal access bill and the majority leader noted that no one was seeking a rule on that yet.

It is my understanding that the committee is now seeking a rule on the equal access bill. I wonder if the majority leader could tell us if the majority has any further plans or more specific plans for the scheduling of that bill.

Mr. WRIGHT. I think the gentleman is correct. It is my understanding that a request has been made to the Rules Committee for a rule. I am not aware of any disposition of that request at this time. I do not know whether it has been brought up in the Rules Committee yet or not.

Mr. LOTT. If I might comment on that, Mr. Speaker, it has not been brought up in the Rules Committee as yet, although as I understand there was a caucus of the Democratic Members to discuss that issue. I assure you that we will be pressing the Rules Committee for action on that equal access legislation. Certainly I think it is very important legislation. The chairman of the Committee on Education and Labor is very actively seeking a rule from the Rules Committee and we are hopeful that there will be an early meeting and we will be pursuing that and raising that question on the floor.

Mr. WEBER. Mr. Speaker, I thank the gentleman for yielding.

Mr. LOTT. Mr. Speaker, I have no further questions.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, MAY 30, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, May 30, 1984, may be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LUNGREN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS, AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ANY ADJOURNMENT OF THE HOUSE UNTIL WEDNESDAY, MAY 30, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, May 30, 1984, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM MAY 24 TO MAY 30, 1984, AND ADJOURNMENT OF THE SENATE FROM MAY 24, MAY 25 OR MAY 26, 1984, TO MAY 31, 1984

Mr. WRIGHT. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 313) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 313

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 24, 1984, it stand adjourned until 12 o'clock meridian on Wednesday, May 30, 1984. And that when the Senate adjourns on Thursday, May 24, 1984, or on Friday, May 25, 1984, or on Saturday, May 26, 1984, pursuant to a motion made by the majority leader in accordance with this resolution, it stand adjourned until 11 o'clock ante meridiem on Thursday, May 31, 1984.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1810

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORT ON H.R. 3282, WATER QUALITY RENEWAL ACT OF 1984

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Friday, May 25, 1984, to file a report on H.R. 3282, the Water Quality Renewal Act of 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5713, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1985

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-806), on the resolution (H. Res. 511) waiving certain points of order against consideration of the bill (H.R. 5713) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANOTHER LETTER TO COMMANDANTE ORTEGA

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and insert extraneous matter.)

Mr. OBEY. Mr. Speaker, last night Mr. GINGRICH demanded to know in his best Warty Bliggens style whether those of us who had sent a letter to Commandante Ortega had in fact received a reply.

The answer is yes, we have. It should not be surprising, I suppose, that the letter we received in reply was unsatisfactory. I would like to insert that letter in the RECORD.

In return I would also like the gentleman from Georgia to know that I have sent the commandante another letter urging him again to follow a policy of full and open elections and asking for the same dialog asked for by the Nicaraguan bishops.

I do not know if Mr. GINGRICH has yet received a response from Mr. Andropov to the letter which he sent to the biggest dictator of them all and I understand that Mr. GINGRICH does not like the fact that we have sent letters to Commandante Ortega. He may not like the fact that I have sent another letter to Commandante Ortega, but in the immortal words of Rhett Butler, "Frankly, Newt, I don't give a damn."

The letter follows:

APRIL 12, 1984.

HONORABLE CONGRESSMEN: In moments in which the current Central America crisis grows more acute, I direct myself to you in response to your letter of March 20, and I take this opportunity to pass on to you some of the opinions of the Government of Nicaragua regarding the latest events related to the Central America region and Nicaragua in particular.

With profound concern, we have witnessed in recent weeks a dangerous escalation of the Reagan Administration's unde-

clared war against Nicaragua. This escalation has taken the form of terrorist attacks against economic and military installations, using planes, helicopters and speedboats, in a virtual air and sea war that has even included the placing of mines in our principal Atlantic and Pacific ports.

The Reagan Administration's illegal, undeclared war against Nicaragua has been escalated to unprecedented levels. In recent weeks more than 8,000 mercenaries recruited, armed, financed and directed by the CIA have invaded Nicaragua from their base camps in Costa Rica and Honduras. More that 300 of my compatriots have been murdered and more than 350 wounded as a result of this most recent invasion. This in addition to the more that 1,400 wounded since the beginning of President Reagan's covert war against Nicaragua in 1981, through March 31, 1984.

In the last two weeks reports have revealed that President Reagan himself authorized and directed the mining of the Nicaraguan ports of Corinto, Puerto Sandino, and El Bluff, and that this operation was carried out by U.S. forces. Several foreign commercial ships as well as Nicaraguan ships have been damaged by these mines, and many other ships have refused to enter our ports out of fear of the mines. In addition to the mines, heavily armed U.S. speedboats have attacked installations at Corinto, machine-gunning foreign and national boats.

It was also recently revealed that U.S. forces were directly responsible for the naval attack carried out October 10th, 1983, against the fuel storage tanks in the port of Corinto. This attack, in which five tanks were destroyed and 1.6 million gallons of fuel were lost, necessitated the evacuation of more than 20,000 residents of Corinto.

As you are well aware, the Government of the United States is carrying out an unprecedented escalation of its military presence in the region, sending thousands of soldiers to Honduras, which are in addition to the 1,700 troops that have been left behind as a remnant of the "Big Pine II" maneuvers; deploying warships and aircraft carriers; and blatantly increasing its espionage flights. Particularly worrisome is the escalated presence in the last two months of U.S. troops in Central America, which introduces a very grave factor affecting not only the Contadora process and regional peace, but also, if this tendency continues, the security of Latin American countries adjacent to the Central American region.

Despite the fact that Nicaragua is in the middle of an immoral and illegal war imposed on us by the greatest military and economic power of this planet, we have moved forward in our efforts to establish a truly democratic system based on effective popular participation.

Without a doubt, the formulation of an electoral law and the call for November 1984 elections constitutes an unprecedented step forward in the process of democratization of our country.

Even those Nicaraguans who have risen up in arms against the government and have participated in counterrevolutionary activities will be allowed to participate in the electoral process, and can even be candidates. The government has decreed an amnesty for those counterrevolutionaries. The only thing they have to do is lay down their arms and obey the country's laws, like any other Nicaraguan citizen. To this date, more than 1,000 of them have taken avail of the amnesty decree, handing in their arms and reincorporating themselves into Nicaraguan society. Of the 2,000 approximately 99% are covered by this decree. The only ones not included are a small group of counterrevolutionary leaders who have cooperated with a foreign power and who serve as instruments of a policy which on repeated occasions has proclaimed its intention of destabilizing and overthrowing the Government of Nicaragua; and those against whom specific criminal charges have been filed.

On the international level Nicaragua remains firmly committed to achieving a negotiated solution to the Central American crisis.

On September 1983 Nicaragua affirmed and ratified the 21 points of the Declaration of Objectives of the Contadora Group.

In October, and once again in December, Nicaragua submitted in writing a series of complete treaty agreements, covering all 21 points, to the Contadora Group. To this date, none of the other Central American countries have submitted their treaty proposals, despite the fact that the four Contadora countries have requested these.

It is important to emphasize that the treaties proposed by Nicaragua, which my government is ready to sign and ratify immediately, include among their provisions the ousting of all military advisors from the region, and the end of all arms trafficking to groups that oppose established governments in the region. In regards to this last point, the treaties proposed by Nicaragua establish a system of on-site inspection, as well as a verification process to be administered by the four Contadora countries, who would act as guarantors of the treaties.

Unfortunately, the Reagan Administration, particularly through its policy of armed aggression against Nicaragua, has undermined the Contadora peace process. On April 9th, the four foreign ministers of the Contadora Group issued a joint communique condemning the United States for the mining of the Nicaraguan ports and the general escalation of military activities, qualifying these actions as a threat to the peace process. On April 13th, Mexican Foreign Minister Bernardo Sepulveda called for an end to all military aggression, direct and indirect, by the United States against Nicaragua.

The Reagan Administration, besides undermining Contadora, has totally blocked any possibility of serious bilateral negotiations with Nicaragua. The Administration has repeatedly rejected Nicaragua's attempts to initiate a dialogue, and the Administration has refused to discuss or even respond to the bilateral treaty agreements that Nicaragua presented last October. As you can see Messrs. Congressmen, there is no indication that the Administration is trying to put an end to its war of aggression against Nicaragua. On the contrary, the prevailing military scene in the region; the direct involvement of the Central Intelligence Agency in military activities directed against Nicaragua; the increased counterrevolutionary military escalation against the defenseless civilian population in our territory; and the request for $21 million from the U.S. Congress to continue the illegal war against Nicaragua, are sufficient to demonstrate the inflexibility of the Reagan Administration's policy of aggression. Nicaragua will continue its close cooperation with the Contadora process and is willing to enter into a serious and meaningful dialogue with the United States. The only way to avoid a holocaust in Centeral America is through negotiations.

On April 9th, Nicaragua filed a suit against the United States in the International Court of Justice in order to bring an end to the "covert war" sponsored by the United States. Nicaragua had no alternative. The Reagan Administration had rejected all diplomatic efforts aimed at resolving the most pressing problems, it had vetoed resolutions in the U.N. Security Council, it had ignored the resolutions of the General Assembly and the appeals from the Contadora countries and even its closest allies, and it had escalated the campaign of aggressions against Nicaragua to unprecedented levels, including the mining of our ports.

On filing this suit, we are defending the right of the Nicaraguan people to self-determination, and the right to live in peace, this being an indispensable condition for the reconstruction and development of our country. Beyond this objective, Nicaragua is also defending the effectiveness of the international legal order, without which there can be no peace. Those who wish to ignore this principle of law in international relations is condemning humanity to a future of suffering, death and destruction. Nicaragua is seeking a complete and open investigation of the facts in accordance with due legal process. We are confident that the Court will determine that the activities sponsored by the United States amount to a desire of force in clear violation of international law and the Charters of the Organization of American States and the United Nations.

We feel concerned that the Reagan Administration is seeking to withdraw its submission to the jurisdiction of the Court, and to impede the Court from hearing Nicaragua's complaints. This constitutes an attack not only against Nicaragua but against the entire international legal order. It reflects this Administration's lack of respect for the law. It also reflects what the speaker of the House of Representatives said in declaring the war against Nicaragua "legally indefensible" and "morally indefensible".

Nicaragua's hope is that through the consideration of this matter in the International Court of Justice those who defend the use of so-called "covert actions" in international relations can rise to good judgment and be persuaded to submit themselves to the rules of law for the well-being and future of humanity.

Sincerely,

Commandante DANIEL ORTEGA,
Coordinator of the Junta of the Government of National Reconstruction.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 16, 1984.

Commandante DANIEL ORTEGA,
Coordinador de la Junta Gobierno,
Case de Gobierno, Managua, Nicaragua.

DEAR COMMANDANTE ORTEGA: We have received your letter in response to the letter which a number of us sent to you awhile ago urging that you open the election process, which you recently announced, to all potential groups.

We appreciate your responding to the letter but we found the tone and content of that response to be not at all constructive. Those of us who signed that letter did so as an honest expression of our desire for good will between the people of America and the people of Nicaragua. Because of our signing that letter to you we have been subjected to some nasty criticism from certain members of the right-wing in this country. That criticism was similar in tone to the criticism Nicaragua's Interior Minister, Mr. Borge, directed against the Nicaraguan Bishops who

issued a similar call for dialogue. Your response to us consisted very largely of a polemic against the United States and a two paragraph dismissal of the point we made about the importance of making your election truly open to all people.

We regret the fact that you did not choose to respond to our letter in the same spirit in which we sent it to you in the first place because the Nicaraguan Bishops are right, you know. They said in their pastoral letter on reconciliation:

"The road through which social peace can be achieved necessarily leads through dialogue. All Nicaraguans inside and outside the country should participate in this dialogue, regardless of ideology, class or party position. What is more, we feel that Nicaraguans who have risen in arms against the government must participate."

As Americans, we have no more right to tell you how to run your country than you have to tell us how to run ours. But, as fellow inhabitants of the Western Hemisphere, we think we do have a right to again try to make the point that such an act as called for by the Nicaraguan Bishops would indeed be a constructive act on your part not only to help reconcile differences within your own country but more importantly, to help create the atmosphere which could lead to more constructive relations between your country and number of countries in this hemisphere including ours.

Obviously Nicaragua has only one foreign policy at a time and that is the policy you and your leadership enunciate. The United States obviously also has one policy at a time and that is the policy enunciated by the President and his official representatives. Our letter to you in no way represents any effort in negotiations because we are in no position to negotiate for our country. That is up to the President. But we do have the right as human beings to communicate with other human beings in the world in the interest of trying to encourage rational conduct which help end bloodshed and establish more civil relations.

We are sorry you did not see fit to respond to that letter in a more productive way. In the spirit of good will we would again encourage you to heed the comments of the Nicaraguan Bishops. They are correct. Forces within your country or ours who do not recognize that fact not only as they apply to Nicaragua but as they could very well apply to many areas of conflict in the world, are contributing to missed opportunities.

Sincerely yours,

DAVID R. OBEY,
MATTHEW F. MCHUGH,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 20, 1983.

President YURI V. ANDROPOV,
The Kremlin,
Moscow, RSFSR, USSR.

DEAR MR. PRESIDENT: We deplore the most recent attempt of your government to misrepresent the issue of Jewish emigration from the Soviet Union.

On June 6, the spokesman of a newly formed "Anti-Zionist Committee" asserted that Jewish family reunification "has essentially been completed," and that there are no more Soviet Jews who seek to leave. We categorically reject this assertion. We are aware of the tens of thousands of documented cases of Soviet Jews seeking repatriation or reunification with their families, and we have attached a list of hundreds of names of families of the longest-standing cases representing several thousand individuals. In addition, many of us have personally met with citizens in your country and know firsthand of many who have been denied permission for an exit visa.

We call upon the Soviet Union to adhere to all of the provisions of the Helsinki Final Act, the Universal Declaration on Human Rights, and the International Covenant on Civil and Political Rights, to which it is a signatory, and to permit Soviet Jews seeking repatriation or family reunification to be granted exit visas.

Further, we ask you to stop the crude and transparently false anti-Semitic allegations being circulated under the guise of anti-Zionism, by the Anti-Zionist Committee, and others in the USSR. We find preposterous the allegations that Jews promoted Nazism during the Second World War—an insult to the memory of the six million Jews and countless other victims of the Nazis.

We urge your immediate attention to these matters of great and growing concern to the United States Congress and the American people.

Sincerely yours,

Willis Gradison, Jr., Joe Moakley, Robert Lagomarsino, Frank Annunzio, Frank Wolf, Howard Wolfe, Mike Synar, Richard Ottinger, Richard Durbin, Paul Simon, James Oberstar, Peter Rodino, Sidney R. Yates, Mickey Leland, Tom Lantos, Benjamin Gilman, Charles Schumer, Peter Kostmayer, John McCain, Bob Carr, George O'Brien, Bernard Dwyer, John Porter, Bill Richardson.

Austin Murphy, Claudine Schneider, Timothy Wirth, Mel Levine, Major Owens, Les AuCoin, Doug Walgren, Stephen Solarz, Anthony Beilenson, Michael Andrews, Alan Mollohan, Matthew Rinaldo, Patricia Schroeder, Tom Vandergriff, Norman Sisisky, Antonio Won Pat, Frank McCloskey, Tom Corcoran, William Lehman, Edwin Forsythe, Barney Frank, F. James Sensenbrenner, Joseph Early, Ken Kramer, Parren Mitchell, Henry Hyde, Walter Fauntroy, Christopher Smith.

G. William Whitehurst, W. Henson Moore, Nancy Johnson, Daniel Crane, Jim Leach, C. Robin Britt, Connie Mack, John Kasich, Ike Skelton, James Howard, Joseph Minish, Tom Harkin, Dante Fascell, Hank Brown, Jack Kemp, Hamilton Fish, Jr., Tony Hall, Douglas Bosco, Louis Stokes, Stewart McKinney, Carl Pursell, Ralph Regula, Martin Frost, Mickey Leland, Ray Kogovsek, Fortney Stark, Dennis Hertel, Wyche Fowler.

Bill Tauzin, Mike Lowry, Mario Biaggi, Thomas Daschle, Lawrence Smith, Lynn Martin, Morris Udall, Michael Barnes, Robert Matsui, Claude Pepper, Robert Mrazek, Hal Daub, Olympia Snowe, Frederick Boucher, Ted Weiss, Tom Carper, Sam Gejdenson, Joe Kolter, Jim Cooper, Thomas Bliley, William Gray, David Obey, Bill Green, Ray Kogovsek, Joseph Addabbo, Bruce Morrison, Barbara Boxer, Frank Harrison.

Dennis Eckart, George Miller, James Shannon, Don Edwards, Matthew McHugh, William Broomfield, Edward Feighan, Tom Lewis, William Goodling, Robert Garcia, Michael Oxley, Don Young, Thomas Kindness, Ron Paul, Marjorie Holt, Barbara Mikulski, Henry Waxman, John Bryant, Michael Bilirakis, Robert Borski, David Bonior, Thomas Luken, Michael DeWine, Jim Courter, James Jeffords, Dan Mica, Marge Roukema, Pat Roberts, Timonthy Penny, Tom Loeffler.

Kent Hance, Jack Fields, Martin Sabo, Dan Daniel, Dan Glickman, Bill Lowery, Bill McCollum, Edward Markey, Bruce Vento, George Wortley, Bill Alexander, James Scheuer, Mervyn Dymally, Dale Kildee, James Weaver, Bobbi Fielder, Silvio Conte, Clarence Long, Julian Dixon, Daniel Akaka, Berkley Bedell, Nicholas Mavroules, Eldon Rudd, Pat Williams, Geraldine Ferraro, Robert Torricelli, Thomas Downey, Bob McEwen.

Glenn Anderson, Lawrence Coughlin, Guy Molinari, James McNulty, James Jones, Matthew Martinez, Lee Hamilton, Charles Wilson, Robert Michel, Robert Roe, Alfred McCandless, Andrew Jacobs, Frank Guarini, Gary Ackerman, George Brown, Bill Frenzel, Lane Evans, William Coyne, Sander Levin, Steve Bartlett, James Olin, Bill Archer, James Florio, Mary Rose Oakar, Norman Lent, William Boner, William Lipinski, Norman Mineta.

Stan Lundine, Edward Boland, Clay Shaw, John Seiberling, Dan Schaefer, Howard Berman, Jim Moody, Marty Russo, Thomas Tauke, Cardiss Collins, Harold Ford, Dan Rostenkowski, Romano Mazzoli, Newt Gingrich, William Ford, William Ratchford, Glenn English, Leon Panetta, Bob Edgar, Richard Lehman, Sam Hall, Jim Slattery, Michael Barnes, Buddy MacKay, G. V. Montgomery, Rod Chandler, William Carney, Bob Livingston.

John McKernan, William Clinger, Barbara Kennelly, Augustus Hawkins, Albert Gore, Jr., Gerry Studds, Larry McDonald, Thomas Hartnett, Dan Lungren, Ed Zschau, Larry Hopkins, Norman D'Amours, Toby Roth, Elliott Levitas, Duncan Hunter, George Gekas, Ronald Dellums, Ben Erdreich, Joseph Gaydos, J. J. Pickle, Don Ritter, Ed Bethune, Al Swift, Sala Burton, Clarence Miller, William Hughes, Jim Bates, J. Kenneth Robinson.

Raymond McGrath, Philip Sharp, Edward Madigan, Melvin Price, Solomon Ortiz, Lyle Williams, Thomas O'Neill, Mark Siljander, Douglas Applegate, Ron Packard, Ron Wyden, Gerry Sikorski, Alan Wheat, Bud Shuster, Steny Hoyer, Ronald Coleman, Gus Yatron, Thomas Foglietta, Guy Vander Jagt, William Natcher, Andy Ireland, Stan Parris, Donald Pease, Delbert Latta, Larry Winn, Jr., Richard Gephardt, Carroll Hubbard, Herbert Bateman.

Vic Fazio, Gene Chappie, Gerald Solomon, Norman Dicks, Philip Crane, Tom Bevill, Thomas Ridge, Frank Horton, Robin Tallon, Roy Rowland, John Dingell, Bill Emerson, Barbara Vucanovich, Buddy Roemer, Charles Stenholm, Robert Walker, Brian Donnelly, Bob Traxler, Harry Reid, Bill Nichols, Earl Hutto, Richard Ray, Roy Dyson, Edolphus Towns, E. Thomas Coleman, Charles Rangel, Bill Nelson, Dan Burton.

Henry Nowak, Ike Andrews, John Duncan, John Hiler, Abraham Kazen, Marilyn Lloyd, Trent Lott, Jerry Pat-

terson, Denny Smith, Richard Shelby, Esteban Torres, Vin Weber, Les Aspin, Mickey Edwards, Don Bonker, Henry Gonzalez, Cooper Evans, Jerry Huckaby, Jerry Lewis, Gillis Long, Stephen Neal, Carl Perkins, Charles Whitley, Chalmers Wylie, Baltasar Corrada, Ron Marlenee, Clement Zablocki.

Joseph McDade, Carroll Campbell, Walter Jones, Byron Dorgan, Dan Marriott, Bob Whittaker, Katie Hall, Joel Pritchard, George Hansen, Cooper Evans, Tony Coelho, Edward Roybal, David Martin, C. W. Bill Young, Webb Franklin, Jim Martin, Judd Gregg, Ed Jenkins, Robert Young, Dick Cheney, John LaFalce, Carlos Moorhead, Beryl Anthony, John Murtha, Cecil Heftel, Richard Schulze, Dave McCurdy, James Clarke.

John Paul Hammerschmidt, Charles Pashayan, Sherwood Boehlert, Howard Nielson, Douglas Bereuter, Don Fuqua, Jim Wright, Neal Smith, Beverly Byron, Ronnie Flippo, Jack Edwards, Charles Rose, Samuel Stratton, Ed Jones, John M. Spratt, Jr.

□ 1110

A TRIBUTE TO LEWIS McMURRAN

(Mr. BATEMAN asked and was given permission to address the House for 1 minute and to verify and extend his remarks, and include extraneous matter.)

Mr. BATEMAN. Mr. Speaker, all of us know certain individuals who have touched our lives and left an indelible mark. I wish to bring to the attention of my colleagues, a man who has left such an impression on me, and on his community.

I had the pleasure of serving in the Virginia General Assembly with Lewis A. McMurran, Jr. Not only is Lewis a close friend, but I also had the pleasure of working on behalf of the interests of the lower Virginia Peninsula with Lewis while I served in the Virginia State Senate and he served in the house of delegates. Few men have served Virginia with the dedication and energy of Lewis McMurran.

Recently, in a ceremony at historic Jamestown, Va., former Virginia Governor and retired Virginia Supreme Court Justice Albertis S. Harrison, Jr., paid tribute to Lewis McMurran for his long service to Virginia and his efforts to commemorate its heritage. This tribute is notable for its literary merit and was richly deserved. Mr. Speaker, I include this speech for printing in the RECORD immediately following my remarks.

LEWIS MCMURRAN: NEW PRAISE FOR "A MAN FOR ALL SEASONS"

(By Albertis S. Harrison, Jr.)

JAMESTOWN. We assemble today for a purpose that provokes no controversy and admits of no debate.

In complete unanimity of thought and of motivation, we have made this pilgrimage to the home of our political ancestors. We do this with the certain knowledge that a free nation can survive only by frequent recourse to fundamental principles.

We return to this place of representative government so richly endowed not only in sentiment, although we cannot escape and would not deny its presence here; not only in past greatness, although we are conscious of its demands upon us not only in memories of those who first consecrated this hall, although their words and deeds are fresh in our hearts; but in the knowledge that the sacraments of freedom they conceived and proclaimed are indelibly inscribed on the cornerstone of this nation, and represent hope to countless generations through the world.

But my assignment today is not to review the story of the men and events that permeate this place. It is my privilege to acknowledge in your behalf and mine the accomplishments and contributions that have been made by a Virginian of our day.

I am pleased and honored that the board of directors of the Jamestown-Yorktown Foundation invited me to pay this tribute to its president, the Honorable Lewis A. McMurran Jr. Perhaps the members of the board did so because of their knowledge of my personal friendship with Lewis and my admiration for the man; or they may have known of the generous support and wise counsel he gave me during my term as governor of Virginia and of the tremendous debt that I owe him; or maybe just because the two of us have been around so long.

I may be his last surviving political contemporary. But that couldn't be true, for here sits John Warren Cooke, who some believe presided over the first legislative body that assembled here in Jamestown.

Lewis McMurran and I began our legislative careers in the General Assembly of Virginia on the same day in January 1948. Mine was terminated in 1957. His continued for a period of 30 years, and what a career he carved for himself during those three decades. Few men have served Virginia better, or with more distinction, or added greater luster to the Commonwealth.

Lewis is a man of academic wisdom, but one conscious always of reality. He has his own ambitions and personal ideals but the ideal of a better Virginia and nation became paramount to him. He can best be described as a man for all seasons, and I find it difficult to choose for comment among the honors that have come to him in the wide range of his interests and affiliations.

He is a native and lifelong resident of Newport News, educated in that city's public schools and at Washington and Lee University, the holder of numerous honorary degrees from universities and colleges. He holds membership in scholastic fraternities, civic organizations, and fraternal groups too numerous to enumerate.

The old saw that no man is without honor save in his own country has no application to Lewis McMurran. He served his city well, and it has rewarded him richly for that service. He not only found time to operate and direct the Citizens Rapid Transit Company but also to be director of Tidewater Teleradio (WAVY); serve on the boards of two banks and one savings and loan association; head the Peninsula Chamber of Commerce as its president; and chair the Peninsula Industrial Council.

His party nominated and the citizens of Newport News elected him repeatedly to the Virginia House of Delegates. There, he soon established a position of leadership. He served on six of its most prestigious committees and as chairman of several. He was chairman of the Virginia Advisory Legislative Council and served as adviser on the staff of Governor Dalton as well as ex officio adviser for all governors whose terms coincided with his 30-year tenure of office.

Lewis McMurran has always been conscious of his obligation to the party that nominated him to public office and manifested this loyalty by serving as a delegate to six national Democratic conventions and was on the platform committee at three of these conventions. Thereby he helped shape the course of national and international events.

During World War II he was a combat intelligence officer in the United States Navy and attained the rank of lieutenant commander. He was with the 45th Infantry Division when it landed in Sicily, and he was with the 4th Marine Division on the Marshall Islands. He earned the Navy Commendation Medal and the Bronze Star (Combat "V") Medal.

It has always been a complete mystery how Lewis McMurran has been able to spread himself across such a wide spectrum of interests and services, and at the same time contribute always his own depth of thought to each one.

I could not terminate this tribute without mentioning his dedication to the cause of education and without acknowledging his years of service as a member of the State Council of Higher Education and the State Public Buildings Commission. In similar vein, I would note that he has been a trustee of the Virginia Historical Society and of the War Memorial Museum of Virginia.

Of more immediate concern to those who sponsor this 365th anniversary of the first legislative assembly in the New World, I would call attention to Lewis' long-time identity with and presidency of the Jamestown Corporation, producers of "The Common Glory," his chairmanship of Virginia's 350th Anniversary Commission which sponsored the Jamestown Festival of 1957, and his present post as chairman of the Jamestown-Yorktown Foundation.

It was Lewis McMurran who headed Virginia's Independence Bicentennial Commission, and it was he who served as chairman of the Bicentennial Council of the Thirteen Original States. He has helped chart the proper course for Virginia's role in the 200th anniversary of American independence and assisted in the development of the Yorktown Victory Center, as well as the centers in Alexandria and Charlottesville.

It must be apparent that few men have served Virginia better. Throughout his private and public career, he has superbly demonstrated his love of Virginia and country and a brilliant understanding of people, ideas, traditions, and our laws. Understandably, he has received virtually every honor that a grateful people can bestow upon him, and he has richly deserved each one.

In a lighter vein, those of us who know Lewis well sometimes call him "Lord Lewis." We do this not because Queen Elizabeth II appointed him an Honorary Officer of the Order of the British Empire or because of his profound knowledge of English history and his admiration for the English people. We do so because he possesses in such abundant measure those qualities and graces that we associate with gentility and civility.

While he can be described as a modest and softspoken man, his quiet dignity does not cloak the air of assurance which he possesses, or his "dogged" determination in pursuit of a cause in which he believes.

Virginia reveres our great men of history—the Jeffersons, Washingtons, Henrys, Lees, Byrds, and countless others, but implicit always in the mention of their names is a certain knowledge that not one would have achieved greatness but for the loyalty, devotion, and understanding of the woman who walked through life by his side. No man can give unselfishly and generously of himself who is not married to an understanding and loving wife.

Edith Lea McMurran is not only that, she is a warm, gracious, and lovely person, whose attainments match those of her husband. Their two children mirror the happy home and environment and surroundings in which they have been raised.

Today, Lewis, we salute you, and we thank you.

And now, on behalf of the board of directors of the Jamestown-Yorktown Foundation, I present to you the foundation's new official flag which is being flown today for the first time. It will complement your gracious and beautiful Tazewell Hall on the James.

TWO ARTICLES OF MUST READING

(Mr. WEBER asked and was given permission to address the House for 1 minute and to insert extraneous matter.)

Mr. WEBER. Mr. Speaker, the Frank Gregorsky article entitled "What's the Matter With Democratic Foreign Policy?" is beginning to get the serious discussion that it deserves. In a column in today's New York Post by Patrick Buchanan entitled "Strong House Issue for the GOP" Mr. Buchanan comments on the Gregorsky article.

Is it McCarthyism, as some of our Democratic friends have suggested? No, according to Buchanan. In fact, he says, "This documented chronicle of the decade-long siege of the heights of the Democratic Party by radicalized men of the mindset of George McGovern is one of the finer pieces of political research to come off the Hill in years."

The Gregorsky thesis, of course, is that in the last 14 years, the left wing of the Democratic Party has adandoned the foreign policy traditions of Roosevelt, Truman, Kennedy, and Johnson, and embraced a radical world view.

In a column in today's Washington Times, Georgie Ann Geyer quotes Henry Kissinger as making essentially the same assertion. To quote from that article, she quotes Kissinger as saying, "I cannot detect from them" the Democratic Presidential candidates, "whether they have any definition of an American interest or any definition of how to protect it."

I commend these articles to my colleagues' attention:

[From the New York Post, May 24, 1984]

STRONG HOUSE ISSUE FOR THE GOP

(By Patrick J. Buchanan)

"But there's something far more serious and ugly about this incident. What also has been exposed is an undercurrent of viciousness. We are witnessing an impugning of patriotism and a characterization of foes as un-American that has not been matched in years."

What alarmed the Washington Post columnist was not only the conservatives' House assault upon the Democrats' world view as "defeatist, drenched in pessimism," but the 75-page bill of particulars from which it was drawn—the Gregorsky Indictment.

Having spent several hours with the paper—the work of Frank Gregorsky of the Republican Study Committee—herewith a dissent: This documented chronicle of the decade-long siege of the heights of the Democratic Party by radicalized men of the mindset of George McGovern, is one of the finer pieces of political research to come off the Hill in years.

Perhaps the best case study is that of Rep. Tom Downey (D-N.Y.). Elected with the Watergate Class of '74, with 49 percent of the vote in a district Richard Nixon carried with more than 70 percent, Downey at once began clamoring for termination of aid to America's allies.

"It is time that we allow the peaceful people of Cambodia to rebuild their nation," he said in 1975, dismissing talk of a bloodbath. As for South Vietnam: "The people there suffer as much from the cruelty, stupidity and greed of their own government as they do from the war."

Downey's current target is the Contras in Nicaragua. His demand, the same: Cut them off. "Some of the blackest pages of American history have been written in that portion of the world . . . We are now prepared to do a land version of the Bay of Pigs with the 10,000 thugs, brigands, and thieves."

That is the authentic voice of the ultra-left. In the Downey declamations against our allies, Gregorsky searched in vain for a single word of condemnation of the Communist terrorists they were resisting.

Tell me: If Tom Downey were an avowed Communist rather than a radical Democrat, how would he speak differently?

The disease long ago reached the head of the party as well. Asked at a candidates debate what each would do in the event of a Communist led guerrilla takeover of Mexico, almost all the Democrats reverted to what Gregorsky calls "the textbook slogans of radicalism."

Gary Hart: ". . . the real problem of revolution . . . is not communism, it's poverty." Fritz Mondale: "We have to let these people develop their own traditions, their own history . . . and show some restraint. We can't solve anything with an American gun." Jesse Jackson: ". . . we ought to recognize that government [Nicaragua] right away. We ought not to embrace El Salvador's . . . killer regime."

With two-thirds of House Democrats elected since 1974, the Downey view now drives Democratic policy.

This shift is seen in the rhetoric of would-be national leaders like Geraldine Ferraro, who panders to the radicals by villifying the President in terms heretofore reserved for Radio Havana: "That President has contempt for human rights, and cannot be trusted to conduct a foreign policy that advances respect for them . . . This President's hands need to be tied."

The caterwauling in the Democratic caucus about "McCarthyism," the bellowing of the Speaker—who claims Ronald Reagan seeks "more deaths" in Central America—should tell Republican conservatives one thing: They have the range; fire for effect.

Confrontation politics, televised, is the order of the day. Force the debate, sharpen the disagreements, convert the congressional elections into national referenda. Their world view or ours. Us or them. As Karl Marx—whom Tom Downey would call a liberal activist driven into the arms of Communists by American insensitivity—might put it: The Republican Right has nothing to lose but its minority status; it has a House to win.

IS U.S. BECOMING IRRELEVANT

(By Georgie Anne Geyer)

When former Secretary of State Henry Kissinger looks at the United States today, he sees a healthy people, but a distinctly unhealthy attitude toward power on the part of this country's political class. He deeply fears that the present "crisis of confidence" is going to widen, and that a demagogue might even arise as America "evolves toward irrelevance" in the world.

"I think we are almost approaching Argentine conditions in foreign policy," he said in a fascinating, dark interview in mid-May. "By this, I mean that if you look at Argentine history over the last 50 years, every new government had about 53 percent support and then lost it by acting like a government. There has been an inherent tendency toward paralysis (in Argentina) because the country was so profoundly divided. I think in the field of foreign policy we're beginning to approach that condition."

Where do we go, then, for a new leadership group?

He shook his head. "I don't know," he answered somberly. "I think what will surely happen is the crisis of confidence will accelerate because we will look incapable of mastering events. And then the question is, 'Who will emerge, a serious leader or a demagogue?' "

He paused: "And I don't have an answer to that. The Democratic candidates are putting forward a vision of the world that I consider so wrong—that if they offer us confidence, it's even more scary because they'll move rapidly in a more dangerous direction."

Their vision?

"I cannot detect from them whether they have any definition of an American vital interest, or any definition of how to protect it . . . or how to achieve it," he said.

At this point, I reminded the former secretary of state that he often had warned against "any more debacles."

"But we're headed for more," he responded.

During the interview, Mr. Kissinger blamed present American paralysis in the world not on the American people, but on the country's political class and the fragmentation that has arisen because of that class's failures.

"The country as such is healthy," he said, sitting in his elegant, quiet office in one of the gleaming glass towers in midtown Manhattan. "The people's instincts are good. It is not a people that has lost faith in itself—quite the contrary. But they don't have the same good horse sense about foreign policy that they have about domestic policy. In foreign policy, the people tend to trust their leaders. They are bound to be confused by what they hear."

Then he outlined what he considered the "structural problem" of America today.

"First, the disintegration of the relationship between the presidency and Congress,

which is accentuated by the disintegration of congressional leadership. As a result, a consensus has to be built on each issue. This gives incentives to each group to make alliances with other pressure groups, even if they are not interested in the specific topic.

"Second is the organization of the executive branch by which policy emerges through an adversary process. That makes the outcome, even within the executive branch, almost accidental. I think it looked wrong to make a decision of the magnitude of the Lebanon withdrawal with the president in Las Vegas and the secretary of state in Barbados.

"Third, and most important, there is something wrong with the philosophy with which we approach foreign policy as a nation. And there is a crisis in our perception of what our roles should be and what our vital interests are."

When I questioned him about the sometimes excessive "moralism" in American thinking toward other countries, he thought for a moment, then answered: "I don't want to ever say that America should be or can be free of its moral convictions. It is our strength as well as our liability. But it is sometimes used as an alibi for any action or for abdication. . . . I'm concerned that we are becoming too irrelevant to too many events."

Still, he does believe that "if Reagan gets re-elected, he has a historic opportunity to reshape the international system, because, with all our travails, we are still the most cohesive society in the world." A "determined American policy" still could "remedy these situations over a period of time."

And then he added a crucial dependent clause: "If there were one."

□ 1730

REMEMBERING GUAM'S FALLEN HEROES ON MEMORIAL DAY, 1984

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, Memorial Day 1984 has a very special meaning for the people of Guam. Like millions of our fellow Americans we will pause on Memorial Day to remember those who have fallen on the field of battle.

This Memorial Day, however, will not be quite like others which have gone before.

Forty years ago this year, Guam was liberated by the U.S. Marines and soldiers in one of the bloodiest battles of the Pacific war. For 3 years the people of Guam suffered tremendous hardships at the hands of our occupiers. We know first hand what it means to be less than a free people. We also know what it means to see Americans die in battle so we can be free today. Our freedom came at a high price. Several hundred Guamanians lost their lives in the war. And over 1,300 marines and soldiers died in that historic battle.

I wish that on this Memorial Day we could say that war is a thing of the past. But sadly it is not.

This week I will participate in the ceremonies at Arlington National Park to honor the unknown soldier from the Vietnam war. As we lay this fallen warrior to his final resting place alongside those of World Wars I, II, and Korea, I cannot help but remember the fallen heroes from Guam who died in Vietnam so others could be free. Their sacrifices resulted in the territory of Guam having a greater proportion of battle deaths in Vietnam than that for any other State or territory.

Guam lost 71 of our finest young men in Vietnam while hundreds of others from our island served in that conflict. Today, there are nearly 4,000 Guamanians serving on active duty in the Armed Forces of the United States. They are there to preserve democracy and to reflect our love of freedom on Guam. On this Memorial Day I believe it is fitting that a special tribute to those from Guam who died in Vietnam be made. At this time I will read their names into the CONGRESSIONAL RECORD to insure that even though they are gone they will not be forgotten.

LISTING OF GUAMANIAN DEAD IN VIETNAM

1. Specialist Fourth Class Jesus R. Mariano
2. Staff Sergeant David G. Benavente
3. Staff Sergeant Jose B. Dauenas
4. Specialist Fourth Class Tomas S. Rivera
5. Sergeant Antonio Sablan
6. Sergeant Henry P. Pereda
7. Private First Class Joseph A. Cruz
8. Sergeant Benny S. N. Flores
9. Specialist Fourth Class Prishado T. Torres
10. Lance Corporal Roy F. Meno
11. Sergeant Juan D. Cepeda
12. Staff Sergeant Pedro R. Guerrero
13. Specialist Fifth Class Albert B. Doyle
14. Staff Sergeant Thomas Q. Sablan
15. Specialist Fourth Class James A. Santos
16. Staff Sergeant Pedro A. Cruz
17. Lance Corporal James L. Blaz
18. Lance Corporal Allan J. Damian
19. Private First Class Ernesto P. Santos
20. Sergeant Johnny C. Quenga
21. Corporal Ignacio Sablan
22. Specialist Fourth Class Joseph W. Cruz
23. Staff Sergeant Joaquin P. Cabrerea
24. Staff Sergeant Tomas G. Reyes
25. Corporal James E. Violett
26. Private First Class Jose B. Herrera
27. Sergeant Francis N. S. Torre
28. Specialist Fourth Class Jesus A. Quidachay
29. Specialist Fourth Class Johnny S. Taitague
30. Specialist Fourth Class Robert L. G. Mendiola
31. Private First Class Herman B. De Leon
32. Staff Sergeant David B. Camacho
33. Staff Sergeant Jose Q. Aguon
34. Petty Officer Class Edward C. Cruz
35. Master Sergeant Vicente D. Perez
36. Sergeant Gregorio M. Camacho
37. Private First Class Lucas H. Rodriguez
38. Private Tomas R. Mesa
39. Private First Class Jesus Q. Meno
40. Corporal George S. Sanchez
41. Staff Sergeant Enrique
42. Private First Class Vicente Feja Guerrero
43. Private First Class Gregorio L. Pangelinan
44. Sergeant Joseph M. Eustaquio
45. Staff Sergeant Juan P. R. Castro
46. Sergeant Vicente T. Espinosa
47. Specialist Fourth Class John A. Perez
48. Specialist Fourth Class Harold J. Finney, Jr.
49. Private Ralph S. Yokoi
50. Specialist Fourth Class Eugene R. Rippel
51. Staff Sergeant Juan L. G. Duenas
52. Private First Class Federico J. Dela Cruz
53. Private First Class Ronald P. Causito
54. Specialist Fourth Class Victor P. San Nicolas
55. Sergeant Fernando B. Esteves
56. Specialist Fifth Class Anthony M. Blas
57. Specialist Fifth Class Rafael S. Santos
58. Specialist Fourth Class Edward R. Diaz
59. Private First Class Vicente P. Moreham
60. Lance Corporal Rufo S. San Nicolas
61. Specialist Fourth Class Francisco M. Asanoma
62. Sergeant Pedro Cabrera Pangelinan
63. Sergeant Emilio N. Nededog
64. Sergeant Enrique R. Santos
65. Specialist Fourth Class Jeffrey I. Quintanilla
66. Staff Sergeant Juan S. Borja
67. Specialist Fourth Class David John Funes
68. Specialist Fourth Class David Atoigue Gorton
69. Specialist Fourth Class David C. Flores
70. Private First Class John T. Sablan
71. Sergeant Mark Frederick S. Biagini

SPECIAL EDUCATION REALLY WORKS: ASK BOB JIRIK

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PENNY. Mr. Speaker, as a member of the House Education and Labor Committee, and moreover as a Member of Congress, I am often questioned about the value of our Nation's special education and training program. I believe those best qualified to discuss the value of these programs are those who have benefited from them.

Recently, a friend of mine was appointed to the Minnesota Governor's Council on Developmental Disabilities. Upon receiving word of his appointment to this honored council, my friend had the opportunity to review the obstacles he has overcome in his lifetime and the gratitude he feels for those who have helped him along the way. My friend's name is Bob Jirik, a fellow Minnesotan who is dedicated to teaching us all about the great potential of the handicapped.

Opportunities for special education were limited when Bob was a student. While he did not benefit from the special education programs currently in effect, Bob's story is living proof that handicapped individuals can, with a little special attention and assistance,

become productive members of our society. The following is Bob's account of his effort to overcome his own disabilities. Our special education programs exist today to insure that handicapped individuals are no longer pushed "into a corner."

ALMOST IN A CORNER

(By Robert J. Jirik)

I go to school one night a week. A special tutor gives me a lesson by the Laubach method, used by the Martin Luther King Foundation. I am 63 years old and I still want to learn so very much. It is not easy; I only wish that the state and local agencies had started me on these programs long ago instead of always shoving me into a corner.

I may offer just a little hope for some young illiterates out there somewhere so that they can get help sooner. I hope that more research can be done on dyslexia.

Following is a series of obstacles I had to overcome, and names of agencies and persons I contacted during my effort to overcome the many obstacles in my career.

First: Birth. My left leg was shorter than the right, causing me to limp. This was remedied by an operation at Gillette Children's Hospital, and then I was able to walk normally.

Second: School days. I did not learn to read because a certain form of dyslexia, causing me to see words in reverse order. I was determined to be able to read, and so I contacted Carl Grittner, School Superintendent, and he arranged a course in remedial reading at the University of Minnesota. Result—"Word Blindness"—cause of not being able to read. I again contacted Mr. Grittner, and he arranged a course in remedial reading with Maxfield High School. The course was based on talking typewriter visual education. The talking typewriter helped me to read, and I was able to read somewhat, though not fluently.

Third: Employment. I joined the labor movement, and I met Mr. Joseph Prifrel, business agent, and he got me a job as a janitor in the Emporium Department Store. Mr. Prifrel told me to give up drinking, or I would wind up in the gutter. I gave up drinking and have not touched liquor since that date.

Fourth: Job at Emporium ended because store went bankrupt. I applied for a job at Univac [a division of Sperry Corporation], and through the recommendation of Congressman Joe Karth, I was hired as a janitor. After working as a janitor for some time, I was given a stock boy job, even though my reading ability was somewhat limited. Superintendent Walter Herman aided me, and by sheer determination I was able to do the job. Since that time I was promoted to crib attendant, and I am continuing in that capacity up to date.

I just hope that there are not hundreds of young children out there just being pushed into a corner. State personnel wanted to institutionalize me when I was school age. I was pushed into a corner until well along in life. But in spite of all this, and because I refused to give up, I am now a taxpayer and not a burden on the state.

CRIME LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LUNGREN) is recognized for 60 minutes.

Mr. LUNGREN. Mr. Speaker, I appreciate the sitting ovation from my friend from the great State of New York, transported from the great State of southern California.

I could use this time to talk about the football exploits of the gentleman from New York but I was such a young child at the time that I watched him that I cannot recall. He was one on my heroes when I was in grade school, I will say, however.

Although we do not perhaps speak about it enough on this floor, there is no doubt that it is a primary responsibility of government to protect its citizens from both internal and external sources of violence.

We spend a great deal of time on this floor, and seriously so, discussing the DOD appropriation and the DOD authorization, and we recognize the direct interest that that has to the American people.

At the same time, however, we do not have the opportunity, it seems, to discuss the difficulty of internal sources of violence, and that, of course, is the subject of crime.

The viability of our society very much depends on a collective sense of trust that those who have been vested with policymaking authority will fulfill that responsibility through a framework of law.

We often refer to this in very simple terms as law and order. In this regard, Thomas Jefferson observed that

> It frequently happens that wicked and dissolute men, resigning themselves to the dominion of in ordinate passions, commit violations on our lives, liberties and property of others * * * Government would be defective in its purpose, were it not to restrain such criminal acts by inflicting due punishment on those who perpetrate them * * *"

Jefferson was thus clear that governments were instituted among men in order to protect their lives, liberty, and property. Such clarity of purpose unfortunately has been lost in the politicized environment of this Chamber in this year. In fact, in this entire Congress.

In thwarting the enactment of criminal justice reform, the Democratic leadership of this body has failed to carry out its responsibility to the American people. As I mentioned in a similar special order last week, those who control the agenda of this body waited 51 weeks, nearly a year, to carry out what is normally a routine matter of referring the President's comprehensive crime bill to the relevant subcommittees for consideration. This was unfortunately, an ominous foreshadowing of things to come. While the other body worked diligently from day one to address all but one of the provisions of the President's crime bill, when they sent their work product to this House for consideration it was greeted with less than glee. The Chairman of the Judiciary Committee responded that "the death penalty, the exclusionary rule, habeas corpus limits, the bail law—we're not going to get to any of these, because they're just too controversial."

This is, to say the least, a far cry from the vision that our third President had about the role that government would play in establishing a framework of law for the protection of its citizens from the violence of crime.

□ 1820

In fact, I would venture to say that it also reflects an attitude that is completely out of touch with the sentiment of the American people. In this regard, I might mention that a nationwide 183 Gallup poll found that only 16 percent of Americans felt safe and secure at night in their own homes. That is staggering, only 16 percent felt safe in their own homes. More recently in my own State of California, a February 1984 Field poll ranked crime as the No. 1 issue of public concern, moving up from a position of third in a similar poll taken in 1979. An astounding 73 percent of the respondents described themselves as "extremely concerned" about crime. I might add that this corresponds with a December USA Today poll where 62 percent of all respondents described themselves as "very worried" about crime.

It is important to reiterate this compares with 52 percent of those respondents in that poll who said they were very worried about the possibility of nuclear war. And as we pointed out last week, it seems strange that with that number of American people concerned about crime, we would spend very little of our time discussing it and yet we would spend literally weeks of legislative action discussing the nuclear freeze resolution.

By saying that, I do not suggest that we ought not to have discussed the nuclear freeze resolution, but if there is a similar level of concern among our constituents about the crime issue, ought we not try to spend a similar amount of time on that issue on this floor?

One must ask: Who does the Democratic House leadership represent?

Mr. Speaker, it is time to put partisan politics aside and to move ahead in a bipartisan manner as has been done in the Senate on omnibus criminal justice reform. The fact that the conceptual framework may have originated with a Republican President should not be a relevant consideration. The crime issue should be, by its nature, a problem that is addressed on a bipartisan basis. Crime is no respecter of party affiliation. All too often Democratic constituents as well as Republicans find themselves to be victims of crime.

One must ask whether a mugger asks his victim whether he is registered to vote in one party or the other if one is to suggest there is any partisanship that should develop over this issue. The obvious answer is that there is none and there should not be in the way that we are pursuing the effort on the floor of the House here in this Congress.

It is therefore imperative that the leadership of this body muster sufficient courage to tackle controversy. Reform of our criminal justice system must take precedence over partisan political considerations. This is certainly most clearly the case with respect to the exclusionary rule.

This is the rule that first comes to mind when people talk about the so-called technicalities of the law that interfere in a court situation with determining whether in fact someone who is charged with a crime has committed that crime.

In other words, it is one of those technicalities which allows otherwise relevant and probative evidence not to be considered when determining whether that individual has committed the crime in fact as charged. While its genesis rests with the desire to deter unlawful police conduct, its application often undermines the truth-finding process.

The concept behind it was that if we do not want our police to act in ways that we consider improper we must in some way punish the police for their actions when they are improper and the manner in which we punish them or the remedy that has been secured under this rule is that the evidence that they obtain through this improper action is not allowed to be used during the court processes against the individual.

Now one must ask, it seems to me, who does that truly punish? It may in a indirect way punish the police officer, because the fruits of his activity are, therefore, not to be kept. In other words, the person that he has brought to the bar of justice will not be prosecuted by virtue of that evidence.

What does it do to the public and what does it do to the victim of that crime? In my judgment it punishes the public and the victim of that crime because they are the ones who are no longer allowed to have the system consider evidence that goes toward the conviction of an individual who has taken it upon himself or herself to commit a crime against an individual member of society.

How far has this gone? Let us examine, for example, the case in People against Braeseke, a California case, where after being advised of his rights the defendant expressed a desire to speak off the record. Let us be clear about this: He had already been advised of his rights as required under the Miranda decision; he had been notified that he had the right to remain silent; he had the right to counsel and anything he said could and would be used against him.

In spite of the fact that he received the Miranda warnings and there is no dispute in the record that he received those warnings, the defendant then expressed a desire to speak quote, off the record. He then immediately confessed to the murders of his mother, his father, and his grandfather and subsequently even admitted these three killings on CBS's "60 Minutes."

Nevertheless, the highest court in my home State of California reversed his conviction on the ground he was not aware of the consequences of his desire to speak off the record.

And I would suggest that this is going beyond the necessary protections of the public as was envisioned with the initial exclusionary rule.

When the rule works in this manner, it is certainly not the perpetrator of the crime who is being punished nor the errant police officer. In a very real sense, it is the victim who is being punished.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

What happened to that individual? Did he go back out on the streets? Being an admitted killer, is he out on the streets murdering again? What happened to him?

Mr. LUNGREN. It is my information that individual will be the subject of a subsequent prosecution if in fact they have evidence which will convict him other than the confessions that have been thrown out by the highest court in the land.

There is no suggestion, by the way, that anything contained in the confession is not relevant, not probative or, in fact, not true.

This is an extension of the exclusionary rule; that because the evidence was obtained improperly, not because they failed to give him the instructions, they gave him the instructions, but because they said he did not entirely understand them and appreciate them and therefore wanted to speak off the record; that those words of his will not be allowed to be used against him.

Now I guess we could stipulate from the very beginning that a lot of the defendants in criminal cases have probably never wrestled with a Phi Beta Kappa key. But it seems to me that should not allow ludicrous extensions of this rule so that in fact this type of ridiculous situation results.

Mr. WALKER. So thus far in terms of the court system you have an admitted murderer, who has been able to get off on a technicality at this point.

Mr. LUNGREN. There is no doubt about that.

A study conducted by the National Institute of Justice in my own State of California found a significant number of felony cases were rejected for prosecution in California because of search and seizure problems. Statewide, 4,130 or 4.8 percent of all felony arrests rejected for prosecution from 1976 through 1979, were rejected because of search and seizure problems. In large urban areas a higher proportion of felony cases rejected were rejected for search and seizure problems. The exclusionary rule was found to have a particularly pronounced effect in drug cases; prosecutors rejected approximately 30 percent of all felony drug arrests because of search and seizure problems.

Also, I might mention the 1979 General Accounting Office study of the impact of the exclusionary rule on criminal prosecution. This study covered 42 of the 95 U.S. attorneys' offices in the country. It stated that "thirty three percent of the defendants who went to trail filed fourth amendment suppression motions." According to that report, exclusion was the most important single issue arising most frequently in Federal criminal trials.

□ 1830

Now the reason I bring these points up is that often it is said that there are very few cases that are actually changed in any significant way by the exclusionary rule. The number of cases that are involved are rather insignificant. I think that the facts actually show that is not true, particularly in the case of those involving drug trafficking.

On the Federal level we can take direct action to return the application of the exclusionary rule to its original deterrent purpose.

The President's crime bill provides an exception to the exclusion of evidence as long as the law enforcement officer has acted in good faith. The interests of justice are not well served, I would say, by the exclusion of evidence because of technical inadvertent violations of the law.

In addition to expecting police officers to make on-the-spot judgments about the rules of search and seizure that divide members of the judiciary itself have placed the burden of overcoming 20-20 judicial hindsight on those charged with protecting the safety of our communities.

What we are saying here is not that we ought to eliminate entirely the exclusionary rule, but rather that we ought to allow an exception to it. And that exception would come into play only in those circumstances where it can be shown that the police officer or officers in question acted in good

faith, comporting with what they thought the proper rules were at that time, and making no effort to try and circumvent those rules intentionally.

Why it would not disturb the "deterrent" effect or the original deterrent purpose of the rule is that if the officer acts inadvertently, obviously he was not acting in a way to disturb the evidence or to obtain the evidence improperly. It is rather an inadvertent action on his part for which he should not be punished. And more importantly, for which the victim of the crime ought not be punished by excluding that evidence from introduction at the pretrial and trial phase.

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Michigan.

Mr. SILJANDER. I thank the gentleman for yielding.

I just wanted to insert for the gentleman's comments that I appreciate his ongoing, constant, consistent efforts to bring up on this floor of this Congress what I consider one of America's greatest problems and that is crime.

Not too long ago my wife and I saw a movie called The Star Chamber. The basis of the movie was that a group of judges, frustrated with the exclusionary rule dilemma allowing them as judges being forced in the law to allow criminals, rapists, murderers, muggers, robbers, back on the streets, throw their cases out of court, because evidence was obtained based on the specific letter of the law illegally.

The exclusionary rule would change that. Rather than attempting to organize in Congress an effort to change the exclusionary rule problems, these judges decided to form a court of their own and those cases that were thrown out that they felt had a legitimate basis to those cases, but because of the evidence collected was illegal, for some incredible reason or another, they judged these people on their own. They hired a killer, an assassin, a hired gun, to essentially carry out the verdict of this group of judges out of their frustration.

Now while this is fiction and while certainly that I am sure is not happening in the United States today, I think that movie, the fact that it was made, is indicative of the frustration not only in the legal system, but anyone watching that movie certainly their emotions were stirred, their hearts were certainly opened, and I hope their minds opened to a real problem of society. The problem is not judges getting together passing judgments and rulings on those that escaped conviction because of minor rules and regulations or obstructions in the law, but rather I think it is indicative of the frustration the American are sensing, in a real sense of the word, that there are murderers, that there are robbers, that those who are rapists are being left free on the streets because of the very reason that the gentleman has well articulated here on the floor.

I bring up this issue only because to support what the gentleman is saying that even in Hollywood they are sensing that this is an issue that the American people are interested in. Because a good friend of mine, NEWT GINGRICH of Georgia once said, if you really want to know what the American people are thinking, look where they are spending their money, look at the movies and the movie theaters. Look what they are doing, where they are going, what they are seeing, and what kind of entertainment they are involving themselves with. That is indicative of the mood of the American people.

This movie is just another point and which substantiates the fact that American people are ready for a change.

I just want to laud the gentleman for his efforts in this area. While this may not be empirical evidence to back up his point, I think what it does say, in a real direct way, that the American people are ready for changing of the system, so fairness and justice can be implemented once and for all.

Mr. LUNGREN. I thank the gentleman for his remarks. I would just comment that as gifted an actor as Clint Eastwood may be, the fact that his movies are so successful and that he is year in and year out the top box office attraction as he plays his role of Officer Callahan is not entirely confined to his acting ability. I think the role that he plays, although I certainly would not condone the actions taken, I think there is a certain type of artistic license certainly that is taken in those movies, suggests that there is a concern in the electorate of this country about the fact that violent crime has, in many cases, taken the upperhand. And that for whatever reason, public officials seem to—I will not use the word be uncaring, but perhaps not caring enough to do what is necessary to protect the rights of the victims in society as they protect the rights of those charged with committing crimes.

It is an obligation that I think we ought to take more seriously here in the House of Representatives because we do have a tremendous impact on the entire criminal system. We know that the primary responsibility for law enforcement is with local and State authorities. Nonetheless, there is no doubt that the Federal Government has a responsibility within the Federal criminal justice system, but even more importantly, as it influences the State systems in many, many ways.

One of the reasons that we are taking this time today and on a weekly basis is that these are issues we wish that we could address at the time when this Chamber is full. It would be my fondest hope that we would be standing here not talking to one or two Members after we finish legislative business, but rather standing here talking to a full House of the membership of the House of Representatives, as we are discussing substantive pieces of legislation and debating under the 5-minute rule.

The fact of the matter is with many important elements of the President's crime package, in fact, with most important elements of the President's crime package, we have not been accorded that opportunity on the floor of this House.

And if we cannot have the opportunity to bring these bills forward and debate them in that fashion, we have two alternatives. One is that at the end of the regular legislation business to turn out the lights and go home and bemoan the fact behind closed doors.

The other is to take time during 1-minutes in the beginning of the day, prior to the official legislative business, in which we can talk about it. But almost as important as dealing with it on the floor, using special order time when we have chunks of time, up to 1 hour, on occasion to discuss these issues in some depth, to hopefully inform our colleagues in the House of how important these issues are and perhaps to move us toward a possibility of emulating the other body where there was a bipartisan approach, where we had people as different in their political philosophy as the senior Senator from Massachusetts and the senior Senator from South Carolina coming together to not only reason together, but act together, to pass out legislation.

Mr. Speaker, another important point addressed by the administration's comprehensive crime control bill concerns that of criminal and civil forfeiture. While our neighborhoods are victimized by an influx of illicit drugs, those engaged in major drug trafficking operations face penalties and sentences that are perceived as little more than the cost of doing business.

□ 1840

And what a business it is. The $80 billion industry of drugs in this country exceeds the sales of every Fortune 500 company except one, and that is the Exxon Corp.; and when you have that type of capital flowing into your system, for a court to fine you $1 million is nothing; $2 million is nothing. It is the price of doing business. In fact, it is a minimum price of doing business. And until you have an opportunity to go at the assets that were obtained through the illegal enterprise, you are not really going to do anything to hurt these illegal organizations.

Stemming the flow of illicit drugs is one of the most important steps that

we can take to reduce crime. The Rand Corp. study found that among felons, that is, the most serious criminal offenders, drug abusers committed more burglaries, con-type crimes and drug sales than burglars, con men and drug dealers who do not use drugs. Similarly, the Ball study of Baltimore showed that addicts, on the average, committed a crime every other day.

The point in this is that drug abuse has a pervasive influence throughout the entire criminal process and that in addition to being involved with the drug dealings themselves, they are far more apt to be involved in a whole host of other crimes across the board. And that has been shown in any number of studies.

If we are to be successful in attacking the primary purveyors of the poison that infects our schools and neighborhoods, we must be able to strike at the economic base of these illicit operations. That is why a number of us in the House sponsored legislation that would provide for the forfeiture of the profits as well as the substitute assets accumulated by these merchants of chemical doom.

Those with such an insatiable greed will better appreciate our determination to enforce the law when we hit them where it hurts the most, in the pocketbook.

Although I am pleased, Mr. Speaker, to note that the House Judiciary Committee reported a drug forfeiture bill, I am somewhat disappointed that, unlike the bill that passed the Senate, our bill in the House does not include a provision that will allow Federal prosecutors to reach substitute assets if those in drug trafficking enterprises hide those assets with the nexus to the crime from the reach of the court.

Let me explain that. This is a situation where drug dealers receive benefits, financial benefits, assets, as a result of their illegal activity, but then change those assets, substitute those assets for other assets so that the court under present law cannot reach these substitute assets as the law presently is constituted.

We just have to face the fact, Mr. Speaker, that drug traffickers are highly sophisticated people. They not only know our criminal laws, they know how to avoid them. I would suggest they probably know how to avoid them better than any other class of criminal that we have in America today. Without this additional tool, Mr. Speaker, I fear the traffickers and their high-priced legal counsel will realize that they can avoid the thrust of the well-intended legislation by moving their assets outside the country.

Another issue that is raised in the crime reform package concerns reform of our habeas corpus procedures. We know that most crimes are not followed by arrest and conviction. Yet when arrest and convictions do occur, there is the preception that the law allows for an endless stream of appellate and collateral review. This, probably as much as any other factor, has the effect of undermining public confidence in the criminal justice system.

Let me explain how this was illustrated in the case of Robert Anthony Williams, who was convicted of raping and murdering a 10-year-old Des Moines, Iowa girl on Christmas Eve of 1968.

Robert Anthony Williams was convicted by an Iowa jury of first degree murder. He appealed to the Iowa Supreme Court, which affirmed his conviction. His petition for review was denied by the U.S. Supreme Court. Williams then turned to the Federal district court, alleging that his conviction violated his Federal constitutional rights. The judge agreed with his claim and ordered him to be retried without the use of evidence that had led police to the victim's body. Iowa appealed the case to the Eighth Circuit Court of Appeals which upheld the district court ruling. The State then brought the case back before the U.S. Supreme Court which held that, although Williams had been advised of his Miranda rights five times, statements made to him by the detective out of the presence of counsel to the effect that the victim's parents would like to give their daughter a Christian burial, violated Williams' right to counsel and as a result it was ordered that Williams would have to be retried.

One would think that that was enough appeals and that perhaps we then had a second trial and that was the end of it. But the story goes on. Williams was retried in Iowa and reconvicted. He appealed again to the Iowa Supreme Court which unanimously upheld his conviction. The U.S. Supreme Court this time denied review. So Williams decided once again to try his luck with the Eighth Circuit Court of Appeals. It ordered him retried within 60 days and denied the State any evidentiary use whatsoever of the little girl's body. The State of Iowa once again appealed this ruling, and the case is presently before the U.S. Supreme Court 14 years after its inception.

This is a tragic case. This is the case of a little girl, 10 years old, on Christmas Eve she is kidnaped, she is brutally treated, murdered. This fellow is picked up by the police; they give him his Miranda warnings five separate times, then one of the detectives, as they are driving him back, says that the child's family would love to give that child a Christian burial and this is the toughest time of the year, the Christmas season, for them to bear up under this tragedy, and would he at least show them where the girl's body is located so that she can have that burial.

Based on that, and after he had received Miranda warnings five times, he took the police to the location of the body. The girl was found. She got her burial. And then the girl's body was used as evidence in the case.

The appellate court has now stated, the second time around, that the body of the little girl cannot even be introduced, or evidence of the body of the little girl cannot be even introduced when this person is tried again 14 years after the crime.

The real tragedy here is with the family. This family has lived with this grief for 14 years. This family has no assurance that the killer of their daughter is ever going to be truly convicted and fully prosecuted.

And the fact of the matter is that the evidence used against him is probative, it is relavant, there is no contest to the fact that it is true. The question is: Was this not an appropriate thing for the police officer to say five times after he had told the individual that he had the right to remain silent, that he had the right to counsel, that he had the right to know that anything he said or did would be used against him?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. How have we arrived at a time when that sort of thing can happen?

Mr. LUNGREN. I would suggest to the gentleman from Pennsylvania that we have arrived at this time because of the inadequate attention to these issues by elected officials on all levels.

And I would suggest to the gentleman that we have, with sincerity, approached the fact that our Constitution accords rights to those accused of crimes so that we can in fact protect the innocent, and we have placed the obligation on the State to prove beyond a reasonable doubt that one is guilty of a crime as charged.

But I would suggest that we have so concentrated on refining and expanding those protections that we have lost sight of the fact that society has an obligation to be protected by the Government that is supposed to serve it and that the victims of that crime and the victim's family and the friends and the community have the right to have their interests concerned as well.

I think that what we have done is we have seen the pendulum swing far too far in one direction, and it is extremely difficult to pull that pendulum back.

The attitude of the public has started to pull back, but unfortunately public officials and the institutions in which we serve show a reluctance to

move back, an inertia, if you will, to move back toward a proper course.

Mr. WALKER. If the gentleman will yield further, I think that the gentleman has hit upon a very important point. No. 1, I think that the American people are concerned that the rights of the innocent be protected in such a way to assure that the State does have a burden of proof. I do not think that anybody wants to abandon that as a basic part of our jurisprudence system.

□ 1850

On the other hand, I think that it is also obvious that the American people, the vast majority of them, overwhelming number in most communities, are disturbed by what they see as a court system, as a criminal law system, as a legislative pattern, a development where the criminal almost feels protected, that society is protecting the criminal more than we are protecting the citizens who may be victims of that criminal. They are basically asking public officials to do something about that to toughen up the system. The bottom line is they want us to get tougher. Yet we see legislative bodies that inevitably, across the country are unwilling to get tough with criminals, because we then listen to all the pressure groups, we listen to all the special interest groups who come in and tell us this reason or that reason why we should not change the present set of circumstances. That we should not change the status quo. That we ought not change those laws that are today allowing the criminal to be protected.

Once again, you have the public interest, which is obvious, all you have to do is talk to people, you know what the public interest is. It is broadly based; it goes across party lines; it goes across philosophical lines. Everybody knows what the public interest is with regard to crime. But you have got certain special interest that have such dominant influence in legislative bodies, that they are able to preserve the status quo despite that overwhelming public interest.

Mr. LUNGREN. The gentleman is absolutely correct. I would just say that I do not think anybody would want us to return to the situation where police officers beat confessions out of accused individuals in this country. I would suggest it is a far cry from that position and those things against which the exclusionary rule and the specific Miranda rights or rulings were directed. To a point where after a police officer has five times informed a defendent of his rights. As that defendant is being driven across a part of Iowa to be taken back too close to the scene of the crime, the local jail, that a police officer says to him, in this Christmas season, at this time when a brutal crime was committed against a young child, the untold tragedy that is going to befall this family is going to be heightened by the fact that they do not have the opportunity to recover their child's body. If you would tell us where that body is, we would be able to allow that family at least that measure of peace. That that somehow is equated to the situation of a police officer beating a confession out of an individual in the bad old days that we always wanted to get rid of.

I think that is a ludicrous extension of the law, and it is that type of unnecessary overreaching that tends to undercut credibility of the law and the support of the general public for the law. That is something we as public officials, it is my judgment, have an obligation to deal with. Because it goes far beyond just a simple issue of the exclusionary rule. It goes to the question of the confidence the people have in the State that is supposed to serve them, and what their response is when that State loses their confidence.

I yield to the gentleman from Pennsylvania.

Mr. WALKER. I must say to the gentleman that I think that 99 of 100 Americans would agree with the situation he just described as ludicrous. That that kind of protection of the criminal is so beyond belief that if you describe that to the American people, they will stand there with their mouths agape, and try and figure out why in the world we could develop laws that could permit that kind of thing to happen.

Yet, the legislative bodies that are supposedly representative of those people cannot bring themselves to change the laws enough to prevent that kind of ludicrous example from taking place.

I certainly agree with the gentleman; no one wants to go back to vigilante days or to the use of police brutality as a part the system or any of those kinds of things. But we should allow our police to do their job in a way which assures that communities can be protected against criminals. That seems to me to be what we are not able to do as a result of legislative bodies that simply will not react.

Mr. LUNGREN. I would say to the gentleman that what we have done is allowed an absolutizing of the rights of those convicted of crimes. We have tried to make their rights so absolute that we have not shown the proper tension that should exist between protecting the rights of the innocent or the remedies that we create for protecting the rights of the innocent while also making sure that we protect society as a whole, and we fulfill our obligation to prosecute those who have committed crimes against members of our society.

It seems to me that what we have done is created a system that is seemingly impervious to the impact that this myopia has on the victims of those same terrible acts. By the fact that we in the Congress and those on other levels of government, have not responded to the genuine, rationale, reasonable feelings of the American people on this subject, we have done them a tremendous disservice.

Let me just say, Justice Harlan, Supreme Court Justice Harlan, put it well in a case called Macke against U.S. where he noted this:

> No one, not criminal defendants, not the judicial system, not society as a whole, is benefited by a judgment providing that a man shall tentatively go to jail today, but tomorrow be subject to fresh litigation on issues already resolved.

As a Federal official, I cannot understand why we continue to permit open-ended collateral attacks on State court judgments. This question has to be answered. Does the appointment of a State justice to the Federal bench somehow impart through osmosis a new-found wisdom that did not previously exist. That is the suggestion that somehow the Federal courts in each and every circumstance, should review the State judgments in criminal cases to see if they comport with what they would have decided.

Let me put it a different way: Does the fact that a distinguished jurist, Malcom Lucas has left the Federal bench to join the California Supreme Court mean that he will now automatically lose the presumed wisdom he gained while within the Federal judiciary? Obviously that is nonsense.

Remember, in both capacities, that same justice takes an identical oath to uphold the U.S. Constitution.

A few years ago, the Federal justice research program of the Department of Justice, commissioned an extensive study of habeas corpus litigation. The findings of the study confirmed that while a substantial expenditure of resources by the Federal courts and State officials is involved in habeas corpus litigation, the effort expended rarely produces any change in the result arrived at in State proceedings.

Petitioners obtain some form of relied in only 3.2 percent of the cases in the study sample. It is my feeling that if our criminal justice system is to regain credibility with the American people, we must assure them that there will be some limit on the ability of those who are convicted of crimes to attack judgments through the writ of habeas corpus.

The decisions of State courts should be entitled to greater deference where their proceedings have accorded a full and fair adjudication of the defendant's claims. It is imperative that the House leadership cease its delay on action of reform of habeas corpus.

Sometimes it has been said on this floor, and said elsewhere that when we deal with the Federal criminal justice system we have very little impact on street crime or the greatest volume of

violent crime in the United States. In some ways, that is true. But in other ways, it is not. It is demonstrably not the case here with the situation of habeas corpus reform. Because the petition of habeas corpus is a petition that is taken by those in the State system who have found themselves through the criminal process and who then are trying to have a collateral attack on that State system's decision by the Federal court system.

□ 1900

Mr. Speaker, let me just go into one other area of the President's crime control bill that warrants consideration and that is concerning bail reform. This is illustrated by a case that arose 2 years ago on November 27, when George Gibbs was taken into Federal custody for the robbery of the Detroit Teachers Credit Union. That robbery was a violent one as Gibbs pistol whipped the security officer and held a gun to the head of the teller and threatened to kill her. The evidence against him included the pistol he had stolen from the security guard and was positively identified by two witnesses. Oh, yes, let me just add one other thing. When he was arrested, he happened to be in a stolen car.

Despite the fact that the U.S. attorney's office for the eastern district of Michigan urged a high bail in light of the danger that Gibbs posed to the community, the U.S. magistrate ruled that bail is intended solely to assure appearance at trial and it was set at $25,000, 10 percent cash. The U.S. attorney's office appealed the ruling. The U.S. district judge then modified the magistrate's order to require a $25,000 cash bond but otherwise refused to overturn the bail ruling.

By December 2, Gibbs had made bail and 4 days later he and a partner held up the Fidelity Bank of Southfield, a suburb of Detroit. During that holdup just 4 days after he had gotten out of jail on bail. Gibbs struck a teller and threatened to kill one of the other bank employees. As officer Robert Diegel arrived on the scene, a gun battle ensued in which Officer Diegel was seriously wounded. Fortunately, other Southfield officers soon arrived and Gibbs and his partner were arrested.

This is just one illustration of the inadequacy of Federal bail laws to protect the community from violence. Under the current provisions of the Bail Reform Act of 1966 on the Federal level, the only issue that may be considered by the court in making pretrial release decisions is the likelihood that the defendant will appear for trial if released. Except in capital cases the danger the defendant may pose to the community may not be considered. As many may know, the list of capital offenses no longer encompasses most violent felonies for reasons that have absolutely nothing to do with bail policy.

No fewer than 19 studies conducted over the past 15 years demonstrate the high incidence of crime committed by individuals free on bail. One such study conducted by the Administrative Office of the U.S. Courts in Washington examined bail-jumping in south Florida. Among its findings was the fact that more than 17 percent of all Federal drug defendants in south Florida who were released on bail failed to show up for trial.

In another study of release practices in eight jurisdictions conducted by the Lazar Institute, approximately one out of every six defendants in the sample studies were rearrested during the pretrial period. One-third of these defendants were rearrested more than once, and some were rearrested as many as four times.

On the Federal level, we have failed with our bail laws in fulfilling the responsibility of Government to protect the security of the commonwealth. There is absolutely no reason why courts that are expected to predict the potential for flight should not also be able to examine the proclivity for future violence when determining whether and under what circumstances a defendant accused of violent crime should be released into our communities. I must add that while I am heartened that the Subcommittee on Courts and Civil Liberties has given indications just today that bail reform may be on its agenda, I must state at the outset that as is the case of the administration's bill, it is imperative that any such legislation contain provisions that would authorize the denial of release prior to trial where the Government proves by clear and convincing evidence that no release conditions can assure public safety. Anything less than this would fail to address the fundamental problem concerning the danger posed to our Nation's communities by releasing those who pose a danger to the public.

Mr. Speaker, I cannot conceive of anything that more alarms the public or causes them to have less respect for our system of criminal justice than to see someone picked up on the street, arrested for a particular crime, even a violent crime, and then to have that person released on the street before he has to appear for his trial and to have the judge say, as a judge here in the District of Columbia said not long ago:

If such a person came before me and I was to consider setting bail and he told me that he intended to go out and commit three murders before his trial date, I could not hold him as long as he promised to appear for that trial date.

Mr. Speaker, that is nonsense. That is something we have to deal with. We have to deal with it in this session of Congress. Justice delayed is, in fact, justice denied, but not just for the person who has been accused of crime, for the entire American public.

Mr. Speaker, for far too long, we in the House have denied justice to our constituents because we have delayed justice by not moving on the major elements of the President's crime package.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 3547. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to extend the authority of the Mayor to accept certain interim loans from the United States and to extend the authority of the Secretary of the Treasury to make such loans;

H.R. 5308. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia;

H.J. Res. 487. Joint resolution to designate June 6, 1984, as "D-day National Remembrance"; and

H. Con. Res. 313. Concurrent resolution providing for an adjournment of the House from May 24 to May 30, 1984, and an adjournment of the Senate from May 24, May 25, or May 26, 1984, to May 31, 1984.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 518) entitled "An act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control."

ORDER OF BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the gentleman from New York (Mr. KEMP) may be able to precede my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MONETARY POLICY AND ITS IMPACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. I thank my colleague from Pennsylvania. Let it be known that there is no one in the House except for the gentleman from Pennsylvania (Mr. WALKER), the gentleman

from Michigan (Mr. SILJANDER), my friend, the gentleman California (Mr. LUNGREN) who gave the previous special order, and I think our colleague, the gentleman from Georgia (Mr. GINGRICH) is lurking in the shadows back there.

Mr. WALKER. If the gentleman would yield, let us not forget the distinguished gentleman from Washington who is occupying the chair, who is a Member, too.

Mr. KEMP. That is a priori. I know that the Speaker is in the chair, and all is well with the world as long as we are here. I thank the gentleman again for allowing me to precede him.

Mr. Speaker, I thought tonight, for the RECORD, it is important to, I think, take some time and focus attention on monetary policy and the impact it is having on our interest rates, and of course the impact that interest rates are having on this economy.

I was deeply concerned that the stock market has dropped another 10 points today, bank stocks were hit, the headline says, on the fears of the international financing crisis. The Federal funds rate, which is the cost of overnight money to the member banks of the Federal Reserve is trading at 10 1/16 and above.

It is clear that the Federal Reserve Board feels it has to tighten on the credit conditions of this country and, believe it or not, they use as their excuse that the economy is overheated. In other words, it is growing to fast. In fact, there was a prediction last week by a member of the President's Cabinet who says that he thinks that interest rates will fall because the economy will slow, and when you read the story you fall into the trap, I think, or he has fallen into the trap of suggesting that higher interest rates will slow down the recovery, slowing down the economy will reduce the demand for credit, that will allow interest rates to come so the economy can begin to grow again.

It is an unbelievably circular argument and one that has gained prominence in certain circles of this town. I think it is a very elitist view, Mr. Speaker, because it attempts to fight inflation off the backs of autoworkers, off the backs of the steelworkers, off the backs of the American consumers, off the backs of the poor who are in desperate need of a strong expansion of this economy, continued economic growth, a drop in unemployment, and of course the consequences would be quite beneficial was well to our budget, because every 1-percent drop in unemployment reduces the deficit by anywhere from $25 billion to $35 billion. Every 1-percent increase in the growth of the GNP reduces the outyear deficits, I am told, by close to $200 billion over 5 years.

□ 1910

So clearly if we are to bring down the deficit, we need to bring down unemployment, but in order to get down unemployement we need to continue the expansion of the economy and it is critical, therefore, that the Members of Congress on both sides of the aisle continue to put pressure on our central bank, the open market committee of the Federal Reserve, to take into consideration a lesson of history particularly learned, particularly evident during the early years of the Kennedy administration, that growth in and of itself is not inflationary. The idea that economic growth is inflationary has dominated American economic opinion probably since 1971.

I want to say here parenthetically, I would rather listen to the first 2,000 names in the Buffalo, N.Y., phone book than the Council of Economic Advisers of previous administrations who have told us that the way to fight inflation is to slow down the economy and the way to fight unemployment is to inflate the economy. That tradeoff between inflation and unemployment is a cruel hoax on the dreams and aspirations of the vast majority of the American people.

It seems to me that headlines like this or headlines that I have seen recently in which the IMF, the International Monetary Fund, has been telling Third World countries and allies of the United States in Central America or in Latin America or the Caribbean that the only way that they can reduce their deficits is to raise taxes and devalue the dollar—in fact, I saw one story the other day that said the Dominican Republic was party to an agreement with the IMF that required them to devalue the Dominican Republic peso by 200 percent. Prices doubled in 24 hours. There were riots in the Dominican Republic. Can you imagine what happens to the poor when interest rates and inflation rise, when the currency is devalued and when unemployment expands? Of course, there are riots.

I do not mean to excuse lawlessness, particularly coming on the heels of the previous special order by my good friend, the gentelman from California (Mr. LUNGREN), but Mr. Speaker, it is impossible, virtually impossible not to recognize the social consequences to a nation with 50-percent unemployment, such as say Mexico or the Dominican Republic, to have an international body of economists go into that country and say that you have to reduce your budget deficit by raising taxes on the poor, raising taxes on savers, by devaluing the currency which lets prices rise inordinately and cause a flight of capital and otherwise continues the cycle of poverty that probably in the first place is the cause of the budget deficit, not the fact that people are living too good.

Let me get back to my comments about our central bank. It was only about a month ago, Mr. Speaker, that some of us on the floor of this body held a special order in which we identified for our colleagues the fact that the Federal Reserve Board on I think March 26 in a secret meeting had voted to tighten up the credit conditions of this country and allow interest rates to go up, and there had been a leak in the Washington Post portrayed by John Berry of the Washington Post that the action had been taken.

Further, it had a leak from a member of the Federal reserve, Mr. Frank Morris, president of the Boston Fed, that the reason the Fed had tightened, the reason they raised interest rates, the reason that they tightened credit conditions was because they were worried that the economy was recovering too quickly, that the first quarter figures for the nominal GNP, well over 12 percent, was too bullish or too expansive and apparently that strong economic growth would create all this wealth and wealth, I guess, would trickle up into higher prices, and besides that, we were rapidly approaching full capacity.

Now, the Federal Reserve Board, let me say, identifies the total utilization of capacity of America's factories at about 81 to 82 percent, maybe a little bit higher. In other words, anything over the utilization of American factories at 82 or 83 percent otherwise engenders inflation.

It might be said at this point in the debate or the RECORD, Mr. Speaker, that Japan has a capacity utilization factor of 97 percent. Interest rates are lower. Inflation is lower. Unemployment is lower. The yen is very strong. It is not as strong as the dollar because our central bank is unhappy that the economy is growing too fast, so it decides to tighten these credit conditions and raise interest rates even further and then, ironically enough, the United States is entering into negotiations with the Japanese to internationalize the yen so that it will get even stronger and thus, I guess, make for a more favorable exchange rate between the dollar and the yen and give us a better advantage in trade with Japan.

It is interesting. The more we try to internationalize the yen and to provide some stability between the yen and the dollar and the European currency, the ECU, the European currency unit, the tighter the Fed tightens credit conditions, the stronger the dollar goes on international foreign exchange markets and the higher our interest rates go. It is a never-ending circle, Mr. Speaker, one that I am deeply concerned about with a growing number of Members of this body and the other body, and unfortunately all too few of our colleagues on the

other side of the aisle. There is a handful of Members who are concerned about this on the left side of the aisle.

I did not take the time tonight to be critical of the Democratic party, but I wonder what they would be saying if the Fed was moving to accommodate this recovery, moving to lower interest rates to allow housing and autos and agricultural commodities to continue the recovery. They would probably accuse Ronald Reagan and Paul Volcker of some form of a political concordat and we would be hearing from them.

Unfortunately, the Fed is not listening. They are tightening and all too many Members of the Congress are silent.

Now, let me say at this point, not only am I not here to make this a partisan issue, I do not think we want, and I frankly say publicly, we do not categorically want a Federal Reserve Board that is interested in electing Presidents or defeating Presidents. We do not want a Federal Reserve Board policy that gives us a Republican President. I do not want them to try to reelect President Reagan or those of us who are still here tonight or more Republicans and I do not want them out defeating Democrats. We do not want a monetary policy that is politicized.

Of course, I will be accused tomorrow when this special order is read by some of attacking the independence of the Fed, politicizing the Federal Reserve Board, going after the historic separation of church and state between the Congress and the Federal Reserve Board. They will find all sorts of ways of scaring the American people into thinking that any criticism of the Fed is prima facie evidence of wanting to reinflate.

I stand here unabashedly and unashamedly, unequivocally a strong supporter of a gold-based domestic and international monetary system in which our central bank is required by law to guarantee the purchasing power of the dollar and backing it with some fiduciary promise to make it convertible into a fixed amount of that precious commodity that some people think is a four letter word—gold.

I do not want to reinflate, Mr. Speaker, and those of us who have supported legislation designed to tell the Federal Reserve Board two things, one, it should meet in open or at least make decisions so that the American markets can have information simultaneous to the change in policy.

We have democratized every agency of the Federal Government. We have added a sunshine law to every bureaucratic operation in this town. The only single agency of the U.S. Government to get away with meeting in the dark at midnight and changing the rules of the game, because frankly that is what they can do, they can change the value of the dollar. They can raise or lower interest rates. They can manipulate our credit markets. They can change the dollar value of the exchange rate and it is all done in secrecy without any press, without any recorders, without any gallery, without any information to the American people, and as a supporter of markets and the efficiency of our markets it seems to me our markets cannot operate without information that is credible, consistent, and simultaneous to a change in policy.

□ 1920

So our legislation, Mr. Speaker, would require that the Federal Reserve Board, after its meetings, after it changes its policy, that it announce that policy to the American people, to the consumers, to the men and women who have across this land such a huge stake in the future of this economy and its ability to put people back to work and bring about what our goals should be for America; indeed, what our goals should be for all Americans: full employment, full employment and sound money, or full employment without inflation.

I would ask some of my colleagues who will be reading about this next week what do they think the deficit would be today if interest rates were 7 or 8 percent where normally they were during the late 1960's and early 1970's. Under John F. Kennedy the interest rates were 4 and 5 percent. What do you think would happen to housing and autos and steel and agriculture? What do you think would happen to American exports? What would happen to our ability to be competitive in the world markets if interest rates were 6 or 7 percent?

This economy would boom and not only would the economy boom, we would get unemployment down. And I am not saying the deficit would be totally away, but I am convinced that the deficit would be at least reduced by $100 billion by bringing unemployment down from 7.5 or 8 to 4.5 or 5.

I do not even want to stop there. The Congress should be passing enterprise zones so that every city in this country could have an opportunity to give small business men and women a chance to go out and create more jobs, to bring minority employment up, and to create an entrepreneural climate in this country's inner cities that can help solve not only many of the social problems that are attendant to high unemployment, but I think that, too, would have a favorable impact upon our budget deficit.

Those of us who are on the floor suggest, Mr. Speaker, that this country can still reach full employment without inflation, that we can still balance the budget, not only by cutting spending but by bringing back into equilibrium this wonderful economy that our fathers and mothers used to talk about: American free enterprise. It is not a dream. It could be a reality.

To have the Federal Reserve Board tightening right now, to have the central bank telling us that growth over 9 percent in nominal GNP is too much, confines the folks of Pennsylvania, the people of New York, and Michigan—it is interesting that the only Members on the floor of the House tonight are from key northeastern industrial States who have a critical stake in the future of a growing economy that can help bring this Nation back to high levels of employment and indeed full employment. And I thank the gentleman from Ohio (Mr. KASICH) who just walked into the Chamber, because he, too, represents a State that is critically impacted by high interest rates.

Let me just take 40 seconds before I begin to yield because I wanted to get into a couple of headlines I thought were interesting. I am just going to read them off to give folks some idea as to how perverse this policy is and how it has been reflected in newspaper headlines in the past couple of weeks.

Let me say again, everybody asks the question: Why are interest rates going up?

The Congress has been trying to get a budget deficit down payment. President Reagan has vowed to veto any spending bill over his budget. There is a mood in this town of cutting spending and, of course, interest rates are going up at this very time.

Why? Because it is not the deficit rising. The deficit is big, it is too big, but it is not rising. It is coming down. The deficit projection for 1984 is $20 billion to $30 billion higher than the deficit on an annualized basis than we have right now.

I do not want to get far out on a limb because there is still 6 months to go in the fiscal year. But for the first 6 months of this fiscal year the deficit at the Federal level is running on an annualized basis of around 155, 160, in that realm.

OMB, CBO, Henry Kaufman—let me ask you a question. Has there been anyone more wrong in the U.S. economy in 1982 and 1983 than Henry Kaufman? He has not made one correct prediction in 1983, and he is not going to be right in 1984 unless Paul Volcker makes him right by keeping the high interest rate policy.

Let me take it a step further. There is a $50 billion surplus at the State and local level. I talked to Mayor Koch the other day. The city of New York a few years ago was in a massive deficit that had to be bailed out. And I do not say that disrespectfully. I voted for it because I did not want New York City to sink under that huge deficit. And I am very pleased to announce

that the mayor is saying publicly and privately that New York City now has a surplus. New York State has a surplus. Governor Kean of New Jersey is talking about tax rebates. He has a surplus. California has a $1.5 billion surplus.

We have a $50 billion surplus at the State and local level. The whole national deficit, counting Federal, State, and local government, is around $110 billion to $120 billion in deficit.

It is not good. But it is better than the $200 billion or $300 billion deficits that the CBO had projected, that David Stockman at OMB had projected, and that Henry Kaufman had projected, and Peter Peterson, the big industrialist up in New York who sits on the 50th floor of some fancy bank building or office building and says that Congress should reduce the deficit by raising taxes on the working men and women of Buffalo, N.Y. And we should raise consumption taxes. Do not tax capital, do not tax business, just tax those people.

I am one of those, as I think many are as well, that thinks that the American people are not undertaxed. They are not undertaxed, Mr. Speaker. Nineteen percent of our Federal gross national product is the same revenue base for the Government that we had over the last probably 20 years, give or take a higher increase in Federal revenues under Jimmy Carter, President Carter, respectfully, when revenues as a percent of gross national product rose up to 21 percent.

Twenty-one percent of GNP was Federal revenue, Federal taxes under President Carter.

President Reagan got it back down to the historical norm of around 19 percent.

The reason we have got a deficit is the economy went through a contraction, unemployment went up, and every 1-percent increase in unemployment drives the deficit up by $40 billion.

Conversely, economic growth, getting unemployment down, will bring down the deficit. But we cannot bring down unemployment, we cannot bring down the deficit without bringing down interest rates.

I asked the question of the Federal Reserve Board Chairman, Mr. Speaker, what mandate are they under that tells them that they should be raising interest rates in the economy.

The John Barry article of May 2, 1984, headlined in the Washington Post, says: "Federal Reserve Board tightened monetary policy to slow economy, debt growth."

In other words, as they slow down the economy, the debt of our Nation grows, plus the debt service of our Nation grows, plus the debt service of Mexico, Argentina, Brazil, Panama, Peru, Dominican Republic, Jamaica, Morocco, Sudan, et cetera, et cetera, et cetera. And it is outrageous.

The gentleman from Georgia, my good colleague and comrade in arms in these battles, was pointing out the other day that the 1-percent increase in the Federal Reserve Board interest rate, which shoved the prime rate up another 1 point, cost Argentina more money in debt service than the total bridge loan that was worked out by the Treasury Department and the Federal Reserve Board meant to that country in their banking crisis.

Mr. KASICH. Mr. Speaker, will the gentleman yield on this point? Because the question I have for the gentleman relates very directly to this particular issue.

Mr. KEMP. I am glad to yield to my friend from Ohio who also participated very eloquently in our special order a couple of weeks ago.

Mr. KASICH. I would like your opinion on this. Recently the Chairman of the Federal Reserve has suggested that we put a cap on the debt ridden countries of the world.

Mr. KEMP. The Third World countries, yes. He is worried about them, but not the American consumer.

□ 1930

Mr. KASICH. He has suggested that we put a cap on those rates and anything above those rates would be added to principal.

Now the significance of this point is there are some that argue that the reason why we do not even have higher interest rates in this country at this point is because the Federal Reserve Chairman has recognized that as interest rates go higher it imposes even more difficult burdens on Third World countries and their inability to pay the banks in this country who made the initial loans.

If we were to put a cap on interest rates that we charge the Third World countries that would relieve the pressure on the banks today to keep rates as low as they are at the present time, because if we were to leave a cap on there, then it would be free to let interest rates rise even higher in this country domestically.

Mr. KEMP. Absolutely.

Mr. KASICH. So what the Federal Reserve Chairman may be suggesting, and I am not accusing him of this; I would like this question to be asked of him perhaps, is his action suggesting a cap on interest rates for Third World countries mean higher interest rates for America, because there are some who would clearly argue that it does in fact mean higher interest rates in America because it eliminates the pressure of keeping rates low so these Third World countries can pay back their loans; raising those rates creates more problems.

Mr. KEMP. I would argue the gentleman is absolutely on target; by putting a cap on Third World debt it will definitely raise interest rates on domestic American consumers; there is no doubt about it.

Let me say, though, in fairness to the Chairman of the Federal Reserve Board, because we do not want to misquote him; I cannot find a quote in which he says that he is offering that suggestion.

Anthony Solomon of New York Federal offered that suggestion. Paul Volcker, the distinguished Chairman of the Federal Reserve Board, said recently that it is an interesting idea. Well, again to be accurate now, to Mr. Volcker, because we would not want to misquote him, when he said it is an interesting idea, it is not fair to say that he is advancing it.

But the fact that it is even being discussed is outrageous because the type of credit controls that were put on in the seventies that ultimately caused a pressure-cooker effect to build up on that once the controls were taken off interest rates and inflation took off.

Let me get a couple of more headlines in, though, because I want to get a few more at this point. Paul Blustein in the Wall Street Journal on May 3, 1984, said "Policy disclosure by Federal Reserve Board officials triggers uproar." Of course, he is telling the story about that meeting at which Frank Morris told a few of his business economists that the Federal Reserve Board, he said, decided to tighten its money grip in late March.

And the reason he gave was that the Fed believed that it had to tighten now because the first quarter growth figures, nominal GNP, rose at 12.8 percent, well above the Federal Reserve Board's projected rate of 8 percent.

I mean, can you imagine the Federal Reserve Board telling us that this economy cannot grow nominally faster than 8 percent? Or maybe they have a target range from 8 to 10 percent.

Irrespective, it is just unbelievable to me.

I think this country's economy could grow at any rate that is possible so long as inflation is not engendered, is not reignited, and the way to tell if inflation is rising is what is happening to prices.

I would not say just look at the Consumer Price Index, because that is too volatile, Mr. Speaker.

What we should be looking at is long term markets that are noncyclical. I would look at the price of gold, precious metals, industrial metals, the Dow Jones Industrial Commodity Price Index, Commodity Research Bureau's price index and those markets do not tell us that inflation is the problem.

They tell us, on the contrary, that deflation is the problem.

Listen to this: May 2, 1984, Tom Herman and Edward Foldessi in the

Wall Street Journal: "Bond slump deepens amidst worries that the Federal Reserve Board will tighten credit further."

Of course, if you knew that the Fed was going to tighten, bonds will collapse. That is what has happened in the pandemonium ensued since these type of rumors have taken place in this country.

Business Week, May 3, 1984, "Fed's secret weapon for keeping credit in check"; they go into how the Fed is tightening up on credit.

Evans and Novak, you will love this, May 14, 1984, in the New York Post, headline, "Tight Money Volcker Wins Secret Democratic Backing." I will put that in the RECORD for some of my colleagues to look at.

May 15, 1984, New York Post editorial takes on the New York Times. Listen to this: One, I say to my colleagues, the New York Times has accused the White House and President Reagan and Don Regan of picking on the Fed.

They say, "The Federal Reserve Board has no attractive alternative, given the Federal Government's large deficits and still fresh memories of double-digit inflation such decisive Federal Reserve Board action is the only hope of holding prices and wages in check."

Did you hear that?

The New York Times said the only way of holding wages in check is for the Fed to raise interest rates. The New York Times, I mean it is unbelieveable; the New York Times is telling the working men and women of New York and Pennsylvania and Michigan and Ohio that the only way to keep their demand low is to raise interest rates and slow down the economy, and the New York Times suggests that they are a friend of the poor, that they care about the working men and women of America.

It was the New York Post in their editorial that takes on the Times.

What is even more important than that little debate is the recognition that this issue is coming to the forefront led by a hearty band of what the Wall Street Journal calls "Young Turks," such as those who are on the floor and a lot of colleagues like us who are deeply concerned.

Mr. WALKER. Will the gentleman yield?

Mr. KEMP. That is enough red meat for the moment.

I yield to my friend from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. KEMP. Mr. WALKER, who is so shy about speaking at this point in the proceedings that he just literally sat back for 2 hours tonight and let some of his colleagues go before him. We appreciate his allowing us to have a piece of that prime time television market that he has become so famous for.

I was walking down the street recently, my wife and I, in Puerto Rico where I was speaking to a conference on the Caribbean and the North American hemisphere, I should say the Western Hemisphere—a person came up to me and said, "Aren't you Congressman JACK KEMP of Buffalo, N.Y.?" And I said, "Yes."

I got a smile on my face, I felt pretty good about it. She said, "Oh, Mr. KEMP, do you know that Mr. WALKER, BOB WALKER of Pennsylvania, I have seen him on C-Span."

I want you to know that that ruined my whole vacation, because after 13 years of professional football, I became known as O. J. Simpson's teammate and now after 13 years in the Congress, I am BOB WALKER'S——

Mr. SILJANDER. Friend.

Mr. KEMP. Friend.

Mr. WALKER. I say to the gentleman it is just revenge. Having had a pro basketball-playing brother, I have been "Wally Walker's brother" for so long that I am happy that the gentleman has found a case where his sports career did not dominate, that he found one of my C-Span fans out there.

But I would say to the gentleman, I was more than willing to sit back here this evening.

Mr. KEMP. I find that hard to believe.

Mr. WALKER. The gentleman was educating me. He had an excellent statement. And I think that there was a great deal in what he had to say.

I did want to make one point, though, that the gentleman indicated there are an awful lot of people who say, when he talks about bringing down the unemployment rate, down from 7 or 8 percent, down to 6 or 5 or maybe 4½ or something like that, that many people today will say, well, you cannot do that any more.

Mr. KEMP. Yes, that is right.

Mr. WALKER. And there are people who basically have not oriented themselves toward growth, people who do believe that everything can be run out of the dark corners of the Federal Reserve or out of the committee rooms of this Congress.

□ 1940

But the fact is now I come from a community, from a county, a main county in my district, where the unemployment rate right now is at 4.2 percent. It can be done if you have a community, if you have an orientation toward growth, if you have a people who are willing to work and so on, and most Americans certainly are. If you put all of that together you can bring unemployment down into those kinds of levels.

It is not an impossible dream. The gentleman is talking in terms of reality that is possible if we could just get this place straightened out and get the Federal Reserve straightened out.

Mr. KEMP. And I will tell you what, I think the fact that the gentleman from Pennsylvania and others like him take the time to highlight these issues on the floor, even though the whole Chamber is empty—this is terribly self-serving—deserve the love and thanks and admiration of the American people because I will tell you what, if it were not said here, the minority would not get a chance to say it, because all of the time is totally controlled by the opposition party. The one chance the minority has to go and take their case before the American people is at 20 minutes to eight on a Thursday night, with all of our families waiting for us to come home. My wife dressed up, waiting for me to come to a dinner party with Coach Gibbs of the Washington Redskins and to raise money for charity. I say that with a smile on my face, but at the same time trying to recognize what is happening.

These issues must be elevated because the American people really need the type of information that I think they are getting in this debate.

Let me say one other thing. This is unbelievable. Listen to this. Another headline. You will love this, if it were not so tragic.

"Riots in Santo Domingo Renew Debate on IMF." The story goes on in the New York Times to tell the story of what the IMF did to tiny little Dominican Republic that just caused a conflagration—I will say to the gentleman conflagration means riots and trouble and disruptions——

Mr. WALKER. I thank the gentleman. I was just reaching for my Webster's Dictionary.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Ohio.

Mr. KASICH. I appreciate the gentleman yielding.

Let me just say I think this is the second special order, full-blown special order on the issue of monetary policy. I want to tell the gentleman, I know he knows this as well as my colleagues here on the floor, we have a long way to go.

Mr. KEMP. Yes; we do.

Mr. KASICH. Because the media has not focused for one reason or another, has not focused on the issue of monetary policy.

Mr. KEMP. I want to say to my friend that we should not attack the media for something that has been lacking in this body or in our party because really we have failed to raise the issue before the American people. It is our fault. I take some of the blame. We have got to get out here and take our case to the American people and the press will begin to report that is

what is interesting. If we keep it up they—listen to this, Alfonsine—that is Argentina's Alponsine—says "Interest Rate Rises in U.S. Imperils Argentina's Social Peace."

The interest rates rising in the United States are causing riots in the Dominican Republic, disrupting the first chance of Argentina to get a democratic government to work and we are spending all this money to build up El Salvador's democracy and yet we are imperiling the democracy in Argentina, which is a friend of the United States and critical to hemispheric peace.

Latin nations—here is another headline—April 15, 1984, James Roe in the Washington Post—"Latin Nations Fear that Rising Interest Rates Will Wreck Economic Resuscitation."

Here is the article—"Cap Sought on Foreign Loan Interest Rates." The gentleman from Ohio was talking about the cap on Third World interest rates.

Robert Bennett, May 17, 1984, New York Times. It was Tony Solomon's idea, I would say to my friend. Anthony Solomon is the president of the Federal Reserve Bank of New York.

What are those guys thinking about? Do not blame it on the press though.

Mr. KASICH. If the gentleman would yield, I am not trying to blame it on the press. I am saying the press has failed to focus on this issue for a variety of reasons, perhaps because we have not raised the level of debate. And that is why I say we have got to have more of these special orders because business people—let me tell the gentleman. I just had dinner last week with the housing people in Ohio, the Ohio Home Builders. We started to focus on fiscal policy and they wanted to focus exclusively on fiscal policy. I pointed out to them that to focus exclusively on fiscal policy without paying attention to monetary policy is a tremendous mistake.

We are going to have to continue to have these special orders in order to raise the consciousness of the Members in this body and of the press so they start to question, start to ask how is it that we can have a change in monetary policy by the Federal Reserve, four or five different directions, within the period of 2 years. Let us start asking these questions.

As we continue to ask them in these special orders, and as the American people begin to ask them, so will other Members of this body, and finally the press, and we will start seeing some things on the front page of newpapers questioning what is a vital component to a successful economic policy.

I want to commend the gentleman again for his leadership on the issue.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding because I think the gentleman from Ohio makes an important point that maybe needs to have something added to it.

If we do not begin to concentrate on both aspects of Federal policy on both monetary and fiscal, we have the really weird situation where growth has, as the gentleman from New York stated earlier in his remarks, brought down the deficit.

Now Paul Volcker and the Fed are succeeding in adding back to the deficit, as they raise the interest rates, which means that the interest charged by the Federal Government is going to be higher, which means that we have additional dollars that we have to add on that we did not anticipate spending, so that, in fact, the Federal Reserve by raising interest rates is in fact costing the Federal Government more, adding onto the deficit, which they say has to come down in order for them to lower interest rates.

The whole thing is a catch-22 situation. It is absolutely absurd that we do not blend together these two functions of our policy.

So I think that the gentleman from Ohio makes a very important point that we have got to begin to deal with both aspects or we are fooling ourselves.

Mr. KEMP. The question that the gentleman just raised, Allen Reynolds in the Wall Street Journal, a couple of weeks ago, had a great line. He said "Most economists are said to be concerned that a growing economy must raise interest rates which will prevent the economy from growing."

The solution, they think, is to raise interest rates to slow down the economy, so that interest rates can fall and thus speed up economic recovery.

I know it sounds silly, but that is what they are actually doing. They are raising interest rates to slow down the economy so that there will be less demand on the credit markets, so interest rates can fall, so we can get the economy recovering again.

It is time to call their bluff. It is time to challenge the liberal thesis that growth causes inflation. It is time to bring to the attention of the American people that there is no earthly reason for the Federal Reserve Board to be tightening up on the credit conditions of this country, at this time, raising interest rates, and putting any barrier in the way of the housing, auto, agricultural, industrial, export sector of America, upon whom we rely to bring down unemployment and get American men and women back to work.

As the gentleman from Pennsylvania points out, that would have a benign, indeed it would have a beneficial effect upon our budget deficit.

Now I yield to probably one of the more relentless pursuers of sound money policy, the gentleman from Michigan (Mr. SILJANDER).

Mr. SILJANDER. I thank the gentleman for yielding.

I have sat here through your entire special order. I am quite impressed at the range of areas that the gentleman has touched on. One that took particular interest, in fact two, but the first one dealt with what would happen if interest rates were 7 or 8 percent.

One thing I think I would like to add to the gentleman's long list of fine articulated scenarios, what would or would not happen in the positive, we pay about $112 billion a year in interest. Considering this year's deficit looks like around $150 billion, that makes over 70 percent of our deficit is paid for interest on the national debt, which today we voted to increase the cap to a record of $1.52 trillion. I have no notion of how much money that is. It is too awesome a figure for the gentleman or me in a lifetime if we articulated 1, 2, 3, 4, and begin counting from today to the time we died it would take several lifetimes to count to 1 trillion. It is an incredible sum.

But the point is just this.

□ 1950

We never have dealt with our fiscal policies in a serious nature on the floor. We have dealt with them in a political nature. We have never dealt with monetary policy in a serious way on the floor. It has always been political, oriented toward elections that have come up in this House every other year. As a result, we have increasing deficits each year, that, certainly piled on top of the annual national debt that has been piling up, as I said, $1.52 trilllion, and we pay 70 percent of our deficit each year now on just interest alone.

Let me add one more point to your long list of positive things that would happen. Our deficit would be reduced just simply because we would pay less interest on the national debt and, hopefully, less than $112 billion in interest alone.

The second issue you raise, what would happen in States such as Michigan in the auto industry? Because interest rates came down from a record 21.5 percent, began slipping down because of the 25-percent tax cut, I believe is a major reason why, and the gentleman from New York's thinking, his motivation, his initiative through the years and, finally, a 25-percent tax cut under the leadership of JACK KEMP and President Reagan finally passed the Congress in 1981, we saw an economic recovery.

What was the result? 200,000 auto workers went back to work. A great abundance of those auto workers are from my State of Michigan that was so dramatically and adversely affected by those high prime rates.

Now we are seeing Congress playing games again. We are seeing them consistently raising taxes. In 1982, once $100 billion; in 1983, social security and fuel taxes; in 1984 another $48 billion to $50 billion tax increase. We are seeing shenanagins. What has been the result? Interest rates, the prime, has slowly edged up once again.

Now we hear the Federal Reserve playing shenanigans with M1. What is the result? Interest rates, the prime, has now gone from 11.5 to 12 percent.

In concluding, I would thank the gentleman from New York for his well presented arguments why it is time for Congress to begin getting serious with fiscal policy as well as monetary policy which is balanced for overall economic well being and a healthy economy of our Nation.

Every 60 seconds, so I have been timing it, the angles of the cameras, the wide-angle lens, identifies there are a very few Members of Congress on the floor. One of the reasons why we are here, I would like to remind all of those listening in the Congress and others, we are here because this is the only forum we have to express a concern about the economy, of rising interest rates, of an outraged American people who are sick and tired of a Congress which is high on spending. Every time they need another fix, they shoot more tax increase in their veins. The American people are sick and tired of it. And where is everyone else? They are not here because there are few of us here to present our case, the rest of them feel they have done their job, they have raised the taxes, and their job has been completed.

Mr. KEMP. Let me say to my colleague that I appreciate everything he said. We have been through this a little bit before. And I would hope that in our special orders—and may I say this as one of the leaders of our Republican minority—that I would hope that on the floor we remind not only those who may be listening or watching that it is legitimate for Members to go home at the end of a long day. It has been a long day, and there is a recess ahead of us, and I do not want to cast any aspersions on those who are not here, because, frankly, I would like to be home with my wife and children, and I think each and every one of us would.

Mr. SILJANDER. If the gentleman would yield for 20 seconds, just to comment, some of us representing at least our party, we are here, and we have been challenged as to why we bring up these issues in special orders.

Mr. KEMP. I may not be here this late next week, and I do not want to be accused of not caring about this issue, because I have told people in Buffalo that I am going to spend every waking moment of my day in office getting this economy back to equilibrium, full employment, no inflation, sound money, jobs for all Americans.

When the gentleman from Pennsylvania said people want to work, I can guarantee you people want to work. Six weeks ago in Buffalo, N.Y. in the rain, 20,000 people, as was reported on the front page of the Buffalo News, 95 percent of them black, were waiting for 36 jobs at Anaconda Copper in North Tonawanda. People want to work, black and white and male and female, people want a chance to be able to put food on the table, to have a job and have dignity and justice that goes along with being able to help yourself and your family, and I think jobs and jobs and jobs and more jobs is something that we should be talking about.

I do not see how we can get those jobs unless we put everybody to work in the public sector or else we get interest rates down and allow the private sector to grow.

One other point: As you can tell, I have been going through some clippings here. Listen to this. You said I had a broad range of interest. Here is one last footnote to my concerns. This is Warren Brooks in the Detroit News, May 3, 1984, and he says, "What is troubling is the growing perception that one of the reasons * * *."

Would the gentleman from Pennsylvania listen to this? This is dynamite.

Mr. WALKER. I will listen with rapt attention.

Mr. KEMP. To the populist wing of the Republican Party this is dynamite. Even the gentleman from Georgia is going to get a—listen to this, seriously. I cannot stand not to be listened to. Would the gentleman from Georgia——

Mr. WALKER. The gentleman from Georgia is about to take notes.

Mr. KEMP. "What is troubling, of course, is the growing perception that one of the reasons for the Feds' "—that is the Federal Reserve Board—"excessively high interest rates is not the inflation fight but because its member banks need a higher spread between borrowing and lending costs to support weak debt. The Bank of Boston, for example, recently reported that its spread has risen over the last 3 years from about 2 points to 3 points."

Ladies and gentlemen, that is a 50-percent increase in the profit for the bank that gets a spread of 3 instead of a spread of 2. So higher interest rates increases the spread for the bank, the bank's profit margin is rising by 50 percent, and the question might very well be asked: Is the Federal Reserve Board trying to make banks well?

Mr. WALKER. Will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I just want to assure the gentleman that late some evening next week, when we are here and he has other priorities, and so on, we will assure his constituents that he is indeed working hard on their behalf.

Mr. KEMP. I am glad that I do not have to prove to my constituents that my only work is doing C-Span.

Would the gentleman from Georgia like to comment? This should really be good.

Mr. GINGRICH. I just want to make the point that tonight and the other night, I guess, a week ago, the gentleman from New York began what I think will be one of the most important contributions of his career to American public policy. I think that we are seeing, with the fall in the stock market, with the crisis in Chicago with the bank, with the problems in many countries in the Third World, I think we are seeing the beginning of the unraveling of the paper money bureaucratically managed, hidden political structure, which has tried to manage this economy for the last 13 years without a stable yardstick.

And I think we have to confront sooner or later that if we really want to bring down interest rates, if we really want to save the American farmer, if we really want to save the American realtor and homebuilder, if we really want to create an atmosphere in which our friends in the Third World can have a decent chance to pay off their debt and live a decent life, then we are going to have to cut through the real solutions and take real medicine and not just play games.

I think that we have seen, frankly, an absolute disaster in Paul Volcker's policies. I think he has now had 5 years of stewardship, and we are, if anything, I think on the verge of being potentially dramatically sicker, and I do not think it is a question of just taxes or spending in this Congress. As long as our monetary system is essentially unstable and as long as we try to jury-rig and finagle our way through this crisis I think it is going to get steadily worse.

I think the gentleman has begun a dialog and a debate that is going to be for the rest of the 1980's possibly the most important single policy decision that the American people make because there are implications not only for the American economy but for the entire global economy.

So I just wanted to urge the gentleman onward because I think that we have to find a way to educate and outline and communicate to our fellow citizens how serious the monetary crisis is and how deeply it goes into the very fabric of our economy.

Mr. KEMP. I appreciate that, and I just wanted to close by saying again to my colleagues who are here—and I appreciate the gentleman from Mississippi is here and the gentleman from New York—while we have been jocular at times, the gentleman from Georgia

has put a fitting cap on the debate by recognizing that we have profound responsibilities, we have profound responsibilities to the American people.

I do not want to give the impression that by smiling or engaging in a repartee with some of my colleagues that I do not think that this is the single most important issue facing this country today, the restoration of sound, honest money, as the gentleman from Georgia eloquently points out. The gentleman from Pennsylvania mentioned bringing down unemployment. There are some of us who have joined together loosely in an effort to restore opportunity to this country.

□ 2000

We will not reach that full opportunity of the American dream until we have reformed our Tax Code. Until we have reformed money, so that interest rates can come down and people can be guaranteed that the value of the currency will remain stable over a long period of time. By being here we rededicate ourselves to that cause, to that effort, to indeed noblesse oblige for which this country was founded.

While at times we may smile and get teased over the proceedings, the willingness of Members to take this debate to the next level and to keep advancing this cause, I think, is of critical importance, not only to the cause but to this country's future.

At this point, Mr. Speaker, I ask unanimous consent to place in the body of my remarks at its conclusion an agenda for full employment without inflation, which some of us, including the ones of us who were on the floor call a conservative opportunity society, or American opportunity society, or what President Reagan has called an opportunity society. We are not arguing over words, Mr. Speaker, each and every one of us believes that America can be all that God meant it to be, when we here on Earth doing vital work can provide true equity, true equality, so that every single man and woman, every boy and girl, can have the opportunity, can be all that they were meant to be.

A COMPREHENSIVE FIVE-PART PROGRAM

Its five parts are tied together. Together, they make up a comprehensive, simultaneous, mutually supportive program that will attack every aspect of economic inequality and stagnation, and will restore full opportunity and economic prosperity.

This program includes these components:

First, a fair and simple tax system. Our plan will combine the best features of the flat-rate tax with special provisions for wage-earners, families with children, savers and homeowners.

We cut the top income tax rate to 25 percent. The federal government should not take more than 25 cents on a dollar of income.

We double the personal exemption to $2,000, so a family of four would not pay tax on the first $11,400 of income—over 50 percent more tax-free income than today.

We have a special allowance for wage and salary earners, which excludes 20 percent of their income from taxation. This is because people face risks of health and age not faced by interest, dividend and other capital income. A municipal bond can't get sick, and workers don't receive depreciation allowances. Our exclusion effectively cuts their tax rate instead. The allowance is phased out between $40,000 and $100,000 of income.

We simplify the tax code significantly by getting rid of most deductions. But we keep deductions for charitable contributions, interests, and property taxes, as well as for IRAs and other retirement pensions. Because of the way in which the tax base is broadened, the distribution of the tax burden is virtually unchanged under our plan—even when you include Social Security taxes. Low- and middle-income taxpayers are protected from any tax increase, unlike all other flat rate tax proposals.

On the corporate side, we keep the Reagan depreciation schedules, but get rid of most loopholes, and cut the rate to a flat 30 percent. We cut the business capital gains tax rate from 28 percent to 20 percent and index the tax code, including capital gains.

How does this compare with Bradley-Gephardt? Our plan has a lower top tax rate; a lower capital gains rate; it keeps indexing; has more incentives for saving; far more generous treatment of families with children; and it's much simpler to figure your taxes.

This is a tax reform plan which American workers and savers across the country can embrace.

Second, we offer urban enterprise zones to help revitalize the nation's most economically depressed areas.

Even with national economic recovery, we need special efforts to make sure that no one, particularly minorities and the urban poor, is left behind. The chronically depressed areas of our nation need special tax incentives and other measures to encourage enterprise and job creation. That's what enterprise zones do.

Few other issues have a wider, more devoted and broad-based consensus than urban enterprise zones. Blacks, whites, Hispanics, liberals, conservatives, Democrats, Republicans, big-city mayors, suburban and rural representatives all support it. This legislation has been endorsed by the Administration, passed by the Senate, and has more than 240 co-sponsors in the House.

Yet the Democratic House leadership is bottling it up. Can it be that—just as they don't want our economy to improve if it ruins their political plans—they don't want poor and minority Americans to succeed? With a good job, a home of their own and a stake in the system, they might become conservative Republicans!

The time has long since arrived to provide inner-city residents with the incentives they need to overcome the obstacles of poverty and urban decay. We Republicans must see to it that this program is passed.

The party of Lincoln must take the lead in extending equal opportunity to those who are without it in the race for economic improvement.

The third and fourth items in our economic opportunity program are passage of a presidential line-item veto and a specific plan to help get spending under control.

The best way to reduce the burden of government on the economy is to restrain the growth of federal spending while increasing the size of the private-sector economy.

As President Reagan has rightly pointed out, a tax increase serves neither purpose—it doesn't reduce the size of government and it doesn't increase the growth of the economy. In fact, it works in the opposite way.

Tax increases slow down the economy and reduce the pressure for spending restraint. Raising taxes can't reduce the government's crowding out of the private sector. It can only change the type of crowding out.

Despite the clear mandate for spending restraint, federal spending continues to rise, because Congress—particularly the Democratic leadership in the House—has not been capable of slowing it. Therefore we propose giving the Chief Executive a line-item veto over appropriations.

Forty-three states have provisions for a line-item veto in their constitutions, giving their governors the power to reduce or veto individual spending items. It works. The mere existence of this authority results in more responsible legislative spending decisions in the first place, when it becomes clear that the power will be used if necessary.

This authority allows us to lighten the heavy burden of federal spending without senselessly taking a meat-ax to the budget. If the President has this authority, he can prudently and methodically scale back federal outlays in those areas where they are unnecessary while leaving spending unchanged or permitting Congress to increase it where desirable.

But the executive line-item veto is not enough. We will also offer specific plans to reduce spending in Congress—and that includes going after corporate welfare.

And finally, we must have long-overdue monetary reform, to consolidate our progress in cutting inflation, and to help insure long-term price stability, so interest rates can fall to their historical levels.

In my opinion, this will finally require restoring a gold standard. As Ludwig von Mises observed, "The gold standard was the world standard of the age of capitalism, increasing welfare, liberty, and democracy, both political and economic." And President Kennedy correctly called the gold dollar the lynchpin of the world's postwar economic system.

But there are a lot of things we must do to get from here to there—both in terms of policy and educating people about the need for honest money. In the meantime, we need a monetary policy geared for full employment without inflation under our existing institutions. And that's what we propose.

Our monetary reform includes several steps which can and should be taken right now to minimize the disruption of the American and world economy by misguided, uncertain, and changing Federal Reserve Board policies, while substantially preserving the valuable independence of our central bank.

These steps include the following:

We must give the central bank a clear and effective criterion for judging its performance. For the first time, Congress must clearly state that the overriding goal of Fed policy shall be the integrity of the dollar, which means long-term price stability. Interest rates should be as low, and exchange rates should be as stable, as is consistent with price stability.

As an intermediate target for conducting such a policy, the Fed must adopt a price index. The new index, devised by the Administration and the Fed, would be made up of one or more commodities sensitive to sec-

ular inflation and deflation, rather than cyclical price swings. This index would give the central bank a "price rule" for when to ease and when to tighten policy. (Over the past year, because sensitive prices were falling, a "price rule" would have resulted in somewhat lower interest rates.)

To increase the agency's accountability, the secretary of the treasury shall once again be made a member of the Board of Governors, as he used to be. And to dispel uncertainty about policy, the Federal Open Market Committee will be required to announce changes in policy on the day they are adopted.

The secretary of the treasury would be directed to seek to establish a permanent task force, and to summon an international monetary conference, of the Group of Ten nations. The task force and the conference will be created to explore reforms to improve worldwide price stability, currency exchange rate stability, and conditions for strong, noninflationary economic growth and liberal international trade.

The program I have outlined is ambitious, but no more ambitious than the deep-seated problems of our economy call for. Many of our problems were created by some 50 years of well-intended but ill-conceived liberal reforms.

I yield to the gentleman from New York.

Mr. MARTIN of New York. I appreciate it at 8 o'clock this evening and I know the gentleman from New York has a commitment as well, and I know there was a colloquy here on the floor earlier this evening, a few minutes ago, concerning whether or not in this empty Chamber that perhaps somehow the Members of Congress were derelict in not being here. I salute the gentleman for taking this hour to talk about monetary policy, but I do want to point out, and I want to yield in a minute to the gentleman from Michigan, Mr. SILJANDER, to have the opportunity to continue the colloquy earlier, to insure that everyone understands that, irrespective of what their duties are, where they are going, or whether they have commitments back in their district. Quite frankly, I would not be here save for a commitment tomorrow to be part of the ceremony that is eventually going to lead to the interment of the Unknown Soldier of the war in Vietnam. That is the reason, and the sole reason; otherwise I would be back in the 26th Congressional District in New York.

I want to give the gentleman the opportunity I know that he wants to explain that because people are not here in this Chamber does not take away a bit from the importance of the special order the gentleman is taking. But to insure that the 435 Members of the House and the various delegates are about their business. If there is one thing I will say about the Members of the House of Representatives, for those out there who sometimes complain that perhaps they do not work hard enough, for my opponents in philosophy in this House, my objection to them is that sometimes I feel that they work too hard.

It is not a matter of how long or how hard they work but they do have other obligations. I think in fairness to everyone that that ought to be pointed out. I know the gentleman was short-circuited and wanted to point that out.

Mr. KEMP. Since it is my time, I will be glad to yield to my friend from Michigan, but in defense of the gentleman from Michigan, I think all of us were carried away with the chance to bring this issue to the American people and that we did care enough to stay here. You will read in the RECORD that the gentleman from Michigan was not attacking the gentleman from New York or the gentleman from Washington or anybody else, he was simply trying to say that there were few who were maybe going beyond the normal time.

I then said, I hope we do not cast any aspersions on those who are not here. I hope it shows in the RECORD that I made that statement, because I do not want any Member, Democrat or Republican, to feel that he or she was attacked by this Member, and I am sure my friend from Michigan will say the same thing.

It is important that we have on the floor the civility and the good debates that this great body is known for. I love this House. I bring children on the floor of the House and I tell them that this is the greatest arena of debate on the face of this Earth.

I spent all of my life in professional football; I thought that was tough. But this is like playing professional football every single day of the week. And anybody who is not here, there should be no aspersion on their activity, because I am not going to be here any longer; I want to go home.

I yield to the gentleman from New York.

Mr. MARTIN of New York. I am certainly not here and did not come here to question the comments of the gentleman from Michigan, because I know full well he has as much respect for the Members of this House as anybody else, but I think he was cut off and not given the opportunity to explain what he had in mind.

Mr. KEMP. I yield to the gentleman from Michigan.

Mr. SILJANDER. Thank you for yielding. In the process of making my comments, I think the RECORD will show, as I was talking to the gentleman from New York, again we were overlapping each other, I gave up and sat down. I do not think it was anything purposeful, but my point was that some of us on the minority side have not had the forum on the floor in normal session to bring up monetary policy, balanced budget amendments, other issues, and some of us representing the minority party, often it is me alone, often I am not here either, I am with my wife, who is in the balcony waiting for me to leave tonight.

All I was trying to say is that some of us come to use this special order as a forum. What has happened as a result is that the Speaker has ordered that there be a wide angle lens which has not been done before.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SILJANDER. Mr. Speaker, I ask unanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The SPEAKER pro tempore. The Chair would advise the gentleman from Michigan that is not in order under the rules. There are other special orders that are in order in the evening.

Mr. KEMP. May I inquire of the Speaker, in a parliamentary fashion, since I have a special order of 1 hour myself can we use it?

The SPEAKER pro tempore. The Chair will advise the gentleman from New York that the gentleman from Pennsylvania (Mr. WALKER) asked that the gentleman's special order be called.

Mr. WALKER. Mr. Speaker, I have two unanimous-consent requests.

First of all, Mr. Speaker, I would ask unanimous consent that today following other special orders heretofore entered into the gentleman from Oregon (Mr. AUCOIN) may be permitted to address the House for 30 minutes and to revise and extend his remarks and include therein extraneous matter.

Ths SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, I would ask unanimous consent that the gentleman from Michigan (Mr. SILJANDER) be permitted to take his special order before mine, at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LOWRY of Washington. Mr. Speaker, reserving the right to object, and I am not going to object, but I was in my office, signing my mail. I was feeling bad about being late for getting home to see my 9-year-old daughter and wife, especially since last night was my wife's birthday. And, so we were here until 10:30 last night, so I had the opportunity to take my very understanding wife down to the House restaurant to have dinner since we were here to 10:30 last night.

Now, I specifically saw the comment of the gentleman from Michigan. I specifically saw it. It was a comment that said, "It is only too bad that just a few of us are still here working at 8 o'clock at night." I was just trying to get out of the office after signing my mail after starting at 8 o'clock this

morning with the gentleman in the chair at an outfit that other people were at, and I was trying to get home so that I could mow the lawn, see my wife and my 9-year-old daughter before I get on the 7 o'clock plane tomorrow morning, you can go check it, to go to Seattle.

Now, everybody else sitting in this room has that same problem; everybody does. We all work hard. I believe that the gentleman's comments were frankly not stated in the type of order that they should have been stated. That is why I left, I will be another half-hour late; I hope Mary is watching C-Span so at least she will know where I am, and I came over here today that I do not like it.

I do want to say that I appreciate what the gentleman in the well, Mr. KEMP, said.

□ 2010

I do appreciate what the gentleman in the well, Mr. KEMP, said because I saw what you said, and I also want to tell you that I did not know this was a special order that you would have been addressing, but we sit on the Budget Committee, and I many times complimented the gentleman on the general thrust in which you are working on this problem of the Federal Reserve. I would have said that.

But I specifically was very unhappy with the attitude in which the gentleman from Michigan stated it.

Mr. WALKER. Mr. Speaker, I renew my unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. WALKER) asks unanimous consent that the gentleman from Michigan (Mr. SILJANDER) may be permitted to address the House under a special order at this time.

Is there objection to the request of the gentleman from Pennsylvania?

Mr. LOWRY of Washington. Reserving the right to object, Mr. Speaker, I would yield to the gentleman from New York (Mr. MARTIN) and then I would get out of here.

Mr. MARTIN of New York. I thank the gentleman for yielding.

Mr. Speaker, quite frankly, I think what we have here is a misunderstanding because I came over here, as I was in my office, as you were, watching the proceedings here, to insure that there was not this misunderstanding because of who had the time. The gentleman from Michigan, I am sure, will clarify this and I do not think there is anything meant by it, but to the gentleman from Washington and myself or anyone else who did not happen to be physically here at the time, and I know the gentleman from Michigan (Mr. SILJANDER) and I have no better friends in this House, did not mean to construe by his comments that we were not at work or doing what we ought to do as Members of Congress.

I just wanted to make sure that he understood, and everybody else understood, that he ought to be given the time, which he is now being given time for, to explain that because people are not here in the House at this time does not mean they are not as concerned as the gentleman from New York and others, and Mr. WALKER, about the monetary policy.

As a matter of fact, the gentleman from New York talked about the panning of the cameras. It happened to be this gentleman who was the first to note that unprecedented, and without getting back into that subject, a new policy as I was signing mail, as the gentleman was.

So I am glad this is clarified, and I know the gentleman from Michigan wants the opportunity, and I thank the gentleman for yielding under this reservation of objection.

Mr. LOWRY of Washington. Further reserving the right to object, Mr. Speaker, I want to tell the gentleman I agree with what he says, and I again want to say that every Member of this House, I know, works extremely hard, and I certainly am not going to object because I agree with the comments.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. Further reserving the right to object, I would certainly yield to the gentleman in the well (Mr. KEMP) and then to the gentleman from Pennsylvania, and eventually get to the gentleman from Michigan.

Mr. KEMP. I thank the gentleman for yielding.

The gentleman from Washington is one of the real gentlemen in this House, and I appreciate his kind comments. I think it is an important thing that he did, that he came up here and reminded us all, and I think the gentleman from Michigan would be the first to recognize the fact, that all of us sometimes get carried away and get enthusiastic, but there is no intent to slight anybody. I certainly was glad that the gentleman alluded to my comments, and I know the gentleman from Michigan will get a chance to make a further clarification.

The gentleman from Washington was also gracious in his previous comments. I do not want to let the chance go by without saying that I like the idea of panning the Chamber. I just wish we would do it from gavel to gavel. The more information that the American people have about this body, the better off they are, and the better democracy will work, gavel to gavel, pan the gallery, pan anything you want, Mr. Speaker. It opens up the system, and I would like to see us get more democratic. A small "d" I say to my friend, on that "democratic."

I want everybody to know that it is not because I lack a concern for high interest rates, but I am going to leave the well.

Mr. LOWRY of Washington. I want to thank the gentleman from New York, who is leaving the well, because I agree with everything he said.

Mr. KEMP. Is the gentleman sponsoring legislation to open up the Federal Reserve Board?

Mr. LOWRY of Washington, Yes. We will talk about the legislation, but the gentleman and I have talked about that type of thing a lot of times.

Mr. KEMP. If the gentleman will yield further, this whole event has been worthwhile because we now have another member of the Democratic Party, Mr. Wright Patman's son, BILL PATMAN, as cosponsor, and the gentleman from Washington.

Mr. LOWRY of Washington. I do not know the specific legislation.

Mr. KEMP. I am not trying to embarrass the gentleman. I simply meant that honestly.

Mr. LOWRY of Washington. I know that, and I have been very interested in legislation to do that.

I yield to the gentleman from Pennsylvania, and then the gentleman from New York, and then I am going to leave so the gentleman from Michigan can make his comments.

Mr. WALKER. I thank the gentleman for yielding under his reservation. I just want to assure him that he has been properly panned now and it does exist as a video tape record.

Mr. LOWRY of Washington. Good. I thank the gentleman.

I yield to the gentleman from New York (Mr. MARTIN).

Mr. MARTIN of New York. I thank the gentleman for yielding to me because as the other gentleman from New York pointed out, I, for one, approve of the panning of the Chamber. As a matter of fact, I go beyond that and I approve, if we are going to have the television coverage as we do, that it be taken out of the hands of the people here who are responsible for the political operation of the House and maybe turn it over to someone like the group up in the press, because I would not like to have it such, and that was one of my concerns on the first evening I came over here, that it could be used for political purposes.

I think that kind of shortchanges the American public if we, unlike the other body for the time being, are going to have televised coverage, I think it is only appropriate that it be an impartial source, and I think all of us on this side of the aisle and on that side of the aisle would completely agree that control of those cameras, the impartial source, ought to be the people in the Press Gallery.

Mr. LOWRY of Washington. I thank the gentleman for his comments. I certainly am going to reserve my right to object after saying the gentleman in

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the well is a thoughful Member of this body and works very hard.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONSTITUTIONAL RIGHTS OF CENSORSHIP IN MEDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SILJANDER) is recognized for 60 minutes.

Mr. SILJANDER. Mr. Speaker, I appreciate this opportunity to be able to go through what I think is a very central issue in the Congress. If there were comments misinterpreted or there is a lack of opportunity for a thorough discussion on this Member's part, for that we certainly apologize.

Now I have my opportunity and my forum to certainly make my comments in full regarding what I consider an important issue and, incidentally, I would consider also an issue dealing with the constitutional rights of censorship in media.

The whole issue began because many of us instigating special orders are frustrated. We are frustrated as a minority party. We do not have the chairmanships of committees in this Congress. Every chairman is a Democrat because the Democrats have the majority. The Democrats also have the speakership. The Democrats also control what bills do or do not come up on the floor of the Congress. They have complete control of the order here on the floor.

So many of us, out of frustration, take to the floor after normal hours to discuss what we consider the American agenda because there is no other forum or committee, and often—not always—but not a forum on the floor during normal sessions of debate to discuss what we consider important issues, such as monetary policy and fiscal policy, as we have done tonight with the gentleman from New York, JACK KEMP.

So as a result, this forum is taking place. We have used this forum for a balanced budget amendment, prayer in school, one all-night session as a matter of fact, an all-night special order where over 60 Members participated, and began stirring things in the press, and began stirring things in both the Republican and Democratic Parties.

The Speaker of the House, Mr. O'NEILL, then ordered that the C-Span cameras issue at will a wide-angle lens which, during our times, and our forums on the floor, look as though the Chambers, which they are, are virtually empty. This is not to say Members are not working. This is not to say Members are derelict in their responsibility, because often I am not here during special orders through 8 and 9 and 10, and last night I think until 11 o'clock at night. I was not here last night. That does not mean I am derelict.

The point I was trying to make in the whole thing, going back in the Cloak Room timing how often the wide-angle lens was instituted, and incidentally it happened anywhere from every 40 seconds to each minute, which is certainly often enough to make the point that the Chamber is virtually empty, I was, I must frankly admit, furious at the fact that the wide-angle lens was used so often to identify the empty Chamber.

I simply wanted to make the point that the Republican Party was certainly well represented here on the floor at that time talking about particular issues. That is not to say anyone else does not care about the issues. But we have time and time again offered this forum, it is a bipartisan forum, for Republicans and Democrats to debate. As a matter of fact, I had an hour special order on an issue dealing with the withdrawal of the troops from Lebanon, a Democrat-sponsored resolution of the Foreign Affairs Committee.

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I did not particularly care for the resolution. I came on the floor and came to the American people addressing that issue.

The gentleman from Washington (Mr. FOLEY), the majority whip, came to the floor and in my hour used about 45 to 50 minutes of it exchanging ideas, so I yielded part of my time to the honorable majority whip to discuss those issues and debate those issues.

My only point is, out of frustration, and I will end the point here, that we use this forum and if the people wonder where is everyone else, most of them are home because it is late at night. This is not regular business. This is our time to express our views.

My point was earlier and obviously misinterpreted by some, if there are others that do not agree with our policies, they are certainly more than welcome to come to this floor and we will be more than happy to yield part of the time that we have to debate and discuss these issues.

Mr. MARTIN of New York. Mr. Speaker, will the gentleman yield to me?

Mr. SILJANDER. I will be happy to yield.

Mr. MARTIN of New York. Mr. Speaker, I want to point out to the gentleman for myself, perhaps like a score or others or half or all the House who is not flying somewhere or otherwise engaged and who are probably participating and watching what is going on here on the floor, it is true the official business of the day has passed.

My purposes in coming here, so the gentleman will not misunderstand, as I pointed out before, we have few Members of this House whose friendship I value more than the gentleman, but I wanted to make sure that I would come over and point out to the gentleman that through the perception as many of us are watching, that somehow there is a condemnation of people who are not here.

The gentleman has made that point clear, that obviously many Members of the House cannot be here as they have other activities. Indeed, our 500,000 constituents or so are back in the district somewhere and many of our colleagues are there looking after their problems.

I am glad that that point was cleared up, because I did not want the evening to go by with the suggestion to be overlooked, that the gentleman was suggesting that the people who were not here were not looking after their duties and their responsibilities.

But I salute the gentleman for taking the time where he could well be other places that I am sure he would enjoy more than being here working on the floor of the House. I salute the gentleman for his dedication and I salute those who do take the time to have special orders and participate in them for doing just that.

Again, I just wanted to state here publicly my admiration for the gentleman and the fact that I am satisifed he is doing an outstanding job. I wanted to make sure that all the people understood what the gentleman has just said, that he understands that people have this obligation to do what is right by their constituents and it is not necessarily just here in the well.

I thank the gentleman for yielding.

Mr. SILJANDER. Mr. Speaker, I want to also thank the gentleman for allowing me and the gentleman from Pennsylvania allowing me the forum immediately after the gentleman from New York to finish my point, because as we all know, in the enthusiasm and the intensity of talking about monetary policy, I made a point in that and made a point about the wide-angle lens and I was frankly overtalked in the process of finishing my full comments out of the fury coming from the Cloak Room watching the wide angle every 60 seconds.

Let me make another point. I do not object to the wide-angle lens. What I think is unfair about the wide-angle lens is the selectivity of the use of the wide-angle lens. The only time the wide-angle lens is used, as far as I know, is when the minority are in special orders on the floor.

I feel that press censorship, and that is what I alluded to in the beginning

of my comments, press censorship ought to be an issue. C-Span that is hooked up to an estimated 17 million households across the country, if there is a wide-angle lens for C-Span during special orders, there certainly ought to a wide-angle lens during the votes, for example.

Mr. MARTIN of New York. Mr. Speaker, will the gentleman yield to me?

Mr. SILJANDER. I yield.

Mr. MARTIN of New York. I agree with the gentleman wholeheartedly. As a matter of fact, having the opportunity to serve in the New York State Legislature in the assembly where we do not have indeed TV cameras, but we have cameramen around and certainly from time to time, you know, as you go all night and that type of thing, there are some outstanding photos of some poor lady or gentleman who has just gone to sleep or whatever and we generally see that on the front page and it is quite embarrassing. It never happened to this gentleman, but I would be all in favor of turning this over to the press so they can see not just the wide angle, which I think is fine for here, but I would like to see that during the ordinary business of the day when each and every person in this country can see us with all the warts and all the standard problems or jokes and this, that and the other thing, that is the reflection of the American public, because after all, I say to the gentleman from Michigan and the gentleman from Pennsylvania, we hopefully are the reflection of America here in this body, so I would hope that they would turn those cameras free or else shut them off. They ought not be used selectively.

I thank the gentleman for yielding to me once more.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SILJANDER. I will be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I certainly agree with what the gentleman from New York has said.

I would simply point out the one thing that has been somewhat disturbing in all this is the fact that when the panning began, there was an implication which came from the Speaker's office and even from the Speaker himself which somewhat disparaged the use of this time, suggesting that the use of this time was somehow a secondary kind of time.

The only point that a number of us have made is that in panning the Chamber in this selective fashion and thereby attempting through his words to disparage the time, he does in fact impinge upon time that Members traditionally use to talk about those subjects that do not normally get to the House floor during regular business. That includes in large part minority issues and therefore raises some questions.

It seems to me that it is important to realize that there are many Members who have no reason to be here during the special order time if they are not directly involved in these issues.

On the other hand, it also seems to me that it is something less than honest to suggest that those of us who are on the floor, who are attempting to discuss these issues, are not also doing something which is a part of the regular legislative order of business of the House.

I thank the gentleman for yielding.

Mr. SILJANDER. I appreciate the gentleman's point.

I offer one example of the frustration I alluded to several times in the earlier presentation.

The ERA is certainly a controversial social issue of our time. There are certainly valid arguments pro and con in the ERA.

Well, the ERA came up on the floor of the Congress. Four hundred thirty-five Members were given 24 hours notice of that fact. The debate was 20 minutes for the Democratic side, 20 minutes for the Republican side. For 435 Members, a total of 40 minutes certainly is not adequate to debate the fundamentals of a social issue such as the ERA.

Second, in the rule, there is no provision for amendments. I have my own format of the ERA, the ERA II. I do not particularly think the ERA I is well written. It is not necessarily inspired words from on high, so therefore the words might be able to be improved.

So why not allow the ladies and gentlemen of the Congress an opportunity to amend the ERA if they so desire. That opportunity was not afforded. I was never given an opportunity to speak on the ERA or even speak about my objections to it and speak about my alternative ERA.

That is what this is all about. This is what special orders allow us to do in a forum to express our opinions, express our values, without having overburdening rules and regulations and time constraints put upon us. That, I think, is the central issue in this Congress, whether or not we will have the opportunity to express opinions on issues in an entire gavel to gavel session of this Congress, whether or not the cameras in this Chamber will issue wide-angle lens only on Republicans during special orders or during regular order of business during normal hours, because quite frankly, in the middle of the day while the session is in full bloom, we have committee meetings and subcommittee hearings. We have meetings with constituents. We have important briefings in other rooms around the Capitol. We do not have to be sitting in the Chamber every minute of the day in order to be adequately doing our jobs.

So oftentimes during regular hours, if the camera were to issue a wide-angle lens, we would find this Chamber virtually empty then as well, so it is nothing new for special orders or just selectively for special orders, the fact that Members have other obligations and other things that they might be doing, be it personal or official business.

So while my special order was not intended to be centered around the censorship of C-Span, as I would call it, and I would term it, but rather issues facing the country, I will yield back the balance of my time, Mr. Speaker, in deference to the fact that it is late, in deference to the fact that some of us have other things that we may or may not want to do, in deference that my beautiful wife is waiting for me and in deference to the fact that I have special orders coming up and will be able to deal with issues of the age at some other time.

I thank the other gentlemen for their time and their comments and for affording me the opportunity to express my opinion dealing with C-Span censorship.

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SAVE THE OREGON VETERANS HOME LOAN PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WYDEN) is recognized for 60 minutes.

Mr. WYDEN. Mr. Speaker, I rise today to express my deep concern about a potential Federal action that could cripple one of the most popular and successful programs in my home State of Oregon.

H.R. 4170, the Tax Reform Act of 1984, would fold veterans mortgage bonds into the State cap for mortgage revenue bonds. Very simply, this change from current law would choke off the veterans home loan program in the State of Oregon.

The inclusion of veterans' mortgage bonds under the same State ceiling as mortgage revenue bonds would lower the issuance of veterans' mortgage bonds to an insignificant level, and could eliminate mortgage revenue bonds altogether. Indeed, any counting of veterans' mortgage bonds against the mortgage revenue bond ceiling could eliminate mortgage revenue bonds because veterans' mortgage bonds are issued in much larger dollar volume than mortgage revenue bonds. Moreover, the need of the Oregon Department of Veterans' Affairs to issue 1-year notes to pay property taxes

would prevent any reasonable allocation of bond issuance authority among housing needs.

Placing the program under the State mortgage revenue bond ceiling would deny mortgage loans to about 150,000 eligible veterans. World War II and Korean war veterans who would have had until January 1985 to participate in the program would be cut off immediately. Vietnam-era veterans would be particularly hard hit because their current loan eligibility would have continued for many years to come.

The citizens of Oregon, through popular vote, have expressed their desire that a special program be funded for Oregon veterans. They believe it is inappropriate for Congress to attempt to restrict a State constitutional program.

I have received literally hundreds of letters and phone calls from Oregonians around the State concerned about the possible elimination of the valuable program—a fitting and deserving tribute to those Oregonians who have served their Nation in times of war. One Oregonian wrote.

As an 80-year-old widow of a veteran of two world wars, I want to urge that the Oregon veterans home loan program be continued. This program was very helpful to us when we needed to remodel our home, and I would like to see others have the same opportunity after serving their country.

Another wrote:

My husband, a World War II veteran, took advantage of the program. As a result, after his death in 1976, I still have a home that, as a widow, I can afford to live in. When I can no longer maintain it, I would hope to be able to sell it to some Oregon veteran whose family would be as happy to have it as we were * * *. My heart goes out to all the veterans and their families who, in our present economy, could not afford to buy homes if Oregon's program is axed.

I have also heard from many elected officials in the State of Oregon who have been contacted by constituents concerned about the elimination of the veterans home loan program. In fact I recently received a copy of a letter sent by 69 members of the Oregon State Legislature to Chairman ROSTENKOWSKI expressing their support for maintaining the program. This letter eloquently expresses the heartfelt concern of these elected officials, and, as such, I would like to include it at this point in the RECORD.

OREGON HOUSE OF REPRESENTATIVES,
Salem, Oreg., April 17, 1984.

Hon. DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, D.C.

DEAR CHAIRMAN ROSTENKOWSKI: On behalf of all Oregonians, we urge you in the strongest possible manner, to advise your House conferees to delete the section of the House-passed version of the 1984 Tax Reform Act that would cripple Oregon's Veterans' Home Loan Program.

Oregon has paid a huge price for the enormous federal deficits and the high interest rates they produced. Our timber-based economy, with its high dependence on the housing market, was among the first to collapse into a depression state. Our unemployment rates were among the first to soar and have remained among the highest. Our state government, which constitutionally cannot deficit spend, has been forced to make several drastic cuts in services to citizens who are now more in need of assistance than ever before. One of the few survival tools we have retained is our Veterans' Home Loan Program.

We cannot possibly over exaggerate the importance of this program to our state. To 400,000 veterans it means a chance to own their own home. To our state, which is struggling toward "recovery," it means survival. Indeed, it taxes the imagination to think of another action the federal government could take that would have as devastating an effect on our economy as this one would.

Oregon paid first and it paid dearly for the federal deficit build-up. As the federal government makes its first fledgling attempts to reduce that deficit, we feel it would be patently unfair for Oregon to be sacrificed first again. We ask you most forcefully to save this program for Oregon.

Sincerely,

Grattan Kerans, Speaker of the House; Edward N. Fadeley, President of the Senate; Representative Bernie Agrons, D-Klamath Falls; Representative Bill Bradbury, D-Langlois; Representative Larry Campbell, R-Eugene; Representative Peter Courtney, D-Salem; Representative Wayne Fawbush, D-Hood River; Representative Jeff Gilmour, D-Jefferson; Representative Tom Hanlon, D-Cannon Beach; Representative Jim Hill, D-Salem; Representative Darlene Hooley, D-West Linn; Representative Bruce Hugo, D-Scappoose; Representative Ed Leek, D-Portland; Representative Kip Lombard, R-Ashland; Representative Tom Mason, D-Portland; Representative Chuck Bennett, D-Gates; Representative Bob Brogoitti, R-La Grande; Representative Jane Cease, D-Portland; Representative Annettee Farmer, D-Portland; Representative Mary Alice Ford, R-Portland; Representative Shirley Gold, D-Portland; Representative Paul Hanneman, R-Cloverdale; Representative Larry Hill, D-Springfield; Representative Carl Hosticka, D-Eugene; Representative Delna Jones, R-Aloha; Representative Robin Lindquist, D-Gladstone; Representative Bill Markham, R-Riddle; Representative Mike McCracken, D-Alban; Representative Hardy Myers, D-Portland; Representative Paul Phillips, R-Tigard; Representative Barbara Roberts, D-Portland; Representative John Schoon, R-Rickreall; Representative Max Simpson, D-Baker; Representative Tom Throop, D-Bend; Representative Tony Van Vliet, R-Corvallis; Representative Al Young, D-Hillsboro; Senator Walt Brown, D-Milwaukie; Senator Joyce Cohen, D-Lake Oswego; Senator Bill Frye, D-Eugene; Senator Jeannettee Hamby, R-Hillsboro; Senator Margie Hendriksen, D-Eugene; Representative Fred Parkinson, R-Silverton; Representative Max Rijken, D-Newport; Representative Lonnie Roberts, D-Portland; Representative Bob Shiprack, D-Beavercreek; Representative Dick Springer, D-Portland; Representative George Trahern, R-Grants Pass; Representative Glen Whallon, D-Milwaukie; Representative Donna Zajonc, R-Salem; Senator Judy Carnahan, D-Klamath Falls; Senator L. B. Day, R-Salem, Senator Jim Gardner, D-Portland; Senator Charles Hanlon, D-Cornelius; Senator Dell Isham, D-Lincoln City; Senator Ken Jernstedt, R-Hood River; Senator Ruth McFarland, D-Woodburn; Senator Rod Monroe, D-Portland; Senator Jack Ripper, D-North Bend; Senator Nancy Ryles, R-Portland; Senator Mike Thonre, D-Pendleton; Senator Cliff Trow, D-Corvallis; Senator Mae Yih, D-Albany; Senator John Kitzhaber, D-Roseburg; Senator Tony Meeker, R-Amity; Senator Debbs Potts, D-Grants Pass; Senator Frank Roberts, D-Portland; Senator Steve Starkovich, D-Canby; Senator Eugene Timms, R-Burns; Senator Jan Wyers, D-Portland.

Mr. Speaker, the entire Nation has felt the ravages of recession, high interest rates and the toxic Federal deficits that threaten to bring us more of the same. Oregon's timber and housing based economy, however, has experienced the bitter taste of recession, unemployment, and higher interest rates longer than most States. We lost 80,000 jobs during the recession and today, still lag the Nation in economic recovery.

So we are well aware of the need to reduce the Federal deficit that threatens to spawn a new round of high interest rates and, ultimately, recession.

I am personally committed to reducing the Federal deficit, and that is why I voted for H.R. 4170 when it was considered by the House last month. But it was a difficult vote for me because, as I have explained, provisions in this bill will literally cripple one of the most popular programs in the State of Oregon.

I commend the members of the Ways and Means Committee for taking on the herculean task of writing a comprehensive tax package that takes us farther in dealing with the burgeoning Federal deficit than anyone thought we could go in this election year. I gave them my support in seeing that this legislation passed the House, and now I have gone to them seeking their assistance in correcting what I and most other Oregonians see as a grave Federal injustice.

Earlier this month, I joined Congressmen AUCOIN and WEAVER, who also voted for H.R. 4170, but, like me, have grave concerns about the fate of the Oregon veterans home loan program, in sending a letter to House Ways and Means Committee Chairman DAN ROSTENKOWSKI. In that letter we did our best to explain the gravity of the situation in Oregon and express our willingness to work with the chairman and other members of the House-Senate conference committee to correct this problem.

At this point in the RECORD, I would like to include a copy of that letter to Chairman ROSTENKOWSKI.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 11, 1984.

Hon. DAN ROSTENKOWSKI,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, D.C.

DEAR DAN: As you prepare for conference on the Tax Reform Act of 1984, we want to alert you to a matter of deep personal concern to each of us and to all Oregonians.

Specifically, we are concerned about provisions in the bill which would fold veterans mortgage bonds into the state cap for mortgage revenue bonds. The Senate passed a tax bill which does not contain these restrictions and we prevail upon you to support the Senate in conference on this item.

We cannot overemphasize the importance of taking this action. As it now stands, the House language would cripple Oregon's Veterans' Home Loan Program, imposing a costly burden on the state's 400,000 veterans and the state's struggling timber-based economy.

You had our vote for the tax bill as a whole because we agree that it is an important element in a deficit reduction package.

However, supporting you and your committee on this bill—and we respect your committee's efforts to deal with this issue, head on—was a very difficult vote for us since there remains a very real concern for Oregon with respect to veterans' housing bonds. Unfortunately, the House Rules Committee barred us from offering an amendment striking the provisions and thus, we remain adamantly opposed to provisions in the Act which affect these bonds.

Oregon's program has operated for nearly half a century. It was authorized by an overwhelming majority of Oregon voters in 1945. The people of Oregon recognized that this was but a small attempt to repay a debt of gratitude to those who have sacrificed so much in service to our nation.

The program has served the people of Oregon well and served them responsibly. It is extremely important to veterans' who would otherwise be unable to afford a home and extremely important to the state's timber-based economy.

Oregon paid dearly during the recession. Our housing industry, so sensitive to interest rates, virtually collapsed. We lost 80,000 jobs and today, still lag the nation in economic recovery.

The veterans home loan program has generated jobs, housing construction and timber sales to help boost the state's depressed economy. Last year, it accounted for a majority of the new homes constructed in our state. In tough years, when high interest rates dry up traditional sources of mortgage finance, the veterans program is one of the only tools we have to keep home builders and mills in business.

We understand the committee's intent to limit the potential revenue loss associated with tax exempt bonds. However, the use of these bonds for housing provides far more benefits in terms of jobs, home sales and economic activity—all bringing revenue back to the government. It is unfortunate that the House bill, with all its good intentions, does not consider this. And, as a result, in its present form, would cause very substantial hardship for Oregon veterans and an already struggling economy.

This is a matter of absolute highest priority to us and we urge you in the strongest terms to accept the Senate position on the question of veterans mortgage bonds.

With warm regards,
Sincerely,

JIM WEAVER,
Member of Congress.
LES AUCOIN,
Member of Congress.
RON WYDEN,
Member of Congress.

Each member of the House conference committee received a similar letter to the one sent to Chairman ROSTENKOWSKI, and I plan to personally contact each member of the House-Senate conference committee to explain in detail the consequences faced by thousands of Oregon veterans.

Now, the Senate tax package does not fold veterans mortgage bonds into the State cap for mortgage revenue bonds so we would obviously like to see the House conferees acceed to the Senate position on this difference. My colleagues and I have also been keeping in close contact with Senator PACKWOOD from Oregon, who is a member of the House-Senate conference committee on this important piece of legislation.

In fact, Congressmen AUCOIN, WEAVER, and I recently sent a letter to him expressing our commitment to work with our House colleagues to resolve this dilemma and I would like, at this point, to include the text of our letter to Senator PACKWOOD in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 11, 1984.

Hon. BOB PACKWOOD,
145 Russell Senate Office Building, U.S. Senate, Washington, D.C.

DEAR BOB: As you prepare for conference on the Tax Reform Act of 1984, we would like to reaffirm our strong support for the Oregon Veterans' Home Loan Program and every effort humanly possible to help you save it.

We appreciate the concern you have expressed over the position of the House conferees and understand the gravity of the situation.

This bill as a whole passed the House with overwhelming bipartisan support because it is a necessary element in reducing the federal budget deficit. We are adamantly opposed, however, to provisions in the bill which would fold veterans' mortgage bonds into the state cap for the issuance for mortgage revenue bonds. Unfortunately, the House Rules Committee barred us from offering an amendment striking the provisions.

The intent of these provisions is to limit the potential revenue loss associated with tax exempt bonds. However, in the case of Oregon, the volume of bonds that the state can issue for veterans' home loans is subject to constitutional limitation adopted by state referendum. The Oregon Legislature also places a specific dollar limit on the amount of bonds that can be issued each year when it passes the budget.

We have expressed our firm opposition to this provision to Chairman Rostenkowski and have urged him to resolve this problem in conference; but Oregon has only one voice on the conference committee, and that is you. However, we want you to know our pledge to help you in every possible way to prevent Oregon's program from being dealt a crippling blow.

The entire Oregon delegation has put forth considerable effort in the past to protect our Veterans' Home Loan Program, which last year, was responsible for 60 percent of the new homes constructed in our state.

Our former colleague, Ways and Means Chairman Al Ullman, was successful in turning aside a similar attack in 1980. Last year, the entire delegation introduced legislation which allowed Oregon veterans who had received home improvement loans to also claim the federal energy tax credit.

When the IRS persisted in ruling against the Oregon veterans in this matter, we turned to the Appropriations Committee, assisting Senator Hatfield and Congressman AuCoin in attaching a rider which prohibited the IRS from retroactively penalizing some 5,000 Oregon veterans who had received the home improvement loans and claimed the tax credit.

Now the fight has shifted to the jurisdiction of the Ways and Means and Senate Finance Committees, where you play a decisive role and where you will have bargaining stock in the conference. We want you to know that you can count on our using all the presuasion we can mobilize to help you with all House conferees.

We already have written to the House conferees and we will be meeting and telephoning them individually up to and during the conference until this is decided. In the meantime, we ask you to tell us specifically what additional steps we can take to assist you as the issue develops.

With warm regards,
Sincerely,

JIM WEAVER,
LES AUCOIN,
RON WYDEN,
Members of Congress.

Mr. Speaker, I cannot overemphasize the need to address this problem and resolve it in the conference committee. The program has served the citizens of Oregon well and served them responsibly. It is also extremely important to the State's timber-based economy.

I implore all of my colleagues to look at the record and see the unprecedented injustice that thousands of Oregon veterans will face should the House conferees not acceed to the Senate provision on veterans mortgage bonds. We stand ready to do whatever needs to be done to reach that goal.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. WYDEN. At this time I would like to yield to my good friend and colleague who has worked so closely with me in this area to see if we could turn around the situation for all of our Oregon veterans.

Mr. AUCOIN. I appreciate the gentleman yielding and want to commend him for the teamwork that he has displayed with me and with others in the Oregon delegation in trying to call attention of the members of the Ways and Means Committee to this very real problem the House version of the tax bill would cause for a very important delivery mechanism for housing in the State of Oregon.

Those of us in the Oregon delegation were hard pressed, quite frankly, when the House tax bill came before the full House. Those responsible members of the Oregon delegation wanted very much, along with votes that they have cast on spending reductions, to vote for a revenue increase of some $50 billion as a part of the total package of deficit reduction, because we certainly know out in Oregon what the consequences are of high deficits. They mean high interest rates. That damages, destroys our timber-based economy. Unless we get that deficit down no homes are going to be built, whether they are Veterans' Administration or Oregon veterans' housing homes or whether they are financed in some other way. They simply will not be built.

So we felt at the time that the tax bill came to the House floor that we were in a difficult spot. We wanted to vote for that bill.

Unfortunately, the Rules Committee prevented us from offering an amendment that would have corrected this particular feature of that bill that does damage to the Oregon veterans' housing program.

In the end, we felt that the overall duty called and that we needed to vote for the tax bill, hoping that in conference, working with Senator PACKWOOD, the second ranking member of the Senate Finance Committee, who will be a member of the conference from our State of Oregon, that collectively the Oregon delegation can prevail upon the House conferees to delete this provision, this one single provision in the tax bill, bring it back so we have not only a deficit reduction package but also a package that does not bring about this disastrous effect on a very real and very important housing tool in the State of Oregon.

My colleague and friend from the Third District of Oregon and I are taking this time tonight to make a record for the House conferees, to back up the personal appeals we have made to them individually, and for all of our colleagues to understand the real impact that this has on our State.

From day one, both in letters and in personal appeals and personal meetings, and in appeals to the Rules Committee, we have tried every single thing we can do to get this problem fixed and to avoid a hardship on the Oregon veterans' housing program.

I hope very much that the members of the Ways and Means Committee who will be conferees will understand what the situation is economically in Oregon.

First, as my colleague will readily agree, Oregon has a timber-based economy, and it is unlike almost any other State in the Northwest. Even our sister State to the north, Washington State, which is a part of the Northwest Territory, has a more diversified economy than ours. It is not nearly as dependent upon timber and housing as our State is.

Oregon's future, its jobs, is profits, its growth is very dependent upon timber. And in the last recession Oregon suffered a job loss of some 80,000 jobs.

Today, in what the administration bills as a booming recovery, Oregon has recovered and restored only 40,000 of those 80,000 jobs that were lost. We are still crippled.

In Washington State, while they are still hurting from the recession, it is my understanding that most of the jobs lost there have been restored. That is not a real booming recovery up there either, but in Oregon we have a very real problem. We are still in a hole. We are still suffering major consequences, and we cannot fix that problem unless we have a growing, prosperous housing and timber-based industry.

That is why the delivery mechanism for housing is so important. The veterans' housing program in Oregon delivers housing, as my colleague has pointed out, for thousands of Oregonians.

The job losses, if this program is crippled or stunted or abbreviated in some way would be absolutely devastating. It would mean the loss of homeownership. It would mean the loss of carpenter jobs, the loss of jobs in the woods by our lumberjacks and logging truck drivers. The ripple effects would be incredible.

So I join my colleague in laying out this record tonight. Both of us will revise and extend our remarks out of deference to the employees of the House who are staying late tonight. We do not want to keep them late but we will revise and extend our remarks and spread that record out across the RECORD and appeal to our colleagues who are on the conference committee to pay heed to these statistics and to the letters.

We seek permission to insert these letters into the RECORD, letters from individual citizens, letters from the Governor of the State of Oregon, Victor Atiyeh, statements from veterans organizations and the rest. I hope that our colleagues will read them and pay heed to them.

I think it is important, very important that this record be laid out. As housing goes, as timber goes, so goes the Oregon economy. We do need to diversify, but I would say to my colleague, and I know he agrees, no State can diversify its economy until it insures first that that which it has is viable.

□ 2040

And from that viability you can branch out and begin to expand. That is what we are fighting for tonight.

I appreciate my colleague taking this time.

Mr. Speaker, I ask unanimous consent, if I may, to insert into the RECORD the documents that I referred to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

STATEMENT OF CONGRESSMAN LES AUCOIN BEFORE THE HOUSE COMMITTEE ON RULES ON H.R. 4170, THE TAX REFORM ACT OF 1983, NOVEMBER 16, 1983

Mr. Chairman, I appreciate the opportunity to appear before you today regarding the rule to govern this week's floor action on H.R. 4170, The Tax Reform Act of 1983.

I am here to ask the committee to permit me to offer two amendments to this legislation with respect to veterans bonds for housing. The purpose of my amendments is to allow the veterans' home loan program in Oregon to continue as authorized by State Constitution and referendum by the people of Oregon. To continue to be self-supporting and provide valuable services to Oregon veterans.

The first amendment addresses a problem created by the bill's proposed restriction on the issuance of veterans' mortgage bonus.

Under present law, veterans' mortgage bonds, which are general obligations of a State, are exempt from the volume limits in the Mortgage Subsidy Bond Tax Act of 1980. The Tax Reform Act of 1983, however brings veterans' mortgage bonds within these volume limits by reducing a state's mortgage revenue bond authority by the volume of veterans' mortgage bonds issued in the prior year.

The bill does provide some transitional rules. It recognizes that there are certain states that have had veterans' programs in place for years and that these states, on the principle of fairness, should be excluded from the cap for any bonds authorized by the people of the state prior to Committee action on October 18, 1983.

But as written and clarified by committee report language, the bill does not afford this same advantage to the State of Oregon.

My amendment would simply extend fair treatment to Oregon by exempting from the cap requirement the issuance of bonds authorized by the people of Oregon in 19// by State Constitutional amendment. At that time, Oregon's voters authorized the issuance of bonds based upon a fixed percentage of the true cash value of all taxable property in the state. They did so with a tremendous plurality of 81%.

My second amendment is necessary because the bill itself is unclear with respect to tax notes. In Oregon, the Veteran's Department is obligated under the terms of its mortgage contracts to pay the property taxes of its mortgagors each year. The Department is reimbursed by amortizing the tax payment over 1 year at the existing rate of the mortgage loan and by adding the amount to the homeowners' monthly payment.

It is extremely important to the financial health and self-supporting nature of Oregon's program that the bill make it perfectly clear that these tax notes are exempt from both the cap limitation and the 1988 sunset date.

No portion of these bonds' proceeds are used to finance home loans. They serve an entirely different purpose than veterans' or mortgage subsidy bonds and should not be construed as such. Therefore, my amend-

ment makes certain that bonds issued to pay real property taxes are exempt from the bill's restrictions.

I recognize the need to meet budget reconciliation requirements. And, I understand the committee's intent to limit the potential revenue loss associated with tax-exempt bonds, including mortgage revenue and veterans' mortgage bonds.

However, in the case of Oregon, the use of these bonds for housing is based upon a long history that preceded the popularization and explosion in tax-exempt bonds issued by state and local governments. Oregon's program has been operating since 1945 when it was authorized by the people of Oregon in an amendment to the State Constitution. It serves a bona fide public purpose.

And, although Oregon has a very vigorous program, it is not without limits. The volume of bonds that the state can issue for veterans' home loans is subject to a Constitutional limitation adopted by state referendum. The state legislature also places a specific dollar limit on the amount of bonds that can be issued each year when it passes the budget. The people of Oregon have imposed these kinds of restrictions because they recognize that they are necessary to ensure the State's long-term credit rating.

As for the problem of veterans' bonds becoming contagious, there appears to be little evidence to warrant that fear. Few States have veterans' programs and despite the exemption placed in the 1980 Mortgage Subsidy Bond Act, they have not spread like wildfire.

Certainly cost is an issue. And it should be. At the same time, I would point out to the Committee that even though the program constitutes less than 5% of the State's total mortgage activity, it makes an important contribution to home ownership and the economy. It is extremely important to many Oregon veterans who would otherwise be unable to afford a home.

It is extremely important to my State's timber-based economy. In tough years, when high interest rates dry up traditional sources of mortgage finance, the veterans' program helps keep many home builders and mills in business.

When we consider limitations that would seriously weaken this type of financing and the mortgage revenue bond program, for that matter, I think we need to keep in mind the larger housing picture.

The Administration has led efforts to retreat from our long-standing national commitment to housing and home ownership by drastically cutting Federal housing programs and proposing to phase out government-sponsored credit agencies which are crucial to the lower-income and middle-class home buyer.

The changing roles of our financial institutions are also making it more difficult to count on a steady supply of affordable mortgage money. It we deal a fatal blow to veterans' housing programs, which are already capped in Oregon, we threaten to make the housing situation worse.

I also believe that the flow of funds from the Treasury is not one way. The revenue loss associated with these bonds provides far more benefits in terms of jobs, housing construction and economic activity—all bringing revenue back to the government.

It is unfortunate that the bill, with all its good intentions, does not consider this. And, as a result, in its present form, would cause considerable hardship for thousands of Oregon veterans and deprive this most deserving group of Americans the opportunity of home ownership.

On behalf of the entire Oregon delegation who supports my amendments, I would urge the committee to adopt a rule to make these amendments in order when the House considers the tax bill later this week.

Thank you.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 17, 1983.

Hon. DANIEL ROSTENKOWSKI,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, D.C.

DEAR DAN: As you begin consideration of tax legislation with respect to mortgage revenue bonds, we would like to express our concern about restrictions on qualified veterans' mortgage bonds.

We understand the Committee is discussing the option of bringing veterans' bonds into the existing state cap for mortgage subsidy bonds.

While we share your concern about the expansion of these programs and the attendant loss of revenue to the Treasury, we believe that it is premature to limit a state's ability to issue these bonds at the present time.

Oregon's program was authorized by an amendment to the Oregon Constitution in 1945. It utilizes general obligation bonds and serves a significant public purpose. The use of these bonds for veterans' housing is based upon a long history that proceeded the popularization and explosion in tax-exempt bonds issued by State and local governments.

Although Oregon has one of the most active veterans' home loan programs in the nation, it is not without limits. In 1981, the Oregon State Legislature placed a limit on the dollar volume of bonds that could be issued each year. It requires that a bonding limit be set in the biannual budget. Oregon has recognized that these limits are necessary to ensure the State's long-term credit rating.

In addition, Oregon has limited the scope of its program. It serves a narrow targeted clientele and provides only one loan per veteran with few exceptions.

There is no evidence that veterans' programs and the issuance of veterans' bonds are proliferating to the point where a cap is necessary. Few states have veterans' programs and despite the exemption placed in the 1980 Mortgage Subsidy Bond Act, they have not spread like wildfire.

In Oregon, veterans' mortgage loans make up a small percentage of total mortgages. Last year, only 8.8% of Oregon's mortgages were veterans' mortgages. This amounted to less than 3% of the State's total mortgage dollars. For the first half of 1983, only 8.5% of Oregon's mortgages were made through the veterans' program—again, representing less than 3% of the total dollar amount of loans.

We would also point out that even though the veterans' program constitutes a small percentage of the State's total mortgage activity, it makes an important contribution to home ownership and the economy.

It is extremely important to veterans who would otherwise be unable to afford a home and to our State's timber-based economy. In tough years, when high interest rates dry up traditional sources of mortgage finance, the veterans' program is the only game in town. It helps keep many home builders and mills in business until the market recovers.

We recognize the need to examine trends in the use of tax-exempt bonds for financing private activities, including mortgage subsidy bonds. And, it is not the intent of the veteran home loan program to circumvent restrictions already established for revenue bonds.

However, we strongly feel that it would be a serious mistake to overstate the impact of veterans' bonds on the Treasury and underestimate the benefits they provide by putting into effect restrictions which would effectively put an end to the veterans' home loan program in Oregon.

From this standpoint, we urge you to accept an extension of the mortgage revenue bond program without further encumbrances on veterans' bonds until the issue has been thoroughly examined.

With warm regards,

Sincerely,

LES AUCOIN,
ROBERT F. SMITH,
JIM WEAVER,
DENNY SMITH,
RON WYDEN,
Members of Congress.

OFFICE OF THE GOVERNOR,
Salem, Oreg., October 27, 1983.

Hon. DANIEL ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As Governor of Oregon, I am deeply troubled by the Tax-Exempt Bond Limitation Act of 1983 (H.R. 4170) which will soon be reviewed by the Rules Committee and sent to the House floor for action. My concern is in two areas.

The limit placed on state volume for Industrial Development Bonds is unacceptable. Oregon, trying desperately to work its way out of the recession which has plagued the nation as a whole, and the lumber producing states in particular has spent hundreds of thousands of dollars to enhance its program economic development. At a time when we are beginning to see positive results in our effort to diversify the economic base of the state, the capping of IDB volume is a tragic mistake.

The inclusion of Qualified Veterans Mortgage Bonds, which are General Obligations of the state in both the volume and sunset provisions which apply to Housing Revenue Bonds, is equally disastrous. Oregon has a constitutionally established Veterans Home Loan Program established in 1945 for the World War II veterans. That program was subsequently extended by referendum to include Korean War and Vietnam Era veterans who must have served in the U.S. Armed Forces before December 31, 1976. HR 4170 in its present form will close that program down before it can be used by the remaining eligible veterans. In addition, the volume and sunset provisions seriously threaten the financial base of the state, on which these General Obligation Bonds were and are issued, and on which timely repayment depends.

I am requesting that you honor the request from Congressman Les AuCoin to offer amendments to H.R. 4170 for the purpose of correcting these serious defects for the state of Oregon. Amendments to H.R. 4170 were granted for the states of Texas and California. I believe Oregon should be given the same consideration. Any assistance you can give us when the bill reaches the Senate would be appreciated.

Sincerely,

VICTOR ATIYEH,
Governor.

OFFICE OF THE GOVERNOR,
Salem, Oreg., May 15, 1984.

Hon. RONALD REAGAN,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: As a former Governor of California, I am sure you are familiar with the California Veterans Home Loan Program (CAL-VET). The California program is the oldest of five state operated veterans home loan programs. Four other states, including Oregon, have veterans home loan programs.

The Congress is currently considering action which will bring these fine programs to a halt, leaving many Vietnam era veterans without a significant benefit enjoyed by veterans of earlier conflicts. H.R. 4170 as passed by the House will do that. Similar legislation passed by the Senate leaves veterans programs intact.

Oregon has joined with Alaska, California, Texas and Wisconsin in urging the House-Senate conferees to adopt the Senate language relating to Qualified Veterans Mortgage Bonds which are general obligations, not revenue bonds. I have also asked Secretary Regan to support the Senate version through his representatives who will attend the conference sessions. A copy of my letter to the Secretary is attached.

I urge you to place your administration in strong support of these fine, state operated veterans programs.

Sincerely,

VICTOR ATIYEN,
Governor.

Attachment.

OFFICE OF THE GOVERNOR
Salem, Oreg., May 15, 1984.

Hon. DONALD REGAN,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: A few days ago the Oregon State Treasurer, Mr. Bill Rutherford, and the director of the Oregon Department of Veterans' Affairs, Mr. Staryl C. Austin, visited with Mr. Ronald A. Pearlman, Deputy Assistant Secretary of the Treasury for Tax Policy. Their visit was for the purpose of discussing some provisions of H.R. 4170 which are of great concern to me and to the citizens of Oregon. This letter is a follow-up to that visit.

Since 1945, Oregon has had a constitutionally mandated home loan program for its veterans. In the years since World War II veterans began returning to civilian life, followed by veterans of Korea and Vietnam, 260,000 home and farm loans have been made under this program. It has been a popular and economically sound way for our State to say "thank you" to those who left for a period of time in defense of our way of life. It has also been good for a State whose economy is rooted in lumber and lumber by-products. We believe the jobs produced, the real estate commissions paid, and the infusion of eastern capital into our economy, have had an impact on the federal Treasury which far outweighs the loss attributed to the fact that our program has been funded through the use of tax exempt general obligation debt.

H.R. 4170 threatens to bring our program to a halt just as many Vietnam veterans are beginning to achieve the economic status which will allow them to purchase a home. Further, the restrictions imposed by the House-passed bill, when added to those already imposed by the Mortgage Subsidy Bond Tax Act of 1980, potentially place the State in the position of questionable ability to repay its debt in the mid-1990's. All of this is in spite of the fact that nothing has changed in the Oregon program, although debt management has been enhanced considerably in the last few years, both through my own actions and those of our Legislature.

Because the restriction on tax exempt debt was nil in 1945, and substantially so until 1978, Oregon's program grew with the State's economy, and debt repayment was not a problem. The 1980 restrictions on advance refundings and the uses of bond proceeds dramatically changed our situation, but we were and are able to project a solvent program to its conclusion. The H.R. 4170 proposals could destroy that projection.

Four other States have veterans programs. Their situations are different than Oregon's, but they too, will suffer. We have banded together with California, Texas, Wisconsin, and Alaska, to seek adoption of the Senate version of H.R. 4170 as it pertains to Qualified Veterans Mortgage Bonds (which must be General Obligation bonds). That version leaves the programs structured as they are now, including the 1980 restrictions. Its adoption also allows our Oregon Housing Division to re-enter the single family low cost housing market which is so vital to non-veterans with low incomes.

A second issue concerning H.R. 4170 also needs to be brought to your attention. Both the Attorney General of Oregon and the Bond Counsel for the Department of Veterans' Affairs are convinced that the H.R. 4170 proposal to sunset Qualified Veterans Mortgage Bonds in 1988 is unconstitutional. There is substantial case law concerning the right of sovereign states to issue General Obligation debt without taxation by the United States. The case most nearly on point is *Pollack* v. *Farmer's Loan and Trust Co., Inc.*, 157 U.S. 429 (1895), together with an extensive annotation appearing at 26 A.L.R. 547-549. The Senate version of H.R. 4170 does not contain the sunset provision, and should be adopted.

In summary, the Senate provisions relating to Qualified Veterans' Mortgage Bonds are preferable and are earnestly required by this State. I ask that you discuss this matter with Mr. Pearlman and instruct him to present the Treasury position as favoring the Senate version of the portion of the bill which relates to Qualified Veterans Mortgage Bonds as the final conferences take place within the next several weeks.

Sincerely,

VICTOR ATIYEN,
Governor.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
DEPARTMENT OF OREGON,
Portland, Oreg., October 31, 1983.

Re: H.R. 4170—Tax Reform Act.

Hon. LES AUCOIN,
U.S. Congressman,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN AUCOIN: Please take note that our organization and auxiliary of members in excess of 27,000, are very concerned about the above referenced resolution.

Our State Veterans Mortgage Program, enacted in 1945, has played a significant role in supplying jobs, timber sales, as well as other numerous economic support in all areas of our great State.

We agree that deficit spending must be curbed but why kick the body lying down that has already been severely injured by the current economic tides.

Your support to mend our State condition and future survival is not only definitely needed but also required. I hope we can count on your support.

Sincerely yours,

VERNON R. SIMSHAW,
Adjutant.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
DEPARTMENT OF OREGON,
Portland, Oreg. October 28, 1983.

Hon. LES AUCOIN,
House of Representatives,
Washington, D.C.

DEAR MR. AUCOIN: I am writing to you today to ask that you bring to bear on your colleagues in the House of Representatives the enormity of the tragedy that would befall not only the Oregon Home and Farm Loan Program, and Oregon's veterans, but the entire housing industry in this state with the passage of House Resolution 4170.

I know I don't have to remind you of the troubled state of Oregon's economy, but, I am deeply troubled that certain persons in Washington would attempt to cure their massive deficit on the backs of Oregon's veterans, as well as those of our other states.

My thanks to you for the work you have already done on our behalf, especially on this matter. If I can be of assistance to you in some way, please call on me.

Very sincerely yours,

PATRICK L. JORDAN, Jr.,
Vice Commander,
Department of Oregon, V.F.W.

MILITARY ORDER OF THE PURPLE HEART,
Springfield, Va., November 11, 1983.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
Longworth House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Our organization is concerned with H.R. 4170 and the potential impact of Title VII on veterans' housing programs. In the past week, I have tried to contact the Committee staff seeking answers to a few questions. It appears that the majority and the minority staff were equally busy. No call was returned. My primary question concerns the bill itself, what is the present status? Is it still in Committee, has it reached the floor?

Basically, Title VII will phase out the qualified veterans' mortgage bond. This would effectively destroy the veterans' housing programs in California, Oregon, Wisconsin and Alaska. I might add that several states an considering similar programs. Legislation is pending in Pennsylvania, Texas and New York. I have not checked, but Massachusetts may also have pending legislation. A group in Virginia is studying these projects as well. Therefore, Title VII will impact on at least nine states, five of whom have a very significant veteran population.

Considering the present economic climate of high unemployment and high interest rates, these housing programs make a contribution to economic recovery. Mortgage money is not so readily available and interest rates will remain at a high level for the forseable future. The low interest rates associated with mortgage subsidy bonds certainly make housing more affordable and favorably impact on the construction industry.

Some may ask why the veteran should be singled out for special consideration as is

the case with the qualified veterans' mortgage bond. We would point to the argument for veterans' preference in employment. The same reasoning may be applied in both instances. Government has the right to reward special service. Indeed, many will say it is an obligation. This position was supported a few years ago by the Supreme Court in the case of Feeney vs. Massachusetts.

Our organization is strongly opposed to any dilution of the qualified veterans' mortgage bond program.

Sincerely,

MAURICE E. LOIR,
Legislative Director.

HOUSE OF REPRESENTATIVES,
Salem, Oreg., April 27, 1984.

Re bonds for veteran's loans.

Hon. LES AUCOIN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN AUCOIN: As you know, Oregon's economy, especially in the wood's products area of my Legislative district, is trying to climb out of a severe recession. We are asking that you exempt the Oregon Veteran's program from the 1984 Tax Reform Act now in conference between the House and Senate.

Oregon as a state, has not benefitted from the housing recovery that has been witnessed by the rest of the nation. Building permit activity continues to be 70 percent below normal and projections continue to indicate little change. Oregon historically has used the Oregon Veteran's Program to fund a significant amount of middle income housing for veterans. The program has not been misused to provide financing for higher income families as the maximum loan amount is only $68,000. Continuation of this program is critical to the ability of deserving veterans to be able to purchase their own home.

In Oregon, the lifting of the Sunset Mortgage Revenue Bond Act will help only if the Veteran's Program is exempted from any limitation. Therefore, it is critically important that the Senate language be supported by the House conferees. Such action will permit deserving veterans the opportunity to own their own home.

I thank you very much for your consideration on this most significant issue.

Sincerely,

LIZ VANLEEUWEN,
State Representative, District 37.

CITY OF CORNELIUS,
Cornelius, Oreg., May 8, 1984.

Re: Federal Legislation—H.R. 4170

Representative LES AUCOIN,
Rayburn House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE AUCOIN: This letter is to voice opposition by the Cornelius, Oregon, City Council to the proposed federal legislation which would eliminate the tax-exempt status of bonds that would be sold to fund the Veteran's Loan and Services Program as drafted in H.R. 4170. Without the tax-exempt status the bonds would be too high in price to be sold in support of the program. H.R. 4170 would apply restrictive measures to Oregon's loan program which would effectively shut it down.

This letter also supports the amendment to H.R. 4170 legislation by Senator Packwood which would remove the restrictions passed by the House of Representatives.

The Cornelius City Council asks that you carefully consider the implications in the legislation as drafted and make a decision that will be equitable to all concerned parties. Thank you for your time and consideration on this matter.

Cordially,

MARK F. ARBUTHNOT,
City Manager.

PORTLAND BOARD OF REALTORS,
Portland, Oreg., January 24, 1984.

To: Oregon's Congressmen.

Re: H.R. 4170.

Thank you for your support of the Veterans Farm & Home Loan Program and your "no" vote on H.R. 4170 in December.

We urge your continued support to remove the Veterans Loan Program from the Mortgage Revenue Bond legislation.

Please support the Mortgage Bond Program when it does not negatively impact on the Veterans Program.

PORTLAND BOARD OF REALTORS.

NOVEMBER 8, 1983.

Hon. ROBERT DOLE,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR CHAIRMAN DOLE: Last July, the Senate endorsed the continuation of tax-exempt bond programs for home mortgages. Unfortunately, the mortgage bond provision was dropped in the conference on interest and dividend withholding because it had not yet been considered by the House. Now, the Ways and Means Committee has approved a bill that would extend the tax exemption on mortgage bonds. The time has come for the Senate Finance Committee to act on this legislation once again.

The Ways and Means Committee has approved a five-year extension on the tax exemption for qualified mortgage bonds, placing no new restrictions on the operation of these programs (except for a change in treatment of veterans bonds). In addition, the House bill would create the "mortgage credit certificate" option, whereby state and local agencies could elect to offer tax credits instead of tax-exempt financing.

If enacted, these provisions would allow mortgage revenue bond programs to continue without new rules and regulations that threaten to put them out of business. In just five years, the program would be up for review again, along with the tax credit plan, which would have been given a test as well.

While we have long supported the complete elimination of the sunset date on this important program, we recognize that some members of Congress continue to have concerns about the use of these bonds. The House position strikes a reasonable compromise. We urge the Senate Finance Committee to adopt similar language.

One aspect of the House bill which we do not support is the fact that qualified veterans bonds would count against the volume cap for mortgage revenue bonds. In the 1980 Act, Congress exempted veterans bonds from most of the restrictions governing "qualified mortgage bonds." This separate treatment reflects both the special purpose served by veterans programs and the belief that these issues—which are general obligation bonds—should not be subject to the same restrictions as revenue bonds. We see no justification for the change adopted in the House bill.

With this exception, however, we support the compromise on mortgage revenue bonds contained in the House bill. We ask the Senate Finance Committee to adopt these provisions as well.

National Governors' Association, National Association of Counties, National Association of Housing and Redevelopment Officials, Association of Local Housing Finance Agencies, National Association of Home Builders, National Lumber and Building Material Dealer's Association, Northeastern Retail Lumbermen's Association, United States Conference of Mayors, National Conference of State Legislatures, Council of State Housing Agencies, American Institute of Architects, Council of State Community Affairs Agencies, National Association of Realtors, and Public Securities Association.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 11, 1984.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, D.C.

DEAR BOB: As you prepare for conference on the Tax Reform Act of 1984, we would like to reaffirm our strong support for the Oregon Veterans' Home Loan Program and every effort humanly possible to help you save it.

We appreciate the concern you have expressed over the position of the House conferees and understand the gravity of the situation.

This bill as a whole passed the House with overwhelming bipartisan support because it is a necessary element in reducing the federal budget deficit. We are adamantly opposed, however, to provisions in the bill which would fold veterans' mortgage bonds into the state cap for the issuance for mortgage revenue bonds. Unfortunately, the House Rules Committee barred us from offering an amendment striking the provisions.

The intent of these provisions is to limit the potential revenue loss associated with tax exempt bonds. However, in the case of Oregon, the volume of bonds that the state can issue for veterans' home loans is subject to constitutional limitation adopted by state referendum. The Oregon Legislature also places a specific dollar limit on the amount of bonds that can be issued each year when it passes the budget.

We have expressed our firm opposition to this provision to Chairman Rostenkowski and have urged him to resolve this problem in conference; but Oregon has only one voice on the conference committee, and that is you. However, we want you to know our pledge to help you in every possible way to prevent Oregon's program from being dealt a crippling blow.

The entire Oregon delegation has put forth considerable effort in the past to protect our Veterans' Home Loan Program, which last year, was responsible for a majority of the new homes constructed in our state.

Our former colleague, Ways and Means Chairman Al Ullman, was successful in turning aside a similar attack in 1980. Last year, the entire delegation introduced legislation which allowed Oregon veterans who had received home improvement loans to also claim the federal energy tax credit.

When the IRS persisted in ruling against the Oregon veterans in this matter, we turned to the Appropriations Committee, assisting Senator Hatfield and Congressman AuCoin in attaching a rider which prohibited the IRS from retroactively penalizing some 5,000 Oregon veterans who had received the home improvement loans and claimed the tax credit.

Now the fight has shifted to the jurisdiction of the Ways and Means and Senate Finance Committees, where you play a deci-

sive role and where you will have bargaining stock in the conference. We want you to know that you can count on our using all the persuasion we can mobilize to help you with all House conferees.

We already have written to the House conferees and we will be meeting and telephoning them individually up to and during the conference until this is decided. In the meantime, we ask you to tell us specifically what additional steps we can take to assist you as the issue develops.

With warm regards,

Sincerely,

JIM WEAVER
Member of Congress.
LES AUCOIN,
Member of Congress.
RON WYDEN,
Member of Congress.

[From the Oregonian, Oct. 28, 1983]

VA PROGRAM NEEDS CLOUT

With Oregon's prestigious veterans' home and farm loan program under renewed attack from the federal government, once again it is the season to rue the day the Second District traded in Al Ullman for Denny Smith.

If Ullman were still chairman of the Ways and Means Committee, it is a safe bet that a tax reform bill would not abolish the Oregon program. In a similar proposal in 1980, Ullman saw to it that the veterans' loan operation was removed from legislation to limit the use of tax exempt bonds.

His powerless successor is not likely to have any effect on salvaging Oregon's pride and joy, although Les AuCoin is trying to ride to the rescue from his position on the House Appropriations Committee.

Ultimately it may be the state's good fortune that one of Bob Packwood's assignments is to the Senate Finance Committee. If the limitation measure should get through the House in its present form, he may be able to save the Oregon program in the Senate, especially if Mark Hatfield adds the muscle of the chairman of the Senate Appropriations Committee.

Ideally, all legislation would rest on its merits and all members of Congress would have equal weight. But it does not work that way.

If merit were the sole test, the House Ways and Means Committee would have excluded the Oregon program from a bill aimed at reducing the federal deficit by putting controls on tax exempt bonds.

There have been many abuses of industrial bonds, but the successful Oregon program, which has been a major financier of housing in this state since 1945, should not be slaughtered by a congressional shotgun blast fired at a related, but different matter.

Ullman's absence and the presence of Packwood, Hatfield and AuCoin do indicate the value of clout in a state's congressional delegation. Some senators and representatives, because of their positions or exceptional talent, are simply more equal than others.

Right now, Oregon needs all the clout it can muster to preserve a unique and effective operation that simply may not be well understood in the rest of the country.

Mr. WYDEN. Mr. Speaker, given the lateness of the hour, I yield back the balance of my time.

INTRODUCTION OF SATELLITE COMMUNICATIONS ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 60 minutes.

● Mr. BROYHILL. Mr. Speaker, I am pleased to introduce today the Satellite Communications Act of 1984.

Twenty years after its inception, the satellite communications industry in the United States has reached a critical juncture. While there is the promise of thousands of new jobs for U.S. workers and scores of new products and services for American consumers, the industry's prospects are clouded by market inequities that exist today. My bill deals with these market inequities so that the industry may reach its full potential.

In 1962, Congress passed the Satellite Communications Act. This act authorized the creation of a new private corporation whose principal purpose would be to join with communications entities around the world to establish an international organization that would invest in satellites for use in providing international communications services. The company that was formed for this purpose in 1963 called itself the Communications Satellite Corporation—Comsat. And the international organization that Comsat helped launch became known as Intelsat.

The Satellite Act gave Comsat extraordinary quasi-governmental powers. Although it was to be a private corporation, some of its directors would be appointed by the U.S. President, and it was authorized to be the exclusive representative of the United States within Intelsat.

Intelsat and Comsat have become powerful institutions in the provision of worldwide telecommunications services. Comsat's investment in Intelsat now totals nearly $400 million, and nearly all satellite transmissions between the United States and foreign points utilize the satellite capacity owned and operated by Intelsat and Comsat.

Within recent years, Comsat has vastly expanded its business investments. Today, it operates a large number of other ventures having assets of several hundred million dollars. For example, it manufactures and markets telecommunications equipment that is used by telecommunications companies around the world. It has invested heavily in an enterprise that eventually may provide several channels of pay television programing to hundreds of thousands of homes in the United States. It operates a business that provides environmental consulting, planning, and monitoring services to government and industry. It provides engineering and consulting services to entities around the world interested in developing new telecommunications facilities and services. And it even owns a one-third interest in a company that provides long-distance telephone services within the United States.

The dominance of Intelsat in providing international telecommunications services in the United States, and Comsat's role as the exclusive U.S. representative to Intelsat, gives Comsat an unfair economic incentive to work to preserve Intelsat's dominance in this country. Moreover, these same factors give Comsat unfair advantages over numerous U.S. companies that are engaged in the other lines of business that Comsat has now entered.

My bill will help bring about competitive equality through a variety of means. First, it authorizes the President and the Federal Communications Commission to instruct Comsat on how to vote on certain issues within Intelsat. And to insure that Comsat follows these instructions, the bill would allow the President to appoint a U.S. representative to monitor Comsats participation in Intelsat.

Second, the bill would require that Comsat establish a subsidiary in which Comsat would carry out all of its non-Intelsat businesses. In order to minimize the opportunity that Comsat now has to obtain unfair competitive advantages over U.S. companies engaged in these new lines of business, this subsidiary would have its own board of directors, its own officers, and a substantially separate staff. Moreover, it would be required to deal with on an arms-length basis.

Finally, the bill would require that Comsat make available to the public certain information it receives from Intelsat in order to further minimize the unfair advantages that the company would otherwise enjoy.

The bill constitutes a modest attempt to bring about competitive equality by reducing Comsat's unfair advantages and by minimizing its incentives to engage in predatory behavior. Nearly all provisions in this bill emanate from recommendations by a variety of U.S. Government agencies, including the Department of Commerce, and a major 1980 study of Comsat by the Federal Communications Commission.

Moreover, the bill constitutes a substantially less draconian remedy for the problems of competitive inequality that now exist than the remedy proposed by another measure which has already been introduced in Congress. H.R. 4464, which has been cosponsored by four Congressmen, including two from the Telecommunications Subcommittee, would require that Comsat divest several hundred million dollars in assets in order to bring about competitive equality. My bill, on

the other hand, provides a more balanced approach. It will permit Comsat to continue to engage in any line of business in which it desires to participate, but upon terms which are fair to the American consumer and to the scores of private business enterprises with which it competes.

The Subcommittee on Telecommunications, Consumer Protection, and Finance has agreed to hold 2 days of hearings on this bill next month. I look forward to these hearings, and I hope my colleagues will join with me in cosponsoring this important piece of legislation.

I include in the RECORD at this point a chart comparing the major provisions in my bill with the major provisions in H.R. 4464.

COMSAT LEGISLATION

Issue	Existing law/policy	Broyhill bill (H.R. 5724)	Markey bill (H.R. 4464)
Government supervision of COMSAT's participation in Intelsat.	Existing law is ambiguous. The President is required to "supervise" Comsat to ensure that its actions in Intelsat are consistent with "national interest" and U.S. "Foreign policy".	Clarifies existing law, as follows:	Same as proposed bill except as follows:
		1. States explicitly that President may instruct Comsat on how to vote on Intelsat matters affecting the U.S. "national interest" or U.S. "foreign policy" interests.	1. Instructions issued by U.S. government must be released publicly at time they are issued to Comsat.
		2. Gives FCC a right to issue instructions to Comsat on how to vote with respect to matters within FCC's jurisdiction as long as these instructions are consistent with instructions given by the President. Also requires FCC to establish procedures for receiving suggestions from public on possible instructions.	2. U.S. government representative would participate in all Intelsat voting whether or not the particular vote deals with an item on which an instruction was issued.
		3. Appoints U.S. government representative to participate in all Intelsat actions relating to matters about which instructions have been issued.	
		4. Requires all U.S. government instructions to be released publicly after the Intelsat meeting has been held to which instructions relate.	
Ability of Comsat to continue engaging in competitive activities.	Statute is silent. FCC allows Comsat to engage in competitive activities through a subsidiary subject to following requirement:	Same as existing FCC policy with following additional separation requirements:	Comsat shall divest all competitive activities.
	1. Subsidiary must maintain separate books and records.	1. Subsidiary and Comsat boards may have only one board member in common.	
		2. Subsidiary board may have only one member who is a Comsat officer or employee.	
		3. Subsidiary and Comsat may have no shared officers.	
		4. Subsidary shall maintain marketing, sales, maintenance, engineering, operations, procurement and advertising departments that are separate from similar departments within Comsat.	
		5. Comsat Labs, which is used by both Comsat and its subsidiaries for R&D, shall be placed in the subsidiary.	
		6. Comast shall procure all R&D pursuant to competitive bid except where FCC allows otherwise in a particular case.	
Public release of documents that Comsat obtains from Intelsat.	Statute is silent, but FCC requires Comsat to publicly release certain documents.	Codify status quo by requiring FCC to adopt a program to ensure maximum public release of Intelsat documents.	Requires public release of broader array of Intelsat documents than required at present by FCC (i.e. all Intelsat document would be released except those containing "personal information about Comsat participants" and "contractor evaluation reports").

ILLINOIS VIETNAM VETERANS LEADERSHIP PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues a banquet which will take place at the Hyatt Regency-Chicago on Sunday, May 27, at which approximately 50 Congressional Medal of Honor recipients from all over the United States will be honored, and three leading Chicagoans, Irv Kupcinet, Mary Sethness, and Neal Meehan, will also be recognized for their outstanding contributions to veterans programs.

A brief statement regarding this salute to America's veterans, as well as those who have given generously of their time and effort to help veterans, follows:

For the first time in its history, veterans from throughout the state of Illinois will come together to honor approximately 50 Congressional Medal of Honor recipients during a full round of Memoral Day Weekend activities, according to Allen Lynch, executive director of the Illinois Vietnam Veterans Leadership Program, which is coordinating the events.

Highlight of the holiday weekend will be a major civic dinner, having national significance, on Sun., May 27th, starting with a 6 p.m. reception, followed by a 7 p.m. dinner, in the Hyatt Regency Chicago Hotel's Grand Ballroom.

In addition to the 50 Medal of Honor recipients from throughout the U.S.A. 3 leading Chicagoans will also be recognized for their contributions to veterans' programs throughout many years.

These distinguished Chicagoans include syndicated Sun-Times columnist, Irv Kupcinet, for his sponsorship of the annual "Purple Heart Cruise" over the past 40 years; Mary Sethness, for her abiding support of the USO, and Neal Meehan, president and chief operating officer of Midway Airlines for his continuing services to Veterans' community programs and his dedication of a wing at Midway Airport to marines killed in Lebanon.

These awards will be given from the Congressional Medal-of-Honor Society and presented by their President, Ron Ray of Florida.

State Sen./Minority Leader, James "Pate" Philip will serve as Chairman of the CMOH "Host Committee;" Jack Brickhouse, "Hall-of-Fame" broadcaster, and Don DePorter, regional V.P., Hyatt Hotels Corp., will serve as Co-Chairmen. Larry Horist, City Club of Chicago Exec. Dir., will serve as Dinner Chairman.

"We are asking all Illinois veterans to participate in this weekend's schedule. It will give them the chance to pay respect to our nation's CMOH recipients, and offer an opportunity to jointly pay tribute to the sacrifices made by so many on behalf of freedom," Lynch adds.

In addition to the dinner, some of the activities being planned are a Prayer Breakfast, and a Veterans' Picnic.●

U.S. MONEY BENEFITS FOREIGN GOVERNMENT-CONTROLLED MINERAL PROJECTS AT EXPENSE OF U.S. CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, For many years I have opposed spending taxpayers money to subsidize foreign activities through the international lending institutions. I will share with my colleagues the facts of one mining project and I seriously doubt that anyone will disagree with my scenerio nor the inequity of the situation.

There is only one nickel mine in the United States. It is operated by Hanna Mining Co., and located on Riddle, Oreg. The mine operates without any special Government assistance and any financing is obtained through commercial banks. Marginally economic, its operations fluctuate with the market price and demand. There are several hundred people who are employed at the mine and an overall unemployment rate of 11 percent in Oregon means these jobs are very important.

Now compare the United States mine with one in the Philippines.

Marinduque Mining and Industrial Corporation (MMIC), a Manila-based corporation, produces nickel, copper, and cement. The operation started in 1976 with $500 million in foreign loans and since that time has relied solely on Philippine Government-sponsored financial support. The corporation has operated at a loss every year except one, 1979, when worldwide metal prices rose to record levels.

In January 1984, MMIC closed its operations after accumulating a $102 billion debt. The government directly owned 36 percent of MMIC and two state-owned banks held 90 percent of the debt. On April 30, 1984, the stockholders agreed to a proposed debt/equity swap and refinancing package which gave the Philippine Government 87 percent direct ownership and reduced the debt from $1.2 billion to $214 million. The restructuring plan was worked out by the Philippine National Bank (stateowned) and Phillip Brothers, (a U.S. commodity broker) who markets the MMIC nickel in the United States. The Philippine Bank converted the MMIC debt obligations into a noninterest bearing subordinated loan. The repayment (five annual installments beginning the 20th year) will be subject to the company satisfying a liquidity test and subordinated to senior loans and income bonds. The income bonds would be repayable over 20 years after a 5-year grace period and subject to meeting a liquidity test.

The nickel mine is expected to reopen the end of this month (May). On April 26 Phillip Brothers submitted a bid to the U.S. Bureau of the Mint to supply 3 million pounds of nickel at a base price of $2.22 per pound. The other bids submitted ranged from base prices between $2.32 to $2.59 reflecting the anticipated market price for nickel.

It is interesting to point out that in 1983, of the total shipments of nickel metal from MMIC, 45 percent came to the United States and were marketed by Phillip Brothers. Also, the agreed upon plan between Philippine National Bank and Phillip Brothers is based on an assumed price of $2.20 per pound.

I submit to my colleagues that this is an unjustified and unfair subsidization of an obviously subeconomic operation for which the U.S. taxpayers are footing the bill from start to finish. Not only was our money used to commence the operation, but now it seems most probable that taxpayers' dollars will buy the nickel for the U.S. Mint. In the meantime, my constituents and the employees of Hanna Nickel mine hang on day-by-day hoping to keep their jobs.

To further complicate matters, the Philippine Government has a standing agreement with the International Monetary Fund and negotiations are ongoing for $635 million of financial assistance. IMF assistance is general purposes for balance-of-payments financing and according to a witness of the Treasury Department, it would be difficult to obtain a conditionality provision to prohibit funds being filtered through to MMIC. As for lending by the Multilaterial Development Banks, our record does not give me much comfort: out of 53 U.S. opposed loans for various commodity projects, all 53 were approved and U.S. money used in the distributions.

This is only one example of how U.S. money benefits foreign government-controlled mineral projects at the expense of our own citizens. My colleagues from Arizona and New Mexico can give you many more horror stories. It is time to wake up and recognize what is happening.●

FINANCIAL INSTITUTIONS EQUITY OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 10 minutes.

● Mr. ST GERMAIN. Mr. Speaker, Mr. WYLIE and I are introducing legislation today to close the so-called nonbank bank loophole. I invite and welcome each and every Member, of course, to cosponsor this legislation.

I shall not summarize the bill.

NONBANK BANK LOOPHOLE

The bill would close the nonbank bank loophole. A bank for Bank Holding Company Act purposes, would be either an FDIC-insured bank, an insti-

tution eligible to apply for FDIC insurance, or a State or federally chartered institution that accepts transaction accounts and makes commercial loans. This is a definition recommended by the Federal Reserve.

This definition would include so-called consumer banks and industrial banks but not FSLIC-insured or FHLBB-chartered thrift institutions, State or privately insured thrift institutions, or foreign bank branches and related offices.

Businesses that would become bank holding companies as a result of this redefinition, would have 2 years under the Bank Holding Company Act to divest any nonconforming activities no matter when acquired—in other words, this bill contains no grandfather provision.

SECURITIES ACTIVITIES AND AFFILIATION

This legislation would extend the Glass-Steagall prohibition on the intermingling of banking and securities dealing to cover affiliations between banks that are not Federal Reserve members and securities organizations and officer, director and employee relationships between them. Currently the Glass-Steagall prohibitions cover only Fed member banks.

This change would prevent implementation of the FDIC security subsidiary proposal and close the loophole used by the Boston Five Cents Savings Bank to form a mutual fund and establish subsidiaries to manage the fund and market its shares.

The securities dealing prohibitions would also be extended to prohibit affiliations between firms engaged in any type of securities activity and deposit-taking institutions, whether acting through affiliates or directly. This would close the loophole which permits Dreyfus to acquire depository institutions.

Also prohibited would be all retail brokerage activities for all types of depositories or depository holding companies. This would include discount brokerage and would end, for example, Bank America Corp.'s ownership of Charles Schwab Corp., and the relationship between the consortium of Federal savings and loans and the joint service corporation known as Invest. A 2-year divestiture period is provided.

Affiliations between thrifts and securities organizations, and any officer, director and employee relationships between them, would also be prohibited.

THRIFT INSTITUTION PROVISIONS

With regard to thrift institutions, the legislation would make S&L holding companies owning institutions insured under State law subject to the same requirements as FSLIC-insured institution holding companies under the Savings and Loan Holding Company Act.

Under existing law, multiple savings and loan holding companies are allowed to engage in a limited amount of nonthrift activities such as property management and appraisals for other depository institutions. Companies controlling only one thrift—so-called unitary holding companies—may engage in any activity.

The current difference between permissible activities for unitary and multiple savings and loan holding companies would be eliminated beginning on the date of the enactment of this bill, unless the thrift subsidiary is a "qualified thrift institution."

A qualified thrift is defined as one that, on average, keeps at least 65 percent of its assets invested in residential mortgages or similar mortgage related investments. If a thrift has less than the 65 percent minimum, it would not be permitted to use any of its commercial lending powers. Savings banks would be given 10 years to achieve compliance with the qualified thrift definition, contingent upon their making steady progress toward the 65 percent portfolio goal. Existing savings and loan holding companies would be allowed to continue prohibited activities for not more than 2 years after enactment. A thrift owned by a unitary holding company that engages in activities beyond those permitted for multiple holding companies, would be prohibited from using commercial lending powers.

Under these provisions, a nonfinancial company such as a large retailer could continue to own a thrift, an insurance company, a real estate development corporation, and engage in general retail marketing, so long as the thrift subsidiary continued to meet the 65 percent mortgage or mortgage-related investment test. The thrift subsidiary, however, could not engage in commercial lending under this scenario.

The bill also would restrict tandem operations between bank holding companies, unitary and multiple S&L holding companies and their depository subsidiaries, by which they help market each others' products. Thus, for example, a Sears could not offer its insurance, securities, real estate or retail products through its S&L subsidiary, nor could another subsidiary of Sears market the S&L's certificates of deposit.

NONDEPOSITORY DEFINITION UNDER STATE LAW

This legislation would permit State-chartered depository institutions engaged, as of January 1, 1983, in activities authorized by State law and outside the scope of section 4(c)(8) of the Bank Holding Company Act or section 408 of the National Housing Act as interpreted on that date, to continue those activities, but only within that State and only for the residents of that State. State-chartered institutions that were not engaged in such activities as of January 1, 1983, may commence them at any time, but are also limited to performing them within the State and only for State residents. Activities authorized by States after January 1, 1983, which go beyond the scope of 4(c)(8) or 408 would be allowed to be performed only within the State and for State residents. These provisions address the question raised by State actions such as the South Dakota decision allowing out-of-State insurance sales.

The 2-year divestiture periods cited in this bill would apply to acquisitions completed or activities begun prior to the date of the bill's introduction. Acquisitions or activities after that date would have to be divested immediately.●

STORM WARNINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this has been a concentrated last 3 days, and those of us who were here today left and left pending one of the most far-reaching decisions having to do with our defense budget.

During these past weeks and months, the Nation has been in a state of drift and indecision. There is a curious kind of suspended judgment, despite the fact that storm warnings all around, warning that clearly require thought and decision.

But the necessary leadership has not been forthcoming, nor is there any sign that it will be; despite the dangers that abound. As just one example, the war between Iraq and Iran is a real threat to vital oil shipping. It is not just a matter that insurance rates on ships destined for the Arabian Gulf have gone up by 300 to 400 percent; it is a matter that ships have been attacked and sunk in the area.

The Strait of Hormuz is one of the world's shipping bottlenecks, only a few miles wide, easy to block by the mere device of sinking a few ships in the straits. Even the threat of such a blockade has been enough to greatly reduce the amount of oil shipped through the straits, which is where most of the oil shipments must pass through.

Already the oil shipments are down. The stoppage of oil exports through the Strait of Hormuz would not end the world's energy supply by any means but it would once again destabilize oil prices, it would once again kick the legs from under our country's economy. All of this has happened because our policy in the Middle East has been not just an embarrassment, it is literally a disaster.

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Yet there have been no new initiatives for months. There has been only the dreamy hope that somehow something would change, something would end the war between Iran and Iraq, something would stop the steady deterioration of relations between Israel and Egypt; where I must remind my colleagues, through congressional mandate for the first time in the history of the country and the Congress, we have, and there is no reference to this anywhere, 2,000 airborne, plus about 1,000 Colombian soldiers, that General Haig impressed into service after the passage of the resolution mandating this force, in the Sinai, about 400-some miles north of Beirut, where there the potential for added disaster is great.

Yet there is no awareness, there is no mention.

Something would stop the steady deterioration of relations between Israel and Egypt, what would that be? Something could happen and would happen to stem the continued assaults against any forces of moderation in the area. But indeed and in fact, nothing has happened.

Nothing can happen without some kind of U.S. leadership. And that leadership cannot happen unless there is a vision of what we can do and there is none. The State Department, if it does have a vision, has been silenced and is rendered ineffectual. The only semblance of a policy is to ship arms to any trouble spot, to threaten the use of our own forces and then sit back and wait.

It is an empty policy, a bankrupt policy, a policy without vision or hope of the possibility of success.

What is worse, though, is that it is a policy that does nothing that stems the drift toward war in the region, a war that would devastate the industrial world's economy.

What to me is more demoralizing and frustrating, and that is reflected in the temporarily suspended consideration of the so-called defense budget, a sizable, in fact in 3 years, a trillion dollars.

All during the debate, this year, last year, the year before and every year since, I have been in the Congress which is now 2½ years, the basic issue that is now going to push to the forefront under the circumstances that I foresee would catch us thoroughly unprepared and out of balance is the so-called question of German, the question of reunification. There is no discussion that I see anywhere during the consideration of this bill.

Why do I say this? Because until I got up on the House floor during the debates, such as they were, on the appropriations bill on defense, the Congress before last, the first time, to ask the question: How much of this budget represents the amount that we are diverting for the defense of Europe, quote unquote?

No Member in leadership position could answer that question. The answer I received was: It is impossible to fix in the budget, because it is spread out in various and sundry sections from the defense propositions having had sophisticated weaponry to such things as research and development.

However, I did, and for the past year, I have been analyzing the budget trying to get a rough estimate. So Congress before last, I finally asked the chairman and ranking member of the Appropriations Subcommittee as well as the authorization committee: Is my estimate of not less than 50 percent of our budget, which today, if we honor the President's request, even cut by 15 percent, would be in excess of $300 billion; so we are speaking about more than $150 billion, half.

It is really more. But that would represent what we call defense of Europe. The reply I received was that I was in the correct area, but that they could not tell me with precision.

Well, this, of course, is nonsense. Of course we should and can and ought to. But the reason is that if our policies have not changed in light of the way the world has changed and are based, even though, today, even all this week, last week, are based on a perception of the world of 1947.

How can we be correct? How can we end up in anything but a disastrous course, a tremendously disastrous course?

□ 2050

In Germany, for example, have we at any time assessed the one passion, the real motivation behind all of the accommodations leaders from President Adenauer, who was the one who came in right in the postwar period and enabled us to establish some kind of an accommodation. Have we realized that Germany today is far from the Germany of 1947? But that the underlying passion for reunification, which from the beginning, and even expressed constantly by President Adenauer, was always in the foremost thought of either West or East Germany.

Why should that not be if we are cognizant of history? We are talking about a body of people, the German people, virile, strong, resurgent, who are still divided and are conquered. We change the designation of all our troops from occupation to defense, but if we asked this question now of the average German mind and how that citizen in West Germany or East Germany looks upon the presence, in the case of American troops almost 300,000, in the case of French troops somewhere around 11,000, British about 7,700, and see if they look upon us as occupying forces or really defense forces.

We are talking about a generation on the threshold of power, if not actually already with one foot in power in Europe, in Germany, that does not remember World War II. So we are making a terrible error in not reshaping our policies in light of the developments. Why is it realistic for us to tax the American taxpayer over 150 billion dollars' worth, which certainly would take care of any deficit that we are confronted with now, for the defense of Europe when that defense is not clearly defined. We are still talking in terms—to listen to the debate—about an overland invasion by Russia through the central corridors of Germany. Every single expert today, military, nonmilitary, diplomatic, political, will certainly agree that that is an unrealistic defense view.

The resurgence of Europe which today is far from prosperous, but still debating its relationship and wondering about the American leadership and its continuing role in what form or shape. Certainly I think that ought to enter into our consideration of these huge defense budgets and see how realistic it is for us to proceed the way we are, based on what I consider to be a misperception on the part of our leaders of the real world in Europe.

Meanwhile, here in the United States, we have in these past few days seen the drama of the near collapse of the country's eighth largest bank, the Continental Bank of Illinois.

Now I have been on the Banking Committee since my arrival to the House of Representatives 22½ years ago. Some of us have been speaking out for more than 15 years.

As a matter of fact, it is no comfort to me to see how correct we were in our forebodings, all the time praying that we would be wrong.

The magnitude of the threat posed by the failure of such a bank is almost impossible to imagine or explain at this time. The frightening prospect of such a failure caused bank regulators to go to the absolutely unprecedented lengths to keep Continental Illinois alive and floating.

For the first time ever, the Federal Government issued a guarantee to the depositors of a bank to cover the uninsured deposits. Several years ago I brought out first during the hearings in the Banking Committee that there is no possible way that there is a realistic assessment now and relationship between those insured deposits and the magnitude of the insured deposits and the amount of reserves that would be necessary to even minimally cover those insured deposits.

I pointed out 3 years ago that we were trying in the case of banks, that is, under the FDIC, insured by the FDIC, we had insured deposits in the

ratio of about 2,000, over 2,000 to 1, to the amount actually available for the purposes of insurance.

In the case of savings and loans, the ratio was even worse.

And all I got by way of a reply when I asked the Chairman of the Federal Reserve Board, the Secretary of the Treasury, and I am speaking of gentlemen who served under varying administrations, was a nonanswer, a shrug of the shoulders and saying nothing would happen that would cause a run.

What we see today and saw last week in the case of Continental Illinois is exactly that. For the first time ever the Government goes even further because it became very frightened. The regulators, the money managers of our Government became very frightened because they saw the first emergence of a run. The big depositors in Continental were given firm assurance that the funds would be safe no matter how big the deposit, no matter how far it exeeded insurance limits. The whole purpose of this unprecedented guarantee was to stop a run by Continental's big depositors who were rapidly draining the bank of its cash.

Heretofore the theory was that the deposits of big amounts would keep an eye on bank management and thus themselves help assure the safety and security of the bank.

But obviously that theory did not work in the case of Continental Illinois and we had predicted this over 15 years ago. The big deposits did not care about the safety and soundness of the bank, all they wanted was the maximum rate of return on the funds, no matter how the bank was run.

The lesson and the warning in this is simple. The other big banks are also full of bad loans, in fact, worse. And their soundness would be clearly open to question if the regulators made them value nonperforming foreign loans in the way they should be.

But of course the risk of exposing the actual weakness of these banks is too great to make them play by the real rules of banking. So the regulators wink and they blink.

The warning is clear. The Nation's major banks have been playing fast and loose. And there is no evidence of any indication of leadership in or out of the Congress—I must say in all fairness—much less out of the executive branch of the Government and certainly, as I have pointed out for 15 years, we cannot expect any from the Federal Reserve Bank, which is ineffect a creature of three if not six of the biggest banks of this country.

We often forget that the Federal Reserve was created by the Congress, but is completely unaccountable to the Congress today, or for that matter to the President, but only these big bankers.

□ 2100

The only solution, then, is to bail the banks out by a combination of multibillion-dollar cash advances and absolutely unlimited guarantees of deposits. And, of course, we know that no tree can grow to heaven, and we know that no eternal resources of our country, as great as they are, can reach that limit.

So much for the big banks. But we are also seeing a widening circle of failure among smaller institutions, sometimes three or four a week failures.

Now, it is true that the deposit insurance funds are not the only resource available, for deposits that are insured by the Federal Government are also guaranteed by the full faith and credit of the United States. But as I said, a tree cannot grow to heaven, and the resources are finite and not infinite.

We are seeing new and disturbing trends in the economy. Home foreclosures, for example, are up, not down. And here again, some of us were warning about the gimmicks of just a few years ago we have had at least 11 different gimmicks: Variable adjusted mortgages; we had what the folks back home in the grassroots who deal with this call GPM, graduated payment mortgages—they call them gyp'ems—because the whole thing has been in response to a symptom.

We have not been attacking the causes. We are faced with economic threats from outside and from within, not just the threat of cutoff of oil exports from the Middle East, not just the possibility of major bank collapses, but the threat also of war in Central America, where indeed and in fact we are at war, where the move toward war is growing and accelerating.

The United States is merely reacting to dangers of every kind, not leading, and the reaction is merely to send arms where there are already too many arms, to issue threats where there are already too many threats, and to issue reassuring words where the need is for real economic action. Danger signs and signals are all around. They are clear. Yet there is no vision, no leadership, especially from the executive branch. Where there is no vision, a nation perishes. Imagery can work for a while, but in the end reality overcomes images. The longer we rely on images, the greater the problems become. It is distressing and alarming, and it may lead to grave problems for all of us. The cracks in the facade abound and the building could fall, either from an incident in the Middle East, a disaster in Central America, which is in the making even now as I am speaking, or the failure of one of our great and vaunted banks here at home.

Certainly it is not a reassuring prospect. It would not be reassuring even if the country did have vigorous and imaginative leadership. Because we lack such leadership, any person viewing the scene would have to feel like Cassandra—telling the truth of things, only to be ignored by those who would rather feel good than go about and do the right thing for the country.

PROVISIONAL "302(a)" ALLOCATIONS TO HOUSE COMMITTEES BASED ON HOUSE-PASSED BUDGET RESOLUTION (H. CON. RES. 280)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, the House passed House Concurrent Resolution 280, the First Concurrent Resolution on the Budget for fiscal year 1985, on April 5. The Senate did not pass their resolution until May 18, and the timing of a budget resolution conference remains uncertain.

House committees are preparing to proceed with floor consideration of appropriation and direct spending bills. Faced with a similar situation last year, Budget Committee scorekeeping proceeded on the basis of the House-passed resolution. While this approach was not formal, it proved an acceptable interim method for scorekeeping spending bills.

Therefore, I am submitting for the RECORD the provisional "302(a)" allocations to House committees reflecting the amounts in House Concurrent Resolution 280. I first discussed this procedure before the House on Tuesday during the floor debate on the Energy-Water appropriation bill. The discussion pertained to the blanket waiver for all appropriation bills to come before the House even though a budget resolution has not been enacted.

The provisional allocation I am filing today covers fiscal years 1984 and 1985, since House Concurrent Resolution 280 also would revise the existing 1984 budget resolution. As you know, this year's budget resolution provides for a pay-as-you-go concept for increases above inflation usually referred to as real growth. In practice this means the budget resolution includes amounts above the current-policy baseline for discretionary programs—both defense and domestic—and also for a limited number of entitlement increases. These amounts for discretionary program increases have been allocated in the 302(a) to the Appropriations Committee.

The Budget Committee does not have specific line-item assumptions for the entitlement increases; such detail is not normally provided until conference action is completed. The intent of

the budget resolution is that an amount of budget authority, outlays, and new entitlement authority be available for increases for programs serving the needy or handicapped. Therefore, this amount is identified separately in the attached allocation, and is not distributed to committees at this time.

FISCAL YEAR 1984—ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT. HOUSE-PASSED BUDGET RESOLUTION (H. CON. RES. 280)

[In millions of dollars]

	Budget authority	Outlays	New entitlement authority
House Committee:			
Appropriations	537,038	502,335	0
Agriculture	1,660	9,297	0
Armed Services	24	21	0
Banking, Finance, and Urban Affairs	977	421	0
District of Columbia	161	161	0
Education and Labor	58	52	0
Energy and Commerce	13,210	11,061	0
Foreign Affairs	13,446	12,962	0
Government Operations	4,575	4,574	0
House Administration	49	131	0
Interior and Insular Affairs	1,709	1,533	0
Judiciary	492	475	0
Merchant Marine and Fisheries	631	283	0
Post Office and Civil Service	47,890	32,698	0
Public Works and Transportation	16,745	524	0
Science and Technology	37	63	0
Veterans' Affairs	1,466	1,062	0
Ways and Means	430,731	421,925	0
Unassigned to Committee	−155,434	−145,760	0
"PAYGO" Discretionary Act	35	82	82
Total	915,500	853,900	82

FISCAL YEAR 1985—ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT. HOUSE-PASSED BUDGET RESOLUTION (H. CON. RES. 280)

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
House Committee:			
Appropriations:			
Current level	102,004	280,260	0
Discretionary action	449,824	250,431	0
Discretionary action by other committees	4,199	3,695	0
Total	556,027	534,386	0
Agriculture:			
Current level	3,038	13,891	11,195
Discretionary action	−50	−50	0
Total	2,988	13,841	11,195
Armed Services:			
Current level	36,251	26,526	17,771
Discretionary action	49	−251	0
Total	36,300	26,275	17,771
Banking, Finance, and Urban Affairs: Current level	837	−1,677	0
Total	837	−1,677	0
District of Columbia: Current level	11	11	11
Total	11	11	11
Education and Labor:			
Current level	74	67	10,176
Discretionary action	0	−150	−150
Total	74	−83	10,026
Energy and Commerce: Current level	12,341	11,176	30,506
Total	12,341	11,176	30,506
Foreign Affairs: Current level	13,848	13,374	221

FISCAL YEAR 1985—ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT. HOUSE-PASSED BUDGET RESOLUTION (H. CON. RES. 280)—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Total	13,848	13,374	221
Government Operations: Current level	4,575	4,574	4,567
Total	4,575	4,574	4,567
House Administration: Current level	52	11	46
Total	52	11	46
Interior and Insular Affairs: Current level	1,667	1,237	641
Total	1,667	1,237	641
Judiciary: Current level	495	476	546
Total	495	476	546
Merchant Marine and Fisheries: Current level	667	206	346
Total	667	206	346
Post Office and Civil Service:			
Current level	50,770	34,390	23,821
Discretionary action	0	−250	0
Total	50,770	34,140	23,821
Public Works and Transportation: Current level	17,321	444	13
Total	17,321	444	13
Science and Technology: Current level	23	28	0
Total	23	28	0
Veterans' Affairs:			
Current level	1,526	1,169	16,591
Discretionary action	0	0	−58
Total	1,526	1,169	16,533
Ways and Means:			
Current level	487,898	463,578	480,911
Discretionary action	−1,000	−1,000	−1,000
Total	486,898	462,578	479,911
Unassigned to Committee (Offsetting Receipts):			
Current level	−184,568	−184,568	−23,245
Discretionary action	−99	−99	0
Total	−184,666	−184,666	−23,245
"PAYGO" Discretionary action	350	650	100
Total Current level	548,829	665,174	574,118
Total Discretionary action	453,271	252,976	−1,108
Grand totals	1,002,100	918,150	573,010

Note.—Totals may not add due to rounding.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WILLIAMS of Ohio (at the request of Mr. MICHEL), from noon and for the balance of the day, on account of illness in the family.

Mrs. ROUKEMA (at the request of Mr. MICHEL), for today, on account of personal reasons.

Mr. LEWIS of California (at the request of Mr. MICHEL), after 12 noon today for the balance of the day, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BOEHLERT) to revise and extend their remarks and include extraneous material:)

Mr. BROYHILL, for 30 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. SILJANDER, for 60 minutes, on May 30.

Mr. BROWN of Colorado, for 60 minutes, on May 30.

Mr. SILJANDER, for 60 minutes, on May 31.

Mr. PHILIP M. CRANE, for 60 minutes, on June 6.

Mr. SILJANDER, for 60 minutes, June 18.

Mr. SILJANDER, for 60 minutes, on June 25.

(The following Members (at the request of Mr. PENNY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Mr. ST GERMAIN, for 10 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEVIN of Michigan, prior to the vote on Senate amendment No. 12 today.

Mr. HARRISON, prior to the vote on Senate amendment No. 12 today.

Mr. ASPIN, to revise and extend his remarks on title IV of the bill, H.R. 5167 today.

(The following Members (at the request of Mr. BOEHLERT) and to include extraneous matter:)

Mr. LUJAN in two instances.

Mr. SHAW.

Mr. GREGG.

Mr. RUDD.

Mr. DAUB.

Mr. CONTE in two instances.

Mr. FRANKLIN.

Mr. PAUL.

Mr. ROTH.

Mr. DENNY SMITH.

Mr. ARCHER.

Mr. YOUNG of Alaska.

Mr. GREEN.

Mr. KASICH.

Mr. FIELDS in three instances.

Mr. LATTA.

Mr. SILJANDER in two instances.

Mr. PORTER.

Ms. SNOWE.

Mr. MCKINNEY.

Mr. KEMP in two instances.

Mr. CONABLE.
Mr. CLINGER.
Mr. BILIRAKIS.
Mr. SHUMWAY.
Mr. HILLIS.
Mr. COURTER in two instances.
(The following Members (at the request of Mr. PENNY) and to include extraneous matter:
Mr. MINETA.
Ms. FERRARO.
Mr. NICHOLS.
Mr. HAWKINS.
Mr. RODINO in two instances.
Mr. FASCELL in two instances.
Mr. TALLON.
Mr. ACKERMAN.
Mr. SABO.
Mr. DORGAN.
Mr. HARRISON.
Mr. OTTINGER.
Mr. ANDREWS of North Carolina.
Mr. KILDEE.
Mr. ECKART.
Mr. LIPINSKI in three instances.
Mr. LANTOS in three instances.
Mr. SCHUMER in two instances.
Mr. WON PAT.
Mr. MURPHY.
Mr. SOLARZ in three instances.
Mr. HUBBARD.
Ms. OAKAR.
Mr. LELAND.
Mr. FLORIO.
Mr. OBERSTAR in two instances.
Ms. KAPTUR.
Mr. BORSKI.
Mr. YOUNG of Missouri.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1999. An act to provide for the statutory designation of the position of Assistant Secretary of the Interior for Indian Affairs, eliminate the position of Commissioner of Indian Affairs, make conforming amendments, repeal unnecessary provisions of law referring to the Commissioner of Indian Affairs, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2000. An act to allow variable interest rates for Indian funds held in trust by the United States; to the Committee on Interior and Insular Affairs.

S. 2300. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize multiyear contracts in certain cases; to the Committee on Government Operations.

S. 2371. An act to provide for the distribution within the United States of the U.S. Information Agency film entitled "Peace, Friendship and Freedom"; to the Committee on Foreign Affairs.

S.J. Res. 254. Joint resolution to designate the month of October 1984 as "National Down's Syndrome Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 288. Joint resolution to designate the week of September 16, 1984, through September 22, 1984, as "Emergency Medicine Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5287. An act to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multi-year grants.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2413. An act to recognize the organization known as the American Gold Star Mothers, Incorporated.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 313 of the 98th Congress, the House stands adjourned until 12 o'clock noon, Wednesday, May 30, 1984.

Thereupon (at 9 o'clock and 3 minutes p.m.) pursuant to House Concurrent Resolution 313, the House adjourned until Wednesday, May 30, 1984, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of calendar year 1983 and the first quarter of calendar year 1984 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. William Gray		9/1	United States		75.00						75.00
	9/2	9/6	U.S.S.R.		178.00						178.00
	9/6	9/8	France		196.00		3,793.00				3,989.00
Edwin F. Powers		9/2	Finland								
	9/2	9/6	U.S.S.R.		178.00		417.26				595.26
	9/6	9/8	France		196.00		2,425.00				2,621.00
Committee total					823.00		6,635.26				7,458.26

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE WHITTEN, Chairman, May 12, 1984.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Amended report on 1st quarter for 1984, delegation to South America, Feb. 11–22, 1984:											
Delegation expenses in Brazil							637.76		779.72		1,417.48
Delegation expenses in Uruguay							660.00		932.66		1,592.66
Delegation expenses in Argentina							518.25		251.95		770.20
Delegation expenses in Chile							1,274.57		1,825.32		3,099.89
Committee total							3,090.58		3,789.65		6,880.23

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MELVIN PRICE, Chairman, May 21, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Joseph Addabbo	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece	225.00							225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Hon. Jack Edwards	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece	225.00							225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Hon. Jack Hightower	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece	225.00							225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Hon. William Lehman	1/5	1/7	Italy		192.00						192.00
	1/7	1/10	Jordan		270.00						270.00
	1/10	1/15	India		485.00						485.00
	1/15	1/18	Nepal		225.00						225.00
	1/18	1/20	Spain		150.00		[3] 5,457.00				5,607.00
Hon. Bob Livingston	3/23	3/24	Honduras		96.00		689.95				785.95
Hon. Matthew McHugh	1/5	1/7	Italy		192.00						192.00
	1/7	1/10	Jordan		270.00						270.00
	1/10	1/15	India		485.00						485.00
	1/15	1/18	Nepal		225.00						225.00
	1/18	1/20	Spain		150.00		[3] 5,457.00				5,607.00
Hon. John P. Murtha	2/10	2/12	Germany				[3] 2,717.00				2,717.00
Hon. George O'Brien	1/5	1/19	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Hon. J. Kenneth Robinson	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Hon. Hal Rogers	1/7	1/10	Hong Kong		366.00		31.86		47.92		445.78
	1/10	1/14	Thailand		444.00		57.67		58.48		560.15
	1/14	1/17	Pakistan		324.00				32.45		356.45
	1/17	1/18	Turkey		108.00		7.50		34.44		149.94
	1/18	1/21	Italy		516.00		54.61		70.14		640.75
Transportation (DOD)							7,887.56				7,887.56
Hon. Eldon Rudd	2/11	2/13	Barbados		312.00						312.00
	2/12	2/12	Grenada								
	2/13	2/15	Brazil		162.00						162.00
	2/15	2/16	Uruguay		75.00						75.00
	2/16	2/18	Argentina		150.00		20.00				170.00
	2/18	2/20	Chile		190.00						190.00
	2/20	2/22	Peru		150.00						150.00
Transportation (DOD)							5,074.79				5,074.79
Hon. Louis Stokes	1/7	1/10	Hong Kong		366.00		31.86		47.92		445.78
	1/10	1/14	Thailand		444.00		57.67		58.48		560.15
	1/14	1/17	Pakistan		324.00				32.45		356.45
	1/17	1/18	Turkey		108.00		7.50		34.44		149.94
	1/18	1/21	Italy		516.00		54.61		70.14		640.75
Transportation (DOD)							7,887.56				7,887.56
Hon. Charles Wilson	12/27	12/31	Egypt		336.00		308.00				644.00
	12/31	1/5	Israel		500.00						500.00
	1/5	1/6	Egypt		84.00						84.00
	1/6	1/12	Pakistan		375.00		32.00				407.00
Transportation (commercial)							5,284.00				5,284.00
George F. Allen	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Delacroix Davis	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1984—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Henry E. Moore	1/9	1/19	Mexico		675.00		903.77				1,578.77
Mark W. Murray	3/23	3/25	Honduras		96.00		906.70				1,002.70
John G. Osthaus	2/13	2/15	Canada		253.00		318.00				571.89
John G. Plashal	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Edwin F. Powers	2/12	2/14	Panama		150.00						150.00
	2/14	2/15	Guatemala		75.00						75.00
	2/15	2/17	El Salvador		150.00		1,669.60				1,819.60
William E. Schuerch	1/5	1/7	Italy		192.00						192.00
	1/7	1/10	Jordan		270.00						270.00
	1/10	1/15	India		485.00						485.00
	1/15	1/18	Nepal		225.00						225.00
	1/18	1/20	Spain		150.00		[3]5,457.00				5,607.00
Austin G. Smith	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
J. David Willson	1/5	1/9	Italy		384.00						384.00
	1/9	1/12	Greece		225.00						225.00
	1/12	1/14	Sri Lanka		190.00						190.00
	1/14	1/17	Singapore		354.00						354.00
	1/17	1/19	Taiwan		180.00						180.00
	1/19	1/22	Korea		291.00		[3] 5,131.00				5,422.00
Committee totals					27,551.00		101,648.10		486.86		129,721.96
Ronald C. Allen, Jr.	1/7	1/11	England		435.50						435.50
	1/11	1/21	Germany		761.00		2,211.00		43.17		3,015.17
George C. Baird	3/10	3/14	England		321.75						321.75
	3/14	3/17	Italy		250.25						250.25
	3/17	3/21	Spain		337.50						337.50
	3/21	3/22	England		99.00		1,964.00		140.22		2,203.22
Charles Bolz	1/31	2/2	England		216.75						216.75
	2/2	2/9	Oman		945.00						945.00
	2/9	2/12	Kenya		225.00						225.00
	2/12	2/16	Somalia		300.00						300.00
	2/16	2/20	Kenya		300.00						300.00
	2/20	2/23	Egypt		276.00						276.00
	2/23	2/24	England		74.25		5,124.60		123.96		5,322.81
Jimmie E. Buckles	3/10	3/16	Germany		468.75						468.75
	3/16	3/22	Spain		450.00						450.00
	3/22	3/23	England		99.00		2,459.00		47.00		2,605.00
Philip B. Culkin	3/10	3/24	Germany		1,081.00		1,877.00		18.72		2,976.72
Edwin C. Eads	1/3	1/26	Germany		1,302.50						1,302.50
	1/26	2/1	Spain		830.75						830.75
	2/1	2/8	England		768.00		2,392.00		35.24		3,195.24
John G. Goedtel	1/31	2/2	England		216.75						216.75
	2/2	2/9	Oman		945.00						945.00
	2/9	2/12	Kenya		225.00						225.00
	2/12	2/16	Somalia		300.00						300.00
	2/16	2/20	Kenya		300.00						300.00
	2/20	2/23	Egypt		276.00						276.00
	2/23	2/24	England		74.25		5,124.60		95.16		5,294.01
Michael Kennedy	1/3	1/26	Germany		1,720.50						1,720.50
	1/26	1/28	Belgium		177.75						177.75
	1/28	2/1	Italy		317.75						317.75
	2/1	2/8	England		663.00		2,355.00		107.50		3,125.50
Louis J. Leporatti	1/21	1/26	Germany		360.25						360.24
	1/26	1/28	Belgium		177.75						177.75
	1/28	2/1	Italy		337.50		2,355.00		58.86		2,751.36
Mark S. Love	3/10	3/24	Germany		1,081.00		1,877.00		44.88		3,002.88
Dennis K. Lutz	1/7	1/11	England		435.50						435.50
	1/11	1/21	Germany		761.00		2,211.00		64.86		3,036.86
Henry P. McDonald	1/7	1/11	England		435.50						435.50
	1/11	1/21	Germany		761.00		2,211.00		39.48		3,011.48
Frank A. Papineau	1/3	1/26	Germany		1,758.25						1,758.25
	1/26	2/1	Spain		375.00						375.00
	2/1	2/8	England		738.00		2,392.00		84.08		3,214.08
Richard P. Roscoe	1/3	1/26	Germany		1,739.50						1,739.50
	1/26	2/1	Spain		356.25						356.25
	2/1	2/8	England		775.50		2,392.00		142.05		3,309.55
Arthur E. Sullivan	3/10	3/14	England		337.50						337.50
	3/14	3/17	Italy		250.25						250.25
	3/17	3/21	Spain		321.75						321.75
	3/21	3/22	England		99.00		1,654.00		115.70		1,868.70
Carlton A. Weiss	3/10	3/16	Germany		468.75						468.75
	3/16	3/22	Spain		450.00						450.00
	3/22	3/23	England		99.00		2,459.00		28.30		2,586.30
Committee total					26,876.25		41,058.20		1,189.18		69,123.63

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Travel performed by military aircraft. Cost shown is equivalent 1st-class commercial rate.

JAMIE WHITTEN, Chairman, May 12, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Potter, Frank M., Jr.	3/22	3/24	France		182.00						182.00
Potter, Frank M., Jr.	3/24	3/26	Greece		225.00						225.00
Leach, David	3/25	3/27	Canada		255.00						255.00
Commercial air fare							210.54				210.54
McCarthy, Mark	3/25	3/27	Canada		255.00						255.00
Commercial air fare							210.54				210.54
					917.00		421.08				1,338.08

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 23, 1983 AND MAR. 31, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Don Edwards, MC	12/23	12/27	Taiwan		367.82		193.53				561.35
	12/27	12/29	Hong Kong [3]								
	12/29	12/30	Thailand [3]								
	12/30	1/5	Vietnam [3]								
	1/5	1/8	Thailand [3]								
	1/8	1/10	Singapore		302.00		182.25				484.25
	1/10	1/16	Indonesia		721.00						721.00
Commercial transportation							2,551.38				2,551.38
Geo. W. Crockett, Jr., MC	1/7	1/10	Hong Kong		366.00		31.86		47.92		445.78
	1/10	1/14	Thailand		444.00		57.67		58.48		560.15
	1/14	1/17	Pakistan		324.00				32.45		356.45
	1/17	1/18	Turkey		108.00		7.50		34.44		149.94
	1/18	1/21	Italy		516.00		54.61		70.14		640.75
Military transportation							7,887.56				7,887.56
Harold S. Sawyer, MC	1/7	1/10	Hong Kong		366.00		31.86		47.92		445.78
	1/10	1/14	Thailand		444.00		57.67		58.48		560.15
	1/14	1/17	Pakistan		324.00				32.45		356.45
	1/17	1/18	Turkey		108.00		7.50		34.44		149.94
	1/18	1/21	Italy		516.00		54.61		70.14		640.75
Military transportation							7,887.56				7,887.56
Charlene L. Vanlier, staff	1/7	1/10	Hong Kong		366.00		31.86		47.92		445.78
	1/10	1/14	Thailand		444.00		57.67		58.48		560.15
	1/14	1/17	Pakistan		324.00				32.45		356.45
	1/17	1/18	Turkey		108.00		7.50		34.44		149.94
	1/18	1/21	Italy		516.00		54.61		70.14		640.75
Military transportation							7,887.56				7,887.56
John F. Seiberling, MC	1/8	1/11	Spain		225.00		84.73		66.96		376.69
	1/11	1/14	Morocco		225.00						225.00
	1/14	1/17	Turkey		324.00		16.60		35.00		375.60
	1/17	1/19	Italy		192.00		41.16		26.65		259.81
	1/19	1/21	France		168.00						168.00
	1/21	1/24	England		297.00		24.36		111.18		432.54
Military transportation							4,283.77				4,283.77
Bill McCollum, MC	1/11	1/15	Thailand		410.00		568.59		147.96		1,126.55
	1/15	1/18	Hong Kong		366.00						366.00
Commercial transportation							[4] 876.60				876.60
Peter J. Levinson, staff	2/14	2/17	Dominican Republic		512.00						512.00
Commercial transportation							429.00				429.00
Eugene Pugliese, staff	2/15	2/19	Dominican Republic		640.00						640.00
Commercial transportation							751.00				751.00
Thomas N. Kindness, MC	3/6	3/9	Switzerland		144.96		161.00				305.96
Commercial transportation							1,541.00				1,541.00
Joseph V. Wolfe, staff	3/6	3/12	Switzerland		490.98		161.00				651.98
Commercial transportation							1,541.00				1,541.00
Committee total					10,659.76		37,524.57		1,118.04		49,302.37

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Reported by the Committee on Veterans' Affairs.
[4] Airfare from Taiwan to Thailand/Hong Kong and return to Taiwan.

PETER W. RODINO, JR., Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3404. A letter from the Director, Office of Management and Budget, transmitting the Soil Conservation Service plans for the Lower Silver Creek Watershed, Calif., and Little Whitestick-Cranberry Creek Watershed, W.Va., pursuant to the act of August 4, 1954, chapter 656, section 5 (76 Stat. 609; 95 Stat. 1338); to the Committee on Agriculture.

3405. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a report of the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter January 1, 1984, through March 31, 1984, pursuant to Public Law 98-212, section 718; to the Committee on Appropriations.

3406. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during April 1984

to Communist countries, as a result of Presidential determinations, pursuant to the act of July 31, 1945, chapter 341, section 2(b)(2) (88 Stat. 2334); to the Committee on Banking, Finance and Urban Affairs.

3407. A letter from the Secretary of the Treasury, transmitting the 1984 first quarter report on the Olympic commemorative coin program, pursuant to Public Law 97-220, section 11; to the Committee on Banking, Finance and Urban Affairs.

3408. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Recommendation of Certification Requirements for Revenue Anticipation Notes", pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

3409. A letter from the Auditor, District of Columbia, transmitting his annual report for fiscal year 1983, pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

3410. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Rent Collection Procedures in Public Housing", pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

3411. A letter from the Secretary of Education, transmitting proposed final priorities for fiscal year 1984—training program for special programs staff and leadership personnel, pursuant to GEPA, section 431(d)(1) (88 Stat. 567; 90 Stat. 2231; 95 Stat. 453); to the Committee on Education and Labor.

3412. A letter from the Secretary of Health and Human Services, transmitting the Surgeon General's report on the health consequences of smoking, pursuant to Public Law 89-92, section 8(a) (84 Stat. 89); to the Committee on Energy and Commerce.

3413. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934; to the Committee on Energy and Commerce.

3414. A letter from the Acting Administrator, General Services Administration, transmitting the third biennial report on excess and personal property programs covering the 2-year period, October 17, 1981, through October 16, 1983, pursuant to Public Law 94-519, section 10; to the Committee on Government Operations.

3415. A letter from the Administrator, Veterans' Administration, transmitting the semiannual report on the activities of the Inspector General for the period October 1, 1983, through March 31, 1984, pursuant to Public Law 95-452, section 5(b); to the Committee on Government Operations.

3416. A letter from the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services, transmitting notification of a proposed new system of records, pursuant to 5 U.S.C. 552(o); to the Committee on Government Operations.

3417. A letter from the Deputy Assistant Secretary of Defense, transmitting notification of a proposed new system submitted by the Department of the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3418. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3419. A letter from the General Counsel, Office of Administration, Executive Office of the President, transmitting a report on the Office's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3420. A letter from the Manager, Congressional Liaison Staff, Federal Energy Regulatory Commission, transmitting a report on the Commission's compliance with the laws relating to open meetings of agencies of the Government (Government in the Sunshine Act) during 1983, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3421. A letter from the Secretary of the Interior, transmitting the fifth annual public lands program report entitled, "Managing the Nation's Public Lands", pursuant to Public Law 94-579, section 311(a); to the Committee on Interior and Insular Affairs.

3422. A letter from the Secretary, Department of Transportation, transmitting the Department's 10th annual report on highway safety improvement programs, dealing with the rail-highway crossings, hazard elimination, and the pavement marking demonstration programs, pursuant to Public Law 93-87, section 203(e) (94 Stat. 2245) and 23 U.S.C. 152(g); to the Committee on Public Works and Transportation.

3423. A letter from the Comptroller General of the United States, transmitting a report on the Department of Defense's need to provide more credible weapons systems cost estimates to the Congress (GAO/NSIAD-84-70; May 24, 1984); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of May 15, 1984]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5561. A bill to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes; with an amendment (Rept. No. 98-784). Referred to the Committee of the Whole House on the State of the Union.

[Submitted May 24, 1984]

Mr. MOAKLEY: Committee on Rules. House Resolution 511. Resolution waiving certain points of order against consideration of H.R. 5713, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-806). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 5723. A bill to exempt employees aged 65 or over, the employers of such employees with respect to such employment, and self-employed individuals aged 65 or over from the employment taxes imposed for hospital insurance under part A of the medicare program; to the Committee on Ways and Means.

By Mr. BROYHILL:

H.R. 5724. A bill to amend the Communications Satellite Act of 1962 to promote competition in the satellite communications industry; to the Committee on Energy and Commerce.

By Mr. BROWN of California (for himself and Mr. FOLEY):

H.R. 5725. A bill to amend the Animal Welfare Act to insure the proper treatment of laboratory animals; to the Committee on Agriculture.

By Mr. CONABLE:

H.R. 5726. A bill to amend title XVIII of the Social Security Act to establish a program of long-term care services within the medicare program, to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services, to provide a significant role for persons eligible for long-term care benefits in the administration of the program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DURBIN (for himself, Mr. GEPHARDT, Mr. DASCHLE, Mr. SKEEN, Mr. MADIGAN, Mr. SIMON, Mr. BEDELL, Mr. PENNY, and Mr. DORGAN):

H.R. 5727. A bill to decrease the rates of taxes imposed on fuels containing alcohol from existing rates through 1987, to provide annual increases in the rates of such taxes beginning in 1988 until the existing rates of such taxes are reached, to increase the rate of tax imposed on leaded gasoline, and for other purposes; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 5728. A bill to permit aliens lawfully admitted for permanent residence who are employed by the American University of Beirut to return to the United States as special immigrants after completion of such employment; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. GRAY):

H.R. 5729. A bill to amend the Vocational Education Act of 1963 to place certain community-based organizations on State, local, and national advisory councils, to provide for special consideration of certain proposals for vocational education grants, and to require a set-aside of certain allocations for vocational education programs; to the Committee on Education and Labor.

By Mr. LIPINSKI:

H.R. 5730. A bill to amend the Housing and Community Development Act of 1974 to revise the definition of persons of low and moderate income for purposes of the community development block grant program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARLENEE (for himself, Mr. ROBERTS, and Mr. BOSCO):

H.R. 5731. A bill to amend subtitle IV of title 49, United States Code, to improve Interstate Commerce Commission regulation of rail transportation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MOLINARI:

H.R. 5732. A bill to amend the Inland Navigational Rules Act of 1980 to provide for recreational diving safety; to the Committee on Merchant Marine and Fisheries.

By Mr. OBERSTAR:

H.R. 5733. A bill to provide for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in docket 18-S and the Lake Superior Band of Chippewa Indians judgment funds in docket 18-U, before the Indian Claims Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST GERMAIN (for himself, Mr. WYLIE, Mr. GONZALEZ, Mr. MITCHELL, Mr. FAUNTROY, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. GARCIA, Mr. LOWRY of Washington, Mr. SCHUMER, Ms. KAPTUR, Mr. KLECZKA, Mr. DINGELL, Mr. WIRTH, Mr. MCKINNEY, Mr. LEACH of Iowa, Mr. PARRIS, Mr. MCCOLLUM, and Mr. RINALDO):

H.R. 5734. A bill to assure the continued viability of depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHAW:

H.R. 5735. A bill to amend the Public Buildings Act of 1959; to the Committee on Public Works and Transportation.

By Mr. TALLON:

H.R. 5736. A bill to amend title 23, United States Code, and the Surface Transportation Assistance Act of 1982 to eliminate obligation limitations on highway expenditures, to provide States with greater flexibility in the use of Federal highway funds, and to allow the construction of new toll highways with Federal funds; to the Committee on Public Works and Transportation.

By Mr. VANDER JAGT:

H.R. 5737. A bill to authorize appropriations for certain law enforcement services within the Sleeping Bear Dunes National Lakeshore; to the Committee on Interior and Insular Affairs.

By Mr. WYLIE (by request):

H.R. 5738. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act, to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities among claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5739. A bill to strengthen and refine the provisions of the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, and the National Housing Act, to provide for more flexible premium assessment procedures, to improve insurance of accounts provisions, to establish priorities among claimants against the estates of failed institutions, to improve and clarify enforcement authority, to strengthen change of control and holding company provisions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. YOUNG of Alaska:

H.R. 5740. A bill entitled the "Barrow Gas Field Transfer Act of 1984"; to the Committee on Interior and Insular Affairs.

H.R. 5741. A bill to amend the Sikes Act to prohibit certain sales and leasing on military reservations if those actions are inconsistent with cooperative plans for the conservation of fish and wildlife, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. BORSKI (for himself, Mr. LIPINSKI, Mr. ADDABBO, Mr. ANNUNZIO, Mr. BATEMAN, Mr. BEDELL, Mr. BERMAN, Mr. BIAGGI, Mr. BILIRAKIS, Mr. BOLAND, Mr. BROOMFIELD, Mr. CARNEY, Mr. CARPER, Mr. CONTE, Mr. CONYERS, Mr. COYNE, Mr. CROCKETT, Mr. DAUB, Mr. DINGELL, Mr. DIXON, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. EDGAR, Mr. EMERSON, Mr. EVANS of Illinois, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Ms. FERRARO, Mr. FISH, Mr. FLORIO, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mr. GAYDOS, Mr. GRAY, Mr. GREEN, Mr. GUARINI, Mr. GUNDERSON, Mr. HARRISON, Mr. HAWKINS, Mr. HERTEL of Michigan, Mr. HILER, Mrs. HOLT, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mrs. JOHNSON, Ms. KAPTUR, Mr. KASICH, Mr. KEMP, Mrs. KENNELLY, Mr. KOLTER, Mr. KOSTMAYER, Mr. KLECZKA, Mr. LANTOS, Mr. LELAND, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LONG of Maryland, Mr. LUKEN, Mr. MCDADE, Mr. MCGRATH, Mr. MADIGAN, Mr. MARKEY, Mr. MATSUI, Ms. MIKULSKI, Mr. MINISH, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. NEAL, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PATMAN, Mr. PEPPER, Mr. PRICE, Mr. PURSELL, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. REID, Mr. RICHARDSON, Mr. RINALDO, Mr. RITTER, Mr. RODINO, Mr. ROE, Mr. ROSTENKOWSKI, Mr. SABO, Mr. SIKORSKI, Mr. SIMON, Mr. SISISKY, Mr. SMITH of New Jersey, Mr. SMITH of Florida, Mr. SOLARZ, Mr. SYNAR, Mr. TORRICELLI, Mr. TRAXLER, Mr. VANDER JAGT, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, Mr. WORTLEY, Mr. YATRON, and Mr. YOUNG of Florida):

H.J. Res. 577. Joint resolution designating August 1984 as "Polish American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. CONTE:

H.J. Res. 578. Joint resolution providing for the designation of the week of October 14 through October 20, 1984, as "Myasthenia Gravis Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. EVANS of Illinois:

H.J. Res. 579. Joint resolution designating March 1985 as "National Mental Retardation Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT:

H. Con. Res. 313. Concurrent resolution providing for an adjournment of the House from May 24 until May 30, 1984, and of the Senate from May 24, 25, or 26 until May 31, 1984; considered and agreed to.

By Mr. SHAW:

H. Con. Res. 314. Concurrent resolution directing the Architect of the Capitol to prepare plans for landscaping the East Plaza of the U.S. Capitol; to the Committee on Public Works and Transportation.

By Mr. CONABLE:

H. Res. 512. Resolution providing for the consideration of the resolution (H.J. Res. 243) proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on Rules.

By Mr. FAZIO (for himself, Mr. HORTON, Mr. FUQUA, Mr. CONTE, Mrs. SCHNEIDER, Mr. DICKS, Mr. LEWIS of California, Mr. SOLARZ, Mr. FISH, Mr. BEDELL, Mr. JEFFORDS, Mrs. SCHROEDER, Mr. WOLPE, Mr. MYERS, Mr. HEFTEL of Hawaii, Mr. OTTINGER, Mr. WYDEN, Mr. HARKIN, Mr. WALGREN, Mr. EVANS of Illinois, and Mrs. MARTIN of Illinois):

H. Res. 513. Resolution urging tax conferees to extend the renewable energy tax credits; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

412. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to the production, stockpiling, and use of chemical, biological, and radiological weapons; to the Committee on Foreign Affairs.

413. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to the persecution of Baha'is in Iran; to the Committee on Foreign Affairs.

414. Also, memorial of the Legislature of the State of Arizona, relative to the calling of a constitutional convention; to the Committee on the Judiciary.

415. Also, memorial of the Legislature of the State of Arizona, relative to the calling of a constitutional convention to propose an amendment to the Constitution to provide the President with an item veto in appropriation bills; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LANTOS introduced a bill (H.R. 5742), for the relief of Enrique Montano Ugarte; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 991: Mr. KOLTER, Mr. DE LUGO, Mr. LIVINGSTON, Mr. FORD of Tennessee, Mr. SOLARZ, Mr. WEAVER, and Mr. CLINGER.

H.R. 1315: Mr. LUNDINE, Mr. SOLOMON, Mr. YOUNG of Missouri, and Mr. BRYANT.

H.R. 1984: Mr. ANDERSON.

H.R. 2093: Mr. MINETA.

H.R. 2837: Mr. HEFNER.

H.R. 3010: Mr. TAUZIN, Mr. LEWIS of California, Mr. TALLON, and Mr. DEWINE.

H.R. 3028: Mr. SCHEUER, Mr. HORTON, and Mr. MOLINARI.

H.R. 3858: Mr. MURPHY.

H.R. 4134: Mr. THOMAS of California.

H.R. 4402: Mr. MAVROULES.

H.R. 4598: Mr. GOODLING.

H.R. 4648: Mr. BURTON of Indiana.

H.R. 4731: Mr. ADDABBO and Mr. VENTO.

H.R. 4772: Mr. ROE.

H.R. 4773: Mr. EVANS of Illinois and Ms. KAPTUR.

H.R. 5023: Mr. VANDERGRIFF.

H.R. 5110: Mrs. BYRON and Mr. CLINGER.

H.R. 5151: Mr. LEHMAN of Florida and Mr. PEPPER.

H.R. 5206: Mr. STANGELAND and Mr. MARTINEZ.

H.R. 5300: Mr. BEILENSON, Mr. TAUKE, Mr. EVANS of Illinois, Mr. VENTO, Ms. KAPTUR, and Mr. MOLLOHAN.

H.R. 5327: Mr. CLINGER.

H.R. 5341: Mr. STUDDS, Mr. BIAGGI, Mr. KLECZKA, Ms. KAPTUR, and Mr. CROCKETT.

H.R. 5490: Mr. ASPIN, Mr. BRYANT, Mr. BROOKS, Mr. CARR, Mr. UDALL, Mr. FEIGHAN, Mr. LEACH of Iowa, and Mr. REID.

H.R. 5503: Mr. CROCKETT.

H.R. 5511: Mr. ECKART, and Ms. MIKULSKI.

H.R. 5573: Mr. MCCAIN.

H.R. 5640: Mr. LAFALCE.

H.R. 5641: Mr. ST GERMAIN, Mr. BATES, and Mr. RAHALL.

H.R. 5664: Mr. KAZEN, Mr. GARCIA, Mr. CORRADA, Mr. LELAND, and Mr. BRYANT.

H.J. Res. 153: Mr. ERDREICH, Mr. GEPHARDT, Mr. BOLAND, Mr. GEJDENSON, Mr. ROSE, Mr. LOWRY of Washington, Mr. FOLEY, Mr. KOSTMAYER, Mr. WRIGHT, and Mr. FORD of Michigan.

H.J. Res. 206: Mr. GORE, Mr. RICHARDSON, Mr. HUGHES, Mr. BLILEY, Mr. WAXMAN, Mr. LEVITAS, and Mrs. VUCANOVICH.

H.J. Res. 476: Mr. BONER of Tennessee, Mr. BATEMAN, and Mr. HILER.

H.J. Res. 489: Mr. LUKEN, Mr. MARTIN of New York, Mr. BOEHLERT, Mr. SCHAEFER, Mr. MCKERNAN, Mr. SWIFT, and Mr. SCHUMER.

H.J. Res. 499: Mr. ROBINSON, Mr. WEAVER, Mr. DERRICK, Mr. PATTERSON, Mr. ORTIZ, Mr. EMERSON, Mr. CHAPPELL, Mr. LEVINE of California, and Ms. MIKULSKI.

H.J. Res. 509: Mr. WAXMAN.

H.J. Res. 521: Mr. ANDREWS of North Carolina.

H.J. Res. 523: Mr. TOWNS and Mr. MCCURDY.

H.J. Res. 524: Mr. TOWNS.

H.J. Res. 528: Mr. GRAY, Mr. HEFNER, Mr. RICHARDSON, Mr. JONES of North Carolina, Mr. NEAL, Mr. MARTIN of North Carolina, Mr. HOWARD, Mr. VALENTINE, Mrs. HOLT, Mr. VANDERGRIFF, Mr. WEISS, and Mr. CONTE.

H.J. Res. 543: Mr. MARRIOTT, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. MCCAIN, Mr. JENKINS, Mr. WHITTAKER, Mr. FISH, Mr. GUARINI, Mr. ALBOSTA, Mr. ROE, Mr. WOLF, Mr. BEREUTER, and Mr. BETHUNE.

H.J. Res. 550: Mr. MINETA, Mr. MINISH, Mr. GORE, Mr. WAXMAN, Mr. MARTIN of New York, Mr. DANIEL, Mr. FRENZEL, Mr. ANDREWS of Texas, Mr. SMITH of Florida, Mr. VENTO, Mr. STENHOLM, Mr. DWYER of New Jersey, Mr. MAZZOLI, Mr. GARCIA, Mr. FLORIO, Mr. LEVIN of Michigan, Mr. FAZIO, Mr. FORD of Tennessee, Mrs. BOXER, Ms. MIKULSKI, and Mr. RANGEL.

H.J. Res. 558: Ms. OAKAR, Mr. ROWLAND, Mr. HUTTO, Mr. FORD of Michigan, Mrs. COLLINS, Mr. ROBINSON, Mr. GEJDENSON, Mr. STAGGERS, Mr. TOWNS, Mr. FROST, Mr. FISH, Mr. YOUNG of Missouri, and Mr. RICHARDSON.

H.J. Res. 567: Mr. ROE, Mr. DEWINE, Mr. HARRISON, Mr. FOGLIETTA, Mr. DASCHLE, Mr. BIAGGI, Mr. LENT, Mr. MAVROULES, Mr. MORRISON of Connecticut, Mr. MOAKLEY, Mr. MCNULTY, Mr. ALEXANDER, Mr. ERDREICH, Mr. TORRICELLI, Mr. GAYDOS, Mr. HAMILTON, Mr. RUSSO, Mr. SKELTON, Mr. WINN, Mrs. SMITH of Nebraska, Mr. HYDE, Mr. TAYLOR, Mr. HUBBARD, Mr. NATCHER, Mr. APPLEGATE, Mr. ADDABBO, Mr. SOLOMON, Mr. FEIGHAN, Mr. LIPINSKI, Mr. MOLLOHAN, Mr. BATEMAN, Mr. HOPKINS, Mr. STUMP, Mr. CONYERS, Mr. PENNY, Mr. BATES, Mr. WALGREN, Mr. DIXON, Mr. YATES, Mr. MILLER of California, Mr. SISISKY, Mr. JENKINS, Mr. EVANS of Iowa, Mr. SUNDQUIST, Mr. ANDREWS of North Carolina, Mr. GEPHARDT, Mr. CLARKE, Mr. PEPPER, Mr. STENHOLM, Mr. REGULA, Mr. PRICE, Mr. SIMON, Mr. HILER, Mr. KOLTER, Mr. MOODY, Mr. ANNUNZIO, Mr. WORTLEY, Mr. BEVILL, Mr. JEFFORDS, Mr. FIELDS, Ms. FIEDLER, Mr. CRAIG, Mr. EDWARDS of Oklahoma, Mr. MCCAIN, Mr. CHANDLER, Mr. DREIER of California, Mr. HUNTER, Mr. MONTGOMERY, Mr. QUILLEN, Mr. HAMMERSCHMIDT, Mr. HARTNETT, Mr. DUNCAN, Mr. JONES of North Carolina, Mr. JONES of Tennessee, Mr. SNYDER, Mr. RODINO, Mr. GREEN, Mr. SHAW, Mr. MCCANDLESS, Mr. PACKARD, Mr. YOUNG of Florida, Mr. ASPIN, Mr. WYLIE, Mr. PERKINS, Mr. BROWN of California, Mr. ECKART, Mr. CHENEY, Mr. CONABLE, Mr. SHUSTER, Mr. DAUB, Mr. ROBERTS, Mr. ROGERS, Mr. LEACH of Iowa, and Mr. VANDER JAGT.

H.J. Res. 572: Mr. HIGHTOWER and Mr. TALLON.

H.J. Res. 573: Mr. REID, Mr. NEAL, Mr. BATEMAN, and Mr. FRENZEL.

H. Con. Res. 283: Mr. GOODLING.

H. Con. Res. 301: Mr. MCCAIN and Mr. ROE.

H. Con. Res. 306: Mr. HARTNETT, Mr. KOSTMAYER, Mr. FRANK, Mr. WEBER, Mr. MCCAIN, Mr. WORTLEY, Mr. MOORE, Mr. LAGOMARSINO, Mr. WON PAT, Mr. REGULA, Mr. MICHEL, Mr. DEWINE, Mr. MADIGAN, Mr. RUDD, Mr. WOLF, Mr. WINN, Mr. LIVINGSTON, Mr. WALKER, Mrs. HOLT, Mr. BEREUTER, Mr. SENSENBRENNER, Mr. DAUB, Mr. CORCORAN, Mr. BATEMAN, and Mr. WHITTAKER.

H. Res. 147: Mr. AKAKA, Mr. ALBOSTA, Mr. APPLEGATE, Mr. ASPIN, Mr. BADHAM, Mr. BEDELL, Mr. BARNARD, Mr. BETHUNE, Mr. BONIOR of Michigan, Mr. BORSKI, Mr. BOSCO, Mr. BRITT, Mr. BROOMFIELD, Mr. BROWN of California, Mrs. BURTON of California, Mr. BROWN of Colorado, Mr. CARNEY, Mr. CARPER, Mr. CHENEY, Mr. CLAY, Mr. COATS, Mr. COELHO, Mr. COUGHLIN, Mr. DANIEL, Mr. DANNEMEYER, Mr. DE LA GARZA, Mr. DORGAN, Mr. DOWNEY of New York, Mr. DREIER of California, Mr. EARLY, Mr. EDGAR, Mr. EMERSON, Mr. EVANS of Illinois, Ms. FERRARO, Mr. FOGLIETTA, Mr. FOWLER, Mr. FRANK, Mr. FROST, Mr. GAYDOS, Mr. GILMAN, Mr. GORE, Mr. GRADISON, Mr. GUARINI, Mr. SAM B. HALL, JR., Mr. HARKIN, Mr. HAWKINS, Mr. HEFNER, Mr. HOPKINS, Mrs. JOHNSON, Mr. KINDNESS, Mr. LAFALCE, Mr. LANTOS, Mr. LATTA, Mr. LELAND, Mr. LENT, Mr. LEWIS of Florida, Mr. THOMAS of Georgia, Mr. LOWERY of California, Mr. LUKEN, Mr. LUNDINE, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MATSUI, Mr. MILLER of California, Mr. MILLER of Ohio, Mr. MOORHEAD, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. OWENS, Mr. PANETTA, Mr. PARRIS, Mr. PATTERSON, Mr. PAUL, Mr. PRITCHARD, Mr. ROBINSON, Mr. ROSE, Mr. SCHEUER, Mr. SCHUMER, Mr. SKELTON, Mr. SMITH of Iowa, Mr. ROBERT F. SMITH, Mr. SOLARZ, Mr. SPENCE, Mr. STENHOLM, Mr. SUNDQUIST, Mr. SYNAR, Mr. THOMAS of California, Mr. VENTO, Mrs. VUCANOVICH, Mr. WATKINS, Mr. WAXMAN, Mr. WHITTEN, Mr. WILLIAMS of Montana, Mr. WILSON, Mr. YOUNG of Alaska, and Mr. YOUNG of Florida.

H. Res. 458: Mr. UDALL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 953: Mr. KEMP.

H.R. 5376: Mr. COYNE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

374. By the SPEAKER: Petition of the Council of the Borough of Carteret, N.J., relative to cable legislation; to the Committee on Energy and Commerce.

375. Also, petition of the U.S. District Court, San Juan, Puerto Rico, relative to a resolution concerning the naming of the New Federal Courthouse in Hato Rey, Puerto Rico; to the Committee on Public Works and Transportation.

376. Also, petition of W. H. Beckerley, U.S. bankruptcy judge, Hato Rey, Puerto Rico, relative to the naming of the new Federal courthouse in Hato Rey, Puerto Rico, in honor of the late Judge Clemente Ruiz Nazario; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5167

By Mr. BEDELL:

(An amendment to title X.)

—At the appropriate place in the bill, insert:

COMPETITION FOR SPARE PARTS

SEC. . (a)(1) Chapter 137 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2317. Competition for spare parts

"(a) A domestic business concern may not be denied the opportunity to submit and have considered an offer for a contract to be let by an agency subject to this chapter solely because such concern—

"(1) is not a 'qualified bidders list'; or

"(2) does not have its product or products on a 'qualified products' list.

"(b)(1) An agency subject to this chapter may not solicit an offer from only one source or negotiate with only one source for the purchase of spare or replacement parts unless the head of the buying activity certifies, for each such procurement, that—

"(A) the parts are available from only one source and no other business concern is capable of producing the same or like parts which are consistent with the legitimate needs of the agency;

"(B) the agency's need for the parts is of such urgency that the mission of the agency would be seriously injured if it did not solicit from or negotiate with only one source;

"(C) the disclosure of the agency's needs to more than one source would compromise the national security;

"(D) a party has a legitimate proprietary interest (as defined in regulations prescribed under subsection (c)(1)) in the parts or their manufacture and the agency would be legally liable to such party if it purchased the same or like parts from another party; or

"(E) a statute requires or authorizes that the parts be purchased through another agency or from a specific source.

"(2) In this subsection, 'head of the buying activity' means the highest ranking person within the employ of the activity who is stationed at or near the site where the purchase is to be made.

"(3) The provisions of subsection (b)(1) shall not apply to contracts of less than $25,000 in value.

"(c)(1) Within 180 days after the effective date of this section, the Secretary of Defense shall prescribe regulations defining 'legitimate proprietary interest' for purposes of this section. Such regulations shall be promulgated as a part of the single system of Government-wide procurement regulations prescribed under subsections (a) and (b) of section 6 of the Office of Federal Procurement Policy Act (commonly referred to as the 'Federal Acquisition Regulations') and shall give consideration to the following:

"(A) Statements of policy, objectives, and purposes contained in Public Law 96-517, Public Law 97-219, and section 8(d) of the Small Business Act (15 U.S.C. 637).

"(B) The interest of the United States in increasing competiton and lowering costs by developing and locating alternative sources of supply and manufacture.

"(C) Directing appropriate purchasing agencies to establish reverse engineering programs which provide domestic business concerns an opportunity to purchase or borrow spare or replacement parts from the United States for the purpose of design replication or modification to be used by such concerns in the submission of subsequent offers to sell the same or like parts to the United States, but nothing contained in this clause shall limit the authority of an agency head to impose restrictions on such a program related to national security considerations, inventory needs of the United States, the improbability of future procurements for the same or like parts, or any additional restrictions otherwise required by law.

"(D) The rights of the United States to any technical or other data which is developed in whole or in part with Federal funds.

"(E) The placement of a time limit on rights of a business concern to technical or other data developed substantially with Federal funds if such data is needed to ensure the use of competitive procurement methods for the future acquisition of parts to which such data pertains.

"(F) A requirement that the procuring agency, with respect to each major system acquisition, negotiate with the contractor and include in the initial development contract and each subsequent production contract provisions pertaining to technical or other data developed in whole or in part with Federal funds specifying the right of the United States to own, license, use or otherwise access such data and the extent, if any, of the proprietary interest maintained by the contractor in such data.

"(G) The imposition of appropriate remedial measures against business concerns which improperly designate technical or other data as proprietary.

"(2) The Secretary of Defense shall—

"(A) consult with representatives of associations representing small business concerns before prescribing regulations under paragraph (1); and

"(B) after such regulations are prescribed, submit to Congress a report detailing how such regulations give consideration to the factors described in clauses (A) through (G) of such paragraph.

"(d) Manufacturing data, technical data, or other data that is the property of the United States shall be catalogued, stored, and inventoried in a manner allowing for its ready and timely access by any domestic business concern upon the request of the business concern.".

"§ 2318. Encouragement of competition and cost savings

"(a) Except as provided in subsection (b), a contract for the purchase of spare or replacement parts having commercial application that is awarded using the negotiated method of procurement may not result in a cost to the awarding agency that exceeds the lowest price at which such parts are made available by the contractor to commercial buyers.

"(b) Subsection (a) shall not apply to a purchase if the head of the buying activity certifies that the use of such price would be unjust because of—

"(1) national security consideration; or

"(2) differences in quantities, quality, delivery, or other terms and conditions of the contract.

"(c) An offeror which submits an offer to the United States for the supply of such parts having commercial application shall certify to the awarding agency either its compliance with subsection (a) or shall submit its written justification specifying the amount of the excess above the lowest commercial price and its request for an adjustment for any reason described in subsection (b)(2).

"(d) In this subsection, 'head of the buying activity' means the highest ranking person within the employ of the activity who is stationed at or near the site where the purchase is to be made.

"§ 2319. Fair distribution of overhead charges for spare parts

"(a) A contract for the purchase of spare or replacement parts may not result in a cost to the awarding agency that exceeds the sum of—

"(1) the direct costs incurred by the contractor for such parts,

"(2) a share of such contractor's overhead that is directly attributable to such parts, and

"(3) a reasonable profit.

"(b) The overhead referred to in paragraph (2) of subsection (a) shall be limited to such amounts that are actually incurred by the contractor and are properly attributable to—

"(1) the manufacture of such parts;

"(2) the changes or modifications made to such parts;

"(3) the testing and evaluation of such parts;

"(4) any value otherwise added to such parts; or

"(5) any other activity required as an element of performance under the contract.

"(c) Except as otherwise required by law, nothing in this section shall require the submission of cost or pricing data.

"(d) The provisions of this section shall not apply to contracts for the purchase of spare or replacement parts from a regular dealer as defined by the Walsh-Healey Public Contracts Act (41 U.S.C. sec. 35 et seq.).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"2317. Competition for spare parts.
"2317. Encouragement of competition and cost savings.
"2318. Fair distribution of overhead changes for spare parts."

My Mr. MARKEY:

—At the end of the bill insert the following new section:

LIMITATION ON UNITED STATES ARMED FORCES IN HONDURAS

SEC. . (a) None of the funds appropriated pursuant to authorizations of appropriations in this act may be used to maintain or support any members of the Armed Forces of the United States in Honduras (excluding members of the Armed Forces who perform security functions at the United States embassy) in excess of 300.

(b) This section shall not apply if—

(1) the Congress has declared war or enacted a law specifically authorizing a greater number of members of the Armed Forces to be in Honduras; or

(2) a greater number of members of the Armed Forces in Honduras is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States or its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

EXTENSIONS OF REMARKS

FOREIGN POLICY CHALLENGE TO CONGRESS: CHARTING AMERICA'S TRADE STRATEGY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. PETRI. Mr. Speaker, trade is an issue of paramount importance to the United States and the entire world. We are fortunate to have a colleague in the U.S. Congress who is well versed and articulate on the issue. In a recent speech to the 20th annual Wisconsin International Trade Conference in Milwaukee, TOBY ROTH correctly addressed the urgency and importance of this issue.

The issues Congressman ROTH addressed: Protectionism, U.S. trade policy, free trade, and East/West trade, are sound agenda items for the London Economic Summit in June. This year our leading economists predict a trade deficit of nearly $100 billion. The projected figure for 1985 is $150 billion. A trade deficit of such magnitude could have devastating effects on our economy. Congressman TOBY ROTH's address is one we can refer to as a primer on trade issues. I think our colleague demonstrates a unique grasp of the trade issues and I recommend this speech to all.

The address follows:

FOREIGN POLICY CHALLENGE TO CONGRESS: CHARTING AMERICA'S TRADE STRATEGY

(By Congressman Toby Roth)

The debate over trade must be raised above the level of bumpersticker economics. Tough thinking and tough decisions are in order. Groups like yours, the Milwaukee World Trade Club, address the trade challenges of today and assist in laying the groundwork for a strong, viable trade policy for tomorrow.

Today I will touch on three points: (1) trade from an historical perspective (2) congressional inaction and why (3) a possible solution.

In 1971 the United States experienced its first trade deficit in more than a century. This trade deficit sent shock waves through Congress and the executive branch. For nearly a decade and a half since, every President has felt compelled to undertake a study of America's role in the world economy. The result has been mounds of paper and countless studies with no implementation of any clear policy.

For fifteen years our country's trade policy has been procrastinating and fumbling. The result has been an absence of any response. It's time we engage in major multilateral negotiations to reduce tariffs—the last major trade negotiations were the Tokyo round five years ago.

Today there is an increasing number of trade issues that we must address. As I see it, the international community must come to terms with protectionism. We need a new multilateral trade agreement to define the terms by which a nation can restrict imports to protect a domestic industry. Without such an agreement, international trade will be seen in Darwinian terms, as the survival of the fittest. International trade should develop economic vitality, not an endangered species list. Every major trading nation has specific laws, or its trade ministries have the administrative authority, to restrict imports that threaten domestic industries and cause unemployment.

Our trade officials have the ability to retaliate against unfair trade practices that unfairly and unjustifiably discriminate against American exports. Our antidumping and countervailing duty laws are designed to prevent foreign manufactured goods from being sold below the costs of production and to prohibit benefits from unfair subsidies. Why, then, is Congress preparing to rewrite the import relief laws that ostensibly protect American business and labor from unfair foreign competition? Congress is not living in the real world when it comes to trade.

Major congressional committees have devoted countless hours to developing so-called "reciprocity legislation." For more than three years, Congress has wrestled with the reciprocity concept. Its original proponents wanted the President to have a specific authority enabling him to retaliate in kind against foreign government policies that restrict U.S. exports. Apprehension about legislating U.S. protectionism turned the reciprocity bill into something quite different from what was originally intended. The "teeth" of the bill authorizes the President to call for a new round of trade negotiations and gives him the authority to cut U.S. tariffs. This is absolutely ludicrous. These are not incentives that will cause our trading partners to remove their barriers to American exports.

As the ranking member on the House Subcommittee on International Economic Policy and Trade I can tell you that the present trade situation is wholly inadequate. It's a helter-skelter approach, without rhyme or reason many times.

Our trade policy must come equipped with a strategic plan. It must consider management design based upon careful analysis of market conditions of our competitive strengths and weaknesses. Trade policy should be akin to the strategic planning of any major American corporation or of any multinational. It is a game plan that charts a clear direction for future trade relations. Without it we are like an ocean vessel without a rudder.

A colleague of mine recently returned from the Pacific triangle. He sang the praises of the region's increased productivity and their special tax incentives. But he was shocked, and he expressed frightened admiration for their trade ministry. It didn't resemble our Commerce Department at all, he said, but rather, it was akin to entering Strategic Command Headquarters in Eagle Mountain.

Trade policy does not guarantee success in our interdependent world economy. But it is the bedrock upon which a strong trading economy must be constructed.

We in Congress have been attempting to pull together legislation to construct a policy. But there is no clear theme. No congruency. No direction. Allow me to illustrate some current trade problems involving legislation. I'm certain that a majority of you want to see the foreign corrupt practices act administered in a way that doesn't discourage exports. For this to occur, we need clear trade policy guidelines.

I realize the difficulties and frustrations that our export control and licensing system imposes on American business. These controls need revision, but again, where are the trade policy directives?

Another case in point is the Washington-Based Trade Associations that have been pressing for fundamental revision of our antitrust laws. Competition from foreign cartels demands a new approach by the U.S. firms if they are to remain internationally competitive.

Congress has also been considering a major revision of laws governing domestic international sales corporations (the DISC) allowing exporters to defer tax liabilities on income related to exports.

Steel and other industries may be mounting a massive cartelization effort of the international marketplace. This would have the direct effect of freezing out exports from newly industrializing countries. If export growth is to remain the bottom line for economic growth and political stability in these countries, then we must act.

To say that Congress and the President must solve these problems is not trade policy. To call for massive reindustrialization or revitalization of America is not trade policy.

What we need are concrete tools to reach solutions to these trade problems. But we also need a set of directives that are a reference, or touchstone, for guiding out trade legislation. That would be a trade policy.

Wisconsin ranks 14th of the 50 States in exports. I'm convinced this good performance is because of entrepreneurs like those of the Milwaukee World Trade.

While many throughout the land are rightly concerned about the nearly 200- billion-dollar Federal deficit—as we all should be—we tend to forget about another economic monster just as insidious, just as dangerous, just as economically paralyzing, and that's our trade deficit. It may approach 100 billion dollars this year. This trade deficit has tremendous ramifications for all Americans.

Every 1 billion dollars in exports accounts for an estimated 25,000 U.S. jobs. One of every three agricultural acres produces commodities for export. One out of six manufacturing jobs is export related. Overseas sales of U.S. goods generate tax revenues for our government.

When the U.S. performs poorly in world trade, the effects cut right across our entire economy and affect the lives of all Americans. Jobs are lost. Living standards decline. It's easy to calculate how devastating the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

trade deficit is to the loss of jobs and the loss of billions in Federal tax revenues. And it's not difficult to comprehend the impact on the individual. A large trade deficit spells trouble for the American economy and for the American taxpayer.

I have a plan to reverse the trend in trade deficits. It's really not a new initiative. Like most initiatives some of these proposals have been around for some time, just waiting to be implemented. Fifteen years ago the Williams Commission put forth an agenda that was given a good deal of lip service but never adopted. Its recommendations, along with those of the Peterson study and several other studies, provide the basis for what I believe is an effective trade policy. We should structure this policy on seven basic objectives:

First: The Williams report says the United States Government should adopt policies to stimulate technology, because that capacity supports our export performance. That means tax incentives for research and development and investment in new technology. John A. Young, the President of Hewlett-Packard Co. made this point, too, before the National Association of Manufacturers. There is only one real way that American manufacturing workers can continue to enjoy their high standard of living, Young said. And that is if they are continually equipped with the most technologically advanced tools and machinery.

Second: Competing in a world economy requires a basic evaluation of our policy toward mergers and antitrust policy. A flexible policy on mergers consistent with competition and economic policy could enable American companies to meet the combined resources of foreign trading combines. Legislation to encourage joint research and development ventures by limiting the risk of antitrust lawsuits has passed the House unanimously and now awaits floor action in the Senate. Without such legislation, the fear of antitrust suits is likely to prevent useful joint ventures.

Third: A vigorous export drive is necessary. The United States Government should not hesitate to identify and openly seek the removal of foreign restrictions of U.S. exports.

Fourth: The Federal Government should re-evaluate export disincentives: The Foreign Corrupt Practices Act, and embargoes that reduce export initiatives.

Fifth: A sensible policy should be developed for East/West trade—a policy that balances restrictions on the sale of militarily critical goods and technologies to the Soviets with the benefits of participation in a worldwide trading system.

Sixth: The United States should make a dramatic call to our major trading partners to begin a new round of multilateral trade negotiations. There would be two purposes in doing so. One, help fight protectionist tendencies by regaining the momentum toward liberalization, rule-making and constructive reform of the Gatt system; history clearly shows that trade policy is much like a moving bicycle, toppling on its side unless it is continuously moving ahead to new territory. The other is to try to deal cooperatively with areas of trade conflict both new (e.g., services and high technology) and old (e.g., steel and textiles) before they erupt into conflict and further weaken an already stretched international regime.

Seventh: A "get-tough" policy with Japan including the vigorous enforcement of our import relief laws.

This agenda is realistic and attainable. It addresses the real issues the U.S. faces in the competitive world market. It's the foundation for U.S. trade policy. And that's what we have to continue to stress.

Why, you ask, isn't Congress acting right now? Because of a myriad of competing interests? Because of the agency turf battles? (Most agencies are about as companionable as a cat and a goldfish). Because of congressional power rivalries? The answer is yes to all of these.

But all of these impediments wouldn't hamper trade if there were a catalyst to break the ice. In the winter time on the Great Lakes we have ice breakers to clear a path for ingress and egress so ships can use our harbors. That's analogous to what we need on the Federal level to push trade legislation through Congress.

We in Congress have passed only two trade bills this year. The Caribbean Basin Initiative and IMF legislation. Why? In these two instances we had a catalyst, i.e. the President, to cut through the impediments. All the other trade legislation wallows like a wounded whale in the harbor.

Why do we have this problem in Congress with regard to trade? Congress as an institution has worked magnificently. But Congress is a deliberative body. Reflection and debate take time. The committee hurdle—the built-in inertia, all ill-equip Congress to deal with the fast-paced trade issues.

International trade issues are fast-moving and require diplomatic initiatives. The state-of-the art computer today is obsolete next year. How can Congress codify into laws the rules, regulations, procedures that can keep pace with the quick tempo in the fast-paced world of jets, instant communications, and multinationals. This is fundamentally why we find our government fumbling around with trade legislation. We need some expediting factor, some catalyst, some galvanization is needed if we're to address adequately the trade issues.

After a good deal of discussion and reflection I can say that in order to meet trade challenges on a governmental level, I'm convinced we need a Department of Trade located in the executive branch. A Department of Trade would be able to:

1. Rise above the melee of feuding governmental agencies.

2. Focus congressional attention to the urgency of trade, so that congressional decisions can be made in a timely and orderly fashion.

3. Put a Secretary of International Trade onto the White House Cabinet. Trade therefore would receive the highest priority.

The Department would bring together and coordinate the many trade activities of the executive branch. It makes little sense for the Export-Import Bank to finance the sale to South Korea of a major steelmill, while the Commerce Department considers the imposition of countervailing duties on Korean steel.

I subscribe to the concept that organization is policy. Until we are organized in a coherent manner, the Federal Government will be incapable of managing our trade posture in an interdependent world economy.

A Department of Trade is an idea I and others have been promoting for some time, and I think we will see one established. With this department we can finally bring American trade policy from the horse and buggy days into the 20th century.

I'm convinced that we will see some real trade wars. All the incipient signs are evident. The news media copiously describes daily, the friction that exists among nations over the trade issue. I sometimes think we have come full circle. After all, the first war we Westeners study is the Trojan war. It was a war fought not because the face of Helen launched a thousand ships, as the poets would have us believe, but because of trade. We must act now to resolve age old trade problems.

You and I have only one course and one mission. We must develop and steer American trade policy correctly so that we keep America on top. If we're to accomplish that, then I shall have to do my part—and I will—but your skills and your audacity are even more important because you stoke the economy with the vitality, creativity, and verve that our economy's engine needs to keep America moving.

So now is the time when all of us—government, business and labor—can proceed with confidence and can benefit from the challenge of world trade.●

THE IRA ACCOUNT—THINGS ARE SELDOM WHAT THEY SEEM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. STARK. Mr. Speaker, if I were to tell you that our Government is willing to pay you handsomely—through a generous tax subsidy—just for you to move $2,000 from an existing regular savings account into a designated IRA account—what would you do? The question is not merely rhetorical. It illustrates the point that Congress has created a highly desirable tax shelter, no doubt with the best of intentions—but the results seem to be another matter.

IRA's proponents naively believed that their plan would generate substantial new savings, and thereby stimulate an expansion of capital investment sources. But, like the legendary Piltdown Man, the closer you look at IRA accounts, the harder it is for them to pass the "smell" test. Only instead of the scientific community, it is the American taxpayers and our shrinking tax base which are the victims of this scheme.

While IRA's are now as popular as apple pie and motherhood—so was the free lunch of long ago, until it became too costly to be continued. Surely it is appropriate at this time of fiscal soul searching for us to reconsider the wisdom of all our tax preferences, including the IRA.

In this spirit, I submit for the RECORD an article written by Bob Kuttner entitled "Down With the IRA", the New Republic, May 7, 1984. Mr. Kuttner explains in a clear and forceful way just what Congress created in the IRA, and the resulting consequences of this action. The article should be required reading for anyone who honestly believes in tax reform and has an open mind as to how this can be accomplished.

The article follows:

DOWN WITH THE IRA

This is a fitting season to review the misdeeds of the I.R.A. Not the Hibernian one; I have in mind the annual Easter rising of the individual retirement accounts.

As you surely have been reminded by countless banks, brokerage houses, insurance companies, and money market funds, April 16 was the deadline to open a 1983 I.R.A. Under present law—specifically, under the epic Economic Recovery Tax Act of 1981—you may place in an I.R.A. up to $2,000 ($4,000 for working couples) and deduct that amount from your taxable income. The money must stay blocked until you are 59-and-a-half years old. An I.R.A., of course, saves you taxes; and because it does so by inducing you to save money, it should be good public policy to boot. If you have a joint taxable income of $60,000, the Internal Revenue Service would normally collect a tax of $16,014. But put $4,000 of your income into an I.R.A., and your tax liability drops to $14,414. In other words, $1,600 of your addition to savings—40 percent of the total—is a gift from the U.S. Treasury, which is to say, from other taxpayers. And the interest on that savings will also be tax-free.

Well, what's wrong with that, if it helps encourage the savings habit? We have been told by everyone from Arthur Laffer to Lester Thurow that Americans consume too much and save too little. The economy needs new capital investment to grow, and investment requires savings, doesn't it? So what's the problem?

The problem is that I.R.A.'s don't increase the American savings rate; they almost surely decrease it. The reason is that the government pays out more money through this tax subsidy than the additional private savings that the subsidy induces. Every time the Treasury gives up a dollar of tax revenue, that increases the federal deficit by a dollar. And the deficit must be funded by tapping—what else?—the national pool of private savings. Thus, unless I.R.A.'s increase private savings by more than they increase the public deficit, they are a deadweight economic loss.

In calendar year 1982, the first year that I.R.A.'s were available to the entire working population, new additions to I.R.A. accounts totaled about $27 billion, but the evidence suggests that little if any of this was genuinely "new" savings. However, the I.R.A. tax preference cost the treasury $8.855 billion in forgone taxes. In 1984 the tax loss will be over $10 billion.

The subsidy is largely a waste because you can qualify for the tax break simply by shifting the form in which you hold existing savings. If you already have some savings, you get the I.R.A. tax deduction by transferring $2,000 from an ordinary account into an I.R.A. account; or by selling some stock and by opening an I.R.A.; or by holding your stock in an I.R.A. brokerage account. Many people did just that. Many other people who would have increased their savings anyway simply channeled some of their new savings into an I.R.A. And some people even borrowed money to open an I.R.A.—none of which adds a penny to savings. Chase Manhattan has been proffering loans to finance new I.R.A.'s. So has the Congressional Employees Credit Union, which is named for the sainted Wright Patman. Congressman Patman, that rogue populist, must be whirling in his vault. A 1982 study by the Federal Reserve Bank of New York concluded that virtually no I.R.A. savings represented genuinely "new" savings. I.R.A.'s induce people to shift the form in which savings are held, but do little to encourage people to consume less and save more.

Distributively, the I.R.A. tax preference recalls Anatole France's observation that the rich and the poor had an equal right to sleep under the bridges of the Seine. The tax code, in its majesty, allow rich and poor alike to open I.R.A. accounts. If you are in the 50 percent bracket, the government contributes 50 percent of your I.R.A. savings. If you are in the 5 percent bracket, it contributes 5 percent. But not too many people in the 5 percent bracket have the discretionary income or the established savings to move into an I.R.A. According to the I.R.S., about one household in five put money into an I.R.A. in 1982. Fully 57 percent of households with incomes over $50,000 took advantage of I.R.A.s; and 34 percent of households with incomes of $30,000–$50,000 used them. But at the lower end of the scale, only 4.5 percent of $5,000–$10,000 households and 9.3 percent of $10,000–$15,000 households had I.R.A. savings.

The surprising thing is that anybody with just $10,000 a year would be socking money away in an I.R.A. The explanation, it turns out, is that the relatively low-income I.R.A. users are mostly semiretired people, with modest income but substantial assets. You can keep right on putting tax-deferred income into an I.R.A. until age 70-and-a-half. One economist who has studied I.R.A.s cites the example of his own mother. At age 68, she is on Social Security. She also has a small investment income from her late husband's estate, plus a few thousand dollars a year that she earns working part time in a gift shop. Mark this carefully: the first $2,000 of her wages go into her I.R.A. She replaces this income by withdrawing an equal amount from her money fund. This leaves her with no loss of consumption, but it shelters $2,000 of her income from taxation. Instead of having so many thousands of dollars in her money market fund, she has it in her I.R.A. Does this add one dime to the national supply of savings? Of course not. Does it reduce the national savings supply? Yes, because the lost tax revenue means that the Treasury must borrow that much more from other people's savings.

I.R.A.s, of course, are immensely popular; all subsidies are. They are very good personal financial strategy. If there are few editorials pointing out that they are also very bad public tax policy, perhaps that is because among those in what might be called the opinion leader class, "everybody" has an I.R.A. "Everybody" can play, in constrast to real estate limited partnerships or oil wells. I.R.A.s seem a kind of people's tax shelter, a shelter for the average guy. (As Nelson Rockefeller blurted out during his confirmation hearings, "Take the average man earning $50,000–$60,000 a year. . . .") But the I.R.A. universe is effectively limited to people with enough established wealth to shift assets from one account to another and lock money into an account that cannot be touched until late midlife, or enough discretionary income not to miss a few thousand dollars. Very few wage-earning families fall into that group. People who can't afford to use I.R.A.s, incidentally, pretty well define what was once the Democratic Party constituency. If this is the year of the yuppie, the I.R.A. is the ultimate yuppie program. And the consummate yuppie elder is Ronald Reagan. Imitators beware.

I.R.A.s are also a good illustration of the political risks of privatization. Last year the Social Security program proved to be the high ground of the welfare state. President Reagan, once an enemy of Social Security, found the program too popular to dismantle; he ended up championing its fiscal rescue. Social Security is a universal public program; it deliberately redistributes from the rich to the poor, and from the robust to the frail. I.R.A.s redistribute from poor to rich; and, unlike Social Security, what you take out depends entirely on what you could afford to put in. In 1983 virtually everybody in the electorate counted heavily on Social Security for their retirement. But what will happen in 2003, when the most affluent, most articulate segment of the electorate enjoys a nice cushion of tax-deferred, tax-subsidized I.R.A.s, and doesn't really need Social Security? Where will the constituency be for the public retirement program?

The I.R.A. shelter is an instructive challenge to the orthodox idea that economic policy requires an inevitable trade-off between equality and efficiency. In fact, I.R.A.s are a perfect marriage of inequality and inefficiency. They make the tax system more unequal by giving a disproportionate tax subsidy to the well-off, and they actually reduce the national savings rate at the same time.

In that respect, I.R.A.s are a perfect metaphor for the Reagan illusion. I.R.A.s offer class politics disguised as mass politics. They create the impression of a policy device that permits the affluent to do good by doing well. They conjure a mirage that subsidizing the well-off is necessary economics. In fact, the economic effect would be superior if the $10 billion tax subsidy was spent setting up retirement accounts for poor people. That at least would represent real savings. But unlike the other I.R.A., ours is respectable, popular, and seemingly protestant. Unfortunately, the American I.R.A. is anything but provisional. We shall probably never be rid of it.●

ARTHUR MILLER, LONG BEACH HUMANITARIAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, the Long Beach Chapter of the National Conference of Christians and Jews is hosting its 21st Annual Humanitarian Awards Dinner during the evening of May 31 at the Golden Sails Inn. Among the distringuished honorees is Arthur W. Miller.

Arthur is a widely respected Long Beach attorney who earned the juris doctorate at New York University. He received his bachelor of arts degree from Yale University. As a member of both the California and New York State Bars, Arthur is regarded as an individual who is constantly striving to maintain the high standards of the legal profession.

As noted in a recent edition of the Jewish Federation News, Arthur "has held almost every position of importance in the Long Beach Jewish community at one time or another." These positions include president of the Jewish Family Service of Long Beach;

vice president of the Jewish Community Center; president of the Jewish Community Federation; and chairman of the United Jewish Welfare Fund of Greater Long Beach and Western Orange County. Arthur also has served as a member and president of the Los Alamitos School District's Board of Trustees and on the Board of Directors for the Western Center on Law and Poverty.

The causes Arthur has promoted, and the principles upon which he stands, call to mind Ralph Waldo Emerson's description of the quintessential humanitarian. He embodies, according to Emerson, "the wish to scatter joy and not pain around us."

Mr. Speaker, my wife, Lee, and I wish to extent our congratulations to Arthur Miller. We want him, his wife, Barbara, and their children, Nancy, Jane, and Richard, to know how deeply indebted our community is for all the attention he has given to serving us.●

PERSONAL EXPLANATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. MARKEY. Mr. Speaker, I regret that I was unavoidably absent from several votes today.

Had I been present, I would have voted "yea" on the Gore amendment to the Brown amendment (rollcall No. 171); "nay" on the Stratton amendment to the Brown amendment (rollcall No. 172); "nay" on the Byron amendment to the McCurdy substitute (rollcall No. 173); "nay" on the McCurdy substitute to the Brown amendment (rollcall No. 174); "yea" on the Foley amendment (rollcall No. 175); and "nay" on the Hartnett amendment (rollcall No. 176).●

RENOWNED KOREAN-AMERICAN CALLIGRAPHIST GENE KIM TO EXHIBIT IN SOUTHERN CALIFORNIA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. DYMALLY. Mr. Speaker, I am proud to have the opportunity to inform my colleagues that the respected Korean-American calligraphist Gene Kim will soon exhibit his unique forms of calligraphy and water stone sculpture at the Los Angeles Museum of Science and Industry. As one of the hosts for this exhibit I extend an invitation to my colleagues in the Congress to view the exhibit if their work should, by good fortune, bring them to southern California. I want to take a moment to tell my colleagues about the contribution Mr. Kim has made to art and to the development of the Korean-American community in the United States.

Few people are aware that the United States has a growing and vibrant Korean-American community. And one hub of this growth is to be found in southern California. The greater Los Angeles area is graced with a Korea town development association, a Korean cultural center, a Korean chamber of commerce, as well as the Korean Federation of Los Angeles and the Korean Athletic Sports Association. One of those who has been instrumental in guiding the prosperous growth of this Korean-American community is Gene Kim. He is well known both as a skilled, sensitive artist and as a leader of our business community.

Like many Korean-Americans, Gene Kim maintains both a love for his adopted homeland and a yearning for peace and reunification in his homeland of birth. Acting on this yearning, Mr. Kim has served eagerly on the board of the Advisory Group for National Unification. This is just one of many, many important community activities to which Mr. Kim has given generously of his time.

After completing graduate school at Pepperdine University in 1972, he founded the Korea Town Development Association, an organization that has been of of inestimable importance in organizing Korean-American business persons into a forceful group within the overall business community. It turned out that the Korea Town Development Association was the first in a succession of efforts on Gene Kim's part to develop the economic strength of the Korean-Americans in southern California. Mr. Kim is also a member and former vice-chair of the Korea Association of Southern California. In recognition of the growing prominence of Korean-Americans in southern California, Gene organized the first Korean Day Parade in southern California. He is currently chairman of the Korean Athletic Sports Association. And he is a businessman in his own right in addition to being recognized for his calligraphic artistry. He is chairman of the board of the Kim Myong La Diamond Co., Ltd.

Presently Gene Kim is helping to organize Korean-Americans politically as chairman of the election committee of the Korean association in Los Angeles.

Anyone who has seen Mr. Kim's calligraphy is immediately struck by the strength and beauty of his work. I do not read the Korean language, but one does not need to read the language to feel the meaning of the characters. For example, one of his works is entitled "Assault the North." No South Korean who was involved in the terror and anguish of the Korean conflict can forget the pain inflicted on nearly every family in the country by the invasion from the North. The calligraphic characters in "Assault the North" explode with anger and pain. It is a powerful work that aptly expresses the sentiment of those in the South who were forcefully cut off from family and friends in the North by the conflict. I congratulate Gene Kim on the opening of his exhibit. And I strongly urge all who have occasion to visit southern California during the exhibition period to visit the exhibit and enjoy the work of one of our finest southern California artists.●

THE DIAMOND ANNIVERSARY OF ST. MARK'S PRESBYTERIAN CHURCH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1984

● Mr. ANDERSON. Mr. Speaker, on June 10, St. Mark's Presbyterian Church of Lomita, Calif., will be celebrating its diamond anniversary. St. Mark's was the first established church in Lomita and draws many members from the surrounding area.

During the 75 year history of the church, it has been recognized under several names. It was organized in 1909 as Union Evangelical Christian Church, became the First Presbyterian Church of Lomita in 1918, the Community Presbyterian Church in 1921, the Lomita Presbyterian Church in 1949, and finally, St. Mark's Presbyterian Church in 1956.

During these years several buildings and locations were used for worship. In 1910, the congregation built a wooden frame structure at 245th Street and Woodward Avenue. In 1922, a combination sanctuary and classroom building was constructed. In 1954, the congregation purchased the land where the present church building is located, and started construction on St. Mark's Sanctuary in 1964. The first worship service in the new sanctuary was held on June 13, 1965.

St. Mark's has had 11 pastors to lead the congregation. They served during the following years: Rev. Z. Hendricks, 1909; Rev. Charles M. Fisher, 1918; Rev. Edward E. Clark, 1920-25; Rev. Louis Tinning, 1925-29; Rev. Harold Ingersoll, 1929-30; Rev. Clayton L. Montgomery, 1931-35; John E. Orr, 1936-49; Rev. B. Johnson Reemtsma, 1949-50; Rev. Eldon Durham, 1950-68; Rev. Max Greenlee, 1968-81; Rev. Richard A. K. Miles, 1982 to present.

One of the buildings on the church grounds has been named Durham Hall in honor of Rev. Eldon Durham who led the congregation during the devel-

opment of the present St. Mark's facilities.

It is interesting to note that Lomita will be celebrating its 20th anniversary during the same time period, and it is fitting that the city's first church will be honored as well. My wife, Lee, joins with me in wishing all members of St. Mark's congregation a happy 75th anniversary on this most joyous occasion.●

THE ELDERLY DESERVE MEDICARE TAX RELIEF

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BIAGGI. Mr. Speaker, today, I rise to introduce legislation, which would exempt employees age 65 and over, and their employers, from taxes imposed for the hospital insurance program under part A of medicare.

This legislation would remove a major disincentive for older people to continue to work. Currently, all workers are taxed 1.3 percent of their income, to a base of $37,800, for the medicare hospital insurance program. Anyone who has reached age 65 is eligible for benefits under the program. If an elderly person is also a paid worker, he or she must continue to pay the tax to support the program, as well as the copayments and deductibles for participating in the program. Many elderly people are affected by this problem. There are over 3 million workers over age 65 in the United States. Over 375,000 of these workers have private health insurance as their primary payer. Requiring them to pay twice for their benefits strikes me as inherently unfair.

Older workers contribute a great deal to the workplace. They bring a combination of experience and maturity that is a valuable asset. In addition work contributes a great deal to the life of older people. At recent hearings on the Age Discrimination in Employment Act, we have been told by experts that forced retirement shortens lives. It is clear to me that enlightened public policymakers should give older people the opportunity to work as long as they wish to and are capable of doing the job. Forcing older workers to pay twice for medicare is just the latest example of efforts to deny opportunities to older workers. Factors, such as unfair tax burdens, which discourage workers from remaining in the work force should be stopped.

Many of my constituents have contacted me about this issue. They feel that they are being punished for their productivity. This tax relief legislation would recognize their contribution to the work force, as well as their need for quality health care.

I ask all of my colleagues to join me in support of this important legislation.●

TESTIMONY ON JERUSALEM EMBASSY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. GREEN. Mr. Speaker, I would like to bring to the attention of my colleagues some particularly interesting testimony which was offered on May 16 before the House Foreign Affairs Subcommittee on Europe and the Middle East and the Subcommittee on International Operations.

The testimony which I am referring to is that of Robert B. Goldmann, cochairman of the Middle Eastern Affairs Committee of the Anti-Defamation League of B'nai B'rith, concerning the location of the American Embassy in Israel.

Mr. Goldmann addresses the question of why the United States has failed to move its Embasssy to Israel's capital, Jerusalem, in the 36 years since the founding of the State, and why it should do so at this time. I believe Mr. Goldmann's analysis warrants widespread consideration and, thus, am asking that his statement be reprinted below.

Mr. Goldmann's statement follows:

Mr. Chairman and Members of the Committee, I am Robert B. Goldmann, Co-Chairman of the Middle Eastern Affairs Committee of the Anti-Defamation League of B'nai B'rith. ADL, long involved in the struggle to combat racial and religious prejudice in the United States, also seeks to help promote a just and secure peace in the Middle East that will permit Israel to prosper and have normal relations with neighbors no longer hostile. ADL sees the relationship between the United States and Israel, based on mutual moral commitments and mutual strategic interests, as critical to the achievement of a peaceful Middle East.

It is astonishing that thirty-six years after the rebirth of the state of Israel we are meeting here today to discuss whether or not our government should move its embassy in Israel from Tel Aviv to Jerusalem.

A decision to move the embassy should have been made long ago and must now be made immediately. In this regard, others I am sure have presented or will present testimony demonstrating the eternal bonds of the Jewish people to Jerusalem. The Anti-Defamation League applauds and itself engages in efforts to educate the public about the uniqueness of Jerusalem to the Jewish people.

While it is this unbroken three thousand year link of the Jewish people to Jerusalem that is the root of the matter, the specific issue at hand does not demand any profound understanding of history. The American embassy should be in Jerusalem because of one simple line of reasoning which goes as follows:

Every sovereign nation has the right to designate its own capital; Israel has designated Jerusalem as its capital since the state's independence in 1948; by maintaining its embassy not in Jerusalem but in Tel Aviv, the United States is therefore denying to Israel the sovereign choice in this matter that it respects in every other nation on earth. Indeed, Israel is the only country where the U.S. embassy is not located in the capital. Even the U.S. Embassy in East Germany is located in East Berlin. Therefore, the embassy should be moved immediately. That Israel, a close ally of the United States, should be discriminated against in this fashion—in effect to receive "least favored nation" treatment—is unjust, unacceptable, and an embarrassment to the United States. It is, moreover, a continuous, painful insult to a faithful friend.

What I would like to do here is focus on the reason that the United States has failed to do that which is obviously fair and logical with regard to its embassy in Israel. Very simply, the embassy has remained in Tel Aviv for one reason: fear of the reaction to such a move by the Arab world. There is nothing else—no argument, no reality, that stands in the way. Alleviating this fear or putting it in perspective may be the most important thing one can do to make it easy for our leaders to do the right thing. It is time to end several generations of U.S. surrender to intimidation from our so-called friends in Arab lands.

Fortunately, as we speak, this mode of thinking, too long in vogue in Washington, has begun to melt with the recent open discussions between the U.S. and Israel on strategic cooperation. The United States decided that its vital interests demanded more political and military coordination with Israel, that it should be done openly and not be deterred by negative reaction in the Arab world. When Secretary of State Shultz spoke out in Morocco at the Arab League Summit several weeks ago declaring that the Arabs must understand that the United States was a friend of Israel and would continue to support and work with her, another step was taken to free America from the paralyzing fear of "Arab reaction."

This is not to suggest by any means that the United States does not have interests in the Arab world or that we don't have to take into account how the Arab states will react to our policies. There is a huge gap, however, between due consideration and the kind of paralysis manifested in the refusal to move the embassy, a matter which on its own terms is beyond questioning.

It is one of the great illusions of U.S. Middle East policy that sees the Arabs moving closer to America when we distance ourselves from Israel and moving further from America when we are friendlier to Israel. In so many ways this is a distorted way of looking at the Middle East and the Arab world and it needs to be corrected.

To begin with, as Henry Kissinger has pointed out, there is an inherent anti-American radicalism pervasive in sectors of the region upon which the Soviet Union feeds. It has nothing or almost nothing to do with Israel and would exist were Israel not around. Basic hostility to the West, social and economic dissatisfaction, opposition to Arab moderates characterize this mentality. Syria, Libya and Iran today are reflections of these attitudes. To suggest that any particular decision we make with regard to Israel will affect this radicalism is to misunderstand its roots. Moving the embassy to Jerusalem will have no bearing on these radical attitudes.

Second, those states in the region which we label moderates (though their modera-

tion toward Israel is questionable) move closer to or further from the United States not on the basis of the current state of U.S.-Israeli relations but on whether they see the U.S. as a strong party able to contain Soviet and radical threats. Examples abound: Anwar Sadat decided in 1973 that the U.S. was a more worthy friend to have than the Soviets—on economic, military, and political grounds—this even though it was the same United States that resupplied Israel in the Yom Kippur War against Egypt. Again, after Sadat made peace with Israel, Jordan and Saudi Arabia did not lossen their relationship with the U.S. one bit despite U.S. sponsorship of the peace. Indeed, it wasn't the U.S. role at Camp David that came to disturb these parties, but rather perceived U.S. weakness vis-a-vis the Soviets in Afghanistan and Khomeini in Iran. These events led to talk of reevaluation of attitudes toward the U.S. because of the doubts about U.S. will and capability to offer protection.

Indeed, the entire history of the region since the creation of Israel runs counter to the notion that U.S. influence is hurt by its ties to Israel. Warning signals are raised by some that we will lose influence with Jordan or lose contracts with Saudi Arabia if we are close to Israel. But we have been close to Israel all these years—some say too close, some say not close enough, but close nevertheless—and yet Jordan has continued to look to the U.S. for support and Saudi Arabia has continued to view America as the financial rock upon which its economic fortunes should rest.

Or again, on strategic cooperation: There has been the expected chorus of boos from the Arab world, but this in no way has changed the basic attitude of Arab conservatives toward the U.S. They need America, a strong America, and won't let their unhappiness on strategic cooperation stand in the way despite the public outcry.

In this regard a U.S. decision to move the embassy to Jerusalem would not only be long overdue and fair, but it would be an important and logical followup to the strategic cooperation move. It would convey the message that on those matters that are unquestionably in the American interest such as strategic cooperation—or inherently fair and right for example, that Israel should have the U.S. embassy in the capital it designates—the U.S. will proceed ahead despite the unexpected outcry in the Arab world. A little necessary reality might set in in the Arab world that just because they shout does not mean they will have their way.

The impact of moving our embassy must therefore be seen in the context of several realities in the Arab world:

As noted, attitudes toward the U.S. both by radicals and moderates have far more to do with matters other than Israel; therefore the inherent merit of the embassy move takes on greater weight and need not be overly burdened by concern about reaction.

On the other side, the continuing failure to take this obvious step, allowing Israel to remain the only state in the world so treated by the United States, helps to sustain illusions in the Arab world. If the U.S. is seen as treating Israel differently from other nations in this significant matter, even to the point of not allowing an embassy in West Jerusalem, then the Arabs can continue to believe that Israel is not truly accepted even by its friend America and therefore they surely need not reconsider their rejectionism.

It also gives the Arab world reason to think that their shouting and threatening can force the U.S. to make decisions against its better judgment. This too is unhealthy because it delays the necessary steps in the Arab world away from hoping to use the U.S. to pressure Israel, and toward real negotiations with the Jewish state.

In sum, the long overdue decision to move the embassy to Jerusalem will pose no risks to American Middle East policy and by the evident rightness of the decision in the face of Arab posturing might contribute a little realism to a Middle East situation that surely can use it.

When the United States makes obviously bad decisions on the basis of empty threats from the Arab world everyone but the radicals and the Soviets lose. For the sake of America, Israel, and a little sanity in the region, the time has come to move the American embassy to Jerusalem.●

THE NEED FOR CRIME REFORM

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FIELDS. Mr. Speaker, parole and probation, which were formerly regarded as useful means of rehabilitating convicted criminals and taking the pressure off over-crowded prisons, have been abused to the point that they may be abolished in connection with Federal offenses. In recent months the newspapers have reported such abuses of parole and probation as the following:

First, in New York City a man paroled after having served time for attempted robbery was then convicted of manslaughter. Again paroled after having served 5 years he has now been charged with killing one police officer and wounding two others. Between the latter two crimes he was convicted of criminal mischief, but for some reason his parole was not revoked.

Second, during the first 10 months of 1983 190 persons were charged with new crimes of violence while on parole from convictions for other violent crimes in the District of Columbia.

Third, Richard Schreiner was convicted of manslaughter in connection with the brutal stabbing of a man whom he had picked up in a bar. The judge released him on 5 years' probation, saying, "you have a chance to become a constructive member of the community." However, 5 months later Mr. Schreiner, who had a history of mental instability, marihuana use, and heavy beer drinking, was charged with attempted murder in the stabbing of a 15-year-old boy.

Such stories, which could be multiplied endlessly, have aroused public opinion and Congress on both the conservative and liberal side to the urgent need for reform with the result that the Senate has passed S. 1762, abolishing parole and probation altogether where Federal offenses are involved. Under the provisions of this law a 10-year sentence for a Federal crime, for example, would really keep a convicted criminal in prison for 10 years less a very moderate amount of time off for good behavior. However, perhaps the greatest benefit of such a law would be to provide an example for action in the 50 States, where most of the reported abuses of parole and probation are occurring. The House should seriously consider S. 1762 without delay as one means of halting a proliferation of violent crimes.●

HOW FREEDOM AFFECTS PROGRESS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SILJANDER. Mr. Speaker, recently one of my constituents won a prize in the fourth annual high school speech contest conducted by a national organization known as Friends of Free China. He won a $2,500 scholarship and a trophy for his first place finish.

This student also competed in a regional contest in Toledo, Ohio, to attain to this level of competition and has put a great amount of work in this project.

The rules of the contest, as conducted by this bipartisan, nonpolitical, tax-exempt organization dedicated to the preservation of freedom and understanding between the people of the United States and the people of free China, specify only that the contestant prepare and memorize a 6- to 8-minute speech on the topic "How Freedom Affects Progress," and relate it in some fashion to the people on Taiwan.

Mr. Speaker, in order to share with my colleagues the outstanding speech which my constituent prepared, I insert it in the RECORD:

HOW FREEDOM AFFECTS PROGRESS

(By Rick Greene, Mattawan, Mich.)

I am standing here before you relaying to you information on Free China and Communist Mainland China that I have gotten from hours of research. But do I have to be here giving this speech? Was I chosen out of an elite number of people and told by my government what to say or else!? Absolutely not! I have the liberty to make choices about whether or not I do things. The Chinese in Free China have chosen liberty over the "prison-world" of the Communists in Mainland China. Let us define liberty and see how it applies to Free China and Communist Mainland China.

Liberty is the removal of restraints which hinder any individual from exercising all his powers under the best intelligence and going towards happiness. But we may as well understand that it also brings with it the chance that we may, blindly and ignorantly, choose the path of vice, which leads to ruin.

When we plead for liberty, we plead only that those of us who want to choose the

course of prosperity and solid security may be left free to do so.

Let us apply this in the government aspect.

As of late, Communist Chinese Chairman Teng Hsaio-ping has tried to talk Free China into coming under the Communist regime. The 1984 January edition of the Free China Review reports, "Chairman Teng's aim is to create pressure on Free China to talk with his regime, but the results of such talks are not what is on his mind. He knows quite well that if Free China agrees to start talks—actually to start bargaining away the freedoms of its people—that very decision will snap the morale of the people of Free China, alienate them from their anti-Communist friends in the world, and unleash a massive flight of capital from Free China—a neat hat trick!"

At stake here are the life and death interests of Free China. No one should ever expect them to be willing in any way to trade its people's freedoms for the dictatorship of the proletariat, its prosperity for Communist poverty, its democracy for a Marxist-Leninist regimen. Chairman Teng's real intention is very clear—to let Free China "die on the vine."

Now let's look at some of the rights that have been violated by Communism.

Supposedly, there is freedom of speech and of the press in Mainland China, but the Communists reject such freedoms. According to the 1984 January edition of the Free China Journal, "The editor of the People's Daily was purged. He was one of Chairman Teng's closest advisors. He pushed very hard for more freedom of the press and more open expression. His resignation is a very significant move, indicating that Chairman Teng does not really want to allow that much freedom of expression."

On the contrary, Free China has no such restriction. They are free to read, write, and say what they please. They have freedom of the press, not just empty words on paper.

Next let's talk about freedom of religion. This area of freedom has been violated all over the world. In Mainland China, open practices of religion is absolutely not accepted. Missionaries in Mainland China are forced to leave or go underground and worship in secret. Some are persecuted and sometimes even put to death. If this is freedom, I don't want any part of it.

In Free China, you are free to worship as you please. Because of your choice, there won't be any government agents coming to your door and arresting you. There are approximately 300,000 Protestants representing 80 denominations in Free China, which shows that Free China has real religious freedom. A Free Chinese pastor was quoted as saying, "President Chiang Kai-shek, a devot Christian, helped fight God's enemies, the COMMUNISTS!!" Yes, there is true religious freedom in Free China. Evidence proves it.

Education has a very vital part in any nation's success. In Mainland China, the people have no incentive to progress in knowledge because their freedom to learn is limited. In 1960, the Communist government surveyed their education for youth and reported that 300 million Chinese could not read or write. In 1981, the Chinese Communist General Secretary stated, "In the 10 year Cultural Revolution, there were 160 million young people, aged 8 to 18, that were out of school and the majority that finished grade school were barred from furthering their education in universities."

On the other hand, Free China is progressing greatly. They have a new education law that makes a nine year program of free education mandatory. According to the 1984 January edition of the Free China Weekly, the percentage of school children to school-aged children is 99.79 percent. Over 90 percent of the population in Free China can read and write. This undoubtedly is true progress, and it was brought about by freedom.

Because of Free China's freedom, some of the people on Mainland China risk their lives so that they too could be free.

One certain Communist Chinese pilot gambled everything he had to escape from Communism and he succeeded. This pilot, Sun Tien-chin, on August 7, 1983, in his MIG-21 fighter plane escaped to a South Korean airfield and then on August 24th went home to Free China. When asked why he escaped from Mainland China, he answered, "I wanted to pursue an honest way of life, and I felt it was impossible to progress honestly under the Communist system." At a press conference in Taipei, held for the escaped pilot, Dr. James Soong, a Free China government spokesman said, "there are freedom fighters wherever there is a dictatorial Communist rule." The arrival of freedom fighter Sun Tien-chin has once again proved that the goals and achievements of Free China have long been applauded and envied by their compatriots on the Chinese mainland. As a matter of fact, when Chairman Teng recently gushed out another one of his united front cliches—to the effect that Free China would be allowed to retain the status quo—he was also admitting to the free world that the Communist system has no appeal to free Chinese at all; so we see that the Chinese under Communist control are impelled to dash to freedom one after another at the risk of their lives. This is because they have realized that the Communist way of life cannot compare with life in Free China. The people in Communist China are giving up their "freedoms" to go to a place where true freedom is practiced—in Free China. Put yourself in their shoes. Which would you pick? "Prison" or freedom. The answer is obvious—freedom.●

REMARKS OF CONGRESSMAN SILVIO CONTE AT LESLEY COLLEGE COMMENCEMENT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Ms. SNOWE. Mr. Speaker, I want to share with my colleagues the excellent remarks delivered to the graduating class of Lesley College by Congressman SILVIO CONTE. Our colleague, Congressman CONTE, is well respected in the field of education, and has served with great distinction both as the ranking Republican on the House Appropriations Committee and on its Subcommittee on Labor, Health and Human Services, and Education.

In his address, Congressman CONTE shared with the students and their guests his perspective on education. He also spoke on the nuclear arms race, saying that through education, and through the responsible exercise of our knowledge, we have the opportunity to preserve peace. This is one of the greatest challenges facing the country, and Congressman CONTE urged the graduates to meet this challenge and to set all of their goals high.

I know my colleagues will benefit from reading Congressman CONTE'S fine speech, as did those who heard his remarks at Lesley College.

REMARKS OF THE HONORABLE SILVIO O. CONTE

President Orton, distinguished members of the faculty, honored guests, parents and friends, and, most importantly, members of the Lesley College Class of 1984, good afternoon and my warmest congratulations to you. I would like to offer you my sincere thanks for conferring upon me this honorary Doctor of Humane Letters and for affording me the great privilege of delivering your Commencement Address.

One thing about college commencement exercises has always fascinated me—in the air is a strange mixture of excited accomplishment . . . and genuine relief. Gone are the long hours burning the midnight oil, rushing to hand an assignment in on time, and watching the mailbox for the twice-a-year greeting from the Comptroller's office—and that's just the parents!

I firmly believe that among the throngs who attend graduation exercises there is only one person who is genuinely nervous—the Commencement speaker. Although this graduation allows me to share vicariously in one of the greatest days of your lives, being the speaker carries a weighty cloak of responsibility. This is indeed a great honor, but it is also a hazard, because it presents the speaker with notions of glory which are unrelated to reality.

The typical Commencement Speaker, weeks before the event, comes to believe several things. One: he believes that a commencement is a very real milestone in the lives of the graduates, which is true. Two: he believes that he has been chosen to speak because of his great wisdom, which is questionable. And three: he believes that the message he delivers will be remembered by the graduates for the rest of their lives, which is not true, unless, of course, all the graduates perish before the end of the ceremony.

Rather than getting carried away with the gravity of this occasion, let me just spend a few moments sharing with you some thoughts on education—mine, yours, and our country's—and on the challenges for which you have spent most of your lives preparing. One of the greatest aspects of our democracy is that everyone is born with what were so eloquently named "inalienable" rights—and thus, everyone has the potential to be a leader. And while I have chosen a political path to fulfill my public commitment, many of you have chosen the highly laudable but often unappreciated fields of teaching and social service to fulfill yours.

If the late President John F. Kennedy had lived to deliver his prepared address to the Trade Mart in Dallas on November 22, 1963, he would have uttered this very true phrase, "Leadership and learning are indispensable to each other." The irony apparent in this quote, of course, is that instead of delivering the statement, the most promising American leader of this half century and his following learned something antithetical to their nature—that hatred, intol-

erance, and violence exist in the world, and indeed, in our country.

Despite his violent end, Kennedy's most important legacy was the hope he imbued in his followers—particularly in young people. As an early and constant proponent of the sweetest fruit of the Kennedy years, the Peace Corps, I have witnessed what the partnership between leadership and learning that Kennedy spoke of is all about. But I would add another necessary component—teaching. Good will and subsequent human advancement can from one source only—knowledge—and the imparting of knowledge is the greatest gift on earth.

American writer and historian Henry Adams wrote at the turn of the century that "A teacher affects eternity;' he can never tell where his influence stops." All of you graduates have the great fortune of sharing this important moment with those who have had the greatest influence on your small notch on eternity's time line—the faculty and administration of this fine institution, and your parents and grandparents. Most of you chose to attend Lesley College to learn to put to work the values and human commitment that your parents instilled in you. Lesley, in turn, has tried to maintain those values while providing the experience and knowledge needed to make you potential leaders in your chosen fields.

Many of you, as both products and future teachers of our young people must recoil in horror to hear a blue ribbon Presidential Commission state that we have "been commiting an act of unthinking, unilateral educational disarmament" or that "for the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach those of their parents." These are sobering thoughts, particularly to those of us who have devoted so much time and effort toward improving our nation's schools. And, although the "doomsday" aproach taken in the Commission's report may be overdramatized, several points made are those that you and I have long known—that television and changes in the American family have affected the role of the teacher in young people's lives; that there is a critical shortage of teachers of math, science, and computers nationwide; and that the pay level and status of teachers in our society must be elevated.

Just last week, a year after the National Commission on Excellence in Education released its report, Education Secretary Bell unveiled a second, follow-up report, "A Nation Responds". The Secretary detailed "a tidal wave of school reform that has occurred across the country", much of it modeled on the first Commission's recommendations for more vigorous academic standards. According to his findings, 35 states have raised high school graduation standards, eight have lengthened the school day, seven have lengthened the school year, 21 are taking steps to beef up textbooks, and 6 have started merit pay. While these widely heralded numbers show a growing concern for school improvement at the local, grass roots level, it must be coupled with a strong federal commitment to determine what our national educational goals are to be, and how best to encourage meeting them.

If last year's Report on Education did anything, it awakened those who had been slumbering when talk turned to our nation's schools. To those of us in Congress who had spent 25 years championing the cause of our country's schools and teachers and to those like your President Orton and others who had dedicated their careers to the betterment of teacher training, these reports merely added fuel to our fire. I have found in my years of dealing with my own district's 14 colleges and many others that the best educators are those who can plan for our needs several years down the road. And usually, these are the same people who have a deep understanding of people and how they operate in our society, and a deep commitment to help those who have for whatever reason been denied an equal chance at the brass ring.

This has been the case in my dealings with your school on the subject of bilingual education in general, and your very fine Evaluation, Dissemination and Assessment Center in particular.

This Center addresses a very real need in our nation's schools to provide the materials to educate those children for whom English is a second language. By serving as a regional clearinghouse for bilingual education, Lesley is performing a national service aimed at alleviating the difficulties faced by children too young to face language barriers alone.

Equally as important is the humanistic leadership shown by Lesley in the fields of social service. My experience has taught me that unless our government support systems for the less fortunate are staffed by people of compassion, the bureaucracy and red tape may prevent even the neediest people from receiving the assistance they so desperately need. In the past few years, for example, I have been doing battle with the Department of Health and Human Services to slow down the massive review process initiated in the Social Security Disability program. Believe it or not, during this review process, totally disabled people with no other means of support were erroneously bumped from the rolls without even a face-to-face interview at the appeal level.

This is an example of how our government's well-intentioned and necessary programs often fall victim to error in the name of reform or fiscal responsibility. While I am not saying that abuse does not exist, I am pointing out a need for people like you to contribute to our system by putting to work your natural sensitivity and solid management skills.

Above all the challenges that you face as you leave these halls of learning and embark on careers in education, business, or social service is the challenge of being public citizens in a world that has moved dangerously close to destruction through the buildup of nuclear weapons.

There is no doubt in my mind that we must find a way, and find it soon, to put an end to the nuclear arms race, be it at the negotiating table in Geneva, be it on the floor of Congress, or be it in the hearts and minds of the people of the world.

The question is how we can extract ourselves and our enemies from this build-up. That is a question for our negotiators, and it is also a question for our politicians. But it is also a question of what we the people want for ourselves and our children. There is an age-old answer, one we have believed in this country since the founding of our republic—and that answer is education.

It was Thomas Jefferson who said, "Enlighten the people generally and tyranny and oppression of both mind and body will vanish like veil spirits at the dawn of day." That has been our hope and our creed, that through education, and through rationalism, we can build the foundation of a better and more just society. We can identify what must be changed and we can then find a way to change it.

But it is more than that, for with education comes democracy—with knowledge comes the right to exercise that knowledge. And if there is any hope of ending once and for all our noncombatant war and indeed of avoiding a combatant war, it rests on your shoulders and on the shoulders of all involved in education—teaching both knowledge and the responsible exercise of that knowledge.

Clearly we cannot, and you cannot, directly give that message to those that would seek to obliterate our society. But even as our negotiators are talking, and even as our politicians are struggling to seek immediate solutions to the arms race and to the 43 armed struggles going on in the world today, this nation can continue to serve as a shining light—that it is the will of the people that must prevail, and that knowledge and democracy are the greatest safeguards of peace, and the greatest deterrents to war.

These thoughts are meant neither to scare you nor to encourage you to settle for anything less than your goals. They are, however, indicative of the challenges that face you as you begin your careers, start your families, and flourish as citizens of this democracy. You have received a fine education, you have the undying support of your parents and friends and your youth gives you great optimism. As the world gets smaller, the range of possibilities gets wider.

This reminds me of the story of the two shoe salesmen who were sent separately by their company to try to sell shoes to natives in a remote underdeveloped part of the world. One of them sent back a wire to headquarters which said, "This is hopeless. No one here even wears shoes." And the other sent back a wire which said, "This is the most fantastic potential market I have ever seen."

Not all of us will bring shoes to the Third World, or discover a panacea for mending our educational system, or find an equitable way to streamline our justice system, but we can give it our best shot. To borrow words from a commencement address in 1859 by Horace Mann, the father of our public schools—"Be ashamed to die until you have won some victory for humanity." The great challenges of 1859 were no less than those of 1959, or, for that matter, those of today. They still need new blood and fresh ideas—they need you.

In closing, let me call upon one of my great Italian ancestors, who said "Svegliati amici, Discorso e finito. "Wake up pal, the speech is over.●

THE MEDICARE LONG-TERM CARE ACT OF 1984

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. CONABLE. Mr. Speaker, today I am introducing the Medicare Long-Term Care Act of 1984. This proposal will establish a new program of long-term care of the elderly that will, by expanding available options, provide alternatives to expensive and confining medical care. Offering medicare-covered services in settings other than

institutions, along with institutional medical care, will enable us to give our elderly citizens a more secure future, less family strain, and fewer demands on their savings.

The resources of older people can be wiped out by long stays in nursing homes, since neither medicare nor most private insurance plans cover many expenses for necessary long-term care, especially for those who do not require skilled nursing services. The only program that does provide some funds for such services is medicaid—the program of health care for the poor.

In too many cases, what we are doing today amounts to incarceration, rather than care, because excessive reliance is put on placing people in institutions when many of them could be cared for better in other surroundings, including their own homes. That is why the emphasis of my bill is on care in the home, or at least on an outpatient basis. The measure calls for a system of community long-term care centers, in every area of the country, to coordinate and direct long-term care services for the elderly including homemaker, health, nutrition, and day care, as well as institutional care.

In the past, efforts to obtain assistance for older Americans have not been successful, largely for three reasons. First, we do not have an effective and rational method of meeting the cost of long-term care services, including institutional care when it is required. Older people with chronic conditions have been left to their own devices because the costs in any public program of institutionalized care are prohibitive. So we have resisted program involvement and we have developed a defeatist attitude toward one of society's most vexing problems.

Second, a great majority of our communities do not have available the types of services which are better alternatives to institutionalization.

Third, in most communities, no single person or agency, public or private, takes full responsibility for helping older people and their families meet their needs as health and family status change.

I have deliberately constructed the bill to deal directly with these problems. It would meet the first problem by establishing a new program under medicare which would provide protection against the costs of long-term care, both institutional and noninstitutional, without drawing an arbitrary and unnecessary line between health care services and nonhealth care services. However, payment to nursing homes would be made on a prospective basis, which would bring about a reform of the present system that many knowledgeable people have advocated for a long time.

The bill would meet the second problem, the lack of adequate community services, in several ways. First, the benefits covered by the bill would include services which can be alternatives to institutionalization. Provision of these services can help people in their own homes or other family settings. Second, the bill would require that placement in an institution could occur only after all other avenues have been explored. And third, even when placement in a nursing home has been designated as the only possible alternative, the patient will have a continuing opportunity to move out of the home or improve his situation in the home.

The third problem would be met by creating for every community a long-term care center which would act as the coordinator and paying agency for long-term care services. Whenever a question arose in a family about what to do about a change in health or family situation, the center would be responsible for helping find the best answer and for providing the needed services, after careful consultation with the individual and his or her family.

The bill contains certain other features which I would like to highlight.

While the program would be national in application, as medicare is now, the administration of the program would be decentralized and involve, on a local basis, the people who are to be served by the program. Specifically, new State agencies would be established which would divide up States geographically, assure the establishment of a community long-term care center in each area, approve such centers for participation in the program, and pay the centers for services furnished.

The community long-term care center would be required to have a governing board with at least one-third of its members from among persons who are eligible for benefits. In addition, one-third of the board would be elected by providers of long-term care services, and one-third appointed by officials of local government.

The program would be financed by a monthly premium of $15 paid by those older Americans who choose to enroll in the program, and by a contribution from States of 10 percent of program costs, with the balance from Federal general revenues. My bill would increase by $15 per month the amount of SSI benefits to everyone receiving them, so the program would represent no additional cost to these individuals.

No estimates of the total cost of the bill have been made, largely because it is a very difficult undertaking. However, the States and the Federal Government now pay nearly $14 billion a year for nursing home care under the medicaid program. Medicare pays an additional half a billion dollars for extended care services. Numerous studies have shown that large numbers of older people now in nursing homes do not need to be there, particularly if realistic alternatives are available. Similar findings have been reported with respect to older people in hospitals. Clearly, the availability of alternatives to institutional care can decrease lengths of stays as well as the necessity for admissions. Thus, I think it is fair to conclude that under my bill the costs of institutional care could be held in check, if not reduced.

But regardless of how the costs might turn out, the important point is that we need to rationalize the system of providing long-term care, and I believe my bill has the potential to do that.

A summary of the bill follows this statement. I urge my colleagues, anyone with special interest in the aging, and the general public to study the bill carefully. I am aware that since its introduction in its original form several years ago, a number of other new proposals have been brought forward to achieve similar objectives. For reasons of cost and content, these alternative approaches should be given careful scrutiny also. The complexity of the problems requires that broad input be received and studied in arriving at any legislative solution.

I am introducing the bill in an updated form with the hope that the issue will receive the attention it deserves in a rapidly aging society. I hope that hearings can be held on the bill soon, so that it and the issues it addresses can be fully explored.

SUMMARY—MEDICARE LONG-TERM CARE ACT OF 1984

(Introduced by Congressman Barber B. Conable, Jr.)

1. Brief Description: Amends the Medicare program by adding a new voluntary Part D to Title 18 of the Social Security Act which would:

Establish a comprehensive program of long-term care services available to those who enroll under the program;

Provide for the creation of community long-term care centers in all areas of the nation and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services; and

Provide a significant role for people eligible for long-term care benefits in the administration of the program.

2. Eligibility: Anyone who is (1) eligible for hospital insurance under part A of Medicare (aged or disabled), or (2) is age 65 and a resident, or (3) is eligible for supplemental security income (SSI) benefits is eligible to enroll under the new program if he has also enrolled under the Part B medical insurance part of Medicare. Enrollment procedures are similar to those which now apply to the Part B program.

Premiums of $15 a month would be collected just as part B premiums are now collected.

3. Financing: A Federal Long-Term Care Trust Fund would be established to handle the financial operations of the program.

The Trust Fund would receive its monies from the $15 premiums of those who enroll, 10 percent from the States and the balance from Federal general revenues.

4. Functions of Community Long-Term Centers: Provide directly or through arrangements covered items and services to each individual residing in the area who is eligible;

Provide evaluation and certify the long-term needs of individuals through a term approach involving the individual and his family;

Maintain a continuous relationship with individuals receiving any items or services; and

Provide an organized system for making its existence and location (which must be accessible in the community) known to the individuals in the service area.

In carrying out the above a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot be met through covered types of care of other community resources.

5. State Long-Term Care Agency: Each State must establish an agency—either a separate agency, or major division of the health department—which will:

Designate service areas in the State;

Certify the conditions of participation for a community long-term care center;

Promote and assist in the organization of new community long-term care centers in areas where they do not exist;

Make payments to and monitor the activities of all long-term care centers in the State; and

Provide local government offices where a nonprofit agency does not exist.

6. Conditions of Participation for Community Long-Term Care Centers: Community Long-Term Care Centers must:

Have policies established by a group of professional personnel and approved by the governing board;

Maintain medical and other records on all beneficiaries;

Have an overall plan and budget;

Meet other conditions the Secretary may prescribe; and

Be either a public or non-profit organization.

The governing board of a community long-term care center must be composed as follows: one-third of people covered under the program who reside in its service area; at least one-third elected by providers of long-term care services; and at least one-third appointed by locally elected government officials.

Members can serve only two terms and full membership must change at least every six years.

7. Detailed Description of Covered Services:

a. Nutrition Services. Limited to home delivered meals and similar programs and services provided in the place of residences of such individual by a nutritionist.

b. Homemaker Services. Services provided in the home designed to maintain the individual in his home including preparing and serving meals in the home of an individual.

c. Institutional Services. Extended care benefits in a skilled nursing facility, intermediate care services, institutional day care services.

d. Home Health Services.

e. Day Care and Foster Home Care Services. Care provided on a regular daily basis in a place other than the individual's home; and placement of individual on a full-time basis in a family setting.

f. Community Mental Health Center Outpatient Services.

8. Payment Method for Community Long-Term Care Centers. Secretary will develop prospective payment methods after consultation with States and other interested parties, and States will follow them in paying the community long-term care centers.

9. Miscellaneous Provisions. If an individual stays in a nursing home for more than 6 months, beginning with the 7th month his social security cash benefits are reduced by 80 percent (in recognition of such a person's reduced living costs) and the remaining 20 percent would be placed in an escrow fund that would be available to the individual when he or she no longer is in the nursing home. As soon as the recipient leaves the nursing home, full benefits would be restored immediately.

The bill would increase SSI benefits by $15 a month so that the premium payment could be met without a reduction in cash income.

10. Effective Date. Benefits would first become payable on July 1, 1985, thus allowing sufficient time for the organization of the new system.●

THE CARGO DIVERSION PROBLEM MUST BE ELIMINATED NOW

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FIELDS. Mr. Speaker, yesterday, the House Merchant Marine Subcommittee conducted a hearing on legislation, H.R. 1511, which would eliminate the diversion of U.S. cargo.

During that hearing, the subcommittee received excellent testimony from Mr. John Bowers, who is the executive vice president of the International Longshoremen's Association.

As a cosponsor and enthusiastic supporter of H.R. 1511, I am in complete agreement with Mr. Bowers' comments that there is no legitimate reason why any foreign-based company, whether working through Canada or Mexico, that seeks to compete in the United States and in U.S. markets, should not be subject to the same rules of the game as corporate citizens of the United States with which they compete.

It is my firm belief that the Congress of the United States must immediately eliminate this major loophole in our shipping laws which has caused the unacceptable loss of millions of dollars of U.S. cargo and hundreds of port related jobs.

This tragic situation has existed for far too long and I am hopeful Congress will soon act favorably on this long overdue legislation.

In an effort to enlighten my colleagues as to the importance of this legislation, I submit for the RECORD today Mr. Bowers' articulate testimony on H.R. 1511. In addition, I applaud the International Longshoremen's Association for their critical leadership on this and many other important port related issues.

The text of Mr. Bowers' testimony follows:

STATEMENT OF JOHN BOWERS, EXECUTIVE VICE PRESIDENT, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO TO THE MERCHANT MARINE SUBCOMMITTEE OF THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES ON H.R. 1511

Mr. Chairman: My name is John Bowers. I am the Executive Vice-President of the International Longshoremen's Association, AFL-CIO which represents over 100,000 members in 34 states.

The bill before you is similar to H.R. 3637 issued by the House Committee on Merchant Marine and Fisheries in 1981. It is very important to our members and, I will submit, to our country's economic interests.

The House Report on the earlier bill noted that in recent years there has been an increase in the amount of containerized cargo originating in or destined to the United States, moving through Canadian, rather than U. S., ports. What is particularly alarming about this cargo diversion is not just the present amount of cargo being shipped through Canada, but the geometric trend that has been developing over recent years. The earlier statistics are set forth at length in the House Report. I will not take your time to repeat them, other than to note that it was then estimated that, in 1979, the movement of such cargo through Canadian rather than U. S. ports resulted in lost activity to American interests in the sum of 68,000 containers, plus thousands of truck movements and rail car movements and hundreds of port-related jobs.

Since that time, a study was issued by the Maritime Administration covering U.S. Exports and Imports transhipped via Canadian ports in 1981, which clearly tracks this accelerating trend. I am submitting to the Subcommittee the study's own summary of its contents, including tables of yearly comparisons of imports and exports. It shows that total waterborne trade of U.S. imports and exports transhipped *via* Canada continued to increase from 1980 to 1981. Though such exports in that period alone slightly decreased in tonnage, their total value still increased by 16 per cent. On the other hand, import tonnages during that single year increased by 30 per cent, representing a 19 per cent upward change in value. This tendency has persisted to the present time, precisely because of the anti-competitive disadvantages fostered by the applicable U.S. legislation and the ineffectiveness of the Federal Maritime Commission in tightening the statutory slack.

This has been referred to time and again as the "Canadian Diversion Problem". It originated in the maneuverings of a company known as CAST North America, Ltd. Using the Port of Montreal in particular, CAST, followed by its offshoots and mimics, sent its trucks and used rail connections *via* Canada to pick up containerized cargo in the United States and to move it across the border into Canada and from there shipped the cargo to Antwerp.

We have no agrument with these operations so long as they do not put American companies and American workers, including longshoremen, at a disadvantage. The purpose of the bill before you is to require such carriers, like their American counterparts

moving cargo through U.S. ports, to come within the jurisdiction of the Federal Maritime Commission by filing tariffs and otherwise subjecting themselves to the provisions of the Shipping Act to the same extent as carriers operating out of U.S. ports.

We in the ILA cannot find any legitimate reason why any foreign-based company, whether working through Canada or Mexico, that seeks to compete in the U.S. and in U.S. markets, should not be subject to the same rules of the game as corporate citizens of the United States with which they compete. The bill would require any ocean carrier serving ports and areas contiguous to the United States to act in the same manner as those using our ports. This does not breach any sovereign state's rights and does not stop Canadian or Mexican companies from competing in this country.

The bill does not seek to discriminate against Montreal or any other port. It is aimed at non-sovereign corporate entities. It doesn't ban Canadian or Mexican vessels from entering our ports or from competing in our markets. All it does is to require that these firms live up to the same rules as their colleagues in the market place.

The bill plugs a hole in the U.S. Shipping Act which should never have existed and I am sure was never meant to be there. It is one that puts regulatory requirements on ocean carriers that strengthen our economy by operating through our ports, but which lets a foreign carrier skim his business off. To my mind, this is a penalty, not the incentive or award that might have been.

The result will only give the U.S. firms, whether or not they be members of Conferences, a fighting chance to compete. Enactment of this bill will not lessen most of the competitive advantages that foreign carriers may have over their American counterparts by virtue of efficiency or reliability. It only means that the latter will have access to the same kind and types of information regarding their tariffs and pricing as the former have from their U.S. competitors in formulating their through rates. Such legislation cannot stop shippers seeking the most economic routing for their freight.

Another very real and significant point is that for every driver that now hauls containers to a truck terminal or a railroad siding heading over the border, a score of longshore and related jobs are being lost in this country in ports bypassed by the cargo in question, ports that traditionally handled this work.

In many instances, the cargo that is being lost represents base cargo to many of the affected ports. What this means in the long run is that the revenue required to maintain the facilities as well as the skilled and trained work force is unavailable. I can also cite to you several illustrations of crane operators, machine operators and similarly skilled persons leaving the industry because they are simply not able to make it with the amount of work available. This, in turn, affects productivity.

Mr. Chairman, this cargo diversion is but the latest confrontation resulting from the new cargo-handling technology known as containerization, which has cut deep inroads into the jobs of longshoremen over the past twenty odd years. We have suffered for close to a decade from the legal battles and errors compounded by the National Labor Relations Board respecting the diversion of millions upon millions of longshoremen's work hours in the handling of cargo to off-pier facilities outside of the traditional and historic work sites of longshoremen. We have seen years of bona fide collective bargaining and stability torn asunder by government agencies, including the very FMC which is being given jurisdiction under the bill before you, resulting in the loss and diversion of cargo which for scores of years had been handled at the pier on a piecemeal basis, to the great detriment of our members. We resent the unwarranted interference of these agencies when they assert their jurisdiction over matters which are not within their province or violative under the Acts they administer.

Unfortunately, there are times when regulation becomes necessary, particularly where already existing regulation creates an unjustifiable and unintended imbalance between those who are and those who are not regulated. By this I mean that so long as the Maritime Commission is to be allowed to maintain and enforce the Shipping Act, it must be done even handedly with respect to *all* carriers handling U.S. cargo. As you are aware, we have many laws requiring foreign entities, just like their domestic ones, to register in order to do business. They are required to file periodic reports, whether for business or only for statistical purposes. The principle of information and control is there. You cannot ignore that these firms take full advantage of the transportation and other systems which have been developed with the U.S. taxpayers' money and which were created to advance U.S. commerce. These foreign entities are fully satisfied with the immense advantages that they get from using our sophisticated commercial network, but they do not like any obligations to come with them.

Mr. Chairman, I submit to you that long established patterns and cargo handling practices in our industry and in our country cannot be permitted to be distorted and undone virtually overnight because of schemes devised by self-serving companies and governments. If our ports and our members are going to lose jobs to other ports or to other countries, then at least let it be because they simply cannot compete efficiently.

For years the government of the Soviet Union has used undercutting trade practices and rate wars to undermine the U.S Merchant Marine by hauling U.S. cargo not only in third flag service but right in our own ports and under our own eyes. Our governmental agencies went to bat against us when we tried to protest Soviet actions in 1981 and told unions to keep away from Administration run politics. I anticipate that, once again, the State Department and the Department of Justice will be crying "foul" on behalf of the Canadian government because someone in Washington is looking out for this country's interests by preventing a wholesale giveaway of domestic cargo and related work.

I also can anticipate that there will be those who will come before you to contend that a reason why cargo is going via Canada is attributable to the high costs of workers' compensation insurance in U.S. ports. Whatever weight that argument may have had in the past, it will not hold true for long. As you are aware, this Congress is putting the final touches on a revised version of the Longshoremen's & Harbor Workers' Compensation Act that will have an appreciable effect on reducing costs and limiting liabilities. Meanwhile, several layers of Canadian compensation laws and rules will continue to apply to workers, including our members, in Canadian ports. These Canadian laws appear to have open-ended type features that are being tightened and closed in the U.S. law.

Mr. Chairman, just how much longer is our government and this Congress going to permit the American economy to be drained away piecemeal by foreign interests and competitors? How far are our countrymen and our members going to be asked to bend back for the sake of "accommodation"? Just when are we all going to wake up and realize once and for all that we are no longer the world's crutch, that always has to give and in turn, deny itself, simply because we are supposedly an openhanded people who can afford to be taken advantage of by our friends?

It is high time, Mr. Chairman, that we put a stop to all this nonsense. If our own businessmen can't compete on an equal footing with the rest of the industry, then something is seriously wrong. This Committee and this Congress cannot stand idly by and watch our ports deteriorate and our equipment and our men go idle simply because they and their employers and the carriers are disadvantaged by loopholes in our own laws and regulations. It's the old story of trying to fight with one hand tied behind our backs.

Although it may have been all right yesterday when everyone was thriving, that is no longer the case. We know from reports that have reached us that what the studies demonstrate is happening is only the beginning. More and greater ports and facilities will be developed over the border which will expand at our members' and employers' expense if this is permitted to go by without any control or challenge. This cannot and must not be allowed to happen if the United States is not to become increasingly dependent on foreign ports and facilities to handle its commerce. As you must well know, cargo once lost is not as easy to regain. Our ports and employers, beset by so many diversions which I've only touched upon, are even more vulnerable to the effects of further bleeding of their lifeblood commerce.

I therefore urge you to overwhelmingly recommend passage of this bill. It will restore equity to a presently unfair situation. It is a fitting supplement to the already enacted Shipping Act of 1984, which puts our own merchants, carriers and citizens on a more equitable maritime footing with those of other nations. Inasmuch as Congress saw fit to pass that bill, it follows that it should do the same respecting H.R. 1511 since it carries out the fundamental policies and purposes expressed by and through the Shipping Act.

I ask for and thank each of you for your support.●

NATIONAL MARITIME DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BIAGGI. Mr. Speaker, Tuesday, we celebrated National Maritime Day and saluted the men and women who are part of a vital national resource—the U.S. merchant marine and the shipbuilding support base.

Unfortunately, this celebration is overshadowed by certain grim economic and political realities: Our mercant fleet consists of only 536 oceangoing

vessels, a figure which ranks us 11th among the world's maritime fleets; our merchant marine currently transports a mere 5.8 percent of our Nation's exports and imports; and our shipyard mobilization base—though the beneficiary of significant Navy contracts—is threatened by heavily subsidized foreign competitors.

As has been pointed out numerous times on this floor, our merchant marine must compete against the fleets of nations which will spare no expense to promote their national fleets. Our shipyards must withstand competition from low-cost yards in developing nations.

In the past, we have attempted to match the subsidy paid to foreign shipyards and ship operators. Unfortunately, due in large part to the lower wages paid to foreign workers, it was always possible for other nations to pick up a larger part of the costs associated with acquiring and manning a maritime fleet. Further, some nations placed a higher economic and defense value on their merchant marine. This is best demonstrated by the Soviet Union which clearly views its merchant marine as a valuable adjunct to its naval and espionage efforts. This point was recently highlighted when a former Soviet naval officer testified before the Merchant Marine Subcommittee about the role of the Soviet merchant fleet in intelligence-gathering operations—and the planned military use of such vessels in the event of a United States-Soviet conflict.

Other nations feel significant subsidies are justified because of the foreign currency generated by maritime ventures—and to insure their trade is not controlled by foreign nationals.

This concern with assuring that loyal operators employing loyal crews should transport a nation's trade has been enunciated in the UNCTAD Code of Liner Conduct—a cargo reservation treaty enthusiastically supported by the developing nations which view foreign control of trade as neocolonialism.

In the face of world recognition of the defense and trade importance of a loyal merchant fleet, the United States has now eliminated subsidy funding for shipyards and there is a likelihood of reduced expenditures for subsidy to ship operators.

In these times of massive budget deficits, we cannot blindly authorize and appropriate funds for every program. And the U.S. maritime industry does not expect to be exempt from congressional oversight. However, in our attempt to reduce expenditures, I fear we may underestimate the value of our shipyards and merchant fleet.

The role played by our merchant fleet has been crucial in every war fought by the United States. In wartime, they have transported the troops, armaments, and supplies necessary to win. All of us familiar with the history of World War II appreciate the losses suffered by our maritime fleet—epitomized by a casualty rate second only to the marines.

More recently the importance of a strong national fleet was demonstrated by the merchant vessel participation in the Falkland invasion. Similarly, our vulnerability was graphically demonstrated in our experience in Granada, when the United States requested the use of a foreign-flag passenger vessel. There was no suitable vessels available in the U.S. fleet.

The peacetime role of the U.S.-flag merchant fleet has been equally significant. After World War II, they transported the consumer and industrial goods necessary to rebuild the ravaged nations of Europe and the Far East. Since then they have facilitated the world trading system, which by meeting the economic and consumer needs of people throughout the world, advances the cause of peace.

The U.S.-flag merchant fleet is more than an important industry—it is a commitment.

A commitment to our trading partners and allies that trade with the United States will not be interrupted by the actions of foreign carriers.

A commitment to our Armed Forces that essential supplies and arms will be delivered regardless of the threats to life and limb.

And finally, a commitment to ourselves: A commitment that no nation or group of nations, through their control of our ocean shipping, will dictate our future; and a commitment that U.S. trade will remain free, promoting our economic health and the needs of our trading partners throughout the world.●

THE TECHNOLOGY GAP WITH THE U.S.S.R.—REAL OR IMAGINARY

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SEIBERLING. Mr. Speaker, most of our discussions about control and licensing of technological exchanges with foreign countries are based on a largely unspoken premise that American technology is invariably superior to that of the Soviet Union and Eastern bloc countries and that, therefore, we achieve important strategic and military advantages by restricting the flow of such technology. Undoubtedly, that is true in many critical areas. However, the premise is not universally applicable.

A realistic evaluation of the situation is contained in an article, recently brought to my attention, by Mr. John W. Kiser in Foreign Policy Quarterly. Mr. Kiser says:

> In some undifferentiated sense, it is probably correct to say that the United States in toto is technologically more advanced than the U.S.S.R. yet as a concept, the technology gap is more a slogan for asserting the superiority of the American system than a useful description of reality.

The article goes on to cite several examples of a seeming paradox. For example, he notes that the Soviets are importing pipe welding equipment from the United States while at the same time they are selling pipe welding technology to American engineering firms that is reported to be superior to anything existing in the West. Furthermore, the Russians are discussing the possibility of buying back American-built units manufactured under Soviet licenses. Mr. Kiser says that this example strongly supports the view of many American businessmen that lack of organizational and material wherewithal, rather than lack of technical capability, is the principal Soviet problem, and that this situation is aggravated by shortages of industrial management talent and skilled manpower.

Mr. Kiser's article points out that in evaluating the Soviet technological capabilities, it is a mistake to judge the Soviet system by American standards, that is by the ability to satisfy consumer needs and often by product appearance. While the Soviets obviously fall far short in these respects, in part due to the inherent inefficiencies in the socialist system itself and in part due to a different set of priorities, to translate these facts into a general preconception that Soviet technology is inherently inferior in every case may frequently lead us into self-deception.

In fact, Mr. Kiser argues that often, Western efforts to deny the Soviet Union some particular technology which it needs will only stimulate efforts at self-sufficiency and, in the long run, benefit the Soviets. For example, he points out:

> The denial of industrial diamonds to the U.S.S.R. in the 1950s helped spur the development of a strong synthetic diamond industry and stimulate research in high-pressure physics. In 1975 natural and synthetic diamonds were the Soviets' third largest hard currency export, according to a 1977 report of the Central Intelligence Agency, "Soviet Economic Problems and Prospects."

Mr. Speaker, in case someone might get the impression that Mr. Kiser, who was a research consultant specializing in Soviet affairs to the Department of State, is writing from a purely academic point of view, I would add that he now heads his own company, Kiser Research, Inc., which specializes in negotiating the transfer of technology from Eastern bloc countries to the United States, and has successfully negotiated licensing agreements from

Eastern bloc countries to U.S. businesses. As a result, he is in a unique position to evaluate Soviet technological sophistication in various fields.

Mr. Speaker, the full text of the article by Mr. Kiser follows these remarks:

WHAT GAP? WHICH GAP?

(By John W. Kiser)

The debate over canceling sales of technology to the Soviet Union assumes the existence of a "technology gap." At issue is whether denial of American technology constitutes a lever of any significance. While the threat of denying U.S. technology to the Soviets probably does not have much influence, the premise that underlies the discussion of economic leverage is widely accepted.

The phrase "technology gap" is one of those popular expressions that, repeated often enough, enters the national vocabulary and acquires an independent existence. In some undifferentiated sense, it is probably correct to say that the United States in toto is technologically more advanced than the USSR. Yet as a concept, the technology gap is more a slogan for asserting the superiority of the American system than a useful description of reality.

An examination of the various considerations that contribute to negative Western perceptions of Soviet technology should not be taken to mean that there is no gap. Rather it is important to realize that the nature of the gap is complex and cannot be discussed in sweeping generalities.

Soviet imports of technology from the West may seem to provide prima facie evidence that the Russians are behind. But the evidence is ambiguous. One example illustrates the paradox. The Soviets are importing pipe welding equipment from the United States. At the same time, the Paton Institute of Welding in Kiev is selling more advanced pipe welding technology to a consortium of American engineering firms. This particular Soviet pipe welding technique is reported to be superior to anything existing in the West, and the Russians are now discussing the possibility of buying back American-built units manufactured under Soviet license.

Soviet imports in this case represent an effort to circumvent systemic blockages—red tape, production bottlenecks, factory resistance to innovation, and a host of other problems that impede the commercialization of their own technology. Soviet imports can reflect many things. The example of welding technology strongly supports the view of many American businessmen that lack of organizational and material wherewithal, rather than lack of technical capability per se, is the principal Soviet problem. This situation is exacerbated by shortages of industrial management talent and skilled manpower.

Denying a technically sophisticated country something it needs will only stimulate efforts at self-sufficiency. In the short run, this may cost the country more resources, but in the long run there may be substantial benefits. The denial of industrial diamonds to the USSR in the 1950s helped spur the development of a strong synthetic diamond industry and stimulate research in high-pressure physics. In 1975 natural and synthetic diamonds were the Soviets' third largest hard currency export, according to a 1977 report of the Central Intelligence Agency, "Soviet Economic Problems and Prospects."

Another basis for assuming Soviet technological backwardness is the composition of their exports. It is sometimes said that Russian exports are those of a developing country—heavy on raw materials and semi-finished products, light on manufactured goods, machinery, and equipment. Does this indicate technological backwardness? Yes and no.

Several years ago the Boston school system was interested in buying Russian microscopes. These microscopes, however, had detachable eye pieces, while the Boston schools wanted fixed eye pieces. The sale fell through. This illustrates one reason for the Soviets' generally poor performance in exporting manufactured goods. In the West, customers are used to being catered to and producers have an incentive to be adaptable. These conditions do not exist in the USSR.

Diamonds, ball bearings, and aluminum ingots do not have to be serviced or painted blue instead of green. Yet the technology for making these products may be very advanced. For example, unique Soviet technology for casting metal in electromagnetic fields has been sold to American, Japanese, and Swiss companies.

APPETITE FOR EQUIPMENT

The Soviets often have difficulty mass producing civilian products to Western performance and reliability standards. An official of the French Machine Tool Association put the problem this way: "The Russians can produce quality and they can produce quantity. Their problem is mass producing quality." This also suggests that the technology gap is mostly internal.

Finally, the USSR has a tremendous appetite for all kinds of equipment. Exporting frequently competes with domestic needs. This competition, combined with inadequate marketing capability, helps explain why the Soviets sell licenses instead of finished products. Not many developing countries sell patents and know-how, as the Soviets do, to companies such as 3-M, Kaiser Aluminum, DuPont, Joy Manufacturing, Maxwell Laboratories, Rolls-Royce, British Steel, Salzgitter, Hoesch, Mitsubishi, and hundreds of other Western companies. Nor are many developing countries selling computer software to the United States, as the Soviets are.

Travelers to the Soviet Union tend to believe that the USSR is technologically backward. Americans naturally compare what they see with what they are accustomed to at home. They see clerks using abacuses instead of digital cash registers. Products seem crude and poorly styled. Buildings appear to be falling down soon after they are finished. It is easy to reach the conclusion that the USSR is a primitive society.

Few Western tourists, scholars, and journalists see the steel mills, welding installations, railroad maintenance operations, coal mines, copper smelters, and other heavy industrial facilities. Neither does the average American enter any of the thousands of Soviet research institutes that house the largest scientific establishment in the world. Thus, the usual visitor to the USSR gets exposed to that part of the system that has received the least attention from the central planners.

Clearly, Soviet priorities are different from those in the United States; yet Americans tend to judge the Soviet system by American standards—by the ability to satisfy consumer needs and, often, by product appearance.

There is no generally accepted definition of technology. It can be defined as process engineering and manufacturing know-how or, more broadly, as any body of systematized, verifiable information that can be transferred. Definitions affect conclusions about Soviet technology.

Edward Teller, the nuclear physicist, believes that "the U.S. has managed to keep ahead of the Soviets in only one technical field, electronics." Gertrude Schroeder, a specialist on the Soviet computer industry, has made the equally sweeping judgment that "no branch of Soviet industry enjoys an average level of technology that is even close to being on a par with the United States and the West." Teller emphasizes what the Soviets know; Schroeder concentrates on what they do. While it is unlikely that either view is entirely correct, the difference between them indicates the importance of definitional perspectives.

To a greater extent than in the West, the Soviet economy is marked by extremes of technological unevenness. These contrasts are not only between industrial sectors, but also within sectors, individual factories, and even products. Consequently, talk of the technology gap should always carry with it the obligatory question—gap where? In consumer or producer goods? In heavy or light industry? In food processing, shipbuiding, public transportation, steel making, or computers? If in computers, is the gap under consideration in hardware or software? If in software, is it in programming languages, application programs, or basic software? Is the level of computer technology at issue in the electric power industry or in banking? Is it product design technology or manufacturing technology that is being discussed?

Furthermore, what is meant by a gap—general levels of technology in use or the highest level of practical accomplishment? By one criterion the Soviets may be behind, by another ahead. Are differences in technological sophistication the result of a gap in technological ability or are they the result of different requirements or objectives?

The Soviets smelt alumina at much higher amperages than those used in the United States and are thus able to achieve higher rates of productivity per smelting pot. They have also solved certain technical problems associated with these very high amperages. It could therefore be said that Russia is ahead of the West in this aspect of alumina smelting. However, in an environment free of labor difficulties and with predictable levels of demand, large-scale production technology makes sense. It does not necessarily make sense in an environment in which flexible production capability is needed. What does "ahead" or "behind" mean if different economic environments lead to technological choices aimed at optimizing different things?

Unless policy-makers address systematically these definitional and conceptual questions, the technology gap will remain not only a political slogan, but a potential instrument for self-deception.●

ADDRESS BY RICHARD J. V. JOHNSON

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ARCHER. Mr. Speaker, one of my constituents, Mr. Richard J. V. Johnson, president of the Houston Chronicle, was elected chairman and president of the American Newspaper Publishers Association on May 1, 1984. I would like to share with my colleagues the text of the first address he presented in his capacity as head of that prestigious journalistic association:

SPEECH BY RICHARD J. V. JOHNSON AT THE INTERNATIONAL NEWSPAPER PROMOTION ASSOCIATION CONVENTION, MAY 21, 1984, PHOENIX, ARIZ.

Perhaps it is a sign that I am maturing—I like that word better than "aging"—but coming back to INPA, back to my newspaper beginning, gives me a very warm and satisfying feeling. I feel very much at home here with you and I thank you for giving me the opportunity to be with you.

I am acutely aware, however, that I was a newspaper promotion person of the sixties while you are the promotion pros of the eighties. I am impressed with how the quality of newspaper promotion has improved over the years.

I was made more aware of the gap between my promotion days and today when a friend told me the story about the old man who has survived the Johnstown flood. For many, many years after the flood, he became increasingly obsessed with telling of his experiences. Finally, he died. At Saint Peter's gate, he went through the usual formalities of getting his ID card, being fitted with wings, and so forth.

Saint Peter then explained that he liked for everyone in heaven to do what they liked most to do on Earth. The old man quickly said he would love to tell all the saints about the Johnstown flood. Saint Peter readily agreed, and the next morning all the hosts were gathered in the angeldome to hear the old man tell his story.

Just as they were entering the great hall, Saint Peter stopped and said to the old man:

"Oh, I almost forgot to mention that Noah is going to be in the audience this morning."

Believe me, I am aware of where I am and that I am speaking to a host of promotion experts. So, I am not going to tell you about my promotion experiences.

Only because the payment of my expenses hinges upon it, permit me a few moments to tell you a bit about what is going on at the ANPA and the newspaper center in Reston.

Seriously, significant things are happening there and they are of importance to all of us in this business.

Soon the international newspaper advertising and marketing executives headquarters will be housed in the newspaper center. When that move is completed, we will, for the first time, have all of the national associations, which represent every phase of the newspaper business, together in the center. Just a few years ago, this accomplishment seemed totally impossible.

INAME's move to Reston represents much more than just a physical bringing together. As we have seen in recent years when the INPA, the ASNE, the ICMA, the ANPA research institute and others have moved to Reston, there has developed a new sense of unity, a singleness of purpose that is giving the newspaper business a new and exciting thrust, a new strength to meet the challenges we face.

Because of this and other factors, I am convinced that newspapers are on an upswing—on a roll, if you please, and we are excited about it. I think it is safe to say that no other professional group in this country—certainly no other group as diverse as ours—is so well organized or better geared up for the future as the daily newspapers of America.

We are proud of the fact that ANPA has provided the leadership which has been a key factor in bringing that about.

I don't know who came up with the theme for this meeting, but whoever conceived it certainly provided a challenge to all of us taking part in this conference. There couldn't be a more timely topic.

"Rise to New Heights". . . How can you as promotion persons. . . How can our editors. . . How can the newspaper business "Rise to New Heights"?

To me, the answer seems obvious and I should say at the very beginning of my remarks that while the answer to that question may be easy, the efforts we must take to achieve those new heights in the context of what I will talk about are going to be very difficult.

But however difficult those efforts may be, we must make them and they must succeed.

I am referring to two principal problems we face—along with the other mass media of America—Ethics and credibility.

That may seem at first to be somewhat remote to you responsibilities. Your reaction might be one of saying that ethics and credibility are problems for publishers and editors rather than promotion people.

Please dispel that idea.

If I understand anything about the role, the responsibilities, the functions of a promotion person or a promotion department, they are to help your newspaper project a good image to its readers and its non-readers as well.

So, I think this ball is very much in your court, even though there are other players on the team. Whatever the realm or degree of your influence on your newspaper, I would implore you to use it to contribute your part and your newspaper's part to overcome this failing. It is having such a weakening effect not only on our business but the structure of our society.

Do we need to document this matter of the newspaper's credibility crisis and its cause—which is the public's increasing questioning of our ethics? I think not.

Surely all of you have seen some of the countless pieces of research which validate the problem. In this instance, however, we have validity beyond that of research. All of us are all too familiar with stories which have attracted nationwide attention and have rocked two of the most prestigious newspapers in the country. We are talking here not about content, but of erroneous information in one instance and of a violation of journalistic morals in the other.

There can be no question about the reality of our problem. Every time a group of newspaper people gets together these days, credibility and ethics are discussed formally and informally.

At the recent 98th annual meeting of the American Newspaper Publishers Association in Montreal, it was one of the major topics, just as it was at the meeting of the American Society of Newspaper Editors, just a few weeks ago. As a matter of fact, the ASNE has given credibility and ethics its number one priority, ASNE has published three books on the subject and has appointed a standing committee to give intense and continuing attention to finding solutions.

At the annual meeting of the Associated Press, held in conjunction with ANPA's, Lou Boccardi, executive vice president of the AP, who is recognized as one of the most capable newsmen in the country, gave the keynote talk titled: "Press and the Public: What To Do?"

As a bit of background, long before he spoke to the AP annual meeting, Mr. Boccardi had been invited by the board of directors of the ANPA to appear before the board and discuss ethics and credibility. The remarks he made to our ANPA board resulted in his getting a spontaneous ovation. He was urged to share those same thoughts at the AP's annual meeting, and he did.

I would like to quote some of Mr. Boccardi's remarks because they define this problem with clarity and with logic based on the experiences of many years of news gathering. They also underscore what we must not do as we move to face this challenge.

Referring to what he called "the Grenadian episode," Boccardi said:

"If we content ourselves with dealing with Grenada simplistically in terms of an anti-press administration on the one hand and the public's right to know on the other, *we marks deeper issues that the hour has come for us to confront.*"

I have emphasized the latter part of that statement because those deeper issues are what we are talking about this morning.

Boccardi went on to say—and I quote:

"The crisis has both journalistic and economic significance. For what more serious blow can we envision to our place in a democracy than that the public—our public—not trust or believe? And what more serious business problem might we face than that the customers turn away because we don't meet their needs?"

Here may I ask: Do you still have any doubts about this being a problem for promotion people to be concerned with?

I refer again to Mr. Boccardi's remarks and this, to me, is a very critical point in defining what we should and what we should not do in confronting the crisis of credibility and ethics. Again, I quote:

"First of all, while we ought to worry about about the public's perception of what to do, we should be honest enough with ourselves to understand that 'popularity' is not what we require.

"The press in this society," Mr. Boccardi added, cannot fulfill its functions with an eye on the polls that register 'popularity,' the idea mocks what a free press should represent in a free nation. And were we to embrace the idea that we must achieve popularity at any cost, we would be surrendering without a fight the very freedom that brave people have died to preserve."

What Mr. Boccardi is saying is that we can't make people like everything we do, and we shouldn't make that our goal. But surely we can make them respect us, and that can be accomplished only through performance.

Here I recall a saying that must be as old as the public relations profession. Trite though it may seem, it is pure truth: That the best way to have good public relations is to deserve them.

You don't have to be an editor to know that the newspapers of America have been dissecting themselves for decades. Of all the estates of this democracy, ours surely must devote more time and energy to self-examination and self-criticism than any of the others. We are, in truth, our harshest critics. That is not to say that our efforts have been wasted. We have come a long way. Largely as a result of our self-examinations have come the employment of ombudsman, more and fairer use of corrections, reader forums, and certainly a growing concern over the public's rising voice of criticism.

We keep trying to explain to our public what we are all about. It should be obvious to us by now that we are not answering the public's questions. And perhaps we are not really listening. Do the readers tell us that what we are doing and what we are saying are what we want to do? But not what they want us to do or say?

Have we become a business whose theme song is "I did it my way?"

Mr. Boccardi asked a very penetrating question when he said:

"Have we reached the point where we must recognize an obligation not to do some of the things the first amendment gives us every right to do? Have we acquired some habits that need to be broken?"

Now, when we ask ourselves that question some things come immediately to our minds, and the resulting feeling is not a comfortable one. Are we all too often in news stories and ads careless with facts? Do we intrude upon the privacy of persons? Do we abuse the use of "informed sources" and so on?

When we report the news about the painful issues of our times, whether they be Vietnam or the unfair treatment of minorities in our cities, or the corruption in government, are we seen by too many of our readers as agents of those problems?

In summation, Boccardi is telling us that the real issue is whether we have enough confidence in our constitutionally provileged place to take on this challenge and respond.

"There is," he said, "abundant evidence that if we do not, others will do it for us—not by moving into our newsrooms, but by turning away from our newspapers."

Credibility and ethics are not, of course, the only challenges we face if we are, indeed, to "rise to new heights." But, I submit to you that all the others are, in the final analysis, or subordinate importance.

As promotion professionals, your immediate contribution can begin with your immediate responsibilities. Write your copy and build your ads or promotion pieces with an awareness of your newspaper's ethics and credibility. Don't create a credibility gap.

Some of you are in competitive situations. Believe me, I know what your problems are, but there are ways to compete, to "play hard ball", without berating the other newspaper. Bear in mind that when you do, you are also berating our industry. I can assure you that my twelve years in the promotion department taught me that lesson.

I am not saying that I haven't played "hard ball," but I can assure you that I learned that when you play that game without regard for the best interests of our business, it is no good. The gun kicks as hard as it shoots.

I urge each of you to go back to your newspaper and make a new effort to find your place of influence, working, of course, through the proper channels, to make your newspaper a part of what must be renewed dedication to ethics, a renewal of the strengths that have brought us this far.

Newspapers have always had to overcome great challenges: Government interference, the threat of radio in the thirties, the greater threat of television in the fifties, even the new threat of marriage mail today.

But the consequences of the threat we face now as a result of the public's questioning of our ethics is far greater and more serious, in my opinion. All of those other threats came from without. This one comes from within us and only we can overcome it by doing those things we know are right.

We have prevailed—and prevail we must now and into the future, because no other medium can fill the fundamental role that the printed word achieves.

We are the only true one-on-one medium, the one that people really relate to, the one medium that literally wraps its arm around the reader, around his community.

Because we are what we are, it is essential that we meet and overcome any wavering of the public's trust in us. We have the responsibility, even the moral obligation to be what we should be: the source of news and information in which America can believe.

Recall a passage from first corinthians which says it all: You may have the ability to speak in the tongues of men and of the angels, have all knowledge, possess prophetic powers and understand all mysteries, but if you do not have love, you are a noisy gong, a clanging cymbal. You are nothing.

Thus, we can say of our newspapers: If we cover all the news, fill our columns with advertising, make great profits, all this is not enough. Unless the public continues to believe in us, ultimately we will become nothing. This to me, and to all of you, is the great challenge, if we are to 'rise to new heights.'

Thank you . . . and good hunting.●

AMERICA IS THE LAND OF OPPORTUNITY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FIELDS. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues a modern-day Horatio Alger story about Jose E. de Santiago, who resides in Houston, Tex. Mr. de Santiago came to the United States in 1961 seeking a better life. Due to his consistent hard work and motivation, and with the help of friends along the way, Jose has progressed from being a $20 a week bakery worker to become the founder and president of the highly successful Desco Steel Building Products, Inc., which forecasts a $3 million year in 1984.

Mr. de Santiago's story shows that despite the economic difficulties and complexities of modern life in America, the United States remains the land of opportunity and promise in today's world. The age-old attributes of hard work, good financial management, and motivation can still yield bounteous rewards. I would like to include de Santiago's story in the record as evidence that America is still the land of opportunity for both native and naturalized U.S. citizens. The article from the April 15 edition of the Houston Chronicle Magazine follows:

HOW ONE MAN MADE A MILLION

Crossing the border was no problem. Jose just answered yes when asked if he was American. Besides, he was in a car with Hispanic friends who were United States citizens. It was easy. The border guard at Hidalgo didn't even ask for papers. He just motioned them across. Jose E. de Santiago, at the undauntable age of 17, was suddenly, eagerly, an illegal alien in the U.S.A.

All that was a long time ago. Jose lives in Houston now. He's a businessman with a net worth of more than a million dollars. The penniless youth who sneaked across the border 23 years ago is today 39, a legal U.S. citizen and president/founder of Desco Steel Building Products Inc., a small corporation which, so far this year, has posted gross earnings of more than $2 million. Jose de Santiago, in the accepted vernacular of all such self-made feats, has made it.

He wants to talk about that now. Not to boast, however. De Santiago isn't the showy, look-at-me type. He, his wife, Gloria, and their three children live modestly in a plain, aging four-bedroom brick in Aldine. Even the two Cadillacs outside don't look all that imposing. The de Santiagos live comfortably, not ostentatiously. Affluence is not what's on his mind.

"A lot of people complain in the United States about how bad it is," he begins thoughtfully, as if this has been troubling him for some time. "But the opportunity is still here, tough times and all. I don't understand how someone like me can come here and do this, but other people . . ." He leaves the thought unfinished but not uncommunicated. How is it, he wants to know, that a former illegal alien who couldn't speak English, who started with no money or education, can do what he has done, while so many U.S. natives seem to see nothing but obstacles. "I came from a country where it's really tough," he says, "and sometimes it's aggravating to hear people in this country complaining when you see the opportunities that are here."

De Santiago's father was a street vendor, his mother a maid. He was an only child reared in Monterrey, Mexico. He remembers when he was 8, rising at 5 a.m. each morning to go with his father to the *mercado* to buy supplies. Then they'd push his father's cart to a street corner where the elder de Santiago would sell fruit, lemonade and sandwiches. Jose had to scramble to be at school by 8 a.m.

"Our house was a one-room adobe with a dirt floor. We had a wood-burning stove. No electricity, no running water. We'd put a barrel under the roof to collect rain water for baths. My parents made a big sacrifice to send me to school. For a low-income family books were very expensive."

After finishing the sixth grade at the age of 13, Jose began working as an office boy at a Monterrey bakery. By the time he was 17, his aspirations had outgrown his circumstances. All of his life he had heard stories about the United States and the opportunities there. He had to find out if the stories were true. He said good bye to his parents and with the help of his American friends made his unchallenged border crossing in 1961. ("It was easier back then," he says.) He went to Weslaco where friends helped him find a job in a bakery in nearby Donna. He made doughnuts, working 12 hours a day, six days a week for $20 a week. It was

good money, Jose thought, about double what he had earned in Mexico. He didn't even object when he found out that his coworkers were making $30 a week for the same work. He was paid less because he was an illegal alien.

"I realized after a year of working in the bakery that without the English language, life was going to be just as difficult in the United States as it had been in Mexico. I decided to ask my mother to come with me so that I could go back to school to learn English. A few months later she arrived and started working as a maid. With the help of some friends I was able to be admitted into the sixth grade at an elementary school in Weslaco."

School officials knew de Santiago was in the country illegally, he says, but with support from friends, they let him enroll. "At that time the problem was not that great," he says. "I was the only one (in class) not legal."

De Santiago by now was 18 and the biggest kid in class. His classmates seldom missed a chance to ridicule him for that, and for his fumbling attempts to learn English. It didn't matter. He was there to learn. He liked school and advanced fast.

He never got a diploma. While he was still in high school, he met Gloria, a pretty nursing-school student, at a dance after a wedding. After dating a year, they got married. For a while, Gloria worked as a licensed vocational nurse while de Santiago continued his schooling. When they had their first child in 1965, he quit school to work full time.

His first good-paying job was as a welder's helper for $1.25 an hour. Gloria was working, too, and they began to buy some furniture and make plans for the future. Then someone tipped the Immigration and Naturalization Service that de Santiago was an illegal alien. Agents came to see him at his job. "I told them where I was from," he says. "They were very good about it. I was married to an American citizen and I had a U.S. born child, so they asked for an extension for me to get my visa and passport." He went back to his job for a few months and in June 1966 moved to Port Lavaca for a better-paying welding job at $1.75 an hour. That didn't work out, however; his new employer didn't pay as promised. Angry and feeling somewhat desperate, he and Gloria decided it was time for a bold change. "Houston was known as a work mecca then," de Santiago says. "The Astrodome had just been built, and NASA was there, so it looked pretty good."

They loaded their belongings into a 1962 Ford Falcon, left the baby with de Santiago's mother and headed North. "By the time we got to Houston, we only had one dollar in our pocket and one-half tank of gasoline," he remembers. "We had no place to stay as we knew no one in Houston."

They slept that night in the car on the parking lot of Sears on South Main. The next morning they drove to the duck pond at Hermann Park to wash their faces and brush their teeth. To buy food, they both sold blood to a blood bank. They bought spaghetti and meatballs and ate it cold out of the can. "To this day we won't eat spaghetti out of a can," says Gloria.

The rumors about work in Houston proved to be true. Gloria immediately found work as an LVN at Hermann Hospital. The same day de Santiago found work as a welder's helper for $1.80 an hour. They contacted his mother who knew a friend who had a sister in Houston who had a house on Canal Street. The woman let them stay there for one night and then helped them find an apartment and obtain credit at a small grocery store.

For the first month, they lived without electricity or furniture except for a sofa bed. A neighbor ran an extension cord through the window to power the refrigerator. De Santiago's foreman let him borrow $35 from the company's soda machine until his first paycheck came. They didn't mind the hardships. They had jobs, and hope. "Our future seemed brighter," says de Santiago. "The rest was up to us to dig in our heels and get to work. We knew it would get better."

He worked two years at that first job and became an expert welder. When an assistant supervisor decided to leave and open a shop of his own, de Santiago left with him for more money and stayed until 1974 when he changed jobs again, this time to become a foreman in a company that made steel buildings. Again, his pay went up. In 1975, he finally realized his dream of becoming a U.S. citizen. All the while, Gloria continued to work, too, first at Hermann and then at Methodist Hospital as a laboratory technician. They saved their money.

It was 1979 when de Santiago, at the repeated urgings of a friend, decided to venture out on his own in the steel building business. He and Gloria had some savings, and he had a pickup truck, a welding machine, a cutting torch and a one-ton winch. "I saw the opportunity and decided to give it a try," he says. As they had so often in his life, friends helped greatly through the initial hard times. The first three buildings he erected were for the same friend who had convinced him to start his own business. When those were finished, Santiago went back to one of the places he had worked and asked his former employers if they needed any buildings erected. They did, and he took the jobs as a subcontractor. He hustled for more work, began hiring helpers and gradually more jobs started coming his way. He decided to take another major step. He would manufacture and sell his own buildings. He applied for and got a $100,000 loan from the Small Business Administration to build a fabricating plant. He used the money to buy land, some equipment and to erect a 5,000 square-foot fabricating shop in Aldine.

Just before de Santiago had struck out on his own, he and Gloria together were earning about $35,000 a year. In his first year as his own boss he grossed $250,000. Since then sales have doubled every year except 1983 which was generally a bad year for many businesses He says that Desco, which was named by combining the first letters of his three children's names and "co," is headed for a $3 million year in 1984. He now has 16 employees on the payroll, and recently added a computer system to handle the growing load of paperwork.

He built 261 buildings last year, ranging in size from 30x40 feet to 160x256 feet. He owns and leases two large warehouses, as well as a couple of acres of land in Houston. He owns his house, his shop and his office, which is located in an old house near the home and the shop. The family has been able to travel in style, vacationing in Europe twice in recent years.

In many ways de Santiago's formula for success isn't all that exotic or revolutionary. Much of it can be summed up as working hard, saving money and having the courage to take chances—like relocating to a strange city, changing jobs at the right time and finally jumping off on his own. Friends also played an important role, those who helped him cross the border, those who helped him in the early days of his business and many others in between.

But there's also something more, something commonly called motivation or desire, and de Santiago wonders if his early, hard years in Mexico didn't have something to do with his own. He wonders whether some native Americans don't lack it because they know they don't have to have it to survive.

"I hate to say this," he says, "but I think the motivation is not there for some people. They have not experienced what we call hardship in Mexico. In Mexico, if you didn't work, you didn't eat. The opposite is here. I think a lot of people here are spoiled. I've never been without a job here. The money might not be all you want, but the opportunity in the United States is there."

De Santiago knows his opinions tread on delicate ground. He knows that he came to the United States as an illegal alien, and that a lot of heated feelings surround the whole illegal question. His own views on that question are ambivalent, clouded by his own experience.

"I can see one side, and I can see the other side," he says. "I hate to see them go ahead and close the border. I'm aware of the problem this country has. I know that allowing a lot of people in is bad. But I don't want to see it stop completely because it provides jobs for people and I did it myself. I'd be a hypocrite if I said, 'I'm here. I made it. Now no one else should come.' But I see the other side of the coin, too. I see that if it gets out of hand, that's bad for the country."

A long time ago Santiago set a goal for himself—to retire at age 45. That's only six more years and the goal seems attainable right now. He looks at his very ordinary house, and observes, "When we didn't have any money, we wanted a very nice house. That's all we talked about. Now that we can afford it, it's not that important any more. I'm satisfied. I don't dream of making millions and millions of dollars. I have about everything I want."●

THE DOMESTIC FUEL ETHANOL INDUSTRY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DURBIN. Mr. Speaker, for the past several years, the existence of the domestic fuel ethanol industry has been one of our country's best kept secrets. While it has made great strides in demonstrating the quality and marketability of its product as an octane enhancer in gasoline, the industry has faced many of the obstacles confronting any new product trying to enter a competitive marketplace.

In the mid-1970's, the Federal Government, and many State governments, enacted tax exemptions for fuel ethanol blends to help this emerging industry get established. These incentives provided an important catalyst for the industry's development. They also proved to be a cost-effective

investment for our country by establishing a new domestic energy source and by stimulating new domestic markets for grain.

During the past several years, ethanol-enriched gasoline blends have been successfully marketed as premium quality, high octane products. Ethanol, in a 10-percent blend formula, extends gasoline supplies, which is particularly important in a shortage situation. It is also a leading octane-enhancing additive. The addition of 10 percent ethanol to gasoline results in roughly a 3-number octane increase. This benefit will become increasingly valuable as higher-compression automobiles require greater octane motor fuels.

Today, the primary obstacle to large scale utilization of fuel ethanol at the refinery is cost. Despite the current 5 cents per gallon tax exemption, fuel ethanol costs more to produce at this stage of its development than do the traditional octane enhancing components derived from fossil fuels. Therefore, additional shortrun tax incentives are necessary for it to be priced competitively at the pump.

It is important to understand at this point that while the price of fuel ethanol currently exceeds that of composite wholesale gasoline by 70 to 90 cents per gallon, this margin has decreased dramatically in a very short period of time. When the industry first started up in 1979, gasoline cost 35 cents per gallon, while ethanol cost $1.85 cents per gallon. Just 5 years later, gasoline now costs $1 or more per gallon, while ethanol's cost has declined to approximately $1.60 to $1.70 per gallon. Despite the temporary worldwide oil glut, there is every reason to believe that these trends will continue in the future to the point where the cost curves of renewably-derived fuel ethanol and gasoline produced from fossil fuels will cross.

For this reason, proponents of the fuel ethanol industry contend that short-term tax incentives will be sufficient to make ethanol blends price competitive by the early 1990's, as their use as an octane enhancer becomes more accepted. Because of the oversupply of oil that is keeping gasoline prices artificially low, these additional tax incentives are necessary now to reach this goal.

I, and many others, agree that the fuel ethanol industry has great potential for serving a variety of national objectives without long-term subsidy. In fact, the final draft of a soon-to-be released GAO study concludes that the fuel ethanol industry actually provided net revenues back to the Treasury in 1982 as a result of reductions in outlays for the farm program. The report recommends the continuation of present incentives until their current scheduled 1992 expiration date.

Nevertheless, with unprecedented Federal deficits threatening to wreak havoc with our economy, I am reluctant to advocate further tax incentives which would deny anticipated Federal revenues. Thus, in the case of the emerging fuel ethanol industry, we face a situation where two legitimate public policy goals appear to stand in conflict.

Today, I am introducing legislation that addresses this public policy dilemma by tying short-term incentives for the fuel ethanol industry to an increase in the tax on leaded gasoline. This bill would result in a substantial net revenue gain for the highway trust fund.

This approach provides the short-term incentives which fuel ethanol proponents suggest will make ethanol blends price competitive by the early 1990's, without draining Federal revenues. It also offers three ancillary benefits: Additional revenues for the highway trust fund which could be used for renovation of our Nation's decaying infrastructure; a positive budgetary impact on general revenues by reducing agricultural program outlays and stimulating increased economic activity; and a means of accelerating the phasing out of leaded gasoline which now poses a serious health hazard to the American public.

Specifically, my bill would: first, raise the fuel ethanol tax exemption from 5 cents provided by current law to 8 cents in 1984 through 1987; second, reduce the exemption by 1 cent in 1988 to 7 cents, 1989, 6 cents, and 1990, 5 cents, with the tax exemption then remaining at 5 cents until its current law expiration date of December 31, 1992; and third, increase the tax on leaded gasoline by 2 cents per gallon. it is estimated that implementation of this proposal would provide a net revenue gain for the highway trust fund from 1984 through 1988 of $1.7 billion.

At this point, I would like to briefly highlight the various benefits which this proposal would bring to the Nation.

First. Energy: The utilization of fuel ethanol as an octane enhancer in gasoline will contribute to the energy needs of the country in several ways. It will reduce costly crude oil imports. In 1983, fuel ethanol blends "backed out" roughly 10 million barrels of imported crude oil. At an average price of $30 per barrel, this benefited the U.S. trade balance by reducing dollar expenditures for foreign oil by approximately $300 million in 1983. As the industry grows, this figure will increase.

In addition, fuel ethanol can serve as a replacement for lead in gasoline. Ethanol's displacement of lead allows for a reduction in the amount of crude oil consumed by a refinery when it must use energy intensive equipment like reformers to achieve the needed octane levels in unleaded gasoline. Some oil company researchers have found that the use of ethanol as an octane enhancer provides such an efficient octane boost that, for each barrel of ethanol used, up to two additional barrels of high-octane gasoline can be produced. In the process, even more imported oil is backed out.

Finally, the stimulation of a vigorous fuel ethanol industry, while not a panacea, will also make a significant contribution to the Nation's energy security. The recent attacks on oil tankers in the Persian Gulf have served to draw attention to the major energy vulnerability of the United States and its allies: liquid transportation fuels. While utilities and other types of energy users may have the capability to fuel switch, motorists do not share that luxury. They are dependent on liquid fuels.

In just 5 short years, despite numerous obstacles and uncertainties, the U.S. fuel ethanol industry has managed to become the most significant high grade liquid fuel alternative in the gasoline marketplace. Industry experts maintain that a signal of the type sent by my legislation, if enacted, could realistically result in the near-term production of 2.5 billion gallons of ethanol annually, a level that could back out the equivalent of over 50 million barrels of oil each year.

The fuel ethanol industry's ability to address the Nation's liquid fuel vulnerability was also recognized this week by Energy Secretary Donald P. Hodel in comments he made while visiting one of the first fuel ethanol facilities in the United States which is located in Decatur, Ill. Secretary Hodel noted the impressive growth that has occurred in fuel ethanol production over the past several years, and expressed his Department's view of the importance of stimulating its continued growth, in part due to its national security benefits.

Second. Agriculture: A modest increase in the tax exemption for fuel ethanol blends will stimulate new domestic markets for grain, thereby providing a means of balancing agriculture supply/demand that is far superior to the current approach of paying farmers billions of dollars to limit their production. The pending GAO report, using USDA's model, found that a projected production level of 1 billion gallons of fuel ethanol annually by 1990 would generate a net farm income of $3.59 billion. It also projected that consumer food prices would be only minimally affected until ethanol production grows to approximately 2 billion gallons annually.

It would be a far better utilization of taxpayer dollars to increase demand outlets for the most productive sector of our economy—American agricul-

ture. By so doing, farmers would be allowed to do what they do best and receive reasonable returns. Moreover, additional jobs would be created in this country. Our tax base would be expanded and agricultural equipment and supply industries would be stimulated rather than idled.

Third. Environment. Increased utilization of fuel ethanol, as a replacement for lead in gasoline, will provide positive environmental and health benefits. The dangers of exposure to lead have long been recognized. Recent attention has been focused on the finding that airborne lead is the most serious source of exposure. In fact, the EPA estimates that 95 percent of airborne lead can be attributed to automobile emissions.

In the 1970's, the EPA developed a regulatory program to reduce the amount of lead in gasoline. It was anticipated that this program would result in the virtual elimination of lead from the market by 1990. Yet, today leaded gasoline is still 45 percent of the gasoline market.

The basic impetus for a lead phaseout originated with concerns about the health effects of lead on human beings, particularly children, who are more sensitive than adults. Health studies have shown that lead taken into the body can build up to high levels and produce a wide variety of problems, including lowered mental capacity, anemia, kidney damage, and high blood pressure. This situation is so serious that a number of urban jurisdictions, including Chicago, are considering ordinances to ban leaded gasoline.

It should also be pointed out that by far the most prevalent usage of the cancer-causing ethylene dibromide (EDB) is as a so-called scavenger in leaded gasoline to prevent the buildup of lead in the exhaust system. In a recent petition to EPA Administrator Ruckelshaus, a number of States and cities joined with the National Resources Defense Council to call for an immediate ban on leaded gasoline, in part because approximately 300,000 pounds of EDB are emitted annually from gasoline tailpipes. The development of alternatives to leaded fuel would reduce the greatest exposure to EDB that now exists in the environment.

In late March, the EPA released a draft study of the costs and benefits of reducing lead in gasoline. It estimated a net benefit of more than $750 million a year if oil refiners were required to remove all or almost all of the tetraethyl lead additive from gasoline. This figure would result primarily from reduced medical-care costs and cognitive damage to urban children as well as reduced auto maintenance. It is anticipated that EPA will soon propose regulations to phase out the use of leaded gasoline.

My proposal will reduce motorists' temptation to fuel switch to leaded gasoline by making it less cost attractive and by providing a means of financing one of the most appealing replacements for lead available. In the process, it will also help facilitate a transition to a lead-free gasoline marketplace that everyone—including the EPA and OMB—recognizes will have to occur sooner or later.

As lead is reduced or displaced as an additive, nontoxic substances must be used to replace it as an octane enhancer. Fuel ethanol is the most environmentally sound replacement for lead. Refiners will not have to engage in the expensive process of retrofitting their facilities if they replace the lead additive with ethanol. Further, fuel ethanol's proven performance record is accepted by the major automobile manufacturers who already warranty vehicles using a 10-percent ethanol/gasoline blend.

Fourth. Budget impact. The proposal will add an estimated $1.7 billion to the highway trust fund from 1984 through 1988. We are all aware of our country's critical need to repair and rebuild its basic infrastructure. These revenues would constitute a significant downpayment on this effort.

Mr. Speaker, the experience of the past several years has demonstrated that the fuel ethanol industry can stimulate new markets for agricultural production, can reduce crude oil imports by serving as an octane enhancer in gasoline, and can provide an environmentally benign alternative to lead in gasoline. Thus, fuel ethanol provides great potential as a domestic energy source, as an alternative to the PIK program which pays farmers billions of dollars, not to produce, and as a vehicle to smooth the phaseout of leaded gasoline.

The bill I am introducing today, which would increase short-term tax incentives for the fuel ethanol industry in conjunction with a 2 cents per gallon increase in the tax on leaded gasoline, will help develop that potential, without any adverse Federal revenue implications. I hope that the appropriate House committees will review this proposal in a timely manner, and I look forward to participating in that process.●

MEDICINES FOR NICARAGUA—AN APPEAL TO THE PUBLIC

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. MINETA. Mr. Speaker, on this day, when we have spent so much time talking about the principles and theories supporting U.S. intervention in Nicaragua, I would like to draw my colleagues' attention to the devastating physical effects of U.S. intervention. This letter from the Church World Service Division of Overseas Ministries reminds us that our own country's actions have, among other things, led to the destruction of food and medicine which would have gone to the people whom some believe they are liberating with U.S. covert actions. This effect is yet another illustration of the fact that our current policies in Nicaragua are self-defeating and, in the end, tragically cruel.

I urge my colleagues to read the attached letter and ponder the effects of U.S. policy in Nicaragua:

The letter follows:

MEDICINES FOR NIGARAGUA—AN APPEAL TO THE PUBLIC

OVERVIEW

Civil strife in Central America continues to cause extreme suffering, displacement and privation among innocent civilians who are frequently the victims, or the targets, of armed conflict in the nations of this troubled region. Humanitarian assistance in many forms—food, medicines, shelter, among others—continues to be a high priority for the colleague agencies of Church World Service. This is affirmed by the requests that are made by them to the international Christian community.

On April 28, 1983 Church World Service issued a renewed appeal to its member denominations for $500,000 (Disaster Bulletin No. 496 G) for funds to provide assistance to the approximately 1,800,000 displaced persons and refugees in Mexico, Guatamala, Honduras, Nicaragua, Costa Rica, Panama, Belize and El Salvador. At this writing Church World Service has received $200,000 from its member denominations in response to the appeal.

However, in light of escalating needs resulting from continuing conflict Church World Service is presenting to the general public for response a specific request for medicines from Comite Evangelico Pro-Aydua Al Desarrollo (CEPAD), a longtime colleague agency in Nicaragua.

It seems appropriate to Church World Service that this opportunity should be presented to the people of the United States. At the heart of all of the activities of Church World Service—relief, rehabilitation, development, advocacy—is people. This appeal provides an opportunity for the people of the United States to express their concern for the well-being of the people of Nicaragua at a time when guerilla actions have been carried out in such a way as to bring economic pressure, stress and direct harm to the civilian population.

BACKGROUND

On October 11, 1983 rockets fired from a vessel at the port facility at Corinto located approximately 60 miles northwest of Managua on the Nicaragua Atlantic coast destroyed a key oil storage facility. This and other actions by antigovernment guerrillas, known as "contras" and including members of the national guard from the former Somoza regime, imperil the safety and security of the civilan population. The destruction of the oil facility has been widely reported in the media in North America. The resulting fire and explosion that also destroyed warehouses containing food and medicines and necessitated the evacuation

of twenty thousand people has not been widely reported by the media.

Through CEPAD, Church World Service has been advised of the total loss of 40 tons of medicines. The loss is critical and the resulting shortage, now becoming obvious throughout the country, jeopardizes both emergency care and general health care carried out by the private and government sectors.

CEPAD carries out primary health care through a series of village clinics and is a member of a national emergency committee that coordinates health care throughout the nation. While the government provides a national health system, the programs of CEPAD and like agencies are often the only health services available in the isolated, rural regions of the nation—and these regions are most vulnerable to insurgency.

Peggy Heiner, a veteran of CWS involvement in Somalia presently working as a nurse/consultant for CEPAD's health program, reports after a visit to several camps for displaced people served by CEPAD that medicines for the treatment of tuberculosis, asthma and malaria are unavailable. In one camp of Miskito indians in the Matagalpa region the people requested the services of a physician. Since April, 1983 they have been provided medical care by volunteers from a religious organization called Provadenic who make periodic visitations at great risk to their own safety. A resident physican was killed in April in an apparent assassination near the camp.

Ms. Heiner reports the following personal observations an experiences arising from the shortage of medicines following the Corinto fire:

"When 28-year-old Catalina Ruiz had a complicated break, the bones in her leg had to be pinned. At her appointment to have the pin removed, the nurses told her she would have to endure some real pain as they had only a small amount of anesthesia to give each patient. Catalina asked a Christian medical group for help and they were able to get one ampule for her, but had no more on hand to offer others. After Catalina's pin was removed, the nurses told her about a young man who had just had the same treatment. 'We had only 2 cc for him' they said, 'and he cried with pain.'

"After three weeks of treatment, 16-year-old David was responding to treatment for his leukemia. His physicians dreaded telling him and his parents that there was no more chemotherapy in the country. It had been destroyed in the Corinto fires. The young patient would have been virtually sentenced to die if medical people arriving from the States had not brought a temporary supply for David. Many others here will have to wait until more help comes.

"The faces of people who come to the clinics reflect pain, despair, bewilderment and desperation as they are told by health care people 'I am sorry, but we cannot do surgery today—we have no sutures or intravenous solution. We will have to postpone it indefinitely. Check back, maybe some will come.'

"Pharmacy shelves are becoming empty. There is no atropine to treat asthma, no chloroquine for malaria, not even aspirins. Pharmacists are unable to supply clinics with necessary medicine for tuberculosis or leishmaniasis, a tropical skin granulation. Vitamin supplies are dwindling fast and bandages and treatment supplies are dangerously low.

"The broad-based health program in Nicaragua faces serious reversals after great gains have been made in nation-wide vaccination programs, maternal-child care, malaria prevention and surgical care if the losses at Corinto are not replaced."

This appeal for aid for the people of Nicaragua affirms in a direct way the policy statement adopted by the Governing Board of the National Council of the Churches of Christ in the U.S.A. on November 11, 1983 which states: "Before us are set death and life: the cry and suffers of the people of Latin America and the Caribbean call us to repentance and challenge us to denounce injustice, and to affirm the signs of the Kingdom of God which create the possibilities of life and hope in the midst of fear and uncertainty. The resurrection of Christ becomes the fundamental sign of God's triumph over death, sin, and oppression, which compels us as God's servants and witnesses to say no to death and yes to life."

ACTION

Church World Service will purchase medicines and ship them to CEPAD in three successive shipments on December 13, 1983; January 9, 1984; February 3, 1984.

Through CEPAD the medicines will be made available to various health care organizations for use throughout the country in village clinics or hospitals.

The medicines to be shipped will be based on a list that has been supplied by CEPAD.

Church World Service is appealing for $200,000 from the general public to enable this shipment to proceed. In addition, Church World Service is renewing its appeal to its supporting denominations for the remaining $100,000 balance in the Central America Civil Strife appeal to meet earlier expressed needs.

Donations to the public appeal should be addressed: Church World Service, Medicines for Nicaragua, Box 968, Elkhart, Indiana. 46515●

ALTERNATIVES TO ABORTION 1984

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SILJANDER. Mr. Speaker, as we noisily debate the issue of abortion in this country there are thousands of silent volunteers saving lives.

These people do not make the profits of the abortionists, their names are not known—there is nothing "in it for them." They are on the frontlines, saving lives because they care.

Mr. Speaker, I commend the article entitled "A Release of Virtue: Alternatives to Abortion 1984," by Gary Bergel.

A RELEASE OF VIRTUE: ALTERNATIVES TO ABORTION 1984

(By Gary Bergel)

Rescue those being led away to death; hold back those staggering toward slaughter. If you say, "But we knew nothing about this," does not he who weighs the heart perceive it? Does not he who guards your life know it? Will he not repay each person according to what he has done?—Proverbs 24:11, 12 NIV

Each day, hundreds of dedicated pro-life workers and volunteers are quietly, and sometimes not so quietly, rescuing hundreds of babies who otherwise would be slaughtered in the more than 5500 abortion clinics which now blight these United States. Scores of American cities now have life centers visibly competing with Planned Parenthood's death chambers. A nationwide survey of known groups and individuals who offer and promote alternatives to abortion, indicates that some 10 new and expressly Christian crisis pregnancy centers are being established each month across the United States. This movement is expected to burgeon to where more than 30 centers will be opening monthly as churches and communities continue to awaken and respond to the positive possibilities of saving life.

Rev. Jerry Falwell announced in January 1984 that his ministries are aiming at promoting and setting up 1,000 "Save-A-Life Centers" across the U.S. The Save-A-Baby program and center, begun at Pastor Falwell's home church in Lynchburg, Virginia in January 1982 has counseled 1,800 women and reports that not one woman elected to have an abortion!

The Pearson Foundation, founded in 1969 by Robert J. Pearson, has established more than 130 centers, including some 30 in 1983, and has goals of founding an additional 1000 over the next five years. This expansion will enable them to save some 250,000 children per year.

The Christian Action Council, founded in 1976, and which opened its first Crisis Pregnancy Center in Baltimore in 1981, now has some 60 centers in operation and is establishing 3-4 each month.

Among the earlier organizations stressing alternatives are Birthright, established in 1968, and Alternatives to Abortion International, founded in 1971. They currently operate more than 1,900 clinics across the U.S.

Bethany Christian Services, founded in 1944 as a small children's home and headquartered in Grand Rapids, Michigan, now continues to model and expand compassionate Christian ministry which includes adoption and "shepherding home care" services through 24 U.S. offices. They continue to inspire and encourage many of the newer ministries who also find themselves developing toward becoming adoption agencies. The National Committee for Adoption, based in Washington, D.C., now operates an *Adoption Hotline* and refers inquiries to Bethany as well as some 75 other member agencies.

HOPE Network in Milwaukee, Wisconsin; BETA (Birth, Education, training and Acceptance) of Orlando, Florida; C.A.R.E., House of His Creation; Mom's House of Pennsylvania, Choose Life in North Olmsted, Ohio and a multitude of others are all examples of fresh, multi-faceted ministries to unwed mothers. The nation's first black crisis pregnancy center opened in Anacostia, the southeast section of Washington, D.C. in October 1981, and, like many other life centers also finds itself becoming increasingly involved with men and young fathers.

While it is presently impossible to tabulate exactly how many women are counseled by pro-life clinics each year and to know exactly how many babies are saved, our recent survey would conservatively indicate that more than 3½ million women were counseled in 1983 and that 50-80 percent of their babies were saved from death by abortion!

The above tabulation does not include babies rescued by direct confrontation and counseling at abortion clinics. The Pro-Life Action League of Chicago, begun in 1980, reports that an average of 10, and up to 17 women decide against abortion whenever pro-life workers picket and counsel at clinics in major metropolitan areas. The League now has some 3,000 members across the U.S.

and has reported success in actually closing some clinics. The "sidewalk counseling" program of Catholics United for Life, centered in New Hope, Kentucky, also reports saving 3-4 children each time they confront women approaching abortion clinics. Such pro-life "non-violent direct action" has increased phenomenally in recent years and both of these organizations are busy giving training seminars across the U.S.

Two post-abortion agencies, Pregnancy Aftermath Helpline, established in 1976, and WEBA (Women Exploited by Abortion) begun in 1982 with 80 chapters in 48 states, assist and comfort women who remain scarred by their abortion experiences.

The Michael Fund is an international foundation established in 1978 for genetic research based on a working philosophy which aims at finding cures, or eliminating the causes of genetic disorders, instead of eliminating the disorder by killing the patient. Dr. Jerome Lejeune, one of the world's leading geneticists is conducting the studies.

President Ronald Reagan and many White House officials are keenly aware and very supportive of alternatives to abortion. The President regularly speaks against abortion-on-demand and called for alternatives in his January 1984 speech to the National Religious Broadcasters:

"God's most blessed gift to His family is the gift of life."

"This nation cannot continue turning a blind eye and a deaf ear to the taking of some 4,000 unborn children's lives every day—one every 21 seconds. We cannot pretend America is preserving her first and highest ideal—the belief that each life is sacred—when we have permitted the death of 15 million helpless innocents since the [1973] Roe v. Wade decision."

"Fifteen million children who will never laugh, never sing, never know the joy of human life; will never strive to heal the sick, feed the poor, or make peace among nations. Abortion has denied them the first and most basic of human rights. We are all infinitely poorer for their loss."

"How can we survive as a free nation when some decide that others are not fit to live and should be done away with?"

"I believe no challenge is more important to the character of America than restoring the right to life to all human beings. Without that right, no other rights have meaning."

"Let us encourage those among us who are trying to provide positive alternatives to abortion."

Recently while reading the account of Jesus' healing the woman who was afflicted with uterine hemorrhage for 12 years, I was struck with the awesome truth and challenge contained in His reply to the woman, who in faith but touched the hem of His garment and was healed: "Virtue is gone out of me." (Luke 9:43 48 KJV) The Greek word for virtue used here, dunamis, is often translated power in more recent versions. The Apostle Peter later declared that the Church, the redeemed community, is "a chosen generation, a royal priesthood, a holy nation, a peculiar people; that . . . should show forth the praises [=virtues or excellencies] of Him who has called [them] out of darkness into His marvelous light." (1 Peter 2:9 KJV) I am of the personal conviction that each baby's life saved represents a release of Christ's virtue and is a literal work of His power and grace. Our recent survey has also convinced me that these sacrificial works of "quiet heroism" coupled with intercessory prayer are staying God's hand of judgment and are evidence of His continuing desire to yet show mercy, forgiveness and restoration. A scaffolding is also being set in place which will effect a mighty harvest in the Church when abortion is overcome.

Let us offer sincere thanksgiving for this release of mercy and virtue and let us intercede and labor that it continue, multiply and extinguish darkness.●

EFFECTIVE SCHOOLS DO MAKE A DIFFERENCE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. HAWKINS. Mr. Speaker, earlier this year I introduced H.R. 4731, the Effective Schools Development in Education Act. The purpose of the bill is to encourage State and local education agencies in broadening and improving their effective schools programs. It is estimated that 13 percent of American 17-year-olds are functionally illiterate and more than 1 million young persons drop out of school each year.

The concept of effective schools is outlined in an editorial by the distinguished columnist Chuck Stone. Effective schools are working and I urge my colleagues to cosponsor this worthwhile legislation.

GOOD SCHOOLS DO MAKE A DIFFERENCE

(By Chuck Stone)

For the second time in nearly four decades, a black congressman has sponsored a legislative revolutionary ideal: The abilities of all children—irrespective of race or class—can and should be perfected.

First was February 1946. The House of Representatives debated the controversial "Powell amendment" (introduced by Rep. Adam Clayton Powell Jr., D-N.Y.) that barred federal funds for any racially segregated school lunch program.

On Feb. 2, 1984, Rep. Augustus F. Hawkins, D-Calif., subcommittee chairman of a House Education and Labor Committee, introduced the Effective Schools Development Act of 1984 to provide federal funds for educational excellence.

His bill (H.R. 4731) identifies five characteristics documented by several national research projects that were found in all "effective schools"—strong administrative leadership, an orderly school climate, high expectation for student academic achievement, strong emphasis on acquisition of basic acadmeic skills and regular student performance.

With these five characteristics, any school, anywhere can become a pedagogical citadel.

Thirty-eight years ago, few believed this capability was universal. How times have changed. When Powell introduced his amendment, he was one of only two black members of Congress and was widely condemned for demanding anti-discrimination as a condition precedent for school lunches.

Today, Hawkins, 76, the "dean" of 21 black members of Congress, has 67 co-sponsors for his Effective Schools Act.

One of Congress' most influential members, Hawkins called on his colleagues to "rise above the rhetorical nature of the education reform debate."

"Rhetorical nature" is a gentle-mannered euphemism for the past two decades of political hysteria that indicted public schools as dumping grounds.

It began with University of California psychologist Arthur Jensen contending that schools could not compensate for the suspected genetic inferiority of black kids.

Almost simultaneously, University of Chicago psychologist James S. Coleman concluded after an exhaustive analysis of data that schools could not overcome deficiencies in low socio-economic status.

The Coleman thesis subsequently was confirmed by Harvard researcher Christopher Jencks in his book, "Inequality," which paraded pages of massive statistics, thereby verifying Antonio's lament that even "the devil can cite Scripture for his purpose."

But this time, the devil had a supporting cast.

Accompanied by plummeting SAT scores, declining mathematic and reading skills, dangerous school environments, avaricious teachers' unions, marginal teacher competence and inept administrators, a national crisis of confidence in public education burgeoned.

Last year, a pessimistic report by President Reagan's National Commission on Excellence in Education warned of a "rising tide of mediocrity" in American education.

Unbeknownst to the White House's cognitively sloppy occupant, "effective schools" already had started mushrooming faster than spring crocuses.

Urban school systems were instituting "back-to-basics" reforms that were slowly translating into accelerated reading scores.

Reacting to this productivity, the New York Times' impressive April 15 educational supplement focused on "effective schools" as it theme.

Ten schools, representing this successful trend, were reported in communities as radically different as Quitman, Ga., San Francisco, Newark, N.J., and the Bronx.

They shared one thing in common—all kids, no matter how poor, how black or how foreign—can be taught to excel.

As far back as 1971, that achievement has been substantiated by prominent educators, George Weber, Ronald Edmonds and Matthew Miles, in a series of replicable research projects.

Among the research models cited by Rep. Hawkins, one is Edmonds' work in 20 elementary schools in Detroit's Model Cities neighborhood in 1974 that proved "pupil family background neither causes nor precludes elementary school instruction effectiveness."

Strong administration and creative teaching make the difference.

Under the Hawkins bill, federal funds would be provided to school districts to help them implement a diversity of training programs, seminars, workshops, data collection systems, school materials and best of all, technical assistance.

Although the modest California congressman has tended to concentrate on labor matters, he always has been concerned with education.

As long as four years ago, he was one of two black members in Congress (the other was Rep. Shirley Chisholm) to utilize a small group of the country's most able educators as consultants for legislative hearings.

They were prescient. Philadelphia's Dr. Constance E. Clayton, later to become superintendent of schools, was one of those experts.

Good schools can make a difference.

But that will be made possible by the educational methodologies outlined in Hawkins' H.R. 4731, and not by the extravagant rhetoric of a president who has never fully understood the difference between coloring books and nuclear tests.●

BASEBALL WILL LONG MISS ONE OF ITS FINEST

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. CONTE. Mr. Speaker, I would like to submit for the RECORD an article which appeared in the Citizen of Auburn, N.Y., which was written by a forlorn sports editor. I certainly share the sentiments expressed in Mr. Piccirillo's article and would like to share them with my colleagues. Baseball will long miss one of its finest, Carl Yastrzemski.

The article follows:

[From the Citizen of Auburn, N.Y., Mar. 7, 1984]

SEASON WON'T BE THE SAME

(By Gary Piccirillo)

Somehow, the baseball season just won't be the same.

I'm not talking about the fact that the Yankees no longer have Goose Gossage, who escaped the madness of the New York clubhouse for the greener pastures of San Diego.

I'm not talking about the fact that Pete Rose, once considered baseball's All-American boy, has rediscovered the fountain of youth, this time in Montreal.

And I'm not talking about the fact that the powers that be have deemed it necessary to begin the season April 2, knowing full well the early date will force both a series of postponements and punishing doubleheaders.

The baseball season is less than a month away, but as I read about and watch the reports from the spring training camps, one change has hit home.

For the first time since 1961, Carl Yastrzemski isn't part of the Boston plan. Now, if you're a Yankee fan—which I'm not—Yastrzemski's retirement might not mean that much to you. But if you're a baseball fan—which I am—it should.

Yastrzemski represented a dying breed not only in baseball, but in all of sports. He represented loyalty to his team, integrity off the field and professionalism within his trade. He was the type of player every owner wished he had, the type every fan wanted to applaud.

It perhaps is coincidental that one of my first recollections of baseball was watching Yastrzemski play in the 1967 World Series. He was a winner on a losing team that nearly completed its Impossible Dream.

Through the years, I remember Yastrzemski, holding his bat high and pulling a pitch into the bullpen in Fenway, or going the other way and hitting one into the screen.

I remember Yastrzemski, waiting for a carom high off the Green Monster, then wheeling and cutting down a runner trying to take the extra base.

And I remember Yastrzemski, taking a called third strike, then covering home plate with dirt, slamming down his batting helmet in disgust and walking toward the dugout to a standing ovation from the Red Sox faithful.

And I remember Yastrzemski, flying out to center field for the final out of the 1975 World Series and popping up to Graig Nettles to end the 1978 playoff game against the hated Yankees.

I regret that I never saw Yastrzemski play—I would have given anything to be in Fenway for his farewell last season—nor have I ever met him, even though he visited Auburn several years ago. The fact that I've never taken advantage of my opportunities disappoints me.

Yastrzemski was in Cooperstown in 1981, when former Red Sox owner Tom Yawkey was posthumously inducted into the Hall of Fame. I've never been an autograph seeker, but the time was right for me to tell Yastrzemski that he was instrumental in developing my passion for baseball. But because of my shyness and perhaps out of respect for his privacy, I didn't.

I've been accused of being a baseball purist, a conservative who resists new stadiums, fancy uniforms, expansion teams and even night games during the World Series. In those respects, I'm happy to say I'm guilty as charged.

Thoughts of Yastrzemski take me back to the days of advertisements on fences and freshly cut grass, back to Curt Gowdy and 10-team leagues (no divisions, please).

No one has ever told me that being a sports editor meant I had to like all sports, just respect and appreciate those who make them what they are. I respected Yastrzemski more than anyone who ever played baseball. I gather I'll appreciate him more now that he no longer is playing.

Somehow, without Yaz, the baseball season just won't be the same.●

FISH AND WILDLIFE MANAGEMENT ON MILITARY PROPERTY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. YOUNG of Alaska. Mr. Speaker, in 1960 the Sikes Act (16 U.S.C. 670 et seq.) provided a mechanism for cooperative wildlife management on military lands. That act authorized the Secretary of Defense, pursuant to a cooperative plan agreed to by the Secretary of the Interior and the appropriate State fish and game agency, to "carry out a program of planning, development, maintenance, and coordination of wildlife, fish, and game conservation in military reservations".

Department of Defense regulations (32 CFR, Part 232) require that fish and wildlife management plans be executed for all military installations which contain land and water areas suitable for the conservation and management of fish and wildlife resources. The regulations also provide that cooperative plans will be executed for all of those lands. Suitability is determined after consultation with the U.S. Fish and Wildlife Service and the director of the fish and game department of the State in which the installation is located.

To date, more than 19 million acres of valuable fish and wildlife habitat is covered by these cooperative plans. Clearly, these lands represent a substantial portion of our Nation's wildlife, fish, and game resources and must, to the extent practicable with the primary mission of national defense, be managed as effectively as possible for the protection of those resources.

The capabilities and expertise of the wildlife managers on military reservations have come to be widely respected. However, recently, there have been some disturbing trends which indicate a need for the further attention of the Congress to this program.

There are three trends which give rise to concern about DOD's ability to continue appropriate wildlife management and utilization on these areas.

First, and of greatest concern, is the implementation of OMB circular A-76 regarding fish and wildlife activities. A-76 encourages the investigation and implementation of contracting out of activities which can be performed more efficiently by the private sector. This is certainly a laudable goal; however, certain activities are inherently governmental in nature and should not be contracted out. The circular includes in these governmental activities natural resource management. Despite this fact, and despite the assurance of the Department of Defense that fish and wildlife management planning will not be contracted out, there is certainly evidence that this either has taken place or is being actively considered. Additionally, the contracting out of significant activities, even if those activities are not part of the plan development, will certainly mean a reduction in the number of professional wildlife managers, and thereby reduce promotion potential, and overall level of expertise available in-house for these activities. Such a reduction can only limit the flexibility of the Department of Defense to react to wildlife issues and must eventually lead to an erosion of their wildlife management programs—to the detriment of these much needed resources.

Second, much of this land is managed for timber and crop production with insufficient regard for native wildlife species. The clearing of, for instance, variable hardwood forests and replacement with croplands or pine plantations clearly is not in the interests of sound wildlife management, unless such activities are necessary to increase food and habitat potentials. Especially at a time when the timber markets are depressed and show little

signs of near-term recovery, it makes little sense for the U.S. Government to be managing its military reservations to maximize timber harvests in competition with privately held resources.

Finally, lack of funding is of serious concern. Although the Sikes Act authorizes $3 million per year to the Fish and Wildlife Service and $1.5 million per year to the Department of Defense for carrying out cooperative plans, no such money has been appropriated in recent years. The U.S. Fish and Wildlife Service operates only on the highest priority issues utilizing, for the most part, funds reimbursed by DOD. DOD, on the other hand, does not want to suffer the administrative headaches of accounting for such small sums of money. Therefore, DOD operates its Sikes Act responsibilities out of facility operation and maintenance funding, supplemented with the receipts for hunting and fishing licenses and leasing of land for agricultural purposes. Without a separate accounting, the total funding available for fish and wildlife activities is impossible to estimate. Without a separate accounting, there is no incentive to set—and meet—fish, wildlife, and game goals.

Mr. Speaker, by outlining these concerns, I do not mean to imply that DOD programs for fish and wildlife management are disastrous; however, the value of the resources we are addressing is far too great to be lost through inattention.

I have today introduced legislation which I believe will effectively address these concerns.

First, the Sikes Act is amended to provide that, after a cooperative plan for a particular facility is agreed to, no sale of land or of logs from land that is subject to that plan, or leasing of land subject to that plan for agricultural purposes, can take place unless the effects of that sale or leasing will improve wildlife, fish, and game conservation and rehabilitation in a manner consistent with the purposes of the plan.

Second, with regard to the implementation and enforcement of cooperative plans, contracts may be entered into only with Federal and State agencies having responsibility for the conservation or management of fish and wildlife. Further, the commanding officers of military reservations are required to insure, to the extent feasible, that implementation and enforcement of elements of the plan are provided by Department of Defense personnel who have professional training in the area of fish and wildlife management and enforcement. This amendment will not affect any contract entered into before the date of enactment but would provide that such contracts may not be renewed when they expire.

Finally, in order to assist in funding for DOD, U.S. Fish and Wildlife Service, and State fish and game agencies for activities consistent with the cooperative plan, the proceeds from the sale of timber contracts on military lands which are not already used for the reimbursement of DOD expenses or allocated to the States under existing law will be available equally to the cooperating parties. For fiscal year 1983, the Department of the Army received in excess of $10 million for timber, of which approximately $3.8 million would be available for distribution.

Mr. Speaker, as I indicated, I believe that this legislation effectively responds to areas of serious concern regarding fish and wildlife management on military reservations. I would welcome the input of my colleagues who are interested in these issues and am hopeful that the bill will provide a worthwhile basis for hearings and discussions. Thank you.●

IN SUPPORT OF S. 518, THE SENIOR ENVIRONMENTAL EMPLOYMENT PROGRAM

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. McGRATH. Mr. Speaker, I want to express my support for S. 518, which passed the House of Representatives on May 23. This legislation provides a 3-year authorization of a pilot program which was begun at the Environmental Protection Agency in 1976. This program, known as the senior environmental employment (SEE) program, utilizes senior citizens to help provide monitoring and other services in several important environmental programs.

S. 518 passed the Senate on March 26, 1984. This legislation provides EPA with clear authority to continue the SEE program and to make grants or enter into cooperative agreements with those organizations designated under title V of the Older Americans Act in order that our older persons may work in Federal, State, and local environmental agencies.

Under the SEE program, retired librarians, engineers, chemists, toxicologists, biologists, teachers, and other highly skilled senior citizens over 55 are given the opportunity to pursue meaningful and productive work within their specialties. Among other things, they survey toxic chemicals used in industrial areas, educate the public on areawide water quality planning, assist in the development of local noise abatement ordinances, and in the monitoring of noise levels, establish and manage environmental libraries, and conduct surveys on pesticides, and air and water pollution.

The senior environmental employment program represents one of the most successful results of the senior community service employment program under title V of the Older Americans Act. Like other title V programs, retired, unemployed older workers are given an opportunity to provide services to their communities while earning a small stipend. The considerable talent and expertise of the participants in the program allows the program to return services to the community worth well in excess of the Federal costs associated with it.

The SEE program not only provides meaningful and challenging employment of capable older workers but also enables States and localities to redouble their efforts in improving and evaluating the environmental quality of the Nation. I am pleased to have supported this legislation and I look forward to the expansion of the SEE program.●

THE NEED FOR A COORDINATED MATERIALS POLICY

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LUJAN. Mr. Speaker, in many of the authorization and appropriation bills we have considered or will be considering, there are the scattered pieces of the U.S. materials research efforts. I can name at least seven Federal agencies currently involved in materials research: The Department of Energy, the Department of Defense, NASA, the National Bureau of Standards, the National Science Foundation, the FAA in the Department of Transportation, and the Bureau of Mines in the Interior Department. This clearly points out how diffuse the U.S. materials research program is. Presently, there is no central point for developing a coordinated materials policy.

A month ago, on April 25, the House amended Senate bill 373 with language that would provide a mechanism to plan and coordinate materials research and development efforts. I urge my fellow Members to join me in encouraging the Senate to move expeditiously to take whatever steps are necessary to pass this legislative package.

I would like introduce into the RECORD a letter from the National Association of Manufacturers in support of the House amendment to Senate bill 373. This letter shows the private sector support for this legislation and further discusses the need for a cohesive, integrated materials program.

NATIONAL ASSOCIATION OF MANUFACTURERS, RESOURCES, AND TECHNOLOGY,

Washington, D.C., April 27, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MCCLURE: As Chairman and Vice-Chairman of NAM's Nonfuel Minerals Task Force, we express support for Title II of S. 373, providing for comprehensive national policy dealing with national needs and objectives regarding critical materials.

This NAM Task Force is unique among industry groups in that it represents both the users and producers of strategic and critical minerals and materials. By recent action of its Board of Directors, NAM has recommended creation by statute of a small office or council of minerals and materials within the Executive Office of the President to insure that the goals of the 1970 and 1980 minerals policy statutes are fulfilled and that important materials issues are considered on a timely and continuing basis. There presently exists no single Federal entity with the authority and responsibility for establishing critical materials policy and for coordinating and implementing that policy.

In light of this background, Title II of S. 373 is of critical concern to the nation. Title II would create a three member "National Critical Materials Council" in the Executive Office of the President. The council would assume an advisory capacity as well as the responsibility for "overseeing and collaborating" with other federal agencies relative to materials research and development policies and programs. NAM endorses the formation of this type of council; we need a permanent, coordinating body to address a problem that has both economic and national security and defense implications.

The 1980 "National Materials and Minerals Policy, Research and Development Act" required the President to take steps in addressing materials problems. However, actions addressing supply disruptions, long range materials uses and needs, and the policy analyses needed to make these determinations have been intermittent. These problems should not just be addressed on an ad hoc basis. While the Cabinet Council on Natural Resources and Energy and the soon-to-be appointed 25 member Minerals Advisory Committee are certainly prestigious and well-intended, they add no sense of permanency for continous coordination at a suitably high level of the Executive Office of the President with other existing policies within the Federal Government.

Title II of S. 373 provides this permanency. The National Critical Materials Act of 1983 provides a mechanism by which we may begin to plan and coordinate minerals research and development, which will eventually lead to sound materials policies for the coming decades.

NAM urges you and your colleagues to accept the amended version of S. 373 as passed by the House of Representatives on April 25, 1984 by a 253-1 margin, and move expeditiously to bring the bill to the President's desk. Any other course of action we believe will jeopardize the chances of the measure being written into law. This would return materials policy to the ad hoc status of the recent past. Thank you for your consideration of the NAM viewpoint.

Sincerely,

EMIL ROMAGNOLI,
Chairman.

DAN MORRISON,
Vice Chairman.●

ADMINISTRATIVE SITE DECLARED EXCESS BY FOREST SERVICE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DE LA GARZA. Mr. Speaker, pursuant to section 314 of the 1984 Interior and Related Agencies Appropriations Act (Public Law 98-146), the Forest Service has advised the Committee on Agriculture of its intention to declare excess a certain administrative site in the State of Georgia.

In accordance with that act, I am inserting the letter of transmittal from the Chief of the Forest Service, together with the accompanying explanatory material, so that our colleagues might be aware of this decision and have an opportunity to comment to the Forest Service should they be so inclined:

U.S. DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 16, 1984.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Section 314 of the 1984 Interior and Related Agencies Appropriations Act (P.L. 98-146) requires funded Agencies to take the following actions before disposing of any lands, except by exchange or under certain specified authorities:

1. Determine that the tract is no longer needed by the Federal Government and inventory the tract as to its public value.

2. Provide opportunity for public review and comment.

3. Provide 30 days advance notice to the Congressional delegation of the State or States in which the tract proposed for sale is located and the plan for carrying out such disposal.

4. Notify the appropriate Congressional committees for immediate publication in the Congressional Record.

We are proposing to declare excess a 0.67-acre unimproved residential site in Jasper County, Monticello, Georgia. The land is more particularly described as: Tract #U-1813 Lot 19 and one-half of Lot 17 of Mockingbird Hill Subdivision, Georgia Militia District 295, Jasper County, Georgia.

Notice was given to the Georgia Congressional Delegation on January 3, 1984. (See enclosed copies of letter.)

Information on the proposed disposal was published in the local newspaper to provide the opportunity for public review and comments. (See enclosed copy.)

We have received no comments from the general public nor from local Government officials. The final decision on the proposed disposal will be made after 30 days.

Sincerely,

——— ———,
(For R. Max Peterson, Chief).

Enclosure.

CHATTAHOOCHEE-OCONEE NATIONAL FORESTS,
Gainesville, Ga., January 3, 1984.

Hon. MATT MATTINGLY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATTINGLY: As required by Section 314 of the 1984 Interior and Related Agencies Appropriation Act (Pub. L. 98-146) please be advised that the following listed administrative site has been determined to be excess to the needs of the Forest Service. We will not report the property as excess until you have had 30 days for review as specified in Section 314.

FOREST SERVICE ADMINISTRATIVE SITE DETERMINED EXCESS IN GEORGIA

Site name: Jordan, W. Homer, Tract No. U-1813. Administrative site; Description: Forest Service—USDA tract No. U-1813 a/b/a Lot 19 and one-half of Lot 17 unimproved residential lot at Mockingbird Hill Subdivision, G.M.D. 295, Jasper County, Ga.; Size: 0.67 acre.

Please let me know if you need additional information.

Sincerely,

W. Pat Thomas,
Forest Supervisor.

CHATTAHOOCHEE-OCONEE NATIONAL FORESTS,
Gainesville, Ga., January 3, 1984.

Hon. SAM NUNN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NUNN: As required by Section 314 of the 1984 Interior and Related Agencies Appropriation Act (PL 98-146) please be advised that the following listed administrative site has been determined to be excess to the needs of the Forest Service. We will not report the property as excess until you have had 30 days for review as specified in Section 314.

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Please let me know if you need additional information.

Sincerely,

W. Pat Thomas,
Forest Supervisor.

CHATTAHOOCHEE-OCONEE NATIONAL FORESTS,
Gainesville, Ga., January 3, 1984.

Hon. J. ROY ROWLAND,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROWLAND: As required by Section 314 of the 1984 Interior and Related Agencies Appropriation Act (P.L. 98-146) please be advised that the following listed administrative site has been determined to be excess to the needs of the Forest Service. We will not report the property as excess until you have had 30 days for review as specified in Section 314.

FOREST SERVICE ADMINISTRATIVE SITE DETERMINED EXCESS IN GEORGIA

Site name: Jordan, W. Homer, Tract No. U-1813. Administrative site; Description: Forest Service—USDA Tract No. U-1813 a/b/a/ Lot 19 and one-half of Lot 17 unimproved residential lot at Mockingbird Hill

Subdivision, G.M.D. 295, Jasper County, Ga.; Size: 0.67 acre.

Please let me know if you need additional information.

Sincerely,

W. PAT THOMAS,
Forest Supervisor.

ADVERTISING ORDER

Publication: The Monticello News; subject of advertisement: Notice of Proposed Disposition of Land; Date(s) advertisement appeared: January 18th & 25th, 1984.

U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, OCONEE NATIONAL FOREST, NOTICE OF PROPOSED DISPOSITION OF LAND: Notice is hereby given that the Forest Service, U.S. Department of Agriculture proposes to dispose of a parcel of unimproved land under the jurisdiction of Oconee National Forest, by authority of the Federal Property and Administrative Services Act of 1949 (40 USC 486(c)). This notice is to comply with Section 314 of Public Law 98-146. The land is an administrative site outside the boundary of the Oconee National Forest and is not National Forest land. The land being proposed for disposal is commonly known as Forest Service-USDA Tract No. U-1813 and is located in Jasper County, in Monticello, Ga. and is more particularly described as: Tract No. U-1813 Lot 19 and one-half of Lot 17 of Mockingbird Hill Subdivision, G.M.D. 295 Jasper County, Ga. Persons claiming such properties or having valid objection to this proposed disposition must file their claims or objections with the Forest Supervisor, Forest Service, U.S.D.A., 601 Broad Street, Gainesville, Ga., 30501 within 10 days after date of the last publication of this notice. Publication dates: January 18, 1984; January 25, 1984.●

DR. BERTRAM GROSS AND PLANNING FOR FREEDOM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. CONYERS. Mr. Speaker, Dr. Bertram Gross, distinguished professor emeritus at the City University of New York and currently a professor at St. Mary's College of California, has labored for 40 years in the field of full employment. In December 1944 Gross, then a Senate aide who was charged with drafting the first full-employment plan for the postwar era, won approval of the idea from Senator Harry Truman, the Vice President-elect.

Dr. Gross drafted the 1946 Employment Act and a 1974 version of the legislation that became the Full Employment and Balanced Growth Act of 1978—known as Humphrey-Hawkins. In the intervening years he taught political science, authored a number of distinguished books, and always inspired young people to dare to contemplate a just society.

The National Conference of Catholic Bishops' ad hoc committee on the American economy recently asked Dr. Gross to speak to them on the subject of eliminating the enormous unemployment that exists in America today. Excerpts of his talk to the bishops' committee, on Tuesday, May 22, 1984, which he titled, "Planning for Freedom," follow and I urge my colleagues to consider the analysis and proposal on full employment that it offers.

PLANNING FOR FREEDOM

(By Bertram Gross)

In the enormous complexity of the modern world, where old labels and ideologies lose their meaning, there are a few things on which we can always rely.

One of these is kneejerk name-calling in response to ideas for making American capitalism more responsible. Do you propose action to make business less dependent on hand-outs, military spending and deficits? less controlled by powerful corporate and government bureaucracies? more responsible to stockholders, employees or customers?

A few self-appointed spokesmen can be depended upon to call you a parlor pinko, crypto-socialist, or witness tool of Moscow.

This was the reaction in January 1944 when President Franklin D. Roosevelt set forth an Economic Bill of Rights. The first of eight rights (which included decent wages, housing, health care, social security, education, and protection of competitive business people and farmers) was this: the right to a useful and remunerative job in the industries or shops or farms or mines of the Nation.

The self-styled "conservatives" reacted the same way in December 1944 when Senator Harry Truman (by that time Vice President elect) joined in a Senate committee report saying: The so-called right to a job is a meaningless figure of speech unless our Government assumes responsibility for the expansion of our peacetime economy so that it will be capable of assuring continuing full employment. (Dec. 18, 1944).

The response was even more frenetic in 1945 when a bipartisan group of Senators and Representatives (strongly supported by the Truman administration*) sponsored the bill that led to the Employment Act of 1946. This sad frenzy returned in 1974 when Representatives Augustus Hawkins and Henry Reuss introduced the bill (fought by the Carter administration) that led to the Full Employment and Balanced Growth Act of 1978.

I shall always defend the name-callers' right to be wrong. But it is sad to see them propagate the false impression that the great majority of American business people (or all the rich) accept the principles of looking out for "No. 1" only, "the public be damned," or "the devil take the losers." Their "dog eat dog" premise concerning "free market" behavior has no connection with the values of the business people among my family and friends. For them, maintaining ethical values is more important than "winning" at any cost or gobbling up competitors. Besides, like Roosevelt when his scottie was attacked, I resent libelous metaphors that defame a breed of animals known for affection.

It is painful once again to hear—as during the debates on the 1946 and 1978 employment planning acts—that *unemployment and recession are the prices we must pay for private enterprise, price stability, or technological progress.* The pain may be relieved by the humor embedded in the fact that the name callers take the "Marxist" position that full employment is impossible under capitalism. But it is deepened by their absurd charge that planning—an idea at the very heart of American private and public enterprise—is somehow un-American.

It is distressing to watch the Nay Sayers intimidate public officials and religious leaders who favor more attention in public life to ethical distinctions between Good and Evil, Right and Wrong, Honesty and Hypocrisy.

And it is even more distressing to hear empty election talk about "new" ideas among candidates who, fearing attack, have deserted the Roosevelt-Truman idea of the right to a job, are afraid to talk about full employment, and offer no program for either genuine recovery or preventing the depression toward which the present Rolls Royce-arms race "recovery" is leading us and the rest of the world.

On the other hand, it is encouraging to note that many Americans confront intimidation with constructive initiatives *Like the sponsors of the new "Jobs and Income Act" (soon to be introduced) they have the common sense to transcend the Right-Left stereotypes of the past.* Representatives Charles Hayes (Chicago), John Conyers (Detroit) and their colleagues see human freedom not as license but as participation in power. They are trying to invent locally-rooted democratic planning, for which there is as yet no model anywhere in the world. Above all, they would like to escape being trapped by single issue approaches to problems requiring a holistic vision of both the immediate and longer-term future.

INITIATIVES AND INTIMIDATION

At a time when my beloved country is rent by a welter of irresponsible, amoral and immoral ideologies, it is encouraging to see the Catholic bishops striding fearlessly—and carefully—into controversial realms. It is also encouraging to note that attention to the forthcoming draft of a pastoral letter is guaranteed by the "preemptive strike" announced by the new "Lay Commission on Catholic Social Teaching and the U.S. Economy." Such members as Alexander Haig and Michael Novak will probable *caveat* any tilt by the Bishops toward planning for full employment—and deplore any effort to use the gospel of Jesus Christ on days of the week other than Sunday.

Fortunately, there are members of Congress who, like the Committee of Catholic Bishops, other religious leaders, and some of my student and faculty colleagues, are not easily intimidated. Representatives Hayes and Conyers and their co-sponsors are planning to pick up the fallen flag of an economic bill of rights. Their new "Jobs and Income Act" would do this by (1) Re-stating the "right to a job" in up-to-date form, (2) clarifying the income rights of those unable to work for pay, (3) transferring 1% of military outlays to conversion planning by defense industries and companies in declining civilian sectors, (4) mandating a comprehensive program to develop the conditions under which these rights may be enjoyed and conversion planning can be successful, and (5) financing this program through more efficient budgetary use of resources already available.

This program would provide the rising mass purchasing power (based more on real wages than on debt) and responsible growth needed for full employment, an improved quality work and environment, stabler business profits, and more balanced trade with developing countries. It would create conditions for more self-empowerment by people victimized by discrimination on the basis of

prejudice concerning sex, race, ethnic background, age, religion, political or sexual preference or personal disability. It would thus serve the best interests of the great majority of American business people, farmers, white- and blue-collar employees, consumers and taxpayers.

What these people suggest, in essence, is a legislative approach to the areas of the bishops' concern: employment generation, adequate income for the poor and disadvantaged, U.S. trade and developing countries, and economic planning and policy. And they are already confronted by the same kind of name-calling that is being used against the bishops' committee.

Entirely apart from any specific bills, they know that they will be subjected to personal abuse when trying to inject ethical principles into economic policy. Many professional economists will fault them for dealing with economic rights (a subject as remote from "free market" ideologies as those ideologies are from the real world). Other experts, having families to support, often "get along by going along" with simplistics they know in their hearts to be insufficient or wrong. As would-be realists, they gingerly seek the straight and narrow path between the two extremes of truth and falsehood.

And elected officials do not have to be told that if they treat the "right to a job" as more than a meaningless slogan they will face the opposition of powerful folk who, as sincere believers in the virtue of greed, operate on opposing principles: (1) Keeping real wages down by recessions or depressions to "squeeze the water out of the economy" and by whatever volume of cyclical or non-cyclical unemployment is politically tolerable (their operational definition of "full employment"), (2) widening the holes in the "welfare net" (including minimum wages) while giving the impression that welfare recipients are "unemployable," employees lazy, and the poor have too much money, (3) converting corporations, communities, scientists and workers into dependency on cost-plus military contracts, (4) perfecting central government planning to give the rich and powerful more power and wealth, with just a little "trickle down" for middle and lower income people, and (5) using crazy-quilt budgeting to provide an elitist minority with ever greater stimulants through tax handouts, guarantees, direct subsidies and deficit spending.

Are the practitioners of this creed bent on "preserving the status quo" or "turning back the clock?" I think not. Rather, some are unwittingly drifting—and others consciously steering—toward a new form of "corporatism" or "corporate state."

But not the overtly brutal corporatism of Mussolini and Hitler in the past or Pinochet and Marcos today. They would prefer a friendly managerial corporatism that would win support by some labor leaders, neo-liberal "Atari Democrats" and super-elitist academics at Harvard, Stanford and the University of Chicago.

The possibility of getting such support is suggested by the top-side corporatism set forth in Robert Reich's *The Next American Frontier* and incorporated in legislation approved by the Democratic majority on the House Banking Currency Committee. Melvin Krauss, a Hoover Institution fellow, refers to this as "Reich's Friendly Fascism" (*The American Spectator*, September 1983) without reference to the broad support for such ideas, or worse, among many Republicans as well as Democrats.

Krauss concentrates his fire on neo-liberals alone, thereby losing track of the perceptive analysis by Kevin Phillips, Richard Nixon's former speech writer, in *Post-Conservative America*. Phillips warns against "apple pie authoritarianism" from former conservatives—against an American Caesarism that "could make a more triumphal entry through television than was ever possible by chariot." This is not far from what Paul Samuelson, the M.I.T. Nobel prize winner in economics, had in mind when he added a section to the last edition of his *Economics* on "fascistic capitalism" or "capitalistic fascism."

TWO VERSIONS OF FREEDOM

One set of variables—fought over in all elected assemblies from city councils and county boards to the 50 state legislatures and the two Houses of Congress—is provided by opposing versions of "freedom" and "liberty."

One of these is dear to the hearts of those concerned with "jobs or income" legislation and other aspects of distributive justice.

The other is used by their opponents when rising above name calling and resting their case on the immortal principle of "impersonal market forces."

Participation in power

For American slaves, after a bloody Civil War, freedom meant power to sell their labor in the marketplace. For women, after a long non-violent struggle, the 19th amendment (1920) meant whatever additional power could be attained by voting.

More than 50 years ago, when Pope Pius called for "effective control" by public authority, he was speaking out on behalf of all those whose power to control their own destiny was curtailed by the want and fear imposed by the Great Depression.

In January 1941 Franklin Roosevelt's four freedoms—of speech and worship and from want and fear—all dealt with personal and social empowerment. Three years later, on the eve of victory in Europe and Asia, the Economic Bill of Rights presented a vision of a post-war America in which the economically weak would have a somewhat larger share of economic power.

That vision, not yet translated into reality, became partly concretized in the civil rights movement. The freedom marchers led or inspired by Martin Luther King, Jr. started with seeking the freedom to sit anyplace on a bus. They went on to seek the self empowerment, including purchasing power, enjoyed by those with a good job or business enterprise.

In all these efforts, one this was clear: freedom for all people, rather than just a few, implies a web of interrelated rights and responsibilities. This is one of the fundaments of the "Jobs and Income Act."

The "free market" fantasy

"Freedom" was a rallying cry for the Southern slaveowners. It meant freedom to buy, sell, own and control human beings. For opponents of women's suffrage, it meant freedom for white males to regard political action (or even women themselves) as a form of private property. And apart from considerations of such property rights, "freedom" is still regarded by some of the rich and powerful as license to gratify personal addictions to government-protected power or wealth.

And what is the so-called "free market"? For a minority of corporations (and many academic ideologues) it is a situation in which small numbers of people operating as "impersonal market forces" may more freely swallow up small business; more freely speculate in takeovers; more freely move their operations to Third World dictatorships; more freely dump their toxic wastes into the air, land or water; more freely buy elections, manipulate the media and burst through "just and definite limits" defined by public authority; inflate their personal emoluments without the approval of their stockholders; and do most of this at the expense of the majority of American taxpayers.

Over 200 years ago the moral philosopher, Adam Smith, recognized these tendencies in many seldom-quoted and less read passages in *The Wealth of Nations*. "People of the same trade seldom meet together, even for merriment and diversion," he wrote, "but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices." On one of the relations between wages and prices, he wrote as follows: Our merchants and master-manufacturers complain much of the bad effects of high wages in raising the price and therefore lessening the sale of their goods at home and abroad. They say nothing concerning the effects of high profits. They are silent with regard to the pernicious effects of their own gains. They complain only of those of other people.

One who employs capital *in support of domestic rather than foreign industry*, wrote Smith in immortal words invariably quoted out of context, "intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end [that of society] which was no part of his intention."

If Adam Smith could hear what neo-classical economists write today, *often in the name of Adam Smith*, he would not only roll over in his grave; he would drop dead. Smith developed his ideology to help lead the struggle against the East India Company and other monopolies holding royal charters. Today's neoclassical economists serve the interests of transnational economic royalists. They do this through a "free market" model that helps provide invisibility for powerful hands that manipulate markets and go rather far in managing both supply and demand.

The most elegant aspect of this model is the exquisite care used to exclude empirical examination of the many types of markets for money, good and services, labor, land, companies and tax shelters. With unabashed sloppiness, they even fail to identify the major "exogenous" variables excluded under the slogan of "ceteris paribus" (other things being equal). These other things excluded from the "Make believe" models are the very things that business people have to do if they want to become rich: Advertising, non-price competition, product differentiation, price leadership, trade associations, cartels, price supports, tariffs, import quotas, barriers to entry, government franchises, the enormous array of direct and indirect subsidies to business, the managerial capacity to handle all such matters, etc., etc.

But one "imperfection" is invariably a center of attention: organized labor. There would be no complaint if employees could be organized (as has happened under same forms of corporatism) to prevent strikes and keep wages low. The complaint, rather, is against high wages or rather (to use Adam Smith's words) "the bad effects of high wages."

The worst effect, in the minds of the fantasizers, is to stand in the way of getting the highest possible profits rates—the kind of profit rates that Adam Smith found charac-

teristic of "countries going fastest to their ruin." By this mode of thinking, the corporation's "own gain" (to use Adam Smith's term) is conceived as of (a) high *rates* of profit, with too little attention to the higher *total* profits obtainable through mass production of many more units with *lower* profits per unit, and (b) *immediate*, without attention to the pernicious effect that maximized profits (or lowered wages) can have in undermining the future purchasing power on which profitability is based and contributing to recession or depression.

From this narrow conception of gain, some corporate and government policy makers jump to the conclusion that unemployment (perhaps accounted by union busting) is needed to keep labor in its place and that if a few more jobs are needed they can be obtained by lowering wages.

We are thus led back to the old litany that *full employment is impossible under capitalism and recession or depression are the prices to be paid for price stability, technological progress—and "freedom."*

FREEDOM UNDER PLANNING

Throughout the world today a fundamental human need is the chance to earn a decent living through useful work. When someone able and willing to work for pay is denied such an opportunity, he or she is deprived of more than income alone.

The deepest deprivation is *the loss of true freedom.* Those who are jobless through no fault of their own—particularly young people with no previous employment experience—face gigantic obstacles in trying to attain human dignity, respect, self-respect and participation in power.

In some parts of the world job opportunities are guaranteed by dictatorial planning. The central statist planners recognize the need for paid employment, and may even be willing to have people on payrolls without really *earning* their wages or salaries. But they claim that the price people must pay to meet material needs is the sacrifice of civil liberties and competitive politics. *They join with American extremists in maintaining that genuine full employment cannot even be sought under constitutional capitalism.*

Fortunately, there are those who reject both forms of extremism. They look forward to the possibility of a more responsible and democratic capitalism. Like the Catholic bishops and other religious leaders, they believe that market and non-market processes (always intertwined in one way or another) can be blended together in democratic planning for *genuine freedom* as well as material goods and services.

Let us hope, therefore, that the final pastoral letter will deal with the general principles and processes (not necessarily the details) of statutory decision making for an economy that is drifting, although not yet "going fastest," to ruin.●

OHIO'S FIFTH DISTRICT QUESTIONNAIRE RESULTS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LATTA. Mr. Speaker, for the benefit of my colleagues in the House of Representatives, I want to share the results of my 1984 opinion poll of the Fifth District of Ohio. As you can clearly see, these results reflect a highly optimist view of our economy, and the vast majority of those responding believe that budget cuts and personal income tax reductions—recommended by the Reagan administration and passed by Congress—are responsible for improving our economic picture.

Many thousands of my constituents took the time to complete this opinion poll, often adding personal comments on matters of importance to this Nation, and I am particularly pleased with the broad understanding they have of the economic and social issues facing us.

I am pleased that so many of my constituents participated, and I submit for the RECORD, the text of my 1984 questionnaire, together with the results of those who responded:

QUESTIONNAIRE RESULTS

	Yes	No	No opinion
1. Do you believe the substantial budget reductions which were made in 1981 and 1982 coupled with the phased-in 25-percent reduction in Federal income taxes has helped set the stage for today's economic recovery?	71	21	8
2. In 1983, a majority of the Congress refused to make further substantial reductions in the budget making it absolutely essential that we do so in 1984 in order to reduce the deficit. There are 3 ways to reduce any deficit. (1) reduce spending; (2) increase taxes; (3) a combination of both. Keeping in mind that President Reagan has said he will not agree to any increase in the income taxes at this time for fear of aborting the recovery and that any additional taxes would have to come from other sources, which of the above three would you prefer? (1), 68 percent; (2), 1 percent, (3), 24 percent; no opinion, 7 percent.			
If you selected No. 1, what percentage reduction would you deem proper: 5 percent, 10 percent, 25 percent, other?			
No. 1: 9 percent prefer 5 percent reduction, 43 percent prefer 10 percent reduction, 37 percent prefer 25 percent reduction, 3 percent prefer other reductions, and 8 percent had no opinion.			
If you selected No. 2, what percentage increase in taxes would you deem proper: 5 percent, 10 percent, 25 percent, other?			
No. 2: 36 percent prefer 5 percent increase, 28 percent prefer 10 percent increase, 4 percent prefer 25 percent increase, 0 prefer other increases, and 32 percent had no opinion.			
If you selected No. 3, state the percentage of the total reduction you would deem proper from: Spending cuts; increased taxes?			
No. 3: 7 percent would cut spending 5 percent, 31 percent would cut spending 10 percent, 8 percent would cut spending 15 percent, 8 percent would cut spending 20 percent, 13 percent would cut spending 25 percent, 11 percent other spending cuts, and 22 percent no opinion on spending cuts. 28 percent would increase taxes 5 percent, 23 percent would increase taxes 10 percent, 6 percent would increase taxes 15 percent, 2 percent would increase taxes 20 percent, 11 percent would increase taxes 25 percent, 10 percent other tax increases, and 20 percent no opinion on tax increases.			
3. From a defense standpoint, do you believe we are in a better or worse position to defend ourselves today than we were 3 years ago? Better, 74 percent; worse, 14 percent; no opinion, 12 percent.			
4. Do you favor a constitutional amendment outlawing abortion except in those cases where it becomes necessary to save the life of the mother?	51	45	4
5. Do you believe that decontrolling natural gas would foster more competition and reduce rates to consumers?	35	54	11
6. Would we be sending a signal for a Communist takeover of Central America if we withdrew from the region as some are now advocating?	61	28	11
7. Do you favor a constitutional amendment which would mandate Congress to balance the budget?	75	19	6
8. The U.S. Senate has passed a bill to impose the death penalty for the commission of certain crimes. Do you favor?	81	14	5
9. I have introduced legislation to permit social security retirees desiring to do so to continue working without suffering a loss of benefits. Should it be passed?	71	25	4
10. Do you favor the passage of any ERA amendment which would not exclude women from being drafted for military combat service?	35	59	6
11. President Reagan has recommended that homemakers be treated the same as wage earners in the family and be permitted to invest up to $2,000 annually in retirement accounts. The maximum is now $250. Do you support the President's recommendation?	89	9	2
12. Do you favor a constitutional amendment to allow voluntary prayer in public schools?	79	19	2
13. I have introduced H.R. 3487, to allow self-employed individuals to deduct one-half of their health insurance premiums for tax purposes. Do you favor?	81	15	4

QUESTIONNAIRE RESULTS—Continued

	Yes	No	No opinion
14. A proposal has been made for a 10-percent flat rate tax with no deductions and an increase in the personal exemption to $2,000. Do you favor this proposal?	65	23	12●

A RESPONSE TO HUNGER

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LELAND. Mr. Speaker, is there hunger in America? To what extent? These are not new queries, but ones which we have heard more frequently in recent months. Certainly, we know that hunger problems in this country exist. We have ample supplies of credible documentation that reveals not only the existence of hunger in America, but the dramatic increases in the numbers of people falling victims to hunger as well.

We have, I believe, reached the point where the question should no longer be: "Is there hunger in America?" We must now ask: "What are we going to do about hunger in America?" Surely, we do not need new studies or reports. We need action. We need to expedite response to the needs of those among our population who lack adequate nutrition because of the inaccessibility of food.

On February 22, the House overwhelmingly approved House Resolution 15, legislation establishing a Select Committee on Hunger. I am honored to have been appointed to serve as chairman of this committee. We intend to work closely with standing committees in the House to develop a comprehensive program of initiatives that will make a solid response to the needs of hungry people in our Nation.

Today, I would like to share with you an article authored by our colleague, Congressman LEON PANETTA. Congressman PANETTA is chairman of the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. I am pleased to say that he is also chairman of the select committee's task force on domestic hunger.

I believe that this article, which appeared in the May issue of USA Today magazine, will afford you an insight into the magnitude of hunger in this country, its effects, and what we—national legislators—can do to eradicate it.

HUNGER IN AMERICA

". . . Poverty-related hunger may be hastening the deaths of some elderly people in this country, imparing the health and development of many young children, and sap-

ping the strength and productivity of adults in the prime of life."

In October, 1983, I received the following postcard from a man from Harrisonburg, Va.:

"Dear Sir: I see that your nutrition subcommittee has been tearing around the country looking for 'hunger,' and castigating the Administration for your imaginary findings.

"There is no such thing as hunger in this country. We are the best fed people in the world.

"You must be nuts."

I wrote back to him, explaining that, difficult as it is to imagine for many Americans, hunger is indeed a serious problem in this country. I enclosed with my letter excerpts from hearings on hunger conducted by the subcommittee I chair and newspaper articles documenting the problem. In late November, I received the following remarkable response from the man from Harrisonburg:

"Dear Sir: I want to thank you for your recent letter and copies of the Congressional Record reporting your investigation of food shortages.

"Judging by conditions here in Va. where unemployment is low I just could not believe that here in a land of plenty people were hungry.

"Thanks for setting me straight."

The views of hunger initially expressed by this gentleman probably are not uncommon in this country. The comments of White House counsellor Edwin Meese in December, questioning the depth and authenticity of the hunger problem, were an indication that even persons with access to the best information in the country could hold similar views. Thus, I think it is important to explain to the public what might have accounted for the change in opinion by the man from Harrisonburg. In addition, I will try to explain what caused the hunger problem and what can be done about it.

I must admit that, until about one year ago, I was quite skeptical of the increasing media reports that hunger in America was growing. Although I knew that many Americans lived below the offical poverty line, I was aware the Federal food assistance programs—such as food stamps, school lunch, and WIC (the Special Supplemental Feeding Program for Women, Infants, and Children)—were greatly expanded in the 1970's and seemed to be successful. Food consumption surveys indicated that the gap between the diets of low-income persons and those of the rest of the population had been greatly diminished between 1965 and 1977. Physicians who found severe nutritional problems in various areas of the country in 1967 found dramatic improvements in nutritional status in those same areas when they returned in 1977. They attributed the improvement to the expansion of Federal food programs.

When I became chairman of the House subcommittee with jurisdiction over various feeding programs in January, 1983, I decided it was important for the subcommittee with jurisdiction over various feeding programs in January, 1983, I decided it was important for the subcommittee, to find out for itself how serious the hunger problem was. Working closely with Bill Emerson (R.-Mo.), the ranking Republican on the subcommittee, we set up hearings in Cleveland, Birmingham, Los Angeles, Chicago, and Miami that were designed to take an objective view of the issue, rather than prove any particular point of view. In addition to soliciting testimony from a broad spectrum of individuals, we visited soup kitchens and other emergency feeding programs in these communities so that we could talk directly with those seeking help and those providing it.

I believe that all Congressmen participating in these hearings were surprised and impressed by both the depth of the problem and the near unanimity of witnesses who described it. Witness after witness described substantial, and in some cases dramatic, increases in the need for emergency food assistance. Almost all spoke out against additional cutbacks in Federal nutrition programs, stating that more, rather than less, assistance was needed. They painted a picture of local government and private, voluntary efforts being stretched to capacity, and beyond capacity, to meet the need. Typical of the testimony we heard was:

"Never has hunger been more acute in Northern Ohio than right now. . . .

"I am sorry to say I think that if we doubled our feeding programs tomorrow, I don't think we would meet the need.—Major Paul Kelly, Divisional Commander, Salvation Army, Cleveland, Ohio, Feb. 28, 1983."

"Now for the last two years, I have seen an emergence of increased hunger in Alabama. We have food pantries which have been developed all across the State in nearly every county. . . . All of these efforts are not meeting the need for hunger in 1983. . . .—Bill Edwards, Alabama Council on Human Relations, Birmingham, Ala., March 25, 1983."

"In October of 1981 we provided food for 947 people. Last month, March of '83, we provided food for 5,588 people. We believe the crisis has come from welfare cuts, unemployment, and from cutbacks of government funded agencies. . . .

"We were established to help people who fell through the cracks of the system. Now the task is impossible. We don't have personnel or expertise or money.—Sister Marilyn Rudy, Founder, St. Joseph's Center Food Pantry, Venice, Calif., Los Angeles, Calif., April 30, 1983."

Similar evidence of the hunger problem has been compiled by the U.S. Conference of Mayors, the General Accounting Office, and many others. While there is no official hunger count in the country and some of the evidence of hunger is anecdotal, the reports and anecdotes have been so consistent across the board that there can be little doubt as to their veracity. Moreover, objective poverty rate data gathered by the Census Bureau lends further credibility to this evidence.

According to the Census Bureau, the poverty rate in 1982 was 15%, the highest since 1965. The number of persons in poverty rose to 34,400,000, an increase of 2,600,000 over 1981 and a total of 5,100,000 over 1980. No matter what measure of poverty is utilized, both the extent and the degree of poverty have grown considerably in the past few years. Rudolph G. Penner, director of the nonpartisan Congressional Budget Office, told a House Ways and Means Subcommittee in October, 1983:

"Although controversy abounds concerning the appropriate definition of poverty and hence concerning the exact proportion of persons classified as poor in the United States (that is, the poverty rate), most alternative measures display a consistent upward trend since 1978. . . .

"Not only as the rate of poverty been increasing, but so has the degree of poverty—that is, the extent to which those in poverty are below the thresholds."

The poverty statistics also refute those who argue that the drop in the inflation rate in recent years has alleviated the problem of poverty. The various measures of poverty take the lower inflation rates into account. Significant increases in the poverty rate have occurred despite the lower inflation rate, and the result has been that more and more people cannot afford to eat properly.

To be sure, America's hunger problem is not as severe as the starvation and famine in Africa. Yet, it is appropriate to describe many of those now seeking assistance as "hungry." Particularly toward the end of each month, many people have exhausted their governmental benefits—food stamps, unemployment compensation—and must turn to soup kitchens and food pantries in order to eat.

In October, 1983, one witness before our subcommittee described a study conducted by a team of medical students. They interviewed a sample of over 400 persons at senior citizen centers, emergency feeding programs, welfare offices, and health clinics and found that most had energy intakes significantly below the minimum levels recommended by the National Academy of Sciences. Many participants indicated directly that they were unable to get enough to eat. In addition, persons seeking emergency food assistance spent, on average, nearly 70% of their total income on food. This was a clear sign that the problem was primarily due to inadequate resources, not poor food choices or other factors.

Unfortunately, it does not appear that 1984 will be much better than 1983 in terms of domestic hunger, despite signs of economic recovery. The U.S. Conference of Mayors reported in October, 1983, that improvements in the unemployment rate have not diminished the demand for emergency food assistance and that little relief was anticipated in the immediate future.

Its survey of 20 cities found that 95% of the cities experienced an average increase in demand for emergency food assistance of 71% in 1983 alone. Seventy per cent of the cities anticipated even greater demand in 1984, while 20% thought it would remain about the same.

Too many persons remain unemployed and many of those now seeking help will be among the last to regain employment. In many areas, jobs have been permanently lost due to the closing down of entire industries. The longer that high rates of unemployment persist, the more people there will be who have exhausted their resources and must turn to public or private charity.

THE EFFECTS OF HUNGER

Last Thanksgiving, I appeared on a television program with a conservative commentator whose opening question was: "Congressman Panetta, how many Americans have recently starved to death?" The obvious implication of the question was that, if no Americans are starving to death, then the problem of hunger cannot be all that serious. I responded to him that this was not an appropriate standard by which the U.S. should evaluate the problem. We do not evaluate the adequacy of our housing by comparing it to thatched huts in under-developed countries, and we should not measure the hunger problem in this country by comparing it to starvation and famine in Africa. Certainly, we should be aware of and respond to the problem far before it reaches that dire stage.

Although I believe instances of starvation in this country are rare, it is not an overstatement to say that poverty-related

hunger may be hastening the deaths of a considerable number of elderly people, impairing the health and development of many young children, and sapping the strength and productivity of adults in the prime of life. Many of the low-income people admitted into hospitals may not have the word "malnutrition" appear on their records, but their inadequate diets may be a major contributor to their susceptibility to disease or a breakdown in normal bodily functions.

New studies confirm what a recognized body of scientific research has long told us—there is a direct connection between nutritional status and health. A Chicago pediatrician told our subcommittee that, between 1981 and 1983, admissions of children to Cook County Hospital for nutrition-related symptoms such as abnormally low weight and height, wrinkled skin, diarrhea, and dehydration rose 24 percent. Alarmed by this increased admission of "failure to thrive" children, the hospital set up a controlled study of children under age two admitted to the emegency room. The major finding was that twice the number of children that one might expect fell into a "high-risk" category of having either low weight, low height, or low weight for height. Of these children, 47 percent were rated as having poor diets.

In Massachusetts, two separate studies released in 1983 has similar findings. One of these studies, conducted by the State Depatment of Health, indicated that nearly 10 percent of poor, pre-school-age children in Massachusetts are suffering from chronic malnutrition. Up to 17,500 children are stunted in their growth, having low height for age levels which is about twice the number expected based on national norms.

As the physician who chairs the Nutrition Committee of the American Academy of Pediatrics told a Congressional hearing on Jan. 26, 1984, additional evidence of medical problems due to the current incidence of undernutrition will probably emerge over time. Undernutrition is not easy to discern, and it often takes sometime for nutrition-related health problems to develop. Unfortunately, by the time such problems are indisputably documented, it may be too late to reverse the effects of undernutrition on the development of some children and the life span of some elderly persons.

In order to understand what we can do about the current problem, it is important to understand what caused it. In its October, 1983, report, "Responses to Urban Hunger," the U.S. Conference of Mayors aptly addressed this question:

"Hunger is a problem created by other problems, chiefly joblessness—which has remained near record levels in the last year and is not expected to decrease substantially in the immediate future. The problem has been exacerbated, clearly, by the recent drastic cuts in federal benefits, and the high cost of basic necessities, such as food, shelter and energy."

Repeatedly in our hearings, witnesses stressed the combined impact of prolonged unemployment and benefit cutbacks as the primary causes of hunger today.

Although current statistics show some improvement, the nation is experiencing the highest sustained rate of unemployment since the Great Depression. During the 1974-75 recession, roughly two-thirds of the jobless received unemployment compensation. In 1982 and 1983, only slightly more than one-third of the jobless got any form of unemployment benefits. The primary reasons for this change appear to be the length of the recent recession (more people thus exhausted their unemployment benefits) and cutbacks in the availability of unemployment compensation pushed through by the Reagan Administration.

A significant cutback in eligibility and benefit levels in a variety of social programs designed to aid the poor has exacerbated the problem. In a report released in the summer of 1983, the Congressional Budget Office estimated that, for the four fiscal year period 1982-85, legislation enacted by the 97th Congress (1981-82) cut the food stamp program by $7,000,000,000 below what it otherwise would have cost. The comparable figure for child nutrition programs (primarily school lunch and breakfast) was $5,200,000,000 (or 28%). Additional cutbacks have occurred in Aid to Families with Dependent Children (AFDC), Medicaid, low-income energy assistance, and housing assistance.

The net result of all these program changes has been a major weakening of the social safety net for the least fortunate in our society. According to the Washington Post, if all forms of direct help for the poor (unemployment compensation, welfare, and food assistance) are lumped together, the purchasing power of these programs, once adjusted for inflation, was $10,000,000,000 Less in 1982 than in 1976, despite an increase in unemployment of almost one-third.

The Reagan Administration has defended its record of feeding the poor by pointing to a significant increase in food aid expenditures between FY 1980 and FY 1983. During this period, however, food prices rose substantially and millions of new people were added to the food stamp program because of high unemployment. Just as it would be unfair to say that the food stamp program has been cut in years when its costs decrease simply because of lower unemployment, it is highly misleading to point to a growth in expenditures without explaining the economic factors that caused it. The plain fact is that a person in need in this country today receives significantly less government assistance than was provided four years ago.

In addition, increased food aid expenditures are not necessarily a sign that low-income people have more money for food. Food stamp costs have increased by several hundred million dollars a year because of the large reductions in programs like AFDC and unemployment compensation. Assistance from these programs counts in determining food stamp benefit levels. For every dollar cut in those programs, the benefit provided to those participating in the food stamp program rises 30 cents. The over-all effect is that these households are poorer than before, despite an increase in their food stamp allotments. If the AFDC program were eliminated altogether, food stamp costs would skyrocket, but no one would contend that poor people would be better off as a result.

The ultimate irony in the Administration's defense of its record on nutrition assistance is that there would have been no significant increase in food assistance spending, despite the recent recession, if the Administration had had its way. While the President achieved most of the social program reductions he asked for in 1981, billions of dollars in additional proposed cutbacks were rejected by Congress in 1982 and 1983. I have no doubt that enactment of his proposals would have added considerably to the hunger problem we face today. One such proposal would have eliminated 700,000 infants, children, and pregnant and lactating women from WIC, the program that provides a specially tailored food package to low-income persons found to be nutritionally "at risk." Others would have made large across-the-board reductions for virtually all food stamp recipients and eliminated the minimum food stamp benefit, paid primarily to elderly and disabled persons.

While the Reagan Administration's budget for FY 1985 is better than its prior proposals for nutrition programs, it fails to be responsive to the hunger problem. Not only does it recommend a significant cutback in the WIC program, but it fails to include several modest food stamp program improvements advocated by the President's own Task Force on Food Assistance. Even this Task Force, which issued a report that was far from the "no-holds-barred" study the President said he wanted, recommended that gaps in the coverage and benefits of the food stamp program be addressed. It is difficult to understand why several of the Task Force's constructive suggestions are being ignored by the Administration.

WHAT CAN BE DONE

The answer to the hunger problem is known. We do not need any new studies, programs, or facilities. We as a society have already proved we can successfully address this issue. It is one area where we know the government efforts really do work.

What is needed now is a broad-based, bipartisan effort to address the hunger issue. Congress has already taken some constructive action in this regard. In 1983, legislation was approved to broaden and improve the program to make surplus commodities, primarily, dairy products, available to those in need and to provide emergency food and shelter assistance to aid local efforts.

Also in the House, approval was given to a low-cost improvement package for child nutrition programs. These changes would restore roughly 10% of the deep reductions enacted in 1981 that have limited the participation and effectiveness of the school lunch and other programs. Thus far, the Senate has withheld endorsement of this legislative package and the Administration has actively fought it, threatening a presidential veto.

Additional changes should be made. Food stamp reforms should be approved to address the most serious shortcomings in that program. At a minimum food stamp benefit levels should be based upon the full cost of the subsistence (Thrifty Food Plan) diet that recipients are supposed to live on, rather than the reduced amount they now receive. Other changes should increase work incentives and make the program more accessible to the working poor and newly unemployed persons, as well as more sensitive to the high fuel costs may participants incur. These changes and other relative to child nutrition and elderly feeding programs were incorporated in HR 5151, the "Hunger Relief Act of 1984," a bill I introduced on March 15, which had 60 bipartisan co-sponsors.

We must redouble our efforts to lower the rate of unemployment and keep it low. What people around the country told our subcommittee they most wanted was not food assistance, but jobs. The country simply must take steps now to increase the number of jobs available and to help individuals and geographic regions adjust to new economic realities. There are a vast number of people around the country who

are willing to work, but need a helping hand in either finding work or acquiring basic skills required in the workplace. This is an appropriate role for government.

It is also important that we, as a caring and compassionate society, fully recognize the terribly high human cost that widespread unemployment brings. Hunger is just one of the many such costs that it imposes. We should resolve that, in the future, it will be unacceptable to address our economic problems through policies that exact such a high price from so many of our citizens.

There is irrefutable evidence of a significant problem of poverty-related hunger in this country today. It is a problem that a country with our vast resources can and should address without delay.

As a member of the Budget Committee of the House, I am acutely aware of the long-term deficit problem now facing the country. We currently lack the resources to engage in massive new social program spending. Yet, if we do not take some action today, the long-term dollar costs of hunger will dwarf whatever costs we might incur in addressing the problem now.

At the 1969 White House Conference on Food, Nutrition, and Health, one participant summarized why it is in our best interest, from both a moral and an economic point of view, to remedy the hunger problem now:

"First of all there is a moral imperative: Our national conscience requires it. We must, because we can. We are the world's richest nation. We are the best educated nation. We have an agricultural abundance that ranks as a miracle of the modern world. This nation cannot long continue to live with its conscience if millions of its own people are unable to get an adequate diet.

"Even in purely practical terms there are compelling considerations requiring this challenge to be met.

"A child ill-fed is dulled in curosity, lower in stamina, distracted from learning. A worker ill-fed is less productive, more often absent from work. The mounting cost of medical care for diet-related illnesses; remedial education required to overcome diet-related slowness in school; institutionalization and loss of full productive potential; all of these place a heavy economic burden on a society as a whole."

I hope we will have the wisdom to heed the words of former President Nixon.●

IN COMMEMORATION OF THE 100TH ANNIVERSARY OF FIRST UNITED METHODIST CHURCH, LONG BEACH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ANDERSON. Mr. Speaker, over a period of a century, a city can experience major changes. This has clearly been the case with the largest city in my district, Long Beach. The past hundred years has witnessed the development of the Long Beach Harbor, the phenomenal growth of the Port of Long Beach, and the burgeoning aerospace and high technology industries, as Long Beach has rapidly expanded to become the sixth largest city in California.

The First United Methodist Church has served as a bulwark of faith during these past hundred years. On July 1, the First United Methodist Church of Long Beach will be commemorating its 100th anniversary. On this auspicious occasion, I would like to take a moment to trace the history of this great institution and reflect on the achievements of the churches' devoted membership.

Over the past hundred years, the First Methodist Church has come a long way. Back in 1884, the Long Beach Land and Water Co., gave the just-formed Methodist Resort Association an entire block of city land on which to construct their house of worship. On April 12, 1885, Rev. George Elwood preached the first sermon in the unfinished structure which still had no seats, doors, or windows. The first sanctuary also served as the Community Civic Center and hosted town meetings, the first high school classes, and commencement exercises. The Tabernacle bell served to call the volunteer firemen.

Since its foundings, the First Methodist Church has played a major role in the Long Beach community. When the city of Long Beach was incorporated in 1888, an ordinance backed by the Methodists, "prohibiting the establishment of saloons, gambling houses, and other institutions dangerous to public health and safety," was passed. This ordinance began a bitter struggle which led to a vote to disincorporate the city in 1897. However, in less than 6 months, having become fed up with the poor level of services, the residents voted to reincorporate.

As the community changed, the Methodist Church was there to ease the growing pains. The Christian education program has broadened to include: Literacy classes; Bible classes for Asian refugees; Filipino outreach with meetings twice a week; senior nutrition program serving 5 days a week; and a ministry to convalescent hospitals. As the community grew, so did the church. The First Methodist Church is now residing in its fourth sanctuary, which was completed in 1971.

Mr. Speaker, my wife Lee joins me in paying recognition to the First United Methodist Church of Long Beach and to its membership. Under the leadership of Senior Minister Dr. David L. Richardson, First Church will continue to play a steadfast role of providing fellowship to the community.●

HONORING THE AMERICANS WHO HAVE DEFENDED OUR SACRED FREEDOMS THROUGHOUT THE YEARS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. YOUNG of Florida. Mr. Speaker, the Memorial Day weekend starts on a particularly reverent note for me tomorrow as I have been appointed to the official congressional delegation to honor the Unknown American killed in Vietnam as he lies in state at the rotunda of the Capitol.

Not only will we pay our respects as a nation to the unidentified Americans who sacrificed themselves in defense of our Nation, but we also continue to demand a full accounting of the 2,500 Americans who are still missing in Southeast Asia and whose whereabouts remain unknown. Tomorrow's solemn ceremony, in one of many tributes we will pay to all of our Nation's military who, throughout our history, bravely served and defended the United States and freedom.

Memorial Day is always a somber day for me as we remember the men and women who died defending our Nation. On the other hand, it is also a very patriotic day which makes me proud to be an American. With an abundance of American flags and bunting we recall the valor of all the past and present members of the military who unselfishly have served and continue to serve our Nation.

It is particularly appropriate that the celebration of Memorial Day this month coincides so closely with our June 6 celebration of the 40th anniversary of D-day, the Allied assault on Normandy, France during World War II. The success of the American Forces leading this invasion was one of the proudest moments in our Nation's history and was a critical event in insuring an Allied victory in World War II.

The toll we paid for victory was high, as 1,465 Americans were killed, 3,184 wounded, and 1,928 listed as missing in the invasion's first day. During the first 2 months of the campaign, 15,700 Americans lost their lives in this continuing effort to preserve freedom for our European Allies.

The magnitude of this military operation remains unequaled, but the spirit, bravery and courage of those involved in the historic D-day invasion is representative of that shown by Americans throughout the course of our Nation's history. As Americans, we are blessed with an inexhaustible desire for freedom and a limitless number of unselfish citizens prepared to sacrifice their lives to preserve our way of life. It is this dedication by all those who have served in our Nation's military

that we pay tribute to on Memorial Day and throughout the year.

Mr. Speaker, Memorial Day is also a time when Americans can be proud that their strong military has not been abused. The United States is not now and has never been a threat to the freedom of any other nation.

We have never used our powerful military strength to eliminate the national identities of nations as the Soviet Union did in the Ukraine and the Baltic States of Estonia, Latvia, and Lithuania. We have never used our military power to oppress the rights of people as the Soviets have done in Hungary, Poland, and Czechoslovakia. We have never created surrogate hoodlums to roam and terrorize the world as the Soviets have done with Cuba and Vietnam. And we have never ever done to another nation what the Soviets have done and are doing today in Afghanistan.

Americans have every right to be proud that the United States and those Americans who have served in our armed services have stood as a gallant symbol of freedom and liberty throughout the world and it is good that we honor them on Memorial Day.●

ADMINISTRATION ATTACKS PAY EQUITY AGAIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Ms. OAKAR. Mr. Speaker, yesterday's Washington Post featured two articles regarding the administration's opposition to a pay equity study in the Federal Government and their underhanded attempt to create discord and confusion among supporters of my pay equity legislation.

Last week, my Subcommittee on Compensation and Employee Benefits reported out a bill mandating the Office of Personnel Management to conduct a study to determine whether sex-based wage discrimination exists within the Federal classification and pay systems. Simply stated, the supporters of this legislation want an in-depth explanation of why the majority of federally employed women earn nearly $10,000 a year less than the majority of federally employed men, and why the majority of these women are clustered in the lower grades.

If the study shows that the Federal Government's practices are sound and free from discrimination, then we will all be relieved. If the study shows that reform must be made, then we will proceed on that basis. Either way, the Congress, the administration, and most importantly, the Federal work force needs to be assured that equity and fairness exist in the Federal personnel system.

Unfortunately, officials at the Office of Personnel Management have other ideas about the study. A memorandum from James L. Byrnes, Deputy Associate Director for Staffing at OPM, to Donald J. Devine, Director of OPM, dated May 14, 1984, stated that OPM could use the study—which they have publicly opposed—to the advantage of the Reagan administration by pitting union against union and both against radical feminist groups. Interestingly, Director Devine held a meeting on Tuesday of this week with a variety of labor unions to warn them against the dire implications of my legislation; specifically, that the study would mean a downgrading of many blue-collar jobs.

Mr. Speaker, we do not have to call in Sherlock Holmes to figure out what the administration is up to this time. It appears obvious to me that the administration is determined to oppose pay equity at all costs.

My legislation does not pit men against women or union against union. In fact, language contained in the bill would guarantee that no position is downgraded as a result of any recommendations coming out of the study. It simply asks the largest employer in the Nation to take a look at its own employment system and to determine if the system is operating within the law.

As chair of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits and as the major sponsor of the Federal pay equity bill, I am concerned with the implications of the Byrnes memorandum for politicizing the entire classification system in the Government. In this regard, my subcommittee will be conducting a hearing on Wednesday, May 30, 1984, at 9:30 a.m. in room 311, Cannon House Office Building, to receive testimony concerning the circumstances and consequences of the memorandum.

Mr. Speaker, I would like to submit for the RECORD a copy of the OPM memorandum and the news stories.

Thank you, Mr. Speaker.

The memorandum and news stories follow:

[Memorandum]

Subject: Pay Equity Bill.

From: James L. Byrnes, Deputy Associate Director for Staffing.

To: Donald J. Devine, Director.

In reviewing our options on standards setting and job evaluation, it occurred to me that we have not adequately investigated one option. This is especially pertinent now since Bob Moffit tells me there is good chance the House might pass Representative Oakar's pay equity bill.

We know that a "comparable worth" system will not work. We do know, however, that job evaluation systems can be biased to produce the results favored by proponents of comparable worth, i.e., equal wages for male and female occupations. I recently referred to you an article which showed how certain standards could be manipulated so that any job evaluation technique could have male and female-dominated occupations paid equally.

If the Oakar bill passes, it would be a tremendous opportunity for OPM to develop a real comparable worth system, and show how preposterous it would be. The Federal Government's classification systems—which OPM has tried to change for years—are confusing and inefficient, in any event, so a little more irrationality wouldn't hurt that much. But it would show a clear picture to the private sector about how ridiculous the concept of comparable worth is, and that in fact it is only job discrimination. It is truly wage setting by administrative fiat. Only in this case, it would be under your control.

The political possibilities of this situation should not be underestimated. By doing job evaluation across clerical and blue-collar occupations a comparable worth study would immediately divide the white-collar and blue-collar unions. This would not be limited to those in the Government, although there are a large variety there who also represent outside interests, but it would also directly affect the private sector unions. Since our occupational standards are often applied outside Government, private sector unions could not afford to let the Government go too far. The blue-collar craft union would especially be concerned, since they would be the inevitable losers in such a comparable worth adjustment process. Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency of the left. Rather than allowing Oakar to manipulate the administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups.

This situation presents opportunities that we should not ignore. Of course, it is a dangerous course, but it might change the nature of the whole debate on comparable worth.

OPM WEIGHS ESCALATION OF WAR BETWEEN SEXES

(By Cass Peterson)

A high-ranking official at Office of Personnel Management has a plan for turning the issue of "comparable worth" to the Reagan administration's political advantage by "pitting union against union and both against radical feminist groups."

James L. Byrnes, a deputy associate director at OPM, laid out the strategy last week in a memo to OPM Director Donald J. Devine, warning that "there is a good chance" the House will pass legislation requiring equal pay for government jobs comparable value.

If the so-called "pay equity" bill passes, Byrnes wrote, "it would be a termendous opportunity for OPM to develop a real comparable worth system, and show how preposterous it would be."

Byrnes refers to a bill, sponsored by Rep. Mary Rose Oakar (D-Ohio), that would require OPM to identify and correct any pay discrepancies between female-dominated and male-dominated government jobs.

Oakar's measure was prompted by a federal judge's ruling last November that 15,000 women working for the state of Washington were systematically underpaid for jobs that required the same levels of skill and responsibility as job classifications filled predominately by men.

"The political possibilities of this situation should not be underestimated," Byrnes wrote. ". . . Rather than allowing Oakar to

manipulate the administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups."

Patrick Korten, an aide to Devine, said the OPM director had just looked at the May 14 memo "and we're not going to have any comment on it."

"The general thrust is to suggest that we somehow endorse the pay equity bill when in fact our strong inclination is to oppose it," Korten said.

However, Byrnes' memo suggests that the OPM already has been considering the pay equity question in the context of its overall job-reclassification program.

"We know that a 'comparable worth' system will not work," the memo stated. "We do know, however, that job evaluation systems can be biased to produce the results favored by proponents of comparable worth, i.e., equal wages for male and female occupations."

Byrnes added: "I recently referred to you an article which showed how certain standards could be manipulated so that any job evaluation technique could have male- and female-dominated occupations paid equally."

Byrnes, a onetime aide to former Senator Richard S. Schweiker (R-Pa.) who worked under Schweiker at the Health and Human Services Department until moving to the OPM last year, did not return phone calls.

But according to his memo, a comparable-worth study of the sort envisioned by Oakar "would immediately divide the white-collar and blue-collar unions," both inside and outside the Government.

Blue-collar craft unions would be particularly concerned, Byrnes said, "since they would be the inevitable losers. . . . Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency."

Oakar, however, said that her legislation would forbid salary cuts as a way of equalizing pay for comparable jobs. "We're not prejudging what the study will say," she said, "but in order to not allow this to be a confrontation between men and women, we put into the legislation that it cannot detract from anyone's salary."

Meanwhile, Oakar has a strategy that may make it more difficult for the administration to oppose the comparable-worth bill. In a committee markup today, Oakar said, she will attempt to blend her bill with two Senate-passed measures, including a restructuring of the merit pay system that OPM Director Devine has strongly supported.

BLUE-COLLAR UNIONS WARNED ON PAY EQUITY BILL

(By Mike Causey)

Unions representing many of the government's half-million blue-collar workers were called to the Office of Personnel Management yesterday and warned that some of their members might suffer if a pay equity bill before the House is enacted into law.

The House Post Office-Civil Service Committee is expected to approve a merit pay plan today covering government supervisory personnel. That bill is tied to a measure, introduced by Rep. Mary Rose Oakar (D-Ohio), that would require the government to complete within seven months a study of its pay and classification system, to see if it discriminates against women.

Although women outnumber men two to one in government, most women are concentrated in the eight lowest pay grades. Most women are in white-collar (clerical, professional and administrative) jobs. Most blue-collar positions (electricians, carpenters and skilled crafts) are held by men. The two pay systems are very different.

At the OPM briefing, director Donald Devine and top aides explained that the Oakar bill could present "problems" for blue-collar workers.

"We got the message that he [Devine] felt he might be forced to combine the blue-collar and white-collar pay systems if the study is made and that our blue-collar people would be the losers," one union official said.

OPM originally invited four unions—the Metal Trades Council, the National Association of Government Employees Union, the Laborers International Union and the Teamsters—to the meeting. According to the Mailgrams they received, OPM wanted to discuss the possible "integration" of the pay systems.

But when other unions got wind of the meeting late Monday they complained, and eventually got invitations, too. Those added were the American Federation of Government Employees and the National Federation of Federal Employees.

"We walked in expecting to hear about some OPM pay integration plan, but were treated to a lecture, complete with slides, from Devine," said George Hobt, of the AFGE. "They kept talking about 'the bill.' It was some time before any of us understood he was talking about Oakar's pay equity bill."

An OPM spokesman said the purpose of the session "was not to say what we necessarily are or are not going to do . . . but to ask them if they knew what the Oakar bill would do.

"For example," he said, "It calls for a study. Sounds simple. But remember Washington State did a similar study. Somebody [the American Federation of State, County and Municipal Employees] took the study to court."

The study showed that many female-dominated jobs of "equal worth" paid less than male-dominated jobs. At a federal judge's order, Washington has had to make pay adjustments for those underpaid employees.

The OPM official said unions were also urged to consider "what kind of impact the Oakar bill would have on the blue-collar and white-collar wage systems." The latter, with 18 grades, "is a factor evaluation system where pay is based on job requirements, skills and experience. Only 2 percent of the job component is based on environmental factors" such as difficult, or dangerous working conditions, the official said.

"The blue-collar system," he said, is "loose, and is linked to 39 key jobs. It is not a very formal system, is based on local pay rates in the private sector.

"Take a sheet metal worker: messy working conditions . . . with pay based in part on comparison with the private sector. It could be considered 'unskilled' labor, but the sheet metal worker makes more than a secretary. We would be asked to compare apples and oranges" by the Oakar bill, he said.

A spokesman for Oakar's subcommittee said that while the OPM meeting came as a surprise, "all they did was raise all the traditional arguments against pay equity.

"OPM was not being truthful when it raised the specter of blue-collar workers being forced to take a pay cut," the spokesman said. "The Barnes language in the bill [introduced by Maryland Democrat Mike Barnes] specifically prohibits anybody's pay from being cut because of this legislation.

"What the OPM meeting tells us," the spokesman said, "is that Devine and the administration are scared of this bill and are looking for ways to try to get unions to oppose it by setting blue-collar against white-collar, and men against women."●

A CONGRESSIONAL SALUTE TO MRS. MARGARET J. VINEYARD, OUTGOING COUNCIL MEMBER FOR THE CITY OF HAWAIIAN GARDENS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ANDERSON. Mr. Speaker, on May 30, a recognition dinner will be held to honor outgoing Hawaiian Gardens Council Member Margaret J. Vineyard. I would like to take just a moment to publicly congratulate Mrs. Vineyard on a job well done.

As a council member for the city of Hawaiian Gardens these past 4 years, Margaret Vineyard has devoted many hours in helping make the community a better place to live and work. During this period, she has time and again demonstrated the practical knowledge and keen insight necessary to conduct the city's business in an efficient and effective manner.

A member of the Hawaiian Gardens Chamber of Commerce since 1977, Mrs. Vineyard was the 1981 businessperson of the year and she is this year's recipient of Cerritos College's Women's Achievement Week Award.

In addition to her official civic duties, Mrs. Vineyard has been actively involved with the MORE nutrition council project, the Community Advisory Board for Commercial Bank of California, and the Manuel Nieto National Business & Professional Women Club, Inc.

Recently, Mrs. Vineyard was appointed by Governor Deukmejian to chair the new bureau of automotive advisory board within the State's consumer affairs department. She has also been nominated by the President to serve as a standing member of the Selective Service Board and has worked closely with State Senators Carpenter and Speraw.

"Maggie" Vineyard has been a driving force in and around the city of Hawaiian Gardens. Her achievements are many and you can be sure that they are appreciated by us all.

My wife, Lee, joins me in commending Mrs. Margaret J. Vineyard on a job well done and we wish her and her husband, Richard, her daughter, Shirley, and her inherited children Donald Stewart, Latreasa Harris, and Nick Stewart all the best in their future endeavors.●

POLISH AMERICAN HERITAGE MONTH

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BORSKI. Mr. Speaker, I am very proud today to introduce with my good friend from Chicago, Mr. LIPINSKI, and 111 original cosponsors, a joint resolution designating August 1984 as "Polish American Heritage Month." I urge our colleagues to join with us in support of this resolution.

I insert the text of the resolution in the RECORD:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas since the first immigration of Polish settlers to Jamestown in the 17th century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of the United States of America in the arts, sciences, government, military service, athletics, and education;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Sons of Poland came to our shores to fight in the American War for Independence and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled after the Constitution of the United States, is recognized as the second written Constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor Poland's greatest native son, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Laureate, Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August of 1980 and is continuing its struggle against the oppression of the Polish Government; and

Whereas the Polish American Congress is observing its fortieth anniversary this year and is celebrating August 1984 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 1984 is designated "Polish American Heritage Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.●

PRESERVE THE POLLUTION CONTROL GUARANTEE PROGRAM

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BEDELL. Mr. Speaker, this week 38 members of the House Small Business Committee sent a letter to the House and Senate conferees on the tax bill to urge them to preserve the Small Business Administration's pollution control guarantee program. The letter is an important step in the continuing efforts of the Small Business Committee to save this vital program.

The SBA's pollution control guarantee program is a vital one for small businesses because it gives them opportunities similar to big businesses to finance Government-mandated pollution control equipment. Under the program's authority, the SBA guarantees tax-exempt bonds issues used by small businesses to finance their pollution control equipment, allowing them to obtain long-term reasonable rate financing for this important purpose. Unlike big businesses, which can easily float tax-exempt pollution control bonds in the marketplace, small businesses need these guarantees in order for them to be able to issue their bonds.

In addition to being an absolutely vital lifeline for small businesses, the program has been a glowing success at the SBA. It has even generated revenue for the Federal Treasury from the management fees collected from the participating small businesses. The management fee is supposed to cover the SBA's losses from the program, but the default rate has been so low that SBA has been able to cover the program's minimal losses with the interest earned on the loan reserve pool.

Mr. Speaker, earlier this year the Small Business Committee wrote to the members of the Ways and Means Committee to bring to their attention an oversight in the IDB provision of H.R. 4170 that could possibly have crippled the SBA program. The cooperative efforts of both committees helped to carve out an exemption for this important small business program in the tax bill.

However, the language adopted by the House on H.R. 4170 was technically incorrect, leading the members of the Small Business Committee to urge the tax bill conferees to adopt the technically correct Senate version in the conference bill.

We greatly appreciate all the efforts in both the House and the Senate to work out a way to save the SBA's pollution control guarantee program. I am sure that we can agree to pursue this most effective avenue to assure that small businesses in America will not be at a competitive disadvantage to their big business competitors.

At this point, I include in the RECORD the letter that 38 members of the House Small Business Committee sent this week to the tax bill conferees.

The letter follows:

COMMITTEE ON SMALL BUSINESS,
Washington, D.C., May 22, 1984.

Hon. DAN ROSTENKOWSKI,
Rayburn House Office Building.

DEAR DAN: We are writing to urge the House and Senate conferees on the tax bill to preserve the Small Business Administration's pollution control guarantee program. Although both the House and Senate tax bills contain special references to this vital small business program, the Senate language is necessary to assure its continued existence.

The SBA pollution control guarantee program has developed excellent credibility and a first class reputation among lenders and participants. Since its inception, the program has helped over 200 small business tap long-term capital markets. In addition, the default rate has been so low that the interest earned from management fees has been enough to cover program losses. This SBA program allows small businesses to finance government mandated pollution control equipment on the same terms as big businesses. Because of the pending environment regulatory agenda, the small business community's reliance on this program is expected to increase, making its continued operation even more pressing.

The House agreed to exempt this SBA program in Section 722 of H.R. 4170. However, the amendment made by Sec. 713 to Sec. 103(h)(1)(A)(i) of the Senate tax bill is statutorily consistent with Sec. 404 of the Small Business Investment Act of 1958. Because of our desire to avoid any bureaucratic misinterpretations of the Congressional intent, we urge you to accept the Senate language for inclusion in the Conference bill.

Sincerely,

Parren J. Mitchell, Berkley Bedell, Ike Skelton, Thomas A. Luken, Joseph P. Addabbo, Andy Ireland, Henry J. Nowak, Norman Sisisky, Neal Smith, Buddy Roemer, Henry B. Gonzalez, Charles Hatcher, Nicholas Mavroules, Robin Britt, Esteban Edward Torres, Jim Olin, Richard Ray, Dennis E. Eckart, Gus Savage, John J. LaFalce, Tom Vandergriff, Charles A. Hayes, Joseph McDade, Silvio O. Conte, Hal Daub, Dan Schaefer, Gene Chappie, Sherwood Boehlert, Lyle Williams, Toby Roth, Chris Smith, Guy V. Molinari, David Dreier, Michael Bilirakis, Charles W. Stenholm, Ron Wyden, Vin Weber, and William S. Broomfield.●

MORTGAGE INTEREST DEDUCTION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from

my friend and constituent, James E. (Pat) Higgins, Jr., an attorney in the firm of Rogers, Higgins, Atkins & Hawes, of Hopkinsville, Ky.

In his May 10 letter to me, Pat Higgins urges Congress not to disallow the deductibility of mortgage loan and other loan interest on income taxes. I strongly agree with his concerns.

I am certain my colleagues will be interested in his comments, which follow:

ROGERS, HIGGINS, ATKINS & HAWES,
ATTORNEYS AT LAW,
Hopkinsville, Ky., May 10, 1984.

Hon. CARROLL HUBBARD,
Member of Congress,
Washington, D.C.

Re: Home Mortgage Interest Deduction

DEAR CARROLL: I have been alarmed recently by the seeming willingness of some members of Congress and the President, to consider disallowing as a deduction on the Federal income tax return of the interest paid on home mortgage loans and other loans.

The interest deduction is the most beneficial deduction for me and, I am certain, for many thousands of your constituents. The deductibility of interest payments is an important consideration when we consider purchasing homes, cars, and other major products which must be financed. So the deductibility of interest payments is vital, not only to the middle class taxpayer but also to business. It would seem to me that the home building industry and all businesses connected with the buying and selling of real estate, would be destroyed by disallowing the deduction of mortgage interest payments. Nor do I see how the automobile industry or the manufacturers and retailers of home appliances could survive if interest payments on loans to purchase the products were disallowed as a deduction.

I realize that the proponents of such a thing would propose other tax relief but what security could people have in such changes.

To me, the deductibility of interest is amost a sacred precept, being, as it is, an indispensable underpinning to my financial stability and to the financial stability of our economy.

I trust that you will vigorously oppose any and all attempts to disallow interest payments as a deduction.

Best wishes.

Yours very truly,

JAMES E. HIGGINS, Jr.●

A TRIBUTE TO OTTO GRAHAM OF THE U.S. COAST GUARD

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. KEMP. Mr. Speaker, in June of this year, the Coast Guard will be losing a great American when Capt. Otto Graham retires. He has spent 21 years with them, the last 14 years as director of their athletics department.

Captain Graham was no newcomer to leadership in sports when he joined the athletics department at the academy. He was the first person to play both professional football and professional basketball. He was a quarterback for the Cleveland Browns as well as a forward for the Rochester Royals—now the Cincinnati Royals in the NBA.

Captain Graham attended Northwestern University on a basketball scholarship, but his football potential was soon realized. He is the only collegian to have ever made All American in two sports in the same year, football and basketball. In 1943, he was selected to receive the Chicago Tribune Trophy as the most valuable player in the western conference. He twice played with the college all-stars and each time, the collegians outplayed their opponents.

Following graduation, Graham became a naval air cadet until the end of World War II. While stationed at Chapel Hill, N.C., he first became familiar with the "T" formation for which he is so famous.

After the war, Graham was signed by Coach Paul Brown of the Cleveland Browns. In his years with Cleveland he achieved an outstanding record of 94 wins, 15 losses, and 3 ties. This impressive record also included 10 straight championships and playoff games.

After his 1955 season, the greatest quarterback in history retired. In 1959 he was named to the College Hall of Fame, and in 1965 to the Professional Football Hall of Fame.

It was on February 27, 1959 that Graham began his successful career with the Coast Guard when he was commissioned a commander in the Coast Guard Reserve. He was then assigned to be head football coach and director of athletics at the Coast Guard Academy in New London, Conn.

In 1963 Commander Graham led the academy to its first undefeated, untied season, and they also participated in their first bowl game.

In 1956-66, Graham was named head football coach and general manager of the Washington Redskins. He spent 3 years with the Redskins, and in 1966, he led them to their best season ever, with a 7 and 7 record.

Graham returned to the academy as director of athletics on March 15, 1970, with the rank of captain.

Over the past 14 years Captain Graham has time and again shown the cadets of the academy, what it means to be a great person and a fine sportsman, through his teaching on the field, and the example of his life.

Mr. Speaker, Otto Graham is a good friend, and I would like to ask all of my colleagues to join me in wishing him continued success. He, like the great Thomas Moore, is truly, "a man for all seasons."●

POLITICAL ASYLUM IS UNDER ATTACK

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ACKERMAN. Mr. Speaker, as the contentious issue of immigration reform continues to work its way through the legislative process. I believe it is important to remember that there are other issues in addition to employer sanctions and an amnesty program which will be considered when this bill ultimately reaches the floor of the House. A significant aspect of the Simpson-Mazzoli package that has not received much public attention makes sweeping changes in our asylum adjudication procedures. As a nation which has always stood for democracy and freedom, the United States has traditionally served as a refuge for those individuals who flee their home country for fear of persecution or a threat to their lives. Many of the proposed changes in the immigration law would significantly affect America's place as a haven for these brave people.

I would like to take this opportunity to commend to my colleagues an article written by Arthur Helton of the Lawyers Committee for International Human Rights. This piece outlines many of the legitimate concerns that have been raised about the impact of Simpson-Mazzoli on those seeking asylum in this country.

The article, which appeared in the Los Angeles Times, follows:

[From the Los Angeles Times, Jan. 24, 1984]

POLITICAL ASYLUM IS UNDER ATTACK: IMMIGRATION BILL THREATENS REFUGEES WITH NEW RESTRICTIONS

(By Arthur C. Helton)

A substantial, if little-noted, risk to people seeking asylum in the United States is posed by the Simpson-Mazzoli immigration-reform bill. Debate on that measure (which passed the Senate last year and is still pending in the House) has tended to focus on the wisdom of imposing sanctions on employers for hiring undocumented aliens, and on granting legal status to those who have been in the United States for a certain length of time. Insufficient attention has been paid to other provisions in the legislation that would radically reformulate and diminish the entitlements of those seeking political asylum.

One such new provision is a "summary exclusion" procedure that would entitle the authorities to turn back aliens at the border who have no passports or visa, without giving them an opportunity for a hearing and judicial review.

This radically new procedure would have a serious effect on refugees. As Amnesty International and the U.N. high commissioner for refugees have recognized, persons who flee persecution in their home countries frequently have neither the foresight nor the opportunity to obtain passports or

visas. Indeed, many times they are literally running for their lives.

Often they reach the United States only after a long and perilous journey. They know little about our legal system, and are easily intimidated by uninformed border authorities who are, to the refugees, reminisent of repressive authority figures in their home countries. Even if they are aware of their right to apply for asylum, they seldom do so immediately on arrival, but rather assert such claims only after achieving more secure surroundings.

To permit these people to be turned around at the border without an opportunity to claim asylum would place the United States in violation of its international and domestic legal obligations.

The version of the legislation now in the House would provide that people who would be subject to "summary exclusion" be advised that they have a right to consult with legal counsel (at no expense to the government) before being turned around. Such a safeguard would seem to be a minimum protection in view of the interests involved—life and death.

Another provision would restrict the access of asylum-seekers to the federal courts. The courts have been instrumental recently in correcting the discriminatory and arbitrarty detention of asylum-seekers by the Immigration and Naturalization Service, as well as the ideologically motivated and overly restrictive standards that it uses to determine whether or not persons are entitled to refuge in the United States. While the cases have been few, they have provided relief to thousands of asylum-seekers, most recently Haitians and Salvadorans. Under both Senate and House versions of the legislation, access by refugees to the courts might be restricted. It is crucial that the role of the federal courts in assuring fair consideration for asylum-seekers be maintained.

Finally, the bill recommends asylum adjudication procedures that are unrealistic—for example, in restrictions on the time allowed to asylum-seekers to make their cases. Searching for legal assistance is often an extreme hardship and very time-consuming for these people; many have relied on attorneys working for publicly funded or nonprofit organizations, and the federally funded Legal Services Corp. is currently unable to help provide such representation. Documentation and supporting evidence often must be obtained from abroad in order to make a case.

Overly restrictive time limitations would encourage, at worst, defaults in making claims, with disastrous consequences, or, at best, inefficiency in the form of "protective" or "shell" applications to be supplemented later. Furthermore, the chief immigration judge recently said that the time limitations now in the House version of the bill would require a tenfold increase in the current budget of the immigration court. Such time limitations would be unfair and costly—in both financial and human terms.

There is no question that there is need for immigration reform. Atty. Gen. William French Smith recently decried the fact that 169,000 asylum cases are currently pending. That was something of an overstatement, since two-thirds involved special-status aliens such as Cubans, Haitians and Poles. In any event, most of the pending cases would likely be resolved under the retroactive legalization provisions of the legislation now being discussed.

The United States does have an urgent need to address the refugee/immigration problem. But care must be taken so that the impetus to reform does not translate into violation of constitutional and international principles such as the right to due process. Fair and expeditious consideration of asylum claims is a desirable, humane answer.●

DISREGARD FOR THE LAW

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. OTTINGER. Mr. Speaker, I would like to include in today's RECORD an op-ed by Mr. Anthony Lewis from the New York Times of May 21. Mr. Lewis correctly details the very disturbing trend in this administration to put itself above the law in both foreign and domestic policy.

Whether in mining foreign ports, invading sovereign states, or ignoring constitutional checks and balances, this administration finds exceptions to every law it finds inconvenient to its ideology. I commend Mr. Lewis' article to the attention of my colleagues:

A PROFOUND CONTEMPT

(By Anthony Lewis)

BOSTON, May 20.—A fundamental change is taking place in America, and the world sees it. The most legal-minded of societies, as it has been by instinct and tradition, now has a Government that feels and displays a profound contempt for law.

It is a phenomenon so large that it is hard to see whole. Though Americans are aware of this or that act of official lawlessness, most do not perceive the overall pattern. But Ameican's friends in the world increasingly do, and they are afraid. They do not know how to communicate with a United States Government of such a character.

The concern was dramatically evidenced last week in the visit of Mexico's President, Miguel de la Madrid. From the moment he arrived at the White House he made a point of urging respect for international law. "If we exclude law," he told Congress, "our only alternative is anarchy and the arbitrary rule of whoever is able to impose his will."

That a visiting head of state should feel it necessary to remind the United States of the importance of the rule of law is truly astounding. But then the reality that moved President de la Madrid to speak as he did is hard to believe—hard for me, at least. Who would ever have thought that an American Government would try to flee the jurisdiction of the World Court as if it were running from the sheriff?

Jeane Kirkpatrick, Mr. Reagan's Ambassador to the United Nations, defended the flight from the World Court by attacking its judges. They were chosen, she said, by a process "as non-political as the U.N. General Assembly." The sarcastic implication was that they were a bunch of worthless third-world and Communist types.

But judges from Britain, France, Italy, West Germany and Japan were among those who voted against the American position in the World Court's preliminary decision on a Nicaraguan complaint. The Court was unanimous in ruling that the United States should immediately cease mining Nicaraguan ports.

At home as abroad, the Reagan Administration rejects the rule of law when it finds the law inconvenient. The outstanding current example is again one that I would never have believed possible under any Government of the United States. That is the refusal to respect decisions of Federal courts interpreting the law on disability claims under Social Security.

The U.S. Courts of Appeals and District Courts in various circuits have held that the Social Security Administration read the law too narrowly in rejecting claims. Officials then made the payments to those particular plaintiffs but refused to apply the rule laid down by the court to other cases, even in the same circuit. They said they would only respect a Supreme Court decision—but refused to take the cases to the Supreme Court.

Judge Harry Pregerson of the Court of Appeals for the Ninth Circuit said the policy reminded him of the Southern doctrine of "nullification" before the Civil War, when "rebellious states refused to recognize certain Federal laws within their boundaries." He said the policy "flouts some very important principles basic to our system of government," including "the rule of law."

The refusal to respect those court decisions is also reminiscent of a more recent period of dangerous lawlessness. That was the time after the Supreme Court's school segregation decision of 1954 when some Southern politicians and lawyers argued that the decision affected only the particular plaintiffs and need not be respected as law generally.

The Administration has worked to circumvent rules laid down by Congress as well as by the courts. Last week it was reported that officials have used all kinds of fake bookkeeping and circuitous arms transfers to avoid Congressional limits on spending for military aid and intelligence activities in Central America.

The attitude toward law has ironic overtones in an Administration that calls itself conservative. Fifty years ago the legal realists, radicals of their day, told us that law was not an abstract embodiment of justice but always reflected political attitudes. Now Ronald Reagan and his people have given that view a more cynical turn, reducing everything to power, mocking any idea of independent value in law.

One wonders whether lawyers in this Administration will begin to ask themselves why they should continue to lend their skills to such a Government. After all, they are also officers of the court—of law.

When Richard Nixon challenged his accountability to law, a unanimous Supreme Court—including his own appointees—ruled against him. Something even more flagrant than that is developing now. Ronald Reagan's Administration is telling the world that it is not accountable to any institution: not to Congress, not to the World Court, not to the courts of the United States.●

PROPOSED CONSTITUTIONAL AMENDMENT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SHUMWAY. Mr. Speaker, as the chief sponsor of a proposed constitutional amendment (H.J. Res. 169) which designates English as the official language of the United States, I am deeply concerned with our Nation's ability to effectively assimilate the growing numbers of non-English-speaking immigrants and refugees into American society.

Because the decision to admit immigrants and refugees to our country is a Federal one, I believe the Federal Government has a responsibility to provide services and training to these special individuals. I strongly believe, however, that this assistance should serve to integrate the non-English-speaking populations in America into U.S. society, not to promote the segregation of America's immigrants. Rather than encouraging the adaption of immigrants to the speech and customs of their new homeland, the Federal Government is prolonging their assimilation by sponsoring bilingual programs which enhance dissimilarities between immigrants and the mainstream of American life and thus which inhibit the process of acculteration.

A major example of such programs is bilingual education, the primary method utilized for increasing limited English proficient (LEP) students' proficiency in English. This method was essentially institutionalized by the Federal Government in 1975 when the Department of Health, Education and Welfare developed guidelines, the "Lau remedies," which require school districts to provide instruction for LEP students in their native language as a condition for eligibility for Federal funds. Despite the fact that little evidence has been produced to prove bilingual education's effectiveness in making LEP students proficient in English and moving these students into the mainstream of U.S. society, it continues to be utilized almost to the exclusion of alternative approaches.

Given the considerable doubt which surrounds the value and effectiveness of bilingual education, I believe it makes little sense for the Federal Government to continue to devote scarce dollars to this instructional approach. Moreover, given the diversity of LEP students throughout America, I have serious reservations about the Federal Government prescribing to school districts a specific approach to remedy the problem of educating America's LEP students.

The Reagan administration recognizes this and has submitted legislation (H.R. 2682) allowing school districts to decide for themselves which instructional approach is best suited to the unique needs and circumstances of their LEP students. This legislation, as well as House Joint Resolution 169, provides for instruction in a language other than English, but emphasizes that such instruction is for the sole purpose of making LEP students proficient in English. These proposals, in my view, correctly move away from the prevailing one-sided emphasis on the bilingual approach, as embodied in pending legislation (H.R. 5231), toward broadening the instructional methods for serving LEP students.

Mr. Speaker, it is clear that proficiency in English is integral to our Nation's immigrants and refugees becoming full and productive members of society. We must, therefore, move away from programs which are of dubious value in facilitating the learning of English and which may actually impede the assimilation of our Nation's LEP population into the American mainstream. To continue to rely on such programs is to tragically keep many of America's linguistic minorities forever on the fringes of America's English-speaking society.

Mr. Speaker, I would like to call to the attention of my colleagues an article which appeared in the Washington Times on May 22. This article underscores the importance of English proficiency for our Nation's linguistic minorities and notes important lessons our Nation can learn from the Canadian experience with bilingualism.

The article follows:

[From the Washington Times, May 22, 1984]

A LESSON IN BILINGUALISM

(By Rusty Butler)

The May 8 attack on the Quebec National Assembly has focused attention again on the bilingual/bicultural problems of Canada. Hopefully, the incident will give Congress food for thought as it considers pending bilingual education legislation.

Separate House bills portend distinct directions this nation may take in education and in politics. Reagan administration bill H.R. 2682 alters the course of bilingual education since Title VII of the Elementary and Secondary Education Act became law in 1968. Conversely, H.R. 5231, favored by the NEA and most ethnic groups, further entrenches traditional bilingual education at a greatly increased level of funding. The House Education and Labor Committee recently approved a so-called compromise bill, H.R. 11, which avoids the real issues by maintaining the status quo.

The administration wants to establish learning of English as the primary purpose of bilingual education, and allow school districts the choice of educationally sound methods for achieving that goal. In contrast, H.R. 5231 and H.R. 11 would dwell heavily on the child's native language and culture through transitional bilingual education.

The big gun in the administration's arsenal is a 1981 Department of Education report, Effectiveness of Bilingual Education: A Review of the Literature. This study concludes that no single method for teaching English is superior to another. If accurate, its implications for the traditionalists are devastating. To date, the bilingualists have found nothing which invalidates the basic finding of the report (including a critical study by the American Psychological Association in 1982 for the Congressional Hispanic Caucus).

Notwithstanding the educational implications of the House resolutions, the potential political impact is profound. Numerous statements by Hispanic groups clearly reveal their views of bilingual education as an important tool for preserving and promoting their language and culture. They intend it as a means of achieving their political and social aspirations, and legitimizing their distinctive heritage and standing as a separate ethnic group in our nation.

Few will argue against the desirability of pride in one's culture and heritage. However, when that pride promotes linguistic and cultural separation, problems inevitably follow. Social scientists have pointed out that the failure (or refusal) to learn the common language of a host country makes it far easier, even emotionally desirable, to stay within the ethnic group for social and institutional life, and for close friendships. Gone are the incentives to interact with "outsiders" or even change residence.

Worse yet, the economic prospects for an already financially depressed minority are bleak. As a group, Hispanics earn far less than the national average. Yet this is a nation where economic advancement is greatly enhanced by knowing the English language. A few years ago one writer even referred to bilingual education as "training for the ghetto."

Some political scientists have argued that no parallels can be drawn between Quebec and our bilingual problems here. As a resident of Canada during the 1960s and 1970s, and as a close observer of their bilingual/bicultural evolution, I choose to differ. True, the situations are not exactly the same, but there are similarities.

Already New York, Los Angeles, and other major cities have large Hispanic populations. In the not-too-distant future several cities and states will count Hispanics as majority. Then what, if we continue on the path of separate language and culture instruction?

One proposed solution, which would resolve both the bilingual education issue and potential Quebec-style problems, is a constitutional amendment making English the official language of the United States (S.J. Res. 167 and H.J. Res. 169). Critics are quick to cry "ethnocentric and xenophobic" whenever the amendment is discussed but, beyond meaningless name-calling, they have not offered any rational alternatives.

Today we stand at a crossroad. The results of congressional decisions on the pending House bills and the proposed amendment will have far-reaching implications for our nation's future. Either we blend our pluralism into a harmonious unity, or we may find ourselves retracing Canada's footsteps.●

REMARKS OF GOV. JIM HUNT OF NORTH CAROLINA

HON. IKE ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ANDREWS of North Carolina. Mr. Speaker, I include the remarks of Gov. Jim Hunt delivered on May 9, 1984, at the North Carolina Federation of Chapters of the National Association of Retired Federal Employees:

REMARKS BY GOVERNOR JIM HUNT: NORTH CAROLINA FEDERATION OF CHAPTERS OF THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES

As the son of a soil conservationist and retired federal employee, and as someone who hopes to work very closely with federal employees one day, I want to welcome all of you to your state capital and to your 1984 convention.

I recognize many good friends here tonight. If I get to choose who will introduce me to St. Peter, I intend to choose Buck Buchanan because he makes the best introductions I have ever heard.

Charles Lehning did a great job planning this program, and I know you are in good hands with Dr. Roy Lovvorn presiding. I want to thank your president, Aaron Berryhill and welcome L. J. Andolsek, your National Association President, to North Carolina.

I cannot think of a more fitting place for us to join together tonight to celebrate the contribution of North Carolina's approximately 40,000 retired federal employees.

This historic chamber represents the "heart of our democracy." This is the home of open debate, free speech, the give and take of representative democracy.

But your deeds, your service, your dedication and determination to make government work for people, all that adds up to the "true soul" of our system of government.

So tonight we gather in these hallowed halls to celebrate and honor those who have served the government—which means the "people"—of North Carolina and America.

That sort of old-fashioned respect for government workers seems to be out of style lately. I know all of you are only too familiar with politicians running against the "bloated, fat, wasteful" bureaucracy in Washington.

They say government is "the problem". They are wrong. They are the problem.

This nation achieved greatness with an affirmative, positive government of the people.

I cannot understand how some people can make blanket condemnations of a government that educates a child, a government that helps a family buy a home, a government that helps a farmer till the land in a way that conserves the soil—and hopefully buy his farm.

I am reminded of the fellow who went to school under the GI bill, married a public health nurse, bought a home through the FHA and had the REA run electricity to his house. The house was near a new interstate highway; his parents had a nice living on Social Security, and he got a job teaching at a state university.

One day he wrote his Congressman protesting high taxes and "wasteful government spending." "I believe in rugged individualism," he said, "and I think people ought to stand on their own two feet and not expect government handouts."

I know that all of you have been the muscle and bone of our government of the people. I know you were the soil conservationists, the home economists, and the agricultural experts. You represented government in health, education, transportation, justice and our Postal Service.

There may even be some former IRS employees here. We may not have always loved you and the IRS, but we respected you. And you collected taxes that paid for programs we value.

From what I hear, North Carolina's federal employees do not stay retired very long. I know your chapters are involved in charitable campaigns such as the United Way, Red Cross, Easter Seals and many others. Several of your chapters helped in disaster assistance during the recent tornadoes in Eastern North Carolina.

You are active in your churches and your committees. Since you don't have to worry about the Hatch Act now, I hear you are even doing a little politicking.

But you are making these contributions to your communities while your association's leaders are fighting hard to represent you before the very government to which your devoted your professional careers.

I know you health benefits are going down, and deductibles are going up. Hospital costs are rising two to three times faster than inflation.

We do not need to be reducing benefits and access to health care. Instead, we need to cut hospital costs by encouraging states to create incentives for hospitals to hold costs down. Whenever possible, we need to reduce the duplication of services.

I know your cost-of-living adjustment has been postponed again. Year in and year out, you have been asked to sacrifice. So you cut back on how you live. You tighten your belt.

Yet the federal deficits keep "piling up." I think those who have been asked to sacrifice in the past should not be asked to make further sacrifices until the scale levels off and everyone makes an equal sacrifice.

We can begin to balance that scale by closing unproductive tax shelters and loopholes. We can reduce wasteful spending in the military—the only place I know of where a 50-cent bolt can cost hundreds of dollars.

We need to go after tax cheaters who reduce federal income tax revenues by 25 percent every year. Oil companies making windfall profits need to pay their fair share. There are equitable and fair answers—if only our government will look for answers instead of "scapegoats."

I think federal employees should be able to retire with dignity. They should not have to fight for respect. You are taxpayers. You are public servants. You are the people who make our government and our country work.

We need to recapture that "caring attitude" in our government. We need a government that is in partnership with business and education. We need a government that believes in building people up, not tearing people down.

And we need elected leaders in government who understand, respect and try to help those who commit their lives to public service.

For caring, for building, for adding to an American legacy of greatness in government, I thank you. In your faces, I do not see retirement, I see rejuvenation. I see the strength of North Carolina and America.

And I know that our best days can lie ahead.●

A CONGRESSIONAL SALUTE TO DONALD E. SCHULTZE, OUTGOING COUNCIL MEMBER FOR THE CITY OF HAWAIIAN GARDENS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ANDERSON. Mr. Speaker, Mike's Restaurant will be the site next Wednesday, May 30, for a recognition dinner to honor Donald E. Schultze on his retirement from the city council of the city of Hawaiian Gardens, Calif.

Don, who also served as mayor, has served on the Hawaiian Gardens City Council for 12 years. In 1968 he was appointed as recreation commissioner—reappointed in 1972; in 1974 the city council appointed him to the city planning commission—reappointed in 1979; and, in 1980, he was elected to the city council.

He has been recognized by the California Parks and Recreation Society for his outstanding and dedicated service in the field of recreation and has been involved with numerous civic organizations. These include the Hawaiian Gardens Little League, Hawaiian Gardens Football for Youth—president, Cerrwood Bobby Sox—president, Pony-Colt Baseball—organizing president, Hawaiian Gardens Lion's Club, California PTA, and the Los Angeles County District Attorney's Association.

In addition to this, Don has received an award from Rancho Los Cerritos Board of Realtors for his efforts in behalf of Hawaiian Gardens' residents. Further, he was appointed to serve on the Los Angeles Countywide Citizen Planning Council, was a member of the California League of Cities State Community Development Committee, and was vice chairman of th California Contract Cities Select Committee.

Over the years, Mr. Speaker, Donald Schultze has made numerous contributions to the people in and around Hawaiian Gardens. This is evident not only through his work in behalf of the city but also, through his efforts with many civic organizations. You can be sure that the people of Hawaiian Gardens are mighty glad that they have Don on their team.

My wife, Lee, joins me in congratulating Donald Schultze for his many contributions over the years, and we wish him and his wife, Betty, and their five children, Steven, David, Kenneth, Donna, and Mary all the best in their future endeavors.●

NEED FOR CRIMINAL LAW REFORM

HON. JUDD GREGG

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. GREGG. Mr. Speaker, on April 13, 1984, the life of Christopher Wilder, the man who had allegedly taken the lives of young women from across the country, came to an abrupt end in Colebrook, N.H. Wilder's flight to the Canadian border was stopped when two State police detectives, Wayne Fortier and Leo C. "Chuck" Jellison grew curious about the car in which Wilder was driving. In the struggle that followed, two shots were fired from Wilder's gun, one of which hit Detective Jellison in the chest. Detective Jellison put his life in danger in the line of duty but, fortunately, he is recovering from his wound. These detectives are American heroes.

Unfortunately, had Wilder survived this confrontation in Colebrook, he may well have avoided conviction by using the insanity defense plea, the same plea which enabled John Hinckley to avoid conviction after shooting the President of the United States.

Most Americans do not realize that legislation which would change the insanity plea, along with other anticrime measures, is being held hostage by the House leadership. It is wrong that law enforcement officials across this country must put their lives in danger every day knowing that the criminals which they pursue stand a good chance of being released due to technicalities in the archaic laws which govern our criminal court system.

The last meaningful anticrime legislation was enacted almost 14 years ago in 1970 when Congress approved the "Controlled Substances Act of 1970". Since that time, badly needed criminal justice reforms have not been enacted.

In February, the Senate passed by a 90 to 1 vote, a crime control package which included sentencing, bail, forfeiture and insanity defense reform along with 40 other substantive anticrime measures. The major points of this legislation are:

Amend the Bail Reform Act to allow courts to consider danger to the community when setting bail conditions, and deny bail to a defendant who poses a grave danger to others.

Change the insanity defense to place the burden on the defendant to prove insanity with clear and convincing evidence. The burden is now on the prosecution to prove the defendant is sane.

Strengthen and clarify criminal and Federal forfeiture laws by making it plain that property derived from illegal activities is subject to confiscation by the Government.

Strengthen Federal penalties for narcotic offenses.

Authorize a program of financial assistance to state law enforcement agencies to help finance anticrime programs which have been proven successful.

Unfortunately, on the House side, this same legislation, which protects the rights of victims, has fallen prey to election year politics with the Speaker of the House refusing to let the legislation come to the floor for a vote. The failure to bring this critical package of legislation to the floor reflects a terribly lax view of the need to address the crime issue.

For my part, I believe this anticrime package is needed today and any further delay helps the criminal and further injures the victim. I would hope that people throughout the country would contact their Representatives in Congress and encourage them to support this legislation.●

CARL ROWAN WRITES: "LET THE SOVIETS STAY HOME"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. KEMP. Mr. Speaker, Johnny Carson said it best on The Tonight Show: "We should hold the Olympics in Afghanistan; maybe the Russians would pull out."

The Soviets decision not to attend the Olympic games in Los Angeles has caused some in the United States to fret and worry and implore them to change their minds. Such behavior Carl Rowan calls disgusting. And I agree both with him and Johnny Carson.

As Mr. Rowan writes:

Russia's boycott of Los Angeles can only remind the world that we had a moral imperative for refusing to go to Moscow four years ago; the Soviets have only pique and pride for boycotting Los Angeles.

When Soviet troops invaded Afghanistan in 1979—which they are still occupying today, testing their forces and their new arsenal of chemical weapons—we announced that we would not go to Moscow to participate in the Olympic games.

The Soviets were furious. They were counting on American money and TV coverage to promote the Soviets state. Without U.S. participation, the Soviets lost revenue, and much of the world lost interest.

Now the Soviets are not coming to Los Angeles.

But we will exercise self-restraint. We will not be furious. We will be gracious instead, and smile, and express our sorrow that they can not make it. And we may even have trouble disguising our indifference.

For what exactly will we lose if the Soviets do not come?

It is difficult to see that the tourist industry will suffer. Soviets do not allow "tourists" to come to the United States, only carefully screened personnel. And they have little to spend: The ruble is not convertible. Soviet athletes cannot bring their families with them; the risk of defection becomes too high.

We may miss out on legions of KGB operatives running lose among the high-tech industrial countryside of southern California.

Pravda and TASS may not cover the event. We may miss their distinctive commentary, casting the games in terms of the triumph of Marxist-Leninist purity over misguided capitalist thought. Will the annals of history thus be incomplete?

At the same time, it is true that we would regret, deeply, the opportunity lost to those Soviet athletes who may be looking forward to their first trip to the West. We regret that they will not have the opportunity to see, firsthand, our way of life. We regret that we will not have the opportunity to meet with them, in friendly competition, and in friendship.

But this is a loss we feel every day, when we reflect on the Soviets' denial of the basic human right of emigration of the people who are unfortunate enough to be caught within the confines of the Soviet state.

The Soviets say they are not going to participate in the Olympics because security provisions are inadequate. Never mind that the security team assembled by the Olympic committee is the finest the United States has to offer. Let us concede this point.

Security in the United States is inadequate, by Soviet standards. Here, people are free to come and go and disagree as they choose. And Soviet athletes who wished to defect would be greeted with open arms. This is one Olympic story the Soviets do not want to see written.

Let them stay home. And let the nations assembled at the 1984 Olympic games rededicate themselves to the values of the Olympics and the principles of the Olympic charter. Our athletes will compete with all the intensity and enthusiasm at their command, whether or not the Soviet Government chooses to participate.

We will not miss them one bit. As Carl Rowan puts it, "if the Soviets don't show up this time, let's just play with someone else and wait."

Mr. Speaker, I ask that the full text of Carl Rowan's article entitled "Olympic Wailing" be printed in the RECORD.

The article follows:

OLYMPIC WAILING—"I FIND UEBERROTH DISGUSTING."

(By Carl T. Rowan)

I am not a "Red-baiter," one of those professional patriots who tries to prove his Americanism by assailing the Soviet Union with regularity. But I confess to feeling shame as I've listened to some Americans wail about the Soviet Union's decision not to compete in the Summer Olympics.

There was John Ferraro, chairman of the Los Angeles City Council Olympic Committee, saying, "If I were Mayor Tom Bradley, I'd be on a plane to Moscow right now. I would do everything possible to help them change their minds."

And there was Peter V. Ueberroth, millionaire businessman, president of the Los Angeles Olympic Organizing Committee, soon-to-be commissioner of major league baseball, on the television networks moaning that "we are paying the price for 1980," when President Carter told the Soviets that, unless they got their troops out of Afghanistan forthwith, U.S. athletes would not participate in the Moscow Olympics.

Los Angeles officials say the city won't lose a dime on the Olympics even if the Soviets don't show. But even if the loss might be millions of dollars, why should Bradley go to Moscow to prostrate himself before Soviet officials, begging them to rescind a political decision?

I find Ueberroth disgusting. Jimmy Carter was right in boycotting the Olympics to express America's outrage at the rape of Afghanistan. Even athletes have to stand for something other than high jumps and high fives.

So what if the Russian boycott is payback for 1980? Soviet troops are still in Afghanistan, committing assorted atrocities. Russia's boycott of Los Angeles can only remind the world that we had a moral imperative for refusing to go to Moscow four years ago; the Soviets have only pique and pride for boycotting in Los Angeles.

I would never have tried to ban the Soviets from this summer's games, as some American nitwits were trying to do, but I cannot shed even a crocodile tear over the Soviet decision not to show up.

Yes, I hear all the American athletes moaning about it hurts them not to have the Russians in Los Angeles and complaining about "politics ought to be kept out of sports." It is as though they never noticed that the politics of race has often been a shadow over the Olympics (white supremacist Adolph Hitler against Jesse Owens in 1936; boycotts over racism in Rhodesia-cum-Zimbabwe and South Africa) and that the politics of the Mideast as well as the East-West struggle have been powerful factors.

American athletes themselves express the ultimate in politics when they confess that their idea of ultimate success is to defeat a Soviet competitor. Not a Chinese, Czech or Rumanian communist, but somebody from "Enemy No. 1," the Soviet Union. The politics of world power lies behind the media preoccupation with counting how many medals each country wins. To political propagandists this is as important as crowing about who launched the first Earth satellite or who got to the moon first. Nothing watched as closely worldwide as the Olympics will ever be devoid of politics.

Now, does all this mean that I want or expect politics to become a "death blow" for the Olympics? Of course not. Given a spell of morality, petulance, Cold War pride or whatever, both the United States and the Soviet Union will be back in Olympic competition, just as the People's Republic of China is coming to Los Angeles for its first "go for the gold."

The development of awesome nuclear arsenals has made it impracticable, to say the least, for Moscow and Washington to use a real war to decide who legitimately can claim "superiority." So javelin throwing serves as a healthy substitute for warhead heaving. Sports competition can serve as a release for mental tensions and aggressions that build up within us all.

But we all must remember what my opponent said as he collected my money after I missed a two-foot putt: "Hell, Rowan, its only a game!"

The Olympics *are* only games, and if the Soviets don't show up this time, let's just play with someone else and wait.●

ARIZONA STATE LEGISLATURE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. RUDD. Mr. Speaker, the Arizona State Legislature recently adopted a resolution calling for a constitutional convention for the purpose of enacting a line-item veto amendment.

The line-item veto is certainly not a replacement for sound congressional budget practices, but it has become increasingly clear that without new constitutional limitations Congress will not act to significantly reduce Federal budget deficits.

A line-item veto would serve as an effective tool in checking excessive spending by allowing the President the discretion to delete unnecessary spending from otherwise sound appropriations bills.

The line-item veto has already proven effective at the State level; 43 states, more than four-fifths, have been using this procedure for years. Neither Governors nor the State legislatures have expressed any great discontent with the system.

I strongly support the line-item veto amendment, and urge the Democrat leadership of the House to end the dealy in bringing this important proposal to the floor for consideration.●

POWELL'S GROVE PENTACOSTAL CHURCH

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DOWDY of Mississippi. Mr. Speaker, I would like to take this opportunity to call to the attention of my distinguished colleagues the history of a group of parishioners and their ancestors in my district who recently held dedication ceremonies on the occasion of the opening of a beautiful new site of their church.

Powell's Grove Pentacostal Church, which was founded in August of 1940, started as a small group of townspeople in Jayess, Miss., joining together at the home of Mr. and Mrs. Virgil Powell. At that time, Sister Roxie Powell's Grove Pentacostal Church.

As the attendees of these church meetings grew, the Powell's decided to donate land for the new church home, and thus Powell's Grove became a reality. With a $200 loan, timber donated by some of the parishioners, and the work of men, women, and other children of the church community, the church, which stood 40 by 60 feet, was completed.

Luxury to the membership in those days was lighting provided by kerosene lamps and lanterns, and "central heating" from an old drum with pipes going out of the flue in the top of the church. Bills were paid, the pastor was supported, and a church project was financed with offerings which usually ran around 40 cents. On January 21, 1941, the church held its first dedication ceremony.

With a sizable congregation, the parish was able to increase the number of its projects. In the summer of 1943, Powell's Grove held its first revival meeting. Many people traveled miles to attend the daily revival services. I can remember one story I heard of a man and women, she in her 60's he in his 70's, who walked 4 miles one way to the camp meeting every day. Others attended traveling by a schoolbus driven by the local busdriver after he got off work.

As technology in the Nation grew, additions and improvements were made on the church. A dynamo engine was purchased for better lighting. The first pastor's home and Sunday schoolrooms were constructed. Rural electricity was added in 1948 as well as a new well and pump. Gas for heating was acquired as was land for the new cemetery.

The church reached a milestone on March 30, 1972 when a clear deed for the original property owned by the church was secured.

On November 5, 1977, D. L. Sears, present pastor of the church, came to Jayess with his wife, Faith, and their two children. The Spears had spent several years traveling across the Nation and into 65 countries of the world as evangelists for a total of 20 years.

When the church began, the parish donated money and food for the establishment of Tupelo Children's Mansion Pentacostal Orphanage. I do not discount the hard work of those pastors who have come and gone, for each played a vital role in the history of this parish. However, before I conclude, I do want to mention the work of Reverend Spears.

In 1977, Powell's Grove was supporting one missionary. Now it is supporting more than 75 missionary families, and furnishing money to build a Powell's Grove Church in the Philippines. In addition, he and Faith have established three church choirs. Many visiting pastors have traveled to Jayess at the urging of Reverend Spears. He has set an all-time attendance record at the church in all its years of existence.

I was happy to be able to join with the congregation during the occasion of the recent dedication ceremony for the new church.

I congratulate Reverend Spears and his parishioners for the many roads that they have traveled since the beginning of Powell's Grove.●

A LEGAL PARADOX

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. PAUL. Mr. Speaker, many prolife advocates were delighted with the recent arrest of an abortionist from El Paso, Tex. Dr. Raymond Showery of El Paso was recently led off in handcuffs from his clinic on involuntary manslaughter charges and held on an unprecedented $1 million bond for causing the death of one of his patients. This was a strange event because the normal procedure is filing a malpractice lawsuit against a physician if he is negligent in the care of a patient. This case, however, is different in that the woman who died was a victim of bleeding and other complications stemming from an abortion performed by Doctor Showery.

The involuntary manslaughter charge and the handcuffs were not for killing the nearly 1 pound infant, but for the death of the mother. Killing the infant was legal and acceptable by current standards, the death of the mother was not, by some bizarre logic.

Right-to-lifers should take no satisfaction from this case, nor should physicians or society as a whole. Why should a physician be hauled off in handcuffs for the death of a patient? I've never heard of this before. If the baby had no protection under the law, why should this case be different from any other medical case of malpractice?

Obviously, this is the result of the legal, moral, and ethical confusion that surrounds the abortion issue today. It seems like an outrage had to be expressed due to the butchered killing of a young woman, but only because the case involved an abortion did we see the arrest occurring as it did. Those involved recognized that something about the whole affair smelled, despite a continued refusal to name exactly what it is—aborting healthy infants.

If the woman had died from a butchered surgical procedure involving any other case, the doctor merely would have been sued for malpractice. Due to the inconsistent legal defense of the unborn, and the moral outrage felt by many in our society today, we see this confused legal approach to the complications of the abortion procedure. But the target is wrong. The arrest of the doctor for the mother's death is a dangerous precedent for doctors and may falsely reassure the right-to-life movement that "justice" is being carried out.

It's clear the case is difficult, but the problem of legal protection of the unborn can never be solved in this manner.

Ironically, Showery was operating his abortion clinic while appealing a conviction for murdering a newborn infant several years ago. This resulted from his killing a newborn after the child was inadvertently born alive following an abortion procedure. If only the baby had died one moment before birth, Doctor Showery would not have been faced with the major legal decision of whether or not to kill the newborn.

Strange as it may seem, Showery is more consistent in dealing with both cases than society is in drawing up the laws regarding abortion. His reason for murdering the newborn is clear.

If he can be paid huge sums of money for killing a baby while in the uterus and the law and the courts protect him, why should he not be "efficient" and do the same if a baby happens to survive the abortion procedure? How can the one that allows huge economic benefits to accrue to the physician be good medicine, while the other is murder?

With inconsistencies like this in our moral and legal system, I am doubtful that our society can survive for a very long period. Until all human life—regardless of size or location—receives the benefit of equal protection under the law these weird legal battles will continue. If restraint of the initiation of violence is limited to protecting only a select group of human beings, eventually all respect for human life and individual freedom will be lost. These serious inconsistencies in our legal and moral system cannot be taken lightly if we are concerned about the survival of constitutionally protected individual rights.●

ANACOSTIA SENIOR HIGH SCHOOL

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. OWENS. Mr. Speaker, since the publication of the report of the President's Commission on Excellence in Education, the Congress, particularly the members of the Committee on Education and Labor, have placed the activities of our Nation's public schools under increasing scrutiny. The report entitled, "A Nation at Risk," made it clear that education must be a major component of any master plan to guarantee the future security of the United States.

Legislation was recently introduced by Congressman HAWKINS which proposes a special effort to establish "effective schools" throughout the Nation. Such schools would serve as models of what can be accomplished with a minimum of funds when a few basic principles are applied. One component of an "effective school" is the expectation of a striving to achieve by all students. Here, in Washington, D.C., in one of the less affluent areas of the city, the Anacostia Senior High School demonstrates impressive examples of such striving to achieve.

The principal of Anacostia is Mr. Clyde A. Gray and the school librarian is Ms. Virginia B. Moore. Ms. Moore is the founder and adviser for a club called SWAP (Students With a Purpose). The club is an active force in encouraging high standards and in providing a concrete opportunity for students to supplement their educational experiences. The SWAP Club sponsors programs in the school which stress outreach to community groups and governmental agencies located in Washington. SWAP also spearheads the celebration of certain national observances such as National Library Week.

For 4 years SWAP has sponsored an Annual National Library Week Balloon Launch Day program. The day is highlighted with a full program including a marching band, a video presentation, and an exciting balloon launch which dramatizes for all students the importance of National Library Week and the key role of reading in the education process. This year, 1984, the students were addressed by William H. Simons, the president of the Washington Teachers Union. The title of Mr. Simons' presentation was "Knowledge Is Real Power. Look to Your Library." In 1985, as the first librarian to serve in the U.S. Congress, I have been invited to address the annual Anacostia National Library Week observance.

In conclusion, Mr. Speaker, let me state that the President's Commission on Excellence in Education placed great emphasis on the need to build a "learning society" in America which emphasizes the fact that education is a life-time endeavor. The SWAP Club awakens all of the students at Anacostia to the realization that libraries and reading are a basic part of their lifetime effort to achieve continuing education.

The SWAP Club is the kind of effective effort which will greatly contribute to the establishment and maintenance of "effective schools."●

TRIBUTE TO THE HONORABLE DANIEL J. FLOOD

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. HARRISON. Mr. Speaker, next Wednesday, May 30, the entire Wyoming Valley will come together to pay tribute to its favorite son and its most distinguished citizen. This will be the evening of a grand testimonial to the Honorable Daniel J. Flood, our friend and former colleague of so many years.

Dan Flood was elected to the House of Representatives in 1944, in 1948, 1950, 1954, and every succeeding 2 years until he retired from this body in 1980. During that time, he rose to become chairman of the Appropriations Subcommittee on Health, Education and Welfare. And, far more importantly, during that time he helped millions of human beings—in large ways and small—and served his country with an uncommon patriotism, fidelity, and dedication.

His greatest achievement came when severe flooding caused by Hurricane Agnes inundated the Wyoming Valley in 1972. The President of the United States called it "the greatest natural disaster in American history." Dan said it was "just one flood against another." Dan won. Using all of his talents of persuasion, his knowledge of parliamentary procedure and his years of experience in this body, Dan Flood introduced legislation to provide relief for the afflicted and massive Federal help for devastated communities. Wilkes-Barre is today the newest old city in the Nation because of the persistent efforts of its Congressman, Dan Flood.

During my short time here in the House, I have heard, from many of you, the legendary stories about Dan's service here. He has become a part of the great tradition of the House of Representatives, which goes all the way back to its first Speaker, Frederick Augustus Muhlenberg, also a Pennsylvanian. It is a legacy which will go on for as long as this House sits and a republic endures.

And so, Mr. Speaker, it is my honor today to rise and salute to Dan Flood and to join with all of my colleagues in this House, in which he served so long and well, in paying to him the Biblical tribute "well done, my good and faithful servant."●

MYASTHENIA GRAVIS WEEK RESOLUTION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. CONTE. Mr. Speaker, today I am pleased to once again introduce a resolution designating a week for the recognition of a most serious health threat which has yet to be overcome. This resolution will set aside the week of October 14 through October 20, 1984, as "Myasthenia Gravis Awareness Week." Many of the Members of this body supported this resolution last year and I would urge them to do so again.

Myasthenia gravis, also known as Erb-Goldfam disease, is a neuromuscular disease which has affected up to 300,000 Americans of both sexes, all ages and races. It is a disease of the synapse—the gap between the nerve and the muscle which conducts the electrical current from the nerve to the muscle.

The disease weakens the victim to the extent that some have to use both hands just to brush their teeth. MG can strike any area of the body at any time. As it is such an unpredictable disease, it is often misdiagnosed as chronic fatigue, allowing the disease to progress to the point that the victim is in severe danger. Until recently, myasthenia gravis has been fatal for 85 percent of its victims. There is still no prevention or cure, but there has been great progress.

"Myasthenia Gravis Awareness Week" has played a major role in alerting the public to the symptoms and the problems connected with the disease. This increased awareness has not only made potential victims more sensitive to the dangers but has served to further research in a quest for the cure.

The successes that our Nation has been experiencing over the years in conquering or making progress to conquer many terrible diseases should give all of us great pride in this body that resolutions such as this have aided in these successes.

I hope that all of my colleagues will join me in approving this resolution.●

AMERICAN CAN STOCKHOLDERS MEET AT SCHOOL ON WEST SIDE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. McKINNEY. Mr. Speaker, in light of the renewed national interest in excellence in education, I urge my colleagues to join me in commending the American Can Co., for its innovative partnership with the Martin Luther King, Jr., High School on the West Side of New York. Under the leadership of Chairman William S. Woodside, American Can held its annual shareholders' meeting in the auditorium of the high school, thus allowing students to learn the corporate process firsthand.

In the past, the company has given lectures on business subjects to the students; paid for afterschool courses; supplemented some teacher salaries; and offered tours and seminars at its corporate headquarters in Greenwich, Conn. School officials say this "Join-A-School" program has inspired other corporations to take part in the educational process and has increased student interest in the business world. I am providing a copy of the May 22 New York Times article regarding this event and hope that my colleagues will encourage similar corporate/school partnerships in their districts.

AMERICAN CAN MEETS IN A SCHOOL AND STUDENTS LIVEN THINGS UP

(By Thomas J. Lueck)

In a gesture that underscores a growing commitment of corporate assistance to public schools, the American Can Company yesterday conducted its annual shareholders' meeting at Martin Luther King Jr. High School on the West Side.

"Most corporate executives tend to buy off their conscience: They donate cash and walk away," said William S. Woodside, American Can's chairman. He told about 200 shareholders and 200 students that his company had made "a real commitment to this school."

Mr. Woodside presided over a two-hour session that included the normally staid agenda of an annual meeting, but was punctuated by a student-produced slide presentation of city scenes, school life and breakdancing.

The meeting also included questions from several of the students. Mr. Woodside was asked by 17-year-old Angelique Sims whether he thought his responsibilities justified the $905,000 he was paid by American Can last year.

DOOR IS OPEN TO EVERY STUDENT

"I make no apologies for what I'm paid," the board chairman responded. He said that his compensation was the result of hard work and dedication and that "the door is open to every student here" to attain similar positions of authority at large corporations.

"The idea is to demystify American business," said Joseph A. Califano Jr., the former Secretary of Health, Education and Welfare and a member of American Can's board. "A lot of poor kids think of the corporation as something alien and hostile."

Although companies often conduct annual meetings away from their own offices, no major corporation has ever selected the auditorium of a city high school. American Can and Martin Luther King High have had a two-year relationship in what the company calls a "partnership program."

The concept, which is being adopted in similar forms in several major cities, was introduced to New York in 1982 by American Can, which then selected Martin Luther

King High; the Equitable Life Assurance Society, which has been working with William Cullen Bryant High School in Queens, and Manufacturers Hanover Trust, which has been working with John Jay High School in Brooklyn.

Other "Join-A-School" programs have since been started, or are planned by businesses at 10 other high schools in New York City. And proponents hope the idea will spread because a decade of tight fiscal constraints has required cuts in public school curriculums and extracurricular programs, and because many corporations are reconsidering their charitable activities.

Most major corporations contribute some money to charities each year, in part because tax laws allow them to deduct such contributions.

"Companies often give away their money stupidly," Mr. Woodside said. he maintained that, instead of identifying a social need, some companies selected their charities on the basis of what charitable causes were favored by their largest customers or shareholders.

HELP FOR POOR CHILDREN

School officials meanwhile , say the Join-A-School program can be particularly beneficial for poor children in minority groups who are interested in business but whose family and neighborhood environments give them little exposure to corporate life.

"Ghetto kids have no access to big business," said Nellie R. Jordan, Martin Luther King High's principal. Since American Can started becoming involved in the school, she added, "the level of aspirations around here has improved to an extent nobody would have thought possible."

The company's activities have included sending several executives to give lectures on business subjects, and offering students tours and seminars at its corporate headquarters in Greenwich, Conn.

The company has paid for an after-school course to train students to be security guards and for part of the costs of a computer literacy program. It has also supplemented the salaries of several teachers working after hours in extracurricular activities.

At the same time, students at the school, whose enrollment is more than 99 percent black, have been urged to analyze the affairs of American Can, a diversified company that has been undergoing a rapid transformation under Mr. Woodside.

Although the company is widely known as a manufacturer of containers, it has moved aggressively into insurance and other financial services, as well as direct-mail retailing and record stores.

ANNUAL REPORT IS REWRITTEN

In one project, a group of 30 students, after meeting with senior American Can executives, rewrote the company's annual report in simplified form.

"Most people don't get beyond the glossy photos in annual reports," said Saul Krug, the school's assistant principal, who organized the annual report project. "But these students now understand what the numbers mean."

Alluding to Mr. Woodside's salary, Miss Sims said after the meeting, "I don't think a chairman of any corporation is entitled to that much." Nonetheless, Miss Sims, who said she wants to be an accountant, is not bearing a grudge.

"After looking at American Can, I think that would be a good place to work," she said.●

HELPING FIND JOBS FOR AMERICA'S YOUTH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. KEMP. Mr. Speaker, summer is approaching, schools are recessing for the season, and the pressing need for productive jobs for our Nation's youth is more acute than ever. A black teenager graduating from high school next month hoping to find a job will soon be discouraged by the 60 percent unemployment rate faced by black youths; the poor, the Hispanic, and other minorities face similarly difficult odds. Many of these young people simply do not have the skills and the work habits that prospective employers require.

Mr. Speaker, I believe we can help solve this problem with the self-help job training programs run by some of our effective community-based organizations. Programs run by the National Urban League and 70,001 Inc. come to mind. In particular, the Opportunities Industrialization Centers run by our Nation's foremost expert in manpower training Rev. Leon Sullivan have a proven track record of success in reaching young people in the inner cities around the country.

The motivational and attitudinal approach espoused by Dr. Sullivan and others involved in community self-help programs is one that takes young people who have been "turned off" and "turns them on" to the work ethic and work habits needed for a successful career. It is badly needed as a model in our existing vocational education system.

To meet this need, my good friend Congressman BILL GRAY of Philadelphia and I have introduced today legislation that will amend the Vocational Education Act of 1963 to provide for a prevocational motivational and basic literacy training system to reach youths aged 16 through 21 who are rapidly becoming a permanent underclass in our society. Similar legislation has been introduced in the other body.

Former alcohol abusers, ex-offenders, school dropouts, and juvenile delinquents have been served by OIC and other groups successfully for a number of years. I believe these success stories can be expanded if our educational system targets needed resources to the inner cities where the need is greatest, and develops a partnership with community-based organizations like OIC. Unfortunately, the Vocational Education Act of 1963 does not provide for participation of nonprofit, self-help community-based organizations in its programs. Our legislation remedies this problem by placing organizations such as these on the national and State advisory councils on vocational education, providing special consideration of grant proposals for prevocational education and career intern programs, and creating a 10-percent set-aside of certain vocational education funds for use by self-help community organizations.

I am proud to be associated with Rev. Leon Sullivan's Opportunities Industrialization Centers and the other self-help community organizations around the country like the National Urban League that offer so much hope and opportunity to the young people of our country. I am optimistic that this legislation will build a cooperative system of vocational education that will bring nontraditional training resources together with traditional education systems to allow this Nation's youth to take the important step onto the ladder of economic opportunity.

Mr. Speaker, we have much, much more to do for our Nation's youth, but BILL GRAY and I believe this is a vital step.●

OLDER AMERICANS MONTH

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DENNY SMITH. Mr. Speaker, as a cosponsor of recently passed legislation designating this month of May as Older Americans Month, I would like to take this opportunity to salute our older Americans.

It has become a tradition to observe the month of May as Older Americans Month, a time to acknowledge and pay tribute to an important segment of our society. Not only should we focus on the accomplishments, but also commit, as a nation, to protect their rights and enhance their opportunities.

Earlier this month this thought hit home with me as two senior citizens from my district—Marian Robertson from, Scio, Oreg., and Norris Loney from Woodburn, Oreg.—participated in the congressional senior internship program. Marian and Norris were truly representative of the fact that retirement is not retirement from a purposeful quality of life. As two elder civic leaders in their communities, they overwhelmed me with the enthusiasm and energy they brought to Washington. The internship program provided them with the opportunity to exchange ideas and opinions with other active senior citizens from all parts of our country. Although participants came from all walks of life, they shared a strong commitment to the issues confronting their peers. As representatives, they communicated their concerns on issues confronting our older Americans, shared with me their personal insights on such matters and

suggested ways in which Congress could better enhance the opportunities for older Americans.

Seniors are part of the fastest growing segment of our population. It is estimated that one out of nine Americans is a senior citizen. As more and more older Americans are leading longer lives and playing prominent roles in our society, we should take note of their concerns as our concerns. Age creates no barriers and draws no philosophical lines, unless we choose to construct those barriers and draw those lines. What we should choose to do is learn from the matured wisdom our older Americans possess because that is what gives true meaning to longevity.

My hat is off to all our older Americans who are paving a smooth path for us to follow.●

CHILD ASSAULT PREVENTION PROJECT

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. KASICH. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding work being done in my 12th congressional district of Ohio by the child assault prevention project initiated by the Women Against Rape in Columbus, Ohio. Statistics reveal that a staggering number of children are being victimized by physical, verbal, and sexual assault. This project is worthy of national recognition because of its substantive approach and its efforts to establish similar outreach in communities all over the United States.

The child assault prevention project was pioneered by Women Against Rape in Columbus and because of its success, statewide programs have been initiated in both California and Oregon. While these child assault prevention programs have received national television recognition, the Columbus project which has been the model for other prevention programs, has remained relatively unheralded. I wish to take this opportunity to commend the originators of the program and to thank them for the dedication, interest, and support evidenced in addressing this national problem.

Children need to have prevention information to prepare them to recognize a potentially dangerous situation. Teaching children about prevention in order to reduce their vulnerability to assault is as important as teaching children how to cross the street safely. The secrecy surrounding the abuse of children must and can be broken. The well-being of all people within a community depends on the concern and commitment to the community itself. Communities need effective prevention services to make our neighborhoods safer for children. Most services responding to child assault offer crisis oriented care. While this approach is helpful, after the fact services are just not good enough.

The approach of the Child Assault Prevention project is simple and effective. It teaches children easy-to-learn strategies to reduce vulnerability through assertiveness, peer support, and a network of trusted adults. Recruited volunteers are trained by Women Against Rape and the program is now being offered in a number of elementary schools in Columbus.

Mr. Speaker, I invite my colleagues to join with me in extending our congratulations and gratitude to these groups and especially the pioneer group in Columbus for continued and devoted efforts to insure that the rights of children are protected. It is, indeed, a privilege to know that this good work is going on in my congressional district and all over this Nation.●

ROBERT HOOVER, LEADING U.S. FLIER HONORED

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DYMALLY. Mr. Speaker, when he received the "Aviation Pioneer Award," Robert Hoover was described as the world's most notable, decorated and respected living pilot. It is hard to add anything to that description. But I wish to acknowledge before my colleagues in the Congress of the United States the great debt this country and the world of aeronautics owe to Bob Hoover.

His service to America as a test pilot began with the Army Air Corps in North Africa during World War II. Since then, he has been a world-class test pilot for many of the aircraft that have protected our national security. Moving these planes to the limits of their capabilities, Bob Hoover has shown the world the awesome strength of America's air power. The F-100 Super Sabre, the F-86 Sabre Jet, and the P-51 Mustang are legends of the flying world and Bob Hoover is the living legend who has demonstrated their abilities to the world.

For 34 years the name of Bob Hoover has been associated with the aircraft of Rockwell International. Since 1950 he has traveled the world putting Rockwell's sophisticated equipment through its paces. I suspect his proudest moment as a test pilot came when he was selected by Rockwell to be the first person to fly the XFJ-2 Fury Jet, predecessor to the U.S. Navy's famed Fury fighters which have seen duty throughout the world.

But Bob's triumphs, honors, and adventures are numerous enough to fill a book. He flew 59 Spitfire missions over Sicily and Corsica during World War II before being shot down and held as a prisoner of war for more than a year. For his heroism he was awarded the Distinguished Flying Cross, the Soldier's Medal, the Air Medal and the Purple Heart. During the Korean conflict at the request of the Air Force, Bob went to the front lines to demonstrate to air pilots the dive bombing capabilities of the F-86 Sabre Jet.

And his triumphs have not been limited to military aircraft. In April of 1978, Bob Hoover piloting the Commander 690 B twin-engine propjet, a business aircraft, established three world records for climb performance. In setting these records, by the way, he outperformed the Army Grumman OV-1C Mohawk which previously held the records.

Not surprisingly, Robert Hoover's abilities have long been recognized and honored by his fellow professionals. He was selected as a team captain for the U.S. aerobatic team for the 1966 international competition in Moscow. He is the only person to have twice served as president of the Society of Experimental Test Pilots. Besides the Aviation Pioneer Award, Bob has been honored with the Arthur Godfrey Aviation Award, the Flying Tiger Award, the Kitty Hawk Award and the Wilkinson Silver Sword Award. I am proud to acknowledge his achievement before the Members of the Congress of the United States.●

ELECTION FEVER SPREADS TO MOORESTOWN FRIENDS SCHOOL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FLORIO. Mr. Speaker, I recently had the pleasure and the honor of delivering the keynote address at the Moorestown Friends School Mock Democratic Convention. I take this opportunity to congratulate the students and the teachers at Moorestown for their admirable interest in participating in the political process of our Nation and for the very successful mock convention that resulted from their hard efforts.

This future generation of leaders exhibited a sense of excitement and accomplishment as they mirrored the real-life campaigning of a political convention. Mr. Speaker, as I looked around in the Moorestown Friends School gym, I was impressed by the eagerness and excitement painted on the faces of these young aspiring politicians. It is this spirit that needs to be nurtured and fostered in our youth if

we are to insure that future generations continue to uphold faith in the values of freedom and democracy upon which this Nation was founded.

Since 1960, the Moorestown Friends students have been holding mock political conventions during election years. For the past trimester, current Moorestown students have been working on organizing an authentic political convention that would include all elements of a political convention from the traditional straw hats and banners to the frenzy and excitement at the announcement of the nominee. Students selected their candidates from among the Democratic Presidential contenders and then spent the next several weeks researching their candidate's position on key issues, building campaign organizations and participating in some old-style politicking.

Not only were the students mirroring the actions of a real campaign but, furthermore, they were also participating in an important learning experience that will serve them well as they grow to become responsible citizens and educated voters. I congratulate the Moorestown delegates and their mentors for their perseverance and their courage of convictions. I hope that they will continue to further their interest in our political process.

Mr. Speaker, the following article that appeared in the Burlington County Times describes the exciting events of this convention. I commend the article to the attention of my colleagues:

McGOVERN FORCES SWING CONVENTION TO THEIR MAN

(By Jean Gaasch)

MOORESTOWN.—The deafening roar engulfed the excited delegates, bounced off the walls of the convention hall and drowned out the band as red, white and blue ballons cascaded down into a blizzard of shredded paper.

Touching off this frenzied scene was the announcement that George McGovern just won the nomination for president. The demonstration was repeated shorty after when Alan Cranston nailed down the Vice-president's slot.

Those improbable candidates were selected at the Mock Democratic Convention held at the Moorestown Friends School last Friday.

"Even though the candidate we chose earlier in the year did concede, we didn't let the reality of national events influence us," said 16-year-old Andy Wang, who managed the McGovern campaign. "We were determined to stay in the convention and win.

"We worked harder than our competitors, kept the faith, and it all paid off, thanks to our excellent staff," said Wang, referring to his six key advisers and a crew of 20 other volunteers. He gave special credit to publicist Leo Fifis and issues coordinator John Schnyder.

A grand total of $30 was spent on the razzle-dazzle campaign that was financially supported by donations of materials and a few bake sales.

An inventive touch, instigated by Wang and his associates, was a specially taped message from McGovern that was played during the nominating speeches. It was one of the few times that the crowd quieted down.

The rousing keynote address by Congressman James Florio started the proceedings. He congratulated the students on their participation in the democratic process and said that the interest of the Democratic Party this year parallels the interest of the nation.

"People want a public administration that is designed to deal with the common good," Florio said as he touched on major issues to accent his views. "You can't conduct an election on images.

"There are 220 million American citizens who believe in values, and your participation today will enable us to see the common vision of what Americans should be. We should think as citizens of a nation rather than as isolated individuals. We should ask ourselves: 'What can we do for our nation?' not 'What can we get?' "

The mock political convention followed the pattern of a national convention, right down to the spectators gallery. All the students and faculty in the upper school, grades six through 12, served as delegates.

There were 402 delegates representing 36 states and Puerto Rico. They entered the gym at 9 a.m. wearing the traditional straw hats and carrying standards, banners, balloons, noise makers, and shopping bags of shredded paper that by day's end carpeted the floor.

Seated in sections according to states, the delegates were silhouetted against a colorful backdrop of original posters, campaign slogans and displays that some students worked on in the halls and gym until 1 a.m.

"The convention format has come a long way in 24 years," said Cully Miller, a teacher who launched the first convention at the school in 1960. "I felt it was the best way for students to become involved in the political process. The political nature of the convention is determined by the party that is not currently in the White House during election year.

"The initial convention, with its two weeks of preparation, was an abbreviated version of what we have now, but the goals have remained essentially the same," Miller said. "The present convention comes out of a whole trimester of study and is offered to the upper-class students as an elective course of study."

Miller commented wryly on the outcome of the conventions. "No matter what happens on the outside, the winner at Moorestown Friends has never become president. The convention is an exercise in practical politics rather than students voting their parents' preferences."●

NATIONAL TOURISM WEEK

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. TALLON. Mr. Speaker, officially as a nation, we will observe National Tourism Week May 27–June 2. I would like to urge my colleagues, as they visit their districts next week, to point out some of the many contributions tourism makes to economic growth and jobs in our country.

Tourism plays a vital role in the economy of my home district. In fact, we could not even begin to talk about the economy in the Sixth District without mentioning tourism. The largest number of jobs provided by the travel and tourism industry in South Carolina are provided in my district. Statewide, travel and tourism is the second largest employer. The industry provided some 68,000 jobs across the State with a payroll of $455 million in 1982.

Aside from the economic gains, there are some other reasons why I believe it is so important that we observe National Tourism Week. Through tourism, we are able to have a deeper awareness and appreciation of our heritage, our environment and our culture. Tourism at the same time, also creates a better understanding of the American way of life and it promotes friendship among citizens of the world. We see this each year in my district as thousands of our Canadian friends flock to the shores of Myrtle Beach.

The theme for this year's National Tourism Week is "Travel—the perfect freedom." As the industry grows, tourism can be expected to play an even greater role in the lives of the American people. I know that the Sixth District is going to be a leader.

I would like to take this opportunity to express my thanks to all the people of my district who work so hard to make our tourism industry a success. I am very proud of the work we have done in the Sixth District to promote the growth and vitality of the travel and tourism industry.

As we prepare to celebrate next week, I hope people from all across our Nation will join us in reflecting on the numerous positive contributions the travel and tourism industry makes to our employment, economic prosperity and international travel and understanding.●

NATIONAL TOURISM WEEK

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. ROTH. Mr. Speaker, in February of this year President Reagan signed a proclamation designating the week beginning May 27, National Tourism Week. It is important that we reflect on how important tourism is to the United States.

The travel and tourism industry is economically vital to America. Travel is now the second largest retail industry, as well as the second largest private employer in the United States. Thousands of hard working small busi-

nessmen make up the industry. Tourism and travel have created new jobs faster than any other sector of the economy. It is truly a growth industry.

Roughly 7 percent of the American labor force is employed by the tourism industry, either directly or indirectly, generating more than $41 billion a year in wages and salaries. Thus, tourism should be recognized as a vital component of our national economy. By their expenditures here, foreign tourists shoulder a share of our tax burden while enjoying our beautiful country.

Although the creation of jobs alone is reason enough to honor tourism, this is also an industry which creates a better understanding of the American way and promotes friendship among citizens of the world. We welcome foreign tourists to our shores to explore our country and learn our customs. The American public needs no encouragement to travel. This year two-thirds or more of the American public are expected to travel to a destination 100 miles or more from home. Last year Americans took 1 billion such trips, more than twice as many as were reported in the 1972 national travel survey.

As the U.S. Travel and Tourism Administration proclaims, "Travel is the perfect freedom." It is freedom to explore our Nation, visit our elected officials, engage in outdoor activities, and to travel abroad. We must remember all peoples do not have such freedom. There are restrictions on travel in some countries. The central governments of certain countries rarely grant permission to travel abroad. We are fortunate that we may travel so freely.

We in Wisconsin have been doing our part to encourage travel. Tourism is the No. 2 industry in my State, providing over 100,000 jobs. Our "Escape to Wisconsin" campaign encourages tourists from all over the United States and overseas to enjoy our striking scenery. Wisconsin's lakes and fishing keep visitors busy in the summer. And our cross-country skiing is internationally acclaimed in the winter. Tourism puts an average of $75 back into the pocket of every Wisconsin taxpayer.

As a member of the steering committee of the Congressional Travel and Tourism Caucus, I have been involved with promoting tourism, not only in the Midwestern States under my jurisdiction, Wisconsin, Illinois, Indiana, Iowa, Michigan, Minnesota, and Ohio, but throughout the United States. This July I will be hosting the third annual Great Lakes Conference on Exports, in which tourism will play a major role. Tourism is considered an export because it attracts foreign currency to America. As a matter of fact, it is the third largest export this country has. My conference will examine the problems and challenges which the tourism industry faces now and in the future.

Mr. Speaker, it is appropriate that we take a moment to reflect on and acknowledge the benefits of tourism. This week of celebration provides the tourist industry with the national recognition which it deserves.●

HARRY TRUMAN AND THE BIRTH OF ISRAEL—PARALLELS WITH THE PROPOSAL TO MOVE THE EMBASSY TO JERUSALEM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LANTOS. Mr. Speaker, a few days ago on May 8 many of us sat here in the House of Representatives for one of the most moving joint sessions of Congress that I have witnessed. The occasion was a commemorative service to honor the 100th birthday of President Harry Truman—a man of tremendous courage, integrity, and conviction.

All of the speeches were prepared, except that of Clark Clifford. I expect that I was as surprised as everyone else at the subject of his remarks that day. I would like to read one small paragraph from Clark Clifford's comments about Harry Truman, because those comments from our distinguished former Secretary of Defense have an atmosphere of deja vu and have a parallel to events before the Congress today. This is what Clark Clifford said about Truman and the state of Israel:

> President Truman inherited from Franklin Roosevelt a deeply troubled Middle East, and one of the major problems there was the question of whether or not there should be a homeland for the Jews. The President read a great deal, he consulted all of the available experts, and he reached a conclusion in his own mind that it should be the policy of our country to support the homeland for these people.
>
> When he made that decision, he brought upon himself the bitterest, most venomous, unrelenting struggle that he had, I believe, during the entire time he was in the White House. There were powerful forces that were determined to see that this policy should not be carried out, and the most distressing element of the entire controversy was the fact that most of the opposition came from within his own Administration. The State Department was absolutely determined that he should not succeed in carrying out his aim.

Then, Mr. Speaker, Clark Clifford went on to relate how President Truman stood up to General Marshall, to the entire State Department, to all of the economic interests arrayed against his position, and he made the decision which he felt was based on principle.

The conclusion of Clark Clifford's statement before the joint session is historic in nature. He discussed a meeting between President Truman and the first Prime Minister of Israel, David Ben Gurion. In his memoirs, Ben Gurion described his farewell meeting with President Truman. The President was in tears, and the question was asked, Why? Mr. Clifford then quoted Ben Gurion:

> I believe I know. He was in tears because he had fought for three and a half years for a deep principle that touched every humanitarian nature in his being. I think he was in tears also because his God had seen fit to answer his prayer and grant him his wishes.

Clark Clifford then concluded with a statement about President Truman: "Perhaps you will understand now why we loved him so."

Mr. Speaker, there is a striking parallel between the events described here by Clark Clifford and the legislation that I have introduced with my distinguished colleague from New York (Mr. GILMAN) to move the U.S. Embassy in Israel from Tel Aviv to Jerusalem. At the time President Truman faced the momentous decisions described by Clark Clifford—as now—the most dismal and dire predictions of violence and turmoil and predictions of cataclysmic consequences were made.

The question that is hardly ever raised, except on very, very, rare occasions during the debate over moving the Embassy to Jerusalem is the question of the principle involved. It was that question of principle that motivated Harry Truman against overwhelming odds, including his own State Department. Mr. Speaker, when our legislation proceeds through markup and then to a vote on the floor of the House, I have no doubt that most of my colleagues will be guided by principle.●

MR. FLOOD CONTROL

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. HILLIS. Mr. Speaker, years ago, the people of Miami County, Ind. were continuously subjected to terrible floods along the Wabash, Salamonie, and Mississinewa Rivers. The floods caused hundreds of thousands of dollars in damage and took many lives in the late 1800's and early 1900's.

No one did much about it until the early 1940's when the Wabash River again spilled over its banks and drove Carlos Life from his flooded home. That made Mr. Life, a prominent local banker, mad and when Carlos Life got mad, he did something about it. So, in a classic case of "fighting city hall," Mr. Life embarked on a 20-year effort

to halt the flooding problems endemic to the Upper Wabash Valley.

He made numerous trips to Indianapolis and Washington pushing a plan to develop a series of dams and reservoirs which would quiet the temperamental rivers of north central Indiana.

The legacy he has left includes three dams and reservoirs in Miami, Wabash, and Huntington Counties. These manmade lakes provide not only effective flood control but also outstanding recreational facilities for thousands of people.

Today, the Wabash, Salamonie, and Mississinewa Rivers no longer run wild in the spring or spill over after a drenching summer thunderstorm thanks to the efforts of Carlos Life—a man known in north central Indiana as "Mr. Flood Control."

Mr. Life died at the age of 82 on May 16, 1984 at Dukes Memorial Hospital in Peru, Ind. But the hard work and perseverance that characterized his life remains for this and future generations of the Upper Wabash Valley to appreciate.

Thanks to Mr. Life, their future is no longer threatened by the fickleness of untamed waters.●

H.R. 4280, RETIREMENT EQUITY ACT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LIPINSKI. Mr. Speaker, I rise today to commend my colleagues for their overwhelming support of H.R. 4280, the Retirement Equity Act of 1984. This bill makes some long-needed changes in the treatment of one of America's greatest assets—its homemakers.

For too long, many of these homemakers have been denied the benefits of their husband's pensions through the operation of arbitrary and often discriminatory restrictions written into many pension plans. This bill recognizes the invaluable contributions of these homemakers and guarantees their rights in the future.

One of the most important changes in this respect requires a documented spousal waiver of the right to a qualified joint and survivor annuity guaranteed under the Employee Retirement Security Act. This change ensures a spouse's rights by requiring written consent to the waiver of a joint and survivor annuity—the right that provides benefits for the life of a survivor upon the death of a plan participant. In this way, we will not add to a surviving spouse's discomfort by ensuring that benefits will not be suddenly terminated upon the death of a spouse/participant.

Another equally important change made by this bill involves the rights of spouses to benefits earned before actual retirement. This improves a spouses's rights to benefits when a participant/spouse qualifies for pension benefits under early retirement age provisions, continues to work, and dies before actually drawing benefits. Before the changes made by this bill, unless a participant specifically filed for joint and survivor's benefits, the surviving spouse would not be eligible for any benefits.

This bill addresses these unfair results by automatically guaranteeing a spouse's rights to benefits upon the vesting of a spouse/participant. Once again, we have served to limit the discomfort and discontinuity surrounding the death of a spouse by helping to avert the unwitting loss of pension benefits earned by a deceased spouse/participant.

H.R. 4280 also changes many built-in biases in our pension regulations that served to discriminate against the increasing number of working women in our country. Many of these rules caused woman to lose vested benefits already earned because of breaks in service attributable to maternity leave interruptions in their working careers.

The changes incorporated by H.R. 4280 alleviate these biases by reducing the minimum age of qualification for pension benefits from 25 to 21 years of age. Additionally, the bill reduces from 21 to 18, the age from which years of service must be credited on an employee's behalf once the employee vests in the plan.

Finally, the bill protects a woman from the loss of benefits earned prior to a maternity leave. Specifically, a nonvested woman with less than 5 years of service who takes a maternity leave would still receive credit for this previous service as long as her total number of years of breaks in service are five or fewer.

Mr. Speaker, each of these changes will remove some very obvious inequities in our country's pension laws. They will protect hard-earned pension rights that have previously been denied to many deserving working woman by equalizing their treatment under our laws. I commend my colleagues in the House for their unanimous support of these necessary changes and urge the Members of the other body to consider this legislation promptly.●

THE MINNESOTA CHIPPEWA TRIBE: JUDGMENT FUNDS LEGISLATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. OBERSTAR. Mr. Speaker, I am introducing today a bill to provide for the use and distribution of certain judgment funds awarded to the Lake Superior and Mississippi Bands of Chippewa Indians enrolled in the Minnesota Chippewa Tribe. These judgments were awarded in dockets 18-S and 18-U of the Indian Claims Commission and funds were appropriated in satisfaction of them by the act of March 7, 1978 (31 U.S.C. 724a, as amended), I am doing so in response to a request by officials of the Minnesota Chippewa Tribe.

The judgment awards in these two dockets also benefit members of the Lake Superior and Mississippi Bands who are not enrolled in the Minnesota Chippewa Tribe. These include seven Lake Superior tribal organizations on reservations in Wisconsin and Michigan. The bill I am introducing does not affect their share of the funds, however.

Specifically, my bill provides for the distribution of funds, as appropriate, to the following constituent bands and enrollees of the Minnesota Chippewa Tribe by their reservation affiliations: Fond du Lac Reservation; Grand Portage Reservation; Nett Lake Reservation, including Vermillion Lake and Deer Creek—Bois Forte Band; White Earth Reservation; Mille Lacs Reservation; and Leech Lake Reservation.

The bill provides that 20 percent of the funds apportioned to the constituent bands of the Minnesota Chippewa Tribe shall be used by them for community purposes and 80 percent shall be distributed in per capita payments.

I am introducing this legislation simply to expedite the distribution of these judgment funds to the constituent bands and enrollees of the Minnesota Chippewa Tribe. Under section 1(d) of the Indian Judgment Funds Act Amendments (Public Law 97-458), the Secretary of the Interior is required to submit legislation to provide for the distribution of judgment funds if he is unable to meet the statutory deadline for the approval of a distribution plan. It is my understanding that the Secretary has been unable to meet the deadline and that he has not yet prepared legislation to effect the distribution.

Mr. Speaker, the Chippewa Bands and their members have demonstrated patience and understanding in awaiting the resolution of these ancient claims. The original claims were filed and adjudicated in the Indian Claims Commission, a forum authorized by Congress to resolve such claims.

On November 23, 1977, the Indian Claims Commission entered a final award to the Minnesota Chippewa Tribe, and others, in docket 18-S, in the sum of $8,516,128.32 to be divided two-thirds among the Chippewas of Lake Superior and one-third among the Chippewas of the Mississippi. Funds to cover the award were appro-

priated on March 10, 1978. The award in docket 18-S represents additional compensation for some 10.5 million acres of land in northern Wisconsin and the Upper Peninsula of Michigan, which were ceded to the United States by the Lake Superior Mississippi Chippewas under a treaty of October 4, 1842. The Indian Claims Commission found that the promised consideration of $875,000 was grossly inadequate.

On March 30, 1978, the Indian Claims Commission entered a final award to the Chippewas of Lake Superior in docket No. 18-U, in the sum of $2,621,174.58. Funds to cover the award were appropriated on July 27, 1978. The award represents additional compensation for lands in northeastern Minnesota which were ceded to the United States by a treaty of September 30, 1854. The Indian Claims Commission found that the promised consideration of $813,353.19 for the 1854 treaty cession of lands having a fair market value of $3,250,000 was grossly inadequate.

Because multiple Chippewa Bands located in Minnesota, Wisconsin, and Michigan are entitled to share in these judgment funds, section 2 of my bill provides that the funds referred to in sections 1 and 4 shall be divided on the basis of the population and reservation community groups as reflected in the census and annuity rolls for the period 1937-41 and as specified in this act. This formula is identical to that used to divide funds in 1979 in docket 18-C and docket 18-T shared by these same groups. Moreover, the formula is supported by the administration.

I am committed to work for enactment of this legislation before adjournment of this Congress in order to permit the deserving Chippewa Indians in Minnesota to enjoy the beneficial use of the long-awaited judgment funds.●

LANDSCAPING THE EAST PLAZA OF THE CAPITOL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SHAW. Mr. Speaker, today I am introducing legislation that would direct the Architect of the Capitol to prepare plans for landscaping the east plaza of the Capitol Building.

Looking east from the Capitol steps, one sees nothing but a sea of asphalt covered with cars and barricades. Time and time again I have heard Members and visitors remark that the plaza looks like nothing more than a supermarket parking lot. The plaza is unsightly and detracts from the architectural grandeur of our Nation's Capitol Building.

This legislation directs the Architect of the Capitol to prepare plans and cost estimates for landscaping the east plaza in substantial accordance with the Olmstead plan. The Olmstead plan is the landscape blueprint for the rest of the Capitol grounds. The Architects's plan would provide for the removal of a portion of the existing parking lot and replacing it with grass, trees, and shrubs.

I would like to point out that removing the east front parking lot would result in the loss of only about 240 parking spaces, half of which are allocated to the Senate and the other half to the House. I have been advised by the Architect that the spaces that would be lost could be replaced on property now under the control of the Architect on both the House and Senate sides.

In addition to the esthetic beauty that would result from landscaping, security in and on the east front of the Capitol would also be enhanced. Vehicular traffic would be restricted, eliminating the needs for concrete barriers and speed bumps. Plantings, walkways, and other landscaping features would also help to control access into the building.

Finally, this legislation merely directs the Architect to prepare plans and cost estimates; it does not authorize the Architect to undertake any relandscaping. The Architect is to prepare the plans within 6 months of enactment of the legislation and then submit them to Congress for our final approval. The Architect is to use his in-house staff of architects and engineers to prepare the plans, meaning there is no need for the appropriation of additional funds.

Mr. Speaker, removing the parking lot and returning the east plaza to grass, trees, and shrubs is something we should have done long ago. I would urge my colleagues to join with me in moving this legislation forward and taking the first step in accomplishing this goal.●

EDUCATIONAL EXCHANGES BETWEEN FINLAND AND THE UNITED STATES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FASCELL. Mr. Speaker, of the many exchange programs conducted between the United States and other nations, one of the most splendid examples of an effective and mutually beneficial interchange is our educational exchange program with Finland. I would like to commemorate the more than 30 years of successful scholarly endeavor represented by this effort.

The unique geopolitical situation of Finland between East and West has meant that the exchange program between the United States and Finland has taken on a special significance. It has played an important role in building and maintaining Western ties with a courageous people. James Billington, director of the Woodrow Wilson Center for Scholars and himself an alumnus of the Finnish-American exchange program, has called this exchange "one of the best investments ever made by a free society in support of another society's determination to remain free."

Finland, as many Americans know, was the only country to repay the loan made by the U.S. Relief Administration in 1919, when Herbert Hoover was director of the comprehensive American aid program. The goodwill of the Finns and their steadfast effort to meet their obligations were recognized in 1949, when Congress by joint resolution authorized further payments on the loan to be used for grants for Finnish and American scholars. Senator H. Alexander Smith, who as Hoover's assistant in the post-World War I relief effort had participated in the loan project since the beginning, was responsible for the proposal which resulted in Public Law 265 which made possible this use of the loan repayments. He paid special tribute to the Finns for payment under difficult circumstances.

As a result of the 1949 congressional action, Americans and Finns in fields as diverse as forestry, medicine, social sciences, literature, and architecture have benefitted from grants to study in each other's educational institutions on ASLA (Amerikan Suomen Lainan Apurahat) grants funded from loan repayments. In addition, Finland has participated in the Fulbright exchange program since 1952; Fulbright program funds have been used for travel grants in conjunction with ASLA scholarships. In all, 2,600 Finns and some 600 Americans have participated in the ASLA-Fulbright interchange. Half of the 1,600 Finnish university faculty have been to the United States on some form of grant, including Fulbright, truly a remarkable percentage.

The imaginative and resourceful approach which has always characterized this unique arrangement and bilateral goodwill were further reflected in the agreement reached for our Bicentennial year to enable the program to continue past 1984, the year when the final debt repayment was to be made. During a meeting in October 1975, President Urho Kekkonen and Senator J. William Fulbright agreed to establish the Finland-America Educational Trust Fund. Under this unique agreement, Finland remitted the remainder of the loan in one payment of $2.8 million to be placed in a bilateral trust fund to finance the exchange

permanently. Interest from the trust fund, supplemented by equal contributions from the two governments, has financed the exchanges since 1977. The trust fund provides 50 to 70 percent of the support for the Fulbright program annually.

Many prominent American specialists on Soviet affairs have found excellent resources for their research in archives available to them in Finland. James Billington and Richard Pipes figure among those United States-Soviet scholars who have taken advantage of the Fulbright program to use the unique study opportunities Finland offers them.

Another specific example of the achievements of ASLA-Fulbright is the establishment of American studies in Finnish universities. An American studies chair, the first such chair in Europe, was established by the Finnish Government at the University of Helsinki in 1976 in commemoration of the Bicentennial. The ever-widening circles of knowledge spread through the teaching and writing of returnees are a concrete tribute to the effectiveness of this very special educational exchange program which has done so much for so many. I am convinced that it will continue to be one of the most constructive and important facets of the friendly relationship between Finland and the United States.●

IN SUPPORT OF FINANCIAL INSTITUTIONS EQUITY ACT OF 1984

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. WIRTH. Mr. Speaker, I am pleased to join in cosponsoring the Financial Institutions Equity Act of 1984 and congratulate the distinguished chairman and ranking minority member of the House Banking Committee for their action in introducing this bill. There has been longstanding and close cooperation between the Banking and Energy and Commerce Committees on these issues. Both our committees have been deeply involved and deeply concerned about changes in the structure and regulation of our financial institutions and markets.

This bill represents a strong first step in dealing with the acceleration of problems resulting from the rush into deregulation. States are passing laws that contravene the intent of Federal law in order to increase jobs in the financial services industry in their States and to attract new sources of capital. Federal regulators are bending the law and ratifying the work of loophole lawyers to expand their own turf. Few of these actions are in the public interest. Most are destabilizing. Many are irrational.

The ability of our financial system to meet the basic public policy goals embodied in current law has been weakened. The rash of mergers and new activities must be stopped to preserve congressional options in framing a new system that will embody these traditional, and still valid, goals. If we wait until the dust settles, we will have only one choice—to ratify the results.

Therefore, I strongly endorse Mr. ST GERMAIN's explanation outlining the rationale for this bill. We must close the loopholes to preserve our options in dealing with the longer term issues and problems that confront our financial system.

My involvement with the issue of financial restructuring began with the jurisdiction of my own subcommittee. Our job is to look at securities markets and, in meeting that responsibility, we have increasingly been brought into contact with issues involving other financial institutions and markets.

What we learned from this experience is that our financial system is highly interdependent. We have learned that many of the concerns that have traditionally been focused on banks are now applicable to other financial institutions as well. I agree that banks are central—that they have a special role in our financial system—and, that the loopholes in banking law must be closed.

But, finance is more than banking. The changes in products and functions of nonbanking financial services companies and the blurring of distinctions between finance and commerce outside the banking system have had a major impact on the way our system channels funds from savers to borrowers. Other financial sectors, primarily securities and insurance, have become more important in supplying short-term credit and liquidity to the economy. Concerns about soundness, conflicts of interest, concentration and the need to preserve neutrality in credit and investment decisions are becoming as relevant to other financial functions as they have been for banking functions.

The subcommittee's hearings led to the Capital Markets Commission proposal introduced in August 1982 and again last year. That proposal reflected our concerns about the need to look at the broader issues—how changes in financial structure and regulation change the way savings and credit are distributed, their impacts on the economy and their impact on our traditional regulatory goals. My concern was—and is—that these fundamental public policy concerns have been ignored in the current debate. But as the pace of change accelerated, it became clear that immediate action to preserve congressional options was required.

In April, I introduced a bill providing for a short-term moratorium on combinations of financial firms and activities and on additional combinations of financial and commercial activities. In the hearings on this legislation, it became clear that there was a growing consensus to close permanently the loopholes in the banking laws. As I have said, I endorse this approach. In terms of the timeframe and requirement for divestiture, it goes further than the moratorium proposal. But it accomplishes less than that proposal in terms of creating a framework for assessing issues relating to changes in the structure and functions of other financial intermediaries. Much work remains to be done and we can no longer afford to focus only on banking in terms of preserving the soundness and stability of our financial system. On the other hand, banks are central to that system and that is where our efforts must begin.

In light of last year's problems in the banking community, with a record 48 failures in 1983 and 32 failures already this year, Chairman ST GERMAIN's action is particularly timely. While some promote expanded powers for various institutions, I think it wise indeed to examine closely the foundation of our financial institutions to make sure the key elements of safety and soundness are not compromised.

I look forward to continuing to work closely with Chairman ST GERMAIN as our two committees address these issues which are so critical to our economy.●

INTRODUCTION OF AMENDMENTS TO INLAND NAVIGATION ACT OF 1980

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. MOLINARI. Mr. Speaker, I rise today to introduce legislation that will improve diver safety in the United States.

For almost 27 years the recreational divers of this country have been displaying a bright red flag with a white diagonal stripe whenever they pursued their sport. The flag means "Diver down," and it serves as a warning to others in the area to practice caution while maneuvering in the vicinity.

The diving community is proud of its flag, and it should be. It was diver inspired and diver designed. The divers in each area have educated their community as to the flag's meaning, and have trained their fellow boatmen as to what course of action a vessel should take when approaching a divers flag.

It has taken many years to gain recognition of this flag. Today, after many years, a number of States give credence to the divers down flag by making it mandatory to fly this flag.

In 1980, a unified set of navigational rules were developed by the U.S. Coast Guard that were designed to conform with international regulations. These regulations created a separate divers flag, called the alpha flag, distinct from the flag which was being used by the U.S. divers.

Mr. Speaker, we should not stand by and let 27 years of work go down the drain. For that reason I am introducing this bill, which is aimed at increasing marine safety.

The bill inserts into the "Inland Rules" a description of the divers down flag so that it is recognized by law. In addition, this bill requires that all vessels fly that flag whenever it is engaged in recreational diving. This bill will not change the existing flag display requirements. Rather, it is designed to supplement those regulations by also requiring the display of the diver down flag as well as the alpha flag.

Today, with the introduction of this bill, we have the opportunity to acknowledge the many people of the diving community for diligently promoting a safe marine recreational pastime.●

DEATH OF HELSINKI MONITOR OLEKSIY TYKHY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. FASCELL. Mr. Speaker, I have just received reports that Oleksiy Tykhy, cofounder of the Ukrainian Helsinki Monitoring Group, died in early May in a Perm labor camp following an operation. The 57-year-old human rights activist, who had been in ill health for some time, was suffering from severe malnutrition as a result of long-untreated stomach ulcers. As 1 of the 10 original founders of the Ukrainian Group, Mr. Tykhy, a teacher by profession, had signed Group statements and memorandums detailing the human rights situation in Ukraine and calling upon the Soviet Government to take seriously its commitments under the Helsinki Final Act. The group's lengthy Memorandum No. 1, which, among other things, protests the Russification of Ukraine and accuses the Soviets of genocide for deliberately creating the great famine in Ukraine in 1932-33 that resulted in the death of some 7 million Ukrainians, particularly angered Soviet authorities.

For participating in the activities of the Ukrainian Helsinki Group, Mr. Tykhy was arrested on the same day as Mykola Rudenko, the chairman of the Group. On July 1, 1977, after a brief closed trial, he received the maximum possible sentence of 10 years in a special regime labor camp and 5 years internal exile for anti-Soviet agitation and propaganda. While in camp, Tykhy maintained both his dignity and his commitment to his beliefs. At one point during his confinement, he went on a hunger strike to protest the cruel treatment of prisoners. Recently, he had been reported to have converted to Christianity and to have said that he had "even forgiven his guards."

Mr. Speaker, the tragedy of Oleksiy Tykhy's death is compounded by the death earlier this year of Aleksey Nikitin, a 46-year-old Soviet dissident who had spent more than 10 years in Soviet psychiatric hospitals. Mr. Nikitin was last interned in December 1980 for his membership in the free trade union SMOT which defended workers' rights. Despite numerous appeals throughout the last few years by government and nongovernment institutions from all over the world, the Soviet Government did not see fit to alleviate the plight of these courageous individuals.

Today we face a situation in which another brave Soviet human rights activist, Elena Bonner, is denied permission to go abroad to seek medical treatment. The fate of her husband, Nobel Laureate Andrei Sakharov, is presently unknown. Sakharov, the eloquent spokesman for human rights in the Soviet Union, had initiated a hunger strike to secure travel permission for his ailing wife. While it is too late to do anything for Mr. Tykhy and Mr. Nikitin, there is still time for the Soviet Government to avert another such tragedy by acceding to Mrs. Bonner's modest request to go abroad.●

CONGRATULATIONS TO THE SPECIAL LIBRARIES ASSOCIATION ON ITS 75TH ANNIVERSARY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Ms. FERRARO. Mr. Speaker, on June 9, in New York City, the Special Libraries Association will begin a series of events commemorating the 75th anniversary of the formation of this important professional organization.

It was on July 2, 1909, that 57 librarians met at Bretton Woods, N.H., to adopt a constitution and inaugurate an association now composed of 12,000 librarians and information managers.

The association, 80 percent of whose members are women, serves corporations, research centers, government agencies, including our own Library of Congress, and universities. This association is on the cutting edge of the information revolution, as our society's need to retrieve, organize, and understand a flood of data becomes greater and greater. The members of the Libraries Association are committed to finding new and creative ways of turning raw information into usable and useful knowledge.

The theme of the 1984 conference, from June 9 to 14 in New York, is "Information in the Electronic Revolution." It will feature speeches by two keen observers of our information society—author Gail Sheehy and sociologist-historian Daniel Bell.

From books to computers, from libraries to information networks, the Special Libraries Association has, and will continue, to lead the way into our future—using ancient wisdom and the latest technology to illuminate our path. I congratulate the association on its distinguished past—and its exciting future.●

SPECIAL VISITORS FROM FLORIDA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BILIRAKIS. Mr. Speaker, this morning, I was proud to join a special group of Floridians for their Capitol Hill breakfast.

A delegation of handicapped students and their chaperons are in Washington to celebrate the National Very Special Arts Festival, marking the 10th anniversary celebration of the National Committee, Arts with the Handicapped.

I am proud to note that students, Chanthia Salters, Marty Burke, Todd Smolen, James Brault, Russell Schawlie, Angie Moore, and Veronica Mendez served as my hosts for the breakfast. We were joined by their teacher/chaperons Mindy Francis, LuAnn Kusserow, Pat Priscoe, and John Mark Leach, a very dedicated group of human beings who truly care.

I also want to extend a special thank you to all those who made this trip possible, especially the Sun Banks/Suncoast, David Industries, Dunedin Art Center, Channel 10, and especially Innisbrook Resort, and offer them as an example of giving and sharing with others as a model for this Nation.●

MOTHER VISITS VIETNAM MEMORIAL

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. TALLON. Mr. Speaker, yesterday, I had a very moving experience as I accompanied a friend and constitu-

ent of mine to the Vietnam Memorial to see her son's name etched in the granite.

Mrs. Addie Mae Caudler of Florence, S.C., lost her 19-year-old son, Marine Lance Corporal Durwood Caulder, on July 27, 1972. he was killed in action during the Vietnam war.

Mrs. Caudler's trip to Washington would not have been possible without the assistance of members of the Florence Chapter of the Disabled American Veterans and several other veterans who raised over $300 for her expenses, as she is on a fixed income.

She told me, "If my son only knew, which I think he does, he would be so excited. He wrote me a letter saying he would give his life for his country and he did."

As we approach Memorial Day, I hope each of us will pause to recognize the sacrifice made by American service men and women throughout their years of service. Let us also remember the mothers, fathers, and other family members who also gave their support, guidance, and love. No one realizes the cost of freedom until we have had such a loss.●

EMBRY FRIDAY CELEBRATES 100TH BIRTHDAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. RODINO. Mr. Speaker, I am very proud to rise today in recognition of Embry A. Friday, who will be celebrating his 100th birthday next week.

Mr. Friday was born June 4, 1884, in North Carolina. He worked for the railroad, married and raised a family. His first wife, Cora, died in 1917 and he later married Maude Linberger.

He lived his life in North Carolina where he became an active member of the Greater New Hope Baptist Church. Mr. Friday held various jobs until his retirement from Sheraton Hotels at the age of 84.

He moved to New Jersey in 1974 to be closer to his children, and continued to play an active role in the religious community. Mr. Friday has 6 children, 24 grandchildren, 45 great-grandchildren, and 12 great-great-grandchildren.

A resident of East Orange, where he lives with his daughter and son-in-law, Katie and Wilbur Harkins, Mr. Friday retains an active interest in politics, sports, and travel. He bases his longevity on his deeply held religious convictions.

On June 3, Mr. Friday's countless relatives and friends will gather to mark this milestone. I am delighted to add my name to those who consider Embry Friday an inspiration to us all, and wish him all the best on this very special occasion.

"Poppa" Friday, as he is known to his family, believes that if he were asked what are the qualities of ideal manhood, he would reply with a poem by Henry Van Dyke:

"Think without confusion clearly
Love his fellow man sincerely
Act from honest motives purely
Trust in God and heaven securely."●

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. PORTER. Mr. Speaker, I was detained yesterday and did not vote on rollcall No. 169. Had I been present and voting, I would have voted "no."●

AMEND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. LIPINSKI. Mr. Speaker, today I am introducing legislation which would amend the Housing and Community Development Act of 1974 to revise the definition of persons of low and moderate income for purposes of the community development block grant (CDBG) program—section 106 of the act.

Under current law, at least 51 percent of those persons who will benefit from an assisted activity must be persons of low and moderate income—section 105(c)(1) of the act. For CDBG purposes, low and moderate income levels are defined as those families with incomes not exceeding 80 percent of the median income for the jurisdiction involved—42 U.S.C. 5302(a)(20) and 42 U.S.C. 1437a(b)(2). The underlying premise of this restriction is to target these funds to communities made up of persons of low and moderate income.

However, a ceiling at 80 percent of the median income for the jurisdiction involved does not further the purpose of the distribution of CDBG funds. This 80 percent ceiling excludes many families of moderate incomes from obtaining any benefits from these CDBG funds. This inequity certainly has, and will continue to have, a detrimental impact on the maintenance and growth of many deserving communities.

Because of this basic unfairness, there exists a necessity to change the definition of persons of low and moderate income for purposes of the CDBG program. I believe an increase from 80 percent to 120 percent of the median income for the jurisdiction involved would more accurately reflect the current law's purpose to principally benefit persons of low and moderate income. Therefore, Mr. Speaker, I urge all of my colleagues to join with me and support this much needed legislation.●

CONGRESSIONAL VIGIL FOR SOVIET JEWRY

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SABO. Mr. Speaker, as a participant in the Congressional Vigil for Soviet Jewry, I would like to bring the plight of Soviet Jews to the attention of my colleagues and the American people. It is clear that the importance of our vigil has grown in the last year. Our efforts must continue—helping to sustain the hope and courage of Jews who face oppression and reminding the Soviets and the world that we are aware and care.

Last year, after a few years of steady decline, the number of Jewish emigrants allowed to leave the Soviet Union plummeted to the lowest level since the current phase of emigration began in 1971. During 1983 only 1,315 Jews were allowed to emigrate from the Soviet Union, a sharp drop from the 1979 peak of 51,320. The gates to Jewish emigration have virtually slammed shut.

Hundreds of thousands of Soviet Jews who want to leave face increasingly severe harassment and bureaucratic obstacles. At the same time, the incidence and severity of discrimination against the Jewish population has grown. The denial of equal rights persists in education and employment, barriers to religious and ethic expression abound, and propaganda promoted by the media prevails.

While all religions face difficulties in the Soviet Union, Judaism has been singled out for the harshest treatment. Synagogues have been closed, contacts with coreligionists are forbidden, and Jewish religious texts have been confiscated and cannot be distributed or published. And this controlled media is saturated with anti-Jewish propaganda.

Again, this year, as part of the Congressional Vigil, I call your attention to the particular case of 73-year-old Abe Stolar, a retired translator from Moscow, his wife Gita, and their son Mikhail.

Abe Stolar's situation is unusual in one respect. He was born in Chicago, an American citizen. In 1931, following Stolar's graduation from high school, his parents took him to the Soviet Union, seeking work which could not be found during the Great Depression. Stolar never renounced his American

citizenship and always carried a valid U.S. passport—until it was confiscated when he applied for an exit visa in 1974.

The Stolar family received exit visas in 1975, sold their apartment and shipped their belongings to Israel, where they hoped to join Abe's sister Eva. But as they were about to board the airplane leaving the Soviet Union, they were stopped. Their visas were rescinded on the pretext that Gita has been doing secret work on her job as a chemical engineer.

When they returned to Moscow, the local housing authority put them in an unfurnished apartment belonging to someone else. Since 1977, Abe Stolar and his family have lived without the documents essential for life in the Soviet Union. Only after continued fighting were their pensions returned. Stolar's rights as a disabled World War II veteran have been denied. The Soviets refuse to register his family as aliens with the right to live and work, and 24-year-old Mikhail has been denied his right to work or study since he was 16. The government also refuses to make any statement as to why they are denying the Stolars their visas, even though Gita's former employer has certified that she participated in no secret work and it has been 10 years since she retired.

There are a multitude of other examples—documented cases of hardship, separated families, and persecution more severe than Abe Stolar's. The Helsinki Accords, which the Soviet Union signed, require respect for the rights of religious and ethnic groups. They also forbid governments from stopping people who want to emigrate and rejoin their families. Minority rights are also guaranteed in the Soviet Constitution, the International Covenant on Civil and Political Rights, and the Universal Declaration on Human Rights. The Soviet Union, however, increasingly ignores these agreements.

Relations between the United States and the Soviet Union have deteriorated to the lowest level in years. Arms control talks have been broken off, cultural and trade relations have been set back, and heightened tensions between Washington and Moscow have contributed to conflicts throughout the world. A dialog on many vital issues must take place between the superpowers. While the list of problems in United States-Soviet relations is long, human rights must remain on the agenda. Congress must continue to press for an easing of the restrictions on Soviet Jewish emigration.

The persistence of international expressions of outrage against Soviet human rights abuses will at least provide hope for the countless numbers of Soviet Jews who are trying to leave. The plight of Soviet Jews is one for which all Americans share concern, since the search for freedom, including respect for religious differences, is the cornerstone of our Nation. As representatives of the American people, we must continue to express our outrage and maintain our vigil over this deplorable practice.●

WILL OTHER BANKS JOIN CONTINENTAL IN THE FEDS' INFIRMARY?

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SCHUMER. Mr. Speaker, last week's bailout of Continental Illinois and today's rumors "funding problems" at Manufacturers' Hanover make it more clear than ever that Congress, Federal banking regulators, and the banks themselves should focus on preserving the safety and soundness of the banking system, rather than on clearing the way for bank entry into far more risky fields, such as securities, insurance, and real estate.

Our Nation's money center banks live on a steady diet of large short-term uninsured deposits. Unlike small banks, in which typically 90 percent or more of the deposits are insured, in a bank like Continental or Manny Hanny over 80 percent of the deposits are uninsured. They are dependent not on legions of individual depositors but on a relatively small community of institutional depositors. With so much to lose, these depositors, perhaps even more so than retail customers, are highly sensitive to rumors and hints of trouble, especially in the current environment.

Unfortunately, psychology is leading reality, and in a world of go-go banking someone's got to put on the brakes. Closing loopholes may not be enough. We need aggressive Federal bank regulators, not deregulators. We must act to insure that our banks operate prudently in an atmosphere of safety and soundness, before more of them end up with Continental Illinois in the Feds infirmary.●

VOLUNTEERS OF AMERICA

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Ms. KAPTUR. Mr. Speaker, over the years, Ohio's Ninth District has been blessed with many community service organizations which have helped make the Greater Toledo area a better place in which to live. One of the finest is the Toledo branch of the Volunteers of America. Since its founding year of 1906, the Toledo branch of the Volunteers of America has applied the principles of faith in God and belief in democracy to help those in our community who truly are in need.

The range of programs that the Volunteers of America is involved in is vast. Those programs include: adoption services; aid to prisoners; day care centers; homes for the aged; group homes for the developmentally disabled, emotionally disturbed, and juveniles; nursing homes and special care facilities; summer camps; Sunday schools; telephone reassurance for the elderly, and most recently, dental programs for elderly.

We in the Greater Toledo area are proud of the work of the local branch of the Volunteers of America. The Volunteers of America has made a difference in the lives of so many in our community, and in our Nation; all too often in our society, volunteer service goes unrecognized. Those that give of themselves for the benefit of their fellowman do so quietly—not for tangible reward—but because they care. I think we should all take a moment to stop and think about how much richer our communities are because of all those associated with the Volunteers of America. I know my colleagues in the House of Representatives join me in thanking these special people for making America a more caring and just nation, under God, as our Constitution intended.●

THE RETIREMENT OF DR. WILLIAM EARL BABCOCK

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. CLINGER. Mr. Speaker, I take this time to commend Dr. William Earl Babcock who is retiring as the State College area school district superintendent after spending 17 years in that post. All I can say to you is that Dr. Babcock must have run a tight ship up in State College because he sent all three of his daughters, Carol, Nancy, and Dorothy, to school there and all three graduated.

Dr. Babcock was born in Greenville, Pa., 59 years ago, and it seems that almost from the start, schools have been a very big part of his life. Those he attended himself were Penn High School and Thiel College, both in Greenville, Edinboro State College, the University of Pittsburgh, and Penn State University, where he earned graduate degrees.

He was a midshipman at the U.S. Merchant Marine Academy at Kings Point, Long Island, N.Y., and served sea duty in the North Atlantic, Mediterranean Sea, North Sea, and Baltic Sea from 1944 to 1945.

His experience in education includes the following positions: Teacher, the Conneault Lake Joint High School, 1948-52; principal Conneault Lake Joint High School, 1952-55; principal, Wilmington Area Joint High School, 1955-57; principal, State College Area Junior High School, 1957-62; instructor, Penn State University College of Education, director of instruction, State College area schools, 1962-66; assistant superintendent for instruction, 1966-67; chief school administrator, Centre County Vocational-Technical School, 1971-84; adjunct associate professor, Penn State University College of Education; and Superintendent of the State College Area School District, 1967-84.

In addition, Dr. Babcock belongs to the following professional educational organizations: American Association of School Administrators; Pennsylvania Association of School Administrators; American Management Association; American Educational Research Association; associate member, Pennsylvania School Board Association; board member, Allegheny Educational Broadcast Council; Phi Delta Kappa; and Kiwanis International.

On behalf of everyone who has passed through and benefited from the State College school system, I would like to issue a hearty thanks for a job well done to Dr. William E. Babcock, congratulate him on his well-deserved retirement, and wish him well in all future endeavors.●

UNKNOWN SOLDIER

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SOLARZ. Mr. Speaker, on May 17 the remains of an unidentified serviceman who died in conflict in Vietnam was designated as the Unknown Soldier to represent all the American servicemen who died in that war. Tomorrow, the Unknown Soldier will be brought to the Capitol to lie in State. And, on Memorial Day, a procession will take the Unknown Soldier to Arlington National Cemetery for interment at the Tomb of the Unknowns.

Thus on Memorial Day 1984 the Nation will honor the brave American men and women who served in Vietnam over a decade ago. I strongly believe that Americans who risked their lives on behalf of their country deserve this recognition, and I am pleased that the Tomb of the Unknowns will now honor veterans of the Vietnam war, along with those who fought in World War I, World War II, and the Korean conflict.

These ceremonies, however, also serve as a reminder that nearly 2,500 Americans remain missing and unaccounted for from the Vietnam war. They do not diminish in the slightest way our commitment to these brave servicemen and their long-suffering families. It is important to note that great efforts were made to insure that the interment of the unknown Vietnam soldier will in no way preclude the future identification of any missing American.

The resolution of the issues involving our missing servicemen is—and will continue to be—a matter of highest national priority. The final chapter of our involvement in the Vietnam war cannot be written until a full and satisfactory resolution of the POW/MIA issue is achieved.●

RETIREMENT OF GEN. DONALD R. KEITH, U.S. ARMY

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. NICHOLS. Mr. Speaker, Gen. Donald R. Keith, commander, U.S. Army Materiel Development and Readiness Command, will retire on June 29, 1984, after serving over 35 years in the U.S. Army.

General Keith is a native of the State of Michigan and served during World War II in the Army as an enlisted man. He graduated from West Point in the class of 1949 and earned a masters degree from Columbia University in 1958.

He has served on the faculty at West Point, a commander of a battalion in Europe, numerous positions on the Army General's Staff and many other distinguished assignments.

General Keith has been awarded the Legion of Merit with two oak leaf clusters, Bronze Star Medal, Meritorious Service Medal, the Army Commendation Medal with oak leaf cluster and numerous foreign awards and service ribbons. He and Mrs. Keith, the former Erika Krausse, have one son, Capt. Michael Thomas Keith, who is also following his illustrious father's footsteps in the U.S. Army.

I commend General Keith on his distinguished service to our country and extend to him my best wishes upon his forthcoming retirement.●

MAY 25, MISSING CHILDREN DAY

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. MURPHY. Mr. Speaker, for any parent who has ever agonized over the abduction of a child, only one date should linger in a parent's memory—the day the child was returned home safely. For some, a more horrible date will long be remembered—the day the child's body was discovered. Still for others, neither day ever arrives. Those parents, then, can only cling to the abduction date, while hoping that the message of their child's fate will soon be delivered. For the thousands who still live in agony, still pray and wait for their child's return, the U.S. Congress offers hope and assistance.

The Congress is increasing the public's awareness of missing children by designating a "Missing Children Day." We choose May 25 in memory of Etan Patz, who, on May 25, 1979, at the age of 6, disappeared from his New York City home. Today, almost 5 years later, he is still missing.

Etan is one of almost 50,000 children who annually are never found. Approximately 4,000 children are found dead each year, and another 150,000 are kidnaped annually by estranged parents. Of the 1.8 million children missing each year, an estimated 60 percent are sexually abused while away from home. "Missing Children Day" symbolizes the commitment Congress has to protect our children.

As chairman of the Subcommittee on Select Education with jurisdiction over child abuse, I successfully sought House passage of the Child Abuse, Neglect, and Treatment reauthorization in February. Currently, H.R. 4300, The Missing Children's Assistance Act is pending in Congress. Both measures are vital if our Nation is to eliminate abuse and prevent disruptive childhood situations. We in Congress are addressing this problem by allocating resources to combat these heinous crimes committed against our children. We also publicly express our commitment by designating "Missing Children Day" so that for all the future Etan Patzs of our country, May 25 will never come.●

TRIBUTE TO "MRS. B."

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DAUB. Mr. Speaker, thanks to the good offices of the Wall Street Journal and the Washington Post, the rest of the Nation has the opportunity to read about one of Omaha's greatest treasures, Mrs. Rose Blumkin.

Mrs. Blumkin is the chairman of the board of the Nation's largest furniture store, the Nebraska Furniture Mart. At the age of 90 she still works 12 hour days on the floor of her store dealing directly with customers 7 days a week. This past year Mrs. Blumkin sold an interest in her store to financier Warren Buffet for $55 million. As a part of the deal, Mrs. Blumkin stays. The deal was made, as are most deals

with Mrs. Blumkin, on faith. Mr. Buffet required no audit or inventory. Mrs. Blumkin's word is worth $55 million at the very least.

The occasion of all this publicity is the award of an honorary doctorate by New York University. Mrs. Blumkin came to this country from Russia where she endured the programs, worked for a few cents a day, and according to the Post remembers the day Rasputin died.

Her advice to the graduates of NYU will be delivered in the mixture of English, Yiddish, and Russian that generations of Omahans have come to respect and love. The secret of success, according to Mrs. B. is "first, honesty; second, hard work; next, if you do not get the job you want right away, tell them you will take anything. If you are good, they will keep you. If you are rotten, the first thing, you will go for coffee, you talk on the phone; the next day, even with a college degree, they will throw you out."

I want to congratulate Mrs. Blumkin. She is the American dream, and we Omahans take great pride in her achievements.●

IMPROVING STANDARDS FOR LABORATORY ANIMALS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BROWN of California. Mr. Speaker, today I am introducing legislation to minimize the pain and distress experienced by laboratory animals. This legislation is similar to S. 657, the Improved Standards for Laboratory Animals Act, with various minor changes and strenghtened trade secret provisions.

This is a fair and reasonable bill. It will not halt animal experimentation. It will not interfere with experiment procedures or results. It will not limit the scope of scientific research. It will not change the type of animals covered under the current Animal Welfare Act. This bill will provide assurances that basic laboratory standards with regard to animal care are maintained.

As past chairman of the Subcommittee on Science, Research and Technology, and as the chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, I have spent many years studying the use of animals in experiments. I have seen many legislative approaches to improve animal care and treatment. This bill should provide a sound vehicle for further debate and the potential solution for reducing animal pain and distress, while having a limited effect on research facilities and research freedom.

As many of my colleagues know, I am an avid supporter of science and innovation. I have often come to this floor requesting support for several vital research programs which greatly benefit this country. Scientific experimentation with animals plays an essential role in the advancement of our medical knowledge, a field upon which we all heavily rely.

Magnificent work has been accomplished by scientists involved in animal research and testing. Experiments with animals have served as valuable models for better understanding the human body and its functions. These experiments have been indispensable in the testing of new drugs, vaccines, medical devices, and surgical techniques. These studies have helped develop new knowledge and have saved millions of lives. For example, the discovery of vaccines for polio was aided by the use of monkeys. Experiments using dogs and horses have led to the development of more sterile and effective surgical methods. There are many other examples of the crucial role which animal experimentation and testing has played in benefiting our society.

While most experimentation and testing involving animals is not painful, it is necessary to, at times, use animals in painful experiments. In some instances, the use of animals in these experiments is essential to research.

However, the trauma experienced by these animals from procedures necessary to the experiments should be the only trauma they must face. Dehydration, poor sanitation and ventilation, lack of presurgical and postsurgical operative care and lack of exercise—when not interfering with specific research protocol—and any other situation resulting in pain to animals from simple negligence is not acceptable and should not exist. Poor animal care works contrary to the success of the research. Ill, malnourished or weak animals will not perform or react in the same fashion as healthy animals. Proper care of labortary animals increases research integrity and accuracy, and thus benefits our society.

Current standards regarding laboratory animal care and treatment are provided for by the Animal Welfare Act passed in 1966, last amended in 1976. This legislation will amend the Animal Welfare Act and broaden the coverage of research facilities to include agencies, departments or instrumentalities of the Federal Government.

The Animal and Plant Health Inspection Service (APHIS) is responsible for the enforcement of the Animal Welfare Act. However, surveillance and inspection of every facility is a tremendous task. Information obtained from USDA inspection reports under the Freedom of Information Act shows serious deficiencies in animal care are distressingly common, even in some of our Nation's most prestigious institutions. This bill would improve the minimal surveillance required under present law, and assure the public that laboratories are not substandard and that humane principles are being offered to laboratory animals.

ANIMAL RESEARCH COMMITTEE

The legislation I am introducing today strengthens present law by directing each research facility to appoint an animal research committee to monitor the care and treatment of their animals. This committee will be comprised of at least one veterinarian and one member who is not associated with the research facility. Semiannual inspections will be conducted by the committees. The research facility will be informed of violations, and reports of the inspections shall be filed at the research facility. The reports will also be available to USDA inspectors or inspectors from the funding agency. If the facility repeatedly ignores requests to correct violations, Federal funding can be terminated. The National Institutes of Health (NIH) is presently proposing similar animal research committees with outside members for the facilities they fund.

This bill applies to all facilities currently covered by the Animal Welfare Act. The bill does not change the scope of animals covered under the current law. The current law states:

> The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs including those used for hunting, security or breeding purposes.

TRADE SECRET PROVISIONS

To insure the confidentiality of research information exposed to these committees, this bill contains trade secret provisions. Information concerning the research projects will be kept confidential and would not be released by any member of the committee. Violations will be punishable by law.

Institutions would also provide annual sessions to appropriate personnel for training in humane practices of animal care, experimentation and testing, and utilization of the data base.

NATIONAL DATA SYSTEM

This legislation also works to reduce unintended duplication of experiments by initiating a voluntary national data

base. The bill directs the Secretary of the USDA to assist in the formation of a national data system which would maintain information on previously conducted and completed experiments. This will reduce duplicate projects both within Federal agencies and within cooperating research facilities. A certain amount of duplication is necessary for confirmation of research results and is an essential aspect of scientific procedure. This bill in no way limits the rights of a facility to replicate an experiment.

This data base would also provide information on improved research and laboratory techniques and possible alternatives for minimizing animal pain and distress. It is hoped that the availability of this data will reduce animal pain and distress during experiments.

STANDARDS FOR ANIMAL CARE

The final changes made to the Animal Welfare Act by this legislation concern standards for animal care. Currently, the Animal Welfare Act directs each research facility to adhere to minimum standards set by the Secretary with respect to:

Handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, including the appropriate use of anesthetic, analgesic or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities, and separation by species when the Secretary finds such separation necessary for the humane handling, care or treatment of animals.

I am proposing for the Secretary of the USDA to provide standards with respect to exercise for dogs. Exceptions to these standards may be made when specified by research protocol.

The research facility must in addition give assurances to the Secretary:

That presurgical and postsurgical care by laboratory workers is in accordance with established medical and nursing procedures; against the use of paralytics without anesthesia; that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time; and that except in cases of scientific necessity or other special circumstances as determined by the animal committee, no animal may be used in more than one major operative procedure from which it is allowed to recover.

Nothing in this act shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, or guidelines of research or experimentation by a research facility. The research facilities will in turn provide adequate assurances to the Secretary that such standards are being maintained.

Mr. Speaker, as many of my colleagues are aware, the issue of animal experimentation and testing has been emotion packed for many years. However, there is a real concern that some substandard facilities are not insuring proper care and treatment for their animal subjects. This bill would reduce the most cruel incidents of animal neglect and pain, while having a limited effect on research facilities and protocol.

Regulation of an industry is rarely greeted with open arms. However, this bill has been specifically drafted to avoid major expenditures by the Government or institutions. It is the result of many hours of consultation with science, agriculture and animal welfare organizations. Many research facilities are already carrying out the provisions we are calling for. I urge my colleagues to carefully consider and support this legislation.

The text of the bill follows:

H.R. 5725

A bill to amend the Animal Welfare Act to ensure the proper treatment of laboratory animals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Improved Standards for Laboratory Animals Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) methods of testing that do not use animals have been developed which show promise of being faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;

(2) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and

(3) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress.

DEFINITIONS

SEC. 3. (a) Section 2(e) of the Animal Welfare Act (7 U.S.C. 2132(e)) is amended by adding after "The term 'research facility' means" the following: "each department, agency, or instrumentality of the United States which uses animals for research or experimentation,".

(b)(1) Subsections (f), (g), (h), (i), and (j) of section 2 of such Act are redesignated as subsections (i), (j), (k), (l), and (m), respectively.

(2) Such section is amended by inserting after subsection (e) the following subsections:

"(f) The term 'Federal agency' means an executive agency as such term is defined in section 105 of title 5, United States Code, and with respect to any research facility means the agency from which the research facility has received or may receive a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

"(g) The term 'Federal award for the conduct of research, experimentation, or testing, involving the use of animals' means any mechanism (grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research;

"(h) The term 'quorum' means a majority of the committee members;".

(c) For purposes of this Act, the term "animal" shall have the same meaning as defined in section 2(j) of the Animal Welfare Act (7 U.S.C. 2132(j)), as redesignated by subsection (b)(1).

STANDARDS AND CERTIFICATION PROCESS

SEC. 4. (a) Subsection (a) of section 13 of the Animal Welfare Act (7 U.S.C. 2143(a)) is amended by inserting "(1)" after "(a)".

(b) the second sentence of such subsection is amended to read as follows: "Such standards shall include—

"(A) requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, and adequate veterinary care, including the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities;

"(B) provisions for separation by species where the Secretary finds that such separation is necessary for humane handling;

"(C) exercise for dogs, and exceptions to such standards may be made only when specified by research protocol.".

(c) The last sentence of such subsection is amended to read as follows: "Nothing in this Act shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, or guidelines of actual research or experimentation by a research facility. The Secretary shall promulgate standards for research facilities, including requirement for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized. The Secretary shall require every research facility to be able to show that the professionally acceptable standards governing the care, treatment, and practices on animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs during experimentation, are being followed by the research facility during research and experimentation. The Secretary shall require, at least annually, every research facility to report that the standards governing the care, treatment, and practices on animals are being followed. In its statement of compliance, the research facility shall provide assurances satisfactory to the Secretary—

"(A) demonstrating that the principal investigator has considered alternatives to any procedure likely to produce pain to or distress in an experimental animal and shall provide details of any procedure likely to produce pain or distress in any experimental animal; and

"(B) in any practice involving pain to unanesthetized animals—

"(i) that a doctor of veterinary medicine has been consulted in the planning of such procedures;

"(ii) for the use of tranquilizers, analgesics, and anestetics;

"(iii) for pre- and post-surgical care by laboratory workers in accordance with established medical and nursing procedures;

"(iv) against the use of paralytics without anesthesia; and

"(v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time; and

"(C) except in cases of scientific necessity or other special circumstances as determined by the animal research committee, assurances that no animal may be used in more than one major operative procedure from which it is allowed to recover.

"(2) Paragraph (1) shall not prohibit any State (or a political subdivision of such

State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).".

(d) Subsection (a) of such section is amended by adding at the end thereof the following:

"(3)(A) The Secretary shall require that each research facility establish an animal research committee (hereinafter in this subsection referred to as the 'committee'). Each animal research committee shall be appointed by the chief executive officer of such research facility and shall be composed of not fewer than three members. Such members shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility. Of the members of the committee—

"(i) at least one member shall be a doctor of veterinary medicine;

"(ii) at least one member shall have no association with such facility and shall be responsible for representing community concerns regarding the welfare of animal subjects; and

"(iii) in those cases where the committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

"(B) A quorum shall be required for all formal actions of the committee, including—

"(i) inspecting at least semiannually all animal study areas and facilities of such research facility;

"(ii) reviewing as part of the inspection of such research facility practices involving pain to unanesthetized animals and the condition of research animals to ensure compliance with the standards of animal care, treatment, and practices and that pain and distress to such animals is minimized.

"(C)(i) The committee shall file each inspection certification report at the research facility. Such report shall—

"(I) be signed by a majority of the committee members involved in the inspection;

"(II) include reports of any violation of the standards promulgated by the Secretary, including any deficient conditions of animal care or treatment and any deviations of research practices from originally approved proposals that adversely affect animal welfare;

"(III) include any minority views of the committee; and

"(IV) include any other information pertinent to the activities of the committee.

"(ii) Such report shall be maintained for at least three years by the research facility and shall be available for inspection by the Secretary or the funding Federal agency.

"(iii) In order to give the research facility an opportunity to correct any deficiencies or deviations discovered by reason of subparagraph (B), such committee shall notify the administrative representative of the research facility of any unacceptable conditions. If, after notification and an opportunity to make corrections, such conditions remain unacceptable, the committee shall notify the Animal and Plant Health Inspection Service of the Department of Agriculture and the funding Federal agency, in writing, of such conditions.

"(D) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of Agriculture inspectors shall forward any committee inspection records which include reports of deficiencies or deviations to the Animal and Plant Health Inspection Service of the Department of Agriculture and any funding Federal agency.

"(4) The research facility shall provide for annual sessions for scientists, animal technicians, and other personnel involved with animal care and treatment in such facility. Such sessions shall provide instruction or training in—

"(A) the humane practice of animal maintenance and experimentation;

"(B) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress; and

"(C) utilization of the information service at the National Agricultural Library, established under subsection (e), to prevent unintended or unnecessary duplication of animal experimentation as determined by the needs of the research facility.

"(5) Research facilities shall inform their employees of the provisions of this section and shall inform such employees to report to the committee any violations of such provisions. Employees of such facilities may not be discriminated against on grounds that such employees reported any violation of such provisions.".

(e) Section 13 of the Animal Welfare Act (7 U.S.C. 2143) is amended by adding at the end thereof the following:

"(e) The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information on improved methods of animal experimentation including methods which could—

"(1) reduce or replace animal use;

"(2) minimize pain and distress to animals, such as anesthetic and analgesic procedures; and

"(3) prevent unintended duplication between research facilities of animal experimentation as determined by the needs of the research facility.

"(f) In any case in which the funding Federal agency determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with applicable standards, despite notification to the research facility, that agency shall suspend or revoke Federal support for the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of title 5, United States Code.".

SEC. 5. Section 21 of the Animal Welfare Act (7 U.S.C. 2151) is amended by inserting before the period", except that no rule, regulation, or order may require a research facility to disclose trade secrets or commercial or financial information which is privileged or confidential".

SEC. 6. The Animal Welfare Act (7 U.S.C. 2131-2156) is amended by adding at the end thereof the following section:

"SEC. 27. (a) It shall be unlawful for any member of the animal research committee to release any confidential information of the research facility, including any information that concerns or relates to the trade secrets, processes, operations, style or work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of the research facility.

"(b) It shall be unlawful for any member of such committee to use or attempt to use to his advantage, or reveal to any other person, any information which is entitled to any other person, any information under subsection (a).

"(c) A violation of subsection (a) or (b) is punishable by—

"(1) removal from such committee, and

"(2)(A) a fine of not more than $1,000 and imprisonment of not more than 1 year, or

"(B) if such violation is willful, a fine of not more than $10,000 and imprisonment of not more than 3 years.

"(d) Any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including reasonable attorney's fees. Nothing in this section shall be construed to affect any other rights that any such person may have, nor shall this paragraph be construed to limit the exercise of any such rights arising out of or relating to a violation of subsections (a) and (b).".

EFFECTIVE DATE

SEC. 7. This Act shall take effect beginning one year after the date of enactment of this Act.●

NEW YORK CHINATOWN SENIOR CITIZEN COALITION CENTER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. GREEN. Mr. Speaker, I rise today to pay tribute to the admirable work of the New York Chinatown Senior Citizen Coalition Center located in the Chinatown section of New York City.

The center, with its 5,000 person membership, sponsors numerous activities for its members. Aside from serving as a gathering place where the elderly can socialize, the center also provides information on preventive health care, old time movies, literature, and an orchestra which has played for many different community functions and hopes to partake in a community concert festival during the upcoming summer months which will be open to the general public.

Today the center celebrated its 10th anniversary by sponsoring the 5th Chinese Senior Citizen Festival. The traditional respect the Chinese have for the elderly is most admirable and worthy of great praise. In particular, I should like to honor the New York Chinatown Senior Citizen Coalition Center for its tireless efforts to improve the quality of life for those in their senior years.

Their mottos, which are printed on many of their publications, also reflect the attitude that the center is trying to promote toward the elderly. Their philosophy can be loosely summarized by the phrase, "respect the elders in one's own family and extend the same respect to the elders in other families."

It is in this light that I honor this distinguished organization on today, the celebration of its 10th anniversary. Its meeting hall is continually filled with people reflecting the success and

popularity of the center. I hope that its future will be as bright as its past.●

ENOUGH DEBT IS ENOUGH

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. DORGAN. Mr. Speaker, 2 days ago I voted against the bill which would have raised the ceiling on the national debt. A majority of the House shared that view and we defeated the bill.

I opposed the debt extension in order to send a strong signal to both the President and congressional leaders that their current deficit-reduction plans fall far short of what is needed to bring the Federal budget under control. I had hoped that the White House and Congress might come to their senses and make some bold pledges to move toward a balanced budget. But unfortunately, I have seen no evidence of any real progress on it.

The clock has ticked on and the Federal Government has now bumped up against its absolute spending limit. Unless Congress now raises the debt limit, the Treasury will not be able to write social security checks for our senior citizens. Other vital human services will also suffer. Despite my abhorrence of fiscal foot-dragging, I simply cannot justify holding senior citizens, the disabled, the orphans hostage to an arbitrary timetable.

Consequently, I have decided to go along with a short, several week extension in the debt limit. But I want to emphasize that I will only vote for this extension because it is a short, several week extension.

I want to serve notice forcefully, that I will not support any further increase in the debt limit until the President and congressional leaders develop some real and meaningful steps to wipe out deficits and balance the budget.●

INTERMENT OF VIETNAM VETERAN AT THE TOMB OF THE UNKNOWN SOLDIER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. KILDEE. Mr. Speaker, on Friday an American serviceman felled in the Vietnam war, his name known only to God, will be brought in honor to his Nation's Capitol Building. He will lie in state for nearly 3 full days. He then will be interred beside his brothers from World War I, World War II, and the Korean war at the Tomb of the Unknown Soldier.

No person can know, Mr. Speaker, whether any of these lost sons of ours were Army, Marine, Navy, or Air Force. No person can know their lives or their final pains in combat. In their anonymity, however, they represent each of our sons, brothers, fathers, and forebears who have answered the call of duty to their country and perished.

Nearly 2,500 American servicemen remain unaccounted for from the Vietnam war. This serviceman symbolizes all of them, but he is only one. His honored interment on Memorial Day will not end our search for the others still lost in Vietnam. His interment in the most hallowed of our memorials will be an expression of the love, honor, and commitment America should accord to its Vietnam war veterans, living and dead.

As we honor the unknown soldier of the Vietnam war on this Memorial Day, let us renew our solemn pledge to pursue all honorable means to establish a just and lasting peace so no future generation need suffer in this way again.●

A TRIBUTE TO SALLIE McGINTY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. MAZZOLI. Mr. Speaker, last week I had the privilege of meeting with Mrs. Sallie McGinty, the 1984 U.S. Postal Service's Outstanding Handicapped Postal Employee of the Year nominee from the central region.

As the representative from the central region—which covers 13 States—Sallie was one of five regional winners who were honored for their exceptional performance and service to the Postal Service. And, despite her handicap, Sallie is a diligent, valued employee of the U.S. Postal Service where she has worked for 6 years. She is currently working as a customer assistance general clerk.

Sallie was recognized and honored not only for her winning smile and friendly attitude, but also for her willingness to work hard and accept additional assignments above and beyond her required duties. She has participated in two movies on the handicapped and has been actively involved in the community working as a Den Mother of Boy Scouts, and hospital chairperson for Women of the Moose. She is even a foster mother.

Sallie has an infectious zest for life which inspires and motivates all who are around her. I felt honored to meet with Sallie and am proud of her and her distinguished award.●

CHARLES SPARENBERG, UNIVERSITY OF TEXAS LEADER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. PICKLE. Mr. Speaker, over the years, many people have been strong leaders for the University of Texas system. One of the very best was Mr. Charles Sparenberg, who passed away in Austin last week.

Charles Sparenberg may have been typical of many officials of various universities and colleges throughout our land. In his case, he was our comptroller, and he had the task of not only controlling our purse strings but approving the general direction of our expenditures. He was both tough and stern but thoughtful and creative. He was loyal to our regents and absolutely correct in his integrity for that institution and the policies it pursued. When Charlie passed away, a bit of the dear, old wonderful UT passed before our eyes. Like other giants on many college campuses, Charles Sparenberg's presence was always felt.

Without dedicated public servants like these men, our schools and universities would be just another bastion of commercialism. Thousands of UT exes mourn the loss of this good man, but we pause to remember his own individual characteristics and the significant contributions he has made to the University of Texas.

Mr. Sparenberg was born in Big Spring, Tex., in 1905, then moved to Austin where he was valedictorian of Austin High School. He then graduated from the University of Texas with a bachelor's of business administration, where he was a member of Beta Gamma Sigma and Beta Alpha Psi national business fraternities.

Mr. Sparenberg began his 40-year career with the University of Texas in 1931 as auditor, then advancing to auditor of the University of Texas system in 1950. The board of regents then elected him to comptroller of the University of Texas system where he stayed until his retirement.

He also served as president of the Austin chapter of the Texas Society of CPA's, president of the Bachelors Club of Austin, and superintendent of the adult Sunday school department and deacon of the First Baptist Church of Austin.

We shall all miss Charlie but will do our best to carry on the policies he pursued.●

TRIBUTE TO BEJAMIN JAGER

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. COURTER. Mr. Speaker, I would like to offer a few remarks about a very distinguished citizen, Benjamin Jager, who is retiring as the Sussex County Tax Administrator.

On June 1, the Sussex County Assessors Association is having a testimonial dinner in his honor. Ben is especially deserving of the recognition he will receive for his exceptional service as County Tax Administrator for the past 24 years.

Ben has been an active resident of Sandyston Township for more than two decades, serving as the township's treasurer and also the tax collector. The father of five children, Ben has been an active member of the PTA. In his spare time, he has also served as the fire chief of Sandyston.

Throughout his life, Ben has donated his time and energy to improving community life. It is indeed a privilege to be able to turn the table and pay tribute to this fine American. In short, he is an American who has worked hard his entire life; an American who has given freely of himself to enrich the lives of so many. Sandyston Township and the County of Sussex would never be what they are today if it were not for devoted citizens like Ben Jager.●

JACKSON SHOULD SEPARATE HIMSELF FROM FARRAKHAN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. SCHUMER. Mr. Speaker, as the Democratic candidates for President begin the fourth quarter of the campaign, I find it alarming that the Reverend Jesse Jackson has not yet repudiated the dangerous remarks made over the past several months by Louis Farrakhan.

Many people have brushed aside Farrakhan's remarks as trivial or the hysterics of a powerless madman. They forget that barely 50 years ago, Adolf Hitler's rantings were likewise passed off as meaningless. Yet, barely 10 years later, those who ignored Hitler would learn too late of the millions of innocent Jews exteminated in a mass genocide which remains one of the bleakest chapters in all of human history.

It will take a strong leader to protect the rights of all Americans, whatever their race or religion. In this time of heightened international tensions, we cannot afford to elect a man whose closest circle of advisers includes one who has publicly dedicated himself to divisiveness among people on the basis of their race. Until and unless Jesse Jackson publicly separates himself from Louis Farrakhan and his likes, he cannot hope to be considered as a serious candidate for high office of this Nation.●

SHARPE JAMES CIVIC ASSOCIATION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. RODINO. Mr. Speaker, I wish to pay tribute at this time to the Sharpe James Civic Association for its valuable service to my city, Newark, N.J.

This fine organization, which will celebrate its fifth anniversary on June 3, bears the name of Newark's distinguished south ward councilman. Sharpe James has long been a leader in community affairs. He has served as president of his area's community council and opportunity center, and he founded the South Ward Little City, Inc. As an educator with a noteworthy career in teaching, he has been past executive officer of the Organization of Negro Educators and of the Scholarship Assistance Guidance Association. He is also an active participant in the work of civil rights groups, industrial associations and cultural organizations.

I congratulate the Sharpe James Civic Association and its founder for their valuable contributions to our community and wish them continued success in the years ahead.●

BISHOP JOSEPH JOHNSON BLACK CULTURAL CENTER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. RALPH M. HALL. Mr. Speaker, Chancellor Joe B. Wyatt, of Vanderbilt University, announced recently that the Vanderbilt Black Cultural Center will be renamed to honor the late Bishop Joseph Johnson, the first black graduate of Vanderbilt University and a member of the Vanderbilt Board of Trust.

Wyatt said the center will be named the "Bishop Joseph Johnson Black Cultural Center."

Johnson earned the bachelor of divinity degree at Vanderbilt in 1954. In 1958, he became the first black to receive a doctor of philosophy degree from Vanderbilt.

Johnson was a presiding bishop of the Fourth Episcopal District of the Christian Methodist Episcopal Church. He was also a professor of the New Testament at the Interdenominational Theological Center in Atlanta until 1969, when he became acting dean and professor of religion at Fisk University.

Later he became professor of theology, dean, and then president of Phillips School of Theology in Jackson, Tenn.

Johnson's writings include two books, "The Soul of the Black Preacher" and "Quest for a Black Theology." He was chairman of the Commission of Theology of the National Committee of Black Churchmen and chairman of the Commission on Worship of the Consultation on Church Union.

In addition to degrees from Vanderbilt, Johnson received a bachelor of arts degree from Texas College in 1938 and held a master of theology degree from Iliff School of Theology, a Methodist seminary in Denver, Colo. The cultural center will be dedicated officially later this year.

Bishop Johnson is the brother of my constituent and friend, Dr. David H. Johnson, academic dean, Texas College, a fine man serving a great institution in Tyler, Tex.●

POSITIVE ACTION ON ISSUES CRITICAL TO WOMEN AND CHILDREN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. BONKER. Mr. Speaker, in the past 2 weeks the House has taken two important steps toward addressing the basic rights and needs of our Nation's women, children, and families.

On May 14, the House passed H.R. 4193, legislation to provide badly needed funds to help establish before and after school day-care centers, and to help lower income families afford these services. Just 8 days later, we passed H.R. 4280, a bill that will help to correct various inequities in our pension laws and regulations which unfairly penalize women.

Obviously, these two bills in and of themselves are only a start toward providing full equity and opportunity to our Nation's women. Congress still faces a full agenda of long-overdue legislation to assure full rights and equity for women, including: Passage and ratification of the equal rights amendment; enactment of the Women's Economic Equity Act which addresses a whole range of tax, pension, insurance, retirement, and workplace issues; preservation of the hard-won title IX educational gains for women; and rejection of the administration's continually proposed budget cuts in impor-

tant programs serving low-income women and their children.

Nevertheless, these two House actions represent a positive first step toward addressing the needs of women, children, and families.

ASSURING PENSION RIGHTS FOR WOMEN

H.R. 4280, the Retirement Equity Act of 1984, which passed the House May 22, will eliminate many current pension regulations which operate to the unfair disadvantage of women both as workers and as widows and former spouses of male employees.

Four out of five women of retirement age who live alone receive no pension. Even those who do receive a annual average benefit of only $2,586, compared to $4,349 among men.

These disparities largely reflect the different work patterns and generally lower wages of women. Currently, private pension plans regulated under the Employee Retirement Income Security Act (ERISA) generally fail to credit women for their early participation in the work force. Most systems do not recognize a woman's childbearing and childrearing responsibilities in calculating worker participation or vesting in pension plans.

H.R. 4280 would recognize the common work patterns of many women and enhance women's retirement security by amending ERISA in the following ways:

First, it lowers the age of pension plan participation from 25 to 21 and pension vesting credits from 22 to 18, in recognition of the fact that women between the ages of 20 and 24 participate more heavily in the work force than any other age group of women.

Second, the bill would protect pension benefits during maternity and paternity leave, and generally liberalizes break-in-service rules.

Third, it guarantees survivor benefits once the employee has become vested in the plan, regardless of their age; present law only guarantees survivor benefits for vested workers 55 and older, in most cases.

Fourth, the bill would require automatic joint and survivor benefits unless both spouses consent to waive them.

Fifth, it would clarify state court authority to distribute pension benefits between spouses upon divorce.

Simply stated, H.R. 4280 will go a long way toward eliminating existing inequities in our pension laws, and bringing those laws into conformity with the evolving role of women in the work force.

MAKING DAY CARE FACILITIES AVAILABLE TO ALL FAMILIES

H.R. 4193, the School Facilities Child Care Act, also recognizes the numerous changes that have taken place in the work force and family structure in recent years.

When one looks at the nature of the work force and family today, the need for improved and more widely available day-care service is obvious. Between 1947 and 1980, the number of women working outside the home rose by 173 percent. Nearly two-thirds of all children between the ages of 6 and 13 have mothers who work, most of them full time. As the number of households where both parents work increases, whether out of necessity or choice, child care services can provide important support, protection, nurturing, and social development for the children of these families. But for many parents, day-care services or live-in help is either difficult to find or completely unaffordable.

H.R. 4193 aims at increasing the availability of day care as well as making these services more affordable to families with limited budgets. The bill authorizes $30 million for each of the next 3 years to schools, State and local governments, and nonprofit organizations to help establish and operate child-care programs in public schools and community facilities. Part of these funds would be used to offset the costs of day-care services for low-income families using these facilities. The bill would also set up a national clearinghouse on school-age child care so that projects could pool information and develop services in the most effective and least costly manner.

It is important to point out that the Reagan administration has taken a position of opposing this legislation. Similar legislation in the Senate would authorize only half the funds contemplated in the House bill, and provide no assistance to lower income families.

I am hopeful that both the Senate and the White House will reconsider this issue and support both the higher funding levels and the important low-income assistance provided in the House bill. Given the extent of the need for day-care services, the legislation which the House has approved is only a modest step, but it is the very least we can do for the families and children involved.

At this point, I would like to include in my remarks an article written by columnist Judy Mann, which highlights the pressing need for this legislation.

[From the Washington Post, May 16, 1984]

A FIRST STEP

(By Judy Mann)

A bill to set up and operate child care centers for school-age children passed the House by a voice vote Monday—the first significant move by Congress to directly fund child care since 1972 when the right wing creamed a bill as a plot to "Sovietize" American children.

The broad support for the new legislation and the speed with which it is passing through Congress speaks volumes about the changes that have occurred in the work force during the past decade and the pressure on politicians to deal with them.

Congress has clearly come to realize that working mothers can't be pushed back into the home and that society has a major stake in recognizing that child care for the next generation is not an individual problem affecting a few families but a collective problem affecting the majority.

In 1981, 15 million children between ages 6 and 13—roughly 66 per cent of that age group—had working mothers, as did another 1.4 million 5-year-olds. Seventy-nine percent of the mothers of school-age children who work do so full-time.

Estimates on the number of "latchkey" children vary widely, but the one most frequently used is that 6 million children ages 6 to 13 go home from school to empty houses. Studies done in the District by Drs. Lynette and Thomas Long of Catholic University found that these youngsters were much more lonely and fearful than children cared for by an adult. Ellen Gannett of the School-Age Child Care Project at Wellesley College testified at House hearings that other studies have shown some latchkey children "appear to be at risk for accidents and abuse by other children and adults. At best, many. . . experience severly constrained play and social experiences during the time they are out of school."

The House version of the bill, introduced last fall by Patricia Schroeder, (D-Colo.), Sala Burton, (D-Calif.) and Geraldine Ferraro, (D-N.Y.), authorizes $30 million for each of three years to help community groups, local government agencies and educators set up before- and after-school child care programs, preferably in public schools, but otherwise in community centers. The bill requires projects to have sliding fees so that part of the $30 million would subsidize care for children of low-income families.

Hearings on the bill were held April 30, and it was reported unanimously out of committee on May 8 and passed by the full House six days later, which has got to be some kind of a record.

"I think members now realize that politically they can't stand up and talk about how those mothers shouldn't be out there anyway," said Schroeder. "They understand it's an absolute necessity and that if we don't do something about it we lose a generation of children."

A Senate version of the bill, reported without objection out of committee on May 9, authorizes only $15 million for seed money, with no money for subsidizing low-income children. Both versions would set up a clearing house on school-age child care projects so communities can learn from each other.

David Rust, director of policy and legislation in the Office of Human Development Services, says the Reagan adminstration opposes both bills in part, because the administrative requirements along with the clearinghouse would eat up so much of the money that little would actually get to the children. "It's a small attack on the problem and it's only going to raise expectations and not deliver on them," Rust said. But the administration would not support greater funding for the program he said, because it opposes any new categorical programs in light of the deficit.

Schroeder, a practitioner of the art of the possible, says she hopes every member of Congress will get one or two projects in his or her district, see the benefits to working parents and support increased funding in the future.

Working parents, said Rust, already get $1.7 billion worth of help in child-care tax credits. But only 7 percent of families earning under $10,000 can take advantage of this

help, according to a Congressional Budget Office report, and tax credits don't provide new programs or places for children to go.

The Senate and House versions will ultimately end up in conference committee and the hope here is that the House version prevails. As Schroeder, a member of the Armed Services Committee, said, "Thirty million dollars probably wouldn't buy the tail of a B1 bomber."

Maybe not. But after more than a decade of ignoring the plight of "latchkey" children, it's at least a start.●

IRVINGTON HOLDS MEMORIAL DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1984

● Mr. RODINO. Mr. Speaker, the township of Irvington will hold its Memorial Day Parade this coming Sunday, May 27. I am proud to recognize this very fine annual event.

Many civic organizations and veterans groups have worked very hard to insure the success of this year's parade. Among them are: Gold Star Mothers, VFW Labormen's Post 9393, Camptown Post 1941, DAV Chapter 26, American Legion Post 319, CPL Louis Ferdinand JWV 309, American Legion Post 16, and Catholic War Veterans Post 452. In addition, the parade has had the assistance of numerous officials of the township of Irvington.

This year's grand marshal will be John Hoffman, an active member of the Sgt. Warren F. Connolly Chapter No. 26 of the Disabled American Veterans. His service in the chapter includes a term as chapter commander, as well as active participation on various committees of the chapter.

The principal guest speaker will be Roy F. Friedman, who is also a member and former commander of chapter No. 26 of the DAV. His credentials also include service as Department of New Jersey Disabled American Veterans 2d junior vice commander, first junior vice commander, and then commander, a post he held in 1974.

In addition, there will be remarks made by Irvington's Mayor Anthony T. Blasi and the Township Council President J. Walter Jonkoski.

It is, of course, this time of year that we take time out to honor those who have given their lives in defense of our country. I know that the fine individuals who are responsible for this year's commemoration in Irvington will do proper honor to their memories.●